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Hoodwinked! Midnight hoist in the Texas House of Representatives

May 24, 2015

What happens when the rule of law increasingly bows to the whims and violations of unaccountable public officials? Lawlessness in every branch and a system of law that caters to the elite, not the people. Our system of law is slowly being eroded by those at the top levels of our government in every branch to such egregious degrees that the law is not law anymore. Form takes precedence over substance. The appearance of legitimacy is all we have in [guardianship](#) anymore—unless you're in a county without a “guardianship program.”

I have personally witnessed the stark contrast in crime and civil rights violations between counties that have “guardianship programs” and those who do not. In the former, it's utter lawlessness and the Judges are hardly even in control of the bench any longer. In the latter, people are still treated like people and their civil rights are respected.

What's the difference? Fort Bend County Judge Susan Lowry is a model Judge in guardianship, who follows the law and respects human rights because there's no “program” in place to exploit people for profit. Harris County might as well be Guantanamo Bay—the elderly and disabled are chattel with no civil rights, if that were possible. In every Texas County with a “guardianship program,” Texas is engaged in human trafficking and it's ugly. But it all starts in Austin.

We are witnessing the dismantling of our government. Texas was founded based upon principles of limited government and human rights, much like the United States. Our legal system was designed to serve the needs of all, but it's being gamed by the politically powerful and elite—in violation of their duties to the people. We have become slaves to the governing elite, who enact legislation and suspend rules of law with the stroke of a pen in favor of themselves, lawyers, and corporations. The human toll is unimaginable because people have become the currency.

We are not just oppressed by our government, but owned by the governing elite like slaves, who view us as commodities to serve them, as opposed to officials serving us. No where more poignant is the message than in the Texas Estates Code, a treatise on human trafficking—where people are property and corporations are people. The end result is that corporations have more rights—if that were possible.

Guardianship started as a necessary evil and now it's simply evil. It's a system of human trafficking where corporations are appointed as guardians, but given limited liability when it comes to accountability for theft and harm. Where the law imposes no accountability or responsibility, but promises to protect you, beware. This suggests the standard is penal—if there is any standard at all. It also warns you that exploitation is coming and the people will be holding the bag, as usual.

We are supposed to believe Guardianship is about protection of human lives as we debate bonds, attorneys' fees, ad litem fees, security for costs, safekeeping of an estate before someone is even in guardianship—and little else. We tolerate the REPTL Section of the Bar drafting legislation to line their pockets and Judges backing them up behind closed doors in violation of law and hardly even recognize when they are breaking the law anymore.

We pretend to have transparency where there is none. Where human rights are violated for profit, there can be no transparency. We look the other way when Judges appear hearing after hearing to testify in favor of Bills they had a hand in drafting and pretend to not know. We ignore separation of powers because it seems irrelevant until we realize a Judge is driving the Legislative process in Guardianship and runs a guardianship business alongside his Court. Lawmakers brush off violations of State and Federal Law—including treason, as inconsequential, too jaded to care anymore. It's frightening to contemplate what is really going on.

Ethics rules are a joke when the law is tossed aside as irrelevant by public officials seeking to profit off of human beings. But common sense is sufficient for even the most naive to understand that “WE ARE BEING HOODWINKED” by public officials with a duty to protect us.

Hoodwinked!

House Bill 1438 is the product of an entire summer of collaboration between Judge Guy Herman, Laura Unchurch and Craig Hopper with Representative Senfronia Thompson, yet they can't manage to get the “committee substitute” with 8 “controversial” bills stuffed inside to ram through the House of Representatives in the middle of the night until well after 1:00 a.m and witnesses have gone home.

Why wasn't the Bill ready for people to actually read, testify, and express outrage beforehand? Rep. Thompson insisted that nothing controversial was added to the Bill—omitting the 8 highly objectionable, unconstitutional Bills rolled into this veritable midnight hoist. The Bill passed in little more than 24 hours with a third reading. Why the rush? All very good questions.

Witnesses waited patiently—over ten hours to testify until after 1:00 a.m. and doubted if this Bill was ever actually going to be called because it was the last one of 40 that day—certainly no coincidence. With the number of witnesses left by the time the its proponents were apparently summoned by private invitation—Judge Guy Herman, Craig Hopper, and Laura Unchurch, between 12:30 and 1:00 a.m., few witnesses remained to oppose it. Michael Easton was one such witnesses who would have demonstrated that H.B. 1438 is anything but “uncontroversial.”

House Bill 1438 is the end result of rogue public officials who refuse to take “NO” for an answer—from the

people. It legislates theft from the elderly and disabled—who cannot object to the eminent domain. H.B. 1438 was the product a “bait and switch” that literally occurred in the middle of the night and smacks of impropriety and ethics code violations—undoubtedly the reason it had to be shoved down Texas’ throat. The resulting “Bill” is so grossly illegal, it is surreal that it is being treated as legitimate—on its way to the Senate for consideration.

House Bill 1438 declares War on the Constitution—treason—purporting to nullify inalienable rights at the very heart of our Constitution without due process of law. It purports to legislatively remove civil liberties and taking of property without due process of law, while violating Article I of the Texas Constitution, which prohibits charging for access to the Courts.

The war against the elderly and disabled just got worse, if that were possible, as I contemplate Habeas Corpus to rescue a hostage of Texas’ guardianship laws because I know probate court is a losing venue before I ever file. Our elderly and disabled have less rights than terrorists at Guantanamo Bay because they are apparently no longer considered citizens under this void Code of human trafficking.

Rep. Senfronia Thompson told the committee that the committee substitute was not yet available and only rolled in “a couple” of “non-controversial” bills—knowing this was untrue—to get the Bill passed. What was not revealed were the eight prior bad bills that were “rolled in” this unconstitutional Bill on its way to the Senate. Hookwinked in the Texas House!

The highly controversial, objectionable Bills rolled into 1438 include:

House Bill 2858 (H.B. 3669 83rd Leg.): purporting to run around the Supreme Court’s authority on recusal and place all power in the hands of Judge Guy Herman on who will serve as probate judge in Texas. This did not pass last session with Elliot Naishtat pushing so proponents decided to make it pass by suspending the rules and deceiving the public.

House Bill 1333 (H.B. 2303 83rd Leg.) did not pass the first time and was not presented for public testimony this session because advocates were howling in opposition to this illegal Bill. H.B. 1333 purports to give Court court investigators, with no credentials aside from knowing the Judge, carte blanche over your federally protected banking information in violation of the Right to Financial Privacy Act of 1978. It purports to permit spying to see how much money you have—so the Court can decide if you need “protection.”

HB 2733, HB 2829, HB 2858 Senfronia Thompson’s bills- and; HB 1333, HB 1921, HB 3137, HB, 3645, and HB 4058 by Rep. Naishtat. Naishtat has written or sponsored two dozen or so of Guy Herman’s Bills-at which time Herman testifies to support the Bill. Herman is a fixture in the Legislature, as opposed to a resource witness, which should have people up in arms about the conflicts of interest and violations of the Texas Constitution on separation of powers. Herman is a Judge, but looks like a lobbyist.

HB 2829 – Mandatory security for costs, no public hearing.

HB 2733 – Compensation in guardianship proceedings shall come through management trusts.

Reimbursement of costs in guardianship against ward. Management trusts are created to fund lawyers while the elderly and disabled are put on Medicaid. Elderly are put in Medicaid nursing homes while the lawyers are guardians appointed by the courts spend the money from their trusts at \$400 per hour.

If any of this were legal, it would mean that you can no longer complain or get help without paying a bond for security for costs. Texas has already removed Adult Protective Services and DADS’ jurisdiction to

intervene, such that wards are only protected by the probate judge financially benefitting off of their incapacitation. Thank God, Habeas Corpus is free as a remedy to free your loved ones from being unlawfully detailed by the State of Texas.

Aside from the illegality for violating federal law and the Constitution, this Bill bypasses the Finance Committee in an attempt to amend the Finance Code surreptitiously with terms that would never get out of committee if the law were followed. H.B. 1333 (was H.B. 2303 by Eddie Rodriguez of Travis County and died in committee last year and revived at the prompting of Judge Guy Herman). Advocates verified during the 83rd Legislative Session that Judge Guy Herman brought the Bill.

Craig Hopper called H.B. 1438 “innocuous,” stating it promotes the “best interest”, but he did not say whose best interest. This Bill exploits the elderly and disabled, leaving only the lawyers to benefit—as usual. The Bill mandates *safekeeping* of assets without even so much as probable cause for guardianship or notification-at which time the Court begins paying lawyers and the tab starts, whether you end up “incapacitated” or not.

This Bill is more of the same—more layers of protection for the guardian, attorneys, courts, and guardianship programs. It is not remotely about protecting the ward because YOU CANNOT PROTECT WHEN THE GOAL IS TO EXPLOIT. Hopper then gets to the point—it reduces costs and hassle for lawyers by lowering their bonds. Aha! Now, when the guardian hurts you or steals your estate, the bond will be insufficient to cover their liability. How does removing responsibility and accountability for harm protect anyone?

The Bill is an attempt to legislate theft with no liability—a common theme for the proponents of these Bills, who have financial interests in them being enacted. It is shameful that proponents realize guardianship involves significant liability for harm and then remove all accountability intentionally for the harm caused. Contrary to Rep. Thompson’s statements, the Bills rolled into this bad bill are highly objectionable, controversial and unconstitutional.

Were it not so, the Bills would simply have been presented for public testimony as the law requires—or they would have passed last session instead of failed. Public testimony is not optional, but a legal requirement—even if it is a mere formality because the decision has already been made in violation of the Texas Open Meetings Act. By Judge Herman’s own statements, there are ethics code violations, but are those “small potatoes” too?

There’s a reason why these “Bills” are being stuffed in a midnight Bill with no public testimony—they know the Bill would never pass if people actually got to read it, testify and vote—as the law requires. Our elected officials apparently believe that they can make the law suit their own needs, suspend the rules, and that the simple stroke of a pen renders it legal because they do not understand the penal code and higher law.

This is treason to the Constitution resulting in crimes against the people by the government “under color of State law.” 18 U.S.C. 241, 242. When public officials step outside of the bounds of the law, they cease to represent the government and are personally liable. Do they know this? At the end of the day, the ends justifies the means,? Is that the message? Then what are the ends? A cursory review of these Bills reveals the answer to that question. The goal is making money off of people the State is charged with protecting and limiting liability for the harm done and it’s illegal.

Public integrity should not have a price tag, but it does. The Federal Bureau of Investigation (FBI) won’t investigate organized crime unless the dollar amount is over \$400,000. Local officials will turn you away, saying it’s a civil matter. Where is the accountability for breaking the law?

In response to questioning on Judge Guy Herman's decision to "have his cake and eat it too", taking a six month sabbatical instead of retiring to get retirement benefits—he said it was "small potatoes." Whether or not violating federal and state laws to fraudulently obtain a government pension is "small potatoes" is all relative, I suppose? But, for a public official, how is any penal code violation "small"?

Have we become so jaded that we allow our public officials to commit crimes and look the other because it's "small potatoes?" At what point does it become relevant? What does Judge Herman know that we do not? I do not consider these infractions small potatoes because the end result is lawlessness. We are already there in probate court throughout the State, where secret deals, games, and crimes are occurring daily throughout Texas and it's business as usual. We are half way down the slippery slope.

Lawyers with an ounce of integrity left need to lead the way so everyone can cut through the legalese and red tape. Lawyers know that federal and State laws are being violated. They need to care. They know how to draft legislation, which is why the current legislation is so frightening because it shows premeditation. They have contacts and resources. It's only a matter of more of them utilizing these powerful tools.

Being a lawyer is about much more than billable hours and being a leader is about leading. If our public officials are not interested in leading, they should step aside because the job doesn't call for serving yourself. If you think you can build your empire off the backs of the less fortunate, consider how well this idea turned out for those before you: King Henry XVI, Marie Antoinette, Adolf Hitler, Joseph Stalin?

A lawyer's duties extend to the vital needs of the public interest and the justice system—whether they accept that responsibility or not. Lawyers are deemed "officers of the court." They can and should be GUARDIANS OF JUSTICE. I've have long understood that I am in law enforcement by virtue of those entrusted with this duty not enforcing the law.

People do not care about other people. Public Officials do not care about the public. Ron Paul coined the term "non representing representatives" which identifies the problem to a tee. Where are our representatives? Is the system only functioning to benefit the politically elite? Lawyers do not simply have a license to practice law, but a responsibility to honor the Constitutional and rule of law. Judges police the court system and should be a model for "upholding the law and Constitution," not violating it. Leaders are not given the privilege to break the law without consequence and should not be taking it.

We are inches from complete and utter lawlessness in a system that is so corrupt and broken, it's surreal. Will our response be complacency still? As you slumber, lawmakers are busy writing laws to take away your rights—your freedom and liberty without due process of law. We need a few good men and women to call this what it is—OFFICIAL OPPRESSION. Tex. Pen. Code 39.10.

Attribution:

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<http://www.examiner.com/article/hoodwinked-midnight-hoist-the-texas-house-of-representations>



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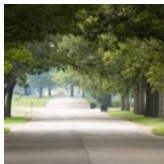
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