

IN THE SUPREME COURT OF THE STATE OF ILLINOIS

Donald Turner (a/k/a Daunn Turner),

Plaintiff,

v.

Case No. _____

The Honorable Stephen White,
in his official capacity as
Chief Judge, Twelfth Judicial Circuit,

and

Pamela J. McGuire,
in her official capacity as
**Circuit Court Clerk, Twelfth Judicial
Circuit,**

Defendants.

VERIFIED COMPLAINT FOR A WRIT OF MANDAMUS

Plaintiff Donald Turner (a/k/a Daunn Turner), complains of the Defendants as follows:

INTRODUCTION

1. This Complaint asks this Court to issue a writ of mandamus requiring the Chief Judge and Circuit Court Clerk of the Twelfth Judicial Circuit to comply with the non-discretionary mandates of that portion of the Illinois Code of Civil Procedure governing how courts process and evaluate requests by litigants to proceed *in forma pauperis*.

THE PARTIES

2. Plaintiff Donald Turner (a/k/a Daunn Turner) ("Ms. Turner") is a 52 year-old transgender female who was assigned the sex of male at birth.

3. Defendant the Honorable Stephen White (the “Chief Judge”) is the Chief Judge of the Twelfth Judicial Circuit. The Chief Judge is responsible for, *inter alia*, the administration of the courts of the Twelfth Judicial Circuit.

4. Defendant Pamela J. McGuire (the “Circuit Court Clerk”) is the Circuit Court Clerk of the Twelfth Judicial Circuit. She oversees the Office of the Circuit Court Clerk. She and her staff are responsible for filing, and maintaining a record of, all civil cases filed and heard in Will County. The Circuit Court Clerk is responsible, in her official capacity, for the actions of her staff as alleged herein.

STATEMENT OF FACTS

5. Ms. Turner is a transgender woman. Although designated male at birth, she has a female gender identity, which she expresses through her overall presentation, including dress, grooming, and self-identification.

6. Ms. Turner has had several successful careers. She was an assistant vice president of a bank, a customer service manager for the Wall Street Journal, a member of the Illinois State Police, and a caseworker for the Illinois Department of Public Aid. In March 1999, she moved from Illinois to California to pursue a career as a stage and television actor.

7. In September 2004, while still living in California, Ms. Turner became gravely ill. Fearing that she might not survive, she returned to Illinois to be with her family. She spent two months in two different hospitals and then lived for several months with her brother while she recovered.

8. As a result of her medical problems, Ms. Turner is now permanently disabled and unable to work. The benefits she receives from the Social Security Disability Insurance (“SSDI”) program are her sole source of income.

9. In 2005, after recovering from the imminent threats to her health, Ms. Turner sought therapeutic treatment to facilitate her gender reassignment. Ms. Turner continues to undergo medical treatment to facilitate her transition from male to female.

10. The generally accepted professional standards of care for gender reassignment, developed by the World Professional Association for Transgender Health, recommend that individuals undergoing gender reassignment spend a portion of time living in their new gender in all aspects of life. The standards of care also provide that not everyone undergoing gender reassignment needs or wants sex reassignment surgery.

11. In January 2006, Ms. Turner began to use the first name "Daunn" instead of "Donald." All of Ms. Turner's family and friends address her as Daunn. In addition, the name Daunn is used on her medical prescriptions, utility bills and at her church, St. John Vianny.

12. Ms. Turner would like to express her gender identity through a name that, to her, better reflects her female identity. Ms. Turner also hopes to avoid harassment and discrimination that result when people learn she has a legal name perceived to be at odds with her overall presentation. Ms. Turner also seeks a legal name change so that she can obtain legal documents, in the name by which she is known in the community.

13. On July 6, 2007, Ms. Turner went to the Will County courthouse in Joliet, Illinois to initiate legal proceedings to change her name from Donald Turner to Daunn Turner.

14. She presented to a member of the staff of the Office of the Circuit Court Clerk a Petition To Change Name (the "Name Change Petition") and an "Application To Sue As A Poor Person (the "Indigency Application"). The Indigency Application requested an order waiving the filing fee (\$273) and publication costs associated with the Name Change Petition. A copy of

the Name Change Petition is attached hereto as Exhibit 1 and a copy of the Indigency Application is attached hereto as Exhibit 2.

15. In support of her Indigency Application and Name Change Petition, Ms. Turner also presented the following materials (the "Supporting Documents"): a copy of her SSDI benefits statement; a personal budget demonstrating that the payment of the filing fee and publication costs would result in a substantial hardship; and a letter of reference signed by a doctor and nurse at the Howard Brown Health Center. A copy of the Supporting Documents is attached hereto as Exhibit 3.

16. The Office of the Circuit Court Clerk did not accept the documents from Ms. Turner. Instead, a staff member of the Office of the Circuit Court Clerk informed Ms. Turner that the administrative offices of Chief Judge Stephen White handled all requests for fee waivers. Ms. Turner then proceeded to Chief Judge White's offices and presented her Name Change Petition, Indigency Application and Supporting Documents to his staff.

17. Chief Judge White's staff accepted the Name Change Petition and Indigency Application, but did not accept the Supporting Documents, stating that they were not required.

18. Ms. Turner was informed that she would receive a decision in seven to ten days. She was further told that, if Chief Judge White granted the Indigency Application, she would then be required to retrieve the materials and file the Name Change Petition with the Office of the Circuit Court Clerk.

19. The documents that Ms. Turner submitted to Chief Judge White's staff were never "filed" – i.e., they were not stamped indicating that they had been received and no case number was assigned.

20. Having not received a decision about her Indigency Application, Ms. Turner telephoned Chief Judge White's office on July 19, 2007. His staff informed Ms. Turner that the Indigency Application had been denied.

21. When Ms. Turner inquired about the reason for the denial, she was told that Chief Judge White believed that the situation was "not that important" and that there was "no urgency." Ms. Turner asked Chief Judge White's staff to ask the Judge to call her.

22. On July 24, 2007, Chief Judge White called Ms. Turner. He told her that a name change was something that she wanted, not something that she needed. He said: "I am not spending the County's money on something like this." He commented that she had an upcoming birthday and suggested that her friends pitch in to pay for her name change as a birthday present. In the alternative, he suggested that she save her money until she could afford the costs and fees.

23. Ms. Turner asked him to consider her financial situation and offered to provide him with additional financial information. He refused, stating that he would consider her request to change her name only after she brought him the filing fee.

24. Throughout their discussion, Chief Judge White repeatedly referred to Ms. Turner as "Mr. Turner." On several occasions, Ms. Turner asked him to refer to her as either "Daunn" or "Ms. Turner." He refused, stating that she would be a man until she had "THAT surgery."

25. Ms. Turner also asked Chief Judge White about her right to appeal his decision. He informed her that she had no such right and that he was the ultimate decision-maker.

26. 735 ILCS 5/5-105 states:

The clerk of the court shall not refuse to accept any complaint, appearance, or other paper presented by the applicant if accompanied by an application to sue or defend in forma pauperis, and those papers shall be considered filed on the date the application is presented.

27. Rule 4.01(A) of the Rules of the Circuit Court of the Twelfth Judicial Circuit states:

Rule 4.0.1 Clerk's Responsibility in Filing

A. Time Stamping of Documents

The clerk of the Circuit Court shall time-stamp any documents presented, and place the documents in the file as soon thereafter as practicable but in no event beyond 48 hours from receipt, Saturday, Sunday and Holidays excluded.

28. Pursuant to 735 ILCS 5/5-105 and Rule 4.01(A) of the Rules of the Circuit Court of the Twelfth Judicial Circuit, Ms. Turner had a clear right to file, and the Circuit Court Clerk had a clear legal duty to accept and file, Ms. Turner's Name Change Petition, Indigency Application and Supporting Documents.

29. Ms. Turner demanded to file, and the Circuit Court Clerk refused to accept for filing, Ms. Turner's Name Change Petition, Indigency Application and Supporting Documents.

30. 735 ILCS 5/5-105(2) establishes criteria for the trial court to use in determining whether an individual qualifies as an "indigent person."

31. If the court finds that an applicant is an indigent person, then the court "*shall* grant the applicant leave to sue or defend the action without payment of the fees, costs, and charges of the action." 735 ILCS 5/5-105(2)(b) (emphasis added).

32. If the application is denied, "the court shall enter an order to that effect stating the specific reasons for the denial." 735 ILCS 5/5-105(d). The clerk of the court is then required to "promptly mail or deliver a copy of the order to the applicant." 735 ILCS 5/5-105(d).

33. Ms. Turner had a clear right to either have her Indigency Application approved or to receive a written order stating the specific reasons for the denial. Chief Judge White had a clear duty either to approve the Indigency Application or to issue a written order stating the specific reasons for the denial.

34. Ms. Turner demanded that Chief Judge White grant her Indigency Application. Chief Judge White refused, but he failed to issue a written order stating the specific reasons for his denial.

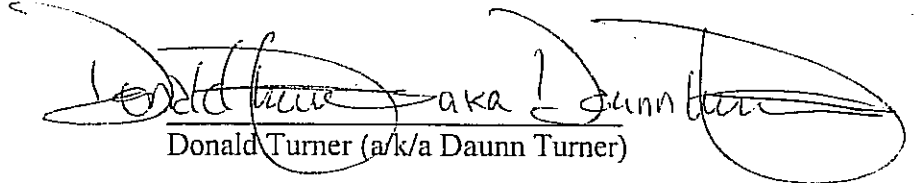
35. By refusing to perform their statutory duties, the Circuit Court Clerk and the Chief Judge violated Ms. Turner's right to due process of the law, her right to equal protection of the laws and her right to petition the government for a redress of grievances as guaranteed by the United States Constitution and the Constitution of the State of Illinois.

WHEREFORE, for the foregoing reasons, Plaintiff Donald Turner (a/k/a Daunn Turner) respectfully requests that this Court:

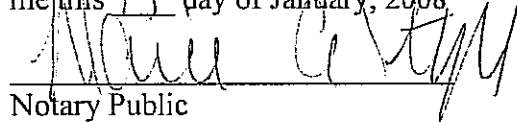
- (a) issue a writ of mandamus requiring:
 - (1) that Pamela J. McGuire, the Circuit Court Clerk of the Twelfth Judicial Circuit, accept for filing Ms. Turner's Name Change Petition, Indigency Application and Supporting Documents and assign appropriate case numbers to the proceedings; and,
 - (2) that the Honorable Chief Judge Stephen White, the Chief Judge of the Twelfth Judicial Circuit, either grant Ms. Turner's Indigency Application or issue a written order stating the specific reasons for his denial;
- (b) issue an order requiring Defendants to reimburse Ms. Turner for the costs associated with bringing this action;
- (c) grant such other relief as this Court deems appropriate.

VERIFICATION

I hereby declare and verify, under penalty of perjury, that the facts stated in this complaint are personally known to me and that they are true.


Donald Turner (a/k/a Daunn Turner)

Subscribed and sworn to before
me this 15 day of January, 2008


Notary Public



Respectfully submitted,


Christopher R. Clark

Christopher R. Clark
Lambda Legal Defense and Education Fund, Inc.
11 East Adams
Suite 1008
Chicago, IL 60603
312-663-4413

Attorney For Donald Turner (a/k/a Daunn Turner)