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REPORTS**

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IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

ADRIANNA SIOBHAN MILLER,

Plaintiff and Respondent,

v.

JON DAVIDSON,

Defendant and Appellant.

B271320

(Los Angeles County
Super. Ct. No. LQ019585)

APPEAL from an order of the Superior Court of Los Angeles County, Alicia Y. Blanco, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Lieber & Galperin and Yury Galperin for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

I. INTRODUCTION

Plaintiff Adrianna Siobhan Miller obtained a restraining order against defendant Jon Davidson pursuant to the Domestic Violence Protection Act (DVPA; Fam. Code¹, § 6200 et seq.) Defendant contends on appeal the trial court abused its discretion because the evidence did not support a finding of abuse as defined under section 6203. We affirm.

II. BACKGROUND

Plaintiff requested a restraining order against defendant on January 21, 2016. The trial court held a hearing with respect to this request on February 8, 2016. Plaintiff, plaintiff's fiancé, defendant, and defendant's mother all testified. Plaintiff's restraining order request is not in the record. However, plaintiff testified, and the trial court inquired, at the hearing as to the nature of her request.

Plaintiff claimed she and defendant had dated for a period of time. Defendant repeatedly harassed plaintiff after the relationship ended in August 2015. Plaintiff requested defendant cease contacting her. An incident of abuse occurred on December 14, 2015, when plaintiff received a letter in the mail from defendant. Plaintiff recalled

¹ Further statutory references are to the Family Code.

receiving from defendant eight e-mails, three letters, and a package. Plaintiff was concerned he would physically abuse her. Defendant indicated in his e-mails that he would not continue to contact her, but he continued to do so. The package contained some crafted items plaintiff had made, a sweatshirt and other items that did not belong to plaintiff, and another letter, which plaintiff threw away.

On one occasion, January 17, 2016, defendant came to plaintiff's home. He was unable to reach her on the intercom (plaintiff lived in an apartment building), but nonetheless was able to enter the building and appeared at her doorstep. Plaintiff's fiancé answered the door. Plaintiff went to the door and demanded that defendant leave. Defendant demanded an apology from plaintiff because she was allegedly disrespectful and dishonest when they dated. Plaintiff repeatedly told defendant he was not supposed to be at her home and told him to leave. Defendant allegedly said that he was going to make her sorry. Plaintiff told defendant she would call the police if he did not leave, so he left. Plaintiff did not call the police. However, she and her fiancé went to defendant's mother's home the next day to make it very clear that plaintiff did not want any further relationship with defendant. Plaintiff asserted defendant was escalating his unwanted contact, from e-mails to letters and packages and finally coming to plaintiff's home. Plaintiff's fiancé corroborated plaintiff's testimony. Defendant asserted he was sick on the day he went to plaintiff's home and was not thinking clearly.

On March 22, 2016, the trial court found defendant committed domestic violence against plaintiff as defined in section 6211. The trial court determined defendant had engaged in conduct under section 6320, subdivision (a). In particular the court found defendant had: harassed plaintiff; made unwanted communications to her after she requested he stop; contacted plaintiff directly or indirectly by mail or otherwise; had come within a specified distance of plaintiff; and disturbed plaintiff's peace. The trial court issued a restraining order against defendant requiring, inter alia, that he not harass, disturb the peace of, contact, or take any action to obtain the address or location of, plaintiff. Defendant was also ordered to stay 100 yards away from plaintiff. The restraining order was in effect for three years.

III. DISCUSSION

“A grant or denial of injunctive relief is generally reviewed for abuse of discretion. [Citation.] This standard applies to a grant or denial of a protective order under the DVPA. [Citation.]” (*Gonzalez v. Munoz* (2007) 156 Cal.App.4th 413, 420; accord, *S.M. v. E.P.* (2010) 184 Cal.App.4th 1249, 1264.) We review the trial court's factual findings for substantial evidence. (*Loeffler v. Medina* (2009) 174 Cal.App.4th 1495, 1505.)

Defendant disputes whether “abuse” as defined under the DVPA occurred. Section 6211 provides that “domestic violence” is abuse perpetrated against, inter alia, a person

with whom the respondent is or has had a dating or engagement relationship. It is undisputed that plaintiff and defendant had a dating relationship. Under section 6203, subdivision (a), “For purposes of this act, ‘abuse’ means any of the following: [¶] (1) To intentionally or recklessly cause or attempt to cause bodily injury. [¶] (2) Sexual assault. [¶] (3) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another. [¶] (4) To engage in any behavior that has been or could be enjoined pursuant to Section 6320.”

As noted, the trial court found defendant engaged in behavior that could be enjoined pursuant to section 6320. Contact, whether direct or indirect, is sufficient to constitute abuse within the meaning of section 6320. (*In re Marriage of Nadkarni* (2009) 173 Cal.App.4th 1483, 1496-1497.) Additionally, “the plain meaning of the phrase ‘disturbing the peace of the other party’ in section 6320 may be properly understood as conduct that destroys the mental or emotional calm of the other party.” (*Id.* at p. 1497.) Here, substantial evidence supports the trial court’s finding. Plaintiff and her fiancé’s testimony demonstrated her mental and emotional calm was destroyed by defendant’s continued unwanted contact with plaintiff, including the sending of several e-mails, letters, and a package, and culminating with arriving at her home unannounced and uninvited. The trial court did not abuse its discretion by issuing the DVPA restraining order. We decline to address defendant’s argument concerning whether abuse occurred under section 6203,

subdivisions (a)(1) to (a)(3). (*Palermo v. Stockton Theatres, Inc.* (1948) 32 Cal.2d 53, 65; *Shaw v. County of Santa Cruz* (2008) 170 Cal.App.4th 229, 259.)

IV. DISPOSITION

The restraining order is affirmed.

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LANDIN, J.*

We concur:

KRIEGLER, Acting, P.J.

BAKER, J.

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.