

ORIGINAL

Code:1210

Alexander M. Falconi

Appearing in Proper Person

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALEXANDER M FALCONI,

Appellant,

vs.

THE SECRETARY OF STATE OF THE

STATE OF NEVADA,

Respondent

Case No.: ~~57515~~ 56169

FILED

AUG 24 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

APPELLANT'S REPLY BRIEF

COMES NOW, Appellant and Father, Alexander M. Falconi, appearing in proper person, and hereby replies Respondent's Answering Brief filed August 22, 2011. This brief is based upon the following memorandum of points and authorities and all pleadings on file herein.

Unless specifically stating a pleading or paper, Appellant is directly referencing the aforementioned Respondent's Answering Brief. Furthermore, Appellant will avoid reiterating arguments already stated in his Opening Brief.

Appellant, Alexander M. Falconi, henceforth 'FALCONI', agrees with Respondent, The Secretary of State of the State of Nevada, henceforth 'THE GOVERNMENT', 'Statement of the Issues'. FALCONI further agrees with THE GOVERNMENT's Statement of the Case and Statement of the Facts' although certain critical facts were omitted and will be referenced further below.

RECEIVED
AUG 24 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
In Reply Clerk

I. Reply to Police Reports

In reference to Reno Police Report 08-12094 (dated 4/7/2008), the conclusion of the report speaks for itself, "There was no claimed injury to either party. [REDACTED] has difficulty

1 concentrating on one subject and I constantly needed to help her focus on the incident."

2 Furthermore, neither FALCONI nor [REDACTED] was arrested.

3 In reference to Reno Police Report 08-7667 (dated 03/03/2008), FALCONI is reported to
4 have concern for [REDACTED] state of depression and her health. Given the opportunity of
5 inaction which may have very well led to [REDACTED] death, FALCONI chose to call police and
6 save her life. Given the opportunity to claim [REDACTED] a mentally ill parent and seize custody for
7 him self, FALCONI petitioned for and obtained joint-physical custody with [REDACTED] THE
8 GOVERNMENT turns the entire premise behind fictitious address protection on its head in
9 attempting to justify its actions in the instant case. Is FALCONI's concern to know [REDACTED]
10 address not legitimate in knowing that [REDACTED] attempted suicide in the presence of their only
11 son? In same police report, [REDACTED] is reported further to have told officers "she did not feel that
12 she was a good parent and she originally wanted to give their child up for adoption but did not
13 because Falconi convinced her not to." Are these the actions of a selfish, abusive, vicious
14 individual?
15

16 II. Reply to Mack's Assassination

17 FALCONI is not on a crusade against the domestic violence program in its entirety.
18 FALCONI is, however, dismayed that that the program can so easily pervert itself to conceal a
19 suicide victim from her savior, and completely ignore the interests of an infant child. There is no
20 doubt that if not for the common child, FALCONI would have no interest in bringing this matter
21 before this Court. However, there is a common child, [REDACTED] did attempt suicide with the child
22 in the home, and [REDACTED] was institutionalized at West Hills Mental Institute. It is tragic indeed
23 that Charla Mack was murdered, but that is no excuse to disregard the law.
24

25 III. Reply to Lack of Jurisdiction

26 FALCONI maintains his position that a technical error should not protect THE
27 GOVERNMENT from judicial scrutiny. The statutes penned by the legislature must be adhered
28 to. If FALCONI did indeed erroneously file Petition for Judicial Review, FALCONI begs the Court

1 to construe the filing as a Petition for Writ of Mandamus, especially in this case where a non-
2 litigant's interests are at stake.

3 THE GOVERNMENT's citation of *Guerin v. Guerin* does not necessarily apply to this
4 case. The relevant part states:

5 The proper and timely filing of a notice of appeal is jurisdictional. *Rust v.*
6 *Clark Cty. School District*, 103 Nev. 686, 747 P.2d 1380 (1987). This
7 court cannot treat an improperly-filed notice of appeal as vesting
8 jurisdiction in this court. In particular, we cannot treat a notice of appeal,
9 which is the product of unauthorized practice of law, as having been
10 properly filed. Hence, the notice of appeal that Mr. Hill filed on behalf of
11 the Hill Family Trust is invalid, and we therefore lack jurisdiction to
12 consider its appeal. Accordingly, we dismiss the appeal of the Hill Family
13 Trust.
14

15 The Petition for Judicial Review may be improper, but this appeal was filed properly.

16 The long standing precedent to decide a case upon its merits is discussed in *Hotel Last*
17 *Frontier Corp. v. Frontier Properties, Inc.*, 380 P. 2d 293. The relevant part states:

18 Finally we mention, as a proper guide to the exercise of discretion, the
19 basic underlying policy to have each case decided upon its merits. In the
20 normal course of events, justice is best served by such a policy.
21

22 **IV. Reply to Sufficient Evidence to Issue Fictitious Address**

23 Largely, the question before the Court is a question of law and of statutory construction.
24 In that sense, FALCONI agrees with THE GOVERNMENT's citation of *Southern Nev. Home*
25 *Builders v. Clark County*. However, FALCONI maintains his opposition to THE
26 GOVERNMENT's interpretation that a fictitious address shall be issued on the mere
27 presentation of a protective order because NRS 217.462(4) specifically lists it. This
28 interpretation conveniently ignores the part of NRS 217.462(4) that states: "...that the adult,

1 child or incompetent person has been a victim of domestic violence, sexual assault or stalking
2 before the filing of the application.” By this standard, THE GOVERNMENT is well within the law
3 to issue a fictitious address upon being presented a record of conviction. Whether the conviction
4 is one of shop lifting, forgery, or a minor traffic ticket matters not.

5 In all seriousness, THE GOVERNMENT’s position would be sound if protective orders
6 were only issued upon the presentation of specific evidence, as NRS 217.462(2)(a) requires,
7 but, pursuant to NRS 33.020(1), protective orders can be issued at the mere existence of “a
8 threat of domestic violence”. THE GOVERNMENT claims “A judge in a courtroom, with the
9 parties before him or her, and the full panoply of procedural rights is far better suited than the
10 Secretary to make a determination about potential for domestic violence”, and that because
11 [REDACTED] obtained a protective order FV08-03338 from a domestic master, that there must have
12 been a thorough hearing and finding of domestic violence. Yet, THE GOVERNMENT takes this
13 argument no further, completely ignoring FV08-03200, in which [REDACTED] attempts to seize full
14 custody under NRS 125.480(5) utterly failed. THE GOVERNMENT would like to blur the legal
15 standards to justify its actions, but the truth of the matter is NRS 125.480(5) and NRS
16 217.462(2)(a) are held to a completely different legal standard than NRS 33.020(1).
17

18 V. Conclusion

19 Allowing THE GOVERNMENT to issue fictitious addresses merely on the presentation of
20 a protective order is the easier choice. However, the easy choice is not always the right choice.
21 The legislature gave THE GOVERNMENT the authority to issue fictitious addresses on the ex
22 parte application of an alleged victim, but in doing so, THE GOVERNMENT is required to have
23 specific evidence. Allegations and pure speculation should not be sufficient standard to issue a
24 fictitious address. Ultimately, straying from the legislature’s directive has led to [REDACTED]
25 obtaining fictitious address protection against the very person who saved her life. If THE
26 GOVERNMENT feels the statutory responsibility is excessive, perhaps there is remedy in
27 petitioning the legislature for an amendment of the statute. As the law stands today, however,
28

1 THE GOVERNMENT's issuance of a fictitious address to [REDACTED] is illegal. For this reason,
2 the decision of the district court should be reversed.

3 DATED THIS 22nd day of August, 2011.

4
5 

6 Alexander M. Falconi
[REDACTED]

7 Pro Se

8 **AFFIRMATION PURSUANT TO NRS 239B.030**

9 The undersigned hereby affirms that this document does not contain a Social Security
10 Number.

11 DATED THIS 22nd day of August, 2011.

12
13 

14 Alexander M. Falconi
15 Pro Se

16 **CERTIFICATE OF SERVICE BY MAILING**

17 Pursuant to NRCP 5, I, Alexander M. Falconi, do hereby swear under penalty of perjury
18 that I am over the age of 18 and a party to this action and that on this 23 day of August, 2011, I
19 placed a copy of this Appellant's Reply Brief into a sealed envelope, postage prepaid, and
20 mailed it first-class to the following address:

21 Nevada Office of the Attorney General
22 Attn: Wayne Howell, Esq.
23 [REDACTED]
24 [REDACTED]

25 

26 Alexander M. Falconi
27 Pro Se