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Proceeding *pro se*.

IN THE THIRD JUDICIAL DISTRICT COURT, SALT LAKE COUNTY, STATE OF UTAH
Third District Court, 450 South State Street, Salt Lake City, Utah 84114

Karl Martin Hegbloom, Petitioner, vs. Salt Lake District Attorney, Respondent.	Answer to Motions of Respondent for Summary Judgements Civil Cases: 160901179 Judge: Vernice S. Trease Civil Cases: 160901178, 160901180 Judge: Mark Kouris

Pax domine, hear now: appeareth Karl Martin Hegbloom, Esq., a peer of the common law realm of the State of Utah, Petitioner, *pro se*, with this ANSWER TO MOTIONS OF RESPONDENT FOR SUMMARY JUDGMENTS. This single document is to answer both motions, the one for case 160901179, as well as the one for 160901178 & 160901180. I'm doing this to emphasize that all of these claims are linked and inter-related.

1 Documents of relevance for these Answers to Motions

1.¶1 I wish to include by reference, calling extra attention upon the following documents, and upon others not listed but attached or on the disc(s).

1.¶2 2016-02-17, Hegbloom, PETITION OF RESPONDENT FOR WRIT OF ERROR CORAM NOBIS.

1.¶2.1 The disc containing 'the memorandum' and supporting evidence exhibits, including:

1.¶2.2 2015-02-25, Hegbloom, MOTION OF RESPONDENT TO DISMISS PROTECTIVE ORDER 104906439 (often referred to as 'the long affidavit')

1.¶3 2016-03-02, Hegbloom, NOTICE TO ALLOW EXTRA TIME FOR RESPONDENT'S ANSWER, offering extra time for careful reading of the *error coram nobis* memorandum.

1.¶4 2016-03-18, State, MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT for 160901179

1.¶5 2016-03-18, State, MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT for 160901178 and 160901180

2 Establishment of the correct filing date

2.¶1 The notice from the Utah Supreme Court denying the petition for certiorari was issued and mailed on the 2015-02-12. Allowing 3 days for mailing, and adding one year, looking on the calendar, I find that the 2016-02-15 was a holiday, and so 2016-02-16 was ostensibly the deadline filing date.

2.¶2 I went to the courthouse on February 16, 2016 to file Petition of Respondent for Writ of Error Coram Nobis (hereinafter '*error coram nobis* memorandum', or simply 'the memorandum') in 104906439,[1,2] as well as a Utah Code §78B-9 (Postconviction Remedies Act) petition for 091908046, 111903279, and 111903495. The memorandum is long, and I did not print the full document two times as URCvP 65C demands. Instead, I printed two copies of the first three pages—the legal header, intro, and table of contents—and the signature and notarization page, and attached to each of them a copy of a DVD data disc containing the full document *along with supporting evidence exhibits*.[3] I had filled out one PCRA form-pleading with all three case numbers written on the blank for which criminal case I was challenging.

2.¶3 When I got up to the window, I was told by the court clerk that I had to file a separate Petition for Relief under the Post-Conviction Remedies Act form-pleading for each criminal case I was challenging, and that I also had to fill out three copies of the Motion to Waive Fees and Affidavit in Support of Motion to Waive Fees, plus provide documentation of my income to attach. There was not enough time to fill out the forms by hand there in the courthouse, so I went home to do it, intending to return the following day.[4] I had the forms filled out and ready the following afternoon, but that's the day my son has a self-defense class, and I had to pick him up from the bus, so there was no time to take the documents to the courthouse. However, it is only fair that by rights my attempt to file them on the 16th properly establishes the filing date. Here's why:

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1. «[S]ome "collateral" proceedings are often regarded as part of the [original] case. We have said, for example, that a writ of coram nobis "is a step in the [original] case and not ... a separate case and record, the beginning of a separate civil proceeding." *Morgan*, 346 U.S., at 505, n. 4, 74 S.Ct. 247; see also *United States v. Denedo*, 556 U.S. ___, ___, 129 S.Ct. 2213, 2221, 173 L.Ed.2d 1235 (2009) ("[A]n application for the writ is properly viewed as a belated extension of the original *1289 proceeding during which the error allegedly transpired").» *Wall v. Kholi*, 131 S. Ct. 1278, 1288–1289 (US Sup. Ct. 2011).

2. I realize now that I may not have followed correct procedure. I believe that I need to follow URCvP 65B, probably (c) & (d). As soon as I file this Answer document, I will research that and rectify it if need be.

3. There is nothing on that DVD disc that does not fit the legal definition of "written". Otherwise, how could it be on a DVD? Ah, sure, a fingerprint, speck of dust, or microscopic *virus* might be physically on it, though not *written* to the disc by the laser!

4. The clerk did accept for filing the memorandum for it's purpose as a Petition of Respondent for Writ of Error Coram Nobis in the protective order case 104906439, saying that she would send it upstairs to Judge Petersen's staff.

> If a claim is not frivolous on its face but is deficient due to a pleading error or failure to comply with the requirements of this rule, the court shall return a copy of the petition with leave to amend within 21 days. The court may grant one additional 21-day period to amend for good cause shown.

URCvP 65C(h)(3)

2.¶3.1 The court procedure rule writers did not anticipate the possibility that somebody might read four or five law-school books, do tons of caselaw and law journal article research—learning in the process how to use reference manager & research-writing note taking software, and to format legal citations—and then write **over 100 pages of memorandum, affidavit, and hearing transcripts**; addressing a "protective" order issued through inherently unfair and unconstitutional court process—where the petitioner's *ipse dixit* hearsay testimony was impeached by the respondent's solid documentary evidence that contraindicated awarding her the protective order—evidence he was never allowed to present—denied, *ultra vires*—in violation of the proper construction of the rules of procedure—an adversarial hearing, by a court commissioner—who, given disputed factual claims and a claim regarding the impeachment of the petitioner's testimony—could not lawfully recommend issuance of the permanent protective order—not even while suggesting or expecting an objection to be made to it—but was expected to expediently schedule that evidentiary hearing respondent had moved for in writing, well in advance of the hearing;—**the aforementioned memorandum also challenging the constitutionality of the law** that supposedly authorized the issuance of the "protective" order, and also addressing three challenged criminal "convictions" along with **constitutionality and rights violation issues** as well as actual **crimes against the public laws perpetrated by court officers**... the good citizen then brings his diligently prepared memorandum and evidence disc to the courthouse, to fill in the mass-produced post-conviction relief pro-forma-pleading, does it wrong—with all three case numbers on a wide blank that per was only supposed to write one case number on...[5] and thproblem that might happenen also learn that per must file three copies of the fee waiver paperwork, and then three times two copies of the memorandum also!?

2.¶4 For the reason that the *intention* of that 21-day rule is to allow inexperienced *pro se* litigants a little extra time to fix unforseeable defects in their submitted paperwork, it would be unfair to say that it doesn't apply to my circumstances simply because the people who wrote it didn't think of the particular *problem that might happen* that I had... Clearly the *Ruler of Justice* itself is more flexible than that, and has scope measuring well beyond the boundary lines of a form-pleading "coloring book", and the intention is to allow the court clerk or the judge's assistant or the judge herself to point out such obvious errors of the pleadings,

5. At least I didn't write on the back of the pages, right?

and to allow that little bit extra time to ensure that they of an acceptably correct *form*...

2.¶5 It's clear in my mind that all of the cases are related to one another. I assert that they are all part of a chain of malicious prosecutions of frivolous charges—for which I am factually innocent—linked in a pattern of actions designed to create "attainder" upon my reputation; attainder which continues to cause harm, because it is being used as an *unethical tactic in a child custody suite*, in an attempt to frame me as a "domestic violence offender" in order to effect taking custody of my son by asserting a claim pertaining to *Custody of children in case of separation or divorce – Custody consideration.*, Utah Code §30-3-10(1)(a) «In determining any form of custody, including a change in custody, the court shall consider the best interests of the child without preference for either the mother or father solely because of the biological sex of the parent and, among other factors the court finds relevant, the following: (i) the past conduct and demonstrated moral standards of each of the parties; ...».

2.¶6 Because I see all of the cases involving myself, Ms. Macrae, and the State of Utah as pendant or interrelated, I created and filed the single 'memorandum' encompassing all three of the fated post-conviction civil court actions—as well as a petition for writ of error or mandumus pertaining to the "protective" order itself. My *reasonabl expectation* was that there would only need to be one Petition for Relief under the Post-Conviction Remedies Act form-pleading to encompass them all as well; And even after having had to fill out two more forms plus the three fee waivers... and getting it all filed at last, then waiting a few weeks for action by the court... when Judge Trease issued Order Requiring Respondent's Answer on February 24, 2016, which only listed case 160901179, I assumed that they had been consolodated into one case number... and so when I had to put my things into storage and change my address to a PO box when the new property owner declined to renew my lease so they can renovate and raise the rent, I brought only one change of address notice to the court, in case 160901179, the middle of the three case numbers that now seems to correspond with the earliest of the challenged cases—also confusing, and another reason I thought they had been merged, or "set to track" or whatever... It's your black-box, not mine; I can't see inside of it, and even the interface is confusing.

2.¶7 For that reason, I did not pay any attention to the other two case numbers, until I later learned of that mistake of understanding, while checking in with the judge's judical assistant to ensure that the memorandum and disc of evidence got filed on the record, and hopefully served to the respondent along with the form-pleadings. In the course of accomplishing that, I filed Motion of Petitioner for Acceptance for Filing of Long Document in Electronic Format on March 2nd, 2016. I served a copy by either mail or hand-delivery—was it this one or the memorandum and disc that I brought in person? I don't remember now; It may have been both—to the Salt Lake District Attorney's Justice Division,

downtown. Upon receiving no answer to that motion from the State, I wrote REQUEST TO SUBMIT MOTION FOR DECISION on March 21st, 2016, hand-delivered it on the 23rd, and it was marked as filed on the 25th, the day *after* Judge Trease signed and issued BRIEFING SCHEDULE ON STATE'S MOTION FOR SUMMARY JUDGMENT AND OTHER ISSUES. I am now able to file PDF documents by emailing them to the judicial assistant.

3 §78B-9-107 Statute of Limitations

«Even where the shortcomings of counsel are recognized, the defendant may not have sufficient resources and legal knowledge to bring a petition within the one-year period allowed by statute.» Nathan Marigoni, *Unrepresented and Untimely: The PCRA's Disservice to Indigent Prisoners*, UTAH L. REV. ONLAW 1, 1 (2013).

> Petitioner Currier has questioned the legitimacy of any statute of limitations barring a petition for habeas corpus which does not excuse the tardy filing of a writ when good cause is shown.[22] While no Utah decision has previously addressed this particular claim, the Utah Supreme Court did discuss the need to excuse unavoidable delay when it interpreted Utah Rule of Civil Procedure 65B(i)(4) requiring all claims for post-conviction relief to be raised in an initial petition "except for good cause shown therein." See *Hurst*, 777 P.2d at 1037.[23] In this context, the court decided that "good cause" justifying the filing of a successive petition included situations involving "a claim overlooked in good faith with no intent to delay or abuse the writ." *Id.* We find this interpretation of the rules of civil procedure inconsistent with the statutory bar of an original petition delayed for the same reasons.[24] Therefore, having considered the interests of the State and the petitioners in light of the nature of the right impacted by this statute of limitations, we conclude that the inflexible three-month limitation on the right to petition for a writ of habeas corpus is unreasonable.
>
> [22] He cites cases from other states in which the right to present facts demonstrating excusable delay is included in a statute or evident in appellate review. See *Davis v. State*, 443 N.W.2d 707, 710 (Iowa 1989); *Passainisi v. Director, Nevada Dept. of Prisons*, 105 Nev. 63, 769 P.2d 72, 74 (1989); *Albert v. State*, 466 P.2d 826, 827 (Wyo. 1970). In these states a petitioner has the right or the opportunity to raise the issue of whether the failure to comply with the statute of limitations was due to the petitioner's own neglect or due to circumstances beyond his or her control. By contrast, in *People v. Germany*, 674 P.2d 345, 353 (Colo. 1983), the state's statute of limitations was determined to violate due process because it failed to provide a defendant any opportunity to show justifiable excuse.
>
> [23] Although Utah courts "will construe statutes to 'effectuate the legislative intent' while avoiding interpretations that conflict with relevant constitutional mandates," we are constrained to interpret the language actually used as "'the court has no power to rewrite a statute to make it conform to an intention not expressed.'" *In re Criminal Investigation*, 7th Dist. Ct., 754 P.2d 633, 640 (Utah 1988) (citation omitted). These guidelines may limit this court's ability to modify or soften the harsh effects of the rigid and short statutory limitations period through judicial gloss in lieu of declaring the statute unconstitutional.

Currier v. Holden, 862 P.2d 1357, 1371 (Utah Court of Appeals 1993).

> We have undertaken an explanation of the meaning of the "interests of justice" exception in the context of rule 65B petitions, and we see no reason to apply a different approach here.

> See *Julian v. State*, 966 P.2d 249, 253–54 (Utah 1998); *Frausto v. State*, 966 P.2d 849 (Utah 1998).

Adams v. State, 123 P.3d 400 (Utah Sup. Ct. 2005).

3.¶1 In 2008, the "interests of justice" exception to the time limitations was removed from §78B-9-107 by S.B. 277 (2008). Marigoni, *supra*, at 5. I disagree somewhat with Mr. Marigoni's interpretation of what this change means. In my opinion, the removal of that clause from this law only eliminates a *redundancy*, since an "in the interests of justice" exception is *imputed* by, *e.g.,* Utah Code §68-3-2 (2010); §68-3-2(4) (2010); §68-3-11 (1953); §68-3-12 (2010), as well as by long-standing and fundamental principles of justice and equity that the Legislature *can not* usurp from the Judicial, Utah Const. art. I, §27; art. I, §11.

3.¶2 Utah Code §78B-9-107(3) provides an additional exception to the statute of limitations based upon «physical or mental incapacity». As explained within the extensive coverage of "Mootness or Laches" in 'the *error coram nobis* memorandum' at 8, §2, up until the time my son was in pre-school and then Kindergarden, he was in my care for most of his waking hours. Thus, during that time, I was *physically incapable* of attending to taking care of these petitions for post-conviction relief. Nobody can simultaneously take care of a child while at the same time researching and then writing a substantial set of legal briefs!

3.¶3 This presents a second claim. I was *mentally incapable* of having brought this matter to court sooner than I did simply because I am a layman with very little background in the subject of "Law". I did not fully understand or even know about some of the legal and equitable grounds upon which my petition is based, prior to the time I began reading about the subject.[6] I feel certain that upon a careful reading of my memorandum and affidavits, the court will find that I have in fact exercised appropriate due diligence, that my claims are significant and valid, and thus, I have preserved my right to relief.

> The State's interpretation, which in many cases would leave unremediable the continued wrongful confinement of a prisoner, could lead to egregious miscarriages of justice. To take an extreme example, suppose a judge orders a juror jailed for returning a not-guilty verdict.[6] Unaware of his legal options or despondent about his state of affairs, the prisoner takes no action for three months. In the State's view, upon expiration of the three-month limitation period, the prisoner would have no choice but to remain in prison indefinitely because a reasonable person would have known at the moment he was hauled off to jail that the committing judge's action was illegal. After the elapse of three months, the juror-prisoner would simply have no recourse but to languish in jail at the judge's whim, even though the State has no legitimate interest in confining someone illegally.

6. Also see *Taliani v. Chrans*, 189 F.3d 597, 597 (7th Cir. 1999) (describing equitable tolling as "the judge-made doctrine, well established in federal common law, that excuses an untimely filing when the plaintiff could not, despite the exercise of reasonable diligence, have discovered all the information he needed in order to be able to file his claim on time")

> [6] As farfetched as such a scenario appears, it actually happened a while back. *Bushell's Case, Vaughan* 135, 124 Eng.Rep. 1006 (1670). See *Preiser v. Rodriguez*, 411 U.S. 475, 484, 93 S.Ct. 1827, 1833, 36 L.Ed.2d 439 (1973).

Currier v. Holden, 862 P.2d 1357, 1369 (Utah Court of Appeals 1993).

3.¶4 In my case, for the two alleged third degree felonies in 111905405, I was held in jail for 128 days on frivolous charges that the State ultimately dropped; I was given no preliminary examination hearing; the bail was egregiously excessive; the state-appointed attorney and judge apparently had discussed "mental health court" behind my back, and I was coerced into signing paperwork for it; I had instructed the attorney to move for an interlocutory hearing on the issue of whether it was valid to charge me with a violation of the protective order for having written an SMS asking about my son, when the order allowed email and she had contacted me via SMS and voicemail inviting reply. The State did not release URCrP 16 discovery until 61 day after I was arrested, and it contained nothing newer than 2 days prior to the day they obtained the arrest warrant. See 'The *error coram nobis* memorandum', at 94, §4.9.5¶3.

3.¶5 Because URCvP 81(e) causes the rules of civil procedure to apply to criminal proceedings, and the State had that information available the day they obtained the warrant, that material should have been provided as URCvP 26(a) initial disclosures. **It is *unreasonable* hypocracy for the State to have been so slack on the following of the rules of procedure (among other things) and then turn around and assert such a "strict reading"[7] of the *statutorily recommended*[8] time limits for post-conviction relief.** Because a petition for post-conviction relief is a petition for an *equitable* remedy, and claim for assertion of a statute of limitations is a defense at *law*, Utah Code §68-3-2(4) (2010) **must** be applied: «When there is a conflict between the rules of equity and the rules of common law in reference to the same matter, the rules of equity prevail.»

> The office of the misnamed doctrine is to allow suit to be delayed until a series of wrongful acts blossoms into an injury on which suit can be brought. It is thus a doctrine not about a continuing, but about a cumulative, violation. A typical case is workplace harassment on grounds of sex. The first instance of a coworker's offensive words or actions may be too trivial to count as an actionable harassment, but if they continue they may eventually reach that level and then the entire series is actionable. If each harassing act had to be considered in isolation, there would be no claim even when by virtue of the cumulative effect of the acts it was plain that the plaintiff had suffered actionable harassment.

A Section 1983 Primer (11): Statutes of Limitation and Continuing Violations, Nahmod L. (Jun. 0, 2014)[9].

7. I am alluding to the discussion, in Chapter 5, *Dr. Bonham's Case* and the Common Law that Controls Acts of Parliment, of Edlin, Douglas E., Judges and Unjust Laws: Common Law Constitutionalism and the Foundations of Judicial Review, at 53 (2008).

8. *See, e.g.,* Utah Code §68-3-2 (2010); §68-3-11 (1953); §68-3-12 (2010).

3.¶6 The continued harm and continued violation doctrines must *also* be applied—especially in 160901179—*in addition to the above claims regarding exception to the mootness or laches doctrines*, because the challenged conviction caused the enhancement of the subsequent charges, due to §77-36-1.1 (2015) «Enhancement of offense and penalty for subsequent domestic violence offenses.» The attainder created by these convictions weighs heavily in the Parentage, Custody, and Support case 094903235, because of §30-3-10(1)(a)(*i*) (2014), which states taht «In determining any form of custody, including a change in custody, the court shall consider the best interests of the child without preference for either the mother or father solely because of the biological sex of the parent and, among other factors the court finds relevant, the following: (i) the past conduct and demonstrated moral standards of each of the parties;» You will see, upon careful reading of 'the *error coram nobis* memorandum' and the 'long affidavit' that I am making very serious claims pertaining to the conduct of the complainant, the "alleged victim", Ms. Kasey Diane MacRae. I assert that she brought the complaints against me in bad faith, for an improper purpose, with intent to intimidate and harass me, as an *unlawful and unethical tactic* in her misguided attempts to take full legal custody of our son.

> While the State's interpretation is a plausible one, an alternative interpretation of the statutory scheme is also possible. Under the alternative view, the petitions for writs of habeas corpus were timely filed because illegal imprisonment is an ongoing violation of constitutional rights, from which it follows that a new cause of action accrues with each day of illegal confinement. Under this alternative interpretation, which recognizes the gravamen of a habeas corpus action to be illegal confinement rather than the particular occurrence which makes the confinement illegal, these petitions were timely because they were filed while these petitioners were allegedly confined unlawfully, and thus well within three months of such confinement.

Currier v. Holden, 862 P.2d 1357, 1368 (Utah Court of Appeals 1993).

3.¶7 The attainder against my personal reputation is a very serious matter. As you can see, I have gone to great lengths in order to defend it and exhonorate myself. I believe that the integrity and honor of the Utah Judical is also at risk in this case. I assert that there has been at least one *fraud upon the court*, perjury, contempt, obstruction of justice, official misconduct, abuse of discretion, malicious prosecution, abuse of process, unconstitutional process under an unconstitutional law, and conspiracy to commit crimes against rights. Ignoring the problem won't make it go away. It's an elephant in the courtroom, not a bedbug in a theatre seat. The dog is barking and there are tracks in the snow under the window looking into the court... The absence of evidence *is now evidence*.

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9. https://nahmodlaw.com/2014/06/09/a-section-1983-primer-11-statutes-of-limitation-and-continuing-violations/

> [U]nder the continuing violation doctrine, discriminatory acts that are not individually actionable may be aggregated to make out a hostile work environment claim; such acts "can occur at any time so long as they are linked in a pattern of actions which continues into the applicable limitations period." *O'Connor v. City of Newark*, 440 F.3d 125, 127 (3d Cir. 2006) (citing *Morgan*, 536 U.S. at 105) (explaining courts may consider the "entire scope of a hostile work environment claim ... so long as any act contributing to that hostile environment takes place within the statutory time period"). Accordingly, to allege a continuing violation, the plaintiff must show that all acts which constitute the claim are part of the same unlawful employment practice and that at least one act falls within the applicable limitations period. See *Morgan*, 536 U.S. at 122; see also *West v. Phila. Elec. Co.*, 45 F.3d 744, 754-55 (3d Cir. 1995) (explaining plaintiff must show that at least one act occurred within the filing period and that the harassment is "more than the occurrence of isolated or sporadic acts of intentional discrimination").

Joseph C. O'Keefe & Daniel L. Saperstein, Third Circuit "Clarifies" Continuing Violation Doctrine (Feb. 22, 2013)[10].

3.¶8 There is continued harm being done by continued violations of the constitution, via both unconstitutional **pattern of practice**, and by both procedurally correct and incorrect application of an unconstitutional law, the Utah Cohabitant Abuse Act. The State has repeatedly utilized 'undue influence' through *oppressive pretrial incarceration*—plea bargain bluff poker with child as "reverse hostage"—to coerce me into pleading out of jail. They did this with 091908046, and then again with 111902257 and 111905405. This is detailed in the memorandum. There is continued harm and continued violations where there is abuse of discretion, when the officials are helping my son's mother get away with crimes, while at the same time prosecuting me for frivolous alleged violations of the "protective" order, which itself was not issued lawfully, and also stems from an unconstitutional law.

3.¶9 A public interest exception to mootness is asserted within my *error coram nobis* memorandum with regards to the challenge to the constitutionality of the Cohabitant Abuse Act protective orders. There is very serious and very real continued harm being done to families due to that law's evily divisive and clearly bogus alleged "solution" to the domestic "violence" and bullying problem.

4 Objections to misleading language used in State's Memorandi

> In English law, a writ of *scire facias* (Latin, meaning literally "make known") was a writ founded upon some judicial record directing the sheriff to make the record known to a specified party, and requiring the defendant to show cause why the party bringing the writ shouldn't be able to cite that record in his own interest, or why, in the case of letters patent

10. http://www.proskauer.com/publications/client-alert/third-circuit-clarifies-continuing-violation-doctrine/

> and grants, the patent or grant should not be annulled and vacated. In the United States, the writ has been abolished under federal law but may still be available in some state legal systems.[11]

Wikipedia, *Scire Facias*, WIKIPEDIA, THE FREE ENCYCLOPEDIA (2016).[12]

4.¶1 I am fairly certain that the attorney who *authored* the State's motions for summary judgments—on behalf of Mr. Sim Gill, District Attorney, on behalf of the State of Utah—to which this document is a direct ANSWER—did so *prior* to receiving and *carefully reading*[13] 'the *error coram nobis* memorandum', which, for reasons stated above, might not have been served as immediately as was intended. That fact—standing alone—does not *justify* the conspicuous paucity of material facts presented by the document's "official" two-page representation of the "Factual and Procedural History". In my own humble opinion, consideration of the factual claims put forth by, *e.g.,* 'the *error coram nobis* memorandum', the 'long affidavit'—each supported by their associated documentary evidence discs[14]—will show that the conclusion that Mr. Hegbloom was guilty of having perpetrated *criminal actions* is «so outrageous in its defiance of logic or accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it.» *Council of Civil Service Unions v Minister for the Civil Service* [1983] UKHL 6 at para. 410, [1984] 3 All ER 935, [1984] 3 WLR 1174, [1985] ICR 14, [1985] AC 374, [1985] IRLR 28, House of Lords.

4.¶2 In the motion for cases 160901178 & 160901180, the document begins by stating that «Petitioner [is] challenging his convictions for Attempted Violation of a Protective Order, two Class A misdemeanors... A third case, with two charges of Violation of a Protective Order, both third degree felonies, was dismissed as part of the plea bargain.» I object to the use of the term "plea bargain". The "negotiation" by which this supposed "stipulation" was arrived at involved oppressive pretrial incarceration, where there was insufficient evidence to support the charges against me or where the charges were frivolous on their face, and my son needed his father, and thus there was a "great deal" of **undue influence** involved. In effect, the "agreement" was coerced through perpetration of crimes against my rights.

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11. ↘...oO(And so here in Utah, where we can do *whatever we want*...? ✠ I'm going to be making scary faces while I specifically flap 'the *error coram nobis* memorandum' and etc. at the State's attorney... who—being kite-string-bound by Utah Bar Ethics—will deftly catch it by the hyperlink, bree-zeee-ount it down into a PDF reader, school-scour it's many faces, clicking through thoroughly first; then though—perhaps scowling, or maybe smirking—picking carefully—produce a slough of fiche of the induced ADMISSIONS...—no stinking thinking?; and—perhaps smirking, or maybe simpering—a neat filet—full of holes—of netted CONTENTIONS... —not inventions?; And with Just and Good Intentions then-ount-zee-breez'em back up on-line for the Court's reflections here...)

12. `https://en.wikipedia.org/w/index.php?title=Scire_facias&oldid=707644683`

13. See: `Exhibits/2016-02-16_104906439_Petition_for_Writ_of_Error_Coram_Nobis.pdf#page=81` (§4.9.3.¶4)

14. And on-line full evidence repository for this case...

4.¶3 The attorney for the State has not addressed any of the claims I have made in 'the *error coram nobis* memorandum'[15]. In other words, the State has neither marshaled the evidence in support of the claims I have stated therein, nor demonstrated that such claims are clearly erroneous. The State is citing instead only the "evidence" that supports the outcome allegedly desired by "The People". Do we thus assume the *correctness* of the asserted claims and proceed?

4.¶4 Another example of the sort of "deliberately misleading summarization" that I'm complaining about here is in the memorandum for 160901178 and 160901180, where it says «Petitioner's conviction became final December 16, 2011, when he entered a Sery Plea in both cases and had his third case dismissed.» The case that was dismissed was 111905405—for an SMS message asking if my son was home from his grandfather's yet, and for a sub-one-minute call from an unknown caller that was not alleged to have been threatening—bail set by the *complainant or alleged victim*, who had been given the power of a judge to determine that it was a protective order violation and to set the bail amount to $100000—and where I was being held in jail well beyond the time they had the legal right to have me there. I was *coerced* into taking a plea "bargain" despite that I had not committed any crime. Whether or not what I am asserting here is itself a "deliberately misleading summarization" remains open unless the State chooses to object, refute, clarify or elucidate.

4.¶5 At another point it states that I filed the post-conviction paperwork «... one year and six days after the entry of the denial of the petition for writ of certiorari. Thus Hegbloom is not eligible for post-conviction relief, *he cannot establish entitlement to an evidentiary hearing*, and Respondent is entitled to judgment as a matter of law.», emphasis added. There is tremendous irony in that statement[16] due to *e.g.,* the **Brady violations** and lack of any evidence of actual violence *per se* that *might* have justified holding me in jail the way they did; the oppressive pre-trial incarceration and so-called "trial" conducted without evidence (091908046); in that there had been no evidentiary hearing when I had described and posted evidence, *e.g.,* showing Ms. MacRae causing our son to fall and hit his head on a table; voicemails foreshadowing getting me in trouble with police; that she had lied about her criminal history on the so-called "verified" request for protective order; Judge Lindberg ignoring most of what I wrote in the letter explaining why I was not a flight risk.

4.¶6 I object to any and all statements like this one: «Hegbloom's claims are also procedurally barred because he already raised them on direct appeal, and was denied. Post-conviction proceedings do not provide an alternative method to argue the same motion that has already been heard.» on the grounds that they do not contain a *specific statement* as to which claims

15. Wikipedia, *Scire Facias*, Wikipedia, the free encyclopedia (2016)

16. It is a form of lie known as B.S. (I decline to spell it out here, right?)

I'm making have supposedly already been ajudicated during the appeal. I am certain that (a) I am raising claims not brought up by the *state appointed attorney* who brought the appeal to the court on my behalf, and that (b) that attorney did not bring forward claims I am asserting now, despite that I had asked him to[17], *potentially because*[18] those claims implicated misfeasance on the part of the trial lawyers who work for the same agency.

5 Definition of "direct" vs "indirect" appeal

5.¶1 While attempting to research the issue of the "direct" vs "indirect" appeal, I encounter documents where the author calls an appeal of a case to the appellate court a "direct" appeal, and the bring of a petition for writ of *habeas corpus*, which opens a new civil case, an "indirect" appeal. *Criminal Appeals*, FreeAdvice (2016)[19]. That interpretation does not entirely resolve whether or not the "Sery" appeal of *State v. Hegbloom*, 2014 UT App 213 (2014)—challenging the validity of Utah Cohabitant Abuse Act protective order 104906439—was "direct" or "indirect". James Bickford, *Opinion recap: All judicial review is either direct or collateral*, SCOTUSblog (Mar. 9, 2011)[20] explains the United States Supreme Court's ruling in *Wall v. Kholi*, 131 S.Ct. 1278 (US Sup. Ct. 2011). The take-home I get from all of this is that the trivial distinction being made—between what is supposedly "indirect" versus "direct"—appeal or review... isn't really a valid argument in the face of the facts of this matter, which by fair and correct application of the rules of law and equity, demonstrates egregious miscarriage of justice.

5.¶1.1 Assuming that the law that created the protective order is unconsitutional, or that it was issued under inherently unfair and unlawful circumstances as alleged by me, or that the alleged violations of the protective order were not properly actual violations of it... and that even if they *were*, technically, by some interpretation involving ignorance of the facts that indicate application of the common law defences of *ex turpi non fit actio* or *volenti non fit injuria* especially in light of the fact that the protective order violation statute does not define it as a *strict liability* offense... and then given that I was not charge with having committed any crime *other than* a protective order violation—that is, there were not any

17. The LDA email system was funky. I had to send email to "admin" and somebody was supposed to dispatch it to the person it was actually addressed to. I rarely received any reply to email I sent to them, and so had very little or no indication as to whether anybody even read it, much less any kind of discussion of the things I brought up or told them. Also see my thesis regarding "champerty and maintenance" and "perverse incentives" within the *error coram nobis* memorandum. Perhaps you will enjoy reading this on a court-overtime-Friday, while the rest of the state government enjoys family time?

18. I say "potentially because" due to the fact that I can form hypotheses regarding this, but can not necessarily validate them with *solid* evidence.

19. `http://criminal-law.freeadvice.com/criminal-law/criminal-law/criminal-appeal-process.htm`

20. `http://www.scotusblog.com/2011/03/opinion-summary-all-judicial-review-is-either-direct-or-collateral/`

concurrent, lesser included charges, nor was the protective order violation alleged to be a lesser included charge in connection with any other criminal complaints *against me*... Then to say that because I had no right to "indirect appeal" of the protective order since I'd been charged with violating it is self-referentially bogus. All I hear in court is pro-forma day-filling paper-shuffling bee-ess, throat-clearing, auh-uhhms and /glitch/ microphone hiss. When does the court actually start to consider "the substance of the matter"? Appeals courts go only on the facts as allegedly determined by the trial court.

5.¶2 There's another interpretation. When a state-paid attorney "takes over" the trial or appeal process, that's an "indirect appeal". When I bring it before the court myself, *pro se*—or with an attorney who respects my intelligence instead of talking down to me like I'm mentally ill or retarded—that's a "direct appeal", whether it be taken to an appellate-jurisdiction court or via a new petition brought before a court with primary or original jurisdiction. And so, since it was, uhm, determined, uhm, approximately, that, uh, I "had no rights during indirect appeal", humm, then certainly I must be allowed this direct one.

6 Answer to "Factual and Procedural History" [160901178 & 160901180]

6.¶1 «Petitioner was charged with assault of a pregnant person, a class A misdemeanor, in case 091908046. Petitioner entered a guilty plea to a reduced charge under a plea in abeyance that was ultimately stricken and a conviction entered.» This is clearly a gross understatement of the facts alleged in my *relatively detailed* affidavit and memorandi. No defense was ever made by the public defender. I was just locked up and had no way to approach the court to challenge the sufficiency of the evidence (a phrase I just learned recently). The LDA does not visit jail. I did not meet the state appointed counsel until just before the hearings. The counsel could not possibly have been properly briefed. It was a month between hearings with absolutely no contact between myself (the victim of legal abuse) and that attorney.[21]

6.¶2 «"Hegbloom (petitioner) and K.M. shared custody of their child, but custody exchanges proved difficult for both parents. K.M. eventually obtained an *ex parte* civil protective order against Hegbloom." *State v. Hegbloom*, 2014, UT App 213, 112.» See memorandum and long affidavit.

6.¶3 «A permanent protective order was entered against Petitioner, Jan. 04, 2011.» Sure, and then she turned around and claimed I'd already violated it, first email I sent... it allowed email, but they prosecuted me anyway; the appellate court thought I should have brought a

21. When I read 1 James W.H. McCord & Sandra L. McCord, Criminal Law and Procedure for the Paralegal: A Systems Approach (2006), I learned for the first time about the concept of there being an "intake paralegal" at a public defender's office. The Salt Lake Legal Defender Association apparently had not read this textbook. Of course that intake paralegal would need to know enough about it to know what questions to ask.

"direct appeal" against the protective order, but I was too busy with being bums-rushed into jail on frivolous charges, as explained in the memorandum, to bring a complicated appeal, *pro se*, something even experienced attorneys have difficulty with at times.

6.¶4 «Petitioner was charged with violation of a protective order, a 3rd degree felony, alleged to have occurred on January 04, 2011, case 111902257.» I sent "several emails that did not pertain to child visits"; the order allowed email; this one was dismissed at the much belated preliminary hearing because the order allowed email with no overbroad restrictions on constitutionally protected speech between co-parents of a child... It was enhanced to felony due to the prior, 091908046, which I am also challenging.

6.¶5 «Petitioner was charged with a violation of a protective order, a 3rd degree felony, alleged to have occurred on April 14, 2011 in case 111903279.» Again, enhanced to felony, and again, was not a violation of a "protective" order; see my memorandum and affidavits, re "walk-by hellooing".

6.¶6 «Petitioner was charged with eight 3rd degree felony violations of a protective order alleged to have occurred on April 18, 2011; April 19, 2011; April 20, 2011; April 21, 2011; April 22, 2011; April 23, 2011; April 24, 2011; and April 25, 2011 in case 111903495.» Also see memorandum, re "clown banana bread delivery and 8 SMS". The clown was not alleged to have a scary face, or anything, but he did have on a shirt and pants and was holding an umbrella.

6.¶7 «All three felony cases came before Judge Anthony Quinn for preliminary hearing on July 12, 2011. Petitioner was represented by appointed counsel. All three cases were heard and the same witness testified. Judge Quinn dismissed case ending in 2257, but bound 3279 and 3495 over for trial.» The preliminary hearing was late because the State prosecutor never scheduled one for any of the three warrants it covered, despite that they were billed as third degree felonies. The public defender had me sign a waiver of speedy trial, which he said was necessary in order to get this preliminary hearing scheduled, vs having the judge dismiss the charges due to unreasonable or unconstitutional delay. The dismissal of 111902257 by the magistrate for lack of probable cause to try me establishes one of the conditions for proving "malicious prosecution" (vs "mere" abuse of process...)

6.¶8 «Two weeks later, petitioner was charged with two 3rd degree felony violations of a protective order alleged to have occurred on April 16, 2011, case 111905405, filed July 22, 2011, after the preliminary hearing.» This is for a text message asking if my son was home from his grandfather's yet, and for an alleged sub-one-minute telephone call from an unknown caller, that was not alleged to have been threatening. I was never accorded with a preliminary examination hearing. Discovery was delivered very late. I was held in jail for 128 days pre-trial, while my son was with a woman who had abused him, and the State had been apprised

of that information. It was used to coerce me into taking the Sery plea "bargain". See the *error coram nobis* memorandum.

6.¶9 «Defendant entered a Sery plea on December 16, 2011 in cases 3279 and 3495, to one count of attempted violation of a protective order, a Class A misdemeanor, the remaining charges were dismissed. Case 5405 was dismissed in its entirety as part of the global plea.» I finally caved in and took a plea "bargain" because when I had demanded a jury trial, I was told that they could not schedule one for another two months.

6.¶10 «10. Petitioner filed an appeal to the Utah Court of Appeals in both 3279 and 3495. The Court consolidated the two appeals.» This is incorrect. The Legal Defender Association (LDA) filed an appeal, for the Sery plea. I also filed one of my own, wanting to sue over the unconstitutional process by which I was "tried" for the frivolous charges. I found I did not have enough time to do it, since I was taking care of my son, who is more important than anything to me. They later consolidated the two appeals, but the LDA did not pick up the issues that I'd wanted to raise, and so the appeal that was brought did not mention them. In all, the appellate case was inadequately briefed, since a lot of facts got left out, since not much evidence was ever allowed on the record... it is also likely[22] that the full record of the criminal trial was never put before the appellate court.

6.¶11 «The Utah Court of Appeals affirmed the district court on September 11, 2014 and held:

> In sum, once the protective order was entered against Hegbloom and with his knowledge, he was obligated either to appeal it or obey it. He was not free to disobey it and then challenge it collaterally in the criminal proceeding. Whatever errors were or were not made by the commissioner or the district court in the protective—order proceeding did not render the judgment entered there void and subject to collateral attack.

State v. Hegbloom, 2014, UT App 213

6.¶11.1 The statement in the previous paragraph is clearly challenged by assertions that I've made in the memorandum, as well as statements I've made in this document, above.

6.¶12 «Defendant appealed for a writ of certiorari. The Utah Supreme Court denied certiorari on February 11, 2015 and notice of that decision was filed February 12, 2015.» Ok.

6.¶13 «Petitioner has filed post-conviction relief petitions in each of his convictions in the Third District Court before Judge Trease 091908046, and Judge Kouris in 3279 and 3495.» Yes. I'm also asking for a Writ of Error Coram Nobis in the protective order case. I am asserting that there has been a fraud upon the court, and that therefore the protective order is void. I want it to be purged from my record, per *Commissioner of Probation v. Adams*, 65 Mass. App. Ct. 725 (Massachusetts Appeals Court 2006).

22. No surprise anymore after reading all of it, eh?

6.¶14 «Petitioner filed his first post-conviction petition in these cases on February 18, 2016.» I have addressed that in the first section of this document.

7 Conclusion

7.¶1 I am entitled to the requested post-conviction remedy, by the reasons and arguments made above, and within the memorandum and affidavits. The State's attorney may not have known about, been served, or had time to carefully read the *error coram nobis* memorandum that is intended to be attached to or included by reference by the petition for post-conviction relief form-pleadings filed to open these claims. Because of this, if the State wishes, I will stipulate that they may have another opportunity to respond to that document, in writing. I will also stipulate to allowing 60 days for that, if needed.

7.¶2 My failure to mention, within this document, any claim or point of law made within any other document that I've filed with the court does *not* constitute waiver of that claim. It is merely that I have a limited amount of time in which to complete this ANSWER.

Pax et Bonum, Wed. April 20, 2016,

Karl Martin Hegbloom, Esq. ✠

Certificate of Mailing or Service

I certify that a true and correct copy of the foregoing:

Answer to Motion of Respondent
for Summary Judgment

was mailed or hand-delivered to:

Sim Gill, Salt Lake District Attorney.
c/o Salt Lake District Attorney's Office, Justice Division
111 East Broadway Suite 400
Salt Lake City, Utah 84111
districtAttorney@slco.org
Respondent.

This document was mailed or hand delivered on Wed. April 20, 2016.

Karl Martin Hegbloom, Esq. ✠

2014 UT App 213

THE UTAH COURT OF APPEALS

STATE OF UTAH,
Plaintiff and Appellee,
v.
KARL MARTIN HEGBLOOM,
Defendant and Appellant.

Opinion
No. 20120264-CA
Filed September 11, 2014

Third District Court, Salt Lake Department
The Honorable Denise P. Lindberg
No. 111903279

Peter A. Daines, Isaac E. McDougall, and John B. Plimpton, Attorneys for Appellant

Sean D. Reyes and John J. Nielsen,
Attorneys for Appellee

JUDGE J. FREDERIC VOROS JR. authored this Opinion, in which JUDGE JOHN A. PEARCE and SENIOR JUDGE JUDITH M. BILLINGS concurred.[1]

VOROS, Judge:

¶1 Karl Martin Hegbloom appeals from his conviction after entering a conditional guilty plea to two counts of attempted violation of a protective order. He contends on appeal that the protective order he disobeyed was issued in violation of his due process rights and thus void. And because it was void, he argues,

1. The Honorable Judith M. Billings, Senior Judge, sat by special assignment as authorized by law. *See generally* Utah Code Jud. Admin. R. 11-201(6).

he may challenge it collaterally in this criminal proceeding. We affirm.

BACKGROUND

¶2 Hegbloom and K.M. shared custody of their child, but custody exchanges proved difficult for both parents. K.M. eventually obtained an ex parte civil protective order against Hegbloom.

¶3 Before the hearing on the protective order, Hegbloom filed a written response. Both parents appeared pro se at the hearing. Hegbloom brought evidence, some of it unknown to K.M., to present at the hearing. Rather than receive the evidence, the commissioner proceeded by proffer. Hegbloom then orally requested a "formal evidentiary hearing." The commissioner responded, "Once I make my ruling, if there's an objection you . . . can object and take it before the judge . . . [who] can decide whether there [will] be a full formal evidentiary hearing." Insisting that without the rejected evidence he "ha[d] no case," Hegbloom again requested a formal evidentiary hearing; the commissioner again denied the request.

¶4 At the conclusion of the hearing, the commissioner asked Hegbloom if he agreed to the terms the guardian ad litem had proposed for his protective order. He replied, "I . . . agree to those terms." (Omission in original.) The commissioner then stated that she would recommend an extension of the protective order against Hegbloom on those terms. However, Hegbloom again requested an evidentiary hearing. The commissioner responded, "You can object to my recommendations if you believe that they were inappropriate. That will go to the judge and you can make that request . . . ." Hegbloom specifically asked if his objection needed to be in writing, to which the commissioner replied that it did. Hegbloom then told the commissioner that his written submissions included a request for a formal evidentiary hearing. The commissioner responded that she had already denied that, adding,

"You may now object and we'll make that request," but that his objection "need[ed] to be in writing."

¶5 Hegbloom did not file a written objection to the commissioner's recommendation. Without holding an evidentiary hearing, the district court followed the recommendation and entered a permanent protective order against Hegbloom. Hegbloom did not appeal.

¶6 A few months later, K.M. reported Hegbloom to the police for multiple violations of the order. She alleged that he had sent her multiple text messages and had come to her apartment "dressed as a clown." He was charged with nine violations of the protective order, all third degree felonies.

¶7 In the criminal court, Hegbloom contended that the protective order had been entered in violation of his due process rights, rendering it void. The court ruled that Hegbloom's oral objection to the commissioner's recommendation was not a valid objection and that the entry of the order did not violate his due process rights. The court stated, "The problem here is that Mr. Hegbloom did not follow the statutory requirements . . . even though the commissioner repeatedly gave him that information." The criminal court concluded that the commissioner had explained to Hegbloom how to object to the commissioner's recommendation but that Hegbloom had failed to do so.

¶8 Hegbloom entered conditional guilty pleas to two counts of attempted violation of a protective order, class A misdemeanors, reserving the right to appeal the district court's ruling denying his motion to declare the protective order void.

ISSUE AND STANDARD OF REVIEW

¶9 Hegbloom challenges his conviction on the ground that the protective order was void. It was void, he argues, because it was entered in violation of his due process rights, specifically, his right to an evidentiary hearing. And because the order was void, he

argues, he may challenge it collaterally in this criminal proceeding. "Constitutional issues, including questions regarding due process, are questions of law that we review for correctness." *State v. Martinez*, 2013 UT 23, ¶ 6, 304 P.3d 54 (citation and internal quotation marks omitted). Similarly, "[w]hether a judgment is void or voidable is a question of law." *Nebeker v. Summit County*, 2014 UT App 137, ¶ 9.

ANALYSIS

¶10 The threshold question here is whether Hegbloom may, in this criminal proceeding, collaterally attack the protective order entered in the prior civil proceeding. Collateral attacks are disfavored. "With rare exception, when a court with proper jurisdiction enters a final judgment . . . that judgment can only be attacked on direct appeal." *State v. Hamilton*, 2003 UT 22, ¶ 25, 70 P.3d 111. An attack "is regarded as collateral if made when the judgment is offered as the basis of a claim in a subsequent proceeding." *Olsen v. Board of Educ.*, 571 P.2d 1336, 1338 (Utah 1977).

¶11 A void judgment "is open to collateral attack." *Farley v. Farley*, 431 P.2d 133, 137 (Utah 1967); 46 Am. Jur. 2d *Judgments* § 29 (2006). But "[t]he concept of a void judgment is narrowly construed in the interest of finality." *Brimhall v. Mecham*, 494 P.2d 525, 526 (Utah 1972). Two circumstances may render a judgment void. First, a "judgment [is] void on its face for lack of jurisdiction in the court." *Bowen v. Olsen*, 246 P.2d 602, 605 (Utah 1952). Second, a judgment is void when the court entering the judgment "acted in a manner inconsistent with due process of law." *Brimhall*, 494 P.2d at 526. Hegbloom relies on the second basis.[2]

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2. Although Hegbloom nominally mentions the Utah Constitution, he does not set forth "a unique state constitutional analysis." *See State v. Worwood*, 2007 UT 47, ¶ 19, 164 P.3d 397. Accordingly, we decline to separately consider any state constitutional claim. *See id.*

¶12 "'The purpose of due process is to prevent fundamental unfairness.'" *State v. Parker*, 872 P.2d 1041, 1048 (Utah Ct. App. 1994) (quoting *State v. Maestas*, 815 P.2d 1319, 1325 (Utah Ct. App. 1991)); *see also Colorado v. Connelly*, 479 U.S. 157, 167 (1986) (stating that the aim of due process is "'to prevent fundamental unfairness'" (quoting *Lisenba v. California*, 314 U.S. 219, 236 (1941))). Due process cannot be confined to a specific formula but rather is "'flexible and calls for such procedural protections as the particular situation demands.'" *Mathews v. Eldridge*, 424 U.S. 319, 321 (1976) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972)).

¶13 At a minimum, due process requires "[t]imely and adequate notice and an opportunity to be heard in a meaningful way." *Salt Lake City Corp. v. Jordan River Restoration Network*, 2012 UT 84, ¶ 50, 299 P.3d 990 (alteration in original) (citation and internal quotation marks omitted). The opportunity to be heard in a meaningful way includes the "opportunity to present evidence and argument on that issue before decision." *Plumb v. State*, 809 P.2d 734, 743 (Utah 1990).

¶14 Hegbloom does not claim that he lacked actual notice of the protective-order proceeding. Rather, he contends that he was denied the opportunity to be heard. This denial, he reasons, took the form of a requirement that he file a written objection to the commissioner's recommendation after the conclusion of the hearing before the commissioner. And because the district court entered the protective order in violation of his due process rights, Hegbloom may, he asserts, collaterally attack it.[3]

¶15 We do not agree that the civil protective order is subject to collateral attack. To begin with, the case law does not support Hegbloom on this point. Hegbloom cites many Utah cases stating

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3. Hegbloom does not assert that, had he objected to the commissioner's finding in the manner she prescribed, the district court would have denied him an evidentiary hearing. Nor does he assert that the alleged procedural error would not have been corrected on appeal had he appealed.

in the abstract the rule that a denial of due process renders a judgment void and hence subject to collateral attack. But none of these cases address the situation before us here: the wrongful denial of an evidentiary hearing.[4]

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4. *See, e.g.*, *State v. Candland*, 2013 UT 55, ¶¶ 13, 25, 309 P.3d 230 (rejecting, on direct appeal, a challenge to guilty plea); *In re Adoption of Baby E.Z.*, 2011 UT 38, ¶¶ 37, 44, 266 P.3d 702 (holding, on direct appeal, that the federal Parental Kidnapping Prevention Act does not deprive Utah courts of subject matter jurisdiction where another state first exercised jurisdiction over the adoption); *Garcia v. Garcia*, 712 P.2d 288, 291 n.5 (Utah 1986) (holding that divorce decree entered without effective service on respondent should be set aside under rule 60(b) of the Utah Rules of Civil Procedure); *Brimhall v. Mecham,* 494 P.2d 525, 526 (Utah 1972) (refusing rule 60(b) relief to a wife who asserted the judgment against her was void on the ground that the appearance of the attorney employed by her husband was unauthorized to represent her interests); *Utah Power & Light Co. v. Richmond Irrigation Co.*, 13 P.2d 320, 324 (Utah 1932) (holding, on direct appeal, that the mere fact that a judgment may be erroneous does not render it void); *Bangerter v. Petty*, 2010 UT App 49, ¶ 14, 228 P.3d 1250 (holding that an incorrect property description in a sheriff's deed is a "minor irregularity" that did not render the sale void and thus subject to collateral attack); *State v. Rawlings*, 893 P.2d 1063, 1071 (Utah Ct. App. 1995) (holding that because the defendant was not given proper notice of a probation extension hearing, the district court lacked the authority to extend the defendant's probation); *Jenkins v. Weis*, 868 P.2d 1374, 1383 (Utah Ct. App. 1994) (holding void, on direct appeal, a district court's sua sponte dismissal of a cause of action without notice or hearing); *Richins v. Delbert Chipman & Sons Co.*, 817 P.2d 382, 385 (Utah Ct. App. 1991) (affirming, on direct appeal, the denial of relief under rule 60(b)(5) on the ground that "[n]othing in the record indicates that the court lacked jurisdiction over the subject matter or over the parties or was otherwise incompetent to render judgment"); *Workman v. Nagle Constr., Inc.*, 802 P.2d 749, 753 (Utah Ct. App. 1990) (holding void, on direct (continued...)

¶16 Indeed, Hegbloom cites no Utah case upholding a collateral attack. He does cite a Utah case allowing a challenge to a void judgment under rule 60(b)(5) of the Utah Rules of Civil Procedure, but that case involved lack of service, not lack of an evidentiary hearing. *See Garcia v. Garcia*, 712 P.2d 288, 291 & n.5 (Utah 1986) (holding that a divorce decree entered without effective service on the respondent should be set aside under rule 60(b)(5)). Hegbloom cites one non-Utah case permitting collateral attack on due process grounds, but its rationale relies on lack of notice, not lack of an evidentiary hearing. *See Olson v. State*, 77 P.3d 15, 16–18 (Alaska Ct. App. 2003) (holding that a defendant who had "never received notice of the hearing" on a petition for a long-term protective order could not be convicted for violating it).

¶17 Hegbloom attempts to frame his denial of an evidentiary hearing as a denial of notice. But he received notice of both the ex parte order and the extension of that order. He attended the hearing and even challenged the grounds for the order to the extent possible without calling witnesses. But he did not seek an evidentiary hearing in district court as instructed by the commissioner. Hegbloom now contends that the commissioner's instructions were erroneous under rule 7 of the Utah Rules of Civil Procedure and section 78B-7-107(1)(f) of the Utah Code. But even if Hegbloom is correct, we cannot agree that the error denied him *notice*. We thus reject his argument that "the fact that he was deprived of an opportunity to be meaningfully heard meant that he never received sufficient notice and the issuing court lacked jurisdiction."

¶18 Hegbloom's claim finds the strongest support in *Wiscombe v. Wiscombe*, 744 P.2d 1024, 1025 (Utah Ct. App. 1987). The basic facts of *Wiscombe* are similar to those before us. In *Wiscombe*, a

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4. (...continued)
appeal, a judgment against members of a class in a class action where "nothing in the record indicates that the members of the would-be class . . . were notified that this action had been brought to adjudicate their claims").

divorced couple attended a proffer hearing before a domestic-relations commissioner. *Id.* at 1024–25. The husband made no written objection to the commissioner's recommendation, but claimed to have orally objected, a claim the wife challenged. *Id.* at 1025. The district court found that the husband had failed to properly object to the recommendation of the commissioner and entered judgment consistent with the commissioner's recommendation. *Id.* The husband directly appealed to this court. *Id.*

¶19 We held, "Given the lack of opportunity for a complete evidentiary hearing in proceedings before the domestic relations commissioner, we believe in this case that procedural due process requires that any doubts about compliance with Rule 8(d) ought to be resolved in favor of [the husband], who was seeking a full evidentiary hearing before [the district court]." *Id.* "One of the fundamental requisites of due process," we noted, "is the opportunity to be fully heard." *Id.* at 1025–26. And where "it was not clear that [the husband] waived his due process right to a full hearing," the district court should have granted one. *Id.* at 1026.

¶20 Our opinion in *Wiscombe* aids Hegbloom to this extent: we classified the wrongful denial of an evidentiary hearing on the protective order as a violation of due process. Crucially, though, *Wiscombe* involved a direct appeal. Even in dicta, it never mentions voidness, jurisdiction, or collateral attacks. And unlike the husband in *Wiscombe*, Hegbloom did not appeal the judgment of the district court in the protective-order case. Instead, he violated the order and now belatedly seeks to attack it collaterally . We are unwilling to extend *Wiscombe*'s holding beyond its facts and its stated rationale. *Wiscombe* does ground its holding on due process. But as explained above, our reading of the cases suggests that not every due process violation rendering a judgment erroneous necessarily renders it void as well.

¶21 Had Hegbloom lacked notice of the protective-order proceeding, we might well agree that the resulting order was void. A litigant denied notice of a proceeding has no opportunity to

bring an appellate challenge; to deny such a litigant the right to collaterally challenge the judgment entered without notice—and thus without an opportunity to be heard—would indeed be fundamentally unfair. Denying a collateral challenge to that judgment would foreclose any opportunity to be heard in connection with the entry of the order.

¶22 But Hegbloom stands on different footing. He received notice, attended the hearing before the commissioner, stated his intention to seek an evidentiary hearing, and was instructed how to do so. He does not claim that he lacked notice of entry of the district court judgment or was prevented from bringing a direct appeal. The husband in *Wiscombe* appealed the judgment entered against him. Hegbloom could have done likewise. After all, "[t]he proper method for contesting an adverse ruling is to appeal it, not to violate it." *State v. Clark*, 2005 UT 75, ¶ 36, 124 P.3d 235. We see nothing fundamentally unfair in not allowing a litigant to challenge collaterally a judgment he could have challenged directly had he chosen to do so.

¶23 In sum, once the protective order was entered against Hegbloom and with his knowledge, he was obligated either to appeal it or obey it. He was not free to disobey it and then challenge it collaterally in the criminal proceeding. Whatever errors were or were not made by the commissioner or the district court in the protective-order proceeding did not render the judgment entered there void and subject to collateral attack.

CONCLUSION

¶24 The judgment of the district court is affirmed.

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Petitioner of 094903235 CS,
Respondent and Appellant in 104906439 PO,
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Proceeding *pro se*.

This document contains
Private information.

IN THE THIRD JUDICIAL DISTRICT COURT, SALT LAKE COUNTY, STATE OF UTAH
Third District Court, 450 South State Street, Salt Lake City, Utah 84114

Kasey MacRae, Petitioner, Complainant, vs. Karl Martin Hegbloom, Respondent, Defendant, Appellant.	Motion of Respondent to Dismiss Protective Order Civil Cases: **104906439 PO** 094903235 CS Crim. Cases: 111902257, 111903279 111903495, 111905405 Civil Judge: T. Shaughnessy Crim. Judge: D. Lindberg Commissioner: M. Blomquist

Pax Domine, here appears KARL MARTIN HEGBLOOM, Respondent, *pro se*, with this MOTION OF RESPONDENT TO DISMISS PROTECTIVE ORDER pursuant to Utah Code[1] §78B-7-115 "Dismissal of protective order". I apologize for the length of this all-in-one document; but now you don't have to keep referring from this document to a separate affidavit. I hope this saves time. This document will be referred to often from others; it's sort of the keystone to the debacle to follow.

1. All references to Utah Code within this document refer to the online version as of February, 2015. See: http://le.utah.gov/xcode/code.html

Table of contents

Introduction 11

History and Timeline 14

I. Petitioner's problems began before we lived together. 14
A. Her mother warned me about her temper. 14
B. She had similar trouble with past housemates. 14
1. She did not help clean house or buy food. 14
2. She was violent and assaulted me. 14
3. She has trunkloads of high-heeled hobble-shoes. 15
4. I asked her to move out. 15
5. She told me she was pregnant. 15
C. She has no "diminished responsibility". 15
D. She has a history of DUI and domestic violence. 15
E. Before her, I had no "violence" arrests. 15
1. Neglected horses at PCMR. 15
II. On July 23, 2009, I filed 094903235, Parentage, Custody, and Support. 16
A. She is a legal secretary familiar with court rules. 16
B. She refused to accept voluntary service of process. 16
C. She went to the courthouse and got a copy. 16
1. **!** She was angry about child support amount. 16
2. Ultrasound said child is male. 16
3. She wanted ownership of my annuity. 16
4. It would not have been very much. 16
5. I told her that SSDI will pay better. 16
a. I promised SSDI to pay medical expenses and support. 16
b. She has since sued twice for money she'd already been paid. . 16
6. Support order would change after SSDI starts. 17
7. I wanted childs money in separate account. 17
D. I attempted service of process via cert mail. 17
E. I finally had the sheriff serve process. 17
F. Parentage agreement forbids circumcision. 17
1. **!** She had said she was going to circumcise our son. 17
2. I needed to defend our son from that. 17
3. I showed her a video on July 30, 2010. 17
4. Detailed by "Defendants Affidavit" in 091908046. 17
G. **!** Angry that I filed for default judgement on Oct. 8, 2009. 17

III. ! I obtained ex parte protective order on July 31, 2009. . . . 18
A. Primary concern was protecting my unborn son. . . . 18
B. I dismissed the ex parte protective order. . . . 18
IV. ! Oct. 9, 2009 she filed counter and had me charged with a crime. . . . 18
A. Offense date is shown as July 30, 2009. . . . 18
B. That was 71 days with amicable relations between us. . . . 18
C. She had called me to meet her at Library Trax stop. . . . 18
1. She was angry about default judgement paperwork. . . . 18
2. She told me she'd had charges filed against me. . . . 18
D. She asked me to sign for service of process. . . . 18
V. Our son was born on October 18, 2009. . . . 19
A. I went to visit them at the hospital. . . . 19
B. He was alright and nursing at her breast. . . . 19
C. I wrote to hospital staff to make sure nobody would cut him. . . . 19
D. I hired a lawyer to make sure. . . . 19
E. I got worked up about it and hit a guy at the library. . . . 19
F. I missed the injunction hearing. . . . 19
1. Paternity was in question. . . . 19
2. Judge could not find "irreparable harm". . . . 20
G. On Nov. 18, 2010, petitioner MacRae was charged with theft of services. . . . 20
1. !! Case 101601193 was open when she filed RPO. . . . 20
H. On Nov. 20, 2010 she left our son in my care. . . . 20
I. On Dec. 10, 2010 she was charged with DV assault. . . . 20
1. !! Case 101414961 was open when she filed RPO. . . . 20
2. A city prosecutor dismissed her charge but prosecuted me. . . . 21
3. She abused our son on nanny-cam. . . . 21
J. ! On Jan 6, 2011, she filed RPO. . . . 21
K. ! She also filed for temporary custody orders. . . . 21
L. I was arrested Friday, March 26, 2011 case 111902257. . . . 21
1. For "several emails". . . . 21
2. No allegations of actual violence *per se*. . . . 21
3. Complaint was 44 days prior to warrant. . . . 21
4. Offense date 35 days prior to complaint. . . . 21
5. Warrant issued 2 days prior to arrest. . . . 21
a. Delay probably due to no real threat. . . . 21
6. Summons would suffice. . . . 22
7. Bail was excessive. . . . 22
8. Was not taken to court by deadline. . . . 22
a. No preliminary examination hearing. . . . 22
b. Taken to court on April 1, 2011. . . . 22

c. Second trip to court in overcrowded bus. 22
1. Man next to me confessed to violence. 22
2. Cell mate DUI crash gets 60 days. 22
3. Our son's father was potentially exposed to TB. 22
4. Locked in with violent offender. 22
5. Locked in with coughing AIDS patient. 23
6. Locked in with homicidal maniac. 23
7. Two time loser dealer gets 1 year probation. 23
8. Assault with bat gets OR release. 23

§78B-7-115 Dismissal of Protective Order 23

I. Protective order issued January 4, 2011. 23
A. 78B-7-115(1) and 78B-7-115(2), more than two years have gone by. 23
B. PO is subject of appeal is not reason for dismissal. 23
C. Child should not be listed as protected party. 24
1. Petitioner brings him to me every morning. 24
2. The child runs away from her to me. 24
3. I was not informed about him being listed as protected party. 24
4. On April 2, 2013, I was almost arrested because of this. 24
a. She had brought him over that morning as usual. 24
b. When she came to get him she was rude and frightening. . . . 25
c. She pounded on the door then she called police. 25
d. I have audio, video, and police report of this event. 25
e. She told police about PO. 25
f. Database shows my son as protected party. 25
g. My son did not want to let go of me. 25
h. I was handcuffed and placed into the squad car. 25
i. Petitioner admitted that she brings our son to me. 25
j. Copy of order proved that child belonged in my care. 25
k. I was advised to have order modified. 25
l. Court clerk said only petitioner can modify. 25
m. I was almost taken to jail! 25
II. 78B-7-115(2)(c) Petitioner's actions demonstrate no fear of respondent. 26
A. A person with "reasonable fear" will flee or avoid the percieved danger. . . . 26
1. She refused to leave on Dec 10, 2010. 26
B. She very often enters my apartment of her own will. 26
3. Most interactions are acceptible. 26
5. There is plenty of audio recording evidence. 27

6. Our son often does not want to leave with her. . . . 27
7. She abuses him in front of me. . . . 27
b. See video of SLC Library incident of April 22, 2014. . . . 28
c. She filed for custody again right after that. . . . 28
d. How do most mommies and sons react to one another? . . . 28
e. He runs away from her to hide behind me. . . . 28
f. I am afraid of being jailed for VPO. . . . 28
8. She has taken him away by force after entering my apartment. . . . 29
C. She has invited me to family events. . . . 29
1. I helped move a treehouse. . . . 29
2. I was photographer at childs birthday party. . . . 29
3. I helped move a piano. . . . 29
a. SMS with Jenny Dunn confirms piano move. . . . 29
4. I was asked about borrowing a rototiller. . . . 30
5. Family home evening, garden visit, and skating. . . . 30
III. 78B-7-115(2)(b) Petitioner has acted in contravention of the PO. . . . 30
A. Petitioner's mother quit being liaison. . . . 30
1. She bypasses her mother's censoring of email. . . . 30
2. Filed with Notice of Lodging. . . . 30
3. I apologized to her mother, no reply. . . . 30
4. I apologize again. . . . 30
a. Video shows petitioner in my apartment. . . . 30
b. Her mother writes back, it's her daughter not me... . . . 30
5. Direct communication required. . . . 30
6. Indirect communication is very inconvenient. . . . 30
7. Example of why direct communication via SMS is necessary. . . . 31
B. She used the order unlawfully to have them jail me unlawfully. . . . 31
1. Implied permission to contact her directly. . . . 31
2. Her responsibility to have order modified. . . . 31
a. Modified order was to "close the email loophole". . . . 31
3. She reports violations for non-threatening replies. . . . 32
a. PO initially allowed email. . . . 32
b. Trivial distinction between SMS and email used to jail me. . . . 32
c. Petitioner was employee of Legal Aid Society. . . . 32
d. No prelim and excessive bail. . . . 32
e. Email I got arrested for did pertain to child. . . . 32
f. Email from her was harassive and rude. . . . 32
4. She invited contact then busted me for reply. . . . 32

a. She cherry-picked SMS from me out of larger conversation. . . 32
b. Evidence disc contains many examples. 34
c. 2011-08-10 she invites contact while warrant for me. 35
d. Invites call on 2013-04-10. 36
e. 2013-07-08 invites me to SMS or phone her. 36
f. 2013-12-17 SMS invites reply re skiing. 36
g. 2014-01-29 SMS saying she'll be late. 36
5. She threatens VPO to coerce me. 36
6. No legitimate state interest in supporting this PO. 36
7. More about the April 22, 2014 "bee poop SMS" incident. 36
a. It would be immoral to not communicate with her. 37
b. She came to the library and had security call the police on me. . 37
c. Our son clung to me and did not want to leave with her. . . . 37
d. He ran from her and found me outside by our bikes. 37
e. He was afraid of her and hid behind me for safety. 37
f. I made a video of her trying to catch him. 37
g. In the video you can hear a loud slap when she spanks him. . 37
h. Despite all of this I was the one arrested, for VPO. 38
i. I fainted in court. 38
j. The district attorney chose to not file charges. 38
k. A city prosecutor filed charges. 38
l. At court they had to refer it back to the DA. 38
m. **!** She filed for custody right after the arrest. 38
n. She believed I would be in jail at the time. 38
o. She believed it would violate the probation. 38
C. Limited contact via 3rd party ab initio presumptions: 38
1. Son and I have well established relationship. 38
2. Direct contact was perceived to be problematic. 38
3. Presumed her mother will be liaison. 39
4. That communication via a liaison is viable. 39
5. Conclusion: limited contact via liaison impracticable. 39
D. Large amount of evidence on disc. 39
E. Son should not be listed as protected party. 39
F. Her false representation of custody status is cause for concern re MGM. . . 39
IV. 78B-7-115(1)(c) Harassment, abuse, or violence that occured. 39
A. Occassional problems and a few arguments. 39
B. She is using the PO to extort the SSDI dependant benefit money. 40
1. Because they prosecuted me for such frivolous complaints. 40
2. When I mention that money, she gets angry. 40

3. I have asked for some of that money many times. . . . 40
C. She has dragged him away by the arm. . . . 40
1. I've put up with it too long. . . . 40
D. Evidence shows she is not afraid of me. . . . 40
E. She has been reported to DCFS several times. . . . 40
F. She has harrassed me with the PO. . . . 41
G. No VPO charges alleged actual violence per se. . . . 41
1. She stated that she did not feel threatened or endangered. . . . 41
2. Most of the VPO's involved "attempted communication". . . . 41
3. Prosecution ignored exculpatory evidence handed to them. . . . 41
4. They gave her the power of a judge to set my bail amount. . . . 42
5. She only uses "protective" order when she's mad at me. . . . 42
H. She closes the channel of communication. . . . 42
I. Not morally acceptible to use PO to bully. . . . 42
J. Our son wants to stay with me. . . . 42
K. She has alienated herself from our son. . . . 42
1. She has abducted him many times, by force and by police. . . . 42
2. Most children are just as happy to see their mother as their father. . . . 42
3. Our son is afraid of her and runs to me. . . . 42
4. Police have witnessed that he wants to cling to me. . . . 42
5. What does this add up to? . . . 42
L. Honest communication necessary to coparenting. . . . 43
M. 2010-12-10, she caused toddler to bonk his head on table. . . . 43
1. She came over to visit us, after asking permission. . . . 43
N. 2012-02-26, she tried to pull loaded child carrier off my back. . . . 44
O. Many times he won't go with her. . . . 45
P. 2013-07-07, she bruised his nose during "spanking". . . . 45
1. I took photos of his nose for evidence. . . . 45
2. I emailed the photos to her sister and mother. . . . 46
3. One of them called DCFS. . . . 46
4. DCFS officer Maxine Plewe visits me. . . . 46
5. I told her about photos and emailed them to her. . . . 46
a. She did not record photo evidence. . . . 46
b. MacRae made remark to me about... . . . 46
6. Email from petitioner re "spanking" nose bruise. . . . 46
7. Email forwarded to DCFS officer Plewe. . . . 46
a. No immediate reply, vacation autoreply days later. . . . 46
b. No mention of photos in that reply. . . . 46
c. Dan Reid is who "head bonk" evidence was sent to. . . . 47
8. Petitioner said there's no evidence, denying photos. . . . 47

9. GRAMA from DCFS says "unsupported due to lack of evidence". . . . 47
10. Should have been charges filed against MacRae. . . . 47
11. Plewe does not respond to email. . . . 47
Q. 2014-04-22, video of "bee poop SMS" library abduction. . . . 47
R. On January 21, 2015, burglary kidnap, child abuse in car. . . . 47
S. **!** She served amended parentage petition on January 26, 2016. . . . 48
1. This establishes a pattern of 'legal behaviour'. . . . 48
T. On February 2, 2015, parental abduction outside Harmon's. . . . 48
U. Child's misc. anecdotal testimony: . . . 49
1. Bungee cords to tie him up? . . . 49
2. Left in stroller with bag of suckers? . . . 49
3. He wants a place to hide from her. . . . 49
4. 2014-01-04, video child made when locked in his room. . . . 49
5. Play-acting demonstrates how his mother treats him. . . . 49
6. She scoffs "Love and Logic Parenting". . . . 50
7. She spanks him with a wooden spoon. . . . 50
V. 78B-7-115(1)(f) Other factors for court consideration. . . . 50
A. PO should not have been issued. . . . 50
B. She made false material statements in the RPO. . . . 50
1. She evasively misrepresented her criminal background. . . . 51
a. She has a serious criminal history to consider . . . 51
b. She gave false case numbers . . . 52
c. She failed to disclose DV in front of a child as such . . . 52
d. Claimed Disorderly Conduct was supposed to be dismissed . . 52
e. **!** She evaded reporting **open** DV from December 10, 2010 . . . 53
5. She commited domestic violence . . . 55
f. **!** She failed to mention **open** Theft of Services case . . . 56
6. Non-disclosure of this theft arrest is especially concerning . 57
a. It is why she had given me full physical custody. . . 57
b. She did not disclose that fact to police . . . 57
c. She lied about custody again in question 4*e* . . . 57
d. Video shows her asking for permission to take our son . 57
e. Respondent has evidence to support claims . . . 57
2. Petitioner is demonstrably dishonest in her answer to Question 4*e* . . 58
a. Her version of events is inconsistent with evidence . . . 58
2. She lied about how our son hit his head on the table . . . 58
a. The nanny cam video shows what she really did . . . 58
b. Prior to that moment, our son was crying for Daddy . 58
c. She would not let him go despite struggles . . . 58

b. She avoids disclosure of her own questionable behavior 58
1. Video shows her attempting to strike me 58
4. Her story "adds up" differently with missing information . 59
5. She took no responsibility for her own actions 59
C. She violated §78B-7-115(3). 59
1. Request form essentially defines "bad faith" 59
2. Protective order provisions, applied unilaterally, invite entrapment . . 60
3. "No contact order" was modified to allow "email" 60
a. This allowed two-way written communication 60
1. Petitioner often used SMS to initiate contact 60
2. She also often called on the phone 60
a. She explicitly invites voicemail, SMS, and email . . . 60
3. "Good faith" assumption is that SMS ≡ email 60
a. SMS and email are written "electronic messages" . . . 60
b. Both parties use Android "smart" phones 60
c. Email, voicemail, and SMS have similar UI 60
b. No restriction on subject matter of communication 61
1. Stipulated to allow open channels for communication, . . . 61
2. ...and to facilitate co-parenting of our child in common . . 61
3. I wanted "written and recorded" only 61
4. Messages from her did not always pertain to child 61
a. She sent abusive email, I asked her to limit 61
b. I declined seeking contempt sanctions at that time . . 61
c. What we communicated via SMS about 61
5. She named two 3rd parties to witness child exchange . . . 62
a. She never brought them then blamed me for that . . 62
b. Email is given as means to discuss third parties 62
c. She initiated communication not restricted to child 62
1. She wrote harassive email to me 62
a. I asked her to restrict the subject of com. 62
2. She complained to police about email not pertaining . . . 63
3. Her evidence showed my email did pertain 63
a. She is who signed me up for the Enfagrow Newsletter . 63
b. She now claimed it as "beyond the scope" of P.O. . . 63
4. The police "investigation" showed the P.O. allowed email . 63
a. Hearing minutes don't agree with the PO itself 63
b. The statewide database fails to show mods to P.O. . 63
5. I was arrested for email, despite that it allowed email . . . 63

a. The offense date on the warrant is January 4th, 2011 . 63
D. DCFS workers disregarded evidence at least twice. . . . 66
E. Child was potentially endangered –> negligence. . . . 66
F. Child "tells on" mother through his behaviour. . . . 66
G. Petitioner uses PO for improper purpose. . . . 67
1. Using it fraudulently to try and take custody. . . . 67
H. This PO and VPO can affect people's opinion of me. . . . 67
1. Nobody solicited my side of the story. . . . 67
2. Exculpatory evidence was ignored in VPO. . . . 67
3. Utah BCI report is misleading. . . . 67
4. Employer background checks don't ask for my side of it. . . . 67
VI. 78B-7-115(1)(e) Impact on child's well-being. . . . 67
A. Impoverishment has deprived our son. . . . 67
B. Her acrimony towards me is harmful to him. . . . 67
C. Her abusive treatment of him is very concerning. . . . 68
D. My son is upset when I am put in jail. . . . 68
1. Son's needs outweigh her need for protection from SMS. . . . 68
2. Standard of proof and burden of proof were not met. . . . 68
3. She uses it to extort money from us. . . . 68
4. This is cruel to our son. . . . 68
5. He runs away from her to hide behind me. . . . 68

Exhibit A Observations regarding court "of record" . . . 70

The product of any three numbers is greatest when the numbers are equal.
Primarily, one must display equity before one may expect to recieve equity.

Introduction

I will show that the characteristic nature of the omissions and falsehoods perpetrated by Ms. MacRae causes them to be a very serious concern to the court. I will show that they are part of a protracted pattern of behavior. Ms. MacRae has a history of irreverent disregard for the laws. In Utah, she has been arrested for disorderly conduct to request to stop, for speeding, reckless driving, improper use of lanes, DUI, driving without a license, domestic violence assault in the presence of a child, trespassing in a dwelling, interfering with an officer, driving without proper registration, running a red light, unsafe vehicle, driving an unregistered vehicle (again), domestic violence battery in front of a child (again), and theft of services, for riding UTA Trax without proof of fare payment. None of these were mere "minor traffic *infractions*". All of them were relatively serious *misdemeanors*.

Ms. MacRae has been in trouble at court for 'domestic violence' (DV) in front of a child on two different occasions. In her Request for Protective Order (RPO), she downplays the disorderly conduct, describes one DV in front of a child as a mere "general DV" and completely fails to mention the second DV charge, which was an open court matter at the time she filled out and filed the (verified?) RPO. She also fails to mention the 'theft of services', which was *also* an open case at the time she filled out and filed the RPO. You will see that the date upon which she was charged with theft of services corresponds with the date that she brought all of our son's belongings over to my apartment, effectively giving me *de facto* full physical custody of him, *at her own initiative*.

She has made several 'representations to the court' alleging that I was refusing to allow her to have time with our son. The fact is that I was not letting her in when it was after 8 or 9 pm, when she was being very rude or belligerent (both in person and via voicemail), or when I suspected that she was intoxicated. There were a few times when I did let her in to spend time with him. One of those times was the evening of December 10, 2010. On that occasion, I had hidden a "nanny-cam" in the room to serve as my witness of events. I assert that the video evidence impeaches statements Ms. MacRae made in writing on the RPO.

This body of facts casts doubt upon the veracity of the oral statements she made at the protective order hearing, especially given that I have given testimony and shown evidence that is contradictory to those statements.[2] It is her word against mine, and by rights, she

2. See Utah Rules of Evidence rules 608 (http://www.utcourts.gov/resources/rules/ure/0608.htm) and 613 (http://www.utcourts.gov/resources/rules/ure/0613.htm).

must bear the burden of proof. None of the statements made by either of us, neither in writing, nor orally at the hearing, ever faced validation by any *trier of fact*. There was no cross examination of *either* of our testimonies. She presented no documentary evidence to support her claims—it was carried solely upon her personal testimony—and the personal testimony and documentary evidence that I brought to the first protective order hearing was *certainly not* fairly considered.

Ms. MacRae works as a legal secretary. She was employed by the Salt Lake Legal Aid Society during the period of time that she filed the VPO and had me charged with alleged violations of it. She has worked as a legal secretary for a number of years. Her employment provided her with the social contact with individuals capable of rendering appropriate advise, should she have chosen to ask them for it. The deceitful acts and omissions which I will describe put her in serious danger of losing her credibility within her profession. I do not believe that it is proper for the court to accord Ms. MacRae special prerogative by overlooking, for example, the blatant lack of disclosure of the two open cases, as well as her downplaying misrepresentation of her previous domestic violence related charges. «'"[A]s a general rule, a party who represents himself will be held to the same standard of knowledge and practice as any qualified member of the bar."' Lundahl v. Quinn, 2003 UT 11, ¶3, 67 P.3d 1000 (quoting Nelson v. Jacobsen, 669 P.2d 1207, 1213 (Utah 1983)). Nevertheless, '"because of his lack of technical knowledge of law and procedure [a layman acting as his own attorney] should be accorded every consideration that may reasonably be indulged."' Id. (quoting Nelson, 669 P.2d at 1213)» State v. Winfield, (2006) 2006 UT 4 (Supreme Court) at ¶19.

She told me that she has applied at several law schools, and has expressed an interest in becoming a family law attorney.[3] If she is not held accountable for these illegal and unethical actions, she will not learn the correct lesson from the experience. She must be taught that violation of laws and common ethics rules is a very serious matter that will not go unnoticed or unpunished. Frivolous and gratuitous litigation and malicious prosecution are abuses of the judicial process that waste time and public resources. Above all, she must learn to take responsibility for her own actions without transferring blame to others.

Hypothetically, Ms. MacRae's deceit could affect other peoples' careers as well as her own. Any attorney who represents her will be bound by the Utah Bar Association Rules of Professional Conduct, ethics rules which, I expect, when violated, lower a lawyer's status considerably. Surely, it is by obeying the laws and by following the rules that a lawyer maintains and gains status within the community of law professionals. Dirty lawyers are not trusted, nor well liked, and others will avoid being associated with them or their unethical tactics. An honest attorney will not wish to be—nor appear to be—involved in misconduct, either as an accomplice or as an accessory, before or after the fact. Obviously, it would be unfair to hold an attorney accountable for a client's dishonesty.

3. She was attending a course on how to get a better score on the LSAT during the period of time that she got caught riding the Frontrunner without a ticket, an important event of this narrative, which I will describe later.

On January 4th 2011, at the initial hearing on the 'protective order', Ms. MacRae appeared in court *pro se*. She was not yet represented by an attorney. Because the RPO form was type-written, rather than hand-written, I assume that she either filled out the form using the web interface, or that a non-lawyer court clerk provided her with assistance. Apparently no court official or automated form-fill-out system ever *verified* whether her self-professed criminal background matched the actual criminal history available via the courts' record keeping system.[4]

At the protective order hearing, the guardian *ad litem*, William Middleton, suggested a *mutual restraining order* attached to our Parentage case. In fact, a mutually binding order had already been *stipulated to*, upon *her* initiative and my agreement. I will herein assert that it was Ms. MacRae—not myself—who has been in contempt of that order on multiple occasions. She dismissed our son's state-appointed attorney's legal advice, and chose to pursue a *Cohabitant Abuse Act Protective Order*[5], in lieu of recognizing and actually respecting a *bilaterally applicable* order of *mutual decency*, which would be binding upon herself as well.

Our republican (*res publica*) system of government is founded upon certain very important *common sense* principles. Among them is the idea that the laws **must** apply, equally, to everyone. No if's, and's, or but's: Nobody is above or outside of the law. Article I, Section 24, of the Constitution of the State of Utah, states that «All laws of a general nature shall have uniform operation.» I think that the phrase "uniform operation" here refers to the concept of *Integrity*, in the context of *Ethics*.[6] Certainly each and every one of us *is* rightfully entitled

4. How hard can it be? Perhaps OCAP and whatever software they use at the courthouse ought to perform an automated CORIS lookup to fill in the criminal background information?

5. Perhaps I am not alone in finding it ironic that *Co*habitant Abuse Act protective orders are unilateral in nature? I wonder how many alleged violations of these "protective" orders do not involve any actual violence, *per se*, yet nonetheless lead to a "domestic violence related" arrest... of either party? Certainly, it is no more morally acceptable for someone to use a 'protective order' to bully another person than it is for them to use physical violence to do so. The problematic behaviors these laws are intended to address are more properly described as *bullying*, in general, than more specifically as actual *violence per se*. Clearly, this law and it's *de facto* implementation by current administrative policy is not solving the problem. It is making it worse by creating a new means of bullying, by proxy.

6. Quoting Wikipedia: «Integrity is a concept of consistency of actions, values, methods, measures, principles, expectations, and outcomes. In ethics, integrity is regarded as the honesty and truthfulness or accuracy of one's actions. Integrity can be regarded as the opposite of hypocrisy, in that it regards internal consistency as a virtue, and suggests that parties holding apparently conflicting values should account for the discrepancy or alter their beliefs.

The word "integrity" stems from the Latin adjective integer (whole, complete). In this context, integrity is the inner sense of "wholeness" deriving from qualities such as honesty and consistency of character. As such, one may judge that others "have integrity" to the extent that they act according to the values, beliefs and principles they claim to hold.

A value system's abstraction depth† and range of applicable interaction may also function as significant factors in identifying integrity due to their congruence or lack of congruence with observation. A value system may evolve over time while retaining integrity if those who espouse the values account for and resolve inconsistencies.

† In computer science, an abstraction level is a generalization of a model or algorithm, away from any specific implementation. These generalizations arise from broad similarities that are best encapsulated by models that express similarities present in various specific implementations. The simplification provided by a good abstraction layer allows

to the same *Standard of Care* and ethical treatment by law enforcement, court officials, and legal counsel, regardless of whether one is male or female, is appearing *pro se* or is represented by an attorney; whether that attorney be a new arrival on the scene, or is socially familiar to *other* officers of the court. By law, there must not be a *double standard* wherein the rules are only applied at the easy convenience of some privileged in-group, to their own percieved advantage, then disregarded, with easy impunity, when it would, with a little more effort, have given the honest advantage to an out-group member.

> «Interdependence is a fundamental law of nature. Even tiny insects survive by cooperating with each other. Our own survival is so dependent on the help of others that a need for love lies at the very core of our existence. This is why we need to cultivate a genuine sense of responsibility an a sincere concern for the welfare of others.»
>
> — Dalai Lama, Google+, 2015-01-29.

History and Timeline

I. While the petitioner, Ms. MacRae, and I lived with one another, there was troubles. She is not an easy person to get along with. I've learned that I'm not the first of her friends, family, or coworkers to have similar difficulties with her.

A. When her mother came to visit and meet me, she told me that her daughter has a very bad temper, and that I should watch out for that. When we went down to visit her father and family, her brother was reluctant to let her into his house.

B. I've seen the way she treats her few other friends. She is selfish, irreverent, haughty, petulent, duplicitous, and narcissistic. She psychologically projects her own problems onto other people. She wants everything from them and refuses to give anything in return. She's a "control freak". She was separated from her husband before he died. I was told that he moved out for similar reasons as why I asked her to move out.

1. She never helped clean house. She never washed any dishes. The only thing she brought home from the grocery store was diet coke and beer. She drinks too much and gets snotty and psychotic after she gets loaded. She drank while driving, then threw a fit and assaulted me when I took away the keys. I am afraid she will hurt our son when she's like that.

2. Once when I was not "in the mood", she literally *kicked* me out of bed, bruising my legs. I slept on the couch for two weeks to avoid her. She "buffaloes" people and I don't like bullies. I was in college and the trouble at home caused me trouble at school.

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for easy reuse by distilling a useful concept or metaphor so that situations where it may be accurately applied can be quickly recognized.»

3. She had multiple large storage bins full of high-heeled hobble-shoes, and lots and lots of clothing. I think she shops for recreation. She is spending money on herself that is supposed to be to support our son, while he's with me most of the time and I have to buy all of his food out of my own pocket.

4. I asked her to move out because of these things and more... I don't want to be scandalous or defamatory. After moving, she told people that she "had to leave an abusive situation" as if I was the violent one! She has told many "whoppers" that are difficult for me to prove as such. If you've seen the movie "How to lose a man in 10 days or less" you'll have some idea of what it has been like for me at times.

5. When I learned that she was pregnant, shortly after asking her to move out, which was not long after the kicking me out of bed incident, I wanted us to try and attend counselling in order to work things out. I'm willing to listen and to help her, but that only works if she's willing to be totally honest with herself and with me. Her feelings are hurt and she doesn't deal with it very well. I'm not a psychologist. It is very sad and I want to help her but I don't know how and I must protect myself and our son first.

C. Despite the fact that she often fails to take responsibility for her own actions, I do not find "diminished responsibility" in the legal sense, because I know that she is capable of "being nice", at will, when she chooses to, and I'm certain that she knows right from wrong. She has made statements on numerous occassions regarding the necessity of there being consequences for wrong actions.

D. Petitioner has a criminal history involving DUI in multiple states, driving without a licence, and domestic violence that occurred at her sister's home. She is a widow, and her husband, whom she married in Las Vegas, had a Utah criminal record for a misdemeanor drug-related arrest, and a third degree felony for being a "fugitive from justice from another state". She did not tell me very much about these things, but did open up a little and share some of it. She was attending court-ordered counselling for a short time when she first came to live with me. It was part of her plea-in-abeyance agreement in the domestic violence altercation that occurred at her sister's home before we met.

E. Before the trouble began with her, I had no history of arrests for violence, at all. I lived on campus, in the dorms, at Portland State University for several years with no major troubles at all. I feel like she is trying to "taint" my record deliberately, as if to spite me. *I* have no history of violence, drug arrests, or DUI. The few items on my record were for misdemeanor "tresspassing" (not burglary! ... and the stories about it are funny.)

1. The one up in Summit county is an example; I was 86'd from Park City Mountain Resort by the "marlboro cowboy" running the horse-ride concession after complaining to him that the horses were being neglected. I wrote an email about it to Friends of Animals and the Park City Police that contained a photo taken with a cheap flip-phone. Then I went back the next day to take better photos, and got caught and charged with tresspassing. I took a plea in abeyance, but refused to pay the fine. The conviction remains on my record as a result.

II. On July 23, 2009, I filed 094903235, Hegbloom v. MacRae, a VERIFIED PARENTAGE PETITION asking for joint custody of our unborn son. (He was born in mid October.) The parenting agreement within it is for an equal 50/50 split of both legal and physical custody, so we could share the responsibility of parenthood.

A. Ms. MacRae had been employed as a legal secretary for a local business contracts attorney. I must assume that she was familiar with the courthouse, people who work there, with legal filing, and with court procedure.

B. I attempted to obtain voluntary service of process, and Ms. MacRae refused to sign for it. She asked me for a copy of the PDF of the Verified Parentage Petition, and I told her that if she accepts service of process, she can have that.

C. She again refused, then went to the courthouse and obtained a copy of the document from the clerk on July 31st, 2009. That does not constitute service of process, and so I still had to accomplish official service of process.

1. After she read the copy she obtained from the clerk of court, she was angry about the tentative child support worksheet included with the petition, since, using the numbers for our incomes current at that time, she would have to pay around $100 per month to me in base support. She did not believe I was entitled to recieve any child support.

2. We had recently had an ultrasound, and learned that our child was male. Ms. MacRae made oral statements to me to the effect that she was planning to have our son "circumcised".

3. She told me that if I signed over the remainder of an annuity I owned, which she must have thought was a lot of money, that she would agree not to allow them to circumcise our son. She still refused to stipulate to joint custody.

4. Had I agreed to it, it would have amounted to only about $18 per month, at best, assuming it could be reamortized or something. I knew it was not anything like enough to adequately support her and my son until he turns 18, and I pointed that out to her.

5. I explained to her that because I recieve an SSDI benefit, our child will be eligible for a dependent benefit. I told her that we can go in to the SSA office as soon as our son is born, and that though it takes several months for the approval process, they will pay benefits retroactive to the date of application.

a) At the time, I believed that the SSDI dependent benefit would be around $250 per month, and I promised to make her the payee for it because I was helping to pay for the pregnancy and birthing expenses. (It turns out to be more than double that amount.)

b) Since then, she has sued me twice for money she's already been paid! Because we were not married, I do not have to support her, nor does she have to support me. We only have to support our son.

6. I knew that once she began recieving the SSDI, it would constitute a substantial change of financial circumstances, and thus, the support order could be modified, if need be.

7. I also asked she agree to placing all of our child's money into a separate bank account that we would *jointly control*. I wanted her to understand that she need not support me, but only our son. She refused to cooperate.

D. I attempted service of process via certified mail. She refused to pick up the envelope from the post office. I saw the notification postcard from the USPS on her desk when I was at her apartment to visit her.

E. I finally went to the Salt Lake County Sheriff's office to have them serve process. She accepted process on September 18th, 2009, when a sheriff's deputy found her at the office of the legal firm she worked for.

F. I strongly agree with many others who have concluded that the word "circumcision" is a deprecated euphemism for the atrocity that is more accurately referred to as "genital mutilation". It can easily be shown to be a *malum in se* crime against an infant, "aggravated object rape of an infant that culminates with mayhem", a first degree felony, deserving of life without parole, per count.

1. She had made remarks to me saying that she wanted our son to be circumcised. Unfortunately, at this time, not even the courts seem to understand enough about it to see it as a crime. I was very afraid that my son would be subjected to this henious form of torture.

2. Because of that, I found it necessary, in defense of our unborn son, to educate his Mother on the subject. I needed to be certain that she would never allow this abomination to be inflicted upon our child in common.

3. On the evening of July 30, 2010, during a visit to her home, I showed a video of a "routine infant circumcision" to Ms. MacRae. I had read an anecdote published on-line by a man who had successfully used that tactic to prevent his wife from continuing to believe that infant genital mutilation is in any way beneficial or the act of a benevolent physician.

4. I have written a detailed description of the events of that evening. It is an affirmative defense, not a confession of guilt. It is lodged on the record at the end of case 091908046.[7] *I was never contacted by police or social workers and asked for my side of the story.*

G. On October 8th, 2009, I filed the paperwork for default judgement in the Parentage case. I believed I was supposed to do that, as a legal requirement. She was angry with me, because the 7th was the deadline by which she was expected to file and serve her answer to the initial petition, and she wanted more time.

7. See: 2010-09-02_091908046_Defendants_Affidavit_filed_way_too_late.pdf

III. On July 31st, 2009, I obtained an ex parte temporary protective order, Third District case number 094903343, against Ms. MacRae.[8] My primary purpose was to protect our unborn son from genital mutilation. In the request for protective order, I described the July 30th incident.

A. My primary concern in obtaining the 'protective order' was to protect our son from genital mutilation. During the initial hearing on whether to make the *ex parte* order permanent, there was a verbal exchange between the respondent and commissioner Blomquist. The respondent said, with vocal intonation giving sort of 'a hint' that she did not believe that a 'protective order' was the correct "legal instrument" to protect the unborn child. The commissioner asked whether it was certain or whether it had been legally determined that I was the unborn child's biological father. It had not been determined.

B. The commissioner asked if I'd like to continue, or to dismiss the *ex parte* 'protective order'. I moved to dismiss, at my own choosing, due to those issues.

IV. On October 9, 2009, Ms. MacRae filed her Answer and other pleadings in our Parentage case. *On the same day*, a warrant for my arrest was filed, alleging that I had committed attempted assault on a pregnant person.

A. The offense date is shown as July 30th, 2009.

B. The period from July 30th, 2009 to October 9th, 2009 was 71 days long. There was not any of the urgency you would expect if the police believed there to be a true threat of harm, and in fact no true threat of harm to Ms. MacRae existed. In that interim, we made love, we shared meals at restaurants, I helped her with minor house chores, went to the grocery store for her, and we had mostly amicable relations with one another.

C. On the 9th of October, Ms. MacRae called me and asked me to meet her at the Trax station by the library.

1. When I arrived there to meet her, she again expressed anger with me for having filed the paperwork for the default judgement.

2. She informed me that she had just had a conversation with the prosecutor, and that a warrant for my arrest had been filed. Her tone was taunting and subtly threatening.

D. She asked me to sign for voluntary acceptance of service of process for the counter petition she had just filed. In good faith, I immediately signed voluntary acceptance of service of process. Her counter petition demanded full custody of our son.

8. See: 2009-07-31_094903343_TLT34134_Protective_Order.pdf

V. Our son was born at LDS Hospital, on Sunday, October 18th, 2009. I was not told until after he was already born; she did not tell me in advance that she was going to the hospital that day. Her sister called me to give me the news. In the background, I could hear a baby crying.

A. I went to the hospital to visit Kasey and our new baby boy. On the way there, I was very afraid that it was already too late to stop them. My mouth was very dry and I was more nervous and fearful than I've been in a very long time. I was afraid they would take him and do what they had done to me when I was born. When I arrived there, I felt very intimidated by the presence of security personell. I felt trapped. At one point, there was an open door to a stairwell and I felt prompted to notice it, and then the fleeting thought *crossed my mind* to kidnap and abscond with our son, to protect him.

B. While I was there to visit them, our son's mother would not unwrap him to show me our naked newborn son. She was upset with me for being so concerned about it, but she did not ever make any statement to the effect that she would not ever sign paperwork to let them do it. My intuition told me that it had not been done at that point. I knew he was alright.

C. I immediately wrote a letter to the hospital's birthing staff and risk management attorney to notify them of my intention to obtain an injunction to prohibit a circumcision.

D. I retained an attorney, Mrs. Angela Law, to represent me to obtain the injunction. She was very assertive in getting the Judge to sign an *ex parte* temporary injunction, in getting them to set a hearing date, and in having the temporary injunction process served at the hospital.

E. The day before the hearing, I was at the Salt Lake City downtown public library. I had been reading about the MGM Bill, and was, at the time, making statements advocating it. There was a large young man wearing surgical scrubs sitting at a table next to a woman who turned out to be his wife. He was mocking the idea that infant genital mutilation is a crime that deserves punishment under the law. He was all like "14 years in prison for circumcision? Really?" I walked over and slapped him in the face. He reacted by calling the police. At the time, I felt compelled to do it, but did not stop myself in time. I didn't really think about it first, myself... Later when I thought about it, I guess I was supposedly making the point that if it's not alright to slap a larger male, then it's certainly not alright to commit battery upon the genitals of an innocent newborn. If the police are to be called when a smaller person slaps a larger one, then certainly they ought to be involved if a larger person batters a much smaller one! I was arrested for simple misdemeanor battery, to which I plead guilty. I had a reason for having slapped him, but that reason was not an excuse. I was under quite a lot of emotional stress at the time.

F. Because of that foolish mistake, I was in jail, and did not get taken to the hearing regarding the injunction to prohibit the circumcision.

1. The judge said that since paternity had not been ajudicated, that there was a question as to whether I had the right to that injunction.

2. At that hearing, to which Ms. MacRae was almost too late to to participate in herself, the judge determined that he could not find "irreparable harm", because it was not clear whether or not a circumcision had or had not already been performed.

a) It's concerning to me that a possible interpretation of the wording of the Judge's statement as given in the hearing minutes is that he does not find circumcision itself to cause irreparable harm. That is in direct contradiction to the relevant evidence.

(1) It should not matter who's son he is. Genital mutilation is not legal, and nobody should have to worry about whether or not it will happen to their little boy. It is easy to show that it is *malum in se* in that it causes "permanent disfigurment and permanent loss of normal use" — that wording comes straight out of the child abuse statutes. Because it involves penetration of a sexual opening with an object — first one hemostat, then a second, and after that a clamping device — and culminates in mayhem, it fits the definition of "object rape of a child" and thus, under Utah law, MUST be punished by life in prison without parole.

(2) My cause for concern is that in a 2012 article published by the Salt Lake Tribune, several penis butchers employed by the childrens hospital essentially confessed to being perpetrators of this atrocity.

b) Since that time, paternity has certainly been ajudicated. **He is my son.**

3. The injunction was denied the grounds that paternity had not been proven, and that irreparable harm could not be found...

G. On November 18, 2010, Ms. MacRae was charged with theft of services in Layton City for riding the Frontrunner without proof of payment.

1. She was charged with a crime for that, filed on the 22nd, case number 101601193. It was still open at the time she filed for a protective order but she did not report that on the RPO.

H. On about November 20, 2010, she brought our son and all of his belongings over to my apartment, and left him completely in my care. He was there until December 10.

I. On December 10, 2010, there was an altercation *at my apartment*. That is described more fully in the detail outline that follows this "historical background" one. She made our son hit his head on a table.

1. She was charged with domestic violence in front of a child and with an assault against me (101414961). That case was also still open at the time she filed for the PO and she did not report this either.

2. A Salt Lake City prosecutor dismissed the charges against her, and prosecuted me. He ignored the same testimony and evidence disc that I brought to this court at the first hearing on this protective order. I was never contacted by a police victim advocate.

3. That evidence disc contained the video that shows her *causing* our son to fall and hit his head on a table.

J. On January 6, 2011, she filed for a protective order. This is describe more fully below.

K. During January of 2011, during the same period of time that she was obtaining the protective order, she was filing for temporary orders and for full custody of our son.

1. Recall that our son had been staying with me, *at her initiative*, up until December 10, 2010. Despite it, she had been moving for full custody of him. Throughout all of this, even up until the date of this filing, he has spent the majority of his waking hours with me. That is not a complaint. It's a fact. I *want* my son to be with me. He is not a mistake. His mother's abuse of the judicial process is the mistake.

L. On Friday, March 26th 2011, I was arrested for an alleged violation of Protective Order, case number 111902257.

1. I had been accused of having written several emails that did not pertain to our child under a protective order that allowed email only pertaining to our child.

2. There were no allegations of any actual violence, *per se*. Had the email contained any threat of harm, the warrant and information would certainly have featured that. Instead, it merely expresses the belief that the email did not pertain to our child, and that the protective order imposed a limitation upon the subject matter of the email.

3. Ms. MacRae's initial complaint was made on February 8th, 2011, 44 days prior to issuance of the warrant by the court.

4. The court docket lists the offense date as January 4th, 2011, the same day as the protective order hearing, 35 days prior to the complaint date.

5. The warrant was issued on Wednesday, March 24th. I was home all week. When the police arrived to arrest me, two days later, on Friday, March 26th, they knocked on the door, and I answered it.

a) Because of the amount of delay between the time Ms. MacRae called the police and the time they obtained, and again the delay between then and the time at which they executed the warrant, it is clear that they did not view me as a significant threat to anyone. *I assure you, that assessment was not in error, unless by «threat» you mean «political threat» to those who advocate institutionalized child abuse or to «Jim Crow» style laws that allege to combat «domestic violence» but honestly do not live up to that expectation.*[9]

6. No warrant for my arrest was necessary *nor required by law* under the circumstances.

7. The bail was clearly excessive given my actual criminal history and the true nature of the allegations.

8. I was held in jail on the charges for about three weeks, was not taken for a court appearance within 1 day as is required by Utah Code 77-36-2.6(1).

   a) I was not offered a preliminary examination hearing either. They are required by law, URCrP rule 7(h), to bring me to a preliminary hearing within 10 days of the arrest.

   b) I was taken to the Salt Lake City Third District Courthouse on April 1st, 2011, for an initial appearance, where they read the charges and appointed a public defender. I remember thinking that it was an exceedingly inconvenient and very aweful practical joke that I was being charged with a crime for writing an innocuous email, and that the initial appearance was April Fool's Day. Nobody mentioned anything about my right to a preliminary hearing. I spoke to the court about "using my words" and how that's not violence. It's speech.

   c) A week later, on April 7th, 2011, I was transported to court again. I rode there in a Salt Lake County Sheriff's Department prisoner transport bus that had one more prisoner than seats. One man had to stand up all the way from the jail to the courthouse.

      (1) The young man sitting next to me was describing an altercation resulting from a bad drug deal that involved his clinging to the door of a speeding vehicle while it's driver attempted to swerve and make him fall off as he tried to pistol whip the driver. He said he'd just recenly gotten released from a juvinile detention facility, and that if he was convicted of the crime he was now charged with, he would be in prison until he turned 40. I thought "that is the kind of person whom jails are built for".

      (2) While I was in jail, I met a man who had crashed his car into a storefront while driving when he was drunk. He was sentenced to 60 days in jail for that.

      (3) I was locked in a cell for over a week with a heroin addict going through severe withdrawls. He retched, vomitted, and coughed the entire time. He was taken for chest x-rays after he showed a Tuberculosis test reaction the size of a silver dollar. I could quite easily have been exposed to TB, which potentially endangers my son, whom I care for quite often.

      (4) After that, I was locked in with a man who was doing two years in jail for violent fighting and probation violations. He would kick the bottom of my bunk to wake me up every time I snored. That was not the only time I was faced with potential violence.

9. http://karlhegbloom.blogspot.com/2012/07/integrity-accountability-and-resolving.html

(5) When that man was relocated, he was replaced by an old man who was dieing of AIDS, whom they moved to my cell from the infirmiary. He was just getting over pneumonia, and coughed and vomitted. While he was there, I got a mild sore throat.

(6) Another prisoner I was locked up with said he was probably going to be sentenced to prison for murder. When he returned from court, he said they'd reduced it to manslaughter because they could not prove intent. He was volitile and dangerous, using threats of violence to bully me. He also said things about making pipe bombs — "an arm, a leg, a city block, whatever you want" — as he described how he'd injured one of his legs. He said he had been in the Marine Corps, and they'd taught him to "kill them all and let God sort them out".

(7) I met another man who professed to never having had a job other than dealing drugs. He had been in prison several times. He was caught red-handed with a scale, a package of small zip-lock baggies, and a large quantity of methamphetamine in the trunk of his car. While I waited for my turn during one of the sentencing hearings later on in my case, he was sentenced to a much lesser sentence than I was given.

(8) At another pre-sentencing hearing, a man who had allegedly committed aggravated assault with a baseball bat was released on his own recognizance, pending trial.

> "The concept of common sense is *part and parcel* of the judicial process and is not to be lost sight of. Certainly its exercise is not to be viewed as a substitute for or a disregard of the court's formal instructions. Rather, it is a time-honored, wholly compatible part of the deliberative, decision-making process."
> — State v. Hopkins, 782 P. 2d 475 - Utah: Supreme Court 1989.

§78B-7-115 Dismissal of Protective Order

I. The 'protective order' of Third District court case number 104906439 was issued by this court on January 4, 2011, then modified on October 10, 2011.

A. More than two years have gone by since this 'Protective Order' was issued. Dismissal of the order may be authorized by the criteria provided by §78B-7-115(1)—*at least two years*—as well as those provided by §78B-7-115(2)—*at least one year.*

B. Protective Order 104906439 was the subject of Utah Court of Appeals case number 20120264-CA. They affirmed, but not due to not finding denial of due process. It got sidetracked into a debate over whether or not I had the right to an "indirect" appeal after having been accused of violating the order. We filed a petition for writ of certiorari in the Utah Supreme Court (#20141064). Due to conflicting *stare decisis* exposed during the appellate court decision, we thought they would grant the writ of certiorari. On February 11, 2015, the Court denied the writ of certiorari. See the accompanying document to see what I plan to do about it.

The appellate claim was that the 'protective order' is void, basing a collateral challenge upon procedural and substantive due process grounds. I was not accorded with my right to present evidence, nor to cross examine her testimony, when the court failed to schedule a full 'evidentiary hearing' after I made multiple motions, both orally and in writing. The need for and importance of that hearing was *implicit* in the ANSWER TO REQUEST FOR PROTECTIVE ORDER and evidence attachment that the commissioner said she had reviewed, but then disallowed since I had not served a copy to the petitioner yet. I had not served a copy to the petitioner because the *ex parte* temporary protective order said I was not allowed to contact her! I was planning to serve a copy to her at the hearing, expecting a continuation to a full adversarial hearing to be accorded as the naturally obvious due course of the process of law.

1. I understand that the fact that the 'protective order' was the subject of an appeal is not basis for argument pertaining to §78B-7-115 "Dismissal of Protective Order".

C. I find it to be an error that our son is listed as a 'protected party' in this 'protective order' since I am not a danger to the little boy who runs to me for safety and comfort, and also it is contradicted by the order's provisions which prescribe communication for child concerns via an agreed upon third party and curbside child exchange.

1. The petitioner has brought our son home to me each morning, and then come to take him home with her each evening, now for quite some time. He spends more of his waking hours with me than with his Mother. He eats the majority of his meals with me, *at my own personal expense*. We have wonderful times together.
2. *He runs to me for safety when he sees his Mother because she spanks him and locks him in his room, and I do not use those 'parenting' techniques because they are antithetical to the Love and Logic parenting paradigm.* When I was a child and was treated like that, I did not like it. I resented it. I do not want to subject him to the same kind of bad parenting. I think that the people who advocate those parenting techniques probably don't really treat their own children that way.
3. During the hearings on this matter, I was never informed about the implications of my son's name appearing on the 'protective order' forms.[10] It never would have occured to me. I was naive and taken advantage of. I have reason to believe that having him listed as a protected party is part of an attempt to frame me up, and that it is commonly done.
4. In the "Statewide Domestic Violence Database", which is what the police see, it appears as though my son is not supposed to be with me, since he's listed there as a 'protected party'. This error has been the cause of some trouble. I was almost arrested because of it. Salt Lake City Police case number 2013-49475, April 2, 2013 is on the disc.

a) Petitioner had left our son in my care as usual.

10. *Actually, I have a vague memory that attention was brought to the fact that his name appears there, and it was supposed to be removed from the modified order which was issued while I was being held in jail on the "SMS pertaining to child and short call from unknown" warrant.* I may be misremembering. The only way to be sure would be to review a hearing transcript, which I can not afford to purchase. My email enquiry for obtaining them *in forma pauperis* was not responded to.

b) When she came to get him that evening, she was being very rude and disrespectful. When my son saw her, he ran inside and hid.

c) She was pounding on the outside of my apartment door, shouting loudly. I was not comfortable with opening the door to let her in. She threatened to call the police, and when that did not cause me to open the door, she called them.

d) I have an audio recording, made with a digital audio recorder in my pocket, and a video of the event, made by my neighbor using my cellular phone.

e) Kasey told the police dispatcher that she has a protective order.

f) The officer looked it up in the State Wide Domestic 'Violence' database. It shows my son as a protected party. I did not believe that Kody was on there, and disputed it with the officer. He said I should not call him a liar. The conflict was resolved when he showed me what it said in the database. He was not prejudiced. I like the way the officers handled the situation. I was frightened by being locked into the back of the police car, and prayed.

g) They wanted me to let my son go with her. He did not want to leave with her. He was clinging to me and did not want to let go. There was two officers, and each took one of my arms. My son was still clinging to me. When his mother took him from me, he cried. From the video, you can tell that he did not want to go with her. He cries after she has him. When I was carrying him he was calm.

h) The peace officer handcuffed me and put me into the car. He showed me the entry in the database that says that my son is listed as a protected party.

i) They questioned the petitioner, and learned that she does bring him over to my apartment each morning, and comes to get him each evening.

j) I told the officer that the 'sentencing order' was pinned up on the wall just inside of my apartment. He went in and got it. When he read the 'sentencing order', the officer learned that the provisions on it did in fact contradict, and override my son being listed as a 'protected party' since it allowed for child exchange and communication regarding the child.

k) I was advised by the peace officer to have the order changed, to remove him as a 'protected party'.

l) When I went to the courthouse to do that, I was told that only the petitioner can move to modify the order. I believe that is not true, and that the woman behind the window was either misinformed or deliberately misleading me.

m) *But for* the printed 'protective order' and 'sentencing order', which contain explicit mention of communication and child exchange arrangements; *and but for* the petitioner's testimony to police that she does in fact drop him off and pick him up each day, *I would have been charged with a violation of 'protective order' and taken to jail.* Thankfully, the Peace officers who responded made good notes in their police database, and that information is available during subsequent police contact.

II. "§78B-7-115(2)(c) The petitioner's actions demonstrate that the petitioner no longer has a reasonable fear of the respondent"

A. Someone who has a *reasonable fear* of another person will run away from that person when confronted. My son runs away from his mother, runs to me, and wants me to pick him up. He is calm when in my arms, and becomes agitated when she takes him from me. This has been witnessed by Salt Lake City Police officers as well as the downtown library security guards. The petitioner does not run away from me, but actually quite the opposite. I have several videos and audio recordings to support these claims.

1. On the evening of December 10, 2010, the date of the 'head bonk', the altercation the petitioner describes in question 4(e) of her REQUEST FOR PROTECTIVE ORDER (which in my opinion is impeached by the nanny-cam video evidence-backed testimony I provided with my ANSWER TO REQUEST FOR PROTECTIVE ORDER) I asked her to leave. Instead, she sat on the couch waiting for police to arrive. Clearly, she was not afraid of me at all. The video shows her aggression towards me. It also shows that the child is quiet and comforted by me, and shows distress when she approaches to take him away.
2. The same is true for a number of other occasions where she has been inside of my apartment, causing trouble, and I've asked her to leave. If she was honestly afraid of me, she would not come in to begin with.

B. When the petitioner comes after work to pick up our child in common, she most often just walks right into my apartment, of her own free will, and often spends time talking with me, sometimes eating food or using my computer for Internet access. This has been going on for a long time.

1. I have allowed her to be here with the assertion that it's alright as long as we can get along with one another. Much of the time, things are fine.
2. I think that she can, at will, choose to be nice to me, and that this contradicts any claim that she may have "diminished responsibility".
3. The majority of the in-person interactions between us are well within the limits of acceptability. On the relatively few occasions where there's trouble, it is my opinion that I am not the cause of it. I feel that the attached evidence clearly supports my claims. Some of this evidence was submitted to the Salt Lake City Police for case number 2014-40409.
4. Because of things she's said and written to me regarding the alleged goings-on, I feel that I can not trust her to be completely honest in what she says to people, and so I have been using an audio recorder during most of her visits, to create documentary evidence.
   a) This is authorized by Utah Code §77-23a-4(7)(b). She has no *reasonable expectation of privacy* because she knows that I do use the audio recorder. It was mentioned at the sentencing hearing, on March 9, 2012. Sometimes she asks me to turn it off, but I am not obligated to do so, especially in the presence of our son, within and upon the

curtilage of, *my* own residence; the residence of someone she has made representation to the court as being "dangerous" to her. I can in no way govern what she speaks while in my presence, and she has the right to say nothing at all if she has nothing nice to say, right?

5. Those audio recordings are attached. They demonstrate both positive and negative interactions, and *that she is certainly not truly afraid of me*. It also demonstrates that because the interactions are non-violent and primarily benign, this tribunal may dismiss the order *in good faith*, knowing there has been no true threat of harm or likelihood of harm *to the petitioner*. I assure you this fact will remain true. I am not dangerous. She is the Mother of my son. To cause harm to her is counter-instinctual. We are not supposed to be adversaries. We are supposed to cooperate, by nature. *This 'protective order' stands in our way. It is the instrument of actions that have brought a great deal of alienation of affections upon us. It has caused a little boy's attachment parent father to get locked up in jail unlawfully. An early intervention involving classroom and counseling potentially could have saved our family relationship without all of this trouble and at lower public expense.*
6. Many times our son has not wanted to leave me to go with her. On a number of occasions she causes him to become very upset and makes him cry. Often he runs away from her to hide behind me, for the safety and comfort of his "Mr. Mom" father. I have entered pleadings in 094903235 which describe my relationship with my son. Those were written in the past, each after a period of time has gone by. The very earliest ones express very important concerns which I do not feel got properly addressed. When she first arrives and he sees her, he says "No!", then runs to me wanting me to pick him up.
   a) Some of the audio recordings in evidence have him doing essentially as I describe above. The files on the disc have long descriptive names.
   b) It's not my fault that our son reacts that way to her presence. *I am not the one who creates that ruckus.* She is victimizing (or bully-targetting) our son and I. I have little influence or effect over how and in what way she exerts influences over our son when I am not present at their location. I am barred from legally doing so by the 'protective order'. But *she has invited me* to family events, including a birthday party for our son and his first cousin. On another occassion, she initiated a 'family home evening'. We went up the hill, in her car, to visit our garden and then drove to Liberty Park to inline-skate while our son rode his Strider bike. How is she ever going to have the opportunity to observe our son with me present, so that she can learn how our son and I interact with one another? She needs to see that so she can apply what she learns from it towards healthy adaptation of her parenting skills. Spanking is not acceptible. It is not necessary. Parents should use words, not spanks. A child is a member of a family, not a minion of a despotic household overlord. Spanking sets a bad example. As adults we can not just hit other people without getting into trouble for it.
7. On a few occasions she has spanked him in front of me, causing him grief and emotional upset. He was quiet, happy, and peaceful all day long until she showed up and started

bossing us around and then spanked him like that. She equates "discipline" with "punishment".

a) Evidence of this is on the disc I provided to Officer S. Wihongi, in case number 14-40409. The DCFS worker and police keep saying that it's not illegal for her to spank him. I think they've missed the point, that:

(1) Spanking is contrary to the court-endorsed "Parenting with Love and Logic", that

(2) spanking does not cause injury to a child's nose—details below—and

(3) a normal amount or severity of spanking does not cause a child to fear the parent.

b) There is also a video showing her spanking and then taking him away by force, at the Salt Lake City Library, on April 22nd, 2014. That is the day she had me arrested for sending SMS saying our son and I are at the library, not at my apartment as expected.

c) Shortly after the arrest, she filed for full custody and support for our son. She had that child custody paperwork delivered to my home address at a time she expected that I would be held prisoner in the Salt Lake County Metro Jail for a felony VPO and probation violation. She potentially believed that I would be in jail for 2 to 3 years, for a text message mentioning "bee poop" that my son and I saw on the glass window where the beehives are at the library.

d) Things to think about, and answers to seek in the evidence and with eyewitness interviews[11] are: How do most mommies react to meeting their little boy and his father at the library? How do most little boys react to their mommies? How does my son react to the petitioner? He runs away from her to me. When she drags him away, he tries to get away from her so he can run to me. He is afraid of her and she is using the 'protective order' as a threat to stop me from picking him up and assertively refusing to let her take him.

e) When these events of our son's mother, petitioner, abducting our son against his choice occurring, it has been very difficult for me to not physically intervene, as I had to on December 10, 2010, the date of the subject of most of what I wrote in my Answer to Request for Protective Order. His behavior asserts his choice. When a child that age shows fear of one parent and hides behind the other, the child's choice is obvious. He runs from his mother to me. I accept his choice. It is my choice also. **I love my son. I want him to stay and live with me. I want full physical and legal custody of our son. I am his father. He runs to me for safety and wisdom.** The evidence on the disc supports these assertions.

f) I am inhibited from protecting my son from her by the threat that she will claim another "violation" of this 'protective order'. I feel like I am betraying my son every time I let this happen. But I can do nothing because *this 'protective order' stands*

11. The police officers from the several police reports, and the security guards and other employees at the Salt Lake City downtown library are reasonable witnesses, as are the people who work at the Salt Lake City Justice Court who saw my son and I on April 22, 2014. I may need to call on them at a formal adversarial hearing. Please note.

in my way, and she threatens to have me arrested if I interfere with her forceful abduction of our son! I fear that because I do not physically intervene he might think that I don't care. That's part of the lie this creates. Of course I care! I want to stop her but she could then claim I've assaulted her. I'm sure you've heard of this before.

g) Her behavior bothers me even more in light of what the FBI has to say about parental child abductions.[12]

h) Our son is obviously being physically and psychologically distressed by the way she handles him. My son's mother, the petitioner, is hurting him and that is never necessary. Children cry when there is something wrong. He was crying because she was dragging him away from his daddy.

8. Several times she has hauled our son away, dragging him by one arm, essentially kidnapping him and forcing him to go with her against his will. **On some of those occassions, she had entered my apartment prior to taking him away by force like that.** (Isn't that burglary kidnapping? Or is that only when the perpetrator is male and not from here?) Again, the file names on the evidence disc have long descriptive names.

C. Petitioner has, on multiple occasions, invited me to participate in family events involving herself, our son, her sister and brother in law as well as their daughter. These were positive events with no major difficulties, demonstrating that she is not really in fear of me.

1. I was asked by the petitioner to help move a playground tree-house with a slide and swing-set that the petitioner's sister purchased as a birthday gift for her daughter—my son's first cousin—to be shared with my son when he's there visiting. The petitioner provided my transportation—I rode there with her, in her automobile, upon her initiative.
2. I was invited to attend a combined birthday party held for my son's cousin and for him. I was invited to bring my camera, and to act as the birthday party photographer. The petitioner provided my transportation, in her automobile, upon her initiative. Photos and video from that event are attached.
3. I was asked to help move a piano petitioner's sister purchased. Petitioner and I carried one end, while her sister and brother in-law carried the other end. We all lifted it onto a truck, and then lifted it down again after driving it to petitioner's sister's home. The petitioner provided my transportation, in her automobile, upon her initiative. There was no difficulty getting along with one another. Our son was happy about that.

a) I have confirmed with Jenny Dunn, Kasey's sister, that I was there to help move the treehouse and the piano. (No filenames contain spaces. It is split here because it's a long name.)
`2014-06-23-15-01_2014-06-23-20-05_SMS_with_Jenny_Dunn_re_birthday_and_piano_moving_confirmation.pdf`

12. http://www.fbi.gov/about-us/investigate/vc_majorthefts/cac/family-abductions

4. I've been asked if her sister and brother in-law can borrow a rototiller that I have access to, since they want to till up part of their lawn to put in a vegetable garden. That implies that petitioner would provide transportation once again.
5. On one occasion, petitioner wanted to hold a "family home evening" with myself and our son. I consented. She wanted to see my garden, so we all got into her car and went to visit it. Then after that, she wanted us to all go inline skating together at Liberty Park. The petitioner and I skated while our son rode on his Strider™ Bike.

III. "§78B-7-115(2)(b) The petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order"

A. The petitioner's mother, who is named as the 'agreed upon third party' is to screen and forward communication between petitioner and myself. She quit after petitioner made her angry. The email and video mentioned in the following items are included on the attached disc.

1. She sent an email to me via her mother, who screened it, and chose not to send it to me. On November 26th, 2012, petitioner forwarded that email to me anyway, via one of her friends, Dustin Wiese.
2. I printed those emails and filed them with a NOTICE OF LODGING on case 094903235, 'Parentage, Custody and Support', on January 8, 2013. That document demonstrates that I am *not the one who* made her mother angry, and that her mother forwards mail from me with little comment, but in refusing to forward mail from petitioner to me, she admonishes petitioner's rudeness.
3. On November 27th, 2012, I sent an email to petitioners mother, saying that I apologize if it was me who caused her to quit. She did not reply to that email. After a short while, she continues to forward messages between us.
4. On March 29th, 2013, she again asserts that she is not willing to continue forwarding email. I sent a reply to that, with another apology. The apology email describes petitioner's wrongdoings with regards to this 'protective order'. It also includes a video from March 24th, 2013.
   a) That video was taken with my cellular phone, and shows petitioner inside of my apartment, at 20:25 in the evening. She is very "bitchy" and rude to me. She takes our son with her. He wimpers a little bit, showing signs of apprehension regarding being taken from me.
   b) Then, beginning a separate thread, I sent a second message, offering respondent's mother videos of her grandson that I have on YouTube. In her reply to it, she acknowledges that it was her daughter who caused her to quit, and not me. She is responding to the first email—the one with the video from item a) attached.
5. Shortly after that event, inevitable situations arose that required direct communication between myself and my son's mother, the petitioner in this 'protective order'.
6. Indirect communication is very inconvenient due to time delays and imposition upon the 'third party'.

7. The kind of situation demanding direct communication is exemplified by the time that my son and I went skiing at Alta. We had a great day, but on the way home, the Trax was down. I knew we would be more than an hour later than expected. What choice is there but to send an SMS to the, uhm, "victim"?

B. She has used the order to have me arrested based upon my attempts to communicate with her, despite that she has very often initiated the communication[13] and invited reply-contact, via voicemail, email, and SMS. She has frustrated the 'contact only via third party' provision by her own actions.

1. In my opinion there is a *legitimate expectation* that because *she sought* the 'protective order'—including it's 'limited contact via an approved third party' provision—then *her having transmitted communications to me*—either directly or via a non-approved third party—is an implication that she no longer desires or requires *at least* that provision of the order to remain in place. In other words, she has impliedly given her *permission* for ongoing direct communication. Because of this, I expect that if *she* had made a 'Motion' to modify—to remove the requirement for a third party—the court would certainly have granted it.
2. When I went to the courthouse to see about a request to modify the 'protective order' I was sent away after being told that only the petitioner can modify it. She has not made any motion to the court to have the order modified in that way. It is her responsibility to do so. *She sought the order.* She named her mother to be the liaison. I have reminded her of that responsibility via an email relayed through her mother. That reminder was prompted by one of many voicemails that she left which asked me to call her back on the phone.

a) When she filed to modify the order, on July 29, 2011, she was trying to "close the loophole" that allowed email. Despite that, she has continued to contact me via email, SMS, voicemail, and of course in-person visits to my home. She has actually approached me on the street a number of times, then here in court, she acts like she's afraid of me.

b) She was angry that the first alleged VPO (111902257, "several emails") was not bound over. She had emailed with me, and was rude, so I asked her to confine it to being about our son. Then she turned it around and called the police about it, claiming that I was not allowed to email about anything other than our son. The PO allowed email without restriction on subject matter, but the minute entry seems to say that email may only be about the child.

(1) I think that her leaving our son on the modified PO as a protected party is related to that, since she thought I had "sneaked" the "email allowed" onto the PO.

13. In fact, for the two alleged acts of 'violation' of the order that are not 'attempted communication', she states, in the police reports, that she 'did not feel threatened or endangered'. The other 11 counts are all communication-based. 1, based on "several emails," was not bound over after the preliminary hearing, and 9 of the others were for SMS messages, despite that the order allowed email.

3. She has several times reported violations of the 'protective order' based upon email and SMS messages that I sent to her. The evidence she provided to the detective and prosecutor was biased in that it did not fairly contain messages sent by her to me which invited the recontact. ***Volenti non fit injuria.***
   a) Remember, the 'protective order' initially allowed email, with no explicit restriction as to subject matter, so 111902257 was not bound over after a much-belated preliminary hearing. The magistrate judge was "not sure" if an email and an SMS are "the same thing". **It's fairly obvious that a trivial distinction between an email and an SMS is a bogus reason to charge a violation of protective order.** I will address this issue in more detail in a related memorandum.
   b) Shortly after that, the detective and prosecutors used that trivial distinction between an email and a text message to 'justify' imprisoning me on 111905405.
   c) The petitioner was an employee of the Salt Lake Legal Aid Society at the time. I believe that she used her employment social connections to get her way, and that they conspired with her to have me imprisoned unlawfully. There was abuse of discretion, perjury, and contempt of court by prosecutors acting under color or authority of law.
   d) There should have been a preliminary hearing for 111905405, but there never was. There also should have been an interlocutory to decide the question regarding the functional equivalence of SMS and email.
      (1) I recommend that whenever an order allows one written form of communication, it has therefore allowed all forms of written communication; *and to be sure, notice of that must appear within it.*[14]
   e) In 111902257, the email that I sent actually *did* pertain to our son. It was her email that did not, and me who asked her to stick to discussions about him after she started trying to instigate.
   f) Many of the emails that *she* sent to *me* both prior to and after case 111902257 can be construed as 'Electronic Communications Harassment' pursuant to Utah Code §76-9-201, as can the things she posted to my mother's Facebook page.
4. She has many times *invited* me to contact her, or asked me to reply. She often contacted me via telephone (which I always allowed to go to voicemail) or SMS. That in itself does not bother me, since I'm not the "channel closer". What's wrong is that she used it to have me arrested, but only when she was angry at me.
   a) The 8 counts of SMS "text message not pertaining to child visit" on warrant 111903495 derive from messages she cherry-picked out of a much longer conversation that she fully participated in, around 2011/04/20.
      (1) We were discussing my bringing some of our son's and her belongings down to her. She had mentioned it previously. She also asked about my court dates, and how much I'd spent on a bail bond. Over the course of the conversation, she has me

14. It seemed to me that it is the commissioner's responsibility to see that any order allowing one form of written contact also allows the others... but really, since "written" is defined by both Bar Association rules and the Utah Code, that ought to just be a standard thing, understood by the detectives and by the case screeners at the district attorney's office.

bringing things to her, wanting me to wait outside with them. While she was outside receiving those things, she did not seem afraid of me. She joked with me, and took the boxes of things as I handed them to her.

(2) At one point she sent a text that says "Well, your a REALY good cook. What pack and play parts do you have?", wanting me to bring the parts for the "Pack and Play" playpen. Then after a while she asks "So what about the cubicle thing for Kody's clothes? Can we have that too?" It's a cheap kit-shelf from Smith's that has cube-shaped cubbies. It is made of particle board material with wood-like veneer. In person, she told me that she wanted it for Kody's toys, because DCFS CPS was going to visit her the next day and she was cleaning house. I brought it down for her, and she accepted it through the building's back door, which she opened so I could bring the shelf up the steps to her apartment door. You can be sure that if there had been any kind of physical altercation, you'd have heard about it by now.

(3) After a while, she sent a text that asked me «Will you go buy us a package of Dorietos? Anything EXCEPT cool ranch (something cheesy like spicey nacho) and a package of canned whole tomatoes so I can make some salsa.» I eventually ended up going to the grocery store for her, and taking our son along with me. I remember it very well because he was naming the flowers on the way there. He pointed out "tulips" and "honkers", which is what he called the daffodils

(4) There were some heated salvos in that long SMS conversation, and there have been a few in other conversations we've had, but certainly nothing threatening *coming from me*. Several times, she threatened to have me arrested for violating the 'protective order' again, saying it was a felony. But shortly after, she'd be sending another SMS to me, re-engaging the conversation, at her own initiative.

(5) She actually wanted me to advise her regarding what Android app to install to back-up SMS messages for later print-out, in a context where it was clear that she wanted to use it as evidence against me! You can be sure she did not hand the police detective a printout with the SMS where she asks me that question!

(6) One of the times that she threatened to have me charged with a violation of the 'protective order' was right after I asked her to read an Intactivist web page, and then referenced some LDS scripture in the next SMS. In her reply, she claimed that Moroni 8:8 is "false doctrine," which surprised me, since she claims she grew up LDS. She also threatened our son again, by saying "It's getting done". So, this is how I am treated when I express concern for the health and well-being of my son, whom I do not wish to suffer the same atrocity as 33% of male infants in the western states? Prepucial amputation is painful and unnecessary, to say the least. She knows how I feel about it. She is trying to hurt my feelings by saying these things. It is intentional infliction of emotional distress.[15]

15. In the same breath, she closes the channel with a protective order threat! I thought she was a college educated adult. Apparently she has difficulty with, and claims to be threatened by, healthy adult communication. «Error of opinion may be tolerated where reason is free to combat it.» Thomas Jefferson.

> Karl, that's FALSE DOCTRINE, your infusing your own beliefs here and you don't even know enought about it to know. Karl, again your turning YOURSELF into the victim. It's getting done. YOU ARE VIOLATING THE PROTECTIVE ORDER. YOU HAVE A PROBLEM leaving me alone. YOU ARE NOT SUPPOSED to TXT me or e-mail me and you are. Why? ANY conversation re: circumcision goes FAR BEYOND the permissible scope of conversation. LEAVE ME ALONE! You deserve a felony and your going back to jail. I'll call the police right now and make it all possible if you don't leave me alone. In fact, you've already pushed it this far, I don't know why I don't.

Again, that SMS is part of a longer conversation. She initiates more messages after that one. She doesn't really want to stop talking. I just wish she wasn't trying to get negative attention. Whatever muse was guiding her then was not a benevolent one. See: 2011-03-24_2011-04-20_SMS_with_Kasey_MacRae.pdf

b) There are a number of voicemails from her and SMS conversations with her on the evidence disc that I'd like you to have a look at. These occurred during the time that she had a 'protective order'. Many of them have been transcribed. For the voicemail, I will give the file names of the ascii text transcripts here. The associated MP3 files are named with the same prefix, up until the `_transcript.txt` part, followed by the filename given to it by Google Voice. The SMS are mostly presented in the form of PDF gotten via print-to-file. None of the actual file names on the disc have spaces in them. Where they are split across more than one line in this document, put the two lines together with no space to form the correct file name. All files on the disc are named with the dated prefix, so the file listing itself serves as a timeline, provided they are sorted by file name. When looking at the list of files to locate these, it is useful to look at the other files chronologically near it, to see when court events happen, for example.

(1) `2011-04-30-17-35_Voicemail_from_Kasey_MacRae_transcript.txt`
She begins with wanting me to answer the phone instead of letting it go to voicemail. Taunting about me going to jail, offering time with our son. She makes a remark about "approach things with a clean conscience" and then laughs.

(2) `2011-05-09-16-27_Voicemail_from_Kasey_MacRae_transcript.txt`
She wants me to help her to put a child seat onto her bike. She also wants me to come there and pick up some of my belongings, including the teddy bear I've had since age 5 that I learned how to hold a baby with.

(3) `2011-05-10-19-24_Voicemail_from_Kasey_MacRae_transcript.txt`
Here is one of the times she invites me to contact her via voicemail or text messages. She mentions that "in six days or something [she's] supposed to testify against [me]".

(4) `2011-05-11-15-59_Voicemail_from_Kasey_MacRae_transcript.txt`
Here she is asking me if I'll take our son the next day so she can go to a job interview. She wants me to *call* her back ASAP.

(5) `2011-05-21-15-42_2011-05-21-21-41_SMS_with_Kasey_MacRae_steamed_organic_squash_babyfood.pdf`
This is an example of a reasonably decent conversation between us.

(6) `2011-05-25-12-43_2011-05-26-12-45_SMS_with_Kasey_MacRae_she_tentatively_invites_me_to_spend_the_night.pdf`
In this conversation, it is her who initiates contact with me, after midnight. The "Thanks, I had SO much fun!" remark pertains to the U2 360° concert we attended together earlier that evening, with our son. I wish that somebody could have taken some photos to show us there together.

(7) `2011-05-27-09-57_2011-05-28-21-16_SMS_with_Kasey_MacRae_amicable_picnic_potato_salad_is_good.pdf`
More amicable conversation. She wants the leftover potato salad that I made for a church Elder's Quorum picnic.

(8) `2011-05-30-09-47_2011-06-01-06-59_SMS_with_Kasey_MacRae_drank_rock_star_wants_nocturnal_visit_from_me.pdf`
She drank a Rock Star energy drink, was up late, and wanted me to come visit.

(9) `2011-06-02-17-05_2011-06-04-11-55_SMS_with_Kasey_MacRae_more_friendly_interaction.pdf`
No problem interactions, and we make plans to go to the zoo the next day.

(10) `2011-06-04-21-13_2011-06-05-19-06_SMS_with_Kasey_MacRae_did_Kody_wake_up_to_have_a_burrito.pdf`
And more. She wants to come with me the next day to go to DMV.

(11) `2011-06-10-11-51_2011-06-14-10-18_SMS_with_Kasey_MacRae_things_are_turning_worse.pdf`
The preliminary examination for the first three warrants was scheduled for the 12th of July. I think that the date had been set sometime during the time frame of this SMS thread, but I'm not absolutely certain. During this period, Kody does not want to return to his mother. On the 1st of July, her family drove up from Cedar City to pick up Kody. When I brought him to her, he ran away from her and to me. I think that his fear of her follows her general moods. Her mood was great for a few months, and then got progressively worse as the date of the preliminary examination hearing approached. I think she was feeling guilty and apprehensive about the court date. At this time, she lived at the Pickadilly apartment building, which is right next door to the Odessey house 'battered' women's shelter, at the top of the hill at 500 East and South Temple. I wonder what they were given to believe about her and I?

c) In the voicemail of 2011-08-10 at 09:59, she says "[...] I was just called in at the last minute, to do some board meeting minutes for a company that I did it with once before, and I'm wondering if you're available in the next few minutes to watch Kody? Will you please give me a call back [...]" At the time, I was very busy putting together the "17RQ" folder[16], trying to get evidence assembled before the inevitable arrest

16. "17RQ" comes from the automatically generated "hashed" name given to the `index.html` by the Ubuntu One cloud server where I was publishing the evidence I believed I would need at trial. I wrote the URL into handwritten pleadings that I sent from jail later. That site is no longer on-line, but I have preserved the files.

on 111905405. I reluctantly did not call her back. I do not like not being available for my son! Normally, I am always available, but I can not be when I must spend my time writing things like this or the "17RQ" folder.[17] My instincts told me that it was potentially an attempt at entrapment; that detective Woodbury had somebody waiting there to arrest me.

d) In the voicemail of 2013-04-10 at 06:05, she says "[...] call me and tell me what time you'll be here. I'm freezing! [...]".

e) Voicemail of 2013-07-08 at 18:11, "[...] If I don't get a text or a call from you tonight, I'll just assume that you want to keep him. [...]"

f) On 2013-12-17 at 17:24, she initiated an SMS conversation, asking if Kody had everything he will need to be warm skiing the next day. She also says "Please do text me at this number so that I can come and pick Kody up. Please be safe and have fun!"

g) On 2014-01-29 at 17:04, she sent a text saying "I'll be late picking Kody up".

5. She only threatens to use the 'protective order' when she is angry or wants something and I don't do what she wants.[18] I was charged with violation of the 'protective order' a number of times, for a total of 4 warrants and 1 no-file after arrest and jailing.

6. On no count was I accused of anything actually ''violent'' *per se*. §78B-7-102(1) defines "abuse" as «intentionally or knowingly causing or attempting to cause a cohabitant physical harm or intentionally or knowingly placing a cohabitant in reasonable fear of imminent physical harm.» **I am fairly certain that there can be no legitimate state interest in "protecting" her from benign SMS messages, especially when (a) she has initiated contact herself, (b) some of the messages from her are threatening physical harm to our son, and (c) she threatens me with VPO in conflict with Utah Code §78B-7-115(3).**

7. More recently, on April 22, 2014, my son and I were riding our bikes after an appointment at Justice Court where we had been well recieved. The people who work there will remember us. My son spoke up to testify in my favor. It was close to the time we needed to be home for his mother to come get him after work, but he wanted to take me to the library, and took off in that direction, so I had to follow him there. He is very fast on his Strider bike. He wanted to show me the things he likes at the library. I had promised his mother that we would be at my apartment when she got off work that evening. Because my fairly autonomous four year old son changed our plans by

17. At the time of this writing, I have not seen my son for over a month. The last time I saw him, he was trying to escape his mother, who spanked him and took him away by force prior to having me arrested for an SMS telling her that my son and I were at the library rather than at my apartment! I was told that there was a rumor that a child was kidnapped at the library that day. That's how I felt about it.

18. She also threatens to place our son into a day-care. She has refused to provide me with their contact information, and likely has not provide my information to them. I believe that she is using the 'protective order' and the clerical error listing our son as a protected party to cause them to not allow me to pick him up from there. If I knew where "Eva's" is, I'd phone and find out.

heading for the library, causing me to have to chase him all the way there, we would not be able to make it back to my apartment before the designated pick-up time.

a) My choices were to communicate nothing, and break the promise to her regarding the child exchange time and location, leaving her angry and wondering where we are; to attempt to send a message through some third party... or to send a direct SMS message telling her our circumstances and where to find us. So, taking the moral high-road... protecting our son's right to have time with his mother... I sent her a text.

b) She reacted by coming to the library and telling the library security guards that she is the custodial parent of our son—which is not strictly true, it was deceptive[19]—and that I had sent a text message to her, which violated a 'protective order'. As stated previously, there is a provision by which the petitioner and I may communicate via an "agreed upon third party", her mother. She did not mention to the library security guards or to the police that it was her, not me, who had caused her mother to quit being our liaison. I certainly have informed them of that fact.

c) When our son first saw his mother getting off of the library elevator, he reacted to seeing her in the usual way, by saying "No!", and reaching up for me to pick him up. He also reacts like that sometimes when she comes to get him at my apartment. I picked him up and approached the elevators, where she was now standing next to two security guards. My son would not let go of my neck when I squatted down and let go of him so he could go be with his Mother. He really did not want to leave with her.

d) After I left the library building to unlock my forest green bicycle and our bright red child trailer, my son came running out of the library's main entrance revolving door, then ran over to the bicycle racks to hide behind me. His mother, the petitioner in this 'protective order', was angrily demanding that he come back to her as she approached. Whenever she reached for him, he would run to the other side of me, keeping me between himself and his mother. He was not laughing. It was not a game.

e) *He was afraid of her and ran to me for safety.* He wanted me to protect him, and I wanted to pick him up to comfort him, but I was afraid that she'd try and make it look worse. I also knew that the police were on the way there. I played it cool, and the library security guards witnessed as well.

f) After she finally got ahold of him, he struggled and yelled, trying to get away from her. At that point, I got out my Android tablet and started the video recorder, catching her in the act during the last part of the incident. That video is included on the evidence discs.

g) You can hear a loud slap at the very start of it, where she is spanking him off camera. She is very cruel and insensitive. She lacks empathy. My son is afraid of her.

19. The parentage, custody, and support case, 094903235, had been dismissed due to "lack of prosecution". My immediate reaction to that was that it's a sick joke, since I was being prosecuted maliciously for things that are not honestly violations of the 'protective order'. The closing minute entry states that all temporary orders are dismissed, and that the only standing order is adjudication of paternity. The statutory default is *joint* custody. Neither of us was designated as the official "custodial parent". I have a tendency to think of the parent that the child runs *to* as being the rightful "custodial parent". The evidence demonstrates that I am that parent. He runs away from her to me, his father.

h) I was arrested shortly after she dragged our loudly protesting little boy away from me. I hope that someone took the initiative to investigate and gather eye-witness testimony.

i) I was taken to the jail and booked. When I was taken to court, I actually fainted at the thought of having to spend another long time in there away from my son. It is frightening to think that they could lock somebody up for such an innocuous text message.

j) I was released on pre-file release because the district attorney chose to not file charges.

k) A city prosecutor tried to pick it up as a class A misdemeanor, and I had to go to court on it again. I wrote an affirmative defense with motion to dismiss and emailed it to them. I also reminded them that they do not have jurisdiction because the charges have to be enhanced to a felony by law. I have to wonder if it was the same city prosecutor who dismissmissed the domestic violence charges against Ms. MacRae of December 10, 2010? I believe there was abuse of discretion.

l) At court they had to refer it back to the DA. No charges were filed.

m) Shortly after the "bee poop SMS" event, she filed a MOTION FOR TEMPORARY ORDERS and a petition for full custody of our son.

n) She mailed the documents to my home address, at a time when she believed that I would be stuck in jail for 'violating' this 'protective order' for having sent an SMS saying that our son and I were at the library looking at the bee-hives![20]

o) She probably believed I would go to jail for 3 years, for the violation of protective order and violation of probation. I feel certain that she planned this event.

C. The *limited contact via agreed upon third party* provision is *impracticable*.
Ab initio, the *basic conditions* of the 'contact only via third party' provision are:

1. That my son and I have a very well established father + child relationship that *may not* rightfully be terminated; The same holds true for his relationship with his mother; Our son has the right to be raised by both of his parents; and so *communication between myself and his mother is necessary for at least the purpose of coordinating child-exchange meetings*;

→ This condition remains true, as a matter of Rights.

2. That communication without a third party to mediate (or, perhaps, *at least* communication that is not *in writing*) was perceived to be in some way problematic;

→ The record of our *written* communications is my witness. Though there are some 'problematic interactions,' I don't believe there is any cause for alarm, nor for concern that *I* am the source (or direct cause).

→ *I can tolerate a certain amount of rudeness from Kasey, but I will not tolerate the harassment of threats of arrest for 'protective order' violations.*

20. You can bet that, just as before, they would do their best to avoid mentioning, or allowing me to mention, any of those material facts on the record in the subsequent proceedings!

3. That there actually *is* someone willing to be that third party — her Mother;

→ Kasey's Mother quit being our liaison due to Kasey's 'problematic interactions' with her. I verified with her Mother that her quitting was *not* due to my actions or statements. I have a statement of that in writing, previously mentioned.

4. That communication for the purpose of coordinating child-exchange via that liaison is *viable*;

→ *What was not properly addressed is 'the likelihood of the necessity for last-minute communication'.* Kasey's Mother lives in Nevada. She could not reasonably be expected to sit by the phone or PC, ready to screen and forward messages at the drop of a hat. *This introduced time delays into our communication, making it impractical for last-minute logistical coordination,* e.g. a change of pick-up location, or unexpected travel delays.

5. Because several of those *basic conditions* are no longer true, the 'contact only via third party' provision has proven to be **impracticable**. Clearly, a strict 'no contact' provision is entirely impracticable, since we have a Child in Common. Because direct communication between us has not proven to be alarmingly problematic, I see no reason for continued prohibitory injunction.

D. *I submit, in evidence, a large sample of SMS communication that has gone on in both directions.* It can be seen that the communication is functional, non-problematic, and necessary for coordination of child exchange. *"Necessitas inducit privilegium quod jura privata".*

E. As I described above, our son is listed as a 'protected party' on the 'protective order,' which causes a record to be created in the Statewide Domestic Violence Database. That has *almost* lead to my arrest.

F. At the Salt Lake City Library on April 22, 2014, she had told the library security guards that she is the "custodial parent". That is not, in fact, true. I am concerned that she may attempt to use the same deception with others. This gives me considerable cause for concern regarding the *health and safety* of my son.

IV. "§78B-7-115(1)(c) Claims of harassment, abuse, or violence by either party during the time the protective order was in force"

"Ex turpi causa non oritur actio".

A. There have been occassional problems; a few arguments. She is often very shrewish and bitchy. She is pushy, selfish, and rude. She has *on a number of occassions* spanked our son, in front of me, causing him to cry. He reports to me that she spanks him very often, and locks him up in his room too. He runs away from her and runs to me for safety and comfort. He does not want to leave here to go with her when she comes to get him. He shows fear of her. I do not often spank him.[21]

21. I think some people try to "use their spirit" to teach people to spank their children... It's culturally ingrained amoung some mobs, I guess. I try very hard to resist that since spanking children is evil.

B. She is using the 'protective order' to extort the SSDI dependant benefit money.

1. Because they prosecuted me for such frivolous complaints, I have lived in fear of getting put back into jail when she's angry about something.
2. Every time I bring up money or ask her for some of the SSDI dependant benefit money that she is payee for, she closes the channel by displaying anger.
3. I have asked her for money many times, dating back to at least the time period where she was employed by the Salt Lake Legal Aid Society, a job she got after a period of unemployment. I will document that in the Parentage case.

C. Several times, she has dragged our son away by the arm, or carried him improperly or upside down, causing him pain and obvious psychological distress. The audio recordings in evidence demonstrate this. I felt powerless to stop her from harming him and essentially kidnapping him because she has repeatedly threated to use the 'protective order' against me. When this happens my son is crying for me to come and rescue him from her. I feel like I am betraying him when I do not attempt to do so. Fear of arrest prevents me from stopping her from hurting him and taking him away like that.

1. I've put up with this for longer than I should have to. I've reported this to police detectives on several occassions and nothing has been done about it. They claimed that the DA's office would not file charges against her. I was told that I should seek having her found in contempt of court. After the last event, the "bee poop SMS", things changed with the police because the DA refused to charge me with a crime, for reasons given above. My hands are no longer tied. I think it's time to turn this thing around and put the right person on trial.

D. The evidence shows that she is not afraid of me. She bullies me, both physically, and with threats that she will invoke the protective order. In the past, the police have arrested me when she complained, without doing much real investigation... and actually put me in jail for things that do not honestly violate the 'protective order'. Actually, for 111905405, "SMS pertaining to child and sub 1 minute call from unknown", the patrol officers who came to my door to investigate left without arresting me because they did not find probable cause. It was the 'domestic violence' detective who initiated the warrants, weeks after the alleged offense, and likely at the prompting and insistence of petitioner. The same detective ignored multiple attempts at providing them with affidavit and evidence to support the allegations of perjury and abuses perpetrated by the complainant/petitioner. They set excessive bail and never accorded me with a preliminary examination hearing.

E. The petitioner has been reported for child abuse several times. DCFS has blatantly ignored both photographic and email confession evidence to support criminal negligence against Ms. MacRae, who seems to think that she is a personal friend of the female DCFS officer. I feel like officials have unfairly sided with her, supporting this 'protective order' in spite of evidence to indicate that petitioner is using the judicial process for an improper purpose. I also feel like court officials have not fairly applied the rules of procedure and evidence. I feel like petitioner is flaunting her percieved immunity from

prosecution, doing worse and worse, daring me to do something about it.[22] Some of the charges against me (111902257) were dismissed at a preliminary hearing, but I was not accorded with that constitutional right until months after paying excessive bail to get out of jail. I had to *prompt* my Legal Defender Association lawyer to assert my right to that hearing. It was the prosecutor's responsibility to see that I got one. I had to sign a "waiver of speedy trial" to obtain it. By then I had paid over $1750 for bail bonds. *I should not have to give up one constitutional right to secure another.*

F. I was arrested multiple times, and at one point was imprisoned for 128 days on charges that had no merit⟶ I was charged with two counts, one for an SMS message asking about our son, after the magistrate had determined that email was allowed, but "wasn't sure" if an email and an SMS are "the same thing". The other count was for a sub-one-minute phone call from "unknown" which she alleges came from me, for which they never produced phone company records of. *I was not accorded with my constitutionally guaranteed preliminary examination hearing.* There should have been an interlocutory hearing for declatory judgement to determine whether the trivial distinction between an SMS and an email was valid cause to hold me prisoner on $100000 bail...[23] No evidence against me was ever presented to any legal *trier of fact*, and the sentence did not reflect the extenuating and mitigating circumstances that I will provide within this document before you now, and provided to the detective and the prosecutor in timely fashion during that ordeal. The prosecution made a representation to the court that gave the appearance that I had done something terrible and worthy of the $100000 bail they let petitioner set on it... They actually asked the petitioner/complainant, in open court, what amount of bail to charge. So, it's no wonder I feel intimidated when she threatens to have me arrested for a 'violation' nesessarily based on frivolous and vexatious complaints...

G. Again, none of the alleged violations of this 'protective order' that I've been charged with involve any actual violence, *per se*.

   1. On both of the occassions where there was anything like physical proximity, we were never closer than 2 or 3 meters from one another. **On both of those occassions, she told police that she did not feel threatened or endangered.**
   2. The remainder of the alleged violations involved attempted communication.
   3. The prosecution blatantly ignored the information I provided in my ANSWER to her request for protective order. They also ignored the evidence showing that petitioner initiated the contact, and actively participated in it. They were required by law to consider that evidence, but did not do so.

22. On the evidence disc, see the file:
`2009-03-21-03-40-59_100_2543_Page_from_Kasey_MacRae_journal_confessing_to_attacking_me.jpg`

23. Actually, if you ask any random reasonable person on the street, I think you'll find voter opinions similar to my own. The deputy DA's ('public prosecutors'?) who supported the bogus charges and associated oppressive pretrial incarceration will have a lot of trouble if they ever run for DA. It is worth noting that DA Gill was sworn in while I was still being held in jail. I have no reason to believe that he was *personally* responsible for their actions because it's a large organization with far too many cases open for any human being to entirely review.

4. They seemed to be acting in collusion with petitioner, who was an employee of the Salt Lake Legal Aid Society at the time. They asked her to set the bail amount, which was set at $100000, in open court.
5. She seems to only want a "protective" order for when she's mad at me, or wants to coerce me into accepting "stipulations" in our PARENTAGE, CUSTODY, AND SUPPORT action.

H. Sometimes she tries to talk over me or make me shut up when she doesn't want to hear what I have to say. She "channel closes". I have told her, a number of times, that when she is inside of my apartment, I may speak of anything I choose. It is my home, and if she doesn't want to listen to what I have to say, then she can leave. The State has no right to govern speech acts made inside of a private residence. I am obviously not presuming that there will be any threats of violence, *per se*... In fact, I'm promising that **I** won't commit violence, and that I'll never make threats. I always say "This is a home, not a martial arts gym". Actual violence *per se*, in the home, is absurd, so normal people don't do that. It is not a good choice because it clearly leads to causing the problems to become worse, occluding our abilities to find stability out of the rampant chaos.

I. The result of a physical altercation is not necessarily the same result as that of an intellectual arguement. So aggressively 'winning' a physical altercation then using the memory of it later to attempt to intimidate is really bad strategy—and moreover, it leaves the original intellectual conflict unresolved. It is no more morally acceptible for anyone to use a 'protective order' to bully another person than it is to use physical violence to do so. The proper goal is a stable family unit, one way or the other. I can stand on my own two feet and fairly support the equity in our co-parenting relationship, but *petitioner has not been equitable throughout this, nor has she been honest with herself, our son, me, or the court.*

J. Our son very often wants to stay with me, rather than return with her. Sometimes he runs and hides. He displays fear of his mother. He runs away from her and runs to me for comfort and safety. She is loud and overly bossy towards him. She spanks him and I do not. I believe she spanks him or threatens to do so very often. She also locks him up in his room. I do not subscribe to that poison brand of child rearing. It is evil.

K. The statutes say that when one parent is alienated from a child, that they are to ask the bonded parent to slowly introduce the alienated parent to the child. The petitioner has not done that.
1. Instead, she has abducted him by force on many occassions, against his wishes, and several times using police contact. The record of that is my witness.
2. I've heard other parents describe their children's reactions to one another. Most children are just as happy to see either of their mother or their father.
3. But our son is afraid of his mother and runs to his father.
4. When she takes him from my arms, in front of the police, he is noticably calmer while still clinging to me, and becomes fussy and upset when she takes him away from me.
5. This all adds up to something.

L. The only hope of anything like reconciliation for friendly co-parenting necesarrily relies heavily upon open and honest communication taking place between the petitioner and myself. So I see 'The Friend Zone' as first goal. There are many obstacles in our path that were not there prior to the issuance of this 'protective order'. When you listen to the recordings on the evidence disc, I think you'll hear that there's something different in our son's voice when both of us are here during a time when the petitioner is happy and friendly.[24] **I believe that she can choose to be nice, at will.**[25] Perhaps, as with all of us, she must stop, think, then act.

M. "Head bonk on baby table"

1. Friday, December 10, 2010.On Friday, December 10, 2010, Kasey came over to visit my son and I. He had been in my care since November 21 or so, as described in the affidavit. Because she had caused some trouble over here a few weeks prior to that, I had purchased a "nanny cam" that I placed on the window sill looking into the living room and through the door into the bedroom. She did not know it was there.

   She had been leading up to this, hinting that she was going to try something involving calling the police on me.

   `2010-11-29-09-22_Voicemail_from_Kasey_MacRae_transcript.txt`– She seems to be pretty sure she's doing something she could get into trouble for. You can tell by how hard she tries to deny it, without even being asked. She keeps accusing me of trying to get her in trouble... She's guilting about the bus pass, since she had recently gotten in trouble for not paying the Frontrunner fair. She's saying to tell Kody hello, supporting that he's living with me during this time. She had panicked and brought him and all of his belongings to me. At the end of this voicemail, she invokes God. I wonder what she thinks she did? This is from before she filed the Request for 'Protective Order'.

   > (rude and unintelligable) not, It's Kasey, 9:21; I, I'm calling about the same damn fucking question. I don't like lying, but how many times do I have to call before you'll answer? Uh, I don't, I don't even listen to what I said; I think I said "lying" but I would like it if you would just change your dumb Google thing so that I can just hit pound and listen to my message and then determine whether or not I'd like to send or not send; but because I specifically asked you to do this, you probably haven't; and I'm sure you've probably reasons why you haven't done it, like, you know, for instance, to get me in trouble; for something I haven't done; (laughs) Uuhhm, If it helps me, but I'm sure that since it helps me you'll refuse to listen. Uhhmmm, I need to stop by and drop off this milk for Kody. and I don't want to miss you, and I don't want to drink it; it gives me bruises, it makes me sick, I can't; it makes me sick. And uhh, it, I just don't like it, and it makes me sick, so anyway, it's for Kody anyway, and it's taking up too much room in my refrigerator and I don't want to throw it away. It's for Kody, and uhh, it's freezing cold out here; I mean I'm not that cold but my feet are cold and I don't like standing still here forever. [1:26] Anyways, I need some sunglasses; there's stuff I need. I went and got a (bus pass?) finally; I went and got a (pass?) whatever for the day ... to find out where to go (unintelligable)... ride my bike or whatever ... and find out make sure this isn't going to be a (bastard?) ... [1:51] Uhhhmm, so I also need a an analog watch, and I was wondering if I could borrow

24. Listen to: `2014-03-04-17-07_Kasey_here_to_get_Kody_long_happy_healthy_conversation.ogg`

25. So much for "diminished responsibility".

> the one that's attached to your backpack, that green one; I can't afford my own. If I could, I would buy one. I have several; they're all broken; you know, it seems like when I change the battery at least one time in my life [2:14] (unintelligable) his whole life went to hell. [2:17] So, anyway, do tell Kody hello, that I love him, that I'll be up there, hopefully you won't be a jerk, it's frustrating Karl, because I've tried to help you, I've done it all in the name of Kody, I in fact have helped you, and all that does is allow you to be a jerk. I, it's frustrating because there's that whole [2:41] development human services ... with God. But why is it that serving you or attempting to serve you, or doing stuff for you or helping you hasn't gotten me anywhere? Gotten me in trouble; and (recording ends at 3 minute time limit)

On November 30th, 2010, at 19:20, Kasey left this voicemail:

> Karl, I need you to call me. I know that you... well I don't know what's going on but I need my kid; and I'm getting a little tired of this; and I'm...; it's 7:21; I'm gonna get you in trouble, rest assured.

During this time, she kept saying, both in voicemails and to other people, that I would not let her see our son. Her statement regarding that is not really true. I had not been preventing her from visiting our son. It's just that my son and I woke up early, generally not later than 07:00. He usually fell asleep no later than about 19:00. But his mommy hardly ever showed up to visit earlier than 20:30. Sometimes, because of her rude demeanor and negative attitude, I would not let her in. I told her several times, in person, that if she wants to spend time with him, she should do it during the earlier part of the day. I believe that if she got up early, she could have made time for him in the morning hours. She was not employed at the time. Examples of some of her negative demeanors can be found throughout the evidence recordings.

N. "Attempt to pull child carrier pack off my back". On Sunday, February 26, 2012, there was a dangerous incident where she tried to pull the child carrier backpack, with our son inside of it, off of my back. I reported it to DCFS. I do not know if they made a report about it or not. The following is what I wrote about it in an email to her Utah Victim's Advocates attorney, Yvette Rodier that next Thursday. Maureen Hansen is the person who was the designated third party for moderating our child exchange meetings.

> I arrived outside of Maureen Hansen's building, and sent an SMS to her at 10:55. She did not respond, so after a few minutes, I used the call box at her front door to call her. I did not get an answer. Shortly after that, Kasey arrived, walking towards me on the sidewalk. I was standing on the walk just past the awning at your building's entrance, with Kody on my back in the blue Sherpani child carrier pack. When Kasey reached a point just past the pine trees, she started shouting at me to put Kody down and give him to her. I waited until she was closer so that I would not have to shout my reply. As she approached, I activated the video camera app on my telephone. I should have activated it a lot sooner. She continued to berate me with derogatory statements and demands that I give Kody to her immediately. I calmly told her that I wanted you to be present before her and I spoke or exchanged Kody. She was being impatient, aggressive, loud, and pushy. She tried to take the phone away from me because she doesn't like the camera on. She started pulling on the backpack, almost taking me off balance. She then reached around and un-hooked the chest strap of the pack, while trying to pull it off of my back. **If the pack had come completely unhooked, it could have flipped upside down and fallen, injuring Kody.** It his top-heavy when he is in it. It is designed to be securely fastened to the person carrying it; it has no stability when it is unbuckled.

> Because I felt she might endanger Kody, I escaped her into the street in front of Maureen's building. To get to the street I had to go up that little hill to the curb, and that deterred her from following somewhat. I checked for traffic, and crossed the street safely. I noticed people across the street, at the cathedral, watching what was going on. I do not know who they were. A quiet voice told me to go to the church ward where I attend. I went straight there, and from there, phoned DCFS to make a report. I was told that they will probably not file an incident on it.
>
> When Maureen phoned, I let it go to voicemail to have a record of it. I eventually called the police, since Maureen had informed me that Kasey had called them, and they had the responding officer phone me. I made arrangements with him for me to meet with Kasey in the driveway next to your building for me to give Kody to her. They did not file a police report.

The video I made with my phone is on the disc:

`2012-02-26-11-00-58_Video_phone_video_returning_Kody_to_Kasey.mp4`

If I recall correctly, the policeman was one of the same men who got my debit card back from her the time she refused to return it to me. He gave our son a stuffed lamb toy. When Ms. MacRae first appeared when the incident began, she was dressed in old jeans and sneakers, and looked very hung-over. That and her mood indicated to me that she'd been up late the night before. When she arrived to get him where we'd arranged to meet with the police present, she was dressed in a Sunday dress with high-heeled shoes on, and was holding a box of Altos mints.

O. There has been quite a number of times where our son does not want to return to her. He runs away from her in fear or apprehension. The file names on the disc are descriptive so evidence of those events should be easy to locate.

P. "Nose bonk during spanking" On Monday, July 8, 2013, when my son arrived in the morning, I noticed that he had a swollen nose. I asked him about it, and he said that his Mother was trying to spank him, and he was running away from her, and then she "swung him around and made him hit his nose on the couch".

> §76-1-601(12) «''Substantial bodily injury'' means bodily injury, not amounting to serious bodily injury, that creates or causes protracted physical pain, temporary disfigurement, or temporary loss or impairment of the function of any bodily member or organ.» §76-2-401(1)(c) «when the actor's conduct is reasonable discipline of minors by parents, guardians, teachers, or other persons *in loco parentis*, as limited by Subsection (2);» §76-2-401(2) «The defense of justification under Subsection (1)(c) is not available if the offense charged involves causing serious bodily injury, as defined in Section **76-1-601**, serious physical injury, as defined in Section **76-5-109**, or the death of the minor.»

1. I immediately took several photographs of his face and nose that clearly show the swollen nose. Because DCFS, the Police, and the City Prosecutor did nothing at all about the "head bonk" incident, and because they had dismissed the charges against Petitioner while pursuing charges against me, I did not know what to do about this or who to tell.

2. The next day, on July 9, 2013, at 15:16, I sent an email to her sister, Jenny Dunn, and to her mother, Kathleen Hannert, telling them about it.
3. One of them called the Utah Department of Family Services (DCFS) Child Protective Services (CPS).
4. DCFS Officer Maxine Plewe was sent to visit my son and I at our apartment. I told her about it.
5. I told her I had photographs of the injury, and that I would send them to her. I sent those photographs to Officer Plewe on Monday, July 15, 2013 at 13:16. In it, I state that:

> These were taken on Monday, July 8th at around 19:00. She had dropped him off with me that morning at around 05:45 or 06:00. The bruising became more apparent in the next few days, even more than on Monday evening when these pictures were taken.

   a) ☞*Officer Plewe did not respond to that email, and neither it nor the photographs are mentioned in the DCFS record keeping system.* It claims there was a "lack of evidence" to support a claim of abuse against Kasey MacRae.

   b) Earlier Kasey had made a remark to me about there not being any evidence. She also made verbal statements to me about "how nice" Maxine is, implying that she had made friends with her. That's sort of Officer Plewe's job anyway, so it's not necessarily a negative thing.

6. On Friday, July 26th at 11:34, I received an email from Kasey. She also sent it to her friend Dustin Weise and to her Mother. In that email, she confesses to having caused the injury to Kody's nose. She states:

> Dustin:
>
> I have CPS (Child Protective Services) coming over to check on Kody and me on Monday evening at 6:00 p.m. The woman's name is Maxine. She has checked on Kody at Karl's apartment after I spanked Kody on a Sunday afternoon because he was not minding and he fell onto the couch. I don't remember much except I trying to teach him the commandments, one which being about "Thou Shalt honor they mother and thy father". I thought mother was first, apparently I am mistaken. Anyway, later his nose bruised. I need you to e-mail Karl and tell him I'm coming by to pick up Kody this evening, at around 5:15 or 5:30. I went out visiting teaching last night and it went later than I anticipated. I was NOT doing anything terrible, just trying to get my church work done. I judged it best at 11:00 p.m., to just let him stay with Karl...

7. Shortly after noticing that email, on Friday, July 26th, 2013, at 13:12, I forwarded it to DCFS officer Plewe.

   a) She did not respond until Tuesday, July 30th, 2013, at 17:15. The email from Officer Plewe looks sort of like a "vacation" autoresponder email, but the timing of that reply indicates that it must have been hand-written.

   b) In it she does not say anything about the email from Kasey that I'd forwarded to her. She says "I will be out of the office until the 12th of August. Dan Reid (801-755-7348) will be helping with your case until I return."

c) Dan Reid is the person whom I had sent the "head bonk" evidence to.

8. At one point, Kasey made a remark to me about how "There isn't any evidence. They don't have any photographs". But that's certainly not true. There are photographs, and they were provided to CPS, several times. They are also included in the disc provided to Officer Sean Wihongi, in case number 14-40409.
9. Later when I sent a GRAMA request to DCFS CPS to retrieve the record of it, they sent back a redacted report that said that the claim that Kasey had abused Kody was "unsupported due to lack of evidence".
10. It is clear that a spanking does not cause injury to a child's nose like that. Kasey should have been charged with criminal negligence or something.
11. I've tried to contact officer Plewe several times since then, and she has not ever responded. They have moved her to a different jurisdiction. The move happened right after her "vacation" where she wanted me to contact Dan Reid instead, the man who failed to realize the significance of the evidence from the initial 'protective order' hearing that was sent to him for review. Officer Plewe was asked by me to review it;

Q. On April 22, 2014, the date of the infamous "bee poop SMS", I made a video with my tablet. It is on the disc, entitled:

`2014-04-22-17-45-40_Video_Kasey_MacRae_essentially_kidnapping_Kody_at_Library.mp4`

It is easy to see that our son is very distressed by her behaviour. He did not want to leave with her. He wanted to stay with me. I was arrested after that video was made. The district attorney chose to not file charges, for reasons stated in other documents associated with this one.

R. On Wednesday, January 21, 2015, she came to pick up our son after work. Here is what I recorded that day right after she left:[26]

> ... she came and knocked on the door. I let her in. She stood near the door, all the way inside on the carpet near the toybox. The door was closed since it's cold outside. I helped Kody get on his socks and shoes.
>
> The conversation was mostly amicable. She said that she wants to wash the writing off of my walls for me. She's said that before. I have several walls painted with chalkboard-paint, but ran out of space and wrote some notes and aphorisms on the other walls, as mnemonics as I think over these legal briefs, etc. She actually suggested that SHE will wash the walls... I told her why I don't want to wash the notes off the walls, then read one of them out loud to her.
>
> Then, reminded by the things written on the walls, I asked her, as we were about to exit my apartment, me with Kody on my hip, if she'd heard about the Blakely 2004 decision... she then reacted with anger, snapping at me that she did not want to discuss anything legal with me. She closed the channel. It put her in a snit and she was bitchy the rest of the way to her car. He always wants me to carry him or race him to the car. It's a long standing custom we have...

26. See: `2015-01-21_Journal_Kasey_here_to_get_Kody_abuses_him_in_car.txt`
and: `2015-02-08-11-18-13_Audio_Kasey_taking_Kody_by_force_again_burlary_kidnap_Journal.txt`

> As I was reaching for the car-seat lever so he could get in, she snapped at me again something about hurry up. He climbed in, and I headed back inside my apartment. A moment later, I heard her shriek at him, him screaming at her, and then Kody was knocking on my door. I let him in, and he ran inside and began looking for a toy.
>
> Just after that, she came to the door also. He tells little excuses to delay... he told her that he wanted one of his race cars. She said no, because she does not want to trip over them any more and they belong with the race track set that his cousin got him for Christmas. He wanted a hot-wheels, not the race-track car, and I said that to her, and she said Ok. He wanted me to pick him up. He was feeling anxious about her because of her mood and impatience.
>
> I picked him up, and was going to the door with him. She said something that made him angry with her, and he said he was going to kick her and started trying to lunge towards her while I was carrying him. He was trying to get down and was part way to the floor with me trying to pick him back up, when he then started kicking his legs, hitting me in the crotch. He is, for the most part, a sweet peaceful happy little boy. I feel like it's "her energy moving him..." — it's "emotional" in origin. I told her to "control your head; stop making him kick me".
>
> She tried to grab him away from me, and he clung to me. She got him away from me, and then carried him out to the car, kicking and screaming the entire way there. I watched her carry him to the car and force him inside of it. After the car was closed, there was a lot of screaming and crying from him and her shrieking. From the sound, she was hurting him. I ran across the yard to witness it through the car window. I went out into the street to the driver side and looked in.
>
> She was turned around in the driver seat with her legs between the two front seats using her feet to push him into the child seat. He was crying. She shrieked at me to get away from the car, turned around, and glared at me as she pulled away and drove off.

The next evening, a Thursday, and all through the next week, my son and I stayed away from our apartment during the time that his mother normall arrives to pick him up. We just wanted to avoid her because of the way she behaved on the 21st. I did not call DCFS because of the whole "Maxine Plewe" thing. I just didn't feel like they'd do anything about it.

S. On Monday, January 26, 2015, I was served with an AMENDED PARENTAGE PETITION. Not long after that a motion for temporary orders and a statement in support of it arrived in the mail. She filed this during that week where my son and I were avoiding her.

1. This establishes a definite pattern. Look for the boldface exclamation points in the table of contents of this document to see important events related to use of the 'protective order' for an improper purpose and for VPO complaints and filings such as this that occur shortly after disagreements or altercations.

T. On February 2, 2015, my son and I went down the hill on our bikes to go play at the "dinosaur playground" at City Creek Mall. We go there on a regular basis. We always lock up our bikes on the "coffee cup" bike racks between the Social Hall Museum and the upper entrance to the Harmon's grocery store. His mother knew that's where we'd likely

be. She was waiting in the shadows near the Harmon's entrance on the parking garage side. She swooped in and grabbed our son. Right after that, her church-friend, Maureen Hansen walked past the Harmon's entrance coming from the same direction that my son's mother had come from. My little boy called out for "daddy" so I tried to take him away from her. Just before it happened, two peace officers had entered the grocery store. Ms. MacRae and I were just inside of the entrance of the grocery store with our son between us, in her arms. I started shouting for the police. The came up from the grocery store, and separated us. I was not charged with a protective order violation because it was a chance meeting in a public location. They allowed her to take him.

U. Misc anecdotal testimony from my son:

1. One day in the toy section of the Smith's on 400 South, my son had run off ahead to look at toys. I was looking at something, and he ran up to me with a clear plastic box full of bungee cords. He held them up and said "this is what mommy ties me up with." I was flabbergasted. I had never heard my 3 year old tell me anything like it before. After questioning him further, I was not certain whether she tied *him* up with them, or used to the bungee cords to tie the closet door shut when she locked him up in it.
2. Another day, he told me that once when he was a baby, his mommy left him buckled into the jogging stroller, with a bag of candy suckers, then left him there alone, leaving the apartment. He says that later the police brought his mother home in handcuffs. I got the impression that it happened during one of the times she had me locked in jail for alleged violation of the 'protective order.' Again, I was flabbergasted. It was a surprising thing for a 4 year old child to say.
3. He has told me that he wishes there was a place to hide here, so his mother could not find him, and he can stay here. He often runs away from her, wants me to pick him up, and avoids physical contact with her when she is here. He ofen makes a barricade with his bed and mattress, and hides behind it when she arrives.
4. My son made a video using his Android tablet showing a drab empty bedroom at his mother's apartment. I believe she must have had him locked in his room that day. The tablet's screen was broken the next time he brought it with him, shortly after I discovered and downloaded these videos from it. I am reasonably sure that the timestamps are close to accurate, at least to the date and hour, since I configured the tablet.

   `2014-01-04-10-20-58_Video_Kody_locked_in_drab_bedroom_at_Mommys_video_by_Kody.mp4`

   `2014-01-04-10-31-44_Video_Kody_locked_in_drab_bedroom_at_Mommys_video_by_Kody.mp4`
5. He used to play games where I was supposed to be him, and he was being his mother. Then he would shout at me to stay in the bedroom, after slamming the bedroom door, blocking it shut so I can not go through. After I got tired of this, I removed the door from the doorway, so it can not be slammed shut. After that he would occassionally continue to shout for me to stay in there, then blockade the doorway with a pile of blankets.

6. She has expressed disdain for "Parenting with Love and Logic" and touted another parenting methodology book called "Beyond Timeouts." In my opinion the parenting methods she has been applying are antithetical to the "Love and Logic" paradigm. I do not agree with using parental violence to control children. They need to be taught to use their words and that cooperation is the best choice. Pushy bossiness and selfish refusal to assist with chores are the hallmarks of a brand of pedagogy that I see leading to disfunctional and criminal behavior in adulthood. Little people need thoughtful nurture, not arbitrary anger. "Do as I say, not as I do." is a bad example to be setting for your children.
   a) I recall a previous hearing before Commissioner Blomquist where Ms. MacRae made a statement regarding how I never did what she asked me to do. I seem to recall the Commissioner making a response, the gist of which was that as an adult, I am not required to do what Ms. MacRae commands. I believe that reveals and foreshadows her true intention with regards to her use of this 'protective order'.
7. He says that she is often mean to him. He says she spanks him with a wooden spoon. When he describe this to me, on Saturday, February 21, 2015, he held his hands out to show me how big the wooden spoon is. The same day, I noticed some fading bruises on his back, just above the waistline. She did not bring him to see me last Tuesday, the 17th of February. He also told me that she puts her hand over his mouth to make him shut up. She uses what she calls a "child hold" on him, which is like a wrestling hold. He says that it hurts when she does that. I have not ever needed to do any of those things. I do not believe that "discipline" and "punishment" are synonyms. I believe that corporeal punishment is counterproductive to discipline.

V. "§78B-7-115(1)(f) Any other factors the court considers relevant to the case before it."

A. It was entirely improper to have granted the petitioner a 'protective order' without fully considering the evidence and counterclaims that I had made available initially, with my Answer to Request for 'Protective Order'. It was asserted that the evidence impeached her written testimony. That in itself raised an important question regarding the alleged material facts which properly should have faced a trier of facts. I moved for a URCP rule 108(d)(2) hearing, and it was not accorded to me as was my right under the law. 108(d)(2) uses the wording "upon request", and so I entitled the written motion using the term "request" as well.

B. The Petitioner, Ms. MacRae, made false material statements in the Request for Protective Order, in violation of Utah Code[27] §76-8-502 and §78B-6-301(4).

   Utah Code 78B-7-105(1)(*b*)(*i*) states that the forms for protective orders shall include:

> "a statement notifying the petitioner for an ex parte protective order that knowing falsification of *any* statement or information provided for the purpose of obtaining a protective order may subject the petitioner to felony prosecution;"

27. All references to Utah Code within this document refer to the online version as of February 2015. See: http://le.utah.gov/xcode/code.html

I think that the wording of 76-8-504(2) most aptly applies to the form of deception employed by Ms. MacRae:

> "With intent to deceive a public servant in the performance of his official function, he:
> (a) Makes any written false statement which he does not believe to be true;
> (*b*) Knowingly creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or
> (*c*) Submits or invites reliance on any writing which he knows to be lacking in authenticity;"

... and I assume that because 78B-7-105(1)(*b*)(*i*) mentions *felony* prosecution, it is intended that Utah Code 76-8-502 be applied, since it defines a felony, prohibiting "false or inconsistent *material* statements."

> "A person is guilty of a felony of the second degree if in any official proceeding:
> (1) He makes a false material statement under oath or affirmation or swears or affirms the truth of a material statement previously made and he does not believe the statement to be true; or
> (2) He makes inconsistent material statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by him to be true."

The definition of "material" is in 76-8-501(2):

> "(2) "Material" means capable of affecting the course or outcome of the proceeding. A statement is not material if it is retracted in the course of the official proceeding in which it was made before it became manifest that the falsification was or would be exposed and before it substantially affected the proceeding."

1. The Petitioner *evasively* misrepresented her criminal background on the Request for Protective Order question 6*b*. Exhibit A contains copies of the court dockets for the misrepresented and unreported criminal cases.

a) A case history search (Utah only), conducted on July 28th, 2011, shows 15 separate cases involving Ms. MacRae. One of them is a civil debt collection. Many of them are for relatively serious violations of the law, involving DUI, reckless driving, driving without a license, improper use of lanes, and speeding.

(1) None of them are mere infractions; all are misdemeanors.

(2) This shows that Ms. MacRae has a history of disregard for the rules.

(3) The instructions above question 6*b* clearly states "list ALL court cases below."

b) She gave false case numbers for what is now 071414983, filed on December 6th, 2007, and 071415804, filed on December 28th, 2007.

(1) At the time she filled out the Request for Protective Order forms, the Salt Lake Justice Court had it's own record keeping system, with it's own case numbering system. The numbering system included a prefix consisting of the two digit year, and the letters "CR" followed by what I am guessing is a sequentially assigned case number. At the time I wrote my *Answer to the Petitioner's Statements in the Request for Protective Order*[28], the case numbers she provided did not match the ones I located using the Justice Court's web interface, and in fact do not appear to conform to the encoding format of the case numbering system in use at that time. Since then, Justice Court cases have been ported to the same record keeping system and case numbering system used by Third District Court. The new case numbers are given above.

(2) False case numbers make it more difficult for anyone to verify the information. In combination with the other facts, listed below, it appears as though she was deliberately obfuscating.

c) She discloses the Simple Assault [76-5-102], Trespassing in a Dwelling [Z48883], and Interfering with an Officer in Discharge of Duty [Z48809], but she lists the Domestic Violence in the Presence of a Child [76-5-109.1(2)(*c*)], as a mere "General DV Misdemeanor."

(1) This is a significant and very concerning euphemisation, *especially in light of the facts in evidence concerning the altercation that occurred on December 10th, 2010 at my home*, which is documented in a hidden "nanny camera" video.

(2) That is true despite that some of the charges may have been dismissed as part of a plea agreement.[29]

(3) She is attempting to hide the fact that those charges against her involved domestic violence in front of a child because she is being dishonest about the events of December 10, 2010, where she was again charged with domestic violence in front of a child.

(*a*) I assert that on that same evening she committed an attempted felony child abuse, and that she lied about it in her statements in her *Request*. I will detail that later in this affidavit.

d) It is also interesting that she is sure to point out that she believes 031 106 386, Disorderly Conduct, "was supposed to have been dismissed, but was not." In other words, she feels that she was entitled to have it dismissed, but the court in her home town did

28. I mentioned several of these facts in that "Answer...", which was all too hastily prepared. It was apparently disregarded by The Court, DCFS, the Guardian *ad litem*, and the City Prosecutor, and later was conspicuously absent from all four "Discovery" packages submitted by the Deputy District Attorney when I was charged with violations of the "protective" order. This negligent misfeasance must not be allowed to go unnoticed.

29. The case was tried in Salt Lake Justice Court, which is not a court of record. The information on the docket does not appear to be sufficient to determine, for certain, the reason those charges were dismissed.

not agree... The sentence was recorded as a plea in abeyance in 2004, and it appears that she did not pay the fine until 2008.

e) She entirely evaded reporting 101 414 961, which contains 2 charges stemming from the altercation of December 10th, 2010. Charge 1 is Domestic Violence in the Presence of a Child [76-5-109.1(2)(*c*)], Class B Misdemeanor, and charge 2 is Battery [Z48828], Class B Misdemeanor.

(1) These charges against her were filed on December 13th, 2010. The docket shows that on January 4th, 2011, the same day as the initial protective order hearing, an arraignment date was set for April 8th, 2011.

(2) On April 7, 2011, I was in custody and taken before the court for case 111 902 257 (State v. Hegbloom), charged with a third degree felony violation of this *protective* order, for "having written several emails that did not pertain to our child under a protective order that limits email to only those pertaining to our child."

(*a*) The offense date for 111 902 257 (State v. Hegbloom) is recorded on the docket as as January 4th, 2011, the same day as the protective order hearing. The warrant was not issued and executed until late March, and my first court appearance was April 1, 2011.[30, 31]

i) She was essentially alleging that I had "already violated the protective order" the same day that it was issued.

ii) *None* of the charges in *any* of the VPO warrants allege any threatening or harassing messages from myself to Ms. MacRae.[32] I am quite confident that the evidence would not have supported such an allegation, and that in fact the evidence supports my counter-claim — that it was Ms. MacRae who was sending harassive messages to me (and to my Mother), and that those messages violate Utah Statutes 76-9-201(2)(*b*), which states that:

> "(2) A person is guilty of electronic communication harassment and subject to prosecution in the jurisdiction where the communication originated or was received if with intent to annoy, alarm, intimidate, offend, abuse, threaten, harass, frighten, or disrupt the electronic communications of another, the person:
>
> (*b*) makes contact by means of electronic communication and insults, taunts, or challenges the recipient of the communication or any person at the receiving location in a manner likely to provoke a violent or disorderly response; "

30. I do not believe that it was legally required for them to issue a warrant, when a summons to appear would suffice. I believe that the mandatory arrest clause in the statute was meant to be applied in *hot pursuit* situations only. By waiting several weeks to file for the warrant, they are implicitly acknowledging that she was not in any *immediate physical danger*, and thus, there was no true need to arrest and incarcerate me.

31. On April 7, they reduced the charge to an "attempted," and so I was charged with a crime for having *attempted to communicate* with her. I find irony and hypocracy in procecuting attempted communication as domestic violence.

32. There is a brief mention, in the police report, of the possibility of trying to find harassment. I think it shows they were (or were being prompted to be) just looking for excuses to arrest me for something.

iii) At the October 11th, 2011 hearing on her request to modify the protective order, her student attorney implied that the email I'd sent to Ms. MacRae had been harassive. She also stated, incorrectly, that I was in jail for "having violated" the protective order.

1. In fact, I was in jail for merely having been *accused* of having violated the protective order. The charges they had me in jail on truly had no merit,[33] and were ultimately dismissed "as part of a global resolution" (quoting Deputy District Attorney Michael P. Boehm). None of the charges ever faced any formal "finder of fact" — I was never accorded a fair trial. No formal presentation of any evidence — outside of one much belated preliminary examination hearing — from either the prosecution or the defense, was made to either a judge or to a jury.

   a) Because of this, none of the judges' decisions could have been made based upon the material facts of the matter... at least not upon facts specific to this case, formally presented, on the record.

2. The law student who was acting as Ms. MacRae's attorney should know better than to make statements of that nature in court.[34] She should have checked up on the facts before appearing on behalf of a client she had no reason to trust. The mere fact of also being female should not be sufficient to garner trust.

   a) How could *any reasonable person* trust a State-appointed attorney who does not engage in any fact-checking?

   b) Perhaps *any reasonable person* might presume that it would be those attorney's responsibility to perform that fact-checking?

(*b*) The first email she submitted as evidence *did* pertain to our child. It was regarding a newsletter from Enfagrow, which claims it has better nutrition than plain cow milk. I had forwarded that newsletter to her, and commented on it. I was recieving those newsletters because Ms. MacRae had signed me up to recieve them by placing my email address on their mailing list.

i) I doubt that a jury would have any trouble with the idea that a discussion regarding our son's nutrition certainly does "pertain to the child".

(*c*) At a much-belated Preliminary Examination Hearing held on July 12, 2011, it was found that there was no probable cause to try me for the charge, since it was clear that the protective order allowed email with no restriction on the subject matter of that email. Thus, the charge on the first warrant was not bound over for trial.

i) At that hearing, with Ms. MacRae in attendance, the judge stated that he "wasn't sure" if a text message and an email are "the same thing," so he bound over 8 counts of what the police report called "text messages not per-

33. This time, a text message that *did* pertain to our child, and an alleged phone call they had no true evidence of.

34. So should the Judges, who are certainly expected to be familiar with the principle of *presumption of innocence*.

taining to child visits." This wording indicates that at that time, they thought of text messages as legally equivalent to email.

1. Ms. MacRae often used text messages to initiate communication with me. Her messages invited response both implicitly and explicitly. Fairly often they did not pertain directly to our child. She also quite frequently contacted me by telephone. I did not answer, but allowed her to leave voicemail. In one voicemail, she explicitly invites recontact via each of text message, voicemail, or email.

2. Six days after that preliminary examination hearing, she reported that I had again violated the protective order when I sent a text message that most certainly did pertain to our child. It stated merely "Is he back yet? I need to see him." After receiving a very rude text message response from her, I resent the same message via email, accompanied by an admonishion regarding *custodial interference*.

3. It seems likely that *any reasonable person* will say that it is unethical to use a trivial distinction between a text message and an email as grounds to press charges for a protective order violation when the order allows email and the petitioner has explicitly invited contact via text messages.

4. The Bar Association Rules of Professional Conduct define the term "written" to include anything that is either written or recorded. To allow one form of "written" communication but not another is clearly unrighteous.

(3) The charges against Ms. MacRae are marked as dismissed on January 26$^{\text{th}}$, 2011, possibly as an indirect result of her having obtained this protective order... Unfortunately, the Salt Lake Justice Court is not a "court of record," so whatever justification was given for dismissal is not apparent.

(a) The mere fact of a protective order having been granted to her is not sufficient to support dismissal of the charges against her, and

(b) neither is the mere fact of her having *accused* me of violating the protective order.

(c) I was in the Salt Lake Justice Court for case 101 414 998 on January 24, 2011 for a "scheduling conference." On that day, they set another "scheduling conference." I do not recall being told anything regarding the charges against her, for which I was the victim.

(4) Regardless of whether or not she was found guilty or why the charges got dismissed, this was an open case at the time she filed for the protective order on December 16$^{\text{th}}$, 2010. She was *required by law to report it but did not*.

(5) It is especially concerning since the charges involved allegations that she committed domestic violence in front of our child.

(6) The charges stem from the same altercation she discusses in question 4e on the Request for Protective Order.

(7) That altercation is recorded in a "nanny-cam" video. **I assert that the video shows that she deliberately caused our 14 month old son to fall and hit his head against a toddler-table.** Other actions visible in that video support the charges against her in 101 414 961.

(8) Despite that I was the complainant/victim, I was never contacted, asked to appear, nor asked for testimony. I do not know whether the evidence I submitted was ever reviewed. There was no response from any of DCFS, the City Prosecutor, nor the Guardian *ad litem*, all of whom had been served with copies. They gave her a Victim's Advocate Attorney, but *did not accord me with that same constitutionally guaranteed right*.

(9) In my opinion, her nondisclosure of this case in the *Request for Protective Order* is part of a pattern of deliberate deception; of denial of responsibility for her own actions; and of "projecting," or externalizing blame.

f) She makes no mention of 101 601 193, Theft of Services, 76-6-409, a Class B Misdemeanor, which was also still an active court matter at the time she filed for the protective order, on December 16th, 2010.

(1) She was cited on November 18th, 2010, and they filed the charges on the 23rd of November. That day, they scheduled her for arraignment, setting it for December 21st. She plead guilty to Theft of Services on January 11th, 2011, several days after the hearing on this Protective Order, which occurred on January 4th, 2011, and was still paying the fine in February, 2011.

(2) The date that her Theft of Services offense occurred is close to the date that she brought all of our son's belongings over to my home, and left him fully in my care and custody. That is almost a full month prior to her filling out the Request for Protective Order. I had *de facto* full physical custody of our son from sometime shortly after his 1st birthday, in October, 2010. The arrangement had not been arranged via the family court, and so "legally" she still had physical custody of our son...

(3) I remember the day well because it was the night of the first snowstorm of the season. An Internet search for "Salt Lake City November 2010 Weather" turns up several articles and YouTube videos, placing the date of that snowstorm as the night of November 22-23, 2010.

(4) Her arrest for Theft of Services explains the state of panic and agitation she displayed the evening she brought his belongings to me, and why she so suddenly decided to *leave* him in my custody.

(5) The attached evidence exhibits contain voicemail transcripts from around that time, documenting that:

(*a*) She would ask me for permission to come and visit him, and for permission to take him to visit with her. Her demeanor indicates that she was not protesting that he was staying with me.

(*b*) She makes many statements and accusations that are blatantly false. The problem is that I'm the only one who knows that for sure. It's a form of harassment because what it's saying is "these are the lies that I (Kasey) will tell about you (Karl)."

(6) The non disclosure of this Theft arrest is especially concerning because:

(*a*) Her arrest is what precipitated her bringing our son's belongings to my apartment, and leaving him with me full time. There was no corresponding action in family court, but he was, *de facto,* physically in my custody, and he was there as much by her initiative as my own.

(*b*) She made statements to police, on December 10th, 2010, to the effect that she was the one with custody of our son.

i) I believe that she led them, and later The Court, to believe that I had taken him from her and kept him there without her consent. If it can be shown that she made such a representation, then in my opinion it amounts to "Criminal Defamation" as per Utah Statute 76-9-404.

(*c*) She made a statement, in question 4*e* on the Request for Protective order, that she had come over to my apartment to "visit our son," stating that I had refused to return him to her.

(*d*) In stark contradiction to that claim, near the beginning of the evidence video, soon after she arrives, *she* asks *me* for permission to come back and take our son the next afternoon. I said "yes, of course." The audio quality is good, and these events are quite discernible from that video evidence.

(*e*) The reality is that she had voluntarily given me full custody of him in late October, and had brought all of his belongings over on around November 23rd, 2010.

i) Prior to that, he was, as I have stated in pleadings filed with our Parentage, Custody, and Support matter, with me for most of his waking hours. I was his "Daddy Day Care." She was ostensibly attending an evening class, and so I had to pick him up very early in the morning, and she did not get back from class until after 21:00. Our son would be asleep then, and he did not like being woken up to be taken to her home. He would just sleep the night there, and I'd have to pick him up the next morning. It was more practical for him to stay with me overnight.

ii) How else could his toys and clothing have gotten to my home, other than by her having brought them?

iii) Why else would she be asking for my permission to take him the next day, in the video shot by a hidden camera on December 10th, 2010, if she had not thought of him as being in my custody then?

iv) That his things were in fact at my home is evidenced by her request for police escort in retrieving our son's belongings from my home.

v) It is also evidenced by video taken of my son and myself playing in my living room on December 7th, 2010, where his toy box that she brought to me on September 23rd is visible.

2. In Question 4*e* of the Request for Protective Order, Ms. MacRae is demonstrably dishonest in her discussion of the altercation of December 10th, 2010.

a) Her written description of those events is inconsistent in certain ways with actual events visible in the evidence video. In my opinion, this shows that she is being deliberately misleading regarding her own conduct that evening.

(1) The evidence exhibit that I submitted along with my Answer to the Request for Protective Order contains a video that shows that Ms. MacRae caused our son to hit his head on the edge of a toddler table.

(*a*) She was not made aware of the presence of the "nanny-camera" until after she had called the police.

(2) She says that she "put her foot up" on the table, and that our son "attempted to climb over [her] leg, and was unsuccessful, and *inadvertently* hit his head on the table."

(*a*) It is obvious from the video that her foot was *not* up on the table, and that she has him by his left hand. Our son is leaning forward, trying to pull his hand out of her grasp. She suddenly lets go of his hand, which causes him to lurch forward and hit his head on the edge of the table. At that point, she exclaims "Goodness! Goodness," as though she is praising him for taking the fall. (Hitting one's head is not "goodness." Clearly, it is "badness.")

(*b*) Shortly prior to that event, our son can be heard crying out for "Daddy da-da-da" to come and help him. I remember hearing him while it was going on, and being reluctant to intervene because I was afraid that she would start trouble with me. I was intimidated by the memory of previous altercations instigated by Ms. MacRae; in particular, the one described in previous pleadings that involved her locking herself in my bathroom with our crying son.

(*c*) After she caused him to hit his head, she brought him out to the living room and sat on the couch, holding him too tightly. He was struggling and trying to get free from her. It is clear that he is calmed when I am finally holding him, and that he is disturbed by her approach.

b) In the written statement, and in her call to police that evening, she alleges that *I* committed domestic violence in the presence of our child, and completely avoids disclosure of her own questionable behavior.

(1) In the evidence video, she can be seen lurching forward to strike me. It was that event, as well as her attempt to kick me, that caused me to ask the police to charge her with battery.

(2) I had not witnessed our son hitting his head on the table, since at the time it happened, I was sitting at my computer, which is off the left edge of the video frame.

(3) It was not until I post-processed the video with noise reduction and gamma filters, and then magnified the image that I learned the details of how she had been holding onto his hand to make him fall. Noise reduction reduces the amount of "CCD speck-

ling" caused by low light conditions, and the gamma filter increases the apparent brightness, revealing information recorded by the camera but not visible prior to increasing the gamma. The audio track has also been processed with a noise-reduction filter.

Upon request, I can show the original video, which was signed into evidence with Detective Robert Woodbury with a Miranda Waiver in December, 2010. I can also show the software and filter settings used to process that video to create the result I've included as evidence with this Affidavit. That can prove that I have not *tampered* with the video frames; that the result brought before The Court is a product of automated video processing, not of frame-by-frame "pixel" editing.

(4) Again, she did not list the court case stemming from those charges on the Request for Protective Order. If she had, then her story would not "add up" to the same thing...

(5) She took no responsibility for her own actions, and attempted to portray the scene as though everything was my fault. I believe she was *projecting*, to avoid self-blame.

C. The Petitioner, Ms. MacRae, has violated Utah Code §78B-7-115(3), which reads:

> "The court shall enter sanctions against either party if the court determines that either party acted: (*a*) in bad faith; or (*b*) with intent to harass or intimidate either party."

1. Utah Code 78B-7-105(5)(*c*) states that:

> "Each protective order issued in accordance with this part, including protective orders issued ex parte, shall include the following language:
>
> "NOTICE TO PETITIONER: The court may amend or dismiss a protective order after one year if it finds that the basis for the issuance of the protective order no longer exists and the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order, demonstrating to the court that the petitioner no longer has a reasonable fear of the respondent." "

It stands to reason that the second clause of this notice could serve as a base definition of the term "bad faith," as used in 78B-7-115(3). Because (*1*) it is required by law that this notice appear on the protective order; and (*2*) because it is one of the few statements found on the order that comes directly from the statutes, verbatim; Thus, any reasonable person, upon reading the protective order, would be likely to assume that this notice describes behavior that the Petitioner is expected to not engage in, and that should the Petitioner do so, it would constitute an "act in bad faith."

2. The standard provisions of the protective order are craftily worded such that, by a strict interpretation, it is not a violation for the Petitioner to contact the Respondent, but it is a violation for the Respondent to contact the Petitioner, even when the Petitioner initiates the correspondence and invites a reply.

a) A casual reader, with a "good faith" expectation of fairness and mutual applicability of the provisions, may not notice this crafty wording on first reading.

3. The original Protective Order in this case had a modification to Item 2, the "No Contact Order," which normally reads:

> "Do not contact, phone, mail, e-mail, or communicate in any way with the Petitioner, either directly or indirectly."

The word "e-mail" is whited-out, and written in and initialed by Honorable Commissioner Michelle Blomquist, after the word "indirectly", is the phrase "Email allowed."

a) This modification allowed for two way communication via "email".

(1) Ms. MacRae contacted me more often by SMS "text messages," via my cellular telephone number, than by SMTP/TCP/IP transported electronic mail, via my Gmail account.

(*a*) She did not limit the communication only to those "pertaining to our child."

(2) Sometimes she attempted to call me on the telephone. I always allowed the call to go to voicemail, rather than answering it. I have not deleted any of those voicemail messages, and many of them are attached to this affidavit as evidence.

(*a*) In the voicemail of May 10th, 2011 at 7:24 PM, she explicitly invites recontact via each of voicemail, text message, or email.

(3) In good faith, I did what I believe any reasonable person would do, in assuming that SMS and email are functionally equivalent to "email" for the purposes of the modified Item 2, and responded via the same 'channel', with SMS.

(*a*) Certainly, "SMS" is not explicitly listed in Item 2, but "e-mail" is. SMS and email are both forms of electronically transmitted written messages. The 'e' in "email" stands for "electronic."

(*b*) Both Ms. MacRae and I use cellular "smart" phones running Google Android. We also both use Google Voice for voicemail, which presents a "voicemail" as an "email," complete with an automatically generated voice-to-text transcription.[35]

(*c*) Email, voicemail, and SMS all present through a similar user interface. When a message arrives, the phone beeps, and an icon appears in the status-bar at the top of the screen. By dragging the status-bar down, the user may tap on the list-item for the message, which opens the appropriate "app," for viewing, listening to, and replying to the message. It is possible to have the phone read written messages

35. Those automatic transcriptions are imperfect, and not sufficient for Court purposes, so the voicemail messages presented here as evidence have all been transcribed by hand.

aloud, via text-to-speech technology. It is also possible to enter text via speech-input.

(*d*) Assuming a phone with SMS but no email access, it is clear that email is not practical for last-minute communications regarding child exchange meetings, e.g. "I just missed the bus, so I'll be 15 minutes late."

b) By a strict interpretation, the protective order does not impose any restriction on the *subject matter* of the "email" communication.

(1) I believed that modification was stipulated to so that we could still attempt to communicate, since there is not any hope for any kind of reconciliation of our friendship without open channels of communication. (I spoke of that at the January 4th, 2011, protective order hearing, during negotiations that are not on the record.)

(2) The stipulation to allow email was also necessary to facilitate communication regarding coordination of co-parenting of our child in common.

(3) I wanted communication limited to "written and recorded" forms, so that I could have a record of it. I had a feeling then that saying "email" would lead to problems of this nature later on. I would have spoken up right away to clarify that intention, but could not speak out of turn, and was not given opportunity to bring it up after that.

(4) The messages I received from her did not always pertain to child visitation, and often invited response, either implicitly or explicitly. Initially, I found nothing wrong with that, since, in my opinion, an open channel was the intention of the modification.

(*a*) **After recieving abusive and derogatory messages from the Petitioner, Ms. MacRae, *I* asked *her* to limit future communication to only those pertaining to our child.** She did not comply, and continued to deride me using email and SMS. During this time she also sent derisive messages to my Mother, via Facebook.

(*b*) At the time, I considered filing a *Motion for an Order to Show Cause*, since her derogatory emails clearly violate the mutual "common decency" order that had been stipulated to (via her attorney) and ordered in our Parentage case. It seemed frivolous and petty to me, and more trouble than it would be worth, so I did not bother the Court with it.

(*c*) During the period of the Protective Order, we communicated via SMS about:

i) Meeting to share a meal at a buffet restaurant, and to go shopping together, *en family* at Deseret Industries. Technically, it was a violation of the protective order for me to attend, despite her invitation, and despite that we had a good time with little conflict.

ii) Meeting to attend the U2 360° Tour concert, at Rice Eccles Stadium. It was awesome, and we had a great time. Our son attended with us. We walked home together, with me carrying our sleeping child. She invited me in, to put him into his crib. While I was inside her apartment, she invited me to 'spend the night' with her... I declined, and she asked why. I told her that she must drop the protective order first.

iii) She had mentioned, orally, during a child visit exchange, that she wanted me to bring back some of her things that were at my apartment. Shortly after that, I initiated an SMS communication regarding that. During that conversation, she asked me to go to the grocery store for her, and later demanded that I bring a set of shelves of mine to give to her. She then cherry-picked eight of those text messages, and used them in a police complaint alleging that I had violated the protective order.

iv) At some point she threatened to throw my teddy bear into the dumpster if I did not come to get it.

(5) Item 8, the Custody and Parent Time Order, listed two third-party intermediaries, both named by the Petitioner, who were supposed to be present during child exchanges. Both of them lived in her building.

(*a*) Neither of those third parties were ever present at the curbside child exchanges. Since they were *her* neighbors, it was her responsibility to ensure that they would be present. Their names are Mike McLeod and Sage Boyer. Mike is the building maintenance man, and Sage is someone she walked to church with.

i) She later made allegations that something *I* had done was responsible for their refusal to cooperate. When I spoke with Mike about it, he told me a completely different story. When I encountered Sage, while walking to or from the grocery store, she was her usual chatty and amicable self.

1. Mike described an altercation that had taken place between Ms. MacRae and her next door neighbor. The neighbor heard our son crying, and knocked on Ms. MacRae's door to find out what was the matter. When she opened the door, she "bit his head off," rebuking him for "listening outside of her door." When Mike approached me the day he told me that, the first thing he said was that I need to hire a Father's Rights attorney.

2. Sage did not go into detail, but did express sympathy towards me, hinting that she felt that Kasey was not acting *in good faith*.

(*b*) Written in on a blank line, it also stated that we could agree upon other third parties via "email."

i) It did not *limit* the allowed subject matter of the email. It merely mentioned *a particular use* for email.

ii) The "email allowed" entered on Item 3 "no contact order" was necessary to enable use of email for contact regarding our child.

iii) Negotiations for these modifications did not take place on the record.

c) On one hand, she repeatedly communicated regarding other subjects, often at her own initiative, but on the other hand, Petitioner wants to claim that it was intended for email to be only regarding our child.

(1) Some of the email from her to me was very rude and harassive.

(*a*) Because of that, I asked her to restrict the subject matter of our communications to messages pertaining to our child.

(2) She made a complaint to the Salt Lake City Police Domestic Violence unit detective, Officer Robert Woodbury. The complaint alleged that I had "written several emails that did not pertain to our child, under a protective order that allowed email only pertaining to our child."

(3) With that complaint, she submitted several emails that obviously *did* pertain to our child! One of them was a newsletter from the Enfamil company that I forwarded to her, with a note stating that I want our son to have Enfagrow toddler formula rather than cow milk (not mentioning that it's because she was not breastfeeding him).

(a) I was receiving that newsletter because she had signed me up for it, giving them my email address!

(b) Her response was that my message had gone way beyond the scope of the protective order, and that it was thus a violation.

(4) Detective Robert Woodbury's investigation, as revealed by the police report, discovered that the protective order itself allowed email, and that it did not limit the subject matter of the email. The investigation report reveals that:

(a) The protective order hearing minutes, on the docket log, state that email is for discussing child visitation arrangements, and

(b) that the state-wide domestic violence database version of the protective order does not represent any modification to Item 2 or Item 8.[36]

(5) I was arrested on March 26$^{\text{th}}$, 2011, and charged with a third degree felony violation of protective order, with bail set at $10000, Third District case number 111 902 257.

(a) Ms. MacRae's initial complaint was made on February 8$^{\text{th}}$, 2011, 44 days prior to issuance of the warrant by the court. The court docket lists the offense date as January 4$^{\text{th}}$, 2011, the same day as the protective order hearing, 35 days prior to the complaint date.

i) The warrant was issued on March 24$^{\text{th}}$, 2011, and I was not actually arrested until two days later. I am not difficult to find. I had been home all day every day that week. They knocked on my door, and I let them in. They waited patiently in my living room for about 20 minutes, while I shut down my computer, put some food away, secured the windows, changed clothing, and gathered the things I wanted to bring with me.

1. One officer was a Detective (H74) whom I believe was Robert Woodbury's immediate superior. I recognized both of them, but presently can not recall their names, and did not write that information down.

2. The second officer I recognized from the time that I had to call the police to ask them to make Ms. MacRae return my debit card to me. I had loaned it to her so she could buy hair curlers at Walgreens, and she was refusing to return it. He made her give it to him, and he handed it to me. He admonished me to

36. I suspect that this is both a communications, as well as a software system issue. I bet that the current "Modified Protective Order," which contains write-in addendums as well, is not accurately represented by the SWDVDB.

not ever allow her into my apartment, and got the impression that he made that statement due to something she has spoken to him.

3. They bore an apologetic attitude. It was clear that they did not really want to arrest me, indicating that they were aware of the true nature of the complaint.

ii) Because of the amount of delay between the time Ms. MacRae called the police and the time they obtained, and again the delay between then and the time at which they executed the warrant, it is clear that they did not view me as a significant threat to anyone.

(*b*) I was not accorded a speedy preliminary examination hearing, but after three and a half weeks in jail, was granted a bail reduction to $2500. I purchased a bail bond, using money I had earmarked as being for much needed dental work, and was released.

(6) Shortly after I was released, in April 2011, I got on the wrong bus then got off at the wrong stop and had to walk past the front of her building, on the public sidewalk, carrying two folding wooden bookshelves. Ms. MacRae happened to be returning home from somewhere with our son in her arms as I neared her building.

(*a*) She reported it as a violation of protective order, but stated that she "did not feel threatened or endangered."

(*b*) In a subsequent email message she wrote to me, she stated that "[her] brother John says there's no such thing as coincidence," and that I "looked good."

(*c*) In the same email, she berates me for already violating the protective order again, after just having been released from jail where I had been held on the first vpo warrant.

(7) When a preliminary examination hearing finally took place, on July 12$^{\text{th}}$, 2011, the email related charges were not bound over. Several counts of "text messages not related to child visitation" where however, since Judge Quinn "wasn't sure if text messages and email are the same thing." My Salt Lake Legal Defender Association attorney, Mr. Isaac McDougal, reserved the question, noting that Ms. MacRae and I both use Android smart phones, etc.

d) If we think of "e-mail" and "SMS" as different: That email is the more asynchronous media, accessed from a computer on a desk; where SMS is more synchronous and appears almost instantly on the phone in your pocket... then:

(1) If I am not allowed to telephone her, or to contact her indirectly by phoning someone else, how am I expected to notify her that I've arrived outside her building for child exchange?

(2) "Plan ahead, via email." is a naive response. What if one or the other of us is unexpectedly delayed, without access to a computer to read or write email from?

(3) Barring an unrecordable phone call, SMS is the most expedient solution available under these circumstances.

4. In Item 8 "Child Custody & Parent-time Orders", on the blank line following the words "You will have parent-time as follows:" is written in:

> " Supervised exchanges with 3rd parties Sage Boyer & Mike. If not, supervised by agency. Partie can email in regards to another third party. "

The blank line following the text that begins "If there is a ¨No Contact¨ order, you can communicate..." has nothing written on it.

a) Both of the named third parties were Ms. MacRae's neighbors — people who lived in the same apartment building she lived in. Sage is a young woman whom Ms. MacRae walked to church with. Mike is the building maintenance man.

(1) It was Ms. MacRae who obtained the protective order, on the premise that she was afraid of me; The named third parties were Ms. MacRae's neighbors. Thus it is reasonable to assume that it was solely upon *her* initiative and responsibility, not mine, to ensure that they were present.

(*a*) From the very beginning, neither of the named third parties were ever present at child exchanges.

i) Ms. MacRae's statement during a previous hearing, to the effect that it was my fault they were not there, is false. I had very little to do with them, and rarely ever saw them. On the few occasions that I did see them, they behaved politely and acted friendly towards me.

b) The building is a multi-unit *secured* structure, where residents are given an apartment key that doubles as a pass-key to the outer door. There is a call-box outside the front door that is programmed to ring the tenant's telephone number. There is no other "doorbell" mechanism available, other than standing under the apartment's window and shouting.

(1) Item 4*a* of the protective order says to stay away from "The Petitioner's current or future... Home, premises and property." There is no specific distance given. The word "premises" implies that a previous definition has been given for understanding, yet no specific definition is given upon which to *premise*...[37]

(2) Because I do not drive a car and am pedestrian, "curbside pickup" must necessarily include the public sidewalk. It also necessitates occasional use of the front door call-box, which is mounted on the wall at the top of the front steps, outside of the securely locked outer door.

c) Ms. MacRae and I met outside of her building, on the public sidewalk, without her designated third parties present, for child exchange, on numerous occasions for which she claims no violation of the protective order.

d) Ms. MacRae brought our son to me, at my apartment, *without notice*, on several occasions shortly after she obtained the protective order.

(1) When she got here, her mother was out in the car waiting. Ms. MacRae pushed her way into my apartment, demanding that I allow her to use the bathroom. I had little choice but to allow her in, for fear of an altercation. I could not refuse to open

37. Matthew 5:36 — *Neither shalt thou swear by thy head, because thou canst not make one hair white or black.*

the door because she had our son, and said she needed me to take care of him while she went to visit her uncle who was in the hospital.

e) There was many occasions when Ms. MacRae sent SMS or voicemail asking me to take our son, for various reasons: she had a hair appointment, job interview, temporary job, just wanted a break, or it was just my turn to take him.

5. She mentioned that she wanted to take a dance or yoga class, and I offered to pay for half of it. I wrote her a check on March 3rd, 2011, and she came over to pick up that check in person. While she was here, she forgot to take the check from me, so she asked me to bring it to her. She did not want to walk to the front door, so she buzzed me in, and had me hand it to her at her apartment door. She gave me a bunch of ripe bananas, to make banana bread with. She did not report any violation of protective order for these events.
6. I am planning to file a civil tort against her for "Malicious Prosecution," since she made a frivolous report of a violation of protective order that was dismissed at the preliminary examination hearing. I was charged with "having written several emails that did not pertain to the child under a protective order that limits emails to only those pertaining to the child". The emails submitted in evidence did pertain to the child, and most importantly, the protective order did not limit the subject matter of that *written* communication. Additionally, I was charged with 9 counts of "text messages not pertaining to child visitation," despite the facts (*a*) that the text messages she submitted in evidence were cherry-picked and taken out of the context of an ongoing two-way conversation, and (*b*) that via voicemail, she had *explicitly invited* recontact via each of voicemail, text message, or email, and (*c*) that the Bar Association defines "written" as any written *or recorded* communication... Using a trivial distinction between a "text message" and an "email" as grounds for a complaint alleging a violation of protective order is abuse of authority and harassment.
7. Her statements alleging that I "would not give her access to our son" and that I was in jail for "violating the protective order" amount to "Criminal Defamation," defined in Utah Code 76-9-404.

D. It was improper for the DCFS workers to have diregarded evidence demonstrating criminal negligence and harm to a child on the part of his mother, the petitioner. "Reasonable discipline" spankings do not cause nosebleeds. There is additional DCFS misfeasance in failing to reply to my enquiries, in failing to log the evidence photographs and emails, and in failing to provide me with the promised top-copy of the CPS Safety Agreement.

E. These things have very potentially placed my son in danger of harm from his mother. I am the most concerned with petitioner's use of deceptive, false, and misleading representation of fact. I am next most concerned with the misrepresentation of facts perpetrated by the CPS worker. There was clear evidence of criminally negligent harm to our son perpetrated by his mother. It was improper for the CPS worker to excuse it.

F. Given the character of the petitioner's observed behavior, and the mannerisms our son displays upon seeing her—that he runs away from her and hides behind me for safety—a clear sign of abuse being perpetrated out of public sight is evident.

G. I believe that the petitioner has been and is using the 'protective order' for an improper purpose. She has used it to harass and intimidate me. She has invoked it for petty complaints involving attempted mutual communication... and *both times there was any physical proximity, she told police that she did not feel threatened or endangered*.
   1. I believe she is using it to try and take full custody of our son. It is reasonably clear from the evidence that I am the parent he will prefer to live with, of his own choice. I accept and support that choice.

H. This can affect people's opinion of me.This set of circumstances quite potentially affects other people's perceptions of my personal character.
   1. Again, nobody asked me for my side of the story, perhaps due to 'Miranda' issues...
   2. Evidence which was both exculpatory and supportive of a counter-complaint that I literally handed to the police and deputy district attorney was not fairly taken into consideration. It was conspicuously absent from the 'information' and 'discovery'.
   3. The Utah BCI information does not carry enough detail for the potential employer to know much of anything aside from my own unverified word to them regarding the alleged *actus reus*. The report has me, on the upper right of the printout, as a 'Domestic violence offender', and then just below it, as a 'multi-state offender'. However, I have no criminal record in any states but Oregon and Utah. The ones in Oregon are for non-violent misdemeanor criminal tresspassing; and, as stated above and in related documents, the 'convictions' here for 'domestic violence' are bogus, coerced via oppressive pretrial incarceration. I assert that in no case was there sufficient evidence for conviction by a jury trial. They did not accord me with a timely preliminary examination hearing in any of them, including the alleged "attempted assault of a pregnant person" from July, 2009. Yet a 'conviction' remains on my record.
   4. Many employers will perform a criminal background check, and presume that the court made the correct decision at a fair trial. Many will not hire 'violence' offenders.

VI. "§78B-7-115(1)(e) Impact on the well-being of any minor children of the parties."

A. Because his mother refuses to share any of the SSDI dependant benefit money she is payee for, and because she has so far paid zero child support or daddy-day-care expenses, we have not been able to afford to eat as well as I'd like, to buy a decent bicycle for him with pedals that's not so heavy it's like trying to pedal a motorcycle, to go to the swimming pool, to take swimming lessons, to enter in soccer league, or to go up and learn to ski.[38]

B. Her acrimonious and disparaging remarks towards me in front of our son are not good. I remember what that's like. My parents got a divorce when I was 5. He'll be Ok, but I know he does not like to hear her say those things. It is expressly forbidden by the 'mutual decency order' that she has stipulated to twice now in the Parentage case (094903235), each time through her attorney-of-record at the time—by Joseph Orifici on January 13, 2011, and later by Sharia Yancey, on August 22, 2012. I asked for the court

38. In this region especially, the ability to ski is a job skill. My mother and father both taught ski lessons. When I was a baby, they carried me and my little sister on their backs in Gerry child-carrier packs while they taught ski lessons on the weekends to help pay for living expenses while attending university.

to find her in contempt when S. Yancey was her attorney, but she wangled out of it by restipulating a "renegotiated" agreement. I did not entirely agree with the wording, and tried to communicate with her attorney in email about, but she refused to negotiate. It's not really a "stipulation" but whatever; I'm not the one who... Yeah.

C. Her abusive treatment of our son is very concerning to me. She spanks him in front of me. She hauls him out the door by one arm while he tries to get away. She carries him to the car upside down while he shouts for me to come get him or says he wants another hug from me so that I'll carry him since I handle him with respect. She is traumatizing our son.

D. Our son is upset when I am put in jail. He becomes visibly upset at the thought of his father being put into jail, or the thought of not getting to come see me again soon. **I've done nothing serious enough to warrant being jailed for it. Jails are for people who are actually dangerous. Protective orders are supposedly to protect against people who are actually dangerous.**

   1. Putting a man in jail for attempting to "use his words", with no evidence to suggest any threat of actual violence, *per se*, is inexcusable. **Our son's right to be raised by his own father must certainly outweigh the alleged need of the petitioner for 'protection' against text messages from her son's father.** It's already illegal to commit assault, battery, perjury, fraud, or contempt of court. Who will be the judge of that?
   2. The standard of proof and burden of proof was not met when this thing was issued. I believe these 'protective orders' are rarely used for their supposed 'protective' purpose. I bet most men are not honestly dangerous to most holders of 'protective' orders. It is counter-instinctual to beat up your mate.
   3. His need for his father outweighs any alleged need his mother claims to have to be 'protected' from benign and goal-directed child-related SMS messages. She's only using it to "close the channel" and avoid communicating about money and things like that. It can not be good for our child to witness that example.
   4. The cruelest thing she can do to our son is to take me away from him.
   5. *My son runs away from her, to the safety of his father.* What does that say?

Further affiant saith not... *Pax et bonum,*

Karl Martin Hegbloom, Esq.

I, the undersigned Notary Public, do hereby affirm that Karl Martin Hegbloom personally appeared before me on the ___ day of _____ and signed the above Affidavit as his free and voluntary act and deed.

Notary Public

A Observations regarding court "of record"

This exhibit is optional reading that is less pertinent to dismissal of the protective order.

During the course of gathering the timeline and evidence for all of this, I learned a few things about the records kept by the courts and law enforcement.

I. The "eXchange" web interface, which allows simple access to the court's records, is insufficient to easily answer certain questions. I do not know whether or not its underlying database structure and DBMS software are sufficient. I have not analyzed whether or not the present system honestly meets the expectations of "any reasonable (tech savy modern) person" in the context of whether it meets constitutional and statutory requirements.

A. For example, I would like to know things like "what percentage of the cases heard by a court commissioner, where a party has submitted either a motion for formal evidentiary hearing or an objection to the commissioners recommendation as per U.R.Cv.P. rule 108, are ever actually taken to a hearing before a judge?"

1. Because a *cross examination*, inherently can not be part of the *a priori* written pleadings, that hearing is an essential element of the *due process of law* guaranteed by our Constitution when *substantial liberty or property interests* are at stake.

2. That makes this an important question to an auditor or researcher. Therefore the court record keeping system should be opened for (read-only) database queries that could help answer this question, among others.

B. Another set of interesting questions pertinent to a civil rights violation suit and the remedies sought within it, which could concievably be answered by the use of a combination of the court's as well as the law enforcement agency's record keeping systems, is:

1. How many requests for protective orders are submitted with sufficient evidence to support the requirements of URCvP rule 11(b)(3)? (Without presuming that because no appeal was ~~sought~~ brought, the court made a correct determination.)

2. How many RPO are met with filed Answers per URCvP rule 7, and of those, how many present sufficient evidence to support the requirements of URCvP rule 11(b)(4)?

3. What are the statistics regarding adequate representation of counsel, corelated to the reported economic status of the litigants? (For example, is it true that the majority of low-income respondent's to RPO's are not offered, nor do they obtain, *pro bono* attorneys, but quite often the petitioner's are accorded this right? (Despite the obvious and *substantial liberty or property interests* involved?)

4. What is the socio-economic and career-type breakdown of the litigants? People in some kinds of jobs, or who are raised in certain neighborhoods, will likely have an advantage when faced with litigation. Statistically, does that factor appear to affect the outcome of the "DV witch hunt?"[39]

5. How many protective orders result in allegations of violations of protective order? Of those, how many are unlawful, similar to my experience?

6. What is the categorical breakdown (histogram) of which clauses of the PO are alleged to have been violated?

7. How many of those alleged VPO involve actual violence, *per se*? For these cases, what are the time frame statistics between report, investigation, and arrest?

8. How many *did not* involve actual violence *per se* (at least not on the part of the alleged violator)? For these cases, in how many were arrest warrants issued, vs citations or summons to appear? On what grounds was that decision made, and by whom? What are the time frame statistics between report, investigation, and arrest for this category?

9. What was the level of and extent of police *investigations* into not only the alleged VPO, but into any extenuating and mitigating circumstances, not solely restricted to but certainly emphasizing that which is exculpatory in nature?

   a) In other words, does the record show evidence of *due process of law in the context of a presumption of innocence*? This begs the question: What is the Standard of Care any reasonable person would expect, given a US Public School education?

10. How often are complaints of violation of Utah Code 78B-7-115(3), *"The court shall enter sanctions against either party if the court determines that either party acted: (a) with bad faith or (b) with intent to harass or intimidate either party"*, or of Utah Code 76-8-502, *Felony 2 Perjury*, made in the context of Cohabitant Abuse Act Protective Orders? How often are those complaints taken seriously, and actually investigated? Of those, on how many does anyone other than the respondent actually face charges? How often is abuse of discretion or misprison of felony by court officers actually punished?

11. What are the statistics for pre-trial incarcerations, in terms of length of incarceration, «convictions» based upon plea «agreements», corelated to incidence and non-incidence of actual violence *per se*?

12. Do those arrests or plea «agreements» tend to cluster around certain parts of the

39. Does "begging the question" fly when you're a lawyer, but not when you're *pro se*? Nobody here but us Wiccans? Or is dey Wiggeros? Sho, you had 'ta be dair. Neva mind, suh; I'll tell you later, if our circles are still round.

calendar? (Such as just before Thanksgiving or Christmas, or shortly before or after the LDA courtroom assignment rotation?)

C. I have not had time to attempt to performed an in-depth analysis because raising my son is more important to me than raging against the champerty and maintenance department's misfeasance.

D. It seems very likely, in my opinion, that the record keeping system has other serious deficiencies which need to be addressed. There are many questions that would be difficult for an auditor or researcher to answer, given the present state of affairs.

1. For example, the name of the detective who appeared at the much belated preliminary examination hearing of July 12, 2012 was not recorded correctly. An attempt to audit the court records to find all of the hearings he appeared at would not yield accurate resul

II. The statutes require a "state wide domestic violence database". That database does not appear to be kept appropriately in sync with the actual protective orders themselves, in terms of modifications made to those protective orders during court proceedings.

Certificate of Mailing

I certify that a true and correct copy of the foregoing:

Motion of Respondent
to Dismiss Protective Order

was mailed to:

Kasey D. MacRae
309 East 100 South, Apt 211
Salt Lake City, UT 84111
Petitioner, appearing pro se.

This document was mailed on _____.

Karl Martin Hegbloom, Esq.

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Petitioner of 094903235 CS,
Respondent and Appellant in 104906439 PO,
Defendant and Appellant in the four VPO,
Proceeding *pro se*.

This document contains
Private information.

IN THE THIRD JUDICIAL DISTRICT COURT, SALT LAKE COUNTY, STATE OF UTAH
Third District Court, 450 South State Street, Salt Lake City, Utah 84114

Kasey MacRae, Petitioner, Complainant, vs. Karl Martin Hegbloom, Respondent, Defendant, Appellant.	Errata and Addendum for Affidavit 'Motion of Respondent to Dismiss Protective Order' Civil Cases: **104906439 PO** 094903235 CS Crim. Cases: 111902257, 111903279 111903495, 111905405 Civil Judge: T. Shaughnessy Crim. Judge: D. Lindberg Commissioner: M. Blomquist

Pax Domine, here appears Karl Martin Hegbloom, Respondent *pro se*, with this ERRATA AND ADDENDUM FOR 'MOTION OF RESPONDENT TO DISMISS PROTECTIVE ORDER'. Upon re-reading the document filed February 25, 2015, I am finding several minor errors and omissions worthy of mention in an errata document.

I. Throughout the document, I refer to evidence on a disc. Some of the items referred to are not actually on the disc supplied with my initial filing because the entire set of evidence is approximately 12GB in size, whereas a single-layer DVD can hold only about 4GB. The entire set of over 1500 files will fill 3 single-layer DVD's. I did not want to overwhelm the court with more evidence than is strictly necessary, available time being valuable and finite.

II. The supplied disc has over 800 files in the 'evidence' subdirectory and I found that it takes quite a long time to display the filesystem directory from the DVD, since it's a relatively slow storage media. I suggest copying the files once from DVD into a (temporary) subdirectory on a hard-drive or onto a USB 'stick' to facilitate faster access during the evidence review process.

III. The PDF versions of these documents are also on the disc. I was pressed for time and did not fix all of the hyperlinks inside of them to point into the 'evidence' subdirectory that I created so that the documents themselves would not be buried under all of the other files.

IV. The remainder of the evidence files, including the full length video from December 10, 2010, mp3 audio of the voicemails, and many more audio recordings of child exchange meetings are securely archived in multiple custody. I can also easily create a full set of DVDs.

V. I make mention of a document that I had planned to file at the same time as the motion to dismiss and the two filed in the parentage case. It is still not finished. I will try to have it completed and filed by March 9, 2015. It is addressed more to the court than to the petitioner, so it should not affect the briefing schedule for the motion to dismiss.

VI. If the petitioner or the court requires more time, given the length of my motion with affidavit and the quantity of evidence, I am easily willing to extend the briefing schedule by two weeks to accomodate that.

VII. In the chapter '§78B-7-115 Dismissal of Protective Order':

A. Item IV.E., to his credit, it was actually the LDA, Isaac McDougall, during a private post-hearing lawyer-client conference, who asked me whether I'd been given a preliminary examination hearing. I had not been. I did not know very much about this yet. He said that if I wanted that, I'd have to sign a 'waiver of speedy trial' and then he'd schedule one. I signed the waiver of speedy trial, and a preliminary hearing was finally scheduled.

1. That hearing was held on July 12, 2011, for the first three warrants. I was not given a preliminary examination hearing for the fourth warrant, however, despite prompting him, through letters written from jail, and through calls to his secretary from jail, to assert my right to one. When I moved to dismiss due to unreasonable and unconstitutional delay, the judge rejected it, having come directly from me, and wanted him to review it first; he literally threw it on the floor, and they put me back in jail for another week. I think that's when I wrote the letter to the deputy DA authorizing the "plea agreement". The thought I had when I wrote that letter was to get rid of the convictions later using the post-conviction remedies act.

2. I did *not* ask for the move for 'mental health court' during 111905405; when he did that, it was against my explicit request that he assert my right to a preliminary examination hearing,

3. ... followed by an interlocutory, if necessary, to determine whether 'SMS ≡ email ≡ voicemail', since that would render the *actus reus* charged in 111905405 to **not** be violations of any 'protective' order. Under Utah Code §76-1-601(13) «"Writing" or "written" includes...» it's clear that all of those are "written"... as were the letters that I wrote to the attorneys regarding these issues. (They are on the disc.)

4. An order that allows one form of written communication may as well allow them all. A note sent home with a child does not violate a protective order unless it contains threats of harm. Neither does a text message telling the other parent of a last-minute change

of child-exchange rendevous location, or one saying "we're alright, just an hour late getting back from the treacherous fresh snow avalanche zone mountain craggs where we went skiing today". It would be imoral to *not* communicate under the circumstances. She wants groceries, sends an SMS, I go shopping, when I don't buy diet coke, she calls the cops...

5. It was ludicrous to put me in jail for mere "attempted communication", while ignoring exculpatory evidence and evidence of a counter-complaint... all of which I literally handed to the police detective... That evidence demonstrated at least *volenti non fit injuria*, and that the communication was benign and mostly necessary.

6. In what way was justice done by locking me up in jail cells with people with communicable diseases and violent behaviors for having "written several emails not pertaining to the child under a protective order that allows email only pertaining to the child", or for walking past her building, on the same sidewalk as she called me to when she wanted me to go to the grocery store for her, where in the police report it says she stated that "she did not feel threatened or endangered"? Utah Code §78B-7-102(1) «"Abuse" means [...] in reasonable fear of imminent physical harm»[1]; §78B-7-103 «Abuse or danger of abuse...»; §77-36-1(4) «"Domestic violence" [...] involving violence or physical harm or threat of violence or physical harm...» But that "she did not feel threatened or endangered" is in the police reports from rule 16 discovery in both of the cases where there was any physical proximity; and they had that before they asked for a warrant, yet in the 'information' and 'affidavit of probable cause' there is no mention of obvious exculpatory evidence; they only mention evidence that supports their claim for a warrant, but do so knowing that the charges really have no merit or solid legal standing at all, especially given that impeaching and exculpatory evidence. No reasonable person would find the thing I did to be 'criminal'. What will they think of what the officials did?

7. The detectives and prosecutors did not supply sufficient evidence to prove that I might be a flight risk. Then, the court failed to take notice of evidence demonstrating that I was *not* a flight-risk. That denied my right to be heard, by failing to fully read the letter to court that turned out to not have been *ex parte*. (Cc:, Bcc:) The letter also explained how imprisonment prevented discovery of evidence necessary to my defense.

8. I'm not seeing a threat of violence *from me*, but certainly see a threat *to me*. I have been in *reasonable fear* of another false imprisonment, forced 'confession' and pretrial incarceration based on incomplete evidence lacking impeaching and exculpatory evidence known to the prosecutor who then failed to disclose it and further, failed to ensure that I be accorded with a consitutionally guaranteed preliminary examination hearing no later than 10 days from the date of arrest. The charges had no merit and they used jailing me on $100000 bail to coerce plea "agreements" to other charges that likewise had no merit and were not violations of the 'protective order'.

1. «In law, a **reasonable person** (historically **reasonable man**) is a composite of a relevant community's judgment as to how a typical member of said community should behave in situations that might pose a threat of harm (through action or inaction) to the public.» "Reasonable person", Wikipedia, the free encyclopedia 2015-03-04, at article intro.

9. Because it had already been determined that the 'protective order' allowed email, a form of electronically transmitted written communication, I assert that it thereby also allowed voicemail and SMS, since they also fit the legal definition of "written" and are also electronically transmitted. The *necessity* for last-minute realtime communication, such as SMS, is inherent in the co-parenting of our son. A reasonable person will find the trivial distinction between SMS and email to be unjustified, and thereby the charges against me unjustified.

10. It was unrighteous to have me imprisoned for having written an SMS that *did* pertain to our son while ignoring all of the SMS from her participation in many conversations.

11. She has no right to 'protection' from this, at State expense. There is no legitimate state interest in imprisoning me for participation in benign texting conversations that she carried onward in and often initiated.

12. Her token complaints regarding how I'm supposedly violating the protective order, though threatening, are overborn by her continued participation in the conversations; in her repeated initiation of conversation and of in-person visits inside of my home.

13. Nobody reading the text messages is going to find anything like a threat coming from me. My intent is to communicate with my son's mother. That is protected communication by rights retained by the people. I assume responsibility for *what* I say and *how* I say it.

B. Item II.B.7.a), when I think about it, I think that Officer S. Wihongi hadn't really "missed the point" but was instead "begging the question" so that *I* would not miss the point. Spanking isn't illegal, but spanking does not cause injury, especially to the nose.

VIII. Other missing or newly discovered information worthy of notice:

A. On 2015–02-18 I found an email from DCFS dated 2014-09-16 that I had not noticed because it was buried under way too much 'spam'. I found it while clearing my inbox during the first week with enough time all in one day to do that since my son was born… In that email,[2] I am told that there's been "another" complaint about Kasey; that the worker knows that our son stays with me during the day; and wondering if I "have any concerns". Right after I found it, I wrote to them about it. Interestingly, our son shows fear of her around that time:

```
% ls 2014-{08,09}*
2014-08-08-20-00-09_Audio_HQ_Kasey_here_to_get_Kody_he_runs_away_wants_to_stay_with_me.flac
2014-09-11_20120264-CA_Hegbloom20140911.pdf
2014-09-15-17-11-16_HQ_Audio_Kasey_here_to_get_Kody_causes_serious_distress.ogg
2014-09-16_TL_Email_from_DCFS_that_I_found_buried_in_spam_on_2015-02-18.txt
```

I wish I'd found that email then and replied right away.

2. 2015-02-18-16-07_2015-02-19-04-24_Email_with_DCFSintake_re_email_of_2014-09-16_that_I_missed.pdf

B. I received a letter on 2015-02-25 from DCFS denying a GRAMA request asking for documentation for all complaints made against petitioner, Ms. MacRae. They denied my records request based on §63G-2-202. I just scanned it and added it to the evidence folder on the 2nd of March, so it wasn't there when I made the disc.

1. The letter lists 10 DCFS CPS case numbers: 1714975, 1758344, 1762599, 1772996, 1787638, 1787964, 1791765, 1986414, 1986619, and 2092924.

2. Since *I've* only called them twice, and was told each time that the thing I'd told them might not cause them to make a *record* of it, that means that *at least 7* of those complaints came from other people whom I do not know. One of them, the 'nose bonk', was certainly reported by either Ms. MacRae's sister or mother, after I sent an email, with photos attached, cc'd to both of them regarding our son's severely bruised nose. (He couldn't breathe through one side and it was very swollen; spanking doesn't cause that.)

3. That means that her neighbors and others have called DCFS with concerns for our son. Those people are people I don't know and couldn't have caused to phone DCFS; they did so at their own initiative. The information regarding who made the complaints is privileged. I believe that only an official police investigator has the legal authority to find that out. The subject of the complaints is allowed to retrieve redacted versions from DCFS. I am not the subject of nor the reporter of those complaints, and thus have no legal right to retrieve them.

Signed _____,

Karl Martin Hegbloom, Esq.

Certificate of Mailing

I certify that a true and correct copy of the foregoing:

Errata and Addendum for
'Motion of Respondent
to Dismiss Protective Order'

was mailed to:

Kasey MacRae
309 East 100 South, Apt 211
Salt Lake City, UT 84111
Petitioner, appearing pro se.

This document was mailed on _____.

Karl Martin Hegbloom, Esq.

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Respondent 104906439 PO
Defendant and Appellant for the FS VPO
Petitioner for 094903235 CS
Proceeding *pro se*.

IN THE THIRD JUDICIAL DISTRICT COURT, SALT LAKE COUNTY, STATE OF UTAH
Third District Court, 450 South State Street, Salt Lake City, Utah 84114

Kasey Diane MacRae, Petitioner, Complainant, vs. Karl Martin Hegbloom, Respondent, Defendant, Appellant.	Petition of Respondent for Writ of Error Coram Nobis Civil Cases: **104906439 PO** 094903235 CS Criminal Cases: 091908046, 111902257, **111903279,** 111903495, 111905405, 141905361 Tier: 2 (Court of Equity) Civil Judge: P. Petersen Criminal Judge: M. Kouris Commissioner: M. Blomquist

Pax Domine, before you now appeareth KARL MARTIN HEGBLOOM, ESQ. with this PETITION FOR A WRIT OF ERROR CORAM NOBIS,[1] which serveth also as a suppelmental brief—or MEMORANDUM OF POINTS AND AUTHORITIES if you prefer—to a PETITION FOR RELIEF UNDER THE POST-CONVICTION REMEDIES ACT.[2] A rose is yet a rose, if by but a nose, and by any other name. *Intentio mea imponit nomen operi meo.* I shall presume that 'that which calls itself *justice*'[3] really *is justice* as 'goodness and equity for peace among us all' intends it;[4] that is to say, *is not apostate to or mocking of substantial Justice itself.*

1. Thornton, W. W., "Coram Nobis Et Coram Vobis" (1930) V:9 Indiana Law Journal.

2. State v. Rees (2003), 63 P.3d 120 (Utah Court of Appeals), State v. Rees (2005), 125 P.3d 874 (Utah Sup. Ct.).

3. Here I intend to be, satirically, alluding to a phrase often spoken by the characters from "The Village" (2004 film). I highly recommend watching it; Also see: Solzhenitsyn, Aleksandr I., The Gulag Archipelago: 3 Volumes, First Edition (Harper & Row, Publishers, 1974). (I was kept away from reading it—the abridged version from our high school library—by my preference for science fiction; so see: Asimov, Isaac, The Currents of Space.) You don't *have* to read all those; reading something brief *about* them should suffice for *this* purpose, right?

4. See: "Maxims of Equity" and "Bill of Peace", Wikipedia the free encyclopedia; (Not to be confused with boiled pleas, but goes well with juiced peas.) [I'm given to believe that in Dutch, "just" is pronounced "joost", so that jab's a pun; 'boiled pleas' here links to "Trial by Ordeal", at Wikipedia.]

Fiat justitia... ruat caelum...
Rats in the ceiling? If you see one rat, there's probably 20 more you don't see.
I'm about to show you several and signs of a few more.
Est autem vis legem simulans.
I shall also presume that when I submit a document such as this one to the court, that it will be viewed as more than a mere fancy peice of paper.
Attention to Detail.[5]

Table of contents

Legal Heading and Intro 1

1 Constitution, Statutes, and Rules for notice 4

1.1 Constitution 5
1.2 United States Code federal statutes 5
1.3 Utah Code state statutes 6
1.4 Utah Rules of Procedure and Evidence 7
1.5 Utah Judicial Counsel Rules of Judicial Administration 7
1.5.1 Ch 13 Rules of Professional Conduct 7

2 On Mootness or Laches 8

3 Right to confrontation 21

4 The Protective Order & the Several Warrants 47

4.1 094903235: Parentage, Custody, and Support 52
4.2 091908046: Alleged 'assault of a pregnant person' 54
4.3 094903343: Protective order, Hegbloom v. MacRae 56
4.4 101414961, 101414998: DV of December, 10, 2010 57
4.4.1 101414961: DV, Salt Lake City v. Kasey D. MacRae 58
4.4.2 101414998: DV, Salt Lake City v. Karl M. Hegbloom 59
4.5 104906439: Protective order, MacRae v. Hegbloom 60
List of some of Kasey MacRae's crimes 63
4.6 111902257: VPO, "Several emails" 64
4.7 111903279: VPO, "walk by hellooing" 65

5. http://hr.od.nih.gov/workingatnih/competencies/core/attentiondetail.htm

4.8 111903495: VPO, "clown banana bread delivery & 8 SMS" 66
4.8.1 Much belated preliminary examination hearing on first three warrants . . 68
4.9 111905405: VPO, "SMS re child & call from unknown" 69
4.9.1 What led up to this 69
4.9.2 Arraignment or scheduling conference? of August 26, 2011 77
4.9.3 We ask for bail reduction or waiver in 111905405. 80
List of crimes committed by Roger Blaylock 82
Minutes modified re "Mental Health Court" 84
4.9.4 I ask to address the court 88
4.9.5 Hearing ended, no right to imprison 92
4.9.6 First protective order modification hearing, Aug. 30, 2011 98
4.9.7 Second scheduling conference, Sept. 9, 2011 103
4.9.8 Second protective order modification hearing, Sept. 13, 2011 107
4.9.9 Third protective order modification hearing, Sept. 27, 2011 109
4.9.10 Final protective order modification hearing, Oct. 11, 2011 111
Another list of crimes committed by court officers 115
4.9.11 Second part of the modification hearing 125
4.9.12 Third scheduling conference, Oct. 21, 2011 127
4.9.13 Charges dismissed, 'Sery' plea 130
4.10 141905361: VPO, "bee-poop dee-doop SMS from library" 130
4.11 The saga continues 132

5 Cohabitant Abuse Act Unconstitutionality 133

6 Suggestions and relief sought 143

Signature and Notarization. 144

Exhibit A Maxims of Law and Equity 146

Exhibit B Journal page confessing to attempted entrapment 147

Exhibit C 'Affidavit of Probable Cause', 111902257 148

Exhibit D 'Affidavit of Probable Cause', 111903279 149

Exhibit E 'Affidavit of Probable Cause', 111903495 150

Exhibit F 'Affidavit of Probable Cause', 111905405 151

Exhibit G A rose is a rose is a rose... 152

Si quis custos fraudem pupillo fecerit, a tuela removendus est.
Jus et fradem numquam cohabitant. Fraus est celare fraudem.

1 Constitution, Statutes, and Rules for notice

Ex facto jus oritur. Facultas probationum non est angustanda. Ignorantia judicis est calamitas innocentis. Fraus est celare fraudem. In maleficio ratihabitio mandato comparatur. Idem est facere, et nolle prohibere cum possis. Qui facit per alium facit per se. Frustr est potentia quae numcquam venit in actum. Impunitas continuum affectum tribuit delinquenti. Fiat justitia, et pereat mundus.[6]

1.¶1 I am petitioning for relief under the Utah Postconviction Remedies Act, per §78B-9-104(1)(a) «the conviction was obtained [...] in violation of the [...] Utah Constitution»[7]; §78B-9-104(1)(b) «the conviction was obtained [...] under a statute that is in violation of the [...] Utah Constitution, [and] the conduct for which petitioner was prosecuted is constitutionally protected»; §78B-9-104(1)(d) «the petitioner had ineffective assistance of counsel[8] in violation of the [...] Utah Constitution»; §78B-9-104(1)(f)(*i*) «the petitioner can prove entitlement to relief under a rule announced by the [...] Utah Supreme Court [...] after conviction and sentence became final on direct appeal, and that: (*i*) the rule was dictated by precedent existing at the time the petitioner's conviction or sentence became final».[9] §78B-9-106(3) is pertinent to 'due process clause' claims I shall make regarding

6. The law arises from the facts. The faculty or right of offering proof is not to be narrowed. The ignorance of the judge is the misfortune of the innocent. It is a fraud to conceal a fraud. He who ratifies a bad action is considered as having ordered it. It is the same thing to act and to refuse to prohibit when you can. She who acts through another does the act herself. The power which never comes to be exercised is vain. Impunity offers a continual bait to a delinquent. Let there be justice, or the world shall perish. (So many rats in the ceiling that it will fall and you'll see the sky through what used to be the roof of a courthouse; nothing to eat now but moondust.)

7. Although I will focus primarily upon the Utah Constitution, I feel certain that if something is in violation of the Utah Constitution, then is is very likely to also be in violation of the United States Constitution through similar arguments. Most of the provisions of the Utah Constitution exist almost verbatim within the federal constitution. Perhaps UC Title VI Sec. 26 can be construed in terms of "bill of attainder" or "letter of marque and reprisal". I think that in this context, 'bills of attainder' is sort of a subclass of 'private laws'.

8. The Court has considered Sixth Amendment claims based on actual or constructive denial of the assistance of counsel altogether, as well as claims based on state interference with the ability of counsel to render effective assistance to the accused. *E.g.*, *United States v. Cronic*, 466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed.2d 657, *United States v. Cueto* (1982), 563 F. Supp. 18, 19 (US Dist. Court, WD Oklahoma) «[...] movant asserts that he was denied effective assistance of counsel in violation of his Sixth Amendment rights. The rule in this circuit was formerly that no such violation could be found unless it could be said that the trial was a farce, a sham or pretense, a mockery of justice, shocking to the conscience of the court or that the representation was in bad faith or without adequate opportunity for conference or preparation. *See Johnson v. United States,* 485 F. 2d 240 (10th Cir. 1973). In *Dyer v. Crisp,* 613 F. 2d 275 (10th Cir. 1980), *cert. denied,* 445 U.S. 945, 100 S. Ct. 1342, 63 L. Ed. 2d 779, the previous standard was abandoned in favor of the test of whether counsel exercised "the skill, judgment and diligence of a reasonably competent defense attorney." Cases following *Dyer v. Crisp, supra,* have held that ineffectiveness of counsel may be established when circumstances hamper an attorney's preparation of a defendant's case, without the necessity of showing particular errors in the conduct of the defense. *See United States v. King,* 664 F. 2d 1171 (10th Cir. 1981); *United States v. Golub,* 638 F. 2d 185 (10th Cir. 1980); *United States v. Cronic,* 675 F. 2d 1126 (10th Cir. 1982).»

9. See: *State v. Hernandez* (2011), 268 P. 3d 822 (Utah Supreme Court), holding that a preliminary examination hearing must be provided for class A misdemeanors as well as felonies. It is based upon very old precedent, from the pre-statehood common law of the Utah Territory. The statement in footnote 3 of the 'amended opinion' does not provide a very defnite statement. There is no indication of when that amendment was issued. The reasoning

the 'alleged violations of protective order' criminal trial proceedings.[10]

1.1 Constitution

1.1.¶1 Please take notice of Utah Constitution Article I, Section 1 «Inherent and inalienable rights»; Article I, Section 7 «Due process of law»; Article I, Section 9 «Excessive bail and fines — Cruel punishments»; Article I, Section 10 «Trial by jury»; Article I, Section 11 «Courts open — Redress of injuries»; Article I, Section 12 «Rights of accused persons», including «*the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof , [...] the right to appeal in* ***all*** *cases, [...] the defendant is [...] entitled to a preliminary examination, the function of that examination is limited to determining whether probable cause exists*»; Article I, Section 18 «Attainder...»; Article I, Section 24 «Uniform operation of laws»; Article I, Section 25 «Rights retained by people»; Article I, Section 26 «Provisions mandatory and prohibitory»; Article I, Section 27 «Fundamental Rights»; Article VI, Section 26 «Private laws forbidden»; Article VIII, Section 4 «Rulemaking power of Supreme Court...» (court 'rules of procedure' *are laws*); and Article VIII, Section 16 «Public prosecutors».

1.2 United States Code federal statutes

1.2.¶1 Notice Title 18 U.S.C. §241 «Conspiracy against rights»; Title 18 U.S.C. §242 «Deprivation of rights under color of law»; Title 18 U.S.C. §3 «Accessory after the fact»; 18 U.S.C. Title 3161 «Time limits and exclusions» (speedy trial); Title 42 U.S.C. §1983 «Civil action for deprivation of rights»; Title 42 U.S.C. §1985 «Conspiracy to interfere with civil rights»; Title 42 U.S.C. §1986 «Action for neglect to prevent»; Title 42 U.S.C. §1988 «Proceedings in vindication of civil rights»; and Title 42 U.S.C. §14141 «... unlawful for any governmental authority [...] to engage in a pattern or practice of conduct [...] that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States».

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behind it is unstated, not supported by citation of caselaw, since there are no caselaw citations within it, and thereby unclear. It is also in conflict with the reasoning behind the court decision itself, particularly when there is pretrial incarceration leading up to the entry of a plea 'agreement'. I challenge its origin, and its validity within the context of my particular (and likely commonly occurring) circumstances, especially with regards to case 091908046, the alleged "attempted assault of pregnant person". *Fiat justitia ruat caelum.*

10. In *Pinder v. State*, 2015 UT 56 (UT Sup. Ct., 21 July 2015) at ¶42 it was held that the state's use of "at trial" applies to all proceedings before the court, as limiting it to 'opening argument to verdict' in the criminal trial would create "loopholes" and expand the opportunities to seek relief, which is very unlikely what the legislature intended. Applying here, the court held that Pinder's due process claims of false testimony and evidence were barred as he knew about these claims and did not raise them at trial or in his new trial motion, and *Pinder failed to plead any facts demonstrating that common law exceptions to the bar apply here*. «See, e.g., *State v. Barela*, 2015 UT 22, §§ 42-44, 349 P.3d 676 (choosing a construction of statutory text on grounds that the alternative would produce anomolies that can not be attributed to the legislature).» *Pinder*, ¶42, fn.11.

1.3 Utah Code state statutes

1.3.¶1 From the Utah Code[11] notice §68-3-1 «Common law adopted»; §68-3-2 «Statutes in derogation of common law not strictly construed — Rules of equity prevail»[12]; §76-1-104 «Purposes and principles of construction»; §76-1-106 «Strict construction rule not applicable»; §76-2-102 «Culpable mental state required — Strict liability»; §76-2-304 «Ignorance or mistake of fact...»; §77-36-2.4 «Violation of protective orders...»[13]; §78B-7-102(1) «"Abuse" *means [...] in reasonable fear of imminent physical harm*»[14]; §78B-7-103 «Abuse or danger of abuse...»; §77-36-1(4) «"Domestic violence" *[...] involving violence or physical harm or threat of violence or physical harm...*», §76-9-404 «*criminal defamation*»; §77-36-1(4)(e); §77-36-2.6(1) «*A defendant ... arrested for ... domestic violence shall appear ... within one judicial day ...*»; §76-5-109(3) «*... inflicts upon a child physical injury ...*»; §76-5-109.1 «*... domestic violence in the presense of a child*»; §76-9-201 «Electronic communications harassment»[15]; §78B-7-107(1)(f) «... judge shall hold a hearing ...»; §76-1-601(13) «"Writing" or "written" includes...»; §76-8-501(1) «"Material" means...»; §76-8-502 «False or inconsistent material statements» (felony perjury); §78B-7-105(1)(b)(*i*) mandating that the state-provided fill-out forms present «*a statement notifying the petitioner [...] that knowing falsification of any statement or information provided for the purpose of obtaining a protective order may subject the petitioner to felony prosecution.*»; §76-2-202 «*... intentionally aids another person to engage in conduct which constitutes an offense shall be criminally liable as a party for such conduct*», §76-8-306 «Obstruction of justice...», in particular, see §76-8-306(1)(d), and §76-8-306(1)(j); §78B-6-301 «Acts and omissions constituting contempt», in particular, see §78B-6-301(3), §78B-6-301(4), §78B-6-301(9), and §78B-6-301(9); §76-8-201 «Official misconduct...», «*... knowingly refrains from performing a duty imposed*

11. All references to Utah Code in this document are to the 'non-annotated' version published on the Utah Legislature web site, accessed as of writing, from May 2014 through May 2015.

12. See also: Edlin, Douglas E. "Judges and Unjust Laws: Common Law Constitutionalism and the Foundations of Judicial Review." University of Michigan Press, 2008.

13. Notice that §77-36-2.4 does *not* mention 'strict liability'.

14. «In law, a **reasonable person** (historically **reasonable man**) is a composite of a relevant community's judgment as to how a typical member of said community should behave in situations that might pose a threat of harm (through action or inaction) to the public.» "Reasonable person", Wikipedia, the free encyclopedia 2015-03-04, at article intro.

15. I assert that 'any reasonable person' will most likely find that due to the interactions between §68-3-1, §68-3-2, §76-1-104, and §76-1-106, the common law doctrines of *volenti non fit injuria* and *ex turpi causa non oritur actio* must be applied whenever there is an accusation of, *e.g.* 'electronic communications harassment' under either §76-9-201 or §77-36-1(4)(e); or *e.g.* 'violation of protective order' involving circumstances similar to those that I shall describe here-in, where the accused is not charged with having committed actual violence *per se*. That is to say that *evidence of the petitioner/complainant having initiated, provoked, invited, or participated in complained-of communication or contact is pertinent*; also whether the thing being reported as a violation really is one, or really is something serious enough to warrant "protecting her" from it, at public expense. The state has no legitimate interest in preventing parents of a child from communicating directly with one another regarding any topic, including child care topics. I think that if the contents of the communication or nature of the contact is honestly that serious, then it's already chargeable as a crime, under existing laws, in the absense of a 'protective order'; *e.g.* §76-8-502.

on him by law or clearly inherent in the nature of his office»; §63G-7 «Governmental Immunity Act of Utah»;

1.4 Utah Rules of Procedure and Evidence

1.4.¶1 From the Utah Rules of Civil Procedure (URCvP), notice 11(b) «Representations to court»; 108(d)(2) «... right to present evidence ...»; and 81(e) «application [of civil rules] in criminal proceedings». From the Utah Rules of Criminal Procedure (URCrP), notice rule 7(h) «... preliminary examination hearing ...»; and rule 16(a)(4) regarding the prosecutor's *duty* to disclose exculpatory[16] evidence. From the Utah Rules of Evidence (URE) notice rule 201(c)(2) «*[the court] must take judicial notice if a party requests it and the court is supplied with the necessary information*»; rule 401 «test for relevant evidence»;

1.5 Utah Judicial Counsel Rules of Judicial Administration

1.5.1 Ch 13 Rules of Professional Conduct

1.5.1.¶1 From the Utah Judicial Counsel Rules of Judicial Administration, Chapter 13 «Rules of Professional Conduct», notice rule 1.0 «Terminology», for definitions of "reasonable", "fraud", and "written", among others; rule 1.1 «Competence» including «... *thoroughness and preparation reasonably necessary*...»; rule 1.3 «Diligence»; rule 1.4 «Communication»; rule 1.6 «Confidentiality of Information», especially 1.6(b)(2) and 1.6(b)(3); rule 3.1 «Meritorious Claims and Contentions: *A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so* that is **not frivolous**[17]*, which includes a good-faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.*»; notice rule 3.3 «Candor toward the Tribunal»; rule 3.8 «Special Responsibilities of a Prosecutor»[18]; rule 4.1 «Truthfulness[19] in Statements to Others», especially notes [1] and [3];

16. «**Exculpatory evidence** is inconsistent with guilt, raises doubt about evidence of guilt, or diminishes guilt. It is evidence favorable to the defendant or information that leads to evidence that is favorable to the defendant. It is not only evidence inconsistent with guilt, but also evidence for impeachment of a witness or that may mitigate the sentence.» McCord, James W. H., Criminal Law and Procedure for the Paralegal: A Systems Approach, '003 edition (Cengage Learning, 2005) at 447.

17. «Frivolous means "Inappropriately silly", "unworthy of serious or sensible treatment", "Unworthy of serious attention; trivial"» For example, in charging me for having written a benign SMS when the 'protective order' allowed email—the thing I was charged with having done was frivolous and there was no legitimate state interest in prosecuting me for it (111905405). Further, using it as a *pretense* for holding me in jail—without even ever providing a preliminary examination hearing—in order to *farce* me into "accepting" a plea "agreement" for other charges *&* circusprances with comparable "merit"—certainly stands tall beneath the law-school umbrella of '*mockery of justice*'!

18. Additionally, from the American Bar Association Model Rules of Professional Conduct, please notice rule 3.8 «Special Responsibilities of a Prosecutor», especially 3.8(g) and 3.8(h).

19. Not to be confused by or with "Truthiness".

Does it pain you to hear and see this now? Do you find it...? inconvenient today? Are my pleadings too heavy for your scales to bear? Only in the light of truth may the proverbial golden thread truly be seen, Apollo↘... For this light and for that truth, we offer thanks and the singing of praises with you. We pray that Themis, thy witness, shall be unmasked by the light of truth... yet be not blinded by glorious implication, even where She herself is revealed to have made past errors. Where comes from: the authenticity of the legitimation of Judicial Authority?

Not even Themis herself may be the judge in her own cause, but anyone may judge their own cause for that self analysis we all rely upon for normative steering on the path to repentance and personal evolution towards goodliness and wholiness...? Everyone deserves the opportunity to correct their own mistakes... but not to burn the corpus delecti itself... as mistakes are opportunities for learning and improvement. It is the duty of every common law judge to develop the law. You are not duty-bound to support an unjust law, oh friend of Artemis. The rythm of the dancing rhime on the drums depends not only on past beats, or lack of them, but also upon the timing and character of this one and the next and the next. Hear the drums, Apollo, and plan well.

2 On Mootness or Laches

2.¶1 I realize that my Petition for Relief Under the Postconviction Remedies Act is timely. Mootness or laches are not pertinent to that matter. However, aside from voiding the convictions for alleged violations, I also want the 'protective order' 104906439 found to be void, retroactively—despite that it has already been dismissed per Utah Code §78B-7-115. I also want it to be expunged from the state-wide domestic violence database.[20] «An appeal of an expired protective order causing ongoing collateral consequences may be technically moot, but on a practical level it may represent a real controversy requiring resolution. Collateral consequences can have a significant impact on an individual's life, and allowing such judgments to evade review undermines society's confidence in the fairness of our court system.»[21] I will also be bringing a civil rights violation complaint that will reference this document. The Title 42 USC §1983 or §1985 claims[22] will in part depend upon the findings and outcome of *this* Utah PCRA (rule 65C) petition because (a) the justiciability of that cause of action will not be 'ripe' until *this* action is complete,[23] and (b) relief sought will depend upon what action (potentially pro-active) is taken by the State of Utah in *this* matter. The grounds for cause of action in a civil rights complaint will be clear upon reading

20. *Commissioner of Probation v. Adams*, 65 Mass. App. Ct. 725 (Massachusetts Appeals Court 2006).

21. Howenstine, Zachary C., *Conforming Doctrine to Practice: Making for Collateral Consequences in the Missouri Mootness Analysis* (2008) 73 Mo. L. Rev. at 880. *cf. Wallace v. Van Pelt*, 969 SW 2d 380 (Missouri Court of Appeals 1998), *Glover v. Michaud*, 222 SW 3d 347 (Missouri Court of Appeals 2007).

22. Also see Title 42 USC §14141, Title 18 USC §242 & §241.

23. *Procedural Means of Enforcement under 42 U.S.C. 1983* (2010) 39 Geo. L.J. Ann. Rev. Crim. Proc. at 1049 in footnote 3107 '*but see*', and other sources.

this document in its entirety. It stems from malicious and frivolous prosecutions alleging violation of the protective order. Because that 'protective order' is already dismissed, and because the rights violations occurred during 2011–2014, I find that I must address mootness or laches.

2.¶2 The issues I will raise herein affect many people, and exist outside of or surrounding the particulars of this individual case. The circumstances are likely to recur and thus continue to affect many people.[24] I've been told, anecdotally, that hundreds of families are victimized each year in much the same way in the Salt Lake valley alone. Similar laws and law enforcement and prosecutorial administrative policies exist in many municipalities throughout the United States.[25] There are many complaints and reports to be found online regarding cohabitant "protective" or "restraining" orders.[26,27,28] The duty of the court is not to the particular agendas of individual litigants,[29] but rather to protect the innocent

24. In «*Friends of Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 US 167 (U.S. Sup. Ct. 2000), the Supreme Court held that an industrial polluter, against whom various deterrent civil penalties were being pursued, could not claim that the case was moot, even though the polluter had ceased polluting and had closed the factory responsible for the pollution. The court noted that so long as the polluter still retained its license to operate such a factory, it could open similar operations elsewhere if not deterred by the penalties sought.», and «A court will allow a case to go forward if it is the type for which persons will frequently be faced with a particular situation, but will likely cease to be in a position where the court can provide a remedy for them in the time that it takes for the justice system to address their situation... "The normal 266-day human gestation period is so short that the pregnancy will come to term before the usual appellate process is complete. If that termination makes a case moot, pregnancy litigation seldom will survive much beyond the trial stage, and appellate review will be effectively denied. Our law should not be that rigid." *Roe v. Wade*, 410 US 113 (U.S. Sup. Ct. 1972).», quoting "Mootness", Wikipedia, the free encyclopedia.

25. "Model Code on Domestic and Family Violence" National Council of Juvenile and Family Court Judges, 1994. `http://www.ncjfcj.org/sites/default/files/modecode_fin_printable.pdf`

26. "The Use and Abuse of Domestic Restraining Orders" Stop Abusive and Violent Environments, 2011. `http://www.saveservices.org/downloads/VAWA-Restraining-Orders`

27. "Predominant Aggressor Policies: Leaving the Abuser Unaccountable?" SAVE, 2010. `http://www.saveservices.org/downloads/Predominant-Aggressor-Policies`

28. "Prosecutor Ethics in Domestic Violence and Sexual Assault Cases" Center for Prosecutor Integrity, 2013. `http://www.prosecutorintegrity.org/wp-content/uploads/DomesticViolenceSexualAssault.pdf`

29. ... nor to the easy-money wimplification of or reduction in the amount of leg or paper work needing done by detectives, lawyers, and judges who have a well-known Duty of Care and who work at taxpayers' expense. I say this because I believe that they did not perform a fair investigation. Despite that I provided exculpatory and impeaching evidence to the police detectives and to this court, none of it seems to have been reviewed or taken seriously. I provided the videos from the December 10, 2010 incident to detective Robert Woodbury of the Salt Lake City Police domestic 'violence' unit. When I did so, I signed a 'Miranda waiver' form. Much of the same evidence was available on the disc that accompanied my Answer *&* evidence summary *&* disc—which was conspicuously absent from the 'discovery packages' in the criminal VPO cases—which was *filed at the courthouse in advance* of the initial hearing on the 'protective order' in January, 2011. From that evidence I believe that **(1) a finding can be made that a significant "fact" in the petitioner's testimony was impeached**, **(2) that she comitted multiple felony level perjuries, (3) contempt of court, (4) child abuse through reckless endangerment,** and **(5) electronic communications harassment.** She lied about her own criminal history and failed to report two important and open cases against her; open at the time she filed for the 'protective order'. **This information and more is detailed in the accompanying affidavit and evidence timeline pertaining to dismissal of the 'protective order'.** Later, while creating the '17RQ' web site—the URL to which was written on a scrap of paper and handed to the

by seeking and verifying the factual truth,[30] then doing honest and fair substantial justice for all, in accordance with contract law and the public law contract with society. I assert that even when this particular 'protective order' is dismissed or found void, the underlying issues and problems that I shall address within this document must be analyzed, resolved, and ajudicated, then appropriate procedure *&* law changes devised and put into practice, so hopefully this doesn't keep happening to people like us any longer. *You are one of those people too.*

2.¶3 In preparation for writing this, I read a number of books about law and litigation procedure. While I was reading *Judges and Unjust Laws: Common Law Constitutionalism and the Foundations of Judicial Review*, by Douglas Edlin (U. Mich. Press, 2008), I encountered the statement «I argue that unjust laws do not create a moral-formal or moral-legal dilemma; they create a legal-legal dilemma. Unjust laws create a conflict between two of a common law judge's most fundamental legal obligations: to apply the law and to develop the law. The crucial point for my purposes here is that I intend to provide a legal, rather than a moral, justification for judges to refuse to enforce unjust laws without resigning or resorting to prevarication.» in *Introduction*, p5. I wasn't sure what *prevarication* means, so I looked it up and thought about this... To me—it begs the hypothesis within the context of my own situation here in the Utah courts... Perhaps they did this *on purpose*—sort-of "benevolent prevarication"—intending to precipitate my bringing the action you now have in perview of your reading spectacles. I get the impression that many people who work in "the system" are aware of the problems with this law, and many would like to see it changed. I will not complain if yous need to take a few weeks for in-person inquisition footwork before rendering a decision.

2.¶4 Another subject I read about was the *coerciveness of the plea bargain system*, through articles like the one by Candice McCoy, *Plea Bargaining as Coercion*, 50 Crim. L. Q. 67 (2005), the one by H. Mitchell Caldwell, *Coercive Plea Bargaining: The Unrecognized Scourge*

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arresting police officers and included by reference in handwritten filings sent from jail in this 'protective order' case as well as in the email reply to detective Woodbury that I placed in lodging in the VPO cases—I also included evidence of mitigating and extenuating circumstances that I will show to be exculpatory and supportive of a counter-claim against the petitioner in this 'protective order'. Having signed the previous 'Miranda waiver', it's safe to presume an implied one attached to any such provided evidence. The same information was provided to my defense attorney Isaac McDougall, the guardian *ad litem* William Middleton, and CPS officer Dan Reid and later, CPS officer Maxine Plewe, and several other police detectives on three more occassions. None of that evidence was mentioned by the prosecutors' (Michael Boehm, Jared Rasband, Joseph S. Hill, Roger Blaylock, and probably others) discovery package or police reports. **I believe that the warrants were obtained fraudulently or at least in negligent disregard of the exculpatory evidence. I was prosecuted maliciously and unlawfully.** I am sure that there are very serious abuses of discretion involved, omission, and misprison of felony, "just so you know".

30. *Commissioner of Probation v. Adams*, *supra*, *cf. Wallace v. Van Pelt*, *supra*, *Glover v. Michaud*, *supra*. *Hazel-Atlas Co. v. Hartford Co.*, 322 US 238 (USrule Sup. Ct. 1944)

of the Justice System, 61 Catholic University Law Review 63 (2012), the one by Richard Klein, *Due Process Denied: Judicial Coercion in the Plea Bargaining Process*, 32 Hofstra Law Review 1349 (2004), and the one by Joseph Di Luca, *Expedient McJustice or Principled Alternative Dispute Resolution - A Review of Plea Bargaining in Canada*, 50 Crim. L.Q. 14 (2005). Somewhere in all the reading I did—I couldn't *find* it again to give you the reference—I encountered the phrase "enervation of the judicial", in reference—*not* reverence—to the idea that many cases are being decided *without any evidence at all being placed on the record, in lodging or spoken in open court*.[31,32] That circumstance is, in part, at the core of my compliant here, as you shall see.

2.¶5 In particular, I will present a multilevel set of arguments, where I think that potentially a *lazy* court *could find* the simplest of them to be *dispositive*, then try and be done with it, only to find it lurking just across the wallow[33] on another day, and another, clank, and another, clang, and another, kludge, and another, drudge. However, I feel that the major malfunctions and court issues are susceptible to the *public interest* exception to the mootness doctrine, and thus remain justiciable. *A fortiori*, the unwedgingest[34] solution will have a more profound and wiser-scope effect... to drive out the statute that is being used—by a subset of the members of the bar as well as lay actors—as a cloak for fraud upon the court, barratry, champerty and maintenance; Fueled by 'perverse incentives'[35] that are the—ostensibly—'unintended consequences'[36] of the Cohabitant Abuse **Act**, these 'script kiddies' are directed to fill out form-pleadings by piece-off-issers, who are "responding according to their training". The filled-out blanc checque "constructions" are automatically processed as a routine part of courtworkers' daily discharge of workflow, then flushed into a pipeline that was not broken as *designed*... Because it wasn't *designed*, it *evolved*[37], in an 'echosystem'—*ars longa, vita brevis*—that in deter-mining the most exaspendient least-effort 'prospect theory'[38]... it regurgitates... what emerges as it's idea of *how to solve*

31. See *Blakely v. Washington*, 542 US 296 (US Supreme Court 2004).

32. «Convict 'em all and let the appellate court sort 'em out! That's what these forms are for, so just fill one out. Don't write on the back. You don't have to tell *me* how to do my job!» Anonymous, overheard over herd.

33. That hypothetical *lazy* court would purple-sky ignore it at its own peril!

34. «"thin edge of the wedge" Something that if allowed or accepted to a small degree would lead to systematic encroachment.» Wictionary. See generally Thomas Bustamante & Christian Dahlman, *Argument Types and Fallacies in Legal Argumentation* (Law and Philosophy Library, volume 112, Springer Berlin Heidelberg 2015) at Ch 4, p53, José Juan Moreso, *The Uses of Slippery Slope Argument*. «Juries?! We don't need no thinkin' juries! This is Utah. We can do whatever we want.» Anonymous, to be read with an ironic tone of satirical mocking, with a 'Utah' speech accent to emphasize that it's «obviously *everybody* from Utah's fault. We know this because we're *not* from here.»

35. Wikipedia, *Perverse Incentive* (2016), `https://en.wikipedia.org/wiki/Perverse_incentive`

36. Wikipedia, *Unintended Consequences* (2016), `https://en.wikipedia.org/wiki/Unintended_consequences`

37. Wikipedia, *Common Law* (2016), `https://en.wikipedia.org/wiki/Common_law`

it[39] is to "introduce something *even more complicated*" into an already 'bounded *rationality*'[40]—introducing what is *prima facia* a moderately complex, and to the uninitiated and unindoctrinated layman, arcane, set of rules of precedence, procedure, evidence, and ethics—while at the same time envorcing 'rational ignorance'[41] by imposing a page-limit on anyone with enough to say that they might say something inconvenient to the status-flow, primarily because there's not enough toidy-time to read it all and that tantalizing flurry of amazing legal 'briefs' is piling higher and deeper outside the reading-house door, covering the 'welcome mat' with three bags full[42]... "Situational ethics"[43] then steps in to "take care of" the linguistically neutered 'clognitive bias'[44], applying atavistically evolved her-istics by an obvious yet sacred and arcane metaconsistent heuristic fuzzy logic that simply delays the inevitable 'backward-chaining'[45]...

2.¶6 What I'm *really saying*, in plain language, approximately, is that **if** the 'only way' they're getting off the hook—"they" being that subset of the "bar" with their *conspiracy against rights*; or 'continuity of purpose'—is by claiming that they're "not *incompetent*, it's that **impracticable** 'law' that creates this troublesome morass!"... *Machiavelli* said that *arrogance* springs from two impulses, an overestimation of one's own abilities, and an underestimation of the power of one's opponent. **Then** they must *endorse* this demand: that the Cohabitant Abuse **Act** protective orders, if not in entirety, but at least in the part that presently carries criminal charges for "violation" of an order, is unconstitutional, for reasons described herein. And for this, they must also *prove their competence* by (a) actually enforcing the laws against perjury, contempt of court, child abuse and endangerment; (b) demonstrate comprehension through proper application of the statutes pertaining to proper construction, culpable mental state, and definitions (*e.g.* §68-3-1, §68-3-2, §76-1-104, §76-1-106, §76-2-102); (c) fully and properly exercise the Rules of Procedure that were

38. Wikipedia, *Prospect Theory* (2016), https://en.wikipedia.org/wiki/Prospect_theory

39. George Pólya, *How to Solve It* (1957),
Wikipedia, *How to Solve It* (2016), https://en.wikipedia.org/wiki/How_to_Solve_It

40. Wikipedia, *Bounded rationality* (2016), https://en.wikipedia.org/wiki/Bounded_rationality

41. Wikipedia, *Rational Ignorance* (2016), https://en.wikipedia.org/wiki/Rational_ignorance

42. «Black sheep, black sheep, have ye any wool? Yes sir, yes sir, three bags full. One for the vickar, one for the dame, 'taint nanny for the po' boys who day in the lanes.»

43. Wikipedia, *Situational ethics* (2016), https://en.wikipedia.org/wiki/Situational_ethics,
but cf. Wikipedia, *Principle of explosion* (2016), https://en.wikipedia.org/wiki/Principle_of_explosion,
Wikipedia, *Double Standard* (2016), https://en.wikipedia.org/wiki/Double_standard,
Wikipedia, *Political Correctness* (2016), https://en.wikipedia.org/wiki/Political_correctness,
Wikipedia, *Reverse Discrimination* (2016), https://en.wikipedia.org/wiki/Reverse_discrimination

44. Wikipedia, *Cognitive Bias* (2016), https://en.wikipedia.org/wiki/Cognitive_bias

45. Wikipedia, *Backward Chaining* (2016), https://en.wikipedia.org/wiki/Backward_chaining

so carefully thought out by the Utah Supreme Court...; also, (d) the standard of proof requirement for issuance of a *civil* protective order must be *clear and convincing evidence*.[46]

2.¶6.1 When processing the *paperwork* they must remain aware that the paperwork is not the people. The people are not "that awful man" and "that poor victimized woman", or "who cares, I'm hungry and it's almost lunchtime"; they are "a family having difficulties resolving a conflict on their own, likely due to communication and interpersonal dynamics dysfunction stemming from not having been taught any better yet". The goal is not to "put males in jails" nor is it to "empower women". The goal is to facilitate family unity through education and empowerment of equivity.[47] The rules of equity must prevail.

2.¶7 Briefly, expounded upon bellow, there was a number of civil and human rights violations perpetrated against me *and my family* during the coarse of this *trial by ordeal*. Perhaps any one or more of them *could* be used to find the particular convictions that *this* petition stems from to be void—thus mooting *my* individual case in controversy within the context of it's particular *corpus delicti* 'material substance'; However true that may be, I am of the opinion that it is incumbent upon the Courts to continue beyond that point, and consider the additional—father reaching—claims, since they concern matters that have negatively affected—and, if left untreated, will continue to affect—more than just one family, causing them to be of *general public interest*. Thus I assert continuing standing on those issues, *jus tertii*, as a citizen and taxpayer.

2.¶8 The Utah Court of Appeals, in 20120264-CA, said that I had no right to an *indirect* appeal of the protective order after having been accused of violating it. Because I was not charged with any crimes *other than* violations of the protective order, and because the information necessary to determine that is part of the case history, which is readily available to the appellate Court, they made an error when they affirmed the validity of the protective order. Even so, the issue of the constitutionality of the Utah Cohabitant Abuse Act is not

46. It is ironic that a protective order was awarded under evidentiary conditions that did not honestly amount to a "preponderence"... but to prove fraud upon the court, I'm expected to show it by clear and convincing evidence. How clear and convincing is the evidence of misfeasance I present herein? Does it implicate *incompetence* or *deliberate rights violations*? What "level does it rise to"?

47. «In mathematics, an *equivalence relation* is a binary *relation* that is at the same time a reflexive relation, a symmetric relation and a transitive relation. As a consequence of these properties an equivalence relation provides a partition of a set into equivalence classes.» Wikipedia, *Equivalence Relation* (2016). 'Equality' would mean that we're all clones, or all the same gender... We really are *not* 'equal' in most aspects, but **when speaking of the law, we are all equivalent**; there is only one equivalence class, and we're all in it. Rights are individual rights, and every one of us has the same set of rights. (Males probably never exercise the "right to give birth", but they *do* excercise their right to participate in procreation and thus childrearing, the most important aspect of procreation.) Perhaps just as there has been a distinction made between "truthfullness" and "truthiness", a distinction could be made between "equivity" and "equiviness"... which is like a relation that is applied inside of a "social universe-subset" that carries double standards. Equivity under the law can not carry a double standard.

moot, nor is the constitutionality of the manner in which my case was handled—the *pattern of practice* exhibited by the court and other officicials—since these things will certainly continue to affect other individuals, other families, and thus our entire community, if allowed to remain at *status quo*. I will try and be as *direct* as my personal sense of ettiquette and strategy will allow. Lucky for you, my parents went to college, not to war.

2.¶9 I happen to live on a "disability income". It is automatically depositted into my bank account each month. I have the bill-pay system set up to automatically pay my rent and bills. For this reason, *I* did *not* lose my apartment and everything I own during the multi-month long periods of pre-trial incarceration. In the average case, however, a person placed into my circumstances could easily—or even would likely—have lost *everything*. I shall show that I was not, for any of the alleged 'crimes' that I was held in jail for pre-trial, ever accused of any actual violence *per se*. **Jails are for people who are actually dangerous; who pose a threat of actual harm to themself or others.** *I shall prove that I am innocent.* An innocent person should not have to suffer imprisonment, loss of employment or personal belongings, and quality of reputation. The laws and policies and pattern of practice that put me in that jail will continue to affect others similarly situated unless binding rulings mandating changes are carried forth and actually put into action.

2.¶10 Nobody should have to prove their innocence. It was the burden of the prosecution to prove my *guilt*; they did not do so. Instead, they used oppressive pretrial incarceration on frivolous charges to *coerce* me to plead out, even for earlier charges for which I had paid bail-bond to secure release from jail. In doing so, I was caused to "swear" that I was not being coerced into taking the plea bargain! If I had not done so, I would have been held in jail even longer. By holding me in jail, they prevented me from discovery of even more exculpatory and mitigating evidence than I had already handed to them, and from persuing investigation and charges against my son's mother, who had demonstratably abused him! After researching online and from conversations with other jail inmates and people I've met 'on the street', I am certain that under the *status quo* system, my experiences are not anything like unique. These similar circumstances have affected and will continue to affect many people's lives unless something is done about it. The reputation of this Court and the integrity of the judical process are on the line.

2.¶11 How many others put into my situation have been unable to bring legal action due to time and financial constraints? The people that are the most likely to be victimized are the people that are the least likely to be capable of doing anything about it. They don't know *how* to sue, don't have *time* to, can't *afford* to pay a lawyer to *do it for them*—assuming they still *trust* lawyers after what they've been put through—and the State won't pay for

civil defense attorneys. The charity and grant funded legal clinics are focussed on helping people *get* "protective" orders, not on eliminating the unconstitutional law that created them, nor even on defending respondents in these cases. Lawyers who practice in this subfield of law are *making money* because of the Cohabitant Abuse *Act* and the sort-of "department of champerty and maintenance" it sets up; in other words, it createsa *perverse incentive* for them to *not find* it to be unconstitutional. They have less incentive to eliminate it than their victim or covictim clients have, plus they work full-time as attorneys for multiple clients, which limits their *free time*. So most people go to court *pro se*, after filling out form-pleadings. There isn't really anyone screening them beyond *ipse dixit* he-said-she-said written into the very brief form, nor anyone *verifying* the claims made therein,[48] **nor apparently ever bothering to actually enforce the warnings those forms are required by law to display**! This 'sis-tem' wastes the court's time and overburdens it with petty squabbles that are—conceivably—better resolved by social services and cooperative problem-solving communication education—through parley—than by pitting the people against one another in adversoupial court 'pro-cess'; and in "streamlining" the issuance of 'protective orders' they have cut procedural and proof-burden-requirement corners that should not be cut by a properly structured court process... It opens the revolving légal-trap-door[49] to heaps of cases like mine. Properly, the court must not "empower women". It must empower Equity. There's a reason why the historical court of chancery was separate from the court of the kin's bench.

2.¶12 During all of this time, other than the times I was locked in jail, from the time my son was 3 months old, he has been in my care. My son and I have a very important and very well established father and son relationship.[50] He has been my highest priority throughout this ordeal. While he was in my care, I could not dedicate full-time hours to solving these legal issues. I could read for only short times during evening hours and on weekends. Often, I barely had time to learn to properly curate the evidence folder I was accumulating. My child required, and deserved, most of my attention. Going without sleep is a recipe for irritability, and that's not a good state of mind to be in when taking care of a toddler. I need to sleep

48. But there are plenty of 'lay legal coaches' who know what you have to say on the form to get the *ex parte* temporary order issued. They chat about it while they entertainment shop with their alimony, right?

49. The 'Légal trap' is a famous chess play, where a queen sacrafice leads to a checkmate. Women who perjure to get protective orders, who commit contempt of court through entrapments, or who report frivolous "violations" of those orders should not be allowed to get away with those crimes against the integrity of the judicial process they are abusing. They don't learn the right lesson from their mistake unless they face the *proper* consequences of those actions. At the same time, offering them the opportunity to perpetrate abuse by proxy using a "protective" order—billed as a treatment for the very mischief and defect it serves as a means for—fails to treat the underlying etiological problems, which are better suited to a *parley* based social services treatment context than to the *adversoupial* court process "treatment" context. ("treat"-ment: "She got the gold mine, I got the shaft.")

50. This father and son relationship is well documented by the pleadings in 094903235 CS and in 104906439 PO.

at night. I was not "sleeping on my rights"; I was sleeping to protect my son's. Now he is 6 years old, and enrolled at full-time kindergarten. I have more free-time now in which to develop and litigate these lawsuits.

2.¶13 I assert that 'reasonable diligence'—per *e.g.* §63G-7-401—must, in circumstances such as mine, include allowance for the time I've needed for raising my son. The statute of limitations would not begin to run until February 12th, 2015, the date that the Utah Supreme Court issued *notice* of having denied my petition for a writ of certiorari regarding Utah Court of Appeals case 20120264-CA, which was the appeal of the interlocutory concerning finding the 'protective order' invalid. With regards to equitable tolling and reasonable diligence, I could not put full time efforts into this task until my son was old enough to attend kindergarden. As soon as I had more time available, I began putting that time to use by reading textbooks about litigation practice and criminal procedure, as well as a heap of law journal articles and caselaw. I learned how to utilize a reference manager application for keeping track of bibliographic information with associated research notes.

2.¶14 My vocational and educational background are primarily in culinary arts and computer science. I am certainly *not* a lawyer, nor am I a paralegal. I haven't written more than three "term papers" since the 8th grade. I grew up in rural surroundings. The people I knew were farmers, carpenters, or school teachers, not lawyers or paralegals. I've lived at poverty and sub-poverty level for most of my life and have rarely needed the services of an attorney. I've never been in trouble with the law like this.[51] I've not had to go to court many times before. When this all began, I did not know very much about court procedure, my rights, the laws, or legal jargon. I think that even people who grow up in an urban setting are disadvantaged in this regard, though they are likelier to at least know *how* to get a lawyer, assuming they come from a sufficiently affluent background and can afford to hire one... Even if you know how to find a *pro bono* attorney, you have to be capable of explaining the circumstances well enough to convince a lawyer that there's a worthwhile cause of action. Depending on one's 'starting point' that may or may not be an easy task. Then, once the professional attorney *takes over*, unless there is a lot of time to dedicate towards effective assistance of council, there's a good chance the lawsuit won't fully resolve the real underlying problems that caused these "legal circumstances".

2.¶15 I have found it necessary to read several full-length college-level textbooks about legal procedure, for both criminal and civil court paralegal practice. I've read a number of law journal articles and a fair number of appellate court opinions and supreme court decisions.

51. My prior criminal history consists of almost trivial non-violent class B and lower misdemeanors.

I've read a book about performing legal research and points & authorities memorandum writing. I've read a book about "Judges and Unjust Laws: Common Law Constitutionalism and the Foundations of Judicial Review"[52], and another about "Argument Types and Fallacies in Legal Argumentation"[53]. I've read pages of legal maxims. I've read the Utah Constitution, relevant parts of the Utah Code, the rules of procedure, the rules of evidence, the Utah Bar Association rules of professional conduct and parts of the American Bar Association *model* rules. I think that I am demonstrating this newly acquired knowledge in court. I think it's clear that without it, I would not be capable of producing this report or memorandum. This demonstrates that I have exercised *reasonable diligence*, and thus *laches* may not fairly be applied.

2.¶16 Also with regards to my son, there is an ongoing Parentage, Custody, and Support case, 094903235. In that matter, his mother is invoking Utah Code §30-3-10(1)(a)(*i*) and §30-3-10(1)(b)(*i*), asserting that because I "violated the protective order", I have thereby demonstrated moral turpitude and criminal conduct. I am making a counterclaim, invoking the same statutes. I am asserting that not only was the protective order issued under unfair conditions, its issuance was *contrary to the evidence that was not fairly considered*. I assert that the evidence indicates that she is the one who should have been prosecuted. On her *Verified*[54] Request for Protective Order, she failed to report criminal cases that were open *against her* at the time she applied for the protective order. One of those was for domestic violence battery in front of our child (it should have included child abuse for the "head bonk on child table" caught on nanny-cam in December 2010). The other case's offense date coincides with the date that she brought all of our son's belongings over to my house. Further, I am asserting that I was prosecuted maliciously for frivolous reasons that did not amount to violations of the protective order. All of those things are addressed within *this* document. In the custody case, both her argument and mine rest upon these issues and the associated verdicts. Because my son's health and welfare is at stake—clearly a *primary liberty interest*—these matters must be heard in the interest of justice and equity.

52. Edlin, Douglas E., Judges and Unjust Laws: Common Law Constitutionalism and the Foundations of Judicial Review (Ann Arbor: University of Michigan Press, 2008).

53. Thomas Bustamante, and Christian Dahlman, Argument Types and Fallacies in Legal Argumentation, 1, Law and Philosophy Library, 112 (New York, NY: Springer Berlin Heidelberg, 2015).

54. It is sort-of a "bug in the system" or an oversight... that "verified" here refers only to the fact that the filled-out form had to be notarized, by an official—a Notary Public—who's sole duty is to witness the signing of random documents. A Notary Public does not actually read or "verify" any information on the document other than the identity of and signature of the signer. The person whos signature is being witnessed is making an oath or affirmation that the document's contents are true and correct. If it's not, they are *supposed* to be faced with penalty of perjury... When the court process is initiated, several times a day, by filling out a form, there's a lot of "verifying" to be done for a lot of new cases. If nobody gets in trouble when they tell lies on the forms and there's too many of them for full investigations to be performed, doesn't that create sort of a "denial of service attack" on the judicial system?

2.¶17 Protective order 104906439 was appealed, indirectly, via a 'Sery plea'[55] appeal of the interlocutory decision of December 12, 2011 in Salt Lake Third District Court cases 111903279 *&* 111903495. That interlocutory decision stated that my due process rights had *not* been denied when the protective order was issued. On appeal (case 20120264-CA) the appellate tribunal affirmed the trial court's decision; but the debate had gotten side-tracked. **They found denial of due process**[56], but they decided that I did not have a right to an *indirect* appeal after apparently having violated the 'protective order'. Herein, I assert that (a) nothing I was accused of would be a crime in the absense of a 'protective order', and (b) nothing I was accused of constituted a violation of the order. The matter could not be brought to a satisfactory resolution because the court was, perhaps, inadequately briefed. That *golden thread* of evidence is a missing element, and this action is designed to shine some light on it. Thus, the matter is not *moot*.

2.¶18 The trial court records available to the appellate court did not contain specific information such as that found in the URCrP rule 16 discovery, *e.g.* police reports, since those are not normally filed in lodging. The record available to them should reasonably have included the list of charges and the "affidavit of probable cause" used to obtain the arrest warrants and to charge me with VPO crimes. Since I was *not* charged with anything beyond 'violation of protective order', it can be deduced that nothing I was accused of would be a crime in the absense of the protective order. That idea was not formally reached within the written opinion issued by the appellate court. I had filed a docketting statement wishing to appeal the sentence based upon misconduct and due process violations[57] that took place during the *criminal* proceedings. The appellate court and Salt Lake Legal Defender Association attorney consolidated that with the "Sery plea" appeal of the validity of the civil protective order, but then failed to address those criminal court process' constitutional violations. During that time period, I was very busy raising my toddler, and had not yet read very much about the subject matter. I initially lacked the necessary domain-knowledge and vocabulary for communicating about these experiences.

2.¶19 The appellate tribunal thought that I could and should have brought a *direct* appeal in the 'protective order' case, *before* I was alleged to have violated it, but the "offense date" of the first alleged violation of the protective order—which was ultimately not bound over for trial after a much belated preliminary examination hearing—was the *day after* the

55. State v. Sery, 758 P.2d 935 (Utah Court of Appeals 1988).

56. See ¶19 and ¶20, of State v. Hegbloom, 2014 UT App 213 (Utah Court of Appeals).

57. *e.g.* Brady v. Maryland, 373 US 83 (US Sup. Ct. 1963), Blakely v. Washington, 542 US 296 (US Sup. Ct. 2004), State v. Hernandez, 268 P.3d 822 (UT Sup. Ct. 2011)...

permanent protective order was issued, which was about a month into my having to "be my own lawyer" for the first time in my life. The next step in the ordered operation of justice, by rights, should have been the rule 108(d)(2) or Utah Code §78B-7-107(1)(f) hearing I had filed a written motion for prior to the hearing, in timely fashion per URCvP rule 7 motion practice. I think that it can be seen from the written opinion that the appellate court agrees with that assessment (¶19 and ¶20 *State v. Hegbloom* 2014). What I *named* that 'motion' document is irrelevant. It should not matter whether I named it "Request for Continuance to Formal Evidentiary Hearing" or later called it "Neophyte *pro se* respondant's *a priori* objection to magically predicted despite it being his first time in court and cynically expected recommendation of court commissioner". *Intentio mea imponit nomen operi meo.* It was inherently unfair because the likelihood of successful *appeal* could easily depend upon access to experienced professional legal counsel... where my likelihood of success *pro se* with the requested evidentiary hearing seems reasonably good, and a lot simpler. I can't get a free lawyer to take over unless I'm charged with a crime. Every attempt I have made thus far to complain about my son's mother's abuses has been met with indifference and inaction.

2.¶20 The petitioner / complainant of 104906439 PO was employed by the Legal Aid Society, had hired an attorney via Utah Legal Services, and was being represented by the Victim Advocates. (Apparently she can "do no wrong" with them to look after her...?) She is socially familiar to many people whom she worked with or who work at the courthouse. Because of this conflict of interest, I could not engage a *pro bono* attorney from either one of those agencies. There was no such thing as a free lawyer I could contact or retain in time to appeal the 'protective order'. Even had I managed to find a *pro bono* attorney, I would still need to do most of the work in marshalling the evidence, which I could not access while being held prisoner after having been alleged to have violated the order... I was in jail for several weeks before getting excessive bail reduced to a lower excessive level I could almost afford, and then kept on my toes from there on out with a bum's rush[58] of further frivolous allegations of protective order violations, one after another. The first warrant was ultimately dismissed by a preliminary examination magistrate for lack of probable cause.

2.¶21 Because of the 'attainder', or tainting of my personal reputation caused by these unfair 'convictions' for alleged 'violence', I find it highly important to have these unrighteous and unlawfully obtained convictions exhonerated and removed from my record. The misleading summarization of my "criminal" history on the one-page computer printout report issued by the Utah Bureau of Criminal Information claims that I'm a 'domestic violence offender', 'multi-state offender' when in truth I've not committed violence, and for what are

58. https://en.wikipedia.org/wiki/Baumes_law

perhaps the most damaging 'convictions', was not even *accused* of having done anything violent! None of the plea-bargained convictions outside of Utah are more serious than class B misdemeanor, and certainly none for anything violent, at all. For the alleged "attempted assault of a pregnant person" of 091908046, I had done her no violence or harm. There was a long period of time between the alleged offense date and the issuance of a warrant. The warrant was issued the same day that she filed a counter-petition in our Parentage case. The initial charges were inflated, the bail was excessive, and oppressive pre-trial incarceration was used to coerce a plea when in fact I was not guilty and the state had little more than word against word.[59] The female public defender wanted me to believe that a jury might decide against me despite that. My son's mother, the complainant and alleged victim, came to visit me at jail after I disbursed $1500 to her to pay for my share of child expenses for the three months I'd been in jail, and begged me to take the plea "agreement" so that I could help her take care of our son. There has been much in-person contact, and *never* have I used violence on her.

2.¶22 During the ordeal involving alleged violations of the 'protective order', both of the times there was close physical proximity, she told police that she "did not feel threatened or endangered" and the other charges were due to non-threatening SMS and email contact that she participated in and often initiated. The 'protective order' allowed email, and they jailed me for having written an SMS instead! The evidence of her wrongdoings has been available since the beginning of this, yet nobody seems to have given it proper consideration and nobody lifted a finger to prosecute her. Domestic violence charges against her that she failed to report on her Request for Protective Order were inappropriately dismissed while the evidence of her crime was ignored by the city prosecutor—who did not properly have legal jurisdiction—and the family court. They supported frivolous charges against me instead. As a result, I'm now listed as a 'domestic violence offender'. That is inherently unfair.

2.¶23 Because of these discrepancies, improprieties, and injustices, as a matter of equity and in the interests of justice, these matters are *not* moot. «At times when judges find themselves faced with an unjust law, the obligations placed on them by their role within common law systems requires them to develop the law in the direction of justice[.]» Edlin 2008 at 120 (*supra*, in fn p52). *Lex iniusta non est "lex".*

59. In contrast, in an article in the Salt Lake Weekly News about the girlfriend of a man who was convicted of multiple armed robberies and rapes, a deputy district attorney is quoted saying that they could not sustain domestic violence charges against the man because all they had was her word against his. Unlike that man, I have not ever committed an armed robbery or a rape. In fact, my "criminal" history is very innocuous, consisting of a small number of 'protest' type arrests with class B convictions for "tresspassing", and no violence whatsoever. Despite this, having word against word only, I was—I hesitate to use the term in the sense of an 'active verb'—prosecuted. Herein, I shall show that the alleged victim's credibility is questionable.

«We do not believe any group of men adequate enough or wise enough to operate without scrutiny or without criticism. We know that the only way to avoid error is to detect it, that the only way to detect it is to be free to enquire. We know that the wages of secrecy are corruption. We know that in secrecy error, undetected, will flourish and subvert.»
— J. Robert Oppenheimer, "Encouragement of Science" (Address at Science Talent Institute, 6 Mar 1950), *Bulletin of the Atomic Scientists*, v.7, #1 (Jan 1951) p. 6-8

3 Right to confrontation

3.¶1 I've read that the **Confrontation Clause** of the Constitution of the United States does not *directly* extend to civil trials, since the Constitution's wording mentions only criminal trials there...†[60] «Addington v. Texas, 441 U.S. 418 (1979), held that to commit an individual to a mental institution in a civil proceeding, the State is required by the **Due Process Clause** to prove by *clear and convincing evidence* the two statutory preconditions to commitment: that the person sought to be committed is mentally ill and that he requires hospitalization for his own welfare and protection of others. *Proof beyond a reasonable doubt was not required, but proof by preponderance of the evidence fell short of satisfying due process.*» «The Court noted that "commitment to a mental hospital 'can engender adverse social consequences to the individual' and that 'whether we label this phenomen[on] "stigma" or choose to call it something else... we recognize that it can occur and that it can have a very significant impact on the individual'."» Jennings v. Owens 602 F.3d 652 (2010), citing Addington v. Texas. «We made clear in [Gault] that civil labels and good intentions do not themselves obviate the need for criminal due process safeguards in juvenile courts, for "[a] proceeding where the issue is whether the child will be found to be 'delinquent' and subjected to the loss of his liberty for years is comparable in seriousness to a felony prosecution".» In re Brown, 439 F.2d 47 (U.S. Court of Appeals, 3rd Circuit 1970), citing In Re Gault, 387 US 1 (U.S. Sup. Ct. 1967). «The obvious fact of life is that most criminal convictions do in fact entail adverse collateral legal consequences. The mere possibility that this will be the case is enough to preserve a criminal case from ending ignominiously in the limbo of mootness.» Sibron v. New York, 392 US 40 (U.S. Sup. Ct. 1968). Clearly, decisions or orders issued by 'the Courts' are by definition a class of *government actions* that very often affect the *fundamental rights, liberty, or property interests* of the litigants.

3.¶2 The Utah Rules of Civil Procedure (URCvP) rule 108(d)(2) specifically mentions both 'protective order' and 'mental health commitment' hearings. The similarity of the gravity, nature, and seriousness of the consequences between these two sorts of cases is clearly

60. Perhaps the *framers* of the Constitution were more concerned about abuse of governmental power than with abuses of the civil court process? That stands to reason, since I'm a lot more worried that the police can come and arrest me for merely answering an SMS from the petitioner than I am about whether the petitioner might physically assault me.

obvious. The very real potential for hassels involving *alleged* violations[61] of the 'protective order'—criminal charges—must also be weighed, bringing the dial closer to requirement for 'proof beyond a reasonable doubt'. Clearly, there are secondary or collateral legal consequences inherent in the issuance of a 'protective order'. For example, the 'protective order' potentially makes things illegal for the respondent that are not illegal in the absence of a 'protective order'; *those* things are *not* already criminal under existing statutes; that is, not criminal for anyone but the respondent...[62] I will say more about this further down.

3.¶3 That tinted shadow of potentially being charged with a crime for something that is normally—in the absence of a 'protective order'—not a crime, colors the trial context with an enhanced need to explicitly hold the presumption of innocence foremost and material to every judicial, prosecutorial, and law enforcement decision made regarding the 'protective order' or alleged violations of it.[63] By this argument, **I assert that to obtain a 'protective order' the standard of proof must be held to be 'clear and convincing evidence in the context of a presumption of innocence'.** I assert that the necessary standard of proof was by no means met by the petitioner in 104906439, the case in hand[64]—given the exculpatory and impeaching evidence I submitted with my ANSWER TO REQUEST FOR PROTECTIVE ORDER—nor was it insisted upon by the court officials who were running the show.[65]

3.¶4 The alleged violations of the protective order depend on the protective order itself having been issued, since I was not charged with any crime other than VPO. That is, the VPO was the primary and only offense charged; it was not a lesser included charge, nor was there a secondary lesser included charge subordinate to the alleged VPO. So the full process, with full adversarial hearing and cross examination *not* being held for *issuance of the protective order* is directly pertinent to any trial for an alleged violation of that protective order. Issuance of that PO is sort-of the proximal cause for my being put on trial for an alleged VPO, since without the PO, no violation of it could have been charged. Despite it being a different court case number, commissioner, and judge than the criminal trial, *the hearings and documents in the protective order case really are part of the same overall picture*,

61. Take my word for it, there's a huge hassel even when the alleged violation turns out not to be one! I will provide details of my own personal experiences, which, as you shall see, prove at least "there exists" with regards to these hassels. Time permitting, I will also provide suggestions as to how those hassels could have been seriously mitigated by actual unbiased "fact finding" *per se*...

62. I want to say 'target' here for some reason. I feel more like the target of a mob of serial bullies than a 'respondent'.

63. Investigators must also be trained to presume that the respondant is innocent, and that the petitioner might not be innocent, but is presumed to be. Gender bias is a real problem, as is culture bias and, often enough, racial bias.

64. It was not met in any of the alleged violations of the 'protective order' either, but that's not a matter before us at this time... it wouldn't hurt to keep it flagged in your mind for later though, unless you're trying to get better at getting away with rights violation. I must presume that's not the case, so will say no more for now.

65. I do not believe that the judges ever actually read the documents or viewed the evidence that I submitted, in any of these related cases.

as are the documents and hearings in the inevitably related Parentage, Custody, and Support case. Just as every document and hearing under one case-number are considered to be part of the same "trial", I assert that in cases like mine every document and hearing in every related case must be considered to be part of the same "trial". All of the VPO are pendant below the issuance of the PO. The Parentage case refers to the "convictions" for VPO, from her pleadings, as evidence of my misconduct, and from mine, as evidence of hers.

3.¶5 Because the 'trier of fact' was expected to be a judge holding an expedited bench trial, it was unreasonable and unlawful to disallow the evidence disc from being placed in lodging at that initial hearing on my promise to serve a copy to the petitioner, and for the court decision to *not* be based upon that evidence, or for it to be based upon that evidence without supporting *her* right to confront it. Stifling that evidence violated *both* of our trial rights. Thus, to fail to immediately schedule a full hearing where I could present that evidence and cross-examine her testimony was unreasonable and unlawful as well. «The Confrontation Clause may make the prosecution of criminals more burdensome, but that is equally true of the right to trial by jury and the privilege against self-incrimination. The Confrontation Clause—like those other constitutional provisions—is binding, and we may not disregard it at our convenience.» *Melendez-Diaz v. Massachusetts*, 129 S. Ct. 2527, 2540 (US Supreme Court 2009).

3.¶6 The reason given for non-consideration of the disc-evidence was that I had not yet served the disc and documents to the petitioner. Even if I had served the disc upon the petitioner prior to that initial hearing, she would not have had ample time to review it prior to the hearing, since the hearing on the *ex parte* order was scheduled for only 19 days after its issuance.[66] There was barely enough time for me to prepare an Answer to Request for Protective Order with it's associated evidence, and thus much less time left for me to serve a copy to her. That is why I brought it to that initial hearing. This entire fiasco has been characterized by blatant disregard for evidence-based court decision making, from that initial hearing all the way through the "trials" for my alleged violations of the "protective" order and on into the inevitably under-briefed "indirect" appeal...

3.¶7 †... This is a subject that is difficult to summarize in a non-misleading way. A full exposition of the topic is in order. The specification of the right of confrontation at criminal—or public law—trials is in the constitution to protect people against abuse of authority by government officers. It does not imply that there is no right of confrontation in *civil* court proceedings. The public law arises from private law through the 'social contract'.[67] The mere

66. The *ex parte* order was issued on 2010-12-16, and the hearing was held on 2011-01-04.

67. «It seems that for some people the idea of compassion entails a complete disregard for or even a sacrifice of their own interests. This is not the case. In fact, you first of all have to have a wish to be happy yourself — if you don't love yourself like that, how can you love others?» — Dalai Lama, Google+, 2015-02-03 ≈ 04:20 am MST, as I write this.

fact that a state or federal constitution *does not mention the right* to confrontation in the context of civil trials does not mean that right does not exist in the evolved and venerable common laws of rights and equity, which have developed out of the 'natural law' of simply being polite and fair with people, versus 'preying' on them... It's so obviously fundamental, that 'any reasonable person'[68] will expect it to be part of the 'due process of law'. Without it, then by what means will the specific details of the circumstances under scrutiny become available to the judicial process? «That inculpating statements are given in a testimonial setting is not an antidote to the confrontation problem, but rather the trigger that makes the Clause's demands most urgent. It is not enough to point out that most of the usual safeguards of the adversary process attend the statement, when the single safeguard missing is the one the Confrontation Clause demands.» *Crawford v. Washington*, 541 US 36, 66 (US Supreme Court 2004).

3.¶8 Clearly witness testimony and cross examination are crucial to this discursive process of revelation of material facts upon which the final judgement allegedly speaks! Written testimony and documentary evidence are equally crucial for their purpose as vessels for material facts.[69] It is well known that 'probable cause' is to be based upon *a totality of the evidence*.[70] If that's true for simple probable cause, then certainly it's true for the remainder of the judgements within a court case. Cross examination reveals information that is both necessary and crucial to elucidation in the common law judicial process. *Without knowledge of the specifics, how can any jurist or judge form a valid opinion?* The People... feel very disappointed and cheated when an unfair or wrongful judgement is entered against them by a court. All the more so when that judgement was not based upon a totality of the facts and evidence, and the missing information is exculpatory! (See Exhibit A, «Maxims of Law and Equity».)

3.¶9 The purpose of law is to protect the innocent. The court officials in control have a responsibility and *duty* to protect the rights of victims; and certainly they must never be allowed to forget that "the accused" (or respondent) could easily be and often is the real victim. ✠ Just as it's illegal to clonk somebody over the head with a rock, it's illegal to

68. I don't find a 'no true Scotsman' fallacy here, since a 'reasonable person' is necessarily 'reasonable', which is defined as... Well, I think most people, with everyone watching, will find that an unfair person is thereby not 'reasonable'.

69. A barrister sees a judge searching for something under a streetlight and asks what the judge has lost. He says he lost his keys and they both look under the streetlight together. After a few minutes the barrister asks if he is sure he lost them here, and the judge replies, no, and that he lost them in the park. The barrister asks why he is searching here, and the judge replies, "this is where the light is". **I petition for a writ of flashlight** (*in error coram vobis*). (See: "Streetlight Effect", and "Random Walk", Wikipedia, the free encyclopedia.)

70. In my opinion, this implies that URCP rule 100 ought to impute 'inclusion by implicit reference of all documents for all related court cases, both civil and criminal' into all of those same court cases. I here-by include, by reference, all such documents pertaining to this 'protective order', in all civil and criminal proceedings related to it, including the 'Parentage, Custody, and Support' case; but not the entire Internet. ;-)

metaphorically sort of 'clonk them over the head with a lawsuit', or 'SLAPP[71] them with a protective order...'[72] right? Utah Code §78B-7-115(3) specifies that «The court shall enter sanctions against either party if the court determines that either party acted: (a) in bad faith; or (b) with intent to harass or intimidate either party.» The attached affidavit and evidence demonstrates that the petitioner has violated both (a) and (b). It also shows that this information was made available to the district attorney's office while I was being held in jail unlawfully. (No probable cause hearing, charges without merit, etc.)

3.¶10 My question is this: how can the court determine this without the necessary evidence? Who gathers and verifies that evidence? If one party is accused of a violation, but the police never interview due to 'Miranda' issues... then there can exist a situation where both sides of the story are not really being heard. The problem becomes even worse in the presence of miscommunication, gender bias, in-group *versus* out-group bias, or just plain old 'dropping the ball'... but this is not a game! My situation is not a fictional 'training scenerio', *invented* for yous to study. It's real life! It's not funny *at all* when people's lives and reputations are at stake, or when a child is placed in danger due to the negligence of those officials! It is clearly and obviously, in my humble opinion, not judicially appropriate—especially in in domestic relations matters—to allow evidence only from one party while complicitly and slyly excluding, intercepting, and glossing over evidence provided to attorneys in both camps or placed in lodging by respondent/defendant!

3.¶11 In a lawful, honest, noble, and fair society, there are some things one just doesn't do to other people. Some of the obvious things we just don't do are *malum in se* crimes such as *theft, assault, battery, or murder.* The contract with society contains provisions designed to protect, *e.g.,* our right to bodily integrity and the right to property. Another one of those things is the telling of lies—whether contrivances, malefactions, misfactions, histrionic exaggerations, omissions, ambiguities, or innuendos—to others... and for the purpose of this argument... specifically we must not perjure before an honorable court of the Common Laws of our realm. These noble courts must leave no perjury and no contempt unpunished, lest they contribute to the plume spreading seep of poison flowing relentlessly to the tree of the clarion fruits of public faith in the fairness and honesty of these courts. We hear that most people have a *reasonable sense* of whether something is the result of fidelitous duty to this fair

71. "Strategic Lawsuit against Public Participation" Wikipedia (aka "SLAPP"). Hmmm. Closed private records, edited hearing recordings, hearings 'by proffer' with no cross examination, silencing defendant/respondents, disallowing objections from being spoken in court, no video record of hearings, and hearing minutes that don't conform with issued documents or things spoken at the hearing? Then valid issues raised in written 'objection' ignored and no hearing granted? Any attorneys out there have this happen? Or do they only do this to *pro se* litigants? They fail to follow the rules themselves, yet expect a *pro se* litigant to follow them to the letter. They are a mob of bullies. (c.f. `http://www.bullyonline.org`)

72. But when a Viking slaps 'his woman' with a fish, she's expected to catch it by the tail, slap it down onto the cutting board and fillet it, right? Made-est thou think!

and noble Common Law v. misfeasant; benevolent v. malevolent; lawful v. criminal; honest v. disingenuous; fair v. cheating; *righteous with respect to v. demeaning to, the fundamental purpose of laws*; or brought in good faith v. brought in bad faith...

3.¶12 To have someone charged with a crime is a relatively serious thing to do. It should not be done for gratuitous or frivolous complaints, nor for improper purposes. It should be done only when there is a genuine and *legitimate* purpose, or need for protection from a real threat of conduct that would cause a *reasonable* person to suffer substantial emotional distress. That is especially true when the potential consequences and penalty is serious. Complaints discovered to have been brought in bad faith, by a complainant with dirty hands, must obviously be "dehanced" down toward dismissal or acquittal... or better, charged back to the legal-karmic balance of the misfeasant. Yous will please Themis greatly by showing this some interest. If the definition of "criminal" is so different from one's law to the Republics', that... From natural law, to common law, to these courts' construction of the statutes pertinent to this action... By what definition of "criminal" will these courts choose to be known by? Hath thou lost faith in the Common Law upon which is based the legitimate expectations people have regarding these courts' duty to real fairness under the Common Law of Rights and the rules of Equity?

3.¶13 This decision is to be weighed, hanging from the scale by a golden thread that continues down, intertwined through the gestalt product of detailed evidence, testimony, and reasoning via which the decision is supposed to bee made... It's against the rules to pretend to faint, isn't it? I assure you, sirs, that I did not pretend to faint in court on April 25th, 2014. When confronted with the dreaded possibility of another long pre-trial jailing, I blacked out, *sic transit gloria mundi*. But the mere truth of that *I* did not *pretend* to faint in court does not imply that the *complainant* is not herself "pretending to faint" so to speak, with her gratuitous bad-faith complaints of "annoyance" pertaining to these direct SMS messages shown before you now in evidence. Yes, I fainted... perhaps leaving my body to confer with Justice and pray for my immediate release... after being told that I would be remanded to the jail, there charged with having written the "bee-poop dee-doop" SMS to my son's mother to let her know that my son and I were at the library by the beehives on the top floor, rather than at home, for her to pick him up after work.

> «Throughout the web of English Criminal Law one golden thread is always to be seen that it is the duty of the prosecution to prove the prisoner's guilt subject to... any statutory exception. If at the end of and on the whole of the case, there is a reasonable doubt, created by the evidence given by either the prosecution or the prisoner... the prosecution has not made out the case and the prisoner is entitled to an acquittal. No matter what the charge or where the trial, the principle that the prosecution must prove the guilt of the prisoner is part of the common law of England and no attempt to whittle it down can be entertained.» *Woolmington v DPP* [1935] AC 462; [1935] UKHL 1.

3.¶14 What is the expected result of a public survey regarding what's "fair" and what constitutes "justice" in this case? After all, this *is* Utah, right? Does the man who sent the SMS messages in evidence deserve to go to jail for it? I want to know, because another one of those things we just don't do to other people is that we don't leave any parent wondering where we are with the little boy, especially when per knows we've gone someplace relatively dangerous, such a ski resort on a snowy day, or the county jail on a snowy day! So, under the rules of Equity, has this father committed a crime? Is it a crime to say "I love you. Thank you for our son." to the other parent of your child? And especially after a happy discussion about beekeeping and gardening... Does anyone find either of those two simple phrases to be "threatening?" Does anybody care about how all of this makes *me* feel, or how it makes our *son* feel?

3.¶15 Defendant asserts that Utah Code[73] §68-3-2, "Statutes in derogation of common law not strictly construed[74]—Rules of equity prevail" is pertinent to these matters. That law explains that *«(1) The rule of the common law that 'a statute in derogation of the common law is to be strictly construed' does not apply to the Utah Code. (2) A statute of the Utah Code establishes the law of this state respecting the subjects to which the statute relates. (3) Each provision of, and each proceeding under, the Utah Code shall be construed with a view to effect the objects of the provision and to promote justice. (4) When there is a conflict between the rules of equity and the rules of common law in reference to the same matter, the rules of equity prevail.»*

3.¶16 When I think of "rules of common law overridden by rules of equity," it invokes an abstract ideal largely based upon natural law, a sort of "sense of fairness possessed by any reasonable person." Some things are obviously criminal, other things are obviously not criminal. Given sufficient factual information, it is rarely difficult to discern "criminal" acts from "non-criminal" acts. Most people have a reasonable sense of fairness and of right and wrong. We base our *presumption of innocence* upon the idea that *most people are not criminal*. Biased or selfish *prejudice* of decision choices is a sign of criminal thinking, as are channel closing and information hiding. It's just plain old *not fair* when a judgment is not based upon evidence, or upon all of the evidence, or when it goes against that *common sense* of fairness, or worse, against the honest implications of the evidence.

3.¶17 For example, §76-1-601, *«(13) "Writing" or "written" includes any handwriting, typewriting, printing, electronic storage or transmission, or any other method of recording information or fixing information in a form capable of being preserved.»* suggests that it

73. All references to Utah Code in this document are to the 'non-annotated' version published on the Utah Legislature web site, accessed as of this writing, in May and June of 2014.

74. Edlin, Douglas E. "Judges and Unjust Laws: Common Law Constitutionalism and the Foundations of Judicial Review." University of Michigan Press, 2008.

was not lawful, in 111905405, for the court to hold me on charges based upon a trivial distinction between an email and an SMS, regardless of the outcome of the preliminary examination hearing, had I actually been given one. In the same court case, the prosecution delayed release of discovery for more than 45 days.[75] When it was released, it contained nothing newer than 2 days prior to issuance of the warrant. None of it was ever lodged on the record...[76] One charge was for an SMS that pertained to our son, and the 'protective order' allowed email. The other charge was for a sub-one-minute call from an unklown caller, which the petitioner/complainant alleged was from me. They had no evidence to prove who made that phone call.[77] It was improper to hold me in jail on those charges. The oppressive pretrial incarceration was used to coerce a plea "agreement". But for the "Sery plea" I may not have taken it. I am not guilty of any wrongdoing, as I will explain herein. You will see that the petitioner/complainant is. The detective is. The deputy district attorneys are.

3.¶18 «The Utah Criminal Code follows the common law in establishing the basic proposition that a person cannot be found guilty of a criminal offense unless [per] harbors a requisite criminal state of mind or unless the prohibited act is based on strict liability.» State v. Elton, 680 P. 2d 728, Utah Supreme Court (1984). «Under the Utah Criminal Code, a crime may be a strict liability crime only if the statute specifically states it to be such.» Id. Utah Code §76-2-102 states that «*Every offense not involving strict liability shall require a culpable mental state, and when the definition of the offense does not specify a culpable mental state and the offense does not involve strict liability, intent, knowledge, or recklessness shall suffice to establish criminal responsibility. An offense shall involve strict liability if the statute defining the offense clearly indicates a legislative purpose to impose criminal responsibility for commission of the conduct prohibited by the statute without requiring proof of any culpable mental state.*» Neither §77-36-2.4, "Violation of protective orders—Mandatory arrest—Penalties" nor §76-5-108.1, "Protective orders restraining order abuse of another—Violation" make any mention of *strict liability,* but both use the phrase *intentional or knowing.* Thereby, it is necessary to demonstrate that there was a *culpable mental state* as a prerequisite to a finding of guilt—beyond a reasonable doubt—of violation of 'protective order.'

75. Don't they need to present that in order to obtain the arrest warrant and set bail?

76. Nor was my handwritten-from-jail Motion to Dismiss Due to Unreasonable or Unconstituional Delay as well as several other filings intercepted by Judge Lindberg and literally thrown on the floor by my state appointed attorney!

77. Even if I did make that phone call, I had given them evidence consisting of a voicemail from the complainant/petitioner wherein she explicitly invites me to reply via either of voicemail/telephone, SMS, or email. The 'protective order' had already been found to allow email. Bar association rules and Utah statute both define "written" to include written or recorded messages. Since the order allowed one form of written communication, it may as well allow any form of written communication. Does it really require courtroom time and an interlocutory hearing to determine that? Paid by the hour, right? No Fridays off?

3.¶19 «Common law does not work from pre-established truths of universal and inflexible validity to conclusions derived from them deductively, but [i]ts method is inductive, and it draws its generalizations from particulars.» Benjamin N. Cardozo, The Nature of the Judicial Process 22–23 (1921). It is necessary to examine the particulars and greater context of the full circumstances in making a determination of *culpable mental state*. Within this sort of decision environment, evidence of mitigating and extenuating circumstances can often easily be construed as exculpatory. A prosecutor's failure to accept, consider, make fair representation to the court, and to present discovery of evidence of this nature is a breach of the prosecutor's *duty of care*. This is known as *Brady Duty,* after Brady v. Maryland, 373 U.S. 83 (1963). A State's Attorney is expected to strive towards maximization of the "justice rate", not the "conviction rate".[78]

3.¶20 «In Brady [v. Maryland, 373 U.S. 83 (1963),] this Court held '*that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.*' 373 U.S., at 87. We have since held that the duty to disclose such evidence is applicable even though there has been no request by the accused, United States v. Agurs, 427 U.S. 97,107 (1976), and that the duty encompasses impeachment evidence as well as exculpatory evidence, United States v. Bagley, 473 U.S. 667, 676 (1985). Such evidence is material '*if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.*' Id., at 682; see also Kyles v. Whitley, 514 U.S. 419, 433–434 (1995). Moreover, the rule encompasses evidence '*known only to police investigators and not to the prosecutor.*' Id., at 438. In order to comply with Brady, therefore, '*the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in this case, including the police.*' Kyles, 514 U.S., at 437.» Strickler v. Greene, 527 U.S. 263, 280–281 (1999). «There are three components of a true Brady violation: The evidence at issue must be favorable to the accused, either because it is exculpatory, or because it is impeaching; that evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued.» Id. 281–282. «The question is not whether the defendant would more likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence.» Kyles v. Whitley, 514 US 419 (US Sup. Ct. 1995) at 434. «When the 'reliability of a given witness may well be determinative of guilt or innocence', nondisclosure of evidence affecting credibility falls

78. UCJA Chapter 13, Rule 3.8, note [1]: «A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence. [...] Applicable law may require other measures by the prosecutor and knowing disregard of those obligations or systematic abuse of prosecutorial discretion could constitute a violation of Rule 8.4.»

within [the Brady] rule.» Giglio v. United States, 405 US 150 (U.S. Sup. Ct. 1972) at 153 quoting Napue v. Illinois, 360 US 264 (US Sup. Ct. 1959) at 269.

3.¶21 Article I, Section 24 of the Utah State Constitution states simply that «*All laws of a general nature shall have uniform operation.*» I think that the phrase "uniform operation" here refers to the concept of *Integrity*, in the context of *Ethics*.[79] This interpretation is consistent with the "Equal Protection" clause of the 14th Amendment of the United States Constitution. It means that 'Nobody is above the Law'. That most certainly means that laws also apply to state's attorneys acting under authority of law as criminal prosecutors, who have a very important *duty of care* to integrity of operation of law and to the rights of the accused. It also means that the laws are supposed to apply just as equally to the petitioner/complainant as to the respondent/defendant. A double-standard leading to abuse of prosecutorial discretion or of discretionary immunity does not fairly serve the Common Law of Rights. Failing to enact law fairly will not improve public perceptions or resentments towards a broken system or misfeasant public employees. Cutting corners to save time puts honest men's liberty on the line. Rules, policies, or improper implementation of rules or policies that deny due process are unconstitutional and clearly subversive of common law. So is failing to adhere to rules that protect constitutionally guaranteed rights!

3.¶22 Utah Rules of Civil Procedure rule 81(e), "*Application in criminal proceedings*", says «*These rules of procedure shall also govern in any aspect of criminal proceedings where there is no other applicable statute or rule, provided, that any rule so applied does not conflict with*

79. Quoting Wikipedia, «*Integrity* is a concept of consistency of actions, values, methods, measures, principles, expectations, and outcomes.

Barbara Killinger offers a traditional definition:

> Integrity is a personal choice, an uncompromising and predictably consistent commitment to honour moral, ethical, spiritual and artistic values and principles.

In ethics, integrity is regarded as the honesty and truthfulness or accuracy of one's actions. Integrity can stand in opposition to hypocrisy, in that judging with the standards of integrity involves regarding internal consistency as a virtue, and suggests that parties holding within themselves apparently conflicting values should account for the discrepancy or alter their beliefs.

The word *integrity* evolved from the Latin adjective *integer*, meaning *whole* or *complete*. In this context, integrity is the inner sense of "wholeness" deriving from qualities such as honesty and consistency of character. As such, one may judge that others "have integrity" to the extent that they act according to the values, beliefs and principles they claim to hold.

A value system's abstraction depth† and range of applicable interaction may also function as significant factors in identifying integrity due to their congruence or lack of congruence with observation. A value system may evolve over time while retaining integrity if those who espouse the values account for and resolve inconsistencies.

† In computer science, an abstraction level is a generalization of a model or algorithm, away from any specific implementation. These generalizations arise from broad similarities that are best encapsulated by models that express similarities present in various specific implementations. The simplification provided by a good abstraction layer allows for easy reuse by distilling a useful concept or metaphor so that situations where it may be accurately applied can be quickly recognized.»

Obviously enough, it is the Maxims of Law and the Maxims of Equity which provide that *abstraction level* in Law.

any statutory or constitutional requirement.» URCP rule 11(b) concerns "representations to court", and the necessity of being capable of producing evidence to fully support the allegations. (In the case of denials of factual contentions, there may be a showing that there's a lack of information or belief.)[80] To make a false or misleading representation to the court regarding the severity or degree of criminality of an alleged offense is effectively a form of perjury. Utah Code §78B-6-301 is concerned with "acts and omissions constituting contempt:" «*(3) misbehavior in office, or other willful neglect or violation of duty by an attorney, counsel, clerk, sheriff, or other person appointed or elected to perform a judicial or ministerial service;*» This sort of moral turpitude waxes rapidly towards the more-criminal when an innocent person's substantial or due process rights are infringed upon as a result. My little boy watched the police taser the daddy he'd cried out for help from when the mother who'd been abusing him called the police to have him arrested, with a plan in advance to do so. Evidence of this was brought to the protective order hearing and ignored by the "court" that gave her the protective order they subsequently used to imprison me away from the son I am the attachment parent of.

3.¶23 Certainly, a discernment—as to whether some thing falsely or misleadingly represented to the court is benign and non-material, is just a little harmless joke,[81] or is a very serious fraud upon the court—would require a review of the laws, evidence, and testimony. A conspicuous absence of discovered and presented evidence is in itself very suspicious. "Intent" and "knowledge" are not simple Boolean truth values—i.e. *with* intent, or *without* intent—they are more like essay questions. *If there is intent, then what was the intent? What was the effect? And of knowledge, what is that knowledge? What is the source of it? What is its effect? Would the alleged actus reus cause a reasonable person to be subjected to substantial emotional distress, or to reasonable fear of physical violence? (Remember to also read this with an eye towards finding the petitioner/complainant's culpability… so think of the potentially dangerous environment of the jail, and of the psychological distress I am being subjected to throughout all of this!) Was there some legitimate purpose or necessity compelling the defendant to commit the alleged actus reus? What legitimate purpose is served by the complainant reporting this alleged actus reus as a violation of the 'protective order'? What legitimate purpose is served by subjecting the defendant, under the true circumstances, to imprisonment in the same cell with actually-violent—per se—offenders, or in close quarters with prisoners with communicable diseases?*

80. In the case where they are ignoring or not acknowledging or not giving proper consideration to the exculpatory or mitigating evidence that I've submitted to them, they seem to be pretending that there is a "lack of information *to* believe."

81. The 'little harmless joke' I'm popping out at you now is that §76-5-108.1, "Protective orders restraining order abuse of another – Violation", cited on page 3.¶18, doesn't really exist or anything...

3.¶24 Defendant now calls attention to §76-1-106, "Strict construction rule not applicable": «*The rule that a penal statute is to be strictly construed shall not apply to this code, any of its provisions, or any offense defined by the laws of this state. All provisions of this code and offenses defined by the laws of this state shall be construed according to the fair import of their terms to promote justice and to effect the objects of the law and general purposes of Section 76-1-104.*» §76-1-104, "Purposes and principles of construction" says: «*The provisions of this code shall be construed in accordance with these general purposes. (1) Forbid and prevent the commission of offenses. (2) Define adequately the conduct and mental state which constitute each offense and safeguard conduct that is without fault from condemnation as criminal. (3) Prescribe penalties which are proportionate to the seriousness of offenses and which permit recognition or differences in rehabilitation possibilities among individual offenders. (4) Prevent arbitrary or oppressive treatment of persons accused or convicted of offenses.*»

3.¶25 I wish the court to specially notice §76-1-104(2) with regard to the content and context of the communication that has taken place between the petitioner and myself, in terms of its **overt purpose** with regards to our *inextricable* family relationship, and to our joint responsibilities to our Child in Common—with inherent responsibilities to one another—rather than in terms of whether or not that communication was *technically,* by a strict reading,[82] a breach of a contact-limiting provision of the 'protective order'. I think that the *fine print* in the *Constitution*—which includes UN treaties—is higher law than the "*fine print*" in the one-sided form-injunction "protective" order crime-pretending-to-be-a-law bill of attainder crossed with a blank check letter of marque and reprisal, whether I smoke marijuana or vape cannabis or eat wonder bread or a salt-free wheat-thin on Sunday or listen to rock and roll symphony choral punk noise analogous to music or do or don't dance in the ready carp incredible missionary adoption central party-line. We are all children under the same Laws. It doesn't matter whether you chew your wonder bread with your arms crossed or your palms pressed together, whether you do it on Saturday or you do it on Sunday, butter-side up or butter-side down, wearing a leash or not, have it with wine or with water or with fresh fang-juice from an undeveloped apple(?) or wear the wrong kind of witch hat(?) or if you shave it, do, or don't. Whether you work for the court, for an adoption monger, or you're a victim of legal abuse. We are all bound by the same set of laws, and to hell with your iron curtain gulag penal system run by the perpetrators of crimes against rights and enervation of the judicial. Some are laws unconstitutional,[83] most are just laws. *Lex iniusta*

82. Here I'm alluding to the 'strong' (vs 'weak') reading of Lord Coke's decision in Dr. Bonham's case, which I learned about in Edlin, Douglas E., Judges and Unjust Laws: Common Law Constitutionalism and the Foundations of Judicial Review (University of Michigan Press, 2008), also mentioned in a previous footnote.

83. Cannabis prohibition is unconstitutional: not least onerous or most effective, no legitimate government interest given alcohol prohibition repeal and reasons for that; prohibition of it does more harm than good and more harm than it's use does. I will say no more about that in this document. You already know where I stand wrt the UCAA.

non est lex. Constitutionally protected speech, the rights of the child, and the right to free exercise stop at the higher right to bodily integrity and to be there to protect, care for, feed, and educate my own children you don't own. Locking people in jail for things that are not crimes is a crime, no secret there.

3.¶26 Because the complainant and I have a child in common, the set of laws that must be taken under judicial notice and consideration also include the child custody, child support, and child abuse laws. I would like particular attention to be paid to the parts of the laws that concern the *best interest of the child,* i.e. §30-3-36 «*(1) When parent-time has not taken place for an extended period of time and the child lacks an appropriate bond with the noncustodial parent, both parents shall consider the possible adverse effects upon the child and gradually reintroduce an appropriate parent-time plan for the noncustodial parent.*» The terms *custodial parent* and *non-custodial parent* here must be interpreted as meaning *parent with strong parent-child bond* is the *custodial parent.* E.g. if the child has a tendency to run away from one parent for the safety of the other, then the parent the child runs *to* is the "*custodial parent,*" if a strictly "statutory" or "legalese" definition of *custodial parent* may fail to carry that pertinent real-world information.

3.¶27 It is important to understand that my son and I have a very well established and vitally important father and son relationship. I am responsible for him. He depends on me. He is my son! I am his father! I began taking care of him when he was a 3 month old infant. He has spent most of his waking hours, and eaten most of his meals with me for quite some time. Several times in the past his mother has left him entirely in my care for extended periods of time. She has been dishonest with the court regarding that matter. The included evidence, submitted on disc because it is impracticable to print it all, demonstrates that. If it needs an exhibit letter or number before you can "check it in to evidence" and you don't like the ones written on it, write one on it yourselves.

3.¶28 My son and I have a very strong father and son bond. He runs to me for safety. He comes to me for comfort and wisdom. I am who he goes to when he's hungry. He is learning how to grow a garden with me. I am teaching him how to ski. We jump on a trampoline. We ride bikes. I've taught him how to operate the computer for videos, games, and educational activities. The walls of my apartment are painted with chalkboard paint so we can write and draw pictures on them with colored sidewalk chalk. It is *not* in his best interest for the court to imprison his father for merely having sent benign and non-threatening SMS messages to the child's mother. Our child's right to time with each parent must outweigh his mother's alleged need for "protection" against these benign, non-threatening, and necessary direct SMS messages!

3.¶29 The Common Law has long held that «*No one can act as judge in his own case.*» Should the petitioner/complainant be given the power of a judge to determine whether or not any individual instance of 'limited contact' constitutes a violation of the protective order? How much discretion over which incidents she chooses to request prosecution of, when not all are reported, is ethically appropriate? Is she required, by law or ethics, to report her own foul behavior? Do present screening and prosecution policies magically wash her hands of bad-faith wrongdoing, or do those policies demand that each alleged 'protective order' violation be screened for 'cohabitant abuse by protective order'? Where do we draw the line? How will doing so facilitate the legitimate state interest in remedy of the mischief and defect treated by the 'Cohabitant Abuse Act,' that is to say, to facilitate fair implementation of it's ostensible *raison d'être?*

3.¶30 At what point does speech or behavior cross the threshold from constitutionally protected status to legally regulable, or on to legally criminal or threatening? Would the speech or behavior alleged or evidenced cause a reasonable person to experience serious emotional distress or fear? Was the speech made public and defamatory? A court decision entered on the docket is a speech act, regardless of whether or not it was based upon evidence and true judicial deliberation. What is the honest fair-dinkum common law status of *res judica* in a case where no decisions could possibly have been based upon evidence because no evidence was ever allowed to be presented before any trier of fact? Care to face the inquisition of the World Court? Surprise, we're here! Ah, the *former* Olympic Village! Nice try! Let's hear *your* argument from reasonableness. Or will you claim ignorance? Diminished capacity?

3.¶31 And what if, in the same case, *baseless and oppressive pre-trial incarceration* prevented discovery of evidence necessary for successful defense? And further, what if evidence literally handed to the detective and prosecution was also blatantly ignored? And then in the same—I hesitate to use the term—'trial,' there was no *constitutionally required* preliminary examination accorded to the defendant, despite allegations of two 3rd degree felonies, one for sending an SMS pertaining to our son, and the other because she received a sub-one-minute phone call from somebody with no caller-id, both alleged to violation a 'protective order' that allowed email? Who was the judge of whether or not to prosecute and hold me in jail on $100 000 bail? It sure wasn't a preliminary hearing magistrate! The court—the prosecution and judge—effectively gave the petitioner/complainant the power of a judge to set the bail amount! The decision to set bail that high was baseless. I was denied my right to both a preliminary hearing and a fair bail hearing. They then held me in jail for 128 days, preventing me from organizing the evidence presented with this document! And nearly zero evidence was entered on the record, so there's nothing preserved for the appellate court... except that evidence was conspicuously absent and thus could not have influenced the court's decisions... right? If I close my eyes, does it all go away?

3.¶32 And what should the peace officers sent to *execute* the warrant have in mind after they see the bail amount and the two 3rd degree felonies part, but not the "it's just an SMS under a protective order that allows email and an unproven phone call" part? Would they kick down the door more gently if they heard the whole story? Would their guns be drawn, or not? What was the risk to *my* safety? Where was my son? Anty Bellum's kibutz? What's the 'protection/risk' ratio for this one? Is it worth the public expense to prosecute this kind of case? What legitimate government interest does it *serve*? How does having those police officers kick down my door reduce the amount of *domestic violence*, again? How does forbidding me from "using my words" affect the amount of rat piss on that statistic, in the public view? And what about locking a child's father in jail for it, depriving the child of a strong father figure? Remember, in no case of alleged violation of 'protective order' have I been charged with commission of any actual violence, *per se.* It was nice of them to grab for the tasers and not for the guns. Burning down the house! Woof.

3.¶33 By default, the peace officer or detective is not trained for the task of judgment, and even so, that task must be delegated to a neutral party, a magistrate at a preliminary hearing. An emotionally *involved* officer is not presumed to be an objective decider, nor is an aloof upper-class-man. The officer may only make a reasonable decision as to whether to submit a warrant request for *screening*... The questions **we** must ask are "with what information was that reasoning performed, in coming to that decision?", and "Can missing information change the result of the decision reasoning?" The officer may feel compelled by professional duty to abide by policy or by perceived policy-tradition, to apply for a warrant, and "screen charges" when a complaint has been made. Such complaints are made, presumably, by untrained lay persons, who are even less well versed in interpretation of law than professional peace officers. In this kind of alleged violation of 'protective order' case, sometimes officers feel obligated to make arrests and create warrant "informations" despite personal feelings that in doing so, an injustice is being committed under color of law. Perhaps others think it's like a kind of hunting licence?

3.¶34 I think that "fear of future (law colored) abuse" in my case is not a mere "speculative legal fiction", and I want that law taken away so they can do no further harm with it. How many heaps of burning legal questions do you need to *read* before it's dancing shadows form up to an injustice? "Who was the *primary aggressor* again?", asks the camel-in-the-courtroom. The draconian mob "enforcement" of the "protective" order law has risen beyond passive hocks while the non-enforcement of those inconvenient to somebody's-agenda-is-showing was limp wristed and sleazy. Any minute now a principled explosion of higher standards will be ethicising the situation... Whether we take the direct route or the indirect, the starting point and finish thin-blue-line are the same (always fashionable?) *fine print*.

3.¶35 *State v. Hernandez*, (2011) 268 P. 3d 822 (Utah Sup. Ct.) [preliminary examination hearing for class A misdemeanor], *Blakely v. Washington*, 542 US 296 (US Sup. Ct. 2004), [sentence must be based upon ajudicated facts verified via due process], *Teague v. Lane*, 489 US 288 (US Sup. Ct. 1989), [if a new judge-made law is created, determines when it must be applied retroactively, i.e. "requires the observance of those procedures that... are implicit in the concept of ordered liberty" at 307 quoting Mackey 401 US at 693], *United States v. Lovasco*, 431 US 783 (US Sup. Ct. 1977), [«...obvious that prosecutors are under no duty to file charges as soon as probable cause exists but before they are satisfied they will be able to establish the suspect's guilt beyond a reasonable doubt. To impose such a duty "would have a deleterious effect both upon the rights of the accused and upon the ability of society to protect itself" at 791 quoting *United States v. Ewell* at 120]

3.¶36 *Chapman v. California*, 386 US 18 (US Sup. Ct. 1967), [«Thus, the state prosecutor's argument... continuously and repeatedly impressed... that from the failure of petitioners to testify, to all intents and purposes, the inferences from the facts... had to be drawn in favor of the State—in short, that by their silence petitioners had served as irrefutable witnesses against themselves. And though the case in which this occurred presented a reasonably strong "circumstantial web of evidence" against petitioners, 63 Cal. 2d, at 197, 404 P. 2d, at 220, it was also a case in which, absent the constitutionally forbidden comments, honest, fair-minded jurors might very well have brought in not-guilty verdicts. Under these circumstances, it is completely impossible for us to say that the State has demonstrated, beyond a reasonable doubt, that the prosecutor's comments... did not contribute to petitioners' convictions. Such a machine-gun repetition of a denial of constitutional rights, designed and calculated to make petitioners' version of the evidence worthless, can no more be considered harmless than the introduction against a defendant of a coerced confession. See, e.g., *Payne v. Arkansas*, 356 U.S. 560. Petitioners are **entitled to a trial** free from the pressure of unconstitutional inferences.» at 25, references to juries and evidence redacted, bold emphasis added.] We are guaranteed a *speedy trial*, which «is an important safeguard to prevent undue and oppressive incarceration prior to trial, to minimize anxiety and concern accompanying public accusation and to limit the possibilities that long delay will impair the ability of an accused to defend himself.» *United States v. Ewell*, 383 US 116, 120 (US Sup. Ct. 1966).

3.¶37 Alaska's attorney general has recently decided to prohibit "sentence bargaining". «Disallowing sentence bargains means that it will be up to judges to determine consequences for defendants in what is known as an "open sentencing," a kind of mini trial in which evidence and witnesses are presented as part of the fact-finding process by the judge before a sentencing decision is made.»—Burke, Jill, "Will Alaska's Plea Bargain Plan Serve Justice, or Cause It to Grind to a Halt?", Alaska Dispatch, 13 August 2013. Also see: Candice McCoy, *Plea Bargaining as Coercion*, 50 Crim. L. Q. 67 (2005), Joseph Di Luca,

Expedient McJustice or Principled Alternative Dispute Resolution - A Review of Plea Bargaining in Canada, 50 Crim. L.Q. 14 (2005).

3.¶38 A prosecutor must review and screen the charges, deciding whether or not to prosecute a case. The prosecutorial discretion decision is *supposed* to be based upon the evidence submitted and the laws alleged to have been broken. How much information do they require for that? Is the information limit different for female complainants than for males? In what way does that evidence support an allegation that the defendant has committed a crime? Does it support an allegation that the complainant committed any crimes against the defendant, against the court, or against the state? Will the public feel that the statements and warnings regarding felony perjury near the signature on the official REQUEST FOR 'PROTECTIVE ORDER' are being properly enforced? Will they feel that everyone's Right to be Heard was shown proper respect?

3.¶39 What evidence exists of mitigating or extenuating circumstances? Can any of the evidence be construed as exculpatory, in support of any known theory of innocence based in common law? **If the public finds out about the case and verdict, how will the average person feel about the fairness of the Utah courts after hearing the story?** Will they feel that the *proscribed conduct* has been *adequately defined*? Will they feel that *conduct that is without fault has been safeguarded against condemnation as criminal*? Will they *feel* that the justice system works as advertised?

3.¶40 Prosecutorial discretion needs to follow the correct *construction* of the laws. Cases should not be tried unless there really is sufficient evidence to support confiction at a jury trial... and the charges are not a frivolous waste of resources. Filling up the dockets with frivolous cruft in order to make the job easier by creating an excuse—too many cases on my desk to find my plate or do real work and actually make the case against the suspect or defendant—thereby making it into a paper-push-and-shuffle-game or plea bargain bluff poker with pretrial incarceration and bail-bond racketteering is unethical and not what *a reasonable person* will expect, especially if the defendant hasn't really done anything wrong... Remember, we all watch TV shows where the DA sends it back unless they have substantial solid evidence, and the whole case is magically solved by conveniently stumbled upon evidence adding up to whodunnit by the end of a one hour show. So here in my case, I actually handed them the evidence, and it *was solid*, in the form of nanny-cam video, voicemail, and images from Facebook posts, that *impeach* the complainant, and demonstrate that *she* committed crimes, including perjury and contempt of court, and was the one who belonged on trial.

3.¶41 It doesn't seem like an appropriate exercise of discretion to have prosecuted me for such frivolous "reasons" while allowing her crimes against the integrity of the judicial process, to which the court officers themselves are accomplices! It seems to me that on the suebantum

scale of "severability from the primary body of the law", that the more venerable and time-honored laws, such as the one against telling lies to a court, or, say, uhm, whatever law you invoke against trial by combat or trial by ordeal of legal abuse...? ought to be "less severable than" whatever law they invoked to put a little boys daddy in jail for sending his mommy a text message, then holding him there despite him not having been a danger to himself or others, when they actually had been given evidence that demonstrated that she may be dangerous to our son, and that she had actually planned in advance to try and get me in trouble with police! And again, from articles, web pages, entire websites, lawyer's blogs, and other anecdotal testimony found on the Internet, I get a strong impression that this kind of abuse of process and malicious prosecution happens a lot in connection with these "protective" orders. There are a number of law journal articles pertaining to this subject. *e.g.,*

a) John Reginald Nizol, *Sacrificing the Constitution on the Altar of Victim Advocacy: Due Process, the Warrant Clause and the Immediate Enforceability of Ex Parte Protection Orders*, Student Scholarship (2005).

b) David H. Taylor et al., *Ex Parte Domestic Violence Orders of Protection: How Easing Access to Judicial Process Has Eased the Possibility for Abuse of the Process*, XVIII Kansas Journal of Law & Public Policy 83 (2008).

c) Todd Garvey, *The Take Care Clause and Executive Discretion in the Enforcement of Law* (Congressional Research Service 2014).

d) Russell W. Galloway Jr, *Means-End Scrutiny in American Constitutional Law*, 21 Loy. LAL Rev. 449 (1987).

e) Christopher R. Frank, *Criminal Protection Orders in Domestic Violence Cases: Getting Rid of Rats with Snakes*, 50 U. Miami L. Rev. 919 (1996).

Please take a little time and read a few of those. I'd rather wait an extra couple of weeks for the decision than have you make it without having read those. That's why you get paid the big bucks... you deal in truths and law, not so much in money or social capitol. For that you earn your salary, drawn from the public tribute.

3.¶42 *«[I]t is fundamentally unfair to allow the victim in such a crime—who necessarily has also violated the law—to mislead the defendant as to an element of the crime and then place the blame for the mistake on the defendant rather than the person who created the deceit and entrapped the defendant into committing a crime [per] attempted to avoid.» State v. Elton*, 680 P. 2d 731, Utah Supreme Court (1984). It is fundamentally unfair to issue an order with a contact-limiting provision that is subtly worded such that it *adequately defines* contact initiated by the respondent as being a breach of the provision, while not adequately defining contact initiated by the petitioner as a breach; nor are responses to contact initiated by the petitioner adequately defined as either a breach or not a breach of the order's provisions.

Because this is not "adequately defined," we must look to the rules of common law and the rules of equity in making the correct determination of *culpable mental state*. Any disharmony *vis a vis* a "common law constitutional" choirsong calls for analysis, iterative refinement, or refactoring.

> «The idea that the common law works itself pure expresses the common law's commitment to seek justice in the process of adjudication through the application of judicial reason to human experience and legal dispute. An essential part of the business of common law courts is, on this account, to strive toward justice. At times when judges find themselves faced with an unjust law, the obligations placed on them by their role within common law systems requires them to develop the law in the direction of justice: "The connection of justice to law, on this view, turns out to be indirect and non-exclusive. It comes of the combination of two facts: first, that adjudicative institutions should be just above all; secondly, that adjudicative institutions are, in a sense, the linchpin of all [common law] legal systems ... if they are to be just, the courts should still not surrender to a rule that cannot justly be applied; in that case, justice would have the courts either change the rule ... or depart from the rule."» Edlin, 2008, *supra* at 120, quoting John Gardner, *The Virtue of Justice and the Character of Law*, 53 Current Legal Probs. 1, 19, 21 (2000).

3.¶43 The evidence before you now demonstrates that the petitioner/complainant has initiated direct contact via SMS with the respondent/defendant. It also demonstrates that it was complainant, not defendant, who caused the court ordered[84] third party liaison, her mother, to quit. Regardless of whether she has quit or not, communication via a third person introduces unacceptable communication latencies consisting of time spent waiting for the third party to screen and forward messages. In coordination of coparenting activities, circumstances not always within our control often cause last-minute changes to rendezvous locations, times, or other minutia. Surely, the *necessity* and the *responsibility of a parent to contact the other parent* in this situation is difficult to argue against, and thus, *to avoid participation in the communication is not merely difficult, but immoral. I can't say no. My hands are tied to the task of caring for my son while looking out for his mother's rights and interests as well.* The necessities of accountability to the responsibilities of parenthood must govern the moral choices. *Necessitas inducit privilegium quod jura privata.*

3.¶44 The reality is that the kind of problems that must exist in the social relationship(s) of the petitioner and the respondent in these 'protective order' cases do not lend themselves to resolution via a judicial or courtroom process. That attempt at a solution began with the wrong mindset and thus it is the wrong tool for resolving the 'domestic bullying' problems

84. «*Perverse triangle* is a kind of *relationship triangle*. This refers to a pathological relationship structure between three persons, in which two persons on different hierarchical levels form a coalition (alliance/coalition/alignment) against the third. This alliance typically takes the form of an overstepping of generational boundaries, with one parent and a child in coalition against the other parent.» petitioner, "court", respondent, *cf. Corporate personhood*, `https://en.wikipedia.org/wiki/Corporate_personhood`, *Groupthink*, `https://en.wikipedia.org/wiki/Groupthink`, "us against them think", Nobleman / Serf, State / Church, Managment / Labor; But management *is a* special form of labor. (work shanty playing in background) We are all in the same boat. It requires an entire crew to operate a sailing vessel. (Wooden ships on the water; feel so free!)

the law was ostensibly a treatment for... Social work, a little non-manipulative applied folk-psychology, and primarily intra-family communication,[85] problem solving, and conflict resolution education would be more effective tools in treating the underlying causes of domestic bullying behaviors. The domestic 'violence' problem can not be resolved without treating the entire family as a holistic unit, nor can it be resolved without education and the love and nurture of other people. There's an old adage that goes "If you want democracy, then start with your own family."[86] But the people (not *The People*) who are "in power" don't want democracy; they want to be in power and to have money. They want other people to do the work for them to make their owned lives easier. Competition, capitalism, monotheism, heirarchy, hegemoney, spanking, time-outs,

3.¶45 I'm *finding* that these so called 'protective' orders are in themselves a form of bullying, and are thus part of the 'cycle of violence'.[87] It is a far too heavy-handed solution to a problem that honestly requires love and nurture as primary elements of it's solution.[88] The Utah Cohabitant Abuse Act (and the similar law in other states) creates more intrafamilial conflicts than it resolves. It splits up families that could, hypothetically, otherwise be saved through *early intervention consisting of education, and counselling...*[89] In choosing an appropriate quantifier for evaluating "families that could ... have otherwise be saved", we could go with "at least one", "a few", "a significant number", or "a jail-bus load", but probably not with "all". If it were *possible* to assign a dollar value to the harms done to each of those families... it would likely amount to quite a large pile of the taxpayers cash that the State would have to pay out for damages...

3.¶46 The taxpayers are paying the *perpetrators* of these rights abuses, who are the very people who you'd tell on to have anybody do anything about them. How many victims of this law have been put on the street by it? How many are forced to do low-wage labor to pay

85. Wikipedia, *Triangulation (psychology)*, 2016
https://en.wikipedia.org/wiki/Triangulation_%28psychology%29

86. That implies something like "If you want not-democracy, then start with not-your own family." Scary right? Divide and conquer? Monsters Inc. and paper by the ton?

87. "Cycle of violence" Wikipedia.

88. Though there really was a certain amount of that in jail... locking a little boy's daddy in jail clearly does not serve that end. Many people believe that we are all children of the "all-father" and "all-mother"... The human consanguinuity graph is completely connected, in the limit... Happiness within the families brings happiness between families in the villiage, which brings happiness between villiages in the state, which brings happiness between states, etc. It's the separated-ness and isolation that causes the troubles, perhaps; competition for resources vs cooperative planning and efforts... Now I'm going beyond the scope of this legal brief, perhaps? People need to *know* other people. In that, they will instinctually become friends. We can't learn about them by viewing them through a 'rifle scope' and preying on them.

89. I say 'hypothetically' because one of the problems with this sort of thing is that the implementation does not always live up to the grand expectations of the visionaries who thought it up to start with. There are always going to be issues involving knowledge transfer from professor to teachers-in-training, missing or erroneous propositions in the logical resolution process that brings those visionary planners to *this* as the particular best solution... A full exposition of this subject is beyond the scope of this document, but likely to be well known amoung professional educators, and it's their problem anyway, right? (Made-est thou think.)

20% of gross as child support, another percent in taxes, 10% in tithes, and not enough time left for diligent exercise of faith? They are run out of college one way or another; while leash wearing yuppies run the show in the star chamber court where they write magic spells to bind people to task; it's looking more and more like a "gulag", poor people are crazy, buckle-beds and all. If they paid restaurant workers what they are worth according to the utility of their labor, the food would cost more than most can afford to pay. Splitting up families costs them money, and it costs the taxpayers more money for welfare, since families that are together, pooling resources, need less welfare to get by.

3.¶47 One day when bringing our son to his mother's, shortly after the sentencing 'hearing', at one point he had me by his left hand and his mommy by his right... He was happy for that moment. Then he invited me to come in and see their nice new apartment. I had to tell him that I'm not allowed to go inside because there is a court order. He did not want to let go of my hand... and he started crying. Little children do not understand 'court order' and his feelings got hurt. So did mine. I cannot testify as to her feelings, since she doesn't share them well, plus the order forbids us from that kind of social contact. Is this the purpose of law?

3.¶48 The 'protective order' laws are notorious for being abused. They are often used as a divorce-industry-court tactic.[90] It takes only a few minutes searching the Internet to find many complaints about these laws. 'Protective orders' do not treat domestic bullying. They create a new form of it; an even worse form where the perpetrator can use the courts and police to carry out that abuse.[91] It creates sort of a slippery-slope high-heels on a sidewalk-crack into a sawed-off-rocking-chair-with-rug-over-hole-sawn-in-floor trap...[92,93]

3.¶49 At least in my case ($\exists$) they created a 'legal fiction' with the way the alleged violations of these 'protective orders' was handled. It effectively granted the petitioner the 'power of a judge in her own cause', since there's not really a squad car parked outside, and the only time the police are actually involved is when a report is filed by the petitioner. So the petitioner is who determines whether or not the order has been violated... unless the detectives and deputy district attorneys actually perform a complete and unbiased investigation, and 'screen' charges, rather than 'automatically sign warrants'.[94]

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90. I think they have no right to call themselves a 'family court'.

91. "Barratry (common Law)" Wikipedia; also "Jim Crow Laws" Wikipedia.

92. I'm assuming everyone has watched 'Looney Toons' cartoons as a child, and has seen Yosemite Sam try that trick with Bugs Bunny. If not, you can probably just order the DVD from ACME really quick, right? (leaning on a mailbox)

93. I realize that most lawyers would not put this sort of thing into their briefs; nor would they abuse the laws to sort of like 'take scalps' or 'hunt beavers to near extinction so they can have fancy hats', or anything, right? Thank what you get to work on Fridays, again?

94. It occurs to me that they were operating under a flawed legal theory; they acted as though the alleged violation of the 'protective order' carries a strict liability. After I was arrested for the 'bee poop SMS' I wrote an inspired brief: (`2014-06-02_141905361_Defendants_Statement_of_Affirmative_Defense_with_Motion_to_Dismiss.pdf`)

3.¶50 John Ruben and Alyson A. Grine, North Carolina Defender Manual, Volume 1, Pretrial, 2d ed., 1 (University of North Carolina Press, 2013)[95], pg 7-17 «The strongest prejudice claims are those in which a defendant can show that his or her ability to defend against the charges was impaired by the delay. See, e.g., State v. Chaplin 122 N.C. App. 659 (1996) (loss of critical defense witness); State v. Washington, 192 N.C. App. 277 (2008) (witnesses' memories of key events had faded, interfering with defendant's ability to challenge their reliability; witnesses also were allowed to make in-court identifications of defendant nearly five years after the date of offense, which increased the possibility of misidentification). However, courts have found prejudice where a defendant was subjected to oppressive pretrial incarceration or where delay resulted in financial loss or damage to the defendant's reputation in the community. See United States v. Marion, 404 U.S. 307, 320 (1971) (formal accusation may "interfere with defendant's liberty, . . . disrupt his employment, drain his financial resources, curtail his associations, . . . and create anxiety in him, his family and his friends"); State v. Pippin, 72 N.C. App. 387 (1985) (dismissal of charges upheld despite no real prejudice to defense where negligent delay in prosecuting case caused drain on defendant's financial resources and interference with social and community associations); Washington, 192 N.C. App. at 292 (that defendant was incarcerated for 366 days as a result of pretrial delay was an "important consideration"). In some cases, courts have found delay to be so long, or so inexplicable, that prejudice is presumed. See Doggett v. United States, 505 U.S. 647 (1992) (prejudice assumed where trial delayed for over eight years); State v. McKoy, 294 N.C. 134 (1978) (willful delay of ten months outweighed lack of real prejudice to defendant; speedy trial violation found).»

3.¶51 John Ruben and Alyson A. Grine, North Carolina Defender Manual, Volume 1, Pretrial, 2d ed., 1 (University of North Carolina Press, 2013) at 7-22(E) «Dismissal is the only remedy for violation of a defendant's constitutional right to a speedy trial. See Barker, 407 U.S. 514, 522; G.S. 15A-954(a)(3) (court must dismiss charges if defendant has been denied constitutional right to speedy trial); see also Strunk v. United States, 412 U.S. 434 (1973) (court cannot remedy violation of right to speedy trial by reducing defendant's sentence); State v. Wilburn, 21 N.C. App. 140 (1974) (recognizing that dismissal is only remedy after determination that constitutional right to speedy trial has been violated).»

3.¶52 Wikipedia: In order to obtain a search warrant in the United States, a law officer must appear before a judge or magistrate and swear or affirm that he has probable cause to believe that a crime has been committed. The officer is required to present his evidence to the magistrate and present an affidavit to the magistrate, setting forth his evidence. "An

95. http://defendermanuals.sog.unc.edu/defender-manual/2

affidavit must provide the magistrate with a substantial basis for determining the existence of probable cause." In other words, the law officer must present his evidence, not merely his conclusions. "Sufficient information must be presented to the magistrate to allow that official to determine probable cause; his action cannot be a mere ratification of the bare conclusions of others."

3.¶53 I assert that the Petitioner in Protective Order 104 906 439, Ms. Kasey Diane MacRae, has committed multiple violations of Utah Code §76-8-502 which prohibits "false or inconsistent material statements," by having made several false statements on the *Request for Protective Order*. Those false statements are "material" as defined by Utah Code §76-8-501. I remind The Court that Domestic Violence charges against Ms. MacRae were an open matter at the time the "Request for Protective Order" was filed, and she did not report that fact as she was required to by law.

3.¶54 I assert that Ms. MacRae has violated Utah Code 78B-7-115(3) of the Cohabitant Abuse Act, which prohibits use of a protective order in "bad faith or with intent to harass or intimidate." In connection with this, I will demonstrate that she has committed "Electronic Communications Harassment," as per Utah Statutes 76-9-201(2)(b). Furthermore, her statements alleging that: I "would not give her access to our son"; that I was in jail for "violating the protective order"; and statements made to a day care provider; amount to "Criminal Defamation," defined in Utah Code 76-9-404.

3.¶55 I allege that **on December 10, 2010, Ms. MacRae committed (attempted) child abuse**, and herewith submit documentary evidence that shows an attempted (76-4-101) violation of 76-5-109(2)(b) "Child Abuse," in that she recklessly engaged in conduct that could have caused serious physical injury to our 14 month old son, as per 76-5-109(1)(f)(ii)(B). I back this allegation with documentary evidence in the form of a "nanny cam" video, which has part of the evidence exhibit included with Respondent's *Answer to Petitioner's Statements in Request for Protective Order*.[96]

3.¶56 Finally, I believe that Ms. MacRae made false or misleading material statements to Honorable Judge Virginia Ward, of the Salt Lake Justice Court, to achieve unwarranted dismissal of the charges she was facing in 101 414 961. If this allegation proves correct, then it is another violation of Utah Code 76-8-502, which prohibits "false or inconsistent material statements".

96. Copies of that evidence, along with Respondent's *Answer*, were also submitted to CPS/DCFS, the Salt Lake City Prosecutor, and the Guardian *ad litem* on the day before the first hearing on the protective order. Police detective Robert Woodbury accepted a copy of the video into evidence, in December 2010, after I signed a Miranda waiver, granting the Salt Lake City Police possession of that video. They apparently did not actually investigate it. If they have, I'd like to see what they had to say about it.

3.¶57 Respondent asserts that Utah Code §68-3-2 «Statutes in derogation of common law not strictly construed[97] – Rules of equity prevail» is pertinent to this matter. That law explains that *«(1) The rule of the common law that 'a statute in derogation of the common law is to be strictly construed' does not apply to the Utah Code. (2) A statute of the Utah Code establishes the law of this state respecting the subjects to which the statute relates. (3) Each provision of, and each proceeding under, the Utah Code shall be construed with a view to effect the objects of the provision and to promote justice. (4) When there is a conflict between the rules of equity and the rules of common law in reference to the same matter, the rules of equity prevail.»*

3.¶58 «The Utah Criminal Code follows the common law in establishing the basic proposition that a person cannot be found guilty of a criminal offense unless [per] harbors a requisite criminal state of mind or unless the prohibited act is based on strict liability.» State v. Elton, 680 P. 2d 728, Utah Supreme Court (1984). «Under the Utah Criminal Code, a crime may be a strict liability crime only if the statute specifically states it to be such.» Id. Utah Code §76-2-102 states that «*Every offense not involving strict liability shall require a culpable mental state, and when the definition of the offense does not specify a culpable mental state and the offense does not involve strict liability, intent, knowledge, or recklessness shall suffice to establish criminal responsibility. An offense shall involve strict liability if the statute defining the offense clearly indicates a legislative purpose to impose criminal responsibility for commission of the conduct prohibited by the statute without requiring proof of any culpable mental state.*»

3.¶59 Neither §77-36-2.4, "Violation of protective orders – Mandatory arrest – Penalties" nor §76-5-108.1, "Protective orders restraining order abuse of another – Violation" make any mention of *strict liability,* but both use the phrase *intentional or knowing.* Certainly a discernment—as to whether some thing falsely or misleadingly represented to the court, is just a little joke, or very serious fraud upon the court—would require a review of the evidence and testimony... Presumably (ironic humor) after skipping around in the shade for a few years, I have managed to produce this document, to bring a few facts into the light of this court's review.

3.¶60 It is also important to recall that "Intent" and "knowledge" are not simple boolean truth values—i.e. *with* intent, or *without* intent—they are more like essay questions to be resolved within a context containing all pertinent facts of evidence. (*If there is intent, then what was the intent? What was the effect? And of knowledge, what is that knowledge? What is the source of it? What is the effect of that knowledge?* ***What is the effect of the actus reus? Would it cause a reasonable person to be subjected to substantial emotional***

97. Edlin, Douglas E. "Judges and Unjust Laws: Common Law Constitutionalism and the Foundations of Judicial Review." University of Michigan Press, 2008.

distress? *Or what of recklessness? According to which witness? Whos truth?*) Thereby, it is necessary to *demonstrate* that there was a *culpable mental state*, beyond reasonable doubt, as a prerequisite to a finding of guilt of violation of 'protective order.'

3.¶61 It was harmful and wrongful to fail to simply admit the evidence into lodging at the initial protective order hearing on my promise to serve that evidence to the petitioner. Recall that I had issued a Request for Continuation to Formal Evidentiary Hearing attached above my Answer to Request for Protective Order and the evidence summary with DVD. That evidence must be allowed to become part of the record. With this pleading, I hereby lodge not only that evidence, but further information obtained and carefully logged and maintained throughout the entire ordeal.

3.¶62 Respondent now calls attention to §76-1-106, "Strict construction rule not applicable": «*The rule that a penal statute is to be strictly construed shall not apply to this code, any of its provisions, or any offense defined by the laws of this state. All provisions of this code and offenses defined by the laws of this state shall be construed according to the fair import of their terms to promote justice and to effect the objects of the law and general purposes of Section 76-1-104.*» §76-1-104, "Purposes and principles of construction" says: «*The provisions of this code shall be construed in accordance with these general purposes. (1) Forbid and prevent the commission of offenses. (2) Define adequately the conduct and mental state which constitute each offense and safeguard conduct that is without fault from condemnation as criminal. (3) Prescribe penalties which are proportionate to the seriousness of offenses and which permit recognition or differences in rehabilitation possibilities among individual offenders. (4) Prevent arbitrary or oppressive treatment of persons accused or convicted of offenses.*»

3.¶63 I wish the court to specially notice §76-1-104(2) with regard to the content and context of the communication and contact that has taken place between the petitioner and myself, in terms of its **overt purpose** with regards to our *inextricable* family relationship and our joint responsibilities to our Child in Common—with it's inherent responsibilities to one another—rather than in terms of whether or not that communication was *technically,* by a strict reading, a breach of a contact-limiting provision of the 'protective' order.[98]

3.¶64 «[I]t is fundamentally unfair to allow the victim in such a crime—who necessarily has also violated the law—to mislead the defendant as to an element of the crime and then place the blame for the mistake on the defendant rather than the person who created the deceit and entrapped the defendant into committing a crime [per] attempted to avoid.» State v. Elton, 680 P. 2d 731, Utah Supreme Court (1984). It is fundamentally unfair to issue an

98. ... that nobody told me carried a "strict liability" regarding alleged breaches of it's unconstitutionally one-sided 'contract' or even what *that* was until I had to read law to learn how to write this... The Utah Constitution says that "All laws of a general nature shall have uniform operation." Seems like the more general principle underlying that ought to apply to the 'protective order' "contract" also. It ought to be bilaterally applicable; that is, apply to the petitioner as well as to the respondent.

order with a contact-limiting provision that is subtly worded such that it *adequately defines* contact initiated by the respondent as being a breach of the provision, while not adequately defining contact initiated by the petitioner as a breach...

3.¶65 Surely, the necessity that a parent contact the other parent in this situation is difficult to argue against, and thus, *to avoid participation in the communication is not merely difficult, but immoral. I can't say no. My hands are tied to the task of caring for my son while looking out for his mother's rights and interests as well.* I can not look out for their interests if I am being locked in jail or inhibited from openly communicating by the threat of 'protective order' violation.

3.¶66 Because the petitioner and I have a child in common, the set of laws that must be taken under judicial notice and consideration also include the child custody, child support, and child abuse laws. I would like particular attention to be paid to the parts of the laws that concern the best interest of the child. §30-3-36 «(1) When parent-time has not taken place for an extended period of time and the child lacks an appropriate bond with the noncustodial parent, both parents shall consider the possible adverse effects upon the child and gradually reintroduce an appropriate parent-time plan for the noncustodial parent.» The reason I ask you to keep this in mind will become obvious later in this brief, as I expose details of events pertinent to these matters.

3.¶67 I shall demonstrate that the petitioner's actions[99] have been characteristic of the sort of *mischief and defect* that §78B-7, the COHABITANT ABUSE ACT[100], was allegedly intended to remedy... And that thereby, she has violated §78B-7-115(3), by acting "... in bad faith[101], or... with intent to harass or intimidate ..." Congress would not have included §78B-7-115(3) but for their intention that it remind the courts to invoke and enforced it, *fiat Justitia*. Clearly, §78B-7-115(3) does not *derogate* any rules of common law, nor does it *derogate* the rules of equity. Quite the opposite, *it asserts that the Maxims and Rules of Common Law and Equity must prevail*, as a matter of course[102], in connection with COHABITANT ABUSE ACT 'protective orders'.

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99. She could not have been solely responsible for perpetration of this atrophcity of high standards of injustice I have been subjected to here in the *former* olympic village.

100. It will please mother Themis greatly if you will pronounce the title of this law with the word "Act" spoken slightly louder, with a tonehint of sardonic irony. Oh, and because you'll need it later, you may want to learn the correct pronunciation of the word "impracticable."

101. *Bad faith*, according to `dictionary.law.com`, is defined as: «1) n. intentional dishonest act by not fulfilling legal or contractual obligations, misleading another, entering into an agreement without the intention or means to fulfill it, or violating basic standards of honesty in dealing with others. Most states recognize what is called "implied covenant of good faith and fair dealing" which is breached by acts of bad faith, for which a lawsuit may be brought (filed) for the breach (just as one might sue for breach of contract). The question of bad faith may be raised as a defense to a suit on a contract. 2) adj. when there is bad faith then a transaction is called a "bad faith" contract or "bad faith" offer. See also: clean hands doctrine, fraud, good faith, presumption of innocence, and the "ten commandments" of Moses.»

102. Utah Code §68-3-12(1)(j) *"Shall" means that an action is required or mandatory.*
Also see: `http://en.wikipedia.org/wiki/Duty_of_care`

Quis custodiet ipsos custodes? Qui nunc lasciuae furta puellae hac mercede silent crimen commune tacetur? ***Castigat ridendo mores.***

4 The Protective Order & the Several Warrants

4.¶1 Protective order 104906439—described below on page 60—was dismissed on March 30, 2015. For that purpose, I prepared and filed a 'long affidavit',[103,104] entitled MOTION OF RESPONDENT TO DISMISS PROTECTIVE ORDER, with a DVD disc of supporting evidence, on February 25, 2015, in case 104906439. The disc contains audio & video recordings, voicemail recordings, SMS & email messages, police reports, court case histories, and photographs to support the written testimony in my affidavit. The recordings demonstrate that Ms. MacRae was not truly "in fear" of me, that she came over and entered my apartment on a regular basis, that she was often verbally abusive, and that our son was afraid of her. There is also evidence that demonstrates how a DCFS officer willfully disregarded evidence of Ms. MacRae's abuse of our son. It supports my written testimony regarding that, which is in the 'long affidavit'. One of several quite materially revealant and inculpatory videos was made in front of the library during the April 22nd, 2014 "bee poop dee doop SMS" (141905361) incident.[105]

4.¶2 Despite that I brought it in support of my motion to dismiss the 'protective' order, that evidence disc was *not* placed 'in lodging' on that case, but was filed with a NOTICE OF LODGING on May 7th, 2015, in Parentage, Custody, and Support case 094903235... and the court commissioner rejected it, saying that they don't know how to file a DVD. In spite of her complaints about the large page-count of the affidavit itself, the commissioner suggested that I print the material from the disc in alternative to filing the disc itself. I said that I can not do that because much of it is in the form of audio recordings, and that printing other parts of it would produce a very thick bundle. Certainly those printed documents would wind up being scanned and stored electronically anyhow... and would then consume more storage space than the original pdf's from the disc, plus use up the paper and ink for printing them.

4.¶3 Later on in the case, when I asked the court for *gratuit* transcripts *in forma pauperis*, I was denied written transcripts, but provided with audio recordings on disc, which they apparently *do* know how to keep on file. I hereby include by reference the MEM-

103. It's really an 'affidavit' despite that I naïvely entitled it as a 'motion'. It turned out that the actual 'motion' had to be submitted on the standard form provided by the court.

104. The "long affidavit" was begun quite some time ago. In one of it's earlier forms, I submitted it to police detectives, DCFS, and the Salt Lake District Attorney's office. I also submitted it to the police and DA's office in it's final form. Nobody has contacted me about it. When I spoke with the Salt Lake City prosecutor regarding 151408272, I attempted to provide her with a copy, explaining that it was evidence of crimes committed by Ms. MacRae. She refused to look at it or accept a copy of it.

105. The most recent one was made on June 13th, 2015, three months after the protective order was dismissed, when she assaulted me in front of our son. She was charged with a crime for that, case number 151408272. The behavior she demonstrates in the video of this assault is typical of how *she* has behaved while claiming, in court, to be "afraid" of me.

orandum Regarding Discovery Request, Release of Court Records filed October 5th, 2015 in case 094903235, as well as the several documents referenced therein. Per *Roberts v. Erickson*, 851 P.2d 643 (UT Sup. Ct. 1993), rather than submitting full *certified* transcripts, I will be submitting transcripts made by myself, and summarizing, citing, and quoting where necessary from the audio recording records.

4.¶4 I insist that the 'long affidavit', evidence disc, the errata & addendum, the March 26, 2015 objection to commissioner's recommendation to abbreviate the affidavit, and that notice of lodging be considered as part of the record for the purposes of this petition. Some of the evidence within it predates the alleged violations of 'protective' order, and some of it was produced during and after that ordeal. I was not able to gather it all and present it during the criminal 'trial'[106] for reasons stated elsewhere in this document, though I did attempt to provide some of it to the police detective and court. I shall refer to those documents from within this one. In some cases the affidavit provides greater detail than I will include herein, though I will repeat a certain cross-section of the information appropriate to the purpose of this document. Along with the disc and a much larger folder of "data" the disc is a subset of,[107] it provides evidence-supported testimony of events both prior to and after the issuance of the protective order and the alleged violations of that 'protective' order. **I won't apologize for the length of these documents nor for the amount of evidence attached to them.**[108] **I have the right to be heard and the right *and* responsibility to meet the burden of production of evidence in support of my defenses and claims. *He who asserts must prove.***

4.¶5 The court, in turn, has the incumbent obligation to support the right to be heard by listening diligently to *both* parties, start to finish.[109] «The obligation imposed on judges by the common law to explain the reasons for their decisions necessitates that the proffered

106. See *Pinder v. State*, 2015 UT 56 (UT Sup. Ct. 2015) at ¶42, regarding the definition of "trial".

107. There was not room on the DVD for all of the ≈12 Gib of audio recordings, videos, voicemail audio, email, SMS messages, and photographs that I gathered for the purpose of proving that I am not the one who was violating the law, and that she, by her own actions, neither needs nor wants a protective order except for when she wants to exploit it as a means of coercion. I chose to include written transcripts of voicemail rather than the recordings themselves, and left out redundant or extraneous material as well as some I'd rather have put on it. I reserved the right to bring any of the additional evidence to court by providing notice of its existance with an offer to provide the full set upon request.

108. I suggest that if the court does not wish to recieve such daunting 'reading assignments' that they either stop issuing 'protective' orders initiated by form-pleadings altogether, or at least increase the standard of proof required of those who are acting to be awarded a 'protective' order... coupled with *actually requiring* that the standard of proof be met prior to issuing the permanent order. It is not *my* lack of due diligence or procrastination that caused this. *I* will not "fail to marshal the evidence", a phrase I often see in appellate and supreme court decisions.

109. See URCrP rule 201 «Judicial Notice of Adjudicative Facts» wrt the "letter" filed August 1st, 2011, it's factual contents, and that Judge Lindberg did *not* read it in it's entirety prior to remanding me to jail. She said in court that she had not read it because she believed it to be *ex parte*. There is a long silence on the record where she is reading, but not long enough for her to have read the entire document. I would have gladly returned to court the following day or week, allowing her time to actually read it, properly validate my claims, and take 'judicial notice' of it. But she did not want to "get into the substance of the case", after I tried to explain that the so-called victim is who initiated the contact ⟶ *volenti non fit injuria*; see Utah Code references on page 1.3.¶1.

explanations be complete and candid. The value of a judge's statement of reasons for a decision is lost if the judge does not state those reasons accurately: "The danger is that this duty of exposition can be evaded. It requires candor from judges in addressing the strongest arguments against their views... The duty of exposition seeks to remind the judge that the power to do something is not the same as the right to do it—that right can be earned, if at all, through reason."» Edlin 2008 at 118 (*supra*, in fn p52), who is quoting J. Harvie Wilkinson III, *The Role of Reason in the Rule of Law*, 56 U. Chi. L. Rev. 779 (1989) at 798.

4.¶6 I was prevented from bringing this evidence during the course of the proceedings in the criminal cases by the pretrial incarceration and excessive bail. I explained the problem to the court in a letter filed August 1st, 2011 which the court clerk believed to be *ex parte* because at the time I did not fully understand the purpose of the "certificate of mailing" that accompanies court filings; the letter does have a 'cc' below the signature, but that was not deemed sufficiently obvious. I certainly had sent copies to both the prosecutor and the public defender. It is important to notice—now—that the information I provided within that letter—then—was clearly intended for URE rule 201 *judicial notice* and URCP rule 26(a)(1)(A)(i) disclosure. It provides easily verifiable testimony of facts pertinent to the bail and pretrial incarceration decisions, and declares the existence of exculpatory and mitigating evidence pertaining to the primary charges against me, as well as to the State's assertion, given in the language of the warrant, that I was a "flight risk". It also pointed out that nothing I was charged with was actual violence, *per se*.[110] In court, on the record (W48 2011-08-26 11:17:50), the judge asked «Do I have any evidence of violence? Do you have letters that have been... let me see if I have any of them in file.» She had not read the pleading yet. She began to read it shortly after that.[111] There is nobody speaking in the recording while she reads it, between 11:18:55 and 11:19:40. Less than one minute is certainly not long enough for her to have read the entire letter! She did *not* read it from start to finish. She read it in a context where she was feeling rushed, with a courtroom full of people staring at her. She apparently did not read the most important parts of it, which were largely repeated in a second letter faxed and emailed to court and filed on August 4, 2011.[112]

4.¶7 Deputy District Attorney Roger Blaylock (#367) apparently had not read it very carefully either. When he was asked (W48 2015-08-26 11:17:12) he says that when I was «bound over on the two preliminary hearings, there was a request at that time that the bail amount be $100000 and that the court (inaudible) until that signature could be obtained; he

110. It is unreasonable to enforce a non-existant "no contact" order with such draconian strictness, given that the comlainant had clearly contacted me first, inviting response.

111. `2011-08-01_111903279_Motion_for_Bail-Reduction_signed.pdf`, written July 24, 2011, is the one she was reading in court. Also see: `2011-08-01_111903279_Minute_Entry_re_Ex_Parte_Letter_from_Defendant.pdf`

112. `2011-08-04_111905405_Email_from_Defendant_-_copies_mailed_to_LDA_and_DA.pdf`

then went and basically indicated that he was not–that he had no intentions of ever returning to court, (I interject with "that's not true, your honor.") he wrote letters to everybody and in the process saying he was aware of the warrant, we don't think that he's an individual who will follow up if the court reduces his bail and allows him out; it'll just be more problems. [...] he blames the victim for the contact. [...] I would submit that this isn't the kind of person who would do well under supervision being released, or a reduced bail.» But 111905405 was not filed until 10 days *after* the preliminary hearing he speaks of! There was not "two preliminary hearings", only one, and it had nothing to do with 111905405, since it had not been filed yet. I will expound upon this in more detail below, in 4.9, beginning on page 69. Also, during the prosecution of and my pretrial incarceration for 111905405, there was several hearings due to Ms. MacRae having made motions to modify the protective order. I will describe those hearings below also, in 4.9.6, page 98, in order to help organize this document chronologically.

4.¶8 At that preliminary hearing the magistrate found that the protective order allowed email. 111905405 was based on an SMS or 'text message'! The 'information' for 111905405 shows that the charges are truly frivolous, given that (a) they are based upon what is legally 'written' communication, an SMS message, and upon an alleged telephone call they had no solid evidence to show whether or not it came from me; (b) that I had *attempted* to provide them with evidence showing that Ms. MacRae had initiated and invited communication by both SMS and voicemail/telephone; and (c) charges based on *email*, a form of electronically transmitted written communication, were *not* bound over at the much-belated preliminary hearing.

4.¶9 Furthermore, the letter that he spoke of and that the judge was reading at the bench clearly contradicts Mr. Blaylock's assertion. In it, I explain the exculpatory, mitigating and extenuating circumstances in support of *ex turpi causa non oritur actio* and *volenti non fit injuria*. I also explain why I was neither a flight risk nor a threat to myself or others. I have a son that I have a strong fatherhood bond with who needed me; I had never missed any court appointments previously; I was already out on bail and jumping bail would be worse than the trouble I was already in; The bail was clearly excessive, and I cited case-law to that effect.

4.¶10 The court not only allowed Ms. MacRae to determine the bail amount, the prosecutor *solicited* her input as to the bail amount in open court! The bail was set at $100000. In effect, they gave an impeached witness[113] the power of a judge in her own cause, and imprisoned me pretrial on excessive bail for frivolous and meritless—*prima facia*—charges they ultimately

113. My Answer to Request for Protective Order with it's associated evidence summary and disc impeach Ms. MacRae's testimony in her RPO. That 'answer' was absent from rule 16 discovery, despite that her RPO *was* present, and I assume also used in obtaining the $100000 warrrant. I was not accorded a preliminary hearing. See, *eg. Giglio v. United States*, 405 US 150 (US Sup. Ct. 1972), *Napue v. Illinois*, 360 US 264 (US Sup. Ct. 1959), *Mooney v. Holohan*, 294 US 103 (US Sup. Ct. 1935), *Blakely v. Washington*, 542 US 296 (US Sup. Ct. 2004), UCJA URPC Rule 3.8, «Special Responsibilities of a Prosecutor».

dismissed, after using them to hold me in jail for 128 days, to coerce a plea bargain on other charges also frivolous and without merit for which I had paid bail and wanted a jury trial for! In the letters written to the Salt Lake District Attorney's office, I brought up the idea that it would be very embarrassing to them to have me on trial in front of a jury for having written non-threatening SMS messages under a protective order that allowed email. I also pointed out that for the two cases where there was anything close to physical proximity alleged, the so-called "victim" had told them, as documented in the police reports, that she did not feel threatened or endangered.

4.¶11 During the course of that imprisonment, I wrote a number of letters to my attorney, to the victim advocate who represented the complainant, and to both the deputy district attorney as well as some addressed to the district attorney *himself.* Those letters are also included on the disc that accompanies the long affidavit entitled MOTION TO DISMISS PROTECTIVE ORDER, mentioned previously. It demonstrates that they knew or should have known about significant and material testimony & declared-available evidence to support it that was both mitigating and exculpatory. **I assert that they had the wrong person on trial, and that the trial was not conducted according to the laws and constitution.** I had not been accused of anything actually dangerous, *per se*, and the pretrial incarceration prevented discovery of that evidence. Additionally, **I had presented some evidence to the detective, who refused to accept my countercomplaint and evidence!** I documented that by asking the court clerk to file a copy of an email reply I sent to the detective on August 9th, 2011 in correspondence pertaining to that subject. I believed it had been filed in lodging, but I can not find it now. A copy of that email is on the disc with the long affidavit. The evidence I was presenting to the detective was placed in a cloud-storage folder with an HTML page with links to the individual files. I also provided the URL to that page in handwritten pleadings filed from jail in the protective order case. That cloud-storage provider has gone out of business, but I have preserved the entire set of files, available on request. A sample of the most important evidence presented to and ignored by the detective is presented beginning on page 69.

4.¶12 People who are dishonest with the court in attempting to obtain a protective order will be likely to be dishonest in their application of it. **The court that issues the 'protective order' must be sure to fully read and hear both sides of the story, and especially to take under careful consideration any exculpatory or impeaching evidence.** The proper function of the court is to protect the innocent and to uphold the laws. Sometimes the *respondent* at a 'protective order' hearing is the innocent one. Courts should tolerate no perjury nor pass any decision made upon impeached testimony. The prosecution bears a responsibility to reveal the possibility that their witness's testimony is impeached by evidence they have possession and knowledge of.

4.¶13 Throughout this, the pattern that I'm observing is that the police detectives, and the courts are suppressing or carefully "not finding" evidence that exculpates me, and inculpates Ms. MacRae. What good does it do to punish me for things that are not really crimes, while allowing and even *helping* her to get away with things that clearly are? Not only have they disregarded my written testimony, they either disallow me from speaking things on the record, or cut those things out of the record after I've said them. The recordings of court hearings have peices missing, mostly from the ends, always of things that I spoke in court, regarding or implicating misfeasance of the executive and judicial court officials "running the show". For example, at the, IIRC, April 1st, 2011 roll-call hearing, I addressed the court regarding the unfairness and irony inherent in arresting me for "using my words", and calling it domestic "violence" when it's Ms. MacRae who is "closing the channel" with a protective order while they let her get away with perjury, domestic violence, and child abuse; and about how if I'm convicted, the court would probably send me to Valley Mental Health, where I'd probably be taught to "use my words". It does no good to teach one person to use his words while the other is enabled by the court to plug her ears and go "lah lah lah", never having to face her own culpability. It seems like every time that I had anything of any substance to say in court, it was 'conveniently' at a point in time where they could say it was off-the-record, by writing a time down for the end of the hearing that was just before the thing I had to say.

4.¶14 At the final hearing on my motion to dismiss the protective order, commissioner Blomquist said she'd only read the first 27 pages of my "long affidavit", like she wasn't required to read more than that many pages! She had complained about the length of the documentaned had wanted me to rewrite or abridge it! This is the same court commissioner who neglected to schedule a full evidentiary or adversarial hearing for issuance of the protective order that was the subject of apellate case 20120264-CA. She regularly accepts the very long "bouilerplate" documents produced by the online OCAP system. How is a court supposed to make "findings" when they refuse to view the evidence? What are the decisions based on when they are repeatedly turning away the evidence, and the decisions made are contraindicated by that evidence? **Due to this *pattern of practice* I assert that in deciding this postconviction remedies act or civil rights complaint case, there must be a strong presumption of discrimination and prejudice.** Court decisions must be based upon the particulars of the matter, not upon prejudice and hearsay.

4.1 094903235: Parentage, Custody, and Support

4.1.¶1 I initiated the parentage action on July 23rd, 2009. More details are available in the long affidavit. The pleadings I've filed in both the parentage and the protective order case 104906439 shed a great deal of light on the overall circumstances. Because I presently live on Social Security Disability Income (SSDI), it was necessary to have the court establish

paternity of my son in order to obtain an SSDI Dependent Benefit for me to support him with. I used the online OCAP web interface to generate the around 70-page petition and assorted accompanying documents. My initiating 'verified parentage petition' asks for equal 50/50 joint legal and physical custody, and contains a section forbidding the 'circumcision' of our son.[114] At the time, the child support worksheet came down to her paying me about $105/month in support. She objected to that. She also objected to the clause forbidding 'circumcision' of our as-yet unborn son. This has been the primary source of our disagreements. There are some things upon which there can be no compromise; some things you just don't do to other people. Infant genital mutilation is most certainly one of those things. It is a very serious human rights issue. 'Uniform operation of law' and 'equal protection of law' demand that it be treated as the crime that it properly is. *This* is not the document where I will expound upon *that* topic in full detail.

4.1.¶2 The pattern I see is sort of a "slippery slope" of bogus "*res judica*" not properly based in tried and established facts. No evidence was ever presented before any real trier of fact. A commissioner made "recommendations" for partial summary judgements and motions based on contested factual claims—on hearsay—and which are contraindicated by evidence and testimony that I attempted to "proffer". The "law-atrophgenic legal abuse cascade": Leaving my name off the birth certificate, temporary orders giving her custody, a protective order, issued under inherently unfair conditions (detailed below), alleged violations of it that are frivolous, timed to interfere with mediations and to deplete my financial resources, then the big warrant right when they knew that an annuity I had would run out, all the while ignoring evidence of Ms. MacRae's perjury, child abuse and contempt of court, a DCFS officer suppressing evidence against her, 10 DCFS reports against her, and despite that it involved my son, they would not release them to me (from the one report I do have, I do know they have her documented as psychotic; they are poised to take our son from her), excessive bail, oppressive pretrial incarceration, modification of the order taking place while I was in jail, pleadings for it intercepted by a judge and thrown away, sneaking my son onto the modified order as a protected party, setting me up to try and get me arrested for it later, and a "suggested" move for "mental health court" which looks a lot like an attempt to make me disappear; it kept me in jail for 8 weeks when they really had not right to hold me at all.

114. The word "circumcision" is a deprecated euphemism for the atrocity that is more accurately referred to as "genital mutilation". It is a form of criminal sexual battery and felony child abuse being fraudulently represented as an "accepted medical procedure with potential health benefits". It can be easily demonstrated that it always results in permanent disfigurement and permanent loss of normal function. It is medically unnecessary and obviously contraindicated... obvious to anyone with true and complete knowledge of the anatomy and normal function of the male penile prepuce; less obvious to people who's perceptions of it have been managed by those who shill for circumcisions. It is serious cause for concern that court officers here at the Salt Lake Third District Court have referred to it on the record in open court as "first rite", and that there have been congressional debates here in Utah concerning whether or not the state Medicaid program should fund it! It is not a "rite". It is a crime. Obviously Medicaid cannot *fund* something that is inherently a *malum in se* crime! I shall challenge its legality in the Parentage, Custody, and Support suit 094903235.

When I moved to dismiss the order I brought a long evidence-supported affidavit with more than enough information to bring indictments with. Their response was to complain that it was too long, and to try and make me rewrite it, which I objected to. My compliants about her crimes were ignored. **There is a lot of abuse of discretion and crimes against rights under color of law. There is fraud upon the court being perpetrated by officers of the court. I have a strong suspicion that it was an attempt to take our son away for adoption. This "law-atrophgenic legal abuse cascade" is part of the parcel of symptoms of a very serious *legitimation crisis* endemic to at least the Salt Lake Third District Court, if not also elsewhere.**

4.2 091908046: Alleged 'assault of a pregnant person'

4.2.¶1 Class A misdemeanor,[115] warrant issued October 9, 2009, offense date July 30, 2009, arrested October 22, 2009, **arraigned without a preliminary examination hearing for judicial determination of probable cause** on October 23, 2009, first pre-trial conference set for October 30, 2009. See the "long affidavit", in the «History and Timeline», on page 18, item IV for more detail. There was a long time lapse between the "offense date" and the issuance of the warrant. The date she went to the police and had the warrant issued coincides with her filing of a counter-petition for custody of our son after panicking because I'd filed for default judgement of joint custody, and she was angry that she would have to pay a small amount of child support to me. During the interim between the alleged offense date and the date the warrant was issued, we spent time together. We shared meals. We made love. She was *not* afraid of me at all. If I had actually done anything to *harm* her, she would have been.

4.2.¶2 There was no evidence of harm to the alleged victim, Ms. MacRae. The prosecutor did not honestly have sufficient evidence to support a conviction at a jury trial. It was her word, from a brief police report, against mine. The police report, which I thought I had but can not find now, stated that she did not appear to be physically harmed. She evaded speaking with the victim advocate. The "911" call recording was conspicuously absent from the evidence discovery. While she was on the phone with them, I spelled my last name loudly after she gave her name. A person who has actually committed an assault or battery would not do that. In fact, I think that if somebody really was a person who would do serious harm,

115. I find it suspicious that this case number, 091908046, is lower than that for the Parentage, Custody, and Support case, 094903235, which was filed much *earlier*, as well as that of the 'protective order' action that I initiated against her, 094903343. All of the other case numbers show higher numbers for later dates. This was not a Justice Court case ported to the centralized database, as it was carried by the District Attorney, not by the Salt Lake City Prosecutor. It is as though this case number had been reserved *a priori*, according to some kind of plan made far in advance, Neo... In connection with her leaving my name off the birth certificate and things like it, the state-assisted attempts to frame *me* as a 'domestic violence offender' while blatantly ignoring and sismissing *her* crimes, then sneaking our son's name onto the modified protective order (104906439) to "make me out to be" the abuser—on paper—in spite of the evidence to the contrary that has been repeatedly and continuingly ignored!

it would be unlikely that he'd let the other person get the call through at all. Also on that call recording would be a "surprised utterance" from me in reaction to her statement about what I had allegedly just done.

4.2.¶3 In each case where an alleged "assault" has occurred, if either her or I had any real *intent* to cause physical harm to the other, then obvious signs of violent harm would be evident, if only as defensive injuries. Each of us is easily physically capable of hurting the other, yet neither of us caused any real physical harm to the other. Thus, it may be deduced that there was no *intent* (or attempt) to "assault" or do real bodily harm. The real intention on July 30, 2009 was to *communicate*. We need to get better at it. Imposing a no-contact order does not facilitate this.

4.2.¶4 Oppressive pretrial incarceration with excessive bail was used to coerce me into accepting a plea bargain, where the charge was amended to a class B, with plea held in abeyance. The alleged victim visited me at the jail after I disbursed $1500 to her for the promised $500 per month, for my half of the pregnancy and childbirth expenses for our son. I did not have easy access to my bank account from in jail, and could not pay her until the bank issued a check to my jail account after I wrote several letters to the bank. During her visit, carrying our unhappy and crying newborn son, she begged me to take the plea bargain because she needed me to help her take care of the infant. After I was released, I began taking care of our son during the day. The long affidavit written for dismissal of the 'protective order' explains these circumstances in greater detail. It has also been discussed in my filings in our Parentage, Custody, and Support case, which I welcome investigators to *read*.

4.2.¶5 I was unable to complete the community service requirement in the allotted amount of time because I was taking care of our son full time. For the same reason, I could not work on matters pertaining to the Parentage suit. As a result of this, the plea held in abeyance was entered as a 'conviction' on my record. Since that time, I have been kept on the defensive by alleged violations of the protective order 104906439, and kept busy with taking care of my son. For those reasons, discussed in the chapter addressing mootness and laches, I have not until now sought a postconviction remedy. **I would like this conviction deleted from my record as 'void' because of the 'due process', fourth amendment, and coercion issues stated above.**

4.2.¶6 I believe this is possible because of the decision in *State v. Hernandez*, 268 P.3d 822 (Utah Supreme Court 2011), and *e.g., Gerstein v. Pugh*, 420 US 103, 114 (US Supreme Court 1975), «Under this practical compromise, a policeman's on-the-scene assessment of probable cause provides legal justification for arresting a person suspected of crime, and for a brief period of detention to take the administrative steps incident to arrest. Once the suspect is in custody, however, the reasons that justify dispensing with the magistrate's

neutral judgment evaporate. There no longer is any danger that the suspect will escape or commit further crimes while the police submit their evidence to a magistrate. And, while the State's reasons for taking summary action subside, the suspect's need for a neutral determination of probable cause increases significantly. The consequences of prolonged detention may be more serious than the interference occasioned by arrest. Pretrial confinement may imperil the suspect's job, interrupt his source of income, and impair his family relationships. See R. Goldfarb, Ransom 32-91 (1965); L. Katz, Justice Is the Crime 51-62 (1972). Even pretrial release may be accompanied by burdensome conditions that effect a significant restraint of liberty. See *e.g.,* 18 U.S.C. §§3146(a)(2), (5). When the stakes are this high, the detached judgment of a neutral magistrate is essential if the Fourth Amendment is to furnish meaningful protection from unfounded interference with liberty. Accordingly, we hold that the Fourth Amendment requires a judicial determination of probable cause as a prerequisite to extended restraint of liberty following arrest.», *Chapman v. California*, 386 US 18, 25, 26 (US Supreme Court 1967) «Thus, the state prosecutor's argument and the trial judge's instruction to the jury continuously and repeatedly impressed the jury that from the failure of petitioners to testify, to all intents and purposes, the inferences from the facts in evidence had to be drawn in favor of the State—in short, that by their silence petitioners had served as irrefutable witnesses against themselves. And though the case in which this occurred presented a reasonably strong "circumstantial web of evidence" against petitioners. 63 Cal.2d, at 197, 404 P.2d, at 220, it was also a case in which, absent the constitutionally forbidden comments, honest, fair-minded jurors might very well have brought in not-guilty verdicts. Under these circumstances, it is completely impossible for us to say that the State has demonstrated, beyond a reasonable doubt, that the prosecutor's comments and the trial judge's instruction did not contribute to petitioners' convictions. **Such a machine-gun repetition of a denial of constitutional rights, designed and calculated to make petitioners' version of the evidence worthless, can no more be considered harmless than the introduction against a defendant of a coerced confession.** See, *e.g., Payne* v. *Arkansas,* 356 U.S. 560. Petitioners are entitled to a trial free from the pressure of unconstitutional inferences.»

4.3 094903343: Protective order, Hegbloom v. MacRae

4.3.¶1 Immediately after the argument we had on July 30th, 2009, I filed for a cohabitant abuse act protective order, on July 31st, 2009, with the intention of protecting our unborn son from genital mutilation. At the hearing, Ms. MacRae made a statement to Commissioner M. Blomquist regarding whether a protective order was the "proper legal instrument to prevent a circumcision", saying with a hinting tone that "an injunction" would be more appropriate, if I recall correctly. The commissioner agreed, and added that since the child was not born yet, and paternity was not established, there was some question as to whether

or not I would have legal standing anyway. I dismissed the *ex parte* 'protective order', having no valid claim to "fear of abuse or future abuse" of myself from Ms. MacRae, whom I can easily defend myself against physical attack from on the few occassions where she loses her cool and assaults me.

4.3.¶2 In my Request for Protective Order I explain that she has attacked me and then claimed that my defensive moves were an assault on her. In Exhibit B is a reproduction of photograph of a page from Ms. Macrae's personal journal where she confesses to attacking me with the intention to provoke me into "beating her up". She also says that I would not beat her up, that I only held her arms to stop her from hitting me, and that she bit me and it left a mark, all of which are true statements. She starts out talking about having trouble communicating with me. That explains why she left the journal on our bed, open to this page. I found it there when I went into the bedroom after she had left for work. After reading it, I decided that I might need it for evidence, and so I took photos.

4.3.¶3 A "protective order" *is* an "injunction"... nonetheless, the "proper legal instrument to prevent a circumcision" is the Utah Code, since it is primarly a *malum in se* crime against the infant perpetrated through fraud and solicitation for conspiracy. It is a severe violation of the infant's right to bodily integrity, and most importantly, a violation against the adult he will be for most of his life. I have addressed this more carefully and thoroughly within the Parentage, Custody, and Support case, where I believe that I have firmer legal standing on that particular case in controversy. My case for standing and jurisdiction on that matter involves (constitutional) *jus terti* and a public interest exception to potential mootness.

4.4 101414961, 101414998: DV of December, 10, 2010

4.4.¶1 This altercation and resulting circumstances are documented in the 'long affidavit' as well as in the Answer to Request for Protectiver Order 104906439; that I filed in January 2011. She came over to my apartment to visit our son, whom she had left entirely in my care, at her own initiative. Because of trouble during a previous visit, I'd purchased a "nanny cam" which I placed on the window-sill where it could see into the room. The video from that camera was included on the evidence disc that went with my Answer. It was also Miranda-released to police detective Robert Woodbury. **On the video, she can be seen to deliberately cause our son to fall and hit his head against a solid wooden toddler-table.** (See: `2010-12-10_Video_Evidence_Headbonk.mpeg` which is a clip from the longer video, showing only that particular event.)

4.4.¶2 I find it interesting that when these two case numbers, 101414961 and 101414998 got allocated, whoever entered them into the system chose to enter the case against *her* first. In fact, when the officer was saying the words "you're fighting us", when it was obvious that

I was not fighting them, I made eye contact with him. From the way he said it and maybe slightly raised eyebrows, my perception was that he was really asking me a question. I may have nodded my head in response to that silent question, believing he was asking me if Kasey was lying about my having committed violence.

4.4.1 101414961: DV, Salt Lake City v. Kasey D. MacRae

4.4.1.¶1 101414961 was an open case at the time that Ms. MacRae applied for 'protective order' 104906439, but she failed to mention that fact when she filled out the VERIFIED REQUEST FOR PROTECTIVE ORDER form.

4.4.1.¶2 In my opinion, this case was mishandled. There was some abuse of discretion, but perhaps it's not *entirely* their fault, for reasons explained below...(†'s) For one thing, she should have been charged with child abuse or at least reckless or knowing endangerment after the investigator watched the 'nanny cam' video. At the time the police arrived, I had not viewed the video yet. I had not seen what she had done, but the camera had. By the time I had the ANSWER to RPO prepared, I had viewed it, but had not run a gamma-level enhancement or CCD shot-noise removal. I was pressed for time in preparation for the protective order hearing. I had no experience with writing answers to legal petitions, describing crimes, creating evidence summaries, or with processing video shot in low light conditions to find hidden information. After viewing the video, I was sure that she had in fact *caused* our son to fall *on purpose*, but the method by which she had made him fall was not *perfectly* clear at that time. The video was dark and it was hard to see what really happened. †I did not use as strong of language as I could have in my description of her actions that I made in the evidence summary. I remember that while I was writing it, I felt like I should not "over-do it" because I wanted their decision to be evidenced-based, not based on exaggeration or 'histrionics'. I believed that the video spoke for itself. I made the *reasonable assumption* that the detective and prosecutor would view it. My expectation was that she would be charged with multiple counts of 2nd degree felony perjury and child abuse or endangerment. As you shall see, the actual result certainly shocks the conscience, with it's mockery of justice!

4.4.1.¶3 †Later on, when they had me on trial for this, I felt pressured into taking the 'plea agreement' and allowed them to drop the charges against her when I should not have. In retrospect, I wish I had been much more active at getting them to put her on trial for it! I should have also provided them with a copy of the photograph of the page from her journal where she confesses to attacking me with the intent to provoke me into "beating her up", and that I would not do so, and that she bit my arm. I left it *off* the disc, which *did include* a number of voicemail messages from her where she threatened to get me in trouble with the police. Those voicemail messages and the diary page are significant because they shows that she likely had intent to "frame me up". As I remarked in the evidence summary,

I believe that her 9-1-1 call, audible in the 'nanny cam' video, sounded "rehearsed". I believe that in sum, this evidence—the diary page, and the fore-shadowing threats that she made in voicemail—strongly supports the hypothesis that she had planned in advance to get him crying in order to attempt to manipulate me, to cause me to act in our son's defense, to create the excuse she needed to call the police and try to get me in trouble.

4.4.1.¶4 Ms. MacRae had a prior conviction for a domestic violence offense, case 071414983. Utah Code §77-36-1.1 demands that the charges be "enhanced", and so she should have been charged with *at least* class A misdemeanors, not class B. Additionally, when she applied for protective order 104906439, *she lied* about her own criminal history, failing to disclose the two criminal cases that were open against her at the time of her application for the protective order, and downplaying the significance of her prior domestic violence conviction; also giving false case numbers, making it difficult to verify the charges. She lied about the details of the altercation of December 10, 2010. In my ANSWER to her RPO and evidence summary, I asserted that the evidence impeached her testimony. †I did not, but should also have pointed out the domestic violence charges of 101414961, which she had failed to mention. I do not know why I neglected to mention something so important; probably just because I was being kept on the defensive, or perhaps I thought I had mentioned it but had not. I did not yet know about the other open criminal case against her at the time I wrote the ANSWER, 101601193, "Theft of services", which is primarily important because the offense date coincides with when she brought the remainder of our son's belongings over and left them.

4.4.2 101414998: DV, Salt Lake City v. Karl M. Hegbloom

4.4.2.¶1 This case stems from the charges against me from the same evening as those discussed above, December 10, 2010. Because of 091908046, the alleged attempted assault of a pregnant person, this should also probably have been charged as a class A rather than as a class B; However, the initial charges were dropped anyway, and I plead guilty to a class B disorderly conduct. The initial charges included "interfering with an officer in discharge of duty" and domestic violence in front of a child, both dropped. When the officers first arrived, I had the 'nanny cam' in my hand. It looks enough like a small knife or pepper-spray to be cause for concern, so, responding according to their training, they asked me to hand it to them for inspection, after asking me what it was and my answer that it was a camera. I refused to hand it over for reasons I stated in a letter that I wrote to the officers and their watch captain. Because I was forthcoming and honest, they dismissed. The disorderly conduct charge that I plead guilty to was based upon my angry behavior while waving the 'nanny cam' in Ms. MacRae's face telling her that it would prove that I was not the culprit. I think under the circumstances, there are not many people who would *not* have been angry.

4.5 104906439: Protective order, MacRae v. Hegbloom

4.5.¶1 Protective order 104906439 was issued on January 4, 2011 at the Salt Lake Third District Court. It allowed email. Shortly after it was 'awarded' to it's petitioner, Ms. Kasey Diane MacRae, I was charged with violating it... for writing an email. In fact, the "offense date" in the first warrant, 111902257, is January 4, 2011, the *same day* the order was issued. Altogether, there was five separate warrants alleging violations of the order, per Utah Code §76-5-108, with a total of about 14 counts of alleged violations of the protective order, each one 'enhanced' to a third degree felony due to Utah Code §77-36-1.1. None of the charges alleged any actual violence, *per se*. All but two of them were for 'attempting to communicate' with her. None of the communication carried any threats. If I had threatened her, the warrants would have featured that information. The remaining two counts alleged my close physical proximity, on the sidewalk near her secured multi-unit apartment building... the same sidewalk I was expressly allowed by the protective order to be on for "curb-side" child exchange, and the same one she had me meet her on when she had me go get groceries for her. In each of those, she states, in the police reports, that she "did not feel threatened or endangered". I was not charged with any crimes other than the alleged violations of the protective order; in other words, for every count, the 'protective order violation' was the only 'crime' I was alleged to have committed—*e.g.* there was no assault, battery, or any other crime *per se* alleged or charged. For merely *walking past* the secured multi-unit apartment building on the public sidewalk, where she stated that she *did not feel threatened or endangered*, I was charged with a crime, and made to pay more than I could reasonably afford for bail bonds. While I was out on bail, she would come over to drop our son off for the day, even entering my apartment and using the bathroom, sitting on my couch watching a movie, and attending a stadium concert with me!

4.5.¶2 As stated previously, I *filed*, a week in advance of the hearing, an Answer to her RPO, along with an evidence summary and disc, and a Request for Continuance to Formal Evidentiary Hearing. When the hearing began, the commissioner asked if I had served the documents and disc to the petitioner, Ms. MacRae. I said that I had not, since the *ex parte* temporary order did not allow contact, and I wasn't sure whether I was allowed to send legal filings. Also, there had been precious little time to put it all together, and I was afraid that had I mailed it to her, it might not have arrived prior to the hearing anyway. I planned to serve the paperwork and disc at the hearing itself, and did so, except for the disc, because the jewel-case I brought along was empty. I had been in a hurry to get out the door to go to court, and I must have left the disc in the computer or grabbed the wrong disc case. I was moving for continuation to a formal evidentiary hearing, and so there would easily be time for service plenty in advance. In fact, I sent an email the next day, offering to bring the disc! She replied, asking me to send it to her in the mail, which I am sure I did.

4.5.¶3 Because of the nature of the statements I made in my ANSWER affidavit, I fully expected the formal hearing to be scheduled, at which I expected to prove perjury and that she had abused our son, caught on camera.[116] Due to the expedited nature of the 'protective order' proceedings, an aural request to submit my properly filed-in-advance written motion for decision *was in order*. Instead, after asking the petitioner whether she'd been served a copy of it, the commissioner said that she could not accept the disc, since it had *not* been served, and then listened to "proffers" and made a "recommendation" supposedly based on the proffers and written testimony which she claims to have "had the opportunity to review".[117] «The Constitution prescribes a procedure for determining the reliability of testimony in criminal trials, and we, no less than the state courts, lack authority to replace it with one of our own devising.» *Crawford v. Washington*, 541 US 36 (US Supreme Court 2004).

4.5.¶4 It does not make sense to me how, on the one hand, she can't accept evidence that they won't take "in lodging" because they supposedly didn't know how to file it... that they say I *can* bring to present at a formal trial, where it gets given an exhibit label and checked-in to evidence... yet they make decisions that would best be made in light of that evidencial support for my affidavits, that are basically "bench decisions" or "summary judgments on the pleadings", and now with no true trier of fact. How do yous get away with calling *that* a "court"? Judge Whoppernærd did a better job on "The People's Court" television program! I think it is inherently unfair, arbitrary, and capricious. And even more so when law enforcement brings charges against me for what are clearly and outrageously frivolous reasons, while at the same time doing nothing about her perjury and contempt, even after I've made multiple complaints! It is incumbently and properly before yous to take the appropriate action with regards to that, and to any other matters yous see within this that I, a non-attorney, might not explicitly point out.

4.5.¶5 I assert that the court commissioner overstepped her proper jurisdiction by "recommending" a summary judgment—issuance of the permanent protective order—while there were contested material factual claims, also in her excluding of the evidence. At the hearing,

116. Though it is not easy to discern whether or not she *caused* our son to fall from the raw video, applying a gamma-enhancement and CCD shot-noise filter, and then zooming the video reveals that she had ahold of one of his hands, he was pulling away from her, and she let go of his hand, causing him to fall and hit his head against the table. It was a deliberate, not an inadvertent, action. In the ten or twelve days between service of process and the initial protective order hearing, I was busy writing the ANSWER and evidence summary, and had not yet processed the raw video that was included on the disc with that initial set of documents. It seems likely that I would have done so in the interim between that initial hearing and the formal evidentiary hearing I had moved for. I do not recall the exact date at which I did that processing. That video was in the possession of the police, and I supposed I had a vague belief that as-seen-on-tv, they would analyze the video as evidence.

117. She often states it this way, as I recall, not outright claiming to have actually read them, perhaps... It makes me think of the "doctrine of mental reservation", «a form of deception which is not an outright lie. It was argued for in moral theology, and now in ethics, as a way to fulfill obligations both to tell the truth and to keep secrets from those not entitled to know them (for example, because of the seal of the confessional or other clauses of confidentiality). Mental reservation, however, is regarded as unjustifiable without grave reason for withholding the truth. This condition was necessary to preserve a general idea of truth in social relations.» Wikipedia. See also UCJA Ch13 RPC 1.4, 1.1.

Ms. MacRae's orally delivered "proffered testimony" avoided any mention of the events addressed by her *written* request for protective order, which I had replied to in *writing*. That means that if the commissioner's recommendation was based upon the spoken testimony, then it was based upon unchallenged hearsay coming from an alleged-to-be impeached witness, where solid documentary evidence well supported the allegation. With factual disputes of that magnitude, clearly it was an abuse of discretion, **beyond harmless error**, as you shall see, to recommend issuance of the permanent order when the appropriate recommendation would be to schedule a formal hearing per URCvP rule 108(d)(2). With regards to §78B-7-107(1)(f), I find it obvious that *intentio mea imponit nomen operi meo*, such that a filed-in-advance motion for a full hearing—especially when accompanied by the sort of supporting documentation that I supplied—is more than merely equivalent to a URCvP rule 108 "objection". The situation clearly called for expedited scheduling of the full adversarial evidence hearing, if not for a recommendation for summary judgment on the pleadings, in my favor, followed up with an investigation and prosecution of the petitioner for perjury, contempt, and child endangerment. If it hadn't risen to that level yet then, it certainly has now, tsk tsk. She filled out a form that got automatically processed as a routine part of court workflow... And now *I* must labor to snow her in with these high graylevel[118] 'paper flowers'.

> «In the absence of any factual explanation of what actually occurred on the latter date, however, Glover's naked conclusions did not constitute substantial evidence from which the trial court could draw any reasonable inferences. See *Hutchings v. Roling*, 151 S.W.3d 85, 89 (Mo. App. 2004) (when devoid of any factual support, a lay witness' conclusions do not rise to the level of substantial and competent evidence) [...] For example, the court was not presented with any facts from which it could determine whether Michaud's conduct on that occasion served a legitimate purpose or would have alarmed a reasonable person. The only facts concerning the events of that day came from Michaud, who testified that Glover's complaint involved nothing more than the ordinary act of slowing down on a highway in order to make a turn. Thus, the evidentiary support for the judgment falls short for this reason as well.» *Glover v. Michaud*, 222 SW 3d 347, 352 (Missouri Court of Appeals 2007).

4.5.¶6 During the course of the proceedings we made a motion to find the protective order invalid as a matter of law, citing the 'due process' problem with regards to my having filed a motion for a formal adversarial hearing, and moving for it orally during the hearing five times, yet no hearing got scheduled. Judge Lindberg of course did not "find" a due process violation. I accepted the conditional 'Sery' plea 'deal' to get out of jail, and the Legal Defender Association carried 20120264-CA, while I took care of educating, training, feeding, and comforting my toddler. I was initially going to try and bring a separate appeal of the sentence on my own, based on the problems documented within *this* "brief"... I really did not have very much time to dedicate towards monitoring and assisting the LDA, much less

118. In typesetting, 'graylevel' can refer to the text-to-whitespace ratio of a page. No one can be sure if or how double-entendre affects graylevel... It just does, but only when you notice it.

enough time to actually write an appellate brief without ever having seen one before. I got to read one draft version and the final document. I emailed suggestions and ideas to the very busy appeal writer, who told me that he had a number of them to write with similar deadline mythical man-month time-frames. I told him about some of the things that went wrong with the trial, but did not spend anything like as much time on it as I have on *this* document. The appeal's argumentation got side-tracked, or 'deflected' perhaps, into a debate over whether or not I had the right to an 'indirect' appeal after having been accused of violation of the "protective" order. The appellate court *did* find a that a dumb porcess violation had happened, however they said that I had no right to an indirect appeal, and affirmed judge Lindberg's interlocutory ruling.

4.5.¶7 On February 25th, 2015, I filed the "long affidavit" entitled MOTION TO DISMISS PROTECTIVE ORDER. After learning that I was expected to fill out the court-provided form for that, I filed that on March 2nd, 2015. A hearing was held on March 16th, 2015. At that hearing, there was an objection, by the court commissioner, to the length of the affidavit and I was asked to rewrite it. On March 26th, 2015, I filed OBJECTION TO COMMISSIONERS RECOMMENDATION RE AFFIDAVIT DOCUMENT LENGTH. On March 30th, 2015, proceeding with the hearing on my motion to dismiss using my oral testimony (which is well supported by the "long affidavit" and its evidence disc) the commissioner recommended dismissal of the protective order, and so it was dismissed.

4.5.¶8 During the hearing on my motion to dismiss, Ms. MacRae admits that she used the protective order "as a threat". Her reasons for wanting the order to remain in effect had to do with "feeling uncomfortable". The Cohabitant Abuse Act isn't intended to be used to "protect" against being made to "feel a little bit uncomfortable". It is meant to protect against "abuse or reasonable fear of abuse", as defined by Utah Code §78B-7-102(1), §78B-7-103, and §77-36-1(4). The time I spent in the jail was much more than "a little bit uncomfortable". I really was placed in danger there, when caged with real violence (violence *per se*) offenders and people with communicable diseases, such as TB, HIV, and hepititis. The normal court processes, rules of evidence, burden of proof, proper construction of the laws according to Utah Code §68-3-1, §68-3-2, §76-1-104, *&* §76-1-106, and sanctions for perjury, UC §76-8-501(1) *&* §76-8-502, contempt of court, UC §78B-6-301(3), §78B-6-301(4), *&* §78B-6-301(9), obstruction of justice, UC §76-8-306(1)(d) *&* §76-8-306(1)(j), and sanctions for violation of §78B-7-115(3) are supposed to protect the innocent from false accusations, malicious prosecution, and prosecutions based upon frivolous or gratuitous charges. Apparently these statutes are being regarded as less important than the "private law" of a "protective" order. I find this to be a subversion of justice. Whos job is it to enforce those laws?

4.5.¶9 Also at the protective order dismissal hearing, Ms. MacRae made a misrepresentation regarding the reason that her mother quit being the "agreed upon third party" for communication. She says that "nobody wants to be the third party because communication with him is difficult." But none of the messages that I relayed to Ms. MacRae were ever screened out by her mother, while several messages sent by Kasey *were* screened out, and then she bypassed her mother by sending those same messages via another person who was not on the list of "agreed upon third parties." In an email from her mother, I was told that I'm not the reason that she quit. I think that the real reason her family did not want to be involved as the communication liaison is that they are embarrassed by Kasey's rudeness.

4.5.¶10 The reason this is pertinent to a URCvP rule 65C proceeding is that this is the sort of evidence that I was talking about in the letters that I wrote to the court just before being arrested for 111905405; evidence that I could not access from jail, nor delegate discovery of to the overloaded public defender. The circumstances created "ineffective assistance of counsel" per *United States v. Golub*, 638 F.2d 185 (US Ct. of App., 10th Circuit 1980), where it was «held that ineffectiveness of counsel may be established when circumstances hamper an attorney's preparation of a defendant's case, without the necessity of showing particular errors in the conduct of the defense.» I was prevented from effectively assisting counsel by the oppressive pretrial incarceration, where I was held on *prima facia* frivolous charges under egregiously excessive bail.

4.6 111902257: VPO, "Several emails"

4.6.¶1 The first warrant, 111902257, for writing "several emails"[119], offense date January 4, 2011, warrant issued March 24, 2011, resulted in my being arrested, on March 30, 2011, and held in jail on $10000 bail. I was home every day that week, making no attempt to avoid being arrested. I was not aware that there was a warrant issued. When they came to arrest me, I answered the door and let them in. They gave me time, about 15 minutes, to shut down my computer, change clothing, and things like that. The officers did not seem to think it was 'righteous' for there to be a warrant alleging such a frivolous *actus reus*. They apologized for this as they explained that they were duty-bound to execute the warrant.[120]

119. I will give each of the VPO warrants a nickname, to make it easier to refer to them, since people think better with semantically meaningful words than with case-numbers, which are designed to be a unique key for a computerized database, not for a human's memory.

120. I don't agree that they are bound by a "professional obligation" to execute an unconstitutional warrant. Why are people who are willing to risk the consequences of pulling out a gun and shooting somebody so unwilling to refuse to execute a frivolous and unconstitutional arrest warrant? If they have recited and signed the constitutionally required 'oath or affirmation of service', then to execute such a warrant places them in conflict with their obligation of duty. By the same token, so does enforcement of an unconstitutional law. But the policeman is not the judge... neither is the complainant. In the heat of the moment, when there is an immanent threat, the gun is potentially appropriate. Presumably and reasonably, the peace officer has all the information he needs to make a valid decision... and so they are authorized to respond according to their training in those circumstances. What 'training' did the complainant recieve regarding how to obtain and use a 'protective' order? What presumptions is a peace officer expected to make

I may have told them about the due process issues involved with the issuance of the order, and about the 'head bonk' incident of December 10, 2010. They took me to jail.

4.6.¶2 I was chained up and transported from the jail to the courthouse for my first appearance on April 1, 2011, for "having written several emails that did not pertain to the child, under a protective order that allowed email only pertaining to the child". At that hearing, in ECR court, they appointed the Salt Lake Legal Defender Association, and set a "scheduling conference" for April 7, 2011. I was allowed to make a statement to the court. I spoke about how unfair it was that I was being charged with a crime for merely "using my words", when the 'mental health' treatment assigned had involved learning to use my words! At the April 7 hearing, they set a "resolution hearing" for April 28, 2011, and granted a bail reduction to $2500. Pre-trial release on my own recognizance was denied. The order to reduce the bond from $10000 to $2500 was not signed until April 12, 2011, which was 13 days after the arrest. The case history does not show what day I was bailed-out of jail.

4.6.¶3 For this first warrant, 111902257, "several emails", I was not accorded with a *constitutionally guaranteed*, by Article I, Section 12 «Rights of accused persons», preliminary examination hearing, "no later than 10 days from the arrest", per URCrP rule 7(h). Had I not been able to buy a bail-bond, I would have remained incarcerated until at least the 28th, which would be the 29th day from the date of arrest. No preliminary examination hearing had been scheduled for this 3rd degree felony *alleged* violation of protective order. On April 28, 2011, I appeared at the "resolution hearing" where they assigned the case to Judge Lindberg, and set up a "scheduling conference" for June 10, 2011.

4.7 111903279: VPO, "walk by hellooing"

4.7.¶1 The second arrest warrant, 111903279, "walk by hellooing", offense date April 14, 2011, was issued on April 28, 2011. Bail was set at $5000. I was not arrested, despite that they *knew* I was in court that day. That says something about how "dangerous" I am... And what kind of a "flight risk" they honestly thought existed. I was accused of "walking past" her secured multi-unit apartment building on the same public sidewalk I was allowed to be on for child exchanges, and saying "hello" to her. She stated to the police, in report 2011-63200[121], that she "did not feel threatened or endangered". I proactively obtained a bail bond, and turned myself in for book and release on May 2, 2011. I did not dress-in or stay overnight at the jail. The initial appearance was on May 25, 2011, where it was assigned to Judge Lindberg, and a "scheduling conference" set for June 10, 2011, the same judge and

regarding the legal validity of a 'protective' order once it has been issued? Whos job is it to make that determination? Was a jury called as 'trier of fact' in order to validate the factual basis upon which the order is ostensibly based? What burden of proof was met? Really?

121. `2011-04-19_2011-63200_closed_warrant_issued_charges_filed_3899-9_fam_off_viola_protective_order.pdf`

date as the one previously set in 111902257. URCrP rule 7(h) says that they must provide a preliminary examination hearing no later than 30 days from the arrest date when the defendant is not being held in jail,[122] and so they had until June 1, 2011 for the prelim on this second warrant, 111903279. The next court appearance was not to be until 9 days after that deadline. This is one of the counts that I was forced to plead "guilty" to, on December 16, 2011, as part of the conditional plea that sort-of-like "settled" these cases.

4.7.¶2 Exculpatory and mitigating evidence was not part of the discovery package issued by the deputy district attorney. My Answer to Request for Protective Order with it's associated evidence summary was available in the same court record as was her RPO, yet my answer was *not* included while her request was. Police report 2011-60216 was not disclosed either, and clearly should have been.[123] It concerns events surrounding the same incident, but was concluded by a different detective. I had phoned asking for a health and welfare check, since I had not heard from my son or his mother for a long time. Because 'violation of protective order' is *not* a strict liability offense, the state would be required to prove *mens rea*. Given that she stated herself that she did not feel threatened or endangered, and that it was not illegal for me to have expressed concern for her health and welfare, it seems like they would have trouble proving any intent to violate a 'protective' order.

4.8 111903495: VPO, "clown banana bread delivery & 8 SMS"

4.8.¶1 The third arrest warrant, 111903495, "clown banana bread delivery and 8 SMS not pertaining to child" (or "clown and 8 SMS"), offense dates April 18–25, 2011, was issued on May 10, 2011. Bail was set at $10000. The affidavit of probable cause says «Ms. MacRae stated that on April 25, 2011, she and her son arrived home and observed the defendant on the sidewalk outside of her apartment. Ms. MacRae stated that the defendant was wearing face paint, dressed as a clown, and carrying a red and white umbrella. Ms. MacRae stated that she observed the defendant "skip" up the stairs to the door of the apartment building and when he left there was some banana bread hanging on the door.» The clown banana bread delivery caper is the second of the two counts I was *forced* to plead guilty to through the oppressive pretrial incarceration in 111905405, "SMS pertaining to child and sub-one-minute call from 'unknown caller'" (documented below, in section 4.9, page 69).

4.8.¶2 In 111903495, I was also charged with 8 counts of having sent SMS messages. According to the police report, the text messages were sent between April 18 and April 25, 2011. It states that the messages were "not pertaining to child visit". The text mes-

122. When an arrest has been made and the defendant is held in jail, they are required by §77-36-2.6(1) to have the person in court within one judicial day of the arrest. When no arrest has been made, there is no hard-requirement for when the first "roll call" appearance *must* happen.

123. `2011-04-14_2011-60216_unfounded_3899-9_fam_off_viola_protective_order.pdf`

sages that she reported to the police and placed in evidence with them were actually part of a larger conversation in which she was an active participant.[124] During it, she asked me to go shopping for her at the grocery store, to bring items of furniture for her to use to tidy up her apartment because she was expecting a visit from DCFS,[125] and to return her HP all-in-one printer-scanner-fax back to her.[126] The conversation and the visits I made to bring those items went well. Our interactions were amicable and without incidence of any threats or violence. *Volenti non fit injuria.* Certainly none of the messages that I sent are outside the realm of constitutionally protected speech.

4.8.¶3 For this third warrant, 111903495, I proactively obtained a bail bond, and turned myself in for book and release on May 17, 2011. I did not dress-in or stay overnight at the jail. The initial appearance was on May 25, 2011, the same date as the initial appearance for the second warrant, 111903279. On that date, the case was assigned to judge Lindberg, and a "scheduling conference" set for June 10, 2011, coinciding with the previous two warrants. They had until June 16, 2011, to provide a preliminary examination hearing for 111903495. No prelim was scheduled prior to the June 10, 2011 hearing, and the one scheduled was not until July 12, 2011.

4.8.¶4 On June 10, 2011, during a pre-hearing conference with the LDA attorney, Isaac McDougalI, he asked whether I'd been given a preliminary examination hearing for any of charges on the three warrants. I told him that they had *not* given any preliminary hearings. I don't think they ever even mentioned it at any of the hearings before the one of June 10, 2011. I also told him that I did not think any of the alleged *actus reus* constituted violations of the protective order. I told him that I wanted a magistrate to *dismiss* the charges at a preliminary examination hearing, to establish that what I'd been charged with was *not* a violation. He had me sign a 'waiver of speedy trial',[127] then moved to schedule a preliminary hearing. It was set for July 12, 2011, for all of the three warrants, 111902257, 111903279, and 111903495.

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124. She was questioned about those messages at the preliminary examination hearing of July 12, 2011. I gathered all of the email and SMS and they are included with the transcript of that hearing.

125. I am not the person who called DCFS. It was one of her neighbors. In all, throughout this, there have been 10 reports to DCFS complaining about her. I've called them only twice, and both times was told that they might not make a report based on what I'd told them. At least one of the calls came from either her sister or her mother. That means that at least seven of the reports were made by people I don't know and have no association with. The claim by DCFS that the reports were "unsubstantiated" or "unsupported" by "lack of evidence" is in question. See the "long affidafit" in protective order case 104906439 for details.

126. When I brought the scanner/printer, I set it on the stone wall outside of her building, and then stepped away from it to under the nearby tree. I texted her to tell her I was there with it. I said "I feel like I'm fishing for secretaries" because of a strange idea that the scanner was bait.

127. That waiver was *only* for those first three warrants, not for the fourth one. The fact that the first warrant was dismissed by a magistrate judge at a preliminary examination hearing supports "Malicious Prosecution". Dismissal of the charge due to unreasonable or unconstitutional delay would not have established that.

4.8.1 Much belated preliminary examination hearing on first three warrants

4.8.1.¶1 At the July 12, 2011 preliminary hearing, the first warrant, "several emails", was not bound over because it was obvious that the 'protective order' allowed email. It was found that the provision allowing email did *not* limit the subject matter of that email. However, by a 'strict reading', it did not necessarily allow SMS ("text messages"). He said that he "wasn't sure" if a text message and an email are "the same thing", IIRC, citing the fact that when his daughter sends him a text message, it makes his phone 'ding' in court, but email is something he receives in his office, on his PC, and thus, is not as urgent or immediate as a text message. Having said this, the magistrate bound over the eight counts involving what the police report called "text messages not pertaining to child visits". After making that ruling, at the very end of the hearing, the preliminary hearing magistrate stated the admonishion that I should not use SMS messages in the future.

4.8.1.¶2 During the deliberation, my attorney, Mr. McDougall, argued that both the complainant and myself used Android "smart phones" that present a very similar user-interface for both SMS and email. When a message of either type is received, a bell rings, and an icon appears in the status-bar. Swiping down on the status-bar opens a list of notifications, and clicking on the message notification opens the "app" for whatever message-type the notification is there for. Further, using a Google Voice number as I did, it is possible to configure it so that an SMS also arrives via email, and reply to that email sends an SMS in response, via an email-to-SMS gateway provided by Google. Voicemail left at a Google Voice number can be automatically transcribed from speech to text, and sent as an email.

4.8.1.¶3 My attorney explicitly preserved this point. I believed that he was intending that we move for an interlocutory hearing to decide upon the issue of whether it is valid to make a *trivial distinction* between a "text message" and an "email", which are both electronically transmitted and preserved forms of *written* communication. The term "writing" is defined by Utah Code §76-1-601(13), and it is also defined by the Utah Judicial Counsel Rules of Judicial Administration, Chapter 13 «Rules of Professional Conduct», in rule 1.0 «Terminology». I naively made a motion in the protective order case to have them stipulate to an agreement that SMS and email would be considered to be equivalent, and that based on that, the charges I was being held in jail on, 111905405, would be dismissed. But I should not have needed a stipulation with them for that because, as it turns out, it was already the law! For it *not* to be is unreasonable. Ms. MacRae's refusal to enter the stipulation is evidence in support of malicious prosecution and abuse of process. It is also evidence of ethics violation by the members of the bar in control of the courtroom, because they can be expected to know the law, especially when it's something so obvious. I'm sure that had the no-contact clause been absolute, with no provision

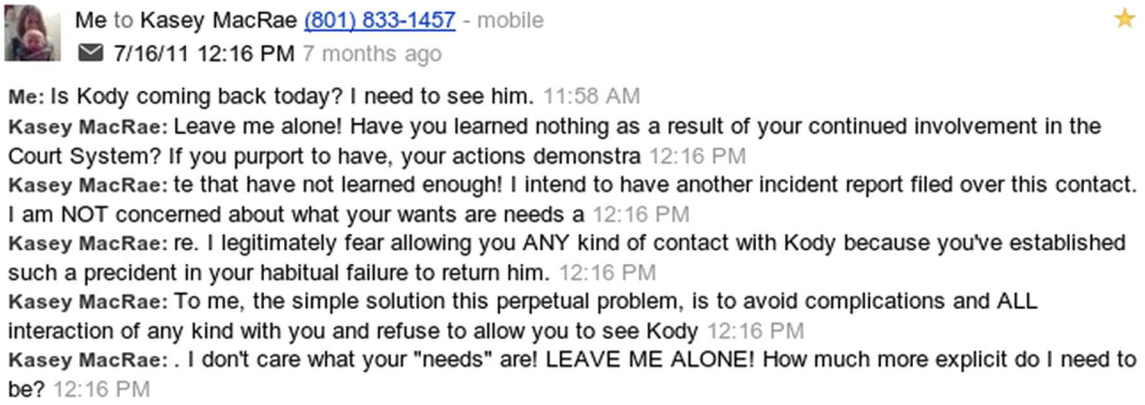
for email, then an SMS would have been considered functionally equivalent to email. I think they were just looking for excuses to imprison me.

4.9 111905405: VPO, "SMS re child & call from unknown"

4.9.¶1 The fourth warrant, 111905405, "SMS pertaining to child and sub-one-minute call from unknown caller" (or "SMS and call"), offense date July 16, 2011, was issued on July 22, 2011. Bail was set at $100000. The plan was that after I gathered the evidence I would need for trial, that I would go to court myself, on a walk-in basis, meeting my public defender there. I avoided arrest while I gathered that evidence because there was no other way it would get done. I'm not one to shirk or to fail to pay attention to detail and duty. I got to work on doing that the moment I got home.

4.9.1 What led up to this

4.9.1.¶1 During the two weeks leading up to the much belated preliminary examination hearing for the first three warrants, which took place on July 12, 2011, our son went to stay with his grandfather. He was supposed to be returned the next Saturday. I sent her a text message, asking if our son had returned from his grandfather's yet. The last time I'd seen him was on July 1st. That day, like many others, he did *not* want to go to her. He wanted to stay with me. I was his "Mr. Mom". He spent most of his waking hours with me, and many overnights as well. In response to that simple inquiry, she fired back a 5 message long response, shown in figure 1.


Me to Kasey MacRae (801) 833-1457 - mobile
7/16/11 12:16 PM 7 months ago

Me: Is Kody coming back today? I need to see him. 11:58 AM
Kasey MacRae: Leave me alone! Have you learned nothing as a result of your continued involvement in the Court System? If you purport to have, your actions demonstra 12:16 PM
Kasey MacRae: te that have not learned enough! I intend to have another incident report filed over this contact. I am NOT concerned about what your wants are needs a 12:16 PM
Kasey MacRae: re. I legitimately fear allowing you ANY kind of contact with Kody because you've established such a precident in your habitual failure to return him. 12:16 PM
Kasey MacRae: To me, the simple solution this perpetual problem, is to avoid complications and ALL interaction of any kind with you and refuse to allow you to see Kody 12:16 PM
Kasey MacRae: . I don't care what your "needs" are! LEAVE ME ALONE! How much more explicit do I need to be? 12:16 PM

Figure 1. 2011-07-16 SMS with Kasey MacRae

4.9.1.¶2 My "failure to return him" is documented in pleadings written in our Parentage case. She would come over drunk, screaming at us, making our son afraid of her, and threatening to get me in trouble with the protective order. He most often did not want to

leave me to go with her. She would carry him away kicking and screaming, shouting for "Daddy!" to come and get him from her. Multiple incidents of that type are *documented* in the "long affidavit" I submitted for dismissal of the protective order, as well as in the written pleadings I've filed in the Parentage, Custody, and Support case, 094903235. The "nanny cam" video of December 10, 2010 demonstrates that I was *not* trying to keep him away from her *when she was not being irrational* or aggressively violent. Her animosity towards me in the above and in many other messages is also evidence in support of 'malicious prosecution and abuse of process'.

4.9.1.¶3 In terms of "how much more explicit [she needs to be]", she repeatedly contacted me, *explicitly inviting* reply. Figure 2 displays an SMS conversation that took place around the end of May and beginning of June, 2011.

Kasey MacRae (801) 833-1457 - mobile
6/1/11 6:59 AM 10 months ago

Kasey MacRae: What are your plans for today? 9:47 AM
Kasey MacRae: I'm trying to think of something fun to do w/ Kody, but it looks like we could have rain and public transit isn't running. 9:48 AM
Me: None really. You and Kody doing anything fun? Is there a parade? Can I go too? 9:48 AM
Me: Any ideas? Lets get out of the house. 11:36 AM
Kasey MacRae: I think I'm going to take Kody to Discovery Gateway. 11:40 AM
Me: Can I go too? 11:41 AM
Me: Does it cost anything? 11:42 AM
Kasey MacRae: It is kind of expensive, like $18.00 11:43 AM
Me: $8.50 each, and we would have to by a ticket for him also. I can't afford it. 11:46 AM
Me: The playground is free... So is a walk in the park. 11:48 AM
Me: He needs that activity, on his feet, every day. So do we. 11:48 AM
Me: Well? 11:55 AM
Kasey MacRae: Kody LOVED Discovery Gateway. He ran into a sign and bumped his head pretty bad though. HE also feel off a bike. We played there for 3 1/2 hrs. 6:00 PM
Me: Oh, good, you did go. I'm glad you had fun, and that he was not locked into the stroller the whole time... as if. 6:03 PM
Kasey MacRae: Are you awake? 12:05 AM
Me: What do you need? 12:06 AM
Kasey MacRae: Nothing, I just can't sleep. 12:07 AM
Kasey MacRae: I drank to much Rock Star. I couldn't stay awake earlier. That was a mistake, now I can't sl 12:07 AM
Kasey MacRae: Sleep and I'm all sexually frustrated. 12:08 AM
Me: Too bad there's a restraining order. 12:12 AM
Kasey MacRae: That hasn't really stopped you from interacting w/ me. 12:14 AM
Kasey MacRae: Did you do anything interesting today? 12:14 AM

Figure 2. 2011-06-01 the "Rockstar SMS" initiated by Kasey MacRae

4.9.1.¶4 After the warrant for 111905405 was issued, I "hid out" to avoid being arrested before I could marshal the exculpatory and mitigating evidence I knew I would need for my defense. During this time I exchanged email messages with a number of people in the local community, asking for advice and assistance. I wrote letters to the court, carbon-copied to the Salt lake District Attorney's office, the Salt Lake City Police Domestic Violence Unit detective, and the Legal Defender Association attorney assigned to my case. I told them that

the evidence was exculpatory, that it demonstrated extenuating & mitigating circumstances, and that it was at the same time evidence in support of a counter-claim alleging crimes being committed by Ms. MacRae. It showed that she was herself acting in contravention of the provisions of the protective order to intentionally or knowingly induce me to violate the protective order. It showed that she was acting in bad faith, harassing me, and using the protective order as a threat, in violation of §78B-7-115(3). I put the evidence into a cloud storage service folder and gave everyone the URL to it. I created an `index.html` that described and linked to each item of evidence. I also started a journal of sorts there. I apologize if the contents and style of that journal seems a little bit ooh-tray; I'm a hick. What do I know, right? I complained about and essayed regarding excessive bail, the injustice of the 'protective' order having been issued under such unfair conditions, and began formulating the thesis I hope to expound upon later in this document concerning constitutionality of the Cohabitant Abuse Act protective orders.

> «Hey Karl, it's Kasey, uh, I was just called in at the last minute, to do some board meeting minutes for a company that I did it with once before, and I'm wondering if you're available in the next few minutes to watch Kody? Will you please give me a call back, [phone number], ok, thank you, bye bye.»

Figure 3. 2011-08-10 09:59 Voicemail from Kasey MacRae, while the warrant for 111905405 was active.

4.9.1.¶5 The detective, Robert Woodbury[128] outright rejected my perfectly valid counter-complaint with associated evidence attachments, arrogantly refusing to even *view* it.[129] He said that "for obvious reasons" he would not open attachments or click on links in my emails. But he had accepted electronically forwarded email evidence from Ms. MacRae![130] The evidence I placed on-line included the "nanny cam" video from December 10th, 2010; the ANSWER and evidence summary from the January 4, 2011 protective order initial hearing; screenshot images of Facebook posts from Ms. MacRae where she is very rude to me and to my mother; voice-mail and SMS messages from her *asking me to come and take our child*

128. Incidently, Ms. MacRae, at the time of this writing, is employed by and represented in court by Woodbury & Kessler, PC. I can't help but wonder if they are relatives. In a tight-knit community like Salt Lake City, family ties can easily affect politics of selective enforcement and other uses and abuses of discretion. Of course in what way that influence acts depends upon how that particular family protects its reputation. Ms. MacRae has also mentioned that her uncle is one of the local constables. My son has told me that her grandfather is or was an arson detective. I see a number of men who resemble her father, women who resemble her mother, and who resemble her stepmother. The property manager who recently acquired the building I've lived in for 5 years resembles her stepmother. They are declining to renew my lease—just in time to interfere with my preparation for the custody trial—because they want to renovate the apartment and double the rent. When they first bought the building, they threatened to evict me if I refused to pay for insect extermination, just in time to interfere with preparation of the documents in answer to Ms. MacRae's reopening of the parentage case. Try and dismiss it as "paranoid" if you like, but I can't help but consider a hypothesis that includes behind-the-scenes off-the-record influence by her relatives and co-workers. Also during the time all of this was going on, she was employed by the Legal Aid Society. Trust me, they're lawyers.

129. `2011-08-09_Email_to_Woodbury.pdf`

130. At 11:20:47 in the transcript of the July 12, 2011 preliminary examination hearing, Ms. MacRae states that she forwarded the email evidence to the detective, who apparently opened the attachments and accepted them as evidence.

so that she can go to work writing meeting transcripts (figure 3) and *inviting me to call her*, which she left the day before I was *arrested* for 111905405, a warrant ostensibly issued because of the SMS in figure 1 and because she alleged that a sub-one-minute call from an "unknown" caller—there was no caller-id—had come from me; the "rockstar sms" displayed by figure 2; other voicemail recordings and transcripts showing her *explicitly inviting* me to reply via SMS, email, or telephone (figure 4); the letters to judges Atherton and Lindberg, including the MOTION FOR BAIL-REDUCTION that judge Lindberg didn't really read in court; and the PROMISE TO APPEAR UPON A SUMMONS that I had sent to them and posted prominently on my apartment door.[131]

> «Karl, it's Kasey. I guess that I'd like to know what's going on. I thought that you had pre-arranged to be bailed out of jail, so that you wouldn't have to go for violating the protective order, and you know, when there are potential exchanges of our minor child involved, I guess that **it would be nice if you would keep me in the loop and tell me what is going on, through voicemail, or through text messaging or something; it would be a lot easier if you would stop being so paranoid, and just answer your phone**; and not try to play this gitcha-gotcha game, you know, as you call it, and so if you could just be honest, and tell me what's really going on? Like you have not always been; I think that would be helpful; Uhhh, and I don't even know what's going on. So, if you could tell me uh when you were planning uh, what was going on, because I think like in six days or something I'm supposed to testify against you. I, I have no idea; I haven't even been subpoenaed, so that's kind of frustrating for me, and you know I don't know if that means that your trial is being bumped or something, or what, but I'm not kept in the loop; and it seems like you're the only one that's given me any information. So, maybe you could just let me know what's going on. **You can send me an email about it or you could text me or you can call me.** Bye.»

Figure 4. 2011-05-10 19:24 Voicemail from Kasey MacRae

4.9.1.¶6 When the police came to arrest me for 111905405 on August 11, 2011, I had been on my way out to go get something to eat. I was part way down the stairs when I saw the officers sneaking up the other stairs and the ones below me. I did not stop to find out if their guns were drawn or not. I turned on my heel and ran back to my apartment and locked

131. The evidence discovery package contained a photograph of only the corner of that document posted on my door. It did not show the entire face of the document. It's clear that they knew that the PROMISE TO APPEAR UPON A SUMMONS was there, and that they were trying to "look the other way" and not notice it. The warrant claimed that they had "reason to believe" that I was a flight risk and would not appear upon summons. That document and the letters I wrote to them make it clear that I was not a flight risk. Again, had I "reoffended" the worst that would happen is that she'd have gotten a non-threatening SMS. She had sent many of those to me and they knew it but did not disclose that or my ANSWER to her request for protective order when obtaining the warrant, and then never accorded me with a preliminary hearing. Her RPO *was* present while my answer to it with it's evidence summary were conspicuously absent. It appears that my fears regarding being kept "incommunicado" were true. While they had me in jail, I was prevented from speaking in court. The LDA and judge made a deal behind my back and moved for "mental health court" to try and commit me, despite my demands to the LDA that an interlocutory hearing be moved for to decide upon the issue of the trivial distinction between a text message and an email that was being used to hold me in jail. "Mental health court" was "sold" to me as a way of getting out of jail sooner... In reality, it was not an entirely voluntary action on my part; I felt as though I had to sign for it, or they would commit me involuntarily. It's similar to having to say I'm not being coerced when I sign the plea "agreement" to get out of jail.

myself in. They started kicking in the door to break it open. I knew they'd eventually get through and then my belongings[132] would be unsecured, so I started shouting "I submit! Stop kicking the door! I'll open it! I submit! I'm not armed or dangerous!". I opened the door, and peacefully submitted to arrest. Earlier, I had written down the URL to the "17RQ" web page on strips of paper, and put them in my pack. I had dropped one of them on the steps in running back to my apartment after seeing the policemen. I asked them to take it into evidence and explained its importance. The officer picked it up, but it was not disclosed with the much belated discovery package when it finally arrived after I'd been in jail 61 days.[133] I don't know if it ever made it into evidence. By then I had disclosed that URL multiple times in court pleadings and letters to attorneys and prosecutors. They most certainly *had the opportunity to review those documents and evidence*, but just as having the *power* to do something does not confer upon one the *right* to do it, the fact that they had the *opportunity* to review that information does not—in and of itself, or intrinsically, considered alone—imply that they *actually did* review it.

> «[T]he government cannot rely on negligence, poor communications between staff members, or ignorance of relevant facts to excuse a failure to disclose [*Giglio v. United States*, 405 US 150 (US Sup. Ct. 1972)].» McCord, James W. H., *Crim-*

132. I'd had the "paranoia" and foresight to put my most valuable belongings into a storage locker, and to set up my banking bill-pay to automatically pay for that and for my rent. If not for disability income paying me despite the several month long pretrial incarceration, I would have lost everything I owned. This begs the question: how many others have been placed into this similar situation by the same broken court and law enforcement process implementation, but who did *not* have any way for their rents or mortgages to keep getting paid while they were held in jail, and so did lose everything they owned? How can 'the government' compensate them for their losses? And what of the incalculable and unquantifiable harms done to those families? It has been said that "domestic violence is the new Jim Crow". After my experiences, I believe it. Welcome to Salt Lake City, where we have such high standards of injustice, that even the courts cheat. Is that Ok? How many will just raise their hands in favor this time? Enjoy your bit of Wonder Bread while you ruminate on those thoughts this Sunday, ok?

133. I realize that the "duty to disclose exculpatory evidence" is, strictly speaking, only applicable to evidence that I could not personally provide to my defense counsel, and that much of the evidence I'm referring to was or could have been (had I not been incarcerated pre-trial) provided to the public defender by myself. However, the exculpatory and mitigating evidence that I provided to them fairly contraindicates any valid cause to prosecute me for any offense, and in fact inculpates Ms. MacRae for contempt, §78B-6-301(4), §78B-6-301(9), §78B-7-115(3), perjury §76-8-502, electronic communications harassment §76-9-201, child abuse or endangerment, §76-5-109(3), domestic violence, §77-36-1(4), in the presence of a child §76-5-109.1, fraud upon the court (tort + contempt), abuse of process (tort + ?), malicious prosecution (tort), and criminal defamation, §76-9-404 (+ tort). Furthermore, evidence that I submitted to the court in writing, implicitly asking for URE rule 201 «*judicial notice*», also disclosed via the "17RQ" URL, demonstrated that I was *not* a flight-risk and *would* appear in court upon a summons. So it's not so much about a failure to disclose the information as it is about a failure to give it proper consideration in exercising prosecutorial discretion and in making an actual *factual determination* and restatement *on the record* of the rational justification for the pretrial incarceration and bail amounts. Instead, the judge did not «*want* to get into the substance of the case» (W48 2011-08-26 11:20:05), an so did not want to accept or read any testimony or evidence, then remanded me to jail, after granting Ms. MacRae the *power of a judge in her own cause* to determine the bail amount. (She would not allow me to be a "judge" when I issued a "Writ of Habeas Corpus". It's too bad when I'm not the *impeached* one.) This is the similar 'pattern of practice' I saw at the protective order hearings with commissioner Blomquist. This is a case where the **absense of evidence is *evidence***. Evidence, period, not of absense, but of misfeasance, or the absense of attention to *duty of care*; the duty to *protect the innocent* and the duty to *find the truth*. I met the burden of production of evidence. They did not meet the burden of proof of guilt. They shirked and avoided it, foisting the burden of proof of innocence onto me. They have done so at their own peril, and I have 'accepted the gift'.

inal Law and Procedure for the Paralegal: A Systems Approach, 3rd edition (Cengage Learning, 2005) at 448. «The government's obligation includes a duty to disclose "evidence that could be used to impeach the credibility of a witness."», quoting *Giglio* in *US v. Hill*, 2010.

4.9.1.¶7 While being arrested, I explained the true nature of the circumstances to the peace officers. They were *not pleased* to hear that the $100000 warrant for two second degree felony "violation of protective order" was for having written a text message wanting to see my son. I'm sure they did not join the police force to help perpetrate injustice... or if they did, they would not want to *appear* as such. This is one way that the cohabitant abuse ACT sort of "frames up" the police as oppressive villians—right?...at least from the perspective of the provincial and relatively naive victim of legal abuse—even while being billed as hereos protecting women. But it's not *their* fault, right? It's the *court* that issued the order and the warrants! The cops are "duty bound" to execute the warrants, presuming that the court has issued them in *good faith*. They do not, presumably, possess the necessary information with which to make a determination as to whether or not enforcement of any particular warrant will or will not place them in conflict with their oath or affirmation of service. Hypothetically, when a peace officer is *aware* of the unconstituitionality of a particular law or warrant... per may refuse to execute it, in good faith.

4.9.1.¶8 Law enforcers can not truly protect women without honestly protecting *equity*—that is, discharging the duties of the office with fidelity to fundamental common law constitutional principles—the *equal protection of law*. Either that, or women have *diminished responsibility* excusing them from prosecutution for offenses against the public law contract with society. How many "feminists" agree to that? Sure, this rhetoric is *potentially* a fine example of several logical fallacies that somebody *might* notice and point out... What a fine example, though, right? Orange is the 'new black'. It looks good with a rainbow clown wig. Is the "traditional" judicial and prosecutorial immunity founded upon "diminished responsibility" also? Are title 18 USC §241–242 just mocking shadows of paper-tiger "justice"? Of course, *they* ***will*** take "responsibility for their own *actions*", as judges in their own cause, if we let them. You *don't* want to be *that* rat. *Fiat justitia ... ruat cælum.*

4.9.1.¶9 So if all the police officers got told about it was the amount of bail and the title of the offense, what if they had extrapolated from that the conclusion that I was dangerous, and shot me trying to flee? I did not stop to find out if they had their guns drawn. For all I know, they could have! The possibility exists that I could have been shot, and the shooting deemed justified by the 'protective' order. If that had happened, what would have been "disclosed" about the circumstances? Would anyone have gone through the trouble of finding the evidence I'm putting forward here, bringing it through a court process, and exonerating me post mortem? Or would the story be as alleged by Ms. MacRae in her Parentage case

pleadings, telling only vague "final results", *res judica* presumed to be valid, alleging so many counts of "violation of protective order" as "proof" of *my* moral turpitude? Presumably she would have claimed possession of all of my belongings, including the laptop and computer hard drives that my evidence is stored on. *That* would make it a lot easier to cut me out of the picture!

4.9.1.¶10 On July 24, 2011, I wrote and mailed a letter entitled MOTION FOR BAIL REDUCTION. On August 1, 2011, judge Lindberg made a minute entry in 111903279 and 111903495 regarding EX PARTE LETTER FROM DEFENDANT. The letter is attached to that minute entry. It is the letter that she had in hand at the August 26, 2011 hearing, and the one that the state's attorney, Roger Blaylock, supposedly read. The minute entry states that she had the clerk forward copies of the letter to the LDA and the DA, because she did not know they had already been Cc'd copies. I had written in the form of a letter, with a "cc" line after the signature, instead of including a separate page with a "certificate of mailing".

4.9.1.¶11 On August 3, 2011, I sent an email that had the PROMISE TO APPEAR UPON A SUMMONS attached to the clerks for judges Lindberg and Atherton. It was printed and date-stamped that day, and filed the next day: `08-04-11 Filed: Email from defendant - copies mailed to LDA and DA`. The case history shows that on the same day, Thursday, August 4, 2011, an *arraignment* was scheduled for August 26, 2011. But I was not arrested until August 11, 2011, a week *after* that hearing was scheduled by someone at the courthouse! Properly, "arraignment" is the stage of the proceeding immediately after "bind-over" from a preliminary examination hearing, or upon indictment by a grand jury. I think I would have appeared in court at my own initiative on Monday, August 15, 2011, except that now I had been arrested. They did not take me to court *at all* until August 26, 2011, despite that *they are required by law to ensure that I have an appearance within one judicial day of the arrest*, and to accord me with a preliminary hearing *no later than* 10 days from the arrest. The deadline for the preliminary examination hearing was thus August 21, 2011. But they had *already* decided to *arraign* me, without even holding a preliminary examination hearing! This is judgement prior to investigation, and it is unconstitutional.

> «We have in the past noted the Fourth Amendment's relevance to the deprivations of liberty that go hand in hand with criminal prosecutions. See *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975) (holding that the Fourth Amendment requires a judicial determination of probable cause as a prerequisite to any extended restraint on liberty following an arrest).» *Albright v. Oliver*, 510 U.S. 266, 274 (US Sup. Ct. 1994).

4.9.1.¶11.1 Because the charges were frivolous, arresting me was an 'unreasonable seizure'. Because the bail was so high for a clearly non-violent and frivolous charge, *it* was unconstitutional *also*, by the US Constitution, Eighth Amendment, and the Utah Constitution, Article I Section 9. Adding another bail was worse than gratuitous. It was

designed to make it impossible for me to pay it, and thus to get out of jail pretrial to gather and organize evidence I would need for my defense.

> «This Court has noted that the common law may aid contemporary inquiry into the meaning of the [Fourth] Amendment's term "seizure." See *California v. Hodari D.*, 499 U.S. 621, 626, n.2 (1991). At common law, an arrested person's seizure was deemed to continue even after release from official custody. See, *e.g.*, 2 M. Hale, Pleas of the Crown *124 ("he that is bailed, is in supposition of law still in custody, and the parties that take him to bail are in law his keepers"); 4 W. Blackstone, Commentaries *297 (bail in both civil and criminal cases is "a delivery or bailment, of a person to his sureties,... he being supposed to continue in their friendly custody, instead of going to gaol"). The purpose of an arrest at common law, in both criminal and civil cases, was "only to compel an appearance in court," and "that purpose is equally answered, whether the sheriff detains [the suspect's] person, or takes sufficient security for his appearance, called bail." 3 id., at *290 (civil cases); 4 id., at *297 (nature of bail is the same in criminal and civil cases). The common law thus seems to have regarded the difference between pretrial incarceration and other ways to secure a defendant's court attendance as a distinction between methods of retaining control over a defendant's person, not one between seizure and its opposite.» *Albright v. Oliver*, *supra*, at 278.

> «"Without attempting at this time to deal with the question at length, we deem it sufficient for the present purpose to say that we are unable to approve this narrow view of the requirement of due process. That requirement, in safeguarding the liberty of the citizen against deprivation through the action of the State, embodies the fundamental conceptions of justice which lie at the base of our civil and political institutions. *Hebert v. Louisiana*, 272 U.S. 312, 316, 317 [(1926)]. It is a requirement that cannot be deemed to be satisfied by mere notice and hearing if a State has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a State to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation." [*Mooney v. Holohan*, 294 US 103,, 112 (1935)]. ¶ In the years since Mooney, we have consistently reaffirmed this understanding of the requirements of due process. Our cases make clear that procedural regularity notwithstanding, the Due Process Clause is violated by the knowing use of perjured testimony or the deliberate suppression of evidence favorable to the accused. It is, in other words, well established that adherence to procedural forms will not save a conviction that rests in substance on false evidence or deliberate deception. Just as perjured testimony may invalidate an otherwise proper conviction, so also may the absence of proof render a criminal conviction unconstitutional. The traditional assumption that "proof of a criminal charge beyond a reasonable doubt is constitutionally required," *Winship*, 397 U.S., at 362, has been endorsed explicitly and tied directly to the Due Process Clause. *Id.*, at 364. When the quantum of proof supporting a conviction falls sufficiently far below this standard, then the Due Process Clause requires that the conviction be set aside, even in the absence of any procedural error. *Jackson v. Virginia*, 443 U.S. 307 (1979). In short, we have already recognized that certain substantive defects can vitiate the protection ordinarily afforded by a trial, so that formal compliance with procedural rules is no longer enough to satisfy the demands of due process. The same is true of a facially valid determination of probable cause. Even if prescribed procedures are followed meticulously, a criminal prosecution based on perjured testimony, or evidence on which "no rational trier of fact" could base a finding of probable cause, *cf. id.*, at 324, simply does not comport with the requirements of the Due Process Clause.» *Albright v. Oliver*, *supra*, at 299, 300.

4.9.1.¶12 In my case, we have both non-adherence to procedural rules *and* an absence of evidence of any *actus reus* that a '*rational trier of fact*' would find to be a 'crime' in the ordinary sense of the word, either "on the street", or under proper construction of Utah Code statute and caselaw.[134]

4.9.1.¶13 On August 18, 2011, I wrote and mailed a document entitled Writ of Habeus Corpus with Order to Show Cause for Arrest vs Summons and Imprisonment w/Excessive Bail. It was addressed primarily to judge Atherton, who had signed the warrant, with Cc to judge Lindberg. The court clerk received and date-stamped it on August 22, 2011, but it was apparently not *filed* until September 6, where it appears in 111905405 as `ExParte Letter from Defendant`. On September 7, 2011, judge Lindberg made the following minutes entry, which she spoke of at the September 9 hearing, but *not* at the August 26 hearing, which I shall describe in detail:

> Judge: LINDBERG, DENISE P
>
> On August 22, 2011, Defendant submitted request for an Order to Show Cause (OSC) pursuant to a 'Writ of Habeas Corpus'. The Court notes that Defendant's request does not comply with requirements for filing a Petition for Writ of Habeas Corpus. More importantly the substantive issue for which a review is being requested (*i.e.* Defendant's claim that bail is excessive and he should be allowed to appear pursuant to a summons and 'promise to appear'), was already addressed and DENIED by the Court at a hearing held August 26, 2011. Accordingly, the request for OSC is Denied as moot.

Figure 5. Minute entry signed by judge Lindberg on Sept. 7, 2011

4.9.1.¶14 I see several things wrong here.[135] She did not make this minute entry until September 7, 2011, despite that the document it refers to was recieved on August 22, 2011. Since I was arrested on August 11, 2011, the deadline for according me with a preliminary examination hearing was the same day that it arrived. At the hearing of August 26, 2011, four days later, which I am in the middle of describing to you now, there was no mention of it, and the issues were *not* fairly addressed, as I shall demonstrate.

4.9.2 Arraignment or scheduling conference? of August 26, 2011

4.9.2.¶1 In fact, no preliminary examination hearing was ever held for 111905405, and the judge, the prosecutor, and the public defender all knew that. At the hearing on August 26, 2011, listed as a "scheduling conference" in *that* day's case history entry, even though shown as an "arraignment" in the case history entry of August 4, they discussed and acknowledged

134. See: Thomas Bustamante & Christian Dahlman, *Argument Types and Fallacies in Legal Argumentation* (Law and Philosophy Library, volume 112, Springer Berlin Heidelberg 2015) at 151–175, *Wallace v. Van Pelt*, 969 SW 2d 380 (Missouri Court of Appeals 1998), *Brandt v. Gooding*, 630 SE 2d 259 (South Carolina Supreme Court 2006).

135. Humorously, she allowed the complainant, Ms. MacRae to be a judge in *her* own cause, but would not accept my Writ of Habeus Corpus. Normally a prisoner *petitions a judge for a writ* rather than issuing one himself.

that no prelim had been held, yet did next to nothing to ensure that one would be scheduled. Near the beginning of the hearing, at 11:14:28, Judge Denise Lindberg (bar #5308) asked[136] «[...] we have this set as a scheduling conference? On these matters?» Salt Lake Legal Defender Association public defender Isaac McDougal IV (bar #8633) said «Uhhm, that's right, because of there was a warrant, Mr. Hegbloom was arrested. I believe there was also a new case filed this morning, uhhmm, so I would ask for another scheduling conference out three weeks?» They then *set* a scheduling conference for September 9, 2011.

4.9.2.¶2 The appropriate request was *not* for a "delay hearing"...[137] er, scheduling conference, but for a preliminary examination hearing, and not in three weeks, but within 10 days of issuance of the new warrant they discussed during this hearing (which was not issued), and for dismissal of the present warrant due to the missed prelim and frivolous nature of the charges. Notice that here he is acknowledging that he knew about the potential new warrant, and that I had been arrested due to another warrant. He *knew* about the warrant I'd been arrested for because he'd been told about it the day it was issued, but he did not have any paperwork for it yet. I think that in all likelihood, at least the alleged phone call would not have been bound over, since they really had no evidence to prove who the sub-one-minute call had been from. It could easily have been a wrong-number. In fact, the evidence showed that *she* had called *me*. The police officer sent to investigate did not find probable cause to arrest me for a protective order violation. If the determination of whether the distinction being made by the alleged "victim" and the public prosecutor between an SMS and an email could not be made by a preliminary examination magistrate, then it easily could have been made by a judge ruling on an interlocutory motion, which was clearly in-order.

4.9.2.¶3 I think that the law is clear on the issue and that I've said it enough times now. Written is written, whether upon a napkin, in a novel, in an email, on paper, on the wall, on the tile or in the grout; recorded audio or recorded video, sent via the US Postal Service, private courier, in a bottle with a cork or a screw top, by pidgeon or by penguin, across the Internet or 4g-LTE via SMTP over TCP/IP, or as an SMS or MMS over CCTITT GSM cellular, EVDO, EVDOv2, or whether it's encoded in EBCDIC, ASCII, or UTF8, or by the pattern of smoke rings blowing out of an indignificinous judge's nostrils or a prosecutor's whatever you say next don't say it in court. **You see, it's not the medium by which**

136. In transcript dialog, I shall use an ellipsis '...' to indicate a pause in the person's speaking that can be noticed when listening to the recording. People do that to indicate innuendo, to think a second, or to stop because it's obvious that the listeners can (complete the sentence). I also use an ellipsis where a person has been cut off while still talking by another person interjecting or interrupting. An *editorial* elision when made will be indicated by an ellipsis inside of square brackets.

137. The longer I sit in jail, the more likely I am to take a 'plea agreement' just to get out, especially when it's the only way I can get out because nobody at the court is doing their job properly. Leaving people in jail is less work. By doing so, they effectively foist the burden of proof of guilt off onto the defendant, who then must fill out the forms... and marshal the evidence necessary to meet the burden of proof of innocence; that is, if they are allowed to write on the back of the form and anybody reads it who cares to exercise duty of care *this* time around, with regulation 22 revealed.

the message is delivered, or what form it takes, but the semantic content of that message that is pertinent. *Intentio mea imponit nomen operi meo.*[138] It takes an aweflea big shaggy dawg to whey a town.

4.9.2.¶4 The letter to my son was *constitutionally protected speech*, as was any communication with, to, or from his mother that did *not consist of "fighting words" or threats*. The 'protective' order allowed *written* communication. There was *not* a strict "no contact" order in place... until somebody in a sheriff's uniform at one of the first hearings, probably in case 111902257, was suddenly—right there in the court room—handing me a "criminal no contact order", per §77-36-2.6(3), that had apparently just been issued in the eyeblink without even a word... without any notice, without any *consideration* for the existing order allowing written communication and time with my son... and without any significant discussion or *fact finding* in making «a determination of the necessity of imposing a pretrial protective order»; I guess the carbon-copy of the form they filled out really fast to create it was supposed to satisfy the "in writing" part of the statute? ...but then they apparently never enforced *that* §77-36-2.6 "pretrial protective order". All of the "informations" alleged things that "the people" billed as violations of the §78B-7-101 "cohabitant abuse act" protective order.

4.9.2.¶5 When I was booked into jail, I was told that *they* have a strict administrative policy forbidding pretrial services from authorizing «upon agreement in writing» §77-36-2.5(2) release of alleged domestic violence offenders. They cited a *single incident* where a man (not me) they released went home and beat up his wife, sort of making a universal generalization from an existential instantiation, or to put it another way, disregarding the presumption of innocence... and disregarding the particulars of the matter, since I had not committed or been accused of having comitted any violence *per se*. In other words, there was no substantial or material evidence showing me to be a *threat to myself or others*, in that nothing I was accused of having done would «cause a *reasonable* person to suffer substantial emotional distress, nor actually *cause* such distress to the petitioner.» *Wallace v. Van Pelt*, 969 SW 2d 380 (Missouri Court of Appeals). In fact, the material evidence *available at the time* contradicted any such claim. The officials running the show repeatedly asserted that they had *had the opportunity* to review my written pleadings and evidence summaries. Show me.

4.9.2.¶6 Pretrial services is inside the sheriff's department, not the judicial, and so they expect to have a judge sign a «jail release court order», so they can't simply have me check the box on an agreement to stop beating up my wife.[139] When I got to court, the judge used her Thinkpad and looked up what pretrial services "recommended", then remanded me to jail.

138. And yes, vapor ships fly-floating through smoke ring slalom up to a thought-balloon *can* have semantic meaning, at least when their augury is taken *with in situ context*, if not in and of themselves; Yellow herring phough phishing boot-shoes optional.

139. Answer truthfully, with either "yes" or "no" only. Have you stopped beating up your wife?

How many people have seen the "report screens" of the software she looked that stuff up with? Ok, recently... well, ten years ago... only the developer of the "screen scraper" they use to put the legacy TTY interface into a web page... The "statewide domestic violence database" does have protective orders in it, but it apparently does not record *modifications* made to the standard forms, such as the one "allowing email" in 104906439. Its factual content is minimal. It shows only a brief report of the *results* of a court process that is *presumed* to have included *trier of fact*.

4.9.3 We ask for bail reduction or waiver in 111905405.

4.9.3.¶1 After setting the date for the next scheduling conference, the public defender spoke again, at 11:15:28 «and your honor, he would like to ask for either a bail reduction or an his own recognizance release on this case. I believe the bail is... It's actually fairly high, given that it's a protective order, it's there's no sorts of actual violence in this case, but it's I believe over a hundred thousand dollars?» I spoke next, saying «Yeah, it's outrageous; eighth amendment, and my income is very low, all things are set to track, I've already paid some bail, and I promise you I will not, uh, ...» The judge started talking, cutting my statement short «Well the problem is that I've got all these violations, alleged, I'm just informed that there's a new case, is the allegation similar? ... to these?» The defender said «I believe the basis of it is a letter to his son.», and then the victim advocate said «Your honor, the letter to his son, his son is 2 years old, the letter was written in adult language. The child obviously can't read it. There was a no-contact order he shouldn't be writing to his wife or his son or to his son through his wife.» The only strict no-contact order was the redundant "pretrial protective order" mentioned above, which was never enforced. When I got back to jail, I wrote a letter to the district attorney's office about it. They did not ever press charges for the handwritten letter to my son. The letter was not written in "adult language". It was written in the same language we all speak, and if there were words he did not know yet, she could teach him what they meant. Children don't learn language unless they are exposed to it.

4.9.3.¶2 I attempted to speak again, saying «Did you read...» I was going to say "the letter that I sent to the court", which she does get out but does not really read later in this hearing. The letter contained easily verifyable evidence and testimony for judicial notice, URE 201(c)(2), pertaining to pretrial incarceration and the bail amount. The judge interrupted me, saying «Mr. Hegbloom, you don't seem to be getting the message. You have a no contact order.» I said «I apologize.», and then she continued with «Every time you make a contact, it's a new charge. No. I'm not releasing you cause you don't... if you can not even manage to stay without creating a new problem for yourself while you're in jail I am not going to leave you let you out and possibly run for the p... possibilities of having problems out if you are released. Turn around, and face me. Ok?»

4.9.3.¶3 I had been looking behind me because I had heard movement, and heard Ms. MacRae's voice there. The judge wants *me* to face her. It's too bad she's helping Kasey to *not* face her *own* problems by helping her to "close the channel" through abuse of a protective order. The fact that the detectives, public prosecutors, and victim advocates repeatedly brought "new charges" for *alleged violations* is not, in and of itself, grounds to hold me in jail. She's blaming the victim, me, by claiming that I'm creating the problem for myself. Nothing I had done was unlawful. The communication from me to my son, and that from me to his mother the charges were based on, was consitutionally protected speech, and anyway the order allowed written communication. Messages from Ms. MacRae to me were rude and she was intentionally attempting to provoke anger. I gave them evidence of this and they did not accord it proper consideration. I had a right to be heard that was not respected.

4.9.3.¶4 The public defender then asked her «Would you ever consider the possibility of lowering his bail from that one hundred thousand dollar figure?» She replied «Uhhmm... I'll hear from the state on that.» The public prosecutor, Roger Blaylock, said «Your honor, (someone coughs conspicuously) part of the problem is when he was bound over on the two preliminary hearings uh there was a request at that time† that uh the bail amount be a hundred thousand dollars,[140] and that ah the court (? shuffling noises) wanting a(?) hold wait until that signature could be obtained. Aah, he then fled and uh basically indicated that he

140. There is a plethora of caselaw regarding excessive bail. That much bail has been found to be excessive even for a millionaire. I had already paid more than I could afford to spend for two other bail-bonds, having to spend money on that instead of at the dentist. The charges were *clearly* frivolous, *prima facia*. The Unform Fine and Bail Schedule has nothing in it anywhere near a hundred thousand dollars. To put it in perspective, a man I met in a courthouse holding cell with a prior felony who was caught after a car chase with an ounce of methamphetamine and a 357 magnum had bail set at $50000, half what my bail was set at for a text message asking about my son under a "protective" order that allowed email, and for a sub-one-minute phone call with no caller-id they couldn't prove the originator of, where the complainant had called me and left voicemail inviting recontact via telephone. I was locked up in the quarantine pod with a retching, coughing, and vomitting heroin addict who had a reaction to the TB test the size of a silver dollar who had to get chest x-rays; moved, to minimum security general population and housed with a terminally ill HIV positive man just returned from the infirmary, recovering from pneumonia, coughing mist into the air I had to breathe and spitting bloody sputem into the toilet I had to wipe his urine off of before I could sit on it; then with an *actual* violence offender serving a two year sentence for *really* beating someone up, who would get angry and kick the bottom of my bunk to wake me up every time I snored; with a pushy, overbearing, foul-mouthed supposedly "ex-marine" who told me that he was on trial for homocide; and with a young kid imprisoned pre-trial on drug use charges who pulled his own tooth because the jail wouldn't take him to an emergency dentist or provide him with analgesics or antibiotics. I ate every scrap of food for 5 days, and it wasn't enough bulk to cause a bowel movement in all that time. I was cold and losing weight so I signed up for kitchen duty where we worked 10 hour shifts beginning at 2am. There we were told not to eat food from returned trays because somebody with HIV or hepatitis could cough and one drop from that might transmit their disease. The kitchen worker pod is the only place in the jail with enough heat to not shiver all night, *hot* water showers, and enough to eat to prevent muscle wasting. The stress aggravated the heart-murmur I've developed from breathing the carbon monoxide coming out of the heater in the only apartment I could find cheap enough to afford while she refuses to give me control of the income that's rightfully mine that she spends on herself, and not on my son, despite that he was in my care most of the time and ate most of his meals with me (evidenced in the parentage case). In order to get any legal relief, I must spend full-time reading law textbooks and caselaw, to prepare my own filings, briefs, and memorandum because with my existing job skills and work experience there's no way I can afford to pay a lawyer, even if I got a job and put my son in day-care, assuming I could even find an attorney whom I can trust to do it properly; and even then I would need to do a lot of work to provide an attorney with sufficient information upon which to build a *solid* case.

was not... he had no intentions of returning to court.» **I immediately interjected with the surprised utterance «That isn't true, your honor.»** Mr. Blaylock continued with «he wrote lengthy letters to everybody in the process saying he was aware of the warrant and uh we don't think that he is an individual who will follow up if the court reduces his bail and allows him out, it'll just be more problems.» As if those "lengthy letters" said little more than that! I trust that *this* court *will* read them. Roger Blaylock appears to be one of those prosecutors who, being *economical with the truth*, ignore most of what a defendant says, and then latches on to the one or two things that support his world-view and allow him to have the excuse he needs to 'prosecute'. Of course I wasn't really being "prosecuted" as much as "persecuted" here, as evidenced by the way they "interpreted the evidence"; at least the evidence they would acknowledge...

4.9.3.¶5 The *defamatory*, §76-9-404, false-representation being made to the court, URCvP rule 11(b), URCrP rule 16(a)(4), UCJA rules 1.1, 1.3, 3.1, 3.3, 3.8, and 4.1, by deputy district attorney Roger Blaylock (bar #367) was a bad faith (self deceptive) contextual "half-truth" lie of omission and fabrication.[141] It is perjury, §76-8-502, contempt of court, §78B-6-301(3), §78B-6-301(4), §78B-6-301(9), & §78B-6-301(9), obstruction of justice, §76-8-306(1)(d), & §76-8-306(1)(j), and part of the means by which he is committing a crime against my rights, Title 18 U.S.C. §242. It represents *official misconduct*, §76-8-201. He could not have accomplished it acting alone, implicating *e.g.* Title 18 U.S.C. §241, Title 18 U.S.C. §3, and Utah Code §76-2-202.[142]

4.9.3.¶6 «The deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with the "rudimentary demands of justice".» *Giglio v. United States*, 405 US 150, 154 (US Sup. Ct.), quoting *Mooney v. Holohan*, 294 US 103, 112, 113 (US Sup. Ct.) where it was also famously stated that «[the requirement of due process] in safeguarding the liberty of the citizen against deprivation through the action of the State, embodies the fundamental conceptions of justice which lie at the base of our civil and political institutions. *Hebert v. Louisiana*, 272 US 312, 316, 317. It is a requirement that cannot be deemed to be satisfied by mere notice and hearing if a State has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of

141. The Wikipedia article `https://en.wikipedia.org/wiki/Lie` provides useful knowledge and terminology regarding the classification of various forms of a «statement that is known or intended by its source to be misleading, inaccurate, or false.»

142. I find the Cohabitant Abuse Act and the processes by which I was placed into this circumstance to be so *obviously* and *blatantly* unconstitutional that I find it difficult to comprehend why it has been a statute of the Utah Code for this long without having been successfully challenged by a qualified lawyer. The most obvious reasonably plausible hypothesis is that driven by *perverse incentives, through barratry, champerty, and maintenance*, there is a conspiratcy against rights being perpetrated by a subset of the bar or by all those who profit in any way through the maintenance of the "protective order" system. That 'protective' orders protect anyone or in any real way prevent domestic bullying or abuse is a *noble lie*. For one thing, the system is *impracticable*. I shall expound upon this below.

testimony known to be perjured. Such a contrivance by a State to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation. And the action of prosecuting officers on behalf of the State, like that of administrative officers in the execution of its laws, may constitute state action within the purview of the Fourteenth Amendment. That Amendment governs any action of a State, "whether through its legislature, through its courts, or through its executive or administrative officers." *Carter v. Texas*, 177 US 442, 447; *Rogers v. Alabama*, 192 US 226, 231; *Chicago, Burlington & Quincy R. Co. v. Chicago*, 166 US 226, 233, 234.»

4.9.3.¶6.1 Elsewhere within this document and also within the ANSWER TO REQUEST FOR PROTECTIVE ORDER with evidence summary, and in the "long affidavit" for dismissal of the protecdtive order, I have documented the details of Ms. MacRae's perjury. The ANSWER was available to them at the time of this hearing.

4.9.3.¶7 †Notice that Mr. Blaylock is saying that there was a request made *at the time of the July 12, 2011 preliminary hearing* that bail be set at a hundred thousand dollars. But the in the two warrants bound-over are the only 2 counts (of the total of 12) alleging any *in-person physical proximity* to the alleged 'victim'—"walk-by hellooing" and "clown banana-bread delivery and 8 SMS", described above—which are also the two warrants for which I was booked and released with pre-arranged bail bonds, *and* the two I was ultimately forced to sign a plea "agreement" for. The alleged offense date for "SMS pertaining to child and call from unknown", the case that I was being held in jail for and had just asked for bail reduction or waiver for, was 4 days *after* that much-belated preliminary hearing that *my public defender had to move for because the public prosecutor had not taken care of his duty to do so*.

4.9.3.¶8 There was an arraignment hearing at 11:12 on July 22, 2011 for the two warrants that had been bound-over. That is the same date that the $100000 warrant for 111905405 was issued. The case history does not say what time of day it was that Judge Judith Atherton (bar #3982) signed the warrant. I know for sure that they did not have it until after I went home. After I plead not-guilty to "walk-by hellooing" and "clown banana-bread delivery and 8 SMS not pertaining to child", Deputy District Attorney Michael Boehm (bar #11868) and Salt Lake City Police Department Domestic Violence Unit Detective Robert Woodbury entered the courtroom and asked for a conference with counsel and the judge. Both the public defender, Isaac McDougall IV (bar# 8633) and the victim advocate, as noted by the minute entry but not the list of appearances at the top of the record, were present and went to the bench to conference. I am not sure who the victim advocate was. It may have been Yvette Rodier (Evans?) Whitbey (bar #12505), or Lorie Hobbs (bar #13242). When the public defender returned to the table he told me that there was a new warrant that would be issued that afternoon, and that bail would be set at $100000. The judge then admonished me regarding "contact with the victim" and the hearing ended. My immediate reaction to

her statement was that she has no respect for the presumption of innocence because the tone and form of her statement implied a predetermined finding of guilt. This is perhaps only a little bit ironic coming from the judge who gives the video-recorded speech regarding *waiver* of that right upon signing a plea agreement in justice court, especially in context with my other experiences in her court.

4.9.3.¶9 I was apparently never provided with a recording of this July 22, 2011 arraignment hearing. What's strange is that for some reason I had a court recording that was supposed to be from this hearing—the file, already transcoded by me from wma or ftr to flac,[143] was named with this hearing's date—but that turned out to be the one of the October 21, 2011 hearing. I'm normally very careful when I do transcodings and am a little confused by this file having been given the wrong date like that. Normally the date on the transcoded file is taken directly from the filename of the source file. The collection of discs that I have does not have one with this July 22, 2011 hearing on it. The case history has a notice just after the minutes for this that says «`07-22-11 Note: ARRAIGNMENT minutes modified.`», and there's a similar entry «`09-09-11 Note: SCHEDULING CONFERENCE minutes modified.`». Here once again I find the court record keeping inadequate. It does not tell me when that modification to the minutes was made, nor does it say who modified it, nor exactly what the modication was. I'm guessing that the date in front of that note only says which minutes text was modified, not when that modification was performed.[144]

4.9.3.¶10 Each of those *retroactively modified* minutes entries mentions that defense counsel moved for mental health screening... but I don't *recall* that being mentioned during the July 22 hearing. The first I recall hearing of it was just before being taken into the courtroom on September 9 (though see below re letter I wrote to LDA, postmarked on September 8,

143. Playback software often has difficulty seeking to exact locations within variable bit rate compressed audio, such as wma, mp3, or ogg. FTR creates RIFF "wav" files with what is probably wma audio inside rather than uncompressed pcm. It is a proprietarily obfusciated file format that can not be played back without their software, which only runs on Microsoft Windows. It can export to wma files which retain much of the identifying metadata so it's possible to see from the filename what courtroom, date, and time the recording is from. It also exports to audio CD, losing that information. For both wma and CD audio, the original 4 channel recording is mixed down to stereo, losing information due to both the mixdown and the lossy compression. FLAC, free lossless audio codec, files have seek indexes embedded within them for helping playback software with jumping to specific regular points within the file, have an extensible metadata specification, and can carry 4 channels. Its lossless compression algorithm is designed for on-the-fly compression and can probably be implemented in hardware or using a GPU. A metadata entry could concievably be used to checksum and cryptographically sign a court recording. FLAC can also carry "karoke lyrics", which is easily adaptable to carrying the written transcript with timing information so it can be displayed like subtitles during audio playback. FLAC is Open Source and non-proprietary, and can be played back on any computer, not just ones running Windows.

144. A system using 'git' underneath (see: `https://git-scm.com/`) would have the necessary security, change-control & recording, authentication, authorization, and non-repudiation features. It would record who made the change, as well as when and what the change was. Each change can be cryptographically signed. It would not let you just go back and edit the minutes in place. It would require editting them and checking in the changed version, so that a 'diff' between the two revisions can be pulled up by an auditor. Government officials testifying in court ought to sign in with an RFID or barcode badge so the software can automatically record their appearance, to avoid the "Mr. Blouberg" problem which I've described with my testimony regarding the July 12, 2011 preliminary examination hearing.

which they did not receive until the 9th). **I know that I would have remembered it and certainly *protested* it within the letter that was filed with the minute entry on August 1, 2011, because it admits a form of "guilty plea" and I knew I'd done nothing wrong nor illegal.** I signed the form on September 9 only because I was in custody and my past experience with "mental health courts" is that if you don't sign "voluntarily" they move for involuntary commitment. In other words, it was essentially coerced. It was also the excuse they used to hold me in jail that long, "waiting" for the "screening" to be completed. I was told it takes 8 weeks. They did not have the legal right to have me in jail anymore at that point, regardless of when *mental health court was suggested to me as a way of getting out of jail sooner*.

4.9.3.¶11 At the beginning of the *October 21 hearing*, Mr. McDougall mentions that I was "being screened for mental health court", and says that the process takes 6 to 8 weeks and there's about 3 more weeks to go on it, which is saying that the process was begun 3 to 5 weeks (21 to 35 days) prior to October 21. Records that I obtained from the Salt Lake Legal Defender Assosciation show that they sent the HIPPA release forms and information requests on October 4, 2011, or 17 days prior to the hearing. He had sprung the form for me to fill out for mental health court screening on me just before I was taken into the courtroom on September 9, 2011, the same day a hastily written and uncharacteristically short letter postmarked the day before was received and scanned in at his office. An LDA paralegal visited the jail wanting me to sign the HIPPA release forms. I am fairly sure that I wrote "conscientious objector" below my signature on each and every one of them. I consider that to be *part of my signature* when signing this type of form. The copies of those forms that I obtained later from the LDA had that part of my signature whited-out on all but the one sent to Oregon. I was told that none of the places they sent those forms to returned any information to them that would "qualify" me for mental health court. The LDA refused to show or provide me with copies of the information returned to them, citing HIPPA, despite that it was my own health records! I think that after reading my court filings, you'll agree that I don't suffer from "diminished capacity".

4.9.3.¶12 After that hearing ended, the public defender asked me to conference with him. He told me again about the new warrant and that it had not been issued yet. If he had been told any details about what the charges were, he did not say much to me. I told him that it was probably about the SMS message and phone call the police had questioned me about as documented by their police report. I told him again how she would contact me, and complained about them charging me with a crime for a text message when it allowed email. I said that I have exculpatory and mitigating evidence but would need to get it off my laptop. I'm certain that he was reasonably sure that nothing in the warrant was likely to be due to any actual violence *per se* before allowing me to leave the conference room to

go home. Clearly, his decision to do so did *not* endanger anyone and was designed to assist me in affecting my right to be heard and to present exculpatory evidence. If they actually had *probable cause* to believe that I *was* actually a danger to myself or others, then they would not have had to wait for a warrant to be signed later that day, and could rightfully have arrested me a few hours sooner. But nothing used to obtain the warrant evidenced *or alleged* any actual violence *per se*.

4.9.3.¶13 When I got home, I began gathering that evidence and writing letters. One of them was the letter to the court filed August 1, 2011, and described by the minute entry it is attached to. I also wrote an email, which was filed on August 4, 2011. That second email had the Promise to Appear Upon a Summons attached to it. Despite that at the time I had no knowledge of URE rule 201(c)(2), it is clear that my intention was for that rule to be applied and that *judicial notice* be taken of the testimony within those letters. It is also obvious that I was not a *flight risk*, and certainly intended to appear in court. Both the letter and the email were sent to the district attorney's office with enough information to route it to the prosecutor in charge of the case. They were also provided with a copy of the email reply to Detective Robert Woodbury. It is this context in which I make the complaint of crimes committed by Mr. Blaylock listed above in ¶4.9.3.¶5 on page 82.

4.9.3.¶14 The hearing of August 26, 2011 continues, and at 11:17:50 Judge Lindberg says[145] «(quietly and drowsily) Do I have any evidence of violence? (louder) Do you have letters that have been… let me see if I have any of them in file.» The prosecutor continues to speak, «Well officers stopped at his house a number of times to pick him up after the warrant was finally issued and uh it took several weeks before he could be arrested on the warrant when it was finally issued.» At that point I spoke to my attorney, loudly enough that it can be heard in the court recording and by others in the room, saying «The warrant's in violation of the eighth amendment.» He whispered something back to me that is inaudible. The prosecutor keeps talking, saying «The concerns that we have are that uh there might be some mental health issues uh he has a fixation on the victim uh because they have a child in common he's repeatedly violated the protective order and he blames the victim for the contact. So, I don't… I would submit to the court that this isn't the kind of a person that ah who would do well under a supervision being released or a reduced bail. There's the council for the victim also.»

4.9.3.¶15 Here Mr. Blaylock asserts here that I have "repeatedly violated the protective order" in the same hearing **he deflected repeated questions regarding scheduling of a preliminary examination hearing** on the *prima facia* frivolous charges he was at the

145. While I was making the transcript of this hearing, I had to listen to this next part several times because I wasn't certain that it was judge Lindberg's voice speaking the words "Do I have any evidence of violence?" It was clear from reading the "information" and "affidavit of probable cause" that the charges did not, *prima facia*, allege any actual violence *per se*. She did not need to *ask* that question; she needed to take notice of the documents before her.

same time "trying" to have me incarcerated pre-trial for... Mr. Roger Blaylock, representing "the people" as well as his cohorts at the Salt lake District Attorney's office, was making the representation to the court that he had *read* the letters I wrote while at the same time acting in a manner contraindicated by readily verifiable evidence within them—including logically valid testimony to the effect that pretrial incarceration would not merely delay, but effectively prevent discovery of mitigating and exculpatory evidence that nobody but myself could be reasonably expected to discover and disclose—more evidence of the type that I'd *provided* several samples of, as stated elsewhere in this treatise. He had already made a "summary judgement" and wanted me "held in contempt" until I "essentially confessed" by signing a plea "agreement". The judge had no right to indulgethe prosecutor's "recommendation" without a demand for presentation of supporting evidence, presented for judicial notice upon the public record, before a trier of fact, then applier of law. Additionally, the *right to a speedy and public trial* and the priority precedence of *finding the truth* over *adminstrative convenience* command that *a more definite statement of the evidence in support of and in contraindication of the pretrial incarceration and bail amount* be made right then and there.[146] That's what the letter I'd written was *for*.

> «The obligation imposed on judges by the common law to explain the reasons for their decisions necessitates that the proffered explanations be complete and candid. The value of a judge's statement of reasons for a decision is lost if the judge does not state those reasons accurately: "The danger is that this duty of exposition can be evaded. It requires candor from judges in addressing the strongest arguments against their views... The duty of exposition seeks to remind the judge that the power to do something is not the same as the right to do it—that right can be earned, if at all, through reason."» Edlin, Douglas E., *Judges and Unjust Laws: Common Law Constitutionalism and the Foundations of Judicial Review* (U. Mich. Press 2008) at 118 quoting J. Harvie Wilkinson III, *The Role of Reason in the Rule of Law*, 56 U. Chi. L. Rev. 779, 798 (1989).

4.9.3.¶16 Since when is it a "mental health issue" or an impliedly *negative* psychological "fixation" to want to communicate with and bring food for the woman I have a "child in common" with? And is citing and offering evidence showing that she contacted me and *explicitly invited* reply and asking me to go to the grocery store for her,[147] "blaming the victim for the contact"? Here is evidence that I did "*suffer from* a mental illness" of sorts. I suffered because of *their* delusional conception of "justice" and "law". Did they lack the capacity to understand that what I was accused of was *not a crime*, or that what they were doing to me *is a crime*? I supppose they'll insist upon being accorded the "traditional" prosecutorial (and judicial) immunity, perhaps based in consideration for their *diminished capacity*? Perhaps they'll cite that because they "take responsibility for their own actions", diminished capacity

146. If the judge had found and stated on the record that she needed more time to *read* the letter that she had, I agree, reasonably believed was *ex parte*, I would have genuflected curtly with a vocal "thank you, your honor", and gladly returned to court the following day.

147. Upside down on top of the refrigerator, right? Take care of what you ask of me, for I can't say "no" to you.

is thereby disproved. So then did they do it on purpose, and thus *knowingly* and *intentionally* violate my rights? Or for their incompetence, will they want *unqualified immunity*, even as they improperly applied *strict liability* and made *judgement prior to investigation*? Appeal to tradition is logical fallacy. The constitution, in mandating "uniform operation of law" and "equal protection of law" demands *consistent logic* with no double-standards or allowing of application of the *principle of explosion*. Ignorance of the law is no excuse, especially for members of the bar, and even more so for public prosecutors and judges. They have absolutely no right to *selective non-enforcement* of serious crimes—either those against the person or against the integrity of the judicial—nor to be *judges in their own cause*, even while being held "responsible for their own actions".

4.9.3.¶17 The victim advocate speaks next, at 11:18:47 «Your honor, the victim would also request that the bail be one hundred thousand dollars, because he will continue to violate the protective order.» She is apparently and impliedly granting the alleged "victim" the power of a judge in her own cause, with authority to set the bail amount. Later in this 'hearing', Judge Lindberg accepts the prosecutor's and victim advocate's "recommendation" *ipse dixit*, no definite statement required. And *why not*. They already gave the "victim" the power to determine whether or not any particular interaction with me was or was not a "violation", prosecuting me at *her* whim for having done things that she does not seem to think are illegal when *she* does them herself... and for things that are not illegal in the absence of a protective order, nor, I contend, illegal even *with* a protective order, especially one that allows email! I should not have been the one on trial. Whatever 'interpretation of the law' was applied in making the decision to prosecute me while deciding to not prosecute her, I'm certain that it did *not* construe the Cohabitant Abuse *Act*, or any of the other pertinent laws, in the direction of justice![148] It threw justice over it's shoulder like a peice of trash.[149] Apparently, they neglected to read the *fine print* first.

4.9.4 I ask to address the court

4.9.4.¶1 The public defender spoke next, at 11:18:55, saying «and, and your honor, he would like to address the court if he may.» There was a 41 second long silence at this point while the judge was reading the letter. It was *not* the letter I'd written to my son they mention earlier, but the one attached to the minute entry of August 1, 2011. The fact that she was reading it here in court and that it was flagged as being *ex parte* by the court clerk is sufficient information to deduce that she had *not* read it previously. She was reading it for the first time. Because both the victim advocate and the public defender had just addressed

148. See *e.g.* §76-1-104, §76-1-106.

149. See *e.g.* §68-3-2.

her directly, she must not have been reading it while they spoke. She did not read for long enough to read the entire 7 page document. She clearly missed the point, saying, at 11:19:40 «Ok, request is denied, Ok? I have...» at which point I interrupted her with «Are you denying my request to address the court then?» to which she replied «You may speak.»

4.9.4.¶2 The evening before I had written down a statement that I had planned to speak in court at this point. It was a couple of paragraphs pertaining to the 8th amendment of the federal constitution and to Article I Section 9 of the Utah constitution, regarding excessive bail, and to my right to be heard. It was in my jail-shirt pocket when I was called from my cell to line up for court transport. The transport officer took it out of my pocket and told me I was not allowed to bring it to court.[150] I did not have it memorized and the subject matter was new and unfamiliar to me. When I spoke in court, I said «Uhm, in terms of my blaming the victim for the contact, I'm responding to her demands that I bring furniture to her so she can...» I was about to say something like "organize the house before the DCFS officer came to visit her after being called on her by her neighbors", but I was interrupted again by the judge, who said «Uh, I don't want to get into the substance of the case. Uhm, what I have is a letter from you in my file that acknowledges that you understand that there is a warrant for your arrest and that you are affirmatively evading that warrant.» This proves that she *did* at least "selectively read" the *first* page, without really thinking about what I was talking about, finding only what the public prosecutor had *suggested* she would find.

4.9.4.¶3 I find it ironic that the same judge, who—as I've since that time learned—was willing to risk being found in contempt of the federal court, when she refused to honor the order overturning her ruling in the famous 'FLDS polygamous land trust case', would find anything the matter with my avoiding arrest under a warrant for blatantly frivolous charges and *egregiously excessive* bail. I have trouble believing that *any* qualified judge would support such high bail for such frivolous charges! And *how could she* make a fair judgement without reference to the evidence? She doesn't *want* to get into the "substance of the case"? How *convenient* for her! Because *she* "did not get the message" from the *written testimony* I had submitted for *judicial notice*, she believed that I was heading into the "substance" of the "case" *as she understood it*. But what I was trying to demonstrate, without knowing how to say it as such in "legalese" I've learned since that time, was that because the alleged "victim"

150. Other prisoners told me that they do this all the time. One man, a senior citizen, was in jail after the police got called by his neighbor when he and his wife had a loud argument, with no actual violence *per se*, from the way he told it. He told me that his wife was advised by police to get a protective order, and referred to a victim advocate. His wife wrote a letter addressed to him at jail, telling him that they were pressuring her to get a protective order, but that she did not want one. He told me that in that letter she said to bring the letter with him to court so he could prove that she did not really want a protective order. On the way to court it was confiscated by the sheriff's deputies. He had to appear in court *pro se*, wearing a jail uniform and shackles. His wife was represented by a victims advocate attorney. She was not allowed to speak, and he could not show the evidence because it had been taken away. I heard several other stories in jail about other men's experiences with protective orders and allegations of domestic violence. All of them expressed injustices and rights violations.

had contacted me, *volenti non fit injuria*, or *ex turpi non causa actio* should be applied, and thus the thing I was charged with a crime for having done was *not in fact a crime*.

4.9.4.¶4 In response to her statement regarding my "affirmatively evading that warrant", I said «Because I believe that the bail is in excess of that allowed by the eighth amendment...» The Judge begins over-talking, loudly, preventing me from continuing, saying «Whatever reason sir. The fact that you knew that there was there were warrants for your arrest and that affirmatively bragged about that the...» I tried to speak to that, but she wouldn't let me, again over-talking, «Sir! I've ruled. Ok? We're done.» **From my personal recollection of this hearing, it was around this point in the hearing that judge Lindberg makes a vocal threat to "try me in absentia if I won't behave"** (paraphrasing from memory) But the audio-only recording provided to me does not have this in it.[151] At 408.2 seconds from the start of the recording, I say, loudly, as I am being hauled out of the courtroom by bailiffs, «Keeping me in court in jail prevents discovery of evidence against her. She's bullying me with a protective order.» In the recording, at this point, a door slams, and I am not in the courtroom for the rest of the hearing.

4.9.4.¶5 At 419.4 seconds from the start of the recording, 11:20:49, the judge asks «Sir, uh, what are we setting this over for?» The defender says «Well, I'm not really sure...» Judge Lindberg then asks «Has he been in through prelim? on these ma(tters)... He hasn't right?» The prosecutor, Roger Blaylock (bar #367), *deflecting* to avoid answering the question directly, replied «These two have been bound over, the new one is uhhh...» The judge then said «Ok. Which is...? The latest one is uhh, let's see... is that the 5405? Violation date of July 16th?» The victim's advocate, Lorie Hobbs (bar #13242) said «Your honor, I'm not sure that the charges have actually been filed, the police report was filed about this letter as of yesterday. So I'm not certain that, well, charges will be filed, I don't think you would have it yet.» She's referring to a new charge that they ultimately did *not* file, for having written the letter to my son from jail that I shortly thereafter filed as an exhibit with a pleading in the protective order case (104906439). The prosecutor said «The two cases in front of the

151. There are, or at least, I think there were *at the time*, several video cameras mounted in the courtroom, high up on the walls, each focused on a slightly different view of the courtroom. The Salt Lake Third District Court does not provide video recordings of court hearings, only audio recordings, and there is no stenographer. A video recording of the court proceedings would have tremendous value in a case like this one. For one thing, they have a tendancy to *silently* signal to the bailiff, to have him step forward to stop a defendant from talking when they don't want him to. That sort of non-verbal communication *is*, fairly, part of what really happens in a courtroom, and thus, it properly should be part of the record of the proceeding. For another thing, it would be more difficult to hide tampering or editing of the recording because cutting out a few seconds of audio is harder to detect than cutting out a few seconds of audio *with video*. My memory of events, *especially of memorable ones like that*, is reasonably good. I was surprised when it was not part of the recording. At another hearing, one before Commissioner Blomquist, she signaled the bailiff silently to shut me up after I rattled the handcuffs and said that I was in jail for a text message, and complained that they were just looking for excuses to prosecute me. She apparently found the moment just before I said that to be a convenient time to ajourn, cutting the tape short, and neither the jingling sound nor my complaint are part of the recording.

court have been bound over...», to which the judge replied «but I have three cases in front of me. Yeah, I have one, the most recent one that I have is dated July, violation of July 16th.»

4.9.4.¶6 The public defender said «I'm not sure which date, but there is one that specifically involved email, and at the hearing, at the preliminary hearing, Judge Quinn found as a matter of law that the email ones were uh that they were not a violation... of the protective order, and dismissed that one, that case. So, that's my records of it. third case ... it starts with three cases, and one gets dismissed at prelim, the other two are...» The prosecutor then says «The two cases that we have that are being shown bound over are 3279...» The judge interrupts him, saying «Can I have you please approach, let me just...» They approach the bench, and then the prosecutor says «Your honor, I have two files bound over, 3279 and (inaudible)». The victims advocate says «Your honor, the protective order did allow for email and (inaudible)». The defender's statement prompted the victim advocate's, and *she* likely knew for sure what I'd been charged with in 111905405. The public defender hadn't seen the paperwork yet, but knew from email I'd sent him what to expect. It sounds like the victim advocate didn't feel quite right about charging me for a benign text message when the order did allow for email.

4.9.4.¶7 The judge, probably showing them some documents, which they refer to as they converse, says «So, uh, I um, these are the three cases I have.» The prosecutor says «Yeah, those two are the ones that are bound over, 3495 and 3279.» The defender says «Is this a new one? then?» The judge says «Yeah this is a new one.» The defender responds «Oh ok.» and the judge continues with «And then apparently there is a fourth one.» The defender says «Ohh. I didn't know... I'll write.» I think he is being facetious since it *was* mentioned several times... sort of like how I kept telling them the same things in everything I wrote. The judge asks «So do you want do you don't have a copy of this?», probably in reference to 111905405, and he replies «I haven't seen it no.» The judge says «Ok.», and the defender continues with «I'm sure it's winking making it's way to me now.» The judge asks him «Ok, so do you need me to make a copy of this now?» The prosecutor then interjects with «If the court sets it on that same date, about the 9th of September, (inaudible)» The hearing ends as the judge says to the defender «Actually, uh, you know what? I have an extra copy here if you like. Uh, that's the 5-4? Yeah, the 5-4.»[152]

152. Notice that the judge was offering *copies* of the legal documents to the public defender. At a later hearing however, we learn that the same judge had intercepted and thus prevented pleadings that I wrote for the *pro se* protective order case from being filed, and she said it was because I had asked the court clerk to make photocopies for me, and that it was not their job to do so. I had asked them to make and distribute those copies because it was impracticable, due to turnaround time and filing deadlines, for me to do that myself while in jail, even if I actually *had* access to the money in my own bank account and thus had the 25 cents per page they charge for it. I had asked the clerk to provide copies to judge Lindberg as well as to commissioner Blomquist because I believed that to be a requirement and courtesy under URCvP rule 100(a). I will discuss that later. I think that it's a clerk's *job* to do filing and copying. It's a judge's job to administer to the truth-seeking functions of the court, and blocking my testimony is contrary to that duty.

4.9.5 Hearing ended, no right to imprison

4.9.5.¶1 At this point in time, they really had no lawful right to keep me imprisoned pre-trial. *It is the prosecutor's responsibility to see that a preliminary examination hearing is scheduled.* Neither myself nor my defender waived the preliminary hearing, by any means—to do so would require explicit discussion, per URCrP rule 7(h), and the public defender was clearly alluding to the nature of and questionable legal validity of the charges in 111905405, while establishing on the record that he'd not been *served* any paperwork regarding it yet—neither URCvP rule 26(a)(1) 'initial disclosures'[153] nor URCrP rule 16 'discovery'—despite that it was already *past* the deadline for the preliminary hearing, for which the 'initial disclosures' would be appropriate. He was, at this hearing of August 26, 2011, impliedly being appointed as my attorney for 111905405, but that had not officially been carried out by the court... Regardless of whether he was or was not *officially* my attorney for *this* case by the *fine print*, I had the right to defend *pro se* and thus to file the letter the judge only read the first page of, as well as other pleadings filed after this. Article I Section 11 states that «... *no person shall be barred from prosecuting or defending before any tribunal in this State, by himself or counsel, any civil cause to which he is a party.*» Notice that it says "or counsel", not "and counsel", nor does it say "xor counsel", which means "either by himself or counsel, not both". The UCJA Rules of Professional Conduct further clarify the client / attorney relationship. The attorney works for the client, not the other way around. An alleged violation of the public law is clearly a "civil cause". The rules of civil procedure apply to criminal prosecution and defense also, and form the base of the rules of court procedure. Any criminal trial is also thus also a civil trial. To put it another way, "criminal law litigation" is a subclass or specialization of "civil law litigation". That makes sense because the public law arises from the private law through the contract with society. The distinctions between "criminal" and "civil" in the constitution exist in order to try and prevent abuse of "the government's" power over the individual by those entrusted with that authority. Since under the contract with society, violation of public law can result in loss of liberty, the consequences of losing a "criminal law litigation" lawsuit *may be* considered to be "more serious" than the consequences of losing a "civil law litigation"; though I can think of extremely important *liberty interests* affected by

153. URCvP rule 81(e) causes URCvP rule 26(a)(1) to be applicable, especially when they must provide a preliminary examination hearing no later than 10 days from the date of arrest, per URCrP rule 7(h). In not one of these cases was I ever provided with *initial disclosures* in timely fashion. In every one of them, nothing within the material provided as rule 16 *discovery* was ever newer than the date they obtained the arrest warrant. They are playing "plea bargain bluff poker". Clearly, URCvP rule 11(b) is pertinent, as are *e.g.* UCJA chapter 13 RPC rules 3.1, 3.2, 3.3, 3.4, 3.8, and 4.1, as well as Utah Statutes listed in this document's forematter, and important *textbook* law cases such as *Brady v Maryland*, [1963] 373 US 83 (Supreme Court) and a slew of others in the same vein. Though they are not *required* to disclose evidence that the defense has readily available, the fact that they *had* that evidence yet chose to prosecute me *despite* it is relevant here, especially when the evidence *impeached* the complainant/witness. Her credibility was in question from the beginning; the charges were obviously frivolous. See *e.g. Giglio v United States*, [1972] 405 US 150 (Supreme Court).

"civil law litigation", *e.g.* custody of a child. Constitutional documents and codified statutes arose out of a historical context wherein *arbitrary and capricous abuse of authority* by fueldal monarchs, or by those who staffed and starred in their bureaucratic side-shows, was a large concern, and so it was necessary to *write down the rules* as well as to *agree to write them as we agree to them*. But who watches the watchers? The government works for the people of the republic, not the other way around. That is why, under the common law of rights and equity, every citizen has the right to private prosecution of crimes committed against the public law, provided that proper standing can be demonstrated, *e.g.* the crime was committed against the person wishing to prosecute it, or against a member of the person's family.

4.9.5.¶2 The charges in 111905405, our present focus, were *prima facia* quite frivolous, being based upon that trivial distinction between an email and a text message, and upon an alleged phone call from an unknown caller (no caller-id) for which they had no evidence to show whether *I* had made that call. I contend that the protective order was being used for an improper purpose. "They" were just looking for excuses to prosecute and imprison me, while at the same time, refusing to view or acknowledge evidence that demonstrated that the complainant, Ms. MacRae, had broken the law. This began with her misrepresentation, on the *verified* Request for Protective order she filled for 104906439, of the *material facts* of her own criminal history, and of the events of December 10, 2010. In my *verified* Answer to Request for Protective Order with attached Evidence Summary & disc I addressed those false representations, and offered solid documentary evidence to support not only mere *impeachment* of the her-words-only testimony, but also of perjury, domestic violence not only in front of a child, but also perpetrated against the child. The hastily gathered but sufficiently complete evidence included voicemail messages from her, images of facebook posts, emails from her, and a "nanny cam" video that, among other things, shows her causing our son to fall and hit his head against a table. **There was more than enough there to show that an investigation was in order, that her testimony was impeached, and that it was her, not me, who belonged on trial.** Initially, the information was provided to police, the city prosecutor, the guardian *ad litem*, DCFS, and the family court. The court commissioner did not properly consider the evidence and failed to schedule an adversarial hearing where I could present the evidence and cross examine Ms. MacRae's testimony. It was filed at the courthouse on the protective order case and was just as evident upon the record and as available to them as was the copy of her Request for Protective Order they included with the evidence used to obtain the warrants alleging that I had violated the protective order. In spite of this, my Answer, evidence summary, and disc were *conspicuously absent*, and very obviously not given proper consideration. The prosecution was not brought to court nor carried through it in good faith. The complainant *as well as the public prosecutor and other court officers* are culpably negligent.

4.9.5.¶3 Making matters worse, they delayed release of the URCrP rule 16 discovery until October 11, 2011.[154] There had been no 'initial disclosures' other than the "affidavit of probable cause" and warrant. That means that for 61 days from the day I was arrested, I could not show anyone anything solid to prove that the charges were frivolous and alleged only non-violent *actus reus*. How could I show people who did not know me very well that I was not accused of anything violent or dangerous, and that I was trustworthy enough that I'd not miss any court appointments, so they might decide to "pass the hat" and bail me out?

4.9.5.¶3.1 Even if I'd had something solid to show, it would have been difficult to show it to anyone, or to cite any laws in support. They have no law library available to defendants being held at the Salt Lake County Jail (nor at the state prison). When I asked about it, they cited a lawsuit where it was ruled that since jail and penitentiary prisoners (supposedly) have access to a law-firm that the court alleges to be presumptively diligent, the prisoners themselves don't need a law library. **That is unconstitutional.** How can they effectively assist counsel or assert their right to defend *pro se* without a law library? And if those law firms are truly diligent and fully ethical, there would be no prisoners with claims such as this one, for which the state provides a *form to fill out*. Perhaps if *I* had a law library, I'd have been better able to assist the public defender or convince the deputy district attorney to dismiss the charges or drop the bail and let me out of jail pre-trial? I wrote a number of letters to them from jail...

4.9.5.¶3.2 While in the jail pre-trial, I could not easily access my own money to pay for commissary items, paper, pencils, envelopes, or the overpriced telephone payment card... The jail puts bank cards into a sealed property bag. They do not let you make a deposit from it into a jail money account. I'm lucky the bail bondsman trusted me enough to allow me to pay *after* being released. I had to spend money I had earmarked for a dental appointment on a bail-bond instead, and ended up losing a tooth that I'd already paid money to have build-up done on. I found it difficult to contact anyone outside the jail. I had to borrow an envelope and paper from another prisoner and write a letter to the bank and ask them to send a cashier's check in order to get money on my jail account. I first learned about how to do that from another prisoner. One of the guards knew about that way to get money into my jail account also and mentioned it to me when I complained about not having access to my money.

4.9.5.¶3.3 I wish that guards like that would step and take the initiative to improve conditions in support of the rights of prisoners and pre-trial defendants. They should also be more pro-active with regards to *habeas corpus* when they hear complaints from a prisoner regarding frivolous charges or excessive bail. Keeping someone in the jail under unconsitutional circumstances puts them in conflict with their oath or affirmation of service. There's a catch-

154. 2012-04-02_409781_Letter_from_LDA_confirming_date_of_issuance_of_rule_16_Discovery_in_111905405FS_by_DA.pdf

22: "You'll have to take that up with the court, sir" answered with "But it's the court that put me here and what they did was unconstitutional." They have an inch-thick packet they give that is for filing a federal court *habeas corpus* claim or a Title 42 USC §1983 civil rights complaint. They dump it off with a half-used-up golf pencil then leave the prisoner to fend for himself... at that point it's not hard to imagine that filling it out won't result in any real investigation or diligent effort on the part of anybody willing to help sue 'the government'.

4.9.5.¶3.4 That packet was handed to me by the same brown-shirt female sargent who I'd seen, during a previous pretrial incarceration, standing by filming, not intervening to stop them, but filming, where two almost identical looking short stocky black-uniformed sheriff jail deputies were violently abusing a prisoner. What those two men did to that prisoner was criminal. And it was criminal for the other four or five brown-shirted guards to allow them to continue, without stopping them. In witnessing those men's treatment of that prisoner, the guards already had all the information they needed to decide there was probable cause to relieve the perpetrators of duty, strip them of their rank and unit insignia and uniforms right down to their magic military black underpants, lock them into separated cells, read them their rights, and charge them with battery upon a prisoner. *Good guys don't beat people up.* It's a shame that men bred so well for their *caste* are not also properly trained for it. They were violent angry pigs, not tender bears. They will never properly comprehend their proper place in society unless they are held accountable for their own actions and subject to the same laws as everyone else in this common law republic.

4.9.5.¶3.5 The incident began when an emotionally upset tall thin male was brought into our pod and placed into an empty lower cell, the one just to the stairs-side of the television set. At some point the two black-uniformed men opened the cuff-port of the cell, and command the man to put his wrists together behind his back and put them near the cuff-port so they could bind him with a velcro strap thing. He did not hear them well through the closed door. They kept shouting at him and he simply misunderstood. They got the strap around his wrists and then he thought he was done and started walking forward away from the door. They got very angry and yanked on the strap, pulling the tall man's arms out backwards through the cuff-port. It was obviously very painful. It probably injured his shoulders and left scrapes on his arms. He was crying. I'm not sure that the incident cameras filmed the worst part of their violence, and it concerns me that they may not have. Instead of stopping the two violent ones, the other guards made a movie of it, then allowed those two men to take that prisoner away tied up in a wheelchair, ostensibly to the psychiatric unit. What in the hay kind of work ethic is that? What's crazy is that I was in the jail charged with something I had not done, and they were letting those pigs get away with criminal battery, apparently doing nothing about it. We never saw that tall thin man again either. It makes me wonder if he ever got out of the jail to tell his story?

4.9.5.¶3.6 One of the things I needed money for was to pay 25 cents a page for photocopies that had a one business week turnaround time, between sending them out on a Monday and getting the copied documents back on Thurdsay or Friday. I also needed envelopes and stamps to send mail to people other than attorneys or the court. They do have a "legal writing packet" available *gratuit*, but took their sweet time bringing it. They don't make free photocopies. Once something is written and in an addressed and sealed envelope, it takes a day to reach the post office, and another day or two to get to its destination. It is very difficult to meet typical court deadlines and to follow standard process service procedure, with a copy to each party, under those conditions.

4.9.5.¶3.7 It was difficult to contact anyone by telephone. I did not have access to the phone numbers in my cellular phone's contacts app. Jail guards won't look up numbers online either, even while browsing web sites themselves. The phone books in some pods are old and in poor condition. In order for somebody to recieve a collect call from me, they had to sign up for a special account of some kind. Then it costed something like $15 for two short phone calls with my mother. Even after buying the despicably overpriced phone card from the racketeers who operate the prisoner telephone system, the phones don't work right. They only allow a prisoner to speak for 15 minutes before automatically hanging up. Despite that I had not been duly *convicted* of any crime, there is a loud and embarrassing announcement at the beginning of the call telling the person on the other end that the caller is "a prisoner at the Salt Lake County Jail", with this computerized note inflecting "shame on you" on the ending, "very sad". They can't call many cellular phones or IP phones. Not even lawyers I found in what was left of the "yellow pages" could receive calls from inside the jail. Prisoners can not recieve incoming calls or voicemail. Whenever I tried to call the public defender, it would ring and a PBX system would answer and put me in an incoming call queue. Sometimes it would be more than 10 minutes before it hung up on me and I'd have to call again. When I finally got through, most often he was not available, and I'd have to just leave a message with his secretary. She told me that he's in court most of the time.

4.9.5.¶3.8 On the second of the two times throughout this entire ordeal that the defender actualy spoke with me on the phone, he put me on hold by merely setting down the reciever, while he used his cellular telephone to order a turkey and cream cheese sandwitch from Jimmy Johns. By the time he picked it back up, the snobby and condescending computer voice was sadly informing me that my telephone time was up. The only time he actually visited the jail was when he had a "plea bargain" offer. He told me that he's in court most of the time. It takes a certain amount of time to drive from downtown all the way out to the jail, park the car, then go inside and get through the visitor check-in process. Then there's a long trek through the jail corridors to get to the visiting area. In there, if there's anyone else receiving visitors, the room is so loudly echoing that it's next to impossible to communicate.

And sometimes he has to visit more than one prisoner, each housed in separate parts of the jail, which means another 10 minutes or longer finding the other visiting room. No wonder we never meet the public defender until 3 minutes prior to the court hearings! It is quite impracticable for them to meet consitutionally mandated requirements.

4.9.5.¶3.9 In the textbook James W.H. McCord & Sandra L. McCord, *Criminal Law and Procedure for the Paralegal: A Systems Approach* (Delmar Learning 2006), they describe something called an 'intake paralegal', who is supposed to interview the defendant and initialize the case file. The Salt Lake Legal Defender Association does not seem to have such a thing. The intake paralegal would be who the initial disclosures would be received and filed by, as they set up the case file and begin to triage. Ideally, each prisoner would be issued a durable Android tablet, and the intake paralegal would video-call them. The prisoner would also be able to use it to contact a private attorney, call people they know, access a law library, view the initial disclosures, discovery, and court documents, pay bail bonds with their banking interface, and actually receive *incoming* calls or voicemail. Otherwise, the intake paralegal would visit the jail, supply copies of the initial disclosures to the defendant, and perform the interview in person. The results of that interview can be used to "triage" cases, so that ones requiring more work are separated from ones, *e.g.* where there's less doubt as to guilt and the prisoner expresses a desire to plead guilty immediately. They would also have the duty to determine whether the defendant really needs to be in jail pretrial—danger to herself or others? actual harms of potential reoffense?—and whether bail needs to be charged or not—flight risk or misses court appointments? With an appropriate 'distributed multi-server' system, where the things the prosecutor "owns" are on their server, and the things the court "owns" on theirs, etc., with a consolidated web interface, some of the "in court ritual" could conceivably be implemented in that computerized system, leaving more courtroom time for actual trial of fact. Software for a system like that should be "public source", owned by the People, and the research and development costs shared by multiple municipalities. If each large city paid the salary of one programmer, and each has reasonably decent IT personel already on staff, the price will be reasonable.

4.9.5.¶4 After waiting in jail all that time, 61 days, for a solid copy of discovery, upon reading it, I learned that none of the evidence in that 'discovery' package was newer than 2 days prior to issuance of the warrant, which means that it *was* available for 'initial disclosures'. **They had no right to withhold the information for that long.** Article I Section 12 of the Utah Constitution says «*In criminal prosecutions the accused shall have the right… to demand the nature and cause of the accusation against him, to have a copy thereof.* …» Because that information is crucial to defense at the preliminary examination hearing, as well as in making an initial plea decision at arraignment, it is properly an 'initial disclosure'. When they won't reveal it like that, it is like a game of "plea bargain bluff poker".

4.9.5.¶5 In the included police report, the peace officer who came to my door states that he did not find probable cause to arrest me for a protective order no-contact provision violation *because the protective order allowed email*. She had shown him an SMS from me, but in his mind—as in most people's—an SMS and email are functionally equivalent. He found no evidence to indicate that it was me who had called her.[155] In fact, what he noticed is that *she* had called *me*. It was actually Detective Robert Woodbury,[156] of the Salt Lake City Police Department's Domestic Violence Squad who "screened" the charges. On the phone at one point during all of this, he told me that he "has a professional obligation to screen charges when a complaint has been filed." Hypocritically, he refused to accept and view exculpatory and mitigating evidence—outright rejecting it with a statement that says he never even looked at it—and also refused to acknowledge my complaint or accept and view evidence of Ms. MacRae's crimes. Given that her crimes involved domestic violence, child abuse, perjury, contempt of court, and electronic communications harassment, it was unreasonable for the detective and prosecutor to refuse to accept the complaint.

4.9.5.¶6 During the *much belated* preliminary examination hearing of July 12, 2011, which covered only 111902257, 111903279, and 111903495, at 11:34:32, Detective Woodbury billed himself as the «lead investigator» for these VPO cases[157] when asked by his cohort, Deputy District Attorney Michael P. Boehm (bar #11868). Earlier in that hearing, at 11:10:23, Mr. Boehm refered to Det. Woodbury as *his* «case manager».

4.9.6 First protective order modification hearing, Aug. 30, 2011

4.9.6.¶1 During the same period of time, while I was being held in jail for "SMS pertaining to child and sub-one-minute call from unknown caller", Ms. MacRae had filed a motion to modify the protective order I was being accused of having violated, making it a "related case".

155. I realize that this is almost *argumentum ad ignorantium*, but it occurs in a context wherein there is a presumption of innocence. Further, the call is not alleged to have been *threatening*.

156. ...whos name, despite his having clearly spelled it out loud at the beginning of his testimony, was somehow put down by the court clerk, presumably a "professional", as "Mr. blouberg". This raises the question: If an investigator wanted to audit all of the hearings that he appeared at, with no written stenographic transcripts to search, how could that investigator reliably find every hearing that detective actually appeared at, when the court reporter does not accurately record his name? Of course the reason *why* anybody would *want* to perform such an audit will become clear upon reading my testimony and carefully studying the associated evidence exhibits to determine the credibility of my assertions and factual claims.

157. Detective Woodbury was at one point awarded "employee of the month" by the Salt Lake City Police Department, for having "gone above and beyond the call of duty" to "investigate" and arrest a "domestic violence offender", thus protecting a woman. The award, printed on "diploma" or "certificate" stationary, was proudly displayed on the wall inside of the greeting area of the old police station at 300 East 200 South. I wish I had a photo of it, or maybe of just the corner of it... I find that award to be very ironic under the circumstances. He did not really do much "investigation", and blatantly refused to view the evidence that I submitted to him.

I appeared *pro se* in that. There was a total of five hearings for this motion to modify. I was not present at two of them, for reasons explained below. The dates of those hearings, all in 2011, are August 16 & 30, September, 13 & 27, and October 11. I appeared in the alleged violation of protective order cases on September 9.

4.9.6.¶2 The petitioner, as her student attorney put it, wanted to "close the loophole" that allowed email. She believed that I'd gotten the commissioner to modify the "no contact" provision of the original protective order, crossing off the word "email" and writing in "email allowed", initialed by the commissioner. She felt that I had sort of snuck that onto it, and wasn't happy that 111902257, "several emails" had not been bound over as a result. But without that particular change to the *fine print*, there would be an inconsistency between the write-in stating that we can use email to arrange child exchange and the no-contact provision forbidding it.

4.9.6.¶3 During the final one of the several protective order modification hearings, on October 11, 2011, they tried to get the commissioner to disallow my "parent time", without prior notice. That request "*was*" denied... The version of the requested modified protective order served to me just moments before the September 13, 2011 hearing did *not* have our son listed as a protected party, and that provision was *never* discussed during the hearing. The final permament modified order was not supposed to have him listed either, but did. At another party's hearing on a day that I was supposed to have been transported to court but wasn't, and Ms. MacRae had come to court, probably sitting through several hearings, a woman had asked the commissioner to have a child listed as a protected party on a protective order. I wonder if that's where she got the idea? Or is that just one of the 'tricks of the trade' they teach at dirty divorce shiester school?

4.9.6.¶3.1 That unauthorized addition to the modified order that was signed on October 11, 2011 was *invoked* after taking the plea to get out of jail, and after a sentencing order had been issued. On April 2, 2013, after she was being rude and beligerent, and our son literally hiding behind the bed because he did not want to leave with her, I refused to open the door and let her in. She called the police and told them there was a protective order. On the way to my home, the peace officer found the child's name listed as a protected party when he looked the case up in the "Statewide Domestic Violence Blacklist I mean Database". That incident is described elsewhere, in the "long affidavit" for dismissal of the protective order, as well as in documents I filed in the parentage case. My neighbor held my cellular telephone with the video camera running[158] and filmed the police talking to me out in the yard. I was carrying my son, who was clinging to me because he did not want to leave with his mother.

158. As I handed her the phone, I asked wether she thought she could keep me in the "frame" with it...

At one point, the two police officers asked me to set the child down. I tried to but he did not want to be put down and he clung to me. He cried and said "No", and "Daddy". He cried and fought trying to get away from his mother. He was obviously being traumatized by being torn away from his father, who was (?) sort-of being framed-up as the abusive one (?) by way of having the son listed as a "protected party" on the protective order... But children don't cling to the abusive parent and hide from the one they can trust, do they?

4.9.6.¶3.2 Leading up to the point where I was commanded to hand my son over to his smirking mother, there was a long talk by the peace officer. He mentioned a number of times that *I* needed to go to court and get the order changed. Presumably, (right?) the court *has* the necessary information, through some process of investigation(?) or careful trial of factual claims, (I mean *presumably*, right?) to make a *valid decision* regarding things like other peoples' child custody, or almost lunchtime issuance of this Friday's 13th "protective"[159] order and the—distracted for a second by Chad-ar; here sign this—entering of somebody else's son as a "protected party"—implicating substantive "due process" liberty interests pertaining to **my** family—and the peace officers do *not*(?) possess sufficient "information" to make a determination, nor their supervisors' enough to make a recommendation, and so when there's a routine court order on a valid form (regardless of whether or not *the customer* wrote anything on the back of it) and consequent entry in the "Statewide Domestic Violence uhm Database", they are *compelled* to comply with it, ver-bait-im.[160] When I went to the courthouse to ask about getting the order modified, I was told that only the petitionpetrator is allowed to move for a modification of *her* "protective" order, an "*equitable remedy*" awarded by the courts to people who fill out and notarize the forms claiming to have "been abused" or who have a "fear of future abuse". Because there is a "*warning*" on the form, and it must be *signed* in front of a notary public the petitioner paid the $5 fee to, "presumably" no "reasonable" "victim" of uhm, "abuse" would tell a lie on it or leave anything out they "have to disclose" in order to be uh, "honest". So approximately next to nobody ever *needs* to be subjected to the scrutiny of the current politically correct situational ethics applied in "finding" perjury or contempt.

159. In many computer languages, double-quotes invoke "variable interpolation", but single quotes do not. So inside of the character string written, *e.g.* "$bet", the value of the location named 'bet' is substituted and becomes the value of the string, but when written, *e.g.* '($)kid($)', it's value is a literal string containing just the 9 character cabal inside of the single quotes. I will not always follow this semantic convention consistently througout this document, but I might remember to in everything I insert or review and edit after writing this post-script footnote. Apparently some peoples' idea of what "protective" means is different from others'. *You* be the judge, *habeas opusmagnus*.

160. But see *DeShaney v. Winnebago County Dept. of Social Servs.*, 489 US 189 (US Sup. Ct. 1989), Joshua J. Bennett, *Town of Castle Rock v. Gonzales and the Awful Truth: Utah's Mandatory Enforcement Laws Make Police Enforcement of a Victim's Protective Order Optional*, 8 JL & Fam. Stud. 405 (2006); Also see: Definition of "impracticable", any decent dictionary—try searching for one of those in the trash bins at your local ivory tower, covered up by all the shredded constitutions; in the trash bin, not strewn on the bar-floor like star-chamber-pappyrushes or lawdust, probably 'cause nobody there'd bee-gone litter-it. (Sarc., Bizzare., at catch-22.)

> «Moreover, officially prepared and proclaimed **governmental blacklists possess almost every quality of bills of attainder**, the use of which was from the beginning forbidden to both national and state governments. U.S. Const., Art. I, §§ 9, 10. It is true that the classic bill of **attainder was a condemnation** by the legislature **following investigation** by that body, see *United States v. Lovett*, 328 U.S. 303, while in the present case the Attorney General performed the official tasks. But **I cannot believe that the authors of the Constitution, who outlawed the bill of attainder, inadvertently endowed the executive with power to engage in the same tyrannical practices that had made the bill such an odious institution.**
>
> There is argument that executive power to issue these pseudo-bills of attainder can be implied from the undoubted power of the Government to hire and discharge employees and to protect itself against treasonable individuals or organizations. **Our basic law, however, wisely withheld authority for resort to executive investigations, condemnations and blacklists as a substitute for imposition of legal types of penalties by courts following trial and conviction in accordance with procedural safeguards of the Bill of Rights.**
>
> In this day when prejudice, hate and fear are constantly invoked to justify irresponsible smears and persecution of persons even faintly suspected of entertaining unpopular views, it may be futile to suggest that **the cause of internal security would be fostered, not hurt, by faithful adherence to our constitutional guarantees of individual liberty**. Nevertheless, since prejudice manifests itself in much the same way in every age and country and since what has happened before can happen again, it surely should not be amiss to call attention to what has occurred when dominant governmental groups have been left free to give uncontrolled rein to their prejudices against unorthodox minorities. As specific illustration, I am adding as an appendix Macaulay's account of a parliamentary proscription which took place when popular prejudice was high; this is only one out of many similar instances that readily can be found. Memories of such events were fresh in the minds of the founders when they forbade the use of the bill of attainder.» *Joint Anti-Fascist Refugee Comm. v. McGrath*, 341 US 123, 143–146 (US Sup. Ct. 1951), from the opinion of Mr. Justice Black, concurring, footnotes omitted, boldface highlights added. Reading the appendix to his opinion is highly recommended. I had to resist the urge to turn this into a fill-out-form. I wanted to substitute the word "executive" in the final sentence of the first paragraph with a blank line to fill in by hand with the name of a branch or agency of government, or corporate or freelance or conscripted government contractor.

4.9.6.¶3.3 The officer handcuffed me and put me into the backseat of the patrol car. He and the other officer then interviewed my son's mother. They verified with her what I had told them, that she brought our son over every day, and picked him up almost every evening, and that he often stayed overnight. I also told him that he often does not want to leave with her. When he came back to the car, I told the officer that the sentencing order signed by judge Lindberg contained provision for communication via a third party for discussions pertaining to child exchange, and provision for 'curb-side' pickup and dropoff of our son. I explained that the boy was not supposed to be listed as a "protected" person on the protective order, and that both the "protective" and the sentencing order explicitly mention "child visitation" and so it would be illogical for him to be listed, or at least for it to be a violation for him to be here. I told him I had a copy of the sentencing order pinned to the wall next to the front

door inside of my apartment. I gave him my keys and he went and got it. After he read it he let me go. Detective Woodbury (blueberg?) reviewed the case, then called Ms. MacRae to tell her that she must go to court and ask to have the orders modified. She did not ever do so.

4.9.6.¶4 I was supposed to be in court for the hearing to modify the protective order on Tuesday, August 16, 2011, but did not make it to court because I did not know the court date, I was in jail as of the 11th, and they did not transport me to court. No transport order was created despite that they had known since the Friday before that I was "in custody". I had evaded official in-person service of the request to modify the protective order because of the \$100000$^{.00}$ warrant for "sms and call". If I'd have been home and gone to the door to accept service they'd have arrested me before I'd written some things down, sent the letters, and posted that evidence to the "17RQ" site. Under the circumstances, I had every right to evade arrest, provided I was *being responsible to not abuse those rights*.

4.9.6.¶5 At the modification hearing of August 30, 2011, I had not yet been officially served. The victim advocate, Yvette Rodier (bar #12505), confirmed on the record what she'd told me outside of the holding cell, that the only modification being sought was to eliminate allowing email. I told the court that I was willing to proceed, but only on that one issue, despite not having been served and not having had a chance to file a written ANSWER. The student attorney, Camille Borge, spoke for Ms. MacRae, at 10:38:29, saying «Ok. As stated before, we are here to modify the protective order to disallow email, uhm, the original protective order was put into place on January 4th, 2011, three days from that date, and for the month following, this stack of emails were sent from Mr. Hegbloom to the petitioner uhm, many of these emails uh, contain harassing material, and uh,[161] so much so that when Kasey filed a protective, er uh, police report, the prosecution uh filed a separate charge, a third degree felony ah charge for the email violation, however that was dismissed because of the caveat in the protective order that that said that email was allowed. What we ask for today is that that provision be stricken so that uh it will cut off all communication and Kasey will no longer uh Miss MacRae will no longer be harassed through email from Mr. Hegbloom.» She does seem to be representing what her client *wanted* her to say, but not the honest truth, assuming she actual read the emails and facebook posts sent by her client to me and to my mother. I bet she wasn't shown those, but event he ones I'd sent to Kasey were not really "harassing" her in anything like the way that maliciously prosecuting me for such frivolous reasons was. I think she should take a firmer stance on the side of *ethics*. She was a student. I hope she gets to read this.

161. She speaks these words hesitantly, and at this point pauses on a falling tone with an exhale that expresses something about her own degree of faith in the truthfulness or credibility of the statements she makes on behalf of her client.

4.9.6.¶6 At this point, the commissioner notices that the requested modified order has "no parent time" and asks the student attorney about it, who replies «I don't believe that was in the modified order, although Mr. Hegbloom being in custody does affect that.» The commisioner says «Ok. Paragraph 8 of the protective order allows uhm, the custody issue to be deferred to the parentage action, and allowed supervised exchanges with third parties; the modified temporary protective order says no parent time.» The student attorney says «Ok.», and the commissioner asks «And so what is your... Is your clients request that the parent time provisions remain as was stipulated previously in the previous protective order?» After conferring with her client, she replies «My client is requesting no parent time as there have been issues with Mr. Hegbloom taking the child and not returning him.» The commissioner turns to me and asks if I'd still like to continue given the new issue. I replied that I wanted to continue the hearing at a future date after being served the document and filing a written ANSWER. I ask for 'discovery' copies of the emails that are alleged to be "harassive". The student lawyer says that since they are emails that I sent myself, that I already have copies of them. But I was in jail, and did not have access to those emails. The commissioner asks the student attorney to make copies for me. During the exchange regarding scheduling the next hearing, I explain that I can't be ready within the 1 week before the first potential hearing date, due to needing to wait until I get the envelopes I'd ordered from the commisary. The next hearing was set for September 13, 2011. At almost the end of the hearing, 10:46:19, I said «I don't have the means of making a photocopy to send her a copy of what I will submit to the clerk of courts, I will mail that probably the 6^{th}, because the 5^{th} is a holiday, it'll probably go out on the 6^{th} or the 7^{th}, and I expect the clerk will have it by the 9^{th}, I'm hoping?» The commissioner said that I could conference with the petitioner's counsel off the record.

4.9.7 Second scheduling conference, Sept. 9, 2011

4.9.7.¶1 After being returned to jail following the August 30 modification hearing, I spent quite a few hours writing my ANSWER to her request to modify the protective order. I also wrote a RULE 100(A) NOTICE, a letter to petitioner's counsel, and a letter to the clerk of court asking for them to supply either copies, or notification of the documents availability, to commissioner Blomquist and judge Lindberg. It was finished and mailed in time for the commissioner to have time to read it. The letter to the clerk of courts that accompanied it, as well as the RULE 100(A) NOTICE were received by the clerk on August 31, 2011.

4.9.7.¶2 The hearing begins at 10:25:00, with Mr. McDougall (bar #8633) «The matter of Mr. Hegbloom» The prosecutor state his appearacnce with «Michael Boehm for the state.», and then the victim advocate states hers as «Lorie Hobbs for the victim.», and then Judge Lindberg speaks «Oh, before Mr. Hegbloom is approaching, if I can have counsel approach please? Mr. Hegbloom uhh sent the court this letter, basically instructing us to ahh make

copies deliver copies to various uh commissioners, and to various judges, uh essentially, I didn't want to read it because it was an ex parte communication, but the sense that I get is that he's still complaining about ah or trying to make a substantive argument about the case, uhm, so I am refusing to accept it; first of all it is inappropriate for him to be sending anything to the court when he is represented by council, number two it is inappropriate for any defendant to be expecting the courts clerks to be uh making photocopies and delivering things to various people uh in various cases that are unrelated to this matter, so uh, I'm going to ask you to please return this to Mr. Hegbloom.»

4.9.7.¶3 The filings that she is referring to are the ANSWER to the request to modify the protective order, the rule 100(a) notice, and a letter to the clerk of courts asking for courtesy copies to be delivered to commissioner Blomquist and judge Lindberg. The ANSWER was thrown away as far as I can tell. I know that I had to write it all over again from scratch. At the next hearing on modification of the protective order, it had not been filed, and I had to write and file it over again. The judge is incorrect in her statement that the cases were unrelated. I was a *pro se* litigant in the protective order, which is the one I was accused of violating, and on trial for in her court! It seems very obvious to me. How could she not know this? The rule 100(a) notice makes that fairly clear, if it hadn't occurred to her previously. Each of the documents for the protective order case have a legal heading declaring that I represent myself *pro se* in that matter. It is highly appropriate that I communicate directly with the court for that!

4.9.7.¶4 The judge speaks again, to the bailiff, «Ok, Mark, you may bring Mr. Hegbloom out.» There is a 13 second pause while I am brought out, and then she speaks to me, saying «Ok, Mr. Hegbloom, before you were brought out, I ah provided to counsel copies of ah your most recent communication and I've returned it to your attorney with indication that I'm not accepting your letter, it is inappropriate for you to be requesting and directing my clerks to make photocopies and deliver things to various judges, uh that is not their job, that is not their responsibility, uh it's also inappropriate for you to be communicating directly with this court, ah, you have an attorney who represents you, any communications should come through your attorney. ah, in the future I will not accept any further communications ah from you, I'm just telling you that, uh, they will be returned directly to your attorney, or to you.»

4.9.7.¶5 She then turns to the defender, and asks him «ok, now this matter is set for a scheduling conference?» He replies «Yes, and before we begin, uhm, one preliminary matter, it shows on the docket (difficult to hear exact words) for LDA appointment. Mr. Hegbloom has indicated to me that he would like me to handle all of his cases.» She responds «Ok, ah, given the other coverage, I'm going to go ahead and appoint ah legal defender on this matter as well.» He then says «Thank you your honor. Uh, your honor, I think we talked to

you about having to screen him for mental health court...» *She responds immediately and decisively* «Correct.»

4.9.7.¶6 As I recall, this day was actually the first I'd heard of this, but now I find a letter I wrote that was postmarked at the post-office the day before this hearing, and the envelope marked recieved by the LDA on Sept. 9, 2011, the day we were in court, so I don't think he'd seen it yet. I don't remember writing it, but I did. In that letter, I wrote the words «mental health court is authorized», and under them «Have you heard from LDS Family Services referral? Please expedite, I need to see my son, and Ms. MacRae in counselling». **I was desparate to get out of jail and had been talked into it, without being told that I'd have to wait in jail for 8 weeks while they processed it. I believed that it was a quick way out of jail**, not a way to "get out of what I'd done", as evidenced by other things stated in that same letter, such as «they're just looking for excuses to arrest me on trivial charges», «Mental health court was for her more than for me.», and «By the time you read this, we'll have been to court. Please stop the series of "scheduling hearings" and bring it to a close. This case is frivolous litigation, right?» I had been writing letters to LDS clergy, asking them for referral to counselling. It turns out that those letters never arrived because I'd mailed them to the address of the chapel, which does not recieve mail, and so the post office eventually bounced them back to me at jail.

4.9.7.¶7 When Mr. McDougall met with me, just before this hearing, he had the form to fill out for "Mental Health Court". He said that it was inevitable that Ms. MacRae would repeatedly make future complaints of alleged violations, and that what "mental health court" would do is say that *I* lacked the capacity to understand why what I had done was a crime, supposedly thereby getting *me* off the hook. **I had asked him, multiple times, both in writing and via messages left with his secretary, to secure a preliminary examination hearing, and then to initiate an interlocutory challenge to the validity of the trivial distinction being made between an SMS message and an email.** He did not ever write back to me when I wrote letters from jail, and almost never answered email when I was not in jail.

4.9.7.¶8 Regardless of whether or not I had been talked into "consenting" for mental health court, what I had done *was not a crime, with or without a protective order*. The evidence I kept trying to get them to take notice of showed that Ms. MacRae, the complainant and alleged "victim", had actually contacted me, inviting me to respond via SMS, email, or telephone. The charges I was being held on involved a sub one-minute telephone call from an unknown caller and an SMS from me asking if my son was home from his grandfather's yet. The protective order allowed email. They took a long time disclosing the "discovery" that showed they had not proof I'd made the phone call, and there was no allegation of anything threatening in that call.

4.9.7.¶9 As I recall, this move for mental health court took me by surprise, even if I had written a letter postmarked the day before. From my past experience with such things, I know that if I don't sign "voluntarily" they will just move for involuntary commitment. This was arbitrary incarceration with no honest probable cause. The charges were frivolous *prima facia*; The protective order allowed email, and I'd written an SMS. **I find the above exchange between the LDA attorney who supposedly represented me and the judge who supposedly knows the Utah law... to be evidence in support of an allegation of conspiracy against rights.** They are clearly admitting to having had some sort of conference where they discussed it, *behind my back and against my wishes*. It was *not* mentioned *at all* in the previous hearing. **As I said, there are notices in the case history indicating that minute entries have been modified.** (See section 4.9.3.¶9, page 84)

4.9.7.¶10 The letters that I wrote to the public defender, the victim advocate, and to the district attorney's office during this time demonstrate that I had a reasonable understanding of the circumstances, was lucid, not delusional, and had asked for charges to be dismissed based on that they were frivolous—based upon the trivial distinction between a text message and an email—and being used to hold me in jail unlawfully.

4.9.7.¶11 The public defender answered the judge with «I think that would be appropriate, uhm, I'd ask for a scheduling conference six weeks out?», and the judge responded «Ok, Uhhmm, I'll put this, uhh, October 21st?». The defender said «Thank you your honor.» Then the judge said «Now, ah, one more thing, there was an earlier uh, communication, something that was styled by Mr. Hegbloom, again, improperly filed, given that he's represented by counsel, uh but uh, a the on the day of the last hearing that we were here, when Mr. Hegbloom asked to address the issue of his bail and uh, his ah, I'd already ruled on that question, that same day he then turned around a filed a a handwritten so called writ of habeas corpus, essentially arguing the same matters, ah I have filed a moh a minute entry, denying as moot that ah motion ah given that we had discussed substantively addressed substantively that motion in open court last last time. Uhm, so, if you have not received that minute entry, you will be, that's what that's about.» The defender then said «Ok, thank you your honor.», the judge said «Alright, so I'll see you on October twenty one.», and then the hearing ends as the defender says «That's all I have on today's calendar.»

4.9.7.¶12 As I explained above, the document "that was styled" by me, the "handwritten so called writ of habeas corpus", was received by the court clerk *before* the hearing she speaks of above. It arrived on the same day as their deadline for according me with my consitutionally guaranteed preliminary examination hearing. In my own opinion, it is clear from the record of the hearing that she most certainly did *not* "substantively address" that motion. It is interesting that she believes the "habeas corpus" document to pertain to the

August 26 hearing. Throughout this entire ordeal, I feel like every time I have anything to say or present that is inconvenient to a pre-determined, in their minds, outcome or hidden agenda, it gets supressed or ignored. I realize how subjective that statement is.

4.9.8 Second protective order modification hearing, Sept. 13, 2011

4.9.8.¶1 At the hearing in front of judge Lindberg, 4 days previously, she "intercepted" pleadings I'd filed for this case. The hearing opens at approximately 10:53, with commissioner Blomquist stating «Number three, MacRae vs Hegbloom, I didn't know where we were on this case, so I'll ask counsel to again state your appearances, and them please inform me of where we are in this case.» The victim advocate responds «Sure, your honor, Yvette Rodier on behalf of petitioner. The respondent was just barely served just moments ago, and he has been in police custody this entire time. Kathy Kannel has represented she sent the packet over to be served, I believe twice, ...» The commissioner interrupts, «Why don't we stop for a moment, I do want Mr. Hegbloom to hear this, given that he is here, let's take a moment and allow him to be in the courtroom before we proceed.» There is a half a minute while they bring me out of the holding cell...

4.9.8.¶2 The commissioner says «Let's go forward on MacRae vs Hegbloom, and counsel, go ahead and state your appearance again, you began stating things and I wanted Mr. Hegbloom to hear before we proceed.» The victim advocate says «Thank you, sure, Yvette Rodier for petitioner, who is present, the respondent is present in custody, he has been in custody the duration of, while this request has been pending, uhm, we were here two weeks ago, there was a request to have it re-served and so that he could have notice and so that he could provide written response, I spoke with him this morning, he has not received service of that, uhm, just now the staff has been great and got him served again, but I do know he also had an issue of submitting things in writing to the court and to my knowledge we there has only been one thing filed, and he alleges that there are three things that he has filed and would like the court to review so uh, I'm not sure how the court would like to proceed at this time, but he was, service has now been fixed, and he was served, today, moments ago.» The commissioner says «Ok.», and the victim advocate says «Oh, I I...», then the commissioner, sounding impatient and slightly angry, says «What is your request then, counsel? Should we proceed then, given that he was just served today?»

4.9.8.¶3 The victim advocate answers «Well, and eh, he was informally served, I mailed him a packet of everything that had been filed, all of our evidence on uhm, so two weeks ago, today, so I'm assuming he has received that... I believe so, (turning to me) did you? (I acknowledge receipt of the packet.) Yeah, So he did receive that. I would like to go forward today, but if not, we would ask for an order uh extending this one.» The commissioner then

turns to me and says «Mr. Hegbloom, go ahead and state your name.» I say «Uh, Karl Hegbloom.» The commissioner asks me «Ok. And what is your response to the request of Ms. MacRae's counsel?», to which I answer «Uhm, I'm not ready to go forward until you've had a chance to read the my answer which I filed in writing which is Uhhm, I think that judge Lindberg intercepted that because she believed that it was inappropriate for me to ask the clerk to send her a courtesy copy which I did because I believed that rule 100A in the civil rules had me obligated to provide a courtesy copy to every one in the various cases that are related cases to the parentage matter which is related to this case and which is related to the to the uh to the other, and, then, can I state something that I, it, well, I'm wondering...»

4.9.8.¶4 The commissioner asks me «Are you wanting to proceed today or not sir? If you are going to proceed...», and I reply «No, no your honor. I'm not willing to proceed until my answer in writing has been read.» She then says «I will tell you that I do have the Utah Rules of Civil Procedure Rule 100A Notice that you filed, that is in the file.» I respond «That is not; there are two other documents that should be filed.» and she says «Ok. Given that, I am going to recommend the matter be continued and ask both sides what time period you believe would be appropriate to allow us to proceed.» Thinking of how much work it was to write those documents, I then ask her «Is there any way we can have the clerk of courts find those?» The commissioner replies «Sir, my clerks will most certainly locate those, once they are filed, they are scanned, the only document that's actually made it to the physical file is this one. So, I...» I interjected quietly «That's a problem.»

4.9.8.¶5 The commissioner continues speaking, «... I am going to recommend the matter be continued we can either go to the 20th or the 27th. I'll turn to counsel and to Mr. Hegbloom, which of those two dates would you like to choose?» The victim advocate says «We would prefer the 20th, but...» The commssioner asks me «Mr. Hegbloom, would that date work for you?» and I reply «Uhhm, well, you know everything takes a week in jail, so the 27th; and it it took a month for the... some things that I filed to court were completely ignored; I'm I'm very angry; I feel that my civil rights are being violated, severely. One of the things is that it was when it was convenient for a text message and an email to be considered the same thing, then then the issue was was whether ahm the the messages were regarding, uhm, child visitation. But now, when now they say "oh, well email was allowed", now they're saying that "text messages are not"; so I'm in jail for writing a text message that says "Is he home yet? I'd like to see him."» The commissioner said «Ok, well, sir but we're not going to get into the merits of the case. And we're asking for a...» I started talking (with the commissioner over-talking) «And the bail has been set at (sir) one hundred (sir) thousand dollars. (Sir!) That's a violation of my civil rights, maam.» I stopped talking, and the commissioner said «Well I'm going to ask that you please wait your turn to speak or we'll have you in the holding cell as we proceed with this hearing, Ok?»

4.9.8.¶6 It was *not* ok. That is essentially the same kind of threat that judge Lindberg had used when she threatened to try me in absentia on August 26. The commissioner said that it is not my turn to speak, but she had *prompted* me to speak, and let me speak for a long time before it. Notice what I'm talking about when she interrupts and stops me from creating a record of my objections, plus the statement about not wanting to hear the *merits* of the case, coming next, right after a t*hreat to put me back into the holding cell*. I was complaining about my pleadings being thrown away and not heard! Trying to be "politic", I said «I apologize.» She then said «I'm not getting into the merits of this case, I am going to recommend that the matter be continued to September 27th, 2011. I'll ask Mr. Hegbloom to use your best efforts to get all documents to the court; I'll have my clerk look and identify those documents that also you claim have also been filed, so we'll all have them when we proceed at the next hearing; you've now been served, we'll proceed on September 27th at 10am. Counsel I'll ask that you prepare the documents.» The victim advocate said «Yup. Thank you.» The commissioner then ended the hearing, with «Thank you, we'll see you all in two weeks.»

4.9.9 Third protective order modification hearing, Sept. 27, 2011

4.9.9.¶1 The case history shows that a transport order was signed and filed, but despite that, I was not taken to court from jail this day. I remember being up and ready to go to court, expecting them to come and get me for transports, and then finding out that there supposedly had not been a transport order. Either my intuition—or as my intuition reminds me now, perhaps 'paranoia'—told me that somebody didn't want me taken to court that day, and that my not being brought to court was deliberate. Without testimony from anyone else, there's no way of knowing anything beyond that I was not transported. In an earlier hearing on the same recording, another man was not transported either, despite that a transport order had been entered and faxed to the sheriff. For him, they called it a "failure to appear" and entered the order against him. The same may have happened to me, had I not been busy with letter writing to multiple people and filing pleadings that attracted multiple attention.

4.9.9.¶2 For some reason I was given a recording that includes a number of hearings on it, ostensibly beginning at 10:14. At 2212.0 seconds in the commissioner says «... at an hour and 8 minutes past the hour scheduled for hearing...», but 2212 seconds from 10:14, when the recording I was given is supposed to have begun, would make it 10:50:56, not 11:08, an apparent discrepancy of 17 minutes. Earlier, at 206.1 seconds in, she says «... now at 21 minutes past the hour for hearing...», but 10:14 plus 206 seconds gives 10:17:30, so there's a 4 minute discrepancy at this early point. At 980.6 seconds from the start of the recording, she says there's one matter that remains, but MacRae vs. Hegbloom had not been called yet. Maybe there's a break in the recording between two "calendars"? At 2159.9 seconds into the recording, someone whispers «Karl Hegbloom was not transported.» MacRae vs Hegbloom

is in there, starting at 2327.1 seconds into the tape, which I figure to be 11:09:55, given 2112 seconds as 11:08.

4.9.9.¶3 During earlier hearings on this recording, an order is entered for somebody else that during the hearing asks that the order list a child as a protected party... I wonder if Ms. MacRae was sitting in court during this, and if it's what caused her to enter our son as a "protected party"? In thinking about this, I recall the first hearing on modification, of August 30, when they represent, at first, that the only modification requested is the removal of "email allowed", but then it turns out that she's trying to eliminate parent time. From these, it made me wonder now, why was there a "2nd amended request for protective order", and what was the second amendment to it?

4.9.9.¶4 At another of the earlier hearings on the tape, the attorney for one man challenges the request for protective order against his client on the grounds that the court lacked "subject matter jurisdiction", alleging that the parties had not ever been "cohabitants". The commissioner did not appear to have any difficulty understanding what that means. After learning everything I've learned since the time this all went on, I have to wonder if there was never anyone challenging the validity of a claim of violation of an order based on one form of written communication when the order allowed another form of written communication? It just seems so obviously bogus to make a trivial distinction between an SMS and an email, then use it to prosecute somebody for "violation" of a "protective" order, where the communication in question was not alleged to carry any threatening or non-consitutionally protected content. These people *are* professionals, right?

4.9.9.¶5 The commissioner starts the hearing, at 11:08, by calling «Matter number two is MacRae vs Hegbloom.» The victim advocate announces her appearance and that of her client with «Yvette Rodier on behalf of the petitioner. Petitioner is present, she's in the hallway with her minor child. The respondent is in custody, and was not transported today.» The commissioner then says «Yes, I did receive a notification that for whatever reason, and it appears not to be Mr. Hegbloom's doing, and I'll hear from you if that if they didn't get the transportation order so he won't be transported beyond his ability to be here.» The victim advocate replies «I believe he wanted with every intent to be here.» Laughing, the commissioner states «That's my ah... Ok counsel, given that, what is your request?» The victim advocate says «May we please have another order extending the modified and then and we'll do another transport order and get the next court date available?» The commissioner responds «Ok, and we can do it in one week, but one concern I have is if we don't get that transportation order in then we may be in the same place next week, so my inclination is to suggest that we take two weeks, just to ensure that is done. Any objection to proceeding on October 11th?» The victim advocate answers «No.»

4.9.9.¶6 In her next statement, I notice a detail that may be a "freudian slip" of sorts; notice the wording of what she says about the transportation order. The commissioner says «Ok. Based on the request of the petitioner's counsel, with respondent not being present today, given that the transportation order did not allow Mr. Hegbloom to be present, I will recommend the matter be continued to October 11th, 2011, at 10am; And counsel, I'll ask that you please prepare the order and transportation order; I will state to you that I do have a document that was submitted to the court that is 24 pages in length, I don't know if you received a copy of that?» The victim advocate says «I did not receive a copy.»

4.9.9.¶7 On September 19, 2011, I had mailed a letter to her to inform her that I would be filing the document, and that I would not be able to make photocopies and send a copy to her, and so she would need to obtain a copy of the document herself. It costs twenty five cents per page to make photocopies, and takes more than a couple of days turnaround time to get them back, plus it would require double the number of envelopes and stamps to send them. The document was long, handwritten with a stubby "golf pencil" on wide-ruled paper, and I had to send it to court split into two envelopes. Perhaps that is the real reason I had not been transported from jail that morning? The commissioner then said «Ok. And if you'd like counsel what I can do is I can give you the file if you'd like to secure a copy you may. I have reviewed that documentation, ah, but I wanted to make sure you have that as well so we can proceed when we return. So I'll see you preparing the paperwork continuing to October 11th, 2011, at 10am.» The hearing ends after the victim advocate says «Thank you.»

4.9.10 Final protective order modification hearing, Oct. 11, 2011

4.9.10.¶1 Please notice and keep in mind while reading or listening to this that the Utah Bar Association's Rules of Professional Conduct, in rule 1.0, «Terminology», provides the legal definition of the term "written", as does Utah Code §76-1-601(13). Clearly, both SMS and email are electronically stored and transmitted forms of "written" communication, as is voicemail. Judges, court commissioners, bar licensed attorneys, and third year law students can reasonably be expected to know this. They can also be reasonably expected to be familiar with Utah Code §68-3-1, §68-3-2, §76-1-104, §76-1-106, and other pertinent statutes, as well as common law maxims such as *volenti non fit injuria* and *ex turpi causa non oritur actio*. We must also consider the concept of "Duty of Care" and... what do "*sua sponte*", "*sua motu*", and "subject matter jurisdiction" mean again? I know the definitions now but didn't then.

4.9.10.¶2 Commissioner Blomquist opened the hearing with «Matter number one, MacRae vs Hegbloom. And, sir you may go ahead and state your name for the record.» to which I respond «Karl Hegbloom.» She then asks «Are you representing yourself today?» and I reply «Yes, I am.» She then turns to the victim advocate, asking «Alright, counsel, uhm there

has been certain documentation submitted to the court by Mr. Hegbloom; have you had the opportunity to review that?» The victim advocate, Yvette Rodier, replies «Yes, and actually, on on our behalf, Camile Borge is appearing under the 3-l rule, and we've already discussed that with Mr. Hegbloom. Yvette Rodier is also present.» The commissioner turns back to me and asks «Mr. Hegbloom, any objection to proceeding under the third year practice rule that allows a law student to proceed insofar as counsel is also present?» and I answer «No, not any.»

4.9.10.¶3 The commissioner then states «Alright, and I will indicate that documentation has been provided to the court, one being a 24 single space double sided ah pleading from Mr. Hegbloom; I have had the opportunity to review that and you have as well, is that correct?» The victim advocate replies «Yes.» and the commissioner continues, «Ok. Let's proceed. Go ahead.» I interject, starting «I have…» and the commissioner stops me, saying «Sir, we typically proceed with the person seeking the motion, and then you get the opportunity to respond. Ok? Go ahead counsel.» I had wanted to mention the other documents that I'd filed and notified the victim advocate about.

4.9.10.¶4 The student attorney, Camile Borge, speaks next, saying «Thank you your honor. First of all, I would like to emphasize that we are not asking for dismissal, we are simply here to modify the protective order; this is uh supported by 78B-7-115 section 2, which states that there can not be a dismissal if there are pending criminal cases uhm from the respondent, which in this case there are three which are still pending, uhm, and I have two points I'd like to bring up, the first is we're asking to modify the protective order because uhm the original protective order that was instated on January 4th, 2011, indicated that email communication was allowed, however, uh the petitioner feels that Mr. Hegbloom has been (pause) uhm harassing her through this medium, and so our request of the court is that email will be disallowed and precluded from from a medium of contact. Uhm, we have evidence uhm to support that we uhhm would like to show the court, uhm this is an example of one month's worth of emails that have been printed out by the petitioner, and can go into specific detail about some of the harassing contact that he has made uhm the state having reviewed these emails felt that it was enough of a violation of the protective order that they did open a thir… a felony case on the matter which was dismissed because of the caveat in the original protective order allowing for the email. However we would like to close that loophole today so that in the future uhm as part of the permanent protective order, Mr. Hegbloom cannot contact the petitioner via email.» At this point, the commissioner interrupts. The transcript[162] continues below these notes:

162. In performing these transcriptions, I've chosen to make them as verbatim as possible, including "ah", "uhm", mentions of pauses, etc. because I believe that when people do that it's because they are "processing an interrupt" so to speak; their speech slows down and they make the noise instead of speaking everything that crosses their mind.

4.9.10.¶5 §78B-7-115(2) states, verbatim, *emphasis added*:

> (2) The court may amend or dismiss a protective order issued in accordance with this part that has been in effect for at least one year if it finds that: (a) the basis for the issuance of the protective order no longer exists; (b) the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order; (c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable fear of the respondent; and (d) the respondent has not been convicted of a protective order violation or any crime of violence subsequent to the issuance of the protective order, and there are no unresolved charges *involving violent conduct* still on file with the court.

I had not been convicted of any protective order violations. All but the one dismissed case were, as she stated, pending. The unresolved cases did not involve any violence, *per se*, and the statute is clear in that it states «*involving violent conduct*». In §78B-7-102(5), «Definitions; "Domestic violence"», we are referred to §77-36-1. I do not believe that congress intended for the phrase "involving violent conduct" in §78B-7-115(2) to refer to "legally violence", but rather to actual "violence *per se*", by the ordinary meaning of the term. There is no legitimate government interest in prosecuting me for having written a benign SMS message asking about my son, the little boy who cries out for "daddy" in the video of December 10, 2010. That assertion is supported by looking at the intent of this law in the context of the common law construction statutes, §68-3-1 and §68-3-2, as well as §76-1-104 and §76-1-106 of the criminal code, «Purposes and principles of construction», and «Strict construction rule not applicable». Jailing people for frivolous alleged "violations", subjecting them to "trial by ordeal of legal abuse" is contrary to the law's purpose. It's purpose isn't to foster the "*champerty and maintenance*" these "lawyers" (think of "sawyers", making dust out of logs) are making an easy profit from either. Why do they even bother going to work if *this* is how they apply the law? They get paid the same either way, right? The same salary for 12 cases as for 420?

4.9.10.¶6 The protective order allowed email, and as I'd already stated at a previous hearing and as was plainly available upon the record in the "affidavit of *probable cause*", I was being charged with *crimes* for having written SMS messages, and for walking past her building, things not illegal for the majority of society, probably not honestly violations of the protective order I was the respondent subject of, yet treated as crimes worth prosecuting in this case! There were no allegations that any of the communications from me contained any actual threats of violence, or *presumably*, the warrants would have *fea-*

For example, from her wavering tone, uhm's and pauses, I think that Miss Borge does not really believe that it's right to carry through with Ms. MacRae's wishes in continuing to prosecute. The pauses and uhms are not *necessarily* indication of falsehoods *per se*... but often signal trepidation or hesitation to speak something when the speaker's brain produced *something* in connection with the subject being spoken of.

tured that information; and for the two charges involving *walking past her building or being near it*, no actual violence, *per se*, was alleged, or again, *the warrants would have featured that information*. In the police reports for those two cases, she stated to them that *she "did not feel threatened or endangered"*, yet neither the warrants nor "informations" featured *that* exculpating or mitigating circusprance. *The written pleading that they spoke of also contained significant material factual claims regarding this same subject matter*, including testimony pertinent to §78B-7-115(2) provisions (a), (b), and (c).

4.9.10.¶7 She says that «the State having reviewed these emails felt that it was *enough of a violation* of the protective order...» to *initiate prosecution on petitioner's insistence*, but that *the charges were not bound over* at the preliminary hearing. What does "enough of a violation" mean? The State did not claim that the email was *harrassive*, only that they believed that email was not allowed. Because §77-36-1(4)(e) includes «electronic communications harassment», we must presume that they would have explicitly mentioned that in the *information* had they intended the offense charged to be interpreted or prosecuted as such. I maintain that a review of the actual emails themselves may reveal that it was the petitioner's email and other communications that was "harassive", not mine. Evidence of this was part of the "17RQ" site I created while "hiding out"—in fear of unlawful and unreasonable pretrial incarceration—after the 6-zero warrant was issued.

4.9.10.¶8 She says that she «can go into detail about some of the harassing contact that he has made...». I would like to remind the court that URCvP rule 11(b), regarding «representations to the court» is pertinent here.[163] The *amount* of email petitioner printed out may indicate some fulfillment of the "burden of production", but it is *not* fulfillment, in and of itself, of the "burden of proof". *That would require a full adversarial hearing where we actually look at the email, and also at the email that she sent to me...* I'm sure I talked about it in a written pleading at some point, perhaps in the one they had before them and said they'd "had the opportunity to review". As long as that's the case, then I think that the proper "recommendation" would be for that adversarial hearing, not for the modification of the order, because my contention regarding the contents of the emails she's not showing presents a challenge to her factual claims *vis a vis* §78B-7-115(2) provisions (a), (b), and (c) and my motion to dismiss the protective order and pending alleged violations of it; also that the emails from me are not really harrassive nor threatening to a "reasonable person"; they would not create a "reasonable fear of abuse or future abuse".

163. Without the actual presentation of the emails and an opportunity to cross-examine, this is effectively *argumentum ad ignorantiam*, or an *argument from ignorance*, which, in the context of a court of law, must be taken in a context bearing a *presumption of innocence*. See Thomas Bustamante & Christian Dahlman, *Argument Types and Fallacies in Legal Argumentation* (Law and Philosophy Library, volume 112, Springer Berlin Heidelberg 2015), ch4, p53, José Juan Moreso, *The Uses of Slippery Slope Argument*.
Also see `https://en.wikipedia.org/wiki/Argument_from_ignorance`

4.9.10.¶9 Her abuse of the judicial process, and their participation and cooperation with it put *me* in "reasonable fear of future abuse". They claim to have reviewed my written proffers, yet they make decisions that are *contraindicated* by them, again and again! That is part of *the pattern or practice of conduct*[164] *we* are finding here. They ignore impeachment evidence, exculpatory evidence, mitigating evidence, and evidence of counterclaims showing, in my opinion, that Ms. MacRae is who should have been on trial, and who should have been held in contempt. **It was unreasonable to allow her to get away with actions that affect the integrity of the judicial while prosecuting me for such trivial and frivolous actions.** They pass what amounts to summary judgments that are based upon disputed factual claims. They shush me and stop me from speaking in court to make a record of my objections & concerns, and of material facts that I intend to bring forth for "judicial notice" pertinent to interlocutory decisions such as pretrial incarceration. They tried to have me committed to "mental health court" and never gave me a preliminary hearing nor a hearing regarding the obviously unlawful distinction between an email and an SMS message; or on the claim that a benign written communication is not "violence", it is constitutionally protected speech.

4.9.10.¶10 There is a *fraud upon the court* being perpetrated here. Part of that fraud is that the commissioner is "recommending" that the order be modified and not be dismissed, when properly she ought to be recommending and scheduling a full adversarial hearing before the judge, who could have, perhaps, passed summary judgment in my favor, if I could have actually "meaningfully accessed" the *evidence* in support of the testimony in the 24 page affidavit or answer I'd submitted... I feel like I was being taken advantage of, as a *pro se* litigant, by people who should have known better. The public law contract with society is something of a "permanent protective order" already, and it's sad when a "loophole" exists "allowing" this sort of injustice to be perpetrated, using a statute as a cloak for fraud. I think they were violating that "protective order", and I want something done about it. Who's job is it? Will you "close the loophole" today, or "leave it for another day"?

4.9.10.¶11 It occurs to me that §77-36-2.1(1)(a) and §77-36-2.1(1)(b) command that when it becomes obvious that a "*petitioner of a protective order who is a protected party*" is abusing the process, per §78B-7-115(3), that the protective order being used as the «weapon» with which per has committed "legal abuse" must be «confiscated», in order to «provide for the safety of the victim and any family or household member» affected by that abuse, directly or indirectly (*jus tertii*, the rights of my son, and his safety and well being are implicated here). Abuse of the judicial process in the *fashion* we see here is also con-

164. See, *e.g.,* Title 42 USC §14141, Title 18 USC §241, Title 18 USC §242, Title 42 USC §1983, Title 42 USC §1985, **Title 42 USC §1986** «Action for neglect to prevent».

tempt of court, §78B-6-301(3), §78B-6-301(4), *&* possibly §78B-6-301(9), and obstruction of justice, §76-8-306(1)(b) "legal abuse" and pretrial incarceration preventing discovery of not only exculpatory evidence in my favor, but inculpatory evidence against Ms. MacRae, §76-8-306(1)(c), tampering with the record, §76-8-306(1)(j) (or §76-8-502), third degree felonies per §76-8-306(3)(b)(*iii*).

4.9.10.¶12 The commissioner, who has just interrupted the student attorney, Miss Borge, asks her «So how would would parties communicate regarding parent time?» to which the student attorney replies «The petitioner requests that there will be a third-party supervisor.» At this point there is a "meaningful pause of silence" for 2.5 seconds, and then the commissioner asks her «And what is the parent time provision in the other case?» The student attorney replies «In the first case, uhhmm.» and then the commissioner prompts her, saying «Now that the 150 days have expired for custody and parent time we proceed under the other case as ordered. What is the parent time order in that case?» The student attorney asks «In the previous case?», and the commissioner asks «In the divorce case?», to which the student attorney states «They were never married.» and then the commissioner corrects with «I mean in the paternity case, excuse me.» The victim advocate speaks up, putting in «Supervised exchanges.», and then the student attorney says «Supervised exchanges, I believe...» The commissioner says «Ok. Go ahead.»

4.9.10.¶13 The student attorney continues «Ok, and the second uhm part actually is what we are talking about with the parent time because we are just asking for the uhm petitioner to have the peace of mind that the if uhm in this instance that the responded does get out of jail in the next 150 days that he not be allowed to contact the child in common, uhm, he does have pending cases, so we don't anticipate that he will get out of jail, however, our request to the court is that uhm a temporary order of the 150 days be instated so that in the event that he gets out he cannot contact the child as a matter of safety for the child. uhm, so those are our two requests to the court, that the modification be that there is no email allowed, and that uhm there will be no parent time for 150 days.»

4.9.10.¶14 The child was endangered by Ms. MacRae, not by me. I attempted to demonstrate that with my Answer to Request for Protective Order, which came with an evidence summary and disc containing a "nanny cam" video showing Ms. MacRae causing our son to fall and hit his head against a table. It also showed her lunging at me to hit me, etc. That evidence was *ignored* by the commissioner who "recommended" that the 'protective' order be issued anyhow... That evidence has been ignored, unlawfully and unrighteously, throughout this entire "trial by ordeal of legal abuse", by pretty much everyone who it was given to. LDA attorneys were made aware of it; so was the Guardian *ad litem*, William Middleton, and DCFS Dan Reid and Maxine Plewe (who later helped Ms. MacRae get away

with child abuse, claiming there was no evidence despote that I'd provided both photos and an email from Ms. MacRae wherein she outright *confesses*) and by the city *&* county public prosecutors as well as by several detectives!

4.9.10.¶15 My other reaction to the statement «as a matter of safety for the child» is that it's outrageous because it was her who had wanted to get our son "circumcised", and it was me who wanted to *protect* him from it! I can't help but see this as potentially part of why they executed this malicious prosecution. They will allow penis butchers to torture and mutilate infants and little boys at a "children's hospital" (pennies by the inch, right?) while they lock the boy's attachment parent "Mr. Mom" father up for writing a text message under an unlawully issued "protective" order that allowed email!

4.9.10.¶16 Ironically, at one point I applied for a child protective order, hoping to use it as an injunction to prevent "circumcision". The request was denied on the grounds that I had not stated a claim upon which relief could be granted! Then, on this "modified protective order" wherein I am the respondent, the child was not supposed to be listed as a "protected party" on the order,[165] but was, and later, she used it to try and get me arrested, as I've described elsewhere in this document. I believe there was a plan in advance to do that; I suspect that it is something that happens a lot; that I'm not the only person they've done this to.

4.9.10.¶17 The commissioner said «So that'd add an additional 150 days from what was previously the custody and parent time provisions under this protective order.», and the student attorney responded «I'm not 100% sure...» The commissioner filled her in with «Those provisions typically last 150 days and then they expire. And the reason for that is that the main purpose of this is for initial protection until you can get other orders. That time period has now passed and now you're asking that I re-implement those under this case instead of any other case. Is that correct?» The student attorney answered, «Yes, however my understanding was that we didn't have the 150 days, it was just a temporary order.» In reply, the commissioner asked «There was no permanent protective order entered in this case?» and the student attorney answered «There was a permanent temporary, er sorry, permanent protective order but that was instated in January.»

4.9.10.¶18 I think she's probably Freudian slipping or brain-tangling or conflating the temporary custody order with the permanent protective order... Dirty divorce tactics 101.5 late night cramming? Oh, right, that sounds like an accusation. How would that make them feel? Caught in the act? Would they blush? Plead the fifth? Invoke plausible denyability?

165. As I've stated elsewhere, the version of the requested modified order served to me prior to one of the hearings did *not* list our son as a "protected party", and listing him as such was not mentioned in this hearing, yet the final order had him listed as protected. I was quickly shuttled out of the courtroom and into the holding cell, and I did not have a chance to protest it that day, even if I did notice it then. I do not recall whether I'd noticed it that day or not.

4.9.10.¶19 Then the commissioner said «Right, so the 150 days is past.», and the student attorney replied «Yes! So we'd like to ask for another 150 days.» The commissioner asks her «Is there no reason you could not simply do this in the paternity case?» and the student attorney replies «No...?». The commissioner explains «Ok, a-and I'm trying to look in the statute as to where it allows me to reinstate those ss-ss those civil provisions. Because they they they last for the time period the court indicates, it's usually 150 days, the court can do longer, I did not, until those have expired. And again the purpose of the poli... the purpose for that is to put protections in place until the parties can get an order in a different case. It's not intended that those orders will last four years.» The student attorney responds «Right. And the petitioner is anticipating revisiting this custody issue, however in the meantime, while Mr. Hegbloom is in custody, she requests the protection for the child.» The commissioner says «Ok, thank you very much. Mr. Hegbloom, and you may remain where you are, go ahead sir.»

4.9.10.¶20 I ask her «Uhm, did you receive the the I prepared a and requested an order for some stipulations that I've asked them for?» She replies «Let me look at the documents that I have...» I continue with «And I wrote a letter to the... (I turn to the Victim Advocate) Did you receive the letter that I wrote?» The commissioner, after looking through her file, says «I have the Answer, Affidavit, Testimony, and Argument that was submitted September 20th, 2011, which I have reviewed; I have a letter that you've written to the child, that's attached to that I believe...» I respond «That's Exhibit A.» The commissioner then says «I have also, there was another document that you had written that I had reviewed, I want to make sure we're talking about the same; I have a document that was submitted September 7th, 2011, and I believe that was before the last hearing when you attended, and I have that and have reviewed that as well. Are those the documents you are referring to sir?»

4.9.10.¶21 I say «I sent you a... a prepared order, asking for some stipulations from them regarding, ah, the order previously states "email allowed". There's been some, uhm, in the initial charges we went to a preliminary hearing on July the 12th. And...» The commissioner asks «In the criminal case, or in this case?» and I reply «In the criminal cases; and there... the the police reports prior to that have text messages they're claiming are, uhm, text messages not related to child visitation, and she had had me charged with uhm with uh having written several emails that did not pertain to our child under a protective order that limits emails only to those pertaining to our child. There was very little mention of any kind of harassment, they... I don't believe that they felt that there was sufficient grounds for a harassment charge... they or they would have pressed charges against me for that? They did not. Uhm, it was that I'd written email, and they believed the statewide domestic violence database version of the protective order does not contain the modification to item 2. They looked at

the minutes of the hearing, and believed that they "weren't sure" whether or not the email was supposed to be limited to only the child, or the protective order itself only says email allowed, and on item 8, the things on there extend item 8, they do not limit item 2, and so email allowed was accepted; but Judge Quinn said he "wasn't sure" whether a text message and an email are the same thing. However, I have, in evidence, uhm, that Ms. MacRae has contacted me by voicemail, she called me on the phone, I let it go to voicemail, so that I would have a record of it, and in the voicemail she clearly and explicitly invites me to recontact her by voicemail, text message, or email.»

4.9.10.¶22 The commissioner asks «When was this sir?», and I reply «Uhm, I think it was May? I'm not exactly sure. It's on the website that I reference in that filing, and I'm sorry that I couldn't submit that in writing... or in printed form for you... I can do that later, or on a DVD if you like? But I'm in jail and I put it up online specifically for this purpose.» She then says «Ok. Go ahead sir.», and I continue speaking, saying «Uhm, so I... I thought I'd sent that to my attorney prior to the to the preliminary hearing, but we didn't have that in evidence then... (clearing throat) and also on that site, there is lots of evidence to show that she is conta... initiated contact with me, by text messages... expecting response, and because I have the essentially the consent of the 'victim', by she implies consent to use text messages and the protective order does allow email, and she also implies... explicitly provides consent for me to recontact via voicemail. We both use Google Android telephones and Google Voice, which make ahh, it blurs the distinction between a text message and email and a voicemail; the voicemail...» The commissioner interrupts, and *apparently* misses the point... saying «and I believe she's clarified that, and that's the reason she's making the request today. To make it so no communication happens in that manner.»

4.9.10.¶23 I say «Well, what I'm saying is that she has initiated contact, (commissioner overtalking: «I understand that») under the email allowed, and but now, I'm in jail, because she says... now they're saying that a text message that does pertain to the child is not acceptable under the present protective order prior to this request for modification. And then also, after the date that she that she requested this modification, she phoned me on the phone, which I allowed to go to voicemail, on the 10th of August, and asked me to come and get our son from her, so that she could go to work. I believe that she has shown by her own actions that she does not really need or want a protective order and that she's only using the protective order when she's mad at me to harass me. I've stated most of this in writing, and uh, that's why that's ss-such a long document, I apologize fur[166] giving you so much to half to read fur fur this...» She responds «And I've reviewed it sir.»

166. *cf.* "Hairy", but not really a "shaggy dog story", despite that it's *no joke*.

4.9.10.¶24 I continue speaking, «Uhm, I'm, I'm, I know that by her own actions she's come over and and sat I have a webcam going, in the apartment, and she's sitting on my couch, we're having a conversation while our son is playing, this is during the period of the protective order, we she initiated contact with me, by text message, to arrange for us to meet in front of her building, on the sidewalk... I'm charged with in one of these criminal charges with having walked past the front of her building on the same sidewalk that we've done child exchanges on many times, it's a public right of way, she lives inside of a secured structure, uhm, and there was no, she states clearly in the police report that she did not feel threatened, that she didn't feel like there was any uh threat of harm to her, she was not afraid of me, and so, that's for that charge, and then, but, she has contacted me, she contacted me before the U2 concert, because we had tickets to it. On the 20th of uh, April? I think it was April 20th, there was a there was a another set of charges, I'm charged with 8 counts of sending text messages to her, and the police report has them as "text messages not related t-to child contact". Prior to the tw-twelfth of the twelfth of July, they that implies that they thought of text messages and emails as equivalent, but now all of a sudden, when it's convenient for them to have me arrested and put in jail on text messages, a text message that is related to the child visit, they're claiming now all of a sudden that's not legal. And what I want is, **I want a stipulation that for the purposes of this protective order and any litigation and criminal charges that, past present and future, that uh, text messages, that all written and recorded communications be considered to be equivalent to email**, for that purpose, regardless of whether or not you do or do not approve the modification to the protective order that she's that she's uh requesting. And so I've asked for that stipulation...

4.9.10.¶25 The commissioner interrupts me, saying «Again sir, if you'd address me instead.» and I respond «I apologize, I've I've I've requested in in a letter to Mrs. Rodier Evans, to... to ask for that stipulation, primarily, I've I sent you a prepared order with ah it in writing on there that I asked for.» The commissioner asks «Did you have a motion before me today sir?», and I reply «Yes. Yeah, oh I'm sorry, a motion for that, yes.» She then asks «And when was that filed, sir?» and I respond «Last week, or the week before, two weeks ago more, three weeks ago.» I'm fairly sure that it was filed *prior* to the hearing where they mysteriously missed transporting me to court. The commissioner asks the victim advocate «Counsel, have you received that motion?» and the victim advocate responds silently in the affirmative. The commissioner then says «Ok, they did, it wasn't indicated in my file that that motion was before me today sir, so I apologize, I'm I'm not prepared to go forward on your motion, I did review your pleadings and requested them as defenses to the motion that is before me. But are you prepared to go forward on any motion from Mr. Hegbloom today?» The student attorney says «No.», then the victim advocate says «Yes?», and the student attorney changes her response to «Yes.»

4.9.10.¶26 The commissioner then says «Ok, well if apparently there is a motion, then go ahead. Uh, anything else sir that you'd like to stay with regard to defense to that and any motion? I am going to take a brief recess then to see if on our computer we have that motion, I want to make sure I'm clear on what you're requesting sir. Anything else?» I reply «Uhm, I also I think that we should strike item 2 entirely and allow any con any communication at all between us because typically... I think it's very unfair that the law in Utah allows her to contact me, but if I reply to it, then she can at her whim choose to report that as a protective order violation, or not, and so if I give the wrong answer, and she's angry at me, she can claim that it's a protective order violation, but if she's happy and gets what she wants, she doesn't claim its one. I've done her laundry, I've gone grocery shopping, we've had good times together, she she we met and went to the zoo with our son, we went to the concert together, uhm, she's had me go get groceries for her, she's had me wash her laundry, there's been she had me uh bringing some furniture for her to use to organize the child's toys at her apartment because she had a meeting with someone from DCFS coming (at night | the next day | ?), she wanted to make it look nice for them, and the same evening that I brought her all of those things, she's claiming some of the text messages I sent to her are a violation of the protective order, after I went and did all of those things for her which she does not claim are a violation.»

4.9.10.¶27 The commissioner says «Ok. Anything else on that issue or on the request to ah allow you no parent time?» I respond to that with «sew, wha, oh, and on parent time, me and my son have a very well established father son relationship. We're very close. I was, as you know, from our... your experience in our parentage matter, we we have a very close relationship, I was Mr. Mom from the time he was four months old until 18 months old, on the altercation of December the 10th, 2009...» I stated the date wrong, it was 2010, not 2009. The child was born in October of 2009. «... which I probably shouldn't bring into detail here? I actually, well I did in writing, in my Answer to the Request for Protective Order, uhm, which I thought I had appealed and didn't I don't understand why it wasn't taken before the judge, and why I was denied my right to cross examine to present that evidence and things like that, I feel that there was not due process, my right to be heard, and my right to cross examine her testimony and to present that evidence was denied; I didn't understand that I had to submit a motion for uh appeal in writing, I thought that that the Request for Continuation to Formal Evidentiary Hearing would serve that purpose, I don't understand that kind of thing well, I'm not a lawyer. Uhm, I feel that by her own actions she indicates that she doesn't really need or want the protective order, and that she initiates communication with me for the purpose of of the child and other reasons, and that all this is going to do is she's going to end up contacting me and there's no reason why there should be any uhm limit on how we exchange our son in terms of needing a third party, we can't afford to pay money for a service, she won't do that anyway, but the... like a

week after that hearing on the protective order, she came and just barged right in my front door with our son and wanted to leave him with me, and to go visit her uncle at the hospital who was sick; and so for several days, she was bringing him over and leaving him with me, which I love, I love having my son, that's not the problem, the problem is is that's technically a violation of the protective order, she comes over, and I let her in the door, it's a violation, and she's not going by the terms of it either. And, so by her own actions, she's showing that she's doesn't really need or want those stipulations or those modifications anyway.»

4.9.10.¶28 The commissioner then said «Ok, and sir, you understand a stipulation is an agreement between the parties? You're asking (I interject "yes") for a stipulation... so what you're asking me to do is to compel the petitioner to agree? (I interject "no") or are you asking me to enter an order despite her disagreement?» I reply «I I'm a pro se ligitant litigant, I I'm not an attorney, I'm obviously not trained legally, I do understand what a stipulation is and means, and what I'm saying is that in a letter to y to Ms. Yvette (commissioner interjects, "again, if you'd address me please") I'm sorry, in a letter to the victims advocate attorney Yvette Rodier Evans, I request the stipulations from Ms. MacRae that ah written written and recorded communications be considered equivalent to email for the purposes of this protective order uhm and all and litigation and criminal charges past present or future stemming from it. That's the stipulation I've requested from them. And then I've...» The commissioner says «You're asking to agree to that.» and I say «I'm asking them to agree to that.»

4.9.10.¶29 She then asks «Anything else then sir?» and I continue with «And then I've also asked for the stipulation requested the stipulations that uhm either the dismissal of the order, or because she's shown through her own actions that she doesn't really need or want the order and that she's not truly in any way afraid of me, or if she won't agree with that, then to strike item 2, and also to allow uhm complete *ad hoc* child exchange without requirement of a third party of any kind because Ms. MacRae has not as I've said in writing, I'm pretty sure I wrote that all down, she has not gone by that herself, at her own initiative.» The commissioner asks «Ok. Anything else then sir?», and I say «Uhhm, ...», then the commissioner says «And I am going to take a recess to review any additional pleading you filed that I have not yet reviewed, so I will do that in just a moment.» to which I say «Ok.» and she asks «Anything else then?», and I answer «Not at this time.»

4.9.10.¶30 The commissioner says «Ok, let's turn back to petitioner then. Anything further?» The student attorney replies «Yes your honor. Uhm, Petitioner does not stipulate to the agreement... er to the proposed agreement, and uhm does want to emphasize that petitioner does want the protective order in place, that she is still currently afraid of the respondent. And we have some uhm rebuttals to his list of evidence that Ms. MacRae does not want the protective order, to give the other side of the story for the court. First,

Mr. Hegbloom talked about the petitioner making phone calls to the respondent. Uhm, however, I'd like the court to know that these phone calls did happen, but they were because Mr. Hegbloom had Kody, the the child in common, and would not return the child. And so it was a desperate mother's attempt to get ahold of the respondent to make sure her son was ok, and to uhm, to follow their parent time agreement. Also, for the August 10th example, when the respondent had the child in common, in his custody in his apartment uhm, the respondent (she means petitioner?) did go visit, however it was to see her son, uhm, during the period of time that the respondent had the child, not to see-ee the respondent or to even communicate with him, but to see her child before she took an important test the next day. ...» She's describing the December 10, 2010 thing caught on the "nanny cam", not the August 10th, 2011 phone call described by respondent earlier in this hearing. «... Also, July 12th...» The date of the preliminary examination hearing? «... there were text messages exchanged, however it was when ah the petitioner was at a mall, and the respondent was texting her, he was saying "I can see you", "I'm watching you right now", and her responses were "leave me alone", "you're violating the protective order". So she did text him, but they were in defense of the protective order and of herself. Later that same day, he showed up in a clown costume, for which what at her apartment, which was found to be a protective order violation which has him currently behind bars. Uhm, so...»

4.9.10.¶31 The "clown banana bread delivery" incident had not been to *trial* yet. That was still pending at this point. The police report regarding the "clown banana bread delivery" has her statement that she "did not feel threatened or endangered". The statements being made here in court are misleading—melodrama and histrionics—and I might add... being made by a student attorney, who wasn't even there to actually witness and experience the actual reality itself. But her job is to get her client off the hook, right? To help her hide her guilt; not to get to the root of the problem—it's etiological basis. Adversoupial. I interjected with «That's not completely true. I've been charged with something, but not convicted.» The commissioner said «I'll allow you to respond. Anything further then counsel?»

4.9.10.¶32 The text messages from when she was "at a mall" are not quite as this student attorney describes. She should learn to get the text messages themselves, and to quote them verbatim. There was only one message like that, and it said "I see you", the phrase used in the movie Avatar. Ms. MacRae did not grok the allusion and thereby completely missed the point. In fact, the communication did not violate the protective order. It is constitutionally protected speech in that it did not contain "fighting words" nor any threats. It was meant to continue something we had spoken or thought about earlier. The protective order law does not carry a strict liability, and thus one must prove *mens rea* as well as the *actus reus*. Given that she'd come over to my apartment and in other ways been in close proximity with me,

even if she thought I really was somewhere nearby at the publicly open shopping mall, she would not have any *reasonable fear* or emotional distress over it.

4.9.10.¶33 She called when I did not have him, wanting me to come and get him. I could not do so only because they had a $100000 warrant out for my arrest at the time, for having written a text message under a protective order that allowed email which said simply "Is he back yet? I need to see him." in reference to our son, who had been staying with his grandparents during the week of the much-belated preliminary examination hearing for the first three alleged violation of protective order warrants... one for email, not bound over, another for walk-by-hellooing on the same sidewalk as child exchange and she said she did not feel threatened or endangered, and the third for 8 text messages and for not buying diet cola for her when she sent me to the grocery store. As I've stated numerous times in formal written affidavit pleadings, the times I kept him from her were when she was drunk, belligerent, and being rude to me either in person or in voicemail. The email from her to me tells the "other side of the story" fairly well. She is very rude. If she claims she was rude or angry because I would not return him, it's bogus. Most children are happy to see either parent. Our son hides from his mother and is always happy to see me. The evidence on the disc with the long affidavit supports this claim. Several times she called me, wanting me to take him because she was afraid she would hurt him. She has a bad temper and shouts at the child all the time. There are 10 reports against her at DCFS. They will not provide them to me via GRAMA. The custody case is being rushed to trial and I was prevented from discovery demand for production of those documents. I have described those DCFS complaints in a pleading in that case, and in the long affidavit in this protective order case. A DCFS worker actually disregarded evidence that demonstrates that Ms. MacRae caused harm to our child during an alleged "spanking".

4.9.10.¶34 The student attorney continues «... and the last thing that he brought up that I'd like to respond to is that uhm he, the respondent cited a time period where uhm the petitioner had brought their child in common over for several nights, however that was prior to the the assault that led to the protective order. and uhm, additionally her mother had supervised those exchanges of the child; uhm there were more than one occasion when the respondent did not return the child in common to the petitioner, and that is part of the reason that she is requesting the temporary order for no visitation.»

4.9.10.¶35 But she's failing to mention... the video showing Ms. MacRae causing our son to hit his head against a table, that *she* was charged with domestic violence crimes that evening also—she assaulted me and our son—and that the solid evidence backed testimony in my Answer to her Request for Protective Order impeaches Ms. MacRae's material statements made in her request. But perhaps the student attorney hadn't been told this by her client?

4.9.10.¶36 The commissioner said «Ok. Thank you. Ok, I am going to take a brief recess, Mr. Hegbloom a articulated to the court that he had filed an additional that I have not had the opportunity to read, uh Ms. MacRae's counsel has agreed that the court could consider any motion even if it were untimely or I have not had the opportunity to review that yet. So I will take that opportunity.» I was taken out of the courtoom and placed back into the holding cell for a while, and then brought back to the courtroom for the second part of the hearing.

4.9.11 Second part of the modification hearing

4.9.11.¶1 At 11:30, the hearing continues, and the commissioner says «Ok, let's turn the matter to Mackay… MacRae vs Hegbloom. I did take a brief recess in order to review certain documents that Mr. Hegbloom asserts he has provided to the court. During the course of the hearing I did indicate that a pleading that was 24 pages long had been reviewed by the court and I believe that was filed on September 20th, 2011. Mr. Hegbloom has asserted he has filed an additional document with the court. Ah, upon my recess I did review the docket, and saw no additional documents filed by Mr. Hegbloom. We looked in the docket and we looked in any courtesy that the clerks may have. In inquiring the petitioner's counsel, there's a letter provided dated September 27th, 2011, that Mr. Hegbloom apparently wrote to counsel. This letter does indicate that he was going to write ah this date an additional request of the court. So it appears the document to which Mr. Hegbloom is referring has not been filed with the court, nor does petitioner's counsel have that document. Given that none of us are prepared to go forward on any additional requests written by Mr. Hegbloom, how the court will proceed today is that Mr. Hegbloom has made some oral requests of the court. I will address each of those, given counsel's stipulation to proceed with those oral motions, ah and will not proceed with any written motion that I cannot identify, nor can Ms. MacRae's counsel. So given that, at the end of the hearing I will return this letter, that apparently was intended only to counsel, to Ms. MacRae's counsel; I will not rely on that whatsoever with regard to my recommendations.»

4.9.11.¶2 So the documents that I'd filed are not there, perhaps intercepted by judge Lindberg, or conveniently discarded to avoid having to mention them? The letter and the document I'd filed pertained to the idea that the trivial distinction between an SMS and an email, or any other form of written communication, was not lawful. I wanted "a stipulation" that they are equivalent, and for the charges I was being held in jail on, an SMS and alleged phone call, to be dropped, along with all other charges based on SMS messages.

4.9.11.¶3 The commissioner continued «So the issues before the court are twofold. First, Ms. MacRae is requesting that Mr. Hegbloom be restrained from communicating her to her through email. She asserts that based on the email communication, of Mr. Hegbloom they

have been so disruptive and so concerning that she is requesting that all communication be made through a third party. Mr. Hegbloom is requesting first that that modification not enter, and second he wants an agreement from Ms. MacRae that paragraph 2 completely be removed, allowing the parties to freely communicate with regard to any issues that are before them. I've had a significant history with this this case, in the paternity case, and also now in the protective order case. Uhm, based on all of the evidence that is before the court, I do believe that this continual communication is, uh uh somewhat problematic, and concerning to the court, and I am finding based on all of the evidence that it is appropriate that all communication between the parties be through a third party to whom the parties can agree. I am denying the request of Mr. Hegbloom that the parties reach an agreement to remove paragraph 2, given Ms. MacRae has denied that request. Ahhuh, so the court will recommend that the parties communicate only through a mutually agreed upon third party. Mr. Hegbloom may also communicate to petitioner's counsel, without violating the protective order. The second request by Ms. MacRae is that Mr. Hegbloom not have parent time with the child for 150 days. She asserts based on the evidence that is before the court it is in the child's best interest to not have the parent time. Mr. Hegbloom has stated that he does have a close relationship with his child, that they are very closely bonded, and that such an order would be detrimental to the child and should not be granted. I stated during the course of the hearing, the purpose of a protective order is to enter orders protecting a party until they can get additional orders in another case. The court typically enters an order for 150 days on the civil provisions regarding custody and parent time and other provisions. We do have a paternity case where the the issue regarding the custody and parent time has been addressed. Uh, I cannot find based on the evidence that is before me to that we not follow that policy, uh, to now require an additional restriction with regard to parent time in this case. Ms. MacRae can bring an action in the other case, uh the purpose as to why a protective order would enter in a case have already been entered; and Ms. MacRae has the ability to bring this into the other case. Uh, based on all of these reasons, I am finding that the request in the pro-teh... in this case **that there be no parent time against Mr. Hegbloom I find is not warranted** and that it would be against the policy of the reasoning behind the restrictions on the civil provisions of a protective order. So **I will recommend that paragraph 2 be modified to have communication go through an agreed upon third party. But that no additional restrictions regarding parent time be implemented** in this case, given the protective order was entered in January 2011. So **I'm going to ask Ms. MacRae's counsel to prepare the order, outlining the recommendations on the modified protective order, that will have that third party per-person be the communicator.** And I will ask counsel to work with Ms. MacRae and Miss (?) Hegbloom to identify individuals that they believe would be appropriate third party communicators; I often encourage parties to secure as many individuals as possible, because if somebody is out

of town, or unavailable, uh, then no communication happens, and I can not find that that is in the child's best interest. So I'll ask that you work together to identify as many third parties as you both are comfortable working with to be communicators, to allow communications with regard to parent time that has been ordered. Counsel, please prepare that order, we do have the forms in the filing cabinet, to my left, and Mr. Hegbloom, you also have the opportunity to review that order before it is submitted to me for signature, uh, so you have the opportunity to review that to ensure that it states what I've stated today. During the course of your argument, you did discuss concerns with regard to how an objection was done, you do have the right to object if you choose to do so. Thank you all for your attendance today. Those are all the matters on the 10am calendar.»

4.9.11.¶4 At the end of the hearing, she made sure that it sounds like I had the opportunity to review the order before she signed it. I don't recall when the actual form was filled out and handed to me, and that was off the record, so there's no recording of it, and so I don't know when I first noticed that my son had been added as a protected party, against the commissioner's recommended order. They already knew that I'm so inexperienced in court that I'm actually asking them for a stipulation to something that's already part of the law—definition of "written"—and they already all know that it's part of the law, and they never say anything at all about it.

4.9.12 Third scheduling conference, Oct. 21, 2011

4.9.12.¶1 At this point in time, I'd been in jail for 71 days. They had not released rule 16 discovery until about 10 days prior to this hearing. It was received by the LDA on October 11, 2011. A letter and a copy of the redacted discovery was mailed to me the same day that they received it, and the mail takes about 2 days, so I had not seen discovery until about 8 days prior to this hearing. They were holding me in jail pending "mental health court screening". I think it was just before this hearing that I was visited in jail by a woman from the LDA who interviewed me about "mental health" issues. She told me that the inquiry had not returned anything, and wanted me to sign new release forms so they could try again. I refused to sign them this time.

4.9.12.¶2 The hearing begins at 10:49 with the public defender, Mr. McDougall (bar #8633) announcing «Karl Hegbloom, please, your honor.» Judge Lindberg says «Hegbloom», and then the victim advocate states her appearance, with «Yvette Rodier on behalf of the victim.», then then judge says «Ok. I'm sorry, this is Mr. Hegbloom?». The prosecutor, Michael P. Boehm (bar #11868) asks «He's in custody?», and the defender states «Yes, he is.» The judge says «Ok.» Somebody, who I think may have been the student

lawyer from the previous hearing, the one on modification of the protective order, says with an elated tone «Great.», and then the judge says «And we three matters? Ok. ... Ok?»

4.9.12.¶3 The public defender says «We have he is being s-screened for mental health court we have not heard back from them yet.» The judge asks «Ok? When did this screening take place?» and he replies «Uhhm, it was approximately... it's be uh it's an ongoing process your honor, he signs the release information, and then we... uhhm, collect the data, you know, where he's been treated, what he's been treated for, then uhh an analysis a clinical analysis is made that summarizes and that is submitted to Dr. Rice, and then after that it has to go to Sim Trich (?) who'll have to look it over to approve him legally. Uhhm that's been taking 6 to 8 weeks?»

4.9.12.¶4 When he says the word "approximately", I hear a hint of... like someone else's vocal habits operating the defender's vocal cords, and it reminds me of Roger Blaylock... (my personal impression) Sort of an errant boyish mischievous liar covering up for not having really done anything at all; so approximately never or not yet. In reality it had been "approximately" 6 weeks since I was just about forced to sign the paperwork to "release" the "information" they wanted; It had been "approximately" 6 miserable long weeks sitting in jail wondering when somebody is going to do something to get me out of there... and so somebody who never knew me or spent any time asking for my side of the story wanted to lock me away, while they waited for "justification" to lock me away more permanently, which would consist of written "approximations" of my alleged mental health issues created by a very similar set of people in another "profession" under a very similar set of circumstances! That's why they get paid the big bucks, right? God knows how underfunded they probably are... With so many cases to process, there's no time for details, right? So they prosecute based upon "approximations" of "probable" criminality based on...? It has been said that our mental model of others is necessarily a product of our own minds. At least what I have 'processed' in my working career was *food*, source code, or truths based in physical reality, rather than things "analogous to truth" based in a distorted social-reality-of-administrative-convenience.

4.9.12.¶5 So in a court process that apparently does not rely on evidence to show that I'd committed any crime—they played "plea bargain bluff poker" on frivolous charges, oppressive pretrial incarceration with excessive bail—summary judgment by detective and prosecutor, held in contempt until "confession"—a "reverse hostage" situation where my son has been palaced with an abusive mother who they *used* to help imprison me(?) or did she use them?—where they suppress and ignore exculpatory and mitigating evidence, where they prosecute me for a benign text message in the same courthouse where the "commissioner" and a judge refered to infant male genital mutilation as "first rite", and passed what amounted

to summary judgments and motions granted, based on hearsay proffers—"judgments" contraindicated by the ignored evidence I brought as affidavits supported by documentary evidence—in this context, 'they' are pretending to be evaluating "evidence" of my alleged mental illness... which itself is little more than "expert hearsay" proffered by a "judge in her own cause" who made money documenting mental illness... who doesn't get paid unless she has patients—it's all based on things people wrote down that can not be verified as authentic statements of facts regarding me or my alleged mental illness... or alleged "violations" of the "protective" order... Nobody asked for my side of the story. When I proffered it orally, they shut me up or virtually ignored it. When I proffered it in writing, they ignored that also, and even went as far as *destroying* documents I attempted to lawfully file! So much for the "golden thread", right? Oh, right, but they get paid to *process* court cases... and to pass the buck. Or is that somebody else's job? That's what they were wallowing up to their hocks in, and *where* "we" (cough) were, uh, "in the process":

4.9.12.¶6 The judge says «I guess my question is, "where in the process are we?"», and the "defender" says «Clinical.» to which the judge asks «So you're anticipating how much longer?» The defender, says, nervously, with a wavering voice, «Uhhm, three weeks?» At that point, I spoke up and said «Uhm, I'm not willing to take a plea bargain.» The judge asked me «I'm sorry, what was that?» and I responded «I'm not willing to accept a plea bargain, I demand my right to a speedy trial by jury.» The defender then says «We can do that too.»

4.9.12.¶7 The judge says «Ok. We'll set the matter for trial. Uuhhm, I'm assuming these are all the same victim?», and the victim advocate says «Yeah your honor.», and the defender concurs, saying «Yes.» The judge then says, to prosecutor Alicia Cook (bar #8851) «Ok. Are you going to be trying these matters?» who replies «I, no, it's Mr. Boehm's case. I imagine he'd like to try them all together. Uhm.» The judge then says «Ok. We'll set these for trial, ahh and ah that'll have to be in December.» to which I say «That's not acceptable.»

4.9.12.¶8 The judge continues talking, «I'm assuming we're going to be looking at two days.», and I again speak up, with a wavering, frightened, hurt quality of voice, «That's not acceptable. That's not a speedy trial.» The judge responds «Well sir, that's what the soonest that I can fit it in. So, it'll have to be.» With a mildy angry tone, I say «Hmm. This is called subversion of justice.» to which the judge replies «I disagree sir. It's a sss you have your speedy trial rights but the court also has ah caseload that it has to manage, and that's the earliest that I can schedule it.» I then said, with a halting voice, while others were overtalking regarding scheduling of the trial, «I don't believe you have sufficient evidence to convict me.» The judge and clerk then set the trial for December 6 and 7, 2011, and a final pretrial conference on November 18, 2011. December 6, 2011 is 117 days after the August 11, 2011 arrest.

4.9.13 Charges dismissed, 'Sery' plea

4.9.13.¶1 When I got back to jail, I XXXX

4.9.13.¶2 Ultimately, *these* charges, 111905405, were dismissed along with all of the other counts based upon SMS messages, but not until after I had been held in jail, unlawfully, under oppressive conditions, for 128 days—the order for my release was signed and faxed to the jail on December 16, 2011. I was released the next day. The imprisonment was used to coerce me into taking plea "agreements" on the 'walk-by hellooing' (111903279) and 'clown banana bread delivery' (111903495) charges. Additionally, it interfered with my assistance of counsel and discovery of exculpatory evidence. I was granted a 'Sery' plea, after having challenged the validity of the "protective" order, which offered the right to appeal that interlocutory decision on the grounds that if the appellate court found the protective order to be void, then the alleged violations of it would be void as well. This implies that they—the prosecutors and judge in the lower court—saw no *actus reus* that would be a crime in the absense of a valid protective order. I assert that nothing I did was a *crime* even if the protective order *had been* found to have been lawfully issued, and further, nothing I did violated the provisions of the protective order *under proper construction of the Utah Code*.

4.10 141905361: VPO, "bee-poop dee-doop SMS from library"

4.10.¶1 The fifth warrant, 141905361, "bee-poop dee-doop SMS from library" (or "bee poop SMS"), offense date April 22, 2014, filed May 13, 2014, was *dismissed* June 24, 2014. My son and I were at the Salt Lake City Justice Court on April 22, 2014, where I plead "guilty" to (if I recall correctly; I do not have the case history for this one) a class C misdemeanor (was class B, amended to class C, iirc) for having bitten my son on his arm. We had been wrestling and he bit me, and I reacted by biting him back, and it left a mark on his arm. His mother leapt upon the opportunity to get me in trouble for it because she was "on the spot" for the nose-bonk-spanking thing. At Justice Court, my son wanted me to carry him when I went to the podium. He spoke on my behalf, telling the judge that I'd said I was sorry. I explained that we now have a "no biting" rule. He witnessed me admitting to my mistake and wrongdoing, and accepting the consequences of my actions. He knows I told the truth when I admitted to biting him on the arm.

4.10.¶2 While at the Justice Court waiting our turn, my son became restless, so the bailiff told me that he'd come out in the lobby and get us when it was time. We went out and ran up and down the stairs, playing chase, and then played a video game for a while on my tablet. Everyone at the courthouse could tell that my son and I get along very well, and that I did not find the "need" to "discipline" him with shouting or spanking, at least during the period of time they could observe us.

4.10.¶3 We had ridden our bikes to court that morning. After court, I wanted to head home, since his mother was expecting to pick him up from my apartment at 5pm. My son had other ideas. He immediately took off on his Strider Bike toward the Salt Lake City Library. I had to chase him, pulling the bike trailer. There was still plenty of time, so I was not overly concerned about getting home. We parked and locked up our bikes outside of the front entrance. I followed him inside, and he gave me a tour of the library, which he appeared to be somewhat familiar with. As it approached 5pm, I decided to send an SMS to his mother to let her know that we were at the library rather than at my apartment. The library is not any less convenient a location for child pick-up than my home is. It's about the same distance from her place of employment.

4.10.¶4 She called the police and told them that I had violated the protective order by communicating directly with her, rather than through her mother. She had long since caused her mother to quit being the liaison. My son and I were on the top floor of the library, looking at the bees in the top-bar hive outside the window by the spiral stairway at one point, and sent an SMS about the bees poop-bombing the window. I sent an SMS that said "bee poop dee-doop, bee poop dee-doop" which gives this case it's nickname. When she arrived and my son saw her, he panicked and reached up to me wanting me to pick him up. Most children do not react that way when they see their mother. The guards at the library were with her and witnessed this.

4.10.¶5 I told them that I would be outside or at home if the police needed to talk to me, then left my son with his mother and headed out to unlock our bikes and trailer. While I was doing that, my son came running out the library door to hide behind me. He put me between himself and his mother. She walked over to us, shouting at him to return to her, and demandng that I tell him to go with her. I had my tablet balanced on my left hand, which was toward my son, and my empty right hand towards her, holding them out like scales, while people walking past observed. She grabbed him by one arm and started dragging him away against his will. I turned on my tablet video camera and caught part of the incident.

4.10.¶6 I was arrested and taken to jail, where I was quickly moved from the quarantine pod to the maximum security pod, since I'd been "convicted" of prior "domestic violence" offenses; this despite that the last time I'd been in the jail I was a kitchen trustee and none of the charges involved any actual violence, *per se*. When I was taken to court and the magistrate told me I'd be remanded to the jail, I literally fainted. The District Attorney declined to file charges, and I was released on pre-file release, and required to register and phone in each day to check if they had filed charges. There was also a court date I was expected to appear at. One day I got a voicemail telling me that they'd declined to file, and so I did not have to

appear that day. Then I got a second voicemail saying that the city prosecutor had picked it up, and gave a new court date. I carefully documented those voicemails.

4.10.¶7 The City Prosecutor does not have the legal authority to file charges, since a violation of a protective order is a class A misdemeanor, but under Utah Code §77-36-1.1, it must be enhanced to a third degree felony. Utah Code §10-3-928(2) does not authorize the them to prosecute a felony. I wrote an email to them explaining this. I have to wonder if the same person who's abuse of discretion caused them to fail to prosecute her for the "head bonk" domestic violence of December 10, 2010, was the one who picked up this case to try and prosecute me for it? I wonder if Ms. MacRae has social connections at the city prosecutor's office? I imagine they are a little strained now.

4.10.¶8 When I appeared in court, I learned that a warrant for my arrest had been issued for non-appearance at the hearing I'd been told by pre-file services I did not need to appear at. The warrant was recalled, and a preliminary examination hearing was scheduled. At that preliminary hearing, the city prosecutors dropped the charges, and said they would refer it to the district attorney, because the city prosecutor lacked jurisdiction to try me for a felony. The district attorney did not reopen the case for obvious reasons.

4.11 The saga continues

4.11.¶1 On February 2, 2015, she perpetrated a parental abduction outside Harmon's Grocery store, with the assistance of her accomplice (or mere accessory?) Mareen Hansen. This incident and others are documented in the "long affidavit":
`2015-02-25_104906439_Motion_of_Respondent_to_Dismiss_Protective_Order.pdf`

4.11.¶2 On June 13th 2015, Kasey D. MacRae, respondent in this Parentage, Custody, and Support case before you now, entered my apartment, with our 5 year old son, and assaulted me in his presence. During the altercation, she picked up a 12lb. foam-padded "body bar" and attempted to strike me with it. I had my Android tablet video camera recording at the time. I immediately telephoned the police and they visited me to take my report. I submitted the video evidence and my written witness statement to Salt Lake City Police Domestic Violence Detective Lowther. On December 10th , 2015, I was contacted by Associate Salt Lake City Prosecutor Lena Ward, who informed me that they had filed case 151408272, Salt Lake City v. Kasey D. MacRae. There was a hearing scheduled for December 22nd, 2015. I informed her that I certainly do want charges pressed against Ms. MacRae and that I intended to attend the hearing. At the hearing, Ms. MacRae plead guilty.

«And thus they did put an end to all those wicked, and secret, and abominable combinations, in the which there was so much wickedness, and so many murders committed...?»
— *The Book of Mormon*, 3 Nephi 5:6.

5 Cohabitant Abuse Act Unconstitutionality

5.¶1 I will be applying equal protection analysis as explained by Russell W. Galloway Jr., *Basic Equal Protection Analysis*, 29 Santa Clara L. Rev. 121 (1989). I will follow the outline structure of that document to facilitate comprehension of this argument. This court has **territorial and personal jurisdiction** because I am a resident of the State of Utah, live in Salt Lake City, the cases in controversy, described above, occurred here, and the law I am challenging was dully en*act*ed by the Utah State Legislature as part of the Utah Code. **Subject matter jurisdiction** is to be carried by this court per the Utah Post Conviction Remedies Act, Utah Code §78B-9, and URCvP rule 65C. The case numbers pertinent to this are in the document header on the first page. **Justiciability** is further addressed and asserted throughout this document, as is the fact that the **harm is primarily a result of government action (or inaction).**

5.¶1.1 Utah Constitution: Article VI, Section 26. «*No private or special law shall be enacted where a general law can be applicable.*»; Article I, Section 24. «*All laws of a general nature shall have uniform operation.*»; Article I, Section 3. «*The State of Utah is an inseparable part of the Federal Union and the Constitution of the United States is the supreme law of the land.*»

5.¶1.2 United States Constitution: Article IV, Section 1. «*Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.*»; Section 4. «*The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.*»; Article VI. «*... This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding. ...*»; Amendment XIV, Section 1. «*All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*»

5.¶2 «In *People v. Western Fruit Growers* the court stated that a law is general when it applies equally to all persons embraced in a class founded upon some natural, intrinsic, or constitutional distinction. It is special legislation if it confers particular privileges or imposes

peculiar disabilities, or burdensome conditions in the exercise of a common right; upon a class of persons arbitrarily selected, from the general body of those who stand in precisely the same relation to the subject of the law. The constitutional prohibition of special legislation does not preclude legislative classification, but only requires the classification to be reasonable.» *Utah Farm Bur. Ins. Co. v. Utah Ins. Guar. Ass'n*, 564 P.2d 751, 754 (Utah Sup. Ct. 1977).

5.¶3 The Utah Cohabitant Abuse Act (UCAA) is unconstitutional, both on it's face and in effect. Because of suspect or semi-suspect classifications and implication of infringement upon or violation of fundamental rights, it must be subject to 'strict scrutiny'. There is a **strong presumption of unconstitutionality**, which places the burden of proof of constitutionality upon the state. UCAA does not satisfy strict scrutiny, for reasons I will expound upon bellow.

5.¶4 The UCAA creates a classification, on it's face, based upon *cohabitancy* of individuals who—as citizens of this republic, who are presumed to properly subscribe the public law contract with society—stand in exactly the same relation to the subject of the general laws. It also creates subclassifications along the course of it's slippery slope, on it's face, which should be picked at cautiously with carefull scrutiny: *petitioners* accusing *respondents* of abuse, claiming to have a 'reasonable fear of future abuse', in a context that is supposed to bear a presumption of the innocence[167] of the respondent, placing the burden of proof upon the petitioner, with a well-trained and neutral jurist presiding over the adversarial courtroom 'due process'. The term 'abuse', among others, is defined within the code. When a permanent order is awarded to the petitioner, they become a *petitioner who is a protected party* and a *respondent, the person the petitioner is protected from*, in a context where the *judicial* decision to issue the order is presumed to have been correctly determined—*res commissionerica*—and in which it is presumed that the statutory code by which it was authorized is 'constitutional', *and* not constructed or construed in a *fashion* that is a derogation or abrogation of the venerable and time-honored rules of the common law of rights and equity. Of course the outer surrounding context is the community at large, where the vast majority of the citizens of the republic are neither petitioners nor respondents in UCAA protective order cases, nor are they often litigants in *any* kind of court action.

167. When a woman files an affidavit in a parentage, custody, and support petition naming a specific man as being the putative father, there is a *reasonable* presumption that the man she names really is the one who made her pregnant. So in that case, the burden of proof that he is *not* the father lies with the man, in the case where he does not believe he made the woman pregnant, *e.g.,* that she may have been "unfaithful". But in the case where a woman comes to the court with a request for a protective order or stalking injunction, the correct presumption is to presume the respondent to be innocent, placing the burden of proof upon the accuser. That is reasonable because it is counter-instinctual for a man to beat up his mate. At the same time, perhaps, depending upon his caste, heritage, or form of employment, it might be counter instinctual to marry a woman who doesn't stand a chance in a fight. Even so, it's counter instinctual for them to really hurt one another.

5.¶5 The *presumptions* that I have expressed above are what I *think* that *any reasonable person* educated through at least high school would expect to find during the court experience. If what we've been taught in school about the purpose of the judicial, the meaning of "justice", the delusionary drifting that would result from not grounding our reasoning upon the facts and particulars, the dischordance[168] of "prejudice" ('judgement prior to investigation') *vis a vis* the ideals of the rule of law in a republican form of government, and etc., etc., etc., is *not* "the way that it really works" when we experience it for ourselves *in situ*—that is to say, if it doesn't work *as advertised*—then it becomes encumbent upon us to conduct and carry out investigation and inquisition in order to try and gather what is required for specific performance of the systems analysis and other processes that must take place to affect the necessary iterative refinement, to put us back on course, in the direction of Justice. So git outta the way and let *me* drive, right?

5.¶5.1 On it's face, the UCAA does not, in itself, state whether what constitutes "burden of proof", and what constitutes those "rules of the common law of rights and equity", or "rules of procedure" is presumed to be or to not be known to the litigants[169] upon entering the courtroom with a filled-out and notarized (ironically called "verified" for merely having been signed in front of somebody who verifies nothing within the document but that who it says signed it is who signed it) form pleading... **The distinction of having the statement be made "under oath" is meaningless when there is no inquiry or validation of the statements veracity, nor any punishment for making false or inconsistent material statements.** Assistance with filling out the form is available, by law, but it does not demand that the litigants pass an exam or even read a book prior to filling out the form that the peace officer is commanded by statue to "recommend" that the designated "alleged victim" obtain against the "primary aggressor"—**an arbitrary and capricious designation**[170] the peace officer is expected to make, Utah Code §77-36-2.1(2), §77-36-2.2.

5.¶6 How is that officer supposed to know who started it? Most people don't plan ahead and actually call the police *before* they start to quarrel, so it's not often they actually witness domestic violence... Hobson's choice[171] Hobbesian trap[172], just pick off the one closest to the door, before he tells you that *she* started it?[173] On it's face, this statute does not address

168. Do you see... how it's not the hammering upon the strings, but the notes, the chords, the orchestration? Here, you take the eye now and look for a moment, then I want it back again.

169. Oh, Evidence? Did we forget about evidence? Yeah, rules of evidence too.

170. arbitrarily: «1. Subject to individual will or judgment without restriction; contingent solely upon one's discretion: an arbitrary decision. 2. decided by a judge or arbiter rather than by a law or statute.»
capricious: «is an adjective to describe a person or thing that's impulsive and unpredictable, like a bride who suddenly leaves her groom standing at the wedding altar.»

171. Wikipedia, *Hobson's Choice* (2016), `https://en.wikipedia.org/wiki/Hobsons_choice`

172. Wikipedia, *Hobbesian Trap* (2016), `https://en.wikipedia.org/wiki/Hobbesian_trap`

many of this sort of questions. There's not much time for a dude to think about all of this, to understand the problem, how to say it, and to say it, while he's face down on the floor with his hands cuffed behind his back with that peace officer's handcuffs, while they pull the taser darts out of his oakleaf[174] tattoo as the dude gets the last brief eye-contact with his crying toddler who just watched the "domestic violence first responders" demonstrate a trained-response. Do they practice training scenarios for models of conflict not covered by the UCAA's "primary agressor vs. victim" strawman? Do they collect and utilize training scenarios or is it all "on the job training"? When people quarrel, perhaps that is a trained response? Maybe that "training" would make the quarrels get worse and the arguments less productive?

5.¶7 Perhaps it was presumed that both litigants would have attorneys standing by to jump in and take control, further insulating the "trier of fact"[175] from the factual objective reality as relayed to per via the limited linguistic capabilities of each class of litigant within the time alotted? Or *thought* that the "simplified and streamlined process", in some way makes the state sponsored adversoupial contest an even better solution to an even worse problem? I'm not sure it's trying to solve the wrong problem, but I am sure that it's not the true route to the best shrewlution.

5.¶8 Some might argue that the "primary aggressor vs. victim" classification is not "arbitrary and capricious" because of §77-36-2.2(3), but really, all the peace officer is allowed to do, by law, is determine *probable cause for issuance of a citation or to make any arrests*. That in turn must be evaluated by a prosecutor, and if the decision to prosecute is made, for any charge that is a class A misdemeanor or above, there must be a judical determination of *probable cause for trial*, via a *preliminary examination hearing* and thus either bind-over for arraignment or dismissal. When the charges are class B or lower, the preliminary hearing is not required, and so the decision to prosecute is not reviewed for probable cause in that case. When a defendant has prior "domestic violence" convictions (even dismissed convictions from sucessfully completed plea in abeyance agreements) the charges are required to be "enhanced" up one degree. It is likely that many naive first-time defendants don't fight the charges and take the easy way out with a plea held in abeyance, regardless of whether they really did anything wrong or not. This can make their predicimate even worse later on.

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173. *cf. Crawford v. Washington*, 541 US 36 (US Supreme Court 2004), (credibility of hearsay or unconfronted testimony, spousal priviledge wrt. trial testimony, long discussion wrt. admissability of unconfronted written testimony, some ironic positivist counterpoint.) «*In allowing the statement to be admitted, we relied on the fact that the defendant had had, at the first trial, an adequate opportunity to confront the witness: "The substance of the constitutional protection is preserved to the prisoner in the advantage he has once had of seeing the witness face to face, and of subjecting him to the ordeal of a cross-examination.*"» compare 'trial by ordeal of pretrial incarceration'; *cf.* Catch 22.

174. Wikipedia, *Sigurd* (2016), `https://en.wikipedia.org/wiki/Sigurd#Nibelungenlied`

175. Android reads law to me while I take long walks for exercise because I am not a machine. It reminds me of walking in the woods with my terriers and beagle. Android says it "tree-er of fact"... Hunting dogs will bark "treed" or "trail" as they chase game...

5.¶9 The ability of a taser stunned and handcuffed co-suspect to explain "what happened" and "who started it" to the peace officer's tweety birds during the §77-36-2.2(3) interview process can have a large impact upon what information is relayed to the prosecutor who "screens" the charges in order to make that decision as to whether or not to prosecute. So this depends on the co-suspect's language skills, per's accuser's language skills, and the skills—and potentially biases—of the interviewer or interpretter. The biases can be affected by more factors than are in the scope of this memorandum, including who called the police first, assuming the first responders have that information, which seems likely to be the case because it will be part of the limited set of information that the EMS operator will have available for briefing them with en-route. And so what that officer *writes down* or records during the interview, and later when making the written report, scatters up the chain of information transfer and affects decisions made based upon it thereafter, *res coppica*. And it is that first-responder 'peace' officer—two of them, wearing body armor, armed with firearms, and tasers, who don't have time to stay around long because they are expected to resume patrol and become available again for dispatch as soon as possible—who makes the designations "primary aggressor" and "victim". The "victim" is told how to get a protective order, §77-36-2.1(2).

5.¶10 So there's another subtle fuzzy[176] continuum sort-of classification that exists, *in effect*, that corresponds with the level of and kind of education of the individual people involved in the particular domestic squabble.[177] Presumably, people with the right kind of education are capable of resolving their intrarelationship conflicts without a communication breakdown degenerating into a quarrelous shouting-match, physical "trial by combat"[178], or "legal abuse"[179] "trial by ordeal"[180]. It is when *either one or both* people lack the necessary respect for lawful civilized conduct, honesty, self-honesty, communication, negotiation, or conflict descalation and resolution skills that the situation can become volatile and erupt into a police involved domestic squabble.[181] It stands to reason that a similarly shaped continuum sort-of classification will exist that corresponds with the level and kind of education that enables a person to be capable of handling their own case in court, or to earn enough money to afford an attorney and successfully communicate the necessary facts to that attorney. So the people the most likely to end up in court with a conflict involving

176. **Fuzzy logic** is an approach to computing based on "degrees of truth" rather than the usual "true or false" (1 or 0) Boolean **logic** on which the modern computer is based. The idea of **fuzzy logic** was first advanced by Dr. Lotfi Zadeh of the University of California at Berkeley in the 1960s.

177. Peace officer's tweety birds tend to fly in the draft behind domestic squabble, sort of the way sparrows do behind hawks.

178. Wikipedia, *Trial by Combat* (2016), `https://en.wikipedia.org/wiki/Trial_by_combat`

179. Wikipedia, *Legal Abuse* (2016), `https://en.wikipedia.org/wiki/Legal_abuse`

180. Wikipedia, *Trial by Ordeal* (2016), `https://en.wikipedia.org/wiki/Trial_by_ordeal`

181. Domestic Squabble, much like Ruffed Grouse, have a tendancy to fly up in your face in a thunderous explosion of feathers.

a request for a UCAA protective order—or an alleged violation of one[182]—are also the people most likely to be less capable of doing anything about it.

5.¶11 Thus, the classification being applied *in effect* is "suspect or semi-suspect" because it is both arbitrary and capricious and likely to be roughly based on or correspondent with education and economic status.[183] The classification being applied *prima facia* is also suspect. As cohabitants, the people in question necessarily live in the same community and are subject to the same set of laws as everyone else. Why should people who live next door to one another be classified differently than people who live at the same residence? Why should two people, whether they know one another or not, who don't live together, and get into a heated argument, quarrel, or physical altercation, be classified differently than two people who live in the same home, or once did? Why should it be illegal for a person to be near another person when they are at one location, but not when they are anywhere else, assuming no otherwise illegal contact takes place? Assault is a crime in any case, as is electronic communications harassment and criminal defamation. So is perjury. So is civil rights violation. So for any action that is already a crime outside of the UCAA, there's no need of a "protective" order to make that action unlawful, because «*a general law can be applicable.*»

5.¶12 I have described within this document the many violations of rights that I have suffered, including my right to equal protection of law in that crimes against the public law contract with society, committed by Ms. MacRae, the petitioner of protective order 104906439, wherein either my son or I was the victim, should have been but were not prosecuted. She is the one who should have been put on trial, not me. I think that she wanted the protective order to try and cover up her own culpable actions, to maintain her story. It's very sad that they ignored the proffered evidence that I brought to the "trial". It is also very sad that they seemed to find enforcement of frivolous alleged violations of the "protective" order to have a higher priority than enforcing the laws against perjury and contempt of court, laws designed to protect the integrity of the judicial. They did so at their own peril because I view what they did as an attack of sorts against my reputation and family. In doing what they did, those court officers broke the law themselves, as discussed previously. Even if they had done the right thing with regards to prosecutorial discretion, I'm very sure that having her get herself in trouble for attacking me with a protective order would *not* have solved the fundamental underlying psycho-social problems. At least in my case, the UCAA created

182. An arrest warrant for one of these is, reputedly, sort of like a "huntin' licence" to some of the "you don't want to be that cops".

183. «There can be no equal justice where the kind of trial a man gets depends on the amount of money he has. Destitute defendants must be afforded as adequate appellate review as defendants who have money enough to buy transcripts.» *Griffin v. Illinois*, 351 US 12, 19 (US Supreme Court 1956). *Douglas v. California*, 372 US 353 (US Supreme Court 1963), *Ross v. Moffitt*, 417 US 600 (US Supreme Court 1974).

more conflicts than it resolved, and I suspect that this pattern can be found in many other instances. It is not a good solution to the "domestic squabble or bullying" problem. In fact, *it is part of the problem*.

5.¶13 So from the testimony in this document, we can deduce that there exists at least one case where a UCAA protective order has been used to perpetrate the same sort of "mischief and defect" that this law was *ostensibly designed* to treat. From what I gather... from law journal articles, reports issued by special interest groups, blog articles written by attorneys, more than one entire web site dedicated to the subject, news reports, and stories told to me by other people... it looks to me like there's a jail-bus-load of abuses, and so there is *probable cause* for investigation, evidence gathering, and inquisition into the probable widespread and systematic abuse of process, malicious prosecution and deportment of males, splitting of families, and other *crimes against rights and humanity* being perpetrated using laws like the UCAA as a 'cloak for fraud'.

5.¶14 I've considered a number of hypotheses regarding why this is taking place... I am interested in reading responses to this document from elder experienced jurists who may hold insights. I have written a little bit here and there within this document about some of those hypotheses. Perhaps the law was written with a hidden adjenda in mind—a secret evil purpose. From the "Equal Protection Analysis" article, I learned of a thing called the "Feeney evil purpose test". When I went on-line to search for information about that, I found an article entitled "Testing the False Teachers and Their Erroneous Ways",[184] by Pastor James H. Feeney, PhD., 2015. I see several things about the *observed effects* of the UCAA that leap out in light of Pastor Feeney's article.

5.¶15 Many people don't really "get" religionese terminology, and will instantly reject anything "religious" as "unscientific". Our word "religion" is translated to German as "kraft de heilingen", which is something like "craft of generating wholeness", or "craft of social-community-building". The "lig" in "religion" is the "lig" in "ligature" or "ligament". The word "god" is really just an archaic spelling of the word we now spell with two "o"s, "good". Don't think of it like the name of a person. I agree that the magical guy in the sky thing really is impossible. The uppercasing of the first letter is not the uppercasing for a proper noun that is someone's name. It's like the uppercasing for a symbol that represents a "set" as in mathematical set-theory, where we use an uppercase letter to represent the set, and a lowercase letter to represent a member of the set. So think of "God" as being the name of the set of all that which is "good". We use the archaic spelling to symbolize that our set of knowledge and wisdom has been accumulated and maintained over many generations; we pass the sum of our knowledge on to our continuation. To say "God's will" is to say

184. `http://www.jimfeeney.org/testing-false-teachers-heresy.html`

"choose the best solution possible given the *available* knowledge and information, maximizing 'goodness'."

5.¶16 Basing decisions upon anything but truth and whole truth is a perilous course of action—it's not good, or in religionese, "not of God". Here's an example from natural law: What if congress wrote a law to make the mathematical constant π (pi) equal to 3.0 rather than to it's present value, 3.14159..., in order to "streamline and simplify the process" of mathematics? Would the "new math" produce correct results? Will you take the elevator to the 13th floor of a skyscraper designed by an architect who uses the "new math"? On a windy day? Would you chase a butterfly across the field in front of the runway if the aeronautical engineers used the "new math"? On a windy day? *Fiat justicia ... ruat caeulum.* Should you always turn right, send snakes in after rats, then when it's raining cats and dogs, lobby congress to repeal the laws of nature? Create a "bill of attainder crossed with a blank check" that can be used to prevent "that man" from bringing milk and cookies to his son and son's mother, or make it illegal for *some* men to say "I love you" to an ex? Can we give "full faith and credit" to orders issued by a court in another state where the "rules of justice" don't apply? What about when the litigants are members of *your* family? Can an elected official just "withdraw our signature" from the constitution and make it go away when it is inconvenient to a personal adgenda? Maybe an appointed one can? Survey says... mandatory imprisonment—you call we haul—is unconstitutional also.

5.¶17 In the context of a discussion regarding "constitutionality", I think most will agree that we can safely translate "biblical" to "constitutional" in the definition of "heresies" given by Pastor Feeney: «heresies: their teachings tend to divide, not unite. Heresy by its very nature is destabilizing and divisive. Their doctrines are not consistently [constitutional]. Often this is done with small amounts of destructive, heretical content slipped in among a majority of accepted [constitutional] doctrine.» The general policy inherent in the UCAA is to "divide and conquer"—separate them from one another, forbid them from contact, tell one of them one thing, the other one something else; sort of like how they told us how the justice system and courts work in school, and then renegged on that contract with society by violating just about every civil right on the list, even tring to make me disappear with "mental health court", moving for that in secret, while I was not in court? How many others have they done this to? Where are they? Is the public record of court proceedings adequate for locating a reasonable cross section of the alleged offenders to find out from them what they experienced here? If I file this, will they shred?

5.¶18 Families have a fundamental right to be together. This is true for "atheist"[185], "Christian", "Wiccan", "Odinist", "Muslim", "Jewish", "Buddhist", "Hindu", "Cherokee"; English,

185. There's probably not really any such thing since the word "atheist" means "without theory -ist" and if you think about something for very long, you probably have some sort of rudimentary theory going on, right?

French, Canadian, Swedish, Russian, Chinese, or American families. Children have a fundamental right to be raised by their own parents. They have the right to have a life free from abuse, include free from legal abuse used to steal them from their own parents—or their parents from them—either from one or the other or both parents. They have the right to have both parents available to them, even if *you* think those parents are paranoid, as long as they're not dangerous... Oh, right, that's where the UCAA comes in, right? Is that what you signed up for, Judge? We see you.

5.¶19 Perhaps the UCAA is impracticable, as I've suggested previously, and creates sort of a denial of service of justice by opening the door to way too many frivolous "lawsuits" brought by people who think they can lie-n up at the courthouse to abuse the process to get revenge or take control or custody? Being a part of only one instance of this, I can not testify as to whether that's what it's like from the perspective of a court officer (bar, judicial, or executive). I do know that, as I said previously, there are a lot of articles, blogs, and other web pages that in my mind, provide *probable cause* for an investigation and inquisition to be initiated if it has not already been.

5.¶20 The real problem is that the UCAA is attempting to treat, with an adversoupial court contest, a problem that is better suited to an education and parley-based social service agency. The adversoupial system *never* really knows enough about what's really the matter within the dynamics of each affected family. It lacks in attention to duty of care to detailed inquisition. Remember, the litigants are *not* trained professionals, divorce engineers, or child adoption brokers. They got into a dysfunctional squabble and someody called the police, who "recommended" filling out a form pleading to get (pinch your nostrils shut and say it sounding haughty) "a protective ordder". The "court commissioner", in my case if not in others, was overstepping jurisdiction and failing to follow standard litigation practice and rules in failing to schedule the "requested" URCvP rule 108(d)(2) hearing, while invoking "rules we do not speak of" to stifle my reasonably well prepared written testimony, evidence summary, and disc. Perhaps our circusprances were not unique enough to require standard inquiry, and so an unspoken classification was applied instead? In all of this, we must not forget about the child who was crying for daddy in the video that was included on that disc. I feel comfortable with speaking on his behalf, *jus terti*, in saying that the mode and methedology of "how to solve it" being implemented, in effect if not also on it's face, by the UCAA can't possibly be the most effective, nor the least onerous.

5.¶21 'They' are making seriously life-affecting and rights impacting decisions that are not fairly based on verifiable facts. *Most* of the time, nobody has been seriously hurt, so "no contact" is not warranteed, and is probably counterproductive. Frustrations that lead to quarrelling can be dealt with more productivley by people who have either had a good example from parents, or who have undergone some schooling and therapy to help them do

better at it. A social problem needs to be treated in a social context. Pitting them against one another in an apparently rigged court "contest" only makes matters worse, especially under circumstances like mine, where the frustration of her not communicating well or being honest and equitable with me is compounded by the courts failures, or misfeasance. They catered to her narcissism rather than making her confront it. As I have demonstrated, in the "long affidavit" with *it's* disc, 'they' helped her cover-up her wrongdoing, rather than making her take responsibility for her own actions. Adding in-absence-of-jury to insult,[186] the repeated jailings for allegedly "repeatedly violating" the "protective" order took my son's father away from him... the father 'they' so carefully avoided placing the name of on the birth certificate, the son who's ~~name~~ initials 'they' sneaked onto the modified protective order as a "protected party" despite there being no mention of it during any of the hearings that *I* was *brought* to attend from the Salt Lake County Jail (so sad), took the child's attachment parent father away from him, poising him for the taking from the DCFS documented "mentally ill" mother, obstructing the child's right to be raised by *both* of his owned parents...?

5.¶22 Certainly, once someone has crossed that line and comitted an actual crime, it is appropriate for law enforcement or the court officers to prosecute the offense. Allowing people to get away with crimes that affect the integrity of the judicial process does not teach the right lesson to either litigant. By allowing an abusive female to take custody of a child from a non-abusive male using a fraudulently obtained protective order, repeatedly ignoring the evidence he repeatedly put forward while framing him as a "violence" offender, holding him in jail on frivolous charges with excessive bail, using that to coerce a plea "bargain" on other charges he was already bailed out on that themselves were frivolous and not violations of the protective order... finding any lines crossed yet? Does it "rise to the level" of "fraud upon the court"? Anybody else "find" that to be the case? As I approach the bar, I remind you that the couple who had the squabble and got "recommended" to the adversoupial "protective" order pro-cess[187] via the UCAA, who, **as inexperienced layperson litigants**, can not fairly be held to the same degree of lie-ability as the professionals running the show, who presumably have a duty of care to conduct the proceedings in a manner consistent with truth-seeking and correct application of appropriate law *upon finding of facts*. Whatever degree of liability there may be upon the petitioner who told impeached lies on the REQUEST FOR PROTECTIVE ORDER, certainly those court officers properly bear the majority of the culpability for the crimes against rights perpetrated under the aucpices of Justice...

5.¶23 I said previously that «It occurs to me that §77-36-2.1(1)(a) and §77-36-2.1(1)(b) command that when it becomes obvious that a "*petitioner of a protective order who is a protected party*" is abusing the process, per §78B-7-115(3), that the protective order being

186. We should never "insult" when what we really need to do is "consult".

187. Not to be confused with "re-cess".

used as the «weapon» with which per has committed "legal abuse" must be «confiscated», in order to «provide for the safety of the victim and any family or household member» affected by that abuse, directly or indirectly (*jus tertii*, the rights of my son, and his safety and well being are implicated here).» It seems that there is widespread abuse of these "protective" orders. It looks like many people have used them to commit "legal abuse"—that is, to use them as a "sword" rather than as a "shield". I think that this sword needs to be taken away.

6 Suggestions and relief sought

6.¶1 Because many families have been harmed by this law, I think that the government owes them a recompense. Education is the only thing that ever really worked. So aside from declaring that at least parts of the UCAA are unconstitutional, I'd like to see a social services agency and, primarily, and educational program implemented to try and teach people how ot get along better. Families and friendships are worth saving. The public law arises from the private law through the contract with society. That contract begins at *your* home, with your own family, and at *my* home, with my own family... and in the village, between our families... and in the county, between the villages... and in the state, between the counties... and in the federal union, between the states... and in the world community.

6.¶2 I've heard it said many times, «that's what they got taught to do, so that's what they went and did.» People do what they are taught to do. If they are taught to be soldiers, they will behave like soldiers. If you teach them to be foresters, they will plant trees. If we do not teach them how to get along together, they will have to figure it out for themselves, likely learning many lessons the hard way. We are independant actors in a life-world whos self-chosen actions are governed, in part, by linguistically mediated intersubjectivity. Nobody likes arbitrary rules or baseless, myopic, or misguided interventions. People need to be treated like the intelligent and able learners that they are, and given credit for being capable of accepting education-based guidance at making their own choices and decisions. Certainly, a "set of best practices" exists that can be *taught* to us, so we don't have to learn every lesson the hard way.

6.¶3 Locking a person in jail for anything but proven danger to themself or others is not righteous. Shutting someone away is not how we teach them how to be social. There are better ways to teach people about law than "trial by ordeal of legal abuse culminating with springing of perjury and contempt trap". Leading them into temptation and putting them through hell is not the preferred way to educate $\{\forall \text{children} \mid \text{children} \in \text{God}\}$, a set that each and every one of us presumably belongs to. Children have the right to an education, and a right to a life free from abuse, including "legal abuse".

6.¶4 The incalculable and unquantifiable harms that have been done to families all over the United States by these "protective order" laws must be remedied or compensated for in some way. I think that a person should not have to go crazy or join the military in order to get enough money to attend university. We should learn to work for our country rather than to throw our lives away for it. There ought to be a "work force" that young people can sign up for a "tour" in, contracting for a 5 year term, paid room and board, medical, dental, vision, with a very small stipend during the term of service, and an annuity upon completion from which they can draw from some low amount to some higher amount each month until it's gone, for use as the individual person sees fit... for living expenses while attending university, to go ski-bum, to join the forest service, or whatever. Rather than borrowing the money to pay for that, the government should mint a multi-billion-dollar coin, or better, treaty with other countries to "exchange an item of value" like Christmas at school, then put the item of value on display at the national archive, and write checks on the proceeds to pay for treaty-authorized works projects: wind farms, smart-grid electrical, electric rail, forestation, ecosystem restoration, and dryland reclamation. The money must be a "special kind of money", like food stamps, and by law spent only on treaty-authorized expenditures. For people with mortgages, "room" might mean mortage payment deferment, sort of like college loan repayment in-school deferment. So, the opportunity to work, en family, ala "Tennessee Valley Authority", with homes and schools, for the factory kinds of tasks involved, or to travel and do work for the roaming and outdoors projects, with education on the way and money to attend university afterwards, can be compensation to those who were the most likely to be victimized by the sort of "legal abuse" I speak of within the body of this document and hint at here. We must not condone "plowing people's fields with cannonballs".

I, the undersigned petitioner, declare under penalty of perjury that the information I have provided in this petition is true and correct.

Karl Martin Hegbloom, Esq.

I, the undersigned Notary Public, do hereby affirm that Karl Martin Hegbloom personally appeared before me on the _____ day of _____ and signed the above Affidavit as his free and voluntary act and deed.

Notary Public

After a while you learn the subtle difference
Between holding a hand and chaining a soul,
And you learn that love doesn't mean security,
And you begin to learn that kisses aren't contracts
And presents aren't promises
And you begin to accept your defeats
With your head up and your eyes open,
With the grace of a woman, not the grief of a child,
And you learn to build all your roads
On today because tomorrow's ground Is too uncertain.
And futures have A way of falling down in midflight,
After a while you learn that even sunshine burns if you get too much.
So you plant your own garden and decorate your own soul, instead of waiting
For someone to bring you flowers.
And you learn that you really can endure...
That you really are strong,
And you really do have worth
And you learn and learn
With every goodbye you learn.

— Veronic Shoffstall, "*Comes the Dawn*"

A Maxims of Law and Equity

"The principles and axioms of law, which are general propositions *flowing from abstracted reason*, and not accommodated to times or men, are wisely deposited in the breasts of the judges to be applied to such facts as come properly before them."

— from "Maxims of Law that Serve the American People", online.

No man ought to be burdened in consequence of another's act.

He who derives a benefit from a thing, ought to feel the disadvantages attending it.

Favors from government often carry with them an enhanced measure of regulation. (implies accountability and consequences for non-compliance.)

He who does not forbid a crime *while he may*, sanctions it.

Gross negligence is *held equivalent* to intentional wrong.

No rule of law protects anyone who willfully closes his ears to information, or refuses to make inquiry when circumstances of grave suspicion imperatively demand it.

Let every one employ himself in what he knows.

Unto her who is consenting, no injury is done.

The truth of the demonstration removes the error of the name.

Certain legal consequences are attached to the voluntary act of a person.

A contract founded on a base and unlawful consideration, or against good morals, is null.

Equity will not allow a statute to be used as a cloak for fraud.

Si quis custos fraudem pupillo fecerit, a tuela removendus est.

Jus et fradem numquam cohabitant. Fraus est celare fraudem.

Whoever pays by mistake what he does not owe, may recover it back; but he who pays, knowing he owes nothing; is presumed to give.

B Journal page confessing to attempted entrapment

I feel so bad, I just got into a huge fight w/ Karl. I feel so bad. Sometimes I feel like fighting is the only way that I can express emotion, like I have all of these things that I just need to get out. I have over I try to talk about them and things turn ugly. For instance, this whole fight started because I tried to tell Karl some of the things I was appreciating on the previous page. Instead of listening and responding, he starts telling me all of the ways I should then does this horrible annoying imitation of me and of his dad and I jumped on top of him and retaliated hitting him. I totally provoked him, this is like in some sick way I wanted him to beat me up so that I can have that emotional relief. So I can cry and feel like I am getting my cleaning. He did get on top of me and pulled me down and I lift his arm, thinking I'm sure it hurt me. He just won't talk to me and it is frustrating. Like there is something serious I feel we should discuss he just ignores me. It's like our relationship has no depth. It's

C 'Affidavit of Probable Cause', 111902257

STATE vs KARL MARTIN HEGBLOOM
DAO # 11006126
Page 2

NOTICE: A plea of guilty or no contest to any qualifying domestic violence offense in Utah which plea is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

THIS INFORMATION IS BASED ON EVIDENCE OBTAINED FROM THE FOLLOWING WITNESSES:

ROBERT WOODBURY, KASEY MACRAE

AFFIDAVIT OF PROBABLE CAUSE:

Your affiant bases this Information upon the following:

The statement of Kasey Macrae that while in Salt Lake County between January 4, 2011 and February 8, 2011, the father of her child, defendant KARL MARTIN HEGBLOOM, sent her several emails that did not pertain to their child. There is an active Protective Order in the Third District Court case number 104906439 which allows emails to each other only regarding their child.

NOTICE IS HEREBY GIVEN that the defendant has been previously convicted of a domestic related offense in the Third District Court case number 091908046 and therefore is subject to enhanced penalties.

Pursuant to Utah Code Annotated § 46-5-101 (2007) I declare under criminal penalty of the State of Utah that the foregoing is true and correct to the best of my belief and knowledge.

Executed on: 3/17/11

~~ROBERT WOODBURY~~
Affiant W. Willis

Authorized for presentment and filing

~~SIM GILL~~, District Attorney

Deputy District Attorney
16th day of March, 2011
KRH / JLP / DAO # 11006126

D 'Affidavit of Probable Cause', 111903279

STATE vs KARL MARTIN HEGBLOOM
DAO # 11009855
Page 2

THIS INFORMATION IS BASED ON EVIDENCE OBTAINED FROM THE FOLLOWING WITNESSES:

Robert Woodbury, MacRae Kasey

AFFIDAVIT OF PROBABLE CAUSE:

Your declarant bases the Information upon the following:

The statement of Kasey MacRae that on April 14, 2011 at 24 South 500 East, Salt Lake County, KARL HEGBLOOM walked past her home which is in violation of his Protective Order. Kasey states that at the time she was holding her son and heading into her house. There is an active Protective Order in the Third District Court case number 104906439 which orders the defendant to stay away from the residence of Kasey MacRae.

The statement of KARL HEGBLOOM that he did walk past Kasey MacRae's home on April 14, 2011 and he was aware of the protective order against him. HEGBLOOM states that he said "Hey" to his son as he walked by.

NOTICE IS HEREBY GIVEN that the defendant has been previously convicted of a domestic related offense in the Third District Court case number 091908046 and therefore is subject to enhanced penalties.

Pursuant to Utah Code Annotated § 78B-5-705 (2008) I declare under criminal penalty of the State of Utah that the foregoing is true and correct to the best of my belief and knowledge.

Executed on: 4/28/2011

ROBERT WOODBURY
Declarant

Authorized for presentment and filing

SIM GILL, District Attorney

Deputy District Attorney
27th day of April, 2011
JWR / GAM / DAO #11009855

E 'Affidavit of Probable Cause', 111903495

STATE vs KARL MARTIN HEGBLOOM
DAO # 11009970
Page 6

AFFIDAVIT OF PROBABLE CAUSE:

Your declarant bases this Information upon the following:

The statement of Kasey MacRae who resides at 24 South 500 East, Salt Lake County, Utah, that she filed a Protective Order with the Third District Court which was issued January 4, 2011, against defendant KARL MARTIN HEGBLOOM. Ms. MacRae contacted the Salt Lake City Police Department on April 20, 2011, and reported that the defendant was sending her multiple text messages. She gave police copies of her text message records that showed that the defendant had sent her text messages every day between April 18, 2011, and April 25, 2011.

Ms. MacRae stated that on April 25, 2011, she and her son arrived home and observed the defendant on the sidewalk outside of her apartment. Ms. MacRae stated that the defendant was wearing face paint, dressed as a clown, and carrying a red and white umbrella. Ms. MacRae stated that she observed the defendant "skip" up the stairs to the door of the apartment building and when he left she found some banana bread hanging on the door.

The defendant has a prior domestic violence conviction in Third District Court, Salt Lake, Case number 091908046, and is subject to enhanced penalties.

Pursuant to Utah Code Annotated § 78B-5-705 (2008) I declare under criminal penalty of the State of Utah that the foregoing is true and correct to the best of my belief and knowledge.

Executed on: 05/05/11

R
Declarant L. WRIGHT

Authorized for presentment and filing

SIM GILL, District Attorney

Deputy District Attorney
5th day of May, 2011
GMB / JLP / DAO # 11009970

F 'Affidavit of Probable Cause', 111905405

STATE vs KARL MARTIN HEGBLOOM
DAO # 11016061
Page 3

AFFIDAVIT OF PROBABLE CAUSE:

Your declarant bases this Information upon the following:

1. The statement of Kasey MacRae, to Salt Lake City Police Officer R. Stone, that she lives at 24 South 500 East, Salt Lake County, Utah. At approximately 11:58 a.m., on July 16, 2011, Ms. MacRae received a text message from defendant Karl Martin Hegbloom, the father of her child. At approximately 4:36 p.m., Ms. MacRae received a phone call from the defendant.

2. On January 4, 2011, Ms. MacRae was awarded a Protective Order against the defendant in Third District Court case number 104906439. The Order specifically prohibits the defendant from contacting Ms. MacRae in any way but e-mail. The defendant accepted service of the Protective Order on January 4, 2011.

3. The Court is notified of the following:

a. The defendant has previously been convicted of a domestic violence related crime in Salt Lake City Justice Court case number 091908046. The defendant is, therefore, subject to enhanced penalties.

b. The defendant is currently awaiting trial in Third District Court case numbers 111903495 and 111903279 for previously violating this Protective Order. A Preliminary Hearing was held on those cases on July 12, 2011, before the Honorable Anthony Quinn. When Judge Quinn bound the defendant over, he reiterated that the defendant could not call Ms. MacRae or send her text messages. The defendant's actions toward Ms. MacRae continue to escalate and the State, therefore, requests that bail be set in the amount of $100,000.

Pursuant to Utah Code Annotated § 78B-5-705 (2008) I declare under criminal penalty of the State of Utah that the foregoing is true and correct to the best of my belief and knowledge.

Executed on: 7/22/11

ROBERT WOODBURY
Declarant

Authorized for presentment and filing

SIM GILL, District Attorney

Deputy District Attorney
21st day of July, 2011
SK / KB / DAO # 11016061

G A rose is a rose is a rose...

more like this...

...other phrases about:

- *The natural world (nature-phrases.html)*

Meaning

The meaning most often attributed to this is the notion that when all is said and done, a thing is what it is. This is in similar vein to Shakespeare's 'a rose by any other name would smell as sweet (305250.html)'. However, that's not the interpretation given by the author of the phrase - see below.

Origin

The line is from Gertrude Stein's poem *Sacred Emily*, written in 1913 and published in 1922, in *Geography and Plays*. The verbatim line is actually, 'Rose is a rose is a rose is a rose':

> Rose is a rose is a rose is a rose
> Loveliness extreme.
> Extra gaiters,
> Loveliness extreme.
> Sweetest ice-cream.
> Pages ages page ages page ages.

When asked what she meant by the line, Stein said that in the time of Homer, or of Chaucer, "the poet could use the name of the thing and the thing was really there." As memory took it over, the thing lost its identity, and she was trying to recover that - "I think in that line the rose is red for the first time in English poetry for a hundred years."

Stein was certainly fond of the line and used variants of it in several of her works:

> - Do we suppose that all she knows is that a rose is a rose is a rose is a rose. (Operas and Plays)
>
> - ... she would carve on the tree Rose is a Rose is a Rose is a Rose is a Rose until it went all the way around. (The World is Round)
>
> - A rose tree may be a rose tree may be a rosy rose tree if watered. (Alphabets and Birthdays)
>
> - Indeed a rose is a rose makes a pretty plate. (Stanzas in Meditation)

Certificate of Mailing

I certify that a true and correct copy of the foregoing

Petition for Writ of Error Coram Nobis

was mailed to:

Kasey MacRae
309 East 100 South, Apt 211
Salt Lake City, UT 84111
Respondent pro se

District Attorney Sim Gill (himself)
111 East Broadway, Suite 400
Salt Lake City, Utah 84111
Salt Lake District Attorney, Supervising Prosecutor for the State of Utah

Attorney General Sean D. Reyes
Utah State Capitol Complex
350 North State Street Suite 230
Salt Lake City, Utah 84114-2320
Utah Attorney General

This document was mailed on _____.

Karl Martin Hegbloom, Petitioner

-
  - Gathering mise en place.
  - Consider a secondary motion to double the normal preparation time prior to answer, reply, and submit for decision, due to the volume of evidence and complexity of the argument. Laugh. What would Kasey do? What is ethical?
  - State v. Rees (2005), 125 P. 3d 874 (Utah Supreme Court)
  - Manning v. State (2005), 122 P. 3d 628 (Utah Supreme Court).
  - URCrP Rule 22(e): The court may correct an illegal sentence, or a sentence imposed in an illegal manner, at any time.
  - audita querela, "[the] complaint [having been] heard" : «the writ permitted a defendant to assert common law defenses where a statute's intent was to make such defenses inaccessible.» Audita querela (Law Latin for "[the] complaint [having been] heard") is a writ, stemming from English common law, that serves to permit a defendant who has had a judgment rendered against him or her to seek relief of the consequences of such a judgment where there is some new evidence or legal defense that was not previously available. The writ is thus generally used to prevent a judgment from being executed where enforcement of that judgment would be "contrary to justice". At common law, the writ may be useful where a creditor engages in fraud before the judgment is rendered, or because the debt had been discharged, paid or otherwise satisfied after the judgment is rendered.
  - URCvP apply to criminal court proceedings also... cite Rule 11(b), representations made to the court with regard to the false representations being made to the court while simultaneously never mentioning or scheduling a preliminary examination hearing? That's perjury and contempt of Court, on the part of the State's prosecutors, Deputy District Attorney's.
-

TMP: Stuff that belongs above this section?

Somewhere within this introduce and develop the idea of *fine print*: natural law, the constitution, fundamental principles of law... from general principles to specific applications of them in narrowed domain context; unencumbered by or not modifyable by "fine print" of invalid or unlawful rules or laws that derogate; then the "fine print" of the protective order "contract"? fine words vs actual actions, etc. Mediate and then write it.

«In essence, the District Court judge found that the 209A order against Adams was obtained through fraud on the court. We recognize that the judge did not use the words "fraud on the court." However, he found that "[the nineteen] allegations by [Jones] are false and perjurious"; "[his behaviors] are indicative of an obsessive compulsion that is extremely alarming"; "[t]he seeking of the restraining order ... is part of a larger pattern of harassment"; and "[i]n addition to filing affidavits that contain falsehoods ..., [Jones] has falsely complained of [Adams] to the Board of Bar Overseers." In addition, the judge found that Jones obtained the ex parte order against Adams "without disclosing that [Adams] had a restraining order against him." See G. L. c. 209A, §3 (requiring disclosure of pending abuse prevention orders). See also Szymkowski v. Szymkowski, 57 Mass. App. Ct. 284, 287 (2003) (in considering 209A complaint, judge "must be alert against allowing process to be used" for purposes of harassment). We hold that these findings support a conclusion that the order was obtained through fraud on the court.» Commissioner of Probation v. Adams, 65 Mass. App. Ct. 725 (Massachusetts Appeals Court 2006) at 729.

---

* The 'common right' may be communication — speech, constitutionally protected; contact with children — rights of children to be raised by their own parents; use of own home; etc.
* The 'particular privileges, peculiar disabilities, and burdensome conditions' are: "contract" is one side, worded in a tricky way such that it's not a crime or violation for the petitioner to, e.g. contact respondent, but when respondent replies, that can be a violation; **is often treated as though there's a strict liability attached, and so any contact at all is considered a violation, without consideration for *mens rea*.**
* The problem being that the sort of like "contract" of the 'protective' order is unilateral when by rights it must be bilaterally applicable.
* Perhaps then, wrt "strict liability", **if** prosecutors respect that there's not a strict liability associated with an alleged violation of a protective order, and (what else for substantive and procedural due process?)...
* The petitioner is a "judge in her own cause" because she's who determines whether or not to report any particular incident as a "violation" of the 'protective order'.[188]

* The "hearing by proffer" by a court commissioner is not a formal evidentiary hearing or full adversarial hearing with cross examination. Alleged facts are not really properly checked by "trier of facts". It's word against word only. The commissioner makes a 'recommendation to a judge' based on those "proffers". How is the judge supposed to review the case and decide whether to sign it or not? Does he listen to the record of the proceedings first? If so, then he may as well hear them himself; Does he read the written proffers? I'm 'not sure'. I'm thinking that he probably does not really "judge" it on the merits of the evidence etc; he probably in reality just signs the 'recommendation'. That's **arbitrary**, right?

  What if a "judge" with "commissioners" under him is really like an "executive chef" who delegates most of the work to soux chef's or cooks? One restaurant I worked at had a "famous chef" who got paid $70000 per year but rarely actually came in to actually do any work. He would show up once in a while to make his famous sorbet for an important wedding banquet, and to make a big "show" out of presenting the first plate of food to the "royal" bride and groom... meanwhile, behind the scenes, the majority of the food preparation is actually performed by minimum wage cooks!

  Where is the presumption of innocence? What is the standard of proof required? How often is it honestly met by the petitioner? When a respondent moves for a formal hearing or objects to the commissioner's recommendation per URCvP rule 108, how often does that get sent to a "trier of facts", which means in this case a judge at bench trial with full adversarial procedure, including cross examination, witness testimony, and evidence presentation? In theory? In reality? Can we see statistics?

  [I wrote the above **before** I read the textbooks on civil litigation practice for paralegals. Since then, I've learned that even a person's direct testimony of their own experiences is considered to be a form of hearsay unless it is well corroborated by solid evidence, or subject to cross examination, and the adversary has opportunity to attempt to impeach, refute, or even to admit it. This begs the question: How many other pro se protective order respondents didn't know about that?]

  On the Internet, there are "exploit scripts" that are downloaded by "script kiddies" who run them to attack network servers; so, say there's some particular peice of server software, like a certain brand of web server at a certain revision number, that has an error in the way it handles input or something such that this error can be exploited to either gain access to the system or to crash it, or to tie up it's resources to deny service to legitimate users... Look

188. So if they claim that "just because it happened the way it did wrt the handling of your case by the court and police doesn't mean that's the way it always is" then go "ah, so we should not make a universal generalization from an existential instantiation? Ok, then so why do you have this policy of always jailing alleged violators of protective orders?"

up "distributed denial of service attack" on Google once and read for 15 minutes and you'll understand well enough. Now think about all those "script kiddies" filling out 'Request for Protective Order' forms (that are supposedly 'verified' just because they have to have a notary public witness them signing it... but who checks the alleged 'facts' reported on it? Who's job is that? How many of them do they need to 'process' each day? **Is it practicable?**

Denial of service of justice: "script kiddies" fill out forms to get 'protective orders' at the drop of a hatfull of lies, histrionics, melodrama, over-reacting, or at the prompting of police who are requred by law to suggest that the 'victim' get a 'protective order'... again, presumptions are what? because the officers don't know what happened before they got there! Biases? First come first served? No mutual orders? Too many of them to properly read written proffers? Word against word? Preponderance? Clear and convincing? "She called the police so she's the 'victim'?

Todo: Don't neglect ot use the joke about how with a web interface to fill out the forms to start the protective order process..."you don't have to tell them how to do their jobs"; and of course there's this form to fill out to ask for "relief" under the postconviction remdies act...

There needed to be a much more complete inquiry into the facts of the matter **before** the 'protective order' got issued. An allegedly 'judicial' decision based upon scanty and unverified 'facts' is **arbitrary** and **capricious**.

* Everyone is supposed to be equal under the law. The "contract" of a 'protective order' is one-sided; that is, it's unilaterally applicable, rather than bilaterally applicable. And, the law forbids mutual protective orders!

* I think that issuance of a 'protective order' that carries criminal charges for violation of provisions from that section of it is inherently a "quasi-legislative action" and it's not proper for the judicial to do that... (bill of attainder crossed with a blanc cheque) It's already against the law to commit violence, electronic communications harassment, perjury, contempt, etc. where there is a legitimate state interest in protecting people from those *crimes*... or protecting the integrity of the court...

  The 'protective order' makes things into 'legally violence' that really are not 'violence *per se*'. There's supposed to be a clear distinction between what is "criminal" and what is "civil", right? "Public" v. "Private" law... That's why the 'protective order' quasi-contract has two sections, one for "civil" provisions and one for "criminal" provisions; and each has a check-box next to it, and so this quasi-legislative action determines for each individual case, supposedly, in the ideal at least, on some clear principles of law based upon evidence cleared by a trier of facts (due process), which of those check-boxes should have a check-mark penned in...

In Crawford v. Washington, 541 US 36 (US Sup. Ct. 2004) at 45–46, there's a discussion regarding the right to confront witnesses, and whether a statement taken out-of-court is admissible in court under the common law... «The examination was nonetheless admitted on a closely divided vote after several of those present opined that the common-law rules of procedure did not apply to parlimentary attainder proceedings — one speaker even admitted that the evidence would normally be inadmissible.»

Perhaps this is the 'tradition' behind not having a full adversarial hearing to grant a Utah Cohabitant Abuse Act 'protective order'; taking only proffers of so-called "verified" form-pleadings? Those form-pleadings prompt the complainant with what to fill-in on the blanks; and the mere fact of it being signed in front of a notary public does not honestly make it "verified" by the plain and ordinary meaning of that word. In a 'normal' court proceeding, where professional attorneys run the show, perhaps it is not unreasonable to expect the respondent's attorney to "verify" the petitioner's [Verified] Request for Proterive Order, but with self-service form pleadings put out there for *pro se* litigants,

* In Melendez-Diaz v. Massachusetts, 129 S. Ct. 2527 (US Sup. Ct. 2009), at ??? talks about
*
* In the context of the Utah Cohabitant Abuse Act, the "class founded upon some natural, intrinsic, or constitutional distinction" is "people who are cohabitants as defined by this statute".
* All members of the class "cohabitants" should thereby "stand in precisely the same relation to the subject of the [Cohabitant Abuse Act]".
* We have the 'presumption of innocence' because it is presumed that most people are not criminals. Most cohabitants do not have serious problems within their relationships that would lead them to getting 'protective orders'.
* Likewise, there must be a 'presumption of innocence' within the "cohabitants where at least one is fileing or has filed for protective order against allegedly abusive other cohabitant" subset of the larger classification of "cohabitants".
* It is well known that the 'protective order' law is widely abused. Many petitioners have been caught telling lies and etc.
* It is not valid to make a universal generalization from an existential instantiation. That is, just because one person, the respondent in a 'protective order' case, who was released from jail on 'own recognizance' went home and beat up the petitioner cohabitant, doesn't mean that many of them will, or even that at least one other will. In fact, for the same reason we have the 'presumption of innocence', the likelihood that the respondent will go "beat up" the

petitioner seems low. That possibility can also be mitigated with pre-release instructions to the respondent, to the effect that "you'll want to maintain your innocence by not going over there, etc.";

* *mens rea*, violence *per se* v. "legally violence".

* The 'protective order' itself is sort of a one-sided contract that is craftily worded such that it's not a crime for the petitioner to contact the respodent, but if the respondent responds, that's a crime?

* The way the hearings are conducted, alleged violations are "screened" etc ... adds up to unconstitutional; the 'note' on the law in the package I got from the LDA says something about "due process" in the blank regarding review for constitutionality; need to look at that again. Word against word; hearing by proffer; *res judica*? due process? evidence? burden of proof? standard of proof? presumption of innocence? Race to court?

* If there's not enough evidence to convict the suspect at a jury trial for "assault", "battery", or some actual crime, then there would not be enough evidence to convict the same suspect of an attempted violation of a protective order either... The person either did something *criminal* or did not, and the burden of investigation and proof is upon the state in either case.

* Any reasonable person can see that it would be unfair for the basic natural-law definition of what constitutes a "crime" to be different for 'domestic violence' cases like this one than for any ordinary crime. If there's no violence, *per se*, then it's unrighteous to label it as 'violence'. Abuse of the judicial process isn't 'violence' *per se*, but it sure can be 'bullying'.

* It is unreasonable for it to be a crime to answer an SMS when the petitioner has initiated communication; or for it to be a crime to use SMS when a 'protective order' allowed email; or for it to be a crime to be near petitioner's residence when invited by petitioner; or for it to be a crime to be near petitioner in a public setting where no violence or threat of violence is alleged. It is unreasonable to imprison a man for "using his words" while supporting the unreasonable and unlawful use of a 'protective order' to "close the channel" of communication within a family by a female who has been deceitful and who told lies to the court!

* In terms of it's true impact upon human and civil rights, it is a grotesque 'legal fiction'[189] to call the thing a 'protective order'... How can that peice of paper actually "protect" the petitioner? There is not a patrol car parked outside of every protective order holder's home waiting to catch the respondent violating the order, nor is there one outside of the respondent's home to prevent the petitioner from visiting him. The only time a violation

189. «A **legal fiction** is a fact assumed or created by courts which is then used in order to apply a legal rule which was not necessarily designed to be used in that way.» "Legal fiction", Wikipedia.

of protective order is reported is when the petitioner calls the police. **It gives the petitioner the power of a judge in her own cause because it is her who determines whether or not to report an action by the respondent as a violation.** If that concept isn't part of what constitutes a "private law" per Article VI, Section 26, then certainly it is among the first-taught concepts in any school of common law, thus among the "fundamental principles" invoked by Article I, Section 27, «*Frequent recurrence to fundamental principles is essential to the security of individual rights and the perpetuity of free government.*»

* Unless substantial and procedural due process rights are carefully respected; and unless the court fairly weighs evidence from both sides of the dispute—both inculpatory and exculpatory evidence must be investigated; both witness-affirming and witness-impeaching testimony must be investigated—the likelihood is high that these so-called 'protective' orders can and will be hijacked and used as an 'offensive' 'legal weapon'.[190]

* Congress had a fantasy—after meeting that nice woman from the SIG that created the law and policy they adopted—that this wonderful law and burrocracy it sets up was going to do good things in terms of preventing or punishing 'domestic violence'. How many of them went to "Congress School"? I bet they are mostly like, uh, accountants, MBA's, lawyers, farmers, and things like that.

* So the deputy DA has this fantasy that the detective is out there walking around with a magnifying glass looking for clues. He thinks that detectives are all amazingly competent, similar to the characters on "CSI", or to Sherlock Holmes. You see, the deputy DA didn't go to "detective school", nor did he go to the "School of Hard Knocks". He went to "law school".

* The detective, who *everybody knows* has won an employee of the month award for going above and beyond the call of duty to investigate domestic violence and arrest a "batterer" to "protect" a poor woman against "that man"... This detective "isn't sure", as he states in police report XXXX "several emails", if the emails I've written are "harrassment" or a violation of item XXX of the order (general conduct).

* At the same time, he's ignoring the exculpatory and mitigating evidence I've tried to hand to him. On the one hand—the one full of bullshit—he's told me that he has "a professional responsibility to screen charges once a complaint has been filed" with regards to Ms. MacRae's complaint that I'd "violated the protective order". On the other hand—the one full of wishes——he's not opening or processing a counter-claim or complaint against her, or accepting evidence to support one! And then, my Answer and evidence from the PO hearing is conspicuously absent from the "discovery" package...

190. Such a use of a 'protective order' is expressly illegal; the trick is to catch them in the act... and simultaneously have the power to stop them. An unjust court order is still a court order, whether you're from here or not.

* "Those we do not speak of". You see, in his world view, what am I? What is she? She's "the victim" and I'm "the suspected batterer"... but *everybody knows* that since it's illegal to defraud the court... to lie to police... Well, and they don't arrest innocent people, right?

  So the detective, who "isn't sure", hands the thing over to the deputy DA. The detective has this fantasy wherein deputy DA's somehow "screen" charges... Well, not to the deputy DA *himself*, but to a secretary who hands it to a paralegal... "It" is a packet of paperwork that consists of... the detective's police report? The "evidence"?

* The deputy DA is in a hurry, and gives the packet a cursory once-over, then rubber-stamps it, flaps it onto the "done" pile, and grabs the next one, thinking about how much snow is probably falling up at Alta right then... watching the new secretary walk past... looking out the ewindow... straightening his necktie... polishing his fancy shoes... ordering a ham sandwich. Since he ass-u-me-s that the detective knows enough about it, and since there's so many cases to "screen", he doesn't think twice before signing off in the name of his two or three level's up supervisor, the DA *himself*.

* Because the DA has *command responsibility*, is it his fault when my civil rights are violated? Is it his fault that the detective work was substandard ("what is the standard", that begs...)?

* Is it the detective's fault? It's not mine... I gave him everything he needed to see the obvious *volenti non fit injuria* going on, since I showed him that she called and sent text messages to me! But then he cites "policy" and "screens it" by sending it to the deputy DA.

* He also said that "email is not the appropriate forum" for venting my frustrations with police policy or something (get exact wording for final version).

  But the deputy DA assumes that the detective did what the deputy DA thinks is the detective's job, and just rubber-stamps it?

* The magistrate judge gets a stack of warrant applications from the courier who brings them over from the DA's office. She assumes everyone did their job right, and just signs them after only a cursory once-over. And clearly, they write them in a way that wants to convince the magistrate to issue the warrant, right?

* What information does that magistrate judge get handed, in order to make that decision? How much actual "screening" is done at this stage?

* (there's more perhaps... shaggy dog story...)

* What it comes down to is that everybody does only their little part of the work of the "burrocrazy" and then hands it on to the next. Each processes a stack of paperwork; not families, but paperwork.

* All this time, did anyone even once actually sit down with me and ask what happened? (Well, I wrote it all down, and every step of the way it got ignored...? Or passed on to the next person believed to be the one responsible for doing... something... but what, exactly? about it.
* They each did what they thought they were supposed to (or expected to) do, reacting according to their training, or according to (their personal version of? or personal perception of) policy regarding "this kind of case".
* Because of "Miranda" issues, the police detective can not sit down and talk with me about it, since I'm the one charged with a crime...
* That myopic law defines only one model of conflict. It presumes that there's a "primary aggressor" and a "victim".
* It forbids court-ordered counselling.
* It probably forbids diversion programs.
* It forbids mutual protective orders.
* The protective orders are one-sided; they apply unilaterally, not bilaterally.
* The courtroom is "not the appropriate forum" for venting your frustrations about...
* What this problem begs for is not "due process of law", but for somebody to sit down with people and ask them what's the matter. It's not a "law enforcement" problem, nor is it a "domestic violence court" problem, but rather a "social worker/educator" problem.
* When people don't know how to get along with one another very well, they need to talk with and learn from other people who do know how to get along well with others.
* The police want to get in there, break up the fight and get the situation under control, and then get back out there, ready for the next 911 call or traffic ticket. They are all about "subduing the suspect", "arresting the suspect"; power and control.
* The courts are an "adversarial" system. Argueing, in a limited way; you only get 15 pages, double spaced blah blah blah; and there's 100 other cases besides yours today (ritual and boilerplate).
* Those are exactly the things that are often wrong in a relationship! Or, alternatively, since those are the "systems" that so far are who is supposed to deal with it... the neighbors are fighting, so what do you do? Walk in on them? Or call the police? So the people who operate those systems, those "social structures", have particular world views influenced by their training and the kind of work they do. And, they don't have time to educate suspects and litigants! It's not what they do!

* Ah, education. Bandaid! So the court sends the convicted "domestic violence offenders" off to classes(? welcome to woonsocket) and ~~counselling~~ group therapy. But has anyone asked him what made him so angry? Why was he beating his wife?

* It turns out that... He was NOT beating her. She called the cops to frame him.

* (More than one model of conflict needs to be investigated.)

  So what the hell good does it do to send *him* to this schooling, while not requiring her to go to it? She's the one with the "criminal thinking errors"! And the problem stems from a failure to **co**mmunicate. That takes at least two people!

  What the hell good does it do to punish him for things that are not really crimes, while allowing and even *helping* her to get away with things that clearly are?e here? (perjury, contempt, child abuse)

  The domestic squabbling or domestic bullying problem can not be treated without treating the entire family as a holistic unit.

* The process by which the 'protective order' is issued *and supported* needs to become much more carefully managed so as to investigate "frivolous and fraudulent uses of 'protective orders' for improper purposes". When someone is caught abusing someone with a fraudulent 'protective order' there needs to be immediate and serious legal consequences. *Fiat justitia ... ruat caelum*. Selective enforcement is unjust.

* Putting an innocent child's innocent father into jail for sending an innocuous SMS, rather than an email—the actual charges in 111905405 involved that trivial distinction between an SMS and an email—to the child's mother is not something our laws are supposed to be bent upon making happen. The SMS in 111905405 *did* pertain to our child! Had any of the messages evidenced for any of those warrants been overtly threatening, the information and affidavit of probable cause would *feature* that about them. None of them allege any kind of actual threats from me to her because I made no threats.

* For example, my Answer to Request for Protective Order, filed prior to the January 4, 2011 hearing on 104906439, clearly claims to *impeach* the petitioner's written testimony given in her Request for Protective Order. I feel confident that a review of the associated evidence would corroborate my opinion regarding it's impeachment of petitioner's testimony regarding the evening of December 10, 2010.

* The court and law enforcement agencies that process alleged violations of these 'protective orders' must respect the presumption of innocence; they must acknowledge that an alleged violation of a 'protective order' is not a 'strict liability' offense, and thus they must also be prepared to prove *intent*;

* They must accord the defendant with his statutorily mandated 'domestic violence' court appearance within 1 court day of arrest, and his constitutionally guaranteed preliminary examination hearing no later than 10 days from arrest; The failure of the state to accord me with the preliminary examination hearing *in timely fashion* (111902257, 111903279, 111903495, 111905405) is grounds for calling a mis-trial.

* I had to sign a "waiver of speedy trial" to get a preliminary hearing for 111902257, 111903279, and 111903495.

* The only preliminary hearing of the entire trial was held on July 12, 2011, only for the first 3 warrants.

* The first warrant, 111902257 "several emails ... pertaining to the child" was not bound over. It was ruled that the protective order allowed email without restriction on the subject matter. She is the one who emailed to me regarding things other than the child. **She was rude and I wanted to restrict the conversation** so I asked her to stick to only things pertaining our child. **That made her angry so she made a police report to get me arrested for benign email.**

* The counts in 111903495 and 111905405 involving SMS should have been dismissed—or never charged—as frivolous given that the PO allowed email. To hold onto a trivial distinction between an SMS and an email for this purpose is clearly unfair and unethical, when email is allowed **and none of the communication is alleged to be threatening violence**...

* or alluding to past violence as a means of making a threat, **unless you count her threats to have me charged with protective order violations.**

* **The "Sery" plea was coerced via an oppressive pretrial incarceration with excessive bail, and no preliminary examination hearing. During that period of time I was held in jail for two alleged third degree felonies for having written an SMS that read 'Is he back yet? I need to see him.' and for a sub-one-minute call from "unknown" she claims was me calling, *alleging nothing threatening about either communication.*** While I was held in jail, they withheld release of rule 16 discovery for a very long time, and when it was finaly available, they had no real evidence of the phone call.

* I had provided them with evidence that she initiated communication with me via SMS and voicemail, asking me to reply by any of the means 'text, email, or voicemail'.

* They had no right to have me imprisoned for that, especially not on felony charges and with no preliminary examination hearing, for frivolous complaints involving no violence or threat of violence!

* *Prima facia*, the 'information' for warrant number 111905405 did not indicate any legitimate or substantial government interest for imprisoning me *at all*, nor for setting bail at the blatantly egregious sum of $100000. "Least onerous alternative?"

* They must prove that the person is dangerous to himself or others prior to locking him up, and by some means other than by citing the *mere existance* of a protective order, or the mere fact of having been repeatedly *accused* of violating it. For example, in my case an examination of the alleged 'actus reus' would in itself indicate that there was no threat of any actual violence *per se*, and also that I was unlikley to be a flight risk due to the parental attachment with my son.

* And even if I were to "reoffend", nobody would be harmed by more non-threatening SMS, right? All I did was send a text message asking about my son, who had been in my care for most of his waking hours since he was a small baby, for whom I am the attachment parent... just a text message to his jealous and angry mother who uses a protective order to gratify her power trip and maliciously prosecute me for frivolous complaints alleging violations of a "protective" order who meanwhile is mean and frightening to our son while she keeps the courts attention on me... and they prosecute without ever reading or showing a shred of evidence on the record... so the judge takes the prosecutor's word for it, *ipse dixit*, that there's been a serious crime committed by the defendant who is not allowed to speak, presumed to be guilty, and presumed to be a dangerous flight risk, thus keeping him away from access to the evidence he needs to prove his innocence?

* The pre-trial imprisonment prevented me from marshalling the evidence I needed for my defense. I stated in writing, on the record, that I could not access the evidence without access to my own PC. I also explained why I was not a 'flight risk' or a threat. There was no need to charge bail or to hold me in jail to ensure my appearance at court. I was not a danger to myself or anyone else, including the complainant.

* There was no fair hearing on the bail amount, nor was there a preliminary hearing as required by law. Because of this, the pretrial incarceration of 111905405 prevented fair trial on the charges in 111903279 and 111903495, both of which I had bailed-out for and expected to take to a jury trial. I do not believe that I violated the protective order at all, in any of the charges.

* I had pointed out to the deputy district attorney that it would seem embarrassing to present the "walk by hellooing" and the "clown banana bread delivery" cases to a jury who may question why anyone really had to be put on trial for something that silly and frivolous.

* After all, for "walk by hellooing", I was on the same public right-of-way sidewalk I was allowed to be on for child exchange. When questioned by police she stated that she did not feel threatened or endangered by me. I behaved appropriately for a chance meeting in a

public location. I stepped aside to let her pass, and then continued towards my own home without accosting her. I see no violation of any 'protective order' here. They behaved civily towards one another. Let it be. Yet this one's now a "conviction" on my record, and that's not righteous. I committed no crime.

* For the "clown banana bread delivery" case, assuming they can prove the clown existed, the next question is was what the clown did threatening, dangerous, or illegal? **Once again, she said that she did not feel threatened or endangered. The clown did not approach until after she was securely locked inside of the building.** He did not attempt to enter the building. When he left there was some banana bread hanging from the door handle. Even if I was the clown, what the clown did was not illegal. At the preliminary examination hearing, petitioner/complainant MacRae said she did not have on her glasses but needs them to see well because she is nearsighted. Even without glasses, it's easy to tell when someone is actually dangerous... and she reported that she did not feel threatened or endangered. She trusted the clown to be benevolent, and was not afraid of him.

* The Utah Cohabitant Abuse Act is unconstitutional because it is a "bill of attainder crossed with a blanc cheque". The organizations that support these 'protective orders' are guilty of "champerty and maintenance". Thus a 'protective order' issued under this law is also a 'letter of marque and reprisal', and thus in violation of the federal constitution as well.

* Domestic "violence" detectives, state-funded victim advocate attorneys, public prosecutors, public defenders, private attorneys, jailers, proprietors of "battered women's" shelters, and providers of post-conviction mental health or cognitive restructuring programs all make easy money supporting the 'protective order' system *status quo*.

* I have a distinct impression that many of them dislike the 'protective order' system and would like to replace it with something more effective. It's an attempt to treat something with a court process that is better serviced by communication and conflict resolution experts in a social services setting.

* Interviewers will be indemnified from court testimony by doctor-client priveledge, to get around "Miranda rights" issues; to get both sides of the story to find out what's the matter and try to help without the goal being to blame males or to put somebody in jail, but the goal being to help the family work together better through communication and conflict resolution.

* So instead of forbidding counselling or education, the law should mandate it. I think there should be an early intervention of putting both of them into a classroom where they are taught a theory of communication and conflict resolution that can be utilized to reduce argumentative domestic conflicts.

* Any court ordered injunctions must be bilaterally applicable. All citizens are equal under the law (including lawyers). Perjury is perjury regardless of whether you are the petitioner, the respondent, or the state's prosecuting attorney. Don't tell lies to courts. Don't make false or misleading representations to the court.

* Any non-contact provision is invalidated impliedly when petitioner contacts respondent, on the presumption that had petitioner requested the court change the order accordingly, they would likely have granted it, and *volenti non fit injuria.*

* *Rebus sic stantibus*, they do minimal work to issue the orders, and to "investigate" and prosecute alleged violations, especially counter-complaints involving abuse *by* protective order. Right now:

* "Script kiddies" respond according to their training and fill out 'request for protective order' forms. Nothing in the system automatically verifies information entered in the form. There is language required by the statutes that is printed on every form. Why go through all of that trouble unless there's a duty to prosecute 'protective order' fraud, perjury, and contempt of court? Who's duty is that? The *pro se* non-attorney litigant's? See anyone else in the room?

* From most written accounts of it that I've read, the requests for protective orders are barely screened, and from what I gather, most are approved with little requirement for evidence. There is a great deal of outrage concerning these laws and how unfair they are. There is a "denial of service" of justice.

* They have "streamlined the process" for issuance of these so called 'protective' orders. The problem is that in "streamlining" they have removed due process protections that the legislative committee that ostensibly studied it assumed must exist as an ordinary, standard, and necessary part of the judicial process...

* From my own personal experiences here in Salt Lake City, Utah, when an alleged violation occurs, they arrest and prosecute with little regard for evidence of counterclaim, for exculpatory evidence, or for evidence impeaching their witness. The cops told me it's a "court matter" and the court never listened to a word I wrote or said.

* They did not take me to court in timely fashion. I was disallowed from presenting exculpatory evidence. Exculpatory and impeaching evidence was available right from the start, January 4, 2011.

* That evidence was disallowed at that hearing, and my in-order motion for a rule 108(d)(2) hearing was improperly denied, out-of-order, and I was expected to submit an "objection to commissioner's recommendation" in order to try and obtain the hearing of right described by rule 108(d)(2)!

It is unlawful to fail to prosecute the CPS caseworker who denied evidence of my son's mothers abuse of our son. She should be disallowed from ever working as a child protective services worker again. (Also see item IV.P. of the aformentioned motion to dismiss.)

* It was unlawful for the state to prosecute me for communicating via SMS messages under a 'protective order' that allowed email (111903495, 111905405). A trivial distinction between one form of electronically transmitted written communication and another is unlawful.

* It was unlawful for the court to set excessive bail ($10000 for 111902257, and $100000 for 111905405) and then hold me in jail without according me with a constitutionally guaranteed preliminary examination hearing in timely fashion persuant to URCrP rule 7(h). (111902257, 111905405) Additionally, they failed to take me to court within one judicial day after the arrest, as required by Utah Code §77-36-2.6(1). That appearance is to ensure speedy trial for immediate scheduling of a preliminary examination hearing especially in cases of false accusation.

* It was unlawful for the public defender to effectively coerce me to move for "mental health court" in 111905405. I was not given notice of it. He surprised me with wanting me to sign paperword for the motion just before entering the courtroom. It was against my instructions, because I told him that I wanted a preliminary hearing. My past experience with the mental health system and courts is that if I don't sign "voluntarily" they'll just move for involuntary commitment. I had to sit in jail for 8 weeks while they tried to obtain records I knew they'd not find.

* It was unlawful for the state to fail to disclose the rule 16 discovery prior to expecting me to enter a plea. Don't they need to use it to obtain the warrant anyway? Certainly they must disclose it for the preliminary examination hearing, which is supposed to happen no later than 10 days from arrest. But in 111905405 that information was not made available until October 11, 2011. The warrant was issued on July 22, 2011, and was recalled (I was arrested) on August 11, 2011. The bail was impossible to come up with, and I could not prove to my jail visitors that I had not really done anything bad, since I had no discovery documents to show to anyone. I think "oppressive pretrial incarceration" is an apt description. All I did was send an SMS wanting to see my son, and the PO allowed email.

* It was unlawful for them to treat the alleged violations of protective order as though the offense carries a 'strict liability'. The state must prove *mens rea*. They must consider exculpatory evidence. The common law doctrine of *volenti non fit injuria* must be applied such that when she communicates with me or visits my home, the protective order provisions that would otherwise apply are invalidated by that.

* It was unlawful for the court to issue a pretrial criminal protective order (111903279, 111903495) that further restricted my son's right to his father and my right to communicate with his mother. They issued it without notice or due process. I was never charged with violation of the pre-trial PO, only the cohabitant abuse act one, but there may have been some confusion if the judge believed it to be one protective order or the other; but in either case, alleged violation of the protective order is not a strict-liability offense.

* It is improper for a court to issue a restraining order that prevents communication between a child's parents. Communication through a third party is impracticable, as is a restriction to use email that forbids SMS, since direct communication and real-time immediate communication are required. *Necessitas inducit privelegium quoad jura privata.*

IN THE THIRD JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH
SALT LAKE DEPARTMENT

KARL MARTIN HEGBLOOM,	:	**ORDER REQUIRING RESPONDENT'S ANSWER**
Petitioner,	:	
vs.	:	
STATE OF UTAH	:	**Case No.160901179**
Respondent.	:	**Judge Vernice S. Trease**

Petitioner has filed a Petition for Post-Conviction Relief pursuant to Rule 65C, Utah Rules Civil Procedure.

The Court has reviewed the Petition and determined that the Petition is not frivolous on its face. The clerk of the court shall serve a copy of the Petition, and any supporting documents on Respondent, represented by the SALT LAKE DISTRICT ATTORNEY'S OFFICE.1 The Respondent is granted thirty (30) days from the date of this Minute Entry (plus the days for mailing), to file an Answer or otherwise respond to the Petition.

This Order shall stand as the order of the court on this issue; no further order is required.

Dated this 23rd day of February, 2016.

Vernice S. Trease
Third District Court

1 The underlying conviction is a misdemeanor prosecuted by the Salt Lake District Attorney's Office and therefore, the Court pursuant to Rule 65C(h)(4)(i) the Respondent would be represented by the SLDA's Office. If this is in error, the parties may notify the Court by written filing.

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 160901179 by the method and on the date specified.

MAIL: KARL MARTIN HEGBLOOM 133 C STREET APT 3 SALT LAKE CITY, UT 84103

Date: 02/24/2016

/s/ AMY BAUGHMAN

Deputy Court Clerk

[16 090 1179, Hegbloom v State of Utah, PCRA rule 65C] Links to documents and disc images.

1 message

Karl Hegbloom <karl.hegbloom@gmail.com> Tue, Mar 1, 2016 at 11:14
To: districtAttorney@slco.org

To whom it may concern,

Please forward this email to the person who will handle case number 16 090 1179, Hegbloom v State, a rule 65C petition for relief under the Utah postconviction remedies act. I would like you to also forward a copy to Mr. Sim Gill, himself, and see if he would like to submit it to your "internal affairs" department. The long memorandum + affidavit entitled "Petition for Writ of Error Coram Nobis" contains evidence and testimony (for "an information") regarding laws broken by prosecutors who work for the Salt Lake District Attorney. This is no joke, at all. Don't ever doubt that people in my position meet others who have had similar experiences. We are not powerless. Title 18 USC §241-241 are not going to be "shadows of paper tigers" any longer, or people will be saying "Welcome to Salt Lake City, Utah, the *former* Olympic Village, where we have such high standards of injustice, that even the courts cheat!". I doubt if the majority of the populace here will just "raise their hand in consent" to having prosecutors, judges, victim advocates, public defenders, bailiffs, and detectives get away with the kind of conduct that I am testifying to in that document.

I filed this by mail, and sent it to your civil division. I think I was supposed to send it to your criminal division. Is that correct? Please respond and tell me the correct address for me to submit things like that.

https://www.dropbox.com/s/3sfh6vmummvsf8f/2016-02-26_160901179_Notice_to_Allow_Extra_Time_if_Needed.pdf?dl=0

Also, I have a change of address to report. Please ensure that the "Answer" is sent to the new address, since the postal service will not continue to forward mail beyond a certain length of time. I plan to submit a formal change of address through the court, but have not had a chance to print it yet. My new snail-mail address is:

Karl Martin Hegbloom, Esq. ✠
P.O. Box 1441
Salt Lake City, Utah 84110

These are "iso" images, to be written to DVD or, alternatively and probably more useful since it provides faster access, mounted as virtual discs. The first is a data disc, the second is a DVD player disc. This is the "remastered" disc set mentioned by the "Novice to Allow Extra Time if Needed" document, above. I moved the > 2Gib file off onto it's own DVD player disc, because my son's mother's attorney had trouble with the original disc not working right; the very large file may have caused the incompatibility. (I don't choose the hash, Dropbox does, so ignore the funny string inside the first one's hash-function-generated directory name.)

https://www.dropbox.com/s/zmpornptc6lsb4n/2016-02-16_Hegbloom_PCRA.iso?dl=0
https://www.dropbox.com/s/o2a6rflc5hnpnwr/2010-12-10_PICT0001.iso?dl=0

This is a link to the document that I printed the first three pages and the signature page of, and submitted on the first disc, above, as an attachment to 16 090 1179, and included by reference in 16 090 1178,1180. Because I did not print it, since it's very long and more useful as a PDF anyway, the court clerks are giving me trouble with regards to filing it. It can not be ignored. It's more important than the form-pleadings that include it by reference and attachment. The evidence on the disc is vital as well, since it supports the claims made within the document.

Since attorneys can e-file now, it's obvious that the court's document management system can in some way

accept a PDF delivered to it via a source other than a scanner. Printing then scanning the document is a waste of paper and storage space. If anyone reading this knows somebody in I.T. who can assist the court clerks with accepting an electronically submitted document, please take the initiative to help them with it. A policy and procedure for doing that seems appropriate. Greenfiling says that in other states, a pro se litigant can e-file, but that in Utah, the court has decided that it's "against policy".

Because the framely court refused to consider or grant my motion for control of my SSDI dependant benefit and arrears of child care expenses, I was unable to afford to move in to a new apartment when the lease expired on the one I've lived in for the last 6 years. The building was sold to a new property owner who wants to renovate the apartment (it needs it) and then charge "market rates" for it, so they declined to renew my lease. Apartments want me to have gross income that is 3x the rent, and there are no apartments that I can find in the price range I can afford. So, I'm "on the street" and do not have easy access to my scanner+printer any longer. I can not simply print the document and submit it on paper. In order to have "meaninful access to the courts" *See e.g. Griffin v. Illinois, 351 US 12 (United States|US Supreme Court 1956), Douglas v. California, 372 US 353 (US Supreme Court 1963), Ross v. Moffitt, 417 US 600 (US Supreme Court 1974), Little v. Streater, 452 US 1 (US Supreme Court 1981).*

Please exert whatever influence you have to ensure (not censure) that this document is filed on the record. I think you'll agree that it's significant, important, and not properly to be abridged.

https://www.dropbox.com/s/mnapxvootj218ts/2016-02-16_104906439_Petition_for_Writ_of_Error_Coram_Nobis.pdf?dl=0

Just to be sure, I brought that in to file it on February 16, 2016. The notice from the Utah Supreme Court denying the petition for certiorari was issued and mailed on the 12th, and the 15th was a holiday. When I brought the document in, I was told by the court clerk that I had to fill out a separate PCRA form-pleading for each case, and I had to fill out a separate fee-waiver form for each one as well. Rule 65C allows 21 days to correct a deficient pleading. Also see *Julian v. State*, 966 P. 2d 249 (Utah Supreme Court 1998), Nathan Marigoni, Unrepresented and Untimely: The PCRA's Disservice to Indigent Prisoners, Utah L. Rev. OnLaw (2013).

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Karl.Hegbloom@gmail.com
http://karlhegbloom.blogspot.com

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Proceeding *pro se*.

IN THE THIRD JUDICIAL DISTRICT COURT, SALT LAKE COUNTY, STATE OF UTAH
Third District Court, 450 South State Street, Salt Lake City, Utah 84114

Karl Martin Hegbloom, Petitioner, vs. Salt Lake District Attorney, Respondent.	Motion of Petitioner for Acceptance for Filing of Long Document in Electronic Format Civil Case: **160901179**, (1178, 1180) Judge: Vernice S. Trease

Pax domine, hear now: appeareth Karl Martin Hegbloom, Esq., a peer of the common law realm of the State of Utah, Petitioner, *pro se*, with this MOTION OF PETITIONER FOR ACCEPTANCE FOR FILING OF LONG DOCUMENT IN ELECTRONIC FORMAT.

¶1 Bar licenced attorneys are *required* to file electronically now. That means that they are submitting the original PDF or RTF files produced by whatever document production software they use. This has a number of advantages to the court. The file as stored in the document management system is *much* smaller than the one produced by scanning a paper document. The paper and ink or toner used by printing is conserved. The document is searchable, without requiring an optical character recognition step. It is also possible to use PDF annotation software to highlight portions of the text, and make notes that become part of that copy of the document. A scanned document does not as easily support that feature because in order to make it possible, it must be OCR'd so that the text-line's bounding boxes are known.

¶2 According to Greenfiling,[1] several other states allow non-attorney *pro se* litigants to e-file. I was told that there is nothing about the e-filing network protocol or server software to disallow e-filing by *pro se* litigants, and that it's a local policy decision made by the Utah courts. I believe this policy is an error, and that it violates constitutional rights under, *e.g.,* the Utah Constitution's Article I, Section 11 «*Courts open – redress of injuries.*», Article I, Section 7 «*Due process of law.*», Article I, Section 24 «*Uniform operation of laws.*», and Article I, Section 3 «*Utah inseparable from the Union.*»; and the United States Constitution's,

1. http://www.greenfiling.com/

14th amendment's *Equal protection clause*, as well as it's *Due process clause*.

¶3 The reasoning is similar to that in *e.g., Griffin v. Illinois*, 351 US 12 (US Sup. Ct. 1956), *Douglas v. California*, 372 US 353 (US Sup. Ct. 1963), and *Ross v. Moffitt*, 417 US 600 (US Sup. Ct. 1974), which define "meaningful access to judicial proceedings". Russell W. Galloway Jr, *Basic Equal Protection Analysis*, 29 Santa Clara L. Rev. 121, 156 (1989). *Cf. Little v. Streater*, 452 US 1 (US Sup. Ct. 1981). There is a suspect or semi-suspect classification that exists, *in effect*, based on the economic and educational status of the litigants, and at the same time, fundamental rights are implicated. This means that the *strict scrutiny* analysis must be applied, because there is a presumption of unconstitutionality.

> «In *Ross v. Moffitt*, '88 the Burger Court cut back on the Griffin-Douglas rule by holding that the government need not provide equal access but only meaningful access (*i.e.,* the opportunity for meaningful consideration of indigents' claims). In 1985, the Court suggested that the constitutional foundation of this right of access is not equal protection but rather the due process requirement of fundamental fairness.[2] The government, the Court held, may not have to provide the procedural protection in the first place, but if it chooses to adopt the procedure, fundamental fairness requires that indigents be allowed meaningful access.», R. Galloway Jr., *ibid.*

¶4 I can not afford to hire an attorney who could e-file. Additionally, due to the nature of my complaint, I do not *want* an attorney to represent me in this matter, not even *pro bono*. Due to circumstances beyond my control, I am presently "on the street", and do not have easy access to my printer. Even if I had access to a printer, it is unreasonable to print the document only to have it be scanned into the court's document management system, when I can more easily provide the document as a native PDF on a disc. Because the court's document management system can already accept a PDF submitted electronically, there's no reason why it can not accept one copied from a disc, vs. scanned from a paper document. The document was notarized, and I did print the signature page, which can be scanned and filed with the PDF to provide evidence of my affirmation, as the author of the document, that it commits no perjury. (It certainly *complains of* serious perjuries committed in trials against me!)

¶5 As for the court's *informal* complaint[3] regarding the *length* of the document in question, I would like to point out the argument I've already made regarding this issue. On March 3rd, 2015 in case number 104906439, I filed Objection of Respondent to Commissioner's Recommendation regarding "rewrite" of "arguement". I hereby include that document by reference, trusting that yous may easily retrieve it from the document management system. In brief, I have the *right to be heard*, and to present my case *in full*.

2. R. Galloway Jr.'s footnote 184. *Ake v. Oklahoma*, 470 U.S. 68 (1985); *cf. Little v. Streater*, 452 U.S. 1 (1981) (due process requires free blood-grouping test for indigent defendant in paternity suit).

3. Email with court clerk Sierra Sivertson, March 1st, 2016.

The amount of material needing to be considered is a function of the amount of *misconduct* and the *length of the protracted time period over which it occurred*. I am not the one who broke the laws. I am the victim or "target". If the "same court" that *did* break the laws—by ignoring evidence—gets to decide against allowing me to file a document testifying to that misconduct, then truly, the integrity of the judicial process is already doomed.

¶6 *One can not be a judge in one's own cause.* All judicial rulings must be capable of withstanding review. This is one of those times when *an absence of evidence is evidence*, not of absence of proof of guilt... but of *misfeasance* perpetrated by negligent court officers. Judge Trease, I hope you are not the one who did that. If you are, then you must recuse yourself and let someone else take this. I think that you heard *one* hearing out of all of the ones held in the cases being challenged, and to my recollection, did nothing wrong. In fact, I believe it was you who allowed me to speak, when I spoke up about "using my words." Please allow me to continue to do so, in writing, by accepting the "overlong" memorandum *entitled* Petition for Writ of Error Coram Nobis, but *called* Memorandum of Points and Authorities to Accompany Petitions for Relief under the Post-conviction Remedies Act. (Hopefully we won't be putting sardonic emphasis upon the word "act" in *that* law's title the way I do for the "Cohabitant Abuse *Act*".)

Pax et Bonum, _____

Karl Martin Hegbloom, Esq. ✠

Certificate of Mailing or Service

I certify that a true and correct copy of the foregoing:

Motion of Petitioner for
Acceptance for Filing of
Long Document in Electronic Format

was mailed or hand-delivered to:

Sim Gill, Salt Lake District Attorney.
c/o Salt Lake District Attorney's Office, Justice Division
111 East Broadway Suite 400
Salt Lake City, Utah 84111
Respondent.

This document was mailed or hand delivered on _____.

Karl Martin Hegbloom, Esq. ✠

[160901178, 160901180; Hegbloom v State] Disc and documents?

1 message

Karl Hegbloom <karl.hegbloom@gmail.com> Thu, Mar 24, 2016 at 17:15
To: sierras@utcourts.gov, Salt Lake County District Attorney <districtattorney@slco.org>

Attn: Judge Kouris
Attn: cc District Attorney

I filed for post conviction remedies on 2016-02-16. Case numbers 160901178 and 160901180 were assigned to Judge Kouris. I have not heard anything at all in response, and so I'm writing to you (his judicial assistant) to try and find out what's going on with it.

I did receive a response for case number 160901179, which got assigned to Judge Trease. When I received the notice, and for the middle case number of the three consecutive numbers, I assumed that they had been consolidated into one case or something. It turns out that the oldest case I'm challenging is the middle case number for these rule 65c actions. Probably the other two are not in-order by case number sorting also. I guess it doesn't matter but it's confusing.

Judge Trease served the district attorney with only part of the documents that I filed. There's a snafu hassle over filing the memorandum in support since I filed it on disc. Because of that, I filed a motion to accept the disc and document electronically. Judge Trease and her clerical team have effectively granted that motion by accepting an emailed PDF of that document. It should now be filed and available for review.

That memorandum is included by reference by these other two cases. So it should be filed in case number 160901179, and available to you now.

What is the status of these two cases? I have not received anything on either one. I filed a notice to allow an extra 30 days for the state's response in 160901179. I meant it to be applied to all three cases, assuming that they were all assigned to the same judge and state's attorney.

Please notice the change of address. Again, assuming that they'd been consolidated, I did not file change of address in each of these cases until yesterday. Can you please send me PDF of anything that's been filed by the judge or by the state prior to today? Also, if possible, I would like to have electronic (email) service of any future documents since I'm "backpacking" right now and can't check my mail every day, but can check email easily.

Thank you.

Cc: Clerk for Judge Kouris, and the Salt Lake District Attorney's office via email.

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Karl.Hegbloom@gmail.com
http://karlhegbloom.blogspot.com

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Proceeding *pro se*.

IN THE THIRD JUDICIAL DISTRICT COURT, SALT LAKE COUNTY, STATE OF UTAH
Third District Court, 450 South State Street, Salt Lake City, Utah 84114

Karl Martin Hegbloom, Petitioner, vs. Kasey Diane MacRae, Respondent.	Petitioner's Answer to Respondent's Rule 26(a)(5) Pre-trial Disclosures Civil Case: 094903235 CS Judge: Paige Petersen

Pax domine, hear now: appeareth Karl Martin Hegbloom, Esq., a peer of the common law realm of the State of Utah, Petitioner, *pro se*, with this PETITIONER'S ANSWER TO RESPONDENT'S RULE 26(A)(5) PRE-TRIAL DISCLOSURES.

¶1 With regards to respondent's items 1–3, I have no objections regarding any of the witnesses named by the respondent.

¶2 Her items 4 & 5 *both* refer to exhibit "A", when I would expect to see a separate list for each item. It is impossible for me to know which of the exhibits are intended for item 4, that she "will display", or for item 5, that she "may display".

1 Exhibit 1, Respondent Exhibit List

1.¶1 I find no exhibit "A"; her exhibits begin with a page bearing the text "Exhibit 1". They are physically sectioned by full-page titles, without letters or numbers. Despite that I was provided with a PDF, there is no numbered *or* clickable table of contents, nor any PDF bookmarks to facilitate navigation of the document. In order to facilitate working with the exhibits that I was provided with, I split the PDF document into a separate file for each of the multiple sub-documents. Splitting the document loses the original automatically generated PDF page numbering, since each separate document starts counting from page 1 again. The pages of the exhibits portion of her PDF are *watermarked* with page numbers (*e.g.,* "Exhibits 000001") Those watermarks are *attached* to each page of the PDF. Their numbering remains stable across splitting of the document, and so I will refer to pages of her exhibits by that watermarked number rather than by the page number relative to the start of the original

document.

1.¶2 The section headings given by the "Respondent Exhibit List" do not correspond with the actual section headings in the exhibits attachment. The difference between these is that "Custody" is not a heading in the exhibits, "Physical Custody" is not present, but in it's place is "Legal Custody", and where in the list she has "Parent-Time", the section heading in the exhibits is "Legal Custody: Parent Time". It is obvious that she formed the list by-hand. Using a software generated table-of-contents would have been a simpler way of managing it. Aside from the differences in the section headings, I think there are items in the listing that are not part of the included exhibits.

2 Legal Custody

2.¶1 :2015-06-02-10-50 Email from Kasey re Medicaid Card and cancellation fee: (Exhibits 000005) I got a reminder phone call from the Child's Place Dental clinic, where Kody had previously been a patient. Because I had Medicaid coverage for him, I made an appointment. Kasey got in a snit over it and refused to take him to it.[1] She insisted on taking him to a different dentist who is too far south of here for it to be practical for me to take him to the appointments. The Child's Place Dental is across from the 400 South Smith's grocery store and easy for me to take him to. She would not let me take him to it either, and then complained when she had to pay the fee. She could have simply taken him to them or allowed me to, and Medicaid would have covered it.[2]

2.¶2 : 2010-10-01-13-30 Email from Kasey re voicemail from Douchebag: (Exhibits 00000{6,7}) Obviously enough, from the subject heading alone, this is evidence of her disrespectful and irreverent attitude towards me. This is not evidence of anything that I've allegedly done. It's only her vile words. She is often angry and verbally abusive.

2.¶3 : 2015-11-17 Email from Kasey re photos of drawing on Kody: (Exhibits 00000{8–12}) This is already discussed in the answer to one of the trial documents she filed when she reopened this custody lawsuit in retaliation after I kept our son away from her after witnessing her pushing him into his car seat with her feet. He used markers that she gave to him. I do not let him have my sharpie markers that I use for writing labels on DVD discs. He had already drawn on himself before I noticed it. It was harmless. He wanted me to draw the heart-man rune on him, so I did it. It all washed off.

2.¶3.1 She is sending an email with photos of alleged "abuse" by me, which is reminiscent of the email that I'd sent to Maxine Plewe of DCFS, which contained photos of Kody's very

1. Later she actually took the Medicaid card from me and then never returned it. The day she did that, she assaulted me in front of our son. This was the subject of a Rule 100a notice. She plead guilty to the assault.

2. It's unfair that they'll cover either him or me, but not both of us, and that they only cover dental care for pregnant females and children.

bruised (almost broken) nose, as well as an email from Kasey forwarded to me by Dustin Weise, wherein Kasey confesses to hurting Kody. (I will include it as an exhibit in my own Rule 26(a)(5) disclosure document.) Kody told me that she had picked him up by one leg and swung him around, bonking his nose against the couch. She hurts him when she is angry. I think that she is drinking when she does these things.

3 [*Alleged*] Mental Illness [of Conscientious Objector]

3.¶1 Respondent has also been alleged to be "mentally ill", with about the same level of or sort of evidentiary standard as the allegations regarding my own alleged mental illness, which I will address below. From what I can tell... DCFS has little more than *less than reliable hearsay* regarding it. It is also worth noting that under the law, a mere "diagnosis of mental illness" is, in and of itself, not considered grounds for termination of parental rights. Thus, it is not logically pertinent as a *primary* proposition, unless it is part of an attempted *ad hominem* attack. The problem is that it's not necessarily the case that DCFS personel are trained to notice such things, and so there is the potential for *epistemic injustice* that could easily create bias against the subject of the report. The use of an *ad hominem* attack is considered to be a tactical mistake, since it reflects poorly upon the person attempting the *ab hominem*, more than upon the subject of the attack. This is why political "attack ads" very often backfire and lose elections. The other problem with this sort of statement is that it can distract attention away from the *real* or more important issues, in part by putting the subject "on the defensive". Certainly it is difficult to ignore a statement that attempts to discredit one's little ability to know things and to reason...

3.¶2: 2010-05-03-14-03 Email from Karl re Immaculate Deceptions:
(Exhibits 0000{14–19}) I don't see this "proving" any kind of mental illness. Everyone gets a little paranoid from time to time. I was stating *hypotheses* as though I thought of them as facts, and that is an error in the way I expressed myself in that email. I was drawing from fears and from things she wrote about in her personal journal, which she had left open on the bed. The journal page wherein she confesses to attacking me to try and get me to beat her up starts out with a statement regarding her inability to communicate with me. I believe she left the journal open on the bed to that page for that reason, expecting me to read it, perhaps as her way of trying to open up and be more intimate... though some statements she makes put that seriously into question. She said that she was using me for financial gain in one page. I took it as self-honesty, and that she probably wanted me to read it as just another attempt to anger me.

3.¶3: 2009-10-10-18-41 Email from Karl re Circumcision Video:
(Exhibits 0000{20–22}) This demonstrates that I did not "change my story" later on, when

I wrote the Layman's Legal Filing Covering Several Topics wherein I described the "hair pulling" that was certainly *not* a "choking" in greater detail. Kasey has changed her story on that by accusing me, at least in private email, of "choking" her. Choking is very different from putting a finger across someone's lips. She did not speak the truth when she claimed that I had put my hand on her throat. It was not ever on her throat. I remember it because the same day in the EMT-B class I was taking we had learned the "jaw thrust", and that's how my hand was on her chin, only my index finger extended to "shush" her until I finished speaking. The police said that she did not appear to be physically harmed.
3.¶3.1 Had I actually "choked" her, she would have serious bruises, assuming a breathing-choke, or would have been passed out and unable to call 911, assuming a blood-choke. She was quite able to speak when she was on the phone to them, and had they preserved a 911 call recording for evidence, my voice would be clearly audible in the background, actually spelling my own last name. That's crazy, right? If I'd known I'd harmed her I think I'd have been less interested in revealing my identity and more intent on either shutting her up or getting out of there faster... but I know I did not harm her, and that what happened was not an assault.
3.¶3.2 The primary theme in this email was in fact reconciliation, or at least "parley". I was trying to patch things up, using my words. I think that speaks in my favor.

3.¶4 : State v. K.H. 179 OrApp 86 (2002): (Exhibits 0000{23–25}) There is no *certain* indication within 'the document'[3] that the "K.H." it refers to is or was *actually* me, nor whether the character projected by the court is or was anything like an *accurate* "mental model" of "K.H.", nor certainly of *me*. The appellant's full name has been redacted and is not part of the record. The case does not show up at Google Scholar, and probably should not, given the privacy redaction, subject matter, and low likelihood of it's actual validity. In light of my experiences here in Salt Lake City, Utah, I can speak regarding the case presented by the document, State v. K.H. 179 OrApp 86 (2002).
3.¶4.1 The attempt to use the document against *me* in the particular context of *this* Parentage action[4] is—***if*** *we presume for the sake of argument* that I *am* "K.H."...—conceivably the reason it exists to begin with. I'm guessing that it is not quite the very thin *edge* of the long long wedge, which likely passed under the welcome mat sometime previous to this 2002 case... here we *can see it* beginning to attempt to nudge the careless observer over the edge onto the slipperly slope of supposedly valid *res judica* that supposedly "proves" that the man they tried to disappear into a mental health "court", here in Salt Lake City, Utah—while blatantly ignoring exculpatory and mitigating *evidence*[5]—was the *dangerous* person.

3. Hereinafter within §3.¶4, I shall refer to 'State v. K.H. 179 OrApp 86 (2002)' as provided by respondent, it's first page watermarked "Exhibits 000023" in it's lower right corner, as 'the document'.

4. This *context* that I refer to includes allegations of having "violated a protective order", and etc. etc. etc., all detailed in other documents that have been "conveniently" too long to read...?

3.¶4.2 In my *educated and experienced* opinion[6], it's the perpetrators of these sort of crimes against rights that are the true danger to society, especially when they construct and then try to use this sort of barratrous «"foundation for a prediction of future dangerousness"» while simultaneously *ignoring and suppressing* evidence showing that my *accuser*—who is probably their *other target*—was the one who had demonstrated behaviour that really is a "foundation for a prediction of future dangerousness", and so in the process of doing this, establish a "foundation for prediction of [their own] future dangerousness" as perpetrators of crimes against rights and public law; and all of that in the context of a set of bogus cases against me that were, *on their face*, frivolous and unsupported[7], thus creating credible support for a theory of the likelihood of their own future dangerousness!

3.¶4.3 Again refering to the document, I assert that a "finding" of this nature by a "court" is suspect. They are pretending to have «ample evidence» when in reality all they present is *unchallenged hearsay* given by a solitary "expert witness" who has, quite conceivably, a *perverse incentive* to create another "captive paying customer" for his hospital's "business". There is no mention of there ever having been a jury of Oregon citizens as *trier of fact*, and so we must assume that it was a small and potentially closed hearing. It was presented before a *pro tem* judge.[8] After my experiences with the court here in Salt Lake City, I question whether the *names* of the people who supposedly appeared or conducted the commitment hearing were correctly recorded; whether the person acting as a *pro tem* "judge" was someone who legally had the authority to preside over the hearing; and even whether the person actually there that day really was who he claimed to be! Were there cameras in *that* courtroom? Because the case was heard in 2001, it is unlikely that audio or video recordings are still on record, even if any ever existed to begin with.

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5. By *evidence* I mean substantial *documentary* evidence in (legally) "written" form: video, audio recordings, email, and SMS messages.

6. In "Opinion" vs. "Belief", we have *by definition* that an "opinion" is stronger than a mere "belief". But before some *thing* a person is claiming to be an *opinion* vs. a *belief* can be taken as such, that person must establish per 'credentials' through fully supporting the opinion with verifiable factual claims. «The obligation imposed on judges by the common law to explain the reasons for their decisions necessitates that the proffered explanations be complete and candid. The value of a judge's statement of reasons for a decision is lost if the judge does not state those reasons accurately: "The danger is that this duty of exposition can be evaded. It requires candor from judges in addressing the strongest arguments against their views... The duty of exposition seeks to remind the judge that the power to do something is not the same as the right to do it—that right can be earned, if at all, through reason." –Edlin, Douglas E., Judges and Unjust Laws: Common Law Constitutionalism and the Foundations of Judicial Review (Univ. of Mich. Press 2008) at p118.

7. Accord: Petition of Respondent for Writ of Error Coram Nobis, filed February 16, 2016, in case 104906439, and on February 18, 2016 in cases 160901178, 160901179, and 160901180, petitioning for postconviction remedies pertaining to criminal cases 091908046 "alleged attempted assault of a pregnant person", 091903279 and 111903495, "alleged violations of protective order 104906439", with associated supporting evidence.

8. Wikipedia says that the term *pro tem* is «[a]lso used in judicial courts when attorneys that volunteers in a preceding are called ''judge pro temp"». Apparently "Prof. Leroy J. Tornquist" can be *hired* for $950 per day. Ironically perhaps, he wrote a book on evidence law: Leroy J. Tornquist, Evidence Manual (Reed 1980). `https://books.google.com/books?id=vwQuGwAACAAJ` I wonder what it has to say about *hearsay*?

3.¶4.4 They state—both explicitly and implicitly—that "K.H." had *not* ever caused harm to anyone—he had committed no crime. If he had any history of violent crimes, they most certainly would have listed those as part of the documentation of this case. They make no mention of him having comitted *any* crimes. It says that he was employed part-time at «Portland State University's computer center». Presumably, people there would know him. Did the "investigator" ever go there and actually speak with anyone about him? Did he speak with anyone who *actually knew "K.H."*, or perhaps with people who *acted like they knew him but did not*? Were they people who could be trusted to give an *honest* opinion, or were they people who had a rivalrous "relationship" with him?[9] Would the investigator and the interviewee both be talking about the same individual, or could a mistake of identity occur?

3.¶4.5 Was or is there a documentary recording of depositional interviews of those *hypothetical witnesses*? Are there documents signed by the deposed witnesses affirming the veracity of their statements, under penalty of perjury? Was "K.H." given the opportunity to confront those witnesses? Clearly he had the right to do so, since the fundamental liberty interest of his personal reputation and liberty were at stake, and a commitment hearing is a government action. Also, after my experiences here in Salt Lake City, with DCFS officer Maxine Plewe, SLPD officer Robert Woodbury, and others,[10] I have serious doubts as to whether any real "investigation" (in the active sense) was *ever* conducted *"at all"*, much less conducted after a fashion that maintains careful documentation—"chain of custody"—of who was interviewed, *deposed*, brought to court as witnesses, or of any documentary evidence to support the claims being made about the defendant, above and beyond the call of 911... so to speak; but it appears that in the case in question, "K.H." was *not* a suspect in any criminal investigation, and the only "witness" against him appears to have been a "mental health investigator" who apparently wrote a report, perhaps after interviewing "K.H." at the hospital that "investigator" was employed by?

3.¶4.6 From the standpoint of *pragmatics*[11] and *cognitive bias*, how well did "K.H." communicate his concerns to the "mental health investigator"? How well did that person correctly interpret the words "K.H." actually spoke *vis a vis* what "K.H." actually *meant* to say? How

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9. Perhaps this sort of *actual* investigation is somewhat of a "mission impossible" hiding under a $25000^{.00}$ Red Fedora?

10. Documented in the "long affidavit" for dismissal of "protective" order 104906439 as well as by the PETITION FOR WRIT OF ERROR CORAM NOBIS, with their associated supporting documentary evidence discs.

11. «**Pragmatics** is a subfield of linguistics and semiotics that studies the ways in which context contributes to meaning. Pragmatics encompasses speech act theory, conversational implicature, talk in interaction and other approaches to language behavior in philosophy, sociology, linguistics and anthropology.[1] Unlike semantics, which examines meaning that is conventional or "coded" in a given language, pragmatics studies how the transmission of meaning depends not only on structural and linguistic knowledge (e.g., grammar, lexicon, etc.) of the speaker and listener, but also on the context of the utterance, any pre-existing knowledge about those involved, the inferred intent of the speaker, and other factors.[2] In this respect, pragmatics explains how language users are able to overcome apparent ambiguity, since meaning relies on the manner, place, time etc. of an utterance»⟶ Wikipedia, accessed 2016-03-19.

well handled was the *chain of custody* of "that interview", again, in terms of *pragmatics* and *fidelity of information transfer*, taking into account both the *presumptive verbal communication skill of* "K.H." *at the time*, as well as the *presumptive listening and transcription skills of the interviewer*? What are appropriate and fair presumptions in this context? In my opinion, for the reasons stated, the document is as much a form of *unreliable hearsay* as was the REQUEST FOR PROTECTIVE ORDER and the PROTECTIVE ORDER itself in 104906439, since that Utah Third District "Court" "process" did *not include confrontation*, nor did it include any legitimate *verification of factual claims* that were, *presumptively*, the foundation of the "judicial decision" to issue the "protective" order.

> «At the commitment hearing, appellant testified that "the person who is causing the disturbance [in his head] is probably mentally ill" but that he himself was not. He stated that
>
> > "[t]here is someone in this community in Portland that's causing me and others to have fits, emotional fits like temper tantrums. It's like someone else is angry examine [sic] causing me to move * * * and trying to make me hit myself and hassle me and things like that. I don't want anything to do with that person. I want them to leave me alone."
>
> Dr. McCubbin, a mental health examiner, questioned appellant during the proceeding. He asked appellant whether the other person ever made him want to kick children. Appellant responded that
>
> > "that's something I experienced once or twice in my life walking down the street in a crowd and there is people with baby buggies. And there [are] people around that don't want others to have children. And I don't-I'm just walking by. I don't want anything to do with it. And there is this idea in my mind. It's not me. I don't like it."
>
> Appellant stated that he had been forced to take medication before but it only made things worse, not better. Further, according to appellant, the "best treatment and the only known cure for schizophrenia is a college education." Appellant commented that he would like to receive a college education, but he did not think that he needed any kind of treatment for mental illness.»

3.¶4.7 Notice that the appellant did *not ever say, in any quoted statement,* that he "want[ed] to kick children". Those words and that semantics was *imputed* by the "mental health examiner"[12] and the person who wrote this appellate court opinion. Also notice that "K.H." states that *whatever he is responding to when this quotation begins* is «something [he] experienced once or twice in [his] life», not something that was intensifying or getting worse to the point where he was «[finding it] increasingly difficult [to fend it off]». For example, the statement «He [...] has stated that voices make him want to do things, such as kick children, even though he himself does not want to do the things that the voices tell him to do» **is not a**

12. At wellness.com, I find three listings for a "Dr. Jerry E. McCubbin, PhD." in Portland, Oregon, all at the same address and suite number. He advertises as a "counselor", a "psychologist", and as a "chiropractor". The address appears to be non-ground-floor in a large luxury apartment building rather than a "medical-mall" clinic suite. I could not locate any Dr. Mohler in the Portland, Oregon area.

***direct quote* of something the appellant spoke**. It's a misdirecting "restatement" that reflects another person's *slant*.

3.¶4.8 If «he himself does not want to do the things that the voices tell him to do», and has never acted on any of the voices' commands to do *bad* things, then he's actually *unlikely* to be a danger to anyone, because that demonstrates that he exercises the process of mind which filters out the bad ideas from the good ones. Presumeably, he will get *better* at that with practice, and so will find it increasingly *less* difficult.

3.¶4.9 A "mental health *investigator*" who only gets paid when he makes a "diagnosis" that puts a patient into his care is not *likely to be* a person who's judgement can be trusted, whether confronted or unconfronted. The statement «[t]he pre-commitment investigator commented that controlling those impulses is becoming increasingly difficult for appellant» is *not* a direct quotation of anything the *appellant* actually spoke either. It is doubtful that the "pre-commitment investigator" was someone who actually *knew* "K.H.". It is, perhaps, what that "investigator" *wanted to hear*, through a *cognitive bias*, or *wanted the court to hear*, to *create cognitive bias*. Again, in the statement «[t]he report also said that appellant angrily described voices that gave him "impulses to do things like kick children" even though he did not "want to do that kind of thing"», there is no full direct quotation taken from any transcript where "K.H." says that "voices [...] *gave him*" impulses. They are quoting the "mental health investigator's report", not "K.H.".[13]

3.¶5 : Conclusion: I think this Oregon Appellate Court document proves nothing. It seems like sort of part of an *argumentum ad hominem*. It doesn't really discredit either "K.H." or myself in any logically valid fashion. It more effectively discredits the court or the judge that rendered the argument and issued it. «Error of opinion may be tolerated *where reason is left free to combat it*.»→ Thomas Jefferson.

4 Legal Custody, Medical Issues

4.¶1 : 2015-07-01-11-21–2015-07-01-12-46 Email with Karl re Child's Health: (Exhibits 0000{27,28}) She wrote to herself, saying: «Legal Custody — Karl is treating Kody for Medical issues Kody may not have without my permission and not seeking legitimate medical care for the issues.» Pinworms and etc. are not unheard of. I got them once when I was a little boy. There's sufficient information on Wikipedia about them and about the medicine that is sold over-the-counter to treat them that it does not require a doctor visit. That's why the medicine is sold over-the-counter. Prophylactic use of pinworm medicine won't hurt you. The medicine is safe and both Kody and I had some of the symptoms. It's

13. Hypothetically, the "voices" themselves have an arrogant and delusional belief that they "gave him impulses" when they yell-headed at him the way the appellant described at *89? What would they say to that? Would they get better at it with practice? How well would that work for them?

a lot cheaper to pay $10 for the OTC medication than whatever it would cost to go to a doctor, pay for tests, etc.

4.¶1.1 What this message demonstrates is that I take care of our son, and that he understood enough about what I was telling him to communicate it to his mother. There is nothing wrong with that. It also demonstrates that her and I can communicate directly and successfully about this sort of issue without the need for a third party.

4.¶1.2 It also plays upon and reflects some of my concerns with regards to "circumcision", in that there are supposedly "legitimate medical practitioners" who will recommend this... someone suggested the phrase "barbaric practice"; but being a barbarian myself, I can assure you that it's worse than anything we would ever do to anyone. Actually we think that calling things "barbaric" is Ironic, when (urban myth warning) the word originates from within the empire that took captives they killed in the coloseum. They liked to kill the adults and take the children for slaves, teaching them lies about the alleged or perceived (so it's not lies then, right?) culture of their parents. Sounds just like the ole "Jim Crow" system, eh? Or like those "interventionists" who think ("adoptions are lucrative") "mentally ill people", "hippies", "communists", "tall thin people", "mormons", or "people who can't do anything about it" aren't "worthy" to raise children, so they take them away under color of law... after social-engineering the excuse they need to do so...

4.¶1.3 So being an educated human being I know that nature's design is the result of millions of years of evolution. To alter it with surgery is arrogant and stupid. We don't treat intestinal worms with a hari-kari knife; we use medicine. We don't treat urinal tract infection with surgery either. But some "doctors" out there have a fetish for cutting boys dinks up, and they sell it to foolish women who and don't read the right books. Many men have been traumatized by exactly that same kind of fraud, where their own mothers had it done to them. At some point, even the Romans outlawed circumcisions, even of slaves. It was considered too cruel, by the same culture who had blood-sports in front of roaring crowds. Hey, **I don't necessarily have a correct understanding of history, but I do know cruelty when I see it, and law is supposed to be there to put a stop to that kind of thing.** If it fails that purpose, then all hell breaks loose, every time, without fail, throughout history. That's a law of nature. We don't need a "low-grade neurological castration" performed on our son.

4.¶1.4 So what it comes down to is that she has no right to subject our son to the supposedly "medical treatment" of male genital mutilation, and obviously I'll never give permission for her to solicit a criminal to commit mayhem upon our son; nor for her to give one permission if he solicits her for conspiracy to commit mayhem on his privates. I hope that she agrees with this and we can drop the issue as moot within our particular custody case instance.

This begs the question, at least in my mind, "If she never intended to have it done, then why did she keep 'saying she was going to'?"

5 Legal Custody, Circumcision (MGM)

5.¶1: 2010-03-11 Facebook Screenshot highlighting by KM:
(Exhibits 0000{30–32}) Here once again, Kasey is more concerned with shutting me up than with refuting the argument itself. The reason I had to shout during the conversation after she got off the bus that day was because she will talk to stop me from talking. *If* she had stated that she does *not* want to ever let anyone do that to our son–that I was mistaken in my belief that she did want it done, then the argument would have proceeded very differently from that point. Instead, she persists with an ad-hominem attack, making slanderous and false statements regarding *my* alleged violence and psychosis. She taunts with the idea that she has supposedly "won the legal right to" get our son cut. That is psychologically abusive towards me, and I think she knows it and does it on purpose.
5.¶1.1 From the diary page confessing to attacking me with intent to provoke violence from me, that it failed to do so, that she then bit me; From the video of her causing our son to fall and hit his head on a table; From the video of her assaulting me in front of our son; and from the plethora of other evidence included in the long affidavit for dismissal of the "protective" order, it is clear that *she* is the violent one, not me.

6 Legal Custody, Parent Time

6.¶1 I find it insulting that she continues to call it "parent time" while claiming to have been in "custody" of our son all of this time. She was not, *de facto* in custody of our son. I took care of him most of his waking hours from the time he was a three month old baby until the parental kidnapping just before she started sending him to the "activity center", cheating him out of a winter of skiing with both that action and the greedy and selfish keeping of the disability dependent benefit money that she no longer truly needed. Of course her selfishness has also cheated us out of tomato cages, gardening supplies, beekeeping gear, canning equipment, and a *lightweight* pedal bicycle for our son, all things I would have spent some of that money on had it been in my control. Our son would have learned a little more about gardening, and there would have been more fresh food for him to eat, as well as plenty to share with his Mother, who at one point confessed that she loves fresh tomato sandwiches. It seems like every year but one, there has been some kind of interruption due to the hassles and arrests from the abuse of the protective order that has interferred with the gardening.
6.¶2: 2015-02-12-03-02–2015-02-13-15-57 Email with Karl re Kody this Sat:
(Exhibits 0000{34–41}) She supplies two copies of the same email thread. She's make a big deal out of how I'm supposedly the one making things difficult... The reality is that

she's the one suing for full custody of a child we've effectively had joint custody of from the start. I initiated the custody suit in order to obtain ajudicated paternity to secure the SSDI dependent benefit.[14] I imagined that it would be a mere formality, with default judgement, for 50/50 "dutch treat" joint legal and physical custody. I'm not the one who turned this into a three ring circus with a bid for full custody. She was suing for full custody despite that he was in my care much of the time—effectively *de facto* joint custody—which consequently, prevented me from having time to handle the legal-work neccesary to taking on the custody lawsuit as well as any appeals, post-conviction relief litigation, or community service assignment. I was being kept busy with the bums-rush into jail during the abuse-of-protective-order phase of what I have learned is a commonly practiced strategy.

7 Child Support

7.¶1: 2015-03-21-14-42–2015-03-22-19-26 Email with Karl re Bus fare: (Exhibits 000043) During this time, she was placing our son in day-care down in Millcreek, and I was picking him up each evening that she worked at her second job. I was riding my bike there to get him, pulling the child trailer. At one point I got a flat tire, but did not have enough money to repair the tire.

7.¶1.1 Again, the disability dependent benefit money that she seems to think she is entitled to, for her to spend on anything she wants... while claiming that the luxury spending is from her own money that she earns... she will claim that she is spending this money on rent, clothing, food, karate lessons, and etc. for our son... And perhaps for the gas to take him to and from pre-school or day-care... But she won't give any of it back to me so I can repair the bike tire or buy bus-fare to get him on the days she works at her (sob story alert) second job (how noble) she needs to pay the credit card debts (so responsible) from her entertainment-shopping habit (reward for hard work, *and* for taking good care of family).

7.¶1.2 I rode out there and got him several times a week. Every time, predictably, he was hungry, and I fed him at least one meal between picking him up and the time she came to get him. He said that he did not eat anything at his mother's house, but did get a meal at the activity center. That is still the situation, now that he's in Kindergarten. I meet him after school, he spends the afternoon with me until either 17:00, on nights she does not work at her second job, or until 21:45 or so on nights she does work. From her bank statements in her financial disclosures, I can see that she did not spend any money at the grocery store. So while she was taking all of that money for herself, she was not spending any of it on food for our son.

14. I moved to Utah to take a job, thinking I would be getting off of disability income. They hired me out of college. I'm effectively a junior, majoring in Computer Science. Some time after they let me go, I started attending college again. I met Kasey during the time I was a student at University of Utah. If she had stayed by my side, I'd have finished college by now and would very likely be employed.

7.¶1.3 She wants everyone to believe that she has "full custody" of him, but she almost never really sees him. He's at school, at after-school care, at day-care, or with me, most of his waking hours. She does not feed him very many of his meals. She relies on other people to take care of him. She takes bogus actions through the courts to prevent me from taking care of my son, whom I've spent quite a lot of time with. It occurs to me that she might be doing this out of jealousy and spite.

7.¶1.4 She abuses him with wooden-spoon spankings, locking him in his room, and verbal abuse. She has hurt him a number of times that I can document. She has attacked *me*. And then after all this, she turned around and took out a protective order and claimed that I am the violence offender! I have already explained her perjuries and etc. in the "long affidavit" and the "petition for writ of error coram nobis".

7.¶1.5 When I helped him with his Kindergarten homework, and wrote down the sample words for him to copy, she got angry because I had written or drawn on it, threw it away, and made him do it over. She then turned around and claimed I refused or failed to help him with his homework! She has him afraid to let me help him with it, part of her game-plan, where she'll claim I'm irresponsible, and of course, "homeless".

7.¶2: 2015-04-05-22-28–2015-04-09-11-55 Email with Karl re Bus fare: (Exhibits 0000{49–70}) She presents 7 copies of the same email thread here, each with various pdf-highlights in it. The highlights have been "flattened" and I can not extract them with a command-line tool, which would facilitate making answers to the highlighted parts.

7.¶3: 2015-04-10-22-20–2015-04-12-18-39 Email with Karl re RFA: (Exhibits 0000{71,72}) This is mostly self-explanatory.

7.¶4: 2015-04-26-12-19 Email from Karl re Busfare: (Exhibits 000073) This is just another instance of the same problem discussed previously: She's got the money that's for our son, this busfare request is for taking him to the Karate class, and she most often refused to help or complained when asked to. She did give me bus fare a few times.

7.¶5: 2015-04-23-08-16–2015-04-23-08-57 Email with Karl re Work Schedule: (Exhibits 000074) And again, see the previous paragraph.

7.¶6: 2015-06-14-01-01 Email from Karl re Flat tire: (Exhibits 000075) And again, more of the same. It is mostly self explanatory.

7.¶7: 2015-06-19-08-55–2015-06-19-10-11 Email with Karl re Pick up Kody: (Exhibits 000076) And again, more of the same.

7.¶8: 2015-06-22-14-49 Email from Karl re Schedule: (Exhibits 000077) My tire is *still* flat. I think that I got a flat more than once. I bought a new inner-tube to replace the old one that came with the bike, but when I took apart the tire, I found that it needed

to be replaced also. I did not have enough to replace the tire. I don't recall exactly, but I think it was a flat in back once, then soon after a flat front tire... and I'm sure I replaced one of them twice. The first time I put "slime" armor strips inside the tire, but those flex and the end of it poked a hole in the tube. I know I have two new armored tires now, and replaced one and then a month later, the second one. At some point I also replaced the tires on the child trailer. This was the year where the new property owner had raised my rent by around $100, plus a student loan deferrment had ended so the department of education was garnishing my SSDI by $150 or something, *and* all at the same time, I had Kody insured with Medicaid, so they stopped paying my Medicare premium, another about $100. It really put the squeeze on my financials. I never paid an electric bill the entire time. There really was not much money left after paying bills and buying food to feed both myself and my son.

7.¶8.1 I ask the reader to "put yourself in my shoes for a moment" (the ones my Mom had to buy because I did not have enough to purcase a pair myself since I had to spend the money that's meant to pay for my own basic needs on feeding my son, since the money that's for that purpose is in his mother's control and she won't give me any of it). Imagine getting 1 paycheck per month, paying your rent first, then bills, and having only about $100 or so left for groceries, and having to feed yourself and a hungry child with it. The shoes you're wearing leak water through the holes in the soles. Meanwhile, there's $550 every month being paid to the child's other parent, who already earns more than enough money to meet her own basic needs as well as her half of our son's. She's greedy and selfish, and refuses to release any money to you to help pay for the expenses of taking care of the child while he's with you. She's driving a car she's paying for in part with that money, living in a luxury apartment in a new building, wearing expensive new clothing, and eating meals at restaurants. The bank statements in the financial declaration she's submitted show that she transfers all of the child's money to her own bank account every month, yet rarely goes to the grocery store or buys groceries—despite having more to spend, she spends less at the grocery store than yourself. The child wears brand new clothing that she buys with that money, where like-new clothing from D.I. would suffice, and then she repeatedly makes statements about how you never pay for anything. She's sued for "arrears" on the cost of putting him into a "preschool" (day-care) that was unnecessary since you can take care of him, and also despite that she's getting that $550 per month which is more than the amount she sued for... but then when he's in your care, she refuses to supply any of that money to you to purchase food to feed your son. Shortly after you tell the court that he's in your care most of the time and that you need control of that money, she does a manouver to try and say she's got full custody, to try and justify her getting all of that money herself. You can't "just go get a job", for reasons explained in the following paragraph.[15] I'd have time for a part-time "McJob" if it

wasn't for the "McJustice" system, right?

7.¶9 : 2015-06-25-15-24–2015-06-26-02-55 Email with Karl: (Exhibits 0000{78,79}) She is angry because she thinks I "don't have a job" but have told my son that I do. My job has been, since the time my son has been out of my care during the day due to her putting him into day-care / preschool, to perform academic / legal research and writing in preparation for the PETITION FOR WRIT OF ERROR CORAM NOBIS / MEMORANDUM OF POINTS AND AUTHORITIES for the Postconviction remedies petition, plus preparing for *this* Parentage, Custody, and Support lawsuit, and others soon to come. I see that as a job because I feel that I have a duty to the people to help eliminate an unjust and unconstitutional law. It effectively *is my job* until the litigation is complete.

7.¶9.1 I mention the "total loan discharge" that I had applied for. This confirms that this was during the period of time where the department of education was garnishing my SSDI checks.

8 Day Care, Right of First Refusal

8.¶1 : 2015-04-05-22-28–2015-04-07-17-10 Email with Karl re Bus fare: (Exhibits 0000{81–84}) My April 5 email in this thread (Exhibits 000084) confirms, by my testimony, the amounts by which my income had changed during this period of time. Here again she is insisting that I am not paying for the day-care despite that she's getting that $550, which is $520 more than she's rightfully entitled to as "child support" proper. Our discussion is about "splitting in half" the day-care expense. I was under pressure to complete pleadings for this trial, and also of course for the other court actions, and had little choice but to leave my son in day-care instead of teaching him to grow food, to cook, how to ride a pedal bicycle, to swim, to ski, to read, etc. In this thread, I complain that I could be spending that money for tomato cages, a pressure canner, and other things that would help provide for his needs and his education. Knowledge of food growing, preservation, and cooking is valuable. He ate his meals at the day-care, and with me after I picked him up from it. She did not feed him many meals. The groceries I could afford were not as good as I could have afforded if I had that money in my control, depriving him of having as good of nutrition as I otherwise could have provided.

8.¶1.1 Meanwhile, she's eating at restaurants, complaining about being too fat, and going on starvation diets to try and lose weight... and showing signs of malnutrition: bruises, pallor, and anorexia. She told me that she was, in the past, actually hospitalized for bulemia or

15. ... and also explained in the section regarding "Mootness and Laches" in the PETITION FOR WRIT OF ERROR CORAM NOBIS filed in protective order case 104906439; also filed in three Rule 65C PCRA petition cases, pertaining to the malicious prosecution for *prima facia* frivolous alleged "violations" of the fraudulently obtained protective order...

anorexia. During the time that she lived with me, when she first moved in, she had those signs or symptoms. I fed her nutritious meals, including fruit juice every day, and her health improved noticably during that time. It has declined since then, and the signs of her malnutrition are evident again. When I mention food, she freaks out.

8.¶1.2 I do not intend that the above be taken to be an *ad hominem* attack; I'm expressing concern for her health, and pointing out that I think I took good care of her when she lived with me. We would go riding bikes together. But sometimes when I would try to explain something to her, she would get angry or close the channel. Nutrition is one of those subjects she reacts to that way. I feel like she won't let me teach her things.

8.¶1.3 On page (Exhibits 000083) she replies to one of my emails with «Leave me alone and meet your own needs. I pay $180 for insurance and $400 for Pre-school. That exceeds the amount I receive. So will you be picking Kody up today or not?» The *full amount* of those "reasonable day-care and health insurance expenses" exceeds the amount she receives by only $30. But the amount she gets exceeds my *half* of those expenses by $260, which is exactly $\frac{1}{2}(\$550 - \$30)$, or half of the money left after taking out the $30 of child support the law requires that I pay, and that's only if I had either agreed to pay for half of the daycare or the court had ordered it.

8.¶1.4 But on August 22, 2012, the commissioner recommended that I not be liable to pay for child care costs after that date. I was to pay the alleged "arrears", which Ms. MacRae had obviously already been paid, and so satisfaction of judgment was already complete before we walked in the door. Thus, the motion was mostly gratuitous... except that for her trouble in suing me for money she'd already been paid, the court ruled that I no longer need to pay for childcare costs from that point forward. That means that $\frac{1}{2}$ of child care costs could not any longer be deducted from the SSDI dependent benefit that she had been made "responsible for". Legally, that money is "mine" since it's an entitlement that comes as a result of my earnings record. The court ordered, per Utah Law, that the money must go with the child. Thus, while he was in my care, a large portion of that money also belonged in my control, for me to use in meeting the cost obligations of raising our son.

8.¶1.5 I would not have had to be «preparing for a lawsuit» instead of taking care of and educating my son, if it was not for her having had me charged with "crimes" for allegedly "violating" the "protective" order she was trying to use as a tactic in an unethical strategy to obtain full custody of a child that we effectively had "shared" joint custody of the entire time.

9 Domestic Violence

9.¶1: 2010-05-03-14-03 Email with Karl re Immaculate Deceptions:
(Exhibits 0000{86–91}) This is the same email from (Exhibits 0000{14–19}) in §3.¶2 on p3,

above, which she believes provides evidence of my alleged "mental illness". This time, she highlights, out of the sentence on (Exhibits 000088) that says «You put the fetus at risk by attacking me attempting to provoke me into kicking you in the stomach, then when I did not, claiming again and again that I had!», only the words «provoke me into kicking you in the stomach». If this is evidence of "domestic violence" I don't think it's evidence that I *committed* it, but that she falsely *claimed* that I did—*i.e.,* criminally defamed me with false allegations. Above that sentence, on the previous page of her exhibit, I mention the journal pages' contents, where she had confessed to having attacked me with intent to provoke me into "beating her up", and that I would not... If she responded to this email, she's not proffered that as an exhibit.

9.¶1.1 The event that this pertains to where she's claimed that I "kicked her in the stomach", has been described by me in writing elsewhere. Briefly, she attacked me, and I used my hands to grapple her hands and arms to stop her from hitting me, and raised my right knee high, standing on my left foot, to make space between us, knowing that she would either grab my right leg, removing the threat of her hands continuing to strike me, or have it between us. I am tall enough that the point of contact with my knee was above her lower ribs, high on her left side. Any force of impact was due to her own momentum, as I did not "kick" my knee high in an attempt to strike her with it, but merely raised it high prior to her being fully close enough to strike me. She did not impact my knee hard enough to cause her any discomfort or bruising (or certainly we'd be viewing photos of those bruises; there were no bruises, and hence, no photos or solid documentary evidence). At the time, the fetus was very small, and safely ensconsed within her womb, which is centered in the lower abdomen, inside of the pelvice, guarded all around by bones, and in front by the pubic symphysis and behind her bladder. My knee was nowhere even close to that location. She attacked me, and I defended myself non-violently.

9.¶2: 2009-08-10-18-41 Email from Karl re Circ Video: (Exhibits 0000{92–94}) I believe that she may be intending to portray this as a "confession" that I committed "violence". It's not a "smoking gun". I see it as a statement that I did *not* commit actual violence, *per se*. I have discussed this incident elsewhere. This email was sent to her a week or so after the incident occurred.

10 Police Reports

10.¶1: 2009-136359 Police Report (091908046): (Exhibits 000{096–103}) On page 'Exhibits 000101' is the report written at 23:40 by Officer Everett. On page 'Exhibits 000098', in the 'Complaint information, General information', it says (sic) «Dis-

pathed time: 20:59:15 En Route time: 21:06:29 At scene time: 21:06:29 Cleared time: 21:40:11». That means that the written part of the report was completed fully 2 hours after the officer spoke with her. It is probably not an inaccurate report of what I believe she probably told them. It states «NO VISIBLE INJURIES TO THE VICTIM». Long after the incident, she has made statements claiming that I had "choked her". See the DCFS reports below. In personal email sent by her to me, she has also made statements to the effect that I had "choked" her. Given her statement in "dear diary", it is difficult to accord her "choking" accusation much credibility.

10.¶2: 2010-213091 Police Report (101414998): (Exhibits 000{104–115})
On page 'Exhibits 000106' is her handwritten report. At the top, she claims that I «was not allowing [her] to see, in spite of the fact that [she had] been granted custody temporarily.» What she says is not true, as I've explained in the "long affidavit" for dismissal of the protective order. She had brought him and all of his belongings over to me, and had left him there at her own initiative. At the beginning of the video from this, she actually asks me for permission to come back the next day to take our son for a visit, implying that she would bring him back to me afterwards. Her statement continues:[16]

> Discribe the incident: «I changed Kody's diaper in the back room, there is a little table/chair set that I rested my leg on when I completed the diaper changed. Kody tried to climb over my leg & tripped and started to cry. I picked him up to comfort him & carried him to the couch. Karl got a bottle out of the refridgerator. I started to give him the bottle to drink. I put Kody over my shoulder & gave him a blanket and rubbed his back to comfort him. Karl grabbed Kody, took him into the restroom & Kody started throwing up. I removed his turtle neck & sweater and put them on the floor in the bathroom, then proceeded to take Kody into the living room. I held him over my left shoulder, covered him w/a red snowflake blanket & tried to calm him. Karl proceeded to grab my left leg and attempted to pull me off the couch. I was in legitimate fear that he was going to strike me. He kept striking at me like he was going to hit me. He took the baby & I called the police. He indicates that he has recorded a video of the incident / altercation.»
>
> What conversation do you recall before and after the incident? «I asked Mr. Hegbloom not to speak to Kody & I while we played. I don't recall what Karl said, something about me "causing" Kody to throw up & Kody being a happy child except when I come around.»

10.¶2.1 The discrepancy in her recollection of the exact sequence of events and the sequence of events that actually occurred *as observed on the video* is a normal artifact of the way the human mind tends to recall events, and so I'm less concerned with that than with her fibs about certain memorable moments. The prime example of course is that he did not

16. The form really spells "describe" as "discribe". Funny, since "dis" is slang for "disrespect" or "discredit". This begs the question, at least in my mind, do they use a distinct form for each type of expected testimonial veracity or likely slant?

trip trying to climb over her leg. In the video he can be heard calling for daddy-da-da-da. She had him by one hand and he was pulling away from her, trying to get loose so he could run into the living room where I was. She let go of his hand, and that caused him to lurch forward and hit his head on the table. I did not see that happen, but the camera did. The whole time she had ahold of him, "over her shoulder", he was crying and struggling trying to break free of her grasp. When I grabbed her foot it was because she tried to kick me with it when I reached for our son, because he was trying to get out of her grasp. I knew that if I held him it would calm him back down. He wanted daddy. I am his "attachment parent"[17] and he was freaking out because she had just caused him to fall and hurt himself.

10.¶2.2 It is clear from the video that it was her swiping at me, and that she was not in fear that I would hit her. I have reported in other documents filed with this court that the child was happy and calm all day, and that he almost never cried, but that whenever she would visit, she would have him crying within minutes. I've never needed to spank my son or lock him in his room. She always finds some "reason" to treat him that way. This is especially ironic since she's the one the court gave a "protective" order to! The problem stems from *gender bias*, and the idea that women should always raise children. The female is not always the best parent. Spanking children is not acceptible to me. It is contrary to law, since it's not lawful for people to hit somebody else when they get angry. She hits him when she's angry at him. She hits me when she's angry at me. Then *he* gets in trouble at school for mimicing his mother's behavior! He had to sit in the office for part of the day one day for hitting another child. When I asked him why he did that, he said it was because he was angry at her. I spoke with him about using his words and that hitting people is wrong.

10.¶2.3 (Exhibits 000{112–114}) Is the typewritten report written at 23:15 by Officer Wilson. In my opinion, he makes false statements regarding my "swinging at him". I would not have ever tried to strike a police officer the way he describes. He says I was "swinging at him", but does not say I struck him, because I did not. If I had, then certainly his report would have featured that. The device in my hand was the camera that captured PICT0001.AVI, which shows Kasey causing our son to fall and hit his head against the table as described above. The police did not wear body cameras at that time. They were aware that the device they took from my pocket was a camera I'd had hidden earlier. They were not sure if there was other hidden cameras in my apartment capturing the whole scene. The charges were dismissed after I sent a letter to his watch captain, with copies for him and the other officer, along with Defendant's Statement and Apology to the Arresting Peace Officers, which was also filed at the Justice Court and served to the city prosecutor.

17. http://www.attachmentparenting.org/principles/principles.php
https://en.wikipedia.org/wiki/Attachment_theory

10.¶3: 2011-22536 Police Report (111902257): (Exhibits 000{116–122}) This is the police report from the "several emails" case that was dismissed for lack of probable cause to try me for a crime, since it was clear that the protective order allowed email with no restriction on it's subject matter. In fact, it was me who had asked her to restrict the subject matter after she was rude to me in email that she sent to me. She retaliated by making this report to the police.

10.¶3.1 It is annoying that Detective Woodbury says: «Kasey will forward the email correspondence to my work email account.» but then later on, when I wanted to submit exculpatory and mitigating evidence, as well as evidence in support of a counter-claim against Kasey MacRae to him, he refused to accept emailed evidence.

10.¶3.2 It is also interesting to me that this copy—supplied by the respondent—of police report 2011-22536, printed on July 28, 2015, sixteen days *after* the preliminary examination hearing where the charges were dismissed, is only 7 pages. The copy of it that I have, printed on March 22, 2015, four months earlier, and *prior* to that *much belated* preliminary hearing, is 11 pages long. In it, he claims that the actual emails that I sent to Kasey were "harassing in nature". He did not even want to consider the messages that she sent to me, nor the ones she posted on my mother's FaceBook, and etc. which were certainly no less "harassing". I'm certain that nothing I sent was outside of the realm of constitutionally protected speech.

10.¶3.3 The problem is that they ignore evidence of her wrongdoing while prosecuting me for frivolous non-crimes. The bail was set at an excessive level. They held me in jail for several weeks without according me with my consitutionally guaranteed preliminary examination hearing. A judge reduced the bail, and I bailed out of jail. It was months later that *these* charges were dismissed at prelim, yet during the interim, and during the time I was being held in jail *pre-trial* for 111905405, they were making statements claiming that I had "repeatedly violated" the "protective" order, as though I had already been found guilty! The real harassment was them putting me through all of this for such frivolous "reasons". (Not "excuses".) The order allowed email ("written" communication) with no "overbroad" restriction on subject matter, and so obviously it allowed communication regarding the child, so the SMS asking if our son was back from his Grandfather's yet was certainly not a violation! Yet they arrested me for it, and set bail at $\$100000^{.00}$, and then held me without even a preliminary hearing, moved for "mental health court" behind my back and against the instructions I'd given to my state-appointed attorney; I'd asked him to challenge the "trivial distinction" being made between an SMS and an email. I actually attempted to *file* a motion to dismiss due to unreasonable and unconstitutional delay, citing the deadline for prelim, the long delay for release of discovery, and the frivolous charges. They literally dropped it on the courtroom floor (vs a wastebin or handing it to me) after intercepting it and disallowing

filing of it!

10.¶3.4 Apparently chiding an alcohol drinking nursing mother for being drunk when I pick up my son who was still wearing a sopping and 'dirty' diaper that had obviously not been changed in hours for her negligence and drunkeness is "considered" to be "harassing in nature" to those who are supposedly concerned with the "best interest of the child". Oh, right, but they have it on perfectly-legal-like *hearsay in semi-private record keeping systems they make you jump through hoops to get half-black-redacted copies of* that I'm "dangerous", so Machiavellian-thinking[18] child-stealing tactics were applied to find a excuses to imprison me away from my son so they could slip him away with a quick shuffle of paperwork... Well, ok, that's hearsay based on rumors and folk-warnings from people who've been put through similar experiences here, and had their children disappeared. Yes, I'm angry. But I'm using my words, and that's what courts are for.

10.¶4: 2011-66477 Police Report (111903495): (Exhibits 000{123–129}) This is the police report from the "clown banana bread delivery and 8 SMS" caper. At the time this report was filed, I had not yet been accorded with a preliminary examination hearing for any of the previous alleged violations of the protective order, "several emails" (ultimately dismissed at prelim) and "walk-by helooing" (she did not feel threatened or endangered and I was on the same sidewalk I was allowed on for child-exchange). On page 'Exhibits 000128' is a typewritten report by Officer Brett Tait. Kasey reports that she did not feel threatened when the clown she claims was me «"skipped" up the stairs of the apartment to the door». The SMS that she submitted to them were cherry-picked from a larger conversation wherein she asked me to go shopping for her, and allowed me to take our son to the store with me. This of course required that I be on the same sidewalk I'd said "hello" to her from, and that the clown allegedly "skipped" up the stairs from. Given that I was not allowed to phone her or send instant SMS, it's obvious that I'd need to have access to the call-box outside of the building's security door. So if the clown skipped up to there, he was not anywhere I was not allowed to be for child-exchange outside of the secured multi-unit apartment building.

10.¶5: 2011-115704 Police Report (111905405): (Exhibits 000{130–138}) This is the police report from the "SMS and call" case, which was ultimately dismissed (frivolous, but used to coerce plea "agreements" on the "walk-by hellooing" and "clown banana bread delivery (8 SMS dismissed)", both cases where there was allegation of my having been *physically near* her, yet *she did not feel threatened*. This happened shortly *after* the much belated

18. The court sent me to Valley Mental Health where I attended "group" where we were taught about "criminal thinking errors". Perhaps the officials who have violated my rights ought to be sent to classes about "Machiavellian thinking errors"? Oh, right, we don't want them to get better at getting away with it; we want them to stop doing it. Sarcasm is not unconstitutional. You're either one of *those* officials, or you're not. You don't want to be *that* official, believe me.

preliminary examination hearing of July 12, 2011. On page 'Exhibits 000{135–137}', is the typewritten report by Officer Richard Stone, who visited my apartment to ask me about it. He did not find probable cause for arrest because the order allowed (paraphrasing using more general terms) electronically transmitted written communication. It was Detective Woodbury and Deputy D.A. Boehme who brought charges against me and had me imprisoned for this, with bail set at $\$100000^{.00}$. Please refer to the more detailed description in my PETITION FOR A WRIT OF ERROR CORAM NOBIS in case 104906439.

10.¶6 : 2013-49475 Police Report: (Exhibits 000{139–147}) On page 'Exhibits 000144' is the report written by Officer Michael Omer on April 2, 2013. This is the day they had me handcuffed and in the car. I have describe this in the PETITION FOR WRIT OF ERROR CORAM NOBIS that is also the memorandum for the PCRA (rule 65C) petitions. My neighbor used my cellular telephone's video camera to record the events that took place out in the front yard that day. In the exhibits should be that video.

10.¶7 : 2014-65048 Police Report (141905361): (Exhibits 000{148–155}) On page 'Exhibits 000{153,154}' is the report written by Officer Richelle Bradley on 2014-04-22. This was the "bee-poop dee-doop SMS incident". The district attorney chose to not file charges. I was released. Then *for some reason* the city prosecutor picked it up and filed charges. I sent an email with a pre-filed draft "motion to dismiss" document.[19] It explains why what I was accused of was *not* a protective order violation. I also explained that he did not have jurisdiction to take the case, since a "protective" order violation is a class A misdemeanor, and Utah law requires that the charges be enhanced to a third degree felony. The city prosecutor does not have jurisdiction over felonies.

10.¶8 I am concerned that at the library that day she made the false representation to both the library security guards and to the police that she was the custodial parent. Observation of the child's reaction to her says otherwise. I have provided description of these events in other documents. See the video exhibit: `2014-04-22-17-45-40_Video_Kasey_MacRae_essentially_kidnapping_Kody_at_Library.mp4`

10.¶9 : 2015-15982 Police Report (151408272): (Exhibits 000{156–163}) On page 'Exhibits 000161' is the report written by Officer Edward Verkler. This is regarding the "swoop and grab parental kidnapping" by Kasey at Harmon's after I had kept him away from her after I had witnessed her pushing him into the child seat with her feet. This occurred shortly after she reopened this parentage case. The report appears to be biased against me, perhaps reflecting her way of telling it. I have talked about this more in other documents, particularly, in one of the annotated transcripts.

19. Much of it became the "Right to Confrontation" section of the PCRA memorandum.

11 DCFS Reports

11.¶1 I am aware that DCFS has 11 reports pertaining to my son and his mother. The case numbers are: 1714975, 1758344, 1762599, 1772996, 1787638, 1787964, 1791765, 1986414, 1986619, 2092924, and 2139266. When I sent a GRAMA request to them, I was denied access to those records. The denial letter stated:

> «Pursuant to Utah Code Ann. §63G-2-202, a record contained in the DCFS Management Information System that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.»

11.¶2 As reported in the "long affidavit" entitled MOTION OF RESPONDENT TO DISMISS PROTECTIVE ORDER filed February 25, 2015 in case 104906439 PO, I had submitted *evidence* that included photographs as well as an email from Kasey confessing to causing our son to bonk his nose, supposedly while "spanking" him. That evidence was *ignored* despite multiple attempts at getting them to accept it. Maxine Plewe refused to accept it, sending what looks sort of like a "vacation auto-response" email wanting me to submit the evidence to Dan Reid instead. That email could not have been sent by an auto-responder because it was not sent immediately after I sent the email to her, the way an auto-responder would.[20] This means that she wrote the email herself, and could have just as easily forwarded the information to Mr. Reid herself. It was *her* job to do that. She is the one who put down that there was no evidence to support charges against Kasey for that incident. This puts into question the "unsupported" designation of all of these reports; and especially of the ones that respondent Kasey MacRae is *not* revealing here.

11.¶2.1 Kasey has not disclosed all of the DCFS reports that have been filed against her. I would like to subpoena them for trial. I believe that Kasey is in possession of them.

11.¶2.2 The missing report numbers are: 1762599, 1787964, 1791765, 1986414, 2092924, and 2139266.

11.¶3 : 1714975, 2010-04-27: Pickadilly Apts., probably reported by Kasey's neighbor. I was not ever contacted by them about this. They closed the case as "unsupported". **This report contains false and misleading information about me. I find it to be criminal defamation.** It might also be seen as evidence—in the "*motive*" category—for why they were so eager to violate my civil rights. Statements like those, kept "behind the scenes" in an "official record keeping system", where I was never given the opportunity to confront the accusations, being used for this kind of purpose is *unconstitutional*. This explains why I felt like they "whispered about me behind my back". I was *not* paranoid. They really had false

20. I have documented this in the Feb. 25, 2015 "long affidavit" entitled MOTION OF RESPONDENT TO DISMISS PROTECTIVE ORDER 104906439. Supporting evidence is on the disc that went with it.

information, whether or not it was based in so-called *res judica* or not! What sort of "faith and credit" does this honestly deserve?

11.¶3.1 This report states that «*PV will be attending a daycare for the next two weeks but daycare will soon stop. FA will then be watching PV when MO works. RF is concerned about this because PA is diagnosed with schizophrenia.*» Where did the "RF" (report filer) get this "information"? The "PV"? The "MO"? Why isn't there a statement regarding the probable unreliability of that information so that anyone reading it later won't be given the wrong impression? What legal right do they have to put it into this kind of record? **I did not ever sign a HIPPA release form to allow them to have "verification" of that kind of *biasing* information, assuming that it exists.** The statement is vague and misleading. Combined with the next two statements about... not about me, but about some skewed "model" of supposedly "me" they now base decisions off of... it creates an innuendo with an unacceptable and defamatory implication regarding my character. It is effectively *unsupported hearsay*, yet there it is, and likely has affected, "behind the scenes", the way that this whole thing has been handled—it is indication of *their motive to violate my rights*. As I said, throughout all of this, nobody *ever* actually sat down with me to get *my side of the story*, and it seems like most of the documents I've written and evidence I've submitted has been blatantly ignored, judging by the way they did not base decisions on anything I said or evidence I gave them.[21]

11.¶3.2 It claims that «*FA has been arrested before for trying to choke MO. He was jailed and got out 1 month ago.*» Utah Legislature HB0317S02 of 2016 proposes §76-5-114 «Criminal obstruction of breathing or blood circulation – Penalty» and §76-5-115 «Strangulation – Penalty». Despite that at *this* time HB0317 (UT H.R. 2016) is a *bill*, not a *law*—so there's not yet a definition of "choking" this precise in the Utah Code—it is clear from the facts alleged, *prima facia*, that I was not even *accused* of "choking" her, by any reasonable definition. The responding officer noted that in his report that there were "no visible injuries", and she did not complain of any. The "information" contained in the sort of report written by the officer is notoriously inaccurate. She's not necessarily very good at communicating the details, and he's not necessarily good at hearing and "getting" exactly what she's saying, and then writing it down later.

11.¶3.3 Police Report 2009-136359 reads: "Dispathed time: **20:59:15** En route time: **21:06:29** At scene time: **21:06:29** Cleared time: **21:40:11**. The report written by Officer

21. It is a well known *logical fallacy* to say or believe that «because A is "mentally ill", A's testimony is irrelevant or invalid». Neither the veracity nor the applicability of my testimony and proffered evidence are dependant upon whether or not I am *alleged to have* or *suffer from* a "mental illness". Those are independant factors not pertinent to *credibility*. It is also a fallacy to infere from "mentally ill" that therefore the person is "dangerous". A person *talking about* something dangerous is very different from a person who actually *is* dangerous.

Joseph Allen Everett (G22) was written at 23:41, two hours later, from memory and maybe notes. At the time, the police did not wear body-cameras, and so there is no documentary evidence of exactly what she spoke, nor a video for him to refer to in creating his brief report. Despite this, I think that his report is probably a reasonable representation of what she told him.

11.¶3.4 It doesn't say that I "choked" her. It says, verbatim «The susp grabbed the vict by the hair with one hand and placed his other hand around her neck and started to shake her head.» That is not a very precise statement because to someone assuming the worst, it appears as though she said that I 'shook her head' by grabbing her scrawny neck and shaking with that hand. But it could also be read that I 'shook her head' by the hair. There is no report of any finger marks on her neck. She did not report any because there was not any. Neither "reading" is exactly what *I know* really happened, having been there. It seems like more has been "read into" the events of that evening by people who were not even there than was said by either myself or the alleged "victim".

11.¶3.5 I did not "shake her head". I had her by the hair, but not hurtfully, only firmly, and my other hand was not "around her neck"[22] but on her chin with my index finger extended across her lips. I asked her a question, to which she shook her own head in the "no" gesture, and just as she began to do so, I let go of her hair. I'm not saying "I didn't do anything wrong", but I am saying that I did not "assault" her... especially when the same people's discretion has her "spanking" of our son that resulted in visible injury to his nose being excusable! I think that what she did was a crime... but what I did was not, since *I did not cause her any physical injury*. The only way I "put her in the hospital" was by making her pregnant; and we bonked into each other more vigorously to do that than the time I supposedly pulled her hair or shook her head.

11.¶3.6 The two of us spent time together after that event. She was not honestly afraid of me because I had not caused her any harm. One time prior to when she became pregnant, while we still lived together, we went mountain biking on the single track up near the University. At one point we stopped to get a drink of water or gatorade. She threw the gatorade bottle at me forcefully, and I had to duck and knock it aside. Should I charge her with an assault? What does it say about her actual fear that I would attack or beat her up for it, when she does something that could potentially provoke a dangerous response, and does so at a location where the liklihood of there being any witnesses is low? On another occassion, after we had our son, there was a wrestling match on the grass in sight of the LDS office tower. She claimed it as an "assault" on her Request for Protective Order, despite that during it, she actually managed to take me down, and had her knee right up

22. Kali?

into my crotch. She could easily have caused serious pain and injury, but did not do so; only "counting coup" letting me know that she *could have* smashed my zads if she'd chosen to. It was *not* and assult. It was a wrestling game. Using a protective order to commit legal abuse is much more like an "assault" than either the hair-pulling or the wrestling match.

11.¶3.7 I was never accorded a preliminary examination hearing for the alleged assault of a pregnant "person"[23]. The discovery package contained the police report, but there was no recording or transcript of the 911 call. It also showed that she had evaded contact from the female victim advocate. She only spoke on the phone, and only with male officers.

11.¶3.8 During the period of time between that incident and the date when they actually obtained the warrant for 091908046, we spent time together. I think that she did not seek the warrant for my arrest until after I filed for the default judgement in this Parentage, Custody, and Support case, because she was angry that the joint custody arrangement it called for had her paying $105/month in child support to me, because her income was higher than mine.

11.¶3.9 I am presently challenging the so-called "conviction" for 091908046 via the Utah Postconviction Remedies Act and URCvP rule 65C. There was not any inculpatory "evidence" only "word against word" hearsay, and there was evidence to refute any claim that she was actually harmed or even frightened. There was certainly *not* sufficient evidence for conviction at a jury trial. I was coerced into taking a plea "agreement" through the *undue influence* exerted via oppressive pretrial inceration, which wasn't called for because she was not in danger.

11.¶3.10 «*FA was involved in an out of state court case for having violent thoughts against children.*» I have addressed this in §3.¶4, on p4, above. Given the quality of process of so-called "factual determination" that has taken place here in the Utah court, *e.g.,* with regards to 104906439 (PO), 111902257 (VPO), 111903279 (VPO), 111903495 (VPO), and 111905405 (VPO), all described in other documents filed with this court, how can "full faith and credit" be given to the processes of another state's "court"? Do we presume that they have higher standards of justice than Utah—the *former* Olympic village that is the "home base" of the LDS Church—does? How did DCFS obtain this "information"? How reliable was the source of that "information"? How did they so conveniently find *State of Oregon v. K.H.*, and associate it with me, despite that my name is not in it, only initials the same as mine?

11.¶3.11 Assuming that appellate case *is* about some model of "me", it's clear from reading it that I was not ever actually a *threat* to children. Assuming they found it by some sort of database search available only to officials but not to the general public, then clearly if they had found any kind of actual violent criminal history, that would have been featured here. **The statement in this DCFS record is misleading and defamatory.** It is

23. It's funny how they used the word "person" as if to avoid sexism by using a gender-neutral pronoun.

disinformation of a rumor[24] of hearsay. The court record it is based on is bogus. They could learn more about me by reading my on-line "blog"[25] or threads in Open Source mailing-list archives that I've participated in, than by reading the false reports and disinformation filed in their corrupt record keeping system. I'm sure that in either case, it will be easy to search and find it, since my name is relatively unique.

11.¶4: 1758344, 2010-11-20: [26] I think that "struggled with his blue tooth", page 'Exhibits 000182' is an artifact of my having been on the phone with him via a bluetooth adapter that was not functioning optimally. He most likely missed part of what I'd said. On the next page, 'Exhibits 000183', it says that she "clarified" that «she has left PV with the fa., due to the recent controversy and being intimidated». This seems unlikely to be true to me, given the rest of the evidence. She is *not* intimidated, but pretends to be in an attempt to garner sympathy. I think that if her attorney told her she could call the police re kidnapping, he meant that only if there actually was "kidnapping"; but above, she says she leaves the child with the father, and that fact is well established in this case. What the lawyer told her depends on what she told him.[27]

11.¶4.1 On page 'Exhibits 000184', we have the police telling her they can't do anything without a protective order. Everything is leading up to what's coming next... and it's all founded upon *what she told them*. There is a large portion of entirely blacked-out information, notes from a telephone call with a third-party with information about the child. On page 'Exhibits 000185' she admits to using her foot to try and block me. Here I told Dan Reid about the video. I ultimately sent him the entire package that I filed with the court in answer to her request for protective order. They claim that the disc did not function. They made no good faith effort to obtain a functioning copy of it from me.

11.¶4.2: Robert Woodbury sort-of lied to Dan Reid about the video on page 'Exhibits 000186'. I had actually *told* him that the video *was* related to the charges *against Kasey*. All he cared about was the charges against *me* (and my intuition told me he was concerned about the conduct of the officers who had arrested me and whether the video had anything that could get them in trouble). «Tel. call w. Det. Woodbury, SLCPD. Staffed case re. circumstances related to SLCPD case #10-213091. I asked if he had a copy of a video the fa. had reportedly recorded. He said that the fa. came to the precinct on 12/13

24. `https://en.wikipedia.org/wiki/Rumor`

25. *e.g.,* `http://karlhegbloom.blogspot.com` or `https://disqus.com/by/karlhegbloom`

26. Why does DCFS document a classification based upon "Native American Heritage"? What is the constitutionality of that? It indicates a need for strict scrutiny, and evaluation both on it's face and in effect, just like the "protective" order law.

27. I wonder why he decided not to continue to represent her after December 4, 2010, the last time I believe she had an appointment with him? Her attorney at that time was Mr. Joseph Orifici, bar #6956.

and his recorder was given back to him, due to the information contained on the recorder not being related to the criminal charges, based on what the fa. told them. He rep. multiple times when SLCPD had responded to issues between the parents.» There is no doubt that I told Det. Woodbury that I believed the video showed that she had broken the law and that I wanted it to be investigated. Why else would I sign a "Miranda waiver" for them to have the video, which I clearly recall having done? I also told Dan Reid about it. At that time, I had just gotten the camera back and had not had time to view the video myself. I do not think that Det. Woodbury ever really viewed the videos on the camera *at all*.

11.¶4.3 This copy of the DCFS information makes no mention of the documents that *I* had sent to Dan Reid: the Answer to her request for protective order, the evidence summary, and disc. It appears to have been printed on Sep. 12, 2012 at 2:09 pm. That means that none of the evidence that I expected them to, in good faith, evaluate, was ever actually looked at by any of them. I sent the same information to the GAL and to the city prosecutor. It seems like out of all of them, at least one of them would have done something with it, right? Yet they did not, and while they were putting me on "trial" for alleged violations of the "protective" order, that same Answer and Evidence summary was conspicuously absent from the discovery documents issued by the prosecutors, who had obtained copies of her request for protective order as well as copies of the protective order itself.

11.¶5 : 1772996, 2011-02-01: They "tried" unsucessfully to contact me... They had an old phone number, and never tried to visit me at home. (Later on, in a different case, they tried to email me, but it got lost among all of the SPAM email and I did not find it until one day sitting at the University of Utah S.J. Quinney Law Library, after Kody was in preschool and I was finishing writing the Motion of Respondent to Dismiss Protective Order 104906439 and starting to write the Petition for Writ of Error Coram Nobis document. I finally had time to process my Gmail Inbox, and found it.)

11.¶5.1 On page 'Exhibits 000210' Kasey lied to Carmen Green about being on prescription medication, about using alcohol. Whether or not somebody is "sane" is a matter of an observer's perception. It's a conclusory designation and we must stick to facts. She does admit to having been "in uni". I believe she may have "anxiety" related to me, but not fear. I was not in trouble at the time for anything even resembling "battery and assault". I have not ever been violent. All of the allegations of violence supposedly comitted by me are *her words—it is hearsay coming from an impeached witness*. She has confessed to violence in her journal and there's solid evidence of it on video. In none of the cases has there been marks on her alleged to be caused by me, but in several instance, she has left bite marks on me, bruised nose on our son, and recently, wooden spoon handle marks on him (See my disclosures and exhibits).

11.¶5.2 I know that while working for her present employer, who is also her attorney of record, that at one point she had a "nervous breakdown" and was taken by them to the psychiatric ward at LDS Hospital. She was there for a week or two, and our son stayed with me during that time. When she was released, she was prescribed medication. (If it was me, I'd throw them out. When speaking with a psychiatrist once, I asked him if he would take that medication himself. He answered "no". I then asked him what would happen if a "normal" person took that medication. He said that it would be a very bad thing and that the person should not take it. I told him that I did not want to take the medication and invoked "against my religion". He said it was Ok to not use it but that I should self-monitor and try to keep my mind on healthy thinking.) I think that the timing of her "nervous breakdown" coincides with events involving my escalation of trying to get them to view the "headbonk" video, etc. because it was during that time that I was working on initial drafts of the "long affidavit" for dismissal of the protective order. The "nervous breakdown" was more recent than this DCFS report. I think it was in 2014 or 2015. I know she worked for Woodbury & Kesler then.

11.¶5.3 Under the Utah Code, mental illness, in and of itself, is not a reason to revoke parental rights or to remove a child from a parent's custody. But a pattern of violent behavior, disregard for the laws, unethical abuses of process—fraud upon the court, use of a "protective" order for an improper purpose, malicious prosecution—and etc. would seem to be grounds for a finding that a particular parent is not the right choice for the court to give custody to. Our son belongs with his father, even if he is allegedly "schizophrenic" (perhaps according to one source—perhaps somebody who makes a living diagnosing mental illnesses that allows them to keep that person in their for-profit hospital until Medicare stops paying...)[28]

11.¶5.4: This report may coroborate my testimony given in filed pleadings. Whether that's true or not depends on who the person reporting it was and whether what that person told DCFS was their own eyewitness report or second-hand hearsay.

11.¶5.5 The report on page 'Exhibits 000213' took place shortly after the "protective" order was ~~issued~~ "recommended"(?) by Commissioner Michelle Blomquist under unconsitutional conditions. **That "protective" order's issuance was contraindicated by the evidence and my testimony that was ignored by the "court".** No sooner had it been issued than I was already being accused of violation of it, and being given the "bum's rush" into jail, charged with frivolous alleged "violations" of the "protective" order. ('Legal abuse.'[29])

28. There's a big difference between a "schizophrenic" who thinks and writes about the kinds of things that I do, and one who's "social isolation" includes obsessions with violent or destructive plans. I'm a conscientious objector. I suppose that whether or not I'm a "textbook case" depends on what textbook you read or wrote, right? Also perhaps, an older, more experienced schizophrenic, will have gotten better at coping with it and have less trouble with the "mental illness he suffers from" than a younger, less experienced one.

> «Ref reports that MO is bipolar not taking medication self medicating by drinking and does not care for PV Ref reports that PV went unbathed from 1/14/11 to 1/21/11. Ref says she went to the home on 1/14/11 and ref saw that there were no clean clothes for the baby. There were broken dishes all on the floor. PV was crawling/walking admist the broken dishes. Ref picked up all that I could. Ref reports that PV was throwing up (unknown reason): PV did not have any clothes on and MO was not cleaning up the vomit off of PV. Ref stepped in and cleaned up PV.
> ARE CONCERNED FOR 14 YEAR OLD KODY (PV). MO IS BIPOLAR AND GOES INTO MANIA MO REFUSES TO TAKE MEDS (Ref reports that MO self-medicates by drinking) MO GETS VIOLENT AND THEN REFUSES CONTACT AND THE WELFARE OF KODY IS UNKNOWN AT TlIESE TIMES. THE DURATION OF MOS MANIA GETS LONGER & LONGER. FAMILY MEMBERS HAVE SEEN THE FOLLOWING ON KODY: BROKEN TEETH, BRUISING (CAUSES OF INJURIES UNKNOWN), DIAPER RASHES, RASHES ON ARMS AND LEGS, AND KODY UNBATHED FOR MORE THAN A WEEK» 'Exhibits 000213'.

11.¶5.6 There was scrapes on his side or ribs at one point from the edge of the swimming pool that happened while he was with me. The chipped tooth happened while he was with me. We went to a playground near my home. The playground was covered with sand, and there was a curvy metal balance beam. He had not been walking very long and was unstable. I allowed him to walk away from me towards the balance beam, and he lurched forward on the uneven sand and wacked his tooth against the beam. I had very little experience with toddlers and I did not "touch supervise" him the way I should have, to make sure that he would not fall and get hurt. Had I forseen the potential for the injury, I would have prevented it. By the time it happened it was too late. It was an accident, and my negligence is not of the type that makes me culpable for a crime. I wish I could go back in time and have stayed closer to him to stop that from happening. I also wish that his mother would stop trying to get me in trouble while telling lies about her own *culpable* (reckless, knowing, deliberate) unlawful actions.

11.¶5.7 I have also observed bruises on him that did not happen while he was with me, particularly on his shins. The diaper rashes happened while he was in her "care". She did not change his diaper often enough. I've observed bottles full of "formula cheese" left in his crib, gotten him from her with a filthy and sopping diaper, and seen very red skin on his foot and leg, probably from hot water (which my inituition tells me happened from turning on the hot first while he was in the tub, a mistake I've made before also, potentially burning *my own* foot, but the water isn't that hot at every home).

11.¶5.8 A few bumps and bruises are less of a concern than: (a) their lazy attempts at contacting me. My address was known to them, since Dan Reid had actually been there to visit previously. They could easily have visited and asked questions in person. My apartment was less than a 10 minute drive from their office; (b) Kasey's dishonesty; (c) the push towards the "protective order"; (d) the "bum's rush" to put me in jail while ignoring every pleading

29. https://en.wikipedia.org/wiki/Legal_abuse

and evidence I submitted.

11.¶6 : 1787638, 2011-04-10: This occurred while I was being held in jail for 111902257, "several emails under PO that allowed email", frivolous non-violent charges. The imprisonment prevented me from being there to take care of my son. It was an invidious and malicious attempt to frame me as a "domestic violence" offender.

11.¶6.1 Her «multiple DUI's» may have been «8 years prior to this report», but I know from first-hand experience that she has driven drunk. I was in the car when she did it. We were on a trip to Zion's park, and she stopped and bought beer at a Maverick store. It was dark out, and dark in the car. At some point I noticed that she had a bottle open and was drinking beer while driving. She was driving eratically and I was afraid she would crash the car and kill us both. I told her I had to "take a leak", and got her to stop the car. I had already taken the spare key from the rental car's glovebox. When she stopped, I reached over and quickly took the key from the ignition, and then got out of the car. She became very angry and assaulted me several times. She was obviously drunk. When she is drunk she behaves like a petulant child.

11.¶6.2 There was another day when she contacted Kody and I via Skype, wanting to "read scripture to him". She was also telling me that her mother was there to visit, and that she wanted to come and get our son to take him shopping or something like that. It may have been during the time that he was living with me that she has denied in the 'request for admissions'. She did not realize it, but she left Skype on when she thought she'd hung up. I think her web browser or something was raised above it. Her laptop was in the kitchen, with a view towards her refrigerator. She kept walking over, opening the fridge, and taking drinks out of a can of "Coors Light" or something in a tall silver can. When her mother arrived, they talked out in her living room and I could almost hear what they said. I had no way to record the Skype call. From time to time she walked into the kitchen to get a drink of the beer. When they arrived to get Kody, her mother was driving. Kasey was noticably drunk and her mother apologized for it. She invited me to go shopping with them. Kasey got in a childish snit over that. After getting only a block or so away, her mother gave in and drove around the block to let me out at home again. I allowed them to take Kody only because her mother was sober and the one driving.

11.¶6.3 I was allowed to be near her building, on the sidewalk, for child exchange. I never entered the building except for times that she asked me to enter the building, *e.g.,* the time she handed me the over-ripe bananas to make banana bread with; the time I put our son into his crib after the U2 concert we all attended together.

11.¶6.4 : There WAS evidence! On page 'Exhibits 000221', they are claiming there is «no evidence». But they did not really try very hard to contact me, and I had evidence

that was brought forward to the "Family court", submitted to the Guardian *ad litem*, to the city prosecutor, and to DCFS agent Dan Reid. *It is mysteriously and conspicuously absent.* Regarding the "protective" order, they state that «it appears that both parents do not follow through with the terms of the PO». I evidenced that she is the one who failed to bring the "third party" (her neighbor) to child-exchanges, and that it was her who made her mother decide to quit being the communication liaison.

11.¶6.5 : Some lessons learned re witnesses and evidence: Indirect communication and having a third party "standing by" for child exchange are both impracticable, and should not ever be part of a court order. Bring a cellular phone with a video camera. It's easier, more reliable if you're careful in using it, and has a higher credibility / non-repudiation level than a human witness who is friends with one of the people, but not necessarily the other. It is important to *curate* your evidence immediately. Putting it off makes the work much more difficult.

11.¶7 : 1758344 (first three pages of report above, in 11.¶4), 2010-11-20: Here they have my address. There have been several times where she has done things similar to that. See the "long affidavit" entitled MOTION OF RESPONDENT TO DISMISS PROTECTIVE ORDER 104906439 with it's disc of supporting evidence for details. (There is a lot more evidence than I put on that disc. It won't all fit on one disc. It requires 3 or 4 of them. I was in a hurry when I put the disc together, so if it doesn't seem to fully support the allegations, the remainder of the evidence is available. DCFS was given a URL to a cloud folder containing all of it. I think they covered their butts instead of being honest.)

11.¶7.1 On page 'Exhibits 000232', it states «The object was found to be a small camera, which the fa. said showed what had been going on leading up to the incident.» They knew about the video evidence. At the time of the incident I did not know for sure what was on it. The police confiscated it and it was not returned to me until a number of days after they let me out of jail. I had very little time to review and process the video prior to the "protective" order hearing, but between that initial hearing and the full adversarial hearing, I would likely, or quite potentially, have processed the video with the gamma enhancement seen here, to find, *e.g.,* what's shown in the `2010-12-10_Video_Evidence_Headbonk.mpeg` video. I had the expectation that police investigation would involve that sort of video processing and review. They did the least amount of work and put the wrong person on trial. I think if they'd asked me more about it, they would have keyed in on the video and taken it seriously. I think they're more out to prove that men abuse women than that women abuse the process.

!! **11.¶7.2 !! She has tampered with the evidence:** The following is the verbatim text from page 'Exhibits 000232'. Notice in the top line of the top paragraph *of the respondent's exhibit*, how part of the abbreviation "(DVRCA)" is whited out. Everywhere else in the doc-

ument, where DCFS has redacted the document issued to respondent via GRAMA request, they used a tool to overstrike and black-out part of the PDF produced by their database report-printing software. The table at the top of page 'Exhibits 000231' also shows signs of "doctoring" with white-out.

«Case Closure Statement

This case is being closed as unsupported for Domestic Violence Related Child Abuse (DVRCA) and Physical Abuse of Kody MacRae (15 mos. old), against Kacey Macrae, PV's biol. mother, and unsupported for DVRCA **[Whited out! Probably reads "against Karl Hegbloom, PV's biol. father.]** Those findings are based on lack of evidence and conflicting information obtained during SLCPD and CPS Investigation. Information obtained indicates the following.

The parents were not married and have been living separately. They had agreed to joint custody. Reports of concern re contention and conflict related to visitalion exchanges had been reported. Both parents are reported to have mental health disorders indicative of mood swings, based on their reports about one another and from 3rd parties. The mo. is reported to have previously received inpatient treatment. **[Rest of line blank despite following sentence with no blank line between as there is between other paragraphs. Whited out?]**
The fa. was reportedly in inpatient psychiatric care and has recently been receiving outpatient treatment from VMH, Forensic Unit, related to a prior plea agreement which he rep. completed last week.

Both parents were initially interviewed separately and reported the other party as being the primary aggressor about incidents related to visits and custody exchanges. SLCPD reports responding to the residence on multiple occassions with similar information obtained. No physical injuries were reported by either party, re. the most recent incidents. There was no evidence of PA or PV being harmed by the mother's reported actions during a specific incident.

Additional information was received on 12/12/10, reporting another alleged altercation between the parents and SLCPD response.
Related SLCPD rep. #10-213091 was obtained and reviewed. That report indicated the mo. called 911 on 12/10/10. Officers responded to the fathers residence and found the mo. on a front room couch. PV was in a bedroom resting. The fa. was observed to have a shiny object in his hand and officers commanded him to open his hand and drop the object, however he refused. The fa. was tasered by an officer, during another officer's struggle with the fa. The object was found to be a small camera, which the fa. said showed what had been going on leading up to the incident.

The mother reported coming to visit PV and attempting to change him. He was on the ground while she was getting ready and tripped or stumbled causing him to start crying. The mo. picked PV up to reassure him. She rep. the fa. became emotional about PV crying and wanted to take him from her. He started to pry her arms open and she resisted. She said he grabbed her leg during the struggle. She called 911, due to feeling threatened.

The fa. reported that he became upset about PV's hurting himself, continued crying and the mother not being able to calm him. He wanted to take PV to reassure and calm him. He admitted to forcing the mother's arms open to get PV and grabbing mo.'s leg as she extended it towards him as he thought she may be trying to kick him in the groin.

Neither parent was observed to have phsical injury nor report need for medical attention. The fa. was arrested and the mother was cited. Related court adjudciation is pending. The mother obtained a Protective Order, which was granted on 1/4/11. Supervised visitation exchange

was ordered. Further custody litigationIs pending, inclu. court ordered mediation and possible custody evaluation. A GAL has been appointed.

Both parents were interviewed separately again, re. the rep. incident on 12/10/10, and reported information similar to that reported in SLCPD report #10-213091. The father sent a DVD to CPS which he reported contained audio and video related to the incident, howver their was no video or audio information found on said DVD, after multiple attempts to review the DVD with technical assistance.
Both parents have subsequently reported feeling better about supervised visitation exchanges, which have gone without further issues.

The case was staffed with DV Specialists and CPS Supervisor. There is no evident indication of significant altercation between the parents, a primary aggressor or related trauma to PV.≫

11.¶7.3 The "additional information" received on 12/12/10 would *not* have been the package that I sent to Dan Reid, since I was still in jail at that time, and I sent that package no more than a few days prior to the 2011-01-04 hearing. In the second to the last paragraph, they report that I sent them "a DVD". I actually sent them much more than that. I sent my Answer to Request for Protective Order, Evidence Summary, and the *data DVD*. It was not a DVD for a video player, but a data disc with a computer file-system on it. When placed into the tray of a computer's DVD reader, the operating system will mount the disc and it will show up as a "drive letter". It is clear enough from the wording of those documents that it was a data disc, not a video disc. This report continues with «their was no video or audio information found on said DVD, after multiple attempts to review the DVD with technical assistance.» **But they made no good-faith attempt to acquire a new copy of the disc from me, assuming the one I gave them actually was defective. They never followed up with any contact regarding the disc at all.** As I said, at the time I made the disc, I had not yet had time to gamma-enhance the video. The file on the disc was the raw PICT0001.AVI straight off the camera's sdhc chip.

11.¶7.4 I still have the `.iso` image of the data DVD. Upon careful inspection, it appears that this .iso file was re-created on 2012-11-06. I need to know why because I'm very sure that the original disc did work. I would not have burned multiple copies without testing the first one. I think that it must have worked, or I would not have been able to recreate it with the same content. I must have, instead of dumping the image directly from the /dev/sr0 using dd, mounted it and copied the files, then burned a new .iso image. I need to locate the original disc and dump a pristine copy of it. This is bad because I think that the copy of the iso that's been given via Wuala was this one, not the original. In either case, if the disc that they had did not work, they needed to make a good faith effort to get a working copy of it.

```
karlheg@syrinx % sudo mount -oloop,ro 2010-12-24_AV_Evidence.iso /mnt
  [sudo] password for karlheg: ********************
```

```
karlheg@syrinx % ls -w1 /mnt
00_README.txt
2010-11-30-19-20_ec679c42d08318258fc1c60185c0f84ce7eed3ef.mp3
2010-11-30-21-11_14d4d28487da05adc09c0b49cd26f8f0f4feb55d.mp3
2010-12-02-14-22_dbff5bcd478f4dcb046fd15a14fa4a69b5487199.mp3
2010-12-02-22-04_bc1f73c15922ff4f3bb0c1176d491fd166050231.mp3
Email_Evidence.mbox Facebook_Karl Hegbloom_1268410765962.png
Facebook_Karl Hegbloom_vs_Kasey_MacRae_01.png
Facebook_My_Photos_-_Kody_1292814065481_cropped.png
Facebook_Response_to_video_of_Kasey_and_Kody_on_2010-03-11_1.png
PICT0001.AVI
Re_Kodys_Teeth.pdf
Time_with_Kody.pdf
Transcripts_and_Notes.pdf
x2010-11-29-09-22_ce478e397a3326bdb637ba7cf3590c691ce50905.mp3
```

11.¶7.5 On 2013-07-30, DCFS Officer Maxine Plewe visited Kody and I in Liberty Park at the water-park. We discussed the "arm-bite" incident, and I signed a "CPS Safety Agreement" with her. She took the top copy and gave me the yellow copy, then never supplied the promised copy of the top copy, whereupon I had written down the consideration I expected of her for my signing the "Agreement" with her: that she would look into the video and paperwork that I'd sent to Dan Reid so long ago wrt the "head bonk on table". She deflected and did not ever contact me back about it. I complained about Kasey spanking our son and hurting him. I told her about how Kody had described his mother picking him up by the foot to spank him, and swinging him around and bonking his nose against the couch. I complained about that nobody had done anything about the "nose bonk" evidence, which I had emailed to her on 2013-07-15. I wanted her to look at the photos, and also to review the evidence package that I'd sent to Dan Reid in December 2010 or January 2011. It was written onto the fron of that CPS Safety Agreement. After she filled out the form and we signed it, she said that because she could not easily read the carbon-copies, she wanted to take the top-copy, and to give me the yellow copy. She said that she would send me a photocopy of the top (white) copy, but then never did it.

11.¶7.6 After my experience with the Third District Court's case history system and the way they went back and changed "minute entries", I'm suspicious about the record keeping system used by DCFS, with regards to the "paper trail" generated by modifications to log entries written in the past. This document bears a footer that claims it was printed on

«12Sep2012 2:21 PM». A long time ago we used to run time-limited demos of games by resetting the system clock before starting the game.

11.¶8: 1986619: This is the DCFS report for the "nose bonk" incident I've described elsewhere. This report has what ought to be two separate reports within it. It was opened against Kasey, but then spin-doctored to point at me… They turned it around and put blame onto me while covering up Kasey's harms done to our son, probably through means similar to those described in the email I sent to her mother and sister. The phenomenon that I describe in the email to her mother and sister is familiar to anyone who is aware enough to perceive it; we learn quite a lot of our sports and work skills as a result of it… But sometimes people try to teach bad behaviors using it: they move the child to misbehave, then move the parent to spank the child. The child doesn't know any better, but the parent does or should. If you read more carefully what I was telling Kasey's mother and sister, you'll see that I'm not reporting *having* a "psychotic episode", or that the "voices" or "non vocal thought from others" can *control me*; I'm saying that Kasey seems less aware of this and lets it move her for relatively protracted time periods when she should S.T.O.P. and assert self-control the moment she becomes aware of it. We get better at things with practice.

11.¶8.1 Kasey brought Kody to me, and he had the bruised nose. I took photographs of it. I sent an email about it to Kasey's mother and sister, on Tuesday, July 9, 2013, and one of them called DCFS and opened the report. When Maxine Plewe visited, I obtained her work email address, and then provided her with the photos and the email from Kasey sent via Dustin. She did not check it into evidence, and then she put down that there was a lack of evidence against Ms. MacRae. During one of her visits with Kasey following up on this, she noticed the bite-mark on his arm. They inappropriately used the same report for that, and turned a report of Kasey's harm to our son into one of me having hurt him.

11.¶8.2 Notice they are claiming that both of us are "schizophrenic". Again, where do they get this kind of "information"? What sort of validity does it have? What is it intended to imply? Why do they not screen charges against her, yet jump immediately upon the opportunity to prosecute me for something? "Spankings" which are considered by some—not by me—as appropriate or acceptable discipline do not cause bruised noses, nor spoon-handle shaped welts on a child's bottom. The "spank" is only supposed to catch the child's attention, not cause harm, pain, or marks. Kasey MacRae should have been charged with reckless harm to the child, especially given her own criminal arrest record and past DCFS history. The reason that I think Maxine covered this up is that it's her who—"using her spirit" as some will call it—tries to make mothers pick the child up by one ankle to spank. She was handed evidence, yet wrote down that there was no evidence, and marked it as unsupported against the mother. Then right around the same time, with perfect timing, an impulse moves me

to bite his arm, just in time for Maxine to observe it during the visit over there... and the thing is, biting like that is certainly *not* part of my normal behavior at all, by any means. It surprised me just as much as anyone—spontaneous involuntary movement caused me to bite.

11.¶8.3 I have evidence that shows that the child runs to me and away from the mother. There is too much evidence of this and not enough time for me to organize it for presentation to court.[30] I will put it all together for evidence in-lodging, but may not have time to present it in court during the trial. I may need the trier of fact to take a little time and view it in chambers... Just to be sure, I'm also sharing it with a few hundred of my closest friends.

11.¶9 : Intensive Family Preservation Referral Form: I'm concerned that their idea of "family preservation" may involve taking the child away from the male they are framing up and placing him with the abusive female they are helping to commit legal abuse, fraud upon the court, reckless as well as premeditated child abuse, perjury, contempt of court, etc. They have been excusing her for her crimes while prosecuting me for frivolous non-crime alleged "violations" of the "protective" order. They've got me on paper as the abuser; but absence of evidence *is* evidence in this case, since I'm showing evidence that I submitted evidence to them that they ignored. Of course the next move would be to take him away from her, put him into foster care or up for ~~auction~~ adoption, at a modest fee; (subsidized by tithings?)

11.¶10 : Notice of Agency Action: More of the same. This is indirect evidence of sort of a form of "legal abuse" in that they are selectively enforcing against me, while selectively non-enforcing against her. So the "conspicuous absence" of charges against her is what clinches it...

11.¶11 : 2092924:

> «Threats of Harm: Alleged non-supervision and concerns of possible physical abuse. Concerns that "screaming and yelling" and "loud noises" have been heard coming from the child's apartment. Report that Mom locks the child out of the home up to twice per week onto the deck of the apartment for up to one hour and that the child has been heard hitting the door and "begging" to be let back inside. Report that the child was recently seen unattended and crying in the parking garage, some distance from the child's home for an unknown length of time. Report that the child currently has a broken arm.
>
> Child Vulnerabilities: Child is 4 years old. verbal and able to disclose information, and is presumed to be visible in the community either at school or daycare. Child is able to take care of some basic needs but is largely dependent on adults for needs and protection.»

11.¶11.1 Down below that section is a part that starts with «Father: unknown by referent DOB/Age: unknown by referent (SAFE Karl Hegbloom,» and then about two lines redacted. Farther down, there's a large section redacted. I wish I could subpoena them to reveal it. I

30. I have registered my objection with the court with regards to pushing this to trial before I am ready. The interruption set back my work on the Petition for Writ of Error Coram Nobis document filed in 104906439 and 160901179, included by reference in 160901178 and 160901180, and included by reference in this case as well; I had to stop work on that and write answers to the respondent's Amended Parentage Petition and Statement of Respondent in Support of Motion for Temporary Order, and other motions and answers.

bet it's full of defamatory hearsay about either me or about her. Their "investigations" are not very comprehensive. Recall that they don't make a very strong effort to contact me regarding the allegedly not-working disc from the "protective" order hearing, nor to find me and actually speak when I did not immediately answer email, despite that they knew or easily could have found out that Kody was in my care then, and that they had my address. Given the "selective enforcement" shown above, as well as other information that I can not fully summarize here, my feeling about this is that they are setting up to take our son away from us. They have multiple reports against her, yet they don't contact me because of the bite-mark thing and the "protective" order where our son is listed as a protected party. So, on paper, I'm not who they will call to come get my son. If custody is granted to Ms. MacRae, surely they will find a way to take him from her. These DCFS reports and the selective enforcements and frivolous and malicious prosecutions[31] of me all point to that. **Normally we don't recommend stealing children using barratry, hearsay, and a falsified paper-trail.**

11.¶11.2 But ask the people at the Millcreek Activity Center how Kody MacRae (Kodiak Martin Hegbloom) reacts to his father's arrival when his daddy comes to pick him up. Ask them how that compares to his reaction to his mother coming to get him. Ask his self-defense instructors how he interacts with his father. Ask the staff of Wasatch Elementary how he responds to his father vs how he responds to his mother. Ask the people who work at the Justice Court, and the people who work at the library. Now, if he responds well to his mother, there's nothing wrong with that—I did open this Parentage action initially asking for joint custody. But given the kinds of behaviors I've observed in my son which could only have been the result of his interactions with his mother during the time that he was with her (see the email to her mother and sister regarding "broken nose"), and the things exlained in this DCFS report and probably in the missing ones, I do not think it's a good idea for her to have custody.

11.¶11.3 One day while Kasey still lived with me, she went outside to talk to somebody on the telephone that she did not want to speak with in my presence, and to smoke a cigarette. She left her house keys next to her purse instead of putting them in her pocket. I was upset with her for something she'd done, or felt mischievious, and locked the apartment door. I let her pound on the door for a while before letting her back in. Now I wish I had not done

31. Interestingly enough, the day that Kody's arm got broken while he and I were playing at the "Dinosaur Playground" at City Creek Mall, a man that looked an awefully lot like Michael Boehm was sitting nearby with his wife while his especially healthy looking (got me to notice it) son played near them. Shilldren are healthier when their parent(s) are not shut away in jails and prevented from properly caring for them. I don't know what makes children say things they say sometimes... right? Or how a provincial fast-food cook with a high-school education and allegedly a history of mental illness was able to write a legal brief explaining the unconstitutionality of the Jim Crow law they used as the cloak for fraud to create an excuse to imprison me away from the child they were maneuvering us into position for them to steal? Call it paranoia if you like—keep telling yourselves that I don't have any way to prove this. After all, it's not really a widespread or systematic practice, right, so who would know?

that. I think that she is treating our son as my proxy and that her locking him outside or into his room has something to do with that. She needs psychiatric counselling. Magic pills won't cure that. She needs to sit down and talk with people about it *before* it drives her crazy.

11.¶11.4 : The "Case Closure Statement": «Summary of case: [most of the line redacted by DCFS] (threat of harm)» Perhaps the blacked out part is something about me? I think their redaction rule has something to do with hiding information not directly related to the person who is the subject of the report, and then they won't release the report to anyone who's not the subject of it? If that blacked off part is about me and pertains to the broken arm, then perhaps it's their excuse for not contacting me about this? But during this time, he was in my care quite a lot. I have photos of him wearing the cast, playing in the yard at our apartment.

11.¶11.5 A large portion of the following appears to be whited-out, evidence of more tampering... by Ms. MacRae? When he is running away he is trying to go to my house. Recently he has told me that she "threatens him". He is afraid to tell on her when she spanks him with the spoon because she became angry when she found out he'd told me about it. His "behavioural problems" stem from her traumatization of him. He is reflecting her behaviours. One day in school he got in trouble for hitting a classmate. When I asked him about it, he became evasive. I told him that he knows I'm not going to get angry or spank him for it, and that I just want to talk about it. He looked up at me and said that he did it because he was angry at the classmate. I told him that it's not ok to hit people when we are feeling angry. We have to learn to use our words.

> «Child is 4 and has behavioural problems. He runs away and is quite aggressive with his MO. (child vulnerability) MO is trying really hard to not yell or use physical discipline but Kody is really difficult. He runs away from her and won't let her catch him. He hits her, and he won't listen. Both MO and FA are working on discipline tecniques for Kody. I referred her for an assessment for him: (protective capacity) [white out
> white-out white-out white-out white-out...]»

11.¶11.6 Perhaps part of the problem with the way that DCFS has handled this is that they have her down as the "primary caregiver" and me down as the "secondary caregiver", when properly—from the point of view of *parental attachment theory*—I am actually his "attachment parent". I have been, *de facto*, his primary caregiver for most of his life. He is always happy to see me and to come over and spend time with me, and often reluctant to leave with his mother. That hurts her feelings, and that causes a vicious spiral through feedback, because she deals with her hurt feelings by making things worse.

11.¶11.7 On page Exhibits 000263, I learned where they might have gotten the hearsay regarding my alleged mental illness, but not what it supposedly implies about me. Her "different parenting techniques" are "Beyond Timeouts", "child holds", locking him in his room

locking him out on the balcony, yelling and shouting at him, pinching him, kicking him in the shins, spanking him with a wooden spoon or hairbrush, causing tantrums and punishing him for it, etc. I got the impression that these "different parenting techniques" came to her from Maxine Plewe, but I'm not sure. It could have been from someone else; but whoever is teaching her to handle our son that way is *not* a good person or anyone I would trust with him. I get the impression that the people who teach that are the same ones who talked her into using an alleged violation of protective order to put me in jail, taking our son's father away from him.

11.¶11.8 My parenting techniques are from "Becoming a Love and Logic Parent". I never spank him, and I don't socially isolate him or play power and control games the way she does. We cooperate with one another and share responsibility. I talk with him rather than shout, I engage him in conversation, cooking tasks, housecleaning, gardening, raising chickens, pounding in mushroom spawn pegs, turning the crank on a honey extractor, splashing in the mud, riding bikes, skiing, etc. I teach him to "use his words". I talk to him about the meaning and purpose of the game "Boom Beach", which is a model world mocking an arms race with foolish soldiers who throw their lives away under command of the "finger" who thinks of them as just game pawns. It carries elements of the war in the Pacific during WWII, and elements of "Easter Island", with sort of a "propaganda created enemy system" where every other player is "fooled" into thinking of each other as "The Blackguard"; and of course the game's proprietors sell game-diamonds to both sides! We watched a movie about Easter Island so I could teach him things about that. It's a lesson in economics, environmental management, time management, etc. Boom Beach is to make people decide to not throw their lives away in "battle".

11.¶11.9 With regards to his aggressive behavior, throwing a ball at her, etc., it's just a reflection of Kasey's own aggressive behavior. She does the same kinds of things. Another thing I've seen him do is on the playground, hit another child, and then come over and try to claim that the other child hit him. I said "nice try" because I had been watching the entire thing. I noticed sometimes that when he was farther away from me, and nearer to women on the playground with their children, he would behave differently, sometimes in positive ways, other times in negative ways.

11.¶11.10 Having been a victim of psychiatry myself, I do not trust the "assessment" that Denise Chandler is suggesting here. I think that Kasey needs to be "assessed", but I don't think that DCFS would do a fair job of it, after seeing how they covered up for Kasey's bad behavior in causing Kody to hurt his nose... as a result of her "parenting technique" that has her son running away from her during the same part of his life where he, as he still does now, clings to me for support, safety, and comfort.

11.¶11.11 This whole thing reads like a twisted psychology experiment combining elements of work by Harry Harlow (`https://en.wikipedia.org/wiki/Harry_Harlow`) and Stanley Milgram. (`https://en.wikipedia.org/wiki/Milgram_experiment`). I'm the soft fuzzy nice father with food and kindness, she's the cold, mean and yelling "wireframe" with bitterness, anger, and no food. It's no wonder he runs to me. This view is corroborated by the reports of her yelling at him, locking him out, and by evidence that I have submitted with these documents, on disc.

11.¶11.12 On page Exhibits 000263, Denise Chandler says that the child is non-verbal and unable to communicate. This was in September, 2014, when our son was 5 years old. I know my son. He was certainly very verbal and had reasonably decent communication skills. If he was non-verbal, it wasn't because of not knowing how to talk. He was either afraid to, or reluctant to to other reasons. His mother has threatened him for telling on her for the spoon spankings and other abuse that I've reported via these court documents. Because DCFS has pretty much cut me out of the picture here and has not even bothered to try and contact me, they don't really know what the relationship is between me and my son relative to that between my son and his mother. I think they had no right at all to not contact me when there was a report of abuse by his mother. This is another sign that there is something fishy here.

11.¶11.13 It is sad that she is being allowed and even encouraged to use a court order alleging that I've committed abuse to keep our son away from me, aparently attempting to frame me as the abuser, when it looks to me that it's her that is the abuser.

12 Pleadings

12.¶1 : 2009-07-23 initial Parentage Petition of Karl Hegbloom:

12.¶2 : RPO 094903343: the statements I made in this are potentially somewhat coorobrorated by the reports to DCFS, if there was direct eyewitness accounts reported, and not second tier hearsay potentially repeating what I had said to the reporter. I know that what I reported was true, but can not prove anything absolutely without solid documentary evidence in the form of video, audio, email from her, or secondarily, from third-pary eyewitness accounts. Though a camera does not see it all and the video is somewhat subject to interpretation, it is more solid than mere testimony coming from what alleges to be the witness' memory of events and of things said by others.

12.¶3 : 2009-10-09 Answer to Parentage Petition: As described in the long affidavit used for dismissal of the protective order, the date her counter petition was filed coresponds with the day she talked the DA into fiing charges against me for the alleged assault of a pregnant person.

12.¶4: 2009-10-15 Ex-parte Motion for TRO re IGM: I retained an attorney to obtain a retraining order to protect my son from infant genital mutilation because his mother and I had a disagreeement about it. She kept insisting that she wanted it done to him, and I know enough about it to know it's not in his best interest to allow anyone to traumatize him with prepucial amputation, which I assert is criminal and thus I should never have to worry about it and thus her and I should not have ever had to have that disagreement.

12.¶5: 2009-10-22 Order on Motion for TRO: In the upper right corner of this exhibit, Kasey has hand-written the words «10/22/09 KARL IS A LOSER AS IS HIS Attempt at an Injunction». I did not "lose" anything. What I gained is another idea: that if they think they need to create a private-law injunction to prohibit circumcision, and that it can only be obtained by people who know how to take care of the court process or hire an attorney who does, and only when there is proof of paternity... then it's unconstitutional in some way; And I think that the argument regarding circumcision in my Trial Memorandum reaches it fairly well: The right to bodily integrity is a fundamental and inalienable individual right that is fully inherent in one of the most important primary purposes of *Law* itself. The *malum in se* crimes against the person all have in common, at their heart, the fundamental right to bodily integrity. It would be unreasonable for the executive and judicial to fail to enforce laws against crimes of that classification. Thus, laws against *malum in se* crimes against the person are *inseverable* from the primary body of the laws, and to fail to enforce them is in itself a crime against rights (see Title 18 USC §§241–242). To understand that "circumcision" really is a *malum in se* crime, it must be shown to cause (permanent) disfigurement and (permanent) loss of normal function. An uncensored anatomy less that explains the true anatomy and function of the adult male penile prepuce suffices. Since it, by definition, certainly always causes permanent irreparable harm, there is a strict liability. It is almost invariable perpetrated through fraud, since it can be presumed that there is no such animal as a parent who, knowing the full and uncensored truth—would voluntarily sign the paperwork that purports to give permission by proxy on behalf of the infant and of the man he will be for the majority of his lifespan, thus giving "the procedure" the color of legality. To present such paperwork to a parent is to perpetrate solicitation for conspiracy to commit the primary offense, but the fraudulent representation of what "circumcision" is and what it supposedly does may often *indemnify* the naive parent who signed the paperwork *from* culpability. Thus, cicumcision and solicitation for and engagement in the conspiracy to perpetrate it are first degree felonies—life without parole—per count. And, to fail to enforce the general pupose law against this henious and immensly harmful first degree *malum in se* felony, is *misprison of felony* as well as a crime against rights involving conspiracy and fraud. A court that represents it otherwise is effectively condoning and thus also committing fraud upon

the *Court* (that higher-level abstract entity that exists over a protracted period of time longer than the lifetime of the humans who serve as officials within it).

12.¶6: 2010-07-20 Unsigned_temporary_order: Unsigned. So there was no temporary order in effect? And, we had joint custody, *de facto*, during most of this time. Despite the troubles it worked fairly well most of the time.

12.¶7: 2010-12-06 Declaration_of_Kasey_MacRae:

12.¶8: 2010-12-16 Kasey's RPO: !! Important !! She told impeachable fibs in her statements. I presented evidence of that in my answer and evidence summary. It is also described in the long affidavit used for dismissal of the protective order, as well as in the petition for writ of error coram nobis. At the start of the video, she asks for my permission to take our son for a visit the next day. Our conversation is friendly. It impeaches her claim that I would not allow her access to our son. Given her behavior as witnessed by others who reported it to DCFS independantly from me, unknown to me, and when I was not there, alleging her yelling and shouting at the child, and him running away from her, my claims alleging similar behavior are credible; this is further supported by video evidence that I have provided. Her claims alleging that I am the one "causing the problem" are not credible.

12.¶8.1 The video from 2010-12-10 clearly shows her causing our son to fall and hit his head, where she claimed that he had "inadvertently" tripped over her leg.[32] She also misrepresented her criminal history, leaving out a number of misdemeanors involving reckless driving, failure to stop, and disorderly conduct. She downplayed domestic violence in front of a child and trespassing that occurred at her sister's home predating the time that I'd met her (she had problems long before I met her), and gave a false or wrong case number, making it difficult to track down the relevant court record. She completely failed to mention domestic violence assault and in front of a child charges that were open against her at the time she applied for the protective order, as well as a second misdemeanor "theft of services" charge,[33] where the offense date coincides with the date that she brought our son's belongings over and left him with me for almost a full month without a visit, just prior to coming over on December 10, 2010, the night she made him fall and hit his head.

12.¶8.2 The DCFS reports show that the idea to call police and to get a protective order were in her mind just prior to that date. She spoke with her attorney, Joseph Orifici about it. I also recieved voicemail from her where she threatens to get me in trouble. And, there is the journal page entry where she confesses that she attacked me with the intention to cause me to beat her up, that I did not do so, and that when I tried to restrain her to protect myself,

32. This is 1 count of 2nd degree felony perjury.

33. Here are two more counts. The open DV charge was certainly "material".

she bit me. These things point to premeditated and willfull conduct, not an "inadvertent" or accidental event.

12.¶8.3 Because of her confessed failed attempt at getting me to "beat her up", as well as other events—throwing the gatorade bottle at me while biking; the "wrestling match" at the little park that is cornerwise across from the LDS officer tower; all of the times she came over to my apartment, met to go to the zoo or to a concert while she had the order, many of which are somewhat documented by video or audio evidence; to her more recent assault the day she came to get the Medicaid card—it is clear that she had no reasonable fear of abuse or future abuse at the time she applied for the protective order. It is also clear that she is the one who had committed child abuse and domestic violence in front of our child and thus was making a fraudulent representation to the court in her application for a "protective" order.

12.¶8.4 After telling lies to get a protective order,[34] she then proceeded to abuse the process by maliciously prosecuting me for frivolous alleged violations of the order. Because the first set of charges—several emails—were dismissed by a magistrate at the much-belated preliminary examination hearing, and because the subsequent allegations of violation of the protective order were so obviously frivolous, it is clear that she was prosecuting me maliciously, and abusing the judicial process. She was using the protective order for an improper purpose.[35, 36, 37, 38, 39]

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34. She has also told lies in other hearings. I will try to point them out in my annotated transcripts. By the end of the January 4, 2009 hearing for PO 104906439, given my answer to her RPO with it's evidence summary and disc, that she had lied was part of the record of the court. I attempted to point that out many times over the course of this 'trial by ordeal of legal abuse'. «Perjured testimony may not knowingly be used by the prosecution, and by implication, any material inconsistency in earlier testimony and what the witness intends to say at trial should be disclosed.» McCord, James W. H., Criminal Law and Procedure for the Paralegal: A Systems Approach, Third edition (Cengage Learning, 2005) at 448, in reference to Mooney v. Holohan, 294 US 103 (United States|US Supreme Court 1935); also see Giglio v. United States, 405 US 150 (United States|US Supreme Court 1972). In making these references here, I'm sort of pointing across the jurisdictional boundaries of this court and into the one in which I have raised those questions via the rule 65C challenge to the alleged violations of the protective order. May I invoke a generalization of something like URCvP rule 100(a), and ask that the judges assigned to each of these related cases confer with one another, to ensure that the judgments are consistent? I would like to call for judicial inquisition and a tribunal or judicial inquisition panel... Do you know what I mean? I'm doing my best to provide the information in writing and in solid documentary form, *e.g.,* video, audio, email, official records, transcripts; but I am not a professional attorney or barrister... and my trial presentation will not be an 'Emmy winner' so to speak.

35. «Despite frequent use of the term "malicious prosecution" to describe a wide range of events attending a filing of criminal charges and even continuing through trials, the tort of malicious prosecution has a relatively narrow and widely accepted definition. The tort of malicious prosecution of criminal proceedings occurs when one citizen initiates or procures the initiation of criminal proceedings against an innocent person, for an improper purpose and without probable cause therefor, if the proceedings terminate favorably for the person thus prosecuted. It signifies that initiation of charges without probable cause lies at the heart of this definition, one that is deployed by state courts throughout the country[.]» Castellano v. Fragozo, 352 F. 3d 939, 945 (US|Fifth Circuit Court of Appeals 2003).

36. «... Rather, he claims the probable-cause determination in his case was invalid as a substantive matter, because it was wholly unsupported by reliable evidence and tainted by Oliver's disregard or suppression of facts bearing on the reliability of his informant. This contention requires us to consider whether a state's compliance with facially valid procedures for initiating a prosecution is by itself sufficient to meet the demands of due process, without regard to the substance of the resulting probable-cause determination.» Albright v. Oliver, 510 US 266, 298 (United States|US Supreme Court 1994), «"Without attempting at this time to deal with the question at length, we deem it sufficient for

12.¶8.5 After the charges based on email got dismissed, she immediately jumped on the first opportunity to charge me with another violation, for sending an SMS and allegedly trying to call her on the phone, in neither case alleging that I'd made any actual *threats*. The SMS was asking if our son was home from a visit at his grandfather's, where he was during the week of the preliminary hearing. Despite reporting it as a "violation", she was using SMS and voicemail to contact me, and even left a voicemail message inviting me to call, text, or email! None of the communication from me to her was alleged to bear any threats of harm; it was well within the limits of constitutionally protected speech. It was also "written" communication, where the order allowed "email". Despite this, they arrested me and put me in jail, and then allowed *her* the "power of a judge" to set the bail amount. The arrest was timed perfectly to coincide with the ending of my annuity payments, ensuring that I would not be capable of making bail.

12.¶8.6 While they had me locked in jail, she moved to modify the order. During one of the several modification hearings[40], through her student attorney, she attempted to eliminate my "parent time". The commissioner said no to that. The request to modify the protective order that I had been served just prior to the hearing by the bailiff did not have my son listed

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the present purpose to say that we are unable to approve this narrow view of the requirement of due process. That requirement, in safeguarding the liberty of the citizen against deprivation through the action of the State, embodies the fundamental conceptions of justice which lie *299 at the base of our civil and political institutions." Hebert v. Louisiana, 272 U.S. 312, 316, 317 [(1926)]. "It is a requirement that cannot be deemed to be satisfied by mere notice and hearing if a State has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a State to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation." *Id.,* at 112. In the years since Mooney, we have consistently reaffirmed this understanding of the requirements of due process. Our cases make clear that procedural regularity notwithstanding, the Due Process Clause is violated by the knowing use of perjured testimony or the deliberate suppression of evidence favorable to the accused. It is, in other words, well established that adherence to procedural forms will not save a conviction that rests in substance on false evidence or deliberate deception.», *Id.,* at 299.

37. « '[T]he Adult Abuse Act was not meant to be a panacea for the minor arguments that frequently occur between neighbors.'» Wallace v. Van Pelt, 969 SW 2d 380, 386 (US|Missouri Court of Appeals 1998), «Abuse by harassment requires a dual showing, that the conduct must be such as to cause a reasonable person to suffer substantial emotional distress, but also that it must actually cause such distress to the petitioner.» (I was harassed with legal abuse, repeated jailing, being separated from my son whom I knew she was abusive to, etc. I suffered mental anguish, harm to reputation,), *Id.,* at 384, «[The phrase] substantial emotional distress [means] the offending conduct must produce a considerable or significant amount of emotional distress in a reasonable person; something markedly greater than the level of uneasiness, nervousness, unhappiness or the like which are commonly experienced in day to day living.», *Id.,* at 386.

38. «[T]ampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society. Surely it cannot be that preservation of the integrity of the judicial process must always wait upon the diligence of litigants. The public welfare demands that the agencies of public justice be not so impotent that they must always be mute and helpless victims of deception and fraud.» Hazel-Atlas Co. v. Hartford Co., 322 US 238, 246 (United States|US Supreme Court 1944).

39. *Accord, e.g.,* Glover v. Michaud, 222 SW 3d 347 (US|Missouri Court of Appeals 2007).

40. The narrative here in this document is very brief, for reminder only; For more details see my PETITION FOR WRIT OF ERROR CORAM NOBIS, in the section entitled "The Protective Order and the Several Warrants".

as a "protected party". The final order, however, did, despite that it was *not* authorized or discussed during the hearing.

12.¶8.7 I believe it was a deliberate fraud; an attempt to get me arrested happened after that, where I was refusing to open the door to her beligerent and angry shouting, she called the police, and they saw that on the order in the database; I showed the post-sentencing order, which contained child exchange provisions, from Judge Lindberg to the police officer, plus Kasey confessed to bringing the child over each morning and getting him each evening, and he released me, with the admonission that I need to get the order modfied to take my son's name off the "protected parties" list. The police report shows that Kasey was given the same instruction by detective Woodbury. When I attempted to get it changed, the people at the courthouse said that only the petitioner can move to modify that. She effectively invoked that provision of the order again during the "bee poop dee doop SMS from library" incident.

12.¶9 : 2015-01-26 Kasey's Amended Parentage Petition: I refer you to my Answer to that document, as well as to my answer to her statement in support of her motion for slippery slope winning of the case based on already having temporary custody while I had supposedly violated the "protective" order...

12.¶10 : Case History of 094903235 as of 2015-11-16: In general, I include by reference every transcript and every written pleading. All are part of the "trial", and may serve to discredit or impeach, or represent "facts" admitted or denied.

Pax et Bonum, _____

Karl Martin Hegbloom, Esq. ✠

> «Happiness depends on inner peace, which depends on warm-heartedness. There's no room for anger, jealousy or insecurity. A calm mind and self-confidence are the basis for peaceful relations with others. Scientists have observed that constant anger and fear eat away at our immune system, whereas a calm mind strengthens it. Changing the world for the better begins with individuals creating inner peace within themselves.»
> — Dalai Lama, Google+, April 15, 2016.

Ethics Advisory Opinion No. 00-06, Posted on November 13, 2000 by staff (Approved September 29, 2000)

Issue: What are the ethical obligations of an attorney who, unaware his client will lie, hears the client commit perjury or otherwise materially mislead a tribunal?

Opinion: Counsel who knows that a client has materially misled the court may not remain silent and continue to represent the client; to do so would be "assisting" the client in committing a fraud on the court. Rather, counsel is obligated to remonstrate with the client and attempt to persuade the client to rectify the misleading or untruthful statements to the court. If this is unsuccessful, counsel must seek to withdraw. If withdrawal is denied, counsel must disclose the fraud to the court.

Facts: This issue came to the Committee in the narrow setting of a criminal sentencing hearing in which the court asks the lawyer's client, who is not under oath, about the client's prior criminal history. The defendant misleads the court and gives false material information that counsel knows to be untruthful. Counsel is now confronted with ethical considerations.

Analysis:

A) Counsel may not remain silent and continue to represent the client; to do so would be "assisting" the client in committing a fraud on the court.

Rule 3.3(a)(2) provides that "[a] lawyer shall not knowingly . . . fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client." [1] The issue on the facts presented here is whether a lawyer, by remaining silent in response to unanticipated false client testimony not presented by the lawyer, is "assisting" the client in committing a fraud on the court.

Ethical dilemmas arising under Rule 3.3 present difficult issues requiring balancing of competing duties. A lawyer's duty of candor to the court must be balanced against the duty of loyalty to and zealousness on behalf of a client and the duty to maintain confidential client information. [2]

After the adoption of the Model Rules of Professional Conduct by the American Bar Association, the ABA's Committee on Professional Ethics reconsidered its prior opinions regarding a lawyer's duties in response to false testimony by a client. In ABA Formal Opinion 87-353, the ABA Committee stated that Model Rules 3.3(a) and 3.3(b) were a "major policy change with regard to a lawyer's duty . . . when his client testifies falsely. It is now mandatory under [Model Rule 3.3] for a lawyer who knows the client has committed perjury, to disclose this knowledge to the tribunal if the lawyer cannot persuade the client to rectify the perjury." [3] That opinion considered the same facts presented here: "judge asks the defendant whether he has a criminal record and he falsely answers that he has none." [4] The opinion states that "where the client has lied to the court about the client's criminal record, the conclusion of Opinion 287 [decided in 1953 under the 1908 Canons of Professional Ethics] that the lawyer is prohibited from disclosing the client's false statement to the court is contrary to the requirement of Model Rule 3.3. This rule imposes a duty on the lawyer, when the lawyer cannot persuade the client to rectify the perjury, to disclose the client's false statement to the tribunal . . . ." [5]

We agree that a lawyer who knows [6] that a client has materially misled the court but remains silent and continues to represent the client is "assisting a criminal or fraudulent act by the client" within the meaning of Rule 3.3(a)(2). In our view, however, a lawyer who is surprised by false client testimony in response to questions of the court or opposing counsel has not assisted the client's fraud either if: (1) she persuades the client to correct the misstatement or; (2) failing that, she is allowed to withdraw from further representation of the client. A prompt request to withdraw will signal to the court the lawyer's unwillingness to assist her client's conduct and, if allowed by the court, avoid Rule 3.3's prohibitions without disclosure of client confidences.

Consideration of Texas Rule of Professional Conduct 3.03, adapted from Model Rule 3.3, is instructive in this context. The Texas Rule, unlike Model Rule 3.3 and Utah Rule 3.3, includes explicitly in its text the duty to correct or withdraw false evidence when efforts to persuade the client to do so have failed:

> «If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall make a good faith effort to persuade the client to authorize the lawyer to withdraw or correct the false evidence. If such efforts are unsuccessful, the lawyer shall take reasonable remedial measures, including disclosure of the true facts.» [7]

The official comments to the Texas rule distinguish, however, the circumstance in which the false evidence was not introduced by the lawyer. Comment 13 to Texas Rule 3.03 provides:

> «False Evidence Not Introduced by the Lawyer. A lawyer may have introduced testimony of a client or other witness who testified truthfully under direct examination but who offered false testimony or other evidence during examination by another party. Although the lawyer should urge that the false evidence be corrected or withdrawn, the full range of obligation imposed by paragraphs (a)(5) and (b) of this Rule do not apply to such situations. A subsequent use of the false testimony or other evidence by the lawyer in support of the client's case, however, would violate paragraph (a)(5).»

We agree that there is a significant difference for purposes of Rule 3.3's prohibition on "assisting" client fraud when the false evidence is not introduced by the lawyer. We do not agree, however, that the lawyer can continue to represent the client without any disclosure.

In *Disciplinary Counsel v. Greene*, the Supreme Court of Ohio said:

> «It is true that the vigorous and effective representation of a client is the responsibility of all attorneys. This duty, however, does not exist in isolation from the other obligations imposed upon an attorney through our Disciplinary Rules. In addition to the commitment to a client, a lawyer's responsibilities include a devotion to the public good and to the maintenance and improvement of the administration of justice. . . . [T]he attorney's duty, as an officer of the court, is to uphold the legal process and demonstrate respect for the legal system by at all times being truthful with a court and refraining from knowingly making statements of fact or law that are not true.» [8]

In *Cincinnati Bar Ass'n v. Nienaber*, the Supreme Court of Ohio disciplined an attorney for both affirmatively making false statements and for remaining silent when the silence would result in two judges having a false appreciation of the situation. [9] As the court concluded, quoting from an opinion of the Nebraska Supreme Court, "[a]n attorney owes his first duty to the court. He assumed his obligations toward it before he ever had a client. His oath requires him to be absolutely honest even though his client's interests may seem to require a contrary course. The [lawyer] cannot serve two masters; and the one [he has] undertaken to serve primarily is the court." [10]

We agree and apply these principles in this context. We conclude that counsel's silence and continued representation of a client who has lied to the court constitutes "assisting" the client, by acquiescence or tacit assent, in committing a fraud upon the court. [11] Such assistance is prohibited by Utah Rule 3.3(a)(2). This is true whether or not the client is under oath. Counsel may not, at will, detach himself from the client in those instances where the client is misleading the court, thus making the defense's positions or statements only reliable when defense counsel is questioned or the client is under oath. Because silence and continued representation is "assisting" the client in those cases where counsel knows that the client has lied about information that is material to the court's decision, counsel has an obligation under Rule 3.3 to take remedial measures. [12]

B) Counsel is obligated to remonstrate with the client. If remonstration is unsuccessful, counsel must seek to withdraw. If withdrawal is denied, counsel must disclose the fraud to the court.

: Considerations Under Rule 3.3

When a lawyer knows that a client has offered false information to the court, a conflict arises between the lawyer's duty to keep the client's revelations in confidence and the duty of candor to the court. The official comments to Rule 3.3 give the following direction in that circumstance:

> «If perjured testimony or false evidence has been offered, the advocate's proper course ordinarily is to remonstrate with the client confidentially. If that fails, the advocates should seek to withdraw if that will remedy the situation. If withdrawal will not remedy the situation or is impossible, the advocate should make disclosure to the court.»

ABA Opinion 87–353, while acknowledging "Rule 3.3['s] suggest[ion] that the lawyer may be able to avoid disclosure to the court if the lawyer can effectively withdraw," concludes that "withdrawal can rarely serve as a remedy for the client's perjury." [13] Under Rule 3.3(a)(2), however, it is the lawyer's duty not to assist the client's fraud; it is not the lawyer's duty to correct the inaccurate representations of the client unless such disclosure is necessary to avoid the lawyer's assisting the client's fraud. [14] Prompt withdrawal in response to unanticipated false testimony by a client, if allowed by the court, will comply with Rule 3.3. Depending on the timing and circumstances of the lawyer's request, however, the court may not allow withdrawal. [15] If leave for withdrawal is denied, the advocate must make disclosure to the court.

The ethical dilemma in representing a criminal defendant who has misled the court while not bound by an oath is complicated by two important constitutional considerations: (1) the defendant's right to a free exchange with the court; and (2) the defendant's right to effective assistance of counsel. Some scholars have explored whether, by correcting any misleading information given by the defendant to the court, the lawyer would be infringing on the defendant's right to testify. However, a defendant does not have a constitutional right to mislead the court or to have the assistance of an officer of the court, namely, the attorney, to assist in the fraud. [16]

The U.S. Supreme Court has noted, and we agree, that the lawyer has an undisputed ethical duty to remonstrate with the client when the lawyer knows the client intends to commit perjury, and that a lawyer should inform the client that misleading the court as to some material fact that the court is relying on not only subjects the client to possible criminal prosecution and undermines the client's credibility, but also may expose the lawyer to criminal and disciplinary sanctions. [17] We conclude that this rule applies regardless of whether counsel was aware of the client's future intentions of lying or is surprised when the client lies. It also applies whether the client is under oath and, therefore, committing a crime of perjury or not under oath and, therefore, committing a fraud on the court. [18]

If a lawyer is unsuccessful in persuading the client that the client should inform the court as to any misleading statements the client made to the court, counsel must seek to withdraw. Most courts, however, require a factual basis, as opposed to a mere hunch or suspicion, for the lawyer's belief that the client intends to commit perjury or knowledge that the client has truly misled the court. [19]

If leave to withdraw is denied, counsel is then faced with proceeding with the case. One possible course of action, discussed in the literature, is for counsel simply to permit the client freely to engage the court without counsel's participation. In *Nix v. Whiteside*, the U.S. Supreme Court addressed a similar issue in the context of perjury—*i.e.,* permitting the client whom counsel knows will mislead the trier of fact to take the stand—and noted:

> «In the evolution of the contemporary standards promulgated by the American Bar Association, an early draft reflects a compromise suggesting that when the disclosure of intended perjury is made during the course of trial, when withdrawal of counsel would raise difficult questions of a mistrial holding, counsel had the option to let the defendant take the stand but decline to affirmatively assist the presentation of perjury by traditional direct examination. Instead, counsel would stand mute while the defendant undertook to present the false version in narrative form in his own words unaided by any direct examination. This conduct was thought to be a signal at least to the presiding judge that the attorney considered the testimony to be false and was seeking to disassociate himself from that course. Additionally, counsel would not be permitted to discuss the known false testimony in closing arguments. . . . The Rule finally promulgated in the current Model Rules of Professional Conduct rejects any participation or passive role whatever by counsel in allowing perjury to be presented without challenges.
>
> The essence of the brief amicus of the American Bar Association reviewing practices long accepted by ethical lawyers is that under no circumstance may a lawyer either advocate or passively tolerate a client's giving false testimony. This, of course, is consistent with the governance of trial conduct in what we have long called "a search for truth." The suggestion sometimes made that "a lawyer must believe his client, not judge him" in no sense means a lawyer can honorably be a party to or in any way give aid to presenting known perjury.» [20]

This Committee agrees that the narrative form of presenting perjury or of simply permitting the client freely to mislead the court without counsel's intervening and taking remedial measures is not an acceptable practice. For parallel reasons, we reject the positions adopted in the Texas rules and by the Arizona ethics committee, [21] which would allow a lawyer whose client has testified falsely in response to questioning by another party or the court to continue representing the client but refrain from use of the false testimony in support of the client's case.

: Considerations Under Rule 1.6 and Rule 1.16

The issue before the Committee includes the question of whether counsel can or must reveal confidential client information in an attempt to remedy a client's lie to the court. Utah Rule 1.6 provides in relevant part that:

a) A lawyer shall not reveal information relating to the representation of a client except as stated in paragraph (b), unless the client consents after consultation.

b) A lawyer may reveal such information to the extent the lawyer believes necessary: . . .

(2) To rectify the consequences of a client's criminal or fraudulent act in the commission of which the lawyer's services had been used; . . [22]

This rule is permissive. It allows, but does not mandate, that confidential information be revealed to rectify the fraud perpetrated on the court.

However, Rule 1.6 is "trumped" by Rule 3.3(a)(2), [23] which, we have concluded, triggers the mandatory disclosure of a material fact, even if confidential, if that is necessary to avoid assisting the fraudulent act of the client's lying to the court. While disclosure may be necessary, counsel should first attempt to persuade the client to correct the falsity and, if that fails, seek to withdraw.

A lawyer must withdraw, as stated in Rule 1.16(a)(1), if the lawyer's services are being used or have been used to further a course of criminal or fraudulent conduct. Rule 4.1(b) provides that a lawyer shall not knowingly fail to disclose material facts to a third person when necessary to avoid the client's criminal or fraudulent conduct, unless prohibited by Rule 1.6. The comment to Utah's Rule 1.16 notes that:

> A lawyer may withdraw from representation in some circumstances. The lawyer has the option to withdraw if it can be accomplished without material adverse effect on the client's interest. Withdrawal is also justified if the client persists in a course of action that the lawyer believes is criminal or fraudulent, for a lawyer is not required to be associated with such conduct even if the lawyer does not further it.

C) **Conclusion**:

Counsel may not affirmatively or passively mislead the court by allowing the court to rely on information that counsel knows to be untruthful. Specifically, counsel may not remain silent when counsel is aware that the client has misled the court in some material fashion. "The attorney's duty, as an officer of the court, is to uphold the legal process and demonstrate respect for the legal system by at all times being truthful with a court and refraining from knowingly making [or permitting] statements of fact or law that are not true." [24] It is difficult to imagine how remaining silent and continuing to represent the client is not "assisting" a client who has misled the court. Neither the U.S. Supreme Court nor the ABA Model Rules approve of the narrative approach in perjury situations because the lawyer is nevertheless assisting the client, albeit passively, in perpetrating a fraud on the court. [25] The distinction is not whether the client is under oath, but whether counsel is assisting. Counsel who continues to represent the client knowing that the client has misled the court is, either passively or affirmatively, "assisting" the client by not bringing the falsehood to the attention of the court.

The Committee concludes that the first requirement upon hearing one's client lie to the court is for counsel to remonstrate with the client and attempt to rectify the misleading statements with the court. If this is unsuccessful, counsel must promptly seek to withdraw. If withdrawal is denied, counsel must promptly disclose the fraud to the court.

Footnotes

[1]. Utah Rules of Professional Conduct 3.3(a)(2) (1999).

[2]. See Utah Rules of Professional Conduct 1.6.

[3]. ABA Comm. on Ethics and Professional Responsibility, Formal Op. 87-353, at 4 (1987).

[4]. Id. at 3.

[5]. Id. at 3–4.

[6]. Rule 3.3's prohibitions apply only when the lawyer has actual knowledge. "The lawyer's obligation to disclose client perjury to the tribunal . . . is strictly limited by Rule 3.3 to the situation where the lawyer knows that the client has committed perjury, ordinarily based on admissions the client has made to the lawyer. The lawyer's suspicions are not enough." Id. at 6–7.

[7]. Texas Rule of Professional Conduct 3.03(b).

[8]. 655 N.E.2d 1299, 1301 (Ohio 1995).

[9]. 687 N.E.2d 678, 680 (Ohio 1997), citing ABA Comm. on Professional Ethics and Grievances, Formal Op. 287 (1953).

[10]. Id., citing *In re Integration of Nebraska State Bar Ass'n*, 275 N.W. 265, 268 (Neb. 1937).

[11]. We disagree in this regard with a recent opinion of the Arizona Committee on the Rules of Professional Conduct which concluded that a lawyer who remains silent in these circumstances "is not even assisting in the presentation of testimony." Arizona Op. 2000–02 (March 2000), at 11. The Arizona Committee analogized silence in these circumstances "to allowing a client to testify in narrative form" (id.), which we also reject. See infra, at 7–8.

[12]. The lawyer's duties under 3.3(a) "continue to the conclusion of the proceeding." Rule 3.3(b). The ABA Committee has commented that "it would appear that the Rule's disclosure requirement was meant to apply only in those situations where the lawyer's knowledge of the client's fraud or perjury occurs prior to final judgment." ABA Formal Op. 87–353, at 2–3.

[13]. ABA Formal Op. 87-353, supra note 3, at 4 n.7.

[14]. The Committee notes that the ABA's Ethics 2000 Commission has circulated for public discussion a draft revision that would eliminate the current Rule 3.3(a)(2) and add the following new Rule 3.3(a)(3):

> A lawyer shall not knowingly: . . . offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client or a witness called by the lawyer has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. . . .

We do not express an opinion on whether the draft revision would change the analysis or the outcome in the situations we consider here.

[15]. See *Nix v. Whiteside*, 475 U.S. 157, 170 (1986) ("[w]ithdrawal of counsel when this situation arises at trial gives rise to many difficult questions including possible mistrial and claims of double jeopardy").

[16]. See *Nix*, 475 U.S. at 173–74.

[17]. See *id.* at 169 ("at a minimum the attorney's first duty when confronted with a proposal for perjurious testimony is to attempt to dissuade the client from the unlawful course of conduct").

[18]. The ABA Committee on Ethics and Professional Responsibility has even applied Rule 3.3's disclosure requirements to pretrial matters. "Further supporting the applicability of Rules 3.3(a)(2) and (4) to pretrial discovery situations is the fact that while paragraphs (a)(1) and (3) presuppose false or incomplete statements made to the tribunal, neither paragraph (a)(2) nor (a)(4) expresses any such condition precedent that the tribunal must have been aware of the crime, fraud, or false evidence." ABA Formal Op. 93-376 (1993). We note the inclusive categorization of deliberate material lies as "crime, fraud, or false evidence."

[19]. See, e.g., *United States v. Long*, 857 F.2d 436 (8th Cir. 1988) (counsel may withdraw only upon showing "a firm factual basis for believing" that false testimony has or will be presented; "it will be a rare case in which this factual requirement is met").

[20]. *Nix*, 475 U.S. at 170-71 & n.6.

[21]. See discussion supra at notes 7 and 11 & accompanying text.

[22]. Utah Rules of Professional Conduct 1.6 (1999).

[23]. The official comment to Utah Rule 1.6 provides that: "Rule 1.6(b)(4) permits revealing information to the extent necessary to comply with Rule 3.3(a)."

[24]. *Disciplinary Counsel v. Greene*, 655 N.E.2d 1299, 1301 (Ohio 1995).

[25]. See *Nix*, 457 U.S. at 171 ("under no circumstance may a lawyer either advocate or passively tolerate a client's giving false testimony").

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Opinions Published in 2000, Rule 1.16. Declining or terminating representation,
Rule 1.6. Confidentiality of information, Rule 3.3. Candor toward the tribunal by staff.
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Karl Hegbloom · a month ago

Justice Scalia's spirit is still with us and will be as long as legal scholarship exists.

ViewView in discussion

Discussion on **ABC News** · 2062 comments

Mom Jailed Over Circumcision Despute

Karl Hegbloom · 10 months ago

I bet that if you search the Florida statutes for the words "Ram Truck", "Volkswagon", "Buick", or "Cheverolet", you'll find no laws mentioning them. Can you thereby conclude that it's not illegal to steal an automobile in Florida? Obviously there are general purpose laws that prohibit the theft of anyone's high value property. Lawmakers can not list every possible item that could get stolen. Likewise, the laws that prohibit assault, battery, or mayhem -- defined as deliberate infliction of injury causing permanent disfigurement or permanent loss of normal function -- could not possibly list every part of the body that could be injured, nor every possible weapon or mode of injury that might cause mayhem. A general purpose law is in place that covers it.

So a search of the statutes for the word "circumcision" will probably not lead to a specific or private law that prohibits that particular form of mayhem caused by sexual battery. But certainly there must be at least one general purpose law in the statutes that can be applied to prosecute perpetrators of infant genital mutilation surgery. I think that Intact America needs to stop giving the impression that it's not a crime to amputate the prepuce from male children. There should be no congressional debates concerning whether or not to fund it because clearly Medicaide must not fund illegal malum in se mutilations of childrens genitals.

By this reasoning, I think that the federal FGM law should be repealed. It actually weakens the penalty that would apply under laws that preexisted it's entry onto the statutes. In every state there are laws against sexual battery. The penalty that applies under those laws is more severe, rightfully and properly -- don't change them -- than the penalty prescribed by the federal FGM law. I also believe that the principle of "strict liability" must be applied to these crimes: that is, it is not necessary to prove intent or mens rea, but only

that the perpetrator committed the primary features of the actus reus. Torturing children and inflicting permanent harm is clearly unlawful and rightfully so. Who can argue with that? No judge has any legitimate authority to order that such a thing be done to a child.

I also suspect that this is the real reason why the AMA does not want any new laws passed to "outlaw circumcision". It's already illegal under existing laws and it's not righteous to weaken the penalty that applies under those existing laws by passing new laws that more specifically address circumcision. Nor is it acceptible to provide past perpetrators with an ex post facto defense strategy. They deserve to go to prison for what they did to us.

↑ ↓ ViewView in discussion

Discussion on **Local 10.com** · 34 comments

Boy's circumcision won't occur without 10-day notice to judge

Karl Hegbloom ➔ **M Lyndon** · 10 months ago

Can you please provide us with the caselaw citation? This discus thing won't let you paste in a link, but the citation from the top at Google Scholar will help us find it. Thanks.

↑ ↓ ViewView in discussion

Karl Hegbloom ➔ **M Lyndon** · 10 months ago

That's too much like a contract killing or a contract for battery. If therre was a contract to take a tire iron and hit some bloke on the kneecaps with it, would that be a "valid contract"? Legal-latin phrases or maxims of law that might apply (I find these online; I'm reading about law these days) are "Ex turpi non oritur actio", "Actor qui contra regulam quid adduxit, non est audiendus.", "Augupia verforum sunt judice indigna.", or "Fraus est celare fraudem."

The medicos who fraudulently represent "circumcision" as medically beneficial, as not in conflict with medical ethics, and a legally non-criminal should not have the benefit of having that fraud conceled and perpetuated by the courts. But don't doctors and lawyers go to the same political fundraisers? It begs the question, right posse?

2 ↑ ↓ ViewView in discussion

Karl Hegbloom ➔ **Truthsayer** · 10 months ago

It's an invalid contract because the thing it has her signing for is a violation of the child's fundamental right to bodily integrity. Contracts are supposed to be equitable; amputating the most sensitive part of her son's body is not equitable, nor is it legal. It is criminal. She can not, in good faith, honor such a "contract" while remaining in good faith with regards

can not, in good faith, honor such a "contract" while remaining in good faith with regards to the laws against malum in se crimes against the person, e.g. sexual battery on her son's genitals.

2 ↑ ↓ ViewView in discussion

Karl Hegbloom ➚ **Karl Hegbloom** • 10 months ago

Spurrier, R.L.J., 1975–1976. McAlester and After: Section 242, Title 18 of the United States Code and the Protection of Civil Rights. Tulsa Law Journal, 11, p.347.

2 ↑ ↓ ViewView in discussion

Karl Hegbloom ➚ **Karl Hegbloom** • 10 months ago

By the way, I bet that the FBI teams that investigate child sexual abuse (not alien abduction?) and public corruption & color of law abuses would like to hear from people who believe, as I do, that the right to bodily integrity is a fundamental and inalienable right, and that children need love, not trauma. It is up to them to produce the necessary evidence package to support an indictment, which they then submit to the United States Attorney. Title 18 USC S241 & S242 outlaw conspiracy against rights and deprivation of rights under color or authority of law. The right to bodily integrity is the fundamental basis for the malum in se crimes against the person, e.g. assault, battery, rape, mayhem, and murder. They also work with the US Attorney under Title 42 USC S14141, to eliminate a "pattern or practice" against rights...

I challege readers to read those laws, and also read the definition of "Crimes against humanity"; the one that starts with "any widespread and systematic practice". Posse comitatus.

2 ↑ ↓ ViewView in discussion

Karl Hegbloom • 10 months ago

Doctors Opposing Circumcision has a very nice web site where people can find an anatomy lesson that is there because anatomy and pysiology textbooks published in the United States have been cencored to cut the foreskin out of the picture. Knowledge of the true anatomy and function of the male penile prepuce is crucial to understanding that amputation of it necessarily causes permanent disfigurement and permanent loss of normal function. Defining "normal function" requires knowledge of normal anatomy; e.g. of the gliding action during coitus, of innervation, ridged bands, meisner's corpuscles, of it's protective function, and of it's immunological function as part of the body's integumentary system. If the only source of information a parent is given is one of the brochures printed by those who shill for circumcision, they could not make an informed choice.

If you search the statutes for the word "volkswagen" or "ram truck" you won't find any

If you search the statutes for the word "volkswagon" or "ram truck" you won't find any laws against stealing them, right? But we already know it's not legal to steal a car. That's because there are general purpose laws that prohibit the theft of somebody else's high value property. They can not list every item that might get stolen, so there must be a generally applicable law. Likewise, not every mode of injury, not every possible weapon, and not every possible part of the body that could be harmed by "battery" can be listed. Searching the statutes for the word "circumcision" might not reveal a law against it... but searching for "irreparable harm", or "disfigurement" or "loss of normal function" might find a few laws. The crucial peice of information necessary to seeing "circumcision" as "aggravated object rape of an infant that culminates in mayhem" perpetrated through fraud... is the anatomy lesson; the information that the same criminals have censored out of the textbooks!

2 ↑ ↓ ViewView in discussion

Discussion on **NHPR** • 87 comments

Public Health Advocates Skeptical Of Science Behind

Karl Hegbloom • a year ago

http://karlhegbloom.blogspot.c...

Why debate about funding of something that is unlawful?

2 ↑ ↓ ViewView in discussion

Discussion on **kutv** • 2 comments

State lawmakers look to purchase body cameras for all Utah officers

Karl Hegbloom • a year ago

The cameras inside the Salt Lake Third District Court courtrooms apparently are not activated. There is no video record of court proceedings in our court of record. That means non-verbal communication is not made part of the record.

Without a video record, how will a bailiff prove he not intimidate a witness by touching his gun? How will a civil rights violation complainant prove that a bailiff was used to intimidate him, sent forward with a wave of the hand by a judicial officer?

1 ↑ ↓ ViewView in discussion

Discussion on **kutv** • 2 comments

Utah sheriff facing felony charges

Karl Hegbloom • a year ago

Why didn't he just go talk to his bishop? The elders quorum could have helped him move for nothing, no reason to steal.

↑ ↓ ViewView in discussion

Discussion on **CBS Minnesota** • 279 comments

To Circumcise Or Not? Parents Debate Amid Downtrend

Karl Hegbloom ➚ Uneducated Minnesota Voters • a year ago

Opt for the infant lobotomy and the anesthesia. That way, not only will he never feel a “thang", he'll never think one either. Perfect soldiers.

4 ↑ ↓ ViewView in discussion

Discussion on **Resilience** • 11 comments

A Christmas Speculation

Karl Hegbloom ➔ **wili** • 2 years ago

Infant male genital mutilation... the obviousness of that being a bloody Satanic ritual varies depending on how well they've managed your perceptions of it, I suppose. So the people who jumped up to pretend to be doing something about it said they are the FBI? I think they're not doing their jobs.

↑ ↓ ViewView in discussion

Karl Hegbloom • 2 years ago

The Ragged Trousered Philanthropists
http://www.gutenberg.org/ebook...

↑ ↓ ViewView in discussion

Discussion on **GovExec.com** • 25 comments

Mobile Template: Story

Karl Hegbloom • 2 years ago

American'ts are wallowing up to their hocks in their own car-cucka. We have the Aegean stable of air quality, piled to the ceiling. I've briefly outlined a plan that can put us to work actually solving the problems. I call it "A New Clothesline Deal"... (think emperor's new clothes, the dryer/clothesline paradox, and the new deal) Here's the link:

http://karlhegbloom.blogspot.c...

It refers to ideas I wrote about in an earlier article, entitled "Rewarding Selfish Defense", which is about rewarding the positive behaviors, rather than the negative and illegal ones (construction vs gas-station robbery):

http://karlhegbloom.blogspot.c...

↑ ↓ ViewView in discussion

Discussion on **BizPac Review** • 89 comments

Stock up: Final phase-out of traditional light bulbs begins in January

Karl Hegbloom • 2 years ago

Can you cite your sources?

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Lt. S. White, Watch Commander
Salt Lake City Police Department
Pioneer Precinct
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July 13, 2014

Lt. S. White,

On December 10, 2010, I was arrested by two officers who responded to an EMS call reporting domestic violence. I was charged with Interfering with an Officer in Discharge of Duty. Attached is three copies of "Defendant's Statement and Apology to the Arresting Officers," which I have filed with both the City Prosecutor and the Salt Lake City Justice Court.

Please provide a copy to each of the officers who arrested me that evening. It explains why I did not simply drop the small black object I had in my hand. It provides a *reason* but not an *excuse*. I plead "not-guilty" at arraignment mainly to provide time in which to review the evidence and write this letter. I will be at the mercy of the court. I ask that you and the officers involved review the circumstances of this incident, and make whatever recommendation to the City Prosecutor that you find appropriate.

A copy of the video files from the spy-camera (that looks like a pepper-spray weapon) has been submitted to Detective Woodbury. I signed a Miranda Release form. If it is considered appropriate to do so under the rules of your organization, you and the arresting officers have my permission to view the videos.

Thank you.

Karl M. Hegbloom, Esq.

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Pro-Se Document

In the Salt Lake City Justice Court	
Salt Lake City, a Municipal Corporation, Plaintiff, vs. Karl M. Hegbloom, Esq. Defendant.	Defendant's Statement and Apology to the Arresting Peace Officers For the Class B Misdemeanor, "Interfering with an Officer in Discharge of Duty", 11.04.030.B Case No: 10CR14998 Judge: Virginia Ward

When I let the two Peace Officers who responded to the EMS call in through the door of my apartment, I was not thinking in terms of myself being perceived as a physical threat to anyone. It's just not how I see myself. Nor did I think of the small black plastic rectangular object I was holding out for them to see — as a weapon. *I knew* what it was. It was a spy-camera, and I was presenting it because I had used it to create an audio-video record of the events that led up to the Complainant calling EMS. My mind was filled with how I was going to use that video as evidence to prove that the Complainant's statements were not entirely factual...

As they entered the apartment, I said "Come on in." An officer responded "Hey, Thanks." Then I clearly spoke the words "There's no threat of danger right now." Right after that, an officer asks "Ok, what's that in your hand?", and I reply, clearly and succinctly, "This is a video recorder..." The officer reaches towards the camera, to take it away from me, and I say "No, this is mine.", pulling it away, towards myself. He then says "Set it down; set it down now; Sir! Set it down!" His vocal inflection is imploring sympathetically, because he knows he'll have to arrest me as a matter of standard procedure, but doesn't really want to. He is still reaching towards my camera. I say "This is mine. Sir, this is mine; It's a videe..."

and at that point I have switched off the device by pushing the button on the back. I recall an officer telling me "Sir, stop fighting with us", as they moved to arrest me. Later I was angry because I did not perceive myself as "fighting" with them; it seemed like one of the Complainant's distortions of truth.

The responding officers do not know me personally, and so they had no way of knowing whether I was a threat to them or not. All they knew at that point in time was that they had been dispatched by EMS to a Domestic Disturbance. Peace Officers are trained to react quickly when faced with an armed suspect. They face dangerous people and situations on a regular basis. From their point of view, I was holding a small black plastic rectangular object with a pocket-clip (like a ball-point pen has), a visible hole on the upper end of the forward face, and a button on the back where it could be easily pushed by a thumb. I was brandishing the object in my left hand, sweeping it around in an arc from them towards the woman sitting on the couch, babbling something about "video" and "evidence" in an excited manner.

When faced with an armed suspect, there is very little time for thought. About all they had time for was something like .oO("It looks like a pepper-spray weapon. He might be about to discharge it towards us or that woman on the couch.") When Officer Wilson ordered me to drop it, I hesitated because *I knew* it was not dangerous, *I knew* that I am not a threat, and I did not want the camera to get taken away from me. I tend to try to think and talk things over before taking physical action... and I was trying to tell them that it's a spy-camera with important evidence on it. However, because there is a necessary brevity of speech appropriate to this potentially volatile situation, he simply repeated the order to drop the object as they moved into better positions out of the foyer and into the room.

Because the evidence video that was on the camera is very valuable to me, I hesitated again to simply drop it. Instead, I turned to my left, putting my body between the police officers and the camera, while pushing it inside my left pants pocket. In that instant, they moved forward, again ordering me to submit to arrest. In my mind, that's what I had done by turning away— I was giving them my back to facilitate arrest. I tried to get down on my knees also. I'm not sure if the Taser hit me before or after I had done that on my own. My left hand was still inside my pants pocket. That is why there was difficulty getting that arm behind my back for the handcuffs. After they had me down, I kept turning my head and body towards my left, to try and look Officer Wilson in the eyes as I attempted to verbally respond to his demands that I submit to arrest— I *had* submitted!

It is obvious to me now that at first glance, the spy-camera could easily be mistaken for a pepper-spray weapon. I agree that Peace Officers must err on the side of caution to protect themselves and others. Even if my initial statement about it being a camera did register in their minds, the manner in which I was holding it and sweeping that arm in an arc was certainly valid cause for concern. Under the circumstance, they took appropriate action. They used reasonable force, and did not harm me enough to complain about. I am very thankful that Peace Officers use Tasers rather than batons or firearms.

I'm really just not very good at getting arrested, and it's simply because I have very little experience with it. Truly, I prefer to keep it that way. I give my assurance that because I don't want any more live practice being an arrestee, I will pay much more attention to detail with special regard to items I'm holding onto and waving around in front of the police. Unless we're playing softball, I'll drop whatever is in my hands when a Peace Officer orders me to.

There is one more reason why I was so reluctant to hand over or drop the video recorder. The Complainant had been threatening to have the police come and take our son away from me. She believed that I would not "give her access to her son." I have voicemail recordings and an audio-video recording that may support the hypothesis that she engineered the circumstances of Friday, December 10, 2010, deliberately intending to "get me in trouble." In the heat of the moment, when the Peace Officer was reaching for my camera, I was afraid that they were acting in knowing collusion with the Complainant. That fear was reinforced by the officer's statement that I had been "fighting" with them.

I have prepared a statement and evidence packet for the Protective Order 109 906 439 evidentiary hearing. A copy of that statement and evidence is submitted along with this Statement and Apology.

Dated December 17, 2010,

Karl M. Hegbloom, Esq.

Certificate of Mailing or Service

I certify that a true and correct copy of the foregoing:

Petitioner's Answer to
Respondent's Rule 26(a)(5) Pre-trial Disclosures

was mailed or hand-delivered to:

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This document was mailed or hand delivered on _____.

Karl Martin Hegbloom, Esq. ✠