

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: December 12, 2016 CASE NUMBER: 2016SA188
Original Proceeding in Unauthorized Practice of Law, 15UPL069	
<b>Petitioner:</b>  The People of the State of Colorado,  <b>v.</b>  <b>Respondent:</b>  Steven Duane Curry.	Supreme Court Case No: 2016SA188
ORDER OF COURT	

Upon consideration of the Report of Hearing Master Under C.R.C.P. 236(a) filed in the above cause, and now being sufficiently advised in the premises,

IT IS ORDERED that Respondent, STEVEN DUANE CURRY shall be, and the same hereby is, ENJOINED from engaging in the Unauthorized Practice of Law in the State of Colorado.

IT IS FURTHER ORDERED that Respondent, STEVEN DUANE CURRY, is assessed costs in the amount of \$224.00. Said costs to be paid to the Office of Attorney Regulation Counsel, within (30) days of the date of this order.

IT IS FURTHER ORDERED that a fine be imposed in the amount of \$250.00.

BY THE COURT, DECEMBER 12, 2016

<p>SUPREME COURT, STATE OF COLORADO</p> <p>ORIGINAL PROCEEDING IN THE UNAUTHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203</p>	
<p><b>Petitioner:</b> THE PEOPLE OF THE STATE OF COLORADO</p> <p><b>Respondent:</b> STEVEN DUANE CURRY</p>	<p>Case Number: <b>16SA188</b></p>
<p><b>REPORT OF HEARING MASTER UNDER C.R.C.P. 236(a)</b></p>	

On October 5, 2016, the Presiding Disciplinary Judge (“the PDJ”) entered summary judgment against Steven Duane Curry (“Respondent”), finding that he engaged in the unauthorized practice of law by filing court documents on behalf of his wife. The PDJ now recommends that the Colorado Supreme Court fine Respondent, order him to pay costs, and enjoin him from the unauthorized practice of law.

#### **I. PROCEDURAL HISTORY**

The People filed a “Petition for Injunction” against Respondent on June 7, 2016, alleging that he engaged in the unauthorized practice of law. The Colorado Supreme Court issued an “Order to Show Cause” on June 15, 2016. Respondent filed a combined response and motion for judgment on the pleadings on June 30, 2016. On July 5, 2016, the Colorado Supreme Court referred this matter to the PDJ.

At the PDJ’s direction, the People filed a response to Respondent’s motion for judgment on the pleadings July 18, 2016. Respondent filed two replies that were substantially similar to one another on July 25 and July 28, 2016, respectively. Then, at a scheduling conference held on August 11, 2016, the PDJ set a hearing in this case for November 16, 2016.

By order of August 17, 2016, the PDJ denied Respondent’s judgment on the pleadings; ordered Respondent to file an amended answer to the People’s petition consistent with the requirements of C.R.C.P. 8(b); and dismissed any counterclaims or requests for damages against the People.

The People then filed “Petitioner’s Motion for Summary Judgment” on August 26, 2016, to which Respondent submitted a response on September 14, 2016. As noted above, the

PDJ entered summary judgment in the People's favor on October 5, 2016. In that order, the PDJ vacated the hearing in this matter, directed the People to file a motion detailing their requests as to a fine, costs, and any restitution on or before October 19, 2016, and ordered Respondent to file his response, if any, on or before October 26, 2016. The People filed "Petitioner's Request for Recommendations Regarding a Fine and Costs" on October 6, 2016, but Respondent did not file a response.

## **II. SUMMARY JUDGMENT RULING**

The facts and analysis from the PDJ's order granting summary judgment are reproduced in condensed format here.

### **Facts**

On December 2, 2015, Respondent filed in case number 2105CR305 a handwritten motion requesting dismissal of charges that had been filed against his wife, Sandra L. Tyler, "pursuant [to] Writ of Habeas Corpus." In the motion, Respondent indicated that he was representing Tyler. The motion set forth legal arguments, citing federal and state statutes, as well as Colorado case law. Respondent asserted that the district attorney lacked authority to file charges against Tyler. He further accused sheriff's deputies of assaulting, battering, and kidnapping Tyler. Respondent signed the motion, but Tyler did not.

On December 14, 2015, Respondent submitted a second filing in the same case. He identified himself as "Law Counsel/Representative for Sandra Lee Tyler." On the first page of the motion, Respondent stated he was attaching a "Writ of Habeas Corpus." Citing statutes and case law, Respondent argued that sheriff's deputies acted without authority when they arrested Tyler. In addition, he asserted that the judge and officers of the court had engaged in human trafficking, citing a Colorado statute. Respondent demanded Tyler's release, citing state and federal law to argue that there was no legal basis to detain her. The document was not signed by Tyler. Respondent signed as "Authorized Law Representative Counsel."

On January 8, 2016, Respondent filed in the same case, on behalf of himself and Tyler, a motion that sought the disqualification of District Court Judge Bennet A. Morris. In support, Respondent alleged that Judge Morris had committed crimes, including treason. Respondent signed the motion.

Last, on January 19, 2016, Respondent filed in the same case, on Tyler's behalf, a "Demand to Rescind, Retract, and Strike Court's Motion for Competency Hearing of Sandra Lee Tyler, a Living-Spirit Born Being & Woman Living on the Land." In the motion, Respondent argued that the competency hearing ordered by Judge Morris for Tyler violated her constitutional rights. He argued, pointing to case law in support, that Tyler could not be subjected to a psychiatric examination without her consent. Also citing statutes, Respondent asserted that Judge Morris had committed a series of crimes, such as abusing the public record and assaulting an at-risk elder. Respondent signed the motion.

### Unauthorized Practice of Law Standards and Analysis

The Colorado Supreme Court has exclusive jurisdiction in Colorado to define the practice of law and to prohibit the unauthorized practice of law.<sup>1</sup> Colorado Supreme Court case law holds that “an unlicensed person engages in the unauthorized practice of law by offering legal advice about a specific case, drafting or selecting legal pleadings for another’s use in a judicial proceeding without the supervision of an attorney, or holding oneself out as the representative of another in a legal action.”<sup>2</sup> Phrased somewhat more broadly, a layperson who acts “in a representative capacity in protecting, enforcing, or defending the legal rights and duties of another and in counseling, advising and assisting that person in connection with these rights and duties” engages in the unauthorized practice of law.<sup>3</sup>

Here, it is undisputed that Respondent filed motions on behalf of another person—his wife—in court. Those motions made legal argument, citing a variety of statutes and case law in support. Such actions amount to the practice of law.<sup>4</sup> Moreover, Respondent held himself out as Tyler’s legal representative, thereby running afoul of well-established principles governing the unauthorized practice of law.<sup>5</sup>

Respondent does not assert that his status as Tyler’s spouse confers on him any special authorization to file motions on her behalf, nor is the PDJ aware of any legal support for that proposition. To the contrary, representing one’s spouse in court has been ruled the practice of law by various tribunals.<sup>6</sup>

### III. FINE, RESTITUTION, AND COSTS

C.R.C.P. 236(a) provides that, if a hearing master makes a finding of the unauthorized practice of law, the hearing master shall also recommend that the Colorado Supreme Court impose a fine ranging from \$250.00 to \$1,000.00 for each incident of the unauthorized practice of law. The People request here that the PDJ recommend the minimum fine of \$250.00.

In assessing fines, the Colorado Supreme Court previously has examined whether a respondent’s actions were “malicious or pursued in bad faith” and whether the respondent engaged in unlawful activities over an extended timeframe despite warnings.<sup>7</sup> In this case, the unauthorized activities at issue took place over a limited timeframe, and Respondent has not

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<sup>1</sup> *People v. Adams*, 243 P.3d 256, 265 (Colo. 2010).

<sup>2</sup> *People v. Shell*, 148 P.3d 162, 171 (Colo. 2006).

<sup>3</sup> *Denver Bar Ass’n v. Pub. Utils. Cmm’n*, 154 Colo. 273, 279, 391 P.2d 467, 471 (1964); see also *Shell*, 148 P.3d at 171.

<sup>4</sup> *Shell*, 148 P.3d at 171.

<sup>5</sup> *Id.*

<sup>6</sup> *Matter of Tarletz*, 98 P.2d 381, 381-83 (Ariz. 1990); *In re Herrera*, 194 B.R. 178, 191 (Bankr. N.D. Ill. 1996); *In re Kells*, 493 N.W.2d 723, 726-28 (Wis. 1993).

<sup>7</sup> *Adams*, 243 P.3d at 267-68.

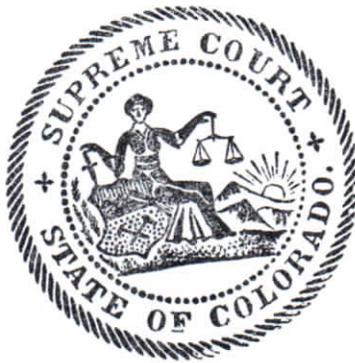
previously been enjoined from the practice of law. For these reasons, the PDJ finds that the minimum fine is appropriate.

The People seek no award of restitution, but the People do ask that Respondent be ordered to pay \$224.00 in costs, which reflects the People's administrative fee. Relying on C.R.C.P. 237(a), the PDJ considers this sum reasonable and therefore recommends that the Colorado Supreme Court assess \$224.00 in costs against Respondent.

#### IV. RECOMMENDATION

The PDJ **RECOMMENDS** that the Colorado Supreme Court **FIND** that Respondent engaged in the unauthorized practice of law and **ENJOIN** him from the unauthorized practice of law. The PDJ also **RECOMMENDS** that the Colorado Supreme Court enter an order requiring Respondent to pay a **FINE** of \$250.00 and **COSTS** of \$224.00.

DATED THIS 31<sup>ST</sup> DAY OF OCTOBER, 2016.



A handwritten signature in blue ink that reads "William R. Lucero".

WILLIAM R. LUCERO  
PRESIDING DISCIPLINARY JUDGE

Copies to:

Kim E. Ikeler  
Office of Attorney Regulation Counsel

Via Email  
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Steven Duane Curry  
Respondent  
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Montrose, CO 81403

Via First-Class Mail & Email<sup>8</sup>  
[cwheileg@gmail.com](mailto:cwheileg@gmail.com)

Christopher T. Ryan  
Colorado Supreme Court

Via Hand Delivery

<sup>8</sup> The PDJ recognizes that Respondent requested during the scheduling conference that any court orders be sent to his mailing address rather than his email address. In his response to the People's motion for summary judgment, however, Respondent states that he will not accept any mail sent to his mailing address. Therefore, to ensure that Respondent receives this order, the Court sends the order to Respondent's mailing address as well as his email address.