

IN THE SUPERIOR COURT OF COLQUITT COUNTY GEORGIA

NANCY B. CORMIER
Plaintiff

Case Number 03-CVD-2211

v.

DENNY C. CORMIER
Defendant, *pro se*

DEFENDANT'S MOTION FOR A RE-HEARING

Comes now DENNY C. CORMIER, *pro se*, to petition the Superior Court of Colquitt County, Georgia for a rehearing due to numerous errors by this court committed during the ex parte hearing and trial for divorce and property distribution in the above described case on August 1, 2005 and resulting Orders issued on August 3, 2005.

In support he offers the following:

1. Refusal of this court to rule on Defendant's Petition for a Writ of Mandamus subsequent to ultra vires proceedings during the period when the above described case had been properly removed to Federal District Court, Case # 6:05-CV-26.
2. Aforesaid trial on August 1, 2005 was based upon ultra vires orders entered while instant case was removed to Federal District Court, Case #6:05-CV-26.
3. There was no equitable distribution of debt in aforesaid Orders of this court.

4. Hearing and trial of August 1, 2005 was conducted ex parte because Defendant could not be present due to threat of jail by presiding judge to punish Defendant for exercising his constitution right of re-removal.
5. Property distribution and cash awards to Plaintiff were made in aforesaid Order without a valid financial affidavit from Defendant.
6. An award of \$5,000 was made to Plaintiff's mother, who was not a party in the above described lawsuit and constitutes an illegal taking action and abuse of discretion outside the jurisdiction of this court.
7. Estimates of Defendant's income were inaccurate and grossly exaggerated for purposes of illegal taking from Defendant by this court.
8. There was a conflict of interest between judge and opposing counsel, Dwight May. Esq., due to an extensive prior business relationship.
9. An award of \$50,000 was made to Plaintiff without a valid financial affidavit by Defendant, nor were there any assets to redistribute.
10. Permanent alimony was awarded to Plaintiff, who is a deserting spouse, and therefore is not entitled to alimony under O.C.G.A. 19-6-1(b).
11. This court improperly ruled that Defendant's re-removal was frivolous despite the absence of such finding by the Federal District Court.
12. Attorney's fees were awarded without a financial affidavit in violation of Georgia Superior Court Rules §24.2. "Financial data required", prohibiting awards of attorney's fees unless valid financial affidavits have been entered by both parties.
13. This court proceeded with state trial while instant case had been removed to Federal District Court in violation of 28 U.S.C. 1446(d).

14. Because there is no basis in law for aforesaid trial, awards in subsequent rulings and Order amount to illegal "taking" against Defendant.
15. This court's refusal to compel Plaintiff to disclose her interest in the Ann V. Buechler trust fund and related trusts violated Defendant's right to equitable distribution of property under O.C.G.A. 19-6-1 et seq. as well as demonstrating Plaintiff's lack of need.
16. Conducting aforesaid trial under provisions Georgia Alimony Statutes, O.C.G.A. 19-6-1 et seq and ultra vires orders violated and infringed Defendant's Right to Privacy under both the Georgia and U.S. Constitutions.
17. Conducting aforesaid trial subsequent to Georgia Alimony Statutes, O.C.G.A. 19-6-1 et seq and ultra vires orders violated and infringed Defendant's Rights to Due Process and Equal Protection under both Georgia and U.S. Constitutions, especially the 14th Amendment.

WHEREFORE, for the above reasons, the Defendant petitions this Court to:

1. Issue a Writ of Mandamus to the Honorable Frank Horkan and the Superior Court of Colquitt County, to immediately quash, rescind and vacate all ultra vires orders between the period of May 26, 2005 and July 11, 2005, including Orders dated June 14, 2005 and July 7, 2005, during which time the instant case had been removed to Federal District Court, Case Number 6:06-CV-26.
2. Quash, rescind and vacate all Orders of this court pursuant to said ultra vires proceedings and orders including those arising from the trial of August 1, 2005 and subsequent orders resulting from that trial.

3. Enter a change of venue as the Defendant has a well-founded good faith belief that he cannot receive fair hearings and proceeding in this county venue and will be falsely imprisoned.
4. Order a stay of all proceedings for the instant case until a decision has been rendered on this Motion and aforementioned Writ of Mandamus.

Respectfully submitted,

DENNY C. CORMIER, pro se
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DATED this 9th day of August, 2005.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been served via U.S. mail on this 9th day of August, 2005 to:

Clerk of the Superior Court of Colquitt County
9 South Main Street
Moultrie, GA 31768

Honorable H. Arthur McLane, Chief Judge (N)
Lowndes County Courthouse
Post Office Box 1349
Valdosta, GA 31603-1349

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