

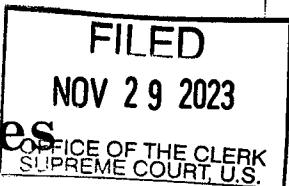
23-6154

NO. 23-    

ORIGINAL

IN THE

Supreme Court of the United States



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JENNIFER L DEES,

-PETITIONER-

v.

THE PEOPLE OF THE STATE OF COLORADO,

-RESPONDENT-

---

ON PETITION FOR A WRIT OF CERTIORARI TO THE  
COLORADO SUPREME COURT

---

PETITION FOR WRIT OF CERTIORARI

WITH APPENDIX

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JENNIFER L. DEES

16 GRANT HILL RD

CLIFTON PARK, NEW YORK

720-799-6190

## **QUESTIONS PRESENTED**

The March 29, 2022, transcript (p. 3-4) indicates a procedural breach by Judge Sargent, who admitted to answering jury questions directly on March 28, 2022, without the presence of counsel and failed to document this interaction in the court record. This contravenes the legal requirement to record all communications between judge and jury, a critical practice for ensuring due process and trial fairness. Despite Judge Sargent's admission, neither Dees' public defender nor the prosecution addressed this significant procedural violation. Evidence also suggests a concerted effort by court officials to conceal this misconduct, prioritizing the judge's protection over maintaining the integrity of the justice system.

1. Whether a trial's verdict validity get impacted if a judge engages in jury tampering as defined under C.R.S. § 18-6-609 violating defendants Sixth and Fourteenth Amendments.
2. Whether judges, prosecutors, and public defenders are shielded by their respective immunities from accountability for such conduct.
3. Whether there is an obligation for the state to intervene when a judge deliberately tampers with a criminal jury?
4. Whether a matter of a judge's jury tampering, if neglected by state authorities, including the judicial commission and the state's highest court, become a case for the U.S. Supreme Court to intervene in order to safeguard the constitutional rights of defendants?
5. Whether the conduct of the court, prosecutors, and Dees' public defender violate Dees' Sixth and Fourteenth Amendment rights, specifically concerning due process, including the right to a fair trial, effective legal representation, an impartial jury and judge, and equitable sentencing?

## **LIST OF PARTIES**

Petitioner is the defendant in the Jefferson County court case (20M6107), appellant in the Jefferson County District court case (22CV30495), and the petitioner in the Colorado Supreme Court case (23SC238).

Respondents are the Jefferson County District Attorney's office who prosecuted the case against petitioner.

## **RELATED CASES**

Jefferson county court case (20M6107)

Jefferson County District court case (22CV30495),

Colorado Supreme Court case (23SC238)

## TABLE OF CONTENTS

INTRODUCTION	1-3
OPINIONS BELOW	3
JURISDICTION	3
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED (Appendix D)	3
STATEMENT OF THE CASE- A. Procedural	4-5
- B. Factual	5-7
- C. Structural Error	7-9
- D. Jury Tampering	9-12
- E. Ineffective Counsel	
- F. Excessive Penalties	13-18
- G. Rule 29	18-19
- H. Trial instruction Mistake of law	19-21
- I. Trial instruction C.R.S. 13-14-106	21-22
REASONS FOR GRANTING WRIT	22-24
CONCLUSION	24

## INDEX TO APPENDICES

APPENDIX A- Jefferson County District Court Order on Appeal

APPENDIX B- Colorado Supreme Court Order Denying Writ of Certiorari

APPENDIX C- Constitutional and Statutory Provisions Involved

APPENDIX D- Jefferson County Court transcripts:

-December 17, 2021

-January 4, 2022

-March 29, 2023

**APPENDIX E- -Dees' letter to Jefferson County court  
(November 21, 2023)**

- Colorado Commission on Judicial Discipline Letter  
(January 31, 2022)
- Email to Jefferson County District Attorney Alexis King, ADA  
Oltman and ADA Chandler Grant.  
(August 24, 2022)

## **TABLE OF AUTHORITIES CITED**

CASES	Pg No.
Ardolino v. People (69 P.3d 73, 76)	8
Blecha v. People (962 P.2d 931, 942 (Colo.1998)	8
Brady v. Maryland and Giglio v. United States	7
City of Morgantown v. Royal Ins. Co. (337 U.S. 254, 258, 69 S.Ct. 1067, 93 L.Ed. 1347, 1949)	11
Delaware v. Van Arsdall (475 U.S. 673, 679-80)	8
Dimick v. Schiedt (293 U.S. 474, 486, 55 S.Ct. 296, 79 L.Ed. 603, 1935)	11
Gann v. People, 736 P.2d 37, 39 (Colo. 1987)	21
Hagos v. People, 288 P.3d 116, 119 (Colo. 2012)	22
Lybarger v. People, 807 P.2d 570 (Colo. 1991).	19
McDonald v. People, 494 P.3d 1123, 1133-34 (Colo. 2021)	21
Nailor v. People, 612 P.2d 79, 80, 1980	11
Neder v. United States (527 U.S. 1, 8, 119 S.Ct. 1827.	8
Peña-Rodriguez v. Colorado, 137 S. Ct. 855, 860, 2017	11
People v. Hardin, 607 P.2d 1291, 1294 (Colo. 1980)	18
People v. Mandez, 997 P.2d 1254 (Colo. Ct. App. 1999)	14
People v. Novotny, 2014 CO 18, ¶ 21, 320 P.3d 1194, 1201).	8
People v. Prendergast, 87 P.3d 175 (Colo. App. 2003)	18
People v. Smith, 848 P.2d 365 (Colo. 1993)	14

## **AUTHORITIES CON'T**

People v. Stewart, 55 P.3d 107, 120 (Colo. 2002)	19
Strickland v. Washington, 466 U.S. 668, 685 (1984)	13
United States v. Gonzalez-Lopez, 548 U.S. 140, 147 (2006)	13
Wells-Yates v. People, 454 P.3d 191, (Colo.2019)	14

### **FEDERAL CONSTITUTION**

First Amendment	3, 7
Second Amendment	3
Fifth Amendment	3, 21
Sixth Amendment	3, 12, 13, 23
Eighth Amendment	3, 13-14
Fourteenth Amendment	

### **COLORADO CONSTITUTION**

Colo. Constitution Article II, Section 3	3
Colo. Constitution Article II, Section 6	3
Colo. Constitution Article II, Section 10	3
Colo. Constitution Article II, Section 13	3
Colo. Constitution Article II, Section 16	3
Colo. Constitution Article II, Section 20	3, 13-14
Colo. Constitution Article II, Section 24	3
Colo. Constitution Article II, Section 25	3

### **COLORADO STATUTES**

C.R.S. § 13-14-106	18, 21-22
C.R.S. § 18-1-504(2)(c),	20
C.R.S. § 18-2-201	1
C.R.S. § 18-6-609	1
C.R.S. § 18-6-803.5(1)	4, 18, 19
C.R.S. §18-8-102	1
C.R.C.P. 29	18

#### **FEDERAL STATUTES**

18 U.S.C. §§ 922(d)(8) and (g)(8)	2
28 U.S.C. § 1257(a)	3

#### **OTHER**

HIPAA (also in Appendix C)	17
Colorado Code of Judicial Conduct 1.2	11

## INTRODUCTION

Jennifer Dees, (Dees) asserting her role as a protective mother, challenges the legal foundation of her youngest child's custody, currently under her ex-husband Joseph Stockwell (Stockwell) Dees claims this custody, established through a fraudulent birth certificate, is both illegal and a form of retaliation against her concerns for the child's welfare and law. Criticizing the decision-making process led by Judge William Hood, now a Colorado Supreme Court Justice, Dees alleges a pattern of systemic retaliation within the Colorado judicial system.

Highlighting a protection order issued by Magistrate Karen Hubler a close family friend of Justice Hood, originally encompassing all three of her children but later modified to solely Stockwell, Dees raises issues of constitutional rights violations, citing procedural irregularities during the hearing and improper notification. Dees further asserts a conspiracy involving prosecutors, Judge Sargent, and the other court actors, referencing specific Colorado Revised Statutes: C.R.S. § 18-2-201 (conspiracy), C.R.S. §18-8-102 (obstruction of justice), and C.R.S. § 18-6-609 (jury tampering). Dees details a history of questionable actions by the Jefferson County District Attorney's Office and local law enforcement, especially in cases involving the Stockwell's, which she views as biased and collusive.

In addressing the purported neglect by Jefferson County authorities to thoroughly investigate her son's sexual abuse claims at Stockwell's residence, Dees contrasts this with the array of charges she faced for her reports, including accusations of

bribery, false reporting, and child abuse. Her subsequent acquittal on these charges, Dees argues, suggests a retaliatory intent behind the accusations.

Dees also draws a connection between a 2014 incident involving a wrongful arrest by the Westminster Police Department and a succession of charges leveled against her in the following years. She interprets this sequence of events as a concerted effort to suppress her voice and jeopardize her and her children's safety, thus constituting a pattern of what she views as unjust and targeted persecution.

Dees presents a detailed argument highlighting inconsistencies in the imposition of the protection order. She contends that she was not subject to the federal firearm prohibitions commonly applied in domestic violence scenarios under Title 18 U.S.C. §§ 922(d)(8) and (g)(8), emphasizing the absence of any domestic violence charges against her. Moreover, Dees underscores that neither domestic violence enhancements nor relevant evidence were presented to the jury during the trial.

Challenging Judge Sargent's decision to impose a domestic violence conviction and sentence enhancement, Dees underscores the absence of any official record or concern about her likelihood of reoffending. This, she argues, indicates a punitive rather than a preventative approach, lacking a legitimate foundation.

This contention raises profound questions regarding the judge's decision's fairness and legal validity, especially given the lack of substantial evidence or documented reasons that typically justify such legal actions.

Further, Dees asserts that these measures violate her constitutional rights as protected under the First, Second, Fifth, Sixth, Eighth, and Fourteenth Amendments of the U.S. Constitution. Additionally, she claims that these actions breach Sections 3, 6, 10, 13, 16, 20, 24, and 25 of Article II of the Colorado Constitution. This comprehensive argument underscores her stance that the judicial actions taken against her are not only procedurally flawed but also constitutionally unsound.

### **OPINIONS BELOW**

All opinions are unpublished. Jefferson county court case (20M6107) Jury verdict was March 28, 2022, (Dees has never received the sentencing order). An appeal was filed on October 06, 2022, and denied by the district court on February 23, 2023, Jefferson County District court case (22CV30495), a writ of certiorari was filed on November 20, 2023, Colorado Supreme Court case (23SC238) and was denied on September 5, 2023.

### **JURISDICTION**

On September 5, 2023, the Colorado Supreme Court formally denied the Petitioners' application for a Writ of Certiorari, thereby affirming the decision of the Jefferson County District Court. The District Court's ruling, which dismissed the Petitioners' appellate claims and overlooked the matter of jury tampering by a judge, remains in effect. This case falls within the jurisdiction as outlined in 28 U.S.C. § 1257(a).

### **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

All are listed in Appendix C which consists of C1-C12.

**STATEMENT OF THE CASE**  
**A. Procedural**

On September 8, 2020, in the Denver County District Court, Judge Torrington issued a Temporary Protection Order (TPO) against Dees, specifically prohibiting her from contacting Joseph Stockwell. This TPO, due to expire on September 18, 2020, was set in anticipation of a hearing for assessing the need for a Permanent Protection Order (PPO). On the expiry date, during a scheduled Webex hearing, Magistrate Hubler rendered a decision to convert the TPO into a PPO. This modification notably excluded Dees' three children from the order. Unfortunately, Dees was unable to participate in the hearing due to technical difficulties, resulting in her absence during the critical discussion of the modified PPO terms. This incident is explicitly detailed in the court transcript TR (March 28, 2022), p. 153:7 - 154:17.

Following the establishment of the PPO, on November 2, 2020, Stockwell reported to law enforcement two specific emails sent by Dees. The contents of these emails included accusations of parental alienation and a declaration of Dees' belief in the illegitimacy of the PPO. These emails subsequently became the focal point of Dees' legal troubles, forming the basis for her conviction on charges of violating the terms of the PPO.

On June 6, 2022, Dees' public defender initiated an appeal process in the Jefferson County Court against her conviction for Violation of a Civil Protection Order, as outlined under C.R.S. 18-6-803.5(1)(a). This appeal followed a jury trial where Dees was sentenced to an 18-month probation period, augmented by a domestic violence

sentence enhancer. This conviction was directly linked to the aforementioned emails Dees sent to Stockwell, who was the protected party under the PPO allegedly issued by Magistrate Karen Hubler on September 18, 2020 (Denver case number 12DR1367).

However, on February 23, 2023, approximately eight and a half months later, the district court denied Dees' appeal. Subsequently, on May 10, 2023, Dees' public defender filed a Writ of Certiorari to the Colorado Supreme Court. This appeal, however, met with disfavor as it was denied on September 5, 2023, by six of the seven Justices. Notably, Justice Hood refrained from participating in this decision, due to a conflict of interest concerning cases involving Dees.

### **B. Factual**

In a scenario involving Judge Sargent, a series of actions infringing upon Dees' legal rights are highlighted. Initially, Judge Sargent, displaying bias and refusing to recuse himself, is accused of interfering with Dees' jury during her criminal trial, which had previously faced a mistrial due to the COVID-19 pandemic. This interference and delay are alleged to violate Dees' right to a speedy and fair trial. Furthermore, Judge Sargent is accused of engaging in punitive actions against Dees, including causing a six-week delay in her essential wrist and tendon transplant surgery, adding heightened domestic violence (DV) counts to her record, and making demeaning remarks about her medical conditions and political beliefs. These actions also include violations of both federal and state American with

Disabilities Act (ADA) provisions by insisting on public disclosure of Dees' medical conditions.

Compounding these issues, Judge Sargent engaged in unauthorized discussions with the jury during their deliberations and did so "off the record", absent Dees or her legal representation, leading to a verdict where jurors avoided eye contact with Dees. Subsequently, Judge Sargent added an enhanced domestic violence charge against Dees based on an innocuous email about her child, contradicting his previous statements regarding Dees not being a threat and without the jury having found any evidence of domestic violence.

Moreover, Judge Sargent allowed Dees to immediately relocate to New York, speculated as an attempt to divert scrutiny from his conduct. Remarkably, Judge Sargent admitted to jury tampering on the record the day following this decision. TR (March 29. 2022) p. 4-5.

This situation is further complicated by the District Attorney's office's inaction, potentially motivated by retaliation. The district judge and the Colorado Supreme Court also dismissed these issues, possibly in retaliation for actions against Justice Hood, and Dees' advocacy and her testifying at multiple Senate judiciary hearings to change laws, leading to the denial of Dees' writ.

Despite Judge Sargent's admission of his actions on record, there seems to be a concerted effort by the District Attorney Alexis King, ADA Ambrose and Chandler, the judicial commission, and the Colorado Supreme Court to conceal these events. Dees is submitting this writ to the US Supreme Court, reinforced by new evidence

and apparent complicity of the Colorado judiciary in hiding a judge's admission of jury tampering. This judge's actions, interpreted as retaliatory, have unjustly marked Dees' record with domestic violence, despite her nonviolent history.

At Dees' initial court appearance after her voluntary surrender, Prosecutor Daniel Gagarin was the sole party not engaging in retaliatory actions against Dees, as evidenced by the transcript TR (June 16, 2021), p. 1-3. Gagarin's stance contrasted sharply with subsequent prosecutorial actions by ADAs Oltmann and Ambrose who collaborating with the Stockwell's, Westminster PD and court officials, initiated a criminal protection order and aggressively sought a guilty verdict against Dees.

This adversely affected Dees' childcare profession, raising questions about the necessity of such actions, particularly given Gagarin's earlier stance against imposing a new protection order. On August 4, 2021, ADA Oltmann proposed a second protection order against Dees without new allegations of contact, perceived as an attempt to limit Dees' First Amendment rights and contribute to the conspiracy. The record indicates Stockwell turned an affidavit to ADA Oltmann and the court on August 4, 2021, TR (August 4, 2021), p. 9: 2-5, which has never been turned over to Dees nor her counsel, see *Brady v. Maryland* and *Giglio v. United States*.

### **C. Structural Error**

In assessing errors in criminal proceedings for potential reversal of convictions, Colorado appellate courts adhere to five standards. Dees' case presents several issues under these standards:

Dees' case includes allegations of Jury Tampering by Judge Sargent, who demonstrated bias against Dees and refused to recuse himself before the trial. Additionally, there are concerns regarding the deprivation of effective counsel during and after the trial. Such structural errors necessitate automatic reversal as per *Neder v. United States* (527 U.S. 1, 8, 119 S.Ct. 1827) and *Blecha v. People* (962 P.2d 931, 942 (Colo.1998)).

**Claims with Constitutionally Material Effects:** Dees alleges ineffective counsel for the appeal and Writ to the Colorado Supreme Court, claiming her counsel protected Judge Sargent and concealed jury tampering. These actions had a substantial and direct impact on the trial outcome, the sentencing outcome and have caused undue harm, as discussed in *Delaware v. Van Arsdall* (475 U.S. 673, 679-80) and *Ardolino v. People* (69 P.3d 73, 76).

Dees contends that a structural error occurred when Judge Sargent met "off the record" with the jury without the presence of defense counsel or prosecution, violating her fundamental rights to a fair trial and an impartial jury (*People v. Novotny*, 2014 CO 18, ¶ 21, 320 P.3d 1194, 1201). Additionally, her counsel's failure to seek a mistrial or address these constitutional rights violations is a significant concern.

The law mandates that a judge must disqualify themselves in any proceeding where their impartiality might reasonably be questioned. In Dees' case, Judge Sargent's personal and political biases, coupled with his personal knowledge of disputed facts,

cast doubt on his impartiality, necessitating his disqualification under these guidelines.

#### **D. Jury Tampering**

During a hearing on March 29, 2022, TR (March 29, 2022), p. 3-4, Judge Sargent made a significant statement on the record regarding his interactions with the jury during Dees' trial. He acknowledged that after receiving two questions from the jury during their deliberation, he attempted to contact counsel through Division 4 law clerk, Daniel, who was serving as a bailiff. Despite efforts lasting over 20 minutes, counsel remained unreachable. Judge Sargent explained that after consulting with Daniel in his chambers and unsuccessfully trying to locate the attorneys, he decided to respond to the jury's inquiries without their input.

The first question from the jury concerned the date of an email, to which Judge Sargent replied by instructing the jury to rely on the evidence presented. The second question pertained to the process of service, specifically whether it involved email or mailed communication, and if mailed, whether it was certified. Again, Judge Sargent directed the jury to depend on their collective memory for the answer, stating he could not provide further information.

Additionally, Judge Sargent noted that the jury's questions were not included in the court file as instructed. This recount of events concluded with Judge Sargent describing his responses to the jury as essentially uninformative, urging them to rely on their memory and the evidence presented.

In the legal proceedings involving Jennifer Dees, there have been several grave concerns regarding the preservation of her due process rights. A pivotal issue is that Dees has not had access to the jury questions for use in her appeals, and her legal counsel failed to acquire these critical documents. This lack of action by her legal team significantly impedes her ability to effectively challenge the trial's outcome, as these jury questions could be essential in assessing the fairness and integrity of the trial process.

Compounding this concern is the admission by Judge Sargent that his interactions with the jury occurred off the record. Conducting such crucial judicial activities off the record, particularly when neither defense nor prosecution counsel is present, raises serious questions about the motives behind these actions. Typically, there would be no justifiable reason to go off the record in this context unless there was an intention to conceal actions or unduly influence the jury. The absence of these interactions from the official record deprives Dees of vital evidence necessary for her appeals process, constituting a significant violation of her due process rights.

Furthermore, the reactions of Dees' public defender and the prosecutor to Judge Sargent's admission are deeply troubling. Their apparent dismissal of the seriousness of Judge Sargent's actions, behaving as though such protocol breaches are routine, reflects a concerning attitude. This approach not only undermines the gravity of the situation but also highlights a failure in their duty to protect and advocate for Dees' legal rights. The role of legal counsel is not only to represent their client in court but also to ensure that the trial process is conducted fairly and

transparently. In this instance, the seeming indifference of Dees' counsel and the prosecutor to potential jury tampering and the lack of transparency in judicial proceedings is a serious dereliction of their professional responsibilities, calling into question the overall fairness and integrity of the trial.

The U.S. Supreme Court has consistently upheld the vital role of juries, as established by the founding fathers, within the judicial system. Notably, in *Dimick v. Schiedt* (293 U.S. 474, 486, 55 S.Ct. 296, 79 L.Ed. 603, 1935), the Court emphasized the critical function of juries as factfinders, asserting that any reduction in jury trial rights demands careful examination. This stance was reinforced in *City of Morgantown v. Royal Ins. Co.* (337 U.S. 254, 258, 69 S.Ct. 1067, 93 L.Ed. 1347, 1949), where jury trials were declared fundamental to the American judicial system.

Historically, juries have been pivotal in checking government authority, entrusted with resolving factual disputes and determining outcomes in criminal trials. Their verdicts are crucial for maintaining the rule of law. However, in this case, Judge Sargent's conduct has significantly undermined the jury's autonomy, raised concerns of impropriety and compromised the judicial system's aim to ensure Dees' right to a fair trial, which includes an unbiased jury (*Peña-Rodriguez v. Colorado*, 137 S. Ct. 855, 860, 2017; *Nailor v. People*, 612 P.2d 79, 80, 1980).

The judiciary is responsible for upholding public confidence in its independence, integrity, and impartiality (C.J.C. 1.2). Regrettably, the trial court in Dees' case did not meet these fundamental obligations. Dees did not relinquish her right to an

impartial trial, which includes the entitlement to a jury free from undue influence. Judge Sargent's admission of unauthorized jury discussions is a clear breach of this right.

Importantly, Dees' Sixth Amendment right to a jury trial, as guaranteed by the Due Process Clause of the Fourteenth Amendment (U.S. Const. amend VI, XIV; Colo. Const. art. II, § 25), has been jeopardized. While absolute perfection in a trial is not a prerequisite, Dees is constitutionally entitled to a fair and equitable trial with an impartial jury. Judge Sargent's undisclosed interactions with the jury and his omission to declare a mistrial have significantly compromised the integrity of Dees' trial.

#### **E. Ineffective Counsel**

In the legal representation of Dees, there were significant shortcomings that compromised the efficacy of her defense. Her counsel notably failed to file a motion for a mistrial following jury tampering incidents and did not endeavor to seek a reduction of the enhanced domestic violence (DV) sentence. This lapse in advocacy significantly undermined her legal position.

Furthermore, Dees faced substantial reluctance from her attorneys regarding the filing of an appeal and a writ, coupled with difficulties in being adequately informed about the progress of her case. A critical instance of this inadequate representation was evident when Dees' request to review the appeal brief before its submission was denied by her public defenders. Subsequently, she only received a copy of the brief after it was filed, and that too, following her insistent demand.

Compounding these issues, Dees has been deprived of access to essential documents and evidence, such as the sentencing order and jury notes. This deprivation not only hinders the preparation and support of her writ but also infringes upon her Fourteenth Amendment rights. Access to such material evidence is crucial for a fair legal process and the upholding of her right to due process.

The importance of effective legal representation is firmly established in *Strickland v. Washington*, 466 U.S. 668, 685 (1984), highlighting its critical role in the adversarial system's delivery of just outcomes. As articulated in *Strickland* (466 U.S. at 685), the Sixth Amendment's right to counsel extends beyond the mere presence of a lawyer; it encompasses the right to effective assistance of counsel. This right, rooted in the objective of ensuring a fair trial (*United States v. Gonzalez-Lopez*, 548 U.S. 140, 147 (2006)), is a constitutional guarantee for all criminal defendants (*Strickland*, 466 U.S. at 685).

In Dees' case, the deficiencies in her counsel's performance not only failed to meet the *Strickland* standard of effective representation but also potentially jeopardized her constitutional right to a fair trial, underscoring the severity of the situation.

#### **F. Excessive penalties**

The U.S. Constitution and the Colorado Constitution, specifically Article II, Section 20 (2012), which parallels the Eighth Amendment, prohibit the imposition of cruel and unusual sentences. Dees contends that her sentence, for the offense she was convicted of, is excessively harsh and thus unconstitutional under the U.S. Const., Amend. VIII, and Colo. Const., Art. II, Sec. 20; *Solem v. Helm*, 463 U.S. 277 (1983);

and People v. Young, 814 P.2d 834 (Colo. 1991). In Solem v. Helm, the U.S. Supreme Court established that the Eighth Amendment bars sentences that are disproportionate to the crime committed. This principle demands that a sentence be proportionate to the offense, a standard Dees argues her sentence fails to meet, thus requiring a proportionality review per Article II, Section 20, as supported by People v. Mandez, 997 P.2d 1254 (Colo. Ct. App. 1999) and People v. Smith, 848 P.2d 365 (Colo. 1993).

The Colorado Supreme Court, on November 4, 2019, provided updated guidance on proportionality litigation, emphasizing the necessity for a crime to be considered "grave or serious" only in scenarios where such conduct is inherently involved in every factual context. Applying this guidance to Dees' case, the designation of her offense, involving sending emails about her child, as "grave or serious" is problematic and not aligned with judicial norms, as per Wells-Yates v. People, 454 P.3d 191, (Colo.2019).

Dees argues that the sentence imposed upon her, which severely impacts her professional and parental roles, is unreasonably harsh for the act committed. The addition of a domestic violence enhancer to her sentence seems disproportionate and raises ethical concerns, deviating from typical judicial practices. Such a punitive measure, altering her life and familial relations dramatically, is argued to be more appropriate for considerably more severe conduct.

Following the jury's guilty verdict on March 28, 2022, the appointed public defenders requested immediate sentencing. During the swift sentencing hearing,

new allegations were presented by Stockwell and ADA Ambrose, despite no pending charges or documented violations against Dees related to these allegations. Crucially, neither Dees nor her legal representation were aware at this point of the significant procedural irregularity: Judge Sargent's private, off-the-record meeting with the jury, excluding defense and prosecution representatives. This disclosure, made during a hearing on March 29, 2022, about Dees' petition for relocation to New York, casts substantial doubt on the fairness and integrity of the judicial process in her case, necessitating an in-depth review.

During the sentencing hearing for Dees, Stockwell portrayed her behavior as violent and threatening towards his family post-divorce. He highlighted alleged incidents following the protection orders being placed, including an allegation of Dees falsely reporting a trafficking case, to underscore her purported ongoing harassment and disregard for legal boundaries. However, it's noteworthy that no charges or violations related to harassment or stalking were ever filed against Dees by the Jefferson County district attorneys. Dees remained on a PR bond for over a year without further violations, a factor not evidently considered in the proceedings, raising concerns about bias in Judge Sargent's approach towards ensuring Dees' conviction.

ADA Ambrose echoed Stockwell's sentiments at sentencing, suggesting that Dees' actions constituted more than just violations of a protection order (VPO), but amounted to a pattern of domestic violence over the years. This stance was taken despite Dees having no extensive criminal history, no history of violent behavior, and no arrests for domestic violence. Moreover, ADA Ambrose and Chandler proposed jail

as a condition of Dees' probation and recommended a domestic violence (DV) finding, along with DV treatment and a mental health evaluation.

Mr. Soloway countered that the case was limited to two emails and no additional charges for harassment or VPO violations were brought forward, indicating an absence of further illegal conduct by Dees. He argued that jail as a probation condition was excessive, emphasizing Dees' compliance with the protection order once its validity was clarified. Soloway also contested the DV tag, citing a lack of intent, and advocated for a shorter probation period.

The Court's decision to forgo jail time factored in the absence of protection order violations or new charges since November 2021. Nevertheless, the Court's insistence on probation and the DV finding, combined with the absence of new charges or violations against Dees, raises questions about the impartiality of the judicial process and the potential influence of preconceived notions in the Court's judgment.

During a pretrial hearing for Dees on January 4, 2022, (see Appendix D) the conduct of Judge Sargent was brought into sharp focus. Soloway, representing Dees, expressed concerns about potential bias from Judge Sargent stemming from previous court interactions, leading to a formal request for his recusal. This request, however, was denied by Judge Sargent, raising immediate concerns about his impartiality in Dees' case.

A significant issue arose when Judge Sargent attempted to compel Dees to disclose her medical issues on the record in the December 17, 2021, hearing (see Appendix D), a demand that goes against the Health Insurance Portability and Accountability Act

(HIPAA) regulations. This insistence by Judge Sargent, and his subsequent argument when Dees rightfully objected that such disclosure was illegal, further cast doubt on his ability to conduct the proceedings fairly and impartially. He referenced a prior court appearance where Dees, due to a medical condition, did not wear a mask as mandated, interpreting this as non-compliance with court orders. He issued an arrest warrant when Dees appeared via WebEx instead of in person, which he later vacated when she adhered to the mask requirement. His expressed frustration with what he perceived as Dees' defiance highlights concerns regarding his neutrality.

Judge Sargent's focus on Dees' courtroom behavior, including her use of a bandana deemed ineffective against the Omicron variant, indicated an emphasis on protocol over the legal merits of the case. His decision to deny Dees the opportunity to make a record in court, along with the emphasis on her compliance with mask-wearing, raises questions about the trial's fairness. These actions, particularly following Dees' judicial complaints filed against Judge Sargent on December 18, 2021, and January 4, 2022, amplify concerns about his impartiality.

The combination of these events — including Judge Sargent's insistence on in-person attendance, his remarks perceived as retaliatory, his refusal to recuse himself, his inappropriate demands regarding Dees' medical information, and the interfering with Dees jury, underscores the critical need for judicial decisions to be made without personal bias. These issues highlight the importance of maintaining the integrity of the judicial process, ensuring fair administration of justice, and upholding public confidence in the legal system. The series of events, as documented in the transcripts

paints a troubling picture in the judicial handling of Dees' case, necessitating careful consideration of these factors in the pursuit of equitable justice.

**G Failure to grant acquittal pursuant to Colorado Rule of Criminal Procedure Rule 29.**

The Trial Court erred by failing to grant the defense motion for judgment of acquittal pursuant to Colorado Rule of Criminal Procedure Rule 29. Under CRCP 29, a judgment of acquittal is mandated if the evidence presented is insufficient for a conviction and requires the evidence, in totality and viewed favorably towards the prosecution, to be substantial enough for a reasonable person to find guilt beyond a reasonable doubt (People v. Prendergast, 87 P.3d 175 (Colo. App. 2003)). In Dees' case, the defense timely filed a motion for judgment of acquittal, which was denied by the trial court TR (March 28, 2022), p. 214:9 – 218:6.

Evidence from the trial, including testimony by Joseph Stockwell, confirmed Dees' absence during critical moments of the PPO hearing TR (March 28, 2022), p. 153:7 – 154:17, demonstrated modifications in the permanent protection order from its temporary predecessor TR (March 28, 2022), p.147:12 – 148:19.

The U.S. Constitution's due process clause requires proof beyond a reasonable doubt for each element of the charged offense (People v. Hardin, 607 P.2d 1291, 1294 (Colo. 1980)). Colorado law criminalizes violation of protection orders (C.R.S. § 18-6-803.5(1)) and defines a "protection order" as an order prohibiting contact, issued by a state or municipal court. Statutory procedures are essential for the validity of such orders (C.R.S. § 13-14-106).

The case's unique circumstances, impacted by COVID-19 protocols, included Dees' partial Webex presence TR (March 28, 2022), p. 153:7 – 154:17. Given the modifications in the permanent protection order and Dees' absence during their issuance, service of the modified order was required for its legality and remained unproven. Therefore, no reasonable jury could conclude that a valid restraining order existed to bind Dees. The trial court's refusal to grant the defense's motion for judgment of acquittal was erroneous, and this court should reverse that decision, granting Dees' motion for judgment of acquittal on the charge of Violation of a Civil Protection Order under C.R.S. § 18-6-803.5.

**H. The trial court's refusal to provide the Defense's Mistake of Law instruction constituted a reversible error.**

The trial court's decision not to provide a jury instruction on the Mistake of Law affirmative defense is a critical point of contention. According to Colorado law, as established in *People v. Stewart*, 55 P.3d 107, 120 (Colo. 2002), a defendant is entitled to a jury instruction on an affirmative defense if there is any credible evidence supporting it, with the evidentiary threshold being quite minimal. The appellate court's role was to review the trial court's rejection of such a properly tendered affirmative defense instruction for harmless error, guided by the precedent set in *Lybarger v. People*, 807 P.2d 570 (Colo. 1991).

In this instance, the Defense sought a Mistake of Law jury instruction, which was subsequently declined by the trial court (Jury Instructions – Proposed, P.2).

On December 21, 2021, the Defense endorsed a Mistake of Law defense. During the trial, a partial audio recording (People's Exhibit 6) was presented where Dees

expressed her belief that the protection order was invalid, highlighting discrepancies between the temporary and permanent orders concerning service. TR (March 28, 22), p. 189:10, 190:1-5. Additionally, the permanent order's third page, as shown in Defense Exhibit B, Attachment 2, featured a court clerk's note about the necessity of service on the restrained party, which contradicted the testimony of Stockwell. TR (March 28, 2022), p.153:7 –154:17.

Under C.R.S. § 18-1-504(2)(c), an individual may be exonerated from criminal responsibility if their conduct is in accordance with an official written interpretation of the pertinent law or statute by a legally empowered public servant. Magistrate Hubler, having the authority to interpret statutes and orders, implies that the notation on the permanent protection order can be considered a valid official interpretation.

Dees, cognizant of her absence via Webex during the modification of the protection order terms, perceived the clerk's note as indicative of a legal misstatement and applied the law as explicitly written on the order. This led her to believe, arguably reasonably, that the order was invalid due to lack of service, a belief substantiated during the trial in her conversation with Officer Aron.

Given the low threshold for admitting an affirmative defense instruction, the trial court's refusal to admit the Defense's Mistake of Law instruction appears to be an error. It is the prerogative of the jury to evaluate the feasibility of an affirmative defense, irrespective of its apparent likelihood of success.

Consequently, the trial court's refusal to provide the Mistake of Law instruction proposed by the Defense constitutes a reversible error and merits reconsideration.

**I. Trial Court refused to give Jury Instruction on C.R.S. § 13-14-106**

The Trial Court's refusal to include a jury instruction regarding Colorado Revised Statutes § 13-14-106, as requested by the Defense, represents a significant error in Dees' case. In appellate review, the complete set of jury instructions must be scrutinized to determine if they provided proper guidance, as stipulated in *Gann v. People*, 736 P.2d 37, 39 (Colo. 1987). The Defense's proposed instruction pertaining to C.R.S. § 13-14-106 was rejected by the trial court (Jury Instructions – Proposed, P.1.; 3/28/22, 237:10 – 239:16). Furthermore, this omission raises due process concerns under the Fifth and Fourteenth Amendments, necessitating a Constitutional Harmless Error review.

This issue's crucial facts mirror those in the first error discussed. The trial court's failure to instruct the jury on C.R.S. § 13-14-106 is especially significant, as proving the validity of a protection order is vital for the offense charged. The legal analysis is largely similar to that of the first issue, with the key distinction being the necessity for additional jury instructions due to the unique circumstances of Dees' case. When statutes are potentially ambiguous and could confuse jurors, further clarification is warranted, as indicated in *McDonald v. People*, 494 P.3d 1123, 1133-34 (Colo. 2021). In Dees' case, the standard instructions did not sufficiently cover the element of the existence and validity of the protection order.

Compounding this issue, the jury, responsible for determining the existence of the protection order, specifically sought guidance on its service during their ex-parte, off-the-record meeting with Judge Sargent, see TR (March 29, 2022), p. 3-4. This inquiry underscores the jury's need for explicit instructions, which were not adequately provided by the court. The trial court's refusal to offer such instruction impeded the Defense from effectively challenging the prosecution's claims regarding the order's validity. Even if evidence might have countered a Rule 29 Motion for Judgment of Acquittal on this aspect, the court's failure to provide an instruction on C.R.S. 13-14-106 remains an error with constitutional implications, requiring an assessment to determine if the error was "harmless beyond a reasonable doubt" (Hagos v. People, 288 P.3d 116, 119 (Colo. 2012)).

Dees contends that proper instruction on the validity of the protection order could have materially influenced the jury's decision. The trial court's omission and the subsequent jury inquiry about the protection order's service highlight the necessity of comprehensive and clear jury instructions in such complex legal matters.

#### **REASONS FOR GRANTING PETITION**

The necessity for the U.S. Supreme Court to hear cases involving jury tampering and retaliatory sentencing by a judge is of paramount importance, especially in situations where state courts have allowed such misconduct to proceed unchecked.

This intervention is crucial for several compelling reasons:

- **Setting National Precedents:** By addressing cases of jury tampering by judges, especially where state courts have faltered, the Supreme Court can set

authoritative precedents. This would reinforce the ethical standards and behavior expected of judicial officers across the country, providing clear guidance for all courts.

- Restoring Constitutional Integrity: The Sixth Amendment guarantees the right to a fair and impartial trial, a cornerstone of the U.S. Constitution. When a judge engages in jury tampering, it constitutes a direct violation of this fundamental right. The Supreme Court's involvement is essential to uphold these constitutional guarantees and to rectify such egregious breaches.
- Preventing Judicial Corruption: The involvement of the Supreme Court becomes critical in cases where state courts have failed to address or have overlooked instances of judicial misconduct, such as jury tampering. The Supreme Court's oversight is necessary to counteract this neglect and prevent the perpetuation of corruption within the judiciary.
- Maintaining Public Confidence in the Judicial System: Public trust in the fairness and integrity of the judicial system is essential. When state courts allow judicial misconduct to go unchecked, it undermines this trust. The Supreme Court's review and correction of such cases are vital to restore and uphold public confidence in the legal system.
- Ensuring Justice and Fair Trial: The Supreme Court's intervention is crucial to safeguard the rights of individuals and ensure justice is served fairly. Its role in reviewing such cases is not only about correcting individual wrongs but also

about upholding the principle that everyone is entitled to a trial free from bias and corruption.

- **Clarifying Legal Standards:** Cases involving jury tampering by judges often present complex legal and ethical dilemmas. The Supreme Court's involvement would bring clarity to these issues, shaping judicial conduct and trial procedures for the future.

The U.S. Supreme Court's review of cases involving jury tampering by judges, particularly in contexts where state courts have failed to address judicial corruption, is critical. It serves as a necessary check against abuses of power ensuring that the principles of justice, fairness, and integrity, which are the bedrock of the American legal system, are rigorously upheld.

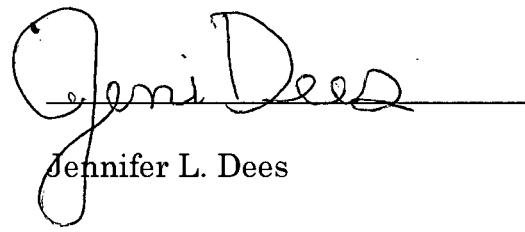
### CONCLUSION

For all reasons listed above Dees prays this Writ of Certiorari will be accepted.

*I Declare under penalty of perjury the foregoing is true & correct.*

Dated: November 29, 2023

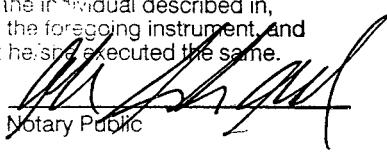
Saratoga County, New York



Jennifer L. Dees

STATE OF NEW YORK  
COUNTY OF Saratoga

On the 29 day of November, 2023, before me personally came Jennifer Lyn Dees, to me known to be the individual described in, and who executed the foregoing instrument, and acknowledged that he/she executed the same.



Notary Public

Michael R Cahill Jr.  
Notary Public, State of New York  
Qualified in Albany County  
No. 01CA6389832  
Commission Expires April 8, 2023

NO. 23-\_\_\_\_\_

IN THE

# Supreme Court of the United States

JENNIFER L DEES,

-PETITIONER-

V.

THE PEOPLE OF THE STATE OF COLORADO,

-RESPONDENT-

## CERTIFICATE OF WORD COUNT

Pursuant to Rule 33.1(h) of the Rules of this Court, I certify that the accompanying Writ of Certiorari which was prepared using Century Schoolbook 12-point typeface, contains **5791** words, excluding the parts of the document that are exempted by Rule 33.1(d). This certificate was prepared in reliance on the word-count function of the word-processing system (Microsoft Word) used to prepare the document. I declare under penalty of perjury that the foregoing is true and correct.

DATED this 29th day of November 2023  
Saratoga County, New York

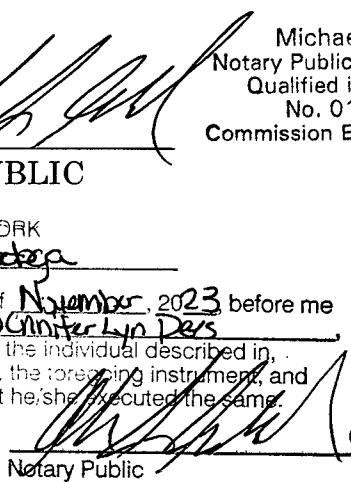


Michael R Cahill Jr.  
Notary Public, State of New York  
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No. 01CA6389832  
Commission Expires April 8, 2024

NOTARY PUBLIC

STATE OF NEW YORK  
COUNTY OF Saratoga

On the 29th day of November, 2023, before me personally came Jennifer Lyn Dees, to me known to be the individual described in, and who executed the foregoing instrument, and acknowledged that he/she executed the same.



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