

FILED

IN THE SUPREME COURT OF THE STATE OF NEVADA MAR 28 2013

BRYAN FERGASON,
Appellant,
vs.
LAS VEGAS METROPOLITAN
POLICE DEPARTMENT,
Respondent.

Supreme Court No. 6235
District Court No. A53716
Due Date: April 08, 2013
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK
MacCagnie

CIVIL PROPER PERSON APPEAL STATEMENT

Appellant in Proper Person

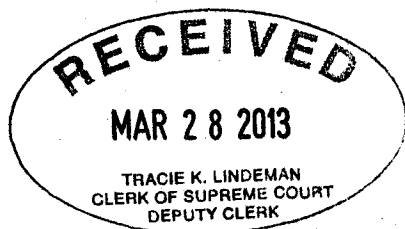
Attorney for Respondent

Bryan Fergason, #96803
High Desert State Prison
P. O. Box 650
Indian Springs, NV 89070-0650

Thomas Joseph Moreo
Chief Deputy District Attorney
Clark County District Attorney
200 Lewis Ave., 3rd Flr.
Las Vegas, NV 89155

Appellant:
BRYAN FERGASON

Respondent:
LAS VEGAS METROPOLITAN
POLICE DEPARTMENT



13-09277

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
11-29-12	Order granting Motion for Summary Judgment

Notice of Appeal. Give the date you filed your notice of appeal in the district court: 12-21-12

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
C-228752	State of Nevada vs Bryan Ferguson	Dept #20
C227874	State of Nevada vs Bryan Ferguson	Dept #1

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

- | | | |
|--|---|---|
| <input type="checkbox"/> divorce | <input type="checkbox"/> child custody/visitation | <input type="checkbox"/> child support |
| <input type="checkbox"/> relocation | <input type="checkbox"/> termination of parental rights | <input type="checkbox"/> attorney fees |
| <input type="checkbox"/> paternity | <input type="checkbox"/> marital settlement agreement | <input type="checkbox"/> division of property |
| <input type="checkbox"/> adoption | <input type="checkbox"/> prenuptial agreement | <input type="checkbox"/> spousal support |
| <input checked="" type="checkbox"/> other—briefly explain: _____ | | |

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.)

ON 11-4-08 A JURY FOUND APPELLANT GUILTY OF
(1) COUNT OF CONSPIRACY TO POSSESS STOLEN PROPERTY AND/OR TO
COMMIT BURGLARY AND 25 COUNTS OF POSSESSION OF STOLEN
PROPERTY, CASE NO. C228752. A TIMELY NOTICE OF APPEAL WAS
FILED.

ON 3-9-2007 PLAINTIFF FILED A COMPLAINT FOR FORFEITURE
BASED ON THE SAME EVIDENCE AS THE CRIMINAL CASE. ON 4-10-

2007 ATTORNEY CYNTHIA L. DUSTIN, ESQ. FILED AN ANSWER TO THE COMPLAINT FOR FORFEITURE ON BEHALF OF APPELLANT. FOLLOWING, ON APRIL 23, 2007 SHE FILED A MOTION TO STAY PROCEEDINGS IN THIS FORFEITURE PROCEEDING PENDING THE OUTCOME OF CASE NO. C228752. THE HONORABLE STEWART BELL GRANTED THE STAY UNTIL SUCH TIME AS CLAIMANT'S CRIMINAL CASE IS TRIED. SEE ORDER TO STATISTICALLY CLOSE CASE. ON 10-29-09 THE HONORABLE DOUGLAS E. SMITH HAD THE FOREFEITURE CASE DISMISSED (WITH OR WITHOUT PREJUDICE). INFRA.

ON 12 10, 2010 THE NEVADA SUPREME COURT DENIED APPELLANT'S DIRECT APPEAL, SUPREME COURT CASE NO. 59264, DISTRICT COURT CASE NO. C228752.

ON 6-9-11 APPELLANT FILED TIMELY PETITION FOR A WRIT OF HABEAS CORPUS, CASE NO. C228752. THE STATE RESPONDED. THEN, ON 11-30-11 PLAINTIFF FILED A MOTION TO RECONSIDER COURT STATISTICALLY CLOSING THE CASE. SEE NOTICE AND MOTION TO RECONSIDER. ON 2-10-12 DISTRICT DENIED THE PETITION. APPELLANT FILED TIMELY NOTICE OF APPEAL. ON 4 - 11 - 12 THE NEVADA SUPREME COURT REVERSED AND REMANDED.

AT SOME POINT PLAINTIFF FILED A MOTION TO LIFT STAY. THE MOTION WAS GRANTED ON 4-9-12. FOLLOWING, ON 5-1-12 PLAINTIFF FILED NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT. APPELLANT FILED HIS OPPOSITION ON 10-5-12. ON 7-23-2012 ATTORNEY DUSTIN WITHDREW AS COUNSEL OF RECORD WITHOUT INFORMING APPELLANT.

ON 11-13-12 THE DISTRICT COURT AS TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT INDICATED IT WOULD REVIEW THE CRIMINAL CASE AND NOTED IT WOULD HAVE TO RESERVE ITS

RULING PENDING THE APPEAL. HOWEVER, ON 11-29-12 THOMAS J. MOREO, CHIEF DEPUTY DISTRICT ATTORNEY MAILED APPELLANT A COPY OF HIS NOTICE OF ENTRY OF ORDER / FINDING OF FACT CONCLUSIONS OF LAW AND ORDER ALLEGING THAT ON 11-13-12 THE DISTRICT COURT GRANTED PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT. SEE FACTS AND CONCLUSION OF LAW, P. 4, LINES 8-11. THIS APPEAL FOLLOWS FROM THAT ERRONEOUSLY ALLEGATION.

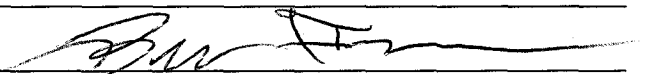
Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed).

Appellant's appeal is based solely on Entry of Order / Finding of Fact, Conclusion of Law and Order prepared by Chief Deputy District Attorney Granting plaintiff's motion for Summary Judgment, Conclusion of law and order, P. 4 lines 8-11 when in fact the district court made no such ruling. See Criminal Court minutes, dated 11-13-12. There, the District Court clearly indicated that it would Reserve its ruling pending the outcome of appellants Habeas Appeal. Id.

Contrary to plaintiff's assertion that appellant entered a guilty plea in Case No. C228752, and that the Judgment of Conviction is final, see Motion for Summary Judgment, P. 6 lines 5-7, Facts and Conclusions of law P. 4 lines 12-16 Proof of facts necessary to sustain the conviction being conclusive evidence in the forfeiture action is belied

by the record Appellant has not entered a Guilty Plea in Case no. C228752 following Reversal and Remand by this Court. Since this Court's Order of Reversal and Remand no further proceedings have transpired.

Therefore, Since Appellant's Criminal case is still pending and the Complaint for forfeiture is based on evidence As the Criminal case, if in fact the District court did grant plaintiff's motion for Summary Judgment based on the foregoing this court should rule the court erred where it prematurely granted plaintiff's motion for Summary Judgment when in fact the Criminal case has not been resolved and rescind the court's order.



Bryan Ferguson #96803

P.O. Box 650 H.D.S.P.

Indian Springs NV 89070

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed appeal statement upon all parties to the appeal as follows:

- ☐ By personally serving it upon him/her; or
☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served by mail):

Office of the District Attorney
200 Lewis Avenue, P.O. Box 55212
Las Vegas, NV 89155

Supreme Court of Nevada
Office of the Clerk
201 S. Carson Street, Suite 201
Carson City, Nevada 89701

DATED this 3 day of 25, 2013.



Signature of Appellant

Bryan Ferguson

Print Name of Appellant

P.O. Box 650 H.D.S.P.

Address

Indian Springs, NV 89070

City/State/Zip



Telephone