

INDEX OF OFFENSES CONTAINED IN THE ATTACHED COMPLAINT

This is a synopsis of the offenses committed by the 18th Judicial District Court of Colorado and the Honorable Judge Joyce Steinhardt, Chief Judge and presiding Judge over the subject proceeding as contained in the attached Complaint:

DENIAL OF TRANSCRIPTS

Paragraph 13:

This Court is deliberately harboring the transcripts to the subject proceeding in order to avoid exposure of the blatant indiscretions and civil rights violations that occurred therein. This is the same judge who harbored the transcripts from the Ocrant family until legal and media pressure forced the information into the open.

DENIAL OF DUE PROCESS

Paragraph 14:

This Court denied Plaintiff the opportunity to be properly represented by an attorney. Plaintiff's attorney died just before the hearing. When Plaintiff asked for a continuance to obtain counsel and properly prepare for the case, his request was denied and he was told he would represent himself whether he liked it or not. When Plaintiff refused after declaring on the record that his right to counsel was being violated the Judge put him in jail and forced him to attend the proceeding.

VIOLATION OF FEDERAL BANKRUPTCY RULES

Paragraph 16:

This court ignored Plaintiff's bankruptcy status and illegally participated in the distribution of assets held in trust in Bankruptcy Proceeding, Case no. 89 B 08827-A. This proceeding has not been discharged to date.

BREAKING AND ENTERING

Paragraph 18:

The Court condoned the illegal breaking and entering of Plaintiff's residence without a search warrant.

ILLEGAL SEARCH AND SEIZURE

Paragraph 18:

The Court's participation in the breaking and entering of Plaintiff's residence resulted in an illegal search and seizure. His personal safe was drilled out, his files and computer ransacked and even his personal belongings disturbed throughout the house. An entire box of files and personal belongings were removed from the house illegally.

VIOLATION OF ATTORNEY-CLIENT PRIVILEGE

Paragraph 20:

The Court accepted into evidence documents obtained during the illegal search that included privileged attorney-client written communications.

VIOLATION OF RELIGIOUS FREEDOM

Paragraph 23:

The Court accepted argument from opposing council that due to Plaintiff's religious beliefs in the Charismatic Faith, he is mentally unstable and dangerous to the public at large. As a result the Court ordered his 2 year old son removed from him, permitting no contact, subject to at least one year of psychiatric evaluation and care. All this was ordered without any professional psychological evaluation or testimony from a qualified psychologist. In fact the Final Orders actually quoted the Judge as justifying this position as valid "from a laymans point of view"!

The above synopsis is only the tip of the iceberg. This suit was designed to restore my civil rights as declared by the Constitution of the United States. All I am asking for is "just a little justice".

SUMMONS IN A CIVIL ACTION

United States District Court

FOR THE DISTRICT OF COLORADO

CIVIL ACTION FILE NO. _____

90- -1892

HARMON L. WILFRED

Plaintiff

v.

STATE OF COLORADO, 18th JUDICIAL DISTRICT COURT, HONORABLE JUDGE JOYCE STEINHARDT, CHIEF JUDGE

Defendant

SUMMONS

To the above named Defendant :

You are hereby summoned and required to serve upon HARMON L. WILFRED, PRO SE

~~XXXXXXXXXXXXXXXXXXXX~~ ~~plaintiff's attorney~~, whose address IS 7611 SOUTH EMERSON STREET, LITTLETON, CO. 80122

AND FILE WITH THE CLERK OF THE COURT an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

JAMES R. MANSPEAKER

Clerk of Court.

Deputy Clerk.

Date: OCT 25 1990

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

FILED
U.S. DISTRICT COURT
DISTRICT OF COLORADO
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

90 OCT 25 A 8:50

Civil Action No.
HARMON L. WILFRED

90- -1892

BY _____ DEPT. CLERK
DEP. CLK.

Plaintiff,

vs.

STATE OF COLORADO, 18TH JUDICIAL DISTRICT COURT
HONORABLE JOYCE STEINHARDT, CHIEF JUDGE

Defendants.

COMPLAINT

Plaintiff, appearing Pro Se, for a complaint against
defendants alleges and avers:

Parties

1. Plaintiff is a resident of the State of Colorado.
2. The 18th Judicial District, Defendant, is a governmental unit of the State of Colorado.
3. Defendant Judge Joyce S. Steinhardt is the Chief District Judge for the 18th Judicial District of the State of Colorado.

Jurisdiction-Venue

4. This Court has subject matter jurisdiction of this action in that matters at issue include constitutional and other federal questions and the matter in controversy exceeds the sum of \$50,000, exclusive of interest and costs; thereby giving the court jurisdiction subject to 28 U.S.C. Section 1332.
5. The 18th Judicial District and Judge Joyce Steinhardt shall herein after be referred to as the " State District Court".
6. Venue is proper in the United States District Court for the District of Colorado pursuant to 28 U.S.C. Section 1391.

7. Petitioner, prior to final judgment in the subject proceeding, filed suit on June 4, 1990 in United States District Court for the District of Colorado, based on the denial of his Federal Constitutional rights which include similar state constitutional rights, which action was dismissed in an Order of Dismissal, dated also June 4, 1990 for the reason that Petitioner's federal rights can be amply protected in state court and apparently because the Colorado District Court in the subject proceedings had not finally ruled on the validity or invalidity of Petitioner's position.

8. The Colorado State District Court in the referenced action for dissolution of the marriage issued its Permanent Orders on June 29, 1990. Subsequent thereto Plaintiff petitioned the Colorado State Supreme Court in its ORIGINAL PROCEEDING PURSUANT TO C.A.P. 21, dated October 5, 1990 for relief in the nature of Prohibition and Mandamus to protect Plaintiff's constitutional rights under both the Colorado State Constitution and the United States Constitution. See copy of Petition for ORIGINAL PROCEEDINGS attached hereto. This petition was denied on October 11, 1990. Also, see attached Motion to Recuse entered and denied October 15th at a contempt hearing in the subject proceeding as a final effort to obtain a fair hearing at the State level.

9. Because of the issuance of Permanent Orders in the Colorado State District Court and the denial of Plaintiff's petition to the Colorado State Supreme Court to protect his Federal Constitutional rights Plaintiff has exhausted all his remedies available to him at the state level. As mentioned in paragraph 7 herein above this Federal District Court previously dismissed a similar lawsuit in this matter on June 4, 1990 because Plaintiff did not have the final disposition of his dissolution of marriage case and had not sought further protection of his constitutional rights in the Colorado State Courts. At the time of this filing, both these events have occurred and Plaintiff's remedies are exhausted in the Colorado State Court System. Should the Federal District Court not take jurisdiction over this matter Plaintiff will continue to experience irreparable harm and injury because of the continued violation of his constitutional rights.

Designated Factual Basis for Action

10. Plaintiff and Sandra A. Wilfred were married on August 8, 1982. On March 3, 1989 Sandra A. Wilfred filed action No. 89 DR 477 as plaintiff for dissolution of the marriage of the parties in the 18th Judicial District Court of the State of Colorado. Defendant Joyce S. Steinhardt is the Chief Judge of said court. Elaine G. Edinburg is legal counsel for Sandra A. Wilfred in said dissolution action. Susan J. Dycus is court appointed Guardian Ad Litem in said dissolution action on behalf of the minor child of the Wilfreds, Tyler Jonathan Wilfred, age two years and nine months.

11. On March 16, 1989 Plaintiff filed for protection under Chapter 11 of the United States Bankruptcy Act on behalf of two business entities managed by Plaintiff, Promenade Limited and Regatta Landing Limited: both being called limited partnerships. On June 29, 1989 Plaintiff filed for protection under Chapter 11 of the United States Bankruptcy Act personally. On February 28, 1990 said Chapter 11 proceeding was converted to a Chapter 7 case.

12. With respect to the aforementioned dissolution action the following sequence of events are apropos:

a. A temporary restraining order and injunction against Plaintiff was granted by the State District Court on March 6, 1989.

b. On April 18, 1989 a hearing was held on Plaintiff's motion to modify the aforesaid temporary restraining order, which motion was denied and Plaintiff was placed on supervised visitation with the minor child, Tyler J. Wilfred, because of his religious beliefs and practices.

c. On April 18, 1989 Susan J. Dycus was appointed Guardian Ad Litem.

d. On June 19, 1989 and July 17, 1989 hearings were held with respect to temporary orders in said case. Upon the filing of Plaintiff's Chapter 11 case on June 29, 1989 all proceedings in the aforesaid dissolution action were stayed; the July 17 hearing mentioned above having been on the issue of the Stay of Execution. Relief from the Stay of Execution was granted by the United States District Court effective December 31, 1989. As of January 1, 1990 Plaintiff was represented in the aforesaid dissolution action by attorneys from two firms, acting as co-counsel: Robert Hinds and Fred Epstein.

e. On August 10, 1989, Edinburg scheduled a hearing in the aforesaid court which hearing was scheduled for August 23, 1989. On August 16, 1989, Edinburg scheduled a hearing on permanent orders in the aforesaid case at which time a pre-trial conference was scheduled for May 3, 1990 and permanent orders hearing for June 5 and 6, 1990.

f. On January 26, 1990 Robert Hinds moved to withdraw as counsel for Plaintiff, Harmon L. Wilfred, in the dissolution action due to his inability in bankruptcy to make adequate payment, which motion was granted by the State District Court on February 15, 1990. On April 12, 1990 an attorney representing the law firm of Frederick Epstein, P.C. moved to withdraw as the only remaining counsel of record for Plaintiff in said dissolution case on the grounds that Mr. Epstein had died and the professional corporation bearing his name was ceasing to do business.

g. On May 8, 1990 the pre-trial conference was held at which Plaintiff appeared Pro Se and moved to continue the permanent orders hearing on the grounds that he was no longer represented by an attorney and could not adequately represent himself. Said motion was denied. On May 10, 1990 Loyd G. Percy, an attorney licensed to practice in the State of Colorado, made a special entry of appearance on behalf of Plaintiff for the purpose of moving to continue the scheduled hearing and provide the crucial time to adequately prepare for the case on permanent orders. Said motion was denied.

h. The permanent orders hearing took place on June 6th and 7th before the Honorable Judge Steinhardt. Plaintiff was in attendance but declined to participate without legal counsel and ample time for such counsel to prepare for the case. Plaintiff stated on the record that he could not with good conscience participate in the proceeding as long as he felt his constitutional rights of due process and religious freedom were being violated. Plaintiff was incarcerated for contempt of court, forced to attend the balance of the trial and held for six days in the Arapahoe County Jail.

First Claim for Relief

13. Delay of Transcript

Plaintiff, being ordered to appear before the State District Court at the Contempt Hearing on October 15, 1990, was handicapped and continues to be handicapped for his next contempt hearing scheduled November 9, 1990 by lack of availability of the Transcript of the record of the State District Court's proceeding to request a motion to open up the proceeding to modify the Final Orders based on new evidence and the prior impropriety of that Court. Plaintiff has paid for and ordered the Transcripts thirteen (13) weeks ago and has not to date received the copy ordered. The transcript was promised Plaintiff in two (2) weeks; however, Judge Steinhardt took the court reporter off the task. For Plaintiff to have to wait 13 weeks with no hope for the transcript's availability in time for his Contempt Hearing certainly appears to be an abuse of power and discretion by the Defendant Steinhardt and the State District Court. As these transcripts are not available at this time, see attached letter by Mr. Loyd Percy providing an account of the trial and events thereof as conveyed by Plaintiff.

Second Claim for Relief

14. Denial of Due Process

a. The refusal of the State District Court to grant a continuance at the request of Mr. Loyd Percy, seeking to make entry of appearance to represent Plaintiff after the occasion of

the untimely death of Plaintiff's previous counsel, Mr. Frederick Epstein. The State District Court even though penalties in such proceedings are involved, ordered Plaintiff to proceed and represent himself without counsel.

b. The State District Court forced Plaintiff into the Permanent Orders Hearing with the total absence of any pre-trial discovery, with the exception of financial depositions taken inside Plaintiff's bankruptcy proceeding for business purposes only. No depositions or other discovery inside this divorce case was undertaken on behalf of Plaintiff, nor was any critical investigation such as interviewing key witnesses allowed because the State District Court forced Plaintiff to proceed without adequate counsel.

c. Failure of the State District Court to grant Plaintiff a continuance from attendance at the Pre-Trial Conference until he obtained services of counsel, after the death of Mr. Epstein when no prior continuance or request by either party had been made to the Court in the proceedings.

15. The State District Court deprived Plaintiff of his constitutional rights to due process in that he was forced to defend himself due to the withdrawal of one co-counsel and the death of the only remaining counsel of record: in violation of his rights to be represented by an attorney, to confront witnesses, and to a fair hearing.

16. The State District Court, by ignoring Plaintiff's bankruptcy status, illegally participated in the distribution of assets held in trust in Bankruptcy Proceeding, Case No. 89 B 08827-A, Chapter 11, later converted to Chapter 7, which proceeding has not been discharged to date.

17. Plaintiff incorporates all of the allegations in the First claim for relief.

Third Claim for Relief

18. Illegal Search and Seizure

The State District Court condoned the breaking and entering of Plaintiff's residence and accepted evidence obtained from Plaintiff's residence through this illegal search and seizure by his ex-wife, Sandra Wilfred, Petitioner, in the subject proceeding, her attorney, Elaine Edinburg, and Mr. Tom Jones, an adverse witness. This incident took place without a search warrant while Plaintiff was incarcerated in the Arapahoe County Jail. Although the property searched was jointly owned by Petitioner and his ex-wife, Sandra Wilfred had moved out of the residence and Plaintiff was under Restraining Order of the State District Court.

Both Plaintiff and Ms. Wilfred were under the State District Court's Injunction, which enjoined each from "molesting or disturbing the peace of the other party."

19. Under the circumstances, under well-settled case law of the United States Supreme Court, such action violated Plaintiff's constitutional rights against such action in this proceeding. The United States Supreme Court in United States v. Matlock, 94 S. Ct. 988 (1974) stated that mere property ownership is not sufficient for having common authority over the property searched. The authority which justifies third-party consent does not rest on the law of property, but rests rather on mutual use of the property by persons generally having joint access or control for most purposes.

20. The District Court accepted into evidence documents representing privileged attorney-client communications obtained in the illegal search.

21. The State District Court has violated Plaintiff's civil rights by unjustifiably requiring him to have a supervisor present at all visitations with his minor son, based solely on his religious beliefs and practices.

22. Plaintiff re-alleges the allegations in the First and Second claims for relief.

Fourth Claim for Relief

23. Violation of Constitutional Rights Involving Freedom of Religion

a. The State District Court participated in the persecution of Plaintiff because of his religious beliefs, practices and mode of worship by:

b. By accepting and condoning argument by opposing counsel Ms. Elaine Edinburg, Esq. and Guardian Ad Litem, Ms. Susan Dycus, Esq. that because Plaintiff is a Charismatic Christian who believes in the manifestations of all the Gifts of the Holy Spirit as set forth in First Corinthians, Chapter 12, including but not limited to healing, the speaking in tongues, interpretation of tongues and word of knowledge is ipso facto mentally unstable, eccentric and would "kidnap his child if told to do so by God."

c. By persecuting and openly mocking Plaintiff because he believes God speaks to him as promised by Jesus Christ and the apostolic writers of the New Testament, the State District Court, after having Plaintiff incarcerated for contempt for refusal to participate in the proceeding without counsel, attempted to have Plaintiff committed to a psychiatric hospital on the premise that his religious practices were not only dangerous to himself but the

public at large. Please note that a court-appointed psychiatrist found no evidence to support such action. The Transcript ordered will substantiate these facts and the open hostility of the District Court Judge.

d. By accepting as evidence of Plaintiff's emotional instability, his devotional writings compiled in his quiet time worshipping God, which writings were illegally obtained as set forth herein in paragraph 18 above. See First Corinthians Chapter 2 regarding the wisdom and mind of God, which is "foolishness to man in his natural state," and Jeremiah 30:2 "Write in a book all the words I have spoken to you." The day after receiving this information into the court record, Defendant Judge Steinhardt received Plaintiff into the courtroom proceedings by mocking his religious beliefs with the statement, "Well Mr. Wilfred, what are your 'voices' telling you to do today."

e. By accepting and condoning testimony of an evangelical Christian, Mr. David Campbell, who is not a Charismatic Christian and who to the contrary does not believe or accept the Charismatic mode of worship and view toward the manifestation of the Gifts of the Holy Spirit, and that such Charismatic worship is evidence of apparent identity confusions, lack of sense of accountability and a poor understanding of cause and effect in his relationship with his son.

f. Please let the Federal District Court take judicial notice that contrary to Mr. Campbell's views the Charismatic mode of worship and practice is generally accepted not only in separate denominations such as the Assembly of God, but also in the Roman Catholic Church, the Episcopal Church, the Presbyterian Church, the Lutheran Church and many other denominations too numerous to mention.

g. By taking such partiality the State District Court is participating not only in the denial of Plaintiff's civil rights on account of his religious opinions, but also in the preference of a particular denomination and modes of worship over another religious denomination and modes of worship. Again, please note that the Transcript ordered will substantiate these circumstances set forth.

h. The State District Court, as a result of the above religious freedom violations, persecutions, and opinions concluded, and I quote Judge Steinhardt, "The Court finds that from a layman's perspective, the minor child's emotional and physical development could very well be impaired with contact with Mr. Wilfred." Therefore, the Court had ordered that Plaintiff's rights to visitation be initially supervised and has, in the permanent orders, totally revoked Plaintiff's parental right to any contact with his son pending psychiatric care for as least one year with

a full psychiatric evaluation. Consequently, Plaintiff has had no contact with his son, at the time of this filing, for over five (5) months.

WHEREFORE, Plaintiff prays that this honorable court:

A. Issue permanent injunctive relief prohibiting the Court in case No. 89 DR 477 from proceeding any further in matters involving its Permanent Orders and enforcement.

B. Declare that the Permanent Orders in case No. 89 DR 477, be declared null and void because Plaintiff's constitutional rights to a fair hearing have been abridged.

C. Issue an order disqualifying Judge Joyce Steinhardt from any further participation in matters involving the parties in case No. 89 DR 477.

D. Issue an order requiring the State District Court in case No. 89 DR 477 grant Plaintiff a new hearing ab initio in the subject dissolution of marriage matter.

E. Issue an order requiring the State District Court to permit the immediate visitation of Plaintiff with his minor son, Tyler J. Wilfred.

F. Issue an order for such other and further relief as this Court may deem proper.

RESPECTFULLY SUBMITTED on this 25 day of October, 1990

by: Harmon L. Wilfred
Harmon L. Wilfred, Pro Se
7611 South Emerson Street
Littleton, Colorado 80122
(303) 794-1612

June 21, 1990

Mr. Jay Sekulow
Attorney At Law
C.A.S.E.
3756 La Vista Road, Suite 250
Atlanta, GA 30085

Dear Mr. Sekulow:

I am writing at the request of my client, Harmon Wilfred. He has spoken with your assistant, Mark Davis, several times. I wanted to give you an overview of his case. I am enclosing herewith a cassette tape in which Harmon narrated to me the experiences that led to his serving a week in jail for contempt of court. This memorandum is based upon my interview with Harmon, as I was not present at the hearing and have not received the transcripts.

SUMMARY

This case is complex. But the salient "bottom line" facts are these: Harmon was forced into pro se representation in a highly contested divorce case due to the death of his attorney. His pro se motion for continuance was denied as was my motion for continuance. No prior continuance had been granted. During the trial, Harmon was jailed for contempt of court. While he was incarcerated, the judge allowed opposing counsel and her client to search his home. There was no search warrant and no parameters for the search. Among the items taken in the search were privileged communications between Harmon and his attorneys. These documents were then used as evidence against him the following day in the hearing. Disregarding Harmon's sworn financial affidavit, which showed him in Chapter 7 bankruptcy, having a current income at best of \$3500 per month, the judge ordered him to pay his ex-wife a lump sum of \$500,000 plus \$5500 per month in maintenance and child support! She also barred him from visiting his son for ten years, subject to reconsideration after one year. She also issued a restraining order against contacting any witnesses in the hearing for ten years. Further, at the trial Harmon was repeatedly portrayed as emotionally unstable due to his charismatic faith and practice. Illustrative of the tone of the hearing was "expert" testimony that Kenneth Copeland Ministries was a "cult" whose followers believe they are "little gods."

History of Case

Harmon Wilfred was a well-to-do real estate developer. He and his wife, Sandra Wilfred, were childless, and in 1987 they adopted an infant, Tyler Jonathan Wilfred. In 1988, Harmon was born again and a short time later received the baptism in the Holy Spirit.

He became associated in business with another spirit-filled Christian, Tom Jones. Harmon, Sandra and Tom Jones all worked together on various business projects.

In late 1987 and early 1988, Harmon's business interests began to deteriorate as a result of the economic downturn Denver experienced. Denver had been overly dependent upon the energy segment of the economy and when the oil companies crashed, so did Denver's economy. The point being that economic distress was a fact for all or most of Denver real estate companies.

In March 1989, Sandra Wilfred filed for dissolution of marriage against Harmon. She retained a divorce specialist, Elaine Edinburg, Esq., who is known for aggressive representation of her clients. Ms. Edinburg obtained an ex parte restraining order which among other things, required that Harmon's visitation with his son be "supervised", meaning someone else had to be present to prevent him from taking the child to another jurisdiction.

Initially Harmon retained a generalist attorney, who represented him at a hearing on continuation of the restraining order. Harmon was dissatisfied with that counsel's representation, feeling that he had been intimidated by Sandra's more aggressive counsel. Harmon then retained an attorney, Mary Kelly, from a large and respected law firm. She served on Sandra's attorney interrogatories and requests for production of documents. However, she and Harmon disagreed on goals for the case and she never entered her appearance in the dissolution case. Harmon then retained two respected divorce specialists, Robert Hinds and Fred Epstein. Mr. Hinds represented Harmon at several hearings on Temporary Orders. According to Harmon, Hinds' strategy at that point was to allow Edinburg latitude so he could discover her theory of case, evidence, etc. As a consequence, all of the time in these hearings was spent presenting Sandra Wilfred's evidence.

It was at these two hearings that the religious persecution issue first arose. According to Harmon, Ms. Edinburg and the court appointed Guardian Ad Litem for the child, Ms. Susan Dycus, repeatedly stressed that because Harmon speaks in tongues and believes he hears God's voice, he is, per se, mentally unstable. Sandra Wilfred testified as to physical abuse by Harmon. Harmon denies the allegations and attempted to introduce into evidence the police report of the incident in question which is favorable to him. However, Edinburg successfully objected to admissibility of the report due to a lack of foundation.

A hearing on Permanent Orders was scheduled. However, shortly after the filing of the divorce action, the lender on two of Harmon's shopping centers took back the projects. Harmon strongly suspected that Sandra Wilfred was acting in collusion with this lender. As his business affairs deteriorated further, Harmon filed Chapter 11 proceedings for himself personally and the two limited

partnerships through which he had developed the two shopping centers.

The filing of the bankruptcy proceedings, of course, subjected the divorce case to the automatic stay of execution which is statutory in the bankruptcy code.

The bankruptcy proceedings were at times acrimonious. On three occasions, Harmon's counsel subpoenaed the lender representative, Alma Rhode, whom Harmon suspected of colluding with Mrs. Wilfred in the foreclosure of the two properties. On all three occasions, Ms. Rhode obtained counsel and quashed the subpoena. Also, the business relationship between Harmon and Tom Jones had soured. Harmon suspected Mrs. Wilfred and Jones of colluding on several matters. One such matter involved a distribution of approximately \$32,000 from a corporation in which Harmon was an officer and director; which distribution was allegedly made in a meeting of which Harmon had no notice and in which all the shareholders except Harmon received a partial distribution. Tom Jones and Sandra Wilfred have denied that scenario under oath. One other shareholder has confirmed it. Harmon accordingly brought suit against Jones, who in the meantime also filed personal and business Chapter 7 proceedings. Harmon is also contesting Jones' discharge on a fraud theory.

From Harmon's viewpoint, the Chapter 11 proceedings were substantive and successful. He negotiated releases from more than \$20 million in debts which he had personally guaranteed. Eventually, however, he filed to convert from Chapter 11 to Chapter 7 on his personal bankruptcy case.

In October 1989, Sandra Wilfred's bankruptcy counsel obtained a release from the stay of execution effective December 31, 1989. In early December 1989, Edinburg set the hearing on Permanent Orders for June 5 and 6, 1990. A Pre-Trial Conference was scheduled for May 8, 1990.

At this point things began to deteriorate rapidly! In January, 1990, Robert Hinds withdrew as lead counsel for Harmon because Harmon was behind on payment of fees. Judge Steinhardt approved the withdrawal. This, of course, still left Fred Epstein as counsel of record for Harmon. However, in April 1990, Mr. Epstein died. A representative of his firm represented Harmon in a telephone hearing on a side issue. Shortly thereafter, this counsel moved to withdraw also. The only grounds given in the motion to withdraw was that Mr. Epstein had died and his professional corporation was in the process of dissolution.

Harmon attended the Pre-Trial Conference pro se, and submitted a written motion to continue the Permanent Orders hearing until he could obtain new counsel. Edinburg and Dycus objected, apparently

on the grounds that Harmon had initiated the bankruptcy proceedings for the sole purpose of delaying the Permanent Orders hearing, and that Mrs. Wilfred had suffered enough delay. No prior continuance or request for same had been made by either party!

At that point, I offered to file a motion for continuance and enter my appearance conditionally upon the granting of the continuance so that I would have adequate time to prepare for trial. I was confident that Judge Steinhardt would grant my motion, if for no other reason than the efficiency that would result from having counsel compared to a layman acting pro se in a highly contested matter. I was further confident because no discovery had yet been undertaken on Harmon's behalf. It is important to note that by this time, Harmon had undergone three different psychological/psychiatric examinations from three separate agencies. No discovery had been attempted as to the results of these examinations. In addition, the supervisor of visitation had observed Harmon interacting with his child for more than 500 hours. This supervisor is a fundamentalist Christian who took it upon himself to dissuade Harmon from his charismatic leanings, and became angry at him when he would not be dissuaded. This man had not been deposed. Nor had Tom Jones, Sandra Wilfred or the other principals in the shared business projects. Nor had Alma Rhode, the lender representative. Sandra Wilfred's counsel had not responded to his interrogatories and requests for documents, which had been served on her more than a year previous. This, despite the fact that at the Pre-Trial Conference Ms. Edinburg had made a big point of Harmon not having answered interrogatories which she had served on him at the beginning of the case.

I brought these matters out in my motion, as well as the religious/constitutional issue. In a telephone conference hearing on my motion (which lasted about 15 minutes) Judge Steinhardt denied my motion for continuance. She stated, in part, that all of Mr. Epstein's cases were being competently represented by other attorneys. I responded that all I could go by was the Motion to Withdraw, which had only stated that he had died and the firm was being dissolved.

At that point, I helped Harmon prepare a Disclosure Statement for the trial, which included a sworn affidavit showing his income as \$3,500 per month. I also counseled him to defend himself as best he could so as to protect his appeal rights.

This brings us to June 2 and 3, 1990 which was the weekend preceding the hearing on Permanent Orders. After Judge Steinhardt's denial of my motion, I had advised Harmon on several alternatives available to him to still try to defer the hearing. One of them would have been a proceeding under Rule 106 of the Colorado Rules of Civil Procedure, which is essentially an "abuse of discretion" proceeding which is normally applied against

political bodies such as County Commissioners. I did not feel it was appropriate to bring such an action against Judge Steinhardt. The other alternative we had discussed was a Motion for a Temporary Restraining Order in the federal court. I had a trial on Thursday and Friday, May 31st and June 1st. On Saturday, June 2nd, I met with Harmon, at his home, because he had his secretary available to us. At that time Harmon discussed with me the possibility of a money damages action against Judge Steinhardt, both attorneys, and Sandra Wilfred. Following that meeting, I regretted having even discussed that matter with Harmon, and met with him the following day and told him so. For my protection, since he seemed intent on going through with this, I obtained from him a letter, in which he acknowledged that the money damages suit was against my advice and that I had counseled against it.

On Monday, Harmon filed that lawsuit along with a Motion for Restraining Order in the U.S. District Court in Denver. After waiting several hours, he was given by the Clerk of the Court an Order of Dismissal. He did not go before the judge, the Court having handled the matter solely from the pleadings that he had filed.

The hearing on Permanent Orders was scheduled to begin on Tuesday, but it was on a trailing docket and had to be delayed until Wednesday. However, Judge Steinhardt called the case up on Tuesday, at which time Harmon informed her that because he felt that his civil and religious rights were being abrogated, he did not intend to defend himself in the hearing. Judge Steinhardt told him that she would require him to do so, and threatened him with contempt of Court.

On Wednesday, Harmon apologized to the Court for the way he had addressed the Judge the previous day, but repeated his position that he would not participate in the proceedings. Apparently, toward the end of the day, he was called by Elaine Edinburg as an adverse witness. When he refused to testify, Judge Steinhardt found him in contempt of Court, and ordered him to jail. He was retained in jail until the following Tuesday, even though the Court hearing ended on Thursday afternoon. He was retained on Friday pending psychological examinations. According to Harmon, the Court psychologist examined him and reported to him that she found nothing wrong with him. However, Judge Steinhardt ordered an additional outside psychiatric examination, the apparent purpose for which was to determine the need for hospitalization. The psychiatrist reported that there was no such need. He was kept in jail over the weekend because Judge Steinhardt was not available to release him. He was called back before Judge Steinhardt on Monday morning, at which time she added 24 hours of jail time as the punishment for contempt.

A critical and I believe bizarre event occurred at the end of the first day of hearing. On Wednesday, Elaine Edinburg requested

permission to go to Harmon's home and search for the documents which would have been included in her Motion for Interrogatories and Production of Documents. Apparently, Judge Steinhardt initially hesitated, but agreed to upon learning that Harmon had his office in his home. Please understand that his arrangement within the home is that he has a study with a desk for himself and his secretary, records, word processor, etc. He also has a copy machine in the living room. According to Harmon, Judge Steinhardt did not issue any separate Order, such as a search warrant, or any other legal document. She simply gave permission for Elaine Edinburg and Sandra Wilfred to obtain a locksmith and enter the home, to be accompanied by a deputy sheriff.

Keep in mind, that Harmon was incarcerated at the time this was occurring. His secretary and her husband went by Harmon's home about 8:30 p.m. that evening. Ms. Edinburg and Tom Jones answered the door. There was no sheriff present, but Ms. Edinburg stated she was an officer of the Court and was supervising the search; and that the sheriff had left on a coffee break.

Apparently, this search party went through all of Harmon's belongings in the house. There are indications that they went through his bedroom, clothing, drawers, etc. They also had a locksmith drill open a safe in which he had stored several of his past business diaries. They apparently also put all of his diskettes in the computer and ran copies of both business and personal matters. You also need to understand that I had obtained from Harmon all of the files which had belonged to Robert Hinds and Fred Epstein. There were also a few documents that I had generated in these files such as my Motion for a Continuance of the hearing. I had returned those files to Harmon, on the assumption that he would need them in defending himself at the hearing. Apparently, he had decided he would not need them since he did not intend to defend himself, and so had left them in his home. Several documents were apparently taken from the attorney files.

In addition, the letter from Harmon to me with respect to the federal court suit was also taken. That letter had been left on Harmon's desk. Incredibly, that letter and several other documents taken from the attorney files were actually introduced into evidence by Ms. Edinburg the following morning, Thursday, at the Permanent Orders hearing. I believe the privileged nature of such documents is self evident. In addition, Ms. Edinburg subpoenaed Pastor Bagwell, Harmon's former pastor, and he had testified. I believe there is a possibility that testimony was also improper for violation of privilege.

At the hearing, there had been various allegations that Harmon had concealed income. One witness testified that in her judgment he had secreted somewhere between 2 million dollars and 7 million dollars. Sandra Wilfred testified that she estimated the figure to be approximately \$800,000.

Apparently Judge Steinhardt based upon this testimony, found that he had secreted \$1,000,000, and accordingly ordered him to make a lump sum payment to Sandra Wilfred of \$500,000. In addition, Harmon's recollection is that she ordered him to pay \$5,500 per month as maintenance and child support. In addition, she continued and expanded the restraining order to include any and all witnesses who testified in the hearing, and continued it for a period of ten years. She also ordered that he was to have no visitation rights with his son for a period of ten years, but that she would reconsider that after one year provided that he gets psychiatric counsel.

With respect to the monetary Order, Judge Steinhardt apparently did not believe or take in to account Harmon's sworn financial affidavit (which I had furnished to the Court and to both attorneys) which showed him as having an income of \$3,500 per month and his current status as bankrupt! I might add that Harmon has only been able to pay me \$100 total so far.

FUTURE COURSE OF ACTION

I have advised Harmon to the following steps with respect to this case:

1. File an appeal, which we can file any time within 45 days of the Order. Under Colorado Rules, we do not have to move the trial Court for reconsideration, and I see no point in doing so.

Please understand that I have not been present at any of the hearings in this case, either on the Temporary Restraining Order, Temporary Orders or Permanent Orders. But from my knowledge of the case, gleaned from Harmon, I believe the following are the grounds for an appeal:

- a. Denial of due process occasioned by the refusal to grant a continuance. Considering the enormity of this case (both financial and custodial), the virtually total absence of any pre-trial discovery, and the fact that Harmon was without counsel through no fault of his own because his last attorney had died, I believe there is a due process issue involved. All the more so because no prior continuances had been granted or requested. The opposition will argue that the bankruptcy proceedings were purposed to avoid the Permanent Orders. But we can show as matter of record in the bankruptcy proceedings that in excess of \$20,000,000 in personal indebtedness were negotiated during those proceedings. They were substantive and certainly not for the purpose of delay;

- b. A constitutional issue on religious persecution. Candidly, this is where we most need your expertise. I don't know whether this issue has been litigated in other forums or not. The issue as I expressed to Judge Steinhardt in my argument on my Motion for continuance is this: when a charismatic Christian is

being accused of mental instability there should be a requirement that the accuser shows a nexus between religious faith and practice on one hand and mental deficits on the other. Stated another way, what the world views as religious eccentricities should not be per se equated with emotional instability. And certainly, any such nexus should be more substantive than merely an opinion testimony that the religious faith and practice is tantamount to emotional problems. Even worse in this case, the only "expert" testimony that was taken was from the visitation supervisor (fundamentalist Christian). Keep in mind that he had not been hired as a counselor, but as a purely physical supervisor of visitation. Yet he testified as an expert witness because apparently he has a masters degree in counseling, even though his primary vocation is as a professional writer;

c. Error in admitting into evidence privileged communications between one, two or three lawyers and the client; possible error in admitting to evidence testimony from Harmon's former pastor;

d. The constitutional argument that the search of Harmon's home was a warrantless search, and even if you construe Judge Steinhardt's verbal orders as a search warrant, it would be a defective one in that there were no parameters governing the scope of the search, either physically within the house or by subject matter;

e. An equal protection issue given the disparity of treatment afforded the parties on the issue of their mutual failure to answer pre-trial interrogatories. Sandra Wilfred was granted sanctions, and I believe Harmon's failure to answer the interrogatories was the main basis for Judge Steinhardt's approval of the search of his house. On the other hand, in my argument on my Motion to Continue, I specifically brought to Judge Steinhardt's attention that Harmon's request for interrogatories and documents had also been ignored for more than a year. Ms. Edinburg's reply to that was that the attorney who served those on her never entered her appearance. My position is that it was irrelevant whether she had entered her appearance because the interrogatories came from Harmon, the client, as well as the attorney who serves them.

There are no doubt other issues that we will discover for inclusion in the appeal. However, I believe the foregoing are the main ones and certainly embody the essence of this case.

2. Bankruptcy proceedings. Since Harmon's personal bankruptcy case is still pending, and since there is also approximately \$75,000 on deposit in the registry of the bankruptcy court, I have asked him to consult his bankruptcy counsel as to whether some of the money on deposit can be used for an independent audit of financial records. We believe such an audit will show

Page 9

that Harmon has not secreted any money, and that accordingly Judge Steinhardt's financial orders are ill-based. Harmon has since requested the audit. The records in question are in storage and I have also asked Harmon to turn those over immediately to the bankruptcy trustee. Harmon insists to me that there will be no embarrassing or surprise revelations contained in these records.

Finally, I have informed Harmon that the scope of this case is far too immense for one lawyer and his client to handle competently. I believe we need to assemble a team which includes several attorneys, an investigator, and one or more paralegals. I have advised him that he is looking at a budget of at least \$100,000 to go forward with the divorce appeal, related matters in the bankruptcy case, and an investigation in connection both with the appeal and for the new hearing on the Permanent Orders assuming we are successful on the appeal.

I apologize for the length of this letter, but as you can see this has been a convoluted case, and it involves numerous issues, not to mention potentially millions of dollars in property settlement. Please feel free to call me if I can be of any further assistance to you.

Sincerely yours,

LOYD G. PEARCY, P.C.



Lloyd G. Percy

LGP:ejr

OCT 05 1990

SUPREME COURT, STATE OF COLORADO
Case No. 90SA418

Mac V. Danford, Clerk

ORIGINAL PROCEEDING PURSUANT TO C.A.R. 21

PETITION FOR RELIEF IN THE NATURE OF PROHIBITION AND MANDAMUS

HARMON L. WILFRED, Petitioner,

v.

DISTRICT COURT OF THE EIGHTEENTH JUDICIAL DISTRICT IN AND FOR THE
COUNTY OF ARAPAHOE, AND THE HONORABLE JOYCE STEINHARDT, CHIEF JUDGE
THEREOF, Respondents.

PETITION FOR RELIEF IN THE NATURE OF PROHIBITION AND MANDAMUS

COMES NOW, Petitioner Harmon L. Wilfred, seeking the original jurisdiction of this Honorable Court pursuant to Rule 21 of the Colorado Appellate Rules to assume jurisdiction of this cause and to issue and requesting an order of the Court enjoining Respondents in Civil Action No. 89 DR 477, Division 10 (R-1), District Court, County of Arapahoe, State of Colorado in which Petitioner is the Respondent, from requiring Petitioner to appear in its Court on October 15, 1990 in the action mentioned herein above to show cause why he should not be held in contempt of that Court and enjoining any further proceedings in his case until the Supreme Court has considered and acted upon the constitutional matters hereinafter set forth.

Further, Petitioner petitions the Supreme Court to issue an order requiring Respondents to re-open the entire proceedings in the District Court action cited herein above with regard to all issues including maintenance, support, custody and visitation which were the subject of the Court's Permanent Orders in the case, dated June 27, 1990 and have Judge Steinhardt removed from presiding over any further proceeding involving this case.

Petitioner requests the Court's original jurisdiction in that the District Court has rendered final judgment in the matter, and Petitioner, denied the advice of Counsel in the proceedings, did not have the resources to make a timely appeal on the merits, making an appellate remedy inadequate.

Only within the past few days has Petitioner become cognizant that in situations where a lower District Court in Colorado has irreparably and seriously abused its discretion and more importantly denied a Petitioner his constitutional rights is petition available to the Colorado Supreme Court for its original

jurisdiction to address such violations and provide such remedies as deemed appropriate in its jurisdiction including damages.

I. Circumstances Which Render It Necessary That The Supreme Court Exercise Its Jurisdiction for the Relief Sought

Petitioner, prior to final judgment in the subject proceeding filed suit on June 4, 1990 in United States District Court for the District of Colorado, based on the denial of his Federal Constitutional rights which include similar state constitutional rights, mentioned herein above, which action was dismissed in an Order of Dismissal, dated also June 4, 1990 for the reason that Petitioner's federal rights can be amply protected in state court and apparently because the Colorado District Court in the subject proceedings had not finally ruled on the validity or invalidity of Petitioner's position. It also appears from the Order of Dismissal that Federal district courts do not like to become involved in domestic relations cases regardless of how egregious the state court has been in abusing its discretion in violating the Federal and State constitutional rights of a party to a suit. Therefore without the Supreme Court exercising its original jurisdiction here, Petitioner would literally be without any adequate appellate remedy, or any remedy for that matter. See attached Summons, Complaint and Order of Dismissal in the U. S. District Court for the content of pre-trial civil rights violations. See "Exhibit F"

II. Nature of circumstances requiring original jurisdiction of the Supreme Court

For a complete summary of the subject proceeding (Permanent Orders Trial) and in depth recitations of the abuse of discretion by the District Court and violation of Petitioner's constitutional rights see attached letter of Loyd Percy, P.C., attorney and counselor at law, admitted to practice in the State of Colorado, dated June 21, 1990, hereinafter referred to as Petitioner's "Exhibit A."

A. Delay of Transcript

Petitioner, being ordered to appear before the District Court at the Contempt Hearing on October 15, 1990, is handicapped by lack of availability of the Transcript of the record of the District Court's proceeding to request a motion to open up the proceeding to modify the Final Orders based on new evidence or prior impropriety of that Court. Petitioner has paid for and ordered the Transcripts eleven (11) weeks ago and has not to date received the copy ordered. The transcript was promised Petitioner in two (2) weeks however Judge Steinhardt took the court reporter off the task. For Petitioner to have to wait 11 weeks with no hope for the transcript's availability in time for his Contempt Hearing

certainly appears to be a further abuse of power and discretion by the District Court. (See attached letter to the Rocky Mountain News for further clarification of this issue.) "Exhibit I"

B. Denial of Due Process

1. The refusal of the District Court to grant a continuance at the request of Mr. Loyd Percy, seeking to make entry of appearance to represent Petitioner after the occasion of the untimely death of Petitioner's previous counsel, Mr. Frederick Epstein. The Court even though penalties in such proceedings are involved ordered Petitioner to proceed and represent himself without counsel.

2. The total absence of any pre-trial discovery. No depositions or other discovery was undertaken on behalf of Petitioner, nor was any critical investigation such as interviewing key witnesses allowed because the District Court forced Petitioner to proceed without adequate counsel. See EXHIBIT B., SPECIAL ENTRY OF APPEARANCE AND MOTION TO VACATE DATE FOR HEARING ON PERMANENT ORDERS, of Mr. Loyd Percy, seeking to represent Petitioner as counsel.

3. Failure of the District Court to grant Petitioner a continuance from attendance at the Pre-Trial Conference until he obtained services of counsel, after the death of Mr. Epstein when no prior continuance or request by either party had been made to the Court in the proceedings. See EXHIBIT A, page 4 and Exhibit B, Request for Continuance.

4. The District Court ignored Petitioner's bankrupt status and therefore illegally distributed assets held in trust in Bankruptcy Proceeding, Case No. 89 B 08827-A, Chapter 11, later converted to Chapter 7, which proceeding has not been discharged to date. See EXHIBIT C.

C. Illegal Search and Seizure

The District Court condoned and accepted evidence obtained from Petitioner's residence through an illegal search and seizure by his ex-wife Sandra Wilfred, Petitioner in the subject proceeding, her attorney Elaine Edinburg, and Mr. Tom Jones, an adverse witness, without a search warrant. Although the property searched was jointly owned by Petitioner and his ex-wife, Sandra Wilfred, Ms. Wilfred had moved out of the residence and Petitioner was under Restraining Order of the District Court. See EXHIBIT D, Copy of District Court's Restraining Order and EXHIBIT E, Summons for Dissolution of Marriage and Temporary Injunction. Both Petitioner and Ms. Wilfred were under the District Court's Injunction, which enjoined each from "molesting or disturbing the peace of the other party."

Under the circumstances, under well-settled case law of the United States Supreme Court, such action violated Petitioner's constitutional rights against such action in this proceeding. The United States Supreme Court in United States v. Matlock, 94 S. Ct. 988 (1974) stated that mere property ownership is not sufficient for having common authority over the property searched. The authority which justifies third-party consent does not rest on the law of property, but rests rather on mutual use of the property by persons generally having joint access or control for most purposes. In addition, the District Court accepted into evidence documents representing privileged attorney-client communications obtained in the illegal search. See EXHIBIT A, page 6.

D. Violation of Constitutional Rights Involving Freedom of Religion

The District Court participated in the persecution of Petitioner because of his religious beliefs, practices and mode of worship by:

1. Accepting argument by opposing counsel Ms. Elaine Edinburg, Esq. and guardian Ad Litem, Ms. Susan Dycus, Esq. that because Petitioner is a Charismatic Christian who believes in the manifestations of all the Gifts of the Holy Spirit as set forth in First Corinthians, Chapter 12, including but not limited to healing, the speaking in tongues, interpretation of tongues and word of knowledge is ipso facto mentally unstable, eccentric and would "kidnap his child if told to do so by God."

2. By persecuting Petitioner because he believes God speaks to him as promised by Jesus Christ and the apostolic writers of the New Testament, The District Court, after having Petitioner incarcerated for contempt for refusal to participate in the proceeding without counsel, attempted to have Petitioner committed to a psychiatric hospital on the premise that his religious practices were not only dangerous to himself but the public at large. Please note that a court-appointed psychiatrist found no evidence to support such action. The Transcript ordered will substantiate these facts and the open hostility of the District Court Judge.

3. By accepting as evidence of Petitioner's emotional instability, his devotional writings compiled in his quiet time worshipping God, which writings were illegally obtained as set forth herein in paragraph 3 above. See First Corinthians Chapter 2 regarding the wisdom and mind of God, which is "foolishness to man in his natural state," and Jeremiah 30:2 "Write in a book all the words I have spoken to you."

4. By accepting testimony of an evangelical Christian, Mr. David Campbell, who is not a Charismatic Christian and who to the contrary does not believe or accept the Charismatic mode of worship and view toward the manifestation of the Gifts of the Holy Spirit, and that such Charismatic worship is evidence of apparent identity confusions, lack of sense of accountability and a poor understanding of cause and effect in his relationship with his son.

Please let the Supreme Court take judicial notice that contrary to Mr. Campbell's views the Charismatic mode of worship and practice is generally accepted not only in separate denominations such as the Assembly of God, but also in the Roman Catholic Church, the Episcopal Church, the Presbyterian Church, the Lutheran Church and many other denominations too numerous to mention.

By taking such partiality the District Court is participating not only in the denial of Petitioner's civil rights on account of his religious opinions, but also in the preference of a particular denomination and mode of worship over another religious denomination and modes of worship. Again please note that the Transcript ordered will substantiate these circumstances set forth. See also EXHIBIT A, page 7.

III. Names and Addresses of the Parties and Their Attorneys

A. Judge Joyce Steinhardt, Chief Judge of the 18th Judicial District, State of Colorado
Justice Center
7325 South Potomac
Englewood, Colorado 80112

B. Petitioner in District Court proceeding:

Sandra A. Wilfred
c/o Elaine G. Edinburg, Esq.
675 Grant Street
Denver, Colorado 80203-3563

C. Counsel for Petitioner in District Court proceeding:

Elaine G. Edinburg, Esq.
675 Grant Street
Denver, Colorado 80203-3563

D. Guardian Ad Litem for Tyler J. Wilfred:

Susan Dycus, Esq.
1600 York Street, Suite 104
Denver, Colorado 80206

Respectfully submitted this 5th day of October, 1990.

by Harmon L. Wilfred
Harmon L. Wilfred, Petitioner, *Pro se*
7611 South Emerson Street
Littleton, Colorado 80122
(303) 794-1612

IV. Exhibits

- Exhibit A. Loyd Percy, P.C. letter
- B.1. Loyd Percy - Entry of Appearance
- B.2. Request for Continuance
- C. Chapter 7 Motion to Convert
- D. Restraining Order (Divorce)
- E. Summons & Injunction
- F. Complaint
- G. Permanent Orders
- H. Contempt Citation
- I. Correspondence (Rocky Mountain News & ACLU)

EXHIBIT A - ATTACHED TO COMPLAINT
- ALL OTHER ABOVE LISTED EXHIBITS
MAY BE MADE AVAILABLE UPON
REQUEST

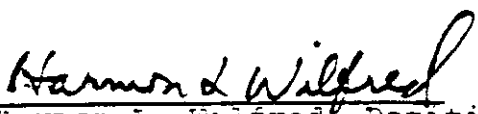
CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of October, 1990,
a true and correct copy of the foregoing ORIGINAL PROCEEDING
PURSUANT TO C.A.R. 21 was deposited in the United States Mail,
postage pre-paid, to the following:

Honorable Joyce Steinhardt
Justice Center
7325 South Potomac
Englewood, Colorado 80112

Elaine G. Edinburg, Esq.
675 Grant Street
Denver, Colorado 80203-3563

Susan Dycus, Esq.
1600 York Street, Suite 104
Denver, Colorado 80206


Harmon L. Wilfred, Petitioner, Pro Se
7611 South Emerson Street
Littleton, Colorado 80122
(303) 794-1612

SUPREME COURT, STATE OF COLORADO
CASE NO. 90SA418
ORIGINAL PROCEEDING, DISTRICT COURT, ARAPAHOE COUNTY, 89DR477

ORDER OF COURT

HARMON L. WILFRED,

Petitioner,

vs.

DISTRICT COURT OF THE EIGHTEENTH JUDICIAL DISTRICT IN AND FOR THE
COUNTY OF ARAPAHOE, AND THE HONORABLE JOYCE STEINHARDT, CHIEF
JUDGE THEREOF,

Respondents.

Upon consideration of the Petition for Relief in the
Nature of Prohibition and Mandamus filed in the above cause, and
now being sufficiently advised in the premises,

IT IS THIS DAY ORDERED that said Petition for Relief
shall be, and the same hereby is, DENIED.

BY THE COURT, EN BANC , OCTOBER 11, 1990.
Justice Vollack does not participate.

cc:

Harmon L. Wilfred, Pro Se
7611 So. Emerson Street
Littleton, CO 80122

Honorable Joyce S. Steinhardt
Arapahoe County Justice Center
7325 S. Potomac Street
Englewood, CO 80112

Clerk of Arapahoe County District Court
Arapahoe County Justice Center
7325 S. Potomac Street
Englewood, CO 80112



Supreme Court
State of Colorado
Certified to be a full, true and correct copy

OCT 11 1990

Court Seal By MAC V. DANFORD
Clerk of the Supreme Court
By Carolyn Scott
Deputy Clerk

Elaine G. Edinburg
675 Grant Street
Denver, CO 80203-3563

Susan Dycus
1600 York Street, Suite 104
Denver, CO 80206

DISTRICT COURT, COUNTY OF ARAPAHOE, STATE OF COLORADO
Case No. 89, DR 477, Division 10

District Court
Arapahoe County, Colorado

MOTION FOR CHANGE OF JUDGE PURSUANT TO RULE 97, C.R.C.P.

IN RE THE MARRIAGE OF:

SANDRA A. WILFRED, AKA SANDRA A. ALLEN, Petitioner

and

HARMON L. WILFRED, Respondent

COMES NOW, Respondent, Harmon L. Wilfred and hereby moves that the Honorable Joyce Steinhardt, presiding Judge in these proceedings immediately disqualify herself (recuse herself) in the contempt proceedings on October 15, 1990, and all subsequent proceedings involved in this case pursuant to the mandates of Rule 97, Change of Judge of the C.R.C.P. because of her prejudicial conduct toward respondent at every step in this proceeding including her refusal to accept his sworn affidavit regarding financial condition, failure to make any attempt to protect Respondent's constitutional rights of due process of law and protection against illegal search and seizure, and because of Judge's mockery of Respondent's rights flowing from his form of religious expressions, practices, and opinions. The specificity of these allegations are contained in Respondent's sworn affidavit attached hereto, which incorporates by reference and attaches thereto a copy of the ORIGINAL PROCEEDING PURSUANT TO C.A.R.21, filed on October 5, 1990 with the Colorado Supreme Court.

Colorado state law interpreting Rule 97 of the C.R.C.P. is very clear. The Colorado State Supreme Court in Johnson v. District Court, 674 P.2d.952 (1984) stated that a Judge should have disqualified himself when affidavits filed reported actual events, and statements which, if true, evidence partiality or appearance of bias or prejudice against petitioner on the part of the Judge. The Court in Johnson even went to the further extent to say that it is an abuse of discretion if that Judge does not withdraw from the case, even though he or she believes that statements are false or that the meaning attributed to them by the party seeking recusal is erroneous.

The facts alleged by Respondent are not based on mere "suspicion, surmise, speculation, rationalizations, conjecture or innuendo"; nor are they statements of mere conclusions of Respondent. The allegations actually accused and the transcript of the records of the total proceedings are replete with instances of such action by the Judge. Carr v. Barnes, 580 P.2D.803, 805 (1978). They are reports concerning actual events and statements which evidence prejudice against Respondent on the part of the Judge.

Canon 3.C of the Colorado Code of Judicial Conduct is very explicit in setting forth required guidelines for Judge disqualification (recusal). Canon 3.C. requires that a Judge should perform his or

her office impartially and goes further to state that a Judge should disqualify him or herself in a proceeding in which the Judge's impartiality might reasonably be questioned, including but not limited to instances where a Judge has a personal bias or prejudice concerning a party.

If for no other reason than this Judge mocked Respondent's religious opinions and mode of worship, this Judge should disqualify herself. In particular, this is true because this prejudice against Respondent's religious practice and beliefs--all of which are widely accepted within Christianity, and lawful at both the State and Federal level have had great bearing on the Judge's decisions with regard to the fitness of Respondent for custody of the minor child involved and also with regard to visitation rights contained in this Court's Permanent Orders in this case.

HEREBY SUBMITTED TO THE HONORABLE Judge Joyce Steinhardt this 15th day of October, 1990.

Signed:

Harmon L. Wilfred

Harmon L. Wilfred, Pro Se

7611 South Emerson Street
Littleton, Colorado 80122
(303) 794-1612

ORDER

THE COURT, having reviewed the foregoing motion and being fully advised of the premises DOETH HEREBY GRANT said MOTION FOR CHANGE OF JUDGE PURSUANT TO RULE 97, C.R.C.P. this _____ day of _____, 1990.

BY THE COURT:

Judge Joyce Steinhardt

DENIED OCT. 15th

007 17 1990

DISTRICT COURT, COUNTY OF ARAPAHOE, STATE OF COLORADO
Case No. 89 DR 477, Division 10

DEPARTMENT OF
COURT REPORTERS

AFFIDAVIT IN SUPPORT OF MOTION FOR CHANGE OF JUDGE PURSUANT TO RULE
97, C.R.C.P.

IN RE THE MARRIAGE OF:
SANDRA A. WILFRED, AKA SANDRA A. ALLEN, Petitioner

and

HARMON L. WILFRED, Respondent

COMES NOW, Respondent Harmon L. Wilfred and hereby under oath swears and avers the following particulars hereinafter set forth evidencing prejudicial conduct on the part of presiding Judge Joyce Steinhardt in the subject proceedings toward Respondent to such extent that Respondent was denied his rights to a fair and impartial hearing in this case.

A. Delay of Transcript

Petitioner, being ordered to appear before the District Court at the Contempt Hearing on October 15, 1990, is handicapped by lack of availability of the Transcript of the record of the District Court's proceeding to request a motion to open up the proceeding to modify the Final Orders based on new evidence or prior impropriety of that Court. Petitioner has paid for and ordered the Transcripts twelve (12) weeks ago and has not to date received the copy ordered. The transcript was promised Petitioner in two (2) weeks however Judge Steinhardt took the court reporter off the task. For Petitioner to have to wait 12 weeks with no hope for the transcript's availability in time for his Contempt Hearing certainly appears to be a further abuse of power and discretion by the District Court.

B. Denial of Due Process

1. The refusal of the District Court Judge to grant a continuance at the request of Mr. Loyd Percy, seeking to make entry of appearance to represent Petitioner after the occasion of the untimely death of Petitioner's previous counsel, Mr. Frederick Epstein. The Judge, even though penalty in such proceedings are involved, ordered Petitioner to proceed and represent himself without counsel.

2. The total absence of any pre-trial discovery. No depositions or other discovery was undertaken on behalf of Petitioner, nor was any critical investigation such as interviewing

key witnesses because the District Court forced Petitioner to proceed without adequate counsel.

3. Failure of the District Court Judge to grant Petitioner a continuance from attendance at the Pre-Trial Conference until he obtained services of counsel, after the death of Mr. Epstein when no prior continuance or request by either party had been made to the Court in the proceedings.

4. The District Court Judge ignored Petitioner's bankrupt status and therefore illegally distributed assets held in trust in Bankruptcy Proceeding, Case No. 89 B 08827-A, Chapter 11, later converted to Chapter 7, which proceeding has not been discharged to date.

C. Illegal Search and Seizure

The District Court Judge condoned and accepted evidence obtained from Petitioner's residence through an illegal search and seizure by his ex-wife Sandra Wilfred, Petitioner in the subject proceeding, her attorney Elaine Edinburg, and Mr. Tom Jones, an adverse witness, without a search warrant. Although the property searched was jointly owned by Petitioner and his ex-wife, Sandra Wilfred, Ms. Wilfred had moved out of the residence and Petitioner was under Restraining Order of the District Court. Both Petitioner and Ms. Wilfred were under the District Court's Injunction, enjoined from "molesting or disturbing the peace of the other party."

Under the circumstances, under well-settled case law of the United States Supreme Court, such action violated Petitioner's constitutional rights against such action in this proceeding. The United States Supreme Court in United States v. Matlock, 94 S. Ct. 988 (1974) stated that mere property ownership is not sufficient for having common authority over the property searched. The authority which justifies third-party consent does not rest on the law of property, but rests rather on mutual use of the property by persons generally having joint access or control for most purposes. In addition, the District Court accepted into evidence documents representing privileged attorney-client communications obtained in the illegal search.

D. Violation of Constitutional Rights Involving Freedom of Religion

The District Court Judge participated in the persecution of Petitioner because of his religious beliefs, practices and mode of worship by:

1. Accepting argument that because Petitioner is a Charismatic Christian who believes in the manifestations of all the Gifts of the Holy Spirit as set forth in First Corinthians, Chapter

12, including healing, the speaking in tongues and interpretation of tongues, is ipso facto mentally unstable, eccentric and would "kidnap his child if told to do so by God."

2. By persecuting Petitioner because he believes God speaks to him as promised by Jesus and the apostolic writers of the New Testament, the District Court Judge after having Petitioner incarcerated for contempt for refusal to participate in the proceeding without counsel, attempted to have Petitioner committed to a psychiatric hospital on the premise that his religious practices were not only dangerous to himself but the public at large. Please note that a court-appointed psychiatrist found no evidence to support such action. The Transcript ordered will substantiate these facts and the open hostility of the District Court Judge.

3. By accepting as evidence of Petitioner's emotional instability, his devotional writings compiled in his quiet time worshipping God, which writings were illegally obtained as set forth herein in Section C above. See First Corinthians Chapter 2 regarding the wisdom and mind of God, which is "foolishness to man in his natural state," and Jeremiah 30:2 "Write in a book all the words I have spoken to you." The day after receiving this information into the court record, Judge Steinhardt received Mr. Wilfred into the courtroom proceedings by mocking his religious beliefs with the statement "Well Mr. Wilfred, what are your 'voices' telling you to do today?"

4. By accepting testimony of an evangelical Christian, Mr. David Campbell, who is not a Charismatic Christian and who to the contrary does not believe or accept the Charismatic mode of worship and view toward the manifestation of the Gifts of the Holy Spirit, and that such Charismatic worship is evidence of apparent identity confusions, lack of sense of accountability and a poor understanding of cause and effect in his relationship with his son.

Please let the Court take judicial notice that contrary to Mr. Campbell's views the Charismatic mode of worship and practice is generally accepted not only in separate denominations such as the Assembly of God, but also in the Roman Catholic Church, the Episcopal Church, the Presbyterian Church, the Lutheran Church and many other too numerous to mention.

By taking such partiality this Judge participated not only in the denial of Petitioner's civil rights on account of his religious opinions, but also in the preference of a particular denomination and mode of worship over another religious denomination and mode of worship. Again please note that the Transcript ordered will substantiate these circumstances set forth.

Respectfully submitted this 15th day of October, 1990.

by Harmon L. Wilfred

Harmon L. Wilfred, Petitioner, Pro Se
7611 South Emerson Street
Littleton, Colorado 80122
(303) 794-1612

Subscribed and sworn to before me by Harmon L. Wilfred this 15th
day of October, 1990:

Shirley Bellay
Notary Public

NOV - 7 1990

DISTRICT COURT, COUNTY OF ARAPAHOE, STATE OF COLORADO
Case No. 89 DR 477, Division 10

District Court
Arapahoe County Colo

MOTION FOR CONTINUANCE

In re the Marriage of:

SANDRA A. WILFRED, N/K/A SANDRA A. ALLEN

Petitioner,

and

HARMON L. WILFRED

Respondent.

Comes now Harmon L. Wilfred, Respondent, in the above referenced matter and requests a further continuance of the proceeding entitled ORDER TO ISSUE CONTEMPT CITATION currently scheduled for hearing on November 7, 1990 for the following reasons:

1. In order to properly provide verifiable information to this Court as to Respondent's financial condition, and therefore his inability to perform financially as set forth in the Permanent Orders issued in this case, Respondent has ordered an audit of all his financial records for 1988, 1989 and 1990 up to and including the current date. Said audit is taking place inside Respondent's Bankruptcy proceeding Case No. 89 B 08827 filed in United States District Court as a Chapter 11 case on June 29, 1989 and converted to Chapter 7 on February 28, 1990. This audit is being performed by a Certified Public Accountant chosen, paid for and under the supervision of the Bankruptcy Trustee Mr. Jeffrey L. Hill. Although it was anticipated this audit would be completed by the November 7th hearing date, the most current information provided by the auditor indicates the completion of the audit no sooner than January 1, 1991. Respondent's defense in this Contempt Citation and this Court's opportunity to properly and accurately adjudicate this matter is dependent upon the information to be provided by this audit in progress.

2. Respondent has not had the opportunity to adequately procure proper legal council of his choice without the availability of the above mentioned audit and a copy of the transcript currently on order with this Court's transcriber. Respondent has interviewed a number of attorney's in whom he has confidence, none

of whom are willing to provide representation with an acceptable payment plan without a comprehensive knowledge of this complex case, including the opportunity to review the transcripts and the audit.

Wherefore, respondent respectfully requests that this proceeding be continued until both the transcript currently on order and the above mentioned audit are made available to Respondent and his prospective legal council with a reasonable time for review as deemed by this Court.

Respectfully submitted to the Honorable Judge Joyce Steinhardt this 7th day of November, 1990.

Signed:



Harmon L. Wilfred, Respondent, Pro Se

7611 South Emerson Street
Littleton, Colorado 80122
(303) 794-1612

ORDER

THE COURT, having reviewed the foregoing motion and being fully advised of the premises DOETH HEREBY GRANT said MOTION FOR CONTINUANCE this _____ day of November, 1990.

BY THE COURT:

Judge Joyce Steinhardt

PERMANENT ORDERS

In re the Marriage of:

SANDRA A. WILFRED,

Petitioner,

and

HARMON L. WILFRED,

Respondent.

This matter was heard by the Court with respect to Permanent Orders on June, 5th, 6th and 7th, 1990, by the Honorable Joyce S. Steinhardt. The Petitioner, Sandra A. Wilfred, appearing in person, by and through her attorney of record, Elaine G. Edinburg of Elaine G. Edinburg, P.C., the Respondent, Harmon L. Wilfred, appearing in person, pro se. The Court, having heard the statements of counsel and testimony of the Petitioner and various witnesses, makes the following findings and Orders:

1. Decree of Dissolution: The parties were married on August 8, 1982 and separated on February 28, 1989. A Temporary Restraining Order was entered against Respondent on March 3, 1989. The Court finds that the marriage is irretrievably broken. A Decree of Dissolution of Marriage is entered. The Petitioner's maiden name is restored to her to wit: Sandra A. Allen.
2. Custody: One child was adopted by the parties to wit: Tyler Jonathan Wilfred, date of birth: December 30, 1987. The Court finds that the Petitioner has been primarily responsible for the care of the minor child and the minor child has done well with her. The Court grants Sole Custody of Tyler Jonathan Wilfred to the Petitioner.
3. Visitation: The Respondent was granted visitation with the minor child under a supervised setting. Mr. David Campbell, the supervisor of visitation chosen by Respondent who supervised most visitations, testified in great detail to his many experiences in observing the Respondent and Respondent's interactions with the minor child. Mr. Campbell expressed his serious concerns regarding Respondent's apparent identity confusions, lack of a sense of accountability, tendency to be vindictive, and his poor understanding of cause and effect in his relationship with the minor child. The Court is very concerned about the mental health of Respondent. The Court finds that from a laymen's perspective, the minor child's emotional and physical development could very well be impaired with contact with

the Respondent. Therefore, the Court denies any visitation between the minor child and the Respondent at this time. The Court will reserve ordering future visitation upon the following conditions:

- a. Respondent must undergo a complete psychiatric and mental health examination by a Psychiatrist including MMPI and other diagnostic testing; and
- b. A psychiatric evaluation of parent-child interaction to determine what if any visitation should be granted.

Only after Respondent has complied with the above requirements will the Court then review this matter to determine if there will be any future visitations, and if so, under what circumstances.

4. Restraining Order: Every witness testified that they were extremely concerned about testifying and were very fearful of the Respondent. Therefore, the Court Orders that a Permanent Injunction be entered against Respondent restraining him from contacting, harassing, maligning, molesting or disturbing the peace of any witnesses or attorneys involved in this matter including the following: David Campbell, Joann Coffey, Laura Kelker, Thomas Jones, Wayne Craven, Pat Bush, Paster Bagwell, Susan Dycus, Elaine G. Edinburg and the Petitioner, Sandra A. Wilfred.
5. Property: The Court finds that the Respondent has not cooperated at all with respect to providing discovery. The Respondent has refused to participate in this Hearing in any way including refusing to take the witness stand after being ordered to do so by the Court. A wide range of valuations were entered into evidence with respect to the marital estate ranging from \$20 million to \$800,000. The marital estate is valued at at least \$1,000,000. Therefore, the Court awards the Petitioner \$500,000 as a property settlement. The Court retains jurisdiction over this matter in the event additional property is discovered and additional orders are warranted.
6. Real Property:
 - a. The Petitioner owns a townhome located at 1748 W. 36th Avenue, Denver, Colorado, which she owned prior to the marriage. This property shall remain the sole and separate property of Petitioner and she shall hold Respondent harmless from all liability thereon.
 - b. The Respondent is living in the marital residence located at 7611 S. Emerson, Littleton, Colorado. This property is subject to the Respondent's Chapter 7 Bankruptcy Proceeding. The Court shall not make any specific order on this property at this time.
 - c. In addition, the Court finds that the Respondent owns a condominium in Vail, the vacation residence, which was owned

by him prior to the marriage. The Court awards this property to the Respondent as his sole and separate property and he shall hold Petitioner harmless from any liability thereon.

7. Personal Property: The Court finds that the parties have already divided all personal property. The property in each parties possession shall remain their sole and separate property.
8. Maintenance: After considering the provisions of §14-10-114, the Court finds that the Petitioner does lack sufficient property to support herself and is unable to support herself through appropriate employment. The Petitioner worked only part-time during the marriage which consisted of assisting Respondent in his many business adventures. Respondent earns between \$10,000 and \$20,000 per month and is certainly able to pay Maintenance to the Petitioner. This finding is directly related to Respondent's ability to pay Petitioner the property settlement award of \$500,000. The Court awards \$4,500 per month Maintenance payable from the Respondent to the Petitioner commencing June 1, 1990 and continuing each month thereafter until further Order of the Court. The Court orders these Maintenance payments retroactive to the date of Temporary Orders in July 1989. Therefore, the sum of \$3750 each month is due and owing to Petitioner for a period of 12 months which totals \$45,000.
9. Child Support: The Respondent's monthly gross income exceeds \$10,000 per month and to apply the Guidelines would not be applicable. Therefore, the Court orders the Respondent to pay Child Support to the Petitioner in the amount of \$1,000 per month, commencing June 1, 1990, and commencing each month thereafter until the minor child is emancipated or further Order of the Court. The Court specifically orders the Respondent to pay his Maintenance and Child Support obligations as first priority each month.
10. Attorney's Fees: The Respondent received \$50,000 from the Bankruptcy Court for payment of his attorney's fees. The Court orders Respondent to pay all of Petitioner's attorneys fees incurred in this matter from Elaine G. Edinburg which total over \$20,000 as additional Maintenance. In addition, the Court orders that Respondent pay Petitioner's attorneys fees incurred to defend Petitioner in the Bankruptcy proceedings by Maria Flora of Gorsuch, Kirgis. Those fees are in excess of \$5,000.
11. Costs: The Petitioner has incurred extensive expenses for the costs of Subpoenas, copies, service of process and other expenses resulting from the Respondent's unwillingness to comply with discovery requests. The Court orders Respondent to pay all costs.
12. Guardian ad Litem Fees and Witness-Fees: The Court finds that the fees incurred by Susan Dycus, Guardian ad Litem, and David Campbell are in the nature of Child Support. The Court orders Respondent responsible for payment of all of Ms. Dycuses fees totalling approximately \$2,206 as well as the fees for Mr. Campbell's testimony

which total approximately \$600.

13. Insurance: The Respondent currently covers the minor child's medical insurance and orders him to maintain in full force and effect medical insurance coverage for the benefit of the minor child. The Respondent is also ordered to maintain in full force and effect a life insurance policy with the minor child as beneficiary in the amount of at least \$100,000 death benefit with the Petitioner as Trustee.
14. All documentation obtained from Respondent's residence be turned over to the Bankruptcy Trustee, Mr. Jeffrey Hill by Petitioner and Elaine G. Edinburg.
15. Respondent's unwillingness to provide discovery, unwillingness to testify and behavior in the Courtroom has been contemptuous. The Court therefore finds the Respondent in Contempt of this Court and will hold him in the Arapahoe County jail.
16. Each party shall perform the applicable provisions of these Permanent Orders. The Court retains jurisdiction over this matter as provided by law.

DONE AND SIGNED this 27 day of June, 1990, nunc pro
tunc June 7, 1990.

BY THE COURT:

Original Signed By
Joyce S. Steinhardt

JOYCE S. STEINHARDT, District Court Judge

Prepared by:

ELAINE G. EDINBURG, P.C.

By: *Elaine G. Edinburg*
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The moving party is hereby ordered
to provide a copy of this Order to
all parties of record within five (5)
days from the date of this order.

Joyce S. Steinhardt
Judge