No. 23A512

IN THE
SUPREME COURT OF THE UNITED STATES

24-5635 ORIGINAL

KIM BOWERS
PETITIONER

v

PAYSON CITY
RESPONDANTS

Supreme Court, U.S.
FILED
JAN - 6 2024
OFFICE OF THE CLERK

ON PETITION FOR WRIT OF CERTIORARI
TO THE UTAH SUPREME COURT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1- IS UTAH R CRIM. P. 17 (3) (2) CONSTITUTIONAL?

RULE 43

IN THE UNITED STATES THE COURT UNANIMOUSLY HELD, IN AN OPINION WRITTEN BY JUSTICE HARRY BLACKMUN THAT RULE 43 DOES NOT PERMIT THE TRIAL IN ABSENTIA OF A DEFENDANT WHO IS ABSENT AT THE BEGINNING OF TRIAL.

(THE TYPICAL SCENARIO USUALLY INVOLVES A DEFENDANT WHO FLEES MIDTRIAL, FULLY AWARE THAT HE OR SHE IS SUPPOSE TO SHOW UP FOR COURT EACH AND EVERY DAY. RULE 43 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE CLEARLY STATES THAT A DEFENDANT WAIVES THE RIGHT TO BE PRESENT IF HE'S "VOLUNTARILY ABSENT AFTER THE TRIAL HAS COMMENCED." (UNTIL RECENTLY, MOST STATES RULES ON TRIALS IN ABSENTIA WERE SIMILARLY WORDED.) A BAIL JUMPER WHO FORFEITS BOND BY WALKING OUT OF A COURTHOUSE DURING RECESS CERTAINLY FITS INTO THIS CATEGORY.

UNTIL RECENTLY, TRIALS IN ABSENTIA WERE EXCEEDINGLY RARE - MOST JUDGES AND ATTORNEYS WILL NEVER BE INVOLVED WITH ONE. THE PROCEDURE DOESN'T JIBE WITH THE NOTION OF DUE PROCESS, ESPECIALLY THE CONSTITUTIONAL RIGHT OF THE ACCUSED TO CONFRONT WITNESSES. SO, JUDGES ARE CAREFUL TO MAKE SURE THAT A DEFENDANT'S ABSENCE IS TRULY VOLUNTARY, RATHER THAN THE RESULT OF FOUL PLAY, ILL HEALTH, OR LACK OF NOTICE, LEST THEY CREATE GROUNDS FOR AN APPEAL.

IN THE 1993 CASE CROSBY V. UNITED STATES, THE SUPREME COURT RULED THAT FEDERAL LAW "PROHIBITS THE TRIAL IN ABSENTIA OF A DEFENDANT WHO IS NOT PRESENT AT THE **BEGINNING** OF TRIAL.") BY BRENDAN KOERNER JUNE 19 2003

WHEN CAN A DEFENDANT BE TRIED IN ABSENTIA

NOR CAN CRIMINALS BE TRIED IN ABSENTIA BY THE INTERNATIONAL CRIMINAL COURT. ARTICLE 63 OF THE ROME STATUTE, WHICH GOVERNS THE ICC'S OPERATION, SIMPLY STATES "THE ACCUSED SHALL BE PRESENT DURING THE TRIAL"

UTAH R. CRIM. P. 17 WAS THE SAME AS ARTICLE 63 UNTIL EXCEPTION 17(2)(2) WAS ADDED WHICH OPENS TRIAL IN ABSENTIA TO ALL CASES EXCEPT OFFENSES PUNISHABLE BY DEATH.

UTAH R. CRIM. P. 17 AS AMENDED THROUGH MAY 23, 2023 STATES (2) DEFENDANTS PRESENCE. IN ALL CASES THE DEFENDANT SHALL HAVE THE RIGHT TO APPEAR AND DEFEND IN PERSON AND BY COUNSEL. THE DEFENDANT SHALL BE PERSONALLY PRESENT AT THE TRIAL. (THIS PORTION OF LAW IS ABSOLUTELY CONSTITUTIONAL, BUT THE EXCEPTION (2)(2) IS IN CONFLICT, AND GOES DIRECTLY AGAINST THESE CONSTITUTIONAL WORDS) WITHIN A MATTER OF SENTENCES THIS LAW BECOMES COMMUNISTIC INSTEAD OF CONSTITUTIONAL.

UTAH R. CRIM P. 17 (2)(2) IN PROSECUTIONS FOR OFFENSES NOT PUNISHABLE BY DEATH, THE DEFENDANTS VOLUNTARY ABSENCE FROM THE TRIAL AFTER NOTICE TO DEFENDANT OF THE TIME FOR TRIAL SHALL NOT PREVENT THE CASE FROM BEING TRIED AND A VERDICT OR JUDGEMENT ENTERED THEREIN SHALL HAVE THE SAME EFFECT AS IF DEFENDANT HAD BEEN PRESENT.

THEREFORE CONCERNING DEFENDANTS PRESENCE (2) UTAH LAWMAKERS HAVE DECIDED THAT THE DEFENDANT SHALL BE PERSONALLY PRESENT AT THE TRIAL- EXCEPTION (3)(2) UNLESS DEFENDANT IS ABSENT. ABSURD THIS IS NONSENSE LAW.

SECOND QUESTION

IS UTAH CODE SECTION 78A-7-118 (8) CONSTITUTIONAL?

"THE DECISION OF THE DISTRICT COURT IN A CASE ORIGINATING IN A JUSTICE COURT IS FINAL AND MAY NOT BE APPEALED UNLESS THE DISTRICT COURT RULES ON THE CONSTITUTIONALITY OF A STATUTE OR ORDINANCE. . . . THE DECISION OF THE DISTRICT COURT IS FINAL . . . . (THIS GIVES TO MUCH POWER TO THE DISTRICT COURT)

LIST OF PARTIES

ALL PARTIES APPEAR IN THE CAPTION OF THE COVER PAGE

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CHANGED FROM NOVEMBER 10, 2023. DEFENDANT WAS PAGE 1
ASSURED THAT THE FINE WOULD BE STAYED UNTIL AT
LEAST NOVEMBER 10, 2023 AND STATED THAT THE DOCKET
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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

PETITIONER RESPECTFULLY PRAYS THAT A WRIT OF CERTIORARI ISSUE TO REVIEW THE JUDGEMENT BELOW.

OPINIONS BELOW

THE OPINION OF THE HIGHEST STATE COURT TO REVIEW THE MERITS APPEARS AT APPENDIX A PAGES 1-3 (ORDER OF SUMMARY DISMISSAL DATED FEB 27 2023) TO THE PETITION AND IS UNPUBLISHED

AT APPENDIX B TO THE PETITION IS THE ORDER WHICH DENIES DEFENDANTS PETITION FOR WRIT OF CERTIORARI

THE OPINION OF THE DISTRICT COURT APPEARS AT APPENDIX N PAGES 7 & 8 TO THE PETITION AND IS UNPUBLISHED

THE OPINION OF THE JUSTICE COURT APPEARS AT APPENDIX O PAGE 1 TO THE PETITION AND IS UNPUBLISHED

JURISDICTION

THE DATE ON WHICH THE HIGHEST STATE COURT DECIDED MY CASE WAS SEPTEMBER 08, 2023. A COPY OF THAT DECISION APPEARS AT APPENDIX O

A TIMELY PETITION FOR REHEARING WAS THEREAFTER DENIED APRIL 26, 2023

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28 USC § 2576)

28 U.S.C. § 1257(a)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

"A LAW REPUGNANT TO THE CONSTITUTION WILL BE HELD VOID." MARBURY V. MADISON, 5 U.S. 137, WAS A LANDMARK U.S. SUPREME COURT CASE THAT ESTABLISHED THE PRINCIPLE OF JUDICIAL REVIEW IN THE UNITED STATES, MEANING THAT AMERICAN COURTS HAVE THE POWER TO STRIKE DOWN LAWS AND STATUTES THAT THEY FIND TO BE UNCONSTITUTIONAL.

SUPREME COURT RULE 14 (F) PROVISIONS

* ARTICLE VI OF THE CONSTITUTION: "THIS CONSTITUTION AND THE LAWS OF THE UNITED STATES WHICH SHALL BE MADE PURSUANCE THEREOF,' . . . SHALL BE THE SUPREME LAW OF THE LAND,' AND THE JUDGES IN EVERY STATE SHALL BE BOUND THEREBY."

* FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES; "... NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW,.. NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS."

** SIXTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY AND PUBLIC TRIAL, BY AN IMPARTIAL JURY OF THE STATE AND DISTRICT WHEREIN THE CRIME SHALL HAVE BEEN COMMITTED. WHICH DISTRICT SHALL HAVE BEEN PREVIOUSLY ASCERTAINED BY LAW, AND TO BE INFORMED

OF THE NATURE AND CAUSE OF THE ACCUSATION, TO BE CONFRONTED WITH THE WITNESSES AGAINST HIM, TO HAVE COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR, AND TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENSE. ★★

★ FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION "NO PERSON SHALL... BE DEPRIVED OF LIFE, LIBERTY OR PROPERTY, WITHOUT DUE PROCESS OF LAW..."

★ NINTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES; "THE ENUMERATION IN THE CONSTITUTION, OF CERTAIN RIGHTS, SHALL NOT BE CONSTRUED TO DENY OR DISPARAGE OTHERS RETAINED BY THE PEOPLE."

★ ARTICLE I SECTION 7 OF THE CONSTITUTION OF UTAH; "NO PERSON SHALL BE DEPRIVED OF LIFE, LIBERTY OR PROPERTY, WITHOUT DUE PROCESS OF LAW."

★ ARTCLE I SECTION 2 OF THE CONSTITUTION OF UTAH, ALL COURTS SHALL BE OPEN... WHICH SHALL BE ADMINISTERED WITHOUT DENIAL OR UNNECESSARY DELAY; AND NO PERSON SHALL BE BARRED FROM PROSECUTING OR DEFENDING BEFORE ANY TRIBUNAL IN THIS STATE, BY HIMSELF OR COUNSEL, ANY CIVIL CAUSE TO WHICH HE IS A PARTY."

RULE 43

IN THE UNITED STATES THE COURT UNANIMOUSLY HELD IN AN OPINION WRITTEN BY JUSTICE HARRY BLACKMUN, IN THE 1998 CASE OF CROSBY V UNITED STATES,

THAT RULE 43 DOES NOT PERMIT THE TRIAL IN ABSENTIA OF A DEFENDANT WHO IS ABSENT AT THE BEGINNING OF TRIAL

ON OCTOBER 3, 2022, INNOCENT DEFENDANT Kim BOWERS WAS BEDRIDDEN AND WAS ABSENT AT THE BEGINNING OF TRIAL. DEFENDANT DID MOTION TO CONTINUE BENCH TRIAL.

THE UNITED STATES CONSTITUTION PROTECTS A CRIMINAL DEFENDANTS RIGHT TO APPEAR IN PERSON AT THIER TRIAL, AS A MATTER OF DUE PROCESS UNDER THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS.

RULE 43. DEFENDANTS PRESENCE

(a) WHEN REQUIRED. UNLESS THIS RULE, RULE 5, OR RULE 10 PROVIDES OTHERWISE, THE DEFENDANT MUST BE PRESENT at.

(1) THE INITIAL APPEARANCE, THE INITIAL ARRAIGNMENT AND THE PLEA

(2) EVERY TRIAL STAGE, INCLUDING JURY IMPANELMENT AND THE RETURN OF THE VERDICT; AND

(3) SENTENCING

(b) WHEN NOT REQUIRED - NOT APPLICABLE TO INNOCENT DEFENDANT'S CASE. DEFENDANT DID NOT GIVE WRITTEN CONSENT THAT ANY PORTION OF THIS CASE BE DONE IN DEFENDANT'S ABSENCE

(c) WAIVING CONTINUED PRESENCE - NOT APPLICABLE TO INNOCENT DEFENDANT'S CASE.

(2) WAIVER'S EFFECT - NOT APPLICABLE TO INNOCENT DEFENDANTS CASE

IT IS THE ROLE OF THE SUPREME COURT TO INVALIDATE FEDERAL AND STATE LAWS CONTRARY TO THE CONSTITUTION

BENJAMIN FRANKLIN STATED "IT IS BETTER 100 GUILTY PERSONS SHOULD ESCAPE THAN THAT ONE INNOCENT PERSON SHOULD SUFFER."

IN 1769 WILLIAM BLACKSTONE STATED "THE LAW HOLDS THAT IT IS BETTER THAT 10 GUILTY PERSONS ESCAPE, THAN THAT 1 INNOCENT SUFFER (INNOCENT PERSON BE CONVICTED.) ALSO, IN 1895 A U.S. SUPREME COURT CASE STATED "IT IS BETTER TO LET THE CRIME OF A GUILTY PERSON GO UNPUNISHED THAN TO CONDEMN THE INNOCENT.

UNDER U.S. LAW A DEFENDANT IS CONSIDERED INNOCENT UNTIL PROVEN GUILTY. REASONABLE DOUBT STEMS FROM INSUFFICENT EVIDENCE. IF IT CANNOT BE PROVED WITHOUT A DOUBT THAT THE DEFENDANT IS GUILTY, THAT PERSON SHOULD NOT BE CONVICTED.

IT HAS LONG BEEN RECOGNIZED THAT IT IS A VIOLATION OF A DEFENDANTS RIGHT TO NOT BE PRESENT IN COURT PROCEEDINGS IN A CRIMINAL TRIAL. CONVICTION IN A CRIMINAL TRIAL IN WHICH THE DEFENDANT IS NOT PRESENT TO ANSWER THE CHARGES IS HELD TO BE A VIOLATION OF NATURAL JUSTICE.

AN UNCONSTITUTIONAL STATUTE IS ABSOLUTELY VOID AND TO BE CONSIDERED AS THOUGH IT HAD NEVER BEEN PASSED. AS OF 2014, THE UNITED STATES SUPREME COURT HAS HELD 176 ACTS OF THE U.S. CONGRESS UNCONSTITUTIONAL. IN THE PERIOD 1960-2019, THE SUPREME COURT HAS HELD 483 LAWS UNCONSTITUTIONAL IN WHOLE OR IN PART

Statement of The Case

For many years Payson Police have come to Defendants Home stating that they had been called by anonymous to do a welfare check this later turned into accusations by anonymous that Defendant Kim Bowers was running around naked. No citation was ever given in well over ten years because Defendant was obviously clothed and the caller was always anonymous; therefor unwilling to make false statements in writing or purger themselves in a court of law. The most recent that this Humiliating and vulgar accusation was made by anonymous was April 24, 2023, almost 3 years after the July 8, 2020 citation and false charges of lewedness and disorderly conduct were made Defendant is still being terrorized by neighbors with the help of corrupt Payson police and there is no sign of help for disabled Defendant

Not only were these same false charges still being made 3 years after the July 8, 2020 citation, but just 7 weeks before the July 8, 2020 citation, on May 15, 2020, the same corporall Hall and officer Cressall came to Defendants property and stated that he had again recieved a report, but this time instead of running around naked, the false report was that

DEFENDANT WAS WALKING AROUND WITH HER BARE BREASTS EXPOSED. A COPY OF THIS POLICE REPORT APPEARS AT APPENDIX E PAGES 1-2 INCIDENT REPORT 20PA09532

IN HIS POLICE REPORT CORPORAL HALL STATES "I APPROACHED THE DRIVER SIDE AND KNOCKED ON THE WINDOW. I OBSERVED THE FEMALE TO BE **NOT** WEARING CLOTHING THAT COVERED HER BREASTS." THIS WAS A BLATANT LIE BY ONE OF THE CORRUPT PAYSON POLICE. ONLY 7 WEEKS LATER CASSIE DRAPER MAKES A FALSE STATEMENT WITH THIS SAME BLATANT LIE. INSTEAD OF RUNNING AROUND FULLY NAKED AS ACCUSED BY ANONYMOUS FOR TEN YEARS, THE LIE HAS BECOME THAT DEFENDANT IS EXPOSING HER BARE BREASTS. NOW WE HAVE A POLICE OFFICER WHO CONCURS WITH THIS BLATANT LIE FROM ANONYMOUS AND 7 WEEKS LATER CASSIE DRAPER IS MORE THAN HAPPY TO MAKE A FALSE WRITTEN STATEMENT AND PURGER HERSELF IN A COURT OF LAW WITH THIS SAME LIE. THE CASSIE DRAPER FALSE STATEMENT APPEARS AT APPENDIX J PAGES 1-2.

NO OTHER NEIGHBOR OR PASSERBY CALLED POLICE ON JULY 8, 2020 BECAUSE OF DISTURBANCE OF ANY KIND. NO OTHER NEIGHBOR OR PASSERBY HAS EVER PRODUCED PICTURES OR VIDEO OF INNOCENT DEFENDANT RUNNING AROUND NAKED OR WITH BARE BREASTS INCLUDING CASSIE DRAPER. THERE IS NO SOLID

EVIDENCE BECAUSE IT IS A LIE.
IN POLICE REPORT 19PA10447 WHICH APPEARS IN APPENDIX D, THE SAME OFFICER CRESSALL DID COME TO DEFENDANTS PROPERTY ON SEPT 26, 2019 AND DID THREATEN DEFENDANT WITH A DISORDERLY CONDUCT CITATION "IN THE FUTURE", NOTWITHSTANDING THE FACT THAT DEFENDANT HAD BEEN VICTIM TO TRESPASS, THEFT AND DESTRUCTION OF HER PROPERTY BY CASSIE DRAPER AND STEPHANIE HAZEL. DEFENDANT HAS AND DOES BELIEVE THAT CERTAIN POLICE HAVE CONSPIRED WITH CERTAIN NEIGHBORS TO RUN INNOCENT DEFENDANT OFF TRUST PROPERTY. DEFENDANT HAS CONTINUALLY BEEN CITED FOR THE UNCONSTITUTIONAL PAYSON CITY BEUTIFICATION ORDINANCES.

DEFENDANT HAD NEVER SPOKEN DIRECTLY TO CASSIE DRAPER UNTIL THE FEBRUARY 9, 2022 BENCH TRIAL WITH JUDGE FENSTERMAKER WHICH APPEARS IN APPENDIX M PAGES 1-24. THE HEARING IN WHICH JUDGE FENSTERMAKER REFUSES THE PLEA AGREEMENT APPEARS IN APPENDIX L PAGES 1-9

BECAUSE INNOCENT DEFENDANT IS A DISABLED SENIOR CITIZEN AND THE STRESS OF COURT WAS CAUSING EXTREME EXACERBATION, DEFENDANT HAD AGREED TO A PLEA AGREEMENT FOR HEALTH REASONS ONLY

JUDGE FENSTERMAKER REFUSED THE PLEA AGREEMENT STATING TO DEFENDANT "I CANNOT ACCEPT YOUR PLEA, AS KNOWING, AND THAT IS A LEGAL TERM. (WHEN YOU TELL ME IN THE SAME CONVERSATION) YOU ARE INNOCENT SO I WILL SCHEDULE A TRIAL ON . . . (AT 20:48) THIS APPEARS IN APPENDIX L PAGE 7.

ALSO, ATTORNEY DALLEY STATED "SPEAKING WITH CASSIE THERE WERE EVIDENTIARY CONCERNS WITH THE OTHER CHARGE. (LEWEDNESS) THAT CHARGE WILL BE DROPPED (AT 9:36) APPEARING AT APPENDIX L PAGE 3

DEFENDANT BELIEVES THAT PROSECUTOR DALLEY HAS KNOWN ALL ALONG THAT THE WILD ACCUSATIONS OF CASSIE DRAPER WERE LIES. INNOCENT DEFENDANT DID TELL ATTORNEY DALLEY THAT SHE DID BELIEVE THIS WAS MALICIOUS PROSECUTION.

DEFENDANT DOES HAVE EVIDENCE THAT THE LEWEDNESS CHARGE WAS A LIE. CASSIE TESTIFIED THAT DEFENDANT PULLED UP HER SHIRT TO COVER HERSELF. THIS WAS AND IS IMPOSSIBLE. THE DRESS DEFENDANT WAS WEARING WAS VERY TIGHT AND COULD NOT BE PULLED UP OR DOWN. DEFENDANT HAS TO PUT THIS DRESS ON AND TAKE IT OFF OVER HER HEAD. DEFENDANT STILL HAS THIS EVIDENCE

IN THE FEBRUARY 9, 2022 TRIAL, CASSIE DRAPER DOES TESTIFY THAT INNOCENT DEFENDANT WAS MOSEYING (WALKING SLOWLY) WITH HER BARE BREASTS ON A DAILY BASIS FOR THREE YEARS. AGAIN, NO OTHER NEIGHBOR, NO PASSERBY WITH A PHONE CAMERA, NOT EVEN CASSIE DRAPER HAS EVER TAKEN A PICTURE OR A VIDEO OF THIS SO CALLED DAILY EVENT. THIS APPEARS IN APPENDIX M PAGE 10. CASSIE DRAPER ALSO TESTIFIES THAT DEFENDANT BOWERS THREATENED THAT SHE HAD A SHOTGUN ON A DAILY BASIS THIS APPEARS IN APPENDIX M PAGES 12-14

AGAIN, NO VIDEO OF THIS THREAT WHICH CASSIE DRAPER STATES WAS MADE ON A DAILY BASIS HAS EVER BEEN BROUGHT FORTH FROM ANYONE INCLUDING CASSIE DRAPER BECAUSE CASSIE DRAPER LIES HER TESTIMONY BECOMES CONFLICTING AND SHE DOES TESTIFY THAT SHE NEVER ACTUALLY SEEN DEFENDANT WITH A SHOT GUN FOR A PERIOD OF THREE YEARS. DEFENDANT WAS FOUND GUILTY AND ON MARCH 13, 2022 FINED $50.00

DEFENDANT DID APPEAL MARCH 30, 2022 BECAUSE DEFENDANT IS INNOCENT AND DID BELIEVE 4 VIDEOS WOULD PROVE THAT CASSIE DRAPER, THE SOLE EVIDENCE IS A LIAR. OFFICER CRESSALL DID TESTIFY THAT DEFENDANT WAS CITED ON CASSIE DRAPERS' "WORD ALONE." THIS APPEARS IN APPENDIX M PAGE 20

DEFENDANT DID APPEAL MAKING CLEAR TO THE COURT SHE NEEDED TO SHOW 4 VIDEOS. INNOCENT DEFENDANT SPENT MANY HOURS SENDING THESE VIDEOS TO THE SPANISH FORK COURT AND THEY DID CONFIRM THAT THEY HAD RECIEVED THEM. DEFENDANT WAS READY FOR COURT JUNE 27, 2022, BUT ON THE DAY OF THE TRIAL, AT THE TIME FOR TRIAL, DEFENDANT WAS TOLD THE TRIAL HAD BEEN CONTINUED BY PROSECUTION. APPEARING IN APPENDIX P PAGE 1 IS THE 2016 CASE

DEFENDANT HAD RECIEVED REPEATED WARNINGS "FAILURE TO APPEAR WILL RESULT IN THE APPEAL BEING DISMISSED AND REMANDED BACK TO THE JUSTICE COURT." THIS DID HAPPEN FEBRUARY 18, 2016 WHEN THE SAME FALSE CHARGES WERE MADE App P pg 1 2016 CASE. WAS DISMISSED AND REMANDED

ALSO, PURSUANT TO UTAH CODE 78A-7-118 (9) UPON ENTERING A DECISION IN A HEARING DE NOVO, THE DISTRICT COURT SHALL REMAND THE CASE TO THE JUSTICE COURT

BECAUSE DEFENDANT HAD JUST GOTTEN OUT OF THE HOSPITAL AND WAS STILL EXTREMELY ILL, DEFENDANT DID MOTION TO CONTINUE.

AT THE TIME DEFENDANT TURNED IN HER MOTION TO CONTINUE, COURT CLERKS DID STATE THAT THEY NO LONGER HAD DEFENDANTS 4 VIDEOS FOR TRIAL. THIS CAUSED EVEN MORE STRESS AND DEFENDANT BECAME BEDRIDDEN.

ON OCTOBER 3, 2022 INNOCENT DEFENDANT WAS BEDRIDDEN AND A VINDICTIVE, UNCONSTITUTIONAL TRIAL IN ABSENTIA DID TAKE PLACE.

IN THE AUDIO OF THE OCTOBER 3, 2022 TRIAL IN ABSENTIA EVERYONE SOUNDS AS IF THEY ARE REHEARSING FOR A HIGH SCHOOL PLAY, AND DEFENDANT HAD BEEN REFUSED THIS AUDIO FOR MONTHS. ATTORNEY DALLEY DOES LEAD THE WITNESS WITH NO OBJECTIONS. FOR THE FIRST TIME CASSIE DRAPER DOES TESTIFY THAT DEFENDANT "WAS MAKING SIGNALS WITH HER HANDS," "LIKE SHE WAS HOLDING A GUN AT US."

THE ONLY TIME DEFENDANT HAS MADE THIS GESTURE WAS TO SHOW PAYSON POLICE WHAT NEIGHBOR LAWRENCE WINDLEY HAD DONE, JUST 3 MONTHS PRIOR TO THE OCT. 3, 2022 TRIAL IN ABSENTIA EXHIBIT APP K PAGES 1-4 REPORT 22PA01225 on 6/28/22

ALSO, OFFICER TYLER CRESSALL DOES LIE - DOES PURGER HIMSELF STATING "THEY ALLOWED ME TO LOOK AROUND FOR THE LAWNMOWER AND THERE WAS NO EVIDENCE AT ALL. IN TRUTH, THE BODYCAM SHOWS OFFICER CRESSAL WALKING DIRECTLY TO HAZELS AND STATING "I KNOW YOU DIDN'T STEAL HER LAWNMOWER" THIS SHOWS PREJUDICE AS I STATED AT THE FEB 9, 2021 TRIAL.

REASONS FOR GRANTING THIS PETITION

UTAH R CRIM. P. 17 (e) (2) IS UNCONSTITUTIONAL AND UTAH CODE SECTION 78 A-2-118 (8) is UNCONSTITUTIONAL BOTH MUST BE HELD VOID

CONCLUSION

THE PETITION FOR A WRIT OF CERTIORARI SHOULD BE GRANTE

THIS PETITION IS SET FORTH IN THE INTEREST OF JUSTICE IN PROTECTING INNOCENT DEFENDANT BOWERS RIGHT TO PETITION FOR A REDRESS OF GRIEVANCES AND ENSURE DEFENDANTS RIGHT OF DUE PROCESS. THERE HAS BEEN MALICOUS PROSECUTION, DISABLED DEFENDANT HAS BEEN FORCED INTO COURT FOR WELL OVER THREE (3) YEARS WITH NO OTHER EVIDENCE EXCEPT A WITNESS WILLING TO LIE AND PURGER HERSELF IN COURT. THERE WAS AN UNCONSTITUTIONAL AND VINDICTIVE TRIAL IN WHICH DEFEDANT WAS FOUND GUILTY IN HER ABSENCE AND WAS FINED OVER 3 TIMES MORE 160^{00} INSTEAD OF 50^{00}. THIS WAS VINDICTIVE. ALSO, THE COURT STATED THAT THE FINE WOULD BE STAYED UNTIL NOVEMBER 10, 2023. THIS WAS A LIE, THE DOCKET WAS CHANGED AND OUT OF VINDICTIVENESS, THE FINE HAS ALREADY BEEN SENT TO COLLECTIONS WHILE I AM IN APPEAL. App Q R+S I REQUEST RELIEF. THE DECISIONS OF THE SUPREME COURT REASSURE THAT THE RETALIATORY USE OF THE INSTUTRUMENTALITIES OF PUNISHMENT IN RESPONSE TO A CRIMINAL DEFENDANT'S ASSERTION OF A PROCEDURAL RIGHT IS PATENTLY UNLAWFUL.

IF UTAH R CRIM P 17 (2)(2) IS UNCONSTITUTIONAL AND HELD VOID, THIS CASE MUST BE REMANDED TO THE JUSTICE COURT

DATED MAY 14, 2024 RESPECTFULLY SUBMITTED,

Kim Bowers
Kim Bowers

CERTIFICATE OF SERVICE

THIS WAS SENT TO brandond@payson.org, UTAH ATTORNEY GENERA

CLERK OF COURT OF THE UNITED STATES