

Background

Background information covers events during the past five years. The case concerns a veteran British journalist sent to jail for publishing exposé, also political and satirical commentary, on a European web site. Washington Court of Appeals neglected to address abuse of judicial discretion by affirming trial court decisions.

Washington Supreme Court tried to remedy a travesty of justice by Superior Court and refusal by Court of Appeals to hear the case. It unanimously remanded the case to Court of Appeals. Despite the Supreme Court ruling, Court of Appeals affirmed Superior Court decisions now subject to another petition for Supreme Court review.

The decisions provoked worldwide outrage among journalists and raised significant questions about state constitutional law in relation to First Amendment rights to free speech. Arguments challenge the improper use of antiharassment orders for prior restraint.

State laws specifically exempt constitutionally protected activity as a basis for antiharassment orders. Pleadings also address repeated denial of the right to counsel. [*Background Information*]

Washington Supreme Court - Petition for Review

Arguments filed with Washington Supreme Court (24 Aug 04) show why that court should accept a Petition for Review. Lawyers argued that a Court of Appeals (CoA) affirmation conflicted with established precedent and raised significant constitutional questions about anti-harassment orders based on constitutionally-protected publications.

They argued that CoA affirmation conflicted with essential elements of harassment law and violated due process. They also claimed that the trial court had no jurisdiction to issue an antiharassment order for the benefit of nonparties to an action.

Lawyers requested review following prior restraint of publication content. They argued that the collateral bar rule does not apply to findings of contempt based upon unconstitutional prior restraint. Contempt findings had caused an egregious violation of due process rights and the right to counsel when trial court failed to appoint an attorney before jailing a journalist. [*Petition for Review*]

Respondents tried to have the unpublished kafkaesque Court of Appeals opinion published. Court of Appeals denied that motion probably in shame. Now, respondent relies on that unpublished opinion to try to persuade the supreme court to deny review. [*Court of Appeals - Opinion*]

Respondents again set forth fatuous arguments based on claims already disregarded in previous hearings - drowning men clutching straws. They claim that "well-established Washington law", totally irrelevant to the First Amendment issues upon which the review predicates, supports their

objection. They have again resorted to a notion that journalistic interviews amount to harassment and publishing the news obtained as a result of those interviews proves unlawful surveillance and invasion of privacy - a content-based implication.

Paradoxically, they posit a notion that if a person reads a pamphlet or newspaper then disagrees with its content that person can claim that the author has harassed them. They then make all sorts of unsubstantiated claims about violence as though the words jumped of the page and bit the reader. [*Objection to Petition for Review*]

International Amicus Curiae

Amicus curiae briefs give the supreme court notice of the extraordinary international concern about this case. They demonstrate how both trial court and appellate decisions adversely affect journalists internationally. If allowed to stand then those decisions create an algorithm for use in subsequent cases which could set a legal precedent and a standard for citation.

Amici curiae have recognized not only the kafkaesque nature of respondent's claims but also the very serious affect that allowing even an unpublished opinion to stand would have upon journalists worldwide.

Amicus curiae means, literally, "friend of the court". The process caters to individuals or organizations with a strong interest in, or views about, the issues contained in the appeal. They do not rank as parties to the action. However, they may file a brief suggesting a rationale consistent with their own views and concerns. Amicus curiae lawyers commonly address matters of broad public interest and establish the interests of third parties. They possess in-depth familiarity and expertise concerning journalistic practices and freedom of expression.

Just as appellate courts traditionally defer to administrative agencies because of their specialized expertise, so may the supreme court benefit from the cumulative and in-depth expertise of journalists' groups with profound national and international experience of journalism and freedom of expression.

The views of the journalists' groups participating as amici curiae provide an index of national and international professional opinion regarding the treatment of the Petitioner by the lower courts in Washington state. Amici curiae use their own attorneys licensed in the State of Washington to express professional or ethical concerns based upon the appellate briefs filed with the court. Their briefs support the special interests of the person or organization filing and include supporting case law.

Amicus curiae briefs describe the extraordinary international concern about this case. They also demonstrate how the trial and appellate court decisions will adversely affect journalists internationally if allowed to create an algorithm for future legal precedent and standards for citation.

Kvetch Answers Amici Curiae Briefs

The phoenix, a legendary bird in Egyptian mythology, consumed itself by fire after living in a desert for 500 years then renewed itself from the ashes. Like the phoenix, Richard A. Du B-y lives in an intellectual and legal desert then has the unmitigated gall to rise every 500 hours to renew his specious arguments then dump them on the court. [*Answer to NUJ Amicus Curiae Brief*]
[*Answer to Seattle Weekly Amicus Curiae Brief*]

Du B-y (SCaB) wants to remain anonymous under a censorship and prior restraint order (in the guise of an antiharassment order) granted to him by the trial court. That order restricted publication of lawyers names although Washington State Bar Association (WSBA) regularly publishes them. This exposes the farce created by censorship and prior restraint that reasonable people can only construe as kafkaesque. Judge Becker questioned his claims during oral argument:

Becker. Was there any discussion in a Court or . . . it's a little bit unclear to me exactly what that limitation consisted of. In other words, he couldn't post the names, the addresses or other personal identifying information. Was that ever discussed or developed later in terms of, like, or did he simply have to remove names and addresses or - and then leave the other - the rest of it intact or exactly how deeply did Judge Doerty get into editing this material?
[*Oral Argument*]

Becker. On the original order that seems to be the case and then later it was expanded to get into this area of surveillance which does seem to be the key point here at issue that because his writings evidenced his continuing interest and watching over of activities at Council House that he then could be prohibited from posting material on the website which in and of itself is constitutionally protected activity. That's clear. [*Oral Argument*]

However, Becker neglected to stay with her appellate thesis. She made her thoughts clear in oral argument then neglected to follow through with a comparable finding. Her politically motivated, disingenuous affirmation probably cost her election to the supreme court. [*Bimbo Limbo*]

Becker opined:

Becker. Well, of course, a no-contact order is much less onerous than an order that ends up having the effect of evicting someone from the place that they live and normally I think when we're thinking of due process it depends on the magnitude of the interest at stake and what about the possibility that justice will go awry in the circumstances if there is no opportunity to cross-examine people who are making complaints or to somehow try to ferret out if these are really true allegations as opposed to being perhaps some kind of a campaign against an unpopular person. . . . [*Oral Argument*]

Du B-y's answers amount to nothing more than specious arguments in support of perjury that his firm suborned and entered into evidence without discovery or cross-examination. They have virtually no bearing on the real issues because they apply to stipulated non-parties.

Crittenden. I've had a one and a half year running battle with Mr. Somerville [Du B-y associate] to find out exactly who his clients are. I'd like to point out that Mr. Somerville's position in writing is that he does not represent the residents of Council House. His client is Stephen Mitchell. That is the only person who can be harassed in this case. [*Oral Argument*]

ScaB previously stipulated to conditions that make his amicus curiae answers moot. He has launched yet another smoke screen to cover up lawyer/client conspiracy and judicial misconduct. [*The Scab Family*]

Absolutely no harassment occurred except for elder abuse perpetrated by Stephen (aka Stefan) A. M-tch-ll and his thugs. Du B-y has tried to project that harassment onto the petitioner in attempts to defend his client's sociopathic behavior - traits that he has begun to exhibit himself. M-tch-ll deals with his emotional conflict by falsely attributing to others his own unacceptable feelings, impulses, or thoughts through projection, transference, and totalitarian control. [*Terrorism, Racism, and Elder Abuse*]

That behavior manifests in a pattern or practice of retaliating against senior citizens in violation of their civil and constitutional rights. M-tch-ll constructively evicted dissenters and incarcerated several of them without due process when they complained to government agencies about his harassment. Now his elder abuse, a principal component in two homicides, persists with impunity and anonymity granted by the trial court and affirmed by court of appeals.

Du B-y knows about his client's aberrant affects and perjury that result from self-justified reaction to criticism. M-tch-ll, an out-of-work actor, uses his thespian skills to choreograph and project his own sociopathic traits onto others which makes it difficult for a court to know who did what to whom first.

Both appellate and trial courts made political instead of legal, ethical, and moral judgments. However, this saga will continue until justice prevails in a higher court on the principle that: "Justice should not only be done, but should manifestly and undoubtedly be seen to be done".¹

Abrogation of Universal Human Rights

International Federation of Journalists (Brussels) and National Union of Journalists (London) both drew particular attention in their amicus curiae briefs to violation of human rights adopted by the General Assembly of the United Nations in the Universal Declaration of Human Rights (10 Dec 48).

Under that declaration, everyone has an entitlement to cultural rights indispensable to their dignity and development. That document proclaimed the advent of a world in which human beings enjoy freedom of speech and belief also freedom from fear as the highest aspiration of the common people.

Everyone has the right to freedom of opinion and expression. This right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any medium regardless of frontiers. Probably the most important violation of human rights at Council House relates to the denial of freedom of speech and assembly and arbitrary incarceration of tenants by Council House directors (landlords).

Although Council House tenants have a right to freedom of peaceful assembly and association, also freedom of movement to leave any state or country and to return without persecution or question, the directors vehemently deny those rights. They resort to unlawful incarceration and eviction also search and seizure of property to enforce that denial.

International law protects tenants from landlords and judges when they indulge in arbitrary interference with privacy, home, or correspondence, and launch *ad hominem* attacks upon their honor and reputation. Yet, Council House directors continue that behavior with court-ordered impunity.

They deny elders their right to liberty and security by tormenting and subjecting them to cruel, inhumane, and degrading treatment and punishment for not complying with unlawful rules. They deny them equality before the law and equal protection under it.

During trial and appellate court proceedings, the judiciary totally ignored United Nations mandates. Trial and appellate judges, with Council House directors and their lawyers, have violated about fifteen of the thirty articles of the Universal Declaration of Human Rights.

Despite law, the directors have arbitrarily incarcerated tenants or their guests on at least five occasions and evicted many more without due process of law. Even more dangerously, four Washington Superior Court judges, whom the law holds to a higher standard, have condoned their behavior and granted them anonymity and immunity.

Moreover, the directors have denied each of their victims (after the fact of egregious punishment) their entitlement to full equality at a fair and public hearing before independent and impartial judges. They have evaded their responsibility to account for their actions and to allow cross-examination of any charge that they alleged against their victims.

Everyone has the right to an effective remedy by competent courts for acts violating the fundamental rights granted them by state and federal constitutions and the United Nations. This means no one can legally subject anyone else to arbitrary arrest or detention.

Everyone charged with a punishable offense has the right to a presumption of innocence until proven guilty in a public trial at which they have all the guarantees necessary for their defense. No court can legally find a person guilty of a crime on account of any act or omission under international law except at Council House which has its own arbitrary rules and captive judges to enforce them.

The précis relate to amicus curiae briefs filed with Washington Supreme Court (25 Oct 04). They link to full text documents and answers filed by the respondent. They also reference appellate briefs filed by ACLU and IFJ.

National Union of Journalists (NUJ) represents 35,000 journalists working in all media. London Freelance Branch (Local) has about 3,000 of the 6000 freelance members working nationally and internationally. A Washington State trial court infringed the freedom of expression of a freelance member by imprisoning him for exercising his journalistic and personal freedom of expression - the trial court judge imprisoned him for exercising his journalistic and personal freedom of expression.

A veteran journalist, he worked for many years as a columnist, public relations officer, and media academic. He has spent half his life in London and half in USA. NUJ contends that the trial court committed a gross error of judgment in restricting freedom of expression by jailing a journalist because he would not submit to restriction of free expression enshrined in documents universally recognized by the civilized world.

Internationally notorious, this case presents an appalling spectacle. The court threw an elderly journalist into jail and forced him to endure several weeks in solitary confinement for exercising rights guaranteed by the United States' First Amendment, the United Nations' Universal Declaration of Human Rights, and the United Kingdom's Human Rights Act. The case raises troubling questions about freedom of expression and Internet publication.

The Internet, a medium that affords automatic global access to everything published on it, requires civilized standards of freedom of expression that transcend national boundaries. Those standards protect essential human aspiration to freedom enshrined in documents universally recognized by the civilized world no matter what regime prevails. If trial court thinking in this case forms any part of judicial response to journalistic or other expression in any country then freedom of expression could end.

Journalists often cause offense by telling the truth. The court's judgment in this case suggests that if a reader complains about offense resulting from content of a publication then they can ask for restriction or termination of the publication. Such a precedent would lead to constant prior restraint of authors and publishers, limitation of existing publications, and dominance of "official versions" of events - a travesty of the whole principle of freedom of expression.

United Nations' Universal Declaration of Human Rights declares: "Everyone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." United Kingdom Human Rights Act addresses the same issue in nearly the same terms.

The trial court ruled that petitioner does not rank as a journalist because he self-published some of his work. If even remotely accurate then this characterization seems far removed from national and international standards governing freedom of speech and journalism. It takes little imagination to recognize how the damaging implications in this case affect all publishing media. Even under the law of defamation a court cannot order the unconscionable sort of abuse meted to the petitioner by the trial court.

Trial court's actions in this case manifest a profound and troubling disregard for the petitioner's freedom of speech. Court of Appeals reasoning represents a real and direct threat to the freedom of thought and expression on which journalism depends. A free press forms an integral part of the very foundation of democratic institutions. [*National Union of Journalists*]

American Society of Journalists and Authors (ASJA), the national organization for leading independent non-fiction writers. It claims that the livelihood of its members depends on free exercise of speech and of the press and that the issues bear directly upon the concerns of all writers. The primary issue relates to whether appellant served as a "journalist" when he wrote the texts in question.

ASJA believes it important for the court to note that in none of the fifty states in the United States has a licensing requirement for journalists. Nor do states have other legal or quasi-legal requirements for becoming a journalist.

Under the prevailing interpretation of the First Amendment it would be a de facto violation of that amendment for the government to impose a journalism license or other requirement. No person or organization can decide the status of a journalist. The act of writing, whether or not the writer belongs to an association or union, remains sufficient to define a journalist.

Trial court noted that the petitioner did not use a publisher and ruled that it did not consider him *bona fide* which would allow him protection under the First Amendment. A writer does not need a publisher to serve as a journalist. Some of the most important statements in the history of the United States were self-published or published in small private newsletters.

Issues addressed by amici curiae:

1. Whether the finding of harassment and anti-harassment order were impermissibly based on constitutionally-protected speech.
2. Whether the court denied due process at the hearing where the publications were found to constitute harassment.
3. Whether the content-based restrictions on a website classified as unconstitutional prior restraint.

4. Whether the court must vacate the findings of contempt under the prior restraint exception to the collateral bar rule

Trial court ruling seems to say that it did not consider the petitioner a journalist, therefore, he had no protection under the First Amendment. However, the First Amendment protects free speech for all people. They need not commit words to paper. M-tch-ll would have done better to respond with more speech rather than with an attempt to gag a journalist. M-tch-ll could have used existing law rather than attempt to exercise prior restraint of free speech. [*American Society of Journalists and Authors*]

Seattle Weekly, Seattle's largest alternative newspaper, has a weekly circulation of 101,000 and an average of 197,000 Internet readers each month. It has ranked as a significant and respected journalistic force in the Seattle community for over 28 years.

Petitioner created a web site in Europe on which he posted articles critical of Council House and advised Washington readers to go to a separate web site where he had posted redacted versions. The trial court held that the European web site constituted a violation of the anti-harassment order and immediately incarcerated him. He remained in jail for 111 days (several weeks in solitary confinement) until he removed names, photos, and other personal information from the foreign web site.

The right to speak freely extends to every person under both federal and state constitutions. Unpopular messages and speakers need the greatest protection. Preserving their rights remains essential to preserving rights for all. A dangerous precedent occurs when government or courts decide whose speech merits protection. History teaches that important ideas can derive from unknown and previously unheralded voices. Silencing them silences vital ideas.

Whistle blowers publish "inside" and sometimes "private" information of alleged misdeeds and society relies upon them to shed light when the government and "traditional" media do not. Courts could have silenced some of the most important whistle blowers in recent history under the principle espoused by the trial court and upheld by court of appeals. All speakers must have the right to report malfeasance regardless of any evaluation of a speaker's worth.

The same free speech rights exist for speech on the Internet as oral speech or words on paper. US Supreme Court has described the Internet as a "vast democratic fora" not as "invasive as radio or television". Publication on the Internet retains the same First Amendment protection afforded more traditional publications.

Content-based restrictions on speech must serve a compelling state interest. No compelling interest exists for state-ordered removal from the Internet of otherwise available information. Privacy interests cannot abrogate First Amendment rights to publish. Privacy does not trump free speech.

When a state attempts to punish truthful publication in the name of privacy it must advance its prohibition to the media giant as well as smalltime disseminators. No constitutional grounds exist in this case for punishment.

If a reporter gathers information through acts constituting "surveillance" then subsequent speech remains constitutionally protected. The same standard does not apply to speaking or writing about a crime as to committing a crime.

Content-based prior-restraint must survive the strictest scrutiny known to First Amendment jurisprudence. Washington constitution has broader interpretation than the US First Amendment and absolutely prohibits prior restraint of constitutionally protected speech. Prior restraint bears a "heavy presumption against . . . constitutional validity," and proponents must carry a heavy burden to justify its imposition.

Posted information on the Internet neither communicated with nor contacted alleged victims. The alleged victims had to search for the speech to come into contact with it. The act of creating a web site and posting information available only to those who voluntarily visit the site cannot construe as surveillance.

If petitioner had given his information to another reporter instead of publishing it himself then trial court's reasoning leaves that reporter aiding and abetting violation of an anti-harassment order. This could force news organizations leery of civil or criminal penalties to censor themselves and avoid reporting on controversial topics - intolerable under the First Amendment.

Petitioner's speech may classify as unpopular and the state punished the content of that speech without a compelling interest. The information posted was publicly available and the court could not lawfully censor it. The posting of information does not construe as "surveillance" subject to restriction. Unpopular as the message may seem to some people they do not have a right to censor it and they should not try to restrain it. The court should not have imprisoned the petitioner for failing to abide by unconstitutional orders. [*Seattle Weekly*]

American Civil Liberties Union of Washington (ACLUW), claimed that respondent used Washington civil antiharassment statute to punish protected speech and activities. Appellant actively protested conditions at Council House and strongly voiced objections to its operation. He created a newsletter, web sites and other media, criticizing Council House and Stephen M-tch-ll its administrator for the treatment of residents and alleged misuse of funds.

M-tch-ll filed a petition for antiharassment in King County Superior Court although the petition contains no allegations of threats, physical harassment or stalking. Appellant did not have the opportunity to cross-examine the adverse witnesses, to present witnesses of his own, or to testify on his own behalf. Harassment was found solely on the basis of his writings and conclusory out-of-court statements by residents.

Constitutionally protected activities - like writing a newsletter or a web site - do not count as part of a course of conduct that supports an antiharassment order. The transcripts plainly show a trial court acting without regard for the requirements of the statute or the constitutional values the statute incorporates. Judge Doerty found unpleasant speech enough to justify an injunction.

Although the statute guaranteed a right to legal representation by private counsel he did not testify because the Court forced him to proceed *pro se* without a meaningful opportunity to challenge the evidence against him and present his case. [*American Civil Liberties Union of Washington*]

International Federation of Journalists (IFJ), the world's largest journalists' group, represents more than 500,000 reporters, editors, and creators working in all sectors of media worldwide, states that: appellant suffered infringement of his personal freedom of expression through restrictions imposed by a Washington State trial court. This led to his imprisonment and interference with the content of his Internet publication.

Freedom of expression, as set out in Article 19 of the Universal Declaration of Human Rights (UDHR), remains the professional right of journalists except in the most extreme cases. The agencies of the United Nations and within the democratic community of nations recognize self-regulation.

Definition of the term "journalist" varies. In some countries, the law defines the term professional journalist, establishes criteria for persons wishing to enter the profession, and sets out the legal rights and responsibilities of persons carrying out this work. We strongly dispute the attempt to discredit appellant as a journalist. The trial court's reasoning represents a real and direct threat to the freedom of thought and expression on which journalism depends. [*International Federation of Journalists*]

Supreme Court (2002)

Court of Appeals refused to hear argument on appeal. As a result, Supreme Court of Washington considered (04 Sep 02) a motion for discretionary review² then unanimously remanded the case to CoA. By that, it effectively reinstated the appeal that CoA had rejected on frivolous motions brought by Council House using a variety of delay and deny tactics (they delayed appellate hearings for three years). [*Pleadings*]

Supreme Court considered the specter of preventing journalists from publishing information then jailing them for satirical commentary. The case captured the interest of national media and broached a worldwide outrage in the journalism community. Before remanding the case, Supreme Court addressed questions related to the issues that both Superior Court and CoA have studiously evaded:

Should trial courts allow the anti-harassment statutes to be misused as a prior restraint to abridge a citizen's constitutional right to free speech?

Should the trial courts allow the anti-harassment statutes to be used in a retaliatory manner to circumvent other laws, such as actions for defamation, or the landlord-tenant statutes?

Should the trial courts interfere with the right of pro se litigants to representation by counsel?

The case involves significant questions of constitutional law under both state and federal constitutions, primarily, First Amendment rights to free speech. Trial court improperly denied those rights by entering an anti-harassment order that constituted a significant prior restraint upon free speech.

Washington State law specifically exempts constitutionally protected activity from consideration as a basis for anti-harassment orders. Nonetheless, the trial court almost totally based its harassment decision upon protected activity. The court used a classic prior restraint on speech in the guise of an anti-harassment order that embodied economic sanctions. [*Prior Restraint*]

Respondents effectively obtained SLAPP (strategic lawsuit against public participation) court orders and contempt citations using perjured testimony against the appellant, an author of valid exposé. They then had him jailed in solitary confinement.

SLAPP lawsuits consist of frivolous charges designed to bankrupt an opponent and create a prior restraint. Respondents have used this tactic on several occasions to try to cover up issues that affect their unlawful activities.

In SLAPP lawsuits, the malice standard determines whether appellant acted in good faith. Respondent failed to show any malice or any clear or convincing evidence that the reporter knowingly published false statements with reckless disregard of truth. Consequently, appellant's reports qualified as privileged under common law let alone the First Amendment.

Case law determines that statements similar to those made by the reporter enjoy qualified privilege. The reporter claimed privilege for his statements as good faith communication on matters that concern a government financially-assisted non-profit corporation. [*Prior Restraint*]

Respondent used the anti-harassment statute to brand the reporter as a malcontent and troublemaker, to discount his credibility, and to have him removed from his home. He used thugs to threaten him, stalk him, then physically assault him. He manufactured testimony with the declared intent to have the reporter jailed then later suborned more perjury to have him moved to solitary confinement. He has since conducted a malicious and vindictive campaign by distributing propaganda to destroy his journalism and academic credentials and to malign him.

Respondent had a clear remedy at law if he could prove the published material malicious, false, and misleading, as he claims. His sole complaint rested upon such claims. However, he tried to silence him using non-applicable laws. Moreover, the trial court based its anti-harassment order on those claims without any evidence to support them. Council House directors could have brought an action for defamation but chose not to do so, probably because they could find no evidence of malice or libel and would surely lose the case.

The courts should neither use nor tolerate misuse of anti-harassment statutes directed at elderly citizens to cover up elder abuse. Courts need to clarify the appropriate time to use those statutes for trial courts and for litigants. The allegations against the reporter related mainly to his efforts to report his concerns about the administrator to government agencies - absolutely privileged communication that in law carries immunity from retaliation. [*Elder Abuse*]

Washington legislature declared that the law protects individuals who in good-faith report malfeasance to appropriate governmental bodies. Council House retaliated by using unlawful economic (SLAPP) techniques. The administrator and his directors designed their complaint to penalize the reporter for invoking governmental procedures to criticize and challenge them. They used economic sanctions instead of allowing due process of law. [*Prior Restraint*]

Court of Appeals (2004)

Court of Appeals (CoA) wrote an unpublished Opinion (14 Jun 04) which affirmed Superior Court (Trial Court) findings (2001/2002). Appellant filed a Motion for Reconsideration claiming CoA neglected to resolve important issues and misinterpreted fact and law. Respondent filed a Motion to Publish the Opinion. [*Motion for Reconsideration*]

CoA ignored the fact that trial court effectively evicted appellant then found him in contempt and jailed him for almost four months for violating unconstitutional content-based restrictions on speech published on his web site. It impermissibly relied on constitutionally-protected publications to find harassment.

CoA should have vacated the antiharassment orders, whether it affirmed findings of contempt or not, and contempt orders that related to other than the respondent. It should also have dismissed a petition which failed to establish elements necessary to prove harassment. Trial court only had jurisdiction to issue orders that benefitted the respondent not myriad anonymous people.

CoA also neglected to address abuse of discretion on two occasions. Trial court denied a request for a continuance to obtain counsel at an initial hearing and later neglected to appoint counsel at contempt hearings that involved incarceration. It also abused privilege when it twice ordered excessive distance restrictions that encompass a large section of Seattle and falsely claimed a violation of a "surveillance" provision.

CoA peremptorily denied the Motion for Reconsideration and a Motion to Publish filed by the respondent.

The appellant, Paul Trummel, having filed his motion for reconsideration, and a panel of the court having determined that the motion should be denied:

Now, therefore, it is hereby ORDERED that the Motion for Reconsideration is denied.

Dated this 26th day of July, 2004. Mary Kay Becker.

The respondents and cross-petitioners, Stephen Mitchell and Council House, Inc., having filed a motion for publication of the above-name opinion, and a panel of the court having determined that the motion to publish opinion should be denied;

Now, therefore, it is hereby ORDERED that the Motion for Publication of opinion is denied.

Done this 9th day of July, 2004. Mary Kay Becker.

1. Lord Hewart (1870–1943), British judge. Ruling on the quashing of a conviction on technical grounds, 9 Nov. 1923, in *Rex v. Sussex Justices*. Quoted in: *King's Bench Reports*, 1924, vol. 1.

2. The Supreme Court of Washington considered the Motion for Discretionary Review of the decision by the Court of Appeals not to hear an appeal of the decision by Judge James A. Doerty. (In the Superior Court of the State of Washington (King County) 01-2-04698-5 SEA. Paul Trummel, Petitioner v. Stephen (aka Stefan) Albert Mitchell et al, Respondent, Stephen (aka Stefan) Albert Mitchell et al, and Council House Inc., Cross-Petitioners v. Paul Trummel, Respondent).

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Feedback: Webspinner@ContraCabal.org