

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

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RHONDA EL MURIB,  
*Plaintiff/Appellant,*

*v.*

ISAIAH PHILLIP CAMACHO,  
*Defendant/Appellee.*

No. 2 CA-CV 2022-0038  
Filed October 27, 2022

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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NOT FOR PUBLICATION  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).*

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Appeal from the Superior Court in Pima County  
No. C20220381  
The Honorable Gilbert Rosales Jr., Judge Pro Tempore

**AFFIRMED**

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COUNSEL

Tucson Defenders, Tucson  
By Arianna Danielle Price  
*Counsel for Plaintiff/Appellant*

The Next Chapter Family Law Center, Tucson  
By Richard M. Wintory  
*Counsel for Defendant/Appellee*

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**MEMORANDUM DECISION**

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

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V Á S Q U E Z, Chief Judge:

¶1 Rhonda El Murib appeals from the trial court’s order quashing her injunction against harassment against Isaiah Camacho. She argues the court erred by misinterpreting the requirements for continuing an injunction against harassment, failing to consider certain evidence, and denying her “the opportunity to be heard, to present evidence, and to call and examine and cross-examine witnesses.” We affirm.

**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 January 2022, El Murib filed a petition for an injunction against harassment against Camacho, listing the following allegations: (1) in June 2010, Camacho, who she had not met before, had sexually assaulted her, and as a condition of his release pending trial, he was ordered to wear an ankle monitor that was programmed to include El Murib’s home and work addresses as prohibited places;<sup>1</sup> (2) on December 6, 2021, Camacho had shown up at her sister’s workplace without a valid reason, causing her sister to be “so fearful” and putting her “on the verge of a panic attack”; (3) on December 14, 2021, Camacho had been seen at her place of work “with the intention to intimidate” her “because [she is] a victim” in his case; and (4) in January 2022, Camacho had been seen “by [her] residence.” After an ex parte hearing, the court granted El Murib’s request, finding “there is a factual and legal basis for the issuance of an Injunction Against Harassment,” but not specifying which of the allegations formed the basis

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<sup>1</sup>Camacho’s release conditions apparently required him to stay away from all victims, their residences, and their places of employment.

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for that finding.<sup>2</sup> Camacho requested a hearing and that the injunction be quashed.

¶3 At the outset of the contested hearing, the trial court reviewed the allegations in El Murib’s petition and stated it was “not dealing with” the 2010 sexual-assault incident because it had not occurred within the previous year. It also rejected the second allegation relating to El Murib’s sister as irrelevant.

¶4 As to the third alleged incident, El Murib testified that in December 2021, one of her friends had sent her a photograph of Camacho outside her workplace, but she had not been there at the time. She explained that Camacho had previously been prohibited from going to El Murib’s residence and workplace. The court asked El Murib whether Camacho had “harassed [her] in any way that [she was] an eyewitness to” within the past year, and El Murib responded that Camacho had recently released a song she believed was about her, but which did not name her. At the conclusion of the hearing, the court found “insufficient evidence to uphold the injunction against harassment” and quashed it. This appeal followed, and we have jurisdiction pursuant to A.R.S. §§ 12-120.01(A)(1) and 12-2101(A)(5)(b).

**Discussion**

¶5 We review orders quashing injunctions for a clear abuse of discretion. *See LeFaro v. Cahill*, 203 Ariz. 482, ¶ 10 (App. 2002). The trial court must issue an injunction against harassment without notice to the defendant when it “finds reasonable evidence of harassment of the plaintiff by the defendant during the year preceding the filing of the petition or that good cause exists to believe that great or irreparable harm would result to the plaintiff” in the absence of an injunction. A.R.S. § 12-1809(E). When, as here, a defendant challenges the injunction at a contested hearing, the court may continue the injunction if the plaintiff proves a basis for the order by a preponderance of the evidence. Ariz. R. Protective Order P. 38(g). Harassment is “[a] series of acts over any period of time that are directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed, or harassed, and the conduct in fact alarms, annoys, or harasses the person and serves no legitimate purpose.” § 12-1809(T)(1)(a).

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<sup>2</sup>Although El Murib’s petition listed three other people who “should also be on th[e] order” as protected persons, they were not included.

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**Limitation of Evidence**

¶6 El Murib argues the trial court erred by limiting her allegations and evidence at the contested hearing to harassment that had occurred within the year preceding the filing of her petition and “failed to consider the relevant evidence of the 2010 sexual assault.” As an initial matter, as noted above, the court issued an ex parte injunction based on El Murib’s petition, but it did not indicate which of the four allegations it based its decision on. At the contested hearing, although the court stated it was “not dealing with that first allegation” because the 2010 incident had not occurred within the previous year, the court did not wholly preclude evidence relating to it. Indeed, El Murib testified that her first encounter with Camacho had occurred when she “was sexually assaulted by him the summer of 2010.” And the court noted the 2010 sexual assault provided “some context” about Camacho. Thus, El Murib’s argument that the court failed to consider evidence of the assault is not supported by the record.

¶7 El Murib nevertheless contends that the trial court had “no appropriate reason” to exclude evidence of the 2010 sexual assault. We disagree. Section 12-1809(E) plainly limits injunctions against harassment to “harassment of the plaintiff by the defendant during the year preceding the filing of the petition.” *See also* Ariz. R. Protective Order P. 25 (court must issue injunction against harassment if defendant “has committed a series of acts of harassment . . . against the plaintiff during the year preceding the filing”). Because the 2010 incident did not occur within the preceding year of El Murib’s 2022 petition, the court did not err in excluding that allegation as a basis for continuing the injunction.

¶8 El Murib quotes § 12-1809(E) and Rule 25(e), Ariz. R. Protective Order P., to argue that the trial court is permitted “to consider evidence of harassment outside of the year preceding the filing of an injunction against harassment.” In addition to providing for an injunction when the defendant has harassed the plaintiff in the preceding year, those authorities permit an injunction if “good cause exists to believe that great or irreparable harm would result to the plaintiff if the injunction is not granted before the defendant or the defendant’s attorney can be heard in opposition.” § 12-1809(E); Ariz. R. Protective Order P. 25(e). But that language applies to the initial ex parte granting of an injunction. It is inapplicable to a later contested hearing, where, by rule, the defendant will be heard in opposition.<sup>3</sup> *See* Ariz. R. Protective Order P. 38(g)(1) (“If both

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<sup>3</sup>In addition to providing a basis for a trial court’s initial ex parte finding of harassment, evidence of harassment that occurred beyond the

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parties appear and a contested hearing is conducted, . . . [t]he judicial officer must ensure that both parties have an opportunity to be heard . . .”). The court did not abuse its discretion by limiting its consideration at the contested hearing to the December 2021 and January 2022 allegations. *See LeFaro*, 203 Ariz. 482, ¶ 10.

**Due Process**

¶9 El Murib also contends the trial court failed to ensure she “had the opportunity to be heard, to present evidence, and to call and examine and cross-examine witnesses” as required by Rule 38(g)(1), Ariz. R. Protective Order P. She argues the court interrupted her counsel “several times” while he was presenting evidence. El Murib has not cited any particular portion of the record where the court interrupted counsel but instead asserts generally that the court “continuously interrupted” as she and counsel “were working towards introducing and building upon evidence to meet their burden of proof.” Our rules require an argument to contain “appropriate references to the portions of the record on which the appellant relies,” Ariz. R. Civ. App. P. 13(a)(7)(A), and failure to comply can constitute waiver of the claim, *Ramos v. Nichols*, 252 Ariz. 519, ¶ 8 (App. 2022). But we prefer resolving appeals on their merits. *See Adams v. Valley Nat’l Bank of Ariz.*, 139 Ariz. 340, 342-43 (App. 1984). And in reviewing the entire transcript of the contested hearing, we are satisfied that the court did not deny El Murib the opportunity to be heard or present evidence. Instead, any interruptions by the court appear to have been aimed at focusing El Murib’s testimony on the issues the court was concerned about and assisting counsel in directing the court to relevant evidence.

¶10 El Murib also argues the trial court did not provide adequate time for her to present her exhibits. Trial courts have broad discretion over the management of their dockets. *Findlay v. Lewis*, 172 Ariz. 343, 346 (1992). They may impose time limits so long as they are reasonable, and we review them for an abuse of discretion. *Brown v. U.S. Fid. & Guar. Co.*, 194 Ariz. 85, ¶¶ 29-30 (App. 1998). To prevail on appeal, El Murib must show that she was harmed by the court’s time limitations. *Id.* ¶ 30. El Murib has not made such a showing.

¶11 Notably, although El Murib discussed several exhibits and had the opportunity to seek their admission, she moved only to admit one

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year preceding the filing may inform the court’s determination as to other allegations of harassment that occurred within the year preceding. This is precisely how the court considered the evidence in this case.

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exhibit at the hearing, and her motion was granted. Even assuming she had been given more time to present her case, based on her testimony and the exhibits, which she submitted to the court before the hearing but which were not ultimately admitted, the outcome would have been the same, as they did not establish that Camacho had harassed her within the preceding year. El Murib's exhibits included a photograph of Camacho on a sidewalk outside one of the restaurants where El Murib worked and two declarations—one of which was admitted—stating that in December 2021, someone had taken the photograph and sent it to El Murib's friend, who sent it to her. Her exhibits also included a copy of Camacho's indictment for the 2010 sexual assault, a December 2021 minute entry from Camacho's criminal case revoking his release conditions and ordering him into custody, a February 2022 minute entry from Camacho's criminal case modifying his release to house arrest, photographs of Camacho from January 2022 walking on a non-residential public street "near [El] Murib's home," and screenshots of a music video showing lyrics by the artist "Toothtaker" which El Murib testified was Camacho's song that she believed was about her but which did not mention her name.<sup>4</sup>

¶12 El Murib testified she had not been at work when Camacho walked by but that she had "been notified more than once of him being outside" her work. El Murib arguably implied she had been alarmed by Camacho's presence near her work when she testified that she had told her coworkers "to be on the lookout and to be careful and be safe that day," but she had not been there at the time, so any harassment from Camacho's presence was not directed at her. *See LeFaro*, 203 Ariz. 482, ¶ 13 & n.3 (defendant used derogatory terms to describe plaintiff in conversation with third party but could not constitute harassment because under circumstances, act was not "directed at" plaintiff). And when asked, El Murib testified that she had had no direct or "eyewitness" experience of Camacho's harassment within the past year. On this record, we cannot say El Murib was harmed by the court's imposition of time limits at the hearing.<sup>5</sup> *See Brown*, 194 Ariz. 85, ¶ 30.

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<sup>4</sup>The screenshots included the lyrics, "false witness and false claims," "everybody dies just some of 'em are killed," "it's kill or be killers," "they can take it all for granted taking pictures with your cameras," and "go record my presence."

<sup>5</sup>For the first time in her reply brief, El Murib argues, "The trial court could have continued the hearing to allow for a fair trial, however it did not." We deem this argument waived. *See Romero v. Sw. Ambulance*, 211

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**Attorney Fees on Appeal**

¶13 El Murib requests an award of attorney fees and costs on appeal pursuant to A.R.S. §§ 12-341, 12-341.01, and Rule 21, Ariz. R. Civ. App. P. Camacho requests an award of attorney fees pursuant to § 12-341 and Rule 21. Section 12-341.01, which allows the court to award attorney fees to the successful party in any contested action arising out of contract, is inapplicable here. Section 12-341 allows the “successful party to a civil action” to recover costs, but does not provide a basis for attorney fees. Rule 21 “only establishes the procedure” for claiming attorney fees on appeal but “does not create any substantive right to them.” Accordingly, we deny both requests for attorney fees, but as the successful party, Camacho is entitled to his costs upon his compliance with Rule 21. *See* A.R.S. § 12-341.

**Disposition**

¶14 The trial court’s order quashing El Murib’s injunction against harassment is affirmed.

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Ariz. 200, n.3 (App. 2005). Notwithstanding waiver, when informed about the court’s time limit, El Murib did not request a continuance or otherwise indicate that she had additional evidence for the court to consider.