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Case #. 363449

Superior Court Case # 182033840

COURT OF APPEALS, Division III
OF THE STATE OF WASHINGTON

Lawrence E. Madsen, respondent,

vs

Vikki Lee Vega, appellant.

APPELANT'S Amended OPENING BREIF

Vikki Lee Vega, pro se

5400 Robin St.
Weldon, CA 93283
P.O. Box 475
Bodfish, CA 93205
760-531-3213

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Introduction

I married my husband, Lawrence Edward "Ed" Madsen 25 years ago May 14, 2020. I am a spiritual person; my marriage vows are sacred. From May 14, 1995 to the present day, I remain faithful to my husband and will until one of us dies. I believe my commitment level is incomprehensible to many of the parties in this case. Nothing I have done has been in bad faith, no matter how it has been characterized. I did make mistakes. Both our checking accounts were at the same credit union. There were times I did not transfer my spousal maintenance to my checking account, but spent that amount from Ed's account.

Ed's behavior changed gradually in 2005. He became resentful, argumentative, began yelling at me and the children. He frequently complained that I was a burden. My physical disability allowed us 13 hours of help per day from in-home workers. They did cooking and chores for the family, plus assisted me with toileting and showering. Ed's attitude change wasn't my impression. The home workers told me his anger and attitude were difficult to bear hours for long periods. They were direct: why was he complaining? They did all the work.

That same year, Ed and I argued. He punched me in the mouth, resulting in two black eyes and bloody, split, grossly swollen lips. I called the police. He was handcuffed, spent the night in jail and

sentenced to anger management classes. He told our son, thankfully not present at the time, that I'd punched myself in the mouth. I was wrong for calling the police; he said it was manipulation on my part. Years later, Ed and I discussed the incident. He recalled it as he'd told our son, he'd had no part in hurting me.

Ed told our children not to help me in any way, not to be my "slaves." Both children refused any task helping me, into adulthood. Household workers did all chores.

I knew one of Ed's sisters had severe mental illness. He told me his mother did also. Ed fathered 6 children with four different wives. Every child has mental health issues: psychozprenia, suicide attempts, mental hospitalations, chronic depression, chronic anxiety, Obsessive Compulsive Disorder and Asperger's Syndrome, a form of autism. Ted Madsen was hospitalized for mental illness.

When our son, Steven James, "Jimmy" was found to have Asperger's syndrome, it was the answer to many problems Ed had too. Ed missed non-verbal social cues, had poor facial recognition skills, and no friends

During our marriage, he was treated for chornic depression and anxiety. Ed frequently exhibited paranoia, telling me the handyman we'd hired off of Craig's list was a government agency spy. I'd learned not to argue. His perceptions were fixed.

I use this to illustrate how someone who hadn't seen Ed for a number of years, not observed his changes in attitude and perception, hearing Ed's drunken version of events, would have no understanding of the difference between reality and Ed's perception.

Because Ed needed help, I scheduled dental, medical, vision, hearing, specialist and testing appointments for my husband. I provided transportation. Ed is diabetic, was drinking heavily, neglecting self-care and his living space. My son, Steven, who'd been living with his father, moved in with me and his sister.

Ed needed eye exams, glasses, dental care, primary doctor visits and specialist appointments. None of his six siblings or six children provided assistance.

My, step-son, Ted Madsen made APS allegations against me twice. He'd seen me briefly on 5 days out of the last ten years. We did not speak by phone during that time. He never discussed or asked me about his father's finances or my relationship with his dad.

In 2016, Ted arrived in Spokane, to see his father for the first time in 6 years. Ed was hospitalized because of concerned action I'd taken and decisions made with Ed's primary care physician. The day Ted arrived, he told hospital staff I was mentally manipulating his father and misusing his father's money. These allegations began the first APS investigation. Ted's allegations were repeated in chart notes as fact. I was my husband's

POA for health care. Ted was asked who Ed's providers were, medications, conditions, information he was unable to provide. No hospital staff spoke with me during my daily visits; no one asked about Ed's medical providers, medications, history. Despite my POA for health care, nothing I requested on Ed's behalf occurred. My guilt was assumed, reflected in chart notes repeating the allegations as fact, affecting tone and supposition of worse acts by doctors, before an APS investigation began. The conclusion rendered, 6 months later was unsubstantiated and inconclusive. Ted's allegations rendered me incapable of advocate for his father's care, the job Ed asked me to do. During the first APS investigation, the investigator questioned me in the law offices of Brian Meck.

Ted's 2018 allegations proceeded differently. I was informed of allegations by phone, wrote a follow-up letter offering documents, co-operation, check registers, etc. The letter went unanswered as did subsequent calls to the original caller and her supervisor. No interview, option to obtain counsel, provide witnesses, or additional documentation. I learned the woman I'd spoken with once by phone and never met, was an APS investigator when she testified in court.

II. ASSIGNMENTS OF ERROR

1. Due process was not followed. I was served by nursing home staff, four days prior to the hearing, when I arrived in Washington from California. I wasn't allowed to see my husband

2. The Commissioner used "if" statements to render conclusion. Pg 55, lines 24-25. If you are holding onto that money despite request for payment for people who are providing him services, then it is an improper withholding of money

3. Hired counsel Ms. Malpass refused to go forward with the hearing unless I withdrew my physical evidence. She refused to return copies I provided her. I believed my evidence was inadmissible. I agreed to let her admit a fallacious statement from my son and the APS witness' testimony. I did so, believing I would have time and credibility to refute their information.

4. Ms. Malpass testified Ed's participation fee at the nursing home was not being paid, that he was in arrears. Trans, Pg 10, Lines 18-22

APS rep testified appellant made no medical co-pays since Ed's admission. Direct, pg 17, lines 10-11

5. My defense was verbal. The testimony of Ms. Malpass and the APS witness destroyed the credibility of my true statements.

6. Ms. Malpass testified I appealed Ed's participation co-pay amount calculation because my needs were not being met. Trans Pg 13, Lines 10-11

7. Commissioner High-Edwards based her conclusion on a hypothetical premise. If Ed was under threat of eviction, then plaintiff acted recklessly, endangered him and was guilty of abandonment and neglect.

8. APS witness testified APS had an open, on-going investigation, which she could not compromise with her answers. Trans, Pg 9, lines 11-13

9. Ms Malpass testified that the APA witness had not spoken with me or Ed. Trans. Pg. 11, Lines 14-17

10. Commissioner repeatedly stopped me and told me I would be able to refute the issue during my verbal response. She repeatedly hurried both counsel and myself, stating the court room was needed for another case.

11. APS representative was unfamiliar with basic facts of the case, such as respondent's age or income.

12. APS rep. testified that Ed was currently under threat of eviction.

13. APS rep. testified that Ms. Vega appealed respondent's Medicaid co-pay to get more money for herself.

14. APS rep testified that monies from Ed's account were used in CA.

15. APS rep testified she was unfamiliar with medical billing. Cross, Trans. Pg 29, Lines 4-8

16. APS witness affirmed for the court that Franklin Hills was billing correctly. Trans, Direct pg 17 lines 23-24

17. APS representative Pam Brault perjured herself by testifying that her supervisor returned plaintiff's phone call.

18. APS representative perjured herself by testifying she read plaintiff's letters to Franklin Hills, sent certified return receipt, detailing ongoing billing errors and how to correct them.

19 Ms. Malpass testified Ed decompensated mentally, then the POA documents were signed. Trans Pg. 13, lines 21-22.

20 Ms. Malpass verbally agreed to contact the nursing home, telling the no-contact order had been lifted.

21. Ms Malpass testified that I had approached the court repeatedly to raise my spousal maintenance. She states I approached two different commissioners in Sept, 2017, asking for an increase, which constitutes financial exploitation. Trans. Pg 14, Lines 1-4

22. The commissioner's order issued on August 16, 2018 hand-written by Ms. Malpass, states I receive \$2,400 per month in spousal maintenance. Guardianship papers filed on behalf of her client, Ted, states I am to receive \$2,300 per month. Despite notifying her client

and Ms. Malpass by certified mail, her client remains in arrears in spousal maintenance.

ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

APS did not follow written protocol for investigations. A paper listing the investigator name and phone number arrived blank. My certified letter to Pam Brault at APS, indicating my willingness to cooperate, provide documents, answer further questions was ignored. How can a witness testify to the guilt of a party while refusing to contact them to gather pertinent information to the case?

APS testified my husband was in danger of eviction. This is a legal process for which documents are filed. Nothing of the sort had occurred. It happened in the past, resulting from facility billing errors, but was formally withdrawn in court. How can an APS witness testify to that being in place without obtaining eviction court documents?

III. STATEMENT OF THE CASE

Unfair practices and characterizations or my actions and perjured testimony by the APS witness destroyed my credibility as a witness. Since Ms. Malpass insisted I withdraw my few letters, verbal testimony was all I had to defend myself.

A short continuance of the case would have been insufficient. It took two people, working 8 hours a day, 7 days to complete the task, with not all documents available until May of 2019.

I went forward with the hearing as I knew the charges to be false, and I had traveled over 1,200 miles without being allowed to see my husband. Because Ms. Malpass never notified the nursing home as she promised before the commissioner, I returned to CA without seeing my husband. I went after the hearing, was denied entrance, staff called police, confiscated my copy of the order, refused to return it, claimed it didn't. My copy of the court order was confiscated and they refused to return it, and claimed it did not lift the no-contact order. I stepped out to call Ms. Malpass, the call went to voice mail and was never returned. Staff locked me out of the nursing home in 100 degree weather. After waiting over 40 minutes for police to arrive, I was forced to leave. My car had no air conditioning and my MS symptoms worsened exponentially in hot weather.

IV. SUMMARY OF THE ARGUMENT

The trial held in Spokane in August of 2018 provided me no notice to bring needed documents from California as I was served four days prior in Spokane. The misinformation of attorney Lisa Malpass resulted in my withdrawal of the few letters I had in my possession. Although APS had never met me, given me an opportunity to present receipts, witnesses or obtain council, an APS rep appeared against me in court, testified the investigation was open and ongoing, then testified that I was guilty of anything Ms. Malpass questioned her about. She testified she was unfamiliar with medical billing, yet testified the nursing home was billing correctly. She told the judge I was thousands of dollars in arrears to the home, and my husband was facing eviction, when I had bills writing off my husband's copay and hadn't received a bill since June, 2017. when staff told me they no longer had them. She lied about her supervisor returning my call and the status of my husband at the facility. She impeached my verbal testimony so I had no credibility and because of Ms. Malpass' action, verbal testimony was my only defense.

V. ARGUMENT

I was prepared to attend court and argue the truth with my step-son. I had no idea he had hired counsel, that she'd called an APS witness who'd never met me to testify to my guilt.

Ms. Malpass refused to go forward with the hearing unless I withdrew my physical evidence. She refused to return copies I provided her. I believed my evidence was inadmissible. I agreed to let her admit a fallacious statement from my son and the APS witness' testimony. I did so, believing I would have time and credibility to refute their information. This was untrue. I was hurried, emotionally stunned by the APS witness, and how the countless hours spent caring and providing for my husband were characterized.

I was not withholding money. I took out a personal loan to pay a majority of Ed's \$800 uncovered dental bill and of his \$250 DUI fine. Franklin Hills made no request for payment after June 2017. Per my phone log, the bookkeeper, Roberta Talbert, told me she had been instructed by corporate to write-off Ed's monthly co-pay. I have statements reflecting that write-offs and a zero balance. He was not in arrears for thousands of dollars.

My telephone logs, daily, every year, denote the caller, conversation, date and time. Neither her or her supervisor returned my calls.

Aps witness' subsequent responses to questions from the commissioner, counsel and Ms. Vega asserted appellant's guilt. She responded to Ms. Vega's cross with hostile, defensive answers.

My spousal maintenance dropped to \$300 per month when my son Jimmy dropped out of high school. We had no intention of divorcing, a QUADRO couldn't be used. The only way to divide Ed's retirement was to raise spousal maintenance. He signed jointly. A stipulation filed by Brian Meck, back in specified we agreed to share our income for life.

When I appeared in court in Sept, 2017, then court clerk Steve, told me my orders had been signed, to conform my copies. I did so. When I was on the way to California, I received a call from the clerk's office. The order had not been signed. I told her who I'd spoken with, what occurred and my current location. She asked a sitting judge to sign the order. That is why two different judges were involved in the Sept, 2017 case. This is typical of Ms. Malpass. A simple clerical error becomes my plan to defraud.

APS witness testifies under direct, pg 20, line 4-7, Miss Brault also testifies I purpously approached two commisioners on the same day to raise my maintenance. If that were so, it would have been raised 2,400, not 1,200 as the records reflect.

APS witness showed little factual knowledge of the case when questioned

APS witness committed perjury when she testified she read the certified letters I sent to Franklin Hill's regarding billing mistakes. A former journalist and purchasing agent, I keep daily phone logs. I spoke with the

FH billing department and was told there was no record of those letters in their office. If Sue Brauldt read them, she read the copies that Ms. Malpass refused to return to me, which were inadmissible.

Ms. Malpass testified Ed decompensated mentally, then the POA documents were signed. This is untrue. Ed had to stand trial for his DUI conviction. His public defender ordered mental assessment. He was determined mentally competent to stand trial, months after both POA's were signed. Franklin Hills also tested his cognition three separate times with different testers, over a 6-month time frame. Each time, he was assessed with minor cognition impairment.

Ms. Malpass testified I appealed Ed's participation co-pay amount calculation because my needs were not being met. Trans Pg 13, Lines 6-11 Untrue. My husband's co-pay calculation did not deduct his obligations for our minor child, judgement and spousal maintenance legal obligations. It had nothing to do with getting more money for myself. At the rate set, there was no money left to pay that high a co-pay.

APS rep. testified that Ms. Vega appealed respondent's Medicaid co-pay to get more money for herself. Direct,

Ed' s money was withdrawn in California because it is where I live. I can't send him money by mail or Western Union from anywhere else.

VI. CONCLUSION

I ask for a new trial, one where my verbal testimony is not the only defense in my arsenal, my credibility not destroyed by an APS witness whom I never met, who lied under oath, testified in matters she was unqualified to affirm, who rebuffed any attempt to collect more information to dispute her guilty assumption, order a proper investigation by APS, according to their protocol, where my records are examined, their figures recalculated allowing court ordered expenses due me, such as past child support, judgement, Ed's portion of support expenses for our minor child, money I was legally entitled to that APS claims was misused. Additionally, proof that Ed was in danger of eviction, which he was not when APS rep testified he was. The nursing home bookkeeper was instructed by the corporate office to write off his monthly co-pay. I have bills reflecting that write off. Their final bill came in my name, in June 2017, to which I responded with a this is not my debt dispute letter. APS testified in August 2018 that I was thousands in debt which was false. APS co-pay appeals were made because their calculations allowed no deduction for spousal maintenance or shared child expenses, making his co-pay too high. It was for that reason, not to get more money for myself, as APS testified, that the co-pay was appealed.

It is unclear how Ted being paid for acting as Ed's guardian, then leaving him thousands of miles from family is an improvement over my

plan, to bring him here to CA, to an excellent facility just a few miles
me. I was never paid to care for, transport, schedule his appointments,
make daily visits to the hospital to help order food, handle Medicaid
reviews, appeals, hearings, advocate for his care, transport him to all
medical appointments and hearings with his public defender regarding
his previous DUI, negotiate his sentence with the PD, proving he had
no car or access to one in the nursing home, alert the state to
medication, billing, staffing, and fire safety errors at his nursing home,
resulting in warnings from the fire Marshall and numerous state fines
to the facility for non-compliance. To have a wife's every action on
behalf of her husband twisted and misrepresented to increase the win
rate of a zealous attorney, to have state agency reps misstate facts
and lie under oath, for her to spend thousands on travel, filing fees,
copying costs, scanning services, transcriptionists, weeks and months
compliling, sorting, locating documents, creating, mailing multiple
copies of evidence packets which disprove everything she was
accused of in court, have that evidence deemed inadmissible, rob her
of any contact with her husband, fall into debt because of unpaid
spousal maintenance and late payments, incurring insuffienct fund
charges, forbidden to teach and volunteer, which she's spent the last
35 years doing and dooming a two married people to an outcome
neither planned, wanted or intended. She is threatened with paying

attorney fees and costs for the step-son who instigated charges
against her.

VII. APPENDIX

Unfortunately, I cannot afford a subscription to Westlaw or Lexus.

Access to West Law is a three hour round -trip and the library is closed
as a result of the pandemic.

Respectfully Submitted,

Vikki Vega

Vikki Vega

5400 Robin St.

Weldon, CA.

April 27th, 2020

VIKKI LEE VEGA

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