



ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
of the
SUPREME COURT OF ILLINOIS

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Jaime Hernandez

Chicago
June 19, 2009

Re: Russell James Stewart
in relation to
Jaime Hernandez
No. 09 CI 2006

Dear Mr. Hernandez:

Enclosed is a copy of the response of Russell James Stewart to the matter about which you have complained.

If you believe the response is inaccurate or if you wish to provide additional information or documents, please write to me within fourteen days.

We will evaluate this matter and advise you of our decision. Again, thank you for your cooperation.

Very truly yours,

A handwritten signature in cursive script that reads "Richard S. Thomas".

Richard S. Thomas
Administrative Counsel

RST:srh
Enclosure

RUSSELL J. STEWART
ATTORNEY AT LAW

805 W. TOUHY AVENUE
PARK RIDGE, ILLINOIS 60068
(847) 692-3350
(847) 692-2656
FAX: (847) 825-1969
E-MAIL: russ@russtewart.com

June 17, 2009

FACSIMILE (312) 565-2320

Richard S. Thomas
Administrative Counsel
One Prudential Plaza Drive
Suite 1500
Chicago, IL 60601

Re: Russell James Stewart
in relation to
Jaime Hernandez
No. 09CI2006

RECEIVED
A.R.D.C. - CHICAGO
09 JUN 18 AM 7:46

Dear Mr. Thomas:

I am in receipt of Jaime Hernandez's letter of complaint. The alleged misconduct on my part apparently entails the following:

1. Mr. Stewart "did pretty much everything which they told him to do," referring to the judge and state's attorneys.
2. Mr. Stewart "did not subpoena all those who were present in Courtroom 1506" on February 2, 2007.
3. Mr. Stewart "excused all my witnesses."
4. Mr. Stewart "destroyed my life."
5. Mr. Stewart "drafted an Additional Appearance."
6. Mr. Stewart did "co-conspire and lie to get the jury to convict me."

Before I respond with particularity, I must note that Hernandez has filed a Federal lawsuit, in Case Number 09C-661, a jumbled pro se complaint containing 159 paragraphs, at least 15 counts, and 20 Defendants, including Sheriff Dart, 12 deputies, two judges, the State's Attorney, and two assistant State's attorneys, as well as myself and my predecessor attorney. Attached is the first page of the complaint, which alleges false imprisonment, common law civil conspiracy, retaliation, and alienation of spousal affection. Judge Aspen on June 16, 2009 dismissed the legal malpractice count against me, but allowed the Plaintiff to proceed on claims against the Sheriff and his deputies.

As to the complaint of misconduct I reply as follows:

In my experience as a criminal defense attorney, I have found that when a Defendant is acquitted in a jury trial, it's because he was truly innocent; when convicted, however, it's attributable to attorney incompetence.

The complainant, Jaime Hernandez, was the owner of a small trucking concern. For some inexplicable reason, he came under the thrall of a group of irrational judge-haters, who were convinced that the civil justice system, and all jurists therein, were immoral and corrupt. Mr. Hernandez was enticed to be a courtroom observer in Sheila Mannix's custody hearing before the late Judge Donegan in Courtroom 1506 of the Daley Center on February 2, 2007. Mannix, because of her reputation as a disruptive litigant, was on the sheriffs' "watch list," which mandated extra deputies assigned to any courtroom where she was litigating on a pro se basis.

After an acrimonious exchange with Judge Donegan, Mannix was ordered to leave the courtroom; as she exited, so did three of her "watchers," including Hernandez. At this time, three sheriffs' deputies, who had been summoned to courtroom 1506, arrived and confronted Mannix and her "watchers" in the hallway, and requested the four to remove themselves from the hallway to the lobby area. Testimony at trial was conflicting: Deputies Olejars and Reynolds asserted that Hernandez was belligerent and contentious; Hernandez said that he merely inquired as to why he was being asked to leave. This occurred at approximately 11:30 a.m.

Nevertheless, Hernandez was arrested and charged with trespass to a State supported land, and resisting arrest (two counts). Hernandez was then escorted to the Sheriffs' basement lockup for processing, and released after 5:00 p.m. Upon leaving the building, Hernandez allegedly took a photograph of the Daley Center lobby with his cellphone, which is forbidden. Deputy Gaydon then chased and apprehended Hernandez on Dearborn and claimed that Hernandez tried to strike him. However, he was charged with an aggravated assault. Hernandez was then returned for processing. At some point thereafter, Hernandez claimed he was ill, and was transported to a nearby hospital, with Deputy Morrissey as his escort. At the hospital, Hernandez allegedly asked that his handcuffs be removed; according to the arresting officer, Hernandez then began thrashing on his bed, and cut the deputy on the hand with the loose handcuff. Hence, he was charged with battery.

Hernandez retained David Wessel as his initial attorney, but fired him in 2007. He retained my services on April 2008. After Hernandez and his wife enlightened me as to the facts, I emphasized that I was a criminal defense attorney, not constitutional law attorney. I told him that his "conspiracy" theories were ludicrous, and that the issue was whether he committed the four misdemeanors, not whether the court system was "corrupt."

The jury trial was set for August 5, 2008, before Judge Donnelly in Courtroom 304, at 555 W. Harrison. Hernandez arrived with a coterie of scruffy "constitutional law experts" who were associated with the "Thomas More" Foundation. They proceeded to bombard me with suggestions on trial procedure, which I promptly rejected; thereafter, I ignored the group (about six people, who were continually clustered around Hernandez).

I filed a Motion in Limine (see attached), which sought to bar all testimony as to what transpired inside Courtroom 1506. The issue, I told Hernandez, was what occurred outside the Courtroom, and his association with Mannix would be highly prejudicial.

Hernandez was not pleased with the jury selection; was not pleased with my cross-examination of the deputies; on the third day, he called me "incompetent" and "fired me". I advised Judge Donnelly. Hernandez told the judge his opinion, said I was in collusion with the State. He suddenly developed chest pains, necessitating a paramedic call, and his hospitalization. The next day, August 7, with Hernandez still hospitalized, the judge declared a mistrial, and set a status date to schedule another jury trial.

In the interim, I filed a formal Motion To Withdraw, and set it for August 22. My office prepared a Substitution and an Additional Appearance for Hernandez. The Judge denied my motion. Hernandez told me he did not want me to be his attorney, and was going to have new counsel. I gave him the substitution and Additional Appearance, which he filed on August 22. At some date thereafter, Hernandez and his "constitutional" coterie filed some motions, without my knowledge or consent, which were denied.

Also, due to disruption during the first trial, Hernandez's allies were banned from the courtroom.

On the date of the second trial, I arrived expecting to encounter Hernandez's new counsel. Hernandez did not have an attorney, snidely remarked that "I'm going to make you defend me again," adding that "you won't get paid." The second jury was empaneled, and the trial lasted from September 2-6. I made a motion for a directed finding on Count I (Criminal Trespass to Land), which was sustained. In the Defendant's case in chief, I called Mannix and two others who witnessed the altercation outside Courtroom 1506: Mark Michalski and Marie Szczypka. I did not call any witnesses who remained inside the courtroom. I also call the treating hospital physician, Larry Faines.

As a witness, Hernandez was abysmal. He was unctuous, smarmy, and utterly unbelievable. He said he talked in a soft temperate voice, in complete contradiction to the testimony of the deputies, and even his own witnesses, who heard an argument on February 2, 2007.

When I and the State's attorney met with the jurors after the verdict, the opinion of the at least five jurors was that Hernandez was not credible.

United States District Court for Northern District of Illinois

Jaime Hernandez
Plaintiff

v.

Cook County Sheriff Tom Dart, Cook
County Sheriff Deputies Christopher Olejarski
#4525, Johnson #5079, Sgt. James Morrissey,
#____ (then #4283), Christopher Dangles
#5257, Sgt. Thomas Boyd #301, Greg Gayden
#2432, Chad A. Harris #____, Sgt. Randy
Rodriguez #267, Phillip D. Mackey #____,
Christine Migleri #3220, Eric Gross #4043,
Jason Reynolds #3403. Former Cook County
State's Attorney Dick Devine, Atty. David
Wessel, Atty. Russell Stewart. Cook County
Circuit Court Judge Maria Kuriakos-Ciesil,
Cook County Circuit Judge Thomas More
Donnelly, Cook County Assistant State's
Attorney's Andrea Kirsten and Sara Karr.
AND UNKNOWN OTHERS
DEFENDANTS

Case No.

Hon. **MAGISTRATE JUDGE VALDEZ**

JUDGE MANNING

09C 661

STATE OF ILLINOIS)
§
COUNTY OF C O O K)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,)

Plaintiffs)

and)

JAIME HERNANDEZ,)

Defendant)

No: 07MC-1-194417-01

Honorable Judge: Donnelly

Trial Judge

FILED
2009 SEP 14
12:35
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL

MOTION FOR NEW TRIAL/MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT/
MOTION IN ARREST OF JUDGMENT

NOW COMES the Defendant herein, JAIME HERNANDEZ, by and through his attorney, RUSS STEWART, and petitions this Honorable Court to grant Defendant a new trial, or in the alternative, enter judgment of not guilty notwithstanding the verdict or in the alternative, enter a motion in arrest of judgment, and in support of said motion, the Defendant states and alleges as follows:

1. That Defendant was found guilty on September 4, 2008 by a jury on the charges of resisting a peace officer (2 counts), aggravated assault, and battery.

2. That said jury verdict was contrary to the manifest weight of the evidence, and must be set aside by the trial judge.

3. That, notwithstanding the verdict, the State did not prove guilt beyond a reasonable doubt, and Defendant states the deficiencies as follows:

A. That all evidence was circumstantial. That the Court granted motion of Defendant at close of State's evidence and found for Defendant of charge of criminal trespass to state-supported level. That Defendant could not resist arrest if arresting officer was not engaged in the performance of an authorized act. That Defendant was not ejected from the Courtroom

B. That Defendant produced credible witness who testified that Defendant did not resist arrest outside Courtroom 1506, Daley Center by officer Olejarz.

C. That Defendant did not commit a battery by knowingly or intentionally causing bodily injury to officer Morrissey, as the deputy negligently removed the handcuffs from Defendant at the hospital.

D. That Defendant did not commit the offense of aggravated assault, as deputy Reynolds had no pretext upon which to pursue or arrest Defendant. That Defendant's conduct was neither knowing or intentional. That the officer was not performing official dates.

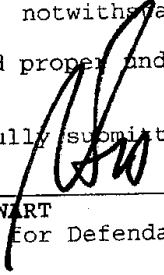
4. That the State failed to prove beyond a reasonable doubt the following:

- (1) That Defendant committed a battery.
- (2) That Defendant resisted arrest.
- (3) That Defendant committed an aggravated assault.

WHEREFORE, the Defendant prays this Honorable Court:

- A. Reverse its rulings and grant the Defendant a new trial;
- B. Enter a finding of not guilty notwithstanding the judgment;
- C. For further relief that is just and proper under the circumstances.

Respectfully submitted,



RUSS STEWART
Attorney for Defendant

Attorney for Defendant
RUSS STEWART
805 West Touhy Avenue
Park Ridge, Illinois 60068
(847) 692-3350
#24584

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

State of Illinois,
County of Cook,
Plaintiff,

v.

Jamie Hernandez,
Defendant.

*Moh - Arthur
Nash*

No. 07 MC 119441701

FILED
MAR 24 2008
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT

MOTION TO DISMISS UNDER SECTION 5/114-1
OF THE CODE OF CRIMINAL PROCEDURE

Defendant Jamie Hernandez, under Section 5/114-1(a)(6) and Section 5/114-1(a)(8) [725 ILCS 5/114-1] of the Code of Criminal Procedure, hereby asks this Court to dismiss the Complaints against him for lack of jurisdiction because the charges do not state an offense.

Section 5/114-1 of the Code of Criminal Procedure provides:
(a) Upon written motion of the defendant made prior to trial before or after a plea has been entered the court may dismiss the ... complaint upon any of the following grounds:

Redwood

... (6) The court in which the charge has been filed does not have jurisdiction, and,

... (8) The charge does not state an offense.

To give a court jurisdiction in a criminal case, it is essential that the complaint charge the accused with a crime. See *People v. Nickols*, 391 Ill 565, 570, 63 NE2d 759, 762 (1945); *People v. Edge*, 406 Ill 490, 493, 94NE2d 359, 361 (1950); *People v. Harris*, 394 Ill 325, 327, 68 NE2d 728, 729 (1946).

It is not sufficient that an information merely set forth the name of the offense and cite the statute which defines the offense; the charging instrument must give notice of the elements of the charge and particularize it with allegations of the essential facts to enable the accused to prepare a defense. (emphasis added). See *People v. Alvarado*, 301 IllApp3d 1017, 1023, 704 N.E.2d 937, 941 (1998), citing *People v. Smith*, 99 Ill2d 467, 471, 459 N.E.2d 1357, 1359 (1984). *Alvarado + Smith*

A charge couched in the language of the statute is insufficient where the statute only defines the crime in general terms; in such a case the facts that constitute the crime must be specifically set forth. (emphasis added). *Alvarado*, 301 IllApp3d at 1023, 704 N.E.2d at 941, citing *People v. Yarbrough*, 162 IllApp3d 748, 750, 516 N.E.2d 607, 608 (1987); see *People v. Scott*, 285 IllApp3d 95, 100, 673 N.E.2d 1152, 1155 (1996) (failure to allege sufficiently specific facts constituting disorderly conduct).

Where the statute does not define or describe the acts or acts constituting the offense, a charge couched in the language of the statute is insufficient (*People v. Redwood*, 335 IllApp3d 189, 193, 780 NE2d 760, 764 (2002)).

Rather, the facts that constitute the crime must be specifically set forth. (emphasis added). *Redwood*, 335 IllApp3d at 193, 780 NE2d at 764; *People v. Nash*, 173 Ill2d 423, 429, 672 NE2d 1166, 1169 (1996); *People v. Swanson*, 308 IllApp3d 708, 712, 721 NE2d 630, 633 (1999) (disorderly conduct).

When the sufficiency of the charge is attacked in the trial court either before or during the trial, a court determines whether the instrument strictly complies with the statutory requirements. *Alvarado*, 301 IllApp3d at 1022-23, 704 N.E.2d at 941, citing *Scott*, 285 IllApp3d at 99, 673 N.E.2d at 1154; 725 ILCS 5/111-3(a); see also *People v. Robinson*, 319 IllApp3d 459, 462, 748 N.E.2d 624, 626 (2001) (when defendant attacks charging instrument before trial, court determines whether instrument strictly complies with pleading requirements in section 111-3(a) of Criminal Code, including setting out elements of offense), citing *People v. Swanson*, 308 IllApp3d 708, 711, 721 N.E.2d 630 (1999).

180 days - no leave to amend

CRIMINAL TRESPASS TO STATE SUPPORTED LAND

The State's Charge of CRIMINAL TRESPASS TO STATE SUPPORTED LAND under Section 5/21-5 fails to allege an essential element of that charge, much less any facts in support of the lacking element.

Section 5/21-5 of the Criminal Code pertinently provides:
and who thereby interferes with another person's lawful use or enjoyment of such building or land ...

① The State does not allege in its Complaint that Defendant Hernandez "interfered with another person's lawful use or enjoyment of such building or land", an essential element of that Charge. Further, the State fails to allege facts relating to who was the "other person" whose lawful use was affected, and facts relating to how Defendant Hernandez interfered with that use.

Therefore, the State's Charge of CRIMINAL TRESPASS TO STATE SUPPORTED LAND is fundamentally flawed as a matter of law, fails to state an offense under Section 5/114-1, and deprives this Court of jurisdiction.

RESISTING A PEACE OFFICER

② The State charges Defendant Hernandez with two counts of Resisting a Peace Officer under Section 5/31-1. Both Counts allege that Defendant Hernandez resisted a peace officer or officers while that officer or those officers were attempting to arrest Defendant Hernandez.

However, neither Count states what the arrest was for.

Section 5/31-1 pertinently provides:

... any authorized act within his [peace officer's] official capacity ...

Certainly, affecting an arrest is within the officer's official capacity, but the question remains in the Complaints: arrest for what. The Resisting Complaints fail to inform Defendant Hernandez what he was being arrested for when he resisted the officers.

From the Complaints, it seems that the officers were trying to arrest Defendant Hernandez for resisting arrest for resisting arrest for resisting arrest for resisting arrest ...

"What Defendant was being arrested for" is an essential element of the State's Resisting Charges, and both Complaints fail to state any facts relating to this essential element of the Resisting Charges.

Therefore, the State's Charges of RESISTING A PEACE OFFICER are fundamentally flawed as a matter of law, fail to state an offense under Section 5/114-1, and deprive this Court of jurisdiction.

AGGRAVATED ASSAULT

The State charges Defendant Hernandez with AGGRAVATED ASSAULT under Section 5/12-2(A)6.

③ Section 5/12-2(A)6 pertinently provides:

... and the assault is committed other than by the discharge of a firearm ...

The Aggravated Assault Charge under Section 5/12-2(A)6 fails to allege that the conduct of Defendant Hernandez was committed other than by the discharge of a firearm.

Further, the Aggravated Assault Complaint fails to provide any fact which constitute the "conduct of" Defendant Hernandez "which placed D/S Reynolds in reasonable apprehension of receiving a battery."

→ Therefore, the State's Charges of AGGRAVATED BATTERY is fundamentally flawed as a matter of law, fails to state an offense under Section 5/114-1, and deprives this Court of jurisdiction.

The Code of Criminal Procedure of 1963 provides that a criminal charge must allege the offense committed by "[s]etting forth the nature and elements of the offense charged." *Robinson*, 319 IllApp3d at 462, 748 N.E.2d at 626, citing *People v. Smit*, 312 IllApp3d 150, 151, 726 N.E.2d 62, 63 (IllApp 1 Dist 2000); 725 ILCS 5/111-3(a)(3) (West 1998; [now West 2006]).

A charging instrument must set forth the nature and elements of the offense charged. *People by Village of Island Lake v. Larson*, 296 IllApp3d 647, 671, 695 NE2d 524, 525 (1998); *People v. Pena*, 170 IllApp3d 347, 353, 524 NE2d 671, 675 (1998); 725 ILCS 5/111-3(a)(3) (West 1996; now West 2006).

The purpose of the charging instrument is to inform the accused of the nature of the charges against him so as to enable him to prepare his defense. *Alvarado*, 301 IllApp3d at 1023, 704 N.E.2d at 941, citing *Yarborough*, 162 IllApp3d at 749, 516 N.E.2d at 608.

A charge that sets forth elements that do not amount to an offense must be dismissed under section 114-1(a)(8) of the Code of Criminal Procedure. See *Redwood*, 307 IllApp3d at 750, 751 NE2d at 763.

A charging instrument that fails to state an offense contains a defect implicating due process concerns. See *In re J.R.*, 342 IllApp3d 310, 316, 794 N.E.2d 414, 420 (2003), citing *Alvarado*, 301 IllApp3d at 1022, 704 N.E.2d at 941.

A judgment of conviction entered upon a complaint which does not charge an offense is not merely erroneous, but void for want of jurisdiction of the subject matter. See *People v. Edge*, 406 Ill 490, 494, 94 NE2d 359, 362 (1950), citing *People v. Nickols*, 391 Ill 565, 570-71, 63 NE2d 759, 762 (1945); *People v. Buffo*, 318 Ill 380, 384, 149 NE 271, 272 (1925).

SUMMARY AND CONCLUSION

Because neither Section 5/21-5, 5/31-1, nor 5.12-2(A)(6) define or describe the act or acts constituting the offense, and only define the crimes in general terms, to strictly comply with the pleading requirements of section 111-3(a) of Criminal Code, a complaint charging offenses under those Sections must specifically set forth the facts that constitute the offense.

Neither the State's Complaints alleging Criminal Trespass To State Supported Land, Resisting a Peace Office, nor Aggravated Assault state sufficient facts to constitute an offense. The Complaints merely set forth the name of the offense and cite the statute which defines the offense and are couched in the language of the statute.

The Complaints are insufficient as a matter of law, fail to inform Defendant Hernandez of the nature of the charges against him so as to enable him to prepare his defense, fail to confer jurisdiction on this Court, and are void from the beginning.

Accordingly, Defendant Jamie Hernandez asks this Court to DISMISS the Complaints of Criminal Trespass To State Supported Land, Resisting a Peace Office, and Aggravated Assault

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

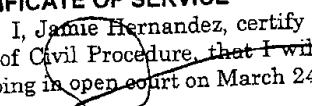
Respectfully submitted,


Jamie Hernandez

March 24, 2008

CERTIFICATE OF SERVICE

I, Jamie Hernandez, certify under the pains and penalties of perjury pursuant to Section 1-109 of the Code of Civil Procedure, that I will serve the Cook County, Illinois States Attorney a duplicate copy of the foregoing in open court on March 24, 2008.


Jamie Hernandez

STATE OF ILLINOIS)
COUNTY OF C O O K) §

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,)

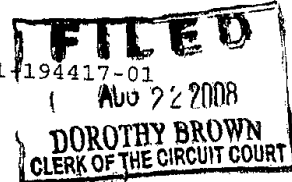
Plaintiffs)

and)

JAIME HERNANDEZ,)

Defendant)

No: 07MC-1-194417-01



ADDITIONAL APPEARANCE

The undersigned enters the additional appearance of myself,
JAIME HERNANDEZ, pro se.


JAIME HERNANDEZ

Name: Jaime Hernandez
Attorney for: Pro Se
Address:

Telephone:

I certify that a copy of the within instrument was served on
all parties who have appeared and have not heretofore been found
by the Court to be in default for failure to plead.


JAIME HERNANDEZ

CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

STATE OF ILLINOIS)
COUNTY OF C O O K) S

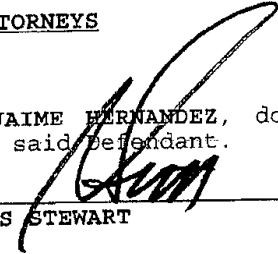
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,)
Plaintiffs)
and) No: 07MC-1-194417-01
JAIME HERNANDEZ,)
Defendant)

SUBSTITUTION OF ATTORNEYS

I. WITHDRAWAL OF ATTORNEYS

I, RUSS STEWART, attorney for JAIME HERNANDEZ, do hereby
withdraw my appearance as attorney for said defendant.



RUSS STEWART

II. ENTRY OF APPEARANCE

I, JOE STACKLER, of the Cook County Guardian's Office, do
hereby enter my Appearance, as attorney in the place and stead of
attorney RUSS STEWART.

JOE STACKLER

III. CONSENT

I, JAIME HERNANDEZ, do hereby consent and agree that RUSS
STEWART will withdraw his appearance as my attorney herein and JOE
STACKLER will enter his Appearance, as my attorney, in his place
and stead.

JAIME HERNANDEZ

JOE STACKLER
Cook County Public Defender
Branch 46
555 W. Harrison
Chicago, IL 60604
312-325-9400

Grant Malynn 16 June

STATE OF ILLINOIS)
COUNTY OF COOK)
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT
PEOPLE OF THE STATE OF ILLINOIS,)
Plaintiffs)
and) No: 07MC-1-194417-01
JAIME HERNANDEZ,)
Defendant)

DEFENDANTS' MOTION IN LIMINE

NOW COMES the Defendant herein, JAIME HERNANDEZ, by and through his attorney, RUSS STEWART, and for his MOTION IN LIMINE, pursuant to the Constitution of the United States of America, Fifth and Sixth Amendments, does hereby move as follows:

Audio Transcript

- A For admission of Defendants' exhibits. That Defendant did file a motion and the court ordered production of the written and audio transcript of proceedings in Case No. 06-0P-30185, on February 2, 2007, before Judge Donegan, Courtroom 1506, Daley Center, in which Defendant was present in the Courtroom. *granted*
- B For an Order barring all State reference to Shelia Mannix, a litigant in Case No. 06-0P-30185, the nature of her case, her background, her civil/criminal history, and her relationship, if any, to Defendant, JAIME HERNANDEZ. That reference to Shelia Mannix will be prejudicial to Defendant. *granted*
- C For an Order barring any State reference to the reason why JAIME HERNANDEZ was in Courtroom 1506 on February 2, 2007, as such information will be prejudicial to Defendant, JAIME HERNANDEZ. *granted*
- D For an Order limiting State witnesses to those disclosed in the Answer to Discovery filed on September 20, 2007, to wit: Deputy/Sheriff Morrissey, Olejarz, Reynolds, Gayden. *granted*
- E To bar any photos taken by Defendant's cellphone, and removed/confiscated by deputies on February 2, 2007, as said evidence was not tendered to Defendant in Discovery. *granted*
- F To bar any evidence or testimony related to Defendant's relationship with Sheila Mannix or the Illinois Family Court Accountability Advocates (IFCAA). *granted*
- G. To bar any evidence or testimony relating to past arrests of Defendant or his criminal history. *granted*

WHEREFORE, Defendant prays that his Motion In Limine be granted.

[Signature]
RUSS STEWART

Attorney for Defendant
RUSS STEWART
805 W. Touhy Ave.
Park Ridge, IL 60068
847-692-3350
#24584

ORDER

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

People of the State of IL

v.

Jaime Hernandez

No. 0711944701

ORDER

This matter having come before the Honorable Pat O'Brien on the Defendant's motion, it is hereby ordered:

- ① The Defendant's motion to advance is granted.
- ② That the court reporter forward a copy of the audiotape of the Feb. 2, 2007 proceeding before Judge James Donegan in case No. 93 02984, Mannix v. Sheetz for in-camera examination.
- ③ That the audiotape be delivered on or before Nov. 28, 2007 at 9am to Judge Patrick O'Brien, Br. 46, 555 W. Harrison, Chicago, IL

FILED

NOV 21 2007

Atty. No. PRO Se
 Name: J. Hernandez
 Atty. for: PRO Se
 Address: _____
 City/State/Zip: _____
 Telephone: _____

DOROTHY BROWN
CLERK OF CIRCUIT COURT

Nov 21 2007

ENTER:

Pat O'Brien 1935
Judge Judge's No.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

CCG N002-200M-4/23/02 (23350095)

ORIGINAL - COURT FILE

PAGE: 1

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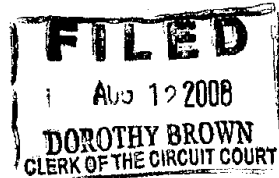
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STATE OF ILLINOIS)
 §
COUNTY OF C O O K)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,)
))
) Plaintiffs))
))
) and))
))
JAIME HERNANDEZ,))
))
) Defendant))

No: 07MC-1-194417-01



MOTION TO WITHDRAW

NOW COMES Attorney RUSS STEWART, and moves this Honorable Court for leave to withdraw his Appearance as Attorney for Defendant, JAIME HERNANDEZ, and in support thereof, states as follows:

1. That irreconcilable differences have arisen between Attorney RUSS STEWART and the Defendant, JAIME HERNANDEZ regarding the defense of this matter.

2. The last known address of the Defendant is 318 Saginaw, Calumet City, Illinois 60409.

3. That by way of this Motion, notice is given to JAIME HERNANDEZ that to insure notice of any action in this cause, Defendant should retain other counsel therein or file with the Clerk of the Court within twenty-one (21) days after the entry of the Order of Withdrawal, Defendant's Supplementary Appearance, stating therein an address at which service of notices or other papers may be had upon them.

4. That Hernandez, in open court, on August 6, 2008, told Judge Donnolly that he "didn't want him (Stewart) to be his lawyer," and that "he (Stewart) was hurting more than helping him."

WHEREFORE, RUSS STEWART respectfully requests leave of Court to withdraw as Attorney for Defendant, JAIME HERNANDEZ, instantler.

RUSS STEWART

RUSS STEWART
805 West Touhy Avenue
Park Ridge, Illinois 60068
(847) 692-3350
#24584

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT

People of the State of Illinois,)
)
 Plaintiff,)
)
 -vs. -) No. 07 MC1-194417-01
)
 Jaime Hernandez,)
)
 Defendant.)

ORDER

1. Spectators may enter and leave the courtroom only when the judge is off the bench.
2. During jury selection, only six spectators shall be allowed into the courtroom. They shall occupy the back row of the gallery and shall not talk in the courtroom when potential jury members are present.
3. Spectators will be allowed to stand in front of the doorway while the judge is on the bench.
4. Any spectator talking while the judge is on the bench will be removed from the courtroom and not allowed to reenter.
5. No shirts with images or lettering will be allowed in the courtroom.
6. The Sheriff shall post this order at entrance to the courtroom.

7 days - compliance

Entered the 2nd of September 2008
Chicago, Illinois

Thomas More Donnelly
Associate Judge

*People v Nielson
187-277-DA-187 In 2d 271
IN voluntarily absent self*

OFFICE OF THE CLERK OF THE CIRCUIT COURT OF COOK COUNTY

The First Municipal Criminal Department

Domestic Violence
Division



Dorothy Brown
Clerk of the Circuit Court
Bolden

The First Municipal
Department

Sheryl Bolden
General Manager

Domestic Violence
Division

555 W. Harrison
Chicago Illinois

(312) 325 9500
Fax (312) 325 9510
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Facsimile Transmittal Sheet

To: Attorney Russell J. Stewart

From: Sheryl

Company /Division Attorney's Office

Fax: 847-825-1969

Date: 8/28/08

Phone:

of Pages Including this page 7

Re: Judge Thomas Donnelly Order on 07-194417 Jaime Hernandez

Urgent

For Review

Please Reply/Comment

Confidential

MISSION STATEMENT

The mission of the Clerk of the Circuit Court of Cook County is to serve the citizens of Cook County and the participants in the judicial system in a timely, efficient, and ethical manner. All services, information and court records will be provided with courtesy and cost efficiency.

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT**

People of the State of Illinois,)
)
 Plaintiff,)
)
 -vs.-)
)
 Jaime Hernandez,)
)
 Defendant.)

No. 07 MC1-1194417-01

FILED
AUG 27 2008
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT

ORDER

On its own motion, the Court advances this matter to today's date from the previously set trial date of September 2, 2008, and issues this Order. The Clerk of the Court has presented the Court with what purports to be a motion authored by non-lawyer whose name appears to be Robert J. More (More) wherein he requests to be heard tomorrow. Because the motion is largely illegible, the Court must surmise that this is the author's name. Mr. More styles his motion: "Motion of 8/26/08 of Amicus Curiae." The Court also notes that yesterday it struck a filing dated August 25 that appeared to be authored by Defendant Jaime Hernandez (Hernandez), but upon closer examination contains some documents purportedly authored by More. Because the memorandum of law has Hernandez's name at the signature line, the Court initially concluded that entire filing was prepared and filed by Hernandez. However, the handwritten motion to advance appears to have More's name scrawled on it. Moreover, a typed motion sandwiched in among these materials appears to be signed by More.

No. 07 MC1-194417-01

Page 2

A non-lawyer may not file motions or otherwise appear on behalf of others in court proceedings. Cf. In re Schelly, 94 Ill. 2d 234, 238-240, 446 N.E.2d 236 (1983) (sanctioning an attorney for aiding the unauthorized practice of law when a non-lawyer filed and argued a motion and appeared at a deposition on behalf of a client). Such actions constitute the unauthorized practice of law. Id. Such actions may be punished by criminal contempt. People ex rel. Chicago Bar Association et al., Relators, v. Barasch, 21 Ill. 2d 407, 413-16, 173 N.E.2d 417 (1961). The practice of law involves not only appearances in court, but also *services rendered out of court*: it includes the giving of advice or the rendering of any services requiring the use of legal skill or knowledge. 21 Ill. 2d at 414. Filing motions in a criminal court proceeding falls squarely within the practice of law.

Additionally, whether to allow a person or organizations, even those properly represented by an attorney, to file an amicus brief rests within the discretion of the court. Mines v. Olin Corp., 171 Ill. App. 3d 246, 248-250, 524 N.E.2d 1203 (1st Dist. 1988). Leave to file an amicus brief is properly denied if the brief appears to merely advocate for one side in the litigation. Id.

While More apparently admits that he is not an attorney on the sworn notice of motion by striking the word *attorney* in two places, he also writes an attorney number "99500" on several pleadings. He acknowledges he has no license to practice law, but he dons the trappings of an attorney so that the Clerk will take his motions. In the motion filed August 25, stricken by the Court yesterday, More argues in support of the dismissal of the criminal complaints against Hernandez, clearly advocating for one side in this case. The August 26 motion is largely illegible, but appears to reargue the August 25 motion.

No. 07 MC1-194417-01**Page 3**

Thus, the supposed *amicus* briefs filed by More not only constitutes the unauthorized practice of law, but advocate for Hernandez. Consequently, the August 26 filing is doubly improper: (1) to allow More to argue or appear in this matter would be aiding the unauthorized practice of law, and (2) it is an improper *amicus* brief.

Conclusion

For the reasons stated above, the Court strikes the motion filed by More on August 26 and refers his conduct to the Cook County State's Attorney for a determination whether they wish to seek to file a petition for adjudication of criminal contempt against More. The Court continues this case for jury trial on the date previously set, September 2, 2008, at 9:00 a.m. in room 304.

The Clerk of the Court shall fax a copy of this Order to Assistant State's Attorney Sarah Karr at 312-325-9202 and to Russell Stewart at 847-825-1969.

Entered the 27th of August 2008**Chicago, Illinois**

Thomas More Donnelly
Associate Judge

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT

FILED
AUG 28 2008
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT

People of the State of Illinois,)
)
Plaintiff,)
)
-vs.-)
)
Jaime Hernandez,)
)
Defendant.)

No. 07 MC1-1194417-01

ORDER

On its own motion, the Court advances this matter to today's date from the previously set trial date of September 2, 2008, and issues this Order. The Clerk of the Court has presented the Court with what purports to be a motion authored by non-lawyer whose name appears to be Robert J. More (More) wherein he requests to be heard tomorrow. Mr. More styles his handwritten motion: "Amicant [sic] Curiae ISMA through Robert More Emergency Motion of 8/28/08." The Court also notes that yesterday it struck a filing dated August 26 authored by More. Defendant Jaime Hernandez (Hernandez) is represented by attorney Russell J. Stewart.

A non-lawyer may not file motions or otherwise appear on behalf of others in court proceedings. Cf. In re Schelly, 94 Ill. 2d 234, 238-240, 446 N.E.2d 236 (1983) (sanctioning an attorney for aiding the unauthorized practice of law when a non-lawyer filed and argued a motion and appeared at a deposition on behalf of a client). Such actions constitute the unauthorized practice of law. Id. Such actions may be punished by criminal contempt. People ex rel. Chicago Bar Association et al., Realtors, v. Barasch, 21 Ill. 2d 407, 413-16, 173 N.E.2d 417 (1961). The practice of law involves not only

No. 07 MCI-194417-01

Page 2

appearances in court, but also *services rendered out of court*: it includes the giving of advice or the rendering of any services requiring the use of legal skill or knowledge. 21 Ill. 2d at 414. Filing motions in a criminal court proceeding falls squarely within the practice of law.

Additionally, whether to allow a person or organizations, even those properly represented by an attorney, to file an amicus brief rests within the discretion of the court. Mines v. Olin Corp., 171 Ill. App. 3d 246, 248-250, 524 N.E.2d 1203 (1st Dist. 1988). Leave to file an amicus brief is properly denied if the brief appears to merely advocate for one side in the litigation. Id.

The purported amicus filed today makes several arguments advancing the rights of Hernandez. Thus, the supposed amicus brief filed by More is again doubly improper: (1) to allow More to argue or appear in this matter would be aiding the unauthorized practice of law, and (2) it is an improper amicus brief.