

Code: 2385
Alexander M. Falconi

FILED

Appearing in Person

JOEL ORSON
CLERK OF THE COURT

BY ML
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ALEXANDER M. FALCONI, an individual;
Petitioner,
vs.

Case No.: CV13 01019

SECRETARY OF STATE OF THE STATE
OF NEVADA;
Respondent,

Dept No.: 7

ANN [REDACTED] an individual;
Real Party in Interest.

APPLICATION TO PROCEED IN FORMA PAUPERIS

COMES NOW, Plaintiff, Alexander M. Falconi, and hereby files an application to
proceed *in forma pauperis*. This application is based upon the following memorandum of points
and authorities and all pleadings on file herein.

Memorandum of Points and Authorities

I. Affidavit in Support of Motion to Proceed on Appeal in Forma Pauperis

State of Nevada }
County of Washoe } ss.

I, Alexander M. Falconi, being first duly sworn, depose and say that I am the Petitioner in
the above-entitled case; that in support of my motion to proceed without being required to prepay
fees, cost or give security therefore, I state that because of my poverty I am unable to pay the
costs of said proceeding or to give security therefore; that I believe I am entitled to redress; and
that the issues which I desire to present in this writ petition are:

1 1. That I filed an original writ proceeding in the Supreme Court of the State of Nevada. A
2 panel reviewed the case and published Falconi v. Secretary of State, 129, Nev. Adv. Op. No. 28
3 (See Exhibit 4 of concurrently filed Petition for Writ of Mandamus). Several statutory and
4 constitutional inconsistencies were exposed concerning the confidential address program,
5 however, because our superior court's solution involves a three-phase analytical process that
6 requires fact finding, it was determined that the district court would eventually need to act as this
7 finder of fact; and,

9 2. That under Falconi v. Secretary of State, 129 Adv. Op. No. 28, I have been expressly
10 authorized and instructed to file this writ petition, in this district of this court, with the above-
11 captioned parties expressly identified and included; and,

13 3. That I did pay the filing fee in the Supreme Court of the State of Nevada and more
14 often than not I am able to pay filing fees, but when I have been unable to I have used *forma*
15 *pauperis* status responsibly and to successful¹ effect; and,

16 4. That I pledge to, on prevailing in this matter, file a motion to compel the losing party
17 to pay to the court the costs that would have been paid if not waived in accordance with NRS
18 12.015(4).
19

20 I further swear that the responses which I have made to the questions and instructions
21 below relating to my ability to pay the cost of prosecuting the matter are true.

24 [REDACTED]
25 2. I own a checking and savings account with a combined value of \$1182.04³. Exhibit 2;
26 and,
27

28 ¹ See SCN 62296--Falconi v. Corazon Real Estate, wherein Petitioner, then acting as appellant, obtained an order reversing and remanding. Such an outcome would never have been possible if not for *forma pauperis* status.

² My income used to be \$200-\$300 higher, but the industry has slowed.

³ There is \$1004.62 outgoing for rent, child care, and electricity.

- 1 3. I do not own any real estate, stocks, bonds, notes; but I do own a Toyota Corolla 2009⁴
2 with an approximate value of \$10,547.00; and,
3 4. I have student loan debt in the amount of \$6,078.20. Exhibit 4; and,
4 5. I have medical debt in the amount of \$2,624.00. Exhibit 6; and,
5 6. My minor child of age six (6) is dependent upon me and I receive child support in the
6 amount of \$73.91. Exhibit 5; and,
7 7. My monthly expenses include \$300.00 in food, \$200.00 in transportation, \$456.00⁵ in
8 child care, \$509.00⁶ in rent, \$0.00 in utilities, \$80.00 in car insurance; and,
9 8. My leftover income of \$79.43 is needed to cover educational expenses for myself and my
10 son, and miscellaneous needs like hair cuts, clothing, and shoes.
11

12 *I declare⁷ under penalty of perjury that the foregoing is true and correct.*

13
14 EXECUTED this 3 day of MAY, 2013.

15
16 

17 Alexander M. Falconi

18 **II. Argument**

19 Pursuant to NRS 12.015:

- 20 1. Any person who desires to prosecute or defend a civil action may:
21 (a) File an affidavit with the court setting forth with
22 particularity facts concerning the person's income, property
23 and other resources which establish that the person is
24 unable to prosecute or defend the action because the person
25 is unable to pay the costs of so doing; or
(b) Submit a statement or otherwise indicate to the court
that the person is a client of a program for legal aid.

26 ⁴ My son and I rely heavily on my vehicle for drives to the sitter and his kindergarten, to work, etc.

27 ⁵ As my child is in kindergarten for a half-day, my child care expenses are huge. These expenses should shrink in
August of 2013 when my child enters the first grade.

28 ⁶ \$709.00 is paid to a landlord, which is offset by roommates.

⁷ NRS 53.045: Any matter whose existence or truth may be established by an affidavit or other sworn declaration
may be established with the same effect by an unsworn declaration of its existence or truth signed by the declarant
under penalty of perjury, and dated, in substantially the following form: If executed (1) in this State: "I declare under
penalty of perjury that the foregoing is true and correct."

1 2. If the court is satisfied that a person who files an
2 affidavit pursuant to subsection 1 is unable to pay the costs
3 of prosecuting or defending the action or if the court finds
4 that a person is a client of a program for legal aid, the court
5 shall order:

6 (a) The clerk of the court:

7 (1) To allow the person to commence or defend the
8 action without costs; and

9 (2) To file or issue any necessary writ, process,
10 pleading or paper without charge.

11 (b) The sheriff or other appropriate public officer within
12 this State to make personal service of any necessary writ,
13 process, pleading or paper without charge.

14 Plaintiff has filed the required affidavit and is unable to pay the costs of filing this writ
15 petition.

16 III. Conclusion

17 "Nevada has long recognized the importance of maintaining direct access to its state
18 courts. Accordingly, Nevada Supreme Court Rule 44 generally allows for self-representation in
19 all lower courts, and NRS 12.015 permits an indigent person to proceed in forma pauperis,
20 without the payment of court costs and fees. Such rules and statutes help to ensure that every
21 person in Nevada is afforded meaningful access to the courts, regardless of that person's financial
22 status. *Jordan v. State Dep't of Motor Vehicles*, 110 P. 3d 30 - Nev: Supreme Court 2005 at page
23 39. Therefore, Plaintiff hereby requests that the Court allow him to proceed *in forma pauperis*.

24 **AFFIRMATION**⁸: This document does not contain a social security number of any person.

25 DATED THIS 3rd day of MAY, 2013.

26 

27 Alexander M. Falconi
28 Appearing in Proper Person

⁸ This affirmation is in accordance with NRS 239B.030."