

EXHIBIT C EXECUTIVE SUMMARY WITH ATTACHMENT C-1, C2

Mark Allen

Address: On File

IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY, STATE OF UTAH
137 N Freedom Blvd.
Provo Utah 84601

JUDGE GRAF

V.

MARK STEWART ALLEN,
Respondent

Proposed Order on Ministerial Obligations

Petition for Judicial Certification of Record
Accuracy – Exhibits C, C1,

EXHIBIT C1 Administrative Jeopardy
Violations, Federal VOCA Funding

Exhibit C2 – EXHIBIT C2 Kennard Email
needing DATE (2016 V 2018) administrative
date correction of errors

Case No. 211401656

Honorable Judge Tony Graf Jr.

By operation of law, the August 4, 2016 entry of ‘Trial Cancelled: Case Settled’ extinguished jurisdiction. Every prosecution or filing pursued after that date was **void ab initio**, and cannot be cured by amendment, clerical action, or retroactive docket manipulation

The August 4, 2016 docket entry — “*Trial Cancelled: Case Settled*” — terminated jurisdiction as a matter of law.

Once a case is settled, the court has no further authority to re-litigate or re-prosecute the same matter. Under established due process principles, all subsequent prosecutions arising from the same facts were **void ab initio**, meaning they were null from inception and without legal effect. Kennard email has 5 date errors which much be corrected from year 2018 to 2016, the case number should read 18PR32810 instead incorrectly it reads 18PR3280.

From: randyk@utahcounty.gov
To: Tammy Paynter
Subject: Please forward to Officer Julian Jackson @ Provo, RE: Mark Allen 18PR3280, our case A19-29
Date: 11-Jan-2019 15:09
Attachments: Please forward to Officer Julian Jackson @ Provo, RE: Mark Allen 18PR3280, our case A19-29.html [Save] [Open]
image001.png [Save] [Open]
Message Id: 24e7bd3f4ff6124a9e1814e4af27f2c500000000109#24e7bd3f4ff6124a9e1814e4af27f2c500014985439c

TEXT.htm

ATTACHMENT

Officer Jackson (Julian), Thank you for your referral for review of charges of MA Violation of Stalking Injunction. Unfortunately it does not appear that the stalking injunction referred to in your report is still valid. It is a little complicated but here is what the record shows:

On 5/2/2016 Judge Howard issued the temporary stalking injunction on an exparte affidavit from the Petitioner. A return of service was filed with the court on 5/20/2018. And the Respondent filed a request for a hearing on 5/26/2018.

The temporary stalking injunction says on it's face that it "expires in three years." Unfortunately 77--3a-(6(b) of the code explains it differently:

(6)(b)(iii) that if the respondent fails to request a hearing within 10 days of service, the ex parte civil stalking injunction is automatically modified to a civil stalking injunction without further notice to the respondent and that the civil stalking injunction expires three years after service of the ex parte civil stalking injunction...

(7) At the hearing, the court may modify, revoke, or continue the injunction. The burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

Because Mr. Allen appeared to have filed a request for a hearing on the temporary stalking injunction within 10 days of being served and because Judge Howard did not indicate on 8/4/2018 that the injunction continued, I do not think that it is valid today.

If Ms. Koehler feels threatened she probably needs to consider seeking another stalking injunction or a protective order. I will have our victim witness personnel notify her of that.

Thank you for your work. Please call if you have any questions or concerns. Sincerely Deputy County Attorney Randy Kennard



MAIL

From: randyk@utahcounty.gov
To: Tammy Paynter
Subject: Please forward to Officer Julian Jackson @ Provo, RE: Mark Allen 18PR3280, our case A19-29
Date: 11-Jan-2019 15:09 **(Error 1,2) should read 18PR32810**
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 image001.png [Save] [Open]
Message Id: 24e7bd3f4ff6124a9e1814e4af27f2c500000000109#24e7bd3f4ff6124a9e1814e4af27f2c500014985439c

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Error 3**Error 4**

On 5/2/2016 Judge Howard issued the temporary stalking injunction on an ex parte affidavit from the Petitioner. A return of service was filed with the court on 5/20/2016. And the Respondent filed a request for a hearing on 5/26/2016. **[5/26/2016]**
[5/20/2016]

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(6)(b)(iii) that if the respondent fails to request a hearing within 10 days of service, the ex parte civil stalking injunction is automatically modified to a civil stalking injunction without further notice to the respondent and that the civil stalking injunction expires three years after service of the ex parte civil stalking injunction...

(7) At the hearing, the court may modify, revoke, or continue the injunction. The burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

Error 5

Because Mr. Allen appeared to have filed a request for a hearing on the temporary stalking injunction within 10 days of being served and because Judge Howard did not indicate on 8/4/2016 that the injunction continued, I do not think that it is valid today.
[8/4/2016]

If Ms. Koehler feels threatened she probably needs to consider seeking another stalking injunction or a protective order. I will have our victim witness personnel notify her of that.

Thank you for your work. Please call if you have any questions or concerns. Sincerely Deputy County Attorney Randy Kennard

What the corrected record should show the year all being 2016.
Supporting evidence includes court docket notation, status hearing request etc.
Judge Fred Howard Preliminary Hearing Transcript for scheduling 8/5/2016

Diane Cruz

November 8, 2019 at 4:53:33 PM MST

To: Mark Allen, markstewartallen2@gmail.com

Response to GRAMA request re A19-29

Dear Mr. Allen:

In response to your GRAMA request of November 6 for the following:

1. The calendar of Randy Kennard between January 11th 2019 and January 16th 2019 is not a record, per Utah Code §63G-2-103(22)(b) (ix), so your request therefor is denied
2. All e-mails re Mark Stewart Allen 18PR32810
 - a. To or from Randy Kennard (these were previously provided to you; this is a duplicate request and is hereby denied under Utah Code §63G-2-201(8)(d))
 - b. To or from Rickie Liddiard
 - c. To or from Genevieve Pratt (Ms. Pratt is a Provo City employee; Utah County does not have or maintain and did not create her e-mails; therefore, your request is denied per Utah Code §63G-2-201(8)); that portion of your request was forwarded to Provo City
 - d. To or from Tammy Paynter (these are relevant to the ongoing investigation and classified as protected under Utah Code §63G-2-305(10), as their release could reasonably be expected to interfere with the investigation, so release thereof is denied)
3. The "additional information" Mr. Kennard reviewed, which includes:
 - a. Two e-mails from the victim's attorney
 - b. Two recorded phone calls, which were previously provided to you, but are attached here, as well
 - c. The return of service for the stalking injunction
 - e. The temporary stalking injunction (this is relevant to the ongoing investigation and classified as protected under Utah Code §63G-2-305(10), as its release could reasonably be expected to interfere with the investigation, so release thereof is denied)
4. A copy of the protective order that Mr. Kennard referenced is not attached, as such does not exist, per Utah Code §63G-2-201(8)

Certain information has been redacted or withheld to prevent the release of private information under Utah Code §63G-2-302(2)(d) and because it is attorney work product.

Notice of Right to Appeal: You have the right to appeal a denial. The appeal must be in writing stating the reasons the record(s) should be released. The appeal should be filed with the Chair of the Board of County Commissioners within 30 days of the denial at 100 East Center Street, Suite 2300, Provo, Utah 84606. The appeal may be reviewed in an administrative hearing of which you will receive notice or processed pursuant to the Utah County and State Codes.



Diane Cruz, ACP

Paralegal to Utah County Attorney - Civil Division

A : 100 East Center Street, Suite 2400, Provo, UT 84606

P : [801-851-8029](tel:801-851-8029)

F : [801-343-8029](tel:801-343-8029)

E : dianesa@utahcounty.gov

WILL TRANSITION TO MY NEW POSITION at the end of the day on NOVEMBER 15. After that date, please send all communications for the attorneys' GRAMA officer to UCAO@utahcounty.gov. Thanks!

CONFIDENTIALITY NOTICE: This email communication may contain private, confidential, or legally privileged information intended for the sole use of the designated or duly authorized recipient(s). If you are not the intended recipient or have received this email in error, please notify the sender immediately and permanently delete all copies of this email including all attachments without reading them. If you are the intended recipient, secure the contents in a manner that conforms to all applicable state and federal requirements related to privacy and confidentiality.



**STATE OF UTAH "JUDICIAL SYSTEM" LAWFARE
VS
MARK STEWART ALLEN**

TEMPORARY
JURISDICTION
MAY 2 2016 - AUGUST 4TH 2016



**August 4th 2016
Judge Fred Howare
"Trial Cancelled: Case Settled"
XHANGE Docket**

NO JURISDICTION

After August 4th 2016- May 1st 2025
Everything is Fraudulent Prosecution

**All prosecutions
after August 4th 2016
Void from the beginning**

**ALL
FRAUDULENT
PROSECUTIONS
"LAWFARE"**

The Courtroom became the Crime Scene

Obstruction of Justice & Withholding
of Exculpatory Evidence
in Five Cases Concealing Case Settled Aug 4, 2016



! Filed on False Premise:
No Protective Order
Ever Issued
No Order Converting
Ex Parte to 3-Year Injunction



**All prosecutions
after August 4th 2016
Void from the beginning**

- 18 U.S.C. § 1510 – Obstruction of criminal investigations
- 18 U.S.C. § 1519 – Destruction or falsification of records (court video/audio and transcripts)
- 18 U.S.C. § 242 – Deprivation of rights under color of law
- 42 U.S.C. § 1983 – Civil rights violations by state actors

These later cases violated not only the finality of settlement but also the constitutional protection against double jeopardy. No amendment, clerical adjustment, or retroactive docket entry can confer jurisdiction where it was extinguished. Accordingly, every filing, hearing, and prosecution initiated after August 4, 2016 stands as a due process violation compounding Respondent's injury. **Exhibit (EVERY PAGE IN C1) tells the story better than words.**

Every page in red represents a prosecution that was **void ab initio** — cases that never had jurisdiction. **Every page in red is void — yet it was prosecuted, VOCA-funded, and built on withheld Brady evidence.** ALL ASSUMED INNOCENT UNTIL PROVEN OTHERWISE BY COURT OF LAW AND JURY TRIAL.

MULTIPLE PROSECUTIONS WITH KNOWLEDGE THE CASES WERE FOUNDATIONALLY VOIDED, YET THE were advanced, funded through VOCA, and sustained only by withholding Brady evidence that ultimately proved not exculpatory to me, but **inculpatory to the prosecution itself.** THE DOCKET BACKDATING AND ALTERING SPANS MORE THAN ONE CASE. THIS REQUIRES DE NOVO AUDIT OF ALL UPSTREAM CLERICAL ERRORS, OMISSIONS, DELETIONS, AMENDED FILINGS.

This Court cannot ignore what is now plain: the record shows prosecutions without jurisdiction, funding without accountability, and evidence withheld in defiance of constitutional duty.

Following the August 4, 2016 settlement, three subsequent prosecutions — **Case Nos. 171402280, 191400132, and 211401656** — were pursued against Respondent despite being **void ab initio**. In each of these matters, attorneys and prosecutors withheld exculpatory Brady evidence for periods extending up to thirty-six months, while SEVERAL OF THESE CASES WERE simultaneously drawing down federal VOCA funding tied to those prosecutions.

Respondent ultimately obtained the withheld Brady evidence not through discovery, but only by filing a **GRAMA appeal to the Utah County Commissioners**, underscoring the deliberate nature of the suppression. To date, not a single attorney or prosecutor involved has acknowledged, corrected, or shown any remorse for these violations, despite the clear constitutional and ethical duties imposed by Brady and Giglio.

During the appellate proceedings in **Case No. 20190395-CA**, counsel deliberately withheld exculpatory Brady evidence from the three presiding appellate judges.

This suppression not only deprived the Court of Appeals of the full factual record but also compounded the constitutional violations already present in the underlying cases.

By concealing material evidence from Judges Hagen, Harris, and Mortensen, counsel misled the appellate court and secured rulings under false pretenses. Such conduct constitutes a direct violation of **Brady v. Maryland**, the duty of candor to the tribunal, and the integrity of the judicial process itself.

Had the exculpatory materials been disclosed, the appellate court's analysis and rulings would have been fundamentally altered, underscoring the prejudice to Respondent and the magnitude

of the ethical breach. The Appellate is another exhibit of Prosecution gone wrong. The attorney cheated to win, but that illicit “win“ will return to haunt him.

Role Reversal and the Need for Accountability

Now that attorneys and prosecutors and victims advocates have been caught withholding exculpatory evidence, the roles are reversed: Add in the federal drawdown of VOCA funding, and we enter federal jurisdiction and IRS and OIG scrutiny.

Respondent is revealed as the victim, and the prosecutors and court officials as the violators. Their retaliation, defamation, malalignment, premature destruction of evidence, and concealment of records demand accountability.

Constitutional Violations

Respondent’s rights were systematically violated under multiple provisions of the **U.S. Constitution**:

- **First Amendment** – The trespass order and vexatious Rule 83 motion directly infringed upon Respondent’s right to access the courts, to petition the government for redress, and to report federal crimes. The court’s misrepresentation that the Rule 83 motion originated with the State of Utah, when in fact it was initiated by the presiding judge acting as movant without a victim, constitutes viewpoint discrimination and an impermissible attempt to silence Respondent.
- **Fifth Amendment** – Due Process and Double Jeopardy protections were violated when cases void ab initio were re-prosecuted despite the August 4, 2016 settlement.
- **Sixth Amendment** – Right to a fair trial, confrontation, and timely access to exculpatory evidence was denied across multiple cases.
- **Eighth Amendment** – The imposition of a trespass order and a vexatious Rule 83 motion — in retaliation for exercising protected rights and without any underlying victim — constituted cruel and unusual punishment, weaponizing judicial power to exclude Respondent from court and suppress constitutionally protected conduct.
- **Fourteenth Amendment** – Equal Protection and incorporation of due process guarantees were disregarded throughout.

Federal Statutory Violations

The conduct described constitutes potential violations of federal law, including but not limited to:

- **42 U.S.C. § 1983** – Deprivation of rights under color of law.
- **42 U.S.C. § 1985 & § 1986** – Conspiracy to interfere with civil rights, and failure to prevent violations.
- **18 U.S.C. § 242** – Criminal deprivation of rights under color of law.
- **18 U.S.C. § 666** – Theft or bribery concerning programs receiving federal funds (misuse of VOCA funding).
- **18 U.S.C. § 1519** – Destruction, alteration, or falsification of records in federal investigations.

VOCA Funding Abuses

During the course of these wrongful prosecutions, federal **VOCA (Victims of Crime Act)** funds were drawn down in excess of **\$500,000**, primarily for payroll and benefits. Yet three years of VOCA ledgers remain unproduced, leaving the full scope of misuse hidden. These funds were unlawfully tethered to void proceedings, weaponizing federal grants against an innocent party and compounding the damage inflicted on Respondent.

Professional Rule Violations

In addition to the failures to disclose and self-report, both prosecutors and judges involved in these matters violated their professional obligations under the **ABA Model Rules of Professional Conduct** and Utah counterparts:

- **Rule 1.1 – Competence:** Attorneys and judges must provide competent representation, including adequate preparation and knowledge of the law. By prosecuting void ab initio cases, withholding exculpatory evidence, and failing to preserve certified records, both Craig Peterson and Judge Lunnen failed this core duty.
- **Rule 1.3 – Diligence:** Lawyers and judicial officers are required to act with diligence and promptness. The repeated neglect in signing the stipulated dismissal of September 20, 2024, the refusal to grant injunctive relief for record preservation, and the initiation of an unfounded Rule 83 motion demonstrate a lack of diligence by both Peterson and Judge Lunnen.

- **Rule 3.8 – Special Responsibilities of a Prosecutor:** Prosecutors must disclose exculpatory evidence and avoid prosecuting charges they know are not supported by probable cause. This rule was repeatedly violated across Case Nos. 171402280, 191400132, and 211401656.
- **Rule 8.3 – Duty to Report Misconduct:** Neither Peterson nor Lunnen fulfilled their obligation to report prosecutorial or judicial misconduct, despite having direct knowledge of due process violations.
- **Rule 8.4 – Misconduct:** Their actions constitute dishonesty, fraud, deceit, and conduct prejudicial to the administration of justice.

Judicial Failures

Judge Lunnen’s handling of Case No. 211401656 further demonstrates the breakdown of accountability:

1. **Contract Law Stipulations (9-20-2024):** Failure to sign and enforce the stipulated dismissal with prejudice.
2. **Injunctive Relief:** Denial of administrative relief to preserve accurate records.
3. **Color of Law Violations:** Muting Respondent, who sought only ministerial preservation of records.
4. **Impropriety in Rule 83 Motion:** Acting as movant without a victim, falsely attributing the motion to the State of Utah, and attempting to silence Respondent from reporting federal crimes.
5. **Failure of Diligence and Competence:** Admitting, after nearly three years presiding over nine related cases, *“I know nothing about your case and I doubt the State does either.”*

Call for Reform

This record compels more than individual remedies. It demands:

- **Independent audits** of VOCA funding and case-related expenditures.

- **Systemic reforms** to ensure certified records, transparency, and accountability.
- **Restoration** of Respondent’s rights and reputation, acknowledging that Respondent was the true victim of prosecutorial misconduct and judicial negligence.

“The trespass order and vexatious Rule 83 motion constitute unconstitutional retaliation for Respondent’s protected activity in exposing misuse of federal VOCA funds. Under **Pickering**, **Mt. Healthy**, and **Hartman**, such retaliation violates the First Amendment. Denial of access to court through trespass further contravenes **Bounds** and **Harbury**. Suppression of exculpatory Brady material across multiple cases directly violates **Brady** and **Giglio**. These violations are actionable under **42 U.S.C. § 1983**, as Respondent’s constitutional rights were deprived under color of law.”

Failure to Produce Records and Federal Violations

The continuing failure to timely produce full **audited VOCA ledgers**, together with the documented **backdating, amended status entries, chronological alterations, and withholding of required records**, will be pursued to the fullest extent of the law. Such conduct constitutes both state-level violations under the **Utah Government Records Access and Management Act (GRAMA)** and federal crimes under multiple statutes:

- **18 U.S.C. § 1519** – Knowingly altering, destroying, concealing, or falsifying records with intent to obstruct a federal investigation (punishable by up to 20 years in prison).
- **18 U.S.C. § 371** – Conspiracy to commit offense or defraud the United States, applicable to coordinated withholding of VOCA funding records.
- **18 U.S.C. § 242** – Criminal deprivation of rights under color of law, applicable to the concealment of exculpatory materials and retaliatory trespass/vexatious motions.
- **42 U.S.C. § 1983** – Civil remedy for deprivation of constitutional rights.
- **42 U.S.C. § 1985 & § 1986** – Conspiracy to interfere with civil rights, and failure to prevent such violations.

OTHER POSSIBLE INFRACTIONS BY PARTICIPANTS

42 U.S.C. § 1985 – Conspiracy to interfere with civil rights

42 U.S.C. § 1986 – Neglect to prevent civil rights violations

GRAMA violations (Utah Code § 63G-2)

Improper denials, withheld records, delay tactics

Refusal to reclassify and release records critical to defense

Obstruction of justice (Utah Code § 76-8-306)

Refiling cases after settlement

Misuse of protective orders and ignoring jurisdictional limits

Witness tampering and procedural abuse

Use of falsified police reports referencing nonexistent court orders

72 messages exchanged between accuser and prosecuting attorney

Due process violations under Utah Constitution

Article I, Section 7 – Due process

Article I, Section 11 – Right to redress

Article I, Section 12 – Rights of the accused

Article I, Section 24 – Equal application of law

Article VI, Section 29 – Public officer accountability

Prosecutorial ethical violations (Utah Rules of Professional Conduct)

The failure to produce ledgers and records required by law not only obstructs Respondent's right to defend against retaliatory prosecutions but also undermines federal oversight of VOCA funds. These actions amount to **spoliation of evidence**, which under federal law creates a presumption that the missing records would have been unfavorable to the withholding party.

As a **whistleblower**, Respondent's efforts to expose VOCA funding misuse and judicial record tampering are matters of public concern. The **retaliation through trespass orders, Rule 83 motions, and continued concealment of financial ledgers** magnifies the constitutional violations already in play. Those responsible for altering records, filing false reports, and obstructing lawful access to government documents face not only civil liability but potential **criminal penalties, including prison sentences**, under the statutes cited above.

Exhibit C tells the story better than words. Every page in red represents a prosecution that was **void ab initio** — cases that never had jurisdiction. Yet they were advanced, funded through VOCA, and sustained only by withholding Brady evidence that ultimately proved not exculpatory to me, but **inculpatory to the prosecution itself**. This Court cannot ignore what is now plain: the record shows prosecutions without jurisdiction, funding without accountability, and evidence withheld in defiance of constitutional duty.

Every page in red is void — yet it was prosecuted, VOCA-funded, and built on withheld Brady evidence.

The following transcript from GRAMA APPEAL is evidence that Discovery was violated. Obtaining Exculpatory evidence via GRAMA APPEAL is rather extraordinary and unusual, the existence of this document is evidence of Utah County Attorney Discovery violations spanning 11 months.

www.utah.gov/pmnm/files/672901.pdf

Utah County Commission Meeting Minutes

DocuSign Envelope ID: BA3FF003-8974-4196-BD86-675F06001E03
Board of Commissioners of Utah County, Utah
Commission Meeting (GRAMA) Minutes

NOVEMBER 26, 2019 - 8:30 A.M.

Board members may participate electronically at will, with the anchor location as stated above.

Commission Meeting Minutes (ai generated transcript, certified record for accuracy does not exist www.utah.gov/pmnm/files/672901.pdf)

Commissioner Lee and Commissioner Ivie in Attendance
Commissioner Ainge Excused

COMMISSIONER LEE: Alright welcome this morning. We've got a special meeting for a hearing on a GRAMA request. We have the two commissioners here, Commissioner Ivie and Commissioner Lee. I don't know is Commissioner Ainge on the phone?

COMMISSIONER IVIE: No.

COMMISSIONER LEE: Okay, alright and the GRAMA appeal is on Mark Allen's behalf on this and I think traditionally we start with the county, don't we?

DAVE SHAWCROFT, DEPUTY COUNTY ATTORNEY: Yes.

COMMISSIONER LEE: Okay.

BEN VAN NOY, DEPUTY COUNTY ATTORNEY: Thank you commissioners.

COMMISSIONER IVIE: Quick question.

BEN VAN NOY: Yes.

COMMISSIONER IVIE: Do we need to approve regular agenda item one?

COMMISSIONER LEE: Oh, yeah, okay, good, thank you. Let's go ahead and do that. I'll suspend the rules so I can second.

Regular Agenda

- 1. Approve and ratify the order calling for a special meeting of the Board of Commissioners of Utah County, Utah for November 26, 2019 at 8:30 A.M.**

COMMISSIONER IVIE: Move to approve.

COMMISSIONER LEE: Second.

AYE: All in favor.

PASSED: 2/0

- 2. Appeal hearing regarding the Mark Wallen GRAMA appeal.**

BEN VAN NOY: Thank you. So, to pick up, this is a GRAMA appeal from Mark Allen. The GRAMA request was submitted on November 6th of this year is one of a series of requests that Mr. Allen has to the attorney's office regarding his criminal case for violation of a civil stalking injunction. As we, as documents were based off of what Allen would find more, request more documents based off of what was given. We disclosed or gave Mr. Allen seven documents and two MP3 files. Commissioners, do you have a copy of the GRAMA request?

COMMISSIONER IVIE: Yes.

BEN VAN NOY: Okay, I'm just going to go through it then. I guess the easiest way that what that issue is whether these are properly classified.

COMMISSIONER LEE: I don't have that document with me if that's what you're asking, but I've seen it.

BEN VAN NOY: That's fine. I can read it so we're all on the same page. First, what was requested was the calendar of Randy Kennard, who is a prosecutor in my office between January 11th and January 6th of this year. That was denied off of GRAMA 63G-2-103(22)(b)(ix) which says: "A record does not mean a daily calendar or other personal note prepared by the original for the original originators personal use or for personal use of an individual for whom the originator is working." Mr. Allen requested Mr. Kennard's daily personal calendar so that is not a record under GRAMA, so that's why we denied that one.

Second, was to provide all emails to or from Randy Kennard regarding Mark Stewart Allen criminal case number and then provides the case number that is relevant to his case. That was a duplicate request. We had already given him every email in the previous GRAMA requests to or from Mr. Kennard.

Third, provide all emails to or from Rickie Liddiard regarding this case. Rickie Liddiard is a legal assistant in my office and as part, she's part of the prosecution team that was denied under the ongoing pending investigation clause in GRAMA. We also added an additional classification of work product. So these emails to or from Mr. Kennard assistant were prepared for or anticipation of litigation as part of that litigation team that work product umbrella protects those communications between Mr. Kennard and his assistant.

Skipping to number 5, emails to provide emails to or from Tammy Paynter regarding the case. Same exception. Tammy Paynter is also illegal assistant that assisted Mr. Kennard in this case. So that was denied under the ongoing investigation provision, and we additionally added the classification of work product.

Number four was emails to or from Janet Genevier Pratt. In Utah regarding this case. Miss Pratt is a Provo city employee, in Utah County. We don't maintain or create those emails. Those are her emails and as such we rejected that request under 63G-2-201(6)(b) the provision that says we don't have to give a record if it's not ours, we don't maintain it, it's not our record, it was Provo city's record as it was her emails.

COMMISSIONER LEE: But those emails, they were emailed here to the county?

BEN VAN NOY: If we had, if someone had one of her emails on regarding this case is my understanding those were already provided to Mr. Allen but any other emails from her that weren't connected with someone in our office, are not our records.

COMMISSIONER LEE: Because once a document lands here, then it becomes, I mean it's a part of our process on a record basis.

BEN VAN NOY: Not always. If a record is a different government agency's record and it is provided to us but not our record as it's not owned by the county that is necessarily our record. That being said, if Miss Pratt's name email was part of our case file that my understanding that all those emails were already given to him. Any other email from Miss Pratt that we don't have is not our record so we can't give it to him.

COMMISSIONER LEE: Okay.

BEN VAN NOY: Number 6, Mr. Allen asks for....

COMMISSIONER LEE: Can I just, I'm sorry.

BEN VAN NOY: Yes, please.

COMMISSIONER LEE: I'm just trying to get my mind around this because we often get GRAMA'ed on stuff too and so are you saying that if an individual emails us,

BEN VAN NOY: Um huh.

COMMISSIONER LEE: It's not a county record? It's not part of the county record if somebody asked for emails that come to a commissioner, we have to have permission from everyone who emails us that it's their record? Only emails that originate from say myself to somebody else?

BEN VAN NOY: No. So if you receive an email from somebody it then becomes part of the county record. All other emails from that person which is what was requested regarding this case file, aren't our records.

COMMISSIONER LEE: Got it. Okay.

BEN VAN NOY: Mr. Allen asks in the attached document from Mr. Randy Kennard, Mr. Kennard in one of those emails says he had reviewed additional information, in this case, Mr. Kennard had spoken with the alleged victim's attorney. The alleged victim's attorney had provided Mr. Kennard some emails, some analysis as well as some audio recordings. Those were provided to Mr. Allen, so I don't. That's not an issue.

Number 7 is a copy of the protective order that Mr. Kennard references in one of his attached emails. For some reason the court generated a file that says protective order even though this is a civil stalking injunction case. So originally this was denied because we didn't, this wasn't a protective order case. Upon further review and speaking with the prosecutor, we find this document and it was just provided to Mr. Allen this morning. Because it was a court generated document and there's no reason to not give that to him.

So, the only record at issue remain really the emails between Mr. Kennard and his legal assistants, Miss Paynter and Miss Liddiard and are in my opinion, the county's. Are positioned properly classified as protected under the work product doctrine and under the pending investigation provision. Any questions for me?

COMMISSIONER LEE: No.

COMMISSIONER IVIE: I do have, Ben.

BEN VAN NOY: Yes.

COMMISSIONER IVIE: I do have one question for you. So, on the Kennard emails, you mentioned work product and on-going investigation. Charges have been filed in this case, correct?

BEN VAN NOY: Correct.

COMMISSIONER IVIE: At what point in time does that no longer become protected? Because obviously for somebody to have the opportunity to prepare a defense case,

BEN VAN NOY: Sure.

COMMISSIONER IVIE: They have to have access to all of the evidence that the prosecution is giving, is using against them.

BEN VAN NOY: Right.

COMMISSIONER IVIE: And potentially in some of this electronic communication could be some of that information or what point in time legally would that no longer be protected as work product? I mean are we talking a day before the trial? Or week before the trial? What's a reasonable expectation to give a defendant an opportunity to review all information to build their case?

BEN VAN NOY: Sure, great question. You correctly stated the standard, prosecutorial standard in the state of Utah and almost everywhere in the nation is to give evidence to the defendant. It is my understanding that has happened in this case. That being said, an

emails or the case are always classified as work product and period of time you can give them like an ongoing investigation once an investigation, you're correct, that provision that protection is no longer remember there. But with work product, it once it's work, it's always work product. And so a prosecuting attorney's email, impressions, his thoughts to his legal assistant regarding the case is always work product and would not be divulged.

[note from RESPONDENT. THE EXCULPATORY EVIDENCE FOR RESPONDENT WAS INCULPATORY AGAINST DAVID LEAVITT, THE SCREENING TEAM, ATTORNEY PRANNO, THE STATE'S WITNESS, AND ALL DOWNSTREAM PROSECUTION, NO SANCTIONS FOR BRADY VIOLATIONS, GREAT HARM TO RESPONDENT PERSONALLY, PROFESSIONALLY AND NO REMORSE FROM PROSECUTORS.]

COMMISSIONER IVIE: Okay.

COMMISSIONER LEE: Is there a line on there? What if there's information or you know in that, in those I mean, I get it if it's impressions or thoughts or strategy and so forth. I don't think that that has any bearing on it, but if there's information in there that the defense side can use...

BEN VAN NOY: If there's other exculpatory evidence that is in there, yes, the prosecutor has a duty to disclose that.

COMMISSIONER IVIE: So in this case, have you reviewed those documents and ensured that there is none of that information in those emails and if there were would you provide that to Mr. Allen with the redacted personal notes?

BEN VAN NOY: We have reviewed it and we have determined that there is no evidence that Mr. Allen is due or should receive under that doctrine.

COMMISSIONER IVIE: Okay.

COMMISSIONER LEE: And those are things that we could review as well?

BEN VAN NOY: Yes sir. Thank you.

COMMISSIONER IVIE: Thanks.

MARK ALLEN: Good morning commissioners, today I sent in front of you as a father and a grandfather and would like to let you know that my GRAMA appeal is so that I can have due process. I have not had my day in court. My accuser has worked out of this building, is closely connected with law enforcement, social workers and have not had due process. I've got a case full of evidence here that has not seen the light of day. Bottom line

is feel I'm being railroaded and so to have a fair trial I am being criminalized for a protective order that the 4th district court of the state of Utah says does not exist.

Provo police were very tightly connected with my accuser. They work side by side. In the Provo police report, it says 9 times that I violated a protective order (Note, which never existed). One of your attorneys said that I cohabitated with her, and so they're adding on other charges so, this is very germane and as county chief administrative officers you can reclassify any record. There's work product any record you can reclassify so that I can have due process. So I stand in front of you asking for that (so) I can have due process.I did get some items from Provo city via your system, court wise or some program like that. They have stopped utilizing but the state GRAMA ombudsman has spent time with me and said there's absolutely no reason why you can't reclassify records and forward those to me so I can have due process. So I appreciated your, my constitutional rights. I'm \$20,000 into it and I have not had any law officer ask me.

I have found things through GRAMA that discovery has not shown up with. So there's problems over at the courthouse over there. Problems here, and your own county attorney, he speaks about this, right? Legal abuse of the criminal justice system. I've got a front row seat. So, I'm imploring, for my own civil due process, to have these records reclassified and released to me.

I can determine whether they're germane or not. Every single document that I've obtained via GRAMA has had value, have helped me see the path of connectedness and friendships and doing favors.

I have a little video here of my accuser calling upon law enforcement to take good care of me. So nothing's been through the front door. I'm trying to come through the front door and say give me the evidence please, so I can protect myself and have my day in court, but I don't get my day in court on her course of conduct.

So, any documents that are being weaponized against me, I believe I have the right to have time to go through and review. I found that Provo city has done two police reports saying I violated protective orders. They don't have them. I've GRAMA'ed you guys. You don't have them. There was an attorney of mine, he was sanctioned 50 times, so I don't know if you've seen this. That's the crux. He had 50 sanctions against him and that's where the argument kind of dead ends.

So, my evidence hasn't been seen and I'm \$20,000 down the undo process. So, I respectfully request that you reclassify and give me an opportunity to save my skin from a false accuser. If you need a little sample of my false accuser under oath, we've got a

3-minute video that just shows her under oath talking out both sides of her mouth and that's what I'm up against. It's very twisted.

COMMISSIONER LEE: Can I ask you. So there's probably some assumptions that are being made, right? These emails, I don't know how many there are, I haven't seen them. There's probably, there might be something in there, that's what you're looking for? If you don't know and so you're...

MARK ALLEN: Everyone that I've got so far, I have found a path and it comes down to this woman worked out of this building. She's conflicted, and she's using connections, and there's a huge liability if you were to watch the 18-minute video, you'd realize there's a huge liability if you don't release these records for me to have due process. So, if you'd like to just watch a little short 3-minute video, it's not sexually graphic. It's 4th district at my preliminary felony hearing, my attorney asking my accuser a few questions.

COMMISSIONER LEE: Well maybe we could just see that.

COMMISSIONER IVIE: For me personally, I'm not sure how that relates to the GRAMA appeal itself, so I would personally rather stick to the merits.

MARK ALLEN: It's germane too. This is a record some of those records that I'm showing are part of my GRAMA thing. So everything your prosecutors are holding an ace up their sleeve. I've found aces up the sleeves of Provo city. I've found aces up the sleeve on police body camera footage. [She says} "Hey do me a favor".

So, I'm asking for front door constitutional rights. Provide any evidence that's germane to what I'm up against and any other questions. The statutory language I think I sent to you allows you to reclassify. Code 63G-2-305(10)(c) - failure to release a free requested record "would create a danger of depriving a person of a right to a fair trial or impartial hearing". On that basis I asked for the release of, the reclassification and release all GRAMAs', especially Tammy Paynters that I've requested. Thank you.

COMMISSIONER LEE: Okay, thank you. Alright I would assume the decision is not going to be made on this, we will, we will talk later. I think that this is just to hear it and see where we're at and then we will, I don't remember how many days we have. How many days do we have court? Is it five?

BEN VAN NOY: Five business days.

COMMISSIONER LEE: Five business days.

BEN VAN NOY: And given the holiday, I think it's into Wednesday of next week.

COMMISSIONER LEE: Okay so we'll go into deliberation with that and we'll close this this meeting and then we'll deliberate from here.

COMMISSIONER IVIE: Motion to adjourn.

COMMISSIONER LEE: Second.

AYE: All in favor.

PASSED: 2/0

MEETING ADJOURNED

Public Comments

N/A

In compliance with the Americans With Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Kelly Adams at (801) 851-8107 at least three days prior to the meeting.

**DocuSigned by:
Tanner Ainge
Commission Chair**

**ATTEST:
DocuSigned by:
Alice Black
Deputy Clerk/Auditor**

Conclusion

Exhibit C graphically demonstrates that all docket pages highlighted in red were void ab initio yet nevertheless prosecuted. The County Commission GRAMA APPEAL exposes multiple Discovery violations after the court cases had mostly run their course and irreparable harm had been done to the Respondent.

The majority of those proceedings were VOCA-funded, despite full knowledge that jurisdiction had been extinguished by the August 4, 2016 settlement.

These same proceedings were sustained only through the deliberate withholding of **exculpatory Brady evidence** — evidence which, when finally obtained through Respondent's GRAMA appeal, was not merely favorable to the defense but in fact **inculpatory to the prosecution**, exposing the misconduct and illegality of their actions. The record, now fully illuminated by Exhibit C, confirms that Respondent was wrongfully targeted, federally funded prosecutions were unlawfully advanced, and constitutional violations were compounded by the very officers of the court sworn to uphold justice.

Mandatory Reporting Obligations

Now that the Court has **context, evidence, and knowledge** presented through Exhibit C, its obligations extend beyond administrative housekeeping. Under both federal law and professional ethics, the Court and every attorney of record bear a **mandatory duty to report** credible evidence of misconduct and possible criminal violations.

- **Judicial Canons:** Utah Code of Judicial Conduct, Canon 2 (Integrity) and Canon 3 (Competence & Diligence) require judges to act upon knowledge of misconduct and to ensure the administration of justice is not compromised. A judge cannot ignore evidence of fraud upon the court, Brady violations, or misuse of federal funds.
- **Professional Conduct Rules:** Attorneys, including prosecutors and state representatives, are obligated under **Rule 3.8 (Special Responsibilities of a Prosecutor)**, **Rule 8.3 (Duty to Report Misconduct)**, and **Rule 8.4 (Misconduct)** to disclose misconduct, report violations, and refrain from dishonesty or concealment.
- **Federal Law:** Knowledge of possible violations under **18 U.S.C. § 1519 (record falsification and destruction)**, **18 U.S.C. § 666 (misuse of federally funded programs)**, and **18 U.S.C. § 242 (deprivation of rights under color of law)** imposes a duty to preserve evidence, notify appropriate oversight bodies (including the DOJ and OIG), and avoid further concealment.

The Court has now been put on notice that the August 4, 2016 settlement extinguished jurisdiction, and that subsequent prosecutions — many VOCA-funded — were **void ab initio** yet pursued with **withheld Brady evidence**. With this knowledge, continued silence or inaction would itself constitute a violation of judicial canons, professional rules, and possibly federal law.

Accordingly, the Court must either report these matters to the appropriate oversight authorities or risk complicity in the very misconduct that is contrary to the Constitution.

Mandatory Referral and Reporting Order'

Mark Allen
Address: On File

IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY, STATE OF UTAH
137 N Freedom Blvd.
Provo Utah 84601

JUDGE GRAF

V.

MARK STEWART ALLEN,
Respondent

Proposed Order on Ministerial Obligations
Judicial Certification of Record Accuracy –
Exhibit C1 Potential Violations and Federal
VOCA Funding (64)

Case No. 211401656

Honorable Judge Tony Graf Jr.

Having reviewed Exhibit C and associated Exhibit C1 and C2 and the accompanying record, the Court notes clerical errors requiring administrative correction. To ensure accuracy and compliance with the Court's ministerial duties, the following corrections shall be entered into the record:

**Record Corrections from Kennard email to Tammy Paynter Jan 11th 2019
(check all that apply):**

- Error 1 – Case number incorrectly reads *18PR3280*; corrected to **18PR32810**.
- Error 2 – Case number incorrectly reads *18PR3280*; corrected to **18PR32810**.
- Error 3 – Date incorrectly reads *8/20/2018*; corrected to **8/20/2016**.
- Error 4 – Date incorrectly reads *8/26/2018*; corrected to **8/26/2016**.
- Error 5 – Date incorrectly reads *8/4/2018*; corrected to **8/4/2016**.

Referral for Investigation

IT IS HEREBY ORDERED that, having received Exhibit C and the accompanying record, and being placed on notice of potential violations of federal law, professional rules, and judicial canons, this matter shall also be referred for investigation and review. Pursuant to the Court's ministerial and administrative obligations, the undersigned Judge shall indicate below the agencies to which this referral is transmitted, ensuring compliance with mandatory reporting duties under law and ethical rule.

Referral Authorities (check all that apply):

- Judicial Conduct Commission (JCC) – Review of judicial conduct, diligence, and competence under Utah Code of Judicial Conduct.
 - Utah State Bar – Office of Professional Conduct – Investigation of prosecutorial misconduct, Brady/Giglio violations, and failures to report under Rules 3.8, 8.3, and 8.4.
 - Office of Inspector General (OIG), U.S. Department of Justice – Investigation into misuse of federal VOCA funds and record falsification.
 - Internal Revenue Service (IRS) – Criminal Investigations Division – Audit and review of potential misuse of federal VOCA drawdowns and reporting fraud.
 - Other (specify): _____
-

Judge's Certification and Referral

I, the undersigned Judge, having reviewed Exhibit C and the record, acknowledge my duty to report and hereby direct referral of this matter to the agency(ies) indicated above.

Signature: _____

Honorable Judge Tony Graf Jr.

Date: _____

Clerk's Certification of Record Corrections

I, the undersigned Clerk of Court, hereby certify that the above record corrections (Errors 1–5) have been entered into the official record in accordance with the Court's order and administrative duties.

Clerk of Court: _____

Date: _____

Distribution of Certified Copies

The Clerk of Court is DIRECTED to transmit certified copies of this Order, Exhibit C, and the corrected record entries **via United States Postal Service, Certified Mail – Return Receipt Requested, in hard copy** to the following:

- Provo City Police Department
 - Provo City Prosecutor's Office
 - Utah County Prosecutor – Jeff Gray
 - Utah County Commissioners: Beltran, Gordon, Gardner
 - State of Utah Attorney General – Derek Brown
 - State Prosecutor – Derek Brown
 - Utah Office for Victims of Crime (UOVC)
 - Bureau of Criminal Identification (BCI) / UCJIS
 - Respondent – Mark Stewart Allen
-

Proof of Service

I, the undersigned Clerk of Court, hereby certify that the above-listed recipients were served with certified hard copies of this Order by USPS Certified Mail, Return Receipt Requested, on the date shown below.

All USPS return receipts (green cards or electronic delivery confirmations) shall be **filed into the official docket** as part of the case record, providing a permanent audit trail of service and compliance.

Clerk of Court: _____

Date of Mailing: _____

Tracking Numbers: _____

INTENTIONALLY LEFT BLANK

9-19-2025