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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

CITY OF MANHATTAN BEACH, Plaintiff and Respondent, v. NEIL NOBLE, Defendant and Appellant.	B157515 (Los Angeles County Super. Ct. No. YS010025)

APPEAL from orders of the Superior Court of Los Angeles County, Glenda Veasey, Judge. Affirmed.

Neil Paul Noble, in pro. per., for Defendant and Appellant.

Robert V. Wadden, Jr., City Attorney, for Plaintiff and Respondent.

Neil Noble appeals from a temporary restraining order and an injunction secured by the City of Manhattan Beach (City) on behalf of its employee, Police Officer John Loy. We affirm.

BACKGROUND

On February 20, 2002, City filed a request for order to show cause and temporary restraining order and a petition of employer pursuant to Code of Civil Procedure section

527.8 (hereafter section 527.8), seeking an injunction prohibiting violence or threats of violence against Officer Loy.[1] In its pleadings, City sought orders prohibiting Noble from threatening acts of violence and committing acts of violence against Loy and from coming within 100 yards of Loy's residence and place of work. The request for temporary restraining order further specified that "[a]ny person subject to a restraining order is prohibited from obtaining or purchasing or attempting to obtain or purchase a firearm by Penal Code section 12021."

Loy filed a supporting declaration. In it, he stated that he arrested Noble in 1998 for assaulting his roommate by throwing boiling water and that Noble was convicted as a result of that incident. While Loy was on duty in July or August 1999, Noble followed Loy into a 7-Eleven store, accused Loy of harassing him, and told Loy that he (Noble) knew that Loy was an agent of the FBI or the CIA. While Loy was driving on patrol in September or October 2000, Noble drove behind Loy, stuck his hand out the window, and yelled that Loy was an FBI agent who was out to get Noble. In the fall of 2001, Noble served court papers on City which stated that Loy was a descendant of J. Edgar Hoover. In December 2001, Noble drove by Loy's patrol car and made faces and displayed his middle finger to Loy. On January 4, 2002, Noble subpoenaed Loy to a court proceeding to determine Noble's competency to represent himself in a case in which Noble had been accused of throwing rocks at a paramedic van. While at court, Noble asked Loy for his date of birth and other personal information. When Loy declined to provide the information and stated that he would speak with the prosecutor, Noble became enraged and yelled at Loy. Courtroom deputies escorted Noble away, and

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[1] Section 527.8, subdivision (a), provides: "Any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an injunction on behalf of the employee prohibiting further unlawful violence or threats of violence by that individual."

the court ordered Noble to stay away from Loy. Later that day, Noble's public defender suggested that Loy get a restraining order against Noble.

A temporary restraining order against Noble was issued as requested.

On February 26, 2002, Noble filed a response to City's petition, stating that he did not consent to the orders requested and that he was exercising his Fifth Amendment right against self-incrimination as to the allegations of the petition.

A hearing on the petition was held on March 11, 2002. The petition was granted. An order filed that date states that Loy and Noble were present at the hearing. The order further states that, through March 11, 2005, Noble "shall not [among other things] contact, molest, harass, attack, strike, [or] threaten" Loy and must stay at least 100 yards away from Loy's residence and place of work. The order additionally provides that "[Noble] shall not own or possess firearms. All firearms in his possession and control shall be turned over to law enforcement within 24 hours of this order. . . ."

Although the appellate record does not contain a reporter's transcript of these proceedings, in a declaration submitted in his appellant's appendix Noble states that, at the hearing on the petition, the judge stated that the order that Noble surrender his guns was based on federal law.[2]

Noble filed a timely notice of appeal.

DISCUSSION

In the introduction to his opening brief, Noble states that he seeks to have the temporary restraining order and the injunction "vacated as a matter of law on the basis that the facts alleged by Officer Loy are not sufficient to justify the entrance of a restraining order under CCP 527.8. Noble argues that there was no credible threat against Officer Loy that could reasonably be inferred from the evidence. If the court does not

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[2] In his opening brief, Noble further states that "[a]t the hearing on March 11, 2002, Noble challenged the credibility of Officer Loy on the grounds that J. Edgar Hoover was a communist and there is inference that Officer Loy is a relative of J. Edgar Hoover."

vacate the entire restraining order, Noble seeks to have the order to surrender guns vacated as a matter of law on the basis that it was not within the authority of the court to make such an order (Penal Code section 12021(g))."

Noble concludes the introductory portion of his opening brief as follows: "Lloyd Cotsen's wife was murdered on May 23, 1979 in their home in Beverly Hills, CA. Mr. Cotsen was an executive with Neutrogena Corporation which was headquartered near Los Angeles Airport. The murder weapon was reported in the paper as being a long-barreled .22 caliber pistol. [¶] Mr. Cotsen is a graduate of Princeton. It is Noble's understanding that California Supreme Court Chief Justice Ronald George is also a graduate of Princeton. [¶] Please take notice of the similarities between the names Lloyd Cotsen and Officer Loy. In prior lawsuits, Noble has alleged that Officer Loy is a relative of J. Edgar Hoover, head of the FBI from 1924-1972. Noble has provided evidence that J. Edgar Hoover was a communist."

Nobel's opening brief continues in a similar vein, on the one hand recounting a generally accurate procedural history of the case and reiterating the assertions set forth in the introduction to his opening brief and on the other hand meandering incoherently through 200 years of historical events. He focuses on such matters as the sinking of the Titanic, noting: "Noble previously raised the question of whether the United States had the leaders of the Soviet Union castrated in retaliation for sabotaging the Titanic which reportedly crashed into an iceberg in 1912, and, if so, who represented the United States." In a section of his brief captioned, "Resolution of Case," Noble concludes: "Noble will not surrender any guns which might be in Noble's possession on account of this bullshit. Noble will not knowingly and willingly take any action which could be deemed an act of cooperation with Officer Loy."

To the extent that Noble directly attacks the injunction issued against him, his contentions must be rejected. Under section 527.8, subdivision (b)(2), "'Credible threat of violence' is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose." "At the hearing [on an application for

relief under this statute], the judge shall receive any testimony that is relevant and may make an independent inquiry. . . . If the judge finds by clear and convincing evidence that the defendant engaged in unlawful violence or made a credible threat of violence, an injunction shall issue . . . . (§ 527.8, subd. (f).)

We read Officer Loy's declaration, which establishes a course of conduct by Noble that includes the propensity for violence, irrational patterns of thought, and an intent to put Loy on the defensive, to be adequate to support a finding of the existence of a credible threat of violence as defined in section 527.8, subdivision (b)(2). (Cf. *Scripps Health v. Marin* (1999) 72 Cal.App.4th 324, 335.) Moreover, Nobel has failed to provide a transcript of the hearing at which the injunction was issued. It is his burden to produce a record on appeal that is adequate to affirmatively demonstrate any error he claims. (*Ballard v. Uribe* (1986) 41 Cal.3d 564, 574–575; *Davenport v. Unemployment Ins. Appeals Bd.* (1994) 24 Cal.App.4th 1695, 1700.) This would include a record to explain the basis of his contention that the portion of the injunction requiring him to turn over his firearms was not authorized. In the absence of such a record, his contentions must fail.

DISPOSITION

The orders under review are affirmed.

NOT TO BE PUBLISHED.

MALLANO, J.

We concur:

VOGEL (MIRIAM A.), Acting P. J.

RICO, J.*

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* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.