

CAUSE NO. SB 13-24/2

In re the appeal of:	§	IN THE DISTRICT COURT
William M. Windsor	§	
Petitioner,	§	
v.	§	TWENTY-FIRST DISTRICT
Sean Boushie,	§	
Respondent	§	RAVALLI COUNTY, MONTANA

MOTION FOR RECONSIDERATION OF APPEAL

Comes Now, William M. Windsor (“Petitioner” or “Windsor”) and files this MOTION FOR RECONSIDERATION OF APPEAL (“APPEAL”).

PETITIONER shows the Court as follows:

1. PETITIONER applied for a Temporary Order of Protection in the Justice Court, but the petition was denied by Justice of the Peace Jim Bailey on bogus grounds. PETITIONER meets all of the requirements of the statutes for a temporary order of protection, and he must not be denied for no good reason or for erroneous reasons. The PETITIONER’S APPEAL was denied on totally erroneous grounds, and the ORDER issued failed to even address one of the two grounds for the petition for protective order.

FACTUAL BACKGROUND

2. On August 6, 2013, the PETITIONER filed a SWORN PETITION FOR TEMPORARY ORDER OF PROTECTION AND REQUEST FOR A HEARING (“SWORN PETITION”) with the Justice Court. A true and correct copy of the SWORN PETITION is attached to the PETITIONER’S new petition for temporary protective order that was filed with the Clerk of the Court at 3:30 pm on Friday, August 9, 2013, referenced and incorporated herein as if attached hereto.

3. Justice of the Peace Jim Bailey denied the SWORN PETITION claiming “(1) In order to grant a restraining order, the Court must find that the applicant is in imminent danger of harm. The information in your application did not meet that criteria. (2) If you have no relationship to the Respondent, then the Statutes require that you must be a victim of assault, stalking, incest, sexual assault, or sexual intercourse without your consent. The information provided in your application did not meet that criteria.” A true and correct copy of the AUGUST 6, 2013 ORDER is attached hereto as Exhibit 1 and incorporated herein.

4. Judge Bailey did not properly consider the evidence presented, so the PETITIONER is providing additional evidence to make it crystal clear that the

PETITIONER meets the requirements of the statutes for a Temporary Order of Protection.

5. When the PETITIONER attempted to file an Amended Order of Protection in the Justice Court, Justice of the Peace Jim Bailey came out of his office in a rage and thrust the filing into the PETITIONER'S hands. He said the PETITIONER was not allowed to ever file anything in his court ever again. He told the PETITIONER he should leave, or he would call the sheriff and file charges against the PETITIONER for disturbing the peace. The PETITIONER hand wrote an appeal and filed it by handing it to the filing clerk. A few seconds later, justice of the Peace Jim Bailey came charging out of his area in a rage with a look like he wanted to murder the PETITIONER, and he wadded up the PETITIONER'S APPEAL and threw it at him. A true and correct copy of the unwadded appeal is attached hereto as Exhibit 2 and incorporated herein. A true and correct copy of a photo of the wadded appeal is attached hereto as Exhibit 3 and incorporated herein.

6. The PETITIONER then went to the District Court Clerk's office and filed this APPEAL. A true and correct copy of the Motion for Exception to Appeal Protocol is attached hereto as Exhibit 5 and incorporated herein.

7. Judge James A. Haynes reviewed the APPEAL and issued an order denying the APPEAL. A true and correct copy of the ORDER is attached hereto as Exhibit 4 and incorporated herein.

8. The ORDER of Judge Haynes is entirely erroneous in its claim of what the statutes require, and the ORDER ignores one of the two grounds for the protective order.

A STALKING CONVICTION IS NOT REQUIRED
FOR AN ORDER OF PROTECTION.

9. The ORDER of Judge Haynes states that a stalking conviction is required before a protective order can be issued.

10. This would be laughable if this were not such a serious issue.

11. The PETITIONER has reviewed every case involving MCA section 40-15-102 and 45-5-220 on versuslaw.com, and there is NO CASE that says a conviction is a prerequisite for an order of protection. The case law shows just the opposite to be true.

12. Orders of protection are to protect people. They were created as a means to protect people before someone is arrested or convicted or in lieu of criminal charges.

An Order of Protection is a court order that is designed to stop violent and harassing behavior. ... It is designed to protect you and your family members from someone who has harmed or threatened to harm you and of whom you are afraid. ... **You may be eligible for an Order of Protection whether or not you have reported the abuse to law enforcement, charged are filed, or you participate in a criminal prosecution.**

(<http://www.montanalawhelp.org/resource/order-of-protection-frequently-asked-question>) [**emphasis added.**]

MontanaLawHelp.org is a project of Montana Legal Services Association. The project is funded by the national Legal Services Corporation and the Montana Justice Foundation. Other partners to the project include the Montana Credit Unions for Community Development, State of Montana Law Library, the State Bar of Montana, and the Montana Supreme Court.)

13. The following case summaries provide undeniable proof that the

ORDER is absolutely erroneous:

- a. A Temporary Order of Protection was issued when Marlene Coogler said she saw her ex-husband, James, inhaling some type of chemical substance and acting "spacey" and "lethargic" thereafter on several occasions. Marlene said she became fearful for her life as James continued to abuse chemical inhalants. On September 23, 2002, Marlene requested a Temporary Order of Protection. **James had not been charged with or convicted with any crime.** (*Coogler v. Coogler*, 321 Mont. 243, 90 P.3d 414, 2004 MT 122 (Mont. 05/06/2004).)
- b. A Temporary Order of Protection was issued after Vickie Wetherill petitioned the Lincoln County Justice Court for a temporary order of protection. In her petition, Wetherill declared that she was in danger of harm and that Mitch Walters, the Chief of the Troy Police Department, had been stalking her. The allegation was that while Wetherill was working at the BP gas station in Troy, Montana, Walters came in for coffee. Walters asked Wetherill what her husband

was doing while she was working and inquired about the state of the Wetherills' marriage. Walters told Wetherill that he had seen her husband's vehicle at a bar and, as he left the station, Walters stated that he would just have to slap Wetherill's husband around. Wetherill was concerned and contacted the mayor's office. Walters then contacted her a number of other times. **Mitch Walters had not been charged with or convicted of any crime.** *Wetherill v. Walters*, 299 Mont. 547, 4 P.3d 1220, 2000 MT 79 (Mont. 03/23/2000)

- c. In 1998, Stacy Lear and several others were introduced to Carrie Jamrogowicz by a mutual friend through a social networking site used by several North Carolina State University (NCSU) alumni. Jamrogowicz subsequently moved to Cary, North Carolina, near the campus of NCSU. Lear never developed a personal relationship with Jamrogowicz. Lear later moved to Leesburg, Virginia. Lear alleged that between 1999 and 2001, she witnessed Jamrogowicz stalk a woman by gaining access to her private electronic communications and copying her lifestyle, including her haircut, hair color, and wardrobe. She also purchased the same kind of dog the woman owned, and joined the same organizations to which she belonged. Lear alleged that Jamrogowicz also publicly posted inappropriate and menacing comments about this other woman. After observing Jamrogowicz's actions, Lear sent an electronic communication to Jamrogowicz advising her that Lear wished to have no further communication with her. Lear asserted she later heard from friends that Jamrogowicz subsequently stalked two other women in similar fashion. Lear alleges that Jamrogowicz began stalking her in 2002 by, among other things, changing her hairstyle to match Lear's, enrolling in the same university and taking the same classes, claiming to have the same health issues as Lear, and changing her major to match Lear's. In September 2004, Jamrogowicz moved to Montana and began taking firearms instruction, joined the same competition shooting organization to which Lear belonged, and ultimately engaged

Lear's firearms' instructor to teach her. In 2005, Lear tested for and was subsequently hired by the Missoula Police Department. Lear kept this information confidential but discovered that Jamrogowicz had posted to a public website that Lear was seeking a police officer position in Missoula. Also in 2005, Jamrogowicz applied for and received a Montana concealed weapons permit, and began attending the same shooting competitions as Lear. In 2010, Lear reported Jamrogowicz's behavior to the police department. Through December 2011, Lear documented numerous other aspects of her life copied by Jamrogowicz. She purchased the same type of vehicle Lear owned, joined the same gym, bought the same firearms equipment and camera, claimed the same injury for which Lear was being treated, consulted the same doctor and physical therapist (who later reported that there was no sign that Jamrogowicz had an injury), and showed up near Lear's residence and at her place of employment. During these years, Lear was frequently distressed, frightened and apprehensive; in addition, she missed work and sought counseling. On February 3, 2012, Lear filed a petition for and obtained a temporary order of protection (TOP) from the Justice Court in Missoula against Jamrogowicz for stalking, claiming that Jamrogowicz had gained unauthorized access to Lear's private electronic communications and used this information to copy certain aspects of Lear's life.

Jamrogowicz had not been charged with or convicted of any crime. (*Lear v. Jamrogowicz*, DA 12-0523 (Mont. 06/04/2013).)

- d. T.G. was born in early 2003. It appears the parents separated some time during the pregnancy. During T.G.'s first year, Jason LeProwse was involved in the child's life; however, when T.G. was approximately one year old, Brenette Garrett filed for, and was granted, a temporary restraining order against LeProwse. The TRO was based upon Garrett's claim that LeProwse made threatening phone calls and left threatening messages on her answering machine in which he threatened to kill her and T.G. **Jason Leprowse had not**

been charged with or convicted of any crime. (*Jason Leprowse v. Brenette Garrett, and Minor Child*, 291 P.3d 110, 367 Mont. 161 (Mont. 12/04/2012).)

- e. The marriage of Nicholas and Sheila was dissolved by decree entered in Silver Bow County, Montana, in March of 2006. Following the dissolution, Nicholas moved to Tennessee and Sheila moved to Ravalli County, Montana. On January 25, 2008, Sheila petitioned the District Court for a temporary order of protection (TOP) against Nicholas on behalf of herself, their daughter and her two children from a prior relationship. The District Court issued a TOP that day pursuant to § 40-15-201(4), MCA. **There is no indication that Nicholas had been charged with or convicted of any crime.** (*Carter v. Carter*, 348 Mont. 371 (Mont. 12/04/2008).)
- f. Robert Williams appeals from the District Court's Order of Protection (Order), dated January 31, 2006, permanently restraining him from contact with his daughter-in-law, Traci Williams, and members of Traci's family, including Sam Williams (Traci's husband and Robert's son), Domonic and Mackenzie Williams (Traci's and Sam's children), and Robert, Joan and Rae Lajoie (Traci's parents and sister). The District Court issued its Order in response to Robert's appeal from a temporary order of protection issued by the Justice Court on August 19, 2005. Following a trial de novo on Robert's appeal, the District Court incorporated the terms of the temporary restraint into its permanent Order. The claim was that Robert posed a threat of immediate physical injury to Traci and her family. **There is no indication that Robert had been charged with or convicted of any crime.** (*Williams v. Williams*, 149 P.3d 915, 2006 MT 345N (Mont. 12/27/2006).)
- g. A protective order was granted after a couple complained of harassment by Shawn Martel. Subsequently, the county attorney filed criminal charges against the man for stalking. Shawn Martel was

found guilty of misdemeanor stalking in Hamilton by a City Court jury. **Shawn Martel had not been charged with or convicted of any crime when the protective order was issued.** (*State v. Martel*, 902 P.2d 14, 273 Mont. 143 (Mont. 08/24/1995).)

- h. Mark Bonamarte and Jan Edelen (Edelen) began dating in 2003. The relationship soured and Edelen petitioned Gallatin County Justice Court on March 24, 2006, for a temporary order of protection against Bonamarte. Edelen claimed that Bonamarte refused to stop contacting her following the breakup of their relationship and threatened her and her children in subsequent telephone conversations. The Justice Court granted the temporary order of protection and held a hearing on April 12, 2006, to determine whether to continue the order of protection. The court found that Edelen was "in danger of harm" and that good cause existed to continue the order of protection against Bonamarte. **Bonamarte had not been charged with or convicted of any crime when the protective order was issued.** (*Edelen v. Bonamarte*, 162 P.3d 847, 337 Mont. 407, 2007 MT 138 (Mont. 06/12/2007).)
- i. In December of 2009, Daniels County, Montana, resident Robin Jordan (Jordan) petitioned for a temporary order of protection against Ohio resident Mark Kalin. Based on the affidavit and other documents filed, the Daniels County Justice's Court granted that petition and, after holding a hearing in July 2010, issued a temporary order of protection effective until December 31, 2010. Kalin repeatedly expressed his love for Jordan and would not leave her alone after being told to stop. **Kalin had not been charged with or convicted of any crime when the order of protection was issued.** (*Robin Jordan, F/K/A Robin Winegar v. Mark Kalin*, 256 P.3d 909, 361 Mont. 50 (Mont. 06/21/2011))
- j. LaGree violated a temporary order of protection which had been granted to his wife, LeAnna LaGree, on June 14, 2004, by allegedly leaving harassing and/or threatening telephone messages on LeAnna's residential voice mail. LaGree was arrested at that time and was incarcerated continuously thereafter. Based on these actions, LaGree was also charged with stalking, a felony, in violation of § 45-5-220,

MCA (2003), as Cause No. DC-04-17 (Case B). **LaGree had not been charged with or convicted of stalking until July 12, 2004 – a month after the order of protection was issued.** (*State v. LaGree*, 154 P.3d 615, 336 Mont. 375, 2007 MT 65 (Mont. 03/13/2007).)

- k. Charles David Stambaugh lived adjacent to Robert and Julie Kendall near Libby, Montana. Robert and Julie each obtained an order of protection against Stambaugh in Justice Court of Lincoln County, and Stambaugh appealed to the District Court. The District Court held a hearing on the appeal on June 21, 2011 and received testimony offered by Stambaugh and by the Kendalls. The District Court found that the testimony in favor of continuing the order of protection was more credible than the testimony opposing it. The District Court concluded that Stambaugh's conduct, including "threats, shouting, throwing canine feces and other debris onto [the Kendalls'] property, as well as other verbal threats that would reasonably cause [the Kendalls] fear of harm," justified an order of protection for stalking (§ 45-5-220, MCA). The District Court entered a permanent order of protection under § 40-15-204, MCA, to continue until June 18, 2012 at 1:30 p.m., "when there will be another hearing on whether the order should continue." **Stambaugh had not been charged with or convicted when the order of protection was issued.** (*Robert Kendall and Julie Kendall v. Charles David Stambaugh*, 2012 MT 64N (Mont. 03/13/2012))

**JUDGE HAYNES FAILED TO ADDRESS THE SECOND BASIS THAT
THE PETITIONER USED TO SEEK AN ORDER OF PROTECTION**

14. The PETITIONER has met the requirements for a temporary order of protection on the grounds of fear of harm. Mont. Code Ann. § 40-15-201.

Temporary order of protection. “(1) **A petitioner may seek a temporary order of**

protection from a court listed in 40-15-301. **The petitioner shall file a sworn petition that states that the petitioner is in reasonable apprehension of bodily injury ... and is in danger of harm if the court does not issue a temporary order of protection immediately.**” [**emphasis added.**]

15. The PETITIONER has filed a SWORN PETITION in which he clearly stated that he is “in danger of harm if the court does not issue a Temporary Order of Protection immediately.” (SWORN PETITION, P. 1, No. 1.) In so doing, the PETITIONER met the only criteria required. Mont. Code Ann. § 40-15-201 simply provides that the petitioner shall file a sworn petition that states that the petitioner is in reasonable apprehension of bodily injury. There are no other requirements once this is done. The only evidence before the Justice Court was the sworn testimony of the PETITIONER, and Justice of the Peace Jim Bailey had no basis to doubt the sworn testimony of the PETITIONER. In fact, the Justice Court was required to accept that everything that the PETITIONER has stated is true, and it is sworn under penalty of perjury before a notary.

16. The Sworn Affidavit of William M. Windsor dated August 8, 2013, previously filed with this Court and the Justice Court details over 100 instances of stalking and a dozen notices for the RESPONDENT to cease and desist in 128 exhibits.

**THE PETITIONER HAS ESTABLISHED A PRIMA FACIE CASE BY
STATUTE, SO THIS COURT HAS NO OPTION; THIS COURT MUST
ISSUE A TEMPORARY ORDER OF PROTECTION**

17. Since there is no evidence to the contrary and the only person in the world who can say whether or not he is in fear for his safety is the PETITIONER, the Court may not accept anything else as fact in making a prima facie decision.

Once the accused has received actual notice that the stalked person does not want to be contacted or followed, any further attempts by the accused to contact or follow that person constitute prima facie evidence that the accused purposely or knowingly followed, harassed, threatened, or intimidated the stalked person. Section 45-5-220(6), MCA. (*State v. Yuhas*, 2010 MT 223 (Mont. 10/26/2010).)

18. The PETITIONER has provided true and correct copies of cease and desist notices that he sent to the RESPONDENT. (See AFFIDAVIT, ¶¶ 5, 32, 42, 49, 53, 56, 63, and 65.) The PETITIONER has provided proof that the RESPONDENT acknowledged receipt of those cease and desist notices. (See AFFIDAVIT, ¶¶ 11, 66.) And the PETITIONER has provided dozens of contacts after the cease and desist notices. (See AFFIDAVIT, ¶¶ 6-128.) True and correct copies of this evidence have previously been provided to this Court and the Justice Court.

19. That the PETITIONER is a victim of Stalking is easily proven because Mont. Code Ann. § 45-5-220 (6) provides that the continued harassment, threats, and intimidation by BOUSHIE after being notified to stop is prima facie evidence of stalking. AFFIDAVIT Exhibits 2, 14, 15, 19, 22, 28, 31, 33, 44, 49, 54, 63, 65, 67, 75, 78, 82, 84, 88, 89, 91, 92, 93, 99, 100, 107, 123, and 128 are some of the most significant evidence of the stalking. Exhibits 29, 39, 46, 50, 53, 60, and 62 are some of the cease and desist notices sent to BOUSHIE by the PETITIONER notifying BOUSHIE to stop. 123 of the exhibits for stalking came after the first cease and desist notice. Exhibits 11 and 66 are examples where BOUSHIE admits receiving the cease and desist notices.

20. Mont. Code Ann. § 40-15-201 provides: “The court may, without requiring prior notice to the respondent, issue an immediate temporary order of protection for up to 20 days if the court finds, **on the basis of the petitioner's sworn petition or other evidence**, that harm may result to the petitioner if an order is not issued before the 20-day period for responding has elapsed.” (*Coogler v. Coogler*, 321 Mont. 243, 90 P.3d 414, 2004 MT 122 (Mont. 05/06/2004).) Montana courts have accepted that the harm may be merely emotional. (*T.A.S. v. J.J.H.*, 2009 MT 429 (Mont. 12/18/2009).)

21. The PETITIONER has made it clear that he is suffering emotional distress and that he fears for his safety because of what the RESPONDENT has done. The RESPONDENT claims he shot at the PETITIONER on August 4, 2013. The SWORN PETITION contains massive evidence of what has been done to the PETITIONER and his family and that he is suffering emotional distress.

**THE PETITIONER BELIEVES JUDGE HAYNES HAS A PRIOR
RELATIONSHIP WITH THE RESPONDENT THAT MAY BE THE
REASON FOR THIS ERRONEOUS ORDER**

22. It has been brought to the PETITIONER'S attention that Judge Haynes has previously ruled in the RESPONDENT'S favor in other protective order actions. The PETITIONER believes Judge Haynes should have recused himself.

23. The PETITIONER is concerned that the Ravalli County courts and law enforcement may be protecting the RESPONDENT for as yet unknown reasons. Some have a theory that the RESPONDENT is a professional cyber-stalker who works for government entities and personnel to stalk and harass people such as the PETITIONER.

24. The PETITIONER is currently filming a pilot for a proposed TV series about cyber-stalking, the RESPONDENT, the University of Montana, and Ravalli County. At this time, the story is that there is corruption in the Ravalli County Courts and that SEAN BOUSHIE is being protected from his criminal acts and is being allowed to terrorize people at will. The PETITIONER hopes the judge reviewing this MOTION FOR RECONSIDERATION will abide by the law, issue the order of protection, and ask the county attorney to begin criminal charges against the RESPONDENT.

WHEREFORE, PETITIONER prays that this Court enter an order granting the APPEAL; enter an order granting a TEMPORARY ORDER OF PROTECTION; set a HEARING FOR A PERMANENT ORDER OF PROTECTION; and maintain all documents submitted to this Court in the Court's files as the PETITIONER will file an appeal with the Montana appellate courts, if necessary.

Submitted this 10th day of August, 2013,

William M. Windsor

514 America's Way #4841, Box Elder, SD 57719-7600

Email: nobodies@att.net, Phone: 770-578-1094

VERIFICATION

Personally appeared before me, the undersigned Notary Public duly authorized to administer oaths, William M. Windsor, who after being duly sworn deposes and states that he is authorized to make this verification on behalf of himself and that the facts alleged in the foregoing MOTION FOR RECONSIDERATION are true and correct based upon his personal knowledge, except as to the matters herein stated to be alleged on information and belief, and that as to those matters he believes them to be true.

I declare under penalty of perjury that the foregoing is true and correct based upon my personal knowledge.

This 10th day of August 2013.

Sworn and subscribed before me this 10th day of August.

Notary Public