

NO. 07-11-0091-CV
IN THE COURT OF APPEALS
FOR THE SEVENTH DISTRICT OF TEXAS
AT AMARILLO
PANEL D
AUGUST 9, 2011

R. WAYNE JOHNSON, APPELLANT

V.

GERALD CORNELIUS AND VICKI CORNELIUS, APPELLEES

FROM THE 242ND DISTRICT COURT OF CASTRO COUNTY;
NO. B9231-1011; HONORABLE ED SELF, JUDGE

Before QUINN, C.J., and CAMPBELL and PIRTLE, JJ.

ORDER

On July 22, 2011, appellant R. Wayne Johnson, who is acting *pro se*, filed in this appeal several documents, including a motion to transfer the appeal because of perceived bias against him, and a “motion to determine jurisdiction.” The documents were accompanied by the Rule 39.8 21-day notice¹ the Court had sent Johnson and

¹ Tex. R. App. P. 39.8. The notice advised the parties the appeal was set for submission without oral argument on July 29, 2011. Johnson returned his copy of the notice, annotated with his handwritten comment, along with his other filings.

appellees on July 8, 2011, and by a copy of another item of correspondence from Johnson to an Assistant United States Attorney.

As other courts have noted in both the trial and appellate contexts, *pro se* litigants, like lawyers, must be expected to behave in a civil manner. *Gleason v. Isbell*, 145 S.W.3d 354, 357-58 (Tex.App.--Houston [14th Dist.] 2004, no pet.) (Frost, J., concurring and dissenting). In often-quoted language, the United States Supreme Court stated in *Faretta v. California* that “the right of self-representation is not a license to abuse the dignity of the courtroom.” 422 U.S. 806, 834 n.46, 95 S.Ct. 2525, 2541 n.46, 45 L.Ed.2d 562 (1975).

The documents Johnson filed on July 22 contain language addressing the Court and its staff as “fools.” The documents also contain a reference to “judicial whores.” The Court is addressed as “the corrupt-retaliatory court.” The actions of the trial court are referred to as “criminal.” All because the trial court, and this Court in previous opinions,² has disagreed with legal positions taken by Johnson.

As Justice Frost pointed out in her opinion in *Gleason*, no matter how willing individual justices of the Court may be to suffer insults and personal attacks, the Court has an obligation to demand respectful behavior toward the courts as institutions. 145 S.W.3d at 359 (Frost, J., concurring and dissenting). We would not tolerate such abusive, crude and intemperate personal attacks on the Court, the Court’s staff or the

² *In re Johnson*, No. 07-11-0119-CV, 2011 Tex. App. Lexis 4885 (Tex.App.--Amarillo June 28, 2011, orig. proceeding) (per curiam, mem. op.); *In re Johnson*, No. 07-10-0254-CV, 2011 Tex. App. Lexis 4886 (Tex.App.--Amarillo June 28, 2011, orig. proceeding) (mem. op.).

trial court by a lawyer and we cannot allow a *pro se* litigant to engage in such conduct in documents filed with the Court.

Accordingly, the documents filed by Johnson on July 22, 2011 in this appeal, including his motion to transfer and his motion to determine jurisdiction, are stricken, and will not be considered by the Court.³ *Cf.* Tex. R. App. P. 9.4(i) (court may strike a document prepared in a manner to avoid the limits of Rule 9.4); 38.9(a) (court may order brief found in flagrant violation of Rule 38 amended, supplemented, or redrawn and if another nonconforming brief is filed court may strike brief, prohibit filing another, and proceed as if party did not file a brief).

Briefs have been filed in the appeal and, as noted, the case was set for submission without oral argument on July 29. The Court does not see a need for, and does not desire, additional briefing. Nevertheless, the appeal is abated until August 29, 2011. During that time, the parties may file any motion they desire to submit. Supplemental briefs will not be filed unless the Court grants, in advance of filing, leave to file such. Absent further order of the Court, the appeal will be reinstated on August 29, 2011, and will be submitted without oral argument on that date.

It is so ordered.

Per Curiam

³ To insure that our order is not taken as discouraging the reporting of corruption or criminal conduct by the Court, we note that the address of the Texas State Commission on Judicial Conduct is P.O. Box 12265, Austin, Texas 78711-2265, and the address of the United States Attorney, Amarillo Division, is Amarillo National Plaza Two, 500 South Taylor Street, Suite 300, Lobby Box 238, Amarillo, Texas 79101-2446.