

Received
Washington State Supreme Court

OCT 13 2015

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Ronald R. Carpenter
Clerk

92331-1
NO. 89970-3

THE SUPREME COURT OF STATE OF WASHINGTON

KAY B. KAYONGO)	
Pro Se petitioner	)	Court of Appeals No. 71340-0-1
V	)	Trial Court No. 13-2-24279-6 SEA
COURT OF APPEALS, DIVISION ONE	)	REPLY TO THE ANSWER OF DEFENDANT
Respondent	)	TO PETITIONER'S MOTION TO ENLARGE
AND	)	TIME.
WESTFIELD, LLC)	
Defendant)	
_____)	

I. IDENTITY OF RESPONDENT

Pro Se petitioner Kay B. Kayongo

II. ASSIGNMENT OF ERROR

- a. Order to enlarge of time is in the Supreme Court's initiative discretion under RAP 18.8 (a)(b).

- b. The defendant Westfield, LLC is defending the case and liability that he was not defendant attorney of the independent contractor National Janitorial Service Inc. to whom he does not have control over based on the definition of independent contractor who purchased the towel papers were located at mall public restroom in public interest use CP 298-302.



ORIGINAL

FILED AS
ATTACHMENT TO EMAIL

III. FACTS RELEVANT TO MOTION

A) The review of pro se petitioner's claim or counterclaim of Fraudulent Misrepresentation concealment of the identity of the true defendant Independent Contractor National Janitorial Service Inc when he received and reviewed the summons 20 days and complaint on May 29, 2015 and disclosed it only on or about August 6, 2013 which was undecided by both trial and court of appeals, division one courts see at court July 27, 2015 and the statute of limitation is not tolled under RCW 4.16.080 (4) until August 6, 2016.

B) The petition for review was filed and served timely to defendant under CR 6 (a) and CR 6 (e) Additional Time After Service By Mail. The dated original envelope the court of appeals, division one mailed an order for motion for reconsideration and ordered to comply with the time under RAP 13.4 is mailed to the Supreme Court at Temple of Justice PO. 40929, Olympia, WA 98104-0929.

C) The defendant Westfield failed to comply with RAP 10.4(g) The format requirements of GR 14(a) a kind of disrespect of rule of appellate procedure for an attorney even the court will not consider the error.

IV. ARGUMENT

- a. This motion for enlargement of time was timely filed and server to the defendant under CR 6 (a) Computation and CR 6 (e) Additional Time After Service by Mail.

This motion was filed and served timely under CR 6 (a) Computation which states in computing any period of time prescribed or allowed by these rules, by the local rules of any superior court, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a legal holiday, and CR 6 (e) Additional Time After Service by Mail which states whenever a party has the right or is required to do

some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail, 3 days shall be added to the prescribed period.

On August 26, the Court of Appeals, Division One mailed an order for reconsideration plus the 3 days additional of service by mail, is less than 30 days requirement under RAP 13.4 for the petition for review filed with the court of appeals and served to counsel for defendant Westfield, Mr. Peter E. Sutherland on September 28, 2015 and there is any late of filing and serving of the petition issues. The original envelope of court of appeals division one' mailed order of motion for reconsideration to petitioner is mailed to the Supreme Court at Temple of Justice PO. BOX 40929, Olympia, WA 98504-0929. The Supreme Court should grant an order for enlargement of time to proceed this review under RAP 18.8 (a)(b) which is also in the appellate court its own initiative discretion.

- b. The court of appeals division one states on his July 27, 2015 opinion "[A] pro se litigant is held to the same standard as an attorney." See at court opinion July 27, 2015 pge.3 for the error committed by counsel for defendant Westfield.

The Supreme Court should accept and grant accept pro se appellant unprofessional at law all relieves sought for the request on the petition for review due to defendant Westfield, LLC is continuing raising, writing, and defending the issues that are frivolous, vagueness, and nonsense on the entire of this lawsuit proceeding:

1. He raised issue that the petition for review was untimely filed and served when the facts are the petition was timely filed and served to him on September 28, 2015 under CR 6 (a)(e) as it is stated above. The original envelope of court of appeals division one's mailed August 26, 2015 of the order for reconsideration review is mailed to the Supreme Court.

The issues the defendant raised herein are the same as he is defending the claim of

product liability of an independent contractor National Janitorial Service Inc. to whom he does not have control over, nor representing who purchased the towel papers beside of defending his vicarious liability for fraudulent misrepresentation concealment under RCW 4.16.080 (4) for failure to comply with CR 4. summons 20 days to timely raise lack of personal jurisdiction over Westfield under CR 12 to be dismissed as the courts just did in these proceedings for the disclosure of independent contractor to allow more investigation on the product of towel papers when he was not the purchased of them.

2) He also failed to comply with:

RAP 10.4 (g) Citation Format. Which states...The format requirements of GR 14(a) - (b) do not apply to briefs filed in an appellate court,... all pleadings, motions, and other papers filed with the court shall be... The top margin of the first page shall be a minimum of three inches, the bottom margin shall be a minimum of one inch and the side margins shall be a minimum of one inch. All subsequent pages shall have a minimum of one inch margins. Papers filed shall not include any colored pages,highlighting or other colored markings.

See the defendant Westfield's answer to petitioner's motion to enlarge time for the format he applied which is also a kind of disrespect of rule of appellate procedure even the Supreme court will not consider the error from an attorney at law.

- c. Because the defendant Westfield, LLC is focusing on the issues of product liability of an independent contractor to whom he does not control over who purchased the towel papers when he failed to comply with summons 20 days to raise issue of lack personal jurisdiction over Westfield, pro se petitioner provides this clarification statement of the confusion the defendant Westfield's product liability which was properly filed in his name CP 384 which was the liability of independent contractor National Janitorial Service Inc who purchased the towel papers, petitioner did not file premise liability defendant raise when he failed to comply with summons 20 days rule 4 which he and defendant Westfield's vicarious liability for Fraudulent Misrepresentation Concealment of the identity of the true defendant independent contractor National Janitorial Service Inc. CP 298-302 under the statute of limitation RCW 4. 16. 080 (4) which needs the Supreme

Court to accept and grant petition on the undecided or unsettled issue see at court of appeals division one July 27, 2015 opinion and on defendant Westfield's answer to motion to enlarge time pge 1-2 (II Assignment of Error and III Fact Relevant to Motion)

The defendant Westfield, LLC is continuing defending the case of product liability he failed to comply with rule 4 summons 20 days for lack of personal jurisdiction over him and liability he was not the defendant attorney of independent contractor National Janitorial Service Inc. to whom he does not have control over nor representing who purchased the towel papers where located at mall public restroom for the public interest use that might have affected thousand people and it was dormant and no one notice of it due to different skin sensibility or people might have skin or health problem and thought could be from different products they used such as make-up, lotion save cream, razor and so on...and who was also in maintenance of safety of public restroom, and is trying to excuse it by raised issues of premise liability by on October 21, 2013 when it is well stated on complaint based on damages of product liability. The act Westfield fraudulent concealed the identity of defendant in this case when he received the document that was well written under product liability, reviewed and knew that he was not the purchased of towel papers until the time served the purchaser is over constitutes an act crime under RCW 9.01.130 Sending letter, when complete which states:

whenever any statute makes the sending of a letter criminal, the offense shall be deemed complete from the time it is deposited in any post office or other place, or delivered to any person, with intent that it shall be forwarded; and the sender may be proceeded against in the county wherein it was so deposited or delivered, or in which it was received by the person to whom it was addressed and

and an act of THEFT under RCW 9A.56.010 (2) which states

The following definitions are applicable in this chapter unless the context otherwise requires:

(2) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost

or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property

It is an act of felony first degree under:

RCW 9A.56.030 Theft in the first degree which states (1) A person is guilty of theft in the first degree if he or she commits theft of: (a) Property or services which exceed(s) five thousand dollars in value other than a firearm;
with conviction under RCW 9A.20.010(1)(b)(I) which states

Classification and designation of crimes. (1) Classified Felonies (b) For purposes of sentencing, classified felonies are designated as one of three classes, as follows:(i) Class A felony; and sentence under RCW 9A.20.021(1) which states maximum sentences for crimes committed July 1, 1984, and after.

1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following: (a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine for the confession as evidence for statement of defendant admissibility under RCW 10.58.035 Statement of defendant — Admissibility which states: (2) In determining whether there is substantial independent evidence that the confession, admission, or other statement of the defendant is trustworthy, the court shall consider, but is not limited to:

(a) Whether there is any evidence corroborating or contradicting the facts set out in the statement, including the elements of the offense;

(b) The character of the witness reporting the statement and the number of witnesses to the statement;

(c) Whether a record of the statement was made and the timing of the making of the record in relation to the making of the statement; and/or

(d) The relationship between the witness and the defendant.

(3) Where the court finds that the confession, admission, or other statement of the defendant is sufficiently trustworthy to be admitted, the court shall issue a written order setting forth the rationale for admission.

see the court of appeals division one July 27, 2015 opinion pge. 3 states that

Kayongo also argued that Westfield fraudulently concealed the identity of the proper defendant by giving her a Westfield business card in June 2010.

; court of appeals division one July 27, 2015 pge. 5 which states on Samples testified, in pertinent part:

May 29, 2013, while seated at my desk at the Westfield offices, I was approached by a woman who asked if I was the receptionist. When I said, "Yes," she laid papers down on my desk and then left without further explanation. . . . Having no legal training, it was difficult for me to understand what the documents were. Many of them were handwritten, and they included medical records and letters. Having ascertained that the documents were legal in nature, I left them on the desk of Andrew Ciarrocchi, the mall manager ;

and court of appeals division one July 27, 2015 ge. 7 which states:

In support, Westfield submitted the declaration of Southcenter Mall general manager Ciarrocchi. Ciarrocchi testified neither Westfield LLC nor Sea South Center LLC are responsible for manufacturing, retailing, purchasing, or supplying the paper towels at the mall. Ciarrocchi explained that an independent contractor "provides janitorial services at the mall, and that company purchases and stocks paper towels at Southcenter Mall."

The court of appeals July 27, 2015 part of opinion states above are the facts confession admission evidences that make the defendant Westfield to be convicted and sentence under theft for the act of fraud of concealed the true defendant in the action to deprive pro se petitioner's right to sue the independent contractor, the purchaser of towel papers which were at public use that also could have affected thousand of people, but it was dormant, no one notice it, and this also could have included some of lawyers, judges, and any other authorities or having a high standard of living are using the malls might have been affected without knowing, which are also the part of public interest issues for the public health safety, and Westfield concealed the true purchased of the towel papers to whom should allow more investigation on the product. This makes the defendant to be liable under vicarious liability for fraudulent misrepresentation and the trial court abused its discretion to not rule on the claim or counterclaim of fraudulent when there was all evidence in law and in fact presented on pro se petitioner's answer to defendant's motion for summary CP 223-230.

The RCW 9.01.120 Civil remedies preserved states that:

The omission to specify or affirm in this act any liability to any damages, penalty, forfeiture or other remedy, imposed by law, and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared punishable herein, shall not affect any right to recover or enforce the same, and also

The RCW 9.01.160 Application to existing civil rights.

Nothing in this act shall be deemed to affect any civil right or remedy existing at the time when it shall take effect, by virtue of the common law or of the provision of any statute.

Based the issues stated in this petitioner's reply raised from the defendant Westfield answer to motion to enlarge time, this court should allow petition for review under RAP 13.4 (4) on the issue of act of fraud which constitute an act of crime and theft under 9A RCW and 9 RCW under RAP 2.5 (a) Errors Raised for First Time on Review which states ...

However, a party may raise the following claimed errors for the first time in the appellate court: (1) lack of trial court jurisdiction...A party or the court may raise at any time the question of appellate court jurisdiction. A party may present a ground for affirming a trial court decision which was not presented to the trial court if the record has been sufficiently developed to fairly consider the ground.

This is under appellate court jurisdiction based on the court of appeals division one July 27, 2015 opinion, CP 223-230, 384 to allow the record to be sufficiency developed to the fairly consider the ground of the complaint for damages based on product liability for claim or counterclaim for fraudulent misrepresentation which was undecided or unsettled at trial court which constitute abuse of the trial court discretion or lack of trial jurisdiction so did the court of appeals division one. This also needs to be decided before the court of appeals opinion is being published for the record of the public interest use under 12.3 (d)(e).

This court should grant a motion to enlarge time and also should consider all issues presented herein for the issues the defendant Westfield raised on his answer to petitioner's

motion to enlarge time the part of the II Assignment of Error and Facts Relevant to Motion pge
1-2

For any inconvenience of United States of America President Barack Obama's notice order was provided to all parties involved in this lawsuit is because I know he is command system chief , not Market System chief, but he is the supersede father at law of Command and Market System chief of United States of America at moment and forever.

Date October 13, 2015

Respectfully Submitted

S/ benicekayongo

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THE SUPREME COURT OF STATE OF WASHINGTON

KAY B. KAYONGO)	Court of Appeals No. 71340-0-1
Pro Se Petitioner	)	Trial Court No. 13-224279-6 SEA
V	)	AFFIDAVIT OF SERVICE OF
COURT OF APPEALS, DIVISION ONE	)	PETITIONER'S REPLY TO
Respondent	)	DEFENDANT'S ANSWER TO
AND	)	MOTION TO ENLARGE TIME
WESTFIELD, LLC)	
Defendant)	
_____)	

I, Kay B. Kayongo oath:

1. I am pro se petitioner the attorney of the record of the above caption. I am over 18 years old and competent testify.
2. On October 13, 2015, petitioner filed with this court the reply to the answer of defendant Westfield of petitioner's motion to enlarge time through the e-mail attachment at supreme@courts.wa.gov including mailing of the original envelope containing the date the order for reconsideration was sent to pro se petitioner and the original envelope the defendant mailed his answer to motion to enlarge time and his answer to petition for review of petitioners and served a copy of this reply also to the counsel for defendant Westfield Mr. Peter E. Sutherland by e-mail attachment at pes@leesmart.com. The

original of the envelope and other papers are sent to the Supreme Court, not to counsel
for defendant.

Date: October 13, 2013

S/ benicekayongo

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OFFICE RECEPTIONIST, CLERK

To: Bebe Osanyi
Subject: RE: REPLY OF PETITIONER TO DEFENDANT'S ANSWER TO MOTION TO ENLARGE TIME.

Received on 10-13-2015

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

-----Original Message-----

From: Bebe Osanyi [mailto:osanyibebe@yahoo.com]
Sent: Tuesday, October 13, 2015 3:13 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: REPLY OF PETITIONER TO DEFENDANT'S ANSWER TO MOTION TO ENLARGE TIME.

THE SUPREME COURT OF STATE OF WASHINGTON:

The last page containing my hand signature on declaration of petitioner will be mailed.

Kay B. Kayongo