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CLERK

The Court of Appeals of the State of Washington
Division 111

JUN 16 2020

98464-6

) Case No. 363473

Roy D Cheesman
Plaintiff / Appellant,

)
)

) Plaintiff/Appellant Petition for Review
) to the Supreme Court of Washington State

Vs.

Ellensburg School District,
John Graf, Tia Ross, Nancy
Willbanks, Ben Mount,
Defendant/ Appellee

)
)
)
)
)

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

To the Court of Appeals of the State of Washington Division 111, JERRY
MOBERG & ASSOCIATES, P.S.,

The Plaintiff/Appellant would like to file a Petition for Review to the
Washington State Supreme Court.

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 civil complaint against the state and against the
people on power who does not obey, neglect, breach the RCW's, to call the
police under the due process of law and not to violate the constitutional right of
the appellant as intended in the RCW's and neglecting, breaching the School

1 Policy Job procedure training manual of the appellees as a sworn mandated
2 reporter for child abused to call the police and not to conspired against an odd
3 person accordingly by the white teacher with the CPS and made up allegation
4 against the mother without any convincing evidence before the jury.
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8 My Name is Roy De Asis Cheesman and I am born in the Philippines, in the
9 Philippines the Democratic government will offer the rebels, Communist Party of
10 the Philippines (CPP), New People's Army (NPA) to join back the government
11 and stop the rebellion because of un just judge's, police, teachers and other form
12 of human being ill intentions to other, the government of the Philippines evolved
13 too changes this evil people judges, teachers, police and lawyers to followed the
14 law of good justice and good moral despite of who the person are that will lead to
15 rebellion against the people, government or the State.
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21 I become American even before I was born in the Philippines because of my
22 great grandfather white American Irish blood and so I was told since birth.
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26 Since 1989 I came in America and until now I believed in the goodness, fairness
27 respect to life of all true white American's and I always fight for the safety of all
28 Americans when call and needed.

1 I felt now that justice will not be serve, just how my physically abused birth
2 native Filipina mother Porferia Mercader De Asis, by my natural father Pilipino
3 American father back then in the Philippines have told me how her native
4 Pilipino uncle, a lawyer was murdered because he believe in justice and fight for
5 justice and because I am an odd man and I am not a white American to the
6 balance scale of justice, blindfolded division III judge's while in the court of
7 appeals pleading for a review I felt being abused again and murdered just like
8 what happened to my mother and her relative lawyer, now in the mercy of an
9 American judge's and teachers and police without a civil juror but bunch of
10 acting like a criminal communist American judge's sitting in the division III of
11 the court of appeals that I do not have relatives or friends to convince the court of
12 appeals division III judges to not to neglect and breach the job responsibility and
13 obey the law to call the police in the state of Washington.
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21 I would like to plead to the Washington Supreme Court of a Court of Appeals',
22 for review on why the Job descriptions of the appellees does not need to be obey
23 to call the police systematically and numerally from the school policy procedures
24 and why its ok to be violated by the appellees and division III judges, why does
25 the RCW's does not need to be statistically and numerally obey by the mandated
26 reporter and why it is ok to give false reports to cps and police and why the
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1 appellant are being push to commit to join organized groups to legalized
2 communist party of the Philippines, contact China government and Russian
3 federation because of un just justice in American soil while the appellant do not
4 have malice to do so and are being systematically triggered to push to join the
5 rebels, rebellion because of judges and teachers and police of Washington State
6 would not commit to jury trial.
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11 I resides in Washington State sine 1989 until now year 2020 and I am 50 years
12 old now and I would like to seek and write for justice and claim for the financial
13 damages this case had done to me and my family personally and retired in the
14 Philippines someday and open a small food restaurant business, play American
15 country song collections as a proud white American, like other white Americans
16 that are allowed to resides in the Philippines with there Filipino partners.
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21 Appellant did not failed the law of the institutions of the state of Washington,
22 Appellant was not given any RCW's for descriptions to be abide or hired and
23 paid by the state of Washington as a condition of responsibilities to any RCW's,
24 upon point of destination and point of entrée, point of arrival by the US Embassy
25 white American Consulate General in the Philippines, In the State of Washington
26 the Appellee's,/teacher, counselor, principal failed to follow RCW's that are on
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1 their School Job Policy, neglected and breach their own sworn duties to call the
2 police as a mandated reporter, and the court of appeals Judge's, in the state of
3 Washington failed to protected the Appellant/Mr. Cheesman fourteenth
4 amendment constitutional right for the equal protection of law against malicious
5 prosecutions, making a false report and all facts question for the jury.
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10 The appellant would like to petition for review to Supreme Court to the findings
11 of the court of appeals division III judges to the summary judgment being
12 appealed by the appellant to be reprimanded back for the jury trial since all the
13 reasoning of the division judge's are all questions of facts for the jury and are not
14 question of facts of law.
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21 Date: Jun 12, 2020
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25
26
27 
28 ROY D CHEESMAN/Pro Se
1708 N INDIANA DRIVE
ELLENSBURG, WA 98926

FILED
MARCH 24, 2020
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

ROY D. CHEESMAN,)	No. 36347-3-III
)	
Appellant,)	
)	
v.)	
)	UNPUBLISHED OPINION
JOHN GRAF; TIA ROSS; NANCY)	
WILLBANKS; BEN MOUNT; and the)	
ELLENSBURG SCHOOL DISTRICT,)	
)	
Respondents.)	

PENNELL, C.J. — Roy Cheesman appeals a summary judgment order dismissing his complaint against the Ellensburg School District and several of its employees. We affirm.

FACTS

Employees of the Ellensburg School District noticed a six-year-old student came to school with a black eye. When asked, the student offered two explanations for the bruising; in one, she stated her father, Roy Cheesman, had caused it by striking her. Consistent with Washington’s mandatory reporting statutes, RCW 26.44.030 and .040, school officials contacted Child Protective Services (CPS). As a consequence, Mr. Cheesman’s daughter was removed from his home. The State brought, but later dismissed, criminal charges against Mr. Cheesman.

Mr. Cheesman filed a lawsuit against the Ellensburg School District and four of its employees. He sought relief for intentional infliction of emotional distress and malicious prosecution. The District moved for summary judgment, arguing Mr. Cheesman's claims lacked factual and legal support. Mr. Cheesman opposed the District's motion, but did not otherwise submit evidence supporting his claims. Instead, he sought a continuance to conduct discovery.

The superior court considered the parties' positions during an in-person hearing. At the hearing, the court engaged Mr. Cheesman in a lengthy colloquy. The court asked Mr. Cheesman why he had not yet obtained evidence supporting his claims. Mr. Cheesman stated he had been confused as to the process. He also cited his work schedule, medication, and the pendency of criminal charges against him for half of the case's duration. The court also questioned Mr. Cheesman on the legal basis for his claims. Mr. Cheesman asserted that the defendants violated the law because they should have contacted the police regarding alleged abuse instead of CPS.

The trial court ruled Mr. Cheesman had not presented a case of excusable delay and denied his continuance motion. The court also found Mr. Cheesman lacked sufficient evidence to support his claims, and granted summary judgment to the District and its employees. Mr. Cheesman timely appeals.

ANALYSIS

In his pro se appeal, Mr. Cheesman lists 12 assignments of error. The majority of the alleged errors are not well developed. However, it appears Ms. Cheesman is arguing: (1) the trial court improperly denied his motion to continue, and (2) the defendants failed to support their motion for summary judgment.¹

A trial court's decision on a motion to continue a summary judgment hearing is reviewed for an abuse of discretion. *Barkley v. GreenPoint Mortg. Funding, Inc.*, 190 Wn. App. 58, 71, 358 P.3d 1204 (2015). Discretion is abused when a decision is "manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons." *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971). A summary judgment continuance is not permissible if "(1) the requesting party does not have a good reason for the delay in obtaining the evidence, (2) the requesting party does not indicate what evidence would be established by further discovery, or (3) the new evidence would not raise a genuine issue of fact." *Barkley*, 190 Wn. App. at 71 (quoting *Qwest Corp. v. City of Bellevue*, 161 Wn.2d 353, 369, 166 P.3d 667 (2007), *abrogated on other grounds by Cost Mgmt. Servs., Inc. v. City of Lakewood*, 178 Wn.2d 635, 310 P.3d 804 (2013)).

¹ To the extent Mr. Cheesman has attempted to raise additional errors, his claims are not sufficiently developed to warrant appellate review. *See* RAP 10.3(a)(6); *In re Marriage of Fahey*, 164 Wn. App. 42, 59, 262 P.3d 128 (2011).

No abuse of discretion happened here. Mr. Cheesman’s case had been pending for a significant period of time prior to the defendants’ summary judgment motion. During the court hearing, Mr. Cheesman could not articulate sufficient reasons for his delay in obtaining evidence and, perhaps more importantly, he did not identify what relevant evidence could be obtained should the court grant his request. Although Mr. Cheesman was proceeding pro se, the trial court properly held him to the same standard as an attorney. *Kelsey v. Kelsey*, 179 Wn. App. 360, 368, 317 P.3d 1096 (2014).

Turning to the merits of the summary judgment order, the test is whether the moving party demonstrated an absence of genuine issues of material fact such that it was entitled to judgment as a matter of law. CR 56(c). Genuine issues are absent when the available evidence could not lead any reasonable juror to return a verdict for the nonmoving party. *Reyes v. Yakima Health Dist.*, 191 Wn.2d 79, 86, 419 P.3d 819 (2018). “A defendant may move for summary judgment on the ground that the plaintiff lacks competent evidence to support its claim.” *Hymas v. UAP Distrib., Inc.*, 167 Wn. App. 136, 150, 272 P.3d 889 (2012).


The defendants’ summary judgment submissions amply supported the trial court’s ruling. The undisputed statements by Mr. Cheesman’s daughter provided school employees

a sufficient basis for making a referral to CPS.² This precludes a claim for intentional infliction of emotional distress and malicious prosecution. *Christian v. Tohmeh*, 191 Wn. App. 709, 735-36, 366 P.3d 16 (2015) (The tort of intentional infliction of emotional distress requires objectively outrageous conduct “beyond all possible bounds of decency.”); *Hanson v. City of Snohomish*, 121 Wn.2d 552, 558, 852 P.2d 295 (1993) (Malicious prosecution requires absence of probable cause.).

CONCLUSION

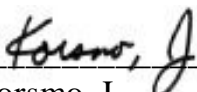
The trial court’s order of summary judgment and judgment of dismissal are affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.




Pennell, C.J.

WE CONCUR:



Korsmo, J.



Siddoway, J.

² The statute states that professional school personnel shall report abuse to law enforcement *or* the department of children, youth, and families (i.e., CPS). RCW 26.44.030(1)(a); *see also* RCW 26.44.020(4), (10).

Renee S. Townsley
Clerk/Administrator

(509) 456-3082
TDD #1-800-833-6388

*The Court of Appeals
of the
State of Washington
Division III*



500 N Cedar ST
Spokane, WA 99201-1905

Fax (509) 456-4288
<http://www.courts.wa.gov/courts>

March 24, 2020

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

James Edyrn Baker
MOBERG RATHBONE KEARNS
PO Box 130
Ephrata, WA 98823-0130
jbaker@mrklawgroup.com

CASE # 363473
Roy D. Cheesman v. Ellensburg School District, et al
KITTITAS COUNTY SUPERIOR COURT No. 172000208

Mr. Cheesman & Counsel:

Enclosed please find a copy of the opinion filed by the Court today.

A party need not file a motion for reconsideration as a prerequisite to discretionary review of this decision by the Washington Supreme Court. RAP 13.3(b), 13.4(a). If a motion for reconsideration is filed, it should state with particularity the points of law or fact that the moving party contends this court has overlooked or misapprehended, together with a brief argument on the points raised. RAP 12.4(c). Motions for reconsideration that merely reargue the case should not be filed.

Motions for reconsideration, if any, must be filed within twenty (20) days after the filing of a decision. RAP 12.4(b). Please file the motion electronically through this court's e-filing portal or if in paper format, only the original need be filed. If no motion for reconsideration is filed, any petition for review to the Supreme Court must be filed in this court within thirty (30) days after the filing of the decision (may also be filed electronically or if in paper format, only the original need be filed). RAP 13.4(a). The motion for reconsideration and petition for review must be received (not mailed) on or before the dates each is due. RAP 18.5(c).

Sincerely,

A handwritten signature in cursive script that reads "Renee S. Townsley".

Renee S. Townsley
Clerk/Administrator

RST:btb
Attachment

- c: **E-mail** Honorable Blaine G. Gibson (visiting judge)
- c: **E-mail** Sarah Keith, Kittitas County Superior Court Administrator

1 Proof of Service

2
3 I certify that I served a copy of Appellant Petition for review to the Supreme
4 Court of Washington State on all parties or their counsel of record on the date
5 below as follows:

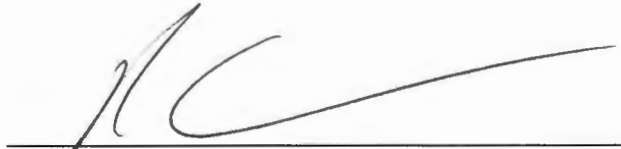
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7 US Mail Postage Prepaid:

8 JERRY MOBERG & ASSOCIATES, P.S.
9 124 3RD Ave S.W.
10 PO Box 130
11 Ephrata, Washington 98823

12
13 The Court of Appeals
14 Of the State of WA.
15 Division III
16 500 N. Cedar St.
17 Spokane, WA. 99201-1905

18
19 I certify under penalty of perjury under the laws of the state of Washington that
20 the foregoing is true and correct.

21
22
23 DATED this 12th day of June 2020, at Ellensburg, Washington.

24
25
26 
27 _____
28 ROY D CHEESMAN/Pro Se
1708 N INDIANA DRIVE
ELLENSBURG, WA 98926

FILED

JUN 16 2020

CERTIFICATE OF SERVICE

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By ELLEN BERGER

APPELLANT PETITION

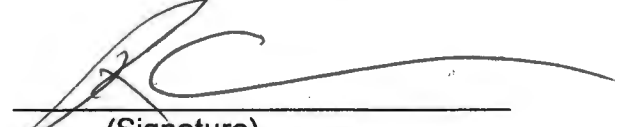
I certify that I mailed a copy of the foregoing REVIEW TO THE SUPREME COURT OF
to JERRY MOORE GARDNER, Attorney for DAVID LEE
at EVERETT, WA. P.O. Box 190 WA. 98823, postage prepaid, on
[date] 6-13-2020.

STATE OF WASH.


(Signature)

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct:

6/13/2020 ELLLEN BERGER
(Date and Place) WA. 98924


(Signature)

R. CHESMAN
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ELLSBURG, VA 98926

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THE COURT OF APPEALS
DIVISION III

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