

FILED
SUPREME COURT
STATE OF WASHINGTON
8/21/2020 3:28 PM
BY SUSAN L. CARLSON
CLERK

Supreme Court No 98756-4

SUPREME COURT OF THE STATE OF
WASHINGTON

JEAN AND MICHAEL REID

Appellants,

V

JULIE AND THOMAS MICHAEL CARNEY

Respondents.

REPLY TO ANSWER TO RESPONSE TO PETITION FOR REVIEW
to new issue

REPLY TO RESPONSE

Jean and Michael Reid
P O Box 2178
Blaine Wa 98231
360-223-5623 jeansdominoeffect@gmail.com

TABLE OF AUTHORITIES

CASES

In re Personal Restraint of Fero, 190 Wn.2d 1, 409 P.3d 214, (2018).

BORT v PARKER 110 Wn.App. 561 (Wash.App. 2002) 42 P.3d 980

Id at 892,93 P.3d 124 (citations omitted) (quoting Westerman,
125Wash 2d at 286-87,892 P. 2d 1067)

Satomi Owners Ass'n v. Satomi, LLC, 167 Wn.2d 781, 225 P.3d 213, 2009

RULES

RAP 9.5(b)

RAP 18.9

RAP 13.4(b).

RAP 1.2

RAP 13.4(b)(1)

RAP 13.4(b)(2)

RAP 9.10

RAP 12.2

RAP 13.4

RCW 18.27.080

CONSTITUTIONAL PROVISIONS

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Because Respondent raises a new issues i.e. whether the Dismissal was for the Reids repeated failure to follow the Court of Appeals Scheduling Orders, the Reids submit this brief. Their response is simply not the case. It is done as usual, to clutter the facts of the case and take the court's attention away from facts to listen to their new versions obtained by perjury and fraud.

Ms. Carney's Response is silly at best and a misconstruction or misrepresentation at worst.

To make things very clear. The Court's Order dated January 27, 2020 stated the following as set for in Respondent's A-1:

The appellants are responsible for the timely perfection of the record on appeal. The motion does not comply with RAP 9.5 (b) in that there is no affidavit from the court reporters. If all verbatim reports are not filed by 2-28-20, the case will be dismissed without further notice.

Contrary to Respondent's argument the Order does not say that the RP's and CP's had to match or be perfect or "perfected" nor did it assert that the Reids had violated multiple scheduling orders. Rather, it simply required that the Report of Proceedings had to be filed by 2-28-20.

Rhonda Jensen, one of the Whatcom County Clerks filed one set of the Verbatim Report of Proceedings on 2-28-20 and another set on 3-6-20. Attached to this brief are **Exhibits 1 and 2** reflecting the above referenced filings. Attached as **Exhibit 3** is Hillary's email from the Court of Appeals informing the Reids that they had until March 6, 2020

to provide the remaining Verbatim Report of Proceedings.¹ As evidenced by Exhibits 1 and 2 the Reids were in compliance. If there is an error in not complying with the 1-27-20 order, it is not the fault of the Reids. Rather, it is the fault of the Court Reporters in Whatcom County.

Finally, if there is some fault by the pro se Reids, dismissal was not the appropriate remedy, especially since at the time of the Order of Dismissal, all Verbatim Report of Proceedings had been filed. See A-2. (Dismissal of Appeal dated 3-10-20. See also RAP 18.9.²

Respondents argument is really two-fold. (1) The trial court and Court of Appeals ruled against the Reids. Well, if that were the basis for a denial of a Petition for Review by the Supreme Court then there really should not be a Supreme Court as that will often be the posture of Petitions for Review before this Court. (2) Respondents second argument is that this Court cannot review this Petition because it does not satisfy RAP 13.4(b). However, Respondent's assertion is incorrect. Even if Petitioner's right of an appeal is not a constitutional right it is a right nonetheless and it provides a basis for review pursuant to RAP 13.4(b) which states:

A petition for review will be accepted by the Supreme Court only: (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or (2) If the decision of the Court of Appeals is in conflict with a published decision of

¹ This email was embodied within the actual Petition for Review but attached hereto for emphasis and clarity.

² The Court of Appeal chose to ignore the remedy of a fine and instead chose to dismiss the Reids appeal out of hand, for a delay caused by the Clerk.

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the Court of Appeals; or (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

As argued before the Court of Appeals by Respondent, dismissal under the above referenced circumstances runs afoul of common sense and the Rules of Appeals. See RAP 1.2 and *In re Personal Restraint of Fero*, 190 Wn.2d 1, 409 P.3d 214, (2018). In that case, the Court of Appeals did not simply look at the rigid application of a rule. Rather, RAP 1.2 allowed for a common sense application of the rules to allow a decision to occur on the merits. Accordingly RAP 13.4(b)(1) has been satisfied by the Reids in the instance.

RAP 13.4(b)((2) has also been established since the Court of Appeals Div. 1 has routinely applied RAP 1.2 to allow redress when the merits of a case can be liberally obtained. *BORT v PARKER* 110 Wn.App. 561 (Wash.App. 2002) 42 P.3d 980 (allowing for a summary judgment to be reversed on the entirety of the case because a claim of quantum meruit was allowed even if a claim for breach of contractor was barred because the contractor was not licensed in violation of RCW 18.27.080. RAP 13.4(b)((2)

Finally, isn't a denial of justice and a denial of an appeal under the circumstances described in this case a denial of a substantial public interest RAP 13.4(b)(4). In cases determining a "continuing and substantial public interest our courts have developed the following test:

(1) whether the issue is of a public or private nature; (2) whether an authoritative determination is desirable to provide future guidance to public officers; and **(3) whether the issue is likely to recur"** . A

fourth factor may also play a role: the " level of genuine adverseness and the quality of advocacy of the issues" . Lastly, the court may consider " the likelihood that the issue will escape review because the facts of the controversy are short-lived" . Id. at 892, 93 P.3d 124 (citations omitted) (quoting Westerman, 125 Wash.2d at 286-87, 892 P.2d 1067).Satomi Owners Ass'n v. Satomi, LLC, 167 Wn.2d 781, 225 P.3d 213, (2009).In this case, both the Court of Appeal Judge and its three members Panel failed to appreciate and apply RAP 1.2 and RAP 9.10 and 12.2 when all of these rules have been applied in both the Court of Appeals and Supreme Court is published case.

However, this particular posture appears to be somewhat novel (where the Court of Appeals dismissed an Appeal due to the filing on 3-6-20 instead of on 2-28-20). And where, the Court of Appeal should have taken notice that the Clerk who filed one set of Report of Proceedings on 22-28-20 was the same clerk who filed, albeit technically late, another Report of Proceedings on 3-6-20. Finally, there has been no apparent application of the continuance granted by Hillary's email from the Court of Appeals allowing for a filing of the Report of Proceedings by 3-6-20. In totality and with application of the above referenced RAPs it is clear that this appeal satisfied RAP 13.4.

Finally, as an aside, it is interesting that the Respondent does not address her obvious ongoing fraud on the Trial Court and perjury. Nor does Respondent address the real issue which is the filing of the Report of Proceedings by 3-6-20 and 2-28-20 and whether in light of the circumstances and rules this Court should hear this case. Presumably, that is because all of those issues cut in favor of Petitioners.

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With all modesty Petitioners sincerely urge this Court to rule in their favor.

RESPECTFULLY SUBMITTED this 21st day of AUGUST, 2020.

By:

Jean Reid

Jean & Michael Reid

Jean and Michael Reid

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Blaine Wa 9823

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REPLY TO RESPONSE

78756-4

WHATCOM COUNTY SUPERIOR COURT

February 28, 2020 - 4:53 PM

Transmittal Information

Filed with Court: Court of Appeals Division I
Appellate Court Case Number: 80581-9
Appellate Court Case Title: Michael Reid and Jean Reid, Appellants v. Julie Carney and Thomas Carney, Respondents
Superior Court Case Number: 15-2-00660-2

The following documents have been uploaded:

- 805819_Report_of_Proceedings - Volume 3_20200228164608D1099040_2707.pdf
This File Contains:
Report of Proceedings - Volume 3, Pages 243 to 433, Hearing Date(s): 02/26/2019 *Report of Proceedings*
Total Number of Pages:
The Original File Name was REID V CARNEY 2-26-19.pdf
- 805819_Report_of_Proceedings - Volume 4_20200228164608D1099040_1697.pdf
This File Contains:
Report of Proceedings - Volume 4, Pages 434 to 449, Hearing Date(s): 04/19/2019 *Report of Proceedings*
Total Number of Pages:
The Original File Name was REID V CARNEY 4-19-19.pdf
- 805819_Report_of_Proceedings - Volume 5_20200228164608D1099040_3741.pdf
This File Contains:
Report of Proceedings - Volume 5, Pages 450 to 636, Hearing Date(s): 04/22/2019 *Report of Proceedings*
Total Number of Pages:
The Original File Name was REID V CARNEY 4-22-19.pdf
- 805819_Report_of_Proceedings - Volume 6_20200228164608D1099040_1212.pdf
This File Contains:
Report of Proceedings - Volume 6, Pages 637 to 856, Hearing Date(s): 04/23/2019 *Report of Proceedings*
Total Number of Pages:
The Original File Name was REID V CARNEY 4-23-19.pdf
- 805819_Report_of_Proceedings - Volume 7_20200228164608D1099040_4675.pdf
This File Contains:
Report of Proceedings - Volume 7, Pages 857 to 926, Hearing Date(s): 04/24/2019 *Report of Proceedings*
Total Number of Pages:
The Original File Name was REID V CARNEY 4-24-19.pdf

A copy of the uploaded files will be sent to:

- bianchi@lasher.com
- jeansdominoeffect@gmail.com
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- nathanmcallisteratty@gmail.com
- wraymond@co.whatcom.wa.us

E' 16/12

Comments:

Wendy Raymond could not access the portal through her log-in. I am filing these verbatim reports of proceedings for her. Rhonda Jensen, Official Reporter, Whatcom County, WA

Sender Name: Rhonda Jensen - Email: rjensen@co.whatcom.wa.us

Address:

300 Grand Avenue

Bellingham, WA, 98225

Phone: (360) 778-5608

Note: The Filing Id is 20200228164608D1099040

EX 6 / 6

----- Forwarded message -----

From: **Rhonda Jensen** <R.Jensen@co.whatcom.wa.us>

Date: Fri, Mar 6, 2020 at 11:49 AM

Subject: transcript filed this morning

To: jean reid <jeansdominoeffect@gmail.com>

Good Morning, Ms. Reid:

Hopefully, you've received the email this morning from the court of appeals that I filed a transcript this morning **containing several hearing dates.**

The one file I filed this morning contains:

Jan. 14, 2011
Feb. 11, 2011
Mar. 18, 2011
Apr. 1, 2011
Apr. 22, 2011 and
May 20, 2011

The statement of arrangements you emailed to Wendy Raymond on Dec. 13, 2019, also listed dates of June 9, 2011, and Nov. 17, 2011. I do not have records that there were court hearings held in front of Judge Snyder that day in your case. The court file for cause number 10-2-03289-1 shows that documents in that file go from June 8, 2011 to Aug. 31, 2011, with nothing indicated in between, and Nov. 8, 2011, to Nov. 29, 2011.

I have had almost non-existent internet service in my office all week, but I am working outside the office today, so please email me if you need to contact me.

Rhonda Jensen

Exh. 2



Jean reid <jeansdominoeffect@gmail.com>

RE: should i call or is this ok

1 message

Lubin, Hillary <Hillary.Lubin@courts.wa.gov>
To: Jean reid <jeansdominoeffect@gmail.com>

Thu, Mar 5, 2020 at 12:24 PM

Jean,

As I've mentioned, it is not court procedure to correspond via email. If all transcripts are not filed by end of business tomorrow, the case will be routed to the Clerk for dismissal in accordance with his previous ruling.

Thank you,

Hillary Lubin

Case Manager, Court of Appeals Division One

600 University Street

Seattle, WA 98101

206-464-5371

From: Jean reid [mailto:jeansdominoeffect@gmail.com]**Sent:** Thursday, March 5, 2020 11:18 AM**To:** Lubin, Hillary <Hillary.Lubin@courts.wa.gov>**Subject:** should i call or is this ok

Hillary, I will have either the info on the missing transcripts before end of work Fri or I will file a brief motion to extend time for wk or 10 days depending on what I find out from Rhonda. Or I will amend the SOA by motion Monday. So please don't let them dismiss my case since I didn't even know these were not filed. the web page for my case leaves a lot to be desired for a lay person. Thank you for your help

-

"you never knew you didn't know, until you know better" (jcr)

Regards,

Jean Reid 360-223-5623

EXL 3

DONNA JEAN REID - FILING PRO SE

August 21, 2020 - 3:28 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 98756-4
Appellate Court Case Title: Michael Reid and Jean Reid v. Julie Carney and Thomas Carney
Superior Court Case Number: 15-2-00660-2

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- 987564_Other_20200821151903SC764148_6255.pdf
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