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2015 IL App (3d) 140615-U

Order filed September 29, 2015

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2015

LATOYA WALTERS,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
Petitioner-Appellee,)	Peoria County, Illinois.
)	
v.)	Appeal No. 3-14-0615
)	Circuit No. 14-OP-140
SCHANELL BRITTON,)	
)	Honorable
Respondent-Appellant)	Lisa Y. Wilson
)	Judge, Presiding

JUSTICE O'BRIEN delivered the judgment of the court.
Justices Carter and Holdridge concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court did not err in issuing two-year order of protection against respondent where the evidence established that respondent harassed petitioner and her children.

¶ 2 Petitioner Latoya Walters sought an emergency and a plenary order of protection against respondent Schanell Britton based on several incidents where Britton harassed Walters and her minor children. The trial court issued emergency and two-year orders of protection. We affirm.

¶ 3 **FACTS**

¶ 4 Petitioner Latoya Walters filed a verified petition seeking an emergency order of protection against respondent Schanell Britton on behalf of herself and three minor children. The children included 17-year-old Melody W., and 15-year-old Ariana B., both of whom were Britton's biological daughters, and Ameer H., Walters' 12-year-old son. Walters had adopted Melody and was in the process of adopting Ariana. The petition alleged three incidents of harassment by Britton. The first incident took place on December 20, 2013, when Britton picked up Melody W. from her high school. Melody was missing until February 12, 2014, when she was found at Britton's mother's house. The second allegation concerned an incident that took place February 25, 2014, in front of the home of Walters' mother, Linda Walters. Linda was engaged in a conversation with Ariana's bus monitor when Britton pulled up in front of the house and started yelling at Linda. Ariana slipped out the back door and jumped into Britton's vehicle. Ameer jumped onto Britton's vehicle and she continued driving for four blocks with him hanging on the vehicle. The third incident involved Britton driving slowly past Linda's house the following day and waving to Ariana.

¶ 5 The trial court granted the emergency order of protection and it was extended several times because of difficulty serving Britton. The order of protection was dismissed on May 9, 2014, when Britton appeared for a hearing but Walters did not. Walters timely filed a motion to vacate and sought to have the emergency order of protection reinstated. Following a hearing on the motion to vacate, the trial court granted to motion and reinstated the emergency order of protection.

¶ 6 A hearing took place on Walters' petition for a plenary order of protection. Walters testified about the three incidents consistent with the allegations in the petition. She further explained that the school video cameras showed Melody getting into Britton's car outside her

high school on December 20, 2013. Linda testified about the February 25, 2014, incident consistent with the allegations in the petition.

¶ 7 Britton testified. She was unaware of the December 20, 2013, incident or that Melody had been missing. She became aware of Melody's disappearance three days before Melody was found at Britton's mother's house. Britton denied that she picked Melody up from school on December 20. She described that she was coincidentally in the neighborhood of Linda's house on February 25, when she turned the corner and saw Ariana getting off the bus. When she saw Linda grab Ariana, it caused her to yell at Linda. The two engaged in a verbal altercation and then Ariana ran up and jumped in Britton's vehicle. Britton drove directly to the police station, after stopping to let Ameer off the car. She denied driving by Linda's house the following day, stating she was with her attorney. Britton also denied causing any harm to the children or harassing them or Walters.

¶ 8 The trial court granted Walters' petition for a plenary order of protection for herself and the three minors. The trial court found Britton's conduct constituted harassment under the applicable statutory definition. It determined that while it was unclear where Melody was for the two months, it was suspicious she was found at the home of Britton's mother. The trial court further found that Britton's act of driving while Ameer was on her vehicle was not reasonable. Finally, the trial court found that Brittons' behavior would and did cause emotional distress to Walters. The order of protection prohibited Britton from further acts or threats of abuse on Walters, Melody, Ariana and Ameer, and ordered her to stay 300 feet away from them. The order of protection is effective until July 26, 2016. Britton appealed.

¶ 9 ANALYSIS

¶ 10 On appeal, Britton argues that evidence was not sufficient to satisfy the requirements for the issuance of an order of protection against her. She challenges that the only evidence was the testimony of the petitioner, Walters, and Walters’ mother, Linda, which Britton maintains did not prove she abused, harassed, or interfered with Walters or the children.

¶ 11 The trial court shall issue an order of protection where it finds the petitioner has been abused by a family member. 750 ILCS 60/214(a) (West 2012). The Illinois Domestic Violence Act of 1986 (Act) defines abuse as “physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation.” 750 ILCS 60/103(1) (West 2012). Harassment is defined as:

“knowing conduct which is not necessary to accomplish a purpose that is reasonable under the circumstances; would cause a reasonable person emotional distress; and does cause emotional distress to the petitioner. Unless the presumption is rebutted by a preponderance of the evidence, the following types of conduct shall be presumed to cause emotional distress:

(i) creating a disturbance at petitioner’s place of employment or school;

(ii) repeatedly telephoning petitioner’s place of employment, home, or residence;

(iii) repeatedly following petitioner about in a public place or places;

(iv) repeatedly keeping petitioner under surveillance by remaining present outside her his or her home, school, place of

employment, vehicle or other place occupied by petitioner or by peering in petitioner's windows;

(v) improperly concealing a minor child from petitioner, repeatedly threatening to improperly remove a minor child of petitioner's from the jurisdiction or from the physical care of petitioner, repeatedly threatening to conceal a minor child from petitioner, or making a single such threat following an actual or attempted improper removal or concealment, unless respondent was fleeing an incident or pattern of domestic violence; or

(vi) threatening physical force, confinement or restraint on one or more occasions. 750 ILCS 60/103(7)

¶ 12 The harassing acts must be intentional and cause someone to be worried, anxious or uncomfortable. *People v. Reynolds*, 302 Ill. App. 3d 722, 728 (1999). The petitioner must prove the abuse allegations by a preponderance of the evidence. *Best v. Best*, 223 Ill. 2d 342, 348 (2006). We will not reverse a trial court's abuse finding unless it was against the manifest weight of the evidence. *Best*, 223 Ill. 2d at 348.

¶ 13 The trial court considered the allegations centered on the rebuttable presumptions of emotional distress under the statute. It determined it was unclear where Melody was for two months but found it suspicious that she was ultimately found at Britton's mother's house. It further found that it was not reasonable for Britton to drive with Ameer hanging on the car and that Britton's conduct would and did cause emotional distress to Walters, Melody, Ariana, and Ameer. Its findings were not against the manifest weight of the evidence.

¶ 14 Walters testified that security tapes at Melody's high school showed Melody getting into Britton's car on December 20. Although Britton denied being at Melody's school or keeping her for two months, the trial court was not persuaded by her denials. According to Walters, Britton had been in contact with Melody through social media. Britton remained in contact despite the termination of her parental rights to Melody. Britton coincidentally was tailing Ariana's school bus and stopped in front of Linda's house, where she urged and enabled Ariana to get into her vehicle. Britton also drove by Linda's house the following day and purportedly waved to Ariana. Britton attempted contact with Ariana despite knowing that Walters was in the process of adopting the girl.

¶ 15 Britton failed to rebut any of the applicable statutory presumptions about conduct that causes emotional distress. The preponderance of the evidence established that Britton engaged in conduct that was not necessary to accomplish a purpose that was reasonable under the circumstances. We agree with the trial court's determination that Britton's conduct could and did cause emotional distress. We find that the court did not err in finding Britton harassed Walters and the minors, and in issuing an order of protection prohibiting Britton from harassing them, interfering with their personal liberty, or physically abusing or stalking them.

¶ 16 For the foregoing reasons, the judgment of the circuit court of Peoria County is affirmed.

¶ 17 Affirmed.