

SUPREME COURT, STATE OF COLORADO
TWO EAST 14TH AVENUE
DENVER, COLORADO 80203

CASE NO. 03SA58

RECEIVED

JUL 07 2003

ORIGINAL PROCEEDING IN UNAUTHORIZED PRACTICE OF
LAW

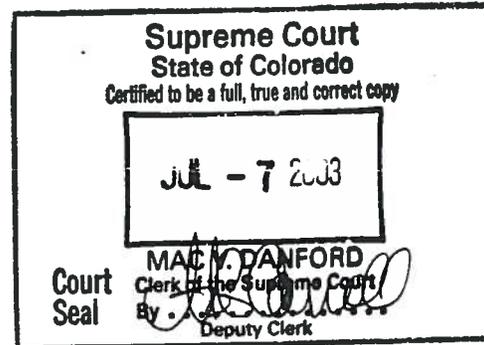
ATTORNEY
REGULATION

Petitioner:

THE PEOPLE OF THE STATE OF COLORADO,
v.

Respondent:

DAVID VAN PELT, a/k/a
DAVID MERRILL



ORDER OF COURT

Upon consideration of the Petition for Injunction,
the Order to Show Cause, the Proof of Service, and Respondent's
pleadings, and now being sufficiently advised in the premises,

IT IS ORDERED that the Respondent, DAVID M. VAN
PELT, a/k/a DAVID MERRILL IS ENJOINED from further engaging in
the unauthorized practice of law,

IT IS FURTHER ORDERED that the Respondent pay the
costs of this proceeding, \$166.00, to the attorney regulation
system's accounting office, 600 17th St., Suite 525-South,
Denver, CO. 80202.

BY THE COURT, JULY 07, 2003.



cc:

James Coyle
Assistant Regulation Counsel

David Van Pelt
David Merrill
4314 Rock Lawn Circle
Colorado Springs, CO 80915

FILED IN THE
SUPREME COURT

MAR - 4 2003

COURT OF THE STATE OF COLORADO
DAVID DANFORD, CLERK

SUPREME COURT, STATE OF COLORADO
2 East 14th Avenue, 4th Floor
Denver, Colorado 80203

ORIGINAL PROCEEDING IN UNAUTHORIZED
PRACTICE OF LAW

Petitioner:
THE PEOPLE OF THE STATE OF COLORADO

vs.

Respondent:
DAVID M. VAN PELT, a/k/a DAVID MERRILL

James C. Coyle # 14970
Deputy Regulation Counsel
Attorney for Petitioner
600 17th Street, Suite 200-South
Denver, CO 80202

Phone Number: (303) 893-8121, ext. 328
Fax Number: (303) 893-5302

▲ COURT USE ONLY ▲

Case Number:

PETITION FOR INJUNCTION

Petitioner, by and through James C. Coyle, Deputy Regulation Counsel, respectfully requests that the Colorado Supreme Court issue an order pursuant to C.R.C.P. 234 directing the respondent to show cause why he should not be enjoined from the unauthorized practice of law. As grounds therefor, counsel states as follows:

1. The respondent, David M. Van Pelt (who now sometimes holds himself out as "David Merrill"), is not licensed to practice law in the state of Colorado. The respondent's last known address is 4314 Rock Lawn Circle, Colorado Springs, Colorado 80915. There are no other known addresses for this respondent at this time. The respondent refuses to provide any other address other than the El Paso County Clerk and Recorder's Office; the respondent is not in any way employed by or otherwise associated with that office.

2. Colleen Richards and James Douglas Watson were divorced in Winnipeg, Manitoba, Canada in October 1996. In a subsequent May 2, 1998

agreement, the parties stipulated that each parent would have joint custody of their child, with primary physical care and control to be granted to the father. Neither party was allowed to remove the minor child from Manitoba on any basis without prior written notice to the other party and approval from the Manitoba court.

3. Subsequently, James Douglas Watson (a/k/a "James Douglas") removed the child from Canada and relocated to Colorado Springs, Colorado. Mr. Watson did not obtain the approval of the Manitoba Court before moving out of Manitoba, and has denied the mother visitation with the child.

4. On June 4, 2002, Colleen Richards, through attorney Vince Rahaman, petitioned the El Paso County District Court for rights of access to the child and requested that the El Paso County District Court appoint a legal representative of the child or a special advocate for the child for the purposes of making parenting time recommendations to the court.

5. On June 5, 2002, the court ordered the appointment of attorney Betsy Hoover as the child's legal representative in *In the Interest of Andrew Watson*, 02DR2116, El Paso County District Court.

6. A hearing on temporary orders involving right of visitation was scheduled for July 31, 2002.

7. James Douglas Watson was served by a private process server at his residence.

8. The respondent prepared, and then on July 9, 2002, filed a pleading which was characterized as "Counterclaim and Libel of Review - in Admiralty - Re: False Claims in the Original Estate," on behalf of Mr. Douglas (Watson) in 02K1296, in the U.S. District Court for the District of Colorado. Mr. Watson signed the pleading. The pleading names Ms. Richards' attorney, Vince Rahaman, Colorado Attorney General Ken Salazar, and U.S. Attorney General John Ashcroft as the three defendants to the action. A certified copy of such pleading is attached hereto as Exhibit 1.

9. No response was filed in the state court action by Mr. Watson. Instead, the served pleadings were returned to the state district court with "refusal for cause" written in magic marker on each page. No description of the refusal or the basis of the "refusal for cause" was provided to the state district court.

10. The respondent prepared, and on July 24, 2002, filed with the

federal district court a pleading characterized as "Refusal For Cause With Explanation," on behalf of Mr. Douglas (Watson). Mr. Douglas (Watson) signed the pleading. See certified copy of "Refusal for Cause" pleading, attached hereto as Exhibit 2.

11. The respondent prepared and also filed with the federal district court on July 24, 2002, a pleading characterized as "Addendum of Evidence," on behalf of Mr. Douglas (Watson). That pleading attempted to add U.S. Secretary of State Colin Powell as a defendant. Mr. Douglas (Watson) signed the pleading. See certified copy of "Addendum," attached hereto as Exhibit 3.

12. On July 25, 2002, defendant attorney Vincent Rahaman filed a response and motion to dismiss the counterclaim against him in the U.S. District Court matter.

13. The respondent prepared and filed another "refusal" on July 30, 2002, in the federal court matter on behalf of Mr. Douglas (Watson). See certified copy of July 30, 2002, refusal, attached hereto as Exhibit 4.

14. On July 31, 2002, the El Paso County district court held a hearing on the temporary orders issues, but Mr. Watson failed to appear. At that hearing, the court noted that the federal district court matter had been filed, and that U.S. District Court Judge John L. Kane had ordered Mr. Watson to file a response to the motion to dismiss by August 6, 2002. The El Paso County district court ordered petitioner Ms. Richards at the time of the hearing to file an application for guardian *ad litem* with the court.

15. The respondent prepared, and filed on July 30, 2002, a pleading entitled "Response to Vincent Rahaman's Motion to Dismiss" in the federal court matter on behalf of Mr. Douglas (Watson). Mr. Douglas (Watson) signed the pleading. A certified copy of that pleading is attached hereto as Exhibit 5.

16. On August 13, 2002, the Honorable John L. Kane dismissed the federal court matter against all three defendants (Vince Rahaman, Ken Salazar and John Ashcroft), and stated that the additional defense of immunity would be available to each of the named defendants and would bar Mr. Watson's claims even if they were amended to state viable causes of action at a later date.

17. Subsequently, the respondent prepared and filed a pleading characterized as "Default and Declaratory Judgment," in the federal court matter on behalf of Mr. Douglas (Watson), claiming that Judge Kane is not a judge because he is operating *coram non judicio* by falsely branding Mr.

Douglas a *pro se* “resident” in a fictitious and extraterritorial “United States.” Mr. Douglas (Watson) signed the pleading. See certified copy of default and declaratory judgment, attached as Exhibit 6.

18. On August 23, 2002, Judge Kane entered a minute order striking the pleading entitled “Default and Declaratory Judgment,” and informing Mr. Watson that his disagreement with the court’s August 13, 2002 order should be taken up with the Tenth Circuit Court of Appeals.

19. The respondent prepared, and filed another document in the El Paso County district court on September 13, 2002, which included a pleading characterized as “Certificate of Exigent Circumstances” that had also been filed with the U.S. District Court in 02K1296 on August 30, 2002, and that dealt with the federal court matter. The document was signed by James Douglas (Watson). Postage stamps were placed and postmarked on the document, and on the fourth page was a “memorandum” signed by the respondent. See certified copy of certificate, with attached memorandum contained in the El Paso County District Court file in 02DR2116, attached as Exhibit 7. In that memorandum (page 4 of Exhibit 7), the respondent states:

Being counselor and having written virtually all of the papers James Douglas has signed in this cause (02K1296), I wish to express in writing the international nature of home rule jural societies. It is at the nexus of this issue and though explained in the counterclaim it seems as though the United States courts have missed the simple issue. (Emphasis added).

The respondent thus admits in this memorandum filed with the U.S. District Court and El Paso County district court that he had drafted all pleadings in the federal court matter and possibly the state court.

20. The respondent also prepared and filed with the federal district court on October 1, 2002, a pleading characterized as “Coram Vobis.” The respondent signed this pleading. In this pleading, the respondent advocated Mr. Douglas’ (Watson’s) case, and described his perception of “[t]he main cause of John L. Kane’s error” in the federal matter. A copy of that pleading, signed by the respondent, is attached as Exhibit 8.

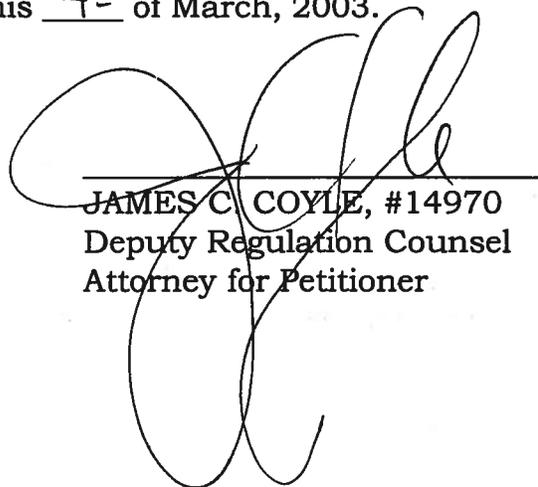
21. On November 22, 2002, the respondent sent a letter to the Clerk of the Fourth Judicial District, Lee V. Cole, Jr. That letter was filed in 02DR2116, as it dealt with issues involving James Douglas Watson, the child’s representative Elizabeth Hoover, and Magistrate Barbara Hughes in the El Paso County district court matter. A copy of the letter to Mr. Cole is attached as

Exhibit 9. In that letter, the respondent admits giving legal advice to James Douglas Watson.

22. By holding himself out to be a "counselor" on legal matters in federal and state district court matters, by preparing pleadings on behalf of James Douglas Watson in federal and state district court matters, and by giving legal advice to James Douglas Watson, the respondent has engaged in the unauthorized practice of law (the unauthorized practice of law includes acting as a representative in protecting, enforcing or defending the legal rights and duties of another and/or counseling, advising and assisting that person in connection with legal rights and duties. *See Denver Bar Association v. P.U.C.*, 154 Colo. 273, 391 P.2d 467 (1964)). The respondent does not fall within any of the statutory or case law exceptions.

WHEREFORE, the petitioner prays that this court issue an order directing the respondent to show cause why the respondent should not be enjoined from engaging in any unauthorized practice of law; thereafter that the court enjoin this respondent from the practice of law, or in the alternative that this court refer this matter to a hearing master for determination of facts and recommendations to the court on whether this respondent should be enjoined from the unauthorized practice of law. Furthermore, petitioner requests that the court assess the costs and expenses of these proceedings, including reasonable attorney fees against this respondent; order the refund of any and all fees paid by any client to the respondent; and assess restitution against the respondent for losses incurred by third parties as a result of the respondent's conduct; and any other relief deemed appropriate by this court.

Respectfully submitted this 4th of March, 2003.



JAMES C. COYLE, #14970
Deputy Regulation Counsel
Attorney for Petitioner