

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE)
PARENTAL RIGHTS AS TO)
S.L; N.R.B; H.R.B. AND W.C.B)

No. 71889

Electronically Filed
Jan 17 2017 01:36 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

MELISSA LAWRENCE,)
Appellant,)
vs.)

DOCKETING STATEMENT CIVIL APPEALS

STATE OF NEVADA)
DEPARTMENT OF FAMILY)
SERVICES; S.L.; N.R.B.; H.R.B.;)
AND W.C.B.,)
Respondents.)

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See *KDI Sylvan Pools v. Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attachments.

1. **Judicial District:** Eighth Judicial District **Department:** K
County: Clark **Judge:** Cynthia N. Giuliani
District Ct. Case No: D-15- 510944-R

2. **Attorney filing this docketing statement:**

Attorney: Michael I. Gowdey Telephone: (702) 471-0321
Firm: Law Offices of Michael I. Gowdey, Ltd.
Address: 815 S. Casino Center Boulevard
Las Vegas, Nevada 89101
Client(s): Melissa Lawrence, Appellant

If this is a joint statement by multiple appellants, add the names and addresses of other counsel on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. **Attorney(s) representing respondent(s):**

Attorneys: Janne Hanrahan, Chief Deputy District Attorney
Amity Dorman, Chief Deputy District Attorney
Telephone: (702) 455-5320
Firm: Steven Wolfson, District Attorney
Address: 601 North Pecos Road
Las Vegas, Nevada 89101
Client(s): The State of Nevada, Department of Family Services

4. **Nature of disposition below:**

- | | |
|--|---|
| <input checked="" type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief |
| <input type="checkbox"/> Judgment after Jury verdict | <input type="checkbox"/> Grant/Denial of injunction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Grant/Denial of declaratory relief |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Review of agency determination |
| <input type="checkbox"/> Dismissal | <input type="checkbox"/> Divorce decree: |
| <input type="checkbox"/> Lack of jurisdiction | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Failure to state a claim | <input type="checkbox"/> Other disposition (specify) |
| <input type="checkbox"/> Failure to prosecute | |
| <input type="checkbox"/> Other (specify) _____ | |

5. **Does this appeal raise issues concerning any of the following:**

- ☒ Child Custody
☐ Venue
☒ Termination of parental rights

6. **Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal: N/A

7. **Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

N/A

8. **Nature of the action.** Briefly describe the nature of the action and the result below:

Trial to terminate parental rights.

9. **Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

- 1) **Whether Appellant's Constitutional rights against self-incrimination was pitted against her ability to defend herself against the petition to terminate her parental rights. Because Appellant has a pending criminal case arising from the same incidents which served as the basis for the petition to terminate her parental rights, Appellant was forced to invoke her Fifth Amendment privilege against self-incrimination when she was compelled to testify in this trial to terminate her parental rights. When Appellant invoked the privilege, an adverse inference was sought by the District Attorney for her refusal to answer each question, and was permitted to be argued by the trial judge. Some adverse inferences were entered against her as a result of Appellant's invocation of her Fifth Amendment Privilege. This pitted Appellant's Fifth Amendment rights against her right to associate with her children.**

10. **Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

11. **Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

N/A XX Yes No
If not, explain

12. **Other issues.** Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (on an attachment, identify the cases(s))

☒ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first-impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

The Fifth Amendment privilege against self-incrimination is pitted against Appellant's rights as a parent to maintain her parental relationship with her children, as her refusal to answer questions that might incriminate her was held against her in the trial to terminate his parental rights.

13. **Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

NRAP Rule 17(a)(12) sets forth that the Nevada Supreme Court shall hear and decide cases involving the termination of parental rights. This case involves the termination of parental rights.

14. **Trial.** If this action proceeded to trial in the district court, how many days did the trial last? 9 days

Was it a bench or jury trial? Bench Trial

15. **Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

TIMELINESS OF NOTICE OF APPEAL

16. **Date of entry of written judgment or order appealed from:** December 14, 2016.

(a) If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

N/A

17. **Date written notice of entry of judgment or order served December 14, 2016**

Was service by:

☐ Delivery

☒ Mail/Electronic/Fax

18. **If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)**

(a) Specify the type of motion, and the date and method of service of the motion, and date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. (See AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010)).

(b) Date of entry of written order resolving tolling motion

(c) Date written notice of entry of order resolving motion served _____

Was service by:

☐ Delivery

☐ Mail

19. **Date notice of appeal filed: December 14, 2016.**

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

December 13, 2016 – Notice of Appeal filed by Donald Brown.

December 14, 2016 – Notice of Appeal filed by Melissa Lawrence.

20. **Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other**

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. **Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

(a)

☒ NRAP 3A(b)(1) ☐ NRS 38.205
☐ NRAP 3A(b)(2) ☒ NRS 233B.150
☐ NRAP 3A(b)(3) ☐ NRS 703.376
☐ Other (specify) _____

(b) Explain how each authority provides a basis for appeal from the judgment or order:

The district court issued its final judgment terminating Petitioner's parental rights. NRAP 3A(b)(1) applies because the final judgment was rendered in the same court where the action to terminate parental rights was commenced. NRS 233B.150 allows Appellant to take review of the final judgment of the district court by appeal to the Supreme Court, which is the court of competent jurisdiction as set forth in NRAP 17(a)(12).

22. **List all parties involved in the action or consolidated actions in the district court:**

(a) Parties:

**Donald Brown
Melissa Lawrence
Nevada Department of Family Services**

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:

All parties in the district court are parties to this appeal.

23. **Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

24. **Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☐ Yes
☐ No

25. **If you answered “No” to question 24, complete the following:**

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b):

☒ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment:

☐ Yes

☒ No

26. If you answered “No” to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

The order is independently applicable under NRAP 3A(b), and under NRS 233B.150.

27. Attach file-stamped copies of the following documents:

The latest-filed complaint, counterclaims, cross-claims, and third-party claims

Any tolling motion(s) and order(s) resolving tolling motion(s)

Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal

Any other order challenged on appeal

Notices of entry for each attached order

VERIFICATION

I certify that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief.

MELISSA LAWRENCE

LAW OFFICES OF MICHAEL I.
GOWDEY, LTD.

Appellant

Counsel of Record

January 17, 2017

/s/ Michael I. Gowdey

MICHAEL I. GOWDEY, ESQ.
Nevada Bar No. 6994

CERTIFICATE OF SERVICE

I certify that on the 17th day of January, 2017, I served a copy of this completed docketing statement upon all counsel of record:

☐ by personally serving it upon him/her; or

X by mailing it by first class mail with sufficient postage prepaid to the following address(es):

Janne Hanrahan
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Dated this 17th day of January, 2017.

/s/ Michael I. Gowdey

An Employee of Law Offices of
Michael I. Gowdey, Ltd.