William M. Windsor
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Madison, SD 57042
Telephone: 770-578-1094
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Defendant, Pro Se

MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY

State of Montana,	§	Dept. No. 3
Plaintiff,	§	Cause No. DC-14-509
v.	§	
William Michael Windsor,	§	**MOTION TO DISMISS**
Defendant.	§	**CHARGE #4 - TWEET**

COMES NOW William M. Windsor, Defendant, who files this "Motion to Dismiss Charge #4 - Tweet," and shows the Court as follows:

INTRODUCTION

1. William M. Windsor has been simultaneously charged with five protective order violations. (See DC-14-509 Docket # 1, 2, 3, 4, and 5.)

2. There are many reasons why this and all the charges should be dismissed. Other grounds have been or will be presented in separate motions. This motion simply addresses the specific reason why this unique charge must be dismissed.

FACTUAL BACKGROUND

3. William M. Windsor did not personally send a Tweet in December 2013 or any time in 2014, nor did he ask anyone to send a Tweet for him.

4. William M. Windsor was in Dallas Texas on December 30, 2013 recovering from a fractured skull.

5. The charge reads: "On or about the 30th day of December, 2013, the above-named Defendant committed the offense of violation of an order of protection when, with knowledge of the order, purposely or knowingly violated a provision of an order provided for in 40-4-121 or an order of protection under Title 40, chapter 15, to wit: "Defendant posted Sean Boushie's name on Twitter, a third or subsequent offense." Elsewhere, this is stated to be the posting of a video with the title: "Bill Windsor is banned from the University of Montana and Sean Boushie. Corruption at its finest."

6. On June 10, 2014, the Montana Supreme Court stated that the TOP provided that William M. Windsor could not post about Sean Boushie on www.SeanBoushie.com. It did not say that William M. Windsor could not use Sean Boushie's name in other ways.

7. On August 17, 2015, each of the State's witnesses were interviewed. The witness with knowledge of the Tweet is Missoula Police Department Detective Chris Shermer. He says he printed a copy of the Tweet. He has no personal knowledge as to who, if anyone, sent the Tweet that he has a copy of.

ARGUMENT

A. THE TEMPORARY ORDER OF PROTECTION DOES NOT PROHIBIT TWEETING.

8. The Temporary Order of Protection ("TOP") on which the charges are based does not prohibit Tweeting. A true and correct copy of the TOP served on William M. Windsor is attached as Exhibit A hereto.

9. As the TOP does not prohibit Tweeting, sending a Tweet cannot violate it.

10. If the TOP was ever valid, it prohibited only a "post." A Tweet is not a "post." A post is defined as "to publish a message in an online forum or newsgroup." There is nothing in the TOP to prohibit William M. Windsor from

publishing Sean Boushie's name in a Tweet; all the TOP prohibits is this: "Respondent shall not post Petitioner's name on liv." Or "on lit." William M. Windsor does not even know what "on liv" or "on lit" means. There is nothing in the TOP that says someone unknown to William M. Windsor may not Tweet the name of Sean Boushie, or post it, or publish it, or anything else.

11. Exhibit 22 in the folder on the Flash Drive named Missoula Montana Criminal Case filed with the Motion to Quash Bench Warrant in this matter is a true and correct copy of the home page of William M. (Bill) Windsor's Twitter feed. It shows that 13,081 Tweets had been sent. Please note the second Tweet on the page (circled). This shows the name William M. Windsor and @LawlessAmerica. But look at the second page. It shows the Tweet was sent by Lawless America Massachusetts. There are approximately 50 state Lawless America Facebook pages that have been maintained by people other than William M. Windsor. William M. Windsor has never seen that Tweet, nor has he seen very many of the 13,081 Tweets. Twitter offers a variety of applications for Tweeting. Exhibit 23 in the folder on the Flash Drive named Missoula Montana Criminal Case filed with the Motion to Quash Bench Warrant is a true and correct copy of information off William M. Windsor's Twitter account to show the Twitter Applications used by William M. Windsor's account to show that automatic Tweets are generated from a variety of programs used in a variety of locations.

12. Since Tweeting was not addressed, and since the Tweet was never sent to Sean Boushie, there can be no violation of a protective order.

13. This charge must be dismissed.

B. **WILLIAM M. WINDSOR DID NOT SEND A TWEET, AND HE DID NOT AUTHORIZE ANYONE ELSE TO SEND A TWEET.**

14. William M. Windsor has sworn that he did not send a Tweet. He did not authorize anyone else to send a Tweet. He did not know any Tweet was sent or if one even was sent.

15. William M. Windsor did not "post" anything on Twitter in December 2013 or at any time in 2014.

16. William M. Windsor did not publish a video in December 2013, not on Twitter and not anywhere else.

17. Twitter does not even allow publishing of videos on its site.

18. The referenced video was posted on August 23, 2013 on YouTube. See https://www.youtube.com/watch?v=qwr6eU3Pre0. It has never been posted anywhere else. The video was taken with the permission of the Missoula County Sheriff's Department and the University of Montana. It was the last video that William M. Windsor posted to his YouTube account.

19. Note that the title of this video is: "Bill Windsor is banned from the University of Montana. Corruption at its finest." It does not mention Sean Boushie.

20. The State claims the Tweet is titled: "Bill Windsor is banned from the University of Montana **and Sean Boushie**. Corruption at its finest."

21. On YouTube, the description of the video shows clearly that William M. Windsor did not publish the words "Sean Boushie," but used a fake name "Sushie." The description says: "Bill Windsor is banned from the University of Montana and Sushie-Land. Corruption at its finest. Folks, the TV show has a new ending. Talk about something that could not have been scripted better. It's so perfect that if you saw it in a dramatic show, you would shake your head and say, I knew that was coming. As I quietly filmed in front of the University Center right smack dab in the middle of campus, these two gendarmes strolled up and served ME with a Temporary Order of Protection for Sushie. That's right, every single

law enforcement agency and judge in Missoula and Ravalli County has denied my massive evidence in my requests for protective orders against Sushie, but he lies his ass off and gets one against me. Now this is great because I got the entire episode on film, AND I get to have a hearing with the criminal and Wynette Boushie. I now have to stay 1,500 feet away from Sushie and Wynette Boushie and 1,500 feet away from the University of Montana.

22. Someone intentionally altered this video title and sent a Tweet. William M. Windsor has no doubt that it was Sean Boushie or one of his co-conspirators.

23. This charge must be dismissed.

C. **THE STATE HAS NO EVIDENCE THAT WILLIAM M. WINDSOR SENT A TWEET**.

24. The State has no evidence to show that William M. Windsor sent a Tweet. No one has personal knowledge of this except William M. Windsor, and he did not send a Tweet.

25. This charge must be dismissed.

D. **THE MONTANA SUPREME COURT HAS RULED THAT BLOGGING CANNOT BE DENIED BY A PROTECTIVE ORDER, AND TWEETING IS A FORM OF BLOGGING**.

26. The Montana Supreme Court previously ruled in ***Windsor v. Boushie*** that William M. Windsor's blogging is not stalking and cannot be denied by any order of protection. Tweeting is a short form of blogging.

> "...the offense of stalking does not apply to a constitutionally protected activity, § 45-5-220(2), MCA, and, as the District Court noted, the blogging alleged here involved First Amendment 'free speech' rights with which [Windsor and Boushie] each appear familiar and in which they regularly engage." (***Windsor v. Boushie***, DA 13-0618 (Mont. 02/25/2014).)

27. On June 10, 2014, the Montana Supreme Court ruled that the TOP provided that William M. Windsor could not post about Sean Boushie on www.SeanBoushie.com. He hasn't, and Tweets may be sent only on Twitter.

28. This charge must be dismissed.

E. **THE TEMPORARY ORDER OF PROTECTION WAS UNINTELLIGIBLE**.

29. The TOP was unintelligible, as William M. Windsor stated in his sworn Motion on August 26, 2013. [A true and correct copy of the Motion for Modification filed in the underlying case on August 26, 2013 where William M. Windsor asked the court to clarify the TOP is on the Flash Drive -- Exhibit 41 in the folder named Missoula Montana Criminal Case filed with the Motion to Quash Bench Warrant in this case.] The TOP was never modified to make it intelligible.

30. The word "Tweet" does not appear in the TOP.

31. If any other term in the TOP was supposed to refer to a Tweet, it failed to do so clearly.

32. There is nothing in the TOP to prohibit William M. Windsor from publishing Sean Boushie's name in a Tweet – "Respondent shall not post Petitioner's name on liv." Or "on lit"). There is nothing in the TOP that says someone unknown to William M. Windsor may not Tweet the name of Sean Boushie, or post it, or publish it, or anything else.

F. **WILLIAM M. WINDSOR DID NOT SEND A TWEET KNOWINGLY AND PURPOSELY WITH THE INTENT TO VIOLATE A PROTECTIVE ORDER AND COMMIT A CRIME**.

33. A key element that the State must prove is that William M. Windsor "knowingly and purposely" violated the protective order, that he intended to commit a crime.

34. William M. Windsor did not do anything purposely or knowingly. If someone unknown to you tweeting the name of Sean Boushie was to be restricted in the expired TOP, the law requires that it be spelled out. William M. Windsor identified the ambiguity in the TOP in a Motion filed three days after he was served.

35. William M. Windsor has sworn that he did not send a Tweet and that he never did anything to knowingly and purposely violate a protective order.

36. This charge must be dismissed.

G. A TWEET DOES NOT VIOLATE MONTANA LAWS ON STALKING, SO A TWEET MAY NOT CONSTITUTE A VIOLATION OF A PROTECTIVE ORDER.

37. Montana laws on protective orders are to promote safety and protection of all victims of stalking. Stalking is following someone or mailing, emailing, or having electronic communication with the protected person. Tweeting to your followers on Twitter does not fall anywhere in the definition of "stalking."

38. The TOP claims the court found that Sean Boushie was "in danger of harm." Sean Boushie was not harmed by a Tweet that was not sent to him that simply states William M. Windsor's opinion that the actions taken involving Sean Boushie in Montana represent corruption at its finest.

39. This charge must be dismissed.

H. TWEETING IS A CONSTITUTIONALLY-PROTECTED ACTIVITY, SO IT MAY NOT BE RESTRICTED BY A PROTECTIVE ORDER.

40. Montana law states very clearly (MCA 45-5-220) that stalking does not apply to Constitutionally-protected activity. Freedom of speech and freedom of the press are the most fundamental of the Constitutionally-protected activities. Tweeting cannot be restricted based upon the First Amendment to the United States Constitution. Similar protection is in the Montana Constitution.

41. The Montana Supreme Court has ruled that blogging by William M. Windsor is a Constitutionally-protected activity.

42. No judge can legally order anyone to not post, print, or display the name of a person.

43. This charge must be dismissed.

CONCLUSION

44. William M. Windsor never sent a Tweet. The State has no evidence that he did. The State has no evidence or testimony to indicate that he knowingly and purposely sent a Tweet to violate a protective order. Jennifer Clark swore to Judge Karen Townsend that William M. Windsor knowingly and purposely sent a Tweet to violate a protective order, but it was a false sworn pleading by Jennifer Clark.

WHEREFORE, William M. Windsor prays that Charge #4 - Tweet be dismissed; and for such other relief as the Court feels is appropriate.

This 24th day of August 2015,

William M. Windsor

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.

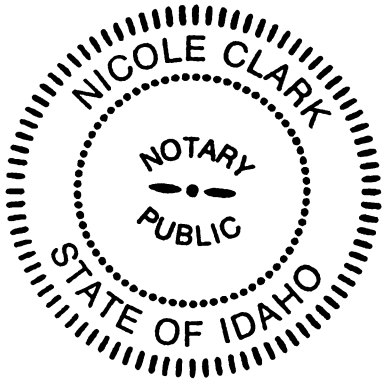
I declare under penalty of perjury that the foregoing is true and correct based upon my personal knowledge.

This 24th day of August 2015.

William M. Windsor

Sworn and subscribed before me this 24th day of August 2015.

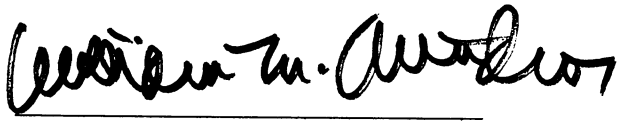
Notary Public



CERTIFICATE OF CONFERENCE

I hereby certify that I contacted Jennifer Clark, and she opposes this Motion.

This 24th day of August 2015,

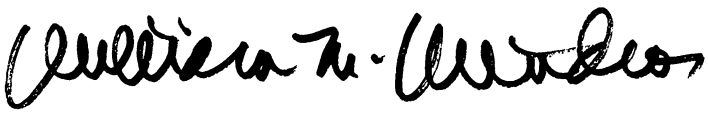


William M. Windsor

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Motion by email to Jennifer Clark, Deputy County Attorney, at jsclark@co.missoula.mt.us and Christopher Daly.

This 24th day of August 2015,



William M. Windsor

Exhibit

A

Temporary Order of Protection

Case No. OP-2013-00198

☒ Temporary Ex Parte Order and Notice of Hearing

☐ Amended Temporary Order and Notice of Hearing

Municipal Court, **Missoula** County, **Montana.**

Before the Honorable Judge Warren

Petitioner/Protected Person

First	Middle Initial	Last
Sean	M.	Boushie

☒ **And/Or on behalf of *family* members:**

First/Middle Initial/Last Name	Year of Birth	Sex
Wynette L Boushie	72	M (F)
		M F
		M F

Petitioner/Protected Person Identifiers

Year of Birth of Petitioner: 1960

Male [ ] Female [ ]

☒ **Other Protected Person/s:**

First/Middle Initial/Last Name	Year of Birth	Sex
		M F
		M F
		M F

Respondent

First	Middle Initial	Last
William	M	Windsor

Respondent's Address:

Respondent's Identifiers

Sex	Race	Year of Birth	Height	Weight
(M) F	Cauc		700.	5'8"
Eye color	**Hair color**	**Driver's License State**		
	White	GA		
Distinguishing Features				
Beard & Mustache				

Petitioner's/Protected Person's Relationship to Respondent: check all that apply

- ☐ Married
- ☐ Were married, but are now separated
- ☐ Divorced
- ☐ Currently dating or having an ongoing intimate relationship
- ☐ Live together
- ☐ Lived together in the past
- ☐ Have a child and/or children together
- ☐ Family member or former family member of Respondent
- ☐ Dated or had an ongoing intimate relationship in the past

- ☐ Victim of sexual assault
- ☒ Victim of stalking
- ☐ Victim of assault
- ☐ Victim of other:

CAUTION:

- ☒ Weapon Involved
- ☒ Weapon on Property

The court has jurisdiction over the parties and subject matter. **The terms of this Order shall be effective until** 09/16/13 **at** 11:59 **PM/unless terminated earlier by another Court Order. By Judge** Sam Warren

WARNINGS: This Order shall be enforced, even without registration, by the courts of any state, the District of Columbia, and U.S. Territory, and may be enforced on Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, and tribal boundaries to violate this Order may result in federal imprisonment (18 U.S.C. Section 2262). Federal law provides penalties for possessing, transporting, shipping, or receiving any firearm or ammunition (18 U.S.C. Section 922(g)(8)(9)).
Violation of this Order may be a criminal offense under applicable Federal or Tribal law and is a criminal offense under Mont. Code Ann. § 45-5-220 or § 45-5-626 and may carry penalties of up to $10,000 in fines and up to a 5 year jail sentence. It is a misdemeanor under Montana Code Annotated 45-5-220 and/or 45-5-626 for the Respondent, even if invited and after notice of this Order, to violate the provisions of this Order. Further, under Montana Code Annotated §§ 45-2-301 and 302(3), it is a crime for any person to aid and abet a crime, or, not being present, to advise and encourage a crime. Under Montana Code Annotated § 45-2-303, any person who counsels, aids, solicits or incites another to commit a misdemeanor is guilty of a misdemeanor. Therefore, it may be a crime for any person to encourage or invite contact between the Respondent and the Petitioner, except such contact as expressly permitteed by the above Order.

Municipal COURT, MISSOULA, MONTANA

JUDGE Warren

Sean M. Boushie,
Petitioner,

vs.

William Windsor,
Respondent.

CAUSE NO. OP-2013-00199

TEMPORARY ORDER OF PROTECTION AND ORDER SETTING HEARING

On 08/21, 2013 the Court considered the Petitioner's request for a Temporary Order of Protection.

THE COURT FINDS from the petition that the Petitioner is in danger of harm. **The court issues the following order immediately, under Mont. Code Ann. § 40-15-201 (2009), and without notice to the Respondent:**

IT IS ORDERED that the Respondent is restrained as follows:

1. ☒ Respondent must not threaten to commit or commit acts of violence against Petitioner and the following Protected Persons: Wynette L. Boushie. (PCO 01)

2. ☒ Respondent shall not harass, annoy, disturb the peace of, telephone, email, contact, or otherwise communicate directly or indirectly, with Petitioner and the following Protected Persons: Wynette L. Boushie, Ucaf M. Stuffle. (*If the same people are listed in #1, write "see #1"*). (PCO 05)

3. ☐ The location of my current residence is confidential. (*Do not write your address below.*)

4. ☒ Respondent must stay (1500) feet or other suitable distance _____ feet (*not to exceed 1500 feet*) away from Petitioner's residence at: 570 Grandview Drive.

5. ☒ Respondent must stay (1500) feet or other suitable distance _____ feet from Petitioner and the following Protected Persons: Wynette L. Boushie.

6. ☒ Respondent must stay (1500) feet or other suitable distance _____ feet away from Petitioner's place of employment at: University of Montana.

7. ☐ Respondent must stay 1500 feet or other suitable distance _____ feet away from Petitioner's and/or Petitioner's child(ren)'s school(s) at: _____

_____.

8. ☐ Respondent must stay 1500 feet or other suitable distance _____ feet away from any of the following addresses frequented by Petitioner and/or other Protected Person: _____

_____.(PCO 04)

9. ☐ Respondent shall not take the following child(ren) from Missoula County: _____

_____.

10. ☒ Respondent shall not possess these firearms: Taurus Judge .(PCO 07)

11. ☐ Respondent must not take, hide, sell, give away, borrow against, damage, or otherwise dispose of the following property: _____.

12. ☐ Respondent must give Petitioner and/or Protected Person's possession or use of the following items (items may include the residence, automobile and other *essential personal property, regardless of ownership):* _____.

13. ☐ Law enforcement shall:

- ☐ Remove the Respondent from the residence at: _____
- ☐ Place the Protected Person in possession of the residence at: _____
- ☐ Supervise the removal of:
  - ☐ Protected Person's property listed in 12 above.
  - ☐ Respondent's items needed for employment and necessary personal effects (at peace officer's discretion) from the residence.

14. ☒ The Court deems that the following additional relief is necessary to provide for the safety and welfare of the Petitioner or other individuals designated in this Petition. Release of www.searchbobs.co

No petitioner, Respondent shall not post Petitioners name on it.

HEARING

A hearing on the Petitioner's request that this Court Order the Order of Protection continue for a specific time or continue permanently will be held before this court on 09/09/13, the 9th day of September, 2013, at the hour of 2:30 o'clock p.m., or as soon thereafter as the matter may be heard, in the following courtroom:

Municipal Court – City Hall	*Justice Court 1*	*Justice Court II*	*District Court*
435 Ryman	*200 W. Broadway*	*200 W. Broadway*	*200 W. Broadway*
Missoula, MT	*Missoula, MT*	*Missoula, MT*	*Missoula, MT*

This Temporary Order of Protection shall continue in full force and effect until 09/16/13, the 16th day of September, 2013, at the hour of 11:59 o'clock p.m. unless continued at the hearing.

Petitioner: Report all violations of this Order of Protection to law enforcement by calling 911. If you fail to appear for the Hearing, this Order may be dismissed.

Respondent: If you fail to appear for the Hearing, the Judge's decisions in this case will be made without your presence. This decision could affect your rights to own or possess firearms.

Petitioner and Respondent: You may not agree to violate the terms of this Order.

WARNING

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER MONT. CODE ANN. 45-5-220 OR 45-5-626 AND MAY CARRY PENALTIES OF UP TO $10,000 IN FINES AND UP TO A 5 YEAR JAIL SENTENCE.

THIS ORDER IS ISSUED BY THE COURT AND THE RESPONDENT IS FORBIDDEN TO DO ANY ACT LISTED IN THE ORDER, EVEN IF INVITED BY THE PETITIONER OR ANOTHER PERSON. THIS ORDER MAY BE AMENDED ONLY BY FURTHER ORDER OF THIS COURT OR ANOTHER COURT THAT ASSUMES JURISDICTION OVER THIS MATTER.

The Sheriff is hereby directed to serve, without cost to the Petitioner, a copy of this Temporary Order of Protection, together with a copy of the Petitioner's petition, upon the Respondent and to file a return of service with the Clerk of this Court. Upon receipt of proof of service of this Order, the Clerk is hereby directed to mail or otherwise promptly deliver a copy of this Order, together with a copy of the proof of service, to the following law enforcement agencies: MISSOULA COUNTY SHERIFF'S OFFICE (Warrants).

ISSUED this 23 **day of** August **, 201**3 **, at the hour of** 10:45 a **.m.**

Sam Warren
JUDGE

SHERIFF'S RETURN

I served this Temporary Order of Protection on the Respondent by delivering a copy to him/her at ___:___ o'clock __.m. on (date) _____, 201__ at (location)

DATED this ____ day of _____, 201____.

Signature of Server