In the Missouri Court of Appeals
Eastern District

DIVISION ONE

M.N.B., Respondent, v. A.J.R., Appellant.	)))))))))	ED113699 Filed: June 30, 2026

Appeal from the Circuit Court of Jefferson County
The Honorable Charles T. Argana

INTRODUCTION

A.J.R. (Appellant) appeals from the trial court's full order of protection granted in favor of M.N.B. (Petitioner) and against him. We reverse the judgment and vacate the order.

BACKGROUND

Petitioner and Appellant engaged in a tumultuous year-long relationship which ended on October 12, 2024. Nine days later, Petitioner sought and was issued a temporary order of protection against Appellant. Appellant was served on November 10, 2024, and never spoke with Petitioner again. The court held a hearing on April 25, 2025. Appellant appeared by counsel who asked for a continuance because Appellant was out

of town for work. The court denied the request, proceeded to trial and granted the full order of protection. Appellant timely filed a motion for new trial, which was granted.

The trial court held a second hearing on June 13, 2025, with all parties present. At the conclusion of the evidence, the court made a record and astutely found both parties engaged in "extremely toxic behavior" during their relationship. The court considered Section 455.010 RSMo (Cum. Supp. 2021)[1] of the Adult Abuse Act (Act) and determined Appellant was not "any credible physical threat" to Petitioner's safety because their previous physical altercations "went both ways" and "were very minor." Pursuant to the Act, the court further found neither battery nor assault occurred, nor was there stalking because Appellant's course of conduct did not place Petitioner in alarm for her physical safety or well-being. In fact, the court surmised Appellant "himself might have some basis to ask for [an order of protection] against the Petitioner."

However, when considering whether Appellant's conduct constituted harassment pursuant to the Act, and after finding Petitioner did not have "clean hands" in the relationship in addition to finding "she clearly has a temper, as well and felt slighted throughout the relationship due to either true or untrue infidelity," the court stated:

> And I heard -- I heard evidence after that point that the Petitioner received voluminous amounts of calls, texts from all kinds of different numbers, and it seems to me that the Respondent is -- is playing a little dumb here. I think he's falling back on, well, I don't remember what exact numbers I might have used. I don't remember how many calls or texts we had. I think he was probably the source of these calls based on preponderance of the evidence. It's more likely than not he was contacting her after she made it clear the relationship was over.

[1] All further statutory references are to RSMo (Cum. Supp. 2021).

The court also found the calls and texts stopped after the ex parte order of protection was served on Appellant. In entering a full order of protection, the court held "based on what I've seen here, I -- I think I can come to the conclusion that the Respondent has engaged in harassing behavior as defined in Missouri statute. And for that reason, I think it is appropriate to leave the order in place." This appeal follows.

DISCUSSION

Appellant raises one point on appeal claiming the trial court erred when it extended the April 25, 2025 protective order after the June 13, 2025 hearing because the trial court found no evidence of credible physical threats or stalking, but then found that Appellant engaged in harassment sufficient to issue a full order of protection.

Mootness

At the outset of our review, the appellate court is obligated to determine whether a case presents a "real, substantial, presently-existing controversy, or is instead moot." *Friends of the San Luis, Inc. v. Archdiocese of St. Louis*, 312 S.W.3d 476, 483 (Mo. App. E.D. 2010) (internal quotation omitted). "When a full order of protection has expired, any appeal of that order is moot, because there is no practical effect in vacating an order that has expired." *Hail v. Hail*, 380 S.W.3d 655, 656 (Mo. App. W.D. 2012) (internal quotation omitted). However, an appellate court "may consider the appeal if it raises a recurring issue of general public interest and importance and would otherwise evade appellate review." *Id.* (internal quotation omitted). In an appeal from a full order of protection, this exception to the mootness doctrine is addressed in Section 455.007:

"Notwithstanding any other provision of law to the contrary, the public interest exception to the mootness doctrine shall apply to an appeal of a full order of protection which has expired." Accordingly, we have authority to exercise our discretion and evaluate the substantive merits of Appellant's appeal from a full order of protection which has expired. *See C.D.R. v. Wideman*, 520 S.W.3d 839, 842 (Mo. App. W.D. 2017).

Standard of Review

In reviewing a trial court's award of a full order of protection, we use the same standard of review as a judge-tried case: we will affirm the trial court's order unless it is not supported by substantial evidence, it is against the weight of the evidence, or it erroneously declares or applies the law. *J.R.C. v. S.L.F.*, 686 S.W.3d 673, 677 (Mo. App. E.D. 2024).

Analysis

The Act defines "harassment" as "engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to an adult or child and serves no legitimate purpose." Section 455.010(1)(e). The definition requires the conduct "must be such as would cause a reasonable adult . . . to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner . . ." *Id.* "Substantial emotional distress" means "the offending conduct must produce a considerable or significant amount of emotional distress in a reasonable person; something markedly greater than the level of uneasiness, nervousness, unhappiness or the like which are commonly experienced in day to day living." *K.M.C. v. M.W.M.*, 518 S.W.3d 273, 278 (Mo. App. E.D. 2017) (internal quotation omitted). Repeated

communication by itself "typically does not rise to the level of harassment." *J.R.C.*, 686 S.W.3d at 680 (quoting *H.E.S. v. T.J.B.*, 628 S.W.3d 234, 237 (Mo. App. E.D. 2021) (quoting *Lawyer v. Fino*, 459 S.W.3d 528, 532 (Mo. App. S.D. 2015)).

Here, the court held Appellant's numerous calls and texts after the end of the relationship and prior to service of the temporary order was harassment pursuant to Section 455.010(1)(e). But, even viewing the evidence in the light most favorable to the judgment, and agreeing Appellant continued his course of conduct by repeated communication with Petitioner after their breakup, this alone did not rise to the level of harassment, because while "annoying and boorish," such conduct would not cause "substantial emotional distress in a reasonable person." *J.R.C.*, 686 S.W.3d at 680.

Crucial to our holding is the court's very specific findings on the record before us regarding his concerns about the reciprocal "extremely toxic behavior" of both Petitioner and Appellant to conclude there was no abuse, or stalking. We hold without more than Appellant's juvenile conduct with repeated calls and texts, there was nothing to cause Petitioner the requisite "substantial emotional distress in a reasonable person" to establish harassment as required by the Act. Appellant's point on appeal is granted.

CONCLUSION

The judgment of the trial court for a full order of protection is reversed and vacated.

Lisa P. Page, Judge

Robert M. Clayton III, Presiding Judge and
Michael E. Gardner, Judge, concur.