

IN THE SUPREME COURT OF THE STATE OF MONTANA
Case No. DA-24-0646

TAYLOR KAI GROENKE,

Plaintiff and Appellee,

Cause No. DA-24-0646

v.

RYAN DEAN GABRIEL,

Defendant and Appellant,

APPELLEE'S BRIEF

Appealed from the Eleventh Judicial District of the
State of Montana, in and for the County of Flathead,
Taylor Kai Groenke, Plaintiff/Respondent, and
Ryan Dean Gabriel, Defendant/Appellant
Cause No. DR-24-510(B), District Judge Robert B. Allison

Plaintiff/Appellee

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STATEMENT OF THE ISSUES

1. Whether the District Court erred in finding substantial factual support and concluding the legal standards were met for the Justice Court to issue protective order against Gabriel under Mont. Code Ann. § 40-15-102?
2. Whether the District Court erred in affirming the Justice Court's protective order?

STATEMENT OF THE CASE

Plaintiff, Taylor Kai Groenke (hereinafter “Groenke” “I” or “me”), filed a Sworn Petition for Temporary Order of Protection and Request for Hearing on July 19, 2024, against Defendant, Ryan Gabriel (“Gabriel”) in Flathead County Justice Court, Cause No. CV-2024-1010-OP. The Justice Court issued a Temporary Order of Protection against Gabriel on the same day and set a hearing for August 8, 2024. The Temporary Order of Protection was personally served upon Gabriel on July 24, 2024. At the conclusion of the August 8th hearing, the Justice Court entered an Order of Protection against Gabriel for a period of ten (10) years. The Order of Protection was personally served upon Gabriel on August 13, 2024. Gabriel appealed to the District Court on August 16, 2024 seeking to revise or terminate the protective order; for the District Court to enter sanctions against me; and requesting a protective order against me. Gabriel also filed two motions with the District Court seeking a hearing on charges of perjury, contempt of court and stalking by me based on allegations in the Brief of Respondent/Appellant – Corrected (Dkt. #3) filed with the District Court. On September 30, 2024, the District Court entered its Order on Appeal in

Cause No. DR-24-510(B), upholding the Justice Court's findings and conclusions on a clearly erroneous standard of review (Dkt. #11). The Order on Appeal further denied the two motions filed by Gabriel as being outside of the scope of the court's review and improperly filed in the protective order matter. The District Court's Remittitur entered on October 2, 2024 (Dkt. #12) affirmed the Justice Court's decision. Gabriel filed Notice of Appeal to this Court on October 30, 2024.

STATEMENT OF THE FACTS

A summary of the relevant facts through July 19, 2024 is provided in my Sworn Petition for Temporary Order of Protection filed in the Justice Court, including the "Further Explanation of What Happened" attachment. The exhibits referenced in the Sworn Petition and "Further Explanation" are part of the Justice Court record. See also Petitioner's Hearing Exhibit 3, Hearing on Sworn Petition for Order of Protection (Aug. 8, 2024). An auditory recording of the Justice Court hearing, which occurred over a period of three hours, is preserved on a compact disc included in the District Court's file along with the exhibits admitted into evidence. Gabriel did not request a transcript of the Justice Court auditory recording to be prepared for this Court.

I became involved with Jesse Olsen (my client) and Ryan Gabriel (opposing party) when Olsen hired me to respond to a partition action filed by Gabriel in the Eleventh Judicial District Court, Flathead County. See Petitioner's Hearing Exhibit

3, page 2. Olsen and Gabriel were also parties to a partition action filed by Gabriel and a dissolution of domestic partnership action filed by Olsen in the Circuit Court of Multnomah County, Oregon. See Petitioner's Hearing Exhibit 3, page 2. I filed my Notice of Appearance in the partition action, Cause No. DV-22-605(B), on May 9, 2023. Gabriel's harassment of me began immediately.

Between May 10, 2023 and the hearing on August 8, 2024, the period relevant to these proceedings, Gabriel engaged in a campaign of harassment against me. The timeline of Gabriel's harassment is described in detail and supported by documentation in Petitioner's Hearing Exhibit 3 (with the documents referenced therein being attached to the original Sworn Petition). My client Olsen (Gabriel's former domestic partner), informed me that Gabriel's communications, such as including links to videos and/or subtext, are intended to convey a message to the recipient. For example, on July 15, 2024, Gabriel sent an email to Olsen's Oregon attorney, copied to Olsen, stating, "Hey, Jude. Don't let it get under your skin. We got this. Trump 2024." See Petitioner's Hearing Exhibit 1. Olsen testified before the Justice Court that Gabriel attached to the original email a photo of the man who attempted to assassinate Donald Trump in July 2024, and that "Jude" is the name of Olsen's deceased dog. Olsen testified those references by Gabriel were "incredibly intentional" and meant to convey a threat. See Petitioner's Hearing Exhibit 1. Additionally, in an email dated January 27, 2024, Gabriel wrote in an email to

attorney Christopher Gillette, “I would rather commit murder than succumb to a forcibly conscripted marriage. Conscripted marriage will not happen to me. Anything that would prevent that will happen. Anything and everything. Hopefully that ‘anything’ will be a Fourteenth Amendment prohibition against conscripted, involuntary marriage. God help you all if the US Constitution does not prevail.” See Petitioner’s Hearing Exhibit 3, page 6. Olsen was forced to retain Mr. Gillette to defend against a case filed by Gabriel in the United States District Court for the District of Montana in Missoula which was ultimately dismissed with prejudice. The threat was taken seriously enough to be investigated by the United States Marshall’s Office as a potential threat against a federal judge. See Petitioner’s Hearing Exhibit 3, page 6.

Beginning in July 2024, Gabriel’s harassment of, threats toward, and intimidation of me escalated significantly. He began harassing people close to me, including my father and my paralegal. The escalation was likely related to my representation of Olsen in registering a foreign judgment issued by the Circuit Court of Multnomah County. Following trial on the domestic partnership case in Oregon in January and February 2024, the Circuit Court issued an order requiring real property co-owned by Olsen and Gabriel in Flathead County, Montana to be sold, with Olsen having exclusive decision-making authority regarding all aspects of the

sale. See Petitioner’s Hearing Exhibit 3, page 7. Olsen hired Fritz Groenke, my father, to act as his listing agent. See Petitioner’s Hearing Exhibit 3, page 7.

Fritz Groenke testified at the Justice Court hearing that after visiting the real property on July 15, 2024 (see Petitioner’s Hearing Exhibit 2), Gabriel threatened Fritz in a voicemail message where Gabriel states, “If you ever set foot on my property again, I will shoot you in the face.” The voicemail message was played for the Justice Court and is presumably preserved in the recording of the hearing.

Almost immediately following his voicemail threat, Gabriel sent text messages to Fritz, including a link to a YouTube clip from the movie “Hellraiser (2022)” involving a man with his arms and legs strapped down as in a crucifixion while having his skin peeled off and sharp nails and objects being inserted into his body. See Petitioner’s Hearing Exhibit 3, at pages 7-8. Gabriel also sent Fritz a text message link to a “deep fake” video of a journalist named Taylor Lorenz, doctored to show Joe Biden’s face on Ms. Lorenz’s body. See Petitioner’s Hearing Exhibit 3, at page 7. In the video, Ms. Lorenz is visibly upset and states, “any information that gets out on you [on the Internet] will be used by the worst people on the internet to destroy your life.” See Petitioner’s Hearing Exhibit 3, at pages 7, 10-11. During this time, Gabriel started referring to me as the “Taylor Lorenz of the Montana Legal Community,” ostensibly to communicate a threat to “destroy my life.” See Petitioner’s Hearing Exhibit 3, page 10.

Gabriel intended for the violent and threatening messages to be conveyed me. In a text message, Gabriel specifically instructs Fritz to “ask the ‘Taylor Lorenz of the Montana Legal Community’ what she thinks of this particular ‘boon,’” followed by the Hellraiser and Taylor Lorenz video clips. See Petitioner’s Hearing Exhibit 3, page 10. He also sent messages to Fritz indicating he was researching the Groenke family “genealogy” and alleged he was in possession of salacious and damaging information. See Petitioner’s Hearing Exhibit 3, at pages 9-11. For example, he claimed to have learned Fritz Groenke was not my biological father and mentioned Fritz’s grandchildren (i.e., my children). See Petitioner’s Hearing Exhibit 3, at pages 10-11. Gabriel also sent Fritz a picture of an image connected to Leviathan (a black diamond-shaped object). See Petitioner’s Hearing Exhibit 3, pages 10-11. Although Fritz mistakenly believed the black image symbolized someone being shot in the head, I explained in testimony at the hearing that upon my research, the black diamond symbol was used in the Hellraiser movies to depict Leviathan. See Petitioner’s Hearing Exhibit 4. The Leviathan is a being that “emits black beams of light that causes those struck by it to see and feel all their sins and wrongdoings.” See Petitioner’s Hearing Exhibit 4.

On July 16, 2024, in response to Gabriel mentioning my children while sending violent images and threatening to shoot Fritz in the face, I emailed Gabriel that threats against my family will not be taken lightly and he should not ever

threaten my children. See Petitioner’s Hearing Exhibit 3, page 11. In response, Gabriel sent me three emails, accusing me of ensnarement, extortion, and threatening criminal sanctions. See Petitioner’s Hearing Exhibit 3, page 11 and attached Exhibit 19. In one of the emails copied to Fritz Groenke, Gabriel stated, “Further to the below, bottom line is this: Leave me alone and you will both be fine.” See Petitioner’s Hearing Exhibit 3, page 11 and attached Exhibit 19. I took that message to mean Gabriel intended to do me harm—emotional, financial, and even physical—unless I stopped advocating for my client, Olsen.

On July 22, 2024, I emailed Gabriel a copy of the Temporary Order of Protection to put him on notice. See Petitioner’s Hearing Exhibit 6. The delivery receipt showed he received the email on July 22, 2024. See Petitioner’s Hearing Exhibit 7. In response to receiving notice of the Temporary Order of Protection, Gabriel emailed me three times on July 22, 2024. In his first email, he acknowledges receiving the Order and states, “I will also file a lawsuit promptly against you personally and Fritz for Tortious Interference with a Contract, Defamation, and Vandalism, and seek both civil and criminal charges against Fritz for unlawful entry, breaking and entering, and vandalism.” See Petitioner’s Hearing Exhibit 9. In the third email sent on July 22, Gabriel states, “I would note the judge declined to endorse that portion of your petition, along with the vast majority of the requests made in the petition, which means they probably think you are insane.” See

Petitioner's Hearing Exhibit 8. These communications were similar to the ongoing and frequent harassment from Gabriel insulting my intelligence and integrity, threatening to pursue legal action against me, seeking to have me disbarred, pursuing criminal charges, and seeking punitive damages.

In an email sent to me on July 23, 2024, Gabriel threatened to file an ethics complaint with the Montana Bar Association, and repeated his threat of filing a lawsuit against me. See Petitioner's Hearing Exhibit 10. On August 3, 2024, Gabriel sent an email to Fritz, copied to me, in which he threatens a lawsuit against Fritz and "your alleged biological daughter (Taylor 'Kai' Groenke)" along with members of the Montana Regional MLS, LLC. See Petitioner's Hearing Exhibit 12. On August 3, 2024, Gabriel emailed my paralegal, Melissa Smith, and copied me, stating, "You may find this information very, very handy in the very, very near future." See Petitioner's Hearing Exhibit 14. The "information" he was referring to is contained in the email string which accuses me of crimes and indicates my paralegal will soon "own" my "estate." See Petitioner's Hearing Exhibits 13, 14.

In an email to me copied to my paralegal on August 6, 2024, Gabriel requests a response to whether Olsen objects to three motions Gabriel planned to file in District Court, including a motion to consolidate my protective order action with the partition action he filed against Olsen. In his email, he writes, "Do you (and/or your familiar) object or not?" See Petitioner's Hearing Exhibit 16. In a responsive email,

I answered his question as to objections, and I further stated, “These are nothing more than further efforts to harass. Especially when you are referring to me as a witch by referencing a ‘familiar.’ I’m going to report you for this violation of the protective order.” See Petitioner’s Hearing Exhibits 17, 19. In his response, Gabriel stated, “I didn’t call you a witch, although I am happy to take note of the inner projection.” See Petitioner’s Hearing Exhibit 19.

In an email to my paralegal dated August 6, 2024 and copied to me, Gabriel states, “Your boss is a felon, and you need to document everything.” See Petitioner’s Hearing Exhibit 18. I notified him that calling me a felon is a violation of the protective order and he will be reported. See Petitioner’s Hearing Exhibit 20. His response was, “Taylor, You are a felon - that is what will be revealed in discovery in the tortious interference lawsuit, which I can see still has not been served upon you and Fritz yet. You can absolutely ‘report’ that much.” See Petitioner’s Hearing Exhibit 20.

The foregoing facts were evidenced by documents admitted into evidence and testimony of witnesses. The Justice Court found my testimony, Fritz’s testimony, and Olsen’s testimony more credible than Gabriel’s testimony. The Justice Court found no reasonable justification existed for Gabriel’s actions.

Since August 8, 2024, Gabriel has sued me in the Eleventh Judicial District Court, styled *Gabriel v. Frederick Groenke, Taylor Kai Groenke, Groenke Holdings,*

LLC, and Montana Regional MLS, LLC, Cause No. DV-24-1197. He has also sued me in the United States District Court for the District of Montana, styled *Gabriel v. Dorinda Sue Gray, Insured Titles, LLC dba Insured Titles, Title Insurance Corporation dba Insured Titles, Taylor Kai Groenke and Frederick J. Groenke dba Montana Real Estate Group*, Case No. 9:24-cv-00118-KLD (recently dismissed with prejudice). He continued sending threatening, harassing, and intimidating messages with increasingly violent content through October 2024, when he was charged with felony counts of Stalking and Intimidation by the Flathead County Attorney's Office.

Gabriel has included substantial extraneous facts and accusations in his Opening Brief. It appears he believes I orchestrated a plan to cause him harm, which is not accurate and seems to be an attempt to justify or excuse his actions. Significant information is left out of Gabriel's Opening Brief. A more accurate timeline and summary of the events related to this matter is contained in the document submitted in this matter labeled "Defendant Taylor Kai Groenke's Statement of Facts in Support of Motion to Declare Plaintiff a Vexatious Litigant and for Prefiling Order and Fees" which has been filed with the Eleventh Judicial District Court, Cause No. DV-2024-1197 and with this Court. See Notice of Filing (Dec. 4, 2024). While not all the information in the Statement of Facts is relevant to this Court's review of the District Court's decision, it is necessary for the Court to have a truthful and accurate

depiction of the facts and the entire context of this situation, supported by documentation. The truth of the matter is that Gabriel's conduct has resulted in consequences which he finds disagreeable and unjustified, such as the Order of Protection entered by the Justice Court.

STATEMENT OF THE STANDARD OF REVIEW

District Courts function as intermediate courts of appeal regarding appeals from a justice court of record. Mont. Code Ann. § 3-5-303 (2023). The review is confined to the record and questions of law. Mont. Code Ann. § 3-10-115(1). A trial court's findings of fact are reviewed on a clearly erroneous standard. *State v. Berger*, 2017 MT 229, ¶ 6, 388 Mont. 498, 402 P.3d 1200. Findings are clearly erroneous only if not supported by substantial credible evidence, the lower court misapprehended the effect of the evidence, or this Court is left with a firm and definite conviction the lower court was simply mistaken. *State v. Hoover*, 2017 MT 236, ¶ 12, 388 Mont. 533, 402 P.3d 1224. Conclusions of law are reviewed for correctness. *Hoover*, ¶ 12.

SUMMARY OF ARGUMENT

The Justice Court's findings of fact were supported by substantial credible evidence and were not clearly erroneous. The District Court's review of the record, acting as an intermediate appellate court, was thorough and its findings were supported by substantial credible evidence. The lower courts' findings and

conclusions were correct. This Court should uphold and affirm the District Court's decision to affirm the Protective Order issued by the Justice Court.

ARGUMENT

The purpose of Title 40, Chapter 15, MCA, is “to promote the safety and protection of all victims of partner and family member assault, victims of sexual assault, and victims of stalking.” Mont. Code Ann. § 40-15-101. An individual is eligible for a protective order against another person regardless of the individual's relationship to the offender if the individual is the victim of stalking by the offender. Mont. Code Ann. § 40-15-102(2)(a). Stalking occurs when a person purposely or knowingly engages in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person to fear for the person's own safety or the safety of a third person or suffer other substantial emotional distress. Mont. Code Ann. § 40-5-220(1). A “course of conduct” involves two or more acts, including direct or indirect acts by any action or method, including by electronic devices or means, by which a person follows, monitors, observes, surveils, threatens, harasses, or intimidates another person. Mont. Code Ann. § 40-5-220(2)(a). The term “monitors” includes any use of electronic, digital, or technological means, such as a computer. Mont. Code Ann. § 40-5-220(2)(b). A “reasonable person” is an objective standard meaning a reasonable person under similar circumstances as the victim. Mont. Code Ann. § 40-5-220(2)(c).

“Substantial emotional distress” involves significant mental suffering or distress and does not require medical or professional treatment or counseling to qualify. Mont. Code Ann. § 40-5-220(2)(d).

The Justice Court found all the foregoing factors were established by the record, and the District Court affirmed. Gabriel’s conduct and communications with me over a period of more than two years involved increasingly disturbing threats and a “no holds barred” campaign to cause me as much mental, emotional, and financial harm as he could accomplish. Gabriel used email and text message communications to convey messages directly to me and through others including my paralegal, Melissa Smith, and my father, Fritz Groenke. His messages were clearly intended to be threatening, harassing, and intimidating and with few exceptions, served no legitimate purpose. Gabriel also made threats of harm to my professional reputation and law license. He used the legal system to harass, intimidate and threaten me.

The Justice Court gave Gabriel every opportunity on August 8th to present his defense, evidence, argument, and any witnesses other than himself that he wished to call. At the conclusion of the hearing, JP Sullivan pronounced his decision. In his oral pronouncement, JP Sullivan described his own observations of Gabriel during the hearing, including observing him demeaning and belittling me, insulting my intelligence and integrity, threatening my professional license, and threatening litigation against me. Gabriel’s questioning of witnesses, testimony and presentation

at the hearing convinced the Justice Court that Gabriel's intention was to continue his stalking behavior such that an extended protective order was warranted. JP Sullivan concluded Gabriel's threat to shoot my father in the face was a serious threat that would have caused a reasonable person to fear for the safety of another. JP Sullivan also concluded that I had suffered substantial emotional distress as a result of Gabriel's communications, conduct and behavior toward me.

On appeal, the District Court "listened to the electronic recording of the August 8, 2024 hearing and considered the exhibits accepted into evidence." Order on Appeal, page 1 (Sept. 30, 2024) (Dkt. #11). The District Court's thorough review of the record led the Court to affirm the decision of the Justice Court. No clear error has been committed by either court, as the record will demonstrate.

The Opening Brief of Defendant and Appellant is a nearly verbatim reproduction (with some rearranging of paragraphs) of the Brief of Respondent / Appellant – Corrected (Dkt. #3) filed with the District Court. Similar allegations made by Gabriel during the hearing before the Justice Court on August 8, 2024 were found to be inaccurate, irrelevant, or otherwise not appropriate by JP Sullivan.

This case is strikingly similar to *Vanisko v. Richardson*, 2024 MT 287N, recently decided by this Court. Like Brad Rae Richardson, the defendant in *Vanisko*, Gabriel engaged in incessant and harassing messages communicated directly and indirectly to his former partner's attorney. *Vanisko*, ¶ 2. Like Richardson, Gabriel

ultimately resorted to direct and implied threats of violence. *Vanisko*, ¶ 2. Gabriel also acted similarly to Richardson in that he continued his harassment, intimidation, and threats even after a Temporary Order of Protection was entered and he was warned his actions would be reported to law enforcement. *Vanisko*, ¶ 2. It is clear Gabriel did not intend to cease his stalking behavior and felt justified in his actions. Like Richardson, he seems to be claiming I antagonized him. *Vanisko*, ¶ 4. Similarly to Ms. Vanisko, I testified at the hearing on August 8, 2024 that initially I just “dealt with the onslaught” of e-mails because of my family law experience. *Vanisko*, ¶ 3. However, with the escalation by Gabriel in July to threats of violence and messages with violent content; his threats against my law license, my reputation, and my practice; his threats of lawsuits against me; his threats of criminal sanctions; and other direct and implied threats, I sought protection. I testified feeling harassed by, threatened by, and fearful of his communications and conduct which both the Justice Court and the District Court found reasonable under the circumstances.

The record reveals a course of conduct by Gabriel aimed at causing me to lose my sense of safety; to fear for my mental, emotional, and financial well-being; to virtually eliminate my privacy and peace of mind; and causing me to fear for the safety of people I love. Although his communications were almost entirely by email, Gabriel’s communications were incessant and harassing and included threats against me and my family. When I warned him stop, he only escalated. Gabriel was not

engaging in any constitutionally protected activity when he sent numerous threatening and harassing messages. He admitted to sending the emails, which were admitted into evidence.

Since August 8, 2024, Gabriel's conduct has escalated. The Statement of Facts filed with the Notice of Filing in this matter details his ongoing harassment of me since the hearing, including filing lawsuits against me in federal and district court and sending additional emails with violent content and cryptic messages like, "Funny is serious, and vice versa." In each case in which I am involved with Gabriel, whether I am a party, the victim, or the attorney of record, he engages in vexatious and protracted litigation.

The Protective Order against Gabriel should not be narrowed or revoked and should remain in full force and effect for the full 10-year period, especially since the order also applies to my minor children. Gabriel has not demonstrated any tendency or desire to reduce his harassment of me, which continues through the legal system including this appeal.

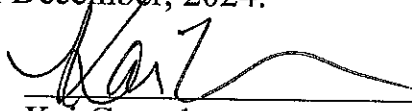
The District Court properly denied the additional motions filed by Gabriel which are the same claims he makes in his Opening Brief—that I should be charged with perjury, contempt, and stalking, and that I was in the wrong in representing my client, Olsen, against Gabriel and in assisting Olsen with enforcing an Oregon Judgment in Flathead County, Montana. Gabriel wants this Court to enter a

protective order against me. This Court is not the proper forum for making these claims, and all such claims should be denied for the same reasons they were denied by the District Court.

CONCLUSION

This Court should affirm and uphold the Order on Appeal and the Remittitur entered by the District Court and deny any motions or requests made by Gabriel in his Opening Brief.

DATED this 17th day of December, 2024.

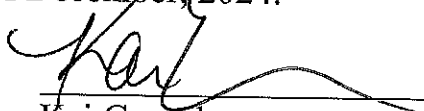


Kai Groenke
Kalispell, Montana 59901

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 27, M.R.App.P., I certify that this Brief is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double spaced; and the word count calculated by Word, is not more than 10,000 words, not averaging more than 280 words per page, excluding certificate of service and certificate of compliance.

DATED this 17th day of December, 2024.



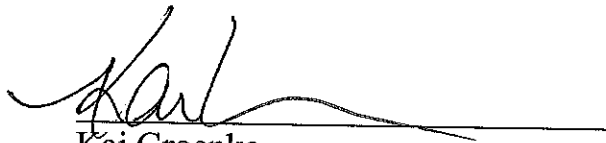
Kai Groenke
Kalispell, Montana 59901

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 17th day of December, 2024,
a true and correct copy of the foregoing document was served upon the person named
below, at the address set out below their name by mailing same.

Ryan Dean Gabriel
2000 Blacktail Road #1400
Lakeside, MT 59922

[X]	US Mail
[]	Hand Delivery
[]	Email
[]	Other


Kai Groenke

CERTIFICATE OF SERVICE

I, Taylor Kai Groenke, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellee's Response to the following on 12-17-2024:

Ryan Dean Gabriel (Appellant)
2000 Blacktail Road, #1140
Lakeside MT 59922
Service Method: Conventional

Electronically signed by Melissa Smith on behalf of Taylor Kai Groenke
Dated: 12-17-2024