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Alexander M. Falconi

Appearing in Proper Person

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALEXANDER M FALCONI, an individual;

Petitioner,

Case #59554

vs.

SECRETARY OF STATE OF THE STATE
OF NEVADA,

Respondent,

ANN [REDACTED] an individual;

Real-Party in Interest.

FILED

APR 19 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

REPLY TO [REDACTED] ANSWER TO PETITION FOR WRIT OF MANDAMUS

COMES NOW, Petitioner, Alexander M. Falconi, ("FALCONI"), appearing in proper person, and hereby replies [REDACTED] Ann [REDACTED], Answer to Petition for Writ of Mandamus filed on April 23, 2012. This Reply is based upon the following memorandum of points and authorities and all pleadings on file herein.

Memorandum of Points and Authorities

1. [REDACTED] Mischaracterizes Falconi's Objective

FALCONI's true objective is for mandamus directing the Secretary of State, ("THE GOVERNMENT") to revoke [REDACTED] fictitious address for violation of NRS 217.462, not to reveal [REDACTED] true address as [REDACTED] suggests. (Writ Petition, page 2, line 8-13). FALCONI addresses this mischaracterization in greater detail in Falconi's Reply to Secretary's Answer.

[REDACTED] appears to spontaneously argue that FALCONI no longer has a right to know where their common child resides. (See [REDACTED] Answer, Page 6, lines 7-15). The district court

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12-14073

1 in FV08-03200 entered an order¹ settling this matter and [REDACTED] has yet to file an appeal. At
2 best, this is a complete reversal of [REDACTED] position in FV08-03200 when she demanded to
3 know FALCONI's address and where he went on vacations; at worse [REDACTED] hypocritically
4 believes she has a right to know where FALCONI resides and he has no right to know where she
5 resides.

6
7 Furthermore, the argument that FALCONI has no right to know where she resides when
8 [REDACTED] is in her custody would invariably be reciprocal. This would entitle FALCONI to change
9 his address and take vacations with [REDACTED] and conceal him from [REDACTED]. The notion that the
10 fictitious address uniquely enables this in circumstances of domestic violence is but a small
11 hurdle if we follow [REDACTED] and THE GOVERNMENT's backward logic; any spiteful parent
12 can simply file a protective order against the other, unleash a barrage of false or exaggerated
13 accusations, obtain the protective order under the lesser of standard of NRS 33.020², and use the
14 freshly gained protective order to obtain a fictitious address.

15
16 **2. [REDACTED] New Evidence Was Not Considered In Granting Her Application**

17 [REDACTED] Exhibit 1 and Exhibit 2 attached to her Answer were not provided with her
18 application for fictitious address. Therefore, THE GOVERNMENT did not consider this
19 evidence when it made its determination to grant [REDACTED] application. Furthermore, THE
20 GOVERNMENT has admitted that it granted [REDACTED] application on the mere existence of
21 the protective order, and nothing more. Consequently, [REDACTED] exhibits are legally irrelevant;
22 however, because [REDACTED] safety is an important concern, FALCONI will address them
23 below.
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27 ¹ See FALCONI's Reply to Secretary's Answer. Exhibit 1 3:24-4:2: "As a general rule, parents are entitled to know where their
28 children reside. The law provides an alternative when a parent is a victim of domestic violence... The court orders that within 30
days from the date of this order Mother obtain and provide Father with either a fictitious address issued by the Confidential
Address Program or with the actual address where the child resides with Mother."

² NRS 33.020(1) authorizes a temporary or extended protective order: "if it appears to the satisfaction of the court from specific
facts shown by a verified application that an act of domestic violence has occurred or there exists a threat of domestic
violence..."

Exhibit 2). [REDACTED] Answer Exhibit 1 and 2 utterly fail to prove FALCONI perpetrated domestic violence. To the contrary, the exhibits indicate FALCONI was taking deliberate care to follow the law (by not concealing before he had a permit), and purchased his firearm after the expiration of the temporary restraining order. The truth is, at the time FALCONI was open carrying FV08-03200 still hadn't reviewed [REDACTED] psychiatric documents and FALCONI, concerned for his safety, moved for and obtained a No-Contact Order because [REDACTED] had been becoming increasingly aggressive, provocative, and threatening at the exchange points as the case progressed (see FALCONI's Reply to Secretary's Answer, Exhibit 1). [REDACTED] also misrepresents that [REDACTED] was exchanged 'inside' the Wendy's, when the exchanges actually (and always) happened in the parking lot (at 12:30 a.m. midnight); and that FALCONI 'showed' her the firearm, when she merely observed it on his hip.

6. [REDACTED] Exaggerates FV08-03339's Findings and Ignores FV08-03200

[REDACTED] claims that the judge (who was actually a domestic master) in FV08-03339 "verified a real threat and determined Ms. [REDACTED] should be protected." [REDACTED] Answer, page 5, lines 19-21. Firstly, "verification" of a "threat" is not a finding of domestic violence having occurred; it is a subtle admission of precisely what FALCONI has been arguing all along, that temporary protective orders do not require specific evidence that domestic violence has occurred, merely that there is a threat of domestic violence possibly occurring. Secondly, if FV08-03339 felt FALCONI was so vicious and dangerous, why would it enter an order of protection for three (3) months, instead of the full year³? Furthermore, if FALCONI perpetrated domestic violence, why would FV08-03200 award FALCONI physical custody⁴. These facts expose gaping contradictions in [REDACTED] perspective of the courts' findings, as well as the likely reason as to

³ NRS 33.080(3): An extended order expires within such time, not to exceed 1 year, as the court fixes. A temporary order may be converted by the court, upon notice to the adverse party and a hearing, into an extended order effective for not more than 1 year.

⁴ NRS 125C.230 holds that following a determination of the court "finding by clear and convincing evidence that either parent or any other person seeking custody of a child has engaged in one or more acts of domestic violence against...a parent of the child...creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the domestic violence is not in the best interest of the child."

1 why [REDACTED] did not include them with her original application for a fictitious address. In
2 actuality, both FV08-03339 and FV08-03200 rendered valid decisions according to the distinct
3 statutory requirements each was held to.

4 **7. Conclusion**

5 Are parents in fact not entitled to know where their children reside? Is it in [REDACTED] best
6 interest that both parents conceal their addresses from each other out of petty spite? Are mothers
7 entitled to know where fathers reside, but not vice versa? Are protective orders based upon naked
8 allegations and speculations carte blanche to obtain NRS 217.462 fictitious addresses? Does the
9 better-safe-than-sorry argument [REDACTED] relies on make it acceptable to ignore statutory
10 requirements and conceal parents' children's residences based not on what they have done but on
11 what some accuser says they might someday do? Wishes and whims are not facts nor are they a
12 means to discover them. FALCONI is not a vindictive, vicious, scheming, obsessive villain as
13 THE GOVERNMENT and [REDACTED] attempt to portray him, but in fact a lawful citizen,
14 university student, and loving father of five (5) years who has never committed a crime in his
15 life, and who's son now suffers from his father not knowing his residency because of the false
16 accusations provided by [REDACTED] FALCONI has not and will never commit domestic violence.
17 [REDACTED] has utterly failed to prove otherwise. The sole question remains, is the mere issuance
18 of a protective order specific evidence that domestic violence has been perpetrated; if not, THE
19 GOVERNMENT has violated its statutory mandate and the writ should issue.

20 DATED this 5 day of March, 2012.

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Alexander M. Falconi
Pro Se

AFFIRMATION

The undersigned hereby affirms that this document does not contain the social security number of any person.

DATED this 5 day of May, 2012.

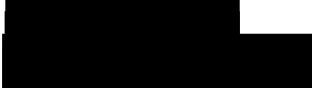


Alexander M. Falconi
Pro Se

CERTIFICATE OF NRCP 5 SERVICE

I, Alexander M. Falconi, do hereby solemnly swear under penalty of perjury that I am over the age of 18 and a party to this action and that I placed a true and correct copy of this Reply into a sealed envelope, and mailed it, postage prepaid, addressed as follows:

C. Wayne Howell
Solicitor General

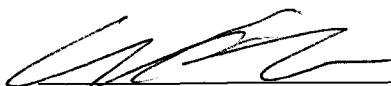


and that I **personally** served a true and correct copy of this Reply upon:

Katherine Berning



SERVED THIS 2 day of May, 2011.



Alexander M. Falconi