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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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GUS KITSOS,	)	Appeal from the Circuit Court of
	)	Cook County, Law Division
Plaintiff-Appellant,	)	
	)	
v.	)	No. 15 L 11138
	)	
RUTH BRODERICK,	)	Honorable Moira S. Johnson,
	)	Judge Presiding
Defendant-Appellee.	)	

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JUSTICE SIMON delivered the judgment of the court.  
Presiding Justice Pierce and Justice Harris concurred in the judgment.

**ORDER**

¶ 1 *Held:* The circuit court's order dismissing the case for lack of personal jurisdiction is affirmed. Defendant did not have minimum contacts with Illinois sufficient to require her to face suit in the state.

¶ 2 **BACKGROUND**

¶ 3 Plaintiff Gus Kitsos was married to Elaine Kitsos for 57 years. She died on January 29, 2015. On March 4, 2015, plaintiff called his deceased wife's sister, defendant Ruth Broderick, on the telephone. Plaintiff lives in Cook County, Illinois and defendant lives in Clark County, Nevada.

¶ 4 During the phone call, defendant allegedly told plaintiff that her sister (plaintiff's

deceased wife) hated plaintiff. Defendant allegedly stated that plaintiff's wife never loved him, that she did not even want to be in the same city as him, and that before she died she intended to abandon him. Defendant also allegedly claimed that plaintiff had emotionally abused her sister causing her sister to feel that she could not visit defendant and could not retire. Finally, defendant allegedly said that plaintiff's lack of caring for his wife extended to him failing to adequately attend to her bedside when she was dying. Plaintiff reached out to defendant since the time of that phone call for an apology or some other mitigation, but none was forthcoming.

¶ 5 Plaintiff filed this case alleging that defendant made the harmful statements and did so shortly after his wife's death, with the intent to inflict severe emotional distress on him. Plaintiff claims that the calls have, in fact, caused him severe distress. Plaintiff alleges that he has lost income as a result of his inability to tend to his real estate and other investments. He also alleges that defendant's refusal to meet with him and mollify the damage from the statements is another act causing him severe emotional distress.

¶ 6 Defendant made a special appearance in the case to file a motion to dismiss for lack of personal jurisdiction. The motion was fully briefed and the court held an evidentiary hearing to resolve any factual disputes. Both parties testified. The trial court found that defendant was not subject to personal jurisdiction and granted the motion to dismiss, disposing of the case in its entirety. Plaintiff appeals. Defendant did not file a response brief, so we consider whether plaintiff is entitled to relief on appeal based on his brief alone, considering the record developed in the trial court.

¶ 7 ANALYSIS

¶ 8 In this case, it is readily apparent that defendant did not have minimum contacts with Illinois sufficient to establish personal jurisdiction under the long-arm statute. In determining

whether an Illinois court may assert personal jurisdiction over a nonresident defendant, we employ a two-prong analysis to evaluate whether the facts of the case meet the requirements for: (1) personal jurisdiction under the Illinois long-arm statute (735 ILCS 5/2–209 (West 2012)) and (2) due process under both the United States and Illinois Constitutions. *Rollins v. Ellwood*, 141 Ill. 2d 244, 275 (1990).

¶ 9 Personal jurisdiction may be asserted under two jurisdictional categories: general jurisdiction or specific jurisdiction. *Russell v. SNFA*, 2013 IL 113909, ¶ 36. A state’s courts have general jurisdiction over a person if that person is domiciled in the state. *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 924 (2011). Specific jurisdiction requires a showing that the defendant purposefully directed her activities at the forum state and that the cause of action arose out of or relates to the defendant's contacts with the forum state. *Russell*, 2013 IL 113909, ¶ 40. Under specific jurisdiction, a nonresident defendant may be subjected to a forum state's jurisdiction based on a certain single act or occasional acts in the state, but only with respect to matters related to those acts. *Id.*

¶ 10 Plaintiff relies on the language of the long-arm statute and points out that plaintiff suffered his injury on the receiving end of the phone while he was in Illinois. The statute states that a person submits herself to the jurisdiction of the courts of this State as to any cause of action arising from: committing a tortious act within the State. 735 ILCS 5/2-209(a)(2) (West 2012). However, even if the putative tort could be considered to have been committed in Illinois (which is not necessarily clear as a matter of law), an Illinois court would still not be able to exercise jurisdiction over the out-of-state defendant unless the requirements of due process have been met.

¶ 11 An assertion of personal jurisdiction satisfies federal due process guarantees so long as

the defendant has sufficient minimum contacts with the forum state such that maintaining an action in that state does not offend traditional notions of fair play and substantial justice.

*International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945). This case tracks closely to another case we decided in which the plaintiff attempted to establish a basis for exercising personal jurisdiction over nonresident defendants through phone calls, *Hanson v. Ahmed*, 382 Ill. App. 3d 941 (2008).

¶ 12 In *Hanson*, the plaintiff claimed that he was defamed by nonresident-defendants who denied, in telephone calls, that they were involved in an automobile accident with the plaintiff. *Id.* at 942. The two phone calls serving as the basis for the suit were initiated by an insurance adjuster in the forum state and, thus, the plaintiff argued that he was injured where the allegedly defamatory statements were received. *Id.* The court explained that the plaintiff failed to meet the threshold requirement of showing minimum contacts with Illinois necessary to satisfy due process.

“[T]he defendants were Missouri residents and were not in Illinois when the allegedly defamatory comments were made. The only contacts the defendants had with the State of Illinois consist of the two telephone calls initiated by the claims adjuster employed by Allstate, during which the defendants were questioned about their involvement in the automobile accident. The defendants took no affirmative action to conduct any activities in Illinois; they did not initiate the telephone calls and did nothing to invoke the benefits and protection of the laws of Illinois. The defendants' participation in the two telephone conversations represent extremely attenuated contacts with Illinois that resulted from the unilateral activity of the Allstate claims adjuster.” (Internal citation omitted). *Id.*

at 945.

¶ 13 The same result must obtain here. Plaintiff alleged and testified that he made a phone call to defendant on March 4, 2015 from his home in Illinois to defendant's home in Nevada. They talked for almost 40 minutes, and defendant allegedly said some hurtful things that plaintiff claims were said with the intention of harming him. The only "connection" defendant had to Illinois is that plaintiff happened to be standing in the state at the time that he called her. Defendant did nothing to reach out to Illinois or to otherwise "purposefully avail" herself of the privileges of the forum state. See *Bolger v. Nautica International Inc.*, 369 Ill. App. 3d 947, 954 (2007). By plaintiff's own testimony, there is nothing to suggest that defendant purposefully directed herself at Illinois in any way, she was on the *receiving* end of the phone call and made statements *in response to* plaintiff's inquiry as to why defendant "didn't call or send [him] a condolence card" after his wife's death.

¶ 14 The cases cited by plaintiff are inapposite. Plaintiff relies on cases with business relationships between the parties and on cases where the defendants had more extensive contacts with the forum state than exist in this case. Plaintiff attempts to use defendant's phone calls with her sister when she was alive as a basis for finding that defendant has extensive contact with Illinois. Plaintiff also points out that defendant spoke to her non-party niece, who has no connection to the case but lives in Illinois, for 14 minutes just eight days before the call giving rise to this case. Those matters are not sufficient to demonstrate minimum contacts with Illinois for the asserted wrongful act. See *Russell v. SNFA*, 2013 IL 113909, ¶¶ 40-42. Considering the nature of defendants' alleged conduct, we conclude that it would not be fair, just, and reasonable to require defendant to face this case in Illinois.

¶ 15

CONCLUSION

No. 1-16-2886

¶ 16 Accordingly, we affirm.

¶ 17 Affirmed.