

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

GARRICK KRLICH,
Petitioner

) Case No. 2010-CV-1565

)

)

-vs-

) Magistrate Patrick F. McCarthy

)

MARK J. SILVIDI,
Respondent

) **TRANSCRIPT OF PROCEEDINGS**

) **MAGISTRATE'S DECISION ONLY**

Hearing on a Petition for a Stalking Civil Protection Order
held on December 21, 2010.

BEFORE: MAGISTRATE PATRICK F. MCCARTHY

AT: Trumbull Co. Court of Common Pleas
161 High Street, NW
Warren, Ohio 44481

APPEARANCES:

On behalf of the Petitioner:

Mr. Robert A. Henkin,
Attorney at Law

On behalf of the Respondent:

Mr. Jeffrey D. Adler,
Attorney at Law

1 (Whereupon, prior proceedings were not
2 requested to be transcribed.)

3 THE COURT: I'm ready to give you my
4 decision. In any civil stalking protection order case the
5 sole issue before me is to decide whether there's been
6 sufficient evidence provided to demonstrate that there's been
7 conduct by in this case, Mr. Silvidi, that would meet the
8 definition in Ohio of menacing by stalking. That is a person
9 engaging in a pattern of conduct in which they knowingly
10 caused another person to either believe the offender would
11 cause physical harm to the other person -- and there's no
12 evidence of that so that, that does not apply here -- or a
13 pattern of conduct in which the person knowingly caused
14 another mental distress.

15 I guess what I believe in this case is a
16 couple things. First of all, I certainly believe that
17 Mr. Krlich is convinced that Mr. Silvidi rode by his house on
18 numerous occasions intentionally beeping his horn as part of
19 this, this bizarre behavior that apparently takes place in
20 Hubbard of going by Mr. Krlich's residence and beeping horns.

21 I further believe that this has caused Mr.
22 Krlich, this whole, this whole conduct, not, not just the
23 specific conduct at issue in this case but this ongoing

1 behavior in Hubbard has caused him mental distress. He sought
2 counseling for it. He's, he's on medication partly, at least
3 partly as a result of it.

4 I also believe that it, I disbelieve
5 Mr. Silvidi's testimony that this is the only time that, the
6 time on August 19th was the only time he ever did it. I mean,
7 I watched those tapes. That's the same vehicle. It's your
8 car. You know, and there were at least three or four times
9 before then that, that it was your car and you're going by
10 there and you're beeping. It's, it's just the identical car.
11 I find that far too coincidental for it to be the only time
12 that it happened. Plus the time you went by on the 19th when
13 you acknowledged it was you, first of all, it was dark out. I
14 mean, maybe they're outside playing volleyball but you're
15 beeping, beeping, beeping. It's a very convenient excuse, and
16 I don't really buy it.

17 However, the question I have really that,
18 that I don't think is met here is whether there is what I, I
19 consider required to be proven that there's a present pattern
20 of conduct that's taking place. And what happened in this
21 case is that after it occurred and after the police took
22 action and after it went to court and you were warned, there
23 hasn't been anything since that point in time. And that was

1 way back in September of 2009. This petition wasn't filed
2 until June of 2010 and there hasn't been any activity since,
3 you know, long before that. There's testimony about some
4 incident in February that may have happened and -- but it was
5 very vague testimony. I didn't find it particularly
6 compelling.

7 Secondly, there's this incident in, in,
8 just a few days ago of alleged following. And I don't find, I
9 actually do find that that appears to have been sort of a
10 coincidental event. And I think while Mr. Krlich may believe
11 it was Mr. Silvidi following him I -- following him I, I don't
12 find that I'm convinced that that's exactly what was happening
13 on that occasion.

14 So I guess what I have here is, I think
15 there had been conduct before then of beeping the horn. I
16 don't know if it was 20 or 30 times or five or six times, but
17 I don't believe it was just once. I just don't buy that.
18 But, but I think it stopped. And I think he actually went and
19 he apologized. And I hope that was a sincere apology. It
20 does appear to have stopped since that point in time. And so
21 I don't believe there is or was at any point during the
22 pendency of this petition that a pattern of conduct in
23 existence. And any, any pattern of conduct that may have

1 previously existed ended some time in September of 2009 and
2 didn't continue up to any recent time. So for that specific
3 reason, I don't find that the standard has been met here for
4 menacing by stalking and I'm not going to recommend the
5 granting of the protection order in this particular case.

6 Having said all that, you know, I'm, I'm
7 going to sound like a broken record here. But I would hope
8 that any reasonable person that listened to what happened in
9 the courtroom today or on any other hearings here would figure
10 out that it's wrong what's happening in Hubbard. That whether
11 people think Mr. Krlich, what they think of him personally,
12 what kind of person they may think he is. Whether they think
13 he's overreacted to this it's, it's one of the strangest
14 most -- I mean, it's sick in a way what's happened. It, it,
15 it's like children, like a group of children that pick on
16 somebody in the neighborhood.

17 I mean when I was a little kid there was a
18 lady a couple blocks over and she was a little crazy and kids
19 used to ride by her house and throw eggs and do stuff like
20 that. At Halloween she got toilet papered. And this poor old
21 lady, you know, had to put up with that stuff. And that was
22 little kids doing that. This is, this is adults throughout
23 Hubbard. And I'm not just picking on you, Mr. Silvidi. It's

1 been a whole group of people doing this. And, and it's, it's
2 really, really warped. And it's caused Mr. Krlich, like I
3 said, regardless of what anybody may feel about him, it's
4 obviously caused him plenty of grief in his life. The kind of
5 grief that nobody deserves to have to put up with. The point
6 where he's, he's got this phenomenal security system here
7 where, where it's happened on so many occasions that, you
8 know, to sit -- and I mean, you testify to one point, well,
9 you know, somebody brought it on himself. Nobody does
10 anything that brings that kind of crud from an entire
11 community, or at least a large segment of people that
12 apparently know one another and have, have made it into this
13 big joke to do this. I mean, you know, it's the most
14 juvenile, ridiculous thing I've had come into my court in
15 awhile.

16 And, and if, you know, just common sense of
17 decency and some shame about any involvement you may have had
18 doesn't convince you not to ever do it again, then I'm wasting
19 my breath here. You know. Because I mean anybody that, that,
20 you know, is participating in that, shame on them.

21 To the extent that you stopped
22 participating in it and that you apologized for, for, for
23 whatever you, at least for the one incident that you

1 acknowledge having done, again, I hope that's sincere.

2 And I can assure you that would it come to
3 my attention that, that it's restarting, then, you know, then
4 a pattern may ultimately be reestablished here and I may be
5 stuck revisiting this issue. At this point though, I try and
6 be real specific on every case that comes into my court and
7 judge it on the evidence that I hear on the specific case that
8 I have. And in this specific case under this specific
9 evidence I don't find that there was a pattern of conduct, or
10 at least whatever pattern of conduct there was ended well
11 prior to the, the filing of this petition, so I can't find
12 that the standard for menacing by stalking has been met. So
13 it will be my recommendation not to issue the protection
14 order.

15 I'll put my decision into written form.
16 I'll mail it out to everybody. I think counsel is well aware
17 of the process for objecting to that decision. Everybody
18 still at the same address as here, East Liberty Street and
19 Princeton; correct?

20 And, you know, I don't want to belabor the
21 point any longer but for God's sake, you know, if it was me
22 sitting out there and, and I had seen this, not only would I
23 never -- I would go out of my way never to even remotely try

1 and do anything disruptive, I would encourage all those I know
2 who might be likely to engage in that conduct to cut it out
3 and to leave the gentleman alone. I mean whether you like
4 him, whether you don't, I guarantee you he's not going to
5 follow anybody he doesn't think is going to be doing anything.
6 That's, that's what I, I see from, from this. So I, I don't,
7 I don't know how, the notion becomes that is somehow deserved
8 because I don't buy into that one little bit.

9 So anyway, enough of my lecturing. I've
10 made me ruling. I'll put it into written form. I'll get it
11 out to everybody here. Are there any other questions at
12 this point, Attorney Henkin?

13 MR. HENKIN: No, Your Honor.

14 THE COURT: Attorney Adler?

15 MR. ADLER: No.

16 THE COURT: Thank you very much. We are in
17 recess.

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REPORTER'S CERTIFICATE

This is to certify the foregoing represents a true and correct partial transcript of the proceedings had in the aforementioned cause as reflected by the stenotype notes taken by me on the same.


Richelle J. Guerrieri
Official Court Reporter