

ORIGINAL

STATE OF NORTH DAKOTA SUPREME)
COURT ON APPEAL OF DISMISSAL)
FROM BURLEIGH COUNTY DISTRICT)
COURT SOUTH CENTRAL JUDICIAL)
DISTRICT THE HONORABLE JUDGE)
GAIL HAGRITY)

SUPREME COURT No. 20080157
BURLEIGH Co. No. 08-C-1104

FILING OF BRIEF UNDER
N.D.R.App. P, 28

Clarence Voigt)

Plaintiff,)

v.)

State of North Dakota)

Defendant.)

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

SEP 22 2008

STATE OF NORTH DAKOTA

Appellant's Brief with attached Addendum:

To Penney Miller, Clerk of the North Dakota Supreme Court
Dept. 180 600 East Blvd. Ave. Bismarck, ND 58505-0530

By Clarence Voigt (pro se) 1907 Constitution Drive Bismarck,
ND 58501 (701) 224-0005

Dated this 22th day of September, 2008

Clarence Voigt
Clarence Voigt

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THE NORTH DAKOTA SUPREME COURT
ON APPEAL FROM BURLEIGH COUNTY
DISTRICT COURT SOUTH CENTRAL
JUDICIAL DISTRICT
THE HONORABLE JUDGE GAIL HAGRTY

SUPREME COURT No. 20080157
BURLEIGH COUNTY NO. 08-08-C-01104

RULE 31. (b)(2)

Clarence Voigt

Plaintiff,

v.

State of North Dakota

Defendant.

All of the briefs were typed on an electronic typewriter.

All of the appendix to the brief were typed on an electronic typewriter

Dated this 22th day of September, 2008

By Clarence Voigt 1907 Constitution Drive Bismarck, ND 58501
(701) 224-0005


Clarence Voigt

STATEMENT OF THE ISSUES

- (1) The State and the district Court say "The Court lacks subject matter jurisdiction."
- (2) The State and the district Court say "The State has discretionary immunity."
- (3) The State and the district Court say "Voigt's complaint fails to State a claim."
- (4) The State and the district Court say "Wahlin's statements were privileged under section 14-02-05 of the North Dakota Century Code."
- (5) The State and the district Court say "It does not appear proper service has been made and it does not appear Voigt has complied with the requirements of section 32-12.2-04(1) of the Century Code."
- (6) The defendant says "The specific allegations in the complaint are nonexistent."
- (7) The State says "The statements in plaintiff's brief are inarticulate."
- (8) The State says "The State is immune from suit."
- (9) The State says "Voigt makes reference to many statutory and constitutional provisions as the basis for his claims, but provides nothing in the way of supporting facts, accordingly, he has failed to properly plead claims for which relief could be granted."

STATEMENT OF CASE

- (1) On April 25, 2008 Clarence Voigt failed with the Distiiict Court a summons and complaint against the State of North Dakota and Timothy Wahlin on the grounds that Thomothy Wahlin had made false statements about me at a Workers' Compensation Review Committee meeting that was held on April, 26 - 27 2006 here in Bismarck.
- (2) On May 16, 2008 Clarence Voigt filed with the District Court a notice of motion to deny dismissal, Motion to deny dismissal, brief in support of motion to deny dismissal, Amended brief in support of complaint, amended complaint, and amended summons.
- (3) On May 12, 2008 Tag Anderson filed with the District Court a notice of motion to dismiss, motion to dismiss, a brief in support of motion to dismiss.
- (4) On June 2, 2008 Tag Anderson filed with the District Court a reply brief / reply brief to Clarence Voigt's motion to deny dismissal.
- (5) On June 18, 2008 the District Court entered a order of dismissal, judgment of dismissal.
- (6) On June 26, 2008 Clarence Voigt filed with the District Court Notice of filing of the notice of appeal, Notice of motion of appeal, brief in support of motion of appeal.

STATEMENT OF FACTS

Thimothy Wahlin made false statements about me at the April 27, 2006 meeting of the Workers' Compensation Review Committee. (see page (25 - 26)

In august 2006 I received a letter from Jennifer S.N. Clark of the committee Counsel she said "there was to be another meeting of the (WSI) Review Committee to be held on September 21, 2006 and that I could attended this meeting if I wanted to."

I called Jennifer Clark to ask George Keiser, Committee Chairman when I attend this meeting if I would be able to question Thimothy Wahlin about the false statements that he had made about me at the April 27, 2006 meeting. She said "she would have to talk to George Keiser, about my request, and that she would get back to me at a later date."

I waited about a week for her to call me back but she never did that so I went to see her at the Supreme Court. I asked her if she had talked to George Keiser about me questioning Thimothy Wahlin about the false statements that he had made about me at the April 27, 2006 meeting. She said "George keiser had told her that I could attend this meeting, but that I would not be able to question Thimothy Wahlin about those false statements." I ask her why I would not be able to question Thimothy Wahlin about his false statements she said "George Keiser had told her that their was to much liability involed here.

ARGUMENT

I allege that District Court Judge Gail Hagerty is bias against Clarence Voigt the plaintiff in the above named case. in applying provisions of 1915 (e) (2), the court must give the pro-sec- complaint the benefits of a liberal construction and not dismiss the complaint beyond doubt that their is no set of facts that would entitle the plaintiff to relief. Haniness v. Kerner, 404 U.S. 519, 520 (1972) (pro- se complaints are "the subject to less stringent standards than formal pleadings drafted by lawyers") Atkinson v. Bohb, 91 F. 3d 1127, 1128-29 (8th Cir. (1996). In construing the complaint, the court must weigh all factual allegations that are clearly baseless, fantastic, or delusional). Denton v. Hernandez 504 U.S. 25, 31- 33 (1992) A complaint is frivolous if it lacks an arguable basis in law or fact. Martinez v. Turner, 977 F. 2d 421, 423 (8th Cir. 1992)

The problem: are courts really biased against the self- represented litigants ? clearly so. here are just some of the realities non- lawyers are up against when they try to use their courts. Procedural requirements are often difficult: Strange unnecessary -- terms are tossed about. Court jargon should we call it "lawbonics"? -- serves as a means to exclude from the courts anyone who doesn't speak the the language or doesn't pay a lawyer to translate. Judges and their courtroom personnel are often either condescending or downright rude. Court Clerks withhold information from non - lawyers that they routintle give give to lawyers. If a lawyers office calls to ask about a particular scheduling procedure, for example the clerk provides all sorts of answers without thinking twice. But let a self - represented person ask for the same (or even less) information and it suddenly becomes legal advice. Many clerk's offices feel compelled to post signs saying, "we don't provide legal advice!" most often, that means that they are unwilling to help unrepresented people get into the court or respond to a lawsuit. (Imagine if the IRS clerks refused to answer questions about how to file a tax return.)

Clarence Voigt mailed a summons and complaint with return receipt requested to Wayne Stenehjem, Attorney General, State of North Dakota. Postmarked April 29, 2008. The caption names the State of North Dakota as Defendant. Clarence Voigt brings this action under a violation of the constitution of the United States of America Amendment No. 1 (freedom of expression - speech) N.D.C.C. Section 27-1308, damages to recovered in a civil action, 12.1-1102. False statements, N.D.C.C. 12.1-14-04

ARUGMENT

chairman George Keiser of the Workers' Compensation Review Committee called on Timothy Wahlin an assistant Attorney General with (WSI) to provide testimony regarding issues raised by Mr. Voigt. He said "following the 1990 injury, the rehabilitation evaluation found that the activity of painting was inappropriate given Mr. Voigt's limitations: therefor it was arranged to have Mr. Voigt participate in rehabilitation and retaining. This would have taken place except that Mr. Voigt and his Attorney objected to the rehabilitation retaining and proposed that Mr. Voigt begin a venture as a painting contractor under which he would submit bids and then hire painters to actually do the painting. Mr. Wahlin went on to say "It was brought to the attention of (WSI) that Mr. Voigt was painting, upon invesgation, Mr. Voigt reported that he was a painting contractor and had purchased the necessary equipment to perform this venture. It is a failure because of his appropriate work restrictions the N.D. Supreme Court established a higher burden. That to deny coverage based upon exceeding limitation, the employer needs to know of these restrictions."

Huwe v. Workforce Safety and Insurance 2008 ND 47; The employer takes the employee as he finds him Bruns v. ND Workers' Compensation, Bureau, 1999 ND 116. 16 n. 2, 595 N. W. .2d 298.

There is no documentation from my attorney at the time saying I would submit the bids and hire painters to actually do the painting. Mr. Wahlin can not provide this documentation either. Mr. Wahlin said "that the administrative law judge who made a finding that the injured worker had knowingly and willingly violated the terms of the stipulation. It is a failure because Mr. Voigt was painting, which is in violation of the restrictions or limitations of his appropriate work restrictions.

There is nothing in this Recommended Findings of fact conclusion of law and order dated April 26, 1996 that will say that I was found to be in violation of my work restrictions for doing painting.

From page 27 - 30 the amended stipulation that I signed on October 15th 1992: In this stipulation you will not find anything say that I would bid the jobs and hire painters to do the actually work.

False testimony
violates, the pledge the Timothy Wahlin made when he was admitted to the North Dakota Bar: On my honor, I do solemnly promise; I will maintain the respect due the Courts of Justice and judicial officers;
I will employ for the purpose of maintaining the cause confied to me such means only consistant with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact of law. Whalin's false statements of

ARGUMENT

fact dishonored his promise to the profession and thereby lowered the public regard for the rule of law.

The status of the legal profession has suffered grievously from Timothy Whalin's misconduct. His perjuries have been very detrimental to the public interest, and have imposed greatly on judicial resources. See Hunt trust Estate v. Kiker, 269 N.W. 2d 63 (N. D. 1978); Serhienko v. Kiker, 392 N.W. 2d 808 (1986) Kaiser v. Kaiser, 474 N. W. 2d 63 (N.D.)

It is difficult to imagine more "hurtful to the public appraisal of the legal profession than the deliberate use by an attorney of false testimony in the judicial process." Dodd v. The Florida Bar, 118 So. 2d. at 19 Timothy Wahlin's behavior is "autithetical to the oath, the standarda, and his ideals of the legal profession." The Florida Bar v. Prior, 330 So. 2d. 697, 702 at 703 (Fla. 1976) An attorney who gives false testimony in a judicial proceeding' deserves the harshest peantly. Repeated false testimony deserves a severe sanction.

Because we have not before had occasion to consider circumstances comparable to Kaiser's, we look to application of the ABA Standards by other courts. See Matter of Lunn, 570 A. 2d. 940 (N. J, 1990)

A lawyer Should Assist in Maintaining the Integrity and Competence of the legal Profession. Disciplinary Rule 1 - 102, on misconduct, says: a lawyer shall not:

- (1) Violate a disciplinary Rule through actions of another.
- (2) Circumvent Rule through actions of another.
- (3) Engage in illegal conduct involving moral turpitude.
- (4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.
- (5) Engage in any other conduct that adversely reflects on his fitness to prtical law.

N.D.C.C. 27-13-01. Practice of law: The powers and duties of a lawyer are fixed by this section 27-13-02, Menz v. Coyle, 117 N.W. 2d 290 (N.D. 1962). The practice of law is a matter of vital interest to the general public in North Dakota, since lawyers are engaed in the preservation and protection of the fundamental liberties and rights of the people, thus attorneys are engaged in the carrying out of the fundamental aims and purposes of government.

ARGUMENT

Page 36 the District Court says "the court lacks subject matter jurisdiction." The state cannot claim subject matter jurisdiction because Timothy Wahlin was not acting within the scope of his employment.

from page 36 the District Court says in its dismissal, "that any claims against the state are barred by discretionary immunity." the state cannot claim discretionary immunity because Timothy Wahlin has made false statements about me at the April 27, 2006 Workers' compensation review committee meeting.

Timothy Wahlin cannot claim that his false statements were privileged under N.D.C.C.14-02-05
N.D.C.C.14-02-05. Privileged communications: a privileged communication is one made:

1. in the proper discharge of an official duty;
2. In any legislative or judicial proceeding or in any other proceeding authorized by law;
3. In communication, without malice, to a person interested therein by one who also is interested, or by one who stands in such relation to the person interested as to afford a reasonable ground for supposing the motive for the communication innocent, or who is requested by the person interested to give the information; and
4. By a fair and true report, without malice, of a judicial, legislative, or other public official proceeding, or of anything said in the course thereof.

From page 25 of the workers' Compensation Review Committee Timothy Wahlin said "Mr. Voigt began a venture as a painting contractor under which he would submit bids and then hire painters to actually perform the painting." This information is from the June 19, 1992 Vocational Consultant's report assessment / plan. This report says nothing about me entering into a painting venture. What it will tell you is that I was to attend the Medical Assisant program at Interstate Business College from 06-30-92 and ending on 08-13-93. As I only have 40 pages to tell the Court everything I'm not able to put this in anywhere.

From page 3. of the table of authorities when an attorney makes a false statement they have opened the way for the suspension of certificate of admission to the bar. N.D.C.C. 27 - 14 - 02.

ARGUMENT

I would have filed a complaint with the North Dakota Supreme Court Disciplinary Board but, I did not and I will tell the court why.

On September 29, 2006 I appeared before, "the inquiry Committee West of the State Bar Association" I was at this meeting because I had sent a complaint to the Disciplinary Board and I was asked before this meeting to appear if I wanted to. I was actually at this meeting because I filed Two complaints against two different attorneys. When we were done discussing my complaint about the first attorney I was told by Patricia Garrity "Chair" that the meeting was now over and that I could leave. When I asked about the second attorney that I had filed a complaint against if we were going to now discuss my complaint against Mr. Wahlin from (NDWSI) I was told by Patricia Garrity, that we would not be discussing my complaint against Mr. Wahlin at this time, but would do so at a later date I then left the room.

In a letter dated November 1, 2006 that I received from Paul W. Jacobson of the Disciplinary Board he said "the inquiry Committee West of the State Bar Association met on September 29, 2006, in Bismarck, ND and that the Committee has considered the complaint against Timothy Wahlin. The Committee determined that the information provided not indicate misconduct or disability therefore there was no investigation and that the matter has been SUMMARY DISMISSED. Lets go back to September 29 2006 I was at that meeting and was told that we would not be discussing Mr. Wahlin on this date but would do so at a later date now I'm told that they had discussed Mr. Wahlin on the 29th. What is going on here? I will tell you. "Its all a big cover up."

From page 25 & 26 of my appendix to the brief Tag Anderson says "Even if there was some type of defamation claim made, Wahlin's statements were privileged under section 14 - 02 - 05 of the North Dakota Century Code." I say "under N.D.C.C. 14 - 02 - 05, Privileged Communications is one made:

1. In the proper discharge of an official duty;
2. In any legislative or judicial proceeding or in any other proceeding authorized by law.
3. In communication, WITHOUT MALICE, to a person interested therein by one who also is interested, or by one who stands in such relation to the person interested as to afford a reasonable ground for supposing the motive for the communication innocent, or who is requested by the person interested to give the information; and

ARGUMENT

4. By a fair and true report, without malice, of a judicial, Legislative, or other public official proceeding, or of anything said in the course thereof."

In the proper discharge of an official duty; Timothy Wahlin was not in the proper discharge of his duty when he made those false statements about me at this meeting.

In a communication, without malice: (from the American College Dictionary) 1. Desire to inflict injury or suffering on another:
2. Evil intent on the part of one who commits a wrongful act injurious to others:

Timothy Wahlin sure was with malice when he made those false statements about me. By a fair and true report without malice: here again Wahlin did not make a true and fair report about me.

N.D.R.Civ.P.5. Service and filing of pleadings and other papers: (b) Service how made: Whenever under these rules service is required or permitted to be made upon a party REPRESENTED BY AN ATTORNEY, THE SERVICE MUST BE MADE UPON THE ATTORNEY UNLESS THE SERVICE UPON THE PARTY IS ORDERED BY THE COURT.

Timothy Wahlin is represented by the office of Civil Litigation of the Attorney General of the state of North Dakota thereby I did not have to serve him with anything.

ARGUMENT

Discrimination in public places, N.D.C.C.12.1-14-02-01 preventing exercise of Civil Rights, N.D.C.C.12.1-1501. General personal rights, N.D.C.C.14-02-03. Civil libel, N.D.C.C.14-02-04. Civil Slander, N.D.C.C.14-04-05. Privileged communication, N.D.C.C.14-02-11. State policy against discrimination, repealed by S.L. 1985, ch. 82 & 162, the Constitution of the state of North Dakota Article 1 Declaration of Rights; Sec. 1. All men are by nature equally free and independent and have certain inalienable rights, among which are those enjoying and defending life and liberty; accruing, possessing and protecting property and REPUTATION; and pursuing and obtaining safety and happiness. NDSILD 6.11 & 6.12 Section 4, 9, 10, 20, 22 & 24. N.D.C.C. 12.1-32-01 (4) Criminal penalty for a class C felony: N.D.C.C. 12.1-32-01 (5) The criminal penalty for a class A misdemeanor: U.S. Code collections; Title 18 Part 1 Chapter 13 & 242. conspiracy against rights:

From page 6 of my appendix to the brief Tag Anderson says "The state of ND is immune from suit: the actions of Timothy Wahlin were clearly within the scope of his state employment."

N.D.C.C.32-12.2-03.(3) (4) (6)

(6) The state shall defend any state employee in connection with any civil claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope of the employee's employment if the employee provides complete disclosure and cooperation in the defense of the claim or demand and if the employee request such defense in writing within ten days after being served with a summons, complaint, or other legal pleading asserting a cause of action against the state employee and the Attorney General. The head of the state entity that employs the state employee shall advise the Attorney General as to whether that person deems the employee's actions that are the subject of the action to have been within the scope of the employee's employment. The determination of whether a state employee was acting within the scope of employment. The determination of whether a state employee was acting within the scope of employment must be made by the Attorney General.

(4) except for claims or judgments for punitive damages, the state shall indemnify and save harmless a state employee for any claim, whether groundless or not, and final judgment for any act or omission occurring within the scope of employment of the employee provides complete disclosure and cooperation in the defense of the claim or demand to the head of the state entity that employs the state employee and to the Attorney General within ten days after being served with a summons, complaint, or other legal pleading asserting that claim or demand against the state employee.

ARGUMENT

The certificate of admission to the bar of this state of an attorney at law may be revoked, or suspended by the Supreme Court if that attorney has:

1. Committed any offense determined by the Supreme Court to have a direct bearing upon a person's ability to serve the public as an attorney and counsler at law.

2. Committed any other act which tends to bring repose upon the legal profession. The admonition of certain grounds for disbarment, or suspension of attorneys at law may not be deemed a limitation upon the general powers of the Supreme Court to suspend or disbar for professional misconduct.

An attorney's conduct violated the Code of professional Responsibility, specifically disciplinary rules DR 1-102(a)(4)(5) and (6), and warranted his suspension from the practice of law for at least Ninety - days where, to prevent past life from being discovered.

Were in the course of one or more official proceedings, the defendant made a statement under oath or equivalent affirmation to the degree that one of them is necessarily false. Both having been made within the statement is a single count alleging in the alternative that one or the other statement was false, but in the absence of sufficient proff of which statements was false, the defendant may be convicted under this section only if each statements was material to the official proceeding in which it was made.

Section 12.1-1102, entitled false statements are derived from section 1352 of the proposed Federal Code and the relevant legislative history, State v. Bower, 442 .W. 438 (ND 1989).

N.D.C.C. 12.-11-01. Proff that the defendant made such false statements shall constitute a prima facie case that one or the other statement was false.

Each disciplinary action must be "judged on its own mertis and facts." Margos, at 546 Once a disciplinary violation has been established, we rely on the published standards of sact-ions for guidance, seeking to fairly impose "similary disc-iplinary measures ...for similar violations under similar circumat-ances." Id.

"Truth and condor are synonymous with justice, and honesty is an impl-icit characteristic of the legal profession." ABA, The judicial Resp-onse to Lawyer Misconduct, 111.1, 111.3 (1984). The primary function of our judicial system is to find the truth to reach a just cocclusion. Bohn v. Johnson, 371 N. W. 2d 781 (N.D. 1985);

Newman v. Silver, 553 F. Supp. 489 n. 11 (SDNY 1982), aff'd in part and vacated, 713 F (.2d Cir. (1983) : Michalic v. Klat, 128 A. D. 2d 436, 437 - 438 (1987) Diprima v. Diprima, 111 A. D. 607, 608 (1985)

CONCLUSION

For all of the above and all that is on file with the Court Clarence Voigt pray that the Court grant me the the relief that I have ask for on page 21 of my amended claim.

Dated this 22th day of September, 2008


Clarence Voigt

LAW AND ARGUMENT

BIAS IN THE COURT ROOM: This bias exists in direct contradicition to the Supreme Court ruling in Faretta V. California, that everone has the constitutional right to proceed without counsel. The reasoning behind that decision means that the Constition of the United States of America requires our justice system to be neutral towards the self-represented litigant. That in turn means that the courts must offer a level playing field for the represented and unrepresented alike, consistent with the basic principles of fairness.

THE PROBLEM: Are courts really biased against the self-represented litigants ? clearly so. Here are just some of the realities non-lawyers are up against when they try to use their courts:

Procedural requirements are often difficult:

Strange-- and unecessary--terms are tossed about. Court jargon should we call it "lawbonics"? --serves as a means to exclude from courts anyone who doesn't speak the language or doesn't pay a lawyer to translate.

Judges and their courtroom personnel are often either condecending or downright rude.

Court clerks withhold information from non-lawyers that they routintle give to lawyers.

If a lawyers office calls to ask about a particular scheduling procedure, for example the clerk provides all sorts of answers without thinking twice. But let a self-represented person ask for the same (or even less) information, and it suddenly becomes legal advice. Many clerk's offices feel compelled to post signs saying, "we don't provide legal advice!" Most often, that means that they are unwilling to help unrepresented people get into the court or respond to a lawsuit. (Imagine if the IRS clerks refused to answer questions about how to file a tax return.)

In applying provisions of 1915(e)(2), the court must give the pro-se-complaint the benefits of a liberal construction and not dismiss the complaint beyound doubt that their is no set of facts that would entitle the plainriff to relief. Hanines v. Kerner, 404 U.S. 519, 520 (1972) (pro se complaints are "subject to less stringent standards than formal pleadings drafted by lawyers"): Atkinson v. Bohb, 91 F. 3d 1127, 1128-29 (8th Cir. (1996). In construing the complaint, the court must weigh all factual allegations that are clearly baseless, fanciful, fantastic or delusional). (Denton v. Hernandez 504 U.S. 25, 31-33 (1992) A complaint is frivolous if it lacks an agruable basic in law or fact. Martinez v. Turner, 977 F. 2d 421, 423 (8th Cir. 1992).

Timothy Wahlin said I was not to do any painting myself, but was to hire any painters when needed. He said "this information was from the june 1992 Vocational Consultant's Report assessment / plan. This report says nothing about me entering into a painting venture, what it will tell you is that I was to attend the Medical Assistant program at Interstate Business College from 06/30/92 and ending on 08/31/93.

On October 15, 1992 I signed an Amended Stipulation with the North Dakota Workers' Compensation Bureau that said "I will enter into a lump sum payment of \$15,159.00 this money was for me to start my own painting business. Please keep in mind that the Vocational Consultant's Assessment plan is dated June 24, 1992. There is no way that Mr. Wahlin could have known from Vocational Consultant Assessment plan that I was going to be a painting contractor. There in nothing in the amended stipulation that said that I could not do any painting my self.

AMENDED CLAIM

- (20) On February 7, 2008 I Filed with the court a summons and complaint against Wefald I claim Federal Jurisdiction pursuant to artice III 2 which extends the jurisdication arising under the U.S. Constitution. I also filed with the court a petition for wavier of fees this was denied without any explanation from Judge Anderson. After all the Court is not going to allow any judge to grant a wavier of fees against one of there fellow judges could they now.? For the above I find Anderson guilty of bias and discrimination against me and I don't want to see her name on any court papers as to her being the judge to handle this case. The court should make up it's mind and get use to the idea that they have to be on a level playing field with the plaintiff.
- (21) On March 26, 2008 I filed with the court a summons and complaint against the state of North Dakota I also filed a petition for wavier of fees in this case and that was denied by judge Graff without any explanation by judge Graff. For the above I find Graff guilty of being bias and showing discrimination against the plaintiff and again I do not want to see his name on any papers as to him being the judge that will handle this case.
- (22) I had filed with the Disciplinary board of the Supreme court against Timothy Wahlin in a notice of disposition dated November 2, 2006 from Paul W. Jacobson disciplinary Counsel he said "The inquiry Committee West of the State bar Association of North Dakota met on September 29, 2006, in Bismarck, ND. The above file was considered at that meeting. The Committee determined that the information provied did not indicate misconduct or disability. Therefore, there was no investigation and the matter has been SUMMARILY DISMISSED. I had to read this letter over to make sure that I understood what I was reading. To say that I was somewhat shocked at what I had just read would for me to put it mildly. I was ask by Patricia E. Garrity Chair of the Committee west that they were going to meet on September 29, 2006 and at that time they would be going over my complaint against Timothy Wahlin and I was welcome to attened that meeting if I wanted to and that the Committee would like to ask me some questions about that complaint. Well I attened that meeting on September 29, 2006 and was told by Patricia Garrity that they would not be discussing my complaint against Timothy Wahlin at this time but would do so at a later date.
- (23) In a letter dated November 2, 2006 telling me that they had met on that date and discussed my case against Mr. Wahlin. So what do you think is going on here.? I will tell you what is going on. It all comes down to a "BIG COVER UP." I would like the court to SUBPOENA the minutes of this meeting for me so that I may proceed with this matter in a Court of law.
- (24) Last year I had filed with the State Highway Patrol a PERJURY complaint against Allen Hoberg who is the director of (OAH). the highway patrol made there investigation and then turn it over to the Burleigh County States Attorneys office for proseution. After a 78 page investgation I'm told "Our office has received your complaint for possible criminal prosecution against Allen Hoberg for perjury. Upon thorough review of the meterials, I'm decling prosecution at this time. The primary basis for my decision is that, upon review of all of the documentation provided to our office, the statements made by Mr. Hoberg do not meet the statutory criteria of Perjury, and are not CRIMINAL in Nature.

AMENDED CLAIM

- (25) N.D.C.12.1-11-01 PERJURY: 1. A person is guilty of perjury, a class C felony, if, an official proceeding, he makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of a false statement previously made, when the statement is material and he does not believe it to be true.
2. Commission of perjury need NOT BE PROVED BY ANY PARTICULAR NUMBER OF WITNESSES OR BY DOCUMENTARY OR OTHER TYPES OF EVIDENCE.
3. Where in the course of one or more official proceedings, the defendant made a statement under oath or equivalent affirmation inconsistent with another statement made by him under oath or equivalent affirmation to the degree that one of them is necessarily false, both having been made within the period of the statute of limitations, the prosecution may set forth the statements in a single count alleging in the alternative that one or the other was false and not believed by the defendant to be true. Proof that the defendant made such statements SHALL CONSTITUTE A PRIMA FACIE CASE THAT ONE OR THE OTHER OF THE STATEMENTS WAS FALSE, BUT IN THE ABSENCE OF SUFFICIENT PROOF OF WHICH STATEMENT WAS FALSE, THE DEFENDANT MAY BE CONVICTED UNDER THIS SECTION ONLY IF EACH OF SUCH STATEMENTS WERE MATERIAL TO THE OFFICIAL PROCEEDING IN WHICH IT WAS MADE.

- (26) In the taking of the affidavit of Allen C. Hoberg on March 21, 2007 he made two statements that he knew were untrue and by doing so committed PURJERY He says in his affidavit, "the office of administrative Hearings takes all reasonable measures necessary to enable individuals with disabilities equally effective communication and full participation in administrative hearings. For example, if a deaf individual was in need of a qualified interpreter to meaningfully participate in an administrative hearing, one would be provided by the State at no cost to the claimant.

In his second statement he goes on to say "the office of administrative hearings is fully aware of its responsibilities under the American with Disabilities Act and takes all reasonable assistive or accommodating measures necessary to enable qualified individuals with disabilities access to the administrative hearing process provided the agency."

Allen Hoberg knew that these statements were untrue for the following reasons. In a letter that I sent to Al Wahl an (ALJ) dated 12-23-04 I said "due to the fact that my hearing is very bad I would like to request some kind of auxiliary aids for me at this hearing to be held on 02-02-05."

In a letter dated 12-27-04 from Al Wahl he said "The office of administrative Hearings DOES NOT PROVIDE ASSISTIVE DEVICES FOR HEARING IMPAIRMENT (OR FOR THAT MATTER ANY OTHER IMPAIRMENT.)"

I would like the court to order the office of the Burleigh County States attorneys to do the job that they should by law done in the first place and prosecute Allen Hoberg on a charge of PERJURY.

AMENDED CLAIM

- (15) On August 6, 2007 Case No. 08-07-C-01688 was assigned to Judge Wefald I was the plaintiff, and the State of North Dakota were the defendant in this case. On October 11, 2007 judge Wefald granted a motion to dismiss and denied Voigt's motion to amend complaint.
- (16) I claim that judge Wefald is guilty of a violation of N.D.C.C. 27-13-12 is a class A misdemeanor. As a former Attorney General for the State of North Dakota. A judge not to aid defense when formerly interested as ATTORNEY GENERAL. Every judge who, having prosecuted or in any manner aided or promoted any action or proceeding in any court as states attorney or other public prosecutor, afterward, directly or indirectly, advises in relation to or takes any part in the defense thereof as a judge or otherwise, or takes or receives any valuable consideration from or on behalf of any defendant therein, upon any understanding or agreement whatever, express or implied, having relation to the defense thereof is guilty of a class A misdemeanor and in addition to the punishment prescribed therefor, he forfeits his license to be a judge.
- (17) The court should order judge Wefald not to handle any cases that are against the State of North Dakota and to let the plaintiff in this case to re-file his case to the court. Or for that matter any case that the plaintiff would bring against anyone else.
- (18) Judge Wefald should have disqualified himself from this case because he knows me personally . We lived in the same part of town were I was living on Griffin Street and the judge on Ave. B West. His daughter Sara and my daughter were in the same grade together and were in Girl Scouts together and I have been to his home more than once and have talked to him and his wife I also know his son Tommy so there is no way the Wefald can say that he does not know me personally.
- (19) In Wefalds order on defendants motion to dismiss he says "Voigt is guilty of bringing a frivolous action which is without merit. State seeks costs for having to respond to this frivolous action. Any further such action by Voigt will result in sacnctions being imposed on him. If there are any sanctions to be imposed they should be against Wefald. If the court expects respect from the other party they should start showing some respect to.

AMENDED CLAIM

- (1) I claim that Timothy Wahlin and George Keiser the defendants in the above named case are guilty of oppression, fraud, or milice actual or presumed. For the above I ask the court to award me \$153,000.00 for punitive damages. I also claim that
- (2) Timothy Wahlin and George Keiser are guilty of (freedom of expression-speech) For the above I ask the court to award me \$153,000.00 in punitive damages
- (3) I claim that Thimothy Wahlin is guilty of Misconduct by an attorney under N.D. C.C. 27-13-08 For the above I ask the court to award me \$153,000.00 in punitive damages:
- (4) I claim that Thimothy Wahlin made false statements about me at the April 26-27, 2006 meeting of the Workers' Compensation Review Committee. This comes under N.D.C.C. 12.1-11-02. For the above I ask the court to award me \$153,000.00 in punitive damages:
- (5) I claim that Thimoty Wahlin and George Keiser are guilty of Discrimination in public places under N.D.C.C.12.1-14-04 and ask the court to award me \$153,000.00 in punitive damages:
- (6) I claim that Thimothy Wahlin and George Keiser are guilty of Preventing excer-cise of civil rights under N.D.C.C.12.1-14-05. and ask the court to award me \$153,000.00 in punitive damages:
- (7) I claim that Thimothy Wahlin and George Keiser are guilty of Criminal defamation under N.D.C.C.12.1-15-01. and ask the court to award me \$153,000.00 in punitive damages:
- (8) I claim that Thimothy Wahlin and George Keiser are guilty of violating my gene-ral personal rights under N.D.C.C.14-02-01. and ask the court to award me \$153,000.00 in punitive damages:
- (9) I claim that Thimothy Wahlin and George Keiser are guilty of Civil Libel under N.D.C.C. 14-02-03. and ask the court to award me \$153,000.00 in punitive damages:
- (10) I claim that Thimothy Wahlin and George Keiser are guilty of Civil Slander under N.D.C.C. 14-02-04. and ask the court to award me \$153,000.00 in punitive damages;
- (11) I claim that Thimothy Wahlin and George Keiser are guilty Privileged Communication under N.D.C.C. 14-04-05. and ask the court to award me \$153,000.00 in punitive damages:
- (12) I claim that Thimothy Wahlin and George Keiser are guilty of State policy agai-nist Discrimination under N.D.C.C. 14-02-11 and ask the court to award me \$153,000.00 in punitive damages:
- (13) I claim that Thimothy Wahlin and George Keiser are guilty of a violation of the Constitution of the State of North Dakota Article 1 Declaration of rights: Sec. Four, Sec. Nine, Sec. Ten, Sec. Twenty, Sec. Twenty-Two and Sec. Twenty-Four and ask the court to award me \$153,000.00 in punitive damages:
- (14) I claim that judge Wefald, judge Anderson and judge Graff are biased against me because I'm a self-reprented litigant:

State of North Dakota
County of Burleigh

Clarence Voigt

Plaintiff,

v.

Judge Robert O. Wefald "Individual
& in his Official capacity" as a
Judge of District Court South
Central Division, Burleigh County
and the County of Burleigh

Defendants.

)
)
) IN DISTRICT COURT
) SOUTH CENTRAL JUDICIAL DISTRICT

)
)
) Case No.

)
)
) VERIFIED COMPLAINT

Jurisdiction:

Plaintiff claims Federal jurisdiction pursuant to article III 2 which extends the jurisdiction to cases arising under the U.S. Constitution.

Plaintiff brings this suit pursuant to Title 42 U.S. Code 1983 for violations of certain protections guaranteed to him by the Constitution of the United States of America:

Amendment One to the Constitution (Freedom of speech) and redressable pursuant to Bivens v. Six Unknown Narcotics Agents 403 U.S. 388 (1971)

Obstruction of Justice: Title 18 Part 1. Chapter 73 1515:

Title 18 U.S.C., Section 242: Title 42 Chapter 21 subchapter 1.

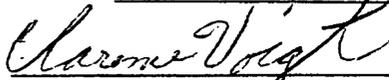
generally rights under the law:

N.D.C.C. 27-13-12 Attorney not to aid defense when formerly interested as a public prosecutor: I also allege that the defendants in this case are "Ultra Vires" Against the Pro Per Litigant by a County Judicial Officer under 42 U.S. Code 1983 (color of law).

STATEMENT OF VERIFICATION

I have read the above complaint and it is correct to the best of my knowledge.

Dated This 7th day of February, 2008



Clarence Voigt

Rule 3.2 N.D.R.Ct. Rule 3.2(a) This motion will be decided on briefs unless oral argument is timely requested.

terminated and the second issue of how to deal with a subsequent injury in the case of a fraud case.

In response to a question from Representative Amerman regarding the repayment of the lump sum amount, Mr. Voigt said the funds he was required to repay were discharged in bankruptcy. He said if he were to qualify for disability benefits, Workforce Safety and Insurance would not offset that amount from future payments.

Mr. Voigt said another issue he would like the committee to consider is that injured workers in North Dakota do not have access to legal counsel. He said the limitations on an injured worker's attorney's fees are outrageous. He said the result of the attorney's fees limitations is that injured workers are left without legal representation.

Mr. Voigt said if employers are going to be relieved of liability for civil damages when an employee is injured, that employer should be required to provide safe working conditions.

Mr. Voigt said if the system provides an employer is not liable for civil damages, that employer has no incentive to provide a safe workplace. He said if an employee can prove the employer exercised a pattern of carelessness, the injured worker should be able to hold that employer liable for injury sustained on the job.

Mr. Voigt said he thinks the workers' compensation Social Security offset provision is inappropriate. He said injured workers need both workers' compensation and Social Security funds just to make ends meet.

In response to a question from Representative Keiser, Mr. Voigt said although the initial stipulation provided all of the money was to be used for starting a business, there was an amended stipulation that did allow him to use some of the funds for self-support. He said Workforce Safety and Insurance claimed the grounds for fraud were false statements. Additionally, he said, the laws relating to false claims and statements are too vague and should be changed to be more clear.

Mr. Voigt said the district court standard of review should be changed. He said the district court should be able to reevaluate the facts of the case. Had he known the district court was limited in its standard of review, he said, he would not have wasted his time appealing his decision to the district court.

Mr. Voigt distributed to committee members a two-page document, which lays out his statement of the facts of his claim. A copy of this handout is on file in the Legislative Council office.

Mr. Voigt said he disagrees with the finding that his 2003 injury had merely triggered the symptoms of his 1990 injury.

In response to a question from Representative Keiser, Mr. Voigt said he understood that one reason for him to be self-employed was that it would allow him to limit his painting bids so he could work within his restrictions.

Workforce Safety and Insurance Response

Chairman Keiser called on Mr. Wahlin to provide testimony regarding issues raised by Mr. Voigt. Mr. Wahlin said the 2003 claim filed by Mr. Voigt centers around the 1990 claim. He said following the 1990 injury, the rehabilitation evaluation found that the activity of painting was inappropriate given Mr. Voigt's limitations; therefore, it was arranged to have Mr. Voigt participate in rehabilitation and retraining. He said this would have taken place, except that Mr. Voigt and his attorney objected to the rehabilitation retraining and proposed that Mr. Voigt begin a venture as a painting contractor under which he would submit bids and then hire painters to actually perform the painting.

Mr. Wahlin said it was brought to the attention of Workforce Safety and Insurance that Mr. Voigt was painting. He said upon investigation, Mr. Voigt reported that he was a contractor and had purchased the necessary equipment to perform this venture. However, he said, the investigation indicated that the equipment had not been purchased.

Mr. Wahlin said that the fraud case went to the administrative law judge who made a finding that the injured worker had knowingly and willingly violated the terms of the stipulation. He said this whole situation is a failure. He said it is a failure because Mr. Voigt was painting, which is in violation of the restrictions or limitations of his appropriate work restrictions, and it should come as no surprise that this activity resulted in triggering more damage to the 1990 injury.

In response to a question from Representative Keiser, Mr. Wahlin said that upon a finding of fraud, future benefits for that injury are prohibited.

In response to a question from Senator Espeland, Mr. Wahlin said in the case of Mr. Voigt, if there had not been a determination of fraud, it is likely that Workforce Safety and Insurance would have covered the 2003 injury even though the statute says if you are knowingly exceeding your limitations you are not eligible for coverage. He said when it comes to denying coverage based upon exceeding working restrictions, the North Dakota Supreme Court established a higher burden. He said that to deny coverage based upon exceeding limitations, the employee needs to have willfully exceeded the limitations and the employer needs to know of these restrictions. He said the high burden makes enforcement almost unattainable.

Mr. Voigt said as it relates to his work restrictions, he modified his work thinking that doing so would keep him within his work restrictions.

In response to a question from Representative Amerman, Mr. Wahlin said state government has given certain powers to address the welfare, health, and safety of its citizens and the creation of Workforce Safety and Insurance is one of these powers. He said before the creation of the workers' compensation system, an injured worker had a very heavy burden when it came to seeking a remedy for a workplace injury.

In response to a question from Senator Heitkamp, Mr. Voigt said yes, he understood the settlement agreement and he did spend some of the settlement money on his living expenses. Additionally, he said, he did buy some equipment for his painting services, although he did not buy the scaffolding.

Senator Heitkamp said if Mr. Voigt understood the terms of the agreement and then he went on and did not follow these terms, it is hard for the committee to take any action to improve Mr. Voigt's situation or the situation of those similarly situated.

Mr. Voigt said after entering the stipulation, he knew he was not allowed to paint but he modified his painting activities thinking that this would keep him within his appropriate restrictions. He said he did not understand that he was totally prohibited from painting.

Mr. Wahlin said the vocational consultant's report dated June 1992 said Mr. Voigt was prohibited from painting and the workers' compensation documents are replete with references excluding painting activities.

In response to a question from Mr. Voigt regarding the statute of limitations on fraud, Mr. Wahlin said he is not certain but he does not think there is a statute of limitation on fraud.

In response to a question from Representative Keiser asking whether Mr. Voigt could challenge the fraud ruling, Mr. Wahlin said Mr. Voigt did challenge the fraud finding and he was unsuccessful at the district court. He said he did not pursue this district decision to the Supreme Court. He said at the fraud hearing it was determined that there was a finding that the injured worker was not allowed to paint but then that is exactly what the injured worker did, he participated in painting.

Senator Espegard said that once Mr. Voigt lost his fraud case and his workers' compensation benefits, he was no longer prevented from painting but questions what happens when his neck is further injured when he is participating in this prohibited activity.

Representative Keiser thanked Mr. Voigt for bringing his case forward to the committee. He said he understands the sensitivity of the fraud issue and how difficult it must have been for him to come to the committee today.

In response to a question from Senator Heitkamp asking Mr. Voigt why he took the \$15,000 settlement if he knew he was not allowed to paint, Mr. Voigt said he thought he could paint if he modified his painting activities. He said he wants Workforce Safety and Insurance to provide proof that it told him he could not paint at all.

Senator Espegard said the injured worker's vocational report said he was not allowed to paint and a stipulation further states his limitations on receipt of the lump sum to buy equipment.

Senator Heitkamp said the real issue before the committee is what are you going to do about Clarence Voigt's life. He said it seems Mr. Voigt hastily rented

Workforce Safety and Insurance, he did have a sense of Workforce Safety and Insurance's expectations.

In response to a question from Representative Amerman, Mr. Voigt said at the time of the 2003 injury, he was an employee of a painting contractor.

Comments by Interested Persons

Chairman Keiser called on Mr. Vetter for comments regarding the issues raised by Mr. Voigt. He said that although he sympathizes with the situation Mr. Voigt finds himself in, he does not condone fraud. He said from the presentation made today it seems as though Mr. Voigt did not use the settlement money as he was supposed to. He said he accepts that perhaps Mr. Voigt did not understand all the terms of the stipulated agreement but in this instance he finds himself siding with the position of Workforce Safety and Insurance.

Chairman Keiser called on Ms. Bale for comments regarding the issues raised by Mr. Voigt. She said the committee needs to remember that Mr. Voigt is a painter with an eighth grade education. She said at the time of his initial injury he was 48 years old. She said the one thing that catches her attention is that Mr. Voigt's educational level may have played a role in the situation.

Chairman Keiser called on Mr. Kapaun for comments regarding the issues raised by Mr. Voigt. He said that in this instance he finds himself agreeing with Workforce Safety and Insurance.

Committee Discussion

Representative Keiser said he has empathy with Mr. Voigt because as a small business owner himself he recognizes that when a small business starts up there is a lot of work that a business person needs to do and it is the business owner that performs all these activities. Additionally, he said, \$15,000 is not a lot of money to start a business; however, he said, there appears to be a significant amount of evidence showing fraud on the part of the injured worker.

Senator Heitkamp requested that Workforce Safety and Insurance respond to the issues raised and requested by Mr. Voigt and that this information be provided to Mr. Voigt.

END

COMMITTEE WORK

Throughout the course of the two-day meeting, the committee conducted committee work on issues raised on the course of reviewing injured workers' claims. The committee work included receipt of two bill drafts relating to the presumption of coverage for firefighters and law enforcement officers; the status and use of the excess funds resulting from the 2005 changes to the fund balance calculation requirements; receipt of information regarding the calculation of the state's average weekly wage and how neighboring states calculate their average weekly wage for purposes of unemployment insurance and workers' compensation; receipt of information regarding vehicle modifications for injured workers; review of 2005

BEFORE THE NORTH DAKOTA WORKERS COMPENSATION BUREAU
BISMARCK, NORTH DAKOTA

STATE OF NORTH DAKOTA)
)SS
COUNTY OF BURLEIGH)

CLAIM NO. 90 361,058 T
EMPLOYER ACCOUNT NO. 15039-1

In the Matter of the Claim of)
)
CLARENCE VOIGT)
)
for compensation from the North)
Dakota Workers Compensation)
Fund.)

AMENDED
STIPULATION

FILED BY SECRETARY
DISCIPLINARY BOARD
JUN 20 2006 4 43 1 - W - 0606

IT IS STIPULATED AND AGREED by and between the parties as follows:

Claimant sustained an injury by accident arising out of and in the course of employment on December 8, 1990, while employed by the Bismarck Parks and Recreation, Bismarck, North Dakota, as an open gym coordinator.

The Workers Compensation Bureau accepted liability in this case, and paid the associated medical expenses and disability benefits.

There is dispute between the parties concerning whether claimant may return to gainful employment considering claimant's current work capabilities and present educational and vocational skills.

In order to resolve this dispute the parties agree that payment shall be made pursuant to the following terms:

1. That the Bureau will continue to pay all reasonable medical expenses directly related to the claimant's injury on December 8, 1990.

4431 - W - 0606

2. That the Bureau will pay and the claimant will accept payment of the total sum of Fifteen Thousand One Hundred Fifty Nine Dollars (\$15,159.00) as full and complete settlement of the claim for disability benefits and vocational rehabilitation retraining benefits. The claimant shall continue to receive disability benefits on a 28 day basis until the Bureau makes the lump sum payment to claimant, except that any disability payment made after October 21, 1992, due to the claimant's delay in signing this agreement shall be deducted from the lump sum referred to in this paragraph.
3. That the monies paid pursuant to this agreement shall be used for the sole and exclusive purpose of becoming a residential paint contractor and establishing the business (self-employment venture). That any use of the money paid pursuant to this agreement which does not conform to the requirements of this paragraph shall constitute a material breach of this contract. Such breach will result in an overpayment of benefits in the amount of \$15,159.00. Further, the acceptance of this settlement by the claimant constitutes a statement by him that he intends to and shall use the money to finance the self-employment venture. Acceptance of this settlement for any purpose other than contemplated by this agreement shall constitute a false statement and shall subject the claimant to penalty provisions of § 65-05-33 N.D.C.C.

(1991). This restriction does not preclude the claimant from using a portion of the monies paid to support his family and himself during the phase that the business is not self-sufficient.

4. The lump sum settlement constitutes 16 months of disability benefits. The claimant's chosen vocation offers employment opportunities which are compatible with claimant's restrictions and limitations. However, there is dispute between the parties whether this self-employment venture will offer claimant sufficient earnings to constitute substantial gainful employment under the Act. The Bureau contends that the self-employment does offer sufficient income opportunity to be valid; the claimant contends it does not. This lump sum payment of funds to pursue the self-employment venture is predicated upon a settlement of this dispute, whereby claimant accepts the lump sum and forgoes entitlement to further disability benefits even if his income from the venture is non-existent. In order to reopen a claim for disability or vocational rehabilitation benefits, claimant must show a significant change in condition under Lass v. North Dakota Workers Compensation Bureau, 415 N.W.2d 796 (N.D. 1987).
5. Claimant's medical limitations restrict claimant to light work with lifting of 35 pounds infrequently and 20 pounds or less more frequently and which does not require any

repetitive bending, stooping, lifting, or prolonged standing or sitting activities.

6. Should the claimant meet the burden of proving a significant change in medical condition, disability benefits shall not be reinstated until the expiration of the 16 month period for which the lump sum settlement was issued or up to one month prior to the date of reapplication whichever is later.
7. That the claimant may be entitled to a permanent partial impairment award in the future, should medical evidence so indicate.
8. Should any part or provision of this agreement be deemed invalid or unenforceable by any court, the remainder of this contract shall remain in full and force effect.

The parties by their signatures certify that they have read and have received a copy of this Stipulation and do hereby waive any right to rehearing and right of appeal from the terms thereof. The terms of this stipulated settlement contemplate prior application of Section 65-05-09.1 to all benefit computations.

Dated this 15th day of October, 1992.

Clarence Voigt
Clarence Voigt, claimant

Dated this 15th day of October, 1992.

Arnold V. Fleck
Arnold V. Fleck
Attorney for Claimant

STATE OF NORTH DAKOTA)
)
COUNTY OF BURLEIGH)
)
Clarence Voigt)
)
Plaintiff,)
)
v.)
)
STATE OF NORTH DAKOTA &)
TIMOTHY WAHLIN)
)
Defendants)

IN DISTRICT COURT
SOUTH CENTRAL JUDICIAL DISTRICT
AMENDED COMPLAINT

Case No. 08-08-C-01104

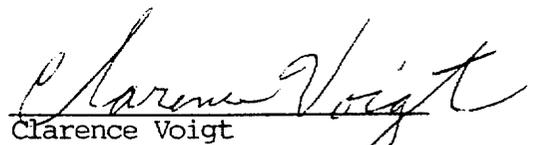
JURISDICTION:

Plaintiff brings this action under N.D.C.C. Section 27-13-08, Damages to be recovered in a civil action, 12.1-11-02 False Statements, N.D.C.C.12.1-14-04. Discrimination in public placrs, N.D.C.C.12.1-14-05. Preventing exercise of civil rights, N.D.C.C. 14-02-03.Civil libel, N.D.C.C.14-02-04. Civil Slander, N.D.C.C.14-04-05. Privileged communications, N.D.C.C.14-02-11. State policy against discrimination, Repealed by S.L. 1985, ch. 82&162 The Constitution of the State of North Dakota Article 1. Declaration of Rights: Sec. 1. All men are by nature equally free and independent and have certain inalienable rights, among which are those enjoying and defending life and Liberty; accuring, possessing property and REPUTATION; and pursuing and obtaining safety and happiness.

NDSILD 6.11 and 6.12 Sec. 4., Sec. 10. Sec. 20. Sec.24. N.D.C.C. 12.1-32-01-(4) Criminal penalty for a class A misdemeanor:

Rule 3.3 Motions: Notice Motions will be decided on briefs unless oral argument is timely request.

Dated this 16 day of May, 2008

By: 
Clarence Voigt
1907 Constitution Drive
Bismarck, ND 58501-1946
Telephone (701) 224-0005

State of North Dakota
DISCIPLINARY BOARD OF THE SUPREME COURT
P.O. BOX 2297
BISMARCK, NORTH DAKOTA 58502-2297
(701) 328-3925 FAX (701) 328-3964

PAUL W. JACOBSON
DISCIPLINARY COUNSEL

BRENT J. EDISON
ASSISTANT DISCIPLINARY COUNSEL

NOTICE OF DISPOSITION

CONFIDENTIAL

November 2, 2006

Clarence Voigt
1907 Constitution Drive
Bismarck, ND 58501-1946

Timothy J. Wahlin
Attorney at Law
P. O. Box 5585
Bismarck, ND 58506-5585

Re: File No. 4431-W-0606 Complaint of Clarence Voigt against Timothy J. Wahlin

The Inquiry Committee West of the State Bar Association of North Dakota met on September 29, 2006, in Bismarck, ND. The above file was considered at that meeting.

The Committee determined that the information provided did not indicate misconduct or disability. Therefore, there was no investigation and the matter has been **SUMMARILY DISMISSED**.

Sincerely,


Paul W. Jacobson
Disciplinary Counsel

PWJ:if

pc: Patricia E. Garrity, Chair, Inquiry Committee West
Penny Miller, Secretary, Disciplinary Board

JUNE 20, 2006
Clarence Voigt
1907 Constitution Drive
Bismarck, North Dakota 58501-1946

FILED BY SECRETARY
DISCIPLINARY BOARD JUN 20 2006

4431 - W - 0606

RECEIVED BY CLERK
SUPREME COURT JUN 20 2006

Penney Miller, Secretary
Disciplinary Board of the Supreme Court
State of North Dakota
P.O. Box 2297
Bismarck, North Dakota 58502-2297

RE; Timothy Wahlin
Assistant, Attorney General
Workforce Safety & Insurance

This is a formal Complaint against Timothy Wahlin.

Enclosed you will find the following.

The complaint

Amended Stipulation dated October 15, 1992

Vocational Consulant's Report Assessment / Plan dated June 19, 1992

A tape recording of a statement made by Timothy Wahlin, on April 27, 2006 at a Workers' Compensation Review Committee

Workers' Compensation Review Committee (tentative agenda)

SPECIAL NOTE,"DO NOT REWIND TAPE START WERE IT IS SET "

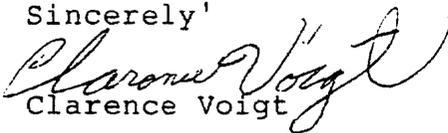
N.D.C.C. 27-13-01. Practice of Law The powers and duties of a lawyer are fixed by this section and section 27-13-02, Menz v. Coyle, 117 N.W.2d 290 (N.D.) 1962. The practice of law is a matter of vital interest to the general public in North Dakota, since lawyers are engaged in the preservation and protection of the fundamental liberties and rights of the people, thus attorneys are engaged in the carrying out of fundamental aims and purposes of government.

OFFENSIVE CHARGES AND STATEMENTS. License to practice law was revoked and canceled where attorney engaged in offensive personalities and willfully and wrongfully advanced facts or alleged facts prejudicial to the honor and reputation of the parties and witnesses not reputation of the parties and witnesses not required by the justice of the cause In re. Eaton, 60 N.D. 580, 235 N.W. 587 (+931)

Fraud and Deceit

Deceit is a ground for disbarment where there is intent to deceive a court, judge, or party. In re. Simpson, 9 N.D. 379, 83 N.W. 541 (1900)

Sincerely'


Clarence Voigt

June 21, 2006
Clarence Voigt
1907 Constitution Drive
Bismarck, North Dakota 58501-1946

Penney Miller, Secretary
Disciplinary Board of the Supreme Court
State of North Dakota
P.O. Box 2297
Bismarck, North Dakota 58502-2297

RE: Complaint against Timothy Wahlin:

Please add the following information taken from the Minutes of the Workers' Compensation Review Committee, Wednesday and Thursday, April 26-27, 2006.
From page 16 then hire painters to actually perform the painting. "THIS IS NOT TRUE

From page 16. "EXCEEDING WORKING RESTRICTIONS" There were no work restrictions.

From page 16. "He said it is a failure because Mr. Voigt was painting, which is in violation of the restrictions or limitations of his appropriate work restrictions." This again is not true, because there were no restrictions on what I could not do.

From page 16. Mr. Wahlin said, "it was brought to the attention of Workforce Safety and Insurance that Mr. Voigt was painting." here again this is not true because of the amended stipulation Workers' Compensation already knew that I was out there painting.

From page 17. Mr. Wahlin said, "the vocational consultant's report dated June 1992 said Mr. Voigt was prohibited from painting."

If you will look at that report under VOCATIONAL ASSESSMENT the second paragraph from the bottom of the page. this is the part where Mr. Wahlin has made up the whole story about me that I was not to do any of the work, but was to hire any help that I needed.

Painter (dot #840-381-010) is identified by the Diction-
ary of Occupational Titles as medium in physical demands and the Work Analysis confirms the DOT description to be accurate. It exceeds Mr. Voigt's restrictions and limitations; and modification is not possible; therefore, this job is not considered appropriate.

THE BOTTOM LINE HERE IS THAT IT SAYS THAT WHEN I ENTERED INTO THE (self-employment venture). for the purpose of becoming a residential paint contractor, "it does not say anything about me , where I was not to do any of the work my self.



STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

IN DISTRICT COURT
Case No. 08-C-1104

Clarence Voigt,
Plaintiff,
vs.
State of North Dakota,
Defendant.

ORDER

The State of North Dakota (State) has requested this matter be dismissed. Clarence Voigt, the plaintiff, argues the matter should not be dismissed.

The Court has reviewed the briefs of the parties and the record in this matter. The case is **DISMISSED**.

The Court lacks subject matter jurisdiction. Voigt alleges Tim Wahlin, a special assistant attorney general, made a false statement to the Workers' Compensation Review Committee. It is clear Voigt complains of actions Wahlin took as an attorney for the State. The State has discretionary immunity – the immunity the State has retained for discretionary acts by state employees. See, Section 32-12.2-02(3)(b) of the North Dakota Century Code.

Voigt's complaint fails to state a claim on which relief could be granted. The complaint asserts Wahlin provided false information to an interim legislative committee. Even if there was some type of defamation claim made, Wahlin's statements were privileged under Section 14-02-05 of the North Dakota Century Code.

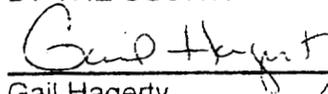
Voigt's attempt to add Wahlin as a separately named party and Voigt's mention of other individuals does not change this outcome because it does not appear proper

service has been made and it does not appear Voigt has complied with the requirements of Section 32-12.2-04(1) of the Century Code.

No attorney fees will be awarded.

Dated June 18, 2008.

BY THE COURT:



Gail Hagerty
District Judge

October 29, 2007
Clarence Voigt
1907 Constitution Drive
Bismarck, ND 58501

Brandi Sasse Russell
Assistant State's Attorney
Burleigh County
514 East Thayer Avenue
Bismarck, ND 58501

Re; your letter dated October 23, 2007 (Perjury Complaint)

In your letter you say, "I'am declining prosecution against Allen Hoberg for Perjury. Upon review of all documentation provided to our office, the statements made by Mr. Hoberg do not meet the statutory criteria of Perjury, and are not criminal in nature.

12.1-11-01. Perjury.

1. A person is guilty of perjury, a class C felony, if, in an official proceeding, he makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of a false statement previously made, when the statement is material and he does not believe it to be true.
2. Please read this statement again. Commission of perjury need not be proved by any particular number of witnesses or by documentary or other types of evidence.
3. Were in the course of one or more official proceedings, the defendant made a statement under oath or equivalent affirmation inconsistent with another statement made by him under oath or equivalent affirmation to the degree that one of them is necessarily false. Both having been made within the statute of limitations, the prosecution may set forth the statements in a single count alleging in the alternative that one or the alternative that one or other statements was false, but in the absence of sufficient proof of which statements was false, the defendant may be convicted under this section only if each of such statements was material to the official proceeding in which it was made.

INTERPRETATION. This section, entitled "perjury" and section 12.1-11-02, entitled "false statements," are derived from section 1351 and 1352, respectively, of the proposed Federal Criminal Code Hence, when confronted with a question of statutory interpretation, courts will be guided by both the drafter's official comments to the proposed Federal Criminal Code and the relevant legislative history. State v. Bower, 442 .W. 2d. 438 (N.D. 1989)

TITLE 18 Part I chapter 79 1621 Perjury generally Whoever-

- (1) Having taken an oath before a competent tribunal, officer, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, DEPOSITION, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes as true; or

LAW AND ARGUMENT

On 10-10,2007 I went to the clerk of Court for Burleough County, and asked for and received a print-out of the "Register of Actions" for case No. 08-07-C-01688 On thar register of action I have found that the "ORIGINAL BRIEF IN OPPOSITION TO MOTION TO THE COURT & AMENDMENT TO COMPLAINT" that was filed on September 11, 2007 by Tag Anderson was not put into the file because of the wrong case number that was assigned to this case. And has never corrected by Mr. Anderson.

STATEMENT OF CASE

plaintiff Clarence Voigt filed a complaint against Allen C. Hoberg, and the State of North Dakota the complaint alleges Hoberg committed perjury pursuant to N.D.C.C. 12.1-11-01 and that charge has now been withdrawn and a charge of making a false statement by an attorney has now been filed with the Court.

I would have filed a complaint with the North Dakota Supreme Court Disciplianry Board but, I did not and will tell you why.
On September 29, 2006 I appeared before, "the inquiry Committee West of the State Bar Association." I was at this meeting because I had sent a complaint to the Disciplianry Board and I was asked before this meeting to appear if I wanted to. I was actually at this meeting on September 29, 2006 because I had filed two complaints against two different attorneys. When we were done discussing my complaint about the first attorney I was told by Patricia Garrity "Chair" that the meeting was now over and that I could now leave. When I asked about the second attorney that I had filed a complaint against if we were going to now discuss that complaint about the second attorney who's name is Thimothy Wahlin from the(NDWSI) I was told by Patricia Garrity, that we would not be discussing my complaint against Mr. Wahlin at this time, but would do so at a later date I then left the room.
In a letter dated November 1, 2006 I received from Paul W. Jacobson of the Disciplianry Board he said, " The inquiry Committee West of the State Bar Ass-ociation met on September 29, 2006, in Bismarck, ND and that the Committee had considered the complaint against Timothy Wahlin. The Committee determined that the information provided did not indicate misconduct or disability theref-ore there was ni investigation and that the matter has been SUMMARY DISMISSED. lets go back to September 29, 2006 I was told then that we would not be discuss-ing Mr. Wahlin on this date but would do so at a later date Now I'm told that they had discussed Mr. Wahlin on the 29th. What is going on here.? I will tell you, "Its all a big cover up" They have put the wrong people in jail here.

CONCLUSION

For the above reasons, Plaintiff respectfully request that this Court grant me this Summary Judgment and award me what I have asked for, and to deny Defendants request tp Plaintiffs motion to the Court & Amendment and award them their costs and attorney's fees

Dated this 11th day of October, 2007

By Clarence Voigt

39.

Clarence Voigt

Clarence Voigt

THE NORTH DAKOTA SUPREME COURT)
ON APPEAL OF DISMISSAL FROM)
BURLEIGH COUNTY DISTRICT)
COURT SOUTH CENTRAL JUDICIAL)
DISTRICT THE HONORABLE)
JUDGE GAIL HAGRITY)

SUPREME COURT No. 20080157
BURLEIGH Co. No. 08-C-1104

Clarence Voigt)

CERTIFICATE OF SERVICE BY MAIL

Plaintiff,)

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

v.)

SEP 23 2008

State of North Dakota)

STATE OF NORTH DAKOTA

Defendant.)

To Penney Miller, Clerk of the North Dakota Supreme Court Dept. 180
600 East Blvd. Ave. Bismarck, ND 58505-0530

The undersigned, being dully sworn, depose and says that: I'm a United
States Citizen, over 18 years of age, and on I served a copy of the following.

A Brief:

A Certificate of service by mail:

That the above documents were securely enclosed in an envelope with postage
dully prepaid and mailed from Bismarck, ND 58501 and addressed as follows:

Kirsten R. Franzen
Assistant Attorney General
office of the Attorney General
500 North 9th Street
Bismarck, ND 58501-4509

State of North Dakota County of Burleigh September 23th, 2008 personally
appeared before me Susan Voigt:

Served by

Susan Voigt
Susan Voigt

notary public

Jenna Anderson

JENNA ANDERSON
Notary Public
State of North Dakota
My Commission Expires Nov. 16, 2012