

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GARY P. CANFIELD,

Defendant-Appellant.

UNPUBLISHED

March 5, 2002

No. 228036

Wayne Circuit Court

LC No. 99-002247

Before: Bandstra, P.J., and Murphy and Murray, JJ.

PER CURIAM.

Defendant appeals as of right his conviction of aggravated stalking, MCL 750.411i, entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Complainant, defendant's former wife, testified that in April 1998 she secured a personal protection order (PPO) against defendant, and that the order remained in effect at all relevant times. She and defendant were separated at all relevant times. Complainant stated that on January 13 and 16, 1999 defendant entered her home uninvited and threatened her. On January 16, 1999 defendant used physical force to restrain her movement. Complainant testified that on January 21, 1999 she went to defendant's apartment to pick up their son, and that when she declined to answer defendant's questions regarding her dating activities, defendant pushed her and threatened her. She stated that on January 23, 1999 she was at a bar with her boyfriend when defendant entered the bar, stated that he had "caught" her, and struck her and her boyfriend. Complainant indicated that in each instance defendant's actions frightened her.

Tim Northrup, complainant's boyfriend, testified that on January 23, 1999 he and complainant were at a bar when defendant entered and struck them. Northrup acknowledged that prior to the incident he had agreed to stop seeing complainant, and that he had not adhered to the agreement.

Defendant testified that he had notice of the PPO. He acknowledged that he entered complainant's home on January 13 and 16, 1999, but denied that he threatened complainant on those occasions. He admitted that on January 16, 1999 he sat on complainant, but indicated that he did so to prevent her from trying to strike him. Defendant denied pushing complainant on January 21, 1999. He acknowledged that he confronted Northrup and complainant on January

23, 1999, but contended that he slapped Northrup because Northrup had broken their agreement. Defendant denied hitting complainant.

The trial court found defendant guilty of aggravated stalking. The PPO prohibited defendant from having contact with complainant for a reason not related to his visitation with their children. The court found that the testimony given by complainant and Northrup was more credible than that given by defendant. The court found that defendant's repeated, unconsented contact with complainant would make a reasonable person feel frightened, and that in fact complainant felt frightened.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the court was aware of the issues and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). We review a trial court's findings of fact for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999), *aff'd* by equal division 462 Mich 71; 611 NW2d 783 (2000).

Aggravated stalking occurs where an individual, having actual notice of a PPO or an injunction, engages in a willful pattern of conduct consisting of a series of two or more separate, noncontinuous acts involving repeated or continuing unconsented contact with another person that would cause a reasonable person to suffer emotional distress and to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the victim to experience such feelings. MCL 750.411i(2)(a); *People v Kieronski*, 214 Mich App 222, 229-230; 542 NW2d 339 (1995).

Defendant argues that the evidence was insufficient to support his conviction. We disagree and affirm. Defendant had actual notice of the PPO. The order was in effect at all relevant times. The trial court was entitled to find complainant's testimony credible and to accept it. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). Complainant's testimony supported a finding that defendant engaged in two or more separate, noncontinuous acts involving repeated, unconsented contact with her. He engaged in behavior that would cause a reasonable person to feel frightened, and complainant in fact felt frightened. The trial court's findings of fact were not clearly erroneous. MCR 2.613(C). The evidence, viewed in a light most favorable to the prosecution, supported defendant's conviction. *Petrella, supra*.

Affirmed.

/s/ Richard A. Bandstra
/s/ William B. Murphy
/s/ Christopher M. Murray