

STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

LAW COURT DOCKET NO. KNO-25-10

PAT DOE

Plaintiff-Appellee

v.

JEFFREY WEYMOUTH

Defendant-Appellant

ON APPEAL FROM THE ROCKLAND DISTRICT COURT

BRIEF OF APPELLEE

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STATEMENT OF FACTS AND PROCEDURAL HISTORY

A. BACKGROUND/HISTORY OF ESCALATING ABUSE

The parties were married on July 10, 2014. (Appendix pg. 35, hereinafter “App. __”). The parties are the biological parents of one child, [REDACTED], born [REDACTED]. (App. 36). Appellee filed for divorce on or about August 8, 2023, and the divorce was subsequently granted by the court on September 10, 2024. (App. 35, 44). Appellant is a severe alcoholic, and his addiction had “a tremendous effect on his life and then the family’s life as well.” (Transcript at 7-8, hereinafter “Tr. __”). As a result, the parties’ Divorce Judgment contained a requirement that Appellant have contact with his minor daughter contingent upon passing Soberlink sobriety tests three times per day. (App. 39; Tr. 11-12). A violation of this requirement resulted in a fourteen-day suspension in Appellant’s rights of contact. (App. 39). The Divorce Judgment also provided for some financial obligations. Appellant was ordered to pay weekly child support and an equitable distribution payment totaling \$242,500.00 to Appellee. (App. 43, 45).

Appellant suffered from severe clinical depression and a history of suicidal threats made to Appellee. (Tr. 10). Appellant threatened suicide to Appellee with the use of a gun, which she knew him to possess. (Tr. 10-11). Appellant has a long pattern of anger management problems. (Tr. 31).

Following divorce, Appellee was responsible for tracking Appellant's sobriety test results and enforcing the suspensions in contact with their daughter to hold him accountable. (Tr. 12-13). There was a long pattern of Appellant failing and missing scheduled sobriety tests. (App. 55-62). Appellant did not react well when Appellee enforced the suspensions in contact with his daughter. (Tr. 14). During this same period of time, Appellant was also angry and spiteful of his court-ordered financial obligations to Appellee, including child support. (Tr. 32). Appellant made a Facebook post around these circumstances expressing his frustration with the family court system in Maine. (Tr. 17-18). Appellant was looking for someone to blame for his own actions.

Next, Appellant posted an image of himself on Facebook. (App. 31). Many people alerted Appellee about the post and expressed concern for her. (Tr. 20). Appellee took the post as a threat and knew it was clearly directed at her. (Tr. 20, 28). Appellant's post used symbolism to reference his marriage to Appellee, and showed his ring finger cut off, and depicted an aggressive sexual act. (Tr. 22-24). Appellant's gesture in the image is known as "the shocker" and represents an aggressive sexual assault by putting two fingers in a women's vagina, and simultaneously one finger in her anus. (App. 32; Tr. 26-27). Appellant intended this post to be seen by, and was directed at, Appellee. (Tr. 20).

Less than a week after “the shocker” post on Facebook, Appellee was at home alone. (Tr. 28-29). Appellee’s identifiable car was parked at the house such that someone approaching her home would see it. (Tr. 29). Appellee was scared when she heard a “huge slam” outside coming from her mailbox. (Tr. 29). Appellee saw Appellant driving away when she got up to look out the window and was scared due to his history of anger. (Tr. 29, 31). Appellant followed the slamming of the mailbox with a text message stating “Maria, just dropped off your weekly subsidy check.” (App. 33; Tr. 31). The payment was actually Appellant’s child support check. (Tr. 31). These acts were consistent with Appellant’s pattern of being angry and spiteful about having to make payments to Appellee. (Tr. 32). Appellant made statements to Appellee that he felt “it’s all about the money.” (Tr. 33).

Soon after the mailbox incident, a neighbor approached Appellee with a poster found on their quiet residential street. (Tr. 34). The neighbor was “very upset.” (Tr. 34). It was a laminated poster and contained the same type of symbolism in Appellant’s earlier “shocker” Facebook post. (App. 34). The poster contained pictures of Appellee’s three husbands with her children from each relationship. (Tr. 36). One of the pictures had been stolen from Appellee’s garage where it was stored. (Tr. 38). The poster was an explicit “warning.” (Tr. 38). The poster referred to Appellee as a “gold digger” and included an image of a black

widow spider. (App. 39). Appellee was “scared” and took the inclusion of the black widow spider to reference violence and it was with private images of her children. (Tr. 39-40). Appellee interpreted the message as directed at her and found it “very threatening.” (Tr. 40). The inclusion of private images of her children from a prior marriage was particularly disturbing and she almost “became sick” at seeing them. (Tr. 40). The private family photo was taken from Appellee’s garage for the poster, so Appellee did not feel safe. (Tr. 37).

Appellee recognized the “warning” poster and “shocker” post as similar types of threats created by Appellant. (Tr. 43). Appellee had seen Appellant help friends craft similar messages that were “very harsh in a systematic way that’s not direct” and that were similarly creative. (Tr. 44).

Appellee called the police for help after the “warning” poster was found and the ██████ Police Department issued Appellant a Trespass Notice prohibiting him from going to Appellee’s property. (Tr. 44). The next day, Appellee filed her Complaint for Protection from Abuse. (Tr. 45).

B. HEARING ON COMPLAINT FOR PROTECTION FROM ABUSE

At the Protection from Abuse hearing in the District Court (Mattson, J.), Appellee described this escalation in Appellant’s behavior and expressed a fear of things continuing to get worse, and that the warning poster removed any doubt that she was in immediate danger. (Tr. 45). When asked what she was afraid of,

Appellee conveyed that she had “seen [Appellant] desperate and suicidal, what would make him stop there? He could hurt me, and then he could take care of himself.” (Tr. 45). When asked if she was afraid of that, Appellee responded “a hundred percent. I have that – I don’t sleep. Yes, I have that fear.” (Tr. 46).

At the Protection hearing, Appellant’s mother, Rosemary Weymouth, testified on behalf of her son. (Tr. 100). Rosemary Weymouth attempted to take responsibility for creating that warning poster. (Tr. 122). Rosemary Weymouth testified that she created it and then just put it in her purse after making it and that this allowed her to get some of the aggression out. (Tr. 123). She testified that she later drove up Appellee’s street, which “triggered” her, so she opened her window and threw the poster out. (Tr. 126). On the stand, she said she regretted her actions. (Tr. 126). On cross-examination, however, Rosemary Weymouth could not explain the message or meaning of the poster, despite having claimed to have created it. (Tr. 132-133). Rosemary Weymouth finally broke down during her cross-examination stating “I’m sure there is a message [in the poster].” (Tr. 133). Rosemary Weymouth, however, could not explain the poster and clearly did not understand its symbolism because she did not create it. Her testimony was dramatic, but it did not hold up under the scrutiny of cross-examination. (Tr. 132-133).

Appellant testified last at the Protection Order hearing. (Tr. 145). When questioned on direct examination about his alcohol abuse history, Appellant would only say “I was drinking for the wrong reasons later in our marriage definitely. But I used to drink socially and enjoy myself, but it became more of an issue in our marriage near the end.” (Tr. 148). On direct examination, Appellant went on to detail his attempt at long-term, residential treatment. (Tr. 148).

Appellant acknowledged the mailbox incident answering:

- Q. So you opened the mailbox.
- A. Yep. Throw it in and shut the door.
- Q. Put the child support in.
- A. And – and then drove off and then I puked. Okay.

(Tr. 154). Appellant testified that he did not break into Appellee’s garage to steal the photograph and that he did not create the poster. (Tr. 157). Appellant absolutely tried to deny that he knew anything about its creation and denied all responsibility. (Tr. 157, 169).

On cross-examination at the Protection hearing, Appellant expressed that “the shocker” hand gesture was well known by people and that he was well aware of its meaning. (Tr. 165). Appellant also acknowledged the uncanny similarity of the symbolism used in his “shocker” Facebook post and the warning poster. (Tr. 167).

- Q. again, very similar symbolism in Plaintiff’s 8 [the warning poster], isn’t there?
- A. There is.

Q. All right. Remarkable. Right?

A. Yeah.

Q. Okay. And again, there's real creativity in Plaintiff's Number 8, yes?

A. Yep.

(Tr. 167-168).

Appellant went on in cross-examination to admit that the warning poster was “not kind. It's not kind.” (Tr. 169).

C. FINDINGS OF THE TRIAL COURT

The court outlined its thorough findings on the record after the close of evidence. (App. 17). The court made note of Appellant's struggle with alcohol dependence and abuse over the years and found that he told Appellee “he would use a gun to kill himself.” (App. 17). The court underscored that this threat was not contested at hearing and had occurred. (App. 17). The court found Appellant “owned multiple firearms and that he had a problem with anger at times.” (App. 17). The court found Appellee's testimony compelling and accepted it. (App. 17).

The court went on to discuss its findings around the second incident in September 2024. (App. 18). The court specifically found that Appellant “was aware that [Appellee] was likely to see [the Facebook post].” (App. 18). The court emphasized that the post and hand gesture referred to a sex act and that Appellant “knew that that meaning was being conveyed.” (App. 18). The court summarized the disturbing nature of Appellant's Facebook post:

“The severed finger definitely implies violence to self or others. It’s inherently violent, and the severed finger is directly connected to the marriage, because of the wedding band. So I find that this Facebook selfie was a message that was directed at [Appellee].”

(App. 18).

Next, the court made a series of findings about the “mailbox incident” on October 4, 2024. (App. 18). The court emphasized that Appellant “slammed a metal mailbox at ... [Appellee’s] residence and [Appellant] knew it would create a lot of noise.” (App. 18). The court noted that Appellant knew Appellee was home at the time he did this and dropped off the child support payment he bitterly dubbed “a subsidy” to Appellee. (App. 19).

The court then turned to the “warning poster” that Appellant denied creating or placing on Appellee’s residential street. (App. 19). The court did not find Appellant’s mother, Rosemary Weymouth, credible and rejected her attempt to absolve Appellant, noting “Rosemary Weymouth was unable to convincingly describe the meaning of the poster.” (App. 19). The court pointed out the similarity between the “shocker” Facebook post by Appellant and the warning poster. (App. 19).

The court pointed to the “warning” title on the poster, and “that the black widow spider reference, again, like the severed finger, conveys violence.” (App. 20). The court found that Appellant hung the warning poster in Appellee’s neighborhood, noting “one of the definitions of abuse is attempting to place or

placing another in fear of bodily injury through any course of conduct, including but not limited to, threatening, harassing or tormenting behavior.” (App. 20).

The court also found Appellant intended to place Appellee in fear of bodily injury, and that “she was, in fact, placed in fear of bodily injury, and this was through a course of conduct that included harassing, tormenting, or threatening behavior.” (App. 20).

In its closing remarks, the court touched on Appellant’s escalating communications:

“And I do find that he consciously disregarded a substantial risk that his speech would put [Appellee] or a reasonable person in her position in fear of bodily injury, again, because of the violent references in both the warning poster and the Facebook selfie, and in light of the history between the parties, that includes statements regarding suicide and possession of firearms and what appear to be escalating [sic] pattern of drinking alcohol.”

(App. 21).

D. ORDER FOR PROTECTION FROM ABUSE

Based on a finding that Appellee met her burden of proof that she was abused by Appellant, the court issued a 2-year Order for Protection from Abuse. (App. 21, 7-12). The court’s order included a prohibition on the possession of firearms and awarded Appellee sole parental rights of the parties’ minor child. (App. 10). The court specifically ordered that contact between the child and Appellant could be set at Appellee’s discretion and further provided that these

conditions may be addressed in the upcoming hearing in the companion family matter. (App. 10).

Appellant did not file any post-judgment motions, including any motion for further findings or conclusions of law. (App. 5). This appeal followed.

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

- A. THE TRIAL COURT'S FINDINGS AND PROTECTION FROM ABUSE ORDER DO NOT VIOLATE THE FIRST AMENDMENT.**

- B. THE TRIAL COURT DID NOT ERR OR ABUSE ITS DISCRETION IN FINDING ABUSE AND GRANTING A PROTECTION FROM ABUSE ORDER.**

ARGUMENT

A. THE TRIAL COURT’S FINDINGS AND PROTECTION FROM ABUSE ORDER DO NOT VIOLATE THE FIRST AMENDMENT.

Appellant challenges the trial court’s application of the protection from abuse statute as a violation of the First Amendment. This Court reviews First Amendment challenges de novo. *See City of Bangor v. Diva’s, Inc.*, 2003 ME 51 ¶ 10, 830 A.2d 898.

Courts do not question the importance of this right to freedom of speech. “Freedom of speech . . . , which [is] protected by the First Amendment from infringement by Congress, [is] among the fundamental personal rights and liberties which are protected by the Fourteenth Amendment from invasion by state action.” *Chaplinsky v. New Hampshire*, 315 U.S. 568, 570–71, 62 S. Ct. 766, 86 L. Ed. 1031 (1942) (quotation marks omitted).

The constitutional right to freedom of speech, however, as with similarly protected rights, is not absolute. “[N]ot all classes of speech are subject to first amendment protection,” *State v. Cropley*, 544 A.2d 302, 304 (Me. 1988); *see also Schutz v. Schutz*, 522 So. 2d 874, 875 (Fla. Dist. Ct. App. 1988), and the right of free speech “is not absolute at all times and under all circumstances,” *Chaplinsky*, 315 U.S. at 571. “The First Amendment . . . is not an impenetrable shield which protects any speech or conduct, whatsoever, with disregard to its harm and effect.” *State v. Whitesell*, 270 Kan. 259, 13 P.3d 887, 900 (Kan. 2000). The use of speech

as part of conduct designed to threaten or harm other individuals will not find protection in either the Maine or the federal constitutions. *Childs v. Ballou*, 2016 ME 142, 148 A.3d 291, 298. “Despite our First Amendment rights, we are not free to harm others under the guise of free speech.” *State v. Whitesell*, at 900-01; see generally *Galloway v. State*, 365 Md. 599, 781 A.2d 851, 857-80 (Md. 2001).

The First Amendment does not serve as a shield to protect Appellant from the consequences of his escalating harassing and threatening communications. See *Childs v. Ballou*, 2016 ME 142, 148 A.3d 291, 298. Both “the shocker” Facebook post and the “warning” poster contained harassing, intimidating, and violent references. In fact, both communications caused others to bring them to Appellee’s attention as they were concerned for her well-being. (Tr. 20, 34). The court made the required finding that Appellant consciously disregarded a substantial risk that his speech would put Appellee or a reasonable person in her position in fear of bodily injury. (App. 21).

In its closing remarks, the court touched on Appellant’s speech:

“And I do find that he consciously disregarded a substantial risk that his speech would put [Appellee] or a reasonable person in her position in fear of bodily injury, again, because of the violent references in both the warning poster and the Facebook selfie, and in light of the history between the parties, that includes statements regarding suicide and possession of firearms and what appear to be escalating [sic] pattern of drinking alcohol.”

(App. 21).

What is telling about Appellant's understanding of the threatening nature of the "warning" poster is that he went to elaborate lengths to deny that he created it, deny that he placed it where Appellee was sure to see it or receive it, or that he was even aware of it. (Tr. 157, 169). This attempt to deceive the court is a clear indication of his consciousness of guilt and understanding that it was not an acceptable communication. Appellant even put his mother up to lying under oath as part of this incredible effort to deflect the blame. (Tr. 100). This was not credible, and the court rejected it based, in part, on its similarity to the shocker Facebook post and due to Rosemary Weymouth's inability to even describe its meaning. (Tr. 132-133). Both communications contained the same symbolism and style of message. (Tr. 132-133). The trial court was not bound to accept testimony and evidence as fact and must evaluate weight and credibility. *See Sloan v. Christianson*, 2012 ME 72, ¶ 33, 43 A.3d 978. The trial court was in the best position to evaluate each witness and the totality of the evidence.

The court found Appellant engaged in a course of conduct directed at Appellee and intended to place her in fear and that he was successful. (App. 18-19). The court's findings are clear. Appellant had a history of extreme alcohol abuse and had threatened suicide to Appellee with the use of a gun. (Tr. 17). Appellee knew Appellant to own many guns. (App. 17). Appellant had a history of anger issues. (Tr. 17). Appellant was angry at Appellee as he blamed her for his

own failure to abide by the Soberlink sobriety testing requirement so that he could have open contact with his daughter. (Tr. 17). Appellant was angry at Appellee for the financial obligations he owed her under the Divorce Judgment. (App. 17, Tr. 33). Then the threats began, first with the Facebook “shocker” post and then with the “warning” poster placed in Appellee’s neighborhood. (A. 19). Appellee called the police to report the course of conduct. (Tr. 44). Appellant succeeded, through these communications, to place Appellee in fear. (Tr. 40).

This Court addressed a similar fact pattern and issues in *State v. Heffron*, 2018 ME 102, 190 A.3d 232. In *Heffron*, this Court noted that Heffron’s Facebook posts “foreseeably reached” the protected person and that “their contents [were] highly personal, derogatory, harassing, and threatening.” *Id.* at ¶ 10-11. Appellant knew his communications would reach Appellee and the court found that Appellee had met her burden of proof. (App. 21).

In fact, the clearest example of Appellant’s abusive communications was his threat to commit suicide with a gun to Appellee. (App. 17). This is specifically included in the protection from abuse statute’s definition of “abuse.” 19-A § 4102(1)(E) provides that “abuse” includes “communicating to a person a threat to commit, or cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, with the conscious disregard of a substantial risk that the natural and probable consequence

of the threat, whether or not that consequence occurs, is to place the person to whom the threat is communicated, or the person against whom the threat is made, in reasonable fear that the crime will be committed.” The court found that Appellant’s suicide threat occurred, and the evidence was not disputed or challenged. (Tr. 17). This threatening communication alone is sufficient to justify an order for protection from abuse, but in this case, it was only a part of the long course of conduct directed at Appellee.

Appellant’s communications to Appellee are not protected speech. The trial court properly determined the facts and applied the law appropriately. The trial court’s Order for Protection from Abuse does not violate First Amendment protections.

B. THE TRIAL COURT DID NOT ERR OR ABUSE ITS DISCRETION IN FINDING ABUSE AND GRANTING A PROTECTION FROM ABUSE ORDER.

Appellant next contends that the court erred by finding that Appellee proved by a preponderance of the evidence that Appellant abused her. See 19-A M.R.S. §4102(1) (2021); *Walton v. Ireland*, 2014 ME 130, ¶ 22, 104 A.3d 883. This Court reviews a trial court’s factual findings for clear error and will affirm those findings if “they are supported by competent evidence in the record, even if the evidence might support alternative findings of fact.” *Handrahan v. Malenko*, 2011 ME 15, ¶ 13, 12 A.3d 79 (quotation marks omitted). “We review the trial court's findings of

fact for clear error and will affirm those findings if there is competent evidence in the record to support them, even if the evidence might support alternative findings of fact.” *Preston v. Tracy*, 2008 ME 34, ¶ 10, 942 A.2d 718 (quotation marks omitted). This deferential standard is “particularly appropriate” in actions for protection orders, “where the trial court’s ability to observe the witnesses invariably plays a part in its assessment of the impact a particular person’s words and actions had upon another person.” *Smith v. Hawthorne*, 2002 ME 149, ¶ 16, 804 A.2d 1133. This was especially important in the instant case. Appellant went to elaborate lengths to attempt to deceive the court about the “warning” poster. (App. 19). Appellant attempted to show that he had no involvement in the “warning” poster’s creation or placement in Appellee’s neighborhood. The court appropriately rejected these attempts and found that the “warning” poster was part of Appellant’s course of conduct directed at Appellee. (App. 19).

No motion for further findings of fact or law was filed by Appellant. (App. 5). Accordingly, this Court must assume that the trial court made all findings necessary to support its order, but only to the extent those findings are supported by competent record evidence. *See Gehrke v. Gehrke*, 2015 ME 58, ¶ 8, 115 A.3d 1252. In the instant case, the trial court outlined its thorough findings on the record after the close of evidence. (App. 17). The court went through the evidence point

by point, outlined its conclusions, and applied the facts as it found them to be to the Maine protection from abuse statute.

The court made note of Appellant’s struggle with alcohol dependence and abuse over the years and found that he told Appellee “he would use a gun to kill himself.” (App. 17). The court underscored that this threat was not contested at hearing and had occurred. (App. 17). The court found Appellant “owned multiple firearms and that he had a problem with anger at times.” (App. 17). The court found Appellee’s testimony compelling and accepted it. (App. 17).

The court went on to discuss its findings around the second incident in September 2024. (App. 18). The court specifically found that Appellant “was aware that [Appellee] was likely to see [the Facebook post].” (App. 18). The court emphasized that the post and hand gesture referred to a sex act and that Appellant “knew that that meaning was being conveyed.” (App. 18). The court summarized the disturbing nature of Appellant’s Facebook post:

“The severed finger definitely implies violence to self or others. It’s inherently violent, and the severed finger is directly connected to the marriage, because of the wedding band. So I find that this Facebook selfie was a message that was directed at [Appellee].”

(App. 18).

Next, the court made a series of findings about the “mailbox incident” on October 4, 2024. (App. 18). The court emphasized that Appellant “slammed a metal mailbox at ... [Appellee’s] residence and [Appellant] knew it would create a

lot of noise.” (App. 18). The court noted that Appellant knew Appellee was home at the time he did this and dropped off the child support payment he bitterly dubbed “a subsidy” to Appellee. (App. 19).

The court then turned to the “warning poster” that Appellant denied creating or placing on Appellee’s residential street. (App. 19). The court did not find Appellant’s mother, Rosemary Weymouth, credible and rejected her attempt to absolve Appellant, noting “Rosemary Weymouth was unable to convincingly describe the meaning of the poster.” (App. 19). The court pointed out the similarity between the “shocker” Facebook post by Appellant and the warning poster. (App. 19). The symbolism and messaging contained in both communications were almost identical. (App. 19).

The court pointed to the “warning” title on the poster, and “that the black widow spider reference, again, like the severed finger, conveys violence.” (App. 20). The court found that Appellant hung the warning poster in Appellee’s neighborhood, noting “one of the definitions of abuse is attempting to place or placing another in fear of bodily injury through any course of conduct, including but not limited to, threatening, harassing or tormenting behavior.” (App. 20).

Because a trial court is not bound to accept testimony and evidence as fact, and because determinations of the weight and credibility of testimony and evidence are “squarely in the province of the fact-finder,” this Court should not second-

guess the trial court’s credibility assessment of conflicting testimony. *Sloan v. Christianson*, 2012 ME 72, ¶ 33, 43 A.3d 978.

Maine’s protection from abuse statute provides that a court may enter an order of protection “after a hearing and upon finding that the defendant has committed the alleged abuse.” 19-A M.R.S. § 4109(1) (2021). The Legislature has included in the statutory definition of abuse, “[a]ttempting to place or placing another in fear of bodily injury through any course of conduct, including, but not limited to, threatening, harassing, or tormenting behavior.” 19-A M.R.S. §4102(1)(B). This Court has held, in interpreting this definition of abuse, that if the person seeking the protective order is in actual fear of bodily injury, that fear must be reasonable, considering all of the circumstances. *See Smith v. Hawthorne*, 2002 ME 149, ¶¶ 17-18, 804 A.2d 1133, 1139.

Thus, pursuant to section 4102(1)(B), a court may order protection from abuse if the defendant either (1) “[a]ttempt[ed] to place . . . another in fear of bodily injury through [a] course of conduct,” or (2) actually “plac[ed] another in fear of bodily injury” through that course of conduct, if the fear was reasonable. *Id.* The statute therefore authorizes a court to issue a protective order if a person, with or without the intent to induce fear, engaged in conduct that actually “plac[ed] another in [reasonable] fear of bodily injury.” *Id.*; *Smith*, 2002 ME 149, ¶¶ 17-18, 804 A.2d at 1139. A court need not determine whether the defendant intended to

frighten another person if (1) the defendant’s actions actually placed the person in fear, (2) the person was in fear of bodily injury, and (3) the person’s fear was reasonable. See 19-A M.R.S. § 4102(1)(B); *Smith*, 2002 ME 149, ¶¶ 17-18, 804 A.2d at 1139. At hearing, Appellee conveyed that she had “seen [Appellant] desperate and suicidal, what would make him stop there? He could hurt me, and then he could take care of himself.” (Tr. 45). When asked if she was afraid of that, Appellee responded “a hundred percent. I have that – I don’t sleep. Yes, I have that fear.” (Tr. 46).

The trial court carefully analyzed the evidence and testimony and properly found Appellant intended to place Appellee in fear of bodily injury, and that “she was, in fact, placed in fear of bodily injury, and this was through a course of conduct that included harassing, tormenting, or threatening behavior.” (App. 20). The court did not err or abuse its discretion in finding abuse had occurred as defined by Maine law and granting a 2-year protection from abuse order.

CONCLUSION

The trial court properly evaluated the testimony and evidence and determined that Appellant engaged in a course of conduct that placed Appellee in fear of bodily injury. This conduct included both communications and actions by Appellant. Appellant also threatened suicide to Appellee with the use of a gun, which is sufficient alone to justify the issuance of the 2-year protection order.

The court properly found that Appellant's communications were not protected by the First Amendment. Appellant consciously disregarded a substantial risk that his communications would place Appellee in fear of bodily injury. The trial court's order for protection from abuse does not violate the First Amendment.

For these reasons, the Court should affirm the Order of the District Court.

Dated: June 9, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Eric B. Morse, Esq., Attorney for Appellee, hereby certify that I have made due service of the within Brief of Appellee by mailing two conformed copies of the Brief by regular course of the United States mail, postage prepaid, with a copy also by email, to counsel for the Appellant at the following addresses:

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