

FILED

IN THE COURT OF COMMON PLEAS
LAKE COUNTY, OHIO

2016 MAR -7 P 2:20

BRYAN REO

Petitioner

vs

MARTIN LINDSTEDT

Respondent

CASE NO.: 16CS000102

JUDGE VINCENT A. CULOTTA

MAGISTRATE ADRIENNE S. FOSTER

**Magistrate's Findings of Fact
and Conclusions of Law**

March 3, 2016

MAUREEN G. KELLY
LAKE CO. CLERK OF COURT

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