ORIGINAL

No. 22-812

In The
Supreme Court of the United States

ISAAC D. KOCH,
Petitioner,
v.

STATE OF NEBRASKA,
Respondent.

On Petition for a
Writ of Certiorari to the
Supreme Court of Nebraska

PETITION FOR WRIT OF CERTIORARI

ISAAC D. KOCH,
Petitioner.
155 Morian Street
Richland, Neb. 68601
(402) 910-1581

QUESTIONS PRESENTED

What is the government's interpretation of an order against all contact and communication and presence?

If the Court agrees that the power of the people's government does not extend to stop all contact and communication, has the defendant challenged the order properly?

Under what circumstances must a State recognize withdrawal of a plea?

Is it not perfectly beneficial to the victim of a crime to profit from the court's powers of persuasion that the accused – not, is irretrievably and hopelessly reprehensible, but rather that he – is accused of a crime?

Will the Court prioritize the peace of any over the peace of the State?

Who is the victim, when statute penalizes breaking a protection order, if not the reputation of the Court?

Will the Court recognize that the underlying protection order was not issued in accordance with statute?

PARTIES

Isaac D. Koch, petitioner, began as defendant in the County Court of Platte County, Nebraska. In the appeal taken to District Court, he was appellant. In the appeal prosecuted to the Court of Appeals through the Nebraska Supreme Court, he was also appellant. At the time of the incident, he was the defendant in a marriage contract dispute. He continues to prosecute a counterclaim of annulment at this time.

The State of Nebraska, respondent, began as plaintiff in County Court. Within the appeals, Nebraska prosecuted her case as appellee. Notable within the interests of the State are both people bringing charges and people present at the incident. Mr. Hart, county attorney, filed the charges, with the report of Deputy Avila. Key names seen at the incident are Andela Koch, seen as plaintiff in the marriage contract dispute and also as petitioner in the protection order leading to the underlying charges, and Mr. Menendez, a party who telephoned the government's police.

PROCEEDINGS BELOW

Supreme Court of the United States, 22A585, *Koch v. Nebraska,* petition for stay of mandate denied January 3, 2023, App.c.

Supreme Court of Nebraska, A-22-84, *Nebraska v. Koch,* petition to stay mandate overruled December 12, 2022, App.d.

Supreme Court of Nebraska, A-22-84, *Nebraska v. Koch,* further review denied November 15, 2022, App.e.

Court of Appeals of Nebraska, A-22-84, *Nebraska v. Koch,* motion for rehearing denied, October 17, 2022, App.f.

Court of Appeals of Nebraska, A-22-84, *Nebraska v. Koch,* opinion released, September 13, 2022, App.g.

District Court of Platte County Nebraska, A-22-84, *Nebraska v. Koch,* motion to reconsider denied February 2, 2022, App.r.

District Court of Platte County Nebraska, A-22-84, *Nebraska v. Koch,* verdict affirmed, January 14, 2022, App.s.

County Court of Platte County Nebraska, CR-21-317, *Nebraska v. Koch,* sentence, September 29, 2021, App.w.

County Court of Platte County Nebraska, CR-21-317, *Nebraska v. Koch,* motion to withdraw plea denied, September 23, 2021, App.x.

County Court of Platte County Nebraska, CR-21-317, *Nebraska v. Koch,* plea entered, July 19, 2021, App.y.

District Court of Platte County, Nebraska, CI-20-504, *Koch v. Koch,* protection order affirmed December 21, 2020, App.z.

District Court of Platte County, Nebraska, CI-20-504, *Koch v. Koch,* protection order entered December 10, 2020, App.bb.

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A PRAYER

Thankful at the opportunity, Petitioner Isaac D. Koch comes to the Supreme Court of the United States in prayer of the help of this great name to further the State of Nebraska's wish to accomplish just, fair, and impartial judgment.

REPORTED OPINIONS

No opinion in this case is to be found in a reporter.

BASIS FOR JURISDICTION

Please examine the opinion of the Nebraska Court of Appeals affirming the verdict of the trial court, entered September 13, 2022. The Court of Appeals denied rehearing on October 17, 2022; the Nebraska Supreme Court denied further review on November 15, 2022.

The People of the United States vest in this Court jurisdiction to hear this matter under the U.S Constitution, Article III, Section 2, which states, in part:

> The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution [and] the Laws of the United States . . . .
>
> . . . [In these] the supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

App.gg.

The Congress, in 28 U.S.C. § 1257(a) provides appellate jurisdiction for a writ of certiorari, when, as here, a

> [f]inal judgment[] . . . rendered by the highest court of a State . . . [exists] where the validity of a statute of any State is drawn in question

> on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

Title 28 of the U.S. Code provides, in Section 2101(d), that the time limit for review in a criminal case shall be as Supreme Court rules provide. App.hh. Rule 13.1 provides that a petition for writ of certiorari "is timely when it is filed with the Clerk of this Court within 90 days after entry of the judgment." Judgment of the Nebraska Supreme Court being entered on November 22, 2022, the deadline for mailing the instant petition is February 13, 2023.

U.S. Code title 28 section 1911 provides the Supreme Court's authority to set fees. Rule 38(a) calls for a fee of three hundred dollars for a petition for writ of certiorari. With of a copy of this document is to the Clerk said fee.

CONSTITUTIONS AND STATUTE AT ISSUE

The dispute arises on a charge that the defendant offended the Nebraska Statute defining "attempt" regarding a Nebraska Statute regarding criminal contempt, specifically against violation of a specific court order, commonly known as a Civil Protection Order.

"Attempt," the Legislature defines in Neb. Rev. Stat. § 28-201 (Cum. Supp. 2020):

> (1) A person shall be guilty of an attempt to commit a crime if he or she:
>
> (a) Intentionally engages in conduct which would constitute the crime if the attendant

> circumstances were as he or she believes them to be; or
>
> (b) Intentionally engages in conduct which, under the circumstances as he or she believes them to be, constitutes a substantial step in a course of conduct intended to culminate in his or her commission of the crime.
>
> (2) When causing a particular result is an element of the crime, a person shall be guilty of an attempt to commit the crime if, acting with the state of mind required to establish liability with respect to the attendant circumstances specified in the definition of the crime, he or she intentionally engages in conduct which is a substantial step in a course of conduct intended or known to cause such a result.
>
> (3) Conduct shall not be considered a substantial step under this section unless it is strongly corroborative of the defendant's criminal intent.
>
> (4) Criminal attempt is:
>
> (a) . . .
>
> . . .
>
> (f) A Class II misdemeanor when the crime attempted is a Class I misdemeanor[.]

Criminal contempt, as relevant here, is Neb. Rev. Stat. § 42-924(4) (Cum. Supp. 2020):

> Any person, except the petitioner, who knowingly violates a protection order issued pursuant to this section or section 42-931 after service or notice as described in subsection (2) of

> section 42-926 shall be guilty of a Class I misdemeanor . . . .

The court order issued under the purview of statute. Neb. Rev. Stat. § 42-924(1)(a) (Cum. Supp. 2020) defines the "tort," saying:

> Any victim of domestic abuse may file a petition and affidavit for a protection order as provided in this section. . . .

The State's statutes defines the tort of "abuse" in Neb. Rev. Stat. § 42-903 (Cum. Supp. 2020), as:

> (1) Abuse means the occurrence of one or more of the following acts between family or household members:
>
> (a) Attempting to cause or intentionally and knowingly causing bodily injury with or without a dangerous instrument;
>
> (b) Placing, by means of credible threat, another person in fear of bodily injury. For purposes of this subdivision, credible threat means a verbal or written threat, including a threat performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct that is made by a person with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present

> incarceration of the person making the threat shall not prevent the threat from being deemed a credible threat under this section; or
>
> (c) Engaging in sexual contact or sexual penetration without consent as defined in section 28-318[.]

Nonetheless, a command of the court is an equitable remedy. The U.S. Constitution, Article III, Section 2, vests equitable powers in the courts of the United States; however, the court issuing the order is of a State formed under its own constitution. The Nebraska Constitution (Reissue 2016) confers chancery power on district courts, in Article V-9:

> The district courts shall [] both [exercise] chancery and [recognize] common law jurisdiction, and [exert] such other jurisdiction as the Legislature may provide; and the judges thereof may admit persons charged with felony to a plea of guilty and pass such sentence as may be prescribed by law.

It appears, regardless, that the Right to jury trial and due process secured with our federal constitution are both offended. The right of free speech is offended.

The U.S. Constitution withholds from a state the power to pass a bill of attainder, in Art. 1, sec. 9:

> No Bill of Attainder . . . shall be passed.

Section 10 provides:

> No State shall . . . pass any Bill of Attainder . . . or Law impairing the Obligation of Contracts . . . .

Article III, section 2, in part:

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury . . . .

The U.S. Constitution reminds us that Judges take an oath to discharge what text in the Constitution is written. Article IV, in relevant part:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Its first amendment secures free speech & publication to the People of the United States:

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

The authority of the State of Nebraska to stand before this Supreme U.S. Court turns on its acceptance into the federation. President Johnson accepted Nebraska into the Union, pursuant to act of Congress, on March 1, 1867.

The fifth amendment secures due process before one is deprived of liberty:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The sixth amendment secures, if the defendant's liberty is in danger, a public trial by jury with the assistance of counsel:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

The ninth amendment adds:

> The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment ten continues:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

The fourteenth amendment, section 1, in part:

> No State shall . . . deprive any person of life, liberty, or property, without due process of law . . . .

Unless the Court is ready to determine that a CPO is a criminal proceeding, and guarantee a public trial by jury with the assistance of counsel, it will be necessary to conclude that its terms against all contact and communication are void.

STATEMENT OF CASE

A. COURT ORDER

Let's start from the beginning. District Court of Platte County Nebraska entered an order on December 10, 2020. It entered this order without a hearing. This order stated that one Isaac Doyle Koch was enjoined from certain conduct. At a hearing on December 21, it affirmed this order, affirming that Koch was prohibited from all contact and communication with Andela Koch and two minor children.

To the inquisitive mind, no benefit is there to an examination of the public policy reasons for entering the order. The complaint being filed, and the order being

entered, the respondent thereunder must choose to understand it, or risk negligent disobedience. Choose, as in, at once – immediately.

B. ARREST

On January 12, 2021, Platte County Dispatch received a call from Mr. Menendez that under the floorboards was Koch was tied up, and Mr. Menendez held a gun. Peacefully, deputies arrested Koch on at least the theory that he was communicating with his self-confinement in the dark, dingy basement of his house.

C. CHARGE AND VERDICT

Mr. Hart, Platte County Attorney, charged Koch with violating a protection order and possession of a firearm while prohibited on January 20, 2021.

Koch filed a Motion to Quash on May 12, 2021. Although he withdrew it on July 19, 2021, the subject was on the record. Bill of exceptions, 17:6-9.

The latter charge Nebraska reduced to an inchoate felony of lower penalty on March 30, 2021. This allegation was cast in the English word "stalking" but not in the common sense, as a police officer stalks his victim [1] – in other words, the stronger subdues the weaker – but defined in statute as harassment with intent but inchoately.

The Platte County Attorney's office with prejudice dismissed the latter reduced charge in obligation of a plea agreement with the defendant entered in County Court on July 19, 2021. Koch was sentenced to a statutory 60 days in county jail, on September 29, 2021.

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[1] T. Roosevelt, *Autobiography* 178 (1922): "[w]hen his victim could walk," describing heroic officer who apprehended a burglar after his desperate jump for liberty down into the train tunnel

D. APPEALS

While imprisoned, Koch submitted a notice of appeal to County Court. Pursuant to Nebraska Statute § 25-2301.01 (causing the applicant for *in forma pauperis* appeal to state the nature of the grievance), on October 27, 2021 the Clerk of County Court filed Koch's complained errors that

> include, without limitation, these: (a) impossibility of attempting to violate a protection order, (b) that effectively awarding one year of custody is not issued in compliance with [Neb. Rev. Stat.] § 42-924, (c) an injunction presuming the power, for the state, to proscribe all speech and peaceful assembly, even against just one person, is unconstitutional and therefore, transparently invalid, (d) political speech, that being my self-restraint, is protected speech, (e) the court erred by selecting a few published filings, based on content, as impermissible communication under a transparently invalid injunction, when imposing the sentence, (f) my plea was not knowingly and voluntarily entered, and (g) assistance of my counsel was effectively deficient.

After the operation of law permitted the Sheriff of Platte County to set Koch at liberty, this appeal saw District Court review the record for plain error, and overlook the statement of errors on the grounds that it was not a statement of errors.

Mr. Koch continued arguing the errors that he presented in his letters from jail. The State of Nebraska points out that he ought to have filed a motion to quash before raising certain errors; however, Koch

was represented by counsel at the relevant point in time.

The lower courts have so far refused to find plain error and declined to reverse Koch's doubtful plea.

The practical effect to the petitioner of gaining this Court's audience, at most, is to put him in front of a jury facing criminal contempt charges. At least, it would clear his name of criminal contempt after a sentence served. One may wonder, as some are wont to do, what benefit this strategy delivers to Isaac Koch. Perhaps what follows later will satisfy. It does not appear, however, that grouping all the questions into "overturning the Court's verdict" – to please Rule 14.1(a) – would productively conceal the issues. The Court is free to select and reframe the presented questions.

But something more pressing also animates this appeal. Every person capable of taking the oath to support the Constitution of the United States and of Nebraska, who having done so, takes a responsibility to uphold the obligations of contract. The Constitutions are evidence of an agreement to operate a system of government. To obtain the help of this Court's great name in this end, is an end of this appeal. To remain true to the intent animating the petitioner at the incident, this is another end of this appeal.

REASONS FOR THIS PETITION

"[B]ecoming a party to a lawsuit should be 'dreaded . . . beyond almost anything else short of . . . death' ". *Huminski v. Corsones*, 396 F.3d 53, 78 n.26 (2d. Cir. 2004). This sentiment finds support in appreciation of the intent that crafted our constitutional government: "Give me liberty, or give me death!"

"Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser---in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough." A. Lincoln, *Collected Works of Abraham Lincoln* 81 (Rutgers University Press, 1953).

When the People of Nebraska come before the County Court of Platte County Nebraska, the consent of every one of them is found offering to achieve the just result. This is important because *consent of the governed* forms jurisdiction, without which this Court may not speak to the issues.

A. THE RECORD IS BURSTING WITH ERRORS

1. This filing is not a crime

Thus it must be unmistakably clear that Ms. Andela offered her consent to the full extent of these proceedings, despite the order against all communication. The Platte County Attorney expressed her consent and tells the Court that she was involved in the incident. This is important, because affording court proceedings full faith, Ms. Andela has left Mr. Isaac believing that she does not conclude an order against all his communication is void, even though her consent is present in this case. *See generally,* Neb. Appeal no. A-22-937. If the order against all communication had any effect, the Court should never have compelled Mr. Isaac to enter the courtroom to face the charge.

This argument admits that Petitioner Koch's consent, expressed in the constitutions and authority thereunder, his consent must be found somewhere – anywhere – within Plaintiff Nebraska's charges.

2. It is never a crime to exercise a Right

It is possible for an authority to give an unlawful order. Howard Levie edited a collection of significant documents published of the Naval War College Press in 1979, titled *Documents on Prisoners of War.* On page 804 begins selected court opinions regarding the killing of unarmed persons in the Vietnam village of My Lai in 1968. Under United States authority, Lieutenant Calley answered the demand to know what was delaying his platoon (p. 805): "On being told that a large number of villagers had been detained, Calley said Medina ordered him to "waste them." Calley further testified that he obeyed the orders because he had been taught the doctrine of obedience throughout his military career." The court held jury instructions were "comprehensive and correct" (811) that said: "Military effectiveness depends upon obedience to orders. On the [other] hand, the obedience of a soldier is not the obedience of an automaton. A soldier is a reasoning agent, obliged to respond, not as a machine, but as a person." 808. Although Captain Medina denied making the order (805), Calley was punished for not using his innate discretion to disobey the order he claimed that he received. It is possible for an authority to give an unlawful order.

Personal judgment must be important because it is possible to receive an unlawful order. In the context of injunctions of the Court, the words themselves are said to be void of power. But Nebraska charged Koch with *contempt of an order issued pursuant to statute containing certain orders* enjoining him "from imposing any restraint upon the petitioner[s] or upon the liberty of the petitioner[s]; or from threatening, assaulting, molesting, attacking, or otherwise

disturbing the peace of the petitioner[s]; or from telephoning, contacting, or otherwise communicating with the petitioner[s.]" App.ii.

It may be tempting to presume that some terrifying act of domestic abuse gives government the authority to make such an order. Statute envisions a broad range of acts to enable a CPO (p. 4): any act that might result in bodily injury to statute's definition of "sexual penetration without consent". Any act that might result in bodily injury, is a standard that is void for vagueness—yet the CPO respondent ought to rest content in the knowledge that any person can leave another person at will.[2] Conversely, sexual assault is a crime with a definition and punishment.

Any intent of any person to use a CPO as punishment goes against the State's Legislature's mission to punish crime. This Court may not think of a CPO as punishment without undermining, to the offender, the threat of prosecution based on whatever could have prompted the petitioner's complaint for a CPO. A CPO is, to the courts, clearly a device for providing immediate relief in circumstances that must not produce criminal behavior when it is not clear whether they have. *Maria A. ex rel. Leslie G. v. Oscar G.*, 301 Neb. 673, 682 (2018; "The purpose of an injunction is not to punish past actions but to prevent future *mischief*", emphasis added). No one argues that a CPO is

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[2] That the protection order is equitably available to anyone carrying the burden of a preponderance of the evidence showing a wish for physical separation is supported in the Nebraska Supreme Court's opinion leaving undisturbed a trial that purportedly operated under "two burdens [of proof] . . . at the same time" while affirming the resulting order in the face of a due procces challenge. *Diedra T. v. Justina R.*, 313 Neb. 417, 429-433 (Neb. 2023).

intended to stop *crime* without conceding her unconstitutional power grab to, with a CPO, remove liberty and skirt the jury.

3. This is about communication

It is important to agree that the order is void *as it pertains to communication* up-front. The reason is that communication clearly occurred at the incident, though not a word was said. Nebraska observes that the defendant admits the fact of communication. Brief of Appellee 25, A-22-84, May 31, 2022. The petitioner-appellant concurs. Reply Brief 7, A-22-84, June 15, 2022. If all communication were effectively enjoined, the CPO's petitioner stands in terrific debt to the name of the District Court that granted her relief, for her years-tardy absence of orders to show cause. A CPO adds an offense, and does not replace charges for: a crime, civil contempt, and criminal contempt.[3] It's no benefit to this Court to examine this case were all agreed that ultimately the defendant is unquestionably guilty.

4. The charge is void

But that conclusion is faulty. First, because if an order against all communication produces effect, you are reading invisible English. The plan that bloomed at the incident, we aver, was to communicate remorse and affirm peaceful intentions. The petitioner, even here or anywhere else, having taken the ground that the orders against communication are void, may now refuse to admit the possibility that this Court may

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[3] For example, in *Robertson v. United States ex rel. Watson*, 560 U.S. 272 (2010), contempt charges followed conviction of a crime.

find the order against communication effective. Mr. Koch's intent, however, binds him with honor to sail each avenue offering his full reward. If he is guilty, he deserves the appropriate sentence.

Second, the plain language of the charge is void. The Amended Complaint, App.ii, charges that Koch did "intentionally engage in conduct which would constitute the crime if the attendant circumstances were as he believed them to be". The same count charges that Koch also did "then and there intentionally engage in conduct which, under the circumstances as he believed them to be, constituted a substantial step in a course of conduct intended to culminate in his commission of the crime".

As the complaint describes, "the crime" is contempt the State's court contra statute 42-924(4) (Cum. Supp. 2020; *infra*). In the words of the complaint, the defendant "attempted to violate an order issued pursuant to subsection (1) of Neb. Rev. Stat. section 42-924 after service in Platte County District Court Case CI20-50[4]".

The defendant has taken great pains to illustrate that a charge with the word "or" is impermissibly void.[4] The reason is as simple as it is important: the defendant is not going to accuse himself. (Isn't that what Carnegie's, *How to Win Friends and Influence People* taught, never say bad things about yourself?) If the State does not craft a specific charge, the charge fails because the State thereby concedes a lack of conviction in the truth of the charges.

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[4] Motion to Reconsider 3, January 24, 2022, CR21-145; Brief Appt. 9-10, March 30, 2022, A-22-84; Reply Brief 20, June 15, 2022, A-22-84; Petition for Further Review 10, November 9, 2022, A-22-84 (plaintiff "does not allege a crime")

Neither does the complaint recite the criminal statute faithfully. Neb. Rev. Stat. § 42-924 (Cum. Supp. 2020), section 4:

> Any person, except the petitioner, who knowingly violates a protection order issued pursuant to this section or section 42-931 after service or notice as described in subsection (2) of section 42-926 shall be guilty . . . .

5. "Knowing" is irrelevant

To merit conviction, the State should have charged that Koch "attempted to knowingly violate" &c. But the word "attempt" does not fairly describe the attempt statutes. Even "knowing" is irrelevant to criminal contempt: the order prohibits some specific act. And the order must be clear on its own. Neb. Rev. Stat. § 25-1064.01(2)(3) (Reissue 2016; App.kk).

In other words, the crime charged requires violation of the court order—violation is violation whether it is known or not. This court order applies to the *person* and all his subordinates (App.kk); this is not a criminal statute enforceable within the State's territory. A discussion of whether you *attempt* to *knowingly* do something, therefore, is irrelevant; and *attempt* is the wrong word to use here, as is now due our attention.

The need for simplicity is quite simple: use of the constitutional office of judge to expend constitutional power of the court requires a reliance on the general public to enforce its order. If the public can't understand, the order won't be enforced.

6. There is no evidence that would meet either alternative charge

On one hand, the complaint charges that Koch did "intentionally engage in conduct which would constitute the crime if the attendant circumstances were as he believed them to be".

On the other hand, the complaint charges that Koch otherwise might have "then and there intentionally engage in conduct which, under the circumstances as he believed them to be, constituted a substantial step in a course of conduct intended to culminate in his commission of the crime". App.ii.

Here it is wise for the petitioner to refrain from analysis, contrary to his record below on these points. Having already argued that the litigant cannot claim alternate theories without rendering a conviction beyond reasonable doubt a thing of impossibility, the petitioner's arguments entertaining the alternate interpretations would permanently damage his case.

7. The statute is void

The statute provides that any body that does a thing is guilty – except one person (or is it any of them?) – and how is that possible? It's not.

When the statute does not decree a crime for all persons, it fails to decree a crime for any persons. This is because the simple text makes the *act* of *breaking the order* a *crime.* No one is above the law. The proper wording would be to make the *act* a *crime,* then to make grant *immunity* to the CPO petitioner. The *act* cannot be a *crime* in one person and not in another. The statute is void.

It is of no moment that this argument is made for the first time here, because the courts have only

reviewed this record for plain error, which is an inherent obligation. Subject matter jurisdiction of the court may be raised at any stage of the proceedings because each supplicant who is faithful expects the Judge to be true.

8. There never was a proper order

The persuasive arguments so far are enough to overturn the verdict, but this Court may wish to correct every error. The complaint charges violation of "an order *issued pursuant* to subsection (1) of Neb. Rev. Stat. section 42-924" (emphasis added). App.ii. Neb. Rev. Stat. § 25-1064.01(1) (Reissue 2016; App.kk) requires an injunction to contain the reasons for its issuance. The reasons given for issuing the injunction, which certainly find themselves listed in the injunction, do not sit in statute.

The injunction issued December 10, 2020 (App.dd):

> [Respondent] "attempted to cause, or intentionally, knowingly, or recklessly caused, bodily injury to the petitioner(s); by means of a credible threat, placed the petitioner(s) in fear of bodily injury; or engaged in sexual contact or sexual penetration without consent as defined [in] Neb. Rev. Stat. § 28-318.

The district court affirmed this injunction on December 21, 2020. The affirming order recites the same language verbatim as above. App.z. It further gives that a copy of the Dec. 10 order is attached and "is to remain in full force and effect". App.aa.

The statutory definition is different. Says Neb. Rev. Stat. § 42-924(1)(a) (Cum. Supp. 2020; key terms emphasized):

> Any victim of domestic *abuse* may file a petition and affidavit for a protection order as provided in this section. Upon the filing of *such a petition* and affidavit in support thereof, the court may issue a protection order without bond granting [statute's constitutionally- and personally-reviewable] relief[.]

Statute affords the words in Statute § 42-924 special definitions. Neb. Stat. § 42-901 (Reissue 2016) provides, "Sections 42-901 to 42-931 shall be known and may be cited as the Protection from Domestic Abuse Act." Statute § 42-903, (after a legislative amendment) now offers,

> For purposes of the Protection from Domestic Abuse Act, unless the context otherwise requires:
>
> (1) Abuse means the occurrence of one or more of the following acts between household members:
>
> (a) Attempting to cause or intentionally and knowingly causing bodily injury with or without a dangerous instrument;
>
> (b) Placing, by means of credible threat, another person in fear of bodily injury. . . . ; or
>
> (c) Engaging in sexual contact or sexual penetration without consent as defined in section 28-318[.]

An injunction issued for reasons not listed in statute simply does not create an injunction issued under Statute § 42-924. The *meaning* of the words are not what's important here: it's using exactly what words the statute authorizes, nothing more.

9. But you pled no contest!

The defendant puts trust of his name into another person when purchasing representation. The promise of legal representation is a shadow, when the accused puts his full faith in the judge to uphold the law. Legal representation should have moved to quash the amended charges immediately. This is true also because the amended complaint was not signed by its affiant—proceeding on this basis puts the jury in doubt whether the defendant admits the truth of the charges in the original document to concede that a fraudulent affidavit is of no effect—an error not discovered until February 13, 2023. Proceeding without accomplishing the duty to quash puts the trusted representative in an unfair position to cajole the defendant into choosing whether to agree to something that is a nullity. It's a trap.

All along, the State expects the defendant to know the law, regardless of representation. The defendant who purchased legal experience is expected to have that legal experience. There must be a presumption generating this fog.

Using the plain English words "no contest" after counsel ought to have filed a motion to quash is no admission of *guilt.* It is unjust to infer guilt, knowing that the charges are faulty. Even though it was withdrawn, the defendant filed a motion to quash the initial charges, putting the objection on record.[5]

No contest traces back to the *nolo contendere* pleas of early English jurisprudence. Every felony was a death sentence, and a system developed giving the

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[5] Motion to Quash, Platte Co. Ct. case no CR-21-317, May 12, 2021

judge the power to recommend a pardon.[6] This, apparently,[7] developed into English *nolo contendere,* or "yielding to the King's mercy."[8] It apparently fell out of use in England in 1702.[9] After limited use in the Civil War era,[10] notable use in America is in Boston in the 1820s.[11] Its widespread acceptance in the American law of the 1960s[12] is on the misapprehension of *the consent of the people* as the constitutional equivalent to *the English monarch.* The resulting no contest and *Alford* "pleas leave psychological denial mechanisms in place," writes Stephanos Bibas in 2003. "Regardless of how defendants respond, these pleas muddy the denunciation of the crime instead of vindicating victims as well as the community's moral norms, such as honesty and responsibility."[13]

"*Alford* and nolo contendere pleas are unwise and should be abolished," he continues, with compelling arguments in support.

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[6] A. Alschuler, "Plea Bargaining and Its History," 79 Columbia L.Rev. 1, 11 (1979).

[7] 79 Col.L.Rev. 13: "Confessions, [in early English common law], are of four kinds: [including] confessions that we would call pleas of nolo contendere . . ."

[8] N. Lenvin, et. al., "Nolo Contendere", 51 Yale 1255, 1256 (n.d.)

[9] *Id.*

[10] 79 Col.L.Rev. at 9-10

[11] 79 Col.L.Rev. at 10

[12] 51 Yale at 1255, note 8.

[13] S. Bibas, "Harmonizing Substantive-Criminal-Law Values and Criminal Procedure", 88 Cornell L.R. 1361 (2003)

Having related no-contest history to constitutional government, the author comes to agree, and does agree, that both pleas should be abolished entirely. The governor serves the State, and is legitimately equipped to independently appraise the State's interest in commuting a sentence.[14] An example of the confusion *Alford* pleas cause is unproductive of justice. *See United States v. Denezpi*, 596 U. S. ____ (2022). Slip op. 4: "Denezpi pleaded guilty"; Gorsuch, J., dissenting, at 4: "Denezpi pleaded no contest . . . while maintaining his innocence". The People are likely to mistake the truth if our Court does not agree on how to describe the facts. It is not important that the *Alford* plea did not occur in this case – what is important is that the petitioner asks the Court to settle the confusion.

As the next point illustrates, the defendant's belief at the time of the plea, that he was married & the injunctions blocking all communication have effect, was a pressure on his mind that was unfair.

10. Involuntary plea

Having thus shown that a no-constest plea is identical in result, in this case, as a guilty plea, the petitioner finds in *Boykin v. Alabama*, 395 U.S. 238, 242-243 (1969): "[I]ncomprehension, coercion, terror, inducements, subtle or blatant threats might be a perfect cover-up of unconstitutionality." In *Brady v. United States*, 397 U.S. 742, 750 (1970), the Court holds that "the agents of the State may not produce a

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[14] For example, "Crash victims speak out amid push for governor to commute truck driver's 110-year sentence," ABC News (December 23, 2021).

plea . . . by mental coercion overbearing the will of the defendant."

In this case, "[t]he terrifying force of the [sovereign]"[15] witnesses the defendant-petitioner's (1) incomprehension, (2) terror, and (3) coercion.

Incomprehension of the facts' relation to the law, despite counsel retained, is on the record.

Terror of losing one's family prompted a prayer that is on the record. Motion to Stay, CR-21-317, May 17, 2021.

Coercion of circumstances resulted from believing that the court order had effect. One's obligations to his family cannot be discharged without communication. But the defendant was represented by able counsel, meaning that the plea agreement should not have been entertained at the level of counsel – and the amended motion should have promptly faced a sturdy motion to quash, if the court refused to raise it *sua sponte*. Respondent Nebraska correctly observes that no such motion transpired, on the amended complaint. Br.Appe.23, A-22-84, May 31, 2022. Defendant filed a motion to quash on the original motion. Platte Co. Court. case no. CR-21-317, May 12, 2021. The change in the defendant's perspective, upon accepting that a court order may be void, is a matter of record. His understanding only came after the Court found him guilty. *See* Neb. Appeal no. A-21-540: *Motion to Dismiss,* filed August 23, 2021; and *Withdrawal of Motion to Dismiss,* September 7, 2021.

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[15] *Robertson v. U.S. ex Rel. Watson,* 560 U.S. 272, 273 (2010; Roberts, C.J., dissenting)

11. Statement of errors

With the initial filing in district court was filed of errors, a statement. The appellee's contention that the defendant never filed a statement of errors is simply false.

12. Plain error

The reasons above are adequate to find plain error.

13. Withdrawal of plea

The plea should be overturned because it was involuntary, and because the plea itself is inapposite to constitutional government, resulting in no necessary confusion.

The obligations of the plea agreement are fulfilled: (a) Defendant offered a no-contest plea to a reduced charge, and (b) State (i) dismissed a charge and (ii) did not resist probation. Done.

But the defendant's plea was in a court of law, and the plaintiff has known the rules of law, which cannot overrule the defendant's inalienable rights.

14. Prejudice to justice

Plaintiff loses nothing upon withdrawal of the plea. Nothing, nothing not already in her possession. The dismissed charge was itself untenable. Trial to jury is work anticipated with charges filed.

To spend a little time on the dismissed charge, it was charged that defendant did quote-unquote attempt to be one that "willfully harasses another person with the intent to injure, terrify, threaten or intimidate, while possessing a deadly weapon".[16] The appellant

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[16] CR-21-317, Dismiss Felony - Amended State Complaint, April 28, 2021

interprets this charge as the State's way of saying that "you never did 'A' but I am accusing you of aggravated 'A'." But the petitioner cannot maintain the appellant's argument that the State can repeat the charges under a different variant, because (1) you can only be charged once for an offence and (2) there are no applicable lawful aggravating factors available in Neb. Rev. Stat. § 28-311.04 (Cum. Supp. 2020) (App.ll).

With this concession, Petitioner still maintains Appellant's argument that the charge dismissed was also void. Nebraska had nothing to gain from that charge, because accusing Koch of any act that did not result in a crime would not have also allowed Nebraska to levy an enhanced penalty. What Nebraska loses, in now not having a chance to accuse Koch of even a plan to harass, escapes the petitioner.

15. There is no law against love

The circumstances admit no delay when a kind word must be said. A Choice to *recognize* an order stating a rule against communication is simply a Choice to *communicate* a lack of love. But the circumstances of this case present a clear intent to communicate without evidence, except that choice necessarily leads to years' of record showing communication, if but on faith in the Court.

It begins to appear how important it is for the Court to reconcile the circuit split to say that an unconstitutional order is no contempt of the constitutional state. *See* R. Labunski, "A First Amendment Exception to the 'Collateral Bar' Rule", 22 Pepp. L.R. 405 (1995; highlighting the contradiction in action). It is the immediate response that prompted this case; now that the petitioner has learned an order claiming to ban

communication has no effect, his interest in disputing such term is limited to safeguarding the honor of the judge presiding and of the name of the district court granting.

B. THIS CASE IS A SUITABLE VEHICLE TO ADDRESS THE QUESTIONS

The supplicant who recognizes the exquisite privilege to have an issue fit for the Supreme Court of the United States must nevertheless always be on guard against public policy arguments – with a guard. The individual may not speak for the vital public, whose voice is expressed in the constitution forming each government. The thoughtful defendant stands before the humblest village board of trustees mindful that any utterance might possibly face judicial review and world-wide scrutiny many years hence. That is to say, the supplicant builds a record meant for the U.S. Supreme Court, and remembers, and does not forget, that use of the word *Court,* capital *C,* refers not only to the parties before judicial power in the issue licensed for discussion under the complaints, but *Court* refers also to the judicial power of a higher power. The considerate defendant further recalls that admitting the power of any power to say *no,* for any given reason, is correct.

1. The record shows persons capable of self-control

(a) Petitioner's responsibility

(i) The petitioner's record demonstrates personal responsibility

Nothing in the government's records will be found to demonstrate that Petitioner Koch abused his license to communicate under a void order. There is not, of criminal contempt, a repeat charge. The parties' marriage contract dispute has been ongoing since 2020. That record, in Platte County District Court case no. CI-20-526, does not show "clients fight[ing] subterranean battles", to recite Tesler's words,[17] typical of divorce—to the contrary, they don't seem to have ever met. The young man's record does not show that he uses court process to harass. In fact, his appeal in Nebraska A-22-937 seeks to stay a marriage contract dispute until the Court determines whether or not communication occurs at court proceedings.

The public record of the petitioner is vitally important at this time because he presently represents his own interests. Rule 5 selects attorneys based on their status, behavior, and character.

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[17] P. Tesler, "Collaborative Family Law", 4 Pepp. Disp. Resol. L.J. 317, 324 (2004)

(ii) The petitioner's actions to challenge the injunction were the very minimum possible

Mr. Koch took pains to place himself at a disadvantage on the night of the incident. One might realize that a position in a basement is likely to prevent his escape, upon finding evidence that there were no exits downstairs. There is no evidence that the firearm referenced was loaded, pointed, or even referenced in the communications of Koch now on record, although he answered an officer's question about it. The Court, it is important to say, made no effort to enjoin his ownership – and nothing in the public files of the government will be found to undermine the fact that he positively acted to surrender it regardless.

Our social contract is that the citizen must exercise his or her convictions, and law-abiding behavior will not earn a guilty conviction.

(iii) The petitioner's choice to neglect a prompt exercise of his Rights in challenge to the injunction would have been a breach of contract

No matter what one chooses to communicate, it is communication. Withholding communication at the relevant time is a choice to withhold love. Withholding love is hatred. Concealing hatred with lying lips, and uttering a slander, reveals a fool. For the sake of constitutional justice, it is gravely important to speak up in defense of the rights of all—the Right of *one* is the Right of all. Petitioner Koch's record will show his interest in fairly representing the interests of similar

persons – that is, in general, men with children who contest that each is married but subject to a protection order stating a ban against all communication – and this all goes to explain why Petitioner adopts the use of the word *we* to refer to himself.

(iv) The petitioner has more to lose from poor handling of this case than an attorney's interests

The attorney has a reputation and business at stake, and there is nothing trivial about that. The petitioner, on the other hand, personally seeks the best outcome for his name. He is, so to speak, the attorney for his name. His future is inextricably intertwined with the outcome of this case—as it should be. As it should be, because his children and his children's mother are inextricably intertwined with his life story. He could not stand up, knowing the ramifications on their futures, without feeling the most vulnerability to himself.

No one else understands his cases better.

(v) The petitioner's past record is important in a helpful kind of way

The nation-wide search would reveal that the petitioner has before been under an order claiming to ban all communication. Far from a repeat occurrence, the record shows his reliance on the dread of the monarch to split him away from the person who accepted his false promise to be physically exclusive for life in exchange for hers. Their separation serves the State's interests in safeguarding the valuable reputation of marriage.

There's more. In times of little conflict, the petitioner was uniquely able to thoroughly reflect on his experiences, and to analyze them without any tangible hope of future gain. Carrying his preliminary analysis into this dispute, and offering his conclusions at opportune times, he is able to express a clarity that neither starts in this case nor must end with it. The clarity he offers is gratefully exchanged for the understanding of how he got marriage wrong.

2. Marriage contract dispute irrelevant

Tesler observed that "the divorce passage . . . . cause[s] emotional trauma [analogous] to the death of a spouse."[18] The typical probate of a marital estate puts every gear of justice to work as quickly as possible to conclude and decree and move on. But this case is different. Petitioner Koch brought himself to justice for its life-changing power. His quest for truth is a record in the hands of the judiciary, every step essential to reaching the goal. In the end, the understanding that marriage is not something government either gives or takes put his mind at ease. The posture of this case, therefore, has closed the door on bitter wrangling and blithering filibuster. In the end, whatever litigation exists between the parties is irrelevant to the justice of criminal charges.

(a) The lead respondent's record is consistent

CPO Petitioner Andela's record evinces a person who intends to maintain her position, once it enters

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[18] *Ibid*, 4 Pepp. Disp. Resol. L.J. at 321.

court, to its logical conclusion – that determination that judges admire.

(b) The petitioner realizes the value of separation

The record demonstrates a person who left himself vulnerable to the force of perception in pursuance of the power of that force to bring to pass ameliorative separation. The CPO respondent is on record in the District Court of Platte County as having committed adultery, a co-mingling of a woman's children, by marrying a person with a surviving father of her children, under his private interpretation of nature.[19] The separation imposed under the CPO was not according to his druthers, but because of his choices, and he accepts the need therefor. It should be pointed out, however, that the incident was communication of a non-evidentiary nature until the exigency of having painted himself into a corner prompted an utterance. Ever since the incident, communication through the court record, and also in the name of the State, is ongoing. Communication through attorneys recurs, although the injunction, under Nebraska law, purportedly binds the parties' agents, as well. Neb. Rev. Stat. 25-1064.01(4) (Reissue 2016; App.kk). Mr. Koch secured representation early in defense of his marriage contract. His attorney who writes, before the incident, to her attorney (emphasis in original),

> **My client would like the following communicated to Andela:** "Isaac loves Andela unconditionally, ..."

when in fact Isaac wrote,

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[19] Platte Co. Dist. Ct. case no. CI-20-526, Amended Motion for Summary Judgment (Affidavit), filed July 11, 2022.

I would just tell Mr Neiman that:

Isaac loves Andela unconditionally, ...

Any attorney who writes that sends the message that communication is not barred, or she is guilty of a felony upon the jury's finding that "client" was the second word she uttered.

C. THIS CASE RAISES A PRESSING FEDERAL PROBLEM THAT ONLY THE NAME OF THE SUPREME COURT WILL CURE

1. Misappropriation of relief as punishment sullies the perception of justice

Any student of character understands that when a Power makes an order, that is a Choice. My respect of your choice always corresponds to your credibility. A Power that makes conflicting Choices loses credibility. Therefore, the state courts nationwide, to maintain their credibility, need the name of the United States to disavow their void judgments with its high credibility.

2. The use of orders against all communication poorly addresses a national issue of natural causes

The statutes against communication are widespread (App.mm), but they are not universal. Texas Family Code § 85.022(b)(2)(rev. 2021) provides:

> (b) In a protective order, the court may prohibit the person found to have committed family violence from:
>
> . . .
>
> (2) communicating:
>
> (A) directly with a person protected by an order or a member of the family or household of a person protected by an order, in a threatening or harassing manner;
>
> (B) a threat through any person to a person protected by an order or a member of the family or household of a person protected by an order; and
>
> (C) if the court finds good cause, in any manner with a person protected by an order or a member of the family or household of a person protected by an order, except through the party's attorney or a person appointed by the court[.]

In refinement of any statute claiming the authority to grant the power to restrict communication between parties to only their attorneys, Petitioner Koch observes that when the Court retains power to modify an injunction against communication, its order must make that clear. The government must not add, to any party, when seeking help from the Court to create good boundaries, the cross-current of confusion arising under a void order.

If the Supreme Court is pleased to order review on the question of the injunction, more statute misdirecting the application of equity is likely to be found.

3. The use of a void order persuades the troubled citizen to do what's worse

Each person is wholly responsible for his own choices. The real trouble with the words *contact* and *communicate* is that they describe results. If we agree on what *act* is productive of the *result,* we can achieve a rule that will consistently produce the desired effect. The petitioner can demonstrate that not knowing what *act* is productive of *marriage* leads parties to a frenetic chase to determine their rights when one's one and only is only trying to prove the nullity of the marriage contract.

4. The Court will never get an identical case

Any delay does real harm to the reputation of justice.

5. The Court must exercise sound judgment

An old proverb known by many peoples over the duration of some twenty centuries runs along the lines, "The mouth of the righteous bears wisdom, but the tongue of perversions will be cut out." Cruel and unusual, no doubt, under our present government, but consider: perverse speech undermines good government; the monarch that succeeds failure of self-government might exert the power to physically remove a tongue: physical removal of a tongue is anatomically – albeit revolting – possible.

The Court must weigh the wisdom of granting certiorari *on the question of the void injunction* based on the effect of its use to the reputation of justice, against the effect that the clearly void order has. And to

whatever name taking responsibility for that decision, will the petitioner be equipped to ascribe any inconsistency with his consent clearly announced in the Nebraska and federal Constitutions. There is ample error in this case to order a remand to the jury.

6. The confusion on the use of pleas is this Court's own creation

The People's unhappiness with the confusing, ineffective plea should find resolution in this case.

7. This case is an opportunity to uphold the peace and dignity of the constitutional state

Within the court of a local state or federal state, the state's peace is the most important. Yet the underlying protection order enjoins disturbing the peace of an individual (App.ee), and the complaint charges disturbing an individual's peace (App.ii). The confusion between an individual's *preferred state of peace* and the preservation of *the peaceful state of the State* is productive of absurd results, like that time when the police were called on the charge that child arrived with a flower from his father for his mother.[20] This case offers this Court an opportunity to recognize that fact. The Court might remind the citizens of the United States that a charge of disturbing the peace turns on whether the accused's act was to promote constitutional government, and that the constitutional voice to speak on that point is the jury.

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[20] Page 6 of the brief filed August 27, 2021 in Neb. appeal no. A-20-478, the record of *Garrison v. Otto,* 311 Neb. 94 (2022).

8. This Court has not seen a similar opportunity

The use of a device commonly called a protection order is of recent history. The use of a judge to pronounce the forfeiture of liberty without a jury is something ancient.

The Court has addressed ancillary issues. *Castle Rock* questioned the responsibility of the State's government to the commands of its order.[21] The Court concluded the government has not. In *Dixon,* the Court affirmed that the State may punish a crime, and may charge contempt for the same crime so enjoined, all without charging a person with the same offense.[22] In *Robertson,* the Court declined to address the issue again.[23]

But the Court has had ample opportunity to decide whether equity will countenance violating the Rights secured to the People in their Constitution which gave the body of government its life. The Court is unquestionably on the correct side.

In *Ex Parte Young,* the Court countenanced an injunction against a government officer[24] but decided not to let injunctions extend to the judicial branch. Years of labor injunctions followed, and an Act of Congress intervened.[25] In years of civil rights

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[21] *Castle Rock v. Gonzales,* 545 U.S. 748 (2005)

[22] *United States v. Dixon,* 509 U.S. 688 (1993)

[23] *Robertson v. United States ex rel. Watson,* 560 U.S. 272 (2010)

[24] *Ex Parte Young,* 209 U.S. 123 (1908)

[25] J. Greene, "Giving the Constitution to the Courts", 117 Yale L.J. 886, 910 n. 118 (2008)

protests, the Court again explored the use of injunctions.[26] A later era of increasing lawlessness found the Supreme Court of the United States overturning an injunction against all communication.[27] When the contest came for our children, injunctions still had their limits.[28]

But there is something more insidious at work here, which the suppliant is pleased to present, having wisely considered the hole it's been digging, from the bottom end. The opinion of *Ogden v. Saunders*[29] mistook the government for the supreme State. The paradigm that contract is subordinate to the obligor, and the government subordinate to the people, is nowhere expressed so clearly in the perception that marriage is marriage anywhere and everywhere. The history of Russia[30] and Germany[31] show the chaos unleashed when soul-rending divorce is permitted of the State's government. But here and now, the Court finds an opportunity to use the established system of justice, fueled by winsome humility, to correct a national error.

This point relates back to this issue as evidence for the Court that the government has power to deal swiftly with timid application of the law, in order

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[26] *Walker v. City of Birmingham*, 388 U.S. 307 (1967)

[27] *Nebraska Press Assn. v. Stuart*, 427 U.S. 539 (1976)

[28] *Ex Parte Tucci*, 859 S.W.2d 1 (Tex. 1993)

[29] *Ogden v. Saunders*, 25 U.S. 213 (1827)

[30] "Five Ways Lenin's Propaganda Destroyed Marriage And The Family In Russia", *Investor's Business Daily* (Oct. 23, 2013)

[31] M. Lenaerts, "The influence of National Socialism on divorce law in Austria and the Netherlands" (BRGÖ 2018)

that lawless behaviour of every sort will face the terror of the sovereign.

9. Some state court opinions support petitioner's standpoint

States have eyed this issue with apprehension.

(a) Nebraska

In *Hron,* the Nebraska Supreme Court cast doubt on the power of an injunction blacking all communication.[32]

(b) New Jersey

In *Crespo,* the New Jersey Superior Court overturned a lower court's finding that a CPO violates separation of powers and due process principles.[33] In so doing, the Court incorrectly exalts court rules over the State's constitution, under license of fulfilling statute's requirement to "make rules . . . subject to the law". 408 N.J. Super. at 32. It shamelessly decrees "husbands" "batter[]" "women" with careless disregard of *equality* or careful respect of *holy matrimony*.[34]

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[32] The case uses the word "abortion" as a term referring to "inflicted miscarriage," and "doctor" for "person". *Hron v. Donlan,* 259 Neb. 259 (Neb. 2000). One of the assigned errors was that a superseded statute was unconstitutional on its face. The trial court deleted the provision against all communication, but the Supreme Court states "this case could implicate a matter of public interest, the First Amendment right of free speech" without going into detail.

[33] *Crespo v. Crespo,* 408 N.J. Super. 25 (App. Div. 2009)

[34] *Id.,* 408 N.J. Super at 38

In the 2012 case *D.N. v. K.M.*, the Court declined to find as secure some access to counsel. It wrote, "the assistance of appointed counsel guaranteed by the Sixth Amendment for criminal matters applies to civil proceedings, *if the defendant's personal freedom is at stake.*" *D.N. v. K.M.*, 429 N.J. Super. 592, 600 (App. Div. 2012; emphasis supplied). In a powerful dissent when the parties came to the New Jersey Supreme Court, Justice Albin made it perfectly clear that the orders, taken as effectual, remove liberty. *D.N. v. K.M.*, 83 A.3d 825, 826 (N.J. 2014). This case does not appear to have reached this court.

10. The problem is clear

The law is clear, and the States need the federal government's help.

Protection order laws are green laws, stacked against the well-settled Constitutions. *See* Pet. for cert., S.C. case no. 20-6046 (*McGinnis v. United States, cert. denied*) p. 15 ("there were no such statutes before 1970").[35] If we agree the resulting injunctions are unconstitutional, it follows that the honor of our judges is vulnerable. The petitioner is "not obliged to sift the historical materials for evidence to sustain [Nebraska's order]. That is [the state government's] burden." *New York State Rifle & Pistol Assn., Inc. v. Bruen,* No. 20-843, 57 (U.S. Jun. 23, 2022). "[W]hen the Government restricts speech, the Government bears the burden of proving the constitutionality of its actions". *Id.* at 20.

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[35] The following article addresses CPOs from a public policy perspective. T. Kuennen, "No-Drop Civil Protection Orders ", 16 UCLA Women's L.J. 39, 47 (2007): "the first CPO legislation was not passed until 1970"

CONCLUSION

It is a right to petition, but a privilege to be heard. This case seeks withdrawal of a plea, on the grounds that the defendant carries his burden to support the withdrawal. The evidence is that the plea was not voluntary. Second, the charge is not a crime, because the crime charged is not a crime. Finally, the record unmistakably shows that no order exists that will support the State's charge of criminal contempt; if the Court doubts, the jury must decide. Equal treatment of unequals is inequality, but every supplicant is held to the same standard, whether purchasing representation or not.

Respectfully submitted,

Isaac Koch 2-13-23

Isaac D. Koch, petitioner