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2015 IL App (3d) 140761-U

Order filed September 29, 2015

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT  
A.D., 2015

TIMOTHY V. LUNNINGHAM,	)	Appeal from the Circuit Court
	)	of the 12th Judicial Circuit,
Plaintiff-Appellee,	)	Will County, Illinois.
	)	
v.	)	Appeal No. 3-14-0761
	)	Circuit No. 14-OP-421
JACQUELYNE S. STINSON,	)	
	)	Honorable
Defendant-Appellant	)	Chrystal L. Gavlin
	)	Judge, Presiding

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

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**ORDER**

¶ 1 *Held:* The trial court granted plaintiff's petitions for emergency and plenary orders of protection based on defendant's abuse of the plaintiff.

¶ 2 Plaintiff Timothy Lunningham filed a verified petition for an order of protection against defendant Jacquelyne Stinson. The trial court granted Lunningham emergency and plenary orders of protection. Stinson appealed. We affirm.

## FACTS

¶ 3

¶ 4 Plaintiff Timothy Lunningham brought a verified petition for an emergency order of protection against defendant Jacquelyne Stinson, his former girlfriend. The petition alleged that Stinson arrived uninvited at Lunningham's house, Stinson tried to push her way inside and refused to leave. When Lunningham's current girlfriend, Pamela Lynum-Dantzler, arrived to pick him up for a date, Stinson harassed her. Lunningham called the police, who requested Stinson, who was sitting in her car on the street, leave the area. Lunningham and his date left, leaving his second vehicle and a trailer, and Lynum-Dantzler's car in the driveway. Stinson waited at the intersection at the end of the street. On the officer's suggestion, Lunningham drove off in the opposite direction. Stinson attempted to turn around and follow him but was prevented from doing so by the officer on the scene.

¶ 5 The petition further alleged that when Lunningham and his girlfriend arrived home after their date, the four tires on Lunningham's second vehicle and on Lynum-Dantzler's vehicle, and one tire on Lunningham's trailer were flattened. Lynum-Dantzler's vehicle was also scratched on both sides. On Lunningham's cellular phone was a message from Stinson stating he had better get home because she had "fucked up" the vehicles. Lunningham stated in the petition that he was afraid of Stinson and did not know what she would do next to his property. He sought that she be ordered to stay 1,000 feet away from him and pay him \$900 for replacement of the tires.

¶ 6 A hearing took place on the petition. At the hearing, Lunningham testified that Stinson came uninvited to his house, repeatedly knocked on the door and rang the doorbells, and would not leave. When Stinson tried to enter the house, Lunningham warned her that he would call the police, to which she responded, "Fuck it, call the police." Lunningham called the police and the

responding officer ordered Stinson to leave. On the drive to dinner, Stinson called him twice and left messages telling him to come home because "she said I had just fucked up your bitch's car and I'm about to fuck up your car and your house." When Lunningham and Lynum-Dantzler arrived back at Lunningham's house, they discovered the flat tires on the two vehicles and trailer and the scratches on Lynum-Dantzler's car. Lunningham then called the police and filed a report.

¶ 7 The trial court granted the emergency order of protection, finding Stinson abused Lunningham. The order prohibited Stinson from harassing, interfering with Lunningham's personal liberty, physically abusing him or stalking him. The trial court noted Stinson threatened to damage Lunningham's property and his property was damaged. The court further noted that Stinson attempted to follow Lunningham after being warned not to do so.

¶ 8 A hearing took place on Lunningham's petition for a plenary order of protection. Lunningham testified consistent with his prior testimony. He and Stinson had dated for approximately eight years. When she came to his house on the night in question, she said she wanted to talk to him but Lunningham told Stinson he had nothing to talk about and that she should leave. It was not until he was talking to law enforcement on the phone that Stinson moved to her car which was parked in front of the house in the street. Stinson started her car at that time and Lunningham thought she was going to leave but she shut off the vehicle and remained in it on the street. After the officer instructed Stinson to leave, he told Lunningham to go in the opposite direction and then used the squad car to block her progress after she made a U-turn in an attempt to follow Lunningham. He played the voice messages from his phone that Stinson had left during the time Lunningham drove to dinner. In the messages, Stinson had

claimed that she broke windows in Lunningham's house. When he arrived home, he inspected the premises and discovered the vehicles had been damaged.

¶ 9 Lunningham again called the police and filed a report. He also called Stinson and told her to pay for the damages or he would seek an order of protection. Stinson indicated she was unaware of what he was talking about and hung up the phone. Lunningham added that Lynum-Dantzler told him Stinson had told her when they were at Lunningham's door that Lynum-Dantzler should not come to the house because it "wasn't going to be pretty." Stinson clarified for the court that her "exact words was it's not going to end well, it's not going to end well." In response to the trial court, Lunningham stated that he feared Stinson would continue stalking him or damaging his property. According to Lunningham, he had no idea Stinson would damage the vehicles and he had "no idea what she is capable of doing thereafter."

¶ 10 Lunningham brought receipts for the damaged tires and for the repair of a screen from his a window. He discovered the damaged screen the evening of the incident. He also brought a receipt for a scratch on his vehicle bumper that appeared to have been caused by a knife or key. Lunningham also stated that he lost a morning of overtime the day after the incident because he had to get the tires repaired. He had documents supporting his overtime claim.

¶ 11 Stinson testified that she went to Lunningham's house because, although they had been dating for 10 years, she knew he was also dating Lynum-Dantzler. She "needed him to officially break it off." When she arrived at the house, Lunningham would not answer the door but she saw his vehicles were there. She waited in her car and a woman left the house. She returned to the front door and knocked. Lunningham came to the door and said he did not have time for her and that she had to leave. She returned to her car and Lynum-Dantzler arrived. Stinson walked up to the house with Lynum-Dantzler, who said she had been dating Lunningham for the past

three years. During the same period, he was also dating Stinson. Lunningham again told her to leave and said he would call the police. Stinson returned to her car, where she stayed until after the officer arrived and told her to leave. Stinson denied making a U-turn to follow Lunningham and denied that the officer had to block her vehicle to prevent her from doing so. Later that evening, around 11 p.m. or 12 a.m., Lunningham called and said Stinson needed to pay for the damage to the vehicles. Stinson admitted she left the voice messages threatening to damage Lunningham's property but denied that she did any damage. She blamed the damages on "maybe one of his other women."

¶ 12 Lynam-Dantzler testified consistent with Lunningham's testimony. Following the presentation of evidence, the trial court granted Lunningham's petition for a plenary order of protection. It stated it had personal and subject matter jurisdiction and that it had reviewed the evidence, exhibits and testimony. The trial court found Lynam-Dantzler and Lunningham more credible than Stinson. It expressed concern that Stinson ignored Lunningham's requests to leave, still refused to leave after he called the police, disregarded the officer's instructions and attempted to follow Lunningham, and then called Lunningham and left two voice messages. The trial court found Stinson responsible for damaging the vehicles and ordered her to pay restitution. Lunningham's lost wages were not included in the restitution amount. The trial court entered a two-year plenary order of protection with the same terms as the emergency order. The plenary order also required Stinson to pay \$894.18 in restitution to Lunningham. Stinson filed a motion to vacate the orders of protection, which the trial court denied. Stinson appealed.

¶ 13 ANALYSIS

¶ 14 On appeal, Stinson argues that the trial court erred in entering the orders of protection. According to Stinson, the trial court failed to make either oral or written findings regarding the

factors relevant to the issuance of an order of protection and the trial court's failure necessitates reversal.

¶ 15 Initially, we note that Lunningham has not filed a response brief on appeal. Because the record is simple and the claimed errors may be decided without the aid of an appellee's brief, we will decide the merits of this appeal. *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 16 A trial court may issue an order of protection where it finds a petitioner has been abused by a household or family member. 750 ILCS 60/214(a) (West 2012). The court considers the following factors in deciding whether to issue an order of protection: the respondent's past abuse, including its nature, frequency, severity, pattern and consequences; as well as whether the petitioner tried to evade service or process or notice and the likelihood of danger to the petitioner of future abuse, neglect or exploitation. 750 ILCS 60/214(c)(1)(i) (West 2012).

¶ 17 The trial court is required to make its findings in writing or an official record, setting forth, at a minimum, that the court has considered the applicable factors; whether respondent's conduct or actions, unless prohibited, are likely to cause irreparable harm or continued abuse; and whether the court must grant the requested relief to protect the petitioner. 750 ILCS 60/214(c)(3)(i)-(iii) (West 2012).

¶ 18 When issuing an *ex parte* emergency order of protection, the trial court may use an alternative procedure regarding findings. 750 ILCS 60/214(c)(4) (West 2012). Where a verified petition that satisfies the applicable statutory requirements is presented to the court, the court "shall examine petitioner on oath or affirmation" and issue an emergency order of protection if it appears from the petition's content and the examination of the petitioner that the averments are sufficient to indicate abuse. 750 ILCS 60/214(c)(4) (West 2012).

¶ 19 Where the trial court's stated findings are in accord with the minimum statutory requirements, a reviewing court should not overturn the order of protection for lack of greater specificity. *In re Marriage of McCoy*, 253 Ill. App. 3d 958, 965 (1993). In making a determination regarding the issuance of an order of protection, the central inquiry of the trial court is whether the petitioner has been abused. *In re Marriage of Young*, 2013 IL App (2d) 121196, ¶ 22. The petitioner must prove its case by a preponderance of the evidence. *Id.* A trial court's finding of abuse will not be reversed unless it was against the manifest weight of the evidence. *Best v. Best*, 223 Ill. 2d 342, 350 (2006).

¶ 20 Here, the trial court satisfied the findings requirement during the hearing on the emergency petition by examining Lunningham under oath, and concluding the allegations in the verified petition were sufficient to indicate abuse occurred. At the plenary hearing, the trial court stated that it found Lynum-Dantzler and Lunningham more credible than Stinson. It expressed concern that Stinson ignored Lunningham's requests to leave, still refused to leave after he called the police, disregarded the officer's instructions and attempted to follow Lunningham, and then called Lunningham and left two threatening voice messages. The trial court also found that Stinson damaged the vehicles.

¶ 21 The trial court's specific findings establish that there was a likelihood of the danger to Lunningham of future abuse. On the evening at issue, Stinson would not conform her behavior to comply with Lunningham's or the officer's requests to leave. She left threatening voice mails and damaged the vehicles. Because Stinson was unhindered by either Lunningham or law enforcement, the issuance of an order of protection was necessary to protect Lunningham from future abuse by Stinson. The format of the trial court's emergency order of protection stated that the trial court reviewed the verified petition and examined Lunningham under oath. The plenary

order of protection included a provision stating the court had considered all the relevant factors. The trial court made oral findings at the emergency and plenary hearings and found that Stinson's conduct was abusive to Lunningham. These findings are sufficient to satisfy the statutory requirements. We thus reject Stinson's assertion that the trial court failed to properly state its findings of abuse and find the trial court's issuance of the order of protection was supported by a preponderance of the evidence.

¶ 22 For the foregoing reasons, the judgment of the circuit court of Will County is affirmed.

¶ 23 Affirmed.