

Original

NO. 35315-6-II
COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

COURT OF APPEALS
DIVISION II
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STATE OF WASHINGTON
BY CLAYTON R. DICKINSON
DEPUTY

JAMES THOMAS BAHR- **Appellant,**

vs.

ANDREA M. BAHR- **Respondent.**

BRIEF OF APPELLANT

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NO. 35315-6 -II
COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

James Thomas Bahr,)	
)	BRIEF
vs.)	OF APPELLANT
)	
Andrea M. Bahr,)	
)	
Respondent.)	
_____)	

ASSIGNMENT OF ERROR

IT IS RESPECTFULLY SUBMITTED that the Honorable Katherine M. Stolz, Judge of the Pierce County Superior Court, Department No. 2, erred in the following particular:

1. The court committed error in refusing to eliminate the distance requirement in the order of protection when it precluded Mr. Bahr from reasonable travel in and out of Lake Tapps.

ISSUE PERTAINING TO ASSIGNMENT OF ERROR

1. When a distance requirement in a protection order, which is granted without any basis other than that of a request for a protection order without any request for a distance requirement nor any evidence or specifics as to why a distance requirement is needed, when such a distance requirement

precludes reasonable travel in and out of the area where the restrained person lives, is this an unconstitutional burden on his fundamental right to travel

2. When a protection order, issued for parties living in the same small community, prohibits contact period, without any distinction to hostile or nonhostile contact in public, puts the restrained person in a position where they must leave public places when the protected person enters, forcing him to leave restaurants in the middle of his meal, leave the grocery store, drug store while shopping, or public recreation areas, is this a violation of the fundamental right of free movement?

STATEMENT OF THE CASE

James and Andrea Bahr were married on May 16, 1998 after dating for two years. (CP 3) The parties lived (and still live) in the small Lake Tapps community of Sumner. (RP 9 & 11 August 25, 2006 hearing) They separated on July 5, 2001 when Andrea served James with a Temporary Protection Order. (CP 3) The Petition for Order for Protection did not request a restraint on the distance that James should stay away from Andrea. (Appendix 1 p. 1-5) Following a contested hearing on July 19, 2001, a permanent protection order was issued. (Appendix 2 p. 1-4) This order did

not contain any restraint regarding the distance that James should stay away from Andrea. (Appendix 2 p. 1-4)

On February 25, 2002, Andrea filed a motion in the dissolution case for a restraining order against James. (CP 29-30) In it, she did not request that James be restrained from coming within a certain distance of either her, her house, or her business. She requested the court issue an order which would:

permanently restrain James T. Bahr from harassing, stalking or contacting Andrea M. Bahr; permanently restrain James T. Bahr from contacting any third party with respect to Andrea M. Bahr; permanently restrain James T. Bahr from making any threats to Andrea M. Bahr or to any third parties with respect to Andrea M. Bahr; (CP 29-30)

In her declaration she accuses him of violating the restraining order in effect by making dozens of phone calls to her; removing an entire section of her fence (this allegedly happened in the early morning hours and there are no allegations that anyone particularly saw James removing the fence); he allegedly removed “the fuse, Freon and fitting of heat pump” to her home; called her utility provider and had her utilities disconnected; made false police report against her; made threats against her in her attorney’s office; and told her attorney on the phone that he would harm her financially. (CP 32)

The motion was argued on March 13, 2002, and an order was entered temporarily restraining James. (CP 57-58) It was in this order that the distance restraint first appeared. It read: "The husband is restrained and enjoined from knowingly coming within or knowingly remaining within 1 mile of the home or workplace of the other party." (CP 58) James was not represented by counsel at this hearing and this order was prepared by the attorney for Andrea. (CP 60)

James then retained counsel and moved for reconsideration of the order and for relief from judgment. (CP 510) In his declaration he moved for relief from judgment based upon "Mistake in obtaining judgment or order; Fraud (intrinsic or extrinsic); Any other reason justifying relief from operation of the judgment, which is for equity and fairness." (CP 511) He further related:

That when the temporary order was prepared, I was informed by counsel for my wife that the order was exactly as Commissioner Haarmann had ordered. I therefore signed the order for entry.

Since the hearing I have proceeded to have the transcript typed up. That attached hereto and marked as Exhibit B. Is a true and correct copy of the transcription of proceedings.

In reviewing the temporary order against the transcription of proceedings, I have found the following inconsistencies:

1. Page 2 lines 36-40 which restrain me from coming within one mile of the home or the workplace of the other party was not ordered.

.....

That I would ask that said provisions be deleted from the temporary order. (CP 511-512)

In her response, (actually in her two responses) she stated:

I do not recall exactly what COMMISSIONER HAARMANN ordered, but he certainly should not come within one mile of my home and there is no need for him to do so for any reason. The standard restraining orders have always been directed at Jim even though he continues to violate them at will. (CP 679)

She further stated:

The statement by my husband that he would hve to travel an additional 22 miles to avoid driving on the main road past my business and home is completely false. There is an alternate route from Auburn that bypassess my home and business that is 2/10ths of a mile longer, and ultimately meets up with the main road which will take him to his parent's house on Inlet Island. My husband knows this alternate route well. Attached is a map, Exhibit A, showing the route past my home and business and the alternate route. Furthermore, he has no friends that I have ever known of within one mile of my house. His statements to the Court are completely false.(CP 683)

James replied:

In my motion I asked that the one mile radius from the restraining order be removed. I did so because it would take me an additional 22 miles to get from Auburn to my parent's residence.

My wife responds by attaching the same map that I attached and highlighting a road which she says will only add 2/10 of a mile to my trip.

She is correct. There is no doubt that it will only add 2/10 of a mile. The only problem is that the road comes within 3 blocks of the family dwelling and 4 blocks from her place of business, all less than a mile. The dwelling and business are located on the main road. I can assure you that if my wife saw me driving on the pathway she suggests, she would have me immediately arrested for violating the restraining order. Her statements to the court with regard to this "alternate route" are completely bogus and show her lack of knowledge of relevant facts and a desire to mislead the court. (CP 725-726)

The motion for reconsideration was heard before a different commissioner than the one who heard it originally. It was denied and the original order remained in effect. (CP 553-557)

The dissolution of marriage was entered on August 16, 2002 on an ex parte default basis. This was done because the court had stricken James' pleadings due to a discovery violation. (CP 565 & 567) Therefore, the final papers were admitted without any input from James or his attorney. The findings of fact found that a continuing restraining order was necessary by stating:

A continuing restraining order against the husband is necessary because:
husband has demonstrated threats against wife and there is an outstanding warrant for the husband's arrest for violation of the protective order obtained by the wife. (CP 561)

The decree of dissolution continued the restraining order including the 1 mile distance restriction as to the wife's "home, workplace or school" (CP 572)

On May 31, 2006, James Bahr filed a Motion to Vacate, Terminate And/or Modify Restraining Order. (CP 618) In it he pointed out that there have been "absolutely no problems in the last five years." (CP 583) He revisited the prior declarations from 2001 in 2002 in an effort to show the court that the original restraining orders were obtained based upon "lies and/or misrepresentations made by Andrea" (CP 578)

Specifically in regard to the distance requirement James stated:

On June 4, 2002, Andrea submitted a responsive declaration. On page 2, lines 5-10 of that declaration, Andrea falsely tells the Court that there is a convenient alternate route that I can drive that doesn't require me to go within the one- mile boundary set by the Court. (See attached #6). I have spent a great deal of time and money proving her wrong. I hired a private investigator that submitted a report along with maps in the picture. The road that Andrea swore under oath exists does not. (See attached #7). (CP 580-581)

In regard to the ongoing problems he has had with the distance requirement

James stated:

As drafted, the restraining/protection order(s) have prohibited me from doing any work within a 2.8 mile area of Andrea's residence and business. I am at risk any time I want to use the amenities of the lake, like the boat launch, park, marina, etc. I cannot use the road connecting Auburn to Sumner nor can I use the road connecting the lake to the freeway. There are some friends I have who's homes I cannot visit. Every time I go to a store, restaurant, etc., I have to worry about leaving immediately, regardless of what I am doing, so that Andrea does not make a phone call. There have been instances where I have been in the middle of eating dinner and had to leave without finishing because she showed up even though she knew I was there. My truck is very noticeable yet she approached anyway because she knows I have to leave. The same type of things have happened in drug stores, grocery stores and other places. (CP 582-583)

When the case was argued in court, the judge originally reduced the distance requirement to one half mile, but when James protested she reduced it to 500 feet. (RP 14 & 16 & 20 August 4, 2006 hearing) However, he still protested stating "I can't go around the lake or anywhere." (RP 14 August 4, 2006 hearing) When the order was presented had the Court clarify the 500 feet requirement so that it read not just 500 feet from her home or business, but 500 feet from her person. (RP 20 August 4, 2006 hearing)

A motion for reconsideration was filed because the 500 feet still precluded James from using the public roadway in requesting that the order be modified to provide for a no hostile contact in public places as opposed to a general no contact order. (CP 662-663) That reconsideration motion was

denied by the court. (RP 10 August 25, 2006 hearing) (CP 668-669) In denying the motion the judge stated her reason for reducing the distance requirement from 1 mile to 500 feet as follows:

I reduced it to 500 feet because it is a small town, and I'm trying to allow him to have some normalcy in his life, but I'm not going to drop it any further. (RP 11 August 25, 2006 hearing)

ARGUMENT

I. WHEN A DISTANCE REQUIREMENT IN A PROTECTION ORDER, WHICH IS GRANTED WITHOUT ANY BASIS OTHER THAN THAT OF A REQUEST FOR A PROTECTION ORDER WITHOUT ANY REQUEST FOR A DISTANCE REQUIREMENT NOR ANY EVIDENCE OR SPECIFICS AS TO WHY A DISTANCE REQUIREMENT IS NEEDED, WHEN SUCH A DISTANCE REQUIREMENT PRECLUDES REASONABLE TRAVEL IN AND OUT OF THE AREA WHERE THE RESTRAINED PERSON LIVES, THIS IS AN UNCONSTITUTIONAL BURDEN ON HIS FUNDAMENTAL RIGHT TO TRAVEL

Our state courts have recognized a fundamental right to travel. This right was recognized by the state Supreme Court in *Eggert v. City of Seattle*, 505 P.2d 801, 81 Wn.2d 840 (1973) as follows:

Alternately, since the existence of the right to travel is an unconditional personal right guaranteed by the constitution, Shapiro and Dunn require that a compelling state interest be shown before the state may burden this right.

The right to travel is a right applicable to intrastate as well as interstate commerce. Inasmuch as the right to travel is not based on the commerce clause, it does not depend on the interstate nature of travel. *King v. New Rochelle Municipal Housing Authority*, 314 F.Supp. 427 (S.D.N.Y.1970); *Karp v. Collins*, 310 F.Supp. 627, 634 (D.N.J.1970). Rights, such as the right to travel, which involve personal liberty are not dependent on state lines. Both travel within and between states is protected. (at 845)

In *City of Seattle v. McConahy*, 937 P.2d 1133, 86 Wn.App. 557 (1997)

Division 1 stated:

McConahy's final contention is that the ordinance impermissibly restricts her right to travel. The right to travel, including the right to travel within a state, is a fundamental right subject to strict scrutiny under the United States Constitution. *Kent v. Dulles*, 357 U.S. 116, 78 S.Ct. 1113, 2 L.Ed.2d 1204 (1958). A law violates the right to travel if it penalizes migration from state to state, or makes it impossible to move about within a state. *Memorial Hosp. v. Maricopa County*, 415 U.S. 250, 259, 94 S.Ct. 1076, 1082-83, 39 L.Ed.2d 306 (1974). (571)

Hence the courts in the state of Washington have recognized the fundamental right to intrastate travel subject to strict scrutiny requiring a compelling state interest to uphold.

In *Halsted v. Sallee*, 639 P.2d 877, 31 Wn.App. 193 (1982) Division 3 dealt with the right to travel in the context of a protection order. In that case the parties were separated and the father had visitation with the children. Due to his mental illness, the mother sought to end his contact with the

children. As a part of that an order of protection was entered which are restricted the father, Sallee, from traveling north of the city of Omak. The Court struck down this provision as follows:

Next, we consider the constitutionality of the order restricting Mr. Sallee's travel. The right to travel is a fundamental right protected by the equal protection clause of the Fourteenth Amendment. *Dunn v. Blumstein*, 405 U.S. 330, 92 S.Ct. 995, 31 L.Ed.2d 274 (1972); *Eggert v. Seattle*, 81 Wash.2d 840, 505 P.2d 801 (1973). Where fundamental rights are involved, regulations limiting these rights may be justified only by a compelling state interest. *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973); *Shapiro v. Thompson*, 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600 (1969). Here, the State has an interest in protecting Mr. Sallee's children. However, the injunction against travel north of Omak is unnecessarily broad. An order enjoining communication or contact between Mr. Sallee and his children would have provided sufficient protection without unduly restricting Mr. Sallee's right to travel. There was no compelling State interest in so restricting Mr. Sallee's right to travel as the situation could have been handled in a number of other ways. In addition, Mr. Sallee did not receive prior notice that the court was considering such action. (at 196-197)

In the above case the court held that a restraining order was too broad when it restricted the father's travel north of Omak. The court felt that a less restrictive means could accomplish the same result, which would have been to simply issue an order prohibiting communication or contact by Mr. Sallee with his children.

This is very similar to the case that we have here, because in Mr. Bahr's case the court never considered the question of why a distance requirement was necessary, it was simply inserted by her attorney. Once put in the order it remained because it had been there before. There was never any basis provided to show a need for any distance restriction in any of the restraining orders. There was nothing in any declaration, affidavit, or evidence in court. There were efforts made to show that Mr. Bahr didn't have to travel as far out of his way as he claimed he did, but there was never any effort to justify the need for the distance restraint in the first place. In this case, just like the case of *Halsted v. Salle*, a simple restraint on contacting or having communication with Andrea would have accomplished the intended results. In short, this was not the least restrictive means of accomplishing the result and hence there was not a compelling state interest justifying the distance restriction.

It is also interesting to note that the federal cases that have considered the issue of intrastate travel have considered it to be of particular concern when it deals with roadways. In the case of *Johnson v. City of Cincinnati*, 310 F.3d 484 (6th Cir. 2002) the court did a rather thorough review of the history of the right to travel and concluded:

In light of these cases, we find that the right to travel locally through public spaces and roadways enjoys a unique and protected place in our national heritage.

.....

In view of the historical endorsement of a right to intrastate travel and the practical necessity of such a right, we hold that the Constitution protects a right to travel locally through public spaces and roadways. (at 497- 498)

The case of Mr. Bahr is directly on point with this right. His request of the court was that it eliminate the distance requirement because it was interfering with his right to travel on public roadways. This was impacting him both personally and in his business, causing him to travel greater distances to conduct both personal and business activities. He indicated that this was a burden to him. Indeed, the court itself recognized that this was a burden and in so doing reduce the distance requirement from 1 mile to 500 feet, which was still insufficient to eliminate the problem as the main roads ran by Andrea's home and business. However, this all still begged the question of why a distance requirement was needed to begin with.

In *Hecker v. Cortinas*, 43 P.3d 50, 110 Wn.App. 865 (2002), Division 2 held that the standard for review of an appeal from the issuance of an order of protection is an abuse of discretion. Clearly, given the history of this case, where a distance requirement was imposed without any justification, and maintained simply because it was at one time imposed, is an abuse of

discretion. Especially when that discretion is imposed in a manner to create a burden on a fundamental right subject to strict scrutiny review from which this order cannot overcome. This order infringes on a fundamental right of intrastate travel on a public roadway when the only concerned was contact by James with Andrea. There was no evidence here of anyone driving past her home or business repeatedly, lingering outside either of those locations, nor anything else that would justify a distance restriction. As a result, the court's order must be reversed.

II. WHEN A PROTECTION ORDER, ISSUED FOR PARTIES LIVING IN THE SAME SMALL COMMUNITY, PROHIBITS CONTACT PERIOD, WITHOUT ANY DISTINCTION TO HOSTILE OR NONHOSTILE CONTACT IN PUBLIC, PUTS THE RESTRAINED PERSON IN A POSITION WHERE THEY MUST LEAVE PUBLIC PLACES WHEN THE PROTECTED PERSON ENTERS, FORCING HIM TO LEAVE RESTAURANTS IN THE MIDDLE OF HIS MEAL, LEAVE THE GROCERY STORE, DRUG STORE WHILE SHOPPING, OR PUBLIC RECREATION AREAS, THIS IS A VIOLATION OF THE FUNDAMENTAL RIGHT OF FREE MOVEMENT

The fundamental right of free movement is a part of the right of travel, however, is somewhat broader. The federal Ninth Circuit Court of Appeals in *Nunez v. City of San Diego*, 114 F.3d 935 (9th Cir. 1997) discussed the right as follows:

Citizens have a fundamental right of free movement, "historically part of the amenities of life as we have known them." *Papachristou*, 405 U.S. at 164; see also *United States v. Wheeler*, 254 U.S. 281, 293 (1920) ("In all the [s]tates from the beginning down to the adoption of the Articles of Confederation the citizens thereof possessed the fundamental right, inherent in citizens of all free governments, peacefully to dwell within the limits of their respective [s]tates, to move at will from place to place therein, and to have free ingress thereto and egress therefrom"). Similarly, the Constitution guarantees the fundamental right to interstate travel. *Shapiro v. Thompson*, 394 U.S. 618, 629 (1969). (at 944)

The above case involved a juvenile curfew ordinance in San Diego. The court struck the curfew as infringing on the minor's rights of free movement. It did so because the ordinance was not narrowly tailored to accomplish the city's end.

That issue is similar to the issue that we have with Mr. Bahr, the prohibition on any contact whatsoever puts him in a position where his freedom of movement is completely at the whim and caprice of the person allegedly protected. Although he is free at any time to going to any public place other than her business, she can virtually chase him from such locations by her mere presence. Does she have absolute control of where he goes in public simply by determining to go to the very same place when he is there. Including forcing him to leave a restaurant in the middle of his meal, by

simply going into the restaurant. This is a clear restraint on his freedom of movement.

This is also not the least restrictive means of accomplishing the end that is sought. Rather than simply precluding him from having all contact, it is possible for the order to prohibit him from having any hostile contact with her when in a public place. Lake Tapps is a small community (small town as the Judge termed it (RP 11 August 25, 2006 hearing)) and it is inevitable, whether by design or chance, that they will both end up in a similar public establishment at some point in time. Therefore, rather than requiring him to live in a state of hypervigilance to avoid being arrested for violating a restraining order, changing that restraining order to require no hostility in a public place would accomplish the same end without allowing the extraneous burden on Mr. Bahr's right of free movement.

Also, the restriction on his being within 500 feet of Andrea's person causes additional problems because how can he know at any given time where she is. He may be in a store, and she may be walking down the sidewalk 500 feet away from him. This order would place him in violation under this set of circumstances. Clearly this is a violation of his right to free

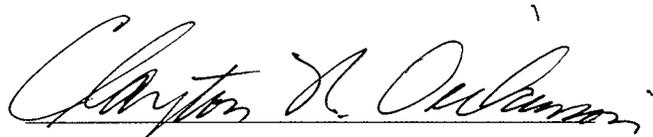
movement. Under the terms of this order, he has no means of knowing at what point he's violating the order.

For all of the above reasons the trial court should be reversed and the order should be changed to require no hostile contact in a public place.

CONCLUSION

For the reasons stated above, this case must be reversed. There was never a basis presented to the court for the establishment of a distance restraint on Mr. Bahr, and such a requirement violates his fundamental right to travel. In addition, the order prohibiting contact must be changed to one of no hostile contact in a public place, or it will infringe upon his fundamental rights of free movement.

RESPECTFULLY SUBMITTED this 12th day of February, 2007.



Clayton R. Dickinson

WSBA #13723

Attorney for Appellant

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 A.M. JUL 05 2001 P.M.
 PIERCE COUNTY WASHINGTON
 BY TED RUTT COUNTY CLERK
 DEPUTY

**SUPERIOR COURT OF WASHINGTON
 FOR PIERCE COUNTY**

ANDREA M. BAHR
 Petitioner
 vs.
JAMES T. BAHR
 Respondent

NO. 01 2 01831 6

**PETITION FOR ORDER
 FOR PROTECTION
 (PTORPRT) (All Cases)**

1. I am A member of my family or household is the victim of domestic violence committed by the respondent as described in the statement below.

2. I live in this county.
 I left my residence because of abuse and this is the county of my new or former residence.

3. My age is:
 Under 16 16 or 17 18 or over

Respondent's age is:
 Under 16 16 or 17 18 or over

4. My relationship with the respondent is:
 Parent or child Have child in common Presently dating
 In-law Spouse Presently reside together
 Related by blood Former spouse Resided together in past Dated in past

5. Identification of Petitioner:

Name	ANDREA M. BAHR
Date of Birth	10-8-49
Driver's License or Identocard (# and State)	BAHR*AM514PI*

6. Identification of Respondent:

Name	JAMES T. BAHR
Date of Birth	5-16-61
Race/Sex	W. CAUCASIAN/ MALE
Driver's License or Identocard (# and State) or, if unavailable, home address	18921 91A ST. E. SUMNER WA 98398

01 2 001 6

7. Identification of Minors (If applicable) No Minors involved.

Name (First, Middle Initial, Last)	Birth Date	Age	Sex	How Related to Petitioner Respondent	Resides with

8. Other court cases or other restraining, protection or no-contact orders involving me, ~~my~~ ^{my} ~~respondent~~ and the respondent:

CASE NAME	
CASE NUMBER	
COURT/COUNTY	

IN COUNTY FILED
PIERCE COUNTY CLERK'S OFFICE
A.M. JUL 05 2001 P.M.
BY TED RUTT, COUNTY CLERK
DEPUTY

REQUEST FOR TEMPORARY ORDER: AN EMERGENCY EXISTS as described in the statement below: I need a temporary restraining order issued immediately without notice to the respondent until a hearing to avoid irreparable injury. I request a Temporary Order for Protection that will:

I REQUEST AN ORDER FOR PROTECTION following a hearing THAT WILL:

X	<p>RESTRAIN respondent from causing any physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening, or stalking <input checked="" type="checkbox"/> me <input type="checkbox"/> the minors named in paragraph 7 above <input type="checkbox"/> these minors only:</p>
X	<p>RESTRAIN respondent from coming near and from having any contact whatsoever, in person or through others, by phone, mail, or any means, directly or indirectly, except for mailing of court documents, with <input checked="" type="checkbox"/> me <input type="checkbox"/> the minors named in paragraph 7 above, subject to any court-ordered visitation <input type="checkbox"/> these minors only, subject to any court-ordered visitation:</p>
X	<p>EXCLUDE respondent from <input checked="" type="checkbox"/> our shared residence <input type="checkbox"/> my residence <input checked="" type="checkbox"/> my workplace <input type="checkbox"/> my school; <input type="checkbox"/> the day care or school of <input type="checkbox"/> the minors named in paragraph 7 above <input type="checkbox"/> these minors only: <input type="checkbox"/> other: This address at present is <input type="checkbox"/> confidential <input type="checkbox"/> the following: HOME 18921 9th ST. E SUMNER-WA 324182nd AVE. SUMNER, WA</p>

<input checked="" type="checkbox"/>	DIRECT respondent to vacate our shared residence and restore it to me.
<input checked="" type="checkbox"/>	PROHIBIT respondent from knowingly coming within, or knowingly remaining within _____ (distance) of: <input checked="" type="checkbox"/> our shared residence <input type="checkbox"/> my residence <input type="checkbox"/> my workplace <input type="checkbox"/> my school; <input type="checkbox"/> the day care or school of <input type="checkbox"/> the minors named in paragraph 7 above. <input type="checkbox"/> these minors only: <input type="checkbox"/> other:
<input checked="" type="checkbox"/>	GRANT me possession of essential personal belongings, including the following: <i>ALL HOUSEHOLD BELONGINGS</i>
<input checked="" type="checkbox"/>	Grant me use of the following vehicle: Year, Make & Model <i>96 HONDA CIVIC</i> License No. <i>9046UZ</i> <i>DARK GREEN</i>
<input type="checkbox"/>	OTHER:
<input checked="" type="checkbox"/>	DIRECT the respondent to participate in appropriate treatment or counseling services.
<input checked="" type="checkbox"/>	REQUIRE the respondent to pay the fees and costs of this action.
<input checked="" type="checkbox"/>	REMAIN EFFECTIVE longer than one year because respondent is likely to resume acts of domestic violence against me if the order expires in a year.
Check the following only if you are requesting protection involving a minor:	
<input type="checkbox"/>	Subject to any court-ordered visitation, GRANT me the care, custody and control of <input type="checkbox"/> the minors named in paragraph 7 above <input type="checkbox"/> these minors only;
<input type="checkbox"/>	RESTRAIN respondent from interfering with my physical or legal custody of <input type="checkbox"/> the minors named in paragraph 7 above <input type="checkbox"/> these minors only;
<input type="checkbox"/>	RESTRAIN the respondent from removing from the state: <input type="checkbox"/> the minors named in paragraph 7 above <input type="checkbox"/> these minors only;

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A.M. JUL 05 2001 P.M.
PIERCE COUNTY, WASHINGTON
BY TED RUTT, COUNTY CLERK
DEPUTY

01 2 0 1 6

REQUEST FOR SPECIAL ASSISTANCE FROM LAW ENFORCEMENT AGENCIES:

I request the court order the appropriate law enforcement agency to assist me in obtaining:

- Possession of my residence. Use of designated vehicle.
- Possession of my essential personal belongings at _____

Custody of the minors named in paragraph 7 above these minors only (If applicable):

OTHER: _____

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BY TED RUTT, COUNTY CLERK
DEPUTY

Domestic violence includes physical harm, bodily injury, assault, stalking, OR inflicting fear of imminent physical harm, bodily injury or assault between family or household members.

STATEMENT: The respondent has committed acts of domestic violence as follows. (Describe specific acts of domestic violence and their approximate dates, beginning with the most recent act. You may want to include police responses.)

Describe the most recent incident or threat of violence and date: _____

7-3-01 - PUSHED ME AGAINST WALL - BRUISED & SCRAPED ARM
THREAT OF INJURY IF I TOUCH MONEY IN JOINT ACCT.
CONTINUED HARASSING & BADGERING & PRESSURE
TO SETTLE DIVORCE ISSUE WITHOUT ADVICE OF COTTON
OR HE WILL DESTROY ME
5-21-01 INFLECTING FEAR - SMASHED HAIR DRYER AGAINST
BATHROOM COUNTER - BUSTING IT TO PIECES - DUMPED HIS
COLOGNE DOWN MY BACK AND HAIR - THREATENS TO
MAKE MY LIFE MISERABLE IF I DON'T GIVE IN TO
HIS DEMANDS

4-30-01 HUSBAND FLEW INTO RAGE - HIT ME IN THE HEAD WITH
MY PURSE AND HIS HAND - TOOK PURSE, WALLET, CHECKBOOK,
SPIT IN MY FACE - PUSHED & SHUVED ME DOWN - KNOCKED GLASS OF
WATER FROM MY HAND - THREW PURSE INTO EMPTY LOT NEXT DOOR - THREATS

Describe the past incidents where you experienced violence, where you were afraid of injury or where the respondent threatened to harm or kill you: _____

7/99 - THREW WHOLE SACK OF GARBAGE AT ME - BUSTED BATHROOM DOOR
DRAINED BANK ACCTS
5/99 - WENT ON RAMPAGE AND DESTROYED PROPERTY AND
POSSESSIONS INSIDE HOUSE - AMBUSHED ME WHEN
I CAME HOME AND STOLE MY CAR
8/99 ATTACKED AND ASSAULTED 21 year old son - ~~when~~
previous - who came by house to pick up his mail.
HUSBAND ATTACKED SON TO PUNISH ME
HUSBAND HAS BEEN CONVICTED OF MALICIOUS MISCHIEF AND
SENTENCED TO 1 YR PROBATION - DID NOT COMPLY WITH PROBATION
OR COURT TO GET EVALUATION - COURT DATE 7-19-01

OF HARM IF I TOUCH MONEY IN JOINT ACCT.

01 2 11 16

Describe any violence or threats towards children: _____

FILED
IN COUNTY CLERK'S OFFICE
A.M. JUL 05 2001 P.M.
PIERCE COUNTY WASHINGTON
BY TED RUTT, COUNTY CLERK
DEPUTY

Describe medical treatment you received and for what: _____

Does the respondent use firearms, weapons or objects to threaten or harm you? Please describe: _____

If you are requesting that the protection order lasts longer than one year, describe the reasons why: _____

Other: _____

~~_____~~ (Continue on separate page if necessary)

Check box if substance abuse is involved: alcohol controlled drugs other _____

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED 7-05-01 at TAROMA Washington.

Andrew M. Bahr
Signature of Petitioner

My residential address is confidential. Direct legal service by mail to: _____

X	Respondent is EXCLUDED from entering, knowingly coming within, or knowingly remaining within the property boundaries of petitioner's residence. At present petitioner's address is: 18921 9TH ST E. , SUMNER , WA 98390.
X	Respondent is RESTRAINED from coming near and from having any contact whatsoever, in person or through others, by phone, mail, or any means, directly or indirectly, except for mailing or service of process of court documents by a 3 rd party or contact by Respondent's lawyer(s) with petitioner(s). If both parties are in the same location, respondent shall leave.
X	Respondent is RESTRAINED from entering, knowingly coming within, or knowingly remaining within the property boundaries of petitioner's residence petitioner's place of employment , Petitioner shall have exclusive right to the residence at: The respondent shall immediately VACATE the residence. The respondent may take respondent's personal clothing and tools of trade from the residence while a law enforcement officer is present.
	Petitioner is granted use of the following: Year, Make & Model _____ License No. _____
	Petitioner shall have possession of essential personal belongings, including the following:
	Respondent shall participate in treatment and counseling as follows: <input type="checkbox"/> domestic violence perpetrator treatment program approved under RCW 26.50.150 or counseling at: _____ <input type="checkbox"/> parenting classes at: _____ <input type="checkbox"/> drug/alcohol treatment at: _____ <input type="checkbox"/> other: _____
	Petitioner is granted judgment against Respondent for \$ _____ fees and costs.
	Parties shall return to court on _____, _____, at _____ m. for review.
X	OTHER: <i>As agreed to parties can arrange for third party transfer of dog business equipment</i> <i>WPT and line</i>

Complete only if the protection ordered involves children	
	Petitioner is GRANTED the temporary care, custody, and control of
	Respondent is RESTRAINED from interfering with petitioner's physical or legal custody of
	Respondent is RESTRAINED from removing from the state
	The respondent will be allowed visitations as follows:
	Petitioner may request modification of visitation if respondent fails to comply with treatment or counseling as ordered by the court.

If the person with whom the child resides a majority of the time plans to relocate the child, that person must comply with the notice requirements of the Child Relocation Act. Persons entitled to time with the child under court order may object to the proposed relocation. See RCW 26.09, RCW 26.10 or RCW 26.26 for more information.

WARNINGS TO THE RESPONDENT: Violation of the provisions of this order with actual notice of its terms is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. If the violation of the protection order involves travel across a state line or the boundary of a tribal jurisdiction, or involves conduct within the special maritime and territorial jurisdiction of the United States, which includes tribal lands, the defendant may be subject to criminal prosecution in federal court under 18 U.S.C. sections 2261, 2261A, or 2262.

Violation of this order is a gross misdemeanor unless one of the following conditions apply: Any assault that is a violation of this order and that does not amount to assault in the first degree or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony. Any conduct in violation of this order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony. Also, a violation of this order is a class C felony if the Respondent has at least 2 previous convictions for violating a protection order issued under Titles 10, 26 or 74 RCW.

Effective immediately, and continuing as long as this protection order is in effect, the respondent may not possess a firearm or ammunition. 18 U.S.C. section 922(g)(8). A violation of this federal firearms law carries a maximum possible penalty of 10 years in prison and a \$250,000 fine. An exception exists for law enforcement officers and military personnel when carrying department/government-issued firearms. 18 U.S.C. section 925(a)(1). If the respondent is convicted of an offense of domestic violence, the respondent will be forbidden for life from possessing a firearm or ammunition. 18 U.S.C. section 922(g)(9); RCW 9A.10.040.

YOU CAN BE ARRESTED EVEN IF THE PERSON OR PERSONS WHO OBTAINED THE ORDER INVITE OR ALLOW YOU TO VIOLATE THE ORDER'S PROHIBITIONS. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application.

Pursuant to 18 U.S.C. section 2265, a court in any of the 50 states, the District of Columbia, Puerto Rico, any United States territory, and any tribal land within the United States shall accord full faith and credit to the order.

It is further ordered that the Clerk of Court shall forward a copy of this order on or before the next judicial day to

The Law Enforcement Agency **WHERE PETITIONER LIVES** which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

The Clerk of Court shall also forward a copy of this order on or before the next judicial day to The Law Enforcement Agency **WHERE RESPONDENT LIVES** which shall personally serve the respondent with a copy of this order and shall promptly complete and return to this court proof of service.

Petitioner shall serve this order by mail publication.

Petitioner has made private arrangements for service of this order.

Respondent appeared and was informed of the order by the court; further notice is not required.

The law enforcement agency where petitioner respondent lives shall assist petitioner in obtaining:

- Possession of petitioner's residence personal belongings located in
- Custody of the above-named minors, including taking physical custody of the minors
- Use of above designated vehicle.
- Other:

FILED
PIERCE COUNTY CLERK'S OFFICE
A.M. JUL 19 2001 P.M.
PIERCE COUNTY, WASHINGTON
TED RUIT COUNTY CLERK
BY _____ DEPUTY

THIS ORDER FOR PROTECTION IS PERMANENT EXPIRES ON _____ [Date]

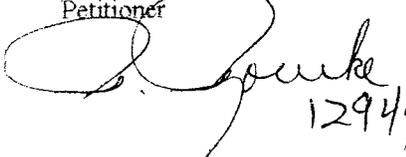
If the duration of this order exceeds one year, the court finds that an order of less than one year will be insufficient to prevent further acts of domestic violence.

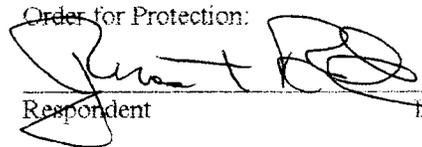
DATED July 19, 2001 at 2:00pm



JUDGE/COURT COMMISSIONER

Presented by:

Andrea M. Bahr 7-19-01
Petitioner Date

12944

I acknowledge receipt of a copy of this Order for Protection:

Respondent Date

