

# Woman held over lawsuits - Jailed since September, an ex-Steamboat resident won't drop filings that a judge calls ``frivolous.'

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Kay Sieverding is likely the only inmate at Clear Creek County Jail who could walk out the door with a few strokes of a pen.

But the 50-year-old woman from Steamboat Springs has found herself in a showdown with a federal judge who has ordered that she drop several of the many self-written lawsuits she has filed against people she believes wronged her in a zoning dispute.

She refuses to quit. And the judge, who has found her in contempt of court, appears determined to keep her in jail until she does.

"If I were to give up the lawsuits, it would be worse than staying in jail," Sieverding said in a telephone interview from the jail where she has been held since September. "Americans have gotten soft on civil rights. People have gotten killed over matters like this. Access to the courts is the cornerstone of our democracy."

However, one woman's search for justice is viewed differently by one of the many lawyers involved in the case. He said the lawsuits are an obsessive quest.

"I have never seen anything like this," said David Brougham, a lawyer representing the city of Steamboat Springs.

Not only has Sieverding refused to back down, the graduate of the Massachusetts Institute of Technology has filed at least one more lawsuit since her incarceration.

The impasse is set to play out in a hearing Jan. 4 in federal court, where U.S. District Judge Edward Nottingham will take up the matter of the lawsuits Sieverding has filed since he sent her to jail.

The dozen lawsuits she has filed in state and federal courts over the past decade make similar allegations of government conspiracy and collusion.

They all have their roots in a dispute she had with a neighbor who she contends blocked a public road, put up a shed and garage not allowed by zoning and harassed her when she complained.

Michael Dorf, a Columbia University law professor who has written about frivolous lawsuits, said he had never heard of a pro se litigant - someone who proceeds in legal matters without a lawyer - being jailed for refusing to stop filing lawsuits.

It's a tool that judges have authority to use in such situations, he said.

"If she's not going to stop, the court needs a bigger stick," he said. "This is the last resort the court has."

Deborah Rhode, a Stanford University law professor and director of the school's ethics center, said the court has the power to jail Sieverding indefinitely.

"Jailing is pretty unusual," she said. "Usually, people get the message short of that."

In a recent order, Nottingham wrote that the deluge of motions Sieverding has filed in an effort to be released aren't bringing her closer to freedom.

"It is the court's strong belief that Ms. Sieverding holds the keys to her jail cell, that, in her heart of hearts, she knows it, and that the hundreds of frivolous papers with which she has peppered the court are nothing more than petulant harassment," Nottingham wrote in an order filed this month.

Sieverding's husband said he thinks he knows how the judge is going to further pressure the family. He said he has received a court directive that requires him to present to the court a fuller accounting of the family's assets.

As part of the proceedings on one of the cases pending in federal court in Denver, a magistrate judge called the torrent of lawsuits "abusive litigation" and ordered the Sieverdings to pay legal costs, such as fees for lawyers, court reporters and copying. In one federal lawsuit alone, that tallied more than \$111,000.

David Sieverding thinks the court is considering putting a lien on the family home in Wisconsin, where they moved.

"I think they're going to seize every asset we have and make us homeless," he said.

The litigation has taken a considerable toll on the Sieverding family, he said. Their sons suffered ridicule in Steamboat. And they had to uproot them and move.

Nevertheless, David Sieverding supports his wife and spends several hours each day typing briefs and motions she writes while in jail.

"The whole idea of putting somebody in jail because she chose to file a lawsuit, it's a violation of her First Amendment rights," he said.

Kay Sieverding said it's a fight she's unwilling to give up because she feels she has been wronged from the beginning.

She and her husband, who together ran a business from home, had a beautiful setup: a home office in a resort town where her husband had grown up. The family could ski nearly every day in the winter.

When the trouble began with neighbors, she tried to assert her rights. She said she has suffered at the hands of petty bureaucrats in Steamboat and been pushed around by judges.

"I don't feel this is something I can retreat on," she said.

David Sieverding said he has been unable to find a lawyer willing to take this case or any his wife has filed even though they have money to pay an attorney.

In the 2002 lawsuit that led to the order that Kay Sieverding file no more pro se lawsuits, the 106-page complaint accused her neighbors of transgressions that included blocking a city street for private use and using city connections to retaliate against her when she complained.

The Sieverdings also sued the lawyers who represented the neighbors and the city; Steamboat city officials; the judge who heard a similar case at the state- court level; prosecutors in a related harassment case against Kay Sieverding; the company that insured the city; the American Bar Association because the Sieverdings couldn't get a lawyer; and the company that owns the small newspaper in Steamboat Springs, saying the newspaper wrote a defamatory story about Kay Sieverding.

U.S. Magistrate Judge O. Edward Schlatter called the complaint convoluted and impossible to understand.

He recommended that the lawsuit be dismissed, that the Sieverdings pay costs of litigation and that they be enjoined from filing any further lawsuits related to the Steamboat Springs incidents unless they are represented by a lawyer.

Those recommendations were adopted by Nottingham in March 2004, a decision the Sieverdings appealed to the 10th U.S. Circuit Court of Appeals. In a ruling issued in April, the Sieverdings lost. The appeals court said it found no fault with the magistrate's analysis and dismissed the Sieverdings' appeals.

However, Kay Sieverding persisted and filed lawsuits in several other federal courts around the country. She was ordered to appear in federal court to show why she shouldn't be held in contempt of court.

In a hearing Sept. 2, Nottingham asked Kay Sieverding whether she was willing to drop the lawsuits. She began arguing the validity of his order when he stopped her.

Kay Sieverding said she had no intention of giving up her constitutional rights. For several minutes, she argued that the appeals court hadn't ruled on the validity of the order. And she said access to the courts is her right.

Nottingham stopped her and asked again whether she would drop the cases. She refused. He ordered her taken into custody.

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