

William M. Windsor
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CASE NO. DR-14-503

Sean Boushie	§	FOURTH DISTRICT COURT
Petitioner,	§	Department No. 4
v.	§	MISSOULA COUNTY
William M. Windsor,	§	
Respondent	§	MISSOULA, MONTANA

MOTION TO DISMISS PETITION FOR ORDER OF PROTECTION

Comes Now, William M. Windsor (“Windsor”) and files this MOTION TO DISMISS PETITION FOR ORDER OF PROTECTION. Windsor shows the Court as follows:

INTRODUCTION

1. This is a matter involving a temporary order of protection (“TOP”) that was issued against Windsor on August 23, 2013 by the Missoula Municipal Court. There has never been a hearing on this matter. This case was removed to the District Court by notice on July 22, 2014.

2. The Petition for Protective Order (“PPO”) should be dismissed. The essential requirement for an order of protection has not been met as Sean Boushie (“Boushie”) does not qualify because he is not a victim as defined in MCA 40-15-

102. Boushie is not a victim of assault as defined in MCA 45-5-201. Boushie is not a victim of stalking as defined in MCA 45-5-220. Windsor has never purposely or knowingly caused Boushie substantial emotional distress or reasonable apprehension of bodily injury or death. Windsor never did anything repeatedly, as the statute requires. The stalking statute specifically excludes constitutionally-protected activity, and Windsor's filming and websites are protected by the First Amendment. The requirements have not been met for a permanent order of protection. Montana Code 40-15-204 provides that permanent protection can be ordered "on the basis of the respondent's history of violence" and "the severity of the offense." Windsor has NO history of violence whatsoever, and there was no severe offense; Windsor was simply filming for a movie and television show. Boushie is the stalker, and his PPO is filled with false statements and perjury.

**THE ESSENTIAL REQUIREMENT FOR
AN ORDER OF PROTECTION IS NOT MET:
THE PETITIONER IS NOT A VICTIM OF ASSAULT OR STALKING**

3. Boushie does not qualify because he is not a victim.

MCA 40-15-102. Eligibility for order of protection: (1) **A person may file a petition** for an order of protection **if a victim of assault** as defined in 45-5-201, aggravated assault as defined in 45-5-202, assault on a minor as defined in 45-5-212, **stalking** as defined in 45-5-220, incest as defined in 45-5-507, sexual assault as defined in 45-5-502, or sexual intercourse without consent as defined in 45-5-503. (MCA 40-15-102.)

4. Boushie is not a victim of assault, is not a minor, is not a victim of stalking, is not a victim of incest by Windsor, is not a victim of sexual assault by Windsor, and is not a victim of intercourse without consent by Windsor. The TOP erroneously indicates that Boushie is a victim of stalking and that a weapon was involved. (See the file named “2013-08-23-00-00-00-PM-Boushie-v-Windsor-Petition-for-Protective-Order-ORDER” on the flash drive marked as Exhibit A to the AFFIDAVIT OF WILLIAM M. WINDSOR DATED AUGUST 14, 2014, which is attached hereto as Exhibit A.) Windsor has never had a weapon in Montana, and he has never had a weapon in his possession when working on his computer.

BOUSHIE IS NOT A VICTIM OF ASSAULT.

5. Boushie is not a victim of assault.

6. MCA 45-5-201 provides: “(1) A person commits the offense of assault if the person: (a) purposely or knowingly causes bodily injury to another; (b) negligently causes bodily injury to another with a weapon; (c) purposely or knowingly makes physical contact of an insulting or provoking nature with any individual; or (d) purposely or knowingly causes reasonable apprehension of bodily injury in another.”

7. Windsor has never caused bodily injury to Boushie. Windsor has never possessed a weapon in Montana. Windsor has never had physical contact

with Boushie. Windsor has never purposely or knowingly caused reasonable apprehension of bodily injury to Boushie.

8. Boushie knew that Windsor was coming to Missoula to film a story about him for a documentary movie and the pilot for a proposed weekly television show. This is documented in Paragraph 871 in the AFFIDAVIT OF WILLIAM M. WINDSOR DATED AUGUST 14, 2014.

9. Boushie repeatedly published statements in which he stated that he was not in fear of Windsor. This is documented in Paragraphs 872 and 873 in the AFFIDAVIT OF WILLIAM M. WINDSOR DATED AUGUST 14, 2014.

BOUSHIE IS NOT A VICTIM OF STALKING.

10. The sworn testimony and clear evidence show that Windsor has not violated the stalking statute.

11. Windsor has never purposely or knowingly caused Boushie substantial emotional distress or reasonable apprehension of bodily injury or death by repeatedly following Boushie or harassing, threatening, or intimidating Boushie, in person, by mail, or by electronic communication. Boushie was never in distress. Boushie simply used the Court as part of his stalking and abuse of Windsor. Windsor has never spoken with Boushie on the telephone or in person nor has he ever attempted to be in his presence. Windsor has never sent any electronic communications to Boushie except cease and desist notices and legal

notices. These emails are detailed in paragraphs 20, 27, 63, 141, 153, 175, 177, 184, 185, 193, 197, 205, 206, 207, 208, 209, 217, 259, 266, 268, 270, 273, 276, 725 in the AFFIDAVIT OF WILLIAM M. WINDSOR DATED AUGUST 14, 2014. Those are legal notices that may not be considered to be “stalking.” And there were no emails sent from Missoula County. There was no evidence cited by the court to indicate that Windsor transferred any information to Boushie, and there was never any such communication. There was no evidence cited by the court to indicate that Windsor did anything improper in Missoula County. There was no email sent from Missoula County. Boushie’s claims are totally false, and Windsor has not done anything that would violate the stalking statute.

12. MCA 45-5-220 provides: “(1) **A person commits the offense of stalking** if the person **purposely or knowingly** causes another person substantial emotional distress or reasonable apprehension of bodily injury or death **by repeatedly**: (a) following the stalked person; or (b) harassing, threatening, or intimidating the stalked person, in person or by mail, electronic communication, as defined in 45-8-213, or any other action, device, or method. (2) This section does not apply to a constitutionally protected activity.”

13. **Windsor has never purposely or knowingly caused Boushie substantial emotional distress or reasonable apprehension of bodily injury or**

death by following Boushie or harassing, threatening, or intimidating Boushie, in person or by mail, electronic communication.

14. Windsor filmed a movie, and Boushie knew all about it. The only things that Windsor did in Montana was do filming for the movie and television show. Windsor never followed Boushie, never harassed, threatened, or intimidated him. Boushie may not like that he is being exposed as a cyberstalker and criminal, but that's tough as Windsor has the First Amendment right to expose Boushie with the truth.

15. Windsor never did anything repeatedly.

16. Windsor never followed Boushie anywhere. Windsor never harassed, threatened, or intimidated Boushie by mail – never sent him anything by mail except notices required by law.

76. Windsor never harassed, threatened, or intimidated Boushie by electronic communication. “Electronic communication” is defined by statute as “any transfer between persons of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system.” Windsor has not transferred any such information to Boushie, so Windsor may not be considered to have committed stalking by electronic communications. There was no evidence to indicate that WINDSOR transferred any information to Boushie, and there was

never any such communication. The only emails or electronic communications that Windsor sent to Boushie were 24 cease and desist notices, and Windsor has blocked Boushie from his Facebook page and websites. Windsor has not harassed, threatened, or intimidated Boushie with SeanBoushie.com, and a media website is not encompassed by 45-8-21.3 or 45-5-220(1)(a)(b). Windsor has not communicated with Boushie by mail or by electronic communication as defined by 45-8-21.3 or 45-5-220(1)(a)(b).

17. **Stalking specifically excludes constitutionally-protected activity.**

18. Windsor's writings on his news websites and his filming of news stories are not stalking. These are constitutionally protected by freedom of speech and freedom of press. Windsor is a member of the press, and his film work was registered with the International Movie Database, the Writer's Guild of America, the Montana Film Commission, the City of Missoula, and the University of Montana. Boushie's allegations are about Windsor's filming.

19. This is documented in Paragraphs 891-895 in the AFFIDAVIT OF WILLIAM M. WINDSOR DATED AUGUST 14, 2014.

**THE REQUIREMENTS HAVE NOT BEEN MET
FOR A PERMANENT ORDER OF PROTECTION**

20. The requirements have not been met for a permanent order of protection. Montana Code 40-15-204 provides that permanent protection can be

ordered “on the basis of the respondent’s history of violence” and “the severity of the offense.”

21. **Windsor has no history of violence.**

22. Windsor has never done anything violent in his 65 years. This is documented in Paragraph 874 in the AFFIDAVIT OF WILLIAM M. WINDSOR DATED AUGUST 14, 2014.

23. Windsor has sworn that he did not have a gun in Montana, and Windsor’s ex-wife will swear that the gun purchased for protection was in a closet in Marietta, Georgia from April to December 6, 2013, which includes the dates in August 2013 when Windsor was in Montana. The Petitioner has no evidence that Windsor had a gun in Montana because there was no gun in Montana.

24. **There was no offense, much less anything severe.**

25. Windsor was filming on the University of Montana campus. This is documented in Paragraphs 875, 876, and 877 in the AFFIDAVIT OF WILLIAM M. WINDSOR DATED AUGUST 14, 2014.

BOUSHIE IS THE STALKER

26. **Boushie physically stalked Windsor after Windsor drove by his home on August 6, 2013.**

27. This is documented in Paragraphs 878-883 in the AFFIDAVIT OF WILLIAM M. WINDSOR DATED AUGUST 14, 2014.

28. **Boushie stalked Windsor with unsolicited electronic communications.**

29. This is documented in Paragraphs 884-890 in the AFFIDAVIT OF WILLIAM M. WINDSOR DATED AUGUST 14, 2014.

CONCLUSION

Windsor prays that this Court dismiss the Petition for Order of Protection filed by Boushie. There is no legal or factual basis for a permanent protection order to be issued.

Submitted this 14th day of August, 2014,



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VERIFICATION

Personally appeared before me, the undersigned Notary Public duly authorized to administer oaths, William M. Windsor, who after being duly sworn deposes and states that he is authorized to make this verification on behalf of himself and that the facts alleged in the foregoing are true and correct based upon his personal knowledge, except as to the matters herein stated to be alleged on information and belief, and that as to those matters he believes them to be true.


I declare under penalty of perjury that the foregoing is true and correct based upon my personal knowledge.

This 14th day of August, 2014.



William M. Windsor

Sworn and subscribed before me this 14th day of August, 2014.



Notary Public



CERTIFICATE OF SERVICE

I hereby certify that I have served the attorney representing the
PETITIONER by mail to Quentin M. Rhoades, Alison Garab, Sullivan
Tabaracci & Rhoades, 1821 South Avenue West – Third Floor, Missoula,
MT 59081, Alison@montanalawyer.com.

Submitted this 14th day of August, 2014,



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