

Attorney Benjamin Theule

Affidavit regarding criminal case CS294342 and

Civil harassment restraining order, case 37-2017-00027388-CU-HR-SC

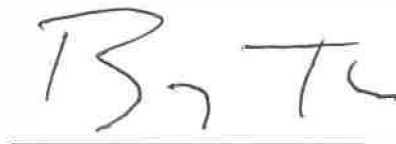
August 4, 2021

I, Benjamin Theule, hereby declare:

1. Between August 14, 2017 and February 20, 2018, I represented Benjamin Bathen for pretrial legal services, where he was accused of, and was eventually convicted of, sending criminal threats under Penal Code section 422 to his former psychologist, Dr. Carolyn Jacobs.
2. I also provided him with legal assistance in defending against Dr. Jacob's request for a civil harassment restraining order in case 37-2017-00027388-CU-HR-SC.
3. Mr. Bathen terminated the attorney-client relationship with me on February 5, 2018, after he informed me he would be hiring new counsel, Alicia Freeze, for trial. At that time, I forwarded Ms. Freeze a copy of Mr. Bathen's file, so that she could prepare for the upcoming jury trial.
4. I conducted the preliminary hearing in the criminal case and the restraining order hearing in the civil harassment case. However, I did not provide any legal services pertaining to his criminal jury trial. It is my understanding that he was convicted at that trial of several counts of Penal Code section 422 and he was sentenced to a two year prison term.
5. I did speak with Dr. Jacobs about to her application for a civil harassment order in case 37-2017-00027388-CU-HR-SC. The date of that interaction was August 15, 2017. At the time of that conversation, Mr. Bathen had been charged with violating Penal Code section 422 in case CS294342 and the case was open. I spoke to Dr. Jacobs in person at the Chula Vista courthouse while we were waiting for a hearing in the civil harassment case to commence. The objective of me speaking with Dr. Jacobs was to attempt to dissuade her interest in seeking the civil harassment order.

6. Mr. Bathen had provided me with a typed letter informing her that she had nothing to fear from him, he did not intend to threaten her and he was located on the east coast 2600 miles away from her. At the time, it seemed important to Mr. Bathen that I deliver this letter to Dr. Jacobs. However, given the fact that Mr. Bathen had an open felony case, where he was alleged to have made criminal threats against Dr. Jacobs, I decided it was not in Mr. Bathen's best interest to deliver this letter. I showed Dr. Jacobs a printed copy of the letter, and allowed her to read it but did not allow her to keep it.
7. During my investigation into the facts and circumstances of Mr. Bathen's criminal case, I learned by reviewing email correspondences that Dr. Jacobs was a California licensed psychologist who continued to treat Mr. Bathen remotely, while he was living in Massachusetts. Regardless of their training or job position, no person may use the title "Psychologist" in Massachusetts without being licensed by the Board of Registration of Psychologists. To do so is to hold oneself out as a Psychologist without a license, which is a violation of state law and subject to discipline.
8. Mr. Bathen allowed me to examine empty prescription bottles of the medication that Dr. Jacobs treated him with. Mr. Bathen may have referred to the names of these medications during our communications with each other at that time. At the second restraining order hearing I took the bottle of medication from him and went to the other side of the courthouse to discuss it with Dr. Jacobs. I allowed her to hold it and told her "Here this is what he took" she responded "That medication is fine! I have to protect my family."

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "B. Theule", written over a horizontal line.

Benjamin Theule

Attorney at law

Declarant