

AUG 25 2023

STATE OF MINNESOTA  
IN COURT OF APPEALS

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Stephen Carl Allwine,  
Appellant,

DISTRICT COURT CASE #: 82-CV-22-4952  
APPELLATE COURT CASE #: A23-1174

v.

Commissioner of the Minnesota  
Department of Human Services and  
Washington County Community Services,  
Respondent.

STATEMENT OF CASE FOR APPEAL  
OF AFFIRMATION OF MALTREATMENT  
DETERMINATION

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- 1) Court and Name of Presiding Judge: Washington County; Judge Laura A. Pietan
- 2) Jurisdictional Statement: Appeal from District Court
  - a. Statute, rule or other authority authorizing appeal: Minn. R. Civ. App. P. 103.03
  - b. Date of entry of judgement or date of service of notice of filing of order from which appeal is taken: June 29, 2023
  - c. Authority fixing time limit for filing notice of appeal: Minn. R. Civ. App. P. 104.01, triggered by receipt of District Court Order
  - d. Finality of order or judgement: Order Affirming the Commissioner's Decision (June 29, 2023)
- 3) Does the judgement or order to be reviewed dispose of all claims by and against all parties, including attorney fees? Yes
- 4) Type of litigation and statutes at issue: Affirmation of Maltreatment Determination; Minn. Stat. §260C.007; Minn. Stat. §260C.301; Minn. Stat. §626.556; 14<sup>th</sup> Amendment to the US Constitution.
- 5) Brief Description of Claims, Defenses, Issues Litigated and Result:  
It was determined by the Respondent that Appellant Maltreated J.L.A. as a result of an alleged crime of First-Degree Premeditated Murder. The Respondent has consistently referred to the criminal complaint (and not actual evidence) to support their determination.

Appellant was convicted in a trial that was rendered fundamentally unfair through Judicial Misconduct, Prosecutorial Misconduct and Ineffective Assistance of Counsel. Trial counsel was ineffective for a number of reasons detailed in the brief to the District Court including: not doing a full and complete discovery, failing to present exonerating evidence, failing to interview witnesses, failing to present experts and witnesses, failing

to properly prepare for and cross-examine state witnesses, eliciting damaging testimony from state witnesses, and presenting an ineffective closing argument that was contrary to his stated trial strategy. The State committed Prosecutorial misconduct through a number of methods detailed in the brief to the District Court including: Multiple Brady violations, failing to correct and elicit false testimony, violating the confrontation clause, misstating evidence to the jury, presenting facts to the jury that were not in evidence. The Judge abused his discretion by allowing Spreigl evidence and communicating *ex parte* to the jury. Even if a single issue may not have affected the trial, the cumulative effect of all of these errors clearly created a fundamentally unfair trial.

The evidence presented to the Respondent shows through clear and convincing evidence that the Appellant is not guilty of the crime underlying the maltreatment determination, but they refuse to acknowledge the evidence and continue to base their determination on the criminal complaint.

They are relying on collateral estoppel to foreclose the evidence that has been presented to them; however, collateral estoppel requires that the Appellant has been given a full and fair opportunity to present the evidence, and that has not happened, so collateral estoppel cannot apply.

- 6) Specific issues proposed to be raised on appeal: Collateral Estoppel does not apply due to a fundamentally unfair trial, since collateral estoppel does not apply and a preponderance of the evidence shows that Appellant is not guilty the maltreatment determination should be reversed.
- 7) Related Appeals: 82-CV-22-4952 (Appeal from Human Services Appellate Division)
- 8) Contents of Record: Human Services determination, Trial Transcript from 82-CR-17-242, briefs, exhibits, and orders from Human Services Appeal, and District Court Appeal
- 9) Is Oral Argument Request: Yes, due to the complexities of this case and the pervasive misinformation by the State, I believe an oral argument is required to answer questions directly.
- 10) Type of Brief to be filed: Informal Brief
- 11) Names and Addresses of Appellant and Respondent:

<b>Appellant</b>	<b>Respondent</b>
Stephen Allwine #256147	Washington County Attorney's Office
MCF – Stillwater	Kari Ann Lindstrom
970 Pickett St. N	15015 – 62 <sup>nd</sup> Street North
Bayport, MN, 55003-1490	Stillwater, MN, 55082

This document was placed in the prison mail system on the date listed above and is deemed to be filed on that date. (Houston v. Lack, 487 U.S. 266, 275-76 (1988); Grady v. United States, 269 F.3d 913, 916 (8<sup>th</sup> Cir. 2001)

Dated: 8/21/2023

Respectfully Submitted



Stephen Allwine (in pro se)

Stephen Allwine #256147  
MCF – Stillwater  
970 Pickett St. N  
Bayport, MN, 55003-1490



MINNESOTA  
JUDICIAL  
BRANCH