

William M. Windsor
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Defendant, Pro Se

**MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY**

State of Montana,	§	Dept. No. 3
Plaintiff,	§	Cause No. DC-14-509
v.	§	
William Michael Windsor,	§	MOTION TO DISMISS FOR
Defendant.	§	LACK OF JURISDICTION

COMES NOW William M. Windsor, Defendant, who files this “Motion to Dismiss for Lack of Jurisdiction,” and shows the Court as follows:

INTRODUCTION

1. William M. Windsor has been simultaneously charged with five protective order violations that took place on five distinctively different dates over a nine month period in 2013 and 2014. (See DC-14-509 Docket # 1, 2, 3, 4, and 5.) William M. Windsor was in Dallas, Texas on each of the five dates. The Information filed in this case does not claim otherwise. There has never been a protective order in Texas. William M. Windsor was served with a Temporary Order of Protection (“TOP”) in favor of Sean Boushie while visiting Montana on August 23, 2013, but the TOP expired. Sean Boushie attempted to obtain a protective order in Texas but failed. Montana Code states clearly that Montana orders of protection are valid only in Montana. William M. Windsor was in Dallas, Texas at the time of each of the alleged violations. The alleged violations are not against the law in Texas. By statute, the ex parte TOP is invalid in Texas. William M. Windsor committed no violations in Montana. William M. Windsor

was wrongfully arrested and brought to Montana to stand trial on the charges. This Court has no jurisdiction over William M. Windsor's actions in Texas.

FACTUAL BACKGROUND

2. From February 2012 through August 23, 2013, Sean Boushie of Stevensville Montana cyberstalked, harassed, and threatened William M. Windsor and the family he used to have. The crimes and stalking of Sean Boushie are provided in the Affidavit and exhibits to William M. Windsor's Motion to Quash Bench Warrant filed in this case. This is referenced and incorporated herein as if attached hereto – DC-14-509 Docket #7.

3. On August 4, 2013, Sean Boushie attempted to shoot William M. Windsor as he drove from Butte to Missoula Montana. William M. Windsor received an email from Sean Boushie saying he had shot at him and missed.

4. William M. Windsor attempted to get law enforcement or the courts to do something about the crimes of Sean Boushie, but nothing was done.

5. On August 13, 2013, Sean Boushie filed an ex parte Petition for Temporary Order of Protection against William M. Windsor in the Missoula Municipal Court. Virtually nothing in the Petition was true.

6. On August 15, 2013, Judge Sam Warren of the Missoula Municipal Court issued a bench order dismissing the petition of Sean Boushie.

7. On August 21, 2013, Sean Boushie filed another ex parte Petition for Temporary Order of Protection against William M. Windsor in the Missoula Municipal Court. Virtually nothing in the Petition was true.

8. On August 23, 2013, Judge Sam Warren of the Missoula Municipal Court granted the Petition for Temporary Order of Protection of Sean Boushie.

9. William M. Windsor was served with the Temporary Order of Protection on August 23, 2013. The Temporary Order of Protection says it expired on September 16, 2013.

10. William M. Windsor left Missoula on August 23, 2013 and left Montana on August 26, 2013 after two days of filming in Great Falls.

11. On August 26, 2013, William M. Windsor appealed the Temporary Order of Protection to the Fourth Judicial District Court in Missoula County Montana.

12. On December 26, 2013, William M. Windsor filed a civil lawsuit against Sean Boushie and the Joeyisalittlekid Gang in Ellis County Texas. This is Case #88611.

13. On December 30, 2013, a Tweet was allegedly sent to William M. Windsor's Twitter subscribers. It included the words "Sean Boushie."

14. On December 23, 2013, William M. Windsor filed a civil lawsuit against Sean Boushie and the University of Montana in the United States District Court for Montana. This is Case #13-311-M-DLC-JCL.

15. On February 6, 2014, an email was sent to Claudia Denker-Eccles, corporate counsel for the University of Montana, with notice of the filing of an affidavit of Mary Wilson in Case #13-311-M-DLC-JCL.

16. On May 4, 2014, an article was published on LawlessAmerica.com in the name of William M. Windsor. The article was about Sean D. Fleming of Madison Heights Michigan. It included the words "Sean Boushie" in a public legal document that was reprinted in the article.

17. On July 4, 2014, an article was published on LawlessAmerica.com in the name of William M. Windsor. The article was about Sean D. Fleming of Madison Heights Michigan. It included the words "Sean Boushie" in a public legal document that was reprinted in the article.

18. No hearing was ever held to consider if the Missoula Montana Temporary Order of Protection should be made a permanent order of protection.

19. On October 2, 2014, the website www.seanboushie.com was active on the Internet, just as it had been every day since August 23, 2013. The content never changed.

20. On January 17, 2014, Sean Boushie attempted to obtain an order of protection in Ellis County Texas, but he was unsuccessful. (This motion is part of the record in case #88611 in Ellis County Texas, and the Court is asked to take judicial notice.)

21. On October 3, 2014, an Information was filed with the Fourth Judicial District Court in Missoula County Montana. This resulted in a Bench Warrant for William M. Windsor. (See Record in DC-14-509.) The Bench Warrant signed by Judge Karen Townsend charges William M. Windsor as follows:

Count I: Violation of Order of Protection – 1st Offense, a misdemeanor;

Count II: Violation of Order of Protection – 2nd Offense, a misdemeanor;

Count III: Violation of Order of Protection – 3rd or Subsequent Offense, a felony;

Count IV: Violation of Order of Protection – 3rd or Subsequent Offense, a felony;

Count V: Violation of Order of Protection – 3rd or Subsequent Offense, a felony;

22. The alleged offenses took place on the following dates:

Count I: May 4, 2014

Count II: July 4, 2014

Count III: December 30, 2013

Count IV: February 6, 2014

Count V: October 2, 2014

23. Sean Boushie is the accuser in this case. The cyberstalker and would-be killer of William M. Windsor is now the person that the Missoula County Attorney's Office, Missoula Police Department, and Missoula Courts are protecting from exposure as a criminal by trying to send William M. Windsor to prison.

24. William M. Windsor has been producing and directing a documentary film, Lawless America. William M. Windsor has named Montana the most corrupt state in America.

25. William M. Windsor is confident that the reason this bogus case exists is to try to stop Lawless America...The Movie from reaching theaters and to try to stop William M. Windsor from exposing corruption and that Sean Boushie is a paid government stalker protected by the University of Montana, Montana law enforcement, and Montana courts.

26. William M. Windsor was picked up on the Bench Warrant in Ellis County Texas on October 28, 2014. He knew nothing of the alleged charges when he was incarcerated in the Ellis County Texas Jail. William M. Windsor has never resided in Ellis County Texas; he was there as the plaintiff in a civil action.

27. William M. Windsor has never "resided" in Montana prior to March 25, 2015 when he was incarcerated in the Missoula County Detention Center. He is not registered with the Montana Secretary of State to conduct business in Montana. He did not have an office, warehouse, or any other facilities in Montana. He has never had a telephone listing in Montana. He has never had any employees in Montana. He has never owned any real estate in Montana. He was not in Montana from August 26, 2013 to March 25, 2015. He did not work with anyone in Montana to perform any duties for him during the times specified in the charges

against him. William M. Windsor has never knowingly or purposely violated a protective order.

28. William M. Windsor never waived extradition when he was taken from Ada County Idaho Jail to the Missoula County Detention Center on March 25, 2015.

ARGUMENT

A. THE ALLEGED CRIMES WERE COMMITTED IN TEXAS, SO MONTANA DOES NOT HAVE JURISDICTION.

29. William M. Windsor was in Dallas, Texas on each of the dates specified for the five counts of violation of a protective order. He was not in Montana from August 26, 2013 until March 25, 2015.

30. None of the alleged offenses were committed in Montana.

31. MCA 46-3-110 HAS BEEN VIOLATED.

32. MCA 46-3-110 requires that “In all criminal prosecutions, the charge must be filed in the county where the offense was committed unless otherwise provided by law.”

33. MCA 45-5-626 (Violation of order of protection) has no special provision in this regard: “(1) A person commits the offense of violation of an order of protection if the person, with knowledge of the order, purposely or knowingly violates a provision of any order provided for ... under Title 40, chapter 15.”

34. Therefore, as a charge must be filed in the county where the alleged offense was committed, the charges would have to be filed in Dallas County Texas, and they were not.

35. MCA 46-3-112(2) provides: “When an act requisite to the commission of an offense occurs or continues in more than one county, the charge may be filed in any county in which the act occurred or continued.” Commission Comments to § 46-3-112, MCA: “This provision allows the trial to take place in

the most convenient county where an element of the offense occurred. It does not matter if the final consummation of the offense occurred in another county. **The only elements of the crime which are of interest are those acts constituting or requisite to the consummation of the offense**; the trial of the case may be held in any county in which such acts occur.” (*State v. Cooney*, 271 Mont. 42, 894 P.2d 303 (Mont. 04/25/1995).) [**emphasis added.**] (See also *State v. Cybulski*, 204 P.3d 7, 349 Mont. 429, 2009 MT 70 (Mont. 03/10/2009).)

36. In this case, there was only one act in each of the five counts. The acts constituting or requisite to the consummation of the five charges against William M. Windsor did not take place in Montana.

Proper venue is a jurisdictional fact that the State must prove at trial. *State v. Diesen*, 2000 MT 1, ¶14, 297 Mont. 459, 992 P.2d 1287. In general, including in this case, a criminal charge must be filed in the county in which the offense was committed. See § 46-3-110(1), MCA. See also Mont. Const. art. II, § 24 (“In all criminal prosecutions the accused shall have the right to . . . a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, subject to the right of the state to have a change of venue for any of the causes for which the defendant may obtain the same.”). *Diesen*, ¶11. (*State of Montana v. Richard Patterson*, 291 P.3d 556, 367 Mont. 186 (Mont. 12/11/2012).)

Section 46-2-101, MCA, sets forth the scope of Montana courts’ jurisdiction. (*State v. White*, 750 P.2d 440, 230 Mont. 356 (Mont. 02/16/1988).) (See also *State v. Speaker*, 300 Mont. 115, 4 P.3d 1, 2000 MT 152 (Mont. 06/08/2000).)

37. The allegation in Count I was regarding an article published in Texas. Case law provides that there are two considerations: “determine the conduct constituting the offense,” and then “discern the location of the commission of the criminal acts.” *The conduct constituting the offense*: publishing an article on a website. *The location of the commission of the alleged criminal acts*: published in Dallas Texas. This alleged crime did not take place in Montana. It was not

directed to Montana. In fact, William M. Windsor programmed Sean Boushie's known IP addresses into a program on the www.LawlessAmerica.com website that blocked his access to anything on the website. The article was not directed to Montana in any way; the article is about a man in Madison Heights Michigan, and it simply published a legal document that is filed in court and is a matter of public record. This article was not intended to produce detrimental effects within the state of Montana, and it did not cause detrimental effects within Montana. William M. Windsor never attempted to commit an offense within Montana, and the State has no evidence that he did. IF publishing the words "Sean Boushie" is an offense, it consists of one and only one act – publishing the name. As that was done in Dallas County Texas, the charge could only be filed in Dallas County Texas where the act occurred. (MCA 46-3-112(1).)

38. The allegation in Count II was regarding an article published in Texas. (See paragraph immediately above as this is the same as Count I.)

39. The allegation in Count III was regarding a Tweet sent from Texas or California. *The conduct constituting the offense:* publishing a Tweet on Twitter. *The location of the commission of the alleged criminal acts:* unknown who did it or where they were, but William M. Windsor was in Dallas Texas, and Twitter is in California. This alleged crime did not take place in Montana. It was not directed to Montana. Sean Boushie was not a recipient of the Tweet as he was not a Twitter subscriber to the Lawless America Tweets, nor were Claudia Denker-Eccles or Chris Shermer. This Tweet was not intended to produce detrimental effects within the state of Montana, and it did not cause detrimental effects within Montana. William M. Windsor did not send it. William M. Windsor never attempted to commit an offense within Montana, and the State has no evidence that he did. IF sending a Tweet to Lawless America's Twitter subscribers is an offense, it consists of one and only one act – sending the Tweet. As that was not done by William M.

Windsor or with his knowledge, the charge could only be filed in the county wherever the act occurred. (MCA 46-3-112(1).)

40. The allegation in Count IV was an email sent from Texas. *The conduct constituting the offense:* sending an email. *The location of the commission of the alleged criminal acts:* Dallas Texas. This email was required by Federal Rules of Civil Procedure Rule 5, and it was not intended to produce detrimental effects within the state of Montana and did not cause detrimental effects within Montana. William M. Windsor never attempted to commit an offense within Montana, and the State has no evidence that he did.

41. The allegation in Count V was regarding an action that William M. Windsor did not do. *The conduct constituting the offense:* not giving control of a William M. Windsor owned website to Sean Boushie. *The location of the commission of the alleged criminal acts:* There was no act, but William M. Windsor did not act from Dallas Texas. This Court has no jurisdiction over this count because what wasn't done wasn't done from Montana. William M. Windsor was never asked to take any action in regard to a website on October 2, 2014 or at any other time in 2013 or 2014 when he was in Dallas, Texas. He was not asked to take any action on this until March 27, 2015, after the alleged Temporary Order of Protection was dismissed. This inaction was not intended to produce detrimental effects within the state of Montana, and it did not cause detrimental effects within Montana. William M. Windsor never attempted to commit an offense within Montana, and the State has no evidence that he did. IF not doing something is an offense, it consists of one and only one non-act. As William M. Windsor was in Dallas County Texas from August 30, 2013 until March 25, 2015, the charge could only be filed in Dallas County Texas where the non-act occurred. (MCA 46-3-112(1).)

B. **IT IS A VIOLATION OF WILLIAM M. WINDSOR’S
CONSTITUTIONAL RIGHTS FOR THE STATE TO CLAIM
JURISDICTION AND VENUE IN MONTANA.**

42. The Sixth Amendment to the United States Constitution in the Bill of Rights sets forth rights related to criminal prosecutions. The United States Supreme Court has applied the protections of this amendment to the states through the Due Process Clause of the Fourteenth Amendment. The Sixth Amendment provides:

A criminal charge brought under Montana law must be filed in the county where the offense was committed, and the place of trial must be in that same county, unless otherwise provided by law. Sections 46-3-110(1), -111(1), MCA; see also Mont. Const. art. II, § 24 (the accused has the right to be tried by a jury of the county or district in which the offense is alleged to have been committed). Analogously, a federal prosecution occurs in the state and district where the crime was committed. *Skilling v. U.S.*, ___ U.S. ___, 130 S. Ct. 2896, 2913 (2010) (citing U.S. Const. art. III, § 2, cl. 3, and amend. VI). (*State of Montana v. Miles Cassidy Kingman*, 264 P.3d 1104, 362 Mont. 330 (Mont. 11/01/2011).) [**emphasis added.**]

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.”

The proper place of colonial trials was so important to the founding generation that it was listed as a grievance in the Declaration of Independence. See *The Declaration of Independence* para. 21 (U.S. 1776) (objecting to “transporting us beyond seas to be tried for pretended offences”). It was of such concern that the Constitution of the United States “twice safeguards the defendant’s venue right.” *United States v. Cabrales*, 524 U.S. 1, 6, 118 S. Ct. 1772, 141 L. Ed. 2d 1 (1998). Article III requires that “the Trial of all Crimes . . . shall be held in the State where the said Crimes shall have been committed.” U.S. Const. art. III, § 2, cl. 3. (*United*

States v. Aurenheimer, No. 13-1816, U.S. Court of Appeals 3rd Circuit (April 11, 2014).)

Congress may prescribe specific venue requirements for particular crimes. *Pendleton*, 658 F.3d at 303. Where it has not, as is the case here, we must determine the crime’s locus delicti. *Id.*; see also *Black’s Law Dictionary* 1025 (9th ed. 2009) (defining locus delicti as the “place where an offense was committed”). “[T]he locus delicti must be determined from the nature of the crime alleged and the location of the act or acts constituting it.” *United States v. Anderson*, 328 U.S. 699, 703, 66 S. Ct. 1213, 90 L. Ed. 1529 (1946); accord *United States v. Rodriguez-Moreno*, 526 U.S. 275, 279, 119 S. Ct. 1239, 143 L. Ed. 2d 388 (1999); *Cabrales*, 524 U.S. at 6-7. To perform this inquiry, we “must [1] initially identify the conduct constituting the offense . . . and then [2] discern the location of the commission of the criminal acts.” *Rodriguez-Moreno*, 526 U.S. at 279. Venue should be narrowly construed. *Johnson*, 323 U.S. at 276. (*United States v. Aurenheimer*, No. 13-1816, U.S. Court of Appeals 3rd Circuit (April 11, 2014).)

The Supreme Court has repeatedly made clear that the constitutional limitations on venue are extraordinarily important. “[Q]uestions of venue are more than matters of mere procedure. They raise deep issues of public policy in the light of which legislation must be construed.” *Travis v. United States*, 364 U.S. 631, 634, 81 S. Ct. 358, 5 L. Ed. 2d 340 (1961) (quotation marks omitted). “The provision for trial in the vicinity of the crime is a safeguard against the unfairness and hardship involved when an accused is prosecuted in a remote place.” *United States v. Cores*, 356 U.S. 405, 407, 78 S. Ct. 875, 2 L. Ed. 2d 873 (1958); accord *United States v. Passodelis*, 615 F.2d 975, 977 (3d Cir. 1980). The founders were so concerned with the location of a criminal trial that they placed the venue requirement, which is “principally a protection for the defendant,” *Cabrales*, 524 U.S. at 9, in the Constitution in two places. See U.S. Const. art. III, § 2, cl. 3 and amend. VI. They did so for good reason. A defendant who has been convicted “in a distant, remote, or unfriendly forum solely at the prosecutor’s whim,” *United States v. Salinas*, 373 F.3d 161, 164 (1st Cir. 2004), has had his substantial rights compromised. Aurenheimer was hauled over a thousand miles from Fayetteville, Arkansas to New Jersey. Certainly if he had directed his criminal activity toward New Jersey to the extent that either he or his co-conspirator committed an act in furtherance of their conspiracy there, or performed one of the essential conduct elements of the charged offenses

there, he would have no grounds to complain about his uprooting. But that was not what was alleged or what happened. While we are not prepared today to hold that an error of venue never could be harmless, we do not need to because the improper venue here - far from where he performed any of his allegedly criminal acts - denied Auernheimer's substantial right to be tried in the place where his alleged crime was committed. (*United States v. Auernheimer*, No. 13-1816, U.S. Court of Appeals 3rd Circuit (April 11, 2014).)

43. Federal case law on venue provides that when multiple crimes are charged in a single document, venue must be where all the counts may be tried. This is Dallas County Texas.

“Where multiple crimes are charged in a single indictment, the Second Circuit has held that “venue must be laid in a district where all the counts may be tried.” *United States v. Saavedra*, 223 F.3d 85, 89 [F.3d Page 894] (2d Cir. 2000). Accordingly, we must consider the appropriateness of venue with regard to each of the counts of which the defendants were convicted.” (See also *United States v. Jeffrey Royer and Amir I Elgindy*, 549 F.3d 886. U.S. Court of Appeals for the Second Circuit (December 17, 2008).)

...the Constitution's venue requirement was adopted to shield a federal defendant from “the unfairness and hardship” of prosecution “in a remote place.” *United States v. Cores*, 356 U.S. 405, 407, 78 S. Ct. 875, 2 L. Ed. 2d 873 (1958); see 3 J. Story, *Commentaries on the Constitution of the United States* § 1775, at 654 (photo. reprint 1999) (Boston, Hilliard, Gray & Co. 1833) (observing that object of Constitution's vicinage clause is to prevent “accused from being dragged to a trial in some distant state”).

44. In this case, William M. Windsor was dragged 2,400 miles to Montana to stand trial.

Where, as here, a defendant is charged with multiple crimes in a single indictment, the government must satisfy venue with respect to each charge. See *United States v. Beech-Nut Nutrition Corp.*, 871 F.2d 1181, 1188 (2d Cir. 1989). In considering whether the government has carried this burden, we begin by determining the locus delicti of the particular crime at issue, employing the two-step analysis set forth in *United States v. Rodriguez-Moreno*, which seeks first to “identify the conduct constituting the offense,”

and then to “discern the location of the commission of the criminal acts.” 526 U.S. at 279-80; see also *United States v. Cabrales*, 524 U.S. 1, 6-7, 118 S. Ct. 1772, 141 L. Ed. 2d 1 (1998) (“[T]he locus delicti must be determined from the nature of the crime alleged and the location of the act or acts constituting it.”); *United States v. Ramirez*, 420 F.3d 134, 138 (2d Cir. 2005).

To comport with constitutional safeguards, we have construed this language to require more than “some activity in the situs district”; instead, there must be “substantial contacts,” considering “the site of the defendant's acts, the elements and nature of the crime, the locus of the effect of the criminal conduct, and the suitability of each district for accurate factfinding.” *United States v. Reed*, 773 F.2d 477, 481 (2d Cir. 1985); accord *United States v. Royer*, 549 F.3d 886, 895 (2d Cir. 2008). Further, to support venue, what is begun or continued in a district must be a part of the actual charged crime, not merely steps preparatory to the crime. See *United States v. Tzolov*, 642 F.3d at 319; *United States v. Beech-Nut Nutrition Corp.*, 871 F.2d at 1190.

The Supreme Court also has observed that the venue provisions of the Constitution are meant to act as safeguards, protecting the defendant from bias, disadvantage, and inconvenience in the adjudication of the charges against him. *Travis v. United States*, 364 U.S. 631, 634 (1961) (citing U.S. Const. Art. III, § 2 (pertaining to venue); U.S. Const. amend. VI (pertaining to jury trials).) (*United States v. Ebersole*, 411 F.3d 517 (4th Cir. 06/14/2005).)

“Although venue is not an element of the crime, it is a jurisdictional fact that must be proven at trial just as any other material element.” *State v. Johnson* (1993), 257 Mont. 157, 161, 848 P.2d 496, 498; accord *State v. Thompson*, 1999 MT 108, & 19, 294 Mont. 321, & 19, 981 P.2d 778, & 19; *State v. Jackson* (1979), 180 Mont. 195, 200, 589 P.2d 1009, 1013; *State v. Preite* (1977), 172 Mont. 318, 323, 564 P.2d 598, 600-01. Thus, in a criminal case, the State must prove beyond a reasonable doubt that venue is proper. See *Johnson*, 257 Mont. at 161, 848 P.2d at 498. (*State v. Diesen*, 2000 MT 1 (Mont. 01/03/2000).)

“...while venue is not an element of a charged offense, it is a jurisdictional fact which must be established by the prosecution at trial beyond a reasonable doubt.” *State v. Galpin*, 2003 MT 324, ¶23, 318 Mont. 318, ¶23,

80 P.3d 1207, ¶23 (citations omitted). (*State v. Ruiz*, 321 Mont. 357, 91 P.3d 565, 2004 MT 135 (Mont. 05/25/2004).)

45. There must be a crime committed in Missoula County Montana for this Court to have jurisdiction. There were no crimes committed in Montana.

To satisfy the minimum requirements for an exercise of criminal jurisdiction over out-of-state conduct, there must be (1) an act occurring outside the state, which is (2) intended to produce detrimental effects within the state, and (3) is the cause of detrimental effects within the state. Unlike the jurisdictional analysis in civil cases, the “minimum contacts” analysis does not apply when determining criminal jurisdiction. In criminal cases, the analysis focuses on the intent of the defendant and the effects within the forum state. (*See State v Amoroso*, 975 P2d 505, 508 (Ct App Utah 1999).) (*State Criminal Jurisdiction in Cyberspace: Is There a Sheriff on the Electronic Frontier?* By Terrence Berg, article sponsored by the National Association of Attorneys General.)

46. The alleged crimes of violation of a protective order by publishing a name on a website, sending a Tweet to Twitter subscribers, sending an email, and not giving a website to someone were singular acts committed solely in Dallas Texas or in California. These acts were not committed as an attempt to commit an offense in Texas, Montana, or anywhere else. These acts did not involve any acts in furtherance of the alleged crimes in Montana. These acts do not involve an omission to perform a duty imposed by the law of Montana. (MCA 46-2-101.)

C. THIS COURT HAS NO JURISDICTION OVER WILLIAM M. WINDSOR AS HE WAS UNLAWFULLY ARRESTED AND BROUGHT TO MONTANA AGAINST HIS WILL.

47. William M. Windsor was brought to Missoula County Montana from Ada County Idaho.

48. Idaho Code 19-4508 provides that a person being held for extradition to a demanding state must be served with a Governor’s Warrant from the demanding state. William M. Windsor was never served.

49. Idaho Code 19-4510 provides that a person being held for extradition to a demanding state has the right to contest a Governor's Warrant by filing a petition for writ of habeas corpus. William M. Windsor filed his Second Petition for Writ of Habeas Corpus with the Idaho Supreme Court on March 24, 2015.

50. William M. Windsor was unlawfully transported to Missoula County Montana on March 25, 2015 before the Idaho Supreme Court could consider his Second Petition for Writ of Habeas Corpus.

51. As William M. Windsor was unlawfully transported to Montana to be arrested in Missoula County, this Court has no jurisdiction over him.

D. THE TEMPORARY ORDER OF PROTECTION WAS INVALID IN TEXAS, SO WILLIAM M. WINDSOR DID NOT VIOLATE IT.

52. The Temporary Order of Protection was invalid in Texas, so William M. Windsor did not violate it.

53. MCA 40-15-301(5) provides:

“An order of protection issued under this section is effective throughout the state.”

54. MCA 40-15-301(6) provides:

“A certified copy of an order of protection from another state, along with proof of service, may be filed in a Montana court with jurisdiction over orders of protection in the county where the Petitioner resides. If properly filed in Montana, an order of protection issued in another state must be enforced in the same manner as an order of protection issued in Montana.”

55. Texas Family Code Title 4 Chapter 88 Section 88.03(d) (4) provides:

Sec. 88.003. JUDICIAL ENFORCEMENT OF ORDER.

d) A foreign protective order is valid if the order:

(4) was rendered after the respondent was given reasonable notice and an opportunity to be heard consistent with the right to due process, either: (A) before the tribunal issued the order; or (B) in the case of an ex parte order, within a reasonable time after the order was rendered.

56. MCA 40-15-401 to MCA 40-15-408 provides for uniform interstate enforcement of domestic violence protection orders. It provides that the states that have enacted this law (Montana and Texas are two of 17) may enforce the law of protective orders issued in other participating states. However, MCA 40-15-403(5)(d) provides:

“A foreign protection order is valid if it... was issued after the respondent was given reasonable notice and had an opportunity to be heard before the court issued the order, or in the case of an order ex parte, the respondent was given notice and had an opportunity to be heard within a reasonable time after the order was issued, consistent with the rights of the respondent to due process.”

57. MCA 40-15-202(1) states:

“A hearing must be conducted within 20 days from the date that the court issues a temporary order of protection.”

58. There was never a hearing on the Temporary Order of Protection matter, as is required by Montana law. The Temporary Order of Protection was issued ex parte, so it was invalid in Texas.

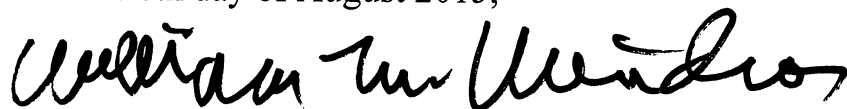
CONCLUSION

59. William M. Windsor has been simultaneously charged with five protective order violations that took place on five distinctively different dates over a nine month period in 2013 and 2014. (See DC-14-509 Docket # 1, 2, 3, 4, and 5.) William M. Windsor was in Dallas, Texas on each of the five dates. There has never been a protective order in Texas. William M. Windsor was served with a Temporary Order of Protection while visiting Montana on August 23, 2013, but the TOP expired and was never valid in Texas. Montana Code states clearly that Montana orders of protection are valid only in Montana. William M. Windsor was in Dallas, Texas at the time of each of the alleged violations. The alleged violations are not against the law in Texas. By statute, the ex parte TOP is invalid

in Texas. William M. Windsor committed no violations in Montana. William M. Windsor was wrongfully arrested and brought to Montana to stand trial on the charges. This Court has no jurisdiction over William M. Windsor's actions in Texas.

WHEREFORE, William M. Windsor prays that all charges be dismissed due to lack of jurisdiction and improper venue; and for such other relief as the Court feels is appropriate.

This 6th day of August 2015,

A handwritten signature in black ink that reads "William M. Windsor". The signature is written in a cursive style and is positioned above a horizontal line.

William M. Windsor

VERIFICATION

Personally appeared before me, the undersigned Notary Public duly authorized to administer oaths, William M. Windsor, who after being duly sworn deposes and states that he is authorized to make this verification on behalf of himself and that the facts alleged in the foregoing are true and correct based upon his personal knowledge, except as to the matters herein stated to be alleged on information and belief, and that as to those matters he believes them to be true.

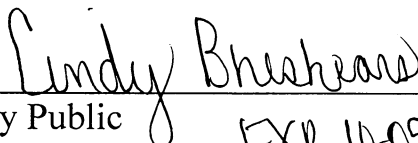
I declare under penalty of perjury that the foregoing is true and correct based upon my personal knowledge.

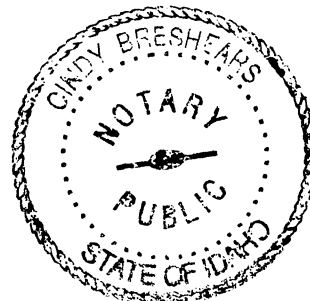
This 6th day of August 2015.



William M. Windsor

Sworn and subscribed before me this 6th day of August 2015.

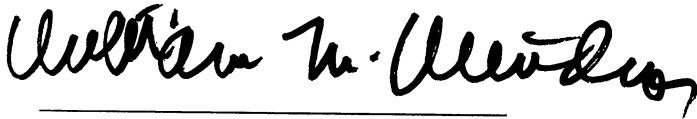

Notary Public EXP 10-05-2016



CERTIFICATE OF CONFERENCE

I hereby certify that I emailed Jennifer Clark about tis Motion, and she replied that she opposes it. She would not address the issues that were presented to her for comment..

This 6th day of August 2015,



William M. Windsor

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Motion by United States Postal Service to Jennifer Clark, Deputy County Attorney, Missoula County Courthouse, 200 West Broadway Street, Missoula, Montana 59802, and I sent a copy to Christopher Daly.

This 6th day of August 2015,



William M. Windsor