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CLERK OF COURT OF APPEALS DIV II
STATE OF WASHINGTON

No. 50412-0-II

IN THE COURT OF APPEALS OF THE STATE
OF WASHINGTON DIVISION II

JEFFREY PAYNE, Petitioner,

v.

JAMIE JANSSEN, Respondent.

PETITION FOR REVIEW

Pierce County Superior Court Cause No. 17-2-06669-4
The Honorable Judge Michael Schwartz

Jeffrey Payne
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ISSUES PRESENTED

Petitioner Jeffrey Payne, asks the Court to review all of the Superior Courts decisions and rulings and issuing of from the Ex-Parte Temporary Restraining Order granted on April 4,2017 and the subsequent Trial on April 27,2017 and the order entered and of the Order signed on May 11,2017.

This case presents issues:

1. The Ex-Parte Temporary Restraining Order that was issued on April 4,2017 was ripe with controversy, inconsistencies, and inaccuracies as to whether Mr. Payne was a prisoner, an inmate, serving a sentence and being detained for punishment or being detained under a Civil detainment. And whether the legal authority relied upon at the time, applied to Mr. Payne's circumstance. As such, the Court was obviously and blatantly deceived as too the true nature of Mr. Payne's detainment and the Petitioner's employment. Thus, the TRO was facially void from the start.
2. The Temporary Restraining Order had expired after the 14 day allowable period under CR 65, as there was no imminent emergency withstanding and no Preliminary Injunction Hearing was sought or obtained prior to the Permanent Injunction Hearing.
3. A Permanent Injunction Hearing was held on April 27,2018 where a Permanent Injunction and Restraining Order was Granted. Mr. Payne was not afforded the proper Due Process of a Preliminary Injunction Hearing prior too a Permanent Injunction Hearing and subsequent Permanent Injunction and Restraining Order being granted.
4. Without Mr. Payne being given a Preliminary Hearing in order to determine if the case would move forward before a Permanent Injunction hearing commenced, deprived respondent Mr. Payne of his Due Process of doing discovery. Thus Mr. Payne was prejudiced.

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5. The Petitioner and the Court failed to notify the Respondents of consolidation of a Preliminary Injunction with a Permanent Injunction Hearing, thus creating reversible error.
6. At no time did the court make any determination as to whether an exemption applied under RCW 42.56 first, prior too granting a TRO or subsequent Orders.
7. The ORDER is too broad in scope and not narrowly tailored within what is allowable under the law.

STATEMENT OF CASE

On April 7,2017, respondent Jeffrey Payne was served with an Ex-Parte Temporary Restraining Order (TRO) that was obtained by the Petitioner on April 4,2017 and a Summons to Appear for a hearing on April 27,2017.

At no time prior too or at the time of the hearing, was Mr. Payne presented with notification that the Preliminary Injunction Hearing was going to be or was being consolidated into a Permanent Injunction Hearing. This is in violation of due process and prejudiced respondent Mr. Payne.

On May 11,2017, the Permanent Injunction and Restraining Order was signed after respondent Mr. Payne objected to the majority of the Order as written. Mr. Payne was denied all objections.

On May 22,2017, Mr. Payne's RCW 71.09 Civil Commitment attorney Andrew Morrison, filed a Motion for Limited Appearance and Reconsideration in order for him to address matters that does affect his ability to have full and open access to all avenues for him to be able to obtain any pertinent information he needs to be able to fully represent his civilly committed client, Mr. Payne.

At no time was Mr. Morrison directly representing Mr. Payne in his personal issue before the court. Unfortunately, it took several months for Mr. Payne to get that straightened out so he could proceed with his own motions, which were Motion for Reconsideration (presented to and accepted by

the Court {after} Mr. Morrison presented and argued his case, and his issues were decided upon), and the other motions submitted on January 5,2018 were, Motion for Appointment of Counsel, Motion to Compel, Motion to Recuse DSHS and Motion to Correct Transcripts Before Transmittal. All of which were denied with no argument allowed.

ARGUMENT

Temporary Restraining Order (TRO)

Ms. Janssen's entire presented perspective was to place as much prejudice towards respondent Mr. Payne as she could by taking advantage of the scare tactic wording under RCW 71.09 labeling residents at SCC as Sexually Violent Predators and take advantage of Mr. Payne's circumstance in order to bolster and justify her claims.

In reviewing all of Ms. Janssen's motions and such, it becomes obviously clear her intent was to paint a horrific picture of Mr. Payne in the eyes of the court without any actual proof, such as Mr. Payne's alleged horrific background, to which he does not have, in order to make it easier for her to obtain the Temporary Restraining Order.

The extension beyond the 14 day rule is for emergency purposes only and for resulting in a preliminary hearing only, unless otherwise notified. Not for resulting in a permanent injunction hearing without judicial notice in less than 30 days from the issuing of the TRO. Violation of this rule makes all other proceedings null and void. Thus making the Permanent Injunction and Restraining Order invalid and thus void.

Even though a Temporary Restraining Order can be granted without notice to the other party, this does not relieve the plaintiff from an obligated duty to make an attempt at notifying the adverse party prior too a hearing for obtaining a Temporary Restraining Order. Plaintiff made absolutely no attempts to notify respondent Mr. Payne prior to the hearing of April 4,2017 for the TRO.

Rule 65. Injunctions

CR 65 (a)(2)(b) Temporary Restraining Order; Notice; Hearing; Duration. A temporary restraining order may be granted without written or oral notice to the adverse party or the adverse party's attorney **only if** (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or her or his attorney can be heard in opposition, and **(2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the applicant's claim that notice should not be required.** Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; **shall define the injury and state why it is irreparable and why the order was granted without notice;** and shall expire by its terms within such time after entry, not to exceed 14 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record. **In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set down for hearing at the earliest possible time** and takes precedence over all matter except older matter of the same character; **and when the motion comes on for hearing the party whom obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if the party does not do so, the court shall dissolve the temporary restraining order.** On 2 days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move in dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

Plaintiff Jamie Janssen had plenty of time and opportunity to notify the respondent Mr. Payne prior to receiving the Temporary Restraining Order (TRO), as Ms. Janssen knew full well, beyond any doubt, as to where Mr. Payne's whereabouts were at all times of the day. Ms. Janssen had absolutely no reason or excuse as to not have notified Mr. Payne prior to obtaining the temporary restraining order. This left Mr. Payne with no opportunity to respond and defend against the restraint. As evidenced in Petitioner's exhibit 1 emails. **Attachment A**

An ex parte temporary restraining order (TRO) issued absent necessity and without provision for notice and opportunity to be heard is therefore void. Due process with regard to an ex parte restraining order requires a proper showing of emergent need for the restraint and a provision for immediate notice and early hearing. The first sentence in CR 65 (b) sets forth the prerequisites for issuance of a TRO without notice (to wit, the showing of immediate need and inability to give timely notice). As early as 1900, the Washington Supreme Court held in In re Groen, 22 Wash. 53, 60 P. 123 (1900), that these prerequisites exist to ensure that parties are afforded minimum due process protections: Due process of law, orderly procedure, and a decent regard for the rights of individuals, alike require the giving of notice and an opportunity to be heard; and to depart from this universally recognized principle in a case presenting no emergency is to disregard the plain provisions of the statute ... and a principle as old as the law itself. An ex parte TRO issued absent necessity and is without provision for notice and opportunity to be heard is therefore void: "[I]n granting the injunction without notice, and without showing of necessity therefor, and in failing to make any provision for notice and an opportunity for hearing, the court exceeds its powers, and the petitioner is entitled to his discharge." In re Estates of Smaldino, 151 Wash.App. 356, 212 P.3d 579,584-586 (2009), review denied 168 Wash.2d 1033, 230 P.3d 1061 (2010)

An ex parte restraining order is indeed a powerful weapon, to be issued rarely and with great caution. Such orders are in tension with a first principle of our jurisprudence: that court action should follow, not proceed, notice and opportunity to be heard. As the court stated in Granny Goose Foods v. Brotherhood of Teamsters & Auto Truck Drivers Local NO. 70 of Alameda County, 94 S.Ct. 1113 (1974); ex parte restraining orders should "be restricted to serving their underlying purpose of preserving the status quo and preventing irreparable harm just so long as is necessary to hold a hearing, and no longer." Due process requires a proper showing of emergent need for the restraint and a provision for immediate notice and early hearing. In American Can Company v. Mansukhani, 742 F.2d 314, (1984), there was no proof notice could not be given and no showing of need to proceed ex parte. In re Groen, 22 Wash. 53, 60 P. 123 (1900)

The Temporary Restraining Order should never have been granted as it was obtained under false pretenses and convoluted with beyond obvious inaccuracies and contradicting information and purported facts. As Ms. Janssen knew full well that respondent Mr. Payne was not being detained under a punitive detainment as that of a prisoner serving a criminal sentence. Ms. Janssen has full knowledge that the Special Commitment Center (SCC) is a treatment facility and is "civil" in nature and that it is in no way a prison. Further, as Ms. Janssen also knows full well that she does not in any way work for DOC or at the McNeil Island Correctional Facility as she repeatedly eludes too in her Motion for a Temporary Restraining Order (TRO). Ms. Janssen knows full well that her employer, and only employer, is DSHS and she works at the SCC in the SCC kitchen, not for McNeil Island Correction Center (MICC) (DOC) or in the DOC kitchen. Ms. Janssen did commit absolute fraud when she filed her Motion for a Temporary Restraining Order (TRO) and obtained the TRO.

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Absolutely none of the legal authority relied upon by petitioner Ms. Janssen applied to the respondent Mr. Payne and/or his particular circumstance, as he was not at any time at the filing of Ms. Janssen's motions, was Mr. Payne ever being detained within a prison as a prisoner or inmate as she constantly refers too in all of her various motions and declarations and Ms. Janssen's attorney refers to in her emails to DSHS's attorney Mr. Mingay. Thus, Ms. Janssen confused and misled the court into believing something fraudulent. As evidenced in Ms. Janssens Motion for a Temporary Restraining Order and most other submitted legal documentation to the Superior Court.

Relief from the Injunction and Restraining Orders is applicable in the instant case under similar criteria as that set forth in CR 60(b)(4) - **Fraud** (whether heretofore denominated intrinsic or extrinsic), **misrepresentation**, or other misconduct of an adverse party.

This is so due to the fact that the petitioner Ms. Janssen deliberately and without restraint, did commit absolute fraudulent misrepresentation to the court in her Motion for a Temporary Restraining Order (TRO) and then reinforced the misrepresentation at the Permanent Injunction Hearing.

Public Records Exemption Rule

No exemption applies to the matter in the instant case, nor did the Superior Court even consider whether one did or not prior too or proceeding with a Permanent Injunction Hearing and the issuance of the Permanent Injunction and Restraining Orders.

SEIU Healthcare 775NW v. DSHS and Freedom Foundation, 193 Wn.App. 377, 377 P.3d 214, 220-222 (2016) Party seeking to prevent disclosure bears the burden of establishing that an exemption applies under Public Records Act (PRA). @ 220,

Non-governmental party seeking to block disclosure under Public Records Act (PRA) must prove that (1) the records in question specifically pertains to that party, (2) an exemption applies, and (3) the

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disclosure would not be in the public interest and would substantially and irreparably harm that party or a vital government function. @ 220

A temporary restraining order (TRO) and a preliminary injunction both are designed to preserve the status quo until the trial court can conduct a full hearing on the merits. @ 221

Party seeking a temporary restraining order (TRO) or preliminary injunction to prevent disclosure of certain records under Public Records Act (PRA) must show a likelihood that an exemption applies and that the disclosure would clearly not be in the public interest and would substantially and irreparably damage any person or vital government functions @ 221

Further supported by Doe v. King County, 192 Wash.App. 10, 366 P.3d 936, 941, 942 (2015); The trial court's decision to grant an injunction and restraining order was improper under the PRA. The trial court did not recognize that its first task was to determine whether a specific statutory exemption to the PRA applies. Only then could it consider the issuance of an injunction under RCW 42.56.540. Franklin County Sheriff's Office v. Parmelee, 175 Wn.2d 476, 285 P.3d 67, 668 (2012); See also, Ameriquest Mortgage Company v. State Attorney General, 148 Wn.App. 145, 155, 199 P.3d 468, (2009)

III. CONCLUSIONS OF LAW

The Superior Court has misapplied and in violation of the Public Records Act (PRA), RCW 42.56.540. There are three specific criteria that has to be met in order for this statute to apply and hold any tangible weight. Without all three having full validity, no injunction order can be granted.

In order to seek and obtain an injunction under 42.56.540, a specific exemption under the Public Records Act must apply. If the record(s) do not fall under any specific exemption, then an injunction cannot be granted.

RCW 42.56.030 expressly requires that the PRA be "liberally construed and its exemptions narrowly construed ... to assure that the public interest will be fully protected.

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IV. JUDICIAL REVIEW – FACTS OF LAW

Under 42.56.540(c); An action under this statute can be initiated by the agency, a person named in the disputed record, or a person whom the record ‘specifically pertains.’ The party seeking to prevent disclosure has the burden of proving the records is exempt from disclosure. The party seeking to prevent disclosure must prove both the necessary elements of an injunction and that a specific exemption prevents disclosure.

An “agency” can initiate court action pursuant to RCW 42.56.540, but to prevail, the agency must show that one of the Public Disclosure Act's exemptions applies. To warrant an injunction preventing disclosure, a public record “must” fall within a specific exemption under the Public Records Act. Soter v. Cowles Pub. Co., 162 Wn.2d 716, 174 P.3d 60, 81, 84 (2007)

RCW 42.56.540 “merely creates an injunctive remedy, and it is not a separate substantive exemption. Progressive Animal Welfare Society v. University of Washington, 125 Wash.2d 243, 884 P.2d 592 (1994)

It is premature for a court to consider the public interest and substantial/irreparable damage factors related to a request for disclosure pursuant to the Public Records Act (PRA) before determining whether an exemption applies. Doe v. King County, 192 Wash.App. 10, 366 P.3d 936, 941 (2015) Also see Burt v. Washington State Dept. of Corrections, 141 Wash.App. 573, 170 P.3d 608 (2007)

Provisions of the Public Disclosure Act (PRA) providing that an examination of any public records may be enjoined if the superior court finds that such examination would clearly not be in the public interest is not an exemption; rather, it is a procedural mechanism for seeking to enjoin release of a public record “if” it falls within a specific exemption found elsewhere in the PRA. Doe v. King County, 192 Wash.App. 10, 366 P.3d 936, 941 (2015)

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In applying RCW 42.56.540, the trial court first determines whether a PRA exemption applies. “Only if” an exemption applies does the trial court address whether an injunction is appropriate under the statutory requirements. Bainbridge Island Police Guild v. City of Puyallup, 172 Wash.2d 398,408,420, 259 P.3d 190 (2011); SEIU Healthcare 775NW v. State of Washington, DSHS, 193 Wn.App. 377, 377 P.3d 214,220,221 (2016)

Under this statute, the moving party must prove that (1) the records in question specifically pertains to the party, (2) an exemption applies, and (3) the disclosure would not be in the public's best interest and would substantially and irreparably harm that party or a vital government function. Ameriquist Mortg. Co. v. Office of Attorney General of Washington, 177 Wn.2d 467,487, 300 P.3d 799,809 (2013); SEIU Healthcare 775NW v. State of Washington, DSHS, 193 Wn.App. 377, 377 P.3d 214,220,221 (2016)

Failure to establish any one of these requirements results in a denial of the injunction. Huff v. Wyman, 184 Wn.2d 643, 361 P.3d 727,731 (2015); Doe v. King County, 192 Wn.App. 10, 366 P.3d 936,942 (2015)

The PRA is “a strongly worded mandate for broad disclosure of public records.” Hearst Corp. v. Hoppe, 90 Wash.2d 123,127, 580 P.2d 246 (1978); Bainbridge Island Police Guild v. City of Puyallup, 172 Wash.2d 398, 259 P.3d 190,194 (2011) Therefore, the PRA is to be “liberally construed and its exemptions narrowly construed to promote the public policy and to assure that the public interest will be fully protected.” Bainbridge @ 194

The PRA is an expression of intent that the public records must be available so that the people are informed and, consequently, are able to maintain control over the instruments of the government they have created RCW 42.56.030.

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RCW 42.56 “shall be liberally construed and its exemptions narrowly construed to promote this public policy and to assure that the public interest will be fully protected.” Id.; Bellevue John Does 1-11 v. Bellevue Sch. Dist. No. 405, 164 Wash.2d 199,209, 189 P.3d 139 (2008)

There must be a very good reason to disregard the public mandate of openness in government – a mandate that unquestionably includes public servants' performance of their official public duties.

In fact, public records relating to alleged misconduct of public servants and how government agents investigate such allegations are quintessential examples of the kind of information that the PRA opens to the public scrutiny. The public has the right to know about allegations of such misconduct, investigations into such misconduct, and corrective measures that may have been taken. Only by access to this kind of information can the people insure integrity of government action. “The basic purpose of the public disclosure act is to provide a mechanism by which the public can be assured that its public officials are honest and impartial in the conduct of their public offices.” Bainbridge Police Guild, 259 P.3d 190,203 (2011)

A party seeking to prevent disclosure bears the burden of establishing that an exemption applies. RCW 42.56.030 expressly requires that the PRA be “liberally construed and its exemptions narrowly construed ... to assure that the public interest will be fully protected.” As a result, we must liberally construe the PRA in favor of disclosure, and must “take into account the policy ... that free and open examination of public records is in the public interest, even though such examination may cause inconvenience to public officials or others. A party must prove the existence of a Public Records Act (PRA) exemption to obtain an injunction. SEIU Healthcare 775NW v. State of Washington, DSHS, 193 Wn.App. 377, 377 P.3d 214, 220, 221, 228 (2016)

Absolutely nowhere in the petitioners argument (written or verbal) does she ever make a claim or statement that the respondent Mr. Payne has ever used his public disclosure requests to threaten, harass or intimidate her at anytime, as she has made it perfectly clear, that she only just recently found out that Mr. Payne had been doing public disclosure requests in regards to Ms. Janssen. (CP @ 4)

As respondent Mr. Payne said in open court, he has never used the PRA for any reason or purpose or attempted to use the PRA to harass, threaten or intimidate the petitioner Ms. Janssen or any other employee or any state agency. (CP @ 17) For the purpose mentioned in court, is that Mr. Payne is using the PRA law in order to hold a government agency and its agents responsible for their actions and inaction's that have caused a significant amount of harm to Mr. Payne himself, at the hands of the agency and its agents, - (not verbatim) - (CP @ 15-25) This is exactly what the purpose of the (PRA) was designed for.

Respondent Mr. Payne (a "civilian" being detained under a "civil" matter for "treatment" purposes only) was seeking the records in dispute and others due to the -- mandate that unquestionably includes public servants' performance of their official public duties and the public records relating to alleged misconduct of public servants and how government agents investigate such allegations.

Mr. Payne as a civilian, is part of the public and has the right to know about allegations of such misconduct, investigations into such misconduct, and corrective measures that may have been taken.

Only by access to this kind of information can the people insure integrity of government action. "The basic purpose of the public disclosure act is to provide a mechanism by which the public can be assured that its public officials are honest and impartial in the conduct of their public offices."

As stated above, the purpose of the PRA is not to protect the plaintiff from mere inconveniences or "speculative" and "insubstantial" injury.

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Petitioner Jamie Janssen is a government agent and had been making false and malicious allegations against respondent Mr. Payne, thus Mr. Payne was exercising his rights to defend himself against such governmental misconduct and how the governmental agency was conducting its behaviors into investigating or not investigating the situation.

Respondent Payne had made an allegation of misconduct of a government agent and has been being summarily retaliated against in multiple ways ever since by multiple government agents, including Ms. Janssen's supervisor and Dr. Lopez.

Mr. Payne was exercising his rights in doing public disclosure requests in the exact same manner and fashion as that of the petitioner could have or may have been doing without Mr. Payne being notified of it like Ms. Janssen eventually was by DSHS/SCC. Ms. Janssen has done nothing more than make every attempt to cover-up her indiscretion(s). And by the arguments presented by the fellow respondent DSHS, its agents have been attempting to assist Ms. Janssen in the cover-up.

Respondent DSHS has gone as far as to make and assist Ms. Janssen in making even more unfounded and prejudicial statements about Mr. Payne in discrediting him, and using a claim that due to Mr. Payne's actions, it jeopardizes agents employment status, and the security of the facility and others (not verbatim). (CP @ 11 & 14)

Furthered by stating that by Mr. Payne doing public disclosure on staff misconduct (government agents) that work for SCC, it jeopardizes their continued employment and is counter-therapeutic to Mr. Payne's treatment. (CP @ 11 & 14)

The exemptions are intended to "exempt from public inspection those categories of public records most capable of causing substantial damage to the privacy rights of citizens or damage to vital functions of government." Limstrom v. Ladenburg, 136 Wash.2d 595, 607, 963 P.2d 869 (1998).

The burden of proof is on the party seeking to prevent disclosure to show that an exemption applies. Ameriquist Mortg. Co. v. Office of Attorney General of Washington, 177 Wn.2d 467, 300 P.3d 799, 808-809 (2013)

By DSHS making such a claim is preposterous. If DSHS is going to use and gets to use, and gets supported by any court, then it opens the door wide open for DSHS to deny any and all public disclosures to anyone who is in treatment or not at SCC, as being counter-therapeutic and jeopardizes staff employment and the security of the facility. Essentially jeopardizing DSHS by having its secrets exposed by SCC residents. So much for "open government". Ms. Janssen's claim is not the type of "exempt from public inspection categories" that is meant by the exemption rule or DSHS proclamation of it being so.

Especially when a specific government agent has chosen to specifically target a resident, abuses that position of authority by making false allegations knowing they will be believed 100% without question over any resident, and that causes that resident direct harm, then gets supported by other government agents in targeting that resident. Then accuse that resident of being obsessed (easy ploy to use against a resident with a sexual criminal record) with the government agent to justify their retaliatory actions against the resident. And then placing said resident on punitive restrictions with no due process whatsoever.

DSHS fails to explain to the court how by having rogue agents that are specifically targeting a resident is therapeutic to the resident and the facility as DSHS refers to as one its "have too" provide a therapeutic environment for residents. (CP @ 14) The only argument that DSHS makes in regards to the alleged claim of Mr. Payne having an obsession with Ms. Janssen is they "believe" Mr. Payne does, as it fits with their objective to slander Mr. Payne's restraint status and bolster their position.

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Just because a resident (Mr. Payne), has been doing public disclosures on a particular government agent, for a very valid reason, does not mean that the resident has an obsession with that government agent. If that is the case that the court wants to embrace, then anyone can say that about anyone to prevent their misconduct from being found out and proven to be true.

The only avenue that Mr. Payne has had in order to expeditiously as possible do his investigation into what is being said about him by this particular government agent that is causing him direct harm and interfering with his treatment (to which it becomes Ms. Janssen who is being counter-therapeutic to Mr. Payne's treatment) and to show other government agents that Ms. Janssen has deliberately on multiple occasions violated the current condition between Mr. Payne and Ms. Janssen that was put into place due to Ms. Janssen's constant allegations against Mr. Payne, was by doing public disclosures. And to show them (Mr. Payne's therapists) that they are being lied too, as Ms. Janssen's actions outside of their direct view contradicts what she is claiming and accusing Mr. Payne of.

The "[o]nly" way a resident at DSHS/SCC has a chance of being remotely believed is, [i]f the resident can come up with some form of "ACTUAL" irrefutable proof to support what they claim or state. Even then, it is a really good chance that even that will be ignored.

Mr. Payne was doing what the Public Disclosure Act allows him to do within the law, that affects him directly, and to preserve evidence in order to protect his interests in his civil detainment under RCW 71.09. Mr. Payne was acting on his own accord as his own investigator and attorney in order to preserve the best evidence before it could be destroyed.

If DSHS and the agents of their agency SCC would have actually investigated Mr. Payne's claims and allegations of government agent misconduct towards two of their agents, and reviewed Mr. Payne's evidence, they would have been able to see the truth in Mr. Payne's pleas for protection. But this would

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mean DSHS would have to admit the truth and the outcome would have been in Mr. Payne's favor, to which goes against the grain of their intended agenda. By all appearances, DSHS knows the truth of the matter as Mr. Payne has asserted, but doesn't want the full scope of the truth to be revealed, especially to Mr. Payne.

If DSHS's agency SCC is truly a "Treatment Facility" then (1) a resident cannot be looked at or frowned upon simply because he is referred to as a sexually violent predator under their detainment under RCW 71.09, (2) cannot be automatically dismissed when making a claim, (3) a resident is a "patient" first and foremost and must be treated as such, and (4) the issue in question between Mr. Payne and Ms. Janssen should have been dealt with in a therapeutic environment and therapeutic-treatment manner.

Mr. Payne had (and still has) been attempting to have a conflict resolution happen since the inception of the eventual conflicted misunderstandings between Mr. Payne and Ms. Janssen. Which Ms. Janssen has refused to make any attempts at a conflict resolution from the beginning and to date. Which is the complete opposite of Mr. Payne's position to date.

Mr. Payne had been collecting his evidence through public disclosure requests not just for defending himself and for treatment purposes, but also to hold a favorable position in protecting his liberty interests in his continued detainment under RCW 71.09. If Mr. Payne had not been doing so, then the state and its agencies and agents would use this matter against Mr. Payne at any given opportunity to do so. This is also why Mr. Payne has forwarded most public disclosures received to his attorney to preserve and protect the evidence Mr. Payne has been able to procure.

The judges reliance upon the declaration provided by Dr. Elena Lopez, Clinical Director for SCC, was in error, as absolutely nowhere in the doctors declaration does she make any suggested or factual

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statements as to petitioner Ms. Janssen's well being to be in any jeopardy from Mr. Payne.

Furthermore, the doctor does not express that she has ever had any concerns as to Mr. Payne being a threat to Ms. Janssen. For the doctor simply making an unfounded statement that it "appears" that Mr. Payne has an obsession with Ms. Janssen, does not imply a threat of bodily harm will befall Ms. Janssen at the hands of Mr. Payne. Nor does Dr. Lopez ever claim by any means, that Ms. Janssen's well being could be put into jeopardy if Mr. Payne had Ms. Janssen's work time sheets and/or work schedule.

Dr. Lopez was Mr. Payne's therapist at the beginning of this issue starting between Mr. Payne and Ms. Janssen before Dr. Lopez became the Clinical Director. Prior to Dr. Lopez providing the declaration in this case, Dr. Lopez makes absolutely no mention in her declaration of ever having any concerns of Mr. Payne having or harboring any hostility towards Ms. Janssen. The judges reliance on Dr. Lopez's' declaration in any manner was based on nothing more than pure and utter conjectured speculative assumption.

Thus the provided declaration is not and cannot be used as an "exemption" purpose or standard to the rule in a PRA dispute for disclosure or injunctive relief. See Gronquist v. State, 177 Wn.App. 389, 313 P.3d 416 (2013); and John Doe v. Department of Corrections, 197 Wn.App. 609, 391 P.3d 496 (2017)

Prejudicial Effect

Mr. Payne was extremely prejudiced by not being allowed a Preliminary Hearing in order to have the opportunity to do discovery. Mr. Payne was further extremely prejudiced by not being afforded sufficient time to properly prepare and defend against the allegations by Ms. Janssen and DSHS. Thus Mr. Payne was unable to mount a proper and sufficient defense prior too a permanent

injunction hearing so he would have allowed Mr. Payne to sufficiently deny and object to all of the allegations and convoluted conjectured speculative assumptions made against Mr. Payne. This on its own was in error, and affected the outcome of the case. Thus creating reversible error.

If an error affects the outcome of a case, it is prejudicial and not harmless. Mutual of Enumclaw Insurance Company v. Gregg Roofing, 178 Wn.App 702, 729, 315 P.3d 1143 (2013).

Failure to notify parties of consolidation of permanent injunction trial with preliminary injunction hearing was error: Thus reversible. Northwest Gas Association v. Washington Utilities and Transportation Commission, 141 Wash.App. 98, 168 P.3d 443, 451-452 (2007).

By the Court not giving any notice to consolidating the preliminary injunction hearing and the permanent injunction hearing, was an abuse of discretion. Essential facts in this matter were in dispute, thus consolidation of the preliminary and permanent injunction hearing was an abuse of discretion and a violation of case law. SEIU Healthcare 775NW v. State, Dept of Social and Health Services, 193 Wn.App. 377, 377 P.3d 214, 221-223 (2016).

In order to comply with CR 65 (a) (2), the trial court must expressly state at the preliminary injunction hearing that it is consolidating that hearing with a trial on the merits.

Under CR 65, the process generally progresses from temporary restraining order, to preliminary injunction, to permanent injunction. CR 65 (a) (2) provides, however, that "[b]efore or after the commencement of the hearing of an application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated" with the preliminary injunction application hearing. [(quoting CR 65 (a) (2)]. But "[i]f [a] court does not expressly state that it is consolidating the injunction hearing and a trial on the merits, it may not render a final determination on the merits." Further under CR 65 (a) (2) (b). As in the instant case, the trial judge made no such distinction.

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... In case a temporary restraining order is granted without notice, the motion for a preliminary injunction will be set down for a hearing at the earliest possible time; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if he does not do so, the court shall dissolve the temporary restraining order. CR 65

As is the case in the instant case, the Plaintiff Ms. Janssen did not proceed with the application for a preliminary injunction. Instead, the Plaintiff remained mute knowing full well that her intent was to obtain a permanent injunction and restraining order at any cost and prey on the respondent Jeffrey Payne's ignorance of his rights within this matter and the very restrictive personal restraints he was under in order to deal with this matter. And in having full knowledge that Mr. Payne could not afford an attorney to represent him or have any sufficient time to do any form of discovery and prepare a proper defense that a preliminary hearing would have allowed.

Since Ms. Janssen failed to proceed with her application for a preliminary injunction hearing, the judge was left with no other alternative, other than to dissolve the temporary restraining order and dismiss the case. CR 65

If the trial court does not expressly state that it is consolidating a preliminary hearing and a trial on the merits, it may not render a final determination on the merits. League of Women Voters of Washington v. King County Records, Elections and Licensing Services Div., 133 Wash.App. 374, 135 P.3d 985, 989 (2006); McLean v. Smith, 4 Wash.App. 394,399, 482 P.2d 798,802 (1971). CR 65 (a)(2)

And as stated in Burt v. Washington State Dept. of Corrections, 191 Wn.App. 194, 361 P.3d 283,289 (2015); The purpose of the rule, as the court explained, is "to give the parties notice and time to prepare so that they will have a full opportunity to present their cases at the permanent injunction

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hearing." Id. At 114, 168 P.3d 443; accord Ameriquet Mortg. Co. v. Atty. Gen., 148 Wash.App. 145, 155-56, 199 P.3d 468 (2009) (trial court similarly conflated the preliminary injunction hearing with a full hearing on the merits).

The trial court abused its discretion and failed to give any kind of notice that the preliminary and permanent injunction hearings were going to be or have been consolidated, thus giving way to no other alternative but dismissal for being facially void from the start.

“An injunction is an extraordinary equitable remedy designed to prevent serious harm. Its purpose is not to protect the plaintiff from mere inconveniences or “speculative” and “insubstantial” injury.” Kucera v. State Dept. of Trans., 140 Wn.2d 200, 995 P.3d 63,74 (2000); See Tyler Pipe Industries, Inc. v. State Dept. of Revenue, 96 Wn.2d 785, 638 P.2d 1213,1219 (1982) A court's decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard; it is based on untenable grounds if the factual findings are unsupported by the record; it is based on untenable reasons if it is based on incorrect standard or the facts do not meet the requirements of the correct standard. In re Marriage of Littlefield, 133 Wn.2d 39, 940 P.2d 1362,1366 (1997)

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Orders Not Withstanding Compliance

The permanent injunction and restraining order are not narrow in scope or application as they are overreaching by including every person on this planet, in this galaxy and beyond. This is an abuse of discretion alone as respondent Mr. Payne's civil detainment attorney, Andrew Morrison, contracted under RCW 71.09, was not a party named in the action nor was anyone else particularly. The injunction and order cannot broadly apply as a catch all by proxy or as a just in case senerio.

CR 65 (2) (d) FORM and SCOPE. Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; **and is binding only upon the parties to the action**, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

The Orders are not narrow in scope or narrowly construed as law requires them to be, thus they are "overly broad" and "over reaching" in there authority.

In Hoover v. Warner; The Supreme Court vacated the injunction because "the trial court abused its discretion by granting an overly broad injunction." Hoover v. Warner, 189 Wn.App. 509, 358 P.3d 1174,1185 (2015)

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CONCLUSION

This court should reverse and dismiss with prejudice, the granting of the Temporary Restraining Order and the Permanent Injunction and Restraining Orders in light of the errors in violation of CR 65, the Public Records Act (PRA) 42.56 and the ORDERS not being in compliance with the laws of the United States Freedom of Information Act (FOIA) and the state of Washington's Public Disclosure Act (PRA), and in violation of Due Process. Furthered by, finding that the Temporary Restraining Order was obtained through fraudulent means, thus making it invalid and void.

DATED this 5th day of April, 2018.

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ATTACHMENT

A

From: Weir, Joshua (ATG)
To: Sacha, Heather (DSHS/SCC); Hamill, John W (DSHS/SCC); Davidson, Amy R (DSHS/SCC)
Cc: West, Rachel A (DSHS/SCC)
Subject: RE: So here is an idea
Date: Friday, August 25, 2017 3:57:26 PM

-----Original Message-----

From: Sacha, Heather (DSHS/SCC)
Sent: Friday, August 25, 2017 8:22 AM
To: Weir, Joshua (ATG) <JoshuaW1@ATG.WA.GOV>
Subject: RE: So here is an idea

I'm home today but thought I would send a link that also might help. Windows 7 info
<http://www.afb.org/info/living-with-vision-loss/using-technology/using-a-computer/part-ii-for-the-experienced-computer-user-with-a-new-visual-impairment/windows-accessibility-options/12345>

Heather Sacha, ITAS6
DSHS Special Commitment Center
sachahi@dshs.wa.gov
(p) 253.617.6323
(c) 253.617.8926

From: Weir, Joshua (ATG)
Sent: Thursday, August 24, 2017 3:28 PM
To: Sacha, Heather (DSHS/SCC); Hamill, John W (DSHS/SCC); Van Hook, William M (DSHS/SCC); West, Rachel A (DSHS/SCC); Davidson, Amy R (DSHS/SCC); Reed, Paul H (DSHS/SCC)
Subject: RE: So here is an idea

Impressive. Thanks for the suggestions! Do SCC (and resident) machines run Windows 10? We just got it here not that long ago.

-Josh

From: Sacha, Heather (DSHS/SCC)
Sent: Thursday, August 24, 2017 3:12 PM
To: Hamill, John W (DSHS/SCC) <HamilJW@dshs.wa.gov>; Van Hook, William M (DSHS/SCC) <VanhoWM@dshs.wa.gov>; Weir, Joshua (ATG) <JoshuaW1@ATG.WA.GOV>; West, Rachel A (DSHS/SCC) <WestRA@dshs.wa.gov>; Davidson, Amy R (DSHS/SCC) <DavidAR1@dshs.wa.gov>; Reed, Paul H (DSHS/SCC) <ReedPH@dshs.wa.gov>
Subject: So here is an idea

Windows 10 has a LOT of accessibility features built into the system. I am attaching a guide I was writing up for staff that may be having issues, but this may also help out with our resident population (even the blind ☺). Microsoft products conform to accessibility laws and requirements <https://enterprise.microsoft.com/en-us/industries/government/section-508-vpats-for-microsoft-products/>

You can try these on your Windows 10 machine and see what you think. I turned on some of these for a relative who recently went through multiple surgeries, they used a microphone headset and talked to the computer to operate it. Worked nifty – no dragon needed as office products are Microsoft creations. You can't really do the speak thing without a microphone but those are an easy cheap solution. This would even work with resident owned machines in their rooms if needed.

Saphronia Young

From: Saphronia Young
Sent: Monday, April 03, 2017 1:17 PM
To: 'Mingay, Craig (ATG)'
Cc: Gerald Lowe
Subject: RE: Objection to Release of Public Records - by Jeffrey Payne re: Janssen

Mr. Mingay:

I will be in court at 3:00 p.m. in Pierce County to obtain a temporary restraining order. Would you like to attend? If so, please advise. We could meet up and confer before approaching the bench. Did you receive service of our Motion filed on 3/31/17? The hearing on the permanent injunction will be April 27, 2017 at 9:00 a.m. That was the earliest that we could get a hearing.

My cell phone # is 253 632 9553. Please call at any time between now and 3:00 on my cell.

Thank you,

Saphronia R. Young
REGEIMBAL, McDONALD & YOUNG, PLLC
612 S. 227TH Street
Des Moines, WA 98198
Telephone: (206) 212-0220
Fax: (206) 408-2022
Email: Saphronia.young@rm-law.com

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From: Mingay, Craig (ATG) [mailto:CraigM1@ATG.WA.GOV]
Sent: Thursday, March 30, 2017 11:28 AM
To: Saphronia Young <saphronia.young@rm-law.com>
Cc: Gerald Lowe <Gerald.Lowe@rm-law.com>
Subject: RE: Objection to Release of Public Records - by Jeffrey Payne re: Janssen

Margaret McLean is the AAG that handles labor issues.

Here is the response from SCC on how process is usual served:

If they are a process server they would need to contact me so I can run a background check prior to them coming out and they meet the resident in the VR.

Saphronia Young

From: Saphronia Young
Sent: Monday, April 03, 2017 1:34 PM
To: 'Medina, Cheryl A (DSHS/SCC)'
Cc: 'saphronia@rm-law.com'; 'Mingay, Craig (ATG)'; 'Deborah.Woodard@dshs.wa.gov'
Subject: RE: Objection to Release of Public Records - by Jeffrey Payne re: Janssen
Attachments: MOTION FOR ORDER TO SHOW CAUSE.pdf; Declaration of YOUNG in Support of Motion.pdf; 170330 PROPOSED ORDER TO SHOW CAUSE.pdf; EXHIBITS.pdf; 170330 CERTIFICATE OF SERVICE.pdf

Ms. Medina:

We will be in court today at 3:00 p.m. to obtain the TRO. Our hearing for the permanent injunction is scheduled for April 27, 2017 at 9:00 a.m. in Pierce County.

Our pleadings are attached.

You may call me on my cell phone (253) 632-9553, at any time before 3:00 p.m. if you have questions or concerns. It would also be useful to have Mr. Payne's telephone contact information, should the judge request it.

Please do not provide my cell phone number to Mr. Payne. That is for your use and Mr. Mingay's use only.

Thank you,

Saphronia R. Young
REGEIMBAL, McDONALD & YOUNG, PLLC
612 S. 227TH Street
Des Moines, WA 98198
Telephone: (206) 212-0220
Fax: (206) 408-2022
Email: Saphronia.young@rm-law.com

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From: Medina, Cheryl A (DSHS/SCC) [mailto:MedinCA@dshs.wa.gov]
Sent: Friday, March 24, 2017 8:46 AM
To: Saphronia Young <saphronia.young@rm-law.com>
Subject: Automatic reply: Objection to Release of Public Records - by Jeffrey Payne re: Janssen

I will out of the office on March 15, 2017 until March 24, 2017. I will return March 27, 2017. If you need immediate assistance call Deborah Woodard at ext 6237.

Usually it is an officer from the Civil Division of PCSO – he comes out on whatever boat say the 9:25 gets to the VR just before 10:00 am we have the resident in the VR waiting, the officer hands him the documents and we get him out on the 10:05 bus – usually it is Sgt. Roger Leach and we have the whole process down pat. If law enforcement is used we don't need to run background checks. I usually meet him in public access to ensure there are no hold-ups.

For me, depending on who is named and the type of case, I can accept service via email on behalf of SCC. If it is an injunction action pursuant to the PRA, I can accept service via email.

From: Saphronia Young [<mailto:saphronia.young@rm-law.com>]
Sent: Tuesday, March 28, 2017 10:50 AM
To: Mingay, Craig (ATG)
Cc: Gerald Lowe
Subject: RE: Objection to Release of Public Records - by Jeffrey Payne re: Janssen

Mr. Mingay:

Could you provide me again with the name of the attorney for DSHS who handles labor and employment issues?

Also, can you advise the best method for us to effect service upon the inmate? I've not had to do that in Washington state previously.

Finally, will you accept service of our pleadings by email? If not, could you provide me with your best physical address for service?

Thank you,

Saphronia R. Young
REGEIMBAL, McDONALD & YOUNG, PLLC
612 S. 227TH Street
Des Moines, WA 98198
Telephone: (206) 212-0220
Fax: (206) 408-2022
Email: Saphronia.young@rm-law.com

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From: Saphronia Young
Sent: Friday, March 24, 2017 8:46 AM
To: Mingay, Craig (ATG) <CraigM1@ATG.WA.GOV>
Cc: Gerald Lowe <Gerald.Lowe@rm-law.com>; Medina, Cheryl A (DSHS/SCC) <MedinCA@dshs.wa.gov>
Subject: RE: Objection to Release of Public Records - by Jeffrey Payne re: Janssen
Importance: High

Mr. Mingay:

I would like to discuss this matter with you directly. Can you provide your telephone number and a good time for me to call you? Conversely, you can call me right now, if you see this at 8:44 am.

Thank you,

Saphronia R. Young
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Telephone: (206) 212-0220
Fax: (206) 408-2022
Email: Saphronia.young@rm-law.com

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From: Woodard, Deborah A (DSHS/SCC) [<mailto:WoodaDA@dshs.wa.gov>]
Sent: Friday, March 24, 2017 8:38 AM
To: Saphronia Young <saphronia.young@rm-law.com>
Cc: Gerald Lowe <Gerald.Lowe@rm-law.com>; Mingay, Craig (ATG) <CraigM1@ATG.WA.GOV>; Medina, Cheryl A (DSHS/SCC) <MedinCA@dshs.wa.gov>
Subject: RE: Objection to Release of Public Records - by Jeffrey Payne re: Janssen

It is Craig Mingay – I have copied him on this email. Also I forwarded your last email to Pat Capozzola – I believe you had an incorrect email address for him.

Thanks D

Deborah Woodard
Administrative Assistant 3 for Legal Coordinator
DSHS / Special Commitment Center
Ph: 253-589-6237
Fax: 253-617-6318
Email: Deborah.Woodard@dshs.wa.gov

The basic building block of good communications is the feeling that every human being is unique and of value. Author Unknown

NOTICE: This communication may contain privileged or other confidential information. If you know or believe that you have received it in error, please advise the sender by reply e-mail and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

ATTACHMENT
B

RAELENE SEMAGO
Official Court Reporter
334 County-City Bldg.
Department 3
Tacoma, WA 98402

June 1, 2017

RE: Case No. 17-2-06669-4

Dear Mr. Payne:

I have enclosed three copies of the transcript that you ordered from me. I have put the Original in the court file.

If you should need anything else from me, just let me know.

Thanks,

Raelene Semago
253-798-7513

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

JAMIE JANSSEN,
Plaintiff,
vs.
DEPARTMENT OF SOCIAL AND HEALTH
SERVICES,
Defendant.

)
) **COPY**
)
) Superior Court
) No. 17-2-06669-4
)
)
)
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VERBATIM REPORT OF PROCEEDINGS

April 27, 2017
Pierce County Superior Court
Tacoma, Washington
Before the
HONORABLE MICHAEL E. SCHWARTZ

Raelene Semago
Official Court Reporter
930 Tacoma Avenue
334 County-City Bldg.
Department 3
Tacoma, Washington 98402

A P P E A R A N C E S

FOR THE PLAINTIFF:

SAPHRONIA R. YOUNG
Regeimbal, McDonald & Young
612 S. 227th Street
Des Moines, Washington 98198

FOR DEPARTMENT OF SOCIAL AND HEALTH SERVICES:

CRAIG B. MINGAY
Attorney General of Washington
7141 Cleanwater Dr. SW
PO Box 41024
Olympia, Washington 98504-0124

FOR THE DEFENDANT:

JEFFREY PAYNE
Pro Se

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BE IT REMEMBERED that on Thursday, April 27, 2017,
the above-captioned cause came on duly for hearing before
the **HONORABLE MICHAEL E. SCHWARTZ**, Judge of the Superior
Court in and for the County of Pierce, State of
Washington; the following proceedings were had, to wit:

<<<<<< >>>>>>

THE COURT: This is Jamie Janssen vs. The
Department of Social and Health Services, Cause
No. 17-2-06669-4. The parties please make their
appearance for the record.

MS. YOUNG: Your Honor, I'm Sophronia Young.
I represent Jamie Janssen, the petitioner.

THE COURT: Okay. Good morning.

MR. MINGAY: Craig Mingay, M-I-N-G-A-Y, on
behalf of DSHS.

MR. PAYNE: Jeffrey Payne, the respondent,
acting pro se.

THE COURT: Okay. Good morning, folks.

This matter comes on for a request by
petitioner for a permanent injunction as to requests made
pursuant to the Public Disclosure Act. I will note for
the record that we have Mr. Payne, who is currently in the
SCC on McNeil Island, on the phone. I'm going to hear

1 arguments in a minute, but Mr. Payne, can you hear me
2 okay.

3 MR. PAYNE: Yes.

4 THE COURT: Okay. So, counsel, what I'm going
5 to ask you to do if you would, approach the bar here. The
6 reason being that it's easier for Mr. Payne to hear what
7 it is that you are saying if you are up here.

8 Mr. Payne, as we go through the arguments if
9 you are having trouble hearing, please let us know just so
10 everybody is, you know, informed of the parties'
11 arguments. Okay?

12 MR. PAYNE: Okay.

13 THE COURT: All right. I will let you folks
14 know that I have reviewed all of the pleadings in this
15 case that have been filed thus far. Thank you folks for
16 providing those matters to me.

17 Ms. Young, this is your client's request, so
18 if you would proceed, please.

19 MS. YOUNG: Thank you, Your Honor. As you
20 know, my client, Jamie Janssen, works in the kitchen at
21 the SCC, and worked for a brief period of time with
22 Mr. Payne during which time he developed an obsession
23 concerning her. He began to exhibit an unnatural interest
24 in her that developed into an obsession. She only
25 recently learned that he had filed 14 Public Records Act

1 requests involving her or her work space, and given his
2 background as a violent sexual predator, this concerned
3 her highly. She made an informal request to DSHS to not
4 provide the records, and she was advised that she needed
5 to seek court protection. She attempted to do so
6 representing herself, and she submitted her own
7 declaration which is in the materials before the Court.

8 She was advised by that lower bench that she
9 needed to go to Superior Court, retain counsel, and
10 proceed here. She has done so. Proper notice has been
11 given to both DSHS and to Mr. Payne. A bond was posted.
12 And we are here today. It appears to me that DSHS does
13 not oppose the motion. They submitted a declaration
14 indicating that basically what my client has alleged is
15 true, that Mr. Payne has developed an obsession with my
16 client, that he has a very, very scary background as a
17 violent predator. Release of her work schedules can be of
18 no legitimate concern to him or to the public.

19 Looking at Mr. Payne's response, he really
20 doesn't deny any of the allegations in our motion, other
21 than the fact that he doesn't like to be called an inmate.
22 He prefers to be called a resident, and that's a
23 distinction without a difference in the case at bar.

24 Mr. Payne in his own materials notes that
25 under RCW 42.56.540, the Court may protect disclosure of

1 the records if it would clearly not be in the public
2 interest, and would substantially and irreparably damage
3 any person, and we say that both factors are present here.
4 It is not in the public interest to further fuel a
5 sexually violent predator's obsession with any individual.
6 It is not in the public interest for inmates at McNeil
7 Island to be given records relating to any person that
8 works there. It is not in the public interest to continue
9 to allow this particular inmate to harass and intimidate
10 the employee at McNeil Island, and probably other
11 employees as well.

12 Under the Parmelee case that we cited in our
13 materials, these type of requests can be enjoined by the
14 court. My client is very afraid of this man, very afraid
15 that once he knows her schedule, her comings and goings,
16 he already had video footage of the kitchen and the work
17 area, that she is not safe. And in order for her to
18 continue in her job and trust that she is safe, this
19 records request and all future requests need to be
20 prohibited.

21 THE COURT: Let me ask you a question.

22 MS. YOUNG: Yes, Your Honor.

23 THE COURT: Does the Court have the authority
24 to simply enjoin future records requests, or do they have
25 to be analyzed and objected to on a case-by-case basis?

1 MS. YOUNG: I think, Your Honor, given the
2 declaration that DSHS filed in this case, any records
3 request relating to my client absolutely could be
4 enjoined. It's clear that this man is using those records
5 to further fuel his sexual obsession, which is
6 contraindicated and counter-therapeutic for this
7 particular individual, and poses a public safety risk. So
8 I think under the Parmelee decision, the Court could
9 enjoin further future public record requests that relate
10 specifically to my client.

11 There is simply no need for the public to know
12 anything about my client's schedule. It's for his own
13 bizarre pleasure that he seeks these, and for no other
14 reason. He cites in his materials that her privacy would
15 be violated only if disclosure of information about the
16 person would be highly offensive to a reasonable person,
17 and we say that in this case that has been met. This
18 release of information about her to this sexually violent
19 predator is highly offensive. He is using it to further
20 his own sexual fantasies about her, which is a frightening
21 thought, especially if she wants to continue working at
22 this job and she likes this job. And again, her work
23 schedule, her comings and goings, her hours, and the
24 specific times that she arrives and leaves the facility
25 are not of any legitimate concern to the public.

1 I don't know if you have any other questions,
2 Your Honor, but you know, his primary contention in his
3 opposition is that my client has not appropriately
4 identified Mr. Payne as a resident under civil commitment,
5 as opposed to being an inmate, and actually the only issue
6 that that has anything to do with is whether DSHS would be
7 exposed to an award of attorney fees, and DSHS, in its
8 materials, addressed that, so I won't do that here.

9 We believe that my client's records fall
10 within the exemptions and the statute that I have already
11 cited. Also, there is the privacy exemption under RCW
12 42.17.310, which, again, is defined as highly offensive
13 and no legitimate public concern, and that definition
14 appears at RCW 42.17.255. And I think the Parmelee case
15 is the closest case that I could find on point,
16 Your Honor.

17 I don't know if you have any additional
18 questions, but most of what I want to say is there in my
19 materials, and I don't want to belabor the point.

20 THE COURT: Let me ask you, are you asserting
21 that because RCW 42.56.540 is written in the conjunctive,
22 in other words, the party who is seeking enjoinder of the
23 records must demonstrate, one, that the examination of the
24 records would clearly not be in the public interest, and
25 that -- and would substantially and irreparably damage any

1 person. Now, there is also -- or substantially or
2 irreparably damage vital government functions. Are you
3 asserting that that substantial and irreparable damage has
4 to go to the psychological welfare of your client,
5 vis-a-vis anxiety, fright and the like?

6 MS. YOUNG: Does it have to? I understand the
7 conjunctive nature of the statute, and I agree with your
8 reading of that, Your Honor. I think that there are two
9 different ways in which the statute applies both to the
10 psychological damage to my client, psychological and
11 emotional, and also to the issue of the safety and
12 security at the facility. I think that if people at the
13 facility cannot work there and feel safe that that is a
14 concern as a security matter as well, and I don't know if
15 I really answered your question well, Your Honor, but I
16 think the factors have been met here. She has
17 demonstrated that she is very afraid of this individual,
18 and she has demonstrated good reason for that. I don't
19 know that there is anything else to address there.

20 THE COURT: Okay. Thank you. Counsel, do you
21 want to go ahead and argue on behalf of the Department?

22 MR. MINGAY: Thank you, Your Honor. And
23 factually I don't think that I have anything else to add,
24 other than what's been provided by Ms. Janssen's attorney.
25 I have some legal issues I want to make clear on the

1 record going to what the Court was, I think, asking. RCW
2 42.56.540 I believe authorizes an injunction to a specific
3 request, and only that specific request. It is RCW
4 42.56.565 that authorizes an injunction to future
5 requests. And I apologize I don't have the -- or I didn't
6 reproduce that statute so I don't have the exact language,
7 but Subsection 4 indicates that the Court may enjoin
8 future requests by the same requestor.

9 Now, Mr. Payne argues that 565 does not apply
10 to him because he is not an inmate serving a sentence for
11 a crime, which is true. However, if you look at RCW
12 71.09.120 (3), that statute makes the proceedings from
13 42.56.565 applicable to sexually violent predators
14 residing in the Special Commitment Center. So the
15 injunctive portions of 565 apply with the same force as
16 they would if he were an inmate serving a correctional
17 sentence. I believe that that is what the Court was
18 asking, so I just wanted to make sure that that was clear
19 for the record, that legally I believe 565 applies to
20 future requests by the same requestor, and that 71.09.120
21 makes 565 applicable to persons residing at the SCC. So
22 with that, I would commit, unless the Court has additional
23 questions for me.

24 As we indicated, we have no objection to the
25 entry of a permanent injunction enjoining requests from

1 this requestor that are related to Ms. Janssen.

2 THE COURT: Do the requests in your opinion or
3 on behalf of the Department have substantially impaired
4 vital governmental functions, at least as applied to
5 workers at the SCC and patients, as Mr. Payne is?

6 MR. MINGAY: I believe in two ways they impair
7 governmental functions. One, is they make the employees
8 nervous, given the clientele, and given that it is a
9 treatment facility and not a punitive facility. There is
10 certainly a great deal of freedom afforded the residents
11 of the SCC that you wouldn't find at correctional
12 facilities, and so I think that the feeling -- I mean,
13 once we get to the situation where it's believed that a
14 resident is focusing on a specific employee, certainly it
15 makes it very difficult for that employee to do their job
16 appropriately. It makes it very difficult for us to
17 retain employees, and so yes, I believe that in that way.

18 Secondly, it's -- although it's Mr. Payne's
19 right to receive information that is available to the
20 public, once it reaches a certain point I believe that
21 it's counter-therapeutic to their progress and treatment,
22 and I believe that pursuant what has been stated by our
23 clinical director in that declaration, we have reached
24 that point here.

25 THE COURT: Okay. Thank you. Mr. Payne.

1 THE JUDICIAL ASSISTANT: He is no longer
2 there. I will call him back.

3 THE COURT: Mr. Payne.

4 MR. PAYNE: Yes.

5 THE COURT: We lost you there.

6 MR. PAYNE: Yes.

7 THE COURT: I apologize. What was the last
8 thing you heard?

9 MR. PAYNE: When Ms. Young and I believe you
10 were talking about 42.17.

11 THE COURT: 310? Okay. So let's go back to
12 Ms. Young. I think after there was that exchange,
13 Ms. Young was describing that particular statute as an
14 additional basis to enjoin the release of the records. I
15 asked Ms. Young if she was asserting that the release of
16 the records, that the permanent and irreparable damage is
17 the emotional and psychological trauma induced by the
18 release of the records to her client. Ms. Young, if you
19 will answer that, please.

20 MS. YOUNG: Yes, as to the trauma to my
21 client, but yes, also as to the impact upon the security
22 of the facility. And I think that then Mr. Mingay can
23 pick up on that portion of the argument.

24 THE COURT: Okay. Thank you. And Mr. Mingay,
25 if you would, please, sir, it appears that Mr. Payne did

1 not hear any of your argument to the Court.

2 Is that correct, Mr. Payne?

3 MR. PAYNE: That's correct.

4 THE COURT: Okay. I will ask him to repeat
5 his statements to the Court then.

6 MR. MINGAY: Thank you, Your Honor. And just
7 to be clear, DSHS does not oppose entry of the injunction,
8 and I -- factually, I didn't have anything to add. But
9 legally I wanted to put a few things on the record just to
10 make it clear where I think the analysis rests.

11 RCW 42.56.540 applies to a specific request at
12 a specific time. So that gives the Court to authority to
13 enjoin a specific request under the factors stated in that
14 statute. RCW 42.56.565 is a different statute, but
15 authorizes the injunction, and it also authorizes the
16 injunction for future requests by a specific requestor,
17 and that's found in subsection 4 of that statute.

18 Now, Mr. Payne argues that he is not an inmate
19 serving a correctional sentence, and so RCW 42.56.565 does
20 not apply to him. And that's true as far as that statute
21 goes. However, RCW 71.09.120(3) provides that an SVP
22 residing in the Special Commitment Center may be enjoined
23 pursuant to the procedures found in 42.56.565. Therefore
24 the injunctive procedures for further requests found in
25 565 are applicable to Mr. Payne as a resident of the

1 Special Commitment Center.

2 And then the Court has requested that if it
3 was DSHS's position that this request could substantially
4 affect or substantially impact the government, vital
5 government functions, and I indicated yes it could in two
6 ways. One, the effect it has on a specific employee once
7 we get to the point where a resident has a specific
8 obsession or specific targeting of an employee, it affects
9 their ability to do their job. It affects the SCC's
10 ability to retain those employees, and it affects moral
11 and safety of the institution.

12 The second way it can substantially affect a
13 government function, we are a treatment facility. The
14 residents are afforded much more freedom than you would
15 see in an correctional institution. But the other side of
16 that is we have to provide a therapeutic environment, and
17 once there is a direct obsession with a specific employee,
18 those requests, continual requests can become
19 counter-therapeutic, to a person's treatment, which is a
20 vital government interest. So I think I at least made an
21 effort at repeating my arguments, but...

22 THE COURT: All right.

23 MR. MINGAY: I don't think that I forgot
24 anything.

25 THE COURT: Thank you, Mr. Mingay.

1 Mr. Payne, go ahead, sir.

2 MR. PAYNE: Okay. First of all, I guess I can
3 address the issues of the public disclosure requests and
4 why, which I have never kept it a secret from my therapist
5 at all that I'm doing these public disclosure requests and
6 why.

7 All the public disclosure requests that I have
8 done thus far has to do with Ms. Janssen writing
9 observation reports, incident reports, emails. They all
10 have to do with me. So any allegations that she makes
11 against me or towards me or anything that she says about
12 me, comes up in my treatment. It affects my treatment,
13 and it affects my movements in the facility, and so I'm
14 acting as my own counsel. The only way that I can defend
15 myself against allegations is by having allegations in
16 hand so I can see what is being said about me.

17 I have made several concessions to, on my own
18 accord, my own willingness, without being directed to do
19 so, changed a lot of my routine that I used to have, in an
20 attempt to appease Ms. Janssen, to try to alleviate some
21 of her concerns towards me. So all of the records
22 requests that I have been doing has strictly been about
23 me, and anything that affects me personally and my
24 treatment. So a lot of -- I don't think that I have to go
25 into what happened and how it affects my treatment. I

1 want to make it quite clear, I have absolutely no
2 obsession with Ms. Janssen. The only thing I'm doing is
3 trying to protect myself against allegations that are
4 continuously being made against me. Simply from me
5 standing out in the yard, I have been accused of stuff,
6 and I'm just standing out there.

7 So beyond that, all of the security footage
8 that I have done pertains to myself, and I do not get to
9 review it. It comes in. It goes -- I send it through the
10 process to be reviewed. It comes back as denied. I sent
11 a cover letter with it. I put a cover letter with it, and
12 sent it to my civil attorney for my civil matter that I'm
13 retained under for preservation of evidence.

14 I have three public disclosures that I have
15 gone on security footage that specifically names myself,
16 Ms. Janssen, and out of those three, one of them also
17 involves another staff member. That's just to show that
18 the three of us were here and that this is to support one
19 of my claims, or defenses, I should say. I have 15 others
20 that show Ms. Janssen violating the 30-foot contact
21 restriction when I'm in the chow hall to get my meals and
22 eat.

23 I know -- I have never viewed any of these. I
24 have no need to. Those, too, also go to my attorney for
25 preservation of evidence. This stuff has showed -- these

1 ones I'm talking about has shown up in my review for my
2 declaration from my attorney, Andrew Morrison. And with
3 her laying these allegations and being afraid of me and
4 all of that stuff, again, she is on multiple occasions
5 placed herself within less than 30 feet of me. I have
6 never done anything to deliberately threaten, intimidate
7 or harass her.

8 In all the times that I have been doing these
9 public disclosures for these documents and this video
10 footage, I have never used any of it to threaten or
11 intimidate or harass her, and I wouldn't have any need to
12 be doing this.

13 THE COURT: Mr. Payne, can I interrupt you?
14 You said that you are doing this to defend yourself
15 against allegations that were made against you?

16 MR. PAYNE: Yes.

17 THE COURT: Can you tell me, have there been
18 -- have you been punitively sanctioned based on any of the
19 allegations that you say Ms. Janssen has made about you?

20 MR. PAYNE: Well, they don't really call it
21 punitive. I'm not sure if it goes that far, but I believe
22 that I feel that it has been punitively done towards me
23 because of the contact restriction I was under. And then
24 a secondary contact restriction got put into place because
25 of stuff that was unwritten. There is no documentation

1 saying that I had to abide by a certain thing, and so I'm
2 still trying to figure that out. I do have the
3 documentation from my therapist directing Ms. Janssen and
4 Mr. Applin because of me doing these public disclosures on
5 these times that she has violated the contact restriction
6 being in the kitchen. It was upon my request and their
7 understanding, and they realized it, too, I went to them,
8 my treatment providers and said, look, this is interfering
9 with Ms. Janssen's job because she has to keep moving the
10 line when I come through, and she hasn't. I'm not going
11 to say anything negative to her. I'm not going to be
12 disrespectful to her. I'm a very mature, respectful
13 person, regardless of what she said about me. She said
14 what she said, and that's fine, but you know, all I can do
15 is try to defend myself and with the help of my providers
16 through treatment and try to apply the tools that I'm
17 being taught, which I'm definitely really trying to -- I
18 take my treatment here extremely serious, and I have
19 somebody who I believe is interfering with my treatment
20 and taking away from my being able to do my assignments
21 and stuff like that. It threatens my treatment, and it
22 threatens my being able to get out of here on an
23 unconditional release, and this is detrimental on that
24 issue, and I think that I just want it to stop. I have
25 been trying to do whatever I can to stay away from her and

1 ease her feelings towards me. I would never, ever
2 physically hurt her. I don't have a history of physically
3 hurting women. I was not raised that way. So, you know,
4 I deal with a lot of the women here in the institution,
5 and I don't have any problems with any of them, never have
6 in the seven years that I have been here. I have been
7 wanting to sit down with Ms. Janssen a long time ago when
8 all of this first started, and she even agreed to
9 willingly to sit down with me privately and I mentioned
10 that to my provider at the time, Dr. Lopez, and she put a
11 conversation restriction on us. Okay. I forgot that
12 part. I violated it. I got moved to the morning shift.
13 Okay. I understand that. I did something wrong. I take
14 full responsibility for anything that I have done wrong.
15 I won't deny it. If I'm in the wrong, I'm in the wrong.
16 Let's work on correcting it and getting better at doing
17 things the proper way. That's all I'm trying to work on
18 here.

19 As far as Ms. Janssen's time sheets go, the
20 only reason that I wanted these time sheets is because the
21 primary evidence that I was looking for was -- apparently,
22 they don't retain it. That's a whole different issue. So
23 this made her time sheets, and it's not just specifically
24 hers, there is another staff member involved too, that I
25 wanted her time sheets because an investigation was done

1 and I have to show that this is what I was told is false.
2 So it's got nothing to do with being malicious towards her
3 or anybody else.

4 But to go back to being called an inmate and
5 stuff like that, I believe this petition was erroneously
6 sought and obtained because it was Ms. Young being
7 supposedly in full personal knowledge of the facts, should
8 have been clearly understood that I'm not in a
9 correctional facility. I'm not a prisoner. I'm not an
10 inmate, and all the documentations that she submitted as
11 exhibits, none of it mentions that I'm in prison or an
12 inmate or serving a criminal sentence.

13 Some of the allegations she makes against me I
14 find are quite offensive and slanderous, and a lot of what
15 I have heard, it's pure speculation and conjecture.
16 There's nobody come and asked me about why I'm doing this
17 or doing that. I have no problem saying why I'm doing
18 this. I don't need her time sheets to know when her
19 schedule is. I have worked with her long enough. It's a
20 very small facility. When I go to the dining hall I go to
21 every meal every single day, so it's not hard to know what
22 her schedule is.

23 There are plenty of other residents that go
24 and work in there. I do not have this horrendous,
25 horrific, scary background. There is a tremendous amount

1 of other residents that do work in the kitchen that do
2 have an extremely dangerous background that she is
3 continuing to work with. So if you look at my crimes, my
4 crimes are inappropriately touching some little girls. I
5 have no rapes, no physical assaults, nothing. So I don't
6 have a problem with putting that out there. So I'm the
7 least of anybody's worries or threats. And I'm just
8 trying to -- in my -- what I have to do here is go about
9 my business, and I don't care where she is at or what she
10 is doing. She is never going to be alone in the kitchen.
11 There is always a tremendous amount of people in there,
12 and I have, obviously, not thought of wanting to go and
13 hurt her whatsoever. And regardless of whatever she has
14 done or said, I hold absolutely no animosity towards her
15 or nothing.

16 To me this is just part of the portion of what
17 I have to deal with and learn to deal with and that's what
18 I'm working on is trying the figure out how to dealt with
19 this stuff. I have had to go through a lot of different
20 emotional breakdowns, get on medication, and it has
21 nothing to do with her, so to speak. It has to do with
22 the fact of all of the allegations that continually get
23 made against me, and because some of the stuff is kind of
24 happening in my background, too, where it has traumatized
25 me, and the therapists I have been working with me and

1 helping me feel. A lot of other staff here that I have
2 spoke to, and there are several females back in my unit
3 that have helped me through this, too, and I get along
4 fantastic with them and have for several years. So I'm
5 not trying to cause any harm to Ms. Janssen. All I have
6 ever been willing to do is have everybody sit down, have a
7 meeting, figure out what is wrong, fix this, move on and
8 eliminate all of this animosity and dissension between the
9 two of us. That's it. And if he isn't willing to work
10 things out, so I'm not going to go back working in the
11 kitchen. Even if we work things out, I'm not going back
12 to working in the kitchen with her. That would be not --
13 that would be not -- beneficial to me in the long run. I
14 just want to be able to do what I have to do here, do my
15 programs and that's it. Go through the line and be
16 respectful to her and that's it.

17 THE COURT: Mr. Payne, can you describe for me
18 how any of the requests that you have made, most
19 specifically this most recent one that is the timecards of
20 Ms. Janssen, are of public interest?

21 MR. PAYNE: They relate to an investigation
22 that was being done in regard to Ms. Janssen and myself,
23 and what was revealed to me, the facts were not proper. I
24 pointed that out to the investigator. I said, no, that is
25 not true. This is what her schedule is now. I told my

1 therapist this is what is going to be happening. This is
2 what is going on, because it was a staff member here that
3 retired recently, and before she retired I sent a letter
4 to my therapist, Dr. Lopez and Dr. Shaw, stating that this
5 is what is happening, and that is what is going to happen
6 once this person retires, and that is exactly what
7 happened when this person retired.

8 This lady that retired has never liked me. I
9 have never done anything to her, and she has had nothing
10 but hostile animosity towards me every time I work with
11 her. I have made complaints about her. I filed a staff
12 abuse of misconduct to her because she went to Ms. Janssen
13 and wanted to conform a conspiracy to get me fired. I
14 heard that conversation, so I went to her supervisor the
15 very next day and he directed me to file a staff abuse of
16 misconduct and I said, no, I would rather sit down with
17 her and figure out what is going on so we can correct it
18 and move on and get along. She was unwilling to get along
19 with me, and it started reflecting over to Ms. Janssen.
20 And I was getting treated completely different. You know,
21 so I mean, that's when I filed the staff abuse of
22 misconduct on this one gentleman. It went through the
23 process. Cathi Harris, who was the chief of operations
24 here, told me if her behavior conditions to let her know
25 immediately and her behavior will be addressed with her

1 supervisor. And Ms. Simmons' behavior did not change, so
2 I reported it to Cathi Harris again, but unfortunately
3 Cathi Harris moved onto another position. But I never
4 received any retaliation whatsoever, which Mr. David
5 Applin, the manager of the kitchen, or anybody else for
6 filing that on her, but when I made a report on
7 Ms. Janssen, I was retaliatorily discriminated against,
8 and this thing that they are going to say why I was
9 terminated is extremely false and fictitious because I
10 have a witness to what happened on April 18th, 2016, when
11 I turned everything over to Mr. Applin. I was summarily
12 terminated on April 19th. When Ms. Janssen came to work
13 and found out I was terminated, she filed a stalking claim
14 against me, which turned into a contact restriction being
15 placed on me on the 20th.

16 The stalking allegation was that I was
17 allegedly from across the yard, which I was only about
18 maybe 50 feet from her with other residents, her and
19 another staff member, a male staff member, were leaving
20 was standing and above the residence her and another staff
21 member, a male staff member, were leaving, and all I said
22 was, hey, you guys are leaving a little early, aren't you?
23 And bam, I'm accused of stalking, or saying something as
24 simple as that to two staff members. That was not
25 directed directly to her. I was left standing there, pure

1 speculation, that I'm standing there specifically to
2 observe her.

3 I go to the hobby shop at 6:30. I come home
4 at 7:30 and go back to the shop. It closes at 8:30.
5 That's been my routine for years. She has never had a
6 problem with it until I lost my job the second time and
7 she has been informed why I lost my job because --

8 MS. YOUNG: Your Honor --

9 MR. PAYNE: -- because all of the things that
10 I have seen has shown a pattern of Mr. Dave Applin and
11 what he's been doing, and what he's been saying. So I'm
12 showing a pattern of what's going on and that I'm paying
13 attention to this pattern, and I'm asking just for it to
14 stop.

15 THE COURT: Okay. Thank you, Mr. Payne. By
16 way of brief reply.

17 MS. YOUNG: Well, first of all, I move to
18 strike all the long narrative just now. It's not in his
19 responsive materials. He wasn't under oath, and it's
20 completely without any factual basis or evidentiary
21 support in the record before you.

22 I think it's clear that DSHS, his therapist
23 believes that Ms. Janssen's view of the situation is
24 correct. I don't think that he ever directly answered you
25 showing that there is any type of legitimate public

1 interest in my client's time sheets. We have heard that
2 on the one hand he doesn't need them because he already
3 knows the information. On the other hand, he desperately
4 needs them to prove something, and he always wants to have
5 a sit-down meeting with my client. Well, of course he
6 does, and that's the last thing that she wants.

7 So, you know, we just ask that the Court take
8 note of the fact that with this long narrative there are
9 absolutely no documents submitted or any evidence under
10 oath in the record before you that contradicts my client's
11 versions of the facts, or the facts as supported by DSHS.

12 THE COURT: All right. Thank you. Thank you,
13 folks, for your appearance today, as well as your
14 presentation.

15 This Court is going to rule as follows: Under
16 RCW 42.56.540, the examination of any specific public
17 record may be enjoined, if upon proper motion and
18 affidavit by a party that they can demonstrate to the
19 Superior Court that such an examination would clearly not
20 be in the public interest, and would substantially and
21 irreparably harm or damage any person or would
22 substantially and irreparably damage vital governmental
23 functions.

24 In this instance, Mr. Payne has sought the
25 time records of Ms. Janssen, who is an employee at the

1 Special Commitment Center where currently Mr. Payne is
2 housed as a sexually violent predator. In this particular
3 instance, the Court is not finding that the examination of
4 these records would be in the public interest. According
5 to Mr. Payne, he is allegedly seeking these records to
6 counter allegations by Ms. Janssen. Yet, there is nothing
7 in the record that there is an ongoing investigation in
8 that regard.

9 In addition, I believe that Ms. Janssen has
10 made a substantial showing that substantial and
11 irreparable damage to her would occur by release of those
12 records. Understanding as I do, given my former career as
13 a defense attorney, the layout of SCC as described by
14 Mr. Mingay. It is not specifically -- or the residents
15 there do not have the restrictions that are placed on
16 inmates in a correctional facility because it is a
17 treatment facility. There is a therapeutic basis to
18 conducting day-to-day lives. If I look at the totality of
19 the requests that have been made by Mr. Payne here, it
20 appears to me, quite frankly, that the declaration by
21 Dr. Elena Lopez has substantial credibility; that is that
22 Mr. Payne seems to be obsessed with Ms. Janssen, not just
23 her personally, but her day-to-day activities, her
24 movements throughout the facility. And although it is
25 that Mr. Payne is arguing that these are needed apparently

1 to rebut some allegations against him, the Court is not
2 finding that that is the case.

3 Additionally, this Court is finding under RCW
4 42.56.565, that after reviewing the factors contained
5 therein, that is the other request by Mr. Payne, the type
6 of record or records sought, the statements offered by the
7 requestor concerning the purpose of the request, whether
8 disclosure of the requested records would likely harm a
9 person or vital governmental interest, whether the request
10 seeks a significant or burdensome number of documents, the
11 impact of the disclosure on the correctional facility
12 security and order, the safety and security of
13 correctional security staff, inmates or others, and the
14 deterrence of criminal activity. While E does not apply
15 in this particular case, because it's not a significant or
16 burdensome number of documents, all of those other factors
17 weigh heavily against releasing not just this particular
18 public record, but also any future release of documents or
19 records concerning Ms. Janssen.

20 This Court is taking into account the
21 statements of Mr. Mingay, as well as the declaration of
22 Dr. Alina Lopez and the declaration of the petitioner,
23 Ms. Janssen. Clearly the institution has a vital interest
24 here in protecting its staff, not just from harassing
25 behavior, but from possible criminal behavior. In my mind

1 as I look at the history of these requests, it appears to
2 me that Mr. Payne is not only trying to keep track of
3 Ms. Janssen's movements and her activities, but it appears
4 to me that this is much like casing a bank by robbers who
5 are intending at some future date to rob that bank or
6 cause harm to the people therein. I don't think that the
7 requests here are anything other than that.

8 While Mr. Payne alleges that this is for the
9 purpose of rebutting allegations that Ms. Janssen has made
10 against him, the record is devoid of any facts whatsoever
11 that support that assertion.

12 Based on this Court's review of the facts in
13 this case, as well as the relevant statutes, this Court is
14 going to grant not only the injunction preventing the
15 release of this most recent request by Mr. Payne, but in
16 addition, any future requests having to do with documents,
17 public records, work schedules or anything else describing
18 the activity of Ms. Janssen.

19 Are there any request for clarification of the
20 Court's --

21 MR. PAYNE: Yes, I do.

22 THE COURT: Yes, sir.

23 MR. PAYNE: So you are just stating that
24 anything that pertains to her scheduling --

25 THE COURT: No.

1 MR. PAYNE: When it comes to her time sheet, I
2 don't have any problem with not having that. You can
3 eliminate that. Like I said, I don't really need it. But
4 I was just trying to do it for a particular purpose. But
5 as far as other records, anything that she produces about
6 me, like observation reports, incident reports, anything
7 that pertains to me specifically, those are not enjoined.
8 To me, they shouldn't be because it pertains to me and I
9 have a right to somewhat defend myself under 71.09.
10 71.09.00 states that I don't lose any of my rights.

11 THE COURT: Mr. Payne, I'm restricting your
12 ability to make any public disclosure requests as to
13 Ms. Janssen's work related activities, or personal life,
14 including her location, anything having to do with
15 Ms. Janssen whatsoever. If you are served with
16 notifications of infractions, you may follow the
17 administrative procedures that are set forth therein.
18 This Court is granting a permanent injunction as to
19 Ms. Janssen and your public disclosure requests.

20 MR. PAYNE: So I can't do any public
21 disclosure requests whatsoever, with her name involved in
22 it whatsoever?

23 THE COURT: That's correct.

24 MR. PAYNE: Is that correct?

25 THE COURT: That's correct.

1 MR. PAYNE: All right. Thank you.

2 THE COURT: Counsel, any requests for
3 clarification?

4 MS. YOUNG: No, Your Honor.

5 THE COURT: Okay. Do you have an order with
6 you today, or is it that you anticipated drafting one and
7 serving Mr. Payne and setting a presentation date?

8 MS. YOUNG: I did not bring my order. I
9 thought I submitted one.

10 THE COURT: You submitted a proposed, but I
11 think mine actually --

12 MS. YOUNG: Let me do that, Your Honor.

13 THE COURT: All right. Do you have a date
14 that would be good for you? We do them pretty much any
15 day but Friday. We do them at 8:45 to accommodate the
16 lawyers before they have to be at other hearings, so if
17 you folks have a date in mind -- Mr. Mingay, you don't
18 have to appear if you are simply agreeing to the order as
19 presented.

20 Mr. Payne, if you are agreeing as to the
21 wording of the order that Ms. Young will send a copy of
22 and sign off on it, then we don't have to have the hearing
23 and I will just sign the order. But otherwise, we will
24 set a date, if there is no objection to the wording.

25 MR. PAYNE: All right.

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THE COURT: So why don't we give you at least two weeks I think in order that Mr. Payne gets it and is able to review it.

MS. YOUNG: Thank you, Your Honor. I will do that. I will mail it to him, and then if I don't get it back in a timely manner we can schedule a presentation date.

THE JUDICIAL ASSISTANT: We are going to schedule it now for May 11th, if that works for you.

MS. YOUNG: It does.

THE COURT: And provide that to Mr. Mingay. As long as his signature appears, he does not have to travel on down here --

MR. MINGAY: Thank you.

THE COURT: -- to the confines of Pierce County.

Anything else, folks?

MR. MINGAY: No. Thank you.

THE COURT: We will be at recess.

(Court at recess.)

FILED
COURT OF APPEALS
DIVISION II

CERTIFICATE OF SERVICE

2018 APR -6 PM 1:54

I certify that on the 4th day of April, 2018, I caused a true and correct copy of this **PETITION FOR REVIEW** and **informative cover letter** to be served on the following in the manner indicated below:

BY _____
DEPUTY

Counsel for Jamie Janssen
Saphronia Young
612 S. 227th St.
Des Moines, WA 98198

(X) U.S. Mail
() Hand Delivery
() _____

Counsel for DSHS
Mr. Craig Mingay
Assistant Attorney General
7141 Cleanwater Dr. S.W.
PO Box 40124
Olympia, WA 98504-0124

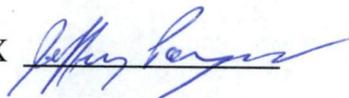
(X) U.S. Mail
() Hand Delivery
() _____

Court of Appeals
Div. II
950 Broadway Suite 300
Tacoma, WA 98402-4454

(X) U.S. Mail
() Hand Delivery
() _____

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 4th day of April, 2018.

X 

Jeffrey Payne
PO Box 88600
Steilacoom, WA
98388
(253)-589-4957

April 4,2018

Court of Appeals Div. II
950 Broadway, Suite 300
Tacoma, Washington
98402-4454

RECEIVED

APR 6 2018

CLERK OF COURT OF APPEALS DIV II
STATE OF WASHINGTON

Re: Cause No. 50412-0-II

I did file a Motion for Correcting Report of Proceedings prior to filing this appeal. The lower court denied my motion without allowing any argument or explanations. Mr. Payne had appeared telephonically, so it is believed that it was somewhat hard to hear and fully understand him.

So, therefore, there is several errors within the transcripts, and a vital part missing. And because I've been left with no other choice, I will list the errors that have been made in the lower courts transcribing at the Permanent Injunction Hearing.

Some of it has no bearing of weight due to it not being worded within the transcripts (**highlighted portion**), but some of it does as it is mistakes that need to be pointed out to help the court to better understand.

The mistakes pointed out will have to be up to the Appeals Court to make the decision to accept what they can without offending the parties of interest.

Copies of this informal letter will be sent to all interested parties in order to give them the opportunity to dispute and/or agree with the list of proposed changes below.

Corrections are as follows:

Pages 16,17,18,20,21,23,24, and 25

page 16 - line 15 - (gone) should be (done)

page 17 - line 4 - (is) should be (has)

page 18 - line 9 - (moving) should be (leaving)

page 20 - lines 4-15 - Part missing (Ms. Janssen had full knowledge that I am not in a prison or an inmate, thus making the TRO null and void on its face)

page 21 - line 18 - (the) should be (to)

- line 18 - (dealt) should be (deal)

- line 24 - (my) should be (the)

page 22 - line 9 - (he) should be (she)

- lines 12 and 13 - (be not) should be (not be)

page 23 - line 2 - (it) should be (there)

- line 12 - (of) should not be there, and (to) should be (on)

- line 13 - (conform) should be (form)

- line 15 - (of) should not be there

- line 21 - (of) should not be there

- line 22 - (this one gentleman) should be (Linda Sheneman)

- line 24 - (conditions) should be (continues)

page 24 - line 1 - (Simmons') should be (Shenemans')

- line 4 - (which) should be (from)

- line 20 - (was standing and above the) should be (I was standing with other residents)

- line 23 - (or) should be (for)

- line 25 - (left) should be (just)

page 25 - line 3 - (home) should be (out)

- line 7 - (has) should be (had)



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