

FILED

IN THE COURT OF COMMON PLEAS
LAKE COUNTY, OHIO

2016 MAR -7 P 2:26

BRYAN REO)	CASE NO.: 16CS000102
Petitioner)	JUDGE VINCENT A. CULOTTA
MAUREEN G. KELLY LAKE CO. CLERK OF COURT)	MAGISTRATE ADRIENNE S. FOSTER
vs.)	
)	
MARTIN LINDSTEDT)	JUDGMENT ENTRY
Respondent)	<u>Adopting Magistrate's Findings</u>
)	<u>of Fact and Conclusions of Law</u>

Upon reviewing the Magistrate's March 3, 2016 findings of fact and conclusions of law, and finding no error of law or other defect on its face, the court hereby adopts it in its entirety.

This matter was referred to the Magistrate pursuant to Civ.R. 65.1 to address whether a request for a civil order of protection ought to be granted for the protection of Petitioner Bryan Reo against Respondent Martin Lindstedt.

A full hearing was conducted on February 25, 2016. The Petitioner testified as a witness. The Magistrate makes the following findings of fact and conclusions of law from their testimony, the exhibits admitted into evidence, and the applicable law.

The Respondent was not present for the hearing. He was served with notice of the Petitioner's petition, the ex parte order, and the hearing date through certified mail. The Respondent filed an Answer and Affidavit to Bryan Reo's Fraudulent, Harassing, and Perjurious claim of civil stalking on February 23, 2016. He also contacted the court the morning of the hearing to request to appear at the hearing telephonically, but did not request a continuance, and advised that he would not be traveling to attend the hearing. He was advised that he did not file a motion to appear telephonically, and that the hearing would go forward. Even if he had filed such motion, a full hearing cannot be attended by telephone due to the logistics of questioning witnesses, and exhibits to be admitted.

For an order of protection to be granted under the civil anti-stalking statute, a petitioner is required to prove, by a preponderance of the evidence, that the respondent has engaged in menacing by stalking. *Fortney v. Willhoite*, 11th Dist. No. 2011-L-120, 2012-Ohio-3024, 2012 WL 2522835, ¶42. R.C. 2903.211(A) defines menacing by stalking as, "[n]o person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person."

R.C. 2903.211(D)(1) specifically defines a "pattern of conduct" to mean, "two or more actions or incidents closely related in time...." Furthermore, R.C. 2903.211(D)(2) states that "mental distress" requires either a "temporary substantial incapacity" or a "...condition that would normally require psychiatric treatment, psychological treatment, or other mental health services...."

JOURNALIZED

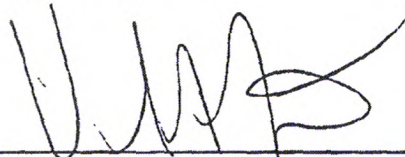
No pattern of conduct, or any other elements of R.C. 2903.211(A), need to be established when the petition is based upon an allegation of a sexually oriented offense. R.C. 2903.214(C)(1). In such cases, a petitioner must establish, by a preponderance of the evidence, that the respondent committed a "sexually oriented offense" as defined by R.C. 2950.01 against the person to be protected by the order. There is no evidence of a sexually oriented offense in this case. Consequently, the analysis shall proceed solely pursuant to R.C. 2903.211(A).

The parties are involved in a civil case in the Lake County Common Pleas Court, in which the matter seems to have escalated. The Petitioner submitted evidence that the Respondent is inciting others to cause bodily harm to the Petitioner via social media. There was also evidence of threats on social media that the Petitioner needs to die. The Magistrate reviewed Respondent's answer and affidavit and questioned the Petitioner regarding the document. Based on everything submitted to the court, by both parties, it is the Magistrate's opinion that there is a legitimate threat by the Respondent to the Petitioner.

WHEREFORE, it is ordered that a civil order of protection is hereby granted for the protection of the Petitioner Bryan Reo against the Respondent Martin Lindstedt through January 19, 2019 as set forth in the attached order.

It is further ordered that the clerk shall serve a copy of this entry upon the parties and counsel identified below consistent with Civ.R. 58(B). The clerk shall serve a copy of this entry upon all other interested parties in the manner as identified below.

IT IS SO ORDERED.



JUDGE VINCENT A. CULOTTA

Clerk of Court – Copies to:


Parties/Counsel:

Petitioner Bryan Reo
Respondent Martin Lindstedt

Other Interested Parties:

Lake County Sheriff's Department (by inter-office mail)

I CERTIFY THIS TO BE A TRUE COPY OF
THE RECORDS ON FILE IN THE LAKE
COUNTY CLERK OF COURTS OFFICE.



DEPUTY
MAUREEN G. KELLY, CLERK OF COURTS

NOTICE

Consistent with Civ.R. 65.1(F)(3)(d)(i)-(iv), within fourteen days of the filing of this entry, a party may file written objections. If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. The filing of an objection, however, shall not stay the execution of this entry. A party filing objections under this division has the burden of showing that an error of law or other defect is evident on the face of the order, or that the credible evidence of record is insufficient to support the granting or denial of the protection order, or that the magistrate abused his or her discretion in including or failing to include specific terms in the protection order. Objections based upon the evidence of record shall be supported by a transcript of all the evidence submitted to the magistrate. With leave of court, alternative technology or other manner of reviewing the relevant evidence may be considered. The objecting party shall file the transcript with the court within thirty days after filing objections unless the court extends the time in writing for preparation of the transcript or other good cause. If a party files timely objections prior to the date on which a transcript is prepared, the party may seek leave of court to supplement the objections.

Consistent with Civ.R. 65.1(G), an order entered by the court after a full hearing is a final, appealable order. However, the timely filing of an objection under division Civ.R. 65.1(F)(3)(d) shall stay and extend the running of the time to file an appeal until after the court has ruled upon the objections.

FORM 10.03-H: WARNING CONCERNING THE ATTACHED PROTECTION ORDER

NOTE: Rule 10.03 of the Rules of Superintendence for the Courts of Ohio requires this Warning to be attached to the **FRONT** of all protection orders issued pursuant to R.C. 2903.213 and 2903.214 by the courts of the State of Ohio. **TO BE USED WITH FORMS 10.03-B, 10.03-E, and 10.03-F.**

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HAIBREEN C. KELLY
CLERK OF COURT

WARNING TO RESPONDENT/ DEFENDANT

Violating the attached Protection Order is a crime, punishable by imprisonment or fine or both, and may cause your bond to be revoked or result in a contempt of court citation against you.

This Protection Order is enforceable in all 50 states, the District of Columbia, tribal lands, and U.S. Territories pursuant to the Violence Against Women Act, 18 U.S.C. 2265. Violating this Protection Order may subject you to federal charges and punishment.

Only the Court may change this Order. The Petitioner/Alleged Victim cannot give you legal permission to violate this order. If you go near the Petitioner or other protected persons, even with their permission, you may be arrested. **You act at your own risk if you disregard this WARNING.**

WARNING TO PETITIONER / ALLEGED VICTIM

You **cannot** change the terms of this Order by your words or actions. Only the Court may allow the Respondent/Defendant to contact you or return to your residence. This Order **cannot** be changed by either party without obtaining a written court order.

NOTICE ABOUT FIREARMS AND DEADLY WEAPONS

As a result of this Order, it may be unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, or ammunition, pursuant to federal law, 18 U.S.C. 922(g)(8). If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult a lawyer.

This Order may be subject to the exceptions pursuant to 18 U.S.C. 925(a)(1) with respect **only** to the official use of government-issued firearms or ammunition for the use of any department or agency of the United States, Ohio, or its political subdivision. This exception does not apply if the Defendant/Respondent has been convicted of an offense of violence, for example domestic violence, menacing by stalking, etc., against a family or household member.

NOTICE TO ALL LAW ENFORCEMENT AGENCIES AND OFFICERS

The attached Protection Order is enforceable in all jurisdictions. Violating this Protection Order, whether it is a criminal or civil protection order, is a crime under R.C. 2919.27. Law enforcement officers with powers to arrest under R.C. 2935.03 for violations of the Ohio Revised Code must enforce the terms of this Protection Order as required by R.C. 2919.27, 2903.213, and 2903.214. If you have reasonable grounds to believe that Respondent/Defendant has violated this Protection Order, it is the preferred course of action in Ohio under R.C. 2935.03 to arrest and detain Respondent/ Defendant until a warrant may be obtained. Federal and state laws prohibit charging a fee for service of this order.

IN THE COURT OF COMMON PLEAS

Lake COUNTY, OHIO

FILED

2016 MAR -7 P 2:20
MAUREEN B. KELLY
LAKE COUNTY CLERK OF COURT

Order of Protection

Case No. 16CS102

Per R.C. 2903.214(F)(3), this Order is indexed at

Judge Vincent A. Culotta

State OHIO

LAW ENFORCEMENT AGENCY WHERE INDEXED

()

PHONE NUMBER

CIVIL STALKING PROTECTION ORDER FULL HEARING (R.C. 2903.214)

CIVIL SEXUALLY ORIENTED OFFENSE PROTECTION ORDER FULL HEARING (R.C. 2903.214)

PETITIONER:

Bryan Reo
First Middle Last

v.

PERSON(S) PROTECTED BY THIS ORDER:

Petitioner Bryan Reo DOB: 8/22/1986

Petitioner's Family or Household Members:

Additional forms attached

DOB: _____

DOB: _____

DOB: _____

DOB: _____

RESPONDENT:

Martin Lindstedt
First Middle Last

RESPONDENT IDENTIFIERS

SEX	RACE	HT	WT
M	White	5'10	250
EYES	HAIR	DATE OF BIRTH	
Blue	Brown	12/25 1957	
DRIVER'S LIC. NO.	EXP. DATE	STATE	

Relationship to Petitioner: _____

Address where Respondent can be found:

338 Rabbit Track Road

Granby, Missouri 64844

Distinguishing features: Half beard, long hair

WARNING TO LAW ENFORCEMENT: RESPONDENT HAS FIREARMS ACCESS - PROCEED WITH CAUTION

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and the Respondent was provided with reasonable notice and opportunity to be heard within the time required by Ohio law. Additional findings of this Order are set forth below.

THE COURT HEREBY ORDERS:

That the above named Respondent be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. Additional terms of this Order are set forth below.

The terms of this Order shall be effective until 1 / 19 / 2019 (DATE CERTAIN - 5 YEARS MAXIMUM)

WARNING TO RESPONDENT: See the warning page attached to the front of this Order.

This proceeding came on for a hearing on 2 / 25 / 2016 before the Court and the Civil Stalking Protection Order Ex Parte or Civil Sexually Oriented Offense Protection Order Ex Parte filed on 1 / 19 / 2016, all in accordance with R.C. 2903.214. The following individuals were present: the petitioner

The Court hereby makes the following findings of fact:

- The Court finds by a preponderance of the evidence that 1) the Respondent has knowingly engaged in a pattern of conduct that caused Petitioner to believe that the Respondent will cause physical harm or cause or has caused mental distress; and 2) the following orders are equitable, fair, and necessary to protect the persons named in this Order from stalking offenses.
- The Court finds by a preponderance of the evidence that 1) the Petitioner or Petitioner's family or household members are in danger of or have been a victim of a sexually oriented offense as defined in R.C. 2950.01, committed by Respondent; and 2) the following orders are equitable, fair, and necessary to protect the persons named in this Order from sexually oriented offenses.
- The Court finds by clear and convincing evidence that 1) the Petitioner or Petitioner's family or household members reasonably believed the Respondent's conduct before the filing of the Petition endangered the health, welfare, or safety of the Petitioner or Petitioner's family or household members; 2) the Respondent presents a continuing danger to the Petitioner or Petitioner's family or household members; and 3) the following orders are equitable, fair, and necessary to protect the persons experiencing a continuing danger to the Petitioner or Petitioner's family or household members named in this Order.

RESPONDENT SHALL NOT ABUSE harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

- 1. RESPONDENT SHALL NOT ENTER** the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person.** [NCIC 04]
- 2. RESPONDENT SHALL NOT INTERFERE** with the protected persons' right to occupy the residence including, but not limited to canceling utilities or insurance or interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]

3. **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the following residence:

at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows:

4. **RESPONDENT SHALL STAY AWAY FROM PETITIONER** and all other protected persons named in this Order, and not be present within 500 feet or _____ (distance) of any protected persons wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with the protected persons' permission**. If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04] *Subject to §9 to*

5. **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.

6. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order or their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, landline, cordless, cellular or digital telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social networking media; blogging; writings; electronic communications; or communications by any other means directly or through another person. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 05]

7. **RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON** to do any act prohibited by this Order.

8. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON** at any time while this Order remains in effect, unless Respondent is excepted for official use pursuant to 18 U.S.C. 925(a)(1). [NCIC 07]

RESPONDENT SHALL TURN OVER ALL DEADLY WEAPONS AND CONCEAL CARRY WEAPON LICENSE in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows:

Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]

Upon the expiration of this Order, any deadly weapons, including firearms and ammunition, held in protective custody by law enforcement pursuant to this Order shall be disposed of as unclaimed property pursuant to R.C. 2981.12 unless the Respondent files a motion for return with this Court within 30 days before the expiration of this Order.

9. IT IS FURTHER ORDERED: [NCIC 08]

Respondent may be in Petitioner's presence to attend any court proceeding involving both parties. Respondent may send court filings from court proceedings involving both parties, but only to the extent necessary to comply with Civil Rule 5. Any communication beyond service of documents filed with the court in cases between the parties is a criminal violation of this order.

10. RESPONDENT SHALL COMPLETE the following counseling program:

Respondent shall contact this program within _____ days after receiving this Order and immediately arrange for an initial appointment. The counseling program is requested to provide the Court a written notice when Respondent attends the initial appointment, if the Respondent fails to attend or is discharged, and when Respondent completes the program. Respondent is required to sign all necessary waivers to allow the Court to receive information from the counseling program.

Respondent is ordered to appear before Judge or Magistrate _____ on _____ / _____ / _____ at _____ a.m. p.m. to review Respondent's compliance with this counseling order. Respondent is warned: If you fail to attend the counseling program you may be held in contempt of court. If you fail to appear at this hearing, the Court may issue a warrant for your arrest.

11. RESPONDENT SHALL NOT USE OR POSSESS alcohol or illegal drugs.

12. RESPONDENT SHALL BE SUBJECT TO ELECTRONIC MONITORING. The Respondent is ordered to report to _____ for placement of a global positioning system for the purpose of electronic monitoring for the duration of this Order or until _____ / _____ / _____ whichever expires first. The Court further imposes the following terms and conditions:

13. IT IS FURTHER ORDERED that the Clerk of Court shall cause a copy of this Order to be delivered to the Respondent as required by Civ.R. 65.1. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. No costs or fees shall be assessed against the Petitioner for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, or serving this Order.

14. ALL OF THE TERMS OF THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF FIVE YEARS FROM ISSUANCE, OR UNTIL 1 / 19 / 2019
Until this Order is served upon the Respondent pursuant to Civ.R. 65.1(C)(3), the terms of the Ex Parte CPO remain in effect.

15. IF THE FULL HEARING PROCEEDING WAS REFERRED TO A MAGISTRATE, the Court has reviewed the magistrate's granting of this Order and finds no error of law or other defect evident on the face of the Order. Accordingly, the Court adopts the magistrate's granting of this Order.

IT IS SO ORDERED.

[Signature]

[Signature]

MAGISTRATE

JUDGE

NOTICE TO RESPONDENT

THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

NOTICE OF FINAL APPEALABLE ORDER

Copies of the foregoing Order, which is a final appealable order, were served on the parties indicated pursuant to Civ.R. 65.1(C)(3):

By:

CLERK OF COURT

TO THE CLERK

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

- Petitioner
- Respondent
- Police Department Where Petitioner Resides:
- Police Department Where Petitioner Works:
- Sheriff's Office:
 - _____
 - _____
 - _____
- Other: _____

WAIVER

I, _____ understand that I have the right to a full hearing on the Petition for Civil Stalking Protection Order or Civil Sexually Oriented Offense Protection Order, and acknowledge each of the following:

1. I waive the right to have a full hearing on this Protection Order;
2. I waive the right to cross-examine witnesses and review evidence submitted in support of this Protection Order;
3. I waive the right to present witnesses and evidence on my own behalf;
4. I waive the right to request specific factual findings from the Court concerning the issuance of this Protection Order.

I understand that based on the waivers listed above, a Protection Order will be entered against me.

RESPONDENT

DATE