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STATE OF WASHINGTON
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Court of Appeal Cause No.
36565-4-111

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

No. 98676-2

Spokane Slavic Baptist Church, Respondent

v.

Joe Trenchuk, [Petitioner or Appellant]

PETITION FOR REVIEW

Jos Trenchuk, Petitioner
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Ineffective Assistance of Counsel Strickland v. Washington, 466 U.S. 668 (1984)

1. The defendant must show that counsel's performance was objectively deficient, meaning counsel made errors that were so serious that counsel was not functioning as a counsel as intended by the Sixth Amendment; and

2. The defendant must show that the deficient performance prejudiced the defense. In other words, a court must decide that, but for counsel's unprofessional errors, the outcome of the case would have been different.

I. Identity of Petitioner

Joe Trenchuk asks this court to accept review of the Court of Appeals decision terminating review designated in Part II of this petition.

II. Court of Appeals Decision

An unpublished decision was filed on April 7, 2020. A copy of the decision is in the Appendix at pages A-1 through 13.

An order denying a motion for reconsideration was filed on May 28, 2020. A copy of the decision is in the Appendix at pages A-14 through 15.

III. Issues Presented for Review

Appeals Court Unpublished Opinion

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a. Purported performance of modified deposit agreement

b. Purported performance of deposit agreement

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IV. Statement of the Case

1. The "Agreement" between the Slavic Baptist Church, Ivan Kriger and Joe Trenchuk was not presented to, nor signed by Joe Trenchuk. Handwriting expert, Hannah McFarland, determined that the signature could not be verified that it was a genuine signature of Joe Trenchuk.
2. As the enlarged copy of the "Agreement" shows, partway through the signature the signer makes a big mistake in writing Mr. Trenchuk's name. Certainly, Mr. Trenchuk knows how to write his own name and would not have made such an error. Mr. Trenchuk has maintained from the beginning that his signature was forged.
3. Mr. Kriger was not present with Alek Sipko, Pastor, and Alek Solodyankin, Administrator, and Mr. Trenchuk at the meeting in the Slavic Baptist Church Chancery at 7:00 P.M. on May 14, 2014, in which Mr. Sipko told Mr. Trenchuk that the church did not trust Mr. Kriger. Mr. Trenchuk was not told to hold the check for any length of time, but rather that he would be presented with the check and the wire instructions the next day to send the money to the loan company.
4. If Mr. Trenchuk had received the check and signed the Agreement on the day of the meeting, they both would have been dated for May 14, 2014, not May 15th. It was too late in the evening for the transaction to be completed on May 14, thus the meeting that was arranged at the front doors of the Chase Bank when it opened the next morning, May 15, 2014. This meeting at the bank was arranged for fraudulent purposes, as Mr. Trenchuk was not informed that he would be wiring the non-refundable money to Kennedy Funding and that he would henceforth be the guarantor of those funds to the church.
5. Mr. Sipko asked Mr. Trenchuk to meet Mr. Solodyankin at Chase bank upon its opening the next morning. Mr. Sipko said that Mr. Solodyankin would give him a check and the instructions to send it to the loan company, as it was supposed to be for the buying of the Fred Meyer building. Mr. Trenchuk did meet Mr. Solodyankin at the door of the bank the next morning, May 15, 2014, and Mr. Trenchuk was handed a check for \$250,000 and a piece of paper with the wiring instructions. Mr. Trenchuk immediately entered the bank and gave both items to the bank, without even looking at the paper that he handed to the bank teller. He was simply following the directions Mr. Sipko and Mr. Solodyankin had given him. He felt this was their money and no concern of his own.
6. As far as Mr. Trenchuk knew this was the end of the matter. The term refundable had never been presented to Mr. Trenchuk verbally nor in writing, and would not have made any sense to him. He had

done what he was asked to do, and the money was no longer in his possession. There was never any agreement for Mr. Trenchuk to hold the money in his account for up to 30 days. Mr. Trenchuk was not asked to return the money after 30 days; he was never asked to return the money until he was served with the lawsuit. The "Agreement Letter with Joe Trenchuk Trust" of May 15, 2014, was never presented to Mr. Trenchuk, and he did not see it until he was served two years later. The drawing up of this "Agreement" was done after the fact for fraudulent purposes.

7. Much was made by Mr. Lockwood, attorney for Joe Trenchuk, of the fact that the check was deposited on the 15th and that five days passed before the transfer was made on May 20, indicating Mr. Trenchuk had performed two separate transactions. Upon looking at a calendar for May 2014, it is quite clear that the five days consisted of a week-end and the 3 business day waiting period for the check to clear before being able to transfer the funds.
8. The whole document referred to as "Agreement" by the court, is fraudulent. Much was made by Mr. Lockwood of the idea that Mr. Trenchuk must have signed it and must have signed something, because it only made sense when he was given the \$250,000 check. Mr. Lockwood repeatedly insisted, over Mr. Trenchuk's objections, saying, "You signed it, Joe. You signed it!" However this was not true and was not necessary, because Mr. Trenchuk was not given the check at the meeting. Mr. Solodyankin had possession of the check up to the point Mr. Trenchuk entered the Chase Bank, with the wire instructions provided him by Mr. Solodyankin. The check was never meant to remain in Mr. Trenchuk's account.
9. Mr. Lockwood, has insisted to Mr. Trenchuk that he must allow him to defend him according to the accusations of the church leaders, and that since there were three witnesses agreed against him their story was the only thing that made sense (though one of the three witnesses, Mr. Kriger, wasn't even present). Mr. Trenchuk was pressured and coerced under duress by ineffective assistance of counsel, into signing things that his attorney insisted must be so, over Mr. Trenchuk's objections. Mr. and Mrs. Trenchuk, suffered greatly during this time. He from a nervous breakdown and she having multiple strokes due to the stress of dealing with this situation, with Mr. Trenchuk was caring for his ailing wife, until her death last year. Mr. and Mrs. Trenchuk both 88 years old when they were served, were vulnerable adults, being seriously mistreated throughout this process from the beginning. Mr. Kriger has been sued and lost the cases and is being sued in a number of cases for extorting money and property from elderly persons.

10. Mr. Trenchuk had never been asked by the church to return the money. He did not receive the two letters in May 15, 2015, or May 10, 2016, that were noted in the court record, and there is no evidence these items were served to him, or received by him i.e. by certified mail. He told Mr. Lockwood this, but Mr. Lockwood would not accept a negative answer and continued to make the accusation that it did not matter, because Mr. Trenchuk had signed the "Agreement"; even though Mr. Trenchuk repeatedly insisted that he did not sign it. The letter of May 10, 2016, called "Formal Notice" asking for the money to be returned, because the church had learned the Fred Meyer building had been sold, shows that the church representatives were not attempting to get the money back after 30 days, or after one year but only as a result of the building being sold two years later, causing their attempts to purchase it to cease. Again, there is no evidence presented that Mr. Trenchuk received this letter or refused to return the \$250,000.
11. On December 4, 2015, there was an email from Alek Solodyankin to Ivan Kriger, addressed to "Canada Funding" stating that "the Church Committee of Spokane Slavic Church along with Green Global have decided not [to] pursue the loan at this time from Canada Funding due to certain circumstances, which the church can not put up with it any longer. That is why we request church money \$250,000 which were deposited to your bank to return it back to Spokane Slavic Baptist Church account" (with routing number and account number included).
12. The above quoted email again shows that the church via their Administrator, Alek Solodyankin, knew fully well that the \$250,000 had gone to Kennedy Funding and had not even asked for it back from them, until December 2015. Again, we can see that they had not requested the \$250,000 from Mr. Trenchuk at this time. In this email it appears that either Mr. Solodyankin does not know that Mr. Kriger has already cancelled the loan on July 1, 2014, receiving the \$30,900 into Mr. Kriger's Green Global account, or that Mr. Solodyankin is colluding with Mr. Kriger to deceive the church.
13. As late as April 2, 2016, A "Letter of Interest" was drawn up on church letterhead with Alex Solodyankin's signature on it. The Letter states that "We, Spokane Baptist Church still interested in the purchase of former Fred Meyer Bldg." and goes on to state that "Original agreement between Spokane Slavic Baptist Church and Green Global was that the church agrees to pay \$2.5 millions for this property and it was in 2014 and this purchase should be closed before July 2014. Church paid \$250,000 to purchase the loan to buy this property." Then continues, "Purchase of this property still has not

happened and it was not due the circumstances related to the church and the church could not control it, but waited and waited. For these past 2 years we can see dramatic depreciation of this former Fred Meyer Bldg. According to the City Appraisal the assessed value of this building dropped more than 50%. Also as a church we lost valuable time and could have continued construction at the present church location. Considering all circumstances we respectfully ask you to reduce our price for 15% (375,000). And sell it for \$2,125,000.00. On behalf of the Church Board of Spokane Slavic Church," signed by "Aleksandr A. Solodyankin, Administrator of Spokane Slavic Baptist Church."

14. Again, we see that the Alek Solodyankin acknowledged that the \$250,000 was to "purchase the loan to buy this property". This is exactly what the purpose of the transaction with Kennedy Funding was, and at this time they had not asked for the \$250,000 to be returned but had "waited and waited".

15. There is no record of an answer being sent by Mr. Trenchuk indicating he would not refund the money to the church. Had Mr. Trenchuk received such a request, he would have been alerted to the situation and knowing that he did not possess the money, would have gone to an attorney immediately. These letters claiming to have been sent to Mr. Trenchuk are false. Somebody decided to draw these letters up to use for false evidence for fraudulent purposes, though they were never sent to Mr. Trenchuk. Certainly they would have been sent via certified mail in a matter of such importance by the representatives of the congregation of the Slavic Baptist Church, especially since no response was received.

16. The fact that the "Agreement" states that the money was to be deposited into Mr. Trenchuk's Trust Account is also a red flag. Mr. Trenchuk had no Trust Account and surely would have recognized that before signing the document. The first check made out to the "Joe Trenchuk Trust Account" had to be voided and a second check written, but the "Agreement" does not reflect this fact. The author of this "Agreement Letter" was trying to fraudulently represent Mr. Trenchuk as a guarantor without full disclosure of the intents and purposes.

17. The "Agreement" was not notarized. In light of the fact that Mr. Sipko and Mr. Solodyankin were making an agreement involving a quarter million dollars in the name of and for the benefit of their congregation, they should have had the document notarized. It would have been impossible to have the document notarized at the meeting, as the check was not written, the document was not drafted, and Mr. Kriger was not present, as is falsely represented by the "Agreement." Also a notary public would have made sure that the parties present understood the agreement. The Spokane Slavic Church was not

unfamiliar with notarizing documents. When they borrowed the \$200,000 from the Moldavian Church to use toward the \$250,000 in question (according to the testimony in this case) the signatures, including those of Mr. Sipko and Mr. Solodyankin, were notarized.

18. Mr. Trenchuk had not been included in the February, 2014 agreement for Ivan Kriger/Green Global to finance the purchase of the Fred Meyer building for the Slavic Baptist Church. The idea that the May 15, 2014 "Agreement" should take the place of the detailed agreement that Mr. Kriger had with the Slavic Baptist Church to finance the Fred Meyer building is completely without foundation. There is nothing on the record that states that the first agreement is voided and being replaced by this "new" one, and there is nothing in this "new" one, that suddenly links Mr. Trenchuk to the original agreement. The only thing that connects this fraudulent "Agreement" and Mr. Trenchuk's forged signature to the previous loan agreement with Ivan Kriger/Green Global, is Mr. Kriger's signature as "Ivan Kriger Green Global". However, as stated previously Mr. Kriger was not present, and Mr. Trenchuk was not engaging in an agreement to finance the Fred Meyer building for the Slavic Church but only to assist them in allowing the money to go from his account directly to the loan company.

19. Mr. Trenchuk had not been included in the Ivan Kriger/Green Global loan application to Kennedy Funding for Silver Mountain etc. prior to the church being brought onto the loan application, nor when Kennedy Funding accepted the terms for the church being brought onto the loan application. Mr. Kriger had no way to pay for the \$21 million Kennedy Funding loan, yet Mr. Kriger went ahead with the loan anyway using the money from the church to secure the loan application. Mr. Kriger continued to request more funds from his brother-in-law, the church administrator, Alek Solodyankin, for the loan even after the loan was cancelled. This whole loan application was for fraudulent purposes. Mr. Trenchuk was not part of this loan application and could not benefit from it.

20. In fact, "Draft 6" of the Loan Application was presented as evidence, which had Mr. Trenchuk's name fully crossed out on the "renewed" application form; (using as a template the previous application for Silver Mountain in which Mr. Trenchuk had been involved, but which was now long dead: Asset Purchase Agreement dated March 28, 2013). In that case, Mr. Kriger also cancelled the loan Purchase Agreement and Mr. Trenchuk lost his \$1.2 million in the non-refundable downpayment process. Had Mr. Trenchuk been informed that he was covering for a non-refundable loan, he would have absolutely refused to fall into Ivan Kriger's trap again.

21. The May 16, 2014 and May 27, 2014 Purchase Agreements drawn up by Ivan Kriger/Green Global, to purchase Silver Mountain attempting to re-use the \$1.2 million earnest money already forfeited from the Asset Purchase Agreement dated March 28, 2013, (which attempt was denied), are in conflict with "Draft 6" for the Kennedy Funding loan specifically deleting Mr. Trenchuk's name, address and Social Security number from the Application. This also shows that Mr. Kriger was still attempting to use Joe Trenchuk's name and money, but without Mr. Trenchuk's knowledge or benefit. Mr. Trenchuk was not part of this re-attempt to purchase Silver Mountain, nor was he included in the Loan Application to finance it.

22. Aleksandr Sipko and Aleksandr Solodyankin were fully aware that the \$250,000 would be transferred to Kennedy Funding specifically for the purpose of obtaining the loan for Silver Mountain and the Fred Meyer building. Mr. Sipko and Mr. Solodyankin also knew that the \$250,000 would be non-refundable from Kennedy Funding and that they were representing to the Slavic Baptist Church that the money would be refundable via Mr. Trenchuk. However, Mr. Trenchuk was completely unaware of this matter.

23. E-mails show Mr. Sipko and Mr. Solodyankin knew that the non-refundable \$250,000 was the amount needed for the loan with Kennedy Funding, so that Mr. Kriger could purchase the Fred Meyer building and finance it for the church. Yet they claim a new "Agreement" with the same amount, \$250,000 for the closing of a loan with Green Global within 30 days, without going to Kennedy Funding, when there was no Purchase Agreement for the Fred Meyer building. This is a false claim.

24. There is no evidence to suggest that the church leaders had reason to think, or that they did think that Mr. Kriger was suddenly able to purchase the Fred Meyer building to sell it to them without getting outside financing and that the \$250,000 would be used as closing costs for a loan Green Global would suddenly have the ability to give them, which they had previously known would come from the proceeds of the loan he got from Kennedy Funding. Also the supposed "new" Agreement with Mr. Trenchuk "Trust" does not outline the details of any such loan, as the agreement with Mr. Kriger does.

25. Much was made by Mr. Lockwood of the fact that the wire transfer receipt at Chase Bank said it was to be applied to Silver Mountain and not the Fred Meyer building. This is clearly explained by the fact that Mr. Kriger (with Mr. Solodyankin's knowledge) was adding the Fred Meyer building onto the loan application with Kennedy Funding for Silver Mountain, (which would have been the only collateral for this loan). This is shown in Schedule "B" of the Loan Commitment as pointed out to the church in an

email with the said document as an attachment. Mr. Trenchuk was not involved in this loan application, nor was he in any way in a position to benefit from it.

26. On June 30, 2014, in an email to Kevin Wolfer President and CEO of Kennedy Funding Financial, LLC, Fred Houck, for Ivan Kriger, cancelled the loan with Kennedy Funding, for the stated reason that, "Ivan has decided to wait for a couple months as you suggested and come back at Jeld-Wen with an offer then. Hopefully they will be more realistic at that time. Ivan consulted with another affiliate over the weekend, and he backed up what you were saying to let Jeld-Wen cool down for a couple months. Please do not worry about engaging an appraiser at this time. Please return the balance of the \$50,000 less expenses. Let me know if you need wiring instructions." (Jeld-Wen was owner of Silver Mountain).
27. On July 1, 2014, the answer came back via email from Mr. Wolfer, Kennedy Funding, to Fred Houck CC: Ivan Kriger via email, stating, "Understood. We will have a release emailed to all later today [Joe Trenchuk was not part of this email "to all"], and upon receipt of such, we wire back \$30,900. \$50,000-\$19,100 cost of the American Property Research Evaluation Report [this \$19,100 was still the church money, but benefited only Mr. Kriger]. **Please provide wire instructions for the same bank account where the wire was initiated.** Thank you."
28. On July 1, Ivan Kriger in an email to Fred Houck, CC: Kevin Wolfer and others, said, "Hello Kevin, Provided below is the bank information." "The original bank wire: Bank: Chase Account Holder: Green Global, Enterprises. LLC Account Number: 4414088496." This is verified with a deposit slip of the \$30,900 being wired into the above named account.
- However, the original bank wire came from Joe Trenchuk's account on May 20, 2014. This is verified with a wire transfer slip from Mr. Trenchuk's account.
- This is also verified in the language of the release agreement: "The release, dated July 1, 2014, indicates the release is for "More particularly.... Loan Commitment dated May 21, 2014, between the Releasor (Kennedy Funding) and the Releasee (Ivan Kriger)."
29. Kennedy funding requested the "bank account information for the bank account that the check had been initiated from", and Ivan Kriger fraudulently gave his own bank account number/Green Global and kept the money for himself. Again showing that Mr. Trenchuk was not being included in Green Global, as he was not notified of this transaction, nor did he receive any benefit from it.

30. This amount, which turned out to be \$50,000-expenses, leaving \$30,900 was not put back into Mr.

Trenchuk's account (as supposed by Kennedy Funding) to be "refunded" to the church as it surely would have and should have been, nor was it given to the church to be subtracted from the \$250,000 amount that they sued Joe Trenchuk and Ivan Kriger /Green Global for. Ivan Kriger/Green Global was later released from the lawsuit, while Mr. Trenchuk was left to repay the full amount plus interest.

31. Mr. Kriger claimed the church had been given the \$30,900 from Green Global. Over Mr. Trenchuk's, repeated objections again, Mr. Lockwood simply kept repeating that the church had not received the \$30,900 so it could not be subtracted from the \$250,000 and pursued it no further. Even though the documents were in his possession for the email and release.

32. No countersuit was filed by Mr. Lockwood. Mr. Trenchuk was not made aware of the option for countersuit until he was seeking other counsel for this Petition on August 19, 2020. This was Ineffective Assistance of Counsel in a fraudulent matter on the part of Mr. Lockwood.

33. The Summons said that personal enrichment was the cause of this strange act. But Mr. Trenchuk was never enriched by this, and he was never in a position to be enriched by it, as he was not involved in the loan to acquire any property; and he was only doing a favor for the church, because he could understand their not trusting Mr. Kriger because of Joe's previous personal and business dealings with him. Mr. Kriger was the only person "enriched" by this strange set of circumstances, in using the church's money for the downpayment on the \$21 million loan and in retrieving the refund that belonged to neither himself nor Green Global. Yet somehow Mr. Kriger and Green Global were released from the lawsuit.

34. If, as the Appellate Court found, Joe Trenchuk was acting as an agent for Green Global, LLC, then how is it that his personal property is being taken, when as an LLC that would not be possible? If he is having his personal property taken because he was acting independently of Green Global, then why is he being held responsible as a guarantor on a loan agreement that he was not a part of as Green Global? Mr. Kriger effectively took "possession" of the \$250,000 to use for the loan from Kennedy Funding as evidenced by the fact that he unilaterally cancelled the loan, applied for and received the 20% refund (minus expenses): monies that did not belong to him. Yet, Mr. Kriger is not being held responsible for the \$250,000 simply because he and the Slavic Church, specifically, Alek Sipko and Alek Solodyankin, schemed to have the money slide into and out of Mr. Trenchuk's bank account to no benefit whatsoever

of Mr. Trenchuk. Then the Slavic Church released Mr. Kriger from the lawsuit and left a 90 year old man to "hold the bag" for them. This is fraud.

35. The "church" including Alek Solodyankin appears not to be aware for some time that the loan had in fact been cancelled, and continued to ask Ivan Kriger (his brother-in-law) in a thick stack of telephone texts to tell him what was happening with such frustrated and emotional pleas as late as July 2017, as to what he would tell the church and how he could regain his good name since he was guilty of giving Ivan the \$250,000, and Ivan would not even now respond to his calls and texts. April 18, 2015 Ivan Kriger is still saying, "Hi Alex I got all the numbers to close Fred Meyer, KF has \$250,000 for the loan. I need on Monday \$30,500 and then \$10,000 in two weeks for the appraisal." These texts also question Mr. Kriger if they should ask Joe for the money, and as late as August 4, 2017 Mr. Solodyankin is asking Mr. Kriger "if he has talked to Joe about getting back the money." These texts were presented as evidence, but many of them were in Russian and not translated for the court. Mr. Lockwood's neglect in not having these texts translated, for the benefit of his own client's case, even though there was a Russian translator in the courtroom, again shows the ineffective assistance of counsel given to Mr. Trenchuk.

36. Mr. Lockwood again demonstrated his lack of effective counsel by failing to follow up and have Mr. Trenchuk's statement notarized stating that he had been confused when he had mistakenly made his statement that Mr. Kriger rather than Mr. Solodyankin had been the one who told him to transfer the funds. Mr. Trenchuk has always maintained that it was Mr. Solodyankin that handed him the piece of paper containing the wire instructions at the same time as he handed him the \$250,000 check outside the Chase Bank on May 15, 2014.

37. June 13, 2019 Ivan Kriger signed that he "wanted to give a statement that Joe Trenchuk is not responsible for the \$250,000 of the Slavic Church. Joe had nothing to do with the deal. I was responsible for it and I take all the blame. It was set up against Joe by me and my brother-in-law to ensure the money if I lost the deal and it didn't go through." This was presented to Mr. Lockwood for the first case, but he had not wanted to accept it and said he overlooked it in the file and did not present it to the court. Another statement by Mr. Kriger, dated 4/26/20 was also given, and this time Mr. Lockwood tried to present them as part of the Appeal, but the Appeals Judge would not look at them saying they were "new" evidence. This second declaration includes the statement that "Joe Trenchuk never signed \$250,000 will be refundable to the church." A third statement made by Mr. Kriger (now signing as

Evann Solomon) on 4/20/20, "Joe never signed any agreement stating the \$250,000 given to the church was refundable. One of the leading members of the church fabricated the documents that were shown to the church. All the documents that were submitted to the court with Joe's signature should be checked out thoroughly. They should be checked if the signatures are authentic and original. Anyone can fabricate a printed signature." Thus Mr. Ivan Kriger has signed and/or handwritten several statements, voluntarily admitting and strongly suggesting a massive conspiracy against Mr. Trenchuk by himself and the Slavic Church leaders. He would not go so far as to sign the Declaration he had verbally made to Mr. Lockwood for fear of incriminating himself. Mr. Kriger also gave Mr. Trenchuk the name and number of Mrs. Vera Segia, saying that she decided to quit working for the church because of their corruptness, including forgery.

V. Argument Why Review Should Be Accepted

- 1) The material facts in dispute were not presented due to Inefficient Assistance of Counsel and had they been presented should have resulted in the dismissal of the Summary Judgement.
- 2) The May 15, 2015 "Agreement" was not signed by the Petitioner. The signature cannot be verified that it is Mr. Trenchuk's. Mr. Trenchuk always insisted to Mr. Lockwood that he had never signed anything, and that he had never seen the "Agreement" until he was sued. There was not a disinterested witness nor a notary public to witness this "Agreement". The "Agreement Letter" and the purpose of placing the money into Mr. Trenchuk's account were fraudulent.
- 3) This fraudulent "Agreement" was not presented to Mr. Trenchuk as replacing the previous agreement, nor was it sufficient to rescind that agreement for Mr. Kriger to secure funding to purchase the Fred Meyer building and sell it to the Slavic Church, on loan terms with Green Global. There is no evidence Mr. Kriger/Green Global could supply the funding on his own with just \$250,000 closing costs without an outside funding company.
- 4) Mr. Trenchuk had never received a letter of request for the return/refund of the \$250,000 until he was served with the lawsuit. It cannot be proved that he received them by certified mail, which would have

been reasonable to expect in this serious of a matter. The December 2015 email to ask the funding company for the \$250,000 and text messages as late as August 2017, show that the church had not asked Mr. Trenchuk for the money. The letters presented were contrived to defraud.

- 5) Mr. Kriger created a loan application he had no ability to perform, effectively took possession of the \$250,000 for his own enrichment, canceled the loan for his own purposes and received refunded monies into his account, when Kennedy Funding had specifically asked for the wire instructions from the same bank account where the wire initiated from. He then claimed to have given the refunded monies to the church. No countersuit was filed separating this matter from the Summary Judgement, nor was Mr. Trenchuk advised that this was an option. Ivan Kriger/Green Global were released from the lawsuit after defrauding the church and Mr. Trenchuk, leaving Mr. Trenchuk to pay the full amount.
- 6) Mr. Trenchuk was not acting as an agent or member of Green Global nor was he involved in the February 2014 agreement to finance the Fred Meyer Building, nor in the loan application for Silver Mountain and the Fred Meyer Building, nor was he enriched or in a position to be enriched by it.
- 7) The document saying the money was to be returned in 30 days was fraudulent, and in the verbal agreement there was never a discussion for Mr. Trenchuk to hold the money in his account for 30 days.

VI. Conclusion (relief being sought is:)

1.) As the purpose of the fraudulent "Agreement" was to surreptitiously make Mr. Trenchuk the guarantor for \$250,000 which was non-refundable from Kennedy Funding, the relief sought is that the court Void Judgement against Mr. Trenchuk for \$250,000, plus all interest accrued to present.

2.) As the document was fraudulent and there was never an agreement for Mr. Trenchuk to hold their money in his account for 30 days, and there is no evidence that Mr. Trenchuk received letters requesting him to refund the money, or that he refused to do so, the relief sought is that the court Void Judgement and award all legal fees for defending against a false claim.

3.) Mr. Kriger effectively took "possession" of the \$250,000 to use for "his" loan from Kennedy Funding (which has been shown that Mr. Trenchuk was excluded from) as evidenced by the fact that Mr. Kriger unilaterally cancelled the loan, applied for and received the 20% refund, monies that did not belong to him, in complete disregard for the request from the lender, Kennedy Funding, to give the bank account information for the initiating \$250,000 check. Mr. Kriger fraudently deposited \$30,900, which should have been returned to the church and should be held accountable, rather than being released from the lawsuit and Mr. Trenchuk having to pay it. Mr. Kriger in collusion with Alek Sipko and Alek Solodyankin are the ones responsible for the full \$250,000 with interest to the Spokane Slavic Baptist Church.

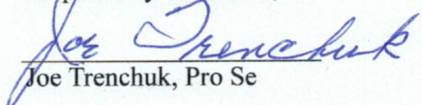
4.) To Void Judgement and overturn the Summary Judgement based on Ineffective Assistance of Counsel and material facts of disagreement, and Discovery Rule

5.) Wherefore I respectfully seek from this court that you will see to justice being served by granting the Void Judgement, Ineffective Assistance of Counsel, Fraud, and Discovery Rules that have been Petitioned before this court. This injustice affecting Mr. Trenchuk's health, his wife's health (whom is now deceased), their quality of life and financial damages due to their property having liens put on it and their money being tied up with the court demands compensatory damages.

6.) Mr. Trenchuk has suffered much due to this deceitful use of his good will offered to those members of a church whom he sought to help, whom he trusted and in whom he meant no ill will. This has been a gross miscarriage of justice. Please carefully consider each point. I know you will do your best to carry out justice in this case and thank you in advance.

August 20, 2020

Respectfully submitted,


Joe Trenchuk, Pro Se

VII. APPENDIX

A. An unpublished decision was filed on April 7, 2020. A copy of the decision is in the Appendix at pages A-1 through 13.

B. An order denying a motion for reconsideration was filed on May 28, 2020. A copy of the decision is in the Appendix at pages A-14 through 15.

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

SPOKANE SLAVIC BAPTIST
CHURCH,

Respondent,

v.

JOE TRENCHUK, individually and on
behalf of his marital community dba
GREEN GLOBAL ENTERPRISES, LLC,
JOE TRENCHUK TRUST,

Appellant,

IVAN KRIGER, individually and on
behalf of his marital community dba
GREEN GLOBAL and GREEN GLOBAL
ENTERPRISES, LLC, and GREEN
GLOBAL ENTERPRISES, LLC, an
inactive Washington limited liability
company,

Defendant.

No. 36565-4-III

UNPUBLISHED OPINION

LAWRENCE-BERREY, J. — Joe Trenchuk appeals the trial court's order granting summary judgment in favor of Spokane Slavic Baptist Church. He argues there are several genuine issues of material fact that preclude summary judgment. We disagree and affirm.

FACTS

Joe Trenchuk and Ivan Kriger are co-owners of Green Global Enterprises, LLC (Green Global). On February 14, 2014, Green Global agreed to acquire the old Fred Meyer building, and Spokane Slavic Baptist Church (the Church) agreed to purchase it from Green Global for \$2,500,000. The parties agreed that the Church would pay Green Global the purchase price over a period of 25 years at 5 percent interest per year.

From March 20 through May 6, Kriger sent a series of e-mails to the Church. The e-mails generally requested the Church to quickly pay \$250,000 to Kennedy Funding. One e-mail referred to the \$250,000 as "loan fees." Clerk's Papers (CP) at 239. The e-mails explained that the \$250,000 was to facilitate a \$21 million loan Kennedy Funding agreed to make to Green Global, which, in part, would allow Green Global to obtain the old Fred Meyer building. The Church refused to pay \$250,000 to facilitate Green Global's loan with Kennedy Funding.

The parties reached an agreement on May 15, 2014, memorialized by the following deposit agreement:

Agreement Letter with Joe Trenchuk Trust

Spokane Slavic Baptist Church is depositing \$250,000.00 (Two Hundred Fifty Thousand) to Joe Trenchuk Trust account for the purpose of obtaining the loan for the closing [of] the old building of Fred Meyer located at 555 E. Francis Ave. Spokane, Wa.

If the old building of Fred Meyer is not purchased by Spokane Slavic Baptist Church by June 15, 2014, the \$250,000 is refundable.

CP at 20. Mr. Trenchuk signed the deposit agreement on behalf of his trust, Mr. Kriger signed on behalf of Green Global, and two Church representatives signed on behalf of the Church.

In late May 2014, Mr. Trenchuk wired the \$250,000 to Kennedy Funding at the request of Mr. Kriger. The Church did not know of this. As of June 15, 2014, Green Global had not obtained financing from Kennedy Funding nor was it in a position to obtain the old Fred Meyer building, much less to sell it to the Church.

In July 2014, Green Global terminated its arrangement with Kennedy Funding. Green Global released Kennedy Funding from all claims to the \$250,000 in exchange for receiving a partial refund of \$30,900.

In December 2015, the Church and Green Global sent a joint letter to Kennedy Funding requesting a refund of the \$250,000 deposit. Kennedy Funding refused the request. In May 2016 and May 2017, the Church sent written notices to Green Global and Mr. Trenchuk requesting a refund of the \$250,000 deposit. Green Global and Mr. Trenchuk refused both requests.

In October 2017, the Church brought suit to collect the \$250,000 deposit, plus statutory interest. During discovery, the Church sent requests for admission and

interrogatories to Mr. Trenchuk. In one interrogatory answer, Mr. Trenchuk stated, "I was informed by Ivan Kriger that the church had directed him to send the money to Kennedy Funding so they could obtain the loan for the Fred Meyers [sic] building." CP at 375.

The Church eventually moved for summary judgment. Mr. Trenchuk responded to the motion and argued there were material facts in dispute. By declaration, Mr. Trenchuk contradicted his earlier interrogatory answer and claimed a Church representative had directed him to send the \$250,000 deposit to Kennedy Funding.

The trial court disregarded Mr. Trenchuk's inconsistent claim in his declaration, granted the Church's motion for summary judgment, and awarded it \$250,000 plus statutory interest. Mr. Trenchuk appealed.

ANALYSIS

SUMMARY JUDGMENT STANDARDS

When reviewing an order of summary judgment, this court reviews the order de novo. *Keck v. Collins*, 181 Wn. App. 67, 78, 325 P.3d 306 (2014), *aff'd*, 184 Wn.2d 358, 357 P.3d 1080 (2015). This court performs the same inquiry into the motion for summary judgment as the trial court initially did. *Id.* The evidence and any reasonable inferences are construed in a light most favorable to the nonmoving party. *Id.* at 78-79. Summary

judgment is only appropriate when no material facts are at issue, and the moving party is entitled to judgment as a matter of law. *Id.*

PURPORTED ISSUES OF MATERIAL FACT

Mr. Trenchuk argues the trial court erred by granting summary judgment because there were genuine issues of material fact. He argues (1) the deposit agreement was modified, (2) he complied with the modified deposit agreement and even the original deposit agreement, (3) the Church received a refund, and (4) the Church was partly at fault for its damages. In addition, Mr. Trenchuk argues the deposit agreement was unconscionable. We address the unconscionability claim first.

1. Unconscionability claim

A contract is unconscionable if it is either substantively unconscionable or procedurally unconscionable. *Nelson v. McGoldrick*, 127 Wn.2d 124, 131, 896 P.2d 1258 (1995). Substantive unconscionability is found only where a contract is so one-sided that it can be called “shocking to the conscience,” “monstrously harsh,” or “exceedingly calloused.” *Id.* Procedural unconscionability is found where the manner in which the contract was entered hid the terms of the contract or removed a party’s ability to reasonably understand the terms. *Id.*

Mr. Trenchuk argues the deposit agreement allowed the Church to trick him into being a guarantor before it directed the money to Kennedy Funding. He argues the Church knew the money would be wired to Kennedy Funding and would be nonrefundable. This argument is not supported by any admissible evidence.

Mr. Kriger repeatedly asked the Church to send \$250,000 to Kennedy Funding as a nonrefundable loan fee. The Church refused to do this. The parties then entered into the deposit agreement. The deposit agreement was very simple. It required Mr. Trenchuk to deposit the money in his trust, to use the money only to purchase the old Fred Meyer building, and to refund the money on request if the sale did not close by June 15, 2014. Instead of using the money to purchase the old Fred Meyer building, Mr. Trenchuk wired the money to Kennedy Funding. Whether he believed the money would be used to purchase the former Fred Meyer building is immaterial. It was not used in this manner. There is nothing unconscionable about an agreement requiring a person to hold money and disburse it only for a specific purpose.

2. Performance claims

Mr. Trenchuk makes three separate arguments that he performed the deposit agreement. We address each in order.

a. *Purported performance of modified deposit agreement*

Mr. Trenchuk argues the Church, either itself or through Mr. Kriger, modified the deposit agreement to have him send the deposit to Kennedy Funding. This argument is not supported by any admissible evidence.

Referring to his declaration, Mr. Trenchuk argues a Church representative told him to transfer the funds to Kennedy Funding. This argument is barred under the *Marshall*¹ rule.

The *Marshall* rule disallows a party from creating an issue of material fact by submitting a self-serving declaration directly contradicting “unambiguous sworn testimony” the same party made previously. *Sluman v. State*, 3 Wn. App. 2d 656, 697, 418 P.3d 125, *review denied*, 190 Wn.2d 1005, 430 P.3d 254 (2018). This rule is narrowly construed, and, if the party gives an explanation in their affidavit explaining the discrepancy, the court may consider the explanation’s plausibility. *Id.* at 697-98.

Mr. Trenchuk originally answered he was told by Mr. Kriger that the Church had directed him to send the money to Kennedy Funding so it could obtain the loan for the old Fred Meyer building. After the Church moved for summary judgment, Mr. Trenchuk claimed, in his declaration, that a *Church representative* directed him to send the money

¹ *Marshall v. AC&S Inc.*, 56 Wn. App. 181, 782 P.2d 1107 (1989).

to Kennedy Funding. Mr. Trenchuk never explained the reason for his changed recollection of this very important fact. Under the *Marshall* rule, the trial court properly gave no consideration to the later inconsistent statement.

b. Purported performance of deposit agreement

Mr. Trenchuk makes an alternative argument. He argues Kriger told him to send the deposit to Kennedy Funding, and the Church is bound by Kriger's direction because Kriger was the Church's agent. Mr. Trenchuk relies on an agreement letter the Church entered into on November 21, 2013, with Green Global.

In the 2013 letter, the Church authorized "Ivan Kriger, president of Green Global Enterprises to be our sole negotiator on the property known as Fred Meyer—Located at 525-555 E. Francis Ave. Spokane, WA 99208." CP at 219. The letter further stated, "Ivan Kriger has the right of presenting all down payments and purchase price for Spokane Slavic Baptist Church. Also he can enter into a contract with said seller for purchase price and financing, should financing be available with said seller." CP at 219. In the letter, the Church agreed to "pay commissions to Green Global Enterprises Fifty Four Thousand dollars (\$54,000.00) for [Mr. Kriger's] work." CP at 219.

The May 15, 2014 deposit agreement was signed by all participants to the 2013 agreement. The 2014 deposit agreement superseded whatever authority the 2013

agreement granted over the purchase and financing of the old Fred Meyer building. More explicitly, the deposit agreement required Mr. Trenchuk to disburse the Church's \$250,000 deposit for one purpose only, for the Church's purchase of the old Fred Meyer building. Instead, Mr. Trenchuk sent the deposit money to Kennedy Funding, and it was not used for the Church's purchase of the old Fred Meyer building.

The deposit agreement also required Mr. Trenchuk to refund the \$250,000 upon the Church's request if the purchase did not occur by June 15, 2014. The Church never purchased the building. The Church twice requested Mr. Trenchuk to refund the \$250,000, and he twice refused. Even viewing the facts in the light most favorable to Mr. Trenchuk, he did not perform the deposit agreement.

c. Purported performance: The Church purchased the old Fred Meyer building by June 15, 2014

Mr. Trenchuk makes a second alternative argument. He argues he performed the deposit agreement because the Church "purchased" the old Fred Meyer building by June 15, 2014. This argument requires us to determine the meaning of "purchase" as used in the parties' deposit agreement.

We quote the focal sentence of the agreement: "If the old building of Fred Meyer is not *purchased* by Spokane Slavic Baptist Church by June 15, 2014, the \$250,000 is refundable." CP at 20 (emphasis added).

This court interprets undefined terms in contracts according to the plain meaning of the words used. *Syrov v. Alpine Res., Inc.*, 68 Wn. App. 35, 40, 841 P.2d 1279 (1992), *aff'd*, 122 Wn.2d 544, 859 P.2d 51 (1993). Unless a term is open to multiple reasonable interpretations, the issue of interpretation is a matter of law. *Ladum v. Util. Cartage, Inc.*, 68 Wn.2d 109, 116, 411 P.2d 868 (1966).

The word “purchase” has multiple but similar meanings. WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1844 (1993) defines “purchase” as “to get into one’s possession,” “to acquire (real estate) by any means other than descent or inheritance,” “to obtain (as merchandise) by paying money or its equivalent,” and “to obtain (something desired) by an outlay (as of labor, danger, sacrifice).” All of these definitions have a common meaning—acquiring or obtaining. It is undisputed the Church did not acquire or obtain the old Fred Meyer building by June 15, 2014, or even after that date. The Church twice demanded its deposit back, and Mr. Trenchuk twice refused. We conclude Mr. Trenchuk did not perform the deposit agreement.

3. Receipt of refund

Mr. Trenchuk argues the Church received a refund of \$30,900 from Kennedy Funding. Mr. Trenchuk relies on testimony given by Mr. Kriger during his deposition. However, Mr. Trenchuk misconstrues Mr. Kriger’s testimony and the facts in evidence.

During his deposition, Mr. Kriger mentioned an eventual refund from Kennedy Funding. However, this refund, \$30,900, was given from Kennedy Funding to Green Global. Mr. Kriger's deposition makes this clear as does a letter from Kennedy Funding releasing the funds to Green Global. There are no admissible facts to support Mr. Trenchuk's argument the Church received these funds.

4. Responsibility for damages

Mr. Trenchuk argues the Church caused its own damages when, in December 2015, it informed Kennedy Funding it did not wish to pursue a loan. This argument also is contrary to the record.

The record establishes, in July 2014, Green Global terminated its financing arrangement with Kennedy Funding and, in exchange for releasing Kennedy Funding, received \$30,900. By December 2015, Kennedy Funding was not arranging financing for Green Global or the Church, and the Church's \$250,000 was gone.

CONCLUSION

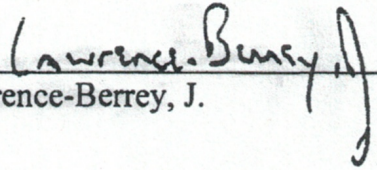
There are no genuine issues of material fact. Mr. Trenchuk's arguments generally misconstrue the evidence. The trial court did not err by granting summary judgment.

No. 36565-4-III

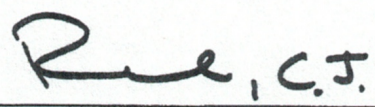
Spokane Slavic Baptist Church v. Trenchuk

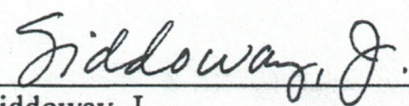
Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.


Lawrence-Berrey, J.

WE CONCUR:


Pennell, C.J.


Siddoway, J.

Renee S. Townsley
Clerk/Administrator

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*The Court of Appeals
of the
State of Washington
Division III*



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May 28, 2020

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CASE # 365654
Spokane Slavic Baptist Church v. Joe Trenchuk, et al
SPOKANE COUNTY SUPERIOR COURT No. 172039068

Counsel:

Enclosed is a copy of the Order Denying Motion for Reconsideration. A party may seek discretionary review by the Supreme Court of the Court of Appeals' decision. RAP 13.3(a). A party seeking discretionary review must file a Petition for Review electronically through the court's e-filing portal or, if in paper format, only the original motion need be filed in this court within 30 days after the Order Denying Motion for Reconsideration is filed. RAP 13.4(a). The Petition for Review will then be forwarded to the Supreme Court.

If the party opposing the petition wishes to file an answer, that answer should be filed in the Supreme Court within 30 days of the service.

Sincerely,

Renee S. Townsley
Clerk/Administrator

RST:pb
Enc.

FILED
MAY 28, 2020
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

**COURT OF APPEALS, DIVISION III, STATE OF
WASHINGTON**

SPOKANE SLAVIC BAPTIST CHURCH,

Respondent,

v.

**JOE TRENCHUK, individually and on
behalf of his marital community dba
GREEN GLOBAL ENTERPRISES, LLC,
JOE TRENCHUK TRUST,**

Appellant,

**IVAN KRIGER, individually and on behalf
of his marital community dba GREEN
GLOBAL and GREEN GLOBAL
ENTERPRISES, LLC, and GREEN
GLOBAL ENTERPRISES, LLC, an
inactive Washington limited liability
company,**

Defendant.

No. 36565-4-III

**ORDER DENYING
MOTION FOR
RECONSIDERATION**

The court has considered appellant's motion for reconsideration and is of the opinion the motion should be denied. Therefore,

IT IS ORDERED the motion for reconsideration of this court's decision of April 7, 2020, is denied.

PANEL: Judges Lawrence-Berrey, Siddoway, and Pennell

FOR THE COURT:


REBECCA PENNELL
CHIEF JUDGE

SUSAN L. CARLSON
SUPREME COURT CLERK

ERIN L. LENNON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY

THE SUPREME COURT
STATE OF WASHINGTON



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July 23, 2020

LETTER SENT BY E-MAIL ONLY

COPY

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Shelley Noelle Ripley
Matthew William Daley
Witherspoon Kelley Davenport & Toole PS
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Re: Supreme Court No. 98676-2 - Spokane Slavic Baptist Church v. Joe Trenchuk, et al.
Court of Appeals No. 36565-4-III

Counsel:

On June 22, 2020, the Court received the "APPELLANT TRENCHUK'S 2nd MOTION FOR EXTENSION OF TIME TO FILE APPEAL WITH THE WASHINGTON SUPREME COURT".

In regard to the motion for an extension of time, the following ruling is entered:

The motion seeks a second 30-day extension of time to file the petition for review. The motion indicates that the additional time is needed to locate an attorney to assist with filing the petition for review.

In light of the Court's order No. 25700-B-611 suspending the provisions of RAP 18.8(b) during the COVID-19 public health emergency, the motion for extension of time is granted pursuant to the provisions of RAP 18.8(a). Therefore, the Petitioner is granted an extension of time to August 26, 2020, to serve and file the petition for review.

However, it is unlikely that additional extensions will be granted solely for the purpose of searching for additional attorneys. If counsel for

the Petitioner is unable to locate an additional attorney to assist with the petition for review, he will need to write the petition for review on his own.

If the petition for review is not served and filed by August 26, 2020, this matter will likely be dismissed. I note that the filing fee must also be paid by August 26, 2020.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Lennon', with a stylized flourish at the end.

Erin L. Lennon
Supreme Court Deputy Clerk

ELL:ejn

JOE TRENCHUK - FILING PRO SE

August 26, 2020 - 11:40 AM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 36565-4
Appellate Court Case Title: Spokane Slavic Baptist Church v. Joe Trenchuk, et al
Superior Court Case Number: 17-2-03906-8

The following documents have been uploaded:

- 365654_Petition_for_Review_20200826113626D3605576_5835.pdf
This File Contains:
Petition for Review
The Original File Name was Petition for Review Joe Trenchuk 36565-4 Scan.pdf

A copy of the uploaded files will be sent to:

- brenda3712000@yahoo.com
- deannas@witherspoonkelley.com
- debbyg@witherspoonkelley.com
- jgregorylockwood@hotmail.com
- joetrenchuk2009@gmail.com
- mwd@witherspoonkelley.com
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- vickie.jgl@gmail.com

Comments:

\$200 filing fee has been mailed to Supreme Court.

Sender Name: Joe Trenchuk - Email: joetrenchuk2009@gmail.com

Address:

8119 N. Lehman Rd.

Spokane, WA, 99212

Phone: (618) 567-2106

Note: The Filing Id is 20200826113626D3605576