

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

LISA S. MYERS,
Appellant,
vs.
CALEB O. HASKINS,
Respondent.

Supreme Court No. 60690
District Court No. D434495
Due Date: 05/29/12

FILED

MAY 31 2012

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

CIVIL PROPER PERSON APPEAL STATEMENT

LISA S. MYERS
9360 W. Flamingo Rd., #110-326
Las Vegas, NV 89147
Appellant in Proper Person

AMANDA M. ROBERTS
Roberts Stoffel Family Law Group
2011 Pinto Ln., Ste. 100
Las Vegas, NV 89106

Appellant:
Lisa S. Myers

Respondent:
Caleb O. Haskins

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Las Vegas District Court
2012 MAY 29 PM 4:17

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12-17189

Judgment or Order You Are Appealing. List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
12/08/2011	NEOJ of Order/Certification

Notice of Appeal. Give the date you filed your notice of appeal in the district court: April 12, 2012.

Related Cases. List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
57825, et. al.	Myers v. Haskins	Supreme Court of Nevada

Issues on Appeal. Does your appeal concern any of the following issues? Check all that apply:

- divorce
- relocation
- paternity
- adoption
- child custody/visitation
- termination of parental rights
- marital settlement agreement
- prenuptial agreement
- child support
- attorney fees
- division of property
- spousal support
- other - briefly explain: Jurisdiction, Protection of the child and Appellant from the Respondent, Peremptory Challenge of Family Court Judge Cheryl Moss and her decisions already rendered, to include her Order for a Psychological Evaluation and violation of State and Federal Laws and Rules. *Appellant reserved the right to supplement, should it become necessary.

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.) LISA MYERS, Appellant In Proper Person above-named, hereby appeals to the Supreme Court of Nevada from the June 15, 2011 Motion hearing on Order Shortening Time. Please note, the Court has failed to draft Court Minutes and opposing counsel has just recently drafted the Order (which is a blatant incorrect accounting of the statements made by Judge Duckworth and the events which occurred within the courtroom on said hearing date) and a Notice of Entry of Order from hearing¹, See Court's File and Exhibit "1", previously attached to the Notice of Appeal in the above-referenced matter. Respondent's counsel, Ms. Roberts submitted the Motion on OST under *Huneycutt*; however, *Huneycutt* is **not** applicable as the matters raised and argued in said Motion were and are still currently on Appeal. Further, Ms. Roberts previously put forth this matter regarding the very same child custody and other said issues previously and a decision was rendered by Judge Moss in Family Court January 19th, whereby the Appellant filed an Appeal on those Orders and whereby Judge Moss was recused as she engaged in ex-parte communication with Respondent's counsel and therefore, the Order(s) were and still are deemed "void" under the laws. Ms. Roberts is further barred by *Murphy/McMonigle, res judicata - LaForge* (cannot again be re-litigated).

¹The Notice of Entry of Order has many incorrections. Specifically, it states Judge Duckworth may grant make-up time to the Respondent with the subject minor as a result of the most recent TPO against Respondent due to his neglect/abuse upon the minor child which rendered her on life-support, seizing in the hospital. In actual, the Judge stated he would not grant any make-up time at all. This again is Respondent and Respondent's attorney's unlawful and unethical tactics as they are again manipulating the Court and prejudicing this matter for their own personal gain and against this Appellant.

Importantly, Judge Moss admitted there was ex-parte communication between herself and opposing counsel, Amanda Roberts of Roberts Stoffel and therefore recused herself from this matter. Specifically and most importantly due to the severity of the health and safety of the minor child, the Order of the January 19th hearing should be deemed "void" as it was based on prejudice and illegal acts by both the Justice and opposing counsel, See Valley v. Northern Fire & Marine Ins. Co., 254 U.S. 348, 41 S. Ct. 116 (1920), Kenner v. C.I. R., 387 F. 3d 689 (1968) and 7 Moore's Federal Practice, 2d ed., p. 512, ¶60.23. Further, with regard to some of the decisions and Orders issued by Judge Moss she lacked the jurisdiction to render same, See U.S. v. Will, 449 U.S. 200, 216, 101 S. Ct. 471, 66 L. Ed. 2d 392, 406 (1980), Cohens v. Virginia, 19 U.S. (6 Wheat) 264, 404, 5 L. Ed. 257 (1821) and People v. Miller, 339 Ill. 573 (1930).

In fact, the Judge and opposing counsel stated they were drafting a document to be sent to the Supreme Court, ultimately interfering/intervening with and prejudicing Ms. Myers' appellate matters. Importantly, there is a lack of jurisdiction and lack of lawful justification with regard to this Order, the adjoining Certification and Notice and Judge Duckworth and opposing counsel, Ms. Roberts engagement of ex-parte communication with the Supreme Court in the matters currently on Appeal, as stated at this June 15, 2011 Motion hearing. Further, Ms. Myers filed a Notice of Appeal on the NEOJ of OST of Ms. Roberts' Motion shortened and heard on June 15th, prior to said hearing. Respondent's counsel also never properly served Ms. Myers with said OST and therefore, Ms. Myers was never properly noticed under the rules. Therefore, the hearing should have never went forth, not only due to the fact that specific OST for that date and that Motion was on Appeal, but also due to the sheer fact this matter in its entirety was already previously Appealed and still currently under the jurisdiction of the Supreme Court of Nevada. At this June 15th hearing, Ms. Roberts even referred to Ms. Myers as a "murder"-er in conjunction with the subject minor and Judge Duckworth further threatened to award Respondent with Sole Physical/Legal Custody of said subject minor.

Additionally, Ms. Roberts previously put forth her Motion, whereby Judge Moss held a hearing and rendered decisions and Orders on such earlier this year (which was Appealed due to her rulings and engagement of ex-parte communication which led to Judge Moss' recusal in this matter), Ms. Roberts is thereby barred from rehearing the Motion at this June 15th hearing, as per *McMonigle/Murphy*, res judicata - *LaForge* (cannot again be re-litigated) and *Rooney*. As such, Ms. Myers has no other legal remedy in this matter to protect her and her child's rights than by filing this Notice of Appeal.

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

Opposing counsel "served" a copy of her Opposition and Countermotion upon Applicant's father the prior Thursday evening to apparently forward on to Appellant at Appellant's father's property. There has never been any notation, discussion, etcetera of Appellant's father's address in which he was given these documents by opposing counsel's process server, nor has there ever been confirmation that Appellant resides at this property. Further, Appellant's residential address is confidential with the Court and Appellant never received these documents in the mail prior. Additionally, the content within opposing counsel's pleadings lack the jurisdiction to bring about matters which are currently under the jurisdiction of the Supreme Court of Nevada and in which are specifically on Appeal. Therefore, opposing counsel and Adverse Party are attempting to fraud the Court, have committed perjury and are attempting to prejudice

and manipulate this matter so they may prevail. As such, the Opposition and Countermotion must be stricken and dismissed due to untimeliness, defective service, lack of jurisdiction, fraud, etcetera. See NRCPC Rule 4, Service of Process and NRCPC Rule 6(d), Time.

Ms. Roberts attempted to put forth this Motion for change of custody, etcetera under the Huneycutt case, unfortunately as told to her previously, Huneycutt does not apply in this matter. This Motion was originally calendared for June 28th, however, opposing counsel requested an OST and Judge Duckworth apparently granted same and it is now on calendar for Wednesday, June 15th at 11:00 a.m. In speaking with the JEA for Department Q this afternoon after receiving their correspondence, which noted a report from Donna's House was available for review prior to the "return" hearing of June 15th, it was confirmed this "return" hearing was actually opposing counsel's Motion hearing on OST. The JEA further confirmed this hearing is going forth as scheduled despite the fact an Appeal was filed. Moreover, this matter has yet to have a 16.2 before Judge Duckworth, to begin Discovery (despite the fact Ms. Robert has been unlawfully 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.

Further, in receiving an actual copy of the OST the weekend prior to the June 15th OST Motion hearing from my father, it was noted that a process server on behalf of Amanda Roberts, opposing counsel, came to his property stating he was "Ordered to serve legal documents to Brent and Sharon Myers", of which they were involved in a lawsuit, with a note stating to serve Brent and Sharon Myers. The process server never asked for, nor mentioned this Appellant's name whatsoever. In looking at the OST in the D-case, which was signed by Judge Duckworth, it specifically Ordered the following, "...that Defendant Lisa Myers, shall be personally served at the residence of her parents, Brent and Sharon Myers, located at 9999 W. Katie Avenue, Las Vegas, Nevada 89147, which is the address where the Defendant was served at the commencement of this action." First, Appellant was never served at this location at any time and that was argued by my prior attorney when this matter first began when Ms. Roberts had filed the Complaint after her client was served with the TPO. Second, Appellant's parents do not reside at that address and the process server actually came to another address in search of my father to serve him directly and not me at all. Third, why isn't NRCPC Rule 4 being adhered to? Finally, why are Appellant's parents being served on my behalf and expected to act as liaisons or "servers" themselves in getting an OST passed along to me? Apparently, there is an underlying assumption that it is now Appellant's parents' responsibility to make certain I am notified of the OST hearing. It is the burden of the opposing counsel/opposing party to serve their documents to the party of the case, as such they would've had ample opportunity in which to serve me with a copy of the OST at the TPO hearing scheduled just two days prior to said hearing (Monday, June 13th). Furthermore, along with the OST in the D-case matter, an Opposition/Countermotion in the TPO matter was attached therewith for the hearing to extend the TPO, as well. While the Opposition/Countermotion is untimely under the rules and the service of both the OST and Opposition are ultimately defective, it is more than likely the Court will again accept opposing counsel's habitual untimely filings, untimely and defective service of documents to me and will render a decision, while it be prejudicial and unlawful, in consideration of same.

Additionally, at our most recent TPO hearing June 13th, as opposing counsel, Amanda Roberts once again engaged in ex-parte communication by contacting the department, not for a scheduling issue, but to specifically request the TPO matter be completely deferred to the D-case, in which she had a Motion hearing on calendar for June 15th on OST (of which I was again never properly served with the OST in the D-case or the Opposition/Countermotion in the T-case and therefore, I was not given the appropriate time in which to prepare and file a response to either the Motion, nor the Opposition/Countermotion under the rules) knowing the D-case matter is still currently on Appeal and under the jurisdiction of the Supreme Court of Nevada. At this June 15th Motion hearing on for OST, Judge Duckworth rendered decisions, made Orders and basically refused to allow me to argue my matter, to include the TPO case. While he

stated on record that he knew he didn't have jurisdiction to hear this matter as it is on Appeal, he said he 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.

Moreover, I am concerned with regard to the actions of and decisions made by the previously assigned Family Court Judge Moss in this matter and specifically her Orders which were rendered despite the fact she was engaging in ex-parte communication with opposing counsel, Amanda Roberts, their personal friendship, and the fact Respondent signed a legal contractual agreement giving me Sole Physical/Sole Legal Custody waiving all visitation, etc of the subject minor and his mental/physical impairments, violence issues, conviction and abandonment of the child, of which Judge Moss refused to acknowledge whatsoever, and of which Judge Duckworth is now refusing to acknowledge and hear. Yet, Judge Duckworth, after knowing this matter in its entirety is and 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.

This Appellant is again forced to file this Appeal on the NEOJ of OST of Respondent's Motion. The Motion should've never been heard before the lower court, as this matter in its entirety is currently and has been on Appeal with the Supreme Court, let alone a lower court Judge approving of an Order Shortening Time. It is discerning to this Appellant as the lower court approved Appellant and on behalf of the subject minor, SYDNEY ROSE MYERS-HASKINS' TPO against the Respondent due to his actions 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.

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

Moreover, Respondent previously signed a Joint Agreement giving Appellant Sole Physical and Sole Legal Custody of the parties minor child waiving any visitation. Respondent also waived any visitation and refused a drug test at the prior TPO hearing, as well. Judge Moss refused to acknowledge this legal contractual agreement between the parties to no avail, See Court's file for legal agreement signed by Respondent. Further, Respondent suffers personal mental and physical impairments, to include drug abuse, psychiatric treatments, refusal to take his bipolar medication, etc. (as per documentation and his own testimony as previously provided) and even threatened Appellant, the subject minor and Appellant's mother while the subject minor was recently hospitalized.

Appellant is extremely concerned for the minor child's health, safety and overall well-being, her Pediatrician is as well, as the District Court's Order would continue to put the minor child in direct harm's way by allowing Respondent to have the 3 unsupervised days with her, especially when she became ill in his "care" and "custody" and he failed to notify Appellant of anything whatsoever, to include his blatant refusal to answer any questions regarding the minor child.

Reference Fourteenth Amendment of the United States Constitution, CAPTA, Violence Against Women Act, 18 U.S.C., 42 U.S.C., et. al. See also, Harrison, 780 F. 2d at 1428, whereby the following was held by Federal Circuit Courts, "that state officials may not take retaliatory action against an individual designed...to punish him for having exercised his constitutional right to seek judicial relief..." (citing cases from the Eleventh, Seventh, Fifth, Third, and Tenth Circuits) 804 F. 2d 953. *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). *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 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." Appellant is appearing in proper person, See *Haines v. Kerner*, 404 U.S. 519 (1972), *Hall v. Bellmon*, 935 F. 2d 1106 (10th Cir.) (1991), F.R.C.P. 8 and applicable SCR's.

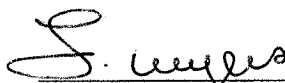
Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed). The Court erred by allowing opposing counsel to submit a Motion for change of custody, evaluation, etcetera for the second time, despite the fact she is barred by the *Murphy/McMonigle*, res judicata - *LaForge* (cannot again be re-litigated) and ultimately rendered decisions and orders at that June 15th hearing, despite lacking the lawful jurisdiction in which to conduct and render same. The Court further erred by discussing, accepting, utilizing and forcing Appellant to defend herself with regard to her unrelated matter currently on Appeal. Further, the lower Court had no jurisdiction in which to hear this matter, let alone on order shortening time. What was the reasoning for the approval of the Order Shortening Time for Respondent's Motion when the same Court approved a Temporary Protective Order against Respondent and for the protection of Appellant and the subject minor? Further, the Order Shortening Time was never personally served to Appellant pursuant to the rules. Additionally, Appellant was never provided proper time in which to prepare and file an Opposition and Countermotion to the Motion prior to the hearing. Appellant reserves her right to supplement information as it becomes available or necessary.

CERTIFICATE OF SERVICE

I certify that on the 29th day of May, 2012, I served a file-stamped copy of Appellant's **CIVIL PROPER PERSON APPEAL STATEMENT** - SUPREME COURT NO. 60690 by first class U.S. Mail with sufficient postage prepaid to the following address:

Amanda M. Roberts
2011 Pinto Lane, Suite 100
Las Vegas, Nevada 89106
Attorney for Respondent

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



LISA MYERS
9360 West Flamingo Road, No. 110-326
Las Vegas, Nevada 89147
Appellant, in Proper Person