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**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION TWO**

WASHINGTON STATE
DEPARTMENT OF HEALTH

Respondent,

v.

ARELY JIMENEZ

Appellant

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE
WASHINGTON FOR THURSTON COUNTY
Case No. 17-2 03404-34

The Honorable Christine Schaller, Judge

Amended Appellant's Reply Brief

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Introduction and Overview of Response Brief

This brief is intended to respond to DOH's unrelenting constitutional attacks to Appellant's property, that is, her license to practice psychotherapy and her reputation which are both protected under the 14th Amendment. *Ritter v. Bd. of Comm'rs of Adams County Pub. Hosp. Dist. No. 1*, **96 Wn.2d 503**, 510-11, **637 P.2d 940** (1981). DOH's Response Brief (RB) is an escalation of the unrelenting attacks on Appellant's constitutional rights. DOH attacks to the First Amendment by pouncing on Appellant Religious Freedom and Freedom of speech and attacks to Appellant's Sixth and Fourteenth Amendment along with Article 1, Section 11, and Article One, Section 22 plus the violation of many of RCW Statutes are almost unbelievable.

DOH's Response Brief states in page 3 that Appellant engaged in criminal conduct but on page 7 it states "that the court does not need to address any errors that Jimenez assigns..." Their position is that Appellant does not have any legal recourse. This case is a civil case, DOH claims in one page of the RB. It is criminal, DOH claims in another page if it suits their allegations. What has been clear throughout these hearings and particularly poignant in the RB, is DOH's intentionality in denying Appellant constitutional rights and right to due process.

Appellant is submitting a table with dates and claims made by DOH's RB and the conclusions. This table Appellant has titled "TABLE TO COUNTER, COUNTERSTATEMENTS". Some of the information contained in the Table was expounded on Appellant's Opening Brief. Other items that need an extended clarification are addressed in the body of this Reply.

COMMENTS/RESULTS

DATE: EVENT:

07/07/2014	Appellant Receives Medicine Certificate from the school of Medicine.	Holds 3 prior degrees, Ed.M., MFCT, DNH
01/15/2015	Whidbey Naturals (WN) Opens to the public	
2/09/2015	Hugh Johnson leaves Whidbey Island Naturals Takes all his certificates off the wall.	Advised by his nephew who is a detective of the Oak Harbor Police Dep't.
02/17/2015	Police arrives to Whidbey Island Naturals Seize all property/Arrest Appellant/ DOH Serves Appellant with Cease & Desist Order	Appellant released two to three hours later. WN closed 02/17/2015 for ever.
03/12/2015	Appellant engages counsel	Counsel dismissed 03/20/2015
03/24/2015	Appellant engages counsel	Counsel dismissed 12/11/2015
08/04/2015	Amended Cease and Desist Order (other amended orders in file)	
02/29/2016	Appellant requests subpoenas	
03/11/2016	Appellant engages counsel	Counsel dismissed 11/16/2016
03/13/2016	Appellant request subpoenas of her attorney and submission of character references	
07/01/2016	Attorney Hanie fired by her firm replaced by Ragnar Bloom. Appellant requests subpoenas and is assured that all documentation is in the file.	

- 08/28/2016 Appellant meets with Mr. Bloom to go over witnesses' lists and papers such as exhibits.
- 10/17/2016 Adm. Hearing. Judge Kuntz declares that exhibits should be excluded, AAG agrees, Atty. Bloom does not present any objections to exhibits being excluded. AOB at 20. **Ineffective assistance of Counsel.** Violation of due process. The court in *High v. City of White Plains*, ultimately denied the motion to strike "since the exhibits at issue, although not submitted to the court of first instance, are matters of public record that may be judicially noticed."
- 05/28/2018 ISSUES AND ASSIGNMENTS OF ERROR Remain as stated in AOB.
- 06/29/2018 RB at 15. Since Appellant never practiced medicine, she has never declared to anyone that the Ñedicine license authorized Appellant in any way to practice medicine.
- 06/29/2018 Appellant submits the following cases as support for "freedom of speech and freedom of religion. "If speech is neither obscene nor child pornography, it is protected... *Ashcroft v. Free Speech Coal.*, 535 U.S. 234, 122 S.Ct. 1389, 152 L. 2dEd. 403(202). *Conant v. McCaffrey*, 172 F.R.D. 681 (N.D. Cal. 1997) "The primary question for the Court now is how to frame a broader permanent injunction to remedy fully the government's violation of the First Amendment." "The New York Court of Appeals reversed the conviction, however, on First Amendment grounds. The United States Supreme Court granted certiorari." *New York v. Ferber*. United States Supreme Court 458 U.S. 747 (1982).
- 06/29/2018 DOH would need to show papers that show where Appellant represented herself as a "State Licensed Naturopath,
- 06/29/2018 RB. Whidbey Naturals advertised as having a Naturopath. Johnson had a certificate as a naturopath and he stated that he was certified. Appellant never made such a claim.

REPLY ARGUMENT

The points submitted in Appellant's Amended Opening Brief (AOB) not address by Respondent's brief are points that have been conceded as truth for appellant.

Assignment of Errors:

Standard of Review: Constitutional errors are reviewed de novo. *McDevitt v. Harbor View Med. Or.Wn.2d, 316 P. 3d 469, 472 (Wash. 2013).*

Standard of Review: Claims of ineffective assistance of counsel are reviewed de novo. *State v. White 80 Wn. App 406, 410, 907 P. 2d. 310 (1995).*

PRACTICE OF MEDICINE

Respondent's Brief (RB) at 1, states that "in 2014, Appellant began to see patients and practiced medicine..." See Table, p6

Under Washington's RCW Definition of medicine:

The description of medicine under 18.71.011 is as follows: (1) Offers or undertakes to diagnose, cure, advise, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary, by any means or instrumentality;

(2) Administers or prescribes drugs or medicinal preparations to be used by any other person;

(3) Severs or penetrates the tissues of human beings;

(4) Uses on cards, books, papers, signs, or other written or printed means of giving information to the public, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human disease or conditions the designation "doctor of medicine," "physician," "surgeon," "m.d.," or any combination thereof unless such designation additionally contains the description of another branch of the healing arts for which a person has a license: PROVIDED HOWEVER, That a person licensed under this chapter shall not engage in the practice of chiropractic as defined in RCW

Appellant, has never practiced medicine as described above. DOH does not have any proof that Appellant prescribed drugs, severed or penetrated the tissues of a human

being or advertised herself as a medical doctor anywhere. She has never written books that alleged she was a doctor of medicine; nor does DOH has witnesses that testified that Appellant prescribed drugs, or performed surgery or declared to any person, in any way that she was a medical doctor; this charge is completely bogus. This charge needs to be reversed.

PROTECTIONS OF THE LAW

While DOH denies Appellant the right to due process, it simultaneously claims that “the UDA also provides that the unlicensed practice of a health profession constitutes a crime” (RB at 3) If it is a crime, it follows that all the protections of the law must also apply to Appellant. It is unheard of, that a person will be criminally charged and be offered no protection from the law. *“To diminish the respect and protection of all constitutional rights and privileges accorded the accused in a quasi -criminal action is to render such proceeding ` shameful and a travesty upon justice”* *DALE ALSAGER V. BOARD OF OSTEOPATHIC MEDICINE, No. 13-35210 (9th Cir. 2014)*. The department continues by stating that “the Court does not need to address any errors that Jimenez assigns to the Superior Court” RB at 7. The Supreme Court, in applying the law of this land, has stated differently. In *“United States v. Ward 448 U.S.242, 100 S. Ct. 2636, 65 L. Ed. 2d 742 (1980)* the court declared: *“Even in administrative matters the constitutional law is fully applicable.”*

The Court asserts that due process is essential and wrote this: “The standard of proof is a matter of due process and serves "to allocate the risk of error between the litigants and to indicate the relative importance

attached to the ultimate decision." *Addington v. Texas*, 441 U.S. 418, 423, 99 S.Ct. 1804, 1808, 60 L.Ed.2d 323 (1979).

DOH's response is not unique and thus the Supreme Court made a provision by stating that: "A district-court action is not abatable if the un-invoked administrative remedy was unavailable, ineffective or would have been futile to pursue." *Tinker Investment & Mortgage Corp. v. City of Midwest City*, 873 P.2d 1029. The court has also address the issue of fairness in administrative hearing and their voice says as follows:

Under the appearance of fairness doctrine, proceedings before a quasi-judicial tribunal are valid only if a reasonably prudent and disinterested observer would conclude that all parties obtained a fair, impartial, and neutral hearing. *SWIFT v. ISLAND CY.*, 87 Wn.2d 348, 361, 552 P.2d 175 (1976). Although this doctrine originated in the land use area, *SEE SMITH v. SKAGIT CY.*, 75 Wn.2d 715, 453 P.2d 832 (1969), it has been extended to other types of quasi-judicial administrative proceedings, *SEE CHICAGO, M., ST. P. & PAC. R.R. v. STATE HUMAN RIGHTS COMM'N*, 87 Wn.2d 802, 557 P.2d 307 (1976)..

Did DOH and the Superior Court follow this standard, did they perform this type of test in their hearings? They did not, thus Appellant's constitutional rights continue to be denied as demonstrated by DOH's RB.

In the issue of "substantial evidence", the case cited by DOH: *Terry v. Sec. Dep't*, 82 Wn. App. 745, 748, 919 P. 2d 111 (1996) does not state what DOH claims in RB, at 9. The "Court of Appeals: "Holding that the issues of whether the employee acted reasonably by leaving her employment and whether exhaustion of reasonable alternatives to leaving would have been futile had to be resolved before her eligibility for unemployment compensation could be decided, the court reverses the judgment and remands the case for a new administrative hearing."

DOH also cites *Tapper v. Emp't Wn.* 2d 397 402, 858 P. 2d 494 (1993). In this case, the court clearly states that the reason the case was returned to the administrative court was as follows: The court stated: *“Because Tapper did not attack any of these findings in her appeal, except to claim that the Commissioner had no legal authority to modify the findings made by the ALJ, we treat them as verities”*. These cases contradict DOH’s assertions.

DAMAGE TO PERSONAL PROPERTY

The Counseling program sent letters to the insurance companies that contracted with Appellant advising them of Appellant’s charges. Those insurance companies terminated their contract with Appellant. DOH sent the “News Releases” as early as April of 2015, before there was any decision reached in her case. When the insurance companies terminated their contracts, Appellant understood that the DOH was intentional in denying Appellant a living. The DOH, during that same time period, also contacted the NPDB (National Practitioner Data Base) thus completely undermining any possibility of Appellant earning a living. Reviewing courts may grant relief only if the party challenging the agency order shows that the order is invalid for one of the reasons set forth in RCW 34.05.570(3). The Appellant submits to this court that all the subdivisions of this statute apply in this case.

(3) Review of agency orders in adjudicative proceedings. The court shall grant relief from an agency order in an adjudicative proceeding only if it determines that:

- (a) The order, or the statute or rule on which the order is based, is in violation of constitutional provisions on its face or as applied;
- (b) The order is outside the statutory authority or jurisdiction of the agency conferred by any provision of law;
- (c) The agency has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure;
- (d) The agency has erroneously interpreted or applied the law;

When DOH notified the insurance companies, it was an illegal act because Appellant had not, as of that date appeared in court or had a date to do so.

“A professional license clearly represents a property interest to which due process protections apply.” That professional’s reputation is entitled to protection under the Fourteenth Amendment. *Ritter v. Bd. of Comm'rs of Adams County Pub. Hosp. Dist. No...* a liberty interest in preserving /her professional reputation that is entitled to protection under the Fourteenth Amendment. *Ritter v. Bd. of Comm'rs of Adams County Pub. Hosp. Dist. No. 1, 96 Wn.2d 503, 510-11, 637 P.2d 940 (1981)*. "The defendant suffers the possible los[s] of a constitutionally protected property right, the loss of a livelihood, and the loss of a professional reputation." *Johnson*, 913 P.2d at 1346. As stated, constitutional due process requires the standard of proof in disciplinary proceedings against a person holding a professional license to be clear and convincing. *Nguyen v. State, Department of Health Medical Quality Assurance Commission, 144 Wn.2d 516, 29 P. 3d 689 (2001)*.

DOH did not follow the standard set by the courts. How can DOH abide to standards or rules when they believe that Appellant does not have any rights? RB at 7. “The interests of the individual in retaining their property and the injury threatened by the official action;”*Mathews, 424 U.S. at 335, 96 S. Ct. 893* necessitates a trial that deals with the charges in a clear-and-convincing standard.

The community where Appellant lives and practiced her profession is a small community; Appellant “suffers the possible los[s] of a constitutionally protected property right, the loss of a livelihood, and the loss of a professional reputation.” *Johnson*, 913 P.2d at 1346.

DOH’s intentionality in damaging Appellant’s reputation and ability to earn a living has been both, bold and aggressive. Notifying the Insurance Companies through a “News Release that Appellant was served a cease and desist order...” was unnecessary. Every year or whenever a psychotherapist applies/renews a contract or makes updates to an electronic

system, this type of information must be disclosed. **Under the Uniform Disciplinary Act, Chapter 18.130 RCW... disciplinary action including, “RCW 18.130.180(1) commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession — providing a false affidavit or oath to any statement required for licensure constitutes perjury under the Code of Washington, § 2294); RCW”.** DOH’s nefarious intent was demonstrated first when they charged Appellant with RCW 18.130.180(1) “moral turpitude” It was later confirmed when DOH went far and beyond the call of duty by distributing “new releases to insurance companies. *“To diminish the respect and protection of all constitutional rights and privileges accorded the accused in a quasi -criminal action is to render such proceeding shameful and a travesty upon justice’ with the very strong presumption that the accused was, as here, in fact `railroaded”.* *A/sager v. Wash. State Bd. of Osteopathic Med. & Surgery, . 155 Wn. App. 1016, rev.*

FISHER PROPERTIES, INC., Respondent, v. ARDEN-MAYFAIR, INC., Appellant. This case started in an administrative court and went to the supreme court of the State Of Washington and this is their response:” *this case is remanded to the trial court for a reassessment of the damages and attorney fees to be awarded to Fisher consistent with this opinion.”*

RIGHT TO DUE PROCESS

DOH has not proved by clear and convincing evidence that Appellant committed RCW 18.130.180(1). “In order for this Court to accept what DOH proposes, over 57 years of precedent and persuasive authority must be ignored — or even worse, overruled and the doctrine of stare decisis abandoned.” “The standard of proof is a matter of due process and

serves to allocate the risk of error between the litigants and to indicate the relative importance attached to the ultimate decision. As stated, constitutional due process requires the standard of proof in disciplinary proceedings against a person holding a professional license to be clear and convincing". The Administrative hearing, or the Superior Court did not address the issue of "intent" In fact the Administrative Hearing Officer invalidates "intent" (see Findings of Fact, conclusions of law, & Final Order, page 2, 2nd paragraph). Intent is a prerequisite of a "moral turpitude" charge (see AOB at 14). Therefore "clear and convincing" standard of proof is required by the Fourteenth Amendment in a civil proceeding... *Addington v. Texas*, 441 U. S. 418, 423, 99. In light of the above statement; is not attending to the rules that govern a hearing a capricious behavior?

"[M]inimum requirements of [due process] being a matter of federal law [cannot be] diminished by the fact that the State may have specified its own procedures that it may deem adequate for determining the preconditions to adverse official action." *Vitek v. Jones*, 445 U.S. 480, 491, 100 S.Ct. 1254, 1263, 63 L.Ed.2d 552 (1980); *Santosky*, 455 U.S. at 755, 102 S.Ct. at 1395-96. Although there are times that we may look to other states for guidance, see *Burrows v. Burrows*, 886P.2d 984, 988-89 (Okla.1994); *Busby v. Quail Creek Golf & Country Club*, 885 P.2d 1326, 1330-31 (Okla.1994), where federal constitutional issues are involved we generally look to the federal courts, and more specifically to the United States Supreme Court. See *In re C.J.S.*, 903 P.2d 304, 307-308 (1995); *Sharp v. Tulsa County Election*, 890 P.2d 836, 841-845 (1994); *McDonald v. Wrigley*, 870 P.2d 777, 780-781 (1994).

"The Court found that the clear-and-convincing standard struck the appropriate balance. Thus, the Court held that the clear-and-convincing-evidence-standard was constitutionally required." *Addington v. Texas*, 441 U.S. 418, 423, 99 S.Ct. 1804, 1808, 60 L.Ed.2d 323 (1979). "In summary, the administrative procedure, in addition to the subjective standard of care, increases the risk of error and in itself justifies a heightened burden of proof under the second *Mathews* factor." *Mathews*, 424 U.S. at 335, 96 S.Ct. 893.

An inadequate standard of proof increases the risk of erroneous deprivation and, therefore, requires recognition, as so many other courts have, that the constitutional minimum standard of proof in a Statutory procedures can be circumvented when there is a constitutional question, inadequate administrative relief, and threatened or impending irreparable injury. Id. "A district-court action is not abatable if the un invoked administrative remedy was unavailable, ineffective or would have been futile to pursue." Tinker Investment & Mortgage Corp. v. City of Midwest City, 873 P.2d 1029, 1038 (Okla. 1994)

Keeping in mind that Appellant suffered loss not just the possibility of loss; "that los[s] is constitutionally protected property right, the loss of a livelihood, and the loss of a professional reputation." Johnson, 913 P.2d at 1346. "

EXCLUSION OF EXHIBITS

In the issue of Appellant's exhibits, DOH acted inappropriately by not accepting Appellant's exhibit offered at the Administrative hearing and requesting their exclusion at the Superior court and to this court. , in *High v. City of White Plains*, The court in High ultimately denied the motion to strike "since the exhibits at issue, although not submitted to the court of first instance, are matters of public record that may be judicially noticed." This depicts Appellant's situation precisely. All Appellant's exhibits need to be accepted.

INEFFECTIVE ASSISTANCE OF COUNSEL

RB at 25 argues that Appellant does not have the right to representation. No one at anytime informed Appellant that she was not allowed counsel. On the contrary, Appellant

was notified and encouraged in writing that she could have attorney representation. Thus Appellant sought counsel until she was no longer able to afford one. To DOH's claim, what does it have to do with the fact that the attorney was inefficient? Should attorneys be allowed to be inefficient just because some "sub-humans" don't have the right to have one? Appellant has spent a fortune in the attorneys' she retained, hence the reason why she can't afford one now. Further, if as stated in RB at 3, "the unlicensed practice of a health profession constitutes a crime" It follows that all the protections of the law must apply, thus rendering impossible for Appellant not to "have the right to Counsel" RB at 24.

Money and time were spent in obtaining a MFT license. Lots of hours and hard work were involved in obtaining it. The amount of money spent to prepare for it, to find that in one day it is all gone. Appellant depended in the purchase of the license as one relies in the home that was bought, that property will eventually increase in value. In essence a license is an investment. To realize that that investment is gone in a hurricane in which Appellant did not foresee because even when she took all steps possible to shield her clients and her license by properly separating the two businesses, in fact closing the psychotherapy offices (see AOB at 7); the intentional hurricane was purposed in taking it all. Not only was Appellant's license dragged through the mud as well as her reputation marred; Appellant also lost other things as her health and home.

The Appellant here "*has a liberty interest in preserving his/her professional reputation that is entitled to protection under the Fourteenth Amendment*". *Ritter v. Bd. of Comm'rs of Adams County Pub. Hosp. Dist. No. 1, 96 Wn.2d 503, 510-11, 637 P.2d 940 (1981)*

When DOH claims that the Appeals court must “*give substantial weight to the agency*” *RB at 10*. How can the court give “weight” to DOH when all their actions have been invested in insuring that Appellant’s rights were violated? What happened to the cases that serve as precedent? DOH’s claim does not appear to be supported by the courts. To take the route suggested by DOH would be a travesty of justice.

Appellant wholeheartedly agrees with the definition of Arbitrary and capricious. Arbitrary and capricious have been defined as willful and unreasoning actions without consideration and in disregard of facts and circumstances. That is exactly what took place during the “trial”. See AOB at 11 to 23. The witnesses were discounted, the exhibits were not accepted but the state investigators testimony was admitted into evidence contrary to the doctrine of stare decisis which has been abandoned. In the case of *Medical Disciplinary Board v. Johnston* the Court states: “*We likewise find no violation of RCW 34.04.100(2), since the board **apparently did not consider the reports prepared by the investigators while making its decision.***” That statute cannot not be found anymore because it has been abandoned?

CONSTITUTIONAL RIGHTS

“Protecting constitutional rights and privileges is not the antithesis of effective regulation — the fact is, they are intended to, and must necessarily, complement each other in order for any disciplinary action imposed to be accepted as just and fair under all the circumstances. *The issue here is whether the Due Process Clause of the United States Constitution requires*

proof by clear and convincing evidence in a medical disciplinary proceeding. We hold due process requires no less, reverse and remand. Nguyen v. State, Department of Health Medical Quality Assurance Commission,” 144 Wn.2d 516, 29 P. 3d 689 (2001)”.

In the case of: *United States v. Ward*, 448 U.S. 242, 100 S. Ct. 2636, 65 L. Ed. 2d742 (1980). The court states: “***Even in administrative matters the constitutional law is fully applicable.***” DOH’S response to Appellant’s plight in reference to the violation of her constitutional right appears to diminish the importance of the violations. To claim that “To establish a procedural due process violation, the party must establish that he or she has been deprived of notice” (RB at 11-12) is in fact asserting that trampling over the constitutional rights of an accused person, is inconsequential, receiving or not having received a notice is more important. Receiving notice is part of due process and thus extremely important but “To diminish the respect and protection of all constitutional rights and privileges accorded the Appellant in a quasi - criminal action is to render such proceeding shameful and a travesty upon justice” *Alsager v. Board of Osteopathic Med.* 13-35210 (9th Cir.2014). *Even in administrative matters the constitutional law is fully applicable” United States v. Ward*, 448 U.S. 242, 100 S. Ct. 2636, 65 L. Ed. 2d 742 (1980).

Most certainly the final order was arbitrary and capricious. Due process was not a part of it. Clear and convincing evidence never made it to the list, preserving Appellant’s constitutional rights was not ever considered. The charges of “MORAL TURPITUDE” are most definitely arbitrary and capricious. Judge Schaller, in refereeing to this charge stated that “*often times the law uses the worst terms possible to describe conduct*”. VRP at 23. *She also stated that the fine charged was to high VRP at 22.*

CONCLUSION

Starting from the beginning: under RCW 18.130.098 1,2,3, (...*"The disciplinary [disciplining] authorities may also use alternative dispute resolution to resolve complaints during adjudicative proceeding"*). DOH from the very beginning could have conceded that RCW18.130.180 (1) was inappropriate to describe Appellant's conduct. Appellant pleaded with DOH staff and then with DOH's Atty. Mr. Lee to not use RCW 18.130.180 (1). DOH would not agree to anything else. Since DOH refuses to change, Appellant must appeal to this higher court to reverse this charge as it is an arbitrary charge that does not reflect either Appellant's conduct nor does it have a legal base or standing. This charge is most certainly arbitrary and capricious.

As explained in AOB, being "Board Certified" is speech protected under the First Amendment. Anyone can be board certified of anything, and Johnson claimed to be board certified. DOH either refuses to believe that a person advertising that they are board certified is speech protected under the First Amendment or they just don't care what the First Amendment says. *Strang v. Satz, 884 F. Supp. 504 (S.D. Fla. 1995*. Appellant was certified by the Medicine Board.

DOH has violated Appellant constitutional rights. DOH states "The Substantial Evidence Standard" rests its justification for the actions it took against Appellant and her professional license by its assertions that professional license disciplinary actions are civil enforcement proceedings, and authority of law is vested in it by various statutes". This statement is one of convenience in that part of the report. In

RB at 3 it states that “it is crime”, because at that moment it was convenient to say that. Is it a crime? If so then Appellant has due process rights. It’s not a crime than Appellant cannot be charged with RCW 18.130.180(1) and still keeps her due process right.

The “legal” pillars upon which the State's assertions stand are (1) the total disregard of stare decisis and the well established principles of legal precedent, and (2) the total disregard of both Federal and State fundamental Constitutional Rights and Privileges. This Court cannot, allow the State to prevail in its bold assertions and unstable foundation; as such would constitute a dramatic step backwards and the destruction of basic constitutional principles regarding and relating to the “rights and privileges of the accused in quasi -criminal proceedings”^{id}. The State implies that the powers granted it by statute is essential in order to effectively regulate various professions, including Marriage and Family Therapists. Again, protecting constitutional rights and privileges is not the antithesis of effective regulation — the fact is, they are intended to, and must necessarily, complement each other in order for any disciplinary action imposed to be accepted as just and fair under all circumstances.

To brand someone that has never had an encounter with the law with RCW 18.130.180(1) is preposterous. To take away Appellant’s livelihood is truly unreasonable. Under RCW 10.01.050 it states that “No *person charged with any offense against the law shall be punished for such offense, unless he or she shall have been duly and legally convicted thereof in a court having competent jurisdiction of the case and of the person*”

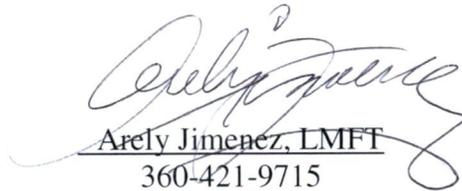
DOH states that Appellant could have work, as stated above the Department made sure to send damaging information about Appellant to those she contracted with. This is a clear violation of RCW 10.01.050. DOH punished Appellant before they convicted her. In fact in April 2015 when DOH sent the first batch of news releases, Appellant's case had just begun (02/17/2015). Investigator Miller was seen in many occasions, looking for Appellant around the parking lot of her previous office. Miller did not have any more business with Appellant so what was she looking for? Miller went to the office that Appellant left on December 2014 and conducted a search of the office in March 2015, with the owner of the building's permission but not with the permission of the owner of the office, Ms. LaRue. Appellant is certain that that search was illegal. The countless times that investigators Anderson and Miller drove in front of Appellant's home made an extremely stressful situation; no to mention the trauma that Appellant experienced during an arrest which ultimate cost was her health. DOH's assertion that Appellant was able to work is misleading, at best.

The Supreme Court says it perfect: "The defendant suffers the possible los[s] of a constitutionally protected property right, the loss of a livelihood, and the loss of a professional reputation." *Johnson*, 913 P.2d at 1346. Appellant did lose her reputation but to DOH that fact was insignificant, it wants more. To suggest that Appellant does not "have the right to an attorney" or that the court does not need to address "any errors that Jimenez assigns to the Superior Court" is contradictory to everything that we stand for in this country. Perhaps after all the illegal behavior that DOH has engaged in, against Appellant, it seems a light thing to them, to continue to trample on Appellant's constitutional rights.

Furthermore Appellant is humbly and respectfully requesting of this court to reverse all of the charges leveled by DOH against Appellant.

Respectfully Submitted:

Date: 08/29/2018



Arely Jimenez, LMFT
360-421-9715

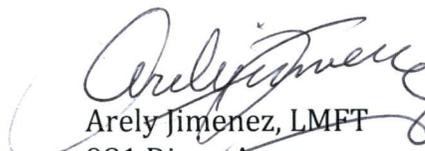
PROOF OF SERVICE

I certify under penalty of perjury under the laws of the state of Washington that the following is true and correct: I served a copy of the Amended Appellant Reply on all parties, on the date below as follows:

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