

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**FRED L. TODD, JR.,
RESPONDENT**

vs.

**PHILLIP PLACK,
APPELLANT**

DOCKET NUMBER WD71693

DATE: September 7, 2010

Appeal from:

Ray County Circuit Court
The Honorable James C. Thompson, Judge

Appellate Judges:

Division Two: Joseph M. Ellis, P.J., Alok Ahuja and Karen King Mitchell, JJ.

Attorneys:

Fred L. Todd, Jr., Respondent Pro-se

Bruce B. Brown, for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

FRED L. TODD, JR., RESPONDENT

v.

PHILLIP PLACK, APPELLANT

WD71693

Ray County, Missouri

Before Division Two Judges: Joseph M. Ellis, P.J., Alok Ahuja and Karen King Mitchell, JJ.

On October 6, 2009, Fred Todd, Jr. filed a petition for child protection on behalf of his step-daughter, C.W., against Phillip Plack in the Circuit Court of Ray County. At the time the petition was filed, C.W. was sixteen years old, and Plack was nineteen years old. The petition alleged that Plack had been dating C.W. and that, on October 4, 2009, while at Worlds of Fun in Kansas City, Missouri, Plack had lost his temper, pushed C.W. into a wood fence, and caused C.W. to injure her back. The following day, the circuit court entered an *ex parte* order of child protection against Plack and appointed a court appointed special advocate for C.W.

Following a hearing on October 21, 2009, the circuit court entered a Judgment/Full Order of Protection against Plack for a period of six months, or until April 21, 2010. Plack timely appealed from that judgment, raising three different claims of error.

REVERSED AND REMANDED.

Division Two holds:

(1) The question of whether an order of protection can be based upon a finding of “stalking” under § 455.505.1, where the evidence presented involves only a single incident of allegedly improper conduct, presents an issue of general public interest and importance, recurring in nature, which may evade appellate review due to the brief duration of orders of protection. Thus, the public interest exception to the mootness doctrine applies.

(2) To establish “stalking” under § 455.505.1, as required for entry of an order of protection against an individual that has never been part of the victim’s household, the petitioner must prove a pattern of conduct composed of a series of acts over a period of time that serve no legitimate purpose.

(3) Since absolutely no evidence was presented at the evidentiary hearing of a repeated, unwanted course of conduct toward C.W., the judgment must be reversed and remanded with instructions to vacate the full order of protection.

Opinion by: Joseph M. Ellis, Judge

Date: September 7, 2010

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