

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

Aimee R. BELLIARD,  
*Petitioner-Respondent,*

*v.*

Ernesto S. BELLIARD,  
*Respondent-Appellant.*

Marion County Circuit Court  
16SK01686; A163248

Janet A. Klapstein, Judge pro tempore.

Submitted August 15, 2017.

Alexander Spaulding filed the brief for appellant.

No appearance for respondent.

Before Ortega, Presiding Judge, and Garrett, Judge, and  
Powers, Judge.

PER CURIAM

Reversed.

## PER CURIAM

The trial court entered a permanent stalking protective order (SPO) under ORS 30.866 against respondent, who now appeals. He argues that petitioner failed to establish the necessary elements for obtaining an SPO. We agree with respondent and reverse.

ORS 30.866 authorizes a court to issue a stalking protective order against a person if (1) the person “intentionally, knowingly or recklessly engages in repeated and unwanted contact with [another] person or a member of that person’s immediate family or household thereby alarming or coercing the other person,” (2) the other person’s alarm or coercion was objectively reasonable, and (3) the unwanted contacts caused the other person “reasonable apprehension regarding the personal safety of [the other person] or a member of the [other person’s] immediate family or household.” Moreover, for speech-based unwanted contacts, Article I, section 8, of the Oregon Constitution imposes the additional requirement that the petitioner must prove that the contacts involved threats that “instill[] in the addressee a fear of imminent and serious personal violence from the speaker, [are] unequivocal, and [are] objectively likely to be followed by unlawful acts.” *State v. Rangel*, 328 Or 294, 303, 977 P2d 379 (1999); see also *Falkenstein v. Falkenstein*, 236 Or App 445, 451, 236 P3d 798 (2010) (the *Rangel* constitutional analysis applies to a civil SPO).

The bench, the bar, or the public would not benefit from a detailed discussion of the facts of this case. Suffice it to say that our review of the hearing transcript reveals that none of respondent’s communications described by petitioner that are within the two-year statutory period prior to the filing of the petition satisfy the constitutional requirements imposed by *Rangel*.

Reversed.