No. 100793-1

SUPREME COURT OF APPEALS

OF THE STATE OF WASHINGTON

GERARD BELL and LAPRITA HAMILTON

Respondent,

v.

CITY OF TACOMA and

WILLIAM R FEDLT (D.B.A.) YOUNG FELDT.

Defendant,

AMENDED PETITION FOR REVIEW BY WASHINGTON SUPREME COURT

GERARD BELL

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Appellant,pro se

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TABLE OF AUTHORITIES

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Constitutional Provisions

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Conflict of interest : a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.

Code of Ethics : A code of ethics sets out an organization's ethical guidelines and best practices to follow for honesty, integrity, and professionalism

Other Authorities

I. Introduction

This is an appeal from an unconscious bias action done by trial courts that seek review for violation of constitutional rights in its fairness and equal use of the laws.

A. IDENTITY OF PETITIONER

Appellant ,Gerard Bell ,Laprita Hamilton asks this court to accept review of Washington Court of Appeals Division II No.55284-1-II terminating review designated in Part B of this petition.

B. COURT OF APPEALS DECISION

Appellant seek review from Pierce County Superior Court case number 19-2-09210-1 complaint fied for breach of contract, trespass, negligence, discrimination.

Now appealing the Washington Court of Appeals Division II No.55284-1-II in its judgment, denying Order for motion for reconsideration.

Appellant filed for Motion for Reconsideration after the Appeals court denying Opinion in this case, entered February 8,2022.

February 18,2022 Appellant filed for reconsideration. Appeals Court entered a

denied Order, March 15,2022 denying motion for reconsideration. Appellant seeks review from court decision . A copy of the decision is in the Appendix at pages A- 1 . A copy of the order denying petitioner's motion for reconsideration is in the Appendix at pages A-2.

C. ISSUES PRESENTED FOR REVIEW 1.

Whether the Washington Court Of Appeals hast judgment was unconsciously bias in reviewing cases when attorney conflict of interest swayed courts' sound decision for their personal interest and gain in representation throughout magistrate hearing allocating insufficient funds and trial court proceedings.

II. Assignments of Error

Assignments of Error 1

"1. The Courts erred in entering the order of May 12, 1975, denying defendant's motion to vacate the judgment entered on May 1, 1975."

The Court erred in entering the order of March 15,2022. denying appellant motion for reconsideration.

D. ISSUES PRESENTED FOR REVIEW 2.

Issues presented for review are"Does The City Of Tacoma, without express authority from his client, or courts have implied authority to represent the same party throughout migataged hearing for relocation assistance unto trial court as

shown on record in Defendants response and enter the record from summons and complaint filed by appellant ?

Assignment of Error 2.

Courts error in allowing the City of Tacoma to represent its co-defendant in two different jurisdictions of the same matter causing conflict when City Of Tacoma entered the record and responded to complaints for both defendants did it violate petitioner rights?

E. ISSUES PRESENTED FOR REVIEW 3

Was courts unconscious bias when courts solely relied on misrepresentation of fraud , and its government affiliation ,and political endeavors in hearing case to make a sound judgment overlooking violation of code of ethics,and Washington State Constitution Art I. section 2 and 3 and United States Constitution 14th amendment?

Assignment of Error 3.

Courts erred when making hast decisions without addressing facts that was in record and acknowledged to court by appellant , but refused to address due to government, political affiliation and abused its discretion harming appellant.

III. STATEMENT OF THE CASE

City of Tacoma in the year of 2018, 18th day of August, mitigated a hearing for relocation assistance with a written instrument allocating insufficient funds signed by petitioner reserving his rights in agreement forced with no option ,but to become homeless.

Appellant filed a complaint in Pierce County Superior Court for its breach. Throughout the trial proceeding appellant raised the issue of the City of Tacoma representing RCW 23.100.0619 . CP.201-202 other defendants in responding to the complaint.(CP233 18-20) 1/16/2020 notice of withdrawal shows conflict of interest CP 594-595 Notice of appearance of co-defendant filed may 21 2020 ,CP233.(1-23), CP86 Trial court denied the claim . Appellant "Objected" to court of unfair practice.CP201-202(19-25) Petitioner appealed matters to Washington Court of Appeals Division II , in its review appellate court rejected petitioner claims. Petitioner filed motion for reconsideration,court denied motion.

IV. SUMMARY OF ARGUMENT

The Superior Court refused to address the issue of the representation of Defendant representing both City of Tacoma and landlord William R Feldt (d.b.a) Young Feldt in proceedings held by Judge of Pierce County Superior Court which was unconscious bias given unto WashingtonState Constitution Article 1 section 3 in decision making of fairness in justice. Petitioner brought to the attention of the Courts of acts done by the defendant in its representation and responding to claims for both defendants when it entered the record of Pierce County Superior court . Court consciously refused to address matters of concern and carried on

trial proceedings.

Action of the trial court deprived claimant's of their constitutional right for fair and impartial trial when attorney carried their interest of representation from City of Tacoma mitigation hearing unto civil court representing both ,defendants answering complaint and summons in favor of defendants. Washington State Constitution Art.1 sec.6

Appellant appealed the Superior Court trial decision to Washington Appellate Court Division II . The Appellate Court also carried the same led decision of misrepresentation of important facts to apply applicable law done in Pierce County Superior Court in its decision making with its conclusion knowingly illegally representing both parties,or the same party without any notice violating code of ethics ,"attorney client privileges".

February 8, 2022. Appellate court rendered a decision with an opinion . Petitioner filed a motion to Appellate Court for Reconsideration February 18, 2022 meriting his pleading of actions declaring that Defendant violated his rights throughout the complete process for relocation assistance and such injustice in its biased actions of representing both co-defendant in civil court without notice. Motion to Appellate Court for reconsideration was denied March 15.2022.

Defendant Attorney being sworn in under oath as an attorney knowingly committed illegal acts throughout the court that deliberately deprived the rights of the plaintiff. Action of the defendant persuaded the courts ,along with governmental political affiliation in its determination with misrepresentation of fraud ,not disclosing to the courts of its services.

Defendant violated appellants United States Constitution Fourteenth Amendment , due process rights,Washington Constitution Art 1,sec.3 in unfair practice in mitigating hearing of production of written instruments that allocated trade of funds while claimant was under duress and cohersment for such denouncement of liability made to benefit both defendants in its representation. Defendant also violated American Disability Act in mitigating a written instrument that was biased to "tenant" who is disable and was under duress. These acts directly contributed damages and all injuries in the violations of rights.

V. ARGUMENT

ARGUMENT 1

The City of Tacoma administered (RCW 23.100.0619 conflict of interest) the relocation assistance that the defendant was required to award appellant under RCW 59.18.085. RCW 59.18.085(3) provides, with limited exceptions, that a landlord is required to pay relocation assistance to displaced tenants if the City Of Tacoma has notified the landlord that the residence cannot be lawfully occupied due to conditions that violate applicable codes, statutes, ordinances, or regulations, and the landlord knew or should have known that the conditions existed and intentionally refused to rectify the matter so appellant remain a tenant with remaining lease agreement.

Appellants attach all evidence in support of claim that is in alphabetical order to Superior court with initial pleading (CP1 24 5-14) (CP1 27 15-23) "complaint" that support causes an action for applicable law ,statute and constitution that upholds claim. Indeed, the authority cited by the District supports Plaintiffs' arguments that the Court may determine the substantial factor element as a matter of law. - in WH v. OLYMPIA SCHOOL DISTRICT, 2022

See Beltran-Serrano v. City of Tacoma, 193 Wn.2d 537, 442 P.3d 608 (2019). Under *Beltran-Serrano*, a plaintiff may not base a claim of negligence on an intentional act, like knowingly mis-interpret such bi laws for award relocation to the minimum ,and relinquish responsibilities ,or represent the opposing party CP 580-584, CP401-402, CP86, CP 392-393 in all matters in question of administered hearing held and ,pre-trial proceedings in this course on raised complaint to superior court,and appeals court, but may sue for "negligent acts leading up to governmental misconduct ." *Id.* at 546, 442 P.3d 608.

Appellant claims the following deficiencies in appeal of violation Washington State Const. Art 1,sec 3 ,and Washington State Const. Article IV section 31 ,of court in handling of matters immediately before such rendered judgment of breach of contract with all elements thereof showing , discrinination and bias action done CP6.16.-401 by the City of Tacoma and Pierce County Superior Court ,such conversion of chattels, an negligence : see Gerard Bell v.City Of Tacoma ,William Fedlt .COA 55284-1-II ;unpublished.

To this extent the courts merely comment and recognize the actual court record of the alphabetic listing of the exhibits, evidence ,and declarations made by appellant , that they are not within the scope of admissible

testimony. *See Chaney v. Wadsworth*, 2015 WL 4388420 at *7 (D. Mont. July 15, 2015); *see also S.E.C. v. Daifotis*, 2012 WL 2051193 at *1, *2, & *4 (N.D. Cal. June 7, 2012)(addressing the "all-too-common misuse")to uphold a corrupt government agency that uses the law only in the favor of the government agency when the law of the land is for the people and equally used.see Wash State Const,Art.1 sec,3.

With an alphabetical order of exhibits ,and all declarations made by appellant as first hand testimony, in the standing before any court for relief sought for summary judgment, breach of contract against both parties, of discrimation, conversion of chattels, failure to provide notice and negligence, courts denied its own law to prevail justice.

It is clear with all pleading filed entitled Gerard Bell ,Laprita Hamilton v City Of Tacoma and William Feldt (d.b.a.) Young Feldt for their breach, and duties in performance ,administering written instrument that is bias in allocated funds that is insufficient with co-conspire joined party to issue the inadequate funds of $2,000 dollars per stipulated by defendants ,an not by its own bi-laws of its governing agency that should have been $2,100 dollars.The relocation award is $2,000 or "three times the monthly rent," whichever amount is "higher". RCW 59.18.05(3)(b) $2100 is higher according to tenant rent giving to the urgency to immediately vacate the premises and find another home.

Appellants source of funds is not of a question to payments for

rent when the only document binds defendant and appellant in a binding agreement of a rental contract. Appellant must pay $700 a month for 12 months ,the duration of the rental agreement. The only matter at hand is a contract in question between landlord and tenant, which esteems another written instrument with defendant's and appellant for relocation award for leasing an uninhabitable dwelling.

In this matter, appellant and defendant had a written agreement allocating that $700 be made monthly for rent. Appellant made sure the landlord was paid according to their agreement in full.

Landlord failed to perform his obligated duties and perform with said contract. The City of Tacoma acted with ,acts of misrepresentation of fraud producing a binding written instrument with such bi-laws in support presented to appellate with interpretation on language is in fact three times the rent. Seven-hundred multiplied by three is twenty-one hundred, not two-thousand dollars which is a lesser than higher amount.

"Simple mismanagement" constitutes government misconduct under CR 8.3 (b) such that negligence delay may result in a due process violation. - in State v. Castillo, 2015

Misappropriated funds allocated, prohibited appellant full access ,use of his rights, an enjoyment thereof to make use in locating another home in such short span notice when housing market was at an all time high and not feasible to obtain with limited funds. Appellant was not given any other option. Plaintiff was not

able to locate another home, fund the process of moving and travel,temporarily house himself till able to find a habitable dwelling for him and his service animal and move what else was left to be salvageable out of damaged and burglarized home along with securing a new residence.

City of Tacoma standing as a ["magistrate court" RCW 23.100.0619 conflict of interest]Washington State Constitution Article IV section 31 held an arbitration hearing presenting and administering a legal binding document shows clear violation of Appellant constitutional right of State of Washington Art 1 sect 3 being violated when this agreement is not fair and impartial for all parties in the award of relocation,and move unto civil jurisdiction, standing with representation of defendant.

This written instrument to relocate is bias . It relinquished all responsibility from the City of Tacoma and to a landlord giving a tenant who is in poverty no other choice but to accept insufficient funds without any alternative way but to become homeless.

The fact that appellant reserved his rights that were being violated under UCC 1-308 with this written instrument allows appellant to make use of his constitutional right in receiving a fair and impartial process of this same misappropriated written instrument administered by the defendant's . Trial court decision to dismiss complaint and entry of judgment of prejudice violated Due Process Principles and Reserved Rights under UCC 1 308. when breach occurred of insufficient funds according to bylaws RCW 59.18.085(b) And Washington State Constitution Art 1 sec.2 and 3.

1.) The Uniform Commercial Code section 1 308 (CP387-389)applies when reserving rights in signing any written instrument.Claimant reserved his rights under UCC 1-308 in performance or acceptance under reservation of rights that regulate “ALL” financial transaction which means nothing is done without being regulated by this code.The breach by parties in this agreement by way of discriminatory acts violating ADA American Disability Act with the unreasonable adjustment in the process of executing written instrument ,WAC 284-30-330 is prejudice. The unjustifiably favor, with the payment of insufficient funds that should have been allocated correctly and accordingly by law.

Opening Brief, and (CP10.10-20). Clearly display rejection of unfair favor being cohersment into an agreement that violates rights and force of acceptance RCW 59.18. When allocated funds are not in accordance with RCW 59.18.085(b) the greater amount is shown in accurate calculation (700x 3=2100) UCC 1- 308 protects the appellant in any violation of his rights in any contractual agreement that allocates insufficient funds in distress matters.

This breach of contract done by defendant is the cause of appellant being made homeless as of this date of file pleadings for relief facing global pandemic with no essential needs accessible.Under the UCC 1-308 is the only protection in law appellant was able to render in this cohorsment , (CP 18.11-14) , of written instrument of his entitlement to $2100 and not $2000.

Appellant has all rights to sustain an equal protection claim when constitutional rights are violated, and unethical practice done to gain a courts favorable judgment.

2.) In support of a motion for reconsideration of the facts of this case and evidence is shown in the record through appellate pleadings to superior court of lack of performance with written instruments caused by the defendant.

Appellant asserts Exhibit C (CP331) showing all parties were notified of requested maintenance to the landlord for immediate repairs that was denied repairs in upholding its conditions for a leased, rental property ,inhabitable for dwelling in the city of tacoma , as facts, evidence and supporting claim for relief to be reconsidered for breach element in the reversal of appeal court rendered judgment.

Appellant asserts for reconsideration (CP 653-654),reflected from the record show contractual agreement of a written instrument mitigated by the City Of Tacoma, William Feldt (d.b.a) Young Feldt and appellant as evidence that binds all parties to all laws ,statute ,and standing of constitutional rights as facts, evidence and supporting claim for relief to be reconsidered for its breach.

Appellant asserts for consideration his Exhibit C showing all parties were notified of requested maintenance to the landlord for immediate repairs and the July 7,2018 notice to the landlord to correct or maintain the unit. Trial court error in determining what is a contractual agreement and what is a breached agreement and what is considered a breach written

instrument. Court Of Appeals Division II stands with lower court in what is considered applicable law in its hast judgment . What is a considerable lack of performance. What is unfair and unethical practice? What is mismanagement? What is a conflict of interest? Appellant reiterates he has all rights to sustain an equal protection claim when constitutional rights are violated, and unethical practice done to gain a courts favorable judgment.

ARGUMENT 2

3.) The City of Tacoma did in fact represent their co-Defendant. Appellant asserts that the defendant violated Rule of Professional Conduct (RPC) 1.7(a)(1) in its representation RCW 23.100.0619 of the codefendant's in these matters.CP110.1-6, CP150-152, CP24-25, CP201-202 an opening brief. This is flatly unfair to hold favor as a general public service in unfair favor to relinquishing liabilities ,the issuance a minimum amount of relocation assistance , "negotiation" in mitigation hearing held, and carrying of RPC acts into trial court of legal representation in answering summons and complaints for co defendants who has defaulted CP598-600,CP 396-397,CP36-37,CP30 giving to court rules in response to a complaint CP 594-595 .City of Tacoma responded for both parties,CP24-25 in later effort in pleadings CP1 13. CP 232-234,CP 30. CP86 ,CP119-121 to distinguish its unethical acts . CP233.18-23. It was until then CP201-202,19. filed to distinguish its action in the court off of record. RPC 5.5 UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW (a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction or assist another in doing so. [6] There is no single test to

determine whether a lawyer's services are provided on a "temporary basis" in this jurisdiction and may therefore be permissible under paragraph (c). Services may be "temporary" even though the lawyer(defendant legal team, City of Tacoma attorneys provides services in this jurisdiction on a recurring basis, or for an extended period of time, as when the lawyer(City of Tacoma) is representing a client in a single lengthy negotiation mitigation hearing CP 387-389 or litigation. 2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer,(defendant) or a person the lawyer is assisting,(defendant) is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

> Appellant assert within the RPC 5.5 [16] unauthorized practice, Paragraph (d)(1) applies to a lawyer who is employed by city of Tacoma to provide legal services to the clients or its organizational affiliates, i.e., entities that control, are controlled by, or are under common control with the employer. This paragraph does not authorize the provision of personal legal services to the employer's officers or employees. The paragraph applies to in-house corporate lawyers, government lawyers and others who are employed to render legal services to the employer. The lawyer's ability to represent the employer outside the jurisdiction in which the lawyer is licensed generally serves the interests of the employer and does not create an unreasonable risk to the client's and general public because the employer is well situated to assess the lawyer's qualifications and the quality of the lawyer's work. (3) are in or reasonably related to a pending or potential arbitration,

mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or (2) are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

[17] [Washington revision] In Washington, paragraph (d)(1) applies to lawyers who are providing the services on a temporary basis only. If an employed lawyer establishes an office or other systematic presence in this jurisdiction for the purpose of rendering legal services to the employer, the lawyer must seek general admission under APR 3 or house counsel admission under APR 8(f).

Appellant assert State v. Lord ,822 P.2d 177 - Wash: Supreme Court 1991 in support of claim fraudulent misappropriation ,mismanagement, discriminatory acts ,equal protection of rights in unfair acts committed that are untenable favored in unjustifiable court's ruling. Prejudice occurs when there is reasonable probability that but for counsel's errors, the result of the proceeding would have been different,and courts would award default judgment against the defendant for failure to appear.
- in State v. DIESE, 2017

A.) In reconsideration ,the question of law is whether the City of Tacoma had not committed such an unethical act the court would have concluded a different judgment. The trial court is in the best position to most effectively determine if prosecutorial misconduct prejudiced a defendant's right to a fair trial

- in State v. ROCHEZ, 2010

"The trial court is in the best position to most effectively determine if prosecutorial misconduct prejudiced a defendant's right to a fair trial

- in State v. ROCHEZ, 2010

B.) In reconsidering petitioner argument ,trial court erred in entry of default by abuse of discretion without any sanction to defendants in 20 day lapse of responding to complaint filed noting court by declaration as well as other pleadings judge clerk postpone docket to courts.

C.) Review is sought from all tried proceedings when the petitioner addresses the court of the complete record in reference to its court and filed pleadings of complaint that address the conflict of interest and any other finding sought .CP24,25, CP 580-584 .

Washington Court of Appeals Division II upheld the same violation made by the Superior Court. The Court of Appeals in the allowance of City of Tacoma representation knowingly is in violation of code of ethics CP24 -25. CP201. CP233.(18-23), CP 580-584. US v. Martin,965 F.2d 839- Court of Appeals,10th Circuit 1992 .

The client has the burden of showing specific instances to support his contentions of an actual conflict adverse to his interests.- in US v. Alvarez, 1998 City of Tacoma holding an adjudicatory hearing ,in allocating funds for relocation assistance with a written legal binding instrument ,and then representing a co-defendant in another jurisdiction of the same matter in question is a conflict of personal interest and gain. Mabry v. Johnson 467 US 504, 104 S. Ct. 2543, 81 L. Ed. 2d 437 - Supreme Court, 1984 has shown us when defendants breaches its

promise with respect to an executed agreement, the parties agree on a false premise, and hence his agreement cannot stand."- in Muhammad v. Kentucky Parole Bd., 2015 and 80 similar citations such breach element shown throughout the matters is insufficient funds of 2000 dollars according to City of Tacoma own by-laws of 3 times rent of 700 dollars according to lease agreement of landlord and tenant. Mathematical equation of 700x3 equals 2100. Violation of UCC1-308 holds in Vaca v. Sipes, 386 US 171 - Supreme Court 1967. A breach of a union's duty of fair representation occurs only when the union's conduct toward a member of the collective bargaining unit is "arbitrary, discriminatory, or in bad faith."- in Treuer v. Shop-Rite, Inc., 1999 and 1,014 similar citations Such bad faith acts violate appellants Washington State Constitution Art 1 .section 2 and 3.

ARGUMENT 3

In this matter clear conscious of the acts were brought forth for review and denied .Motion for Reconsideration ,on March 15,2022 was handed down as a judgment when issue was presented.Such unconscious bias of the court violated petitioner rights in seeking justice deliberately harms appellant knowing these facts and how applicable law is applied.

State of Washington Supreme Court has held that If a prima facie case is successfully made, "the burden shifts for provence. City of Seattle v.Erickson,938 P.3d 1124 -Wash Supreme Court 2017

Petitioner objected to the court ruling in allowance of these actions. Plaintiff raised the issue in trial court ,and objected to the court's ruling in allowance of parties to motion the court for withdrawal as attorney for defendant and moved the court for default judgment. - in State v. Sassen

Van Elsloo, 2018 in degrading appellants' claim and using governmental ,political persuasion to have favor in judgment.

¶14 Though the United States Supreme Court provided this framework, it left the states to establish rules for the "particular procedures to be followed upon a timely objection (CP 647-648) to a challenge." *Batson,* 476 U.S. at 99, 106 S.Ct. 1712. These local rules can define when an objection is timely. *Ford v. Georgia,* 498 U.S. 411, 423, 111 S.Ct. 850, 112 L.Ed. 2d 935 (1991). A trial judge's decision under the original *Batson* test is entitled great deference and will be reversed only if the defendant can show it was clearly erroneous.*Hernandez v. New York,* 500 U.S. 352, 364, 111 S.Ct. 1859, 114 L.Ed. 2d 395 (1991)

Petitioner showed the court of its harm in what should have been sanction for its delay in responding to summons and complaint. But courts overlooked the harmful error "The standard of review of an order of summary judgment is de novo, and the appellate court performs the same inquiry as the trial court." -in Washington Federal v Harvey,2015".(CP 396-397).

Hernandez v. New York, 500 U.S. 352, 364, 111 S.Ct. 1859, 114 L.Ed. 2d 395 (1991). However, this court has great discretion to amend or replace the *Batson,* requirements if circumstances so require. *See Saintcalle,* 178 Wash.2d at 51, 309 P.3d 326.

¶15 As a threshold matter, we first must decide whether Erickson can bring a *Batson* challenge after the jury is empaneled and the rest of the venire excused. We then decide whether the municipal court erred when it found that Erickson had not established a prima facie case of racial discrimination in violation of equal protection. Washington State Constitution Art. I, § 2

and 3 . We find that Erickson's objection was timely and that the municipal court erred when it failed to infer racial bias from the dismissal of the only black juror on the jury panel.

In this case we can apply such challenge being appellant showed a well established prima facie ,knowingly duly recorded on record of his objection was timely and all trial courts erred in its unconscious bias sway judgment made by defendants to gain for personal interest with its ,government, political affiliation led to bias hast decision.

VI. CONCLUSION

This Honorable Court should accept review for the reasons indicated in this petition for review and modify lower court decision in reversal of judgment and award judgment against defendants with all incurred compensatory damages in appellant suit for conversion.April 13,2022.

CERTIFICATE OF COMPLIANCE STATEMENT

Appellant hereby declare through certificate of compliance under all law, rules and regulation given unto new rule 18.17 petition for review is in compliance with the counting of words in rule of the counted amount of 4,503 words in this pleading.

Respectfully

Signature

Gerard Bell ,pro se

VII. APPENDIX

Attachment within pleading:

Filed
Washington State
Court of Appeals
Division Two
March 15, 2022

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

GERARD BELL and LAPRITA HAMILTON, Appellants, v. CITY OF TACOMA; WILLIAM A. FELDT, d/b/a YOUNGFELDT, Respondents.	No. 55284-1-II ORDER DENYING MOTION FOR RECONSIDERATION

The opinion in this matter was filed on February 8, 2022. On February 18, 2022, appellant Gerard Bell, filed a motion for reconsideration. No response to the motion for reconsideration was requested. After consideration, it is hereby

ORDERED that appellant's motion for reconsideration is denied.

PANEL: Jj. Worswick, Maxa, Glasgow

Glasgow, ACJ

Glasgow, A.C.J.

B1

A1

Filed
Washington State
Court of Appeals
Division Two

February 8, 2022

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

GERARD BELL and LAPRITA HAMILTON, Appellants, v. CITY OF TACOMA, WILLIAM R. FELDT, (D.B.A.) YOUNG FELDT, Respondents.	No. 55284-1-II UNPUBLISHED OPINION

GLASGOW, A.C.J. — After Gerard Bell alerted the City of Tacoma to uninhabitable conditions in the rental unit that he was renting from William Feldt, the City intervened, forcing Bell to move. The City required Feldt, to pay Bell $2,000 in relocation assistance. Bell then brought various civil claims against the City and Feldt.

Bell moved for default multiple times, but the trial court ultimately denied default because both parties answered the complaint. The City requested a continuance due to the COVID-19 pandemic that the court granted. The court also granted the City's motion for summary judgment, dismissing all of Bell's claims against the City. After a bench trial, the court dismissed the remainder of Bell's claims against Feldt.

Bell appeals, arguing that the trial court erred by not entering default judgment, by granting the City's motion for summary judgment, by delaying Bell's trial, and by dismissing the claims against Feldt. We disagree and affirm.

CERTIFICATE OF SERVICE

I certify on this day ,I caused a true copy of the document to which this certificate is attached to be served on the following .

City Of Tacoma

Att: Debra Casperian

747 Market Street,Suite 1120

Tacoma Wa 98402

dcasparian@cityoftacoma.org

William R Feldt(d.b.a) Young Feldt

Att: Jeremiah Styles

205 East Casino Rd. Suit B8

Everett,Wa.98208

Jeremiah@styles-law.com

Signed this 13th Day of April.2022

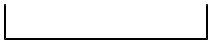
Gerard Bell

From: OFFICE RECEPTIONIST, CLERK
To: "Gerard Bell"
Subject: RE: 100793-1
Date: Friday, April 15, 2022 8:55:51 AM

Received 4-15-22

From: Gerard Bell [mailto:bellagent2u@gmail.com]
Sent: Friday, April 15, 2022 12:02 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: 100793-1

Preview attachment AdReviewAPENDA1B1cert-1.pdf



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6.1 MB

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Thanks

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Washington State
Court of Appeals
Division Two

February 8, 2022

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

GERARD BELL and LAPRITA HAMILTON, Appellants, v. CITY OF TACOMA, WILLIAM R. FELDT, (D.B.A.) YOUNG FELDT, Respondents.	No. 55284-1-II UNPUBLISHED OPINION

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Bell moved for default multiple times, but the trial court ultimately denied default because both parties answered the complaint. The City requested a continuance due to the COVID-19 pandemic that the court granted. The court also granted the City's motion for summary judgment, dismissing all of Bell's claims against the City. After a bench trial, the court dismissed the remainder of Bell's claims against Feldt.

Bell appeals, arguing that the trial court erred by not entering default judgment, by granting the City's motion for summary judgment, by delaying Bell's trial, and by dismissing the claims against Feldt. We disagree and affirm.

FACTS

I. BACKGROUND

Bell was living at a rental property owned by Feldt when Bell filed a complaint with the City, alleging that his residence had flooded due to a broken water heater. Bell asked the City to inspect the residence. Despite the City's warning that Bell might need to vacate the residence after the inspection, Bell confirmed he wanted an inspection. The inspector concluded that the hot water tank had failed, flooding the residence. There was mold and mildew in the residence, and, according to Bell, there had been no running water for some time. The residence was deemed too unsafe to be occupied.

The City arranged for the relocation assistance that Feldt was required to pay Bell under RCW 59.18.085. RCW 59.18.085(3) provides, with limited exceptions, that a landlord is required to pay relocation assistance to displaced tenants if the City has notified the landlord that the residence cannot be lawfully occupied due to conditions that violate applicable codes, statutes, ordinances, or regulations, and the landlord knew or should have known that the conditions existed. The relocation assistance is $2,000 or "three times the monthly rent," whichever amount is higher. RCW 59.18.05(3)(b). Bell acknowledged, in writing, that the City had notified him that he was entitled to relocation assistance. Bell also acknowledged in writing that Feldt paid him $2,000 in relocation assistance.

II. LAWSUIT

A. Bell's Complaint

In July 2019, Bell filed suit against the City and Feldt, alleging negligence, breach of contract, discrimination, conversion of chattels, and failure to provide notice. It is not entirely clear from Bell's complaint which claims were against the City and which were against Feldt, or whether Bell brought each claim against both defendants.

Bell asserted that he notified Feldt about the broken water heater and damage to Bell's possessions but Feldt failed to respond, and as a result, Bell had to undergo medical treatment due to exposure to the mold that grew in the residence. Bell also alleged that Feldt withheld Bell's security deposit. Bell asserted that there was an agreement to allow Bell to keep his personal possessions in the residence until the end of the month, but that the locks were changed before the month was up and some of Bell's personal possessions were missing. Finally, Bell alleged that his insurance claims for the missing and damaged property were denied because Feldt failed to respond to the insurance company.

Regarding the City, Bell alleged that he was entitled to $2,100 in relocation assistance and that he was " 'coerced' [in]to sign[ing] a document" and accepting only $2,000. Clerk's Papers (CP) at 18. Bell also claimed that the City "discriminated against [Bell] in administrating a note or instrument that binds all parties." *Id.* at 22.[1]

[1] Bell also listed Laprita Hamilton, whose vehicle was towed from Bell's residence, as a plaintiff in this suit, but Hamilton did not sign the complaint. Further, Bell, as a nonlawyer, cannot represent another party. RCW 2.48.170.

B. Motions for Default

By November 2019, Bell moved for an order of default because neither defendant had filed an answer and only the City had appeared in the case. The court declined to consider default because Bell failed to note the motion for the docket and he failed to provide the City with notice. The City filed its answer approximately a month later. The following day, Bell filed a document titled "Summary Judgement" in which it appears he asked again for an order of default. *Id.* at 119 (capitalization omitted). The record does not reflect that Bell noted that motion for the docket or otherwise took any steps to ensure it would be heard.

A few months later, Feldt had still not appeared or answered the complaint, and Bell filed another motion for default. The day before the hearing on this motion, Feldt submitted a notice of appearance and answer. The court denied Bell's motion for default. Later in the proceedings, Bell filed yet another motion for default that the court again denied because by then, both defendants had answered the complaint.

C. The City's Motions

The City requested a continuance because the City's attorney needed to prioritize tasks that arose due to the COVID-19 pandemic concerning "critical city services." *Id.* at 233. The court granted the City's motion.

The City later moved for summary judgment, arguing that Bell never filed the necessary paperwork to bring tort claims against the City and there was no evidence to support Bell's discrimination claims. The City also argued that $2,000 was the appropriate amount and provided evidence that Feldt charged $700 per month in rent, but the Tacoma Housing Authority paid $568 of that amount, and Bell's rent was $132 per month. It is not clear from the record whether Bell

responded to the City's motion. After a summary judgment hearing, the court granted the City's motion for summary judgment and dismissed all claims against the City.

D. BENCH TRIAL

The case proceeded to a bench trial on the remaining claims against Feldt. At trial, the court first addressed Bell's negligence claim, which the court believed was based on the defective water heater. The court explained that Bell needed to provide some evidence of damage caused by defective the water heater, but Bell failed to provide the court with any evidence. Instead, Bell asked the court to consider documents that he had already filed. The court asked Bell where it could find the necessary evidence in Bell's filings, but the documents Bell identified for the court did not contain the necessary evidence.

At the bench trial, Bell continually interrupted the court and "became increasingly agitated as the proceedings went forward." *Id.* at 678. Bell walked out of the courtroom and "abandoned the trial." *Id.* at 679. The court concluded that because Bell failed to present any evidence of damages, his negligence claim against Feldt failed. The court dismissed the remainder of the Bell's claims. Bell then sought reconsideration, which the trial court denied.

Bell appeals.

ANALYSIS

I. DEFAULT JUDGMENT

Bell argues that the trial court erred in declining to enter default judgment because neither defendant responded to his complaint within 20 days. We disagree.

We review the trial court's decision on a motion for default for abuse of discretion. *Morin v. Burris*, 160 Wn.2d 745, 753, 161 P.3d 956 (2007). A trial court abuses its discretion when its

decision is manifestly unreasonable or it is based on untenable grounds or untenable reasons. *State v. Dye*, 178 Wn.2d 541, 548, 309 P.3d 1192 (2013). A decision is based on an untenable reason if the trial court applied an incorrect legal standard. *Id.*

Bell fails to provide any legal authority supporting his argument that the trial court *must* enter default judgment when a defendant did not respond within 20 days of being served. This reasoning conflicts with the plain language of CR 55, which allows parties to appear and defend after the deadline for filing an answer and gives a trial court discretion to allow a party to appear and respond to a motion for default even if the party has not yet appeared. CR 55(a)(2).

It appears that Bell failed to properly note for hearing two motions for default. And when he later properly noted motions for default, the court denied them because the parties had appeared and answered. *See* CR 55. Bell provides no argument establishing that the trial court abused its discretion.

Accordingly, Bell fails to show that the trial court erred when it declined to enter default against either the City or Feldt. To the extent that Bell is raising any other arguments regarding default judgment, we decline to consider them because Bell fails to provide us with the necessary reasoned argument, legal authority, or necessary citations to the record to support any such argument. RAP 10.3(a)(6); *Holland v. City of Tacoma*, 90 Wn. App. 533, 538, 954 P.2d 290 (1998) (noting "[p]assing treatment of an issue or lack of reasoned argument" does not merit our consideration). Nor has he articulated any argument that warrants reversal of the trial court's orders denying his default motions.

II. AWARD OF SUMMARY JUDGMENT TO THE CITY

Bell argues that the court erred by granting summary judgment in favor of the City. Bell maintains that had the trial court combed through all of Bell's filings, the court would have found sufficient evidence to defeat the City's motion for summary judgment. The City argues that there was no genuine issue of material fact and that judgment in favor of the City was appropriate, noting Bell failed to file the necessary form to bring any tort claims as required by RCW 4.96.020 and Bell has provided no evidence that the City discriminated against him. We agree with the City.

We review orders granting summary judgment de novo. *Vargas v. Inland Wash., LLC*, 194 Wn.2d 720, 728, 452 P.3d 1205 (2019). If the defendant files a motion for summary judgment that demonstrates there is insufficient evidence to support the plaintiff's case, the burden then shifts to the plaintiff to identify specific facts that demonstrate there is a genuine issue of material fact for trial. *Young v. Key Pharm., Inc.*, 112 Wn.2d 216, 225 n.1, 770 P.2d 182 (1989). When the pleadings, affidavits, depositions, and admissions in the record demonstrate that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law, then summary judgment is appropriate. CR 56(c).

Bell provides no legal authority to support his contention that the trial court is required to comb through all of the plaintiff's filings from the inception of a case in order to find a reason to deny the defendant's motion for summary judgment. Bell appears to believe that exceptions should be made in his favor because he is representing himself. However, Washington law is clear that courts are to hold litigants who represent themselves to the same standards that apply for attorneys. *In re Estate of Little*, 9 Wn. App. 2d 262, 274 n.4, 444 P.3d 23 (2019); *Edwards v. Le Duc*, 157 Wn. App. 455, 460, 238 P.3d 1187 (2010).

Also, Bell fails to show that summary judgment was improperly granted. Regarding the tort claims, the record does not reflect, nor does Bell even allege, that he filed the necessary tort claim form under RCW 4.96.020 to bring a tort claim against the City. Regarding the discrimination claims, Bell failed to provide any evidence that the City at any time treated him differently than any other tenant. It is unclear whether Bell is also alleging that the City breached a contract, but to the extent that is also one of Bell's claims against the City, Bell fails to identify a contract between Bell and the City.

Also, to the extent that Bell is raising any other arguments related to dismissal of his claims against the City, we decline to consider them because Bell fails to provide us with the necessary reasoned argument, legal authority, or necessary citations to the record to support any additional argument. RAP 10.3(a)(6); *Holland*, 90 Wn. App. at 538.

III. DELAY

Bell argues that the trial court unreasonably delayed his trial in light of COVID-19 because the trial court could have taken steps to prevent any unnecessary risk to litigants. We disagree.

Bell fails to provide any citation to the record that supports his claim that the trial court delayed Bell's trial because it was concerned about risks to the litigants from COVID-19. Rather, the record reflects that the case schedule in Bell's case was only amended once in response to the City's motion for a continuance because the City's attorney was busy addressing "critical city services." CP at 233. Continuances are reviewed for an abuse of discretion. *Doyle v. Lee*, 166 Wn. App. 397, 404, 272 P.3d 256 (2012). And Bell has not argued or shown that the trial court abused its discretion in granting the City's request for a continuance on this basis.

IV. DISMISSAL OF CLAIMS AGAINST FELDT

Bell finally challenges the dismissal of his claims against Feldt. He contends that he provided sufficient proof for the trial court to have awarded damages. But Bell failed to present evidence of damages at the bench trial. Bell seems to argue that evidence of his damages existed in the record, but he fails to provide citations or a discussion about where that evidence is located. He also fails to provide any legal authority to support the contention that a trial court must comb through the record to find and evaluate evidence to support the plaintiff's claims. To the extent that Bell raises any other arguments regarding the trial court's dismissal of his claims against Feldt, we decline to consider them because Bell fails to provide us with the necessary reasoned argument, legal authority, or necessary citations to the record to support any such argument. RAP 10.3(a)(6); *Holland*, 90 Wn. App. at 538.

We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

Glasgow, ACJ

GLASGOW, A.C.J.

We concur:

Worswick J

WORSWICK, J.

Maxa, J.

MAXA, J.