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4 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
5 IN AND FOR THE COUNTY OF ALAMEDA
6 DEPARTMENT 507

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9 DEREK CALLAWAY,

10 Petitioner,

No. RG19020080

11 vs.

12 ASTER TESFAI,

13 Respondent.
14 _____/

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17 **REPORTER'S TRANSCRIPT OF PROCEEDINGS**

18 Before: HON. JENNA WHITMAN, Judge

19 Date: June 12, 2019

20 Hayward Hall of Justice

21 24405 Amador Street, Hayward, California
22

23 **A P P E A R A N C E S**

24
25 For the Petitioner: IN PROPRIA PERSONA

26 For the Respondent: Nonappearance

27
28 The Reporter: Kimberly M. Steinbach, CSR No. 4592

1 June 12, 2019

PM SESSION

2 P R O C E E D I N G S

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4 THE COURT: Calling Callaway versus Tesfai,
5 RG19020080.

6 Mr. Callaway.

7 THE CLERK: He needs to be sworn.

8 (Party sworn.)

9 THE PETITIONER: As I understand it.

10 THE CLERK: Thank you. You may have a seat.

11 THE COURT: Good afternoon, Mr. Callaway.

12 Could you state and spell your name for the record,
13 please.

14 THE PETITIONER: My name is Derek Hyland Callaway.
15 That's D-E-R-E-K, H-Y-L-A-N-D, C-A-L-L-A-W-A-Y.

16 THE COURT: Okay. Now, I've read your petition, and
17 I'm also aware that you filed a very similar petition, which
18 was heard a little over a month ago by Judge Schwartz.

19 THE PETITIONER: That's right.

20 Umm, at the time I had some pictures that I wanted
21 to show, but my cell phone died by the time I got here, but
22 today I have a charged cell phone with me.

23 THE COURT: Okay. So can you start perhaps by
24 explaining to me who is Aster Tesfai.

25 THE PETITIONER: She's a former neighbor that lived
26 below me a couple years ago. I moved here from Delaware to
27 Oakland for work.

28 I lived in the Merritt on 3rd building in Oakland

1 near Lake Merritt. It's on East 12th and 3rd. I was on the
2 11th floor in unit 1103, and she and, I guess, her roommates
3 or family or -- were in unit 1003.

4 THE COURT: Okay. And where do you live presently?

5 THE PETITIONER: I'm presently homeless.

6 THE COURT: Okay. So do you have any occasion to be
7 back where you lived before around East 12th and 3rd?

8 THE PETITIONER: No, I don't.

9 After I moved out of that apartment building, I
10 moved into another building, umm, the Uptown, which is near
11 20th and Telegraph in Oakland. It's actually on the street. I
12 had a unit there for a while, and then I was kicked out of
13 there as well with issues related to this restraining order.

14 THE COURT: Okay. And I've read your complaint, and
15 it's not exactly clear to me, umm, how and when Ms. Tesfai
16 engaged in the conduct that you're talking about.

17 So when is the most recent time that you were
18 harassed by Tesfai?

19 THE PETITIONER: This morning, today. Some of them.

20 THE COURT: Okay. And where were you?

21 THE PETITIONER: Umm, I was sleeping at a friend's
22 house on Montgomery Street in Oakland.

23 THE COURT: On what street?

24 THE PETITIONER: On Montgomery Street in Oakland.

25 THE COURT: Okay. And you were in your friend's
26 house?

27 THE PETITIONER: That's correct.

28 THE COURT: What happened?

1 THE PETITIONER: Umm, so I was -- there was, like,
2 a bed set up for me there, and I was laying there, and some
3 sort of substance was being thrown on me by someone that I
4 was unable to see, and I was having an allergic reaction to
5 it, umm, which I believe I still have a rash from now.

6 THE COURT: Okay.

7 THE PETITIONER: Then, just for the record, I'm not
8 claiming that it was Aster that was doing this. It may have
9 been one of her associates.

10 All I know is that when I hear the voices talking,
11 I hear her name being mentioned.

12 THE COURT: Okay. Okay. And so before today what
13 was the next most recent incident?

14 THE PETITIONER: Yesterday.

15 THE COURT: Okay.

16 THE PETITIONER: It's a daily basis.

17 THE COURT: All right. So why don't you describe
18 what happened yesterday.

19 Was it the same or different?

20 THE PETITIONER: It was similar.

21 THE COURT: And so you're telling me that on a
22 daily basis you're experiencing voices?

23 THE PETITIONER: Umm, so I actually wrote up a
24 statement on my cell phone that gives a lot of background
25 information on this that might help you understand what's
26 going on. I didn't understand what was going on myself until
27 maybe several months ago. I started having experiences, and
28 the cumulative effect of those made me begin to understand

1 what was going on.

2 THE COURT: Well, maybe could you just tell me more
3 generally what you think is going on.

4 THE PETITIONER: Okay. Initially I thought that,
5 you know, I was just crazy and I was hearing things or seeing
6 things, and I kind of wish I was because that would be the
7 easy way out. I would just go to the psychiatrist, you know,
8 and get my antidepressants or whatever pills I need, and then
9 that would be the end of it.

10 What I believe is going on, based on my experiences
11 and research, is that Aster has a roommate in the -- I'm
12 not -- I don't want to say that it's the United States
13 military. It might be the military from another country. I
14 don't know. But it's some kind of advanced camouflaging or
15 stealth technology that they are using to harass me.

16 Umm, and the reason that I say that is because I
17 can hear conversations that are going on in their apartment
18 or wherever they are staying. Even if I'm, like, out in the
19 street, like, it doesn't matter where I am.

20 Anyway, I heard what sounded like a conference call
21 on speakerphone, and I heard somebody say "mission command."
22 And I looked up that phrase, and there's a lot of stuff
23 coming up for the United States Army.

24 THE COURT: Okay. But what you suspect is that,
25 umm, this former neighbor has some problem with you and is
26 working with others to harass you using some kind of stealth
27 technology?

28 THE PETITIONER: Yes. Umm, I don't -- I don't

1 believe that, you know, this is some kind of test being
2 carried out by the military. And I'm not claiming to be part
3 of the gang stalking phenomenon. I don't know if you are
4 familiar with that.

5 What I'm -- what I'm claiming is that -- this is
6 difficult -- I'm not even going to claim that Aster has a
7 particular problem with me.

8 There's a -- one of the reasons I don't want to go
9 into too many details about this is that my relationship with
10 her and other of her female roommates began sexually. And
11 what I thought was going on at first was that the walls were
12 thin between our apartments. Like, my floor, which would
13 have been her ceiling, was thin, and that was the reason that
14 I was hearing their voices.

15 Umm, we -- this was actually two years ago. This
16 wasn't recently. But we began having a relationship where I
17 would, like, put my hand on the floor and she would put her
18 hand on the ceiling and we would be, like, holding hands, and
19 one thing led to another. I don't mean to go into too many
20 details. And, umm, this kind of progressed and evolved.

21 And, I mean, today this is just more of a stalking
22 and harassment thing to the point that I'm unable to work or
23 have any sense of normalcy in my life.

24 THE COURT: Okay. So I'm not sure if when you saw
25 Judge Schwartz -- well, let me back up.

26 Do you have photos that you want to show me today
27 that are on your phone?

28 THE PETITIONER: Yes, I do.

1 THE COURT: Okay. If you could give them to the
2 court attendant.

3 I need you to queue up the pictures on the phone
4 for him so that I can look at them.

5 THE PETITIONER: Okay.

6 THE COURT: Then you can explain to me what they
7 are.

8 THE PETITIONER: Okay. One second.

9 (Reviewing cell phone.)

10 (Discussion off the record between Petitioner and
11 the court attendant.)

12 THE PETITIONER: I was just telling him that I
13 actually had a lot more media images and videos and
14 audiotape, but being that I'm homeless, I recently lost the
15 original cell phone that I had when this started happening.

16 So the media that I have now is only from within
17 the past month or two, but it's still relevant.

18 THE COURT: Okay. I'll take a look at it.

19 THE PETITIONER: (Reviewing cell phone.)

20 Some of the images have things circled to point
21 out, umm, where the interesting part of the capture is.
22 Others you kind of need to zoom in to see exactly what's
23 going on.

24 THE COURT: Umm, I have one problem, which is that
25 your -- that it's so dim, the screen is so dim.

26 THE PETITIONER: Yeah. I did that to save the
27 battery. You can turn up the brightness.

28 THE COURT: Can you tell me how to do that on your

1 phone?

2 THE PETITIONER: You swipe down from the top, and
3 then there's a slider that --

4 THE COURT: Got it.

5 THE PETITIONER: -- you can push all the way to the
6 right.

7 THE COURT: Thank you. Okay.

8 So there's what looks like a picture of the floor
9 with a bench that looks like it was taken in the courtroom.

10 And then --

11 THE PETITIONER: That's right.

12 And if you'll see on the floor there, there's a
13 reflection. And, umm, I don't know what causes this, but for
14 some reason, umm, whenever I take a photo with a flash,
15 there's characters that appear from a video game that I've
16 never played before. It's called Garry's Mod.

17 THE COURT: Okay. Umm, I see a photo taken at the
18 BART station, and you circled something in red. It looks
19 like there's a BART train there.

20 Is that something you want me to look at?

21 THE PETITIONER: Umm, in red, that's actually a
22 friend's RV. That is the side-view mirror that if you look at
23 that, I think there's some more of those characters that I
24 was talking about. It doesn't look like a normal side-view
25 mirror.

26 One of the things that I discovered as time
27 unfolded is that I wasn't able to view these things straight
28 on, but if I used, like, a mirror or a viewfinder on a camera

1 to kind of redirect or bend the light, then I was able to,
2 umm, kind of detect if they were there or where they were.

3 THE COURT: And you have a photo of your own head,
4 it looks like?

5 THE PETITIONER: Yeah. Umm, that's right.

6 So in that photo, umm, if you look at my forehead,
7 it's just -- it doesn't look very natural.

8 There's some more of those faces from the video
9 game that I was talking about. But most importantly in this
10 photo is that if you look at my hair, it's standing straight
11 up.

12 One of the things that I noticed as I was walking
13 on the sidewalk one day, by looking at my shadow, is I
14 noticed that my hair would stand up on end occasionally as if
15 I was being electrocuted or electrified.

16 And I think this may be related to -- there's some
17 sort of hypnosis that's being performed. And, umm, they are
18 trying to get the password to a hard drive that was stolen
19 from me when I moved out of my last apartment.

20 THE COURT: Okay. Well, I'm going to hand this back
21 to you. Thank you.

22 So when you met and appeared before Judge Schwartz,
23 did she explain to you the legal standard that we have to
24 apply to petitions like this?

25 THE PETITIONER: She said it was 50/50 plus one.

26 THE COURT: So that's not probably what she said.

27 THE PETITIONER: Okay.

28 THE COURT: She's very knowledgeable about these

1 things, but let me re-explain it to you and see if I can make
2 it a little more clear.

3 50/50 plus one is what we call the preponderance of
4 the evidence or more likely than not. Okay? And that's what
5 applies in most civil cases.

6 But petitions for civil harassment are different.
7 We apply a much higher standard. We call the standard clear
8 and convincing evidence. There's no numerical value that's
9 attached in a civil harassment petition, but it is much
10 higher than simply a 51-percent-type approach.

11 And I have to find that it is highly probable that
12 the facts are true that you are telling me, and one of the
13 things I have to be able to -- there has to be some evidence
14 that would meet that standard as to who is doing these
15 things. Okay?

16 So putting aside -- you know, assuming that someone
17 is doing what you are telling me they are doing, assuming
18 that there's someone out there who is utilizing high-tech
19 stalking methods against you, I need to have some evidence,
20 and really what I need is clear and convincing evidence of
21 who it is. And I don't believe that you have that. You
22 certainly haven't given it to me yet today.

23 THE PETITIONER: Understood.

24 Umm, perhaps I misunderstood the previous judge
25 that was handling the case.

26 I have done some research online, however, and this
27 is, umm, one of the best pathways that I can use to prove
28 this is that I did a reverse address look-up online for

1 Aster's location. And I used that reverse address book to
2 find out who her roommates were.

3 I looked up -- Googled one of her roommate's names,
4 and I found an Instagram account. And it was for an
5 individual that is deceased now. He passed away in November
6 2016.

7 I was looking at some of the photos that were
8 posted online of him, and I noticed there -- that there was
9 some of the characters from the video game I just mentioned,
10 Garry's Mod, that show up in the pictures that I take of
11 myself as well. That's the closest thing, umm, I can come up
12 with.

13 THE COURT: Okay. Well, I -- I cannot find that
14 that type of evidence is sufficient --

15 THE PETITIONER: Okay.

16 THE COURT: -- to meet that kind of -- make that
17 kind of connection under the applicable burden of proof.

18 I'm sorry for what you are going through. And I am
19 going to have to deny your petition.

20 You did mention mental health care, and it may be
21 that that would be helpful for you in coping with what's
22 going on at a minimum since I can understand, you know, that
23 this is very difficult for you. So I urge you if that's a
24 possibility for you to seek that out. Okay?

25 THE PETITIONER: Umm, yeah.

26 So I talked to a police officer in Oakland about
27 this, and he said that I should commit myself and have myself
28 evaluated just to prove that, umm, I'm not crazy. Because I

1 don't like saying these things in public because they make me
2 look crazy when I put things on the record like this. But, as
3 I said, I don't have much -- any other chance to get a
4 semblance of normalcy back in my life.

5 I have one further question, and that is, umm, if
6 I'm able to prove that there -- whoever is doing this is
7 doing this, am I able to resubmit the application for the
8 restraining order?

9 THE COURT: You may. I would just caution you to
10 make sure that you gather all the evidence that you can and
11 think, you know, hard about whether you think you have enough
12 to meet the burden of proof that I described to you today.
13 Not because I don't want you to come to court if you truly
14 have a problem, just that it could end up being a waste of
15 your time if you don't have enough of the right kind of
16 evidence.

17 THE PETITIONER: And I don't want to waste your
18 time either by coming here because I know that your time is
19 valuable, so, umm, I may have to hire some legal counsel.

20 THE COURT: I appreciate that.

21 And I wish you good luck. Okay?

22 THE PETITIONER: Okay.

23 THE COURT: Thank you.

24 THE PETITIONER: Thank you.

25 (Proceedings concluded at 2:15 p.m.)

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1 STATE OF CALIFORNIA)
2 COUNTY OF ALAMEDA)
3

4 I, KIMBERLY M. STEINBACH, do hereby certify:

5 That I am a Certified Official Shorthand Reporter
6 of the State of California and duly appointed Court Reporter
7 for the Superior Court, County of Alameda, State of
8 California, and that as such I fully and correctly reported
9 the proceedings had in the above-entitled matter at the time
10 and place set forth herein;

11 That my stenograph notes were thereafter
12 transcribed into typewriting under my direction, and that the
13 foregoing pages constitute to the best of my ability, a full,
14 true and correct transcription of my said notes.

15 DATED: December 3, 2020.
16
17

18 (Electronically sent to Mr. Callaway.)
19
20

21 _____
22 KIMBERLY M. STEINBACH, CSR No. 4592
23

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