IN THE UTAH COURT OF APPEALS

DAVID AMMON JAKEMAN, Appellant, v. **OREM CITY,** Appellee.	Appellate Case No: 20250896-CA ____ Trial Court Case No: 221300408 221300553 231300069 231300079 231300162

OPENING BRIEF OF APPELLANT

THIS APPEAL IS FROM TWO POSTJUDGEMENT RULINGS ISSUED ON JUNE 30, 2025 AND FROM ONE POSTJUDGEMENT RULING ISSUED ON JULY 25, 2025 IN THE ABOVE-REFERENCED MISDEMEANOR CRIMINAL CASES BY THE HONORABLE JARED ELDRIDGE OF THE FOURTH JUDICIAL DISTRICT COURT IN AND FOR UTAH COUNTY, STATE OF UTAH.

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Must a properly and timely filed pleading that is material to the appellant be included in the record even if it is later withdrawn?

ISSUE II: ***Did the district court abuse its discretion or err in fact or err as a matter of law in (1) striking Jakeman's March 29, 2025 "Response to Statements" under URCrP Rule 33 as burdensome, irrelevant, or immaterial and/or in (2) designating it as his first act toward a vexatious litigant determination under URCP. Rule 83?*** **..... 5**

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LIST OF CURRENT PARTIES

Appellant: David Ammon Jakeman, *pro se*

Appellee: Orem City, represented by D. Jacob Summers (aka David "Jake" Summers)

LIST OF FORMER PARTIES NOT PARTIES IN THESE PROCEEDINGS

None.

INTRODUCTION[1]

This appeal challenges three post-judgment rulings that turned on legal errors, errors of fact, and abuses of discretion. First, the district court refused to correct the record under Utah Rule of Appellate Procedure 11(f) to include Jakeman's sworn declaration that accompanied, and supported, his September 21, 2023 motion to withdraw guilty pleas—deeming the declaration/motion "immaterial" and "moot" because defense counsel had purported to withdraw the motion at a hearing Jakeman was involuntary absent from. Second, the court struck Jakeman's March 29, 2025 "Response to Statements" as "burdensome, irrelevant, or immaterial," and simultaneously treated that filing as his first act toward a vexatious-litigant determination without giving the notice, opportunity to be heard, or findings Utah R. Civ. P. 83 requires. Third, the court denied Jakeman's statutory request for a hearing to modify or dismiss continuous protective orders under Utah Code § 78B-7-804(3),(4), reasoning that an earlier hearing to

[1] Citations beginning with R (e.g. R001234) are to the record for case 221300553. Citations beginning with R (e.g. R001234) are to the record for case 221300408).

adjudicate a request to modify then-existing sentencing protective orders sufficed and, alternatively, that Jakeman had not shown a "material change of circumstances," and that victim-rights considerations outweighed his hearing request.

Each ruling rests on at least one incorrect legal premise. Rule 11 fixes what belongs in the appellate record and how to correct omissions; it does not allow a court to exclude a previously filed, case-critical declaration based on later "mootness" or a disputed "withdrawal." The definitions of "burdensome," "irrelevant" and "immaterial" were misunderstood and/or misapplied. Rule 83 sets mandatory procedures before any vexatious-litigant consequences may attach; none occurred here. And § 78B-7-804(3),(4) guarantees a hearing upon a request to modify or dismiss a continuous protective order; a hearing on a request to modify or dismiss sentencing protective orders is not the same and does not satisfy the guarantee, the statute imposes no "material-change" precondition, and victim-rights work in harmony with, not in derogation of, the statute's mandatory hearing command.

Because the court applied the wrong legal standards, it abused its discretion. This Court should reverse and remand with instructions to: (1) grant Rule 11(f) relief and include Jakeman's declaration in the record; (2) vacate the order striking the "Response to Statements" and the associated Rule 83 designation; and (3) hold the mandatory hearing on Jakeman's request to modify or dismiss the continuous protective orders under § 78B-7-804(3),(4).

JURISDICTIONAL STATEMENT

This court has jurisdiction pursuant to UTAH CODE ANN. § 78A-4-103(3)(e) over this appeal from orders issued by the district court of record in criminal cases. Copies of the district court's June 30, 2025 "Ruling on Various Motions Raised by Defendant" and its July 25, 2025 "Ruling on Defendant's Request for Hearing to Modify Continuous Protective Orders" are attached as Addendum A and B, and are incorporated herein by this reference.

STATEMENT OF ISSUES, PRESERVATION, AND STANDARDS OF REVIEW

ISSUE I: Did the district court abuse its discretion or err in fact or err as a matter of law in denying Jakeman's request to include within the record the declaration he had submitted simultaneously with, and in support of, his 09/21/2023 motion to withdraw guilty pleas*?*

PRESERVATION: This issue and all subsidiary issues were preserved when Jakeman filed his URAP Rule 11(f) motion on April 1, 2025, asking the district court to correct the record to include the declaration that accompanied his September 21, 2023 *pro se* motion to withdraw guilty pleas. R001722-1737; R002433-2448. The motion (1) identified the declaration, (2) explained that it was missing from the record, (3) provided evidence that it had been submitted in support of, and simultaneously with, his motion to withdraw guilty pleas, (4) set forth the reasons it should be included within the record, and (5) requested inclusion. *Id.*

This issue and all subsidiary issues were preserved when the court denied the URAP Rule 11(f) motion on June 30, 2025, as "moot/immaterial" based on Jakeman's

purported withdrawal of the underlying motion through counsel during a hearing on October 13, 2023 in which Jakeman was not present due to being in COVID quarantine. R002320-2322. There were also preserved by Jakeman's consistent denial that he authorized withdrawal of his motion to withdraw guilty pleas. R000394-0397; R002155-2157; R000430-0431; R002172-2173; R002170-2171; R002177-2180; R000445-0454; R002181-2184; R000471-0477; R002185- 2191.

Jakeman further preserved this issue and all subsidiary issues through the timely filing of a URCP Rule 59 motion to alter or amend the denial on July 19, 2025; the motion addressed the following issues: **(1)** Jakeman had never withdrawn his motion to withdraw guilty pleas, **(2)** properly and timely filed pleadings must be included in the record even if they are later withdrawn, and **(3)** the district court's conclusion that Jakeman had withdrawn his motion was erroneous and therefore an improper basis for deeming the declaration "immaterial" and his Rule 11(f) motion "moot". R002475-2489

STANDARD OF REVIEW: Appellate courts review a district court's ruling on a motion to correct or supplement the record for abuse of discretion. *Tschaggeny v. Milbank Ins. Co.*, 2007 UT 37, ¶ 16. Underlying legal determinations—such as whether a pleading was withdrawn—are reviewed for correctness. *State v. Torres-Orellana*, 2024 UT 46, ¶ 6. Any predicate factual findings—such as whether Jakeman knowingly and voluntarily waived his right to attend a hearing—are reviewed for clear error. *State v. Hinmon*, 2016 UT App 215, ¶ 9.

ISSUE II: Did the district court abuse its discretion or err in fact or err as a matter of law in (1) striking Jakeman's March 29, 2025 "Response to Statements" under URCrP Rule 33 as burdensome, irrelevant, or immaterial and/or in (2) designating it as his first act toward a vexatious litigant determination under URCP. Rule 83*?*

PRESERVATION: This issue and all subsidiary issues were preserved by (1) the March 29, 2025 filing itself, R001856-R001864, by (2) the district court's order/ruling striking the filing as being burdensome, irrelevant and immaterial, and designating it Jakeman's first act toward a vexatious litigant designation, by (3) Jakeman's URCP Rule 59 motion to alter/amend the June 30, 2025 order striking the filing, R002490-R002499, by (4) Jakeman's Notice of Appeal, R002927-R002929, and by (5) Jakeman's Docketing Statement. The URCP Rule 59 motion addressed the following issues: **(1)** Jakeman's "Response to Statements" was neither burdensome, irrelevant, nor immaterial; **(2)** the district court was required to follow the procedures outlined by URCP Rule 83; and **(3)** the district court did not follow the procedures required by URCP Rule 83. The Rule 59 motion specifically requested deletion of the vexatious-act designation and explained why and how the court erred. R002490-R002499

STANDARD OF REVIEW: A district court's decision to strike a filing is reviewed for abuse of discretion. *Jessop v. Hardman*, 2014 UT App 28, ¶ 7; *Taylor Elec., Inc. v. Fox Const., Inc.*, 2012 UT App 324, ¶ 1. Underlying questions of law—including the court's interpretation and application of procedural rules—are reviewed for correctness. *Torres-Orellana*, at ¶ 6. Predicate factual findings are reviewed for clear error. *Hinmon*, at ¶ 9. Whether URCP Rule 83's procedural prerequisites apply and what

they require is a question of rule interpretation reviewed for correctness. *Erickson v. Erickson*, 2018 UT App 184, ¶ 9.

ISSUE III: Did the district court abuse its discretion or err in fact or err as a matter of law in denying Jakeman's Utah Code Ann. § 78B-7-804(3),(4) request for a hearing to modify or dismiss continuous protective orders*?*

PRESERVATION: This issue and all subsidiary issues were preserved when (1) Jakeman filed a written request on July 3, 2025 for a hearing to modify the continuous protective orders issued September 27, 2024, R002326; when (2) Jakeman replied to Orem City's objection, R002593-2597; when (3) the court denied the request on July 25, 2025, R002708-2710; and when (4) Jakeman filed a URCP Rule 59 motion on July 26, 2025 in response to the denial, R002712-2872. Those filings squarely challenged the court's rationale—including its erroneous conclusions that **(1)** the September 27, 2024 hearing satisfied the statutory requirement to hold a hearing on request, that **(2)** Jakeman was required to show a material change of circumstance, that **(3)** Jakeman had not shown a material change of circumstances, and that **(4)** victim rights trump Jakeman's rights to a hearing. This issue and all subsidiary issues were further preserved by the filing of Jakeman's notice of appeal and docketing statement. R002930-R002932.

STANDARD OF REVIEW: Whether the September 27, 2024 hearing was held for the purpose of modifying a "sentencing protective order" or a "continuous protective order" is a law-like mixed question of law and fact reviewed for correctness. *State in interest of E.R.*, 2021 UT 36, ¶¶ 14-21; *State v. Levin*, 2006 UT 50, ¶¶ 25-31. Fact-like mixed question of law and fact are reviewed deferentially. *Id.*

Whether the requirement of Utah Code § 78B-7-804(3),(4) to conduct a hearing upon request to modify or dismiss a continuous protective order was satisfied by holding the hearing on September 27, 2024 is a law-like mixed question of law and fact reviewed for correctness. *Id.*

Whether UCA § 78B-7-804(3),(4) requires a showing of a "material change of circumstances" before the court must hold a modification hearing is a legal question reviewed for correctness. See *Marion Energy, Inc. v. KFJ Ranch P'ship*, 2011 UT 50, ¶ 12. To the extent the court made fact findings about changed circumstances, those findings are reviewed for clear error. *Hinmon*, at ¶ 9. Whether Jakeman demonstrated a material change of circumstances is a mixed one reviewed either for correctness or deferentially. *Interest of E.R.*, at ¶¶ 14-21; *Levin*, at ¶¶ 25-31. Whether victim rights trump defendant rights with respect to holding a hearing under UCA § 78B-7-804(3),(4) is a question of law reviewed for correctness. *Erickson*, at ¶ 10.

CONTROLLING CONSTITUTIONAL AND STATUTORY PROVISIONS

CONTROLLING CONSTITUTIONAL PROVISIONS

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STATEMENT OF THE CASE

PROCEDURAL HISTORY

On March 28, 2025, a hearing was conducted to adjudicate a motion to withdraw by Jakeman's third prior counsel. R002937-002959; R003632-3654.

On March 29, 2025, Jakeman filed a "Response to Statements Made during the Hearing on 03/28/2025." R001856-1864. Jakeman never requested submission of this pleading for decision.

On April 1, 2025, Jakeman filed a "URAP Rule 11(f) Motion to Correct the Record." R001722-1737; R002433-2448.

On June 30, 2025, the district court issued a "Ruling on Various Motions Raised by Defendant." R002318-R002324. This ruling addressed five of Jakeman's filings, two of which are subjects of this appeal. *Id.*

The first filing addressed by the Ruling that is a subject of this appeal was Jakeman's URAP 11(f) Request to Correct the Record. R002320-2322. The court denied the request as being "immaterial and moot." *Id.*

The second filing addressed by the Ruling that is a subject of this appeal was Jakeman's "Response to Statements." R002322-2323. The court found the filing

burdensome, irrelevant and immaterial. *Id.* The court also found that through said filing Jakeman had "committed the first act of three toward a vexatious litigant determination." *Id.*

On July 3, 2025, Jakeman filed a Request for Hearing to Modify Continuous Protective Orders pursuant to Utah Code Ann. § 78B-7-804(3)(c),(4). R002326-2327.

On July 15, 2025, Orem City objected to the hearing request. R002356-2361.

On July 21, 2025, Jakeman replied to Orem City's objection. R002593-2699.

On July 25, 2025, the district court issued a ruling denying Jakeman's hearing request. R002708-2710.

On July 29, 2025, Jakeman filed two Notices of Appeal: one for the two June 30, 2025 rulings, and one for the July 25, 2025 ruling. R002930-R002932; R002927-R002929.

On August 11, 2025 the appeals were consolidated into case 20250896-CA.

On August 12, 2025, Jakeman filed a docketing statement that set forth the following issues for appeal:

> "Judge Eldridge's denial of my URAP 11(f) Motion to correct the Record. His denial is a mistake of law and fact, and an abuse of discretion.
> Judge Eldridge's denial of my Request for Hearing to Modify Continuous Protective Orders. His denial is a mistake of law and fact, and an abuse of discretion.
> Judge Eldridge's Ruling finding my Response to Statements 'Burdensome, Irrelevant and Immaterial,' and the 'first act of vexatious litigation.' "

The docketing statement also contained this "summary of what happened":

> "Judge Eldridge is issuing ruling[s] that have no basis in law or fact, that are abuses of discretion, and that are purely vindictive and punitive. As to the three rulings referenced above[:]

(1) I filed a motion to correct the record because a critical declaration is missing. He denied the motion with no proper legal basis.
(2) I filed a Request for a hearing to modify 'CPOs' as is my statutory right. He denied the request with no proper legal basis and with no legal authority to do so.
(3) I filed a 'Response to Statements' to preserve an accurate record. Because he was slapped by the COA for failing to rule on a previous motion, he vindictively and without a proper legal basis, found my filing to be burdensome, irrelevant, etc."

STATEMENT OF FACTS

On August 24, 2023, two days after being convicted of misdemeanor child abuse in a bench trial, Jakeman filed a handwritten pro se motion to appoint conflict counsel, in cases 221300408, 221300553, 221300638, 231300079, 231300069, 231300028 "and all other cases". R000462-0465; R000209-0211. It stated:

> I, David Jakeman, respectfully request that this court appoint Conflict Counsel to assist me with the preparation and filing of a Motion for a New Trial and a Motion to Withdraw all Guilty Pleas (which may be based in part on ineffective assistance of counsel).

Id.

On September 8, 2023, Jakeman filed a handwritten pro se request to submit his request to appoint conflict counsel for decision. R000469-0472; R000215-0217.

On September 12, 2023, Jakeman filed a handwritten pro se motion to self-represent, entitled "Pro se Motion to Represent Myself", in cases "221300408 and all other cases, including but not limited to [22130]0553, [22130]0638, [23130]0079, [23130]0069, [231300]028 and all other cases." R000473-0476; R000219-0221. It stated:

> I, David Jakeman, hereby request that this court dismiss my conflict counsel and allow me to represent myself. I also request that this court appoint my conflict counsel to serve as my advisor or "friend of the court" or as my cocounsel.

Id.

On September 21, 2023, Jakeman filed a handwritten pro se motion for a new trial in case 221300408. R000504-0504; R000232-0254. Simultaneously on the same day, Jakeman filed a pro se motion to withdraw all guilty pleas in cases 221300553, 221300638, 231300079, 231300069, and 231300028. R000486-0499; R000232-0276.

On September 29, 2023, Jakeman filed a handwritten pro se request to submit his pro se motion to represent himself for decision in cases 231300185, 231300162, 231300079, 231300069, 231300028, 231300638, 221300553, 231300408. R000511-0512; R000319-0320. It stated:

> I, David Jakeman, hereby request that the "Pro Se Motion to Represent Myself" dated 9/12/2023 and filed on or around that date be submitted for a decision forthwith.

Id.

On October 13, 2023, a hearing was held during which Jakeman was absent due to having contracted COVID and being quarantined by the Utah County Jail. R000740-0741. The following dialog took place between Judge Eldridge and Jakeman's prior counsel during that hearing:

> THE COURT: Mr. Stewart, are you ready on Mr. Jakeman?
>
> MR. STEWART: I am, Judge, but Mr. Jakeman, I found out on Monday, was placed in a Covid quarantine unit at the jail.
>
> THE COURT: Oh, okay.
>
> MR. STEWART: They're not willing to transport him to video or make any other arrangements.

> THE COURT: I see, okay. So can you just give me an idea - I know that he had filed a motion to withdraw his plea.
>
> MR. STEWART: Right.
>
> THE COURT: Is he wanting to pursue that or
>
> MR. STEWART: No, Judge. The last communication I had with him is that we intended to withdraw both of those motions
>
> THE COURT: Okay. All right.
>
> MR. STEWART: - and proceed forward with sentencing.
>
> THE COURT: So do you want to just put this on in two weeks, for the 27th?
>
> MR. STEWART: Yeah, I have a day two of a two-day jury trial scheduled that day, but if- I'm sure I could make arrangements to be here right at 8:30, if we could do it then.
>
> THE COURT: Okay.

Id.; R002321.

On November 3, 2023, Jakeman was sentenced in cases 221300408, 221300553, 231300069, 231300079, and 231300162. R000560-0573.

During the sentencing hearing held on November 3, 2023, Orem City requested imposition of sentencing protective orders. R000923; The district court granted this request and, as part of the sentence, imposed on Jakeman a "sentencing protective order" in each of the five cases. R000949-0955.

On November 7, 2023, Jakeman filed a second "Pro Se Motion to Represent Myself" in case 221300408. R000393-0397; R000404-0407; R002154. It stated:

> I hereby request that I be allowed to represent myself in my Motion for a New Trial and during any trial and other proceedings that may follow. I also request that Greg Stewart be appointed as my advisor, "friend of the court," or cocounsel.

Id.

On November 7, 2023, Jakeman filed a "Pro Se Request to Submit" in case 221300408. R000394-0397; R002155-2157. It stated:

> Defendant's original "Pro Se Motion to Represent Myself" was filed on or around 9/12/2023. Said motion was never withdrawn by Defendant, nor was it ever adjudicated. The prosecution never responded to nor opposed said motion. On 11/7/2023, Defendant filed a second Motion to Represent [Him]self. The only difference between the two motions to represent himself is that the most recent one is limited to case 221300408. Therefor Defendant submits his new motion to represent himself for decision, and asks that it be adjudicated immediately, either prior to or in conjunction with his new motion for a new trial.

Id.

On November 16, 2023, Jakeman filed a handwritten notice of appeal for cases 221300408, 221300553, 231300069, 231300079, 231300162. R000426-0427; R002166-2167. It stated:

> Defendant, David Jakeman, hereby appeals the denial of his "Pro Se Motion to Represent Myself" that was filed on or around 9/12/2023, and that was denied on or around 11/03/2023 by virtue of having been totally ignored by the judge.

Id.

On November 16, 2023, Jakeman filed a handwritten notice of appeal for cases 221300408. R000430-0431; R002172-2173. It stated:

> Defendant, David Jakeman, hereby appeals the denial of his "Pro Se Motion for a New Trial" that was filed on or around 9/21/2023, and that was denied on or around 11/03/2023 by virtue of having been totally ignored by the judge.

Id.

On November 16, 2023, Jakeman filed a handwritten notice of appeal for cases 221300408, 221300553, 231300069, 231300079, 231300162. R000422-0423. It stated:

> Defendant, David Jakeman, hereby appeals his sentence that was imposed on or around 11/03/2023 for all of the above-listed cases.

Id.

On November 16, 2023, Jakeman filed a handwritten notice of appeal for cases 221300408, 221300553, 231300069, 231300079, 231300162. R002170-2171; R000418-0419. It stated:

> Defendant, David Jakeman, hereby appeals the denial of his "Pro Se Motion to Withdraw Guilty Pleas" that was filed on or around 9/21/2023, and that was denied on or around 11/03/2023 by virtue of having been totally ignored by the judge.

Id.

On November 16, 2023, Jakeman filed a handwritten notice of appeal for cases 221300553, 231300069, 231300079, 231300162. R000426-0427. It stated:

> Defendant, David Jakeman, hereby appeals the denial of his "Pro Se Motion to Withdraw Guilty Pleas" that was filed on or around 9/21/2023, and that was denied on or around 11/03/2023 by virtue of having been totally ignored by the judge.

Id.

On November 17, 2023, Jakeman filed a handwritten notice of appeal for cases 221300408. R000434-0436. It stated:

> Defendant, David Jakeman, hereby appeals his conviction of the charge of Child Abuse with Injury in case 221300408.

Id.

On November 17, 2023, Jakeman filed a handwritten notice of appeal for cases 221300408, 221300553, 231300069, 231300079, 231300162. R000439-0442; R002177-2180. It stated:

> Defendant, David Jakeman, hereby appeals the denial of the following motions:
> (1) "Pro Se Motion to Represent Myself" filed on or around 9/12/2023 for cases 221300408, 221300553, 231300069, 231300079, & 231300162
> (2) "Pro Se Motion for a New Trial" filed on or around 9/21/2023 for case 221300408
> (3) "Pro Se Motion to Withdraw Guilty Plea" filed on or around 9/21/2023 for case 221300553, 231300069, 231300079, & 231300162
> These motions were all denied by virtue of being ignored by the judge. I never withdrew them, nor did I authorize their withdrawal by my appointed counsel or by any other person.

Id.

On November 20, 2023, Jakeman filed similar handwritten notices of appeal in the same cases that asserted his motions had been "denied by virtue of the court completely ignoring [them]." R000445-0454; R002181-2184.

On November 23, 2023, Jakeman filed a handwritten "Pro Se Request to Sign Orders." R000471-0477; R002185- 2191. It stated:

> Defendant hereby requests the court to execute the attached orders officially denying the:
> (1) "Pro Se Motion to Represent Myself" (filed on or about 9/12/2023)
> (2) "Pro Se Motion for a New Trial" (filed on or about 9/21/2023)
> (3) "Pro se Motion to Withdraw Guilty Pleas" (filed on or about 9/21/2023)
> This request is made on the grounds and for the reasons that:
> (1) The judge denied the above-listed motions by totally ignoring them,
> (2) Defendant wishes to appeal their denials, and
> (3) Per page 4 of the attached "Guide to Appealing a Case in Utah's Appellate Courts":
> (a) An appeal mjust be made of a written "final" order, and
> (b) If no written order exists, "A party must then prepare and submit to the trial court a written order for the judge to sign before the appeal can proceed."

Id.

On July 16, 2024, Jakeman filed a "Pro Se Request for Hearing to Modify Protective Orders." R001542-1577.

On August 28, 2024, Orem City filed its opposition to Jakeman's request. R001727-1728. In its opposition, Orem correctly pointed out that the orders issued against Jakeman during the sentencing hearing on November 3, 2023 were sentencing protective orders ("SPOs") not continuous protective orders ("CPOs"), and that Utah Statute did not provide a mechanism for modifying SPOs other than completion of all sentencing conditions. *Id.*

On August 30, 2024, Jakeman filed his reply to Orem's opposition. R002593-2597; R001733-1745. In his request and in his reply to Orem's opposition, Jakeman incorrectly argued that the orders issued against him, though labeled "Sentencing Protective Orders" were actually CPOs. R002326; R002593-2597; R001733-1745.

On September 27, 2024, a hearing was held on Jakeman's request. R001890-1891; R001909-1921; R001925-1940; R002456-2544. During that hearing the following happened: (1) the court found that the originally issued protective orders were SPOs, R002458, R002533-2536, (2) Orem City moved for issuance of CPOs, R002470, R002526-2530 and (3) the district court granted Orem's request and replaced the existing SPOs with CPOs, R002539-2542.

DISPOSITION IN THE COURT BELOW

The district court entered three written rulings now on review. R002318-2324. First, on June 30, 2025, the district court issued a "Ruling on Various Motions Raised by Defendant." The order: (1) denied Jakeman's Utah R. App. P. 11(f) motion to correct the record as "immaterial" and "moot," and (2) stuck Jakeman's March 29, 2025 "Response to Statements" as burdensome/irrelevant/immaterial, while also designating that filing as

his "first" vexatious-litigant act under Utah R. Civ. P. 83. *Id.* Second, on July 25, 2025, the court denied Jakeman's request for a hearing to modify the continuous protective orders, concluding he was not entitled to a hearing under Utah Code § 78B-7-804(3),(4). R002708–R002710. Jakeman timely noticed an appeal from both orders. R002927–R002929; R002930–R002932.

SUMMARY OF THE ARGUMENT

The record on appeal includes "the documents and exhibits filed in or considered by the trial court." Utah R. App. P. 11(a). When completeness is disputed, "the trial court will ensure that the record accurately reflects the proceedings," and "anything material to either party" that was omitted may be corrected. *Id.*; URAP 11(f)(1)–(2). Jakeman's declaration was filed with his plea-withdrawal motion and is material to this and other appeals, as well as to past and future Petitions for Extraordinary relief, and a forthcoming civil lawsuit against Jakeman's initial defense counsel and her law firm. Whether counsel later purported to withdraw that motion does not erase the filing or make it immaterial as to Jakeman for purposes of URAP Rule 11(f). Denying Rule 11(f) relief because of "mootness" or supposed "withdrawal" applies the wrong legal yardstick and is an abuse of discretion. The denial must be reversed.

The district court struck Jakeman's March 29, 2025 "Response to Statements" as burdensome and immaterial and simultaneously branded it the first act toward a vexatious litigant determination. That was legal error. The filing addressed accusations the court permitted opposing counsel and former counsel to air; it helped ensure a balanced,

accurate record and was neither scandalous nor improper. Additionally, Rule 83 imposes mandatory procedures—notice, an opportunity to respond, and findings—before any vexatious-litigant designation or consequences can attach. The court did not follow those procedures. Striking the filing and assigning a Rule 83 "strike" without Rule-83 process is legal error and thus an abuse of discretion. The order should be vacated.

Utah Code § 78B-7-804 distinguishes sentencing protective orders from continuous protective orders and mandates that, if requested, the district court shall hold a hearing to modify or vacate a continuous protective order. UCA § 78B-7-804(3)(c),(4). The September 27, 2024 hearing did not satisfy that mandate as it was held to adjudicate a requested modification or dismissal of the then existing sentencing protective orders. The statute imposes no "material change of circumstances" requirement before a hearing may be held. Furthermore, victim-rights statutes do not trump those of defendants, nor do they override the hearing mandate. The court's contrary rulings rest on legal error and must be reversed with directions to hold the required hearing.

ARGUMENT

ISSUE I: The district court abused its discretion, erred in fact, and erred as a matter of law in denying Jakeman's URCP Rule 11(f) request to include within the record the declaration he had submitted simultaneously with, and in support of, his 9/21/2023 motion to withdraw guilty pleas.

Despite the fact that Jakeman's URAP 11(f) motion to correct the record by including the declaration he submitted on September 21, 2023, with and in support of his

"Pro Se Motion to Withdraw All Guilty Pleas," was unopposed, the district court denied it based on three faulty premises: (1) that the motion to withdraw guilty pleas had been withdrawn, (2) that properly submitted filings that are later withdrawn need not be reflected in the record of proceedings, and (3) that due to the withdrawal of his motion to withdraw guilty pleas, Jakeman's request to correct the record was moot and the declaration supporting the motion to withdraw guilty pleas was immaterial. In its ruling denying Jakeman's request to correct the record, the court wrote:

> Due to this withdrawal of his motion, sentencing was scheduled for October 27 but then continued until November 3, 2023, when it actually took place. Due to the fact Defendant withdrew this motion on October 13, 2023, the Court DENIES the Defendant's motion to include this statement as it is immaterial and moot.

Jakeman contests the court's assertion that his motion to withdraw guilty pleas was withdrawn. He was not present at the hearing on October 13, 2023, his absence was involuntary, he never authorized the motion's withdrawal, and he never intended to withdraw it. Additionally, his motion to self-represent pre-dated his motion to withdraw guilty pleas, Jakeman had submitted it for decision, but it had not been adjudicated (nor was it ever adjudicated). The court was not authorized to address any pro se motions filed after the filing of Jakeman's motion to self-represent until it first adjudicated that motion.

The supporting declaration was filed simultaneously with the motion to withdraw guilty pleas. Therefore, as long as the declaration is "material to either party," regardless of whether or not it was later withdrawn, it must be included in the record to accurately reflect what was filed and when.

The missing declaration was, and is, essential to: (1) Jakeman's past, pending and future appeals, (2) his past, pending and future petitions for extraordinary relief, (3) a forthcoming civil lawsuit involving claims against his first initial defense counsel and her law firm. It is critical that the record of proceedings accurately reflect that the missing declaration was filed as it should have served, and is needed to serve, as evidence in the above-mentioned actions.

Procedural History relating to the Missing Declaration and the Request to include it in the Record

On September 21, 2023, Jakeman filed a *pro se* motion to withdraw all guilty pleas and an accompanying evidence packet. That evidence packet included a signed and dated declaration specifically drafted in support of his withdrawal motion. On that same day, he also simultaneously filed a separate motion for a new trial with its own evidence packet and declaration. The methods of filing for both motions was the same: in person through his friend, and a second copy via USPS mail. The declaration in support of the new trial motion made it into the record. The declaration in support of the withdrawal motion did not.

A. Jakeman had not withdrawn his motion to withdraw guilty pleas as (1) his purported desire to withdraw the motion was asserted by his prior counsel during a hearing from which Jakeman was involuntarily absent, (2) Jakeman has consistently denied authorizing its withdrawal, and (3) Jakeman's preceding motion to self-represent had not been adjudicated.

The order's premise—that Jakeman "withdrew" his motion to withdraw guilty pleas—finds no support in law or in the record. The decision whether to plead guilty (or

to persist in, or seek to withdraw, a guilty plea) belongs to the defendant personally, not to counsel. And a court may not treat such a right as forfeited unless the record shows a knowing, intelligent, and voluntary waiver by the defendant—not silence, not counsel's unsworn representation, and especially not in proceedings held in the defendant's involuntary absence. Furthermore, no withdrawal could take place until Jakeman's preceding motion to self-represent was adjudicated, and it never was.

i. Fundamental plea decisions are the client's, not counsel's.

The authority and right to make certain fundamental decisions—including whether to plead guilty—resides exclusively with the defendant. *Jones v. Barnes*, 463 U.S. 745, 751 (1983). Defense counsel "lacks authority to consent to a guilty plea on a client's behalf". *Florida v. Nixon*, 543 U.S. 175, 187–89 (2004). Criminal defendants enjoy autonomy to choose the objectives of their defense, and defense counsel may not override their clients' objectives by conceding guilt. *Robert Leroy Mccoy v. Louisiana,* 584 U.S. 414, 423 (2018). Defense counsel cannot take actions that are the practical equivalent of entering a guilty plea contrary to their client's wishes. *Brookhart v. Janis*, 384 U.S. 1, 7–8 (1966).

Withdrawing a defendant's pending motion to withdraw guilty pleas is the functional mirror image of pleading guilty again; it forecloses the vehicle the legislature and the URCPs provide to challenge the validity of the original plea. See Utah Code § 77-13-6(2)(b); Utah R. Crim. P. 11(f)(2). Because the motion is the defendant's, counsel could not withdraw it without the defendant's express and informed authorization.

ii. No waiver may be presumed; the record must affirmatively show a personal, knowing, and voluntary waiver by the defendant.

A waiver of a fundamental right is "an intentional relinquishment or abandonment of a known right or privilege," and courts "indulge every reasonable presumption against waiver." *Johnson v. Zerbst*, 304 U.S. 458, 464 (1938). "Presuming waiver from a silent record is impermissible." *Boykin v. Alabama*, 395 U.S. 238, 243-44 (1969). Voluntariness may not be presumed, and the State bears the burden to show a knowing, voluntary waiver before a court proceeds in a way that extinguishes a defendant's rights. *See State v. Wanosik*, 2003 UT 46, ¶¶ 12–15; *State v. Houtz*, 714 P.2d 677, 678 (Utah 1986); *State v. Gunter*, 2013 UT App 140, ¶¶ 25–26.

Here, the only evidence of withdrawal is prior counsel's statement at a hearing—held while Jakeman was involuntarily absent—that "we intended to withdraw" the motion. R002321; R000740-0741. An "intention" recounted by counsel in Jakeman's involuntary absence is not an affirmative showing that Jakeman knowingly and voluntarily relinquished his right to pursue his motion to withdraw his guilty pleas. *See Boykin*, at 243; *Zerbst*, at 464.

iii. The hearing where counsel purported to withdraw the motion was a "critical stage," and Jakeman's absence could not be treated as a waiver without a valid, on-the-record finding of voluntary absence.

A defendant has a constitutional right to be present at any stage of the criminal proceeding that is critical to its outcome if his presence would contribute to fairness. *Kentucky v. Stincer*, 482 U.S. 730, 745 (1987). A hearing at which defense counsel purports to terminate the defendant's pending motion to withdraw his guilty pleas—

thereby foreclosing adjudication of the pleas' validity—is a critical stage. Before proceeding during a critical stage in a defendant's absence, Utah courts require an adequate inquiry and a clear finding that the absence is knowing and voluntary. *Wanosik*, 2003 UT 46, ¶¶ 12–15; *Houtz*, 714 P.2d at 678; *Gunter*, 2013 UT App 140, ¶¶ 25–26.

The record shows no indication that Jakeman's absence was voluntary. The transcript reflects that Jakeman could not attend because he had been placed in a COVID quarantine unit and the jail would not transport him "to video or make any other arrangements." R002321; R000740-0741. Accepting counsel's purported withdrawal of Jakeman's motion under those circumstances violated Jakeman's right to be present during a critical stage of the proceeding. *See Wanosik*, at ¶¶ 12–15; *Houtz*, at 678; *Gunter*, at ¶¶ 25–26.

iv. The motion could not be withdrawn until Jakeman's motion to self-represent was adjudicated.

Another obstacle to deeming Jakeman's motion withdrawn is that Jakeman's previously filed motion to self-represent was still pending. *State v. Patton*, 2023 UT App 33, ¶¶ 11-24; *State v. Frampton*, 737 P.2d 183, 187–89 (Utah 1987). The first thing a court must do when a criminal defendant asserts his right to self-represent is to adjudicate that request. *Faretta v. California*, 422 U.S. 806, 817 (1975); *Frampton*, at 186–89. This normally requires engaging in a Frampton colloquy. *Id.*; *Patton*, at ¶¶ 11-14; *State v. West*, 2023 UT App 61, ¶¶ 32-33.

Until the request to self-represent is adjudicated, the court is barred from adjudicating any subsequently filed pro se motions or from doing practically anything else. *State v. Lucke*, 2025 UT App 49, ¶ 21; *State v. Pedockie*, 2006 UT 28, ¶¶ 25-26; *Patton* at ¶¶ 11–31; *State v. Wareham*, 2006 UT App 327, ¶¶ 33–39; *State v. Navarro*, 2010 UT App 302, ¶ 3. Until the question of whether the defendant is self-representing or is being represented by counsel is answered no other questions can be entertained. *Id*. Thus, because Jakeman's motion to self-represent was still pending, the court had no authority to adjudicate the purported withdrawal asserted by former counsel of Jakeman's motion to withdraw guilty pleas. *Id.*

v. Applied here, the record forecloses any finding of a valid withdrawal.

Jakeman has consistently denied authorizing the withdrawal and has repeatedly maintained—both before and after sentencing—that he never withdrew the motion and believed the court had simply ignored it. R000511-0512; R000319-0320; R000394-0397; R002155-2157; R000426-0427; R002166-216; R000430-0431; R002172-2173; R002170-2171; R000418-0419; R000426-0427; R000439-0442; R002177-2180; R002185- 2191. There was no evidence of a knowing and voluntary waiver of Jakeman's right to withdraw his guilty pleas, and the court made no findings that his absence was voluntary. Additionally, the court had never adjudicated Jakeman's previously filed motion to self-represent. Given those circumstances, the district court could not find that Jakeman had withdrawn his motion to withdraw guilty pleas. *See McCoy*, at 421–32; *Brookhart*, at 7–8; *Boykin*, at 243; *Zerbst*, at 464; *Wanosik*, at ¶¶ 12–15; *Gunter*, at ¶¶ 25–26.

B. A properly and timely filed pleading that "is material to either party" must be included in the record even if it is later withdrawn.

The record on appeal is supposed to include every document and exhibit filed in, or considered by, the district court. That is why the district court is obligated to preserve a record of all filings; Utah Code of Judicial Administration Rules 4-201, 4-205, 3-302; and that is why URAP 11 requires that when preparing the record for appeal, the clerk must include "all original documents in chronological order" and "all exhibits offered in the proceeding." URAP 11(a), (b)(1)(A), (E).

This mandate exists because appellate review requires a correct and accurate record of the lower court's proceedings. *State v. Van Matre*, 777 P.2d 459, 463 (Utah 1989) (*Without a proper record against which to review defendant's claimed error, we cannot determine the truth of these competing assertions*); *State v. Burnside*, 2016 UT App 224, ¶ 51, 387 P.3d 570, 586 (*the failure to ensure a complete record of proceedings meets the standard for obvious error by the trial court*); *State v. Pliego*, 1999 UT 8, ¶ 7, 974 P.2d 279, 280 (*An appellate court's "review is ... limited to the evidence contained in the record on appeal[]"*); *State v. Hurst*, 821 P.2d 467, 470 (Utah Ct. App. 1991) (*[a] primary purpose of written findings of fact is to preserve for the record the reasons for the trial court's judgment. Without such written findings, nothing exists to show on what evidence the court relied, and review of whether there was clear and convincing evidence of contempt becomes impossible*); *State v. Gardner*, 2005 UT App 21 (*An incomplete record may necessitate a new trial*); *State v. Russell*, 917 P.2d 557, 559 (Utah Ct. App. 1996) (a new trial was necessary given the incomplete record); *W. Valley City v. Roberts*,

1999 UT App 358, ¶ 11 (*[due process] requires that there be a record adequate to review specific claims of error already raised … lack of an adequate record constitutes a basis for remand and a new hearing*).

Nothing in Rule 11 conditions inclusion on whether a filing was later denied, became moot, or was withdrawn; the rule turns on whether the item was filed or considered. However, when something is accidentally omitted from the record, the correction of that error is contingent on whether the omitted document is "material to either party". URAP 11(f)(1)-(2). Nevertheless, this is an entirely different standard than whether the filing was later rendered "immaterial [or] moot" by withdrawal or some other event.

i. "Material to either party" is a deliberately low threshold.

Rule 11(f) prescribes how omissions are corrected. Where "any dispute arises as to whether the record is complete and accurate, the trial court will ensure that the record accurately reflects the proceedings," and "anything material to either party" that is omitted or misstated may be corrected […]. Utah R. App. P. 11(f)(1)–(2). Rule 11(f)'s "material to either party" threshold is deliberately low; its function is housekeeping—ensuring the record "speaks the truth" about what occurred below—rather than merits-screening. See id.; *State v. Law*, 2003 UT App 228, ¶ 2 (Rule 11, not submission of non-record addenda, is the vehicle for making the record accurate).

As used in Rule 11(f), something is "material to either party," if it bears in a non-trivial way on issues either side intends to raise or defend on appeal—or that would assist

the appellate court in fairly understanding, reviewing, or deciding the case—regardless of whether or not it is ultimately dispositive. See *State v. Moosman*, 794 P.2d 474, 477–79 (Utah 1990); *State v. Davis*, 2007 UT App 13, ¶ 5 & n.4; *Arreguin-Leon v. Hadco Construction, LLC*, 2020 UT 59, ¶¶ 27-30; *State v. Law*, 2003 UT App 228, ¶ 2.

The declaration here easily clears that threshold. It was submitted with Jakeman's plea-withdrawal motion and bears directly on multiple appellate issues, including (i) whether any purported "withdrawal" of that motion was authorized, (ii) whether the court erred in deeming the Rule 11(f) request "moot," and (iii) whether downstream rulings rested on an erroneous premise. See URAP 11(f)(1)–(2).

Additionally, the declaration supporting Jakeman's motion to withdraw had direct relevance to: (1) Jakeman's appeal in case 20231060-CA, (2) his Motion to Reinstate Appeal 20231060-CA, (3) his Motion for Leave to File Supplemental Briefing in Appeals 20231059-CA and 20231060-CA, (4) his Petitions for Writ of Extraordinary Relief in cases 20250201-CA and 20250314-CA, and (5) his Petition for Rehearing in Appeal 20231059-CA.

Because Utah appellate courts "will not consider evidence which is not part of the record" and review is "limited to the evidence contained in the record on appeal," inclusion of a previously filed, relevant declaration has concrete consequences for appellate review. *Law*, at ¶ 2. *State v. Theison*, 709 P.2d 307, 309 (Utah 1985); *State v. James*, 819 P.2d 781, 793 (Utah 1991).

Applied here, even assuming arguendo that defense counsel later effected a withdrawal of the plea-withdrawal motion, Jakeman's motion and its supporting declaration were already filed and therefore belong in the appellate record under Rule 11(a) and (b)(1). Because the declaration is plainly "material to" multiple issues Jakeman raises/d on appeal, Rule 11(f) requires/d the court to ensure the record accurately reflects/ed those filings.

ii. The district court's conclusion that Jakeman had withdrawn his motion was not a proper basis for it to deem his declaration "immaterial" or his request "moot".

Denying Rule 11(f) relief on the theory that the motion the declaration supported was purportedly withdrawn and consequently became "moot" and "immaterial" applied the wrong legal yardstick—it replaced the rule's "material[ity] to either party" housekeeping inquiry designed to make the record "speak the truth" with an inquiry about the merits of the filing itself—and constituted an abuse of discretion. *See Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 405 (1990); *Tschaggeny*, at ¶ 16; *Northgate Vill. Dev., LC v. Orem City*, 2019 UT 59, ¶ 33.

An issue is moot only when "the requested judicial relief cannot affect the rights of the litigants" or would be "of no legal effect." *Ellis v. Swensen*, 2000 UT 101, ¶ 25; see also *State v. Legg*, 2018 UT 12, ¶ 13. Ordering the record to include a timely and properly filed declaration has concrete effect: it conforms the appellate record to what occurred and enables review on a complete record—precisely what Rule 11(f) is designed to secure. See Utah R. App. P. 11(f)(1)–(2); *Law*, at ¶ 2. Because appellate review is

confined to the record, ensuring that Jakeman's declaration is not omitted has immediate, practical effect; it is the opposite of moot.

C. Relief Requested

For the foregoing reasons, Jakeman respectfully requests that this Court: (1) vacate the denial and grant Jakeman's URPC Rule 11(f) request; (2) order the court staff to search its physical files for the original declaration so it can be properly scanned in and included in the record; and (3) make the declaration available in the docket, record, and the "MyCase" system for cases 221300553, 231300069, 231300079, and 231300162.

ISSUE II: The district court abused its discretion, erred in fact, and erred as a matter of law in (1) striking Jakeman's March 29, 2025 "Response to Statements" under URCrP Rule 33 as burdensome, irrelevant, or immaterial, and in (2) designating it as his first act toward a vexatious litigant determination under URCP Rule 83.

Jakeman appeals the district court's order striking his March 29, 2025 filing titled "Defendant's Response to Statements Made During the Hearing on 03/28/2025." Said order rests on material factual and legal misunderstandings, and it (1) jeopardizes Jakeman's constitutional right to defend himself and protect his constitutional rights in the public forum of the courts, (2) threatens Jakeman with manifest injustice, and (3) creates a chilling effect on Jakeman's ability to make objections and preserve and clarify a complete and accurate record of proceedings.

Procedural History relating to Jakeman's "Response to Statements".

On March 29, 2025, Jakeman filed a document entitled "Defendant's Response to Statements Made During the Hearing on 03/28/2025", which included a memorandum and attached exhibits. R001856-002177. The primary purpose of that filing was not to seek new relief, but rather to clarify the record by responding to false and derogatory statements made by opposing counsel and Jakeman's former counsel that baselessly and disingenuously accused Jakeman of attempting to file frivolous or improper documents.

Jakeman was unfairly prevented from rebutting those statements during the hearing. R003632-3654

Jakeman's submission rebutted those baseless and defamatory mischaracterizations and demonstrated the merit and relevance of the underlying documents that opposing counsel and former counsel slighted as frivolous. *Id.;* R003632-3654. This was important to (1) not leave the record unduly unbalanced and biased against Jakeman, and to (2) demonstrate the disingenuousness of the attacks made upon him. *Id.*

Due to Judge Jared Eldridge's behavior during the hearing, Jakeman's filing was also important to (3) preserve for the record—and for future official grievances and for future proceedings to force recusal—evidence of what Jakeman believes is Judge Jared Eldridge's repeated improper, biased, prejudicial, and vindictive behavior toward him. R003632-3654

Jakeman has learned the hard way the preeminent importance of preserving an accurate and complete record for appeals and for other legal proceedings that may stem from, relate to, or be impacted by an earlier action. Thus, the central purpose of Jakeman's filing was to vigorously safeguard the integrity and accuracy of the record by addressing the falsehoods embedded within—and the imbalance created in—the record by the arbiter allowing opposing counsel and former counsel to denigrate Jakeman while refusing him the right to refute their attacks.

On June 30, 2025, the Court issued an order striking the March 29, 2025 filing, labeling it burdensome, irrelevant, and immaterial under Rule 33 of the Utah Rules of Criminal Procedure, and declaring it the first of three acts that could trigger a designation of Jakeman as a vexatious litigant under Rule 83 of the Utah Rules of Civil Procedure. R002322-2323.

The Court Misapprehended the Purpose and Nature of the Filing.

Jakeman's March 29, 2025 filing was not a motion seeking relief, but a response made necessary by his forced inability to rebut accusations during the March 28 hearing. The statements impugning Defendant's credibility and litigation conduct were made on the record and were not addressed by the Court's ruling. R003632-3654.

Jakeman's filing was submitted to ensure that the written record preserved his perspective, consistent with principles of fairness and adversarial process. See *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (*The fundamental requisite of due process of law is the opportunity to be heard*); *United States v. Cronic*, 466 U.S. 648, 656–57 (1984) (*[due*

process requires that opposing arguments be subject to the] crucible of meaningful adversarial testing); *State v. Pullman*, 2023 UT App 28, ¶ 16 (Utah 2023) (*[Attorneys have an] 'overarching duty to advocate the defendant's cause' by 'bring[ing] to bear such skill and knowledge as will render the trial a reliable adversarial testing process.'*); *Menzies v. Galetka*, 2006 UT 81, ¶ 98 (*a constructive denial of counsel occurs if counsel completely fails to subject the opposition's case to meaningful adversarial testing*).

Had Jakeman failed to rebut the defamatory allegations impugning the quality of his filings, he would have left himself open to a presumption by the factfinder in a future proceeding (whether statutorily permitted or not) that the misleading accusations were true. Jakeman cannot afford the luxury of letting any false or misleading statement go unanswered. He has learned that lesson by painful experience within the same district court and from the same judge who sat as arbiter over the proceedings from which this appeal is taken.

A. Jakeman's "Response to Statements" was neither burdensome, irrelevant, or immaterial.

It is untrue that the filing was not necessary for a determination of the specific purpose of the 03/28/2025 hearing—to adjudicate former counsel's motion to withdraw, but even if it were—neither Jakeman's memorandum itself, nor its exhibits, were burdensome, irrelevant or immaterial.

URCrP Rule 33 governs the district court's authority to strike filings in criminal cases. It requires that "[a]ll briefs and memoranda must be succinct and set forth the facts

and legal authorities in support of the moving party's position," and it permits a court to strike only matter that is "uncivil or contemptuous or contain[s] scandalous or unduly inflammatory matter." Utah R. Crim. P. 33(b)(1)–(2). Nothing in URCrP Rule 33 authorizes striking a filing simply because the court views it as inconvenient or because it addresses matters the court would prefer not to read. By its terms, the rule targets genuinely improper content—uncivil, scandalous, or unduly inflammatory—not good-faith submissions that aid the court's understanding of disputed issues.

Utah law also cabins "irrelevance" and "immateriality" to the evidentiary concept of relevance. Evidence is relevant if it has any tendency to make a fact of consequence more or less probable. Utah R. Evid. 401; see Utah R. Evid. 403 (authorizing exclusion only when probative value is substantially outweighed by dangers such as undue prejudice or waste of time). That is a deliberately low threshold, and courts assess relevance in light of the issues actually in dispute.

Here, the Response addressed accusations about Mr. Jakeman's litigation conduct and filings that opposing counsel and former counsel placed on the record at the withdrawal hearing. The Response thus had "a tendency" to prove or disprove facts of consequence—what actually precipitated counsel's withdrawal, whether Mr. Jakeman was acting in good faith, and whether his filings were frivolous—issues the court itself allowed to be aired, and to which opposing and prior counsel had opened the door. The Response specifically addressed the disparaging and false comments leveled at Jakeman

by the opposing party and by former counsel, and it was necessary to preserve a balanced and accurate record. Thus, the memorandum was not irrelevant or immaterial.

Furthermore, if this court were to deem it immaterial or irrelevant, it would also be obliged to deem the unfounded allegations it rebutted equally immaterial and irrelevant. The purpose of the motion hearing was to adjudicate former counsel's motion to withdraw. As Jakeman had attempted to file multiple motions asking this court to permit the same former counsel to withdraw—and as Jakeman wanted former counsel to withdraw just as much if not more than former counsel wanted to withdraw—all that was necessary for the court was to grant the motion. There was no need to conduct a hearing. Furthermore, at the hearing, at most, all the court needed to do was to ask both parties if they agreed to the withdrawal.

However, upon giving former and opposing counsel the opportunity to speak, and them then launching false accusations against Jakeman and unnecessarily impugning his conduct and his filings, they opened the door to those issues and Jakeman then had every right and necessity to respond to the issues they raised. The court had no right to let opposing counsel and former counsel attack Jakeman's character, conduct and filings without also providing him a chance to respond to their attacks. If any conduct was immaterial or irrelevant it was theirs because it was entirely unnecessary to the purpose of the hearing, while his filing was made necessary by their conduct during the hearing.

Conversely, if the false allegations of opposing counsel and of former counsel were necessary to a proper determination on former counsel's motion to withdraw, then

so was Jakeman's response to those statements as the reason for former counsel motion was made a key issue. Former counsel sought to withdraw on the purported ground that Jakeman was pressuring him to submit frivolous filings. Jakeman also wanted the withdrawal of former counsel, but for different reasons—former counsel had not only failed to do his job but was obstructing Jakeman's litigation and endangering his rights. Therefore, it was entirely appropriate for Jakeman to litigate the issue of the true reasons for former counsel's motion. The fact that Jakeman was prevented from litigating that issue in open court made it necessary for him to litigate it in writing.

To the extent the court believed a filing is "burdensome," Utah's rules provide narrower, less drastic tools than striking wholesale. When a paper contains genuinely improper matter, a court may "strike and disregard" only the offending portion and leave the balance intact. See, by analogy, URCP 10(h) (authorizing courts to strike "all or any part" of a paper that contains redundant, immaterial, impertinent, or scandalous matter); cf. URAP 24(i) (similar, in the appellate context). Utah appellate courts reserve the severe remedy of striking for submissions that are truly irrelevant or scandalous—e.g., briefs "replete with unfounded accusations" impugning judicial integrity. *Peters v. Pine Meadow Ranch Home Ass'n*, 2007 UT 2, ¶¶ 8–12 (striking appellate briefs under Rule 24 for scandalous, irrelevant accusations). Mr. Jakeman's Response did nothing of the sort; it answered accusations and documented the factual basis for his litigation positions. Striking it exceeded the limited purpose of URCrP Rule 33.

Nor was the Response "burdensome" in any meaningful sense. The filing was concise and accompanied by exhibits that organized and substantiated the points made. And there was no need for the court to read Jakeman's memorandum or its exhibits for it had not been called upon to do so. No request to submit had been filed in order to trigger the court's duty to read it. See URCP Rule 7(g) (*When briefing is complete or the time for briefing has expired, either party may file a "Request to Submit for Decision," but,* ***if no party files a request, the motion will not be submitted for decision***) (emphasis added); and URCrP Rule 12(b). Thus, labeling the Response "burdensome" because the court chose to review it despite the fact that it had never been submitted for decision misapprehends the rules governing when a matter actually calls for judicial action.

Furthermore, the Response was only eight (8) pages long inclusive of the appendix. Without the appendix it was only six (6) pages long. Surely a 6-8 page document cannot be deemed burdensome.

In the appendix, Jakeman included along with each exhibit's title and its date of filing or attempted filing, a statement of its purpose. As for those exhibits, although voluminous, they were necessary to demonstrate that Jakeman's proposed filings were prepared in good faith, were appropriate to their purpose and timing of creation, and were grounded in law and fact. Jakeman provided them as exhibits for the convenience of any future reader. By attaching them to the memorandum, Jakeman intended to make it easy for the reader to evaluate the filings for themselves and come to their own, independent conclusions as to their frivolity or validity.

The fact that this court undertook unnecessary effort does not in itself make a filing burdensome, especially when that expenditure of effort was not only unnecessary but was also unwarranted and unrequested. The sole purpose of the filing was to balance and preserve an accurate record regarding the nature of Jakeman's conduct and filings because they had been attacked by opposing counsel and by his prior counsel. That purpose was achieved without needing any expenditure of time or effort by this court. The filing did not request duplicative relief but rather effected a clarification of the record. The inclusion of the exhibits was for evidentiary support only. The filing contained no scandalous or uncivil matter, and the exhibits were neither redundant nor impertinent within the context of the Response.

B. The district court was required to follow the procedures outlined by URCP Rule 83.

Pursuant to URCP Rule 83, a court may find a person to be a "vexatious litigant" and may impose vexatious-litigant restrictions "on its own motion or on the motion of any party, after notice and an opportunity to be heard." Utah R. Civ. P. 83(b). Prior to imposing such restrictions, the court must first find by clear and convincing evidence that "(A) the party subject to the order is a vexatious litigant; and (B) there is no reasonable probability that the vexatious litigant will prevail on the claim." Utah R. Civ. P. 83(c)(1). Utah's appellate courts enforce the requirement for a court to make these two findings before imposing vexatious litigant restrictions. *Strand v. Nupetco Associates LLC*, 2017 UT App 55, ¶¶ 5–6; *Vashisht-Rota v. Howell Management Services*, 2021 UT App 133, ¶¶ 6, 15–16.

C. The district court did not follow the procedures required by URCP Rule 83.

The order below designated Jakeman's March 29, 2025 "Response to Statements" as his "first vexatious-litigant act" under Rule 83. But Rule 83 does not authorize courts to tally or brand "first acts" in isolation. The rule permits orders restricting litigation only after (i) notice and an opportunity to be heard and (ii) the court's clear-and-convincing findings that the party is a vexatious litigant and that there is no reasonable probability of success on the claim then before the court. Utah R. Civ. P. 83(b), (c)(1).

Utah appellate caselaw confirms that these findings are indispensable and that the "no reasonable probability" inquiry is claim-specific to the forum. See *Strand*, at ¶¶ 5–6; *Vashisht-Rota*, at ¶¶ 6, 15–16. The court here made no Rule 83(b) "notice and opportunity to be heard" showing, issued no Rule 83(c)(1) findings by clear and convincing evidence, and entered no qualifying order authorized by Rule 83(b), (d), or (e). On that record, the designation cannot stand because it sidestepped the very procedures the rule prescribes. See Utah R. Civ. P. 83(b), (c)(1)–(2); *Strand*, at ¶¶ 5–6; *Vashisht-Rota*, at ¶¶ 15–16.

At a minimum, because the court neither provided Rule 83's required notice and opportunity to be heard nor made the dual, clear-and-convincing findings, the "first vexatious-litigant act" designation should be vacated and any reliance on it in subsequent rulings set aside. See Utah R. Civ. P. 83(b), (c)(1)–(2); *Strand*, at ¶¶ 5–6; *Vashisht-Rota*, at ¶¶ 15–16.

D. Relief Requested.

Accordingly, Jakeman respectfully requests that this court vacate and reverse the district court's order and that it specifically (1) strike the finding that Jakeman's March 29, 2025 filing is the first act toward a vexatious litigant designation, and (2) restore the filing to the record.

ISSUE III: The district court abused its discretion, erred in fact, and erred as a matter of law in denying Jakeman's Utah Code Ann. § 78B-7-804(3),(4) request for a hearing to modify or dismiss the continuous protective orders.

Jakeman appeals the district court's order denying his July 3, 2025 request for a hearing to modify the existing Continuous Protective Orders. His request stated:

> "Defendant respectfully requests that a hearing be held at the earliest convenience of the court pursuant to U.C.A. § 78B-7-804(3)(c) to consider the propriety of modifying or dismissing the existing continuous protective orders pursuant to U.C.A. § 78B-7804(4)."

The district court's denial rests on four errors of law and/or fact. The four errors of law and/or fact are: (1) the court incorrectly concluded that Jakeman had already had one hearing on the propriety of modifying existing continuous protective orders; (2) the court incorrectly concluded that Jakeman was required to show a material change of circumstances; (3) the court incorrectly concluded that a material change of circumstances had not occurred; and (3) the court incorrectly concluded that the victim's rights would be violated by granting the motion.

Procedural History relating to Jakeman had participated in a hearing for the Modification or Dismissal of the Continuous Protective Orders.

On November 3, 2023, Jakeman was sentenced in cases 221300408, 221300553, 231300069, 231300079, and 231300162. R000560-0573.

During the sentencing hearing held on November 3, 2023, Orem City requested imposition of sentencing protective orders. The district court granted this request and, as part of the sentence, imposed on Jakeman a "sentencing protective order" in each of the five cases. R000949-0955.

On July 16, 2024, Jakeman filed a "Pro Se Request for Hearing to Modify Protective Orders." R001542-1577.

On August 28, 2024, Orem City filed its opposition to Jakeman's request. In its opposition, Orem correctly pointed out that the orders issued against Jakeman were sentencing protective orders ("SPOs") not continuous protective orders ("CPOs"), and that Utah Statute did not provide a mechanism for modifying SPOs other than completion of all sentencing conditions. R001727-1728.

On August 30, 2024, Jakeman filed his reply to Orem's opposition. R002593-2597; R001733-1745. In his request and in his reply to Orem's opposition, Jakeman incorrectly argued that the orders issued against him, though labeled "Sentencing Protective Orders" were actually CPOs. R002326; R002593-2597; R001733-1745.

On September 27, 2024, a hearing was held on Jakeman's request. R001890-1891; R001909-1921; R001925-1940; R002456-2544. During that hearing the following

happened: (1) the court found that the originally issued protective orders were SPOs, R002458, R002533-2536, (2) Orem City moved for issuance of CPOs, R002470, R002526-2530 and (3) the district court granted Orem's request and replaced the existing SPOs with CPOs, R002539-2542.[2]

A. Jakeman had not already had a hearing for the modification of the continuous protective orders.

Utah law gives a defendant a statutory right to a hearing on a request to modify or dismiss a continuous protective order. UAC § 78B-7-804(4) stipulates that:

> "A continuous protective order may be modified or dismissed only if the court determines by clear and convincing evidence that all requirements of Subsection (3) have been met and the victim does not have a reasonable fear of future harm or abuse."

UAC § 78B-7-804(4).

UAC § 78B-7-804(3)(c)(iii) provides that "[i]f the perpetrator or the victim requests a hearing under this Subsection (3)(c), the court shall hold the hearing at the time determined by the court. UAC § 78B-7-804(3)(c)(iii). The Legislature has also directed, as a general rule of construction, that "'shall' means that an action is required or mandatory." Utah Code Ann. § 68-3-12(1)(j). See *Marion*, at ¶¶ 14–15 (statutory interpretation is a correctness question; courts "look first to the statute's plain language" and apply it). Thus, once Jakeman requested a hearing to modify the continuous orders, the district court had a mandatory duty to hold one. See Utah Code Ann. § 78B-7-804(3)(c)(ii) (2024) (court "shall hold the hearing").

[2] The issuance of these CPOs is the subject of Appeal 20241042-CA

Orem City's position, which confuses two different statutory schemes and two different types of criminal protective orders, is that: (1) the court's obligation becomes discretionary once the first such hearing has occurred, and that (2) an initial 78B-7-804(3)(c) hearing occurred on September 27, 2024. There are two problems with this position: First, nothing in the statute indicates that the nature of the court's obligation becomes discretionary once the first such hearing has been conducted, and second, Jakeman has never had a 78B-7-804(3)(c) hearing.

"Sentencing protective orders" (aka "SPOs") temporary and their imposition is discretionary. SPOs automatically expire upon completion of all conditions, including probation, imposed at sentencing. See Utah Code Ann. § 77-36-5; see also Utah Code Ann. § 78B-7-804(2). "Continuous protective orders" (aka "CPOs") are permanent, and their imposition is mandatory when specific conditions have been satisfied. CPOs endure forever unless and until the court intentionally and explicitly modifies or vacates them. Utah Code Ann. § 78B-7-804(3)(c)–(d); *State v. Baize*, 2019 UT App 202, ¶ 21.

Hearings for the modification of an SPO are not the same thing as hearings for the modification of CPOs. There are two reasons for this. The first and most important reason—as pointed out by Orem in its opposition to Jakeman's request for modification—is that there is no statutory mechanism for modifying SPOs or for even requesting their modification. There is only one way to "modify" SPOs, and that is to complete every condition of sentencing including probation. Utah Code Ann. § 77-36-5; Utah Code Ann. § 78B-7-804. On the other hand, Utah Code Ann. § 78B-7-804(4) explicitly provides a mechanism—albeit with an extremely difficult standard—for the

modification or dismissal of CPOs. This mechanism requires that a hearing be held, which can be requested by either the perpetrator or the victim, and that the court determine by clear and convincing evidence that the victim does not have a reasonable fear of future harm or abuse. UCA § 78B-7-804(4). The second reason is that SPOs are distinct from CPOs, so even if a hearing could be held to modify a SPO, such a hearing would also be distinct from a hearing held to modify a CPO.

Furthermore, a hearing for the issuance of CPOs is different from a hearing for the modification or dismissal of CPOs. This is because the issuance of something is the very opposite of that thing's dismissal, and, likewise, its issuance is entirely different from the modification of that thing. CPOs are normally issued automatically at sentencing without the benefit of a hearing under UCA § 78B-7-804(3)(b). But such issuance can be contested through a hearing requested under UCA § 78B-7-804(3)(c). Outside of sentencing, imposition of CPOs can be requested under UCA § 78B-7-804(5). In contrast, modification or dismissal of CPOs can only be initiated through a request under UCA § 78B-7-804(4).

The record confirms that the September 27, 2024 hearing was noticed and held when only SPOs existed. Thus, the hearing cannot be construed as a hearing on the modification of CPOs, because none existed. It makes no difference that Jakeman erroneously believed the SPOs were CPOs when he made his original request. Because the September 27, 2024 hearing was convened and conducted when only SPOs existed, the district court erred in later concluding that Jakeman had "already" received a hearing for the modification of existing CPOs.

i. Because Jakeman has never had a hearing to address modification or dismissal of existing continuous protective orders, the district court lacked discretion to deny his request.

As stated above, UAC § 78B-7-804(4) stipulates that:

> "A continuous protective order may be modified or dismissed only if the court determines by clear and convincing evidence that all requirements of Subsection (3) have been met and the victim does not have a reasonable fear of future harm or abuse."

UAC § 78B-7-804(4). Furthermore, UAC § 78B-7-804(3)(c)(iii) provides that "[i]f the perpetrator or the victim requests a hearing under this Subsection (3)(c), the court shall hold the hearing at the time determined by the court. UAC § 78B-7-804(3)(c)(iii). Thus, a plain reading of the statute makes clear that this court does not have discretion to deny this or any other such request.

Furthermore, a plain reading of the entire statute also makes clear that the requests it contemplates—whether pursuant to UAC § 78B-7-804(4) or UAC § 78B-7-804(3)(c)(iii) are those that are made after a CPO has been issued. This is obvious from the text and the order of the provisions.

First, UAC § 78B-7-804(4) specifically outlines the requirements for modifying or dismissing existing CPOs.

Second, UAC § 78B-7-804(3)(b) first instructs that in certain circumstances, a CPO "**shall**" issue. Then Utah Code § 78B-7-804(3)(c)(i) decrees that "*[t]he court **shall** notify the perpetrator of the right to request a hearing.*" Next Utah Code § 78B-7-804(c)(iii) charges the court to hold a hearing if requested. Lastly, Utah Code § 78B-7-

804(c)(v) stipulates that "*[t]he continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending*."

Furthermore, even assuming *arguendo* that the court (or city) could make an argument that a second or third request would be discretionary, such argument is inapplicable here as the instant request is the first Jakeman has made since the CPOs were issued.

Because the statute required the court to hold a hearing once Jakeman requested one, the court's refusal was legal error. And in Utah, legal error is an abuse of discretion. See *Northgate*, at ¶ 33; *Tschaggeny*, at ¶ 16.

B. Jakeman was not required to show a "material change of circumstances" to qualify for a hearing on the modification of the continuous protective orders.

Utah Code § 78B-7-804(3)(c) imposes no condition that any change of circumstances—much less a material one—occur before a hearing may be requested. Additionally, the district court is charged with enforcing the law as written, and it is not empowered to amend the statute *sua auctoritate*; nor is it authorized to read into the statute provisions the legislature has chosen to exclude.

Section 78B-7-804(3)(c) says what it means and means what it says. Once a continuous protective order ("CPO") is in place, "[t]he court shall notify the perpetrator of the right to request a hearing," and "[i]f the perpetrator … requests a hearing, the court shall hold the hearing at the time determined by the court." Utah Code § 78B-7-804(3)(c)(i)–(ii) (emphases added). The Legislature has also declared that "'Shall' means that an action is required or mandatory." Utah Code § 68-3-12(1)(j). Nothing in § 78B-7-

804(3)(c) conditions this mandatory hearing on a preliminary showing of a "material change of circumstances"—or any threshold showing at all.

Utah courts interpret and enforce statutes as written. *Marion*, at ¶¶ 14–15; *Penunuri v. Sundance Partners, Ltd.*, 2013 UT 22, ¶¶ 15-16. Reading a "material change" prerequisite into § 78B-7-804(3)(c) would do exactly what Utah's interpretive rules forbid—amend the statute by judicial construction. *Id.*

Utah appellate decisions describing the CPO framework likewise treat the hearing in § 78B-7-804(3)(c) as part of the statute's administration, not as a merits gate that a respondent must unlock with a preliminary showing. *See Baize*, at ¶ 21, & n.5. Requiring a "material change" before the court will even hold the hearing would collapse the statutory sequence, rewrite "shall hold," and frustrate the Legislature's design.

Because the statute imposes a mandatory duty to hold a hearing upon request, the district court's refusal on the ground that Jakeman did not first prove a "material change of circumstances" was contrary to the statute's plain text and thus legal error. And in Utah, legal error is an abuse of discretion. See *Northgate*, at ¶ 33; *Marion Energy*, at ¶ 14.

C. Despite not being required, Jakeman demonstrated a "material change of circumstances".

Even if this Court were to assume—contrary to the statute—that a threshold showing of "material change of circumstances" were required before a respondent is entitled to a hearing to modify a continuous protective order, Jakeman met that burden on the face of his filings through his reply to Orem's objection.

i. A material change is one that matters to the order's purpose.

Utah's "material change" doctrine asks whether developments since the prior order bear on the reasons for, and operation of, that order. *See Doyle v. Doyle*, 2011 UT 42, ¶¶ 24–25, 39–46; *Hogge v. Hogge*, 649 P.2d 51, 54–55 (Utah 1982). Doyle's formulation is consistent with the determination required under UCA § 78B-7-804(4) for dismissal or modification of CPOs, which is whether the victim still has a "reasonable fear of future harm or abuse". Thus, in the context of CPOs, a change is "material" if it affects whether the order is still needed to mitigate a reasonable fear of future harm or abuse. *See Baize*, at ¶ 21, & n.5; *Doyle*, at ¶¶ 24–25, 39–46; *Hogge*, at 54–55 (Utah 1982).

ii. Jakeman's reply identified multiple developments that are go to whether the victim has a reasonable fear of future harm or abuse.

In his reply to Orem's objection, Jakeman identified and documented concrete, post-order developments that go directly to whether any reasonable, forward-looking fear of harm or abuse persists. These include that (a) a meaningful period of time had elapsed since issuance of the CPOs without incident, and (b) he had marshaled "weighty and voluminous evidence" demonstrating he poses no danger of harm or abuse to the protected persons—evidence he attached and summarized for the court.

Those proffered facts are quintessentially "material" as they speak directly to the statutory question of whether the protected party "does not have a reasonable fear of future harm or abuse," Utah Code § 78B-7-804(4). Consequently, they also satisfy any assumed requirement to show a material change of circumstances. See *Doyle*, at ¶ 24-25; *Baize*, at ¶ 21, & n.5.

iii. The district court's contrary view conflated merits with threshold and ignored the record proffer.

To the extent the court denied a hearing because it believed Jakeman had not shown a "material change," that conclusion is untenable for two independent reasons. First, § 78B-7-804(3)(c) guarantees a hearing upon request and contains no "material-change" prerequisite. Utah Code § 78B-7-804(3)(c)(ii). Second, even if a threshold showing were required, Jakeman's reply identified precisely the sort of developments—elapsed time without incident and documentary proof bearing on future risk—that Utah law treats as "material" to a CPOs rationale. *See Doyle*, 2011 UT 42, ¶¶ 24–25, 39–46; Utah Code § 78B-7-804(4). The proper forum for testing those proffers is the statutorily mandated hearing, not a summary denial.

D. The rights of the victim of the underling offense do not trump Jakeman's rights to a hearing for the modification of the continuous protective orders.

The citations relied on by the district court in its denial are inapposite as they in no way mandate, or even indicate, that Jakeman's request for a hearing should be denied. Said citations include:

> U.C.A. § 77-37-1(1)(b): The state shall ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity, and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law in a manner no less vigorous than protections afforded criminal defendants.
>
> U.C.A. § 77-38-7(2): The victim of a crime has the right to a speedy disposition of the charges free from unwarranted delay caused by or at the behest of the defendant or minor and to prompt and final conclusion of the case after the [juvenile] disposition or [criminal] conviction and sentence, including prompt and

> final conclusion of all collateral attacks on [juvenile] dispositions or criminal judgments.
>
> U.C.A. § 77-37-3(1)(h): Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.

A few things about these statutory provisions are noteworthy. The first is the use of the term "disposition". The term "disposition" has two uses in the statutes cited *supra*. The first use refers to the final outcome or resolution of a legal action—whether that be conviction, acquittal, or dismissal—e.g., the entry of final judgment of conviction (the event that triggers post-judgment rights and deadlines). *State v. Ostler*, 2001 UT 68, ¶¶ 9-11 & n.3 (*Final disposition means the entry of final judgment of conviction at the district court)*; *State v. Dean*, 2002 UT App 326, ¶ 6, 57 P.3d 1106. The second use juxtaposes "conviction" and therefore obviously refers to the juvenile equivalent of a criminal conviction. *Kent v. United States*, 383 U.S. 541, 554–56 (1966); *In re Gault*, 387 U.S. 1, 4-6 (1967); *Breed v. Jones*, 421 U.S. 519, 541 (1975); *see also, In re K.T.*, 2017 UT 44, ¶¶ 1, 9. In other words, there are "juvenile dispositions" (for juveniles) and "criminal convictions" (for adults). *Guardian ad Litem v. State ex rel. C.D.*, 2010 UT 66, ¶¶ 4-6 (noting combined adjudication and dispositional order in juvenile court).

Second, the instant request is not an attack on any "disposition" for no such thing exists regarding Jakeman. He is currently subject to criminal convictions, not to juvenile dispositions. Furthermore, the instant request has nothing to do with the status or final

resolution of his criminal convictions. Rather, his request concerns only the existing CPOs. See Utah Code § 78B-7-804(3),(4).

Third, victim rights do not trump the rights of defendants—they must somehow be balanced—nor are they a legitimate basis for denying a defendant due process of law. See *State v. Chadwick*, 2023 UT 12, ¶¶ 27–33; *Pennsylvania v. Ritchie*, 480 U.S. 39, 57–61 (1987); *Davis v. Alaska*, 415 U.S. 308, 319–20 (1974) (defendant's confrontation and due process rights outweigh the State's interest in protecting the confidentiality of juveniles). Of course, victims must be treated with dignity, respect, courtesy, and sensitivity, but this can be done while still assuring Jakeman due process of law by addressing the propriety of dismissing or modifying the CPOs. See Utah Const. art. I, § 28(1); Utah Code § 77-37-1(1)(b); *F.L. v. Court of Appeals*, 2022 UT 32, ¶¶ 35–37 (recognizing victims may participate as limited-purpose parties to assert their interests without displacing the ordinary criminal-case framework)

Furthermore, Jakeman's request has no relation whatsoever to—and will have no impact on—any victim rights.

Section 78B-7-804(3) gives both parties specific, mandatory process for CPO administration—and it gives Jakeman the right to a hearing upon request. The statute directs that the court "shall notify the perpetrator of the right to request a hearing," and, if a hearing is requested, "the court shall hold the hearing at the time determined by the court." Utah Code § 78B-7-804(3)(c)(i), (iii) (emphases added). The text is categorical.

Nothing in Utah's victim-rights enactments authorizes a court to negate that procedural guarantee. *See F.L.*, 2022 UT 32, ¶¶ 35–37 (victims' participation is structured and limited to protect their interests while preserving the criminal-procedure framework); *State v. Brown*, 2014 UT 48, ¶¶ 16-20 (recognizing that a crime victim "is not entitled to participate at all stages of the proceedings or for all purposes," but may proceed as a limited-purpose party when the law grants a specific right). In fact, § 78B-7-804(3)(a) builds the victim-rights policy into the CPO scheme itself, reciting the Legislature's findings about the need for ongoing protection and expressly instructing courts to proceed "consistent with the purposes of protecting victims' rights under Title 77, Chapter 38." Utah Code § 78B-7-804(3)(a). That cross-reference confirms harmony, not supremacy: courts must administer CPOs in a way that protects victims while still applying the specific procedures UCA § 78B-7-804(3) & (4) mandate, including Jakeman's right to a hearing when requested. See Utah Code § 78B-7-804(3)(a); *Chadwick*, 2023 UT 12, ¶¶ 27–33; *Maryland v. Craig*, 497 U.S. 836, 850–51 (1990) (upholding child-witness protections through case-specific findings that accommodate victim interests while preserving defendant's constitutional rights).

E. Relief Requested.

Accordingly, Jakeman respectfully requests that this court vacate and reverse the district court's ruling and order the district court to schedule a hearing to adjudicate his request to modify or dismiss the continuous protective orders.

CONCLUSION

For the reasons set forth above, the Court should:

(1) Reverse the district court's June 30, 2025 order denying Jakeman's Utah R. App. P. 11(f) motion and remand with instructions to correct the record by including the Jakeman's September 21, 2023 declaration that was filed in support of Jakeman's motion to withdraw guilty pleas;

(2) Vacate the June 30, 2025 order striking Jakeman's March 29, 2025 "Response to Statements" and designating it Jakeman's "first vexatious-litigant act" designation; and

(3) Reverse the July 25, 2025 order denying a hearing on the continuous protective orders and remand with instructions to hold the mandatory hearing required by Utah Code § 78B-7-804(3),(4), applying the statute as written (without a preliminary "material-change" prerequisite).

(4) Jakeman also requests such further relief as is just, including costs on appeal.

Respectfully submitted,

Dated: October 14, 2025

/s/ David Ammon Jakeman
DAVID AMMON JAKEMAN, pro se

DECLARATION OF DAVID AMMON JAKEMAN

I, David Ammon Jakeman, declare under penalty of perjury that everything stated in this document, especially and including all statements about the Appellant, is true and correct to the best of my knowledge and recollection.

Dated: October 14, 2025 */s/ David Ammon Jakeman*
DAVID AMMON JAKEMAN, pro se

CERTIFICATE OF COMPLIANCE WITH UT. R. APP. P. 24(F)(1)(C)

(UTAH R. APP. P. 24(a)(11))

I, Appellant David Ammon Jakeman, hereby certify pursuant to UT. R. APP. P. 24(a)(11)(A) and (B) that the Brief of Appellant complies with the following:

1. UT. R. APP. P. 24(g)(1) and (2) in that the brief contains less than 14,000 words as determined by the Microsoft Word 365 system used to prepare the Brief of Appellant, excluding the certificates, the cover/title page, and the table of contents.

2. UT. R. APP. P. 21(g) in that the filing herein and addenda do not contain any non-public "information classified as private, controlled, protected, safeguarded, sealed, juvenile court legal or juvenile court social, or any other information to which the right of public access is restricted by statute, rule, order or case law."

Dated: October 14, 2025 */s/ David Ammon Jakeman*
DAVID AMMON JAKEMAN, pro se

CERTIFICATE OF MAILING

I, Appellant David Ammon Jakeman, hereby certify that I emailed a true and correct copy of the foregoing Opening Brief of Appellant, and all addenda, on October 14, 2025, to the following. (The hard copy requirement of UT. R. APP. P. 26(b) has been waived.)

Email: djsummers@orem.org, oremprosecutor@orem.gov, anleon@orem.gov
Mr. Jake Summers
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Dated: October 14, 2025 */s/ David Ammon Jakeman*
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