

NO. 83677-9

SUPREME COURT OF THE STATE OF WASHINGTON

---

CITY OF SEATTLE,

Respondent,

v.

ROBERT MAY,

Petitioner.

RECEIVED  
SUPREME COURT  
STATE OF WASHINGTON  
2010 APR -2 AM 8:12  
BY RONALD R. BARBER  
CLERK

---

**SUPPLEMENTAL BRIEF OF RESPONDENT**

---

PETER S. HOLMES  
Seattle City Attorney

RICHARD GREENE  
Assistant City Attorney  
Attorneys for Respondent

Seattle City Attorney  
P. O. Box 94667  
Seattle, Washington 98124  
(206) 684-7757

## TABLE OF CONTENTS

	Page
A. ISSUES PRESENTED	1
B. STATEMENT OF THE CASE	1-4
C. ARGUMENT	
1. A PERMANENT DOMESTIC VIOLENCE PROTECTION ORDER IS NOT REQUIRED TO RECITE ON ITS FACE THE COURT'S FINDING MADE UNDER RCW 26.50.060(2).	4-5
2. EVEN IF A PERMANENT DOMESTIC VIOLENCE PROTECTION ORDER IS REQUIRED TO RECITE THE WORDS OF RCW 26.50.060(2), THE LANGUAGE OF THE ORDER RESTRAINING DEFENDANT WAS SUFFICIENT TO SHOW THAT THE COURT MADE THE NECESSARY FINDING.	5-7
3. DEFENDANT MAY NOT CHALLENGE THE VALIDITY OF THE PERMANENT DOMESTIC VIOLENCE PROTECTION ORDER IN THIS PROSECUTION FOR VIOLATION OF THAT ORDER.	7-12
4. THE WARNING ON THE PERMANENT DOMESTIC VIOLENCE PROTECTION ORDER INFORMED DEFENDANT THAT VIOLATION OF ITS PROVISIONS WOULD BE A CRIME.	12-14
D. CONCLUSION	14

TABLE OF AUTHORITIES

Page

Table of Cases

Federal:

*United States v. DuBose*, \_\_\_ F.3d \_\_\_,  
2010 WL 681675 (11<sup>th</sup> Cir. 2010) .....6-7

*United States v. Hicks*, 389 F.3d 514 (5<sup>th</sup> Cir. 2004),  
*cert. denied*, 546 U.S. 1089 (2006) ..... 11

*United States v. United Mine Workers*, 330 U.S. 258,  
67 S. Ct. 677, 91 L. Ed. 884 (1947)..... 10

*United States v. Young*, 458 F.3d 998 (9<sup>th</sup> Cir. 2006),  
*cert. denied*, 549 U.S. 1230 (2007) .....11-12

Washington State:

*Bellevue v. Montgomery*, 49 Wn. App. 479,  
743 P.2d 1257 (1987).....8

*City of Bremerton v. Widell*, 146 Wn.2d 561, 51 P.3d 733, *cert.*  
*denied*, 537 U.S. 1007 (2002) .....9

*Hecker v. Cortinas*, 110 Wn. App. 865, 43 P.3d 50 (2002).....9

*In re Marriage of Suggs*, 152 Wn.2d 74, 93 P.3d 161 (2004) .....9

*Meade School District No. 354 v. Mead Education Association*,  
85 Wn.2d 278, 534 P.2d 561 (1975) ..... 10

*Seattle v. May*, 151 Wn. App. 694, 698-99, 213 P.3d 945 (2009),  
*review granted*, 168 Wn.2d1006 (2010) .....3-4

*State v. Breazeale*, 144 Wn.2d 829, 31 P.3d 1155 (2001) .....9

*State v. Clark*, 129 Wn.2d 805, 920 P.2d 187 (1996)..... 12

<i>State v. Delgado</i> , 148 Wn.2d 723, 63 P.3d 792 (2003) .....	5
<i>State v. Esquivel</i> , 132 Wn. App. 316, 132 P.3d 751 (2006).....	13
<i>State v. Gonzales</i> , 103 Wn.2d 564, 693 P.2d 119 (1985) .....	8
<i>State v. Gonzales Flores</i> , 164 Wn.2d 1, 186 P.3d 1038 (2008) .....	5
<i>State v. Lew</i> , 25 Wn.2d 854, 172 P.2d 289 (1946).....	9
<i>State v. Miller</i> , 156 Wn.2d 23, 123 P.3d 827 (2005).....	8
<i>State v. Noah</i> , 103 Wn. App. 29, 9 P.3d 858 (2000) .....	9
<i>State v. Sutherland</i> , 114 Wn. App. 133, 56 P.3d 613 (2002), <i>review denied</i> , 149 Wn.2d 1034 (2003).....	13
<i>State v. Turner</i> , 98 Wn.2d 731, 658 P.2d 658 (1983).....	9
<i>State v. Turner</i> , 118 Wn. App. 135, 74 P.3d 1215 (2003), <i>review denied</i> , 151 Wn.2d 1015 (2004).....	6 & 13
<i>State v. Valentine</i> , 132 Wn.2d 1, 935 P.2d 1294 (1997) .....	8

Other Jurisdictions:

<i>Jacko v. State</i> , 981 P.2d 1075 (Alaska App. 1999) .....	11
<i>State v. Grindling</i> , 96 Hawai'i 402, 31 P.3d 915 (2001).....	11
<i>State v. Mott</i> , 166 Vt. 188, 692 A.2d 360 (1997) .....	11
<i>State v. Small</i> , 150 N.H. 457, 843 A.2d 932 (2004).....	11
<i>State v. Wright</i> , 273 Conn. 418, 870 A.2d 1039 (2005).....	10-11

Statutes and Ordinances

RCW 10.99.010 ..... 8  
RCW 26.50.035(1) ..... 4, 5, 13  
RCW 26.50.035(1)(c) ..... 4  
RCW 26.50.060(2) ..... 3, 4, 5, 7, 12  
Seattle Municipal Code 12A.06.180 ..... 14

A. ISSUES PRESENTED

1. Where a domestic violence protection order may be made permanent based on a particular finding specified by statute, must that finding be recited on the face of the permanent domestic violence protection order?

2. Where a domestic violence protection order may be made permanent based on a particular finding specified by statute, must that finding be recited on the face of the permanent domestic violence protection order in the exact language of the statute?

3. May a person restrained by a permanent domestic violence protection order challenge the validity of that order in a criminal prosecution for violating it?

4. Where a permanent domestic violence protection order recites exactly the warning required by statute that violation of the order is a crime, does the absence of a reference in that warning to a local ordinance under which a defendant who violates the order is prosecuted violate his right to due process of law?

B. STATEMENT OF THE CASE

On December 30, 1996, King County Superior Court issued an AMENDED ORDER FOR PROTECTION prohibiting defendant, *inter alia*, from "having any contact whatsoever, in person or

through others, directly or indirectly with [Desiree Douglass] except by telephone regarding child for emergency purposes only." CP

132. This order stated that "[v]iolation of the provisions of this order with actual notice of its terms is criminal offense under chapter

26.50 RCW and RCW 10.31.100 and will subject a violator to

arrest." CP 133. The order also stated:

THIS ORDER FOR PROTECTION IS PERMANENT.

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.

CP 133. Defendant signed this order acknowledging receipt of it. CP 133.

On March 11, 2005, defendant called Ms. Douglass and left a message not concerning an emergency on her answering machine . CP 59 & 129-30. On March 24, 2005, defendant sent an email to Ms. Douglass that also did not concern an emergency. CP 59, 126 & 131.

Defendant was charged in Seattle Municipal Court with two counts of violating the protection order. CP 122. Prior to trial, defendant moved to exclude the order because it did not recite that the court made a finding justifying the permanent duration of the order. CP 28-32. Defendant repeatedly stated that he was not

challenging the sufficiency of the evidence. CP 29. Defense counsel believed that whether the order was lawfully issued was an issue to be determined by the jury. CP 24 & 30. Defense counsel insisted that one purpose of the findings required by RCW 26.50.060(2) was for a subsequent court to review them, and implied that such a subsequent court would be the court hearing the criminal charge. CP 28 & 41. The Municipal Court denied the motion and determined that the order might be voidable if the superior court did not make appropriate findings, but the order was not void on its face. CP 32.

On appeal, defendant contended that the permanent order was invalid because the language regarding its duration did not comply with RCW 26.50.060(2) and the language regarding its violation did not inform him that he could be prosecuted under a municipal ordinance. CP 1-14. The superior court on RALJ appeal agreed with defendant's first contention and reversed his convictions. CP 98. The Court of Appeals reversed this decision and held that the issuing court's finding justifying a permanent order need not appear on the face of the order and that the warning gave defendant sufficient notice that violation of the order could be prosecuted under both state and local law. *Seattle v. May*, 151 Wn.

App. 694, 698-99, 213 P.3d 945 (2009), *review granted*, 168

Wn.2d1006 (2010).

C. ARGUMENT

1. A PERMANENT DOMESTIC VIOLENCE PROTECTION ORDER IS NOT REQUIRED TO RECITE ON ITS FACE THE COURT'S FINDING MADE UNDER RCW 26.50.060(2).

Defendant claims that the permanent order prohibiting him from contacting his former spouse was invalid because it did not recite the language of RCW 26.50.060(2)<sup>1</sup> that would justify its permanent duration. The Court of Appeals correctly rejected this argument. RCW 26.50.035(1)(c)<sup>2</sup> specifies that a protection order "shall" include certain language regarding criminal penalties for violation of the order, but makes no mention of the finding required by RCW 26.50.060(2) to make the order permanent. To express

---

<sup>1</sup> RCW 26.50.060 provides, in pertinent part:

(2) . . . With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

<sup>2</sup> RCW 26.50.035(1) provides, in pertinent part:

(c) The order for protection form shall include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, and the following statement: "You can be arrested even if the person or persons who obtained the order invite or allow you to violate the order's prohibitions. The respondent has the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application."

one thing in a statute implies the exclusion of others.<sup>3</sup> The absence in RCW 26.50.035(1) of an explicit requirement that a protection order include this finding was intentional and means that such a finding is not required on the face of the order.

Nor does RCW 26.50.060(2) require that the necessary finding be stated on the face of the permanent protection order. The Legislature plainly knew how to impose such a requirement, as it had done so in RCW 26.50.035(1). When the legislature uses different words in statutes relating to a similar subject, it intends different meanings.<sup>4</sup> The Court of Appeals correctly determined that the permanent order was not required to recite the court's finding made under RCW 26.50.060(2).

2. EVEN IF A PERMANENT DOMESTIC VIOLENCE PROTECTION ORDER IS REQUIRED TO RECITE THE WORDS OF RCW 26.50.060(2), THE LANGUAGE OF THE ORDER RESTRAINING DEFENDANT WAS SUFFICIENT TO SHOW THAT THE COURT MADE THE NECESSARY FINDING.

Although not addressed by the Court of Appeals, the City contended that the domestic violence protection order restraining defendant did include a finding sufficient to justify a permanent order. Although not in the exact words of RCW 26.50.060(2), the

---

<sup>3</sup> *State v. Delgado*, 148 Wn.2d 723, 729, 63 P.3d 792 (2003).

<sup>4</sup> *State v. Gonzales Flores*, 164 Wn.2d 1, 14, 186 P.3d 1038 (2008).

language in the order showed that the superior court had determined that defendant was likely to violate the order and commit additional acts of domestic violence if the order was of limited duration. The language in the order need not recite exactly the words of the statute. In *State v. Turner*,<sup>5</sup> the restraining order “restrained and enjoined [defendant] from molesting or disturbing the peace of [his wife]”. The court held that violation of this order could be the basis of a charge under a statute prohibiting “violation of the provisions restricting the person from acts or threats of violence.”<sup>6</sup> The court rejected the contention that the language of the order had to recite exactly the words of the statute.<sup>7</sup>

In *United States v. DuBose*,<sup>8</sup> the defendant was charged with possessing a firearm while being subject to a domestic violence order that, *inter alia*:

by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

The domestic violence order that restrained the defendant stated:

---

<sup>5</sup> 118 Wn. App. 135, 137, 74 P.3d 1215 (2003), *review denied*, 151 Wn.2d 1015 (2004).

<sup>6</sup> *Turner*, 118 Wn. App. at 141.

<sup>7</sup> *Turner*, 118 Wn. App. at 142-43.

Stuart DuBose is hereby specifically restrained and enjoined from intimidating, threatening, hurting, harassing, or in any way putting the plaintiff, Allison T. DuBose, her daughters and/or her attorney in fear of their lives, health, or safety pending final hearing of this suit.<sup>9</sup>

Relying on cases from two other federal courts of appeal, the court held that the precise words of the statute were not required and that the language in the order was sufficient.<sup>10</sup>

Similarly, the precise words of the finding required by RCW 26.50.060(2) need not be in a permanent domestic violence protection order and the language of the order restraining defendant was sufficient to show that the superior court made the necessary finding.

3. DEFENDANT MAY NOT CHALLENGE THE VALIDITY OF THE PERMANENT DOMESTIC VIOLENCE PROTECTION ORDER IN THIS PROSECUTION FOR VIOLATION OF THAT ORDER.

Even if a permanent domestic violence protection order must exactly recite the language of RCW 26.50.060(2), the absence of such a recitation in the permanent order restraining defendant is not a defense to a charge of violating that order and does not

---

<sup>8</sup> \_\_\_ F.3d \_\_\_, 2010 WL 681675 (11<sup>th</sup> Cir. 2010), slip opinion at 2.

<sup>9</sup> *DuBose*, slip opinion at 1.

<sup>10</sup> *DuBose*, slip opinion at 3.

authorize him to violate it. As this court noted in *State v. Miller*,<sup>11</sup> a protection order may not be collaterally attacked in a criminal prosecution for violating it, and any challenge to the order must be presented to the court that issued the order. In this regard, *Miller* represents one aspect of the principle that a person who believes that the decision or action of a government official restraining him is erroneous should dispute that decision or action in court rather than by defying or resisting it.<sup>12</sup>

The obvious public policy reason for this rule is to discourage disobedience of a court order even if the person believes it to be invalid. Such public policy applies even more forcefully in the domestic violence context, where the Legislature has clearly expressed its intent to provide maximum protection to victims.<sup>13</sup>

---

<sup>11</sup> 156 Wn.2d 23, 31 n. 4, 123 P.3d 827 (2005).

<sup>12</sup> See *State v. Gonzales*, 103 Wn.2d 564, 567-68, 693 P.2d 119 (1985) (defendant charged with escape may not challenge the legality of his confinement at the escape trial); *State v. Valentine*, 132 Wn.2d 1, 935 P.2d 1294 (1997) (not a defense to a charge of assaulting a police officer that the assault was in response to an unlawful arrest); *Bellevue v. Montgomery*, 49 Wn. App. 479, 481, 743 P.2d 1257 (1987) (person charged with driving a motor vehicle after his driver's license has been revoked as an Habitual Traffic Offender (HTO) may not challenge the validity of the convictions upon which the HTO determination was based in the criminal prosecution).

<sup>13</sup> The stated purpose of the domestic violence statutes is "to recognize the importance of domestic violence as a serious crime against society and to assure the victim of domestic violence the **maximum** protection from abuse which the law and those who enforce the law can provide." RCW 10.99.010 (emphasis added).

This Court has long recognized that it is not a defense to a criminal contempt charge that the court order violated was erroneous.<sup>14</sup> The “collateral bar rule” generally provides that “[a] court order which is merely erroneous must be obeyed despite the error and may not be collaterally attacked in a contempt proceeding.”<sup>15</sup> “The policy underlying the collateral bar rule is respect for independent judicial decision making.”<sup>16</sup> This rule also deters individuals from violating court orders they believe are invalid, encouraging them to instead challenge the orders through legal proceedings. The proper method for challenging a court order is through the legal system, not by disregarding the order.<sup>17</sup>

The exception to this rule is if the underlying order is void. An underlying order is void if the court lacked jurisdiction or the inherent power to enter it.<sup>18</sup> However, flaws which do not go to the

---

<sup>14</sup> See *State v. Breazeale*, 144 Wn.2d 829, 841, 31 P.3d 1155 (2001); *State v. Lew*, 25 Wn.2d 854, 870, 172 P.2d 289 (1946); *State v. Noah*, 103 Wn. App. 29, 46, 9 P.3d 858 (2000) (defendant charged with criminal contempt for violating an anti-harassment order may not challenge the underlying order).

<sup>15</sup> *State v. Turner*, 98 Wn.2d 731, 739, 658 P.2d 658 (1983).

<sup>16</sup> *City of Bremerton v. Widell*, 146 Wn.2d 561, 569, 51 P.3d 733, cert. denied, 537 U.S. 1007 (2002).

<sup>17</sup> See, e.g., *In re Marriage of Suggs*, 152 Wn.2d 74, 93 P.3d 161 (2004) (appeal of anti-harassment order); *Hecker v. Cortinas*, 110 Wn. App. 865, 867, 43 P.3d 50 (2002) (appeal of protection order).

<sup>18</sup> *Breazeale*, 144 Wn.2d at 841.

heart of the judicial power are insufficient to justify the flaunting of an otherwise lawful order.<sup>19</sup>

As the United States Supreme Court has explained:

[W]e find impressive authority for the proposition that an order issued by a court with jurisdiction over the subject matter and person must be obeyed by the parties until it is reversed by orderly and proper proceedings. This is true without regard even for the constitutionality of the Act under which the order is issued.<sup>20</sup>

Courts in other jurisdictions, citing the collateral bar rule, have held that a defendant may not challenge the validity of a court order in a prosecution for its violation. In *State v. Wright*,<sup>21</sup> the Connecticut Supreme Court held that the “collateral bar rule” prevented a defendant from challenging the underlying factual basis for the protective order that he was charged with violating. The court observed that the collateral bar rule, applicable to contempt proceedings, applied with equal force here:

[T]he collateral bar rule, is justified on the ground that it advances important societal interests in an orderly system of government, respect for the judicial process and the rule of law, and the preservation of civil order.

Our endorsement of that rule in *Cologne v. Westfarms Associates*, 197 Conn. 141, 496 A.2d

---

<sup>19</sup> *Mead School District No. 354 v. Mead Education Association*, 85 Wn.2d 278, 284, 534 P.2d 561 (1975).

<sup>20</sup> *United States v. United Mine Workers*, 330 U.S. 258, 293, 67 S. Ct. 677, 91 L. Ed 884 (1947) (footnote omitted).

<sup>21</sup> 273 Conn. 418, 870 A.2d 1039 (2005).

476 (1985)] leads us to conclude that the defendant in the present case should not be allowed to challenge the validity of the protective order that he was charged with violating under § 53a-110b (a). That order was issued by a court of competent jurisdiction as a condition of the defendant's release in connection with the assault and disorderly conduct charges stemming from his altercation with Malcolm. Thus, the defendant had no privilege to violate that order. If the defendant believed that the order did not comport with the statutory requirements of § 46b-38c (e), he had two lawful remedies available to him. He could have: (1) sought to have the order modified or vacated by a judge of the Superior Court . . . or (2) appealed the terms of the order . . . Having failed to pursue either remedy, the defendant may not seek to avoid his conviction for violating that order by challenging the factual basis of its issuance.<sup>22</sup>

Likewise, in *United States v. Young*,<sup>23</sup> the court held that a defendant charged with possessing a firearm while being subject to a Washington domestic violence order could not challenge the constitutionality of proceedings in which that order was issued. “[I]t

---

<sup>22</sup> *Wright*, 870 A.2d at 1043-44 (footnotes omitted); see also *United States v. Hicks*, 389 F.3d 514, 534-36 (5<sup>th</sup> Cir. 2004), *cert. denied*, 546 U.S. 1089 (2006) (holding that the defendant cannot challenge the validity of the underlying protective order); *State v. Small*, 150 N.H. 457, 843 A.2d 932, 935 (2004) (holding that the defendant may not collaterally attack validity of protective order in criminal proceeding); *State v. Grindling*, 96 Hawai'i 402, 31 P.3d 915, 918-19 (2001) (same); *Jacko v. State*, 981 P.2d 1075, 1077-79 (Alaska App. 1999) (same); *State v. Mott*, 166 Vt. 188, 692 A.2d 360, 363 (1997) (“We do not generally allow a person who is under a court order to challenge it by violating it”).

<sup>23</sup> 458 F.3d 998, 1004-06 (9<sup>th</sup> Cir. 2006), *cert. denied*, 549 U.S. 1230 (2007).

is no defense to a prosecution under this statute that the state restraining order proceedings were unconstitutional.”<sup>24</sup>

Even if a permanent domestic violence protection order is required to recite the words of RCW 26.50.060(2) and even if the language of the order restraining defendant was not sufficient, defendant cannot challenge that omission in this criminal proceeding. Notwithstanding any invalidity of the order in this regard, defendant is nevertheless required to comply with it until the issuing court modifies or rescinds it.

4. THE WARNING ON THE PERMANENT DOMESTIC VIOLENCE PROTECTION ORDER INFORMED DEFENDANT THAT VIOLATION OF ITS PROVISIONS WOULD BE A CRIME.

Defendant also claims that the warning on the permanent domestic violence protection order did not inform him that violation of its provisions would subject him to criminal prosecution under a Seattle ordinance. The Court of Appeals correctly rejected this argument.

The constitution certainly does not require that a defendant be given notice of the penalty exacted for conviction of a crime.<sup>25</sup> A person is presumed to know the law and is responsible for his

---

<sup>24</sup> *Young*, 458 F.3d at 1005.

<sup>25</sup> *State v. Clark*, 129 Wn.2d 805, 811, 920 P.2d 187 (1996).

voluntary acts and deeds.<sup>26</sup> In *State v. Esquivel*,<sup>27</sup> the court rejected the argument that a domestic violence protection order was invalid because it lacked a warning required by the court in which the defendant was prosecuted for violating the order.<sup>28</sup> Similarly, the permanent domestic violence protection order restraining defendant was not invalid because it did not specify that he could be prosecuted under a Seattle ordinance.

In *State v. Sutherland*,<sup>29</sup> the warning in the domestic violence protection order incorrectly referred to Chapter 10.99 RCW rather than Chapter 26.50 RCW, as required by RCW 26.50.035(1). The court rejected the argument that this incorrect statutory reference in the warning rendered the order invalid or precluded prosecution of the defendant for violating its provisions.<sup>30</sup> The defendant was not prejudiced by the inaccurate statutory reference.<sup>31</sup> Likewise, the absence of a reference in the permanent domestic violence protection order to Seattle Municipal Code

---

<sup>26</sup> *State v. Esquivel*, 132 Wn. App. 316, 327, 132 P.3d 751 (2006) (tribal domestic violence protection order need not recite warning in RCW 26.50.035(1)).

<sup>27</sup> 132 Wn. App. at 323.

<sup>28</sup> See also *Turner*, 118 Wn. App. at 140-41 (order issued under RCW Chapter 26.09 need not include warning required by RCW 26.50.035(1)).

<sup>29</sup> 114 Wn. App. 133, 135, 56 P.3d 613 (2002), *review denied*, 149 Wn.2d 1034 (2003).

<sup>30</sup> *Sutherland*, 114 Wn. App. at 135-36.

<sup>31</sup> *Sutherland*, 114 Wn. App. at 136.

12A.06.180<sup>32</sup> did not prejudice defendant or preclude prosecuting him under that ordinance for violating the order.

D. CONCLUSION

For all the foregoing reasons, this court should affirm the Court of Appeals decision affirming defendant's convictions and remand the case to Seattle Municipal Court for reimposition of the sentence.

DATED this 5<sup>th</sup> day of April, 2010.

Respectfully submitted,

PETER S. HOLMES  
Seattle City Attorney

By: Richard Greene  
Richard Greene, WSBA #13496  
Assistant City Attorney  
Attorneys for Respondent

---

<sup>32</sup> Seattle Municipal Code 12A.06.180 provides, in pertinent part:

A. Whenever an order is granted under this chapter, RCW Chapter 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, 26.50 or 74.34 or an equivalent ordinance by this court or any court of competent jurisdiction or there is a valid foreign protection order as defined in RCW 26.52.020 and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor:

1. the restraint provisions prohibiting acts or threats of violence against or stalking of a protected party or restraint provisions prohibiting contact with a protected party;