

EDWARD DALE PARRISH, P. C.

ATTORNEYS AND COUNSELORS AT LAW

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EDWARD DALE PARRISH  
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March 7, 2000

Robert B. Harward, Esq.  
Deputy District Attorney  
El Paso County District Attorney's Office  
105 East Vermijo, Suite 500  
Colorado Springs, CO 80903-2002

*Via facsimile also to: 719/520-6185*

*Re: People v. Harmon Wilfred*  
El Paso County District Court  
Case No. 98 CR 215

Dear Bob:

I have enclosed the final version of my first status report to the court in the *Marriage of Wilfred*. This letter will confirm that Mrs. Gladys Garcia appeared at your office Monday, February 14, 2000 apparently unscheduled, at the conclusion of the Janet Reinhard interview. Mrs. Garcia was met in the reception area of the District Attorney's office by you and me.

After introducing yourself, you asked Mrs. Garcia several times if she recognized me, which she did not. I think you will confirm, among other things, that Mrs. Garcia asked "Is there more than one Dale Parrish?"

In any event, it may become necessary to establish your personal observations concerning Mrs. Garcia's inability to recognize me. When confronted with the fact that I did not recognize her, Mrs. Garcia indicated that she had "gained a lot of weight" and when you pressed her for details regarding where she met me, she produced a telephone directory and indicated my telephone number was 425-6565. I responded that I have never had that telephone number (personally or professionally).

You did record the interview of Janet Reinhard and I hereby request a duplicate of that cassette recording, which I intend to transcribe. If you have your copy transcribed, please provide a copy of the transcript (certified or otherwise) to our office.

We spent an interesting morning in your office. Janet Reinhard gave specific descriptions of the children and their mother which corroborated other accounts, including your own, of the Wilfred children when they visited the District Attorney's

Robert B. Harward, Esq.  
March 7, 2000  
Page 2

office. I think you will agree that Mrs. Garcia described the children much differently. Her descriptions are also contradicted by Jenene Kelly. During our discussions, I pointed out that we believe there is an indisputable defense under subparagraph (3) of § 18-3-304, concerning reasonable belief of danger to the welfare of the children, and subparagraph (2) of the statute because the Defendant doesn't hire an attorney to handle recovery of his children if he has an intent to deprive them from their lawful custodian.

In response, you have pointed out that you are now focusing on the time period following the custody order which entered on October 17, 1997. I have shared with you that attorney Wheelock suffered from a disability during this period of time and you have indicated an interest in speaking with Mr. Wheelock. The Defendant will not waive the attorney-client privilege and does not need to do so in order to establish several viable defenses.

I once again urge you to review the substance of Janet Reinhard's interview by cassette recording with Jeanne Smith (and Mr. Gilbert if necessary) in furtherance of a joint motion to dismiss these criminal charges. We have discussed a personal recognizance bond or other bail arrangement which would allow Wilfred to waive extradition and appear in El Paso County District Court on a prearranged date and time with me for advisement and scheduling of preliminary hearing. You have agreed to allow Mr. Wilfred to continue living in Canada while he defends these criminal charges. I propose a personal recognizance, cash, property or surety bond in the amount of \$10,000. Based upon our investigation, there is no reason Mr. Wilfred should do anything other than vigorously defend these charges if you are not willing to dismiss same. I look forward to hearing from you. Thank you.

Sincerely,  
EDWARD DALE PARRISH, P. C.

  
Dale Parrish

EDP/jda

Enclosures

cc: Lance Sears, Esq.  
Harmon Wilfred

harward.030600

DISTRICT COURT, EL PASO COUNTY, STATE OF COLORADO  
Case No. 97 DR 3393, Div. 2

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STATUS REPORT

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In re: the Marriage of:

HARMON LYNN WILFRED,

Petitioner,

and

DEARNA GARCIA WILFRED,

Respondent.

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STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

COMES NOW, Dale Parrish, who upon oath, deposes and states:

1. I am counsel for Petitioner Harmon Wilfred in the above captioned case and represent him in El Paso criminal case no. 98 CR 0215. I submit this status report to the court pursuant to the court's status conference order dated December 10, 1999.

2. I have been working with Deputy District Attorney Robert Harward of the 4<sup>th</sup> Judicial District of Colorado. We have (more) carefully examined certain facts pertaining to October 10-17, 1997 and the period of time immediately following, as these facts relate to the charges of violation of a custody order and criminal extortion against the Petitioner Harmon Wilfred.

3. The Petitioner was criminally charged with violation of a custody order which entered on October 17, 1997 at an emergency hearing in this case, as reported by the Respondent and her attorneys to the Colorado Springs Police Department on October 23, 1997<sup>1</sup>. The underlying facts are set forth in Petitioner's 11/15/99 Affidavit attached to his November 18, 1999 motion to quash warrant in this case. A second charge of criminal extortion was added against Petitioner and filed against Philip

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<sup>1</sup> The October 17, 1997 emergency hearing in this case took place on Friday and police reports were made Thursday of the following week. Attorneys John Ciccolella and Jeffrey Weston gave two separate statements to policemen Godsey and Patterson, C.S.P.D. on October 23, 1997.

Freytag as a result of a letter Freytag delivered to Respondent on November 22, 1997. The efforts of the Petitioner, his then attorney Seymour E. Wheelock III (Wheelock) and Mr. Freytag to address issues surrounding the (welfare of) Wilfred's children appear to constitute the (entire alleged) factual basis for the criminal charges. Copies of the Wheelock and Freytag letters are attached to this report.

4. The criminal charge against Mr. Freytag was dismissed on June 18, 1998 and an order sealing criminal justice records entered June 1, 1999. Mr. Freytag was represented by attorney William Aspinwall, a copy of his June 21, 1999 correspondence to the undersigned is attached to this report.

5. The District Attorney's office has interviewed several witnesses and I have provided information to Mr. Harward based upon subparagraph (3) of §18-3-304, C.R.S. Based upon my investigation, a civil or criminal fact-finder will have ample information on which to conclude that the Wilfred children had suffered mistreatment and neglect while in the care of Respondent Darna Garcia Wilfred.

6. On January 28, 2000, Jenene Kelley, the former spouse of Wheelock and a childcare expert (MSW) appeared in the offices of Deputy District Attorney Robert Harward (Harward) to be interviewed. On February 14, 2000, Janet Reinhard, the Wilfred's former "nanny" who looked after the minor children appeared in Harward's offices for the same purpose. These interviews covered facts which establish the Respondent's neglect and lack of parenting skills or interest in parenting which created a tangible risk to the children. Ms. Reinhard's interview was recorded (audio) by Harward.

7. Ms. Kelley, a mandatory reporter under § 19-3-304(m), C.R.S. first met the children in Scottsdale, Arizona at the time Petitioner recovered them from Respondent's physical custody. Ms. Kelley's description of the children, of their statements and behavior<sup>2</sup>, substantiates the basis of concern for the children's welfare. A copy of her February 18, 1998 written statement is attached. When Attorney Wheelock and Ms. Kelley returned to Colorado from Arizona, Ms. Kelley made a report of child abuse to El Paso child protection authorities regarding the Wilfred children.

8. It appears that the event(s) which precipitated Petitioner's filing for divorce and out-of-state recovery of the children involved the firing of nanny Janet Reinhard by the Respondent. Based upon all available accounts, Ms. Reinhard's role was to care for and protect the minor children while they were in Respondent's "care" (i.e. while Petitioner was away from the family on business).

9. Ms. Reinhard confirmed her discharge by, and concerns about the Respondent on February 14, 2000 in Mr. Harward's office.

10. Filing of the divorce petition and recovery of the minor children was undertaken by Petitioner through Attorney Wheelock which raises the issue of said counsel's role in these

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<sup>2</sup> Certified in hand written notes dated January 24, 2000.

events. My investigation indicates that Wheelock suffered from a temporary physical disability during this time period. To date, he has not resumed the full time practice of law.

11. After being served in Arizona, the Respondent retained counsel<sup>3</sup> who filed a request for emergency hearing on October 15, 1997. District Judge Kane held a status conference on October 16, 1997 and ordered the Petitioner to appear at emergency hearing on October 17, 1997<sup>4</sup>. On that same day (October 16) the Petitioner, the children and his current wife were en route to Canada where they have lived (Stratford, Ontario) since that time. Wheelock was unable to communicate with Petitioner between the time of announcement of Judge Kane's order and commencement of the emergency hearing the following day, October 17, 1997.

12. The facts surrounding the Petitioner's failure to appear at the October 17, 1997 emergency hearing and attorney Wheelock's statements on the record (and statements in subsequent proceedings)<sup>5</sup> are disputed. Wheelock was not able to communicate with his client after Judge Kane's October 16, 1997 status conference order and was unable, perhaps afraid, to advise the court of this fact when confronted by the court at the beginning of the hearing on October 17, 1997 regarding Petitioner's whereabouts.<sup>6</sup>

13. The custody order subject of subparagraph (2) §18-3-304, C.R.S. in the criminal information was entered on October 17, 1997 as a temporary custody order pending Respondent's appearance before the court. Attorney Wheelock was bedridden for six weeks following the order and Philip Freytag a friend of the parties attempted to mediate.

14. Freytag communicated with Respondent Dearnna Garcia Wilfred in late November due to Wheelock's disability. Freytag hand-delivered and mailed the same letter to the Respondent, however no settlement was reached. I have interviewed Wheelock more than once and he has released his entire file to me. The contents of his file and the court file are consistent with the witness statements. Wheelock reportedly filed the dissolution action because of the (Wilfred) children's deteriorating home and emotional conditions; Wilfred sought his advice as to how to remove the minor children from the Respondent's custody in a way "that was emotionally safest for the children and, within context, most honest with Mrs. Wilfred".

15. The District Attorney has offered Defendant a deferred judgement to a class 5 felony violation of custody order. The Defendant has asked for dismissal of the criminal charges or a personal recognizance bond to appear and defend the charges. The District Attorney has asked Defendant's permission to interview Attorney Wheelock.

<sup>3</sup> Messrs. Ciccolella and Weston.

<sup>4</sup> Wheelock had filed a response to the motion for emergency hearing stating (¶4) that Petitioner would appear at such hearing by telephone.

<sup>5</sup> Disciplinary proceedings.

<sup>6</sup> The transcript reveals that Wheelock never states that he has directly communicated with his client concerning appearance at the October 17 hearing, however he asks permission to go outside and look for the Petitioner in the hallway. In any event, the hearing does not take place and the court does not listen to witnesses who are present i.e. Reinhard, Kelley (or any witnesses from the Respondent rebutting such fact(s)).

16. This, in effect, seeks waiver of the attorney-client privilege by the Petitioner. In our opinion, waiver is not necessary to establish the role and advice of counsel, *People v. Tippett*, 733 P. 2d, 1183 (1987) or said counsel's (temporary) disability, C.R.E. 803(4).

17 The Respondent has reportedly lived out of the State of Colorado with the minor children for less than six months therefore Colorado remains, for a time, the appropriate forum under the UCCJA, § 14-13-101, C.R.S. The Petitioner has located several potential special advocates for the minor children however the Petitioner has no way of communicating with, or contacting the Respondent (or his children). The Respondent's former attorneys gave an address in Littleton, Colorado (her parents') as Respondent's last known address in their withdrawal pleadings and have refused, despite requests, to divulge Respondent's telephone number to counsel.

18. The undersigned has argued that this court has full power and authority to address the Petitioner's removal of the children from Respondent's physical custody on October 10, 1997 and from the country on October 16, 1997-that these facts can be properly addressed in domestic civil rather than criminal proceedings, and that the remedial and punitive sanctions available to this court under rule 107, C.R.C.P. are sufficient to sanction the Petitioner.

19. Pending before this court is Petitioner's Motion To Quash Warrant which should be granted in order to facilitate his appearance in El Paso County District Court.

20. A contempt citation has issued against the Respondent however her whereabouts (and the children's) are currently unknown to the Petitioner and the Court, which prevents the required personal service.

I, Dale Parrish, declare under penalty of perjury that I have read this affidavit and the statements contained in it are true and correct.

Dale Parrish 3-6-00  
Dale Parrish Date

Subscribed and sworn to before me this 6<sup>th</sup> day of March, 2000, by Dale Parrish.

Witness my hand and seal.

My commission expires:



[Signature]  
Notary Public

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that on this 6<sup>th</sup> day of March, 2000, a true and correct copy of the foregoing AFFIDAVIT OF DALE PARRISH was served upon the parties by placing said copies in the United States first class mail, postage prepaid, via facsimile transmission or hand delivery as indicated, addressed as follows:

Clerk of the District Court  
Fourth Judicial District  
20 East Vermijo  
Colorado Springs, CO 80903

Dearna Garcia Wilfred, *Pro Se*  
7260 S. Washington Way  
Littleton, CO 80122

Robert B. Harward, Esq.  
Deputy District Attorney  
El Paso County District Attorney's Office  
105 East Vermijo, Suite 500  
Colorado Springs, CO 80903-2002

Harmon Wilfred  
356 Ontario Street, Suite 344  
Stratford, ONT Canada  
N5A 7X6

Alan D. Gold, Esq.  
Gold & Fuerst  
20 Adelaide Street East, Suite 210  
Toronto, Ontario  
CANADA M5C 2T6  
*Via facsimile also to: 416/368-6811*

Lance Sears, Esq.  
Sears & Swanson, P.C.  
2 North Cascade Avenue, Suite 1250  
Colorado Springs, CO 80903

[Signature]

Caption

---

**SEYMOUR E. WHEELOCK**

---

Attorney at Law  
411 South Cascade Avenue, 1st Floor  
(719) 643-8860- FAX 475-1177

October 10, 1997

Mrs. Deanna Wilfred  
1217 Hollandpark Blvd.  
Colorado Springs, CO 80907

Dear Mrs. Wilfred:

As you have now been served with divorce papers, you should also know that I have advised Harmon to remove the children from your custody. The children will remain with him. He will not be returning to the hotel.

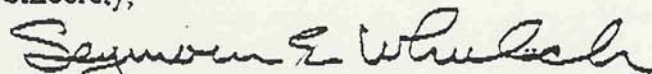
When you and I last met in my office you agreed to therapy. You also agreed to keep and maintain Janet Reinhard as the children's nanny until such time as there was no further concern that your interaction with them would be harmful. That was the status and expectation under which Harmon departed for his extended business trip. You have broken both agreements while Harmon has been gone. You are not and have not been in therapy as agreed. You fired Janet. The children have been alone with you, to my knowledge, most of the time. My investigation into the children's welfare, as well as Harmon's reports about his conversations with them, has caused the removal of the children from you.

With your and your parents' cooperation in bringing this divorce to closure in the soonest and calmest manner, with Harmon retaining full legal and physical custody of the children, it is Harmon's sincere intent to create a generous trust on your behalf, with your father as trust advisor, in order to satisfy your and your parents' financial needs.

You are free to contest your children's custody in the divorce action. However, if that happens, I will bring to Court all evidence and testimony necessary to prove that your interaction with the children has been detrimental to their emotional and mental well-being. In that event, I will advise Harmon to revoke his offer to create the trust. There will also be, as required by Colorado Statute, a demand made for child support from you until the children reach the age of nineteen.

Please have your legal counsel contact me in order to finalize the settlement of this divorce action.

Sincerely,



Seymour E. Wheelock

cc: Harmon Wilfred



November 22, 1997

Dear Dearna,

I have decided to put into writing what I believe to be a solution to the differences between you and Harmon, and to solve the existing problem with the current court orders and existing bench warrants against him. As you know, his reason for not appearing in the first place was the arrest order from Arapahoe County.

Here is what I have discussed with Harmon:

1. In order to begin these negotiations in good faith, you must instruct your attorney immediately to cease all activity except that which conforms to our efforts of settlement. This includes the release of the current bench warrant. You mentioned in our last conversation that you also would be willing to intercede on Harmon's behalf with Sandra in order to get the bench warrant released from Arapahoe County. Understanding that you do not control the final outcome of that effort, you must agree to immediately proceed to accomplish that end to the best of your ability. Releasing both warrants is essential for me to provide contact between you and your children.
2. An agreement for equal custody of the children.
3. Harmon is willing to provide a financial settlement in the amount of one-half of the net proceeds to him of the Mitsubishi Transaction, but in no case, not less than \$550,000 in cash. You would have to pay your attorney fees out of this amount. The agreement would be added to the distribution list of investors to be paid from the Mitsubishi Transaction. The distribution of these funds has been turned over by Arcore to a Distribution Committee, of which Harmon is not a part, in order to provide confidence to the investors that there will be no conflict of interest. Harmon has already signed the distributions over to the Committee. As this approach was my idea, I am a member of the Committee and as such will protect your interests.
4. In your thoughts to respond to an approach by Sandra, you also offered to intercede in achieving a settlement with her. The following is Harmon's suggested agreement with Sandra:
  - a. Visitation with Tyler.
  - b. A financial settlement equal to the amount now due under the commitment to the court upon which the bench warrant is based (a little over \$500,000). Again, with attorney fees to be paid by her from her settlement.

5. Your attorney has stated to me that his is interested only in retrieving your children and in being paid his fees. The fee amounts are probably accumulating at an astronomical rate, which would encourage you as his client to settle this matter as quickly and expediently as possible. Your attorney's efforts could actually severely damage your opportunity of settlement by interfering with the Mitsubishi Transaction to the extent of eliminating any payment to Harmon. I believe that you would much rather instruct your attorney to cease such disruptive efforts while we attempt to provide a future for you and your family. I am inclined to believe that Sandra is a fair and equitable person. . . . I know that you are, and I believe that both of you are confident that Harmon is capable of eventually fulfilling his promises. I can speak for him with more than four years of direct observation that he is very competent as a businessman and as a father. I would like to see all involved win in this situation and everyone's family relationships maintained and/or restored.

Please give strong consideration to agreeing to this proposed solution. I will assist in providing a quick and thorough stipulated settlement to end this lawsuit and to stop the financial bleeding for everyone. I also propose a reunion of the family as soon as possible.

Sincerely,

*Phil*

*If this is ok, sign this copy and return  
to me.*

**William A. Aspinwall**  
Attorney at Law

RECEIVED JUN 22 1999

219 E. Vermijo  
Colorado Springs, CO 80903

Office 719-635-8115  
Fax 719-635-1248

June 21, 1999

Dale Parrish  
511 16<sup>th</sup> Street, Suite 600  
Denver, CO 80202-4231

Re: People v. Philip C. Freytag, 98 CR 2462

Dear Mr. Parrish:

Please be advised that the case of the People of The State of Colorado v. Philip C. Freytag, 98 CR 2462, Division, District Court, El Paso County, Colorado, was dismissed on June 18, 1998 by the District Court at the request of the District Attorney. Based on the dismissal and Mr. Freytag's lack of a criminal record, I filed a Verified Petition to Seal Arrest and Criminal Records Pursuant to Section 24-72-308, C.R.S., as amended. C.R.S., as amended, 24-72-308 permits the sealing of any arrest and criminal records information pertaining to a person in interest who was not charged or whose case was completely dismissed or in any case, in which a person in interest was acquitted.

The sealing affects all records except basic identification information. The Court is not required to seal records when a case is dismissed, but is required to conduct a hearing and make a finding as to whether or not the harm to the privacy of the Petitioner or dangers of unwarranted adverse consequences to the Petitioner outweigh the public interest in retaining the records. If the Court so finds, the Court may order such records to be sealed except for basic identification information. The Court in this case did enter an Order sealing the records of The People of the State of Colorado v. Philip C. Freytag, 98 CR 2462, and records of Colorado Springs Police Department, Case No. 97-36997. The records ordered to be sealed are all criminal justice records and information relating to the two above cases that are in the custody and control of the District and County Courts of the Fourth Judicial District, the District Attorney for the Fourth Judicial District, the Colorado Bureau of Investigation, the Fremont County Sheriff's Office, the Colorado Springs Police Department, and the Canon City Police Department. The Court also granted the motion to seal the civil case upon which the petition was granted.

Upon the entry of an order seal the records, the Petitioner and all justice agencies may properly reply, upon any inquiry into the matter, that no such record exists with respect to that person. Inspection of the records is only permitted by the Court and only upon petition of the person who is the subject of such records or by the prosecuting attorney and only for the purposes named in such petition. No employer, educational institution, state and local government agency, official, and employees shall require an applicant to disclose any information contained in sealed records. This section does not apply to arrest and criminal justice information or criminal justice records in the possession and custody of a criminal justice agency when inquiry concerning the arrest and criminal justice information or criminal justice records is made by another criminal justice agency. Any person who violates the statute is guilty of a misdemeanor and upon conviction, shall be punished by a fine of not more than \$100.00 or by imprisonment in the county jail for not more than 90 days or both such fine and imprisonment.

It has been my experience that once an order to seal has been entered, all records of the District Court will be placed in an envelope and sealed. The records of the District Attorney will be placed in an envelope and sealed. If there is a co-defendant, the name of the Petitioner will be blacked-out of the police reports in the co-defendant's file. The same will hold true with the Colorado Springs Police Department. I can not speak to the Fremont County Sheriff's Department nor the Canon City Police Department's policy regarding these issues. In any case, any investigative report, witness statement, computer entry, audio tape, or associated material regarding said information, and any disposition of records or Court schedules must be permanently sealed as the identification information of the Petitioner. All criminal justice agencies may properly relay, upon inquiry into the matter, that no such record exists in respect to the Petitioner.

I have also enclosed a copy of the tendered order the Judge granted. The judge will be forwarding a verified copy to me through self-addressed stamped envelope. When I receive that, I will forward a copy of signed order to you as well.

As to the specific offenses charged against Mr. Freytag, namely criminal extortion and conspiracy to commit criminal extortion, all parties, the police, and Mr. Freytag can honestly say that no such record exists with respect to the Petitioner. It is therefore virtually impossible to show or allege that Philip C. Freytag did anything to extort anything from anyone regarding this case, much less conspire with anyone to commit extortion or that anyone conspired with him to commit extortion. The police officers could not testify to anything that Mr. Freytag did that would aid another party in any extortion. For these reasons, only the actions of Harmon Wilfred and not the actions of Philip C. Freytag could be used in the prosecution of the related charges faced by Mr. Wilfred. Therefore, it is my opinion that Mr. Freytag may properly respond that no police interview exists that ties him to Harmon Wilfred regarding these instances. A District Attorney would have a difficult time examining Mr. Freytag regarding these occurrences and impeaching him with any prior police reports.

These circumstances would seem to indicate that naming Philip C. Freytag as a co-conspirator with Harmon Wilfred in the extortion case is highly unlikely. Of course, the District Attorney could charge the conspiracy with persons unknown to the District Attorney.

My opinion, as a prosecutor, is these facts make it very difficult to establish the conspiracy plus it makes it difficult to establish any extortion since, in my reading of the police reports, it is based solely on the actions of Mr. Freytag which are presumed to be directed by Mr. Wilfred.

I can not speak to the violation of custody charges.

If you need any other information, please feel free to contact me.

Sincerely,



William A. Aspinwall

Enc  
WAA/sms

DISTRICT COURT, EL PASO COUNTY, COLORADO  
Case No. 98CR2462 Division 9

PEOPLE'S MOTION TO DISMISS (Nolle Prosequi) and COURT ORDER

THE PEOPLE OF THE STATE OF COLORADO, Plaintiff,

v.

PHILIP FREYTAG, Defendant.

The District Attorney, pursuant to Crim. P. 48(a), moves to dismiss Count(s) 1 and 2 against Defendant Philip Freytag.

- Present evidence is insufficient and/or a critical witness is not available.
- Such dismissal is part of a plea agreement approved by the Court.
- The complaining witness no longer wishes to prosecute.
- This case will be prosecuted in another court.
- The court-ordered period of deferred prosecution or sentencing has expired.
- Due to passage of time and the Defendant's continued absence, prosecution of this case

is no longer likely to succeed.

- Defendant has waived extradition or has returned to the demanding state.
- The demanding state no longer wishes to extradite.

9-1-98  
Date

JEANNE M. SMITH, #11053,  
DISTRICT ATTORNEY

*Robert B. Harward, 6857*

By: ~~Edward J. Cord, #25998~~ *Robert B. Harward, 6857*  
Deputy District Attorney

State of Colorado, County of El Paso  
Certified to be a true, and correct  
copy of the original in my custody.

SEP-10-1998  
 EL PASO COUNTY  
 LEE V. COLE, JR.  
 CLERK OF THE DISTRICT/COUNTY COURT  
 By: *[Signature]* Deputy  
 I hereby certify that I mailed a copy of  
 this to opposing Counsel of  
 this 1 day of *[Date]*  
 19 *[Date]*  
*[Signature]*

EC

DISTRICT COURT, EL PASO COUNTY, COLORADO  
Case No. 98CR2462 Division 9

COURT ORDER

THE PEOPLE OF THE STATE OF COLORADO, Plaintiff,

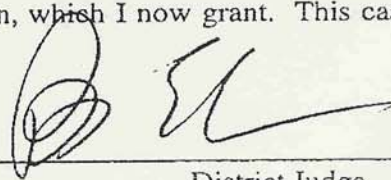
v.

PHILIP FREYTAG, Defendant.

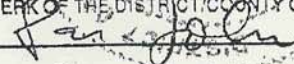
I approve the grounds stated in this motion, which I now grant. This case is dismissed to the extent specified in the motion.

9-1-98

Date



District Judge

State of Colorado, County of El Paso  
Certified to be a true, and correct  
copy of the original in my custody.  
SEP 16 1998  
LEE V. COLE, JR.  
CLERK OF THE DISTRICT/COUNTY COURT  
By  Deputy

FC

## AFFIDAVIT

2/18/98

The Affiant, Jenene Kelley, being duly sworn upon oath, states as follows.

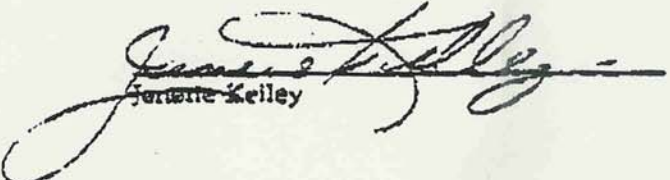
During the month of September, 1997, my husband Seymour Wheelock was asked by Harmon Wilfred for legal assistance. Seymour was asked to make a business trip to Phoenix, AZ to which I accompanied him. I am a Social Worker working for a private agency. I was not present in an official capacity. During the time that we were in Phoenix after Harmon obtained his children I heard and witnessed the following behavior from the Wilfred children.

I observed that the children were very happy to see their father. I heard Danielle ask her father if she had to go back to her mother. During the course of our visit, Danielle stated to me that her mother was mean to her. When I asked her in what way, she stated that her mother yelled and screamed a lot and sometimes would hit her. While combing her hair she stated that her mother would pull her hair. Danielle was starved for attention and affection.

I further heard Isaac state that his mother was going to rub his face in his dirty diaper. Isaac showed fear of going to the bathroom. He had problems with his toilet training. I observed upon Isaac's arrival that he had an uncontrollable nervous laughter. I observed a child who did a lot of hitting. I asked Isaac why he hit people, he stated because his mom hits people. I asked him if she had hit him and he said, "sometimes." He further stated to me that she screams a lot at him.

I also observed that over the course of three days, the children were quite comfortable around their father. I observed Harmon Wilfred participating with his children, laughing, playing and loving them. Danielle and Isaac were delighted with this interaction by their father.

Further Affiant sayeth naught.

  
Jenene Kelley