

ORIGIN

IN THE SUPREME COURT OF THE STATE OF NEVADA

LISA MYERS,

Appellant/Petitioner,

vs.

CALEB O. HASKINS,

Respondent.

) Supreme Court Case No. 60690  
) District Court Case No. 00-D-434495

FILED

JUN 13 2012

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

2012 JUN 11 PM 2:36

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Las Vegas Drop Box  
CLERK OF SUPREME COURT

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.

*[Signature]*

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

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1 **2. ISSUES**

2 **A. THIS APPELLANT'S APPEAL WAS DENIED SPECIFICALLY STATING**  
3 **APPELLANT IS SEEKING TO CHALLENGE A DISTRICT COURT ORDER**  
4 **REGARDING A TEMPORARY PROTECTIVE ORDER, WHEN IN FACT,**  
5 **APPELLANT IS CHALLENGING A DISTRICT COURT ORDER REGARDING AN**  
6 **ORDER OF CERTIFICATION OF HUNEYCUTT**

7 Ms. Roberts filed a Motion under *Huneycutt*, which was clearly not applicable as the issues on Appeal  
8 concern custody, et. al. and therefore, Ms. Roberts had no grounds for filing same. Ms. Roberts  
9 Motion was on calendar for June 15<sup>th</sup> on OST (of which I was again never properly served with the  
10 OST in the D-case or the Opposition/Counter-motion in the T-case and therefore, I was not given the  
11 appropriate time in which to prepare and file a response to either the Motion, nor the  
12 Opposition/Counter-motion under the rules). Appellant had also specifically Appealed the OST  
13 pertaining to same due to lack of jurisdiction, the fact Huneycutt is not applicable in this matter and  
14 the fact Ms. Roberts is barred by *McMonigle, Murphy*, res judicata and *La Forge* in that Ms. Roberts  
15 previously put forth her Motion and a decision was rendered January 19<sup>th</sup>. Ms. Roberts filed her  
16 Motion and OST knowing the D-case matter is still currently on Appeal and under the jurisdiction of  
17 the Supreme Court of Nevada.

18 At this June 15<sup>th</sup> Motion hearing on for OST, Judge Duckworth rendered decisions, made Orders and  
19 basically refused to allow me to argue my matter. While Judge Duckworth stated on record that he  
20 knew he **didn't have jurisdiction to hear this matter as it is on Appeal**, he said he would send  
21 correspondence to the Supreme Court proffering his opinions and requesting this Honorable Supreme  
22 Court to remand jurisdiction back to his court so he may set for an evidentiary hearing and make a  
23 decision in the matter, ultimately prejudicing both the Supreme Court and District Court matters.  
24 Despite the fact the District Court matter is on Appeal, opposing counsel, Amanda Roberts re-  
25 submitted her Motion for Sole Legal, Primary Physical, Evaluation of this Appellant, etcetera for the  
26 second time in this matter, attempting to take advantage of and ultimately defraud the newly appointed  
27 Family Court Judge, Duckworth. This Motion was previously decided upon by January 19<sup>th</sup> before  
28 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 Counter-motion 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

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

4 Ms. Roberts attempted to put forth this Motion for change of custody, etcetera under the Huneycutt  
5 case, unfortunately as told to her previously, Huneycutt does not apply in this matter, as this matter  
6 in this entirety has been and is still currently on Appeal, under the jurisdiction of the Supreme Court.  
7 This Motion was originally calendared for June 28<sup>th</sup>, however, opposing counsel requested an OST and  
8 Judge Duckworth apparently granted same and it is now on calendar for Wednesday, June 15<sup>th</sup> at  
9 11:00 a.m. In speaking with the JEA for Department Q this afternoon after receiving their  
10 correspondence, which noted a report from Donna's House was available for review prior to the  
11 "return" hearing of June 15<sup>th</sup>, it was confirmed this "return" hearing was actually opposing counsel's  
12 Motion hearing on OST. The JEA further confirmed this hearing is going forth as scheduled despite  
13 the fact an Appeal was filed. Moreover, this matter has yet to have a 16.2 before Judge Duckworth,  
14 to begin Discovery (despite the fact Ms. Robert has been unlawfully engaging in discovery against me  
15 throughout this process), temporary Orders, etc as this matter has been and is still currently on Appeal  
16 due to the actions and Orders of Judge Moss.

17 Further, in receiving an actual copy of the OST the weekend prior to the June 15<sup>th</sup> OST Motion  
18 hearing from my father, it was noted that a process server on behalf of Amanda Roberts, opposing  
19 counsel, came to his property stating he was "Ordered to serve legal documents to Brent and Sharon  
20 Myers", of which they were involved in a lawsuit, with a note stating to serve Brent and Sharon Myers.  
21 The process server never asked for, nor mentioned this Appellant's name whatsoever. In looking at the  
22 OST in the D-case, which was signed by Judge Duckworth, it specifically Ordered the following,  
23 "...that Defendant Lisa Myers, shall be personally served at the residence of her parents, Brent and  
24 Sharon Myers, located at 9999 W. Katie Avenue, Las Vegas, Nevada 89147, which is the address  
25 where the Defendant was served at the commencement of this action." First, Appellant was never  
26 served at this location at any time and that was argued by my prior attorney when this matter first  
27 began when Ms. Roberts had filed the Complaint after her client was served with the TPO. Second,  
28 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 13<sup>th</sup>).  
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.

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

19 This Appellant is again forced to file this Appeal on the NEOJ of Order regarding Certification and  
20 Respondent's counsel, Ms. Roberts' unapplicable, unlawful and unethical *Huneycutt* Motion, heard  
21 before Family Court Judge Duckworth as he lacked the jurisdiction to hear this matter. Further, Judge  
22 Duckworth threatened to award Respondent with Sole Legal/Physical Custody, allowed Ms. Roberts  
23 to yell, disparage, harass, threaten and call Appellant names, to include "murder"-er. Appellant and  
24 her child's civil rights were violated and Federal and State laws were not adhered to in any way in  
25 Judge Duckworth's courtroom by Judge Duckworth nor Ms. Roberts, as usual. Ms. Roberts Motion  
26 should have never been heard before the lower court Judge Duckworth, as this matter in its entirety  
27 is currently and has been on Appeal with the Supreme Court, let alone a lower court Judge approving  
28 of an Order Shortening Time.

Further, and most importantly, as per FRCP 8, Supreme Court Rules and pursuant to *Haines v.*  
*Kerner*, 404 U.S. 519 (1972) and *Hall v. Bellmon*, 935 F. 2d 1106 (10<sup>th</sup> Cir.) (1991), a pro per litigant  
is not held to the same standard as an attorney or represented party and further the Courts are to render  
their decisions and orders on the **merit** of 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.

Importantly to note for the record, 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

1 care and custody due to his parental neglect and abuse. The subject minor, Sydney Rose was on life-  
2 support and was hospitalized, how much more must she endure to this "void" and prejudicial Order(s)  
3 of Judge Moss and the actions, decisions and Orders of Judge Duckworth before this Honorable  
4 Supreme Court interferes and supersedes these Orders and intervenes to stop this injustice against a  
5 mother and her child and the unlawful, unethical behaviors and actions of the Court and its officers,  
6 to include that of opposing counsel?

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

21 I am perplexed as to why the laws, rules, procedures, to include SCR's and Federal Laws, and the  
22 shear fact this matter is on Appeal is not being adhered to by these Court officials and attorneys, yet  
23 again. While I may have limited knowledge in the legal field, See *Doolittle v. Doolittle*, 70 Nev. 163,  
24 262 P.2d 955 (1953) relying upon *Gammill v. Federal Land Bank*, 129 F.2d 502, and *Haley v.*  
25 *Eureka County Bank* 22 P. 1098 (Nev. 1889). See also *Stone v Powell*, 428 US 465, 483 n. 35, 96  
26 Sct. 3037, 49 L. Ed. 2d 1067 (1976), whereby the following was noted, "State courts, like federal  
27 courts, have a constitutional obligation to safeguard personal liberties and to uphold federal law." and  
28 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 to the child abuse protection act. Since I am a pro per litigant, under  
FRCP 8, Supreme Court Rules and pursuant to *Haines v. Kerner*, 404 U.S. 519 (1972) and *Hall v.*  
*Bellmon*, 935 F. 2d 1106 (10<sup>th</sup> Cir.) (1991), a pro per litigant is not held to the same standard as an  
attorney or represented party and further the Courts are to render their decisions and orders on the  
merit of 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.

24 If this Petition is not granted, not only would it continue put the minor child in direct harm's way by allowing  
25 for no protection against the Respondent, but would ultimately subject the minor child to further abuse and  
26 neglect, illness, possible hospitalization, etcetera by the Respondent. The Respondent has mental and  
27 physical impairments, parental neglect/abuse, conviction, extensive history of drug and alcohol abuse, anger  
28 problems, domestic abuse issues and his abandonment of the minor child who has a history of RSV, illnesses  
and loss of weight while in his care and custody, and most recently hospitalization with seizures,

1 undiagnosed virus and life-support as a result of Respondent's parental abuse and neglect. When a child is  
2 malnourished, dehydrated and sleep deprived, there exists a **failure to thrive** for that child, the child's body  
3 can begin to have seizures. The Respondent continues to refuse to seek out the extensive medical and  
4 psychiatric intervention he is in need of and of which he has filed a VA Disability Claim for, *See Court file*.  
5 The lower court, Family Court Judges, continue to allow opposing counsel's unlawful and unethical  
6 behavior and actions, the prejudice of this and Appellant's other matters and for the acceptance and  
7 utilization of Appellant's other unrelated matters, which are still on Appeal. By this Court's rules, State  
8 laws and rules and Federal laws and rules, Appellant/Petitioner's pleadings should have been  
9 granted on their merits, for the protection, safety and well-being of the subject minor and in  
10 consideration of the rights of Appellant/Petitioner and the subject minor. Further,  
11 Appellant/Petitioner's pleadings should have been granted based on the evidence supporting  
12 same. Therefore, Appellant/Petitioner is now filing this Petition requesting this Court to Rehear  
13 its Order Dismissing Appeal in the above-referenced matters.

### 9 **3. SUBSTANTIAL LAWS AND RULES OVERLOOKED AND CASES INVOLVED**

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

11 LACK OF JURISDICTION - District Court matter is currently on Appeal under the  
12 jurisdiction of the Supreme Court of Nevada. Further, the Family Court Judge assigned  
13 to the D-case matter lacked the jurisdiction to hear matters associated with the D-case as  
14 its is currently on Appeal under the jurisdiction of the Supreme Court of Nevada. Judge  
15 Duckworth "took" jurisdiction wrongfully and in which to hear a unlawful and unethical  
16 Motion filed by Respondent's counsel, as well.

#### 15 **RULE 59. NEW TRIALS; AMENDMENT OF JUDGMENTS**

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

#### 18 **RULE 60. RELIEF FROM JUDGMENT OR ORDER**

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

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

#### 25 **RULE 61. HARMLESS ERROR**

26 No error in either the admission or the exclusion of evidence and no error or defect in any  
27 ruling or order or in anything done or omitted by the court or by any of the parties is

1 ground for granting a new trial or for setting aside a verdict or for vacating, modifying  
2 or otherwise disturbing a judgment or order, unless refusal to take such action appears  
3 to the court inconsistent with substantial justice. The court at every stage of the  
4 proceeding must disregard any error or defect in the proceeding which does not affect the  
5 substantial rights of the parties.

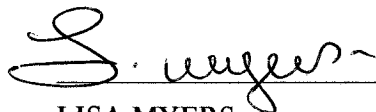
6 EDCR RULE 7.21. Preparation of order, judgment or decree.

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

10 See *Doolittle v. Doolittle*, 70 Nev. 163, 262 P.2d 955 (1953) relying upon *Gammill v.*  
11 *Federal Land Bank*, 129 F.2d 502, and *Haley v. Eureka County Bank* 22 P. 1098 (Nev. 1889).  
12 See also *Stone v Powell*, 428 US 465, 483 n. 35, 96 Sct. 3037, 49 L. Ed. 2d 1067 (1976),  
13 whereby the following was noted, "State courts, like federal courts, have a constitutional  
14 obligation to safeguard personal liberties and to uphold federal law." Also, see 28 USCS Sec.  
15 455, and *Marshall v Jerrico Inc.*, 446 US 238, 242, 100 S.Ct. 1610, 64 L. Ed. 2d 182 (1980),  
16 "The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on  
17 the basis of an erroneous or distorted conception of the facts or the law."

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

20 Dated this <sup>8<sup>TH</sup></sup> day of June, 2012.

21 

22 LISA MYERS

23 9360 West Flamingo Road, No. 110-326

24 Las Vegas, Nevada 89147

25 Appellant/Petitioner, in proper person

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CERTIFICATE OF MAILING

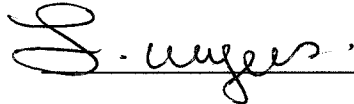
I hereby certify that on the 11<sup>TH</sup> day of June, 2012, I mailed a true and correct copy of the

PETITION FOR REHEARING OF ORDER DISMISSING APPEAL via United States Mail,

postage prepaid, to the following:

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 Appellate matter*



\_\_\_\_\_  
Lisa Myers, Appellant/Petitioner, in proper person