

FILED
Court of Appeals
Division II
State of Washington
1/2/2018 3:31 PM

No. 50350-6
Superior Court No. 17-2-30083-34

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

ERIN FREEDOM HAWTIN,
Respondent/Appellant,

v.

JENNIFER LYNN HART,
Plaintiff/Appellee

BRIEF OF APPELLANT

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1. INTRODUCTION

1.1. Constitutional rights, such as due process and equal protection, preserve our judicial system from arbitrary rule. They preserve the trial court's credibility in the eyes of the public and for litigants. So engrained and fundamental are such rights that statutes and court orders must abide by constitutional protections.

In this case, Appellant Erin Freedom Hawtin ("Mr. Hawtin") was denied due process and equal protection of the law. Without being allowed to be heard, his First and Second Amendment rights were taken away by a final and substantive, *sua sponte*, judicial ruling. The judge making the ruling did not preside over the evidentiary hearing in the case, did not honor an affidavit of prejudice, and did not review the record or testimony. Yet her final order made factual findings. Worse, she essentially overruled credibility determinations by the commissioner who presided over the evidentiary hearing. In doing so, she also took away Mr. Hawtin's right to move for reconsideration or revision.

1.2. Ironically, Mr. Hawtin is a decorated veteran. He has literally gone to war to protect each of us, and our constitution, and to ensure we are all treated fairly under the law. On appeal, he argues the final order in this case, as well as previous orders by the same judge, are void on statutory and constitutional grounds and they should be vacated. He requests this Court

enforce the affidavit of prejudice, and remand the matter back to the Commissioner who heard the case. From there, that Commissioner—as the only proper fact finder in the case—can clarify his order, if needed. Mr. Hawtin can then be fairly treated like any other litigant. Either party will have the ability to move to reconsider or revise the Commissioner’s order on remand, and they can do so in the normal (constitutional) course that statutes and court rules provide for.

2. ASSIGNMENTS OF ERROR

2.1. The trial court erred in entering its April 11, 2017, order, in “rejecting” Mr. Hawtin’s affidavit of prejudice against Judge Hirsch.

2.2. The trial court erred in entering its April 6 and April 14, 2017, *sua sponte* orders, because such orders violated court rules regarding reconsideration and revision, violated statutes governing domestic violence protection order modification, and violated statutes governing the removal of Second Amendment rights.

2.3. The trial court erred in entering its April 6 and April 14, 2017, *sua sponte* orders, because such orders violated Mr. Hawtin’s due process, equal protection, and First and Second Amendment rights.

2.4. Judge Hirsch demonstrated bias, prejudice, impropriety, and partiality and erred in not recusing herself from the case.

3. ISSUES PERTAINING TO ASSIGNMENT OF ERROR

3.1. Whether Judge Hirsch was barred from hearing Mr. Hawtin’s case because he timely filed an affidavit of prejudice?

3.2. Issues regarding the April 6, 2017, sua sponte order:

3.2.1. Whether the April 6, 2017, order violated court rules and statutes governing modification of a protection order and removal of

Second Amendment rights?

3.2.2. Whether the April 6, 2017, order violated Mr. Hawtin's due process rights and Second Amendment rights based on the lack of meaningful notice and opportunity to be heard?

3.2.3. Whether the April 6, 2017, order violated Mr. Hawtin's due process rights because upholding the order would in effect cause RCW 26.50.130, RCW 9.41.800(3), and 18 U.S.C. § 922(g)(8) to be unconstitutional as applied?

3.2.4. Whether the April 6, 2017, order violated Mr. Hawtin's equal protection rights?

3.3. Issues regarding the April 14, 2017, *sua sponte* order:

3.3.1. Whether the April 14, 2017, order violated court rules and statutes governing modification of a protection order and removal of Second Amendment rights?

3.3.2. Whether the April 14, 2017, order violated Mr. Hawtin's due process and Second Amendment rights based on the lack of meaningful notice and opportunity to be heard?

3.3.3. Whether the April 14, 2017, order violated Mr. Hawtin's due process rights because upholding the order would in effect cause RCW 26.50.130, RCW 9.41.800(3), and 18 U.S.C. § 922(g)(8) to be unconstitutional as applied?

3.3.4. Whether the April 14, 2017, order violated Mr. Hawtin's equal protection rights?

3.3.5. Whether the April 14, 2017, order violated Mr. Hawtin's First Amendment rights based because it was an unconstitutional prior restraint on Mr. Hawtin's right to petition the government?

3.4. Whether Judge Hirsch demonstrated bias, prejudice, impropriety, and partiality by failing to adhere to the law, court rules, and provisions of the Code of Judicial Conduct?

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4. STATEMENT OF THE CASE

4.1. Appellee Jennifer Lynn Hart (“Ms. Hart”) filed a petition for protection from domestic violence against Mr. Hawtin, and obtained an ex-parte temporary order of protection, on January 30, 2017. (CP 1-11, 14-17). Ms. Hart did so after Mr. Hawtin broke up with her and moved out of her house, and after the police detained her for domestic violence against Mr. Hawtin. (CP at 20-30, 59-60, 255-56; RP April 5, 2017 at 60-64). Mr. Hawtin is a decorated veteran on active duty. (RP April 5, 2017, at 30-31, 58, 124). Mr. Hawtin moved to realign the parties and become petitioner in the action. (CP at 48).

4.2. A full special-set hearing, comprised of several hours of testimony, was held before Commissioner Phil Kratz on April 5, 2017. (RP March 20, 2017 at 47; RP April 5, 2017 at 115).

4.3. Ms. Hart was impeached as to her claim that she was fearful that Mr. Hawtin posed a threat with firearms (CP at 31-37, 44-46), and the Commissioner specifically found Ms. Hart “not credible” when it came to her fear of Mr. Hawtin possessing firearms:

I want to handle the issue about the fear of firearms that Ms. Hart is asserting. I don't find that to be credible. . . . I don't believe that rings true that Ms. Hart is actually fearful of firearms in the possession of Mr. Hawtin.

(RP April 5, 2017, at 119-20)

MS. HART: I do have a question, though. As for his firearms that are all in the police custody right now –

THE COURT: Um-hmm.

MS. HART: -- so is he going to be able to -- he's just going to have access to those after this?

THE COURT: Those firearms will be returned to him.

MS. HART: Okay. I am just curious, because it said that this -- yeah. It just says in the rules for it that if a final protection order is issued, that it's a -- he can't possess firearms or ammunition.

THE COURT: There is a statute under the State of Washington that provides that if the court finds that there is a credible threat that a domestic violence abuser would use firearms, that I can authorize that they be surrendered to law enforcement and that his right to possess firearms would be terminated. I'm not finding that in this particular case.

(RP April 5, 2017, at 126).

4.4. Commissioner Kratz did enter a final protection order against Mr. Hawtin, however. (CP at 85-89). The protection order and finding of an act of domestic violence appears to have been based on a single altercation between the parties. (RP April 5, 2017, at 120-21). Ms. Hart submitted photos to the court and purported that Mr. Hawtin had injured her causing her face to have blood on it. (CP at 32). Mr. Hawtin testified that Ms. Hart had hit him and given him a bloody nose, and that the blood on Ms. Hart's face was his, not hers. (RP April 5, 2017, at 42-45; CP 69; see also CP 45-

46 (third party testimony)). He further testified that Ms. Hart was trying to mislead the court with the photos. (RP April 5, 2017, at 44-45; CP at 255-56). The police report regarding the incident indicated that the investigating police officer found no injury on Ms. Hart and no way that the blood was hers. (RP April 5, 2017, at 120). Text messages revealed that Ms. Hart stated she was “crazy” and that she had been referred to “behavioral services.” (RP April 5, 2017, at 40-41, 45-46 but see RP April 5, 2017, at 30).

4.5. Nevertheless, Commissioner Kratz described some of the correspondence Mr. Hawtin sent to Ms. Hart as “derogatory” and “vulgar.” (RP April 5, 2017, at 121). Based on this “insight” as to how Mr. Hawtin felt about Ms. Hart, Commissioner Kratz found that Mr. Hawtin committed an act of domestic violence against Ms. Hart. (RP April 5, 2017, at 121).

4.6. After Commissioner Kratz stated he was issuing a protection order against Mr. Hawtin, undersigned counsel requested the court “tailor this order so that it [would] not destroy Mr. Hawtin’s [honorable military] career, because [the Commissioner] found [Ms. Hart] not credible when it c[ame] to guns.” (RP April 5, 2017, at 124). Undersigned counsel further requested that “this order not be interpreted as taking away [Mr. Hawtin’s] gun rights. . . .” (RP April 5, 2017, at 124-25)

4.7. Commissioner Kratz responded, “I have not found that there was a basis for this court to find there’s a credible risk found to Ms. Hart

because of firearm usage. . . . I am not putting any restriction on him as far as firearms.” (RP April 5, 2017, at 125).

4.8. Apparently, on or about the same day Commissioner Kratz entered his ruling, a court employee brought to the attention of Judge Anne Hirsch the fact that Mr. Hawtin was specifically allowed to have his firearms returned. (RP April 6, 2017, at 3). The next day, April 6, 2017, Judge Hirsch had a court employee contact undersigned counsel’s law firm by phone to let him know a hearing was set *sua sponte* that afternoon. (See RP April 6, 2017, at 3-4). Mr. Hawtin’s appearance was mandatory. (See RP April 6, 2017, at 3-4).

4.9. At the *sua sponte* hearing, on April 6, 2017, Judge Hirsch announced that “based on [her] quick review” there was “a conflict between what was put in the petition and what was indicated on [Commissioner Kratz’s April 5, 2017, protection] order.” (RP April 6, 2017, at 3). Before hearing from any party or counsel, Judge Hirsch announced “I’m going to issue a stay of the return of firearms. . . .” (RP April 6, 2017, at 4).

4.10. Undersigned counsel raised procedural and due process concerns as to the setting of the hearing but was not allowed to argue the substance of the order:

As to the procedure, the RCWs are quite clear that if you want to reconsider or revise a commissioner’s order, there’s a statutory procedure for that. That statutory procedure is

based on constitutional due process. There has been no due process in regard to this hearing. Any order entered in this hearing is likely void as for the fact that petitioner did not bring any motion for reconsideration or for revision.

(RP April 6, 2017, at 5)

Commissioner Kratz was explicit in his ruling that firearms were to be allowed for Mr. Hawtin.

(RP April 6, 2017, at 6)

Gourley v. Gourley, and it's the Supreme Court En Banc. It's 158 Wn.2d 460, and it talks about the -- why the statute is constitutionally -- why the statute is constitutional and it has to do with due process and it has to do with fair notice, hearing. That's not happening here.

(RP April 6, 2017, at 6).

4.11. Judge Hirsch then entered an order modifying the April 5, 2017, protection order. (CP at 91-92). Mr. Hawtin's ability to have his firearms returned and his Second Amendment rights were taken away based on the belief that the April 5, 2017, protection order "contained a scrivener's error" and "violated federal law." (CP at 91-92; RP April 6, 2017, at 4). Judge Hirsch did not provide any detail as to how or why. (RP April 6, 2017). She stated that she "believed that there [were] community safety issues at risk." (RP April 6, 2017 at 5).

4.12. The April 5, 2017, protection order that Commissioner Kratz entered—on its face and by its plain language—did not violate federal law

or require Mr. Hawtin's Second Amendment rights or firearms be taken away. This is because the order does not include a finding that Ms. Hart was Mr. Hawtin's "intimate partner."¹

4.13. Judge Hirsch set a hearing about a week later, on April 14, 2017, regarding the alleged "scriveners error." (CP at 90-92). That was set before Commissioner Thomas. (CP at 90-92). Undersigned counsel emailed the court, and raised the concerns about how Commissioner Thomas could hear the matter and change Commissioner Kratz's protection order.

4.14. Judge Hirsch then set a new hearing on or about the same date, April 14, 2017, to be in front of her to address the alleged scrivener's error. (CP at 93-94). Before this hearing, Mr. Hawtin received no briefing, no argument, and no direction from the Court, or Ms. Hart, as to the alleged scrivener error.

4.15. Abiding by local court rules and timelines regarding

¹ Controlling statutes are RCW 9A.41.030(3) and 18 U.S.C. § 922(g)(8). They mirror each other in language. Both mandate firearm removal only if after (1) hearing, where (2) the respondent has opportunity to participate and (3) received actual notice, the court makes requisite findings and prohibitions/restrictions. The required findings and prohibitions/restrictions are as follows: (4) the court must find that the petitioner is either an intimate partner of the respondent or an intimate partner's child; (5) the court must restrain the respondent from conduct that would place the intimate partner, or intimate partner's child, in reasonable fear of bodily injury; prohibited conduct includes harassing, stalking, or threatening the intimate partner or intimate partner's child; (6) the court must either (a) find the respondent represents a credible threat to the physical safety of such intimate partner or intimate partner's child, or (b) prohibit the use, attempted use, or threatened use of physical force against such intimate partner or intimate partner's child that would reasonably be expected to cause bodily injury.

reconsideration, on April 10, 2017, undersigned counsel filed a motion to correct clerical mistake or reconsideration before Commissioner Kratz, setting a hearing on April 24, 2017. (CP at 98-100). This motion was based on undersigned counsel's guess at what the alleged scrivener's error was that Judge Hirsch mentioned. (CP at 98-100). Mr. Hawtin also requested that military findings be entered into the record as a military tribunal found Ms. Hart abused Mr. Hawtin and that Mr. Hawtin did not abuse Ms. Hart. (CP 206, 207-214, 235-36).

4.16. Additionally, undersigned counsel filed an affidavit of prejudice, on April 10, 2017, against Judge Hirsch. (CP 101-02). In written objections filed with the trial court, Mr. Hawtin argued that Judge Hirsch had not made any discretionary ruling and could not sit at the April 14, 2017, hearing. (CP 103-08). The trial court signed an order rejecting the affidavit of prejudice, without written reasons. (CP at 109-10).

4.17. Before the April 14, 2017, hearing, undersigned counsel filed with the trial court the verbatim transcript from Commissioner Kratz's ruling on April 5, 2017, which detailed his reasons as to why he had ordered Mr. Hawtin's firearms returned. (Appendix) (copy of the docket entry). Undersigned counsel also filed a verbatim transcript from the April 6, 2017, *sua sponte* hearing. (appendix).

4.18. By the time of the hearing on April 14, 2017, undersigned

counsel still had not received any briefing, argument, nor direction from the trial court or Ms. Hart as to what the alleged scrivener's error was.

4.19. At the April 14, 2017, hearing, undersigned counsel renewed his objection to Judge Hirsch presiding over the case given that an affidavit of prejudice had been filed. (RP April 14, 2017, at 4). This objection was overruled.

4.20. Undersigned counsel then read pertinent portions of Commissioner's Kratz's oral ruling, and argued that the April 14, 2017, hearing was based on surprise and ambush, and violated Mr. Hawtin's due process rights, as Mr. Hawtin had no meaningful notice nor meaningful opportunity to be heard. (RP April 14, 2017, at 5). It wasn't until Ms. Hart made oral argument and Judge Hirsch made her oral ruling on April 14, 2017, did Mr. Hawtin receive or hear any argument as to what the alleged scrivener's error was or why Mr. Hawtin's constitutional rights to possess or own firearms were taken away. (RP April 14, 2017, at 4-5, 9, 20).

Undersigned counsel stated:

[I]n all due respect -- and I understand to some degree what's happening here, but putting yourself in my shoes, there's been no motion filed by, well, any party. There's been no motion filed by the Court. I stand here before the Court with no briefing to respond to. I have some vague assertions as to there's a scrivener's error in an order. The Court indicated that there was a disagreement among the parties, but I -- a disagreement among the parties, but I've heard no such disagreement between the parties, neither in a motion nor in

any correspondence. If there's been some type of ex parte communication between the petitioner and the Court, Mr. Hawtin feels that he should be, you know, entitled to know about those communications.

(RP April 14, 2017, at 4)

I don't know what I'm responding to in a large measure. The statutes under domestic violence, if you want to amend or change a protective order, they provide for notice and an equal opportunity to be heard. The constitution under the due process clause requires some notice and opportunity to be heard.

(RP April 14, 2017, at 5)

[T]he court commissioner not only ruled that he can have his firearms while on a military base, but he said he can have his firearms, period.

(RP April 14, 2017, at 12)

[E]ven if this Court determines that the Honorable Anne Hirsch can hear this matter because Mr. Hawtin's affidavit of prejudice was untimely, it remains unclear how the stated honorable judge could definitively determine at this April 14th hearing - that's today - between the parties what the intent of the Commissioner was when making his ruling.

(RP April 14, 2017, at 16)

I feel [I am] in an awkward position in which I'm arguing with the Court, and I don't really want to argue with the

Court.

(RP April 14, 2017, at 16).

4.21. Judge Hirsch then acknowledged that “it's not typical for the Court to on its own motion address a matter that this Court didn't hear. You are correct about that.” (RP April 14, 2017, at 17).

4.22. Notwithstanding this acknowledgement, Judge Hirsch stated on April 14, 2017, “I am just going to make a couple of findings and we are going to figure out a way to go forward with this[,]” (RP April 14, 2017, at 17) and “I’m going to enter an amended order today that includes a stay.” (RP April 14, 2017, at 22).

4.23. It appears Judge Hirsch’s belief was that all domestic violence orders required the removal of firearms.

Under federal law, once a protection order is entered -- and the Commissioner did make a finding that there was an act or acts of domestic violence sufficient to enter a domestic violence protection order. Once that finding has been made and an order has been entered, by virtue of federal law Mr. Hawtin does not have the right to own or possess firearms or a concealed weapons permit or any ammunition. That is nothing that this Court has any control over. That is all by virtue of federal law.

(RP April 14, 2017, at 19)

The Court has concerns that the Court doesn’t have the ability to address Mr. Hawtin’s firearms rights because by virtue of federal law he doesn’t have any.

(RP April 14, 2017, at 20)

[T]he Court enter[ed] a domestic violence protection order, [and Mr. Hawtin] is prohibited by virtue of federal law from owning or possessing or having his control any firearms unless . . . until a Court restores those rights.

(RP April 14, 2017, at 23; see also CP 117).

4.24. Undersigned counsel also argued that if there was an issue that needed to be resolved, then the parties could move Commissioner Kratz to do so. (RP April 14, 2017, at 5-8). This was because Commissioner Kratz was the judicial officer that heard the testimony from the evidentiary hearing, made the credibility findings, and issued the order. (RP April 14, 2017, at 5-8).

4.25. In response, Judge Hirsch expressly ruled that Mr. Hawtin could move Commissioner Kratz for relief regarding clarification of the protection order:

The Court is not going to allow firearms to be returned to Mr. Hawtin at this time. You can set any matter you want to be set and addressed in front of the Commissioner so that he can make whatever adjustments that he feels may be appropriate under the law. He entered a domestic violence protection order. Mr. Hawtin has no right to own or possess firearms.

(RP April 14, 2017, at 21).

4.26. Judge Hirsch then drafted, signed, and filed an “Amended

Order for Protection.” (CP at 111-116). In which, Judge Hirsch:

- Added Ms. Hart’s children G.A.H. and A.A.L. as additional persons

to the protection order. Compare CP at 111,

<p style="text-align: center;">Superior Court of Washington For Thurston County Family and Juvenile Court</p> <p>JENNIFER LYNN HART, DOB 10/10/1984 Petitioner (First, Middle, Last Name) vs. ERIN FREEDOM HAWTIN, DOB 5/26/1986 Respondent (First, Middle, Last Name)</p> <p>Names of Minors: <input type="checkbox"/> No Minors Involved (First, Middle, Last, Age) GWEN AMANDA HART, Age 13 ALLJAH AMON LOWE, Age 8</p>	<p>Amended- Order for Protection</p> <p>No. 17-2-30083-34</p> <p>Court Address: 2801 32nd Avenue SW Tumwater, WA 98512 Telephone Number: 360-709-3268 or 360-709-3275 (Clerk's Action Required) (ORPRT/ORWPNP)</p> <p style="text-align: right;"><i>AA</i></p> <table border="1"> <thead> <tr> <th colspan="3">Respondent Identifiers</th> </tr> <tr> <th>Sex</th> <th>Race</th> <th>Hair</th> </tr> </thead> <tbody> <tr> <td>Male</td> <td>White</td> <td>BRO</td> </tr> <tr> <th>Height</th> <th>Weight</th> <th>Eyes</th> </tr> <tr> <td>5ft 10 in</td> <td>175</td> <td>Brown</td> </tr> </tbody> </table> <p>Respondent's Distinguishing Features: Respondent has unknown distinguishing features. Access to weapons: <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> unknown</p>	Respondent Identifiers			Sex	Race	Hair	Male	White	BRO	Height	Weight	Eyes	5ft 10 in	175	Brown
Respondent Identifiers																
Sex	Race	Hair														
Male	White	BRO														
Height	Weight	Eyes														
5ft 10 in	175	Brown														

with CP 85:

<p style="text-align: center;">Superior Court of Washington For Thurston County Family and Juvenile Court</p> <p><i>JENNIFER HART</i>, DOB <i>10/10/84</i> Petitioner v. <i>ERIN HAWTIN</i>, DOB <i>5/26/86</i> Respondent</p> <p>Names of Minors: <input type="checkbox"/> No Minors Involved First Middle Last Age _____ _____ _____</p> <p>Caution: Access to weapons: <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> unknown</p>	<p>Order for Protection</p> <p>No.</p> <p>Court Address: 2801 32nd Avenue SW Tumwater, WA 98512 Telephone Number: (360)709-3268 or (360)709-3275 (Clerk's Action Required) (ORPRT)</p> <table border="1"> <thead> <tr> <th colspan="3">Respondent Identifiers</th> </tr> <tr> <th>Sex</th> <th>Race</th> <th>Hair</th> </tr> </thead> <tbody> <tr> <td><i>M</i></td> <td><i>W</i></td> <td><i>BRO</i></td> </tr> <tr> <th>Height</th> <th>Weight</th> <th>Eyes</th> </tr> <tr> <td><i>5-10</i></td> <td><i>175</i></td> <td><i>BRO</i></td> </tr> </tbody> </table> <p>Respondent's Distinguishing Features:</p>	Respondent Identifiers			Sex	Race	Hair	<i>M</i>	<i>W</i>	<i>BRO</i>	Height	Weight	Eyes	<i>5-10</i>	<i>175</i>	<i>BRO</i>
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<i>5-10</i>	<i>175</i>	<i>BRO</i>														

- Added language that stated, “current or former cohabitant as a part of a dating relationship.” Compare CP 111,

Respondent's relationship to the victim is:

AA
AA

spouse or former spouse current or former dating relationship in-law parent or child
 parent of a child in common stepparent or stepchild blood relation other than parent or child
 current or former domestic partner current or former cohabitant as roommate
 current or former cohabitant as part of a dating relationship

with CP at 85:


 Respondent's relationship to the petitioner is:
 spouse or former spouse current or former dating relationship in-law parent or child
 parent of a common child stepparent or stepchild blood relation other than parent or child
 current or former cohabitant as intimate partner,
including current or former registered domestic partner current or former cohabitant as roommate

- (Curiously) redacted language that stated, “Respondent represents a credible threat to the physical safety of the protected person/s.” Compare CP at 111,

Respondent represents a credible threat to the physical safety of the protected person/s.
Additional findings may be found below. The court concludes that the Respondent committed domestic violence as defined in RCW 26.50.010.

with CP at 85:

Respondent committed domestic violence as defined in RCW 26.50.010 and represents a credible threat to the physical safety of petitioner; the court concludes as a matter of law the relief below shall be granted.

- Added that Mr. Hawtin’s was “prohibit[ed]” from “obtain[ing]” or “possess[ing] any firearms, other dangerous weapons, or concealed pistol license[,]” and that he must “surrender” all of the above. (CP at 114).
- Removed Commissioner Kratz’s order to law enforcement that Mr. Hawtin’s firearms shall be returned. Compare CP at 114,

Prohibit Weapons and Order Surrender

The Respondent must:

- not obtain or possess any firearms, other dangerous weapons, or concealed pistol license; and
- turn in any firearms, other dangerous weapons, and concealed pistol license as stated in the **Order to Surrender Weapons** filed separately.

Findings – The court (check all that apply):

- must** issue the above orders and an **Order to Surrender Weapons** because:
- the first restraint provision is ordered above, and the court found on page one that the Respondent had *actual notice*, represented a *credible threat*, and was an *intimate partner*.

with CP at 89:

<input type="checkbox"/>	Law enforcement shall assist petitioner in obtaining:
<input type="checkbox"/>	Possession of petitioner's <input type="checkbox"/> residence <input type="checkbox"/> personal belongings located at: <input type="checkbox"/> the shared residence <input type="checkbox"/> respondent's residence <input type="checkbox"/> other:
<input type="checkbox"/>	Custody of the above-named minors, including taking physical custody for delivery to petitioner.
<input type="checkbox"/>	Possession of the vehicle designated in paragraph 8, above.
<input type="checkbox"/>	Other:
<input checked="" type="checkbox"/>	Other: <i>FINGERPRINTS RETURNED TO RESPONDENT</i>

4.27. On April 24, 2017, Mr. Hawtin attempted to have his Motion to Correct Scrivener's Error/Reconsideration heard by Commissioner Kratz. (CP 118; RP April 24, 2017). Commissioner Kratz stated that he did not have authority to overrule the ruling of Judge Hirsch at the April 14, 2017, hearing as he believed her order was a final order. (CP 118; RP April 24, 2017, at 15). However, Commissioner Kratz granted a continuance to allow Mr. Hawtin to show that Judge Hirsch stated that Commissioner Kratz could revise her April 14, 2017, Amended Order. (RP April 24, 2017, at 17-19). The hearing was continued until June 28, 2017. (CP 118).

4.28. On May 11, 2017, Mr. Hawtin filed his Notice of Appeal to preserve his ability to reverse Judge Hirsch's April 14, 2017, Amended Order. (CP at 119-205).

4.29. On May 16, 2017, Judge Hirsch, *sua sponte*, entered an "Order Assigning Case." (CP at 215). In which she ordered (1) "All future motions in this case requiring hearing by a judge shall be heard by Judge Hirsch[.]" and (2) "Future motions in this case that would generally be heard by a court commissioner shall continue to be heard by a court commissioner." (CP at

215).

4.30. On June 28, 2017, Commissioner Kratz ruled that Judge Hirsch's Amended Protection Order, from April 14, 2017, was a final order. (RP June 28, 2017, at 9-11). He did so after "personally talk[ing] with Judge Hirsch" without the knowledge of any party. (RP June 28, 2017, at 9). In that conversation, Judge Hirsch told Commissioner Kratz "that there's no basis for [Commissioner Kratz] to go back and change anything on [the April 14, 2017] order." (RP June 28, 2017, at 9).

4.31. On July 20, 2017, Mr. Hawtin moved this Court for an order (1) voiding Judge Hirsch's *sua sponte* orders, (2) directing the superior court to enforce the affidavit of prejudice against Judge Hirsch, and (3) directing the superior court to hear Mr. Hawtin's motion to correct clerical error and (4) motion to allow military findings to enter the record.

4.32. This Court's Commissioner responded by requesting briefing on whether Mr. Hawtin could appeal Judge Hirsch's order as a matter of right. (Letter Ruling, dated July 26, 2017).

4.33. On August 16, 2017, this Court ruled that the April 14, 2017, order was appealable as a matter of right. (Letter Ruling, dated August 16, 2017). It also ruled:

- "[Mr. Hawtin's] motion for orders voiding Judge Hirsch's orders and directing enforcement of the affidavit of prejudice against Judge

Hirsch are denied because the RAP's do not provide for such summary orders.”

- “[Mr. Hawtin] has permission under RAP 7.2 to bring his motions to correct clerical error, for reconsideration and for entry of military findings into the record before the trial court.”
- “This court will not direct the trial court as to what judicial officer should consider such motions, as this court lacks the authority to so direct the trial court.”

4.34. On September 21, 2017, Commissioner Kratz heard Mr. Hawtin's motions, stated above. (CP at 257-87). He ruled that “my ruling is exactly the same as I have made in the previous two rulings on April 24th and June 28th [2017].” (RP September 21, 2017 at 20). And he explained that his “ruling . . . had been superseded by the order of Judge Hirsch,” (RP September 21, at 19), “A superior court judge has made a ruling after my ruling. . . . I have no authority . . . to overrule the ruling of a superior court judge.” (RP September 21, 2017 at 20-21; CP at 257-87).

5. STANDARD OF REVIEW

A trial court's recusal decision is review for an abuse of discretion. Wolfkill Feed & Fertilizer Corp. v. Martin, 103 Wn. App. 836, 840, 14 P.3d 877 (2000). However, where an “issue is based on the meaning of a statute, it is a question of law and reviewed de novo.” State v. Haq, 166 Wn. App.

221, 272, 268 P.3d 997, 1022 (2012). Constitutional issues are also reviewed de novo. State v. Sieyes, 168 Wn.2d 276, 281, 225 P.3d 995 (2010). A statute that is found unconstitutional as applied remains good law except in similar circumstances. City of Redmond v. Moore, 151 Wn.2d 664, 669, 91 P.3d 875 (2004).

6. ARGUMENT

6.1. Mr. Hawtin’s Affidavit of Prejudice Precluded Judge Hirsch from Entering the April 14, 2017, Amended Order of Protection.

“Under [former] RCW 4.12.040 and .050,² any party in a superior court proceeding has the right to one change of judge if he files a motion supported by an affidavit of prejudice. . . .” Rhinehart v. Seattle Times Co., 51 Wash. App. 561, 578, 754 P.2d 1243, 1253 (1988). “[P]rejudice is deemed to be established by the affidavit and the judge to whom it is directed is divested of authority to proceed further into the merits of the action.” State v. Dixon, 74 Wn.2d 700, 702, 446 P.2d 329 (1968).

Per the plain language of former RCW 4.12.050, a motion and affidavit of prejudice must be:

filed and called to the attention of the judge before he or she shall have made any ruling whatsoever in the case, ***either on the motion of the party making the affidavit, or on the motion of any other party to the action***, of the hearing of which the party making the affidavit has been given notice.

² Effective until July 22, 2017. 2017 Wa. ALS 42, 2017 Wa. Ch. 42, 2017 Wa. SB 5277, 2017 Wa. ALS 42, 2017 Wa. Ch. 42, 2017 Wa. SB 5277.

...

See Rhinehart, 51 Wash. App. at 578 (emphasis added) (holding “the court’s discretion is invoked *only where*, in the exercise of that discretion, *the court may either grant or deny a party’s request.*”).

In Torres, the trial court entered an order “permit[ing] a material witness to leave the jurisdiction for a family visit.” State v. Torres, 85 Wn. App. 231, 234, 932 P.2d 186, 188, (1997), review denied, 132 Wn.2d 1012, 940 P.2d 654 (1997). The order was not preceded by a motion by any party to the action. Id. Thereafter, the defendant, Mr. Torres, filed an affidavit of prejudice against the judge who entered the order granting leave. Id. The trial court denied Mr. Torres’ affidavit of prejudice and Mr. Torres appealed.

The Court of Appeals reversed the trial court, and the Supreme Court denied review, as no “motion by any party to the action, as contemplated by RCW 4.12.050[,],” was decided by the judge before Mr. Torres filed his affidavit of prejudice. Torres, 85 Wn. App. at 234. In other words, the key holding of the Court of Appeal’s decision—following the plain language of the statute—was that for a discretionary ruling to have occurred, as defined by the statute, such ruling must have been preceded by a motion by one of the parties to the action. Id.

Additionally, “Setting or renoting and resetting a cause or motion

for hearing is a calendaring action which falls outside the discretionary classification.” Rhinehart, 51 Wash. App. at 578.

Here, Mr. Hawtin filed his affidavit of prejudice on April 10, 2017, four days before Judge Hirsch entered her April 14, 2017, Amended Order of Protection. (CP 101-02). Prior to this date, no party had filed any motion before Judge Hirsch. Per the plain language of the statute, Mr. Hawtin’s affidavit of prejudice was timely filed. See Rhinehart, 51 Wash. App. at 578; Torres, 85 Wn. App. at 234. Judge Hirsch’s April 6, 2017, order followed the trial court’s request, not any motion by a party; thus, it fell “outside the discretionary classification” contemplated by the statute. See Rhinehart, 51 Wash. App. at 578; Torres, 85 Wn. App. at 234.

Furthermore, Judge Hirsch did not make a discretionary decision under the former statute as she was just setting an April 14, 2017, hearing (CP 91-94) to correct an “error in the [April 5, 2017, protection] order,” (RP April 6, 2017, at 3) and she stated she was just ensuring the April 5, 2017, protection order abided by federal law. (RP April 6, 2017, at 4). The latter she said she was obligated to do, and the former was just ministerial noting of a hearing, thus neither was discretionary action under the statute. See Rhinehart, 51 Wash. App. at 578.

Accordingly, under former RCW 4.12.050, Mr. Hawtin timely filed an affidavit of prejudice against Judge Hirsch and she was barred from

presiding over the April 14, 2017, hearing and barred from entering the Amended Protection Order.

6.2. The April 6, 2017, Order Removing Mr. Hawtin’s Second Amendment Rights and Modifying the April 5, 2017, Protection Order Violated Statutes Governing Domestic Violence Orders and Second Amendment Rights as well as Court Rules Regarding Reconsideration and Revision.

The Revised Code of Washington Section 2.24.050 provides in pertinent part that:

unless a demand for revision is made within ten days from the entry of the order or judgment of the court commissioner, the orders and judgments shall be and become the orders and judgments of the superior court, and appellate review thereof may be sought in the same fashion as review of like orders and judgments entered by the judge.

State and Thurston County local court rules provide that parties must move the court for revision or reconsideration. CR 59, LCR 53.2; LCR 59; LSPR 94.14.

Section 26.50.130, RCW, provides in pertinent part:

RCW 26.50.130

Order for protection—Modification or termination—Service—Transmittal.

(1) Upon a motion with notice to all parties and after a hearing, the court may modify the terms of an existing order for protection or may terminate an existing order for protection.

(2) A respondent's motion. . . . declaration must be served according to subsection (7) of this section. . . . The court shall deny the motion unless it finds adequate cause for hearing the motion is established by declaration.

(5) Upon a motion by a petitioner, the court may modify or terminate an existing order for protection.

(7) . . . [A] motion to modify or terminate an order for protection must be personally served on the nonmoving party not less than five court days prior to the hearing.

Notably, "no order for protection shall grant relief to any party except upon notice to the respondent and hearing." RCW §§ 26.50.060(1), 060(5).

Finally, both RCW 9.41.800(3) and 18 U.S.C. § 922(g)(8) require a respondent to have "actual notice" and an "opportunity to participate" in a hearing before Second Amendment rights can be taken away.

Here, court rules and statutory procedures to reconsider or revise a judgment or order were not followed by Judge Hirsch on April 6, 2017, less than 24 hours after the Commissioner issued the protective order. See RCW 2.24.050; CR 59, LCR 53.2; LCR 59; LSPR 94.14. No motion was filed by any party. Notice of the hearing was inadequate as it was given to Mr. Hawtin's attorney's paralegal mere hours before the hearing. (RP April 6, 2017, at 3-4). No emergency presented itself because any threat with a firearm was "not credible." (RP April 5, 2017, at 119-20). Judge Hirsch decided she was taking away Mr. Hawtin's Second Amendment rights

before speaking to him or counsel (RP April 6, 2017, at 3-4), so the hearing was perfunctory.

Additionally, under RCW 26.50.130, modification of the April 5, 2017, protection order and removal of Mr. Hawtin's Second Amendment rights required a motion by a party, a declaration supporting the motion and the requested termination of his Second Amendment rights, five days of notice before the hearing, personal service, and adequate cause. None of this occurred, and the April 6, 2017, order violated RCW 26.50.130.

Finally, under RCW 9.41.800(3) and 18 U.S.C. § 922(g)(8), Mr. Hawtin was not given "actual notice" of the April 6, 2017, hearing; his attorney's paralegal was called on the telephone. He was hardly given "opportunity to participate" when Judge Hirsch decided the matter before speaking with any party and when she would not let Mr. Hawtin make a full record. (RP April 6, 2017, at 3-4).

Consequently, Judge Hirsch's April 6, 2017, order violated state and local court rules. It also violated statutes governing the modification of a protection order as well as Second Amendment rights removal.

6.3. The April 6, 2017, Order Removing Mr. Hawtin's Second Amendment Rights and Modifying the April 5, 2017, Protection Order Violated Mr. Hawtin's Constitutionally Granted Due Process and Second Amendment Rights.

It is fundamental that a person must receive adequate notice and

opportunity to be heard before an order or judgment can be entered against him. In re Marriage of Maxfield, 47 Wash. App. 699, 704, 737 P.2d 671, 674 (1987); Gourley v. Gourley, 158 Wn.2d 460, 467, 145 P.3d 1185, 1188 (2006); Mathews v. Eldridge, 424 U.S. 319, 333, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); Olympic Forest Prods. v. Chaussee Corp., 82 Wn.2d 418, 422, 511 P.2d 1002, 1005 (1973). If procedural safeguards are inadequate, a court lacks jurisdiction over a party and cannot enter a valid order against him. Maxfield, 47 Wash. App. at 704. Any such order is void. Id. at 706.

Additionally, the Second Amendment vests the right to bear arms in the individual. District of Columbia v. Heller, 554 U.S. 570, 603, 128 S. Ct. 2783, 2803, 171 L. Ed. 2d 637, 664 (2008). The taking of such property must be preceded by notice and the opportunity to be heard. Olympic Forest Prods., 82 Wn.2d at 422. Where the taking of one's property is obvious, there need not be an extended argument to conclude that the lack of meaningful notice and opportunity to be heard violates the fundamental principles of due process. Id.

Moreover, “If the right to notice and a hearing is to serve its full purpose, then, it is clear that it must be granted at a time when the deprivation can still be prevented. . . .” Id. at 430. This is because “[n]o later hearing . . . can undo the fact that the arbitrary taking that was subject to the right of procedural due process. . . .” and because the Supreme Court

of Washington “has not embraced the general proposition that a wrong may be done if it can be undone.” Id. (internal punctuation and citation omitted).

In evaluating the process due to be given in a particular circumstance, the Court considers (1) the private interest impacted by the government action; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) the government interest, including the additional burden that added procedural safeguards would entail. Gourley, 158 Wn.2d at 467-468.

Here, on April 6, 2017, Mr. Hawtin was ordered to come into court that same afternoon via a, *sua sponte*, phone call from the trial court. (RP April 6, 2017, at 3). This was mere hours of notice, not to him but to his attorney’s paralegal. At the hearing, Judge Hirsch—who previously never had anything to do with the case—stated there was a “conflict between what was put in the petition and what was indicated on the order . . . [that] ha[d] to do with firearms.” (RP April 6, 2017, at 3-4). Judge Hirsch then modified the protection order and removed Mr. Hawtin’s Second Amendment rights. The decision to do so was made before hearing from the parties. (RP April 6, 2017, at 4).

Furthermore, this modification occurred despite Commissioner Kratz finding that Ms. Hart was not “credible” as to any alleged threat

regarding firearms, and despite his ruling that Mr. Hawtin was to retain those Second Amendment rights and have his firearms “returned.” (RP April 5, 2017, at 119-20).

Mr. Hawtin, for his part, timely objected and raised the concern of bias as Judge Hirsch was not involving Commissioner Kratz in modifying or clarifying his order. (RP April 6, 2017, at 5-6). Mr. Hawtin attempted to raise other objections, but Judge Hirsch then plainly stopped Mr. Hawtin from being “heard”:

MR. MAZZEO: May I finish my record?

THE COURT: You can do your record in writing.
You've raised due process issues.

MR. MAZZEO: And I also have a --

THE COURT: Counsel. You raised your due process issues. You can brief the issue for the Court. I'll set it as soon as I -- counsel, if you interrupt me one more time, we're going to be having some issues.

I'm going to stay the firearms provisions. I

(RP April 6, 2017, at 7).

In other words, first, Mr. Hawtin’s “private interest,” e.g., his Second Amendment, due process and equal protection rights, were decimated by Judge Hirsch’s April 6, 2017, order. See Gourley, 158 Wn.2d at 467-468. His property, i.e., firearms, were ordered to be taken. (CP at 90-94). This taking of his rights and property was a violation of due process

because the “wrong” committed could not be “undone” at a subsequent hearing. See Olympic Forest Prods., 82 Wn.2d at 430.

Second, the “risk of erroneous deprivation of such interest through the procedures used” was great. Mr. Hawtin (via his attorney’s paralegal) literally had mere hours of notice, at most, and no more than a speculative idea that his Second Amendment rights and property were going to be taken away. Since Judge Hirsch had already made up her mind before the hearing began, the procedure was perfunctory.

Third, the “probable value of additional or substitute procedural safeguards” is also great. Mr. Hawtin could have been provided adequate and actual notice before the hearing. Judge Hirsch could have requested the parties set the matter in front of the fact finder, Commissioner Kratz, and she could have requested briefing on the specific issues at hand. Judge Hirsch could have waited to hear from Mr. Hawtin before deciding to take away his constitutional rights.

Finally, the “government interest” in providing such additional or substitute procedural safeguards, stated above, was slight. Any claim of urgency to protect “public safety” fails on its face as Commissioner Kratz specifically found that Mr. Hawtin posed no credible threat in regard to possession of his firearms or the exercise of his Second Amendment rights. (RP April 5, 2017, at 119-20).

Consequently, Mr. Hawtin was not granted meaningful notice and was not granted meaningful opportunity to be heard when property and fundamental Second Amendment rights were taken away. See Gourley, 158 Wn.2d at 467. Judge Hirsch’s April 6, 2017, order is void. Maxfield, 47 Wash. App. at 704; Gourley, 158 Wn.2d at 467; Eldridge, 424 U.S. at 333.

6.4. Upholding the April 6, 2017, Order Removing Mr. Hawtin’s Second Amendment Rights and Modifying the April 5, 2017, Protection Order Causes Domestic Violence Statutes to be Unconstitutional As Applied.

Gourley succinctly states due process protections granted under Chapter 26.50 RCW, including “notice to the respondent within five days”:

The due process requirements of being heard at a meaningful time and in a meaningful manner are protected by the procedures outlined in chapter 26.50 RCW. . . . Chapter 26.50 RCW provides the following procedural protections: (1) a petition to the court, accompanied by an affidavit setting forth facts under oath, (2) **notice to the respondent within five days of the hearing**, (3) a hearing before a judicial officer where the petitioner and respondent may testify, (4) a written order, (5) the opportunity to move for revision in superior court, (6) the opportunity to appeal, and (7) a one-year limitation on the protection order if it restrains the respondent from contacting minor children.

Gourley, 158 Wash. 2d at 468–69 (emphasis added). Personal service of the motion is also required. RCW 26.50.130. Adequate cause can be required as well. RCW 26.50.130. Additionally, both RCW 9.41.800(3) and 18 U.S.C. § 922(g)(8) require a respondent to have “actual notice” and an “opportunity to participate” in a hearing before Second Amendment rights

can be taken away.

Here, Judge Hirsch, at the April 6, 2017, *sua sponte* hearing, plainly modified the protection order that Commissioner Kratz entered on April 5, 2017; she took away Mr. Hawtin’s fundamental Second Amendment rights as well as his property that Commissioner Kratz ordered he may retain. See Heller, 554 U.S. at 603.

Statutory authority to modify a protection order, including the removal of Second Amendment rights and property, is based on RCW 26.50.130, which requires “a motion to modify . . . be personally served on the nonmoving party not less than five court days prior to the hearing.” See Section 6.2, supra. Additionally, RCW 9.41.800(3) and 18 U.S.C. § 922(g)(8) require “actual notice” and an “opportunity to participate” in a hearing.

As no motion to modify was filed, nor personally served, and five days of notice was not provided, Judge Hirsch lacked statutory authority to modify the protection order. See RCW 26.50.130. Adequate cause was not found. The rights impacted were fundamental to Mr. Hawtin. See Heller, 554 U.S. at 603. He was not given actual notice and did not get to meaningfully participate, as Judge Hirsch made her decision before hearing from him. See RCW 9.41.800(3); 18 U.S.C. § 922(g)(8)

Consequently, upholding her April 6, 2017, order would in effect re-

write RCW 26.50.130, RCW 9.41.800(3), and 18 U.S.C. § 922(g)(8) to remove their requisite due process protections. Protections that include that a motion be filed and personally served not less than five days prior to the hearing on modification. Because such requisite provisions preserve the constitutionality of these statutes, upholding the April 6, 2017, order would render these statutes unconstitutional as applied to Mr. Hawtin. See Gourley, 158 Wash. 2d at 468–69. This is especially true because heightened scrutiny applies to fundamental rights. See Heller, 554 U.S. at 603.

6.5. The April 6, 2017, Order Removing Mr. Hawtin’s Second Amendment Rights and Modifying the April 5, 2017, Protection Order Violated Mr. Hawtin’s Constitutionally Granted Equal Protection Rights.

The Fourteenth Amendment to the United States Constitution and article I, section 12 of the Washington Constitution guarantee that persons similarly situated with respect to the legitimate purpose of the law must receive like treatment. Spence v. Kaminski, 103 Wash. App. 325, 335, 12 P.3d 1030, 1036 (2000), publication ordered (Nov. 21, 2000). In other words, equal protection is intended to provide equal application of the law. State v. Simmons, 152 Wn.2d 450, 458, 98 P.3d 789, 793 (2004).

Here, Mr. Hawtin has been singled out and not given “like treatment” or “equal application of the law” compared to any other litigant involved in protection order hearings in Thurston County or the State of

Washington for that matter. The April 6, 2017, order by Judge Hirsch to modify the April 5, 2017, protection order did not follow any court rules or statutes governing modification, nor did it respect constitutionally required protections codified in Chapter 26.50, RCW, Chapter 9.41, RCW, or in 18 U.S.C. § 922(g).

No state objective, under any level of scrutiny, justifies the treatment Mr. Hawtin received on April 6, 2017. Commissioner Kratz, the only fact finder in the case, specifically found that Mr. Hawtin posed no credible threat as to firearms. He ordered Mr. Hawtin's firearms and Second Amendment rights returned to him. (RP April 5, 2017, at 119-20, 126). Judge Hirsch entered orders without factual basis to do so.

In sum, Judge Hirsch unconstitutionally singled out Mr. Hawtin when issuing her April 6, 2017, order. She violated Mr. Hawtin's constitutional rights and did not equally apply court rules or the law. Judge Hirsch's April 6, 2017, order is void and should be vacated.

6.6. The April 14, 2017, Order Removing Mr. Hawtin's Second Amendment Rights and Modifying the April 5, 2017, Protection Order Violated Statutes Governing Domestic Violence Orders and Second Amendment Rights as well as Court Rules Regarding Reconsideration and Revision.

As stated above, RCW §§ 26.50.060, 130, require that a party move to modify a protection order and that such motion be personally served on the nonmoving party not less than five court days prior to the hearing. Court

rules provide that parties must move the court for revision or reconsideration. CR 59, LCR 53.2; LCR 59; LSPR 94.14. Actual notice and meaningful participation in a hearing is required by RCW 9.41.800(3) and 18 U.S.C. § 922(g)(8) when Second Amendment rights are being taken away.

Here, neither statutory nor court rule procedures to modify Commissioner Kratz's April 5, 2017, protection order were followed by Judge Hirsch on April 14, 2015. See RCW 26.50.130; CR 59, LCR 53.2; LCR 59; LSPR 94.14. No motion or declaration was filed by any party. No request by any party was made to modify any part of the April 5, 2017, protection order. Mr. Hawtin was not personally served. The prerequisites of actual notice and ability to meaningfully participate in a hearing were not followed under RCW 9.41.800(3) and 18 U.S.C. § 922(g)(8). There was no finding of adequate cause. See RCW 26.50.130.

Yet Judge Hirsch made a sweeping amendment to the April 5, 2017, protection order, including:

- Adding Ms. Hart's children to the protection order. (CP at 111).
- Adding that Ms. Hart was a "current or former cohabitant as a part of a dating relationship." (CP at 111).
- Redacting the provision that "Respondent represents a credible threat to the physical safety of the protected person/s." (CP at 111).

- Adding that Mr. Hawtin was “prohibit[ed]” from “obtain[ing]” or “possess[ing] any firearms, other dangerous weapons, or concealed pistol license[,]” and that he must “surrender” all of the above. (CP at 114).
- Redacting the provision that ordered, “Firearms returned to Respondent.” (CP at 114).

Accordingly, Judge Hirsch’s April 14, 2017, Amended Order of Protection violated the statutes governing the modification of a protection order and removal of Second Amendment rights as well as state and local court rules.

6.7. The April 14, 2017, Order Removing Mr. Hawtin’s Second Amendment Rights and Amending the April 5, 2017, Protection Order Violated Mr. Hawtin’s Constitutionally Granted Due Process and Second Amendment Rights.

Due process rights guarantee individuals receive meaningful notice and opportunity to be heard before an order can be entered against him or her as well as before property and individual rights can be taken. See Section 6.3, supra. Orders entered without procedural safeguards are void. See Section 6.3, supra. The Court considers four factors when hearing due process claims. See Section 6.3, supra.

First, in this case, Mr. Hawtin’s private interests were impacted greatly. His fundamental right to possess and own firearms and Second Amendment rights were taken away. Because Mr. Hawtin is a decorated

veteran and active duty military (RP April 5, 2017, at 30-31, 58, 124), his career has been adversely impacted. (see e.g., CP at 255-56).

Moreover, by entering her April 14, 2017, Amended Order of Protection, Judge Hirsch took away Mr. Hawtin's right to move for revision or reconsideration of Commissioner Kratz's April 5, 2017, order. This reality was made clear on June 28, 2017, when Commissioner Kratz revealed that he "personally talked with Judge Hirsch" without the knowledge of any party. (RP June 28, 2017, at 9). In that conversation, Judge Hirsch specifically told Commissioner Kratz "that there's no basis for [Commissioner Kratz] to go back and change anything on [the April 14, 2017] order." (RP June 28, 2017, at 9).

In other words, Judge Hirsch, without notice to any party, essentially ordered Commissioner Kratz to not hear Mr. Hawtin's motion for reconsideration. Since the April 5, 2017, protection order was amended on April 14, 2017 *sua sponte*, Mr. Hawtin had no ability to move to reconsider or revise that April 5, 2017, order. Thus, Mr. Hawtin's private interest in being able to move for reconsideration in front of Commissioner Kratz or move for revision of the April 5, 2017, order was impacted to the point of eradication by Judge Hirsch.

Second, the "risk of erroneous deprivation of such interest through the procedures used" is great. Mr. Hawtin had filed a valid affidavit of

prejudice against Judge Hirsch believing she was biased and prejudicial against him. No party had filed any motion, modification or revision or otherwise, before Judge Hirsch. No party, nor Judge Hirsch, followed any statute or court rule in setting the April 14, 2017, hearing. No party, nor the trial court, provided Mr. Hawtin with any briefing on what the April 14, 2017, hearing would entail. Mr. Hawtin was not served anything. The first time Mr. Hawtin was told and understood what Judge Hirsch desired to accomplish at the April 14, 2017, hearing, and why, was when she gave her ruling. (RP April 14, 2017, at 21-22) (undersigned counsel explaining the first time he had more than a speculative understanding of Judge Hirsch's rationales for doing what she was doing was after she ruled).

Third, the "probable value of additional or substitute procedural safeguards" was also great. Judge Hirsch could have let the parties resolve any dispute and/or bring any issue to the attention of the court via court rules or procedures outlined in RCW 26.50.130, or court rules. She could have requested a party set the matter in front of the fact finder, Commissioner Kratz. She could have avoided the appearance of bias by recusing herself from the case. Mr. Hawtin could have been provided adequate substantive notice of the issues Judge Hirsch wanted addressed. Judge Hirsch could have requested briefing from the parties. And Judge Hirsch could have read transcripts of the April 5, 2017, testimony.

None of this was done.

Finally, the “government interest” in providing such additional or substitute procedural safeguards, stated above, was slight. Any claim of urgency to protect “public safety” fails as Commissioner Kratz specifically found that Mr. Hawtin—a decorated veteran charged with protecting and serving this nation—posed no credible threat in regard to keeping his Second Amendment rights.

Accordingly, Judge Hirsch’s April 14, 2017, Amended Order of Protection violated Mr. Hawtin’s due process and Second Amendment rights and it is void. See Maxfield, 47 Wash. App. at 704; Gourley, 158 Wn.2d at 467; Eldridge, 424 U.S. at 333; Olympic Forest Prods., 82 Wn.2d at 422.

6.8. Upholding the April 14, 2017, Order Removing Mr. Hawtin’s Second Amendment Rights and Amending the April 5, 2017, Protection Order, Cause Domestic Violence Statutes to be Unconstitutional As Applied.

Gourley provides that due process protections granted under Chapter 26.50 RCW include “the opportunity to move for revision” and five days of notice before hearing. Gourley, 158 Wash. 2d at 468–69; RCW §§ 26.50.060(1), 060(5), 130. Removal of Second Amendment rights requires actual notice of, and meaningful participation in, a hearing. RCW 9.41.800(3); 18 U.S.C. § 922(g)(8).

Here, Judge Hirsch, at the April 14, 2017, *sua sponte* hearing, plainly amended the protection order that Commissioner Kratz issued. She took away Mr. Hawtin's Second Amendment rights as well as his property that Commissioner Kratz ordered that he may retain. See Heller, 554 U.S. at 603. She added Ms. Hart's children's names to the protection order, which Commissioner Kratz specifically ruled he was excluding from it. (CP at 85; RP April 5, 2017, at 122).

No motion was before Judge Hirsch, nor was anything personally served on Mr. Hawtin. The rights impacted were fundamental to Mr. Hawtin. See Heller, 554 U.S. at 603.

Furthermore, Judge Hirsch unconstitutionally took away Mr. Hawtin's statutory right of revision of the April 5, 2017, order by amending it *sua sponte*. She also took away his ability to move for reconsideration by essentially ordering Commissioner Kratz to not consider any such motion. (RP June 28, 2017, at 9).

Accordingly, upholding Judge Hirsch's April 14, 2017, order would sanction a re-write of RCW 26.50.130, RCW 9.41.800(3), and 18 U.S.C. § 922(g)(8) to remove due process protections, and render the statutes unconstitutional as applied. See Gourley, 158 Wash. 2d at 468–69. Removal of such fundamental rights without actual notice and meaningful opportunity to be heard cannot survive any level of scrutiny, heightened or

not. See RCW 9.41.800(3); 18 U.S.C. § 922(g)(8); Heller, 554 U.S. at 603.

6.9. The April 14, 2017, Order Removing Mr. Hawtin’s Second Amendment Rights and Amending the April 5, 2017, Protection Order Violated Mr. Hawtin’s Constitutionally Granted Equal Protection Rights.

Equal protection guarantees that persons similarly situated with respect to the legitimate purpose of the law must receive like treatment. Spence, 103 Wash. App. at 335.

Here, Mr. Hawtin has been singled out and not given “like treatment” or “equal application of the law” compared to any other litigant involved in protection order hearings. The April 14, 2017, order by Judge Hirsch amending the April 5, 2017, protection order did not follow any court rules, nor did it respect protections codified in Chapter 26.50, RCW or RCW 9.41.800(3) and 18 U.S.C. § 922(g)(8).

No state objective, under any level of scrutiny, justifies the treatment Mr. Hawtin received on April 14, 2017. Commissioner Kratz, the only fact finder in the case, specifically found that Mr. Hawtin posed no credible threat as to firearms. He ordered Mr. Hawtin’s firearms and Second Amendment rights returned to him.

Briefly summed up, Judge Hirsch unconstitutionally singled out Mr. Hawtin when issuing her April 14, 2017, order. She violated Mr. Hawtin’s constitutional rights and did not equally apply the law. Therefore, the April 14, 2017, order is void, or should be vacated.

6.10. The April 14, 2017, Order Removing Mr. Hawtin’s Second Amendment Rights and Amending the April 5, 2017, Protection Order Was an Unconstitutional Prior Restraint on Mr. Hawtin’s First Amendment Right to Petition the Government.

The United States Supreme Court defines prior restraints on free speech as

[a]dministrative and judicial orders *forbidding* certain communications when issued in advance of the time that such communications are to occur. Temporary restraining orders and permanent injunctions—*i.e.*, court orders that actually forbid speech activities—are classic examples of prior restraints.”

In re Marriage of Suggs, 152 Wn.2d 74, 81, 93 P.3d 161, 164 (2004) (emphasis in original and citations and punctuation omitted); In re Marriage of Meredith, 148 Wn. App. 887, 896, 201 P.3d 1056, 1061, (2009). Prior restraints carry a heavy presumption of unconstitutionality. Suggs, 152 Wn.2d at 81; Meredith, 148 Wn. App. at 896.

Here, Judge Hirsch specifically told Commissioner Kratz “that there’s no basis for [Commissioner Kratz] to go back and change anything on [the April 14, 2017] order.” (RP June 28, 2017, at 9). Judge Hirsch’s April 14, 2017, amended protection order thus constituted a prior restraint on Mr. Hawtin being able to petition Commissioner Kratz for reconsideration of his April 5, 2017, protection order; Mr. Hawtin plainly was not allowed any opportunity to have Commissioner Kratz do so.

Additionally, the April 14, 2017, Amended Protection Order

constituted a prior restraint on Mr. Hawtin being able to petition a superior court judge to revise Commissioner Kratz's April 5, 2017, protection order; the April 5, 2017, order was plainly amended and disposed of by the April 14, 2017, Amended Protection Order such that there was no longer any April 5, 2017, order from Commissioner Kratz remaining to revise.

Such prior restraints "carry a heavy presumption of unconstitutionality," and Judge Hirsch's April 14, 2017, Amended Protection Order should be vacated. See Suggs, 152 Wn.2d at 81; Meredith, 148 Wn. App. at 896.

6.11. Judge Hirsch Demonstrated Bias, Prejudice, Impropriety, and Partiality by Failing to Adhere to the Law, Court Rules, and Provisions of the Code of Judicial Conduct.

The Code of Judicial Conduct Canon ("CJC") 1 provides that "A Judge *shall uphold and promote* the independence, integrity, and *impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.*" (emphasis added). Rule 1.2 provides similarly. Rule 1.1, Compliance with the Law, provides that "A judge shall comply with the law, including the Code of Judicial Conduct." Comment 4, provides that "Actual improprieties include *violations of law, court rules, or provisions of this Code.*" (emphasis added). Comment 4, continues and states that "The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge *violated this*

Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge. (emphasis added).

Additionally, “The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases.” Marshall v. Jerrico, Inc., 446 U.S. 238, 242, 100 S. Ct. 1610, 64 L. Ed. 2d 182 (1980). A “judge has the basic duty to ensure that courtroom practice conforms with the law.” In re Hammermaster, 139 Wn.2d 211, 237-238, 985 P.2d 924, 938 (1999). “Violating the constitutional rights of parties can constitute misconduct.” Id. “Judicial independence does not equate to unbridled discretion to . . . disregard the requirements of the law, or to ignore the constitutional rights of [parties].” Id. at 233-234.

Furthermore, “The CJC recognizes that where a trial judge's decisions are tainted by even a mere suspicion of partiality, the effect on the public's confidence in our judicial system can be debilitating.” Sherman v. State, 128 Wn.2d 164, 205-206, 905 P.2d 355, 378-379 (1995). “Judges should disqualify themselves in a proceeding in which their impartiality might reasonably be questioned” Hammermaster, 139 Wn.2d at 233-234. “The test for determining whether the judge's impartiality might reasonably be questioned is an objective test that assumes that “a reasonable person knows and understands all the relevant facts.” Id.

Finally, presenting evidence of a judge's actual or potential bias is enough for recusal under the fairness doctrine. State v. Post, 118 Wn.2d 596, 619 n. 9, 826 P.2d 172, 837 P.2d 599 (1992). Similarly, violation of the CJC justifies recusal of a superior court judge from a case. Buckley v. Snapper Power Equip. Co., 61 Wn. App. 932, 938, 813 P.2d 125, 128 (1991).

Here, Judge Hirsch specifically told Commissioner Kratz “that there’s no basis for [Commissioner Kratz] to go back and change anything on [the April 14, 2017] order.” (RP June 28, 2017, at 9). She did this before Commissioner Kratz ruled on June 28, 2017, and without the knowledge of any party. This is evidence of “actual or potential bias . . . enough for recusal under the fairness doctrine.” See Post, 118 Wn.2d at 619 n. 9.

Stated another way, objectively speaking, a reasonable person would question Judge Hirsch’s impartiality because in any other case a party has a right to reconsideration or revision of a Commissioner’s decision before such Commissioner is influenced—or in this case is told—how to rule by a judge. See Hammermaster, 139 Wn.2d at 233-234; Post, 118 Wn.2d at 619 n. 9.

Additionally, Judge Hirsch’s partiality towards Ms. Hart and prejudice against Mr. Hawtin becomes all the more clear, unfair, and unjust when one objectively views what happened to Mr. Hawtin on or about April

6, 2017:

- On April 5, 2017, Commissioner Kratz ruled Mr. Hawtin was no credible threat with firearms (RP April 5, 2017, at 119-20), ruled he was not imposing any restriction on Mr. Hawtin in regard to firearms (RP April 5, 2017, at 126), and ruled that Mr. Hawtin’s firearms shall be returned to him. (CP at 89).

- The next day, April 6, 2017, without meaningful notice or opportunity to be heard, and disregarding court rules and statutes, Mr. Hawtin is forced into court to have Commissioner Kratz’s above rulings reversed by Judge Hirsch—who never had anything to do with the case to date.

- On April 6, 2017, Judge Hirsch decided to reverse Commissioner Kratz and take away Mr. Hawtin’s Second Amendment rights before even hearing from any party or counsel. (RP April 6, 2017, at 3-4).

- She justified the reversal and removal of fundamental rights because, in her words, there was a “conflict between what was put in the petition and what was indicated on the [April 5, 2017, protection order . . . [that] ha[d] to do with firearms.” (RP April 6, 2017, at 3-4).

Ms. Hart, in response will surely argue that Judge Hirsch was not being prejudicial towards Mr. Hawtin and not being partial towards her on April 6, 2017. Ms. Hart will surely argue this is because Judge Hirsch was

only addressing “community safety” concerns by removing Mr. Hawtin’s Second Amendment rights. (RP April 6, 2017, at 5).

But this “community safety” argument and justification by Judge Hirsch falls flat because the April 5, 2017, protection order clearly orders Mr. Hawtin’s firearms returned to him based on Ms. Hart not being credible. (CP at 89; RP April 5, 2017, at 119-20). A credibility finding that cannot be overturned on revision or appeal. See Ives v. Ramsden, 142 Wn.App. 369, 382, 174 P.3d 1231 (2008).

In other words, Commissioner Kratz rejected arguments regarding community safety and firearms when raised by Ms. Hart at hearing. He did so in a way, couched in Ms. Hart’s credibility, that could not be overturned on revision or appeal. But Judge Hirsch was partial to Ms. Hart anyway. Judge Hirsch decided she was removing Mr. Hawtin’s Second Amendment rights before even hearing from him or his attorney. (RP April 6, 2017, at 3-4).

Not only was bias, prejudice, and partiality demonstrated by Judge Hirsch modifying the April 5, 2017, order on April 6, but Judge Hirsch continued to demonstrate bias, prejudice, and partiality by entering the April 14, 2017, amended protection order:

- During the April 14, 2017, hearing Judge Hirsch stated Mr. Hawtin “can set any matter [he] wants to be set and addressed in front of the

Commission [Kratz] so he can make whatever adjustments” (RP April 14, 2017, at 21). Yet Judge Hirsch obviously did not mean, and/or recanted, this assertion as she later told Commissioner Kratz, off the record, “that there’s no basis for [Commissioner Kratz] to go back and change anything on [the April 14, 2017] order.” (RP June 28, 2017, at 9).

- Objectively speaking, Mr. Hawtin’s ability to reconsider and revise Commissioner Kratz’s April 5, 2017, order has been eradicated contrary to court rules, statutes, or constitutional protections such as due process, equal protection, and prohibitions on prior restraints. Commissioner Kratz was essentially ordered—by Judge Hirsch off the record—that he cannot reconsider the decision she made on April 14, 2017. Consequently, there is no longer any April 5, 2017, order to attempt to revise, and Judge Hirsch’s April 14, 2017, amended order replaced it.

- Without meaningful notice or opportunity to be heard, the April 14, 2017, amended protection order took away Mr. Hawtin’s Second Amendment rights. The Amended Order added provisions in favor of Ms. Hart, without a fair hearing given to Mr. Hawtin.

Accordingly, Judge Hirsch has violated the CJC with far more than a “mere suspicion of partiality,” and “the effect on the public's confidence in [Thurston County’s] judicial system c[ould] be debilitating.” Sherman, 128 Wn.2d at 205-206. Since Mr. Hawtin has demonstrated, with evidence,

that a reasonable person would question Judge Hirsch's impartiality, she should be recused from the case and her April 6 and April 14, 2017, orders vacated. See Buckley, 61 Wn. App. at 938.

7. ATTORNEY FEES AND COSTS ON APPEAL

7.1. Pursuant to RAP 18.1, Mr. Hawtin requests fees to be awarded on appeal. While RCW 26.50.060 explicitly provides that a petitioner may be awarded attorney fees, it (inequitably) does not explicitly provide that a respondent be awarded attorney fees. Nevertheless, this Court may grant fees in equity under the principal of "mutuality of remedy." Kaintz v. PLG, Inc., 147 Wn. App. 782, 787-789, 197 P.3d 710, 713-714 (2008). This Court may also grant fees when "defending against an action based on a statute by successfully arguing the statute is unconstitutional." Mt. Hood Bev. Co. v. Constellation Brands, Inc., 149 Wn.2d 98, 122, 63 P.3d 779, 792 (2003).

Here, Mr. Hawtin moved to realign the parties under RCW 26.50.130 and become the petitioner in this case. (CP at 48). The evidence presented at hearing supports his claim that Ms. Hart had perpetrated acts of domestic violence against him and that she had brought her petition in bad faith, only after he broke up with her, and only after she was detained for domestic violence against him. While Commissioner Kratz did not rule in favor of Mr. Hawtin on these issues, Mr. Hawtin was denied the right to reconsideration or revision of Commissioner Kratz's April 5, 2017,

protection order.

In addition, on appeal, Mr. Hawtin has argued that RCW 26.50.130 would be unconstitutional as applied if Judge Hirsch's April 6 or April 14, 2017, were upheld.

Consequently, in equity, under the doctrine of "mutuality of remedy," the fact Mr. Hawtin moved to become petitioner in the action, as well as based on the fact RCW 26.50.130 would be unconstitutional as applied if Judge Hirsch's April 6 or April 14, 2017, were upheld, Mr. Hawtin requests attorney fees on appeal. See Kaintz v., 147 Wn. App. at 787-789; Mt. Hood Bev. Co., 149 Wn.2d at 122.

Few litigants would pursue such important constitutional issues, and Mr. Hawtin standing up for such constitutional rights—surely to the benefit of future litigants—should not go uncompensated. Mr. Hawtin acknowledges that his attorney fee request may be a request to extend the law, but he argues such extension would be just and equitable.

7.2. Pursuant to RAP 14.2, which allows costs to be awarded to the prevailing party on appeal, Mr. Hawtin also requests costs on appeal.

8. CONCLUSION

In summation, Mr. Hawtin requests this Court enforce the affidavit of prejudice against Judge Hirsch. He also requests that Judge Hirsch's orders be vacated as they are void on statutory and constitutional grounds.

Finally, he requests this Court remand the matter back to Commissioner Kratz, who heard the case. Commissioner Kratz, as the only proper fact finder in the case, can clarify his order, if needed, and Mr. Hawtin can then be fairly treated like any other litigant. Either party can later move to reconsider or revise the Commissioner Kratz's order on remand, if desired. Doing so ensures the normal, constitutional, course action takes place in this case.

Respectfully submitted this 2nd day of January, 2018,



Drew Mazzeo WSBA No. 46506
Attorney for Respondent/Appellant

Appendix

Case Information

17-2-30083-34 | JENNIFER LYNN HART vs ERIN FREEDOM HAWTIN

Case Number
17-2-30083-34
File Date
01/30/2017

Court
Thurston
Case Type
DVP Domestic Violence

Judicial Officer
Hirsch, Anne
Case Status
On Appeal

Party

Respondent (WIP)
HAWTIN, ERIN FREEDOM

DOB
XX/XX/XXXX

Gender
Male

Race
White

Height
5' 10"

Weight
175 lbs

Active Attorneys ▼
Lead Attorney
MAZZEO, ANDREW PETERSON
Retained

Work Phone
360-754-1976

Petitioner (WIP)
HART, JENNIFER LYNN

DOB
XX/XX/XXXX

Gender
Female

Race
White

Height
5' 6"

Weight
130 lbs

Active Attorneys ▼
Lead Attorney
Summerville, Jennifer
Retained

Work Phone
360-753-3610

Fax Phone
360-753-0174

Inactive Attorneys ▼
Pro Se

Minor (WIP)
HART, GWEN AMANDA

DOB
XX/XX/XXXX

Gender
Female

Race
White

Minor (WIP)
LOWE, ALIJAH AMON

DOB
XX/XX/XXXX

Gender
Male

Order Reissuing Temporary Protection Order

Comment

Protection Order/Surr Weapon-3 EXHIBITS IN VAULT

03/20/2017 Motion Hearing ▼

Motion Hearing

03/30/2017 Proof of Surrender and Receipt of Weapons ▼

Proof of Surrender and Receipt of Weapons

04/03/2017 Affidavit of Plaintiff Petitioner ▼

Affidavit of Plaintiff/Petitioner

04/03/2017 Declaration Affidavit ▼

Declaration/Affidavit

Comment

Samera Holcomb

04/03/2017 Declaration Affidavit ▼

Declaration/Affidavit

Comment

Sarah Schwarz

04/04/2017 Transcript of Proceedings ▼

Transcript of Proceedings

04/05/2017 Protection Order ▼

Judicial Officer

Pro Tem Commissioner, 34

Hearing Time

2:00 PM

Comment

PROTECTION ORDER/SURR WEAPON

04/05/2017 Declaration Affidavit ▼

Declaration/Affidavit

Comment

Nathan Maddux

04/05/2017 Motion Hearing ▼

Motion Hearing

04/05/2017 Exhibit List ▼

Exhibit List

04/05/2017 Stipulation and Order for Return of Exhibits and or Unopen ▼

Stipulation and Order for Return of Exhibits and/or Unopen

04/05/2017 Order for Protection ▼

Order for Protection

Comment

Review Hearing

04/05/2017 Case Resolution Closed by Court Order After a Hearing

04/06/2017 Motion Hearing ▼

Motion Hearing

04/06/2017 Order ▼

Order

Comment
Stay on Weapons Surrender

04/07/2017 Order ▼

Order

Comment
Amended Stay on Weapons Surrender

04/07/2017 Letter ▼

Letter

Comment
From Court to Parties

04/10/2017 Declaration Affidavit ▼

Declaration/Affidavit

Comment
of Drew Mazzeo

04/10/2017 Declaration of Mailing ▼

Declaration of Mailing

04/10/2017 Affidavit Declaration Certificate Confirmation of Service ▼

Affidavit/Declaration/Certificate/Confirmation of

04/10/2017 Motion ▼

Motion

Comment
Correct Clerical Mistake

04/10/2017 Affidavit Declaration Certificate Confirmation of Service ▼

Affidavit/Declaration/Certificate/Confirmation of

04/10/2017 Affidavit of Prejudice ▼

Affidavit of Prejudice

Comment
Judge Hirsch

04/10/2017 Objection Opposition ▼

Objection/Opposition

Comment
Respondent

04/11/2017 Order ▼

Order

Comment
Rejecting Affidavit of Prejudice

04/11/2017 Affidavit Declaration Certificate Confirmation of Service ▼

Affidavit/Declaration/Certificate/Confirmation of Service

04/11/2017 Verbatim Report of Proceedings ▼

Verbatim Report of Proceedings

Comment
04/06/17

04/11/2017 Verbatim Report of Proceedings ▼

Verbatim Report of Proceedings

Comment
04/05/17

04/12/2017 Notice of Hearing ▼

Notice of Hearing

Comment

Correct Clerical Mistake

04/14/2017 Domestic Violence ▼

Judicial Officer

Hirsch, Anne

Hearing Time

9:00 AM

Cancel Reason

Clerical Error

04/14/2017 Motion Hearing ▼

Judicial Officer

Hirsch, Anne

Hearing Time

9:00 AM

04/14/2017 Order for Protection ▼

Order for Protection

Comment

Amended

04/14/2017 Motion Hearing ▼

Motion Hearing

04/19/2017 Response ▼

Response

04/24/2017 Motion Hearing ▼

Judicial Officer

Pro Tem Commissioner, 34

Hearing Time

9:00 AM

Comment

CORRECT CLERICAL MISTAKE

04/24/2017 Motion Hearing ▼

Motion Hearing

05/02/2017 Sealed Personal Health Care Records Cover Sheet ▼

Sealed Personal Health Care Records Cover Sheet

05/02/2017 Request ▼

Request

Comment

Duplication of Proceedings

05/03/2017 Transcript of Proceedings ▼

Transcript of Proceedings

Comment

4/24/17

05/09/2017 Notice of Absence Unavailability ▼

Notice of Absence/Unavailability

05/11/2017 Notice of Appeal to Court of Appeals ▼

Notice of Appeal to Court of Appeals

05/12/2017 Transmittal Letter Copy Filed ▼

CERTIFICATE OF SERVICE

I declare under penalty of perjury under the laws of the state of Washington that on January, 2, 2018, I caused to served:

1. Brief of Appellant

Via email and US mail at:

Jennifer Summerville
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January 2, 2017, at Olympia, Washington.



Drew Mazzeo

TAYLOR LAW GROUP, P.S.

January 02, 2018 - 3:31 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 50350-6
Appellate Court Case Title: Jennifer Hart, Respondent v. Erin Hawtin, Appellant
Superior Court Case Number: 17-2-30083-4

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