

Clerk of Appellant Court
245 Minnesota Judicial Center
St. Paul, MN 55155

July 9, 1992
OFFICE OF
APPELLATE COURTS

JUL 13 1992

FILED

To Whom It May Concern:

Enclosing letters of interest of my concern and I'm sure of others if they knew the Court Reporter is working for the Judge.

I would like to become involved in that study - the Omnibus Appropriations bill, HF 2694, Chapter 513, Article 4, Page 91 contains the following rider language:

The supreme court, in consultation with representatives of official and freelance court reporters, shall study and report to the legislature on the certification of shorthand court reporters by January 1, 1993. The study shall consider testing, registration, continuing education, discipline and fees necessary of offset the cost of the certification program.

Please let me hear from you so I can prepare the facts to prove my point as to the letter dated April 27, 1992 enclosed.

And March 23 - 1992
Rosella Sonstebj
Rosella Sonstebj
4151 - 141st Ave. NW
Anoka, MN 55303

Teresa Lynch
State Representative

District 50A
Anoka County



Minnesota House of Representatives

Robert Vanasek, Speaker

COMMITTEES: APPROPRIATIONS, ENVIRONMENT AND NATURAL RESOURCES DIVISION; HEALTH & HUMAN SERVICES;
FINANCIAL INSTITUTIONS & INSURANCE, BANKING DIVISION

June 3, 1992

Ms. Rosella Sonsteby
4151 NW 141 Avenue
Anoka, MN 55303

Dear Rosella:

Regarding your request for information on introducing legislation relative to court reporters, the Omnibus Appropriations bill, HF 2694, Chapter 513, Article 4, Page 91 contains the following rider language:

The supreme court, in consultation with representatives of official and freelance court reporters, shall study and report to the legislature on the certification of shorthand court reporters by January 1, 1993. The study shall consider testing, registration, continuing education, discipline and fees necessary of offset the cost of the certification program.

Rosella, I would encourage you to contact the supreme court (296-2581) to become involved in this study. Depending on the result of the study, we could discuss introducing appropriate legislation in the 1992-1993 legislative session.

Keep in touch.

Sincerely,

Teresa
Teresa Lynch
State Representative

/pc

write to them ask to speak
Clerk of Appellate Court
245 - Minnesota Judicial Center
St. Paul, MN - 55155
fax no -



March 23, 1992

Board on Judicial Standards
2025 Center Point Blvd., Suite 420
Mendota Heights, MN 55120

To whom it may concern:

I am filing a complaint against Steven L. Muehlberg, Judge of District Court, who presided in my Mandamus Trial Court, Anoka, Minnesota, against the cities of Anoka and Andover. Trial Court File No. 02-C5-76-039917 02-C5-83-052640. Appeals file No. Co. 91-2309, thus far.

Enclosed also, pages out of transcript.

I felt he was arbitrary through most of trial and did not rule on law. Photographed some pages out of transcript. Example, how would you feel, Mandamus case started in 1976 and cost over \$100,000, finally get in Court only to hear the Judge say on page 795-19-25 (enclosed), I don't know what benefit you would have if I continue the trial anyway. Frankly.

On page 796 (in transcript enclosed), Mr. Rapp, my attorney, said, I just wonder tape marked as an exhibit before we play it "referring to Andover exhibit." Yet on page 44-19-25 (in transcript enclosed) Mr. Scott, attorney for Anoka, says Foundation, plus that blue shading overlay has not yet been admitted in evidence (in my testimony).

At one point, when the defendants were putting in drawn heresays map not really knowing who made them, my attorney objected. Judge Muehlberg shouted out to my attorney and said "Shut up!" My attorney did not say anything. The Judge allowed those exhibits in. Then my attorney asked to speak. He then had a law book open and read out of it to Judge Muehlberg. All that is not in the transcript as well as a lot of other continual objections, etc. If you read all those pages from transcript enclosed starting with page 1064 through 1079, you will get a better picture of negativism. It was pretty much that way all through the trial.

Note pages 1064 through 1079 (enclosed) in bottom of those pages it shows T. Skoglund (that's my Engineer) that is not him testifying, it is J. Schwantz for City of Andover.

On page 795 in transcript (enclosed) 24-25, I believe my attorney summed it up, "Well, if I simply may respond." I

won't even bother.

I called the Court Reporter, Gary R. Frazier for Judge Muehlberg if he had a tape of the trial, he said he destroyed it.

I am also sending a copy of all this to Mr. Humphrey, Attorney General of Minnesota, to make it mandatory to keep those trial tapes how ever long as needed.

Also, I am requesting when one has a court case against cities in that County, one can have that case heard in a different County.

Please, I don't want this complaint to interfere with my appeal to the Court of Appeals. And please, I do not want to involve my attorney fearing his future as an attorney before a court could greatly be harmed.

Please call 612-421-4683, or write if you want a copy of that transcript as made out by the Court Reporter for Judge Muehlberg, or any further information.

Respectfully,



Rosella Sonsteby
4151 - 141 Ave. N.W.
Andover, MN 55304

Rosella Sonstebly
4151 - 141 Ave. N.W.
Anoka, MN 55303
612/421-4683

April 27, 1992

Clerk of Appellate Court
25 Constitution Ave.
St. Paul, MN 55155

RE: MINIMUM QUALIFICATIONS FOR COURT REPORTERS

RE: ISSUES I FELT NEEDED TO BE AIRED AND CORRECTED - (ENCLOSED)

Frankly, after having read all that information since the Court Reporter is hired by the Judge and the Judge has the right to direct him as to his likings, why should the Court Reporter take the heat?

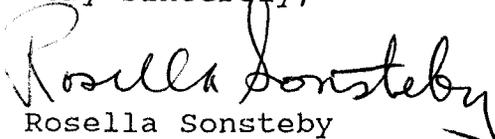
I am writing to Teresa Lynch, my State Representative, to get a type of bill passed that a Court Reporter with all the requirements proposed (enclosed) be one separate body. A judge could get a Court Reporter from that list; or do you have the input to do that? Also, the tape of trial be kept on record until not needed.

Also a plaintiff or defendant has a right to bring in his or her own tape recorder; but in case of an appeal or other need, then the Court Reporter would make a copy of the transcript.

So at this point with all the information received, I am not making a complaint against the Court Reporter, and I believe any attorney that would make an issue would not be well received.

If you have any questions, feel free to contact me.

Very sincerely,


Rosella Sonstebly

STATE OF MINNESOTA

IN SUPREME COURT

81-876

ORDER

In re Minimum Qualifications for Court Reporters:

WHEREAS, the accuracy of the Court record is of critical importance to the integrity of the court process;

WHEREAS, the Minnesota Shorthand Reporters Association has indicated that significant problems exist with the competency of currently practicing court reporters;

WHEREAS, the Minnesota Shorthand Reporters Association has recommended testing to insure a minimum level of competence by Minnesota Shorthand Court reporters;

WHEREAS, M.S. 486.02 provides that the Supreme Court shall establish minimum qualifications for competent stenographers;

WHEREAS, it is the intention of the Supreme Court to adopt the following administrative provisions in response to the concerns of the Minnesota Shorthand Reporters Association:

1. That all official stenographic reporters shall certify that they have passed the Registered Professional Reporter (RPR) examination by July 1, 1993, and shall file a notarized copy of the RPR certification with the State Court Administrator.
2. That each official stenographic reporter or per diem stenographic reporter serving a court shall retake the RPR exam at least once every six years and shall file the resultant certification.

3. That effective July 1, 1993, any document filed with the court prepared by a free lance court reporter shall include an affidavit attesting that the court reporter has passed the registered professional court reporter examination within the last six years.
4. That complaints about the competency or conduct of official or free lance court reporters in a particular judicial district shall be filed with the Chief Judge and Judicial District Administrator of the appropriate judicial district.

IT IS HEREBY ORDERED that any individual wishing to provide statements in support or opposition to the proposal shall submit nine copies in writing addressed to the Clerk of the Appellate Courts, 25 Constitution Avenue, St. Paul, Minnesota 55155 by April 30, 1992.

Dated: March 13, 1992

OFFICE OF
APPELLATE COURTS

MAR 19 1992

FILED



A. M. Keith
Chief Justice

I sent them 9 copies



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

March 25, 1992

525 PARK STREET
SUITE 200
ST. PAUL, MN 55103
TELEPHONE: (612) 297-1050
FACSIMILE: (612) 297-1235

Rosella Sonstebly
4151 - 141st Avenue N.W.
Andover, MN 55304

Dear Ms. Sonstebly:

I have now received the letter and accompanying materials to Attorney General Hubert H. Humphrey III which we discussed when you telephoned the other day. You asked the Attorney General to take action in two areas related to court trials. First, you request that it be made mandatory for court reporters to retain trial tapes "however long as needed." Second, you request that when someone has a case against a city, the case be tried in a county other than that in which the city is located.

As I told you on the phone, the Attorney General has no authority over either of these issues. The issue of where a trial will take place is called venue. Venue is determined in the first instance by the statutes, Minn. Stat. ch. 542 in particular. The statutes currently do allow for a change in the location of a trial if it can be established that one party cannot get a fair trial in a particular county. A general rule such as you suggest would have to be adopted legislatively. Therefore, you might want to tell your legislative representatives about your concern in this regard.

The other issue, concerning court reporter retention of trial tapes, is something that would have to be addressed by the judiciary. Accordingly, I am sending a copy of your letter and this letter to Sue K. Dosal, the State Court Administrator, so she can make the appropriate people aware of your suggestion.

Thank you for communicating your concerns.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard S. Slowes".

RICHARD S. SLOWES
Assistant Solicitor General

(612) 296-6473

RSS:ft
cc: Sue K. Dosal



THE SUPREME COURT OF MINNESOTA
135 Minnesota Judicial Center - 25 Constitution Avenue
Saint Paul, Minnesota 55155-6102

Sue K. Dosal
State Court Administrator

(612) 296-2474
Fax No. (612) 297-5636

April 13, 1992

Rosella Sonsteby
4151 141 Ave. N.W.
Andover, MN 55304

Dear Ms. Sonsteby:

You recently wrote to Attorney General Humphrey and the Board of Judicial Standards, expressing concerns about a mandamus case you were involved in. Assistant Solicitor General Richard Slowes referred your letter to this office, to answer your questions about retention of trial tapes. It appears from your letter that you believe that the transcript prepared by the court reporter was incomplete, and did not include exchanges between your attorney and the judge. You indicated that you were told that the tapes of the trial were destroyed. You suggested that it be mandatory that trial tapes be kept for how ever long as needed. This implies that if the tapes were retained, parties would have access to them. This is not necessarily the case.

Statutes do require that court reporters make a complete stenographic record of all testimony and all proceedings before the judge when issues of fact are tried. The reporter must take down all questions in the exact language used, and all answers precisely as given by the witness. In addition, the reporter must record all objections and the grounds stated by counsel, all rulings, all exceptions, all motions, orders, and admissions and the charge to the jury. When directed by the judge, the reporter must also make a record of any other matter or proceeding. M.S. §486.02.

Statutes also require that the court reporter file a stenographic report, or tape recording, with the court administrator, or elsewhere if the judge directs. M.S. §486.03. If the tapes had been filed with the court administrator, they would be accessible to the public under the Rules of Public Access to Records of the Judicial Branch. However, in most cases, tape recordings are used as backup to the paper notes, and are not filed with the court administrator. Though statutes do require that the court reporter furnish a transcript of the record upon request of any interested person and payment of fees, M.S. §486.03, they do not require that a tape recording which is in the possession of a court reporter be furnished upon request to an interested person.

Even though parties may not have access to tapes of court proceedings, there is a procedure to correct trial court records and transcripts. Rule 110.05 of the Rules of Civil Appellate Procedure provides as follows:

If any difference arises as to whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and determined by the trial court and the record made to conform. If anything material to either party is omitted from the record by error or accident or is misstated in it, the parties by stipulation, or the trial court, either before or after the record is transmitted to the appellate court, or the appellate court, on motion by a party or on its own initiative, may direct that the omission or misstatement be corrected, and if necessary that a supplemental record be approved and transmitted. All other questions as to the form and content of the record shall be presented to the appellate court.

Since you are represented by an attorney, and since you refer to an appeal of your case, I assume that your attorney is aware of this provision, and can use these procedures to correct the transcript if there is a material error or omission.

Finally, the Supreme Court is very concerned about the accuracy of court records. The Court has recently made a proposal which would require court reporters to take tests designed to ensure a minimum level of competency. Under that proposal, complaints about a court reporter are to be filed with the Chief Judge and Judicial District Administrator of the district. I have attached a copy of the proposal for your reference. Though the procedures have not yet been formally adopted, you may wish to file a complaint with those individuals. Their names and addresses are:

Hon. James Gibbs
Anoka County Courthouse
325 E. Main Street
Anoka, MN 55303

Sam Juncker
District Administrator
Anoka County Courthouse
325 E. Main St.
Anoka, MN 55303

I trust this has been of some assistance.

Sincerely,



Sue Dosal
State Court Administrator

BERNICK AND LIFSON

A PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

SUITE 1200 THE COLONNADE

5500 WAYZATA BOULEVARD

MINNEAPOLIS, MINNESOTA 55416

(612) 546-1200

FACSIMILE (612) 546-1003

NEAL J. SHAPIRO
SAUL A. BERNICK†
THOMAS D. CREIGHTON
JERRY STRAUSS*
SCOTT A. LIFSON
PAUL J. QUAST†
S. TODD RAPP††
THERESA M. KOWALSKI
JAMES B. FLEMING

*ALSO ADMITTED IN WISCONSIN
†ALSO CERTIFIED PUBLIC ACCOUNTANT
‡REAL PROPERTY LAW SPECIALIST
AND CIVIL TRIAL SPECIALIST
CERTIFIED BY
MINNESOTA STATE BAR ASSOCIATION

OF COUNSEL
ROBERT C. SIPKINS
ARTHUR J. GLASSMANT
SUSAN DICKEL MINSBERG
PARALEGAL
EVA Z. SIPKINS

March 4, 1992

Ms. Rosella Sonstebly
4151 141st Avenue NW
Anoka, MN 55303

Re: Requested Relief from Minnesota Court of Appeals

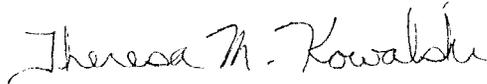
Dear Rosella:

During our discussion of March 2, 1992, you requested that I send you a letter setting forth the reason for requesting the Minnesota Court of Appeals to reverse and remand the matter back to the trial court. The trial court is the court which hears testimony and makes determinations based upon that testimony and the facts presented to it. The basis of the appeal from the trial court's judgment in your case was that the facts and testimony presented to the trial court did not support the judgment.

An appellate court is a court which rules on the application of legal principals, and only incidently rules on questions of fact. Therefore, it is only in very unusual circumstances that an appellate court has the ability to reverse a trial court on what is essentially a question of fact. If the Court of Appeals were to find, as we assert, that the judgment of the trial court was not supported by the facts and testimony before it, the court would reverse the trial court's determination and remand it to the trial court for a new trial.

Sincerely,

BERNICK & LIFSON, P.A.



Theresa M. Kowalski

TMK:mh

MINNESOTA BOARD ON JUDICIAL STANDARDS

2025 CENTRE POINTE BOULEVARD
SUITE 420
MENDOTA HEIGHTS, MINNESOTA 55120



LAWRENCE REDMOND
CHAIRPERSON

HON. ANCY L. MORSE
VICE-CHAIRPERSON

LEONE ALTMAN
CHARLOTTE ANDERSON
HARRIETTE BURKHALTER
HON. THOMAS BUTLER
HON. CHARLES A. FLINN
ROBERT JOHNSON, ESQ.
HON. EDWARD J. PARKER
PETER H. WATSON, ESQ.

RICHARD E. ARETZ
EXECUTIVE SECRETARY

DEBORAH K. FLANAGAN
ADMINISTRATIVE ASSISTANT

612-296-3999
FAX NO. ON REQUEST

April 17, 1992

Ms. Rosella Sonstebly
4151 141 Avenue NW
Anoka, MN. 55303

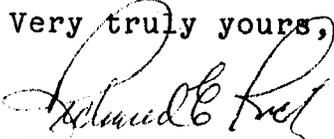
RE: File No. 92-45

Dear Ms. Sonstebly:

We have received your complaint against Honorable
Stephen L. Muehlberg, Judge of District Court.

The matter will be considered by the Board on
Judicial Standards.

Very truly yours,


Richard E. Aretz
Executive Secretary

REA:df

MINNESOTA BOARD ON JUDICIAL STANDARDS

2025 CENTRE POINTE BOULEVARD
SUITE 420
MENDOTA HEIGHTS, MINNESOTA 55120



LAWRENCE REDMOND
CHAIRPERSON

HON. ANCY L. MORSE
VICE-CHAIRPERSON

LEONE ALTMAN
CHARLOTTE ANDERSON
HARRIETTE BURKHALTER
HON. THOMAS BUTLER
HON. CHARLES A. FLINN
~~ROBERT JOHNSON, ESO.~~
HON. EDWARD J. PARKER
PETER H. WATSON, ESO.

RICHARD E. ARETZ
EXECUTIVE SECRETARY

DEBORAH K. FLANAGAN
ADMINISTRATIVE ASSISTANT

612-296-3999
FAX NO. ON REQUEST

May 4, 1992

Rosella Sonstebly
4151 141 Avenue NW
Anoka, MN. 55303

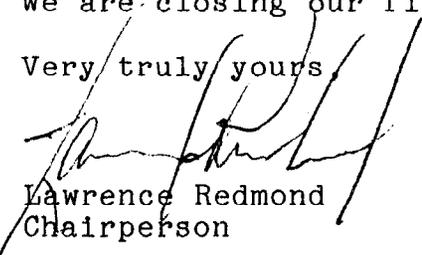
RE: File No. 92-45

Dear Ms. Sonstebly:

We have considered your complaint filed against Judge Stephen Muehlberg and have determined there is insufficient cause to proceed.

We are closing our file on the matter.

Very truly yours,


Lawrence Redmond
Chairperson

LR:df