RENDERED: AUGUST 14, 2015; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2014-CA-000692-MR

RICHARD KETRON, INDIVIDUALLY;
SHANNON KETRON, INDIVIDUALLY;
AND RICHARD AND SHANNON
KETRON, AS PARENTS OF MITCHELL
AND MADELINE, MINOR CHILDREN — APPELLANTS

v.

APPEAL FROM BOONE CIRCUIT COURT
HONORABLE JAMES R. SCHRAND, II, JUDGE
ACTION NO. 13-CI-01364

CHRIS BURTON AND
SARAH BURTON — APPELLEES

OPINION
AFFIRMING

** ** ** ** **

BEFORE: ACREE, CHIEF JUDGE; D. LAMBERT AND MAZE, JUDGES.

ACREE, CHIEF JUDGE: We must determine if the Boone Circuit Court erroneously exercised jurisdiction over a non-resident. Finding no error, we affirm.

Appellants Richard and Shannon Ketron and Appellees Chris and Sarah Burton share a relatively long history of mutual distrust and dislike. This was not always so. They began as friendly neighbors, willing to help one another and often attending social events together. But that relationship soon disintegrated. What emerged is disappointing: adults devoted to harassing, terrorizing, and annoying one another. The record reveals a pattern of petty, juvenile games and conduct unbecoming role models for the children in the middle of this feud. While there is blame enough to go around, that is not our function here; we must decide the legal issue presented.

As framed by the parties, the issue is whether the circuit court improperly exercised jurisdiction over Perfect North Slopes, a ski resort located in Indiana. The allegation of impropriety presumes the court, in fact, exercised its jurisdiction. As our discussion of the circumstances of this case reveal, the court did not exercise, nor did it attempt to exercise, jurisdiction of Perfect North Slopes.

At the trial level, the parties mutually alleged extreme, outrageous, and harassing conduct in a complaint and counterclaim, each requesting injunctive relief. We need not discuss in detail the character of those allegations. Suffice it to say each party accused the other of stalking, harassment, trespassing, threats of harm, and abusive, offensive, obscene, and profane language and conduct. Substantial police involvement is documented in the record. One veteran law-enforcement officer commented he had not seen a neighbor dispute of this magnitude in all his years of policing.

On August 13, 2013, the circuit court entered a temporary mutual restraining order compelling the parties to remain 500 feet apart, to have no physical or verbal contact with one another, to avoid trespassing on the property of the other, to refrain from taking photographs of one another, and to bring an end to obscene, offensive, and abusive gestures. However, both parties had reason to frequent Perfect North Slopes. Consequently, the order specifically stated that the parties may:

> be present at Perfect North Slopes and shall not be required to leave that public venue while the other party is present. However, neither party shall ski or remain in the same area as the other party. Furthermore, the parties shall make every effort to remain away from each other while visiting Perfect North Slopes and shall not violate any other provision of this Order while both are present at that public venue.

(R. at 76).

In military terms, both parties claim Perfect North Slopes as their theater of operations; the circuit court intended that it be a demilitarized zone. And yet this appeal indicates that it remains a battlefield.

Soon after the order was entered, the Ketrons filed a motion for contempt, claiming Sarah Burton had violated the restraining order. A hearing was held and the circuit court heard testimony from the parties and other witnesses. That motion was ultimately continued to an indeterminate date.

In the meantime, the Burtons sold their home and relocated to Walton, Kentucky. Rather than ending the conflict, this merely focused attention on

Perfect North Slopes. A second motion for contempt was filed, which came on for a hearing in January 2014. The circuit court denied the motion, but ordered the parties to negotiate a limited mutual restraining order and, if unable to do so, to submit acceptable language for the court's consideration. The parties complied.

On February 11, 2014, the circuit court entered a Mutual Restraining Order compelling the parties to remain 500 feet apart, but permitted the parties to simultaneously patronize public places and included the following provision:

> Neither party shall visit or appear at the other party's place of employment or the [Ketrons'] minor children's schools, school functions and school events as well as extracurricular activities, with the exception of Perfect North Slopes.

(R. at 192).

The Burtons filed a motion to re-consider the restraining order, claiming an internal inconsistency. The circuit court denied the Burtons' motion, stating "[a]lthough Provision 2 does contain the 500 foot restriction, Provision 3 specifically excepts Perfect North Slopes, and Provision 4 specifically allows the parties to remain in a public place together[.]" (R. at 230-31). Somewhat surprisingly, the Ketrons – not the Burtons whose motion was denied – brought this appeal.

The Ketrons' argument presumes that, by its order, the circuit court exercised jurisdiction over Perfect North Slopes and that it lacked authority to do so. As noted, the court did not subject, nor did it attempt to subject, Perfect North Slopes to its jurisdiction.

"The question of jurisdiction is ordinarily one of law[.]" *Appalachian Reg'l Healthcare, Inc. v. Coleman*, 239 S.W.3d 49, 53-54 (Ky. 2007). Our review is *de novo*. *Hinners v. Robey*, 336 S.W.3d 891, 895 (Ky. 2011).

Jurisdiction refers broadly to a court's authority to decide a case or issue in controversy. *Nordike v. Nordike*, 231 S.W.3d 733, 737 (Ky. 2007); *Wilson v. Russell*, 162 S.W.3d 911, 913 (Ky. 2005). A court's jurisdiction has three separate components, all of which must be satisfied before a court may hear a case: (1) jurisdiction over a *person*, (2) jurisdiction over a subject matter, *i.e.*, a particular *kind* of case, and, finally, (3) jurisdiction over a *particular* case. *Nordike*, 231 S.W.3d at 737; *Clements v. Harris* 89 S.W.3d 403, 406 (Ky. 2002) (Keller, J., dissenting).

Personal jurisdiction refers generally to a "court's authority to determine a claim affecting a specific person." *Milby v. Wright*, 952 S.W.2d 202, 205 (Ky. 1997). Subject-matter jurisdiction, on the other hand, refers to a court's authority over a "general type of controversy", *i.e.*, the ability to hear "this type" of case. *Hisle v. Lexington-Fayette Urban Cnty. Gov't*, 258 S.W.3d 422, 429, 434 (Ky. App. 2008). And, finally, particular-case jurisdiction "refers to the authority and power of the court to decide a specific case, rather than the class of cases over which the court has subject-matter jurisdiction." *Nordike*, 231 S.W.3d at 738 (quoting *Milby*, 952 S.W.2d at 205).

The Ketrons attack the circuit court's order on two fronts – personal and subject-matter jurisdiction. However, there is no dispute that the Boone Circuit

Court had subject matter jurisdiction to decide "this kind of" case, namely, one seeking injunctive relief by way of a restraining order. CR 65.01 ("A party may obtain injunctive relief in the circuit court by (a) restraining order, (b) temporary injunction, or (c) permanent injunction in a final judgment."). That leaves personal jurisdiction.

"When the question is whether the court has the power to compel a person to appear before it and abide by its rulings, this is a question of personal jurisdiction." *Nordike*, 231 S.W.3d at 737.

The Ketrons assert that, by specifically referencing Perfect North Slopes in the restraining order, the circuit court purported to exercise jurisdiction over the resort and to command it to comply with the restraining order. Their claim has something to do with the fact that Perfect North Slopes is the Ketrons' place of employment. They argue that the language of the order has the effect of defining "Perfect North Slopes as not a place of employment, which would prohibit Appellees from being there, and, instead, relegates it to a public venue which raises a number of jurisdictional issues . . . ." (Appellants' brief, p. 8). We are not persuaded by the Ketrons' logic.

The order does not command Perfect North Slopes in any way nor does it compel the resort to abide by any term of the order. Rather, it compels the *parties* conduct, not that of the Ketrons' employer. Nor does the restraining order restrict Perfect North Slopes from "the doing of an act." CR 65.01 ("A restraining order shall only restrict the doing of an act."). With that said, nothing prohibits Perfect

North Slopes, a private business, from taking independent steps to enforce its own rules regarding the conduct and civility expected of its patrons and employees.

In sum, we are convinced that the circuit court did not exercise jurisdiction over Perfect North Slopes in any manner, neither improperly nor properly. Accordingly, we affirm the February 11, 2014 Mutual Restraining Order issued by the Boone Circuit Court.

ALL CONCUR.

BRIEFS FOR APPELLANT:

Andrew W. Green
Fort Wright, Kentucky

BRIEF FOR APPELLEE:

Stacey L. Graus
Edward L. Metzger, III
Covington, Kentucky