

Ohio Man Convicted of Writing to Family Cat

(Courtesy of Brigner E-mail News List – 10/22/04)

State v. Frazier, 158 Ohio App.3d 407, 2004-Ohio-4506

[Defendant appealed 180-day sentence for violating a protection order, after he was convicted of writing letters from jail – where he was serving a sentence on a prior domestic violence conviction – to the home of his wife. The letters were addressed to the family cat.] [Excerpts. Footnotes omitted.]

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{¶11} . . . Under the terms of the criminal protection order, Thomas Frazier was not permitted to have any contact with the residence occupied by Rita Frazier and the children. This order was in accordance with the trial court's statutory authority to impose "terms designed to ensure the safety and protection of the complainant, alleged victim, or the family or household member." The state adduced evidence that Thomas Frazier had violated the order by sending a letter to the residence. And while the letter was addressed to the family cat, the court was justified in rejecting that transparent ruse and finding that Thomas Frazier was attempting to contact the persons listed in the protection order.

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{¶12} We are mindful of the argument that the contents of the letter were fairly innocuous. There were no overt threats, and there was no indication that Thomas Frazier intended to contact the family in person. Nonetheless, given the context in which the letter was written, namely from a person jailed for domestic violence and aggravated menacing, the letter itself could have been reasonably deemed an attempt to defy the court's order and to cause Rita Frazier and the other members of the family emotional distress or psychological harm. Under these circumstances, the trial court could have concluded that the letter had violated the spirit, as well as the letter, of the protection order, and that the order's prohibition against such contact was proper to ensure the safety and protection of the family members under [Ohio law].

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{¶16} In the case at bar, we cannot say that the court's sentence constituted an abuse of discretion. The trial court, on the record, stated that Thomas Frazier's contact with the family was in blatant disregard of the protection order. The court also noted that he had sent the letter while jailed for domestic violence and aggravated menacing. Thomas Frazier offered nothing substantive in the way of mitigation, maintaining only that he had been improperly convicted. Under these circumstances, the trial court's imposition of a concurrent 180-day sentence was not unreasonable, arbitrary, or unconscionable.

– August 27, 2004