

TRANSCRIPT OF ESSEX SEVEN

This hearing occurred three days before the 1984 Raid. The State of Vermont summoned seven leaders of the Island Pond Community into court, denied them legal representation and took each one into the courtroom alone, locking the door behind them. Each one, in turn, was handcuffed and taken to jail. Within two hours, the judge released them because he had no basis to hold them. On that date, Judge F. Ray Keyser ruled that he had no jurisdiction to proceed with the case, since the State did not provide adequate specific information on each child.

BEFORE:

The HONORABLE F. RAY KEYSER

Heard on June 19, 1984 at the Caledonia County Courthouse in St. Johnsbury, Vermont

APPEARANCES:

Charles Bristow, Esq. - Deputy Attorney General, for the State Robert Simpson, Esq. - Assistant Attorney General
ST. JOHNSBURY, VERMONT, JUNE 19, 1984

MR. BRISTOW: Your Honor, I would like to introduce to the court Mr. John O'Donnell who is the assistant Secretary of Human Services and John Cassell who is a law clerk in our office and I would ask the court's permission for them to be present in this proceeding. I would suggest, represent to the court that Mr. O'Donnell is an attorney, admitted to practice in this state in addition to his administrative responsibilities and has been actively involved in our office, both as a lawyer and as an administrator. Mr. Cassel is a law clerk in our office who is obviously in a learning experience for the summer and is involved in legal research in legal matters in this case. Both are subject to professional requirements of juvenile proceedings and I would ask the court's special permission to allow them to sit in on this hearing.

THE COURT: Well, we think the law clerk may remain. I'm not so sure about the other gentleman.

MR BRISTOW: Mr. O'Donnell is an attorney at law admitted to practice in this state.

THE COURT: That doesn't mean that every attorney that's been admitted can be present.

MR. BRISTOW: I understand, Your Honor, but he's also Secretary of Human Services, the Assistant Secretary of Human Services and as such, obviously, through his office would have all the information that we have. There is no information that we have that he wouldn't already have in his capacity as Secretary because it is SRS, it is under his administrative responsibility. So, it would be like having a social worker in here who has something to do with the case. So, none of the information is not, he already knows about in his administrative capacity.

THE COURT: I'd feel more comfortable if he wasn't here.

MR. BRISTOW: Alright, Your Honor.

THE COURT: The record may show that Richard Cantrell, Charles Campbell, Arthur Nunnally, Arthur James, Roger Griffin, David Jones and David Woodward are present in court. Is that correct? Okay. Have you given the others, two others, to each one?

MS. DONAGHY: No, I have not. I have not given them your order on the motion to vacate, would you like me to do so?

THE COURT: Well, which order do they have?

MS. DONAGHY: They have the order with regard to the assignment of counsel.

THE COURT: I see. The order of counsel that you requested at the expense of the State is denied by this order that you've got a copy of and the court has---

MR. CANTRELL: We can't quite hear you, Your Honor.

THE COURT: Okay. The court has considered your motion to vacate the show cause order and the clerk will give you a copy of that order and you'll have a minute or two to study it.

MR. CANTRELL: Your Honor, this is the reason I am requesting a lawyer. I can't even read such information as this.

THE COURT: Pardon?

MR. CANTRELL: This is the reason I'm even requesting a lawyer because I can't understand such terminology as what you've given to me.

THE COURT: Well, you filed a lot of things with terminology in it. I don't know, didn't you understand what you filed?

MR. CANTRELL: In some cases I did, Your Honor.

THE COURT: Well, this is just straight, ordinary English. I can tell you in the last sentence, it says your motion to vacate is hereby denied and the reasons above that are given in the three paragraphs above it.

MS. DONAGHY: Gentlemen, when you speak, please give your names. We're doing this on tape and it's important. The tape doesn't differentiate your voices. Okay?

THE COURT: You each told the last time that you were here that the court would rule on your motion and that order is the ruling of the court on your motion to vacate the order to show cause for being here as a witness. So, we'll begin the proceedings and we'll excuse---

MR. GRIFFIN: Your Honor?

THE COURT: Stand and give your name.

MR. GRIFFIN: Roger Griffin. I'd like to ask you a couple of questions in regards to what's spoken here. One, it says that since efforts to summon parents have been ineffectual thus far, I'd really like to contest that because I don't really think that that's true. I've not been, I've never been issued a summons and I felt pretty confident in saying that no one that has actually been issued a summons has refused to come before this court and I just don't think that that's true. That is stated in the allegations, affidavits and various things that the State has filed but I don't think that's true.

THE COURT: Well, that's in the affidavit of probable cause that was filed by the state investigator and it isn't for you to question what's in the order. The order is what it is and if at some time, if you wish, you can appeal it but not

at this time. So, we'll let you all retire except Mr. Cantrell and we'll have him here and come up to the witness stand and the rest of you may leave the room at the moment. We'll call you back one at a time. Give him the oath.

COURT OFFICER: Do you solemnly affirm that the testimony you shall give relative to the cause now under consideration, shall be the whole truth and nothing but the truth, so help you, under the pains and penalties of perjury?

MR. CANTRELL Mm-hmm. DIRECT EXAMINATION

OF MR. CANTRELL BY MR. SIMPSON: Q. Can you tell us your name, please, sir?

A. Richard Martin Cantrell.

a. And what's your date of birth, please? A. 5-11-51

Q. Where do you live?

A. Island Pond, Vermont.

Q. Are you a member of the Northeast Kingdom Community Church?

A. Yes.

Q. What is your address in Island Pond? A. Box C.

a. Do you live in a specific dwelling in Island Pond?

A. Yes, I do.

Q. What's the name of that? A. The (Dwelling.

Q. Yes, it is known as the (Dwelling? A. Yes.

Q. And what street is that on? A. Pleasant Street.

Q. How long have you lived there? A. Less than a year.

Q. Are you a household head? A. I'm not, I never have been.

Q. You are not a household head?

A. I am not and I never have been a household head. Q. What's your position in the church?

A. I'm a laborer. I'm not an elder. I'm a worker. I'm not a household head.

Q. You are a member of the Northeast Kingdom Community Church?

A. Yes, I am.

Q. Would you give the names, please, of the other people residing in the (Dwelling?

A. I will not.

Q. Will you give us the names, specifically, please, of the children---

A. No, I will not do that either. I Q. Let me finish the question. Would you give us the names, please, who reside in the (Dwelling, children of members of the Northeast Kingdom Community Church?

A. No.

Q. Do you understand the question? A. I understand the question.

MR. SIMPSON: Your Honor, I'd ask that the court instruct the witness to answer the question.

THE COURT: What's the reason you won't give the names?

MR. CANTRELL: Your Honor, I think this is out of the jurisdiction of the court because a petition wasn't filed within fifteen days.

THE COURT: Wasn't filed what?

MR. CANTRELL: It wasn't filed within fifteen days. And what legal advice I did have, I know that there's been an injustice here and I've asked for a lawyer and I've been denied a lawyer and from this point on, I'm going to plead the fifth amendment. I don't know what crimes I've done and I don't know what crimes I'm here to testify against.

THE COURT: Nobody has ever said you did commit a crime and that's not what you're here for and you know that just as well as I do.

MR. CANTRELL: Well, I don't know that.

THE COURT: Well, I'm telling you so. You're not here on a crime. What crime do you think you're charged with?

MR. CANTRELL: I have no idea why I am here.

THE COURT: You aren't charged with a crime. Do you want to answer the questions?

MR. CANTRELL: No, sir, I don't, not unless I have legal counsel.

THE COURT: Have you talked with your elder about furnishing you with counsel at your church's expense?

MR. CANTRELL: No, I haven't.

THE COURT: Well, you've known right along that there is some question about it, didn't you?

MR. CANTRELL: Your Honor, I was under the assumption that I'd be entitled to have legal representation in any court in the United States of America, whether they was supplied or not and then I come here today and I see that I've been denied that and—

THE COURT: I'm not denying you the right to have a lawyer but you've got to have it at your own expense or the church's expense. That's the, that's not a criminal matter so you won't answer any questions?

MR. CANTRELL: No, Your Honor.

THE COURT: Well, what's your pleasure?

MR. BRISTOW: Your Honor, as we explained last time, we have no intention to, it is not our purpose to ask that any of these persons be put in custody but I think the court can see that, the barriers that we're facing and I think he gives us, Mr. Cantrell gives us no alternative but, as in any other case where the, as in this case, we believe this person is a proper person to be asked these questions. As we expressed to the court, there are no criminal charges. This is not a criminal investigation. It's merely an effort to determine names of children and he leaves us no alternative but to ask the court again to find Mr. Cantrell in civil contempt for failure to respond to appropriate legally authorized questions and that he be incarcerated until such time as he's prepared to answer the question. Mr. Cantrell keeps referring to crimes. I mean, this is not a criminal case. He's merely a witness who we believe has information as a person responsible for juveniles in his care.

MR. CANTRELL: Your Honor, I stated before the court that I am not a household head nor have I been nor am I an elder and I don't have any children in my custody and I don't feel that I can adequately answer any questions these men would ask me and it's just my plea to the court that I can have legal representation.

THE COURT: Are there children in your residence?

MR. CANTRELL: Children live in the house I live in.

THE COURT: Alright. Now, who are they? Do you want to go to jail?

MR. CANTRELL: Yes, sir.

THE COURT: You do?

MR. CANTRELL: Yes, sir.

THE COURT: You won't answer the question?

MR. CANTRELL: No, sir, I won't.

THE COURT: Do you know who they are? You can answer that yes or no.

MR. CANTRELL: I know the people I live with.

MR. BRISTOW: Your Honor, we could sit here and play semantics games about what his relationship is with these children, whether he's custodian, guardian, parent or otherwise and as we represented to the court in our pleadings, all members, children are members, all the adults are sort of responsible for all the children as we understand the tenets of the church. I would suggest to the court if we called every adult member of that church, we would get the same answers. Nobody is responsible for anybody. Apparently, this is some sort of commune where everybody, nobody is responsible for anything if you believe them. Clearly, these people, he knows the information, regardless of the title that you attach to this person, I'm going to suggest to the court that we're going to get the same answer, unfortunately, from all seven. None of them are responsible. Nobody is an elder any more. Nobody is a household head. You can see the barriers that we reached. The point is, he does have the information. And, in accordance with the tenets of the church, he is responsible for himself, for the children and for the other members of the church ds (sic) they all are for each other. So, in that respect, he is clearly, clearly meets the, we believe, meets the requirement of general, if you will, definition of guardian or custodian under the statute and we believe that he's properly here for, and if he refused to answer, we would ask that he be held in contempt.

THE COURT: I'll give you one more opportunity, Mr. Cantrell. Who are the children living in the residence where you live? Names and --

MR. CANTRELL: Your Honor, I'm going to deny the opportunity to speak on that.

THE COURT: Okay. The court will find you in civil contempt and you are in the custody of the sheriff until such time as you will purge yourself by giving the information.

COURT OFFICER: Will you raise your right hand, please? Just listen to the oath. Do you solemnly affirm that the testimony you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth under the pains and penalties of perjury? In other words, are you going to tell the truth?

MR. CAMPBELL: Yeah, I will.

COURT OFFICER: Sit down.

THE COURT: If you don't tell the truth, you're subject to perjury. Do you understand that?

MR. CAMPBELL: What's perjury?

THE COURT: Perjury means not telling the truth.

MR. CAMPBELL: Well, I promise to tell the truth if you believe me.

THE COURT: Okay.

DIRECT EXAMINATION

OF MR. CAMPBELL BY MR. SIMPSON: Q. Your name, please?

A. Charles Campbell.

Q. And your date of birth, please?

A. 2-25-50.

Q. You're a member of the Northeast Kingdom Community Church?

A. That's correct.

Q. Okay. Could you speak up just a little bit, please. I think we both have to for the tape. You are a member of the Northeast Kingdom Community Church?

A. That's correct.

Q. Where do you live? A. In Island Pond.

Q. And do you live in a, what specific residence do you live in Island Pond?

A. I live in Island Pond.

Q. Does the dwelling that you live in have a specific name?

A. Well, the paper that I got had Mill House.

Q. What's the name of the dwelling that you live in?

A. I don't see that being necessary, sir.

Q. Would you answer the question, please?

A. The paper you sent me was to Mill House.

Q. Do you live in the Mill House?

A. On that street.

Q. Do you live in the Mill House?

A. I don't see that being necessary.

Q. You live in a residence in Island Pond. Is that correct?

A. That's correct.

Q. Are there other members of the Northeast Kingdom Community Church who live in that residence?

A. That's correct.

Q. Are there children of members of the Northeast Kingdom Community Church in that residence?

A. That's correct.

Q. Do you know the names of those children?

A. Yeah, I do.

Q. Would you tell us, please, the names of those children?

A. For what reason?

Q. I think it's been explained to you as well as, not only in person when you were here before but also in the pleadings that we've given in response to your motion to vacate that we are investigating allegations that there are children in need of care and supervision and it's our purpose to determine the names of the children so we can identify them in an effort to eventually examine the children to see if these allegations are borne out. Would you please tell us---

A. Which children are you talking about?

Q. I'm asking you, would you please tell us the names of the children who live in the residence that you live in Island Pond?

A. Sir, I won't give you any names unless you tell me which ones you're talking about because I have children there too. Now, which children are you talking about?

Q. I'm asking you, do you know the names of the children in the residence you live in? Is that correct?

A. Yes. Which ones are you talking about?

Q. All of them.

A. There's more than one family.

Q. Well, let's start with the first family you can think of and go through them.

A. You tell me which one you want first.

Q. The information that we have, sir, is that all children in the church may be in need of care and supervision because of physical and emotional abuse as well as lack of proper medical care and we would like, and I'm asking you, would you please tell us the names of children in the residence that you live in who are children of members of the Northeast Kingdom Community Church. Do you understand the question?

A. Sir, do---

Q. Would you---

A. Yes, I understand the question.

Q. Will you answer it, please?

A. And because of the contact that you and I have had before, my house was surrounded by policemen because I took my child to the doctor and in doing so, my child was taken to the doctor and I took him on my own volition because I felt like something was wrong with him and in taking him, I really would like for the court to know this. In taking my child to the doctor, the doctor in St. Johnsbury ruled that my child had rickets so I proceeded to follow through on what he wanted me to do and they told me, they referred me to Hanover, New Hampshire. I went down there and they down there ruled that my child did not have rickets. They told me that my child was, had been abused. So, I told them---

THE COURT: Well, what's your child's name?

MR. CAMPBELL: The child that I'm talking about is Shivot. And in doing that, I told them that I wanted to see my family doctor because I had two diverse opinions at this point. One said that he had rickets and the other said he had been abused, that his bones had been broken and so forth. I took him to my family doctor and my family doctor in his diagnosis said that he did have rickets and in doing so, I wrote a letter to the State and to the Human Services telling them what my doctor found in agreement with the doctor in St. Johnsbury and the Human Services received my letter but two weeks later, my house was surrounded by policemen and Human Services to take my child because I submitted to the, to what they had for me and they took my child, took custody of him and did what they wanted to do with him. And, you were present there and that's why I can't answer you because of it. And I've talked to you about that and there's nothing, the State has not done anything about that.

Q. You've given us the name of one of the children that resides in the residence that you live in. Would you give us the names of the other children, please?

A. No, I cannot do that, sir.

Q. You understand the question?

A. Yes, I do.

MR. SIMPSON: Your Honor, I'd ask that the court instruct the witness to answer.

THE COURT: How many other children are there in this residence that you live in?

MR. CAMPBELL: I cannot answer that, sir.

THE COURT: Well, the court is going to ask you, tell you to answer it. Do you know how many there are?

MR. CAMPBELL: I can't answer that, sir.

THE COURT: Why?

MR. CAMPBELL: My conscience won't allow me to answer that.

THE COURT: You know but you won't answer. Is that it?

MR. CAMPBELL: My conscience won't allow me to answer that, sir.

THE COURT: You know but your conscience won't let you tell. Is that it?

MR. CAMPBELL: My conscience won't allow me to say it, sir. I mean, I want to be as open and honest with you as I possibly can.

THE COURT: Well, that's your opinion. What are the names of the other children in the residence that you live in? Are you going to answer that question?

MR. CAMPBELL: I can't answer that, sir, I'm sorry.

THE COURT: Are you going to refuse to answer the question?

MR. CAMPBELL: My conscience won't allow me to answer that, sir.

THE COURT: What's your conscience? Where is that? Where is your conscience?

MR. CAMPBELL: My conscience is what I live by, sir. The conscience is what I live by and if I go against my conscience, then what, then I live a lie. I don't live the truth.

THE COURT: What is it about your conscience that won't let you tell how many children there are in the residence that you live in?

MR. CAMPBELL: Because I really feel like what I see here is an attack on me as an individual who lives in Island Pond and because of paranoia and because of fear and everything else involved, I had a long talk with Commissioner Burchard from Burlington back to here when I was in court last time and he admitted to me that the reason they surrounded my house and did what they did was because of fear, because what the news media, what they believed the law is that they believed, what people have said and things like that and not really coming--

THE COURT: Well, we're here to find out the names of children that are living in the residence that you live in and you say that you, there are other children and that there's more than one family. Now, I want to ask you once more, what is the name of the children in the residence that you know?

MR. CAMPBELL: Sir, I'm sorry, I can't answer that.

THE COURT: Are you refusing to answer it?

MR. CAMPBELL: I can't answer that, sir.

THE COURT: Very well. The court will find you in civil contempt and you are committed to the custody of the sheriff until such time as you will purge yourself of contempt by answering the questions.

Mr. Nunnally?

COURT OFFICER: Would you raise your right hand, please?

MR. NUNNALLY: No, I won't.

COURT OFFICER: Alright. Just listen to the oath. Do you solemnly affirm that the testimony you shall give, relative to the cause now under consideration shall be the whole truth and nothing but the truth, under the pains and penalties of perjury?

MR. NUNNALLY: I will speak the truth. DIRECT EXAMINATION
OF MR. ARTHUR NUNNALLY BY MR. SIMPSON:

Q. Would you tell us your name again, please?

A. Yes. Arthur Nunnally.

Q. Where do you live?

A. Where do I live?

Q. Yes.

A. I live in the Northeast Kingdom Community Church.

Q. Is that in Island Pond?

A. Yes, it is.

Q. What's your date of birth, please?

A. December 3rd, the last time I met I made a mistake and said '57 but it's '56.

Q. December what?

A. 1956.

Q. You do live in a specific residence in Island Pond. Is that correct?

A. Yes, I do.

Q. And do you live with other members of the Northeast Kingdom Community Church?

A. Yes, I do.

Q. Are you a member of the Northeast Kingdom Community Church?

A. Yes, I am.

Q. Are you a household head or elder for the Northeast Kingdom Community Church?

A. No, I'm not.

Q. Have you ever been a household head or elder for the Northeast Kingdom Community Church?

A. I don't really understand the line of questioning.

Q. Do you understand what an elder is in the Northeast Kingdom Community Church?

A. Yes, I understand that.

Q. Alright. You understand that. Do you understand what a household head is?

A. What I don't understand---

Q. Do you understand what a household head is?

A. I can't answer that. What I want to ask is if this is an inquest because according to the summons, it was a show cause hearing so I would like, you know, I would like to answer that, to show cause.

Q. Why don't you answer the question, please.

A. Well, that's why I need to understand if this is an inquest or if this is going to be self-incrimination, you know, because it says here---

Q. You are not charged with, excuse me. Let me answer your question. You're not charged with an offense and we don't contemplate charging you with an offense. You're here as a witness, I believe, and the court has made that clear to other witnesses and we'll make it clear to you.

A. But is this an inquest?

Q. This is a juvenile proceeding.

A. I---

Q. To determine whether or not certain children are abused. Do you understand my question? A. Yes, I understand what you just said.

Q. Are you going to answer my question?

A. I can't answer that because I need to know first---

Q. Alright. Fine. I'll go on to another question.

A. Well, see, this is---

THE COURT: No, never mind.

Q. I'll go on to another question.

A. Well, I can't answer anything because this needs to be clear in my conscience first because you said you brought a petition and according to the Vermont Statutes, there should have been notification to those who were served---

THE COURT: Now, listen. We've been all through that with your written memorandums and whatever. Now, we're not going to go---

MR. NUNNALLY: But the thing is, I don't---

THE COURT: We're not going to go through it again. Do you understand?

MR. NUNNALLY: I understand but with respect, Your Honor, I just want, I don't know if this is self-incrimination--

THE COURT: You just keep still and answer the question if you want to. Otherwise, you're going to go to jail.

MR. NUNNALLY: Yes, I know that.

THE COURT: Okay. Alright.

MR. NUNNALLY: The only thing I needed to know was if I don't have any idea whether or not this is self-incriminating because it says here that there is a petition filed.

THE COURT: There is nothing self-incriminating about it. There is nothing criminal. No charges have been---

MR. NUNNALLY: How can I know that?

THE COURT: Listen. I'm talking to you and you have some respect and keep quiet. Do you understand that? Do you understand it?

MR. NUNNALLY: Yes, sir. I really, I respect you.

THE COURT: Alright then. You just keep then for a minute. Will you?

MR. NUNNALLY: Okay, I will.

THE COURT: There is nothing incriminating against you or anybody else. We're just simply here to get some information about the children that are---

MR. NUNNALLY: Your Honor?

THE COURT: ---in the church up there that may need some help---

MR. NUNNALLY: I understand that.

THE COURT: ---and we want to know who the names are and the petition is brought under the statute. We've told you that it's legal. Now we're going to, if you want to answer the questions, okay. If you don't, you'll be going to jail. Now, what's your question?

MR. NUNNALLY: But, that's not---

THE COURT: I'm talking to him. You keep quiet.

MR. NUNNALLY: I don't have anything else to say then.

Q. Let me pose the question. You indicated that you do live in a residence in Island Pond. Yes?

A. Yes.

Q. And that there are other members of the Northeast Kingdom Community Church living in that residence?

A. Yes.

Q. And that there are children who live in that residence as well, yes?

A. I can't answer that.

Q. You understand the question?

Q. Do you know the names of the other people, do you know whether or not there are children in the residence that you live in? Do you know whether or not there are children in that residence?

A. I can't answer that.

Q. You understand the question?

A. Yes, I just feel like I'm, with respect to the court and to the judge, that I have reason, good reason to ask that question about the petition because if it's involving myself, I don't know, it could be but if it is, then I would like to have the right to---

Q. Do you understand the question that I asked you?

A. Legal representation.

Q. Do you understand the question I asked you. sir? You're shaking your head. Is that yes?

A. Yes, I understand the question but I can't answer it.

Q. You refuse to answer it?

A. I'm not refusing. It's just that I can't due to the fact that I need some understanding and clarity based upon the affidavit that was submitted by the State.

Q. I asked you a question. Are you going to answer it?

A. All I can do is repeat what I just said.

Q. That's you're not?

A. That I can't.

Q. Alright.

A. It is not that, you know, it's not that I'm outright wanting to be rebellious. I even stated that I want to be able to give show cause and be able to speak my heart concerning this. You know? But, I can't, I need clarity first about this.

Q. Try this for clarity. My question is do you know whether or not there are any children living in the residence that you live in with other members of the Northeast Kingdom Community Church? Do you know whether or not there are children?

A. I'm sorry. I can't answer that.

Q. Do you understand the question?

A. Yes, I understand it.

MR. SIMPSON: Your Honor, I would ask the court to instruct him to answer the question, please.

THE COURT: Yes. You'll answer the question, Mr. Nunnally. Are there other children living in the residence that you live in? Yes or no.

MR. NUNNALLY: I can't answer that, Your Honor. I just feel that in my own conscience I---

THE COURT: What are the names of the other children that you know that are living in the same residence with you ?

MR. NUNNALLY: I can't answer that based upon what I've already stated.

THE COURT: When you say you can't answer that, the court understands that you are refusing to answer it. Is that true?

MR. NUNNALLY: No, it's not true.

THE COURT: What else would it be?

MR. NUNNALLY: Well, like I said first off, I needed clarity about the affidavit that was submitted by the State concerning this case.

THE COURT: Well, the court---

MR. NUNNALLY: And I don't, what I need to understand---

THE COURT: The court will understand that when you say you can't answer it, that you're refusing to answer it and I'll give you one more chance. Are you refusing to answer that question or not, those two questions?

MR. NUNNALLY: All I can say is what I've already stated, Your Honor.

THE COURT: Okay. We'll find you in civil contempt and you're in the custody of the sheriff until you purge yourself by answering the question.

THE COURT: The next one is Arthur Gayne.

MR. SIMPSON: Al Gayne.

THE COURT: Oh, Al Gayne?

MR. SIMPSON: I believe it might be, Your Honor.

THE COURT: Sit here please.

MR. GAYNE: Sit down here?

COURT OFFICER: Yes. Will you raise your right hand, please? Do you solemnly swear the evidence you shall give relative to the cause now under consideration, shall be the whole truth and nothing but the truth under the pains and penalties of perjury?

MR. GAYNE: Yes.

DIRECT EXAMINATION

OF MR. GAYNE BY MR. SIMPSON:

Q. Would you tell us your name, please?

A. Al Gayne.

Q. Your date of birth, please?

A. November 28, 1957.

Q. Where do you live, please?

A. Island Pond.

Q. Are you a member of the Northeast Kingdom Community Church?

A. Yeah.

Q. Where do you live or what is the name of the residence that you live in Island Pond?

A. The Bellevue.

Q. Are you an elder in the Northeast Kingdom Community Church?

A. No.

Q. Have you ever been a household head in the Northeast Kingdom Community Church?

A. We don't have household heads.

Q. You're not an apostle in the church?

A. I don't think so.

Q. Do other members of the Northeast Kingdom Community Church live in the Bellevue that you live in?

A. Yes.

Q. Do you know whether there are any children living in that residence?

A. Yes.

Q. There are? There are children living there?

A. Mm-hmm.

Q. Would you tell us, please, the names of the children living there?

A. I don't, I can't do that.

Q. Do you understand the question? I asked you for the names of the children.

A. Yes.

Q. And the reason for asking for---

A. Let me ask---

Q. Let me finish explaining to you. We're investigating allegations from a submitted affidavit with the court that these children may be in need of care and supervision.

A. Yeah, I understand that. Let me, I just want to ask you one question. Okay? In the summons, it says that the children that are under your control, give reasons why they should not be, why you should not give the names of them and why they should not be subject to, oh, what do you call it, medical examination by the State and I just want to say that the children are not under my control. They're not under my control and so I don't feel like I can answer for something that is not under my---

Q. Do you know the names of the children who are living in the Bellevue. Is that correct?

A. Yes. I do.

Q. Are you a member of the Northeast Kingdom Community Church?

A. Yes, I am.

Q. And all children of the church are children of each member of the church. Are they not?

A. No, no.

Q. All children of the church may be disciplined by other members of the church?

A. Not necessarily.

Q. On occasion, that's true, isn't it?

A. Only under the parents' permission and under their supervision.

Q. Would you tell us, please, what the names of the children are that are living in the Bellevue?

A. Sir, I've just explained, I don't mean to be disrespectful, you know, but, like I said, like it says in the paper, it says that the children are under my control and my conscience, they're not under my control. You know, and so I can't really feel like, I don't really feel that this is fair, you know, because I can't just give out names of things that doesn't I don't have anything that there's not my authority over. That's the parents' authority and I don't feel like I can do that. I'm really sorry. I want to cooperate as much as I can.

a. You know the names of the children but you're not going to tell us the names of the children. Is that true?

A. I don't think that it's that I'm not going to but it's just that I feel in my conscience that it's not fair because it's stated in the thing, you know, in the summons, it says give reason why the children that are under your control, you know, should not be, you should give the names of the children under your control and those children are not under my control and so, how can I answer it. You know, I mean, if you'd have been, said different, you know, if you want to reword it and call me back in here I will, you know.

Q. I'm telling you right now. I'm asking you the names of the children.

A. I know what you're asking me.

Q. And you understand the question?

A. Well, I understand that you're not, you're not asking me the names of the names of the children that are under my control which is what the paper says.

Q. You say that they're not under your control. We have information submitted in the affidavit that all children in the church are disciplined—

A. That information is false and I wish I had a lawyer to present my case because that information is false.

Q. Would you tell us, please, the names of the children?

A. Well, sir, I don't mean to be disrespectful and I don't want to give you a hard time but it's just, you know, how can I do that, you know, go against my conscience? I'm not trying to be belligerent or anything. I just, you know, it just says, you know, the affidavit says, or the summons says, you know, you know, you know, I just want to be, I just want to answer what I'm here for. I don't think that I'm charged with a crime or anything.

a. You are not charged with a crime. We're not contemplating charging you with a crime. We want to find out the names of the children so we can investigate further the allegations of child abuse and allegations that these children are in need of care and supervision .

A. Okay.

A. Okay. Well, you said, you said---

Q. Will you answer the question?

A. I've got to ask a question before I can answer that question.

Q. Will you answer the question, yes or no?

A. You're not leaving me any room to---

Q. No, I'm not. Yes or no.

A. Can I ask a question, Judge?

THE COURT: Well, go ahead and ask it and get it over with.

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MR. GAYNE: Okay. You said that, you know, that I'm not charged with anything and that it's not even being considered that I be charged with anything and yet I see the guys that I'm with that, you know, that they're going out with handcuffs on and what are they being charged with is what I'd like to know. I'd like a definition of what being in contempt of court is, I you know, if being, if I'm being in contempt, I want---

THE COURT: Contempt of court is that you're refusing to answer questions that are lawfully and rightly put to you. Let me ask you this. What are the names of families that live in the place, residence, that you live in?

MR. GAYNE: Well, you're asking me questions that aren't according to what the summons was. You know?

THE COURT: You refuse to answer it?

MR. GAYNE: My conscience won't let me.

THE COURT: And those families have children, do they?

MR. GAYNE: You're asking me questions that it's not even---

THE COURT: Just answer it. Just answer it. Do those families that live in the Bellevue have children?

MR. GAYNE: I just, I'd like a lawyer, you know. I don't understand why you won't give me a lawyer. If you guys think, if you say that I am a parent and a guardian of the children, then I deserve a lawyer but you say on the one hand that you're, that we're unofficially parents and guardians and therefore, we don't, because it's not an official thing, we don't need representation but you're saying, on the other hand, you're saying that we are the parents and guardians, not meaning to argue with the court but I'm just saying that it just seems really inconsistent, you know, that you're bringing me in here and wanting to find things out that you don't even have, I mean, what's the, can you give me a case of a for instance, you know of---

THE COURT: Let me have you give me a reason why you won't tell the names of the families that live in the same residence with you. What's your reasons?

MR. GAYNE: Because they're not under my control, that's what it says in the summons and I can't give names---

THE COURT: What are the names of the children that belong to these families?

MR. GAYNE: Your Honor,---

THE COURT: You refuse to answer that question?

MR. GAYNE: Well, it's that---

THE COURT: One more chance. Do you refuse to answer that question?

MR. GAYNE: I'm not meaning to be disrespectful .

THE COURT: Oh, I understand that.

MR. GAYNE: I just don't feel like I can---

THE COURT: You're not being cooperative, that's all. You're not being disrespectful but you're not being cooperative.

MR. GAYNE: Yeah, But, I mean, I need a lawyer to help me with these things.

THE COURT: Yes, I know. It would help you alot. I don't know how but---

MR. GAYNE: You don't think a lawyer would help me?

THE COURT: I don't think your lawyer can answer questions that you know about.

MR. Gayne: Well, I think a lawyer can help me as far as, I mean that I can plead the fifth amendment, you know.

THE COURT: Okay. One more time. I'll give you one more chance. What are the names of the children that belong to the families in the Bellevue where you live?

MR. GAYNE: Well, under the basis that the court says that all of us are parents of the children, I feel that I can plead the fifth amendment and that I'm producing evidence that is going to incriminate me---

THE COURT: No. There's no criminal in that, what are you talking about. What do you mean? You aren't charged with a crime and can't be charged with a crime if you answer that question. That's all the fifth amendment will do for you.

MR. GAYNE: Well, all I know is that, you're going to put me in jail because I won't tell you the names of somebody's---

THE COURT: That's right.

MR. GAYNE: It's not my business to tell you those names.

THE COURT: Alright.

MR. GAYNE: I mean, I can't do it. It's not my place.

THE COURT: Okay. The court understands that you're refusing to give the names of the children that are living in Bellevue where you live. Is that correct? You're refusing to.

MR. GAYNE: I feel the grounds that this, it's just not fair, you know. I need---

THE COURT: Okay. The court finds you in civil contempt and you'll be in the custody of the sheriff until such time as you purge yourself from contempt by giving the information that, the answer to the question. The next one is Griffin. Did you serve a I copy of this petition on these people?

MR. SIMPSON: The court sent it out, Your Honor. I don't know what was sent.

COURT OFFICER: Come over here, please. Will you raise your right hand, please? Do you solemnly affirm that testimony you shall give relative to the cause now under consideration, shall be the whole truth and nothing but the truth under the pains and penalties of perjury?

MR. GRIFFIN: Yes.

COURT OFFICER: Be seated please.

DIRECT EXAMINATION OF MR. GRIFFIN BY MR. SIMPSON:

Q. Can you tell me your name, please?

A. Roger Griffin.

Q. And your date of birth, please?

A. 6-16-55.

Q. And where do you live?

A. I live in Island Pond.

Q. And do you live in a specific residence there?

A. Box 443.

Q. Do you live in a dwelling in Island Pond?

A. Yes.

Q. What's the name of the dwelling, please?

A. I live in the Gateway household right now.

Q. Are you a member of the Northeast Kingdom Community Church? Are you a member?

A. Yes.

Q. You are. Yes?

A. Yes. I haven't signed any sort of official membership but I---

Q. You consider yourself a member?

A. Yes. That's why I'm here because of my religion. That's why I'm here.

Q. Are other members of the Northeast Kingdom Community Church living there as well, that is, in the Gateway?

A. I'm sorry, I'm not sure what you mean.

Q. Do other members of the Northeast Kingdom Community Church live in the Gateway?

A. Yes.

Q. Do you know whether or not, well, let me first ask you this question. Are you an elder in the Northeast Kingdom Community Church?

A. Is this an inquest?

THE COURT: This is a petition and you answer the question if you can. Are you an elder?

MR. GRIFFIN: I don't, I really don't want to answer.

THE COURT: Well---

MR. GRIFFIN: I can't. I don't want to cooperate with this. I don't think it's right. I think that the affidavit that the State has filed is full of hearsay and slanderous allegations. It's apparent that the court has accepted that testimony and based this proceeding on that testimony.

THE COURT: Do you refuse to answer whether you're an elder or not?

MR. GRIFFIN: Yes.

THE COURT: Okay . Are there other families living in the Gateway where you live?

MR. GRIFFIN: I don't, I'm a little swayed by all of the legal talk that---

THE COURT: Just answer it yes or no. If you don't want to answer it, say so.

MR. GRIFFIN: I don't want to answer any of these questions.

THE COURT: I see.

MR. GRIFFIN: But, I don't intend to be disrespectful but I don't think that it's right. This entire proceeding I think is incorrect.

THE COURT: These families have children, do they, that live in the Gateway?

MR. GRIFFIN: I really, I really don't want to answer that. You could check with those families.

THE COURT: Well, what are the names of the children that live in the Gateway House where you live?

MR. GRIFFIN: As I've stated, I cannot cooperate with this inquest.

THE COURT: Do you refuse to answer?

MR. GRIFFIN: Well, I'm not answering because I cannot.

THE COURT: Well, if you're not answering, then that's a refusal, isn't it? Isn't that a refusal?

MR. GRIFFIN: You state that it is.

THE COURT: Pardon?

MR. GRIFFIN: You state that it is.

THE COURT: I'll give you one more chance to answer it. Do you want to answer the question?

MR. GRIFFIN: No, sir, I can't.

THE COURT: Very well. We'll find you in civil contempt and you can purge yourself by answering the question. You're in the custody of the sheriff.

MR. GRIFFIN: Is there any kind of, could you give me something about being in jail? Is there any kind of bail? Is there a maximum penalty or sentence or can you keep me there forever?

THE COURT: You're there until you purge yourself by answering the question or are otherwise released by court order.

MR. GRIFFIN: Is there a maximum penalty?

THE COURT: No. 647 says that a copy of the petition, if one is filed, shall accompany the summons. I just want to be sure that was done. I don't want to have an illegal proceeding here.

MR. BRISTOW: Your Honor, I don't know as a matter of fact but I don't think, as I understand, the summons would be served on persons who are named in the petition. The petition that we filed was not a petition in the traditional sense of the word as a petition against a given---

THE COURT: Was there a special named individual?

MR. BRISTOW: It was a petition to get something going in the court. And, as I contemplate the statutes, at least, the summons would be served or a warrant would be issued against the parents or against the guardian of the children who are named in the petition. We couldn't, that wasn't the kind of petition we filed. The kind of petition we filed

was one setting forth our ability to file a petition because we had no information. We tracked the statute where we could but in fact, were asking for extraordinary relief from the court in order to obtain this information so that we could proceed further. I don't believe that in this instance, a petition would have given the people involved any information whatsoever. They were not named in the petition. No one was named in the petition because we don't have any information. Obviously, they had been named as parent, guardian, custodian, or otherwise in the petition, then due process, I'm sure, and obviously the statute requires service. But here, we were not naming them. If the case had proceeded the way that we would like and that is that we obtained the information, then we would, our intention was to file a specific petition naming a specific child which would then have to be served on a specific parent, guardian, custodian, etcetera and that obviously would have to be served. Here, there was no one to serve our petition until we obtained the information that we sought. So, if Judge Connarn didn't order that it be served, I don't think that was fatal. I recognize the statute contemplates the service of a petition but I think that would be in the traditional, where you have an ordinary case. This is quite extraordinary and I can't see the argument in favor of filing a, serving a petition in this instance since there is nothing to notify them of.

THE COURT: What they were served with was an---

MR. BRISTOW: It was an order to come forward---

THE COURT: A summons.

MR. BRISTOW: Well, it wasn't even a summons because a summons is more contemplated to be to reply to a petition and we were concerned that they'd either ignore a summons, we'd never get it served and it would be general in nature. We didn't know anybody. We don't know the names of any parents specifically .

THE COURT: I'm not sure you're ever going to know.

MR. BRISTOW: And we may never. You can see the problem we've had. I mean, you can imagine what it's been trying to do it informally. All we were seeking was information and we, as I said, to repeat myself, we filed a petition merely as a, I mean, it could have been titled a motion. It could have been titled almost anything but we want it in the juvenile context.

THE COURT: I'm assuming that the, we will be hit with a petition for habeas corpus but I---

MR. BRISTOW: I'm quite certain that we will.

THE COURT: Just what the grounds will be, I don't know. Well, okay. David Jones.

COURT OFFICER: Please raise your right hand for the oath, please?

MR. JONES: I'll just affirm to tell the truth.

COURT OFFICER: Alright. Do you solemnly affirm the testimony you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth?

MR. JONES: Yes.

DIRECT EXAMINATION OF MR. JONES BY MR. SIMPSON:

Q. Would you tell us your name, please?

A. David Jones.

Q. Date of birth, please?

A. September 13th, 1950.

Q. Are you a member of the Northeast Kingdom Community Church?

A. I am.

Q. Where do you live, sir?

A. In the Arbor House.

Q. Is that in Island Pond?

A. Yes.

Q. Are you now an elder in the Northeast Kingdom Community Church?

A. No.

Q. Have you ever been an elder in the Northeast Kingdom Community Church?

A. No.

Q. Are you a household head in the Northeast Kingdom Community Church?

A. No.

Q. Have you ever been a household head in the Northeast Kingdom Community Church?

A. Yes.

Q. When did you Stop being a household head?

A. Five years ago.

Q. You said, I believe, that you live in the Arbor House?

A. Yes.

Q. Do other members of the Northeast Kingdom Community Church live there? Do they? Do other members of the Northeast Kingdom Community---

A. I don't have anything more to say about that, who lives in that house.

Q. Let me ask you another question. Do you know whether or not there are any children who live in the Arbor House?

A I don't, I can't answer that question.

Q. Do you know whether or not there are children living in the Arbor House?

A. I cannot answer that question.

Q. You understand the question?

A. Yes.

MR. SIMPSON: Your Honor, I'd ask that the court instruct the witness to answer the question please?

THE COURT: Yes. You're instructed to answer the question, Mr. Jones. I take it you refuse to do so? You can answer that question, can't you?

MR. JONES: I really don't feel that I have any rights here.

THE COURT: Never mind what your feeling is. You refuse to answer the question?

MR. JONES: I cannot answer that question.

THE COURT: And the court understands when you say you cannot that you will not. So, is that correct? That you will not?

MR. JONES: My conscience will not allow me to answer that question.

THE COURT: What's the matter with your conscience that it won't let you?

MR. JONES: The intentions of the State to persecute people that I love very much, the acceptance on the part of the State of the testimony of liars, the way in which my own constitutional rights have just been utterly disregarded, I have no legal counsel, no protection here---

THE COURT: You have a right to counsel if you want to hire it or your church wants to hire it for you. The court isn't denying you to have counsel that you can ask questions to is you wish. You're not having your constitutional right there violated. The court isn't appointing counsel at state expense but that's not a constitutional right unless you're entitled to have one and can't afford it.

MR. JONES: Judge, I've already submitted a request and the answer was that I'm not being charged with any crime.

THE COURT: That's right. That's why, one reason why you don't have---

MR. JONES: But Judge, it's obvious that the State intends to incriminate me from this memorandum that was submitted. It's just blatantly obvious that the State is saying---

THE COURT: Incriminate you in what way? What crime are they charging you with?

MR. JONES: In the memorandum, it says---

THE COURT: Well, never mind what it says. Just tell me what crime that you think you're being charged with.

MR. JONES: The, as it's stated here, the systematic physical and emotional abuse as well as deficiencies in the education and medical care they receive, referring to the one hundred children in the Northeast Kingdom Community Church. That's on page two of the State's memorandum and it also says that since all children of the Northeast Kingdom Community Church are children of the entire church and most adult members are in power to discipline any child they see fit, all adults are in fact parents of all children in any case we see and that's really obvious what the motivation of the State is in this, that I'm supposed to provide testimony that will be used against me to bring a criminal charge against me.

THE COURT: You're not being charged with any crime or won't be charged with any crime. Any information that you give is simply the names of the children and that's all. There's nothing incriminating about it at all. So, the court understands that you will not answer the question of what the names of the other children, or what the names of the children living in the Arbor House where you live, that you won't answer it. Correct? Last chance.

MR. JONES: Judge, I need a lawyer.

THE COURT: Are you going to answer the question?

MR. JONES: I need a lawyer. I'm, I'm, this, I have no idea what is going on here. I can't understand all this legal terminology. I am, as I stated in my, the paper that I turned in to the court, that I am entitled to a lawyer because of my financial situation.

THE COURT: Well, you've refused to answer the question and the court finds you in civil contempt and you can purge yourself by answering the question.

MR. JONES: I'm sorry. What was the last thing you said?

THE COURT: I said you can purge yourself of contempt and get out of jail by answering the questions.

MR. JONES: Excuse me.

THE COURT: You're in the custody of the sheriff until---

MR. JONES: Does that mean I'm charged with a crime?

THE COURT: No, you're not.

MR. JONES: Then, then, then you're going to handcuff me and have me sent to the jail and I'm not charged with a crime?

THE COURT: I'm not going to do it. I've just ordered that you be confined. Mr. Woodward is next.

COURT OFFICER: Will you raise your right hand, please, sir?

MR. WOODWARD: I'll tell the truth.

COURT OFFICER: Alright. Do you solemnly affirm that the testimony you shall give, relative to the cause now under consideration shall be the whole truth and nothing but the truth, under the pains and penalties of perjury?

MR. WOODWARD: I'll tell the truth.

COURT OFFICER: Sit down.

DIRECT EXAMINATION OF MR. WOODWARD BY MR. BRISTOW:

Q. You're name is Mr. Woodward?

A. Yes.

Q. Your first name, please?

A. David.

Q. Are you a member of the Northeast Kingdom Community Church?

A. Yes.

Q. And where do you live?

A. I'm not going to answer any of your questions because---

Q. Let me ask the questions and then you can answer them or refuse to answer them. Alright? Do you live in Island Pond, Vermont?

A. Yes.

Q. And what is the name of the dwelling, the residence that you live in?

A. I'm not going to answer your questions. The reason that I'm not going to answer them is because this whole proceeding is illegal and I can't, with a good conscience, cooperate with it.

Q. Alright. Are there other children who live in the dwelling that you live in?

A. I can't answer your questions because I say, you're going to try to use to make a criminal out of me.

Q. Do you understand that you're not charged with any crime and there's no contemplation that you be charged with any crime?

A. Well, I disagree with that because of your affidavit.

MR. BRISTOW: Your Honor, we would ask that the court warn Mr. Woodward of the penalties if he fails to answer the question.

THE COURT: Yes. The penalty is that you'll be found in contempt, civil contempt of court, and you will be placed in the custody of the sheriff until such time as you purge yourself by answering the question.

MR. WOODWARD: I'm aware of the penalty.

THE COURT: Alright.

Q. Do you continue to refuse to answer my questions?

A. Yes, I do.

MR. BRISTOW: Alright. Your Honor, we'd ask that he be held in civil contempt and placed in jail until he answers the question.

THE COURT: Very well. The court finds you in civil contempt and you are placed in the custody of the sheriff until such time as you purge yourself by answering the questions. They're going to be all buddy-buddy down there, aren't they?

MR. BRISTOW: Your Honor, please, I might suggest that with the coordination with the clerk, the matter might be reset at some time in the not too distant foreseeable future in order to give them a continuing opportunity to answer the question although my guess would be that it won't be long before petitions will be filed in Superior Court but nevertheless, I would think that this is Tuesday and maybe by Thursday or Friday, we could at least give them another opportunity. Again, it's not our intention to put these people in jail. We're not accomplishing what we want to accomplish. We have no intention of keeping them in jail if they're prepared to answer although, I must say, I'm not optimistic that we'll get anything but I think that it might be best, at least, if the court does schedule some hearing for them to have the opportunity and to be continuously warned of the consequences although they obviously are well aware of them. We would certainly have someone here.

-JUDGE TALKING WITH THE CLERK-

THE COURT: I have, oh, this is off the record.