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**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT KETCHIKAN**

WALTER REICHARD,)
)
)
 Plaintiff,)
)
)
 v.)
)
)
 THE CITY OF KETCHIKAN,)
 KETCHIKAN POLICE DEPARTMENT,) Case No. 1KE-16-00407 CI
 JOE KOVAK, OFFICER)
 CHRISTOPHER TRAVERS, OFFICER)
 MIKE PAULSEN,)
)
)
 Defendants.)

**DEFENDANTS CITY OF KETCHIKAN, KETCHIKAN POLICE
DEPARTMENT, OFFICER CHRISTOPHER TRAVERS, AND OFFICER MIKE
PAULSEN'S MOTION FOR SUMMARY JUDGMENT**

Plaintiff Walter Reichard's claims he was falsely arrested after City of Ketchikan police officers Christopher Travers and Mike Paulsen applied for and executed an arrest warrant. The warrant related to a criminal complaint made by Rachelle Speights that Mr. Reichard violated a long term protective order that she had against him during a September 10, 2014, incident at the Ketchikan Safeway.

Mr. Reichard claims that Officer Travers provided false information in the sworn statement supporting the criminal complaint, invalidating the warrant and Mr.

Reichard's arrest by Officer Paulsen. He claims that the City of Ketchikan/Ketchikan Police Department are liable for failing to train and supervise its officers.

Pursuant to Civil Rule 56 Officer Travers, Officer Paulsen, and the City of Ketchikan request summary judgment on all of plaintiff Walter Reichard's claims.

Foremost, summary judgment is warranted because the arrest warrant and therefore Mr. Reichard's arrest are valid. No reasonable factfinder could determine that the disputed information in Officer Travers's sworn statement is false. But accepting as true Mr. Reichard's allegation, the warrant is valid because it is still supported by probable cause once that contested information is removed from the sworn statement.

Independent of the validity of the warrant, Officer Travers and Officer Paulsen are entitled to qualified immunity because they had a reasonable belief that their respective actions were reasonable and based on probable cause.¹

With the failure of the claims against Officer Travers and Officer Paulsen, the failure to train/supervise claims against the City of Ketchikan/Ketchikan Police Department² must also fail. But there is also no evidence of any department wide problems or procedures that resulted in any type of unlawful conduct by its officers.³

And finally, despite continued efforts to meet and confer, Mr. Reichard failed to provide responses to defense requests for admission. After a motion to compel, the Court deemed all these requests admitted, resolving Mr. Reichard's claims in favor of the defense.

¹ *Armstrong v. Asselin*, 734 F.3d 984, 991 (9th Cir. 2013).

² Hereafter referred to as the City of Ketchikan.

³ *Prentzel v. State, Dep't of Pub. Safety*, 169 P.3d 573, 590 (Alaska 2007).

I. BACKGROUND

On April 28, 2014, the District Court at Ketchikan granted Rachelle Speights a long term protective order against Mr. Reichard.⁴ Mr. Reichard had lived with Ms. Speights for a few months, during which time they had a brief physical relationship.⁵ Ms. Speights sought the order because, after she made Mr. Reichard move out, he began stalking her, frequently driving by her house and showing up at her children's daycare.⁶ His actions escalated to slashing her tires and shooting at her house with a BB gun.⁷ Mr. Reichard pled guilty to misdemeanor criminal mischief for the BB gun incident.⁸

The one year protective order prohibited Mr. Reichard from stalking, harassing, or communicating with Ms. Speights, and required that he stay at least 500 feet from her residence.⁹

Mr. Reichard was charged with violating the protective order after he and Ms. Speights were present at the Ketchikan Safeway store on September 10, 2014, at the same time.¹⁰

At her deposition, Ms. Speights described that she noticed Mr. Reichard in Safeway after she had done some shopping.¹¹ He also noticed her, as they made eye contact.¹² Mr. Reichard continued to stare at her, and walked past her within arm's

⁴ Exhibit A, Long Term Domestic Violence Protective Order.

⁵ Exhibit B, Speights Deposition, at 20, 23-24.

⁶ Exhibit B, Speights Deposition, at 45-48.

⁷ Exhibit B, Speights Deposition, at 45-58.

⁸ Exhibit , Reichard Deposition, at 49-51.

⁹ Exhibit A, Long Term Domestic Violence Protective Order, at 3.

¹⁰ Exhibit B, Speights Deposition, at 67-74; Exhibit C, Reichard Deposition, at 85-95.

¹¹ Exhibit B, Speights Deposition, at 67-74.

¹² Exhibit B, Speights Deposition, at 67-74.

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reach.¹³ Ms. Speights became extremely anxious, finished her shopping as quickly as possible, and left the store.¹⁴

Ms. Speights got into her van, locked the doors, and called the police.¹⁵ She reported to Ketchikan Police Department Officer Christopher Travers that she had a protective order against Mr. Reichard, that Mr. Reichard had been extremely close to her in the store, had been keeping track of her movements while she shopped, and that she did not feel safe.¹⁶ She told Officer Travers that she had become extremely scared by Mr. Reichard's presence in the store.¹⁷

After speaking with Ms. Speights, Officer Travers contacted management at Safeway and reviewed the instore security footage. Officer Travers observed that Mr. Reichard was in the store at the same time as Ms. Speights, that at one point he watched her from a distance of about 20 feet while he made a transaction at the customer service counter, and that he continued to watch her as he walked away from the customer service counter.¹⁸

A criminal complaint charging Mr. Reichard with a violation of AS 11.56.740(a)(1), violating a protective order was filed.¹⁹ It was supported by a sworn statement by Officer Travers, which related in pertinent part.²⁰

This complaint is based off the statement of Rachelle Speights, as made to Officer Travers of the Ketchikan Police Department, that the defendant,

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- ¹³ Exhibit B, Speights Deposition, at 73-74.
¹⁴ Exhibit B, Speights Deposition, at 73-75, 80.
¹⁵ Exhibit B, Speights Deposition, at 75-80.
¹⁶ Exhibit B, Speights Deposition, at 76-77.
¹⁷ Exhibit B, Speights Deposition, at 80-81.
¹⁸ Exhibit D, Criminal Complaint.
¹⁹ Exhibit D, Criminal Complaint.
²⁰ Exhibit D, Criminal Complaint.

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DEFENDANTS CITY OF KETCHIKAN, KETCHIKAN POLICE DEPARTMENT, OFFICER CHRISTOPHER TRAVERS, AND OFFICER MIKE PAULSEN'S MOTION FOR SUMMARY JUDGMENT

whom is her former boyfriend, to which she has a valid long term protective order, No: 1KE-14-131 ... which states the defendant is not to be within 500 feet of Ms. Speights and not commit or threaten to commit acts of domestic violence, stalking or harassment; further Ms. Speights was shopping inside the Safeway Grocery store on 09/10/2014 at approximately 1450 hours when she was followed into the store by the defendant; further Ms. Speights stated that the defendant proceeded to follow her around the store within approximately forty feet of her; further upon standing in the checkout lane, Ms. Speights observed the defendant proceed to the customer service counter to purchase an item and continue to look back and observe her standing in line several times; further upon the defendant paying for his item, he proceeded to walk past the checkout stand in close proximity of her while continuously stare and making her uncomfortable.

[H]e contacted Safeway management and observed the instore security video footage detailing these events; further the defendant was observed to follow closely behind Ms. Speights as she entered the store; further the defendant is observed watching Ms. Speights while standing approximately twenty feet away at the customer service counter; further the defendant is seen walk towards Starbucks while continuing to watch Ms. Speights and coming within ten feet of Ms. Speights.²¹

Judge Kevin Miller approved and issued an arrest warrant for Mr. Reichard, and Ketchikan Officer Mike Paulsen arrested him on September 18, 2014.²²

The State subsequently dismissed the charge of violating the protective order.²³

Mr. Reichard filed this lawsuit against Officer Travers, Officer Paulsen, the City of Ketchikan, Rachele Speights, and Joe Kovak, a district attorney who was involved in Mr. Reichard's arraignment. He alleged malicious prosecution, slander, libel, defamation of character, false arrest, and perjury.²⁴

²¹ Exhibit D, Criminal Complaint.

²² Exhibit E, Arrest Warrant.

²³ See Defendant Assistant District Attorney Joe Kovac's Memorandum in Support of Motion for Summary Judgment, Exhibit L, Affidavit of Ben Hoffmeister.

²⁴ Complaint.

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At his deposition Mr. Reichard elaborated on his claims against each defendant. Pertinent here, he claims that Officer Travers falsely documented that Mr. Reichard immediately followed Ms. Speights into Safeway, that Officer Paulsen falsely arrested Mr. Reichard based on a bad warrant, and that the City of Ketchikan negligently trained and supervised its officers.²⁵

Ms. Speights and District Attorney Kovac are no longer a part of the case. Ms. Speights was dismissed early on because Mr. Reichard failed to serve her with the Complaint and Summons,²⁶ while Mr. Kovac prevailed on a motion for summary judgment based on prosecutorial immunity.²⁷

In discovery, the remaining defendants served a number of requests for admission on Mr. Reichard to which he provided no response. After several attempts to meet and confer and a motion to compel, this Court deemed that all of the requests for admission were admitted.²⁸

Mr. Reichard has admitted the following:

REQUEST FOR ADMISSION NO. 1: Please admit that you did not sustain any past lost profits, lost wages, lost income or any other past income losses as a result of the incident which is the subject of this suit.

REQUEST FOR ADMISSION NO. 2: Please admit that you do not expect to incur any future lost profits, lost wages, lost income, lost earning capacity or any other income losses as a result of the incident which is the subject of this suit.

REQUEST FOR ADMISSION NO. 3: Please admit you have not incurred any out of pocket expenses, inconvenience damages or other

²⁵ Exhibit C, Reichard Deposition, at 113-125.

²⁶ Notice and Order of Dismissal for Failure to Serve Defendant, May 3, 2017.

²⁷ Order Granting Defendant Joe Kovac's Motion for Summary Judgment, March 20, 2018.

²⁸ Defendants' Motion to Compel, March 20, 2018; Order Granting Motion to Compel, April 4, 2018.

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incidental damages as a result of the incident which is the subject of this suit.

REQUEST FOR ADMISSION NO. 4: Please admit that you have not suffered any past or future noneconomic damages as defined in AS 09.17.010 as a result of the incident which is the subject of this suit.

REQUEST FOR ADMISSION NO. 5: Please admit that you did not suffer any business loss or other loss associated with any business you own, co-own or operate as a result of the incident which is the subject of this suit.

REQUEST FOR ADMISSION NO. 6: Please admit that the arrest warrant issued on September 15, 2014, commanding a peace officer or other authorized person to arrest you for violation of a protective order was a valid arrest warrant.

REQUEST FOR ADMISSION NO. 7: Please admit that the arrest warrant issued on September 15, 2014, commanding a peace officer or other authorized person to arrest you for violation of a protective order was supported by probable cause.

REQUEST FOR ADMISSION NO. 8: Please admit that you violated a long term restraining order obtained against you by Rachelle Speights when you were in the Safeway grocery store on September 10, 2014.

REQUEST FOR ADMISSION NO. 9: Please admit that Officer Mike Paulsen arrested you on September 18, 2014, pursuant to a valid arrest warrant.

REQUEST FOR ADMISSION NO. 10: Please admit that Officer Mike Paulsen did not falsely arrest you on September 18, 2014.

REQUEST FOR ADMISSION NO. 11: Please admit that Officer Christopher Travers supported his warrant application of September 11, 2014, with a showing of probable cause.

REQUEST FOR ADMISSION NO. 12: Please admit that affidavit offered by Officer Christopher Travers in support of his warrant application of September 11, 2014, is truthful.

REQUEST FOR ADMISSION NO. 13: Please admit that defendants City of Ketchikan and City of Ketchikan Police Department did not negligently fail to train Officer Christopher Travers and Officer Mike Paulsen.

REQUEST FOR ADMISSION NO. 14: Please admit that defendants City of Ketchikan and City of Ketchikan Police Department did not negligently fail to supervise Officer Christopher Travers or Officer Mike Paulsen.²⁹

²⁹ Exhibit F, Defendants' Second Set of Discovery Requests, Dec. 20, 2017.

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II. ARGUMENT

Out of the entirety of Officer Travers's sworn statement, there is only one disputed phrase. Mr. Reichard claims that Officer Travers falsely reported that in the instore video he observed Mr. Reichard "follow closely behind Ms. Speights as she entered the store."³⁰ Mr. Reichard claims this statement is false because the instore video shows that five minutes elapsed between when he and Ms. Speights entered the store.

This is the only allegation of falsity relating to Officer Travers, and, by extension, Officer Paulsen and the City of Ketchikan. It cannot support any of Mr. Reichard's claims.

A. The Warrant Is Valid

Mr. Reichard's fundamental claim that he was falsely arrested could sound in federal and state constitutional law, or common law tort,³¹ but regardless of the source of law, summary judgment is warranted because the undisputed facts show that Mr. Reichard's arrest was made with proper legal authority—a valid arrest warrant.³²

i. Officer Travers's sworn statement is truthful.

On summary judgment all reasonable inferences should be drawn in favor of the non-moving party, "but only within the boundaries of reasonable fact-finding."³³

No reasonable fact-finder could find Officer Travers's use of the word "closely" false. It is a descriptive term that is a matter of opinion and relativity. It could refer to

³⁰ Exhibit D, Criminal Complaint, at 2.

³¹ *Waskey v. Municipality of Anchorage*, 909 P.2d 342, 344-45 (Alaska 1996).

³² *See Waskey v. Municipality of Anchorage*, 909 P.2d 342, 345 (Alaska 1996).

³³ *Olson v. City of Hooper Bay*, 251 P.3d 1024, 1041 (Alaska 2011); *Jovanov v. State Dep't of Corr.*, 404 P.3d 140, 147 (Alaska 2017).

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either time or distance, and is a valid description of Mr. Reichard entering the store five minutes after Ms. Speights.

Mr. Reichard indirectly attacks other portions of Officer Travers's sworn statement, specifically Ms. Speights's report of Mr. Reichard's conduct in Safeway. He contends that Ms. Speights "filed a police report ... that contained absolutely nothing but lies,"³⁴ and that Officer Travers failed to realize that Ms. Speights was fabricating information and failed to fully check out her statement.³⁵

These allegations cannot support Mr. Reichard's claims for several reasons.

Ms. Speights is not a party, and therefore Mr. Reichard cannot allocate fault to her.³⁶ Mr. Reichard is barred from attacking this portion of Officer Travers's sworn statement by claiming Ms. Speights made a false report.

Further, Alaska law does not recognize a cause of action for a negligent investigation.³⁷ Mr. Reichard cannot seek monetary damages based on his contention that Officer Travers should have done more to evaluate the credibility of Ms. Speights's report that he violated the protective order.

More importantly, Alaska Supreme Court precedent establishes that Officer Travers's investigation was not negligent. An officer may base probable cause upon the

³⁴ Exhibit C, Reichard Deposition, at 113.

³⁵ Exhibit C, Reichard Deposition, at 122.

³⁶ *Cooper v. Thompson*, 353 P.3d 782, 789 (Alaska 2015) ("Under AS 09.17.080, a jury may not allocate fault to a third party unless that third party has been joined as a defendant, with certain exceptions not relevant here." This statute's purpose is to ensure that fault for an incident is accurately litigated by preventing a party from blaming an "empty chair" defendant for the injuries at issue.").

³⁷ *Waskey v. Municipality of Anchorage*, 909 P.2d 342, 344 (Alaska 1996).

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statement of a complaining witness without establishing the witness's reliability if some of the information is verified.³⁸

This is precisely what Officer Travers did. He watched the instore video and verified that Mr. Reichard was in the store at the same time as Ms. Speights, that he repeatedly looked at her, and that he walked by her in close proximity.

The undisputed facts demonstrate that Officer Travers's sworn statement was truthful and that he appropriately investigated Ms. Speights criminal complaint. The criminal complaint was scrutinized by a neutral magistrate, who issued the warrant that resulted in Mr. Reichard's arrest. There can be no claim for false arrest under these circumstances.³⁹

- ii. The warrant is supported by probable cause and is valid after removal of the disputed information.

Assuming that use of the word "closely" can be false, to succeed on his claim that Officer Travers deceived the magistrate who issued the warrant by using this word, Mr. Reichard needs to demonstrate that Officer Travers "deliberately or recklessly made false statements or omissions that were material to the finding of probable cause."⁴⁰

³⁸ *Erickson v. State*, 507 P.2d 508, 518 (Alaska 1973) ("We hold that a valid arrest may be made on information provided by a 'citizen informer' and that the informer's prior reliability need not be established before the arrest. The only caveat placed on such a rule is that some of the details of the information must be verified before arrest occurs."); *City of Nome v. Ailak*, 570 P.2d 162, 170 (Alaska 1977).

³⁹ *Waskey v. Municipality of Anchorage*, 909 P.2d 342, 345 (Alaska 1996).

⁴⁰ *KRL v. Moore*, 384 F.3d 1105, 1117 (9th Cir. 2004)

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Summary judgment is warranted because “closely follow” was not material to the probable cause determination.⁴¹ After removal of the disputed information, the sworn statement still meets the probable cause standard, containing facts and circumstances that are sufficient to warrant a person of reasonable caution and belief that an offense has been committed.⁴²

The corrected affidavit reads as follows:

This complaint is based off the statement of Rachelle Speights, as made to Officer Travers of the Ketchikan Police Department, that the defendant, whom is her former boyfriend, to which she has a valid long term protective order, No: 1KE-14-131 ... ; further Ms. Speights was shopping inside the Safeway Grocery store on 09/10/2014 at approximately 1450 hours when she was followed into the store by the defendant; further Ms. Speights stated that the defendant proceeded to follow her around the store within approximately forty feet of her; further upon standing in the checkout lane, Ms. Speights observed the defendant proceed to the customer service counter to purchase an item and continue to look back and observe her standing in line several times; further upon the defendant paying for his item, he proceeded to walk past the checkout stand in close proximity of her while continuously stare and making her uncomfortable.

[H]e contacted Safeway management and observed the instore security video footage detailing these events; [disputed information]; further the defendant is observed watching Ms. Speights while standing approximately twenty feet away at the customer service counter; further the defendant is seen walk towards Starbucks while continuing to watch Ms. Speights and coming within ten feet of Ms. Speights.⁴³

The corrected affidavit supports the reasonable conclusion that Mr. Reichard committed an offense under AS 11.56.740(a)(1), knowingly committing or attempting

⁴¹ While in a civil matter the existence of probable cause is typically a jury question, judgment as a matter of law is appropriate here because no material facts are in dispute. *Yi v. Yang*, 282 P.3d 340, 346 (Alaska 2012).

⁴² *Cruse v. State*, 584 P.2d 1141, 1144 (Alaska 1978).

⁴³ Exhibit D, Criminal Complaint.

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“to commit an act with reckless disregard that the act violates or would violate a provision of the protective order.”

With any reference to how Mr. Reichard entered the store removed, the statement still establishes the existence of a valid protective order, Ms. Speights’s description to Officer Travers of Mr. Reichard’s actions in the store, and Officer Travers’s verification from the watching the instore video that Mr. Reichard was at Safeway at that time and that he watched her and passed closely by her.

Eliminating “closely followed” from the statement has no impact on the finding of probable cause, particularly because probable cause “requires only a fair probability or substantial chance of criminal activity, not an actual showing that such activity occurred.”⁴⁴ Mr. Reichard cannot show that “the magistrate would not have issued the warrant with false information redacted.”⁴⁵

Again, with a valid warrant issued by a neutral magistrate, all Mr. Reichard’s claims must fail.

B. Qualified Immunity.

Separate from the continuing validity of the arrest warrant, Officer Travers and Officer Paulsen are entitled to qualified immunity. This immunity protects officers “from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.”⁴⁶ This is a strong protection, applying “to all but the plainly incompetent or

⁴⁴ *Van Sandt v. Brown*, 944 P.2d 449, 452 (Alaska 1997).

⁴⁵ *Smith v. Almada*, 640 F.3d 931, 937 (9th Cir. 2011).

⁴⁶ *Messerschmidt v. Millender*, 565 U.S. 535, 546 (2012).

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those who knowingly violate the law, protecting officers from violations of constitutional magnitude.”⁴⁷

Assuming the right to be free from unlawful arrests is clearly established, the test for qualified immunity, under either Alaska or federal law, requires looking at “(1) whether an officer's actions were objectively reasonable and (2) whether the officer might have *reasonably believed* that his actions were reasonable.”⁴⁸ Specifically regarding warrants, “an officer who prepares or executes a warrant lacking probable cause is entitled to qualified immunity unless “no officer of reasonable competence would have requested the warrant.”⁴⁹

Case law establishes the propriety and reasonableness of Officer Travers actions, and therefore the applicability of qualified immunity to him in precluding Mr. Reichard’s suit.

As mentioned, an officer may base probable cause upon the statement of a complaining witness without establishing reliability of the witness if some of the information is verified.⁵⁰ This is precisely what Officer Travers did, preparing a warrant based on the discussion with Ms. Speights, and verifying details of that information

⁴⁷ *Case v. Kitsap Cty. Sheriff's Dep't*, 249 F.3d 921, 926 (9th Cir. 2001)

⁴⁸ *Estate of Logusak ex rel. Logusak v. City of Togiak*, 185 P.3d 103, 109 (Alaska 2008) (“We recently clarified our test for determining whether an officer is entitled to qualified immunity for performing a discretionary act in *Sheldon v. City of Ambler*. In *Sheldon* we explicitly adopted the federal immunity standard, as articulated by the United States Supreme Court in *Saucier v. Katz*, for granting discretionary function official immunity to police officers.”).

⁴⁹ *KRL v. Estate of Moore*, 512 F.3d 1184, 1190 (9th Cir. 2008)

⁵⁰ *Erickson v. State*, 507 P.2d 508, 518 (Alaska 1973) (“We hold that a valid arrest may be made on information provided by a ‘citizen informer’ and that the informer's prior reliability need not be established before the arrest. The only caveat placed on such a rule is that some of the details of the information must be verified before arrest occurs.”); *City of Nome v. Ailak*, 570 P.2d 162, 170 (Alaska 1977).

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through the instore video. Use of the adjective “closely” is immaterial to the totality of the circumstances showing probable cause, and not an unreasonable word choice given what is documented in the video.

The support for Officer Paulsen’s qualified immunity is straightforward: his actions were objectively reasonable because he arrested Mr. Reichard pursuant to a facially valid warrant—one supported by an affidavit demonstrating probable cause as determined by a neutral magistrate. Case law clearly establishes this as grounds for qualified immunity.⁵¹

C. Failure to Supervise/Train Claims Must also Fail

With the validity of the warrant establishing that there is no wrongdoing by either Officer Travers or Officer Paulsen, there can be no claim that City of Ketchikan/Ketchikan Police Department failed to train or supervise them.

Further, while there could be other requirements depending on the supporting law, a failure to train or supervise claim requires evidence of some type of system-wide problem or official policy relating to the underlying wrongdoing.⁵² That evidence is completely lacking here. There is simply no evidence of any policy, procedure, or practice within the City of Ketchikan Police Department that would support any type of failure to train or supervise cause of action.

⁵¹ *Case v. Kitsap Cty. Sheriff's Dep't*, 249 F.3d 921, 926 (9th Cir. 2001) (“It is well established that, in an action for unlawful arrest pursuant to a facially valid warrant, a police officer is entitled to qualified immunity unless “no officer of reasonable competence would have requested the warrant.”).

Barlow v. Ground, 943 F.2d 1132, 1139 (9th Cir. 1991) (“A police officer generally has qualified immunity for conducting an unconstitutional search if he is acting on the basis of a facially valid warrant.”).

⁵² *Prentzel v. State, Dep't of Pub. Safety*, 169 P.3d 573, 590 (Alaska 2007).

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D. Requests for Admission Establish All Claims in Favor of the Defense.

With Mr. Reichard failing to respond, admission to several requests for admission, as deemed by the Court's order on the defense motion to compel, establishes the propriety of summary judgment on all claims.

Specifically, Mr. Reichard admits that he violated the protective order against him on September 10, 2014, and that he was subsequently arrested pursuant to a valid warrant.⁵³ Mr. Reichard also admits that Officer Travers's sworn statement was truthful, that the warrant was supported by probable cause, that Officer Paulsen did not falsely arrest him, and that the City of Ketchikan/Ketchikan Police Department did not negligently fail to supervise or train its officers.⁵⁴

This resolves all of Mr. Reichard's claims in favor of the defense.

III. CONCLUSION

This case boils down to Officer Travers's use of the word "closely" in his sworn statement. This word was not untruthful, and reasonably described Mr. Reichard entering Safeway five minutes after Ms. Speights. In any event, it was not material to the finding of probable cause by the magistrate in issuing the warrant, given the other substantiating information in Officer Travers's sworn statement.

Officer Travers and Officer Paulsen's conduct was reasonable, and cannot support any claim for damages, whether against them individually or against City of Ketchikan.

⁵³ Exhibit F, Defendants' Second Set of Discovery Requests, Dec. 20, 2017.

⁵⁴ Exhibit F, Defendants' Second Set of Discovery Requests, Dec. 20, 2017.

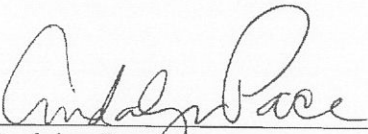
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Mr. Reichard was not falsely arrested on September 18, 2014. Summary judgment should be granted in full.

DATED this 31st day of May, 2018, at Anchorage, Alaska.

Walker & Eakes, LLC
Attorney for Defendants
THE CITY OF KETCHIKAN,
KETCHIKAN POLICE
DEPARTMENT, OFFICER
CHRISTOPHER TRAVERS,
OFFICER MIKE PAULSEN

By: 
Andalyn Pace
Alaska Bar No. 1305025

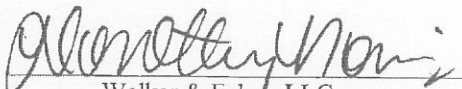
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this 31st day of May, 2018 by:

: Mail
 : Facsimile
 : Hand Delivery
 : Courier
 : email

To the following persons:

Walter Reichard Pro Se
PO Box 7523
Ketchikan AK 99901


Walker & Eakes, LLC

170/446/pldg/MSJ

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IN THE DISTRICT COURT FOR THE STATE OF ALASKA
AT KETCHIKAN

FILED in the Trial Courts
State of Alaska First District
at Ketchikan

APR 28 2014

By _____
Clerk of the Trial Courts
Deputy

RACHELLE SPEIGHTS)
 PETITIONER (protected person), M F)
 Birthdate: 11/24/1983)
 Petitioner is a child. Who is signing for the child?)
 Name: _____ Birthdate: _____)
 Relationship to child: _____)
WALTER REICHARD)
 RESPONDENT (restrained person), M F)
 Birthdate 9/23/1980)
 Respondent is a child. Who is signing for the child?)
 Name: _____ Birthdate: _____)
 Relationship to child: _____)

Case No. 1KE-14-131 CI

**LONG TERM
DOMESTIC VIOLENCE
PROTECTIVE ORDER
(ONE PETITIONER)**

A hearing on petitioner's request for a protective order was held on 4/28/14
 with the following person(s) present: petitioner respondent _____

The court makes the following findings and order based on:

- Allegations in the petition
- Testimony on record at crtm/media # B406 log # 10:07:05 am date 4/28/14
- Other _____

A. INFORMATION ABOUT RESPONDENT

Respondent's full legal name:
Walter David Reichard

Respondent's mailing/physical address:
3290 Fairview Ave. #101, Ktn
Currently at KCC

Respondent's Phone 1: 907-254-5015
 Respondent's Phone 2: _____

Access to firearms reported

Other information about respondent:

Sex	Race	*Date of Birth*	HT	WT
M	C	9/23/1980	5'6"	
Hair	Eyes	State ID /Driver's Lic. #	ST	
Br	Bl			
Other Identifiers				

B. EFFECTIVE DATES OF THIS ORDER

This order is effective immediately. Paragraph (D)(1)(a) of this order which prohibits the respondent from committing or threatening to commit acts of domestic violence, stalking or harassment, will remain in effect indefinitely, until dissolved by court order. All other provisions of this order will remain in effect for one year and shall expire on 4/27/15 at 11:59 p.m. unless modified or dissolved earlier by court order.

Exhibit A
 Page 1 of 7

C. FINDINGS

1. Respondent received actual notice of the hearing and an opportunity to be heard.
[AS 18.66.100(b)]
2. Petitioner and respondent are related in the following way(s):
 - a. Married to each other now or in the past
 - b. Child together
 - c. Living together now or in the past (but not also dating or sexual relationship)
 - d. Dating or sexual relationship now or in the past (but not also living together)
 - e. Living together and dating or sexual relationship now or in the past
 - f. Related by marriage now or in the past (such as in-laws)
 - g. Other family relationship, respondent is petitioner's:

<input type="checkbox"/> child or step-child	<input type="checkbox"/> parent	<input type="checkbox"/> step-parent
<input type="checkbox"/> grandchild	<input type="checkbox"/> grandparent	<input type="checkbox"/> first cousin
<input type="checkbox"/> uncle or aunt	<input type="checkbox"/> niece or nephew	<input type="checkbox"/> brother or sister
<input type="checkbox"/> other relative (describe) _____		
 - h. Petitioner is a child of a person in a relationship described in (a) - (g) above.
3. The court finds by a preponderance of the evidence that respondent committed, or attempted to commit, the following crime(s) involving domestic violence against the petitioner:

<input type="checkbox"/> assault or reckless endangerment	<input type="checkbox"/> harassment (telephonic or electronic)
<input checked="" type="checkbox"/> stalking	<input type="checkbox"/> terroristic threatening
<input type="checkbox"/> violating a protective order	<input checked="" type="checkbox"/> criminal mischief
<input type="checkbox"/> sexual offense	<input type="checkbox"/> arson or criminally negligent burning
<input type="checkbox"/> kidnapping or custodial interference	<input type="checkbox"/> criminal trespass
<input type="checkbox"/> robbery, extortion or coercion	<input type="checkbox"/> burglary
<input type="checkbox"/> other AS 11.41 crime _____	
4. Respondent represents a credible threat to the physical safety of petitioner.
[18 USC 922(g)(8)(C)(1)]
5. Respondent was in actual possession of or used a weapon during the commission of domestic violence. [AS 18.66.100(c)(6)]
 The weapon was a firearm. [AS 18.66.100(c)(7)]
6. Other findings:

Mr. Reichard exercised his right to remain silent as a result of pending charges in 1KE-14-194 CR. As such, these findings are based solely upon the evidence presented by Ms. Speights.

The court notes that the firearm used was a bb gun.

D. PROTECTIVE ORDER

1. Petitioner's request for a long term domestic violence protective order is **GRANTED**, and **IT IS ORDERED THAT:**

- a. Respondent not threaten to commit or commit acts of domestic violence, stalking, or harassment. [AS 18.66.100(c)(1)]
 - b. Respondent not telephone, contact, or communicate in any way, directly or indirectly, with petitioner except as provided in (D)(1)(c) below and as follows:
 - by email to _____ by text message to _____
 - through an attorney by telephone to _____
 - through a third person named _____
 - other _____
- [AS 18.66.100(c)(2),(16)]

It is not a violation of this Order if respondent is inadvertently shopping at the same store as petitioner or eating at the same restaurant as petitioner or at the post office or laundromat or other establishment at the same time as petitioner UNLESS respondent communicates or attempts to communicate with petitioner by gesture, conduct or vocalization.

- c. Service of legal papers about this domestic violence case is permitted through the court clerk's office only. Service of legal papers by the respondent about any other case involving the parties is permitted through a process server while this domestic violence order is in effect. If the respondent cannot afford a process server or there are no process servers in the area, the respondent may ask the court to modify this domestic violence order (form DV-135) to permit service of legal papers using a different method.
 - d. Respondent leave and stay away from petitioner's residence except per writ of assistance in section G. [AS 18.66.100(c)(3)-(4)]
 - Respondent not to be within 500 feet miles of petitioner's residence. (Residence address is: 1392 Jackson Street, Ketchikan)
 - e. Respondent stay away from, and not telephone or contact the following additional locations:

<i>Place</i>	<i>Street Address and Distance to Stay Away</i>
<input type="checkbox"/> Petitioner's school	_____
<input checked="" type="checkbox"/> Children's school	<u>Gateway Baptist, Ketchikan, 500 feet</u>
<input type="checkbox"/> Petitioner's job	_____
<input checked="" type="checkbox"/> _____	<u>Fawn Mountain School, Ketchikan, 500 feet</u>
<input checked="" type="checkbox"/> Ptr's Parents'	<u>561 D2 Loop Rd 500 Feet</u>
<input type="checkbox"/> _____	_____
- [AS 18.66.100(c)(4),(16)]
Exceptions (if any): _____

- f. Respondent not enter, follow, or interfere with the operation of any vehicle occupied by petitioner or in petitioner's possession. [AS 18.66.100(c)(5),(16)]

NOTE: Ketchikan has a limited number of roadways that must be used to travel from one part of the island to other parts of the island. If the respondent is inadvertently on a street or highway at the same time as petitioner, the respondent does NOT violated this

Order UNLESS the respondent engages in tailgating or in gestures or other behavior that constitutes communication or attempted communication with the petitioner. If the respondent is using a street or highway necessary to travel from one part of the island to another that takes the respondent close to petitioner's residence, the respondent does NOT violate this Order UNLESS the respondent stops or slows in front of petitioner's residence in order to communicate or attempt to communicate with petitioner.

- g. Respondent not possess or use controlled substances except if prescribed and then only as prescribed. [AS 18.66.100(c)(11),(16)]
- h. Petitioner shall have possession and use of the following, regardless of ownership:

(1) Residence located at _____ and everything in it.
(street address)

(2) Vehicle and all keys to it. License plate number _____
Vehicle Description _____

(3) Essential personal items:

- house keys garage door opener children's belongings
- mailbox keys clothes children's medicine
- medicine Medicare/Medicaid coupons food stamps
- pet(s) named _____

birth certificates belonging to _____

passports belonging to _____

immigration documents belonging to _____

ANCSA ID Tribal enrollment card Certificate of Indian blood

other _____
[AS 18.66.100(c)(10),(16)]

i. Respondent pay \$ _____ per month for the support of the petitioner while this order is in effect, beginning on _____ [AS 18.66.100(c)(12)]

j. Respondent not sell or dispose of any personal property of the petitioner, any property jointly held, or any disputed property. [AS 18.66.100(c)(16)]

k. Respondent not use or possess a deadly weapon (including a firearm), based on the court's finding in paragraph (C)(5) above. [AS 18.66.100(c)(6)]

l. Respondent surrender every firearm owned or possessed by the respondent to _____ no later than _____ based on the court's finding in paragraph (C)(5) above. [AS 18.66.100(c)(7)]

m. Respondent enroll in and complete at respondent's expense:

The following program for the rehabilitation of perpetrators of domestic violence that meets the standards set by, and is approved by, the Department of Corrections under AS 44.28.020(b):

The following substance abuse treatment program:

[AS 18.66.100(c)(15)]

- n. Respondent reimburse petitioner or other person for expenses associated with the domestic violence (including medical expenses, counseling, shelter, and repair or replacement of damaged property) as follows:

Pay to	Type of Expense	Amount
_____	_____	_____
_____	_____	_____
_____	_____	_____
[AS 18.66.100(c)(13)]	_____	_____

- o. Respondent pay to (name) _____ costs and fees incurred by petitioner in bringing this action, in the amount of \$ _____.
[AS 18.66.100(c)(14)]

- p. Other orders:

On record the court indicated it was entering this order upon the same terms as the ex parte order except that it was taking Mr. Reichard's request under advisement. However, since the court finds that a bb gun qualifies as a firearm, the court finds it appropriate to restrict Mr. Reichard's possession of deadly weapons, including firearms, as set forth in k above. This type of restriction is not allowed in an ex parte order.
With regard to Mr. Reichard's request to reduce the distance he must remain away from Ms. Speights' residence, the court is denying the request at this time and maintaining the original distance of 500 feet. If Mr. Reichard's conditions of release are modified in 1KE-14-194 CR to reduce the distance and allow him to return to his residence and Mr. Reichard presents evidence that he in fact will be living in that residence, the court will reconsider his request.

2. Child Custody / Visitation / Support. [AS 18.66.100(c)(9),(12)]

It is further ordered that:

- a. Temporary Custody. _____ shall have temporary custody of the following child(ren):

Child's Full Name	Date of Birth	Petitioner's Relationship to Child	Respondent's Relationship to Child
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- _____ shall not remove the child(ren) from Alaska, except _____

- b. Visitation. The court finds that the safety of the child(ren) and petitioner:

- Cannot be protected. Therefore, visitation shall not be allowed.
 Can be protected. Therefore, visitation shall be allowed per AS 25.20.061 as:

- Specified in *Supplemental Visitation Order* (DV-106) dated _____
 Outlined below:

c. *Child Support.* A child support order accompanies this order and is incorporated here by reference.

E. NOTICE TO RESPONDENT

1. If you are ordered to have no contact with the petitioner or to stay away from the petitioner's residence, vehicle, or other place designated by the court, ~~an invitation by the petitioner to have the prohibited contact or to be present at or enter the residence, vehicle, or other place does not in any way invalidate or nullify the order.~~ [AS 18.66.130(d)(2)]
2. Violation of this order may be a misdemeanor, punishable by up to one year of incarceration and up to a \$10,000 fine. [AS 18.66.130(d)(1); AS 11.56.740]
3. You can be arrested without a warrant for violating this order after you are served. [AS 18.65.530; AS 11.56.740(a); AS 12.25.030(b)]
4. If you are not a U.S. citizen and you violate this order, you may be deported from the United States. [8 USC § 1227(a)(2)(E)]
5. If you possess a firearm or ammunition while this order is in effect, you may be charged with a federal offense even if paragraphs (D)(1)(k) and (D)(1)(l) of this order do not prohibit you from possessing these items. [18 USC 922(g)]
6. If you are convicted of assault in the fourth degree committed in violation of this order, you will be sentenced to at least 20 days in jail. [AS 12.55.135(c)]

F. NOTICE TO BOTH PARTIES

1. While this protective order is in effect, both petitioner and respondent must tell the court in writing about:
 - a. Any changes in address or telephone numbers. The petitioner may require that the petitioner's address and telephone numbers be kept confidential. Failure to notify the court of your current address may result in this order being modified or dissolved without your input.
 - b. Pending civil court actions and domestic violence criminal actions involving either the respondent or the petitioner. [AS 18.66.150(b)]
2. While this protective order is in effect, either party may ask the court to change or end this order. A form for making this request (form DV-135) is available online or from the court clerk's office.

G. WRIT OF ASSISTANCE

TO: Any Peace Officer, State of Alaska

You are commanded to use every lawful means to enforce the above order. You shall:

- 1. Accompany and assist petitioner to take possession of the residence identified in paragraph (D)(1)(h) above. Remove respondent from the residence if necessary.
- 2. Accompany and assist petitioner to take possession of the personal items listed in paragraph (D)(1)(h) above.
- 3. Accompany and assist petitioner to take possession of the vehicle identified in paragraph (D)(1)(h) above.
- 4. Assist _____ to obtain custody of the minor child(ren) named in paragraph (D)(2)(a) of this order from any other person. You may enter any location where you have probable cause to believe the child(ren) may be found.
- 5. Accompany respondent to the residence once to recover undisputed personal items, clothing, and _____
You shall notify the petitioner of the time and date you will accompany respondent to the residence. The petitioner may be present. Any item the petitioner objects to respondent removing, you shall restrain the respondent from removing from the residence.
- 6. Peace officer shall also:

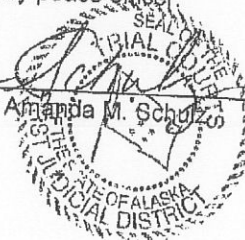
RIGHT TO APPEAL

Either party may appeal this order within 30 days of the date of distribution.

This order will be served on the respondent: in court today by peace officer

_____ 4/28/14
Date

Amanda Schultz
Magistrate Amanda M. Schultz



Distribution: 4/28/14
I certify that on _____ a copy of this order was distributed to:

- Petitioner(s) _____ via counter mail fax
- Person signing for petitioners _____ via counter mail fax
- Local police / AK State Troopers at post fax
 - for personal service on respondent _____ with petition
 - for personal service on person signing for respondent _____ with petition
- Local police / AK State Troopers at court tray fax for APSIN
- CSSD if applicable (with DV-200 Other _____)

By Clerk: *CU*