

02-1277-CD
KENNETH JOHN SELVAGE-vs-COMMONWEALTH OF PA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

KENNETH JOHN SELVAGE

*

V.

*

No. 02-1277-CO

COMMONWEALTH OF PENNSYLVANIA
DISTRICT ATTORNEY, WILLIAM SHAW

*

*

PETITION TO PROCEED IN FORMA PAUPERIS

NOW COMES, Kenneth John Selvage, Plaintiff, pro-se, and says:

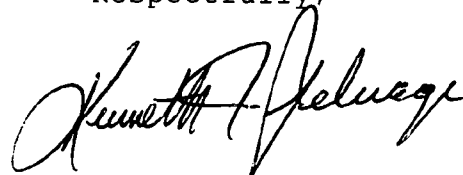
1. That as demonstrated by the attached affidavit and verification Plaintiff is indigent and cannot afford the cost associated with the filing, litigating or employing of counsel to litigate the attached civil action complaint in mandamus.

2. That Plaintiff submits this civil action in good faith to compel Defendant to perform a mandatory administrative duty, namely, to supply critical evidence to his case(s).

3. That Plaintiff is unlettered in law, has no means of paying for this civil action or to have the complaint served on Defendant and thus will suffer irreparable injury if this petition is denied.

WHEREFORE, for the foregoing reasons this Honorable Court is hereby respectfully requested to grant this petition and such other relief as would be right, just and equitable.

Respectfully,



Kenneth J. Selvage

FILED

AUG 16 2002

rd/11:45/1cc ph. Selvage
William A. Shaw
Prothonotary

ORIGINAL
w/ complaint TO
C/A.

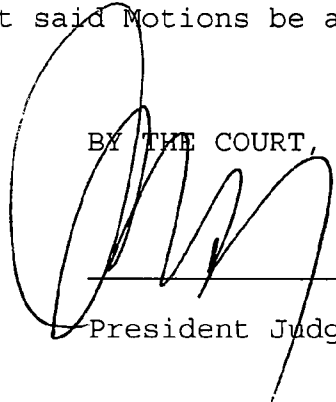
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

KENNETH J. SELVAGE :
VS : NO. 02-1277-CD
COMMONWEALTH OF PENNSYLVANIA, :
WILLIAM SHAW, JR. :

O R D E R

NOW, this 17th day of September, 2002, upon consideration of Defendant's Pro Se Motion to Proceed in Form of Pauperis and to require the District Attorney's Office to supply him with a copy of a check relevant to the above-captioned proceeding; the Court being satisfied that said check is not within the possession of the District Attorney's Office, it is the ORDER of this Court that said Motions be and are hereby dismissed.

BY THE COURT,



President Judge

FILED

SEP 20 2002

William A. Shaw
Prothonotary

FILED

MS
SEP 20 2002

2 cc P1st

2 cc Def - (1 DA
(1 office)

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

KENNETH JOHN SELVAGE

*

V.

*

No. 02-1277-60

COMMONWEALTH OF PENNSYLVANIA
DISTRICT ATTORNEY, WILLIAM SHAW

*

*

PETITION TO PROCEED IN FORMA PAUPERIS

NOW COMES, Kenneth John Selvage, Plaintiff, pro-se, and says:

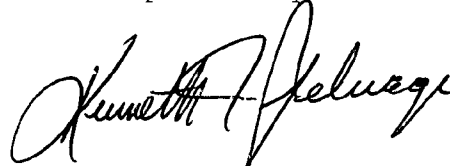
1. That as demonstrated by the attached affidavit and verification Plaintiff is indigent and cannot afford the cost associated with the filing, litigating or employing of counsel to litigate the attached civil action complaint in mandamus.

2. That Plaintiff submits this civil action in good faith to compel Defendant to perform a mandatory administrative duty, namely, to supply critical evidence to his case(s).

3. That Plaintiff is unlettered in law, has no means of paying for this civil action or to have the complaint served on Defendant and thus will suffer irreparable injury if this petition is denied.

WHEREFORE, for the foregoing reasons this Honorable Court is hereby respectfully requested to grant this petition and such other relief as would be right, just and equitable.

Respectfully,



Kenneth J. Selvage

FILED

AUG 16 2002

rd/11:45/1cc p/h Selvage

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

KENNETH JOHN SELVAGE

*

V.

* No.

COMMONWEALTH OF PENNSYLVANIA
DISTRICT ATTORNEY, WILLIAM SHAW

*

*

AFFADAVIT IN SUPPORT OF PETITION TO PROCEED I.F.P.

I, Kenneth John Selvage, do hereby state under penalty of perjury that:

1. That I am the Plaintiff of adult age presently confined within the state correctional facility at Houtzdale.

2. That the information contained in the foregoing annexed petition to proceed I.F.P. is true and correct to the best of my knowledge, information and belief.

3. That I have no income or means of income from any source to include but not limited to social security, pensions, annuities, rents, support, veterans benefits, stocks, bonds or other.

4. That I own no property, home, boat, automobile, money and I have no checking, savings or other accounts containing money or other sources of money or negotiable instruments.

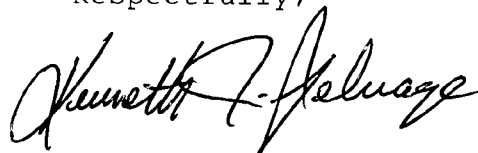
5. That I have no person to whom I could borrow the funds needed to file, litigate or employ counsel for litigating the attached civil action complaint in mandamus.

6. That I do realize that I have a continuing obligation to inform the Court of any change in my financial condition.

7. I do realize this affadavit is made subject to the penalties of title 18 Pa. C.S.A. §4904 of the crimes code relating to unsworn falsification to authorities.

8. The only thing I own is one sixth of my parents estate.

Respectfully,



Kenneth J. Selvage

Dated: August 12, 2002

V E R I F I C A T I O N

I, Kenneth John Selvage, Plaintiff, pro-se, do hereby verify that the facts contained in the foregoing annexed documents is true and correct to the best of my information, knowledge and belief, and any false statements made herein are subject to the penalties of Section 4904 of the crimes code (18 Pa. C.S.A. §4904), relating to unsworn falsification to authorities

Dated: August 12, 2002

A handwritten signature in black ink, appearing to read "Kenneth J. Selvage". The signature is fluid and cursive, with the first name "Kenneth" being more prominent and the last name "Selvage" following in a similar style.

Kenneth J. Selvage
DZ-4871
P.O. Box 1000
Houtzdale, PA 16698-1000

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

KENNETH JOHN SELVAGE

*

V.

* No.

COMMONWEALTH OF PENNSYLVANIA
DISTRICT ATTORNEY, WILLIAM SHAW

*

*

O R D E R

AND NOW, this _____ day of _____, 2002. upon consideration of Plaintiff's within "Petition to Proceed I.F.P."

IT IS HEREBY ORDERED, that the Petition is GRANTED. IT IS FURTHER ORDERED and DIRECTED, that the Sheriff of Clearfield County shall serve the complaint on Defendant as well as any subsequent subpoena's Plaintiff requests in accordance with the Pennsylvania Rules of Discovery.

BY THE COURT,

JOHN K. REILLY, JR.
PRESIDENT JUDGE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

KENNETH JOHN SELVAGE

*

V.

* No. 02-1277-60

COMMONWEALTH OF PENNSYLVANIA
DISTRICT ATTORNEY, WILLIAM SHAW

*

*

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the Claims set forth against you in the following pages, YOU MUST enter a written appearance personally or by attorney and file in writing your defense or objections to those claims within twenty (20) days after service of this notice and attached Civil Action Complaint in Mandamus. YOU ARE WARNED, that if you fail to do so the case will proceed without you and a judgment will be entered against you without further notice. You will lose rights, privileges and immunities important to you if you fail to take action.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE.

IF YOU CANNOT AFFORD ONE GO TO OR TELEPHONE THE
OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN
GET LEGAL HELP.

David S. Meholick
Court Administrator
County Courthouse
Clearfield, PA 16830
(814) 765-2641, ext. 5982



Kenneth J. Selvage

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

KENNETH JOHN SELVAGE

*

V.

* No.

COMMONWEALTH OF PENNSYLVANIA
DISTRICT ATTORNEY, WILLIAM SHAW

*

*

PETITION FOR WRIT OF MANDAMUS
CIVIL ACTION COMPLAINT

NOW COMES, Kenneth John Selvage, Plaintiff, acting as pro-se for himself, who avers the following in support thereof:

INTRODUCTION

1. Plaintiff commences this civil action complaint in mandamus to compel the Defendant to perform a mandatory administrative act, to supply critical evidence in the criminal case(s) at common pleas docket number(s) 99-727-CRA & 00-424-CRA, that was not supplied by the Commonwealth in the original Discovery Package.

JURISDICTION

2. This Court has original jurisdiction over this civil action pursuant to 42 Pa. C.S.A. Section 931, therefore the authority to grant all relief found right, just and equitable.

PARTIES

3. Plaintiff, Kenneth John Selvage, is a citizen of the United States and of the Commonwealth of Pennsylvania with his present address being c/o Institutional Number DZ-4871, P.O. Box 1000, Houtzdale, PA 16698-1000.

4. Defendant, William "Bill" Shaw, is a citizen of the United States and of the Commonwealth of Pennsylvania who is presently holding the title of Assistant District Attorney of Clearfield County discharging the judicial and administrative functions of that office, with his

present address being Office of the District Attorney, 230 East Market Street, County Courthouse, Clearfield, PA 16830.

STATEMENT OF FACTS

5. A Criminal Complaint was filed against the Plaintiff on or about September 17, 1999, with a Preliminary Hearing scheduled for October 20, 1999.

6. That at the time of the Preliminary Hearing, the Commonwealth withdrew the charge of Conspiracy to Arson and Plaintiff waived the charges of Conspiracy to Insurance Fraud and Insurance Fraud in to Court.

7. That on January 18, 2000, this Honorable Court rejected the negotiated plea agreement and Plaintiff withdrew his plea.

8. On May 16, 2000, the Commonwealth recharged Plaintiff with the Conspiracy to Commit Arson, with Preliminary Hearing scheduled on or about June 16, 2000.

9. That during the Preliminary Hearing of 6/16/00, the Commonwealth produced two (2) witnesses to testify against the Plaintiff: (A) Teresa Gates; and (B) Robert Martin. (note: Martin refused to testify).

10. That Commonwealth witness, Teresa Gates, testified under oath, that Plaintiff in fact conspired to commit the crimes of Insurance Fraud/Arson, also that when she cashed the insurance check, that: "Kenny was present when I cashed the check, standing there with his hand out wanting a share of the insurance money for his part in the crime."

11. Plaintiff asserts that he was under incarceration at the Cambria County Prison, Ebensburg, Pa., from September 21, 1998 until December 11, 1998.

12. Plaintiff believes that Teresa Gates received and cashed said insurance check during this period of incarceration, which, therefore, she would have committed perjury upon her testimony that Plaintiff was present when she indeed cashed the check.

13. That Plaintiff and his prior counsel, David C. Mason, and present counsel, Thomas M. Dickey, has repeatedly requested a copy of the insurance check issued to Teresa Gates by Erie Insurance Exchange, to be supplied to them by the District Attorney, Defendant Shaw, but Defendant has refused to comply with said requests.

14. Plaintiff asserts that not only would this critical evidence prove his innocence to alleged crime, but, would also prove that the

main Commonwealth witness, Teresa Gates, indeed lied against Plaintiff and committed perjury under oath in order to shift the blame/responsibility of said crime(s) upon the Plaintiff so she could receive a much lesser sentence.

15. Plaintiff is entitled to this critical evidence under Pa. R. Crim. P. Rule 573 (A), (B), (D), (E), (F).

EVIDENCE REQUESTED

16. (A) certified transcripts of the Preliminary Hearing held on June 16, 2000 to case 00-424-CRA (magistrate # CR-0000067-00).

(B) copy of the insurance check issued to Teresa Lynn Gates by Erie Insurance Exchange with verification as to the date the check was issued then subsequently cashed.

COUNT ONE

17. Plaintiff realleges paragraphs 1 thru 16 and states;

18. That Defendant has an administrative duty under the Pa. R. Crim. P. Rule 573 to supply the Plaintiff with the requested evidence to support his defense/innocence.

COUNT TWO

19. Plaintiff realleges paragraphs 1 thru 18 and states;

20. Defendants failure and subsequent refusal to preform this above-referenced administrative duty has caused and continues to cause Plaintiff irreparable injury thus permitting a recovery of damages pursuant to 42 PA. C.S.A. Section 8303.

PLAINTIFF'S INTEREST

21. Plaintiff realleges paragraphs 1 thru 20 and states;

22. That Plaintiff does have an interest in the performance of Defendant's duty because the failure to supply said evidence is keeping an innocent individual under incarceration; has cost him fines, costs and restitution; and has permitted the crime of perjury by Teresa Gates to go unpunished.

OTHER ADEQUATE REMEDIES

23. Plaintiff realleges paragraphs 1 thru 22 and states;

24. That Plaintiff has no other adequate remedy in which to compel

Defendant to perform his mandatory administrative duty . Plaintiff has already written several letters to the Defendant as well as contacted Erie Insurance Exchange, but has not been able to obtain evidence, and further, both Attorney Mason and Attorney Dickey have repeatedly written letter(s) to the Defendant to request said evidence, but, they too were denied access to this critical evidence.

RELIEF REQUESTED

WHEREFORE, for the foregoing reasons this Honorable Court is hereby respectfully requested to grant the Plaintiff the following relief:

25. Plaintiff requests an immediate trial on all disputed facts in accordance with the rules of civil procedure.

26. Plaintiff requests the issuance of a Mandamus directing the Defendant to supply him with the requested evidence of the certified Preliminary Hearing transcripts along with a true and correct copy of insurance check issued to Teresa Gates by Erie Insurance Exchange with verification of the date it was issued the subsequently cashed.

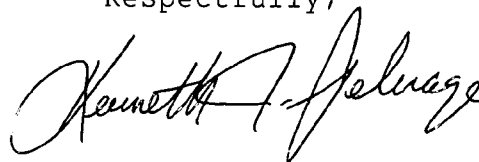
27. Award Plaintiff damages in an amount in excess of \$100.000.00 for Defendant's failure to perform his duty and an amount in excess of \$100.000.00 for his refusal to perform his duty.

28. Award Plaintiff the costs of this civil action and all attorney fees, if any.

29. Award Plaintiff such other relief as would be right, just and equitable to include, without limitations, the filing of motions to vacate sentence in this matter.

30. Direct the Pa. State Police or Sheriff to initiate criminal charges of perjury; false reports to authorities against the Commonwealth witness, Teresa Lynn Gates.

Respectfully,

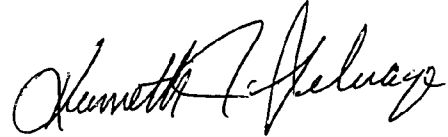
A handwritten signature in black ink, appearing to read "Kenneth J. Selvage". The signature is fluid and cursive, with the first name "Kenneth" and last name "Selvage" clearly distinguishable.

Kenneth J. Selvage

V E R I F I C A T I O N

I, Kenneth John Selvage, Plaintiff, do hereby verify that the facts stated in this foregoing document is true and correct to the best of his knowledge, information and belief, and any false statements made herein are subject to the penalties of Section 4904 of the crimes code (18 Pa. C.S. §4904), relating to unsworn falsification to authorities.

Dated: August 12, 2002



Kenneth J. Selvage

P R O O F O F S E R V I C E

I, Kenneth John Selvage, Plaintiff, hereby certify that I am this date serving a copy of the foregoing document upon the person(s) and in the manner indicated below:

Service by first class mail, postage pre-paid:

William "Bill" Shaw, Esq.
Assistant District Attorney
230 East Market Street
County Courthouse
Clearfield, PA 16830

Michael Fisher, Esq.
Office of the Attorney General
15th Floor Strawberry Square
Harrisburg, Pa. 17102

Thomas M. Dickey, Esq.
Attorney at Law
312 Union Ave.
Altoona, PA 16602

Dated: August 12, 2002



Kenneth J. Selvage
DZ-4871
P.O. Box 1000
Houtzdale, PA 16698-1000

cc: file

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: KENNETH JOHN SELVAGE : Misc. Dkt.

ORDER

NOW, this 11th day of July, 2003, upon consideration of request of Kenneth J. Selvage to proceed in forma pauperis on his Petition for Review in the Nature of a Complaint in Mandamus against the Clearfield County District attorney and State Police, it is the ORDER of this Court that said request shall be and is hereby denied.

By the Court,

/s/ JOHN K. REILLY, JR.

President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUL 11 2003

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: KENNETH JOHN SELVAGE : Misc. Dkt.

COPY

ORDER

NOW, this 11th day of July, 2003, upon consideration of request of Kenneth J. Selvage to this Court to review the Clearfield County District Attorney's refusal to process his private complaint against Thomas M. Dickey, it is the ORDER of this Court that said request shall be and is hereby denied.

By the Court,

/s/ JOHN K. REILLY, JR.

President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUL 11 2003

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts