

DA 15-0439

IN THE SUPREME COURT OF THE STATE OF MONTANA

2016 MT 249N

Terry-Lee, Sovereign Being, State Citizen,

Plaintiff and Appellant,

v.

MONTANA DEPARTMENT OF JUSTICE
and GREGORY NOOSE, CHIEF,

Defendant and Appellee.

APPEAL FROM: District Court of the Seventeenth Judicial District,
In and For the County of Valley, Cause No. DV-2014-34
Honorable John C. McKeon, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Terry-Lee (Self-Represented), Glasgow, Montana

For Appellee:

Timothy C. Fox, Montana Attorney General, A. Peter Funk, Assistant
Attorney General, Helena, Montana

Submitted on Briefs: July 27, 2016

Decided: October 4, 2016

Filed:



Clerk

Justice Michael E Wheat delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 In 2013 and 2014, Terry-Lee filed three applications with the Montana Department of Justice Motor Vehicle Division (DOJ/MVD) seeking a non-commercial Montana driver's license. In each application, he professed that he was a "non-resident" inhabitant/citizen of the "Republic of Montana." He declined to complete the section of the applications regarding United States citizenship but indicated that he was "not a U.S. person." He claimed a date of "creation" rather than a date of birth and asserted that he was created in the "Washington Republic." He further asserted that he has no Social Security number and that he is "exempt" from using postal zip codes. The DOJ/MVD rejected each of his applications, explaining that Lee did not complete the form as required and submitted insufficient or non-conforming information. Lee filed a timely appeal of his last denial to the Seventeenth Judicial District Court, Valley County.

¶3 Lee claimed that Gregory Noose, the former Bureau Chief at DOJ/MVD, erroneously denied, or instructed his staff to deny, each of Lee's applications. The District Court conducted a hearing on May 8, 2015, and subsequently affirmed the DOJ's denials of Lee's applications on the grounds that the "confusing and contradictory

information” provided by Lee precluded the DOJ/MVD from completing the verification required by § 61-5-105(10), MCA.

¶4 On appeal to this Court, Lee urges us to instruct the DOJ/MVD to issue him a driver’s license with his “true & correct Christian name” spelled “Terry-Lee” in upper and lower case letters (as opposed to all upper case letters) and to include his last known address with “‘no’ MT-zip code on the face of said license.”

¶5 The licensing provisions for Montana’s drivers are set forth at Title 61, chapter 5, part 1, MCA. In order to obtain a Montana driver’s license, an individual must be a Montana resident. Section 61-5-103, MCA, requires that a person who has resided in Montana for more than 60 consecutive days is considered to be a resident and must be licensed by the State before operating a motor vehicle. Exceptions to the residency requirement are listed in § 61-5-104, MCA. Despite Lee’s consistent declaration that he was a “non-resident” inhabitant of Montana, the District Court determined that, under the applicable statutes, he was a Montana resident for purposes of licensing.

¶6 In addition to being a Montana resident, an applicant for a Montana license must be a United States citizen or a lawfully present non-United States citizen. Section 61-5-105, MCA, instructs the DOJ/MVD to verify that a non-United States citizen applicant is lawfully present in the United States before issuing a Montana driver’s license. The statute provides, in relevant part:

The department may not issue a license under this chapter to a person:

. . . .

(10) whose presence in the United States is not authorized under federal law. When an applicant who is not a citizen of the United States applies for a driver's license, the department shall verify that the applicant is lawfully present in the United States by using the federal systematic alien verification for entitlements program. The department may not accept a driver's license issued by another state as proof that an applicant is lawfully present in the United States under federal law.

Section 61-5-105(10), MCA.

¶7 Additionally, Admin. R. M. 23.3.131 sets forth the documents accepted by DOJ/MVD by applicants for driver's licenses. The 36 identifying documents listed were selected to prove the true identity of applicants and to establish their lawful presence in the United States if they are non-citizens. Lee failed to submit any documents that complied with Admin. R. M. 23.3.131.

¶8 Because Lee consistently denied being a United States citizen, DOJ/MVD attempted to verify Lee's legal status in the country by utilizing the federal SAVE¹ system. However, without a Social Security number and other necessary identifying information, DOJ/MVD was unable to verify Lee's status. Without such verification, the agency was required to deny Lee's application for a license.

¶9 The record in this case indicates that for decades Terry-Lee has repeatedly declared that he is not a United States citizen; rather, he claims to be a "sovereign state

¹ SAVE is the Systematic Alien Verification for Entitlements Program that assists federal, state and local benefit granting agencies to verify a benefit applicant's immigration status or naturalized/derived citizenship. <https://www.uscis.gov/save> (<https://perma.cc/V8UH-D6QY>).

citizen of the Republic of Montana.” In an affidavit that he claims to “annex” to any document on which he “places [his] autograph,” he states:

That I have no memory of accepting the dubious status of or acting in the capacity of a “U.S. citizen” or “person” within the meaning of the so-called “14th Amendment” and any purported “evidence” to the contrary is hereby Declared [sic] a deceitful falsehood.

¶10 Montana’s licensing statutes and regulations apply to all Montana residents seeking a driver’s license. The law simply does not provide for alternative or special legal status.

¶11 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the Court, the District Court’s findings of fact were not clearly erroneous nor were its conclusions of law incorrect. Moreover, this case presents questions clearly controlled by settled law.

¶12 Affirmed.

/S/ MICHAEL E WHEAT

We Concur:

/S/ MIKE McGRATH
/S/ PATRICIA COTTER
/S/ BETH BAKER
/S/ LAURIE McKINNON