

IN THE SUPREME COURT OF THE STATE OF NEVADA

LISA MYERS,) Supreme Court Case No. 59626
) District Court Case No. 00-D-434495
 Appellant/Petitioner,)
)
 vs.)
)
 CALEB O. HASKINS,)
)
 Respondent.)

FILED

FEB 29 2012

TRACIE K. LINDEMAN
 CLERK OF SUPREME COURT
 BY: *D. Wilcox*
 DEPUTY CLERK

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PETITION FOR REHEARING OF ORDER DISMISSING APPEAL

COMES NOW LISA MYERS, Appellant In Proper Person, and Petitions this Court for Rehearing of Order Dismissing Appeal in the above-referenced matter.

L. Myers
 LISA MYERS
 9360 West Flamingo Road, Suite 110-326
 Las Vegas, Nevada 89147
 Appellant, in proper person

1. STANDARD OF REVIEW

NRAP RULE 40. PETITION FOR REHEARING

(a) Procedure and Limitations.

(1) Time. Unless the time is shortened or enlarged by order, a petition for rehearing may be filed within 18 days after the filing of the court's decision under Rule 36. The 3-day mailing period set forth in Rule 26(c) does not apply to the time limits set by this Rule.

(2) The court may consider rehearings in the following circumstances:

(A) When the court has overlooked or misapprehended a material fact in the record or a material question of law in the case, or

(B) When the court has overlooked, misapplied or failed to consider a statute,

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10 11/11/12

1 procedural rule, regulation or decision directly controlling a dispositive issue in the
2 case.

3
4 **2. ISSUES**

5 **A. THIS APPELLANT'S APPEAL WAS DENIED SPECIFICALLY STATING**
6 **THERE WAS A CLERICAL ERROR AS THE FILE DATE OF THE NEOJ**
7 **NOTED WAS THE 3RD INSTEAD OF THE 4TH AND THE SUPREME COURT**
8 **LACKS JURISDICTION WHEN IN FACT THE DISTRICT COURT LACKED**
9 **THE JURISDICTION TO EVEN HEAR THIS MATTER**

10 At the June 13th TPO hearing for extension of the TPO, TPO Hearing Master Lynn Conant refused
11 to hear this matter in her courtroom noting opposing counsel, Ms. Roberts engaged in ex-parte
12 communication by contacting the department, not for a scheduling issue, but to specifically request
13 the TPO matter be completely deferred to the D-case, in which she had a Motion hearing on
14 calendar for June 15th on OST (of which I was again never properly served with the OST in the
15 D-case or the Opposition/Counter-motion in the T-case and therefore, I was not given the
16 appropriate time in which to prepare and file a response to either the Motion, nor the
17 Opposition/Counter-motion under the rules). Further, Ms. Conant blatantly refused to allow
18 Appellant to speak whatsoever despite the fact this was Appellant's Motion for Extension of the
19 TPO. Ms. Conant also refused to allow Appellant's right of due process. Therefore, the issue of
20 the extension on the TPO was deferred to the June 15th OST hearing (which Appellant had
21 Appealed due to lack of jurisdiction, the fact *Huneycutt* is not applicable in this matter and the fact
22 Ms. Roberts is barred by *McMonigle*, *Murphy*, res judicata and *La Forge* in that Ms. Roberts
23 previously put forth her Motion and a decision was rendered January 19th). knowing the D-case
24 matter is still currently on Appeal and under the jurisdiction of the Supreme Court of Nevada.

25 At this June 15th Motion hearing on for OST, Judge Duckworth rendered decisions, made Orders
26 and basically refused to allow me to argue my matter, to include the TPO case. While he stated
27 on record that he knew he didn't have jurisdiction to hear this matter as it is on Appeal, he said he
28 would send correspondence to the Supreme Court proffering his opinions and requesting this
Honorable Supreme Court to remand jurisdiction back to his court so he may set for an evidentiary
hearing and make a decision in the matter, ultimately prejudicing both the Supreme Court and
District Court matters. Despite the fact the District Court matter is on Appeal, opposing counsel,
Amanda Roberts re-submitted her Motion for Sole Legal, Primary Physical, Evaluation of this
Appellant, etcetera for the second time in this matter, attempting to take advantage of and ultimately
defraud the newly appointed Family Court Judge, Duckworth. This Motion was previously decided
upon by January 19th before Judge Moss, who advised Ms. Roberts the District Court no longer
had jurisdiction of this matter, and as such, this matter could not be heard in the District Court, as

1 it was on Appeal. Judge Moss is no longer assigned to this matter as she recused herself due to
2 engaging in ex-parte communication with opposing counsel, Amanda Roberts, of which Ms.
3 Roberts was the instigator of same on more than one occasion.

4 Opposing counsel "served" a copy of her Opposition and Countermotion upon Applicant's father
5 the prior Thursday evening to apparently forward on to Appellant at Appellant's father's property.
6 There has never been any notation, discussion, etcetera of Appellant's father's address in which
7 he was given these documents by opposing counsel's process server, nor has there ever been
8 confirmation that Appellant resides at this property. Further, Appellant's residential address is
9 confidential with the Court and Appellant never received these documents in the mail prior.
10 Additionally, the content within opposing counsel's pleadings lack the jurisdiction to bring about
11 matters which are currently under the jurisdiction of the Supreme Court of Nevada and in which
12 are specifically on Appeal. Therefore, opposing counsel and Adverse Party are attempting to fraud
13 the Court, have committed perjury and are attempting to prejudice and manipulate this matter so
14 they may prevail. As such, the Opposition and Countermotion must be stricken and dismissed due
15 to untimeliness, defective service, lack of jurisdiction, fraud, etcetera. *See* NRCPC Rule 4, Service
16 of Process and NRCPC Rule 6(d), Time.

17 Ms. Roberts attempted to put forth this Motion for change of custody, etcetera under the
18 Huneycutt case, unfortunately as told to her previously, Huneycutt does not apply in this matter,
19 as this matter in this entirety has been and is still currently on Appeal, under the jurisdiction of the
20 Supreme Court. This Motion was originally calendared for June 28th, however, opposing counsel
21 requested an OST and Judge Duckworth apparently granted same and it is now on calendar for
22 Wednesday, June 15th at 11:00 a.m. In speaking with the JEA for Department Q this afternoon
23 after receiving their correspondence, which noted a report from Donna's House was available for
24 review prior to the "return" hearing of June 15th, it was confirmed this "return" hearing was actually
25 opposing counsel's Motion hearing on OST. The JEA further confirmed this hearing is going forth
26 as scheduled despite the fact an Appeal was filed. Moreover, this matter has yet to have a 16.2
27 before Judge Duckworth, to begin Discovery (despite the fact Ms. Robert has been unlawfully
28 engaging in discovery against me throughout this process), temporary Orders, etc as this matter has
been and is still currently on Appeal due to the actions and Orders of Judge Moss.

29 Further, in receiving an actual copy of the OST the weekend prior to the June 15th OST Motion
30 hearing from my father, it was noted that a process server on behalf of Amanda Roberts, opposing
31 counsel, came to his property stating he was "Ordered to serve legal documents to Brent and
32 Sharon Myers", of which they were involved in a lawsuit, with a note stating to serve Brent and
33 Sharon Myers. The process server never asked for, nor mentioned this Appellant's name
34 whatsoever. In looking at the OST in the D-case, which was signed by Judge Duckworth, it
35 specifically Ordered the following, "...that Defendant Lisa Myers, shall be personally served at the

1 residence of her parents, Brent and Sharon Myers, located at 9999 W. Katie Avenue, Las Vegas,
2 Nevada 89147, which is the address where the Defendant was served at the commencement of
3 this action." First, Appellant was never served at this location at any time and that was argued by
4 my prior attorney when this matter first began when Ms. Roberts had filed the Complaint after her
5 client was served with the TPO. Second, Appellant's parents do not reside at that address and the
6 process server actually came to another address in search of my father to serve him directly and
7 not me at all. Third, why isn't NRCP Rule 4 being adhered to? Finally, why are Appellant's parents
8 being served on my behalf and expected to act as liaisons or "servers" themselves in getting an
9 OST passed along to me? Apparently, there is an underlying assumption that it is now Appellant's
10 parents' responsibility to make certain I am notified of the OST hearing. It is the burden of the
11 opposing counsel/opposing party to serve their documents to the party of the case, as such they
12 would've had ample opportunity in which to serve me with a copy of the OST at the TPO hearing
13 scheduled just two days prior to said hearing (Monday, June 13th). Furthermore, along with the
14 OST in the D-case matter, an Opposition/Counter-motion in the TPO matter was attached
15 therewith for the hearing to extend the TPO, as well. While the Opposition/Counter-motion is
16 untimely under the rules and the service of both the OST and Opposition are ultimately defective,
17 it is more than likely the Court will again accept opposing counsel's habitual untimely filings,
18 untimely and defective service of documents to me and will render a decision, while it be prejudicial
19 and unlawful, in consideration of same.

20 Moreover, I am concerned with regard to the actions of and decisions made by the previously
21 assigned Family Court Judge Moss in this matter and specifically her Orders which were rendered
22 despite the fact she was engaging in ex-parte communication with opposing counsel, Amanda
23 Roberts, their personal friendship, and the fact Respondent signed a legal contractual agreement
24 giving me Sole Physical/Sole Legal Custody waiving all visitation, etc of the subject minor and his
25 mental/physical impairments, violence issues, conviction and abandonment of the child, of which
26 Judge Moss refused to acknowledge whatsoever, and of which Judge Duckworth is now refusing
27 to acknowledge and hear. Yet, Judge Duckworth, after knowing this matter in its entirety is and
28 has been on Appeal (Judge Moss' Orders, which are also deemed "void" under the law), and
specifically a Notice of Appeal having been filed on the OST for the June 15th hearing and despite
the fact he admitted he had no jurisdiction over this matter, still went forth with the June 15th
Motion hearing on OST, rendered new Orders and decisions and stated he will be forwarded
correspondence, which would be prepared by opposing counsel to the Supreme Court, ultimately
interfering with Appellant's right of due process and prejudicing this matter and the Appellate
matters. Opposing counsel, Ms. Roberts even requested Judge Duckworth's assistance in
completing the correspondence to the Supreme Court, in which the Judge began to advise her as
to the content. Appellant's understanding as to the Judge's role in this matter, is that he is to remain
impartial, to refrain from engaging in any type of ex-parte communication and to refrain from acting
out of its jurisdiction, as per the Judicial Code of Ethics.

1 This Appellant is again forced to file this Appeal on the NEOJ of TPO in the D-case, heard before
2 Family Court Judge Duckworth as he lacked the jurisdiction to hear this matter. Further, Judge
3 Duckworth would not allow argument for the extension of the TPO and instead threatened to
4 award Respondent with Sole Legal/Physical Custody, allowed Ms. Roberts to yell, disparage,
5 harass, threaten and call Appellant names, to include "murder"-er. Appellant and her child's civil
6 rights were violated and Federal and State laws were not adhered to in any way in Judge
7 Duckworth's courtroom by Judge Duckworth, Ms. Roberts, nor by the TPO court and TPO
8 hearing master Lynn Conant. Ms. Roberts Motion, Opposition and the TPO should've never been
9 heard before the lower court Judge Duckworth, as this matter in its entirety is currently and has
10 been on Appeal with the Supreme Court, let alone a lower court Judge approving of an Order
11 Shortening Time.

12 The TPO court should have heard the extension of the TPO, not deferred this matter to the D-
13 case, especially due after Ms. Roberts having had ex-parte communication with them requesting
14 the deferment and due to the fact the D-case lacks the jurisdiction. Again, it was a direct denial of
15 Appellant and her minor child's rights, failed to protect Appellant's child's safety and prejudiced
16 this matter. Additionally and most importantly, the extension of the TPO should have been granted
17 to protect Appellant's subject minor from Respondent. Additionally, if it is this Court's request,
18 Appellant/Petitioner will file an Errata to the Notice of Appeal associated with this matter revising
19 the file date of the NEOJ to November 4th. Further, and most importantly, as per FRCP 8,
20 Supreme Court Rules and pursuant to Haines v. Kerner, 404 U.S. 519 (1972) and Hall v.
21 Bellmon, 935 F. 2d 1106 (10th Cir.) (1991), a pro per litigant is not held to the same standard as
22 an attorney or represented party and further the Courts are to render their decisions and orders
23 on the merit of the pleadings and are given latitude as such. It is extremely frustrating that this
24 Court has expected me to be held to a higher standard than these Court officials and attorneys,
25 when I am a pro per litigant while allowing these officials to, again, do as they so choose.

26 It is discerning to this Appellant as the lower court approved Appellant and on behalf of the subject
27 minor, SYDNEY ROSE MYERS-HASKINS' TPO against the Respondent due to his actions
28 and behavior (his abuse and neglect of the subject minor), which ultimately rendered the subject
minor to be taken by ambulance to Summerlin Hospital, be subjected to treatment in the Pediatric
Emergency Room, placed on life-support, and admitted into the Pediatric Intensive Care Unit from
May 4th through May 7th. The subject minor who has a history of RSV and now of being
hospitalized with seizures on life-support. The subject minor has had URI, Gastrointestinal Virus,
Vomiting, Diarrhea, Strep (Nasal - rare), Seizures, Fever, been on life-support, oxygen, testing,
CAT scan, Lumbar Puncture, EEG, continuous weight loss, sleep deprivation, bruising, reaction
to smoke inhalation, etc. since the Respondent began having contact with her January 19th, due to
Judge Moss' Order, which is deemed "void" under the law.

1 Respondent began having contact with the subject minor as of January 19, 2011. *See* Court file,
2 medical note from Dr. Leroy Bernstein and medical record of Summerlin Hospital (additional
3 medical records will be supplemented to this pleading), whereby he noted that the subject minor
4 is to remain in the custody of Appellant (mother) due to an illness contracted while under the care
5 and custody of Respondent she had to treat and be medicated for. If the unsupervised contact with
6 Respondent continues, the subject minor will continue to be ill in his care and custody due to his
7 parental neglect and abuse. The subject minor, Sydney Rose was on life-support and was
8 hospitalized, how much more must she endure to this “void” and prejudicial Order(s) of Judge
9 Moss and the actions, decisions and Orders of Judge Duckworth before this Honorable Supreme
10 Court interferes and supersedes these Orders and intervenes to stop this injustice against a mother
11 and her child and the unlawful, unethical behaviors and actions of the Court and its officers, to
12 include that of opposing counsel?

13 Moreover, Respondent previously signed a Joint Agreement giving Appellant Sole Physical and
14 Sole Legal Custody of the parties minor child waiving any visitation. Respondent also waived any
15 visitation and refused a drug test at the prior TPO hearing, as well. Judge Moss refused to
16 acknowledge this legal contractual agreement between the parties to no avail, *See* Court’s file for
17 legal agreement signed by Respondent. Further, Respondent suffers personal mental and physical
18 impairments, to include drug abuse, psychiatric treatments, refusal to take his bipolar medication,
19 etc. (as per documentation and his own testimony as previously provided) and even threatened
20 Appellant, the subject minor and Appellant’s mother while the subject minor was recently
21 hospitalized (hospital security and police reports are to be supplemented to the other matters filed
22 with the Supreme Court). Appellant is extremely concerned for the minor child’s health, safety and
23 overall well-being, her Pediatrician is as well, as the District Court’s Order would continue to put
24 the minor child in direct harm’s way by allowing Respondent to have the 3 unsupervised days with
25 her, especially when she became ill in his “care” and “custody” and he failed to notify Appellant of
26 anything whatsoever, to include his blatant refusal to answer any questions regarding the minor
27 child.

28 I am perplexed as to why the laws, rules, procedures, to include SCR’s and Federal Laws, and
the shear fact this matter is on Appeal is not being adhered to by these Court officials and
attorneys, yet again. While I may have limited knowledge in the legal field, *See Doolittle v.*
Doolittle, 70 Nev. 163, 262 P.2d 955 (1953) relying upon *Gammill v. Federal Land Bank*, 129
F.2d 502, and *Haley v. Eureka County Bank* 22 P. 1098 (Nev. 1889). *See* also *Stone v*
Powell, 428 US 465, 483 n. 35, 96 Sct. 3037, 49 L. Ed. 2d 1067 (1976), whereby the following
was noted, “State courts, like federal courts, have a constitutional obligation to safeguard personal
liberties and to uphold federal law.” and 28 USCS Sec. 455, and *Marshall v Jerrico Inc.*, 446 US
238, 242, 100 S.Ct. 1610, 64 L. Ed. 2d 182 (1980). “The neutrality requirement helps to
guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted
conception of the facts or the law.” Reference also 18 USC, with regard to the violence against
women act and the Fourteenth Amendment to the United States Constitution with specific regard

1 to the child abuse protection act. Since I am a pro per litigant, under FRCP 8, Supreme Court
2 Rules and pursuant to Haines v. Kerner, 404 U.S. 519 (1972) and Hall v. Bellmon, 935 F. 2d
3 1106 (10th Cir.) (1991), a pro per litigant is not held to the same standard as an attorney or
4 represented party and further the Courts are to render their decisions and orders on the merit of
5 the pleadings and are given latitude as such. It is extremely frustrating that this Court has expected
me to be held to a higher standard than these Court officials and attorneys, when I am a pro per
litigant while allowing these officials to, again, do as they so choose.

6 If this Petition is not granted, not only would it continue put the minor child in direct harm's way
7 by allowing for no protection against the Respondent, but would ultimately subject the minor child
8 to further abuse and neglect, illness, possible hospitalization, etcetera by the Respondent. The
9 Respondent has mental and physical impairments, parental neglect/abuse, conviction, extensive
10 history of drug and alcohol abuse, anger problems, domestic abuse issues and his abandonment
11 of the minor child who has a history of RSV, illnesses and loss of weight while in his care and
12 custody, and most recently hospitalization with seizures, undiagnosed virus and life-support as a
13 result of Respondent's parental abuse and neglect. When a child is malnourished, dehydrated and
14 sleep deprived, there exists a failure to thrive for that child, the child's body can begin to have
15 seizures. The Respondent continues to refuse to seek out the extensive medical and psychiatric
16 intervention he is in need of and of which he has filed a VA Disability Claim for, *See* Court file. The
17 lower court, Family Court Judges, continue to allow opposing counsel's unlawful and unethical
18 behavior and actions, the prejudice of this and Appellant's other matters and for the acceptance
19 and utilization of Appellant's other unrelated matters, which are still on Appeal. By this Court's
20 rules, State laws and rules and Federal laws and rules, Appellant/Petitioner's pleadings should have
21 been granted on their merits, for the protection, safety and well-being of the subject minor and in
22 consideration of the rights of Appellant/Petitioner and the subject minor. Further,
23 Appellant/Petitioner's pleadings should have been granted based on the evidence supporting same.
24 Therefore, Appellant/Petitioner is now filing this Petition requesting this Court to Rehear its Order
25 Dismissing Appeal in the above-referenced matters.

26 **3. SUBSTANTIAL LAWS AND RULES OVERLOOKED AND CASES INVOLVED**

27 NRCP Rule 4, Service of Process and NRCP Rule 6(d), Time.

28 LACK OF JURISDICTION - District Court matter is currently on Appeal under the
jurisdiction of the Supreme Court of Nevada. Further, the Family Court Judge assigned to
the D-case matter lacked the jurisdiction to hear matters associated with the D-case as its
is currently on Appeal under the jurisdiction of the Supreme Court of Nevada and,
therefore lacked the lawful jurisdiction to hear that matter, let alone a TPO matter assigned
to the TPO Court. He "took" jurisdiction wrongfully and in which to hear a unlawful and
unethical Motion at the same hearing filed by Respondent's counsel, as well.

1 RULE 59. NEW TRIALS; AMENDMENT OF JUDGMENTS

2 (e) Motion to Alter or Amend a Judgment. A motion to alter or amend the judgment shall
3 be filed no later than 10 days after service of written notice of entry of the judgment.

4
5 RULE 60. RELIEF FROM JUDGMENT OR ORDER

6
7 (a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record
8 and errors therein arising from oversight or omission may be corrected by the court at any
9 time of its own initiative or on the motion of any party and after such notice, if any, as the
10 court orders. During the pendency of an appeal, such mistakes may be so corrected before
11 the appeal is docketed in the appellate court, and thereafter while the appeal is pending
12 may be so corrected with leave of the appellate court.

13 (b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, Etc.

14 RULE 61. HARMLESS ERROR

15 No error in either the admission or the exclusion of evidence and no error or defect in any
16 ruling or order or in anything done or omitted by the court or by any of the parties is
17 ground for granting a new trial or for setting aside a verdict or for vacating, modifying or
18 otherwise disturbing a judgment or order, unless refusal to take such action appears to the
19 court inconsistent with substantial justice. The court at every stage of the proceeding must
20 disregard any error or defect in the proceeding which does not affect the substantial rights
21 of the parties.

22 EDCR RULE 7.21. Preparation of order, judgment or decree.

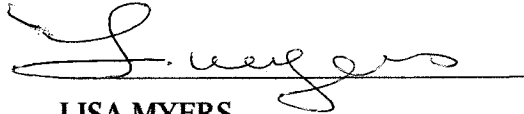
23 The counsel obtaining any order, judgment or decree must furnish the form of the same to
24 the clerk or judge in charge of the court within 10 days after counsel is notified of the ruling,
25 unless additional time is allowed by the court.

26 See *Doolittle v. Doolittle*, 70 Nev. 163, 262 P.2d 955 (1953) relying upon *Gammill*
27 *v. Federal Land Bank*, 129 F.2d 502, and *Haley v. Eureka County Bank* 22 P. 1098 (Nev.
28 1889). See also *Stone v Powell*, 428 US 465, 483 n. 35, 96 Sct. 3037, 49 L. Ed. 2d 1067
 (1976), whereby the following was noted, "State courts, like federal courts, have a constitutional
 obligation to safeguard personal liberties and to uphold federal law." Also, see 28 USCS Sec. 455,
 and *Marshall v Jerrico Inc.*, 446 US 238, 242, 100 S.Ct. 1610, 64 L. Ed. 2d 182 (1980), "The

1 neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis
2 of an erroneous or distorted conception of the facts or the law.”

3 Appellate/Petitioner reserves her right to supplement additional information and documentation
4 should she deem necessary and as it becomes available.

5 Dated this 24th day of February, 2012.

6 

7 LISA MYERS

8 9360 West Flamingo Road, No. 110-326

9 Las Vegas, Nevada 89147

10 Appellant, in proper person

11 **CERTIFICATE OF MAILING**

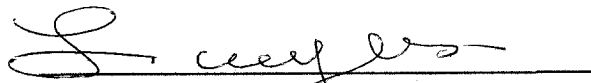
12
13 I hereby certify that on the 24th day of February, 2012, I mailed a true and correct copy of the

14 **PETITION FOR REHEARING OF ORDER DISMISSING APPEAL** via United States

15 Mail, postage prepaid, to the following:

16
17 Amanda M. Roberts
18 2011 Pinto Lane, Suite 100
19 Las Vegas, Nevada 89106
20 Attorney for Respondent

21 **To date, Ms. Roberts has not confirmed her representation of Respondent in this Appellant matter*

22 

23 Lisa Myers, Appellant, in proper person