

No. 1-13-0399

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 12 MC 2003145
)	
ELZBIETA CZERSKA,)	Honorable
)	Callie Baird,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE HOFFMAN delivered the judgment of the court.
Justices Hall and Rochford concurred in the judgment.

O R D E R

¶ 1 **Held:** The State established that defendant violated a stalking no-contact order when she took photographs of her next-door neighbor and his son in their front yard. That conduct was expressly prohibited by the no-contact order, and the State was not required to also show that defendant's actions caused emotional distress.

¶ 2 Following a bench trial in 2012, defendant Elzbieta Czerska was convicted of two counts of violating a stalking no-contact order by taking photographs of her neighbor, Thomas Springer, while Springer was in his yard. The trial court sentenced defendant to 18 months of mental

1-13-0399

health probation. On appeal, defendant challenges the sufficiency of the evidence to establish her guilt, arguing the State was required to prove that her actions caused Springer to fear for his safety and suffer emotional distress. We affirm.

¶ 3 On July 28, 2011, the trial court entered a plenary order against defendant pursuant to the Stalking No Contact Order Act (the Act) (740 ILCS 21/1 *et seq.* (West 2012)). The order, which was to be in effect until July 27, 2013, barred defendant from any contact with Springer, his wife and their three children. In addition, the court prohibited defendant "from taking photographs of the protected parties." See 740 ILCS 21/80(b)(5) (West 2012)). Defendant was present in court when that order was issued.

¶ 4 On October 24, 2012, defendant was charged with violating that order pursuant to section 125 of the Act (740 ILCS 21/125 (West 2012)). The complaint alleged that defendant had been served with notice of the July 28, 2011, order and that she had knowingly and intentionally committed "a course of conduct that would cause a reasonable person to fear for their safety and suffer emotional distress." The complaint alleged that, at 5 p.m. and again at 7 p.m., on October 24, 2012, defendant violated the order at Springer's home in Park Ridge by placing Springer "under surveillance, monitoring, observing, and photographing him in his front yard repeatedly."

¶ 5 The court held a bench trial on that complaint in December 2012. Springer testified that he lived at 1425 South Vine Street in Park Ridge and that defendant lived in the home directly next door. At about 5 p.m. on October 24, 2012, Springer and his son were in their front yard throwing a football when he noticed defendant exit the front door of her home and stand near the property line dividing his yard and hers and holding what Springer thought was a camera. Springer also saw defendant engage in the same actions on the front stoop of her house and

1-13-0399

inside her house near her living room window. Springer contacted Park Ridge police, who responded to the scene.

¶ 6 At about 7 p.m., as Springer and a neighbor, Walter Sekiewicz, stood on Springer's front stoop, Springer again observed defendant standing near her own front door using a device that resembled a camera. Springer again contacted Park Ridge police. Springer said he did not give defendant permission to take photographs of him or his family. A copy of the July 28, 2011, no-contact order was entered into evidence.

¶ 7 On cross-examination, Springer testified he had no interaction with defendant because he feared for himself and his family. On redirect examination, Springer testified that defendant held a "silver-ish point-and-shoot camera" about 6 inches by 4 inches in size. Springer said that, when he first saw defendant holding the camera, he felt "threatened for myself and my son's safety" and, when he again saw defendant at 7 p.m., he felt "threatened and violated again."

¶ 8 Sekiewicz testified that he lived at 1420 South Vine, across the street from defendant's house and saw defendant outside of her home at about 5 p.m. on October 24, 2012, while Springer and his son were playing ball. Sekiewicz saw defendant outside her house with a camera taking pictures of Springer. He also saw defendant return inside her house and take pictures from a window. Later, defendant returned outside and continued to take pictures while standing in front of her house.

¶ 9 Defendant testified that she was 64 years old and lived at 1421 South Vine, next to Springer and across the street from Sekiewicz. Defendant was aware that, on October 24, 2012, she was subject to a stalking no-contact order as to Springer; however, she denied taking photographs of Springer and his family at any point that day.

1-13-0399

¶ 10 After hearing the evidence, the trial court found that defendant, by her own testimony, was aware of the no-contact order that barred her from taking photographs of the protected parties. The court then considered "whether or not she violated that order in taking photographs," which the court noted did not involve defendant's intent or knowledge. The court determined that the testimony of Springer and Sekiewicz constituted credible circumstantial evidence that defendant stood in her front yard and took photos of Springer and his son. The court thus found defendant guilty of violating the stalking no-contact order. The court sentenced defendant to 18 months of mental health probation.

¶ 11 On appeal, defendant does not dispute the evidence that established the existence of the valid no-contact order at the time of the offense, that she had been served with the order, and that she took photographs of Springer on the date in question. Defendant contends, however, that in addition to showing that she took photos, the State was required to establish, as set out in the charging instrument, that her act of taking photos constituted conduct that would cause a reasonable person to fear for their safety and suffer emotional distress. She argues the State did not prove Springer had a reasonable fear of harm. The State correctly responds that it was only required to prove that defendant committed an act proscribed by the no-contact order, namely that she took photographs of Springer, which defendant does not dispute.

¶ 12 Defendant was charged with violating a stalking no-contact order. When a person is found to be a victim of stalking, a no-contact order is issued against the offending party. 740 ILCS 21/80(a) (West 2012). A no-contact order prohibits the party against whom it is ordered from threatening to commit or committing stalking or having any contact with the petitioner, with additional injunctive relief to be ordered by the court. 740 ILCS 21/80(b)(1)-(2) (West 2012). The court in this case also ordered that defendant was prohibited from taking photographs

1-13-0399

of Springer and his family. See 740 ILCS 21/80(b)(5) (West 2012). A respondent who knowingly violates a stalking no-contact order for committing legally prohibited acts has committed a Class A misdemeanor. 740 ILCS 21/125 (West 2012). Accordingly, the offense at issue is whether defendant knowingly violated the no-contact order by failing to adhere to its term that prohibited her from photographing members of the Springer family.

¶ 13 We agree with the State's comparison of a violation of the Act to a violation of an order of protection. To prove a violation of an order of protection, the State must establish that the defendant: (1) knowingly committed an act prohibited by an order of protection; and (2) such act occurred after the defendant had been served notice of or otherwise acquired actual knowledge of the contents of the order. 720 ILCS 5/12-30(a) (West 2010); *People v. Stiles*, 334 Ill. App. 3d 953, 956 (2002). Like a violation of an order of protection, the State here needed to prove only that defendant committed an act prohibited by the no-contact order. The order expressly barred defendant from "taking photographs of the protected parties," who were Springer and his wife and children. Defendant does not challenge the proof of her actions in that regard.

¶ 14 In conclusion, to establish that defendant violated the no-contact order against her, the State was only required to prove that defendant committed an act proscribed by the order.

¶ 15 Accordingly, the judgment of the trial court is affirmed.

¶ 16 Affirmed.