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**Timothy W. Fitzgerald
SPOKANE COUNTY CLERK**

**SUPERIOR COURT OF WASHINGTON
COUNTY OF SPOKANE**

In re the Matter of:

SIRINY SURINA,

Petitioner,

and

AARON SURINA,

Respondent.

NO. 17-3-01817-0

ORIGINAL

VERBATIM REPORT OF PROCEEDINGS

BE IT REMEMBERED that the attached oral ruling was heard
before the Honorable Patti Connolly Walker District Court
Judge, County of Spokane on February 1, 2018, in Spokane
County District Court under case number 18720043.

SUSAN L. ROBSON, TRANSCRIBER
PO BOX 3100
DEER PARK, WA. 99006
509-280-2577

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3 **DISTRICT COURT OF WASHINGTON**
4 **COUNTY OF SPOKANE**

5 In re the Matter of:

6 AARON SURINA,

7 Petitioner,

8 and

9 CARL WILSON,

Respondent.

NO. 18720043

COPY

10 VERBATIM REPORT OF PROCEEDINGS
11 ORAL RULING

12
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APPEARANCES:

For the Petitioner: MR. AARON SURINA
Pro Se

For the Respondents: MS. LISA BREWER
Attorney at Law
104 South Freya St.
Suite
Spokane, WA. 99202

1 THE COURT: very little time left for all the other
2 cases, and so I don't want anyone to think that the Court is
3 shortcutting this process because I don't feel it's
4 important. In fact, it's just the opposite that I'm very
5 concerned about the language that I use in this order and
6 wish I additional time to make further findings, both orally
7 and written form. And that is because I want it to be very
8 clear in this case that what the standard is for this Court
9 to make a finding and to grant the order that's requested,
10 the anti-harassment protection order as to Mr. Wilson. And
11 so while I am finding that I do have jurisdiction over this
12 specific issue, and the minor to a very limited extent,
13 which I reference later; and I'm finding that there was
14 personal service opportunity for notice and a hearing and
15 that the petitioner and respondent were both granted the
16 opportunity for a continuance should they wish additional
17 time because of the late filing of information and the
18 detailed information. They both indicated that they didn't
19 need that, and they were prepared to proceed today.

20 So, rather than go through the individual incident
21 because I think they were well flushed out, I going to
22 indicate that I am unable to find by a preponderance of the
23 evidence, so that's a different standard as in other
24 actions, preponderance of the evidence essentially means if
25 you think of my arms as the scales of justice, it means that

1 the scales just have to tip a little bit in the petitioner's
2 favor for the Court to grant the order. In a criminal case
3 the state's burden is much greater and the scales have to
4 tip a lot more beyond a reasonable doubt and there are other
5 standards of burdens of proof in different civil
6 proceedings, and I won't go over those. But in any event,
7 the standard of proof here is relatively low as compared to
8 other kinds of proceedings.

9 But nevertheless, I am unable to find a preponderance
10 of evidence to establish that the respondent engaged in a
11 course of conduct directed at the petitioners. I say
12 petitioners because I mean both the minor children and Mr.
13 Surina, and I'll go over that in a moment in a little bit
14 more detail.

15 I'm also finding that there's insufficient evidence to
16 support a finding that the respondent's actions were
17 unlawful or designed to cause petitioner substantial
18 emotional distress, or that they would of caused substantial
19 emotional harm or distress to a reasonable person in
20 petitioner's position. I'm also finding that the course of
21 conduct, the allegations of a course of conduct by Mr.
22 Wilson being part of a course of conduct directed at Mr.
23 Surina is also unsupported by the evidence. But rather
24 supports an indication that it's an attempt to help a woman
25 involved in a very contentious family law case that's

1 ongoing.

2 The Court is also unable to find by a preponderance of
3 the evidence that the respondent caused physical harm,
4 bodily injury, assault, or fear of infliction of any of
5 these things to the minor child, petitioner, or to Mr.
6 Surina. It should be noted also that I only included this
7 issue in the temporary order to provide temporary protection
8 to the child as the Court did not have confirmation of this
9 issue being addressed in Superior Court. I was very wary of
10 this when it was originally brought before the Court on the
11 Ex Parte docket because as was indicated to include the
12 residence of someone else would rarely ever be granted
13 except for the allegations of ongoing harm to the child; and
14 the Court's inability without doing research of its own,
15 which is really not appropriate. I can look to see if there
16 are other orders on other cases; but we typically don't do
17 any research into other cases except in the presence of the
18 parties. So, if I were to do that I would have both parties
19 here, and I'd say, I'm not going to look at this, I'm now
20 going to look that, if I needed additional information and
21 give everyone an opportunity to object, but I don't do that
22 during Ex Parte proceeding. I don't believe it would be
23 appropriate to do that.

24 But I do recall during the Ex Parte process that my
25 bailiff was going back and forth as I was requesting

1 additional information on very specific issues because of my
2 concern that this Court was being used to obtain a sword
3 rather than a shield in a civil protection order and to do
4 something outside of Superior Court that would not get the
5 same result in Superior Court. Because frankly, if Mr.
6 Wilson is a danger to the child this issue needs to be
7 addressed in Superior Court.

8 MR. SURINA: How?

9 THE COURT: By---

10 MR. SURINA: I'm a pro se litigant, I have no money at
11 all.

12 THE COURT: Right, so you can get legal advice, there
13 are many different organizations, Center For Justice---

14 MR. SURINA: Lutheran community?

15 THE COURT: Right. I think my bailiff probably
16 provided with some of that information. If the child is a
17 victim of sexual assault or that's believed, certainly
18 Lutheran provides sexual assault advocates for children and
19 others. And of course, there are other, many other avenues,
20 you are attempting to avail yourself of. At the end of the
21 day these are issues that need to be decided by Superior
22 Court.

23 MR. SURINA: Okay.

24 THE COURT: The protection of a child is at issue in a
25 Superior Court matter and the Court is satisfied that Ms.

1 Surina and the children have representation. Superior Court
2 will appoint will appoint guardian ad litem if there's any
3 need for that. And also, there's also being some
4 examinations that the Court reads -- and I should note for
5 the record, that for six years I prosecuted child sexual
6 assault cases. So, this is not a new issue. I've done
7 sexual assault protection orders for years in this Court and
8 so this is not a new area to this Court. I know how to read
9 doctor records in this regard, and what the examinations
10 typically show and also you know, the best practices in
11 terms of proceeding and having a specialized team address
12 those issues. So, I am very concerned about anything else
13 happening with respect to the child. And we'll leave that
14 to Superior Court to address, that is the proper forum for
15 it to be addressed and I am satisfied that that is
16 occurring. So, I've made a note of that that I didn't have
17 confirmation of this issue being addressed in Superior Court
18 matter. I'm satisfied today that because, frankly, both
19 parties might have been being represented themselves and
20 there might have continued to be a great imbalance of power
21 so that is always a concern for a Court. But I am satisfied
22 that these issues are being resolved in the best interest of
23 the children and fully addressed in Superior Court. I don't
24 need to address the allegations of sexual assault through an
25 anti-harassment order, it wouldn't be appropriate for me to

1 do that. And that was one of the issues that was queried, I
2 believe, I asked my bailiff to inquire, was this -- were you
3 wanting to file this as an anti-harassment order and not a
4 sexual assault protection order and you indicated that that
5 was correct. So, but you included the allegation of sexual
6 assault.

7 So, I'm finding that number one, it's not appropriate
8 for the Court to make a final determination on that issue.
9 But I'm also indicating that that said, that the Court is
10 not finding -- is finding that there is not a preponderance
11 of evidence to support any injury to the child by the
12 respondent. In fact, I indicated earlier that I'm very
13 familiar with -- the report that was included here is not
14 what a report would read if there was, in fact, a belief of
15 sexual assault; and certainly, that analysis could be
16 ongoing. But what I read was a report that indicated that
17 the child had, I don't call it (inaudible) some that were
18 likely the cause of eczema, and scratching, and usual
19 childhood issues. So, not herpes, not evidence of sexual
20 assault, nothing of that nature. So, I want to be very
21 clear about that and maybe I'll make that indication in
22 here.

23 MR. SURINA: I'm not a doctor, so I just know that he
24 did make the statement that it---

25 THE COURT: So, let me finish here.

1 MR. SURINA: Okay.

2 THE COURT: So, what I've added in here is that the
3 Court also finds that the medical reports provided do not
4 support any finding of sexual abuse by the child -- of the
5 child, and the Court is concerned that the child's wellbeing
6 is, as well as, the respondents are harmed by petitioner's
7 action in this matter. I say that because what you may not
8 realize as a pro se litigant is that all of these documents
9 that you filed in our Court, don't get the same protection
10 that they do in Superior Court under a family law matter;
11 meaning they are a matter of public record. And so the --
12 this is always a concern, and frankly, had the reports been
13 different I would of suggested that they be redacted and
14 before being filed with the Court, the reports that were
15 provided today as part of the declaration, but I did not do
16 that partially because that issue, from my perspective, in
17 this case should be taken off the table and clearly done so.
18 And not just for the respondent's wellbeing, but also for
19 the child's wellbeing. And so, what I want to impress upon
20 you Mr. Surina is that if you truly want to protect your
21 child---

22 MR. SURINA: I do.

23 THE COURT: ---you have to go very carefully and not be
24 rash in your decisions. You should get legal advice
25 about -- and also perhaps counseling advice for yourself,

1 because every step that is taken in case like this can cause
2 harm to a child. These children, from the Court's very
3 brief view, are living in a war zone. And they are -- they
4 cannot be free of the stress that their parents are feeling
5 and they're going back and forth between the two homes, and
6 even if the parents never say a word about the other parent,
7 they still feel that pressure, that fear, that harm that the
8 other parent feels and they feel torn, and it can cause
9 great harm and I assume that's why this child is in therapy.
10 But what I want to impress upon you is that by having legal
11 advice you may not cause the same kind of harm. A good
12 lawyer who is familiar with this process would of said,
13 yeah, I would not file that in District Court; and here's
14 why; because it's going to harm your child. It's going to
15 also perhaps have ramifications in your Superior Court case.
16 So, I say that because you're not required to get legal
17 advice in this court. It's designed for people to help
18 themselves without having to have lawyers. But with these
19 issues that you have ongoing it would be---

20 MR. SURINA: I had a great lawyer, I just -- you can
21 see that this---

22 THE COURT: So, hang on. So, there are many lawyers
23 who can help on a sliding fee scale or for free. My
24 suggestion is that before you make any additional
25 allegations of this nature---

1 MR. SURINA: Yeah.

2 THE COURT: ---consider the impact on your children and
3 your motivation for doing that. And because as we know,
4 Judges and Commissioners in this area that people feel very
5 desperate when they're losing something, a marriage, a
6 child, and they do things that they may not otherwise do,
7 and they convince themselves that it's a good idea or
8 talk to the wrong people and are convinced by other people.
9 So, what I'm suggesting that you be very careful in the
10 future about any filings; because I'm not granting your
11 petition, I'm also not finding that the respondent engaged
12 in any -- that there's preponderance of the evidence to find
13 that the respondent engaged in any stalking or that type of
14 harassment.

15 MR. SURINA: Okay. (Inaudible).

16 THE COURT: Stalking is a very broad term, some of what
17 you indicated could be considered stalking. I am denying
18 the request for a protection order. The temporary order is
19 dismissed. It doesn't affect any other orders that you may
20 you have in other courts. And you have 30 days to appeal
21 the Court's decision.

22 MR. SURINA: Sure.

23 THE COURT: You can get the appeal paperwork from the
24 clerk's office downstairs and has to be filed within 30
25 days. I'm going to give you a copy of this today and get

1 your signature on it, so no further service is necessary.
2 But I did want to date that additional time to really
3 impress upon you that these processes are solely intended
4 for protection---

5 MR. SURINA: Absolutely.

6 THE COURT: ---not for retaliation, not for harm to
7 others and that my concern here today is that for the brief
8 information that I have my concern is that your motives were
9 not in that vein. So, I will encourage also to take a look
10 at some, you know, support for yourself in terms of all of
11 the issues that I addressed and because I'll just say this.
12 I do the domestic violence criminal docket, right, that's
13 what I do every day, all day, in addition to this docket.
14 The way you present is someone with power and control
15 issues; and that is very concerning to a Court.

16 MR. SURINA: (Inaudible) abused by this process.

17 THE COURT: Well, so the -- but the way you present
18 means you're either presenting yourself wrong or there are
19 red flags that Courts see, which is another reason why you
20 should really get appropriate support before proceeding in
21 any other matters. So, with that, I will -- do you have any
22 questions?

23 MR. SURINA: In regards to the three pieces of evidence
24 the DSHS fraud, the 911 call, which is a felony and what
25 about those? I mean those all harassment.

1 THE COURT: I'm not finding that any of those -- that
2 there was sufficient evidence for the Court to find by a
3 preponderance of the evidence. But I also want to indicate
4 that I'm also not finding there's really any support for
5 those. There's a double prong that the Court has to go
6 through. I have to find that it would cause substantial
7 ahem or distress to you or your son, did actually do that;
8 and, it would to a reasonable person in your position. What
9 I'm finding is a reasonable person in your position would of
10 seen those acts in the way that the Court views them which
11 is a man trying to help a somewhat disenfranchised woman
12 with limited support in the community and limited ability to
13 communicate, at the request of her attorney as an advocate
14 in a sense. And that he stayed on scene ^a as any lawyer would
15 say to a petitioner, a woman in your wife's situation from
16 the limited information that I have, they would say, have
17 someone there with you when it is served and ask that
18 someone to assist if need be by calling law enforcement.
19 So, the fact that law enforcement was called though---

20 MR. SURINA: He wasn't there though.

21 THE COURT: ---does not mean anything in terms other
22 than he was attempting to make sure that the order was
23 enforced in a peaceful manner. Also, the other thing about,
24 which you may not know, when law enforcement get this kind
25 of a call, they ask very specific questions. And so it's

1 not necessarily as you might think that someone is saying,
2 and he's on drugs, and he's got guns, and he's got -- it's
3 in response, yes, I believe that might be the case. Yes, I
4 believe that might be the case. So, I think if you'd
5 inquired further you maybe received legal counsel or
6 assistance from someone knowledgeable in the area where
7 there is a therapist or otherwise, they would of helped you
8 understand that the 911 situation was not as it appeared.
9 If your mother-in-law not able to receive service she won't
10 get them. It's that simple, right. If she is, you know, in
11 the system, all that would need to be done is DSHS would
12 have to do their job and determine whether or not services
13 were appropriate. Just because somebody is involved in an
14 immigration process or hear under a, I forget what it's
15 called---

16 MR. SURINA: (Inaudible).

17 THE COURT: ---that doesn't mean they're not
18 necessarily eligible for services and in fact the whole
19 healthcare team that you talked about is not an uncommon
20 situation even for people with means. Children get to have
21 services no matter their parents make and people who are in
22 need of services can be eligible having nothing to do with
23 income levels. So, there are all of these issues that
24 you've raised that I don't have time to go over. We're
25 already into the noon hour and so I've still got multiple

1 other cases to do.

2 MR. SURINA: (Inaudible).

3 THE COURT: So, with that said I'm going to print the
4 order and we'll get your signatures. Yes, Ms. Brewer, on
5 the issue of fees, while I don't want you to do -- my vague
6 recollection the last time I had to address fees in an anti-
7 harassment order is I think that may only be permissible if
8 the order protecting your client is granted and that the
9 Court actually went through that process of making a
10 determination as to whether your client needed to be
11 protected from Mr. Surina. What I will do is -- while I
12 really don't want to leave this open for another day, that
13 is a possibility had we had time to address it today, the
14 Court likely would of heard more on that. With what I'm
15 indicating there Mr. Surina is that if I were to allow Mr.
16 Wilson to make argument before the Court that in fact had we
17 had more time the Court would of granted an order protecting
18 him from you. Then he may be entitled to reasonable
19 attorney fees for that process. So, I'm going to leave that
20 for another day and because we simply don't have time, but
21 my recollection is I'm not able to grant it unless I grant
22 an order to Mr. Wilson as part of the same process. So,
23 I'll leave that for another day and that's another reason
24 why you want to go very carefully on these issues. All
25 right, thank you. (COURT RULING CONCLUDES)

1 STATE OF WASHINGTON)
2 COUNTY OF STEVENS)

CERTIFICATE

3
4 I, SUSAN L. ROBSON, a notary public in and for the
5 State of Washington, do hereby certify:

6 That I am an authorized transcriptionist;

7 I received the electronic recording directly from the
8 trial court conducting the hearing;

9 This transcript is a true and correct record of the
10 proceedings to my best ability, including any changes made
11 by the judicial officer reviewing the transcript;

12 I am in no way related to or employed by any party in
13 this matter, nor any counsel in the matter; and

14 I have no financial interest in this litigation.
15

16
17 WITNESS my hand and seal this 11th day of February, 2018
18 at Clayton, Washington.

19
20 
21 NOTARY PUBLIC in and for the
22 State of Washington, residing
23 at Clayton. My commission
24 expires: 09/09/2021
25