

IN THE SUPREME COURT FOR THE STATE OF ALASKA

Lady Donna Dutchess)
Petitioner,)
)
v.)
)
Jason Dutch)
Respondent.)
_____)

Supreme Court Case No. S-16148
Superior Court Case:3AN-15-08063CI

PETITION FOR REVIEW

LADY DONNA DUTCHESS
PRO PER

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I. INTRODUCTION AND STATEMENT OF ISSUE

This petition presents one issue that must be resolved regarding lack of notice from the Superior Court of my case re-assigned to a new judge. The Superior Court order denied my motion for change of judge with cause without addressing the first three facts of my motion, where I state, how I never received notice from the Superior Court that my case was re-assigned to a new judge. I respectfully ask this Court to grant a review and overturn this order because as Pro Per, I was never notified of the administrative order that assigned my case to a new judge, which circumvents the Alaska Court Rules that state I can change a judge as a matter of right. In addition, the lack of notice and circumvention of the Alaska Court Rule 42(c) violates my due process as granted to me by the Alaska Constitution Article 1, Section 7.

II. STATEMENT OF FACTS

In my Motion for Change of Judge with Cause, with supporting Affidavit and Memorandum (*Attachment A*), that I filed on November 5th, 2015 as Pro Per, I point out in the first three facts the following: Fact 1) Administrative Order 3AN-AO-15-12 gave a deadline of October 30th, 2015 to peremptory challenge a judge (*Attachment B*). Fact 2) I filed my notice to Preempt Judge Washington on October 28th, 2015 (*Attachment C*). The clerk docketing the notice to preempt marked the notice timely. However, Judge William F. Morse marked the notice as “not timely” citing a “lengthy evidentiary hearing by Judge Washington on October 27th 2015”. The hearing was not evidentiary and not very lengthy, as the court log (*Attachment D, pg1, pg3*), indicates that the proceeding was a status hearing that went off record in 17 minutes. Fact 3) Notice of Administrative Order 3AN-AO-15-12 re-assigning my case provides notification instructions for peremptory challenges, however, Administrative Order 3AN-AO-15-12 (*Attachment B*), does not give notification instructions for individuals who are representing themselves (Pro Per). In my

affidavit and memorandum in support of my motion for change of judge with cause, I state that I never received notice of Administrative Order 3AN-AO-15-12 so that I may rightfully respond to it. (*Attachment A*).

The Superior Court's order (*Attachment E*), denying my motion, did not address the challenge that my rights and due process was circumvented when I did not receive notice from the Superior Court regarding Administrative Order 3AN-AO-15-12, which re-assigned my case from Judge Suddock to Judge Washington. Instead, the Superior Court chose to focus only on the fourth fact that points to a personal connection between Judge Washington and myself. (*Attachment E, pg 1, pg 2*). Furthermore, Judge Erin B. Marston was assigned to review Judge Washington's order denying my motion for change of judge, to which Judge Marston affirms the order. (*Attachment F, pg 3*). In the review and decision, Judge Marston does not address my first three facts regarding the lack of notice of Administrative Order 3AN-AO-15-12, (*Attachment F, pg 1, pg 2, pg 3*).

III. REVIEW IS NECESSARY AND SHOULD NOT BE POSTPONED

This case should be reviewed now because allowing the Superior Court's order to stand as is, will result in injustice because of the impairment of a legal right that has caused me hardship (*Appellate Rule 402.b.1*). The Superior Court order involves an important question of law regarding notice provided to individuals who are representing themselves in court and an immediate review of the order may advance an important public interest regarding the circumvention of due process if the petition is not granted (*Appellate Rule 402.b.2*). In addition, the Superior Court has so far departed from the accepted and usual course and has sanctioned such departure, regarding giving parties notice on proceedings with their case, which calls for the appellate court's power of supervision and review (*Appellate Rule 402.b.3*).

IV. DISCUSSION OF REASON SUPERIOR COURT ORDER IS ERRONEOUS

Civil Rule 42(c)3 states that “Notice of change of judge is timely if filed before the commencement of trial and within five days after notice that the case has been assigned to a specific judge.” In my Motion & Affidavit for Change of Judge for Cause, I explain that I was never given notice. The question I pose to the Supreme Court is how is it possible for me, as Pro Per, to exercise my right to change a judge “before the commencement of trial”, when I was never given notice by the Superior Court of the change of judge? It was not until the status hearing had commenced on October 27th, 2015 that I discovered a new judge had been assigned to my case. The personal connection I mention in my motion is irrelevant as the personal connection would have never surfaced had the Superior Court recognized my right to be notified of this order on my case. Furthermore, Administrative Order 3AN-AO-15-12 gave until October 30th, 2015, to preempt. However, because I did not know about the new judge, I was unable to exercise my right to preempt before the commencement of the status hearing on October 27th, 2015. Article 1, Section 7, of the Alaska Constitution, regarding Due Process states that the right of all persons to fair and just treatment in the course of the legislative and executive investigations shall not be infringed. When I filed my Notice to Peremptorily Challenge the assignment of Judge Washington followed by my Motion for Change of Judge with Cause, it was my hope that the Superior Court would understand that as Pro Per, I am not a trained career attorney versed in statutes, canons, rules, and law. I had faith in the judicial system that the Superior Court would choose to treat my cause with equal right coupled with fairness under the law. Instead, the Superior Court chose to overlook the fact that I was never notified of the new judge, where the lack of notice is a question of law, and chose to instead to focus on the personal aspect of my challenge. The basis of this petition for review is

that I was never notified by the Superior Court of the change of judge as afforded to me by the Alaska Court Rules – Rules of Civil Procedure 42(c).

V. STATEMENT OF RELIEF SOUGHT

For the reasons stated above, I am respectfully seeking relief by petitioning this Court to reverse the Superior Courts order and grant my motion for change of judge with cause due to the fact that I was never given notice, and therefore, my right to change of judge was circumvented. By granting my motion for change of judge, my case could be re-assigned to another Superior Court Judge that has not been mentioned in this petition for review or returned back to Judge John Suddock.

VI. SIGNATURE

Respectfully submitted on _____.

Lady Donna Dutchess, Petitioner

VII. CERTIFICATE OF SERVICE

Certificate of Service

I certify that on the following date: _____, I provided a copy of this Petition for Review and any attachments to the opposing party, Jason Dutch by 1st Class Mail.

Lady Donna Dutchess

INDEX OF ATTACHMENTS

Attachment A.....	Motion, Affidavit & Memorandum, Change of Judge
Attachment B.....	Administrative Order 3AN-AO-15-12
Attachment C.....	Notice to Preempt
Attachment D.....	Court Logs of Status Hearing on October 27 th , 2015
Attachment E.....	Order Denying Motion for Change of Judge
Attachment F.....	Review of Order Denying Motion for Change of Judge

Court Rule 402

Alaska Rules of Court, Rule 42

Alaska Constitution