IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK M. PECK,
Appellant,
vs.
Dr. Zipf, Dr. Barnum,
Respondents.

Supreme Court No. 68664
District Court No. A-14708447

FILED
MAR 22 2018
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY J. Hendrix
DEPUTY CLERK

MOTION FOR LEAVE

Comes Now, the Appellant, FRANK M. PECK prose hereinafter Mr. Peck with his MOTION.

This MOTION is made and based upon All papers and pleadings on file in this case as well as the attached points and authorities and Declaration of Mr. Peck.

Dated this 16th day of March 2018.

Frank Peck

FRANK M. PECK 57106
HDSP Box 650
Indian Springs, NV. 89070
Plaintiff, Appellant, Prose.

RECEIVED
MAR 22 2018
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

18-11301

POINTS AND AUTHORITIES

1. Introduction and argument

Mr. Peck comes to court in "crisis mode", due to the fn1 (AS Mr. Peck sees it) March 5 2018 ORDER of District Court Judge James E. Wilson Jr (1st Jud Dist) "TRANSPORT ORDER" IN Peck v NDOC, 16 TRT 000661B served on Mr. Peck on 3-14-18 Dragging Mr. Peck +- 500 miles to Carson City for A "MOTION HEARING", disrupting these proceedings, AS WELL AS NUMEROUS others IN STATE, FEDERAL DISTRICT COURT, AS WELL AS the Court of Appeals · 9th Circuit and causing Mr. Peck to attempt to WITHDRAW the MOTION FOR INJUNCTION AND RESTRAINING ORDER therein, (16 TRT 000661B) "so he could continue to work / research to file a MEANINGful petition for review herein". Specifically pointing to NRS 41A 100 1. wherein had Mr Peck been afforded his right to due process / Discovery It's a very real possibility that Valley hospital has a "REGULATION" (LEAVE NOTHING BEHIND IN OUR PATIENTS) that would have demonstrated the alleged deviation (leaving a needle/guide in Mr. Pecks' hand) was contrary to the accepted standard of care. Some Discovery must be allowed to satisfy this portion of the statute. Dismissal-prior, was a due-process violation. Mr Peck hereby incorperates this argument by reference thereto the Petition for Review already on file herein and hereby requests leave of this court to RE-FILE that Petition herein previously RETURNED UNFILED JAN 29 2018 herein submitted for RE Filing herewith.

fn1 Harassment / Harassing, unnecessary transfer.

Even if this Court were to give Mr Peck 30 days to file a Petition for Review (Notwithstanding the Harassing Transfer that could be handled over the telephone) Mr. Pecks' ability to research contrary law from the Nev Court of Appeals, Nev Sup Ct, U.S. Sup Ct. could not possibly be done in the MAXIMUM LAW LIBRARY ACCESS (I.E ALLOWED THE MAX) is 16-20 hours a month, if I was brought there on time (which never occurrs) So. All things considered, Mr. Peck really has no meaningful opportunity to (NOT FOR LACK OF TRYING) litigate this very important case. This case is important to not only Mr Peck", The Affidavit Mr. Peck WAS ABLE to obtain is unfairly characterized in the Courts Opinion. as, had that affidavit been filed in the lower court it would not have survived as VONSEDOWITZ did not qualify as he is a Convicted ~~Child Molester~~ SEX OFFENDER and was "compensated a $1 TO Honey Bunn". Counsel and the Court would have made short work of the Declaration, but it was All Mr Peck could muster. It's safe to say that leaving any implements behind in someones body is a clear deviation from the accepted standard of care. I'm sure a judge would agree if it happend to them.

So, in concluding and due to the EXTREME stress and anxiety that faces Mr Peck by the totally UNNECESSARY SHORT NOTICED Transfer to Carson City for a MOTION HEARING from apparant revenge from Judge James Wilson with NO regard or EVEN INQUIRY AS to Mr Pecks deadlines / -

responsibilities to this Court in A SLEW OF Appeals No. 68664, No. 75171, 75179, 74008, 75026, 72849. 9th Cir Court 18-70410. USDC 2:17-cv-01620-JAD-VCF, 2:18-cv-00237 APG-VCF. NOT MENTIONING THE PETITIONS FOR WRITS OF HABEAS CORPUS pending in the 8th Jud Dist for "false disciplinaries". So, it will be a miracle if Mr Peck survives another year.

Finally Really.

Mr Peck moves, prays that this argument be incorporated into/in support of the attached Petition for Review at minimum and that leave be granted to file same and that honesty be explained as to Mr. Pecks' AFFIDAVIT and the lower court should be reversed as discovery is the only way to obtain "REGULATIONS OF THE LICENSED MEDICAL FACILITY" stated in NRS 41A.100 1. "CRITICAL TO PROVE CAUSATION". "The Statute stands in the way of itself". "One cannot obtain regulations without discovery, One cannot obtain discovery without the affidavit without being summarily dismissed on the Pleadings. NRS 41A 100 1. is USCA 14 due process violation, Equal protection violation,

Dated and hastily prepared due to Mr Pecks current crisis. 3-16-18.

Respectfully submitted

Frank Peck

Frank M. Peck 57106
HDSP Box 650
Indian Springs, NV. 89070
Appellant, Pro se, I.F.P.

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Affidavit/Declaration of Frank M Peck sworn to as true based on personal knowledge I am over 18 and competent to testify to all matters herein.

1. I am the Appellant herein.
2. All assertions herein are true based upon personal knowledge, I am over 18 and competent to testify to all matters contained herein - NRCP Rule 56(e).
3. I bring this MOTION in good faith and for NO improper or dilatory reason.
4. It is my true belief that the Transfer by Judge Wilson is retaliatory for my vigor and outspokenness on the Judges perceived threats made to Mr Peck in his inimical, gratuitous attacks in his NRS 12.015 ORDER filed Dec 29 2016 with the gratuitous NOTICE under NRS 209.451 (d)(1)(2)(3). Causing Mr Peck to believe that the NOTICE was inimical and "exhibiting bias Against Mr. Peck".
5. Mailed to the Court without benefit of copying due to my circumstances of No Carbon paper (NEW RESTRICTION) no ability to copy, may be rolled up at Anytime.
6. I am forced to rely on ELECTRONIC FILING CONVERSION by the Clerk for service on registered parties NRCP Rule 5 (b)(2)(D), NEFCR Rules 6(a)(b), 9(b)(c)
7. Dated and done, mailed MARCH 16th 2018.

Signed under penalty of perjury NRS 208.165, 28 USC 1746.
Dated 3-16-18

Affirmation No Social security numbers NRS 239.030

Frank M. Peck

 Frank M. Peck Applnt

IN THE SUPREME COURT OF THE STATE OF NEVADA

Frank M. Peck,
Appellant,
vs.
Dr. Zipf, Dr. Barnum, MDs,
Respondents.

S.C.T. No. 68664
D.C. No. A-14-708447

PETITION FOR REVIEW

Comes Now, the Appellant, FRANK M. Peck prose herein after Mr Peck with his PETITION FOR REVIEW.

This Petition is made and based upon All papers and pleadings on file in this case as well as the attached points and authorities And Declaration of Mr. Peck.

Dated January 15th 2018.

Frank Peck

FRANK M. Peck 57106
HDSP Box 650
Indian Springs, NV. 89070
Appellant, pro se, IFP

POINTS AND AUTHORITIES

This Petition is filed in regard to the OPINION filed on Dec 28 2017. NRAP 40(b).

The Panel decision in this case is contrary to:

1. Conley v. Gibson, 355 US. 41 at 48 (1957) (wherein Justice Black said, The Federal Rules rejects the approach that pleading is a game of skill in which one misstep by Counsel may be decisive to the outcome.
A. Mr. Peck properly identified NRS 41.A100's exceptions of NRS 41.A.071 and requisite injury/needle, proximate-thereto-treatment, just as "operative measure" of operating/Driving a car requires insertion of a Key.
And,
2. Haines v Kerner, 404 U.S. 519, 520-21, 92 S Ct 594 1972 (per curiam) ("pro se complaints are 'ENTITLED' to liberal construction") Hughes v Rowe, 449 US 5, 9, 101 S.Ct. 173 (1980); Erickson v Pardus, 551 US 89, 94, 127 S.Ct. 2197 (2007) Mr. Peck [is] pro se.
And,
3. The Panel decision is contrary to logic and reason:
A. Res ipsa exists as a comman sence exception and surgery is not definitive in QUOTATION MARKES and just as an RFID Radio frequency Identification chip is "surgically implanted" with a large NEEDLE, Mr. Peck's NEEDLEguide was UN-QUESTIONably implanted by a NEEDLE. The panel decision is based on SEMANTICS. Mr Pecks claim is Res ipsa via sight And touch. The jury CAN SEE And feel it. So can a judge.

4. The Panel incorrectly assumed that Mr. Pecks' "medical expert affidavit" demonstrated that his indigence and incarceration did not prevent him from acquiring the requisite documents needed for a medical malpractice claim. When, in fact, that Affidavit was written by Inmate Frederick Vonseydewitz cited in some 600 habeas petitions as a result of this courts decision in his case and Mr Vonseydewitz was compensated A Honey Bunn for the Affidavit. Further, it is absurd to equate indigent access to Courts and divorce as somehow being of more importance than a malpracticing physician. There is NO question that Mr Pecks right to access, petition for redress is has and continues to be barred "specifically on account of his "indigent status" and this case would not exist but for Mr. Pecks direct conditions of confinement (NOT PERFECTLY CONSTITUTIONAL) The State is, has and continues to impose an impossible barrier to access courts in malpractice cases and, is just another collateral act of thinly valed extrinsic fraud/ stealing of judgements ~~by~~ from indigent Prisoners who are denied adequate medical care dying at a median age of 56 and not a single "PERSON" cares to even ask why; BECAUSE the State has provided immunity in the form of an Affidavit Barrier impossible for indigents to meet. NRS 41.A071 is insurmountable, unconstitutional ; Beggs the consideration of the Full Court En banc.

DECLARATION CERTIFICATE OF SERVICE AND AFFIRMATION SWORN UNDER THE PENALTY OF PURJURY AS TRUE BY FRANK M. PECK.

I Frank M. Peck do hereby swear under the penalty of perjury that the following is true and correct.

1. I am the Appellant herein.

2. All assertions in the attached Petition for review are true based on personal knowledge, I am over 18 and competent to testify to all matters contained herein/therein.

3. I bring this Petition in good faith and for no improper reason.

4. A true, correct, complete copy pg 1-4 was mailed this date to the Clerk of the Nevada Supreme Court @ 201 S. Carson St Carson City NV 89701 for filing and E-SERVICE on registered parties pursuant to NRCP Rule 5 (b)(2)(D) and NEFCR Rules 6(a)(b) and 9(b)(c) having same legal force effect as service of a paper document

5. Dated done and mailed this 16th day of ~~Jan~~ March 2018.

Signed under the penalty of perjury NRS 208.165, 28 USC 1746.

Dated ~~1-16-18~~ 3/16/18

Affirmation: Contains no social security numbers of any person NRS 239B030.

Frank M. Peck #57106
HDSP Box 650
Indian Springs NV 89070
Plaintiff, pro se, I.F.P.

Declaration of Frank M. Peck sworn under penalty of perjury as true and correct:

1. I am the Appellant herein in case no. 68664.

2. All assertions in this Declaration are true based on personal knowledge, I am over 18 and competent to testify to all matters herein.

3. I bring this Declaration in good faith and for no improper or dilatory reason.

4. Currently and since Dec 18th 2017 I have no access to HDSP's law library for no other reason than retaliation by the defts in case A-16-743859 NDOC et al.

5. I can not serve defts Attys in this case with the attached Petition for review and can only beg the Court Clerk to serve the attached document and please send receipt for its filing.

6. Even if Mr Peck had access to the library, it has been rendered useless as the "LEXIS program" has been decreased to only case updates NOTHING MORE!

7. This Declaration was mailed to the Clerk of the Nev Sup Ct 201 S Carson St CCNV 89701 on ~~1-18-18~~ 3-16-18 FP

Signed under the penalty of purjury NRS 208.165 28 USC 1746.

Dated Jan 18 2018

Affirmation contains no social security numbers of any person NRS 239B030.

Frank M. Peck 57106

HDSP Box 650

Indian Springs, Nv. 89070

Plaintiff pro se, I.F.P.

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