

ORIGINAL

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

20030233

Earl St. Claire,)
)
 Appellant,)
)
 vs.)
)
 JOELETTA ST. CLAIRE AND)
 DANIAL P. RICHTER, DIRECTOR OF)
 WARD COUNTY SOCIAL SERVICE BOARD,)
)
 Appellee.)

SUPREME COURT NO. 20030233
DISTRICT COURT NO. 03-C-0276

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

OCT 10 2003

APPELLANT'S BRIEF

STATE OF NORTH DAKOTA

APPEAL FROM AN ORDER DENYING APPELLANT TO VOLUNTARILY APPLY MORE SUPPORT TO HIS DEPENDANTS AND ARREARAGES AND TRIAL WAS HELD WHILE THE COURT WAS FULLY MADE AWARE OF THE FACT THAT THE APPELLANT WOULD NOT WAIVE HIS RIGHTS TO BE PRESENT AT SUCH TRIAL AND THE MINNESOTA DEPARTMENT OF CORRECTIONS CLEARLY HINDERED THE APPELLANT'S CONSTITUTIONAL RIGHTS TO HAVE ACCESS TO THE COURTS, IN VIOLATION OF THE FIFTH AND FOURTEENTH AMENDMENTS.

EARL ST. CLAIRE
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Acting Proe-Sae, APPELLANT

JOELETTA ST. CLAIRE AND
DANIAL P. RICHTER, DIRECTOR OF
WARD COUNTY SOCIAL SERVICE BOARD
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APPELLEE

TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	ii
STATEMENT OF THE ISSUES	1
STATEMENT OF THE CASE AND FACTS	2-5
ARGUMENT	6-11

A.

The trial court violated the appellants due process rights under the Fifth and Fourteenth Amendments of the United States Constitution when it was made fully aware of the fact that the Minnesota Department of Corrections would not allow for the appellant to appear for trial by phone and the appellant made it clear to the court in writing that the appellant would not waive his right's to be present for the trial to argue his defence, since the court would not provide counsel to the appellant.

B.

The court violated the rules of Confidentiality after it held trial due to the fact that it relayed critical information to the appellants caseworker at the Minnesota Department of Corrections, that was not a party to the legal action and who was not representing any party in the legal matter. This violated the rules under N.D.C.C. 14-09.1-06.

Conclusion

Conclusion	12-13
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TABLE OF AUTHORITIES

<u>State Cases</u>	<u>Page</u>
<u>Bergman vs. Bergman</u> , 486 N.W.2d 243 (N.D. 1992)	8
<u>Bernhardt vs HJW</u> , 503 N.W.2d 233 (N.D. 1993)	8
<u>Burrell Burrell</u> , 359 N.W.2d 381 (N.D. 1985)	8
<u>Montgomery vs, Montgomery</u> , 481 N.D.2d 234 (N.D. 1992)	7
<u>Olson vs. Olson</u> , 445 N.W.2d 1 (N.D. 1989)	9
<u>Smith vs. Smith</u> , 538 N.W.2d 222 (N.D. 1995)	9
<u>North Dakota Century Code</u>	
14-09.1-06	1,10,11
14-09-06.4	2
14-09-09.6	2,7
<u>Federal Cases</u>	
<u>Bounds vs. Smith</u> , 430 U.S. 817, 824, 828 (1977)	7
<u>Johnson vs. Avery</u> , 339 U.S. 483, 485 (1969)	7
<u>Thomas vs. Gunter</u> , 32 F.3d 1258, 1260 (8th Cir. 1994)	6
<u>Wolff vs. McDonnell</u> , 418 U.S. 539, 558 (1974)	6
<u>Others</u>	
U.S.C.A. Fifth and Fourteenth	1,6
U.S.C. Procedural Means of Enforcement	6,7

STATEMENT OF THE ISSUES

The trial court violated the appellants Fifth and Fourteenth Amendment Right's that are guarenteed under the United States Constitution, when it violated the appellants right's to due process, due to the fact that the court held trial and issued a judgement against the appellant, while the court was made fully aware of the fact that the Minnesota Department of Corrections would not allow the appellant to appear for trial by phone, the court was also told in writing that the appellant would not waive his right to be present at the trial.

The court then later still proceeded with trial, which prevented the appellant from argueing his own defence, after trial the court then proceeded to violate the appellants rights when it violated the rules of Confidentiality under N.D.C.C. 14-09.1-06 due to the fact that the court provided all information to the case to a Minnesota Correctional worker. The information included the Judgement on the case and names of parties that were not parties to the action, that included names of minor children, in which none of the parents gave the court any permission to use the names of the children or to disclose any of the information to a party that had no leagal obligation to have such critical information and was not representing any party to the action.

STATEMENT OF THE CASE AND FACTS

On or about February 19th, 2003 the appellant was served with a Summons and Complaint in the case that is now before this court. The appellant then filed a response to the plaintiff's and the court on or about February 11th, 2003, thereby complying with the twenty day response rule. In the Complaint, the plaintiffs requested of Support for the appellants two minor children in the amount of \$200 per month or as an amount to be determined by the North Dakota Support Guidelines. The two minor children were said to have been in the appellant's wife's, Joeletta St. Claire's custody. The appellant informed the plaintiff's that the older child of the two was not residing with Joeletta St. Claire, but was with his biological mother Anna Poitra. The appellant tried to have numerous issues addressed in concerns for the safety of his children and requested for a guardian ad litem child custody investigator to be appointed to the case pursuant to N.D.C.C. 14-09-06.4 to help assure his child's safety. The appellant then requested the court to grant an order pursuant to N.D.C.C. 14-09-09.6 Voluntary Income Withholding For Support that would allow the appellant to have sixty five percent (65%) of his gross wages paid out to his children for support and would allow the appellant to pay of all arrears in a couple of months time, which would have been a significantly greater amount being paid in for support to his children and of what the plaintiff's requested in the complaint. The appellant also informed the parties that the state of Minnesota has state statutes and Department of Corrections policies that allow for the sixty five percent to be disbursed to families of inmates for support, while the inmates work a Interstate paying position such as

the appellant has been now working at the Faribault Correctional Facility since June of 2002. (See- Appendix pages 1-10). The appellant then was contacted through the mail by on April 10th, 2003 by the assistant states attorney, Ms. Heinrich who asked for the appellant to sign an agreement that would order the appellant to have a amount of \$135 per month collected for current support of his minor child, Garrett St. Claire and another \$27 per month to be collected and applied towards arrears said to be owed. The appellant refused to sign the agreement and a trial date was set. On or about May 26, 2003 the appellant recieved a order for trial. (See- Appendix pages 11-13). The appellant then notified his caseworker, Wakefield at the prison of the scheduled court hearing and requested of her to set up the phone conference for the scheduled time, so the appellant could appear for the trial and the caseworker responded by saying that she would not make the call and the court would need to call her and make arrangements through her, although Wakefield is very well aware of the fact that the court is the only individuals that schedule any court appearances and the court has no legal obligation to notify her of any such court appearance scheduled. (See- Appendix page 14). After the appellant was informed that Wakefield would not do her job in this matter, the appellant wrote a kite to the caseworker, Wakefields supervisor, Ramirez and informed him of Wakefields actions of denying the appellant to make the legal call and requested of Ramirez to make sure the appellant was able to appear for trial on the matter. (See- Appendix page 15). The appellant was forced to follow the chain of command and did not recieve a responce to the Ramirez kite as required by the institutional rules of five days, so the appellant then later on June 16, 2003 wrote the other supervisor, Lyons.

On June 8th, 2003 when the appellant sent the initial kite to the caseworker supervisor, Ramirez, the appellant also wrote to the judge, Holum and fully explained that the appellants caseworker, Wakefield was refuseing to let the appellant appear for the trial or to call and asked the court to correct the matter and to call Wakefield and set her straight on the laws on issues of such. The appellant also made it very clear in his letter to Judge, Holum that the appellant did need to be present on this matter for the trial and the appellant also made it clear to the court that the appellant would not waive his rights to be present for the trial. (See- Appendix 15,16). After the appellant wrote the court on June 8, 2003 and requested for the court to fix the issue, the court then waited untill June 18, 2003 to send notice or contact the Department of Corrections on the matter and request for the authorities to let the appellant place the call to appear for trial, that was set for June 23, 2003. The mail takes three days to arrive from out of state and the letter was recieved by the Department of Corrections authorities on the morning of the scheduled trial and the way the appellant states he knows this as fact is because of the fact that he recieved a copy of the same letter on the afternoon of June 23, 2003 and there is no reason for the Department of Corrections to hold any mail from Correctional staff as is done to inmates. Wakefield then contacted the court on June 25, 2003 and requested of the court to inform her what happened at the trial and then also asked if the court had been reschuduled and if it had been, then she would allow the appellant to place a call to appear. (See- Appendix page 20). The court then sent Wakefield a letter on June 27, 2003 informing her that the court had issued judgement against the appellant

with all the details and also provided names of parties that were not parties to the action that included names of minor children of which the court never recieved any permission from either of the childrens parents to relay such critical information on to a stranger that was not ever a party to the action and was not ever representing any party to the action and had no right to have such information of legal issues. This was done while the court is very well aware of the rules at penal institutions that correction authorities cannot open legal mail outside the presence of a inmate or read or interfere with legal matters of such. On or about July 20, 2003 the appellant filed notice of appeal with the trial court due to the fact of the miscarriage of Justice. There is also the fact of the letter to Judge, Holum on April 10, 2003 from Ms. Heinrich that shifts the burden of proof upon the appellant in this case, which is not suppose ot be the case in any trial. At the bottom of page two of the letter in the last paragragh, Heinrich states to the Judge that "He, (appellant) has not shown that the assistance funds did not go to the support of his child or that the amount of assistance expanded was more than what was required". This statement clearly shifted the burden of innocence onto the appellant to prove his innocence which is not permitted.

(See- Appendix pages 21-24).

ARGUMENT

The trial Court violated the appellants due process rights under the Fifth and Fourteenth Amendments of the United States Constitution when it was made fully aware of the fact that the Minnesota Department of Corrections would not allow the appellant to appear for trial by phone and the appellant made it clear to the court in writing that the appellant would not waive his right's to be present for the trial to argue his defence, since the court would not provide counsel to the appellant.

A. Introduction

The Fifth and Fourteenth Amendments prohibit the government from depriving an inmate of life, liberty, or property without due process of law, See-U.S. Const. amends. V, XIV and Wolff vs. McDonnell, 418 U.S. 539, 558 (1974). When the court was made aware of the fact that the appellant was wanting to appear for the trial and would not waive his right to be present to argue his own defence, the court should have rescheduled the court trial and made the Department of Corrections clear on the laws of denying the appellant access to the court instead of proceeding with trial and issuing order against the appellant, while knowing he was being illegally held from making the court appearance. The court and the Minnesota Department of Corrections also violated the appellants right to equal protection. Prisoners do not forfeit all equal protection rights upon incarceration; however, practices that result in unequal treatment among prisoners are permissible if such practices bear a rational relation to a legitimate penal interest, See-Thomas vs. Gunter, 32 F.3d 1258, 1260 (8th Cir. 1994). When the court was made aware of the fact that the Minnesota Department of Corrections was not going to allow the appellant to appear by phone for the trial, the court could have in the least part provided counsel at it's own discretion to protect the rights of the appellants, See-Procedural Means

of Enforcement Under 42 U.S.C. § 1983. The appellant argues that he had every right to have access to the court for the trial and due to the fact that the court was fully aware of the situation at hand, this violated the appellants rights that are guaranteed to him through the constitution. See- Bounds vs. Smith, 430 U.S. 817, 824, 828 (1977), "Prisoners have fundamental constitutional right to adequate, effective, and meaningful access to challenge violations of constitutional rights". Also see- Johnson vs. Avery, 339 U.S. 483, 485 (1969) "Prisoner right of access to the courts may not be denied or obstructed". Furthermore when the appellant made the request to have sixty five percent of his gross wages withheld for support pursuant to the N.D.C.C. 14-09-09.6 Voluntary Income Withholding For Support, he should have been allowed to have this done since this is allowed through the Minnesota Statutes 243.23 and Minnesota Department of Corrections Policy 300.100 in which the appellant currently resides in the state of Minnesota and the rules all comply with the Uniform Interstate Family Support Act and the Federal Consumer Protection Act. The appellant clearly informed the court and other parties to the action that the appellant could pay more money out of his earnings for support to his children, which would be substantially more than the amount set by the North Dakota guidelines and the appellant agreed to have the sixty five percent of his gross wages deducted and provided to his family for support. See- Montgomery vs. Montgomery, 481 N.W.2d (N.D. 1992) "The task of the trial court in setting an amount for child support is to balance the needs of the children and the ability of the parent to pay". The court was made fully aware that the appellant

ability to pay the amount of sixty five percent of his gross wage earnings from the Interstate paying position the appellant currently holds and that the appellant was agreeing to voluntarily pay out for support to his family, which is substantially more than the amount set by the guidelines of North Dakota. The court or the states attorney could have just as easily looked into the matter of the appellants intentions by contacting Minnesota authorities or simply looking into the statutes that were cited by the appellant. See- Bernhardt vs. H.J.W., 503 N.W.2d 233 (N.D. 1993) "Where there were no specific findings to rebut the presumptive child-support obligation and thus justify a departure from the guidelines, the trial courts child support award was clearly erroneous and the case was remanded for redetermination of the fathers support obligation". In the appellants case there was specific findings to rebut the the presumptive amount of child support and a departure from the guidelines would be justified. The court cannot rely on the guidelines in determining the support obligation, except as a preliminary starting point", See- Bergman vs. Bergman, 486 N.W.2d 243 (N.D. 1992). The trial court is required to consider guidelines, but is not required to award child support within suggested scale, See- Burrell vs. Burrell, 359 N.W.2d 381 (N.D. 1985). The appellant was more less told that the court had to go by the guidelines set and in Burrell this totally contradicts what the state argued to the court of that the court must impute a minimum wage upon the appellant as in the letter dated April 10, 2003 sent to the appellant from Ms. Heinrich, (See- Appendix pages 11-12).

When the appellant voluntarily agreed to have the amount of sixty five percent of his gross wages applied to the arrears and current support, that would amount to \$603 per month or more on the North Dakota case the this amount was not excessive although it is higher than the amount set by the guidelines due to the fact that the court may award child support exceeding the published guidelines, See- Olson vs. Olson, 445 N.W.2d 1 (N.D. 1989). The appellant also requested of stipulations ot be made with the order and was at one point told that the court would not issue order on the stipulations of the appellants, but according to Smith vs. Smith, 538 N.W.2d 222 (N.D. 1995) "Parental stipulations regarding child support are legitimate incidents of parental authority and control and are entitled to serious consideration by the court". The bottom line is that there was a court trial set in this case and there was no need for the trial as the appellant was not contesting that he would not provide support for his children, but that he wanted the court to order more than the guidelines set amount and asked for the court to order the amount of sixty five percent to be awarded to his children as it would be more than the amount set by the guidelines and as the state of Minnesota allows for inmates working interstate positions to have done with their earnings, either with in state support or out of state support. The court instead refused to adopt the request and hold a trial while knowing the appellant was being withheld from appearing by phone or any other way Which clearly violates the appellants Constitutional Rights.

B.

The trial court violated the rules of Confidentiality under the N.D.C.C. 14-09.1-06 when it held trial and violated the appellants Constitutional Rights and then disclosed critical information of the case to a worker of the Minnesota Department Of Corrections that had no legal obligation in the matter or to have the information disclosed to her, this information that was disclosed to the the correctional worker included names of parties not part of the action and of minor children, when the court had no prior permission to give out such information on the children from any of the parents.

The court was contacted by the appellants caseworker after she knew the trial date had passed and while she was made aware of the trial date and would not allow the appellant to appear for it by phone and the caseworker then requested for the court to provide her with information on what took place at the trial and also requested to know if the court trial had been postponed. (See- Appendix page 21). The court then responded to the caseworkers request for the information by letter informing the caseworker of all vital information of names of parties to the action that included names of minor children of which none of the parents gave the court permission to give out the names of the minor children and the court also provided the caseworker with names of persons that were not parties to the action and that included minor children of which none of the parents gave permission to relay information of the children to the Correctional worker. (See- Appendix page 22).

The court violated violated many rules when it proceeded in this manner against the appellant and the minor children and other individuals named in the Judges letter to the correctional worker who had no legal right to have or to be given such vital information. The court clearly abused it's discretion numerous times in this case and the information on children and other individuals is very confidential, especially in todays world with all the issues of identity theft and other issues going on. Simply because a individual works for a correctional facility does not make her trustworthy or obligated to have any such information. This is why the laws state that correctional authorities cannot open legal mail outside of the presence of a inmate and cannot read legal matters of an inmates. The state of north Dakota has a Statute 14-09.1-06 Confidentiality which is suppose to guard against such actions and this was clearly broken by the one of the persons that is required to enforce the laws and not place himself above the law and brake them.

CONCLUSION

The trial court clearly violated the appellants constitutional rights and violated the rules of Confidentiality when it proceeded with trial while being fully aware that the appellant was being withheld against his will from appearing for trial and when the trial court disclosed vital information to a correctional wrker that had no legal right to have such vital information disclosed to her. Because the errors are of such magnitude and prejudicial to the appellant and his family, the appellant respectfully requests that all arrears be forgiven in this case and order for the Minnesota Department of Corrections to pay a amount of Sixty Five percent of the appellants gross wages earned to his dependants through the state of North Dakota, pursuant to the Minnesota Statute 243.23 and Minnesota Department of Corrections policy 300.100. The reason the arrears are requested to be forgiven is due to the fact of the prejudice this case has now placed against the appellant and his children. If the court would have complied with the appellants simple request and heard him out the first time there would be no need for all of this and the appellants arrears would have already been payed in full. The court has not even sent copies of the order to the appellants employer here to the current date and so none of the amounts have even decreased, but only have increased and the appellant provided copies of the order to the employer and asked for the amounts to be payed immediatly and the Department of Corrections

still refuses to pay the amounts as ordered and this has now caused
more arrears to be placed against the appellant, who is not or should
not be held accountable for someone elses actions.

Respectfully Submitted,

Earl St. Claire
Earl St. Claire

#205928

1101 Linden Lane
Faribault, Minnesota
55021-6400

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EARL ST. CLAIRE,

Appellant,

STATE OF NORTH DAKOTA

Vs.

PROOF OF SERVICE

JOELETTA ST. CLAIRE AND
DANIAL P. RICHTER, DIRECTOR OF
WARD COUNTY SOCIAL SERVICE BOARD,

Supreme Court No: 20030233
District Court No: 03-C-0276

Appellee.

PROOF OF SERVICE

The above named appellant hereby swear under penalty of perjury that copies of the appellant's brief and appendix in support of the brief has been served on the appellee's on this date, by first class United States Postal Service, the same being addressed to the following:

1. Joeletta St. Claire and Danial P. Richter, Director of Ward County Social Service Board, through States Attorney, Tina Heinrich, P.O. BOX 2249, Minot, North Dakota, 58702-2249

VERIFICATION

I swear under penalty of perjury that the foregoing facts are true and correct to the best of my knowledge. (28 U.S.C. § 1746)

Respectfully submitted,

Dated: This 10 day of October, 2003.

Earl St. Claire

Earl St. Claire
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1101 Linden Lane
Faribault, MN.
55021-6400

SUPREME COURT OF NORTH DAKOTA

JOELETTA ST. CLAIRE,)
DANIEL P. RICHTER,)
WARD COUNTY SOCIAL SERVICE BOARD,)
Appellee,)
vs.)
EARL ST. CLAIRE,)
Appellant.)

CERTIFICATE OF NONCOMPLIANCE
PURSUANT TO RULE 31(C) OF
ELECTRONIC COPY FILING.

Supreme Court No. 20030233
Ward County No: 03-C-0276

CERTIFICATE OF NONCOMPLIANCE

The above named appellant, Earl St. Claire hereby certifies that he is in prison in the State of Minnesota and is unable to file a electronic copy pursuant to the North Dakota Rules of the Appeal Process, under rule 31(C), due to the fact that the appellant does not have access to a computer or any means to file a electronic copy.

VERIFICATION

I swear under penalty of perjury that the foregoing facts are true and correct to the best of my ability and knowledge. (U.S.C. § 1746)

Respectfully Submitted.

Dated: This 15th day of October, 2003

Earl St. Claire

Earl St. Claire
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1101 Linden Lane
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20030233

FILED
IN THE OFFICE OF THE
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STATE OF NORTH DAKOTA