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A Small Victory in a Long Grassroots Campaign: Kinney Family Files Appeal Bond As Negotiation Process Begins

[Portland, Ore.] It's been five months since Multnomah County Sheriffs and Portland Police Bureau raided the Afro-Indigenous Kinney family home and unlawfully arrested land defenders. And it's been eight months since Kinney family elders were violently evicted during the summer 2020 wildfires. Over the winter and spring, the family continues to recover from the trauma of these raids and strengthen their legal defense — while still receiving death threats by white supremacists and slander from media outlets.

On April 15th 2020, the Kinneys successfully filed an appeal bond to Multnomah County courts in the amount of \$30,000 in their fight for the Red House. An appeal bond (also termed a supersedeas undertaking under Oregon law) is a document that a losing party uses to stop a judgement against them by pledging a certain sum of money into the court record. That money is held by the court and given to whoever wins the appeal.

It's been a long, uphill battle to secure an appeal bond. The Kinneys filed their federal lawsuit on November 5, 2018 alleging various claims surrounding the predatory subprime lending practices prevalent during the early 2000 until the eventual U.S economic collapse of 2008. Two weeks later, the Ozerugas filed the inferior state eviction case. The inferior state case continued for several months parallel to the Kinneys' originally filed federal lawsuit, until the Kinneys filed a notice of removal in state Court in January 2019, which stripped the state of its jurisdiction, halting the state eviction case against the Kinneys.

The Kinneys' federal case was eventually dismissed in October 2019 where federal Judge Simon erroneously ruled against the Kinney's that Defendant MERS' involvement in the Kinney's chain of title was a "scrivener's error." That same week in October 2020, after the dismissal of the Kinney's federal case, Multnomah County re-ignited the eviction case against the Kinneys. In January 2020, the Kinneys filed a state counterclaim. After several months of litigation in state eviction court, Multnomah County Judge Matarazzo ruled in February 2020 that the Kinneys would not be allowed a jury trial because the federal judge had already dismissed the family's similar claims in federal court.

In April 2020, Judge Matarazzo entered a judgement against the Kinneys that awarded possession of the Red House to Roman Ozeruga with Urban Housing Development. Shortly thereafter, the family appealed the judgement by Matarazzo and attempted to place an appeal bond on the record to stop the judgement of foreclosure. In their appeal bond, the Kinneys promised to pay \$1000 per month for the duration of their appeal. In June 2020, after much debate on the requirements of the appeal bond, Judge Matarazzo required the family to pay \$1600 per month for the duration of their appeal in order to retain possession of their generational home. Matarazzo also required the family to pay an exorbitant additional \$10,000 dollars because Matarazzo said the family might destroy the Red House if they lost on appeal.

While the family appealed the terms of the appeal bond to the higher courts, and after their first eviction on September 8, 2020, the Kinneys appeared ex parte in front of Multnomah County Judge Peterson on September 25, 2020. At that hearing, Peterson denied the Kinneys their right to file an appeal bond in their state case. If the appeal bond had been honored back in September 2020, the judgement awarding possession to developer Roman Ozeruga of Urban Housing Development (UHD) would have been suspended until the Kinneys finished the appeals process. If an appeal bond had been honored originally, the Kinney family would have been spared from their two violent evictions.

Meanwhile, the family continues to meet regularly with the city while developing an effective legal defense. The family is also currently arranging mediation to begin communication with developer Roman Ozeruga. For reasonable negotiations to take place, trauma to the family and damages to the house at the hands of the courts, banks, and law enforcement need to be assessed and accounted for. Although talks with some involved parties have begun, big banks, Multnomah County courts, local law enforcement, and other parties liable for damage to the property have yet to come to the table.

The most recent appeal bond, which has allowed the family to legally retain their home, represents a small win in a long grassroots campaign. Defending themselves without traditional legal support, the family continues the fight against systemic gentrification for their generational home.

In past months, volunteers have joined the family to begin the process of returning the house to a livable condition, repairing and replacing the electricity, plumbing, and basic infrastructure destroyed by police in the December 2020 raid. Now that they're not at immediate risk of eviction, the family finally has a chance to regroup. While negotiation begins, the Kinneys and Red House community plan to repair the home and resume neighborhood events that will include free meals, educational workshops, and Indigenous ceremonies.

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