# CAPTION: STATE V. KLOSTERMAN

**12-21-22**

APPEAL NOS.: C-210442

C-210443

C-210444

TRIAL NOS.: 20CRB-17905

20CRB-19488

20CRB-21168

KEY WORDS: EVIDENCE ― CORPUS DELICTI

SUMMARY:

Defendant’s conviction for menacing by stalking was not contrary to law: The evidence at trial showed that defendant’s properties had been foreclosed on by the city and placed in receivership; defendant requested that the same management company continue to manage the properties in the receivership; defendant knew that the victim, who worked at the management company, would continue to provide defendant with information regarding the properties, because defendant had previously employed the victim, and the victim lived in one of defendant’s rental properties; defendant went to the management office daily to get information from the victim; defendant called the victim’s former employer pretending to investigate the victim’s unemployment compensation; and the victim confronted defendant and told him to back off, but the next morning, defendant followed the victim’s car.

Defendant’s conviction for violating a protection order was not contrary to law where the protection order prohibited defendant from interfering with the victim’s right to occupy her residence: The evidence showed that defendant was the victim’s landlord, and the state introduced a jail call between defendant and his wife where defendant told his wife to have the property manager refuse to accept the victim’s rent.

In a prosecution for violation of a protection order, the trial court did not err under the corpus-delicti rule in admitting defendant’s email to a city employee in which defendant stated that he had visited properties, which happened to be located within 500 feet of the victim’s home or workplace: Defendant’s email did not amount to a confession; moreover, the evidence presented at trial showed defendant’s pattern of reckless conduct toward the victim, which satisfies the minimal burden required by the corpus-delicti rule to permit the jury to consider defendant’s email admission. [*But see* DISSENT: The trial court erred in admitting defendant’s email that he violated the protection order by coming within 500 feet of the victim’s home and employer: Aside from the defendant’s email, the state presented no evidence outside of the confession that tended to prove some material element of the crime charged, and none of defendant’s prior conduct provides any evidence that defendant violated the protection order.]

JUDGMENT: AFFIRMED

JUDGES: OPINION by WINKLER, J.; BERGERON, J., CONCURS and ZAYAS, P.J., CONCURS IN PART AND DISSENTS IN PART.