

DOCKET NO. MMX-CR14-0675616-T	:	SUPERIOR COURT
MMX -CR13-0200821-T	:	
STATE OF CONNECTICUT	:	JUDICIAL DISTRICT OF MIDDLESEX
V.	:	AT MIDDLETOWN
	:	
EDWARD TAUPIER	:	OCTOBER 24, 2014

**MEMORANDUM OF LAW ON
ISSUANCE OF A FAMILY VIOLENCE PROTECTIVE ORDER**

Defendant Edward Taupier (“Taupier”), by and through his undersigned counsel, hereby addresses the validity of a Family Violence Protective Order (“protective order”) appearing in above-captioned docket number MMX-CR13-0200821-T.

I. RELEVANT FACTS AND PROCEEDINGS

A protective order appears in docket number MMX-CR13-0200821-T (“2013 case”) prohibiting Taupier from contact with his wife Tanya Taupier and, among other collateral consequences, the possession of firearms. Prior to an October 24, 2014, modification, the protective order prohibited Taupier from contact with his children. The record reflects Taupier’s counsel requested a *Fernando A.* hearing to dissolve or lift the order:

ATTY. DONOVAN: Your Honor, just for the record there was -- last week when I was on vacation a protective order that was issued in the file that I’m representing him on --

THE COURT: There was.

ATTY. DONOVAN: There may be the necessity in the future to request a *Fernando* hearing in connection with that.

THE COURT: All right. Well, then -- well, you'll move for one should you want one, correct?

ATTY. DONOVAN: Thank you, Judge.

(09/11/2014 Hr'g Tr., 4:22-5:5) Taupier appeared in court on above-captioned docket number MMX-CR14-0675616-T ("2014 case") in the week prior to September 11, 2014, specifically on September 2, 3, and 4, 2014. Counsel's reference to the potential necessity of a *Fernando A.* hearing in the future arises from insufficiency or lack of a record of actual service of a protective order upon Taupier.

II. LEGAL ARGUMENT:

A protective order may issue in accordance with the language of General Statutes §§ 46b-38c(e), 54-1k, and 54-82k. *See* General Statutes § 53a-223.

In all cases of family violence... A judge of the Superior Court may consider and impose the following conditions to protect the parties, including, but not limited to: (1) Issuance of a protective order pursuant to subsection (e) of this section;

General Statutes §§ 46b-38c(d)(1), 46b-38c(e). The term "cases of family violence" is defined under General Statutes § 46b-38a, as all crimes involving family members which contain an element of violence.¹

¹ *See* General Statutes § 46b-38a: "For the purposes of sections 46b-38a to 46b-38f, inclusive:(1) "Family violence" means an incident resulting in physical harm, bodily injury or assault, or an act of threatened violence that constitutes fear of imminent physical harm, bodily injury or assault, including, but not limited to, stalking or a pattern of

A. 2014 Case

The 2014 case arises from an arrest on August 29, 2014, alleging that a judge was threatened and harassed by a private email transmitted by Taupier to six individuals of no relation, familial or otherwise, to a judge referenced in the email. The judge was made aware of the email through a chain of individuals six days after the original transmission. The affiants to the arrest warrant summarized the case:

With this action, he *threatened* Judge Bozzuto with intent to place her in fear of imminent serious physical injury. In doing so, this Affiant believes that Edward Taupier violated Connecticut General Statutes 53a-61aa: Threatening in the first degree, Connecticut General Statutes 53a-183(a)(2) Harassment in the second degree and that probable cause exists for his arrest.

(08/29/2014 Arrest Warrant, ¶ 10) Taupier posted bail and was released on August 29, 2014, with a court date of September 12, 2014. The Court Support Services Division (CSSD) characterized the matter in a September 4, 2014, case data record assessing the 2014 case as follows: "The

threatening, between family or household members. Verbal abuse or argument shall not constitute family violence unless there is present danger and the likelihood that physical violence will occur.(2) "Family or household member" means any of the following persons, regardless of the age of such person: (A) Spouses or former spouses; (B) parents or their children; (C) persons related by blood or marriage; (D) persons other than those persons described in subparagraph (C) of this subdivision presently residing together or who have resided together; (E) persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and (F) persons in, or who have recently been in, a dating relationship.(3) "Family violence crime" means a crime as defined in section 53a-24, other than a delinquent act as defined in section 46b-120, which, in addition to its other elements, contains as an element thereof an act of family violence to a family or household member. "Family violence crime" does not include acts by parents or guardians disciplining minor children unless such acts constitute abuse. (4) "Institutions and services" means peace officers, service providers, mandated reporters of abuse, agencies and departments that provide services to victims and families and services designed to assist victims and families."

defendant has no prior domestic arrest history, but has charges pending today transferred from Hartford relative to threatening a judge under MMX-CR14-0675616-T." The case was investigated and pursued by law enforcement as a case involving a threat against a judge.

The 2014 case does not allege a relationship between Taupier and a complainant designated in General Statutes § 46b-38a(2) and subject to protection by an order issued under General Statutes § 46b-38c(e). Tanya Taupier is not a victim in the 2014 case nor do the allegations describe the victim as a member of Taupier's family. In construing a statute, as directed by our supreme court and adopted in General Statutes § 1-2z, courts rely first upon the plain meaning of a statute and if the meaning is clear excludes from consideration extratextual consideration. *A. Gallo & Co. v. Comm'r of Env'tl. Prot.*, 309 Conn. 810, 821, *cert. denied*, 134 S. Ct. 1540 (2014).

B. 2013 Case

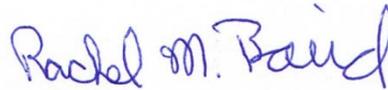
The affidavit in support of the arrest warrant in the 2013 case alleges that Taupier recorded a video of himself providing a massage to his wife Tanya Taupier. The massage portrayed in the video, according to Tanya Taupier, preceded sexual intercourse. Probable cause is alleged in paragraph 13 of the affidavit based on evidence that Taupier was responsible for recording the "nude massage video" and uploading the video to the internet, both without Tanya Taupier's knowledge. In a motion to dismiss Taupier argues that the warrant fails to allege a criminal offense.

The allegations in the 2013 case do not meet the statutory requirements of General Statutes § 46b-38a(1). No physical harm, bodily injury, threat, stalking, fear of imminent harm is alleged.

III. CONCLUSION

For the reasons stated above, the protective order appearing in docket number MMX-CR13-0200821-T must be vacated as its issuance exceeded the court's statutory authority.

EDWARD TAUPIER



BY: _____

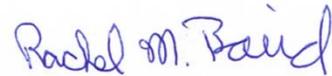
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CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing Memorandum was electronically transmitted on October 24, 2014, between 5:30 PM and 6:00 PM to counsel of record as follows:

Brenda Hann, A.S.A.
Office of the State's Attorney
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Undersigned counsel certifies that the State's memorandum was received by email prior to completion of the foregoing, however undersigned has not opened ore reviewed the State's memorandum in any manner.



Rachel M. Baird
Commissioner of the Superior Court