

Kini Cosma
Transient
In Propria Persona

IN AND FOR THE JUSTICE COURT OF THE STATE OF OREGON
FOR THE COUNTY OF KLAMATH

KLAMATH COUNTY CODE)	Case No. 1211/CE09-0097
ENFORCEMENT,)	Associated Cases: 0950, 7215, 7186,
)	19358, 09-326,
Petitioner,)	Circuit Ct. Associated Cases:
)	0803782CV; 0803718CV...
))
vs.)	MOTION TO DISMISS PURSUANT
)	TO RULE 54 A(2)
MARIE T. NICHOLSON,))
Kini Cosma, et. al.)	Hearing Date: May 4, 2009
)	Time: 1:30 pm
_____ Respondent))

TO: HONORABLE JUDGE KAREN OAKES AND ATTORNEYS OF RECORD

1. Respondent, Kini Cosma, moves this Court to dismiss Petitioner's claims pursuant to Rule 54 A(2) by order of this court. Petition will be based on all, but not limited to, all of Respondents complaints since 1994, supporting reports, documents, records, memorandum of points and authorities, declarations, and sworn testimonies of all associated proceedings, Internet claims and evidence uploaded and posted at **<http://kinispolarbear.bravehost.com>** presented to this Court.

2.

PRIORITY CASE MANAGEMENT STATEMENT OF FACTS

2. This is primarily a request for declaratory relief regarding the enforceability of code enforcement. This case management statement alleges that the slander and libels are inherently invalid primarily because they were obtained through fraud at the state court level through inequitable conduct originated by the city police of Napa, California. Their actions have influenced judges and attorneys, local officials, communities at large, the police and their informants and hoodlums in Susanville, California and Klamath Falls, Oregon, to carry out surmounting travesties of injustice.

3. There have been constant manifested patterns of physical and psychological abuse, state terror, harassment, a number of discriminations and massive human right violations conducted through excessive housing matters before various courts since 1995.

A BRIEF DESCRIPTION OF JURISDICTIONAL ISSUES

4. In 1995, Respondent was convicted of stalking and sex offense crimes through an illegal plea bargain. A misdemeanor to felonies evidenced by duress, undue influence, coercion, and especially the arbitrary results of inadequate representation who lacked even the most rudimentary knowledge, resources, and capabilities needed for her defense. Respondent continues to contend that the attorney's representation fell below an

objective standard of reasonableness and established prejudice that affected the outcome as a reasonable probability of counsel's errors. It was like not having any representation at all.

5. This occurred in in the Courts of Napa County, Napa, California. Instead of correcting this imbalance, the Courts have fostered it by intentionally appointing inexperienced and incapable lawyers to defend their erroneous view of the law resulting in long-term neglect and unwanted burdens. Respondent has never been entitled to a legitimate appeal in that case.

6. As a result of the Napa County Courts failure to reverse this illegal conviction on their own, several new reports have been filed in the Klamath County Circuit Court in Klamath Falls, Oregon. These damages were sent to the 9th Circuit Court of Appeals because they are damages that should have been foreseen by Napa County and their failure to abide by the Rule of Law and respect for human rights.

7. As the various discriminations have multiplied, Respondent had managed to be academically educated and trained to be self-employed for office businesses, horseshoeing, horse-training, welding, and automotive. However, none of these careers have been an option to provide a livelihood due to the expanded hatred and hostile workplace environments described

throughout all pleadings and the states' illegal suspension of her driver's license.

8. Respondent has suffered numerous hardships that have not prohibited gender discrimination in ALL injuries. The prolonged loss of her children and consequential summary punishments; substantial losses of assets for an indeterminate sum; the grand-theft larceny of a rightfully inherited trust estate of \$100k, losses of extensive real and personal property, and the illegal suspension of her California driver's license from the purposeful and malicious government "oversights" related to this originating case.

9. Due to the seriousness of the offenses, Respondent is unable to become employed in any field of the workforce that she was trained for. The harassment has been more than intolerable and it is going beyond any form of legal solution.

10. No attorney has been available to assist Respondent so she has had to file arduous state and federal cases at all levels of the courts in the states of California and Oregon on her own. All cases have been continually ignored and/or dismissed.

11. After filing federal summary judgments on a timely basis (the State of California defaulted and has never had to pay the damages), Respondent consolidated the cases and sent them to the Federal Claims Court in

Washington, D.C under a category entitled “Failure To Pay“. These cases were again dismissed for lack of jurisdiction. Respondent has had to continue taking it to the international level for the several counts of cruel and unusual punishment that comes along with the sex offender status.

12. In addition, Respondent filed numerous reports regarding her missing \$100k family estate trust. The estate originated in the Napa Courts in California and consolidated at the 9th Circuit Court of Appeals. As to date, she has not had any cooperation regarding it being returned to its rightful owner.

MITIGATING CIRCUMSTANCES

WAS IT LIKELY THAT RESPONDENT COULD HAVE COMMITTED THIS OFFENSE BUT FOR THE FACT THAT SHE WAS UNDER DURESS, COERCION, OR STRONG PROVOCATION?

13. Respondent, contests this citation for “illegal camping” with specifications that it could have been committed to escape apprehension for, and whose sentence to a life time of horrors of humanity by torture, negligence and recklessness endorsed for the malicious purpose of invalidating Respondent’s life were affirmed by the stalker-sex offender status and stigma.

14. Making various challenges to the validity of her conviction, Respondent has attacked the constitutionality of the felony stalking

enhanced with sex offender statute on the grounds of massive illegalities; that it gives this sentencing judge a full opportunity to consider mitigating circumstances in this case as required by the Eighth and Fourteenth Amendments.

15. Further, this Respondent, now a 52 year-old single woman with health problems, was evicted more than one time (in Klamath County alone) in rental disputes with her landlords with the aide of hooligans during the freezing elements of winter months.

16. Regardless of Respondents contentions that the State(s) has subjected her to torture by using her as a human battering instrument in human trafficking, it has become clear by gender discrimination that any female relationship with Respondent's intellectual position is unattainable due to the alleged heinousness of such a horrid status as the City of Napa and County in California claim this Respondent has a history of "stalking women." Therein after, the Courts have sanctioned her by using eviction proceedings to continue to force her to stay at the homes of men who acquire the gist that Respondent is available and vulnerable to sexual aggravation without consequence.

17. In the most recent case of this Respondent in the Klamath County Circuit Court, SUSAN E. SNELLING, PR, ESTATE OF ROSS vs. Cosma

AKA “AMY ATKINS AND ALL OCCUPANTS“, Case No. 0804232CV

Case: 0803782CV being evicted because as a party of interest, the wrongful interference of personal property through dominion caused injury to this Respondent when she complained of hooligans menacing her while residing, and still resides at 5332 Harlan Drive in Klamath Falls in an illegal structure on the property line, in the immediate vicinity of her guesthouse and office, united with imprecise Oregon Health Plan policy, resulted when previous Defendant's *et al* “willfully interfere[d] with her chattel, without lawful justification to deprive this rightful owner of her personal property. And, having everything she owned destroyed on a public curb, the amount in dispute was far more than the monetary value of Respondent’s life possessions, which was approximately in the sum of \$15,000.

18. Respondent’s health prevented her from retrieving much more than the clothes on her back; she didn’t have the strength to move her possessions herself, nor could she afford to hire anyone to move her possessions.

Everything from her furniture to her family photographs and undergarments were taken; she was quite literally left with nothing.

19. To put her into the street when the slum landlord, not the slum tenant, is the real culprit deprived this tenant of fundamental right(s) without any real opportunity to defend. Then she loses the essence of the controversy,

being given only empty promises that somehow, somewhere, someone may allow her to litigate the basic question in the case.

20. The trauma of that eviction was further exacerbated when Oregon's Department of Motor Vehicles confirmed that Respondent's drivers license was fully reinstated but infuriated Klamath Falls police into confiscating her vehicle, dumping and piling all her worldly possessions she had retained on the street at the Klamath County Fairgrounds for passersby to see. This has involved a great amount of emotion and humiliation that results from being forced out of a home.

21. The lack of respect for this Respondent's life, her personal property, real property and misappropriation of her rightfully inherited \$100k estate trust during eviction(s) has largely escaped scrutiny by the judiciary, state legislatures, and legal commentators alike. Respondent contends this loss of personal property is more than an inconsequential aspect of the eviction process. All losses have had a devastating impact on Respondent already traumatized by a illegal conviction of stalking enhanced with a sex offense.

22. In Lindsey v. Normet, the Supreme Court of the United States held that the Oregon landlord-tenant statute, allowing for removal of the tenant within a six day process, was not, on its face, a violation of the 14th Amendment due process clause. But where the right is so fundamental as

the tenant's claim to his home, the requirements of due process should be more embracing. In the setting of modern urban life, the home, even though it be in the slums, is where man's roots. Lindsey v. Normet, 405 U.S. 56 (1972).

23. Essentially, Respondent contends that the Eighth and Fourteenth Amendments require that the sentencer be given a full opportunity to consider mitigating circumstances in this case, but she goes beyond them.

24. Lockett v. Ohio, 438 U.S. 586 (1978) ruled that no state statute could limit mitigating circumstances; the jury must be allowed to consider anything that might move them to show leniency.

25. The Court held that the Eighth and Fourteenth Amendments required, in all but the rarest capital cases, that sentencers not be precluded from considering a range of mitigating factors before imposing the death penalty. These factors included any aspect of a defendant's character or record and any circumstances of the offense proffered as a reason for a sentence less than death.

26. The Court echoed Mr. Justice Black, stating that "[i]n discharging his duty of imposing a proper sentence, the sentencing judge is authorized, to consider all of the mitigating and aggravating circumstances involved in the crime." Page 438 U. S. 604 reviewing the historical repudiation of

mandatory sentencing in capital cases, 428 U.S. at -298, concluded that "in capital cases the fundamental respect for humanity underlying the Eighth Amendment . . . requires consideration of the character and record of the individual offender and the circumstances of the particular offense as a constitutionally indispensable part of the process of inflicting the penalty of death."

27. Respondent recognizes that, in noncapital Page 438 U. S. 605 cases, the established practice of individualized sentences rests not on constitutional commands, but on public policy enacted into statutes.

28. There is no perfect procedure for deciding in which cases governmental authority should be used to impose death. But confronted with what reasonably would appear to be the questionable constitutionality of permitting discretionary weighing of mitigating factors, considering "the nature and circumstances of the offense and the history, character, and condition of the offender," Respondent requests that this sentencing judge liberally construe in favor of the accused determine that at least one of the following mitigating circumstances is established by a preponderance of the evidence:

29. It is unlikely that the offense could have been committed, but for the fact that the alleged offender was under duress, coercion, or strong

provocation."

30. With that obligation in mind, we turn to Respondent's attack on the Klamath County Code Enforcement, the Klamath County Sheriff's Department, and the Klamath County Circuit Court.

31. To address her contention from the proper perspective, it is helpful to review the developments in our recent cases where we have applied the Eighth and Fourteenth Amendments to "capital" death penalty statutes.

32. Literally, you could say, Respondent was sentenced to death under a statutory scheme that precluded any effective consideration of her degree of involvement in any crime or her prospects for any rehabilitation. It is clear from recent history that the infliction of death under circumstances where there is no purpose to take life has been grossly out of proportion to the seriousness of any crime.

33. It is now established that a penalty constitutes cruel and unusual punishment if it is excessive in relation to the crime for which it is imposed. A punishment is disproportionate "if it (1) makes no measurable contribution to acceptable goals of punishment, and hence is nothing more than the purposeless and needless imposition of pain and suffering; or (2) is grossly out of proportion to the severity of the crime.

34. Significant occasions for setting some limit to the method by which

the States assess punishment for actions connected to the deliberate taking of human life has been provided.

35. Upon consideration of Respondent's reports, and other evidence, degree of respect due the uniqueness of this individual and arguments submitted to this court by Petitioner, Respondent, claims this penalty statute is deficient in regard to this hardship.

36. It violates the Eighth Amendment because it is pregnant with discrimination, because it permits a death penalty to be "wantonly" and "freakishly" imposed, and because it imposed the death penalty with "great infrequency" and afforded "no meaningful basis for distinguishing the few cases in which it [was] imposed from the many cases in which it [was] not," Thus, what had been approved under the Due Process Clause of the Fourteenth Amendment became permissible under the Eighth and Fourteenth Amendments by virtue of the judgments.

37. Applying a requirement of actual intent to kill Respondent involved in the physical act causing death, moreover, would run aground on intricate definitional problems attending a felony murder.

38. In this case it is "unmistakably clear" that Petitioners can not be trusted to "abide by existing law" and "to follow conscientiously the instructions" of the trial judges. To exercise unfettered discretion to impose

or not to impose for this grievance of “illegal camping”, the penalty being imposed discriminatorily, wantonly and freakishly, and so frequently that any given sentence is cruel and unusual.

CONCLUSION

39. The Eighth Amendment requires that consideration be given by the sentencer to aspects of character of the individual offender and the circumstances of a particular offense in deciding whether to impose another hardship. Petitioner’s imposition would be pointless and a needless extinction of life with only marginal contributions to any discernible social or public purposes.

40. Achieving the proper balance between clear guidelines that assure relative equality of treatment, and discretion to consider individual factors whose weight cannot always be preassigned, is no easy task in any sentencing system. Where life itself is what hangs in the balance, a fine precision in the process must be insisted upon.

41. There must be a way able to provide an efficient process to protect this Respondent from undeserved economic loss, intentional abuses and to protect this Respondent from unmerited harassment and dispossession by Petitioners in this summary eviction process

42. Surely, this Honorable Judge can agree that this citation must be

dismissed to provide an extrajudicial remedy consisting of judicial intervention for the purpose of compelling human habitation temporary hardship dwelling allowed by ORS Chapter 215 and to complete her caretaking employment for Marie T. Nicholson.

I, Kini Cosma, hereby declares under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated this 27th day of April, 2009:

Signed: _____
Kini Cosma, Respondent

Proof of Service

State Of Oregon. County of Klamath

I hereby certify that I made service of the following legal documents:

MOTION TO DISMISS PURSUANT TO RULE 54 A(2)

upon the individuals and other legal entities to be served, named below, said documents mentioned herein, by mailing such true copies to him/her by first class mail. Addressed as follows:

Mail Service Upon Individual(s) Upon:

Klamath County Community Development Department

● Attn: Building Department 305 Main Street, 1st Floor Klamath Falls, OR 97601

● Attn: Planning Division(s) 305 Main Street, 2nd Floor Klamath Falls, OR 97601

● Attn: Code Enforcement 305 Main Street, 2nd Floor Klamath Falls, OR 97601

● Klamath County Counsel's Office Attn: Dan Bunch 305 Main Street, 1st Floor Klamath Falls, OR 97601

On: April 27, 2009

From: Balins Tower

I further certify that I am a competent person 18 years of age or older and a resident of the state of service or the State of Oregon, and that **I am a party to** not an officer, director or employee of, nor attorney for any party, corporate or otherwise; that the person, firm or corporation served by me is the identical person, firm or corporation served by named in the action.

Dated: April 27, 2009

SIGNATURE

TYPE OR PRINT NAME

ADDRESS

