

IN THE UTAH COURT OF APPEALS

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J.C., a person under eighteen)	MEMORANDUM DECISION
years of age,)	(Not For Official Publication)
)	
Petitioner and Appellee,)	Case No. 20080719-CA
)	
v.)	F I L E D
)	(August 27, 2009)
Christopher Blaylock,)	
)	2009 UT App 234
Respondent and Appellant.)	

Second District, Ogden Department, 080902996
The Honorable Michael D. Lyon

Attorneys: Dee W. Smith, Ogden, for Appellant
 Gary D. Anderson, Ogden, for Appellee

Before Judges Greenwood, Thorne, and McHugh.

THORNE, Associate Presiding Judge:

Christopher Blaylock appeals from a civil stalking injunction granted against him and in favor of J.C. We affirm.

Blaylock argues that the district court erred when it found that J.C. had established all of the elements required by the stalking statute. According to Blaylock, the majority of the acts complained of and relied on by the district court arose out of a long-running neighborhood dispute involving three families. There was also conflicting testimony below about Blaylock's actions and their effect on J.C. Consequently, Blaylock maintains that the district court's factual findings are both clearly erroneous and, in the context, do not satisfy the stalking statute.

Blaylock's arguments contain significant overlap and raise both legal and factual challenges to the district court's order. "We review the district court's [factual] findings for clear error and its conclusions of law for correctness, affording the court some discretion in applying the law to the facts." Arnold v. Arnold, 2008 UT App 17, ¶ 5, 177 P.3d 89 (alteration in original) (internal quotation marks omitted). Additionally, in stalking cases, "the respondent's conduct must be considered

cumulatively in light of all of the facts and circumstances of the case." Ellison v. Stam, 2006 UT App 150, ¶ 38, 136 P.3d 1242.

The issuance of civil stalking injunctions is governed by Utah Code section 77-3a-101. See Utah Code Ann. § 77-3a-101 (2008). In order to issue a civil stalking injunction, the district court must find that the respondent has committed the offense of stalking the petitioner. See id. § 77-3a-101(5), (7). For purposes of the issuance of civil stalking injunctions, "'stalking' means the crime of stalking as defined in [Utah Code section 76-5-106.5." See id. § 77-3a-101(1).

Utah's stalking statute, Utah Code section 76-5-106.5, provides:

A person is guilty of stalking who intentionally or knowingly engages in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person:

- (a) to fear for the person's own safety or the safety of a third person; or
- (b) to suffer other emotional distress.

Utah Code Ann. § 76-5-106.5(2) (2008). "Course of conduct" is defined as "two or more acts directed at or towards a specific person." See id. § 76-5-106.5(1)(b).

The district court found, inter alia, that Blaylock had "masturbate[d] in front of [J.C.] and offended her sensitivity" and had "swerved his vehicle at [J.C.] and a friend in an attempt to scare her." The district court found that Blaylock's acts were directed at J.C. and were acts that Blaylock knew or should have known would cause a reasonable person to experience fear or emotional distress, particularly in light of the hostility that existed between the families.¹ The district court further found that J.C. was emotionally distressed or fearful of physical

¹The district court commented in its ruling from the bench, "I find that the acts directed at [J.C.] were acts that [Blaylock] knew or should have known would cause a reasonable person to fear or experience emotional distress; especially in the context of the obvious hostility that exists between these two families extending over a number of years." (Emphasis added.)

injury from these acts. These findings satisfy the statutory requirements for issuance of a civil stalking injunction: two or more acts, directed at J.C. by Blaylock, when he knew or should have known that such acts would reasonably cause J.C. fear of harm or emotional distress. See Utah Code Ann. § 77-3a-101; see also Utah Code Ann. § 76-5-106.5.

Further, given the conflicting evidence below, Blaylock has not demonstrated that the findings are clearly erroneous. See generally Pitt v. Taron, 2009 UT App 113, ¶ 2 n.1, 210 P.3d 962 ("As the trier of fact in a bench trial, the trial court is in the best position to weigh conflicting evidence and the credibility of witnesses." (internal quotation marks omitted)); In re A.G., 2001 UT App 87, ¶ 4, 27 P.3d 562 (upholding factual findings "unless they are clearly erroneous, meaning that they are against the clear weight of the evidence" (internal quotation marks omitted)). J.C. provided extensive testimony about both the masturbation and swerving incidents, as well as other incidents of alleged harassment. Other witnesses corroborated J.C.'s testimony in various regards. This evidence, which the district court apparently found to be credible, supports the district court's factual findings despite the conflicting evidence presented by Blaylock and his witnesses. See In re A.G., 2001 UT App 87, ¶ 4. Thus, we cannot say that those findings are clearly erroneous.

In sum, Blaylock has failed to identify any legal or factual error on the part of the district court. Accordingly, we affirm the district court's civil stalking injunction against Blaylock.

William A. Thorne Jr.,
Associate Presiding Judge

WE CONCUR:

Pamela T. Greenwood,
Presiding Judge

Carolyn B. McHugh, Judge

