

11

The Superior Court of Pennsylvania

Sitting at Pittsburgh

1015 Grant Building
Pittsburgh, Pennsylvania
15219

CERTIFICATE OF CONTENTS OF REMANDED RECORD AND NOTICE OF REMAND

under

PENNSYLVANIA RULES OF APPELLATE PROCEDURE 2571 AND 2572

THE UNDERSIGNED, Prothonotary (or Deputy Prothonotary) of the Superior Court of Pennsylvania, the said court of record, does hereby certify that annexed to the original hereof, is a true and correct copy of the entire record:

Original Record, One Transcript, Superior court Opinion

In Re: Cheryl M. Gibbons, appellant v. Dennis J. Gibbons

No. 1404 WDA 2000

**In the Court of Common Pleas, Civil Division of Clearfield County
At No. 2000-495-CD**

date of which the record is remanded is 8/20/2001 a n additional copy is enclosed with the original hereof and the clerk or prothonotary of the lower court or the head, chairman, deputy, or the secretary of the other government unit is hereby directed to acknowledge receipt of the remanded record by executing such copy at the place indicated by forthwith returning the same to this court.

Eleanor P. Valechko

DEPUTY PROTHONOTARY

RECORD, ETC. RECEIVED:

DATE: Aug. 23, 2001

[Signature]

(Signature & Title)

FILED

AUG 23 2001

2/3:03/01
William A. Shaw
Prothonotary

copy to S/C

CHERYL M. GIBBONS,
Appellant

v.

DENNIS J. GIBBONS,
Appellee

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1404 WDA 2000

Appeal from the Order entered July 11, 2000, in the
Court of Common Pleas of Clearfield County, Civil, at
No. 2000-495-C.D.

FILED

AUG 23 2001

m/3: and me

William A. Shaw
Prothonotary

BEFORE: HUDOCK, TODD and HESTER, JJ.

MEMORANDUM:

FILED JUL 3 2001

Cheryl M. Gibbons (Wife) appeals from the order of the trial court dismissing her petition for protection from abuse (PFA) that she filed against Dennis J. Gibbons (Husband) pursuant to the Protection From Abuse Act (the Act), 23 Pa.C.S.A. sections 6101-6118. We affirm.

In reviewing the trial court's order dismissing Wife's petition, we must determine whether she presented "sufficient evidence to overcome her burden of proving abuse by a preponderance of the evidence." **Egelman ex rel. Egelman v. Egelman**, 728 A.2d 360, 363 (Pa. Super. 1999). When making this determination, this Court defers to the credibility determinations of the trial court as to witnesses who appeared before it. **Fonner v. Fonner**, 731 A.2d 160, 161 (Pa. Super. 1999) (citation omitted).

On April 28, 2000, Wife, acting without counsel, filed a PFA petition. On that same date, the trial court issued a temporary *ex parte* order that provided, *inter alia*, that Husband refrain from abusing Wife, excluded

Husband from the marital residence, and scheduled a hearing before a hearing officer on May 8, 2000. As a result of the proceedings before the hearing officer, the court, on May 8, 2000, executed an order granting Wife's request for a PFA order. On May 18, 2000, Father's counsel requested a hearing *de novo*, which the trial court originally scheduled for June 12, 2000.

The *de novo* hearing ultimately was held on July 7, 2000. At the beginning of the hearing, Husband's attorney objected to the jurisdiction of the court to hear the matter, even though she had requested the hearing on behalf of her client.¹ After the court denied counsel's objection, she and Father voluntarily chose to leave the courtroom without any further participation in the presentation of testimony. Following the taking of testimony from Wife, as well as her witnesses, the court issued its July 7, 2000, order dismissing Wife's PFA petition. This appeal followed.

The trial court summarized the testimony presented at the evidentiary hearing as follows:

Brenda A. Reitz, a licensed social worker, testified as to her history of marriage counseling with [the parties]. These

¹ In counsel's jurisdictional challenge, she asserted that the trial court did not hold a hearing on the original PFA petition within ten days of its filing. **See generally** 23 Pa.C.S.A. § 6107(a); **P.E.S. v. K.L.**, 720 A.2d 487 (Pa. Super. 1998). She contended that the proceedings before the hearing officer, a member of the local bar, did not conform to this statutory requirement. The trial court explained that, due to the county's busy caseload, the court used hearing officers for PFA actions, much like hearing officers are used in domestic relation cases, with the right to request a hearing *de novo* before the court. Father's jurisdiction question is not presently before us.

sessions originally involved [Wife] and her daughter from a previous marriage, with [Husband] becoming involved at a later point. Prior to March 3, 2000 there had been incidences where [Husband] had become agitated, screaming and swearing during sessions. However, he normally calmed down after a period of time and the sessions continued. Ms. Reitz indicated that the previous incidences had not crossed the line and that her attempts at intervening and interjecting had been generally successful. According to Ms. Reitz this type of venting of feelings and frustrations is not necessarily unusual during counseling sessions.

During a session in Ms. Reitz's office on March 3, 2000 Husband became very agitated, screaming at Wife, calling her names and using obscenities. He left the counselor's office, slamming the door behind him but then returned and in the hallway continued to yell at Ms. Reitz. After being told that the police would be called if he did not leave, Husband left. Ms. Reitz indicated that she was intimidated by Husband's screaming. However, no testimony was provided of any physical assault or threats thereof made by Husband during the March 3, 2000 or any other counseling sessions.

Wife testified that the parties married in 1993 and that Husband engaged in a pattern of physical abuse over the first three years of the marriage. However, the only testimony she gave as to physical abuse during that time period were two incidents in 1994. The first being that Husband drove their vehicle in an inappropriate, jerky fashion on Interstate 80 following Wife's cervical operation. Then, a few weeks later, Husband pushed Wife's recliner backwards while she was seated in it thereby risking (according to Wife) potential paralysis. Apparently Wife was not injured as a result of this incident. Following this incident approximately six years ago, Wife describes a pattern of primarily Husband's yelling, swearing and screaming, as well as pounding his fist against inanimate objects.

Wife also described an incident in April, 2000 that she believed constituted abuse on Husband's part. Apparently Husband took Wife's child support money from her purse

and left the house in his vehicle. Wife ran outside of the home and grabbed onto the car demanding to have the money returned. Husband had started to back up the car, but then tossed the money at her. Wife threatened to call the police, and Husband packed his belongings and left. There was no allegation by Wife during this incident of screaming, swearing, physical intimidation or threats. Apparently, this incident resulted in the parties' final separation and also precipitated Wife's filing of the PFA petition.

Wife also testified that she was fearful that Husband would stab her with a knife that was kept in the drawer next to their bed. However, her testimony was clear that no actual implied or express threats were ever made by Husband. Given the fact that many individuals in rural Clearfield County have knives and/or guns in their bedrooms for protection purposes, the Court cannot consider Husband's conduct with the knife to be unusual. Wife also indicated that Husband had physically assaulted her seventeen year old son over two years ago, but this incident did not involve Wife. Another incident occurred in March, 2000 where Husband became angry that Wife had lent a car to her son. Husband screamed and yelled at Wife but made no threats and did not engage in any assault. Husband left the residence, went to where the son was located and disabled the vehicle. Although Wife and her daughter, Joelle Muirhead, both testified that they were terrified that some physical assault would take place, in fact Husband went to the police station to report the matter with the vehicle before returning home. When he arrived he came in quietly, took a shower and calmly asked Wife if she wanted some pizza. Again, no threats were made nor was Wife assaulted.

The Court also engaged in questioning of Wife in an attempt to ascertain if there were additional assaultive or threatening acts on the part of Husband. Wife testified that there had been no actual physical incidents since 1994 when the recliner was pushed backwards. However, Husband would on occasion bump Wife with his body and position himself such that she could not leave the room. Ms. Muirhead's testimony confirmed the absence of physical attack or threats thereof.

Trial Court Opinion, 9/21/00, at 3-5.

The purpose of the Act "is to protect the victims of domestic violence from the perpetrators of such abuse." **Fonner**, 731 A.2d at 161. Under the Act, "abuse" is defined as: 1) intentionally, knowingly, or recklessly causing bodily injury; 2) placing another in reasonable fear of imminent serious bodily injury; 3) the infliction of false imprisonment; 4) physically or sexually abusing minor children; and 5) knowingly engaging in a course of conduct or repeatedly committing acts toward another person including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury. 23 Pa.C.S.A. § 6102(a)(1)-(5). In support of its conclusion that Wife's testimony did not demonstrate abuse under the Act, the trial court reasoned:

In the event there had been a threat to kill even without actual or attempted physical violence, this Court could feel justified in entering a [PFA] order. . . . The same would be true had [Husband] attempted to cause or actually caused bodily injury. . . . The evidence also clearly indicates that Husband's conduct did not place Wife in reasonable fear of imminent serious bodily injury, using the definition of serious bodily injury as contained in the Crimes Code, 18 Pa.C.S.A. Section 2301.

Lastly, the Court does not believe the testimony has sufficiently established that Husband engaged in a course of conduct or repeatedly committed acts towards Wife which placed Wife in reasonable fear of bodily injury. Although the 1994 driving and recliner incidents, admittedly very remote in time, sound to be inappropriate, the testimony of the incidents as described by Wife did not convince the Court that any bodily injury was involved. Screaming and swearing at the counselor's office again is inappropriate but not necessarily unusual given the fact that the marriage was

reaching its ultimate end. While Husband obviously did not care for Wife's son, her son is not a party to the action nor did the April, 2000 incident involve abuse of Wife. Husband reporting the car matter to the police and then returning home calmly does not serve to convince the Court of Husband engaging in a course of conduct as would be required under Section 6102(a)(5). Wife's testimony as to the body bumping was inconclusive.

Trial Court Opinion, 9/21/00, at 5-6.

Wife phrases her sole issue raised on appeal as follows:

Whether the conduct of [Husband], in marauding over, demeaning, restricting, engaging in explosive behavior and confronting rage over [Wife] accompanied by destruction of nearby physical objects constitutes abuse under Pennsylvania's Protection From Abuse Act despite the fact that [Wife] did not suffer actual physical harm and no specific threats were verbalized.

Wife's Brief at 4. In support of this claim, Wife asserts that she presented sufficient evidence of abuse, as defined by the Act, in that Husband caused her to be in reasonable fear of imminent serious bodily injury and exhibited a course of conduct that placed her in reasonable fear of bodily injury. She further asserts that the conduct engaged in by Husband, as a matter of law, constituted "abuse" under the Act "despite the fact that it did not result in actual physical harm and that threats of harm were not directly verbalized."

Wife's Brief at 11. We cannot agree.

Wife argues that the trial court

erred in categorizing [Husband's] conduct as falling outside the Act and [Wife's] fear for her immediate safety as objectively unreasonable. At the hearing, [Wife] presented competent evidence through her own testimony, the testimony of her adult daughter, and the testimony of her

counselor that [Husband] engaged in constant explosive and threatening encounters with her throughout the parties' relationship. In particular, [Husband], when angry and agitated at [Wife], allowed himself to become enraged and extremely confrontational with her. All the witnesses report that [Husband] would tower over [Wife], screaming and swearing at her until she was cowering from him, then venting physically by slamming doors, knocking pictures off the wall, and punching inanimate objects. In witnessing [Husband] confront [Wife] in separate incidents, both [Wife's] adult daughter and [Wife's] counselor feared for Wife's safety and their own safety. [Wife's] counselor attempted to convince [Wife] to stay away from [Husband] for her own safety.

In addition, [Husband] placed [Wife] in direct physical danger by pulling away from her in his car while [Wife] was still holding on to the car. In arguing with [Wife], [Husband] would become reckless in driving his car with [Wife] as a passenger. [Wife] related that she was in fear of her life.

Wife's Brief at 13-14 (references to notes of testimony omitted).

Wife then refers to several prior cases in which abuse was found under what she believes to be similar facts. She references **Weir v. Weir**, 631 A.2d 650 (Pa. Super. 1993), to establish abuse given her testimony of Husband's reckless driving and pulling away while she was still holding onto the car door. In **Weir**, however, this Court found abuse under the Act by the appellant's conduct in "driving at a dangerous rate of speed over rural roads during the late evening hours and trapping appellee against a cement bridge abutment with the parties' van[.]" **Weir**, 631 A.2d at 657. Unlike the detailed description of the event in **Weir**, in the present case Wife merely testified that Husband drove in a "jerking" and reckless manner.

N.T., 7/7/00, at 21. She also testified as to an incident where she wanted to "embarrass" Husband so that he would give her back her child support money, by holding onto the car as Husband was attempting to pull away. *Id.*, at 20. Thus, this testimony by Wife did not establish, by a preponderance of the evidence, that she was in reasonable fear of imminent serious bodily injury.

Wife next relies upon this Court's decision in ***Commonwealth v. Snell***, 737 A.2d 1232 (Pa. Super. 1999), as supporting her claim that she reasonably feared bodily injury because Husband engaged in a course of threatening conduct toward her. ***Snell***, however, did not involve a finding of "abuse" under the Act *per se*. Rather, in ***Snell***, this Court affirmed the trial court's conclusion that an extension of an existing PFA order, pursuant to section 6108(e) of the Act, was justified because husband's conduct in "punching through a window in an attempt to enter" the wife's home and becoming increasingly hostile toward the wife at a family picnic indicated a continued risk of harm to the wife. ***Snell***, 737 A.2d at 1236.

Finally, Wife cites to ***Fonner, supra***, to support her claim that she reasonably feared imminent serious bodily injury when Husband confronted her in an extremely hostile manner, restrained her movement, and, on more than once occasion, "vented his rage by pounding walls and fences that were nearby." Wife's Brief at 15. Wife's testimony concerning "pounding walls" was not detailed and did not include verbal threats of harm

directed toward her by Husband. With regard to the specific incident of Husband pounding on a fence, as Wife was inside the home, she did not witness these actions by Husband, and, once again, no threats of bodily injury were ever made to her. Thus, the facts of the instant case are unlike those involved in **Fonner**, in which the appellee punched a wall near the appellant while threatening to hit the appellant. **Fonner**, 731 A.2d at 162. In the present case, the fact that Husband was leaving the house, when coupled with Wife's own testimony that he returned later that evening and calmly spoke with her, renders Wife's testimony of her fear of imminent serious bodily injury unreasonable.

In sum, as we conclude that the trial court properly found that Wife had not met her burden of proving abuse by a preponderance of the evidence, we affirm the trial court's order dismissing her PFA petition.

Order affirmed.

Judgment Entered:

Eleanor K. Valecko

Deputy Prothonotary

Date: JUL 3 - 2001

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

I, **William A. Shaw**, Prothonotary/Clerk of Courts of Common Pleas in and for said County, do hereby certify that the foregoing is a full, true and correct copy of the whole record of the case therein stated, wherein

CHERYL M. GIBBONS


VS

DENNIS J. GIBBONS

00-495-CD

So full and entire as the same remains of record before the said Court, at No. 00-495-CD

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 11th Day of OCTOBER, 2000.

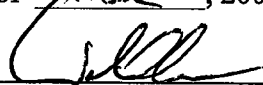

Prothonotary/Clerk of Courts

I, **Fredric J. Ammerman**, Judge of the Forty-sixth Judicial District, do certify that **William A. Shaw**, by whom the annexed record, certificate and attestation were made and given, and who in his own proper handwriting, thereunto subscribed his name and affixed the seal of the Court of Common Pleas of said county, was at the time of so doing and now is Prothonotary/Clerk of Courts in and for said County of Clearfield, the Commonwealth of Pennsylvania, duly commissioned and qualified; to all of whose acts as such, full faith and credit are and ought to be given, as well in Courts of Judicature, as elsewhere, and that the said record, certificate and attestation are in due form of law and made by proper officer.


Judge

I, **William A. Shaw**, Prothonotary/Clerk of Courts of the Court of Common Pleas in and for said county, do certify that the Honorable **Fredric J. Ammerman**, Judge, by whom the foregoing attestation was made and who has thereunto subscribed his name was at the time of making thereof and still is President Judge, in and for said county, duly commissioned and qualified; to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere.

In Testimony Whereof, I have
hereunto set my hand and affixed
the seal of said Court, this 12th day
of OCTOBER, 2000


Prothonotary/Clerk of Courts

1404/1900

12:18 P.M.

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Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 1404 WDA 2000

Page 1 of 2

August 30, 2000



CHERYL M. GIBBONS, Appellant

V.

DENNIS J. GIBBONS, Appellee

00 495 CO

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: August 21, 2000

Awaiting Original Record

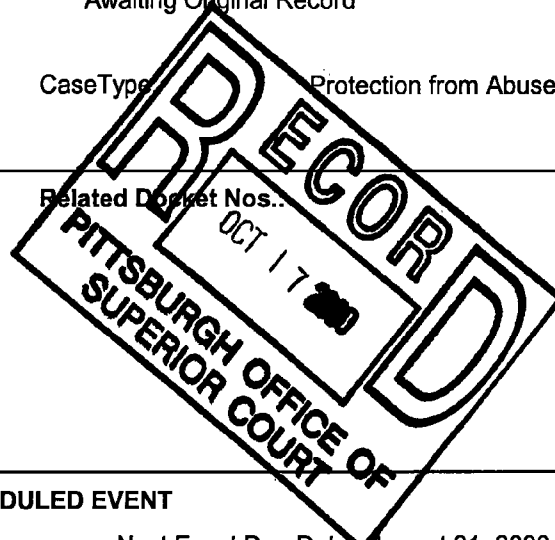
Journal Number:

Case Category: Domestic Relations

Case Type: Protection from Abuse

Consolidated Docket Nos.:

Related Docket Nos.:



SCHEDULED EVENT

Next Event Type: Case Initiation

Next Event Due Date: August 21, 2000

Next Event Type: Docketing Statement Received

Next Event Due Date: September 13, 2000

Next Event Type: Original Record Received

Next Event Due Date: September 30, 2000

COUNSEL INFORMATION

Appellant Gibbons, Cheryl
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 Receive Mail: Yes

Appoint Counsel Status:

Law Firm: Keystone Legal Services, Inc.

Fax No.:

FILED

SEP 01 2000

William A. Shaw
Prothonotary

Appellee Gibbons, Dennis J.

Pro Se:

Appoint Counsel Status:

IFP Status:

Attorney: Cherry, Toni M.

Bar No.: 30205

Law Firm: Gleason, Cherry and Cherry, L.L.P.

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CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA
RULE OF APPELLATE PROCEDURE 1931(C)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:


00-495-CD

CHERYL M. GIBBONS
VS.
DENNIS J. GIBBONS

In compliance with Pa. R.A.P. 1931 (c).

The documents comprising the record have been numbered from No. 1 to No. 13, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is OCTOBER 12, 2000.


Prothonotary/Clerk of Courts

(seal)

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA
CASE #00-495-CD**

CHERYL M. GIBBONS

VS

DENNIS J. GIBBONS

ITEM NO.	DATE of FILING	NAME of DOCUMENT	NO of PAGES
01	04-28-00	PETITION FOR PROTECTION FROM ADBUSE	13
02	05-03-00	SHERIFF RETURNS	01
03	05-09-00	ENTRY OF APEARANCE	01
04	05-09-00	PROTECTION FROM ABUSE FINAL ORDER	06
05	05-19-00	ORDER	01
06	07-11-00	ORDER	01
07	08-07-00	PETITION TO PROCEED IN FORMA PAUPERIS	04
08	08-07-00	REQUEST FOR TRANSCRIPT	03
09	07-07-00	NOTICE OF APPEAL	04
10	09-01-00	ORDER RE: PETITION TO PROCEED IN FORMA PAUPERIS	01
11	09-01-00	APPEAL DOCKET SHEET FROM SUPERIOR COURT	02
12	09-15-00	TRANSCRIPT OF PROTECTION FROM ABUSE HEARING DE NOVO	SEP COVER
13	09-21-00	ORDER	06

Stephen Fleming	CHERYL M. GIBBONS	APRIL 28, 2000, PETITION FOR PROTECTION FROM ABUSE ORDER, filed by Plaintiff One Certified Copy and fax to PSP Two Certified Copies to Sheriff One Certified Copy to Plaintiff One Certified Copy to Hearing Officer
	00-495-CD	TEMPORARY ORDER, filed. BY THE COURT: /s/Fredric J. Ammerman, Judge MAY 03, 2000, SHERIFF RETURN, PFA ON DENNIS J. GIBBONS, SO ANSWERS, CHESTER A. HAWKINS, SHERIFF by s/Marilyn Hamm MAY 09, 2000, ENTRY of APPEARANCE, filed by s/STEPHEN FLEMING, ESQ. NO CC MAY 09, 2000, PROTECTION FROM ABUSE FINAL ORDER OF COURT, filed. ONE (1) CC & FAX PSP, ONE (1) CC SHFF, DEF., ATTY T. CHERRY "COURTESY COPY", HEARING OFFICER, & TWO (2) CC ATTY FLEMING AND NOW, this 8th day of May, 2000: The DEFENDANT shall pay the costs and fees of this suit within FORTY-FIVE (45) DAYS of the date of this Order: TOTAL AMOUNT DUE: \$213.00 The DEFENDANT shall also be responsible for payment of all service fees registered with the Prothonotary's Office within thirty (30) days of the date of this Order.
Toni M. Cherry	DENNIS J. GIBBONS	BY THE COURT: BY THE COURT: s/WARREN B. MIKESSELL, II, ESQ. s/FREDRIC J. AMMERMAN, JUDGE
Ck#2664 to shff. 38.00 Ck#2665 to H/O 60.00	Pd 05-15-00 Pro pd by def. 80.00 Pro pd by def. 25.00 Shff Hawkins pd. by def. 38.00 H.O. pd by def. 60.00 Adm. pd by def 10.00 213.00	MAY 19, 2000, ORDER, RE: Hearing De Novo scheduled for June 12, 2000: By the Court, s/FREDRIC J. AMMERMAN, JUDGE TWO (2) CC ATTY CHERRY, FLEMING JUL 11, 2000, ORDER, filed. NOW, this 7th day of July, 2000, following Hearing De Novo in the above captioned matter; the Court not being satisfied that the Plaintiff has proven abuse under the definition as set forth within the Protection From Abuse Act, it is the ORDER of this Court that the Protection From Abuse Petition be and is hereby dismissed. Costs are assessed against the Defendant and the Court notes they previously had been paid. BY THE COURT, s/FREDRIC J. AMMERMAN, JUDGE D I S M I S S E D AUG. 07, 2000, PETITION to PROCEED in FORMA PAUPERIS, filed by s/STEPHEN C. FLEMING, ESQ. AUG. 07, 2000, REQUEST FOR TRANSCRIPT, filed by s/STEPHEN C. FLEMING, ESQ. AUG. 07, 2000, NOTICE OF APPEAL, filed by s/STEPHEN C. FLEMING, ESQ. SEP. 01, 2000, ORDER, re: PLAINTIFF may proceed IFP: By the Court, s/FREDRIC J. AMMERMAN, JUDGE Sep. 01, 2000, APPEAL DOCKET SHEET, filed. SEP. 15, 2000, TRANSCRIPT OF PROTECTION FROM ABUSE HEARING DE NOVO, JULY 7, 2000. Filed SEP. 21, 2000, OPINION & ORDER, filed. BY THE COURT, s/FREDRIC J. AMMERMAN, JUDGE

I hereby certify this to be a true and attested copy of the original statement filed in this case.

OCT 12 2000

Attest:

William B. Ammerman
Prothonotary

Cheryl M. Gibbons
PLAINTIFF

vs.

Dennis J. Gibbons
DEFENDANT

NO. 2000 - 495 - C.D.

FILED

APR 28 2000

William A. Shaw
Prothonotary

NOTICE TO DEFEND

YOU HAVE BEEN ORDERED TO APPEAR IN COURT. If you do not appear at the Hearing, the relief requested by the Plaintiff may be granted in your absence and you may lose money or property rights or other rights important to you or a **BENCH WARRANT** may be issued directing the Sheriff to arrest and bring you to Court. Attached is a copy of the Petition which indicates the relief the Plaintiff is requesting. Also, included in the Petition are the Plaintiff's reasons for this request. Any Protection Order granted by a Court may be considered in subsequent proceedings under Title 23 of the Pennsylvania Consolidated Statutes, including child custody proceedings under Chapter 53.

You **MUST** obey the Order which is attached. If you disobey this Order, the police may arrest you. Under federal law, this Order is enforceable anywhere in the United states, and any violation of this Order in another state will result in federal proceedings against you. In addition, if you are subject to a **FINAL PROTECTION ORDER**, federal law will prohibit you from possessing, transporting, or accepting a firearm.

Attached you will find a copy of the **TEMPORARY ORDER** issued in this case. You **MUST** obey this Order until further Order of this Court. Failure to obey the **TEMPORARY ORDER** may result in your arrest by the police or Sheriff's Office. You will also be subject to the penalties of Indirect Criminal Contempt.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. YOU HAVE A RIGHT TO BE REPRESENTED BY AN ATTORNEY OF YOUR CHOICE; HOWEVER, EVEN IF YOU DO NOT HAVE AN ATTORNEY YOU MUST APPEAR AT THE HEARING. IF YOU NEED HELP IN LOCATING AN ATTORNEY, PLEASE CONTACT:

OFFICE OF THE COURT ADMINISTRATOR
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-2641, EXTENSION 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Cheryl M. Gibbons

PLAINTIFF

vs.

DENNIS J. GIBBONS

DEFENDANT

NO. 2000 - 495 - C.D.

PRO SE FORM
PETITION FOR PROTECTION FROM ABUSE

1. My name is

Cheryl M. Gibbons

I am filing this Petition on behalf of: ☒ Myself and/or ☒ Another Person(s)
If you checked "Myself", please answer all questions referring to yourself as "Plaintiff".
If you checked "Another Person(s)", please answer all questions referring to that person as the "Plaintiff", and provide your address here, unless confidential:

If you checked "Another Person(s)", also indicate your relationship with Plaintiff:

- ☐ parent of minor plaintiff(s)
☒ adult household member with minor plaintiff(s)
☐ guardian ad litem of minor plaintiff(s)
☐ court appointed guardian of incompetent plaintiff(s)

2. ☐ My residence which is located at a confidential address within this county, said address to be kept confidential for my protection.

☐ My address (which is not confidential) is:

500 S. Main St.

(street address)

Dubois Pa. 15801

(city/township)

Clearfield

(county)

3. The person I am filing this Petition against is the Defendant, who resides at:

115 E Scribner Ave.

(street address)

Dubois PA 15801

(city/township)

Clearfield

(county)

Defendant's date of birth: 9/23/54 and Social Security No. 182-46-4479

☐ Check here if Defendant is 17 years old or younger.

4. The Defendant's relationship to me is: husband

5. ☒ I wish the Defendant to be excluded from the following residence:

- ☒ My residence of which the address is as listed above under question number '2'.
☐ My residence of which the address is confidential.

☒ Residence is owned by: husband Cheryl + DENNIS Gibbons

☐ Residence is rented by:

6. Plaintiff and Defendant are the natural/adoptive parents of the following child(ren):

Name _____ D.O.B. ____/____/____

Name _____ D.O.B. ____/____/____

Name _____ D.O.B. ____/____/____

Name _____ D.O.B. ____/____/____

7. The facts of the most recent incident of abuse towards me [and the minor child(ren)] are as follows:

Date: 4/26/00

Time: ____:____.m.

Location: _____

Describe in detail what happened, including any physical or sexual abuse, threat, injury, or incident of stalking: _____

3/24/2000 - I loaded my car with my son. Benny came home and was in a rage when he found out - he was extremely violent ranting, raving, swearing, vulgarities, name-calling, etc. He proceeded to go outside in the driveway and you could hear him clear in house. He peeked out in the car and went after my son. I feared for his safety, but was unable to warn him. He barged in home with the same behavior demanding keys. My son threatened to call police as he went out to car, ripped off license plate, drained fluid, and pulled wires, disabling the car. When my daughter took me to pick it up, we were afraid to start it because we thought it could blow up or maybe he cut the brake cables.

3/2000 - Letter from Brenda Kelly attached

Benny became enraged at counseling session. He graded me, called me names, denying he had a problem. Stood over me screaming. In waiting room, he screamed vulgarities, calling me names. Left and returned and continued until Brenda threatened to call police. Other clients were present at the time.

4/25/00 - For 4 or 5 months, Benny had been scheming to move out for the 5th time in 6 years, the same behavior as before. This time I wanted him out, for good. He's been packing, locking his things in trailer in the garage and locking me out. Had stopped home from work for the second time in one day. I knew something was coming down, was being nice. Got a drink of water and I saw him put something in his pocket through a mirror. He made a quick exit and I realized he had stolen my child support money out of my purse. He was already coming down road and I grabbed on to car making a

QUESTION 7 (most recent incident of abuse) CONTINUED:

scene. I didn't care what he did to me. He backed up while I still held onto car door and denied he had it saying I was crazy. I continued to make a scene and he threw money at me, laughing. I ran in to call police because I feared for my safety because I caught him. He ran in and told me he'd be back with a truck and he'd leave.

4/24/00 - 10:30 PM someone rang my doorbell. Wouldn't say who it was after 3 times asking. Carl left quickly. I have never had anyone knock or ring my bell that late before. I can't prove it, but this fits his pattern of intimidating and terrorizing me and my kids. My children were frightened and slept with the lights on and so did I.

5/98 - Henry picked up my son by shirt and slammed him against the wall up off the floor, busting open his lip, while continuing to hold on him brought him down to the floor very hard and put his body weight on him screaming at him to apologize to me for something. It was way out of line!

Summer 95 - (in counseling session with Paul Francis), Henry was enraged and was asked to leave and Paul Francis told me to get rid of him, he'd never change.

Early 1994 - He drove jerking me, wrecklessly on the way home from Youngstown, screaming at me and doing what he always does. I had had major surgery (a cervical disc fusion and he was warned that any sudden movement or too much movement could cause paralysis). A few days later he was angry and he dumped

QUESTION 7 (most recent incident of abuse) CONTINUED:

me over in a recliner, slamming my neck and head against the wall, sending me to the emergency room. I wouldn't admit abuse, but they didn't believe I fell out of a chair.

1994 - I was counseling session with Bill Gray, I showed him bruises all over my forearm from Danny grabbing me.

1993 - After a counseling session with a priest, he came home and went into a rage and threw a table and smashed it and pushed me around with his 350 lb. body until I fell backwards over a table.

1993-1995 - Danny would repeatedly wrestle my son very roughly and would compliment him on how much pain he could endure as he walked away with bruises from all the "fun." He has thrown him across the bed in anger and he has kicked him. He has repeatedly abused him verbally and mentally.

The past 6 1/2 years there have been many times when I feared for my life and the lives of my children. We live in helplessness and despair. We've watched continuous and repeated acts of violence. Stomping, raging fits, yelling, screaming, threatening, punching holes in walls, breaking into locked doors are a way of life for us. One moment in a rage and the next trying to be nice. We walk on eggshells never knowing what is going to happen. Everyday we never know when he's coming home and

QUESTION 7 (most recent incident of abuse) CONTINUED:

we scramble about to put everything in its place as he has nothing to scream about, but he somehow always manages to find something. He's a drill sergeant with unrealistic demands. He blazes clear of him to escape his wrath. Creating terror and fear in us makes him feel in control and it's a game to him. You even though he's out of our lives, we are still victims left in the dark of his scheming. We worry he'll come back in retaliation to hurt us for finally letting everybody know what he's like. We want to feel safe in our home. Alamy is an explosive, manipulative tyrant who will hurt someone sooner or later. Please help me protect my family.

Brenda Reitz MSW, LSW
Licensed Social Worker

33 Beaver Drive
DuBois, PA 15801
Tel (814) 371-5565
Fax (814) 371-5679

April 27, 2000

Clearfield County Courthouse
Honorable Judge Ammerman
230 East Market Street
Clearfield, PA 16830

Dear Honorable Judge Ammerman:

I am writing this letter to summarize my therapeutic involvement with Mrs. Cheryl Gibbons. I have been working with Mrs. Gibbons in therapy since August 1998. During this time she began voicing concerns that she and her husband were having marital problems. She stated that she was not permitted to voice any opinions or feelings without being screamed at and belittled by Mr. Dennis Gibbons. She reported that in the past he had pushed and been physically aggressive during arguments. Mr. Gibbons then became involved in therapy sessions. He reported that all of the problems in the marriage were due to his wife's behavior and he did not accept any responsibility or feel that he had any anger issues to address.

On March 3, 2000 we had a joint session to discuss the options in their marriage. Mr. Gibbons became very agitated during the session. He got up from his chair and was screaming at Mrs. Gibbons and calling her derogatory names "crazy, nuts". He was towering over her as she sat huddled in the corner pointing his finger at her as he screamed. She reacted in a withdrawn and self-protective way. She began sobbing and physically withdrawing into the corner. This therapist intervened repeatedly and informed Mr. Gibbons that he needed to calm down or leave the office. Mr. Gibbons finally slammed out of the office only to return a few minutes later as I was talking to his wife. He was still consumed with rage and continued to pace the waiting room yelling at this therapist and stating that he had been set up. He continued to degrade Mrs. Gibbons. I informed him that if he did not leave the office I would contact the police to assist him in leaving, at that time he left. Mrs. Gibbons was extremely upset and scared. We spent time talking about options available to her (contacting the police, Crossroads Project, etc.) Mrs. Gibbons reported that she felt it was her moral responsibility to continue to try and make the marriage work and to return home.

Although this was the most explosive incident witnessed by this therapist there were other instances where Mr. Gibbons degraded his wife and was verbally aggressive/abusive to her during therapy sessions. In working with Mrs. Gibbons I do feel that she was verbally and emotionally abused by her husband. There have been numerous points in time where she has appeared generally fearful to return home based on incidents that took place with her husband. I feel that Mrs. Gibbons strong religious beliefs kept her dedicated to the relationship even when she realized how unhealthy and damaging the relationship was to her well-being.

If I can provide further information or be of any help, please do not hesitate to contact me at the Clarion office (814) 226-9280.

Sincerely,

A handwritten signature in cursive script, appearing to read "Brenda Reitz".

Brenda Reitz MSW, LSW
Licensed Social Worker

8. The Defendant has committed prior acts of abuse against me, my minor child(ren), or the Plaintiff (if I am filing on behalf of someone else). List examples of such abuse, including any threats, injuries, or incidents of stalking, and state when such acts of abuse occurred:

A. See attach 3A, B. & C

B.

C.

D.

9. The Defendant has used or threatened to use the following weapon(s) against Plaintiff or the minor child(ren) listed above:

NONE

10. If Plaintiff and Defendant are parents of any minor child(ren), is there an existing Court Order regarding their custody? Who has primary physical custody under that Order? N/A - NO children together

11. Have you and the Defendant been involved in any of the following court actions? (If you are filing this Petition on behalf of another person, please answer this and all questions using that person as Plaintiff.)

☐ Divorce ☐ Custody ☐ Support ☐ Protection From Abuse

If you checked any of the above, briefly indicate when and where the case was filed and the Court Number, if known:

(Divorce) Keystone Legal Client -
NO Custody - children are hers

12. ☐ Defendant owes a duty of support to Plaintiff and/or the minor child(ren).

13. ☒ As a result of the abuse described above, I have suffered financial losses.

FOR THE REASONS SET FORTH ABOVE, I REQUEST THAT THE COURT ENTER A TEMPORARY ORDER, and AFTER HEARING A FINAL ORDER THAT WOULD DO THE FOLLOWING (check forms of relief requested):

- ☒ Restrain Defendant from abusing, threatening, harassing, or stalking Plaintiff and/or the minor child(ren) in any place where they may be found.
- ☒ Evict/exclude Defendant from Plaintiff's residence and prevent Defendant from living at or attempting to enter any temporary or permanent residence of the Plaintiff.
- ☐ Require Defendant to provide Plaintiff and/or minor children with other suitable housing.
- ☐ Award Plaintiff temporary custody of the minor child(ren) and place appropriate restrictions on contact between Defendant and the child(ren).
- ☒ Prohibit Defendant from having any contact with Plaintiff and/or the minor child(ren), either in person, by telephone, or in writing, personally or through third persons, including but not limited to any contact at Plaintiff's school, business, or place of employment, except as the court may find necessary with respect to partial custody and/or visitation with the minor children.
- ☒ Prohibit Defendant from having any contact with Plaintiff's relatives and Plaintiff's children listed in this Petition, except as the court may find necessary with respect to partial custody and/or visitation with the minor children.
- ☒ Order Defendant to temporarily relinquish weapons to the Sheriff of this County and prohibit Defendant from transferring, acquiring or possessing any such weapons for the duration of the Order.
- ☒ Direct Defendant to pay Plaintiff for the reasonable financial losses suffered as the result of the abuse, to be determined at the hearing.
- ☒ Order Defendant to pay the costs of this action, including filing and service fees.
- ☒ Order Defendant to pay Plaintiff's reasonable attorney's fees.
- ☒ Grant such other relief as the Court deems appropriate.
- ☒ Order the police or other law enforcement agency to serve Defendant with a copy of this Petition, any Order issued, and the Order for hearing. I will inform the police of any addresses, other than Defendant's residence, where he or she can be served.

VERIFICATION

I verify that I am the Petitioner in the present action and that the facts and statements contained in the above Petition are true and correct to the best of my knowledge, information, and/or belief.

I understand that any false statements are made subject to the penalties of 18 Pa. C.S. Section 4094, relating to Unsworn Falsification to Authorities.

Date: 4/28/2000

Cheryl M. Gibbons
PETITIONER

THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Cheryl M. Gibbons
PLAINTIFF

vs.

Dennis J. Gibbons
DEFENDANT

NO. 2000 - 495 - C.D. (PNO)

(d.o.b. 09/23/1954)

(S.S.# 182-46-6479)

TEMPORARY PROTECTION FROM ABUSE ORDER

AND NOW, this 28 day of April, 2000, (ISD) upon consideration of the attached Petition for Protection From Abuse, the Court hereby enters the following TEMPORARY ORDER:

- (X) 1. The Defendant shall refrain from **abusing, harassing, and threatening** the Plaintiff and the minor child(ren) or placing her/him/them in fear of abuse in any place where she/he/they may be found.
- () 2. Defendant shall not threaten or harass a member of the Plaintiff's family or household.
- (✓) 3. Plaintiff is granted exclusive possession of the residence where she/he resides which is located at:
[✓ 500 South Main St. DuBois PA.
- [] a confidential location, and any subsequent address in which Plaintiff resides during pendency of this Order.
- (✓) 4. Defendant is prohibited from having any contact with Plaintiff or any other person protected under this Order, at any location, including but not limited to any contact at Plaintiff's school, business, or place of employment.
- (✓) 5. Defendant is restrained from making any communication with the Plaintiff or any other person protected under this Order, including but not limited to, personal, written or telephone contact, or others with whom the communication would be likely to cause annoyance or alarm the Plaintiff.

- () 6. Pending the outcome of the final hearing in this matter, Plaintiff is awarded temporary custody of the following minor child(ren):

The local law enforcement agency in the jurisdiction where the child(ren) are located shall ensure that the child(ren) are placed in the care and control of the Plaintiff in accordance with the terms of this Order.

- (✓) 7. Defendant is prohibited from possessing and/or purchasing a firearm or other weapon. Defendant shall immediately relinquish the following weapons to the local law enforcement agency for delivery to the Sheriff's Office:

GUNS

- (✓) 8. The following additional relief is granted:

Defendant not to possess or consume alcohol

- (X) 9. A COPY OF THIS ORDER SHALL BE SERVED ON THE LAW ENFORCEMENT AGENCY WHERE PLAINTIFF RESIDES AND ANY OTHER AGENCY SPECIFIED HEREAFTER:

- () 10. THIS ORDER SUPERSEDES [] ANY PRIOR PFA ORDER AND [] ANY PRIOR ORDER RELATING TO CHILD CUSTODY.

- (X) 11. THIS ORDER APPLIES IMMEDIATELY TO DEFENDANT AND SHALL REMAIN IN EFFECT UNTIL MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND HEARING. (EXP)

NOTICE TO THE DEFENDANT

Defendant is hereby notified that violation of this Order may result in arrest for Indirect Criminal Contempt, which is punishable by a fine of up to \$1,000.00 and/or up to six months in jail. 23 Pa.C.S. Section 6114. Consent of the Plaintiff to Defendant's return to the residence shall not invalidate this Order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 23 Pa.C.S. Section 6113. Defendant is further notified that violation of this Order may subject him/her to state charges and penalties under the Pennsylvania Crimes Code and to federal charges and penalties under the Violence Against Women Act, 18 U.S.C. Sections 2261-2262.

NOTICE TO LAW ENFORCEMENT OFFICIALS

THIS ORDER SHALL BE ENFORCED BY THE POLICE WHO HAVE JURISDICTION OVER THE PLAINTIFF'S RESIDENCE 'OR' ANY LOCATION WHERE A VIOLATION OF THIS ORDER OCCURS 'OR' WHERE THE DEFENDANT MAY BE LOCATED. IF DEFENDANT VIOLATES ANY PROVISIONS OF THIS ORDER, DEFENDANT SHALL BE ARRESTED ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT. AN ARREST FOR VIOLATION OF THIS ORDER MAY BE MADE WITHOUT WARRANT, BASED SOLELY ON PROBABLE CAUSE, WHETHER OR NOT THE VIOLATION IS COMMITTED IN THE PRESENCE OF LAW ENFORCEMENT.

SUBSEQUENT TO AN ARREST, THE LAW ENFORCEMENT OFFICER SHALL SEIZE ALL WEAPONS USED OR THREATENED TO BE USED DURING THE VIOLATION OF THIS ORDER 'OR' DURING PRIOR INCIDENTS OF ABUSE. WEAPONS MUST FORTHWITH BE DELIVERED TO THE SHERIFF'S OFFICE OF THE COUNTY WHICH ISSUED THIS ORDER, WHICH OFFICE SHALL MAINTAIN POSSESSION OF THE WEAPONS UNTIL FURTHER ORDER OF THIS COURT, UNLESS THE WEAPON(S) ARE EVIDENCE OF A CRIME, IN WHICH CASE, THEY SHALL REMAIN WITH THE LAW ENFORCEMENT AGENCY WHOSE OFFICER MADE THE ARREST.

(X) 12. Hearing on this Petition is scheduled for the 24th day of May, 2000 at 9:00 before Hearing Officer Warren B. Mikesell, II, Esquire, third floor, Clearfield County Courthouse Annex, Domestic Relations Office Conference Room, Clearfield, Pennsylvania.

Please note: The only persons permitted to attend this hearing are the Plaintiff, Defendant and any witness(es) which Plaintiff and/or Defendant have requested to be present. All other persons will be asked to leave, but are permitted to wait on the first floor of the Courthouse Annex for the hearing to end. The hearing is scheduled for one (1) hour only.

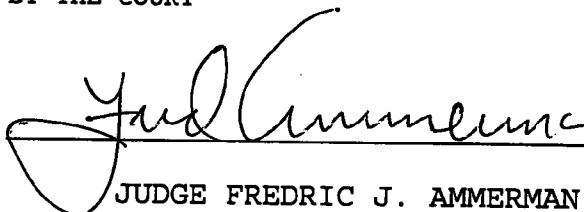
Absolutely no continuances of the hearing shall be granted unless by Order of Court. The Hearing Officer shall not continue any hearing due to either party's request for counsel as neither party has an absolute right to be represented by counsel in civil Protection From Abuse proceedings.

(X) 13. **THE PLAINTIFF AND DEFENDANT ARE HEREBY DIRECTED TO PROVIDE TO THE HEARING OFFICER AT THE HEARING A CURRENT PHOTOGRAPH OF THEMSELVES.**

If the Plaintiff fails to appear for the hearing as set forth in Paragraph 12 above or any subsequent Protection From Abuse hearing, the Plaintiff is advised that filing fee and costs may be assessed against the Plaintiff and that the action may automatically be dismissed.

If the Defendant fails to appear for the hearing as set forth in Paragraph 12 above or any subsequent Protection From Abuse hearing, the Defendant is advised that filing fee and costs may be assessed against the Defendant in addition to the entry of an Order.

BY THE COURT


JUDGE FREDRIC J. AMMERMAN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GIBBONS, CHERYL M.

00-495-CD

VS

GIBBONS, DENNIS J.

PROTECTION FROM ABUSE

SHERIFF RETURNS

NOW APRIL 28, 2000 AT 2:46 PM DST SERVED THE WITHIN PFA ON DENNIS J. GIBBONS, DEFENDANT AT EMPLOYMENT, BELL ATLANTIC, 115 E. SCRIBNER AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO DENNIS J. GIBBONS A TRUE AND ATTESTED COPY OF THE ORIGINAL PFA AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: MCINTOSH/SNYDER

28.00 SHFF. HAWKINS (COSTS DUE)

10.00 SURCHARGE (COSTS DUE)

SWORN TO BEFORE ME THIS

3RD DAY OF MAY 2000
[Signature]

SO ANSWERS,

Chester A. Hawkins
by Marky Harris

CHESTER A. HAWKINS
SHERIFF

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co., Clearfield, PA.

FILED

MAY 03 2000

3:45

William A. Shaw

Prothonotary
[Signature]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Cheryl M. Gibbons,
Plaintiff

vs.

Dennis J. Gibbons,
Defendant

No. ²⁰⁰⁰ 9 - 195 - C.D.
PROTECTION FROM ABUSE

ENTRY OF APPEARANCE

Please enter my appearance on behalf of Cheryl M. Gibbons,
the Plaintiff/Defendant in the above captioned case.

KEYSTONE LEGAL SERVICES, INC.

STEPHEN FLEMING, ATTORNEY

2094 E COLLEGE AVE

ADDRESS

STATE COLLEGE, PA 16801

814/238-4958

PHONE

FILED

MAY 09 2000

William A. Shaw
Prothonotary

#3

ORIGINAL⁽⁴⁾

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FILED

CHERYL M. GIBBONS,
Plaintiff

vs.

DENNIS J. GIBBONS,
Defendant

MAY 09 2000

William A. Shaw
Prothonotary

NO. 2000-495-C.D.

PROTECTION FROM ABUSE FINAL ORDER OF COURT

Plaintiff's Address: 500 S. Main Street, DuBois, PA 15801

Plaintiff's Social Security Number: 173-42-4810

Plaintiff's Date of Birth: April 13, 1951

Counsel of Record for Plaintiff: Stephen Flemming, Keystone Legal Service Inc.

Defendant's Address: 415 W. Weber Ave, Apt #3, DuBois PA 15801

Defendant's Social Security Number: 182-46-6479

Defendant's Date of Birth: September 23, 1954

Counsel of Record for Defendant: N/A.

Names of **ALL PROTECTED PERSONS**, [Plaintiff and/or minor children]:

Cheryl M. Gibbons

AND NOW, this **8th** day of **May, 2000**, an action under the Protection From Abuse Statute having been filed by the **Plaintiff**; the Petition and Notice of said Hearing having been served on the Defendant by the Clearfield County Sheriff's Office on or about April 28, 2000;

(#4)

Plaintiff (X) having appeared or () having failed to appear;
Defendant (X) having appeared or () having failed to appear;
(X) following a full Hearing or
() by Consent Order - without determination of facts on the underlying complaint;

upon consideration of the Petition in the above-captioned case, the following Order is Issued:

- ☐ **Plaintiff's** request for a Final Protection Order is DENIED; or
☒ **Plaintiff's** request for a Final Protection Order is GRANTED subject to the following terms and conditions:

1. Except as otherwise provided in Paragraph 2, the Defendant is:

- ☐ 01 a. Directed to refrain from abusing, harassing, threatening or stalking **Plaintiff** or the minor child(ren) named as Protected Persons above.
☒ 02 b. Directed to refrain from threatening any member of **Plaintiff's** immediate family or household.
☒ 03 c. **Defendant** is completely excluded from the residence located at
500 S. MAIN ST. DuBois

(township) DuBois City, Clearfield County, Pennsylvania or any other residence where **Plaintiff** may live. Exclusive possession of the residence is granted to **Plaintiff**; **Defendant** shall have no right or privilege to enter or be present on the premises.

- ☒ 04 d. Prohibited from entering the residence, place of employment, business or school of the **Plaintiff** and/or the minor child(ren).
Name(s) of Plaintiff and/or minor children is/are listed on Page 1 of this Final Order under ALL PROTECTED PERSONS.

- ☒ 05 e. Prohibited from having ANY CONTACT with:
Plaintiff, Cheeryl Gibbons, or
Plaintiff's minor child(ren) AA

Contact with the **Plaintiff** and/or the minor child(ren) herein listed shall include, but not be limited to, personal, written and/or telephone contact.

2. Temporary custody of the below named child(ren) is awarded to:

☐
☐

06

- a. The *Plaintiff*
b. The *Defendant*

The child(ren)'s name(s) is/are: _____

_____ until final Order of Court or as per Addendum "A" attached to this Order.

Visitation shall be as per Addendum "A", and/or: _____

☒

07

3. Defendant shall immediately turn over to the local law enforcement agency, or deliver to the Sheriff's Office, any and all weapons used or threatened to be used by Defendant in an act of abuse against Plaintiff and/or the minor child(ren). Defendant is prohibited from acquiring or possessing any other like or similar weapons for the duration of this Order.

☒

08

4. The Plaintiff/Defendant is/are ORDERED to provide the following additional relief:

To make All Mortgage payments on the Marital Residence (being 2 separate Loans of \$377.00 per month and \$367.00 per month respectively) until further Order of this Court.

☐

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5. The Plaintiff/Defendant is ORDERED to permit the Plaintiff/Defendant to return to the Plaintiff's/Defendant's residence, as herein described, on

_____, between ____:

a.m./p.m. and ____:____ a.m./p.m. for the sole purpose of permitting the Plaintiff/Defendant to retrieve items of personal property belonging to Plaintiff/Defendant. Any items of personal property in dispute as to ownership shall remain at the Plaintiff's/Defendant's residence until the Court of proper jurisdiction shall have determined its rightful owner. There shall be no conversation as to the basis or circumstances surrounding this Order or the nature of the Plaintiff and Defendant's broken relationship.



6. Defendant shall pay \$_____ to Plaintiff as compensation for Plaintiff's losses, which are as follows:



7. The Plaintiff/Defendant shall provide the Clearfield County Prothonotary a recent photograph of herself/himself within fifteen (15) days of this Order.



8. The Plaintiff/Defendant shall pay the costs and fees of this suit within FORTY-FIVE (45) DAYS of the date of this Order to the Clearfield County Protection From Abuse Coordinator's Office located on the second floor in the Annex of the Clearfield County Courthouse (230 East Market Street, Clearfield, PA 16830):

Prothonotary's Office.....filing fee:	\$ <u>80.00</u>
Prothonotary's Office.....state assessment fee:	\$ <u>25.00</u>
Sheriff's Office.....service fee:	\$ <u>38.00</u>
Hearing Officer.....fee:	\$ <u>40.00</u>
Hearing Officer.....costs:	\$ <u>20.00</u>
Administrative.....costs:	\$ <u>10.00</u>
Additional Relief.....(see Paragraph 7):	\$ <u>0.00</u>
Other.....costs:	\$ <u>0.00</u>

TOTAL AMOUNT DUE: \$ 213.00

PLEASE SUBMIT A MONEY ORDER MADE PAYABLE TO "PROTHONOTARY'S OFFICE" AS PAYMENT. NO OTHER FORM OF PAYMENT WILL BE ACCEPTED BY THE COORDINATOR.

PLAINTIFF'S share of fees and costs: 0 % / \$ 0.00

DEFENDANT'S share of fees and costs: 100 % / \$ 213.00

ALL COSTS PERTAINING TO THIS ACTION MUST BE PAID WITHIN THE FORTY-FIVE (45) DAY PERIOD. FAILURE TO COMPLY WITH THIS PROVISION OF THIS 'FINAL ORDER' WILL RESULT IN THE RESPONSIBLE PARTY BEING IN CONTEMPT AND IN THE AUTOMATIC

ISSUANCE OF A BENCH WARRANT FOR THAT PARTY'S ARREST WITHOUT FURTHER NOTICE OR HEARING. THERE WILL BE ADDITIONAL COSTS ASSIGNED ONCE THE BENCH WARRANT HAS BEEN ISSUED AND THE RESPONSIBLE PARTY WILL BE OBLIGED TO PAY ANY AND ALL ADDITIONAL COSTS RELATED THERETO.

The Plaintiff/Defendant shall ALSO be responsible for payment of all service fees registered with the Prothonotary's Office within thirty (30) days of the date of this Order. Payment shall be made directly to the Protection From Abuse Coordinator within the 45 day payment period.

☒ 9. In the event either party shall relocate or have a change of address, the said party shall immediately, in writing, notify the Court of same. Said writing shall contain the new address and shall reference the caption in this matter. All mail shall be addressed to the Protection From Abuse Coordinator, 230 East Market Street, Clearfield, Pennsylvania 16830.

☒ 10. BRADY INDICATOR. [] YES response [☒] NO response

☒ a. The *Plaintiff* or protected person(s) is a spouse, former spouse, a person who cohabits or has cohabited with the *Defendant*, a parent or a common child, a child of that person, or a child of the *Defendant*.

☒ b. This Order is being entered either in lieu of a full hearing and by consent of both parties, OR following a full hearing during which the *Defendant* was present and had an opportunity to be heard or of which the *Defendant* received actual notice thereof and failed to appear.

☐ c. Paragraph 1(a) of this Order has been checked to restrain the *Defendant* from harassing, stalking, or threatening the *Plaintiff* or the listed protected persons.

☐ d. The *DEFENDANT* represents:

☐ i. A credible threat to the physical safety of the *Plaintiff* or the other listed protected person(s); OR

☐ ii. The terms of this Order prohibit the *DEFENDANT* from using, attempting to use, or threatening to use physical force against the *Plaintiff* or the listed protected person(s) that would reasonably be expected to cause bodily injury.

☐ 11. *This Order supersedes*

[] any prior Protection From Abuse Order AND/OR

[] any prior Order of Court relating to child custody.

☒ 12. All provisions of this Order shall expire in one year, on May 8, 2001.

NOTICE TO THE DEFENDANT

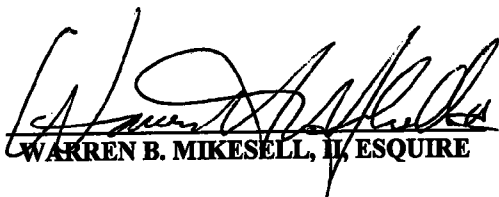
VIOLATION OF THIS ORDER MAY RESULT IN YOUR ARREST ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT WHICH IS PUNISHABLE BY A FINE OF UP TO \$1,000 AND/OR A JAIL SENTENCE OF UP TO SIX MONTHS. 23 PA. C.S. § 6114. VIOLATION MAY ALSO SUBJECT YOU TO PROSECUTION AND CRIMINAL PENALTIES UNDER THE PENNSYLVANIA CRIMES CODE. THIS ORDER IS ENFORCEABLE IN ALL FIFTY (50) STATES, THE DISTRICT OF COLUMBIA, TRIBAL LANDS, U.S. TERRITORIES AND THE COMMONWEALTH OF PUERTO RICO UNDER THE VIOLENCE AGAINST WOMEN ACT, 18 U.S.C. SECTION 2265. IF YOU TRAVEL OUTSIDE OF THE STATE AND INTENTIONALLY VIOLATE THIS ORDER, YOU MAY BE SUBJECT TO FEDERAL CRIMINAL PROCEEDINGS UNDER THAT ACT. 18 U.S.C. §§ 2261-2262. IF PARAGRAPH 12 OF THIS ORDER HAS BEEN CHECKED, YOU MAY BE SUBJECT TO FEDERAL PROSECUTIONS AND PENALTIES UNDER THAT "BRADY" PROVISION OF THE GUN CONTROL ACT, 18 U.S.C. § 922(G), FOR POSSESSION, TRANSPORT OR RECEIPT OF FIREARMS OR AMMUNITION.

NOTICE TO LAW ENFORCEMENT OFFICIALS

THE POLICE WHO HAVE JURISDICTION OVER THE PLAINTIFF'S RESIDENCE OR ANY LOCATION WHERE A VIOLATION OF THIS ORDER OCCURS OR WHERE THE DEFENDANT MAY BE LOCATED, SHALL ENFORCE THIS ORDER. AN ARREST FOR VIOLATION OF PARAGRAPHS 1 THROUGH 5 OF THIS ORDER MAY BE WITHOUT WARRANT, BASED SOLELY ON PROBABLE CAUSE, WHETHER OR NOT THE VIOLATION IS COMMITTED IN THE PRESENCE OF THE POLICE. 23 PA. C.S. § 6113. SUBSEQUENT TO AN ARREST, THE POLICE OFFICER SHALL SEIZE ALL WEAPONS USED OR THREATENED TO BE USED DURING THE VIOLATION OF THE PROTECTION ORDER OR DURING PRIOR INCIDENTS OF ABUSE. THE CLEARFIELD COUNTY SHERIFF'S OFFICE SHALL MAINTAIN POSSESSION OF THE WEAPONS UNTIL FURTHER ORDER OF THIS COURT. WHEN THE DEFENDANT IS PLACED UNDER ARREST FOR VIOLATION OF THE ORDER, THE DEFENDANT SHALL BE TAKEN TO THE APPROPRIATE AUTHORITY OR AUTHORITIES BEFORE WHOM DEFENDANT IS TO BE ARRAIGNED. A "COMPLAINT FOR INDIRECT CRIMINAL CONTEMPT" SHALL THEN BE COMPLETED AND SIGNED BY THE POLICE OFFICER OR THE PLAINTIFF. PLAINTIFF'S PRESENCE AND SIGNATURE ARE NOT REQUIRED TO FILE THE COMPLAINT. IF SUFFICIENT GROUNDS FOR VIOLATION OF THIS ORDER ARE ALLEGED, THE DEFENDANT SHALL BE ARRAIGNED, BOND SET AND BOTH PARTIES GIVEN NOTICE OF THE DATE OF HEARING.

BY THE COURT:

BY THE COURT:


WARREN B. MIKESELL, II, ESQUIRE


FREDRIC J. AMMERMAN, JUDGE

PLAINTIFF

COUNSEL FOR PLAINTIFF

DEFENDANT

COUNSEL FOR DEFENDANT

FILED

MAY 02 2008

07000 1cc & fax P5P
William A. Shaw cc

Prehistory 15hr

2 cc ~~cc~~ Hg Fleming

1 cc Day.

1 cc atty Toni Cherry - courtesy copy"

1 cc Hg Officer

Eph

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHERYL M. GIBBONS,
Plaintiff

vs.

DENNIS J. GIBBONS,
Defendant

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*
*
*
*

NO. 2000-495-C.D.

ORDER

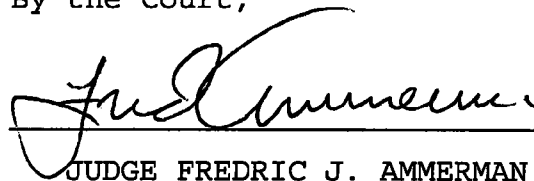
NOW, this 18th day of May, 2000, Toni M. Cherry, Esquire, counsel for the Defendant, having timely supplied the Court with written request for a Hearing De Novo to be scheduled with the Court, it is the ORDER of this Court that Hearing De Novo in regard to this Court's Final Order of Court on Plaintiff's Protection From Abuse Petition be scheduled the 19th day of June, 2000 at 3:00 o'clock P.m. in Courtroom No.2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

FILED

MAY 19 2000

William A. Shaw
Prothonotary

By the Court,


JUDGE FREDRIC J. AMMERMAN

55

LAW OFFICES
GLEASON, CHERRY AND CHERRY, L.L.P.
P. O. Box 505
DuBois, PENNSYLVANIA 15801-0505
ONE NORTH FRANKLIN STREET

TONI M. CHERRY
PAULA M. CHERRY
EDWARD V. CHERRY
1950-1990
JAMES A. GLEASON
1946-1975

AREA CODE 814
371-5800
FAX NUMBER
(814) 371-0936

**VIA FACSIMILE TRANSMISSION AS WELL AS
UNITED STATES FIRST CLASS MAIL**

May 18, 2000

The Honorable Fredric J. Ammerman
Judge of the Court of Common Pleas
Judge's Chambers
Clearfield County Courthouse
Clearfield, PA 16830

**RE: CHERYL M. GIBBONS vs.
DENNIS J. GIBBONS
No. 2000 - 495 C.D.
Protection From Abuse Action**

Dear Judge Ammerman:

This office has been retained to represent Mr. Dennis J. Gibbons in the above-captioned Protection From Abuse Action. A hearing before Mr. Mikesell was held on or about May 8, 2000, and an Order was filed in the Offices of the Prothonotary granting Mrs. Gibbons' Petition on May 9, 2000. Mr. Gibbons was unrepresented by counsel. He tried to secure a continuance because he did not have counsel and that request was refused.

On behalf of Mr. Gibbons, we respectfully request that a Hearing De Novo be held before you and we will be present to represent him at that time.

Thanking the Court for Its kind attention to this request, we remain

Very truly yours,

GLEASON, CHERRY AND CHERRY, L.L.P.

By


Toni M. Cherry

TMC:mls

6

CA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CHERYL M. GIBBONS

:

-vs-

: No. 00-495-CD

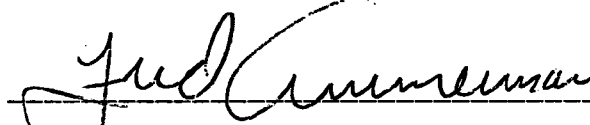
DENNIS J. GIBBONS

:

O R D E R

NOW, this 7th day of July, 2000, following Hearing De Novo in the above captioned matter; the Court not being satisfied that the Plaintiff has proven abuse under the definition as set forth within the Protection From Abuse Act, it is the ORDER of this Court that the Protection From Abuse Petition be and is hereby dismissed. Costs are assessed against the Defendant and the Court notes they previously had been paid.

BY THE COURT,



Judge

FILED

JUL 11 2000

William A. Shaw
Prothonotary

#16

CA (7)
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHERYL M. GIBBONS,
Plaintiff

vs.

DENNIS J. GIBBONS,
Defendant

: Trial Court Case No.: 2000-495-C.D.

:

: Type of Case:

:

Protection from Abuse

:

: Type of Document:

:

Petition to Proceed in *Forma Pauperis*

:

: Filed on Behalf of:

:

Cheryl Gibbons,

:

Plaintiff-Appellant

:

: Counsel of Record for this Party:

:

:

:

: MIDPENN LEGAL SERVICES, INC.

:

: by Stephen C. Fleming, Esq. #83254 - 132

: 2054 East College Avenue

: State College, PA 16801

: (814) 238-4958

FILED

AUG 07 2000

M/3:00/100

William A. Shaw

Prothonotary

NOTICE TO SUPERIOR COURT

(#7)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

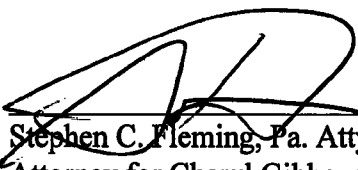
CHERYL GIBBONS,	:	
Plaintiff,	:	Trial Court Case No.: 2000-495-C.D.
vs.	:	
DENNIS GIBBONS,	:	
Defendant.	:	

PRAECIPE TO PROCEED IN FORMA PAUPERIS

To the Prothonotary:

Kindly allow CHERYL GIBBONS, Plaintiff, to proceed *in forma pauperis*.

Pursuant to Pa. R.A.P 522 (d), I, Stephen C. Fleming, attorney for the party proceeding *in forma pauperis*, certify that I believe the party is unable to pay the costs and that I am providing free legal service to the party. The party's affidavit showing inability to pay the costs of litigation is attached hereto.



Stephen C. Fleming, Pa. Atty. No.: 83254
Attorney for Cheryl Gibbons, Plaintiff
MidPenn Legal Services, Inc.
2054 East College Avenue
State College, PA 16801
(814) 238-4958

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

CHERYL M. GIBBONS	:	Trial Court Case No.: 2000-495-C.D.
Plaintiff,	:	
vs.	:	
DENNIS J. GIBBONS	:	PROTECTION FROM ABUSE
Defendant.	:	PETITION TO PROCEED IN FORMA
		PAUPERIS

PETITION TO PROCEED IN FORMA PAUPERIS

Cheryl M. Gibbons states under the penalties provided by 18 Pa.C.S. §4904 (unsworn falsification to authorities) that:

1. I am the Plaintiff in the above action and because of my financial condition am unable to pay the following fees and costs:

Appellate filing fees and costs of reproducing records/transcripts.

2. My responses to the questions below relating to my ability to pay the fees and costs of prosecuting an appeal are true and correct.

- (a) Are you presently employed? No.
Date of last employment: 1994
Salary and wages per month: approx \$5.00 per hour
- (b) Have you received within the past twelve month any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, pensions, annuities, social security benefits, support payments, or other sources? Yes.

Child Support: \$510 per month
Spousal Support: June 2000 to present: \$705 per month

- (c) Do you own any cash or checking or savings accounts? Yes.

Cash: minimal
Checking: \$20

- (d) Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property? Yes.

Joint tenant of 500 South Main Street, Dubois, PA 15801

Estimated value: \$104,000 (mortgage approx \$81,000)

Automobile: Joint owner 1997 Toyota Tercel
Estimated value \$7000

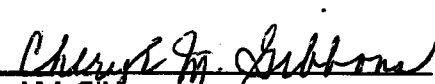
- (e) List the persons, if any, who are dependent upon you for support and state your relationship to those persons.

Children: Sherri Muirhead (daughter, 15 year old)
Shannon Muirhead (daughter, 15 year old)
Brad Muirhead (son, 17 year old)

- (f) List your debts and obligations:

Mortgage (1 st and 2 nd):	\$377 and \$367 per month
Telephone:	\$100 per month
Utilities (Electric, Water, Refuse):	\$350 per month
Food:	\$450 per month
Gasoline:	\$100 per month
Car Insurance:	\$40 per month
Homeowner's Insurance:	\$50 per month
Real Estate Taxes:	\$120 per month (\$900 outstanding)
Medical Expenses:	\$150 per month
Counseling Services	\$1500

3. I understand that a false statement or answer to any question in the verified statement will subject me to the penalties provided by law (misdemeanor of the second degree).


Cheryl M. Gibbons

FILED

AUG 07 2000

0/2:20/643

William A. Shaw
Prothonotary

1666

(8)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHERYL M. GIBBONS,
Plaintiff

vs.

DENNIS J. GIBBONS,
Defendant

: Trial Court Case No.: 2000-495-C.D.

:

: Type of Case:

: **Protection from Abuse**

:

: Type of Document:

: **Request for Transcript**

:

: Filed on Behalf of:

: **Cheryl Gibbons,**

: **Plaintiff-Appellant**

:

: Counsel of Record for this Party:

:

:

:

: MIDPENN LEGAL SERVICES, INC.

:

: by Stephen C. Fleming, Esq. #83254

: 2054 East College Avenue

: State College, PA 16801

: (814) 238-4958

FILED

AUG 07 2000

M/ 3:00 PM
William A. Shaw
Prothonotary

COPY TO SUPERIOR COURT

(#8)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

CHERYL M. GIBBONS
Plaintiff,

vs.

DENNIS J. GIBBONS
Defendant.

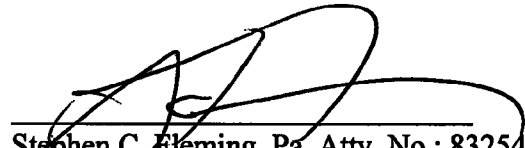
: Trial Court Case No.: 2000-495-C.D.
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: PROTECTION FROM ABUSE
: REQUEST FOR TRANSCRIPT

REQUEST FOR TRANSCRIPT

A notice of appeal having been filed in this matter, the official court reporter is hereby ordered to produce, certify and file the transcript in this matter in conformity with Rule 1922 of the Pennsylvania Rules of Appellate Procedure.

Respectfully submitted this 6th day of August, 2000.

MIDPENN LEGAL SERVICES, INC.



Stephen C. Fleming, Pa. Atty. No.: 83254
Counsel for Plaintiff-Appellant Cheryl M. Gibbons
MidPenn Legal Services, Inc.
2054 East College Avenue
State College, PA 16801
(814) 238-4958

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

CHERYL M. GIBBONS

Plaintiff,

vs.

DENNIS J. GIBBONS

Defendant.

Trial Court Case No.: 2000-495-C.D.

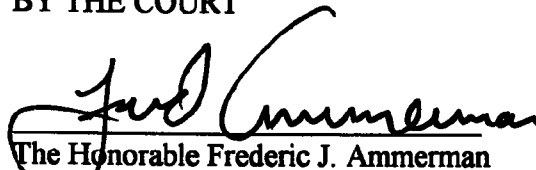
PROTECTION FROM ABUSE

ORDER RE: REQUEST FOR TRANSCRIPT

A Notice of Appeal having been filed in this matter, the official court reporter is hereby ordered to produce, certify and file the transcript in this matter in conformity with Rule 1922 of the Pennsylvania Rules of Appellate Procedure.

Done this 31 day of August, 2000.

BY THE COURT



The Honorable Frederic J. Ammerman
Judge, Clearfield County Court of Common Pleas

(9)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHERYL M. GIBBONS,
Plaintiff

vs.

DENNIS J. GIBBONS,
Defendant

: Trial Court Case No.: 2000-495-C.D.

:

: Type of Case:

:

Protection from Abuse

:

: Type of Document:

:

Notice of Appeal

:

: Filed on Behalf of:

:

Cheryl Gibbons,

:

Plaintiff-Appellant

:

: Counsel of Record for this Party:

:

:

:

: MIDPENN LEGAL SERVICES, INC.

:

: by Stephen C. Fleming, Esq. #83254

: 2054 East College Avenue

: State College, PA 16801

: (814) 238-4958

FILED

AUG 07 2000

At 3:00/ly

William A. Shaw
Prothonotary

copy to Superior Court

(#9)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

CHERYL M. GIBBONS
Plaintiff,

vs.

DENNIS J. GIBBONS
Defendant.

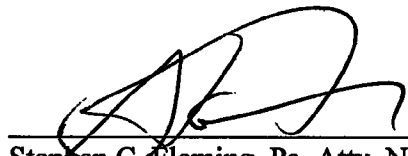
: Trial Court Case No.: 2000-495-C.D.
:
:
:
: PROTECTION FROM ABUSE
: NOTICE OF APPEAL

NOTICE OF APPEAL

Notice is hereby given that Cheryl M. Gibbons, Plaintiff above named, hereby appeal to the Superior Court of Pennsylvania from the order entered in this matter on the 7th day of July, 2000. This order has been entered in the docket as evidenced by the attached copy of the docket entry.

Respectfully submitted this 6th day of AUGUST, 2000.

MIDPENN LEGAL SERVICES, INC.



Stephen C. Fleming, Pa. Atty. No.: 83254
Counsel for Plaintiff-Appellant Cheryl M. Gibbons
MidPenn Legal Services, Inc.
2054 East College Avenue
State College, PA 16801
(814) 238-4958

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

CHERYL M. GIBBONS
Plaintiff,

vs.

DENNIS J. GIBBONS
Defendant.

: Trial Court Case No.: 2000-495-C.D.
:
:
:
: PROTECTION FROM ABUSE
: CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE


I, Stephen C. Fleming, attorney for Plaintiff-Appellant, hereby certify that a true and correct copy of the foregoing Notice of Appeal was served upon the following by first class mail, postage prepaid, on the 6th of August, 2000

Toni M. Cherry, Esq.
Attorney for Defendant-Appellee
P.O. Box 505
DuBois, PA 15801-0505

The Honorable Fredric J. Ammerman
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Dave Meholick, Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Court Reporter
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830



Stephen C. Fleming, Pa. Atty. No.: 83254
Counsel for Plaintiff-Appellant Cheryl M. Gibbons
MidPenn Legal Services, Inc.
2054 East College Avenue
State College, PA 16801
(814) 238-4958


IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

CHERYL GIBBONS,	:	
Plaintiff,	:	Trial Court Case No.: 2000-495-C.D.
vs.	:	
DENNIS GIBBONS,	:	
Defendant.	:	


ORDER RE: PETITION TO PROCEED IN FORMA PAUPERIS

AND NOW, this 31 day of August, 2000, upon consideration of the
Petition of Plaintiff-Appellant to Proceed In Forma Pauperis, it is hereby,

ORDERED AND DECREED that the Plaintiff-Appellant, CHERYL GIBBONS, may
proceed *in forma pauperis*; specifically, costs relating to the filing of the Appeal, the production
of the transcript and record as well as costs of reproduction of the same are waived.


The Honorable Frederic J. Ammerman
Judge, Clearfield County Court of Common Pleas

FILED

SEP 01 2000
o/y: w/ by
William A. Shaw
Prothonotary
1 cmo to Filing


IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHERYL M. GIBBONS,
Plaintiff

vs.

DENNIS J. GIBBONS,
Defendant

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Docket No. 2000-495-C.D.

FILED

SEP 21 2000

William A. Shaw
Prothonotary

OPINION & ORDER

Plaintiff Cheryl M. Gibbons ("wife") acting without counsel filed on April 28, 2000 a Petition under the Protection from Abuse Act. The Court reviewed the Petition and issued a Temporary Ex parte Order of the same date which provided, inter alia, that the Defendant Dennis J. Gibbons ("husband") refrain from abusing his wife, excluding husband from their residence in DuBois and scheduling a hearing before the Hearing Officer on May 8, 2000. The record reflects that appropriate service was made on Husband of the Petition and Temporary Order. As a result of the proceedings before the Hearing Officer, the Court on May 8, 2000 executed an Order granting Wife's request for an Order under the act. Pursuant to the Court's procedure in Protection From Abuse cases, on May 18, 2000 counsel for the Husband timely requested a Hearing De Novo be scheduled before the Court. As a result of this request, the Court issued its Order of May 18, 2000 scheduling the hearing for June 12, 2000.

As the record will reflect, the Court proceeded with evidentiary hearing on July 7, 2000 at the beginning of which

both parties were present and represented by their counsel of record. However, notwithstanding the fact that Husband's attorney had requested the Hearing De Novo, Husband objected to the Court's jurisdiction to hear the matter and he and his attorney elected to voluntarily leave the Courtroom without any further participation in the presentation of testimony. Following the taking of testimony as offered by Wife and her attorney, the Court issued its Order of July 7, 2000 dismissing Wife's Petition. An appeal to the Superior Court was then timely filed on Wife's behalf.

Under the Protection From Abuse Act, 23 Pa.C.S.A. Section 6101, et seq, in order for a plaintiff to obtain relief it must be shown that abuse has occurred. Abuse is defined in section 6102(a) of the Act (in relevant part) as follows:

ABUSE. The occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

- (1) attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape,...
- (2) placing another in reasonable fear of imminent serious bodily injury.
- (5) knowingly engaging in a course of conduct or repeatedly committing acts towards another person, including following a person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury.

Therefore, generally speaking, in order to prevail under the Act, a Plaintiff must show that bodily injury was attempted or caused, that she was in reasonable fear of imminent serious bodily injury, or that the defendant's course of conduct indicates a reasonable fear of bodily injury. The Court finds

that Wife has not presented evidence which leads the Court to conclude that she has met any of the applicable standards.

The relevant testimony presented at the hearing can be summarized as follows: Brenda A. Reitz, a licensed social worker, testified as to her history of marriage counseling with wife and husband. These sessions originally involved wife and her daughter from a previous marriage, with husband becoming involved at a later point. Prior to March 3, 2000 there had been incidences where husband had become agitated, screaming and swearing during sessions. However, he normally calmed down after a period of time and the sessions continued. Ms. Reitz indicated that the previous incidences had not crossed the line and that her attempts at intervening and interjecting had been generally successful. According to Ms. Reitz this type of venting of feelings and frustrations is not necessarily unusual during counseling sessions.

During a session in Ms. Reitz's office on March 3, 2000 Husband became very agitated, screaming at Wife, calling her names and using obscenities. He left the counselor's office, slamming the door behind him but then returned and in the hallway continued to yell at Ms. Reitz. After being told that the police would be called if he did not leave, Husband left. Ms. Reitz indicated that she was intimidated by Husband's screaming. However, no testimony was provided of any physical assault or threats thereof made by Husband during the March 3, 2000 or any other counseling sessions.

Wife testified that the parties married in 1993 and that Husband engaged in a pattern of physical abuse over the first three years of the marriage. However, the only testimony she gave as to physical abuse during that time period were two

incidents in 1994. The first being that Husband drove their vehicle in an inappropriate, jerky fashion on Interstate 80 following Wife's cervical operation. Then, a few weeks later, Husband pushed Wife's recliner backwards while she was seated in it thereby risking (according to Wife) potential paralysis. Apparently Wife was not injured as a result of this incident. Following this incident approximately six years ago, Wife describes a pattern of primarily Husband's yelling, swearing and screaming, as well as pounding his fist against inanimate objects.

Wife also described an incident in April, 2000 that she believed constituted abuse on Husband's part. Apparently Husband took Wife's child support money from her purse and left the house in his vehicle. Wife ran outside of the home and grabbed onto the car demanding to have the money returned. Husband had started to back up the car, but then tossed the money at her. Wife threatened to call the police, and Husband packed his belongings and left. There was no allegation by Wife during this incident of screaming, swearing, physical intimidation or threats. Apparently, this incident resulted in the parties' final separation and also precipitated Wife's filing of the PFA Petition.

Wife also testified that she was fearful that Husband would stab her with a knife that was kept in the drawer next to their bed. However, her testimony was clear that no actual implied or express threats were ever made by Husband. Given the fact that many individuals in rural Clearfield County have knives and/or guns in their bedrooms for protection purposes, the Court cannot consider Husband's conduct with the knife to be unusual. Wife also indicated that Husband had physically assaulted her seventeen year old son over two years ago, but

this incident did not involve Wife. Another incident occurred in March, 2000 where Husband became angry that Wife had lent a car to her son. Husband screamed and yelled at Wife but made no threats and did not engage in any assault. Husband left the residence, went to where the son was located and disabled the vehicle. Although Wife and her daughter, Joelle Muirhead, both testified that they were terrified that some physical assault would take place, in fact Husband went to the police station to report the matter with the vehicle before returning home. When he arrived he came in quietly, took a shower and calmly asked Wife if she wanted some pizza. Again, no threats were made nor was Wife assaulted.

The Court also engaged in questioning of Wife in an attempt to ascertain if there were additional assaultive or threatening acts on the part of Husband. Wife testified that there had been no actual physical incidents since 1994 when the recliner was pushed backwards. However, Husband would on occasion bump Wife with his body and position himself such that she could not leave the room. Ms. Muirhead's testimony confirmed the absence of physical attack or threats thereof.

In the event there had been a threat to kill even without actual or attempted physical violence, this Court could feel justified in entering a Protection From Abuse Order. Counterman vs. Shoemaker, 14 Pa. D&C 4th 217 (1992), affirmed 427 Pa. Super 648, 625 A.2d 95. The same would be true had the defendant attempted to cause or actually caused bodily injury. Miller on behalf of Walker vs. Walker, 665 A.2d 1252 (Pa. Super 1995). The evidence also clearly indicates that Husband's conduct did not place Wife in reasonable fear of imminent serious bodily injury, using the definition of serious bodily

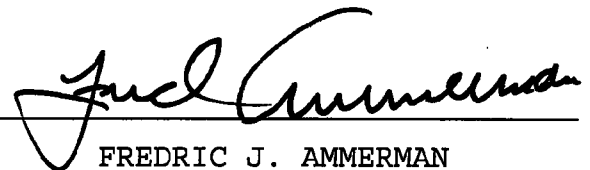
injury as contained in the Crimes Code, 18 Pa. C.S.A. Section 2301.

Lastly, the Court does not believe the testimony has sufficiently established that Husband engaged in a course of conduct or repeatedly committed acts towards Wife which placed Wife in reasonable fear of bodily injury. Although the 1994 driving and recliner incidents, admittedly very remote in time, sound to be inappropriate, the testimony of the incidents as described by Wife did not convince the Court that any bodily injury was involved. Screaming and swearing at the counselor's office again is inappropriate but not necessarily unusual given the fact that the marriage was reaching its ultimate end. While Husband obviously did not care for Wife's son, her son is not a party to the action nor did the April, 2000 incident involve abuse of Wife. Husband reporting the car matter to the police and then returning home calmly does not serve to convince the Court of Husband engaging in a course of conduct as would be required under Section 6102(a)(5). Wife's testimony as to the body bumping was inconclusive.

In summary, although the Court certainly believes that Wife was subjectively in fear for her safety, Husband has not engaged in conduct which made her fear of bodily injury to be reasonable as required by the Statute.

By the Court,

DATE: September 21, 2000

A handwritten signature in dark ink, appearing to read "Fred Ammerman", is written over a horizontal line.

FREDRIC J. AMMERMAN

JUDGE

FILED

SEP 21 2000

04:04

William A. Shaw

Prothonotary

- 1 certified copy to Stephen Fleming, Esquire, MidPenn Legal Services, Inc.
- 1 certified copy to Toni M. Cherry, Esquire
- 1 uncertified copy to Court Admininstrator
- 1 uncertified copy to Donald Mikesell, Esquire
- 1 uncertified copy to Law Library
- 2 uncertified copies to Judge Fredric J. Ammerman

00-496-00

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Received by (Please Print Clearly)* <i>CAREY</i> B. Date of Delivery <i>OCT 13 2000</i></p>	
<p>1. Article Addressed to:</p> <p>Superior Court of Pennsylvania Office of the Prothonotary 1015 Grant Building Pittsburgh, PA 15219</p>		<p>C. Signature <i>X</i> <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number (Copy from service label) 7000 0600 0023 6399 4531</p>			
PS Form 3811, July 1999		Domestic Return Receipt 102595-99-M-1789	

FILED

OCT 16 2000
11:08
William A. Shaw
Prothonotary

FILED

OCT 12 2000
013:00 (ms)
William A. Shaw
Prothonotary

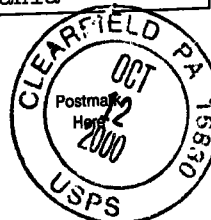
FW

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:

Superior Court of Pennsylvania 00-495-C3

Postage	\$ 3.20
Certified Fee	1.40
Return Receipt Fee (Endorsement Required)	1.25
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.85



Name (Please Print Clearly) (to be completed by mailer)
Superior Court of Pennsylvania

Street, Apt. No., or PO Box No.
Prothonotary 1015 Grant Building
City, State, ZIP+4
Pittsburgh, PA 15219

7554 6669 E200 0090 0004

OFFICE OF PROTHONOTARY AND CLERK OF COURTS

WILLIAM A. SHAW

**PROTHONOTARY
AND
CLERK OF COURT**

CLEARFIELD COUNTY



DAVID S. AMMERMAN

SOLICITOR

JACQUELINE KENDRICK

DEPUTY PROTHONOTARY

P.O. Box 549

CLEARFIELD, PENNSYLVANIA 16830

(814) 765-2641 Ext. 1330

October 12, 2000

**Fredric J. Ammerman, Judge
Courthouse
Clearfield, PA 16830**

**Stephen C. Fleming
2054 E. College Ave.
State College, PA 16801**

**Toni M. Cherry
PO Box 505
DuBois, PA 15801**

**RE: Cheryl M. Gibbons vs. Dennis J. Gibbons
00-495-CD
SUPERIOR CT. # 1404 WDA 2000**

DEAR COUNSEL:

**Please be advised that the above referenced record was forwarded to
Superior Court of Pennsylvania on October 12, 2000.**

Sincerely,



**William A. Shaw
Prothonotary/Clerk of Courts**

OFFICE OF PROTHONOTARY AND CLERK OF COURTS

WILLIAM A. SHAW

**PROTHONOTARY
AND
CLERK OF COURT**

CLEARFIELD COUNTY



**P.O. Box 549
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-2641 Ext. 1330**

DAVID S. AMMERMAN

SOLICITOR

JACQUELINE KENDRICK

DEPUTY PROTHONOTARY

October 12, 2000

Superior Court of Pennsylvania
Office of the Prothonotary
1015 Grant Building
Pittsburgh, PA 15219

RE: CHERYL M. GIBBONS

VS

DENNIS J. GIBBONS

No. 00-495-CD

Superior Court No. 1404 WDA 2000

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Shaw', written over a horizontal line.

**William A. Shaw
Prothonotary**

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA
CASE #00-495-CD**

CHERYL M. GIBBONS

VS

DENNIS J. GIBBONS

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09	07-07-00	NOTICE OF APPEAL	04
10	09-01-00	ORDER RE: PETITION TO PROCEED IN FORMA PAUPERIS	01
11	09-01-00	APPEAL DOCKET SHEET FROM SUPERIOR COURT	02
12	09-15-00	TRANSCRIPT OF PROTECTION FROM ABUSE HEARING DE NOVO	SEP COVER
13	09-21-00	ORDER	06

To Jurn

A,

10-11-00

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. Box 549
CLEARFIELD, PENNSYLVANIA 16830

00-495-10

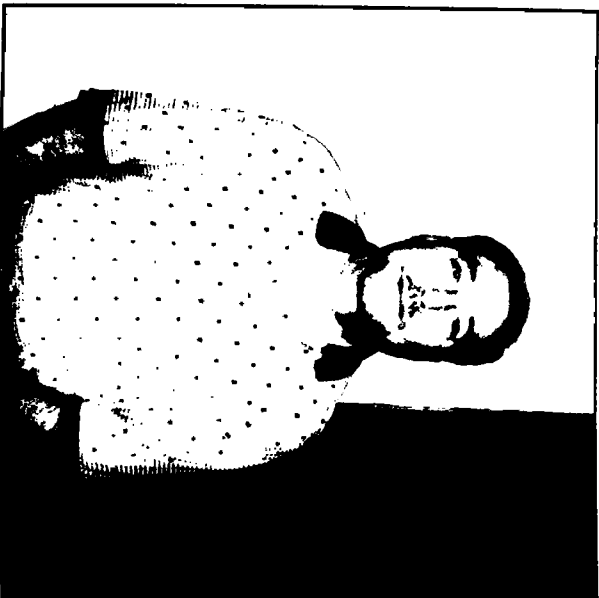
GIBBONS vs GIBBONS

CHERRY



WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. Box 549
CLEARFIELD, PENNSYLVANIA 16830

2000-495-CD



00.495.00

**COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD**

I, **William A. Shaw**, Prothonotary/Clerk of Courts of Common Pleas in and for said County, do hereby certify that the foregoing is a full, true and correct copy of the whole record of the case therein stated, wherein

CHERYL M. GIBBONS

VS

DENNIS J. GIBBONS

00-495-CD

So full and entire as the same remains of record before the said Court, at No. **00-495-CD**

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this _____ Day of _____, 2000.

Prothonotary/Clerk of Courts

I, **Fredric J. Ammerman**, Judge of the Forty-sixth Judicial District, do certify that **William A. Shaw**, by whom the annexed record, certificate and attestation were made and given, and who in his own proper handwriting, thereunto subscribed his name and affixed the seal of the Court of Common Pleas of said county, was at the time of so doing and now is Prothonotary/Clerk of Courts in and for said County of Clearfield, the Commonwealth of Pennsylvania, duly commissioned and qualified; to all of whose acts as such, full faith and credit are and ought to be given, as well in Courts of Judicature, as elsewhere, and that the said record, certificate and attestation are in due form of law and made by proper officer.

Judge

I, **William A. Shaw**, Prothonotary/Clerk of Courts of the Court of Common Pleas in and for said county, do certify that the Honorable **Fredric J. Ammerman**, Judge, by whom the foregoing attestation was made and who has thereunto subscribed his name was at the time of making thereof and still is President Judge, in and for said county, duly commissioned and qualified; to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere.

In Testimony Whereof, I have
hereunto set my hand and affixed
the seal of said Court, this _____ day
of _____, 2000

Prothonotary/Clerk of Courts

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA
RULE OF APPELLATE PROCEDURE 1931(C)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

00-495-CD

CHERYL M. GIBBONS

VS.

DENNIS J. GIBBONS

In compliance with Pa. R.A.P. 1931 (c).

The documents comprising the record have been numbered from **No. 1** to **No. _____**, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

The date on which the record had been transmitted to the Appellate Court is _____, **2000**.

Prothonotary/Clerk of Courts

(seal)

Stephen Fleming	CHERYL M. GIBBONS	APRIL 28, 2000, PETITION FOR PROTECTION FROM ABUSE ORDER, filed by Plaintiff One Certified Copy and fax to PSP Two Certified Copies to Sheriff One Certified Copy to Plaintiff One Certified Copy to Hearing Officer	(1)
	00-495-CD	TEMPORARY ORDER, filed. BY THE COURT: /s/Fredric J. Ammerman, Judge MAY 03, 2000, SHERIFF RETURN, PFA ON DENNIS J. GIBBONS, SO ANSWERS, (2) CHESTER A. HAWKINS, SHERIFF by s/Marilyn Hamm MAY 09, 2000, ENTRY of APPEARANCE, filed by s/STEPHEN FLEMING, ESQ. (3) NO CC MAY 09, 2000, PROTECTION FROM ABUSE FINAL ORDER OF COURT, filed. (4) ONE (1) CC & FAX PSP, ONE (1) CC SHFF, DEF., ATTY T. CHERRY "COURTESY COPY", HEARING OFFICER, & TWO (2) CC ATTY FLEMING AND NOW, this 8th day of May, 2000: The DEFENDANT shall pay the costs and fees of this suit within FORTY-FIVE (45) DAYS of the date of this Order: TOTAL AMOUNT DUE: \$213.00 The DEFENDANT shall also be responsible for payment of all service fees registered with the Prothonotary's Office within thirty (30) days of the date of this Order.	
Toni M. Cherry	DENNIS J. GIBBONS	BY THE COURT: BY THE COURT: s/WARREN B. MIKESSELL, II, ESQ. s/FREDRIC J. AMMERMAN, JUDGE	
	Pd 05-15-00 Pro pd by def. 80.00	MAY 19, 2000, ORDER, RE: Hearing De Novo scheduled for June 12, 2000: By the Court, s/FREDRIC J. AMMERMAN, JUDGE TWO (2) CC ATTY-CHERRY, FLEMING	(5)
Ck#2664 to shff. 38.00	Pro pd by def. 25.00 Shff Hawkins pd. by def. 38.00	JUL 11, 2000, ORDER, filed. NOW, this 7th day of July, 2000, following Hearing De Novo in the above captioned matter; the Court not being satisfied that the Plaintiff has proven abuse under the definition as set forth within the Protection From Abuse Act, it is the ORDER of this Court that the Protection From Abuse Petition be and is hereby dismissed. Costs are assessed against the Defendant and the Court notes they previously had been paid. BY THE COURT, s/FREDRIC J. AMMERMAN, JUDGE	(6)
Ck#2665 to H/O 60.00	Adm. pd by def 10.00	D I S M I S S E D AUG. 07, 2000, PETITION to PROCEED in FORMA PAUPERIS, filed by s/STEPHEN C. FLEMING, ESQ.	(7)
	213.00	AUG. 07, 2000, REQUEST FOR TRANSCRIPT, filed by s/STEPHEN C. FLEMING, ESQ.	(8)
		AUG. 07, 2000, NOTICE OF APPEAL, filed by s/STEPHEN C. FLEMING, ESQ.	(9)
		SEP. 01, 2000, ORDER, re: PLAINTIFF may proceed IFP: By the Court, s/FREDRIC J. AMMERMAN, JUDGE	(10)
		Sep. 01, 2000, APPEAL DOCKET SHEET, filed.	(11)

Stephen Fleming	CHERYL M. GIBBONS	APRIL 28, 2000, PETITION FOR PROTECTION FROM ABUSE ORDER, filed by Plaintiff One Certified Copy and fax to PSP Two Certified Copies to Sheriff One Certified Copy to Plaintiff One Certified Copy to Hearing Officer	1)
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12 T. [signature]

SRO COV

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