

24-6521

No. _____

FILED

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IN THE

SUPREME COURT OF THE UNITED STATES

Lea Welles

(Your Name)

— PETITIONER

vs.

Marcel Lowitch

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Cal. State Appeal Court Division 2

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Lea Welles

(Your Name)

502 Wilshire Blvd,

(Address)

Los Angeles, CA 90036

(City, State, Zip Code)

(Phone Number)

QUESTIONS PRESENTED

1. Whether the Court of Appeal erred in dismissing Petitioner's appeal based on a technicality that caused no harm or prejudice, and abused its discretion by denying the Petitioner's request to augment the record so due process could be met and thus needing also its request for an extension of time to file the opening brief, which deprived the Petitioner of due process and equal access to justice, and whether such actions violate principles of fairness and equal treatment for pro se litigants; and whether the Petitioner was deprived of due process and equal protection under the law when the trial court issued orders without any evidence being presented by the Plaintiff and denied the Petitioner the ability to present witnesses, violated mandatory commands of the statutes on Civil Restraining Orders and Petitioner's constitutional rights to due process and a fair trial rendering those orders void, and that VOID orders must be set aside when raised.
2. Whether the trial court's refusal to allow the Defendant to present witnesses, issue orders without evidence, and the statement by the trial judge of bias and prejudice—indicating that the judge had already made a decision before hearing the Defendant's defense—violated the Defendant's constitutional rights to due process, a fair trial, and equal protection under the law.
3. Whether the wrongful issuance of a Civil Restraining Order (CRO) warrants the issuance of a writ of certiorari, to ensure uniformity in the application of not upholding void orders, and uniformity of due process protections in civil restraining order cases, based on:
 - A. The Plaintiff's submission of no evidence and refusal to allow the Defendant to call witnesses, in violation of due process and equal access to justice;
 - B. Whether the trial court's failure to acknowledge the existence of a previously filed and served restraining order by Appellant on Plaintiff which would prevent a TRO and permanent RO granted if disclosed by Plaintiff by mandatory commands of the statutes, but is proven was maliciously omitted by the Plaintiff in a retaliatory Temporary Restraining Order (TRO) application yet intentionally ignored by an openly bias judge that required dismissal of TRO and any RO denied, but caused granting of a TRO and RO by this and also proven perjury and fraud of Plaintiff that has ongoing and permanent harm to Defendant, violating Defendant's rights to fair notice and equal justice and equal access, and whether perjury and fraud by Plaintiff render the court orders void and subject to reversal;
 - C. Whether the issuance of a Civil Restraining Order based on proven perjury and fraud, coupled with a violation of due process and the failure of the court to vacate void orders under statutes such as F.R.C.P. 60 and California CCP 473(d), renders the orders mandatory to be set aside and should be addressed by this Court;
 - D. Whether the expiration of a civil restraining order does not render the case moot, where the wrongful issuance of the order has caused significant, permanent harm, including damage to the Defendant's ability to travel, secure employment, and maintain a reputation, and the collateral consequences continue to affect the Defendant even after the order's expiration.

LIST OF THE PARTIES

All Parties appear in the caption of the case on the cover page

RELATED CASES

Appellant Welles had filed a Civil Restraining Order on the Plaintiff Lowitsch 11/1/21, personally served also on 11/1/21, which is BEFORE Lowitsch filed 11/16/21 a retaliatory Civil Restraining Order. The CASE of WELLES Civil RO filed 11/1/21 on Lowitsch is 22TRRO01013.

Having this filed PROHIBITS granting a retaliatory TRO for Lowitsch 11/16/21 then filed vexatiously and with perjury and fraud by Lowitsch, when also OMITTING the 11/1/21 Welles Civil RO on Lowitsch when filed a retaliatory CRO to get orders in abuse of process and in violation of the statutes of RO's to simply harm Welles for asking for protection.

Lowitsch maliciously filed a retaliatory Civil Restraining Order 11/16/21 for NO reason and had submitted NO proof of any harassment just made up stories that never happened and was PROVEN not possible as well later, and ALSO OMITTED from the TRO application as was REQUIRED to list under oath and penalty of perjury he was served this Civil Restraining Order filings 11/1/21 protecting Welles from Lowitsch that is required to be listed on the TRO application. The retaliatory vexatious Lowitsch Civil RO 11/14/21 is 22STRO07188 which is the case appealed from.

Lowitsch was proven to have done intentional perjury and fraud to get orders in abuse of process when OMITTING the required disclosure of any RO's between the parties declared under oath and penalty of perjury, as had he listed a Civil Restraining Order was filed against him 11/1/21 and he was served 11/1/21 and pending or active RO, prohibits the granting of TRO 11/14/21 and also permanent RO.

However not only did Lowitsch OMIT as required he was personally served and had a Civil Restraining Order filed by Welles and pending/active on Lowitsch BEFORE he filed a prohibited vexatious TRO as retaliatory TRO's are not allowed under CA statutes and federal statutes, but Lowitsch also did MUCH proven perjury and fraud in his filings stated under oath and under penalty of perjury that later where also PROVEN to be perjury and fraud by evidence, and witness declarations also under oath, made it impossible to have Ms. Welles been there on an alleged day Lowitsch claims he was harassed in his day one at his new residence alleged falsely harassed then by Welles.

Lowitsch submitted NO evidence, but rather simply said was harassed by extreme false story, to make sure he mentioned the proper "buzz words" to get the TRO, while ALSO OMITTING the Civil RO he had been served by Welles. This TRO order then is VOID as matter of law, as was made in perjury and fraud OMITTING Welles CRO filed on him, so would any permanent RO granted based on the TRO granted from perjury and fraud as biased and prejudiced the case and position OMITTING and other perjury/fraud.

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**IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

Petitioner, Lea Welles, respectfully prays that a writ of certiorari issue to review the judgment below of the Superior Court of California Central District, and Court of Appeal of the State of California, District 2, in this case, which involved a civil restraining order wrongfully issued against the Petitioner violating due process and mandatory commands of Restraining Order statutes, and the subsequent appeal; which has raised critical constitutional and procedural questions concerning:

1. the wrongful issuance of Civil Restraining Orders (CRO) with no evidence submitted and perjury and fraud proven, while having judicial bias, denial of due process, denial of equal access and equal justice, abuse of discretion, violating the mandatory commands of Restraining Orders, that made VOID orders that must be set aside when raised, and ongoing harm to the Defendant despite the expiration of the order; AND
2. the abuse of discretion in denying the Petitioner's requests for an extension of time for Appeal Opening Brief or stay proceeding to augment the record so due process can be met, that had Appeal court deny to augment the record and SIMULTANEOUSLY dismissed the Appeal for failing to file a timely Opening Brief when denied augmenting the record, prohibiting a hearing on the merits which is customarily granted, and when is in opposition to policy that generally grants time for attorneys to file opening brief if deny augmenting the record but was not granting equal access and equal justice for this Pro Se litigant.

OPINIONS BELOW

The opinion from the California Appeal Court to review the merits appears at Appendix A to the petition and is unreported. This includes asking for Reconsideration.

The orders from the California Superior Court to review the merits appears at Appendix B to the petition and is reporting in California Superior Court case file , and a subsequent appeal was filed. TRO 11/16/22, CRO 1/3/23

The opinion from the highest state court California Supreme Court Petition to Review the merits appears at Appendix C to the petition and is unreported

(The filings in the proceedings raised, are attached as Appendix D.

Email from witness confirming was at court but not allowed to testify is Appendix E)

JURISDICTION

The decision of the highest court of California Supreme Court was rendered on 9/18/24. A copy of that decision appears at Appendix A. Court of Appeal decision appears at Appendix B. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- U.S. Constitution, Fourteenth Amendment, Due Process Clause
- U.S. Constitution, Fourteenth Amendment, Equal Protection Clause
- California Code of Civil Procedure, Sections 527.6 and 631
- California Code of Civil Procedure, Sections 473
- Federal Rules of Civil Procedure F.R.C.P.60
- 42U.S.C.1983 Color of Law actions

STATEMENT OF THE CASE

On November 1, 2021^س, Petitioner, the Defendant in this case, filed and personally served a Civil Restraining Order (CRO) on the Plaintiff Lowitsch, seeking protection based on alleged harassment and physical assault. It was personally served also on November 1, 2021^س, and there is no contested service to the Plaintiff Lowitsch in the Welles served CRO.

Subsequently, on November 16, 2021^س, after receiving the Defendant's restraining order 11/1/21^س, the Plaintiff filed a retaliatory TRO against the Defendant. In this filing, the Plaintiff maliciously omitted from the 11/16/21^س TRO application the fact that the Defendant had already filed and served 11/1/21^س a restraining order against the Plaintiff.

It is required and MANDATORY under oath and under penalty of perjury for Lowitsch to list any restraining orders between the parties on Lowitsch's TRO application, as under the restraining order statutes retaliatory and vexatious RO's are prohibited under California state statutes as well as federal statutes, and TRO would not be granted if properly disclosed the RO's between the parties, as Lowitsch already was served the TRO protecting Welles from Lowitsch.

The omission of this critical fact was not a mere oversight but an act of premeditated and malicious perjury and fraud. As a result, the trial court issued a TRO based on misleading and incomplete information, without considering the pre-existing restraining order filings that were filed and in effect. This was later shown, raised, and proven in court, but the bias judge disregarded this fact which made it mandatory to set aside the VOID order made in the TRO, which was done based on proven perjury and fraud and would also then bias and prejudice a permanent RO as well, that requires also the RO be denied from these acts of PROVEN perjury and fraud by Lowitsch own submitted omission under oath and under penalty of perjury.

Further being that Lowitsch has other RO's, including active DVRO from another woman now protected, who was harmed in exact same way Lowitsch harmed Welles, he was aware to use certain "buzz words" in perjury and fraud in filing his prohibited and vexatious retaliatory CRO on Welles, as used them when filing also a vexatious retaliatory DVRO on Ms. Lopez in retaliation for her receiving a DVRO on Lowitsch.

Lowitsch has learned how to manipulate the courts like most abusers and manipulators learn to do to do "litigation abuse" to their victims, and so again Lowitsch used these "buzz words" of

later NOT done by Welles... but for a TRO on paper these “buzz words” along with OMITTING the required disclosure that Welles has a CRO filed on Lowitsch 11/1/27 BEFORE this filing 11/16/27, which DID in perjury and fraud get the TRO granted for Lowitsch that then would also forever bias and prejudice this case and Welles position as well.

This perjury and fraud was later proven impossible to have happened as the alleged harassment or attack as he says of breaking into his house with a gun and then saying “now I know where you live and will report you to immigration,” besides being ridiculous; Welles had witnesses and under oath declarations submitted proving impossible to have been there or to have a gun especially also being Welles had been in court clearly without a gun, then with others immediately after leaving, until midnight that day. These witnesses put this in verified declarations under oath submitted to the court, and also were present to testify but the bias judge refused to have ANY witnesses testify for Welles denying due process.

The Defendant’s request to void and vacate the prohibited and vexatious TRO as even PROVEN by omitting the required RO filed against Lowitsch was clearly proven was OMITTED from Lowitsch’s TRO making it void and required to be set aside and dismissed by these actions, was ignored by the judge who stated in open court BEFORE Welles spoke that he had already made a decision no matter what Welles said and stated would not listen to anything she said.

Defendant also submitted and proved the Civil RO was filed on Lowitsch and properly served, and another woman who has a DVRO Ms. Lopez was harmed in exact same pattern as Lowitsch did to Welles was to testify, and her DVRO and filings ALSO showed in Welles filings to court how Lowitsch ALSO lied on a retaliatory DVRO on this woman as well. He claims everyone is harassing him as they might report his immigration status as illegal alien.

Lowitsch attacks people he thinks will expose he is illegal immigrant, and thinks harassing and abusing the person will intimidate them to not report him, and then does a pattern of making several false reports to police to collect “incident cards” to then falsely allege he was harassed and a card by a police officer he submits to falsely say this proves this alleged harassment. It does not prove anything unless can have testimony and evidence.

Lowitsch did this with this woman Lopez, and actually did the same to his one employer who gave him a visa but had to fire him as was abusing the mothers and the children in a soccer camp job he was hired for.

When fired Lowitsch was required to leave the USA, but instead started threatening and harassing the owner of the company and all employees, and started making false complaints about the owner and business in hopes the harassment and abuse would stop them from reporting his illegal status. He threatened and harassed employees which some quit for fear of their safety and lives.

The owner of the business that employed and gave a visa to Lowitsch and then quickly had to fire him, submitted a verified declaration under oath and was PRESENT in court with also children to testify of the pattern of abuse by Lowitsch and his harassment to try to stop being reported as illegal immigrant; but again, the Judge refused to have any of Welles witnesses

testify which also included witnesses that Welles was with them during alleged times of Lowitsch alleged harassment/attack on him, and also witnesses could confirm impossible for Welles to have had a gun at that time as well as with Welles coming out of a courthouse clearly would not have a gun, and remained together after court all day until about midnight making it impossible for the alleged harassment Lowitsch falsely alleged. Welles also does not own or use any guns.

Welles also subpoenaed other witnesses including police which also were not allowed to testify, though also the filings also had recorded and written transcripts of testimony to witnesses when Lowitsch attacked Welles in her home being bruised and broken foot from Lowitsch attack, and had to run from her home being chased down the street by Lowitsch threatening to kill her if returned to her home, WITNESSED and in the court record ignored by the Judge as well. .

After this attack in her home, Welles then filed a RO and gave notice to terminate her lease for her safety, and had a mover move her belongings as well to show this court how extreme the assault and harassment from Lowitsch had been to Welles, which also included harassing texts all day from 6am through 2AM for days, as well as was calling professional and personal people doing slander and defamation to Welles while telling Welles she better not report his illegal status. Welles never lived in her home again after attack by Lowitsch but the harassment continued.

TO be clear not one of the victims of Lowitsch threatened Lowitsch to report his illegal status, neither did Welles, it is just Lowitsch taking it on himself to start harassing and abusing these people who know he is illegal he feels will intimidate them to NOT report him as he is muscular 6'1" man, and has caused excessive abuse to both different woman from arm length bruises and destruction of property to both woman in their homes, and also broken bones caused by Lowitsch to Welles, this Judge ignored even when proven in DVRO on Lowitsch and declarations from others in filings and ready to testify in open court.

So to recap the facts of this case and situation:

Lowitsch then at full hearing also had NO evidence to support his false allegations, while Welles had overwhelming evidence and witnesses, and declarations to prove that everything Lowitsch said was perjury and fraud and was retaliatory as also can SEE he OMITTED the Civil RO filed on him by Welles, and if had disclosed as REQUIRED the TRO would be denied, as would any permanent RO. It then must be set aside as void and RO denied.

Welles also attached and PROVED the filing of the Civil RO 11/1/21 and proof of service served same day 11/1/21, with ALSO a declaration from the server as well under oath and verified, which when compared to Lowitsch's retaliatory vexatious Civil RO it PROVES was filed AFTER Welles served the Civil RO on Lowitsch AND that he OMITTED the Civil RO when is REQUIRED to disclose the RO's between the parties. If disclosed the TRO would be denied, as would usually a permanent RO as is retaliatory and against the mandatory commands of Restraining Order statutes. The CASE of

WELLES Civil RO filed 11/1/21^W on Lowitsch is 22TRRO01013. Filings from these cases can be seen in Appendix D.

Lowitsch also confessed he WAS served the CRO of Welles as well, AGAIN PROVING this should have gone NO FURTHER and the TRO void and vacated and the CRO DENIED per the statutes.

This case should NOT have gone any further than this, but the Judge was bias from something not going into this Judges bias, as is long and irrelevant as the bias is the issue, but BEFORE the hearing the Judge said to Welles he ALREADY MADE HIS DECISION no matter what Welles said.

Lowitsch submitted NO proof, and Welles had overwhelming proof no harassment by Welles to Lowitsch, and proved abuse to Welles WITNESSED and also TRO filed 11/1/21^W on Lowitsch before this retaliatory prohibited TRO filed 11/1/21^W with also proven perjury and fraud. Further also the DVRO filed on Lowitsch from another woman Ms. Lopez he abused in the same way as Welles had DVRO and all filings of BOTH Lowitsch and Lopez in file and ready to testify, and his only employer in US also was present in court and had declaration he and his staff and also clients and their kids were abused by Lowitsch to point he was fired and visa cancelled. Lowitsch remained illegally in US and his goal is to threaten and abuse anyone who finds out he is illegal, as he fears they will report him even if they have never mentioned they would report his illegal status as well. Just as a side note, it is also not harassment to report any illegal alien either

After Judge said he already made a decision before Welles even spoke or gave evidence or witnesses, when allowed to speak Welles said that is not fair and should be allowed to overcome especially when it is proven he OMITTED the Civil RO Welles had filed on Lowitsch 11/1/21^W BEFORE his vexatious and retaliatory prohibited TRO, which is perjury and fraud and makes the TRO void as any other orders from these VOID orders would be void, as well as the declarations and witnesses and evidence PROVE what Lowitsch said is false and again deliberate perjury and fraud to get orders in abuse of process again.

The Judge said he made his decision but go ahead and speak, but will not change his decision. However he did NOT allow ANY of Defendants witnesses to testify and while handed in papers he said would be IN the court file, he later said he is refusing to read them. It also turned out later he also did not properly submit them into the record as required as Judge said would be done. Welles also found this out later, causing also problems with tampering with the record of the proceedings and due process as well by the bias/prejudiced Judge in these color of law actions.

It was also raised that Lowitsch already had a permanent DVRO from another woman Ms. Lopez, who he also did the same thing to. She was aware he was in the country illegally, and this was WHY Lowitsch was threatening and harassing her thinking that threatening and abusing her would intimidate and scare her and fear for her life and safety, all to make sure she does not report him to immigration. He caused bruises and

destroyed her belongings and threatened her to not report her him to immigration which also was filmed. Which was similar to Lowitsch attacking Welles in her home WITNESSED and the testimony in voice and transcripts in the filings, and witness to testify in court of Lowitsch attacking Welles and yelling and chasing her out of her house and down the street and then was going to chase her down in his car while she ran screaming for help running down the road... though this witness was never allowed. However the testimony in voice recordings and filings were in the court files.

Ms. Lopez received a permanent DVRO on Lowitsch, as he had done the same thing of harass and attack her at her home causing bruises and destruction of her property and theft of her property, continued to stalk her at her home and places out, threaten her in calls and did non stop harassing texts, made many false reports to police to get "incident cards," and filed a prohibited and vexatious retaliatory DVRO and OMITTED the active DVRO Ms. Lopez had on Lowitsch in his TRO filing which is the EXACT SAME pattern and perjury and fraud Lowitsch was doing to Welles.

Lowitsch then started making false police reports to collect "incident cards" to then use to file a vexatious retaliatory restraining order on her, and AGAIN just like he did in filing vexatious retaliatory CRO on Welles, Lowitsch OMITTED he had a permanent DVRO on him from her already when he filed.

Lowitsch would make numerous police complaints to collect "incident cards" and then allege falsely he was being harassed. It came to the point that the detectives at Torrance Police PROHIBITED Lowitsch from doing these vexatious and false police reports, and THAT LETTER FROM THE TORRANCE PD DETECTIVE to Lowitsch specifically also saying he cannot simply "claim verbally" harassment without actual proof and especially when there is also evidence proving what you are saying is also false. He was not allowed to file anymore vexatious complaints to collect "incident cards" to harass Ms. Lopez, and this detective would have to approve any further incidents reported and he MUST bring evidence if wants to prove things as stating them verbally is NOT proof!

THIS letter from PD Detective to Lowitsch was also included in Welles papers, AND Police were also subpoenaed to testify but not allowed by Judge.

The fact is that Lowitsch claims to everyone he is in the country legally, but he is and was NOT, as overstayed a visa was eventually found out. In fact the person fired Lowitsch as was abusing the women moms and also the children in a soccer program he was hired for on a visa. He was also abusive to the employees especially woman, yelled and physically threatened and intimidated them, and after was fired also started intimidating and harassing the owner as well.

When terminated his employment and visa, Lowitsch was then required to leave the USA. He refused, and has even told Welles that immigration in USA is a joke as will never deport him as they do not even deport the Mexican's and he is a white guy. He even then stated in front of Welles and his girlfriend his conspired plan to have her remain in USA as well now that Welles also knew he was in the country illegally.

Lowitsch said and Welles then later saw and girlfriend also OCNFESED as did Lowitsch to Welles, that Lowitsch had her leave and plan to move permanently back and girlfriend lied to immigration when coming in saying was a visit. She had quit her job, shipped her things, and committed conspired crimes they both were very proud they got away with it.

Before girlfriend left though, Welles had told this girlfriend later what Lowitsch was doing is illegal, and she will be forever harmed as is a crime if she does this, and having a child her if arrested does not prevent your child from being taken and put in a foster home and you arrested. It was also explained there are ways to get a visa if she wants to come in and even showed her online takes about 2-6 months depending on the company and then could stay for like 18 months. Lowitsch then yelled and threatened Welles, and Welles responded that his girlfriend needs to know the facts these are crimes you want her to commit. This was also said in Welles home when they were visiting so Welles had every right to say this also in her own home when confessing they are planning conspired crimes.

Lowitsch after fired and visa terminated, then Lowitsch started harassing the owner of the business, and all employees from where he was fired, threatening them to not disclose he is an illegal alien or he would harm them. He also made many false complaints on the owner and business as well to harass.

This employer/owner was IN COURT to testify and with also children, as well as submitted a declaration stating Lowitsch has done the SAME pattern to anyone he thinks will report Lowitsch, and these people do nothing to Lowitsch including never threatened to report his immigration status, before he starts harassing and attacking and threatening.

In fact after the trial and saw the owner their in court and had copy of the declaration, Lowitsch IMMEDIATELY started texting and calling the owner who came to testify but Judge refused to allow Defendant ANY witnesses to testify, and threatened him all day. The owner emailed Welles which are attached to show he WAS at court and not allowed to testify, and after was harassed by Lowitsch including coming to his office and threatening employees, and he stated he fears for his and families safety. Lowitsch then started going to the office for days and harassing the workers who feared for their life and safety as well.

IMMEDIATELY after the trial Lowitsch waited around a corner and threatened Welles again he would harm, kill her, or she would be sorry if she reported his immigration status, now feeling MORE empowered to continue to abuse Welles and others by the color of law actions this Judge did that escalated the dangers clearly to Welles and others by these State actions. Deshany.

The Owner then sent emails to Welles asking how can he get help and protection, as he fears for also his family and children as Lowitsch is threatening and harassing and will not stop, and this he has done before as well so he lost employees because he threatens them. This can be seen in Appendix E.

Emails are attached from this owner/employer to confirm not only was saying he was AT the court besides submitting a declaration, but was stating harassed again by Lowitsch MANICALLY over and over, saying you better not report Lowitsch is illegally in the country.

Welles not only knew that Lowitsch was in the country illegally, but he brought in his foreign girlfriend who was pregnant, and for some reason they told Welles they were planning for her to go home and come back AGAIN and this time lie, and then have her stay so she can have the child in USA and then just stay saying for medical reasons.

It was well planned out actually, and is a crime.

It is because Welles knew he and now his girlfriend were doing crimes, he was concerned that it might be reported and then was harassing Welles continuously in texts nonstop all day when told over and over STOP harassing me but continued, and then attacked and harmed Welles threatening would do far worse if reported him.

After violently attacking Welles in her home and physically causing bruises and broken bones, and chased Welles from her home out through the back yard and onto the street and running down the street yelling for HELP HELP over and over WITNESSED... while Welles ran for her life, Lowitsch went back into Wells residence and was going to chase Wells down with his car and kill her, but Welles roommate who witnessed talked him out of it... who submitted a voice testimony, transcript, and was to testify but not allowed.

Instead of running Welles down with his car and chasing her, Lowitsch then stole belongings of over \$20,000 in media equipment and personal documents; and destroyed belongings; after attacking Welles violently causing bruises and broken bones (requiring hospital visit and case), and chasing Welles out of her home through the yard and down the street threatening to kill her.

Welles did not return again to her house, other than to let a mover in, as gave notice to terminate lease and move as feared for life and safety, after running from her home being bruised and having broken bones from his attack, and threats to kill her if she returned.

Being that Lowitsch did conspired premeditated crimes of bringing in also his pregnant girlfriend to be illegal and remain in USA illegally as well, it seemed certain he would harm Welles if remained in the home, and has actively stalking Welles since as well.

Welles has done NO harassment of any kind to Lowitsch, and the only contact besides filing the CRO that would entail court appearances, was as DIRECTED BY POLICE AND ATTORNEY to ask Lowitsch to return the stolen over \$20,000 of media equipment he stole from the home on the day of attack or will press charges. This is a meet & confer

Therefore also there was NO intent of harassment in the ONLY day of communication which was asking to return the stolen items also DIRECTED to do as also a LEGAL meet

and confer. Being this was the only communication and was also legally required as a meet and confer, there is no harassment that Lowitsch could prove in the court.

Lowitsch refused to prove any alleged calls by showing his phone to the court, but Welles showed her phone NO calls to Lowitsch as well as witnesses testified in declarations and ready to testify in court that being with Welles on alleged time and day of any call alleged made it proven never happened, and the court and witnesses supported the other alleged harassment he said of break and enter into his home the day he moved in could NEVER have happened as well. Police also subpoenaed could testify to the alleged "incident card" that had the officers name on it that there was NOT any harassment done by Welles but Judge refused to have any witnesses testify.

Further, witness is that the process server of Welles CRO to Lowitsch was present at the time and date of the alleged harassment at Lowitsch new residence where he claimed Welles was breaking and entering and using a gun saying "now I know where you live I will report you to immigration." Process Server ALSO testified in verified declaration and able to testify in court but not allowed, that Welles was NOT present at this time, as there was only him and also a few delivery Movers from a Furniture company there when he did service along with Lowitsch and his pregnant girlfriend.

Additionally, after service of Lowitsch's vexatious retaliatory CRO, Welles requested and received from the moving company, they also gave a declaration that during the alleged time of this breaking and entering they were delivering furniture and there was NO woman or gun present though a man dropped a bag inside the open door and said you are served.

Add in also witnesses Welles came out of court and DIRECTLY walking out court doors and into someones car directly parked in front of courthouse WATCHING Welles come out of courthouse and DIRECTLY into car, and they stayed together until about midnight... ALL proved that Lowitsch made up in malicious perjury and fraud the alleged attack KNOWING Welles does not have car to get there and also has no gun, and submitted NO evidence and NO witnesses to support his perjury and fraud. It was simply impossible coming out of a courthouse to have a gun, and then could not get one then not anywhere separate to get one when with someone until about midnight the witness testified in verified declaration and not allowed to testify as well.

The filed documents and declarations supported DENYING the CRO for Lowitsch, and with absolutely NO evidence submitted by Lowitsch as well as can see is just made up stories with NO witnesses and NO proof submitted of ANY kind, **PROVES there was ALSO NOT "clear and convincing evidence" as is required before can issue the permanent CRO.**

His girlfriend called in and said did not see Welles but Lowitsch told him she broke in and had a gun so this is hearsay not allowed was raised by Welles, Another person a man not known to Welles said late night around 9:30PM on a SOCCER FIELD OUTSIDE Lowitsch was yelling on the phone with someone and Lowitsch said it was Welles, which

also was raised this is hearsay and not allowed. It was then raised as well as when he alleged the date and time of this call Welles was at someone's home until about 11PM and did a verified declaration in court and also was to testify but not allowed by Judge... and said under oath Welles was with her from about Dinner time sharing dinner and into the evening until about 11PM PROVING also Welles was NOT on phone making calls to Lowitsch confirmed by witness with Welles. It was also raised is believed this man about the phone call even though is hearsay, was just lying for Lowitsch as this person's name was the SAME man who had submitted a statement to police that was proven false when Lowitsch was harassing Ms. Lopez, so assumed this man was his coconspirator to do harm to others and back up whatever lie Lowitsch stated. Again the PD officer could have testified to this as well, though what this alleged "witness" said was just hearsay and not admissible even without the police testifying... as Judge did not allow any testimony for Welles.

Further Welles showed her phone in court, and asked the court demand to see the alleged incoming call on his phone, and Lowitsch refused to show the court his phone. This alleged call NEVER happened, but also the texts he submitted in his filings he alleged he sent back to Welles was also forged as can see the text exchange on Welles phone!

THERE IS NOTHING SUBMITTED IN THIS CASE FILE BY LOWITSCH THAT PROVES beyond a shadow of a doubt of any harassment or continual harassment that is required, and certainly ALSO there is NOT "clear and convincing evidence" that MUST be proven BEFORE a CRO can be granted. The CRO is abuse of discretion, besides a VOID order made from a VOID TRO.

ALL prove again the perjury and fraud and NO proof submitted by Lowitsch without any calling of witnesses for Welles... let alone clearly NOTHING is in the file showing that Lowitsch proved ANY harassment, NO continual harassment either as ONLY was a meet and confer to return stolen belongings and stop harassing Welles on one day only as required and directed by POLICE AND ATTORNEY to do. ALSO there is PROVEN perjury and fraud of Lowitsch OMITTING Welles CRO filed on Lowitsch he OMITTED on his TRO application thus making it VOID, and any orders made from these VOID orders must be set aside was raised, and should vacate the VOID TRO order and DENY CRO.

Welles was then to be allowed to have witnesses and ask questions of Lowitsch, but Judge stated the hearing was done and will not have any witnesses of Welles. This was clearly denying due process in color of law actions, and in the bias and prejudice stated by the Judge BEFORE Welles spoke in the beginning of introductions.

For all these reasons, as well as there is NO "clear and convincing evidence" that is REQUIRED before can grant a CRO; the court should have VOID AND VACATE the TRO so would NOT do permanent harm to Welles, Deny the CRO, and seal the case to prevent future harm was requested.

Add in the TRO was PROVEN to be done in perjury and fraud OMITTING Welles filed and served a CRO on Lowitsch 11/1/21 before he filed 11/16/21 vexatious and retaliatory CRO and OMITTED the REQUIRED listing of the Welles CRO filed on Lowitsch which makes the TRO also VOID as done by perjury and fraud, ALL should have had this DENIED under the MANDATORY COMMANDS of the statutes on restraining Orders.

Lowitsch claimed FALSELY that 11/1/21 Welles did breaking and entry and having a gun pointed it at Lowitsch and said "Now I know where you live and can tell immigration." Again showing his delusions that he thinks all people are consumed with reporting his illegal status. The fact is Welles knew where he was moving and sent a process server over after being in court all day 11/1/21 waiting on granting of the CRO, and when left the court walked into a car at bottom of stairs and remained with that person till about midnight with a declaration under oath and the CRO filed proving where Welles was 11/1/21. Further the alleged "incident card" with police officers name, was also subpoenaed to testify there was NO break in or harassment by Welles but not allowed to testify. All this proved impossible for Welles to have a gun and break in on 11/1/21. His girlfriend called in but said had no knowledge if Welles broke in or had a gun but Lowitsch told her she did, which again was raised is hearsay and was also impossible for Welles to have been there at this time.

The other alleged harassment was claiming at night around 9:30PM while he was outside in a soccer field he had alleged falsely that Welles had called him and AGAIN threatened him about his immigration and reporting him. He had a man who would be unknown to know Welles voice, but he also stated simply outside in field Lowitsch was yelling on a phone and told it was Welles which is hearsay.

Also a verified Declaration under oath was submitted with the person Welles was with from Dinner time to about 11:00PM to midnight, as this was the deadline date for Lowitsch to respond to the meet and confer and Welles wanted to feel safe with someone in case he decided to try to stalk and kill her so she would not file regarding the theft and assault. Also the call log of Welles phone was attached, and in court showed Welles phone, BUT LOWITSCH REFUSED TO SHOW HIS PHONE to prove up any incoming calls as well. This witness was not allowed to testify either.

Lowitsch submitted forged and fraudulent texts in paper form, proven false by Welles phone, and proven false when AGAIN Lowitsch refusing to show his phone to validate any alleged texts back and forth from and to Welles. Also all his statements in the TRO were proven to be perjury and fraud, as well as he OMITTED the 11/1/21 CRO Welles filed and served 11/1/21. He was required to disclose, for if he had a TRO would NOT have been granted. This being PROVEN by Lowitsch OWN submitted perjury and fraud proved was a VOID order and TRO MUST be set aside and CRO also dismissed.

Lowitsch main position he should not be harassed because he is an illegal alien. However Welles never harassed Lowitsch that he was an illegal alien, that Welles recently found out, and then also his conspired plan to bring in his pregnant girlfriend and file for

welfare and medical benefits after lying to customs saying just visiting when quit her job, shipped her belongings to US before lying to customs.

It has BEEN PROVEN Lowitsch has and continues to harass and attack and threaten anyone who finds out he is illegal immigrant as Lowitsch thinks doing abuse will scare someone to not report him. This is a DVRO on Ms. Lopez PROVEN in her filings and his filings, and PROVEN in the employer who granted a visa and then fired Lowitsch because he abused the Mom's and children in soccer camp he was hired for and Lowitsch then harassed employees and owner saying NOT to report him being illegal after terminated and visa cancelled. These witnesses were NOT allowed to testify.

Keep in mind Welles is an older female, and Lowitsch is a body builder 6'1", as was Ms. Lopez a younger woman but about 5'1" and about 100lbs; BOTH had bruises and attacked in their home because Lowitsch wanted to make sure they do not report he is illegal, and BOTH had destruction of property and theft as well after attacks. Lowitsch did also same pattern with owner and employees destroying equipment and threatening and stalking them. ALL received false complaints to personal and business associates, and false complaints to poice for Lowitsch to collect "incident cards," with also police agreeing Lowitsch is abusing and then prevented from making false reports. Lowitsch then started forum shopping for "incident cards." Lowitsch has a well established pattern proven in declarations and evidence including permanent DVRO's against Lowitsch, including does NOT produce ANY evidence just lies with extreme stories and tells the court or police to believe him.

Lowitsch did not prove any harassment occurred, did not prove continual harassment occurred , NOR ANY FUTURE HARASSMENT would occur, not by preponderance of evidence as Welles had that, and not by the REQUIRED "clear and convincing evidence," as AGAIN Welles had the clear and convincing evidence harassment had not occurred and in fact PROVED Welles would have also NO FUTURE potential of alleged harassment filing a CRO on Lowitsch and moving from her home for safety ALL clearly shows this.

Clear and convincing evidence was submitted by Welles, to set aside and VACATE the VOID TRO and DENY the CRO and SEAL the case to prevent further harm to Welles, and PROVEN even while Welles was prevented from due process and having any witnesses testified and denied to even cross examine Lowitsch!

Instead of doing as required by the mandatory commands of the restraining order statutes that required to set aside and VACATE the VOID TRO proven to have been made by omitting the Welles filed CRO on Lowitsch and other perjury fraud raised in filings even before the hearing started, and also then denied due process; as the Judge said BEFORE Welles said anything to the court, this Judge said he had already made his decision no matter what Welles said, and denied witness testimony for Welles as well, and later also found out the filings of that day he omitted from the record as well when was agreed would become part of the record; AGAIN violating also court rules, procedures, due process, and equal access and equal justice and in color of law actions 42U.S.C.1983 that

also escalated the dangers to Welles and also other witnesses by these state actions.
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Welles besides testimony and showing her phone, was supported by sworn declarations and evidence, which established that the Plaintiff's allegations were false. Despite the Defendant's submission of irrefutable evidence and the availability of witnesses, the trial court denied the Defendant the opportunity to call any witnesses or present full testimony or cross examine Plaintiff, resulting in the court's issuance of a Civil Restraining Order against the Defendant.

In addition to these errors, the trial court's failure to permit the Defendant to present witnesses and evidence violated the Defendant's constitutional right to due process, equal protection, and access to the courts, and did this under color of law actions as well.

Denying due process makes void orders that MUST be set aside.

Lowitsch doing perjury and fraud PROVEN when OMITTING the TRO from Welles on Lowitsch in his TRO application and FURTHER proof of his perjury and fraud in his statements by declarations and evidence, requires the TRO to be VOID and vacated, and any permanent RO denied, not granted, so also is abuse of discretion in Judges also clear voiced bias & prejudice and void orders made.

Furthermore, even after the expiration of the TRO, the Defendant has faced significant and ongoing harm, besides still stalked and threats to be abused or killed by Lowitsch; far reaching PERMANENT harm is including difficulties with travel, visas, and employment, which continue to have lasting effects until this vexatious and void CRO is vacated and set aside and SEALED, this court now has the ability to correct IN THE INTEREST OF JUSTICE.

A timely appeal was filed. The record was missing documents from the designation of record, and a request to augment the record was made and filed to have extension of time to file opening brief pending the augmented record, or stay the proceeding pending the augmented record.

The Court of Appeal dismissed the Defendant's appeal based on a technicality regarding DENIED to allow extension of time to file opening brief or stay the proceedings pending the record being augmented. At this time Opening Brief would not be allowed unless an extension of time if denied the extension of time pending augmenting the record as well. The appeal court made it then impossible for appellant to file the opening brief when denied the extension of time or stay the appeal pending the augmented record which is usually granted and especially when attorneys request this, abut appeal court SIMULTANEOUSLY when denied extension of time for opening brief pending augmenting the record, ALSO DISMISSED the appeal.

This is customarily granted for attorney's who file this as also Welles talked with an attorney who said to get the augmented record and file the extension of time or a stay as they are customarily granted so due process can be met. The courts also should want to hear the case on the merits also customarily allowing then augmenting the record and time needed for this.

Appellant filed to have them reconsider and filed Motion to Vacate the Dismissal of Appeal and Reinstate Appeal and allow Extension of Time to File Opening Brief and to hear this case on the merits as is preferred, and also explained the extreme lower court violations and void orders made that also are mandatory to be set aside when raised; but that also was denied it seems to simply take a Pro Se litigants case off their docket when not giving equal access and equal justice to a Pro Se litigant that they give to attorneys asking for the same request to augment the record and extension of time to file Opening Brief.

The appellate court's decision ignored the merits of the case, which involved violations of due process, judicial bias, and ongoing harm caused by the improperly issued TRO and the Plaintiff's fraudulent conduct, and the violations of rules, procedures, due process done with also bias and prejudice in color of law actions by the judge as well that caused VOID orders that also must be set aside when raised, and if left would cause irreparable long term permanent harm to appellant.

California Supreme Court had Petition of Review with all raised again, and was as most are... summarily DENIED.

This is a simple case when look at the PROVEN OMITTING of Welles Civil Restraining Order filed on Lowitsch 11/1/21 and served 11/1/21 to Lowitsch, that was required to be listed as any RO's between the parties on Lowitsch's 11/14/21 vexatious prohibited retaliatory TRO; that when omitting the REQUIRED disclosure under oath and under penalty of perjury makes a VOID TRO for Lowitsch and MUST be set aside, as all orders from a VOID order also must be set aside including the alleged Lowitsch CRO that also is proven to have been made by denied due process and denying equal access and equal justice and in bias and prejudice and color of law actions.

Further the appeal court in abuse of discretion and bias against Pro Se litigant, unfairly denied extension of time to file Opening Brief while requesting to augment the record so due process is met when missing some documents from the Designation of Record, and/or to stay the appeal; and while is customarily granted when attorneys ask for this and is customarily agreed is best to have the appeal be heard based on the merits, appeal court DENIED the extension of time or stay and SIMULTANEOUSLY then DISMISSED the appeal for no timely opening brief after denied the request to have extension of time or stay the appeal pending the augmenting of the record, believed done to remove a Pro Se litigants case from the docket instead of heard on the merits as customarily done for attorneys requesting the same thing.

Appellant asks case be decided as is matter of law PROVEN by Lowitsch OWN submitted proven perjury & fraud that received VOID order, that required under statutes to vacate VOID TRO and deny CRO, as well as evidence proves this was NOT decided based on clear and convincing evidence & was also done with judges bias color of law actions denying due process and equal access and equal justice. It is also abuse of discretion of appeal court to not hear this appeal based on the merits, to allow augmenting the record, and allow extension of time for opening brief or allow a stay of appeal pending the augmenting of the record; that all is customarily granted when attorney asks, and should not then be denied when Pro Se litigant requests this.

REASONS FOR GRANTING THE WRIT

Petitioner respectfully submits this petition for a writ of certiorari to review the decision of the Superior Court of California and Court of Appeal of California, which involved the wrongful granting of a civil restraining order against the Petitioner. The trial court issued this order without any evidence presented by the Plaintiff and in the face of overwhelming evidence submitted by the Defendant, including declarations under oath and irrefutable evidence that disproved the Plaintiff's allegations. Additionally, the Defendant's witnesses were prevented from testifying by the trial judge, and the judge's actions, including clear bias and refusal to uphold statutory requirements, rendered the orders void and subject to being set aside. Further the appeal court then denied extension of time or stay the appeal pending the augmenting of the record so due process could be met as records were missing from the designation of record which is also customarily granted when attorneys request this order, but was denied for this Pro Se litigant. Additionally, the appeal court customarily prefers to hear cases on the merits which this order also goes against the courts own previous customary orders. The Petitioner respectfully requests this Court's intervention to correct these significant errors that have caused irreparable harm.

1. **Due Process Violations and Denial of Equal Protection in Issuing the Civil Restraining Order, and the Need for Clarity and Guidance on the Standard for Due Process in Civil Restraining Order Cases**
 - o The issuance of a Civil Restraining Order without the Plaintiff submitting any evidence and the denial of the Defendant's ability to present witnesses violated fundamental due process rights. The Fourteenth Amendment guarantees that no state shall deprive any person of life, liberty, or property without due process of law, which includes the right to be heard and present evidence in one's defense. In *Mathews v. Eldridge*, 424 U.S. 319 (1976), the U.S. Supreme Court held that procedural due process requires that a party be given an opportunity to present evidence and be heard before being deprived of a legal right or liberty interest. In this case, the trial court denied the Defendant the ability to call witnesses or present testimony, resulting in a judgment based solely on the Plaintiff's unverified allegations, thus depriving the Defendant of a fair and impartial hearing.
 - o Additionally, the failure to allow the Defendant to present evidence and witnesses, especially when the Plaintiff submitted no supporting evidence, led to the issuance of orders that lacked any factual basis. As a result, the orders were void and in violation of the due process requirements guaranteed by both the U.S. Constitution and California law. Void orders MUST be set aside when raised F.R.C.P60, and discretionary under CA CCP473(d).
 - o Moreover, the California Supreme Court has consistently held that when there is no supporting evidence for a restraining order, the order cannot be granted. In *Cameron v. Cameron*, 168 Cal. App. 4th 13 (2008), the court emphasized that restraining orders cannot be issued without clear and convincing evidence of harassment.

- These fundamental rights were violated, and this Court should grant certiorari to address the serious issue of whether the due process protections afforded by the Constitution were respected in this case.
- This case presents an important opportunity for this Court to provide clarity on not just the due process standards, but the due process standards required in civil restraining order proceedings, particularly regarding a party's right to present witnesses and evidence, which domestic violence and civil restraining orders affect millions of people that this courts proper direction would help. The decision to grant or deny a restraining order has serious consequences, and this Court's intervention is needed to ensure that constitutional rights are upheld in all such proceedings. Additionally, this case presents the opportunity to set a precedent for appellate review standards, ensuring that technicalities do not undermine substantive justice, as discussed in *Mandel v. Bradley*, 432 U.S. 173 (1977).

2. **Fraud and Perjury by the Plaintiff, Rendering the Court Orders Void**

- The Plaintiff's failure to disclose a previously filed and served restraining order against the Defendant, and the omission of this fact in the Plaintiff's application for a retaliatory TRO, constitutes an act of perjury and fraud. Having TRO granted then also bias & prejudices further orders and Defendants position by VOID order made based on perjury and fraud. The intentional omission of such a critical fact misled the trial court and resulted in the issuance of a TRO based on incomplete and fraudulent information, and bias & prejudiced the future order for CRO. U.S. Supreme Court case law such as *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), and *Frazier v. Cohn*, 14 U.S. 516 (1825), holds that fraudulent actions in legal proceedings undermine the legitimacy of court orders and make them subject to being set aside.
- The California courts similarly recognize that orders obtained through fraud must be overturned. In *In re Marriage of Ciesluk*, 125 Cal. App. 4th 703 (2005), the court emphasized that fraud in the procurement of court orders renders them voidable. In this case, the Plaintiff's fraudulent conduct in omitting the Defendant's previously filed restraining order on Plaintiff Lowitsch violated the Defendant's constitutional rights and undermined the judicial process.
- This case presents an important opportunity for this Court to provide clarity on the fact that when it is clearly seen that perjury and fraud has occurred, that this should not be overlooked because many people do perjury and fraud, and in fact because it is so common now and there is no punishment or upholding the statutes as the courts just tend to ignore it saying everyone does it, but should not be overlooked and ignored as it is not just a tort but also a crime, and should be directed to do as required and void and vacate orders made based on intentional perjury and fraud and set aside also all further orders made from these void orders, and to uphold the statutes and litigants right to a fair trial with equal access and equal justice. Perjury and fraud causes much harm to millions of litigants that direction from this court could prevent this continual overlooking by the lower courts, when see perjury and fraud should be upheld is wrong and corrected, as

not holding them responsible exasperates this ongoing and escalating problem in the courts.

- o The issuance of a retaliatory TRO based on fraudulent omissions constitutes a violation of due process and equal protection, as established in *Cameron v. Cameron*, 168 Cal. App. 4th 13 (2008). The courts should not tolerate the use of restraining orders as tools for retaliation or fraud and direct courts in this matter.

3. Bias and Prejudice of the Trial Judge Violated the Defendant's Right to a Fair Trial

- o The trial judge's statement, made before the Defendant had an opportunity to speak, that the judge had already made a decision regardless of what the Defendant said, clearly demonstrated bias and prejudice and is a clear violation of the Petitioner's right to a fair and impartial trial. The U.S. Supreme Court has long held that a judge must be impartial and open to the evidence presented in a case. In *Withrow v. Larkin*, 421 U.S. 35 (1975), the U.S. Supreme Court held that a fair trial requires impartiality and that any judicial bias undermines the integrity of the proceedings. In *Tumey v. Ohio*, 273 U.S. 510 (1927), the Court emphasized that judicial bias deprives a party of their constitutional right to a fair trial. Similarly, in *Penson v. Ohio*, 488 U.S. 75 (1988), the Court reaffirmed that a trial court's prejudgment of a case before hearing the defense violates due process. The trial judge's pre-judgment of the case before hearing the Defendant's defense violated the Defendant's constitutional right to a fair and impartial hearing.
- o The judge's preemptive statement of having already made a decision, irrespective of the Petitioner's defense, is such conduct that not only deprives the Defendant of a fair trial, but also undermines the public's trust in the judicial system's ability to fairly adjudicate matters involving fundamental rights and makes the trial proceeding fundamentally unfair and void.
- o This case presents an important opportunity for this Court to provide clarity on bias & prejudice of Judge's has no place in our courts, and affects the overall fairness and the litigants right to a fair and impartial trial, and when this is done prevents due process from being met denying a constitutionally protected liberty and right.

4. Abuse of Discretion in Denying the Request to Augment the Record and Extension to File the Opening Brief

- o The Court of Appeal abused its discretion by denying the Petitioner's request to augment the record and denying the Petitioner's request for an extension of time to file the opening brief. In *Smith v. United States*, 360 U.S. 1 (1959), the U.S. Supreme Court held that appellate courts must exercise their discretion in a manner that ensures fair and equal access to justice. Denying the Petitioner, a pro se litigant, the opportunity to augment the record or to extend the filing deadline for the opening brief violated the principle of fairness. It is customary for appellate courts to grant extensions or requests to augment the record, particularly when such requests do not cause harm to the opposing party.
- o This decision is especially concerning as attorneys often receive such accommodations when requested, yet the same request by a pro se litigant was denied. The denial of these requests, coupled with the dismissal of the appeal, effectively denied the Petitioner an opportunity to fully present the case on appeal, exacerbating the denial of due process. In *Roth v. United States*, 354 U.S.

476 (1957), the Court held that the failure to provide a reasonable opportunity to present arguments and correct errors in the record could result in a denial of fair trial rights. Similarly, the denial of due process in the appellate court's actions violated the Petitioner's right to a meaningful and fair appeal.

- The Court of Appeal dismissed Petitioner's appeal on the grounds of a technical error, rather than hearing on the merits of the case customarily preferred, and particularly when there was no prejudice or harm caused to the Respondent should have had the California Appeal Court review the case on its merits, especially given the trial court's invalid orders and the denial of Petitioner's right to a fair trial. The technical error of denying extension of time pending augmenting the record or stay the proceeding pending augmenting the record by the Court of Appeal, should not have been a basis to then also simultaneously dismiss the appeal when denying the extension of time to augment the record. In *Rothgery v. Gillespie County*, 554 U.S. 191 (2008), the Court held that an appeal should not be dismissed on technicalities when substantial justice has been undermined.
- The Court of Appeal's failure to grant an extension of time, especially after denying the augmentation of the record, resulted in a procedural defect that denied the Defendant the ability to fully pursue the merits of the case. It is customary and proper for courts to allow pro se litigants time extensions and record augmentations to ensure fair proceedings, as reflected in cases such as *Haines v. Kerner*, 404 U.S. 519 (1972), which held that pro se litigants must be afforded additional leeway in ensuring that their cases are heard.
- This case presents an important opportunity for this Court to provide clarity on the appellant procedural standards, the fairness needed for Pro Se litigants allowed in those procedures, and the weight of the underlying case considered in those decisions, which in this instance was serious violations of due process, bias & prejudice, perjury & fraud, that denied due process, and causes irreparable continual harm when void orders made remain, when also violating the mandatory commands of in civil restraining order proceedings, particularly regarding a party's right to present witnesses and evidence, and allowing proven perjury and fraud to remain in the bias & prejudice from the Judge.

5. Collateral Consequences of the Expired Civil Restraining Order and the Mootness Doctrine

- Despite the expiration of the Civil Restraining Order, the collateral consequences to the Defendant continue, including the ongoing difficulties with travel, employment, and legal standing due to the wrongful issuance of the TRO and the judicial misconduct that led to it. Courts should not dismiss cases as moot when there are lingering and potentially permanent harms that arose from judicial errors, as established in *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950), where the Court recognized that judicial errors causing ongoing harm cannot simply be dismissed on technical grounds.
- Despite the expiration of the Civil Restraining Order, the wrongful issuance of the order has caused ongoing harm to the Defendant, including difficulties with travel, visas, and employment, as well as damage to the Defendant's reputation. The U.S. Supreme Court has held that even if an order expires, its effects may still

warrant review if it has caused lasting and substantial harm. In *Spencer v. Kemna*, 523 U.S. 1 (1998), the Court ruled that cases involving collateral consequences are not moot when the effects continue to harm the party involved. Similarly, in *In re Marriage of Connolly*, 59 Cal. 4th 1065 (2014), the California Supreme Court acknowledged that an issue is not moot simply because a legal order expires if the collateral consequences continue to affect the parties involved.

- The courts need this guidance from this honorable court in this matter that the seriousness of having not just this type of restraining order remain even when expired, as also other orders that expire such as a temporary guardianship order made in violations or perjury and fraud would also carry weight when expired for renewing that order even when expired bias & prejudices future orders and the entire parents case and position as an example that this expired order is not moot even when expired; that require direction that these orders should be set aside and vacated properly and not just deemed moot when can cause continual and collateral consequences. This court would be surprised how the court is being manipulated to get these initial orders whether a temporary Restraining order or the other example of temporary guardianship and especially when doing perjury and fraud to get orders they would not either have standing to file for or proof other than lying to get the order in this abuse of process. These temporary orders are generally also not appealable causing irreparable harm while they remain and after expired, and then bias & prejudice the case and position, and also cause ongoing and collateral consequences that the courts refuse to address. Abusers and manipulators are quite cunning in this manipulation of the court knowing the courts do not correct it and the appeal court cannot stop this process by the design of these initial orders; causes extreme hardship, expense, abuse, to simply have these orders addressed and correct manipulations of the court that the court should be seeking to protect. These orders are not moot when expired and cause serious lifelong irreparable harm as well even as explained in 2 examples here.
- The ongoing harm suffered by the Defendant from the issuance of the TRO & CRO, despite its expiration, and all litigants that face ongoing harm, demonstrates the need for this Court to address the continuing consequences of the wrongful order and ensure that the Defendant's rights are fully protected.

6. The Importance of Ensuring Uniformity and Due Process in Civil Restraining Order Cases especially for Pro Se Litigants

- This case raises significant concerns regarding the fairness of the judicial process, especially for pro se litigants who are particularly vulnerable to fraud and abuse. The refusal to allow the Defendant to present witnesses and the issuance of a retaliatory TRO based on fraudulent omissions creates an unjust situation that requires correction by this Court. The U.S. Supreme Court has emphasized that fairness in legal proceedings is a cornerstone of due process protections, as in *Terry v. Ohio*, 392 U.S. 1 (1968), and *Aguilar v. Texas*, 378 U.S. 108 (1964), where the Court underscored the necessity of full and honest disclosures in court filings.
- This case raises important questions regarding the fairness of the judicial process, particularly for pro se litigants who are vulnerable to abuse and fraud. Granting certiorari will ensure that lower courts adhere to established due process

principles and will prevent the wrongful issuance of restraining orders that cause lasting harm based on unsubstantiated claims. The Court's intervention will also provide clear guidance on the treatment of fraudulent and retaliatory TROs, as well as the continuing harm that such orders can cause.

- The decision in this case has broad implications for ensuring that all litigants, regardless of their legal representation, have access to a fair and just legal process, and that court orders are issued only when proper evidence is presented.
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THE IMPORTANCE OF GRANTING THE WRIT OF CERTIORARI

Petitioners seeking review by the U.S. Supreme Court must present compelling reasons why the case warrants the Court's intervention. In the present case, there are several critical issues that not only affect the individual Petitioner but also have broader implications for due process rights and judicial consistency. The Supreme Court's intervention is essential for ensuring the uniform application of constitutional protections, particularly when a trial judge's actions violate fundamental rights. The issues in this case provide a strong basis for the Court to grant the writ of certiorari, as they raise important federal questions and procedural irregularities that affect many litigants, particularly pro se defendants.

1. Federal Questions and Constitutional Rights

This case raises important federal constitutional questions regarding due process and equal protection under the Fourteenth Amendment. The trial court granted a civil restraining order against the Petitioner without any evidence from the Plaintiff, and denied the Petitioner the opportunity to present witnesses or evidence in defense. These actions directly contravene the fundamental principles of due process under the Fourteenth Amendment, which guarantees a fair and impartial trial.

A civil restraining order has serious, far-reaching consequences for the party subject to it. The California Family Code, under Section 527.6, sets forth strict statutory requirements for the issuance of a civil harassment restraining order. The statute requires that the Plaintiff provide evidence of specific acts of harassment, supported by testimony or declarations under penalty of perjury. The decision to grant such an order cannot be based solely on an unverified statement by the Plaintiff, especially when the Defendant has presented sworn declarations and irrefutable evidence demonstrating the falsity of the Plaintiff's allegations.

The U.S. Supreme Court has long held that due process requires a meaningful opportunity for a party to be heard, and the denial of this opportunity results in irreparable harm. In *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Court emphasized that procedural fairness is a cornerstone of due process, and that a lack of evidence, coupled with a denial of the right to present a defense, violates this principle. Further, in *Snyder v. Louisiana*, 552 U.S. 472 (2008), the Court recognized that the right to a fair trial includes the right to contest the evidence presented against you and present one's own evidence. These cases outline the factors the Court should weigh

when considering the fairness of legal proceedings, and a denial of these basic rights is a severe violation of constitutional protections. In this case, the Defendant's right to present evidence was denied by the trial court, and the result was an order based on allegations without proof. This case presents an opportunity for the Court to reaffirm the importance of these principles in civil restraining order proceedings, particularly where a party's fundamental rights are at stake.

The denial of the Defendant's right to present testimony and evidence is a grave harm that undermines the integrity of the judicial process. The harm is compounded by the fact that the Plaintiff's allegations were shown to be false through sworn declarations and other evidence. Allowing a civil restraining order to stand when it has been granted without proof, and in the face of clear evidence disproving the allegations, is an affront to the principles of justice and fairness.

Given that many litigants, especially pro se defendants, face similar challenges in civil restraining order cases where procedural rights are routinely violated, the Court's decision could have far-reaching implications for the protection of due process rights nationwide. The denial of due process, particularly in civil restraining orders, creates an incentive for the Court to grant certiorari and set a uniform standard that safeguards constitutional rights.

2. The Impact of Judicial Bias and Prejudice

The trial judge's actions demonstrate clear bias and prejudice, as evidenced by the judge's statement that a decision had already been made in favor of the Plaintiff before the Defendant was even allowed to speak. This predetermination of the case, without considering any evidence or witness testimony from the Defendant, constitutes a denial of due process.

The trial judge in this case explicitly declared, before hearing any testimony or evidence, that the decision had already been made in favor of the Plaintiff. Such a statement reflects judicial bias and an abdication of impartiality, a violation of due process. The U.S. Supreme Court has consistently emphasized that a fair trial requires an impartial tribunal, as established in *Tumey v. Ohio*, 273 U.S. 510 (1927), and later reaffirmed in *Penson v. Ohio*, 488 U.S. 75 (1988). Judicial bias undermines the integrity of the judicial process and results in an unfair trial, rendering any subsequent orders void.

The trial judge's actions demonstrate clear bias and prejudice, as evidenced by the judge's statement that a decision had already been made in favor of the Plaintiff before the Defendant was even allowed to speak. This predetermination of the case, without considering any evidence or witness testimony from the Defendant, constitutes a denial of due process. As the U.S. Supreme Court explained in *Tumey v. Ohio*, 273 U.S. 510 (1927), judicial bias violates the due process guarantees of the Constitution. The Court stated that "a fair trial in a fair tribunal is a basic requirement of due process."

Moreover, the California Supreme Court has consistently held that a court's bias renders its decisions void. In *People v. Hannon*, 14 Cal. 4th 167 (1996), the California Supreme Court ruled that when a judge demonstrates clear bias in a case, such bias undermines the fairness of the proceedings, and the judgment rendered must be set aside.

The trial judge's refusal to allow the Defendant to present any witnesses, despite having evidence to disprove the Plaintiff's claims, further highlights the violation of due process. The Defendant's constitutional right to a fair trial was infringed upon, as the judge did not provide the Defendant with an opportunity to present testimony that could have exonerated them.

The Court's intervention is necessary to address how such biased behavior impacts the fairness of civil restraining order cases, particularly for pro se litigants who may lack legal resources to counteract judicial prejudice. This is not just an isolated issue, but one that affects many unrepresented individuals navigating the courts.

3. Conflict Between Lower Courts or State Courts and Federal Courts

This case touches on whether the trial court's actions, and the Court of Appeal's subsequent dismissal of the appeal, have created an inconsistent application of due process protections, which may be in conflict with previous decisions by other courts. Lower courts—state and federal—must apply consistent standards when determining what constitutes a fair trial and due process. The issue here is whether the trial court's refusal to allow the Defendant to present witnesses and evidence, and its preemptive judgment, represents a departure from accepted judicial procedures. It also is in conflict with accepted judicial procedures when not upholding the mandatory commands of both the Federal and California Restraining Order statutes.

Additionally, the case presents a procedural technicality—missing records that resulted in asking for extension of time for opening brief or stay the appeal pending the augmented record that was denied and simultaneously then dismissed the appeal for failure to file the timely opening brief—thus also denying hearing the appeal on the merits. The issue of technicalities preventing appeals on the merits could be seen in conflict with other courts' rulings on appellate rights and how courts should handle errors that do not prejudice or harm the opposing party. The U.S. Supreme Court's guidance on such procedural issues could prevent future conflicts in lower courts and ensure consistency in how such technicalities are treated.

4. The Need for Uniformity Among Lower Courts

The lower court's decision and the Court of Appeal's dismissal on a procedural technicality demonstrate a lack of uniformity in judicial proceedings. The Court of Appeal dismissed the Petitioner's appeal due to a minor error—missing records that needed to have the record augmented—despite the fact that there was also no harm or prejudice was caused to the Respondent in allowing extension of time to file opening brief or stay the proceedings pending augmented record. Such a technical dismissal creates inconsistency in appellate review processes and undermines the importance of hearing a case on its merits.

Uniformity in the interpretation of due process and appellate rights is crucial to ensure that all parties, including pro se litigants, have equal access to justice. The U.S. Supreme Court can resolve this inconsistency and clarify when an appeal should be dismissed based on procedural errors versus when the appeal must be heard on its merits, especially in cases where fundamental rights are at stake.

5. Pro Se Litigants and Access to Justice

The issues raised in this case are particularly significant for pro se litigants who often lack the legal expertise and resources to navigate the court system effectively. Many pro se litigants face systemic barriers to accessing justice, including judicial bias, procedural errors, and the denial of due process. When courts fail to provide these litigants with a fair trial or access to appellate review, they are denied meaningful access to justice. This is why the courts have customarily given leniency to Pro Se litigants who are not as skilled as attorney on things such as timelines and page limits, that these orders made contradict.

This case presents an important issue for pro se litigants, who often face systemic barriers to accessing justice. As the U.S. Supreme Court has emphasized in *Faretta v. California*, 422 U.S. 806 (1975), individuals have the right to represent themselves in court, but this right does not equate to a waiver of their due process protections. Pro se litigants should be afforded the same due process rights as any other party, including the opportunity to present evidence and witnesses.

The denial of these fundamental rights to the Defendant in this case is a serious violation of constitutional protections, and it disproportionately impacts those who cannot afford legal representation. The actions of the trial judge have not only harmed the Defendant but have also set a dangerous precedent for other pro se litigants, who may be denied fair hearings and due process in future cases.

This case presents an important opportunity for the U.S. Supreme Court to address these challenges and ensure that the courts remain accessible to all parties, including those who represent themselves. The Court's decision can send a clear message to lower courts about the importance of protecting the rights of pro se litigants and ensuring their access to due process and equal protection.

6. Perjury and Fraud as Grounds for Voiding Orders

The actions of the Plaintiff in submitting fraudulent declarations and making false statements under oath are not only a violation of the law but also serve as grounds for voiding the restraining order. The U.S. Supreme Court has recognized that fraudulent conduct, particularly when it affects judicial decisions, has a devastating impact on the integrity of the legal system. In *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), the Court held that judgments obtained through fraud must be set aside, as they undermine the very foundation of justice.

In this case, the Plaintiff's actions amounted to perjury and fraud to get orders in also abuse of process, as the evidence presented by the Defendant and her witnesses demonstrated that the Plaintiff's allegations were fabricated.

The Defendant's declarations and supporting evidence showed that the Defendant was not in the location where the alleged harassment(s) occurred and could not have possibly committed the acts as described.

This including coming out of a court with witnesses and confirmed by court documents, when getting a restraining order on Lowitsch 11/1/24¹ day of alleged Lowitsch falsely claimed harassment by Welles, that also was OMITTED in Lowitsch 11/14/24² retaliatory prohibited TRO filed after being served Welles Civil RO filings to Lowitsch 11/1/21³, proving Welles clearly would not have a gun coming out of a court nor able to have done these alleged harassments on the same day and time when proven elsewhere, with also witnesses and declarations supporting Welles position as well as the court filings confirm this fact as well.

The Defendant's declarations and supporting evidence showed that the Defendant was not in the location where the alleged harassment occurred and could not have possibly committed the acts as described. The submission of perjured testimony constitutes not just a violation of the law, but a violation of the Defendant's due process rights.

Under California law, perjury and fraud can be grounds for voiding a court order. In *In re Marriage of Rivas*, 107 Cal. App. 4th 1265 (2003), the California Court of Appeal ruled that an order obtained through fraudulent means, including perjury, is voidable and can be set aside. The same principle should apply here: the trial court should have recognized the fraudulent nature of the Plaintiff's statements and voided the restraining order as a result. The trial judge's refusal to do so, despite clear evidence of fraud, demonstrates judicial bias and an unwillingness to uphold statutory requirements.

7. The Seriousness of Harm Caused by Granting a Civil Restraining Order Without Evidence

A civil restraining order has serious, far-reaching consequences for the party subject to it. The California Family Code, under Section 527.6, sets forth strict statutory requirements for the issuance of a civil harassment restraining order. The statute requires that the Plaintiff provide evidence of specific acts of harassment, supported by testimony or declarations under penalty of perjury. The decision to grant such an order cannot be based solely on an unverified statement by the Plaintiff, especially when the Defendant has presented sworn declarations and irrefutable evidence demonstrating the falsity of the Plaintiff's allegations.

The U.S. Supreme Court has long held that due process requires a meaningful opportunity for a party to be heard, and the denial of this opportunity results in irreparable harm. In *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Court emphasized that procedural fairness is a cornerstone of due process, and that a lack of evidence, coupled with a denial of the right to present a defense, violates this principle. Further, in *Snyder v. Louisiana*, 552 U.S. 472 (2008), the Court recognized that the right to a fair trial includes the right to contest the evidence presented against you and present one's own evidence. In this case, the Defendant's right to present evidence was denied by the trial court, and the result was an order based on allegations without proof.

The denial of the Defendant's right to present testimony and evidence is a grave harm that undermines the integrity of the judicial process. The harm is compounded by the fact that the Plaintiff's allegations were shown to be false through sworn declarations and other evidence.

Allowing a civil restraining order to stand when it has been granted without proof, and in the face of clear evidence disproving the allegations, is an affront to the principles of justice and fairness.

8. The Improper Issuance of a Temporary Restraining Order Due to Omission of Existing Restraining Order and Retaliatory Actions

Petitioner respectfully asserts that the trial court's issuance of the Temporary Restraining Order (TRO) against the Defendant was improper and unjust due to the Plaintiff's malicious omission of the Defendant's already-filed and served Civil Restraining Order from the TRO application. This omission not only violated the legal requirements for the issuance of a TRO but also points to fraud and perjury on the part of the Plaintiff, which further prejudiced the Defendant's ability to obtain fair and impartial justice. Additionally, the issuance of a retaliatory TRO while a previous TRO was pending is inconsistent with established legal principles and statutory requirements under both state and federal law.

A. The Legal Requirement to Disclose Existing Restraining Orders

Under both U.S. Supreme Court and California law, parties seeking a Temporary Restraining Order (TRO) are required to disclose any existing restraining orders between the parties. This disclosure is crucial because it informs the court of the status of any prior legal orders and ensures that one party is not using the TRO process as a tool for retaliation or to gain an unfair advantage.

1. U.S. Supreme Court Case Law on Disclosure of Prior Orders

While the U.S. Supreme Court has not directly addressed the specific issue of disclosing existing restraining orders, the Court has made it clear in cases involving judicial transparency and due process that parties must provide truthful and full disclosures to the court. In *Terry v. Ohio*, 392 U.S. 1 (1968), the Court emphasized that fairness and transparency in legal proceedings are essential for upholding due process rights. Any omission of crucial facts, such as the existence of an outstanding restraining order, undermines this fairness and violates due process principles.

Additionally, in *Aguilar v. Texas*, 378 U.S. 108 (1964), the Court noted that when a party makes false statements or omits material facts from a sworn declaration, the proceedings are tainted and potentially subject to reversal. The failure to disclose a previously filed and served civil restraining order constitutes such an omission that, when combined with perjury, can render the TRO invalid.

2. California Supreme Court Case Law on Retaliatory Orders and Omission of Prior Orders

California law clearly prohibits retaliatory and mutual restraining orders and mandates the full disclosure of prior orders. California Family Code Section 527.6(b)(3) requires that the request for a civil harassment restraining order include the disclosure of any existing restraining orders between the parties. In *Cameron v. Cameron*, 168 Cal. App. 4th 13 (2008), the Court held that a

TRO cannot be issued on retaliatory grounds, and the failure to disclose any existing orders can lead to an invalidation of the order.

Moreover, in *In re Marriage of Ciesluk*, 125 Cal. App. 4th 703 (2005), the California Court of Appeal emphasized that mutual restraining orders are not to be granted in cases where the factual evidence does not support such a decision. The issuance of mutual or retaliatory orders without clear and convincing evidence of harassment or other statutory violations is improper and violates the procedural safeguards outlined in California law.

In this case, the Plaintiff filed a civil restraining order against the Defendant on November 1, which was personally served to the Plaintiff. On November 14, the Plaintiff filed his own TRO against the Defendant, but maliciously omitted from his TRO application the fact that the Defendant had already filed a restraining order against him. This omission was not just a minor oversight but a deliberate act of fraud and perjury, as the Plaintiff falsely stated that no such order had been filed. The Plaintiff's fraudulent misrepresentation and omission directly influenced the court's decision to issue the TRO, resulting in a biased and prejudiced ruling.

B. The Issuance of a Retaliatory and Invalid TRO Based on Fraud and Perjury

The filing of a TRO by the Plaintiff in retaliation for the Defendant's prior filing of a restraining order violates both the letter and spirit of the law. The court's issuance of the TRO against the Defendant, without knowledge of the existing restraining order, further exacerbates the harm caused by the Plaintiff's fraudulent actions. In *Cameron v. Cameron*, the California Court of Appeal held that the courts must avoid issuing restraining orders based on retaliation, as such actions undermine the fairness of the judicial process.

The Plaintiff's failure to disclose the Defendant's existing civil restraining order constitutes perjury and fraud. As mentioned in *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), the U.S. Supreme Court has long held that fraudulent conduct in court proceedings, especially when it results in the issuance of judicial orders, invalidates the order and necessitates its reversal. In this case, the Plaintiff's omission of a key fact—the Defendant's previously filed restraining order—constitutes fraudulent conduct that taints the proceedings and renders the TRO voidable.

Further, in *In re Marriage of Rivas*, 107 Cal. App. 4th 1265 (2003), the California Court of Appeal ruled that an order obtained through fraudulent means is voidable and must be set aside. The fraudulent omission of the Defendant's filed restraining order from the Plaintiff's TRO application in this case similarly taints the order and calls for its invalidation.

C. The Impact of Judicial Bias and Prejudice on the Issuance of the TRO

In this case, the Plaintiff's fraudulent omission of critical information from the TRO application demonstrates a clear effort to mislead the court. When the trial court issued the TRO against the Defendant, it did so without being fully informed of the Plaintiff's prior conduct, which included being served with the Defendant's restraining order. The failure to disclose this fact constitutes not just a violation of legal procedural requirements but also a violation of the Defendant's right

to a fair and impartial hearing. As the U.S. Supreme Court recognized in *Tumey v. Ohio*, 273 U.S. 510 (1927), judicial bias, whether actual or apparent, undermines the integrity of the legal process and warrants the invalidation of any resulting order.

The Plaintiff's actions in filing the retaliatory TRO, combined with the trial judge's refusal to consider the Defendant's evidence or witness testimony, further demonstrate the bias and prejudice that led to the issuance of the TRO and subsequent orders. The failure to address these concerns, in light of clear fraud and perjury, reflects a disregard for the principles of due process and fairness.

9. The Issue of Mootness: Ongoing Harm and Collateral Consequences

Petitioner respectfully argues that the issue of the California Civil Restraining Order (CRO) is not moot despite the expiration of the order, as the long-term and permanent harm caused by the wrongful issuance of the order continues to affect the Defendant in significant ways. This case involves substantial and ongoing harm that cannot be undone by the mere expiration of the order. The principles of mootness, ongoing harm, and collateral consequences support the need for the Court's review.

A. The U.S. Supreme Court's Approach to Mootness

The U.S. Supreme Court has held that an issue is not moot if there are ongoing or permanent consequences that persist beyond the specific relief sought. In *Genesis Healthcare Corp. v. Symczyk*, 569 U.S. 66 (2013), the Court discussed the principle of mootness, stating that "a case becomes moot when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome." However, the Court further clarified that the expiration of an order does not automatically render a case moot if it has caused lasting harm.

The Court has also recognized that cases can remain live if they involve "collateral consequences" that persist after a judgment is issued. For instance, in *Carafano v. Metrosplash.com, Inc.*, 339 F.3d 1119 (9th Cir. 2003), the Ninth Circuit noted that even if the relief sought had been granted or expired, the issue was not moot because of ongoing damage to the plaintiff's reputation and other consequences stemming from the order. This reasoning is applicable in this case, as the wrongful issuance of the civil restraining order continues to affect the Defendant in ways that cannot be fully remedied by its expiration.

B. Ongoing Harm: Travel, Employment, and Visa Impacts

The harm caused by an unjust civil restraining order extends far beyond the expiration date of the order itself. A civil restraining order may have long-lasting consequences that can affect the Defendant's ability to travel, apply for visas, and secure or maintain employment. These consequences are not resolved simply by the expiration of the order.

In particular, international travel and visa applications are often subject to background checks that may include reference to restraining orders, even those that have expired. As a result, the mere existence of the restraining order in the Defendant's record can hinder their ability to travel

abroad or apply for visas. Similarly, the Defendant may face professional and personal consequences, including reputational harm, employment restrictions, or denial of certain job opportunities, as employers often conduct background checks that will reveal the existence of a civil restraining order, regardless of whether it is expired.

The U.S. Supreme Court has consistently held that where an individual faces ongoing or collateral consequences as a result of a legal order, such an order is not moot. In *Munaf v. Geren*, 553 U.S. 674 (2008), the Court recognized that even if the specific order in question had expired, the collateral consequences of that order (such as potential harm to the individual's reputation and future legal status) could still be litigated. Similarly, in *Spencer v. Kemna*, 523 U.S. 1 (1998), the Court held that the collateral consequences stemming from a criminal conviction, such as loss of employment or voting rights, can prevent a case from being deemed moot. The same logic applies here, where the Defendant continues to face the long-term effects of an improperly granted civil restraining order.

C. California Supreme Court Case Law on Mootness and Collateral Consequences

The California Supreme Court has recognized that issues involving ongoing harm and collateral consequences are not moot even after the expiration of an order. In *In re Marriage of Connolly*, 59 Cal. 4th 1065 (2014), the Court held that issues regarding spousal support and the enforcement of orders were not moot, even after the specific terms of the order had expired, due to ongoing financial consequences and the impact on the parties' lives. This decision highlights the principle that an issue is not moot if it continues to affect a person's life in a significant and lasting way.

Furthermore, in *People v. Perez*, 5 Cal. 4th 1002 (1993), the California Supreme Court emphasized that a case involving the potential for collateral consequences—such as the effect of an order on a person's reputation or employment—cannot be dismissed as moot simply because the order itself is no longer in effect. The Court explained that even if an order expires, the impact on the individual may continue and therefore remains subject to judicial review.

D. The Importance of Review in Preventing Unjust Consequences for Pro Se Litigants

For pro se litigants, the consequences of a civil restraining order, even one that has expired, are particularly severe. Pro se litigants, who often lack the resources and legal expertise to effectively navigate the court system, are especially vulnerable to the long-term consequences of unjust orders. The wrongful issuance of a civil restraining order can cause irreparable harm to a person's personal, professional, and financial life. These consequences do not disappear when the order expires, and the failure to address the harm caused by the initial error continues to have a disproportionate impact on pro se litigants.

The U.S. Supreme Court and the California Supreme Court have long recognized that legal orders with lasting consequences should be subject to review even after they have expired. The Court's intervention in this case is essential to correct the injustice and prevent ongoing harm to the Defendant, particularly in light of the collateral consequences of the civil restraining order that continue to affect their life.

10. Conclusion

For these reasons, Petitioner respectfully requests that this Court grant the writ of certiorari to review the decision of the Court of Appeal in this case. The issues raised—particularly the denial of due process, judicial bias, and the improper dismissal of an appeal based on a procedural technicality—are of significant constitutional importance and deserve the Court’s review to ensure fairness and consistency in the judicial process. This case offers an opportunity for the Court to clarify important constitutional protections and to safeguard the rights of pro se litigants, while ensuring uniformity in lower court decisions and the fair application of justice.

This case raises significant questions of federal law concerning due process, judicial bias, and the right to a fair trial. The trial court’s actions—granting a restraining order without evidence, preventing the Defendant from presenting witnesses, and allowing fraudulent declarations to influence its decision—resulted in irreparable harm to the Defendant. The refusal to set aside this order, despite clear evidence of fraud and bias, undermines the fairness and integrity of the judicial process.

The actions of the Plaintiff in submitting fraudulent declarations and making false statements under oath are not only a violation of the law but also serve as grounds for voiding the restraining order, that judgments obtained through fraud must be set aside, as they undermine the very foundation of justice. In this case, the Plaintiff’s actions amounted to perjury and fraud to get orders in also abuse of process, as the evidence presented by the Defendant and her witnesses demonstrated that the Plaintiff’s allegations were fabricated. Further Lowitsch OMITTED from the TRO application under penalty of perjury the REQUIRED listing of the RO’s between the parties affecting then the TRO being unjustly granted and bias & prejudicing further orders which is why this TRO is required to be set aside and vacated as VOID for doing oerjury and fraud PROVEN.

The Defendant’s declarations and supporting evidence showed that the Defendant was not in the location where the alleged harassment occurred and could not have possibly committed the acts as described. The submission of perjured testimony constitutes not just a violation of the law, but a violation of the Defendant’s due process rights.

Under California law, perjury and fraud can be grounds for voiding a court order. In *In re Marriage of Rivas*, 107 Cal. App. 4th 1265 (2003), the California Court of Appeal ruled that an order obtained through fraudulent means, including perjury, is voidable and can be set aside. The same principle should apply here: the trial court should have recognized the fraudulent nature of the Plaintiff’s statements and voided the restraining order as a result. The trial judge’s refusal to do so, despite clear evidence of fraud, demonstrates judicial bias and an unwillingness to uphold statutory requirements.

The issuance of the Temporary Restraining Order against the Defendant was improper, based on the Plaintiff's omission of the Defendant's previously filed restraining order, which was required by law to be disclosed. This omission was not a mere oversight but rather a malicious act of perjury and fraud that influenced the trial court's decision. The Plaintiff's actions constitute retaliatory conduct, which is prohibited under both U.S. Supreme Court and California Supreme Court precedents, and the resulting TRO and subsequent orders are tainted by judicial bias and prejudice. As such, the orders must be set aside, and the trial court's actions must be corrected.

There is need for clarity and guidance on the standard for due process in Civil Restraining Order cases, and this case presents an important opportunity for this Court to provide clarity on the due process standards required in civil restraining order proceedings, particularly regarding a party's right to present witnesses and evidence. The decision to grant or deny a restraining order has serious consequences, and this Court's intervention is needed to ensure that constitutional rights are upheld in all such proceedings.

This petition raises important constitutional and procedural questions that affect the integrity of the judicial process and the long-term consequences of civil restraining orders. The harm caused by the wrongful granting of a civil restraining order does not simply vanish after the expiration of the order. The Defendant continues to face significant and lasting consequences, including impacts on travel, visas, employment, and reputation. As such, the issue is not moot, and the Court's intervention is necessary to ensure that individuals are not subjected to the unjust, lasting effects of an erroneous restraining order. Petitioner respectfully requests that the Court grant the writ of certiorari to review this case and address the serious harm caused by the wrongful issuance of a civil restraining order.

The denial of these fundamental rights to the Defendant in this case is a serious violation of constitutional protections, and it disproportionately impacts those who cannot afford legal representation. The actions of the trial judge have not only harmed the Defendant but have also set a dangerous precedent for other pro se litigants, who may be denied fair hearings and due process in future cases. This court needs to give guidance on protecting the fairness of the court and equal access and equal justice for all... including Pro Se litigants.

For these reasons, Petitioner respectfully requests that this Court grant the writ of certiorari and review the decision of the Court of Appeal to ensure that the fundamental rights of all litigants, particularly pro se defendants, are protected and upheld. This case presents a compelling opportunity for this Court to provide guidance on the importance of upholding due process protections and ensuring judicial fairness in civil restraining order proceedings, as well as procedural direction for the appeal court who unjustly denied an appeal on the merits when denied extension of time to file opening brief or stay the proceedings pending augmenting the record for due process to be met.

For these reasons, Petitioner respectfully requests that this Court grant the writ of certiorari to review the decision of the Court of Appeal in this case. The issues raised—particularly the denial of due process, judicial bias, and the improper dismissal of an appeal based on a procedural technicality—are of significant constitutional importance and deserve the Court's review to ensure fairness and consistency in the judicial process. This case offers an opportunity for the

Court to clarify important constitutional protections and to safeguard the rights of pro se litigants, while ensuring uniformity in lower court decisions and the fair application of justice.

To also address these significant violations of due process and to ensure that the legal system remains fair and just, particularly for pro se litigants, who are especially vulnerable to such fraudulent and retaliatory actions.

For the foregoing reasons, Petitioner respectfully requests that this Court grant the writ of certiorari to review the decision of the Court of Appeal in this case, and the lower courts decision. The issues presented in this case are of significant constitutional importance, and this Court's review is necessary to protect the rights of individuals facing civil restraining order proceedings, and procedural bias in courts, and unequal access and unequal justice in the courts towards Pro Se litigants.

Respectfully Submitted;



Lea Welles, Appellant, Defendant, Pro Se

Dated: 12/16/24