

IN THE SUPREME COURT FOR THE STATE OF NEVADA

Jeffrey Reed, Petitioner, vs. Alecia Reed nka Draper and Alicia Draper, as Conservator for Emily Reed, Respondent.	 Electronically Filed Dec 20 2021 07:41 p.m. Elizabeth A. Brown Clerk of Supreme Court Supreme Court #: 82575 (Appeal) District Court Case #: 05D338668
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**MOTION TO DISMISS APPEAL
(Including a Request for Sanctions and Damages and Alternative Relief)**

Respondent, Alecia Draper, as Conservator for Emily Reed (“Emily”), respectfully moves to dismiss this appeal based on the repeated refusal of Appellant, Jeffrey Reed (“Jeff”) and his counsel to follow the Nevada Rules of Appellate Procedure and this Court’s Orders.

From the first date that Jeff filed this appeal on March 3, 2021, Jeff has violated just about every Order issued by the Nevada Supreme Court and just about every rule of the Nevada Rules of Appellate Procedure, as outlined below.

If there was ever a case for an appeal to be DISMISSED, this is the case!

If there was ever a case for SANCTIONS and DAMAGES to be awarded, this is the case!

Sadly, the delays and the procedural nonsense by Jeff is contrary to Emily's best interest, particularly since Jeff is not paying the court ordered support which is necessary for Emily to get her required medical treatment. Emily is severely disabled with multiple diagnoses and over fifty multiple personalities and desperately needs her court ordered child support!

Through Jeff and his counsel's apparent gross negligence and/or intentional wrongs in preparing his brief and appendix, Jeff continues his delay game. As a result, Emily's counsel was forced to file a request for an extension of time to file Emily's Brief and Appendix due to the SIGNIFICANT defects in Jeff's Appendix and Jeff's Opening Brief that severely prejudices Emily's counsel's ability to file a meaningful brief on behalf of Emily. Said Motion for Extension of Time to File Respondent Emily's Brief and Appendix has been filed contemporaneously with this motion.

There are so many things wrong in this case, it's hard to know where to start so let's start with **Jeff's Wasting of the Supreme Court CLERK'S Time** as indicated by the following:

Notice of Potential Dismissal for Failure to Pay Supreme Court Filing Fee filed by the Clerk on March 3, 2021 due to Jeff's violation of *NRS 2.2501(a)*;

Notice of Deficient Docketing Statement filed by the Clerk on April 12, 2021 due to Jeff's failure to attach a required document;

Notice of Rejection of Filed Document filed by the Clerk on September 29 2021 due to Jeff's request being made untimely (2 ½ months late) and needing to be accompanied by a motion for extension of time; and

Striking of Request for Transcript Document filed by Jeff on October 26, 2021 which the Clerk has been ordered to do based on the Court's December 3, 2021 Order due to Jeff's filing of a document that does NOT conform to NRAP 9(a)(3).

Now let's look at **Jeff's Wasting of the Supreme Court JUSTICE'S Time** as indicated by the following:

Order Reinstating Briefing signed by Justice Hardesty on July 1, 2021 warns Jeff that "in preparing and assembling the appendix, counsel shall strictly comply with the provisions of NRAP 30." (Emphasis supplied). As shown below, Jeff has violated this Order and NRAP to the point that the Appendix is basically worthless!

Order Denying Jeff's 1st Motion for Extension of Time and Untimely Motion for Extension to File Transcript Form signed by Chief Justice Hardesty on October 21, 2021. In this Order, this Court found that Jeff "failed to provide good cause for the extension of time to file opening brief." Despite that finding, the Court found that an extension was necessary and granted Jeff an extension to file his opening brief. In doing so, the Court warned Jeff that the imposition of sanctions, *including dismissal of the appeal* may result from a failure to follow the Order. In addition, despite Jeff's untimely motion for an extension of time to file the transcript request

form, which motion was filed 2 ½ months after the court ordered deadline, the Court granted Jeff a 7 day extension to get the correct form filed. The Court went on to state that “*Failure to file the transcript request form may result in the imposition of sanctions. NRAP 9(a)(7).*” (Emphasis supplied). As shown herein, to date, Jeff STILL has not filed the required transcript request form and has failed to comply with the court rules with respect to Jeff’s Opening Brief and Appendix.

Order Denying Jeff’s Second Motion for Extension of Time signed by Chief Justice Hardesty on December 3, 2021. In said Order, this Court stated that “extraordinary circumstances and extreme need” have NOT been demonstrated in Jeff’s second motion requesting a 45 day extension. In addition, this Court found that the request for transcripts document filed on October 26, 2021 does NOT confirm to the provisions of NRAP 9(a)(3); thus, this Court ordered the Clerk to STRIKE it from the record and granted Jeff 7 days to file a transcript request form that “fully complies with NRAP 9(a)(3)” This Court went on to state in the Order that “*Failure to comply with this order may result the imposition of sanctions, including the dismissal of this appeal. NRAP 9(a)(7); NRAP 31(d).*” (Emphasis supplied). Jeff STILL has not filed a transcript request form that fully complies with NRAP 9(a)(3). **In fact, Jeff has NEVER filed ANY Transcript Request Form as required by NRAP 9(a)(3) in the district court or the Supreme Court since this appeal was filed and since being ordered to do so the third time now!**

For the reasons set forth above alone (before even considering the egregious failings in Jeff's Brief and Appendix), this Court should grant Emily's Motion to Dismiss. A message needs to be sent to Jeff and Jeff's counsel that it is NOT OK to waste the time of the Clerk and Justices of the Nevada Supreme Court by failing to comply with counsel's ethical obligations; by repeatedly failing to comply with the Nevada Rules of Appellate Procedure; by filing frivolous motions that are not founded on good cause; and by repeatedly failing to comply with numerous orders of this Court!

Now let's look at Jeff's Wasting of Emily's Counsel's Time in reviewing the flawed Brief and Appendix filed by Jeff as well as other rules violations:

1. FALSE Certificate of Compliance By Jeff's Counsel

On page 27 of Jeff's Opening Brief, Jeff's Counsel certified that the brief complies with *NRAP* 28.2 and *NRAP* 32. The certification is false! The Body of Jeff's Brief is in 13.5 font, in violation of *NRAP* 32(a)(5)(A). The footnotes in Jeff's Brief are in 11.5 font, in violation of *NRAP* 32(a)(5).

2. Jeff Failed to Provide a Paper Copy of his 17 Volume Appendix in Violation of *NRAP* 30(f)(1)

3. Jeff's Appendix Contains Nonconforming Copies of The Trial Exhibits in Violation of *NRAP* 30(g)(1)

NRAP 30(g)(1) provides for MONETARY and other appropriate sanctions when there is willful or grossly negligent filing of an appendix containing nonconforming copies of papers in the district court file.

Many of the documents contained in Jeff's Appendix are **NOT true and correct copies of the exhibits admitted at the district court trial, in violation of *NRAP 30(g)(1)***. Instead, Jeff has DELETED a majority of the original bates numbers that were contained on Emily's trial exhibits. During the trial, all of the witnesses (with the exception of Emily and her various multiple personalities/alters that testified at trial) used the original bates numbers contained on Emily's trial exhibits! In fact, the original bates numbers were used extensively during the trial to ensure that the witness, the Judge, and all counsel were looking at the same document within a voluminous record, such as a medical record or school IEP records for Emily that start from a very young age. To prepare Emily's Brief, Emily's counsel needs to cross reference for this Court the trial testimony in the trial transcripts to the trial exhibits in the Appendix. This cannot be done because Jeff has deleted the original bates numbers!

4. Jeff's Appendix is So Inadequate That Justice Cannot Be Served Due to Substantial Underinclusion in Violation of *NRAP 30(g)(2)*

NRAP 30(g)(2) provides for MONETARY SANCTIONS when this rule is violated. Jeff failed to include the following admitted trial exhibits: Exhibits 51, 52, 53, 54, 55, 56, 57, 59, 60, 61,62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73. 74, 75,

76, 77, 82, 83. 84, A, B, C, H, I, J, K, and L, which are clearly relevant, necessary, and essential to the issues raised in this appeal! Justice cannot be served unless these exhibits are included in the appendix!

5. Jeff's Appendix Does Not Contain All Relevant and Necessary Exhibits in Violation of *NRAP 30(d)* and *NRAP 30(b)(3)*

Jeff failed to include the following essential documents in the Appendix in violation of *NRAP 30(d)* and *NRAP 30(b)(3)*:

- a) Essential Exhibits (see section 4 above); and
- b) Notice of No Opposition (filed by Alecia Draper on 11/08/2019)

The District Court Judge made it clear he wanted the record for the Supreme Court to contain the position statement of BOTH of Emily's parents since Emily's motion for support was directed at BOTH parents. Jeff included HIS position statement in the Appendix but failed to include Alecia's position statement.

6. Bad Faith by Jeff's Counsel in Violation of *NRAP 30(a)*

After a full day by Emily's Counsel in attempting to reach a joint appendix required by *NRAP 30(a)*, it was clear that Jeff's Counsel was in bad faith and had no intention of doing a joint appendix. Total waste of time!

7. Index to Jeff's Appendix Violates *NRAP 30(c)(2)* (Lack of Reasonable Definiteness)

First Jeff's appendix is actually 33 volumes, not 17 volumes as indicated in his Index. See this Court's Docket page which shows the 33 uploads with numerous

volumes being uploaded in parts. Jeff's Index does not indicate what documents are located within any particular "part" of a volume.

Second, Jeff's index lumps trial exhibits together and puts a description that is not helpful to the reader. For example, Dr. Love Ferrell ("Dr. Love") is Emily's treating psychologist and the ONLY expert witness that testified in this case. As a result, Dr. Love's testimony, report, and records are CRITICAL to this case and should have been properly described and easy for this Court to locate in the index.

8. Footnote 16 References Appendix Volume 18 (Does Not Exist)

If this Court were looking for the Order that is the subject of this appeal, which is ROA3016 – ROA3036, according to footnote 16 of Appellant's Opening Brief, this Court and Emily's counsel would go to Volume 18 of the Appendix. The problem is there is no Appendix Volume 18!

9. Documents are NOT in Volume Indicated in Jeff's Brief

For example, Footnote 18 of Appellant's Opening Brief states the following: "Appendix at Volume IX, ROA1156." This footnote is NOT correct. The document is actually located in Appendix at Volume 7, Part 2, ROA1156.

WHEREFORE, good cause exists under NRAP and Supreme Court caselaw for this Court to grant the following RELIEF REQUESTED BY EMILY based on Jeff's failure to follow the Nevada Rules of Appellate Procedure and multiple order of this Court:

(1) An Order granting DISMISSAL of this appeal; (2) An Order STRIKING Jeff's Opening Brief and STRIKING Jeff's Appendix; (3) An Order SANCTIONING Jeff and/or Jeff's counsel, including the award of DAMAGES to Emily, as follows (a) An Order requiring Jeff and/or Jeff's counsel to pay **\$15,000 (Fifteen Thousand Dollars)** to Emily to cover her **ATTORNEY'S FEES AND COSTS** incurred for this frivolous appeal and grossly negligent or intentional misconduct by Jeff and Jeff's counsel, to be paid to Emily within 15 days of service of the Court's; and (b) An Order requiring Jeff and/or Jeff's counsel to pay an additional **\$15,000 (Fifteen Thousand Dollars)** to Emily as **DAMAGES** for this frivolous appeal and grossly negligent or intentional misconduct by Jeff and Jeff's counsel, to be paid to Emily within 15 days of service of the Court's order; and (4) Any further sanctions or damages that the court deems appropriate.

IN THE ALTERNATIVE, if this Court decides not to dismiss the appeal, then Emily requests the following relief:

(A) An Order STRIKING Jeff's Opening Brief and STRIKING Jeff's Appendix that was filed on December 10, 2021; (B) An Order requiring Jeff to re-file a NEW Opening Brief within 7 days of service of the Court's Order, which brief shall contain the same content just properly formatted and in accordance with the Nevada Rules of Appellate Procedure and no new arguments or issues allowed; (C) An Order requiring Jeff to re-file a NEW Appendix within 7 days of service of

the Court's Order, which Appendix shall contain true and correct copies of **ALL** of Emily's trial exhibits (including those previously omitted by Jeff) as well as the Notice of No Opposition filed by Alecia Draper on 11/08/2019); (D) An Order requiring Jeff to include a proper Index for the NEW Appendix, including listing each one of Emily's trial exhibits as a separate item (no clumping exhibits together) and using the "description" used by Emily's counsel at trial; (F) An Order granting Emily 30 days from the filing of Jeff's NEW Opening Brief and Appendix to file Emily's Brief and Appendix; (G) An Order SANCTIONING Jeff and/or Jeff's counsel and awarding EMILY the SANCTIONS and DAMAGES requested in Relief on the previous page under number 3; and (H) Any further sanctions or damages that the court deems appropriate.

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CERTIFICATE OF SERVICE

The foregoing motion/pleading was electronically served on Amanda Roberts, Counsel for Appellant, on this 20th day of December, 2021.

/s/ Elizabeth Brennan
an employee of Brennan Law Firm