

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
5/27/2025 10:48 AM  
BY SARAH R. PENDLETON  
CLERK

**No. 1039581**

Court of Appeals, Div. III No. 39952-4-III  
Consolidated with No. 39953-2-III

**SUPREME COURT  
OF THE STATE OF WASHINGTON**

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Chad A. Pierce,

Appellant,

vs.

Bonita Kelleher,

Respondent.

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**ANSWER TO PETITION FOR REVIEW**

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LARSON FOWLES, PLLC

By: Lyliane S. Couture

WSBA No. 32308

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## **I. INTRODUCTION**

Appellant filed a letter and Petition for Discretionary Review from the grant county jail, which this Court has indicated shall be treated as a Petition for Review. See March 12, 2025, letter initiating case. Exhibit A at 1. Because the Court of Appeal's unpublished opinion in *Kelleher v. Pierce*, Slip Op. No. 39952-4 (consolidated with 39953-2) (February 27, 2025) does not involve an issue of substantial public interest and does not conflict with precedent, review should be denied. See RAP 13.4(b)(1), (4).

## **II. IDENTITY OF ANSWERING PARTY**

Respondent, Bonita Kelleher, was the plaintiff in the trial court and the respondent in the Court of Appeals.

## **III. RESTATEMENT OF THE CASE**

Respondent adopts Division III's recitation of facts and refer this Court to that opinion. Exhibit B at 1-14. Respondent also direct this Court to the following key

facts: Appellant is not the owner of the real property adjacent to Respondent's home, and he has not been prohibited by these civil matters from residing at his girlfriend's residence. Exhibit C. Appellant filed this Petition for Discretionary Review from the grant county jail where he alleges, he is restricted to a cell for 23 hours a day. Exhibit A at 4. Respondent disputes that she was issued a civil anti-harassment order because Mr. Pierce was engaging in lawful activity. Respondent's counsel asserts that she never committed fraud upon the court.

#### **IV. ARGUMENT**

##### **A. Standard for Discretionary Review**

RAP 13.4 provides four bases for this Court to consider when determining whether to grant discretionary review of a Court of Appeals decision:

(1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or

- (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or
- (3) If a significant question of law under the Constitution of the State of Washington or the United States is involved; or
- (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

Appellant asserts that his grounds for discretionary review are an issue of substantial public importance that the Supreme Court should determine. He provides no persuasive analysis supporting this claim. The rulings in the Appellant's case do not involve issues of substantial public importance under RAP 13.4(b). It is not enough to allege a public interest, the Petition for Review must involve a public interest. These rulings were in keeping with established legal standards and compliance with court rules, involved facts particular to this case, and did

not affect anyone other than Mr. Pierce. Appellant's petition should be denied.

**B. Grounds for review 1, 2, 4, 5, 6, 7, and 8 are not properly before this court.**

A. Appellant's grounds for review are not reviewable because the orders were entered more than 30 days before Appellant filed a notice of appeal.

In Appellant's grounds for discretionary review 1, 2, 4, 5, 6, 7, and 8, Appellant refers to findings made by the court in his renewal hearing held on November 21, 2022. This Petition for Discretionary Review was not filed until March 12, 2025. As such, these grounds for review are untimely as the Petition for Discretionary Review was not filed within 30 days of the decision. RAP 5.2(a).

B. Appellant seeks to invalidate a statute and has not provided notice to the State of Washington.

RCW 7.24.110 requires that the Appellant serve the attorney general when he seeks to challenge the constitutionality of a statute. *Kendall v. Douglas, Grant, Lincoln & Okanogan Counties Public Hospital District No. 6*, 118 Wn.2d 1, 11 (1991). The Appellant has not notified the Attorney General's Office so that they may appear in this matter. Appellant's grounds for review 1 and 2 refer to the legislature's enactment of RCW 7.105 and the requirement that subpoenas for witnesses do not need to be issued for a protection order renewal hearing. RCW 7.105.500(2) provides that all motions to modify or terminate a protection order shall be based on the written materials and evidence submitted to the court. Appellant seeks to invalidate this provision by requiring the court to



issue subpoenas for the testimony of witnesses at protection order renewal hearings.

RCW 7.105.215 does not apply to this case, as this was a petition for an anti-harassment order, not an extreme risk protection order.

The standards for granting Petitions for Review are set out in RAP 13.4(b)(1) through (4). The petition in this case requests review under RAP 13.4(b)(4), warranting review as an issue of substantial public interest. And, instead of addressing how these grounds are an issue of substantial interest, the petition raises grounds for review that are time-barred, seeks to invalidate a statute, and finally, presents an emergency motion against Eastern State Hospital (ESH/DSHS) where Mr. Pierce is currently confined. The application of law to the

facts of this case does not warrant review as an  
issue of substantial public interest.

**V. CONCLUSION**

For the reasons set forth herein, Respondent Bonita  
Kelleher respectfully requests this Court to deny the  
Petition for Review.

RESPECTFULLY SUBMITTED on May 27, 2025.

LARSON FOWLES, PLLC  
/s/ Lyliane S. Couture  
LYLIANE COUTURE  
WSBA No. 32308  
Attorney for Respondent,  
Bonita Kelleher

## **CERTIFICATE OF COMPLIANCE**

I certify the word count for this brief, as determined by the word count function for Microsoft Word, and pursuant to RAP 18.17, this document is proportionately spaced using Arial 14-point font and contains 856 words, excluding cover page, tables, signature blocks, certificates, and appendix (word count by Microsoft Word).

RESPECTFULLY SUBMITTED on May 27, 2025.

LARSON FOWLES, PLLC  
/s/ Lyliane S. Couture  
LYLIANE COUTURE  
WSBA No. 32308  
Attorney for Respondent,  
Bonita Kelleher

## **CERTIFICATE OF SERVICE**

I hereby certify, under penalty of perjury under the laws of the State of Washington, that on May 27, 2025, I caused a true and correct copy of the foregoing document to be served on the following party via the method described below:

*Via USPS to Eastern State Hospital*

Chad A. Pierce  
P.O. Box 800  
Medical Lake, WA 99022

I hereby certify, under the penalty of perjury under the laws of the State of Washington, that on May 27, 2025x, I caused a true and correct copy of the foregoing document to be filed on the Supreme Court of Washington State via the method described below:

*Via Washington State Appellate Courts' electronic portal.*

  
\_\_\_\_\_  
NATALIE, GONZALEZ, Paralegal

PETITION FOR DISC. REVIEW  
COVER LETTER 3 PETITION

SUPREME COURT  
 STATE OF WASHINGTON

3/12/2025

BY SARAH R. PENDLETON  
 CLERK

DEAR SUPREME COURT CLERK

TREATED AS A PETITION FOR REVIEW

RE: DISCRETIONARY REVIEW OF COURT OF APPEALS CLEARLY  
 ERRONEOUS, Feb 27, 25, unpublished opinion, which  
 completely mistakes factual history, condones criminal  
 trespassing, fails to follow mandatory legislative  
 statutory directives, allows Judges to deny the  
 Right to call witnesses which impeach a petitioner  
 and is mandatory under the 7-105 RCW Scheme provision,  
 and allows 76 year long protection orders for doing  
 lawful things on privately owned property, and  
 for making PRA requests that pertain to the  
 Respondent and impeach the Petitioner by Police  
 Body CAMERAS.

This Jail adamantly refused to give my  
 your address, legal copies, legal paper, proper  
 law library access, legal large envelopes, etc.

Therefore I'm asking this to be considered my  
 petition for discretionary review as it's been a  
 month now and even though the LT said to  
 allow me unlimited legal mail, the guards refuse?  
 I cannot waste time.

## EXHIBIT A

The Appeal opinion does not comport to the  
 legislative scheme and condones a petitioners criminal  
 trespassing, while performing legal things like mowing,  
 blowing leaves, weed whacking, etc on my private property.

Called it Hearsay. Grant Co. has systemic failure.  
This case has extraordinary circumstances? Is of Broad Public Importance  
of a Substantial Injustice.  
The case is:

(A) Bonita Kelleher vs Chad Pierce, 399524, 399532  
Division III

(B) RESPONDENT'S LAWYER: Lylane Couture  
821 E. Broadway Ave Ste 8  
Moses Lake, WA 98837

(C) Grounds for Disc. Review:

(1). When the legislature created RCW 7.105, it stated that any renewal petition does not need new facts to be entered.

(i) Does this mean that the original facts are appealable in subsequent renewed appeals? If so (ii) Did the court of appeals err by saying it does not? and (iii) When the initial petitions ~~facts~~ have never been appealed, are they ripe for appeal in the appeal filed? See ATT A

(2) When the legislature created RCW 7.105.200(5), 7.105.215 it clearly made it mandatory for a judge to 'issue allow witnesses to be called,' is it err; (i) for a judge to say ~~that~~ that a respondent does not have a right to present impeachment witnesses and if a respondent did not like it he can appeal it? (ii) for a court of appeals to rule contrary to the legislature's intent on procuring witnesses that impeach the respondent's, open door, statements when ~~respondent~~ <sup>petitioner</sup> opened the door? See ATT A

(3) Does a judge err in law by entering a 76 year protection order when a respondent (i) makes RFA requests for Police Body Cameras that impeach a petitioner and have a respondent in it as the subject? SEE ATTACH 4

(4) Does a judge error in law when it orders a 76 protection order for a Respondent, on his own privately posted property, confronting a petitioner who criminally trespassed once 15X onto his land, demanded she stop, ~~and~~ <sup>who</sup> threatened Respondent by Aggressive Actions first? SEE ATTACH 4

(5) Does a Judge Err in law by entering a 76 year protection order for a Respondent (i) taking pics to prove petitioner was in fact knowingly misleading the court, (ii) weed whacking in his own yard, (iii) Remove survey stakes of Petitioner's that slid into Respondent's property and were trespassing, (iv) using a game trail camera (out back, not out front as COA ruled) to catch Petitioner criminally trespassing, (v) have dirt for a landscape, (vi) ~~use~~ <sup>use</sup> Shore Public Roadways See ATTACH 4

(6) Does a Judge err in law by ruling that a lawyer can knowingly commit fraud at the court in her initial petition arguments about what witnesses did hear in said case? (ties to #2) See ATTACH 4

(7) Does a Judge Err in law when the court opinion of Div III Judge starts out with facts that do not start at the beginning of the said dispute which begins with the Petitioner's 15X criminal trespassing, prior to Respondent finally saying enough is enough? SEE ATTACH 4

(8). Does the court err in law when it finds a protection order for 76 years valid when a Respondent has not had notice properly? 'See ATT A

These <sup>1's</sup> are of very BROAD Public Importance? The record in COA-III is typed out nice professional briefing, needing reviewed as it affects the entire state of Wash. residents, is of Broad Public importance involving the Statutory Schemes of RCW 42.56 et al @

7.105 et al.

(In THE INTEREST of Justice, <sup>due to</sup> EXTREMELY CIRCUMSTANCES)

Since the jail refused to make copies, will not provide me paper (see books of this in using my evidence as paper just to get this heard), legal envelopes large, law access <sup>no copies</sup> ~~to~~ I am locked in a cell 23 Hours a day, I would humbly ask that this petition be accepted + a copy sent to Respondent's Attorney.

See enclosed in note notebook - 0 copies will be made.

Dated this 6<sup>th</sup> day of March, 2025 @ grant Co. Jail.

Chad A Pierce



**FILED**  
**FEBRUARY 27, 2025**  
In the Office of the Clerk of Court  
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION THREE

In the Matter of the Domestic Violence	)	No. 39952-4-III
Protection Order for:	)	(consolidated with
	)	No. 39953-2-III)
BONITA KELLEHER.	)	
<hr style="width: 40%; margin-left: 0;"/>	)	
BONITA KELLEHER,	)	
	)	
Respondent,	)	UNPUBLISHED OPINION
	)	
v.	)	
	)	
CHAD A. PIERCE,	)	
	)	
Appellant,	)	
	)	
CITY OF QUINCY, a Washington	)	
municipal corporation,	)	
	)	
Defendant.	)	

PER CURIAM — Chad Pierce attempts to appeal several rulings and orders in his long-standing dispute with his neighbor. We conclude that several rulings and orders are not properly before us, address the few that are, and affirm.

**EXHIBIT B**

## FACTS

To understand why the proper scope of appeal is narrow, it is necessary to review the lengthy factual and procedural history of the neighbors' dispute.

In April 2021, Bonita Kelleher refused Chad Pierce's requests to remove the arborvitae shrubs growing along their shared property line. Kelleher's refusal enraged Pierce, who responded by threatening to destroy the shrubs.

Three months later, Kelleher asked Jenny Snider, Pierce's girlfriend, to remove the garbage that had accumulated on Snider's and Pierce's side of the arborvitae. Snider agreed, but, in turn, asked Kelleher to recalibrate her sprinklers, which Snider complained were spraying across the property line into hers and Pierce's yard. Kelleher complied with Snider's request.

When garbage again accumulated on Snider's and Pierce's side of the arborvitae, Kelleher approached Snider in her yard. Before the two could speak, Pierce charged out of the couple's house and began threatening Kelleher, demanding that she not step foot on his property. The interaction was hostile enough that Kelleher called the police.

One month later, Snider and Pierce left a handwritten letter in Kelleher's mailbox again demanding that she remove the arborvitae, which, the couple argued, encroached over the property line. The letter gave Kelleher two days to remove the shrubs before

Pierce himself would cut them down and charge Kelleher for his work. The letter ended, “Do Not set foot on my land again . . . last warning.” Clerk’s Papers (CP) at 11. Around this time, Pierce angled his home’s security cameras toward Kelleher’s front door and informed her that he was recording her movements.

After receiving the letter, Kelleher hired a surveyor to place stakes along the property line separating the properties. The survey determined that the arborvitaes grew along the property line. While the surveyor worked, Pierce ranted and yelled at him.

The survey also revealed that Kelleher’s sprinklers encroached into Snider’s and Pierce’s property. With the help of her brother, Kelleher attempted to remove the part of her sprinkler system that was over her boundary. While they were working, Pierce threatened to kill Kelleher’s brother and stated that he had killed before. Kelleher reported the incident to the police.

One month after leaving the letter in Kelleher’s mailbox, Pierce again accosted Kelleher. On this occasion, Kelleher’s neighbor heard Pierce shouting “F-bombs” from two lots away. CP at 12. When the neighbor investigated, he saw Pierce shouting at Kelleher that he would “beat the shit out of [her].” CP at 12.

Two weeks later, Kelleher petitioned the trial court for a protection order against Pierce.

*Procedural history: original order*

In her petition, Kelleher alleged the above facts and asked the trial court to restrain Pierce from (1) contacting her, (2) surveilling her, or (3) entering her property. She also asked the court to award attorney fees and costs to her and to order Pierce to surrender his firearms.

The trial court heard Kelleher's petition on October 12, 2021. Ahead of the hearing, Pierce, acting pro se,<sup>1</sup> filed a response in which he denied threatening Kelleher, claiming he threatened only to "kick her ass in court." CP at 22. Pierce claimed the surveyor Kelleher had hired, Matt Walters, had heard him issue this threat and remembered it the way he remembered it. Pierce further claimed that Kelleher's attorney had interviewed Walters and concealed Walters' corroborative statements. As to surveillance, Pierce claimed his security cameras were intended only to detect trespassers on his property. Also, although Pierce denied threatening to kill Kelleher's brother, he admitted threatening to "kick his ass" if he did not get off his property. CP at 23.

At the October 12, 2021 hearing, Kelleher offered no evidence and instead rested on her sworn petition and declarations. While Pierce also did not call witnesses or offer evidence, he did ask the court itself to seek testimony from Matt Walters, who Pierce

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<sup>1</sup> At all phases of this litigation, Pierce has acted pro se.

claimed would exonerate him with respect to any threats he had allegedly made against Kelleher. In response, Kelleher argued that Walters had not been present when Pierce had threatened to hurt her. Walters did not testify at the hearing.

In its oral ruling, the trial court noted that the protection order request was a close call because “there weren’t any direct threats made directly to [Kelleher].” Rep. of Proc. (Oct. 12, 2021) (RP) at 35. Nevertheless, the court found that Pierce’s conduct—and in particular his “swearing”—had interfered with Kelleher’s quiet enjoyment of her property. RP at 35. Although the court granted the protection order, it prohibited Pierce only from entering Kelleher’s property. The court did not order Pierce to discontinue or alter his surveillance activities, surrender his firearms, or pay Kelleher’s attorney fees and costs. Pierce did not appeal the original protection order.

*Procedural history: renewed order*

One year later, Kelleher petitioned the trial court to renew the protection order. In her petition, she alleged new hostilities from Pierce, including:

- an incident in March 2022 when Pierce had called the police on Kelleher for walking down the alley behind his house and then submitted a public records request for the bodycam footage of the police response;

an incident when Pierce had harassed the technicians Kelleher had hired to install security cameras at her home;

- several incidents where Pierce, or else Snider at Pierce's direction, had photographed visitors to Kelleher's home, and
- an incident when Pierce and Snider had shouted obscenities out their window at Kelleher as she had walked into her house.

*See* CP at 46-47.

In response, Pierce filed "Respondent's Reply Motion to Dismiss Based Upon Newly [sic] Discovered Evidence and Actual Innocence." CP at 51 (some capitalization omitted). In that motion, Pierce admitted photographing Kelleher and her visitors but claimed he did so only to prove that Kelleher was not scared of him. Pierce insisted he had never violated the protection order.

In addition to his motion to dismiss, Pierce filed motions seeking subpoenas for Matt Walters and fire marshal Jim Kling. As already noted, Pierce believed Walters could refute Kelleher's claim that he had threatened to kick Kelleher's ass. Pierce believed Kling would also refute one of Kelleher's claims.

On October 11, 2022, the trial court heard Kelleher's motion to renew the protective order. Pierce did not appear, and the court granted Kelleher's motion. Pierce

later moved to vacate the order on the grounds that technical difficulties had prevented him from attending the October 11 hearing.<sup>2</sup>

On November 4, 2022, the trial court heard Pierce's motion to vacate. Ahead of that hearing, at 8:16 a.m., Pierce disqualified Judge Tyson Hill. At the hearing itself, Judge Anna Gigliotti granted Pierce's motion to vacate and reset the renewal motion for a November 21, 2022 hearing. However, Judge Gigliotti at the motion-to-vacate hearing also denied Pierce's motions for subpoenas for Matt Walters and Jim Kling. After a tense exchange with the bench, Pierce insulted Judge Gigliotti. After the hearing, Pierce filed a withdrawal of his notice of disqualification against Judge Hill and contemporaneously filed a notice of disqualification against Judge Gigliotti. Judge Gigliotti later denied this request and was the trial judge on the later orders.

At the November 21, 2022 hearing to decide Kelleher's motion to renew, Pierce continued to object to the court's refusal to issue subpoenas for Walters and Kling. In response, the court reminded Pierce that the only matter before it was the renewal of the protection order and not the merits of the order itself. The court stated that renewal arose under RCW 7.105.405 and invited Pierce to address Kelleher's renewal motion.

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<sup>2</sup> Concurrent with his motion to vacate, Pierce also appealed the renewed order to this court. Our court later terminated review of that appeal, citing Pierce's failure to pay the filing fee or else move for an order of indigency.

Pierce did not meaningfully address Kelleher's claims about his actions over the past year, except to insist he never violated the protection order. Pierce repeatedly accused Kelleher and her counsel of perjury and misrepresentation.

The trial court found that Pierce had failed to carry his burden under RCW 7.105.405 and renewed the protection order for two years. Pierce did not appeal that order.

*Procedural history: motion to modify renewed order*

In August 2023, Kelleher sought modification of the renewed order on the grounds that Pierce, through public records requests, was seeking body camera footage showing the inside of her house. Kelleher asked the court to prohibit Pierce from making such requests and to convert the two-year protection order into a permanent order. Kelleher also asked the court to prohibit Pierce from filing building code violations against her.

The trial court heard Kelleher's motion to modify on September 1, 2023, having consolidated the motion with a separate matter in which Kelleher sought to enjoin the city of Quincy from complying with Pierce's records requests. Pierce did not respond to Kelleher's motion to modify and did not appear at the September 1, 2023 hearing.

In one September 1, 2023 order, the trial court granted Kelleher's motion to bar Pierce from making intrusive public records requests and further agreed to convert the



two-year protection order into a permanent order. In a separate September 1, 2023 order, the court enjoined the city of Quincy from releasing body camera footage showing the inside of Kelleher's house.

On September 7, 2023, Pierce filed a notice of appeal, designating and attaching both September 1, 2023 orders. Also, on that date, Pierce filed a 34-page motion for reconsideration, containing 88 separately numbered paragraphs of "facts." CP at 203-47. The "facts" were not in the form of a sworn affidavit or an unsworn declaration in the form required by GR 13.

In his motion, Pierce argued (1) the "facts" as described in his motion establish that the court lacked a basis to enter or renew the protection order, (2) the court improperly allowed Kelleher's lawyer to seek relief on shortened time, giving Pierce only three to five days to respond, which was a prejudicial error of constitutional magnitude, (3) Kelleher's motion to restrain the city of Quincy from releasing body camera footage, she failed to comply with chapter 42.56 RCW, and (4) the court lacked jurisdiction to rule on the two August 21, 2023 motions.

The trial court, finding no merit in Pierce's reconsideration motion, denied the motion without requesting oral argument or briefing.

## ANALYSIS

To his credit, Pierce organizes his numerous lengthy arguments by first providing a clear description of his seven claims of error, together with numerous subparts. Before we address his arguments, we first set forth general rules that assist in determining which of Pierce’s arguments are properly before us:

In general, an appeal must be filed within 30 days after entry of the decision the appellant seeks to have reviewed. RAP 5.2(a).

Also, subject to three exceptions, an appellate court will not consider a claim of error that was not first raised to the trial court. RAP 2.5(a). “The purpose of this rule is to allow the trial court to correct any error called to its attention, avoiding unnecessary appeals and retrials, and encouraging the efficient use of judicial resources.” *R.K. v. United States Bowling Congress*, 27 Wn. App. 2d 187, 201, 531 P.3d 901 (2023) (citing *State v. O’Hara*, 167 Wn.2d 91, 98, 217 P.3d 756 (2009)). One exception to this rule is that we will review an unpreserved claim of manifest constitutional error. RAP 2.5(a)(3).

Finally, the factual grounds of a motion must be supported by an affidavit or an unsworn declaration meeting the requirements of GR 13. *See* CR 7(b)(4) (affidavits used in motion practice); *Wilkerson v. Wegner*, 58 Wn. App. 404, 408 n.3, 793 P.2d 983 (1990)

(certifications considered by trial court were not signed under penalty of perjury and so were not competent proof of facts).

With the above rules in mind, the following claims of error are not reviewable because:

- \* They involve orders entered more than 30 days before Pierce's notice of appeal: claim of error 1, including all subparts except 1.vi, and claim of error 2.

- \* The evidence relied on was not supported by an affidavit or an unsworn declaration meeting the requirements of GR 13: claim of error 3B.

- \* The argument was not first raised to the trial court and does not concern a claim of manifest constitutional error: claim of error 1.vi, and claims of error 5 & 6.

We conclude that the following claims of error are properly before us: (1) claim of error 3A, (2) claim of error 4, and (3) claim of error 7. We now discuss these claims of error:

1. Claim of error 3A: *Uncontested reconsideration motion*

Pierce argues the trial court abused its discretion by not granting his reconsideration motion because Kelleher's failure to deny his pleading causes his assertions to be deemed admitted. His argument is based on a misreading of CR 8(d).

CR 8(a) clarifies that the rule applies to a narrow set of pleadings, such as complaints, counterclaims, cross claims, and third party claims. CR 8(d) states, “Averments in a pleading to which a responsive pleading is required . . . are admitted when not denied in the responsive pleading.” CR 8(d) continues, “Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.” Pierce’s reconsideration motion was not the type of pleading to which CR 8(d) applies. That is, Pierce’s motion was not a complaint, counterclaim, cross claim, or a third party claim.

2. Claim of error 4: Judge Gigliotti was disqualified from ruling on the September 1, 2023 consolidated motions

Pierce next argues that Judge Gigliotti erred by ruling on Kelleher’s consolidated motions because he had properly disqualified her from hearing further matters. We disagree.

As noted above, early on November 4, 2022, Pierce filed a notice of disqualification against Judge Tyson Hill. Later that morning, Judge Anna Gigliotti granted Pierce’s motion to vacate the renewed order, and denied his request to issue subpoenas for two witnesses. Hours later, Pierce moved to withdraw his earlier-filed notice of disqualification against Judge Hill and contemporaneously filed a notice of disqualification against Judge Gigliotti.

RCW 4.12.050(1)(a) prohibits a party from disqualifying a judge who has previously made a discretionary ruling. Judge Gigliotti made discretionary rulings when she granted Pierce's motion to vacate the renewed order and denied his request to issue subpoenas for two witnesses. Under RCW 4.12.050(1)(a), Pierce's notice of disqualification was therefore ineffective.

Moreover, RCW 4.12.050(1)(d) prohibits a party from filing more than one notice of disqualification. Pierce's second notice of disqualification, filed against Judge Gigliotti, was ineffective for this additional reason.

3. Claim of error 7: The trial court's injunction is unlawful and Kelleher failed to follow proper procedures when seeking to enjoin him from obtaining public records

Kelleher first argues the trial court's order enjoining the city of Quincy from answering his request for body camera footage is unlawful because it interferes with his constitutional right to file a public records request. We disagree. There is no constitutional right to file a public records request. The right is statutory. RCW 42.56.080(2).

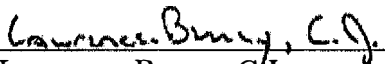
Kelleher next argues that RCW 42.56.540 requires a person to file a new civil case when seeking to enjoin disclosure of a public records request. We disagree.

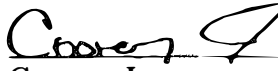
No. 39952-4-III; No. 39953-2-III  
*Kelleher v. Pierce*

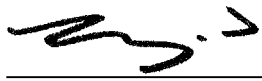
RCW 42.56.540 expressly permits a person to seek to enjoin disclosure by “motion and affidavit,” which was done here.<sup>3</sup>

Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

  
Lawrence-Berrey, C.J.

  
Cooney, J.

  
Murphy, J.

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<sup>3</sup> Although Kelleher filed an unsworn declaration rather than an affidavit, as described by RCW 42.56.540, the two are treated the same. RCW 5.50.030.

QPD

The person who filed this petition requested protection for (*check all that apply*):

☒ themselves

### Warnings to the Restrained Person



**You can be arrested even if the protected person or persons invite or allow you to violate the order.** You alone are responsible for following the order. **Only the court may change the order.** Requests for changes must be made in writing.

**If you do not obey this order, you can be arrested and charged with a crime.**

- The crime may be a misdemeanor, gross misdemeanor, or felony depending on the circumstances. You may also be found in contempt of court.
- You can go to jail or prison, lose your right to possess a firearm or ammunition, and/or pay a fine.
- It is a felony to take or hide a child in violation of this order.
- If you travel to another state or to tribal lands or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime.



**Firearms and Weapons.** Under federal law, you may not be able to get or have a firearm, other dangerous weapon, ammunition, or concealed pistol license for as long as the protection order is in place, even if the court did **not** issue an Order to Surrender and Prohibit Weapons. 18 U.S.C. § 922(g)(8).

### Findings

#### 4. Notice and Hearing

The restrained person had reasonable notice and opportunity to participate. Notice of this hearing was served on the restrained person by:

☐ electronic service      ☒ personal service      ☐ service by mail  
☐ service by publication      ☐ other \_\_\_\_\_

The restrained person ☒ did ☐ did not have **actual notice** of this hearing.

The court held a hearing before issuing this full protection order. These people attended:

<input type="checkbox"/> Protected Person	<input type="checkbox"/> in person	<input type="checkbox"/> by phone	<input type="checkbox"/> by video
<input type="checkbox"/> Protected Person's Lawyer	<input type="checkbox"/> in person	<input type="checkbox"/> by phone	<input type="checkbox"/> by video
<input type="checkbox"/> Petitioner ( <i>if not the protected person</i> )	<input type="checkbox"/> in person	<input type="checkbox"/> by phone	<input type="checkbox"/> by video
<input type="checkbox"/> Restrained Person	<input type="checkbox"/> in person	<input type="checkbox"/> by phone	<input type="checkbox"/> by video
<input type="checkbox"/> Restrained Person's Lawyer	<input type="checkbox"/> in person	<input type="checkbox"/> by phone	<input type="checkbox"/> by video
<input type="checkbox"/> Other: _____	<input type="checkbox"/> in person	<input type="checkbox"/> by phone	<input type="checkbox"/> by video

☐ This hearing was held remotely (online or by phone). The court confirmed staff received no contact from any absent party before proceeding without them.



**5. Basis and type of protection order**

**A.** The restrained person and protected person/s are (*check all that apply*):

**Other** (*examples: coworkers, neighbors, acquaintances, strangers*)

NEIGHBORS

**B.** Based upon the petition, testimony, case record, and response, if any, the court finds by a preponderance of evidence that the protected person (or petitioner on their behalf) has proved the required criteria for the following protection order under Chapter 7.105 RCW. *Check only one!*

☒ **Antiharassment Protection Order** – The restrained person has subjected the protected person to unlawful harassment.

☐ No fee required (*stalking, hate crime, single act/threat of violence including malicious and intentional threat or presence of firearm/weapon causing substantial emotional distress, family or household member engaged in domestic violence, or nonconsensual sexual conduct or penetration or a sex offense. RCW 7.105.105(9).*)

**6. Jurisdiction**

The court has jurisdiction over the parties and the subject matter.

**7. Other Findings**

☐ **Credible Threat:** The restrained person represents a credible threat to the physical safety of the protected person/s.

☐ Other: \_\_\_\_\_

**Restraints** (*Check all that apply*)

**8. The court orders: To the restrained person:**

**General Restraints**

**A.** ☒ **No Harm:** Do not cause any physical harm, bodily injury, assault, nonconsensual sexual conduct or nonconsensual sexual penetration, and do not harass, threaten, or stalk

☒ the protected person

☐ these minors only: \_\_\_\_\_

**B.** ☒ **No Contact:** Do not attempt or have any contact, including nonphysical contact, directly, indirectly, or through third parties, regardless of whether those third parties know of the order, except for service of court documents with

☒ the protected person

☐ **Exception** (*if any*): Only this type of contact is allowed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**C.** ☒ **Stalking Behavior:** Do not harass, follow, monitor, keep under physical or electronic surveillance, cyber harass (as defined in RCW 9A.90.120), or use phone, video,

audio or other electronic means to record, photograph, or track locations or communication, including digital, wire, or electronic communication, of ☒ the protected person

- D. ☒ **Exclude and Stay Away:** Do not enter, return to, knowingly come within, or knowingly remain within \_\_\_\_\_ or other distance (*specify*) \_\_\_\_\_ of
- |  |  |
|--|--|
| <input checked="" type="checkbox"/> the protected person         | <input checked="" type="checkbox"/> protected person's vehicle |
| <input type="checkbox"/> protected person's school               | <input type="checkbox"/> protected person's workplace          |
| <input checked="" type="checkbox"/> protected person's residence | <input type="checkbox"/> protected person's adult day program  |

☐ other: \_\_\_\_\_

**Address:** The protected person chooses to (*check one*)

☐ keep their address confidential    ☐ list their address here:

- E. ☐ **Restrict Abusive Litigation:** Comply with the Order on Motion to Restrict Abusive Litigation (FL All Family 155), filed separately.
- F. ☐ **Pay Fees and Costs:** The protected person is granted judgment against the restrained person as provided in the Judgment (PO 005), filed separately. The court finds that the restrained person is not under active duty in military or SCRA has been complied with. 50 U.S.C. § 3931.

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### Firearms and Other Dangerous Weapons

- G. ☐ **Surrender Weapons:** **Important!** Also use form Order to Surrender and Prohibit Weapons, WS 001.

**Findings.** The Court (*check all that apply*):

☐ **must** issue the orders referred to above because:

☐ the court ordered the **No Harm** restraints above (section 8.A.) and the court finds that the restrained person had **actual notice** and an **opportunity to participate**. AND:

- the restrained person represents a **credible threat** to the physical safety of a protected person, OR
- This order explicitly prohibits the use, attempted use, or threatened use of **physical force** against any protected person.

Therefore, weapons restrictions are required by state law. RCW 9.41.800(2).

☐ the court finds by a preponderance of the evidence that the restrained person:

☐ has used, displayed, or threatened to use a firearm or other dangerous weapon in a felony; or

☐ is ineligible to possess a firearm under RCW 9.41.040.

☐ **may** issue the orders referred to above because the court finds by a preponderance of the evidence that the restrained person presents a serious

and imminent threat to public health or safety, or the health or safety of any individual by possessing a firearm or other dangerous weapon.

**The restrained person must:**

- Immediately surrender to law enforcement and not access, possess, have in their custody or control, purchase, receive, or attempt to purchase or receive firearms, other dangerous weapons, or concealed pistol licenses; and
- Comply with the *Order to Surrender and Prohibit Weapons* filed separately.

**Other**

H. The Respondent is prohibited from requesting videos or photos of the interior or Petitioner's home. The agency subject to any public records request shall not disclose videos or photos of the interior of Petitioner's home.

~~The Respondent is prohibited from filing civil code violations with the City of Quincy regarding Petitioner or Petitioner's home.~~

**Other Orders (Check all that apply)**

**9. ☐ Law enforcement must help the protected person with (RCW 7.105.320(1))**

- ☐ Possession of the protected person's residence.
- ☐ Possession of the vehicle listed in section L above.
- ☐ Possession of the protected person's essential personal belongings located at
  - ☐ the shared residence    ☐ the restrained person's residence
  - ☐ other location \_\_\_\_\_

☐ Other: \_\_\_\_\_

☐ **Law enforcement must be present while the restrained person collects personal clothing, personal items needed during the duration of this order, and these other items (specify) \_\_\_\_\_**  
from the shared residence that restrained person has been ordered to vacate in D above (RCW 7.105.320(3)).

**10. Washington Crime Information Center (WACIC) and Other Data Entry**

**Clerk's Action.** The court clerk shall forward a copy of this order immediately to the following law enforcement agency (county or city) City of Quincy

(check only one): ☐ Sheriff's Office or ☒ Police Department

(List the same agency that entered the temporary order, if any)

This agency shall enter this order into WACIC and National Crime Info. Center (NCIC).

**11. Service on the Restrained Person**

☒ **Required.** The restrained person must be served with a copy of this order and any order to surrender and prohibit weapons.

- ☐ The **law enforcement agency** where the restrained person lives or can be served shall serve the restrained person with a copy of this order and shall promptly complete and return proof of service to this court.

Law enforcement agency: (county or city) \_\_\_\_\_  
(check only one): ☐ Sheriff's Office or ☐ Police Department

- ☒ The **protected person** (or person filing on their behalf) shall make private arrangements for service and have proof of service returned to this court.  
(This is not an option if this order requires: weapon surrender, vacating a shared residence, transfer of child custody, or if the restrained person is incarcerated. In these circumstances, law enforcement must serve, unless the court allows alternative service.)

**Clerk's Action.** The court clerk shall forward a copy of this order and any order to surrender and prohibit weapons on or before the next judicial day to the agency and/or party checked above. The court clerk shall also provide a copy of these orders to the protected person.

- ☐ **Alternative Service Allowed.** The court authorizes alternative service by separate order (specify): \_\_\_\_\_

- ☐ **Not required.** See section 4 above for appearances.

- ☐ The restrained person appeared at the hearing, in person or remotely, and received notice of the order. No further service is required. (May apply even if the restrained person left before a final ruling is issued or signed.)

- ☐ The restrained person did **not** appear at the hearing. However, the material terms of this order have not changed from the Temporary Protection Order that was served on the restrained person. No further service is required.

**12. ☐ Service on Others (Vulnerable Adult or Restrained Person under age 18)**

Service on the ☐ vulnerable adult ☐ adult's guardian/conservator ☐ restrained person's parent/s or legal guardian/s (name/s) \_\_\_\_\_ is:

- ☐ **Required.**

- ☐ The **law enforcement agency** where the person to be served lives or can be served shall serve a copy of this order and shall promptly complete and return proof of service to this court.

Law enforcement agency: (county or city) \_\_\_\_\_  
(check only one): ☐ Sheriff's Office or ☐ Police Department

- ☐ The **protected person** or person filing on their behalf shall make private arrangements for service and have proof of service returned to this court.

**Clerk's Action.** The court clerk shall forward a copy of this order on or before the next judicial day to the agency and/or party checked above.

- ☐ **Not required.** They appeared at the hearing where this order was issued and received a copy.

**13. Other Orders (if any):**

14. **Review Hearing**

☒ No review hearing is scheduled.

☐ The court schedules a review hearing on (date): \_\_\_\_\_ at (time): \_\_\_\_\_

For (purpose): \_\_\_\_\_

**Ordered.**

Dated: 9/1/23 at 9:16 a.m./p.m.

  
Judge/Court Commissioner

**ANNA L. GIGLIOTTI**

Court Phone: \_\_\_\_\_

Print Judge/Court Commissioner Name

Court Address: \_\_\_\_\_

I received a copy of this Order:

►  
Signature of Respondent/Lawyer      WSBA No.      Print Name      Date

►  
Signature of Petitioner/Lawyer      WSBA No.      Print Name      Date

►  
Signature of Petitioner/Lawyer      WSBA No.      Print Name      Date

**Important! Protected Person**, if you ask for it, you have the right to be notified if the restrained person gets their surrendered firearms back. You must contact the law enforcement agency that has the firearms to ask for this notice. The *Proof of Surrender* in the court file should say which agency has the firearms. RCW 9A.41.340.

**Certificate of Compliance With VAWA.** This protection order meets all "full faith and credit" requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA) upon notice to the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be given notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. This order is enforceable in all 50 states, Indian tribal lands, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, American Samoa, the Northern Mariana Islands, and Guam, as if it were an order of that jurisdiction.

**LARSON FOWLES**

**May 27, 2025 - 10:48 AM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 103,958-1  
**Appellate Court Case Title:** Bonita Kelleher v. Chad A. Pierce  
**Superior Court Case Number:** 21-2-00593-7

**The following documents have been uploaded:**

- 1039581\_Answer\_Reply\_20250527104221SC214000\_8656.pdf  
This File Contains:  
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**A copy of the uploaded files will be sent to:**

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