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Bergesen v. Reinke Appellant's Brief Dckt. 41555

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Appellant

IN THE SUPREME COURT OF THE STATE OF IDAHO

Richard Bergesen)
)
Appellant,)
)
vs.)
)
Brent Reinke)
)
Respondent.)

Case No. CV-HC-2013-14139

APPELLANT'S BRIEF

Appeal from the District Court of the FOURTH Judicial District
for ADA County.
The Honorable Daniel C. Hurlbutt, Jr., District Judge presiding.

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FEB 19 2014
Supreme Court _____ Court of Appeals _____
Entered on ATS by _____

TABLE OF CONTENTS

1. See "Plaintiff's Proposed Verified 7th Amended Petition for Post Conviction Relief" Enclosed in Ada County Case number CV-PC-2012-1514, This is currently Appellant's Brief, with another Brief to be filed when and if Appellant Richard Bergesen is appointed Counsel on this Appeal.
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TABLE OF CASES AND AUTHORITIES

1. Hill v. Lockhart enclosed: 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203, 54 USLW 4006 (1985).

STATEMENT OF THE CASE

A. Introduction

B. Statement of Facts and Course of Proceedings

1. On 8-9-2013, Plaintiff Richard Bergesen ("Bergesen") filed his Idaho State Petition for Habeas Corpus relief in the 4th District Court in Ada County. Senior District Judge Daniel C. Hurlbutt, Jr. ("Judge Hurlbutt") did not read Bergesen's Petition.

2. On 8-2013, Judge Hurlbutt filed his "Order Requiring Partial Payment of Fees and Notice of Intent to Dismiss" Bergesen's Habeas Corpus Petition which is Case No. CV-HC-2013-14139.

3. Also on 8-20-2013, Judge Hurlbutt filed his "Order of Partial Dismissal of Claims Prior To Service on Respondent And Order To Amend."

4. On 9-4-2013, Bergesen filed his 32 page Motion For Reconsideration And Clarification Pursuant to IRCP 11(a)(2)(B), a motion which Judge Hurlbutt did not read.

5. On 9-11-2013, Judge Hurlbutt filed his "Order Denying [Bergesen's] Motion for Reconsideration"

6. On 9-26-2013, Judge Hurlbutt filed his "Order of Dismissal of Remaining Claims."

7. Also on 9-26-2013, Judge Hurlbutt filed his "JUDGMENT" dismissing Bergesen's Idaho State Habeas Corpus Petition in its entirety, again without bothering to read Bergesen's Petition.

ISSUES PRESENTED ON APPEAL

1. Did Judge Hurlbutt abuse his discretion by refusing to read Bergesen's Petition for Habeas Corpus Relief?
2. Did Judge Hurlbutt abuse his discretion when he refused to recognize the fact that Richard Bergesen alleged 12 specific allegations "shortly and succinctly," in compliance with IRCP 8... in his Petition for Habeas Corpus Relief on pre-pages 3, 3A, and 3B?
3. Did Judge Hurlbutt abuse his discretion when he refused to recognize the fact that IDCC officials refused to provide Richard Bergesen with a certificate that he had exhausted his prison administrative remedies?
4. Did Judge Hurlbutt abuse his discretion when he refused to address Richard Bergesen's argument that both Idaho's Habeas Corpus and Institutional Litigation Procedure Act and Idaho's uniform postconviction

procedures act violate both the United States and Idaho Constitution in multiple ways?

5. Did Judge Hurlbutt abuse his discretion when he dismissed without reading Richard Bergesen's 32 page Motion For Reconsideration and Clarification pursuant to IRCP 11(a)(2)(B)?
6. Did Judge Hurlbutt abuse his discretion when he dismissed and denied without reading each document that Petitioner Richard Bergesen filed in Case No. CV-HC-2013-14139?
7. Is Judge Daniel C. Hurlbutt Jr. a member of the mormon church, and if so, did this fact bias him against Non-mormon petitioner Richard Bergesen?
8. Is District Judge Richard Greenwood a member of the mormon church, and if so, did this fact bias him against Non-mormon Defendant in Ada County Case No. CR-FE-2010-21932 Richard Bergesen to the point that it was impossible for Defendant Richard Bergesen to receive a fair trial in his criminal case?
9. Is District Judge Richard Greenwood a member of the mormon church and if so, did this fact bias him against Non-mormon Plaintiff in Ada County Case No. CV-PC-2012-1514 Richard Bergesen to the point that it was impossible for Plaintiff Richard Bergesen to receive a fair trial in his Civil Post Conviction Relief case?

ARGUMENT

A. Introduction

B. Argument

District Judge Daniel C. Hurlbutt, Jr. did not put in the necessary time, effort, and research on Richard Bergesen's Idaho State Habeas Corpus Petition to afford Mr. Bergesen the Constitutional Due Process guaranteed to Mr. Bergesen by the 5th and 14th Amendment Due Process and Equal Protection Clauses of the United States Constitution, and the similar provisions contained within the Idaho Constitution. In short, Judge Hurlbutt denied Richard Bergesen of his constitutional and statutory rights to Idaho State Habeas Corpus relief in Ada County Case No. CV-HC-2013-14139. Judge Hurlbutt's decisions here should be swiftly overturned by the Idaho Supreme Court on this appeal so that this appeal does not need to go on to the 9th Circuit Court of Appeals in San Francisco, California to be overturned by the Federal Justices there.

CONCLUSION

Therefore, appellant respectfully requests that this court [what court should do].

overturn Judge Hurlbutts' decisions in Ada County Case No. CV-HC-2013-14139 on this appeal so that this appeal does not need to go on to the 9th Circuit Court of Appeals in San Francisco, California in order for Richard Bergesen to be released from prison, and have his appeal of the Idaho Supreme Court decision on this appeal be overturned and reversed on appeal by the Federal Justices there.

Respectfully submitted this 20th day of October, 2013.

Richard Bergesen
Appellant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the ^{25th} [REDACTED] day of October, 2013, I mailed a true and correct copy of the APPELLANT'S BRIEF via prison mail system for processing to the United States mail system, postage prepaid, addressed to:

Deputy Attorney General
Criminal Division
P.O. Box 83720
Boise, ID 83720-0010

Richard Bergesen
Appellant