

COURT OF APPEALS
STATE OF WASHINGTON
2012 JUN 29 PM 1:26 *ll*

68454-0-I

WASHINGTON STATE COURT OF APPEALS, DIVISION I

Jonathan J. Arras
Respondent

v.

Laura G. McCabe
Appellant

68454-0-I

King County Superior Court Case Number 0-93-04793-0 SEA

The Hon. Joan E. DuBuque

BRIEF OF RESPONDENT

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I. AUTHORITIES CITED

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II. INTRODUCTION

Ms. McCabe has presented a broad range of information in her appeal to the court with various personal justifications for her actions, however in no instance does she dispute the fact that she gained access to Jonathan J. Arras' personal accounts and obtained financial records belonging solely to him.

Regardless of outstanding disputes Mr. Arras may have with anyone else, Ms McCabe has no legal right to use his surname, gain access to his personal accounts, or extract financial information from said accounts.

The original judgement by Judge DuBuque should be affirmed.

III. COUNTER-STATEMENT OF THE CASE

Respondent Jonathan J. Arras was the Petitioner below. He and the Respondent, Appellant Laura G. McCabe, were divorced on May 6, 2010. The relevant facts in the record are as follows:

As of the date the Decree of Dissolution, Ms. McCabe legally changed her surname from "Arras" to "McCabe". RP 2, 3. Subsequent court filings and orders, including those by Ms. McCabe, have referred to

her as “Laura G. McCabe Arras”, “Laura Arras aka McCabe”, or “Laura McCabe”.

Additionally in the Decree of Dissolution, the residence at 1026 151st Ave was awarded to Mr. Arras fully. RP 3. At that time, Ms. McCabe immediately had no claim to the property or access to any related financial or utility account.

Ms. McCabe is excluded from any documentation relating to the alleged property dispute between her mother, Jordan McCabe (“Jordan”) and Mr. Arras specifically because of Jordan’s concerns surrounding her daughter’s previous attempts at defrauding her. Ms. McCabe has not been witness to any of the direct interactions or mediation attempts between Jordan and Mr. Arras.

On Dec 29, 2011, Ms. McCabe made several telephone calls to utility companies and corporations to access Mr. Arras’s financial records and obtain copies. RP 2, 3, 7, 9. Mr. Arras learned of the information breach by chance several weeks later and pieced together information by speaking with several of the utility companies, culminating in a call to the City of Bellevue where he spoke with Cindy Shortridge, the employee who had taken Ms. McCabe’s call. Ms. Shortridge stated that she had received a call from a woman identifying herself as “Laura Arras” and “the wife of

Jonathan Arras". This caller, confirmed to be Ms. McCabe, made changes to the account and requested three years worth of historical financial data to be sent to her via e-mail. RP 6, 9, 10; Decl. of Shortridge. At the time he learned of this, Mr. Arras removed the name "Laura Arras" from the account, reverted all changes, and added an additional security password to the account.

IV. ARGUMENT

1. THE EVIDENCE WAS SUFFICIENT TO ESTABLISH THE ELEMENTS OF UNLAWFUL HARASSMENT.

In accordance with the Legislature's anti-harassment laws, the court entered a civil anti-harassment order protecting Mr. Arras and his financial accounts. There are two definitions that guide these laws:

(1) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. "Course of conduct" includes, in addition to any other form of communication, contact, or conduct, the sending of an electronic communication, but does not include constitutionally protected free speech. Constitutionally protected activity is not included within the meaning of "course of conduct."

(2) "Unlawful harassment" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose. The course of conduct shall be such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the petitioner, or, when the course of conduct would cause a reasonable parent to fear for the

well-being of their child.

RCW 10.14.020.

Ms. McCabe's actions fit these definitions in the following ways:

(a) **There was a "course of conduct."** Ms. McCabe made calls to multiple holders of accounts for Mr. Arras in a very short period of time. RP 3. Had Mr. Arras not learned of the breach less than a month after it initially occurred, it is likely that Ms. McCabe would have continued and possibly expanded her attempts to access his financial records.

This is supported by the fact that she made changes to the accounts requesting not only historical information, but also adding addresses for duplicate future statements so she could have continued access to the illegally obtained information, evidencing a continuity of purpose. RP 11, 12; Decl. of Shortridge.

(b) **The conduct was "directed at" the Petitioner.** As the sole homeowner and financially responsible party for the accounts accessed by Ms. McCabe, Mr. Arras is the only possible target of the conduct. Mr. Arras works in the field of identity fraud prevention and is aware that those who access information that does not belong to them

often like to “test the waters.” Had the breach not been identified as quickly as it was, there are many more potential changes that could have been made and personal information that could have been extracted from the accounts.

(c) **The conduct was illegitimate and unlawful.** Ms.

McCabe’s conduct was both illegitimate and unlawful.

(i) **Illegitimate:** As previously stated, Ms. McCabe had no legitimate reason to access accounts related to Mr. Arras’s residence after the Decree of Dissolution was entered on May 6, 2010. RP 3.

(ii) **Unlawful:** The Decree of Dissolution also provides no lawful reason for Ms. McCabe to access Mr. Arras’s accounts. All accounts are private and protected by requiring as a minimum verification of specific pieces of personally identifiable information (PII). Ms. McCabe abused knowledge gained in her former relationship with Mr. Arras to verify these pieces of PII.

(1) No person may obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, financial information from a financial information repository, financial services provider, merchant, corporation, trust, partnership, or unincorporated association:

(a) By knowingly making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial information repository with the intent to deceive the officer, employee, or agent into relying on that statement or representation for purposes of releasing the financial information;

RCW 9.35.010 (1)(a)

Ms. McCabe claims that she did not directly identify herself as “Laura Arras” and that she requested the name be removed from Mr. Arras’s account. RP 10; Appellant’s Brief at 2. Both of these claims are in direct contradiction with the statement of the City of Bellevue employee who spoke with Ms. McCabe and do not make sense given the rest of the facts of the case. Decl. of Shortridge.

Even if, as she claims, Ms. McCabe did not make a false statement by directly identified herself as “Laura Arras” as Ms. Shortridge states, she misrepresented herself to the officer of a financial information repository by allowing Ms. Shortridge to believe that she was “Mrs. Arras” in order to access Mr. Arras’s account and cause her to release financial information in violation of RCW 9.35.010 (1)(a).

(d) **Claim of distress.** Mr. Arras would not have pursued a protection order if he were not in a state of distress. Ms. McCabe knows that Mr. Arras works in the field of information security and identity theft protection and knew that her actions would not only annoy and harass him but also undermine the nature of his career.

(e) **Conduct resulted in distress to a “reasonable person.”**

Mr. Arras has a protected right to privacy. RCW 10.14.030(5)(a) If a

private account becomes accessible to someone with a history of hostile legal and personal actions toward the account holder, it would cause distress in any reasonable person.

For the above reasons, the Petitioner met the prerequisites of RCW 10.14.020(1)(2).

V. CONCLUSION

The record supports the court's finding of unlawful harassment and that a protection order was permitted by the statute. The Order serves its intended purpose – to protect the personal financial accounts of Mr. Arras – without infringing on Ms. McCabe's rights or overlapping with our Parenting Plan.

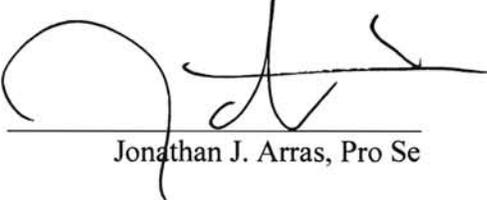
The remainder of Ms. McCabe's claims relating to Mr. Arras's private issues with Jordan are intentionally misleading and not related to Ms. McCabe's unlawful harassment of Mr. Arras. Both the original decision and this appeal do not relate to Jordan McCabe in any way as the accounts were compromised by Ms. McCabe and information was released directly to her.

Though she has not presented herself as such, Ms. McCabe is an attorney. As a representative of the State Bar Association and the profession, I would hope Ms. McCabe would have more respect for the

state's privacy protection laws. She continues to pursue legal action against me and engage in borderline harassing behavior in the guise of communication about our children.

I am out of money and energy, and I offer my apology to the court for any errors in this brief as I prepared it myself. If the original decision is not affirmed, it is a lesson to me to better protect my identity and personal accounts. I respectfully request the Court uphold the original Protection Order issued by Judge DuBuque.

Submitted this 27th day of June, 2012.

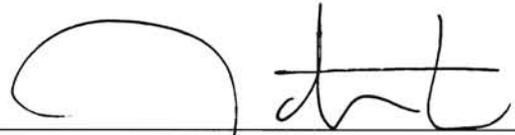


Jonathan J. Arras, Pro Se

CERTIFICATE OF SERVICE

Jonathan J. Arras certifies that deposited this day in the U.S. Mail, first class postage prepaid, a copy of this Brief Of Respondent and the verbatim report of the proceedings addressed to:

Laura G. McCabe
8109 11th Ave SW
Seattle, WA 98106

A handwritten signature in black ink, appearing to read 'Jonathan J. Arras', written over a horizontal line.

Jonathan J. Arras, Pro Se
King County, Washington, June 27, 2012