

DR20382383

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FILED

MAR 23 AM 11:51

CLERK OF COURT

IN THE COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
CUYAHOGA COUNTY, OHIO

ORIGINAL
COURT USE ONLY

MAR 23 2021

CUYAHOGA COUNTY
CLERK OF COURTS

ALLISON HORNER

Plaintiff

-VS-

WILLIAM HORNER

Defendant

CASE NO. DR 20 382383

JUDGE TONYA R. JONES

DEFENDANT MOTION FOR
SUBPOENA OF PROBATE ORDER
AND PLAINTIFF AFFIDAVIT

Now comes Defendant, **WILLIAM HORNER**, by Pro se representation, and respectfully requests
three subpoenas for:

- 1) the Plaintiff's copy of the Probate Order
- 2) the Westlake Police Department's copy of the Probate Order
- 3) the Plaintiff's copy of the affidavit made to obtain Issuance of the Probate Order with the
Magistrate

used to take Defendant into custody on August 20th, 2020 and involuntarily commit him to St. Vincent's
Charity Medical Center.

Your Honor, my intention is to introduce evidence proving the details contained in the Probate
Order and Plaintiff Affidavit [REDACTED] made by Plaintiff to have Defendant involuntarily
committed and painted as an unfit Father. Never having been given a copy of the Order (Exhibit A
Defendant's Affidavit), Defendant, Attorney Pro Se, contacted the Psychiatric Department of Cuyahoga

Probate Court on 3/19/2021 at 9:12am and spoke with Heather to obtain a copy of the Order as root evidence. Defendant, Attorney Pro Se was told the case had been, "expunged" and that "all records, including the Order, were destroyed as part of that process." I asked Heather to please have the Probate Court put that in writing for me to bring to Your Honor, and was told she would communicate with the Magistrate about the best way to do that and get back with me. Heather called back later that day indicating even documenting the case was expunged and records destroyed was not possible. Specifically, because "the whole purpose of expungement is to make it so the case never existed."

Defendant Attorney Pro Se then contacted the Westlake Police Department and spoke with Capt. Gerald Vogel. Capt. Vogel confirmed he has copies of both the Probate Order, and Police Log of the incident. Capt. Vogel released the Police Log to Defendant Attorney Pro Se, but indicated the Probate Order itself was marked "Confidential property of the Cuyahoga Court of Common Pleas and not to be duplicated" and that for those reasons he could not release it. Capt. Vogel stated he would forward along my request for the Probate Order to the Department's Law section. Defendant, Pro Se, respectfully requested Capt. Vogel to "preserve" the Order as evidence in an ongoing case in preparation of subpoena. (Exhibit B: Capt. Vogel Email Exchange)

It is clearly stated in the Police Log timestamped at 13:40:53 (Exhibit C: WPD Incident Log) that, the "Caller [was] on station w/ a copy of Probate Order for her soon to be ex-husband." In other words Your Honor, the Westlake Police Department **did not have positive confirmation of the Order before dispatching Units and taking Defendant into custody.** This is expounded upon in Defendant's Affidavit.

Further Your Honor, how was the Westlake Police Department responding to a "Caller on station with a Probate Order" as stated in the Police Narrative of the Log, if the Order they have on file is marked "Confidential property of the Cuyahoga Court of Common Pleas not to be duplicated" as stated by Captain Vogel? Respectfully Your Honor, exactly which Order were the Westlake Police Officers

responding to on August 20th, 2020 when the Defendant was taken into custody, the Plaintiff's statement of a copy or the Court's confidential copy?

Your Honor, speaking as a Citizen whose Freedom was taken, I put forth the Police response without an Order in hand and the Hospital's breach of doctor/patient confidentiality are deeply disturbing in the grand ideals of Civil Rights. I would reinforce this concern Your Honor by pointing out in both the Police Incident Log (Exhibit C) and Medical Intake at St. Vincent's (Exhibit E) there is documentation of my demanding my Attorney. While making these demands, at no time was I provided written notice of my rights under Ohio Revised Code 5122.05 (C) (2) and (3) as required by law. In this instance Your Honor, multiple levels of fail safes, from grand ideals to specific chapter and verse, were insufficient to protect civil liberties; ironically while the Citizen was standing in his Attorney's office. This is a testament to the seriousness of the Plaintiff's [REDACTED]

Your Honor, as a licensed real estate broker I am required by law to retain documents regarding simple real estate transactions for a minimum of three years. As Defendant, Attorney Pro Se, I find it deeply disturbing that records issued by a Magistrate relating to a case which took away 1) a Citizen's Freedom and 2) a Father's Children have been destroyed by the Probate Court after only seven months to make it so the "case never existed." I find this destruction of evidence twice as troubling when that Probate Order and the St. Vincent's involuntary commitment are the foundational pieces of evidence to the Plaintiff's argument to Your Honor that Defendant should have no access to the Children because of mental illness.

Your Honor, the Police log contains evidence of slander [REDACTED] upon telling it to the Police dispatcher as well as libel once those slanders were committed to writing as part of the case notes by that dispatcher. Those slanders/libels are specifically:

- 1) "Husband is bi-polar and not taking his medication."

2) "He has been posting inappropriate comments on social media advocating violence against police."

3) "Husband DOES have access to firearms and has made credible threats of suicide w/ them."

This is a misrepresentation on two counts, first having the firearms and second threatening suicide.

Your Honor, with respect, evidence is disappearing and being obfuscated from this Court. First with the IOLTA account, second with the outstanding life insurance policies, third with the outstanding tax refund and subsequent required amendment, and now with the destroyed Probate Order.

WHEREFORE, Defendant respectfully requests three subpoenas for the Westlake Police Department's copy and the Plaintiff's copy of the Probate Order as well as the Plaintiff's copy of the Plaintiff Affidavit filed to obtain that Order to compare timestamps, establish other evidence chain of custody metrics, and establish a timeline. [REDACTED]

[REDACTED]

[REDACTED]

Respectfully Submitted,

William E. Horner

Date: 3/22/2021

William E. Horner
2551 Indian Trail
Morristown, TN 37814
(919) 446-5985
willamehorner@gmail.com
Pro se Representative

Notary Public



Megan Nicole Blankenship Date: 03/22/2021
Megan Nicole Blankenship (Name)

CERTIFICATE OF SERVICE

A copy of the foregoing **DEFENDANT MOTION** was served upon Robert A. Marcis, Attorney for Plaintiff, via email at rmarcis@marcislaw.com on this 22nd day of March 2021.

Defendant Affidavit

I, WILLIAM EASTON HORNER, DO HEREBY MAKE THE FOLLOWING AFFIDAVIT UNDER OATH AND SWEAR THE EVENTS CONTAINED HEREIN TO BE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND RECOLECTION, ON MY HONOR AND UNDER PENALTY OF PERJURY, SO HELP ME GOD.

Your Honor, on August 20th, 2020 I reported to my divorce attorney's office early for our scheduled 3:00pm appointment. I entered the office, greeted his paralegal, Jessica, and began the intake paperwork. Shortly after, two Westlake Police Officers introduced themselves and told me they had a Probate Order and were taking me into custody. At that time, I asked the Officers to please produce the Order. The Officers indicated they did not have the Order in hand, but that they would "get me a copy."

Your Honor, I then politely reminded the Officers I was protected by the Fourth Amendment to the U.S. Constitution's Bill of Rights against unreasonable search and seizure and that as a Citizen of the United States, I was asking them to produce the Order prior to taking me into custody. I indicated there were two Officers, with two cruisers, and that I would wait peacefully with one Officer offering no resistance and making no attempt to flee while the other Officer fetched the Order. I also requested to see my Attorney, Mr. Daray, and indicated to Jessica to go get him.

The response of the Officers to these requests can be paraphrased as, "Sir he is not your Attorney yet because you have not yet met with him. Your meeting is at 3:00pm. We will get you a copy of the Order when we get to St. Vincent's, but you are coming with us right now." At that time, I indicated I was complying with their instructions but doing so under peaceful protest. I was then taken from the office having been denied the council I had requested, searched, and placed in handcuffs.

I was then seated in the back seat of a tactical police Charger, M-16 military grade assault rifle prominently displayed in the center console, with a second tactical Charger following. Both Officers wore body armor and were armed on their persons well beyond a standard "beat cop." Neither of them introduced themselves as "Specialized CIT Officers there to deescalate the situation" as is prescribed

Exhibit A

protocol (Exhibit D: Crisis Intervention Team Response General Police Order.) I felt more like I was in the back of a SWAT car. The display of power and overwhelming force was palpable.

Your Honor, I would like to take this opportunity to convey Officer's 34JC and 37JH conducted themselves with professionalism. I in no way convey this story to cause problems for these Officers. These Officers were put in an incredibly difficult position created by [REDACTED] information generated by the Plaintiff [REDACTED]. Based on the Police Log Narrative, it would be understandable if the Officers believed they were arriving on scene to a potential mass shooter. Under the circumstances, it is forgivable they were not prepared to debate the finer points of Constitutional Freedoms with a calm, rational, unarmed, business professional. With respects Your Honor, it was a difficult day for everyone. I am just thankful for not ending up as another accidental police shooting statistic. As Your Honor is aware, every time you roll personnel and machinery with adrenaline pumping in a live fire exercise there is a potential human cost.

Upon arriving at St. Vincent's, I was seen by Dr. Edward Kilbane. (Exhibit E: St. Vincent's Intake) At that time, I was allowed to view a copy of the Probate Order, but was not given a copy to keep despite asking for one. During this examination, I explained the statements in the Probate Order to Dr. Kilbane's satisfaction and "presented well". Dr. Kilbane offered me the choice to go home, which I selected. I also specifically told him not to share any of my information with the Plaintiff.

As I was preparing for discharge, Dr. Kilbane returned and stated that he had talked to Plaintiff in direct violation of my doctor/patient confidentiality and explicit instructions. He further explained that based on her statements about me "stealing my parent's guns" was rescinding my offer to leave, and I was being involuntarily committed. I told him this was patently false information and gave him my parent's direct phone number to take a weapons inventory. He did not. I also asked him why he had

Exhibit A.

violated my doctor/patient confidentiality and contacted the Plaintiff against my instructions to which he offered no answer.

It was at that time I made my patient stated reason for visit: "I'M HERE AGAINST MY WILL & WILL BE CALLING MY ATTORNEY." (Exhibit E) With respect Your Honor, under all the circumstances which had led up to that moment, this is considered by the Hospital as "DELUSIONAL AND ERRATIC BEHAVIOR" and it was on this basis I was committed. I was then held for 5 days vs. the 48 hrs. specifically empowered by a Probate Order without hearing.

Your Honor, I have been researching Probate Order practices and understand them to be an exceedingly difficult topic under the best of circumstances (Exhibit F: LRS Brief). It is my hope Your Honor will agree these were not the best of circumstances and that serious breaches of protocol occurred. With Respects Your Honor, fail safes to protect civil liberties, from grand ideas like the Fourth Amendment to local Ohio Statutes 5122.05 (C) (2) and (3) broke down.

Your Honor, my job as a data scientist and cybersecurity specialist is to document where systems and procedures fail so they can be improved upon. My intent in telling you my story is not to complain, but simply document and facilitate improvement. It is my hope Your Honor can use my story to affect change in the system so that other Husbands and Fathers do not experience what I did.

With respects Your Honor, my story was not unique on that psych ward. With humility, I submit this is an inherent weakness of the system which needs to be addressed. I am a strong believer in the Judicial creed of **"The Arch of Justice is long, but bends towards Righteousness."** It is said that Arch is bent by the sheer Will of the People's concerted effort. Please consider this Affidavit my contribution toward that effort Your Honor.

Exhibit A

Respectfully Submitted,

William E. Horner

Date: 3/22/2021

William E. Horner, Affiant
2551 Indian Trail
Morristown, TN 37814
(919) 446-5985
willamehorner@gmail.com



Notary Public

Megan Nicole Blankenship Date: 03/22/2021
Megan Nicole Blankenship (Name)

Exhibit A

3/19/2021

Gmail - Public records request - Westlake PD



Easton Horner <willamehorner@gmail.com>

Public records request - Westlake PD

2 messages

Gerald Vogel <GVogel@westlakepolice.us>
To: "willamehorner@gmail.com" <willamehorner@gmail.com>

Fri, Mar 19, 2021 at 10:10 AM

Hello Mr. Horner,

Attached please find the response to your verbal public records request on 3/19/21. I understand that you requested a copy of the probate order for call 2019224 as well as the public log entry. As we discussed I am providing the public log entry immediately. While WPD is in possession of a copy of the probate order I will send this document to the City of Westlake Law Department for assessment on the legalities of distributing it.

Note that personal cell phone numbers are redacted from the log entry as they are not considered public record.

Have a good day,

Capt. Gerald Vogel
Westlake Police Department
27300 Hilliard Blvd
Westlake, OH 44145
p-440-871-3311
desk 440-617-4475
f-440-835-6444
GVogel@westlakepolice.us

 horner log.pdf
51K

Easton Horner <willamehorner@gmail.com>
To: Gerald Vogel <GVogel@westlakepolice.us>

Fri, Mar 19, 2021 at 11:25 AM

Capt. Vogel,

Thank you for sending along the log and probate order request for the Probate Order. Also, thank you for forwarding

Exhibit B

3/19/2021

Gmail - Public records request - Westlake PD

destroyed. As far as I know, your Department has the only copy of the order. This is a formal Attorney Pro Se request to please preserve evidence in an ongoing court case, DR20 382383.

I will be motioning Judge Jones for a subpoena to release the record as evidence to facilitate the process and provide clearance for your department. I appreciate your attention in this matter and your help Sir. Have a great weekend.

Respectfully,
William E. Horner, Attorney Pro Se
[Quoted text hidden]

Exhibit B

CALL FOR SERVICE REPORT

2019224



Date: 08/20/2020 Time: 13:40:53 Mrc: 1 Dispatchers: DJMK LBMP

Location: 905 CANTERBURY RD E City: WESTLAKE Zone: NE Grid: WL Agency: WL

Call Type: PROBATE Incident#: Accident#: EMS #: Fire #

Reviewed By: Disposition: ASSIST

Caller:

Common Name:

Caller: ALLISON HORNER

Caller Address:

Units / Times

Unit:	Dispatch : Route:	Arrive:	Cleared:	Patient:	Leave:	Hospital:	In Service:	Quarters:	Badge1	Badge2:	Agen
34JC	14:27:46	14:33:12	15:18:18						034		WL
37JH	14:27:45	14:33:14	15:18:20						037		WL
S7GU	14:30:47		14:38:00						SGDU		WL

Narrative

Caller on station w/ a copy of Probate Order for her soon to be ex-husband, William Horner/09-13-1986 who is staying at the Radisson Hotel (In NO). Husband is bi-polar and not taking his medication. He has been posting inappropriate comments on social media advocating violence against police. Husband DOES have access to firearms and has made credible threats of suicide w/ them. Husband will be at his attorney's office around 1500hrs today for an appointment. Wanted WPD to be aware. Husband drives a white Hyundai Veloster, HKF8184. Probate order scanned to this entry. Subject to be transported to St Vincent's if located. #34JC/37JH to sit in area. 1434hrs 34/37 out w/ subject in the parking lot. 1438hrs subject is being cooperative. Will be advising his attorney. 1442hrs subject in custody. 37 to transport, 34 to follow. 1449hrs Allison Horner advised by lbmp. 1517hrs 37/34 10/8, subject TOT hospital staff.

Exhibit C

***** PATIENT VISIT REPORT *****

Name: HORNER, WILLIAM
MRN: 3648
Adm/Ser Date: 08/20/20

Birth Date: [REDACTED]
Account No: [REDACTED]
Discharge Date:

Location: G.4B
Room/Bed: G.453-02
Facility: ST. VINCENT CHARITY MED CTR

[***** VISIT DETAILS *****]

Reason for Visit: BIPOLAR DD, MIXED EPISODE WITH PSYCHOTIC FEATURES

Allergies/Adverse Drug Reactions: SULFA (SULFONAMIDE ANTIBIOTICS)

Discharge Disposition: HOME, SELF CARE

Medical Problems

Medical clearance for psychiatric admission
Bipolar affective, mixed
Cannabis abuse

Care Team Members

Family Physician Unavailable, PRIMARY CARE PHYSICIAN, UNKNOWN
Edward Kilbane, MD, ADMITTING, PSYCHIATRY, 216-844-2400
Edward Kilbane, MD, ATTENDING, PSYCHIATRY, 216-844-2400
Edward Kilbane, MD, EMERGENCY, PSYCHIATRY, 216-844-2400
Family Physician Unavailable, FAMILY, UNKNOWN

[***** HOME MEDICATIONS *****]

CONTINUE These Medications:

Sertraline HCl * (Zoloft
*) 100 MG TABLET

Dose:
150 MILLIGRAM

ORAL, EVERY DAY

Renewed
Printed

Exhibit E

***** PATIENT VISIT REPORT *****
Name: HORNER, WILLIAM Birth Date: [REDACTED] Location: G.4B
MRN: [REDACTED] 3648 Account No: [REDACTED] 9660 Room/Bed: G.453-02
Adm/Ser Date: 08/20/20 Discharge Date: Facility: ST. VINCENT CHARITY MED CTR

some of your identified coping skills,
such as talking to someone. Also, please
reach out to your family, friends, or
your providers at Cleveland Clinic
(216.636.5860).

*If you are experiencing an emergency
and are in need of immediate attention,
please call 911 or Mobile Crisis at
216.623.6888.

D/C plan to be sent to the next
provider: Yes — Name: Cleveland Clinic
Adult Psychiatry Main Campus — Fax:
216.445.9733

Visit Consults:

Consulted Physician: Alagarsamy, Jayanthi MD

Discharge Vital Signs & Instructions:

Pt Stated Reason For Visit: "I'M HERE AGAINST MY WILL & I WILL BE CALLING MY ATTORNEY".

Brief Summary: DELUSIONAL AND ERRATIC BEHAVIOR

== CD NURSING ADMISSION ASSESSMENT ==

***Call your Doctor if YOU:

Can't sleep: Y

Not hungry/not eating: Y

Want to hurt self: Y

Want to hurt others: Y

Page: 4

Printed: 08/25/20 1220 GNUMXBB

Packet Last Printed: 08/25/20 1219

Exhibit E