Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

Arkansas State Claims Commission
JUL 26 2016
RECEIVED

D.3

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

☑ Mr.
☐ Mrs.
☐ Ms.
☐ Miss

Tracy Standridge, Claimant

vs.

State of Arkansas, Respondent

Do Not Write in These Spaces

Claim No. 17-0053-CC

Date Filed July 26, 2016 (Month) (Day) (Year)

Amount of Claim $ 7,000,000.00

Fund SOA Mental Anguish

Failure to Follow Procedure

State of Arkansas

COMPLAINT

Tracy Standridge (Name), the above named Claimant, of 144 Destiny dr. (Street or R.F.D. & No.) Branson (City)

Mo (State) 65616 (Zip Code) 417-239-5991 (Daytime Phone No.) County of Taney represented by _____ (Legal Counsel, if any, for Claim)

of _____ (Street and No.) _____ (City) _____ (State) _____ (Zip Code) _____ (Phone No.) _____ (Fax No.), says:

State agency involved: State Prosecutor Amount sought: 7 mil

Month, day, year and place of incident or service: [redacted] January 9, 2015

Explanation: Falsely Imprisoned until 1-09-15
See Attached Complaint

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof? NO (Yes or No); when? _____ (Month) (Day) (Year); to whom? _____ (Department)

: and that the following action was taken thereon: _____

and that $ _____ was paid thereon: (2) Has any third person or corporation an interest in this claim? _____; if so, state name and address

_____ (Name) _____ (Street or R.F.D. & No.) _____ (City) _____ (State) _____ (Zip Code)

and that the nature thereof is as follows: _____

: and was acquired on _____, in the following manner:

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

Tracy Standridge
(Print Claimant/Representative Name)

(Signature of Claimant/Representative)

SWORN TO and subscribed before me at Springfield (City) MO (State)

on this 28th (Date) day of June (Month), 2016 (Year)

C. WILSON
My Commission Expires
April 8, 2017
Greene County
Commission #13468747

(SEAL) NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

C Wilson
(Notary Public)

My Commission Expires: 04 (Month) 08 (Day) 2017 (Year)

SF1- R7/99

(1)

TRACY STANDRIDGE, PETITIONER

VS.

CHRIS CARTER, STATE DEPUTY PROSECUTOR

STATE OF ARKANSAS, RESPONDENTS

COMPLAINT

This saga began in August of 2009 when Carolyn Wood filed for a protective order against Tracy Standridge, herein the petitioner, the petitioner filed for protective order against Ms. Wood. The matter was set for October 21, 2009 but was continued. The Judge stated in court that it would be set for November 3, 2009.

At the hearing on November 3, 2009, witnesses did not show up for the petitioner. The Judge tried to get us to agree to mutual protective orders. At this time the petitioner informed the Court that there were children involved. The Judge became upset that I would not agree to mutual orders and he even **cussed** from bench. The judge was accusing the petitioner of abusing the system!

The court said we would receive notification of next court date and that he would reissue notices to witnesses. **AT NO TIME WAS ANY NOTICES SENT OUT TO ANY WITNESSES OR TO MS. WOOD, ONE WAS SENT OUT TO THE PETITIONER BUT WAS NEVER SERVED.**

At the hearing held December 1, 2009, Ms. Wood shows up for court, **(HOW DID SHE KNOW TO SHOW UP?)** At no time did the Judge look to see if the petitioner had been served notice to be at hearing. The Judge dismissed the petitioner's case and issued a protective order against him. See Exhibit 1 Docket Sheet DR 2005-299, Standridge v. Wood.

At no time was the protective order served on the petitioner nor was he given any notification of order. The petitioner was even before the Judge on Dec. 3rd, 2009, (2 days after hearing) on unrelated case and at no time was I informed of the order. Corruption?

On March 3, 2010 the petitioner found out about order when he was arrested for violating it. This was petitioner's **first offense** but was charged with felony 2nd offense. While petitioner was incarcerated he obtained a copy of DR-2005-79 and **WROTE JUDGE WEBB A LETTER WITH COPY OF NOTICE OF HEARING BEING UN-SERVED**, also gave my attorney Andrew Bailey a copy of service. See Exhibit 2; Letter from Judge Webb dated March 26, 2010, Exhibit 3 Sheriff return un-served and Exhibit 4; Docket sheet DR 2005-79 Wood v Standridge.

On April 29, 2010 the petitioner, under advice from attorney, pleads guilty to 6 yrs. probation **(felony)**. See Exhibit 5; paragraph 2 **Carter Call!**

On June 4, 2010 the petitioner filed a Motion for hearing to set aside protective order and motion for hearing about his case being dismissed on Dec. 1, 2009. See Exhibit 6; DR 2005-299 Motion for Hearing and Exhibit 7; DR 2005-79 Motion for Hearing to set aside Order

On September 8, 2010 the petitioner was again arrested for violating order. On Sept. 9, 2010 at first appearance before Judge Putman and represented by Andrew Bailey, the petitioner informed the court that he had never served with the protective order, he was **ignored!** See Exhibit 8; Information 9-2-2010 and Exhibit 9; partial transcript of hearing 9-9-2010.

On Sept. 16, 2010 in front of Judge Webb the petitioner was given a bond reduction and court dates of pretrial January 6, 2011 and trial for Feb. 2, 2011. The petitioner made bond and was released from custody. The next day his probation officer **(PER JUDGE WEBB'S OFFICE)** was attempting to put the petitioner back in jail, he fled. Exhibit 10; Order for court dates and Exhibit 11; Bail Bond with court date of Jan. 6, 2010

On October 28, 2010 the state prosecutor set my case for hearing, even though the petitioner was never given court date, and obtained a failure to appear warrant from the judge. Please read attached: This was done in attempt to get bail bondsman to come get petitioner, the petitioner was in contact with attorney and bail bondsman.

The Petitioner was even living where the Judge had ordered him to live. I had several friends in the Court that day, they all said same thing, after several side bar and several out of court talks, they figured out how to persuade Judge Webb to **issue illegal** warrants! See Exhibit 12; 10-28-2010 transcript's.

The petitioner turned himself in and was brought before court (Judge Webb) on December 2, 2010, at no time was petitioner arraigned on the failure to appear from Oct. 28, 2010, the reason petitioner was arrested. The State prosecutor offered a plea deal that day, this deal was in part for me to give up my rights to my children!

The petitioner's attorney asks that the state prosecutor recuse because of his personal vendetta against the petitioner. The judge states put it in motion. Judge refuses to reinstate bond! See Exhibit 13; Transcripts from 12-2-2010 hearing.

At pretrial Jan. 6th, 2011 petitioner's attorney filed three motions; Motion for the Judge to recuse for the issuance of protective order; Motion for disqualification of Chris Carter (state prosecutor); Writ of Error Coram Nobis.

This was a very long hearing and a lot of stupid arguments; it did show that the prosecutor would do **whatever** he had to do to get a conviction. See Exhibit 14; Transcripts from hearing 1-6-2011, Exhibit 15; Motion for Disqualification of Prosecutor, Exhibit 16; Answer to Motion to Disqualify.

On January 19, 2011 Judge Webb recused from case. See Exhibit 17; Order of recusal

The Arkansas Supreme Court Chief Justice(**whom was from the 14th district**) appointed retired Judge Robert McCorkindale(**Judge Webb's mentor**) to hear case, even though Judge Putman **had not** recused from case nor asked to hear case as law dictates. See Exhibit 18; Letter from Staff Attorney and See Exhibit 19; Partial transcripts.

A hearing was held on April 4, 2011 (there are no transcripts for this hearing?), at this hearing it was stated by the court that a hearing to decide the validity of protective order before going forward with criminal cases. There is record of Judge ruling on hearing, See Exhibit 20; Letter dated April 25, 2011.

The petitioner was held without bond until May and was released on a $2500 bond. See Exhibit 21; Order

On June 2nd, 2011 the state amended the information, to try and intimidate the Petitioner into a plea deal by adding Habitual Offender Enhancement. The Petitioner was well aware that it could not be enhanced! See Exhibit 22; Amended Information.

On July 21, 2011 the petitioner's attorney filed a Motion in Limine #1 and #2; See Exhibit 23, The states response was to file 2nd amended information on the day of trial; See Exhibit 24, changing it from **ACA 5-53-134** to **ACA 9-15-207**, this was done to avoid the wording in 5-53-134; the order of protection was issued **after a hearing of which the person received actual notice and at which the person had an opportunity to participate; the court gave petitioner two weeks to prepare for trial. See Exhibit 25; Transcript.**

The Court also provides a letter from Judge Webb's office stating the hearing to see if order of protection was valid, it was dated 7-11-2011 and set hearing for 8-10-2011, and this would have put it **after** my trial? Not what Judge said April 4, 2011! So now it is set for 2 days before trial, 8-12-2011. See Exhibit 26. **THIS HEARING NEVER HAPPENED!**

On August 12th, 2011 a jury convicted petitioner of violating **ACA 9-15-207** and could not reach agreement on sentence and was sentenced to 30 months in prison by the court. See Exhibit 27; Trial in Chief.

It can only be said by reading transcripts of trial that it was a **corrupt** Judge and a State prosecutor with a personal vendetta against the petitioner that resulted in the petitioner's rights being violated numerous times by both the Judge and the State prosecutor. These rights were continued to be violated by the State prosecutor when he falsified the commitment order by changing the statute the petitioner was tried under ACA 9-15-207 to ACA 5-53-134. This was done because the department of corrections would not accept the commitment order with ACA 9-15-207 on it because it is not a criminal statute. This was also signed by the Judge. See Exhibit 28; Amended Judgment and Commitment Order.

On December 29, 2011 Judge Putman ruled that Dec. 1st, 2009 order was **null an void**. See Exhibit 29; Order.

An appeal was filed and dismissed by the Appeals Court, because the circuit clerk left out the two(2) notice of intent to appeal filed in case. See Exhibit 30;

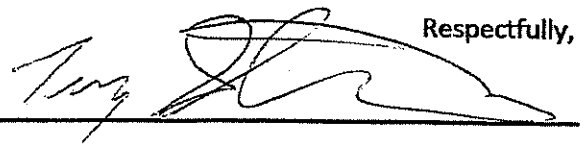
The petitioner filed pro-se motion for belated appeal, it was granted. See Exhibit 31

On December 11th, 2014, the Arkansas Supreme Court **REVERSED AND DISMISSED** the conviction. See Exhibit 32; Supreme Court Decision.

COMPENSATION

Because of the State prosecutor abuse of power, the Petitioner was deprived of his constitutional rights. The Petitioner should be compensated **$1,000,000.00** for loss of freedom; **$1,000,000.00** for physical and mental suffering and humiliation; **$1,000,000.00** for loss of time and interruption and business; **$4,000,000.00** for punitive damages

Respectfully,



Tracy Standridge

144 Destiny dr.

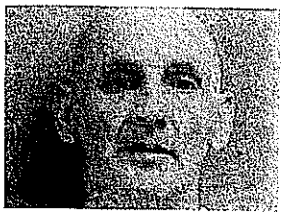
Branson, Mo.

65616

Justice delayed for Tracy Standridge

Josh Dooley, jdooley@baxterbulletin.com *5:07 p.m. CST January 14, 2015*

Protection order case drags through court system



(Photo: File)

When the latest criminal legal saga for Tracy Standridge will end is anyone's guess, as his trial for felony violation of a protection order, scheduled to be heard before retired Northwest Arkansas Circuit Court Judge Tom Keith in December, was recently continued to an undetermined date.

Standridge is accused of making five phone calls on April 30 of last year to his ex-wife's current husband, making derogatory remarks and threatening the man. Standridge also was charged with harassing communication in the case.

The court file for the case is now an inch thick thanks to the numerous motions Standridge has filed and the recusals of a wide array of court officers in the 14th Judicial District, including at least three judges and two prosecutors.

Violating an order of protection is not a felony until a defendant is convicted of such an order at least once prior to a second offense.

It is difficult to discern if Standridge has a previous conviction of violating a protection order, as he has multiple cases and multiple appeals. Baxter County jail records indicate Standridge has been a prisoner on 47 separate occasions.

Six of his stays in the jail were on a charge of violating a protection order. However, that doesn't necessarily mean Standridge has been accused of six violations of protection orders.

Arkansas prison records indicate Standridge has been sent to a state penitentiary on at least four occasions for crimes, including felon in possession of a firearm, theft by receiving, terroristic threatening, aggravated assault, harassment, parole violation and violation of a protection order.

Standridge has written many of his own appeals and motions which litter his court files. Many of the motions ask court officials to remove prosecutors and judges from various cases for alleged bias against him. One of his appeals reached the Arkansas State Supreme Court, which found in favor of Standridge, according to court personnel.

That appeal wasn't Standridge's only win, however. In February 2014, he filed suit against the Baxter County Sheriff's Office for allegedly refusing him pain medication for a tooth ache.

In the suit, Standridge claimed the pain from the tooth ache, and a lack of seasoning for his beans and sugar for his oatmeal, caused him to lose some 36 pounds over the course of his incarceration in the jail. He asked for $200,000 for pain and suffering, and punitive damages.

The Arkansas Association of Counties hired a Little Rock law firm to defend the BCSO in the case. That firm decided to settle the case for $9,500 rather than continue to litigate the matter.

Baxter County Sheriff John Montgomery did not agree with that decision, saying he strongly objected the decision to settle.

"We maintain we did nothing wrong, and I still maintain that," Montgomery said. "If Mr. Standridge does not like the fact we do not put seasoning in the beans in jail, he should change his behavior and stay out of jail."

Both Montgomery and Mountain Home Police Chief Carry Manuel say Standridge is a potential danger, both to law enforcement and the public at large.

"Mr. Standridge has been in and out of our jail for years," Montgomery said. "In my opinion, Mr. Standridge is a dangerous person that has been playing the legal system for years and will continue to be a danger to our community any time he is not locked up."

Perhaps the best indication of the frustration Standridge can cause can be found in a court transcript from a hearing regarding one of the protection orders he violated. In the hearing, his former wife said:

"I just want to surrender and say give him everything. God, please just give me peace of mind. I surrender. I mean, he files so much stuff with the court, your honor, he's just, he assaulted me, I have proof right here. (He) followed me to the Dollar General and beat the crud out of me in the parking lot. Then two weeks later, (he) hired somebody, brought them all the way from Texas to assault me. I mean it's been on and on for years and years.

"I can't get rid of him, that is all I want. I just want to go far, far, far, far away. Away from this."

Read or Share this story: http://www.baxterbulletin.com/story/news/local/2015/01/14/tracy-standridge/21774373/

Exhibit 1

Tracy Standridge

vs. No. DR 2005-299-4

Caroline Wood

ORDERS OF COURT

Date of Orders	
(CONT.) 11/3/09	- Court grants continuance to secure material w.
11-4-09	Motion for Contempt
11-5-09	Sheriff's Return - Served NOV. 3,
11-5-09	Order - Cont. 12-7-2009 10 AM (to
11-9-09	" " " " (or
11-24-09	Sheriff's Return Served 11-3-2
12-1-09	Respondent appears - Petitioner fails to.

Tracey Standridge

Date of Orders	ORDERS OF COURT	BOOK Vol.	BOOK Page
9-23-09	Reopened by Plaintiff		
"	Petition for Order of Protection		
"	Affidavit		
9-24-09	Ex Parte Temporary Order of Protection (Hax)		
9-29-09	Sheriff's Return Served 9-26-2009 8:26.		
10-14-09	Subpoena issued to Bill Dearmore		
10-14-09	Subpoena issued to Paul Fry		
10-14-09	Subpoena issued to Jackie Farris		
10/20/09	Parties appear pro se - cont. to 11/3/09. C. Wall IDR 1043-2009		
10-20-09	Subpoena to Bill Dearmore Returned Served 10-28-09		
"	" " Jackie Farris " " "		
10-21-09	Interrogatories for Plaintiff		
10-23-09	Order - 11-3-2009 10Am		
11-3-09	Appears - Both Parties - pro se - DR 2005-299 - Hearing - Respondant ANNOYANCES & material witnesses whom he has subpoenaed have failed to appear and requests continuance - granted. C. Wall IDR 1170-2		
11-5-09	Order - 12-1-2009 10Am (Hax)		
11-9-09	" " " (Orig)		
11-9-09	Sheriff's Return Unserved (Dan) CD.		
12-1-09	Petitioner appears - Respondant does not appear - sworn testimony taken - Court finds evidence SUFFICIENT - DR2005-2009 FIND RESPONDANT HAS ENGAGED in BOTH THREATS of DOMESTIC VIOLENCE and DOMESTIC VIOLENCE - Order of Protection entered for 2 years. Gwebb		

010

Exhibit 5

IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS
CRIMINAL DIVISION

S TE OF ARKANSAS — PLAINTIFF

V

CR 2010- 52-3

T CY STRANDRIDGE — DEFENDANT

PLEA AGREEMENT

Upon a plea of guilty to the charges the defendant would be sentenced to six (6) years supervised p bation subject to the written terms and conditions of probation. The defendant would pay a fine of $500.00 t ther with court costs of $150.00; warrant service fee of $50; administrative fee of $20.00; $150.00 public d nder fee and a $250.00 DNA fee. These sums total $ 1,120.00 and shall be paid at the rate of $100.00 per n th beginning 30 days after release from jail or the placement on an ankle monitor whichever occurs first.

The defendant will move to dismiss all pending appeals in the Baxter County Circuit Court and they will b emanded to district court. The disorderly conduct charge in case 2009- 230 will be dismissed by the s e. As long as the defendant complies with his terms and conditions of probation and this plea agreement the s e will agree not to pursue a stalking charge (hit men from TX) or harassment in Marion County (Carter call) o ne threats to Mike Todd (OCSE).

The state will not oppose the defendants release from jail on an ankle monitor and house arrest subject to a terms and restrictions that may be imposed by the Baxter County Sheriff's Office. The defendant u erstands that he will be considered in jail and thus may not have any contact with Caroline Wood while on a le monitor. The defendant shall comply with all restrictions placed upon him by the District Court of Baxter C nty as a specific term and condition of felony probation.

TRACY STANDRIDGE

CHRISTOPHER CARTER
Deputy Prosecuting Attorney

LOU MARCZK
Attorney for Defendant

It is so ordered.

Gordon Webb 4/29/10

Gordon Webb

ICR 1338-2010 B

Supp Add 38
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Exh. b. t 06-385

IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS
DOMESTIC RELATIONS DIVISION

JUN 04 2011

by D.C.

TRACY STANDRIDGE PETITIONER

VS. CASE NO. DR-2005-299

CAROLINE WOOD RESPONDENT

MOTION FOR HEARING

Comes Now, Tracy Standridge, Petitioner and for his Motion for Hearing states:

1. That the Petitioner filed for a protection order on September 28th, 2009 and said order was served on Respondent on October 20th, 2009.

2. That both parties appeared on the 20th of October, 2009 and case was continued to secure wittnesses until November 3rd , 2009.

3. That on the 3rd of November, 2009, both parties appeared but wittnesses that were subpoena, failed to appear and the Respondent left the court room without leave of Court.

4. That the Court informed the Petitioner that his wittnesses and him would be notified of next Court date.

5. That the Petitioner, his Wittnesses and the Respondent, were never notified of Court date.

6. That this Court held a hearing on the 1st of December, 2009, and dismissed his Petition for his failure to appear for Hearing he knew nothing about.

Wherefore, the Petitioner ask that this Court set a date for a hearing to Re-Open Petition for Protection Order and for any and all relief he may be entitled too. It Is So Prayed.

Respectfully Submitted,

Tracy Standridge
PO Box 176
Gassville, Ar. 72635

12

DEFENDANT 4/4/11
EXHIBIT # 1

CERTIFICATE OF SERVICE

This is to Certify that a true and correct copy of the foregoing was served on the Defendant by mailing a copy to Caroline Wood, 1007 Barbara, Mt. Home, Ar. 72653, on this 2nd day of June, 2010.

Tracy Standridge

Exhibit 7 00 393

FILED
12:17 P.M.

IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS
DOMESTIC RELATIONS DIVISION

JUN 04 2010

Clerk
by D.C.

CAROLINE WOOD — PETITIONER

VS.

TRACY STANDRIDGE — RESPONDENT

CASE NO. DR-2005-079

MOTION FOR HEARING TO SET ASIDE ORDER

Comes Now, Tracy Standridge, Respondent and for his Motion for Hearing to Set Aside Order states:

1. That the Petitioner filed for a protection order on September 23rd, 2009 and said order was served on Respondent on September 26th, 2009.

2. That both parties appeared on the 20th of October, 2009 and case was continued to secure wittnesses until November 3rd , 2009.

3. That on the 3rd of November, 2009, both parties appeared but wittnesses that were subpoena, failed to appear and the Petitioner left the court room without leave of Court.

4. That the Court informed the Respondent that his wittnesses and he would be notified of next Court date.

5. That the Respondent, his Wittnesses and the Petitioner, were never notified of Court date.

6. That the record reflects that Respondent was not served of the new Court date and only attempt to serve on record was after court date.

7. That this Court held a hearing on the 1st of December, 2009, and the Petitioner appeared without any notification on record in Court file and granted a two year protection order against the Respondent.

8. That the Respondent has still never been served with the Two Year Protection Order that was handed down by this Court and only found out about it upon his arrest on March 3rd, 2010.

9. That the Respondent only found out about the hearing held on the 1st of December, 2009, by requesting a complete copy of Court file from the Clerks office.

Wherefore, the Respondent ask the Court to set a Hearing to set aside protection order and for any and all relief he may be entitled. It Is So Prayed.

STATE'S EXHIBIT # 2

Respectfully Submitted,

Tracy Standridge
PO Box 176
Gassville, Ar. 72635

CERTIFICATE OF SERVICE

This is to Certify that a true and correct copy of the foregoing was served on the Defendant by mailing a copy to Caroline Wood, 1007 Barbara, Mt. Home, Ar. 72653, on this 2nd day of June, 2010.

Tracy Standridge

Exhibit 2 2:17 pm

STATE OF ARKANSAS

VS

TRACY M. STANDRIDGE
DOB 03-03-67

INFORMATION FOR

SEP 02 2010

VIOLATION OF PROTECTION ORDER, 5-53-134, CLASS D FELONY

Clerk
by D.C.

I, RON KINCADE, PROSECUTING ATTORNEY WITHIN AND FOR THE 14TH JUDICIAL CIRCUIT OF THE STATE OF ARKANSAS, of which Baxter County is a part, in the name and by the authority of the State of Arkansas, on oath, accuse the Defendant, Tracy M. Standridge, of the Violation of Protection Order, 5-53-134, Class D Felony. A person commits the crime of Violation of Protection Order if: knowingly the a circuit court or other court with competent jurisdiction has issued a temporary order of protection or an order of protection against the person pursuant to the The Domestic Abuse Act of 1991. Committed as follows, to wit: the Defendant did unlawfully and feloniously on or about July 29, 2010, in Mountain Home, Arkansas, called the victim at work on two separate occasions and stated in very explicit terms that "she (victim) pushed him to the edge and she is dead..." another call followed in which the defendant stated, "Just remember every person who walks through that door could be someone I've sent" The victim has an order of protection against the defendant until December 2011. The defendant has been previously found guilty of the same offense on April 29,2010. To Wit: Violation of a Protection Order, against the peace and dignity of the State of Arkansas.

RON KINCADE, PROSECUTING ATTORNEY

BY: _____
PROSECUTING ATTORNEY

Subscribed and Sworn to before me this 2nd day of September 2010.

RHONDA J. PORTER, CIRCUIT CLERK

Admit to bond in sum of:
$20,000.00

BY: _____
DEPUTY CLERK

16

000001

Exh. b, 1 28

DEFENDANT: TRACY M. STANDRIDGE
CASE: 2010-218

AMENDED
JUDGMENT AND COMMITMENT ORDER
IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS
FOURTEENTH JUDICIAL DISTRICT

On the 12th day of August 2011, the Defendant appeared before the Court, was advised of the nature of the charge(s), of constitutional and legal rights, of the effect of a guilty plea upon those rights, and of the right to make a statement before sentencing. The Court made the following findings:

W
44
2X
114984

FILED
10:00 A M
SEP 21 2011
Circuit Clerk
by D.C.

DEFENDANT'S FULL NAME: TRACY M. STANDRIDGE
DATE OF BIRTH: 03-03-67
RACE: WHITE
SEX: MALE
SID #: 552856
DEFENDANT'S ATTORNEY: LLEWELLYN MARCZUK
DEPUTY PROSECUTING ATTORNEY: CHRISTOPHER CARTER
CHANGE OF VENUE FROM: N/A

Defendant was represented by: ___ private counsel ___ appointed counsel
XXX public defender ___ himself/herself

Defendant made a voluntary, knowing and intelligent right to counsel: ___ yes ___ no N/A

There being no legal cause shown by the Defendant, as requested, why judgment should not be pronounced, a judgment of conviction is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. The Defendant is sentenced to the Arkansas Department of Correction (A.D.O.C.) for the term on each offense shown below:

TOTAL NUMBER OF OFFENSES: ONE

Y 1826

ICR 3414-2011

DOC
10.3.11

DEFENDANT: TRACY M. STANDRIDGE
DOCKET #: 2010-218
ARREST TRACKING #: N/A

OFFENSE # One

A.C.A # of Offense: 5-53-134
Name of Offense: Violation of Protection Order
Seriousness level of Offense: 3
Criminal History Score: 5
Presumptive Sentence: PEN 60 RCF/AS
Sentence is a departure for the sentencing grid. XXX Yes ____ No
Offense is XXX Felony ___ Misdemeanor
Classification of Offense: ___ A ____ B ___ C XXX D ___ Y
Sentence imposed: 54 months to run consecutive to Baxter County Revocation Case #2010-57.
Suspended imposition of sentence: N/A
Defendant was sentenced as a Habitual Offender under A.C.A. 5-54-501, Subsection ___ (a) ___ (b) ___ (c) ___ (d)
Sentenced was enhanced by A.C.A N/A
Defendant ____ attempted ___ solicited ___ conspired to commit the offense. N/A
Offense date: July 29, 2010
Number of counts: One
Defendant was on ___ probation ___ parole at time of conviction. N/A
Commitment on this offense is a result of the revocation of Defendant's probation or suspended imposition of sentence. ___ Yes XXX No
Victim of the offense was ___ under XXX over the age of 18 years.
Defendant voluntarily, intelligently, and knowingly entered a:
XXX negotiated plea of guilty or nolo contendere.
___ plea directly to the court of guilty or nolo contendere.
Defendant:
___ entered a plea as shown above and was sentenced by a jury.
___ was found guilty of said charge(s) by the court, and sentenced by ___ the court ___ jury.
XXX was found guilty at a jury trial, and sentenced by XXX the court ___ a jury
___ was found guilty at a jury trial, and sentenced by ___ the court ___ a jury

Indicate which sentences are to run consecutively: Offense #1 and Baxter County Revocation Case # 2010-57
Death Penalty: _____ Execution Date: _____
Total time to serve on all offenses listed previously: 54 months
Time to be served at ***XXX Department of Corrections*** ___Regional Correctional Facility
Jail Time Credit: 224 days
The defendant was convicted of a target offense under the Community Punishment Act. The Court hereby ordered the Defendant be judicially transferred to the Department of Community Punishment (D.C.P.) ___ Yes XXX No
Failure to meet the criteria or violation of the rules of the D.C.P. could result in transfer to the A.D. C. Defendant was convicted of , or has entered a plea of *nole contendere* to a , 'drug crime" as defined in Act 1088 of 2007, and codified at A.C.A. 12-17-101 et. Seq. ___ Yes XXX No

ICR 3414-2011A 18

DEFENDANT: TRACY M. STANDRIDGE

DOCKET NUMBER # 2010-218
ARREST TRACKING #: N/A

Court Cost $200.00 Mandatory DNA Fine $250.00

A judgment of restitution is hereby entered against the defendant in the amount and terms as shown above: $N/A

Payments to be made to the Baxter County Sheriff's Department at the rate of $100.00 per month, beginning within sixty (60) days after release from incarceration.

If multiple beneficiaries give names, addresses and show payment priority: N/A

Defendant has been adjudicated guilty of an offense requiring registration as a sex offender, and is ordered to complete the Sex Offender Registration Form: ___ Yes XXX No
Defendant adjudicated guilty of an offense requiring registration as a sex offender has been adjudicated guilty of a prior sex offense under a separate case number ___ Yes XXX No.
If yes, list prior case number(s)_____
Defendant is alleged to be a Sexually Violent Predator, and is ordered to undergo an evaluation at a facility designated by the Department of Corrections pursuant to A.C.A. 12-12-918 XXX No
Defendant has committed an aggravated sexual offense, as defined in A.C.A 12-12-903 XXX No
Defendant was adjudicated guilty of a felony offense, a misdemeanor sexual offense, or a repeat offense (as defined in A.C.A. 12-12-1103), and is ordered to have a DNA sample drawn at:
____a D.C.P. Facility XXX the A.D.O.C. XXX Yes ___ No

Defendant was informed of his right to appeal: ___ Yes ___ No N/A
Appeal Bond: $ _____ N/A
The County Sheriff is hereby ordered to transport the defendant to the ***XXX Arkansas Department of Corrections*** _____ Regional Correctional Facility
The short report of circumstances attached hereto is approved. N/A
Defendant was adjudicated guilty of domestic-violence related offense. ___ Yes XXX No
If yes, identify the relationship of the victim to the Defendant. _____
If no, was Defendant originally charged with a domestic-violence related offense? XXX No
If yes, state the name of the offense _____

Prosecutors Approval: _____
Date: _____

Circuit Judge Robert W. McCorkindale, II: Signature: _____
Date: _____

I certify this is a true and correct record of this Court.
Date: 9-2-11
(SEAL)

Rhonda J. Porter, Circuit Clerk
Deputy: _____

ICR 34.4.2(1)(B)

19

Ex H, 6, f 29

IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS
DOMESTIC RELATIONS DIVISION

CAROLINE WOOD — PETITIONER

VS. NO. DR 2005-79-3

TRACY STANDRIDGE — RESPONDENT

ORDER

After due consideration, the court finds that the Respondent's Motion to Set Aside the Order of Protection issued in this case should be, and hereby is, granted.

IT IS SO ORDERED.

John Putman
Circuit Judge
Date: December 28, 2011

FILED
12:45 PM
DEC 29 2011
Clerk
by D.C.

20

Ex H; 6.7 30

Not Reported in S.W.3d, 2012 Ark. App. 585, 2012 WL 5328603 (Ark.App.)

NOTICE: THIS DECISION WILL NOT APPEAR IN THE SOUTHWESTERN REPORTER. SEE REVISED SUPREME COURT RULE 5-2 FOR THE PRECEDENTIAL VALUE OF OPINIONS.

Court of Appeals of Arkansas.
Tracy M. STANDRIDGE, Appellant
v.
STATE of Arkansas, Appellee.

No. CACR 12-23.
Oct. 24, 2012.

Appeal from the Baxter County Circuit Court, [No. CR-10-218-4], Robert McCorkindale, II, Judge.
Crumpton & Collins, P.A., by: Clifford C. Collins, for appellant.

Dustin McDaniel, Att'y Gen., by: Valerie Glover Fortner, Ass't Att'y Gen., for appellee.

JOHN B. ROBBINS, Judge.

**1 Appellant *1 Tracy M. Standridge was convicted in a jury trial of violating an order of protection, Class D felony, and he was sentenced to fifty-four months in prison. On appeal, Mr. Standridge argues that his conviction should be reversed because the protective order he was found to have violated was void, as it was entered without notice being given to him. Because Mr. Standridge did not file a notice of appeal from his conviction, we dismiss the appeal.

Mr. Standridge was on probation when the State charged him with the criminal offense of violating a protective order. The State also filed a petition to revoke his probation based on the commission of that crime. A jury trial was held on August 12, 2011, and the jury convicted Mr. Standridge of the underlying offense. On the same day, after the jury trial concluded, the trial court held a revocation hearing and revoked appellant's probation.

Two *2 separate judgment and commitment orders were entered on August 17, 2011. In case number 2010-218, the trial court entered a conviction against Mr. Standridge and sentenced him to fifty-four months in prison. In case number 2010-57, the trial court revoked Mr. Standridge's probation and sentenced him to thirty months in prison.

Mr. Standridge filed a notice of appeal on September 9, 2011, where he gave his "notice to appeal his revocation hearing held on the 12th of August, 2011." The notice of appeal referenced only case number 2010-57 (the revocation), and Mr. Standridge gave no notice to appeal from his conviction in case number 2010-218, for which a separate judgment had been entered. Mr. Standridge's notice of appeal was sufficient to appeal from his revocation and resulting sentence in that case, and in a separate appeal we affirmed his revocation. *See* Standridge v. State, 2012 Ark.App. 563, --- S.W.3d ----. However, his notice of appeal was ineffective as to the underlying conviction that he now attempts to appeal.

Rule 2(a)(4) of the Rules of Appellate Procedure-Criminal provides that a person desiring to appeal shall identify the judgment being appealed. The timely filing of a notice of appeal is, and always has been, jurisdictional. Giacona v. State, 39 Ark.App. 101, 839 S.W.2d 228 (1992). Whether the question is raised by the parties or not, it is not only the power, but also the duty, of a court to determine whether it has jurisdiction of the subject matter. *Id.* In the present case, Mr. Standridge has failed to file a notice of appeal, timely or otherwise, from the judgment of conviction arising from his jury trial on the underlying offense of violation of a protective order. Therefore, we dismiss the appeal without *3 prejudice for appellant to petition the supreme court for permission to file a belated appeal.

Dismissed.

WYNNE and HOOFMAN, JJ., agree.

Ark.App.,2012.
Standridge v. State
Not Reported in S.W.3d, 2012 Ark. App. 585, 2012 WL 5328603 (Ark.App.)

END OF DOCUMENT

21

Exhibit 31

Not Reported in S.W.3d, 2013 Ark. 134, 2013 WL 1281836 (Ark.)

Supreme Court of Arkansas.
Tracy STANDRIDGE, Petitioner
v.
STATE of Arkansas, Respondent.

No. CR 13-15.
March 28, 2013.

Pro se Motion for Belated Appeal [Baxter County Circuit Court, CR 10-218, Robert McCorkindale II, Judge].
PER CURIAM.

**1 In *1 2011, petitioner Tracy Standridge was found guilty by a jury of violating a protective order in the Baxter County Circuit Court in case number CR 10-218 and was sentenced to fifty-four months' imprisonment. His probation for a prior offense in Baxter County Circuit Court case number CR 10-57 was revoked on the grounds that he had violated the order of protection. Separate appeals were taken from the revocation order in CR 10-57 and the judgment-and-commitment order in CR 10-218.

The appeal from the revocation order in CR 10-57 was lodged in the Arkansas Court of Appeals in CACR 12-25, and the court of appeals affirmed the order on October 10, 2012. ***Standridge v. State***, 2012 Ark.App. 563, --- S.W.3d ----. The appeal from the judgment-and-commitment order in CR 10-218 was lodged in CACR 12-23. The court of appeals dismissed the appeal in CACR 12-23 on the ground that the only notice of appeal that was *2 filed pertained to the revocation order only. ***Standridge v. State***, 2012 Ark.App. 585. In its opinion, the court of appeals noted that two separate judgment-and-commitment orders were entered on August 17, 2011. The court of appeals said that the notice of appeal filed on September 9, 2011, gave "notice to appeal his revocation hearing held on the 12th of August, 2011" and that the notice of appeal referenced only case number CR 10-57, the revocation. The court of appeals further stated that there was no notice of appeal from the conviction in CR 10-218, for which the separate judgment had been entered. The court of appeals found that petitioner's notice of appeal was not effective as to the underlying conviction that he attempted to appeal. *Standridge*, 2012 Ark.App. 585, at 2. The court concluded that, whether the question was raised by the parties or not, it is not only the power, but also the duty, of a court to determine whether it has jurisdiction of the subject matter, and petitioner failed to file a notice of appeal, timely or otherwise, from the judgment of conviction arising from his jury trial on the underlying offense of violation of a protective order. On the basis that there was no valid notice of appeal, the appeal was dismissed without prejudice for Standridge to petition this court for permission to file a belated appeal. *Id.*, at 2-3.

Now before us is petitioner Standridge's motion to proceed with a belated appeal in the case. We grant the motion because the record filed with the motion for belated appeal reflects that a timely notice of appeal was indeed filed as to the judgment-and-commitment order. Apparently, through some error, the record in CACR 12-23 (CR 10-218) that was *3 before the court of appeals did not contain the notice of appeal.[FN1] The record lodged with the motion contains two notices of appeal that designate the judgment entered following the jury trial in CR 10-218. The first was a pro se notice of appeal filed on September 9, 2011, in which petitioner declared his intent to appeal from his "conviction at trial August 12, 2011." The second notice was filed by petitioner's attorney, Mr. Llewellyn J. Marczuk, on September 16, 2011. It also states that the appeal is taken from the judgment-and-commitment entered August 17, 2011, and it designated the entire record of the jury trial held August 12, 2011. When the record-on-appeal was lodged in the Arkansas Court of Appeals, Mr. Marczuk was relieved as counsel and attorney Clifford Collins was appointed to represent petitioner.

FN1. After the appeal was dismissed, petitioner filed a pro se petition for rehearing in the court of appeals in CACR 12-23 on November 13, 2012, in which he pointed out that both he and his attorney timely filed a notice of appeal in CR 10-218 and that the record must not be complete if those notices were missing. He asked the court to issue a writ of certiorari to bring up the notices of appeal that he assumed to have been omitted from the record. The petition was denied by Per Curiam Order on December 5, 2012. Counsel for petitioner did not seek rehearing.

**2 As petitioner has produced a record that demonstrates that there was a timely notice of appeal filed with respect to the judgment, he has established that the appeal should go forward. As there was a valid notice of appeal, we treat the motion for belated appeal as a motion for rule on clerk to lodge the record pursuant to Arkansas Supreme Court Rule 2-2 (b) (2012). *Eubanks v. State*, 2011 Ark. 214 (per curiam); *Wilmoth v. State*, 2010 Ark. 315 (per curiam); *Tillman v. State*, 2010 Ark. 103 (per curiam); *Ester v. State*, 2009 Ark. 442 (per curiam) (citing *Mitchem v. State*, 374 Ark. 157, 386 S.W.3d 679 (2008) (per curiam)); *Marshall v. State*, 2009 Ark. 420 (per curiam).

Our *4 clerk is directed to lodge the appeal in the Arkansas Court of Appeals and set a briefing schedule. As Mr. Clifford Collins was attorney-of-record for the first proceeding in the Arkansas Court of Appeals, he will remain attorney-

of-record for the appeal until such time as the court of appeals should elect to relieve him of that duty and appoint other counsel.

Motion treated as motion for rule on clerk and granted.

HOOFMAN, J., not participating.

Ark.,2013.
Standridge v. State
Not Reported in S.W.3d, 2013 Ark. 134, 2013 WL 1281836 (Ark.)

END OF DOCUMENT

Exhibit 52

Cite as 2014 Ark. 515

SUPREME COURT OF ARKANSAS

No. CR-13-15

TRACY M. STANDRIDGE APPELLANT	Opinion Delivered December 11, 2014 APPEAL FROM THE BAXTER COUNTY CIRCUIT COURT [NO. CR-2010-218]
V.	HONORABLE ROBERT W. McCORKINDALE, II, JUDGE
STATE OF ARKANSAS APPELLEE	REVERSED AND DISMISSED.

JOSEPHINE LINKER HART, Associate Justice

In 2011, a Baxter County jury convicted Tracy Standridge of Class D felony violating an order of protection, and the circuit court sentenced him to fifty-four months in prison. At the same hearing, his probation for a prior offense of violation of a protection order was revoked. Separate appeals were taken from the revocation order and the conviction. The appeal from the revocation order was lodged in the Arkansas Court of Appeals, which affirmed the probation revocation. *Standridge v. State*, 2012 Ark. App. 563, 423 S.W.3d 677. The court of appeals dismissed Standridge's appeal from the conviction. *Standridge v. State*, 2012 Ark. App. 585. This court, however, subsequently allowed Standridge to lodge his appeal from the conviction. *Standridge v. State*, 2013 Ark. 134. The court of appeals certified the appeal to this court on the grounds that the appeal involved issues of first impression, of substantial public interest, needing clarification of the law or the overruling of precedent, and concerning the interpretation of an act of the General Assembly. Ark. Sup. Ct. R. 1-2(b)(1),

(4), (5), (6) (2014). We have accepted certification of the appeal. We hold that the circuit court lacked subject-matter jurisdiction, and we reverse and dismiss Standridge's conviction.

Our decision in this case turns on the State's decision to charge and try Standridge for violation of a protection order under Arkansas Code Annotated section 9-15-207 (Repl. 2009), rather than the criminal-code provision for violation of a protection order found at Arkansas Code Annotated section 5-53-134 (Supp. 2013). To understand our decision, it is first necessary to describe the respective statutes.

In pertinent part, Arkansas Code Annotated section 9-15-207, which is a statute that is part of The Domestic Abuse Act of 1991, provides as follows:

> (a) Any order of protection granted under this chapter is enforceable by a law enforcement agency with proper jurisdiction.
> (b) An order of protection shall include a notice to the respondent or party restrained that:
>
> > (1) A violation of the order of protection is a Class A misdemeanor carrying a maximum penalty of one (1) year imprisonment in the county jail or a fine of up to one thousand dollars ($1,000), or both;
> > (2) A violation of an order of protection under this section within five (5) years of a previous conviction for violation of an order of protection is a Class D felony;
> > (3) It is unlawful for an individual who is subject to an order of protection or convicted of a misdemeanor of domestic violence to ship, transport, or possess a firearm or ammunition pursuant to 18 U.S.C. § 922(g)(8) and (9) as it existed on January 1, 2007; and
> > (4) A conviction of violation of an order of protection under this section within five (5) years of a previous conviction for violation of an order of protection is a Class D felony.
>
> (c) For respondents eighteen (18) years of age or older or emancipated minors, jurisdiction for the criminal offense of violating the terms of an order of protection is with the circuit court or other courts having jurisdiction over criminal matters.

In sum, subsection (a) provides that a law enforcement agency may enforce an order of

protection. Subsection (b) refers to what is included in the notice. Subsection (c) provides that jurisdiction for the "criminal offense" is with the circuit court. In describing the purpose of The Domestic Abuse Act of 1991, Arkansas Code Annotated section 9-15-101 (Repl. 2009) provides:

> The purpose of this chapter is to provide an adequate mechanism whereby the State of Arkansas can protect the general health, welfare, and safety of its citizens by intervening when abuse of a member of a household by another member of a household occurs or is threatened to occur, thus preventing further violence. The General Assembly has assessed domestic abuse in Arkansas and believes that the relief contemplated under this chapter is injunctive and therefore equitable in nature. The General Assembly hereby finds that this chapter is necessary to secure important governmental interests in the protection of victims of abuse and the prevention of further abuse through the removal of offenders from the household and other injunctive relief for which there is no adequate remedy in current law. The General Assembly hereby finds that this chapter shall meet a compelling societal need and is necessary to correct the acute and pervasive problem of violence and abuse within households in this state. The equitable nature of this remedy requires the legislature to place proceedings contemplated by this chapter under the jurisdiction of the circuit courts.

Thus, the statutes provide a "mechanism" by which "injunctive" and "equitable" relief can be sought to protect victims of domestic abuse.

By contrast, section 5-53-134 provides in relevant part:

> (a)(1) A person commits the offense of violation of an order of protection if:
> (A) A circuit court or other court with competent jurisdiction has issued a temporary order of protection or an order of protection against the person pursuant to the The Domestic Abuse Act of 1991, § 9-15-101 et seq.;
> (B) The person has received actual notice or notice pursuant to the Arkansas Rules of Civil Procedure of a temporary order of protection or an order of protection pursuant to the The Domestic Abuse Act of 1991, § 9-15-101 et seq.; and
> (C) The person knowingly violates a condition of an order of protection issued pursuant to the The Domestic Abuse Act of 1991, § 9-15-101 et seq.
>
> . . . .

(b)(1) Except as provided in subdivision (b)(2) of this section, violation of an order of protection under this section is a Class A misdemeanor.
(2) Violation of an order of protection under this section is a Class D felony if:
(A) The offense is committed within five (5) years of a previous conviction for violation of an order of protection under this section;
(B) The order of protection was issued after a hearing of which the person received actual notice and at which the person had an opportunity to participate; and
(C) The facts constituting the violation on their own merit satisfy the elements of any felony offense or misdemeanor offense, not including an offense provided for in this section.

The statute contains the elements the State must prove to obtain a conviction for the crime of violation of a protection order. To sustain a conviction, the State must prove that a circuit court has issued a temporary order of protection or an order of protection against the person, that the person has received actual notice or notice under the Arkansas Rules of Civil Procedure of a temporary order of protection or an order of protection, and that the person knowingly violates a condition of an order of protection. The statute further provides that violation of an order of protection is a Class A misdemeanor. The statute, however, further provides that the offense is a Class D felony if the State further proves that the offense is committed within five years of a previous conviction for violation of an order of protection, that the order of protection was issued after a hearing of which the person received actual notice and at which the person had an opportunity to participate, and that the facts constituting the violation on their own merit satisfy the elements of any felony offense or misdemeanor offense.

The record discloses that on September 2, 2010, the State charged Standridge by information with violation of a protection order under section 5-53-134 as a Class D felony.

The State's June 2, 2011 amended information also charged him with a Class D felony and cited to section 5-53-134. On July 22, 2011, however, the State filed an amended information charging Standridge with a Class D felony violation of a protection order, citing section 9-15-207. The information further provided as follows:

> A person commits the crime of Violation of Protection Order if: knowingly a circuit court or other court with competent jurisdiction has issued a temporary order of protection or an order of protection against the person pursuant to the The Domestic Abuse Act of 1991. . . . Committed as follows, to wit: the Defendant did unlawfully and feloniously on or about July 29, 2010, in Mountain Home, Arkansas, called the victim at work on two separate occasions and stated in very explicit terms that "she (victim) pushed him to the edge and she is dead" another call followed in which the defendant stated, "Just remember every person who walks through that door could be someone I've sent." The victim has an order of protection against the defendant until December 2011. The defendant has been previously found guilty of the same offense on April 29, 2010 and July 28, 2009. To Wit: Violation of a Protection Order and Habitual Offender, against the peace and dignity of the State of Arkansas.

At a hearing held the same day, the court granted the State's motion to amend the information. In support of its motion, the State asserted that the amendment "largely changes the number of the statute" and that "our factual allegations are the same but the number of the statute is switched from 5-53-134 to 9-15-207." The court then continued the case.

At a subsequent hearing, Standridge's counsel noted that the case had been continued to allow him to prepare for trial following the State's amendment of the information. Counsel argued that section 5-53-134 was the correct statute to proceed under for a prosecution and not section 9-15-207, which counsel described as a noncriminal statute. Counsel argued that because section 9-15-207 was not a criminal charge, the charge should be dismissed as filed. Counsel asserted that the State had amended the information because section 9-15-207 did

not, as did section 5-53-134, provide that in order to establish a Class D felony, the State must prove that the order of protection was issued after a hearing of which the person received actual notice and at which the person had an opportunity to participate. In reply, the State argued that section 9-15-207 was a criminal statute. The State acknowledged that a hearing on the order of protection was held on December 1, 2009, that Standridge was not present at the hearing, that the order of protection was issued, and that the next day the sheriff returned an unserved notice of the hearing. The circuit court denied the motion to dismiss.

During its opening argument to the jury, the State conceded that the protection order was granted at a hearing held December 1, 2009, that Standridge was not given notice of the hearing, and that he was not present at the hearing. The State then presented evidence from Caroline Wood, who testified that she had obtained the protection order against Standridge. She testified that on July 29, 2010, Standridge had called her at work and said, "You have touched me to the edge. You are a dead bitch, do you understand me? You are dead." Wood acknowledged that Standridge was not present at the December 1, 2009 hearing.

At the conclusion of this testimony, Standridge's counsel moved for a directed verdict, arguing that it was clear from the State's concession that Standridge had not received notice to appear at the December 1, 2009 hearing as required by section 5-53-134. In response, the State argued, "We have proceeded under a different statute that does not require that particular element" and therefore the State had met its burden of proof. The circuit court denied the motion.

Standridge then elicited evidence from the chief deputy circuit clerk from Baxter

County Circuit Court that her records indicated that Standridge was not served with the notice for the December 1, 2009 hearing. Standridge's counsel renewed his motion for a directed verdict and his motion to prohibit the amendment to the information. Counsel again argued that Standridge was never served with notice of the December 1, 2009 hearing on the protection order. Counsel further alleged that the court had committed cumulative errors. In response, the State argued that section 9-15-207 was a criminal statute. The court denied the motions.

Standridge's counsel then proffered a jury instruction that counsel asserted was "taken verbatim" from section 5-53-134. The proffered instruction included language that the State must prove that the order of protection was issued after a hearing of which the person received actual notice and at which the person had an opportunity to participate. The State argued that Standridge was instead charged under section 9-15-207 and not section 5-53-134. The court rejected Standridge's proffered instruction and instructed the jury as follows:

> Tracy Standridge is charged with the offense of violation of a protective order. To sustain this charge the State must prove beyond a reasonable doubt that (A) A circuit court or other court with competent jurisdiction has issued an order of protection against Tracy Standridge pursuant to the The Domestic Abuse Act; and (B) That Tracy Standridge has received actual notice or notice of the order of protection; and (C) That Tracy Standridge knowingly violated a condition of an order of protection issued pursuant to the The Domestic Abuse Act. (D) It is a violation if the facts constituting the violation on their own merit satisfy the elements of any felony offense or misdemeanor offense.

We note that while the jury instruction instructed the jury on some of the elements of the offense provided for in section 5-53-134, missing from the jury instruction was language from

section 5-53-134 to the effect that violation of an order of protection is a Class D felony if the offense is committed within five years of a previous conviction for violation of an order of protection and that the order of protection was issued after a hearing of which the person received actual notice and at which the person had an opportunity to participate.

In closing, the State again acknowledged that Standridge did not have notice of the hearing. The jury returned a verdict of guilty but were unable to reach a decision on Standridge's sentence. The circuit court then imposed a sentence of fifty-four months' imprisonment. The court also revoked Standridge's probation. Standridge appealed both the conviction and the probation revocation. The court of appeals affirmed the circuit court's decision to revoke Standridge's probation. Now before this court is Standridge's appeal from the conviction.

On appeal, Standridge raises five issues: (1) that there was insufficient evidence to support the conviction; (2) that the circuit court precluded him from putting on a defense; (3) that the circuit court erred by refusing to give his proffered jury instruction on section 5-53-134 and that the State's instruction was an incorrect statement of the law; (4) that the circuit court erred in denying his motion to dismiss because the State's amended information charged him with violation of section 9-15-207 and not 5-53-134; (5) that the circuit court committed cumulative errors. This court, however, need not consider the merits of each argument on appeal because Standridge was charged and tried under section 9-15-207, a statute that does not describe a criminal offense. Thus, the circuit court lacked subject-matter

jurisdiction, and we reverse and dismiss.

On review, we consider issues of statutory interpretation de novo, and we construe a statute just as it reads, giving the words their ordinary and usually accepted meaning. *State v. Thomas*, 2014 Ark. 362, at 4, 439 S.W.3d 690, 692. In construing any statute, we place it beside other statutes relevant to the subject matter in question and ascribe meaning and effect to be derived from the whole. *Id.*, 439 S.W.3d at 692. Statutes relating to the same subject must be construed together and in harmony. *Id.*, 439 S.W.3d at 692.

In construing sections 5-53-134 and 9-15-207, we conclude that section 5-53-134 is the criminal statute under which the State should have charged Standridge to obtain a conviction for Class D felony violation of a protection order. Section 9-15-207 does not contain the elements of Class D felony violation of a protection order; rather, those elements are found in section 5-53-134. As required by section 5-53-134(b)(2)(B), to obtain a conviction for Class D felony violation of a protection order, the State must prove that the order of protection was issued after a hearing of which the person received actual notice and at which the person had an opportunity to participate. By contrast, section 9-15-207 provides that a law enforcement agency may enforce an order of protection, sets out what the notice should contain, and provides that jurisdiction for the "criminal offense" is with the circuit court. Rather than serving as a criminal offense, section 9-15-207 provides the mechanism by which a person can obtain injunctive and equitable relief for protection against domestic abuse. Thus, by charging Standridge under section 9-15-207, the State charged Standridge

under a noncriminal statute.

As is evident from the information, the State's remarks at trial, and the State's jury instructions, the State pursued a course of charging and trying Standridge under section 9-15-207. In doing so, the State sought to avoid the burdens placed on it to prove, as required by section 5-53-134(b)(2)(B), that the order of protection was issued after a hearing at which the person received actual notice and at which the person had an opportunity to participate. Section 9-15-207, however, is not a criminal statute and does not contain the elements of Class D felony violation of a protection order.

A circuit court has subject-matter jurisdiction of all justiciable matters not otherwise assigned pursuant to the constitution. Ark. Const. amend. 80, § 6. Jurisdiction is the power of the court to hear and determine a cause, including the power to enforce its judgment; it is the power to hear and determine the subject matter in controversy between the parties. *State v. Watson*, 307 Ark. 333, 335, 820 S.W.2d 59, 60 (1991), *overruled on other grounds by State v. D.S.*, 2011 Ark. 45, 378 S.W.3d 87. Because jurisdiction is the authority of a court to hear a case on its merits, lack of subject-matter jurisdiction is a defense that may be raised by this court on its own motion. *D.S.*, 2011 Ark. 45, at 4, 378 S.W.3d at 89–90.

In *White v. State*, 260 Ark. 361, 366, 538 S.W.2d 550, 553 (1976), the challenge to the jurisdiction of the trial court, which we observed could be raised at any time, involved a defendant who was convicted of misdemeanor marijuana possession. This court reversed and dismissed after concluding that mere possession of marijuana was not a misdemeanor offense

under the criminal statutes enacted at that time. In interpreting the statute at issue there, the court noted that "the rule of law with respect to statutory construction of penal provisions is that nothing will be taken as intended which is not clearly expressed and all doubts must be resolved in favor of the accused." *Id.* at 366, 538 S.W.2d at 553. In *Holford v. State*, 173 Ark. 989, 1000, 294 S.W. 33, 37 (1927), this court observed,

> There is no better settled rule in criminal jurisprudence than that criminal statutes must be strictly construed and pursued. The courts cannot, and should not, by construction or intendment, create offenses under statutes which are not in express terms created by the Legislature. The courts cannot do so without trenching upon the exclusive functions of the Legislature.

In *Holford*, this court reversed and dismissed a conviction, concluding that while a criminal statute criminalized the manufacture, keeping, and setting up of a still, the statute did not criminalize the manufacturing, keeping, or setting up of a part of a still but which was not a still.

In *Duncan v. Kirby*, 228 Ark. 917, 920–21, 311 S.W.2d 157, 160 (1958), we held that the trial court lacked jurisdiction to try the defendant on the charge of disobeying a United States Army officer because there was no statute criminalizing such conduct. There, we stated,

> We have no statute making it a crime or misdemeanor for the accused to do what he is charged with doing. The writ of prohibition lies where an inferior court is proceeding in a matter beyond its jurisdiction and where the remedy by appeal, though available, is inadequate. And where it appears that an inferior court is about to proceed in a matter over which it is entirely without jurisdiction under any state of facts which may be shown to exist, then the superior court exercising supervisory control over the inferior court may prevent such unauthorized proceedings by the issuance of a writ of prohibition.
>
> Of course, if there is any question of fact upon which jurisdiction may turn, prohibition will not lie. But here, there is no conceivable finding of fact by which the

> petitioner could be guilty. He has been found not guilty of disturbing the peace. The remaining charge is simple: That he refused to obey an order of a United States Army officer. There does not appear to be any way in which the charge could be amended or corrected so as to allege a criminal offense in this State. Assuming Lieutenant Tanner's affidavit is true in every detail (except, of course, the disturbing the peace charge, which has been disposed of), still no offense is charged. It simply is not against the law in Arkansas to fail to obey an order of an officer of the United States Army, and it is conceded that Lieutenant Tanner was acting in the capacity of an officer of the United States Army at the time the order is alleged to have been given.
>
> It is said . . . : "A writ of prohibition will lie to restrain a criminal or quasi-criminal prosecution for an offense beyond the jurisdiction of the court." . . . If prohibition will be granted where a court is acting beyond its jurisdiction, how much more so the remedy should be allowed where no offense at all is charged. Our conclusion is that petitioner is not charged with an offense punishable under the laws of this State, and to force him to trial, thereby affording him only the remedy of appeal from a possible conviction, which would be invalid, would not leave him an adequate remedy, and prohibition should be granted.

(Internal citations omitted.)

White, *Holford*, and *Duncan* stand for the proposition that a circuit court does not have jurisdiction to try a defendant on a charge that is not a criminal offense and that any conviction obtained must be reversed and dismissed. Criminal statutes must be strictly construed and pursued; otherwise the court trenches upon the functions of the General Assembly. The General Assembly made it clear that section 9-15-207 does not provide for a criminal offense. Admittedly, and unlike *White*, *Holford*, and *Duncan*, there is in Arkansas a crime of Class D felony violation of a protection order. That criminal offense, however, and the elements the State must prove, are found, not in section 9-15-207, but instead in the criminal statute, section 5-53-134. Given the State's citation to section 9-15-207 in the information, the State's remarks at trial, and the State's jury instructions, we cannot engage

in the assumption that Standridge was charged and tried under section 5-53-134. The State instead tried Standridge under section 9-15-207, which, under the State's theory, contained fewer criminal elements and provided for a Class D felony conviction. Even if the State had proved these fewer elements, however, the conduct would not be criminal under section 9-15-207, because that statute is not a criminal statute. In the sense that Standridge's charge and trial were not based on a criminal offense, *White*, *Holford*, and *Duncan* are on point. Thus, because Standridge was tried and convicted for committing acts that, under section 9-15-207, cannot ever constitute a Class D felony, the circuit court lacked subject-matter jurisdiction over the matter. Accordingly, we reverse and dismiss the case.

Reversed and dismissed.

HANNAH, C.J., and CORBIN and DANIELSON, JJ., dissent.

JIM HANNAH, Chief Justice, dissenting. I respectfully dissent. Contrary to the majority's assertions, the circuit court had subject-matter jurisdiction over the State's case against Standridge because Arkansas Code Annotated section 9-15-207 (Repl. 2009) is criminal in nature.

Our caselaw is replete with the proposition that jurisdiction is the power of the court to hear and determine subject matter in controversy. *Bliss v. Hobbs*, 2012 Ark. 315 (per curiam); *Culbertson v. State*, 2012 Ark. 112 (per curiam); *Fudge v. Hobbs*, 2012 Ark. 80; *Anderson v. State*, 2011 Ark. 35 (per curiam); *Baker v. Norris*, 369 Ark. 405, 255 S.W.3d 466 (2007). A circuit court has subject-matter jurisdiction to hear and to determine cases

involving violations of criminal statutes. *Watkins v. State*, 2014 Ark. 283, 437 S.W.3d 685; *Bliss*, 2012 Ark. 315. In my view, section 9-15-207, while contained in the Domestic Abuse Act, is a statute that is criminal in nature. This stance is supported by the language of the statute itself, which states in pertinent part, that "jurisdiction for the *criminal offense* of violating the terms of an order of protection is with the circuit court or other courts having jurisdiction over *criminal matters*." Ark. Code Ann. § 9-15-207(c) (emphasis added). Accordingly, the circuit court had subject-matter jurisdiction over the matter.

Further, Arkansas Code Annotated section 9-15-207 provides:

> (a) Any order of protection granted under this chapter is enforceable by a law enforcement agency with proper jurisdiction.
>
> (b) An order of protection shall include a notice to the respondent or party restrained that:
>
> (1) A violation of the order of protection is a Class A misdemeanor carrying a maximum penalty of one (1) year imprisonment in the county jail or a fine of up to one thousand dollars ($1,000), or both;
>
> (2) *A violation of an order of protection under this section within five (5) years of a previous conviction for violation of an order of protection is a Class D felony*;
>
> (3) It is unlawful for an individual who is subject to an order of protection or convicted of a misdemeanor of domestic violence to ship, transport, or possess a firearm or ammunition pursuant to 18 U.S.C. § 922(g)(8) and (9) as it existed on January 1, 2007; and
>
> (4) *A conviction of violation of an order of protection under this section within five (5) years of a previous conviction for violation of an order of protection is a Class D felony*.
>
> (c) For respondents eighteen (18) years of age or older or emancipated minors, jurisdiction for the *criminal offense* of violating the terms of an order of protection is with the circuit court or other courts having jurisdiction over *criminal matters*.
>
> (d)(1) In the final order of protection, the petitioner's home or business address may be excluded from notice to the respondent.
>
> (2) A court shall also order that the petitioner's copy of the order of protection be excluded from any address where the respondent happens to

reside.

(e) A law enforcement officer shall not arrest a petitioner for the violation of an order of protection issued against a respondent.

(f) *When a law enforcement officer has probable cause to believe that a respondent has violated an order of protection and has been presented verification of the existence of the order of protection, the officer may arrest the respondent without a warrant whether or not the violation occurred in the presence of the officer if the order of protection was obtained according to this chapter and the Arkansas Rules of Criminal Procedure.*

(g) An order of protection issued by a court of competent jurisdiction in any county of this state is enforceable in every county of this state by any court or law enforcement officer.

(Emphasis added.) Here, the plain language of the statute expressly states that a violation of an order of protection within five (5) years of a previous conviction is a Class D felony; that violation of an order of protection is a "criminal offense"; and that the Arkansas Rules of Criminal Procedure govern when the officer arrests a respondent without a warrant.

This reading is further supported by the legislature's intent. In 2009, the Arkansas General Assembly saw fit to amend section 9-15-207, and in addition to the plain language of the Act, the emergency clause is instructive. This court has held that it is a rule of statutory construction that the emergency clause of an act can be used in determining the intent of the legislature. *See, e.g., Rosario v. State*, 319 Ark. 764, 894 S.W.2d 888 (1995). The emergency clause of Act 331 of 2009 reads as follows:

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assemby of the State of Arkansas that domestic violence is on the rise and poses a danger to the public; that increasing the penalty for repeat offenders aids both law enforcement and the victims of domestic violence and that this act is immediately necessary because *current enforcement and prosecution will be greatly aided by the new, more serious penalties for those persons who repeatedly violate orders of protection*, therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health,

and safety shall become effective[.]

Act of Mar. 10, 2009, No. 331, § 3, 2009 Ark. Acts 1320, 1322-23 (emphasis added). Thus, it is clear from a review of the plain language of the statute and the emergency clause of Act 331 of 2009 that the Arkansas General Assembly intended to criminalize and to prosecute the behavior of those persons like Standridge who violate an order of protection in domestic-abuse cases. Given the application of section 9-15-207 to the facts of Standridge's case, I would affirm his conviction and sentence.

CORBIN and DANIELSON, JJ., join.

Paul J. Teufel, for appellant.

Dustin McDaniel, Att'y Gen., by: *Valerie Glover Fortner*, Ass't Att'y Gen., for appellee.

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TRACY STANDRIDGE CLAIMAINT

v. Claim No. 17-0053-CC

STATE OF ARKANSAS RESPONDENT

MOTION TO DISMISS

The State of Arkansas, through its attorney, Leslie Rutledge, Attorney General, states as follows for its Motion to Dismiss:

1. The claim filed alleges that the Claimant was wrongfully convicted of violating an order of protection. The Claimant alleges that his conviction was a result of a "corrupt judge" and a "State prosecutor with a personal vendetta."

2. The Claimant was convicted by a jury on August 12, 2011.

3. The statute of limitations applicable to this claim is no more than three years.

4. The statute of limitations began to run no later than the entry of an Amended Judgment and Commitment Order on September 21, 2011. This claim was filed on July 26, 2016, more than four years later.

5. This claim is barred by the statute of limitations.

Wherefore, the Respondent requests that this claim be dismissed with prejudice for failure to file within the time provided by the statute of limitations.

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TRACY STANDRIDGE CLAIMAINT

V. Claim No. 17-0053-CC

STATE OF ARKANSAS RESPONDENT

RESPONSE TO MOTION TO DISMISS

The Claimaint, Tracy Standridge gives the following in response to motion to dismiss:

1. The Respondent claims that the time has run out to file claim, "Statute of Limitation". And states the time would start when the last Commitment order was entered September 21, 2011.
2. This has never been the case in any claim for malicious prosecution, the time starts when the criminal proceedings are terminated. The Claimaint's criminal proceedings terminated on December 11, 2014, when the Arkansas Supreme Court **REVERSED AND DISMISSED** his conviction.
3. The U.S. Supreme Court has held that you cannot file a claim for malicious prosecution until the reversal of the criminal conviction, see Heck v. Humphrey, 512 U.S. 477.

Wherefore, the Claimaint ask that the Respondents Motion to Dismiss be denied and a hearing set for this claim.

Respectfully Submitted,

Tracy Standridge

144 destiny dr.

Branson, Mo. 65616

Certificate of Service

I, Tracy Standridge, hereby certify that on Aug. 29, 2016, a true and correct copy of the above was mailed to Attorney General, 323 center st., ste 200, Little Rock, Ar. 72201-2610

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim $ 7,000,000.00 **Claim No.** 17-0053-CC

Tracy Standridge — **Claimant**

vs.

State of Arkansas — **Respondent**

Attorneys Pro se — **Claimant**

Patrick Hollingsworth, Attorney — **Respondent**

State of Arkansas **Date Filed** July 26, 2016

Type of Claim Failure to Follow Procedure, Mental Anguish

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 1-5 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 1-5 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing September 15, 2016

Date of Disposition September 15, 2016

Chairman

Commissioner

Commissioner

**Appeal of any final Claims Commission decision is only to the Arkansas General Assembly as provided by Act #33 of 1997 and as found in Arkansas Code Annotated §19-10-211.

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

TRACY STANDRIDGE CLAIMAINT

V. Claim No. 17-0053-CC

STATE OF ARKANSAS RESPONDENT

NOTICE OF APPEAL

The Claimant, Tracy Standridge gives the following for his Appeal of Dismissal of his Claim.

1. The Claims Commission dismissed the Claimant's Claim because of statute of limitation.

This claim could not have been filed before the criminal proceedings terminated in the Claimants favor. In Heck v. Humphrey,510 U.S. 266 (1994) the Supreme Court has held that

"If there is a false arrest claim, damages for that claim cover the time of detention up until issuance of process or arraignment, but not more." W. Keeton, D. Dobbs, R. Keeton, D. Owen, Prosser and Keeton on Law of Torts 888 (5th ed. 1984).

I. But a successful malicious prosecution plaintiff may recover, in addition to general damages, "compensation for any arrest or imprisonment, including damages for discomfort or injury to his health, or loss of time and deprivation of the society *Id.*, at 887-888 (footnotes omitted). See also *Roberts* v. *Thomas*, 135 Ky. 63, 121 S.W. 961 (1909).

One element that must be alleged and proved in a malicious prosecution action is termination of the prior criminal proceeding in favor of the accused. Prosser and Keeton, *supra*, at 874; *Carpenter* v. *Nutter*, 127 Cal. 61, 59 P. 301 (1899).

This requirement "avoids parallel litigation over the issues of probable cause and guilt . . ., and it precludes the possibility of the claimant [*sic*] succeeding in the tort action after having been convicted in the underlying criminal prosecution, in contravention of a strong judicial policy against the creation of two conflicting resolutions arising out of the same or identical

transaction." 8 S. Speiser, C. Krause, A. Gans, American Law of Torts § 28:5, p. 24 (1991). Furthermore, "to permit a convicted criminal defendant to proceed with a malicious prosecution claim would permit a collateral attack on the conviction through the vehicle of a civil suit."

19 *Ibid.* This Court has long expressed similar concerns for finality and consistency, and has generally declined to expand opportunities for collateral attack, see *Parke* v. *Raley*, 506 U.S. 20, 29-30 (1992); *Teague* v. *Lane*, Lane, 489 U.S. 288, 308 (1989); *Rooker* v. *Fidelity Trust Co.*, 263 U.S. 413 (1923); *Voorhees* v. *Jackson*, 10 Pet. 449, 472-473 (1836).

1. We think the hoary principle that civil tort actions are not appropriate vehicles for challenging the validity of outstanding criminal judgments applies to § 1983 damages actions that necessarily require the plaintiff to prove the unlawfulness of his conviction or confinement, just as it has always applied to actions for malicious prosecution.

2. The Claims Commission rules are the same as a the rules of any lawsuit and the statute of limitations are the same. Therefor the Claimant could not have filed his claim until his criminal proceedings terminated in his favor, 12-11-2014. The statute of limitation is three years, the claim was filed July 26, 2016, within the three year time limit.
Wherefore the Claimant ask the Subcommittee to grant this Appeal and to grant the relief requested in original claim and for any and all relief available.

Tracy Standridge

144 destiny dr.

Branson, Mo. 65616

Certificate of Service

I, Tracy Standridge, hereby certify that on October 18, 2016, a true and correct copy of the above was mailed to Attorney General, 323 center st., ste 200, Little Rock, Ar. 72201-2610