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2021 FEB -5 P 3:02

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21-2-00056-23
PTORVA 2
Petition for Vulnerable Adult Protection Order
9728968



Superior Court of Washington
For MASON County

In re the Matter of:

Robert Charleston

a Vulnerable Adult (Person to be Protected)

Tim Mallea

Respondent (Person to be Restrained)

No. 21-2-00056-23

Petition for Vulnerable Adult
Order for Protection
(PTORVA)

1. Identification of Petitioner:

My name is (please print)

Robert Charleston

I am a vulnerable adult filing on my own behalf.

I am filing on behalf of a vulnerable adult, and
(select one of the options below):

I am the vulnerable adult's guardian or legal
fiduciary.

I am an interested person as defined in
RCW 74.34.020(12).

DSHS petitions on behalf of the vulnerable adult
who:

Has consented to this petition.

Lacks the capacity or ability to consent to this
petition.

2. Respondent's relationship to the
vulnerable adult is (check all that apply):

Spouse or former spouse.

Parent of a common child.

Current or former cohabitant as
intimate partner.

Other Family Member (describe):

Care Provider.

Guardian.

Trustee.

Payee.

Power of Attorney.

Other:

3. The vulnerable adult (check all that apply):

Is over 60 years old and
does not have the
functional, mental, or
physical ability to care for
himself or herself.

Was found incapacitated
under chapter 11.88
RCW.

Has a developmental
disability as defined in
RCW 71A.10.020.

Self-directs his or her
own care and receives
services from a personal
aide under RCW 74.39.

Is receiving services
from a home health,
hospice, or home care
agency licensed or
required to be licensed
under RCW 70.127.

Is receiving in-home services
from an individual provider
under contract with DSHS

Has been admitted to a
boarding home, nursing
home, adult family home,
soldiers' home, residential
habilitation center or any
other facility licensed by
DSHS.

4. The vulnerable adult lives in this county. Or This is the county of the vulnerable adult's new or former residence and he or she left or was removed from his or her previous residence as a result of, or to prevent, abandonment, abuse, personal exploitation, improper use of restraints, neglect, or financial exploitation.

5. My address for receiving legal documents is:

531 E Wood Ln

Shelton, WA 98584

(If you wish to keep your residential address confidential, you may list an alternate address.)

6. My relationship to the vulnerable adult and authority to act:

(If you are filing on your own behalf, or if you are filing as DSHS, go to paragraph 7.)

I am the vulnerable adult's guardian or limited guardian. I was appointed in _____ County, State of _____, Cause No: _____ on or about _____ (date). (Attach a copy of your letters or order appointing guardian, if available.)

On _____ (date) I imposed an emergency restriction on the vulnerable adult's right to associate with the respondent to protect the vulnerable adult.

I am the vulnerable adult's legal fiduciary. I was appointed trustee power of attorney on or about _____ (date). (Attach a copy of your relevant documents, if available.)

I am interested in the welfare of the vulnerable adult. I have a good faith belief that the court's intervention is necessary and that the vulnerable adult is unable at this time to protect his or her own interests, due to incapacity, undue influence, or duress.

Describe the length and nature of your relationship to the vulnerable adult: _____

Describe the incapacity, undue influence, or duress that makes the vulnerable adult unable to protect his or her own interests: _____

7. Do you know of any person who is or claims to be the guardian or legal fiduciary (such as, trustee, payee, power of attorney) of the vulnerable adult? no yes. If yes, provide name and address:

8. Other court cases or other restraining, protection or no-contact orders involving the petitioner, the vulnerable adult or the respondent:

Case Name	Case Number	Court/County

I Request a Vulnerable Adult Protection Order that will grant the relief requested below:

¹ **Restrain** the respondent from committing or threatening to commit physical harm, bodily injury, assault, including sexual assault, against the vulnerable adult and from molesting, harassing, or stalking the vulnerable adult.

(If the court orders this relief after a hearing, and the respondent is the vulnerable adult's spouse or former spouse, the parent of a common child, a current or former cohabitant as intimate partner, the respondent will be prohibited from possessing a firearm or ammunition under federal law for the duration of this order. An exception exists for law enforcement officers and military personnel when carrying department/government-issued firearms. 18 U.S.C. § 925(a)(1).)

² **Restrain** the respondent from committing or threatening to commit acts of abandonment, abuse, personal exploitation, improper use of restraints, neglect, or financial exploitation against the vulnerable adult.

³ **Exclude** the respondent from the vulnerable adult's residence.

⁴ **Restrain** the respondent from coming near and from having any contact with the vulnerable adult, in person or through others, by phone, mail, or any means, directly or indirectly, except through an attorney, or mailing or delivery by a third party of court documents.

⁵ **Prohibit** the respondent from knowingly coming within, or knowingly remaining within 1/2 mile (distance) of the vulnerable adult's residence workplace adult day program; the premises of the long-term care facility where the vulnerable adult resides.

other:

⁶ **Require** the respondent to provide an accounting of the disposition of the vulnerable adult's income or other resources.

⁷ **Restrain** the respondent from transferring the vulnerable adult's property for up to 90 Days.

⁸ **Restrain** the respondent from transferring respondent's property for up to 90 Days.

⁹ **Require** the respondent to pay a filing fee, the court costs, including service fees, and costs incurred in bringing this action, including attorney's fees.

¹⁰ Other:

Request for a Temporary Vulnerable Adult Protection Order: *An Emergency Exists* as described in the statement below. The vulnerable adult needs a temporary protection order issued immediately, without prior notice to the respondent, that grants the relief requested above.

Request for Special Assistance From Law Enforcement Agencies:

I request the court order the appropriate law enforcement agency to assist the vulnerable adult in obtaining:

*Escort Mr Mather to obtain his personal possessions
from my vehicle.*

A Vulnerable Adult protection order is available to protect a vulnerable adult from abandonment, abuse, financial exploitation or neglect.

"Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

"Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and personal exploitation of a vulnerable adult, and improper use of restraints against a vulnerable adult, which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual conduct, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse also includes any sexual conduct between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under RCW 71A.12, and a vulnerable adult living in that facility or receiving service from a program authorized under RCW 71A.12, whether or not it is consensual.

(b) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.

(c) "Mental abuse" means a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing.

"Isolate" or "isolation" means to restrict a vulnerable adult's ability to communicate, visit, interact, or otherwise associate with persons of his or her choosing. Isolation may be evidenced by acts including but not limited to:

- (1) Acts that prevent a vulnerable adult from sending, making, or receiving his or her personal mail, electronic communications, or telephone calls; or
- (2) Acts that prevent or obstruct the vulnerable adult from meeting with others, such as telling a prospective visitor or caller that a vulnerable adult is not present, or does not wish contact, where the statement is contrary to the express wishes of the vulnerable adult.

The term "isolate" or "isolation" may not be construed in a manner that prevents a guardian or limited guardian from performing his or her fiduciary obligations under RCW 11.92 or prevents a hospital or facility from providing treatment consistent with the standard of care for delivery of health services.

(d) "Personal exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(e) "Improper use of restraints" means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that: (i) is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under RCW 71A.12; (ii) is not medically authorized; or (iii) otherwise constitutes abuse under this section.

"Chemical restraint" means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

"Mechanical restraint" means any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are (a) medically authorized, as required, and (b) used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under RCW 71A.12.

"Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include (a) briefly holding without undue force a vulnerable adult in order to calm or comfort him or her, or (b) holding a vulnerable adult's hand to safely escort him or her from one area to another.

"Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage. "Financial exploitation" includes, but is not limited to:

- (a) The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with a vulnerable adult to obtain or use the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult;
- (b) The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult; or
- (c) Obtaining or using a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the vulnerable adult lacks the capacity to consent to the release or use of his or her property, income, resources, or trust funds.

"Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable

adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

Statement: The respondent has committed or threatened to commit acts of abandonment, sexual abuse, mental abuse, physical abuse, exploitation, neglect, and/or financial exploitation as follows.

Describe the most recent incidents or threats of abandonment, sexual abuse, mental abuse, physical abuse, personal exploitation, improper use of restraints, neglect, and/or financial exploitation and date (describe specific incidents or threats and the approximate dates):

See attached Declaration of Robert Charleston

• Stole debit card

- Used debit card to obtain cash

- obtained OCCU account number & directly transferred cash from account; took \$1000 from OCCU & WFA Employees Credit Union

- Threatened with physical assault

- Threatened to file accusations of sexual assault against Mr. Malke's girlfriend in attempt to intimidate & silence me

- See Sheriff's Dept case - for documentation from credit unions

- Continue to harass & threaten by Facebook Messenger

- Continue to send messages to tenant

Describe past threats or incidents of abandonment, sexual abuse, mental abuse, physical abuse, personal exploitation, improper use of restraints, neglect, and/or financial exploitation (describe specific incidents or threats and their approximate dates):

See attached Declaration of Robert Charleston

Does the respondent own or possess weapons? Yes No Unknown

Does the respondent use firearms, weapons or objects to threaten or harm the vulnerable adult? Please describe:

machete
Mr Mallea reportedly refused to his machete.

Explain any additional reasons why this order should be issued immediately. List any immediate and irreparable injury, loss, or damage that would result to the vulnerable adult before the respondent or vulnerable adult can be served and heard:

See attached declaration. Extreme stress to duress due to threats to ongoing harassment. I am at high risk for heart attack at stake. I have Parkinson's Disease, am in severe pain & cannot physically defend myself should he attack me.

Efforts to give notice: Did you make efforts to give notice of your request for temporary relief to respondent vulnerable adult? If so, describe how and when notice was given. If no notice was given, explain why not:

No means to contact Mr Mallea. He may be homeless residing somewhere in Shelton.

Other: _____

(Continue on separate page if necessary)

Personal service cannot be made upon Respondent within the state of Washington.

You could be required to post a bond or provide alternate security as a condition for obtaining a temporary order. The court may waive the bond in situations in which the vulnerable adult's health or life would be jeopardized. RCW 7.40.080, 74.34.120(5)(a).

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated: _____

Robert Charleston 2/4/2021

Washington.

Signature of Petitioner: _____

Print Name: _____

Mason County District Court
Declaration of Robert Charleston

REF: Sheriff's dept case number 21-02007, Officer D. Johnson

I am requesting a restraining order for Tim Mallea of Shelton, Washington for the following reasons:

In approximately early December of 2020 I allowed Mr. Mallea, a former in-law of one of my tenants, to stay on my couch for roughly 2 1/2 weeks because he was homeless. During this time his girlfriend Sierah Wypych stayed with him a few times. He claimed he was a mechanic and offered to repair my 2000 Ford Torus, which needed an engine swap. I agreed to give Mr. Mallea my 95 Toyota Camry in exchange for his labor. I provided the replacement engine and necessary parts.

Mr. Mallea stayed on my couch while working on my vehicle and assisting me with some minor household repairs. He never completed the engine replacement. During that time he demanded I pay him in addition to giving him my Toyota as payment. He wanted my camera (which I originally purchased for about \$300) and Verizon cell phone (which I originally purchased for about \$800). Because of his demands, I allowed him to take both of them.

During his stay on my couch, he asked me if I wanted to have sex with his girlfriend for \$25. I told him I found his offer repulsive and declined. He later claimed that I offered him \$25 to have sex with her.

During the time he stayed with me I noticed that my debit card was missing. I confronted him about it and he laughed it off saying he didn't need a card anyway, that he knew how to get around it, implying that he could access my account at any time he wished. I noticed at that time I was missing funds from both my Washington State Employees Credit Union checking account in Olympia and my Our Community Credit Union checking account from Shelton. He also bragged about how he cashed the same check several times in Shelton, which was later confirmed by the sheriff's officer who informed me that he has outstanding arrest warrants.

When I confronted him with this apparent theft he accused me of grabbing his girlfriend Sierah's buttocks. He told me, "If you make trouble for me, I'm going to make trouble for you." Mr Mallea told me, "I can do whatever I please you can't do shit about it." He told me he could "take" me anytime he wants. He showed me his machete which is still in my home.

I was informed by the OCCU credit union that he did a money transfer directly from my checking account using CashApp on his cell phone. I do not have this application on my phone and have never used it. The credit union employee had no explanation for how he was able to find my account number to transfer the funds. The credit unions have informed me that they cannot reimburse me for the stolen funds. I cannot close my accounts because I now have a debt to the credit unions due to overdrafts. OCCU approximately \$500. I gave Officer Johnson the account withdrawal information documentation. The total is over \$1000.

I noticed that several sets of keys to my vehicles which had been hanging in my kitchen were missing, including the key to my Camry. He left his belongings in the Camry. Three days ago I allowed him to return to get them but he claimed he did not have the key. At that time he handed me several of the other key-rings & keys but not that one. He did not return the key to my Freestyle and my Mustang. I

was informed by the police that if I removed his belongings from my Camry, he could accuse me of stealing something. I do not want his belongings on my property. I will allow him to return to my property to collect his belongings only with police escort. He will have to bring the key because I do not have another and the vehicle is locked.

Mr. Mallea has contacted me by Facebook Messenger numerous times, blaming one of my tenants for stealing from my checking accounts, and accusing me of sexually assaulting another. He threatened to file a police report against me based on his accusation that I grabbed Sierah.

I am disabled, in a great deal of pain from arthritis due to previous industrial accidents years ago and an improperly replaced hip. I have Parkinson's Disease which causes me to have difficulty walking. I am 74 years old, have difficulty moving, am in pain and cannot defend myself should he attempt to assault me. Because of his theft, his repeated threats in person and by Facebook Messenger, I request an immediate restraining order on Mr. Mallea to prevent him from returning to my property or from any further contact with me at any time.

I reside at 531 E Wood Ln., Shelton, WA 98584

I am over the age of 21 and competent to testify in a court of law.

I declare under penalty of perjury that the foregoing is true & correct to the best of my knowledge.

Robert W. Charleston

Robert Charleston

Done this 4 of 2/2021, 2021 in Shelton, Washington.