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Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

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Case Number: DA 25-0083

Bowen Greenwood
Clerk of Supreme Court
State of Montana

Supreme Court of the State of Montana

Jessica Zimmerman
Petitioner / Appellee
V.

Cause# DA-25-0083

Brief in Support of Appeal

Christopher Wardle
Respondent / Appellant
Pro Se

**Brief in Support of
Appeal of Protection Order
Dated: November 8, 2024**

Now comes Christopher F. Wardle, in Pro Se Petitioner For: Appeal of the Permanent Protection Order Date November 8, 2024 by Judge John C. Brown of the Eighteenth Judicial District Court of Gallatin County, Montana. Attached please find the Appellate Brief in Support of the Permanent Order of Protection Gallatin County Case

#DR-2024-455


Christopher F. Wardle, Pro Se

Dated this 18th day of May 2025

Christopher Wardle / Pro Se
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Table of Authorities

HN3-Order of Protection “*Standards of review*” is applicable by 1.) Abuse of Discretion
2.) Error in Fact 3.) Conclusion of Law

The Supreme Court only looks to error of review if the Defendant/Appellant establishes

- 1.) Plain or obvious error.
- 2.) Affected a Constitutional Right.
- 3.) Which prejudicially affected the fundamental fairness or integrity of the proceedings.

Constitutional Provisions

Montana Constitution Article II, Section 7

U.S. Constitution Amendment I

Statutes

MCA 45-5-220 Stalking

MCA 40-15-102 Burden of Proof of “*Stalking*”

MCA 45-8-213 (1) (C) “*Fighting Words*” Privacy in Communications Statute

Montana Civil Procedure

52 (a) HN3 Standards of review, Fundamental Findings and Procedural Background

Cases

Kurth V. Great Falls Tribune 226, mt 407, 804 p2d 393 (1991)

Kuiper V. District Court of Eighteenth Judicial District 193 Mont 452 ,623 P2d 694 (1981)

State V. Dugon 2613 Mont 38, 369

Counterman V. Colorado 600 U.S. 66

State V. Williams 533 U.S. 285, 292

State V. Lilburn 875 P2d 1036, 1040

Broderick V. Oklahoma 413 U.S. 601, 615

Edelen V. Bonamorte 2007 Mont 138, 337 Mont 407, 162 P3d 897 (2007)

Other Authorities

Illusory Truth Effect

Constitutional Provisions

Montana Constitution, Article II, Section 7

"No law shall be passed impairing the Freedom of Speech or Expression. Every person shall be

free to speak or publish whatever he will on any subject, being responsible for all abuse of that

liberty."

U.S. Constitution, Amendment I

"Congress shall make no law respecting an establishment of religion, or prohibiting the free

exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people

to peaceably assemble, and to petition the government for a redress of grievance."

Statutes

MCA 45-5-220 - Stalking HN3 / Standards of review

"45-5-220. Stalking -- exemption -- penalty. (1) A person commits the offense of stalking if the 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:

(a) fear for the person's own safety or the safety of a third person; or

(b) suffer other substantial emotional distress.

(2) For the purposes of this section, the following definitions apply:

(a) "Course of conduct" means two or more acts, including but not limited to acts in which the offender directly or indirectly, by any action, method, communication, or physical or electronic devices or means, follows, monitors, observes, surveils, threatens, harasses, or intimidates a person or interferes with a person's property.

(b) "Monitors" includes the use of any electronic, digital, or global positioning device or similar technological means.

(c) "Reasonable person" means a reasonable person under similar circumstances as the victim. This is an objective standard.

(d) "Substantial emotional distress" means significant mental suffering or distress that may but does not necessarily require medical or other professional treatment or counseling.

(3) This section does not apply to a constitutionally protected activity.

MCA 45-8-213 (1) (c) "Fighting Words" Privacy in Communications Statute.

The Supreme Court of Montana reversed a trial court's ruling and found that *"the trial court erred in finding that the speech constituted "unprotected fighting words" the speech did not involve "face to face" communication, likely to provide an immediate threat."* (State V. Dugan 2013 Mt 38)

Montana Civil Rights Procedure

52 (a) HN3 Standards of Review, Fundamental Findings of Fact and

Procedural Background.

“Requires a court to find the facts specifically and state separately, in Conclusions of Law.”

(a) Findings and Conclusions.

(1) In General. In an action tried on the facts without a jury or with an advisory jury, the court must find the facts specially and state its conclusions of law separately. The findings and conclusions may be stated on the record after the close of the evidence or may appear in an opinion or a memorandum of decision filed by the court. Judgment must be entered under Rule 58.

(2) For an Interlocutory Injunction. In granting or refusing an interlocutory injunction, the court must similarly state the findings and conclusions that support its action.

Applied to 45-5-220 (5) *“upon presentation of credible evidence of violation of the section, an order may be granted, as set forth in Title 40, Chapter 15, restraining a person from engaging in the activity described in subsection (1).”*

The Illusory Truth Effect

“The Illusory Truth Effect is the tendency for any statement that is repeated frequently - Whether it is factually true or not, whether it is even plausible or not - to acquire the ring of truth. Studies show that repetition increases the perception of validity - even when people start out knowing that the information is false, or when the source of the information is known to be suspect.”

Introduction

On September 18th, 2024, Jessica Zimmerman Appellee/Petitioner - Plaintiff filed a Temporary Restraining Order (TRO) Petition in the Eighteenth Judicial District Court of Gallatin County, Montana (**Exhibit "A"**). A hearing date of October 7th, 2024 was set by the court to hear arguments as to whether or not a Permanent Order of Protection (**Exhibit "B"**) was appropriate under MCA 45-15-102 and MCA 45-5-206. At the October 7th, 2024 hearing the Honorable Judge John C. Brown presided. Appellant alleges that the court 1.) erred in fact and 2.) erred in the application of MCA 45-15-102, MCA 45-5-206 and MCA 45-5-220. Appellant alleges that the Burden of Proof was not met under MCA 45-5-220. MCA 45-15-102 states ***"Eligibility for a Order of Protection"***

A person may file a petition for an Order of Protection if:

The petitioner is in reasonable apprehension of bodily injury by the petitioner's partner, family member as defined in MCA 45-5-206; or in this case *"stalking"* as defined in MCA 45-5-205 (stalking). The appellant kindly requests the court to reverse the District Courts order based on Appellant's Brief in Support evidencing both error in fact and misapplication of MCA 45-5-205 and MCA 45-5-220.

Additionally Appellant argues that the court was not arbitrary and exceeded the Bounds of Reason under 40-15-102 and Mont Rules Civ Procedure 52 (a) resulting in an Abuse of Discretion. Further, the trial court has used constitutionally protected civil liberties in the way of published public records, articles and opinion material on Appellant's own social media pages as evidence of Stalking which is protected speech under MCA 45-5-220 (3), Montana Constitution Article II, Section 7 and the U.S. Constitution Amendment I.

Background

Per testimony of the October 7th, 2024 TRO Hearing, Judge John C. Brown presided and documented in the transcript of the hearing (**Exhibit "D"**). In the 18th Judicial District Court of Gallatin County, Montana, Christopher F. Wardle Appellant /Respondent provides a background as follows:

Petitioner Jessica Zimmerman is a Defendant in a Civil Lawsuit filed by Appellant Christopher Wardle. Per testimony from both parties, a dispute exists arising from the removal and subsequent sale of Wardle's personal property including but not limited to his personal items, personal dogs and rescue dogs. Throughout the October 7th, 2024 hearing transcripts (**Exhibit "D"**) Wardle (Appellant) claims that Zimmerman (Appellee) stole his property, defrauded him, sold his property, converting it to her own profit. Then ran a smear campaign calling him an abuser and dog hoarder. Part of Appellant's claims in the civil suit is Salnder. The above mentioned civil suit is also presided over by Judge John C. Brown. Wardle's testimony includes that Zimmerman filed a TRO that is *"unfounded, retaliatory and predatory"*. Zimmerman claims since Wardle's return from a Michigan child support matter (dismissed in full and irrelevant) that he has been harassing her **"daily"** which is **"predominantly on-line"**, though also through phone calls and in person. These are Zimmerman's contentions.

Statement of the Issues

Appellant puts forth the following issues for the Supreme Court of the State of Montana to consider: On the following pleadings the Appellant asserts that there are "*Genuine Issues of Material Fact*". That the court erred in fact by failure to include weighty , detailed evidence and third party witness testimony. Appellant Wardle asserts the analysis and finding of the facts as stated in the Permanent Order of Protection (**Exhibit "B"**) is not only error in fact but that the order is too broad in it's analysis as required under MCA 45-15-102 (Burden of Proof) MCP 52(a) and 45-5-220 (stalking). Appellant Wardle will prove that obvious errors exist, that the Conclusion of Law was applied incorrectly, it affected a Constitutional Right and that it prejudicially affected the fundamental fairness of the proceeding and that the trial court abused its discretion. Appellant asserts that the court failed in its duty to identify and specifically state its factual findings and instances of stalking or harassment and state them in detail in the court's analysis and Permanent Order of Protection. Instead the court ignored evidence and weighty omissions of Petitioner and its duty to state separately instances as factual findings that would meet the burden of proof and a course of conduct identified in MCA 45-5-220 (2)(a). Appellant alleges this resulted in abuse of discretion by exceeding the bounds of reason.

Appellant Christopher Wardle puts forth the following issues:

1.) Petitioner, throughout the Petition for Temporary Restraining Order and her testimony, direct and on cross made broad, wide sweeping, nonspecific allegations. Such claims do not meet the Burden of Proof as *"findings of fact"* and *"credible evidence"* under 45-5-102 and 45-5-220 and does not meet the requirements of the court to *"find the facts specifically and state separate conclusions of law"* under MCR 52(a). Simply reciting the contentions of Petitioner and reaching a legal conclusion does not satisfy the courts duty to make factual findings and conclusions of law.

2.) The factual findings, witness testimony and Petitioner's own admissions which are considered credible testimony were omitted from the court analysis and were not specifically stated separately in its conclusions of law. Appellant will argue that the court misstated the published materials as "false online smear site on Facebook". This is a false statement as the record will show, the content was never reviewed for accuracy or factual finding. The court also erred by omitting the incredible admissions made by Petitioner that were not weighed in upon in the analysis that would evidence testimony and exhibits were ignored and that the court did not act arbitrarily and exceeded the bounds of reason, resulting in an abuse of discretion.

3.) Throughout the Petitioner's direct and on cross testimony, she continuously claims she is *"harassed daily, in every manner"* and that she has *"hundreds of pages of it"* where she references repeatedly as *"online harassment"* and *"libel and defamation"* the exact *"Montana Penal Code"*. The trial court, early in the October 7th hearing, made

reasonable statements regarding online content possibly being "*civil in nature*". The Petitioner's only exhibits entered by the court were appellant's published material and posted public comments on his own pages on the social media platform, Facebook. Appellant asserts that Petitioner had to take initiative and seek out published material on Appellants pages and that Zimmerman never asserted they were sent to her personally. Appellant argues that the court Applied MCA 45-5-220(3) to constitutionally protected liberties, in this case the right to publish under Montana Constitution Article II, Section 7 and the U.S. Constitution, Amendment I. The court even went so far as to state during cross on Petitioner that while ***"the fact that he puts these public posts out, the existence of the public posts are the threat, not a specific threat contained in the document"***. Zimmerman's answer ***"no, there's no specific threat"***. After that exchange, while shortened here above, the court ignored its own analysis and used the published materials as a threat, erroring in its conclusion of the law and violating Appellant's civil liberties by ignoring its own statements and factual findings, resulting in an abuse of discretion.

4.) The court erred in fact in numerous findings of fact in its analysis where the court labeled Wardle's published material as ***"harassment, bullying and defamation took place "predominantly online"***. a.) no published material or content was reviewed specifically outside of the fact that it didn't contain "written threats". No factual review of the content or any content allegations took place. b.) the court not only tried to convert published court documents, articles, opinions and experiences with Zimmerman that are protected as a civil liberty and that Petitioner had to search and seek out the referenced

protected as a civil liberty and that Petitioner had to search and seek out the referenced published court documents, articles, opinions and experiences with Zimmerman that are the content of any content allegations took place. b.) the court not only tried to convey specifically outside of the fact that it didn't contain "written threats." No factual review of place "predominantly online." c.) no published material or content was reviewed labeled Martin's published material as "harassment, bullying and defamation took place." d.) The court erred in fact in numerous findings of fact in its analysis where the court resulting in an abuse of discretion.

violating Appellant's civil liberties by ignoring its own statements and factual findings, used the published materials as a threat, erring in its conclusion of the law and After that exchange, while sponsored here above, the court ignored its own analysis and contained in the document," Zimmerman's answer "no, there's no specific threat." out, the existence of the public posts are the threat, not a specific threat state during cross on Petitioner that while "the fact that he puts these public posts Section 7 and the U.S. Constitution, Amendment 1. The court even went so far as to protected liberties, in this case the right to publish under Montana Constitution Article II, personally. Appellant argues that the court Applied MCA 42-2-220(3) to constitutionally on Appellant's pages and that Zimmerman never asserted they were sent to her Appellant asserts that Petitioner had to take initiative and seek out published material posted public comments on his own pages on the social media platform, Facebook. Petitioner's ONLY exhibits entered by the court were appellant's published material and reasonable statements regarding online content possibly being "civil in nature." The

published material that wasn't sent to her in any way, either directly or indirectly. The trial court also made conclusions without evidence or oral arguments regarding the content and converted it into the assertive conclusion without factual conclusion into *"harassment and bullying"*. The trial court converted constitutional liberties into the stalking and ignored its own the only conclusion, which was that no threat existed in the statements of (Exhibit "I") of the October 7th, 2024 TRO hearing. It is an obvious abuse of discretion and conclusion of law to shape such freedoms of speech and published material into a direct threat as required under MCA 45-5-220(3).

5.) The court abused its discretion and failed to perform its duty by excluding evidentiary material, 3rd party witness testimony and petitioner's admissions from its findings of fact and omitting it from the requirement that the court review and utilize *"credible evidence"*. Zimmerman admitted she had no phone records including blocked call logs to evidence her claims. However, Wardle produced his phone and text logs as evidence. This evidence, which provided definitive proof that Appellant never contacted Petitioner and in fact that Appellant sent a "Cease and Desist to Zimmerman was not used in the analysis of the court. The court failed to cite the absence of specific details which were devoid of specific dates, times, places or circumstances of stalking by Appellant. Further the court did not cite the fact that Petitioner could not produce a call log, mobile phone log which would exhibit the *"hundreds of pieces of evidence"* she claimed she *"could have subpoenaed"*.

Summary of the Issues

Appellant argues that the trial court failed to:

1.) State and weigh in upon clear and concise evidence testimony and admissions by Zimmerman that would constitute the required “credible evidence” and “factual findings” that would have prevented an injustice. Admissions carry more weight than allegations and makes them “highly probative and persuasive”.

2.) State the findings of fact separately in its analysis but instead simply restated Zimmerman’s contentions. These are accusations and does not constitute a finding of fact with separate conclusions under law.

3.) The court erred in its conclusions of law when it attempted to convert and classify unreviewed content in published online material that was not directly or indirectly sent to Zimmerman as evidence under MCA 45-5-220, the stalking statute. This is not only a misapplication of the statute, but a violation of Wardle’s civil liberties in the Montana Constitution Article II, Section 7, and an incorrect conclusion of law but a clear abuse of discretion.

4.) The court didn’t just fail to state a minor piece of testimonial evidence, or miss a debatable claim, it failed to cite ANY admissions by Zimmerman or any specific testimony to base its analysis upon. These admissions carry weight beyond contentions. The court ignored these admissions which exceeded the bounds of reason.

Statement of the Case

Petitioner made broad, sweeping and unevidenced claims of harassment, threats and stalking against Respondent Wardle. Throughout the hearing, two things took place on cross during Zimmerman's testimony, she failed to cite any specific circumstances or detailed allegations including citing any specific times, places, details, statements, threats, methods or circumstances of incidents with any specificity - In fact Zimmerman continued to circle around and testify that threats and stalking were ***"online" and "slander and libel"***. According to Zimmerman's testimony and TRO petition ***"it was predominantly online"***. The court erred in its statement of the facts as will be and analysis because it is devoid of any factual findings that meet the course of conduct in MCA 45-5-220. More importantly the analysis excludes Petitioner's own testimonial admissions and material evidence in the analysis and conclusion. The omission of testimonial and material evidence and the absence of its weight in the analysis is an absence of admitted facts and an abuse of discretion. Appellant submits that this course and lack of factual review prejudicially affected the fundamental fairness of the proceeding. Genuine issues of material fact exist. Appellant will also put forth that the court erred in the conclusion of the law which affected Constitutional Rights of Wardle. Wardle alleges that the court erred in the application of the law. Specifically in so far as the burden of proof and the course of conduct relating to MCA 45-5-220. Stalking requires ***"2 or more acts including but not limited to acts in which the offender directly or indirectly, by any actions, method, communication physically or electronic devices or means, follows, monitors, observes, surveils, threatens, harasses, intimidates or interferes with a person or person's property"***. Zimmerman continuously circled around

to ***“online harassment and stalking”*** in her testimony, referring to published content in spite of the court during her testimony clarified that while there were no actual word of threats existed, that the existence of published materials made her *“feel”* threatened **(item #5 of the Statement of facts)**. It is evident that Zimmerman disliked published material that exposed allegations of shady personal and business interactions and the ongoing litigations she faces. In fact Zimmerman openly states her claims of *“libel and slander”* and references Montana statutes as the violation. The trial court acknowledged that there was ongoing civil litigation between the parties. It is clear that the court applied 45-5-220 incorrectly as Zimmerman’s testimony never included face to face physical interaction or communications sent to her and therefore lacked any material evidence stating there were any confrontations or threats. Zimmerman claims it is *“libel and slander”* and in fact that her claims of threats stemmed from her dislike and discomfort of published material which was the only evidence or exhibits provided to the court. The court recognized and stated that Zimmerman had *“civil”* recourse for her claims. Appellant puts forth that the court abused its discretion by omitting material evidence, admissions and testimonial evidence and at times **reframed questions and provided answers** to Zimmerman on cross. Appellant argues that he had a right to publish information on his own pages and sites that Zimmerman did not agree with under Montana Constitution Article II, Section 7 and U.S Constitution Amendment I. The framers of the Constitution did not create the 1st Amendment and pass it down through the 14th Amendment so Montana could ignore the basic principles of publishing disagreeable content or opinions. Alternately it was created for the sole purpose of speaking or publishing varying opinions and debatable topics and to protect those

fulfilling that purpose. The Montana Supreme Court will determine if the burden of proof was met and if 45-5-220 was applied incorrectly and the conclusions of published content not **directed** at an individual is stalking by definition. Appellant argues that the Montana Constitution allows individuals to publish disagreeable content and that Zimmerman agreed the ***"posts"*** in reference ***"didn't contain the language of a threat"*** but that the mere publishing of content was the threat itself. The trial court also failed to weigh in during the analysis that Zimmerman by her own testimony admitted they had no evidence ***"it's your word against mine"***. (Exhibit "D" Page 30, line 18) and ***"I don't need evidence"***. (Exhibit "D", page 53, line 9). The court abused its discretion when it accepted unsupported contentions, ignored petitioner's own admissions as factual part of no evidence, failed to require petitioner to answer "yes" or "no" questions during cross related to whether Zimmerman had ***"evidence to present to the court?"***. This is exhibited on Exhibit "D", Page 52, lines 1-12. Throughout Zimmermen's testimony on cross, she claims that Wardle has called her **hundreds** of times from blocked numbers. When asked on cross if Zimmermen could provide phone logs evidencing **any** calls from Wardle or blocked numbers Zimmerman testified ***"I can absolutely have those subpoenaed, yes"***. (Exhibit "D", page 21, lines 1-9). Again the court erred in fact by failing to include and weigh in during the analysis and Protective Order that Zimmerman admitted she had no phone records evidencing calls. If there was any specificity of a call or calls, the content or alleged threats it may carry weight MCR CIV P 52 (a). Zimmerman already admitted through her own testimony ***"it's my word against yours"*** and ***"I don't need evidence"***. The burden of proof requires specific and credible finding of facts and without it there can be no gravity to the claims.

Since there is an argument of a *"blocked call"* claim in the Affidavit of Probable Cause (Exhibit "E", item 8) the Appellant will argue 1.) there is no claim by law enforcement stating they observed or confirmed a blocked call on her phone. There was no foundational evidence of any harassment. Just once again Zimmerman laid claim to a blocked call from Wardle. And even if true, which Wardle denies adamantly 2.) under the *"fighting words doctrine"* of the Privacy Communication Statute 45-8-213 (i) (c) whereby the Montana Supreme Court ruled that the Appellant, Dugan's speech was not a threat because he was not *"face to face"* and therefore did not constitute a physical threat. *State V.s Dugan 2613 Mt 38, 369*. The Montana Supreme Court reversed a Protective Order in support of Dugan's Civil Liberties of Freedom of Speech. Appellant will argue that Wardle's online published pages fail to meet the Course of Conduct required under MCA 45-5-220 and indeed violated Appellant's civil liberties under 45-5-220(3) *"this section does not apply to Constitutionally protected activity."* *Counterman V. Colorado 600 0566*. If the trial court had not conceded that *"while the printed language of the published Facebook post didn't contain actual threats but that the published material itself was a threat threat by its mere existence"* then Appellant argues the trial court's Conclusion of Law were in error and it affected a constitutional right which then prejudicially affected the fundamental fairness and integrity of the proceeding (Exhibit "D". page 26, lines 4-16 and page 50, lines 19 & 20). Throughout her testimony on cross of Zimmerman makes numerous allegations of stalking via published material. The trial court takes note. Appellant argues the court conceded publishing non threatening materials poses a threat by its existence; this affects Wardle's rights under Montana Constitution Article II Section 7 and U.S.

Constitution Amendment I. *Kuiper V. District Court of the Eighteenth Judicial District* 193 Montana 452,632, P2d 694 (1981). Appellant will further put forth that the court violated M.R. Civ. P. 52 (a) regarding the factual findings by failing to cite testimonial evidence and material evidence directly related to the allegations. The court further abused its discretion by omitting significant admissions, testimonial and material evidence presented by Zimmerman, Wardle, Fuller and Downing. Ignoring Respondents call logs (Exhibit "H") and failing to note the lack of material evidence from Petitioner and her admissions of not having or needing evidence. Appellant alleges that genuine issues of material facts exist and were ignored in the analysis and Permanent Order of Protection. *Kurth V. Great Falls Tribune* 266, Mt 407,804 p2d 393 (1991). The trial court erred by the exclusion and omission of testimonial and material evidence and gave no weight or analysis to it in the order of November 8th, 2024. The court erroneously applied 45-5-220 to constitutional liberties. These failures to include Zimmerman's admissions in the analysis exhibits an abuse of discretion.

Statement of the Facts

1.) Wardle and his wife met Zimmerman on December 4, 2020 at a Christmas event in Paradise Valley, but otherwise did not know her.

2.) In December of 2023 Wardle testified he recruited Zimmerman (because she had a rescue) to help with the care and feeding of his personal dogs and rescue dogs. He alleges she defrauded him and immediately sold his animals and personal belongings, then ran a smear campaign to elicit donations and that it was purely for Zimmerman's own profit. Wardle had to return to Michigan to deal with a child support claim that was later dismissed in full.

3.) Zimmerman is a defendant in a lawsuit filed by Wardle in April and then a second in June of 2023 (**Exhibit "I"**).

4.) Since Wardle filed in his civil suit he testified that Zimmerman, along with others have run a financially motivated smear campaign against him since his return to Montana in March 2024.

5.) Zimmerman filed a Petition for Temporary Restraining Order on September 18th, 2024.

6.) Wardle testifies the TRO is unfounded, retaliatory and predatory.

7.) Zimmerman makes broad, wide sweeping and unevidenced claims of harassment, threats and stalking (predominantly online), but also by phone and in person.

8.) October 7th 2024, at 9AM, the Honorable Judge John C. Brown presides over the hearing in the Eighteenth Judicial District Court in Gallatin County, Montana.

9.) Zimmerman's admissions and credible testimony that was not

a.) identified specifically and

b.) was not used as credible findings of fact in the court analysis, is here attached.

10.) The court omits admissions by Zimmerman and material evidence.

11.) The court errors in the conclusion of law by analysis by applying stalking to constitutional liberties.

12.) The court takes 4.5 weeks to sign the Order of Protection, after Wardle is cited for the same allegations as in the September 18th, 2024 petition for TRO. Appellant is not asking the Supreme Court to retry the case of Zimmerman V. Wardle. Appellant is however asking that the following admissions and evidence that was absent and omitted from the court's analysis be reviewed as to whether or not the court abused its discretion by failing to weigh in on credible evidence. Appellant alleges that the court was required to state specific factual findings separately and apply the conclusion of law to each finding. Appellant respectfully asks the court to review the facts and determine

that the trial court did not act arbitrarily and that it exceeded the bounds of reason as required under MCR 52(a). The court observed Zimmerman's allegations and claims in the TRO petition (**Exhibit "A"**) and then simply restated them in the statement of facts and in the Order of Protection's analysis (**Exhibit "B"**). Wardle puts forth that the court failed in its duty to weigh in on credible factual findings and Zimmerman's own admissions as follows:

Admissions by Zimmerman on cross by Wardle (Exhibit "D", page 19-72).

1.) Page 10, lines 11-16 and lines 22-24

Zimmerman - *"He has made it very difficult to live my life. And feel safe in my home no matter where I go and he is consistently and through every manner harassing and disrupting my business, committing libel and defamation by the exact cod of Montana"*

Zimmerman - *"He is slandering me online, making complete, total falsehoods about me in every way, shape or form."*

2.) Page 24, lines 20-25 and page 24, lines 1-12

Wardle: Q - *"Okay, so you claim that Heidi Downing-Butcher and I - - have physically stalked and harassed you and threatened you. It says: "They taunted me and threatened me from - - let me quote this - - driven by my home, taunted and threatened me on multiple occasions?""*

Zimmerman: A - *"Correct"*

Wardle: Q - *"Do you have any evidence to support that claim?"*

Zimmerman: A - *"It happened. I don't need any evidence. Yes it happened."*

Wardle: Q - *"I think the court has the right to evidence and so do I."*

3.) Page 30, lines 9-17

Wardle: Q - *"Explain what dates that you can, off the top of your head, explain the dates that I contacted you. I mean give me - -"*

Zimmerman: A - *"All day, everyday, since the end of when you were released from your incarceration in Michigan, every single day you have harassed me in some way or another or all of them. That's a fact."*

Wardle: Q - *"So we should take your word for this, but you have no evidence to provide to the court?"*

Zimmerman: A - *"It's your word against mine."*

4.) Page 17, lines 5-15

Wardle: Q - *"Do you have any evidence at all of any conflict between us by text or any other written communication that you were uncomfortable with me after Kate's death?"*

Zimmerman: A - *"I'm sorry can you clarify the question? Do I have any evidence of conflict between you and I? Of course"*

Wardle: Q - *"Can you provide it to the court?"*

Zimmerman: A - *"I was unaware that that would be necessary today, but, I mean, I have a whole packet of conflict evidence here."*

Court: (Rephrases Wardle's question) Q - *"So then, Mr. Wardle, the question is, Ms. Zimmerman, why are you uncomfortable with Mr. Wardle since his wife's death?"*

Zimmerman: A - *"It's not just - I've always been uncomfortable with Mr. Wardle your Honor."*

Court: Q - *"Why?"*

Zimmerman: A - *"Because I, I Mean, there is knowing and there is proving and I can tell right here in my heart that he has bad intent."*

Relevant testimony by Respondent's witness Jeff Fuller on direct: Page 100, lines 19-25.

Wardle: Q - *"Have you ever known her to claim she was nervous of me in any way, shape or form?"*

Fuller: A - *"Absolutely not before you came back from Michigan."*

Wardle: Q - *"So after I came back from Michigan all of the sudden - -"*

Fuller: A - *"She's scared."*

5.) Zimmerman's admissions: Page 19, lines 3-15

Wardle: Q - *"Okay. You claim you had seen me abuse my wife, abuse my dogs, abuse many people?"*

Zimmerman: A - *"Uh-huh."*

Wardle: Q - *"What dates and do you have evidence to support that?"*

Zimmerman: A - *"Yes, I have plenty of evidence."*

Wardle: Q - *"Can you provide it to the court?"*

Zimmerman: A - *"I don't think that any of us have time for me to go through all of our texts or anything else. Yes, is the answer to the question. I do have that and can easily provide it."*

Page 19, lines 16-24; also provides admissions of Zimmerman.

6.) Zimmerman admissions. Page 23, lines 3-24

Court: Q - *"Petitioners Exhibit "1" is admitted" (Exhibit "G")*

Wardle: Q - *"Can you state anywhere in here where I threatened you or said I was following you or communicated with you directly or stalked you?"*

Zimmerman: A - *"So as to the penal code put in place in Montana, you are - -"*

Wardle: Q - *"I just want an answer to my question."*

Zimmerman: A - *"Yes to your question. Yes."*

Wardle: Q - *"Can you point that out to me?"*

Zimmerman: A - *"That is committing libel and defamation."*

7.) Zimmerman admissions. Page 24, lines 3-15

Wardle: Q - *"Can you just point out, take a pen if you could or just highlight where I threatened you, harassed you or stalked you in there." (referencing Petitioner's Exhibit "1") "Physically or in person or by phone or anything?"*

Zimmerman: A - *"Where you made me feel unsafe because of your past behavior and your current behavior towards me?"*

Wardle: Q - *"That's not my question."*

Zimmerman: A - *"I fear for my safety and that - - the safety of my family and this is just one (referencing to Exhibit "1") of hundreds of pieces of evidence that made me feel*

that way when you make completely false statements about me online that one clearly sent to hurt me."

8.) Admission by Zimmerman: Page 24, line 25 and page 25, lines 1-25 and page 26, lines 1-16.

Wardle: Q - *"There is no place in this document, (Referencing Exhibit "G") you agree where I threatened you - -"*

Zimmerman: A - *"No, I - - I - -I do believe that you have caused me to fear for my safety."*

Wardle: Q - *"I asked where I threatened you."*

Zimmerman: A - *"Yes, I feel that."*

Court: Q - *"Alright, so mam, what your point is, is while there are no direct threats, language in there "I Mr. Wardle, threaten Ms. Zimmerman." or what you are - - is it what you are saying is, is the fact that Mr. Wardle apparently posted that is the fact that he posted it is the threat, not the language included in the post, correct?"*

Zimmerman: A - *"No your Honor, incorrect. That is just one of hundreds of pieces of evidence that prove Mr. Wardle has a vendetta against me that makes me feel unsafe."*

Court: Q - *"By posting these types of posts, correct?"*

Zimmerman: A - *"Complete untruths are harmful to my business."*

Court: Q - *"I understand that mam, but Mr. Wardle's question was, is there any sentence in that piece of paper, is there a direct threat?" I'm going to do this to you or I'm going to - - That's the question."*

Zimmerman: A - *"Not in that piece of paper, no (referencing Exhibit "G")"*

9.) Zimmerman admissions. Page 29, lines 11-22.

Wardle: Q - *"Do you have copies of all these blocked numbers, like coming into your phone?"*

Zimmerman: A - *"I have my Verizon records."*

Wardle: Q - *"Did you bring them here today?"*

Zimmerman: A - *"They are actually in law enforcement's possession against the cases they are bringing against you, so."*

Wardle: A - *"Are you aware that when I spoke to the Gallatin County Sheriff that served me, who was investigating this case, he said you brought no evidence, but you claimed you had it?"*

Zimmerman: A - *"That's just heresy isn't it?"*

10.) Material evidence omitted. Page 37, line 7 (admission of Wardle's phone and text records provided during his direct testimony) Exhibit H. Page 37, line 7 and lines 1-25, 39, lines 1-25 and page 40, lines 1-16.

11.) Heidi Downing-Butcher testimony. Page 105, lines 4-10. Wardle's direct examination of Butcher.

Wardle: Q - *"Have you ever met Jessica Zimmerman outside of this courthouse?"*

Butcher: A - *"No"*

Wardle: Q - *"Or seen her outside of this courthouse?"*

Butcher: *"I've never seen her outside of this courthouse."*

Summary - Statements of the Facts

Appellant is not trying to have the Montana Supreme Court retry the facts of this case. Appellant is trying to exhibit the significant amount of actual Petitioner's admissions, testimonial and material evidence that was ignored. These items carry more weight as credible evidence than allegations or contentions. The admissions of Zimmerman carry significant weight in disproving her broad claims and frankly disgusting allegations. There isn't one piece of testimonial evidence that provides specifics of threats, harassment, or stalking under MCA 45-5-220. The fact that omissions and evidence on **pages 19-72** were excluded shows a lack of arbitrary judgement and exceeds the bounds of reason. It is clear that absence and omission of such credible evidence and factual admissions that the court abused its discretion by excluding so much. The permanent order of protection (**Exhibit "B"**) **numbers 7, 8 and 10** were not evidenced at all. Zimmerman could not detail out a single instance of 1.) where 2.) when 3.) how 4.) circumstance or detail of any of her dramatic and wide sweeping claims. Facts were ignored that should have been stated in the court's analysis per MCR 52(a).

Argument

Petitioner Zimmerman made broad, sweeping claims and contentions of harassment, threats, and stalking by respondent Wardle in the TRO petition and TRO hearing of October 7th, 2024. Appellant submits that the trial court:

1.) Erred in fact by;

a.) failing to state Zimmerman's admissions on cross as testimonial evidence. The admissions clearly and reasonably stated that Zimmerman not only had no evidence but that she didn't need evidence because it was her word against Wardles. The court failed to identify specific circumstances because none were testified to during the hearing.

b.) material evidence and testimony that offered specific rebuttal to Zimmerman's contentions were presented to the court in the way of phone and text records by Wardle. The material evidence presented by Appellant exhibits a "Cease and Desist in any communications to me". These were omitted and not specifically stated in the court's analysis. Weight should have been given to credible material evidence in the court's analysis and protective order.

c.) stating Wardle created a *"false online smear site on Facebook."* No factual review or determination of the content was analyzed regarding the published content.

2.) Failing to cite obvious admissions is a failure to be arbitrary: This absence of obvious factual admissions by Petitioner Zimmerman is on its face an error in fact by omission and abuse of discretion. Exclusion of admissions by Zimmerman is a plain and obvious

error. The failure to include testimonial admissions, exhibits that there are genuine issues of material fact, *Kurth V. Great Falls Tribune* 266 Mt 407,804 P2d 393(1991) and the District Court's failure to state admissions goes to Appellant's argument that the court failed to put forth actual facts which it could base its reasoning upon for an appellate court review. Because of the absence of specific and credible evidence of a violation as required under 45-5-220 (5) as set forth in title 40 chapter 15-102, the court lacked specific verifiable facts to weigh in upon or to apply under section (1) 45-5-220. Therefore there was an insufficient finding of fact that occurred.

3.) The court erred in its conclusion of law by:

a.) stating in its analysis that harassment, bullying and defamation takes place "*predominantly online*". This statement of the facts is in error because no specific statements of the published content was reviewed for fact or falsity. The petitioner alleged it was false, not nowhere in the proceeding was there review of the published material or content itself. Again, it was just an unevidenced contention by the Petitioner. The court erred in its conclusion of law that publishing undesired content which was not "*directed or communicated*" to Zimmerman and the text was determined by the court to be "*threat free*" but that its mere existence as a published post "*was a threat*". The court violated Wardle's civil liberties by referring to constitutional protected speech that was published and that was not communicated to Zimmerman as stalking under MCA 45-5-220. The content of the published material was determined by the court to be "*threat free*" on its face but its mere existence posed a threat to Zimmerman. This is a

clear failure in the conclusion of law in both the Protective Order of November 8th, 2024 and the Affidavit of Probable Cause of which the court took judicial notice in the order.

Kuiper V. District Court of the Eighteenth Judicial District 193 Mont 452,632, P2d 694 (1981)

3.) Wardle contends that the court abused its discretion under MCA 40-15-102 (5). Zimmerman failed to meet the burden of proof under MCP 52 (a). The court abused its discretion when by ***“Simply reciting the contentions of the parties and reaching a legal conclusion does not satisfy a court's duty to make factual findings and conclusion of law. The court must also make factual findings and combine these with a logical reasoned analysis and application of law to the facts”***. *Edele V. Bonamarte 2007 Mt 138,337 Mont 407, 162 2007 Mt.* The Court had a burden of proof to meet under MCA 40-15-102 relating to MCA 45-5-220 (2) (a). *“The court's order simply refers to § 45-5-220, MCA, the stalking statute, and recites Edelen's testimony that she felt threatened by Bonamarte. Simply reciting the contentions of the parties and reaching a legal conclusion does not satisfy the court's duty to make factual findings and conclusions of law under M.R. Civ. P. 52(a). “The court must also make factual findings and combine those with a logical, reasoned analysis and application of the law to the facts.” Snavely, ¶ 18. ¶ 12.”*

The court not only failed to specifically identify *“credible evidence”* and state the incident specificity in its factual findings and conclusion of the law but the court took published content of online posts protected by Montana Constitution Article II Section 7 and U.S.

Constitution Amendment I and converted it to threatening by its mere existence, not by a direct communication or contact by Wardle. Zimmerman repeatedly claims false statements and libel is stalking throughout her direct testimony. There was no factual finding that Wardle ever exhibited a *"course of conduct"* under 45-5-220 (2) (a) that was required under law to issue an Order of Protection. In the November 8th, 2024 Protective Order, the court simply recited Zimmerman's broad and unevidenced allegations and then abused its discretion by ignoring MCA 45-5-220 (2) (a), MCA 40-15-102 and the requirements for the eligibility for an Order of Protection.

Zimmerman admitted::

1.) She had no evidence

2.) She stated she didn't need evidence

3.) She referred to *"hundreds of pages of evidence"* of *"online harassment"* referring to published material (petitioner's **Exhibit "I"**) of the trial courts exhibits which clearly is Constitutionally protected speech of published non threatening material. Petitioner had to seek out the published material on Appellant's own published pages. It was not directed in any way to the Petitioner.

4.) She claimed Wardle committed libel and defamation and made false statements about her and her business. She refers to this *"stalking her"*/

Summary of the Argument

On September 18th, 2024, Petitioner Jessica Zimmerman filed a petition for a temporary restraining order which was granted by Judge John C. Brown of Eighteenth Judicial Court of the State of Montana against Respondent Christopher Wardle. Zimmerman's petition included inflammatory and unfounded claims according to Wardle's testimony. Zimmerman's TRO and testimony included overly broad, wide sweeping, non-specific allegations of harassment, threats and stalking that were "*predominantly online*". Both Zimmerman and Wardle plus Three (3) witnesses testified during the October 7th, 2024 Protective Order hearing. While Zimmerman was being cross examined by Wardle she made testimonial admissions that she had no evidence of harassment, stalking or threats and she stated didn't need any because it was her word against Wardle's. Zimmerman also testified she had no phone records but could "*subpoena them*" and that she had hundreds of pages of evidence, referring back continuously to her

(Exhibit "I") and other online published or Facebook post material. During Zimmerman's testimony on cross by Wardle, the court conceded and Zimmerman testified that while no statement of threats were made in published material, the mere existence of said disagreeable material was a threat to Zimmerman. Appellant argues that the court failed in its standard of review by error in fact by failing to specifically state material evidence, witness testimony including Zimmerman's own admissions and testimony. The court also unreasonably relied on accusations instead of factual findings in its Protective Order analysis. Accusations are not evidence. The contentions of

Zimmerman without factual findings or material evidence to support her claims are not actions identified with specificity in the analysis of the Order of Protection. *Edelma V. Bonamorte* 2007 Mt 138,337, Mont 407,162 P3d 847 2007 Mont. As for the published materials being a threat by the mere existence, the court erred in its conclusion of law applying 45-5-220 the stalking statute to Constitutional Liberty of the Freedom of Speech. *Kuiper V. District Court of the Eighth Judicial District* 193 MMT 452, 632 P2d 694 (1981) . Appellant argues that perhaps the most significant issue with the court's analysis and Order of Protection is the court excluded and omitted nearly all of the material and testimonial evidence including Zimmerman's own admission that she had no evidence and didn't need any. The court had a duty under MRC P52 (a) to make factual findings and conclusions of law and combine these with a logical, reasoned analysis and application of law to the facts. By ignoring admissions and failing to follow a set "Course of Conduct" outlined in 45-5-220 (2) (a) which requires "2 or more acts including but not limited to, acts in which the offender directly or indirectly, by any action, method, communication or physical or electronic devices or means 1.) follows, 2.) monitors, 3.) observes, 4.) surveils, 5.) threatens, 6.) harasses, 7.) intimidates, 8.) interferes with a person's property. The court ignored Petitioner Zimmerman's own admissions which provided credible testimony that she had no facts or evidence to provide to the court to reasonably rely upon. This constitutes insufficient findings of fact for the required statements of fact in the analysis. The court failed to put forth any factual findings specifically.

Conclusion

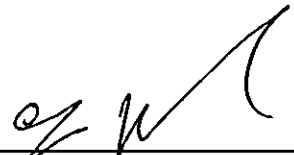
This appeal will have chilling Constitutional effects on every Montana Citizen if not reversed. It would become a precedent that any individual who makes broad and unevicenced allegations against another can get an Order of Protection without any factual findings to support their claims. In this case, the petitioner is a defendant in a large dollar, civil suit filed by Appellant. Appellant testified that Petitioner defrauded and stole his property and then slandered him in a false smear campaign. Appellant testified that the accusations were *"unfounded, retaliatory and predatory"*. Findings of fact should rule a trial court's analysis, not contentions and broad allegations without specific circumstances or evidence to support such claims. The damage to an individual's civil rights by the imposition of a Protective Order creates a constitutional challenge to the individual's freedoms under the Montana Constitution. This case would also set the precedent that a trial judge can omit a petitioner's own admissions, confessions and material evidence of facts presented as exhibits and proceed to ignore *"the presentation of credible evidence"* under MCA 45-5-200 (5) as set forth in Title 40 Chapter 15 subsection (l). In this case, as testified, Jessica Zimmerman is a defendant in a civil lawsuit filed against her by Wardle, regarding a December 2023 alleged burglary and fraud involving Wardle's personal property. Wardle also has alleged that the Gallatin County Sheriff's used the exact same allegations in the Order of Protection to cite Wardle with Felony Stalking. The Affidavit of Probable Cause exhibits Wardle's own published material including, public documents, articles and opinions without directing it to anyone is now a criminal act according to the Affidavit of Probable Cause. The Trial court took judicial notice of the Probable Cause. Gallatin County has now criminalized

Article II, Section 7 of the State of Montana Constitution and the U.S. Constitution Amendment I (**Exhibit “E”, item 6**). It is also based on Zimmerman’s allegations not factual findings or evidence. Again, the Affidavit of Probable Cause cites Wardle’s own Facebook pages which Zimmerman sought out and which were not sent to her. It is very simple, Wardle never contacted or directed any threats or communications to Zimmerman per her own admissions. Wardle never sought out or had contact with Zimmerman. It was Zimmerman that sought out Wardle’s published information on Wardle’s pages. Zimmerman has a civil avenue that she is not exhausting, whereby if published material was false, she could make counter claims for slander damages in the district court case. She is not doing that. There were admissions by Zimmerman that published material she finds undesirable about her and her business was *“stalking”*. Imagine the effect this will have on our great state, if one individual can simply claim that published material including public documents, articles, opinions and allegations are not communicated directly or indirectly to another individual could be considered *“stalking”*. Zimmerman sought out the published pages. She alleged she had *“hundreds”* of such, that *“made her feel unsafe”*. The existence of disagreeable material that Zimmerman alleges is false or lies has never been reviewed for false or inaccurate information. It is simply published content that Zimmerman simply doesn’t like. What if Elliot Spitzer could have had the New York Times restrained by an Order of PProtection because they published his criminal charges and alleged behavior with prostitutes? This apple doesn’t fall far from that tree!!!

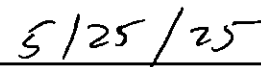
Has Montana become a state when a citizen disagrees with the opinions of another individual, they can recruit law enforcement and convert it to a crime? **(Exhibit "E", Item "6" of the Affidavit of Probable Cause)**. One week after Wardle filed the first version of his lawsuit against Zimmerman she filed a petition for a Temporary Restraining Order against Wardle in Park County, Montana which a Judge declined to hear. It looks like this time Zimmerman read a statute, learned what to allege so she could be heard and could put forth her own defamatory statements. Welcome to Gallatin County Montana, where the "Illusory Truth Effect" **(Exhibit "K")** rules the land.

Appellant Christopher Wardle respectfully requests the Supreme Court of the State of Montana

reverse this Order of Protection dated November 8,, 2025.



Christopher Wardle
Respondent/Appellant
Pro Se



Dated

Exhibit List

Exhibit "A" Petition for Temporary Restraining Order - (TRO)

Exhibit "B" Permanent Order of Protection, dated November 8th, 2024

Exhibit "C" Christopher Wardle V. Jessica Zimmerman, et al

Exhibit "D" Transcript from TRO Hearing of October 7th, 2024

Exhibit "E" Affidavit for Probable Cause, dated November 5th, 2024

Exhibit "F" Record of Exhibits, dated October 7th, 2024

Exhibit "G" Petitioner Zimmerman's Exhibit "1", dated October 7th, 2024

Exhibit "H" Respondent Wardle's Exhibit "A", dated October 7th, 2024

Exhibit "I" Wardle's Civil suit against Zimmerman

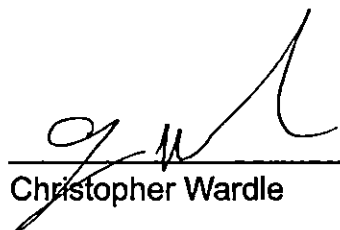
Exhibit "J" Park County Petition for Temporary Restraining Order (TRO)

Exhibit "K" The Illusory Effect

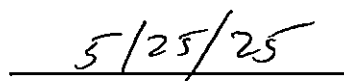
Christopher Wardle / Appellant
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chriswardle@outlook.com

Certificate of Service

I Christopher Wardle, Appellant do hereby swear and attest that a true copy was sent to
Appellee Jessica Zimmerman at 414 Daisy Dean Ln, Wilsall, MT 59086 via USPS on
May 20, 2025.



Christopher Wardle



Date