

IN THE MATTER OF
THE MARRIAGE OF

MARCELLA ANN CLARK
AND
RONALD JOSEPH TOYE, III

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IN THE DISTRICT COURT

325TH JUDICIAL DISTRICT
TARRANT COUNTY, TEXAS

FILED
TARRANT COUNTY
2020 OCT 22 PM 3:29
THOMAS J. HENDER
DISTRICT CLERK

AN APPLICATION FOR A PROTECTIVE ORDER

1. *Discovery Level*

Discovery in this case is intended to be conducted under level 2 of rule 190 of the Texas Rules of Civil Procedure.

2. *Objection to Assignment of Case to Associate Judge*

Applicant objects to the assignment of this matter to an associate judge for a trial on the merits or presiding at a jury trial.

3. *Parties*

This Application for a Protective Order is brought by Marcella Ann Clark, Applicant, who is a resident of Tarrant County, Texas. The last three numbers of Applicant's driver's license number are *****684. The last three numbers of Applicant's Social Security number are *** ** *613. This Application for a Protective Order is brought for the protection of Applicant, who is a resident of Tarrant County, Texas. Respondent is Ronald J. Toye, III, who resides in Tarrant County, Texas.

4. *Service*

Process should be served on Respondent at his place of business, located at 2120 Minnis Dr.,



Haltom City, TX 76117.

5. *Relationship of Parties*

Applicant is spouse of Respondent.

6. *Grounds*

Respondent has engaged in conduct that constitutes family violence.

Respondent committed acts that were intended by Respondent to result in physical harm, bodily injury, assault, or sexual assault or were threats that reasonably placed Applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault. Respondent's acts therefore constitute family violence.

Respondent's conduct was reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass Applicant.

Good cause exists for prohibiting Respondent from communicating with Applicant except through Respondent's attorney or a person appointed by the Court, as requested below.

The residence at 820 Perry St., White Settlement, TX 76108 is leased by Applicant.

7. *Request for Protective Order*

In this application, "Protected Person" means Applicant.

Applicant requests the Court, after notice and hearing, to issue its protective order:

Prohibiting Respondent from committing family violence as described in section 71.004 of the Texas Family Code.

Prohibiting Respondent from doing any act that is intended to result in physical harm, bodily

injury, assault, or sexual assault against Protected Person.

Prohibiting Respondent from doing any act that is a threat that reasonably places Protected Person in fear of imminent physical harm, bodily injury, assault or sexual assault.

Prohibiting Respondent from communicating directly with Protected Person in a threatening or harassing manner.

Prohibiting Respondent from communicating a threat through any person to Protected Person.

Prohibiting Respondent from engaging in conduct directed specifically toward Protected Person, including following the Protected Person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the Protected Person.

Prohibiting Respondent from going to or near, or within 350 feet of, any location where Protected Person is known by Respondent to be and from remaining within 350 feet after Respondent becomes aware of the Protected Person's presence.

Prohibiting Respondent from going to or near the residences or places of employment or business of Protected Person. Applicant requests the Court to specifically prohibit Respondent from going to or near 820 Perry St., White Settlement, TX 76108 and to specifically require Respondent to maintain at least one mile between himself and Applicant.

Prohibiting Respondent from harming, threatening, or interfering with the care, custody, or control of a pet, companion animal, or assistance animal, as defined by section 121.002 of the Texas Human Resources Code, that is possessed by Protected Person.

Prohibiting Respondent from transferring, encumbering, or otherwise disposing of property

mutually owned or leased by the parties, except when in the ordinary course of business.

Prohibiting Respondent from possessing a firearm or ammunition unless Respondent is a peace officer, as defined by section 1.07 of the Texas Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.

Prohibiting Respondent from interfering with Applicant's use of the residence located at 820 Perry St., White Settlement, TX 76108, including but not limited to disconnecting utilities or telephone service or causing such services to be disconnected.

Suspending Respondent's license to carry a concealed handgun issued under subchapter H, chapter 411, of the Texas Government Code.

Granting Applicant exclusive possession of the parties' residence and ordering Respondent to vacate the residence.

Requiring Respondent to complete a battering intervention and prevention program or counseling as provided by section 85.022(a) of the Texas Family Code.

Awarding Applicant exclusive use and possession of the following property:

residence located at 820 Perry St., White Settlement, TX 76108 - property leased under Applicant's name and 2005 Mercedes E500 - community property

Ordering Respondent to pay support for Marcella Ann Clark.

Applicant requests the Court to render a written order to the constable to provide a law enforcement officer from the department of the constable to accompany Applicant to the parties' residence, to inform Respondent that the Court has ordered Respondent excluded from the residence,

to protect Applicant while Applicant takes possession of the residence and Respondent takes possession of Respondent's necessary personal property, and, if Respondent refuses to vacate the residence, to remove Respondent from the residence and arrest Respondent for violating the Court's order.

8. *Request for Temporary Ex Parte Order*

Before the filing of this application, Respondent has engaged in conduct that constitutes family violence. See attached Petitioner's Supporting Affidavit. There is an immediate need for the protective order requested in this application.

Based on the conduct of Respondent as alleged, Applicant reasonably fears that there is a clear and present danger of family violence, which will cause Applicant immediate and irreparable injury, loss, and damage, for which Applicant has no adequate remedy at law.

Applicant therefore requests the Court to issue a temporary ex parte order immediately for the protection of Protected Person:

Prohibiting Respondent from committing family violence as defined in section 71.004 of the Texas Family Code.

Prohibiting Respondent from doing any act that is intended to result in physical harm, bodily injury, assault, or sexual assault against Protected Person.

Prohibiting Respondent from doing any act that is a threat that reasonably places Protected Person in fear of imminent physical harm, bodily injury, assault, or sexual assault.

Prohibiting Respondent from communicating directly with Protected Person in a threatening

or harassing manner.

Prohibiting Respondent from communicating a threat through any person to Protected Person.

Prohibiting Respondent from engaging in conduct directed specifically toward Protected Person, including following the Protected Person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the Protected Person.

Prohibiting Respondent from going to or near, or within 350 feet of, any location where Protected Person is known by Respondent to be and from remaining within 350 feet after Respondent becomes aware of the Protected Person's presence.

Prohibiting Respondent from going to or near the residences or places of employment or business of Protected Person. Applicant requests the Court to specifically prohibit Respondent from going to or near 820 Perry St., White Settlement, TX 76108 and to specifically require Respondent to maintain at least one mile between himself and Applicant.

Prohibiting Respondent from harming, threatening, or interfering with the care, custody, or control of a pet, companion animal, or assistance animal, as defined by section 121.002 of the Texas Human Resources Code, that is possessed by Protected Person.

Prohibiting Respondent from transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business.

Prohibiting Respondent from possessing a firearm or ammunition unless Respondent is a peace officer, as defined by section 1.07 of the Texas Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.

Prohibiting Respondent from interfering with Applicant's use of the residence located at 820 Perry St., White Settlement, TX 76108, including but not limited to disconnecting utilities or telephone service or causing such services to be disconnected.

Granting Applicant exclusive possession of the parties' residence and ordering Respondent to vacate the residence.

Applicant requests the Court to render a written order to the constable to provide a law enforcement officer from the department of the constable to accompany Applicant to the parties' residence, to inform Respondent that the Court has ordered Respondent excluded from the residence, to protect Applicant while Applicant takes possession of the residence, and to protect Applicant if Respondent refuses to vacate the residence while Applicant takes possession of Applicant's necessary personal property.

Applicant requests the Court to dispense with the necessity of a bond.

9. *Best Interest*

The protective order requested is in the best interest of the family, household, or member of the family or household.

10. *Attorney's Fees and Costs*

The Court should assess against Ronald J. Toye, III a reasonable attorney's fee as compensation for McGrath & McGrath, PLLC, and judgment should be rendered in favor of this attorney against Ronald J. Toye, III.

Applicant requests that Respondent be ordered to pay reasonable attorney's fees, the \$16

protective order fee, the cost of service of the protective order, the costs of court, and all other fees, charges, or expenses incurred in connection with the protective order before the sixtieth day after the date the order is rendered.

11. Prayer

Applicant prays that notice of this Application for a Protective Order issue as required by law and that the Court enter the protective orders as requested in this application.

Applicant further prays that the Court immediately issue a temporary protective order, ex parte, in conformity with the allegations stated above, prohibiting Respondent from the acts and ordering Respondent to do the acts set forth above until a hearing can be held.

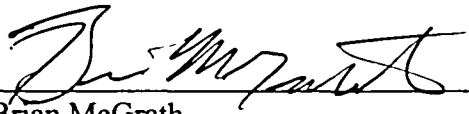
Applicant prays that a hearing be held no later than the fourteenth day after the date this application is filed; that, after notice and hearing, the Court grant the relief requested above; and that the Court dispense with the necessity of a bond.

Applicant prays for attorney's fees, costs, charges, and expenses.

Applicant prays for general relief.

Respectfully submitted,

McGrath & McGrath, PLLC
2080 N. Highway 360 Suite 150
GRAND PRAIRIE, TX 75050
Tel: (817) 683-7119
Fax: (817) 704-3965

By: 

Brian McGrath
State Bar No. 24048649
Attorney for Applicant

Notice of Hearing

IT IS FURTHER ORDERED that the clerk shall issue notice to Respondent, Ronald J. Toye, III, to appear, and Respondent is ORDERED to appear in person, before this Court in the courthouse at 200 E. Weatherford St., Fort Worth, Texas, on _____ at _____. m. The purpose of this hearing is to determine whether the Court should issue a protective order in accordance with this application.

This hearing is also to determine whether the Court should assess reasonable attorney's fees against Ronald J. Toye, III to be awarded to McGrath & McGrath, PLLC.

SIGNED on _____.

JUDGE PRESIDING

AFFIDAVIT IN SUPPORT OF EX PARTE RELIEF

“See attached Petitioner’s Supporting Affidavit”

NO. _____

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IN THE DISTRICT COURT

JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

PETITIONER'S SUPPORTING AFFIDAVIT

Marcella Ann Clark appeared in person before me today and stated under oath:

"My name is Marcella Ann Clark. I am above the age of eighteen years, and I am fully competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

I am the Petitioner in this case.

"In the beginning of our relationship, Ron was a perfect gentleman. He had my family, friends, and me fooled. Slowly he began to show his anger, control and manipulation problems. This year, his problems have come to a climax. I have become scared of his personality and the things of which he is capable of doing.

On March 31, 2012, Ron, Joe Joe (minor) and I were sitting on the couch in the living room. I was working on homework and Ron was tickling / wrestling with Joe and kept causing Joe to kick me in the back. I asked nicely if they would stop doing that and that he was hurting me, but Ron continued what he was doing. When I got kicked again, I asked again if he would stop making Joe kick me in the back. When this happened a third time, I had the remote in my hand, reached across to tap him with it to get his attention to stop. (He says I purposely hit him in the funny bone). After this he lost his temper on me in front of Joe Joe. He took the remote away from me, and stood up above

Petitioner's Supporting Affidavit

me sitting on the couch. He then said you tell me how this fucking feels, then from above me reared back and hit me with the remote.

Even though the instances of physical abuse are small, his emotional abuse has been extremely continuous. He has cussed me out, called me names, charged at me, and threatened me and my family, and has even done some of these things in front of his son. He has threatened me with my life, our money, our home, and my dogs. Pretty much anything he knows that I love or rely on he has threatened me with. One of the voicemails I have saved shows exactly this bullying and threatening nature. I have it saved in my email under 7/2/2012:

“If I were you, I would call me back pretty fucking quick. Because I told you about hanging up on me, okay? It’s not like you do a lot, or you have to do a lot, seeing as you are afforded the opportunity to stay fucking home. So if I need you to come and get me, guess what that means, you fucking come and get me. Otherwise, I will take your car and you can fucking hitch-hike and figure out how to get around, cause I pay all the fucking bills. I don’t like being hung up on. You don’t like fights? Don’t do stuff to provoke me. You know you fucking provoke me when you hang up on me. Okay? I didn’t ask you to do anything for your mom. Your mom has another daughter who lives with her, named Madison who can pick her ass up. I don’t give a shit about your sister. I need to get something taken care of. Don’t fucking hang up on me again or you can fucking walk around.”

On October 15th, before he was served from his ex-wife, and they same day I decided to have lunch with my dad about my decision to divorce Ron, his angry attentions were on me. He was upset about something, and when I refused to answer the phone at school, he left me a voicemail in which he stated, “Marcie, unless you truly want a divorce, you need to answer the phone. I am being more

then lenient. I'm just trying to talk this thing out considering what you fucking did, and if you think poor you, poor you, how bout' I chop your F*cking dogs up and see how you like it?"

Later that day, He was served a protection order from his ex-wife and a suit to modify parent-child relationship. He was livid. When I got home I saw that he had kicked a hole completely through one of our walls (picture attached). He had mentioned something on the phone about killing her, so I decided to start recording after I got home. He shows what his intentions are when people get in his way;

At 7:10 – Ron: "If somehow, because I understand that, if, but see if somehow.....The judge better hope (not) he doesn't have kids either, cause I will fucking.....It seriously if something comes through with Joe, Joe is my anchor to sanity. If something happens there, it's gonna be very bad for a lot of people like the judge, Andrea, Vincent, and his family. Everyone."

I am extremely concerned with the timing of my decision to divorce Ron. He has already made it clear to me that he has an extremely angry and violent nature, and now with his son's custody involved I am frightened my decision will affect him even worse. I have to get out of this marriage. I am overwhelmed from constantly being harassed and threatened. I am terrified that he will see my decision and do things to harm my family, me, my dogs, and our residence. I would like a protection order keeping him from me, my place of residence at 820 Perry drive, White Settlement, Texas 76108, any place of employment I may have, and my school premises of Texas Christian University. I would also like it added that he cannot contact or come in proximity with any of my family members for fear of his out lash. In addition, due to his manipulative nature, and threats prior of ruining my life, I would like him restrained from making any disparaging remarks about me in

public or to people not involved in the case. I am scared that he is going to attack me in one way or another, whether it is with violence, manipulation, or a hired hand."

"The residence located at 820 Perry Drive where we had been living, belongs to my family and Ron has no ownership interest in the property. I live there under a lease that Ron is not a party to."




Marcella Ann Clark

State of Texas
County of Tarrant

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SIGNED under oath before me on October 22, 2012.





Notary Public, State of Texas

Comm Expires
9-27-16