

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**SUPERIOR COURT OF THE STATE OF WASHINGTON
KING COUNTY**

LUISA SENISE,

Plaintiff,

vs.

PAVLE TRIFUNOVIC,

Defendant.

NO. 19-2-32724-3 SEA

DECISION ON RALJ APPEAL

Clerk's Action Required

THIS appeal came before the Court for oral argument on September 18, 2020 pursuant to RALJ 8.3 before the undersigned Judge. The Court having reviewed the record on appeal and considering the written and oral argument of the parties, holds the following:

A district court's decision to grant a civil anti-harassment protection order is reviewed for abuse of discretion. RCW 10.14.080(6); *State v. Noah*, 103 Wn. App. 29, 43, 9 P.3d 858 (2000). Discretion is abused when it is exercised on untenable grounds or for untenable reasons. *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971). A court's decision is based on untenable grounds "if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard." *In re Marriage of Littlefield*, 133 Wn 2d 39, 47, 940 P. 2d 1362 (1997).

1 Under RCW 10.14.020(2), “unlawful harassment” consists of (1) a knowing and willful
2 (2) course of conduct (3) directed at a specific person, (4) which seriously alarms, annoys,
3 harasses, or is detrimental to that person, and (5) serves no legitimate or lawful purpose. A
4 “course of conduct” is “a pattern of conduct, composed of a series of acts over a period of
5 time, however short, evidencing a continuity of purpose.” RCW 10.14.020(1).
6

7 This case involved an altercation on 10/4/18 at the parties’ sons’ hockey game. It is
8 undisputed that Ms. Senise’s son acted aggressively toward Mr. Trifunovic’s son and Mr.
9 Trifunovic responded. The parties have different versions of that response but essentially the
10 court concluded that he went over the line and acted too aggressively toward the child.
11

12 Upon review, this court is concerned that there was insufficient evidence demonstrating
13 a “course of conduct.” The only evidence of a “course of conduct” before the October 4th, 2018
14 altercation was Ms. Senise’s testimony. “It happened in the past, and I don’t have any evidence,
15 I don’t have dates and times. Tr. At 8. Later she repeats: I—I understand I have the limit of not
16 being able to prove or to show evidence of previous episodes of Mr. Trifunovic yelling, angry
17 in my son’s face. Tr. At 14. The only other testimony in the record discussing prior interaction
18 between the parties was the fact that the boys spent time at each other’s home in August,
19 including repeated sleepovers, a mere month before the incident. Tr. At 20-21. This does not
20 illustrate a fear of Mr. Trifunovic, but quite the opposite—trust by Ms. Senise to allow her son
21 to sleep at the Respondent’s home repeatedly. Given this limited testimony, there is insufficient
22 testimony in the record to support a course of conduct.
23

24 Given the insufficient record on course of conduct, this court finds that the District Court
25 erred in granting Ms. Senise’s petition.
26

1
2 IT IS HEREBY ORDERED that the decision of the District Court is REVERSED. The
3 Order for Protection entered in District Court is VACATED.
4

5 DATED this 28th day of September, 2020.
6

7 *Electronic Signature Attached*

8 _____
9 Judge Regina S. Cahan
10 King County Superior Court
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

King County Superior Court
Judicial Electronic Signature Page

Case Number: 19-2-32724-3
Case Title: SENISE vs TRIFUNOVIC (APPELLANT/KCD)

Document Title: ORDER RE ON RALJ APPEAL

Signed by: Regina Cahan
Date: 9/28/2020 3:33:24 PM



Judge/Commissioner: Regina Cahan

This document is signed in accordance with the provisions in GR 30.

Certificate Hash: AB8C2D4446EBEB4BB439ECF0CC0EE090B63DC727
Certificate effective date: 7/16/2018 1:46:58 PM
Certificate expiry date: 7/16/2023 1:46:58 PM
Certificate Issued by: C=US, E=kcscefiling@kingcounty.gov, OU=KCDJA,
O=KCDJA, CN="Regina Cahan:
GoGvw4r95BGhF7dmH11GsA=="