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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

TONI RAINEY, Plaintiff and Respondent, v. LAWRENCE J. KAUFMAN, Defendant and Appellant.	B230617 (Los Angeles County Super. Ct. No. YS021041)

APPEAL from a judgment of the Superior Court of Los Angeles County. William Torres, Commissioner. Reversed.

Reed Smith, Margaret Grignon and Anne M. Grignon, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Lawrence Kaufman, a former resident of a homeless shelter, appeals from the judgment awarding a civil harassment restraining order to Toni Rainey, the executive director of the shelter.[1] We reverse the judgment because Rainey failed to prove Kaufman harassed her.

FACTS AND PROCEEDINGS BELOW

Kaufman entered the Little Eve Valley Shelter on May 6, 2010. On May 26, 2010, Rainey signed and delivered to Kaufman a letter terminating his residency at the shelter effective the next day based on persistent sexual harassment complaints against him by other shelter residents. As Rainey was speaking to Kaufman about the contents of the letter, Kaufman cursed, walked away and slammed the office door. He did not leave the shelter the following day as ordered. When Lawrence Kummings, a member of the staff, attempted to remove the linens from Kaufman's bed, Kaufman jumped on the bed and kicked Kummings in the midsection. Kummings called the police. The police responded but did not arrest Kaufman.

On May 28, 2010, Rainey filed a petition charging Kaufman with harassment and obtained a temporary restraining order directing Kaufman to stay away from Rainey's home and workplace and to "immediately move out of the premises." After being served with the court's order later that day, Kaufman left the shelter and did not return.

In June and September 2010, the court held evidentiary hearings on Rainey's petition for a permanent injunction prohibiting harassment by Kaufman. Rainey testified that she had received complaints of sexual harassment by Kaufman from residents of the shelter, a police officer told her that Kaufman is "a very dangerous man," Kaufman failed to do his assigned chores at the shelter and he "cursed and slammed the doors" all of which, Rainey testified, made her feel "very uncomfortable." In addition to Rainey's testimony, Kummings testified about the altercation he had with Kaufman in which

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[1] Code of Civil Procedure section 527.6.

Kaufman kicked him in the stomach. Rainey admitted that since Kaufman left the shelter in May 2010, he had not returned and had not contacted her in any way.

The court found by clear and convincing evidence that Rainey was entitled to a civil harassment restraining order and accordingly it ordered Kaufman among other things not to "contact, harass, attack, [or] threaten . . . the petitioner, Toni Rainey" and to stay 100 yards away from Rainey and the shelter.

Kaufman filed a timely appeal.

DISCUSSION

Kaufman raises several claims of error on appeal. Because we find the trial court's order is not supported by substantial evidence, we need not address Kaufman's other contentions.

As relevant here, a person seeking an injunction prohibiting harassment under Code of Civil Procedure section 527.6[2] must establish "by clear and convincing evidence" that she is "[a] person who has suffered harassment as defined in subdivision (b)." (§ 527.6, subds. (i), (a)(1).)

Subdivision (b)(3) defines harassment as "unlawful violence, a credible threat of violence, or 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."

A "credible threat of violence" is defined in subdivision (b)(2) as "a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose."

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[2] All statutory references are to the Code of Civil Procedure.

A "course of conduct" is defined in subdivision (b)(1) as "a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, fax, or computer e-mail. Constitutionally protected activity is not included within the meaning of 'course of conduct.'"

The grounds of "unlawful violence" and "credible threat of violence" do not apply here because there is no evidence that Kaufman ever committed a violent act against Rainey or threatened Rainey with violence. Likewise there is no evidence that Kaufman engaged in a harassing "course of conduct" directed at Rainey. The single incident when Kaufman stormed out of a meeting with Rainey and slammed the door does not qualify as a "course of conduct." (*Leydon v. Alexander* (1989) 212 Cal.App.3d 1, 4 [a single incident cannot qualify as a "course of conduct"].) Rainey cannot rely on Kaufman's alleged sexual harassment of others because the harassment must be directed at the person seeking the restraining order. (§ 527.6, subd. (a)(1) ["A person who has suffered harassment . . . may seek a temporary restraining order and an injunction"]; *Scripps Health v. Marin* (1999) 72 Cal.App.4th 324, 333.) In any event, Rainey did not testify she felt "seriously alarm[ed], annoy[ed] or harass[ed]" by Kaufman. (§ 527.6, subd. (b)(3).) Rainey was asked at the hearing: "Aside from walking away from you and slamming doors, what other actions did [Kaufman] do to you specifically?" She answered: "To me specifically based on the information from the other staff, and based on the behavior I observed with him, he made me very uncomfortable."

DISPOSITION

The judgment is reversed. Appellant is awarded his costs on appeal.

NOT TO BE PUBLISHED.

ROTHSCHILD, J.

We concur:

MALLANO, P. J.

CHANEY, J.