No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

RONALD R. SHEA,

Petitioner, pro se

v.

WINNEBAGO COUNTY SHERIFF'S OFFICE, et al.

Respondent

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

PETITION FOR A WRIT OF CERTIORARI

RONALD R. SHEA
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Petitioner, Pro Se

QUESTIONS PRESENTED FOR REVIEW

1. Whether a prisoner's right to a telephone call is a necessary inference of the fundamental rights of bail and counsel under the Sixth, Eighth and Fourteenth Amendments of the United States Constitution.

2. Whether the right to file a criminal complaint is an integral part of right to petition the government for a redress of grievances under the First and Fourteenth Amendments?

3. Whether a fundamental right can be reduced to a discretionary function without express written safeguards or guidelines?

4. Whether a family unit may constitute an "enterprise" within the ambit of RICO.

LIST OF PARTIES

1) CAROLYN KOEHLER, Defendant;

2) DOUGLAS KOEHLER, Defendant;

3) WINNEBAGO COUNTY, Defendant;

4) WINNEBAGO COUNTY SHERIFF'S OFFICE, Defendant;

5) RICHARD MEYERS, Sheriff, Winnebago County, in his individual and representative capacity, Defendant (succeeded by Sheriff Gary Caruana);

6) ANDREA S. TACK, Superintendent of the Winnebago County Jail, in her individual and representative capacity, Defendant;

7) DOUGLAS DOBBS, Deputy Sheriff, Winnebago County Sheriff's Office, Defendant;

8) LORENZO THOMPSON, Deputy Sheriff, Winnebago County Sheriff's Office, Defendant;

9) THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS, Defendant;

10) TIM OWENS, Corrections Team Captain, Winnebago County Jail, Defendant;

11) ROB LUKOWSKI, Corrections Officer at the Winnebago County Jail, Defendant;

12) ANTHONY ENNA, Corrections Officer at the Winnebago County Jail, Defendant;

13) BRYAN JOHSON, Corrections Officer at the Winnebago County Jail, Defendant;

14) SHELLI SUBLETT, believed to be a social worker at the Winnebago County Jail, Defendant;

15) WENDY LOWERY, an individual, Defendant;

16) DOE 12 is believed to be a corporation or unincorporated health care provider, Defendant;

17) DOE 15, dispensed medicine within the mental health ward of the Winnebago County Jail, Defendant, and is believed to work for Doe 12;

18) DOES 17-20 are unknown at this time.

CORPORATE DISCLOSURE STATEMENT

Plaintiff Appellant Ronald Shea is a natural person.

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TABLE OF AUTHORITIES

Federal Cases

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CITATIONS OF ORDERS AND OPINIONS

Neither the Opinion of the Seventh Circuit Court, nor any of the decisions or opinions of the federal district court were published.

STATEMENT OF JURISDICTION

This Court's jurisdiction is invoked under 28 U.S.C § 1251(1).

The Seventh Circuit's Opinion was rendered on August 16, 2018. *Appendix A*, [App. 1]. Petition for En Banc rehearing was entered timely, and denied on September 14, 2018, *Appendix G*, [App. 76].

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATEMENT OF THE CASE

A. Basis of Federal Jurisdiction in the First Instance

The action under appeal includes claims arising under 42 U.S.C. §1983; 42 U.S.C. §§12101-12103 and §§12131-12134 (the ADA); and 18 U.S.C. §§ 1961, 1962 & 1964 (civil RICO action); establishing original jurisdiction for the Federal District Court pursuant to 28 U.S.C. §§ 1331, 1332(a), and supplemental jurisdiction over state and common law claims pursuant to 28 U.S.C. § 1367. Mr. Shea was a citizen of another state at time of filing, and the damages exceeded the threshold claim for diversity jurisdiction.

B. Summary of the Case Against the Koehlers

At its heart, the case involves an interstate racketeering enterprise with a single motive executed through a simple plan:

i) The motive of the Koehler Enterprise was to pilfer, seize and foreclose on the million-dollar estate of Phyllis Shea, commencing within weeks of the death of her husband.

ii) The plan of the Koehler Enterprise was to isolate the eighty-something year-old widow (Phyllis Shea) from the protection of her lawyer son, who had moved to Illinois to protect his mother from the Koehlers.

iii) The execution of the plan involved violence, extortion, two fraudulent enlistments of the sheriff's police to forcibly remove Mr. Shea from his mother's house, two fraudulent enlistments of the Seventeenth Circuit Court of Winnebago County to frustrate Mr. Shea's ability to return to his mother's home, and

multiple fraudulent enlistments of the Federal District Court to prevent Mr. Shea from deposing his mother while the Koehlers finalized the pilferage and foreclosure of Phyllis Shea's one-million dollar estate.

The Isolation of Phyllis Shea is Relevant

i) The isolation of Phyllis Shea was the lynchpin of the "plan" and a plan is relevant under FRE 404(b)(2).

ii) The wrongful isolation of Phyllis Shea is relevant to establishing grounds for a "Declarant not available" hearsay exception under FRE 804(b)(6).

iii) The wrongful isolation of Phyllis Shea is probative in establishing violations of *18 U.S.C. §1581, 1584, 1589 and 1590* (the peonage statutes), all of which are predicate acts to Mr. Shea's civil RICO action.

C. The First Fraudulent Police Report

Three-and-a-half days after Mr. Shea moved from California to Illinois to protect his mother, the Koehlers drove down from Wisconsin, entered Mr. Shea's bedroom while he slept on cushions on his bedroom floor, and bludgeoned him to unconsciousness [Doc.92], p. 7, para. 31; [Doc. 293-1] p. 44, lines 4-8. Defendant Doug Koehler admitted under oath to taking Mr. Shea to the floor and leaving him "comatose." [379], p. 220, lines 17-19].

At the federal trial, a professor of ophthalmic surgery testified that Mr. Shea suffered permanent neurological damage to the fourth cranial nerve controlling the superior oblique muscles of his left eye due to closed head trauma suffered proximate the day he claimed to have been bludgeoned, [379] p. 173-183].

While Mr. Shea lay unconscious, Carolyn Koehler summoned the Sheriff's police and alleged that Ronald had squeezed her bicep as he pushed her out of his bedroom [Docket.203-1] p. 17, 19. She demanded the arrest and forcible removal of Mr. Shea from Phyllis Shea's home. Mr. Shea was arrested, jailed on the charge of "domestic battery." [Docket.325] p. 13-16. A year and a half later at his criminal trial, Carolyn Koehler admitted from the witness stand that she entered Mr. Shea's bedroom denuded him of his bed clothes while Mr. Shea slept on the cushions [Doc.213] p. 21, lines 11-24, whereupon the court dismissed the criminal charge against Mr. Shea on directed verdict [Doc.213] p. 31-34.

D. Case Against the Jail

1. Denied Bail

As a result of Carolyn Koehler's criminal complaint, Mr. Shea was arrested, jailed, and denied bail without legal grounds [Doc.92] p. 13.

From jail, Mr. Shea made repeated requests to call his own law office in California, or his stockbroker to secure bail and counsel. Jail workers refused to look-up the phone number of his law firm or brokerage firm online. And a phone call could not be completed if the recipient was unable or unwilling pay roughly $25.00 by credit or debit card. [Docket.92] p. 13, paragraph 48, [Docket 1] p. 38-39.

2. Denied the Right to Write his Own Law Firm

Denied telephonic access, Mr. Shea attempted to write to his law firm in California to secure bail and counsel. A guard denied Mr. Shea pen or paper until he could pay for them from his "prisoner's pay."

[Docket.92] p. 13; [Docket 1] p. 39-40. There was no "prisoner's pay."

Another inmate gave Mr. Shea a pen and paper. Mr. Shea wrote to his law firm in California, stressing that, even if someone paid his bail online, they needed to drive to Illinois to pick him up, since he was functionally "blind" as a result of the bludgeoning he had suffered [Doc. 1-5] p. 11-12. A guard returned the letter to Mr. Shea, advising him that the jail would not mail it until Mr. Shea could save-up for a stamp and envelop out of his "prisoner's pay" [Docket.92] p. 13-14, paragraphs 48, 52; [Docket.1] p. 37-42, paragraphs 86-96.

Upon discharge, Mr. Shea kept and scanned the letter in PDF format. It was uploaded to the federal docket under declaration, [Docket.1-5] p. 11-12, [Doc.133] p. 24-25.

3. Denied Prescription Medication

Throughout detention, Mr. Shea made multiple urgent requests for prescription medication on which his health depended. The jail had documented Mr. Shea's prescription medications on their intake report at the time of booking [Docket.113] p. 29-30, including numerous disorders specifically identified within 42 U.S.C. § 12102 of the Americans With Disabilities Act, *Appendix P*, [App. 86]. Nevertheless, the jail refused all requests for medication throughout detention. [Docket.92] p. 14, paragraph 51.

4. Claim of Detached Retina and Concussion

During his confinement, Mr. Shea entered at least five verbal requests and one written request seeking medical attention for a "detached retina,"

and a "concussion" suffered in the bludgeoning. He was denied any medical examination, treatment, or even documentation of injuries [Docket.92] p. 13, paragraph 49.

Mr. Shea's hand written medical request chit for medical attention for a "detached retina" and a "concussion" remains in the jail records [Docket.134] p. 24.

5. Claim of Neuro-Immune Disorder

During booking, jail officials documented Mr. Shea's neuro-immune disorder and some of the symptoms associated therewith [Docket.113] p. 29-30. Throughout his detention, Mr. Shea urgently requested warm clothing, explaining in detail that he suffered a "neuro-immune disorder" with "extreme temperature sensitivity" which left him in morbid pain [Docket.92] p. 13, paragraph 50 and [Docket.1] p. 33-34, paragraph 76-77. During one such verbal request, two jail workers taunted Mr. Shea, forcing him to walk back-and-forth between them to beg for warm clothing [Docket.1] p. 34, paragraph 78. After making sport of Mr. Shea, they told him that he would have to save up for socks or other warm clothing out of his "prisoner's pay" [Docket.92] p. 14, paragraph 52. There was no prisoner's pay.

Mr. Shea's hand-written medial request chit for "socks" for a "neuro-immune disorder with temperature dysregulation" is still in the jail record [Docket.134] p. 24.

6. Attempt to Induce Renal Failure after Being Held Incommunicado

At his telephonic arraignment, Mr. Shea learned that he faced up to a year in jail [Docket.92] p. 14,

para. 52. In view of his medical distress and pain, and the realization that he faced an entire year in jail without the right to a phone call to secure bail, Mr. Shea commenced a program to induce renal failure to commit suicide [Docket.92] p. 12,line 22 through p. 14, paragraph 53.

E. Claim Against Deputy Sheriff Lorenzo Thompson

On December 1, 2011, three days after Mr. Shea's release from jail, he attempted to file a criminal complaint with Deputy Sheriff Lorenzo Thompson at the "front desk", detailing roughly 78 state felonies committed by the Koehlers when they burglarized his bedroom and beat him to unconsciousness [Docket.92] p. 14, paragraph 55.[1] Mr. Shea disclosed that his assailant was the woman who had filed a preemptive criminal charge against him for "domestic battery," whereupon Deputy Thompson become disrespectful to Mr. Shea, denying him his First and Fourteenth Amendment "right to petition the government for a redress of grievances" by way of a criminal complaint [Docket.81-1] p. 25, para. 83, [Docket.92], p. 14, paragraph 55. Appendices H, L, [App. 77, 81].

F. The Fraudulent Police Report of Doug Koehler

Twelve days after Mr. Shea's release from Jail, Doug Koehler again crossed state lines and made his way to Phyllis Shea's home in Illinois, again arriving while Mr. Shea was sleeping in his bed. Doug Koehler again summoned the sheriff's police,

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[1] The state felonies are enumerated in [Fed. Docket.133] p. 19-22.

reporting an extraordinary litany of bizarre accusations against Shea. Doug Koehler again demanded the forcible removal of Mr. Shea from his mother's home [Doc.92] p. 10, paragraph 40-41. Fraudulent police report at [Fed.Doc.203-1] p. 28-32.

G. Claims Against Deputy Sheriff Dobbs

Roughly concurrent with the arrival of Sheriff Dobbs, UPS ground delivered four large cartons containing Mr. Shea's legal files and other personal effects from California. [Doc.1-5] p. 4. The cartons sat unopened on Mr. Shea's front stoop. They would never cross the threshold. [Doc.92] p. 15, paragraph 56-59; [Docket.1-2] p. 5-6, paragraphs 141-142.

In response to the demands of Doug Koehler, Deputy Dobbs ordered Mr. Shea, under threat of arrest, to vacate his own leasehold estate, dumping him off at a gas station in the middle of northern Illinois in the middle of winter and leaving Mr. Shea homeless. Mr. Shea's two computers, luggage, shoes, clothing, personal effects, and four large cartons of legal files and office supplies, sat next to him in the parking lot [Docket.92] p. 15, paragraph 56-59.

H. Epilogue and Consequences

On April 8, 2011, Phyllis Shea had averred before a notary that she had been coerced by the Koehlers to sign estate documents drawn-up by Carolyn Koehler, [Doc. 203] p. 37-38.

On July 8, 2011, $10,000 was liquidated from Phyllis Shea's "American Fundamental Investment A" mutual fund [Doc. 341] p. 18.

In the three months immediately prior to Ronald Shea's arrival, $29,500.00 disappeared from Phyllis

Shea's brokerage account [Docket.328-2] p. 2, top paragraph, [Docket.341] p. 19-21.

In the forty-one days immediately preceding Mr. Shea's move to Illinois, Phyllis Shea called her son fourteen times, pleading with him to accelerate his move because the Koehlers were cleaning her out [Docket.321-15] p. 34-36, [Docket.328-2] p. 24-26 and [Docket.328-1] p. 7, exhibits 82-87.

In the nineteen-and-a-half days that Ronald lived with his mother, (Nov. 23-Dec. 12), not one penny disappeared from Phyllis Shea's brokerage account. [Docket.341] p. 21.

Nineteen days after Ronald Shea was forcibly removed from his mother's house, $68,162.24 was liquidated from Phyllis Shea's "Janus Balanced C" Mutual Fund. [Docket.341] p. 22.

In the month following Mr. Shea's forcible removal, $27,750.00 disappeared from Phyllis Shea's brokerage account in sixteen days flat [Docket.341] p. 22.

A year-and-a-half after the Koehlers secured the isolation of Phyllis Shea, they wheeled her into the office of Carolyn Koehler's attorney to sign estate papers conveying at least 96 ½ % of the remainder of her estate to the Koehlers upon her death [325] .p. 34.

By the time of her death, Phyllis Shea's estate was already short somewhere on the order of $500,000.00 to $750,000.00 [Docket.341 p. 17-34.

Upon Phyllis Shea's death, the Koehler-Silvestri Enterprise continued their dilatory program before the federal district court while they liquidated, foreclosed, and sequestered the remaining assets of

the Phyllis Shea's million-dollar estate [Docket.341] p. 34.

After the forcible removal of Ronald Shea from his mother's house, Phyllis Shea was irredeemably isolated from the only one in the world who could protect her. She lived under the watch and control of the Koehler Enterprise.

For the last three years and nine months of Phyllis Shea's life, she was:

1. denied the right to appear before a judge;
2. denied the right to give deposition testimony; and,
3. denied the right to even speak with her lawyer, who happened to be her son [Docket.328-2] p. 26.

This was a serious case. Nevertheless, for five-and-a-half years, the federal district court struck, denied or ignored virtually every motion Mr. Shea filed, treating Mr. Shea, and his complaint, with derision.

I. Foreseeable Damages

To secure and maintain the isolation of Phyllis Shea, the Koehlers needed to reduce Mr. Shea to penury, foreclosing any possibility that Mr. Shea might marshal the resources to rescue his mother. Their guileful and manipulative scheme was financed by the taxpayers. [Doc.92] pages 11, 15, paragraphs 42, 56.

After being dumped off at a gas station in Northern Illinois, Mr. Shea returned to California. To defend his name against the criminal charge that he squeezed the bicep of Carolyn Koehler pushing her

out of his bedroom, he was forced to cross the American continent sixteen times [Fed.Doc.205] p. 21-23, and roughly an equal number of times in his federal civil action as the Koehlers now had a second venue to abuse the process of the court. The Koehler's scheme successfully secured the financial ruination of Mr. Shea. [213] p. 13-14.

As an indigent, Mr. Shea was also forced to pawn his father's college for the gasoline money to cross the central valley of California to make a final appearance for a client. He also was forced to travel round trip from Los Angeles to Rockford in sub-zero weather, begging money for gasoline and lodging to defend his name in criminal court by. [Doc.213] p. 13, 45; [Doc.256] p. 2.

Long before Phyllis Shea's death, Mr. Shea was living in a homeless shelter [92] p. 15, paragraph 56; [Fed.Doc.213] p. 13-14. Unable to pay the maintenance fees on his patents—or maintain his law practice, one million dollars of issued and pending United States Patents went abandoned [Doc.236] p. 13-15. He was suspended from the California bar for failure to pay his annual bar fees. [Doc. 378] p. 4, line 24 through p. 6, line 6; paragraphs 33-35; [Doc.256] p. 2.

J. Trial and Appeal

Twenty-two-and-a-half of the twenty-three claims were dismissed from the Second Amended Complaint [SAC]. The only matter to go to federal trial was the civil battery claim against Carolyn Koehler.

The Seventh Circuit overturned the dismissal of five claims against the Koehlers: assault, battery,

malicious prosecution, false imprisonment and conspiracy.

The Seventh Circuit sustained the dismissal of numerous common law claims, and the federal RICO claim against the Koehlers, and Mr. Shea's § 1983 and ADA claims against county entities, and certain common law claims against certain contract employees of the county.

K. Claim for Emotional Distress

In sustaining the dismissal of Mr. Shea's claim against the Koehlers for emotional distress, Seventh Circuit's response was, in its entirety:

> "Finally, Shea did not allege any "extreme and outrageous" conduct by the Koehlers for purposes of his emotional-distress claim (Count 12)."

Appendix A, [App. 8]. The assertion defies coherent response.

L. Civil RICO Claim Under 18 U.S.C. § 1961, 1962, 1964 Against the Koehlers,

The district court had dismissed the RICO claim [Doc.92] page 11, line 25 ff. against the Koehlers, based on two different lines of reasoning.

First, the district court held that the "attempt" to transfer the estate across state lines was not a predicate act, *Appendix E,* [App. 52].

In the pleadings, Mr. Shea had cited over 900 predicate acts colorably committed by the Koehler enterprise [Doc.341] p. 10-16, most of which were reasonably inferred in the operative complaint, and which, by statute, were satisfied by attempt or

conspiracy. These include: 18 U.S.C. §§ 1029 (fraudulent use of an access device), 1341 (mail fraud), 1344 (bank fraud), 1349 (attempt or conspiracy of anything in chapter 63), 1581 (peonage), (1584) (involuntary servitude), 1951 (interference with commerce by threats or violence), 1952 (interstate travel in aid of racketeering enterprises), 1956 (money laundering), 1957 (monetary transactions). Surely this comprises at least two predicate acts.

The second ground for the Federal District Court's dismissal of the RICO claim was the determination that the Koehlers were not an "enterprise" within the scope of 18 U.S.C. § 1961 *Appendix M* (app. 82). The string citations of the dismissal *Appendix E,* [App. 51] included *Richmond v. Nationwide Cassel L.P.*, 52 F.3d 640, 645 (7th Cir. 1995) [App. 51].

The Appeals Court did not specifically challenge Mr. Shea's claim that the Koehlers had engaged in at least two predicate acts, but concurred with the trial court holding that the Koehlers could not plausibly form an "enterprise." The *totality* of the Appellate Court's ruling on the RICO claim was:

> "...nor did he plausibly allege that the Koehlers formed an "enterprise" engaged in racketeering activity (Count 14)."

Opinion of the Seventh Circuit, Appendix 1, [App. 11].

First, the Koehlers were a family unit, establishing a "legal entity" by marriage, and constituting long-term relationship that was "distinct, separate, and apart from a pattern of racketeering activity." Moreover, historically, the family crime unit is the most fundamental form of an enterprise within the ambit of RICO.

> "There are five New York City families (*i.e.,* the Genovese, Gambino, Colombo, Lucchese and Bonanno families)."

United States v. Anthony Salerno, et al., 868 F.2d 524 (1989) at 528.

> "After all, the enterprise that RICO was originally intended to combat was organized into five "families." *See, e.g., United States v. Massino,* 546 F.3d 123, 126 (2d Cir. 2008)."

United States v. Christian John et al., 11-CR-405 (FB)(S-7), EDNY. See also *U.S. v Brady*, 26 F.3d 282 at 285, 2nd Cir. (1994).

More significantly, the "hierarchical" and "structural" tests proposed by the Federal District Court and (apparently) adopted by the Seventh Circuit were emphatically rejected by the United States Supreme Court nine years ago in *Boyle v. United States*, 556 U.S. 938; 129 S.Ct. 2237 (2009)—(hereinafter "*Boyle*").

> "We see no basis in the language of RICO for the structural requirements that petitioner asks us to recognize. As we said in *Turkette,* an association-in-fact enterprise is simply a continuing unit that functions with a common purpose."
>
> * * *
>
> "proof of a pattern of racketeering activity may be sufficient in a particular case to permit a jury to infer the existence of an association-in-fact enterprise."

Boyle at 2245, 2247. The Koehler Family held Phyllis Shea in peonage for the last four years of her

life while pilfering roughly $10,000 per month from her million-dollar estate. They secured and maintained the isolation of Phyllis Shea by a program of violence, threats, extortion, and repeated frauds on the sheriff's police, the Seventeenth Circuit Court of Illinois, and the Federal District Court. The Koehler family unit plainly functioned as an "enterprise" within the ambit of RICO.

M. Fraud

Both the district court, *Appendix E,* [App. 45-46] and the Seventh Circuit, *Appendix A,* [App. 8] dismissed Mr. Shea's claim of Fraud against the Koehlers [Doc.92] p. 10, paragraph 40 for failing to meet the "heightened pleading standard" of FRCP 9(b).

The complaint identifies the circumstances with specificity, including "who?" "what?" "where?" "how?" and "when?" for both Carolyn Koehler's fraud and Doug Koehler's fraud in the operative complaint, [Doc.92] p. 9-10, paragraph 39-42. This was noted in list format in Shea's appellate brief. Appeal 17-3078 [Doc.16] p. 27-29, paragraph k.

N. Dismissal of § 1983 and ADA Claims Against County Entities and Defendants

Mr. Shea's complaint included actions for injunctive relief and legal damages under 42 U.S.C. § 1983, *Appendix N* (app. 84) and legal damages under 42 U.S.C. § 12101 *et seq*—the "ADA" or "Title II", *Appendices O-S* (app, 85-90), against various state and county entities and persons identified in the SAC, [Doc.92] from p. 12, line 22 through p. 16, line 15.

The Seventh Circuit sustained the wholesale dismissal of Mr. Shea's § 1983 and ADA claims against state actors named in the Sixteenth and Seventeenth Causes of Action ("COA's"),

> "for substantially the same the reasons provided by the district court, which we therefore summarize only briefly. First, we agree that Shea did not sufficiently set forth a "short and plain statement" of the events giving rise to the "section 1983" claim in Count 16 or the Americans with Disabilities Act claim in Count 17. FED. R. CIV. P. 8(a)(2). Instead, he alleged a litany of problems he experienced while in jail and after he was released, in most cases giving no explanation of who was responsible for those problems or how he was harmed by a particular person's actions."

Appellate Opinion, Appendix A [App. 6-7].

1. Lack of "explanation of who was responsible"

Mr. Shea respectfully submits that this holding of the Seventh Circuit is factually wrong on the face.

i) Defendant Deputy Sheriff Douglas Dobbs was identified by name as the man who removed Mr. Shea from his own home under threat of arrest and left him homeless at a gas station in the middle of winter[Doc.92] p. 15-16, paragraphs 56-58, an unlawful search and seizure under the Fourth Amendment—*Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971) at 409 (hereinafter "*Bivens*"). The ensuing distress of Mr. Shea was foreseeable, and proscribed under

the Fifth Amendment—*City of Revere v. Massachusetts General Hospital*, 463 U.S. 239 at 244 (hereinafter "*City of Revere*") and *Bell v. Wolfish*, 441 U.S. 520, 535 n.16 (1979) (hereinafter "*Bell v. Wolfish*");

ii) Defendant Deputy Sheriff Lorenzo Thompson was identified by name as the man who denied Mr. Shea the right to file a criminal complaint against the Koehlers [Doc. 92] p. 14, para. 55, violating Mr. Shea's First and Fourteenth Amendment rights;

iii) Defendant Sheriff Richard Meyers was sued "in his individual and representative capacity" [Doc.92], p. 1, lines 17-18, p. 3, paragraph 9, and

iv) Andrea S. Tack was sued "in her individual and representative capacity" [Doc.92], p. 1, lines 18-19 and "is believed to serve as the Superintendent of the Winnebago County Jail." [Doc.92] p. 4.

As such, Sheriff Meyers and Andrea Tack are amenable to suit by virtue of their offices, whether or not they directly participated in tortious actions.

v) Winnebago County, the Winnebago County Sheriff's Office, the University of Illinois College of Medicine, and Doe 12 are identified as fictitious persons [Doc.92] p. 3, paragraphs 7-8, p. 5, paragraphs 18-19. As fictitious persons, it is logically impossible for fictitious persons to commit tortious acts directly. The nature of their culpability under respondeat superior is a necessary inference of being a fictitious person.

vi) Wendy Lowery, Shelli Sublet and Doe 15 were identified as real persons, and were named generally as defendants under the § 1983 and ADA actions. Their actions were further delineated with specificity in common law claims having factual relevance to the § 1983 claim and the ADA claim.

a. Lowery and Sublet were identified with specificity in the claim for false imprisonment [Doc.92] page 16, paragraph 61, forming a colorable § 1983 action through violation of Mr. Shea's Fourth Amendment right against unreasonable search and seizure. *Bivens* at 409.

b. Sublett and Doe 15 were the real persons named in the common law claim for battery for exposing Mr. Shea temperatures that left Mr. Shea in morbid pain as he pleaded for socks or warm clothing against a "neuro-immune disorder" with extreme temperature sensitivity. [Doc.92] p. 17, paragraph 64. These defendants had the ability and duty to take reasonable steps to respond appropriately to Shea's suffering. Hypothermic torture is morally repugnant, *People v. Banks,* 641 N.E.2d 331 at 334-336 (1994); 161 Ill.2d 119 "*Banks*"). The actions support a § 1983 claim under the due process clauses of the Fifth and Fourteenth Amendments. *City of Revere at* 244 and *Bell v. Wolfish* at 535 n.16. The allegation that these persons denied Mr. Shea's repeated request for socks and a T-shirt on written notice of Shea's neuro-immune disorder

also supports the ADA claim in view of Mr. Shea's disability.

c. Sublett, Lowery and Doe 15 are real persons identified in the common law claim for intentional infliction of emotional distress, relevant under § 1983 through the due process clauses of the Fifth and Fourteenth Amendments, Appendices I, L (app. 78, 81).

For at least these reasons, various actions probative to § 1983 and ADA claims were specifically attributed to Sublett, Lowery, Doe 15, or combinations thereof.

vii) Tim Owens was identified as the "Corrections Captain" in the § 1983 and ADA claims. His liability for the actions of his subordinates is intrinsic to his supervisory position whether or not he was a participant.

viii) Corrections officers Rob Lukowski, Anthony Enna and Bryan Johnson were identified in the complaint as "corrections officers" [Doc.92] p. 4, paragraphs 11, 12, 13. They were named as defendants under the ADA and § 1983 actions that recited abuses and deprivation of Mr. Shea's rights within the county jail, but not correlated to any specific act of abuse.

Out of fifteen defendants under the ADA and § 1983 actions, only three defendants, Lukowski, Enna and Johnson were not individually identified in conjunction with a specific act of abuse.

The Seventh Circuit Opinion dismissed the § 1983 and ADA claims on grounds that "in most cases [Mr. Shea gave] ... no explanation of who was

responsible for those problems." This is factually errant on the face. Three out of fifteen is not "most cases."

Moreover, during his detention, Mr. Shea was concussed [Doc.92] paragraphs 31, 49, and suffering severe visual impairment [Doc.133] p. 24, bottom paragraph, limiting his ability to easily differentiate the guards, or easily recall each specific deprivations of rights at any one time in conjunction with a particular guard.

Moreover, the guards denied Mr. Shea writing materials, making it impossible to record each act of abuse with specificity.

The complaint identifies these three corrections officers in the § 1983 and ADA claims, and clearly describes the abuses, deprivations and denial of rights that Mr. Shea suffered in jail. For at least these reasons, it has put these three corrections officers on notice.

The § 1983 and ADA claims stands against all fifteen named defendants.

2. Lack of Explanation of How He was Harmed

The Seventh Circuit's opinion further stated that Mr. Shea offered "no explanation of... how he was harmed by a particular person's actions." But damages were claimed [Doc.92] paragraphs 59, 60, 63, and p. 25, line 11 through p. 28, line 11. The abuse and deprivation of rights speak for themselves.

3. Dismissal of Sheriff's Office for lack of a Monell Type Claim

The District Court's Dismissal ruled that the § 1983 claim failed to support a Monell claim[2] against the Sheriff's Office for failing to cite policy or widespread practice.

> "Plaintiff here fails to allege a widespread practice or custom. These allegations are insufficient to support a *Monell* claim. *See id.*; *see also Falk v. Perez*, 973 F. Supp. 2d 850, 863-64 (N.D. Ill. 2013) (dismissing a *Monell* claim because the plaintiff only alleged a single incident.)"

Appendix E, [App. 54-57]. The Seventh Circuit did not reprise this objection, but wrote:

> "We affirm the dismissal of these claims—set forth in Counts 16, 17, 18, 20, 21, and 22 of the second amended complaint—for substantially the same the reasons provided by the district court..."

Appellate Opinion, App. 6-7. Response is therefore warranted.

Unlike *Falk v. Perez* referenced in the dismissal, the second amended complaint ("SAC") [Doc.92] did not simply recite *"a single incident"* by the jail and sheriff's office, it recited a mind-boggling train of abuses and usurpations establishing a pattern of widespread practice by its sheer volume. For example, the taunt that Mr. Shea would have to "save up his prisoner's pay," to secure a fundamental right, was used to deny him writing material to write his law office, used to taunt him when he requested the letter be mailed to his law office, and to taunt him when he pleaded for socks in view of a neuro-

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[2] *Monell v. Department of Social Services*, 436 U.S. 658 (1978)

immune disorder. [Docket.92] paragraph 52; and [Docket.81-1] paragraphs 68, 69, 72, 73. The popularity of this taunt among multiple jail workers shows a pattern of abuse.

Moreover, the operative complaint expressly stated:

> "Plaintiff and other Detainees were denied the right to a phone call or bail or counsel unless the recipient of the call agreed to receive a "collect call" from the Winnebago County Jail."

[*Docket 92*, p. 13, para 48], underscore added. Denial of the right to a phone call was either policy, or it was so widespread that it appeared to be policy. Either satisfies the Monell standard.

The right to a phone call is a fundamental right, inextricably bound to the rights of bail and counsel.

4) An Equal Protection Right

Limiting the right of phone call for bail or counsel to those who have a debit card with $25.00 available, and have memorized the debit card number, or those with friends who have credit or debit cards and are willing to pay for a $25 collect call, disparately impacts the poor, many of whom do not have credit cards or debit cards. On the face, this policy is violative of the Equal Protection clause. *Adkins v. DuPonte de Nemours & Co.*, 335 U.S. 331 at 340-433 (1948).

5) A Due Process Violation

The jail denied Mr. Shea assistance in looking-up the phone number of his own law firm on the internet and told he would have to remember it [Docket.1] p. 38, paragraphs 87-89; [Docket.81-1], p.

23, paragraph 71; denied him assistance in dialing when he claimed to be "blind," [Docket.1] p. 40, paragraph 93; and required the recipient of the call to pay about $25.00 by credit card before the detainee could speak to the recipient, [Docket.92] p. 13, paragraph 48; [Docket.1] p. 38-41, paragraphs 88-95; [Docket.81-1], p. 23, paragraph 76.

Monroe v. Pape 365 U.S. 167 (1960) (hereinafter "*Monroe*"), addressed the deprivation of this right at length.

> "Mr. Monroe was taken to the police station and detained on "open" charges for 10 hours . . . [and] *that he was not permitted to call his family or attorney* . . .
>
> * * *
>
> and that it is *the custom of the Department to arrest and confine individuals for prolonged periods* on "open" charges . . . *holding them incommunicado* while police officers investigate their activities, and punishing them by imprisonment without judicial trial.
>
> * * *
>
> The essence of their claim is that the police conduct here alleged offends those requirements of decency and fairness which, because they are *"implicit in the concept of ordered liberty,"* are imposed by the Due Process Clause upon the States . . . *a principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental."*

Monroe at 169, 203, 208, italics added, citations omitted.

6) Injunctive Relief Sought

The § 1983 claim included a prayer for legal damages and for injunctive relief, granting detainees and prisoners telephonic access for essential calls to one's "family or attorney" as described in *Monroe* [Docket.92] p. 27, paragraph 28-29.

The original complaint also included other allegations of widespread practices, [Docket.1] p. 35, paragraph 81, but was improperly stricken under FRCP 8(a)(2) for being too long, *Appendix C*, [App. 20], middle paragraph. Legal arguments relating to FRCP 8(a)(2) are discussed *infra*.

O. Misuse of FRCP 8(a)(2)

After the original complaint sat on the federal docket for a year-and-a-half, the court struck the entire complaint under FRCP 8(a)(2), *Appendix T* [App. 91], for lacking "a short plain statement of the claim showing pleader is entitled to relief." Quite simply, it was too long. Appendix C, [App. 19].

Plaintiff's first amended complaint ("FAC") [Doc.81-1] was half the length of the original complaint, and reduced the introductory narrative to less than four pages. Nevertheless, the court again struck the FAC [Doc.81-1] in its entirety under FRCP 8(a)(2), for again lacking "a short plain statement of the claim showing pleader is entitled to relief" *Appendix D* [App. 21-24]. It was still too long. The court even determined that a one-hundred thirty-one word narrative to support over twenty COA's was a "good example...of extensive, unnecessary narrative," *Appendix D* [App. 22-23] necessitating the 8(a)(2) strike of the entire FAC [Docket.81-1]. Let's look at that paragraph.

> In the third attack, Carolyn Koehler kicked in Plaintiffs locked bedroom door [1, 2, 6], approaching Plaintiff[4] and denuding him of his pillow and bed clothes [3, 5, 6], abrading the cornea of Plaintiffs left eye in the process.[5, 6] Plaintiff shouted at her to "Get out of my bedroom," [1, 2] and, in a belly-to-belly shoving match, drove her to the threshold of his door. [1, 2] Douglas Koehler joined Carolyn at the threshold [7, 9] and raised his fists at Plaintiff, [4] placing Plaintiff in fear of harmful contact, [4] and blocking Plaintiffs escape from the bedroom. [8] Doug Koehler quickly withdrew, however, shouting "CAROLYN, THAT'S IT. CAROLYN, THAT'S IT." Carolyn Koehler quickly withdrew on command of her husband. [7, 9] Plaintiff closed and locked the door, and returned to bed, losing all consciousness. [9] All three attacks were performed with malice, and resulting in damages to Plaintiff."

[App. 22-23] quoting FAC [Doc.81-1] p. 11, paragraph 35, superscripts added. "Reasonable inferences" drawn from this paragraph include: 1) intrusion to seclusion 3×; 2) trespass 3×; 3) trespass to chattels 1×; 4) assault 3×; 5) battery 2×; 6) intentional infliction of emotional distress 3×; 7) conspiracy 2×; 8) false imprisonment 1×; and, 9) racketeering[3] 2×. Nine separate COA's are reasonably inferred a total of twenty times from this one-hundred thirty-one

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[3] Carolyn's withdrawal on command her husband is circumstantial evidence of a hierarchical "association in fact," which, though not essential for the RICO claim, is nevertheless probative. Ronald's loss of consciousness raises an inference a violent blow, supporting a claim under 18 U.S.C. §1959, "Violent Crimes in Aid of Racketeering," a predicate act under RICO. And Doug Koehler had admitted Mr. Shea was "comatose."

word paragraph, one COA every six-and-a-half words. Nevertheless, the court identified this paragraph as an example of "extensive, unnecessary narrative," [App. 22], and struck the entire FAC [Docket.81-1] *in toto*.

The Seventh Circuit determined that Mr. Shea suffered no prejudice by the striking of the first two complaints because he had a chance to file an amended complaint Appendix A, [App. 4-5]. This is factually wrong, and legally wrong.

1) Because mere recitals of the elements of a cause of action, when supported only by conclusory statements, do not suffice in formulating a complaint (*Ashcroft v. Iqbal*, 556 U.S. 662 at 678), the court must necessarily grant a litigant the latitude to express factual predicates to an action.

2) The strike of the FAC, included the strike of a 131 word paragraph supporting nine COA's as an example of "excessive narrative." Many of those COA's have been dismissed. The strike of the FAC came with the warning of "plaintiff's last chance" *Appendix D*, [App. 21] to make the complaint shorter.

3) The judicial strikes were thereby overbroad and unconstitutionally vague, constructively violating numerous rights, including the *due process* clauses under the Fifth and Fourteenth Amendments, as well as "the right to petition the government for a redress of grievances" under the *First and Fourteenth Amendments*, Appendices H & L, [App. 77, 81].

4) The stated purpose of the Federal Rules of Civil Procedure is to ensure substantial justice on the merits.

> "These rules govern the procedure in all civil actions and proceedings in the United States district courts, except as stated in Rule 81. They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding."

FRCP Rule 1, Scope and Purpose. The use of FRCP 8(a)(2) to emasculate a complaint contravenes this stated purpose.

5) Nowhere in the language of FRCP 8(a)(2), the committee notes, nor any case law, is there any suggestion that FRCP 8(a)(2) may function as an artifice to dismiss a case for being "too long." This novel use of FRCP 8(a)(2) to impede meaningful access to the court is unknown in the law.

6) Federal law prohibits the novel use of the Federal Rules of Civil Procedure as an artifice to abridge substantive rights of litigants.

> "Such rules shall not abridge, enlarge or modify any substantive right."
>
> *28 U.S.C. § 2072(b).*

7) Existing case law uniformly holds that the purpose of Rule 8(a)(2) is to ensure liberal pleading standards, not to create a tourniquet that can squeeze every last COA from a complaint. See, e.g., *Swierkiewicz v. Sorema N. A.*, 534 U.S. 506 (2002) and *William Erickson v. Barry J. Pardus*, 551 U.S. 89 (2007).

8) The unfounded use of FRCP 8(a)(2) reasonably suggests that the 8(a)(2) strikes were transparently an attempt to set-up the complaint for a 12(b)(6)

dismissal. This was emblematic of the entire five-and-a-half year chess game as Mr. Shea fought for his life, swelling the docket to over 4,000 pages.

9) The Seventh Circuit also made similar use of FRCP 8(a)(2) in its's opinion sustaining the dismissal of Mr. Shea's actions under § 1983 and the ADA, *Appendix A*, [App. 6].

10) This novel misuse of FRCP 8(a)(2) portends an unceasing train of due process violations to which pro se litigants are particularly vulnerable. It is capable of repetition yet evading review, calling for an exercise of this Court's supervisory power

P. Contempt for the Seventeenth Circuit Court of Illinois

Illinois law provides that affirmative findings in a criminal matter establish issue preclusion in subsequent civil cases under the following circumstances:

> "For collateral estoppel to apply, a decision on the issue must have been necessary for the judgment in the first litigation, and the person to be bound must have actually litigated the issue in the first suit."

Talarico v. Dunlap 685 N.E.2d 325 at 328 (1997), 177 Ill.2d. 185, 226 Ill.Dec. 222—hereinafter "*Talarico.*"

Mr. Shea had refused to accept any plea agreement on the criminal charges. He crossed the American continent sixteen times to defend his name [Fed.Doc.205] p. 21-23, [Fed.Doc.325] p. 20-26, and

At the trial, Carolyn Koehler admitted from the stand that she had entered Mr. Shea's bedroom and denuded him of his bed clothes while he slept on cushions on his bedroom floor [Fed.Doc.213] p. 21 line 11-24, whereupon Judge Pumilia exclaimed "I don't believe we're here," [Fed.Doc. 213] p. 32, line 13. The affirmative findings of the court included:

1. That Carolyn Koehler had initiated offensive touching or contact when she entered Mr. Shea's bedroom and denuded Mr. Shea of his bedclothes. [Doc.213] p. 31, lines 11-23, p. 33, lines 4-5.
2. That Carolyn Koehler was the aggressor. [Doc.213] p. 32, lines 19-20, p. 33, lines 18-19.
3. That at no time did Mr. Shea become the aggressor. [Doc.213] p. 32 lines 17-19.
4. That Mr. Shea's actions, if they occurred at all, were in self-defense [Doc.213] p. 32, lines 11-13.
5. The findings, based on Carolyn Koehler's admissions under oath, were essential to the directed verdict, [Doc.213] p. 33, lines 17-21, (thereby satisfying the second prong of Talarico.)

Illinois law governing issue preclusion therefore requires these findings to be applied to all subsequent cases governed by Illinois law. And the Federal Judiciary Act of 1789, codified under 28 U.S.C. § 1652 requires the Federal District Court to follow the law of Illinois in the absence of federal laws, rules or other federal dictates. See also *Erie Railroad Co. v. Tompkins*, 304 U.S. 64 at 71, 78 (1938).

Mr. Shea repeatedly placed before the federal court the transcripts of the criminal trial in state

court, including Carolyn Koehler's admissions and the court's findings. [Doc.213] p. 20-35, [Doc.242] p. 33-39; p. 29-44; [315] p. 29-33, also citing them in his "undisputed facts" [Doc.309]. He also presented proposed redactions of hearsay testimony within the criminal transcripts to eliminate waste of time at federal trial [293-1] p. 8, 27-43. Mr. Shea's motions and filings were either stricken *sua sponte*, denied, or simply ignored.

His criminal case had not been decided by a failure of the prosecutor to meet a "burden." It was decided based on the foregoing affirmative findings of the court based on Carolyn Koehler's admissions at trial.

Nevertheless, the federal district court ruled that state court's findings were inadmissible due to disparate 'burdens' [Fed.Doc.334] p. 2, paragraph 4, refusing to bind the jury to the findings of the Seventeenth Circuit Court of Illinois or the admissions of Carolyn Koehler. Mr. Shea was threatened with contempt if attempted to testify of the findings, [352] p. 6 line 17 through p. 7, line 8.

Carolyn Koehler's signed criminal complaint against Mr. Shea contained an admission, under signature that Carolyn Koehler had entered Mr. Shea's bedroom and initiated physical contact of an insulting or provoking nature. [Docket.242] p. 28-32. Mr. Shea listed the police report in his proposed exhibits for federal trial, [Doc.328-1] p. 3-10, "exhibits 58-59." Predictably, the federal district court also ruled these signed confessions by Carolyn Koehler were inadmissible in the federal trial against Carolyn for battery. [335] p. 2, "exhibit" 58-59.

Q. The Court Precludes Evidence or Testimony of Plan or Motive.

In virtually every pleading, Mr. Shea reprised, in detail, the motive and plan expressed in his claim for conspiracy:

> "At all times set forth herein, Douglas Koehler and Carolyn Koehler (the "ASSAILANTS") acted in concert, with malice, and with the common purpose of isolating Phyllis Shea from her son, Ronald Shea, in order to further their scheme wrongfully seizing and transporting some or all of the estate of Phyllis Shea and Gerald Shea across state lines.

[Doc. 92] p. 6 line 27 through p. 7, line 5. Evidence of plan and motive may be admissible under FRE 404(b)(2). Throughout the pleadings, Mr. Shea made at least 1,187 references to the plan, the motive, or to FRE 404(b)(2).

Nevertheless, the court repeatedly claimed that it could not understand how the bludgeoning and arrest three days after his arrival were part of a greater plan to isolate Phyllis Shea. Neither could the court understand how the theft of a million dollar estate could be a motive for such a crime. See, e.g. Minute Order of [Doc.317].

Phyllis Shea's brokerage account records were filed under declaration at least five times, [248] p. 6-16, [293-1] p. 71-82, [315] p. 57-65; [321-15] p. 25-32; [341] p. 17-25, including an offer of proof listing of over 900 federal colorable felonies committed by the Koehler Enterprise in execution of their plan [341].

In view of the trajectory of the case, Mr. Shea filed a preemptory 45 page memorandum stating:

> "Since the court claims that it cannot imagine how the theft of a one-million dollar estate could serve as motive for the bludgeoning of Plaintiff three days after he moved to Illinois to protect his mother, Plaintiff offers this request for judicial notice to disabuse the court of any further confusion."

[Doc.325] p. 1. Neither the forty-five page memorandum, nor any of the other motions, affidavits or exhibits filed by Mr. Shea succeeded in disabusing the court of anything. The court excluded the custodian of records of Morgan Stanley from testifying [Doc.335] p. 3, ignored all of Shea's offers of proof, and repeatedly denied Mr. Shea the right to offer the brokerage records, or any other exhibits or testimony of the foregoing pilferage as evidence of motive at trial. Trial Transcripts [Doc.379] through [Doc.381], *passim*. See, e.g., [379] p. 224 ff.

R. Plaintiff Denied Right to Secure Deposition Testimony of his own mother.

Prior to trial, Mr. Shea noticed the deposition of his mother, [186-1] p. 1, 2, 6. Defense counsel promptly moved to strike Mr. Shea's deposition of his mother, [Doc.186].

Mr. Shea vigorously opposed the strike the motion, which lacked a single citation of law or a single piece of evidence. Although Carolyn Koehler was the purported movant, Mr. Shea further argued that this was pretextual, that his mother was the constructive movant, and defense counsel lacked

third party standing to represent his mother, [Doc.190] p. 7-8.

He further reminded the court that the isolation of his mother from his protection was the focal point of the case, and that the strike was transparently ruse to maintain the isolation of his mother while the Koehlers and their attorney pilfered her million-dollar estate, [Doc.190] p. 1-5.

In full knowledge that the program to isolate Phyllis Shea was at the very heart of the entire complaint, and in full knowledge of Mr. Shea's allegation of RICO activity relating to the seizure of her estate, the court denied Mr. Shea the right to secure deposition testimony of his own mother, [Doc.192], [208]. He would never see her again. The court did not offer one citation of law, nor was a single shred of evidence in the record that could remotely support this highly prejudicial (and virtually dispositive) order.

S. Declarant Not Available Hearsay Exception FRE 804(b)(6)Denied

Carolyn Koehler's attorney had moved to strike the deposition of Phyllis Shea on the grounds that "Phyllis Shea does not have the mental capacity ... to competently be deposed," [Doc.186] p. 3. Subsequently, Mr. Shea filed a conservatorships action, and the state court appointed attorney Kimberly McKenzie as guardian ad litem [321-15] p. 7 line 19-24. McKenzie testified in state court at length of her detailed conversation with Phyllis Shea. The lucid detail of Phyllis's conversations with the court appointed attorney demonstrated, that Phyllis Shea manifestly did not lack the mental capacity to be competently deposed. [Doc.321-15] p. 4-21.

Quite simply, the "Motion to Strike the Deposition of Phyllis Shea" [Doc.186] was a fraud on the court, and both Carolyn Koehler, and her attorney, Amy Silvestri, knew it was a fraudulent even as they drafted it. Mr. Shea's motion for a declarant not available hearsay exception [328-5] p. 2-5 specifically included the testimony of McKenzie by exhibit [*Id.*] p. 4, paragraph 6. The court, Therefore, had actual knowledge of the fraud at the time Mr. Shea filed his motion for "declarant not available" hearsay exception

Nevertheless, the court denied Mr. Shea's motion for a "declarant not available" hearsay exception. [Doc.334] p. 4. No relevant law was cited for the denial.

T. Excited Utterance Exception Denied

Phyllis Shea called her son fourteen times in the space of forty one days, hysterical with fear as the Koehlers cleaned her out, pleading with him to accelerate his move. Mr. Shea had identified T-Mobile's custodian of records of in his witness list [328-2] p. 7, but the court excluded him from testifying [335] p. 4.

At trial, Mr. Shea attempted to testify about these phone calls, stating twice in the space of three lines that his mother "was in a very excited state," [379] p. 224, lines 1-4. The judge did not recognize a specific hearsay exception, and required Mr. Shea to identify one from the witness stand. Mr. Shea cited FRE 803(2) and recited it from memory [379] p. 224 lines 11-14.

After more than 4,000 pages of pretrial pleadings comprising 1,187 references to the plan, the motive,

or FRE 404(b)(2), the bench knew exactly why Phyllis Shea was hysterical with fear—the Koehlers were cleaning her out. And the bench admitted it knew exactly what Mr. Shea was trying to demonstrate through his testimony, [379] p. 225 line 24 through p. 226, line 1. In contempt of the law, the bench still prohibited Mr. Shea from entering any testimony of the seizure of Phyllis Shea's estate as the motive. The bench governed and directed Shea's testimony throughout trial, e.g. [379] p. 224, line 17 through p. 224, line 15, ensuring that the jury never heard one word of relevant evidence in the course of a two day trial

U. Denied Legally Operative Language Hearsay Exception

Phyllis Shea's offer to her son to accelerate his move was also a contractual offer—a place to live in exchange for Ronald's protection, with a "time is of the essence" clause. As legally operative language, as a matter of law it was not hearsay.

Mr. Shea therefore tried this alternate path. He began to cite, from memory, the committee notes of Federal Rule of Evidence 801, whereupon the bench became rather steamed, and reprimanded Mr. Shea, *"I don't want to hear from you as a lawyer,"* [*Id.*] p. 225, lines 16-25.

V. Motion to Deem Denied

During deposition of Carolyn Koehler, her Counsel, unremittingly obstructed the deposition and coached her client to answer evasively throughout the deposition. She eventually walked out of the deposition [Docket.321-15] p. 45-68.

In view of this surreal violation of FRCP 30(c)(2), Mr. Shea moved to deem these deposition questions as answered in a light most favorable to Plaintiff. [Docket.328-5] p. 13-17. The court denied the motion without a single citation of law, [Doc. 334] p. 4 just as it denied all of his motions.

W. Denied the Right to File a Motion for Summary Judgment ("MSJ") or Rule 50 Judgment as a Matter of Law

In view of Carolyn Koehlers admissions at Mr. Shea's criminal trial, and the findings of the trial court, Mr. Mr. Shea discussed the parameters of an MSJ in pretrial hearing [376], p. 30. In full knowledge of the findings of the Seventeenth Circuit and the admissions of Carolyn Koehler in open court, the federal district court terminated the discussion by stating defense counsel did not "feel" her client had admitted to battery [376], p. 30, lines 7-25.

Thereafter, the court issued an order prohibiting Mr. Shea from filing any more motions, [Doc.351], preemptively foreclosing not only the possibility of plaintiff filing an MSJ, but any possibility of a Rule 50 JML. This order was a patent violation of Mr. Shea's due process rights.

REASONS FOR ALLOWANCE OF THE WRIT

Across 360 federal events spanning five-and-a-half years, Mr. Shea did not win a single victory in court. The court's rulings perpetuated the isolation and peonage of Phyllis Shea for four years while the Koehlers cleaned out her one-million dollar estate.

Perhaps the court sought to insulate the county from a meritorious lawsuit by finessing Shea's case off the docket. Or perhaps Shea's allegations were so

extraordinary that the court could not abide them... that, across a span of four years, a couple of common criminals had the audacity to enlist the sheriff's police, the state court, and the federal district court to advance their racketeering enterprise.

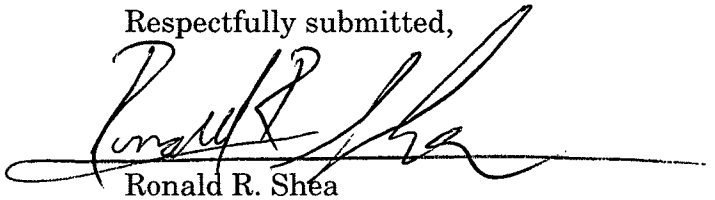
Olympic "doctor" Larry Nassar sexually violated 350 gymnasts across a span of twenty years. Sometimes with a parent in the same room, a sheet partially covering his victim. It was the raw audacity of his crimes that enabled him to avoid detection in plain sight for all those years.

It will take years for Michigan State University to erase the sigma they now bear. The court must be eternally vigilant that its power and authority are not conscripted by the cunning to advance the schemes of the wicked. Eternal vigilance is the price of justice.

Wherefore, Mr. Shea prays this Court grant his Petition for a writ of Certiorari under Supreme Court Rule 10(a):

> "a United States Court of Appeals has entered a decision [that] has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;"

Respectfully submitted,



Ronald R. Shea
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