

1 IN THE COURT OF COMMON PLEAS  
2 TRUMBULL COUNTY, OHIO

3 Garrick Krlich,  
4 Plaintiff

) Case No. 12-CV-2660  
)  
)

5 -vs-

) Magistrate Patrick F. McCarthy  
)

6 James Wynne,  
7 Defendant

) PARTIAL  
) TRANSCRIPT OF PROCEEDINGS

8 Hearing on request for civil protection order held Thursday,  
9 January 10, 2013

10 BEFORE: MAGISTRATE PATRICK F. McCARTHY

11 AT: Trumbull County Court of Common Pleas  
12 Courtroom Number 1  
13 161 High Street, NW  
Warren, Ohio 44481

14 APPEARANCES:

15 On behalf of the Plaintiff:

16 Mr. Robert Henkin  
17 Attorney at Law  
Youngstown, Ohio

18 On behalf of the Defendant:

19 Mr. James Wynne  
20 Pro Se

21  
22  
23 Official Court Reporter: Lori J. Rittwage

1 THURSDAY, JANUARY 10, 2013

2 ...

3 THE COURT: Okay. I do now have the case  
4 before me for decision. I'm going to give you my decision  
5 right now.

6 In any protection order case, it's a very simple case  
7 before me. Has there been conduct by the respondent,  
8 Mr. Wynne here, that would amount to what Ohio law defines as  
9 menacing by stalking? That being, as pertains to this case,  
10 there's no allegation of threats or things that would cause a  
11 person to believe physical harm would be caused, but has there  
12 been a pattern of conduct to cause a person mental distress?

13 In this case, I'll be frank. I find it to be a very  
14 close call. In commenting on the evidence, I guess what I  
15 wish to say is I did find Mr. Krlich's testimony to be  
16 credible as to what he saw happened.

17 And what I don't find to be credible, Mr. Wynne, is,  
18 you know, listen. I think some of your testimony may very  
19 well be credible as to, you know, beeping. It is certainly,  
20 there's that beep and a beep following right after on the one  
21 video, there were some people walking there, and I can imagine  
22 it being within the realm of possibility that there were a  
23 couple of occasions where somebody would beep at that location

1 and not be thinking and it would not be intended as a form of  
2 harassment.

3           What I find less credible is the notion that you  
4 haven't done anything directed towards Mr. Krlich over time.  
5 I just don't believe you. I think you're not being honest  
6 with me. I gave you the opportunity to be honest with me, and  
7 I don't think you were. And, first of all, I find that  
8 terribly disappointing. I mean I take all my cases seriously.  
9 I've had a whole boat load of these cases with Mr. Krlich.  
10 And, you know, I don't understand the mentality that's led to  
11 the situation out in Hubbard. I just don't. And I firmly  
12 believe from Mr. Krlich's testimony here today that the type  
13 of conduct that's occurred over time out in Hubbard has caused  
14 him distress to the level where he's had to have medication  
15 for anxiety and for stomach problems and other things.

16           Where I really have a problem in this case is really  
17 tying it in to specific incidents involving you. I don't  
18 believe you've never done anything directed towards  
19 Mr. Krlich. I don't appreciate one little bit the fact that I  
20 think, I sat there and I looked at you and I told you, you  
21 know, putting your hand on the bible, have you ever done  
22 anything? I think you lied to me. And I just don't get that.  
23 I mean it's horribly disappointing to me. I must be

1     incredibly naive because I expect people when they take that  
2     oath, most people, most people, I expect are going to tell the  
3     truth. And I think I'm incredibly naive in that regard  
4     because I have people lie to me every day in court after  
5     taking that oath. But I give everybody that chance. Okay?  
6     And so I find it very disappointing that you would come into  
7     court and tell me things that I really believe weren't true.  
8     When I gave you a repeated opportunity to fess up and just be  
9     honest with me. And you weren't. That doesn't show that  
10    there's been stalking behavior though. In this particular  
11    case, I just can't find from the evidence that it meets the  
12    level of a repeated pattern of conduct. There may be -- and  
13    it's sort of, to me, I find it to be somewhat vague. There's  
14    been this behavior. There was some things happening in '09.  
15    Whether he got the notice through Girard, it doesn't appear  
16    that there's any evidence that he actually did get the notice  
17    through Girard.

18             The taunting type behavior, I believe, whether it was  
19    twenty or thirty times or a handful of times, I think the  
20    evidence is just so vague on that that I can't come to any  
21    firm conclusions about it. But I do believe -- Mr. Krlich, I  
22    believe your testimony that there has been that taunting type  
23    behavior. I don't know how frequent it's been and so I do

1 struggle with whether, you know, in this case where to come  
2 down on this. In the final analysis, I just don't find that  
3 there's sufficient evidence here for the issuance of a  
4 protection order. So I am going to recommend that the  
5 petition be dismissed and that the protection order not be  
6 issued.

7 I am going to tell you right now, Mr. Wynne, I have  
8 misgivings. And I hate saying this. I like to be definitive  
9 in my decisions. I just don't have the level of certainty I  
10 feel is necessary. I have to find in your favor, Mr. Krlich,  
11 by a preponderance of the evidence. And I am so split on this  
12 that I cannot find that it meets a preponderance. At the same  
13 time, I have such concerns about, Mr. Wynne, you not being  
14 frank with me that it causes me to question how much of your  
15 testimony ought to be believed. I think, I felt the recent  
16 incidents I felt were possibly more credible than the other  
17 questions I asked you.

18 I will assure you, if you have any notion, any  
19 notion, to engage in any kind of conduct that would give a  
20 reason to come back here into court, you will regret it.  
21 Okay? I don't mess around with this stuff.

22 JAMES WYNNE: Yes, sir.

23 THE COURT: I will issue a protection order

1 so fast it'll make your head spin.

2 JAMES WYNNE: Yes, sir.

3 THE COURT: Okay?

4 JAMES WYNNE: Yes, sir.

5 THE COURT: I would be happy to see the  
6 Hubbard Police or whoever take whatever action they can to  
7 make this stop. You're a resident of Hubbard. I'm sure  
8 you're well familiar with the circumstances that led up to  
9 this. It's wrong.

10 JAMES WYNNE: Yes, it is.

11 THE COURT: And it's something that  
12 everybody, you know, there's a childishness that I believe  
13 back in '09, I think you were laughing at him and it's like a  
14 childish, ignorant little immature behavior that, you know,  
15 we're way beyond that. We're much too old to be engaging in  
16 that kind of stuff. You should be embarrassed and ashamed by  
17 it. And I like to think that at some point we should be  
18 willing to admit to it. Okay? So at the very least, what you  
19 have the ability to do going forward is walk out of this  
20 courtroom and don't do any of this crap again. Okay?

21 JAMES WYNNE: Yes, sir.

22 THE COURT: For whatever has happened in  
23 the past, you have the ability to put that behind you.

1 JAMES WYNNE: Yes, sir.

2 THE COURT: I assure you if you don't and  
3 you have any notion to do anything further, you better hope  
4 you don't come in front of me.

5 JAMES WYNNE: Yes, sir.

6 THE COURT: That's gonna be my ruling. I  
7 don't find that you've established by a preponderance that  
8 there's been menacing by stalking. I am gonna recommend a  
9 dismissal of the petition.

10 If you disagree with my ruling, you know the process  
11 for going about objecting to that. My written ruling will be  
12 put in the mail in the next couple of days here and you should  
13 have it in short order.

14 I hope I've made myself abundantly clear.

15 JAMES WYNNE: Yes, sir.

16 THE COURT: I don't think I have anything  
17 further on this case.

18 Anything further, Attorney Henkin?

19 MR. HENKIN: No, Your Honor.

20 THE COURT: Anything further, Mr. Wynne?

21 JAMES WYNNE: No, sir.

22 THE COURT: You're excused.

23 Can you ask the other gentleman to come in.

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JAMES WYNNE: Thank you.

THE COURT: And we do have your correct address; is that right?

JAMES WYNNE: Yes, sir.

THE COURT: Okay. Thank you.

JAMES WYNNE: Thank you.

(End of proceedings; 11:49 a.m.)

\* \* \*

REPORTER'S CERTIFICATE

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

1-30-13

  
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Lori J. Rittwage,  
Official Court Reporter