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6 *Petitioner in Propria Persona*

FILED

APR 15 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

7 NEVADA SUPREME COURT

8 STATE of NEVADA

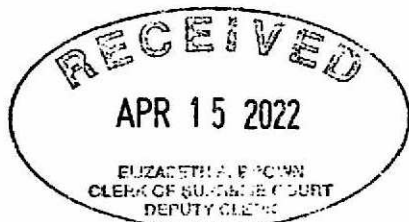
9
10) Appeals Ct: 81978, 82245
11 Ali Shahrokhi) District Ct: D-18-581208-P
12)
13) APPELLANT'S
14) EMERGENCY MOTION to STAY
15 vs.) DISTRICT COURT ORDER.
16) [Emergency Relief Sought
17 Kizzy Burrow) by April 29, 2022]
18)
19) District Court Dept. "U"
20)
21)
22)
23)
24)
25)
26)
27)
28)

29 "EMERGENCY MOTION FOR STAY"

30 EMERGENCY MOTION UNDER NRAP 27(E),

31 ACTION NECESSARY BY APRIL 30, 2022- MINOR'S 13TH BIRTHDAY

32 APPELLANT, ALI SHAHROKHI, PRO SE, RESPECTFULLY SUBMITTS THIS
33 EMERGENCY MOTION FOR STAY ON "VOID" ORDERS THAT HAVE ZERO LEGAL
34 STANDING. SECTION 242 OF TITLE 18 MAKES IT A CRIME FOR A PERSON ACTING
35 UNDER COLOR OF ANY LAW TO WILLFULLY DEPRIVE A PERSON OF A RIGHT OR
36 PRIVILEGE PROTECTED BY THE CONSTITUTION OR LAWS OF THE UNITED STATES.
37
38



22-11970

EMERGENCY MOTION to STAY DISTRICT COURT ORDER

I. EMERGENCY MOTION TO STAY DISTRICT COURT ORDER—

Emergency Motion to Stay VOID Court Order: On an “emergency” basis, [see NRAP 27(e)], Appellant seeks to STAY his final custody order, (Sept. 22, & Oct 12, 2020), pending outcome on appeal, [see Rule 8(a)(1)(A(i))].

Appellant Seeks to Halt Enforcement of District Court Order: Appellant now seeks to stay the final custody order, (Oct. 12, 2020), because it’s VOID *ab initio*. Appellant seeks to halt all enforcement of the order, and further, to halt criminal contempt proceedings against him. Appellant seeks to stay enforcement of this custody order—pending outcome on appeal, [see Rule 8(a)(1)(A(i))].

Why Appellant Must Prevail: As Appellant explains, his custody order is absolutely, positively VOID not voidable. And, because it’s VOID, it is deemed a nullity—*i.e.*, totally unenforceable—from its date of issuance, (Dec. 19, 2020).

Shahrokhi has every right to make legal threats against judges that continue to violate his constitutional rights. No Court can conclude that Shahrokhi’s speech making legal threats and speech-related conduct are a “true threat” and therefore 100% protected by the First Amendment. I have a right to inform you I will legally sue you for violating my constitutional rights.

The First Amendment right to receive information exists “regardless of [its] social worth.” [Stanley, 394 U.S. at 564; accord *Brown v. Ent. Merchs. Ass’n*, 564 U.S. 786, 796 n.4 (2011)]. The First Amendment applies to Shahrokhi’s speech in informing justices or judges violation of his constitutionally protected rights will result in litigation in federal courts against these judges.

II. FILING IN DISTRICT COURT IS IMPRACTICABLE—

District Court is Impracticable: It would be impracticable for Appellant to first file for a stay in the district court. Thorne is a racist, not judge material, lowlife individual who is conspiring to enforce VOID orders. Appellant will lose in

1 district court; (he always does...). The District Court has stated before issues
2 raised on appeal are appellant court issues and they continue to enforce VOID
3 orders. Shahrokhi will pursue both district court in Federal Courts for enforcing
4 VOID orders. It is impracticable to file into Distcirtc Court where they continue to
5 violate Nevada's own constitution. They think they are above the law.

7 **III. REASONS FOR GRANTING RELIEF—**

8 Appellant Likely to Prevail: This Court should grant a STAY because the
9 law is on Appellant's side. Nevada Constitution, at Article 1, Section 8 provides,
10 "[N]o person shall be tried," "for an infamous crime," (such as domestic violence),
11 "except on indictment," [see Nev. Const., Art. 1, Sec. 8].

12 Article 1, Section 8: Nevada Constitution, the "Supreme Law of the State,"
13 in clear and unambiguous terms, provides—

- 14 • "No person shall be tried,"
- 15 • "for an infamous crime," (including domestic violence),
- 16 • "except on indictment,"

17 [See Nevada Constitution, Article 1, Section 8].

19 **IV. FACTS ON WHICH APPELLANT RELIES—**

20 Material Facts: Appellant relies on these incontrovertible facts—

- 21 1. In family court, the mother, BURROW, alleged that Appellant
22 committed "crimes" constituting domestic violence.
- 23 2. BURROW did not pursue criminal charges in *criminal* court; instead,
24 she pursued criminal charges in *family* court. BURROW even dissolved the
25 TPO order on her own on 1/3/2019.
- 26 3. No real-world evidence corroborates BURROW's allegations of
27 "crimes" constituting domestic violence. BURROW has only self-serving
28 testimonials, ("he-said / she-said" allegations). Nothing more.

1 4. Appellant was never indicted for any “crimes” constituting domestic
2 violence. Shahrokhi was in fact named as the “VICTIM” in the only police
3 report that exists which was reported on 12/3/2018, a day before Burrow and
4 her boyfriend kidnapped the minor in the day light from the school.

5 5. The mother, BURROW, never obtained, nor ever sought, a TPO to
6 protect the minor child. Again Burrow **DISSOLVED** the TPO Order against
7 her on 1/3/2019.

8 6. Appellant was “tried” under “criminal” statutes—but again, there
9 were no underlying indictments, (which violates Nev. Const., Art. 1, Sec. 8).

10 7. Appellant’s custody order actually refers to “criminal” statutes—upon
11 which the district court relied in determining that Appellant committed
12 “crimes” constituting domestic violence, *i.e.*, NRS 200.571(2), NRS 200.575
13 (“CRIMINAL STATUT FOR STALKING”). In the District Court Order, (9/22/20),
14 Amended Domestic Violence Order, Ali Shahrokhi was informed—for the
15 first time--of the crimes had been tried for in the previous day’s proceedings.
16 The Order finding ALI had committed these crimes reads as follows:

17 “Under NRS 200.571(1), this Court FINDS that Defendant without lawful
18 authority, knowingly threatened Plaintiff (1) to cause bodily injury in the
19 future and (2) to cause physical damage to Plaintiff’s property (*i.e.*, burn her
20 clothes) and that the words of Defendant placed Plaintiff in reasonable fear
21 that the threat would be carried out. Under NRS 200.571(2) , this also Court
22 FINDS that Defendant without lawful authority, willfully engaged in a
23 course of conduct directed towards Plaintiff that would cause a reasonable
24 person under similar circumstances to feel terrorized, frightened,
25 intimidated, harassed and fearful for her immediate safety.”

26 Note: There is a typo, where “NRS 200.571(2), actually cites the NRS
27 200.575 criminal statute for stalking.

28 8. As a direct result of the criminal findings, the district court concluded
that Appellant did commit crimes constituting domestic violence, (“D.V.”).

1 9. As a direct result of the D.V. findings, the court summarily terminated
2 Appellant's custodial rights. If, God forbid, his son was in the hospital on
3 life-support, Appellant has no say-so.

4 10. As a result of the D.V. findings, Appellant's name appears in the
5 *Central Repository for Nevada Records of Criminal History*, [NRS 33.095].

6 11. With no underlying indictments, the district court lacked subject-
7 matter jurisdiction to "try" Appellant for crimes constituting domestic
8 violence, [*see* Nev. Const., Art. 1, Sec. 8]. With no subject-matter
9 jurisdiction to decide "criminal" matters, the custody order, (Dec. 19, 2020),
10 is necessarily VOID—because it contains "criminal" findings.

11 12. The Clark County District Attorney now prosecutes Appellant—for
12 alleged failure to pay child support. In other words, Appellant is now being
13 prosecuted pursuant to a VOID court order. (This is an outrage!)

14 13. Appellant wishes to halt to enforcement of his custody order, (Oct. 12,
15 2020), which is VOID, not voidable for lack of subject-matter jurisdiction.

16 17 **III. BALANCING OF THE EQUITIES—**

18 Appellant Threatened with Jail Time: Appellant must pay the highest
19 amount of child support because the Eighth District terminated Appellant's
20 custodial rights. And, to make matters worse, the District Attorney is prosecuting
21 Appellant for failure to pay child support—pursuant to a VOID order. This is an
22 emergency! The custody order, (Oct. 12, 2020), must be STAYED.

23 24 **IV. LIKELIHOOD OF SUCCESS ON THE MERITS—**

25 Likelihood of Success on the Merits: The strongest reason for a STAY is
26 because Appellant can quite easily show "likelihood of success on the merits."
27 Appellant easily shows success on the merits because he makes an iron-clad
28 constitutional argument.

1 Nevada Constitution, Article 1, Section 8: The judge, (Criminal Harter),
2 unlawfully “tried” Appellant—for crimes constituting domestic violence—in
3 violation of *Nevada Constitution*, Art. 1, Sec. 8—which plainly provides that,
4 “*No person shall be tried*” ... “*for an infamous crime*” ... “*except on indictment*,”
5 [Nev. Const., Art. 1, Sec. 8].

6 Crimes Constituting Domestic Violence: In Appellant’s family court case,
7 the mother, BURROW, alleged “crimes” constituting domestic violence, (“D.V.”).
8 Curiously, BURROW *did not* pursue criminal allegations in the *criminal* court
9 system; rather, she pursued criminal allegations in the *family* court system.

10 No ‘Probable Cause’: No law enforcement agency ever formed “probable
11 cause,” [see *Illinois v. Gates*, 462 U.S. 213 (1983)], to suspect that Appellant ever
12 committed crimes constituting domestic violence (or any other crimes).

13 No Indictments: Most significantly, Appellant was never INDICTED for
14 any crimes constituting domestic violence. But still, despite the fact that he was
15 never INDICTED, the family court would nevertheless “try” Appellant—for
16 various crimes constituting domestic violence, (“D.V.”).

17 No Constitutional Safeguards—No Jury Trial: Appellant was never
18 *Mirandized*, never offered assistance of counsel, never given notice of criminal
19 charges against him, and his trial was neither speedy nor public. Appellant was
20 denied another constitutional right—“trial by jury,” [Nev. Const., Art. 1, Sec. 3].

21 Secret Proceedings: Most disturbing, Appellant was “prosecuted”—in
22 “*secret*,” (sealed) proceedings—outside the presence of a jury! But these “*secret*”
23 prosecutorial proceedings violate “due process,” [14th Amendment; (1867)].

24 Appellant Put ‘On-Trial’: The very moment that BURROW, was sworn-in to
25 testify, Appellant was thus put “*on-trial*.” And, although BURROW testified to
26 crimes constituting domestic violence, she provided only self-serving testimonials,
27 (“he-said, she-said” evidence). No real-world evidence corroborates the mother’s
28 bogus D.V. allegations.

1 Enumerated Criminal Acts: After *Special Prosecutor* BURROW, rested her
2 cases-in-chief, the family court judge found that Appellant did commit enumerated
3 “criminal” acts, as defined by “criminal” statutes.

4 Factual Findings and Legal Conclusions: Based on “factual findings”—
5 *i.e.*, that Appellant did commit enumerated *criminal* acts—as set forth at a *criminal*
6 statute—NRS 200.571(1), NRS 200.575—the judge made “legal conclusions”—
7 *i.e.*, that Appellant did commit *crimes* constituting domestic violence, (“D.V.”).

8 The Dreaded D.V. Presumption: Based on (i) criminal “findings,” and
9 (ii) D.V. “conclusions,” the judge thus invoked the dreaded D.V. presumption.
10 Accordingly, the judge handed-down a civil death sentence. The district court
11 summarily terminated Appellant’s parental rights. No visitation is
12 TERMINATION of custody rights!

13 No Subject-Matter Jurisdiction: Appellant was never indicted for any
14 crimes; therefore, the judge lacked subject-matter jurisdiction to “try” him for
15 “crimes.” In other words, the judge had ZERO authority make “criminal”
16 findings—*i.e.*, that Appellant had violated a “criminal” statute, and thus, ZERO
17 authority to make “legal conclusions”—*i.e.*, that Appellant had violated a
18 “criminal” statute, [NRS 200.571; (“*stalking*” and “*harassment*”)].

19 Prosecuted Pursuant to Void Order: The Clark County D.A. now prosecutes
20 Appellant—threatening him with JAIL TIME for failure to pay child support,
21 pursuant to a VOID custody order!

22 Rule-of-Law: No state-court judge may “try” persons for crimes constituting
23 domestic violence, except on indictment, [Nev. Const., Art. 1, Sec. 8], with one
24 limited exception; family courts “try” parents for crimes—with no underlying
25 indictments—for the sole purpose of issuing “temporary” custody orders—but not
26 “permanent” custody orders, (or custody orders with no “expiration” dates.)
27

28 **V. BALANCING OF RESPECTIVE HARDSHIPS—NRAP 8(D)**

1 Stays in Civil Cases Involving Child Custody NRAP 8(d):

2 (1) *whether the child(ren) will suffer hardship or harm if the stay is either*
3 *granted or denied.* Here, the child cannot suffer from staying a VOID order.

4 (2) *whether the nonmoving party will suffer hardship or harm if the stay is*
5 *granted.* The mother cannot suffer from staying a VOID order.

6 (3) *whether movant is likely to prevail on the merits in the appeal; yes!—*
7 *Petitioners' appeals are indeed likely to prevail on the merits.* Yes, Appellant is
8 likely to prevail on the instant appeal. Article 1, Section 8 of Nevada's
9 Constitution language is very clear.

10
11 **VI. IRREPARABLE HARM—**

12 Continuous and Ongoing Violations: Appellant now suffers continuous and
13 ongoing violations of his civil rights—based on VOID orders!

14 Wasted Time & Money: Appellant has spent of thousands of legal hours
15 pursuing custody. With all the time spent fighting the crooked “system,” I could
16 have been raising my son. The court commits crimes against my son's future!

17 Fruit of the Poisonous Nullity: Appellant's civil rights are being violated,
18 based on a void court order—and yet, subsequent orders still issue. This court will
19 note, all subsequent orders, based on the predicate void order—are likewise void
20 and beyond the jurisdiction of the court. [*Cline v. Langan*, 31 Nev. 239, 242, 101
21 P. 553, 554, 1909 Nev. LEXIS 14, *5 (Nev. April 1, 1909)]. The order dated Oct.
22 12, 2020, and every subsequent order—is NULL & VOID—as a matter of law!

23 Protecting Constitutional Rights: The premise of the writ petition is that a
24 fresh set of eyes, from a judicial officer who is going to comply with law, protect
25 Nevada's constitution and be open minded without having pre-conceived opinions,
26 should be the one to review and make dispositive rulings to apply proper law and
27 protect the Appellant's constitutional rights. Denying a stay now, will confirm this
28 court is okay with violation of Nevada Constitution.

1 Final Custody Order is Void: Shahrokhi has been forced to file an additional
2 18 new filings into the Nevada Supreme Court for various reasons to protect his
3 constitutional rights, 7+ federal law suits in the federal courts to protect his
4 constitutional rights and 3 appeals in the 9th Circuit court of appeals to protect his
5 rights. As such Shahrokhi has not only been injured by having his constitutional
6 righst violated, Shahrokhi has been forced to spend \$100,000's of thousands of
7 dollars for all the unnecessary lawsuits and writ petitions and appeals that have all
8 arisen from this VOID Order. If Shahrokhi had to hire lawyers to do all the legal
9 work to protect his constitutional rights from the VOID order, he would have been
10 out of pocket easily \$1.5 million dollars plus as a average cost of writ of
11 mandmaus by an attorney in nevada Supreme Court of \$15,000+, average cost of a
12 federal lawsuit by an attorney is \$35,000 plus and average cost of an attorney filing
13 an appeal into the Ninth Circuit cour tof appeals on average is \$75,000. All these
14 unneccessary costs and expenses are from a VOID order by the district court.

15 Shahrokhi is NOT Vexatious: On top of that, Dawn Throne continues to
16 enforce VOID orders going so far as trying to declare Shahrokhi a "vexatious
17 litigant" from VOID orders that have been going non-stop with no legal standing.

18 Likelihood of Success: ALI is likely to prevail on his appeal and this writ as
19 KIZZY suffers no harm in collateral proceedings to void orders being stayed, as
20 there is no legal and just benefit in void orders to render harm if they are not
21 executed upon; ALI being forced through ancillary proceedings to enforce a void
22 order in which he was also facing jail time pending this court's review is
23 irreparable and serious constitutional injury that this court has long ignored; ALI is
24 having to invoke his 5th Amendment right and is not able to be heard in any of
25 these collateral proceedings considering the nature of the Orders being enforced
26 are criminal in nature; any enforcement of these orders will be a waste of judicial
27 economy, a violation of ALI's rights to due process, and his rights to freedom and
28

liberty as promised in the Nevada Constitution. It is grossly prejudicial to justice not to stay the enforcement of these VOID orders and any subsequent proceedings.

1) *My son's birthday is May 1st* and District Court will not decide on timely manner and Shahrokhi does not want to miss 4th year celebrating with his son due to the willful judicial misconduct by the district judges. STOP IT NOW!

2) The district court has continued to enforce void orders and has failed to act timely in my case time after time.....

3) The district judge, who has been caught for perjury, and issued a bogus vexatious litigant order, has an imperishable bias against Ali. Imagine yourself getting caught and the litigants take action for serious judicial disciplinary actions against you and try to remove you from the bench? Should that litigant appear before that judge? ABSOLUTELY NOT ... in fact, in SCOTUS, Rippo v Baker says the risk of bias is high and it is not constitutionally tolerable, so it is impossible for me to show-up in front of a judge who knows I will do everything to remove her from the bench as she is not judge material.

VII. VOID AB INITIO—

Void for Lack of Subject-Matter Jurisdiction: Appellant's custody order—which makes D.V. findings—based on criminal statutes—with no underlying indictment—is thus VOID—for lack of subject-matter jurisdiction. ***“There can be no dispute that lack of subject matter jurisdiction renders a judgment void.”*** [*State Indus. Ins. Sys. v. Sleeper*, 100 Nev. 267, at 269, 679 P.2d 1273, 1274 (1984), citing *Lauer et al. v. District Court*, 62 Nev. 78, 140 P.2d 953 (1943)].

Appellant Cannot Be Held In-Contempt of ‘VOID’ Orders: Appellant cannot be held in contempt—because the challenged custody order is obviously “void.” “It is equally clear that ***[o]ne may not be held in contempt of a void order.***” [See *State Indus. Ins. Sys. v. Sleeper*, 100 Nev. 267, at 269, 679 P.2d

1 1273, 1274 (1984)], citing *Daines v. Markoff*, 92 Nev. 582, 587, 555 P.2d 490, 493
2 (1976)].

3 **THE STAY MUST BE ISSUED:** This Court, *respectfully*, must issue a
4 STAY halting further enforcement of Appellant's custody order—which is VOID
5 (not voidable) for lack of subject-matter jurisdiction. Appellant requests—

- 6 1) An order to STAY the VOID custody order, (Oct 12, 2020), in
7 Appellant's case—until the appeal is decided;
8 2) An order for cost and expenses associated with this emergency stay;
9 3) Any other relief this court sees fit.

10
11 Dated: April 15, 2022

12 DocuSigned by:

13 Ali Shahrokhi
ED43B0CA76FC4D6...

14 **Ali Shahrokhi**

15 ALI SHAHROKHI
16 *Self-Represented*
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AFFIDAVIT of ALI SHAHROKHI

My name is ALI SHAHROKHI. I am Appellant herein. All facts herein alleged are true and correct of my own personal knowledge; and as to those matters alleged on information and belief, I reasonably believe them true. If called upon to testify, I could and would give competent and truthful evidence.

I declare under penalty of perjury, pursuant to the laws of the State of Nevada, the foregoing is both true and correct.

Dated: April 15, 2022

DocuSigned by:
Ali Shahrokhi
ED43B0CA76FC4D6...

Ali Shahrokhi
ALI SHAHROKHI
Affiant

* * *

CERTIFICATE-OF-SERVICE

I am an individual over the age of eighteen and not a party to the within action. My address is 9620 S Las Vegas Blvd, Suite 4., No. 152, Las Vegas, Nev. 89123. My phone number is (702) 835-3558.

On **April 15, 2022**, I served the following:

Emergency Motion to Stay District Court Order;

on an interested party in the above-entitled action by

 X via e-mail transmission,

 personal service on the person below listed,

 X depositing it in the U.S. Mail, postage prepaid,

and addressed to the person below listed,

 overnight delivery, addressed as follows:

**Kizzy Burrow
16408 SW Timberland Dr.
Beaverton, OR 97007**

I declare under penalty of perjury under California law the foregoing is true and correct.

Dated: **April 15, 2022**

/s/ Ali Shahrokhi .
Declarant.