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To the Superior Court of Pennsylvania:

In re: Ternigan v. Hamoui, Docket # 04481PHL 97

Addendum pursuant to Rule 2544(a)(4):

Appellant objects to the Notes of Testimony as materially deficient. He timely raised this objection with the lower court, and filed a motion to correct pursuant to Rule 1926 (Docket #54) which was denied by The Honorable William E. Ford (Docket #56).

Appellant's objection raises charges of obstruction of justice and a violation of appellant's civil rights, criminal misconduct. These are serious charges which Judge Ford dismissed with no more than a cursory examination.

Prior to transcribing the Notes of Testimony, Ms. Susan Sherry, court monitor, permitted the audio tape of the September 24th, 1997 hearing to leave her possession for an extended period.¹ Judge Ford admits that the tape was not always in the possession and control of Ms. Sherry. The tape was given to Attorney Licia Ano, Judge Ford's law clerk. It must also be noted that Attorney Susan G. Maurer serves as solicitor for Domestic Relations and works closely with Judge Ford and his staff.

The audio tape was returned to Ms. Sherry on or about November 10, 1997, more than three weeks after the Notice of Appeal was filed in this matter. Its whereabouts from October 21, 1997 until that date have not been accounted for. Ms. Sherry made the Notes of Testimony available to me on or about November 23, 1997.

Appellant objects to this Court's declaration (footnote 4) that appellant's failure to ensure that the record is complete for purposes of review constitutes a waiver of issues to be examined. Appellant took appropriate steps to cure the errors pursuant to Rule 1926, which grants the authority in the lower court to settle differences and to correct the record so that it conforms to the truth. The lower court denied appellant this opportunity.

This attorney made several overtures to permit the lower court to correct the differences. Rule 1926 requires that the record be made to conform to the truth. Rule 1926 further allows that the appellate court may, on proper suggestion or of its own initiative, direct that the omission or misstatement be corrected. This court may also direct, if necessary, that a supplemental record be certified and transmitted. Appellant prays that this court will issue such a directive.

This court's footnote declaration is analagous to saying that a victim of a crime waives his rights to equal protection under the law. Here, a crime was committed within the institution empowered to protect those rights. Appellant again expresses his profound objection.

My affidavit, appended to the Motion to Correct (Docket #54) lists eight Omissions. This is an incomplete list of errors and omissions. I have documented an equal number of other material errors and omissions which I will submit on request. Appellant asks this court to kindly

¹ See letter of January 21, 1998. The audio tape left her possession prior to transcribing the Notes.

review the Notes of Testimony, R.R., page 25a through page 26a - line 3, addressing the contempt citation. The dialogue is incongruous with the subject matter.

On page 26a, Lines 1 to 3 addresses issues related to support order matters. This dialogue is unrelated to the contempt citation. The reference to "backlog debts" was offered as evidence that prior orders had a confiscatory effect. The reference "On February 3rd ..." has absolutely no relevance to the contempt citation.

There can be no reasonable significance of "February 3rd ..." to the contempt citation, which was based on occurrences subsequent to May 12th, 1997. The Notes contains other sections where the dialogue is unresponsive to the issues supposedly being discussed.

Much has been made of the insufficient effort made by appellant to supplement his income. Appellant's efforts to find employment are monumental when compared with the efforts by the lower court to investigate a claim that a crime which compromises the integrity of our judicial system occurred from within its domain. Judge Ford says in his letter, "I do not see how anyone would have the opportunity or even the inclination to be altering the tape." We have presented evidence that the opportunity was there. I suggest that Attorney Maurer may be able to shed some light on who may have the inclination.

In addition to appellant's claim that the audio tape was unlawfully edited, the Notes of Testimony contains factual errors material to the outcome on which both the lower court and this court rely in reaching their decisions. The lower court's reliance on the order of June 3rd, 1996 as an adjudication is clearly misplaced and must be corrected. The assertion that an earning capacity was attributed to appellant at that time must also be corrected.

Appellant believes that the Notes of Testimony, inaccurate and incomplete as they are, contain sufficient evidence to substantiate his claim for a reduction of support for the period in question and for retroactive relief.

In the quest for truth, appellant prays this court to direct that a supplemental record be certified and transmitted, and further, that this court will reconsider appellant's earlier Motion for Supercedeas and grant a stay of the order now in force.²

Respectfully but without satisfaction ...,

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² Appellant has applied for and currently receives public assistance. Ironically, he qualifies for assistance despite his full-time employment and the fact that his wife has again entered the work force, albeit part-time.