

BERNARD TOCHOLKE

**BRIEF**

Appellant & Petitioner,

Vs.

SHEREEN TOCHOLKE

Circuit Court Case #02FA365

Respondent,

Court of Appeals #12AP1542

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ON APPEAL FROM THE CIRCUIT COURT FOR KENOSHA COUNTY,

THE HONORABLE WILBUR W. WARREN, III PRESIDING

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**THE BRIEF** OF THE PLAINTIFF, BERNARD TOCHOLKE, ASKING THIS COURT OF APPEALS, TO INTERPRET A CERTAIN STATUTE WHICH THE PLAINTIFF BELIEVES IS APPLICABLE ACCORDING TO THE COMMON ENGLISH LANGUAGE, AND TO WHAT THE INTENT WAS OF THE LEGISLATIVE BRANCH WHICH DRAFTED THIS 767.59(1M) STATUTE

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Plaintiff:

Bernard Tocholke

41391 Little Sand Rd.

Hinckley, MN 55037

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TABLE OF AUTHORITIES

There is only ONE statute which Tocholke is appealing for, to receive an explanation for it.

STATUTE **767.59(1m) Payment revision prospective.** *"In an action under sub. (1c) to revise a judgment or order with respect to child support, maintenance payments, or family support payments, the court may not revise the amount of child support, maintenance payments, or family support payments due, or an amount of arrearages in child support, maintenance payments, or family support payments that has accrued, prior to the date that notice of the action is given to the respondent, **EXCEPT TO CORRECT PREVIOUS ERRORS IN CALCULATIONS, ...**"*

## TABLE OF THE ISSUES

The "**Errors in Calculations**" started about ten years ago and has been ongoing ever since the first mistake was made. Here is a quick overview of what happened;

- In 2002, the Commissioner Plous and the Respondent's attorney concocted and fabricated together an erroneous calculation which reflected the Plaintiff's Gross Receipts.
- At every hearing thereafter, the courts have refused to address the situation, and on occasion threatened to throw the Plaintiff in jail if he did not remain quiet.
- In 2004, the Plaintiff filed all the right papers for a court hearing to get the arrearages looked at and then corrected. The judge ran out the side door as the plaintiff entered the courtroom for his hearing! To this date, the plaintiff has NEVER received that scheduled hearing.
- When dealing with the child abuse part of this court battle, the judge stopped the plaintiff and said that even if the parents or principal beat the children with sawed-off golf clubs, even that would NOT be considered to be child abuse in his evaluation! He stated that this was the treatment he received when he went to school. Before he elaborated on this, he ordered everything off-record!
- The plaintiff is too broke to hire an attorney. He barely has enough for the bills and collection agencies, and therefore cannot obtain an attorney.
- Because this is a Family Court battle, a public defender is NOT provided by the state. Therefore, the plaintiff has to

do the entire legal work himself, and he is NOT an attorney.

- Bernard has tried using the Court of Appeals in the past to get things straightened out, but this court is too (user) UN-friendly for the common citizen. Because of all the extreme detail requirements, the Court of Appeals Clerk has rejected hearings to him in the past.
- Bernard has tried suing the State or the judge in the Federal courts, but once again was rejected because of details and immunity clauses, and he had no power of an attorney to do it right.
- Through all the rejections for so many years, this case can finally be brought again before this court. The main question will be if the Court of Appeals, (which represents Wisconsin) will embrace the statute, and apply it like it was meant to be applied by the Legislative Branch that drafted it.
- This last judge claimed that he is incapable of addressing the "errors in calculations" since the Court of Appeals does NOT allow him to. He claims there was a time limit which has expired. Where is that time limit in the Statute?
- This same judge has however, stated that the prior calculations, were highly inflated. (Transcripts will be provided for that statement)
- This is the last legal attempt the plaintiff will strive for. If it gets rejected again, his only hope in getting justice then is by publicity in Washington, DC. The United States of America citizens need to know how Wisconsin victimizes its citizens without a remedy.

STATEMENT AS TO WHETHER ORAL ARGUMENT IS NECESSARY

This is a simple case of evaluating only ONE Statute. It is unreasonable to think that a lot of discussion is required or a lengthy argument is needed for this court to interpret what a single statute means. Tocholke does not think oral argument will be needed.

STATEMENT OF THE CASE

The Plaintiff, Bernard Tocholke, believes that the statute 767.59(1m) provides a relief for error regardless of how long the mistake was made. Judge Warren, III claims that this Court of Appeals has placed a Statute of Limitations on this Statute. It might be taken out of context or it might be misunderstood or misinterpreted what this Court of Appeals meant on a previous ruling. The purpose and mission for this appeal is to have this court make a decision as to what this statute means, as to what the Legislative Branch meant when they drafted it, and if it means what the common English language depicts it to be. The typical common citizen would interpret this statute to mean that if a mistake has been made, that it is the courts duty to correct it if the victim would ask them to do it. Tocholke is asking this court to provide their decision or opinion on this statute, and if it is according to the common language or citizen's interpretation, and then order Judge Warren to address and correct the mistake created from the "error in calculation".

## THE ARGUMENT

The Statute under scrutiny; 767.59(1m) - "Payment revision prospective, In an action under sub. (1c) to revise a judgment or order with respect to child support, maintenance payments, or family support payments, the court may not revise the amount of child support, maintenance payments, or family support payments due, or an amount of arrearages in child support, maintenance payments, or family support payments that has accrued, prior to the date notice of the action is given to the respondents, EXCEPT TO CORRECT PREVIOUS ERRORS IN CALCULATIONS. . ."

How does the English language interpret what was said? HYPOTHETICAL- Suppose John Doe had a VP job at Enron and was making a six-digit income. When the company crumbled, John Doe lost his job and ALL his retirement like his 401k. Suppose John Doe did not do a thing for a year because of the shock, disbelief, and denial. Suddenly he snapped out of it and realized that child support has gotten out of hand. He has lost his job 12 months ago and he finally files a motion to the court that he wants a revision. Suppose another three months pass by before he is actually in the courtroom.

The interpretation according to the English language, John Doe would still be held responsible for the 12 months that he had no work because of the company shutting down. He would be held responsible because he did not give immediate attention to his dilemma. Also there was **NO** error in calculation, even though he was without work. The only thing the court can do is re-evaluate his order from the time he filed for the hearing.

However, let us twist this hypothetical situation. Suppose John Doe had an opposing attorney that concocted, fabricated,

and framed him with a false income. What if the vindictive attorney framed him wrongfully by using his social security number (999-99-9999), and then labeled him with that number as being his income, (\$999,999,999.00)!! What if the courts were deceived by this evil and pernicious attorney and then based John Doe's child support on that false number? What if at EVERY court hearing John Doe brought up this issue of being framed with this erroneous mistake? What if for an entire decade the judges consistently refused to address this issue, even though John tried correcting it at every hearing?

According to the common English language, the above statute would be the remedy at correcting this mistake, IF a judge finally comes on the case that is in line with the laws of this Country and to the Constitution of the United States. An honorable judge like that could use that statute and apply it to the errors and then eliminate the inflated mistake from its ORIGIN!

QUESTIONS: to this dilemma and mistake,

1. If this statute is contradictive to the English language, and there is a Statute of Limitation in it, (obscure from the common citizen), why should the common citizen even read the laws, if their language is inadequate?
2. Is there any remedy to a situation like John Doe's or Mr. Tocholke's, if this statute is of no benefit? Must they both be cursed with a wrongful debt that is incorrect for the rest of their lives?
3. If this statute does not mean what it states, does the U.S. Constitution also have hidden limitations which would be discriminatory? An example could be that the Constitution provides citizens with "freedom of religion", (just like

the law reads), BUT- (out of thin air) **IF** I am Black, bald, a female, over six feet tall, or live in poverty, . . . this law suddenly does not apply to me? Where does the limitation come from if the Statute states, "**Except to correct previous errors in calculations.**"?

4. To the common citizen it would not matter if the error was two days ago or if it was two hundred years ago, or if the plaintiff brought it to the court's attention dozens of times before, .. **IF THE PROBLEM STILL EXISTS**, the mistake and "error in calculation" could (and should) be corrected. Why should the victim be deprived the Constitutional right of a fair trial, just because someone in the judicial system wants to claim that there is a time limitation to correct an error that the attorney and Commissioner wrongfully concocted, which the victim did NOT do himself?
5. If Mr. Tocholke, the victim, gets deprived the right to escape this vindictive fabrication of a deliberate mistake, will he be forced to live the rest of his life with this huge wrongful debt? Even if he paid his new weekly established or set amount of child support, the arrearages and interest is increasing at about \$2,000 per month! The interest alone has increased over \$10,000 this year so far, which brings the total balance now somewhere around \$117,000 which is impossible to pay off. It could easily reach a **half a million dollars** if he was cursed with long life! The interest is more than his Gross Receipts.
6. When victims get framed with huge wrongful debts like that, and the justice system refuses to correct it, how should the victims feel toward a flag that is supposed to represent, "**with liberty and justice for all**"? How should the victim have any more respect to such a flag, than if it was a colored bed sheet?

7. Numerous attempts have been made at trying to correct this mistake with absolutely NO avail. If this court rejects this case or rules against correcting the judicial mistake, how would this United States judicial system be any different than what the KGB did for USSR, or the Nazi's did for the Hitler Dictatorship?
- a. All three identities leave no remedy to the victim.
  - b. It becomes a dictatorship, if the victim has no method at getting help. Wisconsin does not provide legal help to the victim which falls prey to malicious family court judges.
  - c. The victim does not have the option to go for "higher" relief. Hitler, Stalin, or the American Court of Appeals will all just shoot you down!
  - d. If the Court of Appeals dismisses this case, all three identities destroyed its citizens which have not committed a crime besides being framed by someone in authority that did not like them.
  - e. It does not matter how the laws of; USSR, Nazi Germany, or the Constitution of the United States apply to the accusation or case, since the people in authority ARE the law. What THEY decide determines if the victim lives or dies, **NOT** if the "printed words/laws" would give them pardon. Statute 767.59 (1m) would provide the relief needed. *"My life does not fall in how the law reads, BUT how people decide what it reads. I was already wrongfully incarcerated for a full year because of it."*
8. If Mr. Tocholke gets denied and condemned in this case, he indirectly will be living in a country that will NOT provide relief to a victim of a dirty malicious scheme perpetrated by the judicial system itself. He would then be

living in a country that would be a judicial dictatorship without hope, remedy, or relief, . . . much like other Dictatorships of the past. If he gets denied relief, he should participate in the only freedom left which the citizens of USSR or Nazi Germany did not have. That freedom would be to peacefully demonstrate in Washington, DC by exposing the entire filings of the Motions and then the rulings on this case. If he would immediately get arrested, all three identities would once again become identical.

#### SHORT CONCLUSION

According to the English language, concerning the Statute which is mentioned, there is NO time limit to correct previous errors. If the **ERROR STILL EXISTS TODAY**, the statute is the remedy needed to fix those mistakes which were perniciously fabricated by Attorney Tommy Anderson, Jr. whom I have a Complaint filed against and is pending in the Office of Lawyer Regulations. I will hold that office responsible with national publicity in what they decide concerning the documented and deliberate lies that this attorney has done which is a violation of the ABA rules of professional attorney conduct. If this Court of Appeals rejects my best attempt at getting justice, I will be deprived the right of a fair trial, just because I am not an attorney, do not have the money to purchase an attorney, and am deprived by Wisconsin in getting appointed a public defender. In final if I get rejected and denied any remedy in correcting the judicial systems mistakes, I will be the hopeless citizen of a judicial dictatorship, and all that will be left to do is to seek national publicity.

A SIGNED CERTIFICATION OF WORD/PAGE COUNT

I hereby certify that this brief conforms to the rules contained in §809.19(8)(b) and (c) for a brief produced with a monospaced font using the "Courier New - 12pts." I tried to conform to the best of my NON-attorney capabilities. Word count is under 3000 words for the entire brief including the cover, and finishing with this certification. The entire length with the front cover is only 11 pages long.

Signed this 8<sup>th</sup> day of August, 2012 \_\_\_\_\_

The Appendix will include some of the major exhibits of how the "errors in calculations" were concocted and wrongfully fabricated in the courtroom. Because of this fabrication, the Appellant & Petitioner spent an entire year in jail wrongfully. The reason he is appealing is because of the out of control and ever increasing arrearages which developed due to the mistakes made in the courtroom and which has NEVER been corrected. The wrongful runaway debt and error increases approximately \$2,000 per month in interest alone and is presently somewhere around \$117,000 in arrears!

Signed this 8<sup>th</sup> day of August, 2012 \_\_\_\_\_