
CASE NO. A 25-64

IN THE NEBRASKA COURT OF APPEALS

ADAM STRODE, Appellant
v.
JORDYN FLINN, Appellee

ON APPEAL FROM THE DISTRICT COURT OF LANCASTER
COUNTY, NEBRASKA

THE HONORABLE SUSAN I. STRONG PRESIDING

APPELLANT'S BRIEF

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STATEMENT OF THE CASE

1. Nature of the Case.

On December 17, 2024, Jordyn Flinn (“Flinn”) filed a petition for a Harassment Protection Order against Adam Strode seeking a protection order under Neb. Rev. Stat. § 28-311.02. (T1-9). The District Court entered an Ex Parte Harassment Protection order on December 17, 2024. (T10-11). Appellant requested a show-cause hearing, and on January 16, 2025, after hearing, the District Court affirmed its Ex Parte order and entered a protection order for a period of one year. (T12-18).

2. Issues Tried to the Court Below.

The issue before the District Court was whether the Ex Parte Harassment Protection Order should be affirmed under Neb. Rev. Stat. § 28-311.02.

3. How the Issues Were Decided.

On January 16, 2025, the District Court affirmed the Harassment Protection Order.

4. Standard Of Review.

Orders for protection under Neb. Rev. Stat. § 28-311.02 are analogous to an injunction. Accordingly, the grant or denial of a protection order is reviewed de novo on the record. In such de novo review, an appellate court reaches conclusions independent of the factual findings of the trial court. However, where the credible evidence is in conflict on a material issue of the fact, the appellate court considers and may give weight to the circumstances that the trial judge heard and observed the witnesses and accepted one version of the facts rather than another. *Robert M. on behalf of Bella O. v. Danielle O.*, 303 Neb. 268, 928 N.W.2d 407 (2019).

PROPOSITIONS OF LAW

I.

A protection order is analogous to an injunction. Thus, the grant or denial of a protection order is reviewed de novo on the record. In such de novo review, an appellate court reaches conclusions

independent of the factual findings of the trial court. However, where the credible evidence is in conflict on a material issue of fact, the appellate court considers and may give weight to the circumstances that the trial judge heard and observed the witnesses and accepted one version of the facts rather than another.

Robert M. on behalf of Bella O. v. Danielle O., 303 Neb. 268, 928 N.W.2d 407 (2019)

II.

The petitioner at a show cause hearing following entry of an ex parte order has the burden to prove by a preponderance of the evidence the truth of the facts supporting a protection order. Once that burden is met, the burden shifts to the respondent to show cause as to why the protection order should not remain in effect.

Maria A. on behalf of Leslie G. v. Oscar G., 301 Neb. 673, 919 N.W.2d 841 (2018)

III.

“[W]here credible evidence is in conflict on a material issue of fact, the appellate court considers and may give weight to the fact that the trial judge heard and observed the witnesses and accepted one version of the facts rather than another.”

Glantz v. Daniel, 21 Neb. App. 89, 837 N.W.2d 563, 573 (2013).

IV.

A course of conduct is “a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning, contacting, or otherwise communicating with the person.”

Neb. Rev. Stat. §28-311.02 (2)(b)

V.

For Purposes of a Harassment Protection Order pursuant to Neb. Rev. Stat. § 28-311.09, the Legislature has defined “harass” to mean “to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose.”

Neb. Rev. Stat. § 28-311.02(2)(a)

STATEMENT OF FACTS

On or about December 17, 2024, Flinn filed a Petition for Harassment Protection Order against her neighbors, Adam Strode and Amy Strode (“the Strodes”) with the District Court of Lancaster County Nebraska, alleging that the Strodes were following Flinn, that the Strodes continued to let their dogs run at large, and the Strodes installed high powered floodlights that were pointed from their property directly to the back of Flinn’s house. (T1-9). Flinn lives next to the Strodes, and the Strodes are both law enforcement officers. (48:21-25; 149:17-22).

In December of 2024, Flinn was visited by Animal Control and given a verbal warning that her dog was on a leash longer than six feet. The person that had turned her in took a picture of her walking the dog and gave the picture to Animal Control. (7:7-20). The picture was taken while Flinn was walking her dog in the neighborhood next to the one she lived in, and that particular neighborhood has no stores, restaurants, or any public parking lots. While Flinn was walking her dog, she noticed that the Strodes were following her and taking pictures of her. (8:1-22; 67:8-25; 156:19-157:8). Flinn testified that she was walking her dog approximately half a mile away from her home, in a neighborhood that is across a busy street from her own neighborhood. Flinn also testified that when she saw the Strodes following her, it made her feel afraid. (9:22-24; 28:18-21; E25).

Just prior to this incident, Flinn had reported the Strodes to animal control for allowing their dogs to run at large. (5:23-25). Prior to trial and after the Strodes reported Flinn to Animal Control for violating the city leash

ordinance, the Strodes continued to allow their dogs to run off leash and off their property. Flinn testified that she had seen the dogs running at large at least a dozen times in the two months preceding trial, and often times the dogs would be in yards other than their own. (6:10-7:6; E29; E30; E28). In fact, Flinn presented video at trial of the Strodes' dogs running off of their property and running after her. (26:7-11; E27). At trial, Flinn testified that the Strodes allowing their dogs to run at large "freaks her out" that someone in his position does not have to follow the rules, and it creates fear on the other rules that he may not be allowed to follow. This gave Flinn a lot of anxiety because the dogs had previously run after her and her dog, circled them and barked. (28:5-13).

The parties have a history of disagreements and calling Animal Control on each other. (E25; 11:2-9; 5:23-24; 67:14-15). Specifically, Flinn has called animal control on the Strodes to report them for allowing their dogs to run at large. (5:23-25). As a result, the Strodes received citations from Animal Control on or about December 3, 2024. Shortly thereafter, on December 10, 2024, Mr. Strode went to Menards and purchased a construction-style floodlight and installed it on their deck. (194:17-195:3; E17). The floodlight was positioned in a way that light directly shined into Flinn's home, illuminating Flinn's bedroom as well as her mother's bedroom. Flinn's mother, Cheryl Flinn, testified at trial that the floodlight was pointed towards the back of her house, and the light comes directly into her living room and bedroom, shining on the headboard of her bed. The lights are so bright in the evening that Flinn had to put cardboard and tin foil over her windows to block the light and be able to sleep at night. (E32; E31; E24; 14:23-2; 113:10-15; T4-5). Flinn testified that she got the idea to put up tin foil to block out the light from her neighbor Julie, who reported to Flinn that she had to put foil over her own windows to keep the Strodes' light from shining into her home at night. (250:10-16).

After several days of the light being up, Flinn called the police to make a report. (14:18-15:9; 18:18-20:1; E24). After Flinn called the police, Mrs. Strode went to apologize to her neighbor, Julie, for the bright lights, and she informed Julie that the Strodes would purchase a new light to accommodate her, which the Strodes did, and she gave Julie her personal cell phone number in case there were further issues. Although Mrs. Strode apologized to Julie, she made no such apology to Flinn, and she made no attempts to

accommodate Flinn's concerns with the light. (59:2-60:1; 153:11-22; 154:2-14). In fact, at the time of trial on January 14, 2025, and January 16, 2025, the Strodes had their newly purchased floodlight turned on every night since on or about December 15, 2024, with the light positioned towards Flinn's house causing the inside of the home to be illuminated. (21:6-9; 64:13-18; 150:16-21). Additionally, just a few nights prior to trial, another report was made regarding the Strodes' floodlight by a neighbor that lives approximately three houses down from the Strodes. (97:22-99:14; E26). At trial, Flinn testified that the floodlights were causing her anxiety and stress, and they were affecting not only her sleep, but her mother's sleep as well. (18:6-9). Furthermore, Flinn testified that given all of the Strodes' actions towards her, she feels terrified and frightened, and she was afraid that they would not stop harassing her until a Judge told them to stop. (208:14-23).

At trial, the Strodes testified that there were multiple legitimate reasons for putting up the floodlight, including a claim that things had gone missing off their deck. Allegedly, one of the more significant reasons for the light was that the family was worried about threats in their backyard due to Mr. Strode being involved in an officer-involved shooting in November of 2021, in which the suspect did not survive. Mr. Strode testified that after the Grand Jury was completed for that incident in May or June of 2022, in the area where the shooting occurred, there were multiple posters put up claiming that he was a murderer. (50:7-22; 179:1-14). Mr. Strode claimed that in the last couple of months, he received intel from officers of the State Patrol and other agencies that the deceased's brother had inquired about him and his whereabouts. (50:22-51:2). When questioned about when Strode first received intel that there was a threat against him, he claimed that it was in the summer or fall of 2023 when he was first approached by an LPD officer, who informed him that the deceased's brother had inquired about him and since that time he has received information approximately three or four times. (51:12-25). However, when Mr. Strode was asked to identify the officers that provided him with the information, Strode claimed that he could not recall the officers' names and he struggled to provide identifying information on all but one of the officers. (52:8-53:24; 180:3-181:18).

Another reason the Strodes claimed that they put up the floodlight was due to a report of an armed subject in their neighborhood approximately two weeks prior to the purchase of the light. (82: 18-22; 150:22-151:7; 181:19-

25). Additionally, the Strodes testified that they were concerned about theft in the neighborhood, however, at trial the only evidence the Strodes could present regarding theft occurring in the neighborhood were Facebook posts from on or about June 30, 2024, and a post from on or about December 30, 2024, while the lights were put up on December 10, 2024. (95:13-96:4 E6; E33 150:22-151:7; 174:20-176:1). Lastly, Mr. Strobe testified that he was concerned for his family's safety due to his newborn baby, born September of 2024, however, he did not put the floodlight up until December 10, 2024. (96:13-25).

At the conclusion of trial, the Court found that the credibility of the witnesses was clear, and Flinn was more credible than the Strodes. The Court stated the following regarding the reasons the Strodes claimed for putting up the light:

“He and Ms. Strobe are very much engaging in a conduct -- in conduct that is meant to threaten, harass and intimidate Ms. Flinn. They're using their positions of power with law enforcement to do it, which I think is inexcusable. And I absolutely believe that they put that floodlight up there to harass and intimidate Ms. Flinn. There really is no other explanation. And for you to argue otherwise is laughable. He's going to use an incident that occurred in 2021 to all of a sudden have to put up a floodlight, coincidentally right after Ms. Flinn has complained about something or turned him in to Animal Control.”

SUMMARY OF ARGUMENT

- I. The evidence presented at the trial court hearing was sufficient to show that the facts stated in the sworn applications were true.
- II. The evidence presented to the trial court was sufficient to establish that the conduct at issue met the statutory definition of “Harassment”.

ARGUMENT

- I. The evidence presented at the trial court hearing was sufficient to show that the facts stated in the sworn applications were true.

The sworn testimony of Flinn at the contested factual hearing in this matter was more than sufficient to show that the facts stated in her sworn Application for Protection Order were true. The Nebraska Supreme Court has held that “a contested factual hearing in protection order proceedings is a show cause hearing, in which the fact issues before the court are whether the facts stated in the sworn application are true.” *Sherman v. Sherman*, 18 Neb. App. 342, 781 N.W.2d 615 (2010). The Nebraska Supreme Court has also held that “the procedures at a show cause hearing might be less elaborate than those commonly used at civil trials, but...at a minimum, testimony must be under oath and documents must be admitted into evidence before being considered.” *Mahmood v. Mahmud*, 279 Neb. 390, 778 N.W.2d 426 (2010). In the instant case, Flinn went a step further than the minimum: the allegations of the Applications for Harassment Protection Order at issue were proven by sworn testimony and detailed images and videos at the District Court hearing.

In Flinn’s Applications, she asserted that the Strodes were following her, that the Strodes continued to let their dogs run at large, and the Strodes installed high powered floodlights that were pointed from their property directly to the back of her house. (T1-9). While Appellee is not going to rehash the entire statement of facts, the foregoing is a brief summary of the evidence presented to the District Court proving the assertions Flinn made in her Application. At the contested hearing, Flinn provided evidence to the District Court showing that the Strodes were following her while she was walking her dog half a mile away from her home. (9:22-24; 28:18-21; E25). They were doing so in order to gather evidence that Flinn was walking her dog on a leash longer than six feet so the Strodes could report her to Animal Control. (7:7-20; 67:8-25; 156:19-157:8). Prior to this, the Strodes received citations of their own for allowing their dogs to run at large. (194:17-195:3). Furthermore, after the citations the Strodes continued to allow their dogs to run off leash and off the property. Flinn testified that they did so at least a dozen times that she had seen in the two months preceding trial. (6:10-7:6; E29; E30; E28).

Perhaps the most disturbing assertion Flinn proved at trial was that the Strodes purchased a floodlight a week after they received their citations from Animal Control and positioned it in a way that light directly shined into

Flinn's home, illuminating Flinn's bedroom as well as her mother's bedroom. Flinn's mother, Cheryl, testified at trial that the floodlight is pointed towards the back of her house, and the light comes directly into her living room and bedroom, shining on the headboard of her bed. The lights were so bright in the evening that Flinn had to put cardboard and tin foil over her windows to block the light and be able to sleep at night. (E32; E31; E24; 14:23-2; 113:10-15; T4-5; 194:17-195:3; E17).

Each of the above allegations were proven to the District Court through sworn testimony, pictures, and videos. The Strodes presented plenty of evidence of their own claiming that they had a "legitimate purpose" for installing the floodlight and following Flinn. These "legitimate purposes" included purported thefts in the neighborhood, an alleged armed suspect being in the neighborhood several weeks prior to the installation of the light, and potential "threats" in the Strodes' backyard due to an officer-involved shooting that occurred in 2021. (50:7-22; 179:1-14; 82:18-22; 95:13-96:4; 150:22-151:7; 181:19-25; E6; E33; 150:22-151:7; 174:20-176:1). However, the Court rejected these claims stating:

"And I absolutely believe that they put that floodlight up there to harass and intimidate Ms. Flinn. There really is no other explanation. And for you to argue otherwise is laughable. He's going to use an incident that occurred in 2021 to all of a sudden have to put up a floodlight, coincidentally right after Ms. Flinn has complained about something or turned him in to Animal control. Mrs. Strobe goes over to apologize to Ms. Flinn's neighbor. Well, if this light wasn't related to Ms. Flinn, why didn't she apologize to Ms. Flinn? Because it absolutely was put up there to harass, bother, intimidate, threaten Ms. Flinn" (221:15-222:2)

Additionally, the Strodes attempted to impugn the credibility of the testimony provided by Flinn through cross-examination. The Strodes contend that Flinn is not credible because she was shown to be untruthful, under oath, by making misrepresentations in her answers to interrogatories in her civil lawsuit against the Strodes. Flinn testified that the "misrepresentations" were not intentional and that she had misunderstood and misread the questions that were asked. (34:1-35:22). However, the Court determined that the Strodes were untruthful, not Flinn. (221:2-4).

This was displayed through the Strodes' testimony as they described the singular face-to-face interaction they had with Flinn. The Strodes described that Flinn came over to their house and repeatedly and incessantly knocked on their door for upwards of 5 minutes straight. Mr. Strobe testified that he did not believe she would stop until he opened the door. Mr. Strobe testified that once he opened the door, she was confrontational and irrational. It was after this interaction that the Strodes looked Flinn up on the police system. (106:13-108:20; 109:11-111:23; 161:19-164:8). However, Flinn provided video evidence of the entire interaction, which lasted approximately two minutes and twenty seconds, completely refuting the Strodes' testimony of that interaction. (E38).

In *Glantz v. Daniel*, the Nebraska Court of Appeals stated that “[W]here credible evidence is in conflict on a material issue of fact, the appellate court considers and may give weight to the fact that the trial judge heard and observed the witnesses and accepted one version of the facts rather than another.” 21 Neb. App. 89, 837 N.W.2d 563, 573 (2013). In the instant case, the District Court stated that “the credibility of the parties is clear in this case, and I believe that Ms. Flinn is more credible than the Strodes.” (221:2-4). In light of the evidence presented at the hearing before the District Court, Flinn contends that she provided sufficient evidence to satisfy the issue before the District Court- that the facts asserted in the sworn Applications for Protection Order were true. Flinn urges this Court to reach the same conclusion and give weight to the fact that the District Court heard and observed the witnesses and accepted Flinn's version of facts over the Strodes'.

II. The evidence presented to the trial court was sufficient to establish that the conduct at issue met the statutory definition of “Harassment”

Once a petitioner has established that the facts alleged in his or her application are true, there are essentially two questions which must be answered affirmatively for a court to determine that the conduct at issue meets the statutory definition of “harassment”: (1) whether, from an objective basis, a reasonable victim would be seriously terrified, threatened, or intimidated by the perpetrator's conduct; and (2) whether the perpetrator's actions constitute a “pattern of conduct composed of a series of acts over a

period of time, however short, evidencing a continuity of purpose.” *Richards v. McClure*, 290 Neb. 124, 132, 858 N.W.2d 841 (2015); Neb. Rev. Stat. § 28-311.02(2)(b). In the instant case, the sworn testimony provided at the hearing before the District Court was sufficient to affirmatively answer both of these questions.

Sufficient evidence was provided through the evidence Flinn presented at trial to establish that, when assessed objectively, a reasonable person would have been “Seriously terrified, threatened, or intimidated” by the Strodes’ conduct. “Nebraska’s stalking and harassment statutes are given an objective construction and ... the victim’s experience resulting from the perpetrator’s conduct should be assessed on an objective basis. Thus, the inquiry is whether a reasonable victim would be seriously terrified, threatened, or intimidated by the perpetrator’s conduct.” *Richards v. McClure*, 290 Neb. 124, 132, 858 N.W.2d 841 (2015). It is clear from the evidence presented to the District Court that a reasonable person would be seriously terrified, threatened, or intimidated by the Strodes’ conduct. Flinn called Animal Control on the Strodes and reported them for allowing their dogs to run at large. As a result, the Strodes received citations from Animal Control on or about December 3, 2024. (5:23-25; 194:17-195:3). In retaliation, the Strodes purchased a construction style floodlight and installed it on their back deck to illuminate the inside of Flinn’s house at night. (E17; E32; E31; E24; 14:23-2; 113:10-15; T4-5). The Strodes are sworn law enforcement officers with the Nebraska State Patrol and the Lincoln Police Department. (48:21-25; 149:17-22).

A week after Flinn got these law enforcement officers cited by animal control, she lost her ability to sleep at night in the dark. In order to get this ability back, she had to resort to extreme measures of placing a TV box and tin foil over her bedroom windows just to be able to sleep at night. Any reasonable person would be terrified that their house was being illuminated at night by sworn law enforcement officers as a result of reporting them for violating the law. On top of this, the Strodes were following Flinn and photographing her while she was walking her dog a half mile away from her home in a completely different neighborhood. (8:1-22; 67:8-25; 156:19-157:8; 9:22-24; 28:18-21; E25). Shortly after being followed and photographed, Flinn received a visit from Animal Control and a verbal warning. (7:7-20). These events “coincidentally” happened shortly after

Flinn reported the Strodes to Animal Control. Any reasonable person would feel terrified, threatened, and intimidated by the retaliatory acts of these two sworn law enforcement officers.

The evidence presented to the District Court was also sufficient to show that the Strodes' conduct qualified as a "knowing and willful course of conduct" directed at Flinn in accordance with Neb. Rev. Stat. § 28-311.02. Under Neb. Rev. Stat. § 28-311.02, a "course of conduct" is defined as "a pattern of conduct composed of a series of acts over a period of time, however, short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning contacting, or otherwise communicating with the person." The evidence presented to the District Court was sufficient to show that the Strodes' conduct was constituted a "course of conduct" under the statute. At the time of trial on January 14, 2025, and January 16, 2025, the Strodes had a construction-style floodlight turned on every night since on or about December 10, 2024, with the light positioned towards Flinn's house causing the inside of the home to be illuminated. (21:6-9; 64:13-18; 150:16-21). It is clear that the Strodes following Flinn when she was walking her dog and illuminating her house at night constituted a "course of conduct" because they were a series of actions harassing Flinn over the course of several days.

CONCLUSION

For these reasons, Appellee respectfully requests that the decision of the District Court be affirmed and that the harassment protection orders entered by the District Court continue for a period of one year following the respective dates of their original issuance.

Respectfully submitted by
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CERTIFICATE OF COMPLIANCE

The undersigned does hereby certify that the foregoing complies with the word count and typeface requirements of Neb. Ct. R. App. P. § 2-103(C)(4). The foregoing was prepared using Microsoft Word for Microsoft 365. Said word-processing software reports the total word count is 4,247 words.

/s/ Trevin H. Preble
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Certificate of Service

I hereby certify that on Friday, June 13, 2025 I provided a true and correct copy of this *Brief of Appellee Flinn* to the following:

Adam Strode represented by Erik William Fern (23733) service method: Electronic Service to **efern@keatinglaw.com**

Signature: /s/ Trevin Preble (25296)