

AO 243 (Rev. 09/17)

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN FEDERAL CUSTODY

29

United States District Court		District <u>Eastern District of Michigan</u>
Name (under which you were convicted): <u>Michael Casey Jackson</u>		Docket or Case No.: <u>16-20347</u>
Place of Confinement: <u>FCC-Yazoo City Medium</u>	Prisoner No.: <u>26116-039</u>	
UNITED STATES OF AMERICA		Movant (include name under which convicted) V. <u>MICHAEL CASEY JACKSON</u>

MOTION

- (a) Name and location of court which entered the judgment of conviction you are challenging: US District Court Eastern District of Michigan
- (b) Criminal docket or case number (if you know): 16-cr-20347
- (a) Date of the judgment of conviction (if you know): 1/12/17
- (b) Date of sentencing: January 12, 2017
- Length of sentence: 165 Months
- Nature of crime (all counts):
Unlawful/Imprisonment, in violation of 18 U.S.C. § 13, 18 U.S.C. § 1151, 18 U.S.C. § 1152, and 18 U.S.C. § 750.349B

FILED
JAN 10 2018
CLERK'S OFFICE
U.S. DISTRICT COURT

- (a) What was your plea? (Check one)
 (1) Not guilty (2) Guilty (3) Nolo contendere (no contest)
- (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

N/A

- If you went to trial, what kind of trial did you have? (Check one) N/A Jury Judge only
- Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes No

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8. Did you appeal from the judgment of conviction? Yes No =

9. If you did appeal, answer the following:

- (a) Name of court: _____ N/A
- (b) Docket or case number (if you know): _____
- (c) Result: _____
- (d) Date of result (if you know): _____
- (e) Citation to the case (if you know): _____
- (f) Grounds raised:

N/A

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes No

If "Yes," answer the following:

- (1) Docket or case number (if you know): _____ N/A
- (2) Result: _____
- (3) Date of result (if you know): _____
- (4) Citation to the case (if you know): _____
- (5) Grounds raised:

N/A

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes No

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: _____ N/A
- (2) Docket or case number (if you know): _____
- (3) Date of filing (if you know): _____

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- (4) Nature of the proceeding: _____ N/A
- (5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?
 Yes No N/A

- (7) Result: _____
- (8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information:

- (1) Name of court: _____
- (2) Docket of case number (if you know): _____
- (3) Date of filing (if you know): _____
- (4) Nature of the proceeding: _____
- (5) Grounds raised: _____

N/A

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?
 Yes No N/A

- (7) Result: _____
- (8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

- (1) First petition: Yes No
- (2) Second petition: Yes No

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

Counsel of Record was INEFFECTIVE -

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- 12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: INEFFECTIVE ASSISTANCE OF COUNSEL

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(SEE ATTACHED MEMORANDUM WITH POINTS AND AUTHORITIES)

(b) Direct Appeal of Ground One:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No N/A

- (2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No N/A

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available):

N/A

- (3) Did you receive a hearing on your motion, petition, or application?

Yes No

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(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

COUNSEL WAS INEFFECTIVE -

GROUND TWO: DUE PROCESS VIOLATION

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(SEE ATTACHED MEMORANDUM WITH POINTS AND AUTHORITIES)

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No N/A

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(2) If you did not raise this issue in your direct appeal, explain why:

N/A

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

N/A

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

COUNSEL WAS INEFFECTIVE -

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GROUND THREE:

N/A

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes No

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(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND FOUR: N/A

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If you answer to Question (c)(1) is "Yes," state:

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Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

NONE

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14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

N/A

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the preliminary hearing: Counsel of Record

(b) At the arraignment and plea: Counsel of Record

(c) At the trial: N/A

(d) At sentencing: Counsel of Record

(e) On appeal: N/A

(f) In any post-conviction proceeding: IN PRO PER

(g) On appeal from any ruling against you in a post-conviction proceeding: IN PRO PER

16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes No

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

N/A

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes No

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18. **TIMELINESS OF MOTION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

Pursuant to the Rules of 28 U.S.C. § 2255, this Motion For Vacate, Set-Aside or Correct my Sentence is timely and within the one-year time frame of final adjudication -

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of -

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

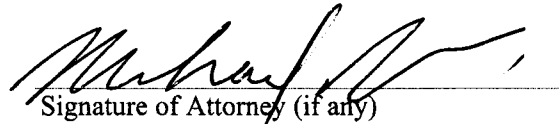
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Therefore, movant asks that the Court grant the following relief:

VACATE SENTENCE/JUDGMENT AND REMAND FOR IMMEDIATE RELEASE

or any other relief to which movant may be entitled.

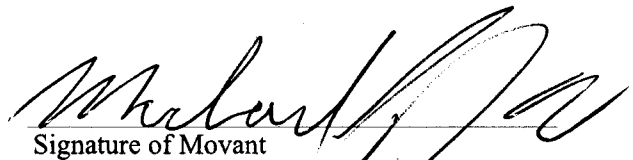
OR SET FOR AN EVIDENTIARY HEARING BASED ON THE ISSUES THAT WARRANT RELIEF -


Signature of Attorney (if any)

Michael Casey Jackson/IN PRO PER
Petitioner/Affiant

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on 12-29-17 (month, date, year)

Executed (signed) on 12-29-17 (date)


Signature of Movant

Michael Casey Jackson/Affiant/IN PRO
PER/Petitioner

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

<u>MICHAEL CASEY JACKSON</u> _____,	§	
Petitioner/Movant,	§	CASE NO. _____
v.	§	(USDC No. 16-cr-20347)
UNITED STATES OF AMERICA,	§	
Respondent.	§	

MEMORANDUM WITH POINTS AND AUTHORITIES

COMES NOW, Petitioner/Movant, Michael Casey Jackson [, acting in pro per (pro se), respectfully submits this Memorandum With Points and Authorities in Support of ATTACHED § 2255 Petition, pursuant to all Federal Rules, Regulations and Procedures in conjunction with 28 U.S.C. § 2255.

Petitioner further prays that this Court construe this pleading liberally in light of Haines v. Kerner, 404 U.S. 519, 520-21, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972), holding that, "pro se litigants are to be held to a lesser standard of review than lawyers who are formerly trained in the law, and are entitled to a liberal construction of their pleadings."

FACTS

- 1) Petitioner is currently incarcerated at the FCC-Yazoo City Medium Facility in Yazoo City, Mississippi.
- 2) Petitioner was sentenced to a 165 month term of imprisonment after being convicted of Unlawful Imprisonment, in violation of

18 U.S.C. § 13, 18 U.S.C. §§ 1151 and 1152, and 18 U.S.C. § 750.349(B).

3) Petitioner contends that Counsel was ineffective for failing to properly research/investigate into Petitioner's INDICTMENT charges, because the Court lacked jurisdiction to enter judgment sentencing him to incarceration and supervised release and imposing a fine, special assessment, after Petitioner pled guilty to Unlawful Imprisonment because under precedent decided after guilty plea and conviction, the crime that Petitioner was accused of occurred on lands/city property that was no longer tribally owned and/or not on tribally owned property.

THEREFORE, Petitioner contends the following:

I. INEFFECTIVE ASSISTANCE OF COUNSEL

The U.S. Supreme Court in Strickland v. Washington, 466 U.S. 668 (1984), set forth the bar for ineffective assistance of counsel claims when it held that the Sixth Amendment Right to Counsel is the right to effective assistance of counsel, and the benchmark for judging any claim of ineffectiveness must be whether counsel's conduct so undermined the proper functioning of the adversarial process that the proceedings cannot be relied on as having produced a just result. A convicted defendant's claim that counsel's assistance was so defective as to require reversal of a conviction or setting aside a sentence, requires that the defendant must show first, that counsel's performance was deficient and second, that the deficient performance prejudiced the defense so as to deprive the defendant of a fair trial. The proper standard for judging attorney's performance, is that of reasonably effective assistance, considering all the circumstances. When a convicted defendant complains of the ineffectiveness of counsel's assistance, the defendant must show that counsel's representation fell below an objective standard of reasonableness.

Judicial scrutiny of counsel's performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's conduct, and to evaluate the conduct from counsel's perspective at the time. A court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance.

With regard to the required showing of prejudice, the proper standard requires the defendant to show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.

In Petitioner's case, Petitioner can show that the crime occurred on land/property (city) that was no longer tribally owned. Counsel was ineffective for failing to properly research and/or investigate into the following facts that Petitioner had numerously attempted to inform Counsel that the Court lacked jurisdiction: 1) Petitioner had a prior city arrest for the same protection order violation at the same address/location of the current federal case (see attached Exhibit 1). Counsel was fully aware that Petitioner had served jail time for the same exact "protection order" violation that was construed as an unlawful imprisonment case in the U.S. District Court. Petitioner had informed counsel that had he gone to the city records office, he would discover that the house/property that Petitioner's alleged crime occurred was no longer tribally owned and/or was not on tribal native property (reservation). (The Court would have to EXPAND the RECORD to request/subpoena county records of the property/house to where the crime occurred to discover that the property/house was not tribally owned or no longer tribally owned.)

Counsel of Record's failure to investigate/research into Petitioner's case, not only heavily prejudiced Petitioner, but wrongfully resulted in an INDICTMENT where the Court lacked jurisdiction to convict Petitioner and/or to accept a guilty plea for unlawful imprisonment.

Had counsel been effective, counsel would have discovered that Federal Courts are courts of limited jurisdiction. Federal courts have only the power that is authorized by US Const. Art. III and the statutes enacted by Congress pursuant thereto. There is a body of federal common law, but federal common law does not separately confer any jurisdiction upon the federal courts, as that must come from either the U.S. Constitution or legislation passed by Congress. Federal courts have jurisdiction over claims founded upon federal common law by virtue of 28 U.S.C.S. § 1331.

Federal court jurisdiction cases present an anomaly in that even if it is desirable for federal courts to have jurisdiction in some cases before the courts, no jurisdiction can be found to exist if it has not previously been granted by the United States Constitution or Congress.

In Petitioner's case, Counsel of Record was ineffective for even allowing a criminal judgment to be obtained without any federal jurisdiction. Federal courts are courts of limited jurisdiction. Marine Equip. Management Co. v. U.S., 4 F.3d 643, 646 (8th Cir. 1993). The property/house where the alleged crime occurred was on State/County property and not the tribal reservation property. The address: 1309 W. Pickard Street, Isabella County, Mt. Pleasant, MI is State/County property located within the exterior boundaries of Isabella Indian Reservation. Counsel was aware that Petitioner had served a prior County sentence for a prior Protection Order violation that occurred at the same address, which the same incident occurred, but Petitioner was not indicted by the US Government. See Attached Exhibit 1. This incident occurred in January of 2016. The court would have to expand the record with and from the Isabella County Courthouse regarding the location of the alleged crime occurrence and the valid fact that the locatoin/property/house is not on tribal land, mainly Isabella Indian Reservation. Counsel was ineffective because the court lacked authority to convict or punish Petitioner in the first place because 1) the place/house/location is not on tribal land; and 2) prior inconsistent judgments in the County and Tribal Courthouses were in ab initio. See Johnson, 457 U.S. at 550. Counsel's ineffectiveness heavily prejudiced Petitioner and resulted in a judgment that was rendered without jurisdiction. See Covey v. U.S., 109 F.Supp.2d 1135; 200 U.S. Dist. LEXIS 12293 (August 21, 2000). Had counsel been effective, Counsel

could have easily accessed the local county records to establish the fact that the property/house/location of where the alleged Indicted crime occurred was not on tribal owned property, event hough the address/house/location is within the exterior boundries of the Tribal Reservation. This Court must Vacate and REMAND for IMMEDIATE RELEASE and/or set for an EVIDENTIARY HEARING to establish the expanded record request of county documents reflecting that the location/property/house where the offense/crime allegedly occurred was not on tribal property.

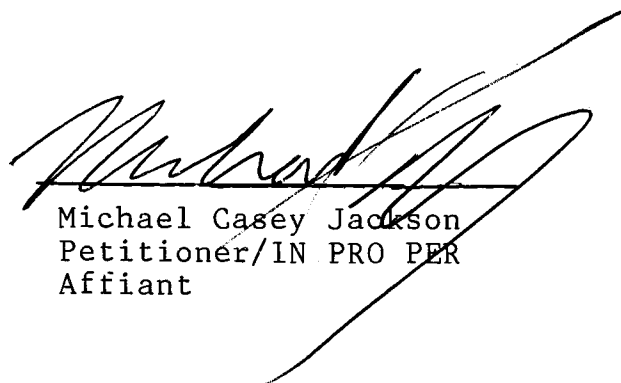
II. DUE PROCESS

Because of Counsel's ineffectiveness and the fact that this Court lacked jurisdiction, Petitioner's DUE PROCESS is and was violated and this Court must VACATE Petitioner's judgment because that judgment was rendered without jurisdiction. See Id. at 109; SEE ALSO 28 U.S.C. § 2255. The records/county records will reflect that the location/address/property/house where the alleged crime had occurred was on originally allotted land that had passed out of tribal ownership and was now part of the State/County. This is a judicial precedent that the court lacked jurisdiction to enter a judgment in sentencing Petitioner for unlawful imprisonment. This Court must EXPAND the record to reflect the county papers/documents that reflect that the location/place/house/property/address where the alleged indicted crime occurred was in fact not on tribal owned land. This Court must VACATE Petitioner's JUDGMENT and set-aside to the extent explained above and that Petitioner be immediately discharged from the terms of imprisonment and the supervised release that was imposed by the judgment.

CLOSING

THEREFORE, based on the foregoing, Petitioner respectfully requests that this Court VACATE JUDGMENT and set-aside to the extent that the court lacked jurisdiction and due to counsel's inappropriate and ineffective assistance resulted in a wrongful imprisonment in which Petitioner is entitled to immediate discharge from the terms of imprisonment and the terms of Supervised Release, all in the interest of justice.

RESPECTFULLY SUBMITTED on this 29th day of December, 2017.



Michael Casey Jackson
Petitioner/IN PRO PER
Affiant

EXHIBIT 1

02/26/2016 12:17 9897758413

ISABELLA TRIAL COURT Fax: 989-779-8022
ISABELLA COUNTY

Feb 26 2016 02:17pm P002/008

PAW 3/6/16 New Millennium hold it

STATE OF MICHIGAN
IN THE TRIAL COURT FOR THE COUNTY OF ISABELLA

Jennifer Jackson
Plaintiff,

v
Michael Jackson
Defendant.

FILE NO.: 2014-11753PP

Linda Pardo lock up house

Heard Tribal on kids need date

NOTICE OF VIOLATION OF PERSONAL PROTECTION ORDER (PPO)

Pursuant to MCL 764.15b, an arrest has been made without a warrant, and based upon reasonable cause to believe that a personal protection order has been violated, to-wit:

DATE OF INCIDENT: 2-26-16
REPORTING AGENCY: MPPD
PLACE OF VIOLATION: 1309 W Pickard St.
PERSON REPORTING OFFENSE/VICTIM: Jennifer Jackson
NAME OF COURT ORDERING INJUNCTION: Isabella County
DATE NOTICE GIVE TO DEFENDANT: 1-29-16

The defendant is charged with a violation of MCL 764.15b, a charge of criminal contempt for violation of a Personal Protection Order, by committing the following acts prohibited by the Personal Protection Order (list the violation):

Calling Jennifer by phone. Officer Straus was with Jennifer when Michael called her.

Witnesses to the violation are (name of witnesses): Officer Straus

I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief.

DATE: 2-26-16

[Signature]
Officer Signature
Agency: MPPD
Complaint Number: 2016-00679

02/25/2016 12:17 9897758413

ISABELLA TRIAL COURT Fax: 989-779-8022
ISABELLA CO PROS

Feb 26 2016 02:18pm P005/008
PAGE 04/07

REPORTING OFFICER NARRATIVE

Mt Pleasant Police Department

Victim <i>Society</i>	Offense OBSTRUCTING JUSTICE	OCA 2016-00679 Date / Time Reported Fri 02/26/2016 03:43
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THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

INFORMATION:

Officers were dispatched to 1309 W. Pickard Street in reference to a Personal Protection Order (PPO) violation where the protected party, JENNIFER JACKSON, was being called by her ex-husband, MICHAEL JACKSON. She had a valid Personal Protection Order out against him, which had been served.

CONTACT WITH VICTIM / COMPLAINANT:

I (OFFICER STRAUS) made contact with JENNIFER at her residence. She stated she had been receiving phone calls from her ex-husband, MICHAEL JACKSON. He was calling from his landline, which comes up private. He called today at 3:43 a.m. and was upset over a Facebook post, which JENNIFER posted talking about another guy picking up her children during the snowstorm on Wednesday, which was 02/24/16. JENNIFER stated it never ended up happening and she picked up the children so no one else had been with them.

JENNIFER stated MICHAEL is upset and is accusing this person of having Acquired Immune Deficiency Syndrome (AIDS) and being an abuser.

While I was at JENNIFER'S residence, she received another call from MICHAEL. She put the phone on speaker phone. MICHAEL stated, "You had better call the police cause I coming over to get the kids". He stated she had an abuser and a Human Immuno-deficiency Virus (HIV) positive guy watching over her kids and he did not like it.

CONTACT WITH MICHAEL JACKSON:

OFFICERS HAWKS and SOLMONSON went to the area of Pickard and Airway Drive to see if they could locate MICHAEL JACKSON. While they were watching his residence a blue Chevrolet extended cab pickup pulled into the residence, which matched the description of MICHAEL JACKSON'S vehicle. OFFICERS SOLMONSON and HAWKS made contact with MICHAEL JACKSON as he pulled into his residence and attempted to get into his residence.

I questioned MICHAEL in reference to contacting JENNIFER and he admitted he had been calling her because he was upset because he has a child abuser watching their children. I asked him why he had not gone through the Court to avoid getting in trouble and he stated he had and they are not helping.

OFFICER SOLMONSON lodged MICHAEL JACKSON on a charge of Operating While Intoxicated (OWI). Please see complaint number 2016-00680.

LODGED:

MICHAEL JACKSON was lodged by OFFICER SOLMONSON for OWI and the PPO Violation in reference to this complaint.

*4
10,000
4.5*

*Still married
still in
love
not happy
switched
ASK P.P.O.*

*Daughter
13-DAI
4/14/16*

41
35
45 days
41 days some

*2014 PPO Filed
2014 Motion To Terminate (Sept)
Sept 17, 2014 - doing counsetns - allowed contact
She lives on West side of town + lives East side*

Bond T.R. 1st \$1000

CALL DHS + do referals (MIKE can do)

L 11 - to terminate PPO

SAGINAW CHIPPEWA NATION IN THE CRIMINAL DIVISION OF THE COMMUNITY COURT		CRIMINAL COMPLAINT		CASE NO. 16-AC-0328	
Court address: 6954 East Broadway,		Mt. Pleasant, MI 48858		Court Phone No. (989) 775-4800	
THE PEOPLE OF THE SAGINAW CHIPPEWA INDIAN TRIBE -vs- Michael Casey Jackson 1960 Airway Drive Mt. Pleasant, MI 48858			Victim or complainant Mt. Pleasant Police Department Jennifer Jackson		
A True Copy <i>[Signature]</i> Saginaw Chippewa Tribal Court Clerk			Complaining witness Peace Officer(s): Balcom, A.		
			Date: On or about 04/27/2016		Approximate Time: 5:06 am
Venue within exterior boundaries of Isabella Indian Reservation 7309 West Pickard Street, Mt. Pleasant, MI			Tribal Affiliation Native American	Defendant SSN	Defendant DOB 03/16/1975
Police agency report no. 2016-01448	Charge Family Violence, 2 nd or subsequent offense Resisting Lawful Arrest Disobedience to Lawful Court Order Breaking and Entering	Code Section 1.2402 1.2044 1.2016 1.2008	Maximum penalty 365 Days and/or \$5, 000.00 60 Days and/or \$250.00 30 Days and/or \$100.00 6 Months and/or \$2,500.00		
Witnesses Officer Balcom, Officer Moe, Jennifer Jackson, Sgt. Murch,			Defendant DLN J 250 603 108 199 MI		

FILED

You are charged with the following violation of the Saginaw Chippewa Tribal Code:

APR 27 2016

COUNT I

SAGINAW CHIPPEWA
TRIBAL COURT

1.2402 DEFINITIONS

817-2225

1. "Family violence" means any act which is intended to harm or intimidate a family or household member, either directly or indirectly, but does not include acts of self-defense. Such acts include, but are not limited to:
 - (a) assault;
 - (b) battery;
 - (c) sexual acts with a minor or non-consenting adult;
 - (d) withholding of medical treatment, or the means necessary to obtain medical treatment, that is reasonably necessary to alleviate pain or to treat an injury, disease, or other medical condition;

[Handwritten scribbles and notes]
PA. Amy injuries except to body?
11P AMY hospital?

- (e) damage to property, if intended to harm or intimidate a family or household member;
- (f) stalking;
- (g) child abuse;
- (g) child abuse;
- (i) vulnerable adult abuse;
- (j) oral or written threats to commit an act described in subparagraphs (a) through (j) of this paragraph.

2. "Family or household members" are:

- (a) spouses, or former spouses;
- (b) persons who are related by blood, adoption or marriage;
- (c) persons who have a child in common;
- (d) persons who are, or previously were involved in a romantic, dating, or other intimate personal relationship, regardless of the formality of this relationship;
- (e) any minor children residing in the household;
- (f) vulnerable adults, including adults unable to protect themselves from abuse, neglect, or exploitation.

3. "Intimidate" means:

- (a) to place a person under reasonable apprehension of immediate harm; or
- (b) to influence, by violence or threats of violence, a person's conduct or decisions.

4. "Personal protection order" means an injunctive order issued by the Tribal Court restraining or enjoining family violence, intimidation, or stalking.

5. "Self Defense" means a person's justifiable use of force upon another person when that person believes such force is necessary to defend his or her self or a third party from what that person reasonably believes to be the use or, imminent use, of unlawful physical force by the other person.

6. "Stalking" means a willful action involving repeated or continuing harassment of another individual that would cause a reasonable person to feel frightened, intimidated, threatened, or harassed, and that actually causes the victim to feel frightened, intimidated, threatened, or harassed.

1.2403 PENALTY AND ENHANCEMENT OF PENALTY FOR OFFENSES INVOLVING FAMILY VIOLENCE

1. When an individual who has not been previously convicted of an assault crime against a family or household member pleads guilty to, or is found guilty of a violation of the Code, the court, without entering a judgment of guilt, may defer further proceedings and place the accused on probation as provided in this section.
2. An order of probation entered under subsection (1) will require the accused to participate in a mandatory counseling program. The counseling programs will be clinically based.. Counseling programs include:
 - (d) If criminal sexual conduct was involved in the incident, the accused must participate in sex offenders treatment programs;
 - (e) If any child resided in the home at the time of the incident, the accused must participate in an effects of violence on children program.
3. Upon fulfillment of the terms and conditions, the court may discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section. There may be only one (1) discharge and dismissal under this section with respect to any individual.
4. The court shall enter an adjudication of guilt and proceed as otherwise provided in this section if any of the following circumstances exist.
 - (a) If the accused commits an act of family violence, as defined above, a penalty of one (1) year may be imposed if the crime is committed during the 72 hours immediately following release from custody. The 72 hour period applies whether or not the victim drops the charges. The victim of the subsequent family violence crime does not have to be the same as the victim of the original family violence incident that resulted in the arrest.
 - (b) If the accused violates a probation, treatment, contact, or other Court order, a penalty of one (1) year may be imposed.
 - (c) If the accused pleads guilty to or has been found guilty of a second or subsequent crime involving family violence, a penalty of one (1) year may be imposed. The victim of the subsequent family violence crime does not have to be the same as the victim of the original domestic violence incident that resulted in the first arrest.
 - (d) If the court rejects a deferment of proceedings, a penalty of 90 days may be imposed.

1.2404 SENTENCING ALTERNATIVES

Purpose: To deter and punish family violence offenders and to provide safety for family violence victims in a culturally sensitive manner by utilizing modern and traditional Saginaw Chippewa remedies and punishments.

1. Sentencing Guidelines and First Offenders.

- (a) When appropriate, the court may order the following types of counseling;
 - i. Bantered counseling;
 - ii. mental health counseling;
 - iii. substance abuse counseling;
 - iv. sexual offender counseling.

- (b) The court may impose monetary punishment(s) including, but not limited to:
 - i. fines of up to One Thousand Dollars (\$1,000), which shall be separately accounted for and used to offset the costs of programming and enforcement under this code;
 - ii. court costs and legal fees;
 - iii. victim reimbursement including, but not limited to:
 - a. medical expenses;
 - b. personal property damage;
 - c. counseling expenses;
 - d. relocation expenses;
 - iv. reimbursing service providers for court ordered counseling programs;
 - v. reimbursing the local domestic violence program for emergency shelter services provided to the victim and other household members.

- (c) Jail time may be ordered.

2. Sentencing Guidelines for Repeat Offenders.

- (a) A court order prohibiting contact with the victim must be a condition to bond.

- (b) The maximum jail sentence of one (1) year must be imposed.

- (c) Monetary punishment including, but not limited to:
 - i. fines of up to Five Thousand Dollars (\$5,000), which shall be separately accounted for and used to offset the costs of programming and enforcement under this Code;
 - ii. court costs and legal fees;
 - iii. restitution to the victim, including, but not limited to.
 - a. medical expenses;
 - b. personal property damage;
 - c. victim counseling;
 - d. relocation expenses.
 - iv. reimbursing service providers for court ordered counseling programs;

- iv. reimbursing the local domestic violence program for emergency shelter services provided to the victim and other household members.

COUNT II

1.2044 RESISTING LAWFUL ARREST. Any person who shall willfully and knowingly, by force or violence, resist or assist another person to resist a lawful arrest, shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed sixty (60) days or to a fine not to exceed two hundred fifty dollars (\$250), or to both such imprisonment and fine, with costs.

COUNT III

1.2016 DISOBEDIENCE TO LAWFUL ORDER OF COURT. Any person who shall willfully disobey any order, warrant or command duly issued, made or given by Court or any officer thereof shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed thirty (30) days or to a fine not to exceed one hundred (\$100) dollars, or to both such imprisonment, or fine with costs.

COUNT IV

1.2008 BREAKING AND ENTERING. Any person who shall break and enter with the intent to commit any crime, or any larceny therein, any tent, office, store, shop, warehouse, barn, granary, factory or other building, structure, or any private apartment in any such buildings or any unoccupied dwelling house, shall be guilty of breaking and entering and upon conviction thereof, shall be sentenced to imprisonment for not more than six (6) months, or a fine of not more than two thousand five hundred (\$2,500) dollars, or both such fine and imprisonment.

Statement of Probable Cause: On the above date, time and venue within the exterior boundaries of the Isabella Reservation Mt. Pleasant Police were dispatched to the residence of Victim, Jennifer Jackson due to Defendant, Michael Casey Jackson, being at the residence and assaulting her. Defendant has a No Contact Order with Jennifer Jackson issued by the Isabella County Court. Defendant is also released from jail on bond with a condition he not violate any law. Officers arrived and observed a male subject, later identified as Defendant slam the door shut from inside the residence. Officers made contact with Victim who stated it was Defendant and he was still in the residence. Officers entered the residence and attempted to make contact with Defendant, who had locked himself in the bathroom. Defendant refused to exit the bathroom. Defendant stated he did not want to go to jail. Officer Moe was outside the residence and observed Defendant through the bathroom window. Defendant had his back to the door and his feet braced against the bathtub to prevent officers from entering the bathroom. Defendant was repeatedly lighting a lighter. Officer Moe was concerned that Defendant may be attempting to start a fire. Officers physically attempted to gain entry to the bathroom. Defendant resisted entry by holding the door closed and bracing himself against the bathtub. Officers were able to open the door a small amount and deployed pepper spray in an effort to gain compliance from Defendant and enter the bathroom to effectuate and arrest. The pepper spray did not work and Defendant continued to brace the door. Eventually Officers gained entry to the bathroom. Officers observed something shiny in Defendant's hand. Defendant put his hand, holding the object, into the toilet and refused all commands to remove his hand from the toilet and continued to resist officers. Officer Moe deployed his taser to attempt to gain compliance from Defendant. Officer Moe deployed five 5 second bursts from his taser. Before each burst Defendant was given the opportunity to remove his hand from the toilet and comply with the officer's commands but Defendant

refused. After the fifth deployment Defendant complied and was placed under arrest. The shiny object was a pipe used to smoke crack cocaine.

Officers spoke with Victim. Victim stated she and the children were sleeping when she heard a pounding on her door. Victim checked and observed Defendant at the door. Victim told Defendant to leave but he refused. Defendant forced his way into the home. Defendant stated "she did not love him and she was going to pay for it." Defendant pushed Victim towards the bathroom and then into the bathroom. Defendant was kicking Victim throughout this process. Once in the bathroom, Defendant shoved Victim into the bathtub. Victim was kicked in the left arm and the left side of her face. Victim attempted to escape the bathroom through the door but was unable to exit and Defendant continued to kick at Victim. Victim was able to escape through the bathroom window. Victim ran to a neighbor's home to call the police but no one answered the door. Victim observed Defendant leave so she returned to her home and called the police. Defendant returned to the home prior to the police arriving. Defendant and Victim are married, but separated and have children in common. Defendant and Victim's children were in the home and told officers their dad shoved their mom out of the bathroom window.

Defendant has been convicted of Family Violence on or about 05/16/2001 in the Saginaw Chippewa Tribal Court. Defendant has been convicted of Assault and Battery on or about 11/21/2012 in the Saginaw Chippewa Tribal Court. The 11/21/2012 conviction for Assault and Battery involved a victim that was the spouse of Defendant and therefore may be used to enhance the current Family Violence charge.

April 27, 2016

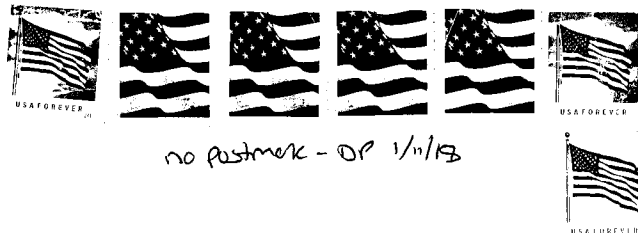
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Graham Leach

Graham G. Leach, Tribal Prosecutor

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U.S. DISTRICT COURT
BAY CITY, MICHIGAN

"Att" Court "Clerk"

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