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Supreme Court No. 984646

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

ROY D. CHEESMAN,

Plaintiff-Petitioner,

vs.

ELLENSBURG SCHOOL DISTRICT, et al.,

Defendants-Respondents.

ANSWER OF RESPONDENTS

JAMES E. BAKER, WSBA No. 9459
MOBERG RATHBONE KEARNS, P.S.
P.O. Box 130 – 124 3rd Avenue S.W.
Ephrata, WA 98823
Phone: (509) 754 2356

Attorneys for Defendants-Respondents

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A. IDENTITY OF RESPONDING PARTY

Defendants-Respondents are the Ellensburg School District, John Graf, Tia Ross and Nancy Willbanks.

B. STATEMENT OF RELIEF SOUGHT

Defendants-Respondents respectfully ask this Court to deny discretionary review.

C. FACTS RELEVANT TO THE MOTION

Plaintiff-Petitioner Roy C. Cheesman (Cheesman) is married and several of his children attended school at the Ellensburg School District. (Depo. of Cheesman at 5, 9; CP 267-68.)¹ On or about Dec. 7, 2016, Cheesman's 6-year-old daughter was a student in Tia Ross' class when Ms. Ross noticed that the child had a black eye. When asked about it, the child said something to the effect about hitting a chair but later stated that her father hit her and her sister. (Exh. A to Decl. of Ross, CP 277-78.) The child was questioned by the principal, John Graf. The child told Mr. Graf that her father hit her and her sister. Therefore, Mr. Graf had the school call Child Protective Services (CPS). (Exh. A to Decl. of Graf, CP 284-85.) Law enforcement was called, charges were brought against Cheesman

and Cheesman's daughter was taken away. (Depo. of Cheesman at 10; CP 269.)

Cheesman stated that his claims of intentional infliction of emotional distress and malicious prosecution are based upon CPS being called and criminal charges being brought against him. (Depo. of Cheesman; CP 270-71.)

On Sept. 18, 2018, Cheesman's lawsuit was dismissed by the trial court on summary judgment. On March 24, 2020, the Court of Appeals affirmed the trial court. On June 9, 2020, the Court of Appeals denied Cheesman's Motion for Reconsideration.

D. GROUNDS FOR RELIEF AND ARGUMENT

Cheesman seeks discretionary review of the trial court's order granting Defendants' motion for summary judgment. A petition for discretionary review can only be granted only if the Petitioner demonstrates that the stringent requirements of RAP 13.4(b) are met. Further, even when those criteria are established, this Court it is not required to accept discretionary review.

¹ References to the Clerk's Papers (CP) are from the Clerk's Papers filed in Cheesman's appeal to Division III of the Court of Appeals.

Cheesman's petition did not identify any requirement of RAP 13.4(b) that is met. Cheesman simply made general assertions² such as:

- "The Plaintiff always has been racial unjust by the white American's and now the court of appeals judge's Institution failure to mandate to the court of appeals the value of the RCW's and writing complaint" (Petition at 1.)

- "I am an odd man and I am not a white American to the balance scale of justice, blindfolded division III judge's while in the court of appeals for a review I felt being abused again and murdered just like what happened to my mother and her relative lawyer[.]" (*Id.* at 3.)

- I "now in the mercy of an American judge's and teachers and police without a civil juror but bunch of acting like a criminal communist American judge's sitting in the division III of the court of appeals" (*Id.*)

- "I would like to plead to the Washington Supreme Court of a Court of Appeals', for review on why the Job descriptions of the appellees does not need to be obey to call the police systematically and numerally from the school policy procedures[.]" (*Id.*)

- "[W]hy is it ok to give false reports to cps and police and why the appellant are being push to commit to join organized groups to

² Cheesman's petition is quoted as written without any *[sic]* notations.

legalized communist party of the Philippines, contact China government and Russian federation because of un just justice in American soil while the appellant do not have malice to do so and are being systematically triggered to push to join the rebels, rebellion because of judges and teachers and police of Washington State would not commit to jury trial.” (*Id.* at 3-4.)

- “In the State of Washington the Appellee’s, teacher, counselor, principal failed to follow RCW’s that are on their School Job Policy, neglect and breach their own sworn duties to call the police as a mandated reporter” (*Id.* at 4-5.)

- “[T]he court of appeals Judge’s, in the state of Washington, failed to protect the Appellant/Mr. Cheesman fourteenth amendment constitutional right for the equal protection of law against malicious prosecutions, making a false report and all facts question for the jury.” (*Id.* at 5.)

1. DISCRETIONARY REVIEW IS NOT WARRANTED UNDER RAP 13.4(b)(1)

Under RAP 13.4(b)(1), discretionary review may be accepted “[i]f the decision of the Court of Appeals is in conflict with a decision of the Supreme Court.” Here, Cheesman made no attempt to show a conflict between the Court of Appeals and the Supreme Court.

2. DISCRETIONARY REVIEW IS NOT WARRANTED UNDER RAP 13.4(b)(2)

Under RAP 13.4(b)(2), discretionary review may be accepted “[i]f the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals.” Here, Cheesman made to attempt to show a conflict between decisions of the Courts of Appeal.

3. DISCRETIONARY REVIEW IS NOT WARRANTED UNDER RAP 13.4(b)(3)

Under RAP 13.4(b)(3), discretionary review may be accepted “[I]f a significant question of law under the Constitution of the State of Washington or of the United States is involved.” Here, Cheesman made to attempt to show that there is a significant question of law under the Constitutions of the state of Washington or the United States of America.

4. DISCRETIONARY REVIEW IS NOT WARRANTED UNDER RAP 13.4(b)(4)

Under RAP 13.4(b)(4), discretionary review may be accepted “[i]f the petition involves an issue of substantial public interest that should be determined by the Supreme Court.” Here, Cheesman made no attempt to show that his case involves an issue of substantial public interest.

E. CONCLUSION

The Court should deny the Petition for Discretionary Review.

RESPECTFULLY SUBMITTED this 1st day of July, 2020.

MOBERG RATHBONE KEARNS, P.S.

s/James E. Baker

JAMES E. BAKER, WSBA No. 9459
Attorneys for Defendants-Respondents

CERTIFICATE OF SERVICE

I certify that I mailed a copy of the foregoing via first class United States

mail to:

Roy D. Cheesman
1708 N. Indiana Drive
Ellensburg, WA 98926

DATED this 1st day of July, 2020 at Ephrata, WA.

MOBERG RATHBONE KEARNS, P.S.

s/Cinthia Piedra
CINTHIA PIEDRA, PARALEGAL

MOBERG RATHBONE KEARNS

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The following documents have been uploaded:

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Sender Name: Dawn Severin - Email: dseverin@mrklawgroup.com

Filing on Behalf of: James Edyrn Baker - Email: jbaker@mrklawgroup.com (Alternate Email: frontdesk@mrklawgroup.com)

Address:
124 3rd Ave SW
PO Box 130
Ephrata, WA, 98823
Phone: (509) 754-2356

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