STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED February 17, 2004
v	No. 243420 Livingston Circuit Court
STANLEY RUSSELL STEINKE, Defendant-Appellant.	LC No. 98-010657-NH

Before: Cooper, P.J., and O'Connell and Fort Hood, JJ.

PER CURIAM.

Defendant appeals as of right his conviction following a jury trial of aggravated stalking, MCL 750.411i. The trial court sentenced defendant as a second habitual offender, MCL 769.10, to a term of 3 to 7½ years' imprisonment. We affirm.

Defendant challenges the sufficiency of the evidence to support his conviction. When reviewing a claim regarding the sufficiency of the evidence, this Court examines the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 amended 441 Mich 1201 (1992).

Aggravated stalking consists of the crime of "stalking," MCL 750.411h, and the presence of aggravating circumstances specified in MCL 750.411i(2). "Stalking" is defined as "a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested." MCL 750.411i(1)(e). "Harassment" means conduct that includes, but is not limited to, "repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress." MCL 750.411i(1)(d). In this case, it was argued that defendant was guilty of aggravated stalking because he engaged in stalking under the circumstances set forth in MCL 750.411i(2)(a), which require that at least one of the actions constituting the offense be in violation of a restraining order of which the defendant had actual notice.

Defendant contends that there was no "harassment" of the complainant because the contact was neither willful nor unconsented. Defendant argues that he did not intentionally seek

out the complainant for the purpose of harassing her at the local bars. He simply was a regular customer continuing his past practice. We disagree that defendant's conduct failed to rise to the level of harassment. Defendant followed the complainant around the bars while inside and then waited for her to leave and followed her by car. While doing so, defendant shouted threatening statements out the window of his vehicle. Further, defendant left several cryptic but intimidating messages on the complainant's answering machine. From this evidence, the jury could conclude that defendant engaged in a willful course of conduct involving repeated harassment of the complainant.

Next, defendant argues that his contact with the complainant did not cause emotional distress. Again, we disagree. The complainant testified that she was frightened and intimidated by defendant's contact. She did not sleep well and was afraid to go to places by herself. Further, two police officers testified that she was nervous, concerned and upset.

Defendant's final argument is directly related to the "aggravated" element of the crime. Defendant contends that all of the alleged contacts were made before he was properly served with the PPO; therefore, defendant reasons, he could not be found guilty of aggravated stalking. Whether defendant was properly served with the PPO is inconsequential because he had actual notice of the PPO prior to committing the conduct that was in violation of that PPO. Aggravated stalking is defined as stalking, which occurs in violation of a restraining order of which the individual has received actual notice. For purposes of the aggravated stalking statutes, actual notice does not equate to service. *People v Threatt*, 254 Mich App 504, 506-507; 657 NW2d 819 (2002).

Viewed in the light most favorable to the prosecution, the evidence was sufficient for the trier of fact to conclude that defendant had actual notice of the PPO and its contents on June 3, 1998. *Wolfe, supra*. The complainant testified that defendant was at the June 3, 1998 hearing in which the PPO was granted. The court explained to defendant the provisions and prohibitions of the PPO and then handed defendant a copy of the PPO. Based on these events, the evidence was sufficient to establish that defendant had actual notice of the PPO on June 3, 1998. The conduct at issue occurred after this date. Therefore, when viewed in the light most favorable to the prosecution, the evidence was more than sufficient to support defendant's conviction of aggravated stalking. *Id*.

Affirmed.

/s/ Jessica R. Cooper
/s/ Peter D. O'Connell
/s/ Karen M. Fort Hood