

16 February 2017

To: Judiciary Committee

From: Crystalee C. Protheroe

Chairman Wiborn and Members of the committee,

My name is Crystalee Protheroe and I filed a complaint with the board of judicial qualifications 29 Jan 2015 regarding the misconduct, abuse of judicial discretion, unethical actions and misconduct surrounding the custody determination and of my children ARM and AAM. Below is a more detailed summary, background addressing judicial misconduct, abuse of discretion and failure to uphold constitutional, state and federal laws, and international human rights.

Background:

Although family law is ambiguous and leaves room for substantial jurisdiction of judicial discretion —there are still guidelines that family law judges are suppose to follow—specifically federal and state laws, constitutional guarantees regarding due process, *parens patriae*, etc. This also covers state and federal statues regarding parenting time, custody, “best interest” of the child.

My complaint stems from an ongoing custody case from April 2014. Through the process there have been multiple violations of my rights which have resulted in abuse of judicial power and discretion and judicial misconduct. These unethical violations have resulted in unjust outcomes and lapses in judgment of the *equal rights and protections*, (a constitutionally guaranteed right) of my two daughters, ARM and AAM and violations of my basic fundamental, liberty interest rights as a parent. Not only has the judge responsible for the terror I have been subjected to in my case failed to meet federal and state guidelines and precedents for family court, she has failed to maintain the Douglas county court guidelines. For example Douglas County Guidelines states that a sibling will not be separated unless there are extenuating circumstances. There are no extenuating circumstances in my situation requiring the children to be exiled from their state of habitual residence or being separated from their siblings, or punishing a mother for making good faith allegations. Retaliation is unjust. While attempting to protect my children I was punished for doing so. The judicial process for child custody involving Domestic Violence this procedure is extremely flawed and does not have a standard for review for egregious findings when occurring and leaves little room for the restoration of mothers and children’s basic fundamental human rights.

Examples of the civil and human rights violations”

Issue #1 I was not allowed adequate time to obtain a new attorney when the legal aid attorney I was utilizing did not show up on 12/20/13 for a PFA. I requested a continuance based on the fact that I needed to gain a new attorney. I was initially granted this, but Judge Pokorny then changed her mind (with the opposing attorney’s objections) which leads to the opposing attorney to metaphorically skewering me on the stand. The legal aid attorney withdrew from the case.

Issue #2 In March/April 2014 a home study (H.S.) was conducted. This home study was used to remove the children from my care and from their state of habitual residence. An individual named Tracey Mackenprnag was ordered to conduct the study. It came to my attention a few days prior to a status hearing (Mar, 2014) that Ms. Mackenprnag had not conducted a complete home study. For example she failed to interview individuals she had initially contacted that were on my list of witnesses and also ignored my phone calls and texts. I was not afforded a copy of the home study prior to the hearing and the lawyer I had at the time failed to object to this even though I requested to on multiple occasions. It is my understanding this is the equivalent of malpractice. I fired the attorney and requested a copy of the home study pro se. My request for this pertinent document was denied.

Consequently, there is no recourse for this home study which was completed in secret and not given an evidentiary hearing, but is being cited as the sole reason for removing the children from my care and their home state (See appendix 2). Although many litigants may not take the time to read through Kansas statutes regarding child custody-abuse regarding children, their mother (or father) and the abusing parent and that is supposed to be a determine factor of custody-this was entirely ignored (my ex-husband admitted to threatening to kill me under oath). I have been told to not bring any allegations of abuse even if my children state it or I may lose all rights to my children. This is ludicrous! Kansas Statutes guarantee no double jeopardy or retaliation for good faith allegations. This was not the case under Judge Pokorny's discretion. This is a violation of my due process rights. By failing to provide me the copy I have been denied the ability to fight the false and defamatory information.

Issue #3 In June/December 2013 and January 2014 respectively the minor children stated that their father and older half brother (who has a history of being inappropriate with their eldest half sister) had been inappropriate with them; therefore I made reports to DCF and the police department. I was told by Lawrence PD and Johnson County Detectives to contact them if there were further issues that my come up because children do not always disclose during their investigations. The worst part is Judge Pokorny knew better-she had been a DA-and ignored the Kansas process and continued to order visitation. Additionally, Judge Pokorny was contacted and informed by Detective Lucky Smith of Johnson County, Kansas that the children were to have no contact with their father due to the ongoing investigation. Although judges make discretionary decisions- they are suppose to be held to the standard of upholding the law. Her interference, by continuing to order visitation with their alleged abuser compromised the investigation and safety of my children. Using a document that has been withheld from me, invalidating any attempt I may have made at filing a reconsideration, stay, or appeal. Her refusal to follow rules of evidence and blocking my attempts to receive fair treatment, equal protection of the law, and due process-this misconduct is unconstitutional and unethical, and violates my rights to due process.

Issue #4 It came to my attention that the judge had a ex-parte communication regarding the home study compliant I ****attempted**** to file with the office of judicial qualification, but it went nowhere because no one seems to have jurisdiction. This is a violation of the state Cannons rule 2.9.

Issue #5 Kansas Supreme Court Case management guidelines (copy attached for convince) state on page 2 in the forward that CM is not appropriate for DV cases. Also on page 4 paragraph 3 & 4, it discusses that in such cases one parent seeks to obtain and maintain power and control over the other that case management is not appropriate. Case management was not appropriate for this case. Father admitted to threatening to kill me during a hearing. Case management identified that father was punishing mother, but failed to connect the dots. The only way father is able to continue to punish mother is to maintain control and custody of the minor children. In doing so he is exploiting them. One cannot exploit another for their own vindictive purposes and claim to have their best interests in consideration-it is a paradox. The judge's failure to identify this and rule in the "best interest" of the children is abuse of power and discretion. It seems pointless to have guidelines if they are not going to be followed.

Issue #6 Judges ruling (28-9 Dec 2015) was based on her personal life experiences, thoughts, and values versus state statutes. She made comments regarding her children and her divorce with her ex-husband and made references to her attitudes as a child towards extra circular activities. These actions (in complaint #7) show considerable disregard for guidelines, statutes,, precedents, laws, and basic constitutional and human rights.

Setting the stage for the enormity, gravity, and implications:

1. Kansas status and guidelines for Case Management (CM) etc regarding lawyers etc. and the Supreme Court rulings suggest that deviations from said precedents require an explanation. I want to bring to the attention of this committee that this is not an isolated incident. In August of 2015 Safe Kids International and The Woman's Coalition filed a human rights violation complaint against family law court(s) and family laws refusal and failure to provide equal protection to victims of domestic violence and children and adults from abuse of the offending parent. Additionally within regards to two very similar cases Tsimhoni VS. Tsimhoni, the judge made similar determinations and took similar action which led to a complaint. The judge has been subsequently disqualified from presiding over this case due to her inability to act in a respectful manner to the mother and children involved in this case and to uphold the law. *Note on CM judicial guidelines state that CM is inappropriate for DV cases. My ex husband admitted to threatening to kill me on the stand and CM identifies that father is "punishing mother". Although therapist has determined that mother has met all of the requirements set forth by the court- CM takes it upon herself to make her own mental health determinations when she has not met with mother for extended lengths of time therefore taking the role of mental health professional on her own. This is one of the many flaws of CM and underlines why CMs are inappropriate for judicial decisions. They are not qualified to be a judge, but take on the role of one and their judgment is not questioned by evidentiary hearings to determine if the content is true or not.
2. Less than 100 years ago segregation was legal. It took many court cases in order for our society to legally accept that African Americans have and had the same rights everyone one else has. We must look at these repeated patterns of judicial and societal behaviors in the same manner. Women and children are not being treated with the same respect to

equal protections and the same standard-as the UN complaint succinctly states-the issues are not merely lack of judicial discretion-it is abuse of power and lack of upholding guaranteed constitutional rights of women and children.

3. England has taken proactive stance in regards to abuse of the legal system and manipulation of the courts and has passed legislation (see attached). The new law allows there to be legal penalties for those who abuse with a pattern of coercive behaviors to be sentenced up to five years in prison. American family courts have yet catch on that they are allowing abusers to continue to abuse by manipulating the legal system in order to gain control over the most precious resource available-children. With this control they continue to bankrupt and emotionally devastate the mother and children so they can continue to exert their power and control over her and the children. My case is a text book example of this pattern.
4. The Saunders Report (2012) is an investigation funded by the CDC that discusses how DV affects cases in family court, how women are unfairly discriminated against, and held to a higher standard for burden of evidence. It also discusses court officials' attitudes towards those who bring abuse to light. It is not positive.
5. The Adverse Child Hood Events Study, funded by the CDC and conducted by Dr. Vincent Felitti discusses the implications of allowing children to remain in unsafe conditions and the effects of the emotional devastation later in life. Some of the examples are higher risks of mental health disorders, suicide, and health related problems (Diabetes, obesity, early death). These issues are real and must be addressed (<http://www.cdc.gov/violenceprevention/acestudy/>).
6. My children are statistics because the Kansas court systems failure to protect them and I from their father and his tactics to systematically remove my parental rights for speaking out about what my children and I have suffered, along with multiple other states failing victims of DV and their children. It is my understanding that violating the cannons (to maintain justice and serve the public as fairly as possible) is reason within itself to find that unethical behavior or misconduct has taken place. Please hold this judge accountable for her unethical actions and behaviors and the devastation it has caused on our lives.
7. Judge Porkney was recuse in June by subsequent hearings have been prolonged and have not presently restored the basically guaranteed fundamental human rights of the survivor of domestic violence and her children due to not applying laws correctly in family law.
8. The father of the children only sees them as a vehicle to harm mother and by allowing him continued access he emotionally abuses them and mother by re-victimizing them.

Why action must be taken to end this legal trend of human rights violations:

Judge rulings, similar to those in my case, and actions are unethical and although it is their responsibility to uphold the laws and status of this state and country--is not happening in family courts across the nation. Not addressing this type of illegal judicial behavior erodes the public

trust in the judiciary. Additionally, places victims of DV and of abuse in danger, and is sending the wrong message to society: if you tell us about abuse we are going to punish you for it.

Judges should be held to an even higher standard, but it seems more times than not--they are not. An article written by Hope Louden (2015) succinctly states why this is such a problem; "It's about victim-blaming, domestic violence, human rights, and the estimated 58,000 children who are placed in the custody of abusers every year. To some of the activists, it's about their children who endure forced visitation with alleged abusers or who live in the full custody of those alleged abusers. To say that this case was anomalous, happening only rarely and under exceptional circumstances would be wishful thinking."

The United Nations human rights I am alleging are violated:

1. Article 1: Being denied dignity by continuing to allow my abuser control of minor children to continue to punish me (as noted by case manager)
2. Article 2: My life, liberty and security of and that of my children is being extremely limited by the inability to access review and correction of past judicial mistakes and the slow process of the judicial system regardless of repeated attempts to make judicial bodies aware of my concerns.
3. Article 5: This is cruel, inhuman and degrading treatment-to punish a survivor of domestic violence for protecting herself and her minor children.
4. Article 6: due to the refusal of judicial bodies to review complaints or to a standard that does not encourage a review of incorrect information regardless of true and correct information being provided.
5. Article 7: Domestic Violence is mainly perpetrated against women therefore are a women's issue therefore; discriminating against this group is gender discrimination of women at its worse.
6. Article 10: An act not criminal in nature has been made to be criminal and has been used to deny mother full and equal access to a full and equitably trial due to the standard of review being substandard in family court.
7. Article 12: The interference our family has faced due to the meddling of Tracey Mackenprang and Trina Nudsen has violated mothers honor and reputation. Minor children and mother have not been given equal protection against our abuser by the laws, which are intended to protect us, but have instead protected our abuser and have allowed him to escape with impunity.
8. Article 22: Our social security is being disregarded for the rights and purposes of allowing our abuser to exercise his rights over ours; which violates state and federal statutes.
9. Article 25: The mother/child bonds has been severely interrupted and is not allowing the children the special care and assistance necessary for their health and well being; and is also irreparably damaging mother in the process.

Relief that this bill will help restore --the full rights and privileges the survivor of domestic violence and her children and to provide light to the plight of a large number of women who suffer similar situations at the hand of the United States government and their subsequent denial of human rights by their refusal and inaction to take positive steps and put in place policies,

procedures and effectively allow survivors and their children to fully enjoy their basic fundamental human rights and safety.

Respectfully,

//Signed//

Crystalee C. Protheroe (formerly Masarik)