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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

S. T. and J. T., Plaintiffs and Respondents, v. D. T., Defendant and Appellant.	B260676 (Los Angeles County Super. Ct. No. LS026001)

APPEAL from an order of the Superior Court of Los Angeles County, Andrea C. Thompson, Judge. Affirmed.

D. T., in pro. per., for Defendant and Appellant.

No appearance for Plaintiffs and Respondents.

Appellant D. T. appeals from the trial court's issuance of a civil harassment restraining order under Code of Civil Procedure section 527.6, precluding him from harassing six-year-old S. T. and her father, J. T.[1] We affirm.

BACKGROUND

Application

On his own behalf, and as guardian ad litem for his six-year-old daughter S. T., J. T. applied for a civil harassment restraining order against D. T. In support of his request, J. T. related the following course of conduct.

D. T. lived at the same apartment and condominium complex where J. T. and S. T. lived. D. T. was unemployed and J. T. observed him often around the complex. On August 3, 2014, D. T. approached S. T. while she was at the community pool and gave her a flower. S. T. smiled at him. While facing her, D. T. began doing push-ups in front of her. He then smiled and stared at her for one-to-two minutes.

On August 22, 2014, a similar incident occurred. D. T. was in the community gym and stared at S. T. and two other little girls at the pool for about four or six minutes. He then came outside and picked three flowers. J. T. stopped him and said that the parents did not want him to give their daughters flowers or stare at them.

On October 24, 2014, around 1:55 p.m., J. T. observed D. T. driving away from S. T.'s school and parking very close to it. The next day, around

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[1] Although he shares the same last initial with them, D. T. is not related to J. T. or S. T. Undesignated section references are to the Code of Civil Procedure.

10:30 p.m., J. T. saw D. T. in his car outside J. T.'s home and called the police, who made contact with D. T.

In his petition, J. T. asked for an order prohibiting D. T. from, inter alia, harassing or contacting him and S. T., and from coming within 100 yards of them, their residence, or S. T.'s school.

Response

D. T. filed a response to J. T.'s application. He declared that "99%" of J. T.'s allegations were false. He stated that J. T. had come to his home twice to apologize for his actions. Regarding the incident in which he was outside J. T.'s home, D. T. stated that he wanted to speak with J. T. in a civil manner.

Hearing

The matter came to hearing on November 19, 2014. J. T. and D. T. appeared.

J. T.'s Testimony

In his testimony, J. T. amplified on his declaration in support of his request for a restraining order.

He stated that in the first incident on August 3, 2014, he was sitting at a patio table observing S. T., who was in the pool with a few other children. According to J. T., D. T. "went and handed her the flower, and then he went down and started doing push-ups . . . and stared at her . . . and then proceeded to stand up and stare at her very awkwardly for about a minute or two."

In the second incident on August 22, 2014, J. T. observed D. T. in the gym staring for about four to six minutes at S. T. and two other little girls in the pool. He then came outside and picked three flowers. J. T. told him not to give his daughter a flower, and that that the other parents did not want him giving their children flowers. D. T. did not respond.

The next time J. T. saw D. T. was in September (he could not recall the date and had not mentioned the incident in his application). On that occasion, D. T. went into the pool, and S. T. became very scared. As she and J. T. were leaving, D. T. picked a flower and put it behind his ear.

According to J. T., S. T.'s school is located about seven or eight miles from the complex where he, S. T., and D. T. live. It is on a dead end street, and "there's no other place but that school." On October 24, 2014, as J. T. was coming to pick S. T. up, he observed D. T. driving away from the school. J. T. followed and took a video. He then confronted D. T. and asked why he was at S. T.'s school. D. T. cursed at him and reached into a duffle bag. J. T. left and did not see what was in the duffle bag, but a still photo from the video showed something on D. T.'s belt.

The next day, after the police contacted D. T., a neighbor texted J. T. around 12:30 a.m. and said that he had heard two loud bangs. J. T. went outside and saw two dents in the roof of his car.

D. T.'s Testimony

D. T. testified that he and J. T. used to be "buddies" hanging out at the pool with D. T.'s friends. According to D. T., there was only one incident involving S. T. at the pool. In that incident, D. T. was sitting with J. T. and J. T.'s wife, and S. T. was about five feet away playing with flower petals. D. T. simply handed her another flower. He denied doing pushups.

D. T. denied staring from the gym at three girls at the pool. According to D. T., he noticed J. T. staring at him, and believed J. T. was making up stories about him looking at kids. So D. T. picked a flower to test that theory out, after which J. T. approached him.

D. T. testified that the next day, he saw J. T. taking videos of D.T.'s condo and car. D. T. became angry and confronted J. T. They talked for about ten minutes, and came to an agreement. J. T. said he was sorry and had overreacted. About ten minutes later, J. T. came to D. T.'s condo and apologized again. J. T. left, and then returned in a few minutes. Once again, he apologized.

Regarding the incident near S. T.'s school, D. T. testified that he was in the area looking at new houses and just happened to turn on the street where the school is located. He did not know it was S. T.'s school. After seeing the school, he made a U-turn and parked about a thousand feet away. He was just wasting time, texting, and then drove off. As he was about to turn left, he noticed a car following him too closely. He pulled over to let the car pass, but the car stopped and J. T. got out. J. T. had a camera and asked why D. T. was at his daughter's school. D. T. said he did not know it was S. T.'s school.

J. T.'s Rebuttal Testimony

J. T. admitted that before the incidents for which he requested the restraining order, he used to talk to D. T. occasionally at the pool. They were both out of work and would chat.

He also admitted that after the incident in which D. T. stared at the three girls, he took photos of D. T.'s car and then apologized. He wanted to "leave it at that" because D. T. knew he was not to approach S. T.

Ruling

The trial court concluded that there was clear and convincing evidence that D. T. had engaged in a knowing and willful course of conduct that was harassing to S. T. The court issued a five-year restraining order prohibiting D. T. from, among other things, contacting S. T. and J. T., and ordering him to stay at least 100 yards away from them, their home, and S. T.'s school.

DISCUSSION

Representing himself on appeal, D. T. contends, in substance, that the evidence was insufficient to prove that he engaged in a harassing course of conduct. We disagree.

"The appropriate test on appeal is whether the findings (express and implied) that support the trial court's entry of the restraining order are justified by substantial evidence in the record. [Citation.] But whether the facts [so construed] are legally sufficient to constitute civil harassment under section 527.6, and whether the restraining order passes constitutional muster, are questions of law subject to de novo review. [Citations.]" (*R.D. v. P.M.* (2011) 202 Cal.App.4th 181, 188, fn. omitted.)

Section 527.6, subdivision (a)(1) provides: "A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order and an order after hearing prohibiting harassment as provided in this section." Subdivision (b)(3) defines "harassment" in relevant part as "a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner." Subdivision (b)(1)

defines "course of conduct" as "a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose."

In the instant case, the trial court implicitly accepted J. T.'s version of events. In that version, on August 3, 2014, D. T. handed six-year-old S. T. a flower at the pool and then proceeded to do pushups in front of her while staring at her. He then stood up and continued to stare at her for a minute or two. On August 22, 2014, D. T. stared from the gym for about four to six minutes at S. T. and two other little girls in the pool. He then came outside and picked three flowers. J. T. told him not to give his daughter a flower, and that that the other parents did not want him giving their children flowers. D. T. did not respond.

After these two odd and inappropriate events concerning S. T., in September, D. T. went into the pool, and S. T. became very scared. As she and J. T. were leaving, D. T. picked a flower and put it behind his ear. In the context of past events, D. T.'s act of putting the flower behind his ear after S. T. became upset at his presence could reasonably be interpreted as provocative and threatening toward S. T. and J. T. (J. T. having told him not to give flowers to S. T.).

Most significantly, with no legitimate explanation, on October 24, 2014, D. T. parked on the dead end street where S. T.'s school was located, seven or eight miles from the complex where he lived. As J. T. explained, "there's no other place [on the street] but that school." As J. T. was coming to pick S. T. up, he observed D. T. driving away. J. T. followed, took a video, and had an argumentative confrontation with D. T. The next day, after the police contacted D. T., a neighbor texted J. T. around 12:30 a.m. and said that he had heard two loud bangs. J. T. went outside and saw two dents in the roof of his car.

On this record substantial evidence supports the trial court's conclusion that D. T. engaged in a knowing and willful course of conduct directed at S. T. that seriously alarmed and annoyed both S. T. and J. T., that served no legitimate purpose, and that would cause a reasonable person to suffer substantial emotional distress. Thus, we affirm the order.[2]

DISPOSITION

The order is affirmed.

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WILLHITE, J.

We concur:

EPSTEIN, P. J.

MANELLA, J.

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[2] D. T. also contends that the trial court demonstrated racial, sexual, and religious bias. However, nothing in the record remotely suggests anything of the sort.