IN THE SUPREME COURT OF THE STATE OF UTAH

OREM CITY, Plaintiff, Appellee, and Respondent, v. **DAVID AMMON JAKEMAN,** Defendant, Appellant, and Petitioner.	Supreme Court No. _____ Court of Appeals No. 20250896-CA Fourth District Court, Spanish Fork Department, Nos. 221300408, 221300553, 231300069, 231300079, 231300162

PETITION FOR WRIT OF CERTIORARI

Review of the Order of the Utah Court of Appeals entered August 31, 2026 (Judges Mortensen, Tenney, and Luthy), rehearing denied October 15, 2026, insofar as it affirms the ruling of the Fourth District Court, Spanish Fork Department, the Honorable Jared Eldridge, entered July 25, 2025

Petitioner is not incarcerated.

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PARTIES

The parties to the proceeding in the Court of Appeals are those named in the caption: Orem City, plaintiff below and appellee in the Court of Appeals, and David Ammon Jakeman, defendant below and appellant in the Court of Appeals.

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QUESTION PRESENTED

Utah Code § 78B-7-804(3)(c)(iii) requires the court to "hold the hearing" when the perpetrator or the victim requests one, and § 78B-7-804(4) permits a continuous protective order to be "modified or dismissed only if the court determines by clear and convincing evidence" that the statutory conditions are met. Does the hearing at which a continuous protective order is issued exhaust the right to request a hearing under § 78B-7-804(3)(c)?

REPORT OF THE DECISION BELOW

The Court of Appeals decided the appeal by an unpublished order entered August 31, 2026 (App. A), and denied rehearing by an unpublished order entered October 15, 2026 (App. B). Neither order is reported.

STATEMENT OF JURISDICTION

The Court of Appeals entered the order under review on August 31, 2026. (App. A.) Petitioner timely petitioned for rehearing under Utah R. App. P. 35(a). The Court of Appeals denied rehearing by order entered October 15, 2026. (App. B.) No extension of time has been sought or granted. This petition is filed within 30 days after the order denying rehearing. Utah R. App. P. 48(a), (c). This Court has jurisdiction under Utah Code § 78A-3-102(3)(a)(i), and its review on certiorari lies in its "sole discretion," *id.* § 78A-3-102(6)(a).

STATEMENT OF THE CASE

Citations such as "408 R.001918" are to the record in district court No. 221300408, the lead case in this consolidated appeal. "Opening Br." and "Reply Br." are Petitioner's briefs in the Court of Appeals.

The statute. Utah Code § 78B-7-804(3)(c) and (4) provide:

> (c)(i) The court shall notify the perpetrator of the right to request a hearing.
>
> (ii) A victim has a right to request a hearing.
>
> (iii) If 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.
>
> (iv) The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.
>
> . . . .
>
> (4) 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.

Utah Code § 68-3-12(1)(b) adds: "The singular includes the plural, and the plural includes the singular." The text of § 78B-7-804(3)–(5), § 68-3-12(1)(a), (b), (g), and (j), and Utah R. Crim. P. 12(a) is set out in Appendix F.

Nature of the case and course of proceedings. This petition arises from a postjudgment ruling in five consolidated criminal cases. On September 27, 2024, the district court heard Petitioner's request to modify the sentencing protective orders entered at sentencing. At Orem City's request, it replaced those orders with five continuous protective orders. *Orem City v. Jakeman*, 2025 UT App 187, ¶¶ 3–4, 583 P.3d 1090, *cert. denied*, 588 P.3d 308 (Utah 2026) (App. E); 408 R.001890. The Court of Appeals affirmed issuance on invited-error and plain-error grounds. 2025 UT App 187, ¶ 1. On

July 3, 2025, Petitioner requested a hearing on modifying or dismissing those orders. The district court denied the request without a hearing by ruling entered July 25, 2025 (the Ruling). (App. C; 408 R.003406–3408.) The Court of Appeals affirmed by order entered August 31, 2026 (the Order) (App. 5–6 & n.4) and denied rehearing on October 15, 2026 (App. B).

The orders and their notice. The continuous protective order of September 27, 2024 states, on one page, that "[t]he defendant was afforded both notice and opportunity to be heard in the hearing that gave rise to this order" and, under "Right to request hearing": "You have the right to request a hearing to ask the court to change or dismiss this order (Utah Code 78B-7-804(3)(c)). Only the court can change or dismiss this order." 408 R.001918. It also states, "This order does not expire." *Id.* The next page adds: "If you want to ask the court to change or dismiss this order, you must file a motion with the court." 408 R.001919. The amended orders of October 2, 2024 and June 30, 2025 repeat both notices. 408 R.001938; 408 R.003005. In the June 30, 2025 ruling, the court granted part of Petitioner's motion to fix errors in the orders and struck one protected person. 408 R.003008–3009, 408 R.003014. The amended order was served July 3, 2025. 408 R.003016.

The July 3, 2025 request. That same day, Petitioner signed and served a request whose body reads, in full: "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-7-804(4)." 408 R.003027–3028.

Orem City's construction. Orem City objected that Subsection (3)(c) "applies to the initial issuance of continuous protective orders"; that the right to a hearing "was satisfied at a hearing held September 27, 2024"; and that "hearings on the modification or dismissal of a protective order pursuant to U.C.A. § 78B-7-804(4) are discretionary." 408 R.003059. Citing Rule 12, it also argued that Petitioner "has not moved the Court for a modification or dismissal of the CPO or stated with particularity the grounds upon which he is seeking a modification or dismissal." *Id.* Petitioner's reply memorandum argued that Subsection (3)(c)(iii) leaves no discretion once a request is made, that the statute contemplates requests after an order has issued, and that this was his first request for a hearing since these orders issued. 408 R.003295–3296.

The Ruling. The district court denied the request "as Defendant is not entitled to an additional hearing, Defendant failed to demonstrate a material change of circumstances necessitating a hearing, and another hearing would violate the Victims' rights." 408 R.003406. It stated that the notice is given "as part of the initial issuance of the continuous protective order," and that "the court is only required to notify the perpetrator of their right to and conduct 'a' hearing, indicating only a singular hearing is mandatorily required." *Id.* It added: "Defendant has already had a hearing regarding the continuous protective orders. . . . Defendant is not entitled to further hearings." 408 R.003407. The Ruling does not rest on Rule 12(a). 408 R.003406–3408.

The decision below. The Court of Appeals held that "the district court correctly determined that Jakeman had already received a hearing," and that Petitioner "has not shown that the district court erred in its determination that a single hearing is

contemplated under the statute." (App. 6.) It stated that Petitioner "does not address the district court's rationale in determining that only one hearing is mandatory under the statutory process for issuing CPOs," and that "we are not persuaded that his interpretation is a correct reading of the statute," citing *Duchesne Land, LC v. Division of Consumer Protection*, 2011 UT App 153, ¶ 8, 257 P.3d 441. (*Id.*) Footnote 4 added: "The request for a hearing does not constitute a motion for relief, and Jakeman provided no motion that set forth a request for relief and grounds for relief. Accordingly, the material in the reply was not properly before the court as a request for further relief." (*Id.* at 4 n.4 (citing Utah R. Crim. P. 12(a)).) Apart from quoting the request, the Order does not mention Subsection (4).

REASONS FOR GRANTING THE WRIT

Certiorari "will be granted only for special and important reasons," and "[t]he primary consideration is whether a decision on the question presented is likely to have significant precedential value." Utah R. App. P. 46(a). This petition presents a question regarding the proper interpretation of a statute "that is likely to affect future cases," *id.* 46(a)(1); it challenges a decision on "a legal issue that has not been addressed by the Supreme Court and that is likely to recur in future cases," *id.* 46(a)(4) (Part I); and it presents "an opportunity to resolve confusion or inconsistency in a legal standard set forth in a decision of the Court of Appeals," *id.* 46(a)(3) (Part II). Statutory interpretation is reviewed for correctness. *State v. Outzen*, 2017 UT 30, ¶ 5, 408 P.3d 334.

I. The question whether the hearing at which a continuous protective order is issued exhausts the statutory right to request a hearing arises under every continuous protective order issued after a domestic-violence conviction, affects victims and restrained persons alike, and can be settled only by this Court.

When a domestic-violence conviction results in a sentence of imprisonment, the court must issue a continuous protective order unless, after a hearing, it finds by clear and convincing evidence that the victim has no reasonable fear of future harm or abuse. Utah Code § 78B-7-804(3)(b). The order "is permanent in accordance with this Subsection (3)." *Id.* § 78B-7-804(3)(d). And in every case "[t]he court shall notify the perpetrator of the right to request a hearing." *Id.* § 78B-7-804(3)(c)(i). The orders here gave that notice in printed text. The text cites the statute, tells the restrained person that "[o]nly the court can change or dismiss this order," and says that "[t]his order does not expire." 408 R.001918. Because the orders are permanent, requests to change them come months or years after issuance, when circumstances may have changed. Each such request presents the question here.

The right also belongs to victims. "A victim has a right to request a hearing," and the command to hold it applies when "the perpetrator or the victim requests" one. § 78B-7-804(3)(c)(ii)–(iii). Under the construction adopted below, once an order issues at a hearing, neither can obtain another. A victim who later wants a permanent order dismissed stands where Petitioner stands.

Answering the question leaves every statutory protection in place, because the statute itself manages the hearing it requires. The court holds it "at the time determined by the court." § 78B-7-804(3)(c)(iii). The order "shall be in effect while the hearing is

being scheduled and while the hearing is pending." *Id.* § 78B-7-804(3)(c)(iv). And the order may be changed "only if the court determines by clear and convincing evidence" that the statutory conditions are met. *Id.* § 78B-7-804(4).

The construction below appears only in an unpublished order. This Court has not construed Subsection (3)(c)(iii) or Subsection (4). The published decision in this litigation resolved a challenge to issuance, not a later request. 2025 UT App 187, ¶ 1. Whichever way the question is answered, a published decision of this Court will settle what the notice printed on every continuous protective order means.

II. The decision below is inconsistent with the Court of Appeals' own decisions treating a request-triggered hearing right as compelling a hearing, a request to modify after issuance as the occasion for the statutory hearing, and "shall" as mandatory.

In *Christensen v. Christensen*, 2026 UT App 104, the Court of Appeals construed a rule stating that a "judge may hold a hearing on any objection" alongside a provision that, on an order to show cause for the enforcement of a judgment, "any party has the right, upon request, to present testimony and other evidence." *Id.* ¶ 34 (quoting Utah R. Civ. P. 108(d)(1)–(2) (2024)). It held that "[t]his specific language . . . trumps the more general language in rule 108(d)(1) ordinarily affording courts discretion to decide whether to hold a hearing or not." *Id.* ¶ 35. It also stated that the rule 108(d)(2) language "requires a court to hold an evidentiary hearing upon request." *Id.* ¶ 36. Section 78B-7-804(3)(c)(iii) is plainer still: the court "shall hold the hearing."

In *State v. Allred*, 2026 UT App 1, 585 P.3d 663, the court applied the parallel provision for offenses that are not domestic violence, Utah Code § 78B-7-805. "After

being served with the CPO, Allred promptly retained counsel and filed a motion to modify." *Id.* ¶ 28. The court rejected his challenge to the missing notice because he "requested a hearing to modify the CPO within five days of when it was served on him," *id.* ¶ 24, and rejected his due-process claim in part because he "received the hearing he requested," *id.* ¶ 28. In *Allred*, the statutory hearing came after the order issued, on the restrained person's request to modify it.

In *Washington v. State*, the court stated that the form of the verb is "the single most important textual consideration determining whether a statute is mandatory or directory." 2026 UT App 27, ¶ 44, 587 P.3d 59 (quoting *In re M.C.*, 940 P.2d 1229, 1236 (Utah Ct. App. 1997)) (quotation simplified). Read together, these decisions treat a request-triggered right as compelling a hearing despite permissive language elsewhere; treat "shall" as mandatory; and reflect that a request to modify after issuance is the occasion for the statutory hearing.

The Order holds instead that "shall hold the hearing" was satisfied by the September 27, 2024 hearing at which the orders issued. That inconsistency in the governing standard is "likely to affect future cases." Utah R. App. P. 46(a)(3).

III. The statute's text requires the court to hold a hearing when one is requested after the order is issued, and nothing in the text limits the restrained person or the victim to the single hearing at which the order was issued.

The hearing follows issuance. Subsection (3)(c) conditions the hearing on one thing: a request. The next sentence fixes the hearing's timing: "The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is

pending." § 78B-7-804(3)(c)(iv). An order in effect while a hearing "is being scheduled" already exists. The hearing that sentence describes follows issuance, so it cannot be the hearing at which the order was issued. The district court itself located the notice "as part of the initial issuance." 408 R.003406. The right the notice announces is therefore exercised afterward. The September 27, 2024 order draws the same line on one page. It separates "the hearing that gave rise to this order" from "the right to request a hearing to ask the court to change or dismiss this order." 408 R.001918.

Subsection (4) requires a determination on evidence, and the requested hearing supplies the occasion. An order "may be modified or dismissed only if the court determines by clear and convincing evidence" that the conditions are met. § 78B-7-804(4). That standard requires a determination, on evidence, about an order that already exists. The statute supplies the occasion for it in the hearing Subsection (3)(c)(iii) commands on request. The Legislature defined both verbs. "'May' means that an action is authorized or permissive," and "'Shall' means that an action is required or mandatory." Utah Code § 68-3-12(1)(g), (j). Subsection (4)'s "may" governs whether relief is granted; Subsection (3)(c)(iii)'s "shall" governs whether the hearing is held. Orem City's reading, that modification hearings "are discretionary," 408 R.003059, turns "only if the court determines" into permission not to determine at all.

The indefinite article does not cap the number of hearings. The district court rested on "a" hearing. 408 R.003406. But "[t]he singular includes the plural," Utah Code § 68-3-12(1)(b), unless that reading is "inconsistent with the manifest intent of the Legislature" or "repugnant to the context of the statute," *id.* § 68-3-12(1)(a). The Court of

Appeals, citing that rule, has held that the indefinite article in "a medical panel" "does not necessarily connote a restriction limiting the Commission to appointment of only one medical panel." *Graphic Packaging Int'l, Inc. v. Labor Comm'n*, 2021 UT App 82, ¶ 24, 495 P.3d 228. That statute's verb was permissive; this statute's verb is "shall."

This Court applied the manifest-intent exception in *State v. Richins*, 2025 UT 10, ¶ 58, 568 P.3d 1046; *see id.* ¶¶ 56–57. The text there made repeated references to a single county and used qualifiers such as "particular," and a trial "cannot take place in more than one county." Section 78B-7-804 contains no comparable repeated references or qualifiers, and nothing makes a second hearing impossible. Its context points the other way. Subsection (3)(c) gives two parties the right to request a hearing; Subsection (3)(c)(iv) presupposes an order already in effect while the requested hearing is scheduled; and Subsection (4) contemplates later modification or dismissal.

A one-hearing reading leaves parts of Subsections (3)(c) and (4) inoperative. Courts "must give effect to every provision of a statute and avoid an interpretation that will render portions of a statute inoperative." *Warne v. Warne*, 2012 UT 13, ¶ 36, 275 P.3d 238. If the only hearing is the one at issuance, Subsection (3)(c)(iii) does nothing for anyone heard at issuance; Subsection (3)(c)(iv) describes an interval that never occurs; and the determination Subsection (4) requires would occur only when a court chose to make it.

Courts "are not to infer substantive terms into the text that are not already there." *Berrett v. Purser & Edwards*, 876 P.2d 367, 370 (Utah 1994); *see Olsen v. Eagle Mountain City*, 2011 UT 10, ¶ 18, 248 P.3d 465. The Legislature wrote no one-hearing

limit. When it conditions modification on changed circumstances, it says so. *See State v. Harris*, 2025 UT 48, ¶ 22, 585 P.3d 1149 (to modify a pretrial status order, the moving party "must show 'that there has been a material change in circumstances'" (quoting Utah Code § 77-20-207(1) (2024))).

IV. The Court of Appeals decided the question presented here; its ruling in a footnote that Petitioner's request for a hearing was not a motion for relief depends on that decision; and the statute requires only a request.

The statutory question was briefed and decided. The Order said Petitioner "does not address the district court's rationale," citing *Duchesne Land*. (App. 6.) *Duchesne Land* applies when an appellant has not addressed the actual basis for the ruling. 2011 UT App 153, ¶ 8. Here, the opening brief argued that Subsection (3)(c)(iii)'s "shall" made the hearing mandatory once requested; answered Orem City's position that the obligation becomes discretionary after a first hearing; relied on the in-effect sentence of Subsection (3)(c) to show that requests follow issuance; and argued that this was the first request since these orders issued. Opening Br. 41–45. The reply brief addressed the "singular hearing" reasoning under a heading that names it. Reply Br. 21–22. The Order then decided the statutory question: "we are not persuaded that his interpretation is a correct reading of the statute." (App. 6.)

The September 2024 hearing produced new orders, each announcing the right anew. The Order relied on Petitioner's 2024 position that the earlier orders were continuous, and on 2025 UT App 187, ¶ 9. (App. 6.) Even accepting both premises, the question remains. The motion heard on September 27, 2024 sought modification of the

orders entered at sentencing, and the hearing ended by replacing them with new orders. 2025 UT App 187, ¶¶ 3–4. Each new order carried its own notice of "the right to request a hearing to ask the court to change or dismiss this order." 408 R.001918; 408 R.001938; 408 R.003005. The July 3, 2025 request was the first request for a hearing under Subsection (3)(c) to modify or dismiss those orders. 408 R.003295–3296. Whether the hearing that produced them exhausted the right their notices announce is the question presented.

The ruling that the request was not a motion is fairly included and depends on the question presented. In footnote 4, the Order ruled that the request for a hearing "does not constitute a motion for relief," after stating that "the request for a hearing was properly denied." (App. 6 n.4.) That ruling is "fairly included" in the question. Utah R. App. P. 49(a)(4). It supplies no independent ground, for three reasons.

First, the statute requires only a request, and the filing also met Rule 12(a). Subsection (3)(c)(iii) requires only that the perpetrator or victim "requests a hearing." Rule 12(a) requires a motion to "state succinctly and with particularity the grounds upon which it is made and the relief sought." The request did both. It cited Subsection (3)(c) and sought a hearing "to consider the propriety of modifying or dismissing the existing continuous protective orders pursuant to U.C.A. § 78B-7-804(4)." 408 R.003027. The orders told Petitioner both that he had "the right to request a hearing" and that to seek a change he "must file a motion with the court." 408 R.001918–1919. "[T]he substance of the motion, not its caption, is controlling." *State v. Parker*, 872 P.2d 1041, 1044 (Utah Ct. App. 1994). The Court of Appeals declined a similar alternative ground in

Christensen: a request-triggered hearing right was not defeated by a particularity objection where the filing "sufficiently identified" what it contested. 2026 UT App 104, ¶¶ 41–42.

Second, the district court did not adopt the characterization of the request as something other than a motion. Orem City urged it, 408 R.003059, but the district court decided the request on three other grounds. 408 R.003406–3408. It addressed what the request contained, stating that Petitioner "failed to provide any information whatsoever indicating his victims no longer have a reasonable fear of harm or abuse." 408 R.003407. Petitioner contested that ground on appeal. Opening Br. 45–48.

Third, an appellate court may affirm "on any ground apparent on the record," as the Order notes in addressing a different issue. (App. 3 n.2 (citing *State v. Rynhart*, 2005 UT 84, ¶ 10, 125 P.3d 938).) But in doing so it "is limited to the findings of fact made by the trial court and may not find new facts or reweigh the evidence." *Bailey v. Bayles*, 2002 UT 58, ¶ 20, 52 P.3d 1158. The district court made no finding that the request failed to state its grounds or the relief sought. If the reply memorandum was before the district court, the district court's material-change finding is reviewable against what the reply memorandum contained. If the reply memorandum was not before the district court, the material-change ground rests only on the absence of a showing the statute does not require, and the request stands on Subsection (3)(c)(iii) alone.

The statute's own procedures answer the district court's victims'-rights ground. The district court's victims'-rights ground, 408 R.003406–3407, was not a basis of the Order. The statute itself accounts for victims within the hearing procedure. It gives

the victim the same right to request a hearing, lets the court set the hearing's time, keeps the order in force pending the hearing, and applies the clear-and-convincing standard. § 78B-7-804(3)(c)(ii)–(iv), (4).

CONCLUSION

The Court should grant the petition for a writ of certiorari and, on review, reverse the Order insofar as it affirms the denial of the July 3, 2025 request, and remand for the hearing that Utah Code § 78B-7-804(3)(c)(iii) requires.

Dated November 2, 2026.

/s/ David Ammon Jakeman
DAVID AMMON JAKEMAN
Petitioner, self-represented

CERTIFICATE OF COMPLIANCE

I certify under Utah R. App. P. 49(a)(10) that this petition complies with Rule 49(d): excluding the table of contents, the table of authorities, the appendix, and the certificates, it contains 3,991 words, according to the word count of the word-processing system used to prepare it. It is prepared in 13-point type, double spaced, with one-inch margins. Utah R. App. P. 27(a).

I further certify that this petition complies with Utah R. App. P. 21 governing public and private records: neither the petition nor its appendix contains non-public information, and the record pages in the appendix are from the public record of district court No. 221300408. Utah R. App. P. 21(h).

/s/ David Ammon Jakeman
DAVID AMMON JAKEMAN
Petitioner, self-represented

CERTIFICATE OF SERVICE

I certify that on November 2, 2026, I filed this Petition for Writ of Certiorari, with its Appendix, with the Clerk of the Utah Supreme Court by email to supremecourt@utcourts.gov, and on the same day served a copy by email on counsel for Respondent Orem City: D. Jacob Summers, djsummers@orem.gov (copy to djsummers@orem.org); Aliisa N. Leon, anleon@orem.gov; and the Orem City Prosecutor's Office, oremprosecutor@orem.gov.

/s/ David Ammon Jakeman
DAVID AMMON JAKEMAN
Petitioner, self-represented

APPENDIX

(separately presented, Utah R. App. P. 49(a)(9))

A. Order, *Orem City v. Jakeman*, No. 20250896-CA (Utah Ct. App. Aug. 31, 2026), with certificate of service.

B. Order denying petition for rehearing, *Jakeman v. Orem City*, No. 20250896-CA (Utah Ct. App. Oct. 15, 2026).

C. Ruling on Defendant's Request for Hearing to Modify Continuous Protective Orders, *Orem City v. Jakeman*, Nos. 221300408 et al. (Utah 4th Dist. Ct. July 25, 2025), 408 R.003406–3408.

D. Record excerpts, No. 221300408: Continuous Protective Order (Sept. 27, 2024), 408 R.001918–1919; Amended Continuous Protective Order (Oct. 2, 2024), 408 R.001938; Amended Continuous Protective Order (June 30, 2025), 408 R.003005; Request for Hearing to Modify Continuous Protective Orders (July 3, 2025), 408 R.003027–3028.

E. *Orem City v. Jakeman*, 2025 UT App 187, 583 P.3d 1090 (No. 20241042-CA, Dec. 18, 2025), *cert. denied*, 588 P.3d 308 (Utah 2026) (No. 20260215-SC, Apr. 7, 2026).

F. Controlling provisions: Utah Code § 78B-7-804(3)–(5); Utah Code § 68-3-12(1)(a), (b), (g), (j); Utah R. Crim. P. 12(a).