

No. CF-1111054

Dept. No. Z

Electronically Filed
May 15 2013 11:14 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

IN THE SEVENTH JUDICIAL DISTRICT COURT OF
STATE OF NEVADA IN AND FOR
THE COUNTY OF WHITE PINE

RECEIVED
5-14-13
WP CLERK

FILED
MAY 14 PM 1:07
LINDA F. BURLEIGH
WHITE PINE COUNTY CLERK
DEPUTY

GILBERT JAY PALIOTTA,

Petitioner/Plaintiff,

v.

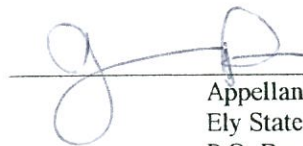
THE STATE OF NEVADA, et al.,

Respondent/Defendant.

NOTICE OF APPEAL

Notice is hereby given that Gilbert Jay Paliotta, Petitioner/Defendant above named,
hereby appeals to the Supreme Court of Nevada from the final judgment/order
(Order denying Plaintiff's Motion for Reconsideration)
entered in this action on the 8 day of May, 2013.

Dated this 11 day of May, 2013.



Appellant
Ely State Prison
P.O. Box 1989
Ely, Nevada 89301-1989

CERTIFICATE OF SERVICE BY MAIL

I, Gilbert Jay Roloff hereby certify pursuant to Rule 5(b) of the NRCP, that on this 17 day of May, 2003, I served a true and correct copy of the above-entitled Notice of Appeal postage prepaid and addressed as follows:

Office of the A.G.
100 N. Carson St
Carson City, NV 89701-4717

(receipt no. 1-463050)

Signature

Print Name

Gilbert Jay Roloff
Ely State Prison

P.O. Box 1989

Ely, Nevada 89301-1989

AFFIRMATION PURSUANT TO: N.R.S. 239B.010

I, HEREBY CERTIFY THAT I AM THE UNDERSIGNED
INDIVIDUAL AND THAT THE ATTACHED DOCUMENT
THAT IS ENTITLED: Notice of Appeal

_____, DOES NOT
CONTAIN THE SOCIAL SECURITY NUMBER OF ANY
PERSON, UNDER THE PAINS AND PENALTIES OF
PERJURY, THIS, 11, DAY OF, May, 2013.

SIGNATURE: _____

INMATE NAME PRINTED: _____

INMATE NUMBER: _____

ADDRESS: ELY STATE PRISON, P.O. BOX 1989, ELY, NV 89301

CASE NO: CF-1111054
DEPT: II

FILED
2013 MAY 14 PM 2:29
LINDA F. BURLEIGH
WHITE PINE COUNTY CLERK
DEPUTY

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF WHITE PINE

GILBERT JAY PALIOTTA,
Petitioner/Appellant,

-vs-

Case Appeal Statement

THE STATE OF NEVADA IN RELATION TO
THE NEVADA DEPARTMENT OF CORRECTIONS;
RENEE BAKER, et. al.,
Defendant's.

-
1. GARY D FAIRMAN, District Court Judge.
 2. GILBERT JAY PALIOTTA, Petitioner/Appellant, in Pro Se
 3. ARMOND LEWIS, Petitioner/Appellant was not represented in the District Court. Petitioner/Appellant is not represented in appeal.
 4. THE STATE OF NEVADA IN RELATION TO, THE NEVADA DEPARTMENT OF CORRECTIONS, Renee Baker, D. McNeely, O Sandoval, Willis, and John Doe, all in their individual and official capacity. Respondents were represented in the District Court by Nathan Hastings, ESQ., Deputy Attorney General, Bureau of Litigation, Nevada Bar No. 11593, 100 North Carson Street, Carson City, NV 89701-4717, (775)684-1251
 6. Appellant was not represented by counsel in the District Court case or Appeal.
 7. Leave to Proceed In Forma Pauperis was granted November 23, 2011.
 8. Proceedings commenced on November 28, 2011.
 9. Petitioner alleges violations of 28 U. S. C. § 1915(c) and Rule 4 of the Federal Rules of Civil Procedure. "Puett v. Blandford", 912 F.2d 270, 275 (9th Cir. 1990) pursuant to the Federal Rules of Civil Procedure 4(m) after the U. S. Marshal service failed to serve defendants who no longer worked at the prison. The District Court filed an ORDER on MAY 8, 2013.

10. This case has not previously been the subject of an appeal to the Supreme Court.
11. This appeal does not involve child custody or visitation.
12. It is unknown if there will be a settlement.

Dated this 14th day of May, 2013.

Run: 05/14/13
14:41:21

Seventh Judicial District Court - White Pine
Case Summary

Page
DC210

Case #: CF-1111054

Judge: PAPEZ, DAN L.

Date Filed: 11/08/11 Department: 02

Case Type: CF CIVIL FEDERAL RIGHTS

Title/Caption: GILBERT JAY PALIOTTA,
Petitioner,
v
THE STATE OF NEVADA IN RELATION TO
THE NEVADA DEPARTMENT OF CORRECTIONS;
RENEE BAKER, ET AL.,
Defendants.

Defendant(s)
BAKER, RENEE

Attorney(s)
No "Attorney 1" Listed

Plaintiff(s)
PALIOTTA, GILBERT JAY # 46244

Attorney(s)
No "Attorney 1" Listed

Filings:

Date	Pty	Filing	Fee
11/08/11		MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS	
11/08/11		AFFIDAVIT IN SUPPORT OF MOTION TO PROCEED IN FORMA PAUPERIS	
11/08/11		FINANCIAL CERTIFICATE	
11/08/11		CERTIFICATE OF MAILING	
11/23/11		ORDER TO PROCEED IN FORMA PAUPERIS	
11/23/11		CERTIFICATE OF SERVICE	
11/28/11		CIVIL RIGHTS COMPLAINT PURSUANT TO 42 USC 1983 (JURY TRIAL DEMANDED)	
11/28/11		ISSUED 2 SUMMONS	
11/28/11		CERTIFICATE OF MAILING	
12/27/11		ISSUED 3 SUMMONS	
12/27/11		CERTIFICATE OF MAILING	
3/05/12		ISSUED 2 SUMMONS	
3/06/12		CERTIFICATE OF MAILING	
4/02/12	X	ANSWER TO COMPLAINT	
4/05/12		AFFIDAVIT OF SERVICE-SUMMONS RETURNED SERVED FOR: CLAUDE WILLIS, RENEE BAKER, TASHEENA SANDOVAL, D. MCNEELY. SUMMONS RETURNED NOT SERVED FOR JOHN DOE-GRIEVANCE RESPONDER	
4/05/12		CERTIFICATE OF MAILING	
4/10/12	X	MOTION FOR A TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION	
4/10/12	X	MOTION TO DISPENSE WITH THE REQUIREMENT OF SECURITY	
4/10/12		CERTIFICATE OF MAILING	
4/23/12		DEFENDANTS NOTICE OF MOTION/MOTION FOR ENLARGEMENT OF TIME TO OPPOSE PLAINTIFFS MOTION FOR TRO/PRELIMINARY INJUNCTION	
4/25/12		ORDER GRANTING DEFENDANTS MOTION FOR ENLARGEMENT OF TIME TO OPPOSE PLAINTIFFS MOTION FOR TRO/PRELIMINARY INJUNCTION	
4/27/12		OPPOSITION TO DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME TO OPPOSE PLAINTIFF'S MOTION FOR TRO/PRELIMINARY INJUNCTION	
4/27/12		CERTIFICATE OF MAILING	
5/23/12	X	DEFENDANTS OPPOSITION TO PLAINTIFFS MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION	
6/04/12	X	MOITON TO STRIKE DEFENDANTS' OPPOSITION TO PLAINTIFF'S	

MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY
INJUNCTION

6/18/12 X DEFENDANTS OPPOSITION TO PLAINTIFFS MOTION TO STRIKE
DEFENDANTS OPPOSITION TO PLAINTIFFS MOTION FOR TEMPORARY
RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION

6/22/12 X REPLY IN SUPPORT OF PLATINFFS' MOTION TO STRIKE DEFENDANTS'
OPPOSITION TO PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING
ORDER AND/OR PRELIMINARY INJUNCTION

6/22/12 CERTIFICATE OF MAILING

9/12/12 PLAINTIFFS NOTICE OF IN CHAMBERS SUBMISSION

9/12/12 CERTIFICATE OF MAILING

9/17/12 JOINT RULE 16.1 CASE CONFERENCE REPORT

9/24/12 X MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT TO CURE
DEFICIENCIES

9/24/12 CERTIFICATE IF MAILING

11/16/12 MOTION FOR EXTENSION OF TIME

11/19/12 ORDER GRANTING MOTION FOR EXTENSION OF TIME

11/19/12 CERTIFICATE OF SERVICE

11/26/12 X OPPOSITION TO DEFENDANTS MOTION FOR EXTENSION OF TIME

11/26/12 X REQUEST FOR SUBMISSION OF MOTION

11/26/12 CERTIFICATE OF MAILING

1/18/13 MOTION TO DISMISS AS TO PURPORTED DEFENDANT MCNEELY

1/24/13 PLAINTIFF'S AFFIDAVIT IN ATTEMPT TO HAVE SUMMONS AND
COMPLAINT SERVED UPON DEFENDANT/AND MOTION IDENTIFYING THE
UNSERVED DEFENDANT REQUESTING ISSUANCE OF SUMMONS FOR
UNSERVED DEFENDANT

1/24/13 CERTIFICATE OF MAILING

1/28/13 OPPOSITION TO DEFENDANTS' MOTION TO DISMISS AS TO PURPORTED
DEFENDANT MCNEELY

1/28/13 CERTIFICATE OF MAILING

2/05/13 DEFENDANTS' OPPOSITION TO PLAINTIFF'S AFFIDAVIT AND MOTION
REQUESTING ISSUANCE OF SUMMONS FOR UNSERVED DEFENDANT

2/06/13 REPLY TO PLAINTIFF'S OPPOSITION TO MOTION TO DISMISS AS TO
PURPORTED DEFENDANT MCNEELY

2/12/13 REPLY IN SUPPORT OF PLAINTIFF'S MOTION REQUESTING ISSUANCE
OF SUMMONS FOR UNSERVED DEFENDANT

2/12/13 CERTIFICATE OF MAILING

2/13/13 REPLY IN SUPPORT OF PLAINTIFF'S OPPOSITION TO MOTION TO
DISMISS AS TO DEFENDANT MCNEELY

2/13/13 CERTIFICATE OF MAILING

2/21/13 X MOTION FOR AN ORDER COMPELLING DISCOVERY

2/21/13 X REQUEST FOR SUBMISSION OF MOTION

2/21/13 CERTIFICATE OF MAILING

2/28/13 X REQUEST FOR SUBMISSION

3/07/13 X MOTION FOR ENLARGEMENT OF TIME

3/07/13 X REQUEST FOR SUBMISSION OF MOTION

3/08/13 CERTIFICATE OF MAILING

3/14/13 X PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

3/14/13 CERTIFICATE OF MAILING

3/21/13 X S. FOSTER'S ANSWER TO AMENDED COMPLAINT

3/21/13 X DEFENDANT'S LIMITED OPPOSITION TO PLAINTIFF'S MOTION FOR
ENLARGEMENT OF TIME

3/29/13 X PLAITNIFFS REPLY IN SUPPORT OF ENLARGEMENT OF TIME

3/29/13 CERTIFICATE OF MAILING

3/29/13 X DEFENDANTS OPPOSITION TO PLAINTIFFS MOTION FOR PARTIAL
SUMMARY JUDGMENT

4/10/13 X REPLY IN SUPPORT OF PLAINTIFFS MOTION FOR SUMMARY JUDGMENT

Run: 05/14/13
14:41:21

Seventh Judicial District Court - White Pine
Case Summary

Page :
DC2100

4/10/13	CERTIFICATE OF MAILING
4/16/13	ORDER
4/16/13	CERTIFICATE OF SERVICE
4/19/13	OBJECTION TO DISTRICT COURT ORDER (16 APRIL, 2013), AND/OR MOTION TO RECONSIDER
4/19/13	CERTIFICATE OF MAILING
5/08/13	ORDER
5/08/13	CERTIFICATE OF SERVICE
5/14/13	NOTICE OF APPEAL
5/14/13	CASE APPEAL STATEMENT
5/14/13	CERTIFICATE OF MAILING



Case No. CF-1111054

Dept. No. 2

FILE

2013 MAY -8 AM 10: 03

LINDA F. BURLEIGH
WHITE PINE COUNTY CLERK
BY JF DEPUTY

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF WHITE PINE

GILBERT JAY PALIOTTA,

Plaintiff,

vs.

THE STATE OF NEVADA IN RELATION
TO, THE NEVADA DEPARTMENT OF
CORRECTIONS, RENEE BAKER, ET
AL.,

Defendants.

ORDER

On April 16, 2013, the Court entered an order granting Defendants' Motion to Dismiss Purported Defendant McNeely on the ground that Plaintiff failed to timely effectuate service on Defendant McNeely. On April 19, 2013, Plaintiff filed Objection to District Court Order (16 April, 2013), and/or Motion to Reconsider (hereafter "Motion for Reconsideration"). In it, Plaintiff cites federal authority for the proposition that in the event the Carson City Sheriff's Office "cannot effect service, Plaintiff is entitled to the U.S. Marshal for service under Puett[v. Blandford, 912 F.2d 270 (9th Cir. 1990)]." The authority cited by Plaintiff is simply not binding in this jurisdiction. Accordingly, Plaintiff is




1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

not entitled to service of process by the U.S. Marshal's Service and his Motion for Reconsideration must be denied.

Good cause appearing,

IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration is **DENIED**.

DATED this 8th day of May, 2013.


DISTRICT JUDGE

Tracie Lindeman
Clerk of the Supreme Court
201 S Carson Street
Carson City, NV 89701

Re: CF-1111054

Dear Ms. Lindeman,

We are transmitting the enclosed Notice of Appeal. Please note the following deficiency:

Notice of Entry of Order has not been received from the Deputy Attorney General's Office

Sincerely,

Elizabeth Becker,
Deputy Clerk



OFFICE OF
COUNTY CLERK and EX-OFFICIO CLERK
OF THE SEVENTH JUDICIAL DISTRICT COURT
IN AND FOR
WHITE PINE COUNTY, NEVADA

STATE OF NEVADA, }ss.
COUNTY OF WHITE PINE,

I, Linda F. Burleigh, County Clerk and ex-officio Clerk of the Seventh Judicial District Court of the State of Nevada, County of White Pine, do hereby certify that the above and foregoing is a full, correct and true copy of the original *Notice of Appeal, Case Appeal Statement, District Court Docket Entries, Order, Cover Letter Notice of Deficiencies* which now remains of record in my office at Ely, County of White Pine and State of Nevada, aforesaid.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court, at my office in the City of Ely, this 14th day of May, 2013.

Linda F. Burleigh

County Clerk and Ex-Officio Clerk of
Said Court

By: *E Becker*
Deputy Clerk