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2016 MAY 23 PM 5:03

7
8 *Attorneys for Appellees*

9 **IN THE SUPERIOR COURT**

10 **IN AND FOR THE COUNTY OF PIMA**

11 PATRICK FOX a.k.a. RICHARD RIESS, Case No.: DV2016-0948

13
14 Appellant

15 v.

16 DESIREE CAPUANO,

18 Appellee.

17
19 **APPELLEE DESIREE CAPUANO'S REPLY TO
APPELLANT'S RESPONSE TO APPELLEE'S
OBJECTION TO RECORDED COVERAGE OF
HEARINGS**

20
21 Judge Deborah Bernini

22 Pursuant to Rule of the Supreme Court 122, Appellee Desiree Capuano asks this Court to
23 prevent Appellant from receiving a recording of the Court's scheduled hearing in this matter
24 and, instead limit Appellant to receipt of a transcript. In the alternative, if the Court grants
25 Appellant access to a recording, Ms. Capuano asks this Court to order Appellant not to post the
26 recording online in violation of A.R.S. §§ 13-3601 and 13-2921.

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MEMORANDUM OF POINTS AND AUTHORITIES

Although Appellant correctly states that he did not need permission to record proceedings in Sahuarita Municipal Court (he received a copy of the recorded proceedings with the court's approval), Appellant should nonetheless be prevented from using recordings of this Court's scheduled hearing to harass and intimidate Ms. Capuano. Given Appellant's history of using recordings of court proceedings to harass Ms. Capuano, the Appellant should be limited to receiving a transcript of the proceedings, rather than the For the Record (FTR) recording that may be available. If the Court is inclined to grant Appellant access to a FTR recording, however, Ms. Capuano asks this Court to order Appellant not to use the recording to further harass Ms. Capuano in violation of A.R.S. §§ 13-3601 and 13-2921.

A judge may deny coverage of any proceeding after making specific, on-the-record findings that there is a likelihood of harm arising from a list of factors, including: the impact of coverage upon the right of privacy of any party, victim, or witness; the impact of coverage upon the safety and well-being of any party, victim, witness, or juror; and any other factor affecting the administration of justice. Rule of the Supreme Court 122(d)(1).

A person commits domestic violence if he was previously married to the victim or has a child in common with the victim and then harasses the victim. A.R.S. §§ 13-3601(A), 13-2921. A person commits harassment if he: (1) with intent to harass or with knowledge that he is harassing the other person; (2) anonymously or otherwise contacts, communicates or causes a communication with the another person by verbal, electronic, mechanical, telegraphic, telephonic or written means in a manner that harasses; (3) the conduct is directed at a specific

1 person and would cause a reasonable person to be seriously alarmed, annoyed or harassed; and
2 (4) and the conduct in fact seriously alarms, annoys or harasses the person. A.R.S. § 13-2921.
3

4 Section 13-2921, A.R.S. does not implicate the First Amendment, because it is based on
5 the manner in which a certain communication is conveyed, as well as the underlying purpose for
6 the communication. *State v. Brown*, 207 Ariz. 231, 235, ¶ 10, 85 P.3d 109, 113. The statute
7 “only criminalizes communications made with a specific, deliberate purpose.” *Id.* The statute
8 “does not apply to pure First Amendment speech and instead regulates, at most, a blend of
9 speech and conduct.” *Id.*

10
11 As Ms. Capuano stated in her Objection to Recorded Coverage of Hearings (filed in
12 Superior Court April 21, 2016), Appellant has repeatedly used recordings of the proceedings in
13 her Order of Protection matter on his website, www.DesireeCapuano.com to harass Ms.
14 Capuano. Appellant states correctly that he did not have to request leave to record the original
15 Order of Protection hearing in Sahuarita Municipal Court. He received that recording from
16 court staff. Nevertheless, Appellant misused that recording to commit further acts of domestic
17 violence harassment against Ms. Capuano. Writing as if he were Ms. Capuano, Appellant
18 posted “Highlights from My Order of Protection Hearing,” including clips of Ms. Capuano’s
19 testimony in order to mock Ms. Capuano’s fear that Appellant would harm her. (Exhibit 1,
20 Appellee Desiree Capuano’s Objection to Recorded Coverage of Hearings at 3.)
21
22

23 Appellant has also used recordings to intimidate witnesses who testified in support of Ms.
24 Capuano’s fiancé James Pendleton’s Injunction Against Harassment in the Sahuarita Municipal
25 Court. After Wendy Pendleton testified in support of Mr. Pendleton’s injunction against
26 Appellant, Appellant Fox posted Ms. Pendleton’s picture and a link to her audio-recorded
27
28
29

1 testimony on his website. (Exhibit 2, Associates page from Appellant's Website
2 www.DesireeCapuano.com at 2.) Alongside an audio clip of Ms. Pendleton's testimony and her
3 picture, Appellant posted—as if Ms. Capuano were writing:
4

5 Wendy Pendleton is my fiance, James Pendleton's mother. She
6 testified in James' favor at his Injunction Against Harassment
7 hearing against Patrick, back in December 2016.

8 [Link to audio clip of Ms. Pendleton's testimony.]

9 As you can see from Wendy's sworn testimony at the hearing, she
10 fully supports me and James being together. She obviously considers
11 me a good person - otherwise she wouldn't want me to be with her
12 son, right? **Just something to keep in mind if you're considering
doing business with Wendy.**

13 **Wendy owns Express Employment Professionals, a staffing
14 agency in Tucson, AZ.**

15 (*Id.* Bold added.)

16 If Appellant receives recordings of this Court's scheduled hearing regarding Ms.
17 Capuano's Order of Protection, he will likely use that recording in the same manner—to
18 intimidate and harass Ms. Capuano, her fiancé Mr. Pendleton, and any other witnesses who
19 testify on Ms. Capuano's behalf. Allowing Appellant to do so would undermine the
20 administration of justice and allow Appellant to twist this Court's proceedings into a tool with
21 which to harass and harm.

22 Appellant's harassment on www.DesireeCapuano.com is directed at Desiree Capuano—
23 the site's namesake—and is not protected First Amendment speech. This Court should not
24 allow Appellant to misuse this Court's recorded proceedings to break Arizona's domestic
25 violence and harassment laws.

CONCLUSION

Ms. Capuano respectfully requests this Court to forbid Appellant from receiving recordings of the upcoming hearing, as it is likely Appellant will use the recordings to harass, as he has done in the past. If this Court grants Appellant access to a recording of the proceedings, the Court should order Appellant not to post the recording online or otherwise use them to harass Ms. Capuano.

Dated May 23, 2016.

MILLER, PITTS, FELDMAN
& McANALLY, P.L.C.

By *S. J. G.*
Peter Timoleon Limperis
Heather L.H. Goodwin
Attorneys for Desiree Capuano

Original e-filed
May 23, 2016.

Copy mailed & emailed
May 23, 2016 to:

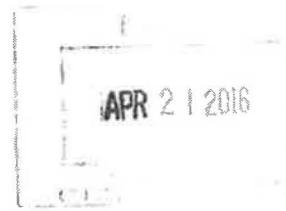
Patrick Fox

Burnaby, BC V5G 1T3
Canada
Appellant, Pro Se

/s/Carolyn Saenz

EXHIBIT 1

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10 *Attorneys for Appellees*

11 **IN THE SUPERIOR COURT**

12 **IN AND FOR THE COUNTY OF PIMA**

13 PATRICK FOX a.k.a. RICHARD RIESS, Case No.: C2016 1697

14 Appellant

15 v.

16 DESIREE CAPUANO,

17 **APPELLEE DESIREE CAPUANO'S OBJECTION TO
18 RECORDED COVERAGE OF HEARINGS**

19 (Rule of the Supreme Court 122)

20 Appellee.

Judge Woods

21 Under Rule of the Supreme Court 122, Appellant may not record court proceedings
22 without first notifying the Court. Appellee Desiree Capuano has requested a hearing on her
23 Order of Protection. Although the Court has not yet ruled on the request, Ms. Capuano asks the
24 Court to prevent Appellant from recording proceedings should a hearing be granted. Without
25 Court permission, Appellant has recorded recent court hearings involving Ms. Capuano and
26 posted the recordings online to harass her.
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MEMORANDUM OF POINTS AND AUTHORITIES

Appellant has a history of surreptitiously recording proceedings and using them to harass Ms. Capuano. Appellant posted the recordings on his harassment website www.DesireeCapuano.com. Ms. Capuano asks this Court to order Appellant not to record hearings on Ms. Capuano's Order of Protection.

According to Rule of the Supreme Court 122(a), use of recording devices to record court proceedings is subject to limitations and requirements. A "proceeding" is "an event concerning a court case that takes place in a court room." Rule of the Supreme Court 122(b)(7). A person may use personal audio recorders during proceedings only if the person notifies the judge or the judge's staff prior to using the device. Rule of the Supreme Court 122(h).

Either on her own motion or sustaining a party's objection, a judge may deny coverage after making specific, on-the-record findings that there is a likelihood of harm arising from a list of factors. Rule of the Supreme Court 122(d)(1). These factors include: the impact of coverage upon the right of any party to a fair hearing or trial; the impact of coverage upon the right of privacy of any party, victim, or witness; the impact of coverage upon the safety and well-being of any party, victim, witness, or juror; and any other factor affecting the administration of justice. *Id.*

Without advance notice or court approval, Appellant has recorded several previous court hearings involving Ms. Capuano. Appellant recorded family court proceedings in the Superior Court of Los Angeles and posted the recordings to harass Ms. Capuano. (Ex. 1) In a post, written as if by Ms. Capuano, Appellant posted the recording of a family court hearing under the title, "Custody Hearing – I Won it All, Bitches! Fuck My Son and What He Wants!" (Ex. 2) In fact,

1 Appellant has posted every court document and recordings of all hearings in his child custody
2 case on his website, www.DesireeCapuano.com. (Ex. 1.)

4 Regarding the Order of Protection at issue here, without obtaining the Sahuarita Municipal
5 Court’s permission, Appellant audio recorded the municipal court’s hearing and posted it online.
6 (Ex. 3 at 1.) Appellant has used these recordings to continue harassing Ms. Capuano, including
7 in a post titled “Highlights from My Order of Protection Hearing.” (Ex. 4.) Appellant’s post is
8 in first-person (as if by Ms. Capuano) and contains audio links to the recorded hearing. (*Id.* at 1-
9 2.) The text accompanying the audio clip taunts Ms. Capuano and derides her fear:

12 Can you believe that? I say Patrick has told our child that "if the risk of jail time
13 were not there that he'd **SHOOT** me" (0:16). Ha! What a hoot! And not only that,
14 he'd "physically" shoot me (0:23). [editor's note: *As opposed to...metaphorically*
15 *shooting you?*] I go on to tell the judge that Patrick has guns and he shoots guns
16 (0:29). [editor's note: *Is there something you would do with a gun other than*
"shoot" it?] But wait, the hilarity doesn't stop there – I say I am concerned that at
any time Patrick can enter the United States "with his guns, that he shoots..." (0:55).

17 *(Id. All bolding and italicization in original.)*

18 Allowing Appellant to record and use a recording of this Court's proceedings to harass and
19 intimidate Ms. Capuano implicates several of the Rule 122(d) factors. Appellant's likely misuse
20 of the recording would pervert the purpose of the Order of Protection, which is to protect Ms.
21 Capuano, the victim of Appellant's relentless harassment. Moreover, allowing the Appellant to
22 twist the proceeding into a tool with which to further harass Ms. Capuano would undermine this
23 Court's administration of justice.

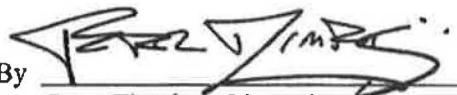
CONCLUSION

28 The exhibits, taken from Appellant's website www.DesireeCapuano.com, support Ms.
29 Capuano's objection to Appellant being allowed to record proceedings. Appellant's history shows

1 that he would likely misuse the recordings to further harass Ms. Capuano. This Court should
2 order the Appellant not to record future proceedings in this matter.

3 Dated April 20, 2016.

5
6 HARALSON, MILLER, PITT,
7 FELDMAN & McANALLY, P.L.C.
8

9 By 

10 Peter Timoleon Limperis
11 Heather L.H. Goodwin

12
13 Attorneys for Desiree Capuano

14 Original filed
15 April 20, 2016.

16 Copy mailed
17 April 20, 2016 to:

18 Patrick Fox
19 
20 Burnaby, BC V5G 1T3
21 Canada
22 *Appellant, Pro Se*

23
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29

EXHIBIT 1

Desiree Capuano

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On this page, you will find every document which has been filed by me and by Patrick, in our child custody case.

Date	Filer By	Description	Comments
2011-09-29	Patrick	Petition for Custody	This was the initial petition, after Desiree had abducted GR to Arizona, requesting the California Court order Desiree to return GR to Patrick's custody.
2011-10-04	Patrick	OSC - Custody, Visitation	
2011-10-18	Patrick	OSC - Determine Jurisdiction, ex parte	
2011-11-09	Court	Temporary Order	The court's order for Desiree to immediately return GR to Patrick's custody, after she had him, illegally, in Arizona for the past 3 months.
2011-11-18	Desiree	Response to Petition for Custody	
2011-12-06	Court	Stipulated Order	The court's order, assigning sole physical custody to Patrick, joint legal custody, and visitation terms for Desiree.
2011-12-08	Desiree	Findings and Order After Hearing	
2011-12-13	Patrick	Objections to Proposed Order	
2011-12-30	Patrick	Request for Extension of Time	
2012-01-04	Patrick	OSC - Child Support	
2012-01-20	Desiree	Responsive Declaration - Child Support	
2012-01-20	Desiree	Income and Expense Declaration	
2012-02-03	Patrick	OCS - Modify Visitation	Request to modify Desiree's visitation, to require drug testing prior to, or during GR's visits, due to the discovery of Desiree's current drug use. Request an order that Kristopher Lauchner not be permitted to be present during GR's visits, due to the discover of his violent criminal history and his recent threats.
2012-02-14	Patrick	OSC - Suspend Visitation, ex parte	Ex parte request to temporarily suspend Desiree's visitation, due to the discovery of her drug use and Kristopher Lauchner's ongoing involvement in criminal activities.
2012-02-14	Court	Temporary Order	Court's order temporarily suspending Desiree's visitation due to her ongoing drug use and hers and Lauchner's ongoing involvement in criminal activities.
2012-02-21	Desiree	Responsive Declaration - Modify Visitation	Desiree's response to the request to require drug testing before or during GR's visits with her.
2012-09-07	Court	Minute Entry	The court ordered a "Solution Focused Evaluation" (child interview), as requested by Patrick.
2012-09-11	Patrick	OSC - Child Support	
2012-09-11	Patrick	Declaration	Declaration regarding efforts to obtain birth certificate/proof of citizenship.
2012-09-14	Court	Minute Entry	Changing the date of the child interview from March 13, 2013 to March 20, 2013.
2012-11-28	Patrick	OSC - Modify Visitation, ex parte	Request that visits with Desiree be supervised, due to the discovery of Lauchner's assault for hiding a stolen assault rifle in Desiree's home, their ongoing

4/20/2016

Calif

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2016-01-17	1,714 views 6 comments

Desiree Capuano
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desiree.capuano@gmail.com

2012-11-28	Patrick	OSC - Relocate to Vancouver, ex parte	methamphetamine use, and the execution of a search warrant on Desiree's home.
2012-11-28	Patrick	Petition for Dissolution of Marriage	Request to relocate, with GR, to Vancouver, Canada for employment.
2013-01-09	Patrick	Notice of Change of Address	
2013-01-09	Patrick	Request for Continuance - Child Support	Patrick's request to continue the child support hearing, due to being in ICE custody.
2013-01-11	Court	Minute Entry	Granting Patrick's request to continue the hearing regarding child support.
2013-01-16	Court	Minute Entry	Granting Desiree's request for emergency custody due to Patrick being in ICE detention, and her request to prohibit communication between Patrick and GR. The court, of course, would later deny it granted the request regarding communication between Patrick and GR.
2013-01-16	Desiree	OSC - Temporary Emergency Custody, ex parte	Desiree's ex parte request, after filing a false report with ICE about Patrick resulting in Patrick being detained and deported. In this request Desiree also sought, and received, an order prohibiting all contact between Patrick and GR.
2013-01-16	Court	Temporary Order	Order granting Desiree temporary sole legal and physical custody of GR, due to Patrick being in ICE detention.
2013-01-23	Patrick	Declaration	Patrick's declaration regarding Desiree's ex parte request for emergency sole legal and physical custody of GR.
2013-01-30	Patrick	Responsive Declaration - Emergency Custody	Patrick's responsive declaration to Desiree's request for emergency custody of GR, due to Patrick being in ICE detention.
2013-02-06	Court	Minute Entry	Ordering GR to remain in Desiree's custody while Patrick is in ICE detention. Upon Patrick's release he may appear with an ex parte request for GR to be returned to his custody. Ordering Desiree to not interfere with Patrick's communication with GR.
2013-03-13	Court	Minute Entry	Vacating the child interview which was scheduled for March 20, 2013; awarding sole legal and physical custody of GR to Desiree because Patrick has been deported.
2013-03-13	Patrick	Declaration	Patrick's declaration regarding Desiree's threats if he continues to try to seek custody of GR.
2013-03-20	Court	Minute Entry	Placing the original hearing which the court vacated on March 13, 2013 back on calendar in order to keep Patrick in the courtroom until ICE arrived to detain him.
2013-06-03	Desiree	Findings and Order After Hearing	Order from the February 6, 2013 hearing. Desiree did not file it until June 2013.
2013-07-15	Desiree	Notice of Change of Address	
2013-10-08	Patrick	OSC - Modify Custody, Visitation, ex parte	Patrick's request for custody to be returned to him, after being deported.
2013-10-21	Desiree	Responsive Declaration - Modify Custody, Visitation	
2013-12-04	Patrick	Income and Expense Declaration	
2014-01-27	Patrick	Stipulation and Order - Visitation	
2014-01-27	Desiree	Income and Expense Declaration	
2014-02-07	Court	Minute Entry	
2014-07-14	Desiree	Declaration	
2015-09-03	Desiree	OSC - Modify Visitation	
2015-11-20	Patrick	OSC - Modify Custody, Visitation	Request order allowing GR to choose who he will live with, due to Desiree's refusal to allow any further visitation, taking away GR's phone, and recording Patrick's and GR's phone calls.
2016-01-11	Desiree	Responsive Declaration - Modify	Desiree's responsive declaration, falsely accusing Patrick or threatening to kill her, refusing to allow GR

		<u>Custody, Visitation</u>	to return at the end of his most recent visit, and extensive allegations of harassment.
2016-01-25		<u>Audio Recording of the Hearing</u> MP3	At this hearing, the judge ordered that GR is to be interviewed so that he can tell the court what he wants.
2016-02-25	Patrick	<u>Reply to Desiree's Responsive Declaration</u> MP3	Addresses the allegations made by Desiree, in her responsive declaration, showing how almost all of her claims are either false or grossly misrepresented.
2016-02-25	Desiree	<u>Notice of Ruling</u> MP3	
2016-03-28		<u>Audio Recording of the Hearing</u> MP3	At this hearing, the court had reviewed all the evidence proving Desiree had lied about all of her allegations against Patrick; GR was supposed to be able to address the court. The court disregarded all of Desiree's lies and continued to act as though everything she said was the truth. The court granted Desiree complete discretion on all matters of visitation and contact between GR and Patrick, and refused to make any orders regarding visitation. The court also pretended that Patrick had never requested for GR to be able to address the court.

This site was created and is maintained by the immediate family and/or close personal friends of Desiree Capuano, with significant input and contributions from the community.

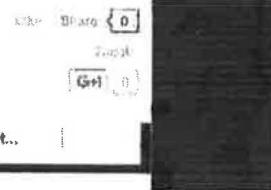
All information published on this website is true and accurate to the best of the knowledge and ability of the site maintainers. Any error of fact should be reported to the maintainer, and corrective action will be immediately applied.

Any comments or narratives published on this website, which are written in the first person, from the perspective of Desiree Capuano are not, in fact, written by Desiree Capuano. Nevertheless, all statements made as such are known to be true and correct - regardless of what Desiree may tell you.

If you notice any inaccuracies on this website, or just want to share your thoughts, feel free to inform me at patrick@desireecapuano.com and I will address them as soon as possible.

EXHIBIT 2

Desiree Capuano

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Custody Hearing – I Won it All, Bitches! Fuck My Son and What He Wants!

Mar 28, 2016 | 1:35 pm PDT

252 views | 0 comments

Perspective: Desiree

This morning, Patrick and I had a custody hearing in the family court. Patrick was asking the court to allow our son to choose, for himself, who he will live with.

Well, fuck Patrick! The court denied him everything and gave me full, unquestioned authority over every fucking thing that has to do with our son. Not because Patrick did anything wrong or is a bad parent. Just because I am that fucking good.

Before we go any further, and before you actually listen to the hearing, let's get one thing straight: In my mind, this is a win – pure and simple! If you haven't figured it out yet, my son is nothing more than a token for me to use against Patrick. I couldn't possibly care less whether our son wants to be with me, whether he loves or hates me, as long as there is a court order legally requiring him to be with me. I realize, though I'll never admit it, that what Patrick wants is for our son to hate me, and by forcing him to stay with me even though what he really wants is to go back with his father, I am causing exactly that to happen. So, even though I consider court ordered custody a 'win', it's actually very much a loss. But then, since I don't give a fuck about my son, who the fuck cares? As long as him and Patrick can't see each other.

Here's the recording of the entire hearing:

Notice how the judge didn't even order any kind of visitation. He left it all up to me! What the fuck is up with that? I mean, he basically said "Miss Capuano, I'm going to ignore all this evidence of your drug use, your neglect, the huge number of lies that you've made in this court, and I'm going to allow you to have complete control over whether or not your son will be allowed to visit, or even talk to, his father. Even though you have a history of refusing visitation, I'm going to ignore that and pretend like you've never refused any visits."

Even though Patrick provided concrete proof that I've been lying through my teeth to the court, the court actually continued to believe me. For example, even though Patrick provided a police report where James admitted to listening to Patrick's and our son's phone calls, I told the court he never said that – even though the judge had the police report right there in his hand – and the dumb fucker actually believed me.

Some of you are probably thinking, "It's because of this website. That's why the Judge gave Desiree everything." While, come on, that's a little naive, don't you think? Let's not forget, this website was created because of the family court refusing to do anything. The court was refusing to do anything about my drug use, all the criminal shit, and my compulsive lying long before this website was created.

Proof That I Really Am a Sociopath

If anybody out there is still questioning whether I really am a sociopath, as claimed on this website, all you have to do is listen to me in this hearing. Notice how quickly and easily I go from laughing and joking with the judge (at 11:15), to sounding completely defeated when talking about this website (at 23:30), then to sounding self-righteous when talking about having Patrick deported (25:29), then sounding defensive and accusatory when trying to deflect the blame for not allowing our son to visit Patrick over his winter break (26:39), to sounding afraid for my safety when talking about the possibility of allowing Patrick and our son to use Skype to communicate (31:16). And all that within a 20 minute window.

What's important here is the apparent sincerity in my tone when I make each of those statements. If you listen to each separately, you will surely conclude I am being truthful and sincere. But, when you consider that each of those statements was made only a few minutes apart – well, only a true sociopath can flip their emotions so dramatically, so quickly.

Conclusion

So there you have it folks. No matter what I ever do, no matter how egregious my behavior is, the family court is never, ever going to return our son to Patrick – because he's a dirty fucking illegal alien who was deported!

And no matter how much my son hates me for doing this, it doesn't make a lick of difference because I am the one with all the power, and the little, ungrateful bastard will stay in my house whether he likes it or not.

4/20/2016

Custod

yarling—I Won It All, Bitches! Fuck My Son and What He Wants!

—Desiree Capuano

Being Afraid for My Safety Are Bullshit
2016-02-16
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And So Just What Have I Accomplished by Going to the Media?
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And Still Desiree Completely Misses the Point

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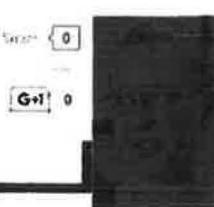
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EXHIBIT 3

Desiree Capuano

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Restraining Orders Against Patrick

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All This Talk of Cyber-Bullying, Harassment, Defamation, and "Revenge-Sites"	2,230 views 46 comments
The Irrefutable Proof That My Claims of Being Afraid for My Safety Are Bullshit	

This page contains all the bullshit relating to mine and James Pendleton's restraining orders against Patrick.

My Order of Protection

Date	Party	Description	Comments
2015-07-23	Desiree	Petition for Order of Protection	Desiree's petition, falsely alleging Patrick had threatened to shoot her.
2015-07-23	Court	Order of Protection	Even though Desiree didn't provide any evidence of her allegations, the court still issued the order.
2015-12-03	Patrick	Request for Hearing	
2015-12-16		Audio Recording of Hearing	This is a recording of the entire hearing. Note: This is the same audio as the one for James' case.
2015-12-16		Transcript of Hearing	Note: This is the same transcript as the one for James' case because they were heard together.
2015-12-16	Court	Order	The court's order keeping the previous order in place and adding a Notice of Positive Brady Indicator (firearm prohibition). The order only prohibits Patrick from contacting Desiree, and from possessing firearms within the US. It does not prohibit Patrick from continuing to publish information about Desiree on this website, and it doesn't affect Patrick's firearm possession outside the US.
2015-12-21	Patrick	Notice of Appeal	
2016-02-10	Patrick	Appeal Memorandum	Based on the Municipal Court not having jurisdiction to issue the order of protection; the court incorrectly applying the statutory definition of "harassment" because there was already a pending family matter before the Superior Court; and the court using public, constitutionally protected speech as a basis for a finding of prior harassment.
2016-03-23	Desiree	Notice of Appearance	Desiree retained a hack attorney to delay the appeal process.
2016-03-24	Desiree	Amended Notice of Appearance	From the first day, Desiree's new attorney is already making mistakes and having to re-file documents.
2016-03-24	Desiree	Motion to Correct or Modify the Record on Appeal	Motion to add "evidence" to the appeal record. This is an entirely frivolous motion, likely just to delay the appeal process. Desiree is now claiming she had the "evidence" with her at the hearing but just didn't submit it.
2016-03-29	Desiree	Appellee's Responsive Memorandum	Desiree's responsive appeal brief. She argues that the content of the website constitutes harassment, even though the contents and statements were not made to her. Her attorney actually changes the wording of relevant statutes in order to make them fit his arguments, e.g. substituting the term "action" with "matter" in the A.R.S § 13-3602(P). A desperate ploy by a hack attorney - typical for Arizona attorneys, though.
2016-04-05	Patrick	Response to Motion to Modify the Record on Appeal	Opposing to the motion to add evidence to the appeal record, based essentially on the "evidence" not really being relevant to Desiree's case, and an appeal not being the appropriate venue to seek to have evidence considered.

James' Injunction Against Harassment

Date	Filed By	Description	Comments
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2016-02-18	2,222 views	24 comments
And So Just What Have I Accomplished by Going to the Media?		
2016-02-24	1,903 views	6 comments
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2016-01-17	1,714 views	6 comments
Desiree Capuano 250 E. Placita Lago Del Mago Sahuarita, AZ 85629 Tel: 520-288-8200 desiree.capuano@gmail.com		

2015-07-23	James	Petition for Injunction Against Harassment ¶	James' petition, alleging Patrick had been "harassing" him by publicly speaking about him - though, not actually <i>to</i> him.
2015-07-23	Court	Injunction Against Harassment ¶	Even though James didn't allege Patrick had ever had any contact with him, the court actually issued the injunction.
2015-12-03	Patrick	Request for Hearing ¶	
2015-12-16		Audio Recording of Hearing ¶	This is a recording of the entire hearing. Note: This is the same audio as the one for Desiree's case.
2015-12-16		Transcript of Hearing ¶	Note: This is the same transcript as the one for Desiree's case because they were heard together.
2015-12-18	Court	Order ¶	The court's order keeping the previous order in place. The order only prohibits Patrick from contacting James or going "near" James' residence. It does not prohibit Patrick from continuing to publish information about James on this website.
2015-12-21	Patrick	Notice of Appeal ¶	Based, primarily, on the James admission that he and Patrick have never actually had any contact (which is a necessary requirement of "harassment"); the court incorrectly applying the statutory definition to include public statements made <i>about</i> James, but not <i>to</i> him.
2016-02-10	Patrick	Appeal Memorandum ¶	James retained an apparently incompetent attorney to delay the appeal process.
2016-03-23	James	Notice of Appearance ¶	From the first day, James' new attorney is already making mistakes and having to re-file documents.
2016-03-24	James	Amended Notice of Appearance ¶	Motion to add "evidence" to the appeal record. This is an entirely frivolous motion, likely just to delay the appeal process. All of the supposed "evidence" that is being requested to be added to the record pertains only to Desiree's case, not James', so this entire motion is irrelevant to James' case.
2016-03-29	James	Appellee's Responsive Memorandum ¶	James' responsive appeal brief. He's trying to argue that the passive <i>content</i> of the website constitutes harassment - even though there has never been <i>any</i> contact between him and Patrick.
2016-04-05	Patrick	Response to Motion to Modify the Record on Appeal ¶	Opposition to the motion to add evidence to the appeal record, essentially based on the lack of relevance any of the supposed "evidence" has to James' case.

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EXHIBIT 4

Desiree Capuano

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2016-02-21 2,231 views | 46 comments
- [The Irrefutable Proof That My Claims of](#)

Highlights from My Order of Protection Hearing

Jan 17, 2016 | 7:42 pm PDT

1/16 views | 0 comments

Perspective: Desiree

As some of you know, James and I recently attended a hearing against Patrick for the Order of Protection I got against him, and the Injunction Against Harassment James got against him.

I thought I'd share with you some of the highlights of that hearing – not just me recapping what was said, but the actual audio recording of the hearing.

The times listed amongst the content, below, are the time location within the respective recordings. For example, 2:29 means I'm talking about what happened 2 minutes and 29 seconds into the recording. Thought I'd mention that for you folks that are too stupid to figure it out on your own.

How I Convinced the Court to Issue an Order it Didn't Have the Authority to Issue

Let's start with the court acknowledging it didn't have authority to issue the order of protection and my skillful manipulation to get the court to proceed anyway.

2:54

Notice how, when the judge first says she doesn't have the authority to issue the order, I try to argue that the order of protection is only for me – not for our son and so the pending case in California doesn't matter? Notice how I clearly and unequivocally state that the case in the Superior Court is pending (0:30 seconds)? As a point of fact, the child custody case in California has been pending since September 2011. For those who aren't aware, in child custody matters a case remains in a "pending" status until the child turns 18. It doesn't "become final" just because the parties come to an agreement without the court's intervention. But check out what I say at 2:30 – I tell the judge that the California case has been "finalized" – that it is no longer pending. Can you believe that? And if that's not enough, I boldly claim Patrick just recently "reopened" the case. Now, of course, I knew this was all complete bullshit because last year I tried to have the case moved to Arizona and the request was denied; and because in September 2015 I filed a request to have our son's visitation suspended.

Now, listen carefully to the quivering in my voice at around 1:37, when I ask the court "How do I as an individual get protection from him then? Tell me I don't sound 100% sincerely afraid for my safety! Damn, I'm good!"

And check me out at 2:45 – I'm on the brink of tears! Or at least that's how I played it. Usually, if I cry in court the judge feels sorry for me and cuts me slack. You can be sure I'll be crying at the custody hearing in California next week.

Now, check this out:

0:14

Didn't even have to drop a single tear! Just looking like maybe I might cry was enough to get that judge to completely disregard the very laws she was sworn to uphold. God, I love Arizona!

Of course, this order is going to be over turned on appeal. Just like the court said: It simply didn't have the authority to issue the order.

My Greatest Performance Ever

Here I am telling the court what I'm requesting, and that Patrick is obsessed with me. Nothing amazing, but I love the sound of my voice so listen to it!

0:32

Now, here's the kicker: My primary testimony. Let's give this a listen then we'll clarify which parts are actually true. Keep in mind, even though I claim, under oath, that I have "documentation", including emails, I don't actually provide a single piece of evidence to support ANY of my claims. Let's listen...

0:43

Can you believe that? I say Patrick has told our child that "If the risk of jail time were not there that he'd SHOOT me" (0:16). Ha! What a hoot! And not only that, he'd "physically" shoot me (0:23). [editor's note:

4/20/2016

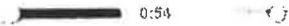
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Highlights from My Order of Protection Hearing – Desiree Capuano

As opposed to...metaphorically shooting you?] I go on to tell the judge that Patrick has guns and he shoots guns (0:29). [editor's note: Is there something you would do with a gun other than "shoot" it?] But well, the hilarity doesn't stop there - I say I am concerned that at any time Patrick can enter the United States "with his guns, that he shoots..." (0:55).

In a desperate attempt to help my claims, I point out that Patrick was arrested last summer for criminal harassment (3:13). Though, of course, I didn't mention that the charges were dismissed because the RCMP and the Canadian prosecutor believed I was full of shit.

And now, let's see the results of a lifetime of chronic pot use:



That's fucking classic! Was I high out of my mind at the hearing? Of course I was, I'm Desiree fucking Capuano, when am I not high out of my fucking mind?

Pay particular attention to how I actually get annoyed with the judge (0:35). And what the fuck was that random chuckle...out of the blue...for no apparent reason at all. God I love weed!

Still to Come...

There's still a bunch more testimony from that hearing, including James' mother, Wendy Pendleton; James questioning Patrick; James' seemingly completely unrelated rant about copyright infringement; Patrick stating the reason he doesn't put his name on this website is because he's ashamed and embarrassed about having been involved with someone like me; Patrick pissing off the court by pointing out the orders are unenforceable and meaningless in Canada and that he has not, and has no intention of surrendering his firearms. Hopefully, I'll get around to that this week - there are some particularly amusing scenes with James.

Previous Post:
[Trashy, Ghetto People and Honoring Agreements](#)

Next Post:
[James Pendleton's \(and His Mommy's\) Testimony at the Restraining Order Hearing](#)

5 Responses to Highlights from My Order of Protection Hearing

1.  **mgumby** says:
2016-02-23 at 9:18 pm

Please keep posting this is great stuff the wording in which u use really brings u in than bam ur laughing ur ass off and figuring out the entire ordeal lol

[Reply](#)

2.  **John ford** says:
2016-04-11 at 4:27 am

To the creator and ex-husband of this website: you're an absolute nut job. No body in this world gives a shit about the strife you have in your life in regards to the breakup of your marriage. You must be the only person in the entire universe that has had such an exemplary life to the extent that you honestly believe you have the right to be so narcissistic and vindictive. It is apparent that you never received the love and guidance of either of your parents; maybe that's a function of your having been created in a Petrie dish. You are accomplishing absolutely nothing with this one-sided jaded bullshit you profess to be the truth. Remember sperm donor you are equally responsible for everything that has happened prior to, during and after this marriage. You need to find something constructive to do with your life and if this is the best you can do, then you are hopelessly and desperately just another obsessed temper tantrum man-child who never grew up. Time for you to get off of your milk bottle and move on before they lock you up in a rubber room in a coat with long arms that fastens up in the back.

[Reply](#)

 **Patrick Fox** says:
2016-04-11 at 9:52 am

This website is about Desiree Capuano and the horrible things she has done and continues to do. It is not about me and how I might have been affected by those horrible things Desiree has done and continues to do. Therefore, I fail to see the point of any of your comment.

You claim "no body in the world gives a shit...", I assume you include yourself in that group of "no body", yet, you took the time to post 4 angry comments. That would indicate that you give a shit.

You say "You are accomplishing absolutely nothing with this one-sided jaded bullshit you profess to be the truth." However, according to "sources" who are in regular contact with Desiree and James, I appear to be accomplishing exactly what I am trying to - to inform as many people as possible about all of the bad things Desiree has done and is doing, with the ultimate objective of completely ruining

her life.

As for what I "profess to be the truth": I don't expect anyone to believe anything I say – that's why I post proof of everything I say – court documents; Desiree's sworn testimony, under oath; recordings of Desiree actually saying the things I'm accusing her of; police reports; photographs. Or are you one of those people that refuses to believe reality no matter how much proof is provided? They're called delusional.

[Reply](#)

3.  **John Ford** says:

2016-04-13 at 11:07 pm

Sir, you're still a nut job. Any interest in your website does not constitute giving a shit. You're really not that important, I suspect people are more disgusted with you and find most of what you do as comedic and obsessive behaviour. I, for one, am very impressed you have 'sources'. Unnamed I see. In your head perhaps?

Notwithstanding, all you do, is setting a very fine example for your offspring, keep up the good work daddy.

[Reply](#)

 **Patrick Fox** says:

2016-04-13 at 11:20 pm

Of course they're unnamed. If Desiree knew who was keeping us informed of her situation then she'd stop speaking to them.

Please help me to understand what is so "disgusting", "comedic", and "obsessive" about merely publishing true, factual information, together with extensive supporting evidence about someone who has spent her life exploiting, manipulating, and abusing others?

You seem to be one of those people that believes a person's bad conduct should remain private. That way they can keep doing whatever bad stuff they've been doing. If a child molester moves in next door to you and your other neighbor knows he's a child molester then are you saying that other neighbor should keep it to himself? Even if that means you'd be putting your children at substantial risk? That sure seems to be the logic you're using.

Anyway, you're quite incorrect about how most people are perceiving this site, and me, at this point. At first, people thought I was a crazy, obsessed loser – but then I started posting all the proof against Desiree and now most people realize that she's a horrible person and I'm merely retaliating for the things she's done to me and our son.

As for being a "nut job" – well, can you provide any basis for that opinion? Can you point to any specific statements I've made, or specific things I've done which would support such a belief? I'm pretty certain you can't. I'm quite certain you're just one of those people who thinks that nobody should be allowed to do anything you don't like.

[Reply](#)

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Please enter the missing number to confirm you're real. *

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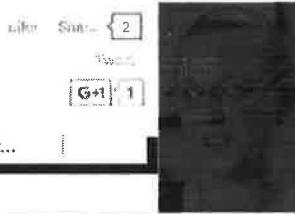
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EXHIBIT 2

Desiree Capuano



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2016-02-24 1,917 views | 5 comments
- And Yet More Proof I'm Lying to You About My Ex-Husband Hiding Our Child - My**

Don't be fooled by the list of folks on this page. They're not really my "friends". Truth is there are very few people left who don't hate me. It might be because I have an amazing ability to screw over anybody when it serves my interests, without any regard for how it might affect them.

The people in my life that have been decent don't generally hang around too long because they quickly realize what a horrible person I am and they move on. The people that have stayed in touch with me are usually the white trash, trailer park losers I grew up with. And that's probably because they're the same as I am.

You may notice, when this website was in the news in February 2016, of the, literally, thousands of people that posted comments on the various websites, supporting me, not one of them was a person who actually knew me personally!

Family

Teresa Hoffman



This is my mom. I learned everything I know about manipulating people and guiltling them into doing what I want from Teresa. Thanks mom! Where would I be without you?

This is the woman I have modeled my life after. Growing up, she never made me accept responsibility for anything I did and that no matter what I do I can always blame it on the men in my life. And now I pass those valuable lessons on to my own kids.

Donald Tomlin



My dad. According to the story I told Patrick, when I got pregnant in March 2000, this is the man that forced me to have an abortion, leaving me emotionally scarred for life. At least, that's what I told Patrick so he'd feel sorry for me.

Sage Capuano



My second child. This is the kid I had with Michael Capuano, after I ditched my first son with Patrick.

Sage grew up in a home with me and Michael regularly getting into serious fights which usually escalated to the point of us hitting each other and throwing things at each other so, obviously, Sage has "issues" with aggression and violence. There was this one time when Sage tried to choke another kid in his class at school.

Yeah, we don't see much of a future for this crazy bastard, though it's not his fault - look at his parents. It's hard to grow up decent when both your parents are as fucked up as me and Michael.

James Allen Pendleton, Jr.



James Pendleton is my current fiancé. We live together in James' wonderful home in Sahuarita (near Tucson). We met when we were both working at Apollo Group. Sure, there were policies against banging your co-workers but fuck it - I'm not one to comply with company policies.

James was a Technical Project Manager and has worked for such firms as **Apollo Education Group, Tucson Embedded Systems, Raytheon Missile Systems, and American Traffic Solutions**. James has Top Secret/SCI security clearance - which means he is able to tell me all kinds of juicy "national security" secrets while we're lying in bed at night.

5/23/2016

Letters

2016-02-22

1,887 views | 8 comments

Highlights from My Order of Protection

Hearing

2016-01-17

1,730 views | 1 comment

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Associates - Desiree Capuano (née Tomlin): Stripper, Druggie, Sociopath

He graduated from **Arizona State University** with a BS in Computer Systems Engineering.

It may tickle you to know that even though James Pendleton is engaged to a scheming, drug addict, who would sell her children for a bong hit, he is trusted with top secret national security information, and is put in charge of projects that are supposed keep our country safe from those evil people that would like to see us all burn in hell.

James doesn't have much in the way of self esteem - which is why, when I gave him a taste of snatch he clung to it with fervor. Now the bitch supports me, my drug habits, and my two kids. What's more every day I drag him more and more into the drama and bullshit that is my life. But it's not my fault - it's just who I am.



Kristopher Lauchner



My prior fiancé, before James, whom I also lived with with my two sons...while he was using meth and stealing assault rifles and passing counterfeit money and...until he was arrested on drugs and weapons charges and sent to prison for 8 years. But he really was a great role model for my sons. **WHITE POWER!**

[Comment from the Editor: I, personally, am not racist and do not believe any race or ethnic group is superior to any other based on genetics or race. Any references to white supremacy on this website are the beliefs and opinions of Desiree and the long list of racist fools she's been engaged in over the years.]



Michael Richard Capuano

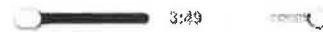
My second husband. The one I abandoned my 18 month old son in Phoenix so I could run off to Florida to be with. The one I was with for 9 years. The one that was recently arrested for slapping his bitch around. The one I used to throw dishes at in front of my child.



Wendy Mary Pendleton



Wendy Pendleton is my fiance, James Pendleton's mother. She testified in James' favor at his Injunction Against Harassment hearing against Patrick, back in December 2016.



As you can see from Wendy's sworn testimony at the hearing, she fully supports me and James being together. She obviously considers me a good person - otherwise she wouldn't want me to be with her son, right? Just something to keep in mind if you're considering doing business with Wendy.

Wendy owns **Express Employment Professionals**, a staffing agency in Tucson, AZ.

Friends



Alli Paolone



Amanda LeDoux



Barbara Bird



Breanna Lantz



• Carrie Ryan Davis



Back in 2001, while I was with Patrick, we had moved back to LA from Phoenix. After a few weeks I told Patrick I was bored and lonely and I wished I had a friend in LA. Patrick then paid for Carrie's flight to LA and her accommodations. He even let her move in with us, rent free and supported her until he found out she was using drugs again. Then he told her she had to leave. He's such an asshole.



Chris Myers



Chris Rudhe



Dawn Burkhard-Foster



• Faith Farrazano



Jenn Pickell Sorrell



Jeremy Krause



John Lagasse



Kristiana Illies



Kyle Boyd



Lynn Serio



Mary Sayers

Matthew Vincent



f



f

Melissa Jean



f

Morgan Gibb



f

Nikki Inglis



f

Nina Lindsey-Broyles



f

Paul Kendrick



f

Rhiannon Love Capuano

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Vice President, Staffing and Solutions
Productive Data Solutions
 Phoenix, AZ



Brian Weaver

Sr. Manager Talent Acquisition
Apollo Education Group
 Phoenix, AZ



David Lee Goldfarb

Attorney
Gillespie, Shields, Durrant & Goldfarb
 Tucson, AZ



David Goldfarb represented me in the **Arizona child custody case** against Patrick - the time I abducted our son to Arizona and tried to get custody of him. He was **useless!** He got his ass kicked by Patrick - who was representing himself. He kept telling me "Don't worry, I'll take care of this." And in the end - **SLAP!** - the court ordered me to "immediately" return our son to Patrick...and Goldfarb sent me a bill for \$10,000!

David was also my lawyer on my marijuana possession charge. Again, accomplished fuck all! Got me prop 200, so now I'm an admitted drug addict. Another \$5,000 and he didn't do shit!



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Latha Kamath

Senior Technology Leader

Associates - Desiree Capuano (née Tomlin): Stripper, Druggie, Sociopath



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Peter Timoleon Limperis

Attorney

Haralson, Miller, Pitt, Feldman & McAnally, PLC
Tucson, AZ



Peter Limperis is my attorney, representing me and James for Patrick's appeals of our restraining orders against Patrick.

I don't know if Peter's an incompetent lawyer but he sure tries to make some pretty bullshit arguments in his motions.



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Program/Project Manager
American Express



Rob Newsom

Vice President Software Engineering
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Director, Business Technology Integration
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This site was created and is maintained by the immediate family and/or close personal friends of Desiree Capuano, with significant input and contributions from the community.

All information published on this website is true and accurate to the best of the knowledge and ability of the site maintainers.

Any narratives published on this website, which are written in the first person, from the perspectives of Desiree Capuano and/or James Pendleton are not, in fact, written by Desiree Capuano and/or James Pendleton. Nevertheless, all statements made as such are known to be true and correct.

If you notice any inaccuracies on this website, or just want to share your thoughts, feel free to inform me at patrick@desireecapuano.com and I will address them as soon as possible.