

Sept 27 2010
This is a true and correct copy of the original *Order*

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

KAREN INFANTE ALLEN
Clerk of Courts

Order of Protection

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

Case No. 2010CV1811 By *GLM*

Judge MCKAY

County TRUMBULL State OHIO

LAW ENFORCEMENT AGENCY WHERE INDEXED

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

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

PETITIONER:

GARRICK KRLICH
First Middle Last

PERSON(S) PROTECTED BY THIS ORDER:

Petitioner: GARRICK KRLICH DOB: 12/24/60
Petitioner's Family or Household Member(s):
LUCINDA KRLICH DOB: 10/13/64
DOB: _____
DOB: _____
DOB: _____

v.

RESPONDENT:

JOSHUA D. WILSON
First Middle Last

RESPONDENT IDENTIFIERS

SEX	RACE	HT	WT
M	W	5'4"	150
EYES	HAIR	DATE OF BIRTH	
GREEN	BROWN	04/01/89	
DRIVER'S LIC. NO.	EXP. DATE	STATE	

Address where Respondent can be found:
3309 FRANKLIN AVENUE
HUBBARD, OH 44425

Distinguishing Features: _____

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

(Violence Against Women Act, 18 U.S.C. 2285, 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, as set forth below. Additional terms of this Order are set forth below.

The terms of this Order shall be effective until 09 / 27 / 2011 (DATE CERTAIN - FIVE YEARS MAXIMUM).

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

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

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GARRICK KRLICH,) Case No. 2010-CV-1811
Petitioner)
)
-vs-) Magistrate Patrick F. McCarthy
)
JOSHUA D. WILSON,) **TRANSCRIPT OF AUDIOTAPE**
Respondent) **PROCEEDINGS**

Hearing on a Petition for a Stalking Civil Protection Order
held on September 27, 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:

Pro se

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I-N-D-E-X

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1 THE COURT: Good afternoon. We're here on
2 Case No. 2010-CV-1811. This is Garrick Krlich versus Joshua
3 D. Wilson. This is on a petition for a stalking civil
4 protection order. We are here today for the full hearing on
5 the request for a protection order. Mr. Krlich is present
6 represented by his attorney, Robert Henkin. And Mr. Wilson is
7 likewise present not represented by counsel at this time.

8 As I said, I like to go through the process
9 just for a couple minutes and then we'll get into the, into
10 the formal hearing. What we're here for is what's called a
11 full hearing on a request for a civil stalking protection
12 order. Any protection order is simply an order from the court
13 that if it's granted would include a series of restrictions on
14 the conduct of the person against whom it's issued, with all
15 those restrictions being designed to prevent that person from
16 having contact with the person or people covered by the
17 protection order.

18 The way a protection order operates, if it
19 is granted, is that it gets filed here with the Clerk of
20 Courts, with the Trumbull County 9-1-1 agency and with any
21 relevant police agencies. It remains on file with them. And
22 in the event something would happen that a person believed was
23 a violation of any of the restrictions in the protection

1 order, that person will call the police. They would
2 investigate the matter, and if the police found there had been
3 any violations of the restrictions in the protection order,
4 that order gives them the authority to arrest the person who
5 violated it and to charge that person with a misdemeanor crime
6 called violating a civil stalking protection order.

7 What we're here about today is to decide
8 whether that protection order should be issued in the first
9 place. This is what's called, the request today is for what's
10 called a full hearing civil stalking protection order. It can
11 only be granted after a full hearing in which both parties
12 have an opportunity to present evidence. If it is granted it
13 is an order that can last for a period of up to five years.

14 Now in order to get the protection order
15 that's being requested, Mr. Krlich, what you're going to be
16 required to prove today is you need to show that Joshua Wilson
17 has engaged in conduct that would meet Ohio's definition of
18 what's called menacing by stalking. That's why we call it a
19 stalking civil protection order. Now in Ohio the legal
20 definition of menacing by stalking is that no person shall
21 engage in a pattern of conduct to knowingly cause another
22 person to believe they'd cause physical harm. Or, in a
23 pattern of conduct to cause another person mental distress.

1 That's the legal definition. And again, it's pretty straight
2 forward. There first needs to be proof of a pattern of
3 conduct. That means more than one event. It can't involve a
4 single, isolated incident. There have to be multiple events
5 that have occurred.

6 If what's being alleged is a pattern of
7 conduct where the person caused the other to believe that they
8 would cause physical harm, that can include incidents where
9 the person actually did cause physical harm or incidents where
10 they either threatened or attempted to cause physical harm.

11 If what's being alleged is a pattern of
12 conduct where the person caused mental distress, it does
13 generally need to be shown that whatever is happening is
14 something more than simply an aggravation or simply an
15 annoyance, but it needs to have risen to a serious enough
16 level that a person generally would want to seek some kind of
17 counseling or other similar assistance to deal with it. So
18 that's what you'll be required to prove today, Mr. Krlich.

19 To get the full hearing protection order
20 you've asked for, to do that you do need to produce evidence.
21 Evidence can include your own testimony. Testimony from other
22 witnesses who have seen or heard things they would be
23 describing. Documents. Photographs. Reports or recordings.

1 Physical items if they're available and if they're relevant to
2 the issues in the case. You'll have a chance to produce your
3 evidence. Mr. Wilson, you're going to have a chance to
4 produce your own evidence. After I hear all that evidence,
5 that's when I'm going to give you my decision.

6 If I find that Mr. Krlich showed that
7 Mr. Wilson engaged in menacing by stalking, I would recommend
8 issuing a five-year protection order. If I find that
9 Mr. Krlich failed to prove that, I would recommend dismissing
10 the case.

11 I know I went through that quickly, but I
12 hope it's understandable. Did you have any questions about
13 any part of that process at this point? Okay. Very good.
14 Hearing none, I would invite the petitioner, since it is your
15 request, to go forward first. You may call your first
16 witness, unless you wish to give some kind of brief opening.

17 MR. HENKIN: I would request that we call
18 the defendant in this case for cross examination.

19 THE COURT: Come forward, sir. He's
20 permitted to call you as a witness for purposes of cross
21 examination.

22 WHEREUPON,

23 JOSHUA D. WILSON,

1 being first duly sworn, according to law, was examined and
2 testified as follows:

3 CROSS EXAMINATION

4 BY MR. HENKIN:

5 Q Please state your name and your current residential
6 address for the record.

7 A Josh Wilson, 3309 Franklin Avenue, Hubbard, Ohio,
8 44425.

9 Q How old are you, sir?

10 A 21.

11 Q Finish high school?

12 A Yes.

13 Q What are you currently doing as an occupation?

14 A Diesel technician. I'm also an automatic
15 transmission technician, refrigeration technician.

16 THE COURT: Keep your voice up. It's hard
17 for me to hear you.

18 THE WITNESS: Sorry.

19 THE COURT: That's okay.

20 Q You are familiar with the home where Mr. Krlich and
21 his spouse reside?

22 A Yeah, I know where he lives.

23 Q Do you go by that home often?

1 A All depends on where I'm going.

2 Q Have you gone by that home on a motorcycle in the
3 early hours of the morning?

4 A Yes.

5 Q And in fact, have you sounded whatever type of a horn
6 on that motorcycle or revved the motor on that motorcycle at
7 the early hours of the morning?

8 A Well, it's going to rev.

9 Q I'll ask you the first part of the question. Have
10 you sounded a horn, any other device of that sort, at that
11 intersection of those two streets where the Krlich real estate
12 is located?

13 A Horn on my motorcycle?

14 Q Yeah.

15 A No.

16 Q So if Mr. Krlich testifies that you have, he would be
17 either mistaken or just blatantly untruthful; would that be
18 correct?

19 A Say that again.

20 Q If Mr. Krlich is able to produce evidence that shows
21 in fact you have utilized your motorcycle horn, he would
22 either be incorrect or untruthful?

23 A No. I've blown my horn going past his house.

1 Q In the early hours of the morning?

2 A No. During the day.

3 Q Oh. During the day? Not ever in the evening or
4 early morning?

5 A No.

6 Q Have you ever been behind the wheel of a motor
7 vehicle, same area, near his home, and utilized a horn at the
8 early hours of the morning?

9 A I don't recall.

10 Q So if Mr. Krlich would present evidence or
11 testimony --

12 A Yeah, sure. But it's a busy street. It's a main
13 road.

14 Q Are you out in the early hours of the morning after
15 1:00, 2:00 or 3:00 o'clock as a normal routine for yourself?

16 A No.

17 Q Would you be out on the weekends at those hours,
18 early hours of the morning?

19 A Sometimes. Not every day.

20 Q And would it be accurate to say that, that those
21 early hours when you're infrequently out on the weekends, that
22 you might have sounded your horn in front of or on the side of
23 Mr. Krlich's home?

1 A No.

2 Q Why would Mr. Krlich seek you out in comparison to
3 anyone else in Hubbard? Why are you here? Why you?

4 A It's not just me.

5 Q I didn't ask about not just you. I --

6 A You said he was singling me out. He's not.

7 Q Why are you being singled out today? Why are you
8 here?

9 A To come in front of the Judge.

10 Q Do you think it's mistaken identity, that Mr. Krlich
11 is wrong? No way could you have been involved in any incident
12 near his home where utilizing a horn, a siren --

13 A Yeah, I beeped my horn going past his house.

14 Q Numerous times?

15 A Yeah. It's a main road. You're allowed to beep your
16 horn.

17 Q So you would have had to, in order that he would in
18 any way --

19 A In several cases I've seen friends driving past,
20 wave.

21 Q I'm not asking you to explain why you're doing it.
22 The idea is --

23 A Yes, I'm doing it. It's not against the law.

1 Q Exactly. But Mr. Krlich would have had to identify
2 you, the vehicle you were driving in order to put two and two
3 together that say, here's Josh Wilson. This is a fellow that
4 I'm complaining about that's disturbing my peace and quiet.

5 A It's a main drag. If you want peace and quiet you're
6 going to have to move because that's a main road.

7 Q I see. Have you had conversations with Sergeant
8 Fisher from the Hubbard Police Department?

9 A Yes.

10 Q And what were those conversations in reference to
11 involving Mr. Krlich or his residence and his peace and quiet?

12 A That's between me and Sergeant Fisher. If you wanted
13 to know then you could have brought him here.

14 Q Oh, I see. And now I'm going to ask you. Did you
15 admit to Mr. Fisher that in fact you've been disturbing
16 Mr. Krlich's peace and quiet?

17 A No. I admitted that I've blown my horn going past
18 his house.

19 Q Okay. And are you a member of a little group of guys
20 that think that it's cute or it's fashionable to do this?

21 A I'm not a member of any group.

22 Q Do you know others that behave in that same manner?

23 A No, sir.

1 Q Okay. Did you recently have a conversation with the
2 mayor of Hubbard?

3 A Yes.

4 Q Why were you on the phone with the mayor of Hubbard?

5 A Speeding ticket.

6 Q Okay. Did you have a conversation with the mayor of
7 Hubbard regarding matters involving peace and quiet in the
8 Krlich property?

9 A Yeah, we talked about it.

10 Q Uh-huh. And what was it you said to the mayor?

11 A I don't remember.

12 Q Do you remember admitting to the mayor that in fact
13 you were disturbing Mr. Krlich?

14 A I admitted to the mayor that I was blowing my horn.

15 Q Now you drive a motorcycle; correct?

16 A Yes.

17 Q Do you have a license for that motorcycle?

18 A Permit.

19 Q Do you have a driver's license?

20 A Yes.

21 Q I interrupted you. I apologize. You said you had a
22 permit for this motorcycle and then you were about to say
23 something.

1 A That what does that have to do with anything?

2 Q It's whether or not you are legally on the road. So
3 any of us --

4 THE COURT: Okay. Let's move on.

5 A Do you want to see the permit? Does anybody need to
6 see it?

7 THE COURT: No. Just move on.

8 Q You've answered it. Have you utilized any obscene
9 gestures toward Mr. Krlich recently while driving by his home?

10 A No, absolutely not.

11 Q So if he were to testify to the fact that you had, he
12 would either be incorrect or untruthful?

13 A Yes.

14 Q Bear with me.

15 THE COURT: I'm going to write on the back
16 with the stickers. I have a photograph here I've marked as
17 Petitioner's Exhibit 1.

18 Q I'm going to place before you what's been marked,
19 give you a chance to look at it, study it.

20 A Yeah, that's my house.

21 Q And how about the vehicle that's parked next to the
22 house?

23 A Which one?

1 Q There's one, looks like it's blue with a white trunk
2 in the back, or it has white paint on it?

3 A Yeah. It's my grandfather's truck.

4 Q Do you ever drive it?

5 A Do I ever drive it?

6 Q Yeah.

7 A Every once in a while when I'm doing work with it,
8 yeah. But not very often.

9 Q Okay. If you remember, did you ever utilize this
10 truck to drive by the Krlich property and sound your horn?

11 A Absolutely not.

12 Q Okay.

13 A Is it legal to take pictures of --

14 THE COURT: I'll give you a chance to give
15 your own independent testimony in a moment.

16 MR. HENKIN: Would you mark this, too, Your
17 Honor?

18 THE COURT: It doesn't matter what order?

19 MR. HENKIN: No.

20 THE COURT: Two photographs marked
21 Petitioner's Exhibit 2. And that is a photograph of,
22 apparently it shows two vehicles.

23 And Petitioner's Exhibit 3 will be a

1 photograph showing the back of a vehicle and a license plate.

2 And that's Petitioner's Exhibit 3 again.

3 Q Petitioner's Exhibit No. 3.

4 A Same truck.

5 Q Is that the proper license plate for the truck?

6 A Yep. It's been that way since 1990.

7 Q Okay. This is Petitioner's Exhibit No. 2. Recognize
8 those vehicles?

9 A Yeah. That's my dad's Volvo and my sister's van.

10 Q Would you have driven either of those cars by the
11 Krlich property?

12 A Absolutely not. My dad lives in West Virginia.

13 Q Now, what is it, other than your motorcycle, that you
14 drive by the Krlich home, if it's none of the vehicles that
15 are depicted in these photographs?

16 A You don't have a picture of it?

17 Q I'm asking you the question. What is it that you
18 drive when you're not using your motorcycle?

19 A I ride my motorcycle everywhere.

20 Q So you don't have a vehicle?

21 A I do.

22 Q What is it?

23 A It's a Cavalier.

1 Q Okay. What's the license plate?

2 A I don't know.

3 Q Do you have your registration with you?

4 A No.

5 Q You don't --

6 A Yeah.

7 Q Okay. What color is that Cavalier?

8 A It's red.

9 Q Using 100 percent as our faculty, out of 100 percent,
10 what's the percentage that you drive your red Cavalier in any
11 one week, any one day?

12 A Well, it's getting cold now so I've been driving it
13 quite frequently. But during the summertime I'm on my bike.

14 Q Do you have any idea why Mr. Krlich would be seeking
15 a protective order against you? Did he just pick you out of
16 nowhere?

17 A No. A protection order, according to what the Judge
18 said, he said physical harm or mental --

19 Q Or annoyance? Menacing?

20 A To the point where you have to seek counseling for
21 it.

22 Q Even if he didn't have to seek counseling for it.

23 A That's what he just said.

1 Q Look, you're a witness.

2 THE COURT: Just ask questions and give
3 answers, please. It's not an argument.

4 A I don't really know how this works. I haven't done
5 this before.

6 THE COURT: Okay. That's why I'm telling
7 you. Just answer the questions that are asked.

8 Q You understand that if an order were to be issued, it
9 would be to prohibit you from sounding your horn or revving
10 your bike around the Krlich property?

11 Now we all understand that if you were driving and
12 there was an emergency that you needed to sound your horn to
13 protect your life or the life of someone else, either on your
14 car or motorcycle, that's exempt. But short of that, that a
15 protective order would prohibit you from it in normal
16 circumstances? That's the extent of what we would be
17 requesting; do you understand that?

18 A Yeah. But is there, is there Ohio code or law on
19 when you can use your horn and when you can't?

20 Q I just explained it to you. But I'll restate it.
21 Other than for emergency purposes that you are --

22 A Do you have that in writing?

23 Q Avoid --

1 THE COURT: Hang on. It's not an argument
2 over the law. I'll decide what the law says.

3 Q My question is, you understand the reason to seek an
4 order?

5 A Yes.

6 Q To control your behavior?

7 A Yes.

8 Q And nothing more than that. That's it. Nothing more
9 than that. We just want to be able to control your behavior.
10 That we don't have to deal with any more alleged overuse of a
11 horn or revving of a motorcycle. That's exactly what we're
12 seeking.

13 A So you want me to shut my bike off when I go past his
14 house?

15 Q No, sir. What I want you to do, if the Court sees
16 fit to issue an order, would be not to rev, not to sound horns
17 from your car or motorcycle unless it's an emergency
18 circumstance. That's what we would be asking.

19 A My motorcycle is loud and it does meet the law on
20 decibels. And as long as I'm going the speed limit, I can
21 have it at whatever rpm range I want.

22 Q Okay. Well, I think the best way for me to conclude
23 the questioning of this young man is just to say I'm not going

1 to argue with you. Your position is obvious.

2 MR. HENKIN: No further questions at this
3 time, Your Honor.

4 THE COURT: Okay. Let me get down to brass
5 tacks here. Okay. I have a few questions, if you don't mind.

6 You acknowledged to a couple different
7 people already in your own testimony here that you have beeped
8 your horn going by his home; right?

9 THE WITNESS: Yeah.

10 THE COURT: Why are you doing it?

11 THE WITNESS: I was beeping at my buddy and
12 my buddy lives --

13 THE COURT: Look at me for a minute. Every
14 time? Or were some of these times -- because there seems to
15 be this thing to beep when you go past the Kriches house?

16 THE WITNESS: The first time, yes.

17 THE COURT: You only did it one time?
18 You're being straight with me?

19 THE WITNESS: Yes.

20 THE COURT: One time you beeped at his
21 house?

22 THE WITNESS: Yeah. Because I was told to.

23 THE COURT: By who?

1 THE WITNESS: I don't remember. It was
2 just --

3 THE COURT: What do you mean you don't
4 remember? Who told you? I'm trying to be real, I'm trying to
5 be real straight with you. I want you to be real straight
6 with me. Okay. I'm not messing around.

7 What's the situation? Why is this
8 happening? Because frankly, I'm not sure I, I, you know, the
9 one time thing is flying with me here. I want you to be
10 honest with me. You're in court. You held up your hand,
11 right?

12 THE WITNESS: Right.

13 THE COURT: I want the honest truth, what's
14 going on here? How many times has it happened and why are you
15 doing it? You have a chance to be frank with me here. I
16 would appreciate you doing so. I'm not messing around.

17 THE WITNESS: The first time, yes, I
18 thought it was funny.

19 THE COURT: Was this just people you know
20 that think this is a funny thing to do because it annoys him?

21 THE WITNESS: Pretty much. I'd say at
22 least 50 percent of the kids in Hubbard ranging from ages 16
23 to 25, everybody knows about it. Everybody does it. Even

1 grownups do, even adults do it.

2 THE COURT: Why? Why is it funny? I'm
3 just curious. Who, who gave you the notion that, hey, I mean,
4 you know, how did this come -- what friends of yours told you
5 to do that?

6 THE WITNESS: I just heard a rumor down at
7 the bar one night.

8 THE COURT: So it's just become the thing
9 to do?

10 THE WITNESS: Yeah. But I --

11 THE COURT: -- because apparently --

12 THE WITNESS: I quit doing it a long time
13 ago.

14 THE COURT: And the reason it's funny is
15 because it apparently annoys Mr. Krlich? Or is there
16 something else that I don't understand here?

17 THE WITNESS: I guess you could say that.
18 But I quit doing it a long time ago.

19 THE COURT: And Mr. Krlich is -- you see
20 he's got a bunch of photographs and he's got a computer there.
21 There may be videos. There's going to be all this kind of
22 stuff. And if I see a bunch of that and I see your
23 motorcycle. I see a vehicle going by there, going by that

1 residence and it's beeping. I'm supposed to still believe
2 what you're telling me now? Are you going to stick with that
3 one time deal? Because I'm giving you the chance to be up
4 front with me. Because I'm just telling you, I sat around in
5 court for a long time. I don't like situations when somebody
6 comes in -- I mean, people do things in life that they're not
7 always, you know, want to just acknowledge up front. But when
8 they're in court I expect honesty. And one thing that will
9 not do a person well, when they come into court, between,
10 before me or before anyone else, is when they come up and they
11 try and sort of hedge and minimize their conduct and tell me,
12 you know, something less than the entire truth, and then I end
13 up hearing something else that shows me that maybe this person
14 wasn't being so straight. Because that makes me wonder what
15 to believe with this person. So I'm trying to be as honest as
16 I can with you. I want a straight answer. Really, one time?
17 You haven't done it more than one time?

18 THE WITNESS: I beeped my horn several
19 times, yes.

20 THE COURT: Okay. And then you revved your
21 engine probably unnecessarily? I understand you're saying
22 you're on a public road. I appreciate what you're saying
23 about that. But I'm guessing there's been occasions when it's

1 part of the whole gimmick, you made a little more noise than
2 you needed to make; would that be accurate?

3 THE WITNESS: On my motorcycle I can't --

4 THE COURT: Or in your car? I don't care
5 what vehicle it's in. Do you understand what I'm saying?

6 THE WITNESS: Yeah. But it's been a long
7 time since I did it.

8 THE COURT: How long has it been since you
9 did it?

10 THE WITNESS: At least two months.

11 THE COURT: Were you doing it fairly
12 frequently for a period of time? Whenever you'd beep going by
13 there pretty much?

14 THE WITNESS: Not every time, no.

15 THE COURT: A lot of times?

16 THE WITNESS: Yeah. I probably did it
17 three or four times.

18 THE COURT: Okay. What made you stop?

19 THE WITNESS: Pretty much all this.

20 THE COURT: Hearing about the stuff getting
21 to court? You don't want to get yourself in trouble?

22 THE WITNESS: And I didn't want to be
23 followed on my motorcycle anymore because it's dangerous.

1 THE COURT: Mr. Krlich followed you in your
2 motorcycle?

3 THE WITNESS: Yes. In speeds of excess, of
4 excess of 85 miles an hour on a back road about this far from
5 my --

6 THE COURT: Okay. Now, you spoke with a
7 Hubbard police officer about --

8 THE WITNESS: I have the police report
9 right there.

10 THE COURT: In your earlier testimony you
11 said you had some kind of conversation with a Hubbard police
12 officer where you did admit that you had done it; correct?

13 THE WITNESS: Yes.

14 THE COURT: Okay. And you acknowledged
15 similar to what you told me?

16 THE WITNESS: Yes.

17 THE COURT: Right now? And you told the
18 mayor the same thing pretty much?

19 THE WITNESS: Yeah.

20 THE COURT: Did either of them tell you cut
21 it out? Did anybody ever tell you to cut it out, or is this
22 just a whole thing in Hubbard that the police and the mayor
23 are in on it saying knock yourself out?

1 THE WITNESS: I don't remember them saying
2 anything about it. They just --

3 THE COURT: Well, it came up in
4 conversation for some reason?

5 THE WITNESS: Yeah.

6 THE COURT: Okay. I'm guessing, maybe I'm
7 being too complimentary here, but I'm guessing that in the
8 conversation with the police officer in which you admitted
9 doing it, it wasn't something that he was egging you on to
10 continue doing or approving of? Or was he?

11 THE WITNESS: No. He just said that the
12 police department is getting sick of it.

13 THE COURT: Of having to deal with the
14 issue?

15 THE WITNESS: Right.

16 THE COURT: Right. Okay. All right.
17 Okay. I don't think I have any other questions. Do you have
18 any further questions in light of what I asked?

19 MR. HENKIN: I just have one, with the
20 Court's indulgence.

21 THE COURT: Sure.

22 MR. HENKIN: In fairness to this young man.

23 RE CROSS EXAMINATION

1 BY MR. HENKIN:

2 Q We're not here to hurt you. We're not trying to
3 create a record against you.

4 A He tried to hurt me.

5 Q You're a witness. We'll ask you to respond.

6 THE COURT: I just want you to ask
7 questions. Do you have other questions?

8 Q You started to answer and then you hedged when asked
9 by the Court, why did you do it. And you said, "I was told
10 to." And then I believe the Court said who and you got a
11 little amnesia. Your memory wasn't real good.

12 Now I'm going to ask you, who told you to behave in
13 this manner? It's important that we know.

14 THE COURT: If you know, you should answer.

15 A I honestly don't remember.

16 MR. HENKIN: I have no further questions.

17 THE COURT: Thank you. You're excused.

18 You can return to your seat. If you have some additional
19 testimony, I'll give you an opportunity a little later to give
20 it.

21 MR. HENKIN: I'm going to make a suggestion
22 to the Court in the earshot of Mr. Wilson. Mr. Wilson has,
23 and I believe truthfully, Your Honor, admitted to his behavior

1 to this Court. And he acknowledged to the police department
2 and to the mayor.

3 I would think that we don't really need to
4 go much further, if Mr. Wilson will be agreeable we can just
5 cut to the chase and request the Court consider a CPO and
6 restrict it, that we take off the language that we reference
7 as we've done in the past, anything negative to one's behavior
8 other than this.

9 THE COURT: Well, that, I mean, that
10 requires Mr. Wilson's consent. I mean if Mr. Wilson is
11 willing to consent to the issuance of a protection order, you
12 can always consent to the issuance of a protection order. If
13 you wish to challenge it he has the right to challenge it. I
14 don't encourage or discourage anybody to make that choice.
15 But it is an option you have available to you.

16 Just so you understand, the effect of a
17 protection order, if one would consent to the issuance of a
18 protection order against a person, it's not a criminal case.
19 It's not on anybody's criminal record. It is a document that
20 does get sent to 9-1-1. It gets entered into a computer
21 system so it's available to police departments wherever and
22 sent to local police departments. It remains in their files.
23 If there's never any reason for it to be enforced, it sits

1 there for a period of time and then expires. And there is
2 some latitude as to what period of time would be involved.

3 You know, so, so, but, if in fact it were
4 violated it can lead to a consequence that you run risk of
5 being charged with a misdemeanor crime of violating a
6 protection order. Again, I'm not encouraging or discouraging
7 you. I'm just trying to give you all the information about
8 what's available. But I think what's been suggested by
9 counsel is the possibility -- I guess he wants to know if you
10 are, have any interest in consenting to the issuance of a
11 protection order?

12 MR. HENKIN: I will rephrase it. The
13 answer is no?

14 THE WITNESS: Honestly, I don't know what
15 any of that means.

16 MR. HENKIN: All right. If the Court
17 pleases.

18 THE COURT: Okay. That's fine. He's
19 answered the question. So we don't have a consent. I have to
20 go forward with the rest of the case. And that's fine. I
21 don't have a problem with it.

22 MR. HENKIN: I was just going to maybe ask
23 the Court for a moment, a two-minute recess without trying to

1 do anything other than maybe --

2 THE COURT: Well, I guess, I guess the most
3 I'll say is, is, you know, I mean if you want him to ask me --
4 you said you didn't understand it. I thought I was trying to
5 make it clear. What part of it didn't you understand?

6 THE WITNESS: From the beginning.

7 THE COURT: Okay. I'll try and go through
8 it one more time. Just, I mean I don't know if it's something
9 you're interested in, but I want to make you aware.

10 When a person has a petition for a
11 protection order filed against them I'm required to set it for
12 a hearing and conduct a hearing like I'm doing today. That
13 person against whom, you, the person against whom the
14 protection order is being requested, you have the right to
15 have this hearing conducted and for me then to have to make a
16 decision as to whether they've met their burden of proving
17 that they're entitled to the protection order, or whether they
18 haven't. And I'm either going to grant the protection order
19 or I'm going to dismiss the case.

20 You also have the opportunity, and it's
21 your, your choice, your entire -- it's entirely up to you.
22 You are permitted to do what's called waive your right to a
23 hearing, not require us to conclude or even conduct or now

1 that we're into it, conclude the hearing. You'd have the
2 right to waive that, forgo the requirement that we continue
3 the hearing and agree that a protection order may be issued
4 against you. And people do that on occasion. I don't
5 encourage or discourage it one way or another. It's an option
6 that's available to people.

7 If you would do so there may be some
8 latitude in terms of what would be included in the protection
9 order and the length of the protection order. I don't know.
10 That's something that's subject to agreement of the parties.
11 You know, but, but if you don't want to agree to the issuance
12 of the protection order you're certainly entitled, and we
13 continue the hearing. And at the end of that hearing -- I'll
14 listen to the rest of their evidence, any evidence you want to
15 produce and I'll make the decision as to whether the standard
16 has been met for the issuance of a protection order. And I'm
17 going to make my decision. Either I'm going to grant the
18 protection order -- I'll put in whatever terms I feel are
19 appropriate -- or I'll not grant the protection order and I'll
20 dismiss the case.

21 So what's been suggested by Attorney
22 Henkin, you correct me if I'm wrong on any of this, but what
23 seems to have been suggested is that based on discussions

1 taking place, he was asking whether you had an interest in
2 waiving your right to the remainder of the hearing, consenting
3 to the issuance of a protection order. And I believe what he
4 was suggesting is that the specific term that would be
5 included in that protection order would be one that would
6 simply state that you're not, unless it's an emergency
7 situation, to, to be utilizing the horn or unduly -- I mean,
8 it's a noise issue. The language is, I think would be, you
9 know, making any -- I don't know how that gets termed exactly,
10 but something to that effect. And that would be the single
11 term in that. I don't know if you would be wanting to request
12 it for a five-year period or some lesser period. That's not
13 something that's been addressed. But that's something that
14 sometimes is negotiable as well. But I don't know if you have
15 an interest in that.

16 If you don't have an interest in it, I'm
17 fine going forward and doing the rest of the hearing. But if
18 you do, it's been suggested by counsel that that's what he
19 would like to know if you have an interest in that.

20 THE WITNESS: I don't think it's a good
21 idea.

22 THE COURT: Okay.

23 MR. HENKIN: That's fine.

1 THE COURT: Mr. Krlich.

2 WHEREUPON,

3 GARRICK KRLICH,

4 being first duly sworn, according to law, was examined and
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. HENKIN:

8 Q State your name and residential address for the
9 record, please.

10 A Garrick Krlich, 713 East Liberty Street, Hubbard,
11 Ohio.

12 Q Mr. Krlich, you in fact requested the Court issue a
13 protective order against Josh Wilson; is that correct, sir?

14 A Yes, correct.

15 Q What is your goal in requesting the Court to
16 intervene on your behalf?

17 A To get Josh Wilson to quit giving me the finger.
18 Quit blowing his horn in any vehicle that he drives. Quit
19 revving his motorcycle engine in the middle of the night,
20 either on 304 or on Creed, so I have peace and quiet.

21 Q You've heard Mr. Wilson testify in reference to the
22 Court's inquiries that in fact he had repeatedly sounded his
23 horn and revved the motorcycle?

1 A Right.

2 Q So really you don't dispute his own testimony, do
3 you?

4 A Probably just the number of times maybe. But, no.

5 Q Now, did you know who Josh Wilson was prior to the
6 circumstance that you're here complaining about?

7 A No. This has been going on for like three years. I
8 didn't know him three years ago. And I really just met him
9 when I caught him blowing the horn one time.

10 Q Was it early in the morning?

11 A The time that I caught him?

12 Q Right.

13 A No. It was in the afternoon. After, after many,
14 many times finally I was able to see who he was. And he went
15 by the house blasting the horn so I followed him. He stopped
16 on the side street, took his license plate off and then
17 continued to try and get away from me.

18 Q You really have no personal vendetta against Josh
19 Wilson, do you?

20 A No.

21 Q It's not your intention to see him locked up?

22 A No.

23 Q Or financially penalized?

1 A Correct.

2 Q You just want what?

3 A Peace and quiet at the property.

4 Q And up to now you haven't been able to bring that
5 about; am I correct?

6 A Correct. It's like he said, half the people in
7 Hubbard are doing it.

8 Q Now you've gone to the Hubbard Police Department in
9 reference to Josh Wilson, have you not?

10 A Yes.

11 Q And you've spoken to the mayor of Hubbard in
12 reference to Josh Wilson, have you not?

13 A Yes.

14 Q In both cases, the same request?

15 A Correct.

16 Q Peace and quiet?

17 A Right.

18 Q And but for the fact you haven't been able to
19 accomplish it, you wouldn't even be here?

20 A Absolutely.

21 Q Your request of the Court is that, make control of
22 his behavior at least for some period of time so that
23 annoyance stops?

1 A Yes.

2 Q And you want nothing more than that; is that correct?

3 A Correct.

4 Q Has some of that behavior taken place at the early
5 hours of the morning?

6 A Yes.

7 Q About how early?

8 A 1:30, quarter to 2:00 in the morning.

9 Q Now, you're not the only resident in that home;
10 correct?

11 A Correct.

12 Q And the other party living in that home is?

13 A My wife.

14 Q Now, those hours of the day, which would be early
15 morning, normally you would be sleeping?

16 A Correct.

17 Q So would it be your testimony that you, your wife, or
18 both of you are being awakened?

19 A Absolutely.

20 Q Now how at night can you tell that Josh Wilson, the
21 person here in this courtroom, is in fact creating this
22 disturbance?

23 A I have audio and video of him on his bike.

1 Q Can you see from the windows which exist in a
2 bedroom -- I'm going to presume there's windows in your
3 bedroom?

4 A Correct.

5 Q And is the bedroom on the second floor?

6 A Yes.

7 Q Is there a light on the street that you can --

8 A Yes. The street is well lit on both, both 304 And
9 Creed Street.

10 Q When awakened, were you able to see from your window,
11 just you visually, no electronic equipment, who or what was
12 going on?

13 A Yes, I can. I can see it was Josh Wilson on his
14 bike.

15 Q So we don't take a lot of your time or the Court, of
16 the electronic equipment that you have, would it just be tapes
17 or CDs that would correlate or coincide to your testimony?

18 A Correct.

19 Q Do you have just one that we can take a quick look
20 at?

21 A Sure.

22 Q That's all I would ask of this witness. And as an
23 explanation, can you tell us what time of the day this

1 occurred? Was it at night?

2 A Yeah, this was, this was in the middle of the night,
3 about a quarter to 2:00 in the morning. This, this is just an
4 example of what's been going on many, many times. And until I
5 got my audio and video, this harassment was ongoing for two
6 years basically nonstop.

7 THE COURT: Tell me when it's ready to be
8 viewed.

9 MR. WILSON: Do you think I can step
10 outside and call my boss, tell him I'm going to be a little
11 late?

12 MR. HENKIN: I have no problem.

13 THE COURT: Yeah. Don't play it until he's
14 back. Can you give me some identifying information, what I'm
15 going to be seeing here?

16 THE WITNESS: Yeah. This is Josh Wilson on
17 his motorcycle.

18 THE COURT: Do we have a date and time?

19 THE WITNESS: Yes. 8/24, '09, 1:34 in the
20 morning.

21 THE COURT: Okay.

22 THE WITNESS: This was just one of the
23 incidents.

1 THE COURT: Let me just see what you have.
2 That road is what road?

3 THE WITNESS: State Route 304.

4 Q Just a couple more questions.

5 THE COURT: Are you going to submit that CD
6 or DVD?

7 MR. HENKIN: Yeah.

8 THE COURT: The DVD, when you get it out,
9 will be marked as Petitioner's Exhibit 4, I believe.

10 Q Just a couple questions in reference to that and
11 we'll conclude. As the bike is coming down the road, was it
12 getting closer to your home?

13 A Yes.

14 Q Is that what that's depicting?

15 A Yes.

16 Q All right. We heard what sounded like an engine. Is
17 that what you're stating?

18 A Correct. The racing motorcycle engine.

19 Q And I heard a beep. What was the beep?

20 A That was his motorcycle horn.

21 Q This particular CD and what we just saw, all this,
22 there was no other traffic on the road, was there?

23 A Correct. And in the audio and video it showed

1 that -- there was time before and time after -- there's no one
2 on the road.

3 Q So there would have been no reason to be revving an
4 engine or, more importantly, sounding a horn?

5 A Correct.

6 Q And this in fact is the basis of your complaint, that
7 there's no reason to be doing this?

8 A Absolutely.

9 Q Now this one is marked 1:34 in the morning.

10 A Yes.

11 Q Okay. Were others, that we don't have labeled
12 because we would be here for hours, would other incidents be
13 even earlier, 2:00, 3:00, 4:00 in the morning?

14 A There's some 12:00, quarter to 1:00s and there's some
15 3:00 o'clock in the morning.

16 MR. HENKIN: No further questions, Your
17 Honor. No further questions of this witness.

18 THE COURT: Mr. Wilson, do you have
19 questions for the witness?

20 MR. WILSON: No.

21 THE COURT: Mr. Krlich, just a few
22 questions from me. How many different recordings, either
23 audio or video, of Mr. Wilson, how many occasions have you

1 captured in some way?

2 THE WITNESS: I think there's seven there.

3 THE COURT: And they range in what time
4 frame? This was August. Give me an idea from when to when,
5 if you can.

6 THE WITNESS: I'll have to look.

7 THE COURT: Can you estimate for me?

8 THE WITNESS: From '09 until, until just a
9 month ago with him giving me the finger.

10 THE COURT: Was that the first time that
11 ever happened, him giving you the finger?

12 THE WITNESS: Yes.

13 MR. WILSON: I just waved at you.

14 THE COURT: Okay. You can't speak up like
15 that. I'll give you an opportunity if you want to ask other
16 questions. Is it possible he just waved at you?

17 THE WITNESS: No.

18 THE COURT: You really could see it that
19 clearly?

20 THE WITNESS: Absolutely.

21 THE COURT: Is it visible on video or --

22 THE WITNESS: Yes. One instance --

23 THE COURT: That specific, that I could

1 tell he was giving you the finger?

2 THE WITNESS: Absolutely. In fact, we have
3 a photo.

4 THE COURT: You say you have a photograph?

5 THE WITNESS: Yes.

6 THE COURT: You believe it will depict it
7 clearly enough that I will be able to identify it?

8 THE WITNESS: If that doesn't, the disc
9 will. Next one. Right there, yes. It's pretty clear there,
10 but it's really clear on the disc.

11 THE COURT: I can see it. I'll mark this
12 as Petitioner's Exhibit 5. I don't need the disc. And you
13 haven't formally identified that?

14 MR. HENKIN: This has been marked
15 Petitioner's Exhibit No. 5. Would you identify the date and
16 the time?

17 THE WITNESS: July 11th, 2010 at 12:01 p.m.
18 in the afternoon.

19 MR. HENKIN: And this particular photograph
20 depicts what?

21 THE WITNESS: Josh Wilson on his motorcycle
22 putting both hands up and giving me the finger.

23 THE COURT: Okay. I have a few more

1 questions. Had you sought any kind of counseling as a result
2 of this activity?

3 THE WITNESS: I, I've been to the doctor
4 but I haven't --

5 THE COURT: Can you tell me in what way
6 this has caused you mental distress?

7 THE WITNESS: Keeping me up late at night
8 all the time. And every, every time I -- I'm on my deck,
9 they're blowing the horn. He's blowing the horn. I'm in the
10 house, the horns are being blowed. It's, it's been nonstop.
11 And it's, it's --

12 THE COURT: Has this caused a change in
13 your life-style?

14 THE WITNESS: Absolutely.

15 THE COURT: In what way?

16 THE WITNESS: I have to be at my, my audio
17 and video all the time recording his incidents just so I can
18 present this stuff to you. It's been nonstop. It's cost me a
19 lot of money. And it's cost me a lot of time, a lot of time.
20 And I am losing sleep at night over it. And I'm losing --
21 it's cost me work time because when he does it in the middle
22 of the night it keeps me up the whole night.

23 THE COURT: I think you've indicated

1 yourself, Mr. Wilson is not the only person that's done this;
2 correct?

3 THE WITNESS: Yes.

4 THE COURT: You at least believe you have
5 approximately seven occasions, though, you've captured on,
6 evidence of him doing it? Are there other occasions beyond
7 that? Or have you pretty much got everything on video since
8 you have the equipment?

9 THE WITNESS: There were, there were times
10 before, way more times before I had the video equipment.
11 That's why I had to get the video equipment.

12 THE COURT: Now in the last month you
13 haven't seen anything like that? This was filed in July, your
14 petition. But you do have this happening --

15 THE WITNESS: There is incidents on Creed
16 before I had this camera. I had to put this camera up because
17 of him. And there's been incidents on Creed, the side street
18 next to my house, that's he's been doing it. Just like he was
19 doing it before I had the camera. Now I had to put another
20 camera out just to try and stop him.

21 THE COURT: I believe your tape was
22 August -- that was '09, though, correct? The DVD was from
23 '09; correct?

1 THE WITNESS: Yes. That's one of the
2 incidents, yes.

3 THE COURT: After this -- this was
4 July 11th, the photograph, Petitioner's Exhibit 5. If you
5 know, have there been any taped incidences since that day?

6 THE WITNESS: Since this day?

7 THE COURT: Since that date?

8 THE WITNESS: No.

9 THE COURT: Okay. I don't have any other
10 questions. Anything further?

11 MR. HENKIN: Just very quickly, two.

12 BY MR. HENKIN:

13 Q Disturbing of your peace and quiet and sleep, it also
14 affects your wife, does it not?

15 A Oh, absolutely.

16 Q And she's employed?

17 A Yes. She works, she's, she's awoken in the middle of
18 the night and she can't get to sleep.

19 Q And it causes stress in your home life?

20 A Absolutely.

21 Q Because people are exhausted?

22 A This has been consuming our life for the last three
23 years.

1 MR. HENKIN: No further questions, Your
2 Honor.

3 THE COURT: Mr. Wilson, any questions for
4 the witness?

5 MR. WILSON: No.

6 THE COURT: You're excused, Mr. Krlich.
7 Anything further from the Petitioner?

8 MR. HENKIN: No. The admissions.

9 THE COURT: You've offered them. And like
10 I said, I'm going to need that disc. That's going to be
11 Petitioner's 4. Those are the other photographs? Well, I'm
12 only going to take the disc.

13 Would that conclude the presentation of the
14 Petitioner's case?

15 MR. HENKIN: Yes, Your Honor.

16 THE COURT: You move for the admission of
17 your exhibits; correct?

18 MR. HENKIN: Yes, Your Honor.

19 THE COURT: Any objection to any of these
20 exhibits coming into evidence? They will be admitted without
21 objection. With that, that would conclude the presentation of
22 the petitioner's case.

23 Mr. Wilson, it's your opportunity to go

1 forward yourself. Did you wish to testify further offering
2 additional evidence to the Court?

3 MR. WILSON: Yeah.

4 THE COURT: Return to the stand, if you
5 would. I will remind you that you remain under oath.

6 WHEREUPON,

7 JOSHUA WILSON,

8 being previously duly sworn, according to law, further
9 testified as follows:

10 EXAMINATION

11 THE COURT: You're submitting an exhibit
12 here?

13 THE WITNESS: Yeah.

14 THE COURT: Have a seat. I need to get you
15 on the record. Again, this is Josh Wilson. This is his own
16 case, his testimony. He's retaking the stand here.

17 You've handed me a document. It appears to
18 be a Hubbard Police Department Ohio Uniformed Incident Report,
19 something that was reported 8/29 of '09. It consists of
20 numerous pages. This is all one, one single report to your --

21 THE WITNESS: Yes.

22 THE COURT: -- understanding, sir?

23 THE WITNESS: Yes.

1 THE COURT: Includes some voluntary
2 statements from some different individuals. Why don't you
3 tell me what happened on that day?

4 THE WITNESS: On that day?

5 THE COURT: Wait a minute. I'm sorry.
6 Before you go on, I'm going to mark this as Respondent's
7 Exhibit A.

8 THE WITNESS: That was the first time
9 and --

10 THE COURT: First time what?

11 THE WITNESS: First time that I beeped my
12 horn.

13 THE COURT: Okay.

14 THE WITNESS: And it was an afternoon. I
15 don't remember what day it was. But I was heading towards
16 Hubbard on 304. I beeped my horn. And I turned left onto Oak
17 Knoll. I noticed that there was a big, there was a one-ton
18 Ford following me. And then I seen the person that was
19 driving. He was yelling and saying swear words and saying,
20 "You better pull over" and all this other stuff. And he kept
21 chasing me. Chased me all the way into Pennsylvania in speeds
22 of excess to 85 miles an hour down back roads. Two witnesses
23 seen how close he was. I could have very easily been hurt or

1 killed.

2 THE COURT: Okay.

3 THE WITNESS: And --

4 THE COURT: Who was the person doing this?

5 THE WITNESS: That was following me?

6 THE COURT: Yeah.

7 THE WITNESS: It was Rick.

8 THE COURT: Okay. How do you know that?

9 THE WITNESS: Because he -- I ended up
10 pulling over when I decided that it was too dangerous to keep
11 going.

12 THE COURT: Okay. Where was this at that
13 you pulled over?

14 THE WITNESS: I -- it's in there. I don't
15 remember. It was a back road down in West Middlesex. It was
16 a farm town.

17 THE COURT: And what happened when you
18 pulled over?

19 THE WITNESS: Well, I hit some gravel on my
20 motorcycle at the end of a farmer's driveway and my bike went
21 down. And I was able to stay on my feet. I was going about
22 five miles an hour. And I picked it back up and went up to
23 the house because I didn't know this guy, I didn't know what

1 he was trying to do to me. Who he was. And I was, I was
2 pretty --

3 THE COURT: You had no idea who he was?

4 THE WITNESS: I had no idea who it was.

5 THE COURT: Well you beeped by his house;
6 right?

7 THE WITNESS: Yeah.

8 THE COURT: And that's when the person
9 started following you?

10 THE WITNESS: Well, it was about a half
11 mile down the road before I noticed the vehicle following me.

12 THE COURT: But you knew the situation
13 going in, why you were beeping? You didn't -- did you suspect
14 that that might be who that is?

15 THE WITNESS: No. At first I had no idea
16 until afterwards.

17 THE COURT: All right. So when he -- you
18 pull over. What happens?

19 THE WITNESS: I went up to the farmer's
20 house, ran up to the door, knocked on the door and I asked for
21 help, because I didn't know what this guy wanted to do to me.
22 You know what I mean?

23 THE COURT: Okay.

1 THE WITNESS: And me and the farmer walked
2 down to Rick. And then he was standing there down by his
3 truck. And we talked. I gave him my driver's license and
4 then he left. Then I left. It cost me about \$800 to fix my
5 bike, the pipes and the turn signals.

6 THE COURT: How did it get damaged?

7 THE WITNESS: I, I laid it down in the
8 gravel.

9 THE COURT: Okay.

10 THE WITNESS: And there are skid marks,
11 too, on the road. And the Southwest Regional police officer
12 has pictures of my bike, the damage done to it. And he also
13 has pictures of the skid mark on the road.

14 THE COURT: Okay. So they took a report
15 about it as well, Southwest Regional Sheriff's Office?

16 THE WITNESS: Yes.

17 THE COURT: Okay. Did they take any
18 action on that?

19 THE WITNESS: I never filed charges.

20 THE COURT: Okay. And they didn't file any
21 charges; correct?

22 THE WITNESS: No. I was supposed to
23 receive a phone call from the Hubbard police officer the next

1 day because I didn't know where I had to go next or what I had
2 to do next. And he never got back with me. And I was busy
3 with work. I'm very busy with work. I'm out of town all the
4 time. So I just figured it was easier just to let it go.

5 THE COURT: Okay. So you let that go. But
6 then, were there other occasions after that that you did the
7 same thing when you went by Mr. Krlich's house?

8 THE WITNESS: Yes. And he followed me.
9 And he came to my house, took pictures. He drives past my
10 house all the time.

11 THE COURT: Okay. Anything else?

12 THE WITNESS: No.

13 THE COURT: Okay. I guess I still want to
14 ask, when that happened, okay, he followed you and --

15 THE WITNESS: It was more --

16 THE COURT: The impression I'm getting is
17 that that unsettled -- you were upset by that?

18 THE WITNESS: Yes. I still am. Because I
19 had to spend that money to fix my bike.

20 THE COURT: Okay. So then, but then you,
21 still knowing all that, you still did the beeping thing going
22 by his house?

23 THE WITNESS: Yes. I had a hard time

1 letting that go, you know what I mean?

2 THE COURT: Okay.

3 THE WITNESS: He didn't just follow me. It
4 was more of a high speed chase. It lasted about six,
5 seven miles probably.

6 THE COURT: I don't have any other
7 questions. Anything?

8 MR. HENKIN: Just one or two.

9 RE CROSS EXAMINATION

10 BY MR. HENKIN:

11 Q Have any charges been filed against you in the Girard
12 Municipal Court in reference to your alleged behavior
13 affecting Mr. Krlich?

14 A No.

15 Q You never pled guilty to disorderly conduct?

16 A Oh, yeah. I thought you meant afterwards.

17 Q Just --

18 A That was in 2009, yeah.

19 Q Wasn't it involving your behavior, the complaint was
20 made to the Court by Mr. Krlich?

21 A Yes.

22 Q And as unnecessary as this question is, this report
23 that you submitted to the Court, when ultimately you stopped,

1 whether your bike, you lost control of your bike, whatever,
2 did Mr. Krlich grab you or in any way physically assault you?

3 A No.

4 Q So you could have pulled over at any time?

5 A Yeah. But when he was chasing me, he had his hand
6 out the window and I could hear him screaming at me. You
7 think I would stop with somebody screaming at me?

8 Q Okay. Now, you just admitted that subsequent to this
9 unfortunate circumstance your behavior continued?

10 A Because I was upset about what happened and I just
11 couldn't let that go.

12 Q Okay. So it's still, your behavior continued
13 involving a person that you're showing this Court a document
14 that maybe their behavior wasn't too good; right?

15 A Right.

16 Q But you still, by your own behavior, kept it going?

17 A Yes.

18 MR. HENKIN: No further questions.

19 THE COURT: Asked and answered. The only
20 other question I wanted to ask is, you were charged with
21 disorderly conduct in Girard Municipal Court?

22 THE WITNESS: Is that what it was?

23 THE COURT: I'm asking you.

1 THE WITNESS: I don't remember.

2 THE COURT: What happened with that case?

3 THE WITNESS: I just had to pay a fine.

4 THE COURT: So you did enter a plea of like
5 no contest to it?

6 THE WITNESS: Yes.

7 THE COURT: Okay.

8 THE WITNESS: I think.

9 THE COURT: Now, that happened last year
10 some time?

11 THE WITNESS: 2009 or 2008. I don't
12 remember.

13 THE COURT: So after that happened, after
14 that happened there were still other occasions even after that
15 that you still went by his house and did that?

16 THE WITNESS: Not beeping, no.

17 THE COURT: What did you do?

18 THE WITNESS: Just waving and --

19 THE COURT: Flipping him off?

20 THE WITNESS: I don't remember flipping him
21 off, no. I don't think I flipped him off.

22 THE COURT: Have you seen the pictures?

23 THE WITNESS: No.

1 THE COURT: Mr. Krlich's testimony, you
2 were flipping him off at that time?

3 THE WITNESS: There's a fence right here.
4 There's nobody outside.

5 THE COURT: I'm telling you, it's Mr.
6 Krlich's testimony that you flipped him off at that time.
7 That's a picture depicting you on your bike doing that. Are
8 you telling me that's not what that is?

9 THE WITNESS: There was no, there was
10 nobody outside.

11 THE COURT: It doesn't matter if there was
12 anyone outside. I'm telling you what the picture is. Are you
13 telling me that's -- is that you?

14 THE WITNESS: That's me, yes.

15 THE COURT: What are you doing?

16 THE WITNESS: It looks like I got the
17 middle finger up.

18 THE COURT: Okay. So you told me before
19 that you didn't, but that shows that you did; right?

20 THE WITNESS: I never flipped anybody off
21 in person. There was nobody standing outside. That was a
22 camera.

23 THE COURT: Just generally flipping the

1 camera off?

2 THE WITNESS: Yeah.

3 THE COURT: All right. Very good. Okay.
4 That's fine. I don't have anything further. Anything
5 further?

6 MR. HENKIN: Would you mark this, Your
7 Honor?

8 THE COURT: He's already acknowledged it.
9 I don't think you need that.

10 MR. HENKIN: If that be the case, I have no
11 further questions of him.

12 THE COURT: Very good. You're excused,
13 sir. Thank you.

14 THE WITNESS: I have a question?

15 THE COURT: Yes.

16 THE WITNESS: Is it legal to take pictures
17 of somebody's residence?

18 THE COURT: I'm not generally in a practice
19 to -- I want to make sure Attorney Henkin is -- yes, it is.

20 There's one Exhibit from the Respondent
21 here. Any objection to Exhibit A, the police report.

22 MR. HENKIN: I do, Your Honor. I do
23 because the report never was completed to fruition of any,

1 either civil or criminal action. And it is, it is unilateral.
2 And its presentation is the testimony that's been taken, at
3 least by report of this young man.

4 THE COURT: I guess I'll admit this with
5 limitations. I'll admit this police report as a report that
6 was made in conjunction with the testimony that Mr. Wilson
7 gave about that incident. At the same time, all the hearsay
8 that's contained therein, any out of court statements to which
9 there's not witnesses here to give their own testimony will
10 not be considered by the Court. So with that limitation,
11 that's admitted. And you have nothing further, correct,
12 Mr. Wilson?

13 MR. WILSON: Well --

14 THE COURT: As far as evidence, I'm asking
15 you. I'll give you an opportunity to make a short statement
16 if you want.

17 MR. WILSON: No.

18 THE COURT: No more evidence; correct?
19 That will conclude the presentation of petitioner's case. Did
20 the parties wish to give brief closing arguments? It's not
21 required, but if you wish to.

22 MR. HENKIN: Just bear with me for a
23 moment, Your Honor. I was just handed another document here.

1 I would just ask the Court to take judicial
2 notice, there was another charge against this particular young
3 man pending in Girard Court.

4 THE COURT: If it's pending it doesn't make
5 a difference.

6 MR. HENKIN: We have nothing further, Your
7 Honor.

8 THE COURT: Very good. Any, any closing
9 remarks?

10 MR. HENKIN: Just briefly, Your Honor.

11 CLOSING ARGUMENT ON BEHALF OF THE PETITIONER

12 MR. HENKIN: I think the young man's own
13 testimony speaks for itself. Even exclusive of videos and
14 audios, except for even the acknowledgement of the disorderly
15 conduct charge, he's admitted he was repetitious. It's been
16 happening quite a period of time. And to add insult to
17 injury, even after the incident that he's complaining about he
18 continued. And we're here because it's only stopped recently,
19 again by his own admission, since the CPO order was filed.
20 And I think that I've presented oral and visual and audio
21 evidence, Your Honor, that would qualify to ask the Court to
22 intervene, put a protective order to stop his behavior. Thank
23 you, Your Honor.

1 THE COURT: Mr. Wilson, do you want to say
2 something further? You're allowed to respond to his. But if
3 you wanted to offer any additional thoughts?

4 MR. WILSON: I have just a few things.

5 CLOSING ARGUMENT ON BEHALF OF THE RESPONDENT

6 MR. WILSON: Like, my father lives in West
7 Virginia and he got a letter in the mail and he didn't have
8 any clue what was going on.

9 THE COURT: Okay.

10 MR. WILSON: And alls I can say is, the
11 reason why I kept doing it is because I was angry because I
12 laid my bike down and I spent money to fix it because he
13 chased me down. And that just stuck with me. So --

14 THE COURT: Okay. That would conclude the
15 presentation of the evidence before me.

16 This, this case is ridiculous, I mean, in
17 any number of ways. You know. I mean first let me just get
18 this out of the way. The whole following incident -- I mean,
19 I'm going to give some more thoughts on what I think has been
20 happening with the beeping and everything. But, you know, the
21 following, if it took place, and it doesn't seem to be
22 disputed a whole lot that there was some high speed type chase
23 here. Very poor judgment. I don't care how crazy it gets

1 you. Bring the law into the picture rather than following
2 people around, especially at a high rate of speed. You know,
3 somebody can get killed. And it's just, it's just a wrong
4 thing to do.

5 What I'm here about is whether there's
6 evidence that shows that Joshua Wilson engaged in menacing by
7 stalking, that being a pattern of conduct -- there's no
8 evidence of any threat of physical harm -- but pattern of
9 conduct that would cause mental distress here.

10 I don't know what -- you know, you both
11 testified, about half of Hubbard thinks this is just a fun
12 thing to do. And it's crazy. What's wrong with half of
13 Hubbard? What on earth is wrong with people? You know. I
14 mean I was a kid once. You're a young guy. 21-years old. I
15 mean, I did -- I do loads of stupid things today. But I did
16 even more back then. I mean, I understand what it's like to
17 be young and do something that's a goof and continue doing
18 stuff. But this is so absurd. I mean, this gentleman here,
19 regardless how he's reacted to things, by your own
20 acknowledgement you're aware that there's a whole community
21 that thinks it's just, just a fun thing to do to try and make
22 his life miserable. And that's sick. It's sick. I mean it
23 really, it disturbs me to no end that that's the situation.

1 I don't know Mr. Krlich personally. And
2 like I said, I got enormous difficulties with some of the
3 reactions here as far as, you know -- I appreciate why you may
4 have been upset about how that whole thing occurred. But, you
5 know, you took part in a thing that apparently is, is some
6 kind of a fad in Hubbard, which I know people in Hubbard and I
7 hope they're not involved with it. But, you know, what's
8 wrong with a group of that many people? I understand it's not
9 literally half of Hubbard, but it's a whole host of people.
10 And it's not just young people that think that this is just a
11 way to act, a way to live your life.

12 I mean, you know, my, my legal question
13 here, is there a pattern of conduct? Yeah. You were sort of
14 straight with me. You got a little bit straighter with me
15 when I tried to really horn in on you. But you denied the
16 whole flipping off thing and you tried to hedge your bets or
17 be real specific with, oh, it was the camera you flipped off.
18 You know what I'm talking about. I'm not here to screw
19 around. I'm not here to hedge words and try and have you give
20 me the technical answer and dance around the facts here. I'm
21 trying to get down to brass tacks. And I tried to get that
22 across to you, and you gave me a little more information,
23 tried to be a little more honest. But you're still cutting

1 corners here and there minimizing the things that happened.

2 I mean, you know, I don't have any question
3 that it's happened a whole host of times, that you've gone,
4 gone by there and, you know, the horn beeping. The, I don't
5 know if you flipped him off more than once but, you know,
6 gunning it just to make sure your presence was known because
7 it's what, what seems to be the thing to do over there.

8 And you know, what really gets me, you went
9 in Girard Municipal Court, you pled to a disorderly conduct
10 and you're still doing this stuff. I mean maybe you stopped
11 recently when you finally got this stuff. But I mean what the
12 heck does it take? I mean, what does -- I feel like getting a
13 bullhorn and putting it on top of a car and riding through
14 Hubbard and saying hey, idiots, cut it out. I mean, this is
15 stupid, immature, ridiculous, sick, awful behavior. People
16 have lives.

17 I mean, put yourself for a moment in
18 Mr. Krlich's shoes and live in a house -- I understand people
19 live on busy roads. You're going to hear noise. And
20 everybody wants to give that excuse. You live on a road,
21 you're going to hear noise. That's not what's happening here.
22 I think everybody knows that's not what's happening here.

23 Put yourself in the shoes of a person who

1 lives in a house who has to deal with intentional acts of
2 disturbing the peace around his home from an entire community,
3 or a huge, large number of people from a community and, and
4 how that would affect your life.

5 I mean, and really, I mean if you can have
6 any empathy for a person, if you understand what I'm saying by
7 empathy, put yourself in their shoes and think what that would
8 do to you, if that's what's happening in your life at all
9 hours of the night and you have this happening and you're
10 going to hear it and you know it's happening, and it's become
11 such an issue that now it's all you hear. You know, I mean,
12 could -- is there an overreaction here? For God's sakes I
13 have a guy coming into court that has a video set up that
14 would make the Whitehouse jealous. But this is what it's come
15 to. Would everybody react that way? I don't know. But is
16 it, is it totally out of the realm that, you know, to try and
17 put yourself in this guy's shoes that this would be something
18 that would drive you to a high level of distraction and would
19 cause a whole change in your, you know, your outlook and your
20 life-style and the way you got to run things? At a certain
21 point, yeah, it becomes that. And, you know, I don't get it.

22 I mean like I said, it's one thing for it
23 to happen a couple times on a prank. But this is after

1 hearing, you know, and you just kept doing it. I mean, what
2 does it take to get through people's heads? I mean I just,
3 you know, if I went into court, I'm the kind of guy when I was
4 a kid, if I got hauled into court for something that I had
5 such an easy way to control, you know, I mean not, not to go
6 off on a complete tangent but I got picked up on an open
7 container when I was in college. Okay. And I didn't go and
8 put myself in jeopardy of getting another open container out
9 there. And that wasn't even anything that was directed in a
10 mean spirit. And that's what it is. It's a mean spirited,
11 juvenile just nasty thing to do, especially when you know all
12 these circumstances. I'm just out drinking a beer.

13 But there's a group of people that go out
14 and do this because they know it's just the way to get under
15 some guy's skin. And they just keep, it's like, you know,
16 poking, poking the hornet's nest. You know. And it goes on
17 and on and on. And like I said, if that happens to me and I
18 go in and I plead to a disorderly conduct and then, what does
19 it take to get through a person's head? And you come into
20 court and initially you seemed like sort of aggravated like,
21 oh, boy, this is a real overreaction. Why the heck am I here?
22 And boy, what about him taking pictures of my house? You know
23 what? Time to take a little individual responsibility for

1 what you did and what your actions are. You could have taken
2 it a long time ago. I don't like to sit here and lecture.
3 Like I said, I was young. I mean, and did a lot of stupid
4 things. But, but boy, you know, I mean, these are odd cases.
5 This is an odd case. For somebody -- if it was, you know,
6 just like the first time you did it and went by, I can't see
7 it happening. But there is a pattern here. And you stopped,
8 but you stopped after you finally got your protection order.
9 You didn't stop after you got your disorderly thing.

10 So it doesn't give me any hope that, you
11 know, without some kind of legal impediment here that it is
12 going to stop. So my two little questions. Has there been a
13 pattern of conduct? And is it a kind of pattern of conduct
14 that, you know, is or is designed, has or is designed to cause
15 mental distress here?

16 Now, now Mr. Krlich is not gone to seek
17 counseling. But the law generally says that it's the type
18 that would require a person to go seek counseling. And I'll
19 be quite frank with you. You know, if you think his
20 overreaction is crazy and over the top, that sort of meets the
21 standard. That sort of helps meet the standard. It's driven
22 someone to such a level to take the kind of actions he has had
23 to take that, you know, under normal circumstances shouldn't

1 have to be taken, and that would drive -- and obviously is, is
2 caused, you know, substantial amount of grief and disruption
3 to, to he and his wife's life here. And, you know, I mean the
4 bottom line is, you know, I -- the bottom line very quickly is
5 I do find that it does meet the standard for a protection
6 order and I am going to issue it. And I'm going to give you
7 the specific terms I'm going to include in it in a moment.

8 But the bigger thing is, does anybody have
9 any shame or any sense of decency about this whole thing at
10 some point, and take it upon themselves to say, you know, I --
11 it's not like you know the guy. You know. I mean you know
12 him in passing. You know the one thing he did to you, but
13 it's not like you have any, it's not like he did something
14 harmful to you to start the whole thing out. He chased you
15 after it but you knew, you knew what was happening at that
16 time.

17 If you would step back for a minute and
18 think about what you've done over this course of time then
19 first of all, first you should be ashamed. You should be
20 smarter. Okay. It's time to grow up. It's time not to pull
21 this crap. It's time to be a little bit better person than
22 the rest of the people in Hubbard who are pulling this crap.

23 And secondly, you know, from, from, for a

1 period of time here you're going to be under a legal
2 restriction that if you want to mess around -- it sounds like
3 you're a hustler. You're out there doing a bunch of different
4 jobs. You got a bunch of stuff going on. Why do you need
5 this grief in your life? I mean, isn't there so many more
6 important things to do in life aside from, like I said, just
7 what common decency says. Live and let live. Don't -- just,
8 I had to say some of those comments because I'm just
9 flabbergasted. I'm flabbergasted that these kind of things
10 have to, have to be dealt with here.

11 I'm going to recommend the issuance of a
12 protection order because I find it does show that there's been
13 a pattern of conduct in which you knowingly caused him to be,
14 you caused him mental distress here. For that reason there
15 has been menacing by stalking shown. I'm going to put the
16 protection order in effect because I'd like to give you the
17 opportunity to, to shape up. I'm going to put it in effect
18 for one year. One year period of time.

19 And I'll tell you what. If after one year
20 there's a hint it comes in my court that anything remotely
21 like that's happening, you know, and that you're involved in
22 it, I'll pop it on for the rest of the period of time. But at
23 this point in time I like to think that you indicated that you

1 stopped doing it some period of time. And that maybe you're
2 going to take a little bit of this to heart and wise up about
3 the whole thing and take a look inside and say, A, is this
4 smart for me to do? And, B, is it right for me to do? I
5 would hope that you would figure out that it's the wrong thing
6 to do, what you've been doing, and you won't do it anymore.
7 For a one year period of time I'm going to put a protection
8 order in effect that says that you don't, you know, you don't
9 go by Mr. Krlich's residence or anywhere in that general
10 vicinity and in any way make any kind of undue or unnecessary
11 noise in any way.

12 I'll be frank with you, until I get the
13 protection order kicked out here, I'm not sure exactly what
14 language I'm going to include in it. It's going to say
15 something to the effect, certainly no beeping of any, any horn
16 or, I don't know if I'll include revving of the engine. I'm
17 leaning that way. But you know what I'm talking about. I'll
18 try and make it as inclusive as possible.

19 And believe me, I expect it to be complied
20 with, the spirit of it as well as the letter of it. I don't
21 want to hear something about, you know, some kind of cute
22 little wave, oh, I flipped off the camera, I didn't flip off
23 him. You know, that's kid stuff. And courts aren't here to

1 deal with kid stuff.

2 I'll issue the protection order. I'll have
3 the paperwork out in the next couple of days here. Most
4 likely it will be out of my office tomorrow down to the clerk.
5 It will come to you guys in the mail in the next few days
6 here.

7 Between now and then, you'd certainly be
8 well-advised to act as if the thing is currently in effect and
9 conduct yourself accordingly. If you do otherwise, you'll run
10 the risk of further legal problems.

11 I am a magistrate. I'm not a judge. Any
12 decision I make, you're entitled to file a challenge to. It's
13 called an Objection to the Decision of the Magistrate. The
14 way you're going to have to go about doing that is, once you
15 get my decision it will have a time stamp on it. You will
16 have 14 days from the date of that time stamp to file a
17 written objection to the decision of the magistrate. You have
18 to state in writing the reasons why you believe my decision
19 was wrong. You would then have to also perhaps, depending on
20 the judge, perhaps obtain a copy of the transcript of the
21 testimony that's been given here. If you do so, you need to
22 contact the Court's court reporter to make arrangements to
23 purchase that. It would then go to Judge McKay. If you do

1 file the objection you're required to send a copy to
2 Mr. Krlich and his attorney. It would go -- then you would
3 have the opportunity to file your own written response. It
4 would go to Judge McKay who can then determine what course of
5 action he wishes to take about the case from that point
6 forward. He may want to hear additional evidence. He may
7 want to ask for additional materials. That's his choice at
8 that time.

9 If you don't file the objection it will
10 simply be an order that at this point in time would remain in
11 place for a one-year period and would expire on its own at the
12 end of that one year. Understand the consequence of violating
13 a protection order, you can run the risk of being arrested and
14 charged with a misdemeanor crime of violating a protection
15 order. If you want to spend your time going back to court,
16 you'll have that opportunity.

17 But I hope I've made myself abundantly
18 clear here. That's going to be my ruling. You're welcome to
19 challenge it. That's certainly your legal right. But as far
20 as I'm concerned, I certainly hope that regardless of anything
21 that happens from this point forward, you take to heart the
22 kind of things I've been telling you here today and you decide
23 to maybe conduct yourself in a better way going forward here.

1 14 days from the date that's going to be time stamped on the
2 paperwork you get from me when I send it back.

3 And, again, you have to send a copy of that
4 to Mr. Krlich and his attorney.

5 MR. WILSON: How do I get their address?

6 THE COURT: It should be part of the case
7 file. It should be. You received the documents --

8 MR. WILSON: It just had the name on there.

9 THE COURT: You got a copy of the petition
10 as well. I'll get a copy of this for you. I'll get you
11 something that has both of their addresses on it. When we
12 leave here, if you have no objection I'll have those copies
13 made in the assignment office. Any other questions at this
14 point?

15 MR. WILSON: No.

16 THE COURT: Okay. Very good. I don't have
17 anything further. We are in recess.

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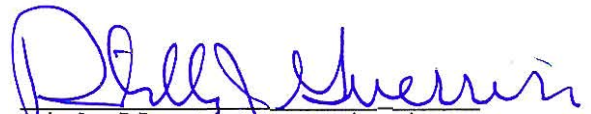
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REPORTER'S CERTIFICATE

This is to certify the foregoing represents a true and accurate transcript of the official audiotape recording of the proceedings had in the aforementioned case.


Richelle J. Guerrieri
Official Court Reporter

REPORTER'S CERTIFICATE

This is to certify the foregoing represents a true and