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EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 3/26/2013
RUTH A. WILLINGHAM,
CLERK
BY: mjt

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

TRUMAN SEILER, IV,) No. 1 CA-CV 12-0412
)
Plaintiff/Appellee,) DEPARTMENT C
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
NATALIE PINKERTON,) Rule 28, Arizona Rules of
) Civil Appellate Procedure)
Defendant/Appellant.)
)
)
)

Appeal from the Superior Court in Maricopa County

Cause No. CV2012-051423

The Honorable John R. Doody, Judge

AFFIRMED

Truman J. Seiler IV Phoenix
Plaintiff/Appellee *In Propria Persona*

Natalie Pinkerton Phoenix
Defendant/Appellant *In Propria Persona*

J O H N S E N, Judge

¶1 Natalie Pinkerton appeals the superior court's order continuing an Injunction Against Harassment issued in favor of Truman Seiler, IV. We affirm the superior court's order.

FACTS AND PROCEDURAL BACKGROUND

¶2 Seiler, Pinkerton's former son-in-law, petitioned the court for an Injunction Against Harassment directed at Pinkerton in February 2012.¹ Seiler alleged in his petition that Pinkerton sent "unwanted and annoying" emails and texts to him, stalked him at his home, school and place of work, threatened to take his son away, and became violent and combative with him over the phone. Seiler asserted in his petition that he felt seriously alarmed, annoyed, harassed, stalked and controlled, and that he had "repeatedly requested that there be no contact from [Pinkerton] and her controlling [sic] behaviors." The court granted the injunction the same day Seiler filed his petition and it was served on Pinkerton on April 6, 2012. The injunction prohibited Pinkerton from committing any act of "harassment" against Seiler, contacting Seiler except through counsel or appropriate legal channels, and going near Seiler's residence or school.

¶3 Pinkerton sought a hearing, arguing Seiler's accusations were false. Based upon evidence offered at the hearing, the court found Seiler had met his burden of proof and that sufficient evidence existed to continue the injunction, and ordered it to remain in effect.

¹ The record indicates that Seiler filed an original petition for Injunction Against Harassment and then two amended petitions. We consider only the second amended petition.

¶14 Pinkerton timely appealed the court's order. We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1) (West 2013) and -2101(A)(5)(b) (West 2013).²

DISCUSSION

A. Continuance of the Injunction.

¶15 We review a superior court's decision to grant or deny an injunction for an abuse of discretion. *LaFaro v. Cahill*, 203 Ariz. 482, 485, ¶ 10, 56 P.3d 56, 59 (App. 2002). "A court abuses its discretion when it commits an error of law in the process of reaching a discretionary conclusion or when the record, viewed in the light most favorable to upholding the trial court's decision, is devoid of competent evidence to support the decision." *Mahar v. Acuna*, 230 Ariz. 530, ___, ¶ 14, 287 P.3d 824, 828 (App. 2012) (quotation omitted).

¶16 Pinkerton argues the superior court erred in continuing the injunction because Seiler did not present "any documented proof" of many of the instances of alleged harassment described in the petition. Pinkerton specifically notes that there "are no police reports or other documentation of the multiple accusations on this Injunction," and that "[w]ith such

² Absent material revisions after the relevant date, we cite a statute's current version.

serious charges and accusations on this injunction there should be proof presented and the burden was on the Plaintiff."

¶7 Pinkerton points to nothing in the record, however, to show how the court erred in continuing the injunction. In the minute entry the court issued after the hearing, the court stated that based on testimony from Seiler and Pinkerton, it found that Seiler had presented sufficient evidence to continue the injunction. Moreover, a transcript of the hearing was not included in the record on appeal. "It is the appellant's burden to ensure that the record on appeal contains all transcripts or other documents necessary for us to consider the issues raised. And, in the absence of a transcript, we presume the evidence and arguments presented at the hearing support the trial court's ruling." *Blair v. Burgener*, 226 Ariz. 213, 217, ¶ 9, 245 P.3d 898, 902 (App. 2010) (quotation omitted). Because the record contains no evidence to support Pinkerton's assertion that the superior court's decision is based on insufficient evidence, we cannot hold that the court abused its discretion in continuing the injunction.

B. Seiler's Request.

¶8 Seiler argues in his answering brief that the superior court should have expanded the injunction to "limit [Pinkerton]'s ability to access, own and possess firearms and ammunition" and limit her unsupervised visits and interactions

with Seiler's son. We may not consider these arguments, however, because Seiler did not file a cross-appeal from the superior court's order. Arizona Rule of Civil Appellate Procedure 13(b)(3) allows an appellate court to "direct that the judgment be modified to enlarge the rights of the appellee or to lessen the rights of the appellant only if the appellee has cross-appealed seeking such relief." This rule applies to Seiler's contention that the court should have broadened the injunction. See *A M Leasing Ltd. v. Baker*, 163 Ariz. 194, 195-96, 786 P.2d 1045, 1046-47 (App. 1989) (argument on appeal that amount of compensation awarded by superior court should be increased may not be considered in absence of a cross-appeal).

CONCLUSION

¶19 For the foregoing reasons, we affirm the superior court's continuance of the injunction.

_____/s/_____
DIANE M. JOHNSEN, Judge

CONCURRING:

_____/s/_____
SAMUEL A. THUMMA, Presiding Judge

_____/s/_____
MICHAEL J. BROWN, Judge