2018 IL App (2d) 170769-U
No. 2-17-0769
Order filed June 28, 2018

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

NICOLE G. McCLANAHAN,	)	Appeal from the Circuit Court
	)	of De Kalb County.
Petitioner-Appellee,	)	
	)	
v.	)	No. 17-OP-145
	)	
JEFFREY L. McCLANAHAN,	)	Honorable
	)	William P. Brady,
Respondent-Appellant.	)	Judge, Presiding.

JUSTICE SCHOSTOK delivered the judgment of the court.
Presiding Justice Hudson and Justice Spence concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's grant of a plenary order of protection was not against the manifest weight of the evidence, as the court was entitled to find that respondent's demeaning comments to petitioner constituted harassment.

¶ 2 Respondent, Jeffrey L. McClanahan, appeals from the judgment of the circuit court of De Kalb County finding that he abused petitioner, Nicole G. McClanahan, and entering a two-year, plenary order of protection. Because the finding of abuse was not against the manifest weight of the evidence, we affirm.

¶ 3 I. BACKGROUND

¶ 4 The *pro se* petition alleged, among other things, that respondent verbally abused petitioner when he "recently started telling [her that she was] a narcissist and [had] psychological issues." The petition sought, among other things, that respondent be barred from engaging in "harassing or abusive communications on Talking Parents." The trial court conducted an evidentiary hearing.

¶ 5 The following facts were established at the hearing. According to petitioner, in early 2010, respondent began verbally abusing her, including threatening to kill her and cursing at her and calling her crazy in front of their two sons. They were divorced in 2012.

¶ 6 Pursuant to the dissolution, petitioner and respondent began communicating via TalkingParents, an online service designed to facilitate constructive conversations between divorced or separated parents regarding their children.[1] According to petitioner, on June 5, 2017, respondent stated on TalkingParents that she was crazy and a liar. He added that she was a "textbook narcissist." He told her that she should get help and that she needed medication. According to petitioner, respondent's June 5 statements did not cause her to file the petition, rather it was the "years and years of emotional abuse." It was only after she filed the petition that petitioner was able to "breathe" and "relax."

[1] We note that the trial court commented that TalkingParents was meant to provide divorced or separated parents a way to communicate with each other regarding their children "without the *** baggage that's left over from the *** marriage." The court added that the focus of TalkingParents is to facilitate discussion about the children and that it was not meant to be used for name-calling or statements about the other spouse's mental health. Respondent does not dispute the court's description of the service's purpose.

¶ 7 Respondent denied that he had ever threatened to kill petitioner, had cursed at her in front of their children, or had an order of protection entered against him. According to respondent, petitioner had abused him, including placing a GPS tracking device on the children during their visits with him and calling the police numerous times to report his behavior. He added that petitioner had an order of protection entered against her, which barred her from calling the police to report his conduct, other than in the event the children were endangered.

¶ 8 In granting the petition, the trial court noted that harassment required proof that respondent had engaged in knowing conduct that was not necessary to accomplish a reasonable purpose under the circumstances, that would cause a reasonable person emotional distress, and that in fact caused petitioner emotional distress. The court found that respondent's comments about petitioner's mental state were not reasonable in the context of the TalkingParents forum and "cause[d] emotional distress not only to [petitioner] but to a reasonable individual." The court found that respondent had abused petitioner and thus entered a two-year, plenary order of protection.

¶ 9 Respondent filed a motion to vacate the order of protection. In denying the motion, the trial court reiterated that it had entered the order only because respondent had used inappropriate language that was entirely inconsistent with the purpose of TalkingParents.

¶ 10 II. ANALYSIS

¶ 11 On appeal, respondent contends that the trial court's finding of abuse was against the manifest weight of the evidence, because there was insufficient evidence that petitioner actually suffered emotional distress as a result of his TalkingParents comments.

¶ 12 In any proceeding to obtain an order of protection under the Illinois Domestic Violence Act of 1986 (Act) (750 ILCS 60/101 *et seq.* (West 2016)), the focus is on whether the petitioner

had been abused. *Sanchez v. Torres*, 2016 IL App (1st) 151189, ¶ 19 (citing *Best v. Best*, 223 Ill. 2d 342, 348 (2006)). Abuse includes harassment. 750 ILCS 60/103(1) (West 2016); *Sanchez*, 2016 IL App (1st) 151189, ¶ 19. Harassment is conduct that is not necessary to accomplish a purpose that is reasonable under the circumstances, would cause a reasonable person emotional distress, and does cause emotional distress to the petitioner. 750 ILCS 60/103(7) (West 2016); *In re Marriage of Young*, 2013 IL App (2d) 121196, ¶ 25. Once the trial court finds that the respondent has abused the petitioner, it must issue an order of protection. 750 ILCS 60/103(12) (West 2016).

¶ 13 The standard of proof for a finding of abuse is a preponderance of the evidence. *Sanchez*, 2016 IL App (1st) 151189, ¶ 20. A reviewing court may reverse a trial court's finding of abuse only where the finding is against the manifest weight of the evidence. *Sanchez*, 2016 IL App (1st) 151189, ¶ 20. A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or if the finding is unreasonable, arbitrary, or not based on the evidence. *Best*, 223 Ill. 2d at 350.

¶ 14 In this case, the evidence showed that respondent's statements were clearly not necessary to accomplish a reasonable purpose under the circumstances. The purpose of TalkingParents was to facilitate constructive discussions between parents regarding their children. However, during the June 5, 2017, conversation on TalkingParents, respondent called petitioner crazy, a liar, and a narcissist who needed help and medication. In light of the purpose of TalkingParents, respondent's derogatory statements to petitioner were clearly not necessary to accomplish a reasonable purpose under the circumstances.

¶ 15 Additionally, respondent's comments would cause a reasonable person emotional distress. Instead of sticking to a constructive conversation about their children, respondent

peppered the June 5 conversation with demeaning and derogatory comments about petitioner's mental health. Although respondent asserts that the trial court based its finding of abuse on the single comment about petitioner being a narcissist, we disagree. The court expressly noted that respondent had also called petitioner crazy, a liar, and in need of medical help. Respondent's comments, particularly in the context of TalkingParents, would cause a reasonable person emotional distress.

¶ 16 Further, the evidence showed that petitioner suffered emotional distress. Although she testified that the TalkingParents comments alone did not cause her to seek an order of protection, it was reasonable to infer that the comments exacerbated respondent's prior conduct and provided the final impetus to seek protection from the abuse. Indeed, she filed her petition on the same day that respondent uttered the comments on TalkingParents. Additionally, petitioner testified that it was only since she had sought the order of protection that she had been able to breathe and relax. The evidence established that respondent's derogatory comments on TalkingParents caused petitioner to suffer emotional distress.[2]

¶ 17 Respondent's reliance on *Wilson v. Jackson*, 312 Ill. App. 3d 1156 (2000), is misplaced. In *Wilson*, the court reversed a finding of abuse that was based upon the respondent's screaming in anger at the petitioner during a dispute about a child. *Wilson*, 312 Ill. App. 3d at 1166. In doing so, the court explained that the Act was not intended to exaggerate every petty argument into a basis for an order of protection. *Wilson*, 312 Ill. App. 3d at 1166. Our case is distinguishable, however, as here we had more than a mere argument. Rather, respondent, in the

[2] Although respondent contends that the trial court never found that petitioner suffered emotional distress, we disagree. The court expressly stated in its ruling that respondent's comments caused petitioner emotional distress.

context of a forum specifically designed to avoid such problems, engaged in a diatribe of offensive comments directed at petitioner. Respondent's conduct clearly eclipsed the petty argument at issue in *Wilson*.

¶ 18 Similarly, *In re Marriage of Healy*, 263 Ill. App. 3d 596 (1994), does not support respondent. In *Healy*, the court reversed a finding of harassment that was predicated on the respondent's verbally abusing the petitioner. *Healy*, 263 Ill. App. 3d at 600. It did so because there was no evidence that the respondent knowingly harassed the petitioner or that his alleged conduct would have caused a reasonable person to suffer emotional distress. *Healy*, 263 Ill. App. 3d at 600. Here, there was ample evidence that respondent knowingly harassed petitioner when he made the gratuitous and derogatory comments on a forum reserved for constructive discussions about their children. Further, as discussed, those comments were likely to cause a reasonable person emotional distress. Thus, *Healy* is distinguishable from this case.

¶ 19 Because the finding of abuse was not clearly contrary to the evidence, unreasonable, or arbitrary, it was not against the manifest weight of the evidence. Thus, the trial court properly entered the order of protection.

¶ 20 III. CONCLUSION

¶ 21 For the reasons stated, we affirm the judgment of the circuit court of De Kalb County.

¶ 22 Affirmed.