

FILED
COURT OF APPEALS
DIVISION II

2016 JUL 29 AM 8:13

NO. 48631 -8-II

STATE OF WASHINGTON

COURT OF APPEAL OF THE STATE OF WASHINGTON
DIVISION TWO


DEPUTY

KENNETH SWANIGAN and DR. CHARLIE WALKER, III
PAST GRAND MASTERS

Appellants

v

MOST WORSHIPFUL PRINCE HALL GRAND LODGE
F. & A.M. WASHINGTON AND JURSDICTION and
MOST WORSHIPFUL GRAND MASTER, GREGORY D. WRAGGS, SR.

Respondent (s)

APPELLANTS REPLY BRIEF

Kenneth Swanigan
Pro Se - Appellant
PO Box 2204 - Renton, WA 98056
Phone: (425) 221-2450
Email: kenneth.swanigan1@gmail.com

Dr. Charlie Walker, III
Pro Se - Appellant
4733 West Bertona Street -Seattle, WA 98199
Phone: (206) 387-9282
E-mail: drcwalkeriii@comcast.net

TABLE OF CONTENTS

| | <u>Page</u> |
|------------------------|-------------|
| TABLE OF CONTENTS | I |
| TABLE OF AUTHORITIES | II |
| INTRODUCTION | 1 |
| STATEMENT OF THE CASE | 2 -5 |
| ARGUMENT | 6 - 12 |
| CONCLUSION | 12-13 |
| DECLARATION OF SERVICE | 14 |

TABLE OF AUTHORITIES

Cases

Woolfork's Appeal, 126 Pa. St.47 (1889), (Involving a black group calling itself Masonic) it was observed by the court that "The ancient landmarks of the Masonic fraternity are unalterable.

Smith v. Smith, 2 Desaus 557 (1813; So. Car.) and in *Bayliss v. Grand Lodge of Louisiana*, 131 La 579, 59 So. 996 (1912). On the ancient landmarks are predicated the rules that govern the Masonic fraternity. Nothing can be adopted in derogatory of these landmarks."

Rheubottom v. MWP HGLWA (2003) where Attorney Fowler litigated and prevailed on behalf of his client Rheubottom; Court Rulings has stated, "we don't follow our own laws."

Eugene Nairn v. Prince Hall Grand Lodge of Bahama (2014) where the Supreme Court rule in (Narin) favor based on the conduct of the Grand Lodge.

(*Evans v. Brown*, 134 Md 519, 107 Atl. 535, 1919 and *M. W. Grand Lodge v. Lee*, 128 Md. 42, 96 Atl. 872, 1916)(7 C. J. S. 63) (7 C. J.S. 61, 1980). As a general rule, a member cannot be suspended from or expelled from an association without a fair trial before an impartial tribunal and a reasonable opportunity must be given to defend the charges filed It is established that the proceedings to discipline a member should be conducted in conformity with the rules of the association and the law of the land

Everson v. Order of the Eastern Star, 265 N. Y. 112, 191N. E. 854 (1934), the court held that a member of a fraternal organization cannot be charged with one offense and then be found guilty of another offense.

Universal Lodge v. Valentine, 134 Md. 505, 107 Atl. 531, 1919 and *Evans v. Brown*, 134 Md. 519, 107 Atl. 335, 1919) In accordance with the general rule, membership in a Masonic group cannot be terminated without notice and an opportunity to be heard.

Statues

RCW 10.14.020- (1)

RCW 4.28.185 (1) (b) and (c)

RCW 4.12.0 10

ARTICLE 13.19, ARTICLE 13.22, ARTICLE 15.08

TITLE 200.02, TITLE 202.01 -202.04, TITLE 207.01-207.11

TITLE 302.01-302.04, TITLE 303.01 -302.03TITLE 304.07 - TITLE 308.01

UNCHANGABLE LANDMARKS OF MASONRY

MACKEY'S JURISPRUDENCE

INTRODUCTION

Appellant request that this court DO NOT affirm Judge Schwartz's dismissal of Appellants' Complaint for failure to state a claim because, Respondent failure and refusal to produce discovery evidence.

This is a civil case, were the Appellants have not been given due process.

The court erred in granting Respondents summary judgment with prejudice in without demanding evidence be provided to prove their case. All internal remedies have been exhausted and, Appellants was left with no other alternative but to appeal to the court for justice.

Appellants was given an illegal trial that violated Masonic Constitution and By-Laws and Unchangeable Landmarks.

Appellants was not properly notified and not given opportunity to present their case in the trial or appeal their case before the Grand Lodge and entire membership.

Appellants filed their complaint under Washington State Law RCW 10.14.020- (1) "Course of Conduct" and they have not been give opportunity to prove their innocence due to Respondents withholding Discovery Evidence and their Constitutional Due Process has been violated.

STATEMENT OF FACTS

Respondents brief fails in all parts:

Respondents brief does not lay out all the facts and legal grounds to determine justice of Judge Schwartz's summary judgment in favor of Respondents due to lack of discovery not provided by Respondents.

Respondents brief fail because does not speak to Respondent failure to not comply with Appellant request for Discovery Evidence through the court. (CP 92)

Appellant's complaint was not difficult to interpret, as it was heard partially by Judge Frank E. Cuthbertson and then assigned to Judge Vicky Hogan and later assigned/transferred to Judge Schwartz's court without proper notification. (CP 128)

The court erred in ruling with prejudice granting Respondents summary judgment without demanding Respondents to provide requested discovery evidence by Appellants. (RP 6)

Appellants assert the following:

Respondents failed to ever answer Appellants claim filed on July 9, 2015, under Course of Conduct, Unfair Treatment, and Harassment; "RCW 10.14.020 " (RP 6)

Respondents failed to acknowledge the minutes of the 112th Grand Session, which does not show the entire membership voted by a majority to affirm Appellants suspension. (CP 138)

Respondent Gregory Wraggs, Sr. is the current elected leader, or "Grand Master", of the Grand Lodge who violated the Masonic Constitution and By-Laws. The Masonic Constitution and By-Laws states that "every member has right to Appeal." (RP 7) (CP3) (CP 4)

The Masonic Constitution and By-Laws states that, "the Grand Lodge voting at the Annual Communication; all votes shall be disposition by majority ballot Title 51." (CP 18)

Under Masonic law, the Grand Master of the Grand Lodge has extensive powers to administer the operations of the Grand Lodge, however; the ultimate authority in the Grand Lodge lies with the Grand Lodge membership.

"Under Article 13:19 of the Masonic Constitution all acts of a Grand Master must be approved by the membership or they are null and void." Members has a right to have a Masonic trial before they may be punished with a penalty such as suspension and members, also has a right to appeal any suspension or other punishment to the body of the Grand Lodge. (CP 59)

Appellants asserts, the court erred in not considering the Course of Conduct the Grand Lodge and “Wraggs” violating their rights both substantive and procedural due process (RP 6) (CP 72)

Respondents brief fails at not acknowledging Article 15.08 of the Constitution that states “a member have a right to pursue legal remedies for resolution once all internal remedies of the Grand Lodge have been exhausted.” (CP 17) (CP 49)

Appellants followed all of the internal process of the Grand Lodge and to no avail. The Grand Lodge consistently violates its own rules and process, thus Appellants having exhausted all internal process and had no other recourse but to pursue Civil resolution. (CP 424) (RP 7) (CP 104)

Section 15.08 - No lodge or any member thereof, under the jurisdiction of this Grand Lodge, shall resort to civil courts to establish any right or to redress any Grievances arising out of the membership in the Order or Connected therewith until it or he shall have exhausted the remedies within the order and in a manner provided by the Constitution, laws and regulations of this Grand Lodge.

Respondents brief fails at not acknowledging, that Appellants filed their complaint specifically on the grounds of Washington State Law under RCW 10. 14. 020 - (1) " Course of Conduct", Harassment and Unfair Treatment to which Respondents have failed to answer to justify the conduct displayed by the Grand Lode and “Wraggs.” (RP 6) (CP 138) (CP 146) (153)

Appellants assert that every person in the United States of America have a right to the Fourteenth Amendment whereby " Substantive and Procedural Due Process of Law, is guaranteed in the United States of America to which their rights were violated (CP 167).

Respondents brief fails to acknowledge and omits Appellants Prayer for Relief at their initial filing on July 9, 2015. Appellants requested the court issue a Temporary Restraining Order with relief requested in final attempt to resolve this matter before the Grand Lodge Membership at the 112th Annual Communication. (CP 90)

The court erred at not considering Appellant Motion/Declaration for Temporary Restraining Order and for Order to Show Cause filed on July 9, 2015, that would have allowed Appellant opportunity to present their case before entire membership. (CP 90)

Appellants assert that on July 28, 2015, in accordance with Rule 26 and 34, Appellants requested Respondents to produce Discovery Documents to include the Minutes of the Annual Grand Session and the Appellants Masonic Trial Tapes. (CP 124)

ARGUMENT

Appellants argue that Judge Schwartz erred granting Respondent summary judgment with prejudice in dismissing Appellants Complaint.

Appellants did in fact identify their claim under Course of Conduct that explains in its definitions a pattern of conduct which is composed of a series of acts over a period of time and unlawful harassment" which means a knowing and willful course of conduct directed at a specific person.

Article 13.22 - The Grand Master is NOT be granted unlimited power to set aside any portion of this Constitution and By-laws except in extreme situations/ circumstances which would render great harm to this Grand Lodge. Otherwise, his decisions and actions must be in accordance with the Constitution and By-laws as set forth in this Code Book.

Appellants argues, Respondents state Appellants have not address any relief. Appellant believe a judgment is the final determination of the rights of the parties in the action and includes any decree and order from which an appeal lies. A judgment shall be in writing and signed by the judge and filed forthwith as provided in Rule 58.

In this case, the Appellants have stated a claim for being harassed by the Respondents within the meaning of RCW 10. 14; In fact, Respondent brief fail to show just the opposite is true and the conduct of "Wraggs" and the Grand Lodge.

Appellants argue that Appellant sought Injunction for Temporary Restraining Order that would have allowed them to present their case before the entire body for disposition at the 2015 Annual Meeting.

Appellants argue that the court erred in not considering Appellants motion and ran them around different courts Judge Cuthbertson, Judge Hogan and Judge Schwartz's that prevented their Motion for Injunction from being heard.

Appellants argue that the trial court erred at not allowing Appellants due process and request that their case is remanded back to trial court for a lack of due process and their case be heard by a jury.

Appellants argue Respondent brief fail, because Appellants does state a claim for violation of their Constitutional Due Process rights contained in the Fourteenth Amendment and Washington Constitution.

Appellant argue that Respondent is incorrect to the statue of the 14th Amendment not used in Washington States Court, Appellant shows this amendment applies to all states.

The Fourteenth Amendment's Due Process Clause as encompassing those provisions." Black's Law Dictionary 834 (9th ed. 2009).The Fourteenth Amendment bars "any state [from] depriving] any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1. Under the original constitutional architecture the federal Bill of Rights protected only enumerated rights from federal interference.

Appellants argue that all of issues pertaining to discovery are reviewable issue with regard to discovery, because Appellants did in fact file a motion to compel discovery evidence, again to no avail, Respondent failed, resist and continue to withhold this evidence from Appellant and the court to prove that Appellant is guilty of the accusations made against them.

Appellants argue that all citations mention in their Table of Authorities are relevant because, they show a "Course of Conduct" as in other cases such as Appellants case, others members had to seek the same remedy for resolution by the courts overturn the Grand Lodge decision because, the Grand Lodge violated multiple and vast gross violations in preventing members due process. It's for that reason, Appellants is appealing to the court in this civil matter, that this case to be remanded back to trial court to be heard by a jury for resolution.

Appellants argue that Respondents failed to identify a most recent case in the Table of Authorities that is identical if not similar to Appellants case; *Rheubottom v. MWPHGLWA (2003) where Attorney Fowler Litigated and prevailed on behalf of his client Rheubottom; Court Rulings has stated, we "don't follow our own laws."*

Appellants argue that Respondents actions should be considered unethical and his appearance and argument in this case should be precluded.

Appellants do not see how Respondent Counsel with good conscience can represent his client "Grand Lodge" for violating their own rules, when in fact he represented them in 2003 for breaking the same rule to which Appellants have filed their complaint.

Appellants argue that on July 9, 2015 and July 28, 2015, Appellant requested discovery and Respondent failed to provide requested evidence on both occasions.

Appellants argue that the court erred in the case of the complaint filed by Mr. Lonnie R. Traylor during his trial against the Grand Lodge, whereby Respondents and "Fowler" failed to produce discovery as in Appellants case.

Appellants argue the Grand Lodge violated their own internal rules in accordance with Landmark No. 13, by not allowing due process and failing to afford Appellants opportunity to appeal their case before the entire membership in accordance to unchangeable law that states in part "Every member have the right to appeal before the Grand Assembly."

Appellants argue that Appellant was not properly notified by the Trial Court that after their case had been assigned Judge Hogan on the date of their December hearing.

Appellants argue that the court transferred their case to Judge Schwartz who, ruled to dismiss Appellants Complaint with prejudice on December 11, 2015, without considering any portion of discovery evidence. In fact Judge Schwartz stated in the verbatim court recordings that Due Process did not apply in Appellants case.

Appellants argue the facts through trial and testimony will be disclosed by others who will testify to the behavior and conduct of “Wraggs” and the Grand Lodge not allowing Appellants to appeal their case to prove their innocence before the entire membership.

Appellants argue the court failed at not holding the Grand Lodge accountable for not following it own rules and violating Appellants rights of due process, where the Grand Lodge and (Wraggs) have violated the Fundamental and Unchangeable Masonic Laws setting them aside to unfairly treat, Appellants and demonstrated what is considered a pattern of course of conduct in accordance with RCW 10.1 4. 020.

Appellants argue the court erred in its ruling with prejudice in favor of Respondent summary judgment, because it was contrary to the Masonic Code Book that states in part “The Grand Master is not granted unlimited power and members have a right to appeal before the Grand Assembly.

Appellants assert the court erred with prejudice granting Respondent summary judgment and not consider the requested discovery “Trial and Grand Session Recordings” to affirm the course of conduct of Grand Lodge and “Wraggs.”

Appellants argue the court erred in not properly notify Appellants their case had been transferred, Appellant was informed of the transfer the Day of their hearing and not notified by the court until afterwards.

Appellants argue the court erred with granting Respondent summary judgment with prejudice that Judge Schwartz allegedly received the Appellants case from Judge Hogan on December 10, 2015 to be heard on December 11, 2015, this would mean that Judge Schwartz had less than 24 hour to review the entire case before rendering his decision.

Appellants argue that the court did not consider the Declaration of Mr. Lonnie R. Traylor who gave open testimony that he personally filed his Law Suit on his own free will and accord and have represented himself as Pro Se in his entire case.

CONCLUSION

Therefore, Appellants Kenneth Swanigan and Dr. Charlie Walker, III, argues that Respondents remain in non-compliant of Washington Court Rule (CR 26) (34), and (CR 12) timely filings for Production of Documents and have yet to provide Appellants the information requested.

Appellants respectfully request that this Court remand this case back to Superior Trial Court, to determine that justice is served and this case are heard by a jury and that Respondents not be awarded any attorney fees.

For the foregoing reasons, Appellants respectfully request that the Court remands the Order Granting Respondent Summary Judgment back to Superior Trial Court because it is contrary to Washington State Law.

Masonic Unchangeable Laws and the United State Constitutional Law (Procedural and Substantive) because substantial justice has not been done and that Appellants are given opportunity to present their case before a fair and impartial jury.

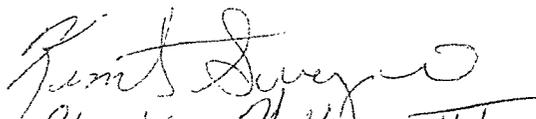
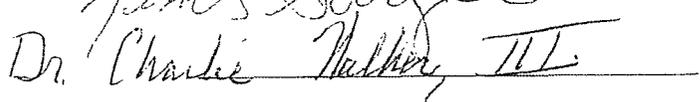
Appellants conclude that justice have been denied because, the Respondents have elected to make a frivolous case based on the grounds of “failure to file a claim.”

In reality, the Respondents is merely refusing or withholding discover evidence, which in effect denies justices to Appellants.

Appellants have not been afforded due process, and their civil rights have been violated.

DATED this 31st day of July 2016

Respectfully Submitted

Signature
Kenneth Swainigan, Pro Se
Charlie Walker, III , Pro Se
PO Box 2204 - Renton, WA 98056
(425) 221-2450 or (206) 387-9282
kenneth.swainigan1@gmail.com

**IN THE COURT APPEALS OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE**

KENNETH SWANIGAN and DR. CHARLIE WALKER, III aka

PAST GRAND MASTERS

Appellant

Pierce County No. 15- 2- 09953- 7

Court of Appeal Case No. 48631- 8

v

**DECLARATION OF
DOCUMENT FILING AND SERVICE**

**MOST WORSHIPFUL PRINCE HALL GRAND
LODGE F.A.M. WASHINGTON & JURSDICTION
and MOST WORSHIPFUL GRAND MASTER
GREGORY D. WRAGGS, SR.**

Respondents

DECLARATION OF DOCUMENT FILING AND SERVICE

I, LONNIE RAY TRAYLOR , DECLARE THAT ON THE 31ST DAY OF JULY 2016, WE, CAUSED THE ORIGINAL APPELLANT REPLY BRIEF TO BE FILED IN THE COURT OF APPEALS DIVISION TWO AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

| | |
|---|---|
| <p>[X] JAMES C. FOWLER, WSBA # 15560 1201 PACIFIC AVE STE 1900 TACOMA, WA 98402</p> | <p>() U.S. MAIL (X) HAND DELIVERED () AGREED E-SERVICE VIA COA PORTAL</p> |
|---|---|