

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

---

W. JAMES HARTFIELD,  
*Plaintiff/Appellant,*

*v.*

DIANA KEMP,  
*Defendant/Appellee.*

No. 2 CA-CV 2021-0136  
Filed June 14, 2022

---

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
NOT FOR PUBLICATION  
*See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).*

---

Appeal from the Superior Court in Pinal County  
No. S1100PO202100422  
The Honorable Karen F. Palmer, Judge Pro Tempore

**AFFIRMED**

---

COUNSEL

Gregan Law Office P.C., Apache Junction  
By Maureen E. Gregan  
*Counsel for Plaintiff/Appellant*

Law Offices of Christopher L. Scileppi, Tucson  
By Christopher L. Scileppi  
*Counsel for Defendant/Appellee*

**MEMORANDUM DECISION**

Judge Espinosa authored the decision of the Court, in which Presiding Judge Eckerstrom and Chief Judge Vásquez concurred.

---

ESPINOSA, Judge:

¶1 W. James Hartfield appeals from the trial court’s denial of an order of protection he sought against his sister Diana Kemp. For the following reasons, we affirm.

**Factual and Procedural Background**

¶2 We view the evidence in the light most favorable to upholding the trial court’s ruling. *Mahar v. Acuna*, 230 Ariz. 530, ¶ 2 (App. 2012). In August 2021, Hartfield sought an order of protection against Kemp, alleging she had harassed him, primarily by filing numerous false reports with law enforcement. At a pre-issuance hearing on Hartfield’s petition, both parties appeared pro se and provided evidence. Hartfield specifically alleged that Kemp had: knowingly made a false report to law enforcement that he possessed firearms in violation of an order of protection she previously had obtained against him in October 2020; reported to police that Hartfield may have damaged a for-sale sign at their mother’s church; removed Hartfield’s license plates and attempted to tow his damaged vehicle, which was parked in front of the church where Hartfield was a pastor;<sup>1</sup> argued with a deacon at that church; argued with Hartfield and threatened to call the police, causing Hartfield to preemptively call the police; attempted to collect rent on behalf of their family business when it was ordinarily Hartfield’s responsibility; called the Casa Grande Police Department to conduct a welfare check on their mother; and sued Hartfield for allegedly defrauding their mother.

¶3 The trial court denied Hartfield’s petition for an order of protection, finding that “[t]hough a domestic relationship exists between the parties . . . the Court cannot find by a preponderance of the evidence that [Kemp] committed an act of domestic violence against” Hartfield.

---

<sup>1</sup>Hartfield’s mother was the secondary owner of the vehicle in question, and Kemp has power of attorney for their mother. Ultimately, the vehicle was not towed and Hartfield recovered his license plates shortly after they were removed.

HARTFIELD v. KEMP  
Decision of the Court

Hartfield appealed, and we have jurisdiction pursuant to A.R.S. §§ 12-2101(A)(5)(b), and 12-120.21(A)(1).

**Report Regarding Firearms Restrictions**

¶4 Hartfield first contends the trial court “abused its discretion . . . by finding that [Kemp] lacked knowledge of the terms of [her order of protection against Hartfield] when she made the false charge to the police that [Hartfield’s] gun-rights were restricted.” We review a trial court’s ruling on an order of protection for an abuse of discretion. *See Savord v. Morton*, 235 Ariz. 256, ¶ 10 (App. 2014). A court abuses its discretion when the record, viewed in the light most favorable to upholding the ruling, is devoid of competent evidence to support the decision. *Mahar*, 230 Ariz. 530, ¶ 14. If there is substantial evidence to support the court’s decision, we will not substitute our judgment for that of the trial court. *Wood v. Abril*, 244 Ariz. 436, ¶ 6 (App. 2018).

¶5 A court shall issue an order of protection if the plaintiff establishes reasonable cause to believe that the defendant “has committed an act of domestic violence within the past year or within a longer period of time if the court finds that good cause exists to consider a longer period.” A.R.S. § 13-3602(E)(2). Harassment constitutes an act of domestic violence if, as here, the plaintiff and defendant are siblings. *See* A.R.S. §§ 13-2921, 13-3601(A)(4). “A person commits harassment if, with intent to harass or with knowledge that the person is harassing another person, the person . . . [r]epeatedly commits an act or acts that harass another person . . . [or] [o]n more than one occasion makes a false report to a law enforcement . . . agency.” § 13-2921(A)(3), (5). Harassment is “conduct that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person.” § 13-2921(E).

¶6 Hartfield maintains Kemp harassed him by knowingly making a false report to law enforcement that he possessed firearms in violation of her order of protection against him.<sup>2</sup> Hartfield asserts Kemp had the requisite knowledge because “the record clearly establishes that [she] knew about [his] right to possess firearms as of [October 2020], which

---

<sup>2</sup>Hartfield also argues Kemp “should have known” that he could lawfully possess firearms when she made the report. Even if true, this would be immaterial as § 13-2921(A)(5) requires intent, actual knowledge, or belief of the report’s falsity. *See* A.R.S. § 13-105(10)(b) (defining the culpable mental state “[k]nowingly” as when “a person is aware or believes that the person’s conduct is of that nature or that the circumstance exists”).

HARTFIELD v. KEMP  
Decision of the Court

is when she was present at the [Casa Grande] Justice Court and personally received the order” which did not restrict Hartfield’s gun rights. The evidence Hartfield relies upon, however, at most shows Kemp could have inferred that her brother could possess firearms, or that she had the opportunity to gain such knowledge, but it does not establish that Kemp actually knew Hartfield could possess firearms. Regardless, while some evidence supports Hartfield’s claim, there was also substantial conflicting evidence suggesting there was confusion as to Hartfield’s ability to lawfully possess firearms when Kemp made the police report. At that time, Hartfield was apparently uncertain himself. He filed a “motion for clarification” the next day, specifically requesting that the court “put to rest the confusion,” – and attempted to turn over his guns to police. Hartfield was not the only person who apparently needed clarification, given that a police database also reflected at that time that Hartfield was not legally permitted to possess firearms. As such, we cannot say the court abused its discretion when it found “this was not false reporting nor harassment” because substantial evidence supports the court’s findings.<sup>3</sup>

**Scope of Harassment Findings**

¶7 Hartfield next contends the trial court “abused its discretion when it improperly limited the scope of its analysis to only false reports pursuant to A.R.S. § 13-2921(A)(5) and failed to consider the evidence in relation to A.R.S. § 13-2921(A)(3), which established [Kemp]’s numerous acts of harassment.” This claim is not supported by the record.

¶8 As Kemp points out, the trial court concluded its analysis of each separate allegation by stating that “this was not false reporting nor harassment under another subsection of A.R.S. § 13-2921.” Thus, contrary to Hartfield’s assertion, the court expressly considered whether Kemp’s alleged conduct satisfied the elements of harassment pursuant to § 13-2921(A)(3), but it found that Hartfield had not carried his burden after weighing the evidence and assessing the witnesses’ credibility.<sup>4</sup> *See John C.*

---

<sup>3</sup>Moreover, even if Hartfield established his sister knew his gun rights were not impaired at that time, that alone would be insufficient for a finding of harassment under § 13-2921(A)(5), because that subsection requires multiple knowingly false reports to law enforcement. Thus, even were we to agree the trial court abused its discretion with respect to that allegation, Hartfield would be required to show that Kemp made at least one other knowingly false report to law enforcement, which he has not done. *See* § 13-2921(A)(5).

<sup>4</sup>For example, although Hartfield testified that Kemp had unnecessarily requested a police welfare check on their mother, saying

HARTFIELD v. KEMP  
Decision of the Court

*Lincoln Hosp. & Health Corp. v. Maricopa County*, 208 Ariz. 532, ¶ 23 (App. 2004) (“We defer to the trial court with respect to any factual findings and assume that the trial court found every fact necessary to sustain the judgment.”). We do not reweigh the evidence or reassess credibility on appeal. *See Williams v. King*, 248 Ariz. 311, ¶ 26 (App. 2020). Deferring to the trial court as the trier of fact, we conclude the record contains substantial evidence supporting the court’s findings and, consequently, Hartfield has not established the court abused its discretion. *See id.*

**Attorney Fees**

¶9 Both parties request attorney fees on appeal pursuant to A.R.S. § 13-3602(T) and Rule 39, Ariz. R. Protective Order P. Because Hartfield’s contentions on appeal were without legal merit and we do not foresee a fee award in this case deterring others from making valid claims, in our discretion we grant Kemp’s request for reasonable attorney fees on appeal upon compliance with Rule 21, Ariz. R. Civ. App. P. *See* Ariz. R. Protective Order P. 39(b)(1); *see also* Ariz. R. Civ. App. P. 25.

**Disposition**

¶10 For the foregoing reasons, the trial court’s denial of Hartfield’s petition for an order of protection against Kemp is affirmed.

---

Hartfield was “not doing right by mom,” Kemp testified their mother asked her to call the police when Kemp could hear over the telephone that Hartfield “was cussing [their mother] out, just hollering and screaming to the top of his voice.” In another instance, Hartfield testified that Kemp improperly attempted to collect rent owed to their family business. Kemp, however, testified she was not collecting rent, but rather had seen Hartfield’s girlfriend attempting to do so, and told her “you know you don’t supposed to be collecting rent. Only [Hartfield] is the one that collects rent.”