# MISSOURI COURT OF APPEALS
# WESTERN DISTRICT

**G.E.G.**

**RESPONDENT,**

**v.**

**ROBERT W. GAUERT**

**APPELLANT.**

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DOCKET NUMBER WD83815

DATE: April 6, 2021

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Appeal From:

Callaway County Circuit Court
The Honorable J. Hasbrouck Jacobs, Judge

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Appellate Judges:

Division Three: Karen King Mitchell, Presiding Judge, Gary D. Witt, Judge and Anthony Rex Gabbert, Judge

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Attorneys:

Ryan P. Waters, Jefferson City, MO, for respondent.

Joshua J. Sieg, Columbia, MO, for appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS**
**WESTERN DISTRICT**

**G.E.G., RESPONDENT,**
**v.**
**ROBERT W. GAUERT, APPELLANT.**

WD83815 Callaway County

Before Division Three Judges: Karen King Mitchell, Presiding Judge, Gary D. Witt, Judge, and Anthony Rex Gabbert, Judge

Appellant Robert Gauert appeals from a judgment entering a full order of protection in favor of G.E.G.

G.E.G. works as a hired hand for R.D. and L.D. on their farm and lives in an apartment on the farm. R.D.'s and L.D.'s farm adjoins Gauert's property. There have been longstanding disputes between R.D. and L.D. and Gauert.

On August 14, 2019, G.E.G. and L.D. were bathing a horse in a pasture. G.E.G. had her dog with her, which was off-leash and wandered onto Gauert's property. G.E.G. heard a gunshot from a small caliber firearm, but she did not think anything of it. Later G.E.G. noticed her dog was missing, and R.D. walked through the field toward Gauert's property and saw G.E.G.'s dog lying dead on Gauert's property. L.D. called the Sheriff's Department, and while waiting for law enforcement to arrive, Gauert moved the dog's body away from the middle of his yard so it was closer to his porch and removed the dog's collar. Gauert offered to allow G.E.G. or R.D. or L.D. to retrieve the dog's body, but they refused.

Several days later, as G.E.G. was leaving the property, she saw another car leaving Gauert's driveway. Gauert's girlfriend was driving the other car with Gauert in the passenger seat. After both vehicles turned onto the highway, Gauert's girlfriend moved to the passing lane and slowed down until her vehicle was parallel to G.E.G.'s vehicle, and Gauert began taking photographs of G.E.G. through the window of the car.

Two weeks later G.E.G. filed a petition seeking an order of protection on the basis of stalking. The circuit court conducted a bench trial and entered its judgment granting G.E.G. a full order of protection against Gauert, which prohibited, among other things, Gauert from coming within fifty feet of G.E.G.; communicating with G.E.G.; using, attempting to use, or threatening to use physical force against G.E.G., and possessing firearms.

**REVERSED AND VACATED.**

**Division Three holds:**

The circuit court erred in entering a full order of protection on the basis of stalking because G.E.G. failed to establish that Gauert's conduct of taking pictures of her while driving would cause a reasonable person to fear physical harm, and the sole incident of shooting G.E.G.'s dog is insufficient to support an allegation of stalking under the Adult Abuse Act.

**Opinion by: Gary D. Witt, Judge** April 6, 2021

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