

1 (April 20th, 2011)

2 (Microphone turned on late. Proceedings
3 already in progress.)

4 MR. GRANT: -- such that the court has
5 personal jurisdiction over this action. And here,
6 since there's no general appearance on file and
7 appearance has not been waived, the only method to
8 attain jurisdiction is if proper service of summons has
9 been perfected and, in this case, there has been no
10 proper service for a variety of reasons.

11 First, with regard to the correct individuals
12 who must be served, various documents have been sent to
13 the general entities of the Illinois Department of
14 Revenue as well as the governor's office and the
15 Illinois Attorney General's Office; however, sending
16 various documents and summonses to those general
17 entities does not comply with Section 5-211 of the Code
18 of Civil Procedure.

19 Further, with regard to who may serve process in
20 this case, the plaintiff has not employed an authorized
21 process server. Again, Section 5-202 of the Code of
22 Civil Procedure sets forth a limited number of
23 authorized process servers. And, in this case, the
24 plaintiff has sent various documents, letters, briefs,

1 supplements to briefs and a number of summonses that he
2 directed the clerk to issue. He sent all of these
3 various documents to the various agencies by regular or
4 certified mail. However, in this case, on January --
5 although the case was originally filed as an action for
6 administrative review, on January 10th of 2011, the
7 plaintiff filed an amended complaint and, therefore,
8 although service of summons by regular or certified
9 mail could be appropriate in some types of cases, for
10 the type of amended complaint that has been filed in
11 this case, that type of service is not appropriate and
12 only an authorized process server can serve process.

13 Further, there has been no proof of service
14 filed with the court, which is required by Supreme
15 Court Rule 12.

16 And, additionally, it's worth noting that,
17 although this action was filed as an administrative
18 review, there is no administrative proceeding that
19 appears to be under review; therefore, I don't think
20 the court has jurisdiction over this action under the
21 Administrative Review Act or any other applicable act.

22 Finally, I would just note that, although courts
23 typically afford some leniency to pro se litigants in
24 these types of proceedings, in this case, you know, the

1 statutes require strict compliance with, with service
2 of process in order for a court to attain jurisdiction.
3 And, in this case, we have a pro se plaintiff who has
4 -- who has been involved with at least seven or eight
5 different cases against the State of Illinois and
6 various federal agencies in the Champaign County
7 Circuit Court as well as the U.S. District Court for
8 Central District of Illinois. Therefore, to the extent
9 that the court typically affords some leniency to pro
10 se litigants, we believe the rules should be strictly
11 enforced here.

12 And, further, that under the rules, it is the
13 plaintiff's burden to demonstrate that personal
14 jurisdiction has been attained. And here where we
15 filed affidavits attesting to the fact that there has
16 been no proper service, there are no counter-affidavits
17 on file so, therefore, there's no issue with regard to
18 service and, therefore, since the plaintiff has not
19 carried his burden, we would respectfully ask that the
20 court quash the outstanding summonses and dismiss this
21 matter.

22 THE COURT: Does the court not have,
23 independent of whether or not there's been proper
24 service, to review the pleadings and make an

1 independent determination that they don't state a cause
2 of action, frivolous and patently without merit?

3 MR. GRANT: I, I believe the court does
4 -- would, would have cause to, to make an independent
5 determination regarding the merit of the pleadings and,
6 additionally, it's our position that with respect to,
7 to the extent that the court does examine the
8 pleadings, that the pleadings fail to, to state a claim
9 or at least any legally recognizable claim and, in
10 fact, do, do approach frivolous litigation.

11 THE COURT: Okay. Mr. Osterbur, what do
12 you have to say about this?

13 THE DEFENDANT: This is an Illinois State
14 Constitution guaranteed right. We address the
15 grievance filed.

16 THE COURT: Well, what are you -- what's
17 your grievance? What are you -- what are you asking
18 for?

19 THE DEFENDANT: The right that the
20 constitution allows me to assemble the people that are
21 of this community and of this state for an opportunity
22 to say in court that we want our say, that we want to
23 be responsible for our lives, our state, our society
24 here. We want the right to go beyond or before within

1 or whatever the, the leadership of state. In other
2 words, I don't believe the state is doing a good job,
3 and I don't believe there's a lot of people that -- in
4 this city and this society and this state that believe
5 the state is doing a good job. And the consequence of
6 that is that we ought to have a legal right to say this
7 is a bad thing. And we want democracy.

8 Democracy is that we govern ourselves by the
9 law. The law says the Constitution is the law of the
10 state. And if it is the law of state, then I have
11 every legitimate right to require that that law be
12 carried out.

13 To assemble the people requires the courtroom.
14 To assemble the people requires a jury to say, yes,
15 he's right or, no, he's wrong and we don't want to go
16 any further.

17 THE COURT: Well, Mr. Osterbur, you have
18 First Amendment rights and you can take those up
19 wherever you --

20 THE DEFENDANT: This is a State of
21 Illinois right.

22 THE COURT: -- feel appropriate.

23 Well, but you don't have the right to use the
24 court as your bully pulpit or as your soapbox.

1 THE DEFENDANT: This isn't a bully --
2 THE COURT: Mr. Osterbur --
3 THE DEFENDANT: All right, sir.
4 THE COURT: -- it's my turn now.
5 Your complaint doesn't state a cause of action.
6 And you have the same grievances with the State of
7 Illinois that a lot -- you're right, a lot of citizens
8 do, but the remedy is not in a court of law under this
9 -- under these circumstances. So what I'm going to do,
10 sir, is grant the motion to -- not only grant the
11 motion to dismiss --
12 THE DEFENDANT: I'm not quite done, sir.
13 THE COURT: -- I'm going to dismiss the
14 pleadings on their face. They do not state a cause of
15 action, frivolous and patently without merit, sir.
16 Thank you.
17 We'll be in recess.
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1 IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
2 CHAMPAIGN COUNTY, ILLINOIS

3 I, LAURA B. WORKMAN, an Official Court Reporter
4 for the Circuit Court of Champaign County, Sixth
5 Judicial Circuit of Illinois, transcribed the
6 electronic recording of the proceeding in the
7 above-entitled cause to the best of my ability and
8 based on the quality of the recording, and I hereby
9 certify the foregoing to be a true and accurate
10 transcript of said electronic recording.

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Official Court Reporter

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14 Dated this 25th day
15 of April, 2011.

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