



ORIGINAL

FILED

02/22/2022

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 21-0398

**IN THE SUPREME COURT OF THE STATE OF MONTANA
CASE NO DA 21-0398**

ZACHARY RUSK,

Petitioner and Appellant,

and

THOMAS ROSEEN, CINDY ROSEEN, AND SHAWN ROSEEN,

Respondents and Appellees.

FILED

FEB 22 2022

Bowen Greenwood
Clerk of Supreme Court
State of Montana

On Appeal from the Montana Eighteenth Judicial District Court, Gallatin
County, Judge Rienne H. McElyea, District Court Cause No. DV 21-432B

**APPELLANT'S MOTION FOR CONTEMPT AND FORTHWITH
RESCINDING OF IT'S ORDER FOR EXTENSION OF TIME**

APPERANCES

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On Behalf of the Roseens

I. INTRODUCTION

COMES NOW Petitioner Zachary Rusk ("Petitioner" or "Rusk") to file this Ex-Parte Motion to immediately Rescind this Courts February 17th 2021 Order to extend time for Petitioner to file their response to Petitioner's Petition for Rehearing and to **hold Jason Armstong in CONTEMPT**. It is understood that the court may grant these fairly quickly, but the reason stated for granting the order, is false. Petitioner didn't even get a few hours to respond to the bad faith Motion for Jason Armstrongs before the Court issued it's order on it.

The Court granted Jason Armstrongs motion for extension of time to file a response on behalf of respondents because it said it showed good cause but there was no reasoning in Jason Armstrongs motion as to why it is in good faith or showing good cause. In fact, **Jason Armstrong's history of BAD FAITH motions**, as detailed below, demonstrates that Jason Armstrongs motion for extension is **NEITHER** brought in *good faith*, **NOR** for *good cause*.

In the SM-21-33 Rusk v. Roseen action: On July 30th, Jason Armstrong filed a frivolous motion to continue the trial set for early August. Jason did this three more times, with no valid reasoning. The last time Jason Armstrong did this in the SM action, was after Judge Adams ordered Jason Armstrong to stop filing filings in that case, as the opposing party was unrepresented, and in a Justice Court matter, when one side is unrepresented, no side may be represented. Petitioner already informed Armstrong of that statute in writing well before. Moreover, Judge Bryan

Adams granted Judgement in Petitioners favor barely weeks ago. (EXHIBIT D)

In CL-115-21-109 Rusk v. Roseen as to Petitioners Temporary Order of Protection against his client Roseen On January 4th 2022, Jason Armstrong filed a rule 11 violating pleading with patently false statements. In this pleading signed and filed by Jason Armstrong, he stated "Petitioner files this Response to Motion for Continuance. Petitioner does not oppose Petitioners Motion to continue this matter..." This statement is false because this matter is CL-115-2021-0000109 and Petitioner never filed a motion to continue this matter. Here, Jason Armstrong mislead Judge Seal. (EXHIBIT E)

On December 26th 2021, at 9:03pm, Tyler Restveld emailed a declaration he Tyler wrote and signed under penalty of perjury: "Declaration of Service: I, Tyler Restvedt, under penalty of perjury, do hereby certify that the foregoing information is true and correct to the best of my knowledge. On August 7th, 2021, I, Tyler Restvedt, of Valley Process Service, served a box of documents to Jason Armstrong. This was a routine service, however, Jason's reaction to service kind of took me aback, as I could tell Jason was upset with the service...Jason invited me to visit with him in a separate room within his office building. He then asked me if I had any idea who Zach Rusk was. He asked how, and if, Zach was compensating me, as he believed Zach was unemployed. I assured him that Zach had been very good about paying me for my services, and in a timely manner. Jason gave me a stern warning with regards to working with Zach, as the legal proceedings that

Zach was invoking, were causing much duress to his client(s)..." (EXHIBIT F)

On Wednesday, July 21, 2021 3:56 PM usa1610@fedex.com wrote Petitioner the following in the entitled email subject name "Subject: Reason for non delivery of docs": "Zach, On 7/19/2021 we were unable to complete the delivery to your requested address of: Jason Armstrong CROMWELL LAW, PLLC 1871 South 22nd Ave Bozeman, MT 59718. Our Assistant Manager attempted delivery with the door being locked. No one came to open the door so he had to leave and returned the documents to our FedEx store where we informed Zach Rusk of the failed delivery. In addition around last week another associated attempted delivery of documents and was not let in by an employee who saw him at the door so he had to return the following day to deliver the documents." (EXHIBIT G)

In Petitioners case against Roseen in District Court, as to Roseens slander and libel of Rusk, Jason Armstrong, on behalf of Roseen filed a declaration stating that Rusk served the Museum of the Rockies. This is patently false again, and is shown through the exhibit of text messages between Tyler Restveld and Rusk stating the following: Petitioner to Tyler: can you also send me corrected past certs of service? Jason lied about me trying to serve a museum you had listed on one... assumed they were all correct and didnt say that until after he brought it up and after they were filed. You listed "museum of the rockies" one you served for me he said." Tyler replied to Petitioner via text message stating "I served Shawn AT the

museum” (sic) Rusk texted Tyler back stating “why did you serve shawn at the museum? Did he ask you to?” Tyler replied via text stating “I met him there - I think tree was working nearby, or something” (sic) (EXHIBIT H)

Now in the Montana Supreme Court in DA 21-0398, Jason Armstrong misleads the Justices, like he mislead Judge McLyea as on February 17, 2022 at 8:45:06 AM MST Jason Armstrong Emailed Petitioner a motion of his to extend time to respond. In this motion *Jason Armstrong stated that he ‘is not allowed to contact petitioner’. But he still did.* And provided zero basis for bringing his motion in good faith or for good cause.

Jason Armstrong insists on using and abusing the judicial system to HARRASS Petitioner in retaliation of Petitioner for engaging in constitutionally protected activities. Jason Armstrongs behavior of inundating the courts of law with FRIVOLOUS and unreal allegations against his victims, especially, has caused, and continues to cause financial and emotional harm to his victims, extreme stress on an already stressed judiciary, and extreme waste of time for every single person involved. Law enforcement agencies are burdened by the Jason Armstrongs frivolous and unceasing perjury in his fanciful leaps in logic and imaginary foes. The legal system becomes burdened by this frivolous conduct of Jason Armstrong and anyone who simply comes into *Jason Armstrongs wobbly orbit*. Jason Armstrong has apparently engaged in frivolous legal actions for years now, free to proceed without any concern for personal accountability. It is

disturbing because this court may soon be inundated with petitions from his other victims once they find this out and seek redress from this court, as well. **And that number continues to multiply, until this court takes appropriate remedial and corrective action against Jason Armstrong and his firm, Cromwell Law.**

While Jason Armstrong does this, innocent people in the communities where Jason Armstrong resides, find themselves strung out by legal procedure, sometimes for years, with little to no help available from the community at large and at terrible financial and emotional cost. Petitioner now begs this court for a remedy from **Jason Armstrongs VIOLENTLY frivolous use and abuse of the third branch of government by rendering judgement in Petitioner's favor and holding Jason Armstrong in CONTEMPT of Court.**

Jason Armstrong, while not properly answering to the very serious claims and evidence against him, attempts to make very serious allegations against his victims. A victim would feel the need to take the allegations very serious and provide (certain) law enforcement with facts that show the allegations Jason Armstrong makes are simply not true. It is not enough that law enforcement can and is obligated to determine there is probable cause for **Jason Armstrongs PURJURY**. Jason Armstrong will never stop making **FALSE** allegations ("**making up stories**", "**spreading lies**", etc.) against people over fully imagined and **manufactured** 'rogue' witness statements in violation of the cross examination rights of Petitioner.

Furthermore, according to MCA 3-1-501(d), Jason Armstrong is in open CONTEMPT of Court. Jason Armstrong has DECEIVED the Courts and is ABUSING the process of law. Jason Armstrong will continue to abuse the legal system and consume his his intentionally lawless behavior. Therefore, this Court should hold Jason Armstrong in criminal CONTEMPT of Court, INCARCERATE him to punish him for his chosen and intentional lawless behavior and RESCIND this courts February 17th 2021 Order for extension of time as to Respondents.

Rule6(c)

Jason Armstrong has practically failed to deny the claims made against them. Instead Jason Armstrong HARASSES and files FRIVOLOUS and VEXATIOUS cases and filings against his opponents and victims, while helping his clients do the same¹. Under Uniform Rule6(c), a failure to file an answer is an admission that the motion is well taken. An answer includes either an

¹ At this point, given all the evidence of Jason Armstrongs gross wrongdoings, Jason Armstrong is now injuring his own clients and prejudicing their case, while prejudicing Petitioner's case. Jason Armstrong has become too personally involved to properly represent his clients at this point, or at be involved in these proceedings or any other proceeding associated. Jason Armstrong's clients also now have significant claims against him, which creates a serious problem with the client-attorney relationship and warrants the Courts prompt and swift intervention in the absence of voluntary and forthwith mutual resolution. Jason Armstrong either willfully choses to violate laws, rules, and ethics, which bound him, as an attorney, or Jason Armstrong is simply unable to execute his responsibilities due to disability, capacity or something to that effect. Either way warrants Jason Armstrong's immediate and mandatory withdrawal from these proceedings and in the interest of justice. The Court has an obligation to address this issue, as well, given the information and evidence before it, prior to ruling any further on this action. Make no mistake, however, that the Court is also bound to administer the business of the courts in not only an effective manner, but an expeditious manner, especially.

admit or deny to each factual statement, while restating the statement of fact that he is responding to.

Rule 12(f)2

The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter (including and especially perjury, which further renders the **INCONTROVERTIBLE** fact that Jason Armstrong has no leg to stand on). Motions to Strike, Motion's in Lamine, Rule 11 motions, etc., have also already been filed with the Court.

Rule 7-1(b)(1)(A)

Jason Armstrong's filings, while **AIDING AND ABETTING** his **COLLUDERS and CORROBORATORS** in doing the likewise (in all of their combined hand fulls of cases) Jason Armstrong brings in his **GANG** of others, including **U.S. Marshal and Bozeman Police** Officer Quinn Ellingson & Thomas Roseen, simply to insist on baselessly lodging against Petitioner, while none of them have won any), further violate local Rule 7-1(b)(1)(A), because they often contain a motion within a response memorandum. "No motion ... may be included in a response or reply memorandum. Such motions must be made in a separate document." CivR 7-1(b)(1)(A). This gang of three, including U.S. Marshal and Bozeman Police Officer Quinn Ellingson, Jason Armstrong & Thomas Roseen, file motions contained within Response memorandums that are not permitted by Rule 7-1(b)(1)(A). Therefore, each of their Responses must be stricken for not

complying with local rules, and judgement entered in favor of Petitioner as placing a motion in a response to an objection or motion undermines procedural due process. Petitioner does not have an opportunity to respond or make his objection known to this new motion, because there is no responsive pleading permitted per Rule of Civil Procedure 72(b)(2) (permitting an objection to a report and recommendation and a response). **This further makes Jason Armstrong's pleadings not only FRIVOLOUS, but VEXATIOUS.** A proceeding is said to be vexatious when the party bringing it is not acting bona fide, and merely wishes to *annoy or embarrass and HARRASS* his opponent, or when it is not calculated to lead to any practical result. (Black's Law Dictionary.) **Jason Armstrong is a VEXATIOUS litigant. It is finally time that the Court label and brand Jason Armstrong as a VEXATIOUS litigant from CROMWELL LAW.**

CONCLUSION.

Jason Armstrong must be held in CONTEMPT. Jason Armstrong's February 17th 2021 Motion for Extension of Time to Respond could not be more bad faith and without good cause. The Court must rescind its order granting Jason Armstrongs **BAD FAITH** motion for extension of time, and deny it therethrough, forthwith, to ensure far less prejudice is caused to Petitioner and others (including his own clients fees and billable hours) based on **Cromwell Law's Jason Armstrongs UNADDRESSED, UNDETERRED, WASTEFUL, BASELESS, FRIVOLOUS, VEXATIOUS, etc., filings.**

REQUEST FOR RELIEF.

WHEREFORE, Petitioner prays for judgment as follows:

1. **RESCIND** this Court's February 17th 2022 Order Granting Jason Armstrongs **FRIVOLOUS** Motion on behalf of Petitioners for an extension of time to file their reply to Petitioners Petition for Rehearing,
2. For a declaration affirmatively **holding Jason Armstrong in CONTEMPT**; and for mandatory injunctive relief directing Jason Armstrong's compliance with all laws, statutes, rules, et cetera;
3. For a declaration affirmatively stating the obligation of Jason Armstrongs compliance with all laws, statutes, rules, et cetera;
4. For permanent injunctive relief prohibiting **Jason Armstrong** from **violating any laws, statutes, rules, et cetera, again**;
5. For a declaration that **Jason Armstrongs** actions constitute a **public nuisance** and order for Jason Armstrong to abate the nuisance;
6. For a **declaration** that **Jason Armstrong is a vexatious litigant**;
7. For an award to Petitioner of its attorney fees and costs as provided by law and equity to have to draft a response to **Jason Armstrongs frivolous, malicious and vexatious motion** and the Court's resulting order, while duly uninformed;
6. For such other relief as this Court may deem proper.

Dated February 18th 2021.

A handwritten signature in black ink, appearing to be 'Zachary Rusk', with a stylized, cursive script.

/s/ Zachary Rusk
in propria persona

CERTIFICATE OF COMPLIANCE

Pursuant to MCA 25-21-20(3), I hereby certify that the foregoing brief is proportionally spaced typeface of 14 points and does not exceed 2,500 words.

Dated February 18th 2021.

A handwritten signature in black ink, appearing to be 'Zachary Rusk', written in a cursive style.

/s/ Zachary Rusk
in propria persona

CERTIFICATE OF SERVICE

I hereby certify that true and accurate copy of this Ex-Parte Motion has not been served on the following (as it is Ex-Parte and in objection to the Court's order, between the Court and Petitioner at this point, and in which does not provide for any further response from Petitioner based on the rules):

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jason@cromwellpllc.com
On Behalf of the Roseens



Dated February 18th, 2022.

/s/ Zachary Rusk

in propria persona