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IN THE SUPREME COURT
STATE OF NORTH DAKOTA

Randy Holkesvig,)	FILED IN THE OFFICE OF THE CLERK OF SUPREME COURT
Plaintiff and Appellant,)	
vs.)	AUG 06 2011
Peter Welte,)	STATE OF NORTH DAKOTA
)	Supreme Court No. 20110102
)	Grand Forks Co. No. 10-C-0294
Meredith Larson,)	
)	Supreme Court No. 20110103
)	Grand Forks Co. No. 10-C-0295
Chris Smith,)	
)	Supreme Court No. 20110104
)	Grand Forks Co. No. 10-C-0296
Defendants and Appellees.)	

REPLY BRIEF

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STATEMENT OF ISSUES

1. Did the District Court overlook their own misconduct issues which preceded my legal right and obligation to formally make a reply on the record regarding the Contempt Order and the post-judgment rulings?

STATEMENT OF THE CASE

2. Numerous misconduct violations have already been submitted as evidence against Judge Corwin and Dan Gaustad. In order to avoid the unnecessary duplication, there is no need for me to go thru all of the facts again concerning my appeal with the Contempt Order that was personally issued by Judge Corwin on 3-31-11.

STATEMENT OF THE FACTS

3. On 4-22-10 Corwin was sent an email regarding the protective order that Gaustad wanted. My "protective order copy" was sent to my P.O. Box in Fargo on 4-22-10. A cover letter confirms that an email was sent to Corwin. (P-App 184). I had no opportunity to pick up my mail or read it prior to the hearing, nor was it sent to me via email. Gaustad makes several misleading and false statements during this hearing. Gaustad gives Corwin the only "hard copy of the protective order," while I don't get a copy nor was I given the opportunity to read it. Corwin states in the Court Transcript, page 9, line 16, "I haven't seen that." Despite the fact that Corwin has his laptop computer with him at Court on 4-23-10, Corwin totally ignores my comments in the Court Transcript page 17, lines 8-15. When "ex parte communication" is clearly violated by Gaustad the day before and the day of, at what point does Corwin ignore the law by participating in his own abuse by violating my due process rights for a fair, impartial and unbiased hearing?

4. At the 8-25-10 hearing there was no discussion whatsoever about the DVD duplication costs of \$257.14, (P-App 73), or attorney's fees. Gaustad committed fraud upon the Court with his illegal statement of costs. (Welte Index # 99), (P-App 46-70).

Corwin ignores the duplication concerns because I already submitted 5 DVD copies for each case and the Court on 5-3-10. (Welte Index # 34). Each case already has a DVD copy from me, yet Gaustad decides to make 8 more DVD copies. He submits them on 6-1-10, and he submitted his fraudulent statement of costs on 9-17-10, (P-App 53-55). In (P-App 68) Gaustad submitted 3 different receipts that shows 3 different dates, and 2 of these dates occurred **after** Gaustad submitted his 6-1-10 document. (Welte Index 47).

5. At the 2-1-11 hearing, Corwin and Gaustad conspire to increase their sanction costs against me. Corwin's original costs from the hearing and his biased ruling that followed, contains false and misleading information when he applied and rounded it up from the 2-1-11 Court hearing of \$871.50, to \$1,000.00 in his 2-3-08 Memorandum and Order. (P-App 71-77). Corwin is baiting me to make a reply. He issued an order for me not to file any more papers, and then he intentionally and illegally increases his sanction fees 2 days later. Not only is this illegal, but you also have the ongoing fraud, abuse and goading issues that Corwin and Gaustad were doing to me that started at the 4-23-10 hearing, to the sur-reply complaints (Welte Index 90 and 166), to the cross motion for a summary judgment at the hearing back on 8-25-10, Court Transcript page 5, lines 1-13, to the Order for Judgment (P-App 46-50) in which Corwin lies on (P-App 49), where he claims that I conceded there was no genuine issue as to any material fact. Gaustad blatantly lies to the Court about Meredith Larson on page 9, line 15, from the 8-25-10 Court Transcript, regarding exculpatory evidence and the January 2008 phone records.

6. I filed at least 4 Judicial complaints concerning Corwin with the Judicial Conduct Commission and I submitted at least 5 Disciplinary complaints concerning Gaustad's behavior to the Disciplinary Board between the dates of 11-16-10 and 3-21-11. Every complaint was conveniently dismissed, despite clear and convincing evidence that my due process rights were violated, and that lies and false claims were intentionally made

during the court proceedings by Gaustad and Corwin.

7. What Judge Corwin did to me on 3-31-11 was in retaliation for what I have said and done when I exposed the abuse and misconduct problems that has happened to me since January 2008, by a wide variety of Law Enforcement Officials in Grand Forks and Trail Counties. Gaustad's lies and deception is well established and documented in all of my briefs and evidence that I have submitted the Clerk of Court in Grand Forks and also to the Supreme Court. Similar misconduct issues and violations also pertain to Judge Corwin at each of the hearings from 4-23-10, 8-25-10, and 2-1-11.

8. When there is intentional abuse that is illegal, immoral and unethical, and it is further corrupted with outright lies and denials that not only occurs in Court during the hearings, but also out of court with briefs and replies that contains false statements and accusations, at what point is there a legal remedy for this injustice to come to an end. The facts and evidence supports all of my claims. The simple truth and justice should be obtained which relies on the true facts, and not on the false claims, speculation, and corruption that has already occurred. There is no valid or legal reason why Corwin and Gaustad can lie and abuse my civil rights, by filing a Contempt Order that was the direct result of their illegal, immoral and unethical behavior that occurred from 4-22-10 to 2-3-11.

9. Corwin and Gaustad haven't produced "any frivolous documents of mine," which can prove their speculative assertions that I have lied. Corwin and Gaustad claim that "my intentions and goal is to make life as difficult as possible for the Plaintiff's." That is an absurd and blatant lie, because the "evidence and documents that I have submitted to the Clerk of Court, proves that all of my complaints are indeed legitimate and worthy of my lawsuit." It never was a "re-litigation issue" because that is an accusation that Gaustad implies first, and he pulls out of thin air. It's absurd because I have never filed a "post-conviction relief motion." I have never filed a motion requesting that the 6-5-08

forced plea be withdrawn, vacated and reversed by the Court. Is it legal or ethical for Welte, Larson and Smith to conspire to get me arrested me in 2008, while the true facts in this case actually proves my innocence? Is it legal to withhold exculpatory evidence when my Attorney asked for it? Is it legal for Larson and Gaustad to lie to the Court in July, 2010 about the "clerical error" concerning Larson's 2-6-08 document, while Larson gave a totally different and conflicting statement to the Disciplinary Board on 9-2-09? Is it legal for Smith to call and threaten me not once, but twice, on 2-13-08? Is it legal for the Sheriff's Office to speculate, lie and make prejudicial statements in their biased reports, in order to seek their own personal desire to get someone arrested? How many lies and false claims did both of Plaintiff's make, without the worry of recourse for lying or giving false information to Law Enforcement Officials? Didn't Moore make 7 harassing calls to me or my folks? Didn't Welte ignore my +200 page complaint from 12-30-08, which became an obvious Breach of Duty violation? Gaustad is allowed to lie in Court and he denies any and all wrong doing by Welte, Larson and Smith, while Corwin turns a blind eye to the truth. When my complaints and claims are documented and supported with facts, it has to be true, and therefore, my lawsuit can't be "frivolous or without merit." Gaustad and Corwin have previously stated this several times, yet they offer no evidence to support their accusations. The only way for Corwin to fight it is to file his Contempt Order against me. This was done to protect the corruption that is ongoing with selected Grand Forks County Officials. This case is a perfect example of obstruction of justice, manifest injustice, and abuse of discretion, because all of the court's findings are unsupported by the obvious errors and by the evidence and counter-claims that I have submitted. When Larson illegally contacted Uglem in October 2010, and Welte illegally orders that all County Officials not to give or share any information with me in December 2010, and the GFPD hid records and lied to my face in December

2010, and Court records are blocked by Falck, Welte, and Gaustad, why does Judge Corwin ignore this illegal behavior and corruption? See N.D.C.C. § 27-13-12. Their personal negligence and abhorrent misconduct obviously contributed immensely to their desire to get back at me for filing my lawsuit, and that is the reason why Corwin filed his Contempt Order.

10. In (P-App 94-97) I filed a Motion To Recuse. (Welte Index 151).
11. In (P-App 98-146) I filed a Relief From Judgment Order. (Welte Index 152).
12. In (P-App 147-167) I filed a Motion To Preserve Evidence Otherwise Subject To Destruction, Corruption or Contamination. (Welte Index 154).
13. In (P-App 168-187) you'll find several documents that relate to Corwin as an Attorney, which further relates to Corwin as a Judge. (Welte Index 155).
14. In (P-App 188-208) you'll find a reply I made to Gaustad regarding his 2-16-11 complaint. (Welte Index 156).
15. In (P-App 225-233) I filed a reply to deny motion to strike pleadings and to deny sanctions and these pages contain very important information. (Welte Index 160).
16. In (P-App 234-267) I filed a brief to deny Defendant's motion to strike pleadings and to deny sanctions, and this brief is very important to read. (Welte Index 161).
17. In (P-App 271-283) I filed a Motion to seal specific information. (Welte Index 164).
18. In (P-App 284-291) I filed a reply brief to prevent frivolous sanctions being applied, and this brief is very important. (Welte Index 165).
19. In (P-App 295-297) you'll find a motion I made regarding evidence missing from Welte index files # 25 to # 28. (Welte Index 168).

20. In (P-App 300-311) I filed a motion to prevent judicial abuse sanctions, and this document is very important. (Welte Index 171).

21. In (P-App 312-322) there is blacked out phone records which appeared in the Odyssey files when I viewed them electronically. I filed this motion to prove several numbers were mysteriously blacked out, while the Clerk of Court didn't care to correct these problems, so I did.

22. In (P-App 338) I filed my appeal on 4-11-11. In (P-App 340-342) the A-I alphabetical references relate to paragraph 13 in my appeal brief. In (P-App 343-347) the A-P alphabetical references relate to paragraph 14 in my appeal brief.

LAW AND ARGUMENT

23. The ND Supreme Court has already established the standard for reversals based on violations of due process attributable to conduct during the proceedings: "[W]hen the court employs a procedure which fails to afford a party a meaningful and reasonable opportunity to present evidence on the relevant issues, the court has abused its discretion and violated the party's due process rights." See

Gullickson v. Kline, 2004 ND 76, ¶ 15, ¶ 16, 678 N.W.2d 138. I was verbally attacked, scolded, and threatened at the 2-1-11 hearing, while sarcastic criticism and deplorable tactics, with entrapment to set me up which occurred at the other 2 hearings.

24. Gaustad deliberately lies in Court and he uses false information to enhance his financial position during a judicial proceeding that is antithetical to the oath, the standards, and the ideals of the legal profession. Gaustad needlessly makes and submits 8 DVD copies, and he tries to benefit from it by submitting his illegal statement of costs. Corwin blatantly ignored the true facts surrounding his post-judgment rulings from 8-25-10 and 2-1-11. Disciplinary Board v. Lamont, 1997 ND 63, ¶ 19, 561 N.W.2d 650. Disciplinary Board v. Kaiser, 484 N.W.2d 102, 108, 109 (N.D.1992).

25. Judge Corwin flagrantly abused his discretion when he chose to ignore my questions concerning the “protective order” at the 4-23-10 court hearing. See the Court Transcript, page 17, lines 8-15. This egregious style of abuse continued thru the 2-1-11 hearings and it played directly into his “Contempt Order.” Ex parte communication occurs with the “protective order email from 4-22-10.” Judicial abuse is clear and obvious. See N.D. Code Jud. Conduct Canon 3B(7)(a)(i)(ii).

26. N.D.R. Prof. Conduct 3.5 also provides that a lawyer shall not:

(a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law;

(b) communicate ex parte with a judge, impaneled juror, prospective juror or other official concerning a pending or impending proceeding unless authorized to do so by law or court order. Gaustad violated it when on behalf of Ron Fischer, when he had Marianne Oyerhavn Knudson send an email to Corwin on 4-22-10. When “no oral argument” is “secretly requested,” that is **exactly** what Corwin did to me on 4-23-10. See Court Transcript, page 17, line 16-25. Cover letters are not docketed with the Clerk of Court. (P-App 183-187, 295-297).

27. Now it comes full circle surrounding “oral hearing violations.” By law, I was entitled to have it regarding Corwin’s Contempt Order from 3-31-11. See N.D.C.C. § 27-10-01.3(1)(a)(b). No hearing was ever held on this Contempt Order. Endersbe v. Endersbe, 555 N.W.2d 582, 583 (N.D.1996). There was no Order to Show Cause and there was no warrant issued for my arrest. See N.D.C.C. § 27-10-07, and N.D.C.C. § 27-10-08. Corwin illegally increases Gaustad’s illegal duplicate DVD fees in part from \$871.50 to \$1,000.00. (P-App 342). This egregious misconduct from 2-3-11 then induces a series of legal replies by me. Gaustad is not entitled to recover extra expenses because of his own deplorable acts and deception. Corwin simply can’t


increase the attorney's fees to suit his own needs. See N.D.C.C. § 27-10-19. See Baier v. Hampton, 417 NW 2d 806 - ND: Supreme Court 1987.

28. Corwin abused his discretion when he allows Gaustad to lie at will during the Court proceedings. Corwin's findings are illegal and they are clearly erroneous under the standards of N.D.R.Civ.P. 52(a)(5)(6), and N.D.R.Civ.P. 60(b)(1)(2)(3)(6). See Millang v. Hahn, 1998 ND 152, ¶ 7, ¶ 14, 582 N.W.2d 665.

CONCLUSION

29. The conduct displayed to me by the Court and the Defendant's Counsel at the 3 hearings, brought disrespect to the judiciary, it destroyed public confidence and it deprived me of a fair and impartial hearing to which I was entitled to that is based on the evidence that I have presented. Laws and constitution ought to be weighed...to constitute that which is most conducive to the establishment of justice and liberty. This Contempt Order should be reversed and vacated and all attorney's fees should be denied because Judge Corwin's biased and prejudiced rulings are illegal.

Respectfully submitted on this 6th day of August, 2011.


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Plaintiff and Appellant

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Defendants and Appellees.)

AFFIDAVIT OF SERVICE

Randy Holkesvig, being first duly sworn upon oath, says that on the 6th day of August, 2011, he personally served the attached Reply Brief document, 11 pages, and mailed it by USPS in Grand Forks, ND, with proper postage duly applied, to:

Dan Gaustad
735 Hill Ave.
P.O. Box 352
Grafton, ND58237-0352.

Randy Holkesvig
Randy Holkesvig

Subscribed and sworn to before me on this 6th day of August, 2011.

Sheila Massie
Notary Public

