

AFFIDAVIT

Susan Ashline, being duly sworn, hereby deposes and says:

1. I make this affidavit in support of a petition by Jon Fontaine in which he seeks removal of a parole release condition prohibiting him from having contact with me without the permission of his parole officer.
2. I believe this no-contact condition is improper, unreasonable, and violates my constitutional rights.
3. I am a veteran journalist with more than 25 years experience in radio and TV and have won numerous awards including an Emmy nomination. I have worked as an investigative reporter, Gannett newspaper columnist and magazine editor, website manager, public relations consultant, and more.
4. I have written a book about Jon Fontaine.
5. In 2011, I met Fontaine and dated him briefly, before he was charged with the crime of recent conviction; a crime which occurred one year before I met him.
6. In 2012, upon conviction of attempted burglary, Fontaine was sentenced to five years in prison, plus five years post release supervision. Fontaine and I remained in contact.
7. In 2013, Fontaine attempted suicide while in prison. Following his suicide attempt, he was transferred to Mid-State Correctional Facility.
8. Shortly after Fontaine's suicide attempt, I elected to put myself on Fontaine's negative correspondence list so that I could attend to personal matters.
9. In 2014, I contacted Mid-State staff and authorized them to remove my name from his negative correspondence list. Fontaine and I resumed communication.

10. In 2015, Fontaine’s lawyer filed state and federal lawsuits against personnel at Groveland and Mid-State correctional facilities alleging gross negligence involving the incidents leading up to and following Fontaine’s suicide attempt.
11. In 2014, I began writing a book depicting the incidents leading up to Fontaine’s suicide attempt. *A Jacket off the Gorge* is part true crime, part memoir. It is about Fontaine’s past crimes and the time period when our lives intersected. It is critical of the penal system. *A Jacket off the Gorge* is represented by a literary agent and is currently on submission to publishers. [see <http://ajacketoffthegorge.com>]
12. I first made prison staff aware of my book in February 2015. Per NYS DOCCS *Rules and Regulations* [section 51.15 Media Interviews], I mailed, to the Office of Public Information in Albany, a written request to interview Fontaine in Mid-State prison. My request included a summary of the contents of my book. On February 23, 2015, Public Information Officer Taylor Vogt emailed confirmation she’d received my request and asked a follow-up question. Per section 51.15 (e), Vogt was required to notify the Mid-State superintendent of my request (“The nature of the requested interview will be made known to the superintendent.”) and the superintendent is to decide if the interview will be allowed. Vogt sent an email 3 hrs. 24 mn. later stating my request was denied.
13. In 2016, I began promoting my book, which included a lengthy interview on a popular morning radio talk show in Utica, New York, the area where Mid-State prison is located.
14. Publishers acquire books based on an author’s platform and ability to market her own work. Securing a publisher is largely based on how much public attention an author can draw to her book. To that end, Fontaine and I began promoting *A Jacket off the Gorge* while he was housed in Mid-State prison. At my request, Fontaine would write and mail

me stories from his perspective, and I would publish them on my website, AJacketOffTheGorge.com. Among these were expose type stories about NYS Department of Corrections and Community Supervision (DOCCS) staff, and questionable prison procedures and conditions. My website tracker showed someone shared these stories in DOCCS employee online forums, and the stories received thousands of views from across New York and the USA. Many DOCCS employees posted angry comments.

15. Fontaine agreed to help promote *A Jacket off the Gorge* when he was released from prison, in my effort to secure a publisher.
16. The parole release condition prohibiting Fontaine from contact with me is having a significant detrimental effect on my career and ability to earn a living.
17. It is important that I be in contact with Fontaine so we can continue to collaborate on promoting *A Jacket Off the Gorge* so that I may obtain a publishing deal.
18. On November 15, 2016, Fontaine told me he'd met with his Mid-State counselor, Lawrence Zick, who went over his parole release conditions. Fontaine told me the names of the people Zick told him he would not be allowed to communicate with, without the permission of his parole officer. I was not among those named.
19. On November 17, 2016, Fontaine called to tell me he received a hard copy of his parole release conditions and that my name had been added to the list of those of with whom he would not be allowed to "communicate." Fontaine sent me a copy of his parole release conditions. My name was on the list.
20. When I learned my name was on this document barring me from communicating with an individual, I sought to have my name removed under the grounds that "communication"

is interactive, thus the restriction on Fontaine amounted to a restriction on me, and as such, is a violation of my constitutional rights.

21. On November 22, 2016, I called the New York State Parole Board inquiring why my name was on the list. The woman who answered the phone told me the computer indicated there was “no reason given.” She stated Fontaine’s was “a paper case” (i.e., he did not appear before the parole board) and that the board approved the facility’s recommendations.
22. On November 23, 2016, I called Mid-State prison and spoke with “Counselor Picente” inquiring why my name was on this list. Picente stated he’d looked up Fontaine’s information in the computer and that he could find no reason. He transferred my call to his supervisor, SORC Ronald Meier. I knew Meier because, before his promotion to supervisor, he was Fontaine’s counselor, and I had spoken with him in the past.
23. On November 23, 2016, Meier stated he did not personally know any reason why my name appeared on the list and stated he could find no documents to suggest a reason.
24. On November 30, 2016, I emailed Meier and informed him that his name was printed at the bottom of Fontaine’s parole release conditions document. I stated I wanted my name removed. Meier did not reply.
25. On December 9, 2016, I made a follow-up call to Meier regarding my request to remove my name. Meier insisted I not email him “at the facility,” and repeated several times that he would not communicate with me in writing; only over the phone. I told him I preferred to have my contacts with prison staff regarding this matter documented in writing. Meier stated he was not authorized to remove my name.

26. On December 9, 2016, I called Meier's supervisor, Anne Joslyn, Deputy Superintendent for Programs, and left a detailed message requesting to know the reason my name was on the list, and requesting removal of it. She did not return my call.
27. On December 9, 2016, I called Mid-State Superintendent Matthew Thoms and left a message requesting to know the reason my name was on the list, and requesting removal of it. He did not return my call.
28. On December 9, 2016, I phoned DOCCS attorney Kevin Kortright and requested to know the reason my name was on the list, and requested removal of it. He stated he could find no information as to why my name was on the list, and stated Mid-State staff (Meier, Joslyn, et.al) would be the ones authorized to remove it.
29. On December 10, 2016, I emailed Joslyn and Thoms and mailed hard copies of the emails, requesting to know the reason my name was on the list, and requesting removal of it.
30. On December 15, 2016, I received a letter reply from Joslyn with sentences that, as worded, did not make sense, did not address and were not relevant to my request.
31. On December 19, 2016, I spoke with Investigator Scott Apple with the DOCCS Office of Special Investigations and requested to know the reason my name was on the document, and requested that it be removed. He opened an investigation. Keila Bowens was assigned to my case.
32. Investigator Bowens eventually called me and stated a former counselor at Mid-State prison named Lisa Hoy had allegedly put my name on the "no communication" list. Bowens stated Hoy alleged I had called her and told her I was afraid of Fontaine. Bowens stated Hoy was no longer employed at the prison.

33. I do not know, have never met, and to the best of my knowledge have never spoken with Lisa Hoy. On information and belief, Hoy was never Fontaine's assigned counselor while he was in prison.
34. I have never called Lisa Hoy and have never told Lisa Hoy that I am afraid of Fontaine. I am not afraid of Fontaine.
35. I can think of no instance that would compel me to call an unknown worker at a correctional facility to talk about my feelings.
36. Investigator Bowens told me Lisa Hoy added my name to the "no communication" condition in November 2015 (after I had notified Mid-State prison of my book revolving around Fontaine's lawsuits against their staff, and during a time when Fontaine and I were in regular and unhampered contact via letters, phone calls, and visits).
37. Bowens stated she could not remove my name, and that I would have to write a letter to the NYS Parole Board to get my name removed.
38. On January 26, 2017, I wrote the parole board and provided my consent for Fontaine to remain in communication with me indefinitely. I requested they remove my name from his no-contact list and sent copies of my correspondence with every DOCCS employee I'd contacted. No one from the parole board replied.
39. After repeated calls to the parole board, I received a letter on March 9, 2016, from Executive Assistant Lorraine Morse, which stated, "There is no indication that Mr. Fontaine wishes to have your name removed. If he wishes to, he must submit in writing to the Guidance Office – SORC Meier – Mid-State CF his request to have it removed... Upon Mr. Fontaine's release, if he has yet to request your name be removed, he may

request it through his Parole Officer and it will totally be at their discretion. I hope this information is of assistance to you and can settle the matter.”

40. Fontaine and I remained in contact with each other until September 27, 2017, the day before he was released from prison to serve his period of post release supervision. Despite my attempts to contact him, I have not heard from him since his release from prison. I later learned my name still appears on the no-contact restriction on Fontaine’s parole release conditions.
41. I am over the age of 18. I have no cognitive, mental or developmental impairments that would render me incapable of making my own decisions regarding with whom I wish, or do not wish, to communicate.
42. I know of no legitimate reason for the parole release condition that prohibits Fontaine from having contact with me without the permission of his parole officer, and I therefore call for removal of the condition in the interest of preserving my constitutional rights, and so that Fontaine and I can have contact with each other.

Dated: _____

Susan Ashline

Sworn to before me this

_____ day of _____, 2017

Notary Public