

2010

Lisa K. Anger v. Lori S. Allen : Brief of Appellee

Utah Court of Appeals

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Ron D. Wilkinson, Kristin B. Gerdy; Heritage Law Offices; counsel for appellee.

Randy S. Ludlow; counsel for appellant.

Recommended Citation

Brief of Appellee, *Allen v. Anger*, No. 20100016 (Utah Court of Appeals, 2010).
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Case No. 20100016-CA

IN THE
UTAH COURT OF APPEALS

Lisa K. Anger,
Respondent/Appellant,

vs.

Lori S. Allen,
Petitioner/Appellee.

Brief of Appellee

Appeal from Civil Stalking Injunction issued by the Fourth Judicial
District Court of Utah, Utah County, the Honorable Fred D. Howard
presiding.

RANDY S. LUDLOW (2011)
185 S. State Street, Ste 208
Salt Lake City, UT 84111
Telephone: (801) 531-1300

Counsel for Appellant

KRISTIN B. GERDY (7208)
RON D. WILKINSON (5558)
Heritage Law Offices
815 East 800 South
Orem, UT 84097
Telephone: (801) 225-6040

Counsel for Appellee

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UTAH APPELLATE COURTS

MAY 18 2010

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MAY 19 2010

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Case No. 20100016-CA

IN THE

UTAH COURT OF APPEALS

Lisa K. Anger,
Respondent/Appellant,

vs.

Lori S. Allen,
Petitioner/Appellee.

Brief of Appellee

STATEMENT OF JURISDICTION

This Court has jurisdiction under Utah Code Annotated § 78A-4-103(2)(j) (West 2008).

STATEMENT OF THE ISSUES

1. Did the trial court correctly interpret Utah Code Annotated § 76-5-106.5 when it determined that Lisa Anger's repeated interference with Lori Allen's family including but not limited to unwelcomed phone calls and visits, constituted a pattern of stalking and warranted the issuance of a civil stalking injunction?

Standard of Review: This Court reviews the district court's interpretation and application of statutory authority de novo, "affording no deference to the district court's legal conclusions." *Gutierrez v. Medley*, 972 P.2d 913, 914-15 (Utah 1998); *Salt Lake Therapy Clinic v. Frederick*, 890 P.2d 1017, 1019 (Utah 1995).

However, as this is an extremely fact-sensitive inquiry, Utah courts have applied a more stringent standard of review akin to “clear error” for the factual determinations involved. *See Chen v. Stewart*, 2004 UT 82, ¶ 20, 100 P.3d. 1177.

DETERMINATIVE STATUTORY PROVISIONS

Utah law defines “stalking” as conduct in which a person:

- (a) intentionally or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person:
 - (i) to fear bodily injury to himself or a member of his immediate family; or
 - (ii) to suffer emotional distress to himself or a member of his immediate family;
- (b) has knowledge or should have knowledge that the specific person:
 - (i) will be placed in reasonable fear of bodily injury to himself or a member of his immediate family; or
 - (ii) will suffer emotional distress or a member of his immediate family will suffer emotional distress; and
- (c) whose conduct:
 - (i) induces fear in the specific person of bodily injury to himself or a member of his immediate family; or
 - (ii) causes emotional distress in the specific person or a member of his immediate family.

Utah Code Ann. § 76-5-106.5 (2007).

STATEMENT OF THE CASE

Lori Allen sought and obtained an ex parte Civil Stalking Injunction against her sister, Lisa Anger, who had also been involved in considerable attempts at undermining Lori Allen’s parental rights and efforts to raise her children. An ex parte stalking injunction was issued on November 20, 2007. (R. 12.) After two hearings, Judge Howard issued a three-year civil stalking

injunction against Ms. Anger on December 2, 2009. (R. 127-131.)

STATEMENT OF FACTS

Lisa Anger participated in a prolonged pattern of stalking behavior against her sister, Lori Allen. During the last several years, Lori Allen has been subjected to invasive flyers posted around her community targeting both herself and her immediate family. Her 16-year-old daughter, who was in residential treatment that Ms. Allen believed to be in her best interested, was the subject of a subversive and inappropriate attempt by Ms. Anger to have her emancipated. Even after a specific request of no contact with her family, Ms. Allen was subjected to unwelcomed and invasive phone calls and visits to her home. This behavior has interrupted Ms. Allen's life and caused her both fear and distress. Unfortunately, these interruptions and interferences with Ms. Allen's life, parenting abilities, and family were not random occurrences, but instead, had one source: her sister, Lisa Anger.

The Flyers

In November 2006, Lisa Anger distributed flyers around Lori Allen's neighborhood, at her church, and at her workplace that contained slanderous and personal information about Lori Allen and her husband. (R. 9; R. 144 at 6-7; R. 145 at 5, 10, 82-83, 101-02.) The flyer directed people to an internet website that featured Lori Allen's daughter Chandra (who was then 16 years old). It

included Lori Allen's full name, home address, and home and work phone numbers, email addresses, and places of employment. (R. 144 at 7; R. 145 at 5.) The flyer encouraged people to call the Utah Attorney General and Child Protective Services to file complaints against Ms. Allen and her husband. (R. 144 at 10; R. 145 at 93.)

After preparing these flyers, Ms. Anger arranged to have them distributed widely throughout Ms. Allen's community. She specifically had them distributed to "their church, work places, neighborhoods, people that knew her" and on cars around Ms. Allen's husband's place of business. (R. 144 at 6; 145 at 58, 73-74.)

As a direct result of Ms. Anger's flyers, Lori Allen received harassing phone calls. (R. 144 at 7, 11.) She also feared that she would lose her job and that her children would be in danger. (R. 144 at 12; R. 145 at 16-17.) The harassment and accompanying stress caused Lori Allen to suffer emotionally, causing her to cry and become extremely upset and frustrated. (R. 145 at 61.) Ms. Allen's husband was also adversely impacted both in his employment relationship and in his personal relationships with neighbors and friends. (R. 145 at 59, 62.)

The Attempted Emancipation of Chandra Robb

In addition to distributing the flyers, Lisa Anger interfered with Lori Allen's parenting by encouraging her then-16-year-old daughter, Chandra, to file

emancipation papers. In November 2006, Lori Allen and her husband decided that it would be in Chandra's best interest to have her receive treatment at an in-patient facility in southern Utah. (R. 144 at 6, 8.) While Chandra was receiving treatment, and without Lori Allen's knowledge or permission, Lisa Anger encouraged Chandra to become emancipated from her parents. (R. 131 ¶ 2; R. 145 at 17.) Lisa Anger filled out the forms in her own handwriting and included several false statements in them. She then traveled to the Turn-About Ranch, where Lori Allen's daughter was in treatment, to get her to sign the papers so she could file them. (R. 9; R. 131 ¶ 2; R. 145 at 13, 17.) Although Ms. Anger's attempt ultimately failed, Ms. Allen's ability to parent her daughter in the way she believed best was undermined.

Unwelcome Contact with Lori Allen's Children

Because of Ms. Anger's involvement with Chandra Robb, Ms. Allen sent an email to Ms. Anger requesting that she have no contact with any of her children. The email read, "I'm requesting that you and [your husband] not have any further contact with my children." (R. 145 at 23). Further, she specified, "[d]o not call my children. Make NO contact with them." (R. 145 at 23). Despite Lori Allen's requests that Ms. Anger not communicate with her children, in November 2006 Lisa Anger sent at least two text messages to Lori Allen's children. In the messages she wrote: "Hey girl. Need u to get a business card

from dcfs and mail it to me. We luv u. Delete this.” (R. 9.) And “Ow but I do know deep down she luvs u. Delete this.” (R. 9.) The fact that she included “delete this” in each message indicates that she knew she was not supposed to be sending the messages but chose to do so anyway, hoping that the children would follow her directions to destroy the proof of her calls.

Despite Lori Allen’s requests, Lisa Anger continued to contact her children and interfere with her parenting. (R. 8.)

Because of this continued interference, on June 11, 2007, after trying repeatedly to speak with Lisa Anger on the telephone to resolve the issue, Lori Allen sent an email to her requesting that she not have any further contact with the children. (R. 8.) Lori Allen specifically stated: “Do not call my children, either on our home phone, cell phone(s) or at their friends’ homes. Make NO contact with them whatsoever, via mail, email, internet, chat, or through any other means. Do not pass messages on to them through any third party.” (R. 81 R. 131 ¶ 4.)

Even after Lori Allen sent the email asking Lisa Anger specifically to discontinue all contact with the children, Lisa Anger continued to harass Lori Allen and interfere with her family as set forth hereafter.

First, Lisa Anger has visited with Lori Allen’s daughter Chandra in Washington State without Lori Allen’s permission. (R. 7.)

Unwelcome Visits to the Allen Home

On at least two occasions, Lisa Anger has unexpectedly come to Lori Allen's home without permission. The first incident was on August 26, 2007. (R. 7; R. 145 at 25.) Thereafter, on September 21, 2007, Lori Allen spoke on the phone with Lisa Anger and reminded her that she did not want her coming to the home again. (R. 7.) At the hearing, Ms. Allen testified that she told Ms. Allen not to "call me anymore. Don't come over to my house. Leave us alone." (R.145 at 25.)

Not only did Ms. Anger come again, on October 14, 2007, but she did so at a time when both Lori Allen and her husband were away. (R. 7.) Despite Ms. Allen's prior requests that there be no contact, Lisa Anger came inside the Allen home to manipulate the children. (R. 145 at 119.) Lori Allen returned home while Ms. Anger was still there and specifically told Ms. Anger, "I don't think you understand that you can't be here," and specifically asked her to leave. (R. 145 at 120.)

Since Lori Allen sent the email requesting Lisa Anger to specifically refrain from calling her children, Ms. Anger continued to call them. For example, less than a month after Lori Allen made the request, Lisa Anger called the children at 4:29 p.m. on July 10, 2007 and spoke for 11 minutes. (R. 7.) Similarly, the children's phone received a call from Lisa Anger's number at 4:57 p.m. on

October 10, 2007. The call lasted seven (7) minutes. (R. 7.)

Because Lisa Anger has failed to respect either Lori Allen's request to stay away from her home and her children and to refrain from calling them, Lori Allen filed an ex parte Civil Stalking Injunction against her to force her compliance.

SUMMARY OF ARGUMENT

This Court should affirm the issuance of the Civil Stalking Injunction against Lisa Anger because she engaged in a course of conduct directed at Lori Allen that would cause a reasonable person to suffer emotional distress and which, in fact, did cause Ms. Allen to suffer emotional distress.

Before issuing an injunction, the district court must find that 1) that the person "intentionally or knowingly engage[d] in a course of conduct" that would 2) cause a reasonable person to experience fear or emotional distress, and 3) that the victim actually did experience fear or emotional distress as a result of the conduct.

Lisa Anger's repeated, "outrageous," and escalating conduct satisfies the statutory "course of conduct" requirement and would cause a reasonable person to suffer emotional distress. Finally, the district court properly concluded that Lori Allen did, in fact, suffer emotional distress. Therefore, this Court should affirm the injunction.

ARGUMENT

THE COURT CORRECTLY INTERPRETED AND APPLIED UTAH CODE ANNOTATED § 76-5-106.5 WHEN IT CONCLUDED THAT LISA ANGER ENGAGED IN A PATTERN OF CONDUCT THAT WARRANTED THE ISSUANCE OF A CIVIL STALKING INJUNCTION.

This Court should affirm the trial court's issuance of a civil stalking injunction against Lisa Anger because the injunction satisfied the statutory requirements and was supported by evidence presented to the court.

A. The District Court correctly interpreted the elements of the statutory civil stalking injunction.

Utah law defines "stalking" as conduct in which a person:

- (a) intentionally or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person:
 - (i) to fear bodily injury to himself or a member of his immediate family; or
 - (ii) to suffer emotional distress to himself or a member of his immediate family;
- (b) has knowledge or should have knowledge that the specific person:
 - (i) will be placed in reasonable fear of bodily injury to himself or a member of his immediate family; or
 - (ii) will suffer emotional distress or a member of his immediate family will suffer emotional distress; and
- (c) whose conduct:
 - (i) induces fear in the specific person of bodily injury to himself or a member of his immediate family; or (ii) causes emotional distress in the specific person or a member of his immediate family.

Utah Code Ann. § 76-5-106.5 (2007).

Thus, before issuing an injunction the district court must find that all three elements of the statute are satisfied: 1) the person “intentionally or knowingly engage[d] in a course of conduct” that would 2) cause a reasonable person to experience fear or emotional distress, and 3) the victim actually did experience fear or emotional distress as a result of the conduct. *Id.*; see also *Towner v. Ridgeway*, 2008 UT App 23, 182 P.2d 347.

First, to constitute stalking, a person must “intentionally or knowingly engage in a course of conduct” that would cause a reasonable person to experience fear or emotional distress. Section 76-5-106.5(1)(a) defines “course of conduct” as “two or more acts directed *at or toward* a specific person.” Emphasis added; see also *Abernathy v. Mzik*, 2007 UT App 259, 173 P.3d 512, 516 (Utah App. 2007). Thus, “a person is guilty of stalking as defined in section 76-5-106.5(2)(a)(i)-(ii), if, on two or more occasions, he intentionally engages in conduct that causes a reasonable person to (1) fear bodily injury or (2) suffer emotional distress.” *Abernathy*, 173 P.3d at 516.

Such conduct includes behavior wherein a person “repeatedly maintain[s] a visual or physical proximity to a person *or* repeatedly convey[s] verbal or written threats or threats *implied by conduct* or a combination thereof directed at or toward a person.” *Id.* (emphasis added). The incidents that constitute the

“course of conduct” do not need be close in time or proximity, and they do not require that the victim be within visual or physical proximity with the perpetrator. In fact, in the most recent Utah Supreme Court case to address stalking, issued in March 2008, the court specifically concluded:

[t]he stalking statute does not speak of the timing of the incidents nor does it suggest, explicitly or implicitly, that the parties must maintain an adversarial relationship between incidents. Thus, the two or more events that constitute a course of conduct need not be proximate in time, and intervening conciliatory gestures will not preclude a court from finding a course of conduct.

Towner, 2008 UT App 23 at ¶ 14.

As detailed below, the lower court correctly found that Ms. Anger’s actions did constitute a “course of conduct” because her actions were repeated and directed toward Ms. Allen in such a way to imply a threat.

Although amended after the facts relevant to this case, and, therefore, admittedly not binding on this Court in this decision, in 2008 the Utah Legislature clarified the statutory definition of “course of conduct” to specify more fully what it envisioned as potential stalking conduct. The amended version of § 76-5-106.5 reads:

(b) “Course of conduct” means two or more acts directed at or toward a specific person, including:

(i) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about a person, or interferes with a person’s property:

- (A) directly, indirectly, or through any third party; and
- (B) by any action, method, device, or means; or
- (ii) when the actor engages in any of the following acts or causes someone else to engage in any of these acts:
 - (A) approaches or confronts a person;
 - (B) appears at the person's workplace or contacts the person's employer or coworkers;
 - (C) appears at a person's residence or contacts a person's neighbors, or enters property owned, leased, or occupied by a person;
 - (D) sends material by any means to the person or for the purpose of obtaining or disseminating information about or communicating with the person to a member of the person's family or household, employer, coworker, friend, or associate of the person;
 - (E) places an object on or delivers an object to property owned, leased, or occupied by a person, or to the person's place of employment with the intent that the object be delivered to the person; or
 - (F) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.

Utah Code Ann. § 76-5-106.5 (2008 amendment). Through this amended language, the Legislature was able to clarify that the “course of conduct” required for a stalking injunction was not limited solely to incidents where the victim was in direct proximity or even personally involved with the perpetrator.

Instead, any conduct, communication, or media targeted toward the victim or those close to her (including coworkers and neighbors) could satisfy the “course of conduct” element of the statute. This Court should look to this clarification not for authority but for guidance in the type of conduct that can be considered “stalking.” In so doing, the Court should affirm the stalking injunction because such a “course of conduct” is clearly shown in the record. In fact, as explained below, Ms. Anger’s conduct falls into five of the six categories articulated in the revised statutory definition.

Second, to satisfy the stalking statute the course of conduct must be the kind that would cause a reasonable person to experience fear or emotional distress. Utah Code Ann. § 76-5-106.5. Under Utah law, “emotional distress results from conduct that is ‘outrageous and intolerable in that it offends the generally accepted standards of decency and morality.’” *Salt Lake City v. Lopez*, 935 P.2d 1259, 1264 (Utah App. 1997) (quoting *Russell v. Thomson Newspapers, Inc.*, 842 P.2d 896, 905 (Utah 1992)(emphasis added)).

When assessing if a course of conduct is sufficiently egregious to warrant the issuance of an injunction, the Utah Court of Appeals has stated that when considering stalking the court should consider “whether a defendant has acted outrageously . . . in light of all of the facts and circumstances of the particular

case.” *Ellison v. Stam*, 2006 UT App 150, ¶ 29, 136 P.3d 1242. In *Ellison*, the defendant argued that his individual actions should be considered separately, rather than in totality. *Id.* Rejecting this analysis, the court stated,

the conduct is rendered more offensive and more threatening because it is repeated. To call someone on the telephone and hang up late at night on one occasion may not rise to the level of outrageous conduct. To do so every ten minutes for a month, however, very well may. In essence, [the defendant] would have the trier of fact consider each telephone call in a vacuum, without reference to the numerous calls that preceded it, to determine whether the conduct is outrageous. We expressly reject that interpretation as being inconsistent with the plain intent of the stalking statute.

Id. at ¶ 28.

Further, an escalation of conduct can also lead the court to conclude that behavior is “outrageous and intolerable” and would reasonably lead to emotional distress. The more direct and aggressive the conduct becomes, the more likely it is to lead the victim to experience emotional distress. For example, in *Abernathy*, the court concluded that because the stalker’s conduct “appeared to be escalating in both hostility and aggressiveness,” it was more likely to result in emotional distress or fear of bodily injury. 2007 UT App 259 at ¶ 14.

This Court should affirm the stalking injunction because, as explained below, Ms. Anger’s conduct was “outrageous and intolerable” and would lead a reasonable person to suffer emotional distress.

Finally, to satisfy the stalking statute the victim must actually experience fear or emotional distress. Utah Code Ann. § 76-5-106.5. Utah law does not require that the stalking conduct cause both fear of bodily injury and emotional distress as “only one or the other is required.” *Abernathy*, 2007 UT App 259 at ¶ 12.

This Court should affirm the stalking injunction because, as explained below, Ms. Anger’s conduct did cause Ms. Allen to suffer emotional distress.

B. The District Court correctly concluded that Lisa Anger engaged in a “course of conduct” while stalking Lori Allen.

This Court should affirm the district court’s grant of a civil stalking injunction against Lisa Anger because Judge Howard correctly interpreted and applied the statute when he concluded that Lisa Anger’s repeated conduct constituted a “course of conduct” as required by statute.

Lisa Anger did engage in a course of conduct that would cause a reasonable person to suffer emotional distress. Lisa Anger’s “course of conduct” satisfies both the proximity and threat aspect of the statutory definition. Judge Howard correctly found that the printed flyers distributed by Ms. Anger, her active campaign to emancipate Lori Allen’s daughter against her express wishes, and her unwelcome calls and visits to the Allen home were, at the very least, implied threats against Lori Allen. (R. 127 ¶¶ 1, 2.) In addition to these implied

threats, Judge Howard correctly found that Lisa Anger engaged in a course of stalking conduct by maintaining physical proximity with Lori Allen when she twice came to Ms. Allen's home after Ms. Allen had expressly requested that she not contact either her or her family or come to their residence. (R. 127 ¶ 5.) These four incidents satisfy the statutory definition of a "course of conduct." The fact that there may have been conciliatory gestures between the stalking incidents is immaterial to whether they actually constituted a "course of conduct."

If the Court examines the newly amended statutory definition of "course of conduct," Ms. Anger's conduct falls within five of the articulated categories. She (1) "approach[ed] or confront[ed]" Ms. Allen; (2) "contact[ed] [Ms. Allen's] employer or coworkers; (3) "appear[ed] at [Ms. Allen's] residence" and "contact[ed] [her] neighbors"; (4) "sen[t] material by any means to the person or for the purpose of obtaining or disseminating information about or communicating with the person to a member of the person's family or household, employer, coworker, friend, or associate of [Ms. Allen]; and (5) "use[d] a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct." The fact that Ms. Anger's conduct is able to satisfy the more specific requirements of the newly amended statutory definition shows that the court below was correct when it concluded

that Ms. Anger's behavior satisfied the lesser conduct requirement, and therefore this Court should affirm the conclusion that Ms. Anger participated in a course of stalking conduct against Ms. Allen. Hence, this Court should uphold the stalking injunction against her.

C: The District Court correctly concluded that Lisa Anger's conduct was "outrageous and intolerable in that it offends the generally accepted standards of decency and morality" and caused Lori Allen to suffer emotional distress.

This Court should affirm the stalking injunction against Lisa Anger because her conduct was "outrageous and intolerable" such that it would "offend[] the generally accepted standards of decency and morality" and because it did, in fact, cause Lori Allen to suffer emotional distress.

1. The flyers distributed by Lisa Anger would cause a reasonable person to suffer emotional distress and did, in fact, cause Lori Allen to suffer emotional distress.

Lisa Anger's creation and dissemination of flyers encouraging people, both known and unknown, to contact Lori Allen and pressure her to remove her child from a facility that she believed, as a caring parent, would benefit her child, offends generally accepted notions of morality. Lisa Anger's continued interference with Lori Allen's family and her parenting would cause a reasonable person emotional distress.

Lisa Anger's distribution of information through flyers and over the

internet accusing Lori Allen of improper parenting practices and publicizing personal information about Ms. Allen and her family would cause a reasonable person to suffer emotional distress because it is conduct that “offends the generally accepted standards of decency and morality.” Utah courts have repeatedly concluded that parents have a fundamental right to “make decisions concerning the care, custody, and control of their children.” *See generally, Jones v. Barlow*, 2007 UT 20, 154 P.3d 808. Hence, third-party interference with a person’s parenting could cause a reasonable person emotional distress as it threatens that fundamental right and responsibility — raising one’s own children as the parent sees fit.

Judge Howard correctly noted this interference in Ms. Allen’s parenting as a primary reason for the issuance of the injunction against Ms. Anger. With regard to the flyers and her involvement with Ms. Allen’s minor daughter, Judge Howard opined: “I believe that that was not a small matter or a harmless matter, but a large and disturbing matter that constituted an assault on the parenting objectives . . . of the petitioner regarding her daughter.” (R. 145 at 150).

Further, including Lori Allen’s private information, including home and work telephone numbers, email addresses, employment information, and photographs, on a widely and publicly distributed flyer for the express purpose

of encouraging viewers to contact Ms. Allen offends notions of morality and would cause a reasonable person emotional distress. In fact, Ms. Allen did suffer both fear and emotional distress based on the flyers. She testified that she feared for her children's safety (R. 145 at 16-17). She also suffered harassment based on these flyers, as she testified that due to that information people called to harass her. (R. 144 at 7, 11). In addition, Ms. Allen feared that she would lose her job because of the information included on the flyers. (R. 144 at 12.)

2. Lisa Anger's interference with Chandra Robb and her facilitation of Chandra's emancipation would offend general notions of morality and, in fact, caused Lori Allen to suffer emotional distress.

Second, Lisa Anger's encouragement and facilitation of Lori Allen's 16-year-old daughter's emancipation would cause a reasonable person emotional distress. Lisa Anger's encouraging Lori Allen's daughter to file emancipation papers at age 16, filling them out and getting Ms. Allen's daughter to sign them, would certainly cause a reasonable parent to suffer emotional distress.

Judge Howard correctly recognized Ms. Anger's interference as a "large and disturbing matter that constituted an assault on the parenting objectives . . . of the petitioner regarding her daughter" and an "assault on the Petitioner's parental rights." (R. 145 at 150; R. 131 ¶ 7.) Such an "assault" would certainly cause a reasonable parent to suffer emotional distress as Ms. Allen did.

3. Lisa Anger's continued contact with Lori Allen's other children despite her express request that she refrain from contacting them would offend general notions of morality and, in fact, caused Lori Allen to suffer emotional distress.

Lisa Anger knew that she was acting contrary to Ms. Allen's specific, repeated requests that she refrain from contacting Ms. Allen's children and visiting her home. Ms. Anger's repeated conduct in the face of such specific requests to cease show that her conduct was knowing and intentional and offends generality notions of morality and would cause emotional distress.

Lisa Anger's repeated contact with Ms. Allen's children after she specifically asked that she refrain from contacting them would cause a reasonable person emotional distress. A reasonable person would further suffer emotional distress when, after repeatedly requesting that a person refrain from communicating with her children, that person continued to do so and even instructed the children to remove all evidence that the contact had occurred. Ms. Anger's repeated text messaging to Ms. Allen's children with explicit instructions to "delete this," and her repeated telephone calls to Ms. Allen's children would cause a reasonable person to suffer emotional distress and did, in fact, cause Ms. Allen to suffer emotional distress.

4. Lisa Anger's visits to Lori Allen's home despite her express request that she stay away would offend general notions of morality and, in fact, caused Lori Allen to suffer emotional distress.

In issuing the stalking injunction against Lisa Anger, Judge Howard held that "Respondent's course of conduct included multiple acts including . . . unexpectedly coming to the Petitioner's home on two (2) occasions despite Petitioner's request that Respondent not communicate with her; and entering Petitioner's home without her permission." (R. 131 ¶ 13.)

Lisa Anger's repeated visits to Lori Allen's home after she had been asked to stay away would cause a reasonable person to suffer emotional distress. A reasonable person would suffer emotional distress when, after asking a person not to come to her home, that person repeatedly and unexpectedly does so. A reasonable person would be distressed to come home and find the person she had explicitly asked not to visit her home actually in the home with her minor children. Such conduct certainly falls outside the "generally accepted standards of decency and morality."

In addition to being the type of conduct that would cause a reasonable person emotional distress, Lisa Anger's repeated conduct actually did, in fact, cause Lori Allen and her immediate family to suffer emotional distress. As a result of Lisa Anger's behavior, Lori Allen has lost the trust of several neighbors,

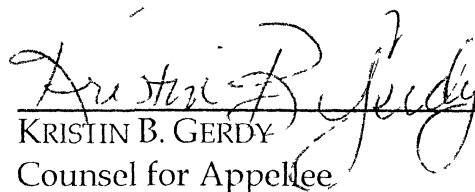
which loss has been emotionally distressing to her. (R. 145 at 61-62.) Further, her husband and other children have suffered emotional distress as they have been deprived of friendships and job opportunities because of allegations made by Ms. Anger. (R. 145 at 59.) Ms. Anger's behavior has caused Ms. Allen to worry that she will again try to interfere with her parenting. Ms. Anger's repeated phone calls and visits to Ms. Allen's home despite repeated requests that she refrain from contacting Ms. Allen's family or coming to the home cause Ms. Allen extreme anxiety and distress.

The distress actually suffered by Ms. Allen and the reasonable nature of such distress is certainly sufficient to uphold a civil stalking injunction and, as such, this Court affirm the decision below.

CONCLUSION

For the foregoing reasons, this Court should affirm the injunction against Lisa Anger because, as the district court correctly found, she repeatedly participated in conduct that satisfied Utah's definition of stalking and that has caused Lori Allen to suffer emotional distress.

Respectfully submitted May 18, 2010.


KRISTIN B. GERDY
Counsel for Appellee

CERTIFICATE OF SERVICE

I certify that on May 18, 2010, two copies of the foregoing brief were ☐ mailed

☐ hand-delivered to:

RANDY S. LUDLOW (2011)
185 S. State Street, Ste 208
Salt Lake City, UT 84111

A digital copy of the brief was also included: ☒ Yes ☐ No

