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COURT OF APPEALS
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No. 46884-1-11

STATE OF WASHINGTON

BY _____
DEPUTY

COURT OF APPEALS DIVISION II OF THE STATE OF
WASHINGTON

THURSTON COUNTY SUPERIOR COURT

BETH RENEE RIETEMA, Respondent

V.

DEAN ERVIN PHILLIPS, Appellant

BRIEF OF PETITIONER

Dean Phillips
Pro Se
Appellant

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TABLE OF AUTHORITIES

Table of Cases

I was not able to locate cases which directly apply to the causes I am addressing in this brief. As I am not educated in the ways of the legal profession I am unaware of how to search for such information. However, I fail to see the need to refer to other cases as I am merely seeking to have my rights and liberties restored.

Constitutional Provisions

1st Amendment-Free Exercise:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

2nd Amendment-Right to Bear Arms:

A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

4th Amendment-Search and Seizure:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures,

shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

14th Amendment:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Americans with Disabilities Act.

Statutes

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Regulations and Rules

Rules of Appellate Procedure Title 16.....Page

I. Introduction

I ask this court for some leniency in regards to this brief as I am not a lawyer by trade and so am unfamiliar with the preparations of court documents and proper legalese. I am however an educated man and a survivor of a chronic health condition since I was 15 years old. For the past 31 years I have lived with Type 1 Diabetes. The control of diabetes is a constant, day to day, struggle to maintain a normal blood sugar by injecting insulin and balancing insulin with food. This can be very difficult at times, especially in times of stress, such as the situation I am here defending.

I am appealing this Order of Protection (OP) placed upon my person. I believe my rights have been violated by the City of Tumwater and Thurston County at the direction of Ms. Rietema and continue to be violated by the arbitrary and capricious use and continuation of the OP. I am requesting this court of appeal to vacate this OP, expunge my record, and punish those responsible for violating my rights and liberties. These rights and liberties are secured by the Constitution of the United States and the Bill of Rights.

My primary goal is to get this unfortunate part of my life behind me with my rights and liberties restored. I now see my time spent and

the marriage to Ms. Rietema as a mistake. I want to go on with my life as I was before she entered it. However, this OP is an insult to my good character and name and to the very ideals of freedom and liberty that this country was founded upon. I understand the responsibility of living in a free society and do not require special restraints to leave people alone who want nothing to do with me. However, Ms. Rietema is now on the offensive, attacking me, with the courts assistance, due solely to the exercising of my Constitutional rights.

II. Assignments of Error

1. The court erred in entering a guilty order for violating the OP on August 30, 2014.
2. Officer Yancey and the Tumwater Police Department erred in the filing of and Judge James Dixon and Prosecutor Luke Hansen for approving the search warrant on December 26th, 2012.
3. The Nisqually Jail violated the Americans with Disabilities Act during my incarceration by limiting my access to my blood sugar tester.
4. Commissioner Jonathon Lack erred in entering the order of September 12, 2014 by denying my motion to vacate the Order of Protection
5. Judge Chris Wickham erred in his judgment to not revise and by awarding costs to Ms. Rietema on October 17th, 2014.

Issues Pertaining to Assignments of Error

I was found guilty of going within 500 feet of Ms. Rietema's workplace. This was only due to Ms. Rietema being able to add additional places of work to the order after the fact. How can it be lawful for Ms. Rietema, or the state, to change the details of the OP after the fact? Especially if those changes to the OP are what led to guilty charges! (Assignment of error 1)

A search warrant for my house was granted due to some flyers that had been sent to people who were not listed on the OP. The primary reasons given for the need to search my house were that these documents resembled the document from June of 2012. However, Luke Hansen was the prosecutor who dropped harassment charges due to the first document as it had not violated the OP, or any law. How is it reasonable to use documents that do not violate the OP, or any law, and that were sent to addresses and people not listed on the OP, as a reason for searching my home? Doesn't this violate my 4th Amendment Rights which protect me from unreasonable search and seizure? (Assignment of error 2)

Upon being booked into Nisqually Jail I was placed in solitary

confinement and allowed to have some food in my cell and keep my insulin pump on, and attached. I was not allowed to have my blood sugar tester with me. The Correction Officers (CO) were often very busy and, at times, I had to wait for up to 40 minutes before the CO could bring my tester and allow me to test my blood sugar. A blood sugar tester is vital to the maintenance of Type 1 Diabetes, stable blood sugars, and keeping me alive. It is a direct violation of the ADA to not make accommodations for me to care for my disease. As no accommodations were made to allow me immediate access to my tester didn't the Nisqually Jail violate the ADA by not allowing me to properly care for my disease?

(Assignment of error 3)

In August of 2014 Commissioner Lack made his judgment after an obvious emotional response to reading two flyers Ms. Rietema presented as evidence. The first flyer contained no threats of harm to anyone on the OP and had already been the subject of criminal proceedings against me and found to not contain any criminal element. In regards to the second flyer, there was no evidence to suggest any connection to me even after a search and seizure, at gunpoint, on my home. Commissioner Lack was so emotionally affected by the flyers he used them against me and had them sealed. Is it reasonable for Lack to allow any document

of unknown origin to be used against me? Is Ms. Rietema allowed to use any created document and attribute its contents to me? How is this reasonable? (Assignment of error 4)

In her renewal for the OP in August of 2014 Ms. Rietema stated that she is afraid of the OP ending. Then Ms. Rietema blatantly contradicts herself in her testimony during Lack's court by claiming that her fear has been continuous since the issuance of the OP. Is Ms. Rietema's fear due to the OP ending or has her fear been continuous and prevented her from "living and providing for her family"? Does Ms. Rietema get to say whatever works best at the time to forward her agenda? (Assignment of error 4)

I was told in Lack's court that I did not meet the burden of proof that I would not resume acts of violence. There had been no contact of any sort in over 2 years and yet I was still expected to prove that nothing would continue to happen. How does one prove a negative? My counsel, Emily Laz, did attempt to argue this very point in Lack's court, only to be unsuccessful. Is it reasonable to even try and prove a negative? What would constitute appropriate proof that nothing would continue to happen? How is it reasonable to place this very unreasonable burden of proof upon me? (Assignment of error 4)

Judge Wickham stated that I had not offered proof of completion of domestic violence treatment counseling due to not providing a certificate of completion. I had previously presented proof to Lack and he made statements to the fact of me completing, and learning from, the domestic violence treatment counseling. How is it reasonable for Wickham to not know this information or to not read it in the record? Additionally, WAC 388-60-0275 states no requirement for a "certificate of completion". How is it reasonable for Wickham to make up a rule that doesn't exist and then use it to rule against me? Is this an abuse of his power? (Assignment of error 5)

Wickham also stated there was evidence that Ms. Rietema had not been contacted by the domestic violence treatment counselor. However, the courts had documented evidence of the required information. Darlene of Awareness Counseling, a state approved domestic violence counseling center had met all provisions in WAC 388-60-0275. Darlene had made multiple attempts to communicate with Ms. Rietema and had, apparently, left messages. It seems Ms. Rietema never responded to Darlene. How is it reasonable to hold me responsible for Ms. Rietema's actions or lack of action, in this instance? (Assignment of error 5)

III. STATEMENT OF THE CASE

- 1) On June 13th, 2012 (**CP page 236, TPD #C21048 6/14/2012**) I was arrested at my place of employment, the Department of Ecology. I was transported and booked into Nisqually Jail. The Americans with Disabilities Act suggests I should have allowed me full access to my blood sugar tester. However, Nisqually jail placed me in solitary confinement and only allowed me limited access to my blood sugar tester. At that time I wore an insulin pump that contained fast acting insulin, I should have been afforded constant access to my tester. I was not. At times I had to wait 30-40 minutes before being able to test a blood sugar. Due to the fast acting insulin contained in the pump this put me in a very dangerous, life threatening, situation. Even the doctor I met upon booking told me the jail was not designed to handle someone with type 1 diabetes. With type 1 diabetes it is even harder to maintain a healthy blood sugar when in stressful situations, such as being locked up in a solitary cell for four consecutive days. Only one hour during that entire time did I get to walk out in the fenced yard of the jail. This seemed to be a very cruel and unusual punishment considering I had only used words! This time in the Nisqually jail happened before I had even gone to court.

- 2) I was in Tumwater municipal court on August 30th, 2012. I was charged with 2 counts of harassment and 2 counts of violating the OP. The OP clearly states I am to stay 500 feet away from Ms. Rietema's "workplace"! (**CP page 199, "4" Final Order of Protection 3-2-2012**) Her workplace at that time was, by her own admission in her statement to the police on June 11th, in Lacey Washington. However, Ms. Rietema was able to convince the police she had a second place of work. My lawyer, Tricia Hahn, never debated this point of contention, even though I had mentioned it to her. In her statement to the police she also indicated she works in all jails and prisons in the NW district due to being on the Critical Incident Stress Management (CISM) team. (**CP page 195, TPD 12-1280-06**)
- 3) There were 2 charges of harassment filed against me due to the content of the flyers posted. (**CP page 183, TPD 12-1280-06**) Both were dropped when my lawyer pointed out to the prosecutor that the flyers contained no threat of harm to anyone on the OP. At the time I recall thinking that if I could stop one person from falling into her trap and suffering the abuse that I had suffered, by Ms. Rietema, it would be worth the effort. Never once did I attempt to violate the OP, nor do I believe I was violating it. I stayed far away from the areas I

was supposed to avoid. I was hurt and in emotional turmoil due to stress and abuse and wanted others to know what Ms. Rietema had done to me. It seemed to me, at the time, my only recourse was to use my words, express myself, something I believe I have a right to do even still!

- 4) I was coerced to plead guilty to violating the OP even though I knew I had not violated it. Due to the emotional content of the flyer my lawyer did not think a jury would rule in my favor. **(CP page 188, TPD 12-1280-06)**The prosecutor, Luke Hansen, seemed clearly disgusted by what he read in the flyers as well. Even though the harassment charges were dropped he still offered to read the flyer to the judge, seemingly as a means to win this court case and cast aspersions on me. When emotions are running high people tend to not think rationally. I was concerned a jury would rule against me due to the emotional content of the flyer. As it turned out, later on even the Commissioner and Judge had emotional responses to the flyer. I require someone to rule this without letting emotions get in the way as the flyer contains no threats to anyone listed on the OP.
- 5) I understand now that I should have appealed that ruling at the time. My counsel did not mention appeal to me and I did not have the knowledge to do so for myself at the time.

6) On December 27th, 2012 the police showed up my door, with guns pointed at me, to search my home. They did have a search warrant approved by prosecutor Luke Hansen (#39071) and Judge James J Dixon. However, the probable cause Officer Yancey (#0565) claimed did not meet the requirements of violating the OP. Based on the statements of witnesses and the officers report, some documents were mailed to people not listed on the OP, which were then delivered to Ms. Rietema. The documents contained no threats of harm or violence to anyone listed on the OP, nor did the documents attempt any communication with anyone listed on the OP. However, they were still used against me as evidence of violating the OP, so much so they were able to obtain a warrant to search, at gunpoint, and seize my property. The charges were of stalking and violating the OP even though nothing of the sort had happened by their own admission. Nothing in Officer Yancey's statement directly violated the OP. In fact the only violation was Officer Yancey's statement that I had violated the OP. **(CP pages 219-224, Search Warrant and TPD 2012-02763)**

7) On February 22nd, 2013 I was summoned to court again. Ms. Rietema wanted to extend the OP. She acted as though she was not aware that the OP had been continued until August

30, 2014. In that proceeding she first asked for a 99 year continuation of the OP, an unreasonable request. I had never harmed her or her children or even threatened to harm her or her children. She even cited a case pending, regarding the search warrant, that the police were had no evidence of my involvement in. As the OP was still in effect until August 30, 214, this amounted to a waste of mine and the courts time. (**CP page 23, Petition for Renewal 2/1/2013**)

8) On September 12, 2014 I was in court once again before Commissioner Jonathon Lack. Ms. Rietema, again, asked for a 99 year extension of the OP. (**CP page 33, Petition for Renewal of OP 8/7/2014**) I hired a lawyer, Ms. Emily Laz, thinking that would be enough to win this case and get on with my life by vacating the OP. I believe Ms. Laz made an adequate argument for why the OP should be vacated. I had not had any contact with Ms. Rietema or her children for over 2 years and just wanted this over, to move on with my life. I had done everything the courts had ordered, even completed a yearlong domestic violence treatment program, (EX 1) even though I felt as though I was innocent. I could not believe a court would allow Ms. Rietema a continuation based on the limited amount of evidence she possessed and

the fact I had done what the courts ordered, that I never harmed or threatened to harm anyone listed on the OP and had not violated the OP in any way.

- 9) Commissioner Lack seemed to think the flyers were so bad he had them sealed. These flyers had been seen by a criminal court who did not feel the need to seal them. They were also seen by the Commissioner on February 22 and not considered worth sealing from the public. **(RP on 9/12/2014, page 27, line 6)**
- 10) On October 17th, 2014 I was in Judge Chris Wickham's court on a motion to revise Commissioner Lack's decision. There was no question about my completion of the domestic violence treatment program in Lack's court but that was all Wickham seemed to focus on. He stated that no certificate of completion was submitted to prove I had completed the program. **(RP 10/17/14, page 12, lines 3-7).**
- 11) Wickham also suggested there was evidence that Ms. Rietema had not been contacted by the domestic violence treatment counselor. However, the documents presented (EX 1) were the same ones sent to the courts in November of 2013 signifying that Darlene did indeed attempt to contact Ms. Rietema. **(RP 10/17/14, page 12, lines 7-9)**
- 12) At no time during the filing of our divorce or at the time I

hired Emily Laz to defend me in court did I ever ask for money from Ms. Rietema. I had every right, both times to ask for some form of payment: either by taking half of Ms. Rietema's estate, which was much larger than mine, or by asking for court fees. This was to avoid causing her unnecessary hurt. To me, taking money from another, even if by legal means and well within my right, means harming another. As I stated before I never wanted to harm her, so never tried to take money for her. You will notice, though that Ms. Rietema sees this issue differently and asked for court costs from Wickham. **(RP 10/17/2014, page 9, lines 5-7)**

IV. SUMMARY OF ARGUMENT

In the last few years due to Ms. Rietema, Tumwater Police, Thurston County Courts, and the Nisqually jail I have suffered the following harms due to Ms. Rietema:

- A) I have been arrested and incarcerated for four days in solitary, to the detriment of my health and well-being and missed time with my daughter.
- B) I have had police show up at my door pointing guns at me to search and seize my property.
- C) I have been unable to properly protect myself and my family in my own home due to restrictions of my 2nd Amendment rights.
- D) I am forced to find alternate routes around Lacey and Tumwater due to the locations of Ms. Rietema's multiple places of work.
- E) The OP impacts my ability to work.
- F) I have repeatedly lost in court even though no evidence exists to suggest I am a dangerous person, suggesting my rights are not important and that I am not getting equal treatment under the law.

And even though I have ample evidence of these harms done to me I am the one with the word "violent" attached to my name and

record due to all this. How is it reasonable to continue to accuse and punish me for being dangerous when clearly Ms. Rietema has been a larger danger to me? Does Ms. Rietema have proof of any harm done to her person other than some embarrassment due to posted flyers, flyers which describe the acts she has done against me? How is it reasonable to punish me more for telling others what she did to me than for what she actually did? Is that public embarrassment a crime and a valid reason to remove my rights and liberties? Even if it was merely an expression of my experience with Ms. Rietema, what she did to me?

I am now in the position of trying to defend myself, to prove to this court of appeal that I am not the person, or kind of person who would hurt others, she believes me to be. Then only way I can figure out how to do this is to show examples of how Ms. Rietema contradicts herself, how her story of fear just doesn't make sense, and how she is being unreasonable. I believe there is ample evidence to suggest Ms. Rietema's motives are other than protecting herself. I believe this is a vendetta, another form of punishment she can continue to inflict upon me, her way of maintaining a modicum of control, as those who emotionally abuse are known to do.

The very fact that I am here now, appealing these decisions is also proof that I have not received equal protection under the law. Along the way it seems Ms. Rietema has received a lot of professional courtesy. As a DOC employee she works closely with law enforcement and the courts. As such, I have not been given consideration for my pleas. My testimony appears to not matter to the courts nor do they seem concerned with my rights and liberties. It is unreasonable that these courts, charged with protecting rights and liberties, seem more concerned with Ms. Rietema's emotional state than my rights and liberties.

V. ARGUMENT

ARGUMENT 1: The flyers in question were placed farther away than 500 feet from Ms. Rietema's workplace in Lacey and yet I was still arrested and charged for going to close to her workplace. On the final page of the Tumwater Police report 12-1280-06 Ms. Rietema clearly admits her primary workplace is located in Lacey. **(CP page 195, TPD 12-1280-06)** She then claims to also work in Tumwater and even implies she works all over the state as a Critical Incident Stress Management (CISM) team member. Is Ms. Rietema suggesting that I am unable to go to any jail or prison in the state for fear of violating the OP? This, among other things, has not been made clear to me. This is the first demonstration of how the OP is a vague document that has been used in an arbitrary fashion against me. How is this reasonable? Why, when she added multiple places of work, did not the case end there? Do the Tumwater police and prosecutor not know what the OP states? That it clearly states I am to avoid her "workplace", a singular place. A reasonable person would know that Tumwater and Lacey are two distinct places. If the legal definition of "workplace", a singular word, is to include multiple locations, a plural, then why was I not provided a list of all the places I need to avoid? And to that point, why is Ms. Rietema allowed to add places I should avoid after the fact without the responsibility of first alerting me to these places that

are to be avoided? Additionally, in her statements to Lack's court she minimizes the burden this has on my work. But there are also underground tanks at the Lewis County Jail and the Mason County Jail. Is it another violation of the OP if I am to go to these places to do my work? Just too many vagaries exist for this to be a lawful order and thence should therefore be thrown out as it is not reasonable for me to have to guess where I can and cannot go.

ARGUMENT 2: I was arrested on June 16th 2012 by Tumwater Police at my place of work. I was taken to Nisqually Jail and booked. Upon booking I saw a doctor about caring for my Type 1 Diabetes while imprisoned. The doctor told me that the jail was not equipped to deal with people who have Type 1 Diabetes and who wear an insulin pump. Apparently the DOC policy is to allow my pump to remain on my person, which I did need to live at the time, and allowed me to have food with me at all times. However, I also require access to my blood sugar tester. The insulin I used in my pump was a fast-acting type called Humalog. This insulin can rapidly lower my blood sugar, but I can only know this by checking my blood sugar with my tester. To properly care for Type 1 Diabetes one must have insulin, food, and access to a blood sugar tester. These things are required to maintain proper control of my health. I have never been in jail and definitely have never been

placed in solitary for four days. This created an even more stressful situation for me as I was still not over what had happened between Ms. Rietema and I, which made the struggle to survive that much more difficult. The policy of the jail was to allow me to test 3 times a day. Any diabetes educator would tell you this is not enough to properly maintain diabetes. I should have been afforded unlimited access to my blood sugar tester or not be imprisoned. There were times during those four days where I had to wait up to 40 minutes for the CO to get around to bringing me my tester. I could have easily perished in the Nisqually Jail. Does this constitute a violation of my rights under the American with Disabilities Act?

ARGUMENT 3: How is alleged communication with those not listed on the OP considered probable cause for violating the OP? The OP clearly states who is not to be contacted. In his report Yancey **(CP pages 219-224, Search Warrant and TPD 2012-02763)** states these flyers were sent to people who are not listed on the OP but then the police charged me with communicating with those listed on the OP. How is this reasonable? Are there other people not listed on the OP I should not be contacting? Is this the Tumwater Police Department and Thurston County saying I cannot say anything to anyone that might upset Ms. Rietema? And if so,

as it seems to be, how can this be a reasonable situation? How is this not a direct contradiction to 1st Amendment rights? These flyers also contained no threats or any attempt to communicate with anyone listed on the OP. (**CP page 209, flyer**) How can they be considered a violation of the OP? If they do not violate the OP then how can it be a reasonable reason for probable cause of a search warrant? The fact that no evidence was found to implicate me in this situation is almost irrelevant in light of the above, but still this document should not be used against me to further Ms. Rietema's vendetta.

ARGUMENT 4: Lack's court was in August of 2014, over 2 years after any contact with anyone on the OP. I had been moving on with my life. There were no violations of the OP in that time and I had completed a year-long treatment at the direction of the courts. However, Ms. Rietema doesn't seem to want this to end. I have stated that Ms. Rietema was emotionally abusive to me. Emotional abuse, like most abuse and domestic violence, is about control. Maintaining the OP gives Ms. Rietema control over my rights and liberties, something I have consistently argued against. I still must look over my shoulder everywhere I go in the Lacey/Tumwater/Olympia area. I must find other ways around major intersections. I cannot even protect myself and my family in

my own home for fear of the OP and being charged with a felony for merely possessing a firearm. I had done everything the criminal court had directed me to do, but even this was not enough for Lack. He apparently expected me to have more remorse and to be sorrier for what I had done. I had only spoken out against the injustice against me, told what Ms. Rietema had done to me. How can one be remorseful for being harmed and standing up for oneself? Lack made his judgment after reading the flyers, both of them even though no evidence was available to prove I had anything to do with the second one, and yet his judgment seemed an emotional reaction; one he said was to protect the children. Protect the children from what, exactly? What evidence is there that any children were in danger? I had proof of doing what the courts directed me. I had not had any contact with anyone listed on the OP. Ms. Rietema has no evidence of any physical harm done to her or her kids, or even any threats of harm. And yet all she had to do was claim fear. As my council stated to Lack, Ms. Rietema's fear is unreasonable and therefore should not be allowed as a reason to restrict my rights and liberties.

ARGUMENT 5: On the Motion to Revise in Judge Wickham's court on October 17, 2014 I argued that my Constitutional rights should take precedent to Ms. Rietema's unreasonable fear. Instead of

ruling on the merits I presented, Wickham suggested I had not supplied a certificate of completion of the domestic violence treatment program. However, there is no law that says I must do this. In fact WAC 388-60-0275 clearly states what is required to complete treatment. This criterion was met in November of 2013, something the courts had record of and what I submitted as evidence to Lack. Lack even stated that I had completed the domestic violence program. Why then, was Wickham allowed to state otherwise? How can it be reasonable for Wickham to make up laws that do not exist? And he did this so he would not have to revise Lack's decision. How is this equal protection under the law? Who is to protect me from Ms. Rietema's assault on me and on my rights and liberties?

Wickham also said that there was evidence Ms. Rietema had not been contacted by the domestic violence treatment counselor, Darlene at Awareness Counseling in Centralia WA. However, Darlene, in her compliance report to the courts, stated she had attempted to contact Ms. Rietema. It appears Ms. Rietema did not return her calls. How is it reasonable to hold me accountable for others do, or do not do? Wickham's ruling suggests I was responsible for making sure Darlene contacted Ms. Rietema, but this is a direct violation of the OP. So he expected me to violate the

OP to meet the conditions of treatment? This is a completely unreasonable expectation by the courts and therefore unjust! The evidence strongly suggests Ms. Rietema willfully ignored Darlene's attempt to communicate and then suggested to the courts no one had tried to contact her. Incidentally the initial flyer suggested Ms. Rietema would say anything to make me a felon, and here she is doing just that, with the help of the courts.

ARGUMENT 6: In Ms. Rietema's petition for continuation of the OP on August 7, 2014 she states "I fear for the safety of myself and my family if the protection order expires." (**CP page 31, Petition for Renewal**) But then in Lack's court, upon cross examination, when asked what has happened since February of 2013, she states "has continued to cause me fear and a lack of being able to be safe, a feeling of being safe in my own home and residence and workplace and all those things." (**RP 9/12/14 page 13, lines 13-16**) So which one is it? Is she afraid for the OP to expire or is she just always afraid? If she were always afraid, why was that not said initially when applying for renewal? And if she is always afraid, even with the OP in effect, then clearly the OP is not working as intended and should therefore be vacated as it violates my rights for no good reason. I believe this also demonstrates what was suggested in the initial flyer; that Ms. Rietema will say whatever it takes to get her

way to ruin my life. (**CP page 188, flyer**) As the only evidence Ms. Rietema has is her fear, of who she believes me to be, an emotional state which I have no control over. Did Lack truly believe that Ms. Rietema can speak accurately to what is in my heart and mind? How is it reasonable for the court to believe that Ms. Rietema knows anything about me after so much time? Or if she even knew me at all? It is therefore unreasonable to make me responsible for her irrational, emotional state and thence the OP should be vacated.

ARGUMENT 7: Note the use of hyperbole in the next few examples. Ms. Rietema uses words that are vague and don't describe anything. For one example; when talking about her children in Lack's court (**RP September 12, 2014, page 9, lines 7-8**), she states "but to my children he has caused indescribable hurt, fear, and damage." If this supposed hurt was so bad why hasn't Ms. Rietema given some idea of what this hurt and damage actually caused? Are her kids unable to sleep at night? Are they not thriving? Are they getting any counseling? Ms. Rietema has presented no evidence to support any of these claims. Based on the claims Ms. Rietema made in her petition for renewal of the OP in August 2014 why is she not seeking help for her children and herself? Ms. Rietema also said, in her request for renewal of the

OP, "He has caused me psychological and emotional damage that cannot be explained" (CP, page 33, Petition for Renewal, August 7, 2014) Why can it not be explained? Is this because she doesn't really feel this way and so cannot explain that which does not exist? Is Ms. Rietema getting any help? Is she unable to sleep, or not thriving? Why cannot she explain such a huge impact on her life? Or is this because she is just moving on and living her life as normal? Too many questions brought by Ms. Rietema's statements and yet we can reference the first flyer again that suggests Ms. Rietema will say anything to get her way. Does Ms. Rietema use hyperbolic words to describe the situation in her effort to increase the emotional appeal without ever giving proof to the claims of fear?

Argument 8: Ms. Rietema makes a point about her work having to be on some sort of high alert status. Ms. Rietema works for the Department of Corrections, whose primary purpose is to protect society from the worst criminals, and has even worked closely with people found guilty of heinous crimes. Is it reasonable to believe that now the DOC is on some sort of special alert due only to words on paper? Ms. Rietema has worked for DOC for a long time and yet she has repeatedly asked for a 99 year extension of the OP. The DOC mission statement includes the following in their Statement of Values: "People's ability to grow and change: We

acknowledge that people-offenders and staff-have the need and ability to grow and change and we support their endeavors”. While I understand that Ms. Rietema is not required to believe in every part of the mission statement of the place she has made her career. However, is it reasonable that Ms. Rietema doesn't share the values of the very agency she has made her career?

ARGUMENT 9: Ms. Rietema lied to me. She tricked me into marrying her then was emotionally abusive to me during our marriage. Nothing I did was ever good enough for her. So much so that even the act of reading her child to bed was called “shit” by her just because it didn't look exactly the way she wanted it too. She acknowledges this difference we had in putting her child to bed in her statement to the police in June 2012, mentioning that I wanted my daughter to help read Lowan to bed. This was special to me as Lowan, at the time, was my step daughter and I had read books to my daughter when she was younger. This was meant to bring our family closer together and it was something I learned from Beth, as a few nights prior I had witnessed Beth and her older daughter Leah read Lowan to bed. Now she was saying that if I did the same thing but with my, biological, daughter's help it was shit. This, one of many acts, was very hurtful to me. When Beth and I were together she did not have a very good relationship with her father.

He had married a woman that did not like Beth. So much so that this woman, Trudy, Beth's mother in law, would not allow Beth's father to see her. Beth's dad would have to sneak around on his wife to see his daughter and grandchildren. I believe this damaged Beth on an emotional level. This was the only father she knows so she expected me to do to my child what her father did to her: abandon her for his new wife. Much of the emotional abuse from Ms. Rietema had to do with things relating to the children, and more specifically to my biological daughter. Her statement to the police in June of 2012 shows how she thought my daughter should have to be downstairs after 9 for a proper bedtime while her children were allowed entrance into our room at anytime during the night, and often were. Many nights we shared our bed with one or both of her children but my daughter was not allowed the same. This was just one example of how Beth treated my biological daughter differently, even though she wanted me to treat her kids like my own.

Argument 10: I have never harmed Beth or threatened to harm Beth and she has no evidence of any harm, except her fear of harm. I am a peaceful man. Ms. Rietema had lied to me, tricked me into marrying her with the promises of love and happiness but delivered neither, emotionally abused me, and then threw me out of

her life like so much garbage by obtaining the OP. I was emotionally abused, and made to feel like I was not a good person, all the while hearing her voice in my head saying one thing but doing others, never being consistent, always keeping me wondering what was real and how to please her so she would just be nice to me. While waiting the required time to pass for the divorce I got news that my sister Robin had been found dead in her apartment. By June of 2012 had been under an extreme amount of stress for about 6 months. I never wanted the OP! I can accept that Ms. Rietema did, but I cannot accept how she treated me and do not intend to give up my rights to her. But even in my most angry of times about this, after the divorce was finalized, I responded by merely using words. That is all, words! I understand that these were mean words and I am not proud of the way I used them, but they were still only words. Ms. Rietema treated me horribly and yet when I told others about it, the only recourse I had, I was accused of being violent and as a result have had my rights and liberties violated. The flyer was merely my expression of what happened to me, of what Beth did to me, and ironically enough continues to do to me to this day with the help of the courts, law enforcement, and now a second lawyer. Is this not the example of a conspiracy? Am I not allowed to express myself? Is this not the point of the 1st Amendment? If the flyers contain no threats and

therefore contain nothing illegal, then the words must be protected speech and cannot be used against me. How is it reasonable to for a protected act to be turned into a crime and used against me? I have no other criminal record except for the one that has resulted from Ms. Rietema.

Ms. Rietema even admits to the court that this is about not allowing me to express myself. In Lack's court, (**RP 9/12/2014 page 12, lines 7-11**), she stated "I want to be able to say to my own children I love you and I'm doing everything I can to keep you safe, there will be no more flyers, because those kinds of things, if they happen, there's consequences for those.". Here Ms. Rietema admits the source of her fear is words on paper, words containing no threats of any harm. Is it reasonable to suggest consequences for speaking one's mind, for telling ones' own story of abuse in the land of free speech? If there has never been any threat to Ms. Rietema or her children, where then does this extreme level of fear come from? Why are her children afraid? Since I have not been anywhere near them since the OP was in effect then their fear must be a direct result of the very words Ms. Rietema is telling them? So if Ms. Rietema is indeed keeping her children in fear, why am I continually being punished for their state of fear? How is it that this does not constitute a form of child abuse?

ARGUMENT 11: The very existence of Title 16 Special Proceedings in the Supreme Court and Court of Appeals suggests this appeal court and the state of WA recognize the Constitutionality of these personal restraint petitions. Rules of Appellate Procedure 16.4(c)(6) states "The conditions or manner of the restraint of petitioner are in violation of the Constitution of the United States or the Constitution or laws of the State of Washington". Title 16 suggests relief will be given with the filing of this petition. However, I filed this petition in early January and still have yet to receive any response. Why are my petitions not being answered? I am very surprised how easily my rights and liberties have been infringed by Thurston County Courts, Tumwater Police Department, and the Nisqually Jail all due to Ms. Rietema's testimony only. There exists no evidence or proof of the violent nature she ascribes to me. I have not willingly given any city, county, state, or individual jurisdiction over my rights and liberties. They have been taken by force from me and I demand justice.

VI. CONCLUSION

Due to the prosecution against me by Ms. Rietema, Thurston County, and the City of Tumwater Police, I request the following relief:

1: I am requesting that this court immediately vacate the OP to restore my rights and liberties.

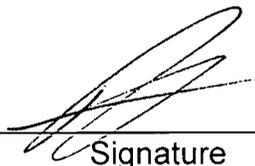
2: I am requesting that this court expunge my criminal record as it never should have existed in the first place.

3: I am requesting that this court punish those who have wronged me.

4: I am requesting that this court grant me legal fees and damages of 10 million dollars (\$10,000,000.00.)

February 6th, 2015

Respectfully submitted,



DEAN ERVIN PHILLIPS
Pro Se

VII. APPENDIX

Awareness Counseling Compliance Letter

AWARENESS COUNSELING

INDIVIDUAL, MARRIAGE, AND FAMILY COUNSELING
DOMESTIC VIOLENCE AND ANGER EVALUATIONS
SPECIAL PROGRAMS FOR VETS & FAMILIES

107 N. TOWER AVE. #9
CENTRALIA, WA 98531
(360) 330-2832 /FAX: 330-0284

DOMESTIC VIOLENCE COMPLIANCE REPORT

November 6, 2013

Tumwater Municipal Court
555 Israel Rd. SW
Tumwater, WA 98501

COPY

RE: **Dean Phillips**

Case #: **C21048**

Began group: **12-17-12**

Attends weekly sessions on regular basis: **Yes**

Does assigned reading and homework: **Yes**

Pays for each group: **Yes**

Behind in payments: **No**

Group participation satisfactory: **Yes**

Has attended: **35** groups. Missed: **0** groups. Excused:

Needs to work on: Anger logs __ Clarification letter __ Workbook __
Empathy letter __ Family of Origin Issues __

Is in compliance with group requirements: **Yes**

Close to termination due to lack of paying: **No**

First portion of group completed: **Yes 5-20-13**

Six return visits completed: **Yes – 11-4-13**

Totally finished with Domestic Violence Program: **Yes – 11-4-13**

If client uses the techniques learned in group he/she should remain safe.

Comments:

Mr. Phillips is compliant with group requirements and has completed his treatment program.

AWARENESS COUNSELING

INDIVIDUAL, MARRIAGE, AND FAMILY COUNSELING
DOMESTIC VIOLENCE AND ANGER EVALUATIONS
SPECIAL PROGRAMS FOR VETS & FAMILIES

107 N. TOWER AVE. #9
CENTRALIA, WA 98531
(360) 330-2832

November 19, 2012

Tumwater Municipal Court
555 Israel Rd. SW
Tumwater, WA 98501

COPY

RE: Dean Phillips

DOB: 7-31-68

Case #: C 21048

A Domestic Violence Assessment has been completed for Mr. Phillips. I have interviewed the client, read the police report, and tested him for his propensity for anger and violence. **I have not been able to contact the victim; therefore I am using the statement in the police reports.

REPORT RECEIVED: Yes No N/A

ABLE TO CONTACT THE VICTIM: Yes No N/A

PSYCHO-SOCIAL HISTORY: Mr. Phillips is a 44 year old male with one child from a previous marriage. He stated his parents are still married. He has been sent to be assessed for anger and/or assaultive behavior after being charged with Harassment and Violation of a No Contact Order.

REPORTED CRIMINAL HISTORY: Mr. Phillips reported the Harassment and No Contact Order Violation. Nothing else.

DRUG/ALCOHOL INVOLVEMENT IN CURRENT INCIDENT? Yes No Unknown

RISK ASSESSMENT: Low Moderate High

AMENABLE FOR TREATMENT: Yes No Unknown

Diagnostic materials results: All screening instruments are self report answers.

Conflict Reaction Inventory (CRI):

Failed to follow directions.

NOVACO Anger Scale:

Moderately degree of anger arousal.

Inventory of Anger Communications (IAC):

Some interpersonal communication issues.

Anger Impact Inventory:

Fails to recognize the impact of his anger on others.

Anger Styles Quiz: (He has these tendencies.)

1 - Sudden Anger - Those with sudden anger are like thunderstorms on a summer day. They zoom in from nowhere, blast everything in sight, and then vanish. Sometimes it's a big show, but often people get hurt. People with sudden anger gain a surge of power. They release all their feelings, so they feel good or relieved. They say and do things they later regret, but by that time it's too late to take them back.

CRS Abuse Scale:

Moderately abusive

BUSS Hostility Inventory: Low hostility score overall. **High individually in:**

Indirect hostility – Indirect hostility involves the behavior that directs hostility toward someone in a roundabout way. When they become frustrated it allows them to discharge feelings of hostility without directing it at anyone in particular.

Coopersmith Inventory:

Few problems with self-esteem.

Domestic Violence Inventory (DVI):

Truthfulness: Scored in the medium risk range. (45%)

Alcohol: Scored in the low risk range. (18%)

Control: Scored in the medium risk range. (69%)

Drugs: Scored in the problem risk range. (76%)

Violence: Scored in the problem risk range. (72%)

Stress Coping: Scored in the medium risk range. (53%)

Michigan Alcohol Screening Test

Middle stages.

COMMENTS:

Based on all gathered information, assessing the screening material, interviewing the client, and reading the report it is surmised Mr. Phillips fits the criteria for a Domestic Violence Program.

Responsibility for inappropriate actions or behaviors always lies with the person doing them. No one has a right to break a No contact Order even if they are angry or upset. Posting slanderous flyers at his ex-wife's work and where her child can read them is not only breaking the Order but way beyond appropriate adult behavior. There were many choices he could have made that would not have gotten him into trouble but he chose the actions he took.

Treatment Recommendations:

- 1) It is recommended Mr. Phillips attend a minimum one year Domestic Violence Treatment Program.
- 2) It is mandatory Mr. Phillips abide by program requirements that he refrain from any form of anger or abusive behavior and abide by the Protection Order.
- 3) It is mandatory Mr. Phillips abide by program requirements that he abstain from any drug or alcohol use for the duration of treatment.
- 4) It is recommended Mr. Phillips attend the Domestic Violence Impact Panel at the Court House.

If there are any questions, please call.

Sincerely,

Darlene R. Tewault, M.A., L.M.H.C.
Therapist

cc: Tricia Hahn, Attorney

FILED
COURT OF APPEALS
DIVISION II

2015 APR -9 PM 3:06

APPELLATE COURT, DIVISION II, of WASHINGTON STATE

STATE OF WASHINGTON
BY _____
DEPUTY

No. 46884-1-11

Superior Court of Washington
County of Thurston

No. 12-2-30114-7

In re:
BETH RENEE RIETEMA
Respondent
Petitioner,
and
DEAN ERVIN PHILLIPS
Appellant
Respondent.

No. 46884-1-11
Motion and Declaration
To Serve by Mail
(MTAF)

I. Motion

Dean Phillips appellant moves the court for an order allowing service of the summons and petition by mail.

Dated: April 9, 2015

Signature of Moving Party or Lawyer/WSBA No.



Print or Type Name DEAN ERVIN PHILLIPS
Pro SE

II. Declaration

2.1 Service should be made by mail because:

It is allowed by the rules of the Appellate Court. Rule CR 5(b)(1)

"Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, filing with the clerk of the court an affidavit of attempt to serve."

- 2.2 The corrected Appellant Brief and Response to Motion on the Merits have been sent to the following address, postage prepaid, and first class mail on April 9, 2015:

*Kate M. Forrest
600 1st Ave Ste 106
Seattle WA 98104-2287*

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

Signed at Olympia, Washington

on *April 9, 2015*



Signature of Moving Party

Pro se

Deanne Phil/125
Print or Type Name