



SUPREME COURT OF NEVADA
OFFICE OF THE CLERK
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Telephone
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December 14, 2023

Bryan Phillip Bonham
Inmate ID: 60575
High Desert State Prison
P.O. Box 650
Indian Springs NV 89070

Re: Bonham vs. State - 86217

Dear Mr. Bonham:

This court is in receipt of the document entitled "Appellant/Cross-Respondent's Response to Reply Brief in Support of Cross Appeal" regarding the above-captioned case. According to NRAP 28.1 (f)(1), the full briefing schedule has been completed in this case. As such, this document is being returned to you unfiled. Please find enclosed the docket sheet showing the status of this case.

Sincerely,

Melissa F.
Deputy Clerk

Enclosures

RETURNED
UNFILED

DEC 14 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY Michael Miller
DEPUTY CLERK

1 Bryan P Bonham 60575

2 Po Box 650 HOSP

3 Indian Springs, NEV 89070

4

5

SUPREME COURT OF THE

6

STATE OF NEVADA

7

8 Bryan P Bonham

SUPREME COURT CASE NO 86217

9

APPELLANT/CROSS-RESPONDANT

DIST CRT CASE NO A-20-823142-C

10 vs.

11 STATE OF NEVADA ex rel.

12 RESPONDANTS/CROSS APPELLANTS

APPELLANT/CROSS RESPONDANTS

13

RESPONSE TO REPLY BRIEF IN

14

SUPPORT OF CROSS APPEAL

15

16 comes now Bryan P Bonham in his proper person, brings his reply to

17 this Honorable court for a decision on the merits.

18

19 This Pleading is further made and based upon the Argument herein

20 with attached points & Authorities.

21

22

23

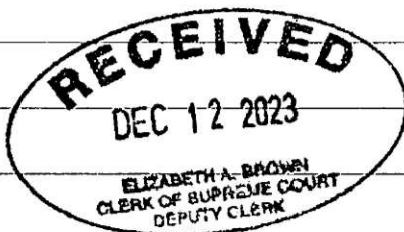
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23-40602

-1-

1 Bryan P Bonham 60575

2 Po Box 650 HDSP

3 Indian Springs, NEV 89070

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SUPREME COURT OF THE

6

STATE OF NEVADA

7

8 Bryan P Bonham

NEV SUP CRT CASE NO 86217

9 APPELLANT/CROSS RESPONDANT

10 VS

NOTICE OF MOTION

11 STATE OF NEVADA extel,

12 RESPONDANTS/CROSS APPELLANTS.

13

14 TO

15 SENIOR DEPUTY ATTORNEY GENERAL

16 CHRIS DAVIS.

17 555 E Washington Ave Ste 3900

18

19 you will please take notice that the undersigned will bring the above pleading

20 before the above entitled court for a hearing as soon as court's Docket

21 will allow.

22 Dated this 1st day of December, 2023

23



24 Bryan P Bonham 60575

25 Po Box 650 HDSP

26 Indian Springs, NEV 89070

27

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15 NEV. CONST. ART 138

16 NEVADA LAWS

17 NRS 209.246(3), NRS 209.131

18 NDCC ARS

19 AR 258

20 FACTS OF ISSUE

21 AT BAR

22 FIRST: Appellant contends this court did error in limiting the remand as to

23 only state law claims, as 4th, 5th, 14th Amendments to U.S. Const were in fact

24 violated as was the ex post facto clause SECOND: Due to new defendant(s)

25 coming to light by way of counsel's pleadings, Appellant asserts unless he

26 can prove no set of facts a court should permit leave to Amend, as

27 cited to Appellant inadvertently left out other deposits from

28 His son

1 of which most of were taken with out any regard to Appellants
2 Right to His property, Due process of the illegal & unconstitutional
3 seizure of His property without reimbursement of said property.
4 THIRD: The district court did not error in having the hearing
5 "evidentiary in nature" permitting oral arguments and actually
6 following state Law NRS 209.246 (3) (a) (b) FOURTH: Appellant
7 has and continues to state a claim. see below. FIFTH: Appellant
8 did, does, has, continues to dispute that NOOC properly took
9 or Deducted \$120.00, from 150.00 & other deposits that were
10 deposited into His account which was over the 50% allowed
11 or permitted by AR 258, given its authority to do so by STATE
12 LAW NRS 209.246 counsel makes, proves Appellants argument see
13 below. SIXTH: APPELLANT does not concede DISTRICTS Judgement should be reversed.

14 MEMORANDUM OF LAW

15 POINTS AND AUTHORITIES.

16 DUE PROCESS

17
18 (1) The DUE PROCESS clause of the FOURTEENTH (14TH) AMENDMENT to the
19 UNITED STATES CONSTITUTION, contains a substantive component, sometimes
20 referred to as "SUBSTANTIVE DUE PROCESS" which bars certain arbitrary
21 government actions⁶⁶ regardless of the fairness of the procedures used to
22 implement them⁶⁹ It is also a guarantee of fair procedure. sometimes
23 referred to as PROCEDURAL DUE PROCESS see Daniels v. Williams 474 U.S.
24 327, 337 (1986) Cleburne v. Cleburne Living Center, Inc. 473 U.S. 432, 439,
25 (1985) see also Carey v. Piphus, 435 U.S. 247, 259 1978 & Roche v.
26 California 342 U.S. 165, 208 (1952) The due process clause further
27 requires person to have the opportunity to "ESTABLISH ANY FACT" which
28

1 ~~that~~ would according to usage of common Law or provisions of the CONSTITUTION,
2 would be protection to Him or His PROPERTY. See WRIGHT v CRADLEBROUGH, 3
3 NEW 341 (1867), PERSING v RENO STOCK BROKERAGE CO., 30 NEW 342, 349, 96
4 PAC 1054 (1908); STATE v FOUGUETTE, 67 NEW 505, 514, 221 P.2d 404 (1950)
5 see also UPPERMERE v STATE, 96 NEW 592, 614 P.2d 532 1980 & CASION
6 STATE, 106 NEW 327, 793 P.2d 836 (1990) due process was to
7 a point given to Appellant in the evidentiary hearing, yet Plaintiff
8 was not permitted to further make his claim for the additional deductions
9 from yet additional deposits. AS, IF Appellant is not mistaken
10 they were under separate grievances, had NOT been resolved?
11 yet they all arise & stem from the same fraudulent deduction
12 under the Amendment of AR 258 which was not done with the
13 board of prison commissioners knowledge. see also NEW CONST ART 138

14 STATE LAWS

15 NRS 209.246(3)

16 (3) Repay the costs incurred by the DEPARTMENT on behalf of the
17 offender for (a) Postage for personal items and items related to
18 LITIGATION (b) Photocopying of personal documents and LEGAL
19 DOCUMENTS, for which the offender must be charged a reasonable
20 fee not to exceed the actual cost incurred by the DEPARTMENT
21 (c) LEGAL SUPPLIES, of which Appellant does not dispute He has
22 this debt with the WDOC. However, Appellant does dispute
23 the usage of AR 258 see below

24 NRS 209.131

25 THE DIRECTOR SHALL (1) Administer the department under the
26 direction of the board. (4) Be responsible for the supervision, custody
27 treatment, care, security and discipline of all offenders under

1 His or Her Jurisdiction.

2 FIRSTS. Nowhere in NRS 209.246(3)(a)(b) does it say in any way

3 shape or form an unreasonable amount. at the time; before

4 the Fraudulent Amendment to The AR258 if the reasonable

5 amount was 50% of which from a deposit of \$150.00

6 should have been \$75.00 to the NDPC. no more. \$120.00

7 which is over the 50% in violation of 4TH AMEND of the

8 U.S. CONST SEARCH & SEIZURE as well as the 5TH AMEND.

9 The Takings clause limits the government's ability to

10 confiscate property without paying for it. It is "designed to bar

11 government from forcing some people to bear public burdens which,

12 in all fairness and justice, should be borne by the public as a

13 whole" Armstrong v UNITED STATES, 364 U.S. 40, 49, 4 L Ed

14 2d 1554, 80 S.Ct. 1563 (1960) The due process clause, on the

15 other hand requires that the government provide appropriate procedural

16 protections when taking such property - with or without compensation.

17 see Cleveland Bd of Educ. v Loudermill, 470 U.S. 532, 541 84 L ed

18 2d 494, 105 S.Ct. 1487 (1985) holding that the constitution

19 requires constitutionally adequate procedures by which to deprive

20 individuals of property interests. ~~of~~ In addition to the underlying

21 FIFTH AMENDMENT right to just compensation. For [2003 U.S. App. Lexis

22 13] The deprivation of his property "while the legislature may elect

23 not to confer a property interest... It may not CONSTITUTIONALLY

24 authorize the deprivation of such an interest, once conferred, without

25 appropriate procedural safeguards" Cleveland Bd of Educ. v

26 Loudermill, 470 U.S. 532, 541, 84 L. ed 2d 494, 105 S.Ct.

27 1487 (1985) quoting Arnett v Kennedy, 416 U.S. 134, 167, 40 L. ed

28

1 2d 15, 94 S.Ct. 1633 (1974) Tellis, 5 F.3d @ 1317 NO THIS IS NOT
2 Public's burden to bear. However Appellant was not & has not been
3 given just compensation.

4 PRISONS AND CONVICTS § 1

5 LIMITATION OF RIGHTS

6 prisoners do not shed all federal CONSTITUTIONAL rights at the
7 prison gate, but lawful incarceration brings about the
8 necessary with drawl or limitation of many privileges and rights,
9 a retraction justified by the considerations underlying the penal
10 system; discipline by prison officials in response to a wide
11 range of misconduct falls within the expected parameters of the
12 sentence imposed by a court of LAW. There has been no mis
13 conduct to justify this action taken by NDOC & its officials.
14 "[p]roperty interests . . . are not created by the CONSTITUTION.
15 Rather they are created and their dimensions are defined by
16 existing rules or understandings that stem from an independent
17 source such as STATE LAW" . . . Board of Regents v Roth, 408 U.S.
18 564, 577, 33 L.Ed 2d 548, 92 S.Ct 2701 (1972)

19 In this case the NDOC through its officials took over the 50%
20 permitted by its own ADMINISTRATIVE REGULATION (AR 258)
21 counsel clearly admits such action.

22 In 1993 The 9TH CIR held that the interest accrued on these
23 NDOC inmates accounts is a constitutionally protected right.
24 Tellis v Godinez 5 F. 3d 1314, 1317 (9TH CIR 1993) Interpreting
25 The Nevada statute in question. "The plain language of this
26 section, read in the context of the entire statute; does create
27 a Protected Property Interest and income actually earned on money
28

1 deposited in the Prisoners' personal Property Fund" see Schneider v

2 Cal Dept of Corrs., 151 F.3d 1194, 1199-1200 (9th Cir 1998)

3 Defendants Steve Sisolak, Barbara K Reguske & Aaron D Ford

4 as top three officials sitting on Board of Prison Comm's had

5 a Fiduciary Responsibility to properly supervise their subordinates

6 in Defendants Charles Daniels, John Borrowsman when these

7 TWO Amended AR 258 without the knowledge or approval of

8 the Board. Thus allowing Defendant Venus Fajota to & along

9 with others in her office within the Dept of Corrections to

10 illegally take funds they should not have taken then allowing

11 Defendants T. Garrett, C. Potter, J. Jones to fail to intervene

12 when Appellant requested their help.

13 Inmates have a protectable property interest in funds received from

14 outside sources. see Wright v Riverland, 219 F.3d 905, 913 (9th

15 Cir 2000) also see Reynolds v Wagner, 128 F.3d 166 (3rd Cir 1997)

16 "Inmates have a property interest in funds held in prison accounts.

17 Thus, inmates are entitled to DUE PROCESS with respect to any

18 deprivation of this money"

19 This seizing of (my money) funds may also have been a violation

20 of the 4TH AMEND, as stated above. "ILLEGAL SEIZURE". These

21 violations of Appellants - Inmates CONSTITUTIONAL rights can also

22 be deemed "CRIMINAL" see 18 U.S.C.S. § 242; 18 U.S.C.S. § 1951

23 "THE HOBBS ACT" know known by her maiden name: "Sandra

24 Tambriello" The foregoing CRIMINAL ACTS" fall under 18 U.S.C.S. §

25 1341 and § 1961(b) "FUNDS & SWINDLES"

26 As the 9th Cir U.S. CRT OF APPEALS provided in Hunter v Ayers,

27 336 F.3d 1007 (9th Cir 2003) That the "EX POST FACTO" was

1 "VIOLATED" when a "new change of Prison Regulation" worked "Adversely"
2 to Prisoner "previously subjected to prior Regulation".

3 In the NEVADA CONSTITUTION there is reference to "inalienable rights"
4 ARTICLE 1 § 1 NEVADA CONSTITUTION those "rights" referred to are
5 "DUE PROCESS" and right to "EQUAL PROTECTION OF THE LAW" AS
6 held in several 9TH CIRCUIT CASES, and its "SISTER CIRCUITS,"

7 "... ~~Prisoners~~ Prison walls do not form a barrier separating inmates
8 from the protection of the CONSTITUTION; Thus when a prison regulation
9 or practice offends a fundamental constitutional guarantee federal
10 courts will discharge their duty to protect Prisoners CONSTITUTIONAL
11 rights." MORRISON V HALL 261 F. 3d 896 (9th Cir 2001)

12 when Daniels & Borrowman collectively & independantly worked to
13 Amend NEVADA DEPT OF CORRECTIONS (NDOC) ADMINISTRATIVE
14 REGULATION (AR 258)

15 on page 4 counsel fraudulantly states as follows:

16 Bonham does not dispute that NDOC properly deducted \$120.00 from
17 the 150.00 deposited in his inmate account, PURSUANT TO NDOC
18 AR 258.05, which provides CAPS for repayment of costs
19 previously incurred by NDOC on behalf of Bonham. The Additional
20 \$16.00 deducted from his inmate account, which Bonham

21 challenges in his complaint, is not subject to NDOC AR 258.05,
22 because those deductions were not for repayment of expenses NDOC
23 previously incurred, but were not for repayment of expenses NDOC
24 previously incurred, but were for postage and copy costs that
25 Bonham was actually authorizing and incurring. He goes on to
26 state on to page 5 from 4 Because the deductions from his
27 inmate account were proper, Bonham's state law claims, to
28

1 the extent any exist, have no merit... Hmm. lets back up.
2 CAPS for repayment of costs previously incurred by NDOC.
3 If you mean brass slips for either legal mail & or legal copies, then
4 they are through doc 509 Brass slips which Appellant has used since
5 He began doing legal work. He has most of, if not all his pink
6 copies to review in open court. These are "PRIMA FACIE"
7 evidence that NDOC has incurred costs on behalf of the
8 Appellant Bonham & that regardless of when He signed said
9 brass slip doc 509 when He has funds/money deposited into
10 His Account at that time 50% could or would be deducted
11 to repay the NDOC the cost for postage, and/or copy (legal)
12 work. As indicated in exhibits in First Amend complaint
13 and 2nd Amend complaint. all deductions were for items
14 relating to legal postage or legal/copies the deductions
15 from 1-8-2020 to 3-26-2020 were Appellant is sure for
16 brass slips He previously signed, which means counsel is clearly
17 making an argument that is a fraudulent misrepresentation of
18 a material fact yet again.

19 If Appellant were to have 200⁰⁰ deposited on 12-2-23 He
20 is quite positive 25% would go to postage & copy work that Plaintiff
21 has or had copied, or mailed weeks ago if not months ago or 1-2
22 yrs ago.

23 Nowhere has Bonham/Appellant ever admit that holding
24 an evidentiary hearing was improper. DUE PROCESS required it
25 however He was not permitted to fully examine the record, provide
26 court with all the facts.

ADMINISTRATIVE REGULATION

AR 258

AR 258.05 50% For costs incurred by the department on behalf of the inmate per NRS 209.246 (A.) ~~At anytime~~ At the time any charges are pursuant to NRS 209.246 are posted to the inmate account including, but not limited to, monetary sanctions/restitution under AR 707, 50% of the trust Account(s) may be taken as the initial payment.

Now as confusing as this may be or sound to counsel it's very simple. Appellant has via Doc 509 Brass slips mailed legal documents & copied legal documents. His brain tells him he is in debt to the NDOC for the copywork or legal postage. Regardless of when it was. Last year or last week. So how is it counsel says Bonham claims deductions made between 1-8-2020 & 3-26-2020 should not have been deducted, when in fact Appellant has always claimed any amount taken above & beyond the 50% payed to the NDOC was a violation of the Fourth Amend. & state law. It does not matter if it was 25 cents over the 50% or 20⁰⁰ over it's a violation of state law & 4th Amend. period. which equals Theft!!

CONCLUSION

FIRST: This court Appellant believes should Admonish counsel for the fraudulent misrepresentation, Levy sanctions monetary & of court's decision. Second: Find that NRS 209.246 as the state law controls & supports Appellant's position as the debt for legal postage, legal copies is supported by AR 258's

1 50% of any amount above & beyond this is in violation of
2 NRS 209.246 i.e. state law. as well as AR 258 Third: Appellants
3 2nd Amend should move forward as previously argued. Fourth, this
4 court Appellant Respectfully believes that this court should
5 Reverse & Remand for District to have & hold an in person
6 evidentiary hearing as to what Doc-509 Brass slips are
7 a debt owed & which are not due to ~~fact~~ counsel arguing
8 the extra funds were not apart of what Appellant owed
9 NDOC which bring about His next question. under what
10 authority do/did they have to take it, as they claim as much
11 on page 4. That they those deductions were not for repayment
12 of expenses NDOC previously incurred, but were for postage and
13 copy costs that Bonham was actually Authorizing and incurring.
14 Fifth. That this case be ordered to move forward for further
15 Proceedings.

16 RELIEF SOUGHT.

17 1) counsel Admonished. 2) sanctions Levied. 3) Reverse & Remand
18 for evidentiary hearing. 4) case move forward as 2nd Amend
19 complaint as controlling complaint.

20 VERIFICATION

21 I, Bryan P Bonham declare and verify that I have read the foregoing
22 Pleading & to the best of my belief & knowledge that the foregoing
23 is true & correct Pursuant to 28 U.S.C.A. § 1746 & 18 U.S.C.A. § 1621

CERTIFICATE OF SERVICE

I Bryan P Bonham certify that I have read the foregoing & that I am attaching with it special instructions for electronic filing & service to the clerk of the court to serve all of my opponents pursuant to N.E.F.C.R. 5(c), 9 et seq (A-E) etc, to the following.

TO:

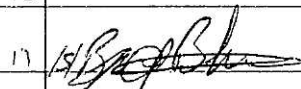
SENIOR DEPUTY ATTORNEY GENERAL

CHRIS DAVIS

555 E Washington Ave Ste 3900

Las Vegas, nev 89101

Dated this 1st day of December, 2023



Bryan P Bonham 60575

Po Box 650 HDSP

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