In the Supreme Court, State of North Dakota, City of Bismarck

ORIGINAL

Special Proceeding 20090123

plaintiff: James Sailer

Vs.

defendant: Ward county district court in Minot, North Dakota.

Case #

FILED
IN THE OFFICE OF THE CLERK OF SUPREME COURT
APR 15 2009
STATE OF NORTH DAKOTA

affidavit For a Writ of Certiorari

para.(1) Facts constituting the cause of action: With the strategy Ward county used by imposing the void proceeding, that court is not free of deceit because before they took the filing fee, (a copy attached), they made it appear they were "pursueing regularly the Authority", but their void proceeding makes them guilty of deceit because, ③ the suppression of a fact by one who is bound to disclose it, (the fact they were not going to "pursue regularly the Authority" and ④ a promise made without any intention of performing, (they promised they would obey the Authority), those (2) items constitutes deceit, as cited in N.D. jury Instr. C-3.00.

The subject matter is that court has exceeded their jurisdiction by imposing the void proceeding and that is both prejudical and a miscarriage of justice. Because it not only prevents a jury trail where the facts and applicable N.D.P. jury Instr. are for, it also obstructs an adequate appeal. By so doing, they threaten the citizen's liberty and public interest, because it is oppressive and exposes the citizen to unknown peril, and thus constitutes an emergency.

para.(3) The attorney general also remains silent on the issue of the relitigation complaint, by delaying with Ward county district court the action thereon. He was served a summons on the relitigation complaint also because a state employe is linked in the making and filing of the first complaint in their court and which judgement information causes the injury.

(Page 1) continued on Page(2).

para.(4) Their void proceeding action leaves no other adequate means of correcting the error but to have the plaintiff invoke the original jurisdiction of the N.D. Supreme Court, in making an application for a Writ of certiorari to the Supreme Court allowable by the N.D. Const., Article 6, section 2, to annual the void proceedings...

para.(5) The brief upon the law, with cited authorities, is on page(3).

para.(6) The copy of the mentioned Filing fee receipt is on page(4).

James Sailer

Name and address of Plaintiff below.

James Sailer
201 5th A. N.E. Apt.# 5
Minot, N.D. 58702

Filing date: April 15, 2009.

Brief upon the law, with cited authorities, as required by N.D.C.C.'s, chapter 28-31-06.

para.(1) The North Dakota Rules of Civil Procedure, states in Rule (1), The N.D.R.Civ.P. govern procedure in the district courts.

para.(2) Rule 3, states the law on commencement on civil action.

para.(3) Rule 5, D(1), states, defendant must file a proper answer within reasonable time.

para.(4) Rule 12(a), states the 20 day peried to file and serve answer after receipt of summons.

para.(5) Rule 38, states the trail by jury law and all facts are for jury.

para.(6) Rule 51(a), states the law on the N.D. jury instructions and are for the jury after the evidence and become law of case.

para.(7) The N.D.R. of appealant Procedure, states in Rule (3) the law on an adequate appeal from district court.

para.(8) Article 6, section 2, N.D. Const., is the law which allows original and remedial writs. The same article 6, section 2, states under certiorari, on certiorari the supreme court has the power to order restitution of everything taken from relator under the void proceeding which is annulled.

para.(9) The N.D.C.C.'s, chapter 28-31 and chapter 32-33 is the practice and law on writs of certiorari. Where one can make an application to Supreme Court in exercise of it's original jurisdiction and if lower court has exceeded their jurisdiction.

Page (4).

WARD DISTRICT COURT

REMITTER : JAMES SAILER 6/10/08 @ 09:12 RECEIPT # 211296

MEMO : F/F CASH

CIVIL ACTION - COMPLAINT FOR THEFT OF PROPERTY

51-08-C-00875/001	204	CIVIL LEGAL SERVICE FUND	15.00
	210	CIVIL FILING FEES	65.00
		TOTAL	80.00
		TENDER	100.00
		CHANGE	20.00
		BALANCE	.00

DD
*All refunds will be paid by check.