

ORIGINAL

FILED

2010 JAN 28 AM

2640
Alexander M. Falconi
125 S. Virginia St #85

Appearing in Proper Person

IN THE CIVIL DIVISION

OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

ALEXANDER M FALCONI,

Petitioner,

vs.

SECRETARY OF STATE OF THE STATE OF NEVADA,

Respondent

Case No.: CV09-03089

Dept: 8

APPELLANT'S OPENING BRIEF

COMES NOW, Petitioner Alexander M. Falconi, appearing in proper person, and hereby files an Opening Brief. This Brief is based upon the following points and authorities and all pleadings filed herein.

DATED this 26th day of January, 2010.

Table of Contents

Statement of Issues Presented for Review	Pg
Case Statement	2
Argument	2
Conclusion	3
Affidavit	4

Table of Cases

NRS 217.462	Pg
NRS 217.464	2, 3
NRS 233B.130	2, 3
NRS 125C.230	3
NRS 62.020	3
NRS 18.005	4
NRS 18.150	4
Order, 1, 1, 2009	4

1 **I. Statement of Issues**

2 [REDACTED]

3 [REDACTED]

4 will henceforth be referred to as the "Subject".

5 2. Fictitious Address was issued on or around September 21, 2009.

6 **II. Case Statement**

7 1. Petitioner is the father of the child, [REDACTED] R. Falconi (henceforth

8 "Child"), shared with the Subject.

9 2. The Fictitious Address issued to the Subject has effectively concealed the

10 whereabouts of the Child from the Petitioner.

11 3. The Fictitious Address program was created to aid victims of domestic

12 violence.

13 4. In this case, the Fictitious Address does more harm than good. Firstly, the

14 Petitioner has never committed any acts of domestic violence. Secondly, the

15 Subject has before harmed herself and attempted suicide, while the child was

16 only one (1) year old. During the subjects arrest and institutionalization

17 at West Hills (located in Reno on Sutro), father cared for the Child.

18 5. There may be other parents who, unable or unwilling to defend their rights

19 or the rights of their children, have had the whereabouts of their children

20 concealed from them by a Fictitious Address. It is imperative that the

21 Secretary of State is presented with clear and convincing evidence that a

22 person is a victim of domestic violence before issuing a Fictitious Address

23 to an applicant.

24 **III. Argument**

25 1. Pursuant to Nevada Revised Statute 217.462 and Nevada Revised Statute

26 217.464, it is clear that the Secretary of State issued the Fictitious

27 Address in question.

28 2. The Issuance of the Fictitious Address has concealed the physical

 whereabouts of the Minor child, [REDACTED] R. Falconi, from the Petitioner. The

 Secretary of State's decision to issue the Fictitious address has thus, in

1 this manner, indirectly aggrieved the Petitioner pursuant to Nevada Revised
2 Statute 233B.130, section 1, subsection b.

3 3. Pursuant to **ORDER**[1] issued under case FV08-03200 on August 26th, 2009, the
4 Court stated with regards to parents knowing the whereabouts of the children
5 that "As a general rule, parents are entitled to know where their children
6 reside. The law provides an alternative when a parent is a victim of
7 **domestic violence.**"

8 4. The eligibility of those who apply for a Fictitious Address is outlined
9 under Nevada Revised Statute 217.462, where it is clearly stated that
10 "Specific evidence showing that the adult, child or incompetent person has
11 been a **victim of domestic violence, sexual assault or stalking** before the
12 filing of the application."

13 5. Throughout the Custody case FV08-03200, the Subject was unable to prove that
14 she was in any danger from the Petitioner. A far cry from it, the Subject
15 was proved more a danger to herself by her attempted suicide[2], which led
16 to her institutionalization at West Hills.

17 6. On the question of awarding a parent sole or joint physical custody, Nevada
18 Revised Statute 125C.230 states that "sole or joint custody of the child by
19 the perpetrator of the domestic violence is not in the best interest of the
20 child." Thus, if the Petitioner was a perpetrator of domestic violence, why would
21 he have been awarded physical custody?

22 IV. Conclusion

23 1. **WHEREFORE**, it is in the best interest of the Child for both joint-
24 physical custodians to know the whereabouts of the child, the Petitioner
25 requests that the Court **REVERSE** the decision made by the Secretary of State and
26 revoke the Subject's fictitious address should the Court find the Secretary of
27 State has failed to show evidence as required by NRS 217.462 to issue the
28 Fictitious Address.

I **FURTHER REQUEST**, should the Court **REVERSE** the decision made by the
Secretary of State, that the Court exercises its authority under Nevada Revised
Statute 217.464, section 2, subsection b, and **ORDER** the Secretary of State to