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NO. 65939-1-I

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

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WASHINGTON STATE DEPARTMENT OF SOCIAL AND HEALTH  
SERVICES,

Appellant,

v.

JOEL ROSS,

Respondent

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**BRIEF OF RESPONDENT**

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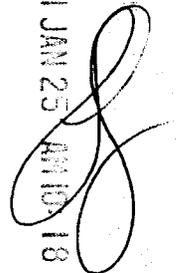
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## **TABLE OF AUTHORTIES**

In this brief, I will be citing from the transcript of the original hearing.

## **I. INTRODUCTION**

I have read the appellant's brief.

In it, Ms. Giles repeats the same arguments as before, stating how she feels Ivy was a vulnerable adult during the time period despite the record showing otherwise.

Ivy lived independently in her own home, regularly chatting with friends, family and neighbors. She was not isolated and did not demonstrate a physical or mental inability to care for herself. She was sharp, alert and cognizant of what she was doing.

The record clearly shows the agency was in contact with Ivy throughout the time I accepted funds from her and that they were aware she was giving me money. The agency continually documented that Ivy was meeting her needs and that she was not a vulnerable adult nor was she being financially or personally exploited.

Many of the findings that Ms. Giles references in her brief are speculative and not based on facts

## **II. ASSIGNMENTS OF ERROR**

1. The superior court applied the appropriate standard of review

2. The superior court was correct when it concluded that the Ivy was not a vulnerable adult during any time pertinent to the allegations against me.

3. The Superior Court did not err when it ruled the Department's Final Order was unsubstantiated

## **III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR**

1. If the record does not support the department's final order, should the superior courts ruling to overturn it be upheld?

#### **IV. ARGUMENT**

In this section I will be highlighting the false claims and lack of evidence presented by DSHS regarding financial support I received while a student.

This money was provided to me by my close friend Ivy Gardener, who is on the record stating that it was she who purposed to give it to me and that I had never asked for it (p.128 of hearing transcript).

Financial exploitation is the illegal or improper use of property, income, resources or trust funds of the vulnerable adult. The law was not broken in this case, Ivy was not a vulnerable adult and the word improper is not defined here in WACs or RCWs. Constitutionally, if a person can be found liable for improper conduct, then there has to be some guidelines as to what is "improper". If a person writes you a check for rent, school, phone, gas, groceries, and you use it for those purposes, is that improper?

In her brief, Ms. Giles attempts to discredit me by citing a voluntary meeting I had with DSHS investigator Rhedora Mann who chose to portrayed me as a liar in her report.

When this investigation was brought to my attention in late 2007, Evidence shows I cooperated fully with DSHS and agreed to meet with investigator Rhedora Mann to answer questions at her office.

During my discussion with Ms. Mann, she confronted me with copies of checks that Ivy had written to me. I was confused as to what was going on but openly admitted to accepting them. I explained that I didn't feel right discussing Ivy's financial matters without Ivy being present and that she should talk to her. I had never asked Ivy what her income was.

I discovered later, however, that Rhedora interpreted my answers in her report as though I was "changing my story" or denying my involvement. She also willingly left out comments I had made from her notes. (p. 122 of transcript)

This meeting was entrapment. Rhedora testified that even before meeting me she had the impression I was "rude" for not responding to the contact attempts she claimed to have made, yet had no confirmation I received them. (p. 166 of transcript)

I had nothing to hide and was not aware that I had done anything wrong when I met with Rhedora. I did not have a lawyer with me for this interview and was told I did not need one.

Rhedora herself acknowledged possible errors in her account, making contradictory statements during testimony under oath. (p. 67 and p. 116 of transcript)

Due to the fact that it was Rhedora Mann who authored the original report which DSHS ultimately upheld, I argue that there has been substantial prejudice against me.

It is this same investigator who testified during the hearing that Ivy was not considered a vulnerable adult by the agency from December 2004 to August 2007, the time pertinent to the allegations against me. (p. 156 of hearing transcript)

It was only after Ivy was admitted into a facility in late 2007, did Ms. Mann find her vulnerable and decided to backdate that finding to when Ivy was living alone and helping me with student expenses.

Ms. Mann had access to Ivy's medical files dating back to 2004 but chose not to request them saying "it wasn't at the time necessary". (p. 200 of hearing transcript)

An investigation was conducted in 2001 by DSHS regarding if Ivy was self neglecting. The case was unsubstantiated and closed since Ivy was reported to be “alert, oriented, not confused and well groomed.” During this time, the investigator described Ivy as living in a filthy squalor house. (p. 186 of transcript)

The word Squalor is used again in 2007 to describe Ivy’s same living conditions by Rhedora Man though she admitting to only seeing pictures provided by Ivy’s daughter Betty, and not actually going in the house herself when given the opportunity. (p.183 of transcript)

“Same condition as 2001 maybe?” Rhedora was asked during the hearing. “Yes”, answered Rhedora. (p. 186 of transcript)

Furthermore Ivy’s daughter Betty Johnson is shown to have been around in 2001 when her mother’s home was labeled as Squalor but claimed her mother had always been that way. A question was posed to Betty, “She (Ivy) wouldn’t allow you or anyone else to come into her house and move anything she didn’t want moved.” Betty responds “That’s correct. It was that way when I was still working and I’ve been retired for 13 years, I finally gave up going and ruining my Sundays.” (p. 319 of transcript)

Therefore, evidence suggests that Ivy had always been messy. DSHS has asserted that I should have seen her cluttered house as an indicator of a declining condition, which is unreasonable.

Rhedora recalls talking with Ivy's daughter Betty Johnson in 2004 and saying that "Betty spoke with Ivy's attorney who expressed that Ivy would not be judged as incompetent. (p. 227 of transcript)

Rhedora agreed during the hearing that "someone does not have to be a vulnerable adult if they have dementia."(p. 157 of transcript)

In her testimony she agreed that there is no comprehensive history or physical examination that supports the diagnosis of dementia. (P.208 of transcript)

There is a very simple mental exam given to people to determine where they are in the gradient of severity. There is no record of this test being done. (p. 158 of transcript)

In a 2006 report Ms. Mann states, "although over sixty, Ivy did not appear to meet the definition of a vulnerable adult as she is not unable to care for herself and is not receiving services."(p. 71 of hearing transcript)

It is documented that in October of 2006, around the time Ivy took out a loan, Betty visited her mother Ivy at her home. She was still living independently alone at the time. At the hearing Betty was asked whether she noticed any issues her mother's level of cognitive functioning at that time. Betty responded, "No. She was being difficult and that's not that far from the norm with my mother and I." (P.290 of transcript)

I argue that if the state, as well as her own daughter did not notice cognitive changes, how then am I liable for being unaware of them as well.

Rhedora clearly states that Ivy was only ever considered vulnerable during her stay in a facility and was not considered vulnerable after being discharged home. (p. 162 and p155 of transcript)

Ivy has had several falls but had never broken anything until after being admitted to the nursing home in late 2007 according to her daughter Betty. (p315 of transcript)

In her brief Ms. Giles discusses interviews that Investigator Rhedora Mann had with Ivy in late 2007 after Ivy had fallen and broke her hip at the facility. According to transcripts, Rhedora failed to check

what medication Ivy was on before hand, despite having the power to do so. (p. 178 of transcript) It is my understanding that legal court will not listen to testimony from anyone who has been on mind altering medication.

Ms. Mann testified that before meeting me she received unverified background information about me from Ivy's daughter Betty and proceeded to ask Ivy whether she would feel differently about me depending on criminal history (p.213 and 215 of transcript). She informed Ivy at length that many elder people have been exploited by friends, which implies that DSHS attempted to manipulate Ivy's feelings about me. This seems to emphasize an underlying theme of questionable methods.

**V. CONCLUSION**

Ms. Giles is unable to provide any new argument or legal basis that would warrant a change of the honorable Judge Meyers decision deeming these claims to be unsubstantiated. I humbly request that his ruling be upheld.

Thank you. I appreciate your time and am eager to preserve my good name.

Respectfully,

A handwritten signature in black ink, appearing to read 'Joel Ross', written in a cursive style.

Joel Ross