

**SCANNED**

954330

**Petition For Review  
[Rule 13.4(d)]**

**FILED**  
JAN 25 2018  
WASHINGTON STATE  
SUPREME COURT

**court of appeal no# 75174-3-1**

**IN THE SUPREME COURT OF THE STATE OF  
WASHINGTON**

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**MUFFIN FAYE ANDERSON, Petitioner**

v

**SUSAN A. LARSEN, Respondents**

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**PETITION FOR REVIEW**

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Petitioner  
Muffin Faye Anderson  
3503 so Hudson ST.  
Seattle, WA.98118

Attorneys on record  
Respondents  
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FILED  
COURT OF APPEALS DIV 1  
STATE OF WASHINGTON  
2018 JAN 19 PM 4: 12

**Issues presented for review**

**(1)**

**RAP 13.4**

**(c) -(5)**

**I am the Appellant - pro se herein. I have personal knowlege of the matters set forth herein.**

**pro se -Muffin Faye Anderson, filed in the trial court's order to proceed in forma pauperis alone with the summons and complaint June 26, 2015, in Superior Court in Seattle Washington, case no# 15-2-15636-5 - Sea. Anderson plaintiff, v Larsen defendant, 1st. Amend Complaint for an Injunctive Relief, and Damages, Trespassing, Encroaching Intentional, Slit Fence Violation on Property.**

**(1)Appellate live on so Hudson st. plat real property, consist of 20 plat, the appellate who live on plat 19 and grandfather into plat 20 abutting west. The appellee Larsen own plat 18 and addition 5ft. east. Ms Larsen volunteer to by that who live in California, said she paid cash 225,000.00 dollars, she brought the Walker's property on line. Ms Larsen admit to me she flip houses.**

**The property is on a plat which mean it was survey in 1901 an can not  
Pg1**

be re-survey again the history plat 17 was grandfather into lot 16 and 18  
this was call Columbia City then Seattle brought Columbia city in  
1907. Lot 17 sold lot 18 and build the house one foot away off the  
property line and had to give lot 18 another 5 ft on the east side, this is  
docket, therefore, your beef is not with lot 19.

The garage is on the property line with 2 dimenions has no permit.  
2015 or 14 she hired 'True North' conduct a legal survey for Ms Larsen.  
She ask the small claim verbally "to give her 5ft of my land." Judge  
Chirtis was shock, and replied 'give'. This is record

Obvious, the appellee has money, but it don't buy everything but she  
want to take from the appellate, please refer to the hand written  
complaint in the superior filed June 26 2015 case # 15-2-15638 1 sea

I have a boundary survey since 1988

RCW 7.40.030

MALICIOUS ERECTION OF STRUCTURE MAY <sup>B</sup>GE ENJOINED.

An injunction may be granted to restrain the malicious erection, by any  
owner or lessee of land. Of any structure intended to spit. Injure or  
pg2

**annoy an adjoining proprietor. And where any owner or lessee of land has maliciously erected such a structure with such intent, a mandatory injunction will be to compel its abatement removal.**

**[1883 p 44§ 1, part; code 1881 § 154 1/2; RRS § 720**

**Just as we were in the pleading and pretrial motion, Anderson has been damaged with so much emotion and mental distress. September 1, 2015, I had a debilitating stroke which affected my brain, my ability to concentrate and remember. I was advised not to participate in litigation for 8 months. Please refer to medical reports in the court of appeal case#75174-3-1 reconsideration/documents from my doctors dated Oct. 23 2015 please re-fer to court of appeal case# i7574-3-1 date Oct. 23 2017.**

**(2) The defendants knowing that I had suffered a stroke (all three cases) collectively got together and decided to file a motion after motion to have the cases dismissed without giving Anderson the opportunity for justice.**

**(3) Anderson was denied the opportunity to have her case heard as a result of a stroke. The appellate did not file a summary judgment March 18, 2016 I was too weak, but I kept filing those hearings because**  
**Pg3**

**they act as if they didn't hear that I was suffer from a stroke. The lower court I believe was unconscious court.**

**(4) Oct 2 17 order denying motion for reconsideration and and motion to publish. Oct. 2, 2017 unpublished- Dec.19,17 order motion for reconsideration and motion to pudish opionion**

**(5) Even after Anderson informed the trial court of the stroke and how damaging it was to my thought processes, the allowed the case to be dismissed and refused to consider Anderson medical evidence.**

**(6) The Appellate. Anderson without counsel and this case against the Appellee was filed on June 26, 2015 the pleading began around August 2015. therefore, there were no written briefs filed by neither parties to the appeal.**

## **ARGUMENT**

**(7)  
(b) - (1) the decision of the Court of Appeal is in conflict with a decision**

**On September 1, 2015, Anderson suffered a debilitating stroke, which  
Pg4**

**cause me to become disoriented and unable to focus. My speech was slurred and I was unable to think clearly or concentrate.**

**I desperately tried to tell the court that it was unfair for to proceed while I was in this condition but was unable to do so. The court mistakenly took advantage of my poor health condition despite knowing I had a severe stroke, the court did not protect the case, appellees rushed down and filed motions to have my cases dismissed known that I was in no condition to adequately respond to them. The doctor asked that I not be put under the pressure of litigation until I had a chance to get better (well) by April of 2016.**

**The lower dismiss real property on a summary judgment. The motion for a summary judgment is intended to dispose of controversies when the material fact cannot be proved and that the facts necessary to prove the opposing party's case are not provable or are not true.**

### **PROCEDURAL DUE PROCESS**

**IN THE LOWER COURT procedural due process were violated and it must be competent and impartial in order to gain the acceptance of society. The decision-making process must be based on rational principles .**

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## **Ruling**

**In the appellate court sign by Richard Johnson ruling.**

**"this Court will only in extraordinary circumstances and to prevent a gross miscarriage of justice extend the within which a party must file a notice of appeal" RAP 18.(b) "this rigorous test has rarely in report case law. Bostwick V ballard marine, inc. 127 wN aPP. 762, 776, 112 pp,3d 571 (2005) extraordinary circumstances are'circumstance beyond the party's control"Reichelt v Raymark Indus. Inc. 52Wn. App. 763, 765. 764. 2d 653 (1988). Negligence or the lack of reasonable diligence does not constitute extraordinary circumstances. Beck v Dept.of Oc. & Healt Servs. 102WN. App 687, 695, 11P. 3d 313 (2000).**

**I provide my medical records to the court just to show that I was recovering from a stroke that I had suffered was making it difficult for me to think and function in the fall of 2015 through may of 2016. I obtained these sensitive records to demonstrate to the court that defendants had taken advantage of my illness to file coordinated motions to dismiss the cases. My medical history was not to shared with defense counsel except to show the reason why I could not adequated defend myself while I was recovering. I believe that defendants have obtain  
pg6  
details of my medical history as s result of the superior sharing it with**

**them and my privacy has be violated.**

**A stroke constitutes The Americans Disability act**

**April 2016 the plaintiff was force to filed an appeal all three cases**

**In the Appellate Court Anderson's the proceeding, the order on ruling of these court was unfair justice, and with prejudice. These cases was in the Superior Court in Seattle King County and was granted to proceed in forma pauperis in the trial court.**

**On May 24, 2016 the first hearing at the court of appeal the court would not excepted the ruling of in forma pauperis**

**On that hearing the counsel Justin E. Bolster counsel for Susan Larsen said the appellate need to file an order of indigency for this appeal and and the commissioner said he would get back with a ruling.**

**She confirmed that counsel was correct by mail.**

**July 1, 2015 Anderson was not at a hearing, that were without**

**Anderson,as a matter of fact I did know the what the order of indigency or ruling, indigency is a criminal proceeding . the Supreme was unaware of the appellate were informa pauperis in the lower court. The appellate court does not retry the fact of a case. It reviews pg7 the proceedings of the trial court to ascertain whether the trial court**



**acted in accord with the law and reaches its decision by using only the record of the proceedings in the lower court,**

**"Stare decisis",  
the doctrine of precedent, generally dictates that a court follow earlier judicial decision when the same point of law arises again in litigation.**

**LUNSFORD V SABERHAGEN HOLDINGS, Inc.**

**Supreme Court of Washington - En Banc. - June 04, 2009 - 166 Wash.**

**2d 264**

**ROBERSON v PEREZ**

**Supreme Court of Washington - December 01, 2005 156 Wash. 2d 33**

**(b) (4) the petition involves an issue of substantial public interest that should be determined by the Supreme court.**

**The Appellate court has error along with the lower court and trial these cases under the Order of Indigency trial by the way filing a brief and filing designation of clerk's papers and the cost of three cases**

**The court refuse to accept my medical proof of disability and dismissed the cases depriving me of my constitutional right to a jury trial. The**

**trial court's action is considered the action of the state. I was thus**

**deprived of a property right without due process of law in violation of  
pg8**

**the Washington Constitution. When I ask for reconsideration, the trial  
courrefused to consider my incapacity due to a stroke appellant has a  
constitutional right for tow reasons. First, appellant has a procedural  
due process right, under both the Fourteenth amendment to the United  
States constitution and Article 1, section 3 of the Washington State  
Constitution. To a fair hearing before being deprived of my property.  
Second, appellant has a right to a jury trial under article1, section 21 of  
the Wasington State Constitution .**

**For all these appellant has a constitutional right to review and remand  
the case. With oral argument -publish**

**Dated:January 18 2018**

*William Jay Anderson*

**Respectfully summited**

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## AUTHORITIES

**RCW 7.40.030**

**Malicious Erection of Structure May Be Enjoined -----2**

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**Bostwick v Ballard Marine, Inc.x127 Wn, APP. 762, 776, 112 aApp, 3d  
571 (2005) Extraordinary circumstances are' circumstance beyond the  
party's control' Reichelt v Raymark Indus.Inc. 52 Wn. App, 763,  
765,764,2d 653(1988). Negligence or the lack of reasonable diligence  
does not constitute extraordinary circumstances, Beck v Dept. of Oc. &  
health Servs. 102 Wn., App 687, 695, 11P,3d, 313 (2000) ---6**

**I, Muffin Faye Anderson am over the age of eighteen and reside in the state of Washington. I am the pro se of this case.**

**I, declare under penalty of perjury under the law of Washington what the foregoing is true and correct.**

**Dated: this 17th day of January 2017.**

*Muffin F Anderson*

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

MUFFIN ANDERSON,

Appellant,

v.

SUSAN LARSEN,

Respondent.

No. 75174-3-I

DIVISION ONE

UNPUBLISHED OPINION

FILED: October 2, 2017

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COURT OF APPEALS DIV. 1  
STATE OF WASHINGTON  
2017 OCT -2 AM 8:54

BECKER, J. — The trial court did not abuse its discretion in denying appellant's requests for a stay or relief under CR 60(b) because she has not shown how her alleged illness impacted or impeded her ability to prosecute her case. We affirm.

Appellant Muffin Anderson is a Seattle homeowner. She sued her next door neighbor, respondent Susan Larsen, in summer 2015. She alleged claims for trespass, encroachment on her property, malicious erection of a spite fence, and emotional distress. Anderson filed her complaint pro se and has represented herself through the entire proceedings, including this appeal.

Anderson states that she suffered a stroke on September 1, 2015. She made at least nine filings between September 2015 and March 2016 for the purpose of seeking a continuance due to this stroke. She filed several motions to

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stay or to stop proceedings and letters from her doctors. Meanwhile, Larsen moved for summary judgment.

The court held a hearing on March 18, 2016. The trial court granted Larsen's motion for summary judgment and denied Anderson's request for a stay. The court explained that it was denying Anderson's request for a stay because the evidence she submitted was insufficient and because she had not been prejudiced in her ability to pursue the case:

But at one point, Ms. Anderson had asked for a . . . stay of the proceedings. And she had asserted that she had some health concerns going on, and she attached a letter that was purported to be from her doctor's office.

. . . The letter . . . in relevant part, said, my client feels that she can't maintain this lawsuit and . . . therefore, she's asking that it be stayed. I just thought that information . . . was not sufficient, and that's why I denied the motion to stay.

. . . .  
. . . I would also note for the record that Ms. Anderson has asserted that she's had some health issues and that, because of that, she's requested a stay.

The . . . record also is going to support the fact that, despite Ms. Anderson saying that she has health concerns, that actually has not stopped her from filing motions. It hasn't stopped her from filing a response that includes . . . a number of different documents to the defense motion for summary judgment.

So as to whether an actual stay is warranted in this case, . . . it doesn't seem like it's warranted because Ms. Anderson does not appear to have been at all prejudiced in her ability to pursue this action.

Anderson thereafter filed several motions for relief: for a new trial, to strike the summary judgment order and stay proceedings under CR 60(b)(1) and (9), to seal medical documents, and to vacate the order of dismissal and stay proceedings. The court denied these motions on April 6, 2016.



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On April 12, 2016, Anderson filed a motion "to reschedule trial," alleging that she was a "person of unsound mind" under CR 60(b)(2). The court denied this motion the same day it was filed.

On April 19, 2016, Anderson filed seven separate notices of appeal from the two orders of March 18, three orders of April 6, the order from April 12, and an earlier February order denying her motion to vacate and stay.

It appears that not all of Anderson's notices of appeal were timely. A notice of appeal must be filed in the trial court within 30 days after the entry of the decision of the trial court that the party filing the notice wants reviewed. RAP 5.2(a). An appeal from the motion to vacate does not bring the final judgment up for review or extend the time for a notice of appeal. RAP 2.4(c); RAP 5.2(e). Anderson filed all of her notices of appeal on April 19. Therefore, it appears that only the notices of appeal from the orders on April 6 and 12 were timely. Even if we assume all of Anderson's notices of appeal were timely, however, we would still deny her appeal for the reasons explained below.

As a threshold matter, Larsen argues that we should reject Anderson's appeal because her brief does not provide assignments of error or cite to the record or legal authority. See RAP 10.3(a). Anderson does not provide assignments of error, but she does refer to some evidence in the record and to legal authority, including cases, statutes, and a court rule. Although Anderson's brief is inept, we have accepted it.

We review the trial court's decision under CR 60(b)(1), (2), and (9) for abuse of discretion. In re Marriage of Tang, 57 Wn. App. 648, 653, 789 P.2d 118

No. 75174-3-I/4

(1990). We will not overturn the decision unless the trial court exercised its discretion on untenable grounds or for untenable reasons. Tang, 57 Wn. App. at 652. An appeal from the denial of a CR 60(b) motion is not a substitute for an appeal and is limited to the propriety of the denial, not the impropriety of the underlying order. Bjurstrom v. Campbell, 27 Wn. App. 449, 450-51, 618 P.2d 533 (1980). We also review a trial court's denial of a motion to continue a summary judgment proceeding for an abuse of discretion. Barkley v. GreenPoint Mortg. Funding, Inc., 190 Wn. App. 58, 71, 358 P.3d 1204 (2015), review denied, 184 Wn.2d 1036 (2016).

"On motion and upon such terms as are just, the court may relieve a party . . . from a final judgment, order, or proceeding for the following reasons: . . . (1) mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order; (2) for erroneous proceedings against a . . . person of unsound mind, when the condition of such defendant does not appear in the record, nor the error in the proceedings; . . . [or] (9) unavoidable casualty or misfortune preventing the party from prosecuting or defending." CR 60(b)(1), (2) and (9).

On appeal, Anderson attacks the court's denial of a stay. She claims she was denied the opportunity to have her case heard or was denied a full and fair hearing on the merits of her claim because she had a stroke and could not participate in the proceedings.

In its oral ruling, the trial court explained that it was denying Anderson's request for a stay because the evidence she submitted was insufficient and

because she had not been prejudiced in her ability to pursue the case. These reasons are not untenable. They are supported by the record, which shows that Anderson participated in the proceedings during the time period she alleges she was incapacitated. As mentioned, she made at least nine filings during this time.

Anderson has not explained how her alleged illness impacted or impeded her ability to prosecute her case. She has not shown that she was prevented from prosecuting or that her mind was unsound. CR 60(b)(2) and (9). Nor has she shown that there was a mistake, excusable neglect, or an irregularity in obtaining the orders granting summary judgment and denying a continuance. CR 60(b)(1). The trial court did not abuse its discretion in denying Anderson's request for relief under CR 60(b) or her request for a stay.

Anderson also contends that the trial court refused her medical reports or refused to seal the medical reports. The court did accept and consider the letters from Anderson's doctors written to the court. The record reflects that Anderson also sent what she described as confidential medical documents directly to the court, but the court returned the documents to her unread because Anderson did not want the opposing party to see the documents. Anderson has not explained how this return of medical documents was improper, given her refusal to show them to the opposing party.

Larsen requests an award of attorney fees because, she argues, Anderson's appeal is so devoid of merit that it is frivolous. We agree. An appeal is frivolous "if no debatable issues are presented upon which reasonable minds might differ, and it is so devoid of merit that no reasonable possibility of reversal

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exists." Chapman v. Perera, 41 Wn. App. 444, 455-56, 704 P.2d 1224, review denied, 104 Wn.2d 1020 (1985); see also RCW 4.84.185. By this standard, Anderson's appeal is frivolous. Larsen's request for attorney fees is granted, subject to compliance with RAP 18.1(d).

Affirmed.

WE CONCUR:

  
