

[X] EXPEDITE (If filed within 5 court days of hearing)

[X] Hearing is set

Date: 6-30-21

Time: 9:00am Zoom #: 242-974-5214 Rm:4

Judge/Calendar: Rebekah Zinn/Motion & argument

**Superior Court of Washington
for Thurston County Family &
Juvenile Court**

In re: Emergency Guardianship of
Hazel Belle Ursa Smith

Respondent(s): Minor Child(ren)

No. 21-4-00443-34

**Rebuttal-Affidavit to
Kathryn Stoker's Reply
Declaration
By SELENA SMITH**

(Cover Sheet)

TITLE OF DOCUMENT

**Rebuttal-Affidavit to Kathryn Stoker's Reply Declaration
by SELENA SMITH**

**NAME: Selena Smith, indigent mother
Mailing ADDRESS: 6901 26th Ct, SE,
Lacey, WA 98503
PHONE: (360)427-3599**

Rebuttal-Affidavit to Kathryn Stoker's Reply
doublekachina007@protonmail.com

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Selena Smith, mother (971) 803-9898
6901 26th Ct SE, Lacey, WA 98503

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Stoker's Reply Declaration by
SELENA SMITH**

TO: The Clerk of the Thurston County and Juvenile Court, (360)709-3260, 2801 32nd AVE SW,
Tumwater, WA 98512;

AND,

Breckan Scott-Gabriel, bar #:41585, attorney for Kathryn Stoker (maternal grandmother) and Hans
Stoker (husband of Kathryn Stoker, but NOT the grandfather), PO Box 1123, Yelm, WA 98597-1123,
PH. (360)960-8951, fax (360)485-1916, e-mail: breckan@breckanlaw.com;

AND,

Selena Ursa Smith, mother, e-mail: doublekachina007@protonmail.com, domiciled in Oregon
mailing address: 6901 26th Ct SE, Lacey, WA 98503, Ph. (971)803-9898

AND,

Robert Ayers (father of Hazel Smith), e-mail: unknown, Ph. unknown, address: unknown

I Identity of Parties

I, Selena Smith (indigent mother of the subject minor(s) in this action) enter this counter-affidavit to Kathryn Stoker's Declaration into the record without counsel of necessity, pro se, for this court's consideration as the truth and nothing but the truth. I reserve the right and continue to object to the jurisdiction of this court as stated below under JURISDICTION. I also **object to Shelley Brandt presiding** over ANY aspect of this case due to her having received money from the Stokers, previously represented my mother against my father who seeks to join this action and she nearly precipitated a physical altercation with him during that custodial litigation years ago. A fair hearing without her recusal cannot be hadf.

Kathryn Stoker (maternal grandmother) and her husband, Hans Stoker (who is NOT the grandfather of the children, contrary to his and his wife's sworn misrepresentations in their filed pleadings to this court)

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brought this action before this court well BEFORE the young children at issue had been evaluated by any qualified Family and Children's social worker within the State of their domicile or oversight of a state court properly presiding over the same, i.e. Oregon, where this court's emergency ex parte order to seize the children was executed around midnight and they were spirited, under cover of darkness, out of Oregon after handing off the very young three to the Stokers at a gas station adjacent to I-5 north of Eugene that night. The seizure was executed, as described at midnight, 5-30-21 in/near Oakridge, OR, the initial ex parte emergency petition for seizing my 3 children was filed 5-27-21, the order granting the petition was entered on 5-28-21. The Stokers filed their petition prior to the children being examined and evaluated precisely to deny me and my children due process with this court's approval, aid, and abetment under color of state law in violation of Oregon's sovereignty, the federal ADA (I have only one hand), my status as a destitute DV survivor (contrary to UCCJEA requirements, and in violation of meaningful protection under the 6th and 14 Amendment as well as principles laid out in Troxel vs. Troxel and the notorious Elian Gonzalez international case.

JURISDICTION

The Petitioners (Stokers) are longtime residents of and domiciled in Thurston County, Washington.

I, Selena Smith (mother), am the person bringing this motion. I had left Washington State without any intention of returning more than 6 months prior to the date my children were seized in Oregon where I resided and was domiciled with my children. I returned briefly in March to recover some of my property, from the Stokers, but did not reside in Washington. The Stokers used this date to deceive the court into believing less than 6 months had lapsed since I left Washington in late November, 2020 as a DV survivor with my 3 young children. Thus, this court does not have proper in personam or subject matter jurisdiction even if there had not been an in excess absence of my children residing/domiciled in Washington. **In light of these facts, all actions/orders taken/entered by this court are void ab initio.** The basis for this court's rulings have been fraudulent misrepresentations and deception submitted to this court by the Stokers.

I, Selena Smith, the mother of the very young child(ren) at issue in this cause, due to DV, fled the State of Washington with my children prior to 11-24-20, which is the date James Wells (my boyfriend) filed a DV Protection Petition (20-2-30761-34 | [JAMES DANIEL WELLS, Jr vs SELENA URSA SMITH](#)) after I left Washington State to preserve my and my children's safety. Mr. Wells' purpose was to use the children (who he sought custody of in the petition) to support himself. The petition was denied by Court Commissioner Rebekah Zinn. Mr. Wells is currently sleeping in the open near Mt. Adams, is homeless and non-compliant with a subsequent DV protection order issued by the court.

I, Selena Smith, filed a petition for DV protection, alleging Mr. Wells was violently abusive with me and the children, an alcoholic, and in need of anger management classes. Court Commissioner Rebekah Wells ruled in Selena's favor and ordered Mr. Wells to surrender his firearms. This action was filed by myself from out of State. I personally appeared before this court (Court Commissioner Rebekah Zinn, presiding) from an out of state DV women's shelter and filed the declaration of an advocate associated with that shelter confirming evidence I had seen of what appeared to be stalking while I was staying in that out-of-state DV shelter.

(20-2-30788-34 | [SELENA URSA SMITH vs JAMES DANIEL WELLS, Jr](#))

i.e. I, Selena Smith, and my children have been absent and no longer resided in Washington State for longer than 6 months prior to having my 3 children seized around midnight on 5-30-21 under the color of

Washington State law via an ex parte emergency guardianship order executed beyond Washington's own borders in a foreign state (Oregon). Court Commissioner Rebekah Zinn was either well aware I had left Washington State with my children (or should have been) more than 6 months before the instant case had been filed. I was under no legal obligation to inform my parents or Hans Stoker of my whereabouts, nor did the Stokers have standing to object since there was no court order granting them standing, custody, or visitation. Yet they conspired to track me in conjunction with security guard Robert Kurtz for months wherever I went using my I-phone to do so.

Even case officers with the New Jersey Division of Children & Families admitted they had no authority to use a New Jersey Court Order (under the circumstances) to order law enforcement in Oregon to seize my children upon New Jersey's direction, although security guard Robert Kurtz indifferent to the invasion of my privacy.. When Kurtz's actions were challenged, a case worker supervisor retorted it was NJ Division of Children & Families to track or find missing families/children when receiving reports/suspicion of the same. **Except...there WERE NO missing children.!** They were with me, their mother, who had no legal duty to provide the State of New Jersey or the Stokers with such information. Nor was there a nation wide manhunt for me, only the illegal surveillance conducted by security guard Robert Kurtz, the means by which he chose not to reveal in his declaration submitted to this court to avoid incriminating himself.

Robert Kurtz was acting only on his own without authority from his agency or direction to invade my privacy by conspiring with the Stokers who were using software on my I-phone to track, unbeknownst to me, my movements, purchases, bills and confidential health/billing records obtained by opening my mail without permission (as well as rifling through my personal papers left where I once resided on the Stoker property). Adding outrage to injury, the Stokers kept the notices of fines received in the mail they opened rather than forwarding it to my new mailing address of which they were aware—putting my Driver's License at risk of suspension for want of notice. They used the unlawfully acquired document to try and prejudice the court against me. They may have succeeded, denying me fairness in these proceedings, or even the appearance of fairness.

This rogue action by a Washington Family Court fails what even grade school children would recognize as the SMELL TEST. The statutory construction of a normal petition for guardianship of minors in Washington State replete with a full complement of meaningful due process is very different from an ex parte emergency petition for guardianship of minors with effectively **no meaningful due process**. Accordingly, the ex parte judicial excess of Washington's judiciary ought to be a pleasure enjoyed by its own citizens which it is accountable to rather than being visited upon the citizens of foreign states.

In Troxel vs. Troxel, the U.S. Supreme Court pronounced Washington's Courts interpretation of the 'best interests' of the child(ren) "breathtaking in scope"! Additionally, they concluded a parent's bond with their minor children was so fundamental a right that a state which substituted its judgment for a parents exceeded its authority no matter how seductive the state's reasoning might be unless there was genuine true imminent harm that would come to the child(ren). Not only is that not evident in the instant case, but the child(ren) at issue were not evaluated by a qualified expert prior to the court issuing its ex parte emergency seizure order executed out-of-state under cover of darkness.

Kathryn Stoker lied to my father when she described the circumstances and genesis of that seizure as well as the date of the court hearing (Nathan Kortokrax presiding who recused himself) as on the 18th of this month when it, in truth, was the 16th. The Stokers also lied about my mental condition and claims there was a "nation wide manhunt" for me.

This court did not provide me with 60 day notice to respond from service out-of-state, nor was a Return of Service filed in either of the 2 case #'s involving the child(ren) to either father or permission for alternative service ought.

In short, this case and all orders pursuant to it are void ab initio for failure to establish proper subject matter and in personam jurisdiction over all the parties. The issuance of the ex parte emergency order to seize the children executed out-of-state was based on fraudulent misrepresentations and deceptions that are a matter of record presented to the court. Nor did the court take any care to insure the child(ren) were genuinely at risk before giving them the impression that their mother was a 'bad' person as they were seized as though I was Dillinger. My father has ordered and will be paying for the video, audio, photos, and police reports from the Oakridge PD. They will reveal my children were not imperiled and their needs were being met; they were not living in squalid conditions. I will present this evidence to this court for its consideration given the chance. I have spoken to the Oakridge authorities about this case. Their assessment does not support the tale the Stokers had to tell this court. The midnight raid on myself and my child(ren) is what one would expect in a totalitarian regime or from Hollywood. I have spent many hours discussing these events with my father. He is part of my and my children's life and has always tried to maintain a relationship with us. He has never interfered with my relationship with my children. He is a necessary and indispensable party to this action as the Stokers have never respected his role in our lives which can be seen in their declarations where Hans and his wife deceives the court into believing he is my father and my children's grandfather. My story is persuasive if the court would but take the time to hear it out. My father, John Smith, has taken the time to do so since he learned of my predicament despite my mother lying to him. It is abundantly clear I am **not** delusional or mentally ill. I do cry and get upset about my babies. My father is not an attorney, but he has an important ongoing role in our lives that will be ignored by the Stokers if he is not allowed to join this action and represent himself on behalf of his relationship with me and my children.

II REBUTTAL DECLARATION

I have but one hand, am indigent (though employed), homeless, a DV victim fleeing my abuser, and desperately needs a court appointed lawyer, as do the child(ren) need a GAL not of the Stoker's choosing. I, Selena Smith [Name] Declare that:

Timeline:

After Hazel's birth, she was with me, her mother, continuously, and I managed every aspect of her care, including her extensive needs in relation to her club foot therapy and surgeries. In September 2013, 4.5 months after her birth, I took a diamond grading position in Las Vegas, NV, where her doctor appointments and therapy continued, and she was enrolled in daycare while I worked. I was an active, engaged mother, and we enjoyed a variety of activities when I was off work, including hiking almost every weekend, water parks, indoor playgrounds, and more. In fact, Hazel resided continuously in my care, and was well taken care of, as proven through photographic and other evidence to the CO family court, up to the point where the incident concerning our assault took place that I previously detailed in my counter affidavit to Alex Stoker's declaration.

As to the Colorado order, I understood at the time I made the decision to relocate with Hazel to Washington State that medical necessity was a valid reason for leaving the state, where she was

Rebuttal-Affidavit to Kathryn Stoker's Reply Selena Smith, mother (971) 803-9898
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concerned, and I never have made any attempts to withhold visitation from her father, Robert Ayer. I would welcome his participation in her life, and would cooperate fully in the necessary travel or accommodations to facilitate it. I do believe it is necessary to have his participation and notification in this matter.

Neither Hazel, nor Onawa or Raven, stayed overnight with my mother March 21st. They were with me in Portland, OR. My mother continues to mislead and deceive this court.

The Stoker's "health care information" regarding my health or the children's health is misrepresented, inaccurate and false in its total misrepresentation. The Stokers are attempting to seal the records with the reasoning that they are sharing health information. In fact, they are making unproven assertions and allegations that are not rooted in fact, and I see no reason why their filings should be protected as "health information". They are allegations and opinions. Not facts, health records, or other documents or evidence that I would expect might be considered, rightly sealed record status. Moreover, any privacy rights related to my children and myself belong to me, not the Stokers who were quick to violate my privacy when they opened my mail without my permission, rifled through my papers, and admitted to spying on me through my I-Phone, tracking me with it for months.

The children, despite the Stoker's assertions, have spent the majority of time in my care, with minimal time allotted to what would best be described as occasional babysitting, by my mother and her husband Hans Stoker. With the exception of the time Hazel was in their care in Colorado (the incident referred to in the counter affidavit to Alex Stoker's declaration) was sorted out. Hazel was restored to me in Colorado. The other exception is when Hazel was sent ahead of me to Washington State after our Colorado house flooded out and was uninhabitable, to get a jump start on services she needed. I attended to the necessary details of our move. This was done with my decision and at my direction--not my mother's or the Stoker's.

James Wells should not have visitation currently with the children, outside of an independent supervised visitation site, since a domestic violence final protection order was finalized January 5th by this court, Rebekah Zinn presided, for not only myself, but all three children, Hazel Belle Smith, Onawa Smith-Wells and Raven Gaia Smith-Wells. James Wells has not complied with that order and is prohibited by court order from visits with our children until he complies.

The suggestion by the Stoker's that they have no problem with it indicates collusion between the Stoker's and Mr. Wells to bypass the court's well considered and justly rendered decision regarding the welfare and safety of the children and myself. The court entered a finding we were domestic violence survivors which James Wells was guilty of and responsible for. It ordered him to be evaluated for alcohol abuse/dependency, attend anger management classes, and other remediation as conditions to be met before he is allowed contact with our children or myself. He has complied with none of those conditions save surrendering his firearms. He has not complied with the order's mandates he be evaluated for substance/alcohol abuse and enter into abuser treatment. James Wells repeatedly appeared under the influence before the court.

Surely this court will not allow the terms of that court order to be finessed by the Stokers in the instant litigation? The Stokers continue to acknowledge in any way I and my children were subjected to extreme emotional, psychological and physical abuse, as well as forced to witness it. The Stokers, in fact, defended and accommodated him, as they also did Maya Stoker's abuser, Charles Morris (See Maya's Declaration), when they came to his defense with an affidavit during

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my divorce proceedings. It is completely inappropriate for the Stokers to be working directly with Mr. Wells without oversight. They are not capable of being unbiased, objective or healthy in raising my children. Their judgment is flawed and self-serving. Nor do they demonstrate accountability. To expect them to self-report, to report objectively, to be the primary authority and renderers of observations generated from this situation, which they helped generate, is absurd.

My father, Mr. Smith, had no need to keep my mother apprised of his time on numerous occasions spent with his grandchildren, or ask her permission, because he had a relationship with me, and needed only to ask. He has many photographs over the years of his time with them. We have many community activities and other outings we could highlight, as well as personal time in his home, shared meals, trips, holidays, concerts and more, that attest to the fact he has strong bonds with his grandchildren, relationships, and attachment. While my mother didn't even visit me in the hospital with the birth of my last two children, my father did. My mother and the Stoker's are simply unaware of all the time my father, the children and I have spent together. They haven't bothered to pay attention to such things in the past, and what my mother had declared is pure conjecture...or worse.

My mother never had a protection order against my father. Ever. However, she does have a history of asserting he is mentally ill, crazy, etc.--Which he is not.

I object to any guardian ad litem the Stoker's would have a hand in choosing or paying for. They have already corrupted this entire proceeding.

I have NOT been present on any phone call where my father berated my mother. I have spoken with my daughter Hazel three times by phone. The first time, Marylou White and another mutual friend of ours were also present during the call. The second time, my father was present during the call. The third time, Marylou and a large group of the children's friends and mine were present.

Each time, people spent time focusing on and speaking with the children, focusing on them. Positively. What my mother is declaring simply wasn't the case. However, we did have to experience several hang-ups by the Stokers, the Stokers disconnecting their number, which they've had for decades, and rude behavior from Hans Stoker. I made a couple of phone calls to my mother regarding the case, inquiring in regards to her rational and reasoning, to better understand the situation. While we still do not understand each other, and disagreed, along the outlines of what is apparent in our very disparate court filings, beyond that, I was respectful. My mother, unfortunately, was not.

Kathryn Stoker was often rude and condescending. While it is true I do not like my mother at this point, and find her the furthest thing from supportive anyone could be in my life, and in many ways the children's lives, I don't target or go out of my way to disrespect my mother. I only appeal to her morals and ethics, such as they are, in this matter. Our conversations have been brief. The Stokers, are making a Herculean effort to portray me as an abuser.

The truth is the Stokers are dysfunctional, dishonest and abusive. As an abuser himself, Mr. James Wells has found himself in good company. In no way am I convinced my mother loves me. If she does, it has, nevertheless, been self-serving, controlling and toxic. She may want to be supportive, but she does not know how or hasn't the inclination. As I have pointed out to her this is not how one achieves what one wants or should go about things. Though she could choose

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to discuss matters and have real, honest talk and exploration, that has never been a path she has chosen. That is a choice, hers. What my father embraced, I appreciated over the years. It has done much for our relationship and his role in my adult life.

I talked with the Thurston County Sheriff's office 06/28/21 at 3:15pm. They stated there were no warrants for my arrest. I was told they responded to a call for a welfare check on my children and myself at the Stoker's residence, but not in response to the NJ family services division. I was residing and domiciled in Portland, OR at the time. I wasn't present at the Stoker home, nor had I been within the timespan of when the call had been placed. The details of that call are currently being processed under my records request.

Despite my mother's mountain of allegations and misrepresentation of the facts, the records, reports and workers at the departments and agencies to which she refers simply don't support her assertions in her filings and declarations. It is hysterical and irrational for my mother, as well as the Stokers, to suggest they acted to prevent Hazel from becoming a ward of the State. The facts don't support that. Her concern and worries are different than the reality. It may be her opinion I do not represent a fit mother. The fact is, I have demonstrated I am a fit mother with every penny I've ever earned, every fiber of my being, my hard work, my excellent job history, places of residence, and my efforts to defend myself and my children, to protect us and promote a healthy life when it became apparent I must act, which I did, proactively. My mother and the Stokers, were consistently unsupportive of my efforts, demonstrated denial, lacked accountability, personal or otherwise, engaged in victim blaming and abusive behavior.

My mother's assertion that I am living in an abandoned house in Portland, OR is completely false. I live in a perfectly functional house, with perfectly functional people. In fact, the Washington Post stopped by yesterday, at approximately 10:30 am, to do a story on us and our successes as a 501(c3) non-profit in serving our local Portland community. Members of my household are gainfully employed, with job histories and a variety of successes professionally that are admirable, including in the educational and teaching field, computer software development, advocacy and more.

My children have love their new home, the people we now surround ourselves with that comprise our household, new community, sense of belonging and support network. We live in a great neighborhood, with beautiful gardens, great neighbors and a wonderful school supportive of Hazel she is enrolled in for the coming school year. All the services and other activities my children and myself need and desire are present. We have been feeling very positive about how our life had turned around since leaving behind what amounts to a toxic intrusive dysfunctional family dominated by the Stokers who refused to cope or deal productively with their own issues, fostering domestic violence and abuse that was belittling and abusive to me and my children.

Kathryn Stoker's assertion that I am seeking daycare provision utilizing homeless individuals is a false. It is a home daycare in the neighborhood of where we live and Hazel's new school. It is a nice home—License--In compliance, and absolutely wonderful. Nor has a homeless individual been assisting during these pandemic months with Hazel in providing her schooling. I have been working with teachers and staff at the neighborhood school and a paraeducator, as well as other community members, who have helped provide books, educational materials, art supplies and one-on-one assistance. In reality, we exist in a wonderful, supportive neighborhood and community, which has been exciting and liberating for us.

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The best decision, in every regard, this court could make for my children and myself, is to return the children immediately to our home, our community, our friends and their mother, who all love and miss them, and have consistently expressed this, whenever allowed to speak with them on the phone. Their grandfather, Mr. Smith, also expressed this, when given the opportunity, and is authentic in doing so, with a relationship he has cultivated all on his own outside of my mother's or the Stoker's purview, since they were infants. My father can expect regular visits with his grandchildren in my care, as he is accustomed to. He cannot expect the same from my mother.

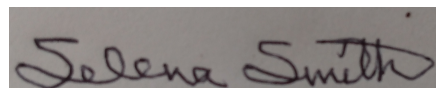
My mother and her husband, with myself, as a group, would need extended expert family therapy together for me to ever have the necessary trust for them to be visiting with my children unsupervised. I have suggested this many times to them when we were still on speaking terms. They always refused. I am suggesting it again, because I not only think it is necessary, but called for, and reasonable. Considering their Hell bent efforts to destroy my relationship with my children and father for decades, it is overly generous.

I am disturbed the Stokers speak of allowing Jim visitation with my children, despite the DV final protection order this court, Rebekah Zinn presiding, signed for the children and myself. They are seeking to finesse that court order through the instant proceedings orchestrated by an ex parte emergency guardianship executed at midnight in a foreign state despite their lack of proper standing ab initio. That protection order and its mandated conditions stands and remains immutable absent due process despite the Stokers' misapprehensions.

The Stokers, in continuing to exercise denial, poor judgement, and the perpetuation of family dysfunction, are acting in error, unlawfully, and to the detriment of the children's safety and welfare, further victimizing us after we have already persisted and overcome so much. The court was correct when it granted us the final protection order. We have been able to secure a new, better life with the protection of the court, and the court should not further entertain these matters orchestrate by Stokers at the expense of its own ruling, my children's human rights and my right to meaningful due process denied me to date. I remain destitute, without representation, childless, and the victim of the Stokers' lawless manipulation of this court through perjury and deceit. It is destroying my children and me by the day, leaving irreparable harm of egregious proportions and a great deal of grief among our friends and community, who support us and miss the children.

I declare under penalty of perjury of the laws of the State of Washington and pursuant to GENERAL Court RULE 13 and RCW 9A.72.085 that the foregoing is true and correct to the best of my knowledge.

Signed at Mason, [County] Washington [State] on June 28, 2021 [Date]

A rectangular box containing a handwritten signature in dark ink. The signature appears to read "Selena Smith" in a cursive script.

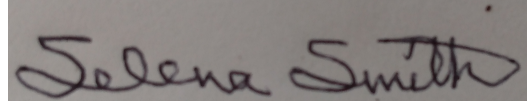
Signature of Petitioner or Lawyer/WSBA No.

Selena Smith (mother), pro se

Print Name

I have e-mailed a copy of this entire document to Breckan Scott, attorney for the Stokers, Selena Smith, and James Wells, on 6-27-21.

Signed at Mason, [County] Washington [State] on June 27, 2021 [Date]

A handwritten signature in dark ink that reads "Selena Smith". The signature is written in a cursive style with a small dot above the 'i' in Smith.

Signature of Petitioner or Lawyer/WSBA No.

Selena Smith (mother), pro se

Print Name