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The "officially released" date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the "officially released" date appearing in the opinion.

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MOLL, J., dissenting. General Statutes § 53a-40e (a) controls the issuance, modification, and revocation of standing criminal protective orders. Because this case involves the issuance of a standing criminal protective order in the context of a person convicted pursuant to General Statutes § 53-21 (a) (2), the statutory language that controls the issuing court's authority in the present case provides that the court may issue a standing criminal protective order only "*if the court is of the opinion that the history and character and the nature and circumstances of the criminal conduct of such offender* indicate that a standing criminal protective order will best serve the interest of the victim and the public . . . ." (Emphasis added.) General Statutes § 53a-40e (a). The record before us reveals that the issuing court, which was not the sentencing court, did not have an adequate record before it to make such a determination. Rather, the record reflects that, more than nine years after the judgment of conviction, the court issued the standing criminal protective order on the basis of essentially double hearsay, i.e., an out-of-court statement that was (1) made by the victim's mother to the victim's advocate that was (2) conveyed to a prosecutor (not the one who had handled the original matter) and passed along to the issuing court without any evidentiary foundation. The issuance of the forty year protective order occurred notwithstanding the fact that the defendant's original sentence included a twenty-five year period of probation, a special condition of which was no contact with the victim. In light of these concerns, I respectfully dissent from the majority's decision affirming the judgment of the trial court.

The following comments by the issuing court reveal that it exclusively relied on the assumption of the victim's mother that a standing criminal protective order previously had issued. "Sir, let me first begin by saying there is nobody in this room who believes for a second that you have done anything wrong or criminal directed at this other party, all right. No one is suggesting that. As I sit here today, I don't think you have done anything to trigger additional criminal conduct." Upon reciting the legal principles set forth in *State* v. *Alexander*, 269 Conn. 107, 847 A.2d 970 (2004), and recognizing thereunder that it had jurisdiction to impose the requested order, the issuing court stated: "[W]hat was equally persuasive to me was this person who had been in contact with the victim's advocate and the state's attorney's office indicated that she was told at disposition that there would be a standing order as part of the disposition. Now there wasn't, but according to her and according to the state's attorney's office, somehow it was indicated to her that that would be done. And what that does is it triggers the integrity of our criminal

justice system. And if a person was told that, there is some sort of obligation to make sure that that signal is carried out here in the courtroom . . . . So, I do think also that it does satisfy the integrity of our criminal justice system that we correct these slight misrepresentations that may have been made with blame towards no one, sir." The court further stated: "[T]here's no reason to believe you're going to contact this person."

In sum, these comments do not reflect a determination that the issuing court had arrived at "the opinion that the history and character and the nature and circumstances of the criminal conduct of such offender indicate that a standing criminal protective order will best serve the interest of the victim and the public . . . ." General Statutes § 53a-40e (a). Although the issuing court was not required to make such an express finding on the record, the comments made on the record reflect a rationale different from that required by the statute in connection with the issuance of a standing criminal protective order.

Moreover, the record reveals that the issuing court did not have before it—and, therefore, had not considered—the transcript from the April 13, 2012 sentencing hearing conducted by the court, *Devlin*, *J.*, which the defendant filed with this court. The sentencing transcript reflects the following. First, the prosecutor did not request or otherwise mention the issuance of a standing criminal protective order. Second, the court did not suggest that it was considering issuing a standing criminal protective order, such that it simply forgot to do so by the completion of the hearing. Third, the court addressed the victim's mother directly and gave her an opportunity to be heard. While the victim's mother expressed her hurt and frustration, she did not request the issuance of a standing criminal protective order. After hearing from the defendant's attorney and recognizing the defendant's right of allocution, the court went on to impose the sentence of fifteen years of incarceration, execution suspended after five years, followed by twenty-five years of probation, explaining, twice, that one of the special conditions of probation would be no contact with the victim.

The issuing court also did not have before it the transcript from the February 2, 2012 hearing in which the defendant entered his guilty plea, which the defendant filed with this court. That plea transcript reflects, inter alia, that the court, *Devlin*, *J.*, confirmed with the prosecutor that the victim's mother was aware of the proposed disposition and proceeded to hear from her. The court addressed the victim's mother directly, thoughtfully explaining how it arrived at the proposed disposition. At the end of the court's explanation, the victim's mother stated: "If you think it's fair, Your Honor, I'm good with you." The court proceeded to canvass the defendant with respect to his guilty plea,

and the plea was accepted. At no time did the court reference the possibility of issuing a standing criminal protective order.

Stated simply, a review of the plea and sentencing transcripts reveals that the sentencing court did not make any representations during the plea hearing or the sentencing hearing—to the victim's mother or anyone else—that a standing criminal protective order would issue. In the absence of some evidentiary showing that the sentencing court committed an oversight, in my view, the double hearsay on which the issuing court relied is insufficient as a matter of law to satisfy the statutory requirement that the court may issue a standing criminal protective order only "*if the court is of the opinion that the history and character and the nature and circumstances of the criminal conduct of such offender* indicate that a standing criminal protective order will best serve the interest of the victim and the public . . . ." (Emphasis added.) General Statutes § 53a-40e (a). On the basis of the foregoing, I conclude that the court abused its discretion in issuing the standing criminal protective order.[1]

In light of the foregoing considerations, I respectfully dissent.[2]

[1] The majority concludes that, because the defendant unsuccessfully argues on appeal that the postjudgment issuance of the standing criminal protective order constituted a modification of the judgment of conviction, the defendant's first claim on appeal necessarily fails. The majority also concludes that the defendant "has not challenged the imposition of the contested order on the ground that the court failed to abide by the statutory standard." In doing so, the majority takes an overly myopic view of the defendant's claim on appeal, and I disagree with its determination that the defendant exclusively framed his first claim on appeal on the basis of the proposition that the issuance of the standing criminal protective order constituted a modification of the judgment. Threaded throughout the defendant's claim is his argument that the issuing court—which was different from the sentencing court, a distinction the importance of which the defendant emphasizes—abused its discretion under § 53a-40e by issuing a postjudgment standing criminal protective order without any change in circumstances. It is this argument with which I agree under the circumstances of this case, namely, a standing criminal protective order being issued by a court different from the sentencing court.

[2] In the event our Supreme Court considers the issues raised by the defendant with respect to this claim, I would urge it to consider exercising its supervisory authority to provide guidance to trial courts in the context of a postjudgment motion for the issuance of a standing criminal protective order presented to a trial court that was not the sentencing court. See *State* v. *Fernando A.*, 294 Conn. 1, 4, 981 A.2d 427 (2009) (guidance provided concerning issuance and continuation of criminal protective order in family violence case pursuant to General Statutes § 54-63c (b)).