

NO. 49471-0-II

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

BRUCE ALAN FISCHER,

Appellant,

v.

KAREN LYNN FISCHER,

Appellee.

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF WASHINGTON FOR THURSTON COUNTY
JUDGE CHRISTINE SCHALLER
COMMISSIONER INDU THOMAS

BRIEF OF APPELLANT BRUCE A. FISCHER

BRUCE A. FISCHER
APPELLANT, PRO SE
8203 173RD AVE E
SUMNER, WA 98390

FILED.
COURT OF APPEALS
DIVISION II
2016 SEP 19 AM 11:50
STATE OF WASHINGTON
BY AP
DEPUTY

TABLE OF CONTENTS

I.	ASSIGNMENTS OF ERROR.....	1
II.	ISSUES PERTAINING TO ASSIGNMENTS OF ERROR.....	2
III.	STATEMENT OF THE CASE	4
	A. History.....	4
	1. Background.....	4
	B. Procedural	5
IV.	ARGUMENT	6
	A. The trial court erred by renewing an order that was not properly before the court. The order renewed was not the most current order of record thus ignoring years of litigation, modifications, changes & revisions.....	6
	B. The trial court erred by including two adult persons as parties to and constrained by the order.	7
	C. The trial court erred by continuing and creating legal jeopardy for the appellant/respondent.....	8
	D. The trial court erred by ignoring substantial changes in circumstances of the two parties.	11
	E. The trial court erred by refusing to acknowledge and apply Washington State Supreme Court Authority of Freeman v. Freeman.....	11
	F. The trial court erred by misapplying RCW 26.50 and turning a temporary protection order into a 30 year permanent order thus criminalizing respondent.....	15

G.	The trial court erred by ignoring the supreme law of the land; the United States Constitution and Washington State Constitution. The trial court erred when it failed to honor its Oath of Office and Judicial Canons by failing to protect the constitutional rights of Mr. Fischer.....	17
H.	The trial court erred by ignoring applicable United States Code in 42 U.S.C. § 1983 (Deprivation of rights under color of state law), and deprivation of civil rights protected by Title 18 U.S.C. CH. 13 § 241 - 249.....	20
V.	CONCLUSION	22

TABLE OF AUTHORITIES

Cases

Freeman v. Freeman

No. 82283-2 WA. State Supreme Court Opinion 1, 2, 10, 11, 12, 13, 14

No. 26148-4-III, COA Published Opinion..... 13, 14

Due Process

SCHEIB v. CROSBY, No. 28730-1-III, Court of Appeals of Washington,
Division Three, Filed: March 3, 2011..... 19

Southern Stevedoring Co. v. Voris, C.A. Tex 1951 (Southern Stevedoring
Co. v. Voris, 190 F.2d 275, 277 -5th Cir. 1951) 19

WA State Statutes

The Washington State Constitution 17, 21

Article 1, § 3 of the Washington State Constitution 17

RCW 26.28.010..... 2, 7

RCW 9A.46.110..... 15

RCW 26.50..... 1, 3, 15

RCW 26.50.010..... 16

RCW 26.50.030..... 11

RCW 26.50.030(1)..... 16

RCW 26.50.060(2)..... 11

RCW 26.50.060(3)..... 15

U.S.C. - Federal Statutes

The Constitution of the United States..... 1, 3, 8, 9, 17, 18, 19, 20

U.S. Supreme Court Art. III, Sect. 2..... 20

14th amendment (to the U.S. Const.) Due Process Clause..... 19

42 U.S.C. § 1983..... 2, 3, 20, 21

18 U.S.C. CH. 13 § 241 - 249..... 2, 3, 21

RULES

Rules for "Special Proceedings". 19

I. ASSIGNMENTS OF ERROR

No. 1. The trial court erred by renewing an order that was not properly before the court. The order renewed was not the most current order of record procedurally thus ignoring years of litigation, modifications, changes & revisions.

No. 2. The trial court erred by including two adult persons as parties to and constrained by the order.

No. 3. The trial court erred by continuing and creating legal jeopardy for the appellant/respondent.

No. 4. The trial court erred by ignoring substantial changes in circumstances between the two parties.

No. 5. The trial court erred by refusing to acknowledge and apply Washington State Supreme Court Authority of Freeman v. Freeman.

No. 6. The trial court erred by misapplying RCW 26.50 in turning a temporary protection order into a 30 year permanent order thus criminalizing respondent.

No. 7. The trial court erred by ignoring the supreme law of the land; the United States Constitution. The trial court erred when it failed to honor its Oath of Office and Judicial Canons by failing to protect the constitutional rights of Mr. Fischer.

No. 8. The trial court erred by ignoring applicable United States Code 42 U.S.C. § 1983 (Deprivation of rights under color of state law), and deprivation of civil rights protected by 18 U.S.C. CH. 13 § 241 - 249.

II. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

No. 1. Did the trial court err when it renewed an outdated and modified order? (Assignment of Error 1)

No. 2. Did the trial court err by including two adult persons that are of the age of majority as defined by RCW 26.28.010? (Assignment of Error 2)

No. 3. Did the trial court err by putting respondent in harm's way by the improper inclusion of two adults on the order? (Assignment of Error 3)

No. 4. Did the trial court err by not considering substantial changes in circumstances over a lengthy span of time? (Assignment of Error 4)

No. 5. Did the trial court err by ignoring and not applying Freeman re Freeman as the governing Supreme Court Authority in whether or not to renew this order? (Assignment of Error 5)

No. 6. Did the trial court err in its interpretation and application of RCW 26.50 in identifying if there is a valid, real, and imminent threat of violent harm for the petitioner? (Assignment of Error 6)

No. 7. Did the trial court err in its application of RCW 26.50 in determining if the respondent had met the burden of proof? (Assignment of Errors No. 6, No. 5 and No.4)

No. 8. Did the trial court err in its application of RCW 26.50 in turning a temporary protection order into a 30 year permanent protection order? (Assignment of Error 6) Whether they can or not, should they?

No. 9. Did the trial court err by leaving self incrimination as the only option for obtaining relief for the respondent? (Assignment of Errors No. 3 and No. 7)

No. 10. Did the trial court err by denying the respondent his constitutionally protected rights after swearing an oath to uphold the U.S. Constitution? (Assignment of Error 7)

No. 11. Did the trial court err by infringing on respondents civil rights by ignoring applicable federal civil rights law (United States Code in 42 U.S.C. § 1983, 18 U.S.C. CH. 13 § 241 - 249)? (Assignment of Errors No. 8 & No. 7)

III. STATEMENT OF THE CASE

A. History

1. Background

The appellant in this case is Bruce A. Fischer, age 52. The appellee (also referred to as the petitioner) is Karen L. Fischer, age 51. The parties were married in 1992 and divorced in 2007. The parties were married for 14 years and have lived apart now for over 10 years since 2006. The parties produced two children together; a daughter Christina, now age 20 and a son Ryan, now age 18. The appellant has been remarried for almost 5 years and no longer resides in Thurston County or near the petitioner. There has been no contact between the parties since 2006. The appellee's relationship/marital status is unknown and also no longer resides in Thurston County. The petitioner obtained sole custody of the children while keeping the appellant restrained from their children to the present day. There was never a history of violence in the marriage and no record of police reports exist involving the two parties. Appellant has a clean criminal record with no felony convictions. There are no other past or present DVPO's involving the appellant. A current JIS report was run 7/29/2016 and considered by the court prior to renewal. CP 604-607

Bruce Fischer has a bachelor's degree in Business Administration and has worked as an account manager in the packaging industry for 22

years. Karen Fischer holds a master's degree in Speech Language Pathology and presumably still works full time in that field. The parties have not had any contact with each other for over ten years. Child support was paid on time (never late) through DSHS since 2006 but has now ended with the graduation of the youngest offspring this last June. The parenting plan from 2007 has now expired without any petitions or orders for post secondary education. There is no further need or desire for contact between the two parties.

B. Procedural

This matter is under appeal from the parties Civil matter 06-2-30505-9 in the Thurston County Family Court, a court of equity.

The appellant is not asking this court to review the entirety of the case as was done in 2008 under COA-II NO. 368285-II. The appellant does not wish to relitigate or argue the basis of the original ruling from 2006. Appellant is simply asking this court for a fair, rational and unbiased review of the renewal and now permanent conversion considering the current day facts and circumstances. The appellant is asking this court to determine whether continued legal constraints against him is necessary or even reasonable given the change of circumstances, facts and law. The appellant is asking for relief from this court by reversing the renewal of the order of protection and remanding back for

the entry of an order consistent with such relief. The 7/29/2016 Order for Protection-Renewal/Re-issue (now a permanent order) is up on review. CP-NA - Thurston Court Clerk did not include in CPI per Designation of Clerk's Papers Sub No. 231. Order of issue is attached to Notice of Appeal.

IV. ARGUMENT

- A. The trial court erred by renewing an order that was not properly before the court. The order renewed was not the most current order of record thus ignoring years of litigation, modifications, changes & revisions.**

The order being renewed should not be the first order of record and cited that is dated August 18, 2006 as stated in the petitioners current petition for renewal. That order was amended on September 5, 2007, modified on December 20, 2007, amended on September 8, 2008, amended on October 14, 2008 and amended again on October 28, 2008, renewed on September 1st, 2009, renewed on September 10, 2010, renewed on August 10, 2011, renewed on August 10, 2012, renewed again on July 31, 2013, renewed and amended on July 30, 2014 CP 580-581 (dropping Christina) renewed on July 29, 2015 and most recently renewed on July 29, 2016. Several of the petitioner's petitions addressed these changes to the original order. CP 565 The court was reminded of these changes, amendments and adult parties

unlawfully included by the respondent in several reply pleadings. CP 569-578, CP 583-590, CP 595-599. Bench copies were provided. Most recently, a separate bench copy was sent to the court via certified mail prior to the hearing. CP-601-604 Amended order of the court dated 8/28/2008 also restated some of these revisions and amendments. CP 423-424

B. The trial court erred by including two adult persons as parties to and constrained by the order.

The court was asked to properly drop the parties son Ryan (now legally an adult of the age of majority as defined by RCW 26.28.010) from the order and should no longer be included in the petitioner's order as was supposed to be done two years ago for Christina. This court told the petitioner, on July 30th, 2014, that she cannot include an adult in her DVPO, she replied "Yes, I know." CP 580-581 The order from that year reflects that issue. I also have affidavits from two witnesses available to support this in place of VRP's if the court deems them necessary. Yet, the petitioner continues to include the other adult parties in her petitions year after year to a new officer of the court and now wants to make them included for another 20 years. The court was notified to **Please include specific language addressing the fact that there are no minor children**

subject to the constraints of this order. The petitioner failed to point this out in her petition and the court refused to consider this information in its ruling and wording of the order. The court was made aware of this fact by the respondent in all of his recent year's reply declarations. CP-595-599 Bench copies were provided. Most recently in 2016, a separate bench copy was sent to the court prior to the hearing via certified mail. CP-601-604

C. The trial court erred by continuing and creating legal jeopardy for the appellant.

There has never been a factual or evidentiary basis for any finding of violence in this case. Yet, the family court has stood its ground year after year on the premise that the only acceptable burden of proof they will accept for relief and future assurances is completion of a DV program that requires self incrimination to graduate. The petitioner is requesting the continuation of the order in an attempt to extort false confessions of criminal, violent acts by the appellant. Petitioner is using the appellant's refusal to make false confessions of acts of violence and submit to a program that requires such admissions in written letters. VRP, Vol I from NO. 368285-II at 128-129. This is a blatant violation of the appellant's fifth amendment constitutional rights in addition to the other constitutional

implications of the 2nd, 4th, 5th & 14th amendments. In 2006, the court of equity threw out a state certified DV assessment that cleared the appellant in favor of an invalid assessment. The second, invalid assessment results were based on the faulty premise of the DVI intake test that presupposes guilt and substance abuse and is known amongst family law practitioners as "the automatic intake test." The second assessment also had its authorization revoked prior to submission to the court once this faulty premise and a conflict of interest with the commissioner and provider was uncovered. Again, appellant is not trying to relitigate the entry of the original order from 2006. The appellant is simply illustrating for the appellate panel to see that the Thurston court has demonstrated a determination of creating one and only one result despite the evidence provided to the court over the last decade. There have been many instances where legal land mines have been created such as emails sent to appellant, from petitioner's former counsel, that openly included/copied the petitioner. A simple "reply all" would have been a felony crime. On another occasion, an approved and scheduled visit with the children with the school's principal resulted in a "street level" arrest warrant. CP- 330-331 An arrest would have resulted in incarceration and a felony crime. Counsel cleared the matter up after which the police department had no official record of an arrest warrant in their system. It was called a "street

level" warrant that can't be produced as an official OPD record. The petitioner's 2015 appearance in court as an unannounced pro se (CP-591) and recent 2016 filing as a pro se (CP-594) created more legal land mines if I were to address her in court or mail/copy her on pleadings. Now, the inclusion of two adults on a permanent 20 year order creates new legal jeopardy and/or a legal liability if these adults are to ever reach out to the appellant in the future. The petitioner and the Thurston court has demonstrated an ongoing determination to turn a law abiding citizen into a felon (for some reason). Lastly, the appellant is restrained from an unknown and undisclosed location. There is no way to know when and where the appellant could possibly break the order since the petitioner is enrolled in the Secretary of State's Crime Victim's Address Confidentiality Program. CP 423-424 Being restrained from an unknown location ensures that the boundaries of the restraints are unknown and ambiguous at best resulting in continuous legal peril and jeopardy. The appellee's residential address can remain confidential and unknown even without a legal order for protection in place that creates legal liabilities for the appellant.

D. The trial court erred by ignoring substantial changes in circumstances of the two parties.

Respondent respectfully asks that the court consider the language in RCW 26.50.130 that does give the court discretionary considerations of "substantial changes in circumstances." The law does give the court discretion to terminate or deny renewal - RCW 26.50.160(2). The legislature did provide for that option. A vast amount of time (more than a decade) has passed without incident since the first temporary order was entered based on no verifiable acts, facts, evidence or history. Both parties now live in different counties and have been divorced for over ten years. Appellant has been remarried for almost five years and has a new family. Appellant has absolutely no desire or need to have any contact with the petitioner. A reasonable and rational mind would have a difficult time rationalizing that the appellant poses any threat to the petitioner. CP-595-599

E. The trial court erred by refusing to acknowledge and apply Washington State Supreme Court Authority of Freeman v. Freeman, No. 82283-2.

The appellant has raised this argument in his pleadings to the trial court each year since the Supreme Court decision in 2010. CP-455-474,

CP-481-491, CP-496-509, CP-510-524, CP-539-559, CP-569-578, CP-595-599. The petitioner is asking the court to compel behavior from the respondent not to prevent harm or acts of violence to the petitioner. The Washington State Supreme Court spoke to this and other factors in the Freeman decision where they acknowledged that Rob had not engaged in domestic abuse treatment, has moved on with his life and has not done anything to support the petitioner's continued fear of harm from him. The Supreme Court Freeman decision did not say "Respondent has failed to get treatment" as a basis for continuing restraints or use that as a reason for restraints.

"As much as it is possible to prove a negative, Rob has done so here.[6] The likelihood that Rob will commit future acts of domestic violence on these facts is low. Hand in hand with that determination, the facts do not suggest Robin's fear of Rob is based on a reasonable threat of imminent harm. Accordingly, the commissioner abused her discretion; she based her denial of Rob's motion to modify or terminate the permanent protection order on untenable grounds." *State ex rel. Carroll*, 79 Wn.2d at 26. We affirm the Court of Appeals termination of the order. - Freeman v Freeman, No. 82283-2, WA. State Supreme Court, Filed September 2, 2010. (*emphasis added*)

[7] (Factor 7) "Rob has presumably not engaged in domestic abuse counseling. Robin's (factor 9) good faith is unknown. As Rob noted, he has "clearly moved on with his life and ha[s] not done anything to support Robin's continued fear of harm from him." Resp. Br. of Appellant at 9. As much as it is possible to prove a negative, Rob has done so here." [6] - Freeman v Freeman, No. 82283-2, WA. State Supreme Court, Filed September 2, 2010. (*emphasis added*)

Instead of relying on the unfounded fear claim and the fact he had not engaged in domestic abuse treatment, they weighed other factors

originating from a New Jersey court case; Carfagno - Carfagno v. Carfagno, 288 N.J.Super. 424, 672 A.2d 751 (1995). The circumstances of this case under review parallels the Freeman situation. As such, the same New Jersey factors should be relevant as should the WA Supreme court ruling in this case. Lack of contact, distance, time, lack of drug/alcohol abuse, no other restraining orders against respondent, the petitioners good will (or demonstrated bad will), no criminal record, no history of violence, no contempt conviction for violating the order as well as the appellate having moved on in his life with a stable seven year relationship (five year marriage). All of these factors favor the appellant. A current JIS report was ran 7/29/2016 and considered by the court prior to renewal. CP 604-607

¶ 18 In this matter of first impression it is not necessary to reinvent the wheel. In Carfagno v. Carfagno, 288 N.J.Super. 424, 672 A.2d 751 (1995), a New Jersey court embraced 11 factors guiding termination of a permanent protection order: (1) whether the victim has consented to lift the order, (2) the victim's fear of the restrained party,⁴ (3) present nature of the relationship between parties, (4) whether the restrained party has any contempt convictions for violating the order, (5) restrained party's alcohol and drug involvement, if any, (6) other violent acts on the part of the restrained party, (7) whether the restrained party has engaged in domestic violence counseling, (8) age and health of the restrained party, (9) whether the victim is acting in good faith to oppose the motion, (10) whether other jurisdictions have entered any protection orders against the restrained party, and (11) other factors deemed relevant by the court. Id. at 435. We believe New Jersey's guidelines provide a sensible framework for analyzing whether the preponderance of the evidence suggests a restrained party will commit a future act of domestic violence. (emphasis added)

Additional notes from Freeman that are relevant to this case under review;

¶ 23 Here, to permit the permanent protection order to continue forever would hold Rob hostage to his decade-old imprudence. There is scant evidence that Rob would subject his former wife and her children to future domestic violence. Through his testimony, deeds, relocation, career ambitions, and now 10-year compliance with the permanent protection order, Rob has met his burden to prove that he will more likely than not refrain from future acts of domestic violence against Robin or her children. - Freeman v Freeman, No. 82283-2, *WA. State Supreme Court*, Filed September 2, 2010. (*emphasis added*)

¶ 24 The New Jersey factors weigh in favor of Rob. Namely, (factor 2) Robin's fear of Rob is objectively unreasonable;⁵ (factor 3) they have had no contact for ten years; (factor 4) Rob has not violated the permanent protection order, so no contempt orders exist; (factor 5) Rob has no known problems with alcohol or drugs; (factor 6) Rob has no criminal record and has committed no other violent acts; (factor 8) Rob's health has suffered as a result of his war injury and amputation; (factor 10) the record does not reflect any other protection orders against Rob; and (factor 11) other relevant considerations include Rob's career ambitions. - Freeman v Freeman, No. 82283-2, *WA. State Supreme Court*, Filed September 2, 2010. (*emphasis added*)

¶ 33 To guide its analysis, the majority adopts wholly the factors enunciated in Carfagno v. Carfagno, 288 N.J.Super. 424, 435, 672 A.2d 751 (1995),³ reasoning that they “provide a sensible framework for analyzing whether the preponderance of the evidence suggests a restrained party will commit a future act of domestic violence.” Majority at 9.

The Division III Freeman ruling, published opinion (No. 26148-4-III) and subsequently the WA Supreme court ruling (No. 82283-2) are the standing, published Washington Courts' legal authority regardless of what the legislature has done or intends to do since. The court of equity judge failed to acknowledge this legal authority on 8/12/2011. CP 526

F. The trial court erred by misapplying RCW 26.50 and turning a temporary protection order into a 30 year permanent order thus criminalizing respondent

Ms. Fischer did not allege that Mr. Fischer committed any acts that would lead a reasonable person to believe that acts of domestic violence would resume. "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (b) sexual assault of one family or household member by another; or (c) stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member. She did not allege any reasonable belief that any of the requirements stated in the definition applied as a basis for her renewal. RCW 26.50.060(3) requires, "The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order." Ms. Fischer declares in her Petition for Renewal, "I want to renew the Order for Protection because the respondent has not completed the domestic violence treatment." CP 582, CP 593. RCW 26.50.060(3) states the purpose of the PO is to prevent respondent from committing acts of domestic violence. The Petitioner failed to even make a claim that the respondent would commit acts of domestic violence in her petition only that he has not completed the course. CP 582, CP 593. The respondent has made no attempt to contact the petitioner since the initial entry of the protection order over ten years ago and has no interest or need in doing so in the future. Does this petition meet the legal threshold of preventing

what is defined by RCW 26.50.010? In other words, "he didn't take a class so I fear an imminent, violent assault despite having not interacted with him in over ten years." - Paraphrasing. This is not reasonable or rational. It is also not a reasonable exercise of broad judicial discretion to insist on proving a negative as the only burden of proof given TEN years of known actions and behavior resulting in no contact, incidences or threat(s) to the petitioner.

DEFINITION - RCW 26.50.010.

(1) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of **fear of imminent physical harm, bodily injury or assault**, between family or household members; (b) sexual assault of one family or household member by another; or (c) stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member. (*emphasis added*)

The provision authorizing modification or termination of permanent protection orders provides that "the court may modify the terms of an existing order for protection." RCW 26.50.130(1). This court has acknowledged that they can, but they choose not to. "I know I can deny renewal, but I am not going to." Commissioner Pro Tem Philip Kratz (Thurston County Attorney) on 7-29-2015. CP-591 Appellant's declaration and an Affidavit of a Witness are available in lieu of VRP's.

G. The trial court erred by ignoring the supreme law of the land; the United States Constitution and Washington State Constitution. The trial court erred when it failed to honor its Oath of Office and Judicial Canons by failing to protect the constitutional rights of Mr. Fischer

No court in this country, even a court of equity, is allowed to violate the Constitution. No government official of any kind is permitted to violate the Constitution and they have taken an oath not to do so in order to occupy their seat or office. The appellant has submitted extensive responsive documents to the petitions to renew the protection orders offering detailed evidence that there has not been a single incidence of contact between appellant and appellee. Appellant has expressed to the court many times that the existence of the protection order is unduly limiting appellant's rights, freedoms, pursuits, and continues to be used as a punitive mechanism to compel false admissions and participation in the domestic violence treatment program. - CP 128, 471, 496, 400 from NO. 368285-II. Petitioner is demanding that appellant voluntarily relinquish constitutionally assured rights and make false incriminating statements. The renewal of the restraining order also acts to unjustly deny appellant's constitutional rights set forth in Article 1, § 3 of the Washington State Constitution, which guarantees, "No person shall be deprived of life, liberty, or property, without due process of law." The existence of the

restraining order limits appellant's liberty and deprives him of life pursuits, without having been afforded due process and without any criminal charge from which a citizen can legally be deprived of such freedoms. Appellant also objects to being included in a law enforcement database, as this acts as a further impediment upon appellant's rights. Appellant has never been accused, tried or convicted of a single crime. By entering appellant's name in a criminal data base and branding him as such with a protection order, appellant is unlawfully prevented from exercising his second amendment right of the constitution. Appellant is not a firearm enthusiast. But, none the less, this constitutionally protected right has been violated. (Statement of a Claim) Additionally, appellant is routinely detained and questioned like a criminal at International Customs upon re-entering the country as a result of this criminal data base entry. (Statement of a Claim) This inclusion in a criminal data base can also be a detriment in seeking employment as it can have a slanderous, negative impact on a candidate during the usual screening process. (Statement of a Claim) Additionally, it hinders appellant's ability to effectively perform his current job duties. Appellant's job requires that he travel outside the state and country. This order hinders travel and, at best, is an inconvenience. (Statement of a Claim) This inclusion in a criminal data base can also be a detriment in community volunteering or coaching youth sports. (Statement

of a Claim)

Due Process Violation - The 14th amendment (to the United States Constitution) Due Process Clause. In 2011 In SCHEIB v. CROSBY, No. 28730-1-III, Court of Appeals of Washington, Division Three, Filed: March 3, 2011, the Division III COA declares the DVPO hearing a "Special Proceeding" and clearly states it is not a civil nor criminal proceeding, likening it to a L & I Hearing. So, where are the rules published for special Proceedings in Thurston County DV PO proceedings? At the time, I could not find them at the courthouse or the court's web site prior to the start of any Special Proceedings. Since this has not been done prior to any "special proceeding," appellant contends that his constitutional right to due process has been violated. The 14th amendment (to the United States Constitution) Due Process Clause prohibits state and local governments from depriving persons of life, liberty, or property without certain steps being taken to ensure fairness. In Southern Stevedoring Co. v. Voris, C.A. Tex 1951 (Southern Stevedoring Co. v. Voris, 190 F.2d 275, 277 -5th Cir. 1951) the court ruled "Although administrative agencies may be relieved from the observance of strict common law rules of evidence, their hearings must be conducted consistently with fundamental principals which are intrinsic to due process of law." Not publishing the rules is without question a violation of due process. Further, having a criminal outcome should require the burden of proof, rules of evidence and due process. The constitution is important to us all as well as

applicable to us all regardless of gender, occupation, age, race, sexual orientation or political affiliation.

H. The trial court erred by ignoring applicable United States Code in 42 U.S.C. § 1983 (Deprivation of rights under color of state law), and deprivation of civil rights protected by Title 18 U.S.C. CH. 13 § 241 - 249

The U.S. constitution specifically grants all judicial power over cases in Law and Equity to the U.S. Supreme Court in Article III, Section 2 which states, “The judicial Power shall extend to all Cases, in Law and in Equity, arising under this Constitution...”

42 U.S.C. § 1983, commonly referred to as "section 1983" provides:

Every person who under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, Suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia. (emphasis added)

Title 18 U.S.C. CH. 13 § 241 - "Conspiracy against rights "

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured— They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

There is adequate legal authority under current state law to justify making a decision to deny renewal of this order and uphold the appellant's constitutionally protected rights. The ends of justice can be achieved here without impacting the legal framework already set forth by the state legislature and in harmony with the U.S. and Washington State Constitution. The appellee's anonymity can also be maintained with the denial of renewal.

V. CONCLUSION

The appellate respectfully requests that the appellate court provide relief by vacating the order of protection, overturn the renewal and deny the conversion to a permanent order. Appellate asks this court to reverse the renewal of the order of protection and remand for the entry of an order consistent with this ruling.

RESPECTFULLY SUBMITTED on this 18th day of September, 2016.



Signature

BRUCE A. FISCHER
APPELLANT, PRO SE
8203 173RD AVE E
SUMNER, WA 98390

