

1996

Barbara Schwarz v. Barbara Spalding : Petition for Rehearing

Utah Court of Appeals

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UTAH COURT OF APPEALS
BRIEF

BARBARA SCHWARZ,
SALT LAKE CITY,
UTAH 84111

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AUG 23 1996

IN THE UTAH COURT OF APPEALS

DOCKET NO. ~~960286-CA~~ **COURT OF APPEALS**

BARBARA SCHWARZ,
(PLAINTIFF-APPELLANT)

Case: 960286-CA

VS.

BARBARA SPALDING,
(DEFENDANT-APPELLEE)

MOTION FOR REHEARING

On August 15, 1996, a memorandum decision was filed in this court by judges Orme, Jackson and Wilkins. They ruled they would have no jurisdiction on this case, because judge Young from the trail court would have not entered a final appealable order. Young would have advised me, Barbara Schwarz, the plaintiff to proceed with discovery on my complaint for monetary damages.

The Utah Court of Appeals is wrong with that memo decision for following reasons: 1) Judge Young is biased towards me and denied my constitutional right for a trial. The appeal court should not send me back with that case to a judge to ask for justice, when he denied justice already to me before in the hearing. (See again docketing statement and brief again.) 2) I had no evidentiary hearing before Young. I had a hearing before him February 1996, but he insulted me and he denied my constitutional right of justice. (See transcript of the hearing.) Also, I could not bring evidence, because he denied the trail to me and no witnesses could be heard, which too heard the deliberate noise by Spalding to harass us on daily and nightly basis. 3) As far as the monetary damages are concerned, I did not hear Young saying that he would grant me any, more the opposite, he tried to smaller my request for damages by saying that he would not grant trail and tha t my request for damages is too high, because I would not earn the amount requested within one year, so how could I request it? He ignored completely that Spalding caused us pain day by day and night by night by frightening us with sudden noises, by causing us serious headache with rolling her bowls over our heads for hours and by stomping all day and nights, ect. Spalding just can't come and causes others such pains, shocks, stress and steal our peace

in our home. It can't be compared with that somebody earns within a year a certain amount by having a peaceful job to do. Spalding harassed us from January 1995 till July 1996 with deliberate noises. She had a choice not to do, but she always continued to harass us with noise and therefore she has to pay the bill. When she does not want to be sued and not want to pay damages, she should have behaved like a human being and not like a wild animal. We had to move out last July 1996 because of all the problems she started. If she would have not done that noise harassment to us over 17 months, we still would live peacefully in our old apartment. She was the cause of all major rental problems we had. We have now to pay a much higher rent and we were involved in lots of expenditures because of the move and Spalding must be appropriately punished for what she did and how she denied State and Federal Fair Housing Laws to us and denied our constitutional right for peace in our home.

Judge Young totally ignored the facts of our sufferings and he did not allow me to bring witnesses. No justice is to be expected by him.

The Utah Court of Appeals mainly failed to investigate Young's bias towards me and this court should reconsider their memo decision and should make sure that my case versus Spalding either gets transferred to a truly impartial judge or the Utah Court of Appeals should rule to the merits of the case and should grant justice to me otherwise. But transferring the case back to biased judge Young, who so far allowed Spalding to come away with everything and allowed his court reporter to file a wrongful transcript and wrong data about the transcript, is no justice at all.

Dated this: August 26, 1996

Barbara Schwarz
by Barbara Schwarz

Mailing certificate: A copy of foregoing motion was mailed with prepaid first class postage to Barbara Spalding, 235 S. 200 E. Apt. 211, Salt Lake City, Utah 84111 on August 26, 1996.

Barbara Schwarz
Barbara Schwarz