

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

GARRICK KRLICH,
Petitioner

) Case No. 2010-CV-2594

)

)

-VS-

) Magistrate Patrick F. McCarthy

)

JOE TAKASH,
Respondent

) **TRANSCRIPT OF PROCEEDINGS**

) **MAGISTRATE'S DECISION ONLY**

Hearing on a Petition for a Stalking Civil Protection Order
held on May 4, 2011

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:

Ms. Deborah L. Smith,
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. As in any protection order case, again, it's
5 whether there's a pattern of conduct. And it comes down in
6 this case to the credibility of the witnesses.

7 In this particular case I certainly do find
8 Mr. Krlich's testimony quite credible. And I believe he was
9 definitive and I think, incredibly definitive about the fact
10 that he believed it was Joe Takash that he saw driving the
11 numerous occasions and beeping the horn. I didn't find Joe
12 Takash's testimony particularly credible in a number of
13 regards.

14 First, the notion that it was some kind of
15 innocent beeping just to the Clementes and he, he knew nothing
16 about it, you know, bothering the Krliches, I just didn't find
17 that to be credible testimony.

18 I didn't find his testimony to be credible
19 as to the incident in September of 2010 in the evening that it
20 was just some, you know, some other guy driving by at 2:36
21 that he happened to be beeping at, just coincidentally right in
22 front of the Krliches. I think it is a pattern of conduct. I
23 think Mr. Krlich's testimony was that it actually was a

1 continuous pattern of conduct. And the gaps in time are,
2 aren't necessarily because there was a gap in the conduct but
3 because there was a gap in the footage that was available to
4 show it.

5 But I, I did find Mr. Krlich's testimony
6 and evidence more credible than that of Mr. Takash. And on
7 that basis I am going to find that he has shown -- and on the
8 question of whether, Mr. Takash's notion that he just didn't
9 know that it bothered them. I, I believe that the conduct in
10 going by and repeatedly beeping, it was certainly intended.
11 And that's what some of the case law indicates. When there's
12 an obvious intention to cause mental distress to another
13 person by doing this ongoing pattern of conduct, then that is
14 sufficient to justify a finding of menacing by stalking for
15 purposes of issuing a protection order. And I find that's
16 exactly what was going on here.

17 I mean it was a big joke. It was a big
18 thing to go by the Krliches and beep that horn. And I believe
19 that Mr. Joe Takash has taken part in that conduct knowingly
20 and with an intent to cause mental distress. Therefore I
21 believe that a protection order should be issued here. I am
22 going to prepare that paperwork. It will be a protection
23 order in place, be in place for a period of five years. It

1 will be, indicate that you're not to have contact with the
2 Krliches; that you're not to go near their residence. Given
3 the fact that we're dealing with a close community, I do not
4 include the footage limitation in these restrictions.
5 However, you know, just know that, you know, if there's any
6 kind of conduct that is going to, you know, remotely look like
7 harassment or an effort to purposely go by there for purposes
8 of causing mental distress here, you'll run the risk of being
9 arrested and charged.

10 So I will include what I deem to be
11 appropriate restrictions on, including a restriction
12 specifically about beeping the horn in or around or near the
13 Krlich residence, or encouraging or causing others to do so.
14 That will be my decision. I'll put it into written form as
15 soon as humanly possible here, have it mailed out to
16 everybody. You still are at the same address on Doris Drive,
17 is that correct, Mr. Takash? I do need to ask a couple other
18 quick questions here just to confirm my information. Can I
19 have your date of birth, please?

20 MR. TAKASH: Excuse me?

21 THE COURT: Your date of birth?

22 MR. TAKASH: 2/5/90.

23 THE COURT: 2 --

1 MR. TAKASH: 5/90.

2 THE COURT: '90. Your height?

3 MR. TAKASH: 5/10.

4 THE COURT: Your weight?

5 MR. TAKASH: 180.

6 THE COURT: Eye color?

7 MR. TAKASH: Green.

8 THE COURT: Hair color?

9 MR. TAKASH: Dark blond.

10 THE COURT: Okay. All right. I'll have
11 this mailed out in short order. I just hope, I mean, that
12 this stops. You know, I mean, I don't buy the business that
13 this is all just some innocent little thing that, popping by
14 the Clementes and just waving and beeping. It's not credible.
15 It's not believable. And I certainly didn't buy the business
16 about, you know, just being a, a crazy coincidence at 2:30 in
17 the morning. So cut it out or there will be further
18 consequences. It's the easiest thing to stop. The easiest
19 thing to stop. But it seems to just be not the easiest thing
20 to certain people.

21 Anyways, that will be my decision. I'll
22 get it out to everybody. You do know the objection process.
23 So I'll have it mailed out in short order. It is

1 approximately 4:30 here. We have two more cases here, and I
2 guess I'll see counsel up front here on what we're going to do
3 with those. I'm not going to do them today. I do have time
4 tomorrow afternoon, but we'll talk about that when you come
5 up. Any other questions about this case at this point in
6 time?

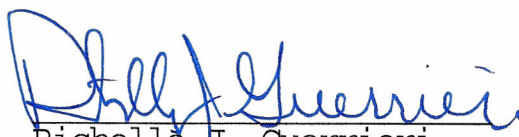
7 MR. HENKIN: No, Your Honor.

8 THE COURT: We are in recess. Thank you.

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12 REPORTER'S CERTIFICATE

13
14 This is to certify the foregoing represents a true and
15 correct transcript of the proceedings had in the
16 aforementioned cause as reflected by the stenotype notes taken
17 by me on the same.

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20 
21 Richelle J. Guerrieri
22 Official Court Reporter
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