

IN THE SUPREME COURT OF THE STATE OF NEVADA

NO. 51981

ROBERT SCOTLUND VAILE,

SUPREME COURT CASE NO. :

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE CHERYL B. MOSS, DISTRICT JUDGE, FAMILY COURT DIVISION,

Respondents.

FILED

JUL 08 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

EMERGENCY MOTION TO EXPEDITE SUPREME COURT REVIEW OF PETITION FOR A WRIT OF MANDAMUS

Petitioner, Robert Scotlund Vaile, by and through counsel, Greta Muirhead, Esq. has filed a Petition for Writ of Mandamus seeking an Order from this Honorable Court directing the Honorable Cheryl B. Moss, District Court Judge, Dept. I, Eighth Judicial District Court Judge, Family Division to vacate the Examination of Judgment Debtor set for July 11, 2008 at 8:00 a.m. and the Order to Show Cause related thereto.

If this Court fails to review the Petition on an Emergency Basis, then it is likely that Judge Moss will remand petitioner into custody on July 11, 2008, if he fails to partake in the judgment debtor examination. If he does partake in the judgment debtor exam, then this very important issue related to statutory interpretation of NRS 21.270(1)(b) will be rendered moot on

appeal. Petitioner anticipates that this Court will be hearing an Appeal in this case in the future as another element of this case deals with how NRS 125B.095, the child support penalty statute

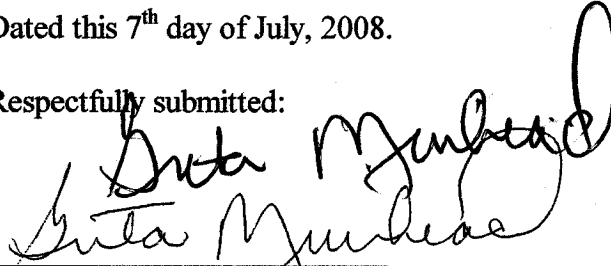
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JUL 08 2008
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

08-17379

1 (d) Form of Papers; Number of Copies. All papers relating to motions may be typewritten. One copy shall be
2 filed with the original, but the court may require that additional copies be furnished.
3 [As amended; effective January 4, 1999.]

4 Dated this 7th day of July, 2008.

5 Respectfully submitted:

6 

7 Greta G. Muirhead, Esq.
8 Nevada Bar No. 3957
9 9811 W. Charleston Blvd.
10 Ste. 2-242
11 Las Vegas, Nevada 89117
12 702-434-6004
13 gmuirhead2@cox.net
14 Attorney for Petitioner
15 Robert Scotlund Vaile
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1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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3 *****

4 ROBERT SCOTLUND VAILE,

SUPREME COURT CASE NO. :

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6 vs.

7 THE EIGHTH JUDICIAL DISTRICT
8 COURT OF THE STATE OF NEVADA,
9 IN AND FOR THE COUNTY OF
10 CLARK, AND THE HONORABLE
11 CHERYL B. MOSS, DISTRICT
12 JUDGE, FAMILY COURT DIVISION,

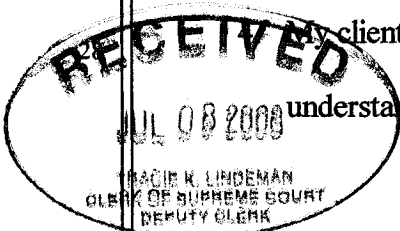
13 Respondents.

14
15 **DECLARATION OF GRETA MUIRHEAD, ESQ. IN SUPPORT OF EMERGENCY**
16 **MOTION TO EXPEDITE REVIEW OF PETITION FOR A WRIT OF MANDAMUS**
17 **PURSUANT TO NEVADA RULES OF APPELATE PROCEDURE RULE 21**

18 Greta Muirhead, Esq. under penalty of perjury under the laws of the State of Nevada,
19 declares as follows:

- 20 1. I am an attorney duly licensed and authorized to practice law in the State of Nevada.
21 My bar number is 3957 and I have been so licensed since October 1990.
22
23 2. I am making this Declaration in support of the Emergency Motion to Expedite
24 Review of Petition for a Writ of Mandamus Pursuant to NRAP Rule 21.
25
26 3. I am familiar with the contents of the petition and those matters that I do not have
27 personal knowledge of, I state on information and belief.

My client, to my knowledge, resides out of state in Kenwood, California. It is my
understanding that Kenwood, California is located in Sonoma County, California.



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5. Mr. Vaile, the petitioner does not reside in Clark County, Nevada.
6. On June 5, 2008, I filed an Opposition to Ex-Parte Examination of Judgment Debtor.
7. On June 11, 2008, Judge Moss heard my client's Opposition. She concluded that the petitioner had to appear for a judgment debtor examination in Clark County because she was "picking section (a)" of NRS 21.270(1). She viewed sections (a) and (b) as mutually exclusive. I do not have a copy of the transcript of the hearing available to me.
8. Opposing counsel was anxious for a swift return and the judgment debtor examination was reset to July 11, 2008. Judge Moss, per her comments in Court on June 11, 2008, intends to hear argument on the various matters before the court: attorney's fees; how the child support penalty pursuant to NRS 125B.095 is to be calculated; child support arrears; and an Order to Show Cause: re: contempt for failure to appear for judgment debtor examination on June 11, 2008 and failure to pay child support and then send Mr. Vaile and counsel for Ms. Prosbol until another room at the courthouse for the judgment debtor exam.
9. It was and remains my legal position that the petitioner is not obligated pursuant to NRS 21.270(1)(b) to appear in Clark County for a judgment debtor examination.
10. Judge Moss believed otherwise and if Mr. Vaile, the petitioner does not partake in the Judgment Debtor Examination, I think it quite likely that Judge Moss will remand him to custody until such time as he does.
11. I have attached to the Petition, true and accurate copies of the e-mails that I received from the library technician at the research library of the Legislative Counsel Bureau. Also attached is the 1983 amendment.

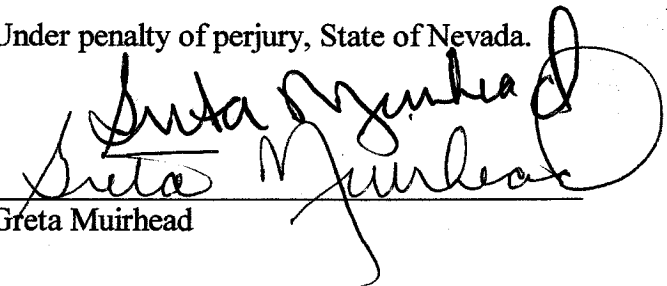
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12. Based upon this amendment, it is clear that NRS 21.270 was intended to prohibit a judgment debtor exam in Clark County wherein the debtor resided outside of the county.

13. I am respectfully requesting that Judge Moss be immediately directed by this Honorable Court to vacate said examination and the Order to Show Cause related to it.

14. Further I say not.

Under penalty of perjury, State of Nevada.


Greta Muirhead