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AT 10:35 O'CLOCK A M
 JAN - 5 2001
 PAMELA J. BARTON, Trial Court Clerk
 BY M. Sullivan

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MALHEUR

DUANE LEON KOENNECKE,

Petitioner,

v.

ROBERT LAMPERT,
 Superintendent, Snake River
 Correctional Institution,

Respondent.

Case No. 0004195M

MOTION FOR A
 FOR CHANGE OF VENUE

Pursuant to ORS 14.110(1)(c), Petitioner Duane Leon Koennecke, by and through his attorneys, Ransom Blackman LLP, Marc D. Blackman, and Kendra M. Matthews hereby moves this court for a change of venue from the Malheur County Circuit Court to Marion County Circuit Court.

ORS 14.110(1) provides that a party's motion for a change of venue may be granted when it appears from the affidavit in support of the motion that the motion is not made for the purpose of delay and "(c) [t]hat the convenience of witnesses and the parties would be promoted by such change." That change of venue statute applies to post-conviction cases.

Moev 1/9/01

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1 *Phelps v. State*, 136 Or. App. 363, 367, 901 P. 2d 965 (1995) ("The language of ORS
2 138.560(4) is not exclusive, and neither the text nor context suggests that, by providing for
3 a transfer from the county of imprisonment, the legislature intended to limit the court's
4 authority to otherwise order a change of venue.").

5 As stated in the attached, and hereby incorporated Affidavit of Marc D. Blackman,
6 this motion for a change in venue is not submitted for the purposes of delay. Instead, it is
7 submitted because the change in venue will serve the interest of fairness and for the greater
8 convenience of the parties. Petitioner's counsel believes it to be critically important to his
9 representation of his client that he be physically present in the courtroom when the case is
10 heard. It would be substantially more convenient for Petitioner's counsel to appear in
11 person in Marion County than in Malheur County. Additionally, Respondent's counsel is
12 located in Marion County. Moreover, Petitioner believes that it would be more convenient
13 for witnesses, if any are called, to appear in Marion County.

14 On January 3, 2001, counsel for Petitioner spoke to counsel for Respondent,
15 Assistant Attorney General W. Douglas Marshall. Mr. Marshall advised counsel for
16 Petitioner that Respondent had no objection to Petitioner's motion to change venue from
17 Malheur County, Oregon to Marion County, Oregon.

18 Dated this 3rd day of January, 2001.

19 Denied. So Ordered.

20 1/8/01 Patricia Sulla

Respectfully submitted,

RANSOM BLACKMAN LLP

MARC D. BLACKMAN, OSB #73033
Of Attorneys for Petitioner
Duane Leon Koennecke

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22
23

FILED AT 2:10 O'CLOCK P M
JAN - 9 2001
PAMELA J. BARTON, Trial Court Clerk
BY G. Kuyper

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1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF CLACKAMAS

3 Family Law Department

4 In the Matter of the Marriage of:)

5 ROBERT E. SMITH,)

6 Petitioner,)

7 and)

8 JANE A. SMITH,)

9 Respondent.)
10 _____)

Case No. 11223344

PETITIONER'S EX PARTE
MOTION FOR EMERGENCY
TEMPORARY CUSTODY &
VISITATION

11 COMES NOW PETITIONER, ROBERT SMITH, by and through his attorney, William

12 Wallace of his attorneys, Stahancyk, Gearing, Rackner & Kent, P.C., and pursuant to ORS

13 §109.094, §109.175, and §107.095, and respectfully moves the Court to order the following:

14 1. That Petitioner be awarded emergency temporary custody of the parties' minor
15 children, Robert Elliot Smith, Jr., born September 2, 1990 and Barbara Jean, born December 8,
16 1992; and

17 2. That Respondent be awarded supervised visitation with the minor children, with
18 _____, being appointed as supervisor.

19
20 RESPECTFULLY SUBMITTED this _____ day of August, 2000.

21 STAHANCYK, GEARING,
22 RACKNER & KENT, P.C.

23
24 _____
25 William Wallace, OSB #90909
26 Of Attorneys for Petitioner

Page

1 - PETITIONER'S MOTION FOR EMERGENCY TEMPORARY CUSTODY

STAHANCYK, GEARING & RACKNER, P.C.
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PORTLAND, OR 97205-3304
TELEPHONE: (503) 222-9115
FAX: (503) 222-4037

Part B

ATTORNEY'S ROLE/ CLIENT COUNSELING

Laura E. Rackner

I. CONFIDENTIALITY

A. Confidentiality is one of the most important things to remember when dealing with a client or opposing counsel.

B. Statutory Confidentiality Rules Apply to Subject Matter and Content, but Not the Mere Fact of Representation.

1. "[T]he privilege applies only to the communication itself and not to the *fact* that a client has consulted an attorney." *State v. Bilton*, 36 Or App 513,516, 585 P.2d 50 (1978).

2. This point is brought home when a person calls to make an appointment and is told their spouse has already seen an attorney in the office or is a conflict.

C. Relevant confidentiality rules to remember (other states have similar provisions):

1. Oregon Evidence Code Rule 503. Lawyer-Client Privilege [ORS §40.225].

2. Code of Professional Responsibility Disciplinary Rule 4-101. Preservation of Confidences and Secrets of a Client.

II. ZEALOUS REPRESENTATION

A. What is Meant by "Zealous Representation?"

1. Skill and care, good faith, vigilance.

2. "Unswerving loyalty" to the client. *In re Hockett*, 303 Or. 150, 155, 734 P.2d 877 (1987).

3. Webster's Dictionary – enthusiastic, diligent devotion in pursuit of a case, ideal, or goal.

B. Code of Professional Responsibility Disciplinary Rule 7-101. Representing a Client Zealously.

C. Lawyers must take steps to protect themselves from malpractice

1. "Papering the file."

a. Document the client's objectives.

b. Document all communications with the client and opposing counsel.