

No. _____

IN THE
Supreme Court of the United States

IN RE DANA ALBRECHT,

Petitioner

On Petition for a Writ of Mandamus to the
Supreme Court of New Hampshire

PETITION FOR A WRIT OF MANDAMUS

APPENDIX

DANA ALBRECHT

Petitioner Pro Se

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THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2023-0181, K.A. v. D.A., the court on October 24, 2024, issued the following order:

D.A.'s October 18, 2024 ex parte motion for additional extension of time is denied.

This order is entered by a single justice (Countway, J.). See Rule 21(7).

**Timothy A. Gudas,
Clerk**

Distribution:

Mr. Dana Albrecht

Ms. Katherine Albrecht

File

NH CRIME

Indicted judge: N.H. Supreme Court chief justice said meeting with governor seemed appropriate

The associate justice is facing felony and misdemeanor charges for allegedly telling Governor Chris Sununu an investigation into her husband needed to wrap up quickly

By **Steven Porter** Globe Staff, Updated October 23, 2024, 5:50 p.m.



New Hampshire Attorney General Gordon MacDonald JESSICA RINALDI

7a
CONCORD, N.H. — An associate justice on the New Hampshire Supreme Court who was indicted last week over a conversation she had with Governor Christopher T. Sununu said in a court filing Wednesday that the chief justice told her in advance it would be acceptable for her to meet with Sununu.

Associate Justice Anna Barbara Hantz Marconi is facing felony and misdemeanor charges for allegedly telling Sununu on or about June 6 that an investigation by the attorney general's office into her husband was meritless and needed to wrap up quickly because she had recused herself from important pending cases.



New Hampshire Supreme Court Associate Justice Anna Barbara "Bobbie" Hantz Marconi STATE OF NEW HAMPSHIRE

Hantz Marconi, 68, said she communicated with Chief Justice Gordon J. MacDonald ahead of time about her desire to request a meeting with Sununu, and MacDonald signaled doing so seemed appropriate.

“I think you can do that,” MacDonald said, ^{9a} according to Hantz Marconi’s recollection relayed in her court filing. “You are a constituent and have concerns.”

Hantz Marconi called on MacDonald to recuse himself from a disciplinary proceeding against her, saying he would clearly be a witness in her criminal case based on their prior conversation.

The office that oversees attorney disciplinary matters advised the Supreme Court on Monday to suspend Hantz Marconi’s license to practice law immediately, and she responded Wednesday by voluntarily accepting the suspension while continuing to deny the charges.

“She maintains her innocence,” attorneys Richard Guerriero and Oliver Bloom wrote in her response. “Nonetheless, she recognizes that a temporary suspension of her right to practice law is appropriate during her administrative leave while the criminal case is pending.”

Without addressing the particulars of Hantz Marconi’s motion, MacDonald and the other three justices — Senior Associate Justice James P. Bassett, Associate Justice Patrick E. Donovan, and Associate Justice Melissa B. Countway — all recused themselves Wednesday, citing their desire to avoid adjudicating the conduct of a current colleague.

“Our recusal is conditioned upon the availability of substitute justices to participate in this case,” they noted. “In the event that substitute justices are not available, the ‘rule of necessity’ may compel our participation.”

Under the relevant state law, the chief justice or senior associate justice may assign a retired judge to fill a vacancy temporarily. If a retired Supreme Court justice is unavailable, they can assign a retired Superior Court judge. If that’s not possible, they can appoint a current Superior Court judge. If there is still no one available, they can select from the current district and probate court judges.

10a
It was not immediately clear who might be on the clerk's list of judges willing to serve temporarily as Supreme Court justices.

Spokespeople for the New Hampshire Supreme Court and the New Hampshire Department of Justice declined to comment on Hantz Marconi's filing.

Geno J. Marconi, Hantz Marconi's husband, was indicted Thursday by a grand jury on felony witness tampering and other charges. Marconi is the director of the New Hampshire Port Authority.

Steven Porter can be reached at steven.porter@globe.com. Follow him @reporterporter.

Show comments

THE STATE OF NEW HAMPSHIRE**SUPREME COURT**

In Case No. LD-2024-0014, In the Matter of Anna Barbara Hantz Marconi, Esquire, the clerk of court on October 23, 2024, issued the following order:

On October 21, 2024, the court received a filing from the Attorney Discipline Office (ADO), which included copies of indictments charging the respondent, Anna Barbara Hantz Marconi, with: (1) attempt to commit improper influence, a felony; (2) criminal solicitation (improper influence), a felony; (3) official oppression, a misdemeanor; (4) criminal solicitation (official oppression), a misdemeanor; (5) obstructing government administration, a misdemeanor; and (6) two counts of criminal solicitation (misuse of position), misdemeanors. Pursuant to Supreme Court Rule 37(9)(i), when an attorney is charged with any felony, "the court shall take such actions as it deems necessary, including but not limited to the suspension of the attorney." The ADO's filing recommends an interim suspension pursuant to this provision.

The respondent, a justice of this court, has been on administrative leave since July 25, 2024, and has been relieved of her judicial and administrative duties at the court since that date. By order dated October 17, 2024, the court extended her administrative leave "pending further developments in [the criminal] case and any other proceedings related to the conduct at issue." Although currently on administrative leave, the respondent remains a justice and, as such, must not engage in the practice of law. See Rule 3.10 of the Code of Judicial Conduct (Supreme Court Rule 38).

On October 23, 2024, the respondent filed an assented-to motion to accept the "recommended suspension of [her] right to practice law for a time period coextensive with her administrative leave" ordered on October 17, 2024. A ruling on the assented-to motion is deferred in light of the need to appoint substitute justices under RSA 490:3.

This order is entered pursuant to Rule 21(8).

**Timothy A. Gudas,
Clerk**

Distribution:

Richard C. Guerriero, Jr., Esq.

Brian R. Moushegian, Esq.

File

THE STATE OF NEW HAMPSHIRE**SUPREME COURT**

In Case No. LD-2024-0014, In the Matter of Anna Barbara Hantz Marconi, Esquire, the court on October 23, 2024, issued the following order:

Each justice whose name is listed below has recused himself or herself from this case. Resolving it would require us to adjudicate the conduct of a current colleague, Anna Barbara Hantz Marconi (the respondent). See Lorenz v. N.H. Admin. Office of the Courts, 151 N.H. 440, 444 (2004). We therefore request that substitute justices be appointed under RSA 490:3. Our recusal is conditioned upon the availability of substitute justices to participate in this case. In the event that substitute justices are not available, the “rule of necessity” may compel our participation. See Lorenz, 151 N.H. at 444.

In light of the foregoing, the respondent’s motion to recuse Chief Justice Gordon J. MacDonald is moot and need not be addressed.

MacDonald, C.J., and Bassett, Donovan, and Countway, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

Richard C. Guerriero, Jr., Esq.

Brian R. Moushegian, Esq.

File

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

No. LD-2024-0014

IN THE MATTER OF
ANNA BARBARA HANTZ MARCONI, ESQUIRE

MOTION TO RECUSE CHIEF JUSTICE GORDON MACDONALD

Associate Justice Anna Barbara Hantz Marconi, through undersigned counsel, hereby moves for the recusal of Chief Justice Gordon MacDonald, for the reasons set forth below.

1. Anna Barbara Hantz Marconi is an Associate Justice of this Court.
2. Justice Hantz Marconi was placed on administrative leave by the Court on July 25, 2024.
3. On October 16, 2024, New Hampshire Attorney General John Formella obtained indictments against Justice Hantz Marconi from a Merrimack County Grand Jury, in *State of New Hampshire v. Anna Barbara Hantz Marconi*, no. 217-2024-CR-01167.
4. On October 17, 2024, this Court ordered that its “July 25, 2024 order concerning the period of Associate Justice Anna Barbara Hantz Marconi’s administrative leave is extended pending further developments in that case and any other proceedings related to the conduct at issue.”
5. Justice Hantz Marconi did not commit any crime. She is innocent. She denies the allegations in the indictments. However, during the pendency of the criminal case, she is not opposing the Attorney Discipline Office’s recommendation that her right to practice law be suspended.
6. However, because Supreme Court Rule 21A requires that the issue of recusal be raised promptly, Justice Hantz Marconi is required to file this motion.

7. Justice Hantz Marconi moves to recuse Chief Justice Gordon MacDonald because, upon review of the indictments, it is evident that Chief Justice MacDonald is a material witness in the criminal case.

8. Under Supreme Court Rule 21A, a motion for recusal must state the factual and legal basis for the motion, state when the moving party became aware of the grounds for the motion, be filed in a timely manner, and be verified by the moving party.

9. The grounds for recusal are that Chief Justice MacDonald is a material witness in the criminal case against Justice Hantz Marconi.

10. Justice Hantz Marconi is accused of meeting with Governor Christopher Sununu on June 6, 2024. In connection with that meeting, Attorney General John Formella claims that Justice Hantz Marconi committed the crimes of Attempt to Commit Improper Influence, Criminal Solicitation of Improper Influence, Official Oppression, Criminal Solicitation of Official Oppression, Obstructing Government Administration, and Criminal Solicitation of Misuse of Position.

11. Justice Hantz Marconi did meet with Governor Sununu on June 6, 2024. The meeting was entirely lawful and proper. One of the key facts demonstrating that the meeting was lawful and proper is that Justice Hantz Marconi communicated with Chief Justice MacDonald prior to meeting with Governor Sununu. Justice Hantz Marconi explained to Chief Justice MacDonald that she was considering requesting a meeting with the Governor. The Chief Justice's response was, "I think you can do that – You are a constituent and have concerns." Justice Hantz Marconi understood this comment to confirm her view that she had the right to seek to address the Governor, just as any other citizen would have that right. This is Justice Hantz Marconi's recollection. She verifies these facts by her attached affidavit.

12. The New Hampshire Constitution provides, in part, that it “is essential to the preservation of the rights of every individual, [her] life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice” and therefore that it “is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit.” N.H. Const. pt. I, art. 35. “The Code of Judicial Conduct reflects this guarantee.” *State v. Ayer*, 150 N.H. 14, 35 (2003).

13. A judge should recuse himself if he is interested in the case. *See Moses v. Julian*, 45 N.H. 52 (1863).

14. The New Hampshire “Code of Judicial Conduct requires disqualification of a judge in a proceeding in which the judge’s impartiality might reasonably be questioned and to avoid even the appearance of impropriety.” *State v. Whittey*, 149 N.H. 463, 465 (2003) (quoting *State v. Bader*, 148 N.H. 265, 268 (2002)). *See* Sup. Ct. R. 38, Canon 2.11.

15. Circumstances where a judge’s impartiality might reasonably be questioned and where a “judge shall disqualify himself” include a situation where the “judge knows that the judge...is...likely to be a material witness in the proceeding” or when the “judge...was a material witness concerning the matter.” Sup. Ct. R. 38, Canons 2.11(A)(2)(d), (A)(5)(c).

16. Beyond the specific situations described in Canon 2.11, appearances of impropriety also require a judge’s disqualification. *Whittey*, 149 N.H. at 465. *See also Bader*, 148 N.H. at 268. An appearance of impropriety “is determined under an objective standard, *i.e.*, would a reasonable person, not the judge herself, question the impartiality of the court.” *Blevens v. Town of Bow*, 146 N.H. 67, 69 (2001) (quoting *Taylor-Boren v. Isaac*, 143 N.H. 261, 268 (1998)). “The test for an appearance of partiality is an objective one, that is, whether an objective, disinterested observer, fully informed of the facts, would entertain significant doubt that

justice would be done in the case.” *Id* (quoting *Taylor-Boren*, 143 N.H. at 268).

17. Chief Justice MacDonald is likely to be called as a witness by either Justice Hantz Marconi or Attorney General Formella in the criminal case or in related matters, including matters before this Court.

18. Justice Hantz Marconi raises the issue of recusal in a timely manner. Until the proceeding initiated by the Attorney Discipline Office yesterday, October 22, 2024, there was no matter docketed at this Court in which Justice Hantz Marconi was a litigant. In addition, Attorney General Formella’s indictments were not returned until October 16, 2024. Justice Hantz Marconi and counsel are immediately notifying this Court, today, October 23, 2024, of the grounds for recusal of Chief Justice MacDonald. Justice Hantz Marconi certifies that she had no opportunity to notify the Court of the recusal issue prior to now. In short, this motion is timely.

19. Justice Hantz Marconi verifies the facts in this motion by her attached affidavit.

20. Considering these circumstances, Chief Justice MacDonald is required to recuse himself from this and related matters.

21. General Counsel Brian Moushegian of the Attorney Discipline Office states that he takes no position on this motion.

WHEREFORE, Justice Anna Barbara Hantz Marconi respectfully requests that Chief Justice Gordon MacDonald be recused from this and all related matters.

October 23, 2024.

Respectfully submitted by
Counsel for Justice Anna Barbara
Hantz Marconi

/s/ Richard Guerriero
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CERTIFICATE OF SERVICE

General Counsel Brian Moushegian of the Attorney Discipline
Office is a registered e-filer in this matter and will receive a copy of this
motion through the e-file system.

October 23, 2024.

/s/ Richard Guerriero
Richard Guerriero

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

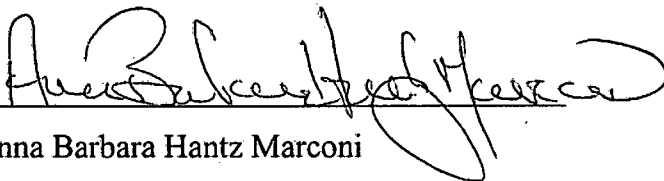
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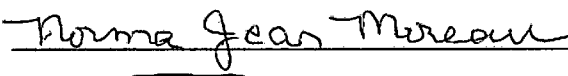
IN THE MATTER OF
ANNA BARBARA HANTZ MARCONI, ESQUIRE

AFFIDAVIT OF ANNA BARBARA HANTZ MARCONI

Anna Barbara Hantz Marconi, known to me or proven to be the same, personally appeared before me and affirmed under penalty of perjury that the facts stated in the foregoing motion are true and correct to the best of her knowledge, information, and belief.

October 23, 2024, at Exeter, New Hampshire.


Anna Barbara Hantz Marconi


Justice of the Peace/Notary Public
My Comm. Expires: 11-2-2025

20a
New Hampshire Supreme Court

Attorney Discipline Office

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October 21, 2024

VIA ELECTRONIC AND FIRST-CLASS MAIL

Timothy Gudas, Clerk
New Hampshire Supreme Court
One Charles Doe Drive
Concord, New Hampshire 03301

Re: In the Matter of Anna Barbara Hantz Marconi, Esquire
LD-2024-

Dear Mr. Gudas:

Pursuant to New Hampshire Supreme Court Rule 37(9)(i), I have enclosed copies of indictments indicating that Anna Barbara Hantz Marconi, Esquire, has been charged with: (1) Attempt to Commit Improper Influence (NH RSA 629:1; 640:3, I(b)), a felony; (2) Criminal Solicitation (Improper Influence) (NH RSA 629:2, I; 640:3, I(b)), a felony; (3) Official Oppression (NH RSA 643:1), a misdemeanor; (4) Criminal Solicitation (Official Oppression) (NH RSA 629:2, I; NH RSA 643:1), a misdemeanor; (5) Obstructing Government Administration (NH RSA 642:1, I), a misdemeanor; and (6) two counts of Criminal Solicitation (Misuse of Position) (NH RSA 629:2, I; 21-G:23, II) misdemeanors. In addition to the two felony charges, it appears that the alleged misdemeanors all involve the interference with the administration of justice and are "Serious Crimes" as defined by Supreme Court Rule 37(9)(b).

Given the serious nature of the alleged conduct for which Ms. Hantz Marconi was indicted, it is the recommendation of the Attorney Discipline Office that the Court institute formal proceedings, pursuant to Rule 37(9)(i), that result in Ms. Hantz Marconi's immediate suspension from the practice of law.

Please let me know if the Court requests further information.

Sincerely,


Brian R. Moushegian
General Counsel

BRM/jht

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

No. 2023-0181

Katherine Albrecht

v.

Dana Albrecht

Ex Parte Motion for Additional Extension of Time

NOW COMES Dana Albrecht, *Pro Se*, and respectfully requests for this Court *immediately* again to extend the time for Mr. Albrecht to file a *Motion for Reconsideration* of this Court's October 1, 2024 *Order*. In support thereof, it is stated:

1. Mr. Albrecht continues to have health issues that have limited the time Mr. Albrecht can spend writing pleadings.
2. The federal First Circuit Court of Appeals "routinely grants motions to vacate briefing defaults for good cause shown" and medical reasons are "typically accepted as good cause" without the need for a sworn affidavit. *See, e.g., Hassell v. Kimbark*, No. 24-1442, Order (1st Cir. Oct. 2, 2024).¹ This Court should do likewise.
3. On July 8, 2024, this Court (all five justices concurring) ordered² that:

D.A.'s motion for "clarification re; Justice Marconi" is denied. Justice Hantz Marconi has reviewed this matter and has determined that she is not disqualified.

¹ A copy of the First Circuit's *Order* is available online at:
<https://www.courtlistener.com/docket/68509562/00108197465/hassell-v-kimbark/>

² A copy of the order is annexed hereto.

4. Yesterday, on October 17, 2024, this Court further ordered³ that:

In light of the allegations in the indictments returned by the Merrimack County Grand Jury (Merrimack County Superior Court docket no. 217-2024-CR-01167, State of New Hampshire v. Anna Barbara Hantz Marconi), the court's July 25, 2024 order concerning the period of Associate Justice Anna Barbara Hantz Marconi's administrative leave is extended pending further developments in that case and any other proceedings related to the conduct at issue.

5. Mr. Albrecht believes that this Court's Orders dated July 8, 2024 (at ¶3) and October 17, 2024 (at ¶4) are mutually contradictory.
6. Mr. Albrecht requires additional time to research this issue.
7. Further, this Court has *also* suddenly announced only yesterday⁴ that "Beginning October 18, 2024, and continuing for several weeks, the New Hampshire Law Library will be open to the public by appointment only," further limiting Mr. Albrecht's available resources to prepare pleadings.
8. Granting the extension would not be unfairly prejudicial against Ms. Albrecht.
9. Not granting the extension would be unfairly prejudicial against Mr. Albrecht. In particular, Mr. Albrecht is a *pro se* litigant who requires more time than a professional attorney to prepare pleadings.
10. For the foregoing reasons, this Court should grant an additional 15-day extension of time for Mr. Albrecht to file a *Motion for Reconsideration* of this Court's October 1, 2024 *Order*, up to and including Tuesday, November 12, 2024.

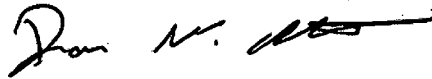
³ A copy of the order is annexed hereto.

⁴ See <https://www.courts.nh.gov/news-and-media/new-hampshire-law-library-notice>

WHEREFORE, Mr. Albrecht respectfully requests for this Court:

- A) *Immediately* to extend the time for Mr. Albrecht to file a *Motion for Reconsideration* of this Court's October 1, 2024 *Order* up to and including Tuesday, November 12, 2024; and,
- B) For any other such relief as is just and equitable.

Respectfully submitted,



DANA ALBRECHT

Appellant-Defendant Pro Se

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Nashua, NH 03060

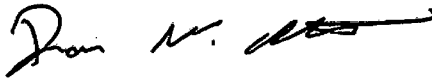
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October 18, 2024

CERTIFICATE OF SERVICE

I, Dana Albrecht, certify that a printed copy of this *Motion* and the accompanying documents will be mailed to the Clerk of this Court via first-class postal mail.



DANA ALBRECHT

October 18, 2024

STATE OF NEW HAMPSHIRE
SUPREME COURT OF NEW HAMPSHIRE

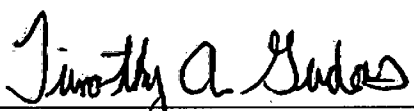
O R D E R

In light of the allegations in the indictments returned by the Merrimack County Grand Jury (Merrimack County Superior Court docket no. 217-2024-CR-01167, State of New Hampshire v. Anna Barbara Hantz Marconi), the court's July 25, 2024 order concerning the period of Associate Justice Anna Barbara Hantz Marconi's administrative leave is extended pending further developments in that case and any other proceedings related to the conduct at issue.

MacDonald, C.J., and Bassett, Donovan, and Countway, JJ., concurred.

Issued: October 17, 2024

ATTEST:



Timothy A. Gudas, Clerk of Court
Supreme Court of New Hampshire

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2023-0181, K.A. v. D.A., the court on October 11, 2024, issued the following order:

D.A.'s ex parte motion for extension of time is granted. D.A. may file a motion for reconsideration on or before October 28, 2024.

This order is entered by a single justice (Donovan, J.). See Rule 21(7).

**Timothy A. Gudas,
Clerk**

Distribution:
Dana Albrecht
Katherine Albrecht
File

**United States Court of Appeals
For the First Circuit**

No. 24-1442

MATTHEW-LANE HASSELL,

Plaintiff - Appellant,

v.

DEVIN AILEEN KIMBARK; CHERYL L. KIMBARK; MARK KIMBARK; JUDGE TODD H.
PREVETT; JUDGE MICHAEL L. ALFANO; JUDGE KERRY P. STECKOWYCH,

Defendants - Appellees.

ORDER OF COURT

Entered: October 2, 2024

Appellees Michael L. Alfano, Todd H. Prevett, and Kerry P. Steckowych have filed an opposed motion for leave to file answering brief and to be heard at any oral argument. This court routinely grants motions to vacate briefing defaults for good cause shown, and medical treatment is typically accepted as good cause. The motion is not required to contain a sworn affidavit, and the motion does not appear to be frivolous.

Accordingly, Appellees' motion is granted. The default order entered on September 9, 2024, is vacated as to those three Appellees, and their proposed brief is accepted for filing on this date.

By the Court:

Anastasia Dubrovsky, Clerk

cc:

Matthew-Lane Hassell

Devin Aileen Kimbark

Cheryl L. Kimbark

Mark Kimbark

Anthony J. Galdieri

John M. Formella

Nathan W. Kenison-Marvin

THE STATE OF NEW HAMPSHIRE**SUPREME COURT**

In Case No. 2023-0181, K.A. v. D.A., the court on October 1, 2024, issued the following order:

The court has reviewed the written arguments and the record submitted on appeal, and has determined to resolve the case by way of this order. See Sup. Ct. R. 20(2). The defendant, D.A., appeals an order of the Circuit Court (Rauseo, J.) granting a request by the plaintiff, K.A., to extend a domestic violence final order of protection. See RSA 173-B:5, VI (2022). The defendant raises numerous issues on appeal. We affirm.

We briefly summarize the procedural history of this appeal. The defendant filed his notice of appeal on March 29, 2023, the day before the scheduled hearing on the trial court's ex parte February 24, 2023 order extending for one year a protective order that was in effect through February 25, 2023. See RSA 173-B:5, VI. The trial court reasonably understood the defendant's appeal to divest it of continuing jurisdiction, prompting the court to cancel the hearing. See Rautenberg v. Munnis, 107 N.H. 446, 447 (1966). On August 30, 2023, the defendant filed his brief in this court, raising numerous issues that could not be properly addressed without a fully-developed factual record. On October 20, 2023, we remanded the case to the trial court for a hearing, as required by RSA 173-B:5, VI, to allow for the creation of a fully-developed factual record and to enable us to address the defendant's issues within the context of his case. We retained jurisdiction over the appeal. The trial court held a hearing on November 16, 2023, and on November 28, 2023, issued an order extending the domestic violence protective order. A transcript of the hearing was filed with this court on April 24, 2024.

On June 10, 2024, the defendant identified additional issues that arose post-remand. On July 8, 2024, we allowed the defendant thirty days to file a supplemental brief addressing those issues as well as any issues remaining from case number 2023-0602, which we dismissed as moot without prejudice to his raising any argument presented in that appeal through supplemental briefing in this appeal. The defendant did not file a supplemental brief within the time allowed. Accordingly, we deemed the defendant to have waived supplemental briefing. We now consider the issues raised in the defendant's initial brief based upon the record submitted on appeal in this case, including the transcript of the remand hearing and the trial court's November 28, 2023 order.

We construe the defendant's brief to argue that the record does not support the trial court's finding that there was "good cause" to extend the protective order. See MacPherson v. Weiner, 158 N.H. 6, 10 (2008) (defining "good cause" in the context of stalking order extension). "For a showing of 'good cause' the trial court must . . . assess whether the current conditions are such that there is still a concern for the safety and well-being of the plaintiff." Id. In its assessment, the trial court must review the circumstances giving rise to the original protective order and any violation of the order. See id. "The trial court should also take into account any present and reasonable fear by the plaintiff." Id. "Where the trial court determines that the circumstances are such that, without a protective order, the plaintiff's safety and well-being would be in jeopardy, 'good cause' warrants an extension." Id.

In its November 28, 2023 order, the trial court expressed concern that the defendant still fails to understand that his behavior on November 3, 2019, which was the basis for the initial domestic violence protective order, constituted abuse as defined in RSA 173-B:1, I (2022). The court also expressed concern that the defendant continues to attempt to litigate the issue, more than three years after we upheld the trial court's decision granting the initial protective order. The trial court found that the defendant's failure to understand that his behavior on November 3, 2019, constituted abuse "would cause a person of ordinary sensibilities, at whom his conduct was directed, to fear for his or her safety and well-being."

"The trial court is in the best position to view the current circumstances, as well as the defendant's prior acts, and determine whether an extension is necessary for the safety and well-being of the plaintiff." MacPherson, 158 N.H. at 11. The trial court found that, without a protective order, "there is a substantial risk that [the defendant] will engage in similar behavior that resulted in the issuance of the initial protective order." Accordingly, the court found that the defendant "continues to pose a present credible threat to [the plaintiff's] safety," warranting an extension of the protective order. Based upon this record, we conclude that the trial court could have reasonably found good cause to extend the protective order, see MacPherson, 158 N.H. at 10-11, and that the court sufficiently stated its reasons for granting the extension, see RSA 173-B:5, VI.

The initial protective order had been previously extended for one year. RSA 173-B:5, VI provides that, upon a showing of good cause, a protective order may be extended for up to five years after the expiration of the first extension, "at the request of the plaintiff and the discretion of the court." Although the plaintiff requested a five-year extension, the trial court extended the protective order to December 30, 2026, a period of approximately three years, "[b]ased upon [the defendant's] continued failure to understand the abuse he engaged in on November 3, 2019." We conclude that the trial court

sustainably exercised its discretion in extending the protective order to December 30, 2026. See MacPherson, 158 N.H. at 10.

We decline to address the defendant's remaining issues because they are either inadequately briefed, see State v. Blackmer, 149 N.H. 47, 49 (2003), not preserved, see Bean v. Red Oak Prop. Mgmt., 151 N.H. 248, 250-51 (2004), beyond the scope of this appeal, or rendered moot by the trial court's removal of a restriction the defendant challenges.

Affirmed.

MacDonald, C.J., and Bassett, Donovan, and Countway, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

9th N.H. Circuit Court - Nashua Family Division, 659-2019-DV-00341

Honorable Kevin P. Rauseo

Honorable Ellen V. Christo

Mr. Dana Albrecht

Ms. Katherine Albrecht

Sherri L. Miscio, Supreme Court

Francis C. Fredericks, Supreme Court

File

STATE OF NEW HAMPSHIRE
SUPREME COURT OF NEW HAMPSHIRE

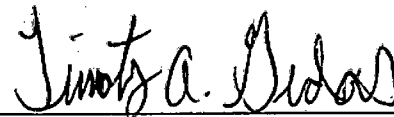
ORDER

Supreme Court Associate Justice Anna Barbara Hantz Marconi is on administrative leave with pay, effective July 25, 2024, at 9:30 a.m, for a period of 90 days, which may be shortened or extended by further order of this court. During the period of administrative leave, Justice Hantz Marconi is relieved of her judicial and administrative duties at the court.

MacDonald, C.J., and Bassett, Donovan, and Countway, JJ., concurred.

Issued: July 25, 2024

ATTEST:



Timothy A. Gudas, Clerk of Court
Supreme Court of New Hampshire

31a
CHAPTER 214
HB 1006-FN - FINAL VERSION

7Mar2024... 0448h
7Mar2024... 0553h
05/02/2024 1648s
13Jun2024... 2327EBA

2024 SESSION

24-2006
05/10

HOUSE BILL

1006-FN

AN ACT relative to creating a family access motion for the enforcement of parenting plans.

SPONSORS: Rep. Kuttab, Rock. 17; Rep. M. Pearson, Rock. 34; Rep. Ball, Rock. 25; Rep. DeSimone, Rock. 18; Rep. J. Nelson, Rock. 13; Rep. M. Smith, Straf. 10; Rep. Moulton, Hills. 20; Sen. Ricciardi, Dist 9

COMMITTEE: Children and Family Law

ANALYSIS

 This bill establishes a family access motion for enforcement of parenting plans by the family division of the circuit court.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struckthrough~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

32a
CHAPTER 214
HB 1006-FN - FINAL VERSION

7Mar2024... 0448h
7Mar2024... 0553h
05/02/2024 1648s
13Jun2024... 2327EBA

24-2006
05/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to creating a family access motion for the enforcement of parenting plans.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 214:1 Parental Rights and Responsibilities; Judicial Enforcement of Parenting Plan. RSA 461-A:4-a
2 is repealed and reenacted to read as follows:

3 461-A:4-a Judicial Enforcement of Parenting Plan; Family Access Motion.

4 I. In the event of substantial and material noncompliance with a court approved parenting plan
5 under this chapter, relative to denying or interfering with parenting time without good cause, the aggrieved
6 parent may file a family access motion for enforcement of the parenting plan. The motion shall state the
7 specific facts which constitute a violation of parenting time from the parenting plan.

8 II. The court shall develop a simple form for pro se motions by the aggrieved person, which shall
9 be provided to the person by court staff. The cost of filing the motion shall be the standard court costs
10 otherwise due for instituting a civil action in the circuit court.

11 III. Within 10 business days after the filing of the family access motion pursuant to paragraph I,
12 the clerk of the court shall issue a summons pursuant to applicable state law, and applicable local or
13 supreme court rules. A copy of the motion shall be personally served upon the respondent by personal
14 process server as provided by law or by any sheriff.

15 IV. Upon a finding by the court pursuant to a motion for a family access order or a motion for
16 contempt that its order for parenting time has been substantially and materially violated, without good
17 cause, the court shall order a remedy, which may include, but not be limited to:

18 (a) A compensatory period of parenting time at a time convenient for the aggrieved party, of
19 not less than the period of time denied;

20 (b) Participation by the violator in counseling to educate the violator about the importance of
21 providing the child with a continuing and meaningful relationship with both parents;

22 (c) Assessment of a fine of up to \$500 against the violator payable to the aggrieved party;

23 (d) Requiring the violator to post bond or security to ensure future compliance with the court's
24 access orders; and

25 (e) Ordering the violator to pay the cost of counseling to reestablish the parent-child
26 relationship between the aggrieved party and the child.

27 V. The reasonable expenses incurred as a result of denial or interference with parenting time,
28 including attorney's fees and costs of a proceeding to enforce parenting time, shall be assessed, if
29 requested and for good cause, against the parent or party who unreasonably denies or interferes with

33a
CHAPTER 214
HB 1006-FN - FINAL VERSION
- Page 2 -

1 parenting time. In addition, the court may utilize any and all powers relating to contempt conferred on it by
2 law or rule of the court.

3 VI. Final disposition of a motion for a family access order filed pursuant to this section shall take
4 place not more than 60 days after the service of such motion, unless waived by the parties, or as
5 determined to be in the best interest of the child.

6 VII. If the case is closed at the time relief is sought, an equivalent family access petition for
7 enforcement of the parenting plan may be filed. Motions or petitions filed pursuant to this section shall not
8 be deemed an independent civil action from the original action pursuant to which the judgment or order
9 sought to be enforced was entered.

10 214:2 Effective Date. This act shall take effect January 1, 2025.

Approved: July 19, 2024
Effective Date: January 01, 2025

THE STATE OF NEW HAMPSHIRE**SUPREME COURT**

In Case No. 2023-0181, K.A. v. D.A., the court on July 8, 2024, issued the following order:

D.A.'s June 7, 2024 ex parte motion for instruction is denied. D.A.'s June 7, 2024 ex parte motion for remand is denied. D.A.'s June 10, 2024 motion for late entry is granted. D.A.'s June 11, 2024 motion for reconsideration is denied.

Since February 28, 2024, the court has ordered D.A., on multiple occasions, to identify any issues that remain pending in the trial court and any new issues that have arisen from the hearing on remand. The court directed D.A. to take this action so that it could progress with its appellate review of the post-remand proceedings in this expedited matter, including the November 15, 2023 motions hearing, the November 16, 2023 final hearing, and the November 28, 2023 orders, as more than six months have elapsed since these proceedings and final order.

Following multiple extensions of time, on June 10, 2024, D.A. filed a document that chronicles many years of underlying litigation in this case and others. Through that filing, D.A. has identified, with specificity, five new issues that appear to have arisen post-remand. The issues are summarized as follows:

1. The trial court erred in denying D.A.'s subpoena duces tecum to obtain a copy of Judge King's complete and unredacted deposition;
2. The trial court erred in disallowing subpoenas that D.A. issued to a number of witnesses to obtain relevant documents and compel their testimony;
3. The trial court "erred in stating he was striking Attorney Piela's subpoena, as Attorney Piela was his former law partner at Hamblett & Kerrigan;"
4. The trial court "erred in deciding at the November 15, 2023 Motion(s) hearing that no police reports at all could be admitted into evidence, unless there was a corresponding criminal conviction of K.A.[:]" and

5. The trial court erred in not allowing D.A. to conduct any discovery, and not allowing D.A. to call any witnesses [at the "November 16, 2023 hearing on 'offers of proof.'"].

Accordingly, the five above-referenced issues are added to this appeal and shall receive supplemental briefing. On or before August 7, 2024, D.A. shall file a supplemental brief addressing the issues set forth above. In accordance with this court's November 27, 2023 order in case number 2023-0602, D.A. may also include in his supplemental brief any remaining issues identified in the notice of appeal filed in case number 2023-0602, which D.A. refiled into this case on April 22, 2024.

Pursuant to the court's May 22, 2024 order, K.A. is not permitted to file a supplemental brief. Accordingly, once D.A.'s brief is filed, the appeal will proceed on D.A.'s supplemental brief alone.

To the extent that D.A. argues that there are four pleadings that he filed in the trial court between 2019 and the present that have allegedly gone unaddressed, *i.e.* index numbers 12, 192, 195, and 289, the court finds that D.A. has not demonstrated how the lack of a ruling on these filings has impacted his ability to proceed with this appeal.

D.A.'s motion for "clarification re; Justice Marconi" is denied. Justice Hantz Marconi has reviewed this matter and has determined that she is not disqualified.

On June 7, 2024, D.A. conventionally filed several hundred pages of documents with the court along with a cover letter that stated: "Please find enclosed copies of additional documents from the trial court file." D.A.'s cover letter did not specify any particular document or documents being filed within the hundreds of pages, and D.A. did not indicate that the filing was made in conjunction with a motion, brief, or other filing permitted by the rules of this court, or in compliance with any prior court order. On June 12, 2024, the court issued an order explaining to D.A. that the June 7, 2024 filing would not be docketed. D.A. has filed a motion for reconsideration, arguing that certain documents filed on June 7, 2024 that were intermixed with the numerous other "additional documents" filed, were filed in an attempt to comply with prior orders of this court directing D.A. to file copies of the orders issued by trial court on remand.

D.A.'s motion for reconsideration of the court's June 12, 2024 order is denied without prejudice to D.A. electronically refile any trial court orders issued on remand that he may have been included in the June 7, 2024 filing and that he has not previously filed with this court. On or before August 7,

2024, D.A. may retrieve the June 7, 2024 filing from the clerk's office. After August 7, 2024, the documents will be discarded.

D.A.'s ex parte motion to exclude K.A. from service is granted, in part, as follows. Going forward, D.A. shall mail to the court one additional copy of any document filed in relation to this appeal, which will be served upon K.A. by the court. D.A.'s June 21, 2024 ex parte motion for instruction is denied. D.A.'s ex parte motion for limited exemption from e-filing in NH Supreme Court is denied. D.A.'s ex parte motion to allow defendant to electronically file pleadings in the trial court is denied.

MacDonald, C.J., and Bassett, Hantz Marconi, Donovan, and Countway, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:
Mr. Dana Albrecht
Ms. Katherine Albrecht
File

37a
ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

1 Granite Place South
Concord, NH 03301

JOHN M. FORMELLA
ATTORNEY GENERAL



JAMES T. BOFFETTI
DEPUTY ATTORNEY GENERAL

June 27, 2024

Re: Right to Know re Pease Development Authority Meeting

Dear Mr. Albrecht:

We have completed our search for and review of records regarding your request under New Hampshire RSA 91-A for the following:

1. All records directly relating to the April 18, 2024 PEASE Development Authority Meeting.

Please be advised that the Department of Justice has identified a limited number of records that are responsive to your request. These records are being withheld because they are attorney-client privileged communications exempted from production by RSA 91-A:5, XII. All communications identified are protected by this exemption.

Further, in your letter you request that we redact all substantive content and produce names of attorneys and clients involved in the communication. First, this information does not demonstrate what the government is "up to," which is the purpose of the Right-to-Know statute. *See N.H. Right to Life v. Dir., N.H. Charitable Trusts Unit*, 169 N.H. 95, 111 (2016). Second, you are essentially requesting a *Vaughn* index, which is not required under the Right-to-Know statute. *Id.* at 125. The Department will not be providing redacted, exempt documents in response to your request.

This letter serves to close out your Right-to-Know request.

Sincerely,

/s/ Jessica A. King

Jessica King
Senior Assistant Attorney General
Civil Bureau
(603) 271-1213
jessica.king@doj.nh.gov

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

No. 2023-0181

Katherine Albrecht

v.

Dana Albrecht

Ex Parte Motion for Clarification re: Justice Marconi

NOW COMES Dana Albrecht, *Appellant-Defendant Pro Se*, and respectfully requests this Court for clarification concerning what is meant by “a court spokesman said [Justice Marconi’s] recusal decisions are being done on a rolling basis” according to an article published online by Nancy West in InDepthNH.org on May 9, 2024. In further support thereof, it is stated:

1. On November 15, 2023, the Attorney General’s office intervened in this matter in the trial court, when Ms. Catherine Denny, Esq. (NH Bar #275344) appeared on behalf of Circuit Court Administrative Judge David King and NHJB General Counsel Erin Creegan during the trial court motion(s) hearing.¹
2. On April 26, 2024, seeking to learn more about why Justice Marconi’s husband was placed on paid administrative leave, Mr. Albrecht sent a “Right to Know” request to the Attorney General’s office.²

1 See transcript of November 15, 2023 *Motion(s) Hearing*, docketed by this Court on April 24, 2024. Unfortunately, this transcript, produced by eScribers, is of very poor quality.

2 A copy of Mr. Albrecht’s request accompanies this pleading.

3. On May 9, 2024, InDepthNH.org published an article stating that “a court spokesman said [Justice Marconi’s] recusal decisions are being done on a rolling basis.”³
4. Still seeking to learn more, on June 20, 2024, Mr. Albrecht sent another “Right to Know” request to the Attorney General’s office.⁴
5. Mr. Albrecht has not yet received any response to his most recent request to the Attorney General’s office.

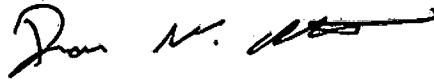
³ West, Nancy. (May 9, 2024). *Supreme Court Justice recuses self from AG cases due to husband’s paid leave*. InDepthNH. Available at: <https://indepthnh.org/2024/05/09/3917574/> A copy of the article also accompanies this pleading.

⁴ A copy of Mr. Albrecht’s second request accompanies this pleading.

WHEREFORE, Mr. Albrecht respectfully requests for this Court:

- A) To clarify what is meant by Justice Marconi's "recusal decisions are being done on a rolling basis" consistent with ¶¶1-5, *supra*; and,
- B) For any other such relief as is just and equitable.

Respectfully submitted,

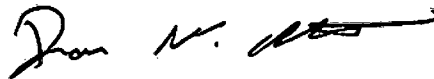


DANA ALBRECHT
Appellant-Defendant Pro Se
131 D.W. Hwy #235
Nashua, NH 03060
(603) 809-1097
dana.albrecht@hushmail.com

June 22, 2024

CERTIFICATE OF SERVICE

I, Dana Albrecht, certify that this *Motion* is being filed *ex parte* pursuant to N.H. Sup. Ct. Supp. R. 3(h), for the reasons stated in Defendant's *Ex Parte Motion for Instruction* (filed June 21, 2024) and Defendant's *Ex Parte Motion to Exclude Katherine Albrecht from Service* (filed June 21, 2024), and that a copy has not been served on any other party.



DANA ALBRECHT

June 22, 2024

41a

Mr. Dana Albrecht

131 Daniel Webster Hwy #235
Nashua, NH 03060

dana.albrecht@hushmail.com
+1 (603) 809-1097

June 20, 2024

/ via email only /

Ms. Jessica A. King, Esq.
Senior Assistant Attorney General
1 Granite Place South
Concord, NH 03301
(603) 271-3675

Re: "Right to Know" Request

Dear Ms. King,

I am renewing my "Right to Know" request that you produce to me, with appropriate redactions, copies of:

- All records directly relating to the April 18, 2024 PEASE Development Authority Meeting

My request is made, first and foremost, under N.H. Const. Pt I., Art. 8, that requires that "the public's right of access to governmental proceedings and records shall not be unreasonably restricted."

It is also made, secondarily, pursuant to RSA 91-A. If there is any discrepancy between the constitutional requirement and the related statute, the constitutional requirement would control.

To address your prior claim of privilege, the name(s) of attorney(s) and client(s) are not protected by attorney-client privilege, only the content of their communications, and even then, only under certain circumstances.

The First Circuit has held that the identities of clients and the nature of legal services are not necessarily protected by the attorney-client privilege. See In re Grand Jury Subpoenas, 123 F.3d 695 (1st Cir. 1997). Our United States Supreme Court has held that a federal district court could conduct an *in camera* review of communications claimed to be protected by the attorney-client privilege to determine if the crime-fraud exception applied. United States v. Zolin, 491 U.S. 554 (1989). In particular, Zolin emphasizes that only the substance of the communication is privileged, not the mere fact that a communication occurred or the identities of the communicating parties.

I respectfully request that you produce to me redacted copies of all responsive records. You may redact all substantive content that you claim is privileged. This does not, however, include the name(s) of the attorney(s) and client(s) involved, nor the mere fact that such communications took place.

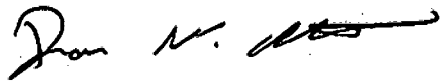
In the alternative, would you at least be willing to allow the responsive records to undergo *in camera* review?

42a

I respectfully request your response within five business days.

Thank you for your time and attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Dana N. Albrecht", with a stylized flourish at the end.

Dana Albrecht

DOB: 02/12/1956
F/5'08/175/W/RED/BRO

43a
Criminal Solicitation
RSA 629:2, I; 21-G:23, II
ELC: All

Jiménez/Fincham (NHDOJ)
Class A Misdemeanor
12 months

Entries Above This Line Are Not Part of Indictment

The State of New Hampshire

MERRIMACK, SS.

SUPERIOR COURT

INDICTMENT

At the SUPERIOR COURT holden at Concord, within and for the County of Merrimack, during the October 2024 session of the Grand Jury, the Grand Jurors for the State of New Hampshire, upon their oath, present that

ANNA BARBARA HANTZ MARCONI
of 27 Parkman Brook Lane, Stratham, New Hampshire 03885

committed the crime of

CRIMINAL SOLICITATION (MISUSE OF POSITION)

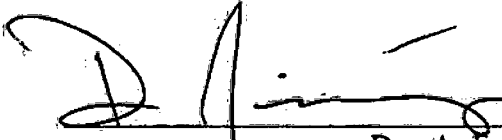
on or about the 6th day of June 2024, at or around Concord, in the County of Merrimack,

in that:

1. Anna Barbara Hantz Marconi,
2. with the purpose that another engage in conduct constituting the crime of Misuse of Position,
3. commanded, solicited, or requested another to engage in such conduct, to wit:
4. by soliciting Governor Christopher Sununu to secure a governmental privilege and/or advantage for her to which she was not otherwise entitled regarding an investigation into Geno Marconi, or words to that effect;

contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.

MCSC #2172024 CR 1167
CHG ID# 2257398C


Dan A. Jiménez
Senior Assistant Attorney General
New Hampshire Department of Justice

This is a True Bill.


Grand Jury Foreperson

RECEIVED
OCT 16 2024
By _____

DOB: 02/12/1956
F/5'08/175/W/RED/BRO

44a
Official Oppression
RSA 629:2, I; 643:1
ELC: All

Jiménez/Fincham (NHDOJ)
Misdemeanor A
12 months

Entries Above This Line Are Not Part of Indictment

The State of New Hampshire

MERRIMACK, SS.

SUPERIOR COURT

INDICTMENT

At the SUPERIOR COURT holden at Concord, within and for the County of Merrimack, during the October 2024 session of the Grand Jury, the Grand Jurors for the State of New Hampshire, upon their oath, present that

ANNA BARBARA HANTZ MARCONI
of 27 Parkman Brook Lane, Stratham, New Hampshire 03885

committed the crime of

CRIMINAL SOLICITATION (OFFICIAL OPPRESSION)

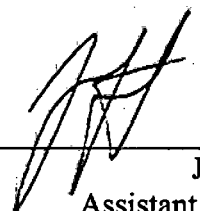
on or about the 6th day of June 2024, at or around Concord, in the County of Merrimack,

in that:

1. Anna Barbara Hantz Marconi,
2. with the purpose that another engage in conduct constituting the crime of Official Oppression,
3. commanded, solicited, or requested another to engage in such conduct, to wit:
4. by soliciting Governor Christopher Sununu to misuse his position and/or otherwise interfere with an investigation into Geno Marconi, or words to that effect;

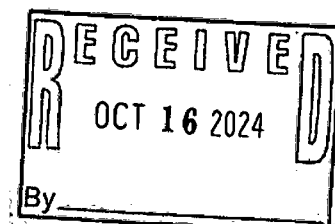
contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.

MCSC #217	2024 CR 1167
CHG ID#	2257293C


Joe M. Fincham II
Assistant Attorney General
New Hampshire Department of Justice

This is a True Bill.


Grand Jury Foreperson



DOB: 02/12/1956
F/5'08/175/W/RED/BRO

45a
Official Oppression
RSA 643:1
ELC: All

Jiménez/Fincham (NHDOJ)
Misdemeanor A
12 months

Entries Above This Line Are Not Part of Indictment

The State of New Hampshire

MERRIMACK, SS.

SUPERIOR COURT

INDICTMENT

At the SUPERIOR COURT holden at Concord, within and for the County of Merrimack, during the October 2024 session of the Grand Jury, the Grand Jurors for the State of New Hampshire, upon their oath, present that

ANNA BARBARA HANTZ MARCONI
of 27 Parkman Brook Lane, Stratham, New Hampshire 03885

committed the crime of

OFFICIAL OPPRESSION

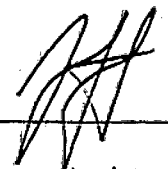
on or about the 6th day of June 2024, at or around Concord, in the County of Merrimack,

in that:

1. Anna Barbara Hantz Marconi, a public servant,
2. with a purpose to benefit herself or another or to harm another,
3. knowingly committed an unauthorized act which purported to be an act of her office or knowingly refrained from performing a duty imposed on her by law or clearly inherent in the nature of her office, to wit:
4. by interfering with, attempting to interfere with, and/or soliciting another to interfere with an investigation into Geno Marconi; and/or violating the New Hampshire Code of Judicial Conduct (New Hampshire Supreme Court Rule 38) (specifically, Rules 1.1, 1.2, 1.3, 2.4, 2.10, 3.1, 3.2, and/or 3.3);

contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.

MCSC #217 <u>2024</u> CR <u>1167</u>
CHG ID# <u>2257292C</u>


Joe M. Fincham II
Assistant Attorney General
New Hampshire Department of Justice

This is a True Bill.


Grand Jury Foreperson

RECEIVED
OCT 16 2024
By _____

DOB: 02/12/1956
F/5'08/175/W/RED/BRO

46a
Criminal Solicitation
RSA 629:2, I; 640:3, I(b)
ELC: All

Jiménez/Fincham (NHDOJ)
Felony B
3.5-7 years

Entries Above This Line Are Not Part of Indictment

The State of New Hampshire

MERRIMACK, SS.

SUPERIOR COURT

INDICTMENT

At the SUPERIOR COURT holden at Concord, within and for the County of Merrimack, during the October 2024 session of the Grand Jury, the Grand Jurors for the State of New Hampshire, upon their oath, present that

ANNA BARBARA HANTZ MARCONI
of 27 Parkman Brook Lane, Stratham, New Hampshire 03885

committed the crime of

CRIMINAL SOLICITATION (IMPROPER INFLUENCE)

on or about the 6th day of June 2024, at or around Concord, in the County of Merrimack,

in that:

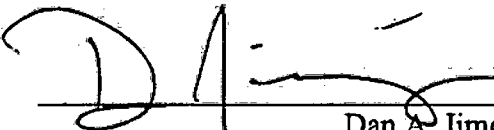
1. Anna Barbara Hantz Marconi,
2. with the purpose that another engage in conduct constituting the crime of Improper Influence,
3. commanded, solicited, or requested another to engage in such conduct, to wit:
4. by soliciting Governor Christopher Sununu to improperly influence a member and/or members of the New Hampshire Department of Justice regarding an investigation into Geno Marconi, or words to that effect;

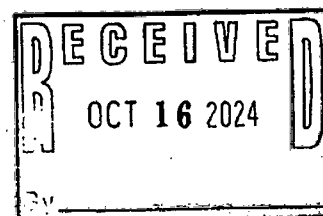
contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.

MCSC #217 <u>2024 CR 1167</u>
CHG ID# <u>2257291C</u>

This is a True Bill.

V. Bachley
Grand Jury Foreperson


Dan A. Jiménez
Senior Assistant Attorney General
New Hampshire Department of Justice



DOB: 02/12/1956
F/5'08/175/W/RED/BRO

47a
Improper Influence
RSA 629:1, I; 640:3, I(b)
ELC: All

Jiménez/Fincham (NHDOJ)
Felony B
3.5-7 years

Entries Above This Line Are Not Part of Indictment

The State of New Hampshire

MERRIMACK, SS.

SUPERIOR COURT

INDICTMENT

At the SUPERIOR COURT holden at Concord, within and for the County of Merrimack, during the October 2024 session of the Grand Jury, the Grand Jurors for the State of New Hampshire, upon their oath, present that

ANNA BARBARA HANTZ MARCONI
of 27 Parkman Brook Lane, Stratham, New Hampshire 03885

committed the crime of

ATTEMPT TO COMMIT IMPROPER INFLUENCE

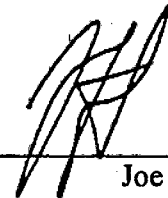
on or about the 6th day of June 2024, at or around Concord, in the County of Merrimack,

in that:

1. Anna Barbara Hantz Marconi,
2. with a purpose that the crime of Improper Influence be committed,
3. did or omitted to do anything which, under the circumstances as she believed them to be, was an act or omission constituting a substantial step toward the commission of said crime, to wit:
4. by telling Governor Christopher Sununu that an investigation into Geno Marconi was the result of personal, petty, and/or political biases; that there was no merit to allegations against or subsequent investigation into Geno Marconi; and/or that the investigation into Geno Marconi needed to wrap up quickly because she was recused from important cases pending or imminently pending before the New Hampshire Supreme Court; or words to that effect;

contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.

MCSC #217 <u>2624</u> CR <u>1167</u>
CHG ID# <u>225729CC</u>


Joe M. Fincham II
Assistant Attorney General
New Hampshire Department of Justice

This is a True Bill.


Grand Jury Foreperson

RECEIVED	
OCT 16 2024	
By	

48a
**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

1 GRANITE PLACE SOUTH
CONCORD, NEW HAMPSHIRE 03301

JOHN M. FORMELLA
ATTORNEY GENERAL



JAMES T. BOFFETTI
DEPUTY ATTORNEY GENERAL

May 3, 2024

Mr. Dana Albrecht
131 Daniel Webster Hwy #235
Nashua, NH 03060
dana.albrecht@hushmail.com

Re: Right to Know re Pease Development Authority Meeting

Dear Mr. Albrecht:

We have completed our search for and review of records regarding your request under New Hampshire RSA 91-A for the following:

1. All records directly relating to the April 18, 2024 PEASE Development Authority Meeting.

Please be advised that the Department of Justice has identified a limited number of records that are responsive to your request. These records are being withheld because they are attorney-client privileged communications exempted from production by RSA 91-A:5, XII.

This letter serves to close out your Right-to-Know request.

Sincerely,

/s/ Jessica A. King
Jessica King
Senior Assistant Attorney General
Civil Bureau
(603) 271-1213
jessica.king@doj.nh.gov

49a

Mr. Dana Albrecht

131 Daniel Webster Hwy #235
Nashua, NH 03060

dana.albrecht@hushmail.com
+1 (603) 809-1097

April 26, 2024

/ via email only /

Mr. John Formella, Esq.
New Hampshire Attorney General
1 Granite Place South
Concord, NH 03301
(603) 271-3658

Re: "Right to Know" Request

Dear Mr. Formella,

This letter serves as formal "Right to Know" request pursuant to N.H. Const. pt. I, art. 8; and, secondarily, RSA 91-A. I am requesting that you provide to me copies of all documents in possession of the State of New Hampshire or the Attorney General's office that can be reasonably described as:

- All records directly relating to the April 18, 2024 PEASE Development Authority Meeting

"The purpose of the Right-to-Know Law is to provide the utmost information to the public about what its 'government is up to.'" New Hampshire Right to Life v. Director, New Hampshire Charitable Trusts Unit, 169 N.H. 95 (2016). Please note that "when a public entity seeks to avoid disclosure of material under this law, that entity bears a heavy burden to shift the balance toward nondisclosure." Id. at 103.

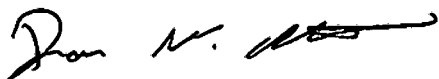
Consequently, if you intend to withhold or redact any materials, please describe them with enough specificity so as "to allow meaningful judicial review" within the meaning of Murray v. NH Div. of State Police, 913 A. 2d 737, 741 N.H. (2006). If you claim any other exemptions, please also describe them as specifically as possible. Cf. RSA 91-A:5, and Seacoast Newspapers v. City of Portsmouth, 239 A. 3d 946 N.H. (2020).

Email is a splendid way to reach me!

I respectfully request your response within five business days.

Thank you for your time and attention.

Sincerely,



Dana Albrecht

DOB: 09/14/1951
M/5'11/230/W/GRY/BRO

50a
Obstructing Gov't Admin.
RSA 642:1, I
ELC: All

Jiménez/Fincham (NHDOJ)
Misdemeanor A
12 months

Entries Above This Line Are Not Part of Indictment

The State of New Hampshire

ROCKINGHAM, SS.

SUPERIOR COURT

INDICTMENT

At the SUPERIOR COURT holden at Brentwood, within and for the County of Rockingham, during the September 2024 session of the Grand Jury, the Grand Jurors for the State of New Hampshire, upon their oath, present that

GENO JOSEPH MARCONI

of 27 Parkman Brook Lane, Stratham, New Hampshire 03885

committed the crime of

OBSTRUCTING GOVERNMENT ADMINISTRATION

on or about the 22nd day of April, 2024, at or around Stratham, in the County of Rockingham,

in that:


1. Geno Joseph Marconi
2. engaged in any unlawful conduct
3. with a purpose to hinder or interfere with a public servant performing or purporting to perform an official function and/or to retaliate for the performance of such a function, to wit:
4. by deleting a voicemail and/or voicemails from a phone;

contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.



Joe M. Fincham II
Assistant Attorney General
New Hampshire Department of Justice

This is a True Bill.


Grand Jury Foreperson

218-2024-CR-1426

Charge ID: 2257803C

DOB: 09/14/1951
M/5'11/230/W/GRY/BRO

51a
Falsifying Physical Evidence
RSA 641:6, I
ELC: All

Jiménez/Fincham (NHDOJ)
Felony B
3.5-7 years

Entries Above This Line Are Not Part of Indictment

The State of New Hampshire

ROCKINGHAM, SS.

SUPERIOR COURT

INDICTMENT

At the SUPERIOR COURT holden at Brentwood, within and for the County of Rockingham, during the September 2024 session of the Grand Jury, the Grand Jurors for the State of New Hampshire, upon their oath, present that

GENO JOSEPH MARCONI

of 27 Parkman Brook Lane, Stratham, New Hampshire 03885

committed the crime of

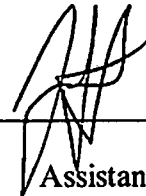
FALSIFYING PHYSICAL EVIDENCE

on or about the 22nd day of April, 2024, at or around Stratham, in the County of Rockingham,

in that:

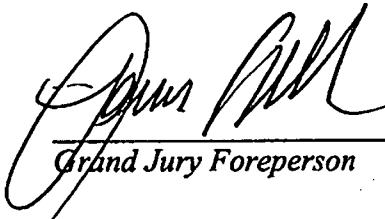
1. Geno Joseph Marconi,
2. believing than an official proceeding or investigation was pending or about to be instituted,
3. altered, destroyed, concealed, or removed any thing
4. with a purpose to impair its verity or availability in such proceeding or investigation, to wit:
5. by deleting a voicemail and/or voicemails from a phone;

contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.



Joe M. Fincham II
Assistant Attorney General
New Hampshire Department of Justice

This is a True Bill.


Grand Jury Foreperson

218-2024-CR-1426

Charge ID: 2257802C

DOB: 02/12/1956
F/5'08/175/W/RED/BRO

52a
Criminal Solicitation
RSA 629:2, I; 21-G:23, II
ELC: All

Jiménez/Fincham (NHDOJ)
Class A Misdemeanor
12 months

Entries Above This Line Are Not Part of Indictment

The State of New Hampshire

MERRIMACK, SS.

SUPERIOR COURT

INDICTMENT

At the SUPERIOR COURT holden at Concord, within and for the County of Merrimack, during the October 2024 session of the Grand Jury, the Grand Jurors for the State of New Hampshire, upon their oath, present that

ANNA BARBARA HANTZ MARCONI
of 27 Parkman Brook Lane, Stratham, New Hampshire 03885

committed the crime of

CRIMINAL SOLICITATION (MISUSE OF POSITION)

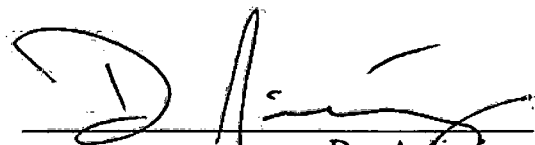
on or about the 19th day of April 2024, at or around Concord, in the County of Merrimack,

in that:

1. Anna Barbara Hantz Marconi
2. with the purpose that another engage in conduct constituting the crime of Misuse of Position,
3. commanded, solicited, or requested another to engage in such conduct, to wit:
4. by soliciting Pease Development Authority Chairperson Steve Duprey to secure a governmental privilege and/or advantage for her to which she was not otherwise entitled regarding the employment of Geno Marconi and/or an investigation into Geno Marconi, or words to that effect;

contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.

MCSC #217 <u>2024</u> CR <u>1167</u>
CHG ID# <u>2257397C</u>


Dan A. Jiménez
Senior Assistant Attorney General
New Hampshire Department of Justice

This is a True Bill.


Grand Jury Foreperson

RECEIVED	
OCT 16 2024	
By	

DOB: 02/12/1956
F/5'08/175/W/RED/BRO

53a
Obstructing Gov't Admin.
RSA 642:1, I
ELC: All

Jiménez/Fincham (NHDOJ)
Misdemeanor A
12 months

Entries Above This Line Are Not Part of Indictment

The State of New Hampshire

MERRIMACK, SS.

SUPERIOR COURT

INDICTMENT

At the SUPERIOR COURT holden at Concord, within and for the County of Merrimack, during the October 2024 session of the Grand Jury, the Grand Jurors for the State of New Hampshire, upon their oath, present that

ANNA BARBARA HANTZ MARCONI
of 27 Parkman Brook Lane, Stratham, New Hampshire 03885

committed the crime of

OBSTRUCTING GOVERNMENT ADMINISTRATION

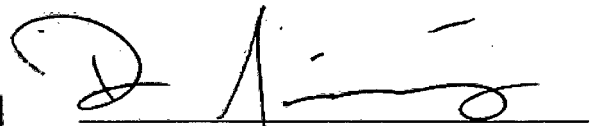
from on or about the 19th day of April 2024, through on or about the 6th day of June 2024,
at or around Concord, in the Merrimack,

in that:

1. Anna Barbara Hantz Marconi,
2. with a purpose to hinder or interfere with a public servant performing or purporting to perform an official function and/or to retaliate for the performance or purported performance of such a function,
3. engaged in any unlawful conduct, to wit:
4. by unlawfully interfering with, attempting to interfere with, and/or soliciting another to interfere with an investigation into Geno Marconi;

contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.

MCSC #217	2024 CR 1167
CHG ID#	225-7294C


Dan A. Jiménez
Senior Assistant Attorney General
New Hampshire Department of Justice

This is a True Bill.


Grand Jury Foreperson

RECEIVED	
OCT 16 2024	
By	

DOB: 09/14/1951
M/5'11/230/W/GRY/BRO

54a
Obstructing Gov't Admin.
RSA 642:1, I
ELC: All

Jiménez/Fincham (NHDOJ)
Misdemeanor A
12 months

Entries Above This Line Are Not Part of Indictment

The State of New Hampshire

ROCKINGHAM, SS.

SUPERIOR COURT

INDICTMENT

At the SUPERIOR COURT holden at Brentwood, within and for the County of Rockingham, during the September 2024 session of the Grand Jury, the Grand Jurors for the State of New Hampshire, upon their oath, present that

GENO JOSEPH MARCONI

of 27 Parkman Brook Lane, Stratham, New Hampshire 03885

committed the crime of

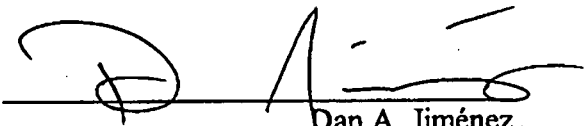
OBSTRUCTING GOVERNMENT ADMINISTRATION

on or about the 4th day of April, 2024, at or around Portsmouth, in the County of Rockingham,

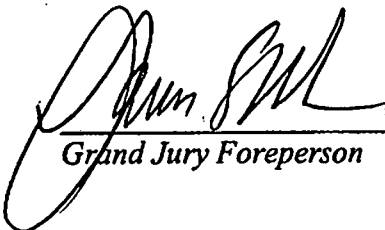
in that:

1. Geno Joseph Marconi
2. engaged in any unlawful conduct
3. with a purpose to hinder or interfere with a public servant performing or purporting to perform an official function and/or to retaliate for the performance of such a function, to wit:
4. by providing confidential motor vehicle records pertaining to N.L. to another individual, B.C.;

contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.


Dan A. Jiménez
Senior Assistant Attorney General
New Hampshire Department of Justice

This is a True Bill.


Grand Jury Foreperson

218-2024-CR-1426

Charge ID: 2257805C

DOB: 09/14/1951
M/5'11/230/W/GRY/BRO

55a
Driver Privacy Act Violation
RSA 260:14, IX(a)
ELC: All

Jiménez/Fincham (NHDOJ)
Misdemeanor A
12 months

Entries Above This Line Are Not Part of Indictment

The State of New Hampshire

ROCKINGHAM, SS.

SUPERIOR COURT

INDICTMENT

At the SUPERIOR COURT holden at Brentwood, within and for the County of Rockingham, during the September 2024 session of the Grand Jury, the Grand Jurors for the State of New Hampshire, upon their oath, present that

GENO JOSEPH MARCONI

of 27 Parkman Brook Lane, Stratham, New Hampshire 03885

committed the crime of

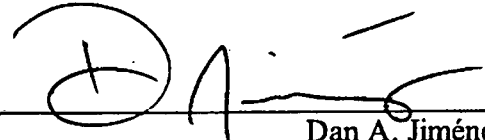
DRIVER PRIVACY ACT VIOLATION

on or about the 4th day of April, 2024, at or around Portsmouth, in the County of Rockingham,


in that:

1. Geno Joseph Marconi
2. knowingly used information from a department record
3. for any use other than the use authorized by the Department of Safety, to wit:
4. by providing confidential motor vehicle records pertaining to N.L. to another individual, B.C.;

contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.


Dan A. Jiménez
Senior Assistant Attorney General
New Hampshire Department of Justice

This is a True Bill.


Grand Jury Foreperson

218-2024-CR-1426

Charge ID: 2257806C

DOB: 09/14/1951
M/5'11/230/W/GRY/BRO

56a
Driver Privacy Act Violation
RSA 260:14, IX(a)
ELC: All

Jiménez/Fincham (NHDOJ)
Misdemeanor A
12 months

Entries Above This Line Are Not Part of Indictment

The State of New Hampshire

ROCKINGHAM, SS.

SUPERIOR COURT

INDICTMENT

At the SUPERIOR COURT holden at Brentwood, within and for the County of Rockingham, during the September 2024 session of the Grand Jury, the Grand Jurors for the State of New Hampshire, upon their oath, present that

GENO JOSEPH MARCONI

of 27 Parkman Brook Lane, Stratham, New Hampshire 03885

committed the crime of

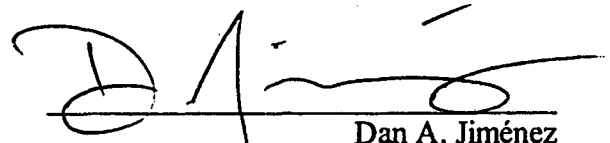
DRIVER PRIVACY ACT VIOLATION

on or about the 4th day of April, 2024, at or around Portsmouth, in the County of Rockingham,

in that:

1. Geno Joseph Marconi
2. knowingly disclosed information from a department record
3. to a person known by Geno Joseph Marconi to be an unauthorized person, to wit:
4. by providing confidential motor vehicle records pertaining to N.L. to another individual, B.C.;

contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.



Dan A. Jiménez
Senior Assistant Attorney General
New Hampshire Department of Justice

This is a True Bill.


Grand Jury Foreperson

218-2024-CR-1426

Charge ID: 2257804C

DOB: 09/14/1951
M/5'11/230/W/GRY/BRO

57a
Witness Tampering
RSA 641:5, II
ELC: All

Jiménez/Fincham (NHDOJ)
Felony B
3.5-7 years

Entries Above This Line Are Not Part of Indictment

The State of New Hampshire

ROCKINGHAM, SS.

SUPERIOR COURT

INDICTMENT

At the SUPERIOR COURT holden at Brentwood, within and for the County of Rockingham, during the September 2024 session of the Grand Jury, the Grand Jurors for the State of New Hampshire, upon their oath, present that

GENO JOSEPH MARCONI

of 27 Parkman Brook Lane, Stratham, New Hampshire 03885

committed the crime of


TAMPERING WITH WITNESSES AND INFORMANTS

on or about the 4th day of April, 2024, at or around Portsmouth, in the County of Rockingham,

in that:

1. Geno Joseph Marconi
2. purposefully committed any unlawful act
3. in retaliation for anything done by another in his capacity as witness or informant, to wit:
4. by providing confidential motor vehicle records pertaining to N.L. to another individual, B.C., in violation of the Driver Privacy Act (RSA 260:14, IX(a));

contrary to the form of the Statute, in such case made and provided, and against the peace and dignity of the State.



Dan A. Jiménez
Senior Assistant Attorney General
New Hampshire Department of Justice

This is a True Bill.



Grand Jury Foreperson

218-2024-CR-1426

Charge ID: 2257801C

THE STATE OF NEW HAMPSHIRE**SUPREME COURT**

In Case No. 2023-0602, K.A. v. D.A., the court on November 27, 2023, issued the following order:

On October 20, 2023, this court issued an order in case no. 2023-0181, K.A. v. D.A., remanding “for a hearing as required by RSA 173-B:5, VI.” On November 15, 2023, the court issued an order in the same appeal clarifying that “it retains jurisdiction over the appeal pending the trial court’s decision following the RSA 173-B:5, VI hearing and any other proceedings that the trial court deems necessary to resolve the issues before it.”

In light of the remand, this appeal is dismissed as moot. The dismissal is without prejudice to the defendant raising any argument presented in this appeal through supplemental briefing in case no. 2023-0181, if any, and without prejudice to the plaintiff presenting any argument contained in her motion to dismiss in response to any supplemental brief filed by the defendant in case no. 2023-0181.

Accordingly, the plaintiff’s motion to dismiss is moot. The defendant’s motion for partial summary judgment is denied.

Appeal dismissed.

MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

9th N.H. Circuit Court - Nashua Family Division, 659-2019-DV-00341

Honorable Kevin P. Rauseo

Mr. Dana Albrecht

Michael J. Fontaine, Esq.

Israel F. Piedra, Esq.

File

THE STATE OF NEW HAMPSHIRE**SUPREME COURT**

In Case No. 2023-0181, K.A. v. D.A., the court on November 15, 2023, issued the following order:

D.A.'s motion for clarification is granted, in part, as follows. The court's October 20, 2023 final order remanded this case to the trial court "for a hearing as required by RSA 173-B:5, VI" to allow the creation of a fully-developed factual record, which would enable the court to address the issues raised on appeal within the context of this case.

The court hereby clarifies that it retains jurisdiction over the appeal pending the trial court's decision following the RSA 173-B:5, VI hearing and any other proceedings that the trial court deems necessary to resolve the issues before it. Following the trial court's issuance of the post-hearing decision, the parties may file supplemental briefs to address any new issues that may arise from the hearing or any existing issues affected by the trial court's decision. The parties may order a transcript of the remand hearing, see Rule 15, as needed. The relief requested in D.A.'s motion for clarification is otherwise denied.

D.A.'s motion for late authority is granted. D.A.'s motion for rehearing and reconsideration and his motion to "show cause" are denied without prejudice to his ability to raise any surviving issues in the subsequent appellate proceeding.

Bassett, Hantz Marconi, and Donovan, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

9th N.H. Circuit Court - Nashua Family Division, 659-2019-DV-00341

Honorable Kevin P. Rauseo

Mr. Dana Albrecht

Michael J. Fontaine, Esq.

Israel F. Piedra, Esq.

File

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<https://www.courts.nh.gov>

Court Name: **9th Circuit - Family Division - Nashua**

Case Name: **Katherine Albrecht v. Dana Albrecht**

Case Number: **659-2019-DV-00341**
 (if known)

NASHUA CIRCUIT COURT
 NOV 17 2023 PM 3:14

SUBPOENA DUCES TECUM

To:

David D. King
 Name of Witness

1675 NH Route 106 North
 Street Address

London, NH 03307
 City, State, Zip Code

You are required to appear at: Courtroom 5 - 9th Circuit Court - Nashua located
 Location (if at a courthouse, put name of court)

at 30 Spring Street, Nashua, NH 03060
 Street Address City State

on 11/16/2023 at 10:30am to testify about the above case.
 Date Time

You are further required to bring with you the following:

Copy of Deposition taken August 26, 2022 - JC-21-072-C

Copy of all emails you have sent re: Albrecht v. Albrecht or received from NHJB employees re: Albrecht

IF YOU DO NOT APPEAR YOU MAY BE SUBJECT TO LEGAL PENALTIES

Date

11/14/23

Signature [Signature]
 Justice of the Peace, Clerk of Court, or Judge
 Printed name [Signature]
 COMMISSION EXPIRES 8/14/2028

Issued at the request of Dana Albrecht

Phone number (optional) 809-1097

RETURN OF SERVICE

On 11/7/23 at 1500 o'clock in the ☐ a.m. ☒ p.m. I read or
 delivered in hand to the above-named person an original subpoena of which this is a true copy.

Signature [Signature]

Printed name Dep. Pinaeff

Title (if applicable) Deputy

Agency (if applicable) MCSO

REQUESTING PARTY IS RESPONSIBLE FOR PAYMENT OF TRAVEL AND ATTENDANCE FEES

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH**
<https://www.courts.nh.gov>

Court Name: **9th Circuit - Family Division - Nashua**

Case Name: **Katherine Albrecht v. Dana Albrecht**

Case Number: **659-2019-DV-00341**
(If known)

SUBPOENA DUCES TECUM

NASHUA CIRCUIT COURT
NOV 17 2023 PM3:15

To:

Erin Creagan

Name of Witness

1 Granite Place, Ste N400

Street Address

Concord, NH 03301
City, State, Zip Code

You are required to appear at: **Courtroom 5 - 9th Circuit Court - Nashua** located
Location (if at a courthouse, put name of court)

at **30 Spring Street, Nashua, NH 03060**

Street Address

City

State

on **11/16/2023**

Date

at **10:30am**

Time

to testify about the above case.

You are further required to bring with you the following:

All materials used to train NHJP judicial officers on civil protective orders and/or RSA 173-B.
Subpoena issued to the Honorable David King, August 26, 2022, Docket JC-21-072-C

IF YOU DO NOT APPEAR YOU MAY BE SUBJECT TO LEGAL PENALTIES

Date

11/14/23

Signature Justice of the Peace, Clerk of Court, or Judge

Printed name

MY
COMMISSION
EXPIRES
8/14/2028

Phone number (optional) **(603) 809-1097**

Issued at the request of **Dana Albrecht**

RETURN OF SERVICE

On **11/13/23** at **1050** o'clock in the ☒ a.m. ☐ p.m. I read or
delivered in hand to the above-named person an original subpoena of which this is a true copy.

Signature

Printed name

Dep. Pinault

Title (if applicable)

Deputy

Agency (if applicable)

MC SO

REQUESTING PARTY IS RESPONSIBLE FOR PAYMENT OF TRAVEL AND ATTENDANCE FEES

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH**
<https://www.courts.nh.gov>

Court Name: **9th Circuit - Family Division - Nashua**

Case Name: **Katherine Albrecht v. Dana Albrecht**

Case Number: **659-2019-DV-00341**
(if known)

SUBPOENA DUCES TECUM

NASHUA CIRCUIT COURT
NOV 17 2023 PM 3:15

To:

Philip Waystack
Name of Witness

251 Main Street
Street Address

Colebrook, NH 03576
City, State, Zip Code

You are required to appear at: **Courtroom 5 - 9th Circuit Court - Nashua** located
Location (if at a courthouse, put name of court)

at **30 Spring Street, Nashua, NH 03060**
Street Address

City

State

on **11/16/2023** at **10:30am** to testify about the above case.
Date Time

You are further required to bring with you the following:

Copy of Deposition of the Honorable David King, August 26, 2022, Docket JC-21-072-C

IF YOU DO NOT APPEAR YOU MAY BE SUBJECT TO HEAVY PENALTIES

Date

11/16/23

Signature of the Deponent, Clerk of Court, or Judge

Printed name

Phone number (optional) **(603) 809-1097**

Issued at the request of **Dana Albrecht**

RETURN OF SERVICE

On **November 9, 2023** at **12:10** o'clock in the ☐ a.m. ☒ p.m. I read or delivered in hand to the above-named person an original subpoena of which this is a true copy.

Signature

Printed name

Title (if applicable)

Agency (if applicable)

REQUESTING PARTY IS RESPONSIBLE FOR PAYMENT OF TRAVEL AND ATTENDANCE FEES

THE STATE OF NEW HAMPSHIRE**SUPREME COURT**

In Case No. 2023-0181, K.A. v. D.A., the court on October 20, 2023, issued the following order:

The relief requested in the plaintiff's memorandum of law is denied. The court has reviewed the written arguments and the record submitted on appeal, and has determined to resolve the case by way of this order. See Sup. Ct. R. 20(2). The defendant, D.A., appeals orders of the Circuit Court (Rauseo, J.) relating to an extension of a domestic violence protective order. See RSA 173-B:5, IV (2022). He raises numerous issues on appeal. We remand.

We note that the defendant raises several general questions about the law that effectively seek advisory opinions. We generally lack authority to grant advisory opinions to private litigants. See Piper v. Town of Meredith, 109 N.H. 328, 330 (1969). To the extent that the defendant raises his issues within the context of this case, we cannot properly address the issues without a fully-developed evidentiary record. RSA 173-B:5, VI provides the defendant with the right to a hearing on the extension. Although the trial court scheduled a hearing as provided under the statute, the defendant filed his notice of appeal the day before the hearing. The trial court understandably interpreted the defendant's appeal to divest it of continuing jurisdiction, prompting the court to cancel the hearing. See Rautenberg v. Munnis, 107 N.H. 446, 447 (1966). Under the unique circumstances of this case, and pursuant to our "general superintendence of all courts of inferior jurisdiction," RSA 490:4 (2010), we remand for a hearing as required by RSA 173-B:5, VI. The 30-day deadline in RSA 173-B:5, VI shall run from the date of this order. Unless this court orders otherwise, the filing of any motion to reconsider in this court shall not stay the deadline for holding the hearing.

In light of our decision, we need not address the defendant's remaining arguments. See Antosz v. Allain, 163 N.H. 298, 302 (2012) (declining to address parties' other arguments where holding on one issue is dispositive).

Remanded.

MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

9th N.H. Circuit Court - Nashua Family Division, 659-2019-DV-00341

Honorable Kevin P. Rauseo

Honorable David D. King

Mr. Dana Albrecht

Michael J. Fontaine, Esq.

Israel F. Piedra, Esq.

Sherri L. Miscio, Supreme Court

Francis C. Fredericks, Supreme Court

File

THE STATE OF NEW HAMPSHIRE**SUPREME COURT**

In Case No. 2022-0284, K.A. v. D.A., the court on August 16, 2023, issued the following order:

Supreme Court Rule 22(2) provides that a party filing a motion for rehearing or reconsideration shall state with particularity the points of law or fact that he claims the court has overlooked or misapprehended.

We have reviewed the claims made in the motion for rehearing and reconsideration and conclude that no points of law or fact were overlooked or misapprehended in our decision. Specifically, we note the defendant's argument that the trial court erred by considering and crediting evidence of the defendant's violation of the protective order following an out-of-state court hearing related to the parties' parenting matter, when that incident had not been raised in the plaintiff's motion to extend the protective order. We have, again, reviewed the record with respect to this issue, as well as the trial court's thorough and well-reasoned orders. Among other things, given that, as the trial court found, the defendant failed to object to the introduction of this evidence at the hearing — and, in fact, testified about the incident himself — and given that the trial court expressly found that the incident at issue was not necessary to its determination that good cause existed to extend the protective order, we again conclude that the defendant has not demonstrated reversible error. See Gallo v. Traina, 166 N.H. 737, 740 (2014).

Accordingly, upon reconsideration, we affirm our July 14, 2023 decision and deny the relief requested in the motion.

Relief requested in motion for
rehearing and reconsideration
denied.

MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ.,
concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

9th N.H. Circuit Court - Nashua Family Division, 659-2019-DV-00341

Honorable Kevin P. Rauseo

Mr. Dana Albrecht

Michael J. Fontaine, Esquire

Israel F. Piedra, Esquire

File

NOTICE: This opinion is subject to motions for rehearing under Rule 22 as well as formal revision before publication in the New Hampshire Reports. Readers are requested to notify the Reporter, Supreme Court of New Hampshire, One Charles Doe Drive, Concord, New Hampshire 03301, of any editorial errors in order that corrections may be made before the opinion goes to press. Errors may be reported by email at the following address: reporter@courts.state.nh.us. Opinions are available on the Internet by 9:00 a.m. on the morning of their release. The direct address of the court's home page is: <https://www.courts.nh.gov/our-courts/supreme-court>

THE SUPREME COURT OF NEW HAMPSHIRE

9th Circuit Court-Nashua Family Division
No. 2022-0517

IN THE MATTER OF DANA ALBRECHT AND KATHERINE ALBRECHT

Submitted: June 29, 2023
Opinion Issued: July 25, 2023

Dana Albrecht, self-represented party, by brief.

Welts, White & Fontaine, P.C., of Nashua (Michael J. Fontaine and Israel F. Piedra on the brief), for the respondent.

DONOVAN, J. The petitioner, Dana Albrecht, appeals an order of the Circuit Court (Rauseo, J.) denying his post-final-divorce-decree motion alleging that the respondent, Katherine Albrecht, was in contempt of the parties' parenting plan. We affirm.

We briefly summarize the procedural history of the case. The parties divorced by final decree (DalPra, M., approved by Introcaso, J.) in 2018. We upheld the final decree following the petitioner's appeal challenging certain aspects of the property division. See In the Matter of Albrecht & Albrecht, No. 2018-0379 (N.H. March 14, 2019). The trial court had earlier bifurcated the proceeding and, in September 2017, had entered a final parenting plan (DalPra, M., approved by Quigley, J.). Neither party timely appealed the parenting plan. See Germain v. Germain, 137 N.H. 82, 84 (1993) (holding that,

when a trial court bifurcates a divorce and decides some, but not all, issues, that decision is a final “decision on the merits” under Supreme Court Rules 3 and 7).

On November 1, 2019, the petitioner filed an ex parte motion alleging that the respondent was in contempt of the parenting plan’s joint decision-making provision and a provision requiring each parent to promote a healthy and beneficial relationship between the other parent and the parties’ then-minor children (November 2019 contempt motion). The petitioner claimed that the respondent had violated the parenting plan by, among other things, removing the children from school a few days early for a week-long vacation without first notifying him. On November 1, 2019, the Trial Court (DalPra, M., approved by Leary, J.) denied the request for ex parte relief, and stated that it would schedule the “case . . . in the ordinary course.”

For reasons that are not clear from the record, the trial court did not schedule the November 2019 contempt motion for a hearing or otherwise rule on it until 2022. In the meantime, numerous other post-divorce disputes and collateral proceedings arose between the parties. On June 27, 2022, the petitioner moved to have the November 2019 contempt motion considered at a hearing that had already been scheduled to occur three days later on several other motions. Although the Trial Court (Rauseo, J.) gave the petitioner some leeway to discuss the November 2019 contempt motion at the June 30, 2022 motions hearing to the extent that he claimed it pertained to another pending matter, it did not grant his request to have the November 2019 contempt motion heard at the scheduled hearing, or otherwise schedule the motion for a hearing. Instead, the trial court denied the November 2019 contempt motion without a hearing on July 22, 2022.

In denying the November 2019 contempt motion, the trial court first noted that the petitioner had not requested a hearing in the motion itself. The trial court then observed that most of the relief requested by the November 2019 contempt motion had become moot by the passage of time or subsequent developments. With respect to the petitioner’s claims that the respondent was in contempt of the parenting plan, the trial court found that, based upon the allegations in both the November 2019 contempt motion and the respondent’s objection, the respondent had not willfully violated the parenting plan by taking the children on a week-long vacation without consulting the petitioner. The trial court observed that the respondent and children, at that time, were coping with the recent death of a close family member, and that the respondent had made appropriate arrangements with the children’s school for the vacation. Such conduct, according to the trial court, violated neither the joint decision-making provision nor the provision requiring the parties to promote healthy relationships between the children and the other parent. It is from the July 22, 2022 order denying the November 2019 contempt motion, and an

order denying the petitioner's motion to reconsider that order, that the petitioner filed the present appeal.

The trial court's contempt power is discretionary; the proper inquiry is not whether we would have found the respondent in contempt, but whether the trial court unsustainably exercised its discretion by not doing so. In the Matter of Ndyaija & Ndyaija, 173 N.H. 127, 138 (2020). To establish that the trial court exercised its discretion unsustainably, the petitioner must demonstrate that the court's ruling was clearly untenable or unreasonable to the prejudice of his case. See Holt v. Keer, 167 N.H. 232, 239 (2015). This standard of review means that we review the record only to determine whether it establishes an objective basis that is sufficient to sustain the trial court's discretionary judgment. In the Matter of Kurowski & Kurowski, 161 N.H. 578, 585 (2011).

The issues raised by the petitioner in his November 2019 contempt motion were limited in scope. On appeal, however, he raises several arguments that were not included in his November 2019 contempt motion. Specifically, he challenges decisions on other post-final-decree motions and in a collateral proceeding between the parties, and challenges the conduct of certain judicial officers under the Code of Judicial Conduct in, or related to, some of those matters. To the extent that the petitioner raised these arguments in his motion to reconsider the trial court's order denying the November 2019 contempt motion, the trial court was well within its discretion to deny reconsideration given the lack of any direct relationship between these issues and the November 2019 contempt motion. See Lillie-Putz Trust v. Downeast Energy Corp., 160 N.H. 716, 726 (2010) ("Whether to receive further evidence on a motion for reconsideration rests in the sound discretion of the trial court."); Mt. Valley Mall Assocs. v. Municipality of Conway, 144 N.H. 642, 654-55 (2000) (holding that the trial court acted reasonably and within its discretion by declining to address new issue raised in a motion for reconsideration). Otherwise, the arguments are not properly before us as part of this appeal from the denial of the November 2019 contempt motion, and we decline to address them further.

The petitioner first argues that Supreme Court Rule 7(1)(B), which operates together with Supreme Court Rule 3 to classify this appeal as a discretionary appeal, is contrary to RSA 458-A:35 and :39 (2018) because, he claims, those statutes provide an absolute right of appeal. We note, however, that we accepted this appeal, thereby rendering the issue moot. See In the Matter of Routhier & Routhier, 175 N.H. 6, 19 (2022).

The petitioner next raises several arguments challenging the trial court's delay in ruling on the November 2019 contempt motion, and its decision to rule on the motion without a hearing. Specifically, he argues that the language in RSA 461-A:4-a requiring that a motion for contempt of a parenting plan be

“reviewed” by the trial court within thirty days entitled him to a hearing on the November 2019 contempt motion within thirty days of when he filed it. He further argues that the lengthy delay in ruling on the motion violated several provisions of the State and Federal Constitutions.

At the outset, we acknowledge the delay by the trial court in deciding the November 2019 contempt motion. Based upon the record before us, it appears that the trial court’s docket contains more than two hundred entries between the filing of the November 2019 contempt motion and its decision, and that, when the petitioner did bring the trial court’s failure to rule on the motion to its attention on June 27, 2022, it decided the motion within thirty days. The volume of pleadings in this case suggests that the trial court may have overlooked the motion. Nevertheless, the record contains nothing that would excuse the trial court’s failure to rule on the motion for more than two and a half years.

Notwithstanding the trial court’s delay in ruling on the motion, it is the petitioner’s burden to establish reversible error. See Gallo v. Traina, 166 N.H. 737, 740 (2014). Within the context of a non-criminal appeal, this generally requires the appealing party to demonstrate how the alleged error affected the outcome of the case, regardless of whether the error is grounded upon a constitutional or statutory right. See Appeal of Ann Miles Builder, 150 N.H. 315, 320 (2003) (stating that a judgment will not be disturbed for an error that did not affect the outcome below or cause the appealing party injury); McIntire v. Woodall, 140 N.H. 228, 230 (1995) (stating that a party will not prevail on a due process claim absent a showing of actual prejudice).

Here, even if we assume, without deciding, that the trial court’s obligation under RSA 461-A:4-a to “review” the November 2019 contempt motion within thirty days entitled the petitioner to a hearing, or that the delay was so excessive that it violated his constitutional rights, we conclude that the petitioner has failed to establish prejudicial error. We are unpersuaded by the petitioner’s argument that the circumstances surrounding the November 2019 vacation amounted to “parental alienation” and violated the parenting plan’s healthy-and-beneficial relationship or joint decision-making provisions. Accordingly, the record before us does not support a finding that the outcome would have been different had the trial court held a hearing on the motion or decided it within a reasonable period of time. See Ann Miles Builder, 150 N.H. at 320.

Finally, the petitioner argues that the trial court erred by denying his motion for reconsideration on the basis that it exceeded ten pages. See Fam. Div. R. 1.26(F). He asserts that the trial court should have waived the ten-page limitation for good cause. See Fam. Div. R. 1.2. Although the trial court denied the motion on the basis that it violated the ten-page limitation of Family Division Rule 1.26(F), the court alternatively denied the motion on its merits,

finding that, based upon the court's review of the motion and the objection to it, the court had not overlooked or misapprehended any point of fact or law. See Fam. Div. R. 1.26(F). Based upon our review of the motion and the record, we cannot conclude that the trial court unsustainably exercised its discretion by denying the motion on its merits. See Mt. Valley Mall Assocs., 144 N.H. at 654; cf. Koor Communication v. City of Lebanon, 148 N.H. 618, 624 (2002) (upholding trial court decision because the trial court had set forth alternative grounds for its decision and the appealing party had challenged only one of those grounds on appeal).

Issues raised for the first time in the petitioner's reply brief are waived. See Panas v. Harakis & K-Mart Corp., 129 N.H. 591, 617-18 (1987). In light of this opinion, the respondent's request in her memorandum of law that we dismiss the appeal is moot.

Affirmed.

MACDONALD, C.J., and HICKS, BASSETT, and HANTZ MARCONI, JJ., concurred.

THE STATE OF NEW HAMPSHIRE**SUPREME COURT**

In Case No. 2022-0284, K.A. v. D.A., the court on July 14, 2023, issued the following order:

The defendant's motion to consider late authorities is granted. The court has reviewed the written arguments and the record submitted on appeal, and has determined to resolve the case by way of this order. See Sup. Ct. R. 20(2). The defendant, D.A., appeals an order of the Circuit Court (Rauseo, J.), issued following a hearing, granting requests by the plaintiff, K.A., to extend a domestic violence final order of protection. See RSA 173-B:5, VI (2022). On appeal, the defendant advances numerous arguments. We affirm.

"In an appeal from an order on a domestic violence petition, the trial court's 'findings of facts shall be final,' and we undertake de novo review of 'questions of law.'" S.C. v. G.C., 175 N.H. 158, 162 (2022) (quoting RSA 173-B:3, VI). "We review sufficiency of the evidence claims as a matter of law, upholding the findings and rulings of the trial court unless they are lacking in evidentiary support or tainted by error of law." Id. "When performing this review, we accord considerable weight to the trial court's judgments on the credibility of witnesses and the weight to be given testimony." Id. at 162-63. We view the evidence in the light most favorable to the prevailing party — here, the plaintiff. See id. at 163.

RSA chapter 173-B provides that, upon a showing of "good cause," a protective order may be extended for one year after the expiration of the first order, and thereafter for up to five years, at the request of the plaintiff and the discretion of the court. RSA 173-B:5, VI. To determine whether "good cause" exists, the trial court must "assess whether the current conditions are such that there is still a concern for the safety and well-being of the plaintiff." MacPherson v. Weiner, 158 N.H. 6, 10 (2008) (defining "good cause" in the context of stalking order extension). In its assessment, the trial court must review the circumstances giving rise to the original protective order and any violation of the order. See id. "The trial court should also take into account any present and reasonable fear by the plaintiff." Id. "Where the trial court determines that the circumstances are such that, without a protective order, the plaintiff's safety and well-being would be in jeopardy, 'good cause' warrants an extension." Id.

We briefly summarize the procedural history of this case. The initial domestic violence final order of protection was issued by the Trial Court (Derby, J.) in December 2019. We upheld that order on appeal in June 2020. In December 2020, the Trial Court (Curran, J.) granted the plaintiff's ex parte

request for an initial extension of the protective order, which, following a hearing, was reaffirmed by the Trial Court (DalPra, M., approved by Leonard and Chabot, JJ.) in March 2021. See RSA 173-B:5, VI (providing that the trial court has discretion to extend a protective order for good cause shown, and that the defendant shall have a right to a hearing on the extension within 30 days of its issuance). The defendant appealed from the orders granting the extension, and, on appeal, we agreed with the defendant that the marital master, who presided over the hearing, was disqualified. Accordingly, we vacated the orders recommended by the marital master, and remanded for a new hearing before a different judicial officer of the circuit court. We expressed no opinion as to the merits of the underlying motion to extend the protective order, but, in light of the unique circumstances of the case, we left the protective order in place pending the outcome of the new hearing.

On remand, the plaintiff sought an additional five-year extension. See id. (providing that the trial court may extend the original protective order for one year after the expiration of the original protective order, and upon the expiration of any extension, for up to five years). The Trial Court (Rauseo, J.) held a hearing on both the first request to extend the protective order and the plaintiff's second extension request, and granted an extension of one additional year in an 11-page narrative order. The trial court observed that, under the unique circumstances of the case, the hearing was effectively the hearing on the first extension request, and that, in any event, fairness required that the court limit the duration of any extension to one year. The court denied the defendant's motion for reconsideration in a 6-page narrative order. This appeal followed.

We first note that several of the defendant's arguments are not properly before us in this appeal from the one-year extension of the protective order. The defendant's first five appellate arguments all seek to collaterally attack the initial domestic violence protective order issued by the Trial Court (Derby, J.) in December 2019, or our order upholding it. The December 2019 order is final. See Gray v. Kelly, 161 N.H. 160, 164-65 (2010) (explaining doctrines of res judicata and collateral estoppel); Taylor v. Nutting, 133 N.H. 451, 454-57 (1990) (explaining doctrine of law of the case). Similarly, our order, upholding the initial protective order, is also final. See Sup. Ct. R. 24; Carleton, LLC v. Balagur, 162 N.H. 501, 505-06 (2011) (explaining that this court's decisions become final once mandate issues).

Although the defendant purports to have discovered "new evidence" of judicial misconduct justifying reconsideration of Judge Derby's December 2019 order, we disagree. The fact that a party discovers "new evidence" does not authorize the party to collaterally attack, in a separate appeal, a prior judgment that is otherwise final. Cf. Bricker v. Sceva Speare Hosp., 114 N.H. 229, 231 (1974) (observing that the trial court may grant a new trial on the ground of newly discovered evidence when the moving party was not at fault in failing to discover the evidence earlier; the evidence is admissible, material to the merits,

and not cumulative; and it is of such a character that a different result will probably be reached at a new trial); In the Matter of Harman & McCarron, 168 N.H. 372, 375 (2015) (observing that the trial court may set aside a final judgment upon a motion demonstrating fraud, accident, mistake, or misfortune). Moreover, nothing alleged in the defendant's brief — which relates to alleged or previously addressed misconduct by other judicial officers — would cause a reasonable person to question Judge Derby's impartiality. See Sup. Ct. R. 38, Canon 2.11. For the same reason, the defendant's sixth appellate argument — which challenges the initial ex parte extension of the protective order, granted by Judge Curran, based on alleged or previously addressed misconduct by other judicial officers — warrants no further discussion. See Vogel v. Vogel, 137 N.H. 321, 322 (1993).

Next, we address the defendant's ninth appellate argument. Here, the defendant challenges our order, issued on December 16, 2021, in which we ruled, in his favor, that the marital master should have disqualified himself from presiding over the hearing on the initial extension of the protective order, vacated the orders recommended by the master, and remanded for the defendant to receive a new hearing before a different judicial officer. Although the defendant now contends that we lacked the statutory authority to leave the protective order in place pending the outcome of that new hearing, any objections to our order should have been — but were not — raised at that time through a motion for reconsideration. See Sup. Ct. R. 22. Accordingly, our December 16, 2021 order is final, and any challenges thereto are not properly before us in this appeal. See Sup. Ct. R. 24; Balagur, 162 N.H. at 505-06. We note that the United States Supreme Court denied the defendant's petition for a writ of certiorari challenging our December 16, 2021 order.

Next, we address the defendant's thirteenth appellate argument. Here, and elsewhere in his brief, the defendant asserts that the trial court violated his constitutional right to equal protection by reaching different results in this case than it did in other cases, generally involving different judges, parties, or facts. We decline to adjudicate these arguments, however, because they are inadequately developed for our review. See State v. Blackmer, 149 N.H. 47, 49 (2003) (explaining that off-hand or passing references to constitutional rights, without developed legal argument, are insufficient to warrant judicial review).

Now we address the defendant's remaining arguments, numbered seven, eight, ten, eleven, and twelve. In these arguments, the defendant contends that the Trial Court (Curran, J.) erred by issuing the initial extension of the protective order on an ex parte basis; that the evidence before the Trial Court (Rauseo, J.) was insufficient to support a finding of "good cause" to extend the protective order; that the Trial Court (Rauseo, J.) erred by denying the defendant's second motion for a continuance, and by considering and crediting evidence of the defendant's violation of the protective order following an out-of-state court hearing related to the parties' parenting matter; that the Trial Court (Rauseo, J.)

erred by finding that the defendant had violated the protective order without providing him the due process protections afforded criminal defendants; and that the Trial Court (Rauseo, J.) erred by preventing the defendant from calling a particular witness to testify as to the defendant's compliance with the protective order on a particular occasion. We disagree.

As the appealing party, the defendant has the burden of demonstrating reversible error. Gallo v. Traina, 166 N.H. 737, 740 (2014). Based upon our review of the trial court's thorough and well-reasoned orders; the defendant's challenges to them, including his seventh, eighth, tenth, eleventh, and twelfth appellate arguments; the relevant law; and the record submitted on appeal; we conclude that the defendant has not demonstrated reversible error. See id.; Sup. Ct. R. 25(8). To the extent that the defendant contends that Judge Rauseo was biased, or that he otherwise should have disqualified himself, we disagree. Based upon our review of the record, we cannot conclude that a reasonable person would have questioned Judge Rauseo's impartiality. See Sup. Ct. R. 38, Canon 2.11; In the Matter of Tapply & Zukatis, 162 N.H. 285, 297 (2011) (observing that judicial rulings alone almost never constitute a valid basis for a bias or partiality challenge).

Lastly, we note that any issues raised in the defendant's notice of appeal that were not briefed are waived. See In re Estate of King, 149 N.H. 226, 230 (2003).

Affirmed.

MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

9th N.H. Circuit Court - Nashua Family Division, 659-2019-DV-00341
Honorable Kevin P. Rauseo
Honorable David D. King
Mr. Dana Albrecht
Michael J. Fontaine, Esquire
Israel F. Piedra, Esquire
Francis C. Fredericks, Supreme Court
File

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

9th Circuit - Family Division - Nashua
30 Spring Street, Suite 102
Nashua NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<https://www.courts.nh.gov>

May 22, 2023

**SUPREME COURT OF NEW HAMPSHIRE
ONE CHARLES DOE DRIVE
CONCORD NH 03301**

RECEIVED

MAY 23 2023

NH SUPREME COURT

Case Name: **In the Matter of Katherine Albrecht v. Dana Albrecht**
Case Number: **659-2019-DV-00341 659-2016-DM-00288**

POSTED

Please find enclosed Report to Supreme Court Regarding Order on Further Extension of
Domestic Violence Protective Order

Judge Rauseo

Sherry L. Bisson
Clerk of Court

(888)

C: Dana Albrecht; Michael J. Fontaine, ESQ

POSTED

THE STATE OF NEW HAMPSHIRE

JUDICIAL BRANCH

NH CIRCUIT COURT

HILLSBOROUGH COUNTY

9th CIRCUIT - FAMILY DIVISION - NASHUA

RECEIVED

MAY 23 2023

NH SUPREME COURT

In the Matter of:

Katherine Albrecht v. Dana Albrecht

Case No. 659-2019-DV-00341

Supreme Court Case No. 2023-0181

**REPORT TO SUPREME COURT REGARDING ORDER ON FURTHER EXTENSION OF
DOMESTIC VIOLENCE PROTECTIVE ORDER**

On May 5, 2023, the Supreme Court issued the following order:

On or before May 25, 2023 the 9th Circuit Court - Nashua Family Division shall submit a brief report informing this court as to whether its February 24, 2023 "Order on Further Extension of Domestic Violence or Stalking Final Protective Order" was a final order on the merits, or whether the court intended to hold a hearing on the requested extension of the protective order.

This report is to explain the thinking underlying this Court's February 24, 2023 Order on Further Extension, and it's scheduling of a hearing on that Order.

On February 25, 2022, the Court issued an Order on Objection to Extension of DV/Stalking Final Order (Index #140), ruling that the plaintiff had shown good cause why the Extension Order is necessary based upon the evidence presented at the hearing. The Extension Order was to remain in effect until February 25, 2023.

The plaintiff filed her Request for Renewal of DV/Stalking Order (Index #160) on February 6, 2023. The following day, the defendant filed an "EX PARTE Motion to Stay and for Explanation of December 21, 2020 Extension" (Index #165), to which the plaintiff objected (Index #166). The Court denied the request for ex parte orders without a hearing. (Index #167). Subsequently, the defendant objected to the plaintiff's Request for 5-Year Extension (Index #168), and the plaintiff filed a Replication to the Objection (Index #173). On February 21, the same date she filed the Replication, the plaintiff also filed a Motion to Amend and Request for Extension of Domestic Violence Final Protective Order (#171). Although the defendant moved to strike the Plaintiff's Motion to Amend (Index #174), the motion to strike was denied because DV Protocol 6.11 allows for amendment of pleadings.

On the final day the plaintiff's final DVPO was effective, February 24, 2023, the Court granted the plaintiff a one-year extension to the Protective Order. (Index #177, 179.) Although the defendant did not request a hearing in either his February 16, 2023 "Objection to Plaintiff's Request for 5 Year Extension" (Index #168), or in his March 20, 2023 "Ex Parte Motion for Clarification of Order on

Further Extension Dated Feb 24, 2024" (Index #182), the Court scheduled a hearing on the extension for March 30, 2023.

Domestic Violence Protocol 9-11 provides, in pertinent part:

If the Court grants the extension based upon plaintiff's showing of good cause, the court shall send a copy of the plaintiff's motion and the extension order to the defendant.

Included with this mailing shall be notice to the defendant of the right to object within ten days, and that if an objection is filed, a hearing will be scheduled on defendant's objection within 30 days of the extension. No hearing is needed unless an objection is timely filed.

(Emphasis added.) Protocol 9-11 is silent on whether a hearing should be scheduled if the defendant files an objection prior to the Court rendering a decision on a request for an extension. Typically, a defendant does not file an objection until after the Court renders a decision on the plaintiff's request for an extension, as the defendant is not aware of the request until the Court sends the request with the extension order.

In this case, however, the defendant filed his objection prior to the Court granting the extension, so the defendant's position was known to the Court when the extension was granted. The defendant did not file an objection within 10 days of the February 24, 2023 extension order. This case is unusual, however, inasmuch as the Court does not usually have a defendant's objection when deciding whether to grant or to deny the extension. As noted above, typically, the defendant is unaware of the plaintiff's request for an extension until after the Court issues a decision on the request. Further, the protective order that is being extended is currently pending on appeal. Because of these complicating factors, the Court scheduled a hearing despite the defendant's lack of express request for such a hearing after the Court granted the extension of the protective order.

The Supreme Court has asked whether this Court's February 24, 2023 protective order "was a final order on the merits, or whether the court intended to hold a hearing on the requested extension of the protective order." The Court intended to issue a final order on the merits, finding that the plaintiff continued to show good cause for the extension of the protective order, over the defendant's written objection (Index #168). Even though the defendant did not file an objection within 10 days after the extension order issued, the Court scheduled a hearing given the novel issue of whether a hearing should be scheduled when the defendant filed the objection before the Court granted the extension.

The March 30, 2023 hearing was meant to include the parties' presentations on the plaintiff's Motion to Quash Subpoena of Plaintiff's Lawyer's Paralegal (see Index #s 185 – 188, 191). On March 29, however, the day before the hearing was to take place, the defendant appealed this Court's ruling to the New Hampshire Supreme Court (Index #189). He filed another motion in this Court the same date, an Expedited Motion to Strike Prior Testimony (Index #192). Recognizing that the appeal divested this Court of jurisdiction, see Rautenberg v. Munnis, 107 N.H. 446, 447 (1966), this Court issued an Order effectively staying proceedings pending appeal (Index #193).

May 22, 2023

Date


Hon. Kevin Rauseo, Judge

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

9th Circuit - Family Division - Nashua
30 Spring Street, Suite 102
Nashua NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<https://www.courts.nh.gov>

**ORDER ON FURTHER EXTENSION OF
DOMESTIC VIOLENCE OR STALKING FINAL PROTECTIVE ORDER**
Pursuant to RSA 633:3-a or 173-B

Case Number: **659-2019-DV-00341**

PNO: **6591910341**

Katherine Albrecht

Plaintiff

Plf Date of Birth

V. Dana Albrecht

Defendant

Def Date of Birth

Pursuant to the provision of New Hampshire RSA 173-B:5, VI or RSA 633:3-a, III-c, the Plaintiff requests a further extension of the Final Protective Order issued on December 30, 2019, the Plaintiff having been originally granted a one-year extension.

- ☒ The Court finds, based upon the Plaintiff's representations, that good cause exists to extend the order. Accordingly, the Final Protective Order expires on 02/24/2024. The Defendant shall be given notice of Plaintiff's request and this order.

If the Defendant objects to the extension, he/she shall file a written objection within 10 days of the date of the Clerk's Notice of Decision and a hearing shall be conducted within 30 days of this order. At such hearing, the Court may either reaffirm, modify or vacate this extension order. If a hearing is scheduled, both parties shall appear.

The Plaintiff must file any request to further extend the Order of Protection before the order expires.

- ☐ The Court finds, based upon the Plaintiff's representations, that good cause does not exist and the request to extend the order is denied.

Recommended:

Date

Signature of Marital Master

Printed Name of Marital Master

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

February 24, 2023
Date

Signature of Judge

Kevin P. Rauseo

Printed Name of Judge

80a
THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT

Court Name:

9th Circuit - Family Division - Nashua

Telephone: (603) 787-6626

RECEIVED TDD Relay: (800) 735-2964

NH CIRCUIT COURT <http://www.courts.state.nh.us>

9TH CIRCUIT NASHUA

**REQUEST FOR EXTENSION OF DOMESTIC VIOLENCE
OR STALKING FINAL PROTECTIVE ORDER**

Case Number: 659-2019-DV-00341

PNO _____

Katherine Minges (fka Albrecht)

Plaintiff

Plf Date of Birth _____

v. Dana Albrecht

Defendant

Def Date of Birth _____

I have a Domestic Violence/Stalking Final Protective Order issued on 02/25/2022
(date)

The order will expire on 02/25/2023
(date)

☐ I request a one year extension of this order for the following reasons:

☒ Having received an initial one year extension of the final protective order, I now request a further extension of up to five years for the following reasons:

Mr. Albrecht has demonstrated a pattern of harassing and stalking-like behavior and actions that is well-documented with this Court not only in this matter, but also in numerous pleadings filed and in the testimony of Ms. Minges and her witnesses at multiple hearings ITMO Dana Albrecht and Katherine Albrecht, Docket No. 659-2016-DM-00288. Ms. Minges asserts that she continues to be in fear for her safety based upon Mr. Albrecht's past actions and based upon his continued actions after this Court's last extension including filing of pleadings clearly intended to harass Ms. Minges.

2/3/23
Date

K Minges
Plaintiff Signature

State of Michigan, County of St. Clair

This instrument was acknowledged before me on 2-3-2023 by Katherine Minges

My Commission Expires 2-3-2026
Affix Seal, if any

Sarah Marie Bremerkamp
Clerk of Court/Deputy Clerk/Justice of Peace/Notarial Officer

SARAH MARIE BREMERKAMP
Notary Public - State of Michigan
County of St Clair
My Commission Expires Feb 3, 2026
Acting in the County of St. Clair

160

THE STATE OF NEW HAMPSHIRE**SUPREME COURT****ORDER****JD-2022-0001, In the Matter of Bruce F. DalPra**

On October 5, 2022, the Judicial Conduct Committee (JCC) filed a summary report of its proceedings, findings, and recommendations in JC-21-072-C, In re: Bruce F. DalPra, along with a certified copy of the record of its proceedings.

According to the JCC's summary report, former marital master Bruce F. DalPra (DalPra), who retired from his position earlier this year, admitted that he violated a number of provisions of the Code of Judicial Conduct (Supreme Court Rule 38), as alleged in the JCC's Statement of Formal Charges and as modified by the Stipulation and Agreement signed by DalPra and the JCC's counsel. The JCC's record includes a copy of the Stipulation and Agreement, in which DalPra admitted violations of several Code provisions; acknowledged that he understood that the JCC would enter findings that he had violated those provisions; and waived his right to a de novo hearing on the charges. DalPra also acknowledged that he is responsible for reimbursing the Administrative Office of the Courts (AOC) for the attorney's fees, transcript fees, and other expenses that the JCC incurred to investigate and prosecute the matter. A subsequently executed amendment to the Stipulation and Agreement fixed the reimbursement amount at \$12,680.52.

The JCC reviewed the Stipulation and Agreement and entered findings, by clear and convincing evidence, that DalPra violated the following provisions of the Code of Judicial Conduct:

Canon 1, Rule 1.2, which provides: "A judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."

Canon 2, Rule 2.11, which provides in part: "A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned."

Canon 2, Rule 2.16(A), which provides: "A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies."

Canon 2, Rule 2.8(B), which provides, in relevant part: "A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers,

court staff, court officials, and others with whom the judge deals in an official capacity”

In the summary report of its findings, the JCC noted that DalPra had retired before the report was submitted. The summary report stated that because DalPra had taken this action, the JCC made no additional recommendations for “appropriate” sanctions.

In accordance with Rule 40(12) and (13), when the JCC determines that a “judge” — a term that includes a marital master, see Sup. Ct. R. 40(2); see also Sup. Ct. R. 38 (“Terminology” section) — has violated the Code of Judicial Conduct and determines that the violations warrant formal disciplinary action by this court, the judge may request a de novo hearing, after which the court will schedule briefing and oral argument. In this case, DalPra has waived his right to a de novo hearing, and he notified the court, through his counsel, that he does not seek the opportunity to file a brief or present oral argument.

The court determines that the JCC’s findings as to the violations of the Code of Judicial Conduct are supported by the JCC’s record. See Rule 40(13). In light of DalPra’s retirement from his position as a marital master, the court concludes that no additional disciplinary action is required.

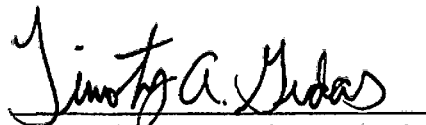
Pursuant to Rule 40(13-A) and the terms of the Stipulation and Agreement, as amended, DalPra is ordered to reimburse the AOC in the amount of \$12,680.52 for the attorney’s fees, transcript fees, and other expenses that the JCC incurred to investigate and prosecute the matter. Payment shall be made on or before December 19, 2022.

MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

So ordered.

DATE: November 10, 2022

ATTEST:


Timothy A. Gudas, Clerk

Distribution:
 Judicial Conduct Committee, JC-21-072-C
 Philip R. Waystack, Jr., Esq.
 Anthony F. Sculimbrene, Esq.
 File

EXHIBIT

14

THE STATE OF NEW HAMPSHIRE
Judicial Conduct Committee

STATE OF NEW HAMPSHIRE

V.

MASTER BRUCE DALPRA

*
*
*
*
*
*

DOCKET JC-21-072-C

DEPOSITION OF THE HONORABLE DAVID KING

August 26, 2022, 9:59 a.m.

The deposition took place at the Office of the Judicial Conduct Committee,
Concord, New Hampshire

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IN ATTENDANCE

FOR THE JUDICIAL COUNCIL:

Philip Waystack Esquire
Waystack Frizzell
251 Main Street
Colebrook, NH 03576
603.237.8322

FOR MASTER DALPRA:

Anthony Sculimbrene, Esquire
Leslie Gill, Esquire
Gill & Sculimbrene, PLLC
39 East Pearl Street
Nashua, NH 03060
603.889.5959

FOR JUDGE KING:

Mary Ann Dempsey, Esquire
1 Granite Place, Suite N400
Concord, NH 03301
603.415-0660

THE STATE OF NEW HAMPSHIRE
Judicial Conduct Committee

STATE OF NEW HAMPSHIRE *

*

V. *

DOCKET JC-21-072-C

*

MASTER BRUCE DALPRA *

*

DEPOSITION OF THE HONORABLE DAVID KING

August 26, 2022, 9:59 a.m.

This deposition excerpt is relevant to the issues in this matter. The balance of the deposition transcript is not relevant to the issues and thus has been redacted by agreement of counsel.

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15 Q How about this: When you are deciding what to do vis-
16 à-vis Bruce DalPra and sending this email, did you
17 have in your mind, guiding your actions in this
18 specific case, Rule 2.15?

19 A Yes, I did.

20 Q Okay. And did you have in mind the difference between
21 2.15(A) and 2.15(C)?

22 A Yes.

23 Q Okay. And at the time that you sent this email, in
24 your mind, did you believe that it rose to the level

1 of a 2.15(A) mandatory report?

2 A I would say at the time I made the call, I hadn't
3 decided that. I mean, I needed to gather some more
4 information. I needed to talk to Master DalPra, find
5 out what happened. I was going on pretty limited
6 information at that point. So I would - You're asking
7 me at a specific point in time. I would say at that
8 time, I didn't know if I had a 2.15(A) or (C), or none
9 of the above.

10 Q Okay. And at some point, you did talk to Master
11 DalPra, correct?

12 A I did.

13 Q And did that conversation clarify what obligations you
14 had in this specific case vis-à-vis Rule 2.15?

15 A Yes.

16 Q Okay. And so, in this case, - this leads me to my
17 next set of questions - did you believe that 2.15(A)
18 or 2.15(C) required you to provide this information to
19 the Judicial Conduct Committee?

20 A So I, after speaking to Master DalPra and reviewing
21 the rule, concluded that "A" was not the applicable
22 section. I did not have a belief, and don't have a
23 belief, as I sit here today, that the rule had been
24 violated raises a substantial question regarding his

1 honesty. He was pretty forthright with me about what
2 had occurred. His trustworthiness, I had no reason
3 not to trust him at that point. And when I think of
4 fitness as a judge, I think that's a pretty high bar
5 to meet. And I didn't, at that time, have a concern
6 about his fitness to serve as a judge. I had already
7 decided under "C," however, that this was something
8 that, even though it was a set of facts that I had
9 never seen before in my 30+ years as a judge, I felt
10 there was an obligation to let the Judicial Conduct
11 Committee know about it.

12 Q Did you tell the Judicial Conduct Committee?

13 A Did I tell the Judicial Conduct Committee what?

14 Q About what you had found regarding the transcript in
15 the Albrecht case?

16 A Yes.

17 Q Okay. Did you provide this email to the Judicial
18 Conduct Committee?

19 A No.

20 Q Okay.

21 A And let me just be clear. When I say "Judicial
22 Conduct Committee," I had a conversation with Robert
23 Mittelholzer after I spoke with Master DalPra about
24 this incident. So I didn't have any communication

1 with the committee itself. I didn't send them
2 anything. I had a phone conversation with Robert
3 Mittelholzer.

4 Q Did you - STRIKE THAT. Were you aware of the fact
5 that Master DalPra had decided to self-report?

6 A I was aware that Master DalPra was going to self-
7 report. I had a conversation with him on Wednesday,
8 November 18th. I had sent him the email on Friday. I
9 think he was either - he either had a writing day that
10 day or he was on vacation. I had tried to call him on
11 his extension, which is typically how I try to reach a
12 judge. I don't like to call the clerk's office and,
13 you know, "The administrative judge is calling.
14 What's going on?" So I'm usually pretty low key about
15 these things. I was not able to get him. I tried a
16 couple of times during the day on Friday. So I sent
17 the email that's been marked as Exhibit 1. Didn't
18 hear back from him, I think until Tuesday, the 17th.
19 He said he had left his laptop at work and he'd been
20 working from home - circumstances that he didn't see
21 my email. So I think we spoke on Tuesday, or we
22 exchanged emails on Tuesday, and we agreed to speak on
23 Wednesday, the 18th at 12:30 during a break in his
24 cases.

1 Q Okay. Two questions about what you just said. For
2 people who are unaware, what is a writing day for a
3 judge?

4 A Rare. But it's a day when the judge is scheduled to
5 not have any scheduled cases so that they can catch up
6 on writing orders for cases that they've already
7 heard.

8 Q And then second, is it uncommon for judges to work
9 outside the courtroom on a writing day?

10 A Not during COVID-19, it wasn't.

11 Q And for the record, this took place in November of
12 2020, which was during the pandemic?

13 A Correct.

14 Q Okay. Did anything about the delay between when you
15 sent the email and when Master DalPra got back to you
16 indicate that he was trying to be deceptive or
17 concealing? Did you have any reason to believe that?

18 A No.

19 Q Okay. To this day, do you know whether or not the
20 committee has seen this email?

21 A I have no idea.

22 Q Okay. To this day, are you aware of whether or not
23 the committee has accessed and listened to either of
24 the two audio files contained in this email?

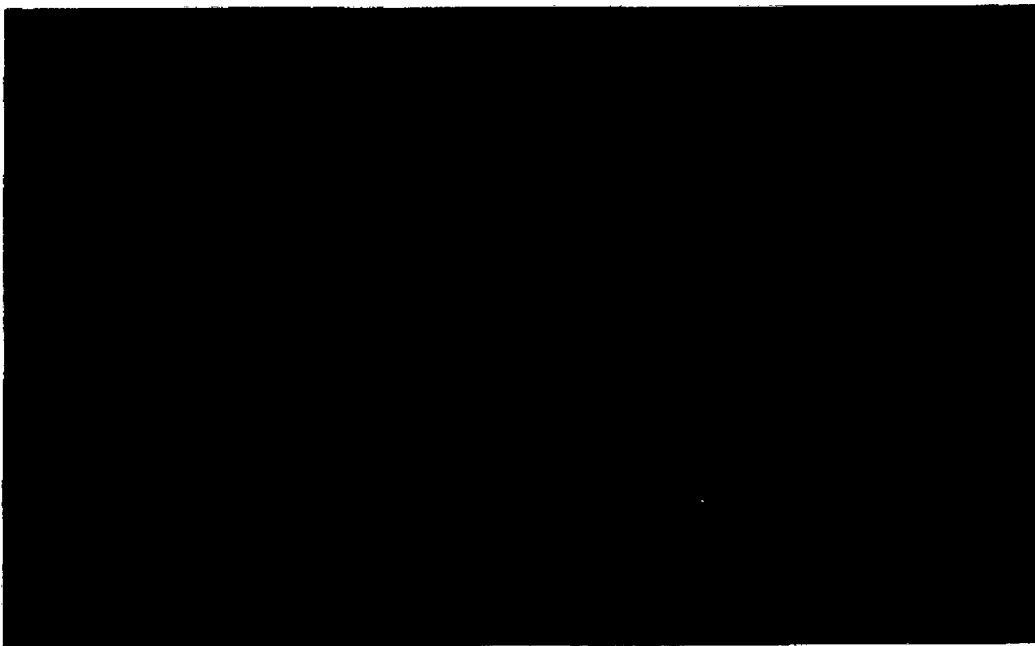
1 A I don't. I do know that in December of 2020, I
2 provided those to Robert Mittelhozer. It took me a
3 couple of tries because I sent them the first time in
4 a - probably use the wrong word here - but format that
5 he couldn't open. And so Kathy Yee was kind enough to
6 help me re-send them in a different format so that he
7 was able to open them.

8 Q Okay. And the same goes for the - the same question
9 for the two snippets. To your knowledge, do you know
10 if they've seen these snippets as like set apart from
11 the rest of the transcript in the way that you did in
12 this email?

13 A I do not.

14 Q Okay.

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CorrectionsPage No. 9, Line No. 15Correction: "Cosign" should be "cosigned"Page No. 11, Line No. 3Correction: "as" should be "has"

Page No. __, Line No. __

Correction: _____

Page No. __, Line No. __

Correction: _____

Page No. __, Line No. __

Correction: _____

Page No. __, Line No. __

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Correction: _____



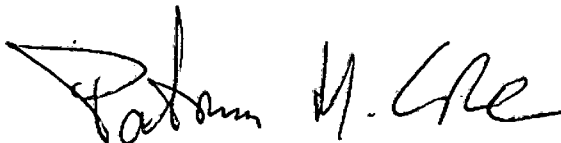
Deponent

STATE OF NEW HAMPSHIRE

COUNTY OF

Merrimack

Subscribed and sworn to before me this 27 day of
September 2022.



~~JUSTICE OF THE PEACE/NOTARY PUBLIC~~

My Commission Expires PATRICIA M. COLE, Notary Public

State of New Hampshire

My Commission Expires October 3, 2023



94a

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NH 03801

Requested by: Robert Mittelholzer**Assignment No:** NHJB-15309**Case Name:** In the Matter of Dana Albrecht and Katherine Albrecht**Case Number:** 659-2016-DM-00288**Hearing Date(s):** 11/06/2020

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STATE OF NEW HAMPSHIRE

9TH CIRCUIT COURT - FAMILY DIVISION - NASHUA

IN THE MATTER OF:) Family Division Case No.
) 659-2016-DM-00288
 DANA ALBRECHT,)
)
 Petitioner,)
) Nashua, New Hampshire
 and) November 6, 2020
) 11:37 a.m.
 KATHERINE ALBRECHT,)
)
 Respondent.)
)

HEARING ON MOTIONS
 BEFORE THE HONORABLE BRUCE DALPRA
 MARITAL MASTER OF THE CIRCUIT COURT - FAMILY DIVISION

REVISED - UNABRIDGED FINAL WITH TIMESTAMPS

APPEARANCES (All present by video or telephone):

For the Petitioner: Joseph Caulfield, Esq.
 CAULFIELD LAW AND MEDIATION
 OFFICE
 126 Perham Corner Rd
 Lyndeborough, NH 03082

For the Respondent: Michael J. Fontaine, Esq.
 WELTS, WHITE & FONTAINE, P.C.
 P.O. Box 507
 Nashua, NH 03061

Also Present: Kathleen Sternenberg
 GAL

Audio Operator: Electronically Recorded
 Not Monitored

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I N D E X

<u>WITNESS (ES)</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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FOR THE PETITIONER:

Dana Albrecht	4	40	66	
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Dana Albrecht (rebuttal)	126			
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<u>WITNESS (ES)</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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FOR THE RESPONDENT:

Katherine Albrecht	78	126		
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MISCELLANEOUSPAGE

Petitioner Rests	74
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Respondent's Opening Statement	74
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Respondent Rests	137
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Matter Taken Under Advisement	130
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EXHIBITSIDEVD

NONE		
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CERTIFICATE

I, Dena Farbman, a court-approved proofreader, do hereby certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, to the best of my professional skills and abilities.

Karen Raile, CDLT-105, Transcriptionist
Erin Perkins, CET-601, Proofreader

**Dena
Farbman** Digitally signed
by Dena Farbman
Date: 2022.04.07
15:07:43 -04'00'

DENA FARBMAN, CET-629
Proofreader/Quality Control Manager

April 6, 2022

Original transcript signed on November 12, 2020



THE STATE OF NEW HAMPSHIRE

SUPREME COURT

O R D E R**LD-2021-0001, In the Matter of Julie A. Introcaso, Esquire**

On March 24, 2021, the court suspended the respondent, Julie A. Introcaso, on an interim basis from the practice of law as a result of criminal charges that were pending against her. On February 3, 2022, the Attorney Discipline Office (ADO) filed certified copies of the respondent's convictions in State of New Hampshire v. Julie A. Introcaso, Hillsborough Superior Court – South docket no. 226-2021-CR-00126, on two misdemeanor counts of RSA 641:7 (Tampering With Public Records or Information) and one misdemeanor count of RSA 641:3 (Unsworn Falsification). With the certified copies, the ADO provided its written recommendation “that the Court enter an order disbaring [the respondent] from the practice of law pursuant to Rule 37(9)(d).” The ADO further stated that it had contacted the respondent, and she **“does not object to the disposition proposed by the Attorney Discipline Office and waives the formal disciplinary process contemplated by Rule 37(9)(d).”**

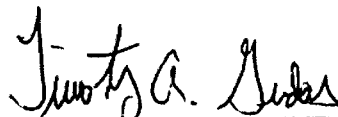
The court concludes that the respondent has been convicted of a “serious crime,” as that term is defined in Supreme Court Rule 37(9)(b). Subparagraph 9(d) of Rule 37 provides that “[u]pon the receipt of a certificate of conviction of an attorney for a ‘serious crime,’ the court may, and shall if suspension has been ordered pursuant to subsection (a) above, institute a formal disciplinary proceeding by issuing an order to the attorney to show cause why the attorney should not be disbarred as result of the conviction.” Because the respondent does not object to the ADO’s recommendation for disbarment, and because the respondent has waived the formal disciplinary process contemplated by Rule 37(9)(d), it is unnecessary to serve the respondent with the ADO’s recommendation or to provide her an opportunity to be heard on the recommendation prior to court action. In light of the seriousness of the respondent’s misconduct, the court concludes that the respondent should be disbarred.

THEREFORE, the court orders that Julie A. Introcaso be disbarred from the practice of law in New Hampshire. She is hereby assessed all costs and expenses incurred by the attorney discipline system in the investigation and prosecution of the disciplinary matter.

Bassett, Hantz Marconi, and Donovan, JJ., concurred.

DATE: February 25, 2022

ATTEST:



Timothy A. Gudas, Clerk

Distribution:

Mark P. Cornell, Esq.

Brian R. Moushegian, Esq.

Michael A. Delaney, Esq.

Julie A. Introcaso, Esq.

File

THE STATE OF NEW HAMPSHIRE**SUPREME COURT**

In Case No. 2021-0192, Katherine Albrecht v. Dana Albrecht, the court on December 16, 2021, issued the following order:

Having considered the briefs, memorandum of law, and record submitted on appeal, we conclude that oral argument is unnecessary in this case. See Sup. Ct. R. 18(1). The defendant appeals orders of the Circuit Court (DalPra, M., approved by Leonard and Chabot, JJ.), following a hearing, granting an extension of a domestic violence final order of protection to the plaintiff, see RSA 173-B:5, VI (Supp. 2021), and denying his motion for reconsideration. On appeal, the defendant raises several challenges to the trial court's orders. We vacate and remand.

One of the arguments advanced by the defendant is that he was denied due process of law under both Part I, Article 35 of the New Hampshire Constitution, and the Fourteenth Amendment to the United States Constitution, when the judicial officer who presided over this matter neither disqualified himself nor disclosed to the parties the basis for his potential disqualification. See In the Matter of Tapply & Zukatis, 162 N.H. 285 (2011); Blaisdell v. City of Rochester, 135 N.H. 589 (1992); Sup. Ct. R. 38.

In support of his argument, the defendant provided this court with a copy of a letter from the judicial officer to the New Hampshire Judicial Conduct Committee (JCC), in which the judicial officer reported that he may have violated the New Hampshire Code of Judicial Conduct during a telephonic hearing held in a separate family division proceeding involving the parties. In his letter, the judicial officer states, in part, that "[d]uring [defendant's] testimony he began speaking of issues that were not relevant to the issues to be decided-something he often did. Under my breath I uttered a comment that contained a vulgar expression: 'who the f*** cares.'" Thereafter, apparently without disclosing to the parties his comment, nor his decision to self-report it to the JCC, the judicial officer presided over the hearing in this matter, and subsequently recommended the dispositions set forth in the orders now on appeal.

The defendant states that he did not hear the judicial officer's comment during the family division hearing, and that he only learned of it after receiving a copy of the judicial officer's self-report letter pursuant to a request the defendant filed with the JCC. Accordingly, the defendant argues that because he "was ignorant of [the judicial officer's] self-report at the time [the judicial officer]

conducted the most recent [domestic violence] hearing, Defendant was not given any opportunity to file a motion for recusal.”

In light of the defendant’s arguments, we exercised our supervisory jurisdiction, see RSA 490:4 (2010), and remanded for the limited purpose of allowing the trial court to determine whether the judicial officer was disqualified, under the circumstances of this case, from presiding over the plaintiff’s request to extend the protective order. Subsequently, the judicial officer issued an order on remand (DalPra, M., approved by Curran, J.), finding that there was no basis for his disqualification. The judicial officer reasoned, in part, that he is not biased, and explained that the remark was made in response to testimony that “was not relevant to the issues to be decided in the family case,” that it “was not intended to be heard,” and that he only reported it to the JCC “[o]ut of an abundance of caution.” According to the judicial officer, the JCC has since dismissed the matter.

In light of the judicial officer’s decision, we deemed the defendant’s notice of appeal and brief to be challenging the determination that the judicial officer was not disqualified. Because the transcript of the family division hearing at which the judicial officer made his remark was not part of the record on appeal, on November 30, 2021, we ordered the additional transcript. Because the transcript did not contain the relevant remark, on December 10, 2021, we ordered the preparation of an amended transcript, which we received on December 14, 2021. Accordingly, we now review the merits of the disqualification decision with this additional information.

“It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit.” N.H. CONST. pt. I, art. 35. The New Hampshire Code of Judicial Conduct requires a judge to avoid even the appearance of impropriety, to conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary, and to disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including, but not limited to instances where the judge has a personal bias or prejudice concerning a party or a party’s lawyer. Tappl, 162 N.H. at 296, 302; Blaisdell, 135 N.H. at 593; Sup. Ct. R. 38, Canons 1, 2.

“The party claiming bias must show the existence of bias, the likelihood of bias, or an appearance of such bias that the judge is unable to hold the balance between vindicating the interests of the court and the interests of a party.” Tappl, 162 N.H. at 297 (quotation omitted). “The existence of an appearance of impropriety is determined by an objective standard, *i.e.*, would a reasonable person, not the judge himself, question the impartiality of the court.” Id. at 302 (quotation omitted). “The objective standard is required in the interests of ensuring justice in the individual case and maintaining public confidence in the integrity of the judicial process which depends on a belief in the impersonality of judicial decision making.” Id. (quotation omitted). “The test for an appearance of

partiality is whether an objective, disinterested observer, fully informed of the facts, would entertain significant doubt that justice would be done in the case.” Id. (quotation omitted).

“Judicial rulings alone almost never constitute a valid basis for a bias or partiality motion.” Id. at 297 (quotation omitted). “Opinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible.” Id. (quotation omitted). “Thus, judicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge.” Id. (quotation omitted). However, “it is the judge’s responsibility to disclose, sua sponte, all information of any potential conflict between himself and the parties or their attorneys when his impartiality might reasonably be questioned,” and his “failure to disclose to the parties the basis for his or her disqualification under [the Code of Judicial Conduct] will result in a disqualification of the judge.” Blaisdell, 135 N.H. at 593-94.

Here, the transcript reflects that the judicial officer was presiding over a hearing on cross-motions to modify the parties’ parenting plan. The judicial officer made his remark in response to testimony of the defendant in which the defendant described his connection with the children, and the things they used to do together before the divorce that he hasn’t been able to do with them since. Specifically, the defendant testified that, before the divorce, he used to make all of the family meals for the holidays, and noted that he heard from one of the children that “last year, they did get to go out and eat at a super nice place, so I think that’s -- I’m glad they got to go out to eat at a super nice place. At the same time, that’s not the traditional homecooked meal that I always make that they were used to. It’s just sad for me. Again, just a basic, they probably miss the traditional one too.” It was during this testimony that the judicial officer whispered: “Who gives a f***?”

Although “judicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge,” Tappl, 162 N.H. at 297 (quotation omitted), in this case, the judicial officer’s remark is unlike those at issue in Tappl. Here, the remark — which was not intended to be heard — was not made in order to admonish the defendant for unreasonable behavior. See id. at 299-300. Nor can we construe it as the judicial officer “merely fulfilling his duty as the finder of fact,” id. at 300, and expressing skepticism about the defendant’s claims or his credibility. See id. Rather, according to the judicial officer’s self-report letter to the JCC, his remark was “made out of complete frustration,” because the defendant “began speaking of issues that were not relevant to the issues to be decided-something he often did.” Based upon our review of the transcript, we cannot conclude that the defendant’s testimony was irrelevant, nor

so far afield as to justify such a crude remark. Although a judicial officer is not precluded from showing frustration, see id. at 299-300, here, the judicial officer's remark would cause an objective, reasonable person to question whether the judicial officer had reached the point of frustration where he, quite literally, no longer cared about the defendant's testimony, and could no longer keep an open mind and decide the case impartially. See id. at 302 ("The existence of an appearance of impropriety is determined by an objective standard, i.e., would a reasonable person, not the judge himself, question the impartiality of the court." (quotation omitted)).

Our decision is bolstered by another remark the judicial officer made later in the same family division hearing. The transcript reflects that, during the plaintiff's testimony about the maturity level of the children, counsel asked her whether the children "make wise, mature decisions in their daily lives relative to, for example, schoolwork," and whether they "help[] around the house." During this questioning, the judicial officer whispered: "Of course not, they're a bunch of morons." This additional remark further supports our determination that an objective, reasonable person would question whether the judicial officer could keep an open mind and decide the case impartially.

Under these circumstances, we conclude that it was error for the judicial officer to have presided over the hearing in this case. Accordingly, we vacate the trial court's orders, and remand for a new hearing on the extension of the protective order before a different judicial officer of the circuit court. We express no opinion as to the merits of the underlying motion to extend the protective order. However, in light of the unique circumstances of this case, the protective order shall remain in place pending the outcome of the new hearing.

Given our decision, we need not address the parties' remaining arguments. To the extent that either party requests an award of attorneys' fees with respect to this appeal, the request is denied. See Sup. Ct. R. 23.

Vacated and remanded.

MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

9th N.H. Circuit Court - Nashua Family Division, 659-2019-DV-00341

Honorable Kimberly A. Chabot

Honorable John A. Curran

Honorable Elizabeth M. Leonard

Marital Master Bruce F. DalPra

Honorable David D. King

Michael J. Fontaine, Esquire

Israel F. Piedra, Esquire

Mr. Dana Albrecht

Carolyn A. Kogler, Supreme Court

Lin Willis, Supreme Court

File

THE STATE OF NEW HAMPSHIRE**SUPREME COURT**

In Case No. 2021-0192, Katherine Albrecht v. Dana Albrecht, the court on December 10, 2021, issued the following order:

The transcript of the November 6, 2020 hearing held in the parties' domestic relations matter (docket no. 659-2016-DM-00288) does not include the "vulgar expression" that Master DalPra uttered during Dana Albrecht's testimony; nor does it include the "completely inappropriate" sentence that Master DalPra uttered later during Katherine Albrecht's testimony. According to Master DalPra's November 19, 2020 letter to the New Hampshire Judicial Conduct Committee, those two comments "were overheard by an eScriber transcriptionist."

On or before December 20, 2021, eScribers shall prepare an amended or additional errata sheet to the transcript of the November 6, 2020 hearing so as to include and identify (with page/line) those two comments.

MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

9th N.H. Circuit Court - Nashua Family Division, 659-2019-DV-00341
Transcript Center
Michael J. Fontaine, Esquire
Israel F. Piedra, Esquire
Mr. Dana Albrecht
eScribers
Transcript Recorder, Supreme Court
File

THE STATE OF NEW HAMPSHIRE
SUPREME COURT OF NEW HAMPSHIRE

O R D E R

The New Hampshire Judicial Branch is committed to ensuring that all victims of domestic violence have full and fair access to the justice system, including proper resources to assist in court cases; knowledgeable advocates, court staff, and judges to explain the court process and legal standards; and a fair and transparent legal forum in accordance with the principle of equal justice for all.

Pursuant to its supervisory obligations, the Supreme Court has established a multidisciplinary Task Force, membership identified at <https://www.courts.nh.gov/news-and-media/new-hampshire-judicial-branch-releases-internal-review-denial-final-domestic>, to conduct a systemic review of domestic violence in the New Hampshire court system.

The Task Force is hereby charged with the following responsibilities:

1. Review existing court practice and procedure in cases involving domestic violence allegations, whether in circuit court, superior court, or both, and identify the resources needed to better support victims of domestic violence throughout the legal process;
2. Analyze the current status of New Hampshire law regarding domestic violence, including the legal definition of "abuse" and its relationship to intimate partner violence, in connection with the domestic violence statute and other statutory protections applicable to abusive behavior;
3. Recommend criteria for the Judicial Branch to make publicly available on its website appellate decisions related to RSA 173-B and RSA 633:3-a, while maintaining individual privacy in accordance with state and federal law;

4. Conduct a review of court forms as they relate to protection from domestic violence and make recommendations to ensure that all factual information necessary to establishing the applicable burden of proof is elicited in a clear and comprehensive format;

5. Explore opportunities available to provide victims of domestic violence increased access to the assistance of legal counsel and victim advocates at protection order hearings and in appellate proceedings;

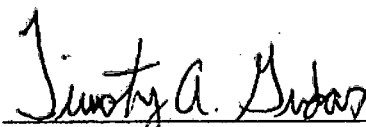
6. Analyze the current state of relationships between the courts, law enforcement, the criminal defense bar, and domestic violence advocates and steps that can be taken to improve communication with respect to domestic violence and other abusive behaviors that warrant judicial relief; and

7. Examine any other subject matter which the Task Force deems relevant to the objective of providing victims of domestic violence full and fair access to the justice system, while maintaining fundamental fairness for all participants.

The Task Force will engage relevant stakeholders and report its conclusions and recommendations to the Supreme Court no later than March 1, 2022. The Task Force's Report will be posted publicly on the New Hampshire Judicial Branch's website.

Issued: December 9, 2021

ATTEST:



Timothy A. Gudas, Clerk of Court
Supreme Court of New Hampshire

THE STATE OF NEW HAMPSHIRE**SUPREME COURT****ORDER****JD-2020-0001, In the Matter of Julie A. Introcaso**

On February 23, 2021, the Judicial Conduct Committee (JCC) filed a summary report of its proceedings, findings, and recommendations in JC-19-050-C and JC-20-010-C, In re: Julie Introcaso. On February 26, 2021, the JCC filed a certified copy of the record of its proceedings.

According to the JCC's summary report, former judge Julie A. Introcaso (Introcaso), who resigned from office on February 16, 2021, did not contest that she violated a number of provisions of the Code of Judicial Conduct, as alleged in the JCC's Statement of Formal Charges. The JCC's record includes a copy of the Stipulation and Agreement signed by Introcaso in which she did not contest the alleged violations of the Code provisions; she acknowledged that she understood that the JCC would enter findings that she had violated those provisions; and she waived her right to a de novo hearing on the charges. Introcaso also acknowledged that she is responsible for reimbursing the Administrative Office of the Courts (AOC) for attorney's fees and expenses that the JCC incurred to investigate and prosecute the matter.

The JCC reviewed the Stipulation and Agreement, and entered findings that Introcaso violated the following provisions of the Code of Judicial Conduct:

Canon 1, Rule 1.1, which provides: "A judge shall comply with the law, including the Code of Judicial Conduct."

Canon 1, Rule 1.2, which provides: "A judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."

Canon 2, Rule 2.5(A), which provides: "A judge shall perform judicial and administrative duties, competently and diligently."

Canon 2, Rule 2.5(B), which provides: "A judge shall cooperate with other judges and court officials in the administration of court business."

Canon 2, Rule 2.11, which provides in part: "A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned."

Canon 2, Rule 2.16(A), which provides: "A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies."

In the summary report of its findings, the JCC noted that Introcaso had resigned from office before the report was submitted. The summary report stated that because Introcaso had taken this action, the JCC made no additional recommendations for sanctions.

In accordance with Rule 40(12) and (13), when the JCC determines that a judge has violated the Code of Judicial Conduct and determines that the violations warrant formal disciplinary action by this court, the judge may request a de novo hearing, after which the court will schedule briefing and oral argument. In this case, Introcaso has waived her right to a de novo hearing, and she notified the court, through her counsel, that she does not seek the opportunity to file a brief or present oral argument.

The court determines that the JCC's findings as to the violations of the Code of Judicial Conduct are supported by the JCC's record. See Rule 40(13). In light of Introcaso's resignation as a judge, the court concludes that no additional disciplinary action is required.

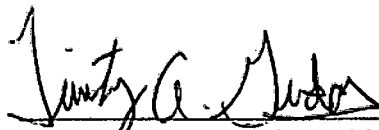
The AOC is directed to pay Philip R. Waystack, counsel appointed by the JCC, the sum of \$74,935.69 for attorney's fees and expenses in the investigation, charging, and prosecutorial stages of the case between February 18, 2020, and February 19, 2021. Pursuant to Rule 40(13-A) and the terms of the Stipulation and Agreement, Introcaso is ordered to reimburse the AOC, in full, for those fees and expenses.

Bassett, Hantz Marconi, and Donovan, JJ., concurred.

So ordered.

DATE: March 23, 2021

ATTEST:


Timothy A. Gudas, Clerk

Distribution:

Judicial Conduct Committee, JC-19-050-C; JC-20-010-C

Philip R. Waystack, Jr., Esq.

Michael A. Delaney, Esq.

Amanda E. Quinlan, Esq.

Ms. Julie A. Introcaso

Christopher Keating, Administrative Office of the Courts

File

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

9th Circuit - Family Division - Nashua
30 Spring Street, Suite 102
Nashua NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

DV/STALKING NOTICE OF DECISION

**JOSEPH CAULFIELD, ESQ
CAULFIELD LAW & MEDIATION OFFICE
126 PERHAM CORNER RD
LYNDEBOROUGH NH 03082**

Case Name: **In the Matter of Katherine Albrecht v. Dana Albrecht** PNO: **6591910341**
Case Number: **659-2019-DV-00341**

Please be advised that on December 21, 2020 Hon John A. Curran made the following order relative to:

- ☐ Petition ☐ Final Order ☒ Other Order on Initial Extension of Protective Order
- ☐ Notice of Interstate Enforcement
and Compliance with VAWA for
Use with Final Order

December 21, 2020

(659316)

C: Dana Albrecht; Katherine Albrecht; Michael J. Fontaine, ESQ

Sherry L. Bisson

Sherry L. Bisson, Clerk of Court

112a
THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT

9th Circuit - Family Division - Nashua
30 Spring Street, Suite 102
Nashua NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

**ORDER ON INITIAL EXTENSION OF
DOMESTIC VIOLENCE OR STALKING FINAL PROTECTIVE ORDER**
Pursuant to RSA 633:3-a or 173-B

Case Number: **659-2019-DV-00341**

PNO: **6591910341**

Katherine Albrecht
Plaintiff

Plf Date of Birth

V. Dana Albrecht
Defendant

Def Date of Birth

Pursuant to the provision of New Hampshire RSA 173-B:5, VI or RSA 633:3-a, III-c, the Plaintiff requests an initial extension of the Final Protective Order issued on December 30, 2019.

- ☒ The Court finds, based upon the Plaintiff's representations, that good cause exists to extend the order. Accordingly, the Final Protective Order is hereby extended to 12/21/20. The Defendant shall be given notice of Plaintiff's request and this order. If the Defendant objects to the extension, he/she shall file a written objection within 10 days of the date of the Clerk's Notice of Decision and a hearing shall be conducted within 30 days of this order. At such hearing, the Court may either reaffirm, modify or vacate this extension order. If a hearing is scheduled, both parties shall appear.
- ☐ The Court finds, based upon the Plaintiff's representations, that good cause does not exist and the request to extend the order is denied.

Recommended:

Date

Signature of Marital Master

Printed Name of Marital Master

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

12/21/2020
Date

Signature of Judge

John A. Curran

Printed Name of Judge

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

9th Circuit – Family Division - Nashua

Katherine Albrecht v. Dana Albrecht
Docket Number: 659-2019-DV-00341

**PLAINTIFF'S VERIFIED MOTION FOR EXTENSION OF DOMESTIC VIOLENCE
FINAL ORDER OF PROTECTION**

NOW COMES the Plaintiff, Katherine Albrecht, by and through her attorneys, Welts, White & Fontaine, P.C., and pursuant to NH RSA 173-B:5, VI requests that the Court extend the Protective Orders and, in support thereof, states as follows:

1. On December 30, 2019, this Court entered a Domestic Violence Final Order of Protection which Order will expire on December 29, 2020.
2. Mr. Albrecht has demonstrated a pattern of harassing and stalking behavior and actions that is well-documented with this Court both in pleadings and evidence and testimony presented to this Court in this domestic violence matter and in the divorce matter, *In the Matter of Dana Albrecht and Katherine Albrecht*, Docket No. 659-2016-DM-00288.
3. As such, Ms. Albrecht continues to be in fear for her safety and therefore requests a one-year extension of the Protective Order. If this Domestic Violence Protective Order is not extended as requested herein, Ms. Albrecht is convinced that Mr. Albrecht's violative behavior will not only continue but will escalate given his past well-documented behaviors toward Plaintiff and her children.

WHEREFORE, the Plaintiff, Katherine Albrecht respectfully requests that this Court:

- A. Grant the Plaintiff's Verified Motion for Extension of Domestic Violence Final Order of Protection for one additional year from December 30, 2020 to December 29, 2021; and

B. Grant such other and further relief as is just and equitable.

Respectfully submitted,

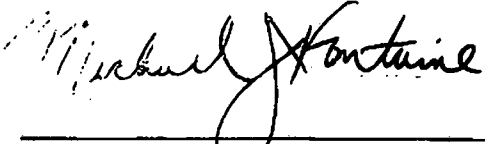
Date: December 18, 2020

/s/ Katherine Minges
Katherine Minges, Respondent
By Her Attorneys,

WELTS, WHITE & FONTAINE, P.C.

Date: December 18, 2020

By:



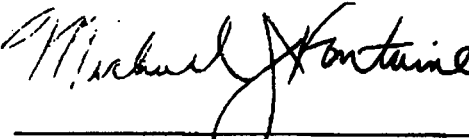
Michael J. Fontaine, Esquire
29 Factory Street; P.O. Box 507
Nashua, NH 03061
(603) 883-0797
NH BAR ID #832

Paragraph 14 of the Twelfth Renewed & Amended Order Suspending In-Person Court Proceedings Related to N.H. Circuit Court & Restricting Public Access to Courthouses states: "All courts will accept electronic signatures on pleadings and will allow litigants' signatures to be electronically signed by attorneys and/or bail commissioners with a statement that they have communicated with the litigant who has authorized them to do so." Katherine Minges has authorized Welts, White & Fontaine, P.C. to affix her electronic signature to this document in accordance with this Supreme Court Order.

CERTIFICATE OF SERVICE

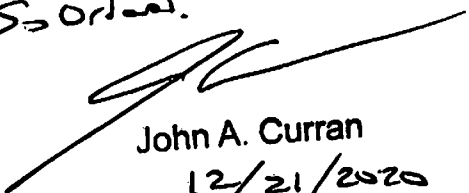
I certify that I have this day furnished the within pleading, by delivering a copy of same by email and first-class mail, postage prepaid, to Joseph Caulfield, Esq., attorney for Petitioner.

Date: December 18, 2020



Michael J. Fontaine, Esq.

MOTION GRANTED.
See accompanying order
on initial extension of Dkt order.
So ordered.


John A. Curran
12/21/2020

phil@waystackfrizzell.com

From: Hon. David D. King <DKing@courts.state.nh.us>
Sent: Tuesday, July 26, 2022 5:19 PM
To: Richard W. Head
Subject: FW: Albrecht hearing November 6, 2020
Attachments: Nashua CC CR5_20201106-1227_01d6b43829be0cfc.trm; Nashua CC CR5_20201106-1344_01d6b443031dc438.trm



From: Hon. David D. King
Sent: Friday, November 13, 2020 4:22 PM
To: Master Bruce F. Dalpra <BDalPra@courts.state.nh.us>
Subject: Albrecht hearing November 6, 2020

Bruce:

I am sorry to have to be writing this email but I'm sure you will understand that I have an obligation under the Code to deal with these situations. On November 6, 2020 you had what I believe was a telephonic hearing in what is obviously a very difficult matter, Albrecht and Albrecht. One of the parties requested a copy of the audio recordings from the hearing, which was provided, and subsequently ordered a transcript.

When the transcriptionist from escribers was preparing the transcript, she brought to her supervisor's attention comments that "the judge" made during the proceedings. The supervisor in turn reached out to court administration. I am attaching two examples that were sent to my attention, both email excerpts from escribers staff as well as snippets of the actual audio. The audio is difficult, but not impossible, to hear on our equipment but apparently very clear on the more sophisticated equipment used by escribers. Obviously I do not know anything about this case, other than the fact that it has a very large number of docket entries, which in and of itself is an indication that it involves difficult issues, and probably difficult parties. For that reason it isn't clear whether your comments indicate a bias against one of the parties or are just comments made in frustration. I think we can both agree that they do not demonstrate the patience or dignity expected of judicial officers under Rule 2.8.

I am hoping that we can speak about this next week after you have a chance to review what I have attached. (The 2 notes pasted below are from the emails received from escribers.)

David

David D. King
 Administrative Judge
 New Hampshire Circuit Court
 1 Granite Place, Suite N400
 Concord, N.H. 03301
 Telephone (603) 271-6418

I thought you should be aware, per our transcriber regarding the above order:

So everyone is on Zoom/telephonic for this hearing, other than the judge. The mic is right next to the judge and I can hear everything. He talks to his clerk and himself a lot and makes some pretty bad remarks about the parties and the commentary the parties make.

For instance, he whispers to himself, right in the mic, "who gives a fuck" when the witness is answering a question, or calls them all a bunch of morons, and so much. It actually creates it to where I can't hear what the witness is saying because he's talking into the mic, I think, completely unaware of what he's doing.

Here are a few examples of time stamps where you can clearly hear the Court:

"Who gives a fuck?" - **12:28:16

"Of course not, they're a bunch of morons." - **1:45:59

|

NH Judicial Branch Administrative Offices
 Attention: Kathleen Yee
 1 Granite Place
 Suite N400
 Concord, NH 03301
 603 540-0174 (internal extension)
 Cell 603 540-0174 – currently working remotely



From: Michele Lilley [mailto:michele.lilley@escribers.net]
Sent: Thursday, November 12, 2020 12:24 PM
To: Kathleen M. Yee
Subject: PLEAE READ RE NHJB-12284
Importance: High

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender

Kathy:

I thought you should be aware, per our transcriber regarding the above order:

So everyone is on Zoom/telephonic for this hearing, other than the judge. The mic is right next to the judge and I can hear everything. He talks to his clerk and himself a lot and makes some pretty bad remarks about the parties and the commentary the parties make.

For instance, he whispers to himself, right in the mic, "who gives a fuck" when the witness is answering a question, or calls them all a bunch of morons, and so much. It actually creates it to where I can't hear what the witness is saying because he's talking into the mic, I think, completely unaware of what he's doing.

Of course we are not going to transcribe that however, the ordering party has also ordered the audio.

This is the order that was missing the audio that I emailed about today. The client already has most of the audio which I sent a couple of days ago. She was the one that let me know there was audio missing. I was just about to send her the rest when production let me know the above.

I can't not send the audio to her but thought you should know.

Regards,



schedule a reporter
order a transcript

Michele Lilley, CET
 Lead Client Relations Representative

602-263-0102 | direct
 602-263-0885 x130 | office
 800-257-0885 | toll free
 866-954-9068 | fax

"One Click Away from All Your Reporting and Transcription Needs"

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From: Michele Lilley [<mailto:michele.lilley@escribers.net>]
Sent: Thursday, November 12, 2020 5:23 PM
To: Kathleen M. Yee
Subject: RE: PLEAE READ RE NHJB-12284

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Kathy:

Here are a couple of examples from the transcriber:

Here are a few examples of time stamps where you can clearly hear the Court:

"Who gives a fuck?" - **12:28:16

"Of course not, they're a bunch of morons." - **1:45:59

The first one is really hard to hear so don't know if Ms. Albrecht will even hear it in her audio. The second example is pretty clear.



[schedule a reporter](#)
[order a transcript](#)

Michele Lilley, CET
Lead Client Relations Representative

602-263-0102 | direct
 602-263-0885 x130 | office
 800-257-0885 x130 | toll free
 866-954-9068 | fax

"One Click Away from All Your Reporting and Transcription Needs"

From: Kathleen M. Yee <KYee@courts.state.nh.us>
Sent: Thursday, November 12, 2020 1:38 PM
To: Michele Lilley <michele.lilley@escribers.net>
Subject: RE: PLEAE READ RE NHJB-12284

I have listened to the audio and I can hear him laughing quietly and mumbling, but I can't tell what he is saying. I tried playing around with listening to different channels and still couldn't understand him.

Do you know what channels she was listening to or where in the audio she is referring to?

It could just be my hearing though.

Thanks.

Kathleen Yee

THE STATE OF NEW HAMPSHIRE**SUPREME COURT**

In Case No. 2020-0118, Katherine Albrecht v. Dana Albrecht, the court on June 19, 2020, issued the following order:

Having considered the brief, memorandum of law, reply brief, and record submitted on appeal, we conclude that oral argument is unnecessary in this case. See Sup. Ct. R. 18(1). We affirm.

The defendant, Dana Albrecht, appeals an order of the Circuit Court (Derby, J.), following a three-day hearing, granting a domestic violence final order of protection to the plaintiff, Katherine Albrecht. See RSA 173-B:5 (Supp. 2019). The defendant raises numerous challenges to the trial court's order.

We first address the defendant's argument that he received inadequate notice of the allegations being made against him. "[T]he notice provisions within RSA 173-B:3 . . . require that a [defendant] in a civil domestic violence proceeding be supplied with the factual allegations against him in advance of the hearing on the petition." South v. McCabe, 156 N.H. 797, 799 (2008). In this case, the plaintiff attached to her domestic violence petition a typewritten, five-page, single-spaced document clearly stating the allegations supporting her petition, which formed the basis for the court's protective order. The defendant asserts that the petition contained a false allegation regarding the plaintiff's arrival time at the church where the incidents occurred. The trial court noted that there was a discrepancy as to whether the plaintiff arrived at the church before or after the defendant, but did not find this discrepancy to be material. The defendant has not identified any unnoticed allegations upon which the trial court relied. Accordingly, we conclude that the defendant received adequate notice of the allegations being made against him. See id.

We next address the defendant's argument that the trial court lacked subject matter and territorial jurisdiction because the incidents alleged in the petition occurred in Massachusetts. We have held that RSA 490-D:2, IV grants subject matter jurisdiction to the circuit court over domestic violence cases, and that RSA chapter 173-B does not incorporate the territorial jurisdiction limitations of the criminal code. Hemenway v. Hemenway, 159 N.H. 680, 684-85 (2010). Accordingly, we reject the defendant's jurisdiction arguments.

We next address the defendant's argument that the trial judge erred in stating that he had "no knowledge of the divorce case," given that the judge previously had approved recommendations from the marital master in the

divorce. See RSA 490-D:9 (Supp. 2019) (noting that the signing judge must certify that he “has read the recommendations and agrees that the marital master has applied the correct legal standard to the facts determined by the marital master.”). The defendant asserts that, in this case, the judge “was influenced by unproven allegations in the divorce case.” The judge explained that he could not recall any facts from the divorce given the passage of time, and that he had not presided over the hearing. Moreover, we have held that “[o]pinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible.” In the Matter of Tapply & Zukatis, 162 N.H. 285, 297 (2011) (citation omitted). The defendant has made no such showing in this case.

We next address the defendant’s challenge to the sufficiency of the evidence. We review sufficiency of the evidence claims as a matter of law, and uphold the findings and rulings of the trial court unless they are lacking in evidentiary support or erroneous as a matter of law. Achille v. Achille, 167 N.H. 706, 715 (2015). “The trial court, as the trier of fact, is in the best position to assess and weigh the evidence before it.” In re Deven O., 165 N.H. 685, 690 (2013). “It has the benefit of observing the parties and their witnesses, and its discretion necessarily extends to assessing the credibility and demeanor of those witnesses.” Id. Thus, conflicts in testimony, witness credibility, and the weight to be assigned to testimony are matters for the trial court to resolve. Id. We view the evidence in the light most favorable to the prevailing party. Smith v. Pesa, 168 N.H. 541, 544 (2016).¹

To obtain relief under RSA chapter 173-B, the plaintiff must show “abuse” by a preponderance of the evidence. Achille, 167 N.H. at 716. “Abuse” means the commission or attempted commission of one or more of several criminal acts constituting a credible present threat to the plaintiff’s safety, including stalking as defined in RSA 633:3-a (2016). See RSA 173-B:1 (Supp. 2019). The defendant argues that the evidence was insufficient to support the court’s finding that his conduct constituted stalking.

A person commits the crime of stalking if he “[p]urposely or knowingly engages in a course of conduct targeted at a specific individual, which the actor knows will place that individual in fear for his or her personal safety or the safety of a member of that individual’s immediate family.” RSA 633:3-a, I(b).

¹ We have considered the arguments in the defendant’s brief and conclude that there is no need to clarify our standard of review. We reject his argument that our standard of review violates his due process rights. See Buchholz v. Waterville Estates Assoc., 156 N.H. 172, 177 (2007) (“[P]assing reference to ‘due process,’ without more, is not a substitute for valid constitutional argument.” (Quotation omitted.)).

“Course of conduct” is defined as two or more acts over a period of time, however short, which evidences a continuity of purpose. RSA 633:3-a, II(a). A course of conduct may include “[t]hreatening the safety of the targeted person or an immediate family member,” “[f]ollowing, approaching, or confronting that person, or a member of that person’s family,” or “[a]ppearing in close proximity to, or entering the person’s residence, place of employment, school, or other place where the person can be found.” RSA 633:3-a, II(a)(1)–(3).

The record shows that the plaintiff and defendant are divorced parents of four children, including two minors. The court found that the “parties’ divorce and post-divorce co-parenting relationship [has been] contentious and high-conflict.” The plaintiff lives with the three youngest children in California. The defendant accessed records from the youngest child’s school to determine that they would be on vacation in Massachusetts in early November 2019, and he surmised that they would attend services at their former church on November 3. The defendant did not have scheduled parenting time with the children on November 3, and he is no longer a member of the church.

The defendant nevertheless appeared at the church prior to services. The plaintiff and the children were informed of the defendant’s presence and tried to avoid him. When the pastor asked the defendant to leave, he refused. A church leader called the police, and when officers arrived, the defendant refused to leave until they used physical force. The defendant then remained in the church parking lot until approximately 3:30 p.m., long after the church’s activities had ended, and after staff had left for the day. The plaintiff and the children left the church through another door and drove away in a rental car.

The trial court concluded that the defendant, “[b]y using his access to the children’s school records to learn about the vacation, and then tracking the plaintiff and the children to [the church] on November 3, disrupting the Sunday activities by refusing polite lawful requests from [church] leadership to leave, pressing his refusal to leave right up to the point where the police began to physically drag him out of the church, and then standing in the parking lot between the church and the attendees’ cars until 3:30 PM,” committed the crime of stalking. The court found that the defendant appeared at the church for no legitimate or constitutionally protected purpose but rather to intimidate the plaintiff and the children. We conclude that the record supports the court’s findings. See Achille, 167 N.H. at 715.

The defendant argues that the evidence was insufficient to support the court’s protective order because there was no evidence of physical violence or contact of any kind. We have held, however, that “the statutory definition of ‘abuse’ does not require the defendant to have committed a violent act.” In the Matter of McArdle & McArdle, 162 N.H. 482, 487 (2011). The court found that the defendant intended to show the plaintiff “that he will track her and the children down and try to confront them wherever they are. Once he has done

that, he will not respect lawful requests from authority figures and he will push his claims up to the point of a physical confrontation with the police.” The court found that the defendant knew that his conduct would cause the plaintiff to fear for her safety and that of the parties’ children. Based upon our review of the record, we conclude that the evidence was sufficient to support the court’s order. See Achille, 167 N.H. at 715.

Finally, the defendant argues that the trial court violated RSA 461-A:4-a, which requires any motion for contempt or enforcement of an order regarding an approved parenting plan to be reviewed by the court within 30 days. The defendant filed his motion in the parties’ divorce case, under a different docket number. The motion has no bearing on the court’s issuance of a protective order. We conclude that this issue is beyond the scope of this appeal.

The defendant’s remaining arguments are inadequately developed, see State v. Blackmer, 149 N.H. 47, 49 (2003); not preserved, see Bean v. Red Oak Prop. Mgmt., 151 N.H. 248, 250-51 (2004), and warrant no further discussion, see Vogel v. Vogel, 137 N.H. 321, 322 (1993). We do not consider new issues raised for the first time on appeal in a reply brief. Harrington v. Metropolis Property Management Group, 162 N.H. 476, 481 (2011).

Affirmed.

Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

9th N.H. Circuit Court - Nashua Family Division, 659-2019-DV-00341
Honorable Mark S. Derby
Honorable David D. King
Mr. Dana Albrecht
Michael J. Fontaine, Esq.
Israel F. Piedra, Esq.
Carolyn A. Koegler, Supreme Court
Lin Willis, Supreme Court
File

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

Hillsborough County

9th Circuit – Family Division – Nashua

In the Matter of Katherine Albrecht and Dana Albrecht

659-2019-DV-00341

ORDER ON POST-TRIAL MOTIONS (#28, #29)

Before the court are the defendant's two post-trial motions; (1) ex parte motion to modify (#28); and (2) motion to reconsider (#29). The court has reviewed the plaintiff's objections and all of the defendant's replications to those objections.

The ex parte motion to modify (#28) is denied for the reasons set forth in the plaintiff's objections. The court gave careful consideration to the decision to restrain the defendant from coming within 2,000 feet of the Collinsville Bible Church. The Court believes that the restriction is narrowly tailored to the unique and specific facts of this case, and is necessary to prevent future incidents of stalking by the defendant. This order is rooted in the findings of stalking and the present credible threat that the defendant poses to the plaintiff's safety, and particularly in the defendant's answers, deflections and evasive non-answers to the questioning on Pages 71-79 of the December 20, 2019 transcript. In that line of questioning, the defendant made it clear that without a specific restraining order in place, he would keep inserting himself into the plaintiff's parenting time with the children, regardless of their wishes or anything else. He believes that he did nothing wrong and gave every indication that he would do it again given the chance.

The court agrees with the plaintiff that the defendant's First Amendment argument is a wholly manufactured controversy. For starters, the court's 2,000 foot restriction is remedial in nature, only applies to the defendant and was based on the defendant's specific conduct as part of a finding of domestic violence after a trial. Beyond that, the court has carefully considered this matter and is satisfied that, in light of the defendant's testimony, there is no less restrictive means available by which to protect the plaintiff from the defendant's harassment when she visits the east coast and wants to exercise her constitutional free exercise and associational rights.

Turning to the motion to reconsider (#29), that is also denied for the reasons set forth in the plaintiff's objection. The court acknowledges that the docket in 659-2016-

DM-00288 shows that on or about June 30, 2019 the undersigned judicial officer approved the recommendation of marital Master Bruce Dalpra to deny the defendant's motion for reconsideration of a substantive May 30, 2019 order (co-signed by a different judicial officer).

More than five months later on December 9, 2019, at the beginning of the DV case, the court disclosed to the parties' counsel as they were arguing about which material from the divorce case should be reviewed as part of the DV case, that the court had no knowledge of the divorce case. The phrase "no knowledge" was shorthand for the lack of factual background that a judge would have when the judge had actually heard parts of a related case and drafted substantive orders based on those hearings. The court did not want the parties' counsel to assume that because the undersigned judicial officer's name approved recommendations on prior orders, the court had any working knowledge of the facts of the divorce case. It lacked that knowledge because anything the court would have seen in late June 2019 by reviewing and approving Master Dalpra's recommendation was long forgotten by early December.

During the domestic relations trial, both parties actually re-litigated the events on and after winter vacation 2018. The plaintiff re-litigated those matters as past incidents under RSA 173-B:1, I ("[t]he court may consider evidence of such acts, regardless of their proximity in time to the filing of the petition, which, in combination with recent conduct, reflects an ongoing pattern of behavior which reasonably causes or has caused the petitioner to fear for his or her safety or well-being"), and the defendant re-litigated those events in defense of his actions on November 3, 2019. The defendant argued that the plaintiff's alleged wrongful conduct and parental alienation over at least the last year left him desperate to see his children and with no alternative. Therefore, the court began the DV hearing with no knowledge of the facts of the divorce case, but by the end of the DV hearing, the parties had presented significant evidence of the events on and after winter vacation 2018, which led up to November 3, 2019. The final DV order was based only on the testimony and documents presented at the DV trial.

As to Paragraphs 6-21 and 26-29, the only incident the court considered for the purposes of finding abuse was the November 3, 2019 incident. The components of the stalking are set forth in detail in the narrative portion of the order. The discussion of the other incidents leading up to November 3, 2019 were considered pursuant to RSA 173-B:1, I as evidence in support of the second prong of the DV analysis, i.e., whether, notwithstanding the finding of an event of abuse, the defendant still posed a credible present threat to the plaintiff's safety. The court found that he did.

As to Paragraphs 34-43 of the motion for reconsideration, the facts supporting a criminal trespass finding (in addition to stalking) were set forth in the plaintiff's domestic violence petition, and the defendant unequivocally testified to the elements of the offence. The defendant testified that he refused to leave and remained in the church after multiple orders to leave communicated to him by authorized representatives of the church (Mr. Cooper, a lay leader, and Pastor Smith) and then the Dracut Police. Plaintiffs in their domestic violence petitions are not required to identify by name and citation which crimes in RSA 173-B:1 the defendant has committed. The defendant and the court discern it from the facts that the plaintiff pleads, and that is what happened here. Also, RSA 173-B:5, I states that the evidentiary standard is preponderance of the evidence, even though RSA 173-B:1 cites criminal acts as examples of domestic violence.

As to Paragraph 54 of the motion for reconsideration, the court's choice of the word "approached" referred to the defendant's reactive e-mail communication to the camp asking for a broad range of information that was disproportionate to the amount of time the children actually spent at the camp. If the record shows that the defendant did not *physically* approach the camp (there was testimony that an order in the divorce case prohibited him from doing so), the court so finds.

Finally, and turning to the broader issue of the plaintiff's fear, RSA 633:3-a, I contains both an objective standard (RSA 633:3-a, I(a)) and a subjective standard (RSA 633:3-a, I(b)). Therefore, even if a reasonable person at the church on November 3, 2019 would not have felt in fear of his or her safety, if the defendant knew that his conduct would cause the plaintiff or the children to be in fear of their safety, that is sufficient to constitute stalking. Regardless of whether or not that fear is the result of a mental health experience, the court finds that the plaintiff clearly knew that tracking of the plaintiff and the children to the church, refusing multiple lawful orders to leave, and then watching the church from the parking lot for the bulk of the day, would cause the petitioner to fear for her safety.

Motions denied.

January 27, 2020

Date



Signature of Judge

Mark S. Derby

Printed Name of Judge



STATE OF NEW HAMPSHIRE

9th Circuit-Family Division-Nashua

In the Matter of Katherine Albrecht and Dana Albrecht

659-2019-DV-00341

Defendant's Motion to Consolidate For Hearing

Now comes Dana Albrecht, Defendant, by and through his attorney, and states:

1. On October 31, 2019, Defendant Dana Albrecht learned that Petitioner Katherine Albrecht had, yet again, traveled from Sierra Madre, California to the New England area with their children. In violation of the court's parenting plan, Dr. Albrecht had not permitted Mr. Albrecht to see their children in over 10 months, and has even refused to provide any phone number their children customarily use so Mr. Albrecht could talk to them.
2. On November 1, 2019, Mr Albrecht filed Petitioner's Ex Parte Motion for Contempt and to Compel, seeking to visit with their children while they were in the New England area. The court denied *ex parte* relief, ordering that "the case shall be scheduled in the ordinary course."
3. On November 3, 2019, Mr. Albrecht attended Collinsville Bible Church in Dracut, Massachusetts on the chance that his children might be there so he could see them. Dr. Albrecht caused the police to be called on Mr. Albrecht, yet again, to prevent Mr. Albrecht from exercising his rights under the court's parenting plan.
4. On November 12, 2019, Dr. Albrecht filed a DV petition, yet again, to punish Mr. Albrecht, yet again, and to "trample him to the ground" for daring to try to see their children. The court has scheduled this DV petition for December 9, 2019 at 8:30 am, resulting in the DV being heard before the *ex parte*.
5. In fairness and judicial economy, as well as in consideration of the parties' expenses and convenience, these two pleadings should be heard together. They contain similar and related issues of law and fact, similar testimony will be evinced at their hearings, and it is anticipated the same witnesses will testify.
6. A similar motion is being filed in both cases.

WHEREFORE, the Defendant prays this Honorable Court for relief as follows:

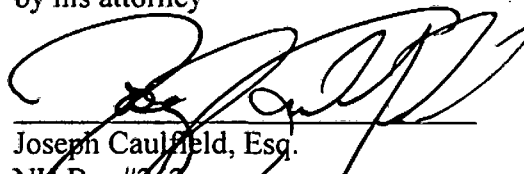
- A. To consolidate for hearing Petitioner's Ex Parte Motion for Contempt and to Compel, No 659-2016-DM-00288, and Domestic Violence Petition, No 659-2019-DV-00341, on December 9, 2019 at 8:30 am.
- B. To set forth the reasons for its decision in a written order; and,
- C. For such other relief as this Court deems just and reasonable.

Respectfully submitted,

November 19, 2019



Dana Albrecht
by his attorney

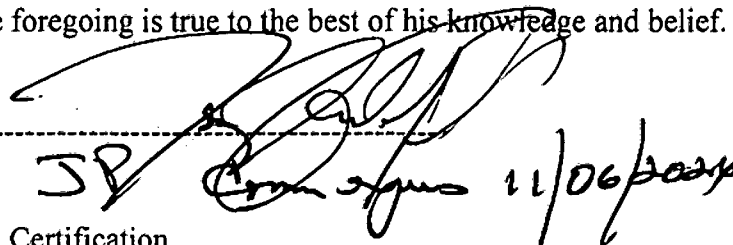


Joseph Caulfield, Esq.
NH Bar #262
Caulfield Law & Mediation Office
126 Perham Corner Rd.
Lyndeborough, NH 03082
603-505-8749

State of New Hampshire
Hillsborough, SS

Now comes Dana Albrecht and swears to the foregoing is true to the best of his knowledge and belief.

November 19, 2019



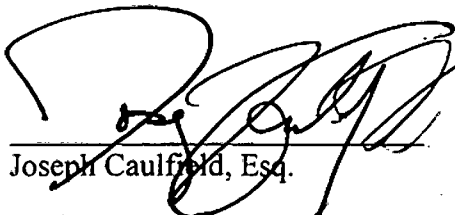
JP 11/06/2019

Certification

I sent this date a copy of this Motion to Atty. Fontaine.

Motion denied. Parties cautioned that
12-9-19 hearing is
Scheduled for 30
minutes & double-booked with another DV
case, and should plan accordingly.

MARK S. DERBY
DEC - 4 2019



Joseph Caulfield, Esq.

128a
THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT

9th Circuit - Family Division - Nashua
30 Spring Street, Suite 102
Nashua NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

**ORDER ON DVP/STALKING DENIAL
OR NO TEMPORARY ORDERS**

Case Number: **659-2019-DV-00341**

PNO:

Katherine Albrecht
Plaintiff

V. Dana Albrecht
Defendant

[REDACTED]
Def Date of Birth

ORDER

☐ PETITION DENIED AND CASE DISMISSED for the following reasons:

☒ **NO TEMPORARY ORDERS ARE ISSUED.** However, THIS CASE SHALL BE SCHEDULED FOR A HEARING with plaintiff and defendant present, as set forth below (see NOTICE OF HEARING).

Recommended:

November 12, 2019

Date

Signature of Marital Master

Printed Name of Marital Master

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

11/12/19
Date

1-855-212-1234

Telephone Number of Court

[Signature]
Signature of Judge

Erin B. McIntyre
Print / Type Name of Judge

NOTICE OF HEARING

CRM 2

NOTICE TO LAW ENFORCEMENT: Please serve this NOTICE OF HEARING on the defendant named in this petition. This case is scheduled for a hearing at the above court on 12-9-19 at 8:30 am. The plaintiff and defendant are hereby summoned to appear at the hearing. The court will hear testimony from both parties. One half hour will be allotted for this hearing.

If you will need an interpreter or other accommodations for this hearing, please contact the court immediately.

Please be advised (and/or advise clients, witnesses, and others) that it is a Class B felony to carry a firearm or other deadly weapon as defined in RSA 625.11, V in a courtroom or area used by a court.

11-12-19
Date

Sherry L. Bisson
Sherry L. Bisson, Clerk of Court

JUDICIAL BRANCH
NH CIRCUIT COURT

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

Pursuant to RSA 173-B

PNO

v. Danz Albrecht

Def Date of Birth

City / State / Zip

TO THE JUDGE OF THE COURT: I am in immediate danger of abuse by the defendant. I base my request for protection from abuse on the following facts that occurred on the following dates, and ask the court to issue orders as noted below:

see attached

Page 1 of 3

Case Number: _____

131a

PNO: _____

DOMESTIC VIOLENCE PETITION

THIS PETITION MUST BE SIGNED BY THE PETITIONER WHILE AT COURT.

THIS PETITION WILL NOT BE ACCEPTED BY FAX, E-MAIL, OR U.S. MAIL.

I swear that the foregoing information is true and correct to the best of my knowledge. I understand that making a false statement on this petition will subject me to criminal penalties.

Date

11/8/2019

Signature of Plaintiff

K. Nguyen

State of

CALIFORNIA

County of

LOS ANGELES

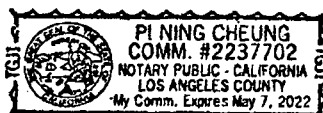
This instrument was acknowledged before me on Nov. 8, 2019 by KATHERINE NGUYEN

My Commission Expires

MAY 7, 2022

Affix Seal, if any

Clerk of Court/Deputy Clerk/Justice of Peace/Notarial Officer



Incident at Collinsville Bible Church, November 3, 2019

On October 29, 2019, I traveled from my home in Pasadena, California, to Cape Cod, Massachusetts, with my children, Sophie, Grace, and Caleb, ages 15, nearly 13, and 19 to take some quiet time on the Cape after the death of my mother and the children's grandmother on August 1, 2019.

On the last day of our trip, November 3, I took the children for Sunday services at our former church, Collinsville Bible Church, in Dracut, MA. However, as I drove up to the church, I was met outside by church members who told me they were concerned for my safety because my ex-husband, Dana Albrecht, was inside the church "waiting for me."

Mr. Albrecht does not attend Collinsville Bible Church, and hasn't attended services here for a couple of years. He formally renounced his membership in Collinsville several years ago, and has said many derogatory things about it. For several years he has been attending the Holy Resurrection Orthodox Church in Allston, MA.

Further, Mr. Albrecht had no reason to know we were in the state of Massachusetts, much less that we would be attending services at Collinsville that morning. I was extremely alarmed that he had somehow found out where we were, and I was very frightened to learn that he had been lying in wait for me and the children.

The members told me the church leadership had repeatedly asked Mr. Albrecht to leave, but he had refused, saying he intended to remain inside and wait for us. The church called the Dracut police, who sent a squad car and two uniformed patrolmen, Officer Zachariah Coleman and Officer Derek Scribner who were in the sanctuary speaking with Mr. Albrecht when I arrived. The church led me and the children into in a protected room for our safety.

Officer Coleman later told me that Mr. Albrecht refused to comply with their orders. He kept claiming he had a right to be there and showing them an old, and now invalid, order from the Nashua Family Court which prevents me from attending the church during his parenting time. ("Katherine Albrecht is restrained and enjoined from entering on the premises of Collinsville Bible Church in Dracut, MA during Respondent's parenting time." July 17, 2017, *Order on Ex Parte Motion*.) However, not only was it not Mr. Albrecht's parenting time, but he and I were divorced by Court Order effective April 27, 2018, and there is no such restriction in the Court's Divorce Decree or Final Parenting Plan. The fact that he kept insisting on an outdated court order which was irrelevant because it wasn't even his parenting time, caused me to believe that his thinking was disordered and he was behaving in a way that seemed mentally ill, frightening me still further.

The officers told Mr. Albrecht that, valid or not, the document he kept showing them was irrelevant since church leadership had explicitly asked him to leave. Nevertheless, Mr. Albrecht continued to defy the police and insist he was going to wait for us, refusing to leave. They finally had to use bodily force to remove him. Each officer had to take him by one arm and physically escort him from the premises.

Once outside, Mr. Albrecht *still* continued to defy instructions from both the police and the church to leave, and instead positioned himself just inches outside the gate separating the church from its parking lot. He stood there 25 feet from the front door, staring angrily toward the church. When officers questioned this, he stated that the parking lot was "public property" and he had a right to be there. After confirming that the parking lot was indeed technically owned by an adjacent school building (which somehow he knew), the police admitted they could not make him leave, but said that if he entered church property he would be arrested.

Officer Coleman then went back inside to speak to me. He told me he was deeply concerned by Mr. Albrecht's behavior and asked if I had a restraining order to protect me from him. When I told him that I did not, he urged me to seek one for my own safety. He apologized that he could not legally make Mr. Albrecht leave and explained that if I had a restraining order, he could have removed him from the church entrance so I could exit safely. I assured him I would apply for a restraining order.

Officers Coleman and Scribner left around 11:30 AM, and church members came to get me and the children for the remainder of the service. However, with Mr. Albrecht standing just a few steps from the church, the children and I were afraid to walk in front of the windows, so our friends led us through an underground passage through the basement to the sanctuary to avoid being seen by Mr. Albrecht.

To everyone's horror, Mr. Albrecht then stood for *hours* in the parking lot just outside the fence, pacing and glaring at the church, and essentially trapping us inside. We all felt menaced and stalked. When the service let out around 12:30 PM, church members had to walk past him to get to their cars, and reported being extremely disturbed by his presence and dark demeanor. Even after everyone else had left church and the door was locked, Mr. Albrecht *still* remained standing alone in the empty parking lot for nearly two hours longer waiting for us to emerge. We never exited that doorway, and Mr. Albrecht finally left at 3:30 PM, after having spent 6 hours at the church waiting for us.

During this incident, from the time when we arrived both the girls and I were petrified and concerned for our safety and, quite frankly, the safety of the other church members.

It was clear Mr. Albrecht was at the Collinsville Bible Church for no other reason than to cause a confrontation and intimidate me and the children. Mr. Albrecht's behavior caused us, along with other members of the church, considerable mental anguish, fear and anxiety. He seemed unhinged, unpredictable, and scary and we were not sure what he would do.

As a result of this incident, combined with the incidents I detail below, I am in extreme fear for the safety of myself and my children, and I ask for the court's protection.

On returning to California, I learned that Mr. Albrecht, upon discovering that the girls would be out of school for a few days (which he apparently first learned about from an October 29, 2019 email sent to Sophie by one of her teachers, and that was copied to Mr. Albrecht), that Mr. Albrecht essentially demanded that the staff of both Sophie's school, Maranatha High School, and Grace's school, The

Gooden School, reveal to him where I had taken the girls for a few days. I was told by the Maranatha staff that they advised Mr. Albrecht they could not reveal such information. However, I was advised by The Gooden School staff that they felt intimidated by Mr. Albrecht's demands and his insistence that he had a right to such information, and therefore they advised him that the girls and I would be on the "East coast".

Additionally, November 1, 2019, Mr. Albrecht filed an Ex Parte Motion for Contempt and to Compel with the 9th Circuit – Family Division – Nashua, Docket No.: 659-2016-DM-00288, asking, in part, that I be compelled to disclose our precise location, and that I be compelled to provide him with parenting time before I returned to California. There is no requirement in the Court-ordered Parenting Plan that I have to notify Mr. Albrecht if I pull the girls out of school for a few days; there is no requirement in the Parenting Plan that I have to notify Mr. Albrecht if I travel in or outside the State of California; and there is no requirement in the Parenting Plan that I have to provide Mr. Albrecht with an itinerary of my travel plans.

The Court issued an Order dated November 1, 2019, denying Mr. Albrecht's Motion for Ex Parte Relief finding that "No ex parte or emergency orders are issued no showing of imminent danger of irreparable harm. The case shall be scheduled in the ordinary course."

Larger Picture

As the Court will recall, the last time Sophie and Grace visited with their father, there was an agreement reached between counsel, beforehand, that Mr. Albrecht would have parenting time with the girls from December 22-28, 2019. However, Mr. Albrecht subsequently refused to abide by the agreement to return the girls on December 28, 2019. Sophie and Grace and their brother Caleb were extremely upset that he did not return them when promised and were begging him to allow them to go home. The girls and Caleb reported that their father and grandfather were furious and behaved irrationally, subjecting the children to a non-stop onslaught of shouting, anger, harassment, manipulation, slander, cruelty and abuse which left them crying hysterically and cowering in terror. It was only after the police intervened and numerous communications were exchanged between counsel, on a holiday weekend, did Mr. Albrecht finally return the girls home on December 31, 2019, in violation of the clear terms of the agreement. Since that time, Sophie and Grace have refused any contact with Mr. Albrecht, yet he continues to repeatedly and overtly harass and intimidate the girls and me. Both the girls and I are concerned regarding Mr. Albrecht's mental state.

Mr. Albrecht's behavior over the past several years has become more and more erratic and unpredictable, causing me to become extremely concerned for my safety and that of my daughters. I recently met with a domestic violence expert who evaluated my situation and told me that Mr. Albrecht's pattern of behavior and escalating degree of obsession jeopardizes my safety and puts me in the "high risk" category. She advised me to exercise extreme caution and obtain any protection I can.

As noted by this Court in a previous Order dated May 30, 2019, Mr. Albrecht has an "obsession" with this case. That obsession has now reached a point of being relentless and unendurable for me and the girls. He has engaged in a continual and escalating pattern of harassing me and the girls, interfering with me and the girl's lives, and intimidating, scaring, traumatizing and abusing me and the children in every way he can think of, which has escalated since our move to California.

This includes his filing over 35 motions against me since our divorce was finalized last year – nearly all of which were dismissed or ruled in my favor by the court; filing two appeals of the terms of our divorce and post-divorce to the New Hampshire Supreme Court, which were both denied; and filing a nearly 100-page pro-se writ of certiorari with the US Supreme Court, which was also denied. His frivolous and intentionally intimidating actions have cost me a small fortune in attorney's fees that I cannot afford.

In addition, Mr. Albrecht has frivolously called the police to my home on three separate occasions this year demanding a "child welfare check" for no valid reason, causing me and the children considerable embarrassment in our small community. He flew to California to file false accusations of severe child abuse and neglect against me with the Department of Children and Family Services on August 1, 2019, the very day my mother died, which led to a stressful month-long investigation including a home visit and interviews of the children during our time of deepest grief. Even though the case was closed and there was no finding of abuse by the agency, the experience traumatized me and the children and could not have occurred at a worse time, and has only further caused the girl's relationship with Mr. Albrecht to be damaged to the point where the girls want absolutely nothing to do with him.

Mr. Albrecht has embarrassed the girls and harmed their relationships with nearly everyone who works with our family in any capacity. He sent an ominous certified letter to my landlord and gave him copies of my children's birth certificates and police reports I have filed, causing us to nearly be evicted, and he harassed the girls' summer camp, the Wilds of New England, when they refused to back down to his intimidation, and made "legal" demands to the director Rand Hummel, demanding a copy of their New Hampshire Youth Recreation Camp license pursuant to NH Administrative Rule Env-Wq 903.01.

Mr. Albrecht has shouted at members of the administration at the girls' schools and threatened them with legal action, and he has studied all 48 pages of Sophie's high school administrative handbook and contacted her dean regarding minute technical details in hopes I could be caught in some minor infraction, which attempt failed. He distributed a copy of a private email Sophie wrote to him to her teachers and administrators, embarrassing her and disrupting the school to the point of requesting an emergency meeting with me. To Sophie's mortification, I have now been called in for at least four such meetings at her school, and unless something changes, I anticipate being called in for more. This is just a fraction of the embarrassment and social harm he has caused the girls, not to mention me.

I have a constant feeling of foreboding because it is obvious that Mr. Albrecht is always watching us 24/7, hoping to find any opening he can to harm us. Mr. Albrecht not only lies in wait for us physically, as he did at the church last Sunday, he lies in wait for us in other ways as well. He carefully pores over any information he can obtain about anything we are doing, including emails he may receive, even

inadvertently. He continually abuses his powers for "joint decision making" over medical, dental, and educational issues for the girls, to pounce on anything he can find to create drama and chaos. He is not employed, and appears to have made his obsession with harming us his full time occupation. It is obvious he delights in finding opportunities to become aggressive and file legal paperwork to inflict maximum financial and emotional damage on me, the children, and our household.

Unfortunately, he is succeeding in harming us. Mr. Albrecht's legal filings in the past year alone have cost me over \$50,000, despite my being on permanent disability and unable to work due to illness. Although he claims poverty and unemployment, he has disclosed to the court that he spends \$9,000 a month on living expenses, and he appears to have an unlimited source of funding for his legal assaults against me. Despite this, he pays only \$50 a month in child support, which does not even cover the children's school supplies, much less their actual financial needs, which are considerable. Since he is not providing for the children financially, I need to keep every dollar I have to provide for them myself, so he needs to stop causing me to continually incur legal fees to defend myself against him.

Mr. Albrecht's recent actions at the church, together with the other actions by him as outlined in this Petition, is causing me and the girls, Sophia and Grace, to be in fear of our safety, and demonstrate an immediate and present danger of abuse. I therefore request this Court issue an immediate restraining order that restricts Mr. Albrecht from being able to stalk, harass and intimidate us further.

137a
THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

Court Name: 9th Circuit-Family Division Nashua
Case Name: In the Matter of Dana Albrecht and Katherine Albrecht
Case Number: 659-2019-DM-00288

ORDER ON EX PARTE (EMERGENCY) MOTION

A motion for *ex parte* or emergency orders has been submitted. The Court has reviewed the motion.

- ☐ 1. The Court issues the following orders, which will remain in effect until further hearing:
- ☐ A. The ☐ Petitioner ☐ Respondent (check one) shall have temporary sole decision-making and residential responsibility for the minor child(ren).
 - ☐ B. The ☐ Petitioner ☐ Respondent (check one) shall have temporary sole residential responsibility for the minor child(ren).
 - ☐ C. The ☐ Petitioner ☐ Respondent (check one) shall not interfere in any way with the personal liberty or property of the other nor the household property used in the care of the minor child(ren), nor do any act to interfere with the other parent's decision-making and residential responsibilities for the minor child(ren).
 - ☐ D. The ☐ Petitioner ☐ Respondent (check one) is awarded temporary exclusive use of the parties' residence at _____ (residence address) and household furniture and furnishings therein.
 - ☐ E. The ☐ Petitioner ☐ Respondent (check one) shall not enter the residence or property of the other.
 - ☐ F. Each party is restrained and enjoined from transferring, encumbering, hypothecating, concealing or otherwise disposing of any property except in the ordinary course of business or for the necessities of life.
 - ☐ G. Other:

- ☒ 2. No *ex parte* or emergency orders are issued - no showing of imminent danger of irreparable harm.
- ☐ The case shall be scheduled for a prompt hearing with Petitioner and Respondent present.
 - ☒ The case shall be scheduled in the ordinary course.

- ☐ 3. Request for *ex parte* orders is denied. No hearing is required.

A hearing on the *ex parte* motion, and any orders issued, is scheduled for:

_____ (date of hearing) at _____ (time of hearing)

Recommended:

Date

11/1/19

Signature of Marital Master

Printed Name of Marital Master

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

Date

11/1/19

Signature of Judge

Printed Name of Judge

STATE OF NEW HAMPSHIRE

9th Circuit-Family Division-Nashua

Dana Albrecht and Katherine Albrecht

659-2016-DM-00288

RECEIVED
NH CIRCUIT COURT
9TH CIRCUIT NASHUA
2019 NOV -1 AM 9:00

Petitioner's Ex Parte Motion for Contempt and to Compel

Now comes Dana Albrecht, Petitioner, by and through his attorney, and states:

1. RSA 461-A:2 requires that "Because children do best when both parents have a stable and meaningful involvement in their lives, it is the policy of this state, unless it is clearly shown that in a particular case it is detrimental to a child, to support frequent and continuing contact between each child and both parents."
2. RSA 461-A:4-a requires that "Any motion for contempt or enforcement of an order regarding an approved parenting plan under this chapter, if filed by a parent, shall be reviewed by the court within 30 days."
3. Mr. Albrecht has not seen the parties' daughters Sophie (now age 15) and Grace (now age 12) since December 2018. The children reside with their mother Dr. Albrecht in Sierra Madre, California.
4. Pursuant to this court's parenting plan, Mr. Albrecht last arranged to have summer parenting time with their daughters Sophie and Grace from July 31, 2019 through August 14, 2019 in California and provided more than 10 days' written notice on July 18, 2019.
5. However, on July 31, 2019, and while in southern California to see their daughters, Mr. Albrecht learned for the first time from the Sierra Madre Police that Dr. Albrecht had instead sent Sophie and Grace to "The Wilds of New England" camp in Deering, New Hampshire in order to prevent Mr. Albrecht from seeing their children.
6. Most recently, and without consulting with or even notifying Mr. Albrecht, Dr. Albrecht made arrangements with each of their daughters' schools to remove both Sophie and Grace from school for an unscheduled "vacation" from October 28, 2019 through November 4, 2019 on the east coast.
7. Consequently, Dr. Albrecht is in contempt of this court's parenting plan requiring joint decision making authority.
8. Mr. Albrecht believes that on or before Tuesday, October 29, 2019, Dr. Albrecht again flew across the country from California to the east coast with their minor children.

9. Dr. Albrecht made every effort to keep this present east coast "vacation" a secret from Mr. Albrecht. She has likely caused both of their adult sons' emotional distress by threatening retribution or punishment for discussing this "vacation" with Mr. Albrecht
10. . Mr. Albrecht's counsel has sought the present location of the children from Dr. Albrecht's counsel, receiving only:

I have passed your email on to Katherine and await her response. Mike would like to know what information Dana has that would lead him to believe that Katherine and the girls are on the East coast.

11. This is now the third time Dr. Albrecht has transported their children across the country from California to the east coast and attempted to keep the trip secret from Mr. Albrecht. The first was in July 2018; the second was in July 2019, already described in paragraphs 4-5.
12. The court's parenting plan requires that:

Each parent shall promote a healthy and beneficial relationship between the children and the other parent.
13. Dr. Albrecht's most recent actions have caused further damage to Mr. Albrecht's relationship with their daughters. Consequently, Dr. Albrecht is also in contempt of this provision of the court's parenting plan.
14. Further, Dr. Albrecht has refused to provide the telephone number(s) that their minor daughters Sophie and Grace now customarily use to make and receive calls; consequently, Mr. Albrecht is unable to place telephone calls to his daughters.
15. The most common cause of parental alienation is one parent wishing to exclude the other parent from the life of their child, though family members or friends, as well as professionals involved with the family, including psychologists, lawyers and judges.
16. Parental alienation often leads to the long-term, or even lifelong, estrangement of a child from one parent and other family members, and, as a significant adverse childhood experience and form of childhood trauma, results in significantly increased lifetime risks of both mental and physical illness.
17. Nevertheless, Mr. Albrecht has made every effort to encourage Dr. Albrecht to have their daughters see a licensed therapist for counseling; however, Dr. Albrecht has refused to cooperate with Mr. Albrecht. For over three and half years, none of the parties' children have ever received regular counseling sessions.
18. Consequently, Mr. Albrecht is also requesting this court now compel Dr. Albrecht's cooperation in commencing immediately individual therapy for these children and commencing immediately reunification therapy for these children and Mr. Albrecht to repair the parent-child relationships which has been disrupted during high conflict divorce.

19. Since it is anticipated that Dr. Albrecht will continue her disingenuous "defense" that she encourages the children to obey the court orders but that she just can't control these children, that the court also order these children to attend this therapy.
20. The court's next explicitly ordered parenting time for Mr. Albrecht is from December 27, 2019 through December 31, 2019, which is nearly two months away and is only five days long.
21. Because Dr. Albrecht has caused Mr. Albrecht to be unable to see their daughters for the past ten months, Mr. Albrecht is requesting this court now compel Dr. Albrecht to provide immediate parenting time for Mr. Albrecht to see their children while they are on the east coast and before they return to California for school on Tuesday, November 5, 2019.
22. Otherwise, there would be an immediate risk of further childhood trauma and significantly increased lifetime risks of both mental and physical illness for their minor children resulting from further parental alienation caused by Dr. Albrecht's most recent actions.

WHEREFORE, the Petitioner prays this Honorable Court for relief as follows:

- A) Grant Petitioner's *Ex Parte* Motion for Contempt and to Compel; and,
- B) Find Respondent Katherine Albrecht in contempt of the court's parenting plan requiring joint decision making authority; and,
- C) Find Respondent Katherine Albrecht in contempt of the court's parenting plan requiring each parent to promote a healthy and beneficial relationship between each child and the other parent; and,
- D) Compel Dr. Albrecht's cooperation in commencing immediately individual therapy for these children with duly licensed and qualified therapists and commencing immediately reunification therapy for these children and Mr. Albrecht with a duly licensed and qualified therapist to repair the parent-child relationships which has been disrupted during high conflict divorce.
- E) Compel the parties' minor children Sophie and Grace to attend regular counseling sessions for individual therapy and reunification therapy; and,
- F) Compel Respondent Katherine Albrecht to disclose the precise location of their minor children; and,
- G) Compel Respondent Katherine Albrecht to disclose all telephone number(s) their minor children customarily use to make and receive calls; and,
- H) Order that Petitioner Dana Albrecht have parenting time with their minor children on the east coast prior to the children's return to California on November 5, 2019; and,

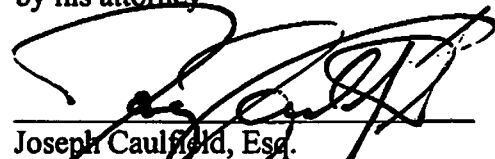
- I) Award Petitioner his reasonable attorney's fees and court costs occasioned by Respondent's contempt; and,
- J) For such other relief as this court deems just and reasonable.

Respectfully submitted,

November 1, 2019



Dana Albrecht
by his attorney



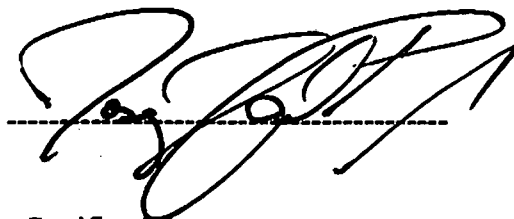
Joseph Caulfield, Esq.
NH Bar #2882
Caulfield Law & Mediation Office
126 Perham Corner Rd.
Lyndeborough, NH 03082
603-505-8749

State of New Hampshire
Hillsborough, SS

Now comes Dana Albrecht and swears that the foregoing is true to the best of his knowledge and belief.

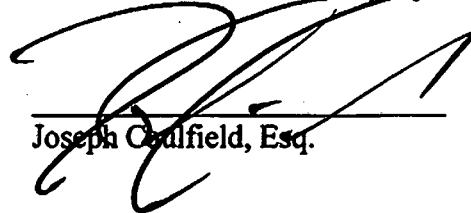
November 1, 2019

Joseph Caulfield
NH Justice of the Peace
Comm. expires Dec. 3, 2019



Certification

I emailed this date a copy of this Motion to Atty. Fontaine. Because of the nature of this emergency, the history of this case, and my inability even to learn the present location of the children, no concurrence was sought.



Joseph Caulfield, Esq.

THE STATE OF NEW HAMPSHIRE**SUPREME COURT****ORDER****LD-2018-0005, In the Matter of Paul S. Moore, Esquire**

On May 4, 2018, the Attorney Discipline Office (ADO) filed a certified copy of documents in State of New Hampshire v. Paul S. Moore, showing that the respondent, Attorney Paul S. Moore, had pleaded guilty and was convicted of violating RSA 100-C:16, Protection Against Fraud, a class B felony. On May 9, 2018, the court suspended the respondent from the practice of law on an interim basis.

The respondent's conviction for violating RSA 100-C:16 constitutes a "serious crime," as that term is defined in Supreme Court Rule 37(9)(b). Subparagraph 9(d) of Rule 37 provides that "[u]pon the receipt of a certificate of conviction of an attorney for a 'serious crime,' the court may, and shall if suspension has been ordered pursuant to subsection (a) above, institute a formal disciplinary proceeding by issuing an order to the attorney to show cause why the attorney should not be disbarred as result of the conviction."

In accordance with this rule, the May 9, 2018 suspension order also required the respondent to show cause why he should not be disbarred as a result of the conviction. The respondent, through counsel, advised the court that he did not contest disbarment.

In light of the seriousness of the respondent's misconduct, the court concludes that the respondent should be disbarred. THEREFORE, the court orders that Paul S. Moore be disbarred from the practice of law in New Hampshire. He is hereby assessed all expenses incurred by the Professional Conduct Committee in the investigation and prosecution of this matter.

Lynn, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

DATE: July 5, 2018

ATTEST:


Eileen Fox, Clerk

Distribution:

Janet F. DeVito, Esquire
Michael A. Delaney, Esquire
File

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

9th Circuit - Family Division - Nashua
30 Spring Street, Suite 102
Nashua NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

**DOMESTIC VIOLENCE TEMPORARY ORDER AND NOTICE OF HEARING
PURSUANT TO RSA 173-B**

Case Number: **659-2016-DV-00120**PNO: **6591610120****Katherine Albrecht****v. Dana Albrecht**

Plaintiff

Defendant

Def Date of Birth

NOTICE OF HEARING

The plaintiff and defendant are summoned to appear at 9th Circuit - Family Division - Nashua on April 28, 2016 at 2:30 PM. The court will hear testimony from both parties. **One half hour will be allotted for this hearing.** FINAL ORDERS may be issued at that time.

April 08, 2016

Date

Clerk of Court

NOTICE TO DEFENDANT

PURSUANT TO RSA 173-B:4, you have a right to a hearing on these temporary orders within five business days, but not earlier than three business days, after you file a written request with the court. Unless you request this hearing in writing, the case will be heard on the date shown above.

**NOTICE OF INTERSTATE ENFORCEMENT AND
COMPLIANCE WITH THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

1. This temporary protective order meets all full faith and credit requirements of the Violence Against Women Act, 18 U.S.C. sec. 2265 (1994). This Court has jurisdiction of the parties and the subject matter; the defendant is afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. This order is valid and enforceable throughout New Hampshire and all other states, the District of Columbia, all tribal lands and all U.S. Territories, and shall be enforced as if it were an order of that jurisdiction.
2. Pursuant to Section 2265 of Title 18, United States Code, violation of any provision(s) of this Order, including support, child custody or visitation provisions issued under the authority of RSA 173-B of this State, is enforceable by court and/or law enforcement personnel of any other State, Indian tribal government, or Territory, as if it were their own order.
3. Violations of this order are subject to state and federal criminal penalties. If the restrained party (the defendant) travels across state or tribal boundaries, or causes the protected party (the plaintiff) to travel across state or tribal boundaries, with the intent to violate the protective orders and then violates a protective provision of this order, the defendant may be prosecuted for a federal felony offense under the Violence Against Women Act, 18 U.S.C. sec. 2262(a)(1) or (2) (1994).
4. The National Domestic Violence Hotline provides information on a 24-hour basis on interstate enforcement of protection orders, how to reach an advocate, and the location of shelters. The Hotline number is: 1-800-799-7233.

REPORTING A VIOLATION OF THIS ORDER: If the defendant violates any portion of this order, the plaintiff may report the violation to the local law enforcement agency and file a written notice in the form of a petition for contempt requesting a further hearing on the matter. Forms are available at the court or on the court website www.courts.state.nh.us.

626144a8-10.12

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

DOMESTIC VIOLENCE TEMPORARY ORDER OF PROTECTION

Case Number: 659-2016-DV-00120

PNO Number: 6591610120

Court: 9th Circuit - Family Division - Nashua

Court ORI: NH006151J

County: Hillsborough

Address: 30 Spring Street, Suite 102 Nashua NH 03060

PLAINTIFF**PLAINTIFF IDENTIFIERS**

First Middle Last

Date of Birth

Sex

Race

Katherine Albrecht

[REDACTED]

Female

White

V.

DEFENDANT'S NAME

First Middle Last

Dana Albrecht

DEFENDANT'S ADDRESS:214 Worchester Road
Hollis NH 03049**RELATIONSHIP to PLAINTIFF**☒ Married☐ Divorced☐ Separated☐ Cohabit / cohabited☐ Child in common☐ Household member☐ Other _____**CAUTION**☐ Weapon involved☐ Weapon is ordered to be
relinquished pursuant to New
Hampshire state law RSA
173-B**LICENSE**

INFO:

VEHICLE

INFO:

YEAR

MAKE

MODEL

DEFENDANT IDENTIFIERS

DOB

SEX

RACE

State/Birth

HEIGHT

WEIGHT

EYES

HAIR

5 Ft. 10 In.

125 Lbs.

Brown

Brown

ETHNICITY Non Hispanic

DISTINGUISHING FEATURES:

SKIN TONE

Light

SCARS, MARKS, TATTOOS:

Location and description

DRIVER'S LICENSE#

STATE NH

EXP DATE

STYLE

COLOR

Black

VIN #

WARNING: The attached order shall be enforced, even without registration, by the courts of any state, the District of Columbia, and any U.S. Territory, and may be enforced on Tribal Lands (18 U.S.C. section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. section 2262).

The court has found as evidenced by this order:

That it has jurisdiction over the parties and subject matter, and the defendant, upon service, will be given reasonable notice and opportunity to be heard.

☒ The above named defendant is restrained from committing further acts of abuse or threats of abuse.

☒ The above named defendant shall not have any contact with the plaintiff, whether in person or through third persons, including but not limited to contact by telephone, letters, fax, e-mail, the sending or delivery of gifts or any other method unless specifically authorized by the court. The defendant is prohibited from coming within 300 feet of the plaintiff.

Case Name: In the Matter of Katherine Albrecht v. Dana AlbrechtCase Number: 659-2016-DV-00120PNO: 6591610120**DOMESTIC VIOLENCE TEMPORARY ORDER OF PROTECTION**

The court, having jurisdiction over the parties and subject matter under New Hampshire RSA 173-B (Protection of Persons from Domestic Violence), and having considered the plaintiff's Domestic Violence Petition dated April 08, 2016 hereby finds that the plaintiff is in immediate and present danger of abuse as defined in RSA 173-B and makes the following **TEMPORARY ORDERS OF PROTECTION**:

1. ☒ The defendant shall not abuse the plaintiff.
2. ☒ The defendant shall not have any contact with the plaintiff, whether in person or through third persons, including but not limited to contact by telephone, letters, fax, texting, social media, e-mail, the sending or delivery of gifts or any other method unless specifically authorized by the court. The defendant is prohibited from coming within 300 feet of the plaintiff. ☒ This includes any household animals, if any.
3. ☒ The defendant shall not enter the premises or curtilage where the plaintiff resides, ~~except when the defendant is accompanied by a peace officer and, upon reasonable notice to the plaintiff, is allowed entry by the plaintiff for the sole purpose of retrieving toiletries, medication, clothing, business equipment, and any other items as determined by the court.~~
4. ☒ The defendant shall not contact the plaintiff at or enter upon plaintiff's place of employment, school, or Any where
5. ☒ The defendant shall not abuse plaintiff's relatives (including children) regardless of their place of residence, or members of the plaintiff's household.
6. ☒ The defendant shall not take, convert or damage any property in which the plaintiff has a legal or an equitable interest.
7. ☒ The plaintiff is awarded exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by the petitioner, defendant, or a minor child in either household, and the defendant is prohibited from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect, or disposing of the animal(s).
8. ☒ The plaintiff is awarded custody of the minor child(ren). ~~The defendant may exercise the following visitation.~~ or
☒ Visitation is denied pending a hearing.
9. ☒ The defendant shall relinquish to a peace officer all firearms and ammunition in his/her control, ownership or possession, or in the possession of any other person on behalf of the defendant, and the defendant is prohibited from purchasing or possessing any firearms or ammunition during the pendency of this order.
10. ☒ The defendant shall also relinquish all deadly weapons as defined in RSA 625:11, V which may have been used, intended to be used, threatened to be used or could be used in an incident of abuse. These weapons may include the following: _____
11. ☐ Other protective orders: _____

Case Name: In the Matter of Katherine Albrecht v. Dana AlbrechtCase Number: 659-2016-DV-00120

PNO: _____

DOMESTIC VIOLENCE TEMPORARY ORDER OF PROTECTION**ADDITIONAL ORDERS:**12. ☐ The Plaintiff is awarded the temporary and exclusive use of the motor vehicle identified as follows:13. ☐ The Plaintiff is awarded the temporary and exclusive use of the shared residence located at:14. ☒ The defendant shall relinquish all concealed weapons permits and hunting licenses.15. ☒ Other: Sections 8, 9, 10, 11, 12, 13, 14, 15 GrantedDate 4-8-16

Signature of Judge / Marital Master Recommendation

Print / Type Name of Judge / Marital Master

So Ordered:

Sections 13 & 14 will be addressed at the parties hearing
Section 12 regarding 401K will be addressed at the above
 I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

Date

Signature of Judge Approving Marital Master's Recommendation

1-855-212-1234

Telephone Number of Court

Print / Type Name of Judge

THESE ORDERS ARE EFFECTIVE IMMEDIATELY AND REMAIN IN EFFECT UNTIL FINAL ORDERS ARE MADE BY THE COURT. ANY WILLFUL VIOLATION OF THE PROTECTIVE PROVISIONS OF THESE ORDERS IS A CRIME. VIOLATIONS SHALL RESULT IN ARREST AND MAY RESULT IN IMPRISONMENT. ALL FUTURE NOTICES AND ORDERS SHALL BE MAILED. BOTH PARTIES MUST KEEP THE COURT INFORMED OF THEIR CURRENT ADDRESS.

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

9th Circuit-District Division-Nashua
30 Spring Street, Suite 101
Nashua, NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
http://www.courts.state.nh.us

DOMESTIC VIOLENCE PETITION

Pursuant to RSA 173-B

Case Number: _____

PNO _____

KATHERINE ALBRECHTv. DANA ALBRECHT

Plaintiff

Plf Date of Birth

Defendant

Def Date of Birth

Sex:

☐ M☒ F

Race:

☐ Asian☐ Other☐ Black☐ Unavailable☐ Indian☒ White☐ Multiracial☐ Native Hawaiian or Other

Pacific Islander.

Ethnicity:

☐ Hispanic☒ Non-Hispanic☐ Refused

Sex:

☒ M☐ F214 WORCESTER ROAD

Street Address

HOLLIS, NH 03049

City / State / Zip

RELATIONSHIP to DEFENDANT☒ Married☐ Household member☐ Divorced☐ Other _____☐ Separated☐ Cohabit / cohabited☐ Child in common

TO THE JUSTICE OF THE COURT: I am in immediate danger of abuse by the defendant. I base my request for protection from abuse on the following facts that occurred on the following dates, and ask the court to issue orders as noted below:

Earlier today (Fri 4/8) I discovered that Dana had been stalking me by using secret files installed on my laptop and copying all of my email, diary, personal files, and had installed audio recording software to listen to me, had also been monitoring all of my phone calls in real time. He did not have my permission, this was my own personal laptop w/a password to protect it from him. My personal files were copied to his personal laptop →

☒ SEE ATTACHED ADDITIONAL PAGE(S)

The defendant and I are currently involved in or have received orders in the following court actions:

☐ divorce ☐ custody ☐ protective order ☒ none ☐ other _____

Please list the court(s) handling the case(s): N/A

Are you represented by a lawyer in any of these matters?

☐ Yes☒ No

Residence:

☒ Own☐ rent☐ in whose name?USM TRUST(JOINTLY OWNED)

Children living in household:

NAME

DOB

BIRTH PARENTS

WHO HAS CUSTODY

Caleb Albrecht[REDACTED]KATHERINE + DANA (ABOVE)JOINTSophie Albrecht[REDACTED]""Grace Albrecht[REDACTED]""

Note: If you have minor children born to or adopted by you and the defendant, you must submit a UCCJEA Affidavit (Form NHJB-2660-FP)

I have suffered the following financial losses as a result of the abuse:

☐ loss of wages☐ loss of personal property☐ other (explain) _____☒ medical/dental/optical expenses

Case Name: v

Case Number: _____

PNO: _____

DOMESTIC VIOLENCE PETITION**REQUEST FOR PROTECTIVE ORDERS:**

1. ☒ Restrain the defendant from abusing me, having any contact with me, whether in person or through third persons, including but not limited to contact by telephone, letters, fax, texting, social media, e-mail, the sending or delivery of gifts or any other method, unless specifically authorized by the court.
2. ☒ Restrain the defendant from entering in or on the premises (including curtilage) where I reside except with a peace officer for the purpose of removing defendant's personal possessions; my place of employment; my school.
3. ☒ Restrain the defendant from abusing my relatives or members of my household.
4. ☒ Restrain the defendant from taking, converting or damaging property in which I have a legal or equitable interest.
5. ☒ Direct the defendant to temporarily relinquish to a peace officer any firearms or other deadly weapons, including _____
6. ☒ Award temporary custody of our minor child(ren) to me.
7. ☒ Restrain the defendant from contact and from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect or disposing of any animal owned, possessed, leased, kept or held by me or the defendant or a minor child in either household.

REQUEST FOR ADDITIONAL ORDERS:

8. ☒ Direct the defendant to make child support payments to me for the care of our minor children.
9. ☒ Direct the defendant to follow a court approved visitation plan if defendant wishes to exercise child visitation rights.
10. ☒ Award me the exclusive right to use and possession of our residence and household furnishings.
11. ☒ Award me the exclusive right of use and possession of the following vehicle: HONDA ODYSSEY MINIVAN
12. ☒ Award me the exclusive care, custody or control of any animal owned, possessed, leased, kept or held by me, the defendant or a minor child in either household. YORKI - DOG ; 2 Cats
13. ☒ Order the defendant to pay me for financial losses suffered as a direct result of the abuse.
14. ☒ Recommend that the defendant attend a batterers treatment program or personal counseling.
15. ☒ Other relief: Keep Dana's computer

Additional Space for Statement of Facts

which he surrendered to the Hollis Police. Dana has copied all of my bank account and online passwords and passwords for all other medical & financial accounts store now on his laptop.
~~CP request that~~ The officer suggested the the court withhold the computer for my safety since it has been the instrument of these acts against me, and with those files, he could do me further harm.

Last week I was at my mom's house next door and our 11 year old came over. Dana was very angry & demanded she come out for bidding her to be with me. She hid upstairs afraid I asked him to stay away. He came onto the property against my wishes, angrily tried the door, and refused to leave, terrifying us both. T
 Hollis Police, who asked him to leave

Case Name: v

Case Number: _____

PNO: _____

DOMESTIC VIOLENCE PETITION

On two different occasions ^{in the last 2 weeks} he held a "family meeting" where he intimidate me and kids called me terrible names in front of them. I asked him to please stop, because the kids were shaking & crying. He escalated and scared us badly for quite a long time.

Today when I discovered what he had been doing on my computer, he responded in a menacing way and I am afraid for my safety. He is angry and irrational and I and my children are afraid of him. ~~My husband has~~

My husband has dominated and controlled the finances and not allowed me access to my own accounts, has withheld my banking mail for weeks, has shut me out of my own accounts and exercised complete intimidating control over ~~my~~ virtually every aspect of my life.

THIS PETITION MUST BE SIGNED BY THE PETITIONER WHILE AT COURT.**THIS PETITION WILL NOT BE ACCEPTED BY FAX, E-MAIL, OR U.S. MAIL**

I swear that the foregoing information is true and correct to the best of my knowledge. I understand that making a false statement on this petition will subject me to criminal penalties.

Date

4/8/16

Signature of Plaintiff

K. Albrecht

State of

NH

County of

Hillsborough

This instrument was acknowledged before me on

4-8-16

by

Katherine Albrecht

My Commission Expires

SARAH LYNN COYLE, Notary Public

State of New Hampshire

Affix Seal, if any

My Commission Expires October 16, 2016

Clerk of Court/Deputy Clerk/Justice of Peace/Notarial Officer

**Additional material
from this filing is
available in the
Clerk's Office.**