

STATE OF OHIO)
)ss:
COUNTY OF MEDINA)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

MICHELLE R. SANTEE

C. A. No. 05CA0093-M

Appellee

v.

MICHAEL MANSELL

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF MEDINA, OHIO
CASE No. 05DV0185

Appellant

DECISION AND JOURNAL ENTRY

Dated: June 14, 2006

This cause was heard upon the record in the trial court. Each error assigned has been reviewed and the following disposition is made:

SLABY, Presiding Judge.

{¶1} Appellant, Michael Mansell, appeals the decision of the Medina County Court of Common Pleas, Domestic Relations Division, granting Appellee, Michelle Santee, a civil protection order. We affirm.

{¶2} Appellee filed a petition for a domestic violence civil protection order on August 22, 2005. The trial court granted Appellee an ex-parte civil protection order on that same day. A full hearing was held on September 1, 2005. Following the hearing, the trial court granted Appellee a civil protection order. Appellant now appeals, asserting a sole assignment of error for our review.

ASSIGNMENT OF ERROR

“The judgment of the trial court is against the manifest weight of the evidence.”

{¶3} In his only assignment of error, Appellant argues that the trial court’s decision to grant the protective order was against the manifest weight of the evidence. This Court finds that Appellant’s assignment of error lacks merit.

{¶4} Following a full hearing, the magistrate found that Appellant made “harassing phone calls up to 20 times per day to Appellee,” and that he “has shown up at [Appellee’s] residence unannounced.” Further, the magistrate stated that “[Appellant’s] inability to stay away from her has frightened [Appellee]; [and] that [he] has discovered her phone number after it’s been changed at least three times.” Appellant did not object to the magistrate’s findings of fact. The trial court subsequently adopted the magistrate’s decision, and issued a civil protective order against Appellee.

{¶5} Civ.R. 53(E)(3)(a) provides in part as follows: “A party may file written objections to a magistrate’s decision within fourteen days of the filing of the decision, regardless of whether the court has adopted the decision pursuant to Civ.R. 53(E)(4)(c).” Additionally, Civ.R. 53(E)(3)(d) states: “A party shall not assign as error on appeal the court’s adoption of any finding of fact or conclusion of law unless the party has objected to that finding or conclusion under this rule.”

{¶6} Appellant failed to object to the magistrate’s findings of fact which were attached and incorporated into the magistrate’s decision. Consequently, Appellant has waived any error in the trial court’s adoption of the magistrate’s

decision by failing to object to the magistrate's findings. Civ.R. 53(E)(3)(d). Appellant's assignment of error is, therefore, overruled.

{¶7} Appellant's assignment of error is overruled and the judgment of the Medina County Court of Common Pleas, Domestic Relations Division, is affirmed.

Judgment affirmed.

The Court finds that there were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Medina, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

LYNN C. SLABY
FOR THE COURT

WHITMORE, J.
BOYLE, J.
CONCUR

APPEARANCES:

JENNIFER L. HENSAL and ALICIA M. HATHCOCK, Attorneys at Law, 39 Public Square, Suite 201, P. O. Box 220, Medina, Ohio 44256, for Appellant.

MICHELLE R. SANTEE, pro se, 957 N. Huntington Street, #4, Medina, Ohio 44256, Appellee.