



petitioner testified that her relationship with the respondent was a friendship but "he thinks he's in love with me and I don't love him." The petitioner testified that the respondent had called her continually, at least 50 times in a row, thereby requiring her to block his number from her telephone. The petitioner is currently employed at a bowling alley, where the respondent comes in three times a day and calls three or four times a day. The petitioner's employer informed her that she must serve the respondent because he is a customer. The petitioner testified that the respondent knows her work schedule and he followed her home and sat on the steps outside until she came out to go to work. The petitioner described an incident in May 2011 when her family was visiting and the respondent followed her all over town. When she and her family went to a tavern he followed them inside and called her names in front of everyone. The petitioner added that the respondent had been watching her house and she had asked him countless times to stop calling her and to stop coming to her house. At the conclusion of the petitioner's testimony, an emergency stalking no contact order was entered against the respondent (see 740 ILCS 21/95 (West 2010)), effective through October 21, 2011, when a hearing was scheduled to determine whether a plenary stalking no contact order was merited, pursuant to section 100 of the Act (740 ILCS 21/100 (West 2010)). The plenary hearing was subsequently rescheduled to give the respondent additional time to retain counsel, and the emergency stalking no contact order was extended accordingly.

¶ 5 The plenary hearing was conducted on November 3, 2011, where the petitioner appeared *pro se* and the respondent appeared with counsel. The petitioner testified that she sought the stalking no contact order because the respondent had contacted her employer three times to complain about her and she was afraid of losing her job. She stated that the respondent comes to her house and after she tells him to leave, he sits outside until she comes out. The petitioner testified that the respondent tells her he loves her, but she does not love

him and he cannot accept that. She averred that she is afraid of the respondent because past incidents suggest that he has difficulty controlling his behavior. The petitioner explained that her relationship with the respondent became volatile on October 1, 2010, when he came to her home and an argument ensued. She told him to leave and he pushed her down in the hallway as he was leaving. After he was out the door she said something he did not like and he came back up the stairs. As the petitioner attempted to close the door, she closed it on the respondent's hand and he left, accusing her of breaking his fingers and threatening to call the police. The petitioner added that every time she and the respondent argued he screamed in her face and raised his hand as if he was going to strike her.

¶ 6 The petitioner recalled her birthday on May 20, 2011, when she, her family, and her friend went out and the respondent called her phone repeatedly because he was not invited. The petitioner testified that some of the respondent's calls were threatening, with him calling her names and telling her that "he was going to take care of [her] or take care of [her] car." The petitioner explained that she called the police and had the respondent blocked from her phone, but he began calling her daughter's phone. Petitioner's Exhibit 1, a phone bill, was admitted into evidence, over objection, showing 11 calls from the respondent's phone to the petitioner's daughter's phone on May 20, 2011.

¶ 7 Angela Davis testified that she is the petitioner's daughter. Davis stated that she formerly lived in an apartment across the hall from the petitioner and she witnessed several occurrences between the parties, including the October 2010 incident when the respondent got his hand smashed in the door. Also in October 2010, Davis witnessed the respondent calling the petitioner repeatedly when she refused to answer the phone. Subsequently, Davis observed the respondent sitting on the steps outside the petitioner's door for approximately 30 minutes until the petitioner came out.

¶ 8 Davis corroborated the petitioner's testimony concerning May 20, 2011. She testified

that the respondent called the petitioner incessantly, then repeatedly called Davis's phone and Davis's boyfriend's phone after the petitioner did not answer. He then followed the group into a bar, started an argument with the petitioner's friend, and attempted to take him outside for a fight. The respondent subsequently left, after which he followed the group into another bar and argued with the petitioner because he was not invited to her birthday. Davis testified that her boyfriend tried to defuse the situation, after which the respondent attempted to take him outside for a fight. Davis added that the respondent was eventually pinned down on the ground to prevent him from fighting her boyfriend and the petitioner's friend.

¶ 9 Marion Crow testified that she attended cookouts with the petitioner at their apartment complex. On July 4, 2010, Crow witnessed the respondent driving by the apartment complex and calling the petitioner's phone repeatedly.

¶ 10 Lance Lehnen testified that he owns the bowling alley where the petitioner tends the bar and waits tables. Lehnen had witnessed the petitioner serving the respondent in the past, but he never observed any harassing incidents. Lehnen wished for the respondent to continue frequenting the bowling alley because he was a good customer who had come in daily since the business opened. Lehnen had no concerns about the petitioner's safety because there is usually another employee present at the bowling alley.

¶ 11 The respondent testified that he ate at the bowling alley every day before the litigation began and he wished to do so again. He stated that he intended no harm toward the petitioner and he refused to admit the accuracy of the petitioner's description of their relationship. He denied ever threatening her in any way or ever drawing back his hand to her during confrontations. The respondent testified that the petitioner sought the stalking no contact order because she owed him money for cigarettes.

¶ 12 At the conclusion of the hearing, the circuit court entered a plenary stalking no contact order, effective for one year. However, the circuit court allowed the respondent to continue

going to the bowling alley during regular business hours so long as another employee was present with the petitioner. After the circuit court denied his motion to reconsider, the respondent filed a timely notice of appeal.

¶ 13

#### ANALYSIS

¶ 14 On appeal, the respondent challenges the plenary stalking no contact order for various reasons discussed below. Section 30 of the Stalking No Contact Order Act (Act) provides that the standard of proof in proceedings involving stalking no contact orders is proof by a preponderance of the evidence. 740 ILCS 21/30(a) (West 2010). When determining whether this burden of proof was met, we apply a manifest weight of the evidence standard of review. *People v. Houar*, 365 Ill. App. 3d 682, 686 (2006). "Application of [this] standard requires reversal of the trial court's decision only if the opposite conclusion is clearly evident or the determination is unreasonable, arbitrary, or without basis in the evidence." *Id.*

¶ 15 Section 10 of the Act (740 ILCS 21/10 (West 2010)) defines stalking as "a course of conduct directed at a specific person, [that the respondent] knows or should know \*\*\* would cause a reasonable person to fear for \*\*\* her safety \*\*\* or suffer emotional distress." Emotional distress is defined as "significant mental suffering, anxiety or alarm." *Id.* Section 5 of the Act reaffirms that stalking is not a single act, but a course of conduct. 740 ILCS 21/5 (West 2010). Examples of stalking include "following a person, conducting surveillance of the person, appearing at the person's home[] [or] work[,] \*\*\* [and] making unwanted phone calls." *Id.* Once the requirements of the Act are met, the circuit court shall issue a stalking no contact order. 740 ILCS 21/80 (West 2010). We turn now to the respondent's issues on appeal.

¶ 16

#### *I. Sufficiency of the Petition*

¶ 17 The respondent initially contends that the circuit court erred by allowing the petitioner to testify about events which were not listed in her petition and by basing the stalking no

contact order on those events. We note that the respondent fails to follow through by delineating any specific events in his brief. Rather, he emphasizes that the petitioner referenced an incorrect date on the petition regarding the events about which she testified, and he attempts to invalidate her testimony on that basis. We find this argument without merit.

¶ 18 "Pleadings are to be liberally construed [citation], because the purpose of pleadings is to inform the defendant of the plaintiff's claim." *In re Marriage of Winters*, 160 Ill. App. 3d 277, 282 (1987). Section 2-603 of the Code of Civil Procedure (Code) (735 ILCS 5/2-603(c) (West 2010)) adds that pleadings are "liberally construed with a view to doing substantial justice between the parties." *Forest Preserve District of Du Page County v. Miller*, 339 Ill. App. 3d 244, 252 (2003). Moreover, section 2-612 of the Code provides that "[n]o pleading is bad in substance which contains such information as reasonably informs the opposite party of the nature of the claim or defense which he \*\*\* is called upon to meet." 735 ILCS 5/2-612(b) (West 2010).

¶ 19 In the case at bar, notwithstanding the inconsistency between the dates on the petition and those in the petitioner's testimony, we apply a liberal construction to the petition. See *In re Marriage of Winters*, 160 Ill. App. 3d at 282. In doing so, we note that the cause of action is clearly set forth in and supported by the facts in the petition, thereby sufficiently apprising the respondent of the cause of action and allowing him to prepare a response. See 735 ILCS 5/2-612 (West 2010). Accordingly, the substance of the petition is not deficient (see *id.*), and the petitioner's testimony is not invalidated by the discrepancy between the dates.

¶ 20 *II. Course of Conduct*

¶ 21 The respondent next contends that there were only two isolated events over a one-year period, which is insufficient to constitute a "course of conduct" as required by the Act. See

740 ILCS 21/10, 5 (West 2010). This argument is belied by the record. The petitioner testified that the respondent called her continually until she had his number blocked. She testified further that the respondent followed her home and sat on the steps outside until she came out, that he followed her and her family all over town and made a scene at two different taverns, and that he watches her residence and comes to her workplace three times a day. Additional people corroborated the petitioner's testimony. A neighbor added that she witnessed the respondent driving by the petitioner's apartment after calling her repeatedly. Events such as these are provided as examples of stalking in the Act (see 740 ILCS 21/5 (West 2010)), and we find them sufficient in number to establish a course of conduct as required by the Act. See 740 ILCS 21/10, 5 (West 2010).

¶ 22 Besides disputing the number of alleged stalking events, the respondent contends that a course of conduct cannot be established here due to a lapse of time between the events and the filing of the petition. Without elaborating on the specifics of the respondent's argument, we note that the term "course of conduct," in and of itself, implies the involvement of a passage of time. Moreover, the Act is absolutely devoid of any time constraints with regard to the filing a petition for a stalking no contact order. See 740 ILCS 21/1 to 135 (West 2010). Accordingly, we refuse to entertain the respondent's arguments and find that the timing of the filing of the petition has no bearing on the finding of a course of conduct, pursuant to the Act. See 740 ILCS 21/10, 5 (West 2010).

¶ 23 In addition to evidence that shows the occurrence of stalking via a course of conduct, we note that the petitioner testified that the respondent threatened to do something to her or her car and that she is afraid of him. She also asserted in her petition that she pushes her couch in front of the door at night because she is afraid of him. We find this to be evidence of emotional distress suffered by the petitioner, and the respondent knew or should have known that his conduct would cause such a response. See 740 ILCS 21/10 (West 2010).

Accordingly, the requirements of the Act were met, and it was not against the manifest weight of the evidence for the circuit court to enter the plenary stalking no contact order because an opposite conclusion is not clearly evident, nor is the decision unreasonable, arbitrary, or without basis in the evidence. See *Houar*, 365 Ill. App. 3d at 686; see also 740 ILCS 21/80 (West 2010) (circuit court *shall* issue a stalking no contact order once statutory requirements are met).

¶ 24

### *III. Additional Considerations*

¶ 25 An additional contention raised by the respondent is that the circuit court erred by not considering evidence of the petitioner's alleged motive for filing the petition. Although the respondent testified that the petitioner owed him money for cigarettes, the circuit court stated that the same would be disregarded for purposes of the proceedings. We find no error with this decision. Any evidence of an alleged motive for filing a petition is not a consideration in determining whether to enter a stalking no contact order. See 740 ILCS 21/1 to 135 (West 2010). Accordingly, the circuit court was not obligated to consider any such evidence and properly disregarded it as irrelevant.

¶ 26 The respondent's final contention on appeal is that his FOID card was erroneously revoked by the Illinois State Police (ISP) after the emergency stalking no contact order was entered on October 3, 2011. A possible remedy under section 80 of the Act is the prohibition of the respondent from possessing a FOID card, or buying or possessing firearms. See 740 ILCS 21/80(b)(4) (West 2010). The plenary stalking no contact order entered in this case is a fill-in-the-blank/check-the-box form, on which available remedies pursuant to the Act are listed, including the option to order the surrender of the respondent's FOID card. As the circuit court correctly noted at the hearing on the motion to reconsider, the order is plain on its face that no such surrender was ordered, as the correlating box is clearly unchecked. Accordingly, any dispute the respondent has with the revocation of the FOID card should be

addressed to the ISP.

¶ 27

#### CONCLUSION

¶ 28 For the foregoing reasons, we affirm the decision of the circuit court of Montgomery County to enter the November 3, 2011, plenary stalking no contact order against the respondent.

¶ 29 Affirmed.