

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF LANE

State of Oregon, Plaintiff

Case 211314234

Further Memorandum in Support of
8.26.14 Motion for Court or
District Attorney to Motion to Dismiss
Inherent Power of the Court
Act of Correction of 8.26.14 Motion

Andrew G. Clark, Defendant

This is to provide further legal basis (see next page) for my Motion to the Court to Motion and Order for dismissal of charges and vacating of judgment post-sentencing via the Court's inherent powers. It is also to provide the extremely clear definitions of stalking and the constitutional need for stalking protective orders in communicative situations. The conduct upon which "stalking" charges were filed was not illegal and on the face does not constitute stalking. The crime was invented by police and prosecutor. Almost ALL of the fax communications in the 208 pages of initial police discovery were NOT to the complainant but were presented to the court as such. Faxes to the complainant are the ones with their fax time/date stamp on them with the receiving telephone number: 503-224-4518. There are approximately 10 (ten) such business communications over a one year period included in the initial police discovery. All the rest were received at government agencies or other business entities. Many do not have any receipt stamp at all.

It appears I was charged with one count of stalking for each fax. I re-assert what is obvious on the face: the 10 charges represent deliberate fraud or misuse of the Risk Assessment Tool. I go as far to assert that testimony or communication tracing of retired EPD Detective Tony Veach and Prosecutor Erik Hasselman will show there was a meeting or other communication that purposely and with the utmost of malice identified in advance the pre-trial punishment and effects of the 10 identical corporate-initiated stalking

charges. I base that statement upon a meeting with Prosecutor Hasselman in December 2013 with my attorney John Halpern. If that assertion which is based on an unrecorded conference witnessed by my attorney is determined to be true as it appears to be on the face, it is further evidence of allegations of public misconduct and public corruption that does rise to the level of participating in RICO activity of Wells Fargo and its agents such as Ogletree Deakins, employment lawyers and being fully culpable and liable for the RICO and kidnapping allegations as well as 18 USC 1519 violations (obstruction/concealment) as alleged 8.14.14 in District Court.

Legal Standards and Authorities:

Inherent Authority of Court in This Case (see underlined portion)- “Courts have inherent power to do certain things that are necessary for them to be able to do in order to perform their judicial functions, when the legislature has not otherwise given them authority to do those things. *Ortwein v Schwab*, 262 Or 375, 385 (1972), *aff’d*, 410 US 656 (1973). However, by its nature, inherent power is a limited source of judicial power. See *Ortwein*, 262 Or at 385.” *Cox v M.A.L.*, 239 Or App 350 (2010). On sentencing: “Oregon subscribes to the common-law rule that, once a valid sentence is executed – that is, once a defendant begins serving it – the trial court loses jurisdiction over the case, and thus power to modify the sentence. *State ex rel O’Leary v Jacobs*, 295 Or 632, 636 (1983). *The common law rule includes an exception: If the sentence is invalid because it is contrary to law in some respect, the court is deemed to have failed to pronounce any sentence, and thus it has not yet exhausted its jurisdiction and can substitute a valid sentence for the one that is void.* *State v Nelson*, 246 Or 321, 324, cert denied 389 US 964 (1967). That appears to be the only exception recognized in the common law.” *State v Johnson*, 242 Or App 279 (2011).

Civil Stalking: “A person may obtain a stalking protective order in two ways. One method involves filing a complaint with law enforcement. See ORS 163.7335 to 163.744. The other method does not require law enforcement involvement. The victim instead directly petitions the circuit court to issue a civil stalking protective order. ORS 30.866.” *State v Ryan*, 350 Or 670 (2011).

To obtain a Stalking Protective Order (an SPO), the petitioner must meet the statutory requirements and “**if the contact involves speech, Article I, section 8, of the Oregon Constitution requires proof that the contact constitutes a threat. A threat 'is a communication that instills in the addressee a fear of imminent and serious personal violence from the speaker, is unequivocal, and is objectively likely to be followed by unlawful acts.'** *State v Rangel*, 328 Or 294, 303 (1999). But a threat does not include ‘the kind of hyperbole, rhetorical excesses, and impotent expressions of anger or frustration that in some contexts can be privileged even if they alarm the addressee.’ *State v Moyle*, 299 Or 691, 705 (1985).” *Swarrington v Olson*, 234 Or App 309, 311-12 (2010).

Act of Correction from 8.26.14: I incorrectly stated a fact due to misreading the OJIN system printout.

Here is what I wrote: “..... in early November 2013 Tony Veach (et al) went to Judge Vogt to gain a warrant to put me back in jail. He went to Judge Rooke-Ley to get a search warrant.... “.

That message within that portion of the Memorandum is still correct. A total of four judges were involved

in this case none of whom apparently had material facts of the case when making decisions. It represents extreme obfuscation of the justice process. However, my example was incorrect. In fact, Judge Rooke-Ley ordered the jailing based on violation of a pre-trial release condition and not Judge Vogt. I apologize for making that unintentional error and am hereby acting to correct it to remain in compliance with certifications of Truthfulness.

Signed and Sworn:

Andrew G. Clark Pro Se
3270 Stoney Ridge Rd. Eugene, OR 97405 541.510.3915

County Of Lane I, Andrew Clark in the foregoing Motion, state under oath, that I have read and know the content of the Petition, and I declare or verify under penalty of perjury that the facts set forth are true and correct to the best of my knowledge and belief and that all of the documents and exhibits included in, or attached to, the Petition are authentic to the best of my knowledge and belief.

SUBSCRIBED and sworn to before me this _____ day of August 2014

Notary Public for Oregon

My Commission Expires: _____

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF LANE

State of Oregon, Plaintiff

Case 211314234

Memorandum and Motion for Court or
District Attorney to Motion to Dismiss
Inherent Power of the Court
(State's Motion/Order Attached)

Andrew G. Clark, Defendant

Legal Standards and Authorities:

IN THE COURT OF APPEALS OF THE STATE OF OREGON

LAURA ROSE COX, Petitioner-Respondent, v. M. A. L., Respondent-Appellant.

Lane County Circuit Court 180711632 A140030

Courts have inherent power to do certain things that are necessary for them to be able to do in order to perform their judicial functions, when the legislature has not otherwise given them authority to do those things. *Ortwein v. Schwab*, 262 Or 375, 385, 498 P2d 757 (1972), *aff'd*, 410 US 656, 93 S Ct 1172, 35 L Ed 2d 572 (1973). An example of such a power is the power to punish people for contempt for conduct that interferes with a court's ability to conduct judicial proceedings. See, e.g., *Pearson and Pearson*, 136 Or App 20, 25, 900 P2d 533 (1995) ("The power to punish individuals for direct contempt in a summary proceeding is within the inherent authority of the court, and is necessary to preserve order and dignity in the judicial process."). However, by its nature, inherent power is a limited source of judicial power. See *Ortwein*, 262 Or at 385.

Department of Justice: www.justice.gov/usao/eousa/foia_reading_room/usam/title9/rico.pdf
CRIMINAL RICO: 18 U.S.C. §§ 1961-1968 A Manual for Federal Prosecutors

Case Presentation Site: www.RisePatriot.com (cloned on www.osunrise.com). Police and court evidence that proves allegations made within this document and in other legal venues (District Court).

Motion

The Court is moved to Motion and Order dismissal of charges in subject case pursuant to the factual basis, the evidence, and the legal authorities and legal authorities. The facts of this case were not imagined or provided for under Oregon law. The law was constructed around honest police and prosecutor work. No provisions appear to exist for the manufacture of crime as part of RICO alleged in District Court.

Preface – Allegations Proven Beyond Doubt

Please review my evidence presentation site www.RisePatriot.com. The ability to present a case in that format and detail is very new and has never been presented in a Court before. It is an opportunity for immense progress that benefits the entire community once we act as friends and neighbors. Our adversarial system of justice clearly mandates citizens doing what they can to “work out” problems among themselves PRIOR to using the courts but that seems forgotten by the legal profession. We should all meet and work this

out informally and then use the Court to 'bless' whatever it is we come up with. I motioned for such in District Court and the State is respectfully requested to agree with my Motion to Confer and Mediate.

This is also a formal notice of specific crimes that can be charged against Prosecutor Erik Hasselman and retired Det. Tony Veach of City of Eugene Police. I am not at this time asking for their criminal prosecution to give them an opportunity to repudiate their conduct and make amends by prosecuting the corporate accusers:

1. Wells Fargo/Ogletree Deakins for falsifying police threat reports, kidnapping and racketeering. Those are incredibly simple crimes when they actually happen.
2. Attorney Steven Seymour for aiding and abetting RICO and transmitting falsified police reports that resulted in corporate-directed kidnapping using corrupted police and prosecutor. I realize he is very “connected” based on his resume posted on his website. His conduct was highly criminal.

This is a formal Citizen Demand to prosecute per the above. It is the duty of the District Attorney's office to charge them with the crimes so we can have a trial. I presented more than enough evidence that proves their crimes over time and the evidence is official in nature. If District Attorney's office does not believe that is a valid basis for criminal charges then we need to meet so they understand what is presented to them.

Factual Basis

1. I did not commit the crime of stalking. No evidence of stalking ever existed. The crime was invented by police and prosecutor who acted as agents of Ogletree Deakins (employment attorney and agent of Wells Fargo Bank). They actively lied about a physical threat from a secure Portland office tower. The corporate accusers stated in correspondence obtained from police evidence and posted on www.RisePatriot.com that their entire staff was placed in imminent threat of personal violence. I was not in or near Portland for several years. Obvious to all: if there is actually an imminent threat, they would have called Portland Police and they did not. Instead they worked from 5.30.13 until 7.25.13 to “hype” a non-existent physical threat into 10 identical counts of “stalking” with our local police.
2. No provision exists in Oregon Law (from what I could find) that addresses what a lawmaker would think impossible: total manufacture of crime and evidence by malicious police and prosecutor. It is an inherent power and an inherent duty of the Court to correct the effects of manufacture of crime that resulted in a wrongful conviction. *Technicalities are for appeal courts.* Complete and total

invention of crime and malicious prosecution of the invented crime using irrelevant evidence is beyond the scope of an appeals court. In addition to being a power inherent to a court, it is *also* provided for within ORS 135.755 had my attorney been performing their functions at the time.

3. My due process rights were massively violated. I was charged with 10 identical counts of stalking deliberately concocted to cause extreme punishment prior to trial. Under duress of my life with no trial date in sight I agreed to stipulated fact of one stalking charge. Had one count been charged in the first place, there would not have been any jail or ankle bracelet. If it were a collection of different offenses and I agreed to stipulated facts that would be far different. It was 10 identical charges based upon one (1) fax that in no way is illegal or threatening considering the corporate “victim” is in a secure office tower in Portland, OR.
4. Oregon has a well-defined stalking protective order law that relates to communicative stalking. Prosecutor Hasselman and violent crimes police (Tony Veach) in the most deliberate and malicious way possible bypassed all law and policy and manufactured a public threat of danger.
5. At all times, judges were denied access to evidence that would lead anyone to conclude that no crime was committed by me. There was no advance stalking protective order. Each judge who handled the case did not have any access to evidence or exculpatory information. Each judge tended to handle a very small part of the case. For example, in early November 2013 Tony Veach (et al) went to Judge Vogt to gain a warrant to put me back in jail. He went to Judge Rooke-Ley to get a search warrant. They were both presented at one time to me while in handcuffs in the public area of the courthouse.
6. The threat-painting within the court was unconstitutional and immoral. The posting of my picture as a special threat on the wall next to Judge Vogt and Judge Rasmussen is shameful and childish. The practice of arrest in court is reprehensible. It reflects undue influence by police and too much trust in police who clearly work too closely with the prosecutor and together they learned how to “game” the various judges and shield judges from evidence.
7. Armed guards were instructed (by someone yet unknown to me) to follow me around the courthouse. That was so rare, so offensive that finally one of the armed guards who are Sheriff's Department officers reported it to his supervisor and the practice ended. Think about that: it was so unlawful and immoral and wrongful that it made the armed workers (Sheriff's Department) uncomfortable.

8. The Risk Assessment Tool was deliberately 'frauded' with the 10 identical charges with a corporation as the primary complainant. As detailed, Leah Lively was not listed in the original complaints and I see no evidence she requested a stalking protective order. The result was massive denial of due process rights and unconstitutional treatment. It acts to mark me in the public record as a stalker for 10 years. That is one of the benefits Prosecutor Hasselman awarded his corporate puppet-masters in addition to the completely illegal permanent no contact order with Ogletree Deakins or Steven Seymour, who a month later used that to extricate themselves from a District Court case. That is under Appeal.

9. Prosecutor Erik Hasselman appears to have directed the entire activity in order to provide a benefit to Ogletree Deakins and Steven Seymour and to deliberately harm me outside of the construct of the Oregon Stalking laws via 10 identical charges.

He committed a crime. ORS 162.415

Official misconduct in the first degree

(1) A public servant commits the crime of official misconduct in the first degree if with intent to obtain a benefit or to harm another:

(a) The public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office; or

(b) The public servant knowingly performs an act constituting an unauthorized exercise in official duties.

(2) Official misconduct in the first degree is a Class A misdemeanor.

10. I have informally charged him with the crime. That means I have notified Mr. Hasselman that his actions were and are criminal. However: at this time I am not willing to formally swear out charges against him or perform a Citizen's Arrest under ORS 133.225 Arrest by private person

(1) A private person may arrest another person for any crime committed in the presence of the private person if the private person has probable cause to believe the arrested person committed the crime. A private person making such an arrest shall, without unnecessary delay, take the arrested person before a magistrate or deliver the arrested person to a peace officer.

(2) In order to make the arrest a private person may use physical force as is justifiable under ORS 161.255 (Use of physical force by private person making citizens arrest).

I perceived his actions were arrogant and imperial and most malicious until the very end once he seemed to realize my truth. He may have been badly deceived while he was really busy and then just had to go along with it but that is not what the evidence suggests. It suggests Prosecutor Hasselman was so unduly influenced by Attorney Seymour that he abdicated the power of his office to Attorney Seymour who then worked directly with police with the implicit authority granted by Erik Hasselman. Prosecutor Hasselman acted as a willing, eager, knowing agent of a commercial enterprise and he used his power to cause a false arrest and deliver a clear benefit to Enterprise outside of his authority as a public worker. He was badly "chumped" by Attorney Steven Seymour. Prosecutor Hasselman

was “chumped” far worse by Detective Tony Veach (retired) who acted as hired muscle for a racketeering enterprise as alleged and documented in District Court. He was not acting as a police officer. He was acting as a proud agent of a criminal enterprise.

11. The fact that most-busy Erik Hasselman took the time to personally meet with Attorney Steven Seymour in May/June 2013 is shocking to the senses. Here is how any other “victim” of unwanted faxes would have been treated:
 - a. If they called Erik Hasselman, he would almost certainly not return the call at all. That is what my experience with our “leaders” proves. With one or two minor exceptions, they do not ever answer their own telephone or return calls. I have called scores of “leaders” and no matter what the messageI never get a call back...ever.
 - b. If any other “victim” called the police about unwanted faxes, they better hope they did not use 911. Regardless, police would tell them they do not follow up on emails or faxes and that it is a civil matter. I know that for a fact because I called the police non-emergency line, fully identified myself and the purpose of my call, and ASKED dispatch how they handle such matters.
 - c. At the very best, police dispatch MIGHT advise the caller to take steps to obtain a stalking protective order. That would happen if the caller claimed the faxes represented stalking. Without calling them “stalking” and hyping a threat, police dispatch would consider it a pure civil matter.
 - d. If a person received a fax with a very clear, actionable, violent threat THEN it is possible that police would respond to the Act of Violence (not the fax).
 - e. No other stalking case was presented with a corporation as primary complainant. That appears to be a nationwide truth. District Attorney has far better legal resource tools that I do. Please advise me if there has EVER been a stalking arrest or protective order issued with a corporation as primary complainant and a human-proxy (Leah Lively) added in later who herself never filed for a stalking protective order. The uniqueness of the activity suggests it is illegal or other companies certainly would have picked up on the tactic by now, which is completely against the public interests.
 - f. My personal opinion (which can be determined as fact or not) is that Steven Seymour made implied promises to Erik Hasselman. Specifically, I feel that he implied or even promised that it would be a good career move for Erik Hasselman to support Ogletree Deakins and himself.
12. Prosecutor Erik Hasselman and Det. Tony Veach (retired) are guilty of participating in criminal racketeering and the aiding and abetting of kidnapping using corrupted and lied to police acting far, far outside of normal policy. It is the most classic form of RICO: the same enterprise using the same

police forces and two different area prosecutors (Dan Barkovic had the good sense to dismiss their manufactured 2nd degree municipal trespass after the massive SWAT arrest at home with K-9 forces and jailing).

13. Erik Hasselman and Tony Veach both made a very grave error in judgment and violated his position of extraordinary trust and authority by working directly with the corporate attorneys completely against the Oregon Stalking laws that involve communications. In doing so they violated my constitutional rights and obligations as well as my mandated duties under federal legislation Dodd-Frank and Sarbanes-Oxley that regulate financial workers. This gives the Court additional reason to Dismiss as the charges of stalking should never have been made against ORS 163.755:

Conduct for which stalking protective order may not be issued

(1) Nothing in ORS 30.866 (Action for issuance or violation of stalking protective order) or 163.730 (Definitions for ORS 30.866 and 163.730 to 163.750) to 163.750 (Violating a courts stalking protective order) shall be construed to permit the issuance of a courts stalking protective order under ORS 30.866 (Action for issuance or violation of stalking protective order) or 163.738 (Effect of citation), the issuance of a citation under ORS 163.735 (Citation), a criminal prosecution under ORS 163.732 (Stalking) or a civil action under ORS 30.866 (Action for issuance or violation of stalking protective order);

(a) For conduct that is authorized or protected by the labor laws of this state or of the United States.

14. My appeal rights have been compromised. As stated in item #2, matters involving complete manufacture of crime and extreme due process violations orchestrated by a corporate entity for their pecuniary motivations is within the inherent power and obligation of the primary court to correct.
15. Acting as agents of the Enterprise (Wells Fargo/Ogletree Deakins) police presented a judge with bogus evidence used for an unconstitutional search of my home and seizure of my computer equipment. That is an act of felony theft by deception. It is a barely legal activity when it is NOT being corporate-directed. While police and prosecutor acted as agents of Wells Fargo/Ogletree Deakins their activity represents theft of my property under color of the law. I demand my equipment and its intellectual content back immediately. I demand to know what, if any, information was transmitted or provided to Wells Fargo/Ogletree Deakins or attorney Steven Seymour.
16. In January 2014 Erik Hasselman did state that if I wrote him a letter promising not to appeal, he would give greater consideration to releasing my computer equipment. That is blackmail and is part and parcel of the RICO criminal allegations. I assert: police stole my equipment under color of the law. Police have my equipment. It is not up to Erik Hasselman to release it. It is the obligation of the police to return my property and Erik Hasselman has nothing to do with that decision. He is NOT



the police chief. He does NOT supervise the police. As noted: police copy the entire contents of the devices so holding them is a waste of public resources.

17. I need the family pictures and family records on the large computer. I need the exculpatory information stored on the smaller computers. I can specifically identify some of the exculpatory files and material. It is immoral and wrongful to keep people's equipment and/or intellectual content. It transcends the law. That issue has been raised as a Constitutional Question via a Rule 5.1 filing in District Court and was furnished to Oregon's Attorney General Ellen Rosenblum as well as United States Attorney General Eric Holder.

It is for the above reasons and a large number of other reasons that have all been presented to District Attorney's office that the enclosed Motion and Order is necessary and is the legally mandated duty and obligation of the Court and District Attorney's office in this most extraordinary case. I am hopeful that District Attorney's office agrees completely as it would act to repudiate their criminal conduct that has been proven: www.RisePatriot.com backed up on www.osunrise.com.

I thus move the Court to sign the attached Motion and Order or to create another in a suitable format.

Signed and Sworn:

Andrew G. Clark Pro Se
3270 Stoney Ridge Rd. Eugene, OR 97405 541.510.3915

County Of Lane I, Andrew Clark in the foregoing Motion, state under oath, that I have read and know the content of the Petition, and I declare or verify under penalty of perjury that the facts set forth are true and correct to the best of my knowledge and belief and that all of the documents and exhibits included in, or attached to, the Petition are authentic to the best of my knowledge and belief.

SUBSCRIBED and sworn to before me this _____ day of August 2014

Notary Public for Oregon

My Commission Expires: _____



THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LANE

State of Oregon, Plaintiff

Case 211314234

v.

Andrew G. Clark, Defendant

State's Motion and Order to Dismiss Charges
and Set Aside Conviction

This Motion and Order is submitted by the Court as inherent power of the Court.

The Court and Lane County District Attorney's Office reviewed subject case and determined that insufficient evidence existed of the crime of stalking. No stalking protective order was in place prior to arrest on 10 identical stalking charges involving written business communications. The Court and District Attorney Office were not at that time aware of the provenance of the Information upon which charges were based.

Oregon has very well-defined practices for stalking complaints. Oregon has clear case law that defines communication based stalking and the need for protection orders in advance of arrest. A window within the Lane County Sheriff's office is dedicated to that. That office or its equivalent in Portland, OR was not accessed in this case. The complainants did not access their own police to provide the Court a basis to conclude the complainant(s) were actually being stalked or threatened. The Information upon which charges were based was inaccurate.

The Court has the inherent power to dismiss and set aside when such a vast body of evidence is presented after a stipulated facts conviction under the circumstance of this case. The evidence shows the Defendant did not engage in criminal conduct and/or his rights to due process were significantly violated by being arrested without the complainant following Oregon's stalking protective order law.

IT IS SO ORDERED

This day _____ 2014 the charges in Case 211314234 are dismissed and conviction is set aside for good cause.

Hon. Jay McAlpin Judge of Circuit Court of Lane County OR