

2016

William Sherratt, Appellant, v. Utah Judiciary, Appellants.

Utah Court of Appeals

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APPELLATE COURTS
POSTMARKED

JUL 24 2016

1.

IN THE UTAH COURT OF APPEALS

William Sheeatt,

Appellant,

Reply Brief of

Appellant.

vs.

(ORAL ARGUMENT REQUESTED)

Utah Judiciary, et al.,

(Jury Trial Requested)

Appellants.

Case 20150313-CA

A. Having received Appellees Reply to Brief on Appeal (for some reason captioned "Respondents" Brief) and considering their assertions, Appellant hereby files a reply brief to address issues newly raised, as follows; (The Frands began in 1987) All other Briefed Issues Remain VALID.

1. Appellees raise a subject matter jurisdiction issue based on 78 B.C. 601, stating "Nothing in the Record shows that he ever filed the necessary notices of claim" (pg. 1 States Brief)

Reply to #1: It is apparent that counsel did not research this issue, nor verify the multiple references to these facts: All Defendants were mailed Notices of Claim; also,

a) On page 57, just below, last paragraph, a clear and concise statement of fact is made proving counsels assertions is not based on the record below;

b) The underlying suit was mailed on September 22, 2013 to the court;

c) On September 7, 2013 All Defendants were mailed Notices of Claims (exception)*

- 1- The Attorney General's Office Notice named all 6 Defendants, listing 9 specific violations; (7 pages in all - Dated 9-7-2013) ;
- 2- Utah Supreme Court Notice named all 5 justices, listing 9 specific violations; (2 pages in all - Dated 9-7-2013) ;
- 3- Utah Court of Appeals Notice named 6 judges, listing 14 specific violations; (3 pages in all - Dated 9-7-2013) ;
- 4- Fifth District Court Notice named all 5 judges, listing 20 specific violations; (9 pages in all - Dated 9-7-2013) ;
- * 5- Utahs Judicial Conduct Commission Notice named 1 Director, and 12 unknown-named-commissioners, listing 7 specific violations; (4 pages in all - Dated 9-10-2013) ;

B- These notices are being copied, which will take approximately 30 days to deliver to the court due to expense (and mailing) of copies needed: 25 pages in all.

C- Therefore, not only is State's Counsel blatantly wrong in his assertions that this is an issue for appeal, he made such assertion without reading the suit below (at a minimum) and he failed to verify actual facts contained by the Attorney General's Office (a persistent failure to state only true facts of the record), or he incompetently

and purposefully misled this court in an attempt to influence the process here's counsel should be sanctioned under Rule 33 and Rule 40 U.R.App.Po

Conclusion

Subject matter jurisdiction mandates were met as shown in the records cited, and supported by the copies being produced for filing next month. States' Counsel's blatant disregard for proper scrutiny of the records here, and in the office he represents, amounts to a sanctionable act under Utah law. See Winnard v. State, 2015 Utah

D- #2 (page 2 State Brief) asserts the trial court was right to dismiss as an extraordinary writ, as being barred by that act of citing "Utah's Post Conviction Remedies Act"

Reply to #2. This suit was clearly titled a "Civil Suit Against Officers" (78-13-2-(2)) was invoked by Nancy under venue statute 78-13-7 "All other actions "in" is which the cause of action arises in "for place of business" etc, at the State of Utah Court system; which allows suit in Sixth District Court, or any other State of Utah Court of original jurisdiction on the subject matter of frauds further, since plaintiffs original residence was Fifth District, and Fifth District was a named party to the fraud on the Court, by the courts Sixth District would be a reasonable court to seek redress; bonding on Fifth District, whether or not plaintiff was residing

in SIXTH DISTRICT when knowledge, first hand, became so obvious. A fraud had been perpetrated by UTAH'S COURTS at every level, and upheld or ignored by every available watchdog on appeal - level court in UTAH.

a) Obviously, since the State Actors charged with protecting citizens against fraud on the court were the actors in the fraud by the court itself, any citizen could assert his right to reform his government as guaranteed by UTAH CONSTITUTION Article 1, Section 2 (Defendant's duty is to be "fraud-free.")

b) Choosing to do so where he was residing as a party to the exposed fraud at the time the fraud was discovered, would be a proper venue under 78-13-9 (2), by Appellant.

c) Since a jury trial was demanded, and an evidentiary hearing was requested, the judge was limited, as a matter of law, to determine the legal standing only. All fact determinations would need to be made by a jury. (See 78-21-2 and 78-21-1)

d) Basing a dismissal of a fraud claim that invokes 3.5 Defendants can never be 'a short and plain' statement to allow Rule 8(b) to control - the judge's admission he was "confused" and "difficult to comprehend" required further recitation from both parties,

after having been given ample time to prepare defenses, as set forth, and documentation.

e) Judge Basley ordered what would be an "Ex parte Hearing" (since he did not serve Defendants nor offer them the opportunity to defend themselves), and even when told by Plaintiff the proper way would be to hold a hearing after response from parties, shifted his duty to one of a fact-finder instead. (and he clearly misstated who "improperly filed the petition or issue" in 20090413-CA, by simply acquiescing. IT WAS IN FACT IMPROPERLY FILED.) His duty was to adjudicate "who" improperly filed it, as that was the "false fact fraud" asserted by Plaintiff that caused the illegal dismissal of the habeas petitions by Defendants and the other frauds too.

f) Filing the notice of claims on 9-7, and 9-10, 2013 respectively, and filing the suit on 9-20, 2013 clearly was a proper process under the Immigration Act, so Appellate met his burden there: standing so sue is verified.

g) Fraud on the court actions must be brought in "independent actions", which a civil suit clearly meets the standard of. Court orders and filings prove the frauds of these Defendants, as cited in both the notices of claim and the suits below. (Rule 60b U.R.C.P., and F.R.C.P. (e) d.) These facts alone preclude summary dismissal, even if you don't believe

The statutes cited control the claims raised, as Fraud on the Court claims have no statute bar as to time or venue. (Rule 60(b) U.R.C.P. F.R.C.P. 60(d)).

E- Utahs District Courts have original jurisdiction over "all matters civil" (78-3-4) (subsection (1)) and, as "a complaint, petition or application was required in" State v. Telford, 93 Utah 228.

F- Further, "the district courts have powers as are necessary to carry into effect those expressly given." U.S. v. Clawson, 4 Utah 34, 13 Fed 114 U.S. 477 (1885).

G- #3 The State attempts to redesignate the civil suit as "power to review prior decisions of this court and the Utah Supreme Court." (pg. 2 State Brief.)

Reply to #3: The claims raised were "Fraud on the court", by the courts and Defendants named. No other court can handle that claim except a court that was not involved in those frauds, that still has original jurisdiction. The States counsel is grasping at straws to attempt to redirect this civil suit for fraud, which he never challenges in the brief at all. (The only conceding those facts and defenses while admitting they were raised. (pg. 3, State brief - Summary of the case). There is no statutory bar to raising Fraud on the court by the courts.

a) Rule 60(b) was also cited, as was Fraud ~~by~~ the court, by the courts & an independent

action was filed, even though, when the frauds occurred in U.S.C. pennis, and U.S.B. pennis venues of the Post Conviction Remedies Act of 1974, they are included defects in the claims raised, and the 78-35-1 (and 78B-6601) statutes wording, so provide standing for the suit and its remedies, regardless of any other venue issues (See Balducci v. U.S., 721 F.2d 913 (1983) 10B Cir.)

H- It is important to note, in response to #1 (Stats based, pg. 3) that since the frauds were perpetrated by state government officers, also judicial or quasi-judicial actors, no other impartial actor could be seen to protect the government from itself. That power was given to citizens also, under Article 1, Section 2, and citing the statutes, otherwise allowed to be used by the government, must also apply to the government to attack these frauds. These acts are shamefully "out of the ordinary" usually, but that fact does not diminish the impact nor the damage caused by Defendants during court process itself.

I- Also cited in the suit are "Abuse of Office Statutes" (76-8-201; 76-8-301 (1)(a); 76-8-306 (1); and 76-8-801 inclusive) which clearly describe Defendants actions. (Other legal standards are also cited therein).

J- Lastly, Article 1, Sections 10 and 11 give plaintiff the right to follow discovery of fraud by the courts, with a jury trial for the damage caused to him by Defendants. No other statute is needed.

4, Section 10, and Judicial Councils 1 Through 4, Defendants have all failed to uphold the trust placed in them, and must be sanctioned, and their judgments and orders must be vacated.

Appellant has the right to have a jury find the facts of these claims, and as necessary, reform government actions through appropriate sanctions, penalties and declarations to prevent further corruptions of legal process by these state courts, as cited throughout process.

e) Both evidentiary hearing and jury trial were denied this plaintiff, through plainly asserted, on the caption of said below, and which suit was filed following notice of claim. States counsel lies about not happening.

f) It is for exactly this type of fraudulent legal process that this suit arises. States counsel shows how corrupt every level of state ethics facts control valid legal process, or fraud results.

L- Conclusion

a) The only proper legal process, under these circumstances, is for a trial by jury to be held, and appropriate remedies, including declaratory, injunctive, compensatory, and punitive relief decided, "against ^{EVEN} ~~the~~ judges."

b) Since States counsel (also Defendants counsel) has waived defenses to the facts

by not challenging them on Brief, the next step is for trial to determine damages and relief requested. U.R.C.P. 8(d). (See also Brown vs State, §42 (2013 ut-42) paragraphs 63-71. ... conceding facts by state, and resulting effect as process.) Only a jury can decide facts.

c) Utah's legislature declared that "Corrupt Practices" crimes could be charged to any public servant, "including judges" (26-8-102-5(e)) Also titled crimes of "Falsification in Official Matters" and "Abuse of Process", "Obstructing Governmental Operations" and "Offenses Against Public Property"; (Chapter 8 encompasses all actions charged in suit in Part 1, Part 2, Part 3, Part 4 and Part 5) and in this civil suits numerous claims, using plain and ordinary meanings, have shown these offenses against the "Administration of Justice" were committed by all Defendants.

d) Not a single Defendant has upheld Utah laws as Article 4, Section 12 oath requires they have. All swear to that duty. Article 1, Section 9 is violated too. (State v. Johnson, 2015 Utah 32) also cited in suit.

e) States Counsel now also refuses to apply correct facts and laws - just like all previous Defendants - and that proves the conspiracy to deny rights, and to uphold criminal, judicial and quasi-judicial actions brought forward in this suit.

f) These frauds were committed during court process and must be remedied now, as cited.

W.M. Shaver July 24, 2016

Certificate of Service

I certify I mailed a handwritten copy of this
Reply to Sonnes Brief by first class mail to
Brent Barnett, at 160 E. 300 S. 5th Fl. S.L.C., UT.
84114 this 24th of July 2016.

W. B. Shinn

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The first part of the document
 is a list of names and addresses
 which were obtained from the
 files of the Department of
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 in Washington, D.C.

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