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NO. COA13-262
NORTH CAROLINA COURT OF APPEALS

Filed: 1 October 2013

ELIZABETH TOWNES HOMEOWNERS
ASSOCIATION, INC. AND THE
ELIZABETH TOWNES BOARD OF
DIRECTORS,
Plaintiffs-Appellees,

v.

Mecklenburg County
No. 11 CVS 5323

JANE BRAWLEY JORDAN, BETTY M.
BRAWLEY AND BOBBY P. BRAWLEY,
Defendants-Appellants.

Appeal by Plaintiffs from order entered 6 December 2012 by
Judge F. Lane Williamson in Superior Court, Mecklenburg County.
Heard in the Court of Appeals 27 August 2013.

*Hedrick Gardner Kincheloe & Garofalo, LLP, by Harmony
Whalen Taylor and M. Duane Jones, for Plaintiffs-Appellees.*

Jane Brawley Jordan, pro se, Defendant-Appellant.

PER CURIAM.

Elizabeth Townes Homeowners Association, Inc., and the
Elizabeth Townes Board of Directors, ("Plaintiffs") initiated
this action by filing a complaint on 14 March 2011 alleging that
Jane Brawley Jordan ("Defendant"), Betty M. Brawley, and Bobby

P. Brawley had engaged in conduct amounting to malicious prosecution, abuse of process, and defamation. Plaintiffs also sought a permanent injunction against Defendant. Relevant to this appeal, Plaintiffs filed a "Motion for Permanent or Mandatory Injunction" which was heard by the trial court on 6 December 2011. In response to this motion, the trial court entered an order 11 January 2012 (signed 21 December 2011) in which it ordered Defendant to refrain

from engaging in any direct communications with Plaintiffs and Plaintiffs' management company, vendors or contractors. [Defendant] may only communicate with Plaintiffs, Plaintiffs' management company, vendors or contractors through counsel of record Harmony W. Taylor, via U.S. Mail. [Defendant] is not to email or telephone Ms. Taylor, or to appear at her offices for any purpose.

In an order entered 29 March 2012, the trial court found that Plaintiffs had presented evidence that Defendant had violated the 11 January 2012 order by contacting Plaintiffs' property manager. The trial court again ordered Defendant to refrain from these activities, and continued the 11 January 2012 order in effect. Following a contempt hearing initiated by the trial court, the trial court, on 7 June 2012, "issued a third Order furthering the injunctions against Defendant[.]" Plaintiffs alleged that Defendant continued to violate the injunction and, on 14 November 2012, Plaintiffs filed a motion

asking that Defendant be found in contempt. The trial court heard this motion, and entered an order on 6 December 2012 finding Defendant in contempt of the prior orders. Defendant appeals.

The only issue properly before us is whether the trial court erred in finding Defendant in contempt of prior court orders. We affirm the 6 December 2012 order.

The standard of review for contempt proceedings is limited to determining whether there is competent evidence to support the findings of fact and whether the findings support the conclusions of law. "Findings of fact made by the judge in contempt proceedings are conclusive on appeal when supported by any competent evidence and are reviewable only for the purpose of passing upon their sufficiency to warrant the judgment." "North Carolina's appellate courts are deferential to trial courts in reviewing their findings of fact."

Watson v. Watson, 187 N.C. App. 55, 64, 652 S.E.2d 310, 317 (2007) (citations omitted). "Failure to comply with an order of a court is a continuing civil contempt as long as:"

- (1) The order remains in force;
- (2) The purpose of the order may still be served by compliance with the order;
- (2a) The noncompliance by the person to whom the order is directed is willful; and
- (3) The person to whom the order is directed is able to comply with the order or is able to take reasonable measures that would enable the person to comply with the order.

N.C. Gen. Stat. § 5A-21(a) (2011).

The trial court in this case made the following relevant findings of fact:

1. On March 14, 2011 Plaintiff filed a Complaint and Request for Permanent Injunction, asserting claims for malicious prosecution/abuse of process and defamation against Defendants Jane Jordan, Bobby Brawley and Betty Brawley, and a request for a permanent injunction to enjoin further such behavior by Defendant Jordan.

2. On November 15, 2011, Plaintiff filed an Amended Motion for Gatekeeper Order and Permanent or Mandatory Injunction as to Defendant Jordan. Subsequent to a hearing on this Motion, on December 21, 2011, Judge Lane Williamson signed an Order stating as follows:

1. Jordan is hereby enjoined and restrained, pending the trial of this matter on March 26, 2012, or as soon as this case is called for trial, from engaging in any direct communications with Plaintiffs and Plaintiffs' management company, vendors or contractors. Jordan may only communicate with Plaintiffs, Plaintiffs' management company, vendors or contractors through counsel of record, Harmony W. Taylor, via U.S. Mail. Jordan is not to email or telephone Ms. Taylor, or appear at her office for any purpose.

. . . .

4. This case came on for trial on March 26, 2012, but was continued by the Court in order to allow for a competency evaluation to be performed on all Defendants.

Following that Court appearance, Judge Jesse Caldwell entered an Order dated March 29, 2012, that continued and expanded Judge Williamson's Order of December 21, 2011. Judge Caldwell found that "When the parties appeared before the undersigned on March 26, 2012, counsel for Plaintiffs presented evidence that Jordan had violated the December 21, 2011, Order by (a) telephoning Plaintiffs' property manager. . . ." Judge Caldwell again ordered that Defendant Jordan refrain from these activities.

5. Following a Contempt hearing initiated by Judge Caldwell and captioned 12 CRS 25054, on June 7, 2012, Judge Caldwell issued a third Order furthering the injunctions against Defendant Jordan.

6. Thereafter, Plaintiff initiated a Motion for Criminal and Civil Contempt/Motion to Show Cause seeking relief from Defendant Jordan's continued violations of the Court Orders. Plaintiff offered the following evidence which demonstrated that Defendant Jordan has violated the Court Orders by engaging in direct communications with Plaintiff, its Board members, property management company and vendors:

(a) She has directly contacted the Association's property management company, Kuester Management Group, as outlined in the Affidavit of Debra L. Nugent;

(b) She has directly contacted the Association's certified public accountant, Rowell Craven & Short, P.A., as outlined in the Affidavit of Kendra J. Gangal;

(c) She has directly contacted the Association's insurance agent, Windermere Insurance Group, LLC, as outlined in the Affidavit of Dan M.

Litaker III; and

(d) She has directly contacted former board member Barbara Gillis, as outlined in the Affidavit of Barbara Gillis.

7. At the hearing which took place on December 3, 2012, Defendant Jordan acknowledged that she had in fact communicated with the individuals and entities identified in the Affidavits.

The trial court then made the following "findings" which are more properly considered conclusions of law:

8. Defendant Jordan is in willful violation of the various Court Orders in this matter, and has indicated through her hearing comments that she will continue to violate said Orders unless constrained by this Court.

9. Defendant Jordan has not demonstrated any good cause as to why she is in violation of the various Court Orders restraining her conduct.

10. Defendant Jordan did not offer any evidence to the Court indicating that she was not able to comply with the various Court Orders restraining her conduct.

Based on the foregoing Findings of Fact, the undersigned makes the following conclusion of law . . .:

1. Defendant Jordan is adjudged to be in contempt of this Court and its Orders.

We hold that evidence at the hearing, including Defendant's own testimony, supports the trial court's findings of fact, and that those findings of fact in turn support the conclusions of

law. Defendant repeatedly ignored court orders enjoining her from contacting certain people. Defendant's violation of these orders was willful, and Defendant was certainly capable of complying, as that would only entail ceasing the prohibited communications. Further, the purpose of those orders - cessation of harassing communications - would still be served by compliance. The trial court did not err in ruling Defendant was in civil contempt.

Affirmed.

Panel Consisting of Judges McGEE, STEELMAN, and ERVIN.

Report per Rule 30(e).