

STATE OF MAINE
ANDROSCOGGIN, ss

SUPERIOR COURT
CIVIL ACTION
Docket No. CV-2006-154

STATE OF MAINE,)
)
 Plaintiff,)
)
 v.)
)
 TAMMY SPENCE)
)
 Defendant)

RECEIVED & FILED
AUG 23 2006
ANDROSCOGGIN
SUPERIOR COURT

CONSENT DECREE

Plaintiff State of Maine, having filed its Complaint on July 10, 2006, reflecting allegations of civil rights violations, and Plaintiff and Defendant Tammy Spence having consented to the entry of this Consent Decree without trial or adjudication of any issue of fact or law in this matter, and without this Consent Decree constituting any admission by Defendant with respect to any such issue, it is hereby ORDERED and DECREED as follows:

JURISDICTION

The court has jurisdiction over the persons of Plaintiff and Defendant and over the subject matter of this action. The Complaint states a claim for relief under 5 M.R.S.A. § 4681.

INJUNCTION

Pursuant to 5 M.R.S.A. § 4681, Defendant is permanently enjoined from:

- (1) Using or attempting or threatening to use physical force or violence against Abdifatah H. Ahmed ("the Victim"), causing or attempting or threatening to cause damage or destruction of property of the Victim,

trespassing on or attempting or threatening to trespass on property of the Victim, or otherwise assaulting, intimidating, coercing, or harassing or threatening to assault, intimidate, coerce, or harass the Victim;

(2) Using or attempting or threatening to use physical force or violence against any person, causing or attempting or threatening to cause damage or destruction of property of any person, or trespassing on or attempting or threatening to trespass on property of any person motivated by reason of bias against the person's race, color, religion, sex, ancestry, national origin, physical or mental disability, or sexual orientation;

(3) Using or attempting or threatening to use physical force or violence against any person, causing or attempting or threatening to cause damage or destruction of property of any person, or trespassing on or attempting or threatening to trespass on property of any person because that person did or might complain of or testify about acts alleged in the complaint or acts prohibited by Maine or federal law or because that person did or might cooperate in any investigation concerning such acts;

(4) Speaking or writing to, telephoning, or otherwise communicating with the Victim (except through attorneys for the purpose of preparing for the Defendant's defense in any criminal prosecution);

(5) Knowingly approaching within 200 feet of the Victim or the present or future residence of the Victim; and

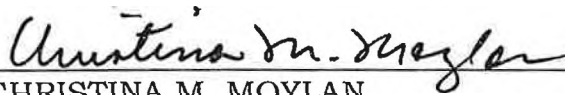
(6) Causing, assisting, or encouraging any other person to engage in the above-prohibited conduct.

PURSUANT TO 5 M.R.S.A. § 4681, ANY PERSON WHO KNOWINGLY VIOLATES THIS ORDER COMMITS A CLASS D CRIME PUNISHABLE BY UP TO 364 DAYS IN JAIL AND A FINE OF UP TO \$2,000.

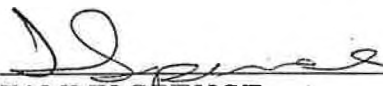
RETENTION OF JURISDICTION

Jurisdiction is retained by the court for the purpose of enabling either of the parties to this Consent Decree to apply to the court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Consent Decree, for the modification or termination of any of the provisions hereof, and for the enforcement of compliance herewith (including through actions for civil or criminal contempt).

DATED: 8-21-06


CHRISTINA M. MOYLAN
Assistant Attorney General
Attorney for Plaintiff State of Maine

DATED: 8/12/06


TAMMY SPENCE
Defendant

ORDER AND DECREE

It is hereby ORDERED and DECREED as set forth above.

DATED: August 26, 2006


Justice, Superior Court

STATE OF MAINE
ANDROSCOGGIN, ss

SUPERIOR COURT
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STATE OF MAINE,)
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COMPLAINT
(Injunctive Relief Requested)

INTRODUCTION

1. The Attorney General brings this civil action for injunctive and other relief pursuant to the Maine Civil Rights Act, 5 M.R.S.A. §§ 4681-4685.

PARTIES

2. Plaintiff State of Maine is a sovereign state and brings this action pursuant to 5 M.R.S.A. § 4681.

3. Defendant Tammy Spence is a 30-year-old-female who resides in Greene, Maine.

JURISDICTION AND VENUE

4. This court has jurisdiction of this action pursuant to 4 M.R.S.A. § 105 and 5 M.R.S.A. § 4681(2).

5. Venue is properly laid in this county pursuant to 5 M.R.S.A. §4681(2) because the incident complained of occurred in Androscoggin County.

STATUTORY BACKGROUND

6. The Maine Civil Rights Act, specifically 5 M.R.S.A. § 4681, provides a cause of action for the Attorney General to seek an injunction against any person who intentionally interferes or attempts to intentionally interfere by physical force or violence against a person, damage or destruction of property, or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or by the Maine Constitution or the laws of the State of Maine.

7. Pursuant to 5 M.R.S.A. § 4684-A, a person has the right to engage in lawful activities without being subject to physical force or violence, damage or destruction of property, or trespass on property or the threat of physical force or violence, damage or destruction of property or trespass on property motivated by reason of race, color, religion, sex, ancestry, national origin, physical or mental disability, or sexual orientation.

8. Each violation of 5 M.R.S.A. § 4681 is a civil violation for which a civil penalty of up to \$5,000 may be adjudged.

FACTS

9. The Defendant, Tammy Spence, is a 30-year-old female resident of Greene, Maine.

10. The Victim is a 31-year-old black male from Somalia.

11. On or about November 18, 2005, the Victim was driving his wife along Bartlett Street in Lewiston, Maine. The Victim approached an

intersection where he observed the road to be closed and detour signs posted. Being unfamiliar with the area, the Victim drove slowly, attempting to follow the detour signs.

12. The Defendant was driving behind the Victim and signaled him to pull over. The Victim pulled over in front of 182 Bartlett Street.

13. The Defendant exited her vehicle and came up to the Victim's window and knocked. After the Victim rolled down his window the Defendant questioned the Victim about why he was driving so slowly and the Victim replied that he was unfamiliar with the area.

14. The Defendant then spat in the Victim's face and began yelling racial comments at the Victim, including "you Somalians need to go back to your own country" and "you're not welcome here."

15. The Victim then called the police and instructed the Defendant not to go anywhere until the police arrived. At this point the Defendant also called 911 while continuing to yell racial comments at the Victim, such as calling him an "ugly monkey" and a "nigger" and yelling "you smell."

16. The Victim felt intimidated and fearful as a result of the Defendant's conduct.

CAUSE OF ACTION

17. The State repeats, realleges and incorporates herein by reference paragraphs 1 through 16 of this complaint.

18. Defendant Tammy Spence has intentionally interfered or attempted to intentionally interfere by physical force or violence with the exercise or

enjoyment by the Victim of his right, secured by 5 M.R.S.A. § 4684-A, to engage in lawful activities without being subject to physical force or violence, or the threat of physical force or violence, motivated by reason of the Defendant's bias against the Victim's race, color, and national origin, in violation of 5 M.R.S.A. § 4681.

RELIEF REQUESTED

Accordingly, the State requests that this court:

A. Issue both a preliminary injunction and a permanent injunction

enjoining the Defendant from:

- (1) Using or attempting or threatening to use physical force or violence against the Victim, causing or attempting or threatening to cause damage or destruction of property of the Victim, trespassing on or attempting or threatening to trespass on property of the Victim, or otherwise assaulting, intimidating, coercing, or harassing or threatening to assault, intimidate, coerce, or harass the Victim;
- (2) Using or attempting or threatening to use physical force or violence against any person, causing or attempting or threatening to cause damage or destruction of property of any person, or trespassing on or attempting or threatening to trespass on property of any person motivated by reason of bias against the person's race, color, religion, sex, ancestry, national origin, physical or mental disability, or sexual orientation;

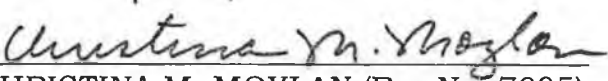
- (3) Using or attempting or threatening to use physical force or violence against any person, causing or attempting or threatening to cause damage or destruction of property of any person, or trespassing on or attempting or threatening to trespass on property of any person because that person did or might complain of or testify about acts alleged in this complaint or acts prohibited by Maine or federal law or because that person did or might cooperate in any investigation concerning such acts;
- (4) Speaking or writing to, telephoning, or otherwise communicating with the Victim (except through attorneys for the purpose of preparing for the Defendant's defense in any criminal prosecution);
- (5) Knowingly approaching within 200 feet of the Victim or the present or future residence of the Victim.
- (6) Causing, assisting, or encouraging any other person to engage in the above-prohibited conduct;

- B. Declare that the Defendant has violated 5 M.R.S.A. § 4681 with respect to the Victim;
- C. Order the Defendant to pay a civil penalty of up to \$5,000 for each such violation of 5 M.R.S.A. § 4681;
- D. Order the Defendant to pay the State's reasonable attorney's fees pursuant to 14 M.R.S.A. § 1522(1)(B); and

E. Grant such other and further relief as the court deems just and proper.

DATED at Augusta, Maine, this 6th of July, 2006.

G. STEVEN ROWE
Attorney General


CHRISTINA M. MOYLAN (Bar No. 7095)
Assistant Attorney General
6 State House Station
Augusta, Maine 04333-0006
(207) 626-8800

Attorneys for State of Maine

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STATE'S MOTION FOR
PRELIMINARY INJUNCTION

Plaintiff State of Maine, by and through the Attorney General, hereby requests that the court issue a preliminary injunction enjoining the Defendant Tammy Spence from:

(1) Using or attempting or threatening to use physical force or violence against the Victim, causing or attempting or threatening to cause damage or destruction of property of the Victim, trespassing on or attempting or threatening to trespass on property of the Victim, or otherwise assaulting, intimidating, coercing, or harassing or threatening to assault, intimidate, coerce, or harass the Victim;

(2) Using or attempting or threatening to use physical force or violence against any person, causing or attempting or threatening to cause damage or destruction of property of any person, or trespassing on or attempting or threatening to trespass on property of any person motivated by reason of race;

color, religion, sex, ancestry, national origin, physical or mental disability, or sexual orientation;

(3) Using or attempting or threatening to use physical force or violence against any person, causing or attempting or threatening to cause damage or destruction of property of any person, or trespassing on or attempting or threatening to trespass on property of any person because that person did or might complain of or testify about acts alleged in this complaint or acts prohibited by Maine or federal law or because that person did or might cooperate in any investigation concerning such acts;

(4) Speaking or writing to, telephoning, or otherwise communicating with the Victim (except through attorneys for the purpose of preparing for the Defendant's defense in any criminal prosecution);

(5) Knowingly approaching within 200 feet of the Victim or the present or future residence of the Victim; and

(6) Causing, assisting, or encouraging any other person to engage in the above-prohibited conduct;

This motion is made pursuant to the Maine Civil Rights Act, specifically 5 M.R.S.A. § 4681, on the grounds set forth in the State's complaint and the memorandum of law filed herewith. The State has no adequate remedy at law.

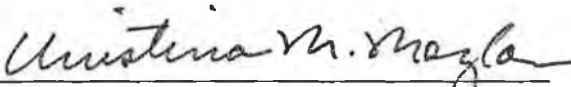
Because the State is the plaintiff, no security is required.

Accordingly, the State requests that the court enter an order for a preliminary injunction in the proposed form submitted herewith.

Respectfully submitted,

G. STEVEN ROWE
Attorney General

Dated: July 6, 2006


CHRISTINA M. MOYLAN (Bar No. 7095)
Assistant Attorney General
6 State House Station
Augusta, Maine 04333-0006
(207) 626-8800

Attorneys for State of Maine

NOTICE

Matter in opposition to this motion pursuant to M.R. Civ. P. 7(c) must be filed not later than 21 days after the filing of the motion unless another time is provided by the rules or set by the court. The failure to file timely opposition will be deemed a waiver of all objections to the motion, which may be granted without further notice or hearing.