

State of New York Court of Appeals

BEFORE: HON. MICHAEL J. GARCIA, Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

- against -

Respondent,

MARC FISHMAN,

Appellant.

**ORDER
DENYING
RECONSIDERATION**

Ind. No. 6293/2018

Appellant having moved for reconsideration in the above-captioned case of an application for leave to appeal dismissed by order dated May 10, 2023;

UPON the papers filed and due deliberation, it is

ORDERED that the motion for reconsideration is denied.

Dated: July 25, 2023



Associate Judge

State of New York Court of Appeals

BEFORE: HON. MICHAEL J. GARCIA, Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

- against -

Respondent,

MARC FISHMAN,

Appellant.

**ORDER
DISMISSING
LEAVE**

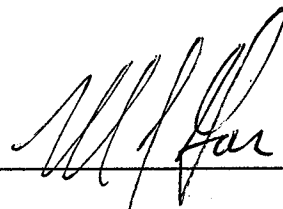
Ind. No. 6293/2018

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law (CPL) § 460.20 from an order in the above-captioned case;*

UPON the papers filed and due deliberation, it is

ORDERED that the application is dismissed because the order sought to be appealed from is not appealable under CPL § 450.90(1).

Dated: May 16, 2023



Associate Judge

*Description of Order: Order of the Appellate Division, Second Department, dated February 17, 2023, dismissing an appeal on the Court's own motion from an order of Supreme Court, Westchester County, dated June 9, 2022, on the ground that the order is not appealable by right or permission.

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

M287434
AFA/

MARK C. DILLON, J.P.
JOSEPH J. MALTESE
LARA J. GENOVESI
JANICE A. TAYLOR, JJ.

2022-05328

The People, etc., respondent,
v Marc Fishman, appellant.

DECISION & ORDER ON MOTION

(Ind. No. 6293/2018)

Appeal from an order of the Supreme Court, Westchester County, dated June 9, 2022.
Motion by the appellant, inter alia, to stay enforcement of the order, pending hearing and determination of the appeal.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that on the Court's own motion, the appeal is dismissed on the ground that the order is not appealable as of right or by permission (*see* CPL 450.10, 450.15); and it is further,

ORDERED that the motion is denied as academic.

DILLON, J.P., MALTESE, GENOVESI and TAYLOR, JJ., concur.

ENTER:



Maria T. Fasulo
Clerk of the Court

February 17, 2023

PEOPLE v FISHMAN, MARC

ORI No.:
Order No.:
NYSID No.: 14527226Q
CJTN No

Criminal Form 1 1/2014
At a Term of the Supreme Court, County of Westchester, at the
Courthouse, 111 Dr. Martin Luther King, Jr. Boulevard, White Plains,
State of New York.

ORDER OF PROTECTION
Family Offenses - C.P.L. 530.12

Present: HONORABLE DAVID S. ZUCKERMAN
ACTING SUPREME COURT JUSTICE

[] Youthful Offender (check if applicable)
Part: DZ
Docket No. 18-06293
Charges: Criminal Contempt 2°

The People of the State of New York

MARC FISHMAN,

Defendant.

(Check box): [] Ex Parte
[X] Defendant Present in Court

Date of Birth: 08/21/1972

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CONTEMPT OF COURT. IF THIS IS A TEMPORARY ORDER OF PROTECTION AND YOU FAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND THEN CONTINUES IN EFFECT UNTIL A NEW DATE IS SET BY THE COURT.

THIS ORDER OF PROTECTION WILL REMAIN IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT OR COMMUNICATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS ORDER OF PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR VIOLATING THIS ORDER.

[X] ORDER OF PROTECTION - Whereas defendant has been convicted of: CRIMINAL CONTEMPT IN THE SECOND DEGREE.

And the Court having made a determination in accordance with section 530.12 of the Criminal Procedure Law,
IT IS HEREBY ORDERED that the above-named defendant observe the following conditions of behavior:
[Check applicable paragraphs and subparagraphs]:

- [01] [X] Stay away from [A] [X] [name[s] of protected person[s] or witness(es)]: JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008 and/or from the
[B] [X] home of JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008),
[C] [X] school of JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008),
[D] [X] business of JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008),
[E] [X] place of employment of JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008),
[F] [X] other JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008),
-----[X] except for contact, communication or access permitted by an existing or subsequent court order issued by a family or supreme court in a custody, visitation or child abuse or neglect proceeding.
- [14] [X] Refrain from communication or any other contact, directly or indirectly through third parties, by mail, telephone, e-mail, voice mail or other electronic or any other means with: JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008).
----- [X] except for contact, communication or access permitted by an existing or subsequent court order issued by a family or supreme court in a custody, visitation or child abuse or neglect proceeding pertaining to child-in-common).
- [17] [X] Refrain from remotely controlling, monitoring or otherwise interfering with any electronic device or other object affecting the home, vehicle or property of : JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008).
- [02] [X] Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats, identity theft, grand larceny, coercion or any criminal offense against: JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008);
- [15] [X] Refrain from intentionally injuring or killing without justification the following companion animal(s) pet(s) and, if available, name: ANY AND ALL;

[11] [] Permit [specify individual]: _____ to enter the residence at [specify]: _____ during [specify date/time]: _____ with [specify law enforcement agency, if any]: _____ to remove personal belongings not in issue in litigation [specify items]: _____;

[04] [] Refrain from [indicate acts]: _____ that create an unreasonable risk to the health, safety, or welfare of [specify child(ren), family or household member]: _____;

[05] [] Permit [specify individual(s)]: _____ entitled by a court order or separation or other written agreement, to visit with [specify child(ren)]: _____ during the following periods of time [specify]: _____, under the following terms and conditions [specify]: _____.

[12] [X] Surrender any and all handguns, pistols, revolvers, rifles, shotguns and other firearms owned or possessed, including, but not limited to, the following ANY and do not obtain any further guns or other firearms. Such surrender shall take place immediately, but in no event later than [specify date/time]: IMMEDIATELY AND NO LATER THAN FOUR HOURS AFTER THE ISSUANCE OF THIS ORDER TO THE ARRESTING AGENCY OR THE WESTCHESTER COUNTY POLICE. Note: If this paragraph is checked, a copy of this form must be sent to: New York State Police, Pistol Permit Section, State Campus Building #22, 1220 Washington Avenue, Albany, New York 12226-2252.


[] [] Promptly return or transfer the following identification documents [specify]: _____ to the party protected by this Order NOT LATER THAN [specify date]: _____ in the following manner [specify manner or mode of return or transfer]: _____.
[Check box(es) if applicable]: [] Such documents shall be made available for use as evidence in this judicial proceeding.
[] (Jointly owned documents or documents in both parties' names only): the following document(s) may be used as necessary for legitimate use by the defendant[specify]: _____

[99] [X] Specify other conditions defendant must observe for the purposes of protection: NO CONTACT DIRECTLY, INDIRECTLY OR THROUGH THIRD PARTIES.

IT IS FURTHER ORDERED that the above-named Defendant's license to carry, possess, repair, sell or otherwise dispose of a firearm or firearms, if any, pursuant to Penal Law §400.00, is hereby [13A] [] suspended or [13B] [X] revoked (note: final order only), and/or [13C] [X] the Defendant shall remain ineligible to receive a firearm license during the period of this order. (Check all applicable boxes).

IT IS FURTHER ORDERED that this order of protection shall remain in force until and including April 29, 2023, less the defendant's jail time credit, which is to be computed by the applicable department of correction.

DATED: _____ JUNE 9, 2022


HONORABLE DAVID S. ZUCKERMAN
ACTING JUSTICE OF THE SUPREME COURT

[] Order personally served on Defendant in Court _____

(Defendant's signature)

[X] Order to be served by other means [specify]: via defendant's email address at rentdriver@gmail.com and/or at counsel
[] Warrant issued for Defendant.
[] ADDITIONAL SERVICE INFORMATION: [specify]: Caner Demirayak at caner@canerlawoffice.com

The Criminal Procedure Law provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties shall authorize and in some situations may require, such officer to arrest a defendant who is alleged to have violated its terms and to bring him or her before the Court to face penalties authorized by law.

Federal law requires that this order be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if the person against whom the order is sought is an intimate partner of the protected party and has been or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect that person's rights (18 U.S.C. §§2265, 2266).

It is a federal crime to:

- cross state lines to violate this order or to stalk, harass or commit domestic violence against an intimate partner or family member;
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition while this Order remains in effect (Note: there is a limited exception for military or law enforcement officers but only while they are on duty); and
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition after a conviction of a domestic violence-related crime involving the use or attempted use of physical force or a deadly weapon against an intimate partner or family member, even after this Order has expired (18 U.S.C. §§922(g)(8), 922(g)(9), 2261, 2261A, 2262).