COURT OF APPEALS

DIVISION 1

STATE OF WASINGTON

96722-9

CASE #77209-1-1

Michael Bracken, Rita Spencer aka LaRita Spencer, Appellants

v.

James Merklinghaus, Respondent

MOTION FOR DESCRETIONARY REVIEW

SUPREME COURT

Court of Appeals Reconsideration Filed on 12/4/18

Table of Content:

Introduction:

The is a case of housing discrimination based on race, color and marital status. With proven evidence, the defendant was denied the opportunity to present evidence from the lower Superior Courts that in time provided solid evidence of discrimination.

Background and Argument:

Intentional interference and unethical practices within the lower Superior Court and Appellant Courts.

- During a hearing in the lower Superior Courts Judge Schubert tossed papers at me and during the same hearing Judge Schubert said to me "It's not my fault you weren't born white" (I've recently reported these concerns to the FBI)
- The Plaintiff's attorney Scott Hildebrand has intentionally manipulated, harassed and sought unethical favors from other attorneys including Judges, Commissioners and presumably the administrative court approved transcriptionist and some staff members of the Appellant Courts.
    - In November, I attended an Ex Parte summons by Scott Hildebrand the subject was Increase in Bond. The Plaintiffs request was granted with prejudice. On the same day, I reviewed the Superior Court records data base, I discovered a Judgement issued in May of 2018. The Judgement was signed by Commissioner Judson. In a text data chat, I informed the Plaintiff's attorney Scott Hildebrand of my discovery.
        1. I informed Scott Hildebrand of my request for review regarding the increase in bond.
        2. The following day, I presented a request for "Review" on the increase in bond signed by a Commissioner and I opted to have the courts call me to pick up the Reviewed opinion.
        3. The opinion was NOT in response to my documented request but instead a denial of Review regarding the May 2018 Judgement signed by the same Commissioner who entered the Judgement... Commissioner Judson. I am confident Commissioner Judson received a request from Scott Hildebrand to first off "Review" his own work and secondly it interrupted the process for the requested Review that was time sensitive and created additional pain, suffering and emotional hardship.

Washington State Fair Housing Laws:

The Civil Rights Act of 1866 guaranteed property rights to all, regardless of race. It was another hundred years before any real change in fair housing came about, with the passage of the federal Fair Housing Act – Title VIII of the Civil Rights Act of 1968, which added color, national origin, religion and sex. The Fair Housing Act represented the culmination of years of congressional consideration of housing discrimination legislation. Its legislative history spanned the urban riots of 1967, the release of the Report of the National Advisory Commission on Civil Disorders (the Kerner Commission Report, which concluded that America was moving toward two societies, separate and unequal), and the assassination of Dr. Martin Luther King, Jr.

1. What fair housing laws apply in Washington state and who enforces them?
The federal Fair Housing Act and its 1988 amendments (FHA) protect people from
negative housing actions that occur because of their race, color, national origin,
religion, sex, disability, or family status, which are "protected classes" under the FHA.
State and local fair housing laws cover additional groups, such as marital status,
sexual orientation, gender identity, age, participation in the Section 8 Program,
veterans/military, etc

Conclusion:

The examples provided are just a few of many unethical incidents that has interfered with our ability to have a fair hearing and review within the Superior and Appellant Courts.

It is impossible for the Appellant Courts to provide a fair and honest review without providing a fair opportunity to hear a balanced argument from both sides. The Appellant Defendant intentionally manipulated the procedural process in both the Superior and Appellant Courts to conceal the corrupt unethical practices and data reoccurring in both court systems.

The Appellant Court errored in their decision to conclude on a cause based on the final argument of the Appellant Respondent with prejudice not allowing a rebuttal of time to review all data for unbiased consideration from the higher courts.

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v.

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CERTIFICATE PROOF OF MAILING

A copy was sent via regular postal mail on 1/3/19

A Certified Copy was mailed on 1/3/19

Certificate of Mailing to Attorney Respondent:

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1/2/19

RICHARD D. JOHNSON,
Court Administrator/Clerk

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of the
State of Washington

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December 13, 2018

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CASE #: 79268-7-I
James Merklinghaus, Resp v. Mike Bracken, Rita Spencer aka LaRita Spencer, Apps
King County Superior Court No. 17-2-17606-1 SEA

Counsel:

The following notation ruling by Commissioner Masako Kanazawa of the Court was entered on December 11, 2018, regarding the Notice of Appeal filed in King County Superior Court on November 19, 2018, received in this Court on November 30, 2018, and assigned case no. 79268-7-I:

This is an unlawful detainer case. Larita Spencer and Michael Bracken (Spencer) appealed a judgment and writ of restitution. No. 77209-1-I. On November 19, 2018, this Court issued an unpublished opinion affirming the judgment and writ of restitution. On December 4, 2018, this Court denied Spencer's motion for reconsideration.

Meanwhile, Spencer filed a new notice of appeal, attaching an October 31, 2018 trial court order that increased a supersedeas bond amount by $12,420 under RAP 8.1(b)(2) and a November 15, 2018 trial court order that denied her motion for an extension of time on the bond increase as not complying with the civil rule notice requirement.

Spencer's "notice of appeal" appears to be a RAP 8.1(h) motion to review the trial court's supersedeas decision. Now that this Court has terminated review, her challenge to the trial court's decision should be brought to the Supreme Court, if she pursues further review.

This matter is dismissed without prejudice.

Please be advised a ruling by a Commissioner "is not subject to review by the Supreme Court." RAP 13.3(e)

Should counsel choose to object, RAP 17.7 provides for review of a ruling of the Commissioner. Please note that a "motion to modify the ruling must be served... and filed in the appellate court not later than 30 days after the ruling is filed."

Sincerely,

Richard D. Johnson
Court Administrator/Clerk

LAM

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

JAMES MERKLINGHAUS, Respondent, v. MIKE BRACKEN, RITA SPENCER AKA LARITA SPENCER, Appellants.	)	No. 77209-1-I DIVISION ONE UNPUBLISHED OPINION FILED: NOV 19 2018

PER CURIAM. Larita Spencer and Michael Bracken (Spencer) appeal the judgment and writ of restitution in an unlawful detainer action. Finding no error, we affirm.

FACTS

On April 1, 2013, Spencer executed a one-year lease for an apartment owned by James Merklinghaus. Spencer did not renew the lease and, after April 1, 2014, lived in the apartment on a month-to-month tenancy.

On June 8, 2017, Merklinghaus served Spencer with a 20-day notice to vacate, terminating the month-to-month tenancy as of June 30. Spencer did not vacate the apartment, and on July 6, 2017, Merklinghaus filed an unlawful detainer action.[1] A show cause hearing was scheduled for July 18, 2017 but was rescheduled for July 31, 2017 because Merklinghaus was initially unable to serve

[1] RCW 59.12.030(2) states that a "month-to-month" tenant is guilty of unlawful detainer when the tenant continues in possession of leased property beyond the end of the month following the landlord's notice to vacate. The provision requires that the landlord serve notice to vacate more than 20 days prior to the end of the month for which the tenant must quit the premises.

Spencer with the summons and complaint.[2] At the show cause hearing, the trial court entered a judgment in favor of Merklinghaus and ordered a writ of restitution. Spencer appeals.

DECISION

This court reviews a trial court's findings of fact in an unlawful detainer action for substantial evidence. Pham v. Corbett, 187 Wn. App. 816, 825, 351 P.3d 214 (2015). Unchallenged findings of fact are verities on appeal. Pham, 187 Wn. App. at 825. We review conclusions of law de novo. Pham, 187 Wn. App. at 825.

Spencer has not supported any of their assertions with relevant legal authority or citation to the record. This court need not consider arguments that the appellant has not supported by pertinent authority, references to the record, or meaningful analysis. RAP 10.3(a); Saunders v. Lloyd's of London, 113 Wn.2d 330, 345, 779 P.2d 249 (1989). We address Spencer's claims to the extent possible given the limits of the record and the legal analysis.

Spencer first claims that they "did not receive a fair hearing" because they received the order scheduling the show cause hearing on July 21, 2017 but "[t]he date for written response and a request for trial had already expired on July 20, 2017."[3] But Spencer appeared at the show cause hearing and submitted a 78-

[2] Merklinghaus ultimately obtained an order for alternative service pursuant to RCW 59.18.055.

[3] It is unclear to what Spencer is referring. The order setting the show cause hearing does not contain a date for a response. The summons, on the other hand, requires that any written response be received by July 17, 2017.

page written response, which was reviewed and considered by the trial court. Spencer does not demonstrate that they were deprived of a fair hearing.[4]

Spencer next appears to argue that the trial court denied them the opportunity to present evidence at the show cause hearing. Spencer contends that they entered into a verbal agreement with Merklinghaus in which they would pay a higher monthly rent in exchange for Merklinghaus making repairs to the carpet and deck. They argue that they "entered with courtroom with five 'witnesses' [and] three of the witnesses could have testified in favor of the verbal contractual agreement and repairs." But Spencer does not claim that the trial court did not permit the witnesses to testify. And any mention of these witnesses is absent from the verbatim report of proceedings.

Spencer next argues that Merklinghaus "took advantage of the Appellants by presenting documentation and a list of witnesses to the courts without providing the same documentation and list of names to the Appellants." But again Spencer does not identify what it was that they did not receive, nor how such an alleged failure constitutes reversible error.

Finally, Spencer argues that Merklinghaus's attorney engaged in ex parte contact with the trial court. But Spencer's failure to identify any evidence of ex parte contact in the record precludes appellate review.

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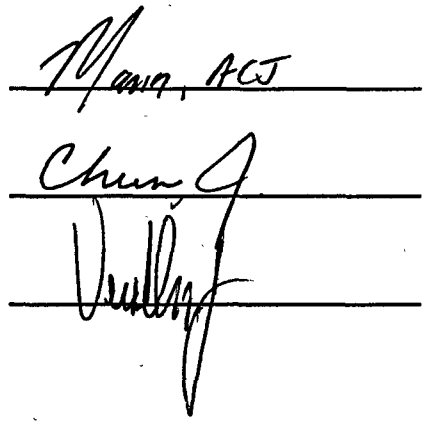
[4] Spencer also argues that the caption in the order setting the show cause hearing incorrectly reflected the county as Pierce rather than King. The record does not support this claim. While the order granting alternative service reflected the incorrect county in the header, the order setting the show cause hearing did not.

Affirmed.[5]

For the Court:



[5] On October 24, 2018, the court administrator/clerk denied Merklinghuas's motion on the merits and granted his motion for accelerated review. On November 9, 2018, Spencer filed a "Motion for Time" requesting time to respond to the motion for accelerated review. The motion is denied.