

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 19-2744

Phyllis Marie Knight, also known as Dr. Phyllis Marie Knight-Bey, D.M.

Plaintiff - Appellant

v.

John C. Chatelain; LaChelle A. Phillips; Douglas County Court Clerk's Office; Judge Sheryl L.
Lohaus; City Clerk, City of Omaha

Defendants - Appellees

Appeal from U.S. District Court for the District of Nebraska - Omaha
(8:19-cv-00206-RGK)

JUDGMENT

Before ERICKSON, GRASZ, and KOBES, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the district court and briefs of the parties.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

March 25, 2020

Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

APPENDIX A

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 19-2744

Phyllis Marie Knight, also known as Dr. Phyllis Marie Knight-Bey, D.M.

Appellant

v.

John C. Chatelain, et al.

Appellees

Appeal from U.S. District Court for the District of Nebraska - Omaha
(8:19-cv-00206-RGK)

MANDATE

In accordance with the opinion and judgment of 03/25/2020, and pursuant to the provisions of Federal Rule of Appellate Procedure 41(a), the formal mandate is hereby issued in the above-styled matter.

May 05, 2020

Clerk, U.S. Court of Appeals, Eighth Circuit

APPENDIX B

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 19-2744

Phyllis Marie Knight, also known as Dr. Phyllis Marie Knight-Bey, D.M.

Appellant

v.

John C. Chatelain, et al.

Appellees

Appeal from U.S. District Court for the District of Nebraska - Omaha
(8:19-cv-00206-RGK)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

April 28, 2020

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PHYLLIS MARIE KNIGHT,

)

8:19CV206

)

Plaintiff,

)

)

MEMORANDUM
AND ORDER

v.

)

)

JOHN C. CHATELAIN, et al.,

)

)

Defendants.

)

Plaintiff, Phyllis Marie Knight ("Knight"), who also refers to herself as Dr. Phyllis Marie Knight-Bey, D.M., filed this case on May 8, 2019, and was granted leave to proceed in forma pauperis on May 9, 2019. The court now conducts an initial review of Knight's Complaint (Filing 1) and Supplement (Filing 7) to determine whether summary dismissal is appropriate under 28 U.S.C. § 1915(e)(2).

I. SUMMARY OF COMPLAINT

Knight alleges that she "has identified herself as an aboriginal Moorish American National, a citizen of the Moorish National Republic Federal Government, Northwest Africa,¹ and as a participant in the Moorish Divine and National Movement of the World-the North Gate," and that she is "seeking damages due the unlawful eviction filing by (attorney) John C. Chatelain on behalf of his client (defendant) La Chelle Phillips without any proof of a contractual violation ..." (Filing 1, p. 1).

¹ "The Moorish Science Temple of America was founded by Timothy Drew, a/k/a Noble Drew Ali, in 1913.... Drew preached that all African-Americans are of Moorish descent and thus are not citizens of the United States. *Great Seal Moorish Sci. Temple of Am., Inc. v. New Jersey*, No. CIV.A. 05-CV-345, 2005 WL 2396311, at *1 (E.D. Pa. Sept. 28, 2005) (citing *United States v. James*, 328 F.3d 953, 954 (7th Cir.2003)). "Drew instructed his followers that all 'Moorish Americans' must carry a 'Moorish passport' bearing one's 'real' name, which was often created fictitiously by adding names that Drew claimed corresponded to the three ancient Moroccan tribes, 'Ali,' 'Bey,' or 'El,' to one's given birth name." *Id.* (citing *United States v. Darden*, 70 F.3d 1507, 1517 (8th Cir. 1995)).

Five Defendants are named in the Complaint: John C. Chatelain ("Chatelain"), La Chelle Phillips ("Phillips"), the Douglas County Court Clerk's Office, Judge Sheryl L. Lohaus, and the City of Omaha (Filing 1, pp. 2-3), but in a Supplement filed on May 20, 2019, Judge Lohaus and the City of Omaha are not included in the list of Defendants (Filing 7, p. 3). However, the caption of both filings lists six Defendants: Chatelain, Phillips, an unidentified County Court Judge, County Court Clerk Supervisor (Etta), the City of Omaha, and the State of Nebraska.

Knight alleges that she "entered [a] motion in the (Douglas County Court) on May 7, 2019 demanding case number CI 19-8911 be dismissed due to lack of jurisdiction over the person, the subject and the matter due to diversity of citizenship." (Filing 1, p. 1) The court takes judicial notice of the proceedings in *La Chelle Phillips v. Phyllis Marie Knight*, County Court of Douglas, Nebraska, Case No. CI 19-8911 (available on the JUSTICE public database at www.nebraska.gov).² The county court file reflects that a complaint for restitution and detainer was filed against Knight on April 24, 2019, by attorney John C. Chatelain ("Chatelain") on behalf of La Chelle Phillips ("Phillips"), who was alleged to be the owner of a residence located at 5403 Grand Avenue in Omaha, Nebraska. The matter was dismissed without prejudice following a hearing on May 8, 2019.

II. STANDARDS ON INITIAL REVIEW

The court is required to review in forma pauperis complaints to determine whether summary dismissal is appropriate. *See* 28 U.S.C. § 1915(e). The court must dismiss a complaint or any portion of it that states a frivolous or malicious claim, that fails to state a claim upon which relief may be granted, or that seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B).

² Federal courts may sua sponte take judicial notice of proceedings in other courts if they relate directly to the matters at issue. *Conforti v. United States*, 74 F.3d 838, 840 (8th Cir. 1996); *see also Stutzka v. McCarville*, 420 F.3d 757, 760 n.2 (8th Cir. 2005) (federal courts may take judicial notice of judicial opinions and public records); *Stahl v. United States Dep't of Agriculture*, 327 F.3d 697, 700 (8th Cir. 2003) (taking judicial notice of public records, and considering such materials in a motion to dismiss).

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PHYLLIS MARIE KNIGHT,

Plaintiff,

v.

JOHN C. CHATELAIN, et al.,

Defendants.

8:19CV206

JUDGMENT

Pursuant to the court's Memorandum and Order filed this date,

JUDGMENT IS ENTERED providing that this action is dismissed without prejudice
for lack of subject matter jurisdiction.

DATED this 30th day of July, 2019.

BY THE COURT:

s/ Richard G. Kopf

Senior United States District Judge

APPENDIX E

page 1 of 2

possible, there is no claim alleged that arises under a federal statute, the Constitution, or treaties of the United States. *See* 28 U.S.C. § 1331 (“federal question” jurisdiction).¹ Because Knight has failed to drop non-diverse Defendants from the action, and has failed to allege with particularity any symptoms or physical manifestations of her alleged emotional distress or provide any supporting documentation to show that her damages could possibly exceed \$75,000.00, it is also clear that “diversity of citizenship” jurisdiction under 28 U.S.C. § 1332 does not exist in this case. Knight also expressly states in her Revised Amended Complaint that she “does not wish to invoke the court ‘diversity of citizenship’ jurisdiction under 28 U.S.C. ss 1332.” (Filing 10, p. 10) The court will not grant Knight further leave to amend because amendment would be futile.

IT IS THEREFORE ORDERED that this action is dismissed without prejudice for lack of subject matter jurisdiction. Judgment shall be entered by separate document.

DATED this 30th day of July, 2019.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge

¹ The court will not repeat its extended discussion of this jurisdictional issue from its previous Memorandum and Order.

A P P E A R A N C E S

Judge	John E Huber
Defendant	Phyllis Marie Knight
Plaintiff	La Chelle Phillips
Counsel	John C Chatelain

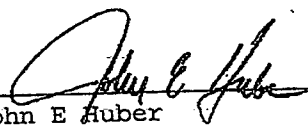
Appeared
Appeared
Appeared
Appeared

D I S M I S S A L

The above captioned matter is hereby dismissed without prejudice.
Plaintiff to bear costs.

IT IS SO ORDERED.

Hon.


John E Huber



5/08/2019

Date

esw

Bailiff

Tape Nos. DIGITAL RECORDING

APPENDIX F
page 1 of 4

Phyllis Marie Knight
5403 Grand Avenue
Omaha, NE 68104

FILED BY
Clerk of the Douglas County Court
05/08/2019

SUMMONS -- RESTITUTION OF PREMISES

Doc. No. 4936883

IN THE COUNTY COURT OF Douglas COUNTY, NEBRASKA
1701 Farnam-Criminal/Trfc/Probate
1819 Farnam - Civil/Small Claims
Omaha NE 68183

RESIDENTIAL LANDLORD AND TENANT ACT OR FORCIBLE ENTRY AND DETAINER

La Chelle Phillips v. Phyllis Marie Knight

Case ID: CI 19 8911

TO: Phyllis Marie Knight

You have been sued for the possession of premises and other causes of action, if any, as described in the attached complaint/petition by the following plaintiff(s):

La Chelle Phillips

Plaintiff's Attorney: John C Chatelain
Address: Suite #1
14707 California Street
Omaha, NE 68154
Telephone: (402) 333-8488

Trial on the action for possession shall be heard in the:

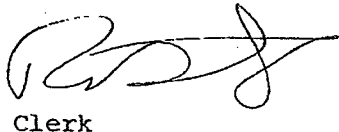
Douglas Co. Ctrm. #20 on May 8, 2019 at 9:00AM

If you fail to appear, judgment shall be entered against you for possession.

The complaint/petition may also allege other causes of action. If so, to defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: APRIL 24, 2019

BY THE COURT:


Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Phyllis Marie Knight
5403 Grand Avenue
Omaha, NE 68104

BY: AP/R. Ross

Method of service: Personal or Residential Service
diligent effort and first class mail

You are directed to make such service within 3 days excluding Saturdays, Sundays, & holidays and show proof as provided by law.

IN THE COUNTY COURT OF DOUGLAS COUNTY, NEBRASKA

La CHELLE PHILLIPS,)	CI 19
Plaintiff,)	
)	
vs.)	COMPLAINT FOR RESTITUTION
)	AND DETAINER
PHYLLIS MARIE KNIGHT,)	
Defendant,)	

Comes now Plaintiff, La Chelle Phillips, and for its cause of action against Defendant, Phyllis Marie Knight, , alleges and states as follows:

1. That Plaintiff is the owner of a residence located at 5403 Grand Avenue, Omaha, Nebraska 68104, legally described as follows.

**Lot 2, Drozda Addition, an addition to the City of Omaha, as
Surveyed, platted and recorded in Douglas County, Nebraska**

2. That Defendant has been in possession of the premises under circumstances amounting to an unlawful and forcible entry and detention, or an unlawful and forcible detention after a peaceable or lawful entry since April 20, 2019.

3. That, notice pursuant to Neb. Rev. Stat. §25-21, 221 was served upon Defendant on April 15, 2019. A true and accurate copy of the notice is attached hereto and incorporated herein.

4. That despite service of such notice, Defendant has refused to vacate and surrender possession of the premises to Plaintiff and has unlawfully and willfully detained the premises.

5. That the reasonable rental value of the premises is not less than \$800.00 per month and because of Defendant's unlawful detention, Plaintiff has suffered damages at

such rate from April 10, 2019 to the date possession is restored to Plaintiff.

WHEREFORE, Plaintiff prays for immediate restitution of the above described premises and for damages at the rate of not less than \$800.00 per month, from April 10, 2019 to the date possession is restored to Plaintiff.

La Chelle Phillips, Plaintiff,



John C. Chatelain, #15925
CHATELAIN & MAYNARD
14707 California Street, Ste. #1
Omaha, Nebraska 68154
(402) 333-8488 ext. #1
Attorney for Plaintiff

SUMMONS - RESTITUTION OF PREMISES

IN THE COUNTY COURT OF Douglas COUNTY, NEBRASKA
1701 Farnam-Criminal/Trfc/Probate
1819 Farnam - Civil/Small Claims
Omaha NE 68183

RESIDENTIAL LANDLORD AND TENANT ACT OR FORCIBLE ENTRY AND DETAINER

LaChelle Phillips v. Dr. Phyllis Marie Knight

Case ID: CI 19 11289

TO: Other Occupants

FILED BY

Clerk of the Douglas County Court
05/22/2019

You have been sued for the possession of premises and other causes of action, if any, as described in the attached complaint/petition by the following plaintiff(s):

LaChelle Phillips

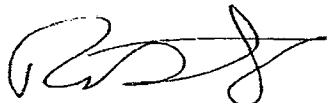
Plaintiff's Attorney: John C Chatelain
Address: Suite #1
14707 California Street
Omaha, NE 68154
Telephone: (402) 333-8488

Trial on the action for possession shall be heard in the:
Douglas Co. Ctrm. #20 on June 5, 2019 at 9:00AM
If you fail to appear, judgment shall be entered against you for possession.

The complaint/petition may also allege other causes of action. If so, to defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: MAY 22, 2019

BY THE COURT:


Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Other Occupants
5403 Grand Avenue
Omaha, NE 68104

BY: AP/R. Ross
Method of service: Personal or Residential Service
diligent effort and first class mail

You are directed to make such service within 3 days excluding Saturdays, Sundays, & holidays and show proof as provided by law.

IN THE COUNTY COURT OF DOUGLAS COUNTY, NEBRASKA

La CHELLE PHILLIPS,

Plaintiff,

vs.

DR. PHYLLIS MARIE KNIGHT BEY D M

And other occupants, if any,

Defendant,

CI 19 11289

**COMPLAINT FOR RESTITUTION
AND DETAINER**

Comes now Plaintiff, La Chelle Phillips, and for its cause of action against Defendant, Dr. Phyllis Marie Knight Bey D M and other occupants, if any, alleges and states as follows:

1. That Plaintiff is the owner of a residence located at 5403 Grand Avenue, Omaha, Nebraska 68104.

2. That Defendant is the occupant of the above described property pursuant to an agreement between Plaintiff and Defendant.

3. That, Plaintiff and Defendant entered into an agreement for the premises, under which Defendant agreed to pay to Plaintiff for the use of the premises the sum of \$1,080.00 per month as rent, due and payable on the 1st day of each month, in advance.

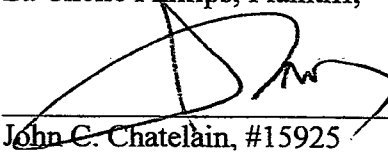
4. That Defendant is in arrears of rent and late fees due and owing in the amount of \$4,360.00.

5. That on May 8, 2019, Plaintiff served on Defendant at the rental premises a written notice of its intention to terminate the rental agreement if rent was not paid within three days; a true and accurate copy of the notice is attached hereto and by this reference incorporated herein.

6. That more than three (3) days have elapsed between the service of that Notice and the filing of this suit, yet Defendant has failed to cure the foregoing defaults or vacate the Premises, and continues to unlawfully and forcibly detain possession of the Premises from Plaintiff, who is entitled to the immediate possession and restitution thereof.

WHEREFORE, Plaintiff prays for immediate restitution of the premises.

La Chelle Phillips, Plaintiff,

A handwritten signature in black ink, appearing to read "John C. Chatelain", is written over a horizontal line.

John C. Chatelain, #15925
CHATELAIN & MAYNARD
14707 California Street, Ste. #1
Omaha, Nebraska 68154
(402) 333-8488 ext. #1
Attorney for Plaintiff

THREE-DAY NOTICE
OF TERMINATION OF RENTAL AGREEMENT
FOR NONPAYMENT OF RENT

THIS IS A LEGAL NOTICE. DO NOT IGNORE THIS OR LEGAL ACTION WILL RESULT.

Dr. Phyllis Marie Knight Bey D M
and all other occupants
5403 Grand Avenue
Omaha, Nebraska 68104

and/or PO Box 4711
Omaha, Nebraska 68104

You have failed to pay rent on the property located at the above address in the amount set out below, according to your rental agreement.

Your rental agreement will terminate if this amount is not paid IN FULL within three days from the date of service of this notice.

You will also have an eviction on your record, which could make it difficult to rent another unit of your choosing. Also, the rent you owe does not just go away. It may be turned over to a collection agency and you may be forced to pay it anyway. Before we agreed to rent to you, we emphasized that the rent must be paid in full and on time, so this three-day notice should not come as any surprise to you.

(X) Mailed: May 8, 2019

Mail rent to:
LaChelle A. Phillips
5460 Rowley Road #1304
San Antonio, Texas 78240

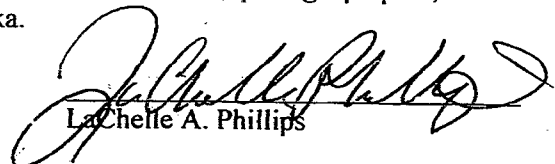
Itemization of Amount Due:

		Late Fee
540.00	January	_____
1,080.00	February	_____
1,080.00	March	_____
1,080.00	April	_____
1,080.00	May	_____
_____	June	_____
_____	July	_____
_____	August	_____
_____	September	_____
_____	October	_____
_____	November	_____
580.00	December	_____

Total: 4,360.00

Certificate of Service

I certify that on May 8, 2019, I served a true copy of the foregoing notice on the above named tenant(s) at their address set out above, by United States Mail First Class, postage prepaid, with all endorsements thereon, all done in Douglas County, Nebraska.


LaChelle A. Phillips

IN THE COUNTY COURT OF DOUGLAS COUNTY, NEBRASKA

Phillips v. Knight

Printed on 6/05/2019 at 11:21

Room 01C20

Case ID: CI 19 11289

Page 1

Decision Date 6/05/2019

A P P E A R A N C E S

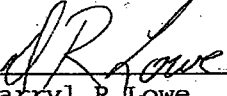
Judge	Darryl R Lowe	Appeared
Defendant	Dr. Phyllis Marie Knight	Appeared
Defendant	Other Occupants	Did NOT Appear
Plaintiff	LaChelle Phillips	Did NOT Appear
Counsel	John C Chatelain	Appeared

N O T I C E O F H E A R I N G S

Case continued to 6/10/2019 at 9:00 AM on motion of the Court,
in County Courtroom 20 for Hearing

IT IS SO ORDERED.

Hon.


Darryl R Lowe



6/05/2019

Date

esw

Bailiff

Tape Nos. DIGITAL RECORDING

APPENDIX H
page 1 of 3

Dr. Phyllis Marie Knight
5403 Grand Avenue
Omaha, NE 68104

FILED BY
Clerk of the Douglas County Court
06/05/2019

IN THE COUNTY COURT OF DOUGLAS COUNTY, NEBRASKA

Phillips v. Knight

Printed on 6/10/2019 at 9:57

Room 01C20

Case ID: CI 19 11289

Page 1

Decision Date 6/10/2019

A P P E A R A N C E S

Judge	Darryl R Lowe	Appeared
Defendant	Dr. Phyllis Marie Knight	Appeared
	Self-Represented Litigant	
Defendant	Other Occupants	Did NOT Appear
Plaintiff	LaChelle Phillips	Appeared
	Self-Represented Litigant	

LaChelle Phillips was sworn and testified.

E X H I B I T S

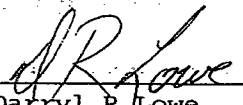
1 OFRD RCVD Three-day Notice to Quit

N O T I C E O F H E A R I N G S

Case continued to 7/18/2019 at 9:00 AM
in County Courtroom 23 for Trial - continuance of restitution trial

IT IS SO ORDERED.

Hon.


Darryl R Lowe



6/10/2019

Date

sb

Bailiff

Tape Nos. DIGITAL RECORDING

APPENDIX H
page 2 of 3

Dr. Phyllis Marie Knight
5403 Grand Avenue
Omaha, NE 68104

FILED BY
Clerk of the Douglas County Court
06/10/2019

IN THE COUNTY COURT OF DOUGLAS COUNTY, NEBRASKA

Phillips v. Knight

Printed on 7/19/2019 at 11:46

Room 01C23

Case ID: CI 19 11289

Page 1

Decision Date 7/18/2019

A P P E A R A N C E S

Judge	Darryl R Lowe	Appeared
Defendant	Dr. Phyllis Marie Knight	Appeared
	Self-Represented Litigant	
Defendant	Other Occupants	Did NOT Appear
Plaintiff	LaChelle Phillips	Did NOT Appear
Counsel	John C Chatelain	Appeared

H E A R I N G

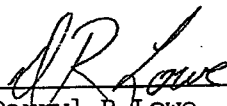
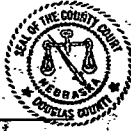
Hearing held on Motion to Continue Restitution of Premise
Motion is granted.

N O T I C E O F H E A R I N G S

Case continued to 8/15/2019 at 9:00 AM on motion of the Court,
in County Courtroom 23 for Hearing - Restitution of Premise

IT IS SO ORDERED.

Hon.


Darryl R Lowe
7/18/2019

Date

tcd

Bailiff

Tape Nos. Digital Recorder

APPENDIX H
page 3 of 3

Dr. Phyllis Marie Knight
5403 Grand Avenue
Omaha, NE 68104

FILED BY
Clerk of the Douglas County Court
07/18/2019

IN THE COUNTY COURT OF DOUGLAS COUNTY, NEBRASKA

Phillips v. Knight

Printed on 8/15/2019 at 9:22

Room 01C23

Page 1

Case ID: CI 19 11289

Decision Date 8/15/2019

A P P E A R A N C E S

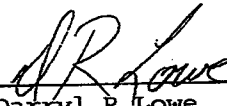
Judge	Darryl R Lowe	Appeared
Defendant	Dr. Phyllis Marie Knight	Appeared
	Self-Represented Litigant	
Defendant	Other Occupants	Did NOT Appear
Plaintiff	LaChelle Phillips	Did NOT Appear
Counsel	John C Chatelain	Appeared

A D D I T I O N A L E N T R I E S O F R E C O R D

Judge recuses himself based on alligations made to the Court.
Referred to Judge Lohaus.

IT IS SO ORDERED.

Hon.


Darryl R Lowe



8/15/2019

Date

tcd

Bailiff

Tape Nos. Digital Recorder

APPENDIX I

Dr. Phyllis Marie Knight
5403 Grand Avenue
Omaha, NE 68104

FILED BY
Clerk of the Douglas County Court
08/15/2019

IN THE COUNTY COURT OF DOUGLAS COUNTY, NEBRASKA

Phillips v. Knight

Printed on 8/16/2019 at 2:29

Room 01C99

Case ID: CI 19 11289

Page 1

Decision Date 8/16/2019

A P P E A R A N C E S

Judge Sheryl Lohaus

Appeared

O R D E R S

The Court orders:

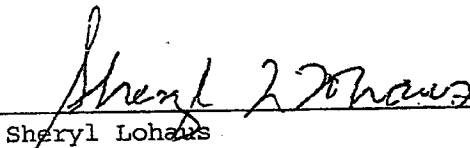
Based on the statements in the journal entry and order dated August 15 2019, whereby Judge Lowe recused himself from hearing the restitution matter, this matter is rescheduled to Courtroom 20 on August 23 2019 at 9 AM.

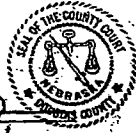
N O T I C E O F H E A R I N G S

Case continued to 8/23/2019 at 9:00 AM
in County Courtroom 20 for Hearing - Restitution of Premises

IT IS SO ORDERED.

Hon.


Sheryl Lohaus



8/16/2019

Date

CAT

Bailiff

Tape Nos. _____

APPENDIX J

1 of 5

Other Occupants
5403 Grand Avenue
Omaha, NE 68104

FILED BY
Clerk of the Douglas County Court
08/16/2019

IN THE COUNTY COURT OF DOUGLAS COUNTY, NEBRASKA

Phillips v. Knight

Printed on 8/23/2019 at 10:24

Room 01C20

Case ID: CI 19 11289

Page 3

Decision Date 8/23/2019

CERTIFICATE OF SERVICE

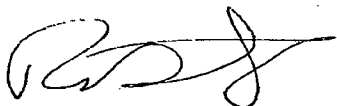
I the undersigned, certify that on August 23, 2019 I served a copy of the foregoing upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or E-mail:

Dr. Phyllis Marie Knight
5403 Grand Avenue
Omaha, NE 68104

Other Occupants
5403 Grand Avenue
Omaha, NE 68104

John C Chatelain
j.chatelain@cm.omhcoxmail.com

Date: August 23, 2019

Signature: 

APPENDIX J
2 of 5

IN THE COUNTY COURT OF DOUGLAS COUNTY, NEBRASKA

Phillips v. Knight

Printed on 8/23/2019 at 10:24

Room 01C20

Case ID: CI 19 11289

Page 1

Decision Date 8/23/2019

A P P E A R A N C E S

Judge	Derek Vaughn	Appeared
Defendant	Dr. Phyllis Marie Knight	Appeared
	Self-Represented Litigant	
Defendant	Other Occupants	Did NOT Appear
Plaintiff	LaChelle Phillips	Did NOT Appear
Counsel	John C Chatelain	Appeared

R E S T I T U T I O N O F P R E M I S E S

The Court finds there is unpaid rent due and owing the plaintiff.

Judgment awarded to: LaChelle Phillips

Against: Dr. Phyllis Marie Knight

Other Occupants

for the sum of	\$.00 plus costs of	\$.00
and attorney fees of	\$.00	

H E A R I N G

Hearing held on Restitution of Premises

O R D E R S

The Court orders:

The Defendant was removed from the Courtroom due to her failure to follow the Court's Orders. Additional evidence was adduced.

APPENDIX J

3 of 5

E X H I B I T S

2 OFRD RCVD Affidavit

IT IS SO ORDERED.

Hon.

Derek Vaughn



8/23/2019

Date

dvb

Bailiff

Tape Nos. DIGITAL RECORDING

FILED BY

Clerk of the Douglas County Court

08/23/2019

WRIT OF RESTITUTION

**Douglas County Court, Civil/Small Claims Division
1918 Farnam Street, Farnam Level, Omaha, NE 68183 (402) 444-5424**

La CHELLE PHILLIPS,
Plaintiff,

WRIT OF RESTITUTION

vs,

**DR. PHYLLIS MARIE KNIGHT BEY D M)
And other occupants, if any,)
Defendant.)**

CI 19 11289

TO THE CONSTABLE OF DOUGLAS COUNTY:

WHEREAS, in a certain action or the forcible entry and detention of the following described premises, to wit: **5403 Grand Avenue, Omaha, NE 68104**, lately tried in the County Court wherein above named as Plaintiff was Plaintiff, and above named Defendant was Defendant(s), judgment was rendered on **June 5, 2019**.

Constable: restore premises to the Plaintiff as follows: **5403 Grand Avenue, Omaha, NE 68104** with no further notice to Defendant(s).

You therefore are hereby commanded to cause the Defendant(s) to be forthwith removed from said premises, and the said Plaintiff(s) to have restitution of the same; also, that you levy of the goods and chattels of said Defendant(s), and make the costs aforesaid, and all accruing costs; and of this writ make legal service and due return.

Date: AUG 23 2019, 2019.

By the Court:

Meryl 2. Mauer
County Judge



Attorney for the Plaintiff: John C. Chatelain
Telephone Number: 402-333-8488 ext. #1
Plaintiff's phone number for lockout: 402-812-7969

APPENDIX J

4 of 5

IN THE COUNTY COURT OF DOUGLAS COUNTY, NEBRASKA

La CHELLE PHILLIPS,
Plaintiff,

vs.

DR. PHYLLIS MARIE KNIGHT BEY D M
And other occupants, if any,
Defendant,

CI 19 11289

PRAECIPE
FOR WRIT OF RESTITUTION

TO: THE CLERK OF THE COURT:

Please issue Writ of Restitution upon Defendant, Dr. Phyllis Marie Knight Bey D M and other occupants, if any, at 5403 Grand Avenue, Omaha, Nebraska 68104, to be served by the **Douglas County Constable Ron Ross** all pursuant to law and pursuant to the judgment rendered in the above-entitled cause.

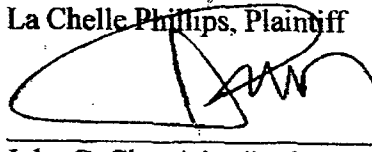
Dated: June 5, 2019

FILED
CIVIL/SMALL CLAIMS DIVISION

AUG 23 2019

Clerk of Court
DOUGLAS COUNTY COURT
OMAHA, NEBRASKA

La Chelle Phillips, Plaintiff


John C. Chatelain, #15925
CHATELAIN & MAYNARD
14707 California Street, Ste. #1
Omaha, Nebraska 68154
(402) 333-8488 ext. #1
Attorney for Plaintiff

Please Serve Writ ASAP and
arrange for back-up

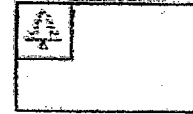


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APPENDIX J

5 of 5

3709619.



Moorish National Republic Federal Government

~ ~ *Societas Republicae Ea Al Maurikanos* ~ ~

Moorish Divine and National Movement of the World

The True and De Jure Natural Peoples - Heirs of the Land

~ ~ I.S.L.A.M. ~ ~

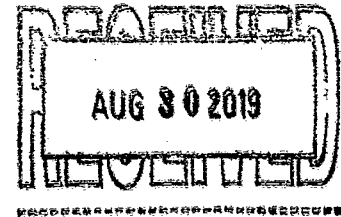


IN THE COUNTY COURT OF DOUGLAS COUNTY

Nebraska Statutes 42-357

Nebraska Statutes 49-801

*Affidavit
of
Writ of Error
Coram nobis*



Dr. Phyllis Marie Knight-Bey D. M.
Plaintiff,

CI 19 11289 FRAUD (VOID)
CI 19 8911
8:19CV206
19-2744

vs.

Attorney John Chatelain, &
La Chelle Phillips,
Defendants,

In my honor, I, Dr. Phyllis Marie Knight-Bey D. M. entering upon the lower ship Douglas, County, addressing negligence and malice involved with the issuing of Civil Case number **CI 19 11289**. Issued in **error** for the sole purpose of criminal retaliation. Raising **notice** of severe Federal Violations in action for criminal prosecution. Standing on the legal grounds decreed under the higher court authority of the **federal** and **appellate judiciary courts**. Case number **CI 19 11289** is hereby **null** and **void**. Closing this civil docket dismissed due to federal criminal conspiracy.

Demanding the Douglas County Constable Ron Ross **Immediately** remove **all** Trespassing notice. From the property located at 5403 Grand Avenue Omaha, Nebraska 68104. Upon delivery of Sherriff's notice in compliance with **Nebraska Statutes 49-801** affirmed under the authority of the appellate courts.

APPENDIX K

1 of 8

IN THE COUNTY COURT OF DOUGLAS COUNTY, NEBRASKA

La CHELLE PHILLIPS,

Plaintiff,

vs.

DR. PHYLLIS MARIE KNIGHT-BEY
D.M. AND OTHER OCCUPANTS, IF
ANY,

Defendants.

CI 19-11289

**ORDER
FILED**
CIVIL/SMALL CLAIMS DIVISION

SEP 18 2019

Clerk of Court
**DOUGLAS COUNTY COURT
OMAHA, NEBRASKA**

THIS MATTER came before the Court on the Court's Periodic Review of its Court File. Dr. Phyllis Marie Knight-Bey D.M. (hereinafter referred to as "Knight") has filed a *Pro Se* Written Motion for a Writ of Coram Nobis and other statutory challenges. (See Knight's Motion file-stamped on August 27, 2019). The Court takes Judicial Notice of the pleadings contained in the Court file. The Court has reviewed the Motion, pleadings, and relevant legal authorities and now finds as follows:

As a matter of law, when litigants such as Knight herein is, "... acting pro se ... is held to the same standards as all others who appear before the courts ... 'If one chooses to represent himself or herself before a tribunal, one must accept the consequences of one's own failure to properly present sufficient evidence to sustain one's burden.'" *Nolan v. Campbell*, 13 Neb. App. 212, 219 (2004) (citations omitted). Knight alleges that "[f]raudulent Documents (sic) used to obtain Residence (sic) and tangible items." (See Knight's Motion file-stamped on August 27, 2019). Knight is requesting a Writ of Coram Nobis under Neb. Rev. Stat. § 25-2224 as part of her Motion. (Id.).

The common-law writ of error coram nobis exists in this state under Neb. Rev. Stat. § 49-101 (Reissue 1998). ... The purpose of the writ of error coram nobis is to bring before the court rendering the judgment matters of fact which, if known at the time the judgment was rendered, would have prevented its rendition. ... It enables the court to recall some adjudication that was made while some fact existed which would have prevented rendition of the judgment but which, through no fault of the party, was not presented. ... The writ of error coram nobis is not available to correct errors of law. ... It is not enough to show that it might have caused a different result. ...

State v. El-Tabech, 259 Neb. 509, 524 (2000) (citations omitted).



APPENDIX K

2 of 8

Pursuant to Neb. Ct. R. Pldg. § 6-1112(f), “[u]pon motion by a party before responding to a pleading, or if no responsive pleading is permitted by these rules, upon motion made by a party within 30 days after the service of the pleading upon the party or upon the court’s own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” A Writ of Coram Nobis has never been construed to operate as a Motion to Alter or Amend a Judgment or a Motion for a New Trial. As a result of the Knight’s actions and her failure to follow the Court’s Orders, she was removed from the Courtroom on August 23, 2019. (See Order file-stamped on August 23, 2019). The only evidence received in this matter was an affidavit that was not objected too. (Id.).

A Writ of Coram Nobis has been referred to as the equivalent of a “Hail Mary” pass which ‘ . . . in American football . . . a long forward pass made in desperation at the end of a game, with only a small chance of success.’ Kathleen M. Bure, *Coram Nobis and State v. Stinney: Why South Carolina Should Revitalize America's Legal "Hail Mary"*, 68 S.C. L. Rev. 917, 923–25 (2017). “Generally, coram nobis is unavailable to correct errors at a trial . . . It is also unavailable to review the evidence presented at the trial . . . Issues concerning the sufficiency of the evidence or the credibility of witnesses are not cognizable in coram nobis proceedings; rather, those issues are to be settled at trial, and, when appropriate, on the record on direct appeal.” 39 Am Jur 2d *Habeas Corpus and Postconviction Remedies* § 194 (citations omitted).

Consequently, the Writ of Coram Nobis is not an available remedy as it was the Defendant’s actions that caused her removal from the Courtroom and therefore any evidence she wanted this Court to consider was not offered. The Court did not consider any other evidence that may have been offered in prior hearings. Thus, the Court is uncertain as to what fraudulent documents that Knight is referencing.

Assuming arguendo that the Defendant is alleging that the Plaintiff is not the proper owner in this matter, then that evidence should have been presented to the Court on August 23, 2019. The Defendant may be alleging that she is the proper owner of the residence and therefore its title is in dispute. This Court would not have the subject matter jurisdiction to address any title dispute and that matter would need to be filed in the proper forum. See *Fannie Mae v. Marcuzzo*, 289 Neb. 301 (2014). There was no evidence presented that title to this property is in dispute. The Defendant’s Motion does

not state what relief she is requesting. Therefore, the Defendant's Motion for a Writ of Coram Nobis is **DENIED**.

The Nebraska Supreme Court has ruled that

Standing involves a real interest in the cause of action, meaning some legal or equitable right, title, or interest in the subject matter of the controversy. The purpose of the standing inquiry is to determine whether a person has a legally protectable interest or right in the controversy that would benefit by the relief to be granted. Persons claiming standing must show that their claim is premised on their own legal rights and not the rights of another.

In re Enyce J., 291 Neb. 965, 970-971 (2015) (citations omitted).

The Court has reviewed the remaining statutory challenges that Knight has made in her Motion. (See Knight's Motion file-stamped on August 27, 2019). Knight is requesting relief under Neb. Rev. Stat. § 28-603, Neb. Rev. Stat. § 28-1411 and other related statutes. Knight has not demonstrated that she has standing to request relief under those criminal statutes. Prosecution agencies can file criminal matters against individuals for violation of these statutes; however, private parties cannot assert these statutes under a civil action as a claim of relief. Neb. Rev. Stat. § 25-824(1) states in part "... [i]f a pleading is frivolous or made in bad faith, it may be stricken." Clearly, Knight attempts to relitigate the same issues resolved in this proceeding and she voluntarily waived any opportunity to raise these issues because of her actions in the Courtroom. She now attempts to collaterally attack the prior valid Order of this Court that has become final. This Court is left with no alternative but to find that the pending Motion is frivolous and should be stricken. Further, it is equally clear that no amendment can resuscitate this Motion.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that in accordance with the above, the Defendant's Motion is **STRICKEN** as being **FRIVOLOUS**. The hearing scheduled for September 19, 2019 is cancelled at this time. The parties do not need to appear. Any additional Motions or matters pending that were not decided in accordance with this Order are **DENIED** as **MOOT**.

DATED this 12th day of September, 2019.

BY THE COURT:

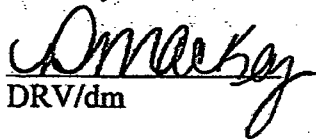
A handwritten signature in black ink, appearing to read 'DEREK R. VAUGHN', written over a horizontal line.

DEREK R. VAUGHN
County Court Judge

Copies of the foregoing were mailed on the 12 day of September 2019, to the following persons, by depositing same in the United States mail, postage prepaid:

Dr. Phyllis Marie Knight Bey
P.O. Box 4711
Omaha, NE 68104

Mr. John Chatelain
Attorney at Law
440 Regency Pkwy. Dr.
Suite 132
Omaha, NE 68114


DRV/dm

Dr. Phyllis Marie Knight
P.O. Box 4711
Omaha, NE 68104

C 01 CI 19 0011289 Phillips v. Knight
09/12/2019 Order
Assigned to: John E Huber

002891895C01

Other Occupants
5403 Grand Avenue
Omaha, NE 68104

C 01 CI 19 0011289 Phillips v. Knight
09/12/2019 Order
Assigned to: John E Huber

002891895C01

**NOTICE OF ABANDONMENT OF PREMISES AND
RIGHT TO CLAIM ABANDONED PROPERTY**

Date: September 11, 2019

Name: Dr. Phyllis Marie Knight Bey
Address: 5403 Grand Ave.
City/State/Zip: Omaha, Nebraska 68104

When you vacated the above address, the following personal property remained:

(description of property)

Bend filled with clothing, suit case, boxes, clothes. shoes, bath supplies, kitchen supplies pot pans dishes, cutlery, couch, chairs, tv, fireplace, car, stove, washer, dryer, speaker, mic, cabinet, picture, lamps, and misalliance items.

You may claim this property at the above address. You will need to call me at the number listed below, to make arrangements for access to the property.

Unless you pay the reasonable cost of storage for all the above-described property and take possession of the property, which you claim not later than 14 days after mailing of this notice (7 days if hand delivered), this property may be disposed of pursuant to the Disposition of Personal Property Landlord and Tenant Act.

Because this property is worth less than \$2,000.00, it may be kept, sold or destroyed without further notice if you fail to reclaim it within the time indicated in this notice.

Property Manager

La Chelle Phillips

Printed Name: La Chelle Phillips
Phone #: 402-812-7969



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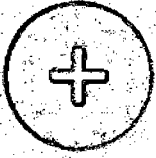
To buy your belonging you will need to pay \$12000 cahiers check only

Awesome i will pass that along to the police, the banking and finance commission and my tribe who has there property inside the property we where buying

I just got off phone the banking commission she the are turning in to the criminal investigations unit for bank fraud and Now strong armed robbery and extortion

You told Tina I had 30 days

to get my items now they are
yours? I have another court



Text message



SMS

APPENDIX L
page 3 of 3