

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

\* \* \* \* \*

THE STATE OF NEVADA, DEPARTMENT  
OF HEALTH AND HUMAN SERVICES,  
DIVISION OF WELFARE AND  
SUPPORTIVE SERVICES, CHILD  
SUPPORT ENFORCEMENT PROGRAM,  
AND KIERSTEN GALLAGHER, (SOCIAL  
SERVICES MGR II)

Appellant,

vs.

CISILIE A. PORSBOLL, F/K/A CISILIE A.  
VAILE,

Respondent.

Electronically Filed  
S.C. NO. 79 Sep 30 2019 03:42 p.m.  
D.C. NO: 98 Elizabeth A. Brown  
Clerk of Supreme Court

**PETITION FOR REHEARING**

**Attorney for Respondent:**

MARSHAL S. WILICK, ESQ.  
Nevada Bar No. 2515  
WILICK LAW GROUP  
3591 East Bonanza Road, Suite 200  
Las Vegas, Nevada 89110-2101  
(702)438-4100  
Email: [email@willicklawgroup.com](mailto:email@willicklawgroup.com)

**Attorneys for Appellant:**

AARON D. FORD  
Nevada Attorney General  
GREGORY L. ZUNINO  
Nevada Bar No. 4805  
Deputy Solicitor General  
LINDA C. ANDERSON  
Nevada Bar No. 4090  
Chief Deputy Attorney General  
100 N. Carson Street  
Carson City, Nevada 89701  
(775)684-1237  
[Gzunino@ag.nv.gov](mailto:Gzunino@ag.nv.gov)  
[Landerson@ag.nv.gov](mailto:Landerson@ag.nv.gov)

## NRAP 26.1 DISCLOSURE STATEMENT

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal. In the course of these proceedings leading up to this appeal, Respondent has been represented by the following attorneys:

- a. Richard L. Crane, Esq., WILICK LAW GROUP, appellate attorney for Respondent.
- b. Marshal S. Willick, Esq., WILICK LAW GROUP, appellate attorney for Respondent.

**DATED** this 30<sup>th</sup> day of September, 2019.

Respectfully Submitted By:  
WILICK LAW GROUP



---

MARSHAL S. WILICK, ESQ.  
Nevada Bar No. 2515  
RICHARD L. CRANE, ESQ.  
Nevada Bar No. 9536  
3591 East Bonanza Road, Suite 200  
Las Vegas, Nevada 89110-2101  
[email@willicklawgroup.com](mailto:email@willicklawgroup.com)  
Attorneys for Respondent

## TABLE OF CONTENTS

NRAP 26.1 DISCLOSURE STATEMENT .....	ii
STATEMENT OF ISSUES .....	1
STATEMENT OF CASE.....	1
STATEMENT OF FACTS .....	1
ARGUMENT.....	5
I.    JURISDICTION OF THE DISTRICT COURT .....	5
A.    Porsboll Had An “Active Application” Before CSEP .....	5
B.    Nevada CSEP Did Nothing to Comply with	
NRS 130.307(2).....	8
II.    CONCLUSION.....	12

## STATEMENT OF ISSUES

1. Whether the Supreme Court should rehear this matter based on the misapprehension of whether Ms. Porsboll requested services under NRS 130.307(1).
2. Whether the Supreme Court should rehear this matter based on the misapprehension that Nevada CSEP had made multiple efforts to have the Nevada support order enforced in Kansas.

## STATEMENT OF CASE

This is a *Petition for Rehearing* from the *Order of Reversal* entered in case 77070 on September 12, 2019.

## STATEMENT OF FACTS

Without hearing oral argument, the Supreme Court panel issued a decision in this matter on September 12, 2019, as an *Order of Reversal*.

The Panel either missed the facts of the case or misapprehended facts known to the parties and the lower court. Specifically, the reasons cited for the reversal were that Ms. Porsbol had never filed a request for services as required by NRS 130.307(1) and that it appeared that CSEP had satisfied all of its duties under NRS 130.307(2)

“by making multiple efforts to have the Nevada support order enforced in Kansas and notifying Porsboll that it was unable to provide further services due to the Kansas court’s permanent injunction. Both of these asserted facts are incorrect, and were at all relevant times known to be incorrect, meriting this *Petition for Rehearing* under NRAP 40 as the Court has “overlooked or misapprehended” critical facts.

Specifically, the State admits that Ms. Porsboll *did* have an open case with CSEP on December 6, 2005.<sup>1</sup> Sometime late in 2012, the Nevada Intergovernmental Initiating Office (NIIO) transmitted the Nevada order to Kansas for enforcement.<sup>2</sup> The State did not actually do anything *except* transmit the order for enforcement.

Their recitation of the facts could mislead a reader to believe that a hearing was held in Kansas on February 11, 2013, as a result of CSEP sending the Nevada order for enforcement.<sup>3</sup> However, the truth is that the Kansas court held that hearing at the request of Mr. Vaile, and it had nothing to do with the ineffective “mere transmission” by CSEP.<sup>4</sup>

---

<sup>1</sup> AA 39, Lines 19 and 20.

<sup>2</sup> AA 40, Line 4.

<sup>3</sup> AA 40, Lines 4 through 8.

<sup>4</sup> The Kansas court erroneously found that Ms. Porsboll had been properly served with notice of the hearing set by Mr. Vaile (which finding has recently, finally, been set aside, as discussed below). See AA 51, lines 1 through 7.



On June 6, 2014, CSEP sent a letter to counsel for Ms. Porsboll closing the case because Kansas “would not enforce the Nevada order.”<sup>5</sup>

Again, the State’s rendition of the facts could lead a reader to believe that they had actually done *something* beyond mail an order to Kansas. They had done nothing. The “hearing for clarification” was again initiated by Mr. Vaile after the California Appellate Court required him to provide a copy of the order setting aside the erroneous California order.<sup>6</sup>

It is important to note that at no time had Ms. Porsboll been properly served with any of the Kansas orders and neither Nevada CSEP nor any child collection agency in Kansas had participated in *any* way in the litigation there. After that order was filed on October 5, 2015, a permanent injunction (against enforcement of the Nevada child support order) was issued in Kansas.

On July 7, 2017, Ms. Porsboll did re-open a case through the Clark County District Attorney’s Office (DA).<sup>7</sup> The application was signed by Mr. Willick who had a specific power of attorney to do so.

---

<sup>5</sup> AA 40, lines 11 through 14.

<sup>6</sup> AA 65, lines 1 and 2.

<sup>7</sup> AA 40, lines 19 and 20.

The DA sent a wage withholding to Mr. Vaile's employer on August 16, 2017.<sup>8</sup>

The employer responded to the DA in November 2017, saying that they were unable to respond to the wage withholding due to the injunction issued by the Kansas court.

Nevada CSEP closed the case because they claimed that the request for services did not meet the criteria of a child support application as defined by 45 C.F.R. § 303.2 because it was not signed by the applicant personally and because "no further services could be provided" due to the injunction issued by the Kansas court.<sup>9</sup>

Again, Nevada CSEP had never done anything whatsoever except mail a letter to the employer of Mr. Vaile.

This *Petition* follows.

---

<sup>8</sup> AA40, lines 21 and 22.

<sup>9</sup> AA40, line 25 through AA41 lines 1 through 3.

## ARGUMENT

### I. JURISDICTION OF THE DISTRICT COURT

This Court has jurisdiction to hear this *Petition* as it is being filed within 18 days of the *Order of Reversal* in accordance with NRAP 40.

Here the *Order of Reversal* was filed on September 12, 2019. This gave Ms. Porsboll until September 30, in which to file her *Petition*. This *Petition* is timely and the Court retains jurisdiction to hear the *Petition*.

#### A. Porsboll Had An “Active Application” Before CSEP

Nevada CSEP admits that there *was* an active application for services on file as far back as December 6, 2005. They also admit that Ms. Porsboll, through counsel with a valid power of attorney, had requested services again on July 7, 2017. The DA – a certified IV-D agency – accepted that request for services and did send the wage withholding to Mr. Vaile’s employer.<sup>10</sup> However, when the wage withholding was denied, the DA forwarded the application to Nevada CSEP for “further action.” It was at this time that Nevada CSEP, without *taking* any further action to enforce the order, closed the case.

---

<sup>10</sup> Responsibility for enforcement of child support has shifted over the years among the various District Attorneys and the Office of the Attorney General.



Neither the Clark County District Attorney's Office for Child Support collection *nor* CSEP will have ever acted without a valid request/application for services being on file. It was, per the DA, for years. This case has been in collection since this Court affirmed that Mr. Vaile did actually owe child support to Ms. Porsboll.<sup>11</sup> In fact, for a number of years, the Clark County District Attorney's Office (DA) was successful in collecting some support from Mr. Vaile.

Many years later, Nevada CSEP claimed that the application was improper as it was not signed by Ms. Porsboll. However, when challenged by Ms. Porsboll's counsel as to why they would not accept a valid power of attorney for such a signature, they were unable to cite to any actual rule, law, or statute that would result in the denial of services.

What all parties to the case knew is that the "dispute" was made moot in the district court in any event. Not part of the record when the appeal was perfected was the documents showing that in an abundance of caution, we did file – at Nevada CSEP's request – a new application for services bearing Ms. Porsboll's signature.<sup>12</sup>

---

<sup>11</sup> *Vaile v. Eighth Judicial Dist. Court*, 118 Nev. 262, 44 P.3d 506 (2002).

<sup>12</sup> The fact of that filing was indicated in *Respondent's Answering Brief* on page 9, second paragraph.

For purposes of this petition, it is important to note that this Court found in footnote 3 of the *Order of Reversal*:

We also decline to reverse based upon CSEP's arguments that Porsboll could only seek writ relief via a separate petition, rather than a motion within a case; that Porsboll improperly added CSEP to the action in its motion seeking writ relief; or that the district court lacked personal jurisdiction over CSEP based on an alleged failure to serve the petition. Any error in these regards are curable defects and we therefore choose to address only the substantive issues presented.

The point is that what signature was on the application form was just as much a "curable defect" (if it actually was one at all) as any of the matters quoted above (each of which were in fact addressed, and "cured" during the proceedings below). Again, the application that was accepted by the DA as a valid application, as CSEP admits. But if CSEP could retroactively decide that the DA was wrong on that point, any alleged "defect" could be – and was – promptly corrected.<sup>13</sup>

The *Order of Reversal* states:

We see no evidence in the record on appeal showing that Porsboll made such a request and she does not claim to have made one in her appellate brief.

Respectfully, the State *admitted* in its written filings that the request was made.<sup>14</sup> Additionally, it was stated in our *Answering Brief* that Nevada CSEP did

---

<sup>13</sup> The district court encouraged us to do so, essentially on the basis that it could not do any harm, so we did so.

<sup>14</sup> See AA 40 lines 19 and 20.

have a valid request for services that they wrongfully closed.<sup>15</sup> Lastly, a new request for services was submitted to Nevada CSEP following the *Order* issued on January 1, 2019.

Based on all above, we respectfully suggest that the Court misapprehended the fact that an application and request for services *had* in fact been made (twice), as the parties both admit in their briefs. To whatever extent the Court wishes documentary confirmation of a fact that both parties have asserted in their filings is true, we request permission to supplement the record accordingly.<sup>16</sup>

**B. Nevada CSEP Did Nothing to Comply with NRS 130.307(2)**

The *Order of Reversal* states:

Furthermore, CSEP appears to have satisfied all of its duties under NRS 130.307(2) to Porsboll *by making multiple efforts* to have the Nevada support order enforced in Kansas and notifying Porsboll that it was unable to provide further services due to the Kansas court's permanent injunction.

[Emphasis added.]

---

<sup>15</sup> Please see *Respondent's Answering Brief*, page 8, footnote 25.

<sup>16</sup> Both the application formed signed by Mr. Willick under the Power of Attorney and the application bearing Ms. Porsboll's original signature have long been in CSEP's file, as they must admit if asked; if this Court wishes those documents, either they could supply them or we could obtain copies.

Respectfully, nothing in the State's *Opening Brief* or *Reply Brief* indicate that Nevada CSEP took any action at all, let alone "multiple attempts." The *only* documented attempt made by a child support enforcement agency of this State prior to filing of the appeal is the long-ago attempt by the DA to do a wage withholding of Mr. Vaile's employer.<sup>17</sup>

The State would like the reader of its filing to assume that it made requests to the Kansas courts, but that is not true and is belied by the record. It was Mr. Vaile alone who approached the Kansas courts in his attempts to get a fraudulent order precluding Ms. Porsboll from collecting the support as ordered by the Nevada courts.<sup>18</sup> Nevada CSEP *did nothing*.

Since there were not multiple attempts as indicated in the *Order of Reversal* that point should be disregarded upon rehearing.

The district court, *knowing* that Nevada CSEP had done nothing, required them to file monthly status reports as to what they were doing going forward to try to

---

<sup>17</sup> See AA 40, lines 21 and 22.

<sup>18</sup> It is the same gambit he performed in California, which also took us multiple years to get cleared up and reversed so child support collection could go forward.



enforce the Nevada orders. *Respondent's Answering Brief* (at page 9, last full paragraph) indicated that Nevada CSEP had begun filing such status reports.<sup>19</sup>

Unfortunately, briefing was completed before the most important status reports were filed. Once Nevada CSEP was forced by the district court to *actually* take steps, those steps actually resulted in the permanent injunction being set aside in Kansas; the Kansas courts are now recognizing the Nevada child support orders as valid and attempting to enforce Nevada's orders.

As with the above, if the Court wishes documentary confirmation of facts known to the lower court and admitted by both parties, we request permission to supplement the record accordingly.<sup>20</sup>

Alternatively, this Court could elect to take judicial notice of the fact that the proceedings below were ongoing, and to acknowledge the portions of the record of this action that were filed after the date on which the State filed its appeal of the order requiring them to take some action to enforce the Nevada child support order.<sup>21</sup>

---

<sup>19</sup> Please see AA 202, AA 251-253, RA 108-110, RA 111-113, RA 146-148, RA 149-151, RA 152-162, RA 163-165, and RA 166-168.

<sup>20</sup> Please see Respondent's Appendix Volume II, submitted simultaneously with this Petition in the event the Court desires to have this documentation.

<sup>21</sup> *In Mack v. Estate of Mack*, 125 Nev. 80, 91-92, 206 P.3d 98, 106 (2009), this Court detailed matters about which the Court might take judicial notice, and the policies applicable in doing so. Specifically, the Court held: "we may take judicial notice of facts generally known or capable of verification from a reliable source,



Whatever the mechanism for confirming the misapprehension of relevant facts, those facts prove two things relevant to the appeal. First, that Nevada CSEP had *not* taken the necessary steps as required by NRS 130.307(2) to obtain jurisdiction over Mr. Vaile and to actually have a hearing on the merits. Second, that once Nevada CSEP *did* take the required action, Ms. Porsboll was granted the relief she sought and the Nevada child support order went into collection.

The results obtained in Kansas belie the State's claim that Nevada CSEP had previously complied with NRS 130.307(2) in "taking all steps necessary to enable an appropriate tribunal of this State, another state or a foreign country to obtain jurisdiction over the respondent and requesting an appropriate tribunal to set a date, time and place for a hearing." If they had, no writ of mandate would have been necessary in the first place. In fact, Nevada CSEP did neither of these until the district court ordered them to comply with the statute.

---

whether we are requested to or not. *See* NRS 47.150(1). Further, we may take judicial notice of facts that are "[c]apable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, so that the fact is not subject to reasonable dispute." *See* NRS 47.130(2)(b)." The facts at issue here, known to both parties and to the district court, are not disputable and are objective facts susceptible to accurate and ready determination.

## II. CONCLUSION

Nevada CSEP has not been required to litigate in Kansas, only to “take all necessary steps” to obtain jurisdiction over Mr. Vaile. When forced to do so, it actually resulted in the correct outcome.

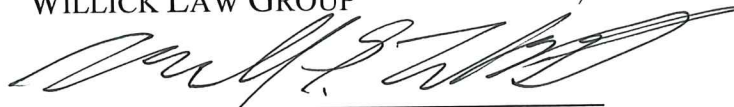
Ms. Porsboll is fortunate that Mr. Vaile is once again subject to the Nevada child support orders and we will continue to pursue him until he actually pays what is owed. Having the State believe that they should actually comply with their statutory duty to achieve that collection is, and may in the future remain, necessary to actually achieve that collection.

The sad reality is that Nevada CSEP would use the *Order of Reversal*, if not reheard and altered, as support for its refusal to do anything to actually collect child support, in this case or others. Future litigants – most of whom can’t afford to avail themselves of the appellate process – would suffer if this decision is not changed.

We respectfully request that the Court rehear this matter, withdraw the *Order of Reversal*, and issue a new decision affirming the order below and reflecting the

actual record and the facts of what happens when Nevada CSEP is actually required to do its job.

Respectfully Submitted By:  
WILICK LAW GROUP

A handwritten signature in black ink, appearing to read 'Marshal S. Willick', is written over a horizontal line.

MARSHAL S. WILICK, ESQ.  
Nevada Bar No. 2515  
RICHARD L. CRANE, ESQ.  
Nevada Bar No. 9536  
3591 East Bonanza Road, Suite 200  
Las Vegas, Nevada 89110-2101  
[email@willicklawgroup.com](mailto:email@willicklawgroup.com)  
Attorneys for Respondent

## CERTIFICATE 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:

☒ This brief has been prepared in a proportionally spaced typeface using Corel WordPerfect Office X13, 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 filing 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 2,633 words; or.....

☐ Monospaced, has 10.5 or fewer characters per inch, and contains \_\_\_\_\_ words or \_\_\_\_\_ lines of text; or

☐ Does not exceed \_\_\_\_\_ pages.

3. Finally, I hereby certify that I have read this appellate brief, 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 transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

**DATED** this 30<sup>th</sup> day of September, 2019.

WILLICK LAW GROUP



MARSHAL S. WILLICK, ESQ.  
Nevada Bar No. 2515  
RICHARD L. CRANE, ESQ.  
Nevada Bar No. 9536  
3591 East Bonanza Road, Suite 200  
Las Vegas, Nevada 89110-2101  
[email@willicklawgroup.com](mailto:email@willicklawgroup.com)  
Attorneys for Respondent

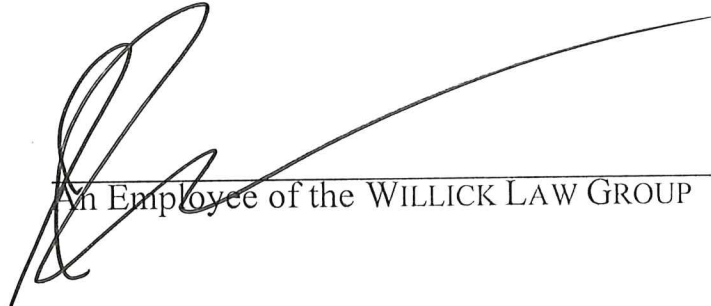


## CERTIFICATE OF SERVICE

Pursuant to NRAP 25(d), I certify that I am an employee of the WILLICK LAW GROUP and that on this 30<sup>th</sup> day of September, 2019, documents entitled *Petition for Rehearing* were e-mailed, and were filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list, to the attorney listed below at the address, email address, and/or facsimile number indicated below:

AARON D. FORD  
GREGORY L. ZUNINO  
LINDA C. ANDERSON  
100 N. Carson Street  
Carson City, Nevada 89701  
(775)684-1237  
Gzunino@ag.nv.gov  
Landerson@ag.nv.gov

That there is regular communication between this office and the place so addressed.



An Employee of the WILLICK LAW GROUP