

2009

William Sherratt v. Utah Board of Pardons : Legal Brief

Utah Court of Appeals

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UTAH APPELLATE COURTS

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pg. 1

IN THE UTAH COURT OF APPEALS

William Sherratt,
Appellant, prose,
v.
Utah Board of Pardons,
Appellees. (Request for Hearing or Argument)

Rule 2 Motion and
Notice of Lower Court
holdings of merit,
in second Board
suit per U.R.C.P. 65B.
Case 20050310-CA

Appellant respectfully draws this court's attention to Third District Court's ruling that, "this court has reviewed the petition and has determined that the claims do not appear frivolous on their face." (Ruling of Judge Kate Toomey, case no: 090510491, August 3, 2009) captioned "William Sherratt v. Utah Board of Pardons, arising from the March 19, 2009 Board hearing of Appellant where the same issues here were raised, along with subsequent issues that shed new light upon the issues in this petition, exposing why the issues should not be dismissed "with prejudice" or at all.

Further, the email of Chairman Curtis Gaerem provided this court shows reason to readdress the merits of this petition to see if they have "aged" as a

powers of a sentencing court, any and all decisions of the Board of Pardons must be terminated as being illegal and unconstitutional, for want of authority, or for exercising authority they do not possess, nor have ever been authorized to use, or for abusing authority they were given in *Labrum, Id.*

Therefore Appellant requests that Rule 2, U.R. App P. be invoked to suspend normal appellate process due to the extraordinary circumstance created by the "Boards Declaration" that they are a "... sentencing court ... issuing thousands of judicial decisions -- [a year]". (Refer to email in Appellants Brief) An Evidentiary Hearing should be held, and witnesses sworn.

Appellant still believes this court does not have venue jurisdiction as argued in a previous filing; but whether or not he is correct there, whichever court goes forward using proper jurisdiction, should, in the interests of both justice and judicial economy, revisit all rulings below, in view of the Boards obvious perjury in their answer here to Thio District Court and explore any possible implications in the merits of the issues

65 B Perissions, which this action is filed under. Appellant did not specify which section applied, because all sections applied in one form or the other, and with his limited knowledge of law, left it to the courts to identify where to place the claims.

However, since further study and Respondent's answer, it appears that multiple sections apply to every claim; especially since the decision is now declared to have been a "judicial decision" made by a "sentencing court".

Under Section a) wrongful restraint on personal liberty invokes subsection b) and public wrongful use of judicial authority invokes subsection c) wrongful use of judicial authority, and failing to use authority granted them invokes subsection d).

Therefore under a) a remedy is available to correct the Boards actions, both before, during and after the decision here, and since all subsections are fairly implicated now in view of the Boards Declaration, the Normal Rules should be suspended in the interests of justice so a fair and full exploration of these claims may be

The conviction". I dat 5 citing Brown vs. Turner, 440 P2d 968 (Utah 1968) at 969. Appellant has met his burden.

Petitioner/Appellant can only establish that standard by exploring under oath the Board's actions and declarations, together with scrutiny under constitutional and statutory law mandates, to see if the Board's methods, practices, and authorities are proper by law; or the lower courts ruling.

Conclusion

Under Monson v. Carver, 928 P2d 1017 (Utah 1996), "when reviewing an appeal from an order dismissing a petition for extraordinary relief or granting the relief requested in such a petition, we accord no deference the decision below, but review it for correctness." I dat 1022-23.

In view of the Board's clear perjury in their answer and memorandum, it would be unconscionable to allow the dismissal here to stand in any form. To do so would bring disrepute to the judiciary, the process, and the result of the Board's decision and actions, all now shown to be illegal.

Petitioner/Appellant is guaranteed a fair sentence in a process providing due process of law by an entity acting

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Pg. 9

I certify I mailed a copy of this document
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W. M. Shennott