

COURT OF APPEALS, STATE OF WASHINGTON, DIVISION III

**FILED**

**MAR 06 2020**

JEFFREY P. JONES and  
PETER C. JONES,  
Respondents/Creditors

No. 370330

COURT OF APPEALS  
DIVISION III  
STATE OF WASHINGTON  
By \_\_\_\_\_

v

RUSSELL K. JONES  
Appellant/Debtor

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BRIEF OF CO-RESPONDENT PETER JONES

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Co-Respondent

Not being an attorney, I am ill-prepared to make a "legal" argument in this case, and thought to leave the task of making argument to the attorney for my Co-respondent, Jeffrey Jones. As she clearly showed at the hearing which led to this appeal, Attorney Kiley Anderson is just so much better at this than I am. However, I am in possession of a letter from the Court which mentions my being liable for a \$200 fine if I do not file a brief. So, I write.

**RES JUDICATA:**

First of all, I am still confused by how we got here. The judgments at the heart of this appeal were discussed as part of the disbarment proceedings against Russell Jones. In the Hearing Officers Amended Opinion, Findings of Fact (FOF) 198 through 203 read

“Respondent has gone to great lengths to avoid paying the judgments against him. To that end he has hidden assets and violated court orders. Respondent been held in contempt four separate times for failing to provide documentation as to his assets. During the hearing, Respondent refused to answer questions about the extent of his assets, even after the hearing officer ordered him to do so. Respondents refusal to answer relevant questions at hearing was a bad faith obstruction of the disciplinary process. Respondent has consistently demonstrated no remorse and a defiant attitude. He has acted as a vexatious, relentless litigant from 2007 through 2013.” (WSBA in re Russell K Jones, 2013)

Later when discussing aggravating and mitigating factors (sections 217(d) & (j) of the opinion) the hearing officer writes:

“(d) multiple offenses. ... In addition to the charged misconduct, Respondent lied in his pleadings when he certified that he had taken the estate house by agreement of all the heirs, willfully violated multiple court orders resulting in four contempt findings, and used one of his frivolous filings in an attempt to avoid execution on a judgment in Canada. This aggravator of multiple offenses applies here.” (WSBA in re Russell K Jones, 2013)

and

“(j) indifference to making restitution. Respondent has not only shown indifference to making restitution but has been defiant in his refusal, hiding assets and violating court orders to avoid revealing the extent of his assets. This aggravating factor applies.” (WSBA in re Russell K Jones, 2013)

When the Washington State Supreme Court heard the appeal of the Hearing Officers Opinion, they were no kinder to Russell Jones. First of all, they specifically incorporated the judgments relating to the contempt findings into their opinion,

“D. Failure to pay sanctions Throughout the litigation about Ms. Jones' estate, Jones was sanctioned multiple times, totaling over \$138,881. As of the date of Jones' disciplinary hearing he owed \$123,901.93 in sanctions. He was held in contempt four separate times for failing to provide access and documentation to his assets.” (*In re Discipline of Jones*, 182 Wn.2d 17; 338 P.3d 842; 2014 Wash. LEXIS 1118)

The Supreme Court then specifically accepted the Hearing Officers findings of fact, in their entirety:

“A. Substantial evidence supports the hearing officer's findings of fact, and the findings of fact sufficiently support the hearing officer's conclusions of law ... Since Jones has not demonstrated a clear reason for departure, the findings of fact will not be disturbed.” (*In re Discipline of Jones*, 182 Wn.2d 17; 338 P.3d 842; 2014 Wash. LEXIS 1118)

And finally, the Supreme Court covers the aggravating and mitigating factors:

*“The hearing officer properly applied the relevant aggravating and mitigating factors” (In re Discipline of Jones, 182 Wn.2d 17; 338 P.3d 842; 2014 Wash. LEXIS 1118)*

I keep staring at contempt citations, which were then entered into evidence, reviewed and utilized in an opinion which was upheld on appeal. That sounds a lot like res judicata to me. It also sounds like this appeal is a collateral attack on a disbarment, and should be rejected on that ground alone.

**CONTEXT OF THIS CASE:**

Collections in Washington State are difficult at best. The statistics I see are that approximately 90% of all creditors fail to collect from their judgments. And while there is plenty of room to quibble around the edges of this figure, it appears a significant majority of all creditors fail in their efforts to collect. And granted, many of those cases involve debtors who are clearly unable to pay even a portion of the amounts owed. But that is not the situation in this case.

In the lengthy history of this ~~course~~ <sup>case</sup> there have been multiple occasions where significant assets of the debtor have been identified, only to mysteriously disappear. Creditors have attempted to obtain information regarding these disappearances

from the debtor. Debtor's response has been to evade responding truthfully through any means necessary. This evasion, usually through the filing of frivolous motions<sup>1</sup>, has been "prejudicial to the

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<sup>1</sup>The following Findings of Fact (FOF) are all taken from **WSBA in re Russell K Jones, 2013**  
The listing, while incomplete, is both impressive and indicative.

FOF 94: "This motion was frivolous."

FOF 96: "This motion was frivolous."

FOF 101: "This motion was frivolous."

FOF 103: "This motion was frivolous."

FOF 107: "All of these arguments were frivolous."

FOF 109: "The motion and brief that accompanied it were frivolous."

FOF 111: "This motion was frivolous."

FOF 113: "This motion was frivolous."

FOF 115: "These motions were frivolous."

FOF 125: "The appeals were frivolous and were filed for the purpose of delaying the proceedings and Respondent's eventual ejection from the estate house."

FOF 147 & 148: "This complaint was filed without any proper purpose. This complaint was frivolous."

FOF 153: "This argument was frivolous."

FOF 157: "These arguments were frivolous."

FOF 162: "This motion was frivolous."

FOF 164: These motions were frivolous."

FOF 171: "This lawsuit was frivolous."

FOF 173: "This appeal was frivolous."

FOF 178: "This motion was frivolous."

FOF 181: "The petition was frivolous."

FOF 191: "Respondent's actions in serving this suit on Peter prior to the hearing in this matter served no proper purpose."

FOF 127, 128, 129, 130, 131, 132 and 133: On March 28, 2006 the court entered an order allowing them (Peter and Jeffrey) to enforce their orders and pursue garnishment. Respondent moved for reconsideration, which was denied. Respondent was ordered to appear for an oral examination and produce financial information. On April 14, 2006, attempting to block the order, Respondent made a motion to "enjoin change of record on review." This motion was frivolous. This motion was filed for the sole purpose of delaying execution of the judgments entered against Respondent. Division III denied the motion finding it "so devoid of merit that it constitutes a frivolous filing warranting the imposition of sanctions."

FOF 135: "In August 2007, Division III affirmed Judge Baker's orders, finding that Respondent's appeal was without factual or legal justification, and therefore frivolous."

FOF 136 & 137: "In November 2007, Respondent petitioned the Supreme Court for Discretionary Review. The Petition for Review was frivolous."

administration of justice” (**Rule of Professional Conduct 8.4(d)**). Where evasion and delay in court has been inadequate to foil creditors efforts to collect, Russell Jones has either relied on a refusal to respond to inquiries, or has just made knowingly false statements as to his assets.<sup>2</sup>

How should a court respond to a debtor like this one? In 2006 Spokane County Superior Court chose to hold this debtor in

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<sup>2</sup> FOF indicative of untruthfulness taken from **WSBA in re Russell K Jones, 2013**  
Again, this listing is incomplete, but still impressive and indicative.

FOF 17: “Respondent’s testimony to Peter that he showed the appraisal to Peter at this meeting was not credible.”

FOF 29 & 30: “Mr Gebhardt contacted Respondent in January 1998 and asked to see check registers for the bank accounts of the estate. Respondent never gave them to Mr. Gebhardt. Respondent’s testimony that he attempted to give the check registers to Mr. Gebhardt, but that Mr. Gebhardt refused them is not credible.

FOF 39,40 & 41: “Respondent filed responses in both actions stating that he had occupied the estate house since May 1996 as his private property, “as agreed among all the heirs.” These statements were false. Respondent knew these statements were false.”

FOF 50 & 51: “Respondent filed this response under oath. This answer was knowingly false.”

FOF 55 & 56: Respondent filed this response under oath. This answer was knowingly false.”

FOF 59, 60, 61 & 62: “This request clearly encompassed the estate checkbook and the estate check register. Respondent did not provide the check registers and checkbook. Respondent’s failure to provide the check registers and checkbook was knowing and with the intent to conceal relevant information from Peter. Jeffrey, and their lawyers. Respondent admitted in testimony at the hearing that his failure to provide these records was for the purpose of preventing Peter from getting this information. The check registers would have revealed that Respondent’s statements that he had been paying the taxes, insurance, and utilities were false.”

FOF 72: “Respondent’s refusal to provide the appraisal was without basis and was a further effort to conceal reasonable and necessary information from the heirs.”

FOF 73: “Respondent’s testimony that he had tried to give one or more appraisals to Peter and/or his lawyer, Frank Gebhardt, who refused it, was not credible. There was no reason for Mr. Gebhardt to refuse. On cross examination during the Disciplinary Hearing, Respondent testified that he could not remember if he attempted to give Mr. Gebhardt a copy of the appraisal.”

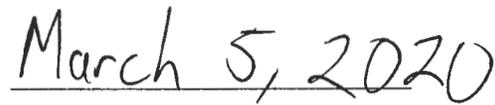
Contempt. This debtor was failing to explain the disappearance of over \$280,000. In spite of guarantees he had made to the Court not to touch or move his monies, he withdrew all of it from a brokerage account, and failed to provide information on what had happened to it, other than to say he had spent it all. He went so far as to provide documents for almost \$40,000 of bills he had paid in the prior two years, claiming this was how he had spent the monies. When the Court informed him he needed to do a better job of explaining the disappearance, he ignored the court. The Court held him in contempt. Now he thinks by saying "black is white" and "up is down" he can actually escape the consequences of his misdeeds and once more slip around the power of the Court.

In addition, this debtor has made a determination for himself that even if he loses this argument, by having been allowed to make it in the Superior Court, and then make it to the Court of Appeals, he has further damaged his brothers by forcing them to pay their lawyers to respond, and he will have taken 18 to 24 months off the 10 year limit a judgment is allowed to be collectible.

So, from my perspective this case boils down to where a debtor is known to be untruthful, going to great lengths to hide and shelter their assets, does a creditor have a right to expect a

courts assistance in locating those assets. Can documents be demanded of the creditor. How toothless are the courts, and how toothless is Washington law in this situation? The Creditor in this case, Russell Jones, is insisting the Courts and Washington law are toothless, powerless, in the face of his recalcitrance. I do not believe this to be true. I believe a judge has the inherent power to pursue fairness and truth. I know Washington law supports this view.

  
Peter C. Jones

  
Date