

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

Appeal No. 31170

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DAVID GAMEZ,  
Petitioner and Appellee,

v.

RORY MICHAEL WALSH,  
Respondent and Appellant.

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APPEAL FROM THE CIRCUIT COURT  
SECOND JUDICIAL CIRCUIT  
MINNEHAHA COUNTY, SOUTH DAKOTA

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THE HONORABLE JEFFREY C. CLAPPER  
CIRCUIT COURT JUDGE

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**APPELLANT'S BRIEF**

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KENNETH M. TSCHETTER  
Tschetter & Adams Law Office, P.C.  
5919 S. Remington Place, Suite #100  
Sioux Falls, SD 57108  
Telephone: (605) 367-1013  
[ken@tschetteradams.com](mailto:ken@tschetteradams.com)  
Attorney For Respondent/Appellant

KRISTI JONES  
Dakota Law Firm Prof LLC  
795 E. Kevin Drive  
Tea SD 57064  
(605) 838-5873  
[kristi@dakotalawfirm.com](mailto:kristi@dakotalawfirm.com)  
Attorney For Petitioner/Appellee

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**PRELIMINARY STATEMENT**

Any references in this brief will be consistent with the page numbers set forth in the settled record. Any references to the settled record in this matter will be indicated by “SR” followed by the page number. Counsel will attempt to specify any other documents referred to in the record by name in order to provide clarity to the Court. Respondent and Appellant Rory Walsh will be referred to as “Walsh.” Petitioner and Appellee David Gamez will be referred to as “Gamez.” References to items included in the Appendix will be referred to as “Appx” followed by the appropriate page number.

**JURISDICTIONAL STATEMENT**

Walsh appeals from the Order for Protection signed by the Honorable Jeffrey C. Clapper, Second Judicial Circuit. SR 54-57. The Order for Protection was filed in the office of the Minnehaha County Clerk of Courts on July 28, 2025. SR 54-57. Appx 3, p 35-38. Such a final order is appealable per SDCL §15-26A-3. Walsh timely filed and

served his Notice of Appeal on August 4, 2025. SR 68.

### **STATEMENT OF LEGAL ISSUES**

#### **I. WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN DENYING THE MOTION FOR NEW TRIAL?**

The trial court denied the motion for new trial without a hearing.

*State v. Otohiale*, 2022 S.D. 35, 976 N.W.2d 759

*Berwald v. Stan's, Inc.*, 2025 SD 33, 24 N.W.3d 420

*Bridgewater Quality Meats, L.L.C. v. Heim*, 2007 SD 23, 729 N.W.2d 387

SDCL §15-6-59(a)(4)

SDCL §22-19A-1(2)

#### **II. WHETHER THE TRIAL COURT ERRED IN GRANTING THE PETITION FOR PROTECTION ORDER?**

The trial court granted a protection order on the basis of stalking by credible threat per SDCL §22-19A-1(2).

*White v. Bain*, 2008 SD 52, 752 N.W.2d 203

*Thompson v. Runner*, 2018 SD 57, 916 N.W.2d 127

*Repp v. Van Someren*, 2015 SD 53, 866 N.W.2d 122

SDCL §22-19A-8

SDCL §22-19A-1(2)

### **STATEMENT OF THE CASE AND FACTS**

On May 28, 2025, David Gamez filed a Petition and Affidavit for a Protection Order against his neighbor Rory Walsh. SR 1-31. Appx 1, pp 1-31. Gamez and his wife Lila have resided at 1013 North Caleb Avenue in Sioux Falls for the last five years. SR 156. In 2022, Walsh moved in across the street, and resided at 1012 North Caleb Avenue in Sioux Falls. SR 157. The Honorable Jeffrey Clapper, Judge of the Second Circuit,

Minnehaha County, granted a temporary order of protection and scheduled the case for hearing. SR 33-35. Appx 2, pp 32-34.

Gamez had previously sought protection orders against Walsh. In February 2024, Gamez filed a petition for protection order<sup>1</sup> against Walsh on grounds that Walsh had sent Gamez a letter accusing him of being an FBI informant, and had named Gamez as a Defendant in a lawsuit filed in Federal court. SR 372. Gamez's wife Lila also filed a nearly identical petition for a protection order<sup>2</sup> against Walsh. SR 376-80. Gamez and Lila alleged Walsh stalked them by watching when they would be home, and watching the process server come to their home. SR 372; 376-77. Both sought an immediate temporary protection order due to stalking, harassment, and making false claims. SR 375, 380. The Court denied both Petitions without a hearing, and found they failed to allege sufficient grounds for relief.

Less than a year later, in January 2025 Gamez and Lila again filed for protection orders<sup>3</sup> against Walsh. SR 382-560. In his written petition, Gamez asserted a number of allegations in support of his request for a protection order:

1. Gamez alleged that Walsh had sued him in Federal court, and falsely claimed Gamez had allowed the FBI to surveil Walsh from Gamez's residence. SR 476.
2. Gamez contended that Walsh's distortion of events would bring him to a point where he retaliates with firearms. SR 476.
3. Gamez complained that Walsh had contacted police in August 2024 and alleged Gamez was filming him as he drove into his garage. SR 476.
4. Gamez alleged Walsh glared angrily at him in September 2024. SR 478.
5. Gamez claimed Walsh appeared angry at a September 2024 Federal court

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1 Minnehaha County file 49TPO 24-161.

2 Minnehaha County file 49TPO 24-162.

3 Minnehaha County files 49TPO 25-47 and 49TPO 25-48.

hearing, and a few days later, “glared angrily, with fists clenched” from his yard. SR 478.

6. Gamez cited Walsh’s history of frivolous lawsuits, as well as paranoid behavior and illusions, as evidence Walsh would continue to harass them by filing new lawsuits, causing financial and emotional harm. SR 478.
7. Gamez attached an order from the Federal court dismissing Walsh’s lawsuit as frivolous, and referencing a history of similar lawsuits Walsh had filed. SR 520-57.

The circuit court heard the protection order petitions on March 11, 2025. SR 244-302. Gamez and Lila alleged that Walsh harassed them by filing a Federal lawsuit against Gamez alleging he was an FBI informant, and allowing the FBI to surveil Walsh from Gamez’s residence. SR 250, 253, 255. Gamez believes Walsh was struggling with mental health issues. SR 258, 267-68. Gamez was afraid of Walsh because Walsh is a retired Marine who has firearms at his residence. SR 258. Gamez alleged Walsh harassed him by calling police and complaining that Gamez was filming him. SR 260. Gamez also submitted that on two occasions Walsh glared angrily at him from across the street; once with clenched fists. SR 262-63. Gamez alleged Walsh harassed him by taking pictures of his house. SR 268-69. Finally, Gamez complained that Walsh walked onto Gamez’s property to return some mail. SR 264, 275-76, 284.

Walsh testified that he had not threatened Gamez. SR 271-72, 276, 282. Walsh pointed out that Gamez did not allege any credible threat had been made. SR 283-84.

The Circuit Court agreed with Walsh that no credible threat had been made. 291, 296, 298-301. The Court stated,

“I think the guy’s [Walsh] confused and probably mentally ill, but I don’t think he’s dangerous and I don’t think that he’s in - - been threatening you or harmed

you other than the whole situation is disturbing for you, but I don't think he's doing, I don't think he's doing any of these things to intentionally harm you.”

SR 301. The Court denied the requests for a protection order. SR 302, 318-19, 338-339.

Undeterred, on May 28, 2025, Gamez and Lila filed yet another pair of protection order petitions<sup>4</sup> against Walsh. SR 1-31; 341-371. Appx 1, pp 1-31. The petitions contained many of the exact same allegations that were litigated and denied at the March 2025 hearing. SR 1-31; 341-371. Appx 1, pp 1-31. Gamez noted that at the prior hearing, the judge denied the protection order because Walsh “had not yet physically assaulted us or shot his gun at us.” SR 2, 342. This time, Gamez added an allegation that Walsh had threatened to kill him. SR 2, 342. Gamez wrote:

“on May 25 Rory Walsh has threatened to KILL ME! Early on Sunday morning, May 25, 2025, I was walking my dog and was about 2<sup>1/2</sup> blocks from my house. I had just crossed the street at the corner of E. Madison St. and Bahnson Ave., was standing on the sidewalk watching my dog go potty in the weeds, when Rory Walsh pulled up to the stop sign at that corner, and started yelling at me through his open window! He yelled at me, saying “I beat you in court before and I will beat you again! And that last thing I will do is to KILL YOU, you fucking wetback!” As Rory Walsh started quickly driving away, I pulled out my phone and quickly took pictures of him driving away. (See pictures attached.) Then I immediately called 911 and asked for a police officer.” SR 2, 342.

Gamez attached the photographs he took of Walsh driving away. SR 8-9. Appx 1, pp 1-31.

The Court granted a temporary protection order and scheduled the matter for hearing. SR 32-35, 42-45. Appx 2, pp 32-34. Both Gamez and Lila requested their previous trial judge recuse himself. SR 7, 347. The new petitions were heard by a different judge<sup>5</sup> on July 28, 2025. SR 152-235.

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4 Minnehaha County files 49TPO 25-471 and 49 TPO 25-472.

5 Appellant believes the case was assigned to Judge Clapper due to the retirement of Judge Hoffman.

At the hearing, Gamez testified that Walsh moved in across the street in 2022, and Gamez tried to befriend him. SR 157-58. In November 2022 someone broke the front door window at Walsh's home, and Gamez came over to help clean up. SR 163, 189-90, 217. Walsh subsequently alleged Gamez was armed with a handgun at the time; Gamez denies this allegation. SR 163, 190, 216. Their interactions stopped when on another occasion Gamez walked into Walsh's garage uninvited, and Walsh expressed he did not appreciate Gamez coming into his garage. SR 158-59. Walsh subsequently named Gamez as a Defendant in a federal lawsuit, and accused Gamez of being an FBI informant. SR 158-59. Gamez repeated his claims of being harassed by the lawsuit itself, and his concerns over Walsh's mental health. SR 161-62. Gamez also alleged again that Walsh was harassing him by reporting to the police that he was taking pictures of Walsh. SR 173-74.

Gamez alleged Walsh threatened him with harm. Gamez testified that on May 25, 2025, he was walking his dog, and was standing at the corner of Bahnson Avenue and Madison Street when he heard Walsh yelling at him. SR 166. Walsh was in his vehicle, at a stop sign. SR 178. According to Gamez, Walsh said "I beat you in court. I'm going to beat you again. The last thing I'm going to do is I'm going to kill you, you fucking wetback." SR 167. Walsh drove off, and Gamez immediately took pictures of Walsh's vehicle before calling law enforcement. SR 167, 178-79. Gamez testified that Walsh's statement "was a credible threat." SR 168.

A police officer responded to the scene and met with Gamez. SR 169-70. According to Gamez, the police officer said Gamez should take a video of Walsh next

time. SR 169-70. Law enforcement did not attempt to speak with Walsh about the alleged incident. SR 209-10.

Lila testified that her husband called her on May 25, 2025, and told her to come to the intersection of Bahnson Avenue and Madison Street. SR 191. According to Lila, Gamez was “white as a sheet” and claimed Walsh had threatened to kill him. SR 191. Lila acknowledged that she was not present to hear the alleged threat from Walsh. SR 191-92, 205. Lila stated Walsh had never personally threatened her. SR 205-06.

Walsh is a retired Marine Corps officer, and an Eagle Scout. SR 208. He testified that Gamez and Lila track him on a daily basis, and photograph him coming and going. SR 208-09, 214. On May 25, 2025, Walsh was going to the grocery store. SR 209. According to Walsh, he saw Gamez standing at the corner of Bahnson Avenue and Madison Street. SR 209. Gamez had his camera out to photograph Walsh as he drove by. SR 209. Walsh denied speaking to Gamez, and categorically denied making any threat to Gamez. SR 209.

Law enforcement did not question Walsh about the alleged May 25, 2025, incident. SR 209-10. The police have never questioned Walsh about any of the allegations made by Gamez. SR 209-10.

Gamez also testified that on May 31, 2025, he was once again walking his dog when Lila pulled up in her vehicle and told him to get in the car because “Rory’s after you.” SR 169. Gamez took a video of Walsh driving in his vehicle. SR 169. Gamez alleged that Walsh was following him and stalking him. SR 169. Lila believed that because Walsh left his home a few minutes after Gamez, Walsh was “going after”

Gamez. SR 194. According to Lila, Walsh was driving in Gamez's direction. SR 195. Lila drove slowly and tried to take a video, but Walsh pulled his vehicle into a driveway. SR 195. Lila drove over to Gamez, picked him up, and they called law enforcement. SR 196-97. Lila also claimed Walsh followed Gamez on three more instances in July 2025. SR 198-99.

Walsh denied following Gamez on May 31, 2025. SR 210. According to Walsh, he was once again driving to get groceries, when Lila chased after him in her car, taking pictures. SR 210. Walsh's vehicle stalled, and he pulled into a driveway and turned around. SR 210. Walsh called law enforcement and complained about being followed and photographed. SR 210, 215.

Walsh testified that he wanted the "mindless allegations" from Gamez to stop. SR 211. Walsh referenced the multiple protection order petitions and stated "this is the fifth time we are fighting over their, their erroneous and psychotic complains over my conduct." SR 211.

Prior to the July 2025 hearing, the Court reviewed the transcript from the March 2025 hearing. SR 155. The Court limited its ruling to the incident on May 25, 2025, and the alleged threatening statement. SR 234. Appx 6, pp 47-50. The Court found the statement "the last thing I'll do is kill you" constituted a credible threat against Gamez, and was the basis for a protection order under SDCL 22-19A-1(2). SR 234. Appx 6, pp 47-50. The Court granted Gamez a protection order against Walsh for five years. SR 54-57, 234. The protection order prohibited Walsh from coming within one hundred yards of Gamez. SR 55. The Court denied Lila's petition. SR 234. Appx 6, pp 47-50.

The protection order was filed on July 28, 2025. SR 57. Appx 3, pp 35-38. On July 30, 2025, Walsh filed a motion to modify the protection order, and asked the Court to reduce the distance restriction to fifty feet. SR 58. On July 30, 2025, the Court entered a superseding protection order which retained the one hundred yard restriction, but clarified that Walsh may enter his home and driveway without violating the order. SR 59-62. Appx 4, pp 39-42. On July 31, 2025, Walsh filed another motion to modify the protection order, and asked that he be allowed to cut his grass and put his trash out without violating the order. SR 63-64. On August 4, 2025, the Court entered a second superseding protection order which clarified that Walsh may be anywhere on his property without violating the protection order. SR 73-76. Appx 5, pp 43-46. Walsh filed a notice of appeal on August 4, 2025. SR 68-71.

On August 25, 2025, Walsh filed a Motion for New Trial, SR 82-89, Appx 7, pp 51-89, along with a supporting Affidavit. SR 114-117. Walsh cited the discovery of new and exculpatory evidence in support of his motion. SR 82-89. Appx 7, pp 51-89. Specifically, Walsh submitted a forensic photograph analysis from expert Richard Quindry, SR 91-93, along with documentation of Quindry's qualifications and experience as an expert. SR 94-100. According to Quindry, analysis of the photographs of Walsh's vehicle shows that the driver's side windows were up. SR 91-93. Walsh contended that as a result, he could not have verbalized a threat to Gamez from his vehicle. SR 82-83, 85. Walsh pointed out that Gamez claimed Walsh yelled at him from his open car window. SR 82-85. Gamez took the pictures of Walsh's vehicle and submitted them to the Court with his petition for a protection order. SR 8-9. Walsh also stated that the

expert evidence was not available to him at the time of the hearing, due to difficulty finding an expert. SR 86. Walsh had attempted to contact his private investigator, but the investigator did not respond until August 5, 2025. SR 119. Quindry's report was prepared on August 22, 2025. SR 91. Walsh asked the Court to reconsider and vacate its decision to grant a protection order. SR 82-89.

On September 15, 2025, Walsh sent a letter to the Court requesting a ruling on his motion for new trial. SR 121-130. On September 17, 2025, the Court entered an Order denying the motion for new trial. SR 151. Appx 8, p 90. The Court did not hold a hearing on the motion for new trial, but stated in the Order that it had reviewed the motion and exhibits. SR. 151. Walsh appeals. SR 68-71.

## **ARGUMENT**

### **I. WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN DENYING THE MOTION FOR NEW TRIAL?**

#### **A. Standard of Review**

"The denial of a motion for a new trial is reviewed for an abuse of discretion." *Lenards v. DeBoer*, 2015 SD 49, ¶ 10, 865 N.W.2d 867, 870. "Whether a new trial should be granted is left to the sound judicial discretion of the trial court, and this Court will not disturb the trial court's decision absent a clear showing of abuse of discretion." *Glanzer v. Reed*, 2008 S.D. 104, ¶ 13, 757 N.W.2d 417, 420 (quoting *Waldner v. Berglund*, 2008 S.D. 75, ¶ 11, 754 N.W.2d 832, 835).

"An abuse of discretion is a fundamental error of judgment, a choice outside the range of permissible choices, a decision, which, on full consideration, is arbitrary or

unreasonable." *Estate of Mack*, 2025 S.D. 7, ¶ 13, 17 N.W.3d at 879 (citation modified) (quoting *Gartner v. Temple*, 2014 S.D. 74, ¶ 7, 855 N.W.2d 846, 850). An abuse of discretion occurs when the court "exercise[s] its discretion 'to an end or purpose not justified by, and clearly against reason and evidence.'" *State v. Abraham-Medved*, 2024 S.D. 14, ¶ 13, 4 N.W.3d 436, 440 (citation omitted).

### **B. Argument**

The trial court abused its discretion in denying Walsh's motion for new trial. SDCL §15-6-59(a) sets forth, in pertinent part, the grounds upon which a trial court may grant a new trial:

"A new trial may be granted to all or any of the parties and on all or part of the issues for any of the following causes:

...

(4) Newly discovered evidence, material to the party making the application, which he could not with reasonable diligence have discovered and produced at the trial;

...

On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment."

S.D. Codified Laws § 15-6-59(a).

Walsh sought a new trial based upon newly discovered evidence: Quimby's expert photograph analysis. Gamez did not submit any opposition to the motion for new trial. Nevertheless, Walsh must meet a four-prong test. "To prevail on a motion for a new trial under SDCL 15-6-59(a) based upon newly discovered evidence, the moving party must prove:

(1) the evidence was undiscovered by the movant at the time of trial; (2) the evidence is material, not merely cumulative or impeaching; (3) that it would probably produce [a different result]; and (4) that no lack of diligence caused the movant to fail to discover the evidence earlier.

*State v. Otothiale*, 2022 S.D. 35, ¶ 30, 976 N.W.2d 759, 770. See also *Barnaud v. Belle Fourche Irrigation Dist.*, 2000 S.D. 57, ¶ 24, 609 N.W.2d 779, 784-85 (requiring the same showing by the moving party in a civil case). “Moreover, “[n]ew trial motions based on newly discovered evidence request extraordinary relief, and they should be granted only in exceptional circumstances and then only if the requirements are strictly met.” *Klutman v. Sioux Falls Storm*, 2009 S.D. 55, ¶ 38, 769 N.W.2d 440, 454 (citation omitted) (alteration in original).” *Berwald v. Stan's, Inc.*, 2025 SD 33, ¶ 45, 24 N.W.3d 420, 434.

Here, it is undisputed that the evidence was undiscovered by Walsh at the time of the July 28, 2025 hearing. Quimby’s report was not written until August 22, 2025.

Second, the newly discovered evidence is material, and not merely cumulative or impeaching. In his petition for protection order, Gamez claimed that Walsh yelled at him through Walsh’s open car window. Gamez also stated that he quickly took pictures of Walsh driving away. Gamez submitted those pictures with his petition for protection order. However, Quimby analyzed the pictures and concluded without a doubt that Walsh’s window was closed.

The Court issued the protection order based entirely on the finding that Walsh had threatened Gamez on May 25, 2025. Expert testimony showing that Walsh’s car window was up directly refutes the allegation in the petition, and is certainly material to the question before the Court.

Quimby's expert conclusion contradicts Gamez's claim that Walsh yelled at him through an open car window. In that sense, the newly discovered evidence is pertinent to Gamez's credibility, and therefore could also be categorized as impeachment evidence. See *State v. Long*, 2021 SD 38, ¶ 38, 962 N.W.2d 237, 252 ("Impeachment evidence is evidence introduced into the record for the limited purpose of attacking a witness's credibility.") However, in this instance the independent, physical evidence goes far beyond mere impeachment, and speaks directly to the issue at hand.

Whether evidence is material is intertwined with the third prong of the test, which asks whether the newly discovered evidence "would probably produce a different result." *Berwald*, 2025 SD 33 at ¶ 45. In criminal cases, evidence is material "if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *State v. Leisinger*, 2003 SD 118, ¶ 14, 670 N.W.2d 371, 374 (applying *Brady v. Maryland*, 373 U.S. 83, 10 L. Ed. 2d 215, 83 S. Ct. 1194 (1963)). Indeed, "[w]hile newly discovered evidence that is merely cumulative or impeaching is generally an insufficient basis for a new trial on its own, this Court has recognized that there may be circumstances where "[n]ewly discovered impeachment evidence may be . . . of such a material weight that it would probably produce" a different result at a new trial." *Berwald*, 2025 SD 33, at ¶ 47 (quoting *Otobhiale*, 2022 S.D. 35, at ¶ 32).

"The test is whether "there is a reasonable probability that the newly discovered evidence would probably produce a different result at a new trial." *State v. Steele*, 510 N.W.2d 661, 664 (SD 1994) (quoting *State v. Willis*, 396 N.W.2d 152, 154 (SD 1986)); see also *Gehm*, 1999 SD 82, ¶18, 600 N.W.2d at 542 (stating that "it is not enough to ask if the verdict would *possibly* be different. The question is would it *probably* be different.").

*Bridgewater Quality Meats, L.L.C. v. Heim*, 2007 SD 23, ¶19, 729 N.W.2d 387, 394.

“A 'reasonable probability' is a probability sufficient to undermine confidence in the outcome.” *Smalley v. United States*, 798 F.2d 1182, 1187 (8<sup>th</sup> Cir. 1986) (quoting *United States v. Bagley*, 473 U.S. 667, 105 S. Ct. 3375, 87 L. Ed. 2d 481, 494 (1985)).

The Court granted a protection order against Walsh based solely on the finding that he made a credible threat to Gamez through an open car window. Evidence that the window was closed undercuts the entire factual basis for the Court’s finding. Had the Court heard from Quimby and considered his testimony about the photographs, the Court’s decision would probably be different.

In analyzing the impact of this new evidence, it is important to remember that Gamez’s testimony was completely uncorroborated. No other witness claimed to hear Walsh yelling at Gamez. Lila acknowledged she was not present and did not hear anything. Despite the extensive history of litigation between the parties, no prior threatening statements had been made, nor even alleged.

In such cases, “[n]ewly discovered impeachment evidence may be so powerful that, if it were to be believed by the trier of fact, it could render the witness'[s] testimony totally incredible.” *Strahl*, 2009 S.D. 54, ¶ 12, 768 N.W.2d at 549 (quoting *United States v. Davis*, 960 F.2d 820, 825 (9<sup>th</sup> Cir. 1992)). If the impeached testimony was uncorroborated and provided the only evidence of an essential element, the impeachment evidence could be of such a material weight that it would probably produce an acquittal. *Id.*” *Otohhiale*, 2022 SD 35, at ¶ 32.

Additionally, Gamez had opportunity and incentive to falsify the statement. The Court denied his prior petition for protection order because no threat had been made. Gamez then filed a nearly identical petition for protection order, but added the unsupported allegation of a threat to kill him. Peculiarly, Gamez even used the statutory language of “a credible threat” when testifying at the hearing. SR 168; SDCL §22-19A-1(2). Finally, Gamez attempted to recuse the judge in a blatant attempt to “judge shop.”

The trial court must judge the credibility of the witnesses and determine the weight to be given to their testimony. *Peery v. Peery*, 2025 SD 57, ¶19. However, in determining whether the newly discovered evidence would probably produce a different result, one must incorporate whether the newly discovered evidence could have affected the trial court’s credibility determinations. In that regard, substantial credibility questions exist regarding Gamez’s uncorroborated, seemingly scripted, out of character allegation of a threat to kill. Quimby’s direct evidence to the contrary undermines confidence in Gamez’s allegation, and thus undermines confidence in the outcome of the proceeding itself.

Finally, the fourth prong of the test requires the proponent of the evidence to show that no lack of diligence caused the movant to fail to discover the evidence earlier. In the case at bar, Walsh stated that the expert evidence was not available to him at the time of the July 28, 2025, hearing, due to difficulty finding an expert. SR 86. Walsh had attempted to contact his private investigator, but the investigator did not respond until August 5, 2025. SR 119. Quindry’s report was prepared on August 22, 2025. SR 91. Appx 7, pp 51-89. It is also important to note that protection order cases utilize an

abbreviated timeline. The hearing must be held within thirty days of the petition, unless the Court grants a continuance for good cause. SDCL §22-19A-10. Here, the hearing was held sixty days after the petition was filed. Under the circumstances, no lack of diligence exists.

In requesting a new trial, Walsh submitted material evidence that was not available to him at the hearing, and which directly contradicts the uncorroborated claim that a threat had been made. Thus, there is a reasonable probability that the new evidence would produce a different outcome, and the trial court abused its discretion in refusing to grant a new trial to consider the evidence.

## **II. WHETHER THE TRIAL COURT ERRED IN GRANTING THE PETITION FOR PROTECTION ORDER?**

### **A. Standard of Review**

The standards of review in protection order cases are well-established:

“The trial court's decision to grant or deny a protection order is reviewed under the same standard that is "used to review the grant or denial of an injunction." First, we determine whether "the trial court's findings of fact were clearly erroneous." We will not set aside the trial court's findings of fact unless, after reviewing all of the evidence, "we are left with a 'definite and firm conviction that a mistake has been made.'" Furthermore, "[t]he credibility of the witnesses, the import to be accorded their testimony, and the weight of the evidence must be determined by the trial court, and we give due regard to the trial court's opportunity to observe the witnesses and examine the evidence." If the trial court's findings of fact are not clearly erroneous, we "must then determine whether the trial court abused its discretion in granting or denying the protection order." *Schaefer v. Liechti*, 2006 SD 19, ¶8, 711 NW2d 257, 260 (citations omitted).”

*White v. Bain*, 2008 SD 52, ¶ 8, 752 N.W.2d 203, 206.

## **B. Argument**

At the close of the July 28, 2025 hearing, the Court granted a protection order on the basis of stalking. SDCL §22-19A-8 provides that an individual may petition the court for a protection order in cases of stalking, physical injury as a result of an assault, or in cases of a crime of violence. “Stalking” is in turn defined by SDCL §22-19A-1:

“No person may:

- (1) Willfully, maliciously, and repeatedly follow or harass another person;
- (2) Make a credible threat to another person with the intent to place that person in reasonable fear of death or great bodily injury; or
- (3) Willfully, maliciously, and repeatedly harass another person by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication.”

Here, the Court found that the statement “the last thing I’ll do is kill you” constituted a credible threat against Gamez, and was the basis for a protection order under SDCL §22-19A-1(2). SR 234.

Walsh respectfully submits that the Trial Court’s finding of a credible threat was clearly erroneous. South Dakota law defines a “credible threat” as “a threat made with the intent and the apparent ability to carry out the threat.” SDCL §22-19A-6. “A credible threat need not be expressed verbally.” SDCL §22-19A-6.

In this case, Gamez testified that he was walking his dog when Walsh pulled his vehicle up to the stop sign at the corner, and started yelling at Gamez through the open car window. According to Gamez, Walsh said “I beat you in court. I’m going to beat you again. The last thing I’m going to do is I’m going to kill you, you fucking wetback!” SR 167.

Walsh contends that under the circumstances, the statement “the last thing I’m going to do is I’m going to kill you” does not constitute a threat made with the intent and the apparent ability to carry out the threat. Indeed, the Court made no findings that Walsh had the apparent ability to carry out the threat. See, e.g., *Thompson v. Runner*, 2018 SD 57, ¶ 17, 916 N.W.2d 127, 131 (reversing and remanding where the circuit court’s findings merely parrot statutory text and do not clearly identify how the evidence met the statutory elements of stalking under SDCL §22-19A-1); *Repp v. Van Someren*, 2015 SD 53, ¶11, 866 N.W.2d 122, 126. No evidence suggested Walsh was armed with a weapon, or possessed any other means to carry out the threat. Walsh acknowledged that he is a retired Marine Corps Officer, but suffers from health problems. SR 208, 211. And, although Gamez testified that he previously observed weapons in Walsh’s home, he did so only when Walsh first moved into the neighborhood in 2022. SR 168. No evidence was offered to show Walsh presently had the apparent ability to carry out the alleged threat.

It is important to note that police did not bother to even investigate the matter. Law enforcement never attempted to speak with Walsh or investigate whether he posed a danger to Gamez. Although it is a crime to attempt by credible threat to put another in fear of imminent bodily harm, see SDCL §22-18-1(4), law enforcement apparently did not view the alleged threat as credible.

South Dakota law provides that “a credible threat need not be expressed verbally.” SDCL §22-19A-6. In this case, the threat was verbal only, and no physical actions accompanied the words to give them any credibility. Walsh was a significant

distance away from Gamez, and was sitting in his vehicle. Walsh did not get out of his vehicle or approach Gamez in any way. In fact, he did the opposite, and drove away from Gamez. Walsh did not raise his fist, or make any other gesture toward Gamez. Indeed, Gamez could cite no other incident of physical aggression or conflict, past or present, that would lend credibility to the verbal statement made.

Absent any evidence that Walsh had the apparent ability to carry out the threat, Gamez could not reasonably be in fear of death or great bodily injury. SDCL §22-19A-1(2). Simply put, empty words spoken from a distance by an unarmed old man sitting in his car do not constitute a credible threat as defined by South Dakota law. The Trial Court erred in finding the statement was a credible threat, and in granting a protection order on that basis.

### CONCLUSION

For the aforementioned reasons, authorities cited, and upon the settled record, Walsh respectfully submits that the decision to grant a protection order must be reversed, and the case should either be dismissed, or be remanded for new trial.

Respectfully submitted this 3<sup>rd</sup> day of December, 2025.



---

Kenneth M. Tschetter  
Tschetter & Adams Law Office, P.C.  
5919 S. Remington Place, Suite 100  
Sioux Falls, SD 57108  
Telephone: (605) 367-1013  
Attorney for Appellant Walsh

CERTIFICATE OF SERVICE

I, Kenneth M. Tschetter, hereby certify that I am a duly licensed and practicing attorney at law, having been so licensed by the Supreme Court of the State of South Dakota, and that I served the within and foregoing Appellant's Brief upon the Appellee by serving electronically via Odyssey File and Serve upon Kristi Jones, Attorney for Appellee, on December 3, 2025, and that I mailed the original Appellant's brief and one (1) copy to the Clerk of the Supreme Court on December 3, 2025.

Dated this 3<sup>rd</sup> day of December, 2025.



---

Kenneth M. Tschetter  
Tschetter & Adams Law Office, P.C.  
5919 S. Remington Place, Suite 100  
Sioux Falls, SD 57108  
Telephone: (605) 367-1013  
Attorney for Appellant Walsh

CERTIFICATE OF COMPLIANCE

Pursuant to SDCL §15-26A-66, Kenneth M. Tschetter, the attorney for Appellant, hereby certifies that Appellant's Brief, submitted to this Court is in compliance with the statutory requirements of SDCL §15-26A-66, as follows: the format used in this brief is "Times New Roman," the font size is 12, the number of pages of the brief is 18, the word count for the relevant portions of the brief is 5,062 and the character count without spaces is 24,554 and 29,882 with spaces.

Dated this 3<sup>rd</sup> day of December, 2025.



---

Kenneth M. Tschetter  
Tschetter & Adams Law Office, P.C.  
5919 S. Remington Place, Suite 100  
Sioux Falls, SD 57108  
Telephone: (605) 367-1013  
Attorney for Appellant Walsh

APPENDIX

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Tab 1

STATE OF SOUTH DAKOTA )  
COUNTY OF MINNEHAHA )

IN CIRCUIT COURT  
2ND JUDICIAL CIRCUIT

David Gerner  
Petitioner  Check here if under 18

TPO NO. 25-472

-vs-

Rony Walsh  
Respondent  Check here if under 18

**PETITION AND AFFIDAVIT  
FOR A PROTECTION ORDER  
(STALKING, OR PHYSICAL INJURY  
AS A RESULT OF AN  
ASSAULT, OR A CRIME OF VIOLENCE)**

I, David Gerner the above named Petitioner, or the Parent/Legal Guardian of the minor child Petitioner (the Filer), being duly sworn upon oath, state and affirm the following:

At least one party to the protection order—Petitioner, Respondent (the person against whom I seek this Protection Order), or a Protected Party (a minor child in my custody also victimized by Respondent)—is a South Dakota resident. Petitioner resides in Sioux Falls County, Minnesota (state); Respondent resides in Sioux Falls County, Minnesota (state); and any Protected Parties not residing with Petitioner or Respondent, reside in \_\_\_\_\_ County, \_\_\_\_\_ (state).

Please check this box if there is a custody order in this state or another state regarding the children of Petitioner and Respondent. Please attach a copy of the custody order to this Petition and provide the county and case number. \_\_\_\_\_

**I AM ASKING THE COURT FOR A PROTECTION ORDER BASED UPON THE FACTS BELOW:**

On or about (month) May (day) 25 (year) 2015 at approximately 6:32 o'clock (am/pm), Respondent committed the following act(s) that seriously alarmed, annoyed, or harassed Petitioner (if not me, my minor child), and any Protected Parties (check all that apply):

- Respondent willfully, maliciously, and repeatedly followed Petitioner and/or any Protected Parties.
- Respondent pursued a knowing and willful course of conduct which seriously alarmed, annoyed or harassed with no legitimate purpose. The pattern of conduct was a series of acts over a period of time, however short, showing a continuing pattern of harassment.
- Respondent made a credible threat with intent to cause reasonable fear of death or great bodily injury.
- Respondent willfully, maliciously, and repeatedly harassed Petitioner and/or any Protected Parties by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication.
- Respondent caused physical injury as a result of an assault.
- Respondent committed a crime of violence.

Describe your relationship with Respondent (ie. neighbor, co-worker, etc): neighbor

Provide a detailed description of what happened on the above date: Please see attachments

2<sup>nd</sup> Request for Protection Order

May 28, 2025

On the afternoon of March 11, 2025, we had a formal Hearing with Judge Hoffman, where we requested a Protection Order against Rory Walsh here in Sioux Falls. My wife provided (verbally & in writing) pages and pages of documentation about the many threats and harassment that Rory Walsh had committed against us. During the hearing, Judge Hoffman said he believed that Rory Walsh was a "paranoid schizophrenic" and the judge said he believed the information that we had presented that day. Then Rory Walsh told the judge that he was selling his home and moving to another state within no more than 90 days. (In fact, Rory Walsh guaranteed twice to the judge that he would have his home sold and be moved away by no later than June 11.) The judge warned Rory Walsh to keep away from us and stay off our property. The judge said to us that "since Mr. Walsh had not yet physically assaulted us or shot his gun at us, and since he would be moving away shortly, that the judge was not going to give us a Protection Order at that point. (As we left the courtroom, the deputies walked out with us to protect us, and one of the deputies told us that "if Mr. Walsh does another instance of harassment or threat, that we should request a Protection Order again".)

Allow me to also point out that Mr. Walsh has not put his house up for sale, and not listed his house with any realtor and is not on any real estate listing site during this time. So he lied to Judge Hoffman that day!

Even though the Federal Judge dismissed the lawsuit against us in late January 2025, since then Rory Walsh has continued to threaten us further in his writings to the Federal Court Judge (while trying to get the judge to change her decision), has had more paranoid "delusions" of great concern, **and now on May 25 Rory Walsh has threatened to KILL ME!**

Early on Sunday morning, **May 25, 2025**, I was walking my dog and was about 2 ½ blocks from my house. I had just crossed the street at the corner of E. Madison St and Bahnson Ave, was standing on the sidewalk watching my dog go potty in the weeds, when Rory Walsh pulled up to the stop sign at that corner, and started yelling at me through his open window!

**He yelled at me, saying " I beat you in court before and I will beat you again!  
and the last thing I will do is to KILL YOU, you fucking wetback!"**

As Rory Walsh started quickly driving away, I pulled out my phone and quickly took pictures of him driving away. (**See pictures attached.**) Then I immediately called 911 and asked for a police officer. I next called my wife Lila to come to corner of Bahnson and E. Madison St. and meet with me and the police. (The police call log # for this instance is: CFS25-104014.)

Yesterday, I spoke with Michael Hoffman, Assistant US Attorney – District of South Dakota, who is very familiar with all parties in this lawsuit, and she recommended I seek an immediate "temporary protection order" against Mr. Walsh, in view of his escalated threats, his racist insults, and now this threat to **kill** me.

Between March 11,2025 and today May 25, Rory Walsh has continued with other threats and harassment against us in writing and has had increased "delusions" (see attached pages).

\*\*\* Also when you review the attachments, please note that Rory Walsh is not disabled... he simply is a diabetic (a condition that many people in this country have). He did have a recent back surgery which he is recuperating from.

3/21/25 – Rory Walsh threatened me with incarceration, claims the FBI is trying to keep him from making court filings, and then he took multiple photos of the exterior of our house claiming we are "surveilling him for the FBI", etc.

(There is a chart on the last page of this report showing the many times Mr. Walsh has threatened me with incarceration over the past 16 months.)

3/24/25 – Rory Walsh alleges people are "continuing to peer in his health records", people are sending teams of FBI assassins to strike and kill him,... and that the government sent a team to Anytime Fitness on 41<sup>st</sup> St to observe and evaluate Mr. Walsh.

5/10/25 – Rory Walsh alleges FBI agents observing him struggling to get to the bathroom after his back surgery! More frivolous allegations as part of his many heightened "delusions".

\*\*\* Please see the 5/15/25 response attached from the Assistant US Attorney.

5/19/25 – Rory Walsh alleges the FBI was sent to Mayo Clinic to "criminally interfere with Walsh's treatment"..... more fictitious delusions!

5/27/25 – Rory Walsh now accuses Attorney Alison Ramsdell of "utter lack of action" and wants a jury trial against her.

5/9/25 - In another (related) lawsuit (FOIA), Rory Walsh insults Federal Judge Schulte and insists tht Schulte must "recuse" himself from that case. More delusional reactions from Rory Walsh.

Rory Walsh's delusions and false allegations are increasing in frequency and severity... all leading up to his **Threat to Kill Me!** That is why I now need a temporary Protection Order.



Continued from Page 2

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**REQUEST FOR HEARING AND PROTECTION ORDER**

Based upon this Petition and Affidavit in which I truthfully set forth the details of the stalking, physical injury, and/or crime of violence, I respectfully ask the court to set a date to hear this matter and after hearing the evidence, to grant Petitioner and any Protected Parties a Protection Order:

- 1) To Restrain Respondent from:
  - a) following or harassing, or making any credible threat with the intent to place Petitioner and any Protected Parties in reasonable fear of death or great bodily injury, SDCL 22-19A-1;
  - b) causing any injury as a result of an assault or a crime of violence, SDCL 22-1-2(9).
- 2) To grant the Protection Order for a period of 5 years time (no longer than 5 years).
- 3) To exclude Respondent from Petitioner's residence listed in 4C.
- 4) To Order that Respondent shall not come within a distance of 100 yds from the following persons and places:

- A. The Petitioner personally
- B. The following minor children named as other Protected Parties:  Additional names attached

Name	Date of birth	Relationship
_____	_____	_____
_____	_____	_____
_____	_____	_____

Are any of the children related to the Respondent? If so, how? \_\_\_\_\_

- C. Petitioner's residence (street/apt) \_\_\_\_\_  
(city) \_\_\_\_\_, (state) \_\_\_\_\_, (zip) \_\_\_\_\_
- D. Petitioner's place employment (street) \_\_\_\_\_  
(city) \_\_\_\_\_, (state) \_\_\_\_\_, (zip) \_\_\_\_\_
- E. Other places (street/apt) \_\_\_\_\_  
(city) \_\_\_\_\_, (state) \_\_\_\_\_, (zip) \_\_\_\_\_  
(street/apt) \_\_\_\_\_  
(city) \_\_\_\_\_, (state) \_\_\_\_\_, (zip) \_\_\_\_\_  
(street/apt) \_\_\_\_\_  
(city) \_\_\_\_\_, (state) \_\_\_\_\_, (zip) \_\_\_\_\_

- 5) That Respondent be restrained from contact with Petitioner and any Protected Parties, by any direct or indirect means except as authorized by a court order.
- 6) To Order other relief which I believe is necessary for Petitioner's protection and any Protected Parties' protection, as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(If you are requesting an immediate temporary protection order without notice to Respondent and without an opportunity for Respondent to appear; you must state why you believe Petitioner or any Protected Parties will suffer immediate and irreparable injury or damage if you or they have to wait until the hearing.)

**REQUEST FOR IMMEDIATE PROTECTION ORDER  
WITHOUT NOTICE TO THE OTHER PARTY**

I am not requesting an immediate Temporary Protection Order.

In addition to what I have requested in sections 1-5 above, I further request that the Court grant Petitioner and any Protected Parties an immediate Temporary Protection Order Restraining Respondent from stalking or physical injury based upon the following sworn statements and beliefs:

The reasons Petitioner and any Protected Parties need this order immediately and cannot wait until the scheduled hearing are: Please see attachment

I believe that Petitioner, and/or any Protected Parties will suffer immediate and irreparable injury, loss or damage if not granted an immediate Temporary Protection Order without notifying Respondent and Respondent's attorney or giving Respondent an opportunity to be heard.

The immediate and irreparable injury, loss or damage which I believe will be suffered is: Loss of life

On this 28 day of May, \_\_\_\_\_, I swear or affirm under oath that the information I have provided in this Petition and Affidavit are true and correct to the best of my knowledge. I believe Petitioner and any Protected Parties are entitled to the protection I have requested. I am asking for this protection for valid reasons and am not attempting to harass the person I am seeking protection against and am not attempting to abuse or delay the court process or any other legal action.

[Signature]  
Your Signature as  Filer Only /  Petitioner (check one)

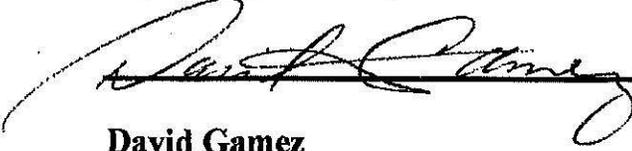
Signed and sworn to before me on this 28 day of May, 2025



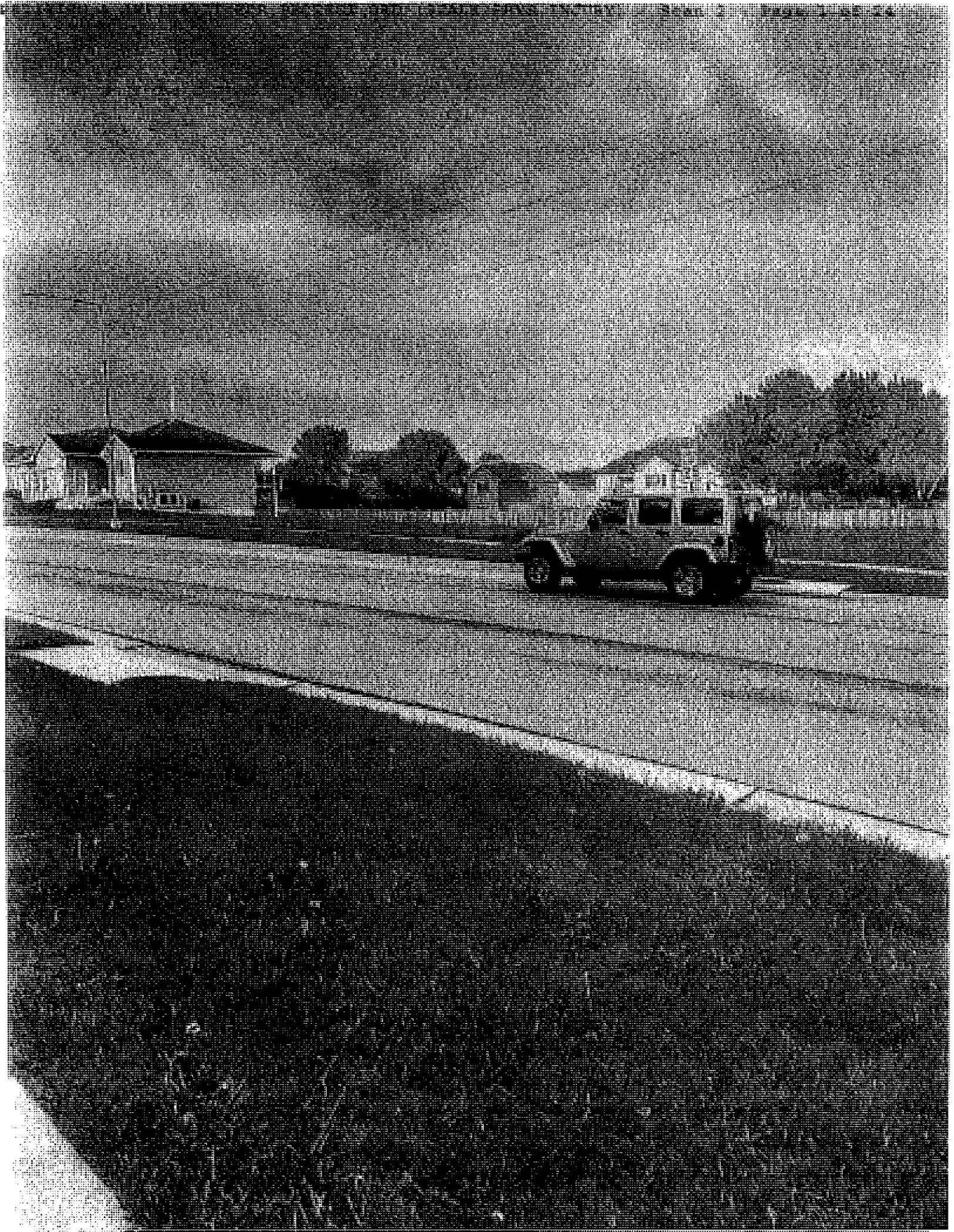
[Signature]  
Notary Public/Deputy Clerk of Courts  
Commission Expires \_\_\_\_\_  
**FILED**  
MAY 28 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

Form UJS-121A if Adult  
Form UJS-121AJ if Juvenile  
Rev. 07/21

I David Gamez respectfully request Judge Hoffman recuse himself from this important proceeding

A handwritten signature in black ink, appearing to read "David Gamez", is written over a solid horizontal line. The signature is cursive and somewhat stylized.

**David Gamez**





b. On 3 Dec 2023, in criminal collusion with the FBI, defendant Gamez colluded with the FBI and allowed the FBI to not only maintain illegal surveillance on the Plaintiff, but also to use Gamez's residence to make a concerted effort to keep the Plaintiff from making a filing in the related case, 23-cv-4164. This is the latest and most serious crime by Gamez, see 18 USC §241; Conspiracy against rights, also in direct violation of the *Ku Klux Klan Act of 1871*. Defendant Gamez faces significant fines and imprisonment for up to 10 years for his participation in this crime against this disabled Plaintiff (as does defendant Winston for this crime). See 18 USC §241. Gamez boldly paraded back and forth behind his front door as FBI agents waited to pounce on the Plaintiff to keep the Plaintiff from making a filing in case 23-cv-4164 and is now being held liable for his participation in same crimes. Gamez also faces premise liability for his allowing the FBI to use his premises to attempt to block the Plaintiff from making his filing in case 23-cv-4164, see exhibit (a). Walsh ignored the theatrics by Gamez and the FBI during the evening of 3 Dec 2023 and made his filings. Same crime by Gamez and the FBI on 3 Dec 2023, was also a very puerile and poorly-conceived crime; as this court well knows, as does the FBI, Walsh files through the ECF system, so any shenanigans by Gamez and the FBI repeatedly on Gamez driveway and within his front doorway were senseless and had no effect on Walsh's ability to file in case 23-cv-4164. Further, same filing at docket 16 in case 23-cv-4164 precipitated Judge Schulte to DENY the Navy's motion to dismiss; Walsh is winning that FOIA action, see exhibit (b). Further, the FBI has not produced a single warrant for this crime on 3 Dec 2023 using Gamez residence, or regarding any of their crimes and break-ins at Walsh's residence as reported in this action.<sup>1</sup>

c. As reported to this court at docket 108, both Gamez and his wife Lila continue their criminal surveillance of the Plaintiff disabled veteran Walsh as he merely exits his residence and returns from his evening runs, see docket 108 at exhibits (d), (e), (f) and (g).

d. Continuing his criminal harassment of disabled Veteran Walsh, on 20 August 2024,

<sup>1</sup> FBI Winston has not plead to the complaint and remains in default

4 pictures  
of our house

Case 4:24-cv-04018-CCT Document 139 Filed 03/24/25 Page 4 of 14 PageID #: 1959

incurable disease, exhibit (g), the letter from OJAG Navy showing the Navy has ordered an investigation into same premeditated murder attempts by both Humble and Hagee, exhibit (h), as well as the NCIS<sup>1</sup> Interview cover sheet when Walsh was interviewed by NCIS in front of his attorney on 3 August 2017 in York, PA, exhibit (i).

5. What precipitated this action being brought here in South Dakota, as briefed in open court on 19 Sept 2024 with this Honorable Court nodding in consent, was defendant Hagee illegally peering into Walsh's health records with the VA and seeing the BVA/VA overturn Hagee's fraud from 2006 (docket I at count III) wherein murderer Hagee "conjured up" a fraudulent VA medical examination on 13 Dec 2006 at a VAMC (VAMC Wilmington, Delaware) (see exhibit (j)) that Walsh has never been treated at, while Walsh was at work at GSI Commerce in King of Prussia, PA; see exhibit (k). This is serious fraud upon the government by defendant murderer Hagee; see 18 USC §1031. Hagee faces prison time and fines for this his first major crime against disabled veteran Walsh and his sons. It took disabled veteran Walsh 16 years to overcome Hagee's fraud against the government and Hagee's criminal interference with Walsh's VA benefits.

6. With the VA/BVA overturning Hagee's fraud from 2006 and issuing both the remand and orders for same wrongly withheld compensation to be paid out, see exhibits (l), (m) and (n), Hagee sent teams of FBI assassins to strike and kill Walsh during his evening runs at Yankton Trail Park, on 3 Sept 2022<sup>2</sup>, 28 October 2022, and 28 April 2023 as each order was promulgated by the BVA/VA. Further, under the 8<sup>th</sup> Circuit Continuing violation doctrine, Hagee has also brought forward his friend Jerry D. Humble's premeditated murder attempt for consideration by this court. See the decision in *White vs Bloom*, 621 F.2d 276, 280-81 (8<sup>th</sup> Cir. 1980). Hence, this court can hear and rule on Humble's premeditated murder attempt, confirmed by the VA. Now with Hagee again looking into Walsh's medical records with the VA and sending out his own team to observe and evaluate Walsh as Walsh limped into the Anytime Fitness on 41<sup>st</sup> Street, on 14 March 2025, continuing in his gross Privacy Act and HIPAA violations, in suit, it is proper that this court now VACATE the order at docket 105, and issue the

<sup>1</sup> NCIS-Naval Criminal Investigative Service.

<sup>2</sup> This Honorable Court is reminded, while exhibit (l) is dated 6 Sept 2022, Hagee sent his team of assassins with dogs to strike and kill Walsh during his evening run on Friday, 3 September 2022. Walsh did not learn why until he received the VA letter at exhibit (l) dated 6 September 2022. Hagee, in his gross Privacy Act violations that continue unabated, illegally looked into Walsh's records with the VA, saw the letter of 6 September 2022 about to be sent out, and sent his teams of assassins with dogs to strike and kill Walsh on the evening of 3 September 2022.

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appropriate at this time, due to the severity of Walsh's injury, that will allow for his surgery, hospitalization, and recover therapy so he can return to his desk to continue to fight this important action the six (6) confirmed murder attempts before this court, with defendant murderer Hagee continuing to illegally pry into Walsh's health records with the VA and send his own team of medical evaluators to assess Walsh's injury at Anytime Fitness located at 4720 E. 41<sup>st</sup> St., Sioux Falls, SD during Walsh's evening workout on Friday, 14 March 2025.

22. Continuing in his illegal and criminal interference with Walsh's health records with the VA, **WITH THOSE SAME CRIMES PRECIPITATING THIS ACTION, SEE DOCKET 1 AT COUNTS V, VI, AND VII**, defendant murderer Hagee, who is not a medical doctor but a criminal murderer, unsatisfied with Walsh's communicating with this court (and Judge Schulte) that he needed a STAY or CONTINUANCE while he has surgery and recovers, murderer Hagee sent his own team of medical specialists to conduct their own evaluation of Walsh's injury, and to interview Walsh regarding same injury at the Anytime Fitness Gym that Walsh uses, located at 4720 E. 41<sup>st</sup> St., Sioux Falls, SD during Walsh's evening workout on Friday, 14 March 2025, see exhibit (r). They both were waiting for disabled veteran Walsh to limp in, they were not conducting their own workouts but were waiting inside, indicating defendant murderer Hagee continues his abuse of the FBI, and had assigned this "medical team" to be waiting for Walsh to arrive, witness Walsh's severe limp, make light conversation and leave. They watched Walsh limp into the Anytime Fitness on 41<sup>st</sup> Street together, while waiting together (man and a woman) for Walsh to arrive, spoke briefly with Walsh to confirm Walsh needed surgery, then they left.

23. These are the same crimes and Privacy Act violations (as well as HIPAA violations) by defendant murderer Hagee that precipitated this action, as Walsh briefed this court on 19 September 2024 in open court, and Walsh has the right to recover from this NEW CRIME on 14 March 2025. This is yet another of Hagee's gross Privacy Act and HIPAA violations that precipitated this action, see counts V, VI and VII at docket 1. Walsh has the right to recover, again, from Hagee's continued gross Privacy Act and HIPAA violations in suit, see 5 USC §552(a) and 42 USC §1320d-6. Walsh has the right to recover, from this latest crime by Hagee, in suit, not only under the Crime Victim Rights Act 18 USC §3771, but also under the Privacy Act. AS PROMULGATED BY SUPREME COURT JUSTICE GINSBURG IN **DOE V. CHAO** (02-1377) 540 U.S. 614 (2004);

IN THE UNITED STATES FEDERAL DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

IN RE:

Captain Rory M. Walsh USMC (Ret.)

Plaintiff,

vs:

SecNav Carlos del Toro

*Et al.*

Defendants.

Case: 24-cv-04018  
Judge: Pamela C. Theeler

**NOTICE TO THE COURT**  
**OF THE CONTINUED CRIMINAL ACTIONS OF DEFENDANT MURDERER**  
**MICHAEL W. HAGEE AND HIS CONTINUED ABUSE OF THE CRIMINAL FBI**

AND NOW, TO WIT, this 10<sup>th</sup> day of May 2025, comes the Plaintiff, and files this NOTICE TO THE COURT regarding the continued criminal actions of defendant murderer Michael W. Hagee and his continued abuse of the criminal FBI, in suit.

1. As previous relayed to this court, the Plaintiff has been seriously injured, requiring surgery on four disks in his back. Surgery was scheduled for 23 April 2025, at the Mayo Neurosurgery Clinic in Mankato, Minnesota. See exhibits (a) and (b).
2. True to form, and continuing in his abuse of the criminal FBI out of the Minneapolis, Minnesota FBI field office (led by served defendant SAIC Alvin M. Winston, Sr.), once the Plaintiff woke up from surgery and the used Morphine Anesthetic, and struggling to the bathroom to relieve himself with the help of two nurses, there were two FBI agents, without any reason or warrant present, one male and one female, observing the groggy Plaintiff struggle to the bathroom. Once the Plaintiff finished, and left the bathroom, both criminal FBI agents had left. Walsh already reported to this court within docket 144 Hagee sent his own team of medical experts to the ANYTIME FITNESS on 41<sup>st</sup> Street on 14 March 2025 to witness and verify Walsh was injured as he severely limped in, not satisfied with what he already learned from his team of medical experts sent on 14 March 2025, and through his continued gross and criminal Privacy

Act viewing of Walsh's medical records with the VA, Hagee AGAIN sent the criminal FBI into the Mayo Neurosurgery Clinic in Mankato, Minnesota to verify Walsh's injury and surgery.

3. This is the same continuation of the criminal actions of defendant murderer Michael W. Hagee, and his gross and illegal Privacy Act and HIPAA violations that precipitated this action here in South Dakota (as briefed in open court on 19 Sept 2024), without any warrant and without any reason.

4. This is yet another of Hagee's gross Privacy Act and HIPAA violations that precipitated this action, see counts V, VI and VII at docket 1. Walsh has the right to recover, again, from Hagee's continued gross Privacy Act and HIPAA violations in suit, see 5 USC §552(a) and 42 USC §1320d-6. Walsh has the right to recover, from this latest crime by Hagee, in suit, not only under the Crime Victim Rights Act 18 USC §3771, but also under the Privacy Act and HIPAA.

5. AS PROMULGATED BY SUPREME COURT JUSTICE GINSBURG IN *DOE V. CHAO* (02-1377) 540 U.S. 614 (2004);

"Section 552a(g)(4)(A) affords a remedy for violation of a Privacy Act right safeguarded by §552a(g)(1)(C) or (D). The words "a person entitled to recovery," as used in §552a(g)(4)(A)'s remedial prescription, are most sensibly read to include anyone experiencing an "adverse effect" as a consequence of an agency's intentional or willful commission of a Privacy Act violation of the kind described in §552a(g)(1)(C) or (D). The Act's text, structure, and purpose warrant this construction, under which Doe need not show a current pecuniary loss, or "actual damages" of some other sort, to recover the minimum award of \$1,000, attorney's fees, and costs." *Id.*

6. With the continued lack of action by AUSA Hofmann and USA Ramsdell as Hagee continues his abuse of the criminal FBI deep in this action, both failing to police or control defendant murderer Michael W. Hagee, Plaintiff again asserts his rights under the Crime Victim Rights Act 18 USC §3771 and under the Privacy Act 5 USC §552a to recover before this court. And with defendant Hagee continuing his blatant and bold-faced crimes deep into this action; for this court to VACATE the order at docket 105, and issue the scheduling order to bring this action before a jury regarding these six (6) murder attempts and Hagee's continued Privacy Act and HIPAA violations, as guaranteed by the due process rights under the 5<sup>th</sup> and 14<sup>th</sup> Amendment to the United States Constitution due to

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

RORY M. WALSH,  
Plaintiff,

v.

CARLOS DEL TORO, SECRETARY OF  
THE NAVY,

MICHAEL W. HAGEE,

DEPARTMENT OF THE NAVY,

JERRY D. HUMBLE,

MICHAEL D. NORDWALL, FEDERAL  
BUREAU OF INVESTIGATION,

SAIC ALVIN M. WINSTON, SR.,  
FEDERAL BUREAU OF  
INVESTIGATION,

UNITED STATES ATTORNEY,  
ALISON RAMSDELL,

DAVID J. GAMEZ,

and

UNITED STATES OF AMERICA,

Defendants.

4:24-cv-04018-CCT

**FEDERAL DEFENDANTS'  
RESPONSE TO PLAINTIFF'S  
NOTICE OF ALLEGED CONTINUED  
CRIMINAL ACTIVITY**

Defendants United States of America, Department of the Navy, former Secretary of the Navy Carlos Del Toro, Marine Corps General Michael W. Hagee (Retired), Marine Corps Major General Jerry D. Humble (Retired), former Executive Assistant Director of the Criminal Cyber Response, and Services Branch Michael D. Nordwall (Federal Bureau of Investigation ("FBI")), Special Agent in Charge Alvin M. Winston Sr. (FBI Minneapolis Field Office), and United States Attorney Alison J. Ramsdell (hereinafter referred to collectively as the "Federal Defendants"), by

and through their undersigned counsel of record, respond to pro se Plaintiff Rory Walsh's Notice of [alleged] continued criminal actions by General Hagee. Doc. 146.

On January 15, 2025, this Court granted the Federal Defendants motion to dismiss the complaint and denied Mr. Walsh's motion to supplement the complaint. Doc. 105, at p. 37. The Court also issued an order to show cause why a prefiling injunction should not be issued against Mr. Walsh. *Id.* Mr. Walsh has filed a motion for reconsideration. Doc. 108. The Court's decision on the Order to Show Cause and Mr. Walsh's motion for reconsideration is pending. Mr. Walsh now makes further dubious allegations which are unsupported by any credible evidence. Mr. Walsh now alleges that when he

"woke up from surgery [at the Mayo Neurosurgery Clinic] ... and struggling to the bathroom to relieve himself with the help of two nurses, there were two FBI agents, without any reason or warrant present, one male and one female, observing the groggy Plaintiff struggle to the bathroom. Once the Plaintiff finished, and left the bathroom, both criminal FBI agents had left."

Doc. 146, at p. 1. Mr. Walsh further alleges, again without any credible evidence, that the purported and unidentified FBI agents were sent by General Hagee to verify his injury and surgery. *Id.*, at pp. 1-2. General Hagee retired from the Marine Corp. on January 1, 2007, (Doc. 45, at ¶ 1) and does not exercise any authority or control over the FBI.

Mr. Walsh continues to assert fictitious claims of continued criminal conduct to perpetuate this frivolous lawsuit. *See e.g.* Doc. 146, Doc. 109. Additionally, Mr. Walsh has a lengthy history of frivolous and vexatious litigation asserting and reasserting his same conspiracy theories against different government agencies and officials as well as private citizens. *See* Doc. 43, at pp. 3-6; Doc. 105, at pp. 12-15; Doc. 117, at p. 11 n. 5. Therefore, a prefiling injunction is warranted to prevent Mr. Walsh's continued abuse of the judicial process. *See* Doc. 43, at pp. 39-40; Doc. 95,

at pp. 17-20; Doc. 105, at pp. 34-37; Doc. 117, at pp. 10-12. See attached proposed Order regarding prefiling injunction.

Dated this 15th day of May 2025.

ALISON J. RAMSDELL  
United States Attorney

/s/ Michael S. Hofmann  
Michael S. Hofmann  
Assistant United States Attorney  
Andrew W. Bogue Fed. Bldg.  
515 Ninth Street, Suite 201  
Rapid City, SD 57701  
Phone: (605) 342-7822  
Michael.Hofmann@usdoj.gov

**CERTIFICATE OF SERVICE**

I, Michael S. Hofmann, do hereby certify that on the 15th day of May 2025, I caused a copy of the **Federal Defendants' Response to Plaintiff's Notice of Alleged Continued Criminal Activity** to be served upon the following:

David J. Gamez  
1013 N. Caleb Ave.  
Sioux Falls, SD 57103

- Electronic Mail
- FedEx
- ECF
- U.S. Mail -- first class
- USAfx

/s/ Michael S. Hofmann  
Michael S. Hofmann

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

RORY M. WALSH,  
Plaintiff,

4:24-cv-04018-CCT

v.

**PROPOSED ORDER RE  
PREFILING INJUNCTION**

CARLOS DEL TORO, SECRETARY OF  
THE NAVY,

MICHAEL W. HAGEE,

DEPARTMENT OF THE NAVY,

JERRY D. HUMBLE,

MICHAEL D. NORDWALL, FEDERAL  
BUREAU OF INVESTIGATION,

SAIC ALVIN M. WINSTON, SR.,  
FEDERAL BUREAU OF  
INVESTIGATION,

UNITED STATES ATTORNEY,  
ALISON RAMSDELL,

DAVID J. GAMEZ,

and

UNITED STATES OF AMERICA,

Defendants.

Because Plaintiff Rory Walsh has repeatedly abused the judicial process filing duplicative and frivolous lawsuits, it is hereby

ORDERED that Plaintiff Rory Walsh is enjoined and prohibited from filing any further papers in this action. It is further

ORDERED that Mr. Walsh is enjoined and prohibited from filing any new pro se action in the District of South Dakota without leave of the Court. It is further

ORDERED that the Clerk of Court shall return to Mr. Walsh, without filing, any pro se complaint received without a motion seeking leave to file. To obtain leave of the Court, Mr. Walsh must submit a motion with a copy of the pro se complaint. The Court will review the complaint and deny leave to file if it determines the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. The Court may also deny leave to file if it lacks subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. A court can invoke Rule 12(b)(1) to dismiss a plaintiff's complaint that is "patently insubstantial," presenting no federal questions suitable for decision." *Best v. Kelly*, 39 F.3d 328, 330 (D.C. Cir. 1994) (quoting *Neitzke v. Williams*, 490 U.S. 319, at 327 n.6 (1989)). It is further

ORDERED that Mr. Walsh may file timely notices of appeal from this Court to the Court of Appeals and papers solely in furtherance of such appeals.

BY THE COURT:

\_\_\_\_\_  
CAMELA C. THEELER  
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES FEDERAL DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION**

IN RE:

Captain Rory M. Walsh USMC (Ret.)

Plaintiff,

vs:

SecNav Carlos del Toro

*Et al.*

Defendants.

Case: 24-cv-04018

Judge: Camela C. Theeler

**PLAINTIFF DISABLED VETERAN WALSH  
RESPONSE TO THE ILLEGAL RESPONSE FILED BY THE FEDERAL  
DEFENDANTS ON 15 MAY 2025**

AND NOW, TO WIT, this 19<sup>th</sup> day of May 2025, comes the Plaintiff, and responds to the illegal response filed by the federal defendants on 15 May 2025 at docket 147 wherein Walsh was merely reporting the latest crimes by defendant murderer Hagee and his continued abuse of the criminal FBI in suit.

1. As continually throughout this action, defendant murderer Michael W. Hagee continues his blatant Privacy and HIPAA violations peering into Walsh's health records with the VA, and both retaliates and sends out the criminal FBI to either strike at Walsh, or wrongly interfere with Walsh's treatments. With Walsh undergoing surgery on his back on 23 April 2024 at the Mayo Neurosurgery Clinic, in Mankato, Minnesota, Hagee again, without reason or a proper warrant, sent the criminal FBI into the Mayo Clinic to observe and criminally interfere with Walsh's treatment, and it is proper that this court note this new crime by Hagee and the FBI, so it is put before the jury once this action is scheduled for trial.

**PROCEDURAL REVIEW**

2. As detailed for this court in the originating filing at docket 1, and as discussed in open court on 19 Sept 2024 before this Honorable Court, as detailed within counts V, VI, and VII and with this court nodding in her concurrence, each time the BVA/VA issued an order overturning

of the FBI here in South Dakota, is why she is a defendant in this action, as is defendant Carlos del Toro<sup>1</sup>. I am confident the jury will want to hear of the utter lack of action by USA Ramsdell as Hagee illegally peers into Walsh's VA health records, and then sends teams of FBI agents out when he does not like the fact the BVA is overturning Hagee's own fraud on the government (count III) and the most recent FBI crimes in suit, and the photographic evidence of the FBI repeatedly breaking into my residence, damaging both cars, photographic evidence of undercover FBI agents on Walsh's driveway, and the most recent crimes of Hagee's abuse of the criminal FBI, sending FBI agents directly into the Mayo Neurosurgery Clinic in Makato, Minnesota as Walsh underwent surgery on 23 April 2025, and struggled to recover from the Morphine Anesthetic; see 18 USC §1518. See exhibits (a) and (b).

**LEGAL ARGUMENT TO JOINDER THIS NEW COUNT UNDER FRCP 18 AGAINST BOTH MURDERER HAGEE AND FBI SAIC WINSTON, SR.**

2. This is the continuation of defendant murderer Hagee's gross Privacy Act (and HIPAA violations-Health Insurance Portability and Accountability Act of 1996) that both provide for recovery. Walsh has the right to recover in the face of Hagee's continual Privacy Act (and HIPAA) violations, **AS PROMULGATED BY SUPREME COURT JUSTICE GINSBURG IN *DOE V. CHAO* (02-1377) 540 U.S. 614 (2004);**

"Section 552a(g)(4)(A) affords a remedy for violation of a Privacy Act right safeguarded by §552a(g)(1)(C) or (D). The words "a person entitled to recovery," as used in §552a(g)(4)(A)'s remedial prescription, are most sensibly read to include anyone experiencing an "adverse effect" as a consequence of an agency's intentional or willful commission of a Privacy Act violation of the kind described in §552a(g)(1)(C) or (D). The Act's text, structure, and purpose warrant this construction, under which Doe need not show a current pecuniary loss, or "actual damages" of some other sort, to recover the minimum award of \$1,000, attorney's fees, and costs." *Id.*

3. This is the furtherance of defendant murderer Hagee's gross interference of Walsh's treatment by the VA<sup>2</sup> in direct violation of 18 USC §1518; Obstruction of Health Care. As listed on the Department of Justice website; "Section 1518 of Title 18, United States Code, prohibits obstruction of health care. Under this statute, which was enacted in August 21, 1996, Pub.L. No.

<sup>1</sup> Further, as shown by the documents within this action, neither USA Ramsdell nor FBI SAIC Winston have pled to the complaint, and they are both in default. And I am confident the jury will want to hear about the utter lack of action by USA Ramsdell, and the crimes by FBI SAIC Winston, that continue in suit.

<sup>2</sup> VAMC Sioux Falls does not have a Neurosurgery Clinic, hence Walsh was referred to the nationally and world renown Mayo Clinic in Minnesota to undergo surgery on his back, see exhibits (a) and (b).

*Re: Brown* (6<sup>th</sup> Circuit Court of Appeals);

"(i.e., *United States v Brown*, et al.) - regarding issues and claims that Polster might have been involved in or have access to "extrajudicial" information material to the resolution of the issues and claims in Petitioner's pleadings - has credible reasons to believe that Polster has been illegally and unduly influenced by the respondents and their proxies, surrogates, and alter-egos to such an extent, to protect their personal, penal, and pecuniary interests, that Polster has been irreparably contaminated, polluted, and defiled in the eyes of the law to "render fair judgment impossible" in the proceedings; and the appearance of bias or prejudice against the interests of Petitioner and in favor of he and the respondent's interests has made a complete farce of any resemblance of a neutral disinterested, impartial adjudicator as demanded by the Constitution and federal law as expressed in the public policy of the United States via 28 USC § 455 *et seqs.* and the Codes of Conduct for Federal Judges."

"Polster must be held accountable for his flagrant, egregious, execrable, and criminal judicial misconduct, willfully, deliberately, and in bad faith executed against Petitioner, the public, and the United States courts. Justice cannot be denied in this matter if justice is to be afforded in any matter. This being the epitome of incongruent duplicity and antagonistic bathos and putalant attack on the rule of law: Judicial treason by Polster, collectively, ¶15 1-14 (the "Extraordinary Circumstances")."

35. With such prejudicial actions by this court, first having denied the Navy's motion to dismiss (see order at docket 25 and now reversing course and without even seeing the Plaintiff's OPPOSITION to the Navy's motion for summary judgment filed herein, pursuant to 28 USC §455 and §144 **this court must now recuse himself from this action.** Section 28 USC §455 (a) stated that "Any justice, judge, or magistrate judge in the United States shall disqualify himself in any proceedings in which her impartiality might reasonably be questioned." Here we are. This Court has brought his own deep seated favoritism to the defendants, into this case. Immediate recusal is warranted and demanded. This was made clear in *United States v Grinnell Corp* 384 US 563 (1966) and again in *United States v Microsoft* 253 F.3d 34 (D.C. Cir 2001); extrajudicial source as a source outside the judicial proceedings at hand. *Liteky* 510 US at 545. Plaintiff moved to COMPEL the Navy to release both illegally withheld documents at docket 27, dated 22 Sept 2024, and same motion remains unopposed and here we are 8 months later, and this court has allowed Bengford to so pollute this action with extrajudicial documents from HQMC (THE UNITED STATES MARINE CORPS IS NOT A PARTY TO THIS ACTION) there is no chance for the Plaintiff to gain justice before Judge Schulte, and per 28 US §455 and §144 Judge Schulte must recuse himself from this action. This is also in support of the



**22-11-31. Harassment by threat of fraudulent legal proceedings or liens prohibited—Misdemeanor—Subsequent violation felony.**

Any person who harasses any other person by sending or delivering, or causing to be sent or delivered, any letter, paper, document, notice of intent to bring suit, or other notice or demand that simulates any form of court or legal process and that threatens the other person, directly or indirectly, with incarceration, monetary fines, or penalties, or with the imposition of a counterfeit lien on the real or personal property of the other person is guilty of a Class 1 misdemeanor. A second or subsequent conviction for a violation of this section is a Class 6 felony. Lack of belief in the jurisdiction or authority of the state or of the

Number of times Rory Walsh has asked for incarceration and or fines in direct violation of state law SD 22-11-31

Federal Court document #	Defendant Gamez	Defendants Del Toro, Hagee, Humble	Defendants, Winston, Nordwall
original pleading		1	
23	3		
33			1
53	6		
54		1	1
57		5	2
66	3		
66-1	3		
66-2	3		
66-3	3		
68		1	
68-1		1	
75		1	
77	3		
86	2		
88	3		
94		2	
108	1	2	
109		1	1
114	6		
120		2	
136	3		
139	1	1	
142	2		
144		1	
145	3		
148		4	1
148-1		1	
150	4	1	1
151 as of 5-27-2025		1	1
Total	49	28	8

**Request for Protection Order**

3-11-25

I, David Gamez, am requesting a Protection Order for myself and my wife (Lila) against our neighbor named Rory Walsh who resides at 1012 N. Caleb Ave, Sioux Falls, SD, which is directly across the street from our home.

**His actions over the past 13 months constitute Harassment and Stalking under SD law.**

South Dakota law 22-19A-1 Stalking: No person may:

- (1) **Willfully, maliciously, and repeatedly** follow or **harass** another person; or
- (2) Make a **credible threat** to another person with the intent to place that person in reasonable **fear of death or great bodily injury**; or
- (3) **Willfully, maliciously and repeatedly harass another person** by means of any verbal, electronic, digital media, mechanical, telegraphic, or **written communication**.

A crime of this section constitutes the crime of stalking.

22-19A-4 Harasses defined: Harasses means a knowing and willful course of conduct directed at a specific person which seriously **alarms, annoys, or harasses** the person, and which serves no legitimate purpose. The pattern of conduct was a series of acts over a period of time, however short, showing a continuing pattern of harassment.

22-19A-6 Credible threat defined: A creditable threat means a threat made with the intent and the apparent ability to carry out the threat. A creditable threat need not be expressed verbally.

**In addition, Rory Walsh has violated the following SD Statutes:**

22-11-31 Harassment by threat of legal proceedings: Any person who harasses any other person by sending or delivering, or causing to be sent or delivered, **any letter, paper, document**, notice of intent to bring suit, or other notice or demand that simulates any form of court or legal process and **that threatens the other person**, directly or indirectly, **with incarceration**, monetary fines, or penalties is guilty of a crime. (Rory Walsh has threatened me over 45 times with incarceration!)

22-11-9 False Reporting to Authorities: Any person who makes a report, or intentionally causes the transmission of a report, to law enforcement authorities of a crime or other incident within their official concern, knowing that it did not occur, is guilty of false reporting to authorities, which is a crime. Also, any person who makes a report, or intentionally causes the transmission of a report, to law enforcement authorities which furnishes information relating to an offense or other incident within their official concern, knowing that such information is false, is guilty of false reporting to authorities, which is a crime.

Allow me Your Honor, to present Mr. Walsh's many instances of harassment, threats, false reporting to police, and intimidation directed toward me over the past months.

\*\*(See Exhibit #1 attached.)

On February 17, 2024, I was served papers in a lawsuit in Federal Court. Rory Walsh alleged that government entities conspired with FBI agents to kill Rory Walsh and implicated me (David Gamez) in that conspiracy to have Rory Walsh killed. He alleges 3 attempts by the FBI to kill him were on September 2, 2022, and on October 28, 2022, and then again on April 28, 2023 in South Dakota. Regarding the April 28, 2023 date, Rory Walsh alleges that my residence was used by the FBI for surveillance purposes and implies that I am an FBI Informant.

I, David Gamez, am not an FBI informant. I have not surveilled Rory Walsh. I have not seen any FBI agents or their vehicles on or near our property.

Rory Walsh is a retired Captain in the Marines and is a weapons expert. He has many guns and high-powered rifles at his home. Both my wife and I became highly concerned in Spring 2024 that Rory Walsh's actions of filing this lawsuit against us and his gross distortion of events (delusions) would bring him to a point where he causes bodily harm against us or anyone else near his property.

\*\*(See Exhibit #2 attached.)

We contacted Tarah Walton in the Sioux Falls police department on February 20, 2024 and on February 27, 2024. She indicated that the Sioux Falls police department was aware of past incidents with Rory Walsh (such as his driving his car into the front of his house in 2023 doing thousands of \$\$ of damage) and she said that I may need to get a Protection Order against Rory Walsh.

\*\*(See Exhibit #3 attached.)

On 4/13/24, Rory Walsh added a new claim to the lawsuit indicating that a "tow truck driver" who towed Rory's 2015 Mustang to a repair shop on 4/8/24 (at Rory's request) was actually an FBI agent! Another concerning example of Rory Walsh's "illusions/fantasies".

\*\*[See Exhibit #10.]

After the February 2024 initial lawsuit by Mr. Walsh against us and the FBI, and his fantastical allegation in April 2024 that a "tow truck driver" (from a Towing service that Mr. Walsh had chosen to tow his car) was an "FBI agent", Mr. Walsh then brought up new fictitious & illusionary allegations against David Gamez in writing, with NO real factual evidence, and threatened David Gamez with "multiple years in prison". Here are examples:

5/6/24 – Document 53 - Mr. Walsh states " Once seated with Gamez **police friends**" ... and "attempting to get the Plaintiff (Mr. Walsh) arrested". Mr. Gamez simply invited Mr. Walsh out to lunch in April 2022 to be kind to him, as Mr. Walsh had just recently moved to SD. The 2 friends that sat at the table with Mr. Gamez and Mr. Walsh were **NOT** police; they were NOT introduced as police either. They are simply 2 senior citizen friends of Mr. Gamez who go to the same gym as Mr. Gamez and

Mrs. Gamez, and have been to our house many times. **\*\*\*Mr. Walsh thinks he sees "police officers and FBI" everywhere**, as part of his on-going illusions. And then Mr. Walsh in writing **threatens Mr. Gamez with "8 years in prison for this"**.

In the same document, referring to December 3, 2023, Mr. Walsh again alleges that Mr. Gamez "allowed the FBI to not only maintain illegal surveillance" on Mr. Walsh, "but also to use Gamez's residence"... and then threatens Mr. Gamez with "10 years in prison for this".

Your honor, Mr. Gamez is not an FBI informant, he did not allow the FBI to use our residence, and Mr. Walsh has NO evidence of this. *Again, Mr. Walsh seems to see illusions of "FBI" everywhere...* And then in writing **threatens Mr. Gamez with "imprisonment for up to 10 years" for this**. Please also note that just 2 weeks prior to 12/3/23, Mr. Gamez had undergone major heart surgery, and was in no condition to be involved in any interactions like this.

Mr. Walsh repeated these delusional allegations and threats of prison OVER AND OVER again many times in writing from May 2024 thru March 2025. This is Harassment! These false allegations and threats of imprisonment **took a great emotional and physical toll on Mr. Gamez** who is 70 years old, and has a weak heart due to multiple heart attacks and surgeries.

**\*\*Note: Threats of imprisonment are in direct violation of SD Law 22-11-31!**

**\*\* (See Exhibit #4 attached.)**

On August 20, 2024, Rory Walsh continued his harassment against us. He called the Sioux Falls police alleging that I was "filming" him pulling into his garage that evening. I wasn't aware of his complaint until September 5, 2024, as the police did not contact me on 8/20/24. On 9/5/24, my wife and I visited the police station to inquire about the complaint. The police persons at the front desk said that no action was taken by the police because no crime occurred. They commented that Rory Walsh appeared to have mental health issues and suggested a restraining order. [Allow me to point out that I was NOT filming Rory Walsh! I was simply standing in the doorway to our house, watching our little dog go "potty" on our front yard, and waiting for him to finish so I could let the dog back in to our house!] Later that day, Tarah Walton of the Sioux Falls police contacted me and she also suggested in writing that we get a Protection Order against Rory Walsh.

**\*\* [See Exhibit #5.]**

On the evening of September 15, 2024, our friend/neighbor Casey was helping me install a new thermostat in my house. Around 8:00 pm Casey and I came outside, visited with each other a bit while my little dog was going "potty" in our yard, and happened to see Rory Walsh come down our street and pull into his garage. Mr. Walsh then came outside, walked all the way down his driveway to stand on the curb, then stood and "glared angrily" at Casey and me, like he thought we were focused on him somehow... which we weren't! Then Casey and I talked a bit more and he headed toward his home, and I brought our dog inside, and finally Mr. Walsh then went into his house. Another instance of Rory Walsh's harassment and his temper.

On Thursday, September 19<sup>th</sup>, my wife Lila and I attended a "hearing" with the Federal Judge regarding the lawsuit that Rory Walsh filed against me. Mr. Walsh was there as well, and we kept our distance from him the entire time and did not converse with him. His anger was clearly apparent during the hearing.

**\*\*[See Exhibit #7.]**

Mr. Walsh was in a Hearing on **Sept. 19<sup>th</sup>, 2024**, in front of Honorable Judge Theeler, stating his points pertaining to a lawsuit he filed in Federal Court against Mr Hagee, the FBI, and David Gamez. Mr. Walsh alleges that the FBI over the past 15+ years has been trying to kill him, and that Michael Hagee sends teams of FBI agents after Mr. Walsh. In the typed transcription of the full hearing by the court reporter, on page 85, which we received on 1/24/25, Mr. Walsh says aloud to the judge:

"Hagee has sent teams against me up and down the Yankton Trail System.... Hagee sends teams at me almost on a daily basis."

In other words, Mr. Walsh is having **daily "illusions"** (about teams of FBI agents), and thus we are constantly in fear, as Mr. Walsh has serious mental health problems! We fear for our lives **every day** living across the street from him, due to his constant delusions, temper, threats, and on-going harassment of us, plus his ready access to multiple weapons!

**\*\*[See Exhibit #6.]**

A few days after the hearing, Lila Gamez saw Rory Walsh "glaring angrily, with fists clenched" at David Gamez from the edge of Rory's yard. David had walked out of his garage, and was checking a few things in his pickup preparing to make a short trip to Garretson. Rory Walsh was out in his front yard mowing his lawn... and he then walked over to the SW corner of his property (along the street) and was "staring and glaring angrily, and shaking his fists at David Gamez" as David stepped up into his pickup. When David came into the house, Lila told David what Mr. Walsh did, and that it appeared Rory was "taunting" David, trying to get a rise out of him. However, David had his back to him and never noticed Rory. Just another example of Mr. Walsh's harassment and his temper.

**\*\*12/17/2024 Trespassing by Mr. Walsh**

Then on December 17<sup>th</sup>, 2024, our exterior cameras caught Rory Walsh walking onto our property – up to our house and then back to the street! We do not want him on our property, as we are afraid of further harassment by him.

**\*\*[See Attachment A.]**

On January 15, 2025, the Federal Judge Camala Theeler "**dismissed**" the lawsuit that Mr. Walsh filed against us and the FBI & military, referencing "fantastical and delusional allegations", "bizarre conspiracy theory", his "series of many frivolous lawsuits", his "frivolous and malicious actions". On page 36 of that Attachment, Judge Theeler states "that he will continue to file new lawsuits alleging unfounded claims". After the ruling by Judge Theeler, Mr. Walsh has continued fighting in court, asking for Reconsideration of her decision, and continuing his false allegations of the FBI and us. In fact, on 1/25/25 he made up a new allegation saying the FBI was after him again (per Exhibit 9 below). We are therefore rightfully afraid his temper, delusions, and harassment will continue to be directed toward us again and again, and are constantly afraid he will physically, emotionally, and financially harm us even more. (He has already cost us almost \$20,000 in legal fees.) Therefore we need this Protection Order against him.

**\*\*[See Exhibit #8.]**

See Document 108-1, pages 10-17 of 74 pages (filed 1/25/25) of Federal Case 4:24-cv-04018-CCT.

Mr. Walsh is continuing his harassment and threats against David and Lila Gamez, by again taking more pictures of the front of our house on 4 different occasions, claiming we are "surveilling him" or taking pictures of him from inside our home! Then again on 2/10/2025, Mr. Walsh is again showing a different picture of our house, alleging FBI surveillance again. (He alleges the picture was taken on 12/3/2023 (over a year ago), however the picture clearly shows green grass in the yard (not a winter picture).

\*\*\*We have a little dog, who goes potty outside often. We do watch from the front window or front door to protect our dog (so no people or other dogs harm him) and to watch for when he's done going potty, so we can then let him back in the house. This is what a responsible dog-owner would do!

Our front window is the window in our TV room, which is used often by us throughout the day and evening. The last page of Exhibit #8 shows that room. We used to keep the shade up most of the day, to let the light in, however since all the harassment by Mr. Walsh, we keep the shade mostly down as we live in constant fear of Mr. Walsh.

In a free country, we have the right to look out of our windows!! **Mr. Walsh's continuous taking pictures of our house is an invasion of our Privacy, is a manner of Stalking, and it is HARASSMENT!** Mr. Walsh calling the police on us when we are inside our home looking out is HARASSMENT! Your honor, Mr. Walsh is surveilling us and harassing us for just living in our residence and enjoying our property!

Also Your Honor, allow us to point out that Mr. Walsh's security camera(s) point directly at our house! So he is constantly surveilling us!! On the other hand, our exterior cameras only cover our front yard and the street (and our back yard) – they do NOT cover Mr. Walsh's house at all.

**\*\*[See Exhibit #9.]**

See Mr. Walsh's Document 109, page 1 of 7 pages (filed 1/27/25) of Federal Case 4:24-cv-04018-CCT. Mr. Walsh again says the FBI is after him; that on "1/25/25 FBI agents harassed him at the Walmart on Louise Avenue while Mr. Walsh bought groceries." Another fantastical illusion by Mr. Walsh. (And absolutely NO evidence to support that claim.)

Also attached to Exhibit #9 is a document dated 1/25/25, where Mr. Walsh alleges "the FBI have repeatedly broken into his residence, his cars, and tailed Mr. Walsh as he conducts his evening runs at the parks here in Sioux Falls, deliberately damaging both of his cars". **These are more fantastical illusions by Mr. Walsh, that make us concerned about his mental health and thus make us fear for our safety.** When Rory Walsh's fantasies turn into reality in his mind, we truly have reason to fear for our lives!

**\*\* See Exhibit #13**

In Mr. Walsh's document 114, on page 14 (filed 2/10/25), he tries to **intimidate** us when he says "Warn Gamez that he faces additional liability if rejoined to the action if this case is reopened". His attempt to intimidate us is just another instance of his harassment... and intimidation is a crime.

**\*\* See Exhibit #11**

Please see the bottom paragraph on Exhibit #11, dated **2/28/2025**, where Mr. Walsh again alleges "surveillance" by Mr. Gamez. The exhibit (l) that Mr. Walsh attached pertains to an alleged incident on August 20, 2024 where Mr. Walsh called the Sioux Falls police claiming that Mr. Gamez was "filming him" as he was pulling into his garage. Mr. Gamez was **NOT** filming Mr. Walsh. Mr. Gamez was simply watching our little dog outside. (I'd like to point out that this allegation was shortly before our September hearing with the Federal Judge regarding Mr. Walsh's lawsuit. Mr. Walsh was just trying to stir up trouble right before the Federal Hearing, to bolster his case.) This 8/2024 instance is covered in our Exhibit 4 that was supplied to you, Your Honor, with our original request for a Hearing in order to get a Protection Order against Mr. Walsh.

That Exhibit 4 said the following, and provided you with the written email by Sargeant Tarah Walton of the Sioux Falls Police Dept who told us to get a Protection Order.

"On August 20, 2024, Rory Walsh continued his harassment against us. He called the Sioux Falls police alleging that I was "filming" him pulling into his garage that evening. (See Exhibit #4 attached.) I wasn't aware of his complaint until September 5, 2024, as the police did not contact me on 8/20/24. On 9/5/24, my wife and I visited the police station to inquire about the complaint. The police persons at the front desk said that no action was taken by the police because no crime occurred. They commented that Rory Walsh appeared to have mental health issues and suggested a restraining order. [Allow me to point out that I was **NOT** filming Rory Walsh! I was simply standing in the doorway to our house, watching our little dog go "potty" on our front yard, and waiting for him to finish so I could let the dog back in to our house!] Later that day, Tarah Walton of the Sioux Falls police contacted me and she also suggested we get a Protection Order against Rory Walsh."

**\*\*But** the 2<sup>nd</sup> part of Mr. Walsh's allegation, which is exhibit (m) at the end of Exhibit #11, shows that **Mr. Walsh has AGAIN called the Sioux Falls Police alleging surveillance by Mr. Gamez.... This time on 2/16/2025 with his fantastical illusions!** Mr. Gamez was **NOT** surveilling Mr. Walsh on 2/16/2025, nor at any other time. Mr. Gamez goes to bed between 7:30 and 8:00 pm regularly, due to his heart condition. So Mr. Gamez was **NOT** surveilling Mr. Walsh late in the evening like that. Also, Mr. Gamez has very, very poor hearing, so would not even notice Mr. Walsh's comings or goings. Mr. Walsh is simply again "having illusions" and "making up" allegations so as to stir up trouble right before this Hearing with you, Your Honor. **Mr. Walsh's lies & police calls are Harassment!**

In addition, it is my understanding that Mr. Walsh violated SD state statute 22-11-9 (2) and (3) by falsely reporting to authorities. Mr. Gamez did not surveill Mr. Walsh on the evening of 2/16/25! So this false report to the police is a CRIME as well as Harassment!

**\*\* See Exhibit 12**

Lastly, Your Honor, please see Exhibit 12, dated 1/25/2025. Mr. Walsh not only again talks about "teams of FBI agents sent to strike and kill Mr. Walsh" in the first paragraph, but then Mr. Walsh gets even more scary with his references to murders at "Waco and Ruby Ridge".

And in the last paragraph, Your Honor, he says: "It should not take **gunfire and dead bodies**" at **Mr. Walsh's residence** for Mr. Walsh to be heard." Gunfire! Dead bodies! This from a man who has many weapons in his home! Mr. Walsh's written threat shows how unstable he is, and his extreme anger, ready to be directed at anyone is his way.

For anyone to make such horrifying threats in writing, we all have to be concerned for our safety! It's time for a Protection Order (or Restraining Order), Your Honor!

**\*\*Clearly, Mr. Walsh has a willful course of conduct of harassment & stalking, claims of conspiracy & fantastical illusions, false allegations, threats of imprisonment, false reporting to the police (2 phone calls to Sioux Falls police saying he was being filmed or watched) directed at David Gamez which seriously alarms, frightens, harasses, and annoys us. And Mr. Walsh has intentionally carried out his threats upon us by his actions, displays of temper, and malicious allegations in his writings to the Federal Court. Even the Sioux Falls police were so alarmed that they recommended we get a Protection Order.**

And clearly, Mr. Walsh has violated the SD Laws that I reference on the following page. For these many reasons, we ask for Protection Orders against Mr. Walsh to protect both of us, and allow us to freely occupy our home and property (and look out our windows) without harassment, threats, intimidation, and false calls to the police by Mr. Walsh.

**Request for "Other Relief"** which we believe is necessary for Petitioners' protection

David & Lila Gamez request that the Judge require "that for any further litigation between David & Lila Gamez AND Rory M. Walsh, both the Petitioners (David & Lila Gamez) and the Respondent (Rory Walsh) must be represented by attorneys."

Mr. Walsh has a history of filing "frivolous lawsuits". He has filed numerous frivolous lawsuits against federal agencies, FBI agents, Military Generals, and his former neighbors over the past 15-20 years. His lawsuits have been dismissed time after time. Plus he appeals every decision, further driving up court cost for the defending litigants.

\*\*\*See **Exhibit # A** (Dismissing the frivolous lawsuit against us, and requiring Mr. Walsh to have an attorney for any future Federal lawsuit in this District). See page 37.

\*\*\*Also see **Exhibit # B** (List of his many lawsuits). And this also shows his lawsuit against prior neighbors, alleging the same things that he alleges against Mr. Gamez.

\*\* Your Honor, here is a more complete list, many pages long, of his many lawsuits including his appeals. Mr. Walsh uses "lawsuits" **to harass people over and over**, and uses the same unfounded "conspiracy theory" over and over.

Mr. Walsh will continue to harass us by filing new state or civil lawsuits over time against us, alleging unfounded claims, causing tremendous financial and emotional harm to both of us. He files "pro se" without an attorney, while we must obtain an attorney to represent us each time. This is part of his history of harassment of his neighbors and other parties. His latest lawsuit against us has brought us legal fees of over \$20,000 so far, and the expenses are not done yet. Mr. Walsh continues filing documents with the Federal court even now.... Talking about his plans to appeal that Federal Court decision. We simply want a "fair legal playing field", which means he has to bear the cost of an attorney just like we do, if he is going to continue filing lawsuits against us.

We need this Add'l Protection from the Court as well!

Tab 2

STATE OF SOUTH DAKOTA ) IN CIRCUIT COURT
COUNTY OF MINNEHAHA ) SECOND JUDICIAL CIRCUIT

Form with checkboxes: DOMESTIC, STALKING, EX PARTE TEMPORARY, PERMANENT, MODIFICATION. Title: ORDER FOR PROTECTION. TPO NO. 49TPO25-000472

PETITIONER
DAVID GAMEZ
First Middle Last

PETITIONER IDENTIFIERS:
08/21/1954
Date of Birth of Petitioner

By (name and DOB):

Other Protected Persons (name and DOB):

On behalf of a minor child by parent/guardian.

(See also 2B Additional Orders.)

V.
RESPONDENT
RORY MICHAEL WALSH
First Middle Last

Table with 4 columns: SEX, RACE, HEIGHT, WEIGHT; EYES, HAIR, DATE OF BIRTH; DRIVERS LICENSE #, STATE, EXPDATE.

Relationship to Petitioner:

Respondent's Address:
1012 N CALEB AVE
SIOUX FALLS, SD 57103

Distinguishing Features:
GLASSES (PRESCRIPTION)

CAUTION: [ ] Weapon Involved

THE COURT FINDS:

That it has jurisdiction over the parties and subject matter, and the Respondent has been provided with reasonable notice and opportunity to be heard, and that in the case of an ex parte order, the Respondent will be provided with reasonable notice and opportunity to be heard sufficient to protect the Respondent's due process rights.

THE COURT ORDERS:

That the Respondent is restrained from acts of abuse and physical harm, making threats of abuse, stalking or harassment.

That the Respondent is restrained from contact with the Petitioner by any direct or indirect means to the extent stated in the following pages.

Additional findings and orders are on the following pages.

This order shall be effective 06/18 2025 through 07/28 2025
Month/Dav Year Month/Dav Year

Or if a permanent order is issued, until that order is served.

Only this Court can change this order.

VIOLATION OF THIS PROTECTION ORDER IS A CRIMINAL OFFENSE.

WARNING TO RESPONDENT: This order shall be enforced, even without registration, by courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. §2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (See 18 U.S.C. §§2262, 2265).

Having considered the Petition and Affidavit presented by the Petitioner, this Court FINDS:

1. That jurisdiction and venue are properly before this Court;
2. That the Petitioner has alleged that the Respondent has willfully, maliciously, and repeatedly followed or harassed the Petitioner, or has made a credible threat with the intent to place the Petitioner in reasonable fear of death or great bodily injury, SDCL 22-19A-1; or
3. That the Petitioner has alleged that the Respondent has willfully, maliciously, and repeatedly harassed the Petitioner by means of verbal, electronic, digital media, mechanical, telegraphic, or written communication, SDCL 22-19A-1; or
4. That the Petitioner alleges that he/she has suffered physical injury as a result of an assault or a crime of violence, SDCL 22-1-2(9); and
5. That the Petitioner alleges that he/she will suffer immediate and irreparable injury, loss, or damage before the Respondent or the Respondent's attorney has an opportunity to be heard.

THEREFORE THIS COURT ORDERS THAT THE RESPONDENT IS RESTRAINED FROM:

- a. FOLLOWING OR HARASSING PETITIONER, OR MAKING ANY CREDIBLE THREAT WITH THE INTENT TO PLACE PETITIONER IN REASONABLE FEAR OF DEATH OR GREAT BODILY INJURY, SDCL 22-19A-1;
- b. HARASSING PETITIONER BY MEANS OF ANY VERBAL, ELECTRONIC, DIGITAL MEDIA, MECHANICAL, TELEGRAPHIC, OR WRITTEN COMMUNICATION, SDCL 22-19A-1;
- c. CAUSING ANY INJURY AS A RESULT OF AN ASSAULT OR CRIME OF VIOLENCE SDCL 22-1-2(9).

ADDITIONAL ORDERS:

- 1) That the Respondent is excluded from the Petitioner's residence listed in 2C.
- 2) That the Respondent shall not come within a distance of 50 Feet from the following persons and places:

A. The Petitioner personally

B. The following minor children named as other protected persons:

Name	Date of birth	Relationship
_____	_____	_____

C. The Petitioner's residence

D. The Petitioner's place of employment

E. Other places

This distance restriction applies unless otherwise specified in this order.

- 3) Phone calls, emails, third party contact, and correspondence, direct or indirect, are not permitted, to a protected person, except as follows:

NO EXCEPTIONS

- 4) Respondent is ordered to immediately turn over all weapons and ammunition to local sheriff.
- 5) Other relief as follows:

.....  
 .....  
 .....

**WARNING TO RESPONDENT: VIOLATION OF THIS PROTECTION ORDER IS A CRIMINAL OFFENSE** even if any person protected by the Order initiates the contact or invites you to violate the Order's prohibitions. Only the court can change the Order; the protected person cannot waive any of its provisions.

This order shall be enforced, even without registration, by courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C.§2265).

**AND IT IS FURTHER ORDERED THAT:** the Clerk shall, immediately upon the granting of this Order, deliver two copies of this Order to the sheriff of this county. One copy shall be personally served by the sheriff upon the Respondent unless personal service has been acknowledged below.

DATED: 06/18/2025

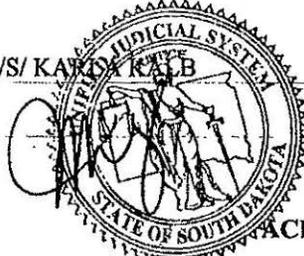


Service of this order is authorized on any day including Sunday.

JUDGE JEFF CLAPPER

/s/ KAREN KALB, Clerk of Courts

By: , Deputy



**NOTICE OF ENTRY OF ORDER AND ACKNOWLEDGMENT OF PERSONAL SERVICE**

I acknowledge receipt of a copy of this Temporary Order of Protection.

DAVID GAMEZ, Petitioner Date RORY MICHAEL WALSH, Respondent Date

**UNDER A PERMANENT PROTECTION ORDER:** You may be subject to the following federal laws: (1) Effective immediately, you may not possess, carry, ship or transport any firearm or ammunition that has been transported in interstate or foreign commerce while this Protection Order is in effect. Title 18 United States Code Section 922(g)(8). (2) If you violate this Protection Order and are convicted of an offense of domestic violence, you may be forbidden for life from possessing, carrying, shipping or transporting, any firearm or ammunition that has been transported in interstate or foreign commerce. Title 18 United States Code Section 922(g)(9). Violation of these federal laws carries a maximum penalty of ten years in prison, a \$250,000 fine, or both.

Tab 3

STATE OF SOUTH DAKOTA ) IN CIRCUIT COURT  
 )  
 COUNTY OF MINNEHAHA ) SECOND JUDICIAL CIRCUIT

<input type="checkbox"/> DOMESTIC	<input checked="" type="checkbox"/> STALKING	<b>ORDER FOR PROTECTION</b> TPO NO. <u>49TPO25-000472</u>
<input type="checkbox"/> EX PARTE TEMPORARY	<input checked="" type="checkbox"/> PERMANENT	
<input type="checkbox"/> MODIFICATION		

**PETITIONER**  
 DAVID GAMEZ  
 First Middle Last

**PETITIONER IDENTIFIERS:**  
 08/21/1954  
 Date of Birth of Petitioner

By (name and DOB):

Other Protected Persons (name and DOB):

On behalf of a minor child by parent/guardian.

(See also 2B Additional Orders.)

**V.**  
**RESPONDENT**  
 RORY MICHAEL WALSH  
 First Middle Last

**RESPONDENT IDENTIFIERS:**

SEX	RACE	HEIGHT	WEIGHT
M	W	6'5"	255
EYES	HAIR	DATE OF BIRTH	
BLU	GRY	10/01/1956	
DRIVERS LICENSE #		STATE	EXPDATE
02266769		SD	

Relationship to Petitioner:

Distinguishing Features:  
 GLASSES (PRESCRIPTION)

Respondent's Address:  
 1012 N CALEB AVE  
 SIOUX FALLS, SD 57103

**CAUTION:**  Weapon Involved

**THE COURT FINDS:**

That it has jurisdiction over the parties and subject matter, and the Respondent has been provided with reasonable notice and opportunity to be heard, and that in the case of an ex parte order, the Respondent will be provided with reasonable notice and opportunity to be heard sufficient to protect the Respondent's due process rights.

**THE COURT ORDERS:**

That the Respondent is restrained from acts of abuse and physical harm, making threats of abuse, stalking or harassment.

That the Respondent is restrained from contact with the Petitioner by any direct or indirect means to the extent stated in the following pages.

Additional findings and orders are on the following pages.

This order shall be effective 

07/28	2025
Month/Day	Year

 through 

07/29	2030
Month/Day	Year

**Only this Court can change this order.**  
**VIOLATION OF THIS PROTECTION ORDER IS A CRIMINAL OFFENSE.**

**WARNING TO RESPONDENT:** This order shall be enforced, even without registration, by courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. §2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (See 18 U.S.C. §§2262, 2265).

**ADDITIONAL FINDINGS**

This matter came before this Court on this day and the following parties appeared personally:

- Petitioner     Petitioner's Attorney JONES, KRISTI     Other \_\_\_\_\_
- Respondent     Respondent's Attorney WALTER, MAX     Other \_\_\_\_\_

- 1. This Court **FINDS** that, without admitting to the allegations in the Petition, the Respondent waives further hearing, findings of fact, and conclusions of law, and stipulates to the entry of an Order of Protection on the terms specified below.
- 2. Having considered the evidence presented and any affidavits and pleadings on file, this Court **FINDS**:
  - 1. That jurisdiction and venue are properly before this Court; and
  - 2. By a preponderance of the evidence that:
    - a) "stalking" as defined by SDCL 22-19A-1 has taken place;
    - b) that the Petitioner has suffered physical injury resulting from an assault or a crime of violence, as defined by SDCL 22-1-2(9).

**THEREFORE, THIS COURT ORDERS THAT:**

- 1. The Respondent is restrained from:
  - a) following or harassing the Petitioner, or making any credible threat with the intent to place the Petitioner in reasonable fear of death or great bodily injury, SDCL 22-19A-1;
  - b) harassing the Petitioner by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication, SDCL 22-19A-1;
  - c) causing any injury as a result of an assault or crime of violence, SDCL 22-1-2-(9).

**ADDITIONAL ORDERS:**

- 1) That the Respondent is excluded from the Petitioner's residence listed in 2C.
- 2) That the Respondent shall not come within a distance of 100 Yard(s) from the following persons and places:
  - A. The Petitioner personally
  - B. The following minor children named as other protected persons:
 

Name	Date of birth	Relationship
_____		
  - C. The Petitioner's residence  
\_\_\_\_\_
  - D. The Petitioner's place of employment  
\_\_\_\_\_
  - E. Other places  
\_\_\_\_\_

This distance restriction applies unless otherwise specified in this order.

- 3) Phone calls, emails, third party contact, including correspondence, direct or indirect, are not permitted, to a protected person, except as follows:

NO EXCEPTIONS

4) Respondent is ordered to immediately turn over all weapons and ammunition to local sheriff.

5) Other relief as follows:

THE RESPONDENT MAY NOT STEP FOOT ON MR. GAMEZ' PROPERTY.

**WARNING TO RESPONDENT: VIOLATION OF THIS PROTECTION ORDER IS A CRIMINAL OFFENSE even if any person protected by the Order initiates the contact or invites you to violate the Order's prohibitions. Only the court can change the Order; the protected person cannot waive any of its provisions.**

This order shall be enforced, even without registration, by courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. §2265).

**AND IT IS FURTHER ORDERED THAT:** the Clerk shall, immediately upon the granting of this Order, deliver two copies of this Order to the sheriff of this county. One copy shall be personally served by the sheriff upon the Respondent unless personal service has been acknowledged below.

DATED: 07/28/2025

Service of this order is authorized on any day including Sunday.



*[Signature]*  
JUDGE JEFF CLAPPER

, Clerk of Courts

Deputy

**FILED**  
JUL 28 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

**NOTICE OF ENTRY OF ORDER AND  
ACKNOWLEDGMENT OF PERSONAL SERVICE**

I acknowledge receipt of a copy of this Order of Protection.

*[Signature]*  
DAVID GAMEZ, Petitioner

Date

*[Signature]*  
RORY MICHAEL WALSH, Respondent

Date

*[Signature]* 28 July 25  
Date

**UNDER A PERMANENT PROTECTION ORDER: You may be subject to the following federal laws:**  
(1) Effective immediately, you may not possess, carry, ship or transport any firearm or ammunition that has been transported in interstate or foreign commerce while this Protection Order is in effect. Title 18 United States Code Section 922(g)(8). (2) If you violate this Protection Order and are convicted of an offense of domestic violence, you may be forbidden for life from possessing, carrying, shipping or transporting, any firearm or ammunition that has been transported in interstate or foreign commerce. Title 18 United States Code Section 922(g)(9). Violation of these federal laws carries a maximum penalty of ten years in prison, a \$250,000 fine, or both.

Tab 4

STATE OF SOUTH DAKOTA ) IN CIRCUIT COURT  
 )  
 COUNTY OF MINNEHAHA ) SECOND JUDICIAL CIRCUIT

<input type="checkbox"/> DOMESTIC <input checked="" type="checkbox"/> STALKING <input type="checkbox"/> EX PARTE TEMPORARY <input checked="" type="checkbox"/> PERMANENT <input type="checkbox"/> MODIFICATION	<b>ORDER FOR PROTECTION</b> TPO NO. <u>49TPO25-000472</u>
--	--

**PETITIONER**

DAVID GAMEZ		
First	Middle	Last

**PETITIONER IDENTIFIERS:**

08/21/1954
Date of Birth of Petitioner

By (name and DOB):  
 On behalf of a minor child by parent/guardian.

Other Protected Persons (name and DOB):  
 (See also 2B Additional Orders.)

**V.  
 RESPONDENT**

RORY MICHAEL WALSH		
First	Middle	Last

**RESPONDENT IDENTIFIERS:**

SEX	RACE	HEIGHT	WEIGHT
M	W	6'5"	255
EYES	HAIR	DATE OF BIRTH	
BLU	GRY	10/01/1956	
DRIVERS LICENSE #		STATE	EXPDATE
02266769		SD	

Relationship to Petitioner:  
 Respondent's Address:  
 1012 N CALEB AVE  
 SIOUX FALLS, SD 57103

Distinguishing Features:  
 GLASSES (PRESCRIPTION)

**CAUTION:**  Weapon Involved

**THE COURT FINDS:**

That it has jurisdiction over the parties and subject matter, and the Respondent has been provided with reasonable notice and opportunity to be heard, and that in the case of an ex parte order, the Respondent will be provided with reasonable notice and opportunity to be heard sufficient to protect the Respondent's due process rights.

**THE COURT ORDERS:**

That the Respondent is restrained from acts of abuse and physical harm, making threats of abuse, stalking or harassment.

That the Respondent is restrained from contact with the Petitioner by any direct or indirect means to the extent stated in the following pages.

Additional findings and orders are on the following pages.

This order shall be effective 

07/28	2025
Month/Day	Year

 through 

07/29	2030
Month/Day	Year

**Only this Court can change this order.  
 VIOLATION OF THIS PROTECTION ORDER IS A CRIMINAL OFFENSE.**

**WARNING TO RESPONDENT:** This order shall be enforced, even without registration, by courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. §2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (See 18 U.S.C. §§2262, 2265).

**ADDITIONAL FINDINGS**

This matter came before this Court on this day and the following parties appeared personally:

- Petitioner     Petitioner's Attorney JONES, KRISTI     Other
- Respondent     Respondent's Attorney WALTER, MAX     Other

- 1. This Court FINDS that, without admitting to the allegations in the Petition, the Respondent waives further hearing, findings of fact, and conclusions of law, and stipulates to the entry of an Order of Protection on the terms specified below.
- 2. Having considered the evidence presented and any affidavits and pleadings on file, this Court FINDS:
  - 1. That jurisdiction and venue are properly before this Court; and
  - 2. By a preponderance of the evidence that:
    - a) "stalking" as defined by SDCL 22-19A-1 has taken place;
    - b) that the Petitioner has suffered physical injury resulting from an assault or a crime of violence, as defined by SDCL 22-1-2(9).

**THEREFORE, THIS COURT ORDERS THAT:**

- 1. The Respondent is restrained from:
  - a) following or harassing the Petitioner, or making any credible threat with the intent to place the Petitioner in reasonable fear of death or great bodily injury, SDCL 22-19A-1;
  - b) harassing the Petitioner by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication, SDCL 22-19A-1;
  - c) causing any injury as a result of an assault or crime of violence, SDCL 22-1-2-(9).

**ADDITIONAL ORDERS:**

- 1) That the Respondent is excluded from the Petitioner's residence listed in 2C.
- 2) That the Respondent shall not come within a distance of 100 Yard(s) from the following persons and places:
  - A. The Petitioner personally
  - B. The following minor children named as other protected persons:
 

Name	Date of birth	Relationship
_____	_____	_____
  - C. The Petitioner's residence  
\_\_\_\_\_
  - D. The Petitioner's place of employment  
\_\_\_\_\_
  - E. Other places  
\_\_\_\_\_

This distance restriction applies unless otherwise specified in this order.

- 3) Phone calls, emails, third party contact, including correspondence, direct or indirect, are not permitted, to a protected person, except as follows:

NO EXCEPTIONS

4) Respondent is ordered to immediately turn over all weapons and ammunition to local sheriff.

5) Other relief as follows:

THE RESPONDENT MAY ENTER HIS HOME AND DRIVEWAY WITHOUT VIOLATING THIS ORDER.

THE RESPONDENT, HOWEVER, MAY NOT STEP FOOT ON MR. GAMEZ'S PROPERTY OR THE PUBLIC SIDEWALK ON MR. GAMEZ'S PROPERTY

**WARNING TO RESPONDENT: VIOLATION OF THIS PROTECTION ORDER IS A CRIMINAL OFFENSE** even if any person protected by the Order initiates the contact or invites you to violate the Order's prohibitions. Only the court can change the Order; the protected person cannot waive any of its provisions.

This order shall be enforced, even without registration, by courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. §2265).

**AND IT IS FURTHER ORDERED THAT:** the Clerk shall, immediately upon the granting of this Order, deliver two copies of this Order to the sheriff of this county. One copy shall be personally served by the sheriff upon the Respondent unless personal service has been acknowledged below.

DATED: 07/28/2025

Service of this order is authorized on any day including Sunday.

*[Signature]*  
JUDGE JEFF CLAYTON

/s/ KARLA KALB

, Clerk of Courts

By: JSSF1022 *[Signature]*

, Deputy

**FILED**  
JUL 30 2025

Minnehaha County, S.D.  
Clerk Circuit Court



**NOTICE OF ENTRY OF ORDER AND  
ACKNOWLEDGMENT OF PERSONAL SERVICE**

I acknowledge receipt of a copy of this Order of Protection.

DAVID GAMEZ, Petitioner

Date RORY MICHAEL WALSH, Respondent

Date

**UNDER A PERMANENT PROTECTION ORDER: You may be subject to the following federal laws: (1) Effective immediately, you may not possess, carry, ship or transport any firearm or ammunition that has been transported in interstate or foreign commerce while this Protection Order is in effect. Title 18 United States Code Section 922(g)(8). (2) If you violate this Protection Order and are convicted of an offense of domestic violence, you may be forbidden for life from possessing, carrying, shipping or transporting, any firearm or ammunition that has been transported in interstate or foreign commerce. Title 18 United States Code Section 922(g)(9). Violation of these federal laws carries a maximum penalty of ten years in prison, a \$250,000 fine, or both.**

Tab 5

STATE OF SOUTH DAKOTA )  
 )  
 COUNTY OF MINNEHAHA )

IN CIRCUIT COURT  
 SECOND JUDICIAL CIRCUIT

<input type="checkbox"/> DOMESTIC <input checked="" type="checkbox"/> STALKING <input type="checkbox"/> EX PARTE TEMPORARY <input checked="" type="checkbox"/> PERMANENT <input checked="" type="checkbox"/> MODIFICATION	<b>ORDER FOR PROTECTION</b> TPO NO. <u>49TPO25-000472</u>
---	--

**PETITIONER**

DAVID GAMEZ
-------------

First      Middle      Last

**PETITIONER IDENTIFIERS:**

08/21/1954
------------

Date of Birth of Petitioner

By (name and DOB):

Other Protected Persons (name and DOB):

On behalf of a minor child by parent/guardian.

(See also 2B Additional Orders.)

**V.  
RESPONDENT**

RORY MICHAEL WALSH
--------------------

First      Middle      Last

**RESPONDENT IDENTIFIERS:**

SEX	RACE	HEIGHT	WEIGHT
M	W	6'5"	255
EYES	HAIR	DATE OF BIRTH	
BLU	GRY	10/01/1956	
DRIVERS LICENSE #		STATE	EXPDATE
02266769		SD	

Relationship to Petitioner:

Respondent's Address:  
 1012 N CALEB AVE  
 SIOUX FALLS, SD 57103

Distinguishing Features:  
 GLASSES (PRESCRIPTION)

**CAUTION:**  Weapon Involved

**THE COURT FINDS:**

That it has jurisdiction over the parties and subject matter, and the Respondent has been provided with reasonable notice and opportunity to be heard, and that in the case of an ex parte order, the Respondent will be provided with reasonable notice and opportunity to be heard sufficient to protect the Respondent's due process rights.

**THE COURT ORDERS:**

That the Respondent is restrained from acts of abuse and physical harm, making threats of abuse, stalking or harassment.

That the Respondent is restrained from contact with the Petitioner by any direct or indirect means to the extent stated in the following pages.

Additional findings and orders are on the following pages.

This order shall be effective 

08/04	2025
Month/Day	Year

 through 

07/28	2030
Month/Day	Year

Only this Court can change this order.

**VIOLATION OF THIS PROTECTION ORDER IS A CRIMINAL OFFENSE.**

**WARNING TO RESPONDENT:** This order shall be enforced, even without registration, by courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. §2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (See 18 U.S.C. §§2262, 2265).

**ADDITIONAL FINDINGS**

This matter came before this Court on this day and the following parties appeared personally:

- Petitioner     Petitioner's Attorney JONES, KRISTI     Other
- Respondent     Respondent's Attorney WALTER, MAX     Other

- 1. This **Court FINDS** that, without admitting to the allegations in the Petition, the Respondent waives further hearing, findings of fact, and conclusions of law, and stipulates to the entry of an Order of Protection on the terms specified below.
- 2. Having considered the evidence presented and any affidavits and pleadings on file, this **Court FINDS:**
  - 1. That jurisdiction and venue are properly before this Court; and
  - 2. By a preponderance of the evidence that:
    - a) "stalking" as defined by SDCL 22-19A-1 has taken place;
    - b) that the Petitioner has suffered physical injury resulting from an assault or a crime of violence, as defined by SDCL 22-1-2(9).

**THEREFORE, THIS COURT ORDERS THAT:**

- 1. The Respondent is restrained from:
  - a) following or harassing the Petitioner, or making any credible threat with the intent to place the Petitioner in reasonable fear of death or great bodily injury, SDCL 22-19A-1;
  - b) harassing the Petitioner by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication, SDCL 22-19A-1;
  - c) causing any injury as a result of an assault or crime of violence, SDCL 22-1-2(9).

**ADDITIONAL ORDERS:**

- 1) That the Respondent is excluded from the Petitioner's residence listed in 2C.
- 2) That the Respondent shall not come within a distance of 100 Yard(s) from the following persons and places:
  - A. The Petitioner personally
  - B. The following minor children named as other protected persons:
 

Name	Date of birth	Relationship
.....	.....	.....
  - C. The Petitioner's residence
  - D. The Petitioner's place of employment
  - E. Other places

This distance restriction applies unless otherwise specified in this order.

- 3) Phone calls, emails, third party contact, and correspondence, direct or indirect, are not permitted, to a protected person, except as follows:

NO EXCEPTIONS

4) Respondent is ordered to immediately turn over all weapons and ammunition to local sheriff.

5) Other relief as follows:

**\*\* THE RESPONDENT MAY BE ANYWHERE ON HIS OWN PROPERTY WITHOUT VIOLATING THIS ORDER. THE RESPONDENT MAY ENTER HIS HOME AND DRIVEWAY WITHOUT VIOLATING THIS ORDER.**

THE RESPONDENT, HOWEVER, MAY NOT STEP FOOT ON MR. GAMEZ'S PROPERTY OR THE PUBLIC SIDEWALK ON MR. GAMEZ'S PROPERTY

**WARNING TO RESPONDENT: VIOLATION OF THIS PROTECTION ORDER IS A CRIMINAL OFFENSE even if any person protected by the Order initiates the contact or invites you to violate the Order's prohibitions. Only the court can change the Order; the protected person cannot waive any of its provisions.**

This order shall be enforced, even without registration, by courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. §2265).

**AND IT IS FURTHER ORDERED THAT:** the Clerk shall, immediately upon the granting of this Order, deliver two copies of this Order to the sheriff of this county. One copy shall be personally served by the sheriff upon the Respondent unless personal service has been acknowledged below.

DATED: 08/04/2025

Service of this order is authorized on any day including Sunday.

By: [Signature] /S/ KARLA K. [Signature] Clerk of Courts  
 Deputy



JUDGE JEFF CLAPPER [Signature]

**NOTICE OF ENTRY OF ORDER AND  
 ACKNOWLEDGMENT OF PERSONAL SERVICE**

I acknowledge receipt of a copy of this Modified Order of Protection.

DAVID GAMEZ, Petitioner \_\_\_\_\_ Date \_\_\_\_\_ RORY MICHAEL WALSH, Respondent \_\_\_\_\_ Date \_\_\_\_\_

**UNDER A PERMANENT PROTECTION ORDER: You may be subject to the following federal laws:**  
 (1) Effective immediately, you may not possess, carry, ship or transport any firearm or ammunition that has been transported in interstate or foreign commerce while this Protection Order is in effect. Title 18 United States Code Section 922(g)(8). (2) If you violate this Protection Order and are convicted of an offense of domestic violence, you may be forbidden for life from possessing, carrying, shipping or transporting, any firearm or ammunition that has been transported in interstate or foreign commerce. Title 18 United States Code Section 922(g)(9). Violation of these federal laws carries a maximum penalty of ten years in prison, a \$250,000 fine, or both.

**FILED**  
 AUG 04 2025  
 Minnehaha County, S.D.  
 Clerk Circuit Court

Tab 6

ORIGINAL

STATE OF SOUTH DAKOTA)  
:  
COUNTY OF MINNEHAHA )

IN THE CIRCUIT COURT  
SECOND JUDICIAL CIRCUIT

\*\*\*\*\*

DAVID GAMEZ,

Petitioner,

TEMPORARY PROTECTION

-vs-

ORDER HEARING

RORY MICHAEL WALSH,

49TPO.25-472

Respondent.

\*\*\*\*\*

BEFORE:           The Honorable Jeff Clapper  
                  Circuit Court Judge  
                  Sioux Falls, South Dakota  
                  July 28, 2025

APPEARANCES:    Ms. Kristi Jones  
                  Attorney at Law  
                  795 East Kevin Drive  
                  Tea, South Dakota 57064

For the Petitioner;

Mr. Max Walter  
Attorney at Law  
335 North Main Avenue Suite 230  
Sioux Falls, South Dakota 57104

For the Respondent.

Roxane Osborn  
605-782-3032  
Sioux Falls, South Dakota

1 no history of violence, and has been told repeatedly by  
2 police and courts that he is not violating the law.

3       Additionally, Judge, no physical injury has been alleged  
4 here. As required by SDCL.22-1-2(9). And again, I'd just  
5 reiterate, Judge, that this is now the third protection order  
6 the Gamezes have filed against Mr. Walsh. With each one  
7 based on virtually identical allegations. They insert one  
8 new accusation unsupported by evidence and bring the same  
9 bundle of grievances and hopes for getting a different result  
10 from a different Judge.

11       As Mr. Walsh's reply affidavit makes clear, these  
12 filings are frivolous, retaliatory, and not grounded in any  
13 credible threat or ongoing harassment, and it is currently  
14 causing irreparable disruption in Mr. Walsh, ah, Mr. Walsh's  
15 life, his property rights, and his peace of mind.

16       Your Honor, we're asking that these petitions be  
17 dismissed. Mr. Walsh is not a threat. He is a Veteran.  
18 He's a law abiding homeowner. He is trying to move on with  
19 his life, and these petitions are not based on credible  
20 threats or harassment. Thank you, Your Honor.

21       THE COURT: All right. I've had a chance to review the  
22 court filings, listen to testimony today. I'll say this. as  
23 to Judge Hoffman's prior decision. His decision stands. I  
24 make no finding about Mr. Walsh with regard to anything that  
25 occurred at that hearing. And I don't hold it against Mr.

1 Walsh, any claims of him saying he was going to move or sell  
2 his house within a certain period of time.

3 As to the federal lawsuit, anything resulting from that,  
4 I think the proper remedy is in federal court. However, I do  
5 think some of the information about it's important to give  
6 some context to the court regarding these two parties.  
7 There's obviously some ongoing animosity, and I think it does  
8 provide the backdrop for some motive.

9 What we have here and what the court has to deal with is  
10 a new event, one alleged by Mr. Gamez to have occurred on May  
11 25<sup>th</sup> of 2025, in which he alleges Mr. Walsh indicated the last  
12 thing I'll do is kill you. That if the court finds to have  
13 occurred, is a credible threat under South Dakota law.

14 I do find Mr. and Mrs. Gamez's testimony to be credible,  
15 that that was a threat to their physical harm and is the  
16 basis for a protection order under SDCL. 22-19A-1(2) for  
17 making a credible threat to place another person in  
18 reasonable fear of death or great bodily injury. However, I  
19 only find it against Mr. Gamez and not Mrs. Gamez. There's  
20 no threat directly to her.

21 So, then that leaves, so that means that TPO. 25-471  
22 filed by Lila Gamez is dismissed. That TPO. 25-472 is  
23 granted.

24 Now, the terms. I'll grant protection order for five  
25 years. Respondent's not to come within a hundred yards of

1 the petitioner personally. Now, that makes it a little  
2 difficult on the residence, so he is not to step foot on any  
3 of Mr. Gamez's property. I think that covers what we need to  
4 cover. So, Mr. Walsh, if you are driving, leaving your  
5 residence and you see Mr. Gamez walking his dog, and it's on  
6 your way to where you're going, you're going to need to turn  
7 around and find a different route. You're not to be coming  
8 within 100 yards of him. Sometimes things may happen  
9 accidentally, but your job is to keep going.

10 Either side have any questions?

11 MS. JONES: No, Your Honor.

12 MR. WALTER: No, Your Honor.

13 THE COURT: Okay. Stay here. We'll get the protection  
14 order drafted. You'll need to sign off on that and we'll go  
15 from there.

16 MR. WALTER: Thank you, Judge.

17 MS. JONES: Thank you, Judge.

18 (Proceedings concluded at 3:53 p.m.)  
19  
20  
21  
22  
23  
24  
25

Tab 7

STATE OF SOUTH DAKOTA }

IN THE CIRCUIT COURT

:SS

COUNTY OF MINNEHAHA

SECOND JUDICIAL CIRCUIT

\*\*\*\*\*

**CASE: TPO 49TPO025-000472**

**MOTION FOR A NEW TRIAL**  
**DUE TO DISCOVERY OF NEW AND EXCULPATORY EVIDENCE**  
**THAT EXONERATES RORY M. WALSH FROM THE WRONGFUL ALLEGATIONS**  
**OF DAVID AND LILA GAMEZ ON 25 MAY 2025**

\*\*\*\*\*

This is for Circuit Judge Jeff Clapper,

1. **Overview.**

a. As shown by the forensic report/Photo Analysis report of Richard Quindry, attached as exhibit (a) herein, upon his analysis of the photos David J. Gamez submitted in his request for a TPO on 28 May 2025, falsely alleging that Captain Rory M. Walsh, USMC (Ret.) stopped and rolled his windows to both insult and threaten David J. Gamez on the morning of 25 May 2025, this new and exculpatory evidence exonerates Captain Rory M. Walsh from the fraudulent falsehoods and open lies of David J. Gamez.

b. As shown by the photograph analysis of Richard Quindry, using the photos DAVID GAMEZ HIMSELF SUBMITTED IN HIS REQUEST FOR A TPO OF 28 MAY 2025, same photo clearly shows Captain Rory M. Walsh driver side windows were up, hence there is no way Captain Walsh could have insulted and threatened David Gamez on the morning of 25 May 2025, while Walsh was merely going to the Walmart on 10<sup>th</sup> Street to buy groceries and over the counter medicines. With this new evidence Walsh has clearly shown David Gamez has lied throughout this ordeal, and has repeatedly lied to the police, and as Walsh clearly stated in court and repeatedly, **Walsh categorically denied making same inflammatory statements that Gamez lies about, and with this new evidence showing Walsh's windows were up, with no way to have insulted or threatened Gamez, it is proper that this court overturn its decision and vacate the order of 28 July 2025.**

c. As this court well knows, Lila Gamez has admitted, in court, that she was not present for the "alleged" incident on the morning of 25 May 2025, and her complaint (TPO25-471) was

dismissed by the court. With this new evidence provided by photo analyst Richard Quindry at exhibit (a), Walsh has clearly shown and now documented David Gamez has lied throughout this ordeal, and has repeatedly lied to the police, and as Walsh clearly stated in court and repeatedly, Walsh categorically denied making same inflammatory statements that Gamez lies about, and with this new evidence showing Walsh's windows were up, with no way to have insulted or threatened Gamez, it is proper that this court overturn its decision and VACATE the order of 28 July 2025. **It is proper that this court VACATE its order of 28 July 2025, so Walsh may continue to prepare to move away from the repeated false allegations of David and Lila Gamez and continue to enjoy his military retirement unencumbered by the lies and abuse of the Minnehaha County Courthouse TPO program and quietly move away.**

2. **Sequence of Events.** It is proper to review for the court, the sequence of events that brought up to this juncture.

a. As shown by the court orders of Judge Douglas E. Hoffman of 11 March 2025 attached herein at exhibit (b), Judge Hoffman denied the requests for a TPO by both David and Lila Gamez of TPO numbers 49TPO025-000047 and 49TPO025-000048. There were also two earlier, denied during December 2024; hence with these recent TPO complaints filed (TPO 49TPO025-0000471 and TPO 49TPO025-0000472) both Lila and David Gamez have now filed a total of six (6) TPO requests against Rory Walsh in a clear abuse of the Minnehaha County TPO program, with only one being successful.

b. Since moving to South Dakota during February, 2022, I have been subjected to illegal surveillance and criminal harassment by the FBI Informant; David J. Gamez, who resides at 1013 N. Caleb Ave, Sioux Falls, SD 57103; directly across the street, IN DIRECT VIOLATION OF THE 4<sup>TH</sup> AMENDMENT AND SOUTH DAKOTA SURVEILLANCE LAWS. NIETHER LILA NOR DAVID GAMEZ, NOR THE SIOUX FALLS POLICE DEPARTMENT HAVE PRODUCED A SINGLE SURVEILLANCE WARRANT AGAINST RORY WALSH AT HIS RESIDENCE AT 1012 N. CALEB AVE, SIOUX FALLS, SD 57103.

c. During the morning of 25 May 2025, I rose early to take advantage of the quiet hours at the Walmart on 10<sup>th</sup> Street, to purchase some groceries and over the counter medicines. See receipt evidence at exhibit (c).

d. Turning left onto Madison, I could see David Gamez waiting in ambush of myself, with his camera out to take photos of myself and my vehicle. Fed up with his open criminal actions over the last 3 years, I did not speak to him, nor even rolled down my window, I had already made the decision to move away from him and his equally spiteful wife; Lila Gamez. Unknown to myself at that time, Lila Gamez was holding me under illegal surveillance (in direct violation of the 4<sup>th</sup> Amendment and South Dakota surveillance laws), tipped off David Gamez I was on the way and sped after me as I merely ignored David Gamez, and proceeded to drive by David Gamez to continue on to the Walmart on 10<sup>th</sup> Street. **This is evidence of both illegal surveillance by both David and Lila Gamez, and with Lila Gamez testifying in court on 28 July 2025 that she sped after myself, this is evidence of ENTRAPMENT by both David and Lila Gamez, in direct violation of SDCL 20-9-11.3, and is also grounds for this court to VACATE its order of 28 July 2025.**

e. Then again on 31 May 2025, with my grocery list in hand, I again turned left onto Madison, and I could see David Gamez again ahead of me. See receipt evidence at exhibit (d). I had car trouble, my car stalled, so I pulled over to turn around and go home. As I am trying to turn my car around, **SUDDENLY, AND WITHOUT PROVOCATION (I was merely on my way to buy groceries at the Walmart on 10<sup>th</sup> Street) LILA GAMEZ SHOWS UP IN HER SMALL BROWN SEDAN, SNAPPING PICTURE AFTER PICTURE, THE ZOOMING OFF TO BAHNSON ROAD, TO PICK UP DAVID GAMEZ, AND CONTINUE TO TAKE MORE AND MORE PICTURES OF MYSELF. FOR WHAT?** With this criminal harassment and stalking by both David and Lila Gamez as I am merely going to get groceries, I drove off to take another route to Walmart, and stopped at the "H2O-ose it" on Cleveland Avenue, and asked for assistance from the Sioux Falls Police Department by dialing 911. Three (3) officers kindly showed up and took my complaint. Once they were finished, I drove to Walmart and got my groceries.

f. **THIS IS ENTRAPMENT BY THE GAMEZ'S, BOTH ON 25 MAY AND 31 MAY 2025, AS I GO TO BUY GROCERIES. SEE SDCL 20-9-11.3. CRIMES. THIS IS ALSO GROUNDS FOR THIS COURT TO VACATE THE ORDER OF 28 JULY 2025.** **THIS HAS BEEN GOING ON, CEASELESSLY, FOR THE LAST 3 YEARS AND I WANT THIS TO STOP. BOTH DAVID AND LILA GAMEZ MAINTAIN THEIR CONTNUOUS, CRIMINAL SURVEILLANCE OF MYSELF IN DIRECT VIOLATION**

**OF THE 4<sup>TH</sup> AMENDMENT AND SOUTH DAKOTA SURVEILANCE LAWS. I AM IN THE PROCESS OF MOVING AWAY, MY FOR SALE SIGN IS UP AND I RECENTLY HIRED A REALTOR.**

**g. I vehemently deny having made any comment or threat against David Gamez on the morning of 25 May 2025, as I was merely going to Walmart to get groceries. As stated in court on 28 July 2025, Lila Gamez was not present during the alleged incident on the morning of 25 May 2025.**

**h. Now, as shown by the forensic report of photo analyst Richard Quindry, attached as exhibit (a), my driver side windows were up, hence, I did not insult or threaten David Gamez as he alleges, and David Gamez and his wife Lila both lied in open court on 28 July 2025. This is analysis of the same photos Gamez submitted when he filed his complaint on 28 May 2025. This is false reporting by David and Lila Gamez to the police, see SDCL 22-11-9. More crimes by David and Lila Gamez in their open hatred and animosity of myself. As testified in court on 28 July 2025, the police took no action, concerning the Gamez multitude of complaints and this being their “umpteenth” one filed against Captain Walsh.**

**i. Hence, with this new evidence, showing David Gamez lied concerning the events of 25 May 2025 (Lila Gamez admitted in court she was not present, and Judge Clapper threw out her complaint), it is proper that this court VACATE the order of 28 July 2025, so that I may continue to prepare to move away from the Gamez and their multitude of lies and abuse of the Minnehaha County Court system, and that this court impose a filing injunction against both David and Lila Gamez so they are precluded from continuing their abuse of the Minnehaha County Court system and the TPO program without the advice of a retained lawyer.**

**3. Legal Argument for a new trial or to VACATE the order of 28 July 2025. Per South Dakota law, once the appeal has been filed (Walsh timely filed his appeal in this action on 4 August 2025, see exhibit (e), as well as the endorsement of the court stenographer who is now compiling the report from the hearing on 28 July 2025), and new evidence that clearly exculpates Captain Walsh from the false allegations of David Gamez from his “alleged”**

**incident on 25 May 2025 is discovered, it is proper per South Dakota law to present same to this court, within a motion for a new trial, and/or to vacate the order of 28 July 2025.**

a. See SDCL 15-6-59(a). A new trial may be granted to all or any of the parties and on all or part of the issues for any of the following causes;

“(4) Newly discovered evidence, material to the party making the application, which he could not with reasonable diligence have discovered and produced at trial.”

“(7) Error of law occurring at trial,” this court ignored Captain Walsh arguments at trial that the sequence of events, on both 25 and 31 May 2025 by the Gamez working in tandem and both setting up Captain Walsh as Walsh merely went to Walmart to get groceries, **is evidence of ENTRAPMENT see SDCL 20-9-11.3** and judge Clapper should have thrown out this complaint by Gamez due to the evidence showing both he and his life Lila orchestrated both events on 25 and 31 May 2025.

b. The required affidavit is attached at exhibit (f).

c. **Reasons for delay in providing this new evidence that exculpates Rory Walsh from the inflammatory and false allegations of both David and Lila Gamez,**

(1) Private Investigator underwent cataract surgery. Walsh had difficulty finding a forensic/photo analyst to evaluate the photos filed by David Gamez. Walsh uses private investigator Pat McManus here in Sioux Falls, who recently underwent cataract surgery, and his nephew died in a motorcycle accident, and has yet to respond once the photos were provide to him. See email trace evidence at exhibit (g), hence Walsh had to hire and pay another forensic/photo analyst and it was complete on 22 August 2025 (see exhibit (a)), and promptly provided to this court.

(2) Ineffective Assistance of Counsel. While this case is a civil matter, the legal basis to claim ineffective assistance of counsel remains sound law, and warrants a detailed review by Judge Clapper. First and foremost, Atty Max Walter has been terminated, and Walsh has both demanded a full \$6000.00 refund for his shenanigans before and during trial, and Walsh is in the process of petitioning the Disciplinary Board of the State Bar of South Dakota over this misconduct of Atty Max Walter before and during trial.

(a) **Max Walter did not prepare for trial**. We were going over MY RECOMMENDED QUESTIONS for both David and Lila Gamez on the morning of 28 July 2025, Max Walter had not prepared any.

(b) As Judge Clapper will clearly recall, Captain Walsh showed up with flipcharts and evidence, and was prepared to conduct a brief to show this court how the events on both 25 and 31 May 2025 were orchestrated by both Lila and David Gamez, with David waiting in ambush on Bahnson as Walsh merely departed to go get groceries at the Walmart on 10<sup>th</sup> Street, and again on 31 May 2025 with Lila Gamez racing after Walsh, snapping her camera as well as David Gamez doing the same, in a concerted effort to precipitate Walsh's arrest. They failed. As judge Clapper will clearly recall Walsh showed up at trial with flipcharts and evidence, and planned to do a detailed brief of the events on both 25 and 31 May 2025 showing these events were orchestrated by both David and Lila Gamez, in direct violation of SDCL 20-9-11.3; **ENTRAPMENT, and is grounds for this court to vacate the order of 28 July 2025. Atty Max Walter vigorously refused to allow Captain Walsh to present his brief or review his evidence at court.**

(c) **Failure to rebut HEARSAY and falsified evidence presented by both David and Lila Gamez at court.** Gamez testified to a neighbor relaying to him an incident where Captain Walsh warned same neighbor to stop ringing his doorbell each morning as he walked his dog or Walsh would notify the police, which is HEARSAY, and Max Walter refused to argue that same testimony was HEARSAY. Further, David Gamez testified that he came over to gift me some shaving products during March 2023, **THAT IS FALSE, GAMEZ CAME OVER DURING MARCH 2023 ARMED, TO GIVE A FOLDING KNIFE. THAT IS THE SECOND TIME GAMEZ ENTERED MY PROPERTY ARMED AND I DECIDED THAT IS ENOUGH OF HIS CRIMINAL CONDUCT AND THAT IT WAS TIME TO MOVE AWAY.**

4. **Judge Clapper has wide discretion once presented with a motion for a new trial.** See SDCL 15-6-59(a);

**“On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.”**

Hence, with Captain Walsh having now filed NEW FORENSIC/PHOTOGRAPHIC EVIDENCE OF THE PHOTOS DAVID GAMEZ HIMSELF FILED WITHIN HIS COMPLAINT OF 28 MAY 2025, SHOWING WALSH'S DRIVER SIDE WINDOWS WERE UP, AND THAT THERE WAS NO WAY WALSH COULD HAVE INSULTED AND THREATENED GAMEZ AS DAVID GAMEZ ALLEGES WALSH DID ON THE MORNING OF 25 MAY 2025, EXCULPATING WALSH FROM ANY GUILT IN THIS MATTER THAT WALSH VEHEMENTLY DENIES HAVING DONE SO, AND SHOWING BOTH DAVID AND LILA GAMEZ CONTINUE TO LIE IN THEIR COURT FILINGS, IN OPEN COURT, AND TO THE POLICE IN DIRECT VIOLATION OF SDCL 22-11-9, IT IS PROPER THAT THIS COURT VACATE ITS ORDER OF 28 JULY 2025, SO CAPTAIN WALSH CAN CONTINUE TO ENJOY HIS MILITARY RETIREMENT AND MOVE AWAY FROM THE FANTASTIC YET FALSE AND CONTINUING LIES OF BOTH DAVID AND LILA GAMEZ.

5. Contacting the opposing counsel; Atty Kristy Jones. Upon receipt of this powerful evidence that both exculpates Captain Walsh from the criminal allegations of David Gamez and shows to this court David and Lila Gamez continue to lie to this court and the police, see exhibit (a), Walsh attempted to contact Atty Kristy Jones to strike a deal before approaching this court to VACATE its order of 28 July 2025. Atty Kristy Jones failed to return same important phone call.

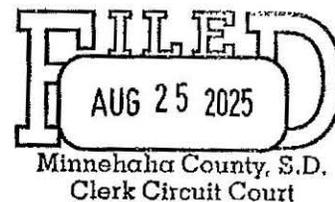
6. Conclusion. Per SDCL 15-6-59(a); IT IS PROPER THAT THIS COURT VACATE ITS ORDER OF 28 JULY 2025, SO CAPTAIN WALSH CAN CONTINUE TO ENJOY HIS MILITARY RETIREMENT AND MOVE AWAY FROM THE FANTASTIC YET FALSE AND CONTINUING LIES OF BOTH DAVID AND LILA GAMEZ AND THEIR DOCUMENTED ANIMOSITY AND HATRED. It is proper that this court VACATE the order of 28 July 2025, and grant such other relief as to the Court deems just and proper at this time.

Respectfully Submitted,

*Rory M. Walsh*

**Captain Rory M. Walsh USMC (Ret.)  
Disabled Veteran of the Iraq Wars  
605-251-8668**

- Exhibits:
- (a) Forensic/Photographic Analyst report of Richard Quindry of 22 Aug 25
  - (b) Judge Hoffman denying Gamez TPO petitions of both Lila and David Gamez (49TPO25-000047 and 49TPO25-000048)
  - (c) Walsh's grocery bank charges from 25 May 2025
  - (d) Walsh's grocery list and bank charges from 31 May 2025
  - (e) Walsh timely filed his appeal in this action on 4 August 2025
  - (f) Walsh's required affidavit for this motion for new trial/to VACATE order
  - (g) Walsh email trace with PI Pat McManus showing he was undergoing cataract surgery and his nephew had died, hence delaying Walsh's ability to get a forensic/photographic analysis of the photos David Gamez submitted in his complaint of 28 May 2025



49TPO25-000472

# Exhibit (a)

**FILED**  
AUG 25 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

Richard Quindry  
1034 Campbell Way  
Hatfield, PA 19440  
  
215-368-9260  
  
Photo-Forensics.com  
Quindry.com

August 22, 2025

Mr. Rory Walsh

#### **Report of Richard Quindry**

You asked me to review and evaluate photographic evidence, which you claim shows that your driver's door window was completely closed.

#### ***Qualifications and Expertise***

I currently work as a professional photographer, with over 50 years of experience in commercial photography. My skills include the use of numerous types of professional cameras, lighting both in the studio and on-site using various kinds of sources, film and print development, darkroom operation, digital photography, digital and conventional retouching, Photoshop, and many other computer photography programs, and the ability to calculate the relative position of the sun for any location on earth at any date and time.

I began programming computers in 1968, and I have had a personal computer since before the first IBM PC was manufactured. I started studying and using computer programs to digitally manipulate photos around 1992, using early programs including PhotoStyler, Impos/2, and Colorworks. I started using Photoshop around 1995 and have owned most versions of the program since then. I currently use Photoshop 2024. Some of the additional programs that I routinely use to enhance and alter photographs are Adobe Lightroom, Phocus, Zerene Stacker, along with many plug-in applications that add additional functions to Photoshop. I have been doing digital photography since 2002.

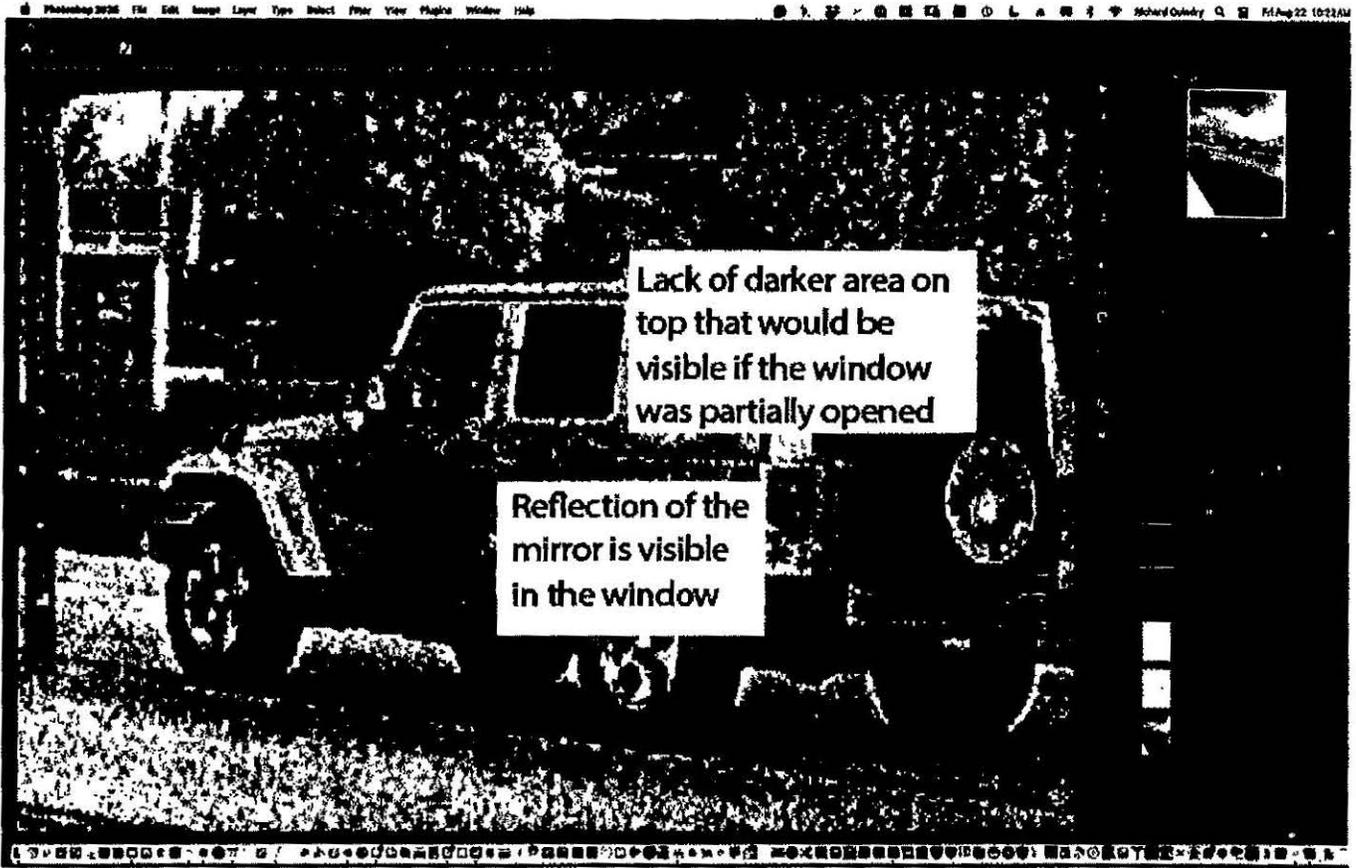
I regularly attend seminars and webinars on photographic lighting and Photoshop and self-study using my purchased training videos. I have purchased and studied over 100 training classes. Some of these classes run multiple days. In addition to the 200+ books on photography I have read, I have studied over 10,000 pages on Photoshop, including several books and academic papers on the forensic analysis of photographic images.

Since 2008, I have been retained by counsel to provide expert opinions about the validity and accuracy of photographic evidence. I have testified or submitted reports in over 20 cases, including federal courts in both civil and criminal cases. A list of these cases can be found in my attached CV.

Attached is an annotated screenshot from Photoshop, which shows a magnified section of a photo that the court accepted as evidence. You can clearly see the reflection of the car's left side mirror in the window, which proves that the window was at least partially closed. The smooth, similarly toned area in the upper section of the window, reflecting what is probably the sky, proves that the window was completely closed. Otherwise, you would see a nearly horizontal delineation formed with a darker section at the top, where you would be looking into the darker interior of the car.

### *Conclusion*

There is no doubt in my mind that your window was closed.



Richard Quindry  
1034 Campbell Way  
Hatfield, PA 19440  
(215) 368-9260

Education: 1969 - 1973 BA - Pennsylvania State University

Employment: 1973 - 1974 Substitute teacher, School District of Philadelphia  
1974 - present Owner/Photographer at Richard Quindry Photography

Work experience:

I've been self-employed as a commercial photographer for 51 years. Photographic specialties include architectural photography, product photography, corporate location photography, and the photography of people, both in the studio and on location. Skills include the use of numerous types of professional cameras, lighting both in the studio and on-site using various types of sources, film and print development, darkroom operation, digital photography, digital and conventional retouching, Photoshop, and many other computer programs for photography, and the ability to calculate the relative position of the sun for any location on earth at any date and time.

Clients that I've done photography for include Johnson and Johnson, Merck, Sunoco, Nike, BASF, DuPont, Exxon Mobil, Firestone, Pfizer, Novartis, Bristol-Meyers Squibb, GE Capital, Campbell Soup, The Franklin Mint, Roche Pharmaceuticals, GlaxoSmithKline, Mars Candy, Hershey's, Nabisco, Royal Bank of Scotland, and several other multi-national corporations.

I combine my skills as an advertising photographer and Photoshop expert to create pictures that make people, places, and products look their best for marketing and advertising. My work has received international recognition. In 2008, an eight-page article featuring an interview and 13 of my photographs appeared in Commercial Images, China's leading commercial photography magazine. I was the only photographer featured in the 128-page issue who was not from China.

My website, Quindry.com, shows many examples of before and after images demonstrating my abilities as a photographer and Photoshop expert. According to Google Analytics, my website received

visits from 48 countries in 2023.

**Training:**

While still an engineering major at Penn State, I decided to become a commercial photographer. I switched majors to General Arts and Sciences. I commenced taking what photography courses I could, along with any other classes I felt would help me establish a successful commercial photography business. At that time, I began the practice of lifelong learning that I still practice today.

I began programming computers in 1968, and I've had a personal computer since before the first IBM PC was manufactured. I started studying and using computer programs to digitally manipulate photos around 1992, using early programs including PhotoStyler, Impos/2, and Colorworks. I started using Photoshop around 1995 and have owned most versions of the program since then, and now I am using Photoshop 2025. Some of the additional programs that I routinely use to enhance and alter photographs are Adobe Lightroom, Zerene Stacker, along with many plug-in applications that add additional functions to Photoshop.

I have been doing digital photography since 2002 and estimate that except for 2020 and 2021 due to the business slowdown caused by the pandemic, I average over 15,000 photographs yearly.

I regularly attend seminars and webinars on photographic lighting and Photoshop and self-study using my purchased training videos. I have purchased and studied well over 100 training classes. Some of these classes run multiple days.

In addition to the 200+ books on photography I have read, I have studied over 10,000 pages on Photoshop, including several books and academic papers on the forensic analysis of photographic images.

In 2008, I prepared a written report as to the legitimacy of a photograph for a case in North Carolina: *Carlucci v. KB Homes, et al.* 07 CVS 10547 (Mecklenburg County), which my client credited as instrumental in bringing a swift settlement before trial.

In 2009, I consulted with, did photography for, and prepared a letter for Saul Krenzel & Associates. The Pennsylvania case was *Joanne Fiorella v. University City Housing Company et al.* CCP, Philadelphia County, November Term, 2008, No. 000943. I gave a written report stating my

determination that the plaintiff's photographic prints did not clearly and accurately represent what they depicted and that the digital files were required to be examined for tampering and to produce more reliable prints. The case was settled a few days later.

2011, I consulted with the Wood Law office in Charleston, WV, on a criminal case. They believed their client was being framed for a burglary, and the evidence was a series of images taken by a "hidden security camera." The individuals bringing the charges were related to a local official who claimed "he had several witnesses that would testify" that the images showed their client committing the crime. I analyzed hidden data in the photos and the camera's specs to give the legal team several facts that didn't add up. The day before I was scheduled to travel to West Virginia to do a photographic analysis on-site, all charges were dropped.

In 2012, I was hired by John Masterson of Roth Gerber in Casper, Wyoming, to examine evidence that appeared to show a Deacon in the Catholic church in the bed of a parishioner who claimed she was forced into a sexual relationship. I determined that his head was photoshopped onto another man's body. Before I finished the written report on this, the case was dismissed on technical matters.

In 2013, I provided a written report for Joseph P. Simon, an attorney in Kirkwood, Missouri, concerning the case of Phineas. This yellow Labrador Retriever was to be put down for supposedly viciously attacking a young girl. Upon examination of the photographic evidence, I found that the photos of the bite marks were extremely misleading. Phineas won his case.

In 2014, I provided photogrammetric analysis, a written report, and deposition for Gray, Ritter & Graham in St. Louis for an Illinois case, Ellington vs. Arands Bros., LLC. It involved the analysis of images taken by an accident investigator. A couple of photos revealed what appeared to be indentations in the road by what could have been a wheel. The insurance company claimed they were oil marks. They claimed the driver was on the wrong side of the road before he was killed on a two-lane road by a truck carrying a combine, which sheared off the top of the pickup he was driving and killed the driver. Enhancing an image showed marks that clearly looked like a disruption of the road's stone surface. Calculations revealed that the two marks were approximately 5.9 inches apart and 38 inches to the centerline's right. It ended up that the wheels on the small pickup had wheels with a 6" width (which I did not know when I made the measurements). The case was settled shortly before trial. I learned that the client was thrilled with the settlement.

In 2014, I also provided consultation and analysis for a Las Vegas attorney, Jennifer Pandullo. She felt that the photographic evidence provided against her clients was digitally altered. After the plaintiff received instructions to retain her smartphone so the original photos taken could be examined, she

"lost" her phone about a week later.

In 2015, I was hired by attorney Michael Regan of Shelburne, VT, concerning skid marks in an accident case on Long Island. He was concerned that one set of photos showed skid marks, and another set taken later by another collision investigator did not show all of the skid marks. He purchased the same model camera on eBay, and I took a collection of photos of a skid mark where I live. I demonstrated in a written report that at certain angles to the sunlight, skid marks were not visible in photos, even at close distances.

2016 – Zenaida Lockard, Office of the Federal Public Defender, Southern District of Ohio  
Analyzed an image and testified in federal court, showing that a photograph presented by the prosecution was not an original out-of-camera image. I pointed out tells in the picture that proved it had been composited from two or more images and, therefore, was not an original photo.

2016 – Brad Cooper and Associates, Philadelphia, PA

A dispute over the property line for liability. I changed the perspective from an image depicting a sidewalk after repair to line up and ghost over a photograph of the same sidewalk before repair, taken from an entirely different angle. This formed an exhibit for a settlement conference.

2017 – Garcia Law, Key West, FL

Smith vs. Hertz Corp.

I analyzed and enhanced a series of photographs of body damage to a car due to an accident.

2018 – Cantey Hanger LLC, Fort Worth TX

I provided a report that photographs depicting drug use by hospital employees were fabricated using images of those pulled from their Facebook page with drug paraphernalia photos from other sources added in an image editing program.

2019 – Dunlevy Law Group, Decatur, GA

I analyzed a few photos of zoning notice signs in a land-use dispute. I found highly suspicious date stamps on the images that showed that they were probably altered.

2019 – Condit Csajaghy LLC, Denver, CO

This was a child custody case that involved a claim of child abuse. Photos provided showing discoloration on a child's legs were shown not to be injuries at all but merely misleading color shifts in the image that were caused by one side of the legs being lit by the light from the blue sky coming

through a window on one side and interior room lighting on the other side.

2020 – Owens & Ross, Eureka, CA

Provided a written report that showed that a document was forged. Words were added to a scanned document by using an image editing program.

2020-2021 – Bohn & Battey, PLC, Arlington, VA

I was called on to see if there was the fabrication of evidence consisting of five product catalogs submitted by a corporation to the Court as evidence. It was a trademark dispute tried in the Fourth Circuit. The evidence was falsified by altering and inserting images into existing catalogs with an image editing program. I found many instances where this occurred and showed where it was falsified in over 50 exhibits. It was a David and Goliath story with two attorneys working from their homes against a five billion dollar corporation using a nationally recognized law firm with 2200 attorneys. My client won the case. A motion for sanctions was made and awarded. The case was dismissed with prejudice. An article mentioning my part in the case was published in "The American Lawyer."

2021 - Gray, Ritter & Graham, St. Louis, MO

I was called again by a previous client. They provided me PDFs of images taken by police of a car that was involved in an accident. The trunk was partially sprung open and revealed what might be a plastic gas can in the shadows. There seemed to be some information printed on the can, but nothing was readable, even at high magnification. I was able to enhance the photo to the point of not only making the information readable but also finding a partial logo. In addition to providing the enhanced photo, I searched the internet and found the matching gas can. The manufacturer's name and pictures of the can for sale matched the design, logo, and printing on the can, which was partially visible in the trunk. All of this was completed in about one hour. This led credence to the fact that the two maintenance workers who were killed in the car when it was hit by a train were, in fact, on their way to get gas for their company's lawnmowers and not as the company's insurance company claimed, out on a joy ride and therefore not covered.

2023 - Holwell Shuster & Goldberg LLP, New York, NY

This case involved a 1.1 billion dollar lawsuit between General Electric, the country of Angola, and Aenergy (Angola Energy) to go into arbitration in London by a tribunal of judges. It involved what was believed to be a forged order of turbines to provide electricity to cities. These documents bore an official government seal and an official's signature.

I was called on to analyze these documents to determine if they were genuine, created in Photoshop, or if the signatures were forged. I proved they were created by altering the text of an official document in Photoshop and proved how it was done. I also analyzed photos of these documents taken within hours of their creation. I determined that the photos were taken on an upper floor of a specific high-rise apartment building in Luanda, the capital of Angola.

2023 - Kellog, Hansen, Todd, Figel & Frederick, P.L.L.C., Washington D.C.

I analyzed some photos for their client, the Kingdom of Saudi Arabia. I provided a written report that showed that a photo of a facility that made it appear very close to the viewer was, in fact, almost 10 miles away, and more closely resembled what you would see if looking through a telescope. Other photos taken from the same location on the same day by the same photographer showed it barely perceptible on the horizon.

2023 - Bateman Calinendo LLC, Horsham, PA

In a trip-and-fall lawsuit against the Philadelphia Housing Authority, I provided a written report showing that photos provided by the plaintiff's attorney that attempted to prove inadequate outdoor lighting of the exterior steps leading from the sidewalk to a house did not prove any such thing and were not acceptable as evidence.

2023 -- Meyers | Nave, California  
Mitchell v. City of Hayward

A contractor working on a road for Hayward did half of a million dollars in damage to the city's sewer system. They claimed that photos taken at the work location by the contractor with their cell phones proved that green paint markings that should have been sprayed on the curb and sidewalk to designate its presence were never put down and that they should not be held responsible for damages.

Within a couple of minutes, I was able to enhance the colors in their photos to prove that, indeed, they had been marked. I was able to take pale, not very noticeable markings in a photo showing a rather large area and intensify the greens in the photos to make them jump out.

The court date was canceled within days, and an agreement to settle the case was reached.

2024 - Littler Mendelson P.C., Minneapolis, MN

OSHA v. Sabri Properties

A union submitted over 100 photos alleging safety violations at two non-union building sites.

My report revealed that the metadata in the images had been altered and that a significant percentage of

the photos were deceptive due to their distant camera positions.

The case was amicably resolved.

2024 – Mennah Legal, Montreal, Quebec, Canada

I was hired to determine if a photo was altered. After examining the lighting, shadows, and reflections for consistency, I determined it was not. An “expert” in France determined that it could have been retouched, vaguely referring to his interpretation of “error-level-analysis”. A free method of dubious value that amateurs use to determine if photos are fakes. It can be found on the internet.

The person shown in the photo claimed that he had been digitally retouched into the photo, and that he had never been seated at a table with a document in this restaurant. I provided indisputable evidence that he indeed had, and the date and time that he was there.

2025 – Wicker Smith, Naples, FL

A hospital and surgeons were being sued concerning the results of a mastectomy. They provided a photo showing the area where the operation was done, including fresh stitches.

A thorough examination of the provided photo as evidence revealed that the image was fraudulent. It was created by combining two unrelated images.

49TPO25-000472

# Exhibit (b)

**FILED**  
AUG 25 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

STATE OF SOUTH DAKOTA )

IN CIRCUIT COURT

COUNTY OF MINNEHAHA )

SECOND JUDICIAL CIRCUIT

LILA M GAMEZ  
Petitioner

TPO NO. 49TPO25-000047

-vs-

**ORDER DISMISSING  
PROTECTION ORDER  
(STALKING OR PHYSICAL INJURY)**

RORY MICHAEL WALSH  
Respondent

**THIS CASE IS DISMISSED:**

- 1 Based upon the request of the Petitioner.
- 2. Based upon the request of the Respondent.
- 3. Based on the failure of the Petitioner to appear at the hearing that was set when the Petitioner applied for the Order of Protection.
- 4. Based on the Court's findings that the Petitioner failed to provide sufficient evidence to support, by a preponderance of the evidence, a finding that "stalking" has occurred as required by SDCL 22-19A, and/or that physical injury has occurred as required by SDCL 22-1-2(9)
- 5 Other \_\_\_\_\_

DATED 03/11/2025.

Attest: *Karla Kalb*, Clerk of Courts

by: *[Signature]* Deputy

Judge *Dayton E. Hoffmann*



**FILED**  
MAR 11 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

*Enclosure (6)*

UJS-121L (Stalking Order to Dismiss)  
Rev 07/14

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF MINNEHAHA

SECOND JUDICIAL CIRCUIT

DAVID GAMEZ  
Petitioner

-vs-

RORY MICHAEL WALSH  
Respondent

TPO NO. 491TPO25-000118

**ORDER DISMISSING  
PROTECTION ORDER  
(STALKING OR PHYSICAL INJURY)**

**THIS CASE IS DISMISSED:**

- 1. Based upon the request of the Petitioner.
- 2. Based upon the request of the Respondent.
- 3. Based on the failure of the Petitioner to appear at the hearing that was set when the Petitioner applied for the Order of Protection.
- 4. Based on the Court's findings that the Petitioner failed to provide sufficient evidence to support, by a preponderance of the evidence, a finding that "stalking" has occurred as required by SDCL 22-19A; and/or that physical injury has occurred as required by SDCL 22-1-2(9).
- 5. Other \_\_\_\_\_

DATED 03/11/2025.

Judge *Douglas E. Hoffmann*

Attest: *Karla Kalb* Clerk of Courts

by *[Signature]* Deputy



**FILED**  
MAR 11 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

*Enclosure (2)*

UJS-121L (Stalking Order to Dismiss)  
Rev. 07/14

49TPO25-000472

# Exhibit (c)

**FILED**  
AUG 25 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

Exhibit C

FREE CHK 0002 - First Bank & Tr. x +

https://accounts.bankeasy.com/account/f991929f-2556-4e4b-b18d-6054f2b9bf20

Import favorites For quick access, place your favorites here on the favorites bar. [Manage favorites now](#)

**Transaction details** x

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5:27/2025

\$79.57

- + Add tags
- + Add notes
- + Add images
- +
- + Attach to a conversation

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POS DES 0649 05 25 25 00244519 WM SUPERCENTER #3237 5521 E ARROWHEAD P SIOUX FALLS SD C#5152

Date Purchased 5/25/25.

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49TPO25-000472

# Exhibit (d)

**FILED**  
AUG 25 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

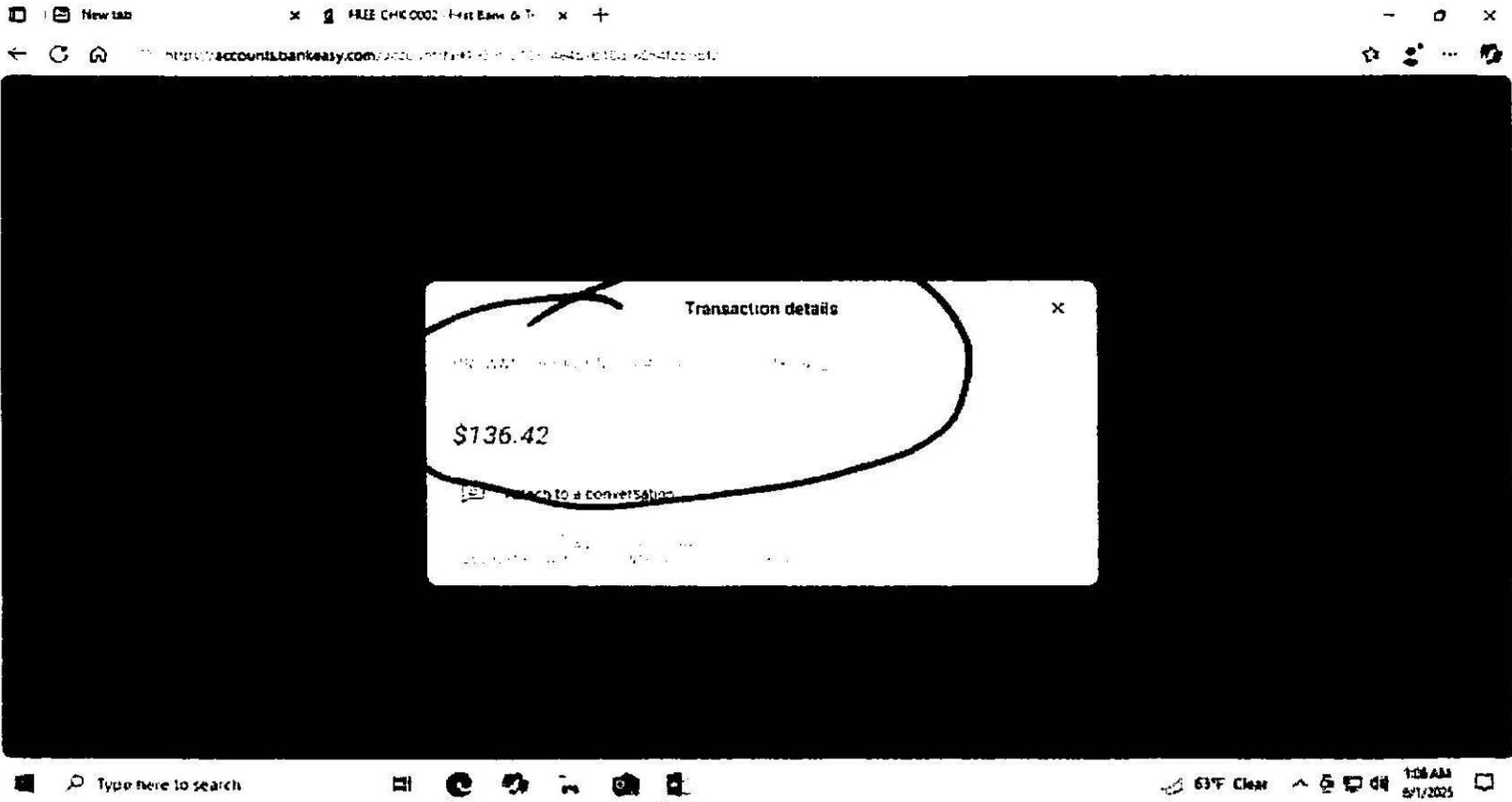
Set of My 2005

- o MA - LRG X10
- o White X4
- o Fruit
- o Grape
- o Ice Cream
- o (M. L. R. Kipino
- o 4 wheels in A.D. - 24
- o Nig. Kins X3

White Nig. X3

Toilet Paper X8

*[Handwritten scribble]*



*Keath*

49TPO25-000472

# Exhibit (e)

**FILED**  
AUG 25 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

Captain Rory M. Walsh USMC (Ret.) )

Appellant, )

v )

David J. Gamez )

Appellee )

Appellant's  
Docketing Statement

# \_\_\_\_\_

49TP025 - 000472

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NOTICE OF APPEAL

Section A. TRIAL COURT

- 1. The Circuit Court from which the appeal is taken: Second Circuit
- 2. The county in which the action is venued at the time of appeal: Minnehaha
- 3. The name of the trial judge who entered the decision appealed: Judge J. Clapper

PARTIES AND ATTORNEYS

4. Party: Captain Rory M. Walsh USMC (Ret.) *Pro se*  
 1012 N. Caleb Ave.  
 Sioux Falls, SD 57103  
 605-251-8668

Party David J. Gamez  
 Atty Kristi Jones  
 795 E. Kevin Dr.  
 Tea, SD 57064  
 605-838-5873

**SECTION B. TIMELINESS OF APPEAL**

1. The date the judgment order appealed from was signed and filed by the trial court: 28 July 2025
2. The date notice of entry of judgment was served on each party: 28 July 2025
3. State whether either of the following motions were made:
  - a. Motion for judgment: NO
  - b. Motion for new Trial: NO

**NATURE AND DISPOSITION OF CLAIMS**

4. Appellant Walsh dismissed his claims IOT bring this to a reasonable conclusion after the Gamez has filed five (5) complaints against Appellant Walsh. Gamez claim was ruled credible by Judge Clapper and Walsh was ordered a 5 year PPO against himself, to which he appeals.
5. Appeals of right may be taken from only final, appealable orders.
  - a. Did the court enter a final judgement that resolves all of the parties individual claims? YES
  - b. Did the trial court enter a final judgment? YES
6. State each issue intended to be presented for review.
  - a. Judge Clapper did not allow Appellant Walsh to present his counter evidence, nor even his grocery lists from both 25 and 31 May 2025, showing he was merely on his way to get groceries at the Walmart on 10<sup>th</sup> Street on both dates in question.
  - b. **Appellant Walsh vehemently denied David Gamez allegation, and argued that both events showed both were premeditated by the Gamez', as they continue to hold Appellant Walsh under illegal surveillance, and show not only evidence of premeditation, but also evidence of ENTRAPMENT in direct violation of SDCL 20-9-11.3, and ignored Walsh's argument and pleads that this case for the alleged incident on 25 May should have been dismissed.**

c. Judge Clapper allowed excessive **EXTRAJUDICIAL** arguments (no evidence) from the pending legal action against Gamez that continues to advance in the federal court system, without allowing Appellant Walsh to argue or present counter evidence, showing those **EXTRAJUDICIAL** arguments have no bearing on this case, and were prejudicial against Walsh, despite the objections of Attorney Max Walter,

d. Appellant Walsh had shown, and appellee David Gamez testified to this fact, that despite the repeated and incessant complaints to the police regarding Appellant Walsh's alleged criminal actions, **the Sioux Falls Police did not take any action, never even questioned Appellant Walsh nor even knocked on Appellant Walsh's front door to question him, ever.**

e. Despite the repeated and incessant complaints by appellee Gamez to the police **for years**. Gamez and his wife have filed five (5) complaints against Appellant Walsh over the years, including incessant calls to the police, all having been fruitless, except for this final one.

f. The Gamez particularly Lila Gamez, admitted to conducting illegal surveillance of Appellant Walsh for years in direct violation of SDCL 22-21-1 in open court. Judge Clapper did **NOTHING** about their continued illegal surveillance of Appellant Walsh, and the Sioux Falls Police, under the SDCL sunshine law (SDCL 1-27), also did not provide any evidence of a surveillance warrant against Appellant Walsh despite the incessant complaints against Appellant Walsh filed by both David and Lila Gamez for years. Same illegal surveillance by the Gamez for years, as admitted to in court, **is in direct violation of Appellant Walsh's 4<sup>th</sup> Amendment rights.**

---

Date: 4 Aug 2025

Signature

*[Handwritten Signature]*  
USAC (Ret.)

3

49TPO25-000472

# Exhibit (f)

**FILED**  
AUG 25 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

**AFFIDAVIT OF CAPTAIN RORY M. WALSH USMC (RET.)  
REGARDING THE ORCHESTRATED CRIMINAL EVENTS BY DAVID  
AND LILA GAMEZ DURING THE MORNING OF 25 MAY 2025 IN  
DIRECT VIOLATION OF SDCL 20-9-11.3; ENTRAPMENT AND THE  
FALSE ALLEGATIONS OF DAVID GAMEZ ON 25 MAY 2025**

I, CAPTAIN RORY M. WALSH, USMC (Ret.) am a resident and registered voter of Sioux Falls, County of Minnehaha, state of South Dakota. Rory M. Walsh, I am a resident and registered voter of the Sioux Falls, County of Minnehaha, State of South Dakota, and do hereby certify, swear or affirm under the penalty of perjury that I am competent to give the following declaration based on my personal knowledge, and that the following statement is true and correct to the best of my knowledge:

Since moving to South Dakota during February, 2022, I have been subjected to illegal surveillance and criminal harassment by the FBI Informant; David J. Gamez, who resides at 1013 N. Caleb Ave, Sioux Falls, SD 57103; directly across the street.

During the morning of 25 May 2025, I rose early to take advantage of the quiet hours at the Walmart on 10<sup>th</sup> Street, to purchase some groceries and over the counter medicines.

Turning left onto Madison, I could see David Gamez waiting in ambush of myself, with his camera out to take photos of myself and my vehicle. Fed up with his open criminal actions over the last 3 years, I did not speak to him, nor even rolled down my window, I had already made the decision to move away from him and his equally spiteful wife; Lila Gamez. Unknown to myself at that time, Lila Gamez was holding me under illegal surveillance (in direct violation of the 4<sup>th</sup> Amendment and South Dakota surveillance laws), tipped off David Gamez I was on the way and sped after me and sped after me after I merely drove by David Gamez to continue on to the Walmart on 10<sup>th</sup> Street.

Then again on 31 May 2025, with my grocery list in hand, I again turned left onto Madison, and I could see David Gamez again ahead of me. I had car trouble, my car stalled, so I pulled over to turn around and go home.

As I am trying to turn my car around, **SUDDENLY, AND WITHOUT PROVOCATION (I was merely on my way to buy groceries at the Walmart on 10<sup>th</sup> Street) THE GAMEZ' SHOW UP IN LILA'S SMALL BROWN SEDAN, SNAPPING PICTURE AFTER PICTURE, THE ZOOMING OFF**

**TO BAHNSON ROAD, TO GET OUT OF THE CAR AND TAKE MORE. FOR WHAT?**

**THIS BLATANT CRIMINAL ACTIONS AND WARRANTLESS SURVEILLANCE BY BOTH DAVID J. GAMEZ AND HIS WIFE LILA HAS BEEN GOING ON, CEASELESSLY, FOR THE LAST 3 YEARS AND I WANT THIS TO STOP, AND FOR DAVID J. GAMEZ TO SURRENDER HIS WEAPONS BEFORE HE SHOOTS ME. BOTH GAMEZ AND HIS WIFE WERE TRYING TO PRECIPITATE A CHARGE AGAINST ME, AND I HOPE THE POLICE WARNED THEM, THEY NEED TO WAIT FOR ME TO DO SOMETHING WRONG, RATHER THAN CHASING AFTER ME, TAKING PICTURES, WHEN I AM MERELY ON THE WAY TO THE GROCERY STORE.**

**AS DETAILED BY THE EVENTS ON THE MORNING OF 31 MAY 2025 AS I MERELY DRIVE TO GET GROCERIES AT THE WALMART ON 10<sup>TH</sup> STREET, WITH THE GAMEZ SPEEDING UP AND ALMOST STRIKING MY CAR, DELIBERATELY FOLLOWING AND STALKING MYSELF, THE GAMEZ ARE MAINTAINING ILLEGAL SURVEILLANCE ON MYSELF, AND THEN ZOOMING AND DRIVING ERRATICALLY TO SMASH INTO ME; I AM NOT STALKING THE GAMEZ, THEY ARE STALKING AND DELIBERATELY FOLLOWING ME.**

With this criminal harassment and stalking by both David and Lila Gamez as I am merely going to get groceries, I drove off to take another route to Walmart, and stopped at the "H2O-ose it" on Cleveland Avenue, and asked for assistance from the Sioux Falls Police Department by dialing 911. Three officers kindly showed up and took my complaint. Once they were finished, I drove to Walmart and got my groceries.

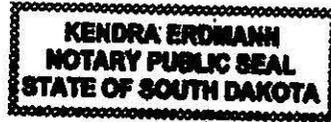
**THIS IS ENTRAPMENT BY THE GAMEZ, BOTH ON 25 MAY AND 31 MAY 2025, AS I GO TO BUY GROCERIES. SEE SDCL 20-9-11.3. CRIMES. THIS HAS BEEN GOING ON, CEASELESSLY, FOR THE LAST 3 YEARS AND I WANT THIS TO STOP, FOR THE MINNEHAHA COURT SYSTEM TO ISSUE A PERMANENT PROTECTIVE ORDER AGAINST BOTH OF THEM TO STAY OFF MY PROPERTY, AND FOR DAVID J. GAMEZ TO SURRENDER HIS WEAPONS BEFORE HE SHOOTS ME. THIS IS NAKED, CRIMINAL STALKING AND I WANT A PROTECTIVE ORDER BEFORE GAMEZ SHOOTS ME IN HIS ABUSE OF HIS PISTOL.**



Before me, a Notary Public in and for said County and State, hereby certify that Rory Walsh, personally known to me to be the affiant in the foregoing affidavit, personally appeared before me this day and having been by me duly sworn deposes and says that the facts set forth in the above affidavit are true and correct.

Witness my hand and official seal this the 23rd day of August, 2025.

Kendra Erdmann  
Signature



exp. 3/27/29

49TPO25-000472

# Exhibit (g)

**FILED**  
AUG 25 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

 Outlook

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**Re: Need some photos evaluated**

---

From: Rory Walsh <rorywalsh78@hotmail.com>  
Date: Tue 8/5/2025 2:17 PM  
To: patm@allegianceinvestigators.com <patm@allegianceinvestigators.com>

Pat,  
When will you be back? Please check with your peers, I need a PI to help on this problem. He lied.

Rory  
605-251-8668

---

From: patm@allegianceinvestigators.com <patm@allegianceinvestigators.com>  
Sent: Tuesday, August 5, 2025 1:51 PM  
To: Rory Walsh <rorywalsh78@hotmail.com>  
Subject: Re: Need some photos evaluated

Good afternoon Rory,

Sorry for the delayed response. I'm having cataract surgery today and heading out of town to KS. My nephew was just killed in a motorcycle accident. I don't have any expertise in the area in question. When I return I can check with my peers to see if anyone can help. Let me know your thoughts.

Thank you,

William Pat McManus  
P.O. Box 89730  
Sioux Falls, SD 57105  
C 605 310:0943

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IN THE SUPREME COURT  
STATE OF SOUTH DAKOTA

---

APPEAL NO. 31170

---

DAVID GAMEZ,  
Petitioner and Appellee

v.

RORY MICHAEL WALSH,  
Respondent and Appellant.

---

APPEAL FROM THE CIRCUIT COURT  
SECOND JUDICIAL CIRCUIT  
MINNEHAHA COUNTY, SOUTH DAKOTA

THE HONORABLE JEFFREY C. CLAPPER  
Circuit Court Judge

---

APPELLEE'S BRIEF

---

*Attorney for Appellee*

KRISTI JONES  
Dakota Law Firm, Prof. L.L.C.  
795 E. Kevin Dr.  
Tea, SD 57064  
Telephone: 605-838-5873  
kristi@dakotalawfirm.com

*Attorney for Appellant*

KENNETH M. TSCHETTER  
Tschetter & Adams Law Office, P.C.  
5919 S. Remington Place, Suite #100  
Sioux Falls, SD 57108  
Telephone: 605-367-1013  
ken@tschetteradams.com

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Notice of Appeal filed on the 4th of August, 2025

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## PRELIMINARY STATEMENT

All references herein to the settled record are referred to as “SR.” All references are followed by the page number. References to items in the appendix will be referred to by “Appx” followed by the page number.

## JURISDICTIONAL STATEMENT

Walsh appeals the final Order from The Honorable Judge Jeffrey Clapper, Second Judicial Circuit, Minnehaha County, South Dakota. SR 54-57. The Order was filed by the court on July 28, 2025. SR. 59. Walsh filed a Notice of Appeal on August 4, 2025. SR 68.

## STATEMENT OF LEGAL ISSUES

### **I. THE JUDGE DID NOT ABUSE ITS DISCRETION IN DENYING WALSH’S MOTION FOR A NEW TRIAL.**

S.D.C.L. § 15-6-59(a)(4)  
*Glanzer v. Reed*, 2008 S.D. 104, 757 N.W.2d 417

The trial court did not abuse its discretion in denying Walsh a new trial because Walsh failed his high burden to meet any prong of the test required when asking for a new trial.

### **II. THE COURT DID NOT ERROR IN GRANTING THE PROTECTION ORDER.**

S.D.C.L § 22-19A-1  
*Thompson v. Bear Runner*, 2018 S.D. 57, 916 N.W.2d 127  
*Repp v. Van Someren*, 2015 S.D. 53, 866 N.W.2d 122

The trial court did not error in granting the protection because it made a sufficient finding that a credible threat had occurred, and the record supports that finding.

## STATEMENT OF THE CASE

On May 28, 2025, David Gamez (“Gamez”) filed a Petition and Affidavit for a Protection Order along with exhibits in Minnehaha County, Sioux Falls, South Dakota against Rory Walsh (“Walsh”). SR 1-31. On the same day, the Honorable Judge Jon Sogn granted a Temporary Protection Order, prohibiting Walsh from any contact with Gamez until further hearing, which was ordered to be held on June 24, 2025. SR 32-35. On June 16, 2025, Walsh, through counsel, submitted a Motion to Dismiss Petition for Protection Order. SR 39-41. Ultimately, the Protection Order hearing was held on July 28, 2025. SR 42. The Honorable Judge Jeffrey Clapper entered a five-year permanent Order for Protection against Walsh on July 28, 2025. SR 54-57. Walsh, acting pro se, filed this appeal on August 4, 2025. SR 68-79. On August 25, 2025, Walsh filed a Motion for a New Trial. SR 82-89. On September 17, 2025, an Order Denying Motion for a New Trial was filed. SR 151.

## STATEMENT OF THE FACTS

Gamez and his wife, Lila (“Mrs. Gamez”), have been residents of Sioux Falls, Minnehaha County for approximately five years. SR 156. In 2022, Walsh moved in right across the street from the Gamezes. *Id.* At first, the Gamezes attempted to befriend Walsh but eventually backed away because

they felt “there was something off” about him. SR 286<sup>1</sup>. They understood through their interactions with him that he was retired military, and he had firearms in his home. SR 258. In February of 2024, Gamez was served with a federal lawsuit filed pro se by Walsh alleging, among other things, that Gamez was an FBI informant<sup>2</sup>. SR 250. The lawsuit alleged government officials, colluding with FBI agents and Gamez, were involved in a “conspiracy to have [Walsh] killed.” Id. Specifically, Walsh claimed in federal filings that the FBI tried to kill him three times and used the Gamezes residence for surveillance. Id. Upon receipt of the lawsuit, both Gamez and Mrs. Gamez filed for protection orders in Minnehaha County, but both orders were denied at that time. See 49TPO24-161 and 49TPO24-162.

Contentious federal litigation ensued, and in the federal filings, Walsh continued to make outlandish, conspiratorial, and outright fantastical statements that caused significant alarm to the Gamezes<sup>3</sup>. SR 263.

Eventually, on January 15, 2025, Walsh’s federal lawsuit was dismissed by the Honorable Judge Camela Theeler by an order replete with caselaw

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<sup>1</sup> The foundational facts regarding the relationship between these neighbors were not reiterated at the hearing before the Honorable Judge Jeffrey Clapper (“trial court”) on July 28, 2025 because many facts had already been testified to at a March 11, 2025 hearing before the Honorable Judge Douglas Hoffman (“Judge Hoffman”) where both parties litigated pro se. SR 244. For the July 28, 2025 hearing, the trial court was provided the transcript from the March hearing and indicated on the record it had read the same. SR 155.

<sup>2</sup> The federal court file number is 4:24-CV-4018-CCT.

<sup>3</sup> Both Gamez and Mrs. Gamez later testified that they were concerned about Walsh’s mental health, and therefore even more concerned for their safety. SR 270; SR 288.

referencing lawsuits that were “fantastical,” “delusional,” “wholly meritless,” “obviously frivolous,” “clearly baseless,” and “essentially fictitious.” SR 388-425.

On January 21, 2025, both Gamez and Mrs. Gamez again filed for protection orders against Walsh, and a hearing was granted before Judge Hoffman. SR 244; 386; 475. In his petition, Gamez stated he was requesting a protection order because, “[we] are rightfully concerned [Walsh’s] temper, delusions, and harassment will continue to be directed towards us again and again, and are constantly afraid he will physically, emotionally, and financially harm us....” SR 478.

At the hearing, Gamez, appearing pro se, testified to his fear of Walsh<sup>4</sup>, for numerous reasons, but of particular note were statements made by Walsh in lawsuit papers filed in federal court. In those writings, served upon and read by Gamez, Gamez testified that Walsh made statements that were threatening in nature:

I-it’s a no veiled threat when he says this could turn out to be like Waco or Ruby Widge – R-Ruby Ridge, excuse me, Your Honor, and that he’s actually saying that what is it go-going to take the courts to see his way, dead bodies on his driveway. That is no veiled threat, Your honor. We actually fear for our lives.

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<sup>4</sup> Initially, Walsh was represented at this hearing but fired his attorney on the record shortly after the hearing began. SR 246.

SR 286-87. Gamez also offered testimony and supporting documents indicating several law enforcement officials suggested he obtain a protection order against Walsh. SR 499. Ultimately, Judge Hoffman did not grant a permanent protection order, but stated he thought Walsh was suffering from mental illness causing him to believe things that were untrue and that he understood it was annoying and scary for Gamez. SR 300. Judge Hoffman went on to say that if this case rose to the level of “life and death” in Gamez’s mind, he should have hired an attorney to present the legal theory:

I mean, you guys don’t have the professional – you did an excellent job for a self-represented person. I mean, I believe everything you told me. All your exhibits are in evidence and I certainly understand why you’re concerned, but as for legal theory, I mean, I think the guy’s confused and probably mentally ill, but I don’t think he’s dangerous and I don’t think that he’s in – been threatening you or harmed you other than the whole situation is disturbing for you...

SR 301.

Thereafter, the federal lawsuit continued to intensify with Walsh filing numerous documents with the federal court alleging Gamez’s further cooperation with the FBI, who was again allegedly trying to kill him, and demanding cumulatively over 40 times that Gamez be incarcerated for crimes. SR 3; 23; 161.

On the morning of May 25, 2025, Gamez was out for a walk with his dog in the neighborhood. SR 166. As he was standing at the top of a T-intersection near his home, he heard someone yelling behind him, so he

turned around. SR. He saw Walsh in his vehicle at the stop sign, and Walsh yelled out, “I beat you in court. I’m going to beat you again. The last thing I’m going to do is I’m going to kill you, you fucking wetback.” Id. Gamez quickly got his phone out and took pictures of Walsh in his Jeep as he was driving away. Id; SR 8-9. After he took the pictures, Gamez immediately called 911, and then he called Mrs. Gamez to come to the scene. SR 167. Gamez testified he truly believed Walsh was going to hurt him that day, not only because of the direct threat and racial slur, but also because of all the statements Walsh made in the federal lawsuit, referencing Waco and Ruby Ridge and dead bodies on his driveway. Id.

Mrs. Gamez testified she received the call from Gamez, he told her Walsh threatened to kill him, and he asked her to come to the intersection where he was waiting for law enforcement. SR 191. She stated when she got there, Gamez was “white as a sheet,” and the police officer had just pulled up. Id. She observed Gamez to be frightened, “ashen white,” and that he just kept shaking his head in disbelief. Id. Law enforcement encouraged Gamez to seek out a protection order, which he did and filed with the Minnehaha County Clerk of Courts on May 28, 2025<sup>5</sup>. SR. 1. The Honorable Judge Jon Sogn granted the temporary protection order and set the matter for hearing. SR 33.

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<sup>5</sup> Ms. Gamez also filed a Petition for a Protection Order at this time. 49TPO25-471. Thereafter, Walsh filed three Petitions for Protection Order against Gamez. 49 TPO25-491 (denied); 49TPO25-495; 49TPO25-577.

In his Petition and Affidavit for Protection Order, Gamez attached two pictures he took of Walsh driving away from him in his Jeep that morning. SR 8-9. In the first picture, Walsh's Jeep is in closer proximity to Gamez, with a speed limit sign directly behind the Jeep, and the driver's side window is three-quarters of the way up *but not fully up*. SR 8. In the second picture, Walsh's Jeep is further away from Gamez, past the speed limit sign, and the driver's side window is fully up. SR 9.

Mrs. Gamez testified after that day she began waking up every morning to take a picture of Gamez before he left the house to take the dog for a walk so that she had a timestamp of when he left. SR 193. She would then keep an eye out while Gamez was gone to see if Walsh also left his house or tried to follow Gamez, and then she would also take a picture when Gamez returned. SR 193. She stated she did this because she was terrified something would happen to Gamez and also to start documenting Gamez's whereabouts due to all the false allegations from Walsh. *Id.*

Six days later, on the morning of May 31, 2025, shortly after Gamez left for his walk, Mrs. Gamez noticed Walsh back out of his driveway in his Jeep, drive down the street, and turn left heading directly toward the same T-intersection. SR 194. She quickly went out to her car and drove toward the intersection where she thought Gamez would be walking again. SR 195. As she approached, she saw Gamez at the intersection with the dog and Walsh driving his Jeep heading toward Gamez. *Id.* She testified Walsh,

perhaps seeing her car, then stopped his Jeep right in the middle of the block and turned into a driveway. SR 195. Mrs. Gamez then pulled around and drove over to Gamez and told him to get in the car. Id. The Gamezes called 911 again; law enforcement responded and finally served Walsh with the temporary protection order that was filed on May 28, 2025. SR 198.

Hearing was held on July 28, 2025. Before testimony began, Walsh outright dismissed his Petitions against Gamez, and stated on the record, “The, the Gamez (sic) aren’t any type of threat.” SR. 155. The trial court dismissed Walsh’s Petitions, and proceeded to hearing the Petition by Gamez and Mrs. Gamez. Id. Gamez testified to a legitimate fear of Walsh, as well as concerns that his behavior was intensifying. When questioned about the three protection orders Gamez filed against Walsh, Gamez stated,

The first one was the very concerning statements that he had made in the federal lawsuit, and it was my fault for not ordering more paperwork for the first one. Then the second one he just kept escalating it and threatening us. And now, this third one where he really threatened to kill me, um, and I feel he may either hurt myself or hurt my wife.

SR 185. Mrs. Gamez also testified regarding her fear in the situation, saying,

We are just constantly terrified. Um, and we see him. I saw him constantly ramping up in his vehemency, and his writings after the January 15th, after it was dismissed. Every writing after that, he kept reiterating the same lies over and over and he’d get nastier in his wording. He’d, he’d threaten the attorneys. I mean, he was just, you could just see the rage coming out of him. And when you read that, you’re just, you get terrified.

That's bad enough. And then he threatens to kill my husband.

SR 204.

Walsh denied making the threatening statements and testified he saw Gamez the morning of May 25, 2025, but that he just drove by. SR 209. At no time during his testimony did Walsh say the allegations were impossible because he had his window up when he drove by Gamez that day, and no argument regarding the same was ever made to the trial court. Walsh also testified that he no longer believes Gamez is an FBI informant, that he came to that conclusion halfway through the federal lawsuit, but that he did continue to file accusations against Gamez in federal court and never dismissed him from the lawsuit. SR 218-19. Further, Walsh testified he never asked for Gamez to be imprisoned but later agreed that in a sworn petition he said, "Gamez faces considerable prison time and fines, both by the federal government and South Dakota . . . and I urge the Minnehaha Court to order David J. Gamez's immediate arrest." SR. 222-23.

After testimony and argument, the trial court granted the permanent protection order in favor of Gamez. The trial court found Gamez and Mrs. Gamez to be credible witnesses and found that a credible threat had occurred as to Gamez. SR 234. It was ordered that Walsh not have contact with Gamez for five years and not come within 100 yards. SR 235. The Order was later amended to allow Walsh to be on his own property without violation.

SR 63-64.

On August 25, 2025, Walsh filed a Motion for a New Trial, claiming there was newly discovered evidence that was exculpatory. SR 82-89. In his motion, Walsh claimed he obtained an expert analysis of the photo submitted by Gamez, and that:

[The] photo clearly shows Captain Rory M. Walsh driver side windows were up, hence there is no way Captain Walsh could have insulted and threatened David Gamez on the morning of 25 May 2025. . . With this new evidence Walsh has clearly shown David Gamez has lied throughout this ordeal, and has repeatedly lied to the police, and as Walsh clearly stated in court and repeatedly, Walsh categorically denied making same inflammatory statements that Gamez lies about, and with this new evidence showing Walsh's windows were up, with no way to have insulted or threatened Gamez, it is proper that this court overturn its decision and vacate the order of 28 July 2025.

SR. 82. Walsh claimed multiple times the Gamezes lied in open court because a report of photo analyst Richard Quindry, "newly discovered evidence," stated the window on the Jeep was up. SR 85. To the Motion, Walsh attached a "Report of Richard Quindry" which detailed his review of "a photo" and a determination that there was "no doubt" Walsh's window was closed. SR 92. Attached to the report was one photo, in black and white, that was zoomed in and was pixilated. SR 93. Despite Gamez taking two pictures, and attaching two pictures to the Petition, Richard Quindry only examined one picture; the photo without the speed limit sign behind the Jeep where the window is clearly up. SR 9. There is no indication Richard

Quindry was ever shown the earlier picture where the window was partially down.

Additionally, in the Motion for a New Trial, Walsh continued to refer to Gamez as an FBI informant, despite previously testifying under oath he knew Gamez was not an informant. SR 83; 114. Walsh also claimed Ineffective Assistance of Counsel and that he wanted a protection order to be issued to Gamez “before Gamez shoots me in his abuse of his pistol.” SR 86; 115. He also requested an injunction against the Gamezes. SR 116.

On September 17, 2025, Judge Clapper entered an Order Denying Motion for a New Trial.

#### **ARGUMENT**

##### **I. THE JUDGE DID NOT ABUSE HIS DISCRETION IN DENYING WALSH’S MOTION FOR A NEW TRIAL.**

The denial of a Motion for a New Trial is within the sound discretion of a trial court and will not be overturned without showing that the trial court abused its discretion. *Glanzer v. Reed*, 2008 S.D. 104, ¶ 13, 757 N.W.2d 417, 420. Motions for new trials are governed by S.D.C.L. § 15-6-59(a)(4), which permits (“may”) a trial court to grant a new trial if there is, “[n]ewly discovered evidence, material to the party making the application which he could not with reasonable diligence have discovered and produced at trial.” The party asking for a new trial carries a “heavy burden” to show: “(1) the evidence was undiscovered by the movant at the time of trial; (2) the evidence is material, not merely cumulative or impeaching; (3) that it would probably

produce [a different result]; and (4) that no lack of diligence caused by the movant to fail (*sic*) to discover the evidence earlier.” *State v. Gehm*, 309 N.W.2d 331 (S.D. 1981).

In this case, Walsh cannot meet even one element of the heavy burden of proof required to show the trial court abused its discretion in not granting a new trial. This is not newly discovered evidence. Gamez submitted two photos of Walsh driving by him when he filed the Petition in May of 2025. Walsh had these pictures for approximately two months prior to the hearing. Instead, Walsh is attempting to overturn this case based on a “new analysis,” but the analysis is incomplete and immaterial.

First, Walsh, who was driving the car that day, never testified at the hearing that his window was up, therefore making the threat impossible. Walsh was the driver, and if the window had been up the entire time, that defense would have, and should have, been presented at trial. Further, Walsh never requested a delay of the hearing in order to obtain an expert, nor indicated to the trial court he needed more time to prepare his defense. Finally, not only was the “expert opinion” not newly discovered evidence, but it was incomplete and unnecessary because the picture did not need expert forensic analysis.

Gamez took two pictures that day and attached them as full-paged colored exhibits to his Petition. SR. 8-9. The first picture shows Walsh’s Jeep closer in proximity with a speed limit sign in the background. This picture

(SR 8), shows Walsh's window partially down as shown by the difference in color and glare between the bottom and top half of the driver side window. The next picture (SR 9) shows Walsh's car a little further down the road with his window fully up, which is also clear due to the color and glare in the photo. No expert opinion is needed. The pictures are self-evident and illustrate that as Walsh was driving away, the window was going up. Had Gamez took one more picture prior to SR 8, the window likely would have been even more open. All of this corroborates Gamez's presentation of the fact that Walsh yelled at him through an open window at the stop sign and then drove away, which the trial court found credible.

Even more, there is no indication Walsh ever submitted the first photo (SR 8) with the window partially down to be forensically analyzed. The report only included the second photo (SR 9), after the window had already been rolled up. SR 93. Therefore, this evidence is not new, it is not complete, it is not material, it would not have produced a different result, and had this been a legitimate defense, it would have, and should have, been raised at the trial.

Simply put, Walsh never testified the window was up. After the hearing was over and he lost, he then obtained an "expert report" for only one of the two pictures submitted by Gamez, specifically excluding the picture showing his window was down when he was closer to Gamez. Then, based on this incomplete "expert opinion," Walsh repeatedly claimed Gamez lied in

open court. This is a deceptive litigation tactic common to Walsh, which unfortunately, the Gamezes have become well acquainted with in the last two years, and the trial court did not abuse its discretion in denying Walsh's Motion for a New Trial.

## II. THE COURT DID NOT ERROR IN GRANTING THE PROTECTION ORDER.

Under South Dakota Codified Law, no person may, “(1) Willfully, maliciously, and repeatedly follow or harass another person; (2) Make a *credible threat* to another person with the intent to place that person in reasonable fear of death or great bodily injury; or (3) Willfully, maliciously, and repeatedly harass another person by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication.” S.D.C.L. § 22-19A-1 (emphasis added). A credible threat “means a threat made with the intent and apparent ability to carry out the threat.” S.D.C.L. § 22-19A-6.

The South Dakota Supreme Court reviews a “grant or denial of a protection order under a two-step process: first the circuit court's findings of fact for clear error; and second by reviewing the circuit court's “ultimate decision for an abuse of discretion.” *Thompson v. Bear Runner*, 2018 S.D. 57, ¶ 12, 916 N.W.2d 127 (quoting *Donat v. Johnson*, 2015 S.D. 16, ¶ 13, 862 N.W.2d 122, 127). A trial court's findings of fact will only be set aside if this Court is “left with a definite and firm conviction that a mistake has been made.” *Erickson v. Earley*, 2016 S.D. 37, ¶ 8, 878 N.W.2d, 631, 633-34 (quoting *Shroyer v. Fanning*, 2010 S.D. 22, ¶ 6, 780 N.W.2d 467, 469). “An

abuse of discretion is a fundamental error of judgment, a choice outside the range of permissible choices, a decision, which, on full consideration, is arbitrary and unreasonable.” *Id.* (quoting *Blair-Arch v. Arch*, 2014 S.D. 94, ¶ 10, 857 N.W.2d 874, 877).

The trial court’s ruling in this case was narrowly focused on the events of May 25, 2025, though the trial court did acknowledge background relating to the federal lawsuit did show ongoing animosity and provided a backdrop for motive. SR 234. The trial court stated, “I do find Mr. and Mrs. Gamez’s testimony to be credible, that that threat to their physical harm and is the basis for a protection order under S.D.C.L. 22-19A-1(2) for making a credible threat to place another in reasonable fear of death or great bodily injury.” SR. 234. The trial court granted the order only as to Gamez and dismissed the Petition filed by Mrs. Gamez<sup>6</sup>, as the threat to kill was only made to Gamez. *Id.*

There is no clear error in the trial court’s findings which would render its grant of the protection order an abuse of discretion. First, “the trial judge is in the best position to judge the credibility of witnesses.” *Marks v. Clark*, 2001 S.D. 122, ¶ 16, 635 N.W.2d, 278, 280. In this case, the trial court explicitly stated the Gamezes were credible witnesses which was the second judge to opine that their testimony was believable. In contrast, there is ample evidence in the record to find Walsh to be not credible. From

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<sup>6</sup> Accordingly, 49TPO25-471 filed by Mrs. Gamez was dismissed.

outlandish federal filings declared to be “fantastical,” to testifying that he now knows Gamez is not an FBI informant yet continuing to file documents in court alleging he still is an informant, to testifying he did not ask Gamez to be imprisoned yet repeatedly filing documents demanding his arrest. The list is extensive and the evidence is robust with reasons to find Walsh not credible.

Further, Appellant claims the open threat made on May 25, 2025 was “out of character” for Walsh. Appellant’s Brief pg. 15. However, the record demonstrates this conduct was not only on par for Walsh but was an escalation of the same behavior the Gamezes witnessed for almost a year and a half through the federal litigation. Both Gamez and Mrs. Gamez testified about the mean and threatening language Walsh used in the federal court documents, going so far as asking if it would take dead bodies on his driveway to make everyone understand him. Then, on May 25, the nastiness that previously had only been reduced to writing finally exploded over to a direct verbal threat to Gamez. The Gamezes testified that as Walsh continued to lose in the federal lawsuit, they saw his rhetoric and anger heat up and then experienced the May 25 incident as just another escalation of the same behavior.

Walsh claims the trial court did not make sufficient findings regarding Walsh’s apparent ability to carry out the threat. Appellant’s Brief pg. 18. In support of this, Walsh cites *Thompson v. Bear Runner* in which the trial court

granted a protection order on the basis of stalking. 2018 S.D. 57, ¶ 10, 916 N.W.2d 127. Under the stalking subsection of S.D.C.L. § 22-19A-1, a court must find a “course of conduct” or “a pattern” which would show a “continuity of purpose.” In *Bear Runner*, the trial judge explicitly stated it would not draw the line between what actions would or would not constitute a legally sufficient “course of conduct” to be considered stalking. ¶ 17. Instead, the court simply found that stalking had taken place, and checked the box on the order of protection without telling respondent what behavior actually constituted a “course of conduct.” ¶ 17.

The same is not true in this case. Here, the trial court explicitly narrowed its decision to the event that happened on May 25, 2025, and found the events as recited by Gamez to be credible – that Walsh was driving toward him in a car, while Gamez was stopped waiting on his dog, and directly made the threat that he was going to kill him followed by a racial slur. The trial court never expressed disbelief in anything Gamez said, and instead specifically found him credible as to the events of May 25, 2025. Unlike in *Bear Runner*, there is no need in this case to establish actions constituting a “course of conduct,” “a pattern,” or a “continuity of purpose,” because S.D.C.L. § 22-19A-1(2), one action, one threat, is sufficient, and the trial court found that one threat to have occurred<sup>7</sup>.

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<sup>7</sup> While Gamez maintains the trial court did provide sufficient findings in this case based on the single credible threat, in the event this Court finds the trial court’s findings and conclusions to be lacking detail, Gamez request this

Walsh also suggests he would have had to have a gun “or possessed other means to carry out the threat,” but that was not shown. Appellant Brief pg. 18. First, case law does not require him to be waiving a weapon around at the time of the threat. Second, this argument forgets the logistics of the situation: Gamez was standing with his dog on the sidewalk at the isolated intersection with no way to defend himself, and Walsh was behind the wheel of a large Jeep. A pedestrian is always outmatched by a car coming at him. Walsh’s argument also completely ignores the history of Walsh’s violent and escalating rhetoric over the prior year and half toward Gamez. Third, Walsh lives right across the street from Gamez, did not dispute having weapons in his home, and has displayed behaviors of being mentally unstable as recognized by at least one circuit court judge, multiple law enforcement, and the Gamezes. SR 258; 261; 268; 299. Given the entire situation, which the trial court found important in giving the context and backdrop for motivation, Gamez had more than a reasonable fear of death or great bodily injury and Walsh having the apparent ability to carry out the threat.

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Court allow a limited remand only for the trial court to supplement its findings. See *Repp v. Van Someren*, 2015 S.D. 53, 866 N.W.2d 122 (The court remanding the matter for a limited purpose of allowing the trial court to enter findings of fact and conclusions of law.) See also, *Shroyer*, 2010 S.D. 22, 780 N.W.2d 467; *Judstra v. Donelan*, 2006 S.D. 32, 712 N.W. 2d 866; *Goeden v. Daum*, 2003, S.D. 91, 668 N.W.2d 108.

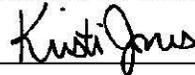
This is the exact scenario for which protection orders exist. Citizens must have a mechanism to protect themselves when dangers and serious threats arise. The Gamezes did nothing other than live across the street from Walsh, and have now had to deal with years of his unstable, frightening, and now openly threatening behavior. Both Gamezes testified that Walsh's behaviors were intensifying and escalating which have placed them in legitimate fear of great bodily injury. Accordingly, the trial court did not abuse its discretion in granting the protection order.

#### CONCLUSION

The trial court did not abuse its discretion in denying Walsh's Motion for a New Trial or in granting the permeant protection order. Accordingly, Gamez respectfully requests this Court affirm the trial court.

Dated this 16th day of January, 2026.

Respectfully submitted,  
DAKOTA LAW FIRM, PROF. L.L.C.  
KRISTI L. JONES

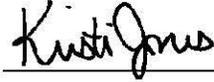


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795 E. Kevin Dr.  
Tea, SD 57064  
Telephone: 605-838-5873  
kristi@dakotalawfirm.com

**CERTIFICATE OF COMPLIANCE**

1. I certify that appellee's brief is within the typeface and volume limitations provided for in S.D.C.L. § 15-26A-66(b) using Century Schoolbook typeface in proportional 12-point type. Appellee's brief contains 4,702 words.
2. I certify that the word processing software used to prepare this brief is Microsoft Word 2019.



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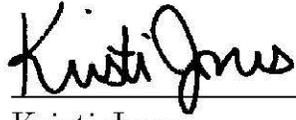
Kristi Jones  
Attorney for Appellee

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 16th day of January, 2026 a true and correct copy of the foregoing brief, appendix and attachments was electronically served via Odyssey on the following:

KENNETH TSCHETTER  
Tschetter & Adams Law Office, P.C.  
5919 S. Remington Place, Suite 100  
Sioux Falls, SD 57108

Dated this 16th day of January, 2026.

A handwritten signature in black ink that reads "Kristi Jones". The signature is written in a cursive style with a large initial "K".

---

Kristi Jones  
Attorney for Appellee

STATE OF SOUTH DAKOTA )  
 )  
COUNTY OF MINNEHAHA )

IN CIRCUIT COURT  
2ND JUDICIAL CIRCUIT

David G. Amer  
Petitioner  Check here if under 18

TPO NO. 25-472

-vs-

Roy Walsh  
Respondent  Check here if under 18

**PETITION AND AFFIDAVIT  
FOR A PROTECTION ORDER  
(STALKING, OR PHYSICAL INJURY  
AS A RESULT OF AN  
ASSAULT, OR A CRIME OF VIOLENCE)**

I, David G. Amer the above named Petitioner, or the Parent/Legal Guardian of the minor child Petitioner (the Filer), being duly sworn upon oath, state and affirm the following:

At least one party to the protection order—Petitioner, Respondent (the person against whom I seek this Protection Order), or a Protected Party (a minor child in my custody also victimized by Respondent)—is a South Dakota resident. Petitioner resides in Sioux Falls County, Minnesota (state); Respondent resides in Sioux Falls County, Minnesota (state); and any Protected Parties not residing with Petitioner or Respondent, reside in \_\_\_\_\_ County, \_\_\_\_\_ (state).

Please check this box if there is a custody order in this state or another state regarding the children of Petitioner and Respondent. Please attach a copy of the custody order to this Petition and provide the county and case number. \_\_\_\_\_

**I AM ASKING THE COURT FOR A PROTECTION ORDER BASED UPON THE FACTS BELOW:**

On or about (month) May (day) 25 (year) 2025 at approximately 6:32 o'clock (am/pm), Respondent committed the following act(s) that seriously alarmed, annoyed, or harassed Petitioner (if not me, my minor child), and any Protected Parties (check all that apply):

- Respondent willfully, maliciously, and repeatedly followed Petitioner and/or any Protected Parties.
- Respondent pursued a knowing and willful course of conduct which seriously alarmed, annoyed or harassed with no legitimate purpose. The pattern of conduct was a series of acts over a period of time, however short, showing a continuing pattern of harassment.
- Respondent made a credible threat with intent to cause reasonable fear of death or great bodily injury.
- Respondent willfully, maliciously, and repeatedly harassed Petitioner and/or any Protected Parties by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication.
- Respondent caused physical injury as a result of an assault.
- Respondent committed a crime of violence.

Describe your relationship with Respondent (ie. neighbor, co-worker, etc): neighbor

Provide a detailed description of what happened on the above date: Please see attachments

\_\_\_\_\_  
\_\_\_\_\_

0002

2<sup>nd</sup> Request for Protection Order

May 28, 2025

On the afternoon of March 11, 2025, we had a formal Hearing with Judge Hoffman, where we requested a Protection Order against Rory Walsh here in Sioux Falls. My wife provided (verbally & in writing) pages and pages of documentation about the many threats and harassment that Rory Walsh had committed against us. During the hearing, Judge Hoffman said he believed that Rory Walsh was a "paranoid schizophrenic" and the judge said he believed the information that we had presented that day. Then Rory Walsh told the judge that he was selling his home and moving to another state within no more than 90 days. (In fact, Rory Walsh guaranteed twice to the judge that he would have his home sold and be moved away by no later than June 11.) The judge warned Rory Walsh to keep away from us and stay off our property. The judge said to us that "since Mr. Walsh had not yet physically assaulted us or shot his gun at us, and since he would be moving away shortly, that the judge was not going to give us a Protection Order at that point. (As we left the courtroom, the deputies walked out with us to protect us, and one of the deputies told us that "if Mr. Walsh does another instance of harassment or threat, that we should request a Protection Order again".)

Allow me to also point out that Mr. Walsh has not put his house up for sale, and not listed his house with any realtor and is not on any real estate listing site during this time. So he lied to Judge Hoffman that day!

Even though the Federal Judge dismissed the lawsuit against us in late January 2025, since then Rory Walsh has continued to threaten us further in his writings to the Federal Court Judge (while trying to get the judge to change her decision), has had more paranoid "delusions" of great concern, **and now on May 25 Rory Walsh has threatened to KILL ME!**

Early on Sunday morning, **May 25, 2025**, I was walking my dog and was about 2 ½ blocks from my house. I had just crossed the street at the corner of E. Madison St and Bahnson Ave, was standing on the sidewalk watching my dog go potty in the weeds, when Rory Walsh pulled up to the stop sign at that corner, and started yelling at me through his open window!

**He yelled at me, saying " I beat you in court before and I will beat you again!  
and the last thing I will do is to KILL YOU, you fucking wetback!"**

As Rory Walsh started quickly driving away, I pulled out my phone and quickly took pictures of him driving away. (**See pictures attached.**) Then I immediately called 911 and asked for a police officer. I next called my wife Lila to come to corner of Bahnson and E. Madison St. and meet with me and the police. (The police call log # for this instance is: CFS25-104014.)

Yesterday, I spoke with Michael Hoffman, Assistant US Attorney – District of South Dakota, who is very familiar with all parties in this lawsuit, and she recommended I seek an immediate "temporary protection order" against Mr. Walsh, in view of his escalated threats, his racist insults, and now this threat to **kill** me.

0003

Between March 11,2025 and today May 25, Rory Walsh has continued with other threats and harassment against us in writing and has had increased "delusions" (see attached pages).

\*\*\* Also when you review the attachments, please note that Rory Walsh is not disabled... he simply is a diabetic (a condition that many people in this country have). He did have a recent back surgery which he is recuperating from.

3/21/25 – Rory Walsh threatened me with incarceration, claims the FBI is trying to keep him from making court filings, and then he took multiple photos of the exterior of our house claiming we are "surveilling him for the FBI", etc.

(There is a chart on the last page of this report showing the many times Mr. Walsh has threatened me with incarceration over the past 16 months.)

3/24/25 – Rory Walsh alleges people are "continuing to peer in his health records", people are sending teams of FBI assassins to strike and kill him,... and that the government sent a team to Anytime Fitness on 41<sup>st</sup> St to observe and evaluate Mr. Walsh.

5/10/25 – Rory Walsh alleges FBI agents observing him struggling to get to the bathroom after his back surgery! More frivolous allegations as part of his many heightened "delusions".

\*\*\* Please see the 5/15/25 response attached from the Assistant US Attorney.

5/19/25 – Rory Walsh alleges the FBI was sent to Mayo Clinic to "criminally interfere with Walsh's treatment"..... more ficticious delusions!

5/27/25 – Rory Walsh now accuses Attorney Alison Ramsdell of "utter lack of action" and wants a jury trial against her.

5/9/25 - In another (related) lawsuit (FOIA), Rory Walsh insults Federal Judge Schulte and insists tht Schulte must "recuse" himself from that case. More delusional reactions from Rory Walsh.

Rory Walsh's delusions and false allegations are increasing in frequency and severity... all leading up to his **Threat to Kill Me! That is why I now need a temporary Protection Order.**



Continued from Page 2

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**REQUEST FOR HEARING AND PROTECTION ORDER**

Based upon this Petition and Affidavit in which I truthfully set forth the details of the stalking, physical injury, and/or crime of violence, I respectfully ask the court to set a date to hear this matter and after hearing the evidence, to grant Petitioner and any Protected Parties a Protection Order:

- 1) To Restrain Respondent from:
  - a) following or harassing, or making any credible threat with the intent to place Petitioner and any Protected Parties in reasonable fear of death or great bodily injury, SDCL 22-19A-1;
  - b) causing any injury as a result of an assault or a crime of violence, SDCL 22-1-2(9).
- 2) To grant the Protection Order for a period of 5 years time (no longer than 5 years).
- 3) To exclude Respondent from Petitioner's residence listed in 4C.
- 4) To Order that Respondent shall not come within a distance of 100 yds from the following persons and places:

- A. The Petitioner personally
- B. The following minor children named as other Protected Parties:  Additional names attached

Name	Date of birth	Relationship
_____	_____	_____
_____	_____	_____
_____	_____	_____

Are any of the children related to the Respondent? If so, how? \_\_\_\_\_

- C. Petitioner's residence (street/apt) \_\_\_\_\_  
(city) \_\_\_\_\_, (state) \_\_\_\_\_, (zip) \_\_\_\_\_ - \_\_\_\_\_
- D. Petitioner's place employment (street) \_\_\_\_\_  
(city) \_\_\_\_\_, (state) \_\_\_\_\_, (zip) \_\_\_\_\_ - \_\_\_\_\_
- E. Other places (street/apt) \_\_\_\_\_  
(city) \_\_\_\_\_, (state) \_\_\_\_\_, (zip) \_\_\_\_\_ - \_\_\_\_\_  
(street/apt) \_\_\_\_\_  
(city) \_\_\_\_\_, (state) \_\_\_\_\_, (zip) \_\_\_\_\_ - \_\_\_\_\_  
(street/apt) \_\_\_\_\_  
(city) \_\_\_\_\_, (state) \_\_\_\_\_, (zip) \_\_\_\_\_ - \_\_\_\_\_

- 5) That Respondent be restrained from contact with Petitioner and any Protected Parties, by any direct or indirect means except as authorized by a court order.
- 6) To Order other relief which I believe is necessary for Petitioner's protection and any Protected Parties' protection, as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(If you are requesting an immediate temporary protection order without notice to Respondent and without an opportunity for Respondent to appear; you must state why you believe Petitioner or any Protected Parties will suffer immediate and irreparable injury or damage if you or they have to wait until the hearing.)

**REQUEST FOR IMMEDIATE PROTECTION ORDER  
WITHOUT NOTICE TO THE OTHER PARTY**

I am **not** requesting an immediate Temporary Protection Order.

In addition to what I have requested in sections 1-5 above, I further request that the Court grant Petitioner and any Protected Parties an immediate Temporary Protection Order Restraining Respondent from stalking or physical injury based upon the following sworn statements and beliefs:

The reasons Petitioner and any Protected Parties need this order immediately and cannot wait until the scheduled hearing are: Please see attachment

I believe that Petitioner, and/or any Protected Parties will suffer immediate and irreparable injury, loss or damage if not granted an immediate Temporary Protection Order without notifying Respondent and Respondent's attorney or giving Respondent an opportunity to be heard.

The immediate and irreparable injury, loss or damage which I believe will be suffered is: Loss of life

On this 28 day of May, \_\_\_\_\_, I swear or affirm under oath that the information I have provided in this Petition and Affidavit are true and correct to the best of my knowledge. I believe Petitioner and any Protected Parties are entitled to the protection I have requested. I am asking for this protection for valid reasons and am not attempting to harass the person I am seeking protection against and am not attempting to abuse or delay the court process or any other legal action.

[Signature]  
Your Signature as  Filer Only /  Petitioner (check one)

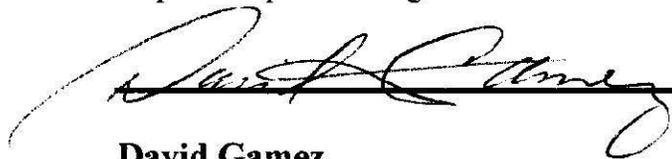
Signed and sworn to before me on this 28 day of May, 2025



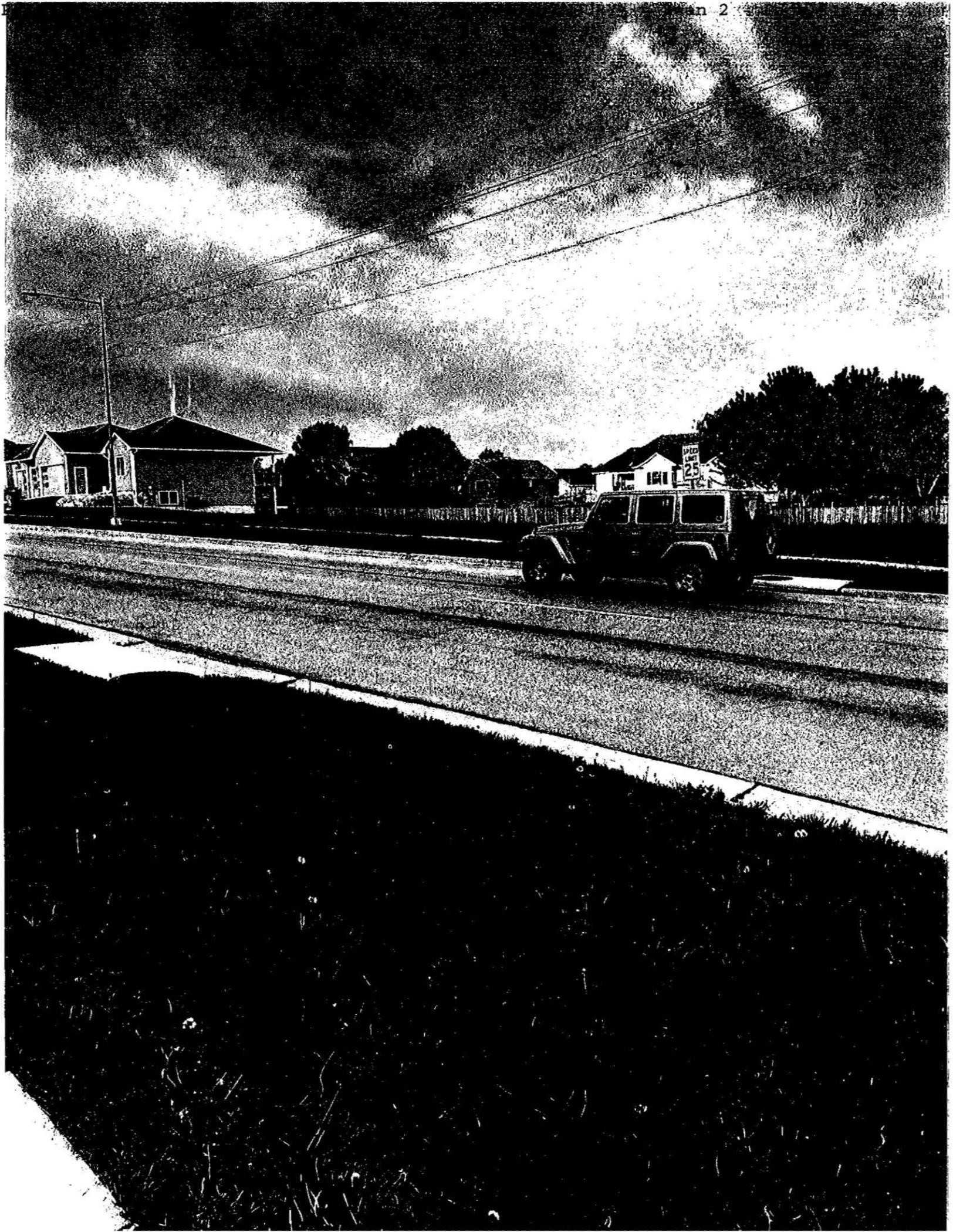
[Signature]  
Notary Public/Deputy Clerk of Courts  
Commission Expires \_\_\_\_\_  
4  
**FILED**  
MAY 28 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

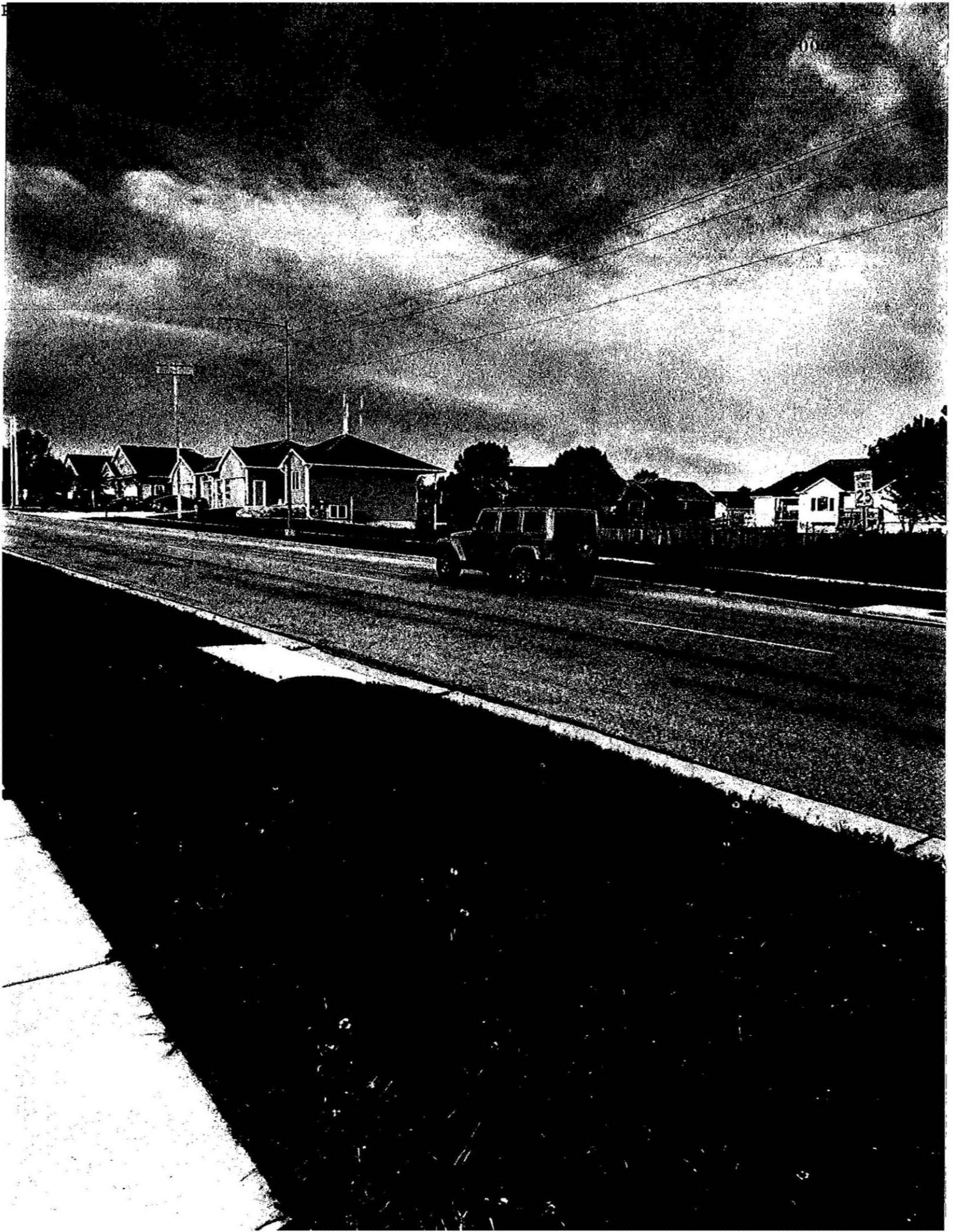
Form UJS-121A if Adult  
Form UJS-121AJ if Juvenile  
Rev. 07/21

I David Gamez respectfully request Judge Hoffman recuse himself from this important proceeding

A handwritten signature in black ink, appearing to read "David Gamez", is written over a solid horizontal line. The signature is cursive and somewhat stylized.

**David Gamez**





b. On 3 Dec 2023, in criminal collusion with the FBI, defendant Gamez colluded with the FBI and allowed the FBI to not only maintain illegal surveillance on the Plaintiff, but also to use Gamez's residence to make a concerted effort to keep the Plaintiff from making a filing in the related case; 23-cv-4164. This is the latest and most serious crime by Gamez, see 18 USC §241; Conspiracy against rights, also in direct violation of the *Ku Klux Klan Act of 1871*. Defendant Gamez faces significant fines and imprisonment for up to 10 years for his participation in this crime against this disabled Plaintiff (as does defendant Winston for this crime). See 18 USC §241. Gamez boldly paraded back and forth behind his front door as FBI agents waited to pounce on the Plaintiff to keep the Plaintiff from making a filing in case 23-cv-4164 and is now being held liable for his participation in same crimes. Gamez also faces premise liability for his allowing the FBI to use his premises to attempt to block the Plaintiff from making his filing in case 23-cv-4164, see exhibit (a), Walsh ignored the theatrics by Gamez and the FBI during the evening of 3 Dec 2023 and made his filings. Same crime by Gamez and the FBI on 3 Dec 2023, was also a very puerile and poorly-conceived crime; as this court well knows, as does the FBI, Walsh files through the ECF system, so any shenanigans by Gamez and the FBI repeatedly on Gamez driveway and within his front doorway were senseless and had no effect on Walsh's ability to file in case 23-cv-4164. Further, same filing at docket 16 in case 23-cv-4164 precipitated Judge Schulte to DENY the Navy's motion to dismiss; Walsh is winning that FOIA action, see exhibit (b). Further, the FBI has not produced a single warrant for this crime on 3 Dec 2023 using Gamez residence, or regarding any of their crimes and break-ins at Walsh's residence as reported in this action.<sup>1</sup>

c. As reported to this court at docket 108, both Gamez and his wife Lila continue their criminal surveillance of the Plaintiff disabled veteran Walsh as he merely exits his residence and returns from his evening runs, see docket 108 at exhibits (d), (e), (f) and (g).

d. Continuing his criminal harassment of disabled Veteran Walsh, on 20 August 2024,

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<sup>1</sup> FBI Winston has not plead to the complaint and remains in default

4 pictures of our house

incurable disease, exhibit (g), the letter from OJAG Navy showing the Navy has ordered an investigation into same premeditated murder attempts by both Humble and Hagee, exhibit (h), as well as the NCIS<sup>1</sup> Interview cover sheet when Walsh was interviewed by NCIS in front of his attorney on 3 August 2017 in York, PA, exhibit (i).

**5. What precipitated this action being brought here in South Dakota, as briefed in open court on 19 Sept 2024 with this Honorable Court nodding in consent, was defendant Hagee illegally peering into Walsh's health records with the VA and seeing the BVA/VA overturn Hagee's fraud from 2006 (docket I at count III) wherein murderer Hagee "conjured up" a fraudulent VA medical examination on 13 Dec 2006 at a VAMC (VAMC Wilmington, Delaware) (see exhibit (j)) that Walsh has never been treated at, while Walsh was at work at GSI Commerce in King of Prussia, PA; see exhibit (k). This is serious fraud upon the government by defendant murderer Hagee; see 18 USC §1031. Hagee faces prison time and fines for this his first major crime against disabled veteran Walsh and his sons. It took disabled veteran Walsh 16 years to overcome Hagee's fraud against the government and Hagee's criminal interference with Walsh's VA benefits.**

**6. With the VA/BVA overturning Hagee's fraud from 2006 and issuing both the remand and orders for same wrongly withheld compensation to be paid out, see exhibits (l), (m) and (n), Hagee sent teams of FBI assassins to strike and kill Walsh during his evening runs at Yankton Trail Park, on 3 Sept 2022<sup>2</sup>, 28 October 2022, and 28 April 2023 as each order was promulgated by the BVA/VA. Further, under the 8<sup>th</sup> Circuit Continuing violation doctrine, Hagee has also brought forward his friend Jerry D. Humble's premeditated murder attempt for consideration by this court. See the decision in *White vs Bloom*, 621 F.2d 276, 280-81 (8<sup>th</sup> Cir. 1980). Hence, this court can hear and rule on Humble's premeditated murder attempt, confirmed by the VA. Now with Hagee again looking into Walsh's medical records with the VA and sending out his own team to observe and evaluate Walsh as Walsh limped into the Anytime Fitness on 41<sup>st</sup> Street, on 14 March 2025, continuing in his gross Privacy Act and HIPAA violations, in suit, it is proper that this court now VACATE the order at docket 105, and issue the**

<sup>1</sup> NCIS-Naval Criminal Investigative Service.

<sup>2</sup> This Honorable Court is reminded, while exhibit (l) is dated 6 Sept 2022, Hagee sent his team of assassins with dogs to strike and kill Walsh during his evening run on Friday, 3 September 2022. Walsh did not learn why until he received the VA letter at exhibit (l) dated 6 September 2022. Hagee, in his gross Privacy Act violations that continue unabated, illegally looked into Walsh's records with the VA, saw the letter of 6 September 2022 about to be sent out, and sent his teams of assassins with dogs to strike and kill Walsh on the evening of 3 September 2022.

appropriate at this time, due to the severity of Walsh's injury, that will allow for his surgery, hospitalization, and recover therapy so he can return to his desk to continue to fight this important action the six (6) confirmed murder attempts before this court, with defendant murderer Hagee continuing to illegally pry into Walsh's health records with the VA and send his own team of medical evaluators to assess Walsh's injury at Anytime Fitness located at 4720 E. 41<sup>st</sup> St., Sioux Falls, SD during Walsh's evening workout on Friday, 14 March 2025.

22. Continuing in his illegal and criminal interference with Walsh's health records with the VA, **WITH THOSE SAME CRIMES PRECIPITATING THIS ACTION, SEE DOCKET 1 AT COUNTS V, VI, AND VII**, defendant murderer Hagee, who is not a medical doctor but a criminal murderer, unsatisfied with Walsh's communicating with this court (and Judge Schulte) that he needed a STAY or CONTINUANCE while he has surgery and recovers, murderer Hagee sent his own team of medical specialists to conduct their own evaluation of Walsh's injury, and to interview Walsh regarding same injury at the Anytime Fitness Gym that Walsh uses, located at 4720 E. 41<sup>st</sup> St., Sioux Falls, SD during Walsh's evening workout on Friday, 14 March 2025, see exhibit (r). They both were waiting for disabled veteran Walsh to limp in, they were not conducting their own workouts but were waiting inside, indicating defendant murderer Hagee continues his abuse of the FBI, and had assigned this "medical team" to be waiting for Walsh to arrive, witness Walsh's severe limp, make light conversation and leave. They watched Walsh limp into the Anytime Fitness on 41<sup>st</sup> Street together, while waiting together (man and a woman) for Walsh to arrive, spoke briefly with Walsh to confirm Walsh needed surgery, then they left.

23. These are the same crimes and Privacy Act violations (as well as HIPAA violations) by defendant murderer Hagee that precipitated this action, as Walsh briefed this court on 19 September 2024 in open court, and Walsh has the right to recover from this NEW CRIME on 14 March 2025. This is yet another of Hagee's gross Privacy Act and HIPAA violations that precipitated this action, see counts V, VI and VII at docket 1. Walsh has the right to recover, again, from Hagee's continued gross Privacy Act and HIPAA violations in suit. see 5 USC §552(a) and 42 USC §1320d-6. **Walsh has the right to recover, from this latest crime by Hagee, in suit, not only under the Crime Victim Rights Act 18 USC §3771, but also under the Privacy Act. AS PROMULGATED BY SUPREME COURT JUSTICE GINSBURG IN *DOE V. CHAO* (02-1377) 540 U.S. 614 (2004);**

**IN THE UNITED STATES FEDERAL DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION**

IN RE:

Captain Rory M. Walsh USMC (Ret.)

Plaintiff;

vs:

SecNav Carlos del Toro

*Et al.*

Defendants.

Case: 24-cv-04018  
Judge: Judge Pamela C. Theeler

**NOTICE TO THE COURT  
OF THE CONTINUED CRIMINAL ACTIONS OF DEFENDANT MURDERER  
MICHAEL W. HAGEE AND HIS CONTINUED ABUSE OF THE CRIMINAL FBI**

AND NOW, TO WIT, this 10<sup>th</sup> day of May 2025, comes the Plaintiff, and files this NOTICE TO THE COURT regarding the continued criminal actions of defendant murderer Michael W. Hagee and his continued abuse of the criminal FBI, in suit.

1. As previous relayed to this court, the Plaintiff has been seriously injured, requiring surgery on four disks in his back. Surgery was scheduled for 23 April 2025, at the Mayo Neurosurgery Clinic in Mankato, Minnesota. See exhibits (a) and (b).
2. True to form, and continuing in his abuse of the criminal FBI out of the Minneapolis, Minnesota FBI field office (led by served defendant SAIC Alvin M. Winston, Sr.), once the Plaintiff woke up from surgery and the used Morphine Anesthetic, and struggling to the bathroom to relieve himself with the help of two nurses, there were two FBI agents, without any reason or warrant present, one male and one female, observing the groggy Plaintiff struggle to the bathroom. Once the Plaintiff finished, and left the bathroom, both criminal FBI agents had left. Walsh already reported to this court within docket 144 Hagee sent his own team of medical experts to the ANYTIME FITNESS on 41<sup>st</sup> Street on 14 March 2025 to witness and verify Walsh was injured as he severely limped in, not satisfied with what he already learned from his team of medical experts sent on 14 March 2025, and through his continued gross and criminal Privacy

Act viewing of Walsh's medical records with the VA, Hagee AGAIN sent the criminal FBI into the Mayo Neurosurgery Clinic in Mankato, Minnesota to verify Walsh's injury and surgery.

3. This is the same continuation of the criminal actions of defendant murderer Michael W. Hagee, and his gross and illegal Privacy Act and HIPAA violations that precipitated this action here in South Dakota (as briefed in open court on 19 Sept 2024), without any warrant and without any reason.

4. **This is yet another of Hagee's gross Privacy Act and HIPAA violations that precipitated this action, see counts V, VI and VII at docket 1.** Walsh has the right to recover, again, from Hagee's continued gross Privacy Act and HIPAA violations in suit, see 5 USC §552(a) and 42 USC §1320d-6. **Walsh has the right to recover, from this latest crime by Hagee, in suit, not only under the Crime Victim Rights Act 18 USC §3771, but also under the Privacy Act and HIPAA.**

5. AS PROMULGATED BY SUPREME COURT JUSTICE GINSBURG IN *DOE V. CHAO* (02-1377) 540 U.S. 614 (2004);

"Section 552a(g)(4)(A) affords a remedy for violation of a Privacy Act right safeguarded by §552a(g)(1)(C) or (D). The words "a person entitled to recovery," as used in §552a(g)(4)(A)'s remedial prescription, are most sensibly read to include anyone experiencing an "adverse effect" as a consequence of an agency's intentional or willful commission of a Privacy Act violation of the kind described in §552a(g)(1)(C) or (D). The Act's text, structure, and purpose warrant this construction, under which Doe need not show a current pecuniary loss, or "actual damages" of some other sort, to recover the minimum award of \$1,000, attorney's fees, and costs." *Id.*

6. **With the continued lack of action by AUSA Hofmann and USA Ramsdell as Hagee continues his abuse of the criminal FBI deep in this action, both failing to police or control defendant murderer Michael W. Hagee, Plaintiff again asserts his rights under the Crime Victim Rights Act 18 USC §3771 and under the Privacy Act 5 USC §552a to recover before this court. And with defendant Hagee continuing his blatant and bold-faced crimes deep into this action; for this court to VACATE the order at docket 105, and issue the scheduling order to bring this action before a jury regarding these six (6) murder attempts and Hagee's continued Privacy Act and HIPAA violations, as guaranteed by the due process rights under the 5<sup>th</sup> and 14<sup>th</sup> Amendment to the United States Constitution due to**

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

<p>RORY M. WALSH, Plaintiff,</p> <p>v.</p> <p>CARLOS DEL TORO, SECRETARY OF THE NAVY, MICHAEL W. HAGEE, DEPARTMENT OF THE NAVY, JERRY D. HUMBLE, MICHAEL D. NORDWALL, FEDERAL BUREAU OF INVESTIGATION, SAIC ALVIN M. WINSTON, SR., FEDERAL BUREAU OF INVESTIGATION, UNITED STATES ATTORNEY, ALISON RAMSDELL, DAVID J. GAMEZ, and UNITED STATES OF AMERICA, Defendants.</p>	<p>4:24-cv-04018-CCT</p> <p><b>FEDERAL DEFENDANTS' RESPONSE TO PLAINTIFF'S NOTICE OF ALLEGED CONTINUED CRIMINAL ACTIVITY</b></p>
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Defendants United States of America, Department of the Navy, former Secretary of the Navy Carlos Del Toro, Marine Corps General Michael W. Hagee (Retired), Marine Corps Major General Jerry D. Humble (Retired), former Executive Assistant Director of the Criminal Cyber Response, and Services Branch Michael D. Nordwall (Federal Bureau of Investigation ("FBI")), Special Agent in Charge Alvin M. Winston Sr. (FBI Minneapolis Field Office), and United States Attorney Alison J. Ramsdell (hereinafter referred to collectively as the "Federal Defendants"), by

and through their undersigned counsel of record, respond to pro se Plaintiff Rory Walsh's Notice of [alleged] continued criminal actions by General Hagee. Doc. 146.

On January 15, 2025, this Court granted the Federal Defendants motion to dismiss the complaint and denied Mr. Walsh's motion to supplement the complaint. Doc. 105, at p. 37. The Court also issued an order to show cause why a prefiling injunction should not be issued against Mr. Walsh. *Id.* Mr. Walsh has filed a motion for reconsideration. Doc. 108. The Court's decision on the Order to Show Cause and Mr. Walsh's motion for reconsideration is pending. Mr. Walsh now makes further dubious allegations which are unsupported by any credible evidence. Mr. Walsh now alleges that when he

“woke up from surgery [at the Mayo Neurosurgery Clinic] ... and struggling to the bathroom to relieve himself with the help of two nurses, there were two FBI agents, without any reason or warrant present, one male and one female, observing the groggy Plaintiff struggle to the bathroom. Once the Plaintiff finished, and left the bathroom, both criminal FBI agents had left.”

Doc. 146, at p. 1. Mr. Walsh further alleges, again without any credible evidence, that the purported and unidentified FBI agents were sent by General Hagee to verify his injury and surgery. *Id.*, at pp. 1-2. General Hagee retired from the Marine Corp. on January 1, 2007, (Doc. 45, at ¶ 1) and does not exercise any authority or control over the FBI.

Mr. Walsh continues to assert fictitious claims of continued criminal conduct to perpetuate this frivolous lawsuit. *See e.g.* Doc. 146, Doc. 109. Additionally, Mr. Walsh has a lengthy history of frivolous and vexatious litigation asserting and reasserting his same conspiracy theories against different government agencies and officials as well as private citizens. *See* Doc. 43, at pp. 3-6; Doc. 105, at pp. 12-15; Doc. 117, at p. 11 n. 5. Therefore, a prefiling injunction is warranted to prevent Mr. Walsh's continued abuse of the judicial process. *See* Doc. 43, at pp. 39-40; Doc. 95,

at pp. 17-20; Doc. 105, at pp. 34-37; Doc. 117, at pp. 10-12. See attached proposed Order regarding pre-filing injunction.

Dated this 15th day of May 2025.

ALISON J. RAMSDELL  
United States Attorney  
/s/ Michaele S. Hofmann  
Michaele S. Hofmann  
Assistant United States Attorney  
Andrew W. Bogue Fed. Bldg.  
515 Ninth Street, Suite 201  
Rapid City, SD 57701  
Phone: (605) 342-7822  
Michaele.Hofmann@usdoj.gov

**CERTIFICATE OF SERVICE**

I, Michaele S. Hofmann, do hereby certify that on the 15th day of May 2025, I caused a copy of the **Federal Defendants' Response to Plaintiff's Notice of Alleged Continued Criminal Activity** to be served upon the following:

David J. Gamez  
1013 N. Caleb Ave.  
Sioux Falls, SD 57103

- Electronic Mail
- FedEx
- ECF
- U.S. Mail – first class
- USAfx

/s/ Michaele S. Hofmann  
Michaele S. Hofmann

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

<p>RORY M. WALSH, Plaintiff,</p> <p>v.</p> <p>CARLOS DEL TORO, SECRETARY OF THE NAVY, MICHAEL W. HAGEE, DEPARTMENT OF THE NAVY, JERRY D. HUMBLE, MICHAEL D. NORDWALL, FEDERAL BUREAU OF INVESTIGATION, SAIC ALVIN M. WINSTON, SR., FEDERAL BUREAU OF INVESTIGATION, UNITED STATES ATTORNEY, ALISON RAMSDELL, DAVID J. GAMEZ, and UNITED STATES OF AMERICA, Defendants.</p>	<p>4:24-cv-04018-CCT</p> <p><b>PROPOSED ORDER RE REFILING INJUNCTION</b></p>
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Because Plaintiff Rory Walsh has repeatedly abused the judicial process filing duplicative and frivolous lawsuits, it is hereby

ORDERED that Plaintiff Rory Walsh is enjoined and prohibited from filing any further papers in this action. It is further

ORDERED that Mr. Walsh is enjoined and prohibited from filing any new pro se action in the District of South Dakota without leave of the Court. It is further

ORDERED that the Clerk of Court shall return to Mr. Walsh, without filing, any pro se complaint received without a motion seeking leave to file. To obtain leave of the Court, Mr. Walsh must submit a motion with a copy of the pro se complaint. The Court will review the complaint and deny leave to file if it determines the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. The Court may also deny leave to file if it lacks subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. A court can invoke Rule 12(b)(1) to dismiss a plaintiff's complaint that is "patently insubstantial," presenting no federal questions suitable for decision." *Best v. Kelly*, 39 F.3d 328, 330 (D.C. Cir. 1994) (quoting *Neitzke v. Williams*, 490 U.S. 319, at 327 n.6 (1989)). It is further

ORDERED that Mr. Walsh may file timely notices of appeal from this Court to the Court of Appeals and papers solely in furtherance of such appeals.

BY THE COURT:

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CAMELA C. THEELER  
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES FEDERAL DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION**

IN RE:

Captain Rory M. Walsh USMC (Ret.)

Plaintiff;

vs:

SecNav Carlos del Toro

*Et al.*

Defendants.

Case: 24-cv-04018  
Judge Camela C. Theeler

**PLAINTIFF DISABLED VETERAN WALSH  
RESPONSE TO THE ILLEGAL RESPONSE FILED BY THE FEDERAL  
DEFENDANTS ON 15 MAY 2025**

AND NOW, TO WIT, this 19<sup>th</sup> day of May 2025, comes the Plaintiff, and responds to the illegal response filed by the federal defendants on 15 May 2025 at docket 147 wherein Walsh was merely reporting the latest crimes by defendant murderer Hagee and his continued abuse of the criminal FBI in suit.

1. As continually throughout this action, defendant murderer Michael W. Hagee continues his blatant Privacy and HIPAA violations peering into Walsh's health records with the VA, and both retaliates and sends out the criminal FBI to either strike at Walsh, or wrongly interfere with Walsh's treatments. With Walsh undergoing surgery on his back on 23 April 2024 at the Mayo Neurosurgery Clinic, in Mankato, Minnesota, Hagee again, without reason or a proper warrant, sent the criminal FBI into the Mayo Clinic to observe and criminally interfere with Walsh's treatment, and it is proper that this court note this new crime by Hagee and the FBI, so it is put before the jury once this action is scheduled for trial.

**PROCEDURAL REVIEW**

2. As detailed for this court in the originating filing at docket 1, and as discussed in open court on 19 Sept 2024 before this Honorable Court, as detailed within counts V, VI, and VII and with this count nodding in her concurrence, each time the BVA/VA issued an order overturning

of the FBI here in South Dakota, is why she is a defendant in this action, as is defendant Carlos del Toro<sup>1</sup>. I am confident the jury will want to hear of the utter lack of action by USA Ramsdell as Hagee illegally peers into Walsh's VA health records, and then sends teams of FBI agents out when he does not like the fact the BVA is overturning Hagee's own fraud on the government (count III) and the most recent FBI crimes in suit, and the photographic evidence of the FBI repeatedly breaking into my residence, damaging both cars, photographic evidence of undercover FBI agents on Walsh's driveway, and the most recent crimes of Hagee's abuse of the criminal FBI, sending FBI agents directly into the Mayo Neurosurgery Clinic in Makato, Minnesota as Walsh underwent surgery on 23 April 2025, and struggled to recover from the Morphine Anesthetic; see 18 USC §1518. See exhibits (a) and (b).

**LEGAL ARGUMENT TO JOINDER THIS NEW COUNT UNDER FRCP 18  
AGAINST BOTH MURDERER HAGEE AND FBI SAIC WINSTON, SR.**

2. This is the continuation of defendant murderer Hagee's gross Privacy Act (and HIPAA violations-Health Insurance Portability and Accountability Act of 1996) that both provide for recovery. Walsh has the right to recover in the face of Hagee's continual Privacy Act (and HIPAA) violations, **AS PROMULGATED BY SUPREME COURT JUSTICE GINSBURG IN *DOE V. CHAO* (02-1377) 540 U.S. 614 (2004);**

"Section 552a(g)(4)(A) affords a remedy for violation of a Privacy Act right safeguarded by §552a(g)(1)(C) or (D). The words "a person entitled to recovery," as used in §552a(g)(4)(A)'s remedial prescription, are most sensibly read to include anyone experiencing an "adverse effect" as a consequence of an agency's intentional or willful commission of a Privacy Act violation of the kind described in §552a(g)(1)(C) or (D). The Act's text, structure, and purpose warrant this construction, under which Doe need not show a current pecuniary loss, or "actual damages" of some other sort, to recover the minimum award of \$1,000, attorney's fees, and costs." *Id.*

3. This is the furtherance of defendant murderer Hagee's gross interference of Walsh's treatment by the VA<sup>2</sup> in direct violation of 18 USC §1518; Obstruction of Health Care. As listed on the Department of Justice website; "Section 1518 of Title 18, United States Code, prohibits obstruction of health care. Under this statute, which was enacted in August 21, 1996, Pub.L. No.

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<sup>1</sup> Further, as shown by the documents within this action, neither USA Ramsdell nor FBI SAIC Winston have pled to the complaint, and they are both in default. And I am confident the jury will want to hear about the utter lack of action by USA Ramsdell, and the crimes by FBI SAIC Winston, that continue in suit.

<sup>2</sup> VAMC Sioux Falls does not have a Neurosurgery Clinic, hence Walsh was referred to the nationally and world renown Mayo Clinic in Minnesota to undergo surgery on his back, see exhibits (a) and (b).

**Re: *Brown*** (6<sup>th</sup> Circuit Court of Appeals);

“(i.e., *United States v Brown*, et al.) - regarding issues and claims that Polster might have been involved in or have access to "extrajudicial" information material to the resolution of the issues and claims in Petitioner's pleadings - has credible reasons to believe that Polster has been illegally and unduly influenced by the respondents and their proxies, surrogates, and alter-egos to such an extent, to protect their personal, penal, and pecuniary interests, that Polster has been irreparably contaminated, polluted, and defiled in the eyes of the law to "render fair judgment impossible" in the proceedings; and the appearance: of bias or prejudice against the interests of Petitioner and in favor of he and the respondent's interests has made a complete farce of any resemblance of a neutral disinterested, impartial adjudicator as demanded by the Constitution and federal law as expressed in the public policy of the United States via 28 USC § 455 *et seqs.* and the Codes of Conduct for Federal Judges.”

“Polster must be held accountable for his flagrant, egregious, execrable, and criminal judicial misconduct, willfully, deliberately, and in bad faith executed against Petitioner, the public, and the United States courts. Justice cannot be denied in this matter if justice is to be afforded in any matter. This being the epitome of incongruent duplicity and antagonistic bathos and putalant attack on the rule of law: Judicial treason by Polster, collectively, ¶15 1-14 (the "Extraordinary Circumstances").”

35. With such prejudicial actions by this court, first having denied the Navy’s motion to dismiss (see order at docket 25 and now reversing course and without even seeing the Plaintiff’s OPPOSITION to the Navy’s motion for summary judgment filed herein, pursuant to 28 USC §455 and §144 **this court must now recuse himself from this action.** Section 28 USC §455 (a) stated that "Any justice, judge, or magistrate judge in the United States shall disqualify himself in any proceedings in which her impartiality might reasonably be questioned." Here we are. This Court has brought his own deep seated favoritism to the defendants, into this case. Immediate recusal is warranted and demanded. This was made clear in *United States v Grinnell Corp* 384 US 563 (1966) and again in *United States v Microsoft* 253 F.3d 34 (D.C. Cir 2001); extrajudicial source as a source outside the judicial proceedings at hand. *Liteky* 510 US at 545. Plaintiff moved to COMPEL the Navy to release both illegally withheld documents at docket 27, dated 22 Sept 2024, and same motion remains unopposed and here we are 8 months later, and this court has allowed Bengford to so pollute this action with extrajudicial documents from HQMC (**THE UNITED STATES MARINE CORPS IS NOT A PARTY TO THIS ACTION**) there is no chance for the Plaintiff to gain justice before Judge Schulte, and per 28 US §455 and §144 Judge Schulte must recuse himself from this action. This is also in support of the



**22-11-31. Harassment by threat of fraudulent legal proceedings or liens prohibited—Misdemeanor—Subsequent violation felony.**  
 Any person who harasses any other person by sending or delivering, or causing to be sent or delivered, any letter, paper, document, notice of intent to bring suit, or other notice or demand that simulates any form of court or legal process and that threatens the other person, directly or indirectly, with incarceration, monetary fines, or penalties, or with the imposition of a counterfeit lien on the real or personal property of the other person is guilty of a Class 1 misdemeanor. A second or subsequent conviction for a violation of this section is a Class 6 felony. Lack of belief in the jurisdiction or authority of the state or of the

**Number of times Rory Walsh has asked for incarceration and or fines in direct violation of state law SD 22-11-31**

Federal Court document #	Defendant Gamez	Defendants Del Toro, Hagee, Humble	Defendants, Winston, Nordwall
original pleading		1	
23	3		
33			1
53	6		
54		1	1
57		5	2
66	3		
66-1	3		
66-2	3		
66-3	3		
68		1	
68-1		1	
75		1	
77	3		
86	2		
88	3		
94		2	
108	1	2	
109		1	1
114	6		
120		2	
136	3		
139	1	1	
142	2		
144		1	
145	3		
148		4	1
148-1		1	
150	4	1	1
151 as of 5-27-2025		1	1
Total	49	28	8

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3-11-25

**Request for Protection Order**

I, David Gamez, am requesting a Protection Order for myself and my wife (Lila) against our neighbor named Rory Walsh who resides at 1012 N. Caleb Ave, Sioux Falls, SD, which is directly across the street from our home.

**His actions over the past 13 months constitute Harassment and Stalking under SD law.**

South Dakota law 22-19A-1 Stalking: No person may:

(1) **Willfully, maliciously, and repeatedly** follow or **harass** another person; or

(2) Make a **credible threat** to another person with the intent to place that person in reasonable **fear of death or great bodily injury**; or

(3) **Willfully, maliciously and repeatedly harass another person** by means of any verbal, electronic, digital media, mechanical, telegraphic, or **written communication**.

A crime of this section constitutes the crime of stalking.

22-19A-4 Harasses defined: Harasses means a knowing and willful course of conduct directed at a specific person which seriously **alarms, annoys, or harasses** the person, and which serves no legitimate purpose. The pattern of conduct was a series of acts over a period of time, however short, showing a continuing pattern of harassment.

22-19A-6 Credible threat defined: A credible threat means a threat made with the intent and the apparent ability to carry out the threat. A credible threat need not be expressed verbally.

**In addition, Rory Walsh has violated the following SD Statutes:**

22-11-31 Harassment by threat of legal proceedings: Any person who harasses any other person by sending or delivering, or causing to be sent or delivered, **any letter, paper, document**, notice of intent to bring suit, or other notice or demand that simulates any form of court or legal process and **that threatens the other person**, directly or indirectly, **with incarceration**, monetary fines, or penalties is guilty of a crime. (Rory Walsh has threatened me over 45 times with incarceration!)

22-11-9 False Reporting to Authorities: Any person who: makes a report, or intentionally causes the transmission of a report, to law enforcement authorities of a crime or other incident within their official concern, knowing that it did not occur, is guilty of false reporting to authorities, which is a crime. Also, any person who makes a report, or intentionally causes the transmission of a report, to law enforcement authorities which furnishes information relating to an offense or other incident within their official concern, knowing that such information is false, is guilty of false reporting to authorities, which is a crime.

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Allow me Your Honor, to present Mr. Walsh's many instances of harassment, threats, false reporting to police, and intimidation directed toward me over the past months.

**\*\* (See Exhibit #1 attached.)**

On February 17, 2024, I was served papers in a lawsuit in Federal Court. Rory Walsh alleged that government entities conspired with FBI agents to kill Rory Walsh and implicated me (David Gamez) in that conspiracy to have Rory Walsh killed. He alleges 3 attempts by the FBI to kill him were on September 2, 2022, and on October 28, 2022, and then again on April 28, 2023 in South Dakota. Regarding the April 28, 2023 date, Rory Walsh alleges that my residence was used by the FBI for surveillance purposes and implies that I am an FBI Informant.

I, David Gamez, am not an FBI informant. I have not surveilled Rory Walsh. I have not seen any FBI agents or their vehicles on or near our property.

Rory Walsh is a retired Captain in the Marines and is a weapons expert. He has many guns and high-powered rifles at his home. Both my wife and I became highly concerned in Spring 2024 that Rory Walsh's actions of filing this lawsuit against us and his gross distortion of events (delusions) would bring him to a point where he causes bodily harm against us or anyone else near his property.

**\*\* (See Exhibit #2 attached.)**

We contacted Tarah Walton in the Sioux Falls police department on February 20, 2024 and on February 27, 2024. She indicated that the Sioux Falls police department was aware of past incidents with Rory Walsh (such as his driving his car into the front of his house in 2023 doing thousands of \$\$ of damage) and she said that I may need to get a Protection Order against Rory Walsh.

**\*\* (See Exhibit #3 attached.)**

On 4/13/24, Rory Walsh added a new claim to the lawsuit indicating that a "tow truck driver" who towed Rory's 2015 Mustang to a repair shop on 4/8/24 (at Rory's request) was actually an FBI agent! Another concerning example of Rory Walsh's "illusions/fantasies".

**\*\* [See Exhibit #10.]**

After the February 2024 initial lawsuit by Mr. Walsh against us and the FBI, and his fantastical allegation in April 2024 that a "tow truck driver" (from a Towing service that Mr. Walsh had chosen to tow his car) was an "FBI agent", Mr. Walsh then brought up new fictitious & illusionary allegations against David Gamez in writing, with NO real factual evidence, and threatened David Gamez with "multiple years in prison". Here are examples:

5/6/24 – Document 53 - Mr. Walsh states " Once seated with Gamez **police friends**" ... and "attempting to get the Plaintiff (Mr. Walsh) arrested". Mr. Gamez simply invited Mr. Walsh out to lunch in April 2022 to be kind to him, as Mr. Walsh had just recently moved to SD. The 2 friends that sat at the table with Mr. Gamez and Mr. Walsh were **NOT** police; they were NOT introduced as police either. They are simply 2 senior citizen friends of Mr. Gamez who go to the same gym as Mr. Gamez and

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Mrs. Gamez, and have been to our house many times. **\*\*\*Mr. Walsh thinks he sees "police officers and FBI" everywhere**, as part of his on-going illusions. And then Mr. Walsh in writing **threatens Mr. Gamez with "8 years in prison for this"**.

In the same document, referring to December 3, 2023, Mr. Walsh again alleges that Mr. Gamez "allowed the FBI to not only maintain illegal surveillance" on Mr. Walsh, "but also to use Gamez's residence"... and then threatens Mr. Gamez with "10 years in prison for this".

Your honor, Mr. Gamez is not an FBI informant, he did not allow the FBI to use our residence, and Mr. Walsh has NO evidence of this. *Again, Mr. Walsh seems to see illusions of "FBI" everywhere....* And then in writing **threatens Mr. Gamez with "imprisonment for up to 10 years" for this**. Please also note that just 2 weeks prior to 12/3/23, Mr. Gamez had undergone major heart surgery, and was in no condition to be involved in any interactions like this.

Mr. Walsh repeated these delusional allegations and threats of prison OVER AND OVER again many times in writing from May 2024 thru March 2025. This is Harassment! These false allegations and threats of imprisonment **took a great emotional and physical toll on Mr. Gamez** who is 70 years old, and has a weak heart due to multiple heart attacks and surgeries.

**\*\*Note: Threats of imprisonment are in direct violation of SD Law 22-11-31!**

**\*\* (See Exhibit #4 attached.)**

On August 20, 2024, Rory Walsh continued his harassment against us. He called the Sioux Falls police alleging that I was "filming" him pulling into his garage that evening. I wasn't aware of his complaint until September 5, 2024, as the police did not contact me on 8/20/24. On 9/5/24, my wife and I visited the police station to inquire about the complaint. The police persons at the front desk said that no action was taken by the police because no crime occurred. They commented that Rory Walsh appeared to have mental health issues and suggested a restraining order. [Allow me to point out that I was NOT filming Rory Walsh! I was simply standing in the doorway to our house, watching our little dog go "potty" on our front yard, and waiting for him to finish so I could let the dog back in to our house!] Later that day, Tarah Walton of the Sioux Falls police contacted me and she also suggested in writing that we get a Protection Order against Rory Walsh.

**\*\* [See Exhibit #5.]**

On the evening of September 15, 2024, our friend/neighbor Casey was helping me install a new thermostat in my house. Around 8:00 pm Casey and I came outside, visited with each other a bit while my little dog was going "potty" in our yard, and happened to see Rory Walsh come down our street and pull into his garage. Mr. Walsh then came outside, walked all the way down his driveway to stand on the curb, then stood and "glared angrily" at Casey and me, like he thought we were focused on him somehow... which we weren't! Then Casey and I talked a bit more and he headed toward his home, and I brought our dog inside, and finally Mr. Walsh then went into his house. Another instance of Rory Walsh's harassment and his temper.

On Thursday, September 19<sup>th</sup>, my wife Lila and I attended a "hearing" with the Federal Judge regarding the lawsuit that Rory Walsh filed against me. Mr. Walsh was there as well, and we kept our distance from him the entire time and did not converse with him. His anger was clearly apparent during the hearing.

**\*\*[See Exhibit #7.]**

Mr. Walsh was in a Hearing on **Sept. 19<sup>th</sup>, 2024**, in front of Honorable Judge Theeler, stating his points pertaining to a lawsuit he filed in Federal Court against Mr Hagee, the FBI, and David Gamez. Mr. Walsh alleges that the FBI over the past 15+ years has been trying to kill him, and that Michael Hagee sends teams of FBI agents after Mr. Walsh. In the typed transcription of the full hearing by the court reporter, on page 85, which we received on 1/24/25, Mr. Walsh says aloud to the judge:

“Hagee has sent teams against me up and down the Yankton Trail System.... Hagee sends teams at me almost on a daily basis.”

In other words, Mr. Walsh is having **daily “illusions”** (about teams of FBI agents), and thus we are constantly in fear, as Mr. Walsh has serious mental health problems! We fear for our lives **every day** living across the street from him, due to his constant delusions, temper, threats, and on-going harassment of us, plus his ready access to multiple weapons!

**\*\*[See Exhibit #6.]**

A few days after the hearing, Lila Gamez saw Rory Walsh “glaring angrily, with fists clenched” at David Gamez from the edge of Rory’s yard. David had walked out of his garage, and was checking a few things in his pickup preparing to make a short trip to Garretson. Rory Walsh was out in his front yard mowing his lawn... and he then walked over to the SW corner of his property (along the street) and was “staring and glaring angrily, and shaking his fists at David Gamez” as David stepped up into his pickup. When David came into the house, Lila told David what Mr. Walsh did, and that it appeared Rory was “taunting” David, trying to get a rise out of him. However, David had his back to him and never noticed Rory. Just another example of Mr. Walsh’s harassment and his temper.

**\*\*12/17/2024 Trespassing by Mr. Walsh**

Then on December 17<sup>th</sup>, 2024, our exterior cameras caught Rory Walsh walking onto our property – up to our house and then back to the street! We do not want him on our property, as we are afraid of further harassment by him.

**\*\*[See Attachment A.]**

On January 15, 2025, the Federal Judge Camala Theeler “**dismissed**” the lawsuit that Mr. Walsh filed against us and the FBI & military, referencing “fantastical and delusional allegations”, “bizarre conspiracy theory”, his “series of many frivolous lawsuits”, his “frivolous and malicious actions”. On page 36 of that Attachment, Judge Theeler states “that he will continue to file new lawsuits alleging unfounded claims”. After the ruling by Judge Theeler, Mr. Walsh has continued fighting in court, asking for Reconsideration of her decision, and continuing his false allegations of the FBI and us. In fact, on 1/25/25 he made up a new allegation saying the FBI was after him again (per Exhibit 9 below). We are therefore rightfully afraid his temper, delusions, and harassment will continue to be directed toward us again and again, and are constantly afraid he will physically, emotionally, and financially harm us even more. (He has already cost us almost \$20,000 in legal fees.) Therefore we need this Protection Order against him.

**\*\*[See Exhibit #8.]**

See Document 108-1, pages 10-17 of 74 pages (**filed 1/25/25**) of Federal Case 4:24-cv-04018-CCT.

Mr. Walsh is continuing his harassment and threats against David and Lila Gamez, by again taking more pictures of the front of our house on 4 different occasions, claiming we are "surveilling him" or taking pictures of him from inside our home! Then again on 2/10/2025, Mr. Walsh is again showing a different picture of our house, alleging FBI surveillance again. (He alleges the picture was taken on 12/3/2023 (over a year ago), however the picture clearly shows green grass in the yard (not a winter picture).

**\*\*\***We have a little dog, who goes potty outside often. We do watch from the front window or front door to protect our dog (so no people or other dogs harm him) and to watch for when he's done going potty, so we can then let him back in the house. This is what a responsible dog-owner would do!

Our front window is the window in our TV room, which is used often by us throughout the day and evening. The last page of Exhibit #8 shows that room. We used to keep the shade up most of the day, to let the light in, however since all the harassment by Mr. Walsh, we keep the shade mostly down as we live in constant fear of Mr. Walsh.

In a free country, we have the right to look out of our windows!! **Mr. Walsh's continuous taking pictures of our house is an invasion of our Privacy, is a manner of Stalking, and it is HARASSMENT!** Mr. Walsh calling the police on us when we are inside our home looking out is **HARASSMENT!** Your honor, Mr. Walsh is surveilling us and harassing us for just living in our residence and enjoying our property!

Also Your Honor, allow us to point out that Mr. Walsh's security camera(s) point directly at our house! So he is constantly surveilling us!! On the other hand, our exterior cameras only cover our front yard and the street (and our back yard) – they do NOT cover Mr. Walsh's house at all.

**\*\*[See Exhibit #9.]**

See Mr. Walsh's Document 109, page 1 of 7 pages (**filed 1/27/25**) of Federal Case 4:24-cv-04018-CCT. Mr. Walsh again says the FBI is after him; that on "1/25/25 FBI agents harassed him at the Walmart on Louise Avenue while Mr. Walsh bought groceries." Another fantastical illusion by Mr. Walsh. (And absolutely NO evidence to support that claim.)

Also attached to Exhibit #9 is a document dated 1/25/25, where Mr. Walsh alleges "the FBI have repeatedly broken into his residence, his cars, and tailed Mr. Walsh as he conducts his evening runs at the parks here in Sioux Falls, deliberately damaging both of his cars". **These are more fantastical illusions by Mr. Walsh, that make us concerned about his mental health and thus make us fear for our safety.** When Rory Walsh's fantasies turn into reality in his mind, we truly have reason to fear for our lives!

**\*\* See Exhibit #13**

In Mr. Walsh's document 114, on page 14 (filed 2/10/25), he tries to **intimidate** us when he says "Warn Gamez that he faces additional liability if rejoined to the action if this case is reopened". His attempt to intimidate us is just another instance of his harassment... and intimidation is a crime.

**\*\* See Exhibit #11**

Please see the bottom paragraph on Exhibit #11, dated **2/28/2025**, where Mr. Walsh again alleges "surveillance" by Mr. Gamez. The exhibit (l) that Mr. Walsh attached pertains to an alleged incident on August 20, 2024 where Mr. Walsh called the Sioux Falls police claiming that Mr. Gamez was "filming him" as he was pulling into his garage. Mr. Gamez was NOT filming Mr. Walsh. Mr. Gamez was simply watching our little dog outside. (I'd like to point out that this allegation was shortly before our September hearing with the Federal Judge regarding Mr. Walsh's lawsuit. Mr. Walsh was just trying to stir up trouble right before the Federal Hearing, to bolster his case.) This 8/2024 instance is covered in our Exhibit 4 that was supplied to you, Your Honor, with our original request for a Hearing in order to get a Protection Order against Mr. Walsh.

That Exhibit 4 said the following, and provided you with the written email by Sargeant Tarah Walton of the Sioux Falls Police Dept who told us to get a Protection Order.

"On August 20, 2024, Rory Walsh continued his harassment against us. He called the Sioux Falls police alleging that I was "filming" him pulling into his garage that evening. (See Exhibit #4 attached.) I wasn't aware of his complaint until September 5, 2024, as the police did not contact me on 8/20/24. On 9/5/24, my wife and I visited the police station to inquire about the complaint. The police persons at the front desk said that no action was taken by the police because no crime occurred. They commented that Rory Walsh appeared to have mental health issues and suggested a restraining order. [Allow me to point out that I was NOT filming Rory Walsh! I was simply standing in the doorway to our house, watching our little dog go "potty" on our front yard, and waiting for him to finish so I could let the dog back in to our house!] Later that day, Tarah Walton of the Sioux Falls police contacted me and she also suggested we get a Protection Order against Rory Walsh. "

**\*\*But** the 2<sup>nd</sup> part of Mr. Walsh's allegation, which is exhibit (m) at the end of Exhibit #11, shows that **Mr. Walsh has AGAIN called the Sioux Falls Police alleging surveillance by Mr. Gamez.... This time on 2/16/2025 with his fantastical illusions!** Mr. Gamez was NOT surveilling Mr. Walsh on 2/16/2025, nor at any other time. Mr. Gamez goes to bed between 7:30 and 8:00 pm regularly, due to his heart condition. So Mr. Gamez was NOT surveilling Mr. Walsh late in the evening like that. Also, Mr. Gamez has very, very poor hearing, so would not even notice Mr. Walsh's comings or goings. Mr. Walsh is simply again "having illusions" and "making up" allegations so as to stir up trouble right before this Hearing with you, Your Honor. **Mr. Walsh's lies & police calls are Harassment!**

In addition, it is my understanding that Mr. Walsh violated SD state statute 22-11-9 (2) and (3) by falsely reporting to authorities. Mr. Gamez did not surveill Mr. Walsh on the evening of 2/16/25! So this false report to the police is a CRIME as well as Harassment!

**\*\* See Exhibit 12**

Lastly, Your Honor, please see Exhibit 12, dated 1/25/2025. Mr. Walsh not only again talks about "teams of FBI agents sent to strike and kill Mr. Walsh" in the first paragraph, but then Mr. Walsh gets even more scary with his references to murders at "Waco and Ruby Ridge".

And in the last paragraph, Your Honor, he says: "It should not take **gunfire and dead bodies**" at **Mr. Walsh's residence** for Mr. Walsh to be heard." Gunfire! Dead bodies! This from a man who has many weapons in his home! Mr. Walsh's written threat shows how unstable he is, and his extreme anger, ready to be directed at anyone is his way.

For anyone to make such horrifying threats in writing, we all have to be concerned for our safety! It's time for a Protection Order (or Restraining Order), Your Honor!

**\*\*Clearly, Mr. Walsh has a willful course of conduct of harassment & stalking, claims of conspiracy & fantastical illusions, false allegations, threats of imprisonment, false reporting to the police** (2 phone calls to Sioux Falls police saying he was being filmed or watched) directed at David Gamez **which seriously alarms, frightens, harasses, and annoys us.** And Mr. Walsh has intentionally carried out his **threats** upon us by his actions, displays of temper, and malicious allegations in his writings to the Federal Court. Even the Sioux Falls police were so alarmed that they recommended we get a Protection Order.

And clearly, Mr. Walsh has violated the SD Laws that I reference on the following page. For these many reasons, we ask for Protection Orders against Mr. Walsh to protect both of us, and allow us to freely occupy our home and property (and look out our windows) without harassment, threats, intimidation, and false calls to the police by Mr. Walsh.

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**Request for "Other Relief"** which we believe is necessary for Petitioners' protection

David & Lila Gamez request that the Judge require "that for any further litigation between David & Lila Gamez AND Rory M. Walsh, both the Petitioners (David & Lila Gamez) and the Respondent (Rory Walsh) must be represented by attorneys."

Mr. Walsh has a history of filing "frivolous lawsuits". He has filed numerous frivolous lawsuits against federal agencies, FBI agents, Military Generals, and his former neighbors over the past 15-20 years. His lawsuits have been dismissed time after time. Plus he appeals every decision, further driving up court cost for the defending litigants.

\*\*\*See **Exhibit # A** (Dismissing the frivolous lawsuit against us, and requiring Mr. Walsh to have an attorney for any future Federal lawsuit in this District). See page 37.

\*\*\*Also see **Exhibit # B** (List of his many lawsuits). And this also shows his lawsuit against prior neighbors, alleging the same things that he alleges against Mr. Gamez.

\*\* Your Honor, here is a more complete list, many pages long, of his many lawsuits including his appeals. Mr. Walsh uses "lawsuits" **to harass people over and over**, and uses the same unfounded "conspiracy theory" over and over.

Mr. Walsh will continue to harass us by filing new state or civil lawsuits over time against us, alleging unfounded claims, causing tremendous financial and emotional harm to both of us. He files "pro se" without an attorney, while we must obtain an attorney to represent us each time. This is part of his history of harassment of his neighbors and other parties. His latest lawsuit against us has brought us legal fees of over \$20,000 so far, and the expenses are not done yet. Mr. Walsh continues filing documents with the Federal court even now.... Talking about his plans to appeal that Federal Court decision. We simply want a "fair legal playing field", which means he has to bear the cost of an attorney just like we do, if he is going to continue filing lawsuits against us.

We need this Add'l Protection from the Court as well!

STATE OF SOUTH DAKOTA )  
 ) IN CIRCUIT COURT  
 )  
 COUNTY OF MINNEHAHA ) SECOND JUDICIAL CIRCUIT

<input type="checkbox"/> DOMESTIC <input checked="" type="checkbox"/> STALKING <input checked="" type="checkbox"/> EX PARTE TEMPORARY <input type="checkbox"/> PERMANENT <input type="checkbox"/> MODIFICATION	<h2 style="margin: 0;">ORDER FOR PROTECTION</h2> <p style="margin: 0;">TPO NO. <u>49TPO25-000472</u></p>
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**PETITIONER**

DAVID GAMEZ

First          Middle          Last

**PETITIONER IDENTIFIERS:**

08/21/1954

Date of Birth of Petitioner

By (name and DOB):

Other Protected Persons (name and DOB):

On behalf of a minor child by parent/guardian.

(See also 2B Additional Orders.)

**V.  
RESPONDENT**

RORY MICHAEL WALSH

First          Middle          Last

**RESPONDENT IDENTIFIERS:**

SEX	RACE	HEIGHT	WEIGHT
M	W	6'5"	255
EYES	HAIR	DATE OF BIRTH	
	GRY	10/01/1956	
DRIVERS LICENSE #		STATE	EXPDATE
02266769		SD	

Relationship to Petitioner:

Distinguishing Features:  
 GLASSES (PRESCRIPTION)

Respondent's Address:  
 1012 N CALEB AVE  
 SIOUX FALLS, SD 57103

**CAUTION:**  Weapon Involved

**THE COURT FINDS:**

That it has jurisdiction over the parties and subject matter, and the Respondent has been provided with reasonable notice and opportunity to be heard, and that in the case of an ex parte order, the Respondent will be provided with reasonable notice and opportunity to be heard sufficient to protect the Respondent's due process rights.

**THE COURT ORDERS:**

**That the Respondent is restrained from acts of abuse and physical harm, making threats of abuse, stalking or harassment.**

**That the Respondent is restrained from contact with the Petitioner by any direct or indirect means to the extent stated in the following pages.**

Additional findings and orders are on the following pages.

This order shall be effective 

05/28	2025
Month/Day	Year

 through 

06/25	2025
Month/Day	Year

Or if a permanent order is issued, until that order is served.

**Only this Court can change this order.**

**VIOLATION OF THIS PROTECTION ORDER IS A CRIMINAL OFFENSE.**

**WARNING TO RESPONDENT:** This order shall be enforced, even without registration, by courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. §2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (See 18 U.S.C. §§2262, 2265).

Having considered the Petition and Affidavit presented by the Petitioner, this Court FINDS:

1. That jurisdiction and venue are properly before this Court;
2. That the Petitioner has alleged that the Respondent has willfully, maliciously, and repeatedly followed or harassed the Petitioner, or has made a credible threat with the intent to place the Petitioner in reasonable fear of death or great bodily injury, SDCL 22-19A-1; or
3. That the Petitioner has alleged that the Respondent has willfully, maliciously, and repeatedly harassed the Petitioner by means of verbal, electronic, digital media, mechanical, telegraphic, or written communication, SDCL 22-19A-1; or
4. That the Petitioner alleges that he/she has suffered physical injury as a result of an assault or a crime of violence, SDCL 22-1-2(9); and
5. That the Petitioner alleges that he/she will suffer immediate and irreparable injury, loss, or damage before the Respondent or the Respondent's attorney has an opportunity to be heard.

THEREFORE THIS COURT ORDERS THAT THE RESPONDENT IS RESTRAINED FROM:

- a. FOLLOWING OR HARASSING PETITIONER, OR MAKING ANY CREDIBLE THREAT WITH THE INTENT TO PLACE PETITIONER IN REASONABLE FEAR OF DEATH OR GREAT BODILY INJURY, SDCL 22-19A-1;
- b. HARRASSING PETITIONER BY MEANS OF ANY VERBAL, ELECTRONIC, DIGITAL MEDIA, MECHANICAL, TELEGRAPHIC, OR WRITTEN COMMUNICATION, SDCL 22-19A-1;
- c. CAUSING ANY INJURY AS A RESULT OF AN ASSAULT OR CRIME OF VIOLENCE SDCL 22-1-2(9).

ADDITIONAL ORDERS:

- 1) That the Respondent is excluded from the Petitioner's residence listed in 2C;
- 2) That the Respondent shall not come within a distance of 50 feet from the following persons and places:

- A. The Petitioner personally
- B. The following minor children named as other protected persons:
 

Name	Date of birth	Relationship
_____	_____	_____
_____	_____	_____
_____	_____	_____
- C. The Petitioner's residence (street/apt) \_\_\_\_\_  
(city) \_\_\_\_\_, (state) \_\_\_\_\_ (zip) \_\_\_\_\_
- D. The Petitioner's place of employment (street) \_\_\_\_\_  
(city) \_\_\_\_\_, (state) \_\_\_\_\_ (zip) \_\_\_\_\_
- E. Other places (street/apt) \_\_\_\_\_  
(city) \_\_\_\_\_, (state) \_\_\_\_\_ (zip) \_\_\_\_\_  
\_\_\_\_\_  
(street/apt) \_\_\_\_\_, (state) \_\_\_\_\_ (zip) \_\_\_\_\_  
\_\_\_\_\_  
(street/apt) \_\_\_\_\_, (state) \_\_\_\_\_ (zip) \_\_\_\_\_  
\_\_\_\_\_

This distance restriction applies unless otherwise specified in this order.

3) Phone calls, emails, third party contact, and correspondence, direct or indirect, are not permitted, to a protected person, except as follows:

\_\_\_\_\_

4) Respondent is ordered to immediately turn over all weapons and ammunition to local sheriff.

5) Other relief as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WARNING TO RESPONDENT:** You can be arrested for violating this protection order even if any person protected by the order initiates the contact or invites you to violate the order's prohibitions. Only the court can change the order; the protected person cannot waive any of its provisions. You may also be held in contempt for ignoring the terms of this protection order.

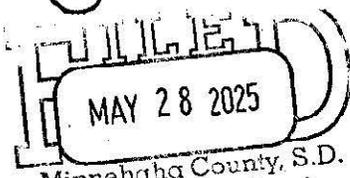
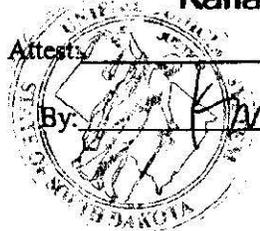
**AND IT IS FURTHER ORDERED THAT:** the Petitioner shall, immediately upon the granting of this Order, deliver two copies of this Order and two copies of the Petition and Affidavit to the sheriff of this county. One copy of each shall be personally served by the sheriff upon the Respondent.

DATED 5 / 28 / 2025

Service of this order is authorized on any day including Sunday.  
*Jon Sogn*  
\_\_\_\_\_  
Judge

**Karla Kalb**

Attest: \_\_\_\_\_, Clerk of Courts  
By: \_\_\_\_\_, Deputy



**NOTICE OF ENTRY OF ORDER AND ACKNOWLEDGMENT OF PERSONAL SERVICE**

I acknowledge receipt of a copy of this Temporary Order of Protection.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Respondent

**UNDER A PERMANENT PROTECTION ORDER:** You may be subject to the following federal laws: (1) Effective immediately, you may not possess, carry, ship or transport any firearm or ammunition that has been transported in interstate or foreign commerce while this Protection Order is in effect. Title 18 United States Code Section 922(g)(8). (2) If you violate this Protection Order and are convicted of an offense of domestic violence, you may be forbidden for life from possessing, carrying, shipping or transporting, any firearm or ammunition that has been transported in interstate or foreign commerce. Title 18 United States Code Section 922(g)(9). Violation of these federal laws carries a maximum penalty of ten years in prison, a \$250,000 fine, or both.

STATE OF SOUTH DAKOTA ) IN CIRCUIT COURT  
 )  
 COUNTY OF MINNEHAHA ) SECOND JUDICIAL CIRCUIT

<input type="checkbox"/> DOMESTIC <input checked="" type="checkbox"/> STALKING <input type="checkbox"/> EX PARTE TEMPORARY <input checked="" type="checkbox"/> PERMANENT <input checked="" type="checkbox"/> MODIFICATION	<h2 style="margin: 0;">ORDER FOR PROTECTION</h2> <p style="margin: 0;">TPO NO. <u>49TPO25-000472</u></p>
---	--

**PETITIONER**

DAVID GAMEZ
First            Middle            Last

**PETITIONER IDENTIFIERS:**

08/21/1954
Date of Birth of Petitioner

By (name and DOB):

Other Protected Persons (name and DOB):

On behalf of a minor child by parent/guardian.

(See also 2B Additional Orders.)

**V.**

**RESPONDENT**

RORY MICHAEL WALSH
First            Middle            Last

**RESPONDENT IDENTIFIERS:**

SEX	RACE	HEIGHT	WEIGHT
M	W	6'5"	255
EYES	HAIR	DATE OF BIRTH	
BLU	GRY	10/01/1956	
DRIVERS LICENSE #		STATE	EXPDATE
02266769		SD	

Relationship to Petitioner:

Respondent's Address:  
 1012 N CALEB AVE  
 SIOUX FALLS, SD 57103

Distinguishing Features:  
 GLASSES (PRESCRIPTION)

**CAUTION:**  Weapon Involved

**THE COURT FINDS:**

That it has jurisdiction over the parties and subject matter, and the Respondent has been provided with reasonable notice and opportunity to be heard, and that in the case of an ex parte order, the Respondent will be provided with reasonable notice and opportunity to be heard sufficient to protect the Respondent's due process rights.

**THE COURT ORDERS:**

**That the Respondent is restrained from acts of abuse and physical harm, making threats of abuse, stalking or harassment.**

**That the Respondent is restrained from contact with the Petitioner by any direct or indirect means to the extent stated in the following pages.**

Additional findings and orders are on the following pages.

This order shall be effective 

08/04	2025
Month/Dav	Year

 through 

07/28	2030
Month/Dav	Year

**Only this Court can change this order.**  
**VIOLATION OF THIS PROTECTION ORDER IS A CRIMINAL OFFENSE.**

**WARNING TO RESPONDENT:** This order shall be enforced, even without registration, by courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. §2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (See 18 U.S.C. §§2262, 2265).

**ADDITIONAL FINDINGS**

This matter came before this Court on this day and the following parties appeared personally:

- Petitioner     Petitioner's Attorney JONES, KRISTI     Other
- Respondent     Respondent's Attorney WALTER, MAX     Other

- 1. This **Court FINDS** that, without admitting to the allegations in the Petition, the Respondent waives further hearing, findings of fact, and conclusions of law, and stipulates to the entry of an Order of Protection on the terms specified below.
- 2. Having considered the evidence presented and any affidavits and pleadings on file, this **Court FINDS:**
  - 1. That jurisdiction and venue are properly before this Court; and
  - 2. By a preponderance of the evidence that:
    - a) "stalking" as defined by SDCL 22-19A-1 has taken place;
    - b) that the Petitioner has suffered physical injury resulting from an assault or a crime of violence, as defined by SDCL 22-1-2(9).

**THEREFORE, THIS COURT ORDERS THAT:**

- 1. The Respondent is restrained from:
  - a) following or harassing the Petitioner, or making any credible threat with the intent to place the Petitioner in reasonable fear of death or great bodily injury, SDCL 22-19A-1;
  - b) harassing the Petitioner by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication, SDCL 22-19A-1;
  - c) causing any injury as a result of an assault or crime of violence, SDCL 22-1-2(9).

**ADDITIONAL ORDERS:**

- 1) That the Respondent is excluded from the Petitioner's residence listed in 2C.
- 2) That the Respondent shall not come within a distance of 100 Yard(s) from the following persons and places:

A. The Petitioner personally

B. The following minor children named as other protected persons:

Name	Date of birth	Relationship
.....	.....	.....

C. The Petitioner's residence

D. The Petitioner's place of employment

E. Other places

This distance restriction applies unless otherwise specified in this order.

- 3) Phone calls, emails, third party contact, and correspondence, direct or indirect, are not permitted, to a protected person, except as follows:

NO EXCEPTIONS

4) Respondent is ordered to immediately turn over all weapons and ammunition to local sheriff.

5) Other relief as follows:

**\*\* THE RESPONDENT MAY BE ANYWHERE ON HIS OWN PROPERTY WITHOUT VIOLATING THIS ORDER. THE RESPONDENT MAY ENTER HIS HOME AND DRIVEWAY WITHOUT VIOLATING THIS ORDER.**

THE RESPONDENT, HOWEVER, MAY NOT STEP FOOT ON MR. GAMEZ'S PROPERTY OR THE PUBLIC SIDEWALK ON MR. GAMEZ'S PROPERTY

**WARNING TO RESPONDENT: VIOLATION OF THIS PROTECTION ORDER IS A CRIMINAL OFFENSE even if any person protected by the Order initiates the contact or invites you to violate the Order's prohibitions. Only the court can change the Order; the protected person cannot waive any of its provisions.**

This order shall be enforced, even without registration, by courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C.§2265).

**AND IT IS FURTHER ORDERED THAT:** the Clerk shall, immediately upon the granting of this Order, deliver two copies of this Order to the sheriff of this county. One copy shall be personally served by the sheriff upon the Respondent unless personal service has been acknowledged below.

DATED: 08/04/2025

Service of this order is authorized on any day including Sunday.

JUDGE JEFF CLAPPER



/S/ KARLA K

Clerk of Courts

By:

Deputy

NOTICE OF ENTRY OF ORDER AND ACKNOWLEDGMENT OF PERSONAL SERVICE

I acknowledge receipt of a copy of this Modified Order of Protection.

DAVID GAMEZ, Petitioner

Date

RORY MICHAEL WALSH, Respondent

Date

UNDER A PERMANENT PROTECTION ORDER: You may be subject to the following federal laws: (1) Effective immediately, you may not possess, carry, ship or transport any firearm or ammunition that has been transported in interstate or foreign commerce while this Protection Order is in effect. Title 18 United States Code Section 922(g)(8). (2) If you violate this Protection Order and are convicted of an offense of domestic violence, you may be forbidden for life from possessing, carrying, shipping or transporting, any firearm or ammunition that has been transported in interstate or foreign commerce. Title 18 United States Code Section 922(g)(9). Violation of these federal laws carries a maximum penalty of ten years in prison, a \$250,000 fine, or both.

FILED  
AUG 04 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

ORIGINAL

STATE OF SOUTH DAKOTA) IN THE CIRCUIT COURT  
: COUNTY OF MINNEHAHA ) SECOND JUDICIAL CIRCUIT

\*\*\*\*\*

DAVID GAMEZ,

Petitioner,

TEMPORARY PROTECTION

-vs-

ORDER HEARING

RORY MICHAEL WALSH,

49TPO.25-472

Respondent.

\*\*\*\*\*

BEFORE: The Honorable **Jeff Clapper**  
Circuit Court Judge  
Sioux Falls, South Dakota  
July 28, 2025

APPEARANCES: Ms. Kristi Jones  
Attorney at Law  
795 East Kevin Drive  
Tea, South Dakota 57064

For the Petitioner;

Mr. Max Walter  
Attorney at Law  
335 North Main Avenue Suite 230  
Sioux Falls, South Dakota 57104

For the Respondent.

Roxane Osborn  
605-782-3032  
Sioux Falls, South Dakota

1 no history of violence, and has been told repeatedly by  
2 police and courts that he is not violating the law.

3       Additionally, Judge, no physical injury has been alleged  
4 here. As required by SDCL.22-1-2(9). And again, I'd just  
5 reiterate, Judge, that this is now the third protection order  
6 the Gamezes have filed against Mr. Walsh. With each one  
7 based on virtually identical allegations. They insert one  
8 new accusation unsupported by evidence and bring the same  
9 bundle of grievances and hopes for getting a different result  
10 from a different Judge.

11       As Mr. Walsh's reply affidavit makes clear, these  
12 filings are frivolous, retaliatory, and not grounded in any  
13 credible threat or ongoing harassment, and it is currently  
14 causing irreparable disruption in Mr. Walsh, ah, Mr. Walsh's  
15 life, his property rights, and his peace of mind.

16       Your Honor, we're asking that these petitions be  
17 dismissed. Mr. Walsh is not a threat. He is a Veteran.  
18 He's a law abiding homeowner. He is trying to move on with  
19 his life, and these petitions are not based on credible  
20 threats or harassment. Thank you, Your Honor.

21       THE COURT: All right. I've had a chance to review the  
22 court filings, listen to testimony today. I'll say this. as  
23 to Judge Hoffman's prior decision. His decision stands. I  
24 make no finding about Mr. Walsh with regard to anything that  
25 occurred at that hearing. And I don't hold it against Mr.

1 Walsh, any claims of him saying he was going to move or sell  
2 his house within a certain period of time.

3 As to the federal lawsuit, anything resulting from that,  
4 I think the proper remedy is in federal court. However, I do  
5 think some of the information about it's important to give  
6 some context to the court regarding these two parties.  
7 There's obviously some ongoing animosity, and I think it does  
8 provide the backdrop for some motive.

9 What we have here and what the court has to deal with is  
10 a new event, one alleged by Mr. Gamez to have occurred on May  
11 25<sup>th</sup> of 2025, in which he alleges Mr. Walsh indicated the last  
12 thing I'll do is kill you. That if the court finds to have  
13 occurred, is a credible threat under South Dakota law.

14 I do find Mr. and Mrs. Gamez's testimony to be credible,  
15 that that was a threat to their physical harm and is the  
16 basis for a protection order under SDCL. 22-19A-1(2) for  
17 making a credible threat to place another person in  
18 reasonable fear of death or great bodily injury. However, I  
19 only find it against Mr. Gamez and not Mrs. Gamez. There's  
20 no threat directly to her.

21 So, then that leaves, so that means that TPO. 25-471  
22 filed by Lila Gamez is dismissed. That TPO. 25-472 is  
23 granted.

24 Now, the terms. I'll grant protection order for five  
25 years. Respondent's not to come within a hundred yards of

1 the petitioner personally. Now, that makes it a little  
2 difficult on the residence, so he is not to step foot on any  
3 of Mr. Gamez's property. I think that covers what we need to  
4 cover. So, Mr. Walsh, if you are driving, leaving your  
5 residence and you see Mr. Gamez walking his dog, and it's on  
6 your way to where you're going, you're going to need to turn  
7 around and find a different route. You're not to be coming  
8 within 100 yards of him. Sometimes things may happen  
9 accidentally, but your job is to keep going.

10 Either side have any questions?

11 MS. JONES: No, Your Honor.

12 MR. WALTER: No, Your Honor.

13 THE COURT: Okay. Stay here. We'll get the protection  
14 order drafted. You'll need to sign off on that and we'll go  
15 from there.

16 MR. WALTER: Thank you, Judge.

17 MS. JONES: Thank you, Judge.

18 (Proceedings concluded at 3:53 p.m.)  
19  
20  
21  
22  
23  
24  
25



STATE OF SOUTH DAKOTA }

IN THE CIRCUIT COURT

:SS

COUNTY OF MINNEHAHA

SECOND JUDICIAL CIRCUIT

\*\*\*\*\*

CASE: TPO 49TPO025-000472

**MOTION FOR A NEW TRIAL**  
**DUE TO DISCOVERY OF NEW AND EXCULPATORY EVIDENCE**  
**THAT EXONERATES RORY M. WALSH FROM THE WRONGFUL ALLEGATIONS**  
**OF DAVID AND LILA GAMEZ ON 25 MAY 2025**

\*\*\*\*\*

This is for Circuit Judge Jeff Clapper,

1. **Overview.**

a. As shown by the forensic report/Photo Analysis report of Richard Quindry, attached as exhibit (a) herein, upon his analysis of the photos David J. Gamez submitted in his request for a TPO on 28 May 2025, falsely alleging that Captain Rory M. Walsh, USMC (Ret.) stopped and rolled his windows to both insult and threaten David J. Gamez on the morning of 25 May 2025, this new and exculpatory evidence exonerates Captain Rory M. Walsh from the fraudulent falsehoods and open lies of David J. Gamez.

b. As shown by the photograph analysis of Richard Quindry, using the photos DAVID GAMEZ HIMSELF SUBMITTED IN HIS REQUEST FOR A TPO OF 28 MAY 2025, same photo clearly shows Captain Rory M. Walsh driver side windows were up, hence there is no way Captain Walsh could have insulted and threatened David Gamez on the morning of 25 May 2025, while Walsh was merely going to the Walmart on 10<sup>th</sup> Street to buy groceries and over the counter medicines. With this new evidence Walsh has clearly shown David Gamez has lied throughout this ordeal, and has repeatedly lied to the police, and as Walsh clearly stated in court and repeatedly, **Walsh categorically denied making same inflammatory statements that Gamez lies about, and with this new evidence showing Walsh's windows were up, with no way to have insulted or threatened Gamez, it is proper that this court overturn its decision and vacate the order of 28 July 2025.**

c. As this court well knows, Lila Gamez has admitted, in court, that she was not present for the "alleged" incident on the morning of 25 May 2025, and her complaint (TPO25-471) was

dismissed by the court. With this new evidence provided by photo analyst Richard Quindry at exhibit (a), Walsh has clearly shown and now documented David Gamez has lied throughout this ordeal, and has repeatedly lied to the police, and as Walsh clearly stated in court and repeatedly, Walsh categorically denied making same inflammatory statements that Gamez lies about, and with this new evidence showing Walsh's windows were up, with no way to have insulted or threatened Gamez, it is proper that this court overturn its decision and VACATE the order of 28 July 2025. **It is proper that this court VACATE its order of 28 July 2025, so Walsh may continue to prepare to move away from the repeated false allegations of David and Lila Gamez and continue to enjoy his military retirement unencumbered by the lies and abuse of the Minnehaha County Courthouse TPO program and quietly move away.**

2. **Sequence of Events.** It is proper to review for the court, the sequence of events that brought up to this juncture.

a. As shown by the court orders of Judge Douglas E. Hoffman of 11 March 2025 attached herein at exhibit (b), Judge Hoffman denied the requests for a TPO by both David and Lila Gamez of TPO numbers 49TPO025-000047 and 49TPO025-000048. There were also two earlier, denied during December 2024; hence with these recent TPO complaints filed (TPO 49TPO025-0000471 and TPO 49TPO025-0000472) both Lila and David Gamez have now filed a total of six (6) TPO requests against Rory Walsh in a clear abuse of the Minnehaha County TPO program, with only one being successful.

b. Since moving to South Dakota during February, 2022, I have been subjected to illegal surveillance and criminal harassment by the FBI Informant; David J. Gamez, who resides at 1013 N. Caleb Ave, Sioux Falls, SD 57103; directly across the street, IN DIRECT VIOLATION OF THE 4<sup>TH</sup> AMENDMENT AND SOUTH DAKOTA SURVEILLANCE LAWS. NIETHER LILA NOR DAVID GAMEZ, NOR THE SIOUX FALLS POLICE DEPARTMENT HAVE PRODUCED A SINGLE SURVEILLANCE WARRANT AGAINST RORY WALSH AT HIS RESIDENCE AT 1012 N. CALEB AVE, SIOUX FALLS, SD 57103.

c. During the morning of 25 May 2025, I rose early to take advantage of the quiet hours at the Walmart on 10<sup>th</sup> Street, to purchase some groceries and over the counter medicines. See receipt evidence at exhibit (c).

d. Turning left onto Madison, I could see David Gamez waiting in ambush of myself, with his camera out to take photos of myself and my vehicle. Fed up with his open criminal actions over the last 3 years, I did not speak to him, nor even rolled down my window, I had already made the decision to move away from him and his equally spiteful wife; Lila Gamez. Unknown to myself at that time, Lila Gamez was holding me under illegal surveillance (in direct violation of the 4<sup>th</sup> Amendment and South Dakota surveillance laws), tipped off David Gamez I was on the way and sped after me as I merely ignored David Gamez, and proceeded to drive by David Gamez to continue on to the Walmart on 10<sup>th</sup> Street. **This is evidence of both illegal surveillance by both David and Lila Gamez, and with Lila Gamez testifying in court on 28 July 2025 that she sped after myself, this is evidence of ENTRAPMENT by both David and Lila Gamez, in direct violation of SDCL 20-9-11.3, and is also grounds for this court to VACATE its order of 28 July 2025.**

e. Then again on 31 May 2025, with my grocery list in hand, I again turned left onto Madison, and I could see David Gamez again ahead of me. See receipt evidence at exhibit (d). I had car trouble, my car stalled, so I pulled over to turn around and go home. As I am trying to turn my car around, **SUDDENLY, AND WITHOUT PROVOCATION (I was merely on my way to buy groceries at the Walmart on 10<sup>th</sup> Street) LILA GAMEZ SHOWS UP IN HER SMALL BROWN SEDAN, SNAPPING PICTURE AFTER PICTURE, THE ZOOMING OFF TO BAHNSON ROAD, TO PICK UP DAVID GAMEZ, AND CONTINUE TO TAKE MORE AND MORE PICTURES OF MYSELF. FOR WHAT?** With this criminal harassment and stalking by both David and Lila Gamez as I am merely going to get groceries, I drove off to take another route to Walmart, and stopped at the "H2O-ose it" on Cleveland Avenue, and asked for assistance from the Sioux Falls Police Department by dialing 911. Three (3) officers kindly showed up and took my complaint. Once they were finished, I drove to Walmart and got my groceries.

f. **THIS IS ENTRAPMENT BY THE GAMEZ'S, BOTH ON 25 MAY AND 31 MAY 2025, AS I GO TO BUY GROCERIES. SEE SDCL 20-9-11.3. CRIMES. THIS IS ALSO GROUNDS FOR THIS COURT TO VACATE THE ORDER OF 28 JULY 2025.** **THIS HAS BEEN GOING ON, CEASELESSLY, FOR THE LAST 3 YEARS AND I WANT THIS TO STOP. BOTH DAVID AND LILA GAMEZ MAINTAIN THEIR CONTINUOUS, CRIMINAL SURVEILLANCE OF MYSELF IN DIRECT VIOLATION**

**OF THE 4<sup>TH</sup> AMENDMENT AND SOUTH DAKOTA SURVEILANCE LAWS. I AM IN THE PROCESS OF MOVING AWAY, MY FOR SALE SIGN IS UP AND I RECENTLY HIRED A REALTOR.**

**g. I vehemently deny having made any comment or threat against David Gamez on the morning of 25 May 2025, as I was merely going to Walmart to get groceries. As stated in court on 28 July 2025, Lila Gamez was not present during the alleged incident on the morning of 25 May 2025.**

**h. Now, as shown by the forensic report of photo analyst Richard Quindry, attached as exhibit (a), my driver side windows were up, hence, I did not insult or threaten David Gamez as he alleges, and David Gamez and his wife Lila both lied in open court on 28 July 2025. This is analysis of the same photos Gamez submitted when he filed his complaint on 28 May 2025. This is false reporting by David and Lila Gamez to the police, see SDCL 22-11-9. More crimes by David and Lila Gamez in their open hatred and animosity of myself. As testified in court on 28 July 2025, the police took no action, concerning the Gamez multitude of complaints and this being their “umpteenth” one filed against Captain Walsh.**

**i. Hence, with this new evidence, showing David Gamez lied concerning the events of 25 May 2025 (Lila Gamez admitted in court she was not present, and Judge Clapper threw out her complaint), it is proper that this court VACATE the order of 28 July 2025, so that I may continue to prepare to move away from the Gamez and their multitude of lies and abuse of the Minnehaha County Court system, and that this court impose a filing injunction against both David and Lila Gamez so they are precluded from continuing their abuse of the Minnehaha County Court system and the TPO program without the advice of a retained lawyer.**

**3. Legal Argument for a new trial or to VACATE the order of 28 July 2025. Per South Dakota law, once the appeal has been filed (Walsh timely filed his appeal in this action on 4 August 2025, see exhibit (e), as well as the endorsement of the court stenographer who is now compiling the report from the hearing on 28 July 2025), and new evidence that clearly exculpates Captain Walsh from the false allegations of David Gamez from his “alleged”**

**incident on 25 May 2025 is discovered, it is proper per South Dakota law to present same to this court, within a motion for a new trial, and/or to vacate the order of 28 July 2025.**

a. **See SDCL 15-6-59(a)**. A new trial may be granted to all or any of the parties and on all or part of the issues for any of the following causes;

“(4) Newly discovered evidence, material to the party making the application, which he could not with reasonable diligence have discovered and produced at trial.”

“(7) Error of law occurring at trial,” this court ignored Captain Walsh arguments at trial that the sequence of events, on both 25 and 31 May 2025 by the Gamez working in tandem and both setting up Captain Walsh as Walsh merely went to Walmart to get groceries, **is evidence of ENTRAPMENT see SDCL 20-9-11.3** and judge Clapper should have thrown out this complaint by Gamez due to the evidence showing both he and his life Lila orchestrated both events on 25 and 31 May 2025.

b. The required affidavit is attached at exhibit (f).

c. **Reasons for delay in providing this new evidence that exculpates Rory Walsh from the inflammatory and false allegations of both David and Lila Gamez,**

(1) **Private Investigator underwent cataract surgery**. Walsh had difficulty finding a forensic/photo analyst to evaluate the photos filed by David Gamez. Walsh uses private investigator Pat McManus here in Sioux Falls, who recently underwent cataract surgery, and his nephew died in a motorcycle accident, and has yet to respond once the photos were provide to him. See email trace evidence at exhibit (g), hence Walsh had to hire and pay another forensic/photo analyst and it was complete on 22 August 2025 (see exhibit (a)), and promptly provided to this court.

(2) **Ineffective Assistance of Counsel**. While this case is a civil matter, the legal basis to claim ineffective assistance of counsel remains sound law, and warrants a detailed review by Judge Clapper. First and foremost, Atty Max Walter has been terminated, and Walsh has both demanded a full \$6000.00 refund for his shenanigans before and during trial, and Walsh is in the process of petitioning the Disciplinary Board of the State Bar of South Dakota over this misconduct of Atty Max Walter before and during trial.

(a) **Max Walter did not prepare for trial**. We were going over MY RECOMMENDED QUESTIONS for both David and Lila Gamez on the morning of 28 July 2025, Max Walter had not prepared any.

(b) As Judge Clapper will clearly recall, Captain Walsh showed up with flipcharts and evidence, and was prepared to conduct a brief to show this court how the events on both 25 and 31 May 2025 were orchestrated by both Lila and David Gamez, with David waiting in ambush on Bahnson as Walsh merely departed to go get groceries at the Walmart on 10<sup>th</sup> Street, and again on 31 May 2025 with Lila Gamez racing after Walsh, snapping her camera as well as David Gamez doing the same, in a concerted effort to precipitate Walsh's arrest. They failed. As judge Clapper will clearly recall Walsh showed up at trial with flipcharts and evidence, and planned to do a detailed brief of the events on both 25 and 31 May 2025 showing these events were orchestrated by both David and Lila Gamez, in direct violation of SDCL 20-9-11.3; **ENTRAPMENT, and is grounds for this court to vacate the order of 28 July 2025. Atty Max Walter vigorously refused to allow Captain Walsh to present his brief or review his evidence at court.**

(c) **Failure to rebut HEARSAY and falsified evidence presented by both David and Lila Gamez at court.** Gamez testified to a neighbor relaying to him an incident where Captain Walsh warned same neighbor to stop ringing his doorbell each morning as he walked his dog or Walsh would notify the police, which is HEARSAY, and Max Walter refused to argue that same testimony was HEARSAY. Further, David Gamez testified that he came over to gift me some shaving products during March 2023, **THAT IS FALSE, GAMEZ CAME OVER DURING MARCH 2023 ARMED, TO GIVE A FOLDING KNIFE. THAT IS THE SECOND TIME GAMEZ ENTERED MY PROPERTY ARMED AND I DECIDED THAT IS ENOUGH OF HIS CRIMINAL CONDUCT AND THAT IT WAS TIME TO MOVE AWAY.**

4. **Judge Clapper has wide discretion once presented with a motion for a new trial.** See SDCL 15-6-59(a);

**“On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.”**

Hence, with Captain Walsh having now filed NEW FORENSIC/PHOTOGRAPHIC EVIDENCE OF THE PHOTOS DAVID GAMEZ HIMSELF FILED WITHIN HIS COMPLAINT OF 28 MAY 2025, SHOWING WALSH'S DRIVER SIDE WINDOWS WERE UP, AND THAT THERE WAS NO WAY WALSH COULD HAVE INSULTED AND THREATENED GAMEZ AS DAVID GAMEZ ALLEGES WALSH DID ON THE MORNING OF 25 MAY 2025, EXCULPATING WALSH FROM ANY GUILT IN THIS MATTER THAT WALSH VEHEMENTLY DENIES HAVING DONE SO, AND SHOWING BOTH DAVID AND LILA GAMEZ CONTINUE TO LIE IN THEIR COURT FILINGS, IN OPEN COURT, AND TO THE POLICE IN DIRECT VIOLATION OF SDCL 22-11-9, IT IS PROPER THAT THIS COURT VACATE ITS ORDER OF 28 JULY 2025, SO CAPTAIN WALSH CAN CONTINUE TO ENJOY HIS MILITARY RETIREMENT AND MOVE AWAY FROM THE FANTASTIC YET FALSE AND CONTINUING LIES OF BOTH DAVID AND LILA GAMEZ.

5. Contacting the opposing counsel; Atty Kristy Jones. Upon receipt of this powerful evidence that both exculpates Captain Walsh from the criminal allegations of David Gamez and shows to this court David and Lila Gamez continue to lie to this court and the police, see exhibit (a), Walsh attempted to contact Atty Kristy Jones to strike a deal before approaching this court to VACATE its order of 28 July 2025. Atty Kristy Jones failed to return same important phone call.

6. Conclusion. Per SDCL 15-6-59(a); IT IS PROPER THAT THIS COURT VACATE ITS ORDER OF 28 JULY 2025, SO CAPTAIN WALSH CAN CONTINUE TO ENJOY HIS MILITARY RETIREMENT AND MOVE AWAY FROM THE FANTASTIC YET FALSE AND CONTINUING LIES OF BOTH DAVID AND LILA GAMEZ AND THEIR DOCUMENTED ANIMOSITY AND HATRED. It is proper that this court VACATE the order of 28 July 2025, and grant such other relief as to the Court deems just and proper at this time.

Respectfully Submitted,

*Rory M. Walsh*

**Captain Rory M. Walsh USMC (Ret.)  
Disabled Veteran of the Iraq Wars  
605-251-8668**

- Exhibits:
- (a) Forensic/Photographic Analyst report of Richard Quindry of 22 Aug 25
  - (b) Judge Hoffman denying Gamez TPO petitions of both Lila and David Gamez (491PO25-000047 and 49TPO25-000048)
  - (c) Walsh's grocery bank charges from 25 May 2025
  - (d) Walsh's grocery list and bank charges from 31 May 2025
  - (e) Walsh timely filed his appeal in this action on 4 August 2025
  - (f) Walsh's required affidavit for this motion for new trial/to VACATE order
  - (g) Walsh email trace with PI Pat McManus showing he was undergoing cataract surgery and his nephew had died, hence delaying Walsh's ability to get a forensic/photographic analysis of the photos David Gamez submitted in his complaint of 28 May 2025

**FILED**  
AUG 25 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

49TPO25-000472

# Exhibit (a)

**FILED**  
AUG 25 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

Richard Quindry  
1034 Campbell Way  
Hatfield, PA 19440

215-368-9260

Photo-Forensics.com  
Quindry.com

August 22, 2025

Mr. Rory Walsh

### **Report of Richard Quindry**

You asked me to review and evaluate photographic evidence, which you claim shows that your driver's door window was completely closed.

### ***Qualifications and Expertise***

I currently work as a professional photographer, with over 50 years of experience in commercial photography. My skills include the use of numerous types of professional cameras, lighting both in the studio and on-site using various kinds of sources, film and print development, darkroom operation, digital photography, digital and conventional retouching, Photoshop, and many other computer photography programs, and the ability to calculate the relative position of the sun for any location on earth at any date and time.

I began programming computers in 1968, and I have had a personal computer since before the first IBM PC was manufactured. I started studying and using computer programs to digitally manipulate photos around 1992, using early programs including PhotoStyler, Impos/2, and Colorworks. I started using Photoshop around 1995 and have owned most versions of the program since then. I currently use Photoshop 2024. Some of the additional programs that I routinely use to enhance and alter photographs are Adobe Lightroom, Phocus, Zerene Stacker, along with many plug-in applications that add additional functions to Photoshop. I have been doing digital photography since 2002.

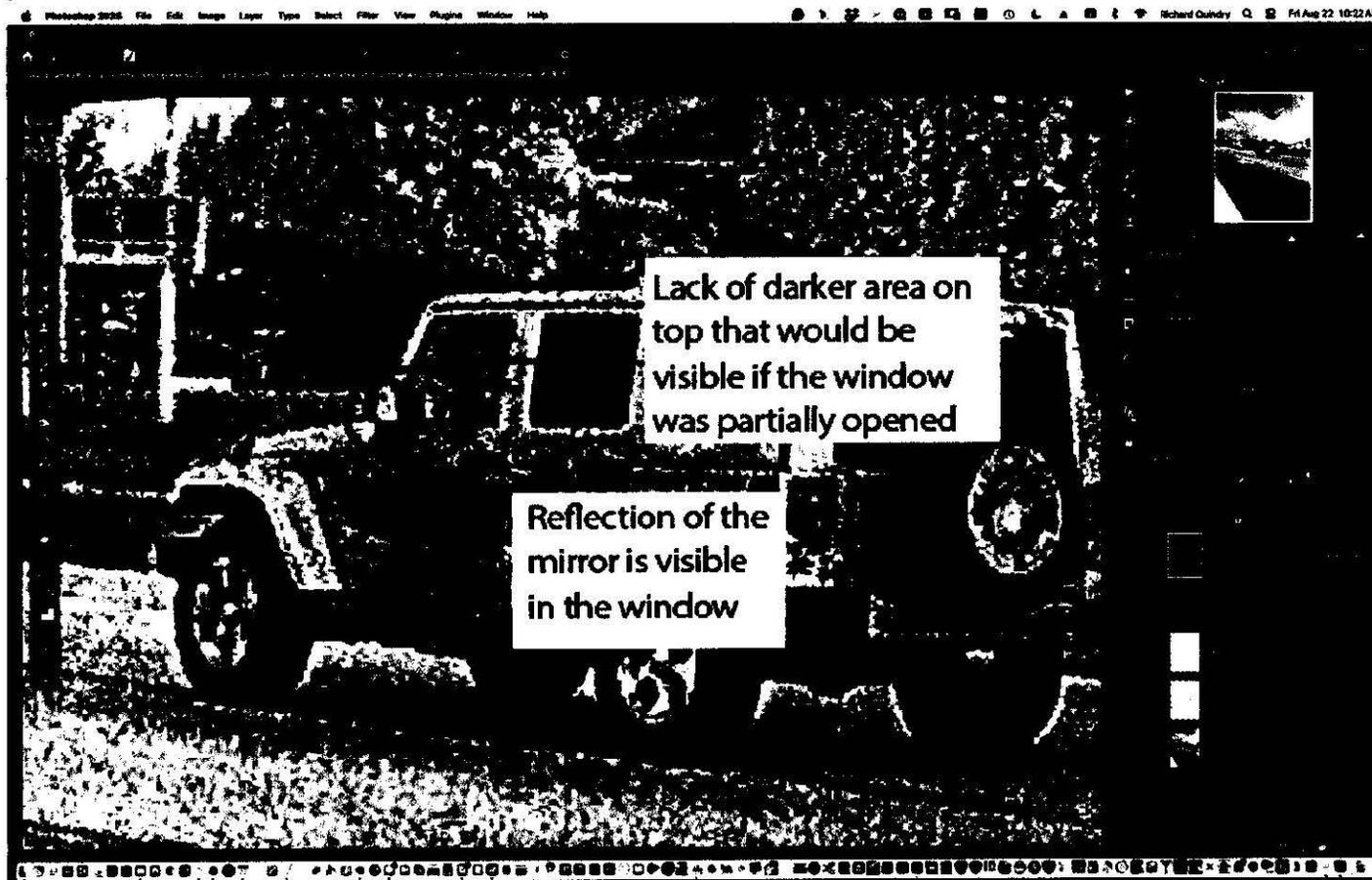
I regularly attend seminars and webinars on photographic lighting and Photoshop and self-study using my purchased training videos. I have purchased and studied over 100 training classes. Some of these classes run multiple days. In addition to the 200+ books on photography I have read, I have studied over 10,000 pages on Photoshop, including several books and academic papers on the forensic analysis of photographic images.

Since 2008, I have been retained by counsel to provide expert opinions about the validity and accuracy of photographic evidence. I have testified or submitted reports in over 20 cases, including federal courts in both civil and criminal cases. A list of these cases can be found in my attached CV.

Attached is an annotated screenshot from Photoshop, which shows a magnified section of a photo that the court accepted as evidence. You can clearly see the reflection of the car's left side mirror in the window, which proves that the window was at least partially closed. The smooth, similarly toned area in the upper section of the window, reflecting what is probably the sky, proves that the window was completely closed. Otherwise, you would see a nearly horizontal delineation formed with a darker section at the top, where you would be looking into the darker interior of the car.

### ***Conclusion***

There is no doubt in my mind that your window was closed.



Richard Quindry  
1034 Campbell Way  
Hatfield, PA 19440  
(215) 368-9260

Education: 1969 - 1973 BA - Pennsylvania State University

Employment: 1973 - 1974 Substitute teacher, School District of Philadelphia  
1974 - present Owner/Photographer at Richard Quindry Photography

Work experience:

I've been self-employed as a commercial photographer for 51 years. Photographic specialties include architectural photography, product photography, corporate location photography, and the photography of people, both in the studio and on location. Skills include the use of numerous types of professional cameras, lighting both in the studio and on-site using various types of sources, film and print development, darkroom operation, digital photography, digital and conventional retouching, Photoshop, and many other computer programs for photography, and the ability to calculate the relative position of the sun for any location on earth at any date and time.

Clients that I've done photography for include Johnson and Johnson, Merck, Sunoco, Nike, BASF, DuPont, Exxon Mobil, Firestone, Pfizer, Novartis, Bristol-Meyers Squibb, GE Capital, Campbell Soup, The Franklin Mint, Roche Pharmaceuticals, GlaxoSmithKline, Mars Candy, Hershey's, Nabisco, Royal Bank of Scotland, and several other multi-national corporations.

I combine my skills as an advertising photographer and Photoshop expert to create pictures that make people, places, and products look their best for marketing and advertising. My work has received international recognition. In 2008, an eight-page article featuring an interview and 13 of my photographs appeared in Commercial Images, China's leading commercial photography magazine. I was the only photographer featured in the 128-page issue who was not from China.

My website, Quindry.com, shows many examples of before and after images demonstrating my abilities as a photographer and Photoshop expert. According to Google Analytics, my website received

visits from 48 countries in 2023.

#### Training:

While still an engineering major at Penn State, I decided to become a commercial photographer. I switched majors to General Arts and Sciences. I commenced taking what photography courses I could, along with any other classes I felt would help me establish a successful commercial photography business. At that time, I began the practice of lifelong learning that I still practice today.

I began programming computers in 1968, and I've had a personal computer since before the first IBM PC was manufactured. I started studying and using computer programs to digitally manipulate photos around 1992, using early programs including PhotoStyler, Impos/2, and Colorworks. I started using Photoshop around 1995 and have owned most versions of the program since then, and now I am using Photoshop 2025. Some of the additional programs that I routinely use to enhance and alter photographs are Adobe Lightroom, Zerenc Stacker, along with many plug-in applications that add additional functions to Photoshop.

I have been doing digital photography since 2002 and estimate that except for 2020 and 2021 due to the business slowdown caused by the pandemic, I average over 15,000 photographs yearly.

I regularly attend seminars and webinars on photographic lighting and Photoshop and self-study using my purchased training videos. I have purchased and studied well over 100 training classes. Some of these classes run multiple days.

In addition to the 200+ books on photography I have read, I have studied over 10,000 pages on Photoshop, including several books and academic papers on the forensic analysis of photographic images.

In 2008, I prepared a written report as to the legitimacy of a photograph for a case in North Carolina: *Carlucci v. KB Homes, et al.* 07 CVS 10547 (Mecklenburg County), which my client credited as instrumental in bringing a swift settlement before trial.

In 2009, I consulted with, did photography for, and prepared a letter for Saul Krenzel & Associates. The Pennsylvania case was *Joanne Fiorella v. University City Housing Company et al.* CCP, Philadelphia County, November Term, 2008, No. 000943. I gave a written report stating my

determination that the plaintiff's photographic prints did not clearly and accurately represent what they depicted and that the digital files were required to be examined for tampering and to produce more reliable prints. The case was settled a few days later.

2011, I consulted with the Wood Law office in Charleston, WV, on a criminal case. They believed their client was being framed for a burglary, and the evidence was a series of images taken by a "hidden security camera." The individuals bringing the charges were related to a local official who claimed "he had several witnesses that would testify" that the images showed their client committing the crime. I analyzed hidden data in the photos and the camera's specs to give the legal team several facts that didn't add up. The day before I was scheduled to travel to West Virginia to do a photographic analysis on-site, all charges were dropped.

In 2012, I was hired by John Masterson of Roth Gerber in Casper, Wyoming, to examine evidence that appeared to show a Deacon in the Catholic church in the bed of a parishioner who claimed she was forced into a sexual relationship. I determined that his head was photoshopped onto another man's body. Before I finished the written report on this, the case was dismissed on technical matters.

In 2013, I provided a written report for Joseph P. Simon, an attorney in Kirkwood, Missouri, concerning the case of Phineas. This yellow Labrador Retriever was to be put down for supposedly viciously attacking a young girl. Upon examination of the photographic evidence, I found that the photos of the bite marks were extremely misleading. Phineas won his case.

In 2014, I provided photogrammetric analysis, a written report, and deposition for Gray, Ritter & Graham in St. Louis for an Illinois case, Ellington vs. Arands Bros., LLC. It involved the analysis of images taken by an accident investigator. A couple of photos revealed what appeared to be indentations in the road by what could have been a wheel. The insurance company claimed they were oil marks. They claimed the driver was on the wrong side of the road before he was killed on a two-lane road by a truck carrying a combine, which sheared off the top of the pickup he was driving and killed the driver. Enhancing an image showed marks that clearly looked like a disruption of the road's stone surface. Calculations revealed that the two marks were approximately 5.9 inches apart and 38 inches to the centerline's right. It ended up that the wheels on the small pickup had wheels with a 6" width (which I did not know when I made the measurements). The case was settled shortly before trial. I learned that the client was thrilled with the settlement.

In 2014, I also provided consultation and analysis for a Las Vegas attorney, Jennifer Pandullo. She felt that the photographic evidence provided against her clients was digitally altered. After the plaintiff received instructions to retain her smartphone so the original photos taken could be examined, she

"lost" her phone about a week later.

In 2015, I was hired by attorney Michael Regan of Shelburne, VT, concerning skid marks in an accident case on Long Island. He was concerned that one set of photos showed skid marks, and another set taken later by another collision investigator did not show all of the skid marks. He purchased the same model camera on eBay, and I took a collection of photos of a skid mark where I live. I demonstrated in a written report that at certain angles to the sunlight, skid marks were not visible in photos, even at close distances.

2016 – Zenaida Lockard, Office of the Federal Public Defender, Southern District of Ohio  
Analyzed an image and testified in federal court, showing that a photograph presented by the prosecution was not an original out-of-camera image. I pointed out tells in the picture that proved it had been composited from two or more images and, therefore, was not an original photo.

2016 – Brad Cooper and Associates, Philadelphia, PA

A dispute over the property line for liability. I changed the perspective from an image depicting a sidewalk after repair to line up and ghost over a photograph of the same sidewalk before repair, taken from an entirely different angle. This formed an exhibit for a settlement conference.

2017 – Garcia Law, Key West, FL

Smith vs. Hertz Corp.

I analyzed and enhanced a series of photographs of body damage to a car due to an accident.

2018 – Cantey Hanger LLC, Fort Worth TX

I provided a report that photographs depicting drug use by hospital employees were fabricated using images of those pulled from their Facebook page with drug paraphernalia photos from other sources added in an image editing program.

2019 – Dunlevy Law Group, Decatur, GA

I analyzed a few photos of zoning notice signs in a land-use dispute. I found highly suspicious date stamps on the images that showed that they were probably altered.

2019 – Condit Csajaghy LLC, Denver, CO

This was a child custody case that involved a claim of child abuse. Photos provided showing discoloration on a child's legs were shown not to be injuries at all but merely misleading color shifts in the image that were caused by one side of the legs being lit by the light from the blue sky coming

through a window on one side and interior room lighting on the other side.

2020 – Owens & Ross, Eureka, CA

Provided a written report that showed that a document was forged. Words were added to a scanned document by using an image editing program.

2020-2021 – Bohn & Battey, PLC, Arlington, VA

I was called on to see if there was the fabrication of evidence consisting of five product catalogs submitted by a corporation to the Court as evidence. It was a trademark dispute tried in the Fourth Circuit. The evidence was falsified by altering and inserting images into existing catalogs with an image editing program. I found many instances where this occurred and showed where it was falsified in over 50 exhibits. It was a David and Goliath story with two attorneys working from their homes against a five billion dollar corporation using a nationally recognized law firm with 2200 attorneys. My client won the case. A motion for sanctions was made and awarded. The case was dismissed with prejudice. An article mentioning my part in the case was published in "The American Lawyer."

2021 - Gray, Ritter & Graham, St. Louis, MO

I was called again by a previous client. They provided me PDFs of images taken by police of a car that was involved in an accident. The trunk was partially sprung open and revealed what might be a plastic gas can in the shadows. There seemed to be some information printed on the can, but nothing was readable, even at high magnification. I was able to enhance the photo to the point of not only making the information readable but also finding a partial logo. In addition to providing the enhanced photo, I searched the internet and found the matching gas can. The manufacturer's name and pictures of the can for sale matched the design, logo, and printing on the can, which was partially visible in the trunk. All of this was completed in about one hour. This led credence to the fact that the two maintenance workers who were killed in the car when it was hit by a train were, in fact, on their way to get gas for their company's lawnmowers and not as the company's insurance company claimed, out on a joy ride and therefore not covered.

2023 - Holwell Shuster & Goldberg LLP, New York, NY

This case involved a 1.1 billion dollar lawsuit between General Electric, the country of Angola, and Aenergy (Angola Energy) to go into arbitration in London by a tribunal of judges. It involved what was believed to be a forged order of turbines to provide electricity to cities. These documents bore an official government seal and an official's signature.

I was called on to analyze these documents to determine if they were genuine, created in Photoshop, or if the signatures were forged. I proved they were created by altering the text of an official document in Photoshop and proved how it was done. I also analyzed photos of these documents taken within hours of their creation. I determined that the photos were taken on an upper floor of a specific high-rise apartment building in Luanda, the capital of Angola.

2023 - Kellog, Hansen, Todd, Figel & Frederick, P.L.L.C., Washington D.C.

I analyzed some photos for their client, the Kingdom of Saudi Arabia. I provided a written report that showed that a photo of a facility that made it appear very close to the viewer was, in fact, almost 10 miles away, and more closely resembled what you would see if looking through a telescope. Other photos taken from the same location on the same day by the same photographer showed it barely perceptible on the horizon.

2023 - Bateman Calinendo LLC, Horsham, PA

In a trip-and-fall lawsuit against the Philadelphia Housing Authority, I provided a written report showing that photos provided by the plaintiff's attorney that attempted to prove inadequate outdoor lighting of the exterior steps leading from the sidewalk to a house did not prove any such thing and were not acceptable as evidence.

2023 - Meyers | Nave, California  
Mitchell v. City of Hayward

A contractor working on a road for Hayward did half of a million dollars in damage to the city's sewer system. They claimed that photos taken at the work location by the contractor with their cell phones proved that green paint markings that should have been sprayed on the curb and sidewalk to designate its presence were never put down and that they should not be held responsible for damages.

Within a couple of minutes, I was able to enhance the colors in their photos to prove that, indeed, they had been marked. I was able to take pale, not very noticeable markings in a photo showing a rather large area and intensify the greens in the photos to make them jump out.

The court date was canceled within days, and an agreement to settle the case was reached.

2024 - Littler Mendelson P.C., Minneapolis, MN

OSHA v. Sabri Properties

A union submitted over 100 photos alleging safety violations at two non-union building sites.

My report revealed that the metadata in the images had been altered and that a significant percentage of

the photos were deceptive due to their distant camera positions.

The case was amicably resolved.

2024 – Mennah Legal, Montreal, Quebec, Canada

I was hired to determine if a photo was altered. After examining the lighting, shadows, and reflections for consistency, I determined it was not. An “expert” in France determined that it could have been retouched, vaguely referring to his interpretation of “error-level-analysis”. A free method of dubious value that amateurs use to determine if photos are fakes. It can be found on the internet.

The person shown in the photo claimed that he had been digitally retouched into the photo, and that he had never been seated at a table with a document in this restaurant. I provided indisputable evidence that he indeed had, and the date and time that he was there.

2025 – Wicker Smith, Naples, FL

A hospital and surgeons were being sued concerning the results of a mastectomy. They provided a photo showing the area where the operation was done, including fresh stitches.

A thorough examination of the provided photo as evidence revealed that the image was fraudulent. It was created by combining two unrelated images.

49TPO25-000472

# Exhibit (b)

**FILED**  
AUG 25 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

STATE OF SOUTH DAKOTA )  
 )  
COUNTY OF MINNEHAHA )

IN CIRCUIT COURT  
SECOND JUDICIAL CIRCUIT

LILA M GAMEZ  
Petitioner  
-vs-  
RORY MICHAEL WALSH  
Respondent

TPO NO. 49TPO25-000047  
**ORDER DISMISSING  
PROTECTION ORDER  
(STALKING OR PHYSICAL INJURY)**

**THIS CASE IS DISMISSED:**

- 1. Based upon the request of the Petitioner.
- 2. Based upon the request of the Respondent.
- 3. Based on the failure of the Petitioner to appear at the hearing that was set when the Petitioner applied for the Order of Protection.
- 4. Based on the Court's findings that the Petitioner failed to provide sufficient evidence to support, by a preponderance of the evidence, a finding that "stalking" has occurred as required by SDCL 22-19A, and/or that physical injury has occurred as required by SDCL 22-1-2(9)
- 5. Other \_\_\_\_\_

DATED 03/11/2025.

Attest: s. Karla Kalb, Clerk of Courts  
by: *[Signature]* Deputy

Judge *[Signature: Douglas E. Hoffmann]*

**FILED**  
MAR 11 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

*Enclosure (6)*

UJS-121L (Stalking Order to Dismiss)  
Rev. 07/14

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF MINNEHAHA

SECOND JUDICIAL CIRCUIT

DAVID GAMEZ  
Petitioner

TPO NO. ~~49TPO25-000028~~

-vs-

RORY MICHAEL WALSH  
Respondent

**ORDER DISMISSING  
PROTECTION ORDER  
(STALKING OR PHYSICAL INJURY)**

**THIS CASE IS DISMISSED:**

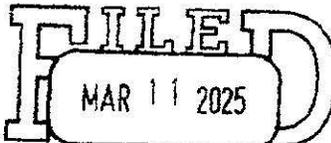
- 1. Based upon the request of the Petitioner.
- 2. Based upon the request of the Respondent.
- 3. Based on the failure of the Petitioner to appear at the hearing that was set when the Petitioner applied for the Order of Protection.
- 4. Based on the Court's findings that the Petitioner failed to provide sufficient evidence to support, by a preponderance of the evidence, a finding that "stalking" has occurred as required by SDCL 22-19A; and/or that physical injury has occurred as required by SDCL 22-1-2(9).
- 5. Other \_\_\_\_\_

DATED 03/11/2025.

*Daphne E. Hoffman*  
Judge

Attest: *Karla Kalb* Clerk of Courts

by *[Signature]* Deputy



Minnehaha County, S.D.  
Clerk Circuit Court

*Enclosure (7)*

UJS-121L (Stalking Order to Dismiss)  
Rev. 07/14

49TPO25-000472

# Exhibit (c)

**FILED**  
AUG 25 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

Exhibit C

FREE CHK0002 - First Bank & Tr. x +

https://accounts.bankeasy.com/account/f991929f-2556-4e4b-b18d-6054f2b9bf20

Import favorites For quick access, place your favorites here on the favorites bar. [Manage favorites now](#)

**Transaction details** x

0649 00244519 WM SUPERCENTER #3237 5521 E ARROWHEAD P SIOUX FALLS SD C#5152  
5/27/2025

\$79.57

- + Add tags
- + Add notes
- + Add images
- +
- + Attach to a conversation

First Bank & Trust - BANKeasy - FREE CHK 0002  
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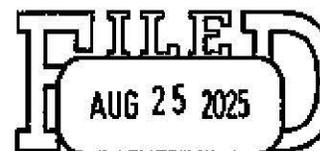
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Date Purchased 5/25/25

49TPO25-000472

# Exhibit (d)



Minnehaha County, S.D.  
Clerk Circuit Court

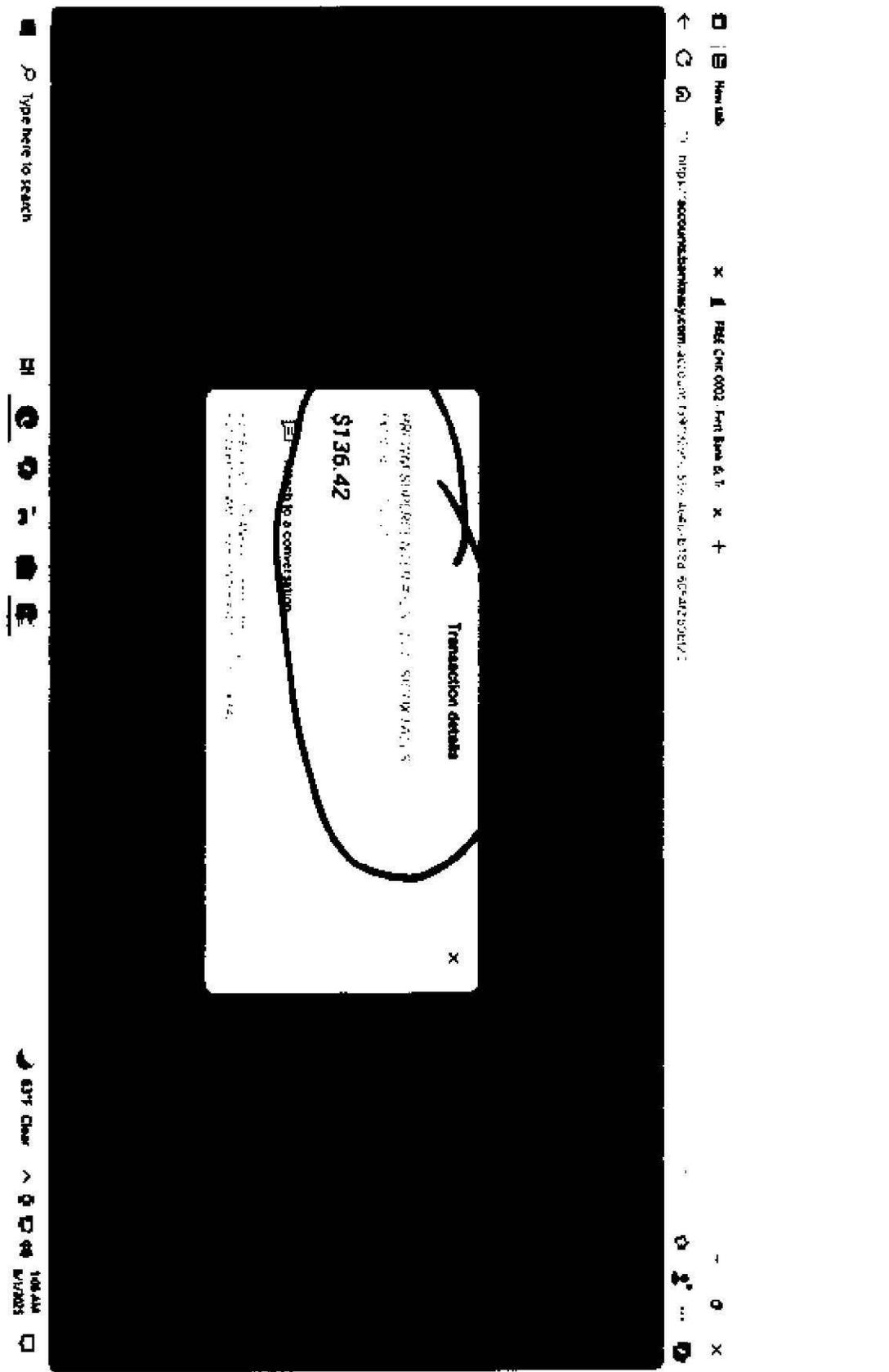
~~Jan 21 May 2025~~

- o MD - LRG X10
- o Mile X4
- o Fruit
- o Grapes
- o Ice Cream
- o (child Aspirin)
- o Foundation A-D -24
- o Nylons X3

Bottle Wines X3

Toilet Paper X8

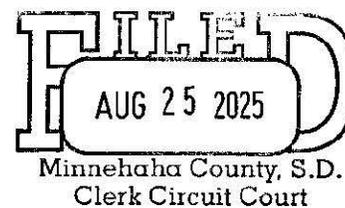
~~XXXXXXXXXX~~



*[Handwritten signature]*

49TPO25-000472

# Exhibit (e)



**IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA**

Captain Rory M. Walsh USMC (Ret.) )  
)  
Appellant, )  
V )  
David J. Gamez )  
Appellee )  
)  
)  
)  
)

Appellant's  
Docketing Statement

# \_\_\_\_\_

49TP025 - 000472

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**NOTICE OF APPEAL**

Section A. **TRIAL COURT**

1. The Circuit Court from which the appeal is taken: Second Circuit
2. The county in which the action is venued at the time of appeal: Minnehaha
3. The name of the trial judge who entered the decision appealed: Judge J. Clapper

**PARTIES AND ATTORNEYS**

4. Party: Captain Rory M. Walsh USMC (Ret.) *Pro se*  
1012 N. Caleb Ave.  
Sioux Falls, SD 57103  
605-251-8668

Party David J. Gamez  
Atty Kristi Jones  
795 E. Kevin Dr.  
Tea, SD 57064  
605-838-5873

**SECTION B. TIMELINESS OF APPEAL**

- 1. The date the judgment order appealed from was signed and filed by the trial court: 28 July 2025
- 2. The date notice of entry of judgment was served on each party: 28 July 2025
- 3. State whether either of the following motions were made:
  - a. Motion for judgment: NO
  - b. Motion for new Trial: NO

**NATURE AND DISPOSITION OF CLAIMS**

4. Appellant Walsh dismissed his claims IOT bring this to a reasonable conclusion after the Gamez has filed five (5) complaints against Appellant Walsh. Gamez claim was ruled credible by Judge Clapper and Walsh was ordered a 5 year PPO against himself, to which he appeals.

5. Appeals of right may be taken from only final, appealable orders.

- a. Did the court enter a final judgement that resolves all of the parties individual claims? YES
- b. Did the trial court enter a final judgment? YES

6. State each issue intended to be presented for review.

a. Judge Clapper did not allow Appellant Walsh to present his counter evidence, nor even his grocery lists from both 25 and 31 May 2025, showing he was merely on his way to get groceries at the Walmart on 10<sup>th</sup> Street on both dates in question.

b. **Appellant Walsh vehemently denied David Gamez allegation**, and argued that both events showed both were premeditated by the Gamez', as they continue to hold Appellant Walsh under illegal surveillance, and show not only evidence of premeditation, **but also evidence of ENTRAPMENT in direct violation of SDCL 20-9-11.3**, and ignored Walsh's argument and pleads that this case for the alleged incident on 25 May should have been dismissed.

c. Judge Clapper allowed excessive **EXTRAJUDICIAL** arguments (no evidence) from the pending legal action against Gamez that continues to advance in the federal court system, without allowing Appellant Walsh to argue or present counter evidence, showing those EXTRAJUDICIAL arguments have no bearing on this case, and were prejudicial against Walsh, despite the objections of Attorney Max Walter,

d. Appellant Walsh had shown, and appellee David Gamez testified to this fact, that despite the repeated and incessant complaints to the police regarding Appellant Walsh's alleged criminal actions, **the Sioux Falls Police did not take any action, never even questioned Appellant Walsh nor even knocked on Appellant Walsh's front door to question him, ever.**

e. Despite the repeated and incessant complaints by appellee Gamez to the police **for years**. Gamez and his wife have filed five (5) complaints against Appellant Walsh over the years, including incessant calls to the police, all having been fruitless, except for this final one.

f. The Gamez particularly Lila Gamez, admitted to conducting illegal surveillance of Appellant Walsh for years in direct violation of SDCL 22-21-1 in open court. Judge Clapper did NOTHING about their continued illegal surveillance of Appellant Walsh, and the Sioux Falls Police, under the SDCL sunshine law (SDCL 1-27), also did not provide any evidence of a surveillance warrant against Appellant Walsh despite the incessant complaints against Appellant Walsh filed by both David and Lila Gamez for years. Same illegal surveillance by the Gamez for years, as admitted to in court, **is in direct violation of Appellant Walsh's 4<sup>th</sup> Amendment rights.**

Date: 4 Aug 2025

Signature *[Handwritten Signature]*  
*[Handwritten initials]* L's Mc (Ret)

49TPO25-000472

# Exhibit (f)

**FILED**  
AUG 25 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

**AFFIDAVIT OF CAPTAIN RORY M. WALSH USMC (RET.)  
REGARDING THE ORCHESTRATED CRIMINAL EVENTS BY DAVID  
AND LILA GAMEZ DURING THE MORNING OF 25 MAY 2025 IN  
DIRECT VIOLATION OF SDCL 20-9-11.3; ENTRAPMENT AND THE  
FALSE ALLEGATIONS OF DAVID GAMEZ ON 25 MAY 2025**

I, CAPTAIN RORY M. WALSH, USMC (Ret.) am a resident and registered voter of Sioux Falls, County of Minnehaha, state of South Dakota. Rory M. Walsh, I am a resident and registered voter of the Sioux Falls, County of Minnehaha, State of South Dakota, and do hereby certify, swear or affirm under the penalty of perjury that I am competent to give the following declaration based on my personal knowledge, and that the following statement is true and correct to the best of my knowledge:

Since moving to South Dakota during February, 2022, I have been subjected to illegal surveillance and criminal harassment by the FBI Informant; David J. Gamez, who resides at 1013 N. Caleb Ave, Sioux Falls, SD 57103; directly across the street.

During the morning of 25 May 2025, I rose early to take advantage of the quiet hours at the Walmart on 10<sup>th</sup> Street, to purchase some groceries and over the counter medicines.

Turning left onto Madison, I could see David Gamez waiting in ambush of myself, with his camera out to take photos of myself and my vehicle. Fed up with his open criminal actions over the last 3 years, I did not speak to him, nor even rolled down my window, I had already made the decision to move away from him and his equally spiteful wife; Lila Gamez. Unknown to myself at that time, Lila Gamez was holding me under illegal surveillance (in direct violation of the 4<sup>th</sup> Amendment and South Dakota surveillance laws), tipped off David Gamez I was on the way and sped after me and sped after me after I merely drove by David Gamez to continue on to the Walmart on 10<sup>th</sup> Street.

Then again on 31 May 2025, with my grocery list in hand, I again turned left onto Madison, and I could see David Gamez again ahead of me. I had car trouble, my car stalled, so I pulled over to turn around and go home.

As I am trying to turn my car around, **SUDDENLY, AND WITHOUT PROVOCATION (I was merely on my way to buy groceries at the Walmart on 10<sup>th</sup> Street) THE GAMEZ' SHOW UP IN LILA'S SMALL BROWN SEDAN, SNAPPING PICTURE AFTER PICTURE, THE ZOOMING OFF**

**TO BAHNSON ROAD, TO GET OUT OF THE CAR AND TAKE MORE.  
FOR WHAT?**

**THIS BLATANT CRIMINAL ACTIONS AND WARRANTLESS SURVEILLANCE BY BOTH DAVID J. GAMEZ AND HIS WIFE LILA HAS BEEN GOING ON, CEASELESSLY, FOR THE LAST 3 YEARS AND I WANT THIS TO STOP, AND FOR DAVID J. GAMEZ TO SURRENDER HIS WEAPONS BEFORE HE SHOOTS ME. BOTH GAMEZ AND HIS WIFE WERE TRYING TO PRECIPITATE A CHARGE AGAINST ME, AND I HOPE THE POLICE WARNED THEM, THEY NEED TO WAIT FOR ME TO DO SOMETHING WRONG, RATHER THAN CHASING AFTER ME, TAKING PICTURES, WHEN I AM MERELY ON THE WAY TO THE GROCERY STORE.**

**AS DETAILED BY THE EVENTS ON THE MORNING OF 31 MAY 2025 AS I MERELY DRIVE TO GET GROCERIES AT THE WALMART ON 10<sup>TH</sup> STREET, WITH THE GAMEZ SPEEDING UP AND ALMOST STRIKING MY CAR, DELIBERATELY FOLLOWING AND STALKING MYSELF, THE GAMEZ ARE MAINTAINING ILLEGAL SURVEILLANCE ON MYSELF, AND THEN ZOOMING AND DRIVING ERRATICALLY TO SMASH INTO ME; I AM NOT STALKING THE GAMEZ, THEY ARE STALKING AND DELIBERATELY FOLLOWING ME.**

With this criminal harassment and stalking by both David and Lila Gamez as I am merely going to get groceries, I drove off to take another route to Walmart, and stopped at the "H2O-ose it" on Cleveland Avenue, and asked for assistance from the Sioux Falls Police Department by dialing 911. Three officers kindly showed up and took my complaint. Once they were finished, I drove to Walmart and got my groceries.

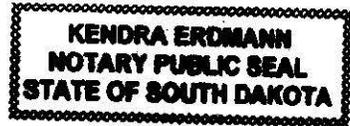
**THIS IS ENTRAPMENT BY THE GAMEZ, BOTH ON 25 MAY AND 31 MAY 2025, AS I GO TO BUY GROCERIES. SEE SDCL 20-9-11.3. CRIMES. THIS HAS BEEN GOING ON, CEASELESSLY, FOR THE LAST 3 YEARS AND I WANT THIS TO STOP, FOR THE MINNEHAHA COURT SYSTEM TO ISSUE A PERMANENT PROTECTIVE ORDER AGAINST BOTH OF THEM TO STAY OFF MY PROPERTY, AND FOR DAVID J. GAMEZ TO SURRENDER HIS WEAPONS BEFORE HE SHOOTS ME. THIS IS NAKED, CRIMINAL STALKING AND I WANT A PROTECTIVE ORDER BEFORE GAMEZ SHOOTS ME IN HIS ABUSE OF HIS PISTOL.**



Before me, a Notary Public in and for said County and State, hereby certify that Rory Walsh, personally known to me to be the affiant in the foregoing affidavit, personally appeared before me this day and having been by me duly sworn deposes and says that the facts set forth in the above affidavit are true and correct.

Witness my hand and official seal this the 23rd day of August, 2025.

Kendra Erdmann  
Signature



Exp. 3/27/29

49TPO25-000472

# Exhibit (g)

**FILED**  
AUG 25 2025  
Minnehaha County, S.D.  
Clerk Circuit Court

 Outlook

---

**Re: Need some photos evaluated**

---

From: Rory Walsh <rorywalsh78@hotmail.com>

Date: Tue 8/5/2025 2:17 PM

To: patm@allegianceinvestigators.com <patm@allegianceinvestigators.com>

Pat,

When will you be back? Please check with your peers, I need a PI to help on this problem. He lied.

Rory

605-251-8668

---

From: patm@allegianceinvestigators.com <patm@allegianceinvestigators.com>

Sent: Tuesday, August 5, 2025 1:51 PM

To: Rory Walsh <rorywalsh78@hotmail.com>

Subject: Re: Need some photos evaluated

Good afternoon Rory,

Sorry for the delayed response. I'm having cataract surgery today and heading out of town to KS. My nephew was just killed in a motorcycle accident. I don't have any expertise in the area in question. When I return I can check with my peers to see if anyone can help. Let me know your thoughts.

Thank you,

William Pat McManus

P.O. Box 89730

Sioux Falls, SD 57105

C 605 310:0943

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STATE OF SOUTH DAKOTA)  
:SS  
COUNTY OF MINNEHAHA)

IN CIRCUIT COURT  
SECOND JUDICIAL CIRCUIT

DAVID GAMEZ,  
Petitioner,

49 TPO 25-000472

vs.

**ORDER DENYING  
MOTION FOR A NEW TRIAL**

RORY MICHAEL WALSH,  
Respondent.

On May 28, 2025, Petitioner David Gamez filed a Petition and Affidavit seeking a Protection Order against Respondent Rory Michael Walsh. On July 28, 2025 a hearing was held at the Minnehaha County Courthouse, Sioux Falls, South Dakota, the Honorable Jeffrey C. Clapper presiding. An Order for Protection was entered on July 28, 2025.

Respondent Rory Michael Walsh filed a Motion for a New Trial on August 25, 2025 due to the discovery of new and exculpatory evidence. Having reviewed the motion and exhibits, this Court has determined that Respondent's Motion for a New Trial is denied.

**ORDER**

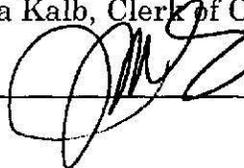
Now, therefore, it is ORDERED that this matter is DENIED.

Dated this 17<sup>th</sup> day of September, 2025.

  
\_\_\_\_\_  
Jeffrey C. Clapper  
Circuit Court Judge

ATTEST:

Karla Kalb, Clerk of Courts

By:  Deputy



IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

Appeal No. 31170

---

DAVID GAMEZ,  
Petitioner and Appellee,

v.

RORY MICHAEL WALSH,  
Respondent and Appellant.

---

APPEAL FROM THE CIRCUIT COURT  
SECOND JUDICIAL CIRCUIT  
MINNEHAHA COUNTY, SOUTH DAKOTA

---

THE HONORABLE JEFFREY C. CLAPPER  
CIRCUIT COURT JUDGE

---

**APPELLANT'S REPLY BRIEF**

---

KENNETH M. TSCHETTER  
Tschetter & Adams Law Office, P.C.  
5919 S. Remington Place, Suite #100  
Sioux Falls, SD 57108  
Telephone: (605) 367-1013  
[ken@tschetteradams.com](mailto:ken@tschetteradams.com)  
Attorney For Respondent/Appellant

KRISTI JONES  
Dakota Law Firm Prof LLC  
795 E. Kevin Drive  
Tea SD 57064  
(605) 838-5873  
[kristi@dakotalawfirm.com](mailto:kristi@dakotalawfirm.com)  
Attorney For Petitioner/Appellee

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Notice of Appeal Filed August 4, 2025.

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IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

---

DAVID GAMEZ,

Petitioner and Appellee,

v.

No. 31170

RORY MICHAEL WALSH,

Respondent and Appellant.

---

**PRELIMINARY STATEMENT**

Pursuant to SDCL 15-26A-62 and to avoid repetitive arguments, Appellant limits this reply brief to new matter raised in Appellee's Brief. Appellant does not waive any matter raised earlier in Appellant's Brief, but not specifically mentioned in the Reply Brief. Appellant will attempt to avoid revisiting matters adequately addressed in the initial briefs of the parties. Appellant's Brief will be referred to as "AB" followed by the appropriate page number. Appellee/Petitioner's Brief will be referred to as "PB" followed by the appropriate page number. Any references in this brief will be consistent with the page numbers set forth in the settled record. Any references to the settled record in this matter will be indicated by "SR" followed by the page number. Counsel will attempt to specify any other documents referred to in the record by name in order to provide clarity to the Court. Respondent and Appellant Rory Walsh will be referred to as "Walsh." Petitioner and Appellee David Gamez will be referred to as "Gamez." References to

items included in the Appendix will be referred to as “Appx” followed by the appropriate page number.

Counsel relies on the Jurisdictional Statement, Statement of Legal Issues, and Statement of the Case and Facts as set forth in his initial brief.

## **ARGUMENT**

### **I. WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN DENYING THE MOTION FOR NEW TRIAL?**

Gamez contends that Walsh does not meet any of the four-part test to establish grounds for a new trial under SDCL §15-6-59(a). See *State v. Otobhiale*, 2022 S.D. 35, ¶ 30, 976 N.W.2d 759, 770.

First, Walsh must show the evidence was undiscovered by the movant at the time of trial. Not only was the evidence undiscovered at the time of trial; it did not yet exist at the time of trial. The protection order hearing was held on July 28, 2025, and Richard Quindry’s (hereinafter “Quindry”) expert report was not written until August 22, 2025. Gamez argues that the photographs are not newly discovered evidence. PB 12. This argument is misplaced. Walsh did not ask for a new trial so the photographs could be put into evidence; Walsh asked for a new trial to offer expert testimony. For the first prong of the test, it is uncontroverted that Walsh did not actually have the expert report at the time of trial.

Second, Walsh must show the new evidence is material. However, instead of arguing whether the evidence is material, Gamez attacks the evidence itself, and offers a competing version of the facts.

The expert photograph analysis from Quindry concludes that Walsh's driver's side window was up. SR 91-93. In contrast, Gamez states that in the first photograph, "the driver's side window is three-quarters of the way up *but not fully up*." PB 7 (emphasis in original). In highlighting this factual dispute, Gamez proves Walsh's point: the trial court should have held an additional evidentiary hearing to resolve this issue. At such a hearing, the trial court would receive evidence, including testimony from the parties and the expert, pertaining to the window. The trial court would then make a factual finding based upon that evidence.

As it stands, the trial court has not made any specific factual finding regarding whether the window was up or down. Thus, there is no such finding for this Court to review. Assertions by counsel in an appellate brief are not evidence. See *Estes v. Millea*, 464 N.W.2d 616, 619 (arguments of counsel in a trial brief are not evidence).

Nevertheless, the photographs are in evidence, and this Court can consider the photographs even without a specific finding from the trial court. To that extent, Walsh respectfully submits that the assertion in Appellee's Brief that the window "is three-quarters of the way up" is obviously wrong, and not supported by the evidence. The photograph shows a line on the upper half of the window. SR 8. Presumably this line is the basis for the incorrect assertion that the window was three-quarters of the way up. PB 12-13. However, closer examination of the photograph reveals that the line is not the partially rolled down window, but is in fact the top of the fence on the other side of the road, *viewed through the rolled up window*.

Regardless, dispute about what the photograph shows only supports the

materiality of the proffered expert testimony from Quindry. “Expert testimony is admissible where it “will help the trier of fact to understand the evidence or to determine a fact in issue[.]” SDCL 19-19-702.” *Black v. Div. of Crim. Investigation*, 2016 SD 82, ¶23, 887 N.W.2d 731. Gamez asserts no expert opinion is needed, PB 13, but the ongoing debate shows otherwise. Clearly, the photograph can be interpreted and viewed in different ways, and an expert analysis would be helpful to the trial court.

Gamez next argues that Walsh never testified that his window was rolled up. PB 9, 12. Again, Gamez’s argument only supports the need for additional hearing. At the protection order hearing, Walsh was never asked about the window, or whether it was up or down. Likewise, the Court made no finding on the matter. The expert report on the subject was not available to either party on the date of the hearing, as it had not yet been generated. Walsh should have been given the opportunity to present this evidence and issue to the Court.

Gamez also alleges that Quindry only examined one of the two photos that are in evidence. SR 10, 13. However, the existing record does not indicate whether Quindry examined one photo or two. Certainly, if Quindry were to testify at a hearing, the basis for his opinion could be explored and set forth for the trial court. Once more, Gamez makes assertions on appeal that demonstrate the trial court record is under-developed, and highlighting the necessity for additional hearing as requested in Walsh’s motion.

By offering a competing version of facts and vehemently arguing against the evidence that Walsh’s car window was up, Gamez impliedly concedes such evidence is material. Gamez does not dispute that if the evidence showed Walsh’s window was up,

then Walsh could not have made the lone threatening statement which forms the entire basis for the protection order.

Under the third prong of the test, Walsh must show the evidence would probably produce a different result. The Court granted a protection order based on the finding that Walsh made the threatening statement through an open car window. Evidence that the window was closed calls this finding into serious question. Had the Court conducted additional hearing and received Quindry's testimony, the Court's decision would probably be different.

This conclusion is supported by the fact that Gamez's testimony was completely uncorroborated. No other witness claimed to hear Walsh yelling at Gamez.

On appeal, Gamez spends considerable time attacking Walsh's credibility. PB 3-4, 9, 15-16. However, Walsh's credibility is not at issue in this appeal. The trial court made no findings as to Walsh's credibility. It is Gamez who testified that the statement was made through an open car window. It is Gamez who testified that he quickly took the pictures of Walsh's car. It is Gamez who submitted those photographs into evidence. It is Gamez who had the burden of proof at the trial court level. It is Gamez's credibility that is called into question by the newly discovered evidence.

Accordingly, in evaluating the likely impact of this evidence, the Court must be cognizant of Gamez's incentive to falsify the threatening statement. Gamez had been denied a protection order on two prior attempts, based on the same overall factual situation. At the last denial, the trial court noted that Walsh had not threatened Gamez. Unsurprisingly, Gamez added an uncorroborated "credible threat" statement to his next

protection order application. Significant questions exist regarding Gamez's allegation, and Quindry's direct evidence to the contrary undermines confidence in the Court's decision.

Finally, Walsh must show that no lack of diligence caused him to fail to discover the evidence earlier. Gamez does not contest Walsh's evidence that he had attempted to find an expert, but his investigator did not respond in a timely manner. SR 86, 119. Walsh made efforts to obtain the evidence, but was unable to do so in the short timeframe (only 60 days) between the petition and the hearing.

The newly discovered expert evidence is material, and would have been helpful to the trial court. As the evidence directly contradicts the uncorroborated claim of a threatening statement, the evidence would probably produce a different result. The trial court offered no logical reason to deny the motion for new trial, and thus the court abused its discretion in refusing to hear the evidence.

## **II. WHETHER THE TRIAL COURT ERRED IN GRANTING THE PETITION FOR PROTECTION ORDER?**

The Court granted a protection order on the basis of the threatening statement. Pursuant to SDCL §22-19A-1(2), the Court found that Walsh made a "credible threat" to Gamez with the intent to place him "in reasonable fear of death or great bodily injury." SR 234.

On appeal, Gamez argues that the alleged threatening statement was "on par" for Walsh. PB 16. However, despite the history of litigation between the parties, no prior threatening statements had been made, nor even alleged. Gamez claims Walsh used

“mean and threatening” language in his written federal court documents. PB 16. Yet, in dismissing the federal case, the Federal Judge did not make any finding that Walsh had threatened Gamez whatsoever. SR 388-425. The federal court found that Walsh’s claims were meritless and baseless, but did not find them to be threatening.

In support of his claim of a “credible threat”, Gamez refers to statements Walsh made in the federal lawsuit referencing Waco and Ruby Ridge, and dead bodies in his driveway. PB 4, 6. Gamez misconstrues those statements entirely. The incidents at Waco and Ruby Ridge are widely known as examples of *law enforcement* utilizing excessive force. In his federal case, Walsh alleges he was the target of law enforcement. By referencing Waco and Ruby Ridge, Walsh was expressing fear for his own safety.

The characterization of Walsh as threatening is false, and not supported by anything in the record. Gamez seeks to perpetuate that characterization simply to gain a litigation advantage. The bottom line is, Walsh files lawsuits that the courts have dismissed as frivolous and meritless, but Walsh does not make threats. He never has. He airs his grievances through the court process.

South Dakota law defines a "credible threat" as "a threat made with the intent and the apparent ability to carry out the threat." SDCL §22-19A-6. On appeal, Walsh submits that the trial court’s finding of a credible threat was clearly erroneous because the trial court made no findings that Walsh had the apparent ability to carry out the threat.

In support of his contention, Walsh cited *Thompson v. Runner*, 2018 SD 57, ¶ 17, 916 N.W.2d 127, 131, (referred to by Gamez as *Thompson v Bear Runner*) as an example of a court’s failure to clearly identify how the evidence met the statutory elements for a

protection order under SDCL §22-19A-1. Gamez misconstrues Walsh's citation of *Thompson*. PB 17. Walsh did not suggest the trial court was required to find repeated conduct; a course of conduct constituting harassment is only required under SDCL §22-19A-1(1). Here, the trial court instead applied §22-19A-1(2), and found a credible threat existed. Regardless, the trial court did not enter any findings regarding Walsh's intent and apparent ability to carry out the threat, but instead merely parroted the statutory language. *Thompson* disapproved of this practice. *Id.* at ¶17.

Gamez contends the evidence showed Walsh had means to carry out the threat, because he was in a vehicle and Gamez was a pedestrian. PB 18. However, the trial court made no such finding. No evidence suggested Walsh was armed with a weapon, or possessed any other means to carry out the threat. The trial court did not make any finding that Walsh possessed weapons, either in his vehicle or his home. The trial court did not make any finding that Walsh had the apparent ability to carry out the alleged threat.

It is uncontroverted that law enforcement did not bother to even investigate the matter. Although Gamez contacted police, they did not attempt to speak with Walsh.

Gamez cited no other incidents of verbal threat or physical aggression, past or present, that would lend credence to the alleged threatening statement. Absent any evidence that Walsh had the intent and apparent ability to carry out the threat, Gamez could not reasonably be in fear of death or great bodily injury. SDCL §22-19A-1(2). The trial court erred in finding the statement was a credible threat, and in granting a protection order on that basis.

Gamez suggests a remand to the trial court for the limited purpose of supplementing its findings. PB 17-18, n.7. Under the circumstances, a remand for both an additional evidentiary hearing and supplemental findings appears warranted.

### CONCLUSION

For the aforementioned reasons, authorities cited, and upon the settled record, Walsh respectfully submits that the decision to grant a protection order must be reversed, and the case should either be dismissed, or be remanded for new trial.

Respectfully submitted this 17<sup>th</sup> day of February, 2026.



---

Kenneth M. Tschetter  
Tschetter & Adams Law Office, P.C.  
5919 S. Remington Place, Suite 100  
Sioux Falls, SD 57108  
Telephone: (605) 367-1013  
Attorney for Appellant Walsh

CERTIFICATE OF SERVICE

I, Kenneth M. Tschetter, hereby certify that I am a duly licensed and practicing attorney at law, having been so licensed by the Supreme Court of the State of South Dakota, and that I served the within and foregoing Appellant's Reply Brief upon the Appellee by serving electronically via Odyssey File and Serve upon Kristi Jones, Attorney for Appellee, on February 17, 2026, and that I mailed the original Appellant's Reply Brief and one (1) copy to the Clerk of the Supreme Court on February 17, 2026.

Dated this 17<sup>th</sup> day of February, 2026.



---

Kenneth M. Tschetter  
Tschetter & Adams Law Office, P.C.  
5919 S. Remington Place, Suite 100  
Sioux Falls, SD 57108  
Telephone: (605) 367-1013  
Attorney for Appellant Walsh

CERTIFICATE OF COMPLIANCE

Pursuant to SDCL §15-26A-66, Kenneth M. Tschetter, the attorney for Appellant, hereby certifies that Appellant's Reply Brief, submitted to this Court is in compliance with the statutory requirements of SDCL §15-26A-66, as follows: the format used in this brief is "Times New Roman," the font size is 12, the number of pages of the brief is 9, the word count for the relevant portions of the brief is 2,206 and the character count without spaces is 11,164 and 13,465 with spaces.

Dated this 17<sup>th</sup> day of February, 2026.

  
\_\_\_\_\_  
Kenneth M. Tschetter  
Tschetter & Adams Law Office, P.C.  
5919 S. Remington Place, Suite 100  
Sioux Falls, SD 57108  
Telephone: (605) 367-1013  
Attorney for Appellant Walsh