

1992

Gordon E. Johnson v. Carolyn Smith, et. al. : Brief of Appellant

Utah Supreme Court

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Gordon E. Johnson; In Pro Per.

Edward O. Ogilvie; Asst. Att. Gen.; Dale J. Lambert; Michael L. Miller.

Recommended Citation

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W. L. G. F.

CKET NO.

IN THE SUPREME COURT OF UTAH

GORDON E. JOHNSON,

Plaintiff / Appellant

VS.

CAROLYN SMITH, et.al.,

Defendants / Respondents

92-0115-37

First District Court No. 900000339

(Category 13)

910480

APPELLANT'S OPENING BRIEF

APPEAL FROM THE FIRST DISTRICT COURT
HONORABLE F.L. GUNNELL, JUDGE - In
Burns v. Reed 894 F. 2d 949 (7th Cir.
1990) a prosecuting attorney was sued
and wasn't awarded attorney's fees.

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Tel. 801 355-3431

Michael L. Miller, Att. At Law
75 East 300 North #3
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LEAD

ORIGINAL

FILED

OCT 29 1991

Gordon E. Johnson
216 West 1st North
Brigham City, Utah 84302
Tel 801 723-3677

In Propria Persona

92-0115-CA

CLERK SUPREME COURT
UTAH

SUPREME COURT OF UTAH

GORDON E. JOHNSON

Plaintiff/Appellant

vs.

CAROLYN SMITH. et. al.,

Defendants/Appellees

Case No. 910480

Supplemental Brief

Rule 29

Appellant sent his opening brief to his typist before he had received a copy of Burns v. Reed U.S. Supreme Court No. 89-1715 and is not agreeing to the summary dismissal of defendant Jon J. Bunderson. Count V of the complaint alleges an improper motive by him in prosecuting plaintiff/appellant, and the CONCUR/DISSENT in Burns, Supra suggests a prosecutor's motives may be considered.

Also, County Attorney Bunderson had no right to plaintiff/appellant's medicaid records. He requests the court apply the holding in Burns, Supra, to the above facts and define the limits of prosecutorial immunity in Utah.

In the file is an opinion Canales v. Sullivan that holds mental impairment may justify equitable tolling of Statute of Limitation.

It is now reported "936 F. 2d 755 (2d Cir. 1991)".

Proof Of Service

I hereby certify that on October 26, 1991 I faxed the foregoing to Edward O. Ogilvie, Assistant Attorney General & Dale J. Lambert, Attorney At Law, and mailed a copy to Michael L. Miller, 20 South Main St. Brigham City, Utah 84302.

Gordon E. Johnson

IN THE SUPREME COURT OF UTAH

GORDON E. JOHNSON,)	
)	
Plaintiff / Appellant)	
)	
vs.)	First District Court No. 900000339
)	
CAROLYN SMITH, et.al.,)	(Category 13)
)	
Defendants / Respondents)	

APPELLANT'S OPENING BRIEF

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JURISDICTIONAL STATEMENT

The above court has jurisdiction to hear this case pursuant to U.C.A. 78-2a-3.

NATURE OF PROCEEDINGS

On July 19, 1983 plaintiff/appellant was injured in an automobile accident, and he retained attorney Kirk C. Lusty to file Second District Court Civil No. 1-37322.

Mr. Lusty quit when opposing counsel William F. Bannon falsely told him plaintiff had claimed the same injuries in a prior lawsuit, Exhibit A. The Utah State Bar ruled he was only representing his client's best interests and did not discipline him.

Plaintiff then retained attorney Michael L. Miller who did a good job but also quit when plaintiff refused a \$5,000 settlement offer, Exhibit B. There was a one-third contingent fee agreement.

Mr. Miller immediately filed Circuit Court Civil No. 87-60 seeking attorney fees before there was any settlement in the underlying action. Petitionary, defendant in 87-60, requested fee arbitration with the Utah State Bar that ruled "[7]. The Committee therefore awards Mr. Johnson the sum of \$500.00 less any expenses which represent out of pocket costs or expenses expended by Mr. Miller in this matter."

The award was signed by P.J. Scott Daniels.

Plaintiff then retained attorney Phillip W. Dyer who settled 1-37322 for \$6,500 which netted plaintiff \$5,000, Exhibit C.

In Circuit Court No. 87-60 Mr. Miller ignored the fee arbitration award and the settlement, and surreptitiously took a default judgment which was reversed on appeal, Exhibit D.

Before the default judgment was reversed, the resulting legal harassment and expenses caused plaintiff/appellant to write a stupid statement, Exhibit E.

Defendant Carolyn Smith, who is a secretary at Bear River Social Services, turned plaintiff's/appellant's Reapplication for Assistance (Medicaid) over to the police, Exhibit G.

County attorney Jon J. Bunderson, who opposed plaintiff/appellant in a civil action, brought charges of assault on an elected official, not showing up for a judgment debtor's hearing, and telephone harassment. He was found not guilty on the latter.

Plaintiff/appellant was on probation from approximately October, 1988 to October 1989. In November, 1989 he faxed the complaint to Mrs. Carolyn Smith at Bear River Social Services. He confirmed said notice in writing to County Attorney Bunderson before the complaint was filed.

All defendants have been dismissed in successive motions, and Defendant Bunderson was awarded attorney's fees.

STATEMENT OF THE CASE

Defendant Carolyn Smith breached a confidential relationship:

"Q Did you turn this form over to the police?

A Uh huh.

Q Or at least a copy of it, excuse me.

A Yes. A copy.

Mr. BUNDERSON: Move for the introduction of Exhibit B, your Honor." (Rptr. Tr. p. 19,

lines 1 thru 6) Utah v. Johnson.

"Q How far did you take it. What was the result when you had it?

A I took it to the point where they had made an offer of settlement and withdrew at that point. And then he accepted the offer of settlement after I withdrew.

Q Okay. In the same amount?

A Yes.

Q And was he paid that amount?

A Yes.

Q Did you have an agreement to receive a contingency fee of some sort?

A Yes I did.

Q And was that entire transaction and the contract we just mentioned, the basis of the lawsuit which you filed?

A Yes." (Rptr. Tr. p. 5, line 24 through page 6).

Mr. Miller did not mention that he quit and filed Circuit Court 87-60 before there was any settlement in the underlying case, and that Attorney Phillip W. Dyer got a better settlement after the former quit. Thus, it appeared to Circuit Court Judge Parley R. Baldwin that plaintiff/appellant had cheated Mr. Miller out of a contingency fee.

Defendant Jon J. Bunderson had elicited the above testimony from his friend.

Mr. Miller wanted plaintiff/appellant convicted. There was bad blood as evinced by his Sept. 20, 1989 Letter To The Editor, Exhibit F. By dismissing him plaintiff/appellant was denied the opportunity to prove defamation and damages. Defendant Miller was in default when dismissed.

The exhibits and testimony show a prima facie case for malicious prosecution, abuse of process, and libel.

Appellant won't challenge the dismissal of Defendants Mary Miller and Jon J. Bunderson but believes award of attorney's fees is not warranted.

ISSUES ON APPEAL

1. Did Defendants Carolyn Smith and Bear River Social Services invade plaintiff's privacy?
2. If so, are damages called for?
3. Did defendant Michael L. Miller maliciously prosecute, abuse process, and libel plaintiff?
4. Were plaintiff's notices sufficient per 42 U.S.C. § 1983 and/or U.C.A. § 63-30-12?
5. Was there equitable tolling of the statute of limitations?
6. Is defendant Jon J. Bunderson entitled to reasonable attorney's fees?

SUMMARY OF ARGUMENT

Plaintiff's privacy and constitutional rights were violated. He was maliciously prosecuted, filed his notices timely, and had reason to believe absolute immunity of prosecuting attorneys would be abolished.

ARGUMENT

I

Medicaid is funded by the Federal Government, and the Code of Federal Regulations permits disclosure of assistance records to law enforcement officials only for the purpose of investigating welfare fraud. In Re Grand Jury Subpoena Dated Nov. 14, 1989 728 F. Supp. 368 W.D. Pa. 1990),

"Conceding that it was not entitled to the records of the individuals receiving federally funded public assistance, the Government amended its request to those records of the one individual who received both general assistance and food stamps." Id @ 369.

Cf. 42 C.F.R. § 431.10

II

In Avery v. Lake No. CV-89-100 (Me-Super.Ct., Somerset County Nov. 13, 1989) (Decision On File), the plaintiff was awarded damages for disclosure of her public assistance records.

III

Attorney Michael L. Miller continued Circuit Court 87-60 after the fee arbitration committee had ruled against him and plaintiff/appellant had paid a contingent fee to another attorney.

The trial court didn't award him anything although he had sued for \$1,168, i.e. the \$500 advanced plus the amount sued for less interest would have been one-third of \$5,000.

Suing for a contingent fee even before any settlement in the underlying case evinces an absence of probable cause.

Malice is indicated by perjured testimony and taking a default judgment when there is an answer already on file. This could also be an abuse of process.

Restatement, Torts § 682 (1938) reads:

"One who uses a legal process, whether criminal or civil, against another to accomplish a purpose for which it is not designed is liable to the other for the pecuniary loss caused thereby."

Mr. Miller's Letter To The Editor speaks for itself, Exhibit F.

IV

In the file is a carbon copy of a letter that predates the filing to County Attorney Jon J. Bunderson. It confirms

the complaint was faxed to Defendant Carolyn Smith at Bear River Social Services.

These notices were not within one year, but plaintiff/appellant believed initiating this lawsuit while on probation would be a violation.

Challenges based on statutory and regulatory requirements that apply in the Medicaid program may be raised directly against states under 42 U.S.C. §1983, (Emphasis added) just as in any Medicaid challenge. 42 U.S.C. §1396a(a)(5); 42 C.F.R. §431.10.

V

See Canales v. Sullivan 745 F. Supp. 978 (S.D.N.Y. 1990) (Reversal Opinion On File) and U.C.A. 78-12-36 for equitable tolling of statute of limitations.

VI

County Attorney Jon J. Bunderson may have tacitly given the police advice by allowing them to seize Exhibit B for him to introduce it.

"A state prosecuting attorney is absolutely immune from liability under §1983 for participating in a probable cause hearing, but not for giving legal advice to the police. Pp. 3-16." Burns v. Reed Supreme Court of the United States No. 89-1715. Decided May 30, 1991. In any event prosecuting attorney Reed was not awarded attorneys fees.

CONCLUSION

Attorney Miller sued for one-third of an offer, and then took a default judgment although an answer was on file and after plaintiff had paid a contingent fee to another attorney. Everybody ignored the ruling of the Utah State Bar Fee Arbitration Committee signed by Presiding Judge Scott Daniels.

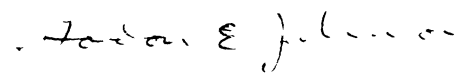
The resulting legal harassment and expenses caused plaintiff to seek help from Bear River Social Services who violated federal regulations. All of his recovery has gone for fees and fines.

He reasonably believed absolute immunity of prosecuting attorneys would be abolished.

Dismissal for failure to state a claim is proper only if it appears beyond doubt that plaintiff would not be entitled to relief under any state of facts that could be proved. Conley v. Gibson 355 U.S. 41, 45-48.

Dated October 14, 1991 at Brigham City, Utah.

Respectfully submitted,



Gordon E. Johnson

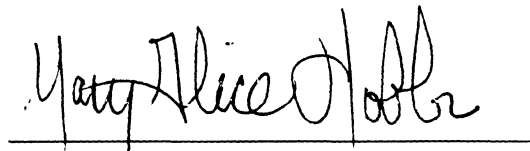
Proof of Service

I hereby certify that on October 19, 1991 I mailed four
copies each of Appellant's Opening Brief to:

Edward O. Ogilvie, Assistant Attorney General
236 State Capitol Building
Salt Lake City, Utah 84114

Dale J. Lambert, Attorney At Law
175 South West Temple #510
Salt Lake City, Utah

Michael L. Miller, Attorney At Law
75 East 300 North #3
St. George, Utah 84770

A handwritten signature in cursive script, reading "Mary Alice Hobbs", written over a horizontal line.

Mary Alice Hobbs
6396 South Emporia Circle
Englewood, CO 80111

KIRK C. LUSTY
WILLIAM L. SCHULTZ

LUSTY & SCHULTZ
ATTORNEYS AT LAW
455 EAST 400 SOUTH, SUITE 301
SALT LAKE CITY, UTAH 84111

AREA CODE 801
TELEPHONE 359-0080
IN STATE WATS
1-800-582-5300

Mr. Gordon Johnson
216 West 1st North
Brigham City, Utah 84307

Re: Johnson v. Bush

Dear Gordon:

Enclosed is a duplicate set of all materials recieved from you or in your behalf. Indeed you now have a copy of everything that I have in my file. You will note that there is nothing in the file that relates to Mr. Scott LeStrange. This is because I have nothing in my file relating to him. As I told you before I don't have anything relating to Mr. LeStrange in my file. Furthermore I can't recall even hearing the gentlemen's name prior to last Spring when you began asking me to send you a copy of his letter detailing your attorney's fees in a totally unrelated matter. I told you then that I didn't have a copy of that letter and didn't think I had ever recieved a copy of that letter. I also asked the secretary to give you the same message if you called again. I am sorry but I have no such letter.

In your letter to Mr. Paoletti you state that you wish to retain me to handle the Johnson v. Bush matter. My opinion is that since the car has already been paid for by Mr. Bush's insurance company that the return I would recieve from your case would not justify the time that I would be required to spend to obtain a judgment in your behalf. Dairyland Insurance appears ready to settle the medical bills in this case. I would suggest that you discuss the matter with them. I think you can obtain a favorable settlement with them without the necessity of paying any attorney's fees. This would make economic sense. I don't believe that you are going to be able to obtain any compensation for your broken rib since it doesn't seem to be related to the accident. I believe any chance you had of obtaining a recovery for that injury was lost when you claimed it as an injury in your lawsuit against the Brigham City Police Department. You will recall that Mr. William Bannion who represented Brigham City in that lawsuit is involved in this action. I was rather chagrined to learn that fact from him rather than you. I really don't wish to have any further involvement in this action. The only way I would consider further involvement in this action would be following the receipt of a \$500 retainer. Frankly, that would not make economic sense for you. As always, please call if you have any questions or comments.

Sincerely,

KIRK C. LUSTY

cc: Mr. Jeff Paoletti

37327

STATE OF UTAH) ss
COUNTY OF DAVIS)
I THE UNDERSIGNED CLERK OF THE DISTRICT
COURT OF DAVIS COUNTY, UTAH DO HERESY CERT-
TIFY THAT THE ANNEXED AND FOREGOING IS A TRUE
AND FULL COPY OF AN ORIGINAL DOCUMENT ON
FILE IN MY OFFICE AS SUCH CLERK
WITNESS MY HAND SEAL OF SAID OFFICE
THIS 18 DAY OF June 1990
ALYSON E. BROWN, CLERK
BY Devita L. Beckman

MICHAEL L. MILLER

ATTORNEY AT LAW

10 South Main Street
P.O. Box 399
Brigham City, Utah 84302
Tel. (801) 723-1784



March 3, 1987

Mr. Gordon Johnson
216 West 100 North
Brigham City, Utah 84302

Re: Johnson v. Bush

Dear Mr. Johnson,

I wrote to you on February 12, 1987 indicating that some decision had to be made on your case. At that time you called my office claiming that you had new evidence regarding your injuries and that you would be sending the same to me. I have heard nothing further from you. I cannot allow this case to drag on any longer with no progress either towards trial or settlement. My feelings on this matter have been made clear to you in previous letters. I must therefore set a deadline of March 9, 1987. By this date I must have received this new medical evidence or your authorization to settle the case. If I do not receive this medical evidence, or find it unconvincing; or I do not have your authorization to settle, I will file my withdrawal as your attorney without further advance notice.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael L. Miller".

Michael L. Miller
Attorney at law

MLM/vt

Exhibit B



CLAIM ACCOUNT
DAIRYLAND INSURANCE COMPANY

No. 13977983

THIS CHECK CONSTITUTES OUR OFFER TO SETTLE THAT PORTION OF YOUR CLAIM INDICATED IN THE "PAYMENT COVERS" SECTION.
THIS OFFER MAY BE ACCEPTED BY CASHING IT PROMPTLY.

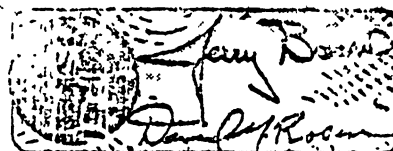
FIRST NATIONAL BANK STEVENS POINT, WISCONSIN

CLAIM NO. 29A014908	DATE OCC 07/19/83	INSURED BUSH, RICHARD D	DATE ISSUED 07/10/87	79-135 759
PAYMENT COVERS FULL SETTLEMENT OF ALL CLAIMS				AMOUNT \$6,500.00

PAY SIX THOUSAND FIVE HUNDRED AND NO/100

TO THE
ORDER
OF

JOHNSON, GORDON
VERNA JOHNSON AND
PHILLIP DYER, THEIR ATTY
SALT LAKE CITY UT 84111



⑈13977983⑈ ⑆075901354⑆ ⑈0 139 207 7⑈

Verna Johnson
[Signature]
[Signature]

ENDORSEMENT OF EACH PAYEE REQUIRED

IN THE UTAH COURT OF APPEALS

-----oo0oo-----

MAR 31 1989
Handwritten signature
Clerk of Court
Utah Court of Appeals

Michael L. Miller,)	
)	
Plaintiff and Respondent,)	ORDER
)	
v.)	Case No. 880324-CA
)	
Gordon E. Johnson,)	
)	
Defendant and Appellant.)	

Before Judges Jackson, Greenwood and Newey, Senior Judge sitting by special appointment (On Rule 31 Hearing).

This matter is before the court pursuant to Rule 31, Rules of the Utah Court of Appeals.

On November 12, 1987, appellant Johnson filed a document entitled Points and Authorities in which he stated if his motion for summary judgment was denied, he "[incorporated] by reference the fee arbitration committee's decision on file herein as his answer." We conclude that Johnson reasonably believed that he had filed an appropriate responsive pleading to the complaint and that the default judgment should be set aside under Utah R. Civ. Pro. 60(b)(1).

IT IS HEREBY ORDERED THAT the default judgment is reversed and the case is remanded for further proceedings on the complaint.

DATED this 31st day of March, 1989.

FOR THE COURT:


Norman H. Jackson, Judge

Exhibit D

9. Do you expect any changes in household circumstances next month? ☒ Yes ☐ No

10. Does anyone in your home receive any of these types of UNEARNED INCOME? ☒ Yes ☐ No

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Social Security | <input type="checkbox"/> Unemployment Insurance | <input type="checkbox"/> Church Assistance |
| <input type="checkbox"/> SSI | <input type="checkbox"/> Workman's Compensation | <input type="checkbox"/> Tribal Funds |
| <input type="checkbox"/> Child Support | <input type="checkbox"/> Veteran's Benefits | <input type="checkbox"/> Cash Gifts |
| <input type="checkbox"/> Alimony | <input type="checkbox"/> Lump Sum Payments | <input type="checkbox"/> Pension |
| <input type="checkbox"/> Civil Service Annuity | <input type="checkbox"/> Other _____ | |

IF YES, PUT A CHECK MARK IN THE BOX IN FRONT OF THE TYPE OF INCOME. THEN FILL IN THE BOXES BELOW

Name	Type of Income	How often received	Amount	Fin/FS Amt	Me Am
Verna K. Johnson	S.S.I.	monthly	?		

11. Does anyone in your home receive educational benefits from any of these? ☐ Yes ☒ No.

- | | | |
|---------------------------------------|---|-------------------------------|
| <input type="checkbox"/> BEOG | <input type="checkbox"/> NDSL | <input type="checkbox"/> SSIG |
| <input type="checkbox"/> SEOG | <input type="checkbox"/> V.A. Educational Benefits | |
| <input type="checkbox"/> Scholarships | <input type="checkbox"/> Other Educational Grants and Loans | |

IF YES, PUT A CHECK MARK IN THE BOX IN FRONT OF THE TYPE OF BENEFIT. THEN FILL IN THE BOXES BELOW.

Name				EXPENSES
Name of School				
Type of Grant or Loan	Date Received	Period Covered	Amount	Tuition, Books, Daycare, Transportation

12. Does anyone in your home have income from SELF EMPLOYMENT? ☐ Yes ☒ No.

- | | |
|--|---|
| <input type="checkbox"/> Buying/Selling Property | <input type="checkbox"/> Rental Property |
| <input type="checkbox"/> A Business | <input type="checkbox"/> Caring for Adults/Children |
| <input type="checkbox"/> Roomers | <input type="checkbox"/> Boarders |
| <input type="checkbox"/> Other Self Employment _____ | |

13. Has anyone, or will anyone, receive income this month from a job? ☐ Yes ☒ No.

IF YES, FILL IN THE BOXES BELOW.

First Name	Initial	How often paid? Check One Weekly (1) <input type="checkbox"/> Twice a month (2) <input type="checkbox"/> Every two weeks (3) <input type="checkbox"/> Monthly (4) <input type="checkbox"/> Other (5) <input type="checkbox"/>	Name of Employer (Your employer may be contacted)	
	Hours Worked Each Week		Employer's Address and Phone	
Do you receive tips or commissions? <input type="checkbox"/> Yes <input type="checkbox"/> No.			Date most recent paycheck received	Gross Received
Do you receive Earned Income Tax Credit in your paycheck? <input type="checkbox"/> Yes <input type="checkbox"/> No.			\$	Per

Do you expect a change in your earnings or number of hours you work? ☐ Yes ☒ No.

Payday	Date Received Day/Mo /Year	Period Ending Date Day/Mo /Year	Hours Worked	Gross Before Taxes	Tips, Commissions, EITC	Actual or Best Estimate
1st						Act <input type="checkbox"/> BE <input type="checkbox"/>
2nd						Act <input type="checkbox"/> BE <input type="checkbox"/>
3rd						Act <input type="checkbox"/> BE <input type="checkbox"/>
4th						Act <input type="checkbox"/> BE <input type="checkbox"/>
5th						Act <input type="checkbox"/> BE <input type="checkbox"/>

JUL 30, 1998

you remember candy - were chocolate-covered candies like a size of a dollar mint. Each one cent. If you bit into it and the inside was white, that's all you got - a sticky bite. But if the inside was pink, you won a candy bar. It, my friend, was indicative of a penny's worth. In the old days, we used to turn in milk bottle caps, pop bottles, and beer bottles at the store to get a few pennies.

Do we now change it to a nickel or a quarter? How about, "A certificate of deposit for your thoughts"? I know there's inflation but how much can thoughts have increased in value?

— We've all started a statement intended to convey determination by saying, "For two cents I'd. . ." Can't you just hear kids in the future asking, "What's two cents, Dad?"

— Do we change the lyrics from

their two cents worth in" if there is no such thing?

— It means we'd all be penniless. Obsolete would be the expression, penny-wise (and pound-foolish).

Let's face it, the penny is a well-ingrained part of our national heritage. To abandon it would be to turn our backs on an element of our past. And I mean not just penny ante!

and open-minded to the views and opinions of others. We do not wish to persuade anyone; we merely wish to express ourselves through music.

Stereotypes and prejudices tumbled his country into chaos and rebellion in the 1960s. The keys to co-existence are communication and an open mind. We respect the right of freedom of speech that the powers of the Constitution gave us, but we also believe in the right of freedom of expression. We express ourselves through music, and stand willing to defend our expressions. Anyone who wishes to learn of our belief, you have but to ask.

Sincerely,

Steve T. Wernergren,
Black Ivory Management

P.S.

We would like to express our deepest gratitude to Specialist Taylor of the Brigham National Guard armory for his help and support. Fun was had by all, and we appreciate your help. Thanks again.

Readers should know

Editor:

Recently Gordon Johnson was written several letters which on their face seem to address some current issue or event. However, he invariably ends by criticizing some local attorney, myself included. While I do not deny his right to express his opinions, I feel that your readers might like to know a few facts about Mr. Johnson and the issues he has addressed.

Mr. Johnson's complaints about attorneys are nothing new. He has filed numerous complaints against attorneys, including attorneys in California. To my knowledge, none of these complaints has ever been resolved in his favor.

Mr. Johnson's statement about his case with me is less than accurate. The judge in his decision stated, "The plaintiff (Miller) diligently pursued his representation of the defendant (Johnson). The defendant persisted in failing to follow the counsel and direction of the plaintiff and failed to follow through with requests made by the plaintiff". The judge went on to award me some compensation for the "substantial amount of work completed." The court did not award Mr. Johnson any of the damages he had asked for and he is now appealing this

decision. Mr. Johnson had two separate attorneys represent him in the case. Both have withdrawn. He has also attempted to file suit against another local law firm for choosing not to represent him in the case.

During the course of the case, Mr. Johnson was charged with and convicted of assault on an elected official (the judge who originally presided in the case) by threatening bodily injury. He appealed this conviction in part upon the basis that he suffers from agoraphobia (an abnormal fear of being in public or open places) and panic attacks which would have made it impossible for him to carry out his threats. His conviction was upheld by the Utah Court of Appeals. The prosecutor Jon Bunderson, and part of the evidence presented in the case was from the office of attorney Dale Dorius, both of whom have been recent targets of Mr. Johnson's criticism.

It is clear that Mr. Johnson's letters are not intended to address the real issues, but merely to criticize those of whom he has run afoul. I hope that if Mr. Johnson continues to write these types of letters, your readers will see them for what they are.

Respectfully,

Michael L. Miller,
Attorney at Law

Found a spur?

Editor:

I am requesting the help of anyone who might have found a silver spur with a dark brown strap. It was most likely accidentally kicked out of my truck, possibly near the Box Elder High school Monday night. This spur has very little monetary value, but it belonged to my father and was given to me by him not too long before his death. I still have the other spur but it's not much good without the pair.

If anyone has found this spur, please call me at 744-2685 or 723-5446. I am offering a reward for its return. Keeping this set of spurs in my family means a great deal to me.

Thank you very much,
Dick Smoot
West of Corinne

BRIGHAM CITY POLICE DEPARTMENT

20 NORTH MAIN STREET
BRIGHAM CITY, UTAH 84302

TELEPHONE (801) 723-3421



CHARLES G. EARL
CHIEF OF POLICE

December 11, 1990

MR. GORDON E. JOHNSON
216 West 100 North
Brigham City, UT 84302

Dear Mr. Johnson:

The report you refer to that ended up with me signing an Information on you has been sent to you (89-04383). That Information was based upon that report, together with statements that were taken to the County Attorney's office by me and not through any followup report signed by me.

It was the County Attorney's office that decided to issue the Information and that Information was signed by me simply as standard operating procedure.

The signing of the Information made it possible to bring you to court to answer to the allegations cited. The Information DID NOT cause your arrest because you were never arrested.

Trusting this is satisfactory.

Sincerely,

SGT. HAROLD L. HOWARD
Brigham City Police Department

HLH:pr

Exhibit G