

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

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IN RE JOSETTE MARIE-LOUISE
CLAIRE ROCHAT

No. 09-MC-9226

OPINION AND ORDER

MOSMAN, J.,

This matter comes before the Court on Plaintiff Josette Rochat's Petition for Writ of Mandamus. Ms. Rochat's petition focuses on a ten-year custody battle with her son's father, Kevin Marsh. Ms. Rochat's chief complaint is that, in 1998, Mr. Marsh and a state circuit court in Washington County conspired to deprive her of custody of her son through an ex parte proceeding. She alleges that the court lacked jurisdiction to issue the temporary protective order that deprived her of custody and that the order violated due process. According to Ms. Rochat's petition, her son was eventually returned to her when a judge reconsidered the temporary protective order and found that it was entered in error.

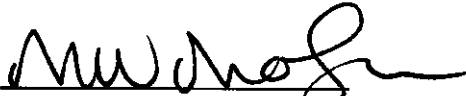
Ms. Rochat also submitted evidence of an April 2009 email exchange with a man named Kurt Tarkalson, who appears to be a law enforcement officer in Washington County. In his email, Mr. Tarkalson expresses concern that Ms. Rochat may have encouraged her son to file a false police report alleging that his father sexually abused him. Mr. Tarkalson indicated that he

intended to turn the case over to the Washington County District Attorney's Office.

It appears that Ms. Rochat seeks a writ of mandamus declaring the decisions in her custody case void for fraud or lack of jurisdiction and prohibiting the state court from exercising jurisdiction over future criminal or custody matters. This Court lacks jurisdiction to compel a state court to act or refrain from acting in a certain way, at least where mandamus is not necessary to aid the Court's exercise of jurisdiction. *See Demos v. U.S. Dist. Court for the E. Dist. of Wash.*, 925 F.2d 1160, 1161 (9th Cir. 1991) (citing 28 U.S.C. § 1651). Accordingly, I DENY plaintiff's Petition for a Writ of Mandamus.

IT IS SO ORDERED.

DATED this 20 day of October, 2009.


MICHAEL W. MOSMAN
United States District Court