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4 BY M.B. Stackhouse
5 DEPUTY

6
7 IN THE FAMILY DIVISION
8 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
9 IN AND FOR THE COUNTY OF WASHOE

10 ANDREW FURER,

11 Applicant,

12 vs.

CASE NO. FV04-04071

13 ELOISA FURER,

DEPT. NO. 2

14 Adverse Party.

15
16 ORDER

17 On July 24, 2008, the Court¹ heard the Applicant's Motion for Order to Show Cause
18 Why Adverse Party Should Not Be Held in Contempt and a Warrant Issued for Her Arrest,
19 filed March 25, 2008. In that motion, the Applicant also requested a new order of protection
20 pursuant to NRS Chapter 33. The Adverse Party's Opposition and the Applicant's Reply had
21 been filed on April 7 and April 14, 2008, respectively.

22 At the hearing on July 24, the Court denied Adverse Party's motion to continue and
23 entered an Extended Order of Protection (later amended on July 29, 2008, regarding surrender
24 of firearms) for one year which was filed and served on the Adverse Party's counsel on that
25 same date. The Court also addressed the contempt issue, and made a preliminary finding of
26 contempt with a jail sentence for each of four violations established. No written order was
27 issued on the contempt, as the Court's review of the Order to Show Cause had informed the

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¹ Court Master Carol A. Cooke was assigned to hear the extension request and the contempt matter.

1 Adverse Party of possible "civil contempt" with possible sanctions of a fine or community
 2 service, or both, for each violation established. After conferring with counsel on July 25, 2008,
 3 the Court convened a telephonic hearing on July 29, 2008, to address the notice issue among
 4 other issues. The Court then took the contempt matter under advisement.

5 Between the time the Court requested the telephonic hearing and the telephonic hearing
 6 itself, counsel filed pleadings in support of their respective positions.

7 On or about July 30, 2008, Adverse Party filed her Objection to District Court Master
 8 Carol Cooke's Findings of Fact, Conclusions of Law and Recommendations for Sanctions at
 9 Hearing on July 24, 2008, and her Ex Parte Emergency Motion for Hearing De Novo on
 10 Applicant's Motion for order to Show Cause Why Adverse Party Should Not Be Held in
 11 Contempt and a Warrant Issued for Her Arrest. To the degree that the Adverse Party objects to
 12 the entry of the Amended Extended Order of Protection, that motion is denied, as the Adverse
 13 Party must follow the procedure for filing an objection pursuant to WDCR 32. Although
 14 premature when initially filed, Adverse Party's remaining claims are addressed now. Her
 15 objection to the Court Master hearing the contempt issue is meritless. NRS 22.030(3) required
 16 the Adverse Party to object pursuant to this statute. She did not do so until she filed the above
 17 pleadings, and she has therefore waived any such objection.²

18 Her allegation of bias on the part of the Court Master is unfounded. Not only is the
 19 alleged bias so factually attenuated that it is difficult to comprehend exactly what bias is
 20 alleged (P. 2, para. 4, Affidavit of Eloisa B. Furer, Request for Submission and Motion to
 21 Supplement Opposition to Complainant's [sic] Motion Show Cause, filed July 22, 2008), but
 22 the issue was raised for the first time in this pleading, filed two days before the hearing.³ The
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24 ² NRS 22.030(3) provides that family court is not subject to the objection process if the proceeding is listed in
 25 NRS 3.223(1). Chapter 33 is not listed among those proceedings because subsection 2 of that same statute
 26 recognizes concurrent jurisdiction over protection orders in justices' courts and family courts. NRS 3.223(2) refers
 27 to NRS 4.370 which, in turn, limits justices' court jurisdiction over Chapter 33 matters to counties whose
 28 populations are more than 100,000 but less than 400,000. NRS 4.370(m). Not only is Washoe County's population
 more than 400,000, but Chapter 33 protection orders and related hearings have resided in the Family Court
 Division of the Second Judicial District Court for a number of years. If the statutes are viewed together, a
 reasonable interpretation exempts protection order matters from the objection process in NRS 22.030(2) in the
 Second Judicial District Court.

³ The Court received the Motion and affidavit on the day of the hearing.

1 Adverse Party failed to follow the procedure set forth in NRS 1.1.235 for disqualification of
2 judges.

3 The Court now turns to the Order to Show Cause, issued on May 18, 2008, based on the
4 Applicant's motion filed on March 25, 2008. The hearing was held on July 24, 2008, as noted
5 above. Applicant Andrew Earl Furer was present and represented by Shawn Meador, Esq. and
6 Kent Robison, Esq. Adverse Party Eloisa B. Furer was present and represented by Erik Fitting,
7 Esq. After the Court had warned Ms. Furer that the Court would not tolerate interruptions and
8 that further interruptions would cause her removal from the courtroom, she nonetheless
9 continued to interrupt the proceedings. The Court asked her to leave the courtroom. According
10 to staff, she not only left the courtroom, but then left the courthouse. Her counsel attempted to
11 reach her by telephone to have her return, but she did not return. Her counsel remained present
12 on her behalf for the remainder of the hearing.

13 Based on the pleadings, testimony, and Applicant's Exhibits A, B, and C, the Court
14 finds that Ms. Furer violated the Extended Order of Protection, issued August 14, 2007 through
15 August 14, 2008, to wit: (1) two threats to kill Mr. Furer made to Mr. Simioni on February 12,
16 2008; (2) a threat to kill the Applicant made to Ms. Baran on February 12, 2008; and (3) a
17 threat to harm Mr. Furer made to Ms. Baran made on February 12, 2008; and (4) on February
18 12, 2008, Ms. Furer told Ms. Baran, "You wait and see, I'll get back at Andy." This last threat
19 was made after Ms. Furer had made an earlier threat to kill Mr. Furer. The Court further finds
20 that Ms. Furer intended that these comments be transmitted to Mr. Furer, and used the above-
21 named individuals for this purpose. She therefore violated the terms of the Extended Order of
22 Protection prohibiting her from, "directly or through an agent, from threatening, physically
23 injuring or harassing," Mr. Furer.

24 The Court has reviewed the arguments in support of imposing jail time for these
25 violations. The Court agrees that the serious nature of Ms. Furer's threats and her repeated
26 violations of the Extended Order of Protection warrant imprisonment.

27 **IT IS HEREBY ORDERED:** Ms. Furer is sentenced to 10 days imprisonment in the
28 Washoe County Jail for each contempt violation for a total of forty (40) days imprisonment.

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Ms. Furer shall serve ten (10) days in the Washoe County Jail, with the remaining thirty (30) days suspended provided no further violations of the Amended Order of Protection are proved. Ms. Furer is **ORDERED** to surrender herself to the Washoe County Jail on December 10, 2008 to begin her sentence.

IT IS FURTHER ORDERED that the Amended Extended Order of Protection shall be amended to provide that it shall be a violation of that Order to communicate a threat against Mr. Furer to a third person when there is a reasonable likelihood that the third person will then communicate that threat to Mr. Furer.

IT IS FURTHER ORDERED that Mr. Furer shall effectuate personal service of this Order upon Ms. Furer.

IT IS SO ORDERED.

Dated: December 3, 2008.

David A. Hardy

David A. Hardy
District Court Judge