

II. POINTS AND AUTHORITIES

A. FACTS

On January 26, 2012, the Court issued its *Order of Reversal and Remand*, stating:

Because we conclude that the district court's establishment of a \$1,300 per month sum certain for Vaile's child support obligation constitutes an impermissible modification of the original support obligation, we reverse the district court's order setting Vaile's support payment at \$1,300, and we further reverse the arrearages calculated using the \$1,300 support obligation and the penalties imposed on those arrearages. We remand the matter to the district court for further proceedings consistent with this opinion.

The Court added a footnote stating that the parties' appellate filings and the record alluded to a possible child support order entered by Norway, and so directed the family court, on remand, to determine whether any such order existed and, if so, assess its bearing, if any, on enforcement of the Nevada support order.

On April 9, 2012, and again on June 4, 2012, Department I of the Eighth Judicial District heard argument and received extensive briefing on the issues remanded by this Court.

According to the child support order currently in effect, Scotlund was required to provide certified statements of income for the past twelve months not later than July 1, 2012, so his next year's child support could be calculated.¹ As of this writing, Scotlund has still not provided any actual proof of income as required by that order.

We do know that Scotlund's income over the *previous* four years was always over \$130,000 per year.² His failure to provide proof of income for 2012, as required

¹ This will be the last year – July 1, 2012, to June 30, 2013 – that Scotlund will have a current child support obligation, as the youngest child will emancipate during this time. All remaining payments will be required to pay the massive child support arrearages he continues to owe in accordance with NRS 125B.100.

² See Exhibit A, letter from Scotlund's CPA concerning his annual income.

1 by the court, indicates an attempt to mislead the Court as to his actual income and his
2 net worth.

3 On July 10, 2012, the lower court entered a *Decision and Order* that
4 affirmatively dealt with all remanded issues. Scotlund was unhappy – as always –
5 that his position was found to be meritless and his legal argument faulty.

6 Seeking delay, on July 19, 2012, Scotlund filed his *Emergency Petition for*
7 *Writ of Mandamus Under NRAP 27(e)*.

8 On July 23, 2012, this Court denied Scotlund's *Emergency Petition*.

9 On July 30, 2012, Scotlund filed his *Notice of Appeal*. Generally, this Appeal
10 would be considered untimely as the Eighth Judicial District *Decision and Order* was
11 an interlocutory order requiring further decisions and orders.³

12 On August 13, 2012, Scotlund filed in the lower court a *Motion for Leave to*
13 *Proceed in Forma Pauperis* – which request was contradicted by his admission in
14 that very document that he has already earned more than \$86,000 just during 2012.
15 Scotlund provided no exhibits to prove his contentions of sudden poverty after
16 making over \$675,000 over the past five years⁴ – an income about half a million
17 dollars more than that of the average Nevadan over the same period.⁵

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20 ³ Scotlund was playing the “float,” counting on the additional orders being
21 entered before this Court could decide that the Appeal was premature. NRAP 4(a)(6).

22 ⁴ Virtually none of this money went for the support of his two children in
23 Norway, and zero was paid toward the huge sums he owes for attorney's fees,
24 penalties, and sanctions previously imposed. To date, nothing of consequence has
25 been done by any court to actually compel him to satisfy those judgments and orders.

26 ⁵ The average income for a Nevadan during this period was just over \$41,500
27 per year, which would total \$208,134 over the same period. Information taken from
28 the Nevada Department of Employment, Training and Rehabilitation website at
www.nevadaworkforce.com.

1 On August 14, 2012, the district court signed the *Order* concerning fees
2 awarded in the case⁶ and the *Order* which awarded Cisilie child support penalties.⁷
3 The Fees *Order* was filed on August 16, 2012, and the penalties *Order* was filed on
4 August 17, 2012.

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6 **III. OPPOSITION**

7 **A. The Motion To Defer Payment of Cost Bond Should be Denied**

8 NRS 12.015 is the applicable statute governing the granting of relief to
9 indigent persons. Specifically, NRS 12.015(1) requires that Scotlund file an affidavit
10 with the District Court “setting forth with particularity facts concerning his income,
11 property and other resources which establish that he is unable to prosecute or defend
12 the action because he is unable to pay the costs of so doing.”

13 Here, Scotlund provided *no* explanation as to what has happened to nearly
14 three quarters of a million dollars he admits to having earned over the past five years.
15 He makes unsupported statements of having only \$10 in cash, \$672.96 in checking,
16 and \$3.31 in a savings account. He also claims, without evidence, that he was
17 “forced” to cash out his 401(k) retirement plan to meet family obligations when he
18 has already made in excess of \$86,000 in income this year.

19 The provisions of NRS 12.015 were not intended to be abused by persons that
20 have great wealth and decide to spend it on frivolous items (or, *much* more likely,
21 transfer it to third parties to evade collection of judgments) instead of taking care of
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24 ⁶ Ordering Scotlund to pay some \$57,000 in *additional* fees and costs he has
25 caused to be run up. As with all other orders entered against him, Scotlund has
26 ignored the order.

27 ⁷ Reducing to judgment over \$15,000 in child support penalties owed, in
28 addition to the hundreds of thousands owed in principal and interest.

1 their responsibilities – such as paying child support and court-imposed fee and cost
2 sanctions.⁸

3 Lastly, even if the request was granted by the lower court, the provisions of
4 NRS 12.015 are inapplicable to appeals, and Scotlund is still required to pay all fees
5 and costs.⁹

6 Scotlund’s transparent – and virtually admitted – goal for a decade has been to
7 delay and evade while costing everyone pursuing him for support as much time and
8 money as possible. He should not be further indulged. On the basis of this Court’s
9 *own files*, the Motion should be denied without any further delay.

10
11 **B. The Motion to Allow Full Briefing Should be Denied**

12 Scotlund argues that even though he is proceeding in proper person in this
13 action, he is legally trained and capable of presenting “well-formed arguments based
14 on relevant legal precedent.” He is, as usual, wrong.

15 Scotlund has attended law school but has not been admitted to practice in any
16 jurisdiction. His legal arguments – which are well documented in this Court – are
17 shoddy, conclusory, usually specious, and almost always without relevant support.

18 All of this notwithstanding, contrary to Scotlund assertion that this is a
19 “complex matter,” this is nothing more than a simple child support case. Scotlund
20 entered a child support order at the time of his divorce from Cisilie in Nevada and it
21 is to be enforced. Scotlund has refused to pay his child support and is being assessed
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24 ⁸ Mr. Vaile has not had to pay legal counsel since 2008. He certainly can’t
25 claim that his vexatious litigation is the reason for his claimed financial condition.
26 He also can’t claim that it has anything to do with the support of his children in
27 Norway since he has failed miserably at his parental responsibility in that regard.

28 ⁹ See *Casper v. Huber*, 85 Nev. 474, 456 P.2d 436 (1969).

1 arrears, and probably held in contempt, for ducking his obligations for a decade. That
2 is petty much the entire case. He has made his legal arguments in the lower court and
3 the record there should stand on its own.

4 There is no reason this Court should be subjected to a re-hashing of the same
5 arguments that appear in the record. It will only waste additional time for this Court
6 and for Respondent and her counsel – which is, based on a decade’s experience,
7 precisely Scotlund’s intended goal.

8 There is no due process consideration involved in requiring Scotlund to comply
9 with the Pilot Program rules, and doing so will certainly speed the appellate process.
10 While efficient resolution and having justice served is the opposite of what Scotlund
11 wants, it is long past time for the court system to stop indulging his endless stream
12 of prevarication, evasion, and delay.

13 14 **IV. CONCLUSION**

15 Scotlund’s current filings in this Court are as frivolous and vexatious as all the
16 rest. He certainly should not be encouraged to continue such litigation without
17 charge. His request to defer payment of the cost bond should be denied.

18 Additionally, Scotlund’s filings in this Court are rambling and irrelevant. The
19 record will show that this is equally true of his briefings in the lower court in the most
20 recent phase of the case. Neither the Court nor Respondent should be subjected to
21 further multi-page pleadings that are not supported by any relevant authority. The
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1 Court should deny Scotlund's *Motion* and require him to comply with the Pilot
2 Program rules.

3 Respectfully submitted,

4 WILLICK LAW GROUP

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CERTIFICATION OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

[X] This brief has been prepared in a proportionally spaced typeface using Corel WordPerfect Office X3, Standard Edition in font size 14, and the type style of Times New Roman; or

[] This brief has been prepared in a monospaced typeface using *[state name and version of word processing program]* with *[state number of characters per inch and name of type style]*.

2. I further certify that this brief complies with the page or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

[] Proportionately spaced, has a typeface of 14 points or more and contains _____ words; or

[] Monospaced, has 10.5 or fewer characters per inch, and contains _____ words or _____ lines of text; or

[X] Does not exceed 10 pages.

3. Finally, I hereby certify that I have read this Motion, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the

1 transcript or appendix where the matter relied on is to be found. I understand
2 that I may be subject to sanctions in the event that the accompanying brief is
3 not in conformity with the requirements of the Nevada Rules of Appellate
4 Procedure.

5 **DATED** this 22nd day of August, 2012 .

6 WILLICK LAW GROUP

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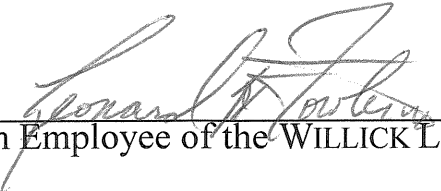
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CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing was made on the 23rd day of August, 2012, pursuant to EDCR 7.26(a), by U.S. Mail addressed as follows:

Mr. Robert Scotlund Vaile
P.O. Box 727
Kenwood, California 95452
Respondent In Proper Person

That there is regular communication between the place of mailing and the place so addressed.


An Employee of the WILLICK LAW GROUP

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EXHIBIT A

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May 23, 2012

Robert Vaile
P.O. Box 727
Kenwood, CA 95452

Dear Robert

As requested, I have summarized your income from 2005 - 2011. The summary reflects your gross income per information which has been provided by you for the preparation of federal income taxes.

The following items have been included at 1/2 the total as listed on the joint return:


Interest Income
Cancellation of debt

The gross income is as follow:

2005 -	\$ 703
2006 -	25,228
2007 -	5,991
2008 -	137,766
2009 -	131,215
2010 -	137,468
2011 -	183,610

If you have any question regarding this information please let me know.

Sincerely,



Terry R Swisher, CPA
Swisher & Davis, CPA's, PLC