

22-7819
No. 22A62

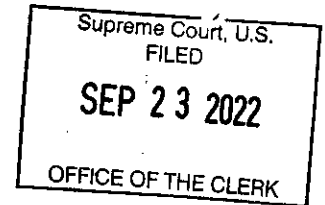
In The Supreme Court of The United States

ORIGINAL

Javier Bautista-Scheuber, Petitioner,

v.

Alia Day Floren, Respondent.



On Petition for Writ of Certiorari to the Montana Supreme Court

PETITION FOR WRIT OF CERTIORARI

Javier Bautista-Scheuber
1441 Edward L. Grant Hwy. #4E
Bronx, NY 10452

(213) 863-4830

jbscheuber@gmail.com

I - QUESTIONS PRESENTED

1 - (a) Do the values of the constitution really hold true, or are they only good on paper? that is, in practical terms, does the violation of a fundamental constitutional right (after the entire appeal process has been exhausted), like the right to be heard, constitute sufficient grounds for the Highest Court of Appeals to review and reverse a judgement; or the rights promised to the citizens by the constitution are only good on paper?

1 - (b) If no court has ever made a finding of fact that a person has ever committed any illegal action, even less convicted him of any crime; can a state forbid him without due process of law from any contact with his wife and any access to his house or any of his property therein? For example, I was never given any notice that any court would hear any request to curtail any of my freedoms and rights, I was never allowed to speak, present any evidence or defend myself in any way. Under such circumstances, can a state curtail any of my freedoms or rights, if I have never been found to have committed any illegal action?

1 - (c) **Under the UMDA shall a court dissolve a marriage, as soon as one or both parties ask it so (as it seems to be frequently the case), or only if it finds the marriage irretrievably broken?**

1 - (d) Did the Montana Supreme Court interpret Rule 60 of Civ. Proc. correctly, when it considered that I was precluded of any relief under subsection (b)(6), if I had ever sought relief based on any other completely different facts or circumstances under any of the other subsections of the rule? Or, as it is generally understood, the availability of relief for some facts and circumstances under any of the first five subsections, does not exclude relief under subsection (b)(6) for different facts and circumstances.

2 - What constitutes substantial evidence to establish judicial bias?

- a) Is it an inappropriate judicial conduct to allow one of the party's attorney to write up, from beginning to end, the court's judgement and neglect to review it for possible errors before signing it off?
- b) Does the misrepresentation of the District Court's record or a key witness' testimony (as compared with the actual court hearing's transcript) constitute evidence of judicial bias?
- c) Does the misrepresentation by an appellate court of one of the party's argument (as contained in his appellate brief), constitute evidence of judicial bias?

3 - How can the courts better protect a mentally-ill person against duress and malevolent manipulation?

- a) In cases where there is evidence of duress, what actions shall the courts take to protect the constitutional rights of a mentally-ill person, who, for example, may allege to seek divorce, but is not even able to accurately state the reasons of the marital break-down?
- b) Under what conditions shall the courts reconsider whether a mentally-ill person's legal counsel can continue being trusted to represent in good faith his mentally-ill client? For example, does it constitute sufficient evidence to revoke the power of legal representation of a legal counsel, if he induces his mentally-ill client to commit perjury making false allegations of abuse to explain the reasons that led to her mental disorder and her attempt of suicide?
- c) If the courts have a special obligation to care for and protect the rights of mentally-ill litigants, under what circumstances may the negligence of a different party to the case release the court from such obligation (see Section XI-7.6)?

- d) Under the UMDA, can the courts dissolve a marriage, if one of the parties is against the dissolution and the other is mentally ill, there is evidence she is under duress and she is incapable of producing an accurate answer to the question of the marital breakdown?

4 - What are the responsibilities and obligations of the courts to protect and observe the constitutional right of disabled people for equal access to the law and to be able to make their legal case?

- a) What is the validity of a judgement issued after one of the parties is not allowed to file any of his evidence, because (due to his blindness) he was not able to fill out by himself the required 'Notice of Filing' form, and nobody accepted his request for assistance writing down his answers on the paper form, as he is legally entitled to receive per A.D.A.?

- b) If a court's policy is to allow a 15-minutes grace period to litigants who arrive late, because they experienced difficulties finding parking around the courthouse, is it discriminatory to otherwise deny that same grace period to a blind person, who has far more severe accessibility problems, and is not able to travel by himself to the courthouse, but instead needs to be allowed to appear telephonically?

- c) Does a court engage in a discriminatory practice, when the provision of reasonable accommodations to a disabled litigant, handicaps or abridges in any way his right to make any other completely unrelated request? For example, considering that the permission to submit an appellate brief electronically does not help in any way to meet the requirement to limit the length of the brief to a certain word count; is it discriminatory to deny a request for permission to exceed the established word-count limit, for the only reason that, "for that purpose, the blind litigant was already granted permission to submit his appellate brief electronically"?

- d) What is the validity of a judgement, if a blind litigant party to the case is, by way of trickery, deprived of the legal assistance of a professional lawyer that, due to his disability, he so critically needs in order to have any chance in the case.

5 - What is the preponderance and severity with which the issue of timeliness should be applied?

- a) In cases of extreme injustice, is it an abuse of discretion to completely ignore and disregard each and all issues brought on appeal, solely based on the untimeliness of the action (see sections XI-4.3 and XI-7)?

- b) When the provision to determine the issue of timeliness establishes that "the litigant must act within a reasonable time", is it an abuse of discretion to deem an action untimely, without using a single word to provide a reason, why the court considered the litigant did not act within a reasonable time (see Section XI-7.7)?

II - LIST OF PARTIES TO THE PROCEEDING

Petitioner / Appellant: Javier Bautista-Scheuber

Respondent / Appellee: Alia Day Floren

III - RELATED PROCEEDINGS

Alia Day Floren V. Javier Bautista-Scheuber, No. DA 21-181

Montana Supreme Court

Judgement Entered April 26, 2022

Alia Day Floren V. Javier Bautista-Scheuber, No. DR-18-796

Montana 4th District Court

Judgement Dismissing Motion M.R.Civ.P. 60 Relief of Judgement: Entered March 11, 2021

Alia Day Floren V. Javier Bautista-Scheuber, No. DR-18-796

Montana 4th District Court

Judgement Entered March 2nd, 2020

Alia Day Floren V. Javier Bautista-Scheuber, No. DR-18-796

Montana 4th District Court

Permanent Order of Protection: Judgement Entered March 10, 2020

IV - Table OF CONTENTS

<u>I - QUESTIONS PRESENTED</u>	<u>3</u>
<u>II - LIST OF PARTIES TO THE PROCEEDING</u>	<u>7</u>
<u>III - RELATED PROCEEDINGS</u>	<u>7</u>
<u>IV - TABLE OF CONTENTS</u>	<u>9</u>
<u>V - TABLE OF CITED AUTHORITIES</u>	<u>9</u>
<u>VI - INDEX TO APPENDICES</u>	<u>10</u>
<u>VII - OPINIONS AND RULINGS BELOW</u>	<u>11</u>
<u>VIII - JURISDICTION</u>	<u>11</u>
<u>IX - STATUTORY PROVISIONS INVOLVED</u>	<u>11</u>
<u>X - STATEMENT</u>	<u>11</u>
<u>XI - FACTUAL BACKGROUND</u>	<u>12</u>
<u>XII - REASONS TO GRANT PETITION</u>	<u>27</u>
<u>XIII - CONCLUSION</u>	<u>50</u>

V - TABLE OF CITED AUTHORITIES

Cases

Clark v. Clark, 1986 Ky. App. LEXIS 1211, at *10-11 (citing Laffosse v. Laffosse, 564 S.W.2d 220 (Ky. Ct. App. 1978)).....	p. 42
In Re Marriage of Kraut, 696 P.2d 981, 215 Mont. 170, 42 St.Rep. 268 (Mont. 1985).....	p. 25
In re Marriage of Potts v. Potts (Order for Counseling) at 3 (Bullitt Cir. Ct. Ky., Aug. 23, 2021), https://perma.cc/W6DD-G34H	p. 42
In re Marriage of Waters, 223 Mont. at 189, 724 P.2d at 730.....	p. 27
Koch v. Billings Sch. Dist. No. 2, 253 Mont. 261.....	p. 24, 36
Maulding v. Hardman, 257 Mont. 18, 23 -28, 847 P.2d 292, 296 -99 (1993).....	p. 22
Shultz v. Hooks, 263 Mont. 234, 235-37, 867 P.2d 1110, 1111-12 (1994).....	p. 23, 29

Statutes

United States Constitution 14 th Amendment.....	p. 41, 42, 48
--	---------------

Rule 60 of Civil Procedures.....	p. 3, 18, 21, 22, 23, 24, 25, 26, 27, 30
Uniform Marriage and Divorce Act (UMDA) Section 305.....	p. 3, 4, 25, 41, 42, 43
Americans with Disabilities Act.....	p. 4, 31, 34

Other Legal Authorities

Wright and Miller, Federal Practice and Procedure, Vol. 11, § 2864, pp. 214-215, 219-220.	p. 24, 26
--	-----------

VI - INDEX TO APPENDICES

Appendix A: Montana Supreme Court's non-cite memorandum opinion affirming judgement.....	p. 1
Appendix B: Montana 4 th District Court's judgement Dismissing Motion M.R.Civ.P. 60 Relief of Judgement	p. 13
Appendix C: Montana 4 th District Court's Judgement.....	p. 15
Appendix D: Statutory Provisions.....	p. 25
Appendix E: Montana 4 th District Court's Permanent Order of Protection.....	p. 27
Appendix F: False Allegations of Abuse and Judicial Malfeasance.....	p. 35
Appendix G: Discrimination and Retaliation Against Disability By The Montana Courts.....	p. 67
Appendix H: The never-ending fight for our love: Dreams, fierceness, laughter, tears, grief and love.....	p. 95

VII - OPINIONS AND RULINGS BELOW

- Floren v. Bautista-Scheuber. DA 21-181 Montana Supreme Court, Opinion Non-Cite Memorandum, 2022 MT 84. Opinion is also reproduced on Appendix A.
- Alia Day Floren V. Javier Bautista-Scheuber, No. DR-18-796
Montana 4th District Court's Judgement Dismissing Motion M.R.Civ.P. 60 Relief of Judgement: reproduced on Appendix B.
- Alia Day Floren V. Javier Bautista-Scheuber, No. DR-18-796
Montana 4th District Court's Judgement: reproduced on Appendix C.

VIII - JURISDICTION

The Montana Supreme Court entered its Opinion denying my appeal on April 26, 2022, in case DA 21-0181. This Court granted on July 22, 2025 a 60 days extension to file Petition for Writ of Certiorari until September 23rd, 2022. On December 9th, 2022, February 10th, 2023 and April 14th, 2023 the Clerk requested corrections on my petition and gave – in each occasion - 60 days to complete them. Hence, my petition must be postmarked no later than June 13th, 2023. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

IX - STATUTORY PROVISIONS INVOLVED

United States Constitution - 14th Amendment:

Rule 60 of Civil Procedures: see Appendix D.

Uniform Marriage and Divorce Act (UMDA) Section 305.

American with Disabilities Act (A.D.A.).

X - STATEMENT

My wife, Alia, completely broke down and attempted to commit suicide, when she realized that (during our journey across South Africa) she had been fooled by some cassanova into giving up her marriage. Regrettably, I have always been denied the chance to tell Alia that I understood and still love her. As evil as it sounds, concealing the real reasons why Alia tried to take her life, Alia's counsel used said attempt of suicide to come up with false allegations of abuse, in order to force an

advantageous end of the marriage (for her mother's and her current drug-addict partner's delight). In other words, horrifyingly enough, Alia's counsel use false allegations of abuse to produce the very causes of Alia's attempt of suicide (see Appendix C-1, E-1 and F-1, and F-10, F-14, F-29 and F-30). As I was discriminated and retaliated against based on my disability and was, consequently, not allowed to appear at District Court's hearing, and have subsequently never been heard, I am appealing to the United States Supreme Court asking to have the marriage's dissolution stopped and District Court to, once and forever, hear the case.

XI - FACTUAL BACKGROUND

1. As the record shows very clearly, Alia used to be a depressed, suicidal young woman and had always been an overall mentally very fragile person, who would very quickly break down whenever left alone (see Appendix H for full explanation)

1.1 Our marriage had to confront formidable obstacles from the very beginning.

1.2 Alia's tragic early-childhood: Alia's father (allegedly) kidnaps his baby daughter and commits suicide after returning it to her mother (Robyn) one year later.

Robyn engrained in Alia the notion that they were bound to be together forever (Appendix F-14 & F-10).

Alia: "My mother, Robyn Dawn Floren, is my best friend, and it is excruciating to be away from her (Exhibit A). Being her only child, we have a very special relationship. This relationship is even stronger than most mother-child relationships, because when I was a baby, I was kidnapped by my biological father. Because my mother missed my first steps walking, my first words, and my first teeth, she has committed herself to being with me during every important moment. We are united in our struggles, and desperately need each other for moral support."

1.3 Alia is induced into drugs at the age of 11. Robyn opined their bond included doing drugs together: her daughter needed to know she could trust her mother with anything. Alia so becomes a depressed, unstable and suicidal teenager.

1.4 Against the virulent opposition of her parents, Alia fights fiercely for her love and marries me.

1.5 After my forced departure, Alia falls back into depression, starts having again suicidal thoughts and, finally, has to leave everything and joins me overseas. Thankfully, Alia also quits all drugs.

Alia: "I took a bunch of psychedelic mushrooms, and hung out in a hotel bathroom for hours ... was a great bonding experience for Rob [Robyn D. Floren] and I before I leave. We needed that."

"I know I'm crazy. I really feel like if you had known how crazy I am, you wouldn't have married me. I just need to be assured that you still love me. I don't love myself.

I'm sorry if I get frustrated when you tell me things. Many times, it's because I feel insulted. I don't deserve you Javier. I wish I could express how awful I feel. How inadequate. I feel like a total failure, to myself, to you, to my family. Why do you love me?"

1.6 Over the next couple of years, Monkey (Javier) and Bunny (Alia) travel the world together. we were like children buddies that just wanted to play, explore and resolve the maze of life together.

1.6.1 Alia fights again fiercely and decisively for me, in order to get my green card approved.

1.6.2 Alia to Immigration: "If you know anything about what it means to have someone so important in your life that you will risk everything to be with them, then maybe you can understand my dilemma."

Alia: "If you know anything about what it means to have someone so important in your life that you will risk everything to be with them, then maybe you can understand my dilemma."

"Our love is heard in the stories we tell and the laughs we share. Our love is imprinted in every photo we have taken together. Our love is witnessed in the sacrifices we have taken to be together."

I made many difficult choices so I could be with the man I love.

My marriage was difficult before it even began. I endured intense scrutiny from my family. They all selfishly wanted me to fulfill their own desires. When I told my parents I was getting married, both of them began a dialogue of, "She HAS to..." They were convinced that my marriage was ruining my life.

Every dream I ever had was being demolished. They never considered that dreams change, or that I could still accomplish my dreams. They had forgotten that my dreams were my own. They had selfishly taken on my dreams, and didn't want to let them go. They expected me to fulfill their dreams."

Robyn Floren (Affidavit for Immigration 2011 – Appendix F-10): "Within a year Alia began to establish the future she envisioned for herself and determined the path in which she planned to make these dreams a reality. Her plan to graduate with a Bachelor of Science in Forestry was to be complemented with entering the Peace Corps with the possibility of continuing her education after the Peace Corps to achieve a master's degree."

"This continued on my wedding day. My mother attempted to make every decision. She even told me that the wedding wasn't for me, it was for her. She was again trying to use me to accomplish her own dreams, and this hurt me."

My parents were suspicious of my husband. My father verbally assaulted him on our wedding day, by asking him questions in attempt to expose him as an awful person. My mother did the same thing just a week later, by telling him that she would not accept her grandchildren being born outside of the US, and even asking if he was going to put a veil on me."

Robyn Floren (Affidavit to Immigration 2011 – Appendix F-10): "In the event of Javier and my daughter not returning to the United States, the possibility of my grandchildren being born on the other side of the world would cause hardships on my daughter and our family. The financial and time constraints in my life would not allow for me to be there with my daughter when my grandchildren are born. Not being with her to offer support and help, as well as the personal hardship this would place on me, would change the family ideals my daughter was raised with. Alia would be left to begin life as a new mother without the family and friends she would need for support and for sharing the joyous event of raising children together."

"My parents went crazy when I got married, and while this may be understandable to some point, the lack of restraint they used is not."

My wedding day was a very happy day for me. When I look at the photos, I remember how happy I was.

But, I also see my parents, and it makes me sad that they couldn't enjoy my happiness.

My husband had to leave very soon after we were married, and I was left alone in Montana. I can remember the day I left him in Seattle. We sat on the curb outside my friends house, not knowing how long it would be until we saw each other again. I could barely stand it as I watched him in the rearview mirror of my car as I drove away. I struggled the next eight hours to make it back to Montana, where I finally broke down and cried.

The next months were lonely, but we were still hopeful that something would work out with immigration.

I worked for the Forest Service, trying hard to keep going without my husband. Near the end of the summer, I finally could not stand it any more, and had to leave the country to see him. I spent one week

in Cancun, Mexico with my husband. Sitting on the beach, making sand castles, cooking food in hostels. This was our honeymoon.

Going to Cancun made it even harder for me when I got back. Having a taste of what it was like; remembering the feeling of being with that one person that meant more to me than anything. I had a hard time those next couple weeks. School had started, and I was working on my last year of forestry studies. But, I couldn't focus, and I wasn't able to get my work done efficiently. All I could do was think about being with my husband. I was in a bind. I couldn't stand being away from my husband, but I couldn't imagine withdrawing from school. But, eventually, it became too much, and I made the very difficult decision of leaving my studies. Once again, I was under intense scrutiny from my family. My father was the worst, and I still have nightmares about the way he spoke to me. I was an utter failure to him, and he treated me like I had just committed the worst crime ever. Again, this was because I was not fulfilling his dreams. It was not his decision, and he hurt me very badly. I barely spoke to him before I left the country for good."

It's not easy to live in a world that you can't adequately interact with, and my husband understood that. He did all he could to inform me of what people were saying, and to include me, but he could only do so much. I appreciate everything my husband has done, but unfortunately he couldn't always help.

From the beginning, my marriage was stressful and troubling. But, this was not because of the relationship itself. My husband and I are tight.

Javier and I are both simple people. We don't watch TV, we are both very stingy with money, and we enjoy the simplicities in life. We love to cook together. Cooking together is how we fell in love. We also love to dance, and while I am the better dancer, I would say that neither of us is very good at it. We are often laughing and joking, and we really like to tease each other. We are very happy people.

I was enamored with him immediately. He is funny, charming, helpful, and completely harmless. I thought he was a little strange, and that is one of the things I grew to love so much about him.

I love my husband, and I can tell you, that he loves me too. This man has comforted me through all the stress of being away from home, in an unfamiliar setting, without the ability to communicate. We share stories of our travels, but we also share dreams for our future. We are in this together.

I will do anything to prove that my marriage is bonafide and true. I know you have told me not to come back to Montana for the interview, but I'll tell you now, that if it will make a difference for me to come and demonstrate the validity of my marriage, I will still come back."

From Alia's emails to Immigration Officer Erminia Kirschman.

1.7 In late 2012 we move into Alia's family's house and for the next couple of years live the happy life of a young couple in beautiful Montana

2. After six wonderful years of marriage, Alia is conquered by a 56-years-old playboy and completely breaks down mentally (to the extent that she attempts suicide): see Appendix H.

2.1 In 2015, we traveled with our 1974 Land Rover all across Africa, from Tangier to Cape Town.

2.2 Gary, our Capetonian mechanic, is the kind of disgusting cassanova, who enjoys conquering women just to feed his macho ego; but has no intention to leave his wife.

2.3 When Alia realizes that she has been fooled, she completely brakes down. She would never be able to find the courage to tell me, that she had fallen in love with somebody else. Instead, she put the blame on the burden that all of a sudden my visual impairment represented for her.

However, when I tell her that she does not need to cook dinner for me - I was perfectly able to take care of myself -; awkwardly, she angrily replied that, if I did not want her to cook for us, she would leave

and move in with Gary and his wife. Alia had indeed broken down: Gary did not love her and, now that she had betrayed me, - she reckoned - I was never going to love her again as much as she needed.

2.4 Alia tries to commit suicide, and, shortly after arriving back in Montana one week later, she is allegedly diagnosed Post-Traumatic Syndrome. Contrary to what Alia's counsel would deceptively allege two-and-a-half years later, Alia's mental breakdown did not result from any domestic violence.

I never ever abused Alia in any way. I have always loved and cared for her, for the very simple reason that nobody has ever believed in me like she did, and for somebody like myself, who was born with a severe visual disability, that meant very much to me. It is an indecent shame that the Montana courts have always wanted to turn a blind eye on false allegations of abuse.

3. Back with her parents - and soon with a new drug-addict-and-abuser partner -, Alia gets manipulated and poisoned against me: she enters in denial, starts blaming it all on me and becomes really hurtful (see full explanation in Appendix H).

3.1 Regretably, since Alia always denied it, I will only learn the true reason for the break-up, after I go back to Cape Town in 2017. Back with her parents, Alia instead starts arguing, that I was useless and had never loved her enough; yet, simultaneously, she remarkably says that she had been "an asshole to me in the best of times", Still, she blames me for her attempt of suicide and demands that I send her money.

Alia: "did you never believe I tried to hang myself in the first place? Actually, I tried to hang myself, then suffocate myself with a large plastic bag and belt, then went to the idea of cutting my wrists", "I was an asshole to you in the best of times", "What I have done is to destitute myself", "many people have told me I should sew for alimony. I don't want that"

3.2 Despite her depression and continued suicidal thoughts, Alia takes a summer job in Alaska, where she meets Cecilio, an illiterate drug-addict and abuser, who puts her back on drugs.

Sabrina (Cecilio's childrens' mother): "He is over there recovering from a drug addiction to crack cocaine. He is not a good person to be around at this time, he is only using her."

3.3 In 2017, I go back to South Africa to prove to Alia that I am not useless. I wanted to fix the Land Rover, find somebody who could drive it, complete our journey without her and then, come back for her to tell her that I still love her (see TygerBurger article in Appendix F-30). Yet, I fail and become blind

Alia learns about my ordeal, feels guilt-ridden and contacts a childhood-friend of mine to explain herself

"Dim, I don't know what Javier has told you. If you have even spoken. Things between us fell apart in africa. We both played our parts in the failure of the relationship. You have been friends with him a long time. Believing him and hating me would only seem fair.

This is not about allegiance or which of us did what. I am writing because I have been contacted by some close old friends of Javier's here in America who are very concerned about him. they received an email from a person whom knows Javier in South Africa. It seems he has been evicted from the place he was staying, is not doing well, and is experiencing some trouble.

I have written Maria and Cristina, but I was told by Javier's friend that they have been contacted and say he is okay. Apparently he says he is okay to them, but this may not be the case.

If he is not telling the truth and does need help, I don't know what anybody can do if he won't accept help. No matter how you feel about me, I know you care for him and I was wondering if you might check in with him. He won't reply to me. He wouldn't even reply to his old friend in California.

It IS very dangerous in South Africa. Cape Town is super dangerous.

I do hope you are alright. I was always very fond of you. Sorry if you feel betrayed by me.

Best wishes Dim. Alia"

While in Cape Town, I fall even deeper in depression: I started mistreating and poisoning my eyes with some eye drops that I knew were in bad condition; I hated my life. I remained in South Africa, stubbornly and insensibly insisting in trying to save the Land Rover, but had to finally give up: I was getting blind.

3.4 In 2018, while I am in NYC having eye-surgeries, Alia's mother writes me threatening to dump all my belongings kept in her house, if I do not come to get them out. When I finally go, they call the police on me, alleging I had come to stalk and harass Alia.

4. In November 2018, concealing the real reasons why Alia tried to take her life, Alia's counsel used said attempt of suicide to come up with false allegations of abuse, in order to force an advantageous end of the marriage, for her mother's and her current drug-addict partner's delight (see Appendix C-1, E-1 and F-1, and F-10, F-14, F-29 and F-30).

IN November 2018, at the same time that Alia's counsel files a petition for dissolution of marriage, they request an order of protection against me, alleging I had physically, verbally and psychologically abused Alia throughout our marriage. I am not allowed to file any of all the evidence proving the allegations of abuse false: I am denied the needed reasonable disability accommodations in the form of assistance filling out the 'Notice of Filing' form, and - without it - I am not allowed to file any evidence (see Appendix G-1 and G-2). Consequently, although no acts of domestic violence are found, District Court judge Karen Townsend issues a 6-months temporary order-of-protection (see Appendix F-4).

In January 2019, I move District Court for an extension of deadlines on the dissolution procedure, since, over the following year I will need to have eye-surgeries overseas. District Court never rules on my motion.

In late December Alia's counsel moves for a Status Conference to schedule the dissolution final hearing. At the 2019 New Year's Eve Status Conference, I express my desire to attempt mediation; but this is denied. Although I am expecting to undergo a new surgery in early 2020, District Court schedules the dissolution final hearing for February 28th, 2020.

4.1 At the February 28th, 2020 final dissolution hearing, I am again discriminated against for my disability, having my request to be allowed to appear telephonically denied; I am so not heard and Alia's counsel gets to write up, from top to bottom, the decree of dissolution, which is signed off by District Court judge Jason Marks without the slightest review for errors.

By the beginning of the hearing I submit the detailed motion that I have been conscientiously preparing explaining the need for mediation (Alia is mentally ill and it would only be counterproductive and pernicious to shred each other to pieces in court); but it is straightout denied. I also indicate that, since the hearing had been unanticipatedly and precipitiously scheduled eight weeks earlier, I had not been able to find a Modest Means attorney ready to represent me; but my request for additional time gets as well denied.

Moreover, crucially, District Court's decision to dismiss my request to be allowed to appear telephonically is discriminatory against my disability: despite the far more severe accessibility problems that I struggle with, I am denied the 15-minutes grace period that District Court grants otherwise to anybody who has problems finding parking near the courthouse.

"THE COURT: Well, I traditionally give people a 15-minute grace period in case there's difficulties with parking downtown. MR. PAUL: That seems reasonable"

"motion to appear by phone is not timely as it came in after the time set for the hearing to start and it was just a stroke of luck that the clerk happened to see it here in court."

Per the dissolution-hearing's transcript, District Court fails to take the oath to Alia and then misrepresents her testimony on the decree of dissolution.

Needless to say, since I am not allowed to appear and be heard, Alia's counsel incorporates verbatim his Proposed Marital Property Distribution to the Decree of Dissolution, even though no evidence is ever presented on the values of any of our property.

4.2 Albeit no notice was ever given that any request for a Protection Order will be heard (and I was so unable to say a word in my defense and be heard), District Court grants - without the slightest review of evidence, but mendaciously fabricating some - the most abominable Permanent Protection Order against a blind man, who has stayed for years thousands of miles away from the protected person and the male partner she lives with, and has not even tried any phone contact either.

during the dissolution hearing, Alia's counsel additionally requests a Permanent Order of Protection against me. Although District Court has never given me any notice that it would hear any such matter, and I am not allowed to say a single word to defend myself and be heard, District Court, without

the slightest review of any evidence in support of the request for protection, grants the Permanent Order of Protection (against a blind person like myself, , mendaciously stating that - on some previous District Court hearing - it had been found that I committed acts of domestic violence against Alia (see Appendix E-1 and F-1). District Court's affirmation is a blatant shameless and indecent falsity, since no court has ever found any act of domestic violence committed by me (see Appendix F-4).

4.3 On March 11th, 2021, my Rule-60 motion to obtain "relief from judgement" and have the Decree of Dissolution set aside is straightout dismissed by District Court with the only statement that "it is untimely and facially without merit" (see Appendix B-1).

Since I have not been allowed to appear and be heard at the hearing, and the Decree of Dissolution is so elaborated with incomplete and incorrect information, I resolve to set out to file a Rule-60 motion seeking to have the decree set aside. However, - at the time - I am a blind person living by myself in NYC, COVID19 has just broken out, 'Stay-At-Home- orders are issued and my plans get stalled. My eye-surgery (originally scheduled for early 2020) is cancelled because of COVID19 and my cornea worsens dramatically. As much as I desperately insist to have it reschedule, it will not happen until the summer. Since, by the time I have my surgery, it is too late for my cornea, I travel to Europe, looking for a new, advanced therapy with mesenchymal (non-embryonic) stem cells. However, that does not work out either, and I therefore come back to the United States to prepare and file my Rule-60 motion.

On March 9th, 2021, exactly one year after issuance of the Decree of Dissolution, Findings of Fact and Conclusions of Law, I file my Rule-60 motion arguing, among other issues, that District Court failed to consider all relevant factors giving rise to filing the petition for dissolution of marriage, and detailing the several points where the the Division of the Marital Estate is unconcionable and not equitable. However, District Court does not address any of the issues in my motion and straightout dismisses it two days later, with the only statement that my "motion is untimely and facially without merit". Given that I was claiming grounds for relief under subsections b-5 and b-6 of Mont. R. Civ. P. Rule 60 (exactly equal and equivalent to the letter to Fed. R. Civ. P. Rule 60)), I was required to move within a reasonable time. Yet, District Court dismisses my motion as untimely without using a single word to explain why it believed I had not acted within a reasonable time.

5. I was repeatedly discriminated against based on my disability by the Montana courts, and when I filed a Human Rights complaint to denounce it (see Appendix G-2), - according to the Montana Human Rights Bureau's determination - they retaliated against me (see Appendix G-1).

5.1 At the time the petition for dissolution of marriage was filed in November 2018, I was not allowed to file the evidence proving the allegations of abuse false.

From then on, as grotesque as the allegations were, not only was I stigmatized as an abominable abuser, but I also got completely disconnected from Alia and was deprived of any option for an amicable resolution. Since I am blind, I needed somebody to assist me filling-in my answers on the 'Notice of Filing' form; so that I would be allowed to file my evidence. Regrettably, my request for said reasonable disability accommodations was denied both, by the clerk of District Court and the Self-Help Center of the Montana Office of the Court Administrator, dependant of the Montana Supreme Court (MSC). I was denied reasonable disability accommodations on as many as three different occasions. For this reason, in November 2018, I filed a complaint for discrimination with the Montana Human Rights Bureau. When I tell the staff of the Self-Help Center about my complaint, they reacted retaliating against me; advising that I was no longer welcomed there.

5.2 District Court's decision to not allow me to appear at the final dissolution hearing was discriminatory against my disability.

One year after I first filed my complaint for discrimination and retaliation, I was discriminated against once more as my request to appear telephonically at the final dissolution hearing was inequitably deemed untimely and therefore denied: Indeed, I was denied the 15-minutes grace period District Court otherwise gives to people who may have difficulties finding parking near the courthouse (see section XI - 4.1).

5.3 During my appeal to the Montana Supreme Court (MSC), I am discriminated against once more, as my requests for reasonable disability accommodations are mostly denied (see Appendix G-12, G-25 and G-26).

in January 2022, as I was preparing my appeal brief, I requested permission to submit my brief electronically as a reasonable disability accommodation. I explained that, if I was required to submit my brief in paper format; since I am blind, I would not be able to review and check my printouts for errors.

Yet, I would still be held responsible if the brief the appendices or any of the copies did not print out correctly.

Albeit, at a first glance, the Montana Supreme Court (henceforth MSC) grants my request; per MSC's subsequent order of February 3rd, 2022, I learned that my reasonable disability accommodation was granted at the expense of abridging my right to make requests, not only for additional reasonable disability accommodations I may need, but also on any other totally unrelated issues; namely, for example, my request for permission to exceed the appeal brief's 5000-words limit (See Appendix G-12, G-25 and G-26). On its February 3rd order, MSC argues that, for that purpose, they had already allowed me to submit my brief electronically. That is, they argued that they had already allowed me to submit my brief electronically, so that I am able to comply with all other rules and formatting requirements; including (explicitly) the requirement to limit my brief to 5000 words (see Appendix G-26). The reasoning, however, clearly does not make any sense, since the possibility to submit my brief electronically does not help in any way to format my brief correctly or limit the brief to 5000 words.

Consequently, on February 9th, 2022 I move for clarification on reasonable accommodations (see Appendix G-12), asking to be exempt from compliance with the formatting requirements (font style and size, line spacing, etc., which I could never be certain to meet, due to my blindness) and also arguing that it is discriminatory to handicap my request for permission to exceed the brief's 5000-words limit, just because I had previously been granted one reasonable disability accommodation, in the form of permission to submit my brief electronically. Furthermore, I explain that, if MSC deems that my disability does not entitled me to said reasonable disability accommodation, they should take it back; but then rule, always independently, on my request for permission to exceed the brief's 5000-words limit. However, MSC never made any modification to its previous orders: it does not grant reasonable disability accommodations to exempt me from meeting the formatting rules, nor does it waive the requirement to limit my brief to 5000 words.

6. By way of trickery, I was deprived of the assistance of a professional attorney, that a blind person like myself so critically needs.

Although I am eligible and was approved for the Montana State Bar's Modest Means Attorney Referral Program, eventually it became impossible to get the assistance of an attorney. Since they made me wait as many as three months before actually issuing an attorney referral, by the time I finally receive it, there were only two weeks until my appeal brief was due, and the assigned lawyer explained that he was booked and could not really assist me. Oddily enough, when I ask him for assistance with my Reply Brief, he argues that he will be busy for the next several weeks, but instructs me to contact him back once MSC issues its order. Finally, when I request a new attorney referral, I have to wait again weeks before I get an sterile answer. Needless to say, for a blind person like myself, it was an incredibly difficult and complicated endeavor to do all the legal research, as well as the logistic and editing work, crucially needed to prepare and conduct a strong and correct appeal.

Regrettably, the Montana Legal Services Association and the Montana State Bar's Modest Means Attorney Referral Program declined again to provide any assistance to prepare this petition for a writ of certiorari.

7. On April 26th, 2022, upon appeal to the Montana Supreme Court (MSC), District Court's dismissal of my Rule-60 motion is reaffirmed. MSC, in the same fashion as District Court, completely ignores and does not address any of the issues I present for appeal; but instead limits itself to opine that my Rule-60 motion to set aside the Decree of Dissolution was untimely, because my request to be allowed to appear telephonically at the dissolution hearing had been untimely... (see Appendix A-1).

Indeed, MSC also completely ignores and does not address any of the issues I present for appeal (whether District Court had failed or not to consider all relevant factors - e.g. Alia is mentally ill and the evidence of duress she has been under - giving rise to filing the petition for dissolution; whether the distribution of the marital estate was reasonable-and-equitable or not; whether District Court had been deliberately biased or not; whether I had been discriminated against or not; whether there had been misconduct by opposing counsel or not; etc.); but instead limits itself to opine that my Rule-60 motion to set aside the Decree of Dissolution was untimely, because my request to be allowed to appear telephonically at the dissolution hearing had been untimely...

7.1 In order to avoid addressing all the grounds for relief I allege under subsection (b)(6) of Rule 60 of Civ. P., MSC makes a first argument deceptively alleging that "by moving for relief under Rule 60(b)(5) (as well as Rule 60(b)(2) and (3)), "[r]elief under Rule 60(b)(6) is not and was not available to him."

However, MSC also admits, albeit rather unfathomably and dubiously, that "relief is only "available under M. R. Civ. P. 60(b)(6) 'for situations other than those enumerated [?] in the first five subsections of the rule.'"; which can only be made sense of as: relief is available under Rule 60(b)(6) for those situations (facts and circumstances) that relief under the other five subsections of the rule is not available. In other words, relief is not available under Rule 60 (b)(6), if it is also available, for those same facts and circumstances, under any of the other five subsections. But the availability of relief for some facts and circumstances under any of the first five subsections, does not exclude relief under subsection (b)(6) for different facts and circumstances." In fact, MSC's new interpretation of Rule 60 is in contradiction with the doctrine expressed by the very same court in *Maulding V. Hardman*: "the party is not entitled to relief under subsection (6) based on the same facts or circumstances", but also: "The subsection (6) motion, however, was based on different facts and circumstances ... These facts and circumstances do not fall within one of the other subsections of the Rule; thus, Hardman is not precluded from relief under subsection (6)."

Moreover, MSC's new interpretation of Rule 60 - if upheld - will lead to absurd and grotesque situations, where - for example - a litigant may be able to prove that the District Court judge was corrupt, or he may have been denied legal counsel; but, if he has also sought relief under subsection (b)(5), considering the decree of dissolution to be unconscionable and non-equitable, he would be automatically barred from relief for District Court's corruption.

7.2 MSC does not use a single word to address my claim for relief based on District Court's blatant corruption. If relief had been granted in cases of potential judicial bias (Shultz V. Hooks), even more so should it be granted in cases of gross judicial bias.

7.3 Once MSC has ignored and negated my allegations seeking relief under Rule-60's subsection (b)(6), MSC identically avoids addressing my claims for relief under subsection (b)(5), by blatantly misrepresenting my argument in support of said claims, and consequently comfortably counter-argue, that I am not entitled for relief based on the Decree of Dissolution being unconscionable and not equitable, because my request to be allowed to appear telephonically at the final dissolution hearing had been untimely.

Indeed, in my Rule-60 motion, and then again in my Appellant's Opening Brief, I provide several concrete reasons whereby I consider the Decree of Dissolution to be unconscionable and non-equitable namely, among several other things, the decree never made any kind of informed assessment of any possible need for maintenance. Also, it required a blind man, who has lived over two years in a homeless shelter, to indemnify his wife with an amount higher than their Land Rover's purchase price, in exchange for keeping ownership of said vehicle, which had been abandoned broken-down in South Africa in 2016; while she is still exempt of all the financial obligations and debts still attached to the car, and, adding insult to injury, omitting and disregarding the fact that he became blind desperately trying to save said Land Rover). However, not only does MSC omit and avoid once more addressing the 6 - 8 reasons I provide, whereby I consider the Decree of Dissolution unconscionable and non-equitable; but it even blatantly misrepresents my own argument and so misquotes me deceptively alleging that I had argued, that the decree of dissolution had been unconscionable and not equitable, just because District Court had ruled based on incomplete and or incorrect information. From MSC's Opinion:

"Javier contended, in his motion, that Rule 60(b)(5) was applicable because: The Decree of Dissolution is not equitable nor reasonable[.] Respondent could not participate at the final hearing and the court elaborated the Decree of Dissolution with incomplete and or incorrect information[.]"

If that had been the argument, it was then obviously going to be easy for MSC to counter-argue, that it had been my fault if District Court did not have complete and correct information, because I had first failed to provide my disclosure of financial status and, later, my request to be allowed to appear telephonically at the dissolution hearing had been untimely. Regrettably, MSC cleverly negated that,

precisely for the very reason to furnish District Court with complete and correct information, I had filed my Rule-60 motion with District Court, before filing an appeal to MSC.

7.4 MSC's efforts to avoid addressing the merits of any of my alleged grounds for relief, is in contradiction with the steadfast held nationwide doctrine, that "cases of extreme hardship or injustice may be brought within a more liberal dispensation than a literal reading of the rule." Wright and Miller, Federal Practice and Procedure, Vol. 11, § 2864.

In fact, in Koch v. Billings School District No. 2, MSC quoted Wright & Miller to grant relief, despite a delay of well over a year to file the Rule-60 motion. Of course, for MSC it had been as easy as to be unimpressed with the severity of my hardships, to render my argument impotent. However, if that was not the case, but, rather, MSC did not even tried to address the merits of my claims for relief, we can only guess why it failed to even express any such skepticism.

7.5 given that District Court never allow me to appear and defend my case, if MSC refused to hear and address my claims, whereby, among other issues, the marital estate's distribution was unconscionable, and District Court had been blatantly biased; it directly follows that my very basic consitutional rights to be heard and to receive due process of law, had been violated.

In fact, I might had proven that the terms of the decree of dissolution were completely unconscionable, and the District Court judge had been corrupt; but, just because the very same corrupt district court judge had deemed my Rule 60 motion as untimely, my entire case would have passed absolutely unheard and I had been left totally helpless. MSC could not simply ignore my arguments - and consequently turn a blind eye and render me totally helpless to any excruciating injustice I might hadbeen subjected to -, and limit itself to whether District Court abuse its ample discretion to determine my Rule 60 motion as untimely. Alia's counsel never presented any evidence on the value of the Land Rover; but instead he just came up with some arbitrary amount (higher than the actual initial purchase amount). Hence, by his whim, he might have as well entered on the Decree of Dissolution an indemnification of 1 million dollars, and MSC would not have had anything to say about it, since it would have never heard it.

Moreover, I was not even ever given the chance to say whether I wanted at all to keep ownership of the Land Rover or not. Given that I am blind and cannot drive, the car was abandoned broken-down in South Africa in 2016, and I am not even allowed to go back to South Africa (since I was barred after I overstayed my South African tourist visa); it only makes sense that I had not had any interest in keeping

ownership of the Land Rover. However, since I was never allowed to speak and be heard, I could only endure the terms dictated upon me. Indeed, one day I found that the Montana courts had dissolved my marriage, all my belongings had been taken away, my wife had been taken away, my eyes had been taken away, and I never had any chance to say or do anything about it. The Montana Supreme Court (MSC) needed to hear my case and then - at a very minimum - say that my arguments were ridiculous and without merit.

7.6 Since MSC agreed that my Rule-60 motion had been untimely, MSC determined there was no need to address any of the issues brought on appeal. Consequently, all my allegations were left unheard and District Court's decision to dissolve our marriage was reaffirmed: my allegations that Alia may have agreed under dures to the dissolution of the marriage was therefore likewise left unheard; if there was ever any truth in my allegations, we can only see that Alia - mentally ill as she is - was abandoned unprotected, just because I had filed my motion untimely.

In my Rule-60 motion (and then again later in my appeal to MSC), I provide extensive evidence of the dures and manipulation Alia has been subjected to, and argue that District Court had consequently not complied with MCA 40-4-107 in its determination of the irretrievability of the marital breakdown:

"Under the UMDA, [the parties cannot expect to] just tell a judge their marriage is irretrievably broken and automatically be granted a dissolution. "[Section 305 of the UMDA] makes the the determination of whether the marriage is irretrievably broken, in all cases, a matter for determination by the court, 'after hearing,' which means 'upon evidence.'...The determination of breakdown should be a judicial function rather than a conclusive presumption arising from the parties' testimony or from the petition."'" (Marriage of Kraut).

Yet, District Court unquestionably and unhessitantly accepted the blatantly manipulated and untruthful testimony of a mentally-ill person (Alia) stating the reasons and agreeing to the irretrievability of the marriage; despite all the evidence of dures, pressure and manipulations Alia has suffered (Although Alia has openly admitted to suffer PTSD, having tried to commit suicide, experiencing hallucinations and having been pressured to sued me; District Court still unquestionably and unhessitantly accepted her - per the overwhelming evidence presented - blatantly false explanation that the marriage was irretrievably broken due to the - falsely alleged - beatings she received from me during our marriage (see Appendix C-1)). Now, I am ready to understand that MSC may opine, that my claims (according to which Alia had testified under dures) were totally ridiculous and bore no merit; however, MSC needed at least to hear and

address said arguments (even more so if District Court had not done so before), or a mentally ill person (as Alia has admitted to be) would otherwise be left completely without protection. In this particular respect, if MSC ever deemed that, because I had not acted within a reasonable time, I deserved any excruciating injustice, the argument definitely cannot be applied to leave Alia helpless. Clearly, she cannot be held accountable for my negligence. In other words, Alia, for example, may have testified under death threats, agreeing to the marriage's dissolution; but MSC would not have heard it and would not have had anything to say about it, because I had not filed my motion within a reasonable time.

7.7 MSC reaffirmed District Court's determination that my Rule-60 motion seeking relief from the Decree of Dissolution had been untimely, alleging, on a first argument, that mine had been a 'motion on appeal', and, secondly, that - since my request to be allowed to appear telephonically at the dissolution hearing had been untimely - it was rational to deem that I had not moved seeking relief from the decree of dissolution within a reasonable time.

7.7.1 Given that I could not have directly appealed the Decree of Dissolution (but before I could argue that District Court had erred, I first needed to furnish it with the complete and accurate information, that District Court did not have available at the time the decree was prepared, since I had not been allowed to appear at the hearing), it is disingenuous to argue that mine was a motion on appeal.

Opposing counsel already made the argument that mine had been a motion on appeal in his Appellee's Response Brief. However, I already clarified in Section II of my Reply Brief, that I did not file my Rule-60 motion as a substitute to an appeal, once I had realized that I had missed the deadline for an appeal. Rather, I could have never appealed directly, but had to first file a Rule 60 motion. Per MSC's Civil Handbook, the purpose of the appeal process is to point out where did the District Court err. However, given that I was not allowed to participate at the dissolution hearing, the District Court wrote up the Decree of Dissolution with incomplete and incorrect information. Consequently, I did not have any legitimate claim pointing out District Court's mistakes by means of an appeal, but, rather, I first needed to file a Rule 60 motion to furnish District Court with accurate information. Now, given that I had already provided this explanation in Section II of my Reply Brief, it can only be seen as disingenuous that MSC still alleged mine was a motion on appeal, without even offering any argument correcting my reasoning. Moreover, in Koch v. Billings School District No. 2, MSC itself quoted Wright & Miller to agree that relief may be available upon motion on appeal in cases of extreme hardship or injustice: : "a party who has not taken an appeal may obtain relief on motion"

7.7.2 On a second argument, MSC awkwardly reasons that I did not move for relief from the decree of dissolution within a reasonable time, because my motion to appear telephonically at the dissolution hearing leading to the Decree of Dissolution, was not timely made.

Yet, undoubtedly, whatever negligence I may have incurred in prior to the release of the Decree of Dissolution, does not speak anything to any negligence after the Decree of Dissolution was released; which is, obviously, the matter in question in order to determine the timeliness of my Rule 60 motion seeking relief from said Decree of Dissolution.

In re Marriage of Waters MSC explains:

"What is a reasonable time will depend on the particular facts of the individual case", where "relevant to the determination of timeliness is [(1)] prejudice to the party opposing the motion and [(2)] the basis for the moving party's delay".

Yet, (1) neither opposing counsel, District Court nor MSC were ever able to make any allegation, whereby the delay to file the Rule 60 motion caused Appellee any prejudice. Likewise, (2) MSC does not spend a single word to argue why they believed, that I did not moved for relief from the Decree of Dissolution in a timely manner, but - as they so deemed - I was negligent during the relevant time spanning from the day the Decree of Dissolution was signed off to the day I filed my Rule-60 motion to have it set aside. Hence, since MSC does not have any argument to think the circumstances I allege to justify the delay are not reasonable, it follows that, while they believe my Rule 60 motion was untimely, they do not see any reason to disagree that it was filed within a reasonable time. In summary, the arbitrariness of MSC's argument to reaffirm District Court's determination of untimeliness can be easily illustrated in a few words by the fact that, if I had been on life support in a hospital from the day the decree was signed off, until the day the Rule 60 motion was filed, the very exact argument would have been equally applicable, word by word, to sustain that I had been negligent and not moved within a reasonable time.

XII – REASONS TO GRANT PETITION

1. If we do not observe the values of the Constitution, we will become a lawless territory

This case does not seek the Court's clarification to a heated judicial controversy on a crucial matter of national relevance. Rather, this case aims at something more important: namely, to remain steadfast to the most basic and fundamental principles of our democracy. Indeed, it does not serve any purpose to resolve all judicial controversies and achieve a clear interpretation of our laws, if then little is done to

actually upheld and observe those same laws. Fortunately, nobody questions today the values and rights represented in the constitution and we all so embrace it as the supreme law of the land. Exactly for this reason it is critical that the constitution, and the values and principles contained therein are enforced. Otherwise, if the law of the land is only good on paper, then it is as good as no law at all. In other words, we will effectively become a lawless territory

This case shows that, whatever the struggles the courts may feel to correctly interpret the laws, they are nothing compared to the deficiencies they exhibit in their overarching responsibility to ensure that those laws, principles and values are respected and observed.

Clearly, it is difficult to find any principle more fundamental to our constitution than the right to be heard and the promise that all men and women are equal to the law. Yet, as the factual background above shows, the judicial system has forgotten to be good on said promise and principle. The courts are too busy and concerned with costs, that they no longer have time to see to protect the rights of mentally or physically handicapped litigants. My wife's mental-health problems were abused and she was made into a puppet to serve and satisfy the interests of some other individuals. Similarly, I was discriminated and retaliated against because of my disability and not allowed to make my case. In fact, I was not even allowed to speak and be heard; but instead the opposing counsel got to write up to his heart's desires District Court's decree. Regrettably, the assumption, whereby lower appellate courts will always ensure that all essential constitutional rights are observed, simply does not hold.

As remarkable as the American constitution is, it is only a crying shame that The American judicial system (at least, as what can be seen from the Montana judicial system) has become the worst, anywhere in the world, anytime in History. The first legal codes were elaborated in Mesopotamia at the beginning of the second millennium b.C., in order to protect the people, especially the weakest among them, from the strongest, who constantly prey on them. Regrettably, 4000 years later the judicial system has degenerated to the extent that, now it is the strongest who employs the courts to abuse the weakest. The old Medieval Church used to sell indulgences to the most powerful and wealthy individuals to save them a place in Heaven. In contrast, today it is possible to hire an 'influential' lawyer with a good connection

with the local district court judge in order to have one's own paradise right here on Earth. The Medieval Church refused to budge and so the resistance to abolish practices as obnoxious and scandalous as the sale of indulgences, led to the great schism between the Catholic and the various Protestant churches. Similarly, many of us are alerting today, that a society where there is no justice, but the only law really in effect is the survival of the biggest, has absolutely no chance to survive; even more so if the state of lawlessness transcends and becomes blatantly apparent to the mass population. We are told in response that our judicial system and democracy are probably not perfect, but they are better than nothing. We should just hang on, because Justice and Democracy are very complex problems and we should therefore distrust any populist, who comes up with any idea or suggestion on how to improve them. Soon, however, we will be alerted that our beautiful democracy is in danger and they need us to come out to vote and defend it. But, we will be nowhere to be found, since, by that time, the big-and-fat will have at last managed to vanish all of us.

Consequently, if we want to keep our republic, we need to do our homework. Now, it is true that it is beyond the Court's powers and abilities to solve the systemic problems and deficiencies of the judicial system; but it should definitely be of help to correct the worst of the judicial system's abuses and transgressions; particularly those practices which should cause the biggest public outrage. The justices of this Court serve their positions for life and, much unlike our politicians, are therefore reasonably immune from the magnates-controlled Press. If this Court does not find the courage to work for the public wellbeing and the society's prosperity, nobody will be able to do it instead. The Court will not find a better opportunity; it is now or never.

2. Scandalous practices of judicial bias should be stopped or they will utterly destroy the already-damaged people's faith in the judicial system.

2.1 The world will not become any darker to the public, if the judicial system chooses to close its eyes

If MSC had granted relief in cases where a potential bias had been found (Shultz v. Hooks); there were even more reasons to grant such relief if actual bias was as blatant as it was in this case. In fact, for some inexplicable reason, the slightest possibility that any court may have been biased is always outright negated. Considering my experience with the Montana courts, the judicial system's general absolute denial

to accept that there are cases of judicial bias, can only be seen as an incredibly disingenuous wishful-thought to make it dark by closing one's eyes. It certainly is contradictory that so much precaution, sensitiveness and delicacy is taken to prevent potential judicial bias, if, on the other hand, there is such positiveness that no judge will ever allow to become corrupted by any bias.

2.2 It is not enough to clarify the correct interpretation of the law, if spurious interpretations are still allowed to prevail

In its opinion, MSC certainly came up with a truly creative and imaginative interpretation of Rule 60 of civil procedures, whereby a movent would be precluded of any relief under subsection (b)(6), if he ever sought relief based on any other different facts or circumstances under any of the other subsections of the rule (see Section XI-7.1). Still, it does not seem likely that this new interpretation may ever be able to extend to any split: we all know how Rule 60 should be correctly understood. Indeed, we can only ask ourselves why MSC came up with such odd and twisted, new interpretation. Regardless, it does not matter if we all have a good understanding of what should be the correct way to apply Rule 60, if we then still allow new, spurious interpretations to prevail; the end result will be the same. Given the enormous power of Rule 60 (awarding a second bite of the apple or denying a fair trial altogether); it becomes necessary that the Court clarifies what is its correct interpretation, in order to prevent spurious manipulations.

2.3 Disability should not be associated to stupidity or judicial bias.

The set of policies aimed at preventing judicial bias are generally categorized under the labels of judicial misconduct and disability. There is indeed often an odd confusion between judicial bias and disability. Similarly, disabled people are often taken as stupid. Yet, disabled people are neither corrupt nor stupid. We may be slow, but that does not mean that we are stupid. In fact, crooks are in contrast generally pretty quick in their maneuvers. In any case, disabled people certainly do not appreciate to be associated with stupidity or misconduct. Most definitely, disabled people do not very cleverly twist or rewrite the law, in order to back whichever ruling suits the judge best; neither do disabled people misrepresent one-of-the-parties' legal argument, in order to be better able to defeat it and rule against it. Please, do not call disability what should only be seen as corruption.

If a party seeks relief from a judgement issued after only incomplete or incorrect information was available, because said party was not allowed to appear; it is certainly hard to believe, that a court may not be able to understand, that the right course of action is not an appeal, but a Rule-60 motion. Yet, we would all probably agree that it is not possible to draw a line, where suspicion of bias unequivocally switches from controversial to blatant bias. That, however, does not mean that it will never be possible to establish judicial bias. Indeed, the same kind of challenge is faced in order to determine cases of potential judicial bias. In the same way that it is possible to identify a number of scenarios indicative of potential judicial bias, there are certain practices that can only be seen as blatant manifestations of judicial bias. If only to avoid public outrage and preserve the people's trust in the judicial system, certain practices need to be abolished:

2.3.1 It is simply intolerable that an opposing counsel gets to write up, from beginning to end, the court's decree.

2.3.2 It is simply intolerable that a court misrepresents a key witness' testimony (as evidenced by the hearing's transcript) or the court's own records (see Appendix C-1): How come there is absolutely no consequence, if a judge mendaciously declares, that Findings of Fact of acts of domestic violence were made in a previous court hearing (see Appendix E-1, F-1 and F-4).

2.3.3 It is simply intolerable that a court misrepresents one-of-the-parties' written, legal argument.

Not only it is difficult to exercise good judgement with one's eyes closed; but the public will be certain to keep its eyes wide open. If anybody ever fears that the public will be outraged, if a judge ever presides over a case, where one of the parties is a company the judge's spouse works for; the scandal and damage to the public's faith in the judicial system will certainly not be any less, if it transcends that an opposing counsel is allowed to write up, from beginning to end, District Court's decree, as it is general practice in the state of Montana.

3. It is a nationwide problem that disabled people are not equal to the law, because they do not have equal access to the judicial system.

Since A.D.A. was signed into law over 30 years ago, there has been remarkable progress to eliminate the handicaps disabled people experience, in their efforts to access resources and services in the public as well as private sectors. For example, in the field of mobility, paratransit programs have been created and implemented nationwide, and architectural barriers have been removed everywhere.

Regrettably, in the judicial system little, if anything at all, has been done. Now, if mobility is important, justice is in many ways critical in any citizen's life. Indeed, if a citizen is not able to defend her rights because her disability handicaps her access to the court, she will be effectively stripped off her rights. Clearly, a citizen who is not able to defend her rights equals to a citizen without rights. This is a crying shame, given that disable people already face enough challenges in their lives, that the abolition of their rights do not need to be one more addition to the list. Yet, here we go again, nowadays the strongest and most powerful employs the judicial system to abuse the weakest some more. According to the Declaration of Independence, all men and women are created equal and have a right to pursue their individual happiness. Clearly, a disabled person will be handicapped in her pursuit of happiness, if she does not enjoy the same access to resources and services. It is bad if a private individual or business fails to provide disability accommodations to disabled people to ensure equal access. It is however much worse that the very judicial system fails to observe this fundamental constitutional principle. Indeed, my case shows the terrible consequences of the inaccessibility of the judicial system.

3.1 The judicial system is absolutely aloof to the many handicaps disabled litigants suffer in court.

Still, it is difficult to imagine that such passivity is due to some animadversion against disabled people. Rather, it seems more to be the consequence of sheer indifference and indolence. Indeed, this case shows that nobody has ever had any interest to made any kind of analysis of, what may be the particular difficulties, needs and handicaps a disable person confronts in her efforts to prepare and present her case to a court. Besides the specific instances where I was strictly discriminated against because of my disability (see Section XI-5), there were many other times where I was handicapped in my ability to prepare and make my case to the courts (see Appendix G-2). It started when the work-study staff member of the courthouse's Self-Help Center denied reasonable disability accommodations, in the form of assistance filling-in my answers on the printed legal forms, because he mistakenly thought it could constitute legal advice. As a result, I was not allowed to file my evidence (see Section XI-5.1). I also needed assistance finding some pictures and letters which proved the allegations of abuse false. Since I am blind, I cannot tell one picture from another, nor can I read the text on a piece of paper, in order to

identify a specific letter I want to present to the court. Oddly enough, the Montana Office of the Court Administrator also denies this kind of assistance as they deem it may equally constitute legal advice. Not only was I discriminated against in my efforts to prepare my case, but I was also handicapped making my case at the hearing: I had prepared some notes for the points that I wanted to make on my testimony and the questions I wanted to ask in my cross-examination. However, since there was nobody there to assist me reading out and going through the notes, I could not make any use of them and the presentation of my case was severely handicapped.

My difficulties obtaining reasonable disability accommodations continued throughout the appeal process. Needless to say, all appellate courts impose rules specifying the format that briefs need to observe. However, for a blind person it is very difficult, sometimes even impossible, to correctly edit and nicely format a legal document. Unfortunately the only response offered for these kind of issues (namely, to waive the requirement to comply with the relevant appellate rule), does not really solve the real problem. Undoubtedly, a well-edited, clearly-and-nicely-formatted brief is not only easier to read, but will always help make the best impression on the court. Hence, the inability to correctly edit and nicely format a brief unavoidably becomes a handicap for a blind person. For example, I sometimes accidentally enable CAPS-LOCK and inadvertently START TYPING IN ALL CAPITALS. IT THEN MAY FEEL LIKE I AM SCREAMING TO THE COURT, but it is only my blindness. Regrettably, in my case, due to MSC's absolute ignorance on what reasonable disability accommodations are about, my request for said accommodations eventually became a problem in itself. As it is the case with this Court, MSC requires pro se litigants to submit their briefs in paper format. However, for a blind person it becomes impossible to check his printouts for errors. It then happened that when I went to the printing shop to print my opening brief, the appendices and the 9 copies, I found myself with what felt an infinite number of stacks of papers, which I could not even start organizing nor check for errors. I did my best to minimize the chaos; but it was certainly a challenge for the clerk of court to make any sense of what I had submitted. I felt relieved and fortunate when my brief was accepted and filed. However, it was only a stroke of luck that made me later realize that I had no reasons to be happy. Although my brief had been accepted, when I had somebody

check for me my scanned brief on MSC's website, we found out that the brief's even pages were missing. Consequently, I requested to be allowed to submit my Reply Brief electronically. This reasonable disability accommodation was initially approved, but I would soon learn that it came at the expense of abridging my right to make requests on some other totally unrelated issues. Namely, for example, MSC subsequently denies my request for permission to exceed the Reply brief's 5000-words limit, because, for that purpose, they had already allowed me to submit my brief electronically (see Appendix G-12, G-25 and G-26). For some really odd reason, MSC finds that the permission to submit my brief electronically will somehow help me limit my brief to 5000 words (see Section XI-5.3). Clearly, MSC – as it is generally the case in the Judiciary - does not have any clue what reasonable disability accommodations are about.

3.2 This case will provide invaluable Insights on how to address and assist to overcome the particular difficulties, needs and handicaps disabled litigants suffer in court.

It all shows that the entire judicial system is absolutely aloof to the particular difficulties, needs and handicaps disabled people confront in court. As a matter of fact, when I contacted the Clerk of this Court, hoping to be able to request some reasonable disability accommodations, I was told that A.D.A. does not have jurisdiction on this Court and therefore no reasonable disability accommodations are available. However, A.D.A.'s lack of jurisdiction does not seem a good reason why any court would not want to have the sensitivity to try to address the specific needs and handicaps disabled people suffer. It so becomes imperative that some message is sent out to ensure that the disabled has equal access to the courts. Hopefully, that will encourage a rigorous and systematic analysis of what are the needs, challenges and handicaps disabled people face in court, and eventually lead to the development of very-much-needed protocols, whereby the disabled litigant will receive comprehensive information on what kind of challenges and handicaps she may expect to face in court, and what reasonable disability accommodations are available to assist her overcome said challenges and handicaps. After my first problems trying to obtain reasonable disability accommodations at the Montana courts, I filed a Human Rights complaint providing insights on how the judicial system may ensure that disabled people have equal access to the courts (see Appendix G-2). It was then really upsetting that their only reaction was to deny any wrongdoing and retaliate against me (see Appendix G-1).

4. False allegations of abuse are not only evil, but also extremely hurtful and disruptive for everybody. This case offers a wonderful opportunity to stop this evil practice.

Domestic violence is certainly one of the most appalling and horrific demeanors a human being can engage in. If the mere action of hurting another person is already horrible; I cannot find words to describe violence committed against the very person, one swore was going to love and wanted to share the rest of one's life with. If domestic violence is appalling, the strategy to use it and make false allegations of abuse in order to gain a dominant position in a legal conflict, can only be seen as comparably evil. Yes!, there are women, children, elderly, disabled people and, probably, men as well, whose lives have become a true nightmare as victims of abuse; they do not deserve their cries for help to be undermined and their ordeal understated, trivialized and used by other people for very spurious and evil purposes.

Additionally, it is extremely emotionally and psychologically hurtful to be falsely accused of abusing your loved one. Courts seem to follow the very-wrong assumption, whereby little harm will anyway be caused by issuing an order of protection against an innocent person, who has never committed any abuse, stalking, harassment or whatsoever. Yet, nothing could be further from the truth: it is really excruciating and devastating to be the target of an order of protection, if one has never hurt anybody in his life.

I never harassed, stalked or abused Alia in any way. I loved her dearly, because nobody (except perhaps my mother) has ever loved and believed in me like Alia. I guess that means everything to a person born with a severe disability. I shared with Alia endless wonderful moments and I wanted her to be the mother of our children; I had not wanted to have to look into any of my children's eyes, and think that I had ever abused their mother.

What kind of a sick judge issues an order of protection against a impotent and harmless blind person, without any need to see any evidence in support of the request for protection! (See Appendix E-1). It did not even matter that I have stayed for years thousands of miles away from Montana and from the protected person, I do not even know her phone number nor any other form of contact and nobody has ever been able to find a single word of degrading language in the 3 - 5 reconciliatory love letters that I may have written over the last 5 years. Ever since the order was issued my mind has been deeply and

incessantly tormented trying to find an answer to the question of, how a blind person may be of any threat to the safety of a physically healthy young woman, who lives thousands of miles away in her own home with another strong young man: How may a blind man be able to harm a physically healthy young woman, if he would not even be able to spot her, let alone recognize her face, even though she would be standing one foot away from him? The order of protection even bothers to prohibit the sale of any gun to me; ...like a blind person would be able to do anything with a gun (not that I have any clue of how to use a gun). Any healthy mind would understand, that, if a blind person would ever want to harm somebody, he better hires some other person to do it for him. What kind of a sick judge? But is it really about sickness?

4.1 Orders of Protection only benefit those who seek spurious interests; if anything at all, only endanger the protected person even more; and only hurt those innocent men who have never harmed anybody.

The reasoning whereby the imperative need to protect a vulnerable person, warrants the courts to shift the burden of proof to the Defendant, is defeated by the plain fact that no protection is actually provided by orders of protection. The Police is certainly never going to start patrolling around the protected person's residence. Thus, nobody who has a real intention to hurt a vulnerable person, is going to get stopped by an order of protection. For example, Sabrina, the mother of Alia's current partner's children, received an order of protection against her husband. It turned out that Alia's current partner never observed the order, but kept intruding into Sabrina's home and messing up with the children. Orders of protection do not actually offer any protection, but, if anything at all, regrettably, can only produce more anger and resentment, which may only entrench the conflict even deeper.

Furthermore, we all know, human beings, men and women, if ever presented with the opportunity to obtain some significant benefit from some immoral action, and get away with it, we very rarely hesitate. Under such fact, the courts' general practice to hand out orders of protection to any woman who asks for one, without the slightest consideration of the truthfulness of the allegation, is nothing but a recipe for disaster and is certain to spiral out of control sooner or later. By rewarding dishonesty, the courts are nothing but promoting dishonesty. Nowadays, for a woman, it is only stupid to remain honest, if she can gain sumptuous benefits at no risk, expense or drawback of any kind, by simply coming up with false

allegations of abuse. Who is otherwise ever going to dare to question any allegation of abuse? It was, for example, easy for Alia's mother to tell her daughter, that her deceased father was an abusive person, and had kidnapped her when she was a baby. Alia eventually learned that her father only took her to his parents', but her mother never did anything to get her back. If Alia was ever asked about what she thought of her mother's untruthful horror story; it was clearly too hurtful to ever want to think anything about it: "...Oh well". So, we then find ourselves here at a point, where a lawyer requests a permanent order of protection against a blind man, who is believed to be on the other side of the planet, has been away for the last several years and has not even been given notice that any such matter would be heard and, consequently, will never have a chance to defend himself. Needless to say, the court hands out the permanent order of protection, without any need to review any evidence supporting the request (see Appendix E-1). As a result, among other losses and injuries, I was never able to go retrieve my belongings and the lawyer's clients so got to keep everything of the marital estate they could fancy. I have lost everything.

The enemies of the Soviet Union were sure to point to Stalin's Great Purge's show-trials to expose the evil of his regime. Yet, I cannot help to think that the outcomes of those trials had been any more fixed than my court hearings at the 4th Montana District Court. The outcomes of those trials and the techniques used to extract the incriminatory testimonies were probably more horrifying; but the actual hearings themselves certainly were not as grotesque as mine. No democracy can survive such flares of tyranny. Indeed: "The death of one man is a tragedy; the death of millions is a statistic."

4.2 This case provides a wonderful and unique opportunity to combat false allegations of abuse.

It is very unlikely that Alia is the real authour or otherwise mastermind of the false allegations of abuse. Alia had made numerous sworn declarations extolling my kind and harmless personality and character (see Appendix F-10, F-14, F-29 and F-30). Who in her right mind would come up with false allegations of abuse, knowing that she had left overwhelming evidence proving them perjury? In fact, Alia, by all accounts, is mentally ill. Certainly, no decent lawyer could ever allow a mentally ill person to engage in such a disquieting and taxing litigation strategy, as to make false allegations of abuse, should

she have ever thought so. Furthermore, Alia's counsel's manipulation (see Appendix F-1) of her testimony is undisputable evidence, that he, at a minimum, induced his mentally-ill client to make false allegations of abuse.

The upside of the above observation is that, in this unique case, there is no reason to fear questioning the truthfulness of the allegations of abuse. Definitely, the allegations of abuse produced against me, make absolutely no sense; definitely, no sensible mind could ever find any way to reasonably argue, that I might represent any threat to Alia's safety and she might so need protection from me. Moreover, crucially, Alia should not have any reason to feel indicted, attacked or offended in any manner, since any investigation of the truthfulness of the allegations of abuse could only reveal and expose those who have been manipulating her, and so help her become free from them. If the Court does not intervene, Alia will have never been able to freely talk for herself.

5. This petition needs to be granted because Alia's life is on the line.

5.1 Contrary to District Court's affirmation and Alia's counsel's allegation, Alia's attempt of suicide did not have anything to do with any abuse or whatsoever.

Alia tried to commit suicide few days after telling me, that she was "going to leave [me], because [she] was sick of dragging [me] around the supermarkets". There is good evidence supporting the view that she tried to take her life, because she felt like dying, when she realized that she had been fooled into stabbing her marriage. I know for a fact that this was the case. However, Alia's counsel asserted instead, that the cause had been the repeated beatings, that he (falsely) alleged I used to inflict on her (see Appendix C-1, E-1 and F-1). Since I was not allowed to speak, Alia's counsel's account was incorporated verbatim into the Decree of Dissolution. Needless to say, there is nothing more important than the life of a person, and an attempt of suicide should therefore not be taken lightly. There is a good case to be made, that Alia's attempt of suicide is related to what she perceived as the doom of our love. The courts need to hear the case, before just assuming and affirming that the marriage is irretrievably broken and, therefore, doomed. If the Court does not intervene, Alia will never be able to freely talk for herself.

5.2 Quite the opposite, Alia tried to take her life, because she felt she had doomed our marriage.

Alia blamed me for her attempt of suicide. Alia tried to take her life after we had some conversation on the beach. A few days earlier, she had told me that she was "going to leave me, because she was sick of dragging me around the supermarkets". The actual reason was, however, that she had foolishly and desperately fallen in love with Gary Rhenda, the mechanic who had been helping us in Cape Town with our Land Rover over the previous month. Yet, regrettably, she would never want to admit it, and I was only able to confirm my suspicions two years later, when I accidentally found a love letter that she had written to him. Clearly, she was so ashamed about it that, oddly enough, she preferred to come up with such a hurtful, mean and wicked explanation, as putting the blame on the burden my disability represented, before simply admitting that she had betrayed me.

Alia had come to the beach heartbroken, after she had realized, that her cassanova playboy was only playing. I was also very hurt for her humiliating words on my disability and what I guessed was her betrayal. I was more concerned about my own feelings and did not have much interest nor understanding for hers. As she denied to me and to herself the actual reasons of the relationship's crisis (her infatuation with her cassanova playboy), she argued it had not all been her fault, but I had also made mistakes. It did not feel to me that was the time for self-criticism; so I responded reminding her about all the times, that she had been mean to me. I did not know then, but Alia had come heartbroken to the beach, hoping to hear that I still loved her and she could still come back. However, from my resentful response she concluded that evidently none of that was the case. She ran away before I could finish talking, and left me stranded that night on the beach. When I was finally able to find my way back the next day, her cassanova playboy told me, that Alia had tried to commit suicide that previous night.

*"did you never believe I tried to hang myself in the first place? Actually, I tried to hang myself, then suffocate myself with a large plastic bag and belt, then went to the idea of cutting my wrists",
"I was an asshole to you in the best of times", "What I have done is to destitute myself".*

Whenever Alia felt down, she used to ask me, if she could have a hug. I always felt blessed to be able to comfort her with a hug. It breaks my heart to think that throughout all this six years since she left

me in South Africa, I have never been allowed to hug her and tell her that I love her and I regret I was not more understanding in Cape Town.

5.3 Alia has a long history of early drug abuse, depression and suicidal thoughts; and has always been mentally very fragile.

Nobody has cared and done more for Alia than myself. Alia knew that I truly loved her. For some reason - perhaps her very-early use of drugs -, Alia always had these self-destructive thoughts. She kept saying that she felt cursed; she feared she would not outlive her deceased biological father. She repeatedly warned me that she was not quite well; she was "a very confused and lost person", she had "spent years angry, depressed, and suicidal"... I responded I rather thought she was just spoiled, but such answer was not satisfactory for her. She kept tormenting herself saying that our marriage was doomed; she even told me that she had "this deep fear that someday, for some reason, I will betray you. I never want that to happen." She constantly, annoyingly repeated: "I hate myself, I hate myself".

5.4 After the break-up, Alia has never been able to put her life back together.

Alia and I shared endless wonderful moments, that we will never be able to forget. When we arrived to Cape Town, after crossing all Africa, from Morocco all the way to South Africa, we were really on top of the world. We were happy; as happy as anybody can be: we had reached the sky. ...Then Alia blew it all up, like she always feared she one day would. It is only understandable that she broke down mentally. Sometimes it hurts too much to accept the truth.

Alia has never since been able to put her life back together. She always loved children; but the day we met on the beach, just hours before trying to commit suicide, she told me: "I do not deserve to have children". Immediately after leaving me, she got hooked up with Cecilio Escatell, an illiterate drug-addict and abuser, who has three children with another woman in Houston; he was the first man she came across who offered her some smile. Despite her mental condition, she went back to drugs. Alia was a brilliant, really promising rising star in school (Appendix F-10), and everything fell apart: we lost her, now she is on public assistance. She has lost contact with everybody; her old friends do not know anything from her.

5.5 It is imperative to understand what is that really happened, in order to decide what is the right path to follow in this critical case: the courts need to hear the case.

Alia was a wonderful girl, who only wanted somebody to love her. It breaks my heart to think that she was never able to find the courage to tell me, that she had fallen in love with our mechanic back in Cape Town. I would have completely understood. It was not really her fault; nobody chooses to fall in love with a player. I only wish I could hug her and spirit her back up.

I know exactly what happened and, if I am ever given the chance to be heard, I will be certain to prove it. Alia's attempt of suicide did not have anything to do with any abuse; but, quite to the contrary, it followed from her own fear that our love was finally doomed. The courts need to hear the case. Undisputably, nobody can possibly conclude that the marriage is irretrievably broken, since there has never been any attempt to heal it. Quite the opposite, Alia's counsel has not stopped insisting the marriage should be finished off, but, as the evidence shows, that path leads to a precipice.

6. Nothing is more important to a society than the families which make it up; yet, the Montana courts did not abide by the UMDA, but simply followed the popular whim to dissolve the marriage. Moreover, per the 14th Amendment, nothing and nobody can take away whatever is most precious to me, without due process of law.

6.1 Love means to me as much, if not more, as life, liberty or property; yet the Montana courts tore me apart from it: Under the UMDA should a court dissolve a marriage, as soon as one or both parties say so, or only after it finds the marriage irretrievably broken?

Nowadays, where people file for divorce one week after their wedding, it may seem of little relevance to bring to the attention of the Supreme Court of the United States, the dissolution of a marriage, where the amount of money involved is nothing more than the sum a conventional couple may be able to amass. As a matter of fact, many people today marry with the only purpose to live out the dream of a beautiful wedding. That certainly was not our case; neither for Alia nor for me. We both, Alia and I, marry dreaming of the day that we would "build together a beautiful family of intelligent children". In fact, I think we would all end up agreeing that marriage is everybody's biggest achievement in life. It certainly is for me. What man would, for example, not want to give up his house, if that could save his wife's life. Moreover, I think it is reasonable to consider, what man would not be ready to give up his life, in order to save the life of the mother of his children?

Yet, undoubtedly, there are times where love simply dies off, and it becomes necessary to understand, that the dreadful moment to see your spouse go, sadly has come. However, we have given ourselves some rules on how to determine whether such point has been reached, and, if that is the case, how the process to dissolve the marriage should be conducted. Per the factual background hereby presented, it is shown beyond any reasonable doubt, that the Montana courts' rulings' to dissolve our marriage are in violation of our 14th Amendment constitutional right:

"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."

It certainly can be argued, that marriage is neither life, liberty or property; however, undoubtedly, our love means far more than anything enumerated in Amendment 14. This Court recently made a stand for life. There is only one thing that matters more than a human life: the community. In the same way that molecules, rather than individual atoms, are the basic and essential components of any substance; families, rather than single individuals, are the basic and essential components of any community. In order to build a community, it is imperative to have men, women and children working together. Indeed, no society has ever a chance to survive without families.

We are not a minority sharing the believe, that children are the most precious treasure any community can cherish (Clark V. Clark and In Re Marriage OF Potts V. Potts). These courts did not find the marriage irretrievably broken, even though both parties wanted to divorce. True, more often than not, courts will agree to dissolve the marriage, when so asked. However, - strictly unlike our case - as much as dissolution cases may be heavily contested, very rarely the issue of contention is the willingness to divorce. Rather, the parties' disagreement generally focus on the distribution of the marital property. However, the UMDA gives some discretion to the judge in the final determination of the finding of irretrievability, because the court also needs to care and protect the wellbeing of other people, who may not be parties to the case, but are still very much affected by the dissolution: most crucially the marriage's children. Undoubtedly, children have a much better chance to grow into healthy ,happy and prosperous citizens inside a family than being shuffled around between divorced parents. For that reason alone,

marriage should not be taken as a coat which can be put on and taken off at one's fancy. Many courts seem to follow the popular reasoning, whereby the court should dissolve a marriage, if the parties just want so. However, that is not what the UMDA says. The letter of the UMDA makes it very clear, that a court should dissolve a marriage, not just because the parties ask it so, but only if, after taking and considering the evidence, it finds the marriage is irretrievably broken. Given the staggering number and growing of divorces every year in the nation, I ask the Court to clarify what is the correct interpretation of the UMDA.

6.2 We did not receive due process of law from the Montana courts: it would take the Court little resources to review the case, since there is no opinion to be reviewed, but it would suffice to find that I was not even heard.

As the factual background above shows, the Montana courts' determination to dissolve our marriage, did not follow due process of law: I was never heard (see Sections XI-4 and XI-7); the courts were blatantly biased; I was discriminated against based on my disability (see Section XI-5); and the District Court neglected to protect a mentally-ill litigant from spurious manipulation (see Section XI-7.6): As evil as it sounds, concealing the real reasons why Alia tried to take her life, Alia's counsel used said attempt of suicide to come up with false allegations of abuse, in order to force an advantageous end of the marriage. In other words, horrifyingly enough, Alia's counsel use false allegations of abuse to produce the very causes of Alia's attempt of suicide (see Appendix C-1, E-1 and F-1, and F-10, F-14, F-29 and F-30).

6.2.1 The right to be heard: I was not even allowed to say if I wanted at all to keep ownership of the Land Rover abandoned broken-down in South Africa, and pay whatever indemnification in exchange.

throughout the extensive factual background discussion above, I find it is impossible to make any argument on how MSC interpretes the facts of the case. Indeed, MSC never makes any interpretation of the facts nor any argument why it opine: the decree is reasonable; the District Court considered all relevant factors giving rise to the filing of the petition of dissolution of marriage; or the District Court's judgement was not corrupted. In other words: MSC did not hear, did not argue anything I had to say, but simply upheld District Court's judgement.

It is so much so that I was never heard, that I was not even ever given the chance to say whether I wanted at all to keep ownership of the Land Rover or not. Given that I am blind and cannot drive, the car

was abandoned broken-down in South Africa in 2016, and I am not even allowed to go back there (since I was barred after I overstayed my South African tourist visa); it only makes sense that I had not had any interest in keeping ownership of the Land Rover and pay whatever indemnification for it. However, since I was never allowed to speak and be heard, I could only endure the terms dictated upon me. Indeed, one day I found that the Montana courts had dissolved my marriage, all my belongings had been taken away, my wife had been taken away, my eyes had been taken away, and I never had any chance to say or do anything about it. In Nazi Germany, given that I am disabled, they might as well have just taken my life altogether. However, for all what matters to me, given a word, I would have probably preferred that fate.

District Court did not allowed me to appear and, when I appealed, MSC never heard anything I had to say and simply disregarded everything, in order to simply upheld District Court's judgement. I am therefore not asking the Court to review the opinion, since there is no such opinion; just a judgement. I am asking the Court to instruct the Montana courts to once and forever hear the case and then, upon taking evidence, make a determination whether there is still a possibility to heal the marriage or it is irretrievably broken. If the latter is concluded, then District Court would have to take evidence to determine an equitable and not unconscionable division of the marital estate. It therefore turns out, if the petition is granted, it would require the Court little resources to review the case, as it would suffice to find that I was not even heard.

6.3 The legal-system charade is driving the American people disfunctionally sick (when not all the way into insanity) and will end up tearing the American society altogether to pieces, if nothing is done. The love transpiring our story is going to triumph, no matter how big the opposition against it. It is so only wise for the Court to use the power of this case's love story to send a powerful message, that justice needs to be made and can no longer be doled out based on socio-economic status.

6.3.1 No court could possibly conclude that our marriage is irretrievably broken, since there has never been any attempt to heal it. Rather, someone took advantage of Alia's very vulnerable mental state and used the cracks in the judicial system, in order to sweep her away.

In early 2016, Alia and I were full of life, happily married, living the adventure of our lives: we had just crossed all Africa, traveling with our beautiful 1974 Land Rover Series III, from Madrid all the way to South Africa. When we arrived to Cape Town, we were really on top of the world. We were happy. We had reached the sky. Unfortunately, not everybody was happy, though. Indeed, Alia had left a really

big hole back home. Alia was her mother's only child and she definitely meant everything to her; even more so after Alia's biological father left her taking baby Alia with him, and, one year later, committed suicide (see §XI-1.2 detailed in Appendix H §1.2). In Alia's own words: "I wish I could marry and run away with you. It will tear my mother's heart apart as she attempts to fill the whole left by her grown child". Indeed, Alia's mother always felt I had stolen her baby. It is then only reasonable to think that she felt very happy when her daughter came back heart-broken from Cape Town, after our Land Rover mechanic had managed to steal Alia's heart. Unfortunately, before I was myself able to return to the U.S., Alia had already left for Alaska, where she got hooked up with Cecilio Escatell, an illiterate drug-addict and abuser, who has three children with another woman in Houston (see §XI-3.1 and Appendix H-3.1).

It breaks my heart to think that I have always been denied any chance to try to talk things over with Alia and tell her that I still love her. At first, since I was not allowed to see her, I could not find out that she had completely broken-down mentally, and, therefore, assumed that she did not love me anymore because of my visual disability. It however became all clear to me, when they requested the order of protection and came up with the most grotesque allegations of abuse against me.

Convicted criminal Ariel Castro made national news when it was discovered, that he had kept three young women captive between 2002 and 2004. I cannot even start imagining the kind of horrible psychological abuse those women went through. But, I think we would all agree that, for a young woman living under such circumstances, it would be utmost difficult to try to revolt or defend herself; whereas it would be really easy to coerce her into doing or saying anything. It really horrifies me to have the certainty that, if Alia, mentally ill as she was, had met Ariel Castro (instead of Cecilio Escatell) in Alaska, the case had not gone any differently. The evidence of the case certainly leaves no doubt that, if Ariel Castro, rather than Cecilio Escatell, had asked the courts to hand out to Alia an order of protection against me, the 4th Montana District Court would have as well been very happy to do so.

Undoubtedly, given how carelessly and frivolously the 4th Montana District Court hands out orders of protection, anybody who may have wanted to keep Alia and get rid of any obstacle in his plans, had only needed to come up with some allegations of abuse, however grotesque and absurd these may

have been. Certainly, the evidence available to this day, still leaves open to debate to what extent Alia was coerced into making false allegations of abuse, or did so willingly. Regardless, undoubtedly, given the unquestionable loveliness of the feelings and memories we shared and the beauty of our relationship; beyond her PTSD, Alia had needed to be really unhinged, in order to willingly go along with a plan as evil as making false allegations of abuse. In other words, I think we would all have to agree, that whatever part Alia played on her own to make false allegations of abuse, would only speak to the extent to which, beyond her PTSD, Alia became unhinged. However, if Alia is indeed unhinged, it would simply not be credible that she would have been able to come up with false allegations of abuse on her own, but somebody would have needed to poison her into such an evil plan. Consequently, the debate whether Alia was coerced to make false allegations of abuse, or she did so willingly, dissolves into irrelevance. Rather, whichever the case, whether Alia was coerced or is unhinged, it becomes clear that Alia needs help. Unfortunately, it turns out, I am the only person with a true and sincere desire to help Alia. But, horribly enough, the Montana courts never wanted to hear anything I had to say, but completely cut me off and disconnected me from her; thus abandoning Alia helpless to her real abusers. Clearly, there is a reason why the right to be heard is so important.

6.3.2 I will never abandon my wife, just because some corrupt judge tells me so. Consequently, it becomes now up to the Court to decide whether the Constitution is the Law of the Land, or we live rather under the Law of the Jungle, where the haves are free to abuse the have-nots.

Now the Court will need to decide whether the present petition is granted or not. If the petition is granted, Alia will be able to step forward and clarify all the questions. In fact, it is very telling of the asynchrony between Alia's desires and her lawyer's demands, that - so much for all the noise I have made about the indemnification for the Land Rover, which her lawyer commanded and District Court granted - Alia, however, has never asked me to pay it to her. Yes, this petition is not about money, but about love. Indeed, - if this petition is granted - Alia will, once and forever, be able to freely tell for herself if she wants to continue her marriage or not, and what is the whole truth behind the false allegations of abuse. The whole conflict can be resolved as easy as that. Certainly, there is no doubt in my mind that, neither this Court nor any other, will ever be able to bring me Alia's heart back, if indeed she does not love me

anymore. As beautiful and wonderful as our love and marriage were, we have not been allowed to speak for the last several years and, consequently, it is quite possible that, sadly enough, our marriage may have died off. At the end of the day, it does not matter whether Alia is unhinged or simply became completely heartless, whether she lost her mind, or someone stole her heart; if she wants to be with her current partner and prefers to go with him, neither I nor any court will be able to stop her. Clearly, in a prosperous, civilized society, even the worst conflicts get peacefully resolved by the judicial system.

On the other hand, if the petition is denied, Alia will never be able to freely talk for herself, and I will be told to walk away, abandoning Alia, without ever knowing if she just stopped loving me or, rather, she broke down and someone used the opportunity to sweep her away. Undoubtedly, it would be a victory for Alia's current drug-addict partner, but it would be a defeat for justice. Nevertheless, nothing and nobody will ever be able to force me to abandon Alia. Indeed, deprived of any other better, further insight and feedback, the answer to the crucial question will be very clear to me; someone took advantage of Alia's very vulnerable mental state and used the cracks in the judicial system, in order to sweep her away. Now, if I had committed a crime, I would not be able to evade whatever sentence is obliged on me. However, I have never committed any crime, so nothing and nobody will ever be able to force me to abandon Alia. It breaks my heart to know, that I had been able to bring our love back to zeal and splendor, if I had ever been allowed to speak with Alia. I simply do not and will never understand why I have been forbidden from talking with my wife: I find it difficult to imagine any more inhumane torture (without a doubt, psychological abuse is far more hurtful than physical abuse). Indeed, the memories of our days together and the feelings and emotions we share, kill me, and will continue killing me, every day for the rest of my life. The Declaration of Independence starts up recognizing that no state shall try to abridge our right to pursue happiness. In 2017, I went to South Africa to prove to Alia that, despite my visual impairment, I am not useless; and so win her back over. I failed and paid with my eyes for it; but still did not give up. I then had to appeal District Court's dissolution of our marriage and, since I was denied the assistance of any lawyer, I had to figure out how to do it all by myself. Since the Montana courts did never allowed me to speak and be heard, now I am appealing to the United States Supreme Court, and I have

again to do it all by myself. I will go to the end of the world and give my life if I need to; but nothing and nobody will ever be able to make me give up fighting for my love. After all, that is all what I have left; I had to otherwise accept to lose everything. Indeed, I have been treated like the worst criminal; but I am only a victim of the most evil judicial brutality. Definitely, something went very wrong with the judicial system, if the courts now believe that I shall become the focus of Law Enforcement's concerns. Still, given that the Montana courts did not allow me to speak, if the Court does not want to hear the case either, I will have to accept being the Indian looking in. Regrettably, when the judicial system steps aside and leaves way to the law of the jungle, men have to fight it all out.

6.3.3 It is best for the society, if we work together to fix the big mistakes and deep deficiencies of the judicial system; rather than to look away and let the people finally discover in the most traumatic and tempestuous way, that the legal system is only meant to serve the haves to abuse the have-nots.

I ask the Court to take the side of love over lies, manipulations and injustice. I ask the Court to take the side of the 14th Amendment over the side of tyranny. Clearly, citizens go about their lives ignorant of the technicalities of the law and how the judiciary interpretes said laws. Rather, Citizens only have a basic understanding of the main values of the law; but that is all what they need for the society to work. It is certainly important to establish a clear understanding of how the laws should be interpreted; so that the courts apply them always in the same way. However, for the society to function, it is fundamental that the people trusts, that the essential values of the law hold true and are observed. Needless to say, no society can survive without justice. However, in order for justice to prevail, the people's trust in the judicial system is imperative. Certainly, the American people would not have survived the shock, if, for example, it had transpired that convicted kidnapper Ariel Castro had obtained from the courts an order of protection against any of his captives' ex-boyfriends. However, I think we will all agree, that the American people would not be any less appalled to learn, that a drug-addict and abuser used false allegations of abuse, to have the courts grant to his mentally-ill concubine, a permanent order of protection against her blind husband. Equally horrified will be the world to see to what extent the American courts have shred our lives to pieces. Yet, certainly, At this point, nobody can reasonably blame or criticize the Court for this judicial monstrosity, since never has the Court received any information about the case. However, as this

petition for writ of certiorari is presented, it is now up to the Court to decide whether the Law of the Land should be applied or this kind of minutia is not relevant enough for the Court and the matter should be figured out somewhere else. I ask the Court to choose the Constitution over the Law of the Jungle. No court will ever bring me Alia's love back. However, I hope I may still be able to win my Dulcinea-Del-Toboso's heart back over by achieving an magnificent and heroic feat: defeating the evil giants hiding in the Montana wind-mill courts. I wish the Court will want to join me in my quest to fix the judicial system.

Now Alia has been manipulated to make false allegations of abuse; but, not long ago, when Immigration questioned our love and marriage (suspecting that we could have married for monetary reasons), she got furious and stood ready to travel back to the other side of the planet, to fight for her love:

"Alia is coming back to Montana to battle the evil USCIS (). She will use her BULLETS OF EVIDENCE to destroy their accusations, crush their doubts with her ROCK SOLID STORIES, and set aflame their queries with her FIREY PASSION until they crumble to dust. She will also probably drown their austere demeanor in her TEARS OF PITY, but you won't read that in the book or see it in the movie. Powered by a drug called Charlie Sheen, she will be ready for the fight when she arrives in Missoula on the 6th of April. Armed with her weapons of love, she will march eastward to Hellena on the 14th to confront the mighty federal beast. Alia invites you to come join her in festivities both before and after the scrimmage."

Once Immigration understood that we had only married because of love, and agreed to register the marriage, Alia calmed down. So that, when the time came to petition for my green card, she was much more civilized, peaceful and polite (FROM Appendix f-14):

"My husband is a good man. He is intelligent, hard-working, and very caring. He poses no threat, and will be an immense asset to the U.S..I deeply believe my husband deserves to be forgiven for overstaying his visa. He committed no harm to any citizen, and made many, life-long friends in his travels. He was not trying to take people's jobs; he was just enjoying the beauty of the U.S.. My husband worked very hard for 10 years on a PhD in Computational Neuroscience, and he needed a vacation. He just wanted to visit the amazing landscapes the U.S. has to offer, and I cannot blame him for that."

Indeed, the story of Romeo and Juliet, for example, is another good reminder, that, even more so after the advent of literature, love is immortal and whoever underestimates and challenges the power of love, no matter how strong they may be, will not only be utterly defeated, but will be forever remembered as the worst and most hated villain in History. Regrettably, the Montana Judicial System already made its choice; but I really wish the United States Supreme Court will want to choose the right side of History: the death of one man is a tragedy, the death of millions is a statistic.

XIII - CONCLUSION

Alia completely broke down and attempted to commit suicide, when she realized that she had been fooled by some cassanova into giving up her marriage. Regrettably, I have always been denied the chance to tell Alia that I understood and still love her. As evil as it sounds, concealing the real reasons why Alia tried to take her life, Alia's counsel used said attempt of suicide to come up with false allegations of abuse, in order to force an advantageous en of the marriage. In other words, horrifyingly enough, Alia's counsel use false allegations of abuse to produce the very causes of Alia's attempt of suicide (see Appendix C-1, E-1 and F-1, and F-10, F-14, F-29 and F-30).

Alia liked to say we were Monkey and Bunny traveling the world together. I was the primitive monkey and she was the cute, little bunny. We were only like children that just wanted to play together. We were little buddies exploring and resolving the maze of life together. We never hurt anybody: Why did they have to blow us to pieces?

As I was discriminated and retaliated against based on my disability and was, consequently, not allowed to appear at District Court's hearing, and have subsequently never been heard, I ask the United States Supreme Court to stop the dissolution of our marriage, and have District Court, once and forever, hear the case.

In Alia's own words (FROM Appendix f-14):

"You now have a choice to make: allow a brilliant man into the U.S. where he can contribute to science and help raise an intelligent family; or prevent an honest U.S. citizen from living the life she dreams of in the country she loves. We are both good people, and together we are even better. We want to make a life for ourselves in the U.S., and if we are granted this opportunity, we will forever be grateful for the blessing we have been given."

Respectfully submitted on June 8th, 2023

Javier Bautista-Scheuber (Petitioner)

/s/ Javier Bautista-Scheuber *JB*

Phone: 213-863-4830. E-mail: jbscheuber@gmail.com 1441 Edward L. Grant Hwy. Apt. 2A. Bronx NY 10452