

## **APPENDIX**

**APPENDIX A**

The opinion of the United States Court of Appeals Fifth Circuit appears in a dismissal order pursuant to 5<sup>th</sup> Circuit Rule 42, for failure to file Appellant's brief [48] [23-20270] by Judge Edith Brown Clement on August 15, 2023 [46]. [23-20270]. The appeal is dismissed as August 15, 2023, for want of prosecution. The Appellant failed to timely file the Appellant's brief under 5<sup>TH</sup> CIR. R. 42.3 by Dantrell L. Johnson, Deputy Clerk.

A denial of the Motion to Reinstate Appeal for Non-Compliance with the Word Count Requirement by the Fifth Circuit Deputy Clerk, Dantrell L. Johnson, on October 06, 2023. The Brief of Wen Lian Patience and the Motion to Reinstate Appeal Compliance have NOT been published.

**The Court: United States Court of Appeals for the Fifth Circuit.**

a). The opinion of the United States Court of Appeals Fifth Circuit is reflected in a dismissal order pursuant to 5<sup>th</sup> Circuit Rule 42, citing the failure to file Appellant's brief [48].[23-20270], which signed by Judge Edith Brown Clement on August 15, 2023. [46]. [23-20270].

Document in [46-2]. [23-20270]. Date Filed: 08/15/2023.

b). The Office of Clerk of the United States Court of Appeals

for the Fifth Circuit issued an “Order” dismissing the appeal on August 15, 2023, for want of prosecution. According to 5<sup>TH</sup> CIR. R. 42.3, the Appellant failed to timely file the Appellant’s brief. This order was signed by Dantrell L. Johnson, Deputy Clerk on August 15, 2023.

c) The Office of Clerk of the United States Court of Appeals for the Fifth Circuit denied Appellant's motion to reinstate the appeal by Dantrell L. Johnson, Deputy Clerk on October 06, 2023. [61].[23-20270].

## **Appendix A [Exhibit A1c]**

Case: 23-20270; Document:61; Date Filed: 10/06/2023.

*United States Court*

FIFTH CIRCUIT OFFICE OF THE CERK

LYLE W. CAYCE. TEL. 504-310-7700  
CLERK 600 S. MAESTRI PLACE.  
Suite 115  
NEW ORLEANS, LA 70130

October 06, 2023

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:  
No. 223-20270. Patience v. Jackson

USDC No. 4:23-CV-185

The court has denied Appellant's motion to reinstate the appeal. Sincerely,

Sincerely,

## LYLE W. CAYCE

by: (s) Dantrell L. Johnson,

Dantrell L. Johnson, Deputy Clerk

**Appendix A [Exhibit A1a]**

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No. 23-2027

WEN LIAN PATIENCE,

*Plaintiff-Appellant,*

*Versus*

SHANNON JACKSON; MONTGOMERY COUNTY  
DISTRICT ATTORNEY'S DEPART DA; LEE ROMERO;  
CARMEN MORALES; ROMERO LEE,

*Defendants-Appellees*

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Appeals from the United States District Court for the  
Southern District of Texas USDC No. 4:23-CV-185

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**ORDER:**

On July 26, 2023, the clerk provided the Appellant 14 days to correct deficiencies in the brief filed on July 13, 2023. The directed correction were not made. Accordingly, IT IS

ORDERED that the previously filed brief is stricken because it does not comply with the applicable Fed. R. App. P or 5<sup>TH</sup> CIR. R., and the clerk is directed to dismiss the appeal for failure to prosecute under 5<sup>TH</sup> CIR. R. 42.3.

(s) Edith Brown Clement

EDITH BROWN CLEMENT

United States Circuit Judge

**Appendix A [Exhibit A1b]**

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No. 23-2027

WEN LIAN PATIENCE,

*Plaintiff-Appellant,*

*Versus*

SHANNON JACKSON; MONTGOMERY COUNTY  
DISTRICT ATTORNEY'S DEPART DA; LEE ROMERO;  
CARMEN MORALES; ROMERO LEE,

*Defendants-Appellees*

---

Appeals from the United States District Court for the  
Southern District of Texas USDC No. 4:23-CV-185

---

CLERK'S OFFICE:

Under 5<sup>TH</sup> CIR. R. 42.3, the appeal is dismissed as  
August 15, 2023, for want of prosecution. The Appellant  
failed to timely file the Appellant's brief.

LYLE W. CAYCE

Clerk of the United States Court  
of Appeals for the Fifth Circuit  
by: (s) Dantrell L. Johnson, Deputy Clerk  
Dantrell L. Johnson, Deputy Clerk

**Appendix A [Exhibit A2]**

**Appendix A [Exhibit A2].** The Brief of Wen Lian Patience was submitted to the Fifth Circuit Clerk by electronic filing on July 13, 2023, pursuant to Fed. R. App. P 26 and 5<sup>th</sup> Cir. R. 31. NO later than 40 days after the date of the briefing notice on July 07, 2023.



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Case No. 23-20270, Brief, Exhibits, 911 call voice record,  
Complaints, Pictures of false blood

1 message

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Wenlian Huang ,wenlianpatience@gmail.com.

To: pro\_se@ca5.uscourt.gov,

Dear Ms. Angelique B. Tardie, Mr. Dantrell Johnso

Please find attached documents as shown below:

1. Brief of Wen Lian Patience July 13<sup>th</sup> 2023 Pdf 591k
2. Exhibit A: Pictures of false blood and Affidavit Investigation #20M3886.
3. Exhibit C: False reports from witness, police and complaints from Shannon Jackson.
4. 911 call voice record from witness Christine H. Hodson.
5. Documents of wrongful charges.
6. Letters from Richard Patience and Wen Lian Patience.

6 attachments

**Appendix A [Exhibit A2]. [Page 7a to 83a]**

The Brief of Wen Lian Patience, along with Exhibits and evidence, was submitted to the Fifth Circuit Clerk by electronic filing, in accordance with 5<sup>th</sup> Cir. R.28.

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**NO. 23-20270**  
**IN THE UNITED STATES COURT OF APPEALS**  
**FOR THE FIFTH CIRCUIT**

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Wen Lian Patience,  
*Plaintiff-Appellant,*

v.

Shannon Jackson; Montgomery County  
District Attorney's department DA;  
Lee Romero; Carmen R. Morales; Romero Lee,  
*Defendants-Appellees*

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ON APPEAL FROM THE UNITED STATES  
DISTRICT COURT FOR THE SOUTHERN DISTRICT  
OF TEAXS HOUSTON DIVISION  
USDC NO. 4:23-CV-00185 & Civil Action No. H-23-185

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**BRIEF OF APPELLANT WEN LIAN PATIENCE**

---

Wen Lian Patience (Pro Se).	B. D. GRIFFIN
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**CERTIFICATE OF INTERESTED PERSONS**

5<sup>th</sup> Cir. R. 28.2.1  
CASE NO. 23-20270

Pursuant to 5th Cir. R. 28.2.1, Ms. Wen Lian Patience, proceeding Pro Se, information pauperis, certifies that the following listed persons and entities as described in the fourth sentence of 5<sup>th</sup> Cir. R. 28.2.1 have an interest in the outcome of this case. These representations are made in order that the Judges of this Court may evaluate possible disqualification or recusal:

**1. Plaintiff – Appellant:**

Ms. Wen Lian Patience (Pro se)

**2. Defendants – Appellees:**

Montgomery County District Attorney's Department DA,

Shannon Jackson (a/k/a Shanna Jackson):

Affiant/Complainant, the staff of Montgomery County District Attorney's Department;

Lee Romero (a/k/a Romero Lee), Assistant District Attorney,

Carmen Morales, Prosecutor,

**3. Other Defendants in Underlying Case:**

Ryan McClintock (11401), Deputy Reporter; Unit: 2p1018

R. McCarty, Responding Officer; Unit: 2p1004

B. Mixon, Responding Officer; Unit: 83p30

B. Ryan, Responding officer

Tamara Tyler, Assistant District Attorney SBN 24108509

Hon. Judge Mary Ann Turner.

**4. Potential necessary parties.**

**Witness**, Christine Hendricks Hodson (a/k/a Chris Hodson, who had sexual relationship with Richard patience during appellant's marriage in 2019).

**Victim**, Richard Patience (a/k/a Richard Lewis Patience), (The victim, Richard Patience, was the Plaintiff-Appellant's husband. The Appellant was unaware of her husband's affair with the Witness, did not know the identity of the Witness, and was also unaware that her husband had secretly purchased a house in Spring, TX, in 2019. They divorced on January 30, 2020)

Respectfully submitted,

/s/ Wen Lian Patience

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**STATEMENT REGARDING ORAL ARGUMENT**

5TH CIR. R. 28.2.3 (FED. R. APP. P. 34(a)(1))

CASE NO. 23-20270

Plaintiff-Appellant, Ms. Wen Lian Patience, respectfully submits that this appeal is not appropriate for oral argument. The facts and legal arguments are adequately presented in the briefs and record, the governing law is well established, and the Court's decisional process will not be significantly aided by oral argument in this appeal, the reason as the following:

1. Complexity of the Issues: The issues presented in this appeal are straightforward and do not require further oral argument to clarify or provide additional insight. The written Briefs submitted by party (es) sufficiently address the legal and factual issues at hand
2. The issues presented in this case are adequately in the written briefs and other submitted materials which provide a comprehensive analysis and legal argumentation.
3. The nature of the issue involved does not require further clarification or additional discussion through oral argument. The legal principles and factual circumstances are adequately presented and thoroughly examined in the submitted documents.
4. Holding oral argument would unduly burden the parties and the court, without significantly contributing to the

resolution of the case or advancing the interests of justice.

5. Expediency and Efficiency: Waiving oral argument would contribute to the expediency and efficiency of the court's proceedings. Given the clear presentation of the issues and arguments in the Briefs, conducting oral argument would not significantly contribute to the resolution of the case.

Respectfully submitted,

/s/ Wen Lian Patience  
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#### **STATEMENT OF JURISDICTION**

**FED. R. APP. P. 28(a)(4)(A) through (D)**

The court has jurisdiction under 28 U.S.C. § 1292, which relates to an appeal of a dismissal order with prejudice and a final judgment signed by the Judge Ewing Werlein, JR on May 31, 2023 (see Docket No. 22). Ms. Patience filed the Notice of Appeal on June 5th, 2023 (see Docket No. 28) and the Transcript Order Docket-13 on June 12, 2023 (see Docket No. 32). The case involves a remand order signed by Judge Ewing Werlein, Jr on May 31, 2023, which remanded it to the 400th Judicial District Court of Fort Bend County, Texas, Case No. H-23-185 (Docket No. 21). On June 12, 2023, Ms. Patience responded to the remand order [Docket No. 31]

The case was initially filed on November 16, 2022, by

Ms. Patience as Case No. 22-DCV-298835, Wen Lian Patience v. Shanna Jackson (a/k/a Shannon Jackson), who signed her name as Shanna Jackson under oath on her criminal complaints against Ms. Patience on June 1st, 2020, as an affiant, Criminal Case No. 20-350258 and No. 20-350259 (Exhibit C, Complaints and Information) with the District Court of Fort Bend County, Texas, 400th Judicial District. The suit involves allegation of malicious criminal prosecution, perjury, and defamation per se.

On December 26, 2023, Ms. Patience filed her First Amended Original Petition, adding Montgomery County District Attorney's Department, Lee Romero (a/k/a Romero Lee who signed his name as Lee Romero under oath on his criminal complaints and information against Ms. Patience on June 1st, 2020.) and Carmen Morales as defendants under 42 U.S.C.S. § 1983, alleging abuses of authority, misconduct, and violations of constitutional rights.

*United States law requires those who deprive any person of rights and privileges protected by the Constitution of the United States provided by state law to be liable under 42 U.S.C.A. § 1983. Private parties may be liable for conspiring with state actors to deprive a citizen of their civil rights*

On January 18, 2023, Shannon Jackson removed the

case from the 400<sup>th</sup> Judicial District and transferred it to the U.S. District Court Southern District of Texas Houston Division, Civil Action No. 4:23-cv-00185. Subsequently, on January 31, 2023, and February 13, 2023, Ms. Patience filed her Second and Third Amended Original Petition Complaints for Violation of Civil Rights, alleging violations of her Fifth Amendment rights (self-incrimination and due process protection), Fourth Amendment rights (search and seizure protection), Sixth Amendment rights (right to a fair trial), and Fourteenth Amendment (equal protection rights). The violations include deliberate acceptance of false evidence, fabrication of evidence, and wrongful arrest and charges by DA. Additionally, Ms. Patience alleges violations of parental and family rights and Eleventh Amendment immunity by state officials acting beyond their authorized powers. Defendants are accused of perjury and misusing their powers to protect the criminal actions of Christine Hendrick Hodson, who provided false reports and fabricated evidence and misused 911 call service for false alarm and report.

In summary, this case involves a complex web of legal issues, including allegations of constitutional violations, perjury, and misconduct by various parties. The plaintiff asserts that her rights were violated throughout the legal

process, leading to her wrongful arrest, prosecution and charges by Montgomery County District Attorney's Department, DAs and police officers of Sheriff's Office.

### **ISSUES PRESENTED FOR REVIEW**

*FED. R. APP. P. 28 (a)(5)*

This qualified immunity appeal raises questions about applying probable cause in multi-suspect cases. The appeal falls under this Court's jurisdiction. The district court's abrupt and insufficiently analyzed dismissal of the plaintiff's complaint, which seemed arbitrary and unsupported, is at the heart of this appeal. Several issues stem from this dismissal as following:

**1. Failure to Apply Plausibility Standard:** The Federal Court erred by not applying the plausibility standard mandated by Federal Rule 12(b)(6). It should have treated all well-pleaded factual allegations as true and drawn reasonable inferences in favor of the plaintiff. The complaint alleged misconduct by the defendants acting under color of law under 42 U.S.C.S. § 1983, including perjury and malicious prosecution. These allegations support a plausible claim and should have been considered.

**2. Failure to Conduct Adequate Analysis:** The court did not thoroughly examine the plaintiff's allegations and legal arguments, failing to provide a reasoned explanation for its

dismissal.

**3. Disregard of Plausible Allegations:** The court ignored plausible factual allegations, undermining a valid legal claim, and didn't properly consider reasonable inferences.

**4. Inappropriate Weight Given to Defendants' Arguments:** The court favored the defendants' arguments disproportionately, appearing biased without assessing the merits of the plaintiff's claims.

**5. Misapplication of Legal Standards:** The court incorrectly applied legal standards governing Fed. R. Civ. P. Rule 12(b)(6) motions, failing to assess whether the complaint sufficiently pleaded a plausible claim when viewed favorably for the plaintiff. This hasty dismissal could be seen as an abuse of discretion, depriving the plaintiff of a fair opportunity to present their case.

Furthermore, pursuant to Fed. R. Civ. P. 12(b)(6), the plaintiff, indicted by a grand jury, is not required to prove that defendants lied before the grand jury or in discussions with prosecutors. Instead, they must provide sufficiently specific factual allegations regarding the nature and content of these lies. The next set of issues relates to the court's handling of evidence.

**A. Error in Shielding Defendants' Misconduct:** The

court failed to establish the voluntariness and compliance of the defendants' statements before admitting them into evidence. It did not conduct a proper hearing, consider factors like malicious prosecution and fabricating evidence and false statements, and allowed evidence obtained unconstitutionally.

**B. Violation of the Exclusionary Rule:** Failure to exclude false statements and affirmative evidence violates the exclusionary rule, prohibiting the use of evidence obtained unconstitutionally.

**C. Prejudice:** The admission of defendants' statements without establishing their voluntariness had a prejudicial impact on the fairness of the trial, undermining the plaintiff's constitutional rights.

**D. Violation of Right Against Self-Incrimination:** The plaintiff's right against self-incrimination is absolute, especially when malicious prosecution occurs, serving as a vital safeguard.

The appellant's complaint clearly shows that no reasonable fact-finder could have reached the same conclusion based on the evidence presented. The court's decision can be challenged on several fronts.

**1. Abuse of Discretion:** An abuse of discretion occurs when the court's decision is arbitrary, irrational, or based on a

clear error of law or facts.

**2. Arbitrary or Irrational Decision:** The court's decision was inconsistent with established legal principles.

**3. Clear Error of Law:** The court misapplied or misinterpreted legal standards, statutes, or precedents.

**4. Clear Error of Fact:** The court's decision was based on clear factual errors and ignored relevant evidence.

**5. Violation of Legal Standards or Procedures:** The court failed to follow appropriate legal standards or procedural requirements.

**6. Disregard of Applicable Precedents:** The court disregarded relevant legal precedents.

The court granted the defendants' motion to dismiss with prejudice, seemingly ignoring plaintiff's motions and orders, potentially violating the plaintiff's rights. These violations include due process, equal protection, access to the court, and the right to petition the government for redress of grievances. Moreover, the plaintiff's motion for an extension of time should be considered, given the valid reason presented regarding her unavailability due to her mother's emergency and death situation in February 2023.

In light of these issues, the court's decision to dismiss the plaintiff's complaint under Rule 12(b)(6) constitutes an abuse of discretion. It disregarded legal standards, failed to

accept well-pleaded allegations as true, engaged in premature considerations, and did not provide sufficient reasoning.

The case also revolves around malicious prosecution and misconduct, and a crime with perjury which needs further examination:

**1. Suppression of Evidence:** Defendants intentionally suppressed evidence favorable to the plaintiff, violating her constitutional rights.

**2. Reliance on Fabricated Evidence:** Defendants relied on witness Christine Hendricks Hodson's fabricated evidence, false report and statement which conflicts with prosecution witnesses and potentially violates due process rights.

**3. Brady v. Maryland:** Defendants' failure to disclose material evidence violated the plaintiff's due process rights, as per *Brady v. Maryland*.

**4. Sufficiency of Evidence:** Did defendants have sufficient evidence to support the charges? Why was Ms. Patience Right of Appeal waived by defendants, Judge or the court??

**5. Inconsistent Charges:** There were discrepancies between the actions of Responding officers and the charges brought by the district attorneys, raising doubts about the validity of the charges.

**6. Violation of Constitutional Rights:** Defendants' actions violated several constitutional rights, including due process, equal protection, a fair trial, and protection from unlawful searches and seizures.

**7. Absolute Immunity:** Should defendants be granted absolute immunity for misconduct that involved committing a crime of perjury, intentionally and knowingly fabricating evidence, and making false statement to the court and clerk? Additionally, The Eleventh Amendment immunity rights of the plaintiff are in question as follow:

**1). Violation of Eleventh Amendment Immunity:** Defendants violated the plaintiff's Eleventh Amendment immunity rights.

**2). Application of Eleventh Amendment:** The court's application of Eleventh Amendment immunity should be examined.

**3). Scope of Official Duties:** Were defendants acting within the scope of their official duties when they violated the plaintiff's constitutional rights?

**4). Defendants' Actions Beyond Scope:** If defendants' actions went beyond their official responsibilities, should Eleventh Amendment immunity still apply?

**Lastly, District court's handling, appeal questions fairness, rights violations, dismissal, evidence issues.**

The district court's decision on judgment as a matter of law, potential bias or prejudice, fair process, judicial misconduct, and proper application of law and evidence should be scrutinized. In conclusion, this appeal questions the court's handling of the case, including its dismissal of the complaint, evidence-related issues, violations of constitutional rights, Eleventh Amendment immunity, and overall fairness. The plaintiff requests that this court overturn the Federal Court's ruling and allow the case to proceed for further proceedings and adjudication on the merits.

**STATEMENT OF THE CASE**

FED. R. APP. P. 28(a)(6)

Ms. Patience was wrongfully arrested on May 28, 2020, under the Texas Penal Code Chapter 30, Section 30.05 for Criminal Trespass (case No. 20-35028 and No. 20-35029, See Exhibit C). She was later charged with Assault Causes Bodily Injury Family Violence and Terroristic Threat of Family/Household by Carmen Morales on December 1st, 2020. The Trial Court's Certification of Defendant's Right of Appeal was waived in a plea-bargain case, leaving the

plaintiff with no appeal rights (Exhibit D, Trial Court's Certification of Defendant's Right of Appeal).

Ms. Patience hired four defense attorneys, three of whom urged her to accept the Montgomery County District Attorney's "Deals" to avoid potential jail time for one year. However, Both of her criminal cases were dismissed on November 17, 2021, due to her compliance with court-ordered mental health sessions Motion to Dismiss, Case No. 20-350258 and Case No. 20-350259), which demonstrated her innocence. {Appendix F [Exhibit D3]}

The arrest occurred during a visit with a family friend (74 years old) to her ex-husband Richard Patience's house at 3603 Magnolia Crest Ln, Spring, TX, 77386. This was her first visit, and she was unaware of her husband's affair. A witness, Christine Hendricks Hodson, planted red paint as fake blood on Richard Patience's face (see Exhibit A, pictures of Fake blood on Richard patience's head and face, and an Affidavit of NO Records for Richard Patience's Injuries. Investigation #20M3886) and made false statements to 911call operator, and falsely accused Ms. Patience of having a weapon gun and attempting to kill them (Exhibit USB voice record attached with this Brief, and see Exhibit C. Montgomery County Sheriff's Office Voluntary Statement from Christine H. Hodson, Case no. 20A171266 and Richard

Patience's statement), Witness, Christine H. Hodson also especially emphasize stated that her name is Christine Hodson, her last name is Hodson, she kept her last name as Hodson. BUT, Shannon Jackson not only fabricated and cited the Witness's name as Christine Patience (Exhibit of Christine H. Hodson's 911 call voice record) and her false statements without any probable cause in her complaints on June 1st, 2020, but she also fabricated and cited her own name as Shanna Jackson under oath with her complaints against the plaintiff which was malice toward the plaintiff and intentionally and knowingly to falsely convict the plaintiff of Terroristic Threat of Family/Household, thereby purposely misled the prosecutor and judge to a wrongful judgment. These actions led to charges of Terroristic Threat of Family/Household and Assault Causes Bodily Injury to Family Violence.

Furthermore, District attorney Romero Lee also intentionally fabricated his own names when signing his complaints and information under oath as Lee Romero on June 1st, 2020 (Exhibit C). These falsehoods furthered Ms. Patience's wrongful conviction. The plaintiff alleges that her false arrest and charges violated her constitutional rights due to a lack of probable cause. In the malicious prosecution context, "probable cause" is defined as the

knowledge of facts strong enough to justify a reasonable belief in the defendant's guilt (U.S. Const. Amend 4).

On November 16, 2022, Ms. Patience filed a malicious criminal prosecution lawsuit against Shannon Jackson in the 400th District Court of Fort Bend County, Texas, in Case number 22-DCV-298835, asserting malicious prosecution and perjury. Pursuant to the Texas Tort Claims Act (TTCA), the Texas Legislature waived Shannon Jackson's sovereign immunity for claims involving 42 U.S.C.S. §1983 malicious prosecution and the harm to Ms. Patience's reputation and emotional distress.

On December 26, 2022, Ms. Patience filed her First Amended Original Petition, adding the Montgomery County District Attorney's Department as a defendant (see DKT No 1, DKT#6). This petition alleged violations of Ms. Patience's constitutional rights.

*Texas Civil Practice and Remedies Code Title 5, Chapter 101. The Act partially waives immunity for wrongs committed by governmental units and their employees by granting Texans permission to sue in certain specific limited circumstances defined under the Act. Tex. Civ. Prac. & Rem. Code Ann. 101.021 (West 2019), A governmental unit in the state is liable for the negligence of an employee acting with his/her scope of employment.*

Defendants, Shannon Jackson, Romero Lee are Montgomery County District Attorney's Department employee, intentionally made false complains Information and fabricated evidence against Ms. Patience (appellant). These knowingly false action resulted in the plaintiff being denied rights, privities, and immunities protected by the United's Constitution and Texas laws. Shannon Jackson and Romero Lee brought the criminal cases without adequate justification, malicious prosecution and abuse of process, gross negligence, perjury and defamation, addition of the negligence of their acting under Color of State Law, and abuse of power, are sued for doing so, they are NOT protected by prosecutorial immunity and the scope of authority because their actions were egregious enough and extremely serious in the legal system.

Based on Texas Civil Prac. &Rem. Code Ann. 101.021(West 2019), if a government employee, while performing their job duties, is negligent and causes harm, the government entity can be sued under these circumstances. And according to Texas Civil Practice and Remedies Code Title 5, Chapter 101, when the government employee is acting negligently within the course of their official duties, and this negligence leads to harm or damages, the government entity can be sued for those damages.

On January 18, 2023, Defendant, Shannon Jackson, removed the case to the United States District Court Southern District of Texas, Houston Division, Case No. 4:23-cv-00185, Wen Lian Patience v. Shannon Jackson, Montgomery County District Attorney's Department DA (see DKT No 1).

On January 27 & 30, 2023, Ms. Patience filed her Second and Third Amended Original Petition Complaint for Violation of Civil Rights, adding Romero Lee and Carmen Morales as defendants (see DKT 7 & 8). These amendments alleged violations of Ms. Patience's Fifth Amendment self-incrimination rights, Sixth Amendment right to a fair trial, Fourteenth Amendment equal protection rights, and deprivation of rights secured by the Constitution and federal law pursuant to 42 U.S.C. § 1983.

On February 8, 2023, the defendants filed a Motion to Dismiss (see DKT 9) for Failure to State a Claim under Rule 12(b)(6). They argued that many of Ms. Patience's claims were inapplicable and that qualified immunity applied to Ms. Jackson's Section 1983 claims.

On February 14, 2023, Ms. Patience filed an Opposition to Defendants' Motion to Dismiss (see DKT 13), providing evidence to support her claims of malicious prosecution and the defendants violated clearly established

law and committed a crime with perjury. The Texas Legislature waived their employees' sovereign immunity regarding 42 U.S.C.S § 1983 malicious prosecution, abuse of process, gross negligence, perjury, and defamation claims. These claims are based on their actions under Color of State Law, abuse of power, false allegations, and false charges, with the intent of causing harm to Ms. Patience's reputation, mental anguish, and emotional distress. Moreover, these claims with sufficient evidence to prove that Montgomery County Attorney's Department DA and police, Shannon Jackson, Romero Lee, Carmen Morales and Ryan McClintock (11401) knowingly shielded a crime and intentionally protected criminal Christine H. Hodson's action for violation of laws under Texas Penal Code 37.02 & 37.03 Perjury, Texas Penal Code 37.08 by making false statements and fabricating evidence with law enforcement police; Texas Penal Code 42.061 Abusive to 911 Service (making calls to a 9-1-1 service on June 20, 2019, December 13, 2019 and May 28, 2020, when there was not an emergency and knowingly or intentionally made lies and harassing statements to the 911 operators officer).

On February 15, 2023, Ms. Patience filed a Notice of Unavailability due to a family emergency in China (see DKT 12, her mother was dying).

On February 24, 2023, the defendants filed another Motion to Dismiss (see DKT 14) for Failure to State a Claim under Rule 12(b)(6).

On May 25, 2023, after Ms. Patience returned from China, she filed a Motion for Extension of Time pursuant to Federal Rules of Civil Procedure Rule 6(b)(1)(B) due to "excusable neglect" for missing a deadline of first conference meeting on May 12, 2023.

On May 31, 2023, Ms. Patience responded to the Defendants' Motion to Dismiss under Rule 12(b)(6) that she has presented a legally valid claim in her lawsuit against the defendants which met the minimum requirements for stating a valid cause of action. Ms. Patience's complaint adequately alleged the facts that support a legally recognized claims and she is legally applicable to the situation and supported by the facts as presented in her complain that the defendants have violated clearly established statutory and constitutional rights and they should NOT be immune from personal liability because they did violate clearly established law and committed a crime with perjury. Thus, the defendants should NOT be protected from personal liability by qualified immunity. On May 31, 2023, the District Court granted defendants' motion to dismiss WITH prejudice, and a FINAL JUDGMENT was

signed by United States District Judge Ewing Werlein, JR (see Document of Docket 'DKD' No. 22). Appellant Wen Lian Patience filed her Notice of Appeal on June 5th, 2023 (see DKT No. 28), and Transcript Order DKT.

### **SUMMARY OF THE ARGUMENT**

*FED. R. APP. P. 28(a)(7)*

I. On February 8, 2023, the defendants filed a Motion to Dismiss (see DKT 9) for Failure to State a Claim under Rule 12(b)(6). They argued that many of Ms. Patience's claims were inapplicable and that qualified immunity applied to Ms. Jackson's Section 1983 claims. The appellant's argument against the defendants' Motion to Dismiss under Fed. R. 12(b)(6) on the grounds that the defendants (DA) knowingly and intentionally made false statement and fabricated evidence with the court, resulting in wrongful charges without any proper cause.

**1. False Statements and Fabrication of Evidence:** It is crucial to emphasize that the foundation for this appeal centers on the defendants (DA) alleged knowing and intentional false statements and fabrication of evidence. There is a significant allegation that Ms. Patience's pleading contains factual assertions that are true, providing enough substance to establish a right to relief beyond a speculative

level.

Moreover, the pleading alleged sufficient facts to state a plausible claim for relief. *Perry v. Mary Ann Liebert, Inc.*, 765 F. App'x 470, 473(2d Cir. 2019) (quoting *Twombly*, 550 U.S. at 570, 127 S. Ct. at 1960). These allegations go beyond mere speculation and conclusory statements and present a plausible basis for relief, which constitute a gross violation of appellant's constitutional rights.

The alleged action and evidence described in this case, which are considered a "gross violation" of the plaintiff's constitutional rights, are not just make-up or unsubstantiated claims. Instead, they are sufficiently supported by evidence or arguments to be considered.

**2. Factual Allegations Must Be Assumed True:** At the Rule 12(b)(6) stage, the court must take all factual allegations in the complaint as true. This includes the allegations that the defendants knowingly made false statements and fabricated evidence. Therefore, it is not the court's role at this stage to weigh the credibility of these allegations or determine their veracity.

**3. Violation of Constitutional Right:** Ms. Patience's claims center on the violation of her constitutional rights, particularly under Section 1983 and misconduct's color of state law. The allegations of false statements and evidence

fabrication go to the heart of these claims. If these allegations are substantiated through evidence and discovery, they could establish a clear violation of her rights, and therefore, Ms. Patience's claims should not be dismissed prematurely.

**4. Qualified Immunity Is a Fact-Intensive Inquiry:** The defendants argue that qualified immunity applies. However, the determination of qualified immunity often hinges on factual inquiries that cannot be resolved at the motion to dismiss stage. It requires a detailed analysis of whether a reasonable government official would have known that their actions violated established law. This inquiry necessitates a thorough examination of the facts, which is better suited for later stages of litigation.

**5. Discovery is Essential:** Given the seriousness of the allegations and the fact-intensive nature of the qualified immunity defense, it is essential to proceed to discovery. Discovery will allow both parties to gather evidence and present their case fully. This process is crucial to uncovering the truth regarding the alleged false statements and evidence fabrication.

**6. Presumption in Favor of Proceeding to Trial:** The court should err on the side of allowing cases to proceed to trial when there are factual disputes and allegations of

constitutional violations. The principles of justice and due process dictate that these claims should be thoroughly examined and resolved through a complete legal process.

In conclusion, the defendant's Motion to Dismiss should be denied at this stage. The allegations of false statements and evidence fabrication raise serious constitutional concerns that should be addressed through a comprehensive legal process, including discovery and a thorough examination of the facts. Granting the motion to dismiss prematurely would undermine the pursuit of justice and the protection of constitutional rights.

**II. The defendants filed a Motion to Dismiss (see DKT 9) for Failure to State a Claim under Rule 12(b)(6), that is premature and unjust because it fails to acknowledge the fundamental principles of notice pleading and the fact that at this stage, the court must accept all well-pleaded facts as true and draw all reasonable inferences in favor of the plaintiff.**

Firstly, The Rule 12(b)(6) sets a standard where a complaint must contain "enough facts to state a claim to relief that is plausible on its face." However, this standard does not require a detailed exposition of every fact. Instead, it recognizes that complaints are the starting point of a legal process and should provide a general outline of the case. This

leniency in pleading is essential to ensure that case is not prematurely dismissed before a thorough examination of the evidence and arguments can take place. Secondly, the defendants (DA)' Motion to Dismiss under Rule 12(b)(6), essentially asks the court to make substantive determinations about the merit of the case at this early stage. It is well-established that motions to dismiss should be granted sparingly and only when it is beyond doubt that the plaintiff can prove no set of facts in support of their claim. The defendants' motion does not meet this high threshold. Moreover, it's crucial to recognize that the purpose of a motion to dismiss is not to resolve disputed facts or make determinations about the credibility of evidence. Instead, it is meant to test the legal sufficiency of the complaint. By filing this motion, the defendants are prematurely asking the court to make determinations about the credibility and plausibility of the plaintiff's claims, which is contrary to the principles of fairness and due process.

In summary, the defendant's Motion to Dismiss under Rule 12(b)(6) lacks merit. It prematurely seeks to terminate this case without allowing for the presentation of evidence and arguments that are crucial to a fair and just resolution. The complaint provides sufficient notice of appellant's claims, meets the plausibility standard, and raises fact-

intensive issues that should be addressed in a full and fair legal proceeding. Dismissing appellant's claims at this stage would be contrary to established legal principles and would undermine the pursuit of justice.

## **ARGUMENT**

Fed. R. APP. P 28(a)(8)

### **I. Argument Against Defendants' Motion to Dismiss under Rule 12(b)(6) as the Following:**

- 1. Presumption of Truthfulness:** At the outset, it's essential to emphasize the principle that governs Rule 12(b)(6) motions. The court, at this stage, must presume that all well-pleaded factual allegations in the complaint are true and draw all reasonable inferences in favor of the plaintiff. This standard is designed to allow cases to proceed to discovery and trial unless it is evident that the plaintiff can prove no set of facts supporting their claim.
- 2. Notice Pleading:** Rule 12(b)(6) must be interpreted in the context of notice pleading, which means that a complaint should only be dismissed if it is clear that the plaintiff has not provided sufficient notice of their claims. My complaint has met this threshold by outlining the essential facts and legal basis for my claims. The defendant's assertion that it fails to state a claim misinterprets the purpose this rule.
- 3. Plausibility Standard:** While Rule 12(b)(6) does require

a "plausible" claim, this does not mean that a plaintiff must prove their case at the pleading stage. Instead, a plausibility standard asks whether it is reasonable to infer that a defendant is liable based on the facts alleged. Ms. Patience's complaint meets this standard as it outlines a coherent and plausible set of circumstances.

**4. Fact-Intensive Nature:** Dismissing Ms. Patience's claims under Rule 12(b)(6) would be inappropriate because many of the issues involved are highly fact-intensive and require a more thorough examination during discovery. It is not the role of the court to weigh evidence or make credibility determinations at this stage.

**5. Factual Disputes:** The defendant's motion fails to recognize that there are factual disputes that cannot be resolved through a motion to dismiss. These disputes are best addressed through the presentation of evidence and argument during the trial phase of this case.

**6. Precedent:** Precedent and established legal principles support my position. Courts have consistently held that motions to dismiss should be granted sparingly, especially when it is possible that the plaintiff may establish facts that would entitle them to relief.

**II. Deny the Motion to Dismiss and Final Judgment**  
**Under Rule 12(b)(6) for These Reasons:**

1. Plaintiff's documents support her allegations as true.
2. Plaintiff provides strong evidence for §1983 claims, including malicious prosecution and abuse of process.
3. Defendants violated federal statutory and constitutional rights.
4. Defendants initiated wrongful charges, causing injury under 42 U.S.C.A. § 1983 and color of state law.
5. **Defendants lack qualified immunity.** Removal to federal court is possible when state court complaints include both § 1983 federal and state law claims, extending federal jurisdiction over state law claims.

Ms. Patience filed a lawsuit the defendants in a state court, the complaint in her lawsuit asserts § 1983 personal-Capacity Claim that brought against Shannon Jackson, Romero Lee, and Carmen R. Morales for actions taken in their personal capacity that allegedly violated Ms. Patience's federal rights under Section 1983; Ms. Patience's claim also brought against the state government entity, Montgomery County District Attorney's Department DA, under Section 1983, alleging violation of federal rights.

On January 18, 2023, Defendant Shannon Jackson removed the case a state court to a federal court. If a state court complaint asserts a § 1983 personal-capacity claim and a § 1983 claim against a state entity that is barred by the

Eleventh Amendment, the defendants may still remove the action to federal court, which can hear the non-barred, personal-capacity claim. *Wis. Dep't of Corr. v. Schacht*, 524 U.S. 381, 389 90 (1998). When a state decides to remove a case from state court to federal court, it is essentially giving up or waiving its Eleventh Amendment immunity for certain claims. When seeking removal, the state waives its Eleventh Amendment immunity from liability on a state law claim on which the state had already waived its sovereign immunity in the state court. *Lapides v. Bd. of Regents*, 535 U.S. 613, 619–20 (2002). See *infamy Chapter 13*.

In summary, when a state chooses to remove a civil case to federal court, the state had already waived its sovereign immunity in the state court because it involves Section 1983 and color of state law. In essence, by moving the case to federal court, the state consents to being sued in federal court on state law claims as well. Therefore, Defendants are not entitled to qualified immunity from the plaintiff's claims.

The presence of blood on Richard Patience's head and face, as depicted in Exhibit A, along with false statements from an unreliable witness, Christine Hendricks Hodson, were used as evidence but constituted fabrication, unprotected by absolute immunity. Montgomery County

District Attorney's Department DA, Both police officers and prosecutors are not entitled to absolute immunity when intentionally and knowingly fabricating evidence.

Under 42 U.S.C.S. §1983, absolute prosecutorial immunity does not apply when misconduct involves fabricating evidence, committing a crime perjury under § 37.02 of The Texas Penal Code. This code section defines perjury as intentionally making false statements under oath with the intent to deceive. Tex. Gov't Code Ann §51.904 (Vernon 2005) makes it a CRIME to knowingly file fraudulent court records. (perjury is also a crime when made under oath in a Judicial Proceeding, Sec. 1623. US v Lopez, 4F, 3d 1455, 1464 9th cir, 1993). Those actions fall outside a prosecutor's traditional role and are NOT part of their quasihelical advocacy, thus NOT covered by prosecutorial immunity.

In addition, the §1983 statute of limitations relies on state law, starting when the plaintiff becomes aware of their injury or has sufficient information. The plaintiff's timely malicious prosecution filling against defendants Shannon Jackson, Lee Romero aka Romero Lee, and Carmen R. Morales demonstrates compliance.

In conclusion, the defendants' Motion to Dismiss under Rule 12(b)(6) is unwarranted and premature. It seeks

to prematurely terminate the legal process without allowing for a full and fair examination of the evidence and arguments. At this stage, the court must be inclined to accept the plaintiff's well-pleaded facts as true and proceed with the case to ensure that justice is served.

### **III. STANDARD OF REVIEW**

#### **A. Violation of Constitutional Right**

- 1. First Amendment:** The DAs infringed on freedom of speech by filing charges and fabricating evidence to retaliate against dissenting opinions, suppressing freedom of expression, and discouraging peaceful protests. They also targeted the plaintiff's political and social affiliations.
- 2. Fourth Amendment:** The plaintiff's freedom from unreasonable search and seizure was violated. Officers made the plaintiff strip and perform unnecessary poses. Fabricated evidence was used to obtain search warrants without probable cause.
- 3. Fifth Amendment:** The DAs obtained false confessions from witness Christine H. Hodson, violating the plaintiff's right against self-incrimination. False statements and evidence fabrication deprived the plaintiff of a fair trial and due process.
- 4. Six Amendment:** The DAs fabricated evidence, withheld exculpatory evidence, and presented unreliable witness

Christine H. Hodson's false statements, violating the plaintiff's right to effective counsel and the right to confront witnesses.

**5. Fourteenth Amendment:** The DAs engaged in malicious prosecution, knowingly initiating baseless charges, making false statements, fabricating evidence, and withholding exculpatory evidence, resulting in an unfair trial and wrongful conviction. Their deliberate indifference to the plaintiff's rights exacerbated the situation.

**B. The District Attorneys (DA) not only failed in their duty to uphold the law and actively shielded a criminal wrongdoer, Christine H. Hodson, who violated various Texas laws, but their misconduct also committed a crime.**

**1. Tampering with or Fabricating Physical Evidence (Texas Penal Code 37.09):** The Witness, Christine H. Hodson planted red paint on Richard Patience's face as fake blood, an act violating this statute. The DA also fabricated fake blood on Richard Patience's head and face. (See Exhibit A Fake blood); moreover, the defendants, Shannon Jackson's complains fabricated name of the Witness as Christine Patience, Shannon Jackson and Romero Lee also fabricated their own names as Shanna Jackson and Lee Romero under oath with the court clerk.

**2. Perjury (Texas Penal Code 37.02 & 37.03, Tex. Gov't Code Ann §51.904 (Vernon 2005):** It is a CRIME to intentionally or knowingly file a fraudulent court record or a fraudulent instrument with the clerk.): The witness, Christine H. Hodson made false statements, including alleging that the plaintiff possessed a weapon and attempted to break into a house to kill Richard Patience and her, constituting perjury. The defendant. Shannon Jackson's complains with intent to deceive and with knowledge of the statement's meaning: makes a false statement under oath or swears to the truth of a false statement previously made and the statement is required or authorized by law to be made under oath and intentionally and knowingly flied false complaints with false statements fraudulent court record and a fraudulent instrument with the clerk. (see Exhibit D) and (Exhibit USB 911 call voice record).

**3. Abusing 911 Service (Texas Penal Code 42.061):** The witness, Christine H. Hodson made non-emergency calls to 911 operators on multiple occasions, knowingly or intentionally providing false information, and harassing 911 operators. (Exhibit USB 911 call Voice Record)

**C. The Defendant (DA)'s Misconduct Violated the Plaintiff's Rights:**

**1. Right to Due Process (Fifth Amendment):** The DA has

a duty to ensure due process and fairness in legal proceedings. However, the DA, including Shannon Jackson, Romero Lee (a/k/a Romero Lee), and Carmen R. Morales, failed to properly investigate or prosecute a criminal wrongdoer, depriving the plaintiff of a fair process.

**2. Right to Equal Protection (Fourteenth Amendment):** The DA must treat all individuals equally under the law. The defendants knowingly protected a criminal wrongdoer and failed to pursue charges, violating the plaintiff's right to equal protection.

**3. Right to Personal Security (Unreasonable Searches and Seizures):** The DA's duty includes protecting the community and ensuring public safety. Still, they failed to prosecute a criminal wrongdoer, compromising the plaintiff's personal security.

**4. Right to Access to Justice:** The DA plays a crucial role in facilitating justice for victims. However, the DA obstructed the plaintiff's ability to seek justice against Hodson, violating their right to access the legal system.

**5. Right to a Remedy:** The DA's protection of the witness Christine H. Hodson prevented the plaintiff from seeking redress for the harm suffered.

**6. Cruel and Unusual Punishment:** Defendants subjected the plaintiff to excessive and inhumane punishments, such

as being posed sexually while naked in jail for more than 24 hours, constituting cruel and unusual punishment.

**D. The district court's decision to grant the motion to dismiss, subject to de novo review under Rule 12(b)(6) and 28 U.S.C.A. §1291, is the focus of this appeal. The district court based its decision on the assertion that the complaint failed to state a claim upon which relief can be granted.**

On appeal, the Fifth Circuit will apply a de novo standard of review, encompassing Rule 12(b)(6) and 28 U.S.C.A. §1291. The court will independently assess the sufficiency of the plaintiff's complaint, accepting all well-pleaded factual allegations as true and drawing reasonable inferences in favor of the plaintiff. The court's primary concern will be whether the complaint establishes a plausible claim for relief, rather than delving into the ultimate merits of the case.

The Fifth Circuit will not defer to the district court's legal conclusions or interpretations of the law. Instead, it will scrutinize whether the correct legal standards were applied when evaluating the motion to dismiss. The court will also determine if the complaint, when viewed favorably toward the plaintiff, contains sufficient factual allegations to support a plausible claim.

The review will be conducted based on the plausibility standard, which necessitates more than mere speculation or conclusory statements. To survive the review, the plaintiff must provide factual allegations that, if accepted as true, would reasonably allow the court to infer the defendant's liability for alleged §1983 claims, including malicious prosecution, abuse of process, false statements, false evidence fabrication, false arrest, and wrongful charges without probable cause.

During this de novo review, the Fifth Circuit will perform an independent evaluation of the legal sufficiency of the complaint. The court may reach a Different conclusion than the district court by considering relevant legal standards, applicable precedents, and the specific allegations presented in the complaint.

The Fifth Circuit will also scrutinize claims related to fabricating evidence and false statements made by the defendants. It will examine whether these actions fall outside the scope of absolute immunity, which aims to protect public officials entrusted with sensitive tasks. The burden falls on the defendant to demonstrate that absolute immunity is warranted for the function in question, and the court will draw all reasonable inferences in favor of the plaintiff, including those that challenge the immunity

defense.

The Fifth Circuit will review claims regarding the fabrication of evidence and false statements allegedly made by the defendants (DA). They were also alleged to have collaborated with Deputy Ryan McClintock (Badge Number 11401) during the initial gathering of evidence, knowing it was false. Their misconduct took place in the field and extended beyond quasiheretical roles as advocates, rendering them unprotected by absolute immunity. Consequently, obtaining known false statements from witness, Christine H. Hodson who violated the law and committed a crime, for use in a prosecution is also considered fabricating evidence, which remains unprotected by absolute immunity.

**The Fifth Circuit must draw all reasonable inferences in favor of the plaintiff, including those “that defeat the immunity defense.”** Id (quoting McKenna, 386 F.3d at 436). They should consider the plaintiff's side of the story as strongly as possible, even if there are other possible interpretations. This is a common legal principle, often used during the early stages of litigation, to ensure that a plaintiff's case is given a fair chance. When considering whether a defendant should be granted immunity (protection from being sued), the court should not just focus on facts that support the defendant's immunity claim.

Instead, they should also consider facts and inferences that might undermine or contradict the claim of immunity. In essence, they should look at the case from both sides and not just accept the defendant's version of events if there's evidence to the contrary.

In other words, the Fifth Circuit, when reviewing a case involving immunity claims, should be impartial and give the plaintiff the benefit of the doubt. They should not only look at facts that support the defendant's immunity but also consider facts that could challenge or defeat that claim, ensuring a fair and balanced evaluation of the case.

#### **IV. MOTION TO DISMISS STANDARD**

##### **A. Motion to Dismiss For Failure To State A Claim.**

Under Federal Rule of Civil Procedure 12(b)(6), a pleading may be dismissed for "failure to state a claim upon which relief can be granted." To survive a motion to dismiss under Rule 12(b)(6) for failure to state a claim, "a complaint must provide 'enough facts to state a claim to relief that is plausible on its FACE.'" Mayor & City Council of Balt. V. Citigroup, Inc., 709 F.3d 129, 135 (2d Cir.2013) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544,570, 127 S.Ct. 1955, 167 L.E.d.2d 929 (2007).

The plaintiff must provide factual allegations sufficient "to raise a right to relief above the speculative

level." Id. (quoting Twombly, 550 U.S. at 555, 127 S.Ct. 1955).

The Court must accept as true all factual allegations in the complaint and draw all reasonable inferences in the plaintiff's favor. See EEOC v. Port Auth., 768 F.3d 247, 253 (2d Cir. 2014) (citing ATSI Commc'nns, Inc. v. Shaar Fund, Ltd., 493 F.3d 87, 98 (2d Cir. 2007)). However, "the tenet that the court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusion."

Ashcroft v. Iqbal, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.

Ed. 2d 868 (2009). To survive a motion to dismiss, complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face; claim has "facial plausibility" when plaintiff pleads factual content that allows court to draw reasonable inference that defendant is liable for misconduct alleged under 12(b)(6); "Plausibility" standard, for complaint to survive motion to dismiss for failure to satisfy short and plain statement requirement, is not akin to plausibility requirement, but asks for more than sheer possibility that defendant has acted unlawfully. Fed. Rules Civ. Proc.

**B. The court's dismissal without proceeding to trial raises questions about whether it abused its discretion under Rule 12(b)(6). Reasons for this concern include:**

**1. Plausible Allegation:**

Ms. Patience's complaint contains factual allegations that go beyond speculation and conclusory statements, meeting the standard for a plausible claim. It is also well-founded as it provides specific and believable details to support the claims being made, as exemplified by the case of *Per Perry v. Mary Ann Liebert Inc.*, 765 F. App'x 470, 473 (2d Cir. 2019), quoting *Twombly*, 550 U.S. at 570, 127 S. Ct. at 196. Plaintiff withstand a motion to dismiss because her pleading contains factual allegations that are TRUE, sufficient to raise a right to relief above the speculative level, and alleged enough facts to state a claim to relief that is plausible on its face.

**2. Elements of the Claim:**

Plaintiff's complaint adequately addresses all the essential elements of the legal claim at hand, ensuring it meets the requirements for stating a claim. Plaintiff's complaint alleged facts that satisfy all the essential elements of the legal claim being asserted. Each cause of action has specific elements that need to be adequately pleaded to state a claim.

**3. Legal Basis:**

The plaintiff clearly identifies the legal theory and basis for the claim, referencing relevant laws, regulations, and legal precedents that support the claim. The concern is whether the court, in light of these factors, may have prematurely

dismissed the case without allowing it to proceed to trial.

### **C. ADMISSION OF EVIDENCE**

#### **1. Failure to Apply the Plausibility Standard:**

The court erred by failing to apply the plausibility standard required under Federal Rule 12(b)(6). The court should have accepted all well-pleaded factual allegations in the plaintiff's complaint as true and drawn all reasonable inferences in favor of the plaintiff. The complaint alleged that Shannon Jackson and Romero Lee filed complaints and information with false statements and falsified evidence under oath with the clerk. Their misconduct constituted a crime, specifically perjury under the Texas Penal Code § 37.02 and Tex. Gov't Code Ann §51.904 (Vernon 2005) and Sec. 1623. US v Lopez, 4F, 3d 1455, 1464 9th cir, 1993' § 37.02 of The Texas Penal Code occurs when a person, with intent to deceive and with knowledge of the statement's meaning: makes a false statement under oath or swears to the truth of a false statement previously made and the statement is required or authorized by law to be made under oath.

*Tex. Gov't Code Ann §51.904 (Vernon 2005): It is a CRIME to intentionally or knowingly file a fraudulent court record or a fraudulent instrument with the clerk.*

*A false statement is PERJURY with it is made under oath in a Judicialn Proceedings under Sec. 1623. US v Lopez, 4F, 3d 1455, 1464 9th cir, 1993.*

In addition, Defendant/Prosecutor (Carmen Morales) introduced fabrication of evidence and false statement during the trial to support Shannon Jackson and Romero Lee's complaints and information with false statements that plaintiff committed a crime, their actions have committed prosecution misconduct, a crime and malicious prosecution by arguing facts in knowingly statements was false and evidence was intentional and purposely fabricated in an effort to prove Petitioner's guilt beyond a reasonable doubt. It is misconduct and a crime when the prosecutor (Carmen Morales) and Shannon Jackson and Romero Lee referred to a fact for which there is NO evidence and NO probable cause and introduced statements and evidence that were false, inadmissible and knowing false with clerk and in court.

The District Court erroneously disregarded the claim of fabrication of evidence made by defendants. The defendants' fabrication of evidence and false statements under oath are shown that the defendants intentionally manufactured and altered evidence and statements with the intent to deceive and harm the plaintiff. The complaints and information not only alleged that the defendants engaged in such fraudulent conduct, but their misconducts also was committed a crime of perjury. The court should have considered this allegation as part of the analysis.

**2. Ignoring the Potential Harm and Consequences:**

The Court failed to fully consider the potential harm and consequences suffered by the plaintiff as a result of the alleged the defendants' malicious prosecution and misconducts under color of state law. The complaint stated that the plaintiff was wrongfully charged with committing a crime of Assault Causes Bodily Injury Family Violence and Terroristic Threat of Family/Household based on the defendants' false statements and fabrication of evidence. This not only cause Ms. Patience's reputational damage and emotional distress but also subjected the plaintiff to potential legal consequences and expenses. These allegations should be taken into account in determining the sufficiency of the complaint.

**3. Factual Disputes NOT suitable for Dismissal:**

The District Court improperly resolved factual disputes in favor of the defendants at the motion to dismiss stage and granted the Final Judgement. At the motion to dismiss stage, the court should focus on accepting the plaintiff's well-pleaded factual allegations as true, rather than making determinations of fact that could undermine the plaintiff's claims.

**4. Finally, The plaintiff contends District Court error in granting dismissal, seeking to advance litigation for discovery and potential trial resolution.**

Based on these arguments, it is contended that the District Court erred in granting the defendants' motion to dismiss under Rule 12(b)(6) and that the plaintiff's should be allowed to proceed to further stages of the litigation, such as discovery and potentially a trial, where factual disputes can be appropriately resolved.

**V. PROBABLE CAUSE**

**A. The misconducts of the Montgomery County District Attorneys, including intentional shielding of a crime, are highlighted, impacting due process and judicial integrity. The plaintiff's arrest under an inappropriate penal code is emphasized, concluding with a legal analysis of probable cause and malicious prosecution.**

The defendants, (including behalf their attorney Mr. Daniel Dale Plake) contended that false information was not necessary for a finding of probable cause. They argued that The Montgomery County District Attorney and Magistrate would still find probable based on Ms. Patience admittedly driving to Richard's home and striking him on the head. Additionally, they pointed to the allegations made by

Christine H. Hodson (Richard Patience's mistress, also witness), who the appellant did NOT know her husband had an affair with and secretly bought the house in Spring, Texas during their marriage that Ms. Patience had threatened to kill them. (DKT 14 page 14, # 20).

**When Montgomery County District Attorneys and Magistrates relied on Christine Hendricks Hodson's false statements and fabricating evidence knowing that they are false and fabricated, is a violation of due process and the right to a fair trial.**

The plaintiff, Ms. Patience did not admittedly drive to Richard's home and striking him on head, and the plaintiff never even threatened to kill them (Richard Patience and Christine H. Hodson). The plaintiff loved her husband (Richard Patience), in addition, Richard Patience wrote a letter to the plaintiff, apologized for his heartless abandonment of the family, children, and abused Ms. Patience after he had affair. However, Richard wanted to be back with plaintiff, and expected the plaintiff to contact him and stay with him in the same room together when the plaintiff is ready. (Please See Exhibit B, Letters from Richard Patience and the Plaintiff Wen Lian Patience)

On other hand, Christine Hendricks Hodson's statements of the blood all over Richard Patience's face was

false. Please see Exhibit A, pictures Fake blood was taken by law enforcement police officer, and Affidavit from Investigator. There is not records of Richard Patience's injury on May 28, 2020; Please review the police footage (Defendants DA held all the evidence, please see eDiscovery Audit Log list of evidence), and there is NOT evidence of plaintiff threatening to kill Richard and Christine H. Hodson).

After the plaintiff's criminal cases were dismissed, Plaintiff filed a Defamation lawsuit against witness, Christine Hendricks Hodson. Case No. 22- DCV-290170, Wen Lian Patience v. Christine Hendricks Hodson, 458th Judicial District Court of Fort Bend County, Texas, The Honorable Rollnick, Robert L. Case No. 01-22-00599-CV, Wen Lian Patience v. Christine Hendricks Hodson, the First Court of Appeals in Houston, Texas; Justice Richard Hightower. Case No. 22-0984, Wen Lian Patience v. Christine Hendricks Hodson, In the Supreme Court of Texas.

Montgomery County District Attorneys and Magistrate including defendants' attorney Daniel Dale Plake, intentionally shielded a crime and protected Christine Hendricks Hodson and Shannon Jackson and Romero Lee's criminal actinon of committing a crime perjury to harm innocent by misusing their power and abusing the laws, their misconducts undermined the integrity of judicial

process and led to wrongful convictions and unjust outcomes.

**When false statements and fabricated evidence are allowed and even encouraged by the DA, prosecution, Magistrates, Judge and the court, it undermines the fairness of the trial and violated the Plaintiff's (Ms.Patience) due process rights.**

Due process guarantees defendants a fair and impartial trial and impartial trial, which includes the right to confront and cross-examine witnesses and the right to present evidence in their defense. See Johnson v. Mississippi, 403 U.S. 212, 216, 91 S. Ct. 1778, 1780, 29 L. Ed. 2d 423, 427(1971); Brow v. Vance, 637 F. 2F.2d 272.281 (5th Cir. 1981)(Due process guarantees).

Prosecutors, DA, Magistrates, have a duty to seek justice and to present evidence truthfully. Knowingly relying on false statements and fabricated evidence goes against this duty and are considered prosecutorial misconduct. This led to ethical and legal consequence for the Prosecutors, DA, Magistrates, Judges involved.

Prosecutors, DA, Magistrates, are responsible for ensuring a fair and just legal process. If they are aware that false statements and fabricated evidence are being presented and still allow them to be considered, it is seen as judicial misconduct. This resulted in a violation of the plaintiff's

rights and potential disciplinary actions against the judge.

Probable Cause of a criminal prosecution is defined as the existence of such facts and circumstances as would excite belief in the mind of a reasonable person, acting on facts within his knowledge, that the person charged is guilty of the crime for which he was prosecuted. *Akin v. Dahl*, 661 S.W.2d 917, 921 (Tex.1983), cert. denied, 466 U.S. 938, 104 S.Ct. 1911, 80 L.Ed.2d 460 (1984). The question is not what the actual facts were, but what the prosecuting party honestly and reasonably believed the facts to be. *Compton v. Calabria*, 811 S.W.2d 945, 950 (Tex. App.— Dallas 1991, no writ). Generally, a party whose aid or cooperation causes a criminal complaint to be filed does so on probable cause when the party, in good faith, makes a full and fair disclosure to the prosecuting authority of the facts and circumstances known to the party and the complaint is thereafter filed. *Zavaleta* 827 S.W.2d at 345, *Compton*, 811 S.W.2d at 950. Probable cause does not exist if the defendant knowingly made false statements to the prosecuting attorney or withheld material facts. *Compton*, 811 S.W.2d at 950.

Defendants, Shannon Jackson and Romero Lee, intentional and knowingly false statement and fabrication of evidence were provided in the Complaints and information under oath with court clerk. Consequently, they cannot

content that the prosecutor should have known better or complain if prosecutor acted upon these false statement and fabrication of evidence. They procured the resulting prosecution, and regardless of the actions of the prosecutor, the causation element for malicious prosecution is indeed satisfied.

*On the other hand, the plaintiff (Ms. Patience) was wrongfully arrested and sent to jail under the Texas Penal Code Chapter 30, Section 30.05, which, id (Section 30.05) did NOT apply to related to Terroristic Threat of Family/household and Assault Cause Bodily Injury Family Violence. Refer to Exhibit C: (Cause No. 20-350258 and Cause No. 20-350259, Shannon Jackson's complaints).*

Texas Penal Code Chapter 30, Section 30.05  
CRIMINAL TRESPASS, (a) A person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, a general residential operation operating as a residential treatment center, or an aircraft or other vehicle, without effective consent and the person: (1) had notice that the entry was forbidden; or (2) received notice to depart but failed to do so.

**B. The police arrested the plaintiff and sent her jail based on a different crime code than the charges later filed by the District Attorneys (Defendants, DA). This**

**raised significant issues and concerns, as outlined below:**

**1. Lack of Probable Cause:**

The police and DA (Defendants) must have probable cause to arrest and charge the plaintiff when they have sufficient evidence to believe that the plaintiff committed the specific crime for which they are being arrested. However, The police arrested the plaintiff based on a crime code one crime code, while the charges filed by defendants (DA), Carmen Morales, were different. This situation raises question about whether there was actually sufficient evidence or probable cause to support the arrest and charges.

**2. Due process concerns:**

Due process requires that individuals be provided with notice of the charges against them and an opportunity to defend themselves. However, when the chargers filed by DA (defendants) differed from the crime code under which the plaintiff was initially arrested, it affected the plaintiff's ability to adequately prepare a defense and violated the plaintiff's rights to due process.

**3. Inconsistent Information:**

Inconsistencies between the crime code used by the police and the charges filed by DA (defendant) raised concerns about the accuracy and reliability of the information relied

upon by law enforcement. This issue has indicated a lack of communication or coordination between the police and DA's office, which undermine the integrity of the criminal justice system.

**C. The Court Granted Defendants' Motion to Dismiss and Final Judgement while knowing that false statements, fabricated evidence and wrongful charges were involved, several legal issues has arisen, as showing below:**

**1. Violation of the plaintiff's due process rights:**

The judge Granted a motion to dismiss based on false statement and fabricated evidence without thoroughly examining and considering their veracity violated the plaintiff's right to a fair trial and due process.

**2. Judicial Misconduct:**

The court judge granted a motion to dismiss while being aware of false statements and fabricated evidence and wrongful charges, it is seen as an act of judicial misconduct. The judges have a duty to maintain integrity, fairness, and impartiality in their decision-making. Granting a motion to dismiss and Final Judgement based on false statements and fabricated evidence and wrongful charges, disregards these principles and lead to potential disciplinary actions against the judge.

**3. Possible Denial of Justice:**

Granting a motion to dismiss and Final Judgement based on false statements and fabricated evidence and wrongful charges results in denial of justice. The dismissal of case prevents the truth from being revealed, denies the innocence/victim and plaintiff their right in court, and allows the guilty party(plaintiff) to escape accountability. It undermined the integrity of the legal system and eroded public trust.

**4. Implication for Future Cases:**

Allowing false statements and fabricating evidence and wrongful charges to go unaddressed for future cases, as it encourages further abuse of the legal process and the use of false statements and fabricating evidence.

**5. Appellate or Post-Conviction Remedies:**

The judge's grant of Defendants (DA)'s motion to dismiss and Final Judgment, despite their reliance on false statements, fabricating evidence and wrongful charges, forms a solid basis for an appeal and seeking post-conviction relief. The initiation of the criminal prosecution by Shanna Jackson's complaints and District Attorney Romero Lee's information is a matter of law. The term "initiation" does not typically require definition for the jury since it's evident from the formal charging documents themselves. Shanna Jackson

filed formal complaints and Romero Lee's information under oath against the plaintiff, Ms. Patience sufficiently demonstrates that Shannon Jackson and Romero Lee initiated the criminal prosecution, leading State Attorney Carmen R. Morales to intentionally charge the plaintiff with offense Terroristic Threat of Family/household, and Assault Cause Bodily Injury Family Violence on December 1<sup>st</sup> , 2020 (See Exhibit C: ORDER OF DEFERRED ADJUDICATION cause No. 20-350258 and Cause No. 20-35029).

There is no doubt that defendants Shanna Jackson, Romero Lee, and Carmen R. Morales committed a malicious prosecution and abuse of process, with all the elements of malicious prosecution clearly present.

To assess whether an office or the District Attorneys had probable cause for prosecuting the plaintiff and filing charges, courts scrutinize the events leading to the arrest and charges. They then determine whether, from an objectively reasonable perspective of the DA and police officer, these historical facts amount to probable cause. This approach is established in *District of Columbia v. Wesby*, 583 U.S.,138 S. Ct.577, 586,585 (2018) (citing *Maryland v. Pringle*, 540 U.S. 366, 371 (2003)). In this process, facts should not be isolated but considered as part of the totality of circumstances, requiring the court to examine the "whole

picture," as emphasized in Wesby, at 588. Probable cause is inherently fluid and cannot be neatly reduced to a set of rigid legal rules, as noted in Illinois v. Gates, 462 U.S. 213, 232 (1983). It demands only a substantial likelihood of criminal activity, not an actual demonstration of such activity.

**D. Staff actions in Montgomery County DA's Department, under state law, result in a 42 U.S.C. § 1983 claim for malicious prosecution. Constitutional violations caused actual damages to the plaintiff.**

I. The actions of the staffs within the Montgomery County District Attorney's Department were performed under the color of state law, giving rise to a 42 U.S.C. § 1983 claim for malicious prosecution. It is alleged that constitutional violation occurred, leading to actual damages suffered by the plaintiff, as illustrated below:

**1. Montgomery County DA defendants presented false evidence, made false statements, engaged in unfair prejudice, and abused power.**

The defendants, Montgomery County District Attorneys, not only relied on false evidence and make false statements, knowingly presenting them under oath in their complaints and information, but also engaged in unfair prejudice. They deliberately muddled the issues and presented misleading evidence to the court and judge

regarding their misconduct and potential criminal actions, thereby abusing their power, violating the law, and committing a crime perjury. Their misconducts are pertinent to the question of whether they are entitled to raise qualified immunity.

**2. Montgomery County DA's Department sanctioned evidence fabrication, false statements, baseless charges, violating plaintiff's constitutional rights.**

The Montgomery County District Attorney's Department, through its staff, was involved in and sanctioned evidence fabrication, false statements, baseless charges lacking probable cause, and the deliberate protection of a criminal witness, Christine Hendricks Hodson. These actions violated the plaintiff's Constitutional Amendment rights.

**3. The Montgomery County District Attorneys' misconduct violated rights, extending beyond official duties, unauthorized acts.**

The misconduct of the Montgomery County District Attorney's Department violated "clearly established" constitutional or statutory rights. It was reasonable evidence to the officials that their actions contravened established legal standards. Their actions and misconducts extended beyond the scope of their official duties and were not

undertaken in the performance of official responsibilities but as personal, unauthorized acts.

**4. The Plaintiff alleges fraud in wrongful charges by County DA's Department.**

The plaintiff's complaint alleged that The Montgomery County District Attorney's Department committed 'fraud' by wrongfully charging the plaintiff with offenses such as Terroristic Threat of Family/household, and Assault Cause Bodily Injury to Family Violence (see Appendix F [Exhibit D]).

**5. The Montgomery County District Attorneys' Department accepted staff's false statements, fabricating evidence, causing wrongful charges.**

Furthermore, The Montgomery County District Attorney's Department accepted and knew that their staff members were making false statements and fabricating evidence, leading to the wrongful charges against the plaintiff for committing a crime; these factual allegations are true and plausibly support the assertion that their actions constituted fraud.

II. Defendants made false statements as showing below (see Appendix C [Exhibit C], complaints and information from Shannon Jackson and Romero Lee):

**(A) THE COMPLAINTS FROM SHANNA JACKSON  
(a/k/a Shannon Jackson), CAUSE3 20-350259, Filed  
For Record, 06/02/2020, 8:53:34 am. Mark Turnbull  
County Clerk Montgomery County, Texas, Taylor,  
Shari.**

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**Complaint  
COUNTY OF MONTGOMERY  
COUNTY COURT AT LAW**

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**IN THE NAME AND BY AUTHORITY  
OF THE STATE OF TEXAS:**

BEFORE ME, the undersigned Assistant District Attorney of Montgomery County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that on or about May 28, 2020, in Montgomery County, Texas, Wen Lian Patience (the plaintiff), hereafter styled the defendant, did then and there intentionally, knowingly, or recklessly cause bodily injury to Richard Patience, the complainant, Striking the complainant.

It is further presented that alleged act constituted Family Violence in that the complainant is a member of the defendant's family or household or a person with whom the defendant has or has had a dating relationship, as described

73a

by Section 71.003 or 71.005 or 71.0021 (b), Family Code,  
AGAINST THE PEACE AND DIGNITY OF THE STATE.

/s/ Shanna Jackson  
Affiant

Sworn And Subscribed To Before Me On June 1, 2020.

/s/ Lee Romero  
Assistant District Attorney  
Montgomery County, Texas

**(B) THE INFORMATION FROM ROMERO LEE (a/k/a Lee Romero being signed under oath) CAUSE No: 20-350259, Filed For Record, 06/02/2020, 8:53:34 am. Mark Turnbull County Clerk Montgomery County, Texas, Taylor, Shari.**

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Information  
COUNTY OF MONTGOMERY  
COUNTY COURT AT LAW

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IN THE NAME AND BY AUTHORITY  
OF THE STATE OF TEXAS:  
COMES NOW the undersigned Assistant District Attorney of Montgomery County, Texas, in behalf of the State of Texas, and presents in and to the County Court at Law of Montgomery County, Texas, that on or about May 28, 2020, in Montgomery County, Texas, Wen Lian Patience (the plaintiff), hereafter styled the defendant, did then and there intentionally, knowingly, or recklessly cause bodily injury to Richard Patience, the complainant, Striking the complainant, It is further presented that alleged act constituted Family Violence in that the complainant is a

member of the defendant's family or household or a person with whom the defendant has or has had a dating relationship, as described by Section 71.003 or 71.005 or 71.0021 (b), Family Code,

AGAINST THE PEACE AND DIGNITY OF THE STATE.

/s/ Lee Romero

Assistant District Attorney  
Montgomery County, Texas

**(C) THE COMPLAINT FROM SHANNA JACKSON  
(a/k/a Shannon Jackson), CAUSE No: 20-350258, Filed  
For Record, 06/02/2020, 8:53:34 am. Mark Turnbull  
County Clerk Montgomery County, Texas, Taylor,  
Shari.**

---

**Complaint**  
COUNTY OF MONTGOMERY  
COUNTY COURT AR LAW

---

IN THE NAME AND BY AUTHORITY  
OF THE STATE OF TEXAS:

BEFORE ME, the undersigned Assistant District Attorney of Montgomery County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that on or about May 28, 2020, in Montgomery County, Texas, Wen Lian Patience (the plaintiff), hereafter styled the defendant, did then and there threaten to commit an offense involving violence to a person or property, namely, assault, with intent to place Richard Patience/Christine Patience in fear of imminent

serious bodily injury, and the said conduct of the defendant constituted family violence.

AGANST THE PEACE AND DIGNITY OF THE STATE.

/s/ Shanna Jackson

Affiant

Sworn And Subscribed To Before Me On June 1, 2020.

/s/ Lee Romero

Assistant District Attorney  
Montgomery County, Texas

**(D) THE INFORMATION FROM ROMERO LEE (a/k/a Lee Romero) CAUSE No: 20-350258, Filed For Record, 06/02/2020, 8:53:34 am. Mark Turnbull County Clerk Montgomery County, Texas, Taylor, Shari.**

---

Information  
COUNTY OF MONTGOMERY  
COUNTY COURT AR LAW

---

IN THE NAME AND BY AUTHORITY  
OF THE STATE OF TEXAS

COMES NOW the undersigned Assistant District Attorney of Montgomery County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that on or about May 28, 2020, in Montgomery County, Texas, Wen Lian Patience (the plaintiff), hereafter styled the defendant, did then and there threaten to commit an offense involving violence to a person or property, namely, assault, with intent to place Richard Patience/**Christine Patience** in fear of imminent

serious bodily injury, and the said conduct of the defendant constituted family violence.

AGANST THE PEACE AND DIGNITY OF THE STATE.

/s/ Lee Romero

Assistant District Attorney  
Montgomery County, Texas

**E. In light of the false accusation levied against the appellant, it is imperative to present the following factual account to this honorable court for a fair and just consideration of the matter at hand.**

1. The plaintiff never even did anything to hurt Richard Patience and place him in fear (see Exhibit B, Richard Patience's letter to the plaintiff, and the plaintiff's text message to Richard Patience).
2. Shannon Jackson fabricated the witness's name as Christine Patience, 'it' is not a real person. The witness, Christine Hendricks Hodson called 911, and she told the 911 call operator and particular emphasis on that she kept her last name as Hodson, her first name is Christine, her name is Christine Hodson. (Exhibit USB, 911 call voice records.)
3. The 'victim', Richard Patience, did NOT want to pursue charges against the plaintiff. (See Exhibit C, Richard Patience's report to police, Montgomery County Sherriff's

Office Voluntary Statement case # 20A171266); Richard Patience was also opposed to the law enforcement deputies sending Ms. Patience (Plaintiff) to jail, while the deputies told him that the plaintiff was going to send to jail. (Please review. deputies' footages, Body-Worn Camera (BWC) Footage, Dashcam Footage, or Evidence Video for clarification. The Defendants, DA Montgomery County District Attorney's department held all the evidence and deputies' footages).

4. There were not any legal issues involve or probable cause, or evidence demonstrating that the plaintiff's action met the elements of assault, which requires intentionally causing apprehension of imminent harmful or offensive contact. Shannon Jackson's complaints did NOT establish that the plaintiff's conduct met legal criteria for Assault or threaten. Additionally, DA, Shannon Jackson and Romero Lee's Information and Complaints, NO Evidence demonstrated that the plaintiff, Ms. Patience, acted intentionally, knowingly, or recklessly. Furthermore, family violence typically refers to abusive behavior committed against family or household members. Shannon Jackson and Romero Lee, did not establish all the essential elements of the offense, including the nature and extent of bodily injury, the relationship between the plaintiff (Ms. Patience) and

Richard Patience, and the jurisdiction's specific legal requirements for proving the offense of family violence.

Furthermore, Why did Shannon Jackson and Romero Lee internally fabricate the name of witness, Christine Hendricks Hodson, as Christine Patience? Who is Christine Patience? Additionally, Why did Shannon Jackson and Romero Lee also fabricate their own names as Shanna Jackson and Lee Romero when they signed their information and complaints under oath against the plaintiff to the court and judge??

5. Defendants' statements prosecuting the plaintiff were proven false by the document from STATE OF Texas vs. Affidavit of No Records, Investigation #20M3886 (See Exhibit A, Affidavit of No Records). It revealed that there were no records of Richard Patience's injury on May 28, 2020. The blood all over Richard Patience's head and face was fake. The plaintiff did not threaten to commit an offense involving violence, namely assault, with intent to place Richard Patience / Christine Patience in fear of imminent serious bodily injury on May 28, 2020. Wen LianPatience did not intentionally, knowingly, or recklessly cause bodily injury to Richard Patience on May 28, 2020.

Additionally, an Ambulance was on the scene at Richard Patience's house in Spring Texas, and EMS

personnel/paramedics checked Richard Patience's head, face, and body. However, they did not apply any medical care or first aid and then left the scene without providing any reports or documents regarding Richard Patience's injuries on May 28, 2020 (See Exhibit C: Investigation #20M3886, AFFIDAVIT OF NO RECORDS, [Exhibit E], DECLARATION OF RICHARD PATIENCE, AND DECLARATION OF CHRISTINE HODSON)

## **VI. QUALIFIED IMMUNITY**

### **A. Absolute prosecutorial immunity:**

The Defendants should NOT be entitled to dismissal of civil rights claims brought under of 42 U.S.C.S § 1983, as Absolute prosecutorial immunity did NOT apply to the alleged malicious prosecution and misconduct of fabricating evidence and false statements which resulted in the deprivation of criminal defendant's due process and a fair trial. These actions included initial gathering of evidence in the field, which falls outside the defendants' traditional official function and the prosecutor's quasihelical role as advocate, thus NOT warranting absolute immunity. Furthermore, a law enforcement officer's detective, who allegedly aided in fabrication of evidence, also does NOT have absolute immunity, as Supreme Court case law clarifies that police officers, even when working with a prosecutor,

are NOT entitled to such immunity (Wearry V. Foster, 52 F. 4th 258, 2022 U.S. App. Lexis 29966, 2022 WL 15208074, 5th Cir. La. Oct. 27, 2022).

**B. Sovereign Immunity as to Malicious Prosecution Claim.**

Defendants intentional and purposely provided false statements under oath and fabrication of evidence with the clerk, committing a crime of perjury. They initiated criminal proceedings against plaintiff, Ms. Patience, and wrongfully charged her with Assault Causes Bodily Injury Family Violence and Terroristic Threat of Family/Household without probable cause. Both of Plaintiff's criminal charges were dismissed due to a lack of probable cause on November 17, 2021 and it was evidence that malice was harbored toward her. The plaintiff is innocent of the criminal charged. (Exhibit D, MOTION TO DISMISS, CASE NO. 20-350258, and 20-350259)

Defendants, namely the Montgomery County District Department and their staff members, Shannon Jackson, Romero Lee and Carmen Morales, engaged in misconducts and committed a crime perjury that violated the plaintiff's constitutional Rights, including due process and equal protection. Their actions were unlawful and arbitrary, and their decision-making process failed to meet procedural

requirements. Therefore, Defendants' misconducts have waived their sovereign, as per the principles of state sovereign immunity under Texas law.

**C. Prosecutorial immunity excludes acts outside judicial process, like press comments.**

Prosecutorial Immunity as to State and Federal Claims. Prosecutorial immunity does not, however, extend to acts taken outside of the judicial process, such as comments to the press and media or actions taken in abandoning prosecutorial capacity. Buckley, 509 U.S. at 277.

The Defendants exceeded the scope of their role as advocates for the state, exercising their professional judgement beyond the bounds of the law. They engaged in intentional misconduct, including fabricating evidence, suppressing exculpatory evidence, and knowingly and internally presenting false statements, testimony and wrongfully charging the plaintiff. As a result, their immunity is waived. The defendants' misconducts violated the plaintiff has clearly established constitutional rights. They misused their power to shield a crime and purposefully protecting Christine H. Hodson's criminal actions, cause harm to the plaintiff and her family. Their misconducts clearly infringed upon the plaintiff's rights, and consequently they have forfeited their immunity protection.

Prosecutorial Immunity is a shield for actions within the judicial process but does not grant prosecutors immunity for actions they take in other contexts or roles outside of their official duties as prosecutors. This distinction helps ensure that prosecutors are accountable for their action when they are not acting their capacity as officers of the court. Plaintiff's Amended Complaint alleges that Shannon Jackson, Romero Lee and Carmen R. Morales engaged in malicious prosecution in violation of Texas law, as well as violated Plaintiff's civil rights by causing her false imprisonment and depriving her of due process and wrongfully charges.

The plaintiff asserts that, despite Shannon Jackson, Romero Lee and Carmen R. Morales being prosecutors and district attorneys at the time, they were motivated by a personal vendetta as the alleged victim in the underlying indictment against the plaintiff. This circumstance takes the case beyond the scope of prosecutorial immunity. They misused their authority shield a crime within society and power to and protect a criminal Christine Hendricks Hodson, who violated the laws through misuse of the 911 call service, making false statements to law enforcement, and fabricating evidence, notably by applying red paint to Patience's head and face to simulate blood, all within the legal system.

(Exhibit #1,#6, #7, #9 in clerk documents).

**VII. THE DISTRICT COURT ERRED IN  
ITS GRADING OF DEFENDANTS' MOTION  
TO DISMISS ANF FINAL JUDGEMENT**

The district court granted defendants' motion to dismiss with prejudice and Final Judgement while aware of the involvement of false statements, fabricated evidence, and wrongful charges. This gave rise to legal issues as outlined below:

**1. Misinterpretation and misapplication of applicable laws, rules, or legal standards:** The court interpreted statutes or legal precedents inconsistently with their plain language or established judicial interpretations, applied incorrect legal standards to determine legal outcomes, and misunderstood and misapplied the elements of legal claims and defenses. In the plaintiff's equal protection claim, the court departed from established precedents and interpreted the equal protection clause of the Fourteenth Amendment in a manner inconsistent with its historical context and purpose, leading to an incorrect assessment of whether the plaintiff's rights were violated.

In this case involving false statements, fabricating evidence, and wrongful charges by the defendants (DA), the court applied a reasonableness standard lower than that

required by the Fifth and Fourteenth Amendments, potentially denying the plaintiff's claims of violated constitutional rights to a fair trial. Its Misinterpretation and misapplication of legal principles and standards may have led to unjust outcomes, particularly in the context of equal protection and constitutional rights.

**2. Failure to Consider Relevant Evidence and Legal Arguments:** The court failed to give due consideration to crucial evidence directly pertinent to the case. It also overlooked compelling legal arguments presented by both parties. Furthermore, the court did not afford the appropriate weight to expert testimony and other forms of expert evidence, such as an affidavit from an investigator, which could have demonstrated that the blood was fabricated as evidence. Additionally, there was no record of Richard Patience's injury on May 28, 2020, to establish that the plaintiff intentionally caused him bodily harm.

**3. Reliance on false statements and fabricated evidence:** The court accepted and relied upon statements and documents provided by the defendants (DA) and their attorney, Daniel Dale Plake, despite knowing them to be false and fabricated. The court failed to conduct a proper investigation into the accuracy of Daniel Dale Plake's statements and document verification before reaching its

decision. Furthermore, the court granted credibility to the defendants and their attorney, Daniel Dale Plake, despite their known history of dishonesty and bias. This includes instances of falsehoods, such as the misrepresentation of the true fact Please Review Case 4:23-cv-00185 of Daniel Dale Plake's [Docket No.14] Filed on 02/24/23 DEFENDANTS' MOTION TO DISMISS. And Case 4:23-cv-00185 Plake's [Docket No 9] Filed on 02/08/23.

**4. Disregarding Procedural Rules and Due Process Requirements:** The court failed to provide adequate notice to the involved parties regarding the proceedings and hearings. Specifically, the district court judge denied the plaintiff's Motion for Extension of Time on May 25, 2023 (DKT 25) for reasons related to the plaintiff's mother's death and her absence from the U.S. during the court's scheduling conference held on May 12, 2023. Notably, prior to her departure to China, the plaintiff had filed a NOTICE OF UNAVAILABILITY (DKT 12) for the Initial Conference and the defendants' actions concerning document processing, such as the motion to dismiss, on February 24, 2023, while she was in China. These actions by the district court judge disregarded the applicable Federal Rule 12(b)(6) standards for determining the Motion to Dismiss and the rules of evidence.

**5. Abuse of Judicial Discretion:** The district court judge rendered decisions that lacked a reasonable basis, appearing arbitrary and capricious. There was a discernible bias and prejudice in favor of the defendants, evident in the judge's consistent denial of all of the plaintiff's motions and the granting of all motions brought by the defendants. The judge appeared to intentionally shield the defendants from allegations of criminal misconduct, particularly related to perjury, without adequate justification, as exemplified by the granting of the motion to dismiss and the subsequent signing of the Final Judgment.

## CONCLUSION

The American legal system faces corruption and political expediency, but the Fifth Circuit stands out. This court, vital for civil rights cases, remains true to its constitutional duty. Often, it blazes trails for others. A civil rights lawyer notes that without the Fifth Circuit, the South might face turmoil (Time Magazine, Dec. 4, 1964). We shy away from acknowledging inequalities in the criminal justice system, fearing truth and statistics. When individuals exercise their constitutional rights (Fifth, Sixth, Fourth, Fourteenth, and First Amendments) to expose injustices and unfair trials, they challenge a system that might misinterpret federal law or the U.S. Constitution.

The plaintiff endures legal wrongs due to criminal law violations, leading to wrongful conviction and unjust punishment. Government misconduct by law enforcement and prosecutorial actions, alongside district attorney department and their staffs (DAs) misconduct, rely on false statements and fabricated evidence, commit a crime with perjury. This bias results in an unjust criminal conviction and imprisonment. Appellant Ms. Wen Lian Patience suffers damages, including:

- 1. Reputation and Emotional Distress:** Public humiliation, social stigma, emotional distress, mental anguish due to wrongful accusations.
- 2. Loss of Liberty and Freedom:** Deprivation of liberty, imprisonment, pretrial detention, and restricted movement.
- 3. Financial Losses:** Legal fees, expenses, loss of income, and job opportunities.
- 4. Damage to Personal Relationships:**  
Strained relationships with family, friends, and professional networks.
- 5. Diminished Future Prospects:** Impact on employment, education, and professional opportunities due to a tarnished reputation.
- 6. Psychological and Physical Harm:** Depression, anxiety disorders, PTSD, and physical ailments from

emotional trauma. Appellant seeks legal remedies and compensation for harm, losses, and rights violations caused by the Montgomery County District Attorney Department, law enforcement and prosecutorial actions (Ryan McClintock (11401), district attorneys Romero Lee, staff Shannon Jackson, and persecutor Carmen Morales.

Respectfully submitted,

/s/ Wen Lian Patience

Wen Lian Patience  
3603 Moss Trail Dr.  
Missouri City, TX 77459  
(713) 516 – 4354

---

**APPENDIX A [Exhibit A3]:**

On August 29, 2023, The petitioner timely submitted a Certificate of Compliance with the Word Count Requirement (Docket No. 51). The total number of words is 12,415, excluding the portions of the Brief exempted by Fed. R. App. P. 32(f), which falls within the specified limit of 13,000 words.

**No. 23-20270, Certificate of Compliance.**

W

August 29, 2023, 8:42PM.

**Wenlian Huang <wenlianpatience@gmail.com>**

to pro\_se, me.

Dear Mr. Dantrell L. Johnson and Lyle W. Cayce,

I trust this email finds you well. I am writing to inform you that I have submitted the required Certificate of Compliance, Certificate of Conference, and Certificate of Service documents, as outlined in my recent correspondence, to the appropriate address for Brief processing or the motion.

I appreciate your attention to this matter and your dedication to maintaining the integrity of the proceedings.

Thank you very much indeed for your assistance in this matter!

Best regards

Wen Lian Patience (Pro se)

90a

3603 Moss Trail Dr.  
Missouri City, TX, 77459  
(713) 516-4354 **One attachment** • Scanned by Gmail

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**CERTIFICATE OF COMPLIANCE**

---

**NO. 23-20270**

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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Wen Lian Patience,  
*Plaintiff-Appellant,*

v.

Shannon Jackson; Montgomery County District  
Attorney's department DA;  
Lee Romero; Carmen Morales; Romero Lee,

*Defendants-Appellees*

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ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE SOUTHERN  
DISTRICT OF TEXAS HOUSTON DIVISION  
USDC NO. 4:23-CV-00185 & Civil Action No. H-23-185

---

**CERTIFICATE OF COMPLIANCE**

---

I, Appellant, Wen Lian Patience, the undersigned as Pro se  
On July 13, 2023, titled " Brief of Wen Lian Patience "

1. The Brief of Wen Lian Patience complied with the type-volume limitation requirements as set forth in Federal Rule of Appellate Procedure 32(a)(7)(B) or Federal Rule of Appellate Procedure 32(g)(1) and 27(d)(2)(A) because this Brief contained total number of words in the document is **12,415** words, excluding the parts of Brief exempted by Fed. R. App. P 32(f) such as cover page; disclosure statement; table of contents; table of citations; statement regarding oral argument; addendum containing statutes, rules, or regulations; signature block; any item specifically excluded by these rules or by local rule. Also Certificate of Service did not include that was separated.
2. The Brief of Wen Lian Patience also complied with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type requirements of Federal Rule of Appellate Procedure 32(a)(6) because this Brief had been prepared in a proportionally spaced typeface **using** Microsoft Word for Mac. With a 14 point font named Time New Roman.

Respectfully submitted,

/s/ Wen Lian Patience  
Wen Lian Patience (Pro se)  
3603 Moss Trail Dr. , Missouri City, TX, 77459

---

**Appendix A [Exhibit A5(a)]:**

The decision of the United States Court of Appeals Fifth Circuit is reflected in a CLERK ORDER denying the Motion to Reinstate Appeal for Non-Compliance with the Word Count Requirement by the Fifth Circuit Deputy Clerk, Dantrell L. Johnson, on October 06, 2023. It's important to note that the Petitioner timely submitted "Amended Appellant's Motion to Reinstate Appeal Compliance with Word Count Requirement by 5<sup>th</sup> Cir, Clerk." with a word count is **3,591** words. **Refer to Appendix A [Exhibit A5(e) or (Docket No. 50-1)]** This revised filing complies with the stipulated word count limit, which is limited 5,200 words under Fed. App. P. Rule 27(d)(2)(A).

WEN LIAN PATIENCE,  
*Plaintiff-Appellant,*

*Versus*

SHANNON JACKSON; MONTGOMERY COUNTY  
DISTRICT ATTORNEY'S DEPART DA; LEE ROMERO;  
CARMEN MORALES; ROMERO LEE,

*Defendants-Appellees*

Appeals from the United States District Court for the  
Southern District of Texas USDC No. 4:23-CV-185

CLERK ORDER denying Motion to reopen case filed by  
Appellant Ms. Wen Lian Patience [50]. [23-20270] (DLJ).

LYLE W. CAYCE

Clerk of the United States Court  
of Appeals for the Fifth Circuit  
by: (s) Dantrell L. Johnson, Deputy Clerk  
Dantrell L. Johnson, Deputy Clerk

---

**Appendix A [Exhibit A5(b)]**

The Petitioner submitted the Motion to Reinstate Appeal for  
Compliance with the Word Count Requirement to the Fifth  
Circuit Deputy Clerk on August 22, 2023 (Docket No. 53);  
and October 2<sup>nd</sup>, 2023. (Docket No. 5);

---

NO. 23-20270, APPELLANT'S MOTION TO REINSTATE  
APPEAL

Inbox

94a

Search for all messages with label Inbox

Remove label Inbox from this conversation.

W

August 22, 2023

**Wenlian Huang <wenlianpatience@gmail.com>**

to pro\_se, me, Daniel, BD, Sara, danielplake



**MONTGOMERY COUNTY DISTRICT 2.pdf**

Dear Mr. Dantrell Johnson and Ms. Angelique B. Tardie,

I have attached documents showing "Appellant's Motion to Reinstate Appeal and Order", and a copy of the Original Brief with exhibits.

1. Appellant's Motion to Reinstate Appeal, Order on Appellant's Motion to Reinstate Appeal, and Certificate of Service.
2. Appellant's Original Brief.
3. Exhibits: 1) 911 call voice record from Christine Hendricks Hodson (Richard Patience's mistress);  
2) Pictures of fake blood; 3) Wrongfully Chargers;  
4) Letters and Emails and Text messages.
4. False Complaints & Information and False police reports.
5. Certificate of Service for Appellant's Original Brief.

Best regards

Wen Lian Patience (Pro se)

3603 Moss Trail Dr.

Missouri City, TX, 77459

(713) 516 - 4354

[wenlianpatience@gmail.com](mailto:wenlianpatience@gmail.com)

8 Attachments • Scanned by Gmail

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**Appendix A [Exhibit A5(c)]:**

The Petitioner submitted the Motion to Reinstate Appeal for Compliance with the Word Count Requirement to the Fifth Circuit Deputy Clerk on October 2nd, 2023 by electric filing.

**Case No. 23-20270 Amened Motion to Reinstate Appeal  
Compliance with word Count Requirement.**

**Appendix A [Exhibit A5(c)]:**

W

Oct 2, 2023, 2:23 PM

Wenlian Huang <[wenlianpatience@gmail.com](mailto:wenlianpatience@gmail.com)>

to pro\_se

2023 Oct 2nd Exhibit C False Complaints From  
Po...

2023 Oct 2nd Exhibit D Wrongfulcharg DA and  
Mot...

**2023 Oct 2nd Exhibit D2 Wrongfull Charge**

**Motio...**

Dear Dantrell L. Johnson and Lyle W. CAYCE,

I trust this email finds you well.

I am writing to let you know that I have submitted the response to your notice on September 25, 2023 that the "Certificate of Compliance for the Motion to Reinstate Complies with the 5,200 words. The attached documents are prepared to support this Motion To Reinstate Appeal.

1. Amended Motion to Reinstate Appeal Compliance with word Count Requirement, including the document as shown below:

- 1) "Final Judgment" --a copy of the trial court's decision.
- 2) "Memorandum and Order"--a copy of the trial court's decision.
- 2) Statement Regarding Oral Argument.
- 3) Certificate of Compliance.
- 4) Affidavit of Wen Lian Patience.
- 5) Order on Appellant's Amended Motion to Reinstate Appeal.
- 6) Certification of Service.

2. Exhibits: Evidence of Fabrication.

- 1) Exhibit A: Fabricated Fake Blood all over Richard Patience's head and face. An Affidavit from Investigator.
- Exhibit C: False Complaints & Information from Shannon Jackson and Romero Lee; False reports from Law

Enforcement police and Witness Christine Hendrick Hodson.

- 2) Exhibit D & D2 Wrongfully charges ( Case No. 20-350258, No. 20-350259) from Montgomery County District Attorney's Department; Appellant's criminal Charges were dismissed ( Motion to Dismiss).
- 3) False 911 call voice record from Witness Christritne Hendricks Hodson on May 28, 2020.

Best Regards

Wen Lian Patience (Pro se)  
3603 Moss Trail Dr.  
Missouri City, TX, 77459  
(713) 516-4354  
[wenlianpatiece@gmail.com](mailto:wenlianpatiece@gmail.com)

**8 Attachments • Scanned by Gmail**

**Appendix A [Exhibit A5(d)]:**

Certificate of Compliance and Amened Motion to Reinstate Appeal with word Count Requirement were submitted to the Fifth Circuit Clerk on October 2<sup>nd</sup>, 2023 after the Petitioner received email /Letter from Fifth Circuit Deputy Clerk 504-310-7689, Dantrell L. Johnson.

---

Case: 23-20270. Document:50-2; Date File: 08/22/2023

**United States Court of Appeals**

**FIFTH CIRCUIT OFFICE OF THE CLERK**

98a

LYLE W. CAYCE  
CLERK  
NEW ORLEANS, LA 70130

Tel. 504-310-7700  
600 S. MAESTRI PLACE  
Suite 115

August 29, 2023

Ms. Wen Lian Patience  
3603 Moss Trail Driver  
Missouri City, TX 77459

No. 23-20270   Patience v. Jackson  
USDC No. 4:23-CV0185

Dear Ms. Patience,

The following pertains to your “Appellant’s Motion to Reinstate Appeal” that was submitted to the Court on August 22, 2023.

The motion is insufficient for the following reason and must be corrected As soon As Possible:

1. A Certificate of Conference is required (See 5<sup>th</sup> Cir. R. 27.4). The Certificate of Conference must state opposing counsel’s position on the motion request; whether opposed or unopposed. Or, if you are unable to obtain opposing counsel’s position, then the Certificate of Conference must state that fact.

The Certificate of Conference may be attached to the back of the motion. Or, a Certificate of Conference statement may be incorporated in the body of the motion.

2. A Certificate of Conplian that lists the word count of the motion is required (See Fed. R. App. P. 32(g)(1) and 27(d) (2)(A).

Once the sufficient motion is prepared, you may:

1. Mail the sufficient motion to the Count;
2. Or, email the sufficient motion to the email address reserved for pro se filing at [pro\\_se@ca5.uscourts.gov](mailto:pro_se@ca5.uscourts.gov).

Case: 23-20270. Document:50-2, Date File: 08/22/2023

Sincerely,

LYLE W. CAYCE, CLERK

By: (s) Dantrell L. Johnson, Deputy Clerk  
504-310-7689

Cc: Mr. Daniel Dale Plake

P.S. to Ms. Patience: The Court does not monitor for receipt of sufficient document in a close case. However, it is suggested that the default is remedied as soon as possible.

Further, the Court acknowledges that an audio recording was submitted along with the Motion to Reinstate Appeal and the proposed Appellant's brief. Yet, because an audio or video file cannot be attached to a motion or brief, we are taking no action on the audio recording.

**Appendix A [Exhibit A5(e)]:**

On October 2<sup>nd</sup>, 2023, Pursuant to Fed. R. App. P Rule

27(d)(2)(a), Petitioner submitted a Certificate of Compliance for Motion to Reinstate Appeal, exceeding the word-count limit of 5,200 words set by 5<sup>th</sup> Circuit clerk by electronic filing.

**Appendix A [Exhibit A5(e)]**

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NO. 23-20270  
IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

Wen Lian Patience,  
*Plaintiff-Appellant,*  
v.  
Shannon Jackson; Montgomery County District  
Attorney's department DA; Lee Romero;  
Carmen Morales; Romero Lee,  
*Defendants-Appellees*

---

ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE SOUTHERN DISTRICT OF TEXAS,  
HOUSTON DIVISION  
USDC NO. 4:23-CV-00185 & Civil Action No. H-23-185

---

AMENDED APPELLANT'S MOTION TO REINSTATE  
APPEAL COMPLIANCE WITH WORD COUNT  
REQUIREMENT BY 5TH CIR. CLERK

---

TO THE JUDGE, EDITH BROWN CLEMENT

The appellant, Ms. Wen Lian Patience, respectfully  
requests the reinstatement of the above- mentioned appeal.  
The appeal was dismissed on August 15, 2023, for Amended

Motion to Reinstate Appeal Compliance Requirement by 5th Cir, Clerk failure to correct deficiencies within the 14-day period provided for in the appellant's Brief, which was filed on July 13, 2023, as directed by 5th Cir. R. 42.3.

Pursuant to 5th Cir. R. 42.3.1.2., Appeals without Counsel, the clerk must issue a notice to the appellant, stating that the appeal will be dismissed for want of prosecution unless the default is remedied within 15 days from the date of the notice. If the default is remedied within that time, the clerk must not dismiss the appeal.

1. Background:

On July 3rd, 2023, the clerk issued a BRIEFING NOTICE indicating that the Appellant's Brief was due on August 14, 2023, for Appellant Wen Lian Patience (23-20270, DDL).

On July 13, 2023, the Appellant filed the Brief with Exhibits in accordance with Federal Rule of Appellate Procedure Rule 28 Briefs or 5th Cir. R 28 Brief Procedures. Therefore, the clerk should not dismiss the appeal.

Additionally, on September 5th, the appellant received an email from the 5<sup>th</sup> Circuit Clerk indicating that the Certificate of Compliance submitted for the Motion to Reinstate Appeal was found insufficient due to a word count discrepancy. The Certificate of Compliance indicated that

the word count for the motion is Amened Motion to Reinstate Appeal Compliance Requirement by 5th Cir, Clerk 12,415 words, exceeding the word-count limit of 5,200 words set by Fed. R. App. P Rule 27(d)(2)(a)

The Appellant believes there has been misunderstanding regarding compliance between 5th Cir. R 28 Brief Procedures and the Motion to Reinstate Appeal. The Appellant's Brief was timely filed as required by 5th Cir. Rules 28 and Procedures, the Certificate of Compliance submitted for the Brief that the word count is 12,415 words it complies with the type-volume limitation requirements as set forth in Federal Rule of Appellate Procedure 32(a)(7)(B), that a brief should contain no more than 13,000 words or not exceed one-half the type-volume limits for a principal brief.

Furthermore, the deficiencies in the brief are correctable and should not warrant the dismissal of the appeal. The dismissal order (23-20270, DLJ) indicated that on July 26, 2023, the clerk provided the Appellant with 14 days to correct deficiencies in the brief filed on July 13, 2023. The directed corrections were not made. Accordingly, IT IS ORDERED that the previously filed brief is stricken because it does not comply with the applicable Fed. R. App. P. or 5th Cir. R., and the clerk is directed to dismiss the appeal for failure to prosecute under 5th Cir. R.42.3.

Furthermore, on July 26, 2023, Appellant was in China due to her father's passing. Prior to her departure to China on July 13, 2023, she filed an Emergency Motion and Order along with supporting exhibits Under Fed Rues App. Proc. R. 27, 28 U.S.C.A. Therefore, the appellant prays that this court reinstates this appeal under 5th Cir. R. 42.3.1.2. because the failure to file "Certificate of Compliance in the brief" was remedied. The failure to do so previously was not intentional and resulted from a technical problem.

In ground for this motion, as describes more fully in the supporting and enclosing "Certificate of Compliance" attached to this Motion; an "affidavit of Wen Lian Patience"; "Oral Argument" (a motion is decided without oral argument) and a copy of the trial court's decision as "Final Judgment" signed the Judge Ewing Werlein, JR on May 31, 2023 (see Docket No. 22)." as an Exhibit: which includes "Memorandum and Order"

2. Correction of Word Count Issue: In response to the court's observation, appellant has revised and condensed the initial filing while preserving the essential arguments and content. This revised filing now complies with the stipulated word count limit, which is **limited 5,200 words** under Fed. App. P. **Rule 27(d)(2)(A).**

3. Submission of Updated Certificate of Compliance: The appellant is submitting an updated version of the initial the Motion to Reinstate Appeal, now adhering to the word count requirement, for the court's consideration, attached herewith is a "Certificate of Compliance" affirming that the revised Motion to Reinstate Appeal conforms to the prescribed word count.

4. Request for Reinstatement: Appellant respectfully requests the court to reinstate the appeal and consider "Certificate of Compliance" in accordance with the revised word count. This will ensure a fair and complete consideration of the case. Appellant respectfully requests that the Court review all documents including previously filed the Briefs to the clerk and reconsider the dismissal of the appeal based on a mistaken understanding of non-compliance. Appellant fully expects the Honorable Court's attention to this matter. The Appellant is confident that upon review, the Court will recognize that the Appellant follows the rules and consider this updated as the Appellant's effort to promptly remedy the default. The appeal should be reinstated to allow for a fair consideration of the issues presented.

Wherefore, appellant respectfully prays this court reinstate the appeal pursuant to 5th Cir. Rule 42, allowing

reinstatement when a “failure is remedied.” And **5th Cir. R. 42.3.1.2., Appeals without Counsel: If the default is remedied within that time, the clerk must not dismiss the appeal.** To address this default, the appellant filed the “Certificate of Compliance”, “affidavit of Wen Lian Patience”, and “Exhibits”(Evidence of Fabrication) to be enclosed with the “Motion to Reinstate Appeal” and “Statements of Oral Argument”, also a copy of the trial court’s decision as “Final Judgment” with “Memorandum and Order” under 5th Circuit Rule 27 Motions.

Based on Rule 27 Motion, Documents Barred or Not Required: A Brief Supporting; A Notice of Motion; and A Proposed Order.

Respectfully submitted this 2nd day of October 2023.

/s/ Wen Lian Patience  
Wen Lian Patience (Pro se)  
(713) 516 – 4354  
wenlianpatience@gmail.com

**Appendix A [Exhibit A5(e)]:**

On August 22, 2023, Pursuant to Fed. R. App. P Rule 27(d)(2)(a), The petitioner submitted a Certificate of Compliance for the Motion to Reinstate Appeal. This motion, containing 3,591 words, exceeds the word count limit of 5,200 words set by the 5th Circuit clerk.

**Appendix A [Exhibit A5(e)]**

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NO. 23-20270  
IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

Wen Lian Patience,  
*Plaintiff-Appellant,*

v.

Shannon Jackson; Montgomery County District  
Attorney's department DA; Lee Romero;  
Carmen Morales; Romero Lee,

*Defendants-Appellees*

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ON APPEAL FROM THE UNITED STATES  
DISTRICT COURT FOR THE SOUTHERN  
DISTRICT OF TEXAS, HOUSTON DIVISION  
USDC NO. 4:23-CV-00185 & Civil Action No. H-23-185

---

AMENDED APPELLANT'S MOTION TO REINSTATE APPEAL  
COMPLIANCE WITH WORD COUNT REQUIREMENT  
BY 5TH CIR. CLERK

---

**CERTIFICATE OF COMPLIANCE**

Statements to the Motion to Reinstate Appeal  
Under 28 U.S.C.A. Fed. R. App. P. 27 Motions

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I, Appellant, Ms. Wen Lian Patience, Pursuant to 5th  
Cir. R. 32(d), undersigned Pro se certifies that this motion

complies with the type-volume limitation of 5th Cir. R. 27(a)(2)(B), and as follows:

1. I have made any necessary privacy redactions in accordance with 5th Cir. R.25.2.13, or I confirm that no such redactions were required.
2. Exclusive of the portion exempted by 5th Cir. R. 27(a)(2)(A)-"a motion is limited to 5,200 words." This motion contains 3,591 words printed in a proportionally spaced typeface, including "Certificate of Compliance", "affidavit of Wen Lian Patience", and "Statements of Oral Argument", and "Certificate of Service"
3. Upon request, undersigned Pro se provides an electronic version of this motion.
4. The electronic documents comply with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type requirements of Federal Rule of Appellate Procedure 32(a)(6). They have been prepared in a proportionally spaced typeface using Microsoft Word for Mac with a 14-point font named "Times New Roman."
5. On September 29, 2023, appellant filed the documents electronically through the CM/ECF system with the Clerk for the United States Court of Appeals for the Fifth Circuit. Pursuant to Rule 27, she has prepared and submits herewith

a “Certificate of Compliance” demonstrating full compliance with the court's requirements regarding the submission of the documents shows below:

- Affidavit of Wen Lian Patience.
- Exhibit 1: A copy of the trial court's decision 'A dismissal order with prejudice and a Final Judgment signed by the Judge Ewing Werlein, JR on May 31, 2023 (see Docket No. 22 on May 31, 2023 (Docket No 14) on February 24 and Docket No 15 on March 1st, 2023). Including “Memorandum and Order”
- Exhibits 2: Defendants' Fabrication of Evidence. On September 18, 2023, appellant filed the Exhibits into DVD, including the 911 call voice record that had been sent by mail to the address at 600 S. Maestri Place, New Orleans, LA, 70130 (to Mr. Dantrell Johnson, Deputy Clerk, U.S. Court of Appeals, Fifth Circuit). USPS Tracking # 9590 9402 7392 2055 3613 53; EJ#294 438 345 US.
- On October 2nd, 2023, filing Exhibits C, D, and Witness Christine Hendricks Hodson's 911 call voice record
- Certificate of Compliance in this Motion.
- “Statements of Oral Argument”
- Certificate of Service.

6. The Certificate of Compliance, encloses hereto as Exhibit 3, outlines the details of the Plaintiff's compliance, including the date of compliance, the specific documents submitted, and any additional pertinent information as required by the court. Wherefore, the appellant respectfully requests that this Honorable Court Acknowledge the Plaintiff's compliance with the court's directives as outlined in the Certificate of Compliance attached hereto; Grant any necessary relief or further action deemed appropriate in light of the Plaintiff's compliance; Provide any further instructions or guidance necessary to ensure continued compliance with the court's orders.

Respectfully submitted this 2nd day of October, 2023.

/s/ Wen Lian Patience  
Wen Lian Patience (Pro se)  
3603 Moss Trail Dr.  
Missouri City, TX 77459  
(713) 516 – 4354  
[wenlianpatience@gmail.com](mailto:wenlianpatience@gmail.com)

**Appendix A [Exhibit A5(f)]:**

On October 2<sup>nd</sup>, 2023, an Affidavit of Wen Lian Patience for Certificate of Compliance for Motion to Reinstate Appeal was submitted, pursuant to Fed. R. App. P Rule 27 and 5<sup>th</sup> Cir. R. 28.

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NO. 23-20270  
IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

Wen Lian Patience,  
*Plaintiff-Appellant,*

v.

Shannon Jackson; Montgomery County District  
Attorney's department DA; Lee Romero;  
Carmen Morales; Romero Lee,  
*Defendants-Appellees*

---

ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE SOUTHERN DISTRICT OF TEXAS,  
HOUSTON DIVISION

USDC NO. 4:23-CV-00185 & Civil Action No. H-23-185

---

AFFIDAVIT OF WEN LIAN PATIENCE  
Statements to the Motion to Reinstate Appeal  
Under 28 U.S.C.A. Fed. R. App. P. 27 Motions

---

**I. Identify and Background**

1. I am an Appellant and Pro se, my name is

Wen Lian Patience, in the above-mentioned case and the affiant in this affidavit, and I declare under penalty of perjury that all the information in this Affidavit is true and correct.

2. Ms. Patience makes this affidavit in support of appellant's Motion to Reinstate Appeal.

**II. Facts Relevant to Appeal:**

1. Ms. Patience filed the Notice of Appeal on June 5th, 2023 (see Docket No. 28) and the Transcript Order Docket-13 on June 12, 2023 (see Docket No. 32). The case involves a remand order signed by Judge Ewing Werlein, Jr on May 31, 2023, which remanded it to the 400th Judicial District Court of Fort Bend County, Texas, Case No. H-23-185 (Docket No. 21). On June 12, 2023, Ms. Patience responded to the remand order Docket No. 31.

2. The case was initially filed on November 16, 2022, by Ms. Patience as Case No.22-DCV-298835, Wen Lian Patience v. Shanna Jackson (a/k/a Shannon Jackson, who falsified her own name and signed as Shanna Jackson under oath in her criminal complaints against Ms. Patience on June 1st, 2020, as an affiant, Criminal Case No. 20-350258 and No. 20-350259 (Exhibit C, Complaints and Information) with the District Court of Fort Bend County, Texas, 400th Judicial District. The suit involves allegation of malicious criminal

prosecution, perjury, and defamation per se, as well as violation of 42 U.S.C.S. § 1983, claiming abuses of authority, misconduct, and violations of constitutional rights.

3. On December 26, 2023, Ms. Patience filed her First Amended Original Petition, adding Montgomery County District Attorney's Department, Lee Romero (a/k/a Romero Lee, who falsified his own name and signed as Lee Romero under oath in his criminal complaints against Petitioner, and Carmen Morales as defendants under 42 U.S.C.S. § 1983, alleging abuses of authority, misconduct, and violations of constitutional rights.

4. On January 18, 2023, Shannon Jackson removed the case from the 400th Judicial District and transferred it to the U.S. District Court Southern District of Texas Houston Division, Civil Action No. 4:23-cv-00185.

5. On January 31, 2023, and February 13, 2023, Ms. Patience filed her Second and Third Amended Original Petition Complaints for Violation of Civil Rights, alleging violations of her Fifth Amendment rights (self-incrimination and due process protection), Fourth Amendment rights (search and seizure protection), Sixth Amendment rights (right to a fair trial), and Fourteenth Amendment (equal protection rights). The violations include deliberate acceptance of false evidence and reports, fabrication of evidence, and wrongful

arrest and chargers by the DAs.

6. This case involves a complex web of legal issues, including allegations of constitutional violations, perjury, and misconduct by defendants (Montgomery County District Attorney's Department DAs, and law enforcement deputies. The plaintiff asserts that her rights were violated throughout the legal process, leading to her wrongful arrest, prosecution and charges by Montgomery County District Attorney's Department, DAs, and police officers of Sheriff's Office.

**III. Reasons for the Default and  
Motion to Reinstate Appeal:**

1. On July 3rd, 2023, the clerk issued a BRIEFING NOTICE indicating that the Appellant's Brief was due on August 14, 2023, for Appellant Wen Lian Patience (23-20270, DDL).
2. On August 15, 2023, the Clerk Order dismissing appeal pursuant to 5th Circuit Rule 42, for failure to file Appellant's Brief (48). (23-2027) (DLJ).
3. On July 13, 2023, Ms. Patience filed her Brief, accompanied by Exhibits, in accordance with Federal Rule of Appellate Procedure Rule 28, which governs Briefs and their procedures. However, the appellant's Brief was initially due to be filed on August 14, 2023.

4. The appeal dismissal order (23-20270, DLJ) indicated that on July 26, 2023, the clerk provided the Appellant with 14 days to correct deficiencies in the brief filed on July 13, 2023. The directed corrections were not made. Accordingly, IT IS ORDERED that the previously filed brief is stricken because it does not comply with the applicable Fed. R. App. P. or 5th Cir. R., and the clerk is directed to dismiss the appeal for failure to prosecute under 5th Cir. R. 42.3.
5. On July 26, 2023, Ms. Patience was in China due to her father's passing, she was unable to access her emails to respond the clerk's BRIEFING NOTICE and meet the filling deadline for the Certificate of Compliance with her Brief as stipulated by the Fifth Circuit Rules 28.
6. Prior to Ms. Patience's departure to China on July 13, 2023, she filed an Emergency Motion and Order along with supporting exhibits of her father's illness Under Fed Rues App. Proc. R. 27, 28 U.S.C.A.
7. Ms. Patience respectfully requests the reinstatement of the appeal after the Certificate of Compliance has been submitted with this motion, in the interest of justice and fairness.

#### **IV. Actions Taken to Remedy the Default**

1. On September 25, 2023, the Court does not set a deadline to monitor for receipt of sufficient documents in a closed case.

Yet, it is suggested that the default is remedied as soon as possible.

**2. On September 2, 2023, Ms. Patience has taken immediate action to rectify the situation by engaging in legal research to prepare her Motion to Reinstate with the 5,200 words count limitation imposed by Fed. R. App. P. 28 U.S.C.A. Rule 27 Motions.** In addition, she has prepared accompanying Documents including an Affidavit, Oral Argument, and a copy of the trial court's decision.

#### **V. Undue Prejudice to Other Parties**

The default in filing this motion's Certificate of Compliance has not caused undue prejudice to the other parties involved in this case.

Respectfully submitted this 2nd day of October, 2023.

/s/ Wen Lian Patience

Wen Lian Patience (Pro se)  
3603 Moss Trail Dr.  
Missouri City TX, 77459  
(713) 516 – 4354  
[wenlianpatience@gmail.com](mailto:wenlianpatience@gmail.com)

**Appendix A [Exhibit A6]:**

The Supreme Court of the United States Office of The Clerk, Washington, DC 20543-0001, returned Petitioner's 40 copies of a writ of certiorari petition for non-compliance with Court Rule *[Rule 33.1]* in good faith. The Clerk issued a letter noting the deficiency.

The petition postmarked on November 10, 2023, and received on November 14, 2023, falls within 90 days after the Fifth Circuit entry of the judgment on August 15, 2023 and the order denying the Motion to Reinstate Appeal on October 06, 2023, as per Supreme Court Rule 13. This corrected petition, submitted within 60 days of the Clerk's letter, is considered timely under Supreme Court Rule 14.5 & Rule 29.2.

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**SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK WASHINGTON,**

**DC 20543-0001. November 30, 2023**

Wen Patience  
3603 Moss Trail Road  
Missouri City, TX 77459

**RE: Patience v. Jackson, USCA #23-20270**

**Dear Ms. Patience:**

Returned are 40 copies of a petition for a writ of certiorari in the above entitle case post marked on Never 10, 2023 and received on November 14, 2023, which fails to comply with the Rules of this Court.

If you intend to pay the \$300.00 docked fee, you must submit forty copies of the petition in booklet format on paper that measured 6 1/8 by 9 ¼ inch paper and comply with the filing requirements of Rule 33.1. A sample copy of a paid petition in booklet format and memorandum to those intending to prepare a petition in booklet format is enclosed. Your petition and check number 3691 in the amount of \$300.00 are herewith returned.

Sincerely,

Scott S. Harris, Clerk

By: (s) Redmond K. Barnes

Redmond K. Barnes

(202) 479-3022

**APPENDIX B:** Memorandum Opinion of the United States District Court for the Southern District of Texas, Houston Division, as Appeared in the ORDER OF REMAND and FINAL JUDGMENT Signed by Judge Ewing Werlein, JR on May 31, 2023.

**Appendix B [Exhibit B1]**

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Civil Action No. H-23-185  
**SOUTHERN DISTRICT OF TEXAS**  
**HOUSTON DISVISION**

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WEN LIAN PATIENCE

*Plaintiff*

v.

Montgomery County District  
Attorney's department DA,  
Shannon Jackson, Lee Romero, and  
Carmen Morales,

*Defendants*

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**ORDER OF REMAND**

For the reasons set forth in the separate Memorandum and Order signed this day, it is ORDERED that all of plaintiff's state law cause of action, including claims for common law malicious prosecution, abuse of process, abuse of power, false allegations, false charges, negligence, gross negligence, perjury, defamation, violations

120a

of state constitutions, and any other state law claim expressly or implicitly alleged are SEVERED from this action and REMANDED to the 400<sup>th</sup> Judicial District Court of Fort Bend County, Texas.

The Clerk shall mail a certified copy of this ORDER to the Clerk of 400<sup>th</sup> Judicial District Court of Fort Bend County, Texas, and shall notify all parties and provide them with a true copy of this Order.

SIGNED at Houston, Texas, on this 31<sup>st</sup> day of May, 2023.

(s) Ewing Werlein, JR

EWING WERLEIN, JR  
UNITED STATES DISTRICT JUDGE

**Appendix B [Exhibit B2]:**

MEMORANDUM AND ORDER, signed by Judge Ewing Werlein, JR on May 31, 2023.

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Civil Action No. H-23-185  
**SOUTHERN DISTRICT OF DIVISION**

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WEN LIAN PATIENCE

*Plaintiff*

v.

Montgomery County District  
Attorney's department DA,  
Shannon Jackson, Lee Romero, and  
Carmen Morales,  
*Defendants.*

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**MEMORANDUM AND ORDER**

Pending is Defendants' Motion to Dismiss (Document No. 14) (the "Motion"), to which Pro se Plaintiff Wen Lan Patience (hereinafter, "Plaintiff") filed no response. After considering the Motion, related filings, and applicable law, the Court concludes for the reasons that follow that the Motion should be granted.

**I. Background**

This case arises from a domestic dispute and a subsequent arrest and prosecution of plaintiff, which prosecution she

labels as malicious. According to her complaint, (1). Plaintiff traveled in May2020 to Montgomery County, Texas to speak to her ex -husband, Richard Patience (hereinafter, "Patience"). (2) While Plaintiff spoke with him through a cracked door, Christine Hodson, who evidently lived with Patience and is now his wife, told Patience that Plaintiff had a gun and intended to kill them(3). Plaintiff's First Amended Petition to which Exhibit C is attached, was her live pleading when the case was removed to federal court. In this Court, Plaintiff filed her Second Amended Original Petition (her live pleading now), which also refers to Exhibit C attached to her First Amended Original Petition. See Document 1-6, Exhibit C. Exhibit C contains copies of criminal complaints filed in Plaintiff alleges Patience "pushed Plaintiff sufficient force to push plaintiff's face and cause Plaintiff's lip bleedingly and swollen." [sic](4) Patience then with one hand, searched Plaintiff for a weapon and with the other, grabbed Plaintiff by the neck.(5) Plaintiff, struggling to breathe, hit Patience with her cellphone "as a matter of self-defense," and Hodson call 911. (6) According to the Complaint, Hodson falsely told the 911 operator that Plaintiff had a weapon and tried to break into the house intending to kill them. (7) Plaintiff alleges that Hodson painted Patience's face red and told 911 operator that there was blood all over. (8) The

Montgomery County Sheriff's office and EMS responded. EMS examined Patience but did not administer medical care. (9) A deputy took written statement from Patience and Hodson and then arrested Plaintiff for trespass. (10) Hodson's statement to the deputy sheriff was that Plaintiff owned a gun and had told her children that she intended to kill me [Hodson] and my husband." (11) Hodson stated Plaintiff had been refining her skills at a shooting range and had previously tried to break in. (12) Thus, when Hodson arrived home and saw Plaintiff parked in the driveway, Hodson tried to get inside and shut the door, but Plaintiff began pushing her way into the house. (13) According to Hodson, Hodson

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(1) See Document No. 11. Plaintiff's live Complaint is titled Second Amended Original Petition Complaint for Violation of Civil Right. Id. Plaintiff filed her claims in state court and subsequently amended them. See Document Nos. 1-1, -3, 1-6, 7, and 8. Defendants' motion to dismiss Plaintiff's live Complaint (see Document No. 14) is ripe for review. (2) Document No. 11 at 22.(3) Id. At 22-23; Document No.1-6, Exhibit C at CM/ECF page 62 of 64. (4) Document No. 11at 22. (5) Id. (6) Id. (7) Id. (8) Id. (9) Id. (10) Id. (11) See Id. at 22-23 (setting out the facts underlying her claim, including Hodson's statement); Document No. 1-6, Exhibit C at CM/ECF 62 of 64 (voluntary statement of Hodson)) (12) Document No. 1-6, Exhibit C at CM/ECF 62 of 64. (13) Id. (14) Id. (15)

called out to Patience, and together they were able to push the door shut. (14) Patience then told Hodson to call 911 .(15) Plaintiff began hysterically yelling, and Patience went out to talk to her. (16) After the police arrived and Plaintiff was arrested, Hodson saw blood

all over Patience's face. (17) Patience in his statement. to deputy sheriff states that her heard Hodson screaming at the entry door from the garage where his ex-wife was in the garage. (18) After Patience and Hodson force the entry door shut, Patience told Hodson to call the police.(19) Montgomery County, Texas, voluntary statements made by Christine Hodson and Richard Patience to the Montgomery Cunty Sheriff's Office, a trespass warning issued to Plaintiff on May 28, 2020 [the day of the incident], and other documents. Plaintiff in her live pleading expressly refers to Exhibit C when referencing the criminal charge in Montgomery County Cause No. 20-350259 and otherwise relies on the documents in Exhibit C in pleading the factual bases for Plaintiff's claims. See e.g., Document No. 11 at 4-5, 7, 10-12,

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(16) Id. (17) Id. (18) See Id. at 22-23 (setting out the facts underlying her claim, including Hodson's statement); Document No. 1-6, Exhibit C at CM/ECF 62 of 64 (voluntary statement of Hodson). (19) Document No. 1-6, Exhibit C at CM/ECF 62 of 64. (20) Id. (21) Id. (22) Id. (23) Id. (24) Id.

14, 17, 20, 24, 26, 30 (the criminal complaints and criminal information filed against her); Id. At 5, 13, 26 (the proposed orders of deferred adjudication; Id. at 20 (the dismissal orders); Id. at 22-24 (Hodson's and Patience's voluntary statements); Id. at 24, 26 (the Trespass Warning). Exhibit C is therefore properly considered in ruling on Defendant's Rule 12 (b)(6) motion. See *Funk v. Stryker Corp.*, 631F. 3d 777, 783 (5<sup>th</sup> Cir. 2011) ("When reviewing a motion to dismiss, a district court must consider the complaint in its entirety, as well as other sources courts ordinarily examine when ruling on Rule 12(b)(6) motion to dismiss, in particular, documents incorporated into the complaint by reference, and matters of which a court may take judicial notice." (internal quotation marks and citation omitted); see also *Ferrer v. Chevron Corp.*, 484 F. 3d776, 778 (5<sup>th</sup> Cir. 2007)(reviewing a Rule 12(b)(6) motion and considering the amended complaint and documents that were attached to the original complaint and later incorporated by reference into the amended complaint). Patience then went into the garage to prevent Plaintiff from damaging property, and Plaintiff attacked him, hitting him over the head with her phone.(20) Patience got Plaintiff out of the garage, but she came back in and threw his bike on the ground. (21) Plaintiff then tried to pick up a rock, but Patience pushed her away before she could do

damage. (22) They then stood opposite each other waiting for the police to arrive. (23) According to his statement, Patience did not want to press charges but wanted a protective order. (24) Plaintiff alleges that she went to "jail" for criminal trespass. Plaintiff received a Trespass Warning a few hours late, but she did not sign the acknowledgment on such. (25) Four days later, Defendant Shannon Jackson, and employee in the Montgomery County District Attorney's office, signed two criminal complaints as affiant. (26) She stated under oath that she had Good reason to believe and does believe that on or about May 28, 2020, in Montgomery County, Texas, [Plaintiff] did then and there threaten to commit an offense involving violence to a person or property, namely, assault, with intent to place Richard Patience/Christine Patience in fear of imminent serious bodily injury, and the said conduct of [Plaintiff] constituted family violence. (27) In the second criminal complaint Shannon Jackson stated under oath that she had Good reason to believe and does believe that on or about May 28, 2020, in Montgomery County, Texas, [Plaintiff] did then and there intentionally, knowingly, or recklessly cause bodily injury to Richard Patience the complainant, Striking the complainant[.] It is further presented that alleged act constituted Family Violence in that the complainant is a

member of the defendant's family or household or a person with whom the defendant has or has had a dating relationship, as described by Section 71.003 or 71.005 or 71.0021(b), Family Code[.]<sup>(28)</sup> The next day, Defendant Assistant District Attorney Lee Romero filed the two criminal complaints and information predicated on the Criminal complaints Shannon Jackson had signed as affiant.

(29) Plaintiff alleges that Defendant Carmen Morales prosecuted the criminal charges. (30) Three of Plaintiff's criminal defense attorney convinced her to accept Defendants' "Deal" rather than risk a year of imprisonment.

(31) Plaintiff thereafter completed eight sessions with a mental health provider in accordance with the court's orders and the criminal charges were dismissed on November 22, 2021. (32) A year later, Plaintiff filed this suit against Defendant Shannon Jackson in state court. (33) Several amendments later, Plaintiff now in her live Complaint

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(25) Compare id. at CM/ECF page 64 of 64 with page 62-63. (26) Document No. 11 at 19, 24, 26; Document No. 1-6, Exhibit C at CM/ECF page 53 and 55 of 64. These criminal complaints are some of the facts underlying Plaintiff's claims. See Document No. 11 at 22-25 (setting out the facts underlying her claim, including theses criminal complaints).

(27) Document No.1-6, Exhibit C at CM/ECF page 53 of 64. (28) Id. at CM/ECF page 55 of 64.

asserts a myriad of constitutional violations and an assortment of state law claims against Defendants Shannon Jackson, Romero Lee, Carmen Morales, and the “Montgomery County District Attorney’s Department DA.”

(34) Defendants removed this case after Plaintiff added claims under 42 U.S.C.1983 for alleged violations of the United States Constitution. (35) Defendants now move to dismiss all of plaintiff’s claims under Rule 12(b)(6) of the Federal Rules of Civil Procedure. (36)

II. Delay in Ruling on Defendants’ Motion is NOT Appropriate Defendants’ Motion

to Dismiss has been pending for three months. No further delay in resolving the Motion is warranted in this case.

Defendants timely filed their Motion to Dismiss (Document No. 14) less than two weeks after Plaintiff amended her claims (Document No. 11) in response to Defendant Shannon Jackson’s original Motion to Dismiss (Document No. 9). Plaintiff did not respond to Defendants’ Motion to Dismiss

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(29) Document No. 11 at 24; see also Document Exhibit C at CM/ECF pages 53-56 of 64. (30) Document No. 11 at 5, 26; see also Document no. 1-6, Exhibit C at CM/ECF pages 57-58 (31) Document No. 11 at 6, 27. (32) Document No. 1-6, Exhibit C at CM/ECF pages 60-61 of 64.

(33) Document No. 1-1 (34) Document No. 11

with the 21 days afforded under LR7.3 and LR7.4. “Failure to respond to a Motion will be taken as a representation of no opposition.” LR7. 4. Plaintiff on February 15, 2023, filed a “Notice of Unavailability” from February 15, 2023 to August 2023 because Plaintiff would be in China to care for her elderly parents, age 98 and 96, one of whom was in “emergency and death situation.” Neither the Federal Rules of Civil Procedure nor the Local Rules of this court provide for a party to file a “Notice of Unavailability,” and thereby halt in place all judicial proceedings in that party’s case. The “Notice” did not contain a certificate of conference required by the Local Rules for motions. Defendants’ counsel at the scheduled hearing on May 12, 2023, represented that Plaintiff never contacted him about Plaintiff’s departure, nor requested defendants’ Agreement for postponement of the May 12<sup>th</sup> setting or a stay of proceeding to accommodate her travels. Defendants’ counsel has not heard from Plaintiff at any time sine before February 15, 2023. Nor has Plaintiff asked the Court to stay proceedings, or sought a continuance or caused counsel to appear for her during her 6 month absence. A “notice of unavailability is not a means to bypass a court’s management over a case.” Dvorkin v. Teixeira & Sons, LLC, No. 122CV00393 AWIEPG, 2022 WL 2160462, at1 (E.D. Cal June 15, 2022). Litigants are “unable to dictate

the progression of a case based on a notice of unavailability.” Id. Absent court order, a notice of unavailability does not operate to stay the litigation of a case. Id. (citing cases); Bennett v. Homesite Ins. Co., No. c21-1422 MJP, 2022 WL 16856950, at 2 (W. D. Wash. Oct.11, 2022) (“a notice of unavailability does not pause the case deadlines or absolve a party from compliance with the Civil and Local Rules”). The Court must administer and employ the federal rules “to secure the just, speedy, and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1. For the foregoing reasons it is not appropriate for the Court sua sponte to delay ruling on Defendant’s Motion to Dismiss. See also Ju v. Lacombe, No. C18- 5309 BHS, 2019 WL 2715671, at 3 (W. D. Wash. June 28, 2019, aff’d sub nom. Ju v. Airbnb Inc., 830 F. App’x 939 (9<sup>th</sup> Cir. 2020) (recognizing that a notice of unavailability does not defer or stay the court’s resolution of a motion to dismiss); TNT Software, LLC v. G&G Biz Ctr. Bradenton, Inc., No. 5: 14-CV-267-OC-10 PRL,2017 WL 11037125, at 2 (M.D. Fla. Mar. 16, 2017) (striking notice of unavailability and recognizing that the rules of the court did “ not provide for filing a Notice of Unavailability as a method to avoid abiding by deadlines and schedules established by the Court or to extend the time for responding to motions”). III Standard Rule 12(b)(6) provides

for dismissal of an action for “failure to state a claim upon which relief can be granted [.]” Fed. R. Civ. 12(b)(6).

To survive dismissal, a complaint must plead “enough facts to state a claim to relief that is plausible on its face.” Bell Atl. Corp. v. Twombly, 127 S. Ct 1955, 1974 (2007). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009). While a complaint “does not need detailed factual allegations,” the “[f]actual allegations must be enough to raise a right to relief above the speculative level,” assuming “that all the allegation in the complaint are true (even if doubtful in fact) [.]” Twombly, 127 S. Ct. at 1964-65 (internal citations omitted. Plausibility is “not akin to a ‘probability requirement,’ but it asks more than a sheer possibility a defendant has acted unlawfully,” Iqubal, 129 S. Ct. at 1949. “Where a complaint pleads facts that are merely consistent with a defendant’s liability, it stops short of the line between possibility and plausibility of entitlement to relief.” Id. (citation and internal quotation marks omitted).

In evaluating a motion to dismiss under Rule 12(b)(6), the Court “must accept all well-pleaded facts as true” and view those facts “in the light most favorable to the plaintiff.” *Walker v. Beaumont Indep. Sch. Dist.*, 938 F. 3d 724, 735 (5<sup>th</sup> Cir. 2019) (citation omitted). The Court is “not bound to accept as true a legal conclusion couched as a factual allegation.” *Id.* “Nor does a complaint suffice if it tenders naked assertions devoid of further factual enhancement.” *Id.* (internal quotation marks and citation omitted). In determining whether Plaintiff’s claims survive a Rule 12(b)(6) motion, the Court considers (1) the facts set forth in the complaint, (2) the documents attached to the complaint, (3) the documents attached to the defendant’s motion to dismiss that are referred to in the complaint and are central to the plaintiff’s claims, and (4) the matters for which judicial notice may be taken, including matters of public record. *Id.* (citing cases).

#### IV. Discussion

In evaluating whether Plaintiff’s Complaint withstands Rule 12(b)(6) scrutiny, the Court is not bound to accept as true Plaintiff’s labels and conclusions. Rather, the question is whether plaintiff has well pleaded fact sufficient to state a plausible claim.

A. 42 U.S.C. §1983 Claims “Section 1983 provides that any

person who, under color of state law, deprives another of 'any right, privileges or immunities secured by the Constitution and laws shall be liable to the party injury in an action at law, suit in equity, or other proper proceeding for redress..."

Johnston v. Harris Cty. Flood Control Dist., 869 F. 2d 1565, 1573-74 (5<sup>th</sup> Cir. 1989) (alteration in original) (quoting 42 U.S.C. §1983). "Rather than creating substantive rights, §1983 simply provides a remedy for the rights that it designates." Id. at 1574. Consequently, "an underlying constitutional or statutory violation is a predicate to liability under §1983." Id.

1. Fourth Amendment--- Malicious Prosecution Plaintiff's central federal complaint permeating throughout her live pleading is a Fourth Amendment claim that Defendants, all evidently employees in the District Attorney's office, maliciously prosecuted criminal charges against her without probable cause. "The Supreme Court recently held that litigants may bring a Fourth Amendment malicious prosecution claim under §1983." Armstrong v. Ashley, 60 F.4<sup>th</sup> 262, 278 (5<sup>th</sup> Cir. 2023) (citing Thompson v. Clark, 142 S. Ct. 1332, 1337(2022)). In the Fifth Circuit, to prevail on a Fourth Amendment malicious prosecution claim, a plaintiff must prove: "(1) the commencement or continuance of an original criminal proceeding; (2) its legal causation by the

present defendant against plaintiff who was defendant in the original proceeding; (3) its bona fide termination in favor of the present plaintiff (4) the absence of probable cause for such proceeding; (5) malice; (6) damages.” Id. at 279 (citing *Gordy v. Buenos*, 294 F. 3d 722, 727 (5<sup>th</sup> Cir. 2002)). The fact that the criminal complaints against plaintiff were ultimately dismissed without conviction satisfies the third element, namely, that the prosecution was terminated in favor of plaintiff. *Thompson*, 142 S. Ct. at 1341. However, because this is a Furth Amendment claim, a plaintiff must further prove that the malicious prosecution resulted in her unlawful seizure. *Armstrong*, 60 F. 4<sup>th</sup> at 278-79 (citing *Thompson*, 142 S. Ct. at 1337 n. 2). Where “the prosecution is supported by probable cause on at least one charge,” the claim for malicious prosecution “cannot move forward.” Id. at 279 n. 15.

Defendants filed two charges against plaintiff: (1) “Terroristic Threat of Family/Household,” a class A Misdemeanor; and (2) “Assault Causes Bodily Injury Family Violence,” also a class A Misdemeanor. (37) Consequently, to survive Rule 12(b)(6) scrutiny, Plaintiff must plead facts that would allow one to draw a reasonable inference that Defendants lacked probable cause on both charges.

The first charge states that Plaintiff threatened to

commit assault with intent to place "Richard Patience/Christine Patience" in fear of imminent serious bodily injury, and the conduct constituted family violence. (38) see Texas Family Code Ann. § 71.004 (defining family violence, which includes dating violence); id. §71.021 (defining dating violence to include an act committed against a victim because of the victim's marriage to or dating relationship with an individual whom the actor had been in a dating relationship or marriage). When the deputy sheriff investigated the incident he obtained the written statements of plaintiff's ex-husband Richard Patience, who referred to Hodson as "*my partner*," and Christine Hodson, who stated, "My husband went out to try to talk to [plaintiff]." (Emphasis added). Plaintiff alleges that probable cause was lacking because "Christine Patience was not a real person," ostensibly because Christine's last name at the time was Hodson, not Patience. (39) A simple misnomer based on the affiant believing from their written statements that Richard and Christine at the time were married does not mean that the misnamed person does not exist or that there is not probable cause to charge the offense. Plaintiff herself alleges various involvement and acts of Christine Hodson during the course of the incident to which the deputy sheriff responded after receiving the 911 call. Mistakenly entering Christine

Hodson's last name as "Patience" rather than "Hodson" on the criminal complaint does not create an inference that Defendants lacked probable cause to charge plaintiff with "Terroristic Threat of Family/Household," with respect to Christine Hodson. Moreover, there is no dispute about the correct name of Richard Patience, who is also identified as a complainant on this charge, and as to whom there are no well pleaded facts from which to infer the charge against plaintiff was made without probable cause.

Plaintiff was separately charged with "Assault Causes Bodily Injury Family Violence" with respect to Patience. Here again, Plaintiff fails to allege facts from which one may infer a plausible claim that Defendants lacked probable cause to charge Plaintiff with that offense. Patience in his statement reported that when he went into the garage plaintiff "attacked me and hit me over the head with her phone." Hodson in her statement reported that after Plaintiff was arrested, "I was the blood all over my husband's face." Plaintiff in her Complaint admits that she "hit Richard's head once by cellphone," which she asserts was in self-

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(37) Document No. 1-6, Exhibit C at CM/ECF pages 60-61 of 64.

(38) Id. at CM/ECF pages 53-54 of 64

defense while they struggled with each other. Plaintiff pleads no facts known to Defendants that would dispel their belief that there was probable cause that plaintiff had

“intentionally, knowingly, or recklessly cause [d] bodily injury to Richard Patience, the complainant, striking the statement reported that when he went into the garage plaintiff “attacked me and hit me over the head with her phone.” Hodson in her statement reported that after Plaintiff was arrested, “I was the blood all over my husband’s face.” Plaintiff in her Complaint admits that she “hit Richard’s head once by cellphone,” which she asserts was in self-defense while they struggled with each other. Plaintiff pleads no facts known to Defendants that would dispel their belief that there was probable cause that plaintiff had “intentionally, knowingly, or recklessly cause [d] bodily injury to Richard Patience, the complainant, striking the complainant,” as alleged in the second criminal complaint.

(40) Presumably to show there was no probable cause, plaintiff also alleges that Jackson---the affiant on the criminal complaint---committed perjury because the criminal complaints on which she was affiant (1) accuse plaintiff of striking the “Defendant Shaan Jackson” and (2)

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(39) Document No. 11 at 27; see also Document No. 13 at 14-16.

state that Defendant Jackson was a member of Plaintiff's family or household. (41) A plain reading of the criminal complaints believe these allegations. They do not charge plaintiff with committing offenses against affiant Jackson but rather against the complainants, who are identified by name as Patience and Christine Patience [Hodson]. (42) Plaintiff simply misreads the criminal complaints and hence mistakenly alleges that affiant Jackson was herself the complainant and acted as if she were the victim rather than Patience and Hodson.

In sum, Plaintiff fails to plead facts from which one may draw a reasonable inference that Defendants lacked probable cause to file and prosecute the criminal complaints against Plaintiff. Defendants are entitled to dismissal of Plaintiff's §1983 Forth Amendment malicious prosecution claim. (43)

## 2. Other Constitutional Claims.

Plaintiff conclusory alleges that Defendants violated her Fourteenth Amendment right to due process and equal protection, her Sixth Amendment right to a speedy trial, to an impartial jury, to be informed of the nature and cause of the accusation, and to be confronted with the witnesses against her; her Fifth Amendment right not to be compelled in any criminal case to be a witness against herself, her

Fourth Amendment right to be free from unreasonable searches and seizures, and her First Amendment right to petition the seizures, and her First Amendment right to petition the government. Plaintiff admits in her live pleading that she had counsel representing her in defense of the criminal complaints, that on their advice she took the “DEAL” the prosecutors proposed and attended eight sessions with a mental health provider, that there was no trial, and that both charges were subsequently dismissed by the County Court. There are no well pleaded fact to support any plausible claim that Defendants or any one or more of them committed any of the alleged constitutional violations against plaintiff. “A pleading that only contains labels and conclusions and a formulaic recitation of the elements of a cause of action does not meet the standards of Rule 8(a)(2).” Armstrong, 60 F. 4<sup>th</sup> at 270 (internal citation and quotation marks omitted). Plaintiff’s complaint consists “almost of such formulaic recitation.” Id. Her formulaic recitations are factually insufficient to support any of her putative §1983 claims. See id. Because Plaintiff fails to plead facts that would permit one to draw a reasonable inference that

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(40) Document No. 11 at 23. (41) Document No. 11 at 8-9, 15, 25, 27.

(42) Document No. 1-6, Exhibit C at CM/ECF pages 55of 64.

Defendants violated any of her constitutional rights, all of these §1983 claims are dismissed.

### 3. Absolute Immunity

Additionally, Defendants Assistant District Attorneys Romero Lee and Carmen Morales are entitled to absolute immunity for their quasihelical acts of initiating and prosecuting the state's case against plaintiff. See *Imble v. Pachtman*, 96 S Ct. 984, 995 (1976) (recognizing a prosecutor's absolute immunity to §1983 claims: "in initiating a prosecution and in presenting the State's case, the prosecutor is immune from a civil suit for damages under §1983") *Singleton v. Cannizzaro*, 956 F. 3d 773, 780 (5<sup>th</sup> Cir. 2020) ("we have held that conduct protected by absolute

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(43) Alternatively, in order to overcome Defendants' assertion of qualified immunity, plaintiff must ultimately show that her Fourth Amendment right to be free from malicious prosecution was clearly established at the time of the alleged violation. *Wallace v. Taylor*, No. 22-220342, 2023 WL 2964418, at 6 (5<sup>th</sup> Cir. Apr. 14, 2023) (citation omitted). The Fifth Circuit "did not recognize a federal malicious prosecution claim at the time [plaintiff] was charged" and a claim the Firth Circuit had "expressly not recognized is the antithesis of a clearly established one." *Id.* (citing cases). For this additional reason, the Fourth Amendment claim of malicious prosecution must be dismissed.

immunity is not limited only to the act initiating judicial exercise of their advocacy function.” (alteration in original; proceedings itself and to conduct occurring in the courtroom, but instead includes all actions which occur in the course of the prosecutor’s role as an advocate of the State. Thus, prosecutors are absolutely immune even for willful or malicious prosecutorial misconduct...if it occurs in the internal quotation marks and citations omitted)). For this additional reason, the §1983 claims against Defendants Romero Lee and Carmen Morales are dismissed.

#### 4. No Jural Capacity

Defendant also move to dismiss the claims against Defendant Montgomery County District Attorney’s Department DA because the District Attorney’s office lacks jural capacity. Plaintiff makes no allegations that the District Attorney’s Office has been granted the capacity to engage in separate litigation or that the District Attorney’s office enjoys a separate legal existence. Her “suit, as it stands, seeks recovery from a legal entity that does not exist for [her] purposes.” *Darby v Pasadena police Dept*, 939 F. 2d 311, 313-14 (5<sup>th</sup> Cir. 1991). Plaintiff’s federal claims against Defendant Montgomery County District Attorney’s Department DA are dismissed for this additional reason. See

id. Regardless, had plaintiff sued Montgomery County, Texas her claims would still fail.

A “municipality cannot be held liable solely because it employs a tortfeasor---or, in other words, a municipality cannot be held liable under §1983 on a respondent superior theory.” *Monell v. Dep’t of Soc. Servs. Of City of New York*, 98 S Ct. 2018, 2036 (1978) (emphasis in orig.); see also *Dean v. Gladney*, 621 F. 2d 1331, 1336 (5<sup>th</sup> Cir. 1980). To succeed on a municipal liability claim, Plaintiff must show “(1) an official policy (or custom), of which (2) a policy marker can be charged with actual or constructive knowledge, and (3) a constitutional violation whose ‘moving force’ is that policy (or custom).” *Newbury v. City of Windcrest*, 991 F. 3d 672, 680 (5<sup>th</sup> Cir. 2021) (quotations marks and citations omitted).

Moreover, Montgomery County “is not liable under Monel for just any official policy that violated [plaintiff’s] constitutional rights.” *Arnone v. County of Dallas County*, Tex., 29 F. 4<sup>th</sup> 262, 266 (5<sup>th</sup> Cir. 2022). Montgomery county can be held liable only for those policies “decided or acquiesced to by a county policy marker.” *Id.* (emphasis in orig.) Plaintiff does not plead any official Montgomery County policy or custom hat was the moving force of any alleged constitutional violation. See *id.* at 268-69. Plaintiff’s claims fair no better if they were made against the

Montgomery County District Attorney, in this official capacity. As recognized by the Fifth Circuit, “district attorneys aren’t just empowered by the state. They are the state, complete with designation as officers of the judicial branch of government.” Id. at 269 (emphasis in oig.) (quoting *Saldano v. Texas*, 70 S.W. 3d 873, 876 (Tex. Crim. App. 2002)). “Section 1983 provides a federal forum to remedy many deprivations of civil liberties, but it does not provide a federal forum for litigants who seek a remedy against a State for alleged deprivations of civil liberties.” *Will v Michigan Dep’t of State Police*, 109 S Ct. 2304, 2309 (1989). [N]either a State nor its officials acting in their official capacities are ‘persons’ under §1983.” Id. at 2312.

B. Bivens claims.

Plaintiff purports to allege Bivens claims, but such claims apply only to federal actors and agents. See, e.g., *Abate v S. Pac. Transp. Co.*, 993 F. 2d 107, 110 & n.14 (5<sup>th</sup> Cir. 1993). As pled, Defendants are not federal actors or agents. Plaintiff’s Bivens claims are dismissed.

C. State Law Claims—Supplemental Jurisdiction

Defendants removed this case based on federal question jurisdiction. Plaintiff asserts a myriad of state court claims in addition to her claims arising under the Constitution and laws of the United States. It is appropriate

here for the Court upon dismissal of all federal claims to decline to exercise supplemental jurisdiction over plaintiff's remaining state law claims. See 28 U.S.C. §1337 (c) (providing that the "district courts may decline to exercise supplemental jurisdiction...if...(3) the district court has dismissed all claims over which it has original jurisdiction"); *Enochs v. Lampasas Cty.*, 641 F. 3d 155, 161-63 (5<sup>th</sup> Cir. 2011) (holding that the district court erred in failing to remand when the case became a purely state law dispute that was still in its infancy (citing cases)). Plaintiff's remaining state law claims are therefore severed and remanded to state court. See also *Many weather v. Woodlawn Manor, Inc.*, 40 F. 4<sup>th</sup> 237, 246 (5<sup>th</sup> Cir. 2022) (affirming remand and recognizing that "a court generally should decline to exercise jurisdiction over remaining state-law claims when all federal-law claims are eliminated before trial" (internal citations and quotation marks omitted)).

## **V. Order**

For the foregoing reasons, it is

ORDERED that Plaintiff Wen Lian Patience's remaining state law claims are SEVERED from this action, and REMANDED to the 400<sup>th</sup> Judicial District Court of Fort Bend County, Texas. It is further

ORDERED that Defendants' Motion to Dismiss (Document No. 14) is GRANTED in part. Plaintiff Wen Lian's shall take nothing on all Plaintiff's claims arising under the Constitution and laws of the United States against Defendants Montgomery County District Attorney's Department DA, Shannon Jackson, Lee Romero, and Carmen Morales and all such claims are DISMISSED WITH PERJUDICE. A Final Judgment will be separately entered. The Clerk will enter this Order, providing a correct copy to all parties of record, and to the Clerk of the 400<sup>th</sup> Judicial District Court of Fort Bend County, Texas.

SIGNED at Houston, Texas, on this 31<sup>st</sup> day of May, 2023.

(s) Ewing Werlein, JR

EWING WERLEIN, JR

UNITED STATES DISTRICT JUDGE

**Appendix B [Exhibit B2]: Final Judgment dismissal with PREUDIE on May 31, 2023, signed by Judge Ewing Werlein, Jr.**

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Civil Action No. H-23-185  
**SOUTHERN DISTRICT OF TEXAS**  
**HOUSTON DISVISION**

---

WEN LIAN PATIENCE

*Plaintiff*

v.

Montgomery County District  
Attorney's department DA,  
Shannon Jackson, Lee Romero, and  
Carmen Morales,  
*Defendants*

---

**FINAL JUDGMENT**

For the reasons set forth in the separate Memorandum and Order signed this day, it is

ORDERED and ADJUDGED that Plaintiff Wen Lian Patience take nothing on all of plaintiff's claims arising under the Constitution and laws of the United States, against Defendants "Montgomery County District Attorney's Department DA," Shannon Jackson, Lee Romero, and Carmen Morales, and all of Plaintiff's federal claims arising under the Constitution and laws of the United States,

147a

including 42 U.S.C. §1983 and Bivens claims, are DISMISSED WITH PREUDICE.

**This is a Final Judgment.**

The clerk will enter this Order, providing a correct copy to all parties of record.

SIGNED at Houston, Texas, on this 31<sup>st</sup> days of May, 2023.

(s) Ewing Werlein, JR

EWING WERLEIN, JR

UNITED STATES DISTRICT JUDGE

**Appendix C [Exhibit A]:**

Based on An Affidavit INVESTIGATION #20M3886

confirming the absence of records for Richard Patience's injuries, NO such medical documentation was found to support the Respondents' claim that Richard Patience was bodily injured by the Petitioner, Wen Lian Patience.



MONTGOMERY COUNTY HOSPITAL DISTRICT  
1400 S. Loop 336 West Conroe, TX. 77304

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INVESTIGATION #20M3886

STATE OF TEXA

Vs.

AFFIDAVIT OF NO RECORDS

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*Before me, the undersigned authority, personally appeared,  
Donna Daniel. Who, being duly sworn, deposed as follows:*

I, the undersigned, am the Custodian of Records for

Montgomery County Hospital District. I am over eighteen (18) years of age, competent of making this affidavit and personally acquainted with the facts herein stated:

(a) That a thorough search of ours files, carried out under my direction and control, revealed NO Medical documentation as requested for: RICHARD PATIENCE, on or about 05/28/2021.

(b) It is to be understood that this does not mean that records do not exist under another spelling, another name or under another classification, but that with the information furnished to our office and to be best of ours knowledge, NO such record exist in ours files.

(s) Donna Danie

AFFIANT (Custodian of Records)

Sworn to and subscribed before me on the 12 day of August, 2021.

(s) Debra Walker

Notary Public

My Commission Expires: 5/10/24

[Stamp]

**Debra Walker**

**My Commission Expires**

**5/10/24**

**ID No. 13063242**

**Appendix C [Exhibit B (1)]:**

The witness Christine H. Hodson's false statements and evidence fabrication are apparent in the Voluntary Statement from Case No. 20A171266 and the 911 call detailed in {Appendix C [Exhibit B(6a)]: The Montgomery County Communication Center 911 Call Detail Report}. She planted red paint on Richard Patience's head and face, falsely telling 911 that the petitioner had a gun and attempted to break in, planning to harm Richard and herself. Law enforcement and the District Attorney (Respondents) knowingly protected Hodson's actions, leading to the petitioner's unjust incarceration.

On May 28, 2020, the Respondents (DAs) and police unjustly sent the petitioner to jail, falsely charging her with Assault Causes Bodily Injury Family Violence and Terroristic Threat of Family/Household, Class A Misdemeanor on December 30, 2020. This violated the petitioner's constitutional rights, including:

- 1. Fourth Amendment:** Unlawful Arrest and Detention - Protects against unreasonable searches and seizures; unlawful arrest without probable cause violates this right.
- 2. Fifth Amendment:** Due Process and Protection Against Self-Incrimination - Wrongful imprisonment violates due process, and knowingly sending an innocent person to jail infringes the Fifth Amendment.

**3. Sixth Amendment:** Right to a Fair Trial - Deliberate actions to incarcerate an innocent person undermine the right to a fair trial.

**4. Eighth Amendment:** Protection Against Cruel and Unusual Punishment - Knowingly imprisoning an innocent person may be considered cruel and unusual punishment.

**5. Fourteenth Amendment:** Equal Protection Under the Law - Knowingly targeting an innocent victim while protecting a wrongdoer violates equal protection principles.

Following the dismissal of the petitioner's criminal cases, Ms. Patience filed a defamation lawsuit against the witness, Christine H. Hodson on January 06, 2022, case number as showing below:

- 1) *Case No: 22-DCV-290170, Wen Lian Patience v. Christine Hendricks Hodson; 458<sup>th</sup> District Court of Fort Bend County; The Judge: Robert L. Rollnick.*
- 2) *Case No: 01-22-00599, Wen Lian Patience v. Christine Hendricks Hodson; Texas First District Court of Appeals; The Judge: Richard Hightower;*
- 3) *Case No: 22-0984, Wen Lian Patience v. Christine Hendricks Hodson, The Supreme Court of Texas.*

This case mirrors a concerning trend of attorneys' misconduct aimed at shielding crimes and protecting criminal actions within our society. Christine H. Hodson's attorney, John Fly (Texas Bar No. 24002050) in the 458th

Judicial District Court of Fort Bend County, Texas, intentionally provided misleading information, false statements, and filed fraudulent court records to shield Hodson's criminal actions. Unfortunately, this misconduct went unnoticed in our legal system, drawing no attention from the judge and court allowing it to vanish outside the bounds of the law, in apparent violation of Tex. Gov't Code Ann §51.904 (Vernon 2005), which criminalizes the filing of fraudulent court records.

The petitioner's defamation lawsuit against Christine Hodson was dismissed by Judge Robert L. Rollnick, who told Ms. Patience had to hire a lawyer, if NOT, the case would be dismissed. So Ms. Patience paid \$10,000 and hired an attorney, Lee Keller King and his partner, Melina Bible Cain (Texas Bar No. 00797873). But they had not upheld Ms. Patience's rights despite being aware of Christine Hendricks Hodson's criminal actions. Ms. Melina Bible Cain's loyalty appeared compromised as she was a family friend of Christine Hendricks Hodson. Lee Keller King and Melina Bible Cain, they took payment for their services but failed to act in the plaintiff's best interest. This situation raises ethical concerns and may violate legal principles, such as a breach of fiduciary duty, conflict of interest, or legal malpractice. When an attorney, who has received payment,

switches sides and withholds representation, it may infringe on the plaintiff's right to competent and loyal legal counsel. Such actions undermine the trust and integrity essential to the attorney-client relationship. The breach of professional obligations may be subject to disciplinary action, depending on the jurisdiction and applicable legal standards. The plaintiff may have grounds for legal recourse against the attorney for the harm caused by this breach of duty.

This pattern continues with the Respondents' attorney, Daniel Dale Plake, who provided misleading information, false statements to the court and judge, and filed fraudulent court records to protect the Respondents' criminal actions, also in violation of Tex. Gov't Code Ann §51.904 (Vernon 2005).

These misconducts demand Supreme Court intervention to rectify constitutional violations and ensure justice. The petitioner seeks redress for damages, constitutional violations, and the intentional protection of criminal actions by the Montgomery County District Attorney's Department, its staff, attorneys, and law enforcement.

#### **Appendix C [Exhibit B (1)]**



MONTGOMERY COUNTY SHERIFF'S OFFICE

VOLUNTARY STATEMENT

Case No. : 20A171266

Date: 5/28/2020

Time: 11:55

My name is CHRISTINE H. HODSON and I am 56 years of age.

My date of birth is 11.12.64 and I was born in Kielce, Hawaii

My home address is 3603 MAGNILIA CREST DR city

SPRING State TX Zip 77386 My home cell telephone # is

281 466 7862 My work telephone #is \_\_\_\_\_, I am presently

with SELF- PIANO TEACHER as a TEACHER My employer's address is SELF. \_\_\_\_\_

Driver's Lic.

No: XXXXXXXX Expire: 11/12/26 State: TX Social Security

No.: XXX.XX.XXXX Height: 5'10 Weight: 125 . Hair Color:

BROWN . Eye Color: GREEN Classes: NO.

Email: Chrishodson@att.net I left this morning to teach a piano lesson at 10:00. When I arrived home, her car immediately pulled up behind mine and parked in the driveway. She has previously tried to break in, so I knew immediately to get in the door and try to lock it. She owns a

gun and has told her children that she intends to kill both me & my husband. She's been refilling her skills at a shooting range.

She is stronger than me. I tried my best to set the door shut as it could lack to push her way in & called out for my husband, and together, we were able to push the door shut. He told me to call 911 immediately, which I did. From inside the house, I could not see what was going on, but could hear her hysterical yelling, my husband went out to try to talk to her. After she was arrested, I saw the blood all over my husband's face.

(s) Christine H. Hodson.

(s) Ryan McClintock 11401

Signature of Person Making Statement.      Deputy/Witness

**Appendix C [Exhibit B (2)]:**

The "victim" Richard Patience's Voluntary Statement in  
Case No. 20A171266.

Appendix C [Exhibit B(2)]



MONTGOMERY COUNTY SHERIFF'S OFFICE  
VOLUNTARY STATEMENT

Case No. : 20A171266

Date: 5/28/2020

Time: 11:55

My name is RICHARD LEWIS PATIENCE and I am 67 years of age.

My date of birth is 5/8/1953 and I was born in U.K

My home address is 3603 MAGNILIA CREST DR city SPRING State TX Zip 77386 My home cell telephone # is 713 516 5906. My work telephone # is SAME, I am presently with SELF-EMPLOYES as a GEOSCIENTIST  
My employer's address is \_\_\_\_\_.

Driver's Lic. No: XXXXXXXXXX Expire: 5/8/20 State: TX Social Security No.: XXX.XX.XXXX. Height: 6'1" Weight: 180. Hair Color: GREY  
Eye Color: BLUE Classes: YES. Email: Chrishodson@att.net  
I hear screaming by my partner, Christine Hodson, by the  
entry door from the garage, so I rushed out to her, Christine

halfe inside & my ex-wife Lian Patience out in the garage. We force the door shut & I told Christine to call the police, I then cautiously opened the door to see Lian in the garage. She did not have a gun, I went out into the garage & prevent her from damaging the property. She then attached me & hit me over the head with her phone. I got her out of the garage into the front year, but she came back in & picked up my bike threw it on the ground. I pushed her back & she tried to pick up a rock from the flower beds but I pushed her away before she could do damage. We then stood opposite each other waiting for the police to arrive.

I do not want to press charges.

I do want a protection orders.

(s)RICHARD LEWIS PATIENCE (s)Ryan McClintock 11401

Signature of Person Making Statement.      Deputy/Witness

**Appendix C [Exhibit B (3)]:**

The Declaration of Christine Hendricks Hodson & Richard Patience in Case No: 22-DCV-290170 indicates that Christine Hendricks Hodson persisted in making false statements under oath to the attorney and court, constituting the crime of perjury. This behavior was facilitated by corrupt police, District attorneys, and lawyers who provided protection, allowing her to continue breaking the law.

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No. 22-DCV-290170  
**IN THE DISTRICT COURT OF FORT BEND  
COUNTY, TEXAS, 458<sup>TH</sup> JUDICIAL DISTRICT**

---

WEN LIAN PATIENCE  
*Plaintiff*

v.

CHRISTINE HENDRICKS HODSON

---

**DECLARATION OF CHRISTINE HODSON**

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1. My name is Christine Hodson. My date of birth is November 12<sup>th</sup>, 1964, my address is 3603 Magnolia Crest Lane, Spring, Texas 77386 in Montgomery County, Texas. I declare under penalty of perjury that all the information in this declaration is true and correct.
2. I live with Richard Patience at 3603 Magnolia Crest Lane,

Spring, Texas 77386 in Montgomery County, Texas. I have lived there since February 1<sup>st</sup>, 2019. I am familiar with who Plaintiff Wen Lian Patience is as Mr. Patience's ex-wife, and have encountered her at the times described in this declaration but I do not know her more than that. It is in that capacity that I have knowledge of these facts.

3. I was at the house on 3603 Magnolia Crest Lane on July 20, 2019, Mr. Patience and Plaintiff were not yet divorced at that time, but the divorce was underway. Plaintiff was not to be at that house under the terms of an agreement between her and Mr. Patience. On that day, Plaintiff came to the house when I was the only person there. I answered the front door and Plaintiff, who I recognized, tried to push her way into the house. I pushed the door closed and locked it. I then called 911 and reported that Plaintiff had tried to force her way into the house. While I was making that call, Plaintiff left, and when the deputies arrived, she was not there. I spoke briefly to them, and **reported only that she had tried to enter the house.** {Refer to Appendix C [Exhibit B(6b)], 911 call detail report on July 20, 2019, call Number: C20350820.}
4. On May 28, 2020, Plaintiff again came to the house at 3603 Magnolia Crest Lane. I and Mr. Patience were there. I first knew that Plaintiff was there when she tried to enter the house through the door from the garage, which I had gone

through. She tried to force her way into house, and I closed the door on her and locket it At the same time, I called to Richard Patience and told him what was happening. I was very upset. I did not go outside at that time, but immediately called 911 to report Plaintiff's intrusion. Mr. Patience went outside, but I could not tell what was happening. I reported to the 911 operator that Plaintiff had tried to break in and was still there. I may have reported that I believed Plaintiff may own a gun, but I did not report that she had one at that moment. **I did not report that Plaintiff was trying to kill either of us.** {Refer to *Appendix C[Exhibit B(1)], Hodson's Voluntary Statement in Case No. 20A171266.*} I do not know if I reported she had tried to break in previously.

5. Sheriff's deputies arrived fairly quickly. I went outside only after they placed the Plaintiff in a police car. **I saw that Mr. Patience was bleeding at that time.** I spoke to the deputies and described again that Plaintiff had tried to come into the house and that I had closed and locked the door. **I do not believe I said any more about a weapon then. I did not say Plaintiff had tried to kill us or anyone.** I did say that she had previously tried to come into the house. **The deputies took a report and left. I then helped Richard Patience clean the blood off his head and face and helped him bandage the cut.** {Refer to *Appendix C*

*[Exhibit A]: An Affidavit confirming the absence of records for Richard Patience's injuries, no such medical document was found that Richard Patience was bodily injured by the Petitioner, Wen Lian Patience}*

6. Plaintiff states that I called the University of Texas police and made some report concerning her on December 13, 2019. I made no such call and made no such report to the University of Texas on that day or any other. No one connected to these events has any connection to the University of Texas, and this accusation does not make any sense to me.
7. Mr. Patience told me at some time before the divorce was completed that he had been told by one of his adult children that Plaintiff may have obtained a firearm. This did cause both he and I concern because of Plaintiff's conduct throughout the divorce.

Signed on March 8 , 2022 in Montgomery County, Texas.

(s) Christine Hodson

Christine Hodson

**Appendix C [Exhibit B(3)]**

**IN THE DISTRICT COURT OF FORT BEND  
COUNTY, TEXAS, 458<sup>TH</sup> JUDICIAL DISTRICT**

---

WEN LIAN PATIENCE

*Plaintiff*

v.

CHRISTINE HENDRICKS HODSON

---

**DECLARATION OF RICHARD PATIENCE**

---

1. My name is Richard Patience. My date of birth is May 8, 1953, my address is 3603 Magnolia Crest Lane, Spring, Texas 77386 in Montgomery County, Texas. I declare under penalty of perjury that all the information in this declaration is true and correct.
2. Christine Hodson, defendant in this matter, lives with me at the above address. I was formerly married to Plaintiff Wen Lian Patience. It is in that capacity that I have knowledge of these facts.
3. Christine Hodson lived with me at the time of all the events alleged in Plaintiff's petition against Ms. Hodson in this matter. I was married to Plaintiff until January 30, 2020,

when we were divorced in Fort Bend County, Texas. That

divorce was highly contentious. At a mediation to finalize the matter, Plaintiff and I entered into a mediated settlement agreement, but shortly after that mediation, Plaintiff tried to repudiate that agreement. Despite her refusal to finalize the mediated settlement agreement, the court entered a decree based on the mediated settlement agreement, the court a decree based on the mediated settlement agreement over her objections. Plaintiff was emotional and upset during the entire divorce process. Her own counsel withdrew just after the mediation for final orders. After the hearing of the entry of divorce she yelled at me from the upper balcony of Fort Bend County Courthouse as I left the building.

4. Ms. Hodson and I lived at the house at 3603 Magnolia Crest Lane while the divorce was underway. Plaintiff had agreed in a mediated settlement agreement for temporary orders in the divorce that I was to have exclusive use and possession of the Magnolia Crest Lane house. She was not to be there. After the divorce was concluded, I was awarded sole ownership of that house.
5. On May 28, 2020, Plaintiff came to the house at 3603 Magnolia Crest Lane. I and Ms. Hodson were there. Plaintiff came with another person in a car, but, after the fact, it appeared that that person did not know of Plaintiff's intentions Plaintiff entered the garage, while was open.

open. She tried to force her way into the main part of the house, and Ms. Hodson closed the door on her. I then went outside and found Plaintiff still in the garage. I told her Ms. Hodson was calling the police, and attempted to get her out of the garage, and she struck me in the head with a cell phone. That blow cut my scalp and caused it to bleed, although I did not know I was bleeding at the time.

6. Ms. Hodson had call 911 after I went outside, and Montgomery County Sheriff's deputies arrived shortly after I went outside. When they arrived, Plaintiff and I were in the front yard, and the deputies very quickly placed Plaintiff in handcuffs and put her in the back seat of a patrol car. I then describer the events of the last few minutes. The deputies told me I was bleeding and they got a medic to look at me. The deputies also spoke to Ms. Hodson and took statements from each of us. They then took Plaintiff away, under arrest. I went into the house and cleaned up the cut with Ms. Hodson's help.
7. The Montgomery County district attorney charged Plaintiff with two crimes related to the events of May 28, 2020. However, those charges were dismissed in November, 2021.
8. One of my and Plaintiff's adult children told me during the courts of the divorce that Plaintiff might have obtained a handgun, and had been to a shooting range. This was

concerning to me in light of Plaintiff's erratic and threatening behavior. Before the divorce was finalized, Plaintiff had come to the Magnolia Crest Lane house when only Ms. Hodson was there, and that and Plaintiff's other disturbing behavior made me very worried. I did tell Ms. Hodson that Plaintiff may own a firearm.

Signed on March 4, 2022 in Montgomery County, Texas.

(s) Richard Patience

Richard Patience

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**Appendix C [Exhibit B (3a)]:**

Christine Hendricks Hodson texted Messages to the Petitioner on May 27, 2022, using her cellphone.

(281) 466-7862 Fri, May 27, 8:20PM

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There is noting friendly about you. You are pure evil. Richard's attorney (*John Ely TBN: 24002050*) has advised me to sue you. Lord knows you've done everything long.

Come back to our house, and you will be arrested. Richard wants nothing to do with you. Hates you.

**Appendix C [Exhibit B (4)]:**

Commutation between Richard Patience and the Petitioner  
Wen Lian Patience on July 29<sup>th</sup>, 2020 and 2018.

1. The Petitioner, Wen Lian Patience texted a message to  
Richard Patience in 2018 (*The Petitioner and Richard  
Patience divorced on January 30, 2020*)

---

AT&T      7:30pm (2018)      <Messages      Lian

Richard, I really think that we have no way to go now!!  
The last thing and the only thing I want to say to you is---I  
really love you since I married you! I have tried so hard to  
make a happy family, I have done my best, I cannot do any  
better than that anymore! I think it is the time for me give  
up! I am so sorry I scream at you last Monday! And please  
forgiving everything I have done that made you sad and  
unhappy!! I cannot be your wife anymore! As a husband and  
wife, we should be happy to see each other, but I don't! I feel  
scare, stress, and depression because of the way how you  
talk with me! On the other hand, I also see that you are very  
unhappy what I want to do! And whatever I say because my  
English language...! However, my point is that before  
Jasmine goes to college, please just don't talk with me, using  
Text messages communicate with me! After my parents  
“gone”! I want to divorce!

By the way, after divorce, I don't want anything from you!! I will not ask anything about money, house, and fortune from you! I only take my books, the stuffs you hate to see in the house! Just that simple! I decide to do that just because I want you can be happy in the future with someone you are happy with !! That is what I want from you!! Thank you for the years you have given me---Good and Bad! Thank you for the Love you gave Lissie!

*Lian (the Petitioner)*

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**Appendix C [Exhibit B (4)]:**

2. Richard Patience sent a letter to the Petitioner Wen Lian Patience on July 29<sup>th</sup>, 2020 (*The Petitioner and Richard Patience divorced on January 30, 2020*).

---

**Dear Lian (the petitioner, Wen Lian Patience)**

I'm writing this to you in order to apologize for the way I left you, and for all the pain that has cause, both to you and the kids. My behavior has also caused me a lot of distress, and I realize I should have handled the situation very differently.

I am very sorry.

I know our marriage wasn't a very happy one, and I know I wasn't kind towards you at times, and I really regret that. I

should have deal with conflicts differently. You asked me for a divorce many times, and I should have said yes earlier on. Then we could have agreed to end it and told the children in a good way. What happened instead was that I became very isolated and unhappy both in the house and in the family, and did not share those feelings with anyone. I hope we can also remember the good times. We raised three healthy children, and had some great vacations together. You made us all laugh with your sense of humor, and you taught me a lot about how to deal with children.

I don't expect you to forgive me, or even accept the apology, but I do hope that one day we can get to the point where we can be in the same room together and not be uncomfortable. I think our children would benefit from our efforts to communicate peacefully. I am not saying I deserve that but I am willing to work to get there.

This note is just the start. If you want to continue the conversation with me, please let me know. Feel free to email me at [rlpatience53@gmail.com](mailto:rlpatience53@gmail.com), or send me a letter, for example whatever you feel comfortable with.

*Take care & stay safe.*

Richard Patience's signature

Richard Patience

**Appendix C [Exhibit B (5)]:**

Tex. Gov't Code Ann §51.904 (Vernon 2005) It is a crime to intentionally or knowingly file a fraudulent court record or a fraudulent instrument with the clerk.

The Respondents intentionally and knowingly not only shielded a crime but also protected witness Christine Hendricks Hodson , who committed criminal action under Texas Penal Code §37.08 §37.02 and §37.09, involving false statements, fabricated evidence, [Failure to Identify], false statement and report to the police and Abusive to 911 Service under §42.061 knowingly making false emergency calls. Additionally, they also provided false statements and complaints under oath, and fabrication of evidence and misleading information to the judges and court.

Hodson intentionally misrepresented her relationship status with Richard Patience to the police, providing false information to the law enforcement deputy.

1. Richard Patience and the Petitioner divorced on January 30th,2020.Importantly, Richard Patience discreetly acquired a new house in Montgomery County, Spring Texas, on February 1st, 2019. It's essential to clarify that he did not enter into a new marriage with witness Christine Hendricks Hodson by May 28, 2020.

2. Furthermore, they do not meet the qualifications for a Common Law Marriage. Christine H. Hodson did not adopt Richard's last name as Patience. Their cohabitation lasted only four months, during which they did not engage in activities commonly associated with a marital relationship. This includes not filing joint tax returns, signing leases or other documents as spouses, making joint purchases, including each other in insurances, designating each other as life insurance beneficiaries, applying for joint loans, or seeking public benefits as a married couple, or having children together.
3. In other words, Christine Hendricks Hodson intentionally misrepresented her relationship status to the law enforcement deputy when she made a 911 call and told the operator that Richard Patience is her husband. Hodson's voluntary statements to the police also stated that Richard Patience is her husband.
4. Hodson committed offenses under Texas Criminal Law, including false statements, fabricating evidence, and abusive use of 911 service. The Montgomery County District Attorney's Office concealed and protected these crimes, leading to the unjust incarceration of the Petitioner, violating her rights.

**Appendix C [Exhibit B(6a)]:**

**The Montgomery County Communication Center 911 Call Detail Report.**

The Respondents intentionally shielded a crime and knowingly protected Christine H. Hodson's criminal actions by abusing 911 call service and providing false statements to the operators On May 28, 2020 and July

20, 2019. Refer to The Montgomery County Communication Center 911 Call Detail Report

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**MONTGOMERY COUNTY COMMUNICATION  
CENTER CALL DETAIL REPORT**

---

Call Number: C20350820

Nature: DISTURBANCE IP

Reported: 11:20:21 05/28/20

Rcvd By: STALINSKY S.

Occ Btwn: 11:20:07 05/28/2020 and 11:20:11 05/28/2020

Address: 3603 Magnolia Crest Ln.

Complainant/ Contact

Contact: Christine Hendricks Hodson

Address: X:-095. 386347 Y:+030, 141184 U:00025

Phone: (281) 466 – 7862

Radio Log/Dispatcher: MCCARTY K (2P1004);  
RYAN B(83P42); MIXON B (83P30);  
MCCLINTOCK R (11401) (Unit 2P1018).

COMMENTS

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**911 CALL FROM CELL**

11:22:08, REP (Christine Hendrick Hodson) said husband's EX is there, she is trying to break in. **She is known to have a gun. She told her children that she was going to kill REP and her husband (Richard Patience), she is mentally unstable; they (the Petitioner and Richard Patience) have been divorced about a year.**

11:25:20, 05/28/2020 —MCCARTY K: Do they know if the FEM (the petitioner) actually has a gun on her?

11:26:00, 05/28/2020—NUNN K: Did not see a gun—Didn't hear them say anything about a gun.

11:30:58, 05/28/2020—STALINSKY S: FEL REP sees the units (*Law enforcement deputies arrives on scene*).

11:31:30, 05/28/2020— MCCARTY K: EMS ADVSD cleared in. (*Emergency Medical Services are requested to the scene by MCCARTY K*).

11:35:06, 05/28/2020— MCCARTY K: 2P1018/Run CCH on the FEM (*the Petitioner*) for prior FAVI CONV. *[Check*

*criminal history (CCH), on the female (the FEM) for a prior domestic violence (FAVI) conviction.]*

11:36:18, 05/28/2020—MATA M: EMS called back for gate code, they are at the gate trying to get in. —CT ADV them.

*(EMS is present at a gate, trying to enter, and there is a directive to inform or advise them about this situation).*

12:09:28, 05/28/2020—CARR D: 2P1018// show FML in CUST ASSAULT FAM VIO 1209 *(CARR D (2P1018) provides additional details: FML is being shown or logged in a situation involving Custody Assault Family Violence with the code 1209).*

12:15:18, 05/28/2020—CARR D: 2P1018//ENRT to FB BM 23763 @ 1215 *[unit 2P1018 is en route (ENRT) to a location with the address FB BM 23763, and they are expected to arrive at 12:15.]*

12:44:19, 05/28/2020—MCCARTY K—From MCCLINTOCK R ENMI 23787 at 12:44 out at FB. *(MCCARTY K and MCCLINTOCK were en route to the location with the address 23787, they arrived at the scene at 12:44. The entry indicates that the status changed to “out” at FB)*

Sat, May 30 01:49:09 CDT 2020 CTW entered by Z1038/CURRY, E, Patience, Wen Lian DOB *[Central Daylight Time (CDT) 2020 Clear to Warrant (CTW) entered by Z1038/CURRY, E].*

**Appendix C [Exhibit B(6b)]**

---

**MONTGOMERY COUNTY COMMUNICATION  
CENTER CALL DETAIL REPORT**

---

Call Number: C20350820

Nature: TRESPASSING PAS

Reported: 16:08:39 07/20/2019

Rcvd By: ALLEN JA

Occ Btwn: 16:08:21 **07/20/2019** and 16:08:23 **07/20/2019**

Address: 3603 Magnolia Crest Ln.

Complainant/ Contact

---

Contact: Chris Hodson

Address: X:-095. 386347 Y:+030, 141184 U:00025

Phone: (281) 466 – 7862

Radio Log/Dispatcher:

BOLTON J (Unit 2P1006);

RAMOS R (Unit 2P1006)

COMMENTS

---

911 CALL

REP ADV HER FIANCES SOON TO BE EX WIFE TRIED  
TO BREAK INTO HER HOME. ADV THE REP OPENED

THE DOOR. THEN THE FM PRESSED AGAINST THE DOOR AND **SHE TRIED TO COME INTO THE HOME.**

REP ADV SHE HAS NEVER MET THS WOMAN BEFORE.

**THE FM HAS THREATENED TO KILL HER FIANCE MANY TIMES.**

Rep adv a female wearing a dark wig came to her residence ringing the doorbell. When she opened the door she advised the female tried to come inside but she closed the door on her and lock it. She adv it poss. could have been her fiancé's wife which they are in the process of getting a divorce.

No words were exchanged between the parties. NO video of incident. Rep does not know the name of his fiancé's wife.

**CHECKING AREA AND DID NOT LOCATE ANYONE MATCHING DESCRIPTION.**

#### **UNIT HISTORY**

---

Unit	Time.	Date.	Code
2P1006	16:12:55	07/20/2019	ENRT
2P1006	16:21:22	07/20/2019	ARRV
2P1006	16:32:54	07/20/2019	CLEA

---

2P1006 Officer RAMOS R.  
LW 19A234024, 36 Initiating Call,  
07/20/2019, TRESPASSING PAS.

**Appendix D:**

Daniel Dale Plake, attorney for Respondents, provided intentional false statements in the "ORDER OF REMAND," potentially violating Tex. Gov't Code Ann §51.904.

Plake misrepresented Christine Hodson's relationship, claiming she was Richard Patience's wife. Plake's deceptive information contributed to harm to the petitioner, potentially constituting a crime. His misrepresentations extended to the motion to dismiss, falsely claiming the plaintiff failed to respond.

The attorney for Respondents, Daniel Dale Plake (TBN:24062942), made intentional false statements in the "ORDER OF REMAND," as referenced in {Appendix B[Exhibit B1]}. This potentially constitutes a crime under Tex. Gov't Code Ann §51.904 (Vernon 2005), which criminalizes knowingly filing fraudulent court records.

Daniel Dale Plake intentionally provided false and misleading information, misrepresenting Christine Hodson's relationship status as Richard Patience's wife, falsely claiming they had just married. Plake knowingly shielded his clients' criminal activity by offering deceptive information to the judge on May 31, 2023, asserting that Christine Hodson lived with Richard Patience and is now his wife. He stated that "Hodson was married at the time (May

28, 2020). Shannon Jackson intentionally fabricated Christine Hendricks Hodson's identity, also falsifying her own name as Shanna in a 911 call. Hodson explicitly stated that she did not have Richard Patience's last name, keeping her last name as Hodson. This is corroborated by both the Montgomery County Sheriff's Office Voluntary Statement and Hodson's report to the police.

Further evidence of Plake misrepresenting information includes the mistaken entry of Hodson's last name as "Patience" on the criminal complaint, which does not negate probable cause for the charge. Plake's false statements and misleading information to the court and judge contributed to the harm caused to the petitioner, potentially constituting a crime.

Plake's misrepresentations extended to the court's motion to dismiss, falsely claiming the plaintiff failed to respond within the allotted time. However, the plaintiff responded on time, and Plake's statements were misleading.

In another case against Christine Hendricks Hodson, Plake acts similarly to John Ely, violating laws during legal arguments and combining laws and facts. The actions and misconduct of attorneys, including district attorneys (Respondents) and their defense attorney Plake, are unlawful and intolerable.

**Appendix E [Exhibit C]**

Deputy Ryan McClintock's report (11401) knowingly contained false statements. It inaccurately described paint as blood, falsely claimed a small cut, and misrepresented the victim's relationship. Despite video evidence, the report wrongly labeled the petitioner as the aggressor, alleging property throwing and assault. {See Appendix C [Exhibit A] for An Affidavit.]}

The deputy's report from Ryan McClintock (11401) intentionally and knowingly contained false statement. It inaccurately described blood as coming from the top head running down the face, falsely claiming a small cut was observed, even though the deputies were aware that the blood all over victim's face was actually paint {Refer to *Appendix C [Exhibit A] An Affidavit confirming the absence of records for Richard Patience's injuries.*} Additionally, the report false asserted that the victim and petitioner had been divorced for over a year, the witness Christine H. Hodson, was incorrectly identified as the victim's new wife. Moreover, the report incorrectly labeled the petitioner as the primary aggressor, despite video evidence clearly showing the victim pushing and grabbing the petitioner's arm, swinging her away from driveway to the road. The report alleged that the petitioner Wen Lian

Patience threw property from the garage into the front yard and assaulted the victim Richard Patience.

-----

**Appendix E [Exhibit C(1)]: TRESOASS WARNING.**

The plaintiff (Ms. Patience) was wrongfully arrested and sent to jail under the Texas Penal Code Chapter 30, Section 30.05, which, id (Section 30.05) did NOT apply to related to Terroristic Threat of Family/household and Assault Cause Bodily Injury Family Violence. Refer to **Appendix F [Exhibit D]** (Cause No. 20-350258 and Cause No. 20-350259, Shannon Jackson's complaints).

-----

---TRESPASS WARNING--- Patrol SOP 5.15

**MONTGOMERY COUNTY SHERIFF'S OFFICE**  
#1 criminal Justice Drive  
Conroe, Texas 77301  
(936) 760-5800

---

Date: 5/28/2020 Case Number: 20 A171266 Time 15:00

Name: Patience, Wen Lian, Huang

DOB: 2/26/63. DL: TX-xxxxxxxx

I, Wen Lian Patience, do hereby acknowledge that on the above date and time I was warned by Deputy R. McClintock

of the Montgomery County Sheriff's Office, that entry onto or into the business, private property, or private residence herein described as: Richard Patience Residence .

(business, residence of, or property of

Located at: 3603 Magnolia Crest Ln, Spring, TX, 77386

in the County of Montgomery, State of Texas is hereby forbidden. I understand that if I return to the above name location at anytime in the future, and the owner, manager, or other person(s) in care, custody, and control of the above described location wishes to pursue charges, I may have criminal charges filed against me or arrested under the Texas Penal Code Chapter 30, Section 30.05 referred to as Criminal Trespass.

Acknowledged by: [refused to sign]

Deputy:

(s) R. McClintock

3603 Magnolia Crest Ln. [scribble]. 3603 Moss Trail Dr.

(Address)

Missouri City, TX, 77459

**Appendix E [Exhibit C(2)]:**

**Deputy Report for Incident 20A171266.**

The reports from Deputy Ryan McClintock (11401)  
on May 28,2020

Deputy Report for Incident 20 A 171266

**Supplement**

(CLASS A FAMLT VIOLENCE/TRERRORISTIC THREAT OF FAMILY  
/HOUSEHOLD)

**Victim:** Patience, Richard w/m 067, Husband to Christine  
Ex husband to Wen Lian.

Provided written statement, *{see attached}*

**Complaint:**

State of Texas

**Witness:**

Hodson, Christine W/F 055, Wife to Richard  
Provided written statement, *see attached*

Witness 02:

Lai, Yiu A/M 073

Friend to Wen Lian

Refused to provide written statement.

**Arrested:**

Patience, Wen Lian A/F 057, Ex Wife to Richard

**Scene Summary:**

The acme is a one story residence located at 3603 Magnolia

Crest Ln In Spring, TX in Montgomery County. The residence sits on the east side of the roadway with the front door facing west. The altercation occurred in the front yard of the residence.

**Narrative:**

When I arrived on scene I met with Richard in the front yard of the residence. I observed blood coming from the top of his head running down the left side of his face. I immediately located a female screaming at Richard who was identified as Wen Lian Patience. During my investigation I learned that Wen Lian and Richard are divorced and have been for over a year. Richard stated that he was inside of his residence when he heard his current wife Christine screaming. Richard said that he ran toward the door that leads into his residence from the garage and observed Wen Lian attempting to gain entry. Richard said that he and Christine were able to close the door and lock it. Richard stated that a few minutes later he opened the door back and observed Wen Lian throwing his property from his garage into the front yard.

Richard said that he stepped outside and began telling Wen Lian that she needed to leave but she was refusing to leave and began swinging her hands at him trying to assault

him. Richard stated that he believed he was only struck once which cause a laceration on the top of his head. I observed a small cut on the left side of Richards head. I also observed a few scratches on Richard's right arm that were caused when Wen Lian was trying to punch him. Richard stated that while he was trying to get Wen to leave she told him she was going to burn his house down. Richard has also been concerned because their children have told him that Wen Lian has made statements of shooting Richard and his new wife Christine. I also learned that Richard has tried to get into the residence. There has been several calls for service by Richard concerned that Wen Lian will harm him. Richard advised he did not wish to pursue charges but wished to have a protective order due to all the previous threats.

I met with Christine who provided me with a voluntary written statement. Christine stated that she was returning home from teaching a piano lesson and observed Wen Lian pull in the driveway behind her. Christine said that Wen Lian has previously attempted to break into her residence. Christine stated that she immediately went to the back door and tried to lock it but Wen Lian began pushing on the door while she was trying to close it. Christine said that she yelled for Richard while he came and helped her

close the door and lock it. Christine stated that she was scared because Richards children told them that Wen Lian wanted to kill her and Richard. Christine stated that Richard went outside and she called 911. Christine advised she did not see the altercation that took place outside.

While speaking to Wen Lian I observed a cut on her right index finger and blood on both of her hands. I did not observe any other visible injuries on Wen Lian. While speaking to Wen Lian she only stated that Richard is her ex-husband and the residence he is living in belongs to her. I learned that Wen Lian drove from her residence of 3603 Moss Trail Dr. in Missouri City, TX to tell Richard and Christine to leave the residence. Wen Lian advised that their divorce has been final for a year but the house Richard is living in is hers too.

I spoke to Yiu who did not wish to provide a voluntary written statement. Yiu only stated to be that he and Wen Lian were running errands in the Sugar Land area when she told him that she wanted to bring him to a friends house. Yiu said that he realized they were going to Richard residence once they got close to the woodlands area. Yiu did not wish to give details about the altercation and said that he was sitting inside the vehicle when it happened.

While on scene I took photographs of Richard and Wen Lian. Then SD card was submitted to the MCSO crime lab as evidence. My COBAN video was submitted to the MCSO crime lab as evidence.

I was advised that neither subject is active military and alcohol was not a factor. There is not a reported his of violence between them. I provided Richard with a family violence pamphlet and MCSO case number.

After my investigation was completed I felt that Wen Lian was the primary aggressor. I placed Wen Lian into custody for assault family violence and terroristic threat of a family member. Wen Lan was transported to female booking in Conroe, TX without incident. A criminal trespass warning was issued to Wen Lian for Richard's residence. The criminal trespass warning has been scanned into this report.

I was advised by Richard that he has security camera footage of the incident but was unable to make a copy at this time. Richard said that he will attempt to make a copy of it and contact me when its ready to be picked up. A supplement report will be generated when I obtain a copy of the video.

Evidence: 1-SD card; 1-COBAN disc.

Disposition: Arrest, Refer to DA.

**SUPPLEMENT:**

On June 2<sup>nd</sup>, 2020 at approximately 1521 hours I, Deputy R. McClintock (11401) I met with Richard at his residence to pick up a USB drive that contained video of the altercation on May 28<sup>th</sup>, 2020 between Richard and Wei Lian Patience. Also while I was on scene, Richard advised me that his wife Christine had noticed harassing and threatening emails sent to her by Wei Lian between the dates of May 20<sup>th</sup>, 2020 and May 25<sup>th</sup>, 2020. The email have been scanned into this report. The USB drive was submitted to the MCSO crime lab as evidence.

---

**Appendix E [Exhibit C3]:**

Deputy Ryan McClintock falsely claimed harassing emails from Wei Lan (*Petitioner Wen Lian Patience*) to Christine. In his report, McClintock inaccurately stated that Richard reported such emails between May 20th and May 25th, 2020.

---

6/2/2020 WenLian Patience sent you a new message-AT & T

Begin forwarded message:

From: "Wenlian H. Patience" huand\_patience@msn.com

Date: **May 20, 2020** at 4:34:35 PM CDT

187a

To: lessonsbychristine@gmail.com

<lessonsbychristine@gmail.com>

Subject: You have to move out our house!

Shameless woman!!!

Chicken head, Christine Hodson, you have to move out our house, all your stuffs have to move out immediately!! If not, someone will help you to do it one day!!

Thank you for your cooperation!!

Image1.png

My dear friends, do you know this woman, her name is Christine Hodson, she secretly sleeps with my husband (Richard Patience, 67 years old). On 30<sup>th</sup> January 2019, my husband bought a new house at 3603 Magnolia Crest Lane, Spring woodland, TX, Christine Hodson moved into the house on 1<sup>st</sup> February 2019, but my husband still lived with me together in Sugarland Houston! Her behavior is shameful to have sex life for living and misused a man who has a wife and children at home!! And destroyed other's family for her own good!! Unacceptable in our society!! According to the fact, my husband was committing adultery, thus we have to file a divorce.

My dear friends, if you knew her, please telling Christine Hodson, as a woman, she has NO RIGHT to sleep

with a man who has a wife and children at home.

My dear friends, if you have a husband, please tell your husband that as a man, please, please, never ever cheat on the wife, and abandon the family because of a woman who is easily willing in bed with him!! Please! Please take the marriage seriously!! Stay with the family, put the heart into the family, love them and care about them!!!

The reality of our life is nothing can pay off the pain and sorrow of our souls, it will be carried with us for the rest of our life!!!

We all have our principles, and we should respect others humanity and protect our dignity no matter what ours principles and beliefs are!!

(s)Lian Patience

(Petitioner, Richard Patience's ex-wife)

## **Appendix E [Exhibit C3]:**

6/2/2020 WenLian Patience sent you

a new message-AT & T Yahoo Mail

WenLian Patience sent you a new message  
chrishodson@att.../inbox

WenLian Patience

<977d7ea8-c203-4418-a001-b2857f1ab306@crm.wix.com>

To: chrishodson@att.net

Ascend by wix

WenLian Patience just sent you a chat message on Piano lessons by Chris

Chicken head, Christine Hodson,

You have NO RIGHT to live in ours house at 3603 Magnolia Crest Ln. Spring Woodland, TX 77386. According to the family Law Adultery Divorce, since Richard Patience was not willing to pay what he had spent on you. You owe the marital estate rental costs for your piano studio run out of ours house, and you owe the marital estuary estate rent for the time you live in ours house at 3603 Magnolia Crest Ln. Spring Woodland, TX 77386. According to the family Law Adultery Divorce, since February 1<sup>st</sup>, 2019 to whenever you move out of ours house. According to Home rental appraisa, house rent will be \$2000/mo. So you owe our house rent since February 1<sup>st</sup>, 2019 to whenever you move out!! And you owe the money Richard Patience has spent on you while you went on vacation with him and had sex life with him in different hotels, the gifts he bought for you and so on according to the Family Law Adultery, you owe my money!!!

If Richard doesn't want to pay it, you will owe my money for what Richard Patience had spent on you!

Moreover, you will also owe my rent for the time you live in and run out our house for your business as piano studio!!!

190a

I had asked you very friendly three times now. I am going to ask you again: please move all you stuff completely out of ours house 3603 Magnolia Crest Ln. Spring Woodland, TX 77386.

Thank you for your cooperation!!

Lian Patience (*Petitioner, Richard Patience's Ex-wife*)

Sent from my iPhone

---

6/2/2020 WenLian Patience sent you a new message-AT & T Yahoo Mail

WenLian Patience sent you a new message  
chrishodson@att.../inbox

WenLian Patience

<2f530bed-3975-4a7e-87f8-36b0ae6aa64e@crm.wix.com.

To: chrishodson@att.net May 25 at 10:10

Ascend by wix

WenLian Patience just sent you a chat message on Piano lessons by Chris

Chicken head, Christine Hodson, That is last time I inform you that You have to move out our house 3603 Magnolia Crest Ln. Spring TX 77386!!! If not, you have to take full responsibility for your shameful behavior and actions of your sex life with a man who has children and wife in my house and destroyed our family!!

Our children hate you from head to toes!! That is enough for your happiness life with a man in bed with you over the places for years!! Please take seriously of your sex life with Richard Patience for your next chapter life!!!

(s) Lian Patience

(Petitioner, Richard Patience's Ex-wife)

---

**Appendix F [Exhibit D1]:**

Respondents Shanna Jackson and Lee Romero's complaints (Cause No: 20-350258, Cause No: 20-350259) allege intentional malicious acts by the Petitioner, with intentionally made false statements and fabricated evidence {Appendix C [Exhibit A]}

The Complaints (Cause No: 20-350258, Cause No: 20-350259) by Respondents Shanna Jackson (a/k/a Shannon Jackson) and Lee Romero (a/k/a Romero Lee) allege intentional malicious acts against the Petitioner. They intentionally made false statements and fabricated evidence, referencing Investigation #20M3886 and an Affidavit {Appendix C [Exhibit A]}, which confirms the absence of records, including NO medical documentation supporting the claim of bodily injury to Richard Patience by Petitioner Wen Lian Patience. Additionally, there is NO record of a person named Christine Patience.

**Appendix F [Exhibit D1]**

---

**Complaint**

(Cause No: 20-350258)

**COUNTY OF MONTGOMERY  
COUNTY COURT AT LAW**

---

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

BEFORE ME, the undersigned Assistant District Attorney of Montgomery County, Texas, this day appeared the under signed affiant, who under oath says that he has good reason to believe and does believe that on or about May 28, 2020, in Montgomery County, Texas, Wen Lian Patience, hereafter styled the Defendant, did then and there threaten to commit an offense involving violence to a person or property, namely, assault, with intent to place Richard Patience / **Christine Patience** in fear of imminent serious bodily injury, and the said conduct of the defendant constituted family violence.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

(S) Shanna Jackson

Affiant

Sworn And Subscribed To Before Me on June 1, 2020

(s) Lee Romero

Assistant District Attorney  
Montgomery County, Texas

Appendix F [Exhibit D1]

---

**Information**

(Cause No: 20-350258)

**COUNTY OF MONTGOMERY  
COUNTY COURT AT LAW**

---

**IN THE NAME AND BY AUTHORITY OF THE STATE OF  
TEXAS:**

COMES NOW, the undersigned Assistant District Attorney of Montgomery County, Texas, this day appeared the under signed affiant, who under oath says that he has good reason to believe and does believe that on or about May 28, 2020, in Montgomery County, Texas, Wen Lian Patience, hereafter styled the Defendant, did then and there threaten to commit an offense involving violence to a person or property, namely, assault, with intent to place Richard Patience / **Christine Patience** in fear of imminent serious bodily injury, and the said conduct of the defendant constituted family violence.

**AGAINST THE PEACE AND DIGNITY OF THE STATE.**

(s) Lee Romero  
Assistant District Attorney  
Montgomery County, Texas

---

**Complaint**

*(Cause No: 20-350259)*

**COUNTY OF MONTGOMERY  
COUNTY COURT AT LAW**

---

**IN THE NAME AND BY AUTHORITY OF THE STATE OF  
TEXAS:**

BEFORE ME, the undersigned Assistant District Attorney of Montgomery County, Texas, this day appeared the under signed affiant, who under oath says that he has good reason to believe and does believe that on or about May 28, 2020, in Montgomery County, Texas, Wen Lian Patience, hereafter styled the Defendant, did then and there intentionally, knowingly, or recklessly cause bodily injury to Richard Patience, the complainant, Striking the complainant.

It is further presented that alleged act constituted family violence in that the complainant is a member of the defendant's family or household or a person with whom the defendant has or has had a dating relationship, as described by Section 71.003 or 71.005 or 71.0021(b) Family Code,

**AGAINST THE PEACE AND DIGNITY OF THE STATE.**

S) Shanna Jackson

Affiant

Sworn And Subscribed To Before Me on June 1, 2020

(s) Lee Romero

Assistant District Attorney  
Montgomery County, Texas

---

**Information**

*(Cause No: 20-350259)*

COUNTY OF MONTGOMERY  
COUNTY COURT AT LAW

---

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

BEFORE ME, the undersigned Assistant District Attorney of Montgomery County, Texas, this day appeared the under signed affiant, who under oath says that he has good reason to believe and does believe that on or about May 28, 2020, in Montgomery County, Texas, Wen Lian Patience, hereafter styled the Defendant, did then and there intentionally, knowingly, or recklessly cause bodily injury to Richard Patience, the complainant, Striking the complainant.

It is further presented that alleged act constituted family violence in that the complainant is a member of the defendant's family or household or a person with whom the defendant has or has had a dating relationship, as described by Section 71.003 or 71.005 or 71.0021(b),

AGAINST THE PEACE AND DIGNITY OF THE STATE.

(S) Shanna Jackson

Affiant

Sworn And Subscribed To Before Me on June 1, 2020

(s) Lee Romero

Assistant District Attorney

Montgomery County, Texas

**Appendix F [Exhibit D2]:**

The petitioner faced unjust criminal charges as the Montgomery County District Attorneys engaged in severe misconduct. The DA's (Shannon Jackson and Romero Lee) complaints were laden with intentional falsehoods, misleading details, and fabricated evidence, egregiously violating the petitioner's rights. This calls for immediate Supreme Court intervention to rectify the injustice and preserve constitutional principles in legal proceedings. The DA's actions included falsely claiming bodily injury with fake blood, despite an affidavit confirming the absence of records for the alleged injuries. The petitioner's arrest, initially based on a trespass warning, resulted in charges of terroristic threat of family/household and assault causing bodily injury, class A misdemeanor. Urgent Supreme Court action is essential to address this violation of rights, ensuring justice and upholding the integrity of the legal system.

**Appendix F [Exhibit D2]**

Charges "ORDER OF DEFERRED ADJUDICATION" on  
December 1<sup>st</sup>, 2020 by Carmen Morales.

Case: 23-20270 Document: 54-3. Page:125. Date Filed: 09/18/2013

---

**CAUSE: 20-350259**

**The State of Texas. In Co Patience, Wen Lan 20-350259**

**v. At Law 4**

**Wen Lian Huang Patience. Montgomery County, Texas**

**Sex: Female. Race: Asian. State ID No: TX-11708032.**

---

**ORDER OF DEFERRED ADJUDICATION**

---

**Judge Presiding: Hon. Judge Mary Ann Tuener**

**Date Proceeding Deferred: December 01, 2020**

---

**Attorney for State: Carmen Morales**

---

**Attorney for Defendant: Gonzalez, Carlos D**

---

**Offense for which Defendant Convicted:**

---

**Assault Causes Bodily Injury Family Violence**

---

**Charging Instrument: Information. Date of Offense: May 28, 2020**

---

**Degree of Offense: Class A Misdemeanor. Guilty**

---

**Terms of Plea Bargain: \$1000.00 Fine/CC/ 15 Months DADJ**

---

**Plea to 1<sup>st</sup> Enhancement Paragraph: TRUE**

---

**Plea to 2<sup>nd</sup> Enhancement Paragraph: N/A**

---

**Period of Deferred Adjudication Community Supervision: 15 Months.**

---

**Fina: \$1000.00Addition Fines:\$1000.00Appointed Attorney Fees:\$0.00**

---

**Court Costs: \$270 Reimbursement Fees: 20.00**

---

**Time Credited: Any Days Notes: Toward Incarceration**

---

**This cause was called and the parties appeared. The State appeared by  
her District Attorney as name above Patience, Wen Lan 20-350259**

## **Appendix F [Exhibit D2]**

Charges “ORDER OF DEFERRED ADJUDICATION” on December 1<sup>st</sup>, 2020 by Carmen Morales.

Case: 23-20270 Document: 54-3. Page:125. Date Filed: 09/18/2013

CAUSE: 20-350258

v. At Law 4

Wen Lian Huang Patience. Montgomery County, Texas

Sex: Female. Race: Asian. State ID No: TX-11708032

## ORDER OF DEFERRED ADJUDICATION

Judge Presiding: Hon. Judge Mary Ann Turner

Date Proceeding Deferred: December 01, 2020

Attorney for State: Carmen Morales

Attorney for Defendant: Gonzalez, Carlos D

**Offense for which Defendant Convicted:**

## **Terroristic Threat of Family/Household**

Charging Instrument: Information. Date of Offense: May 28, 2020

Degree of Offense: Class A Misdemeanor. Guilty

Terms of Plea Bargain: \$1000.00 Fine/CC/ 15 Months DADJ

Please to 1<sup>st</sup> Enhancement Paragraph: TRUE

---

Plea to 2nd Enhancement Paragraph: N/A

Period of Deferred Adjudication Community Supervision: 15 Months

Fines: \$1000.00 Additional Fines: \$1000.00 Appointed Attorney Fees: \$0.00

Court Costs: \$270 Reimbursement Fees: 20.00

---

## Time Credited: Any Days Notes: Toward Incarceration

This cause was called and the parties appeared. The State appeared by her District Attorney as name above. Patience, Won Jan 20, 350258.

### **Appendix F [Exhibit D3]**

The dismissal of criminal cases against the petitioner underscores the egregious misconduct by the District Attorneys (DAs), involving the fabrication of evidence, lack of probable cause, and the dissemination of false statements, misleading information, and filing of fraudulent court records.

These actions flagrantly violate the petitioner's constitutional rights, prompting the dismissal of charges due to the absence of a proper legal basis. The court's decision to dismiss these cases highlights the severity of the DA's misconduct, emphasizing the blatant violation of the petitioner's rights throughout the legal proceedings.

**Appendix F [Exhibit D3]**

“MOTITION TO DISMISS”, Assault Causes Bodily Injury Family Violence and Terroristic Threat of Family/Household both cases were dismissed on November 17, 2021 by Hon. Judge Mary Ann Tuener.

---

CAUSE: 20-350259

The State of Texas                    In County Court

v.    At Law 4

Wen Lian Huang Patience.   Montgomery County, Texas

Sex: Female.   Race: Asian. State ID No: TX-11708032.

---

**MOTION TO DISMISS**

---

**OFFENSE: ASSAULT CAUSES BODILY INJURY  
FAMILY VIOLENCE (CLASS A MISDEMEANOR)**

---

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the State of Texas, by and through her District Attorney, and respectfully requests the Court to dismiss the above entitle and number criminal action for the following reason:

- Cannot prove beyond a reasonable doubt.
- The Defendant was convicted in another case. \_\_\_\_.
- In custody elsewhere. \_\_\_\_.
- Old case, no arrest.
- In the interest of justice.
- Missing witness. \_\_\_\_.
- Request of complaining witness. \_\_\_\_.
- The Defendant is deceased.
- Motion to suppress granted.
- Co-Defendant tried, this Defendant testified.

201a

- Insufficient evidence.
- Restitution made.
- Co-Defendant convicted, insufficient evidence for this Defendant.
- Case refiled as Cause No. \_\_\_\_.
- Clearance Letter.
- No billed by Grand Jury.
- Successfully completed terms of Pretrial Diversion.
- Other.

**EXPLANATION: DEFENDANT HAS COMPLETED 8 SESSIONS WITH MENTAL HEALTH PROVIDER IN COMPLIANCE WITH COURT'S ORDER.**

WHEREFORE, PREMISS CONSIDERED, it is requested that the above entitled and numbered cause be dismissed.

Respectfully submitted

(s) Tamara Tyler  
Assistant District Attorney  
Montgomery County, Texas

The forgoing motion having been presented to me On This The 17<sup>th</sup> Day of November, 2021 and the same having been considered, it is, therefore, ORDERED ADJUDGED, and DECREED that said above entitle and numbered cause be and the same is hereby dismissed.

(s) Mary Ann Turner  
Judge  
County Court at Law 4

## Appendix F [Exhibit D3]

CAUSE: 20-350258

Wen Lian Huang Patience. Montgomery County, Texas  
Sex: Female. Race: Asian. State ID No: TX-11708032.

## **MOTION TO DISMISS**

**OFFENSE: TERRORISTIC THREAT OF  
FAMILY/HOUSEHOLD (CLASS A MISDEMEANOR)**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the State of Texas, by and through her District Attorney, and respectfully requests the Court to dismiss the above entitle and number criminal action for the following reason:

- Cannot prove beyond a reasonable doubt.
- The Defendant was convicted in another case.
- In custody elsewhere.
- Old case, no arrest.
- In the interest of justice.
- Missing witness.
- Request of complaining witness.
- The Defendant is deceased.
- Motion to suppress granted.
- Co-Defendant tried, this Defendant testified.
- Insufficient evidence.

203a

- Restitution made.
- Co-Defendant convicted, insufficient evidence for this Defendant.
- Case refiled as Cause No. \_\_\_\_.
- Clearance Letter.
- No billed by Grand Jury.
- Successfully completed terms of Pretrial Diversion.
- Other.

EXPLANATION: DEFENDANT HAS COMPLETED 8 SESSIONS WITH MENTAL HEALTH PROVIDER IN COMPLIANCE WITH COURT'S ORDER.

WHEREFORE, PREMISS CONSIDERED, it is requested that the above entitled and numbered cause be dismissed.

Respectfully submitted

(s) Tamara Tyler  
Assistant District Attorney  
Montgomery County, Texas

The forgoing motion having been presented to me On This The 17<sup>th</sup> Day of November, 2021 and the same having been considered, it is, therefore, ORDERED ADJUDGED, and DECREED that said above entitle and numbered cause be and the same is hereby dismissed.

(s) Mary Ann Turner  
Judge  
County Court at Law 4