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IN THE UTAH COURT OF APPEALS

OREM CITY / STATE OF UTAH, Plaintiff/Appellee, v. **DAVID AMMON JAKEMAN,** Defendant/Appellant.	**PETITION FOR REHEARING** Appellate Case No. 20250896-CA Directed to the Order entered August 31, 2026 (Judges Mortensen, Tenney, and Luthy)

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INTRODUCTION AND RELIEF REQUESTED

Appellant David Ammon Jakeman petitions under Utah R. App. P. 35 for rehearing of one part of the Court's Order of August 31, 2026 (the "Order," Attachment A): the affirmance, at pages 3–4 and footnote 4, of the district court's July 25, 2025 ruling denying his request for a hearing under Utah Code § 78B-7-804(3)(c) to consider modifying or dismissing the continuous protective orders ("CPOs") under § 78B-7-804(4). 408 R.003406–3408 (Attachment B). The Order affirmed the district court's orders and thereby resolved the appeal on the merits, so a petition directed to it lies under Rule 35(a)(1); this petition is filed within the 14 days allowed by Rule 35(a)(2). Citations in the form "408 R.00____" are to the record in district court case No. 221300408, the lead case in this consolidated appeal; transcript citations add the transcript page and line.

The Order rests on three grounds: that Jakeman "had already received a hearing" because the September 2024 hearing was "regarding CPOs"; that he "does not address the district court's rationale in determining that only one hearing is mandatory"; and, in footnote 4, that his request "does not constitute a motion for relief." Order at 4 & n.4. Beneath all three lies a provision the Order does not mention: subsection (4) of § 78B-7-804, which the request invoked by number, which alone authorizes a CPO to be "modified or dismissed," and which presupposes an existing order and a determination made after it issued—at the hearing subsection (3)(c)(iii) directs the court to hold on request. Jakeman asks the Court to request a response under Rule 35(a)(4), grant rehearing, vacate the affirmance of the July 25, 2025 ruling, and remand with instructions to hold the hearing; whether the subsection (4) standard is then met is for the district court.

POINTS OF LAW AND FACT OVERLOOKED OR MISAPPREHENDED

1. *Law.* The Order construes subsection (3) without addressing subsection (4)—the only provision that authorizes modification, which the request invoked, 408 R.003027, and which operates on an existing order, after issuance, through the hearing subsection (3)(c)(iii) commands.

2. *Fact.* The hearing the Order treats as already received was the hearing at which the court issued the CPOs now in effect. 408 R.002541–2542 (Tr. 86:25–87:8); 2025 UT App 187, ¶ 4.

3. *Fact.* Each CPO—entered September 27, 2024, amended October 2, 2024, and amended June 30, 2025—notified Jakeman that "[y]ou have the right to request a hearing to ask the court to change or dismiss this order (Utah Code 78B-7-804(3)(c))." 408 R.001918; 001938; 003005. The last was served July 3, 2025, 408 R.003016, the day Jakeman signed and served the request at issue, 408 R.003027–3028.

4. *Law.* The "singular hearing" construction rests on the indefinite article. 408 R.003406. Utah Code § 68-3-12(1)(b) provides that "[t]he singular includes the plural," and this Court has applied that rule to reject a one-instance reading of "a." *Graphic Packaging Int'l Inc. v. Labor Comm'n*, 2021 UT App 82, ¶ 24.

5. *Fact.* The Order states that Jakeman "does not address the district court's rationale." Order at 4. Opening Br. 41–46 and Reply Br. 20–24 addressed it; the reply answered Appellee Br. 37–45.

6. *Law and fact.* Footnote 4 treats the request as insufficient under Utah R. Crim. P. 12(a). The statute is triggered when the perpetrator "requests a hearing," § 78B-7-804(3)(c)(iii), and the district court decided the request on the merits. 408 R.003406–3408.

THE RELEVANT RECORD

September 27, 2024. On Jakeman's July 16, 2024 "Pro Se Request for Hearing to Modify Protective Orders," 408 R.001542–1577, the court held a hearing it opened as his "request for a hearing regarding a modification of the sentencing protective order." 408 R.002458 (Tr. 3:5–7). The City moved orally for CPOs. 408 R.002529–2530 (Tr. 74–75). The court asked Jakeman what would happen at a later hearing "that is different than what I heard today"; he answered, "I'm assuming a few more months will have passed. I may have won the appeal. I will finish probation. So there will be new facts." 408 R.002531 (Tr. 76:4–9). In ruling, the court said "there's got to be a way to modify a protective order because things happen and sometimes they need to be modified," 408 R.002536 (Tr. 81:14–16); that a CPO "could have and probably should have been issued at sentencing in this case, and it wasn't. It's now being requested," *id.* (Tr. 81:19–21); and, "I hope that changes at some point, but I think that there is ample evidence in the record to go ahead and replace the sentencing order with a continuous protective order." 408 R.002539 (Tr. 84:13–15). It closed: "I'm going to go ahead and issue those

continuous protective orders"; asked "[s]o are these replacing the sentencing protective orders?" it answered, "Correct, correct." 408 R.002541–2542 (Tr. 86:25–87:8).

The CPO signed that day, covering all five cases, states on one page both that "[t]he defendant was afforded both notice and opportunity to be heard in the hearing that gave rise to this order" and, under the heading "Right to request hearing," that "[y]ou have the right to request a hearing to ask the court to change or dismiss this order (Utah Code 78B-7-804(3)(c))." 408 R.001918. The next page adds that a party who wants the court to change or dismiss the order "must file a motion with the court." 408 R.001919. The amended CPO of October 2, 2024 repeats the notice. 408 R.001938. This Court described the hearing as one at which "[t]he court denied Jakeman's requested modification to the existing SPOs" and "replaced the SPOs by issuing five CPOs as requested by Orem City." 2025 UT App 187, ¶ 4.[1]

June 30–July 8, 2025. On Jakeman's motion, the court entered an amended CPO removing a protected person who had appeared on no prior order, 408 R.003008–3009, 003014; the amended order repeats the "Right to request hearing" notice and the "must file a motion" sentence, 408 R.003005, and was served on Jakeman at 11:44 a.m. on July 3, 2025, 408 R.003016. That day Jakeman signed and served the request at issue (docketed July 8): "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. The City objected, arguing Rule 12(a), a one-hearing reading, no material change, and victims' rights. 408 R.003058–3063. Jakeman replied, asserting a material change of circumstances and appending Exhibits A and B (100 pages). 408 R.003294–3298; 003300–3399.

[1]The Order takes judicial notice of the Court's own records. Order at 2 n.3 (citing Utah R. Evid. 201). The three orders are in the record, 408 R.001914–1921, 001935–1939, 003002–3006. Each is on the Judicial Council's criminal continuous-protective-order form (Form 1505PO); the current version of that form (revised October 20, 2025) carries the same "Right to request hearing" paragraph.

July 25, 2025. The court denied the request on three grounds. It read the statute to require the court "to notify the perpetrator that he has a right to request a hearing as part of the initial issuance of the continuous protective order," and reasoned 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"; Jakeman "has already had a hearing regarding the continuous protective orders" and "is not entitled to further hearings." 408 R.003406–3407. It read subsection (4) to permit modification "[i]f all of the above requirements are met and the court determines by clear and convincing evidence" the absence of reasonable fear, found "no material change in circumstances" and "no information whatsoever," and concluded that "a further hearing regarding the continuous protective order is unnecessary." 408 R.003407. Third, victims' rights. *Id.* The Order affirms on the first ground, adds footnote 4, and does not cite subsection (4). Order at 3–4 & n.4.

ARGUMENT

I. The Court overlooked § 78B-7-804(4), the only provision that authorizes modification, which the request invoked and which operates only after issuance, through the hearing subsection (3)(c)(iii) commands.

Record trail: 408 R.003027 (request invoking (4)); 408 R.003295–3296; 408 R.003411–3412; Opening Br. 41–45; Reply Br. 20–22 (answering Appellee Br. 37–43).

Subsection (4) provides: "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." § 78B-7-804(4). Three features of that text control this request. First, subsection (4) is the only provision of the section that speaks to modification or dismissal; a request to modify a CPO is necessarily a request under subsection (4), and this request said so. 408 R.003027. Second, subsection (4) presupposes an order already issued and a determination made after issuance, and the

statute supplies the occasion for that determination: "[i]f the perpetrator or the victim requests a hearing under this Subsection (3)(c), the court shall hold the hearing." § 78B-7-804(3)(c)(iii). "Shall" is mandatory, Utah Code § 68-3-12(1)(j); the verb "is the single most important textual consideration determining whether a statute is mandatory or directory," *Washington v. State*, 2026 UT App 27, ¶ 44, 587 P.3d 59 (cleaned up); and subsection (4)'s "may" governs whether relief is granted, not whether the hearing is held. This Court so held in July: where a rule said a judge "may hold a hearing" but gave a party "the right, upon request" to present evidence, the specific request-right "trumps" the general discretion, language contemplating that a hearing might not occur does not "dilute" it, and the court "erred by rejecting [the] request for an evidentiary hearing." *Christensen v. Christensen*, 2026 UT App 104, ¶¶ 34–36 & n.6. Section 78B-7-804(3)(c)(iii) is more explicit still: the court "shall hold the hearing." Third, subsection (4) fixes the standard and burden; the hearing is where the showing is made. *See State v. Hegbloom*, 2014 UT App 213, ¶ 13, 362 P.3d 921. Subsection (3)(b)(ii) confirms the design: the "requirements of Subsection (3)" that subsection (4) incorporates include that "the court conducts a hearing."

The district court read subsection (4) as requiring that "all of the above requirements" be met, 408 R.003407, and then decided the subsection (4) question—"a further hearing … is unnecessary" because Jakeman "failed to provide any information whatsoever"—without holding the hearing at which that showing is made. *Id.* The opening brief argued exactly this: subsection (4) "explicitly provides a mechanism—albeit with an extremely difficult standard—for the modification or dismissal of CPOs," and "[t]his mechanism requires that a hearing be held." Opening Br. 42–43; Reply Br. 22. The Order quotes subsection (3) alone, Order at 3, and concludes that "a single hearing is contemplated under the statute," Order at 4. Each conclusion construes subsection (3) in isolation, as "the statutory process for issuing CPOs." Order at 4. Subsection (4) governs what was requested—modification of an existing order—and it appears on the face of the

request the Order quotes and the ruling the Order affirms. Its omission is a point of law the Court overlooked.

The Legislature's design confirms the point. *See Aston v. Chronicle-Progress LLC*, 2026 UT 7, ¶ 20, 587 P.3d 981 (history may confirm a plain-language reading). When it created CPOs in 2017 it made the modification subsection the exclusive route, 1st Sub. H.B. 248, lines 524–525 (2017 Gen. Sess.), and it deleted from the bill a proposed condition that a CPO could be modified or dismissed "only after the continuous protective order has been in effect for at least two years." *Id.* lines 334–339. The modification provision has read the same way since; it became § 78B-7-804(4) in 2020 and was untouched by the 2021, 2023, and 2024 amendments. Laws 2020, ch. 142; Laws 2023, ch. 426; Laws 2024, ch. 240. The Legislature rejected a temporal limit on modification; it never enacted a numerical limit on hearings.

II. The Court overlooked that the September 27, 2024 hearing was the issuance proceeding for the orders Jakeman seeks to modify, and that the statute, the ruling, and the court's own orders place the subsection (3)(c) hearing after issuance.

Record trail: 408 R.003295–3296; 408 R.003412; Opening Br. 40–45; Reply Br. 23–24 (answering Appellee Br. 43–45).

The Order reasons that Jakeman "had already received a hearing" because "his position at the September 2024 hearing was that the orders were indeed CPOs," and because 2025 UT App 187 held that "whatever the court or Orem City may have originally called the protective order, it was a continuous protective order." Order at 4 (quoting 2025 UT App 187, ¶ 9).[2] Whatever the November 2023 orders were called, the orders now in effect were issued on September 27, 2024, at the close of the hearing the Order treats as the hearing already received. The court held that hearing on Jakeman's request to modify the *earlier* orders, 408 R.002458 (Tr. 3:5–7); replaced them rather than

[2] *Orem City v. Jakeman*, 2025 UT App 187, was filed December 18, 2025, after the City's December 15, 2025 brief; neither party cited it. Certiorari was denied April 7, 2026 (No. 20260215-SC).

modifying them, 408 R.002542 (Tr. 87:6–8); 2025 UT App 187, ¶ 4; and entered new orders with new terms, 408 R.003008–3009, 003014. A hearing that preceded an order and produced it cannot have been the hearing at which the court determined whether that order should be "modified or dismissed." § 78B-7-804(4).

The Court's holding in 2025 UT App 187 leads to the same place. That opinion resolved a § 78B-7-804(5) challenge to issuance on preservation and invited-error grounds. *Id.* ¶¶ 5, 8–12. It did not consider a later request under subsections (3)(c) and (4) as to the orders issued at the hearing's close, and its own description of the hearing—the court "replaced the SPOs by issuing five CPOs," *id.* ¶ 4—does not support that use of ¶ 9. And if "Jakeman was correct" that the November 2023 orders were CPOs, *id.* ¶ 9, his July 16, 2024 request was a subsection (3)(c) request as to *those* orders, and the replacement orders carried their own subsection (3)(c) notice. 408 R.001918.

The statute, the ruling, and the orders all place that hearing after issuance. The statute: the CPO "shall be in effect while the hearing is being scheduled and while the hearing is pending," § 78B-7-804(3)(c)(iv), and an order that is "in effect" while a hearing is "being scheduled" already exists. The ruling: the notice is given "as part of the initial issuance of the continuous protective order." 408 R.003406. The orders: the court gave the notice three times, on September 27, 2024, October 2, 2024, and June 30, 2025, the last served the day Jakeman signed his request. 408 R.001918; 001938; 003005; 003016; 003027–3028. The September 27, 2024 order itself distinguishes, on a single page, "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. The request asked for what the notice invited, 408 R.003027, and it was the first request for a hearing after issuance. Opening Br. 45.[3] The "singular hearing" reading cannot explain why the court kept notifying Jakeman of a right to request a hearing to change "this order" if that right had

[3]The only intervening filing about the orders was the October 24, 2024 motion to fix errors in them, 408 R.001961–1971, which the court decided on the papers on June 30, 2025. 408 R.003008–3009, 003014.

been consumed on September 27, 2024. This Court read the parallel provision the same way this year: after the perpetrator in *Allred* was served with a CPO, "he requested a hearing to modify the CPO within five days," and he "received the hearing he requested." 2026 UT App 1, ¶¶ 24, 28 (applying § 78B-7-805(3)(b)).

The judge said as much: asked what a later hearing would add, Jakeman answered "I will finish probation," and the court, issuing the orders, said "I hope that changes at some point." 408 R.002531 (Tr. 76:4–9); 408 R.002539 (Tr. 84:13). Probation ended and jurisdiction terminated on November 11, 2025. Appellee Br. 13, 16, 21 & Add. 1. Under the district court's own "singular hearing" reading, the single mandatory (3)(c) hearing on *these* orders has not been held. The Order overlooked these record facts.

III. The "singular hearing" construction contradicts the Legislature's codified rules of construction, this Court's application of them, and the structure of the section.

Record trail: 408 R.003295; 408 R.003411–3412; Opening Br. 41, 44–46; Reply Br. 20–22 (answering Appellee Br. 37–43).

Statutory construction is reviewed for correctness. *State v. Outzen*, 2017 UT 30, ¶ 5, 408 P.3d 334. The one-hearing rule rests on the indefinite article. 408 R.003406. The Legislature has directed that "[i]n the construction of a statute in the Utah Code … [t]he singular includes the plural, and the plural includes the singular," unless that construction would be "inconsistent with the manifest intent of the Legislature" or "repugnant to the context of the statute." Utah Code § 68-3-12(1)(a)–(b). The supreme court applies it where "there is no indication" of either exception, *Utah Dep't of Transp. v. FPA West Point, LLC*, 2012 UT 79, ¶ 39, 304 P.3d 810, and departs from it only where the text itself signals the singular—as in *State v. Richins*, 2025 UT 10, ¶¶ 57–58, 568 P.3d 1046, where "repeated references to a single county" and qualifiers like "particular" foreclosed reading "county" as "counties." Section 78B-7-804 has no such qualifier; had the Legislature intended one, "surely the legislature would have said so in the text." *Olsen v. Eagle Mountain City*, 2011 UT 10, ¶ 22, 248 P.3d 465. This Court applied the rule to

hold that a statute authorizing "a medical panel" did not limit the Commission "to appointment of only one medical panel." *Graphic Packaging Int'l Inc. v. Labor Comm'n*, 2021 UT App 82, ¶ 24 (citing § 68-3-12(1)(b)). Neither the district court, the City, nor the Order cites § 68-3-12(1)(b). Nor is a term ambiguous because it "may be susceptible of multiple meanings"; "all but one of the meanings is ordinarily eliminated by context." *Olsen*, 2011 UT 10, ¶ 13. And courts "give effect to omissions in statutory language by presuming all omissions to be purposeful." *Marion Energy, Inc. v. KFJ Ranch P'ship*, 2011 UT 50, ¶ 14, 267 P.3d 863.

Context confirms it. Subsection (3)(c)(ii) gives the victim an identical "right to request a hearing"; a one-hearing cap would bar a victim who later wishes the order dismissed from ever obtaining one. And the reading cannot be harmonized with subsection (4): courts "must give effect to every provision of a statute and avoid an interpretation that will render portions of a statute inoperative," construing each provision "with every other part or section so as to produce a harmonious whole," *Warne v. Warne*, 2012 UT 13, ¶ 36, 275 P.3d 238 (cleaned up). Where provisions conflict, "the provision susceptible of but one meaning will control those susceptible of two if the statute can thereby be rendered harmonious." *Madsen v. Brown*, 701 P.2d 1086, 1089–90 (Utah 1985). If the only hearing is the one held at issuance, no perpetrator can ever obtain the hearing at which the modification showing is made, and subsection (4) has no field of operation. The 2023 amendment enlarged the hearing mechanism and left subsection (4) untouched, as did the 2024 amendment, Laws 2023, ch. 426; Laws 2024, ch. 240—context the Court reads as part of the text. *State v. Paule*, 2024 UT 2, ¶ 48, 554 P.3d 844 (statute read "as a whole, including the current language in the context of any relevant amendments").

IV. The Court misapprehended the briefs: the one-hearing rationale was addressed in both briefs, so *Duchesne Land* does not apply.

Record trail: 408 R.003295; 408 R.003411–3412; Opening Br. 41–46; Reply Br. 20–24 (answering Appellee Br. 37–45).

The Order declines to reach the statutory question because "Jakeman does not address the district court's rationale in determining that only one hearing is mandatory." Order at 4 (citing *Duchesne Land, LC v. Division of Consumer Prot.*, 2011 UT App 153, ¶ 8, 257 P.3d 441). *Duchesne Land* applies where appellants "have not addressed the actual basis for the district court's ruling." 2011 UT App 153, ¶ 8. The premise is a question of fact about the briefs, and it is mistaken.

The opening brief framed the City's position as being that "the court's obligation becomes discretionary once the first such hearing has occurred" and answered: "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." Opening Br. 42. It argued that the requests the statute contemplates "are those that are made after a CPO has been issued," *id.* at 44, and that "even assuming arguendo … 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," *id.* at 45. The reply brief then addressed the district court's "singular hearing" reasoning under a heading that names it, Reply Br. 21; explained that the statute "expressly includes a hearing mechanism and victim-notice provisions that function whenever a hearing is requested"; and that "[i]f the Legislature had intended a one-hearing cap, it knew how to say so. It did not." *Id.* at 21–22. It showed the conflict with subsection (4), *id.* at 22, and explained why the September 2024 hearing could not have been the hearing on a request to modify orders that did not yet exist, *id.* at 23–24. Those pages answered the City's "discretionary" and "already had a hearing" arguments, Appellee Br. 37–45, and were properly presented in reply.

Because the "actual basis" of the ruling was addressed, the *Duchesne Land* ground does not apply, and Jakeman respectfully asks the Court to decide the question.

V. Footnote 4 misapprehends the statutory vehicle and rests on a ground the district court did not adopt and its findings do not sustain.

Record trail: 408 R.003027 (request); 408 R.003296 & n.2, 003300–3399 (reply and exhibits); 408 R.003407 (ruling); Opening Br. 46–48; Reply Br. 25–29 (answering Appellee Br. 45–48, where the Rule 12(a) theory was first raised).

Footnote 4 holds that the material in the reply "was not properly before the court" because "[t]he request for a hearing does not constitute a motion for relief" under Utah R. Crim. P. 12(a). Order at 4 n.4. Four points were overlooked.

First, the statute's own vehicle is a "request." The 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." § 78B-7-804(3)(c)(i), (iii). The request was a written application for an order setting the hearing; it stated the ground (subsection (3)(c)) and the relief (a hearing to consider modification or dismissal under subsection (4)). 408 R.003027. That is what Rule 12(a) asks of a motion—"the grounds upon which it is made and the relief sought"—and the rule adds that a motion "need not be accompanied by a memorandum unless required by the court." Utah R. Crim. P. 12(a). A pro se filing, moreover, "is to be liberally construed." *Washington*, 2026 UT App 27, ¶ 70 (cleaned up). And this Court rejected the same particularity objection in *Christensen*: an objection that identified what was wrong and asked the court to review the evidence at a hearing was "succinct[]" and "particular[]" enough "to trigger [the] right to an evidentiary hearing." 2026 UT App 104, ¶ 42. Subsection (4) states what must be proved at the hearing, not what must be pleaded to obtain one. The orders' "must file a motion" sentence, 408 R.001919; 003005, describes how relief is sought, not the scope of the right, and the ensuing motion practice supplied it. Reply Br. 27–28.

Second, the district court accepted the same vehicle in 2024. It set and held the September 27, 2024 hearing on a "Pro Se Request for Hearing to Modify Protective Orders," 408 R.001542–1577, and the ruling relies on that hearing as the one Jakeman "already had." 408 R.003407. Grounds and evidence followed in the reply once the City

objected, curing any particularity concern. 408 R.003294–3298; 003300–3399; Reply Br. 27–28.

Third, substance controls over caption, and the court reached the merits. "[T]he substance of the motion, not its caption, is controlling," and a court that "acted on the merits of the motion" has treated it as properly before it. *State v. Parker*, 872 P.2d 1041, 1044 (Utah Ct. App. 1994). The district court captioned its ruling "Ruling on Defendant's Request for Hearing to Modify Continuous Protective Orders," did not find the request procedurally deficient, and decided the merits: "no material change in circumstances" and "no information whatsoever." 408 R.003406–3407. The City told this Court that although the one-sentence request "may not satisfy the preservation rule, the subsequent objection, response, and district court ruling likely provides sufficient basis for review on appeal." Appellee Br. 7.

Fourth, footnote 4 rests on a ground the district court did not adopt, and a pleading defect would not sustain the ruling affirmed. The City raised Rule 12(a) below, 408 R.003058–3063, but the district court did not act on it; it weighed the reply and found "no information whatsoever." 408 R.003407. An affirmance on an alternate ground "is limited to the findings of fact made by the trial court," and the appellate court "may not find new facts or reweigh the evidence." *Bailey v. Bayles*, 2002 UT 58, ¶ 20, 52 P.3d 1158; *accord State v. Topanotes*, 2003 UT 30, ¶ 22, 76 P.3d 1159. Either the reply was before the court, in which case the "no information whatsoever" finding is contradicted by Jakeman's stated material change and 100 pages of exhibits, 408 R.003296; 003300–3399; Reply Br. 25–26, or it was not, in which case the merits findings fall away and the request stands on the statute's text alone: "the court shall hold the hearing." § 78B-7-804(3)(c)(iii). Nor was the reply "a request for further relief," Order at 4 n.4; the relief sought remained the hearing. And if the request were insufficient under Rule 12(a), the consequence would be a denial without prejudice to a compliant

filing—not affirmance of a ruling that Jakeman "is not entitled to further hearings." 408 R.003407.

VI. The district court's remaining grounds cannot sustain the affirmance.

Record trail: 408 R.003296; 408 R.003413–3415; Opening Br. 45–51; Reply Br. 25–27.

Material change. Subsection (4) contains no "material change in circumstances" element; its only substantive standard is the victim's reasonable fear. When the Legislature wants such a prerequisite it writes one, *State v. Harris*, 2025 UT 48, ¶¶ 22–23 (express "material change in circumstances" prerequisite for pretrial status orders), and 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), quoted in *Olsen*, 2011 UT 10, ¶ 18 (a statute "leaves no room" to "add conditions" not "set forth expressly by legislation"). And the "information" the ruling faulted Jakeman for not providing, 408 R.003407, is the evidence the hearing exists to receive, *Hegbloom*, 2014 UT App 213, ¶ 13, and this Court is "very hesitant, in all but the clearest cases, to write off as 'harmless'" the denial of a required hearing. *Christensen*, 2026 UT App 104, ¶ 44.

Victims' rights. The ruling's third ground—Utah Const. art. I, § 28 and Utah Code §§ 77-37-1(1)(b), 77-37-3, and 77-38-7(2), 408 R.003406–3407—cannot supply an alternate basis. Section 78B-7-804 itself accounts for victims' interests: the victim's own "right to request a hearing," (3)(c)(ii); the order remaining "in effect … while the hearing is pending," (3)(c)(iv); notice to the victim of the hearing, (3)(c)(v); and the clear-and-convincing burden in (4). Holding the hearing is what the Legislature prescribed, and "a more specific statute governs instead of a more general statute." *State v. Debrok*, 2025 UT 40, ¶ 34 & n.6, 579 P.3d 296 (cleaned up); *see Richins*, 2025 UT 10, ¶ 63. Rules of broad construction "are not license to re-write a statute." *Aston*, 2026 UT 7, ¶ 30. Opening Br. 48–51; Reply Br. 26–27. The district court made no finding of harm to any

victim, 408 R.003407, and under *Bailey*, ¶ 20, an alternate ground cannot rest on findings the court did not make.

CONCLUSION AND RELIEF REQUESTED

The Order affirms the denial of a statutory hearing without mentioning the subsection that authorizes the relief sought or the notices in the orders under review that invited the request; treats the statutory argument as unbriefed when both briefs addressed it; and adopts a procedural characterization of the reply that the district court's own merits ruling contradicts. Jakeman respectfully requests that the Court (1) request a response under Rule 35(a)(4); (2) grant rehearing as to the July 25, 2025 ruling; (3) vacate that portion of the Order; (4) hold that § 78B-7-804(3)(c)(iii) and (4) required a hearing on the September 27, 2024 CPOs upon the July 3, 2025 request; and (5) reverse the July 25, 2025 ruling and remand with instructions to hold that hearing and make the determination subsection (4) requires, leaving all other portions of the Order undisturbed.

In the alternative, under Rule 35(a)(7), Jakeman requests that the Court restore the matter to the calendar for resubmission, or modify the Order to (a) address subsection (4); (b) withdraw the statement that Jakeman "does not address the district court's rationale"; (c) state that the Court does not adopt a one-hearing construction of § 78B-7-804; and (d) make the affirmance without prejudice to a renewed request for a hearing under § 78B-7-804(3)(c) stating grounds under § 78B-7-804(4).

Dated: September 6, 2026 *__/s/ David Ammon Jakeman__*
DAVID AMMON JAKEMAN, pro se

CERTIFICATION UNDER RULE 35(a)(3)

I certify that this petition is presented in good faith and not for delay.

Dated: September 6, 2026 *__/s/ David Ammon Jakeman__*
DAVID AMMON JAKEMAN, pro se

CERTIFICATE OF COMPLIANCE

I certify that this petition complies with Utah R. App. P. 27(a)–(c) and 35(a)(5)–(6): it is in 13-point Times New Roman, double spaced, with one-inch margins; it is 15 pages from its first page through the signature; and it attaches the decision to which it is directed (Attachment A). It contains no non-public information. Utah R. App. P. 21(h).

CERTIFICATE OF SERVICE

I certify that on September 6, 2026, I filed this petition, with Attachments A and B, by email to courtofappeals@utcourts.gov, and served it by email on counsel for Appellee: D. Jacob Summers (djsummers@orem.gov; copy to djsummers@orem.org), Aliisa N. Leon (anleon@orem.gov), and oremprosecutor@orem.gov.

Dated: September 6, 2026

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

ATTACHMENTS

A. Order, *Orem City v. Jakeman*, No. 20250896-CA (Utah Ct. App. Aug. 31, 2026), with certificate of service (Utah R. App. P. 35(a)(5)).

B. Ruling on Defendant's Request for Hearing to Modify Continuous Protective Orders, Fourth District Court, Nos. 221300408 et al. (July 25, 2025), 408 R.003406–3408.

FILED
UTAH APPELLATE COURTS

AUG 31 2026

IN THE UTAH COURT OF APPEALS

OREM CITY, Appellee, *v.* DAVID AMMON JAKEMAN, Appellant.	ORDER Case No. 20250896-CA

Before Judges Mortensen, Tenney, and Luthy.

In this consolidated appeal, David Ammon Jakeman appeals multiple rulings of the district court made in two postjudgment orders. For the reasons set forth below, we affirm.

Jakeman first challenges the district court's denial of his motion to correct the record. Jakeman filed the motion in the district court pursuant to rule 11(d)[1] of the Utah Rules of Appellate Procedure. He sought to include in the record a declaration in support of his pro se motion to withdraw his guilty pleas filed in September 2023. Through appointed counsel at the time, however, that motion was withdrawn in open court and was not addressed further in any district court proceedings. As a result, the district court denied the motion to correct the record as immaterial and moot. We determine that the district court correctly denied the motion as immaterial for a different but related reason.[2]

Rule 11 defines the record on appeal as "the documents and exhibits filed in or considered by the trial court." Utah R. App. P. 11(a). "If anything material to either party is omitted from or misstated in the record by error of the trial court or court personnel, [or] by accident . . . the omission or misstatement may be corrected and a supplemental record may be created and forwarded." *Id.* 11(d). It is clear that rule 11 regards "records on appeal" and provides a mechanism to address errors in records in appellate

[1]. This was formerly paragraph 11(f) as cited by Jakeman.

[2] . An appellate court may affirm a ruling on any ground apparent on the record. *See State v. Rynhart*, 2005 UT 84, ¶ 10, 125 P.3d 938.

proceedings. Here, although Jakeman asserts that there was an omission, the proffered document is not relevant or material to any record on appeal.

After being sentenced in multiple cases in November 2023, Jakeman appealed. In that consolidated appeal, Jakeman sought to challenge the district court's handling of his motion to withdraw his guilty pleas. *See Orem City v. Jakeman*, Case No. 20231060-CA. However, in May 2024, Jakeman moved to voluntarily dismiss his appeal regarding his guilty pleas and motion to withdraw.[3] This court granted the motion, and that appeal was dismissed. The voluntary dismissal of his appeal has placed any issue regarding his motion to withdraw his pleas beyond review. At minimum, there is no pending appeal, and thus no record on appeal. As a result, the alleged omission linked to Jakeman's motion to withdraw his guilty pleas is not material to any record on appeal. Accordingly, the trial court did not err in denying Jakeman's motion to correct the record as immaterial.

Jakeman next asserts that the district court erred in striking a document he filed and assessing "a strike" against Jakeman for purposes of a possible vexatious litigant determination. Jakeman filed a document captioned "Defendant's Response to Statements Made During the Hearing on 3/28/2025." The document was not a motion seeking relief and it attached approximately 300 pages of irrelevant and redundant material. The district court struck the document as burdensome, irrelevant, and immaterial pursuant to rule 33 of the Utah Rules of Criminal Procedure. *See* Utah R. Crim. P. 33(a) (providing that "[a]ll pleadings, written motions and other papers must be free from burdensome, irrelevant, [and] immaterial . . . matters"). The court also cautioned Jakeman that the filing would count as one of a potential three events that may lead to a vexatious litigant determination under rule 83 of the Utah Rules of Civil Procedure. *See* Utah R. Civ. P. 83(a)(1)(C) (providing that a court may "find a person to be a 'vexatious litigant' if the person . . . three or more times . . . files pleadings or other papers that contain redundant, immaterial, impertinent or scandalous matter").

Jakeman has not shown that the court erred. He acknowledges that the document "was not a motion seeking relief." Rather, he asserts it was submitted to create a record and present evidence. However, he cites no rule that permits this type of filing. "In our system, the rules provide the source of available relief. They are designed to provide a pattern of regularity of procedure which the parties and the courts can follow and rely upon." *Gillett v. Price*, 2006 UT 24, ¶ 8, 135 P.3d 861. Jakeman's filing of the document at issue in an attempt to create a record has no basis in the rules. His unilateral allegations in the document, with no evidentiary hearing or court findings of fact, have no legal basis

[3]. To the extent that we rely on the appellate docket rather than the trial court record on appeal, we take judicial notice of our own records. *See* Utah R. Evid. 201.

or effect in the underlying case. Furthermore, the hearing to which the document referred resulted in Jakeman obtaining the relief he sought, and there was no further dispute before the court regarding Jakeman's legal representation. In sum, the district court properly determined that the document was irrelevant and immaterial.

Moreover, Jakeman's argument that the district court did not comply with the requirements of rule 83 is without merit. A person may be found to be a vexatious litigant if, among other things, he three or more times "files pleadings or other papers that contain redundant, immaterial, impertinent or scandalous matter." Utah R. Civ. P. 83(a)(1)(C)(ii). Because the court found that the document was immaterial, the filing of the document comes within the plain language of the rule. The court merely cautioned Jakeman that the document was one instance that could lead to a vexatious litigant determination if Jakeman continued similar conduct. Jakeman asserts that he was entitled to notice and an opportunity to be heard. However, "the right to notice and an opportunity to be heard [comes] into play when orders are entered requiring a vexatious litigant to take certain actions." *Watson v. Prestwich*, 2026 UT App 122, ¶ 22 (citing Utah R. Civ. P. 83(b)). Under rule 83(b), a court may enter an order restricting the conduct of a vexatious litigant only after notice and an opportunity to be heard. The court did not enter any order that would require notice under the rule.

Finally, Jakeman contends that the district court erred in denying his request for a hearing. In July 2025, Jakeman filed a document captioned "Request for Hearing to Modify Continuous Protective Orders." The document stated in its entirety: "Defendant respectfully requests that a hearing be held at the earliest convenience of the court pursuant to Utah Code section 78B-7-804(3)(c) to consider the propriety of modifying or dismissing the existing continuous protective orders pursuant to Utah Code section 78B-7-804(4)." Utah Code section 78B-7-804(3) provides that, under certain circumstances related to domestic violence convictions, "the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim . . . unless the court determines by clear and convincing evidence that the victim does not have a reasonable fear of future harm or abuse" and "the court conducts a hearing." Utah Code § 78B-7-804(3)(b)(i), (ii). This section further provides that "[t]he court shall notify the perpetrator of the right to request a hearing," *id.* § 78B-7-804(3)(c)(i), and that "[i]f the perpetrator . . . requests a hearing under this Subsection (3)(c), the court shall hold the hearing at the time determined by the court," *id.* § 78B-7-804(3)(c)(iii).

The district court denied the request for a hearing. The court noted that the September 2024 hearing on the protective orders satisfied Jakeman's rights under the statute and that he was not entitled to an additional hearing. The court additionally noted

that Jakeman had not provided any information that would indicate any change in circumstances that might support a hearing to consider modifying the orders.

Jakeman asserts that he has not had a hearing on the continuous protective orders (CPO). He asserts that the September 2024 hearing was not regarding the CPOs and that he is entitled to a hearing. However, his position at the September 2024 hearing was that the orders were indeed CPOs. His 2024 request cited the statute regarding CPOs and he vehemently argued at the hearing that the orders were CPOs. Moreover, this court has affirmed the CPOs from the September hearing on Jakeman's appeal of those orders. *See Orem City v. Jakeman*, 2025 UT App 187. That decision highlighted Jakeman's position at the September 2024 hearing, noting that "Jakeman was correct" in his argument that the district court "had no choice but to enter a continuous protective order at the time of sentencing." *Id.* ¶ 9. "So, whatever the court or Orem City may have originally called the protective order, it was a *continuous* protective order." *Id.* In sum, the nature of the September hearing as regarding CPOs is established and the district court correctly determined that Jakeman had already received a hearing.

Jakeman also contends that he is entitled to a hearing whenever he requests one under the statute, even if he has already had a hearing. However, he has not shown that the district court erred in its determination that a single hearing is contemplated under the statute. Jakeman does not address the district court's rationale in determining that only one hearing is mandatory under the statutory process for issuing CPOs. Although he offers his own interpretation, we are not persuaded that his interpretation is a correct reading of the statute, especially where he fails to address the district court's reasoning. *See Duchesne Land, LC v. Division of Consumer Prot.*, 2011 UT App 153, ¶ 8, 257 P.3d 441.[4]

[4]. Jakeman also asserts that he demonstrated a material change in circumstances in his reply to the City's objection to his request for a hearing. As noted above, however, the request for a hearing was properly denied. There was no other request for affirmative relief before the court. 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. *See* Utah R. Crim. P. 12(a) ("A motion shall state succinctly and with particularity the grounds upon which it is made and the relief sought.").

IT IS HEREBY ORDERED that the district court's orders are affirmed.

Dated this 31st day of August, 2026.

FOR THE COURT:



John D. Luthy, Judge

CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2026, a true and correct copy of the foregoing ORDER was deposited in the United States mail or was sent by electronic mail to be delivered to:

DAVID AMMON JAKEMAN
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D. JACOB SUMMERS
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FOURTH DISTRICT, SPANISH FORK
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By /s/ EMILY GILMORE

Case No. 20250896-CA
FOURTH DISTRICT, SPANISH FORK, 221300408, 221300553, 231300069, 231300079, 231300162

IN THE FOURTH DISTRICT COURT - SPANISH FORK, UTAH COUNTY, STATE OF UTAH	
OREM CITY, Plaintiff, v. DAVID A. JAKEMAN, Defendant.	**RULING ON DEFENDANT'S REQUEST FOR HEARING TO MODIFY CONTINUOUS PROTECTIVE ORDERS** Case Nos. 221300408, 221300553, 231300069, 231300079, 231300162 JUDGE JARED ELDRIDGE

This matter comes before the Court on Defendant's Request for Hearing to Modify Continuous Protective Orders. Docket No. 352. The Court hereby DENIES Defendant's 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 as guaranteed by both the Utah Constitution and U.C.A. 77-37-3. *See*, UT CONST Art. 1, §28 ("victims of crimes have these rights . . . [t]o be treated with fairness, respect, and dignity, and to be free from harassment and abuse throughout the criminal justice process"); "Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process." Utah Code Ann. § 77-37-3.

In cases where a perpetrator is convicted of a domestic violence offense that results in a sentence of imprisonment, the court is required to issue a continuous protective order limiting contact between the perpetrator and the victim(s) unless the court satisfies two conditions: (1) "conducts a hearing," and (2) determines, by clear and convincing evidence, that "the victim does not [] have a reasonable fear of future harm or abuse." U.C.A. § 78B-7-804(3)(b) (emphasis added). The court is required to notify the perpetrator that he has a right to request a hearing as part of the initial issuance of the continuous protective order. U.C.A. § 78B-7-804(3)(c)(i). Notably, 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. *See* U.C.A. § 78B-7-804(3)(b)(ii), (c)(i). Additionally, the prosecutor must "use reasonable efforts to notify a victim of a hearing." U.C.A. § 78B-7-804(3)(c)(v).

If all of the above requirements are met and the court determines by clear and convincing evidence that "the victim does not have a reasonable fear of future harm or abuse," the court may order a continuous protective order be modified or dismissed. U.C.A. § 78B-7-804(4). Here, Defendant has already had a hearing regarding the continuous protective orders. *See* Docket No. 319 in Case No. 221300408 ("Protective Order Hearing"). Defendant is not entitled to further hearings.

Additionally, for the Court to grant a modification or dismissal of the continuous protective order, the Court must find by clear and convincing evidence that the victims do not have a reasonable fear of harm or abuse. There has been no material change in circumstances indicating the Court could find Defendant's victims no longer have a reasonable fear of harm or abuse. Additionally, Defendant has failed to provide any information whatsoever indicating his victims no longer have a reasonable fear of harm or abuse. Accordingly, a further hearing regarding the continuous protective order is unnecessary.

Lastly, victims have a right to be treated with dignity, respect, courtesy, and sensitivity. U.C.A. § 77-37-1(1)(b). Victims also have a right to a prompt and final conclusion of the case after the disposition or conviction and sentence, including prompt and final conclusion of all collateral attacks on dispositions or criminal judgments. U.C.A. § 77-38-7(2). Dragging the victims into yet another hearing when there has not been any indication that an additional hearing would serve any beneficial purpose would needlessly harm Defendant's victims, unnecessarily prolonging the conclusion of this issue and subjecting the victims to unnecessary distress. Accordingly, Defendant's Request for Hearing to Modify Continuous Protective Orders is DENIED.

ORDER

Based on the foregoing, the Court enters the following order:

1. The Defendant's Request for Hearing to Modify Continuous Protective Orders is DENIED.
2. This is the order of the court. No additional order is necessary.

Dated this 25th day of July, 2025.



Jared Eldridge,
Fourth District Court Judge