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April 28, 2011

Rep. Paul Ingbretson, Chairman  
Committee on Redress of Grievances  
House of Representatives  
Legislative Office Building, Room 104  
33 North State Street  
Concord, NH 03301-6334

**HAND DELIVERED**

Dear Chairman Ingbretson,

At the beginning of this week, I received your memorandum advising me that you have scheduled a hearing on what has been captioned Petition #2. The petition itself is identified by the subject line as "[g]rievance of Elena Katz, Arnold Grodman(sic), and their Daughter." The petition is dated March 31, 2011. The hearing is scheduled for this week.

Please be advised that your memo represents the first notice that I have received regarding this petition. I do not know if you intended for someone on your Committee to seek a response from my office prior to convening a public hearing. I am also unclear as to the format or procedure to be followed by your committee. Your memorandum advises me that you have scheduled a hearing, but it does not request my presence, response or any documents. In order to insure that the Committee has accurate information, I will provide as much information and assistance as I am able to given the restrictions imposed by law.

As you may know, this office was not involved in the underlying DCYF matters. The Court did provide this office with access to materials in the family court file for limited purposes in connection with the criminal cases. I am precluded from disclosing that information pursuant to the court order and RSA 169-C:25, a statute designed in part to protect the child involved in proceedings under RSA 169-C.

This office represents the state in the criminal cases captioned State v. Arnold Grodman and State v. Elena Katz. The case against Mr. Grodman remains an active criminal case. Mr. Grodman is innocent unless and until proven guilty beyond a reasonable doubt. Mr. Grodman is entitled to a Jury Trial. He is represented by counsel. It is my legal and ethical duty as a County Attorney to insure, as best that I can, that all criminal defendants, including Mr. Grodman, receive a fair trial. As such, I am quite limited in what I can publicly disclose to the Committee or anyone else, until after the case has worked its way through the criminal justice system.

It may be premature for the House of Representatives to undertake any review of the matter because the House will only have a small portion of the facts available. And the Committee will only hear from one side of this matter rendering any judgment of the facts subject to substantial questions about the accuracy of any decisions, let alone the fairness of the process.

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There is documentation that is already in the public record that should assist you in assessing the pending grievance. I do not know what documents you may have reviewed in determining that a public hearing is warranted. I have reviewed the petition and compared the assertions to our file and the court orders, records, and sworn affidavits contained therein. I would submit to you that the Petitioners relied on unverified information and that their information is, in fact, inaccurate. The timeline as presented is a gross misrepresentation of actual events.

Rockingham County did not become involved in the Katz/Grodman matter until after a dispositional order had already been entered by the Superior Court (Nadeau, J.). According to the affidavits submitted and made public, the following occurred:

The Superior Court issued a dispositional order dated November 30, 2007, granting "DCYF legal custody of [the minor], and ordering that [the minor] be placed immediately in a so-called out-of-home placement, namely a juvenile residential placement facility known as Crotched Mountain Rehabilitation Center." Par. 4, Affidavit of Brian McVeigh, DCYF.

Notice of said order was provided to Ms. Katz and Mr. Grodman. The affidavits reflect numerous contacts with Katz and Grodman at their residence in Danville, NH. Specifically, a copy of Judge Nadeau's order was provided to Katz on Dec. 3, 2007. A copy of Judge Nadeau's order was provided to Grodman on Dec. 5, 2007. Mr. Grodman was also spoken to on Dec. 18, 2007. Each of these contacts occurred at the family home in Danville, NH.

A neutral and detached Magistrate determined that probable cause existed to believe that the parents were made aware of a court order and that the child was still residing with them in New Hampshire at the time they were given notice of the order. This all transpired prior to the family leaving this state. The evidence supports a finding that the parents took the child from New Hampshire in order to avoid compliance with the court order.

The Grand Jury heard evidence and returned indictments against Katz and Grodman alleging Interference with Custody. Each was also charged by Information with Criminal Contempt (for purposely violating the Court order). State v. Katz was resolved by negotiated disposition on May 24, 2010. Ms. Katz pled guilty to Criminal Contempt, acknowledging that she had been aware of the court order and that she had purposely violated that order. She received a suspended sentence. As part of the negotiated disposition, the State withdrew the felony charge of Interference with Custody.

The charges against Mr. Grodman are still pending. Additionally, there is currently pending in the U. S. District Court a civil suit brought by Katz and Grodman against numerous state employees and two members of the Rockingham County Sheriff's Office. The civil suit raises the same subject matter and allegations as this petition # 2. See Complaint, Katz, et al. vs. McVeigh, et al., Docket number 1:10-CV-00410-JL, U.S. District Court, District of New Hampshire. That matter is in its earliest stages. All parties are represented by counsel and it is likely that all will be required to produce documents and testimony.

Petition #2 makes representations that are inaccurate, including assertions that are inconsistent with the position taken by Katz/Grodman in documents filed in other courts. For example:

The petition avers that the State "made kidnapping charges against" Katz and Grodman. That is not true. The charges are described above.

The petition avers that the State used "the divorce statutes despite the fact that [Katz] and [Grodman] have never been married." That is not true. The State filed criminal charges. Divorce statutes were not involved and the marital status of the two defendants is not relevant to the criminal cases. Also note that Katz/Grodman assert in par. 7 of their civil suit that Grodman is in fact "the husband of Elena Katz."

The petition avers that "in the process of Rockingham County pursuing these charges, the State of New Hampshire took guardianship of their daughter." This is inaccurate. The Court issued its orders relative to guardianship prior to any involvement of Rockingham County. The charges are based on actions taken "after" the guardianship order had been made.

The petition also suggests that the activity on the case, including the guardianship order, occurred after the family moved to Massachusetts. That is misleading. Witnesses made contact with each of them at their home in Danville after the order issued. In a prior pleading, Katz/Grodman acknowledged that the parents and child were all residing in New Hampshire until at least 12/8/07. That date is after the order had issued, and after notice had been provided on 12/3/07 and 12/5/07.

There is a pending criminal case and a civil suit. The pending matters will be fully litigated. Our system provides due process protections and opportunity for appeal. Appellate authorities require parties to follow strict procedures and to provide all pertinent documents and transcripts of prior hearings. Assertions as to causes of medical conditions must be demonstrated and proven by qualified experts. In order to evaluate the decisions of the Superior Court Judge, it is incumbent upon any purported reviewing authority to determine what the decision was and the basis for that decision.

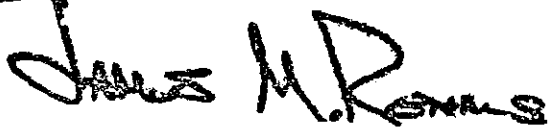
Normally when a criminal case decision is made, someone that has a complaint with the way that it was handled contacts the prosecuting office or the Attorney General for a review. Under the Attorney General's supervisory authority over the law enforcement function in the state, the Attorney General will review the documentation in the file and the record of all court proceedings before taking further actions. Apparently, a preliminary review of this matter has not been done. Therefore, I am attaching some documents that are part of the public records in these cases.

Putting aside the jurisdictional issues raised by Petition # 2, it seems highly inappropriate for the Committee to review criminal cases while they are pending. The Committee should know that there is no way the Executive branch of government can respond to this type of Petition without sacrificing a defendant's right to a fair trial and violating the oath of office as a prosecutor. To

do so would also risk harming the criminal justice system and most importantly deprive the citizens of the state with justice in the cases.

When State vs. Grodman is resolved, assuming the Attorney General approves, I would be happy to explain to the Committee more of the facts that I think show that the Petition is factually wrong and misleading. Until that time there is little more that I can add.

Sincerely,

A handwritten signature in black ink that reads "James M. Reams". The signature is written in a cursive style with a horizontal line above the first few letters.

James M. Reams