

 ORIGINAL

CERTIFICATE OF SERVICE:

See p. 6 attached

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

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STATE OF WASHINGTON
2014 JUN 23 A 9 27
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JAMES BYRON HOLCOMB, individually)
And as Personal Representative)
Of the Estate of Karen R. Holcomb)
Appellants,)
-vs-)
ASSIGNED JUDGE FOR THE KITSAP)
COUNTY DISTRICT COURT IN NO.)
1002203333; et. al.)
Respondents.)

NO. 89536-8
CA NO. 42917-9-II
MOTIONS FOR
VARIOUS AND
ALTERNATIVE
RELIEF

1. Statement of name and designation of the person filing the within Motion.

James Byron Holcomb ("Holcomb"), individually and as the Personal Representative of the Estate of Karen R. Holcomb, is the party filing the within Motion.

2. Statement of Relief Sought. Holcomb moves for various orders, either individually or in the alternative, as follows:

A. For an Order to Show Cause be issued to the Judges named in his Petition for Review requiring them to appear in this matter and to defend against multiple claims of judicial misconduct;

B. To Strike the Respondent's Responding Brief dated 07 January 2014 pending issuance of the above Motion to Show Cause;

C. To Issue a new Briefing Schedule based on the granting of Motions A and B above and the Judge's responses;

D. Alternatively, to Issue an Order clarifying what this court expects as to who the parties are to the within Petition for Review, who is going to represent the interests of the Judges of the Panel and the Chief Judge of Division II, if anyone, on the claims of the Petitioner herein; what effect the present briefing has or will have on that issue; what this Court expects if a favorable decision for the Petitioner on his claims of judicial misconduct affecting the substantive issues of the appeal will have as to the named Judges; and to issue a further briefing order implementing what the court orders above in this paragraph.

3. Designation of the Record relevant to the Motion: Holcomb relies on his Petition for Review and on Respondents' 'Answer' to Petition for Review. There has been no Notice of Appearance on behalf of any of the Judges named in the Petition for Review, nor any brief filed on their behalf.

4. Statement of the Grounds for the Relief Sought: Neither Holcomb nor the Respondent herein has indicated that the indicated party represents the named Judges in the Petition for Review. The Respondents have argued in their 'Answer' that there is no "Judicial Misconduct", while in doing so without including any written evidence to support that notion from any of the Judges. Nor is there any statement provided by the Court of Appeals supporting that notion in its denial of the Motion for Reconsideration, or otherwise. In the absence of any objection in the record by any of the Judges involved from Division II, Holcomb has argued that the judicial misconduct has been proven, or at least this Court should assume in fact and law that it has occurred.

Respondents also argue that the Holcomb's claim of Judicial Misconduct, as it is claimed in its Brief to be supported, but in

actuality ignored by the Respondent, is a matter for filing before the Judicial Misconduct Commission. Under prior case law under the prior Code of Judicial Misconduct, that Commission does not have within its power the authority to decide, alter, cancel, or otherwise affect the merits of a case in which the misconduct occurred. Accordingly, that Commission cannot grant any relief to the Holcomb has petitioned for herein.

The misconduct, as alleged in the Petition for Review, was quite clearly established, causing by and from that the denial of relief on the merits standing alone in the Court of Appeals below. Such claim remains unchallenged without 'Answer' by the Respondent.

In further and subsequent briefing before this Court, Holcomb is prepared to show that under case law misconduct is reviewable as it bears on the merits by a superior reviewing court, but this case law is under the prior Code of Judicial Misconduct and not under the present Code of Judicial Conduct. There is no case law under the present Code of Judicial Conduct adopted by this Court in 2011.

Holcomb argued in his Petition for Review that the Code of Judicial Conduct applies when there is a breach of that Code in affecting a decision on the merits. This Honorable Court should decide this issue now, since it may turn out in the future that this Court would decide then that such misconduct may have been decided already under the prior Judicial Code and still applies. All courts of our State court system need to know the answer to this issue.

Holcomb has no way of knowing whether prior Petitions, or the number of them, since 2011 have advanced a similar claim as raised herein as to judicial misconduct affecting the merits of a decision. Holcomb re-asserts that, after research, case authority referring to this present Code does not exist. Holcomb re-asserts that the Code itself sets forth the Due Process authority and requirements for compliance with the 14th Amendment to the U. S. Constitution, but it is up to this Honorable Court to say so.

This case represents the time and case for this Honorable Court to decide this issue.

Holcomb has had on-going discussion with Ms. Nickel, representing the Respondents, over this judicial misconduct issue. Holcomb's view, expressed to her, is that this should be a joint motion, since it is in the interest of both parties to have this Motion decided before briefs are filed. Ms. Nickel ultimately decided to file her 'Answer' which is consistent with her view of the Judicial Misconduct issue as expressed to Holcomb.

5. Conclusion: Holcomb requests that his Motions herein, or in the alternative, be granted. No proposed Order is included because of the alternative relief moved for.

DATED: January 18, 2014



James Byron Holcomb

CERTIFICATE OF SERVICE:

On this 21st day of January, I deposited in the U. S. Mail, first-class postage prepaid, the Original of the within Motions addressed to:

Clerk of the Court
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

With one copy mailed to:
Ms. Lisa J. Nickel, Deputy Prosecuting Attorney
614 Division St. M/S TB-06
Port Orchard, WA 98366-4681



James Byron Holcomb