

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

KESHA HIXON,	:	APPEAL NOS. C-150767
		C-150768
Petitioner-Appellee,	:	TRIAL NOS. SK-1400696
		SK-1400695
vs.	:	
JULIE B. GIPSON,	:	<i>JUDGMENT ENTRY.</i>
and	:	
TIMOTHY W. GIPSON,	:	
Respondents-Appellants.	:	

We consider these appeals on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Julie B. Gipson and Timothy W. Gipson appeal the judgments of the trial court that issued against each of them a civil stalking protection order (“CSPO”) in favor of their next-door neighbor, Kesha Hixon.

In July 2014, Mrs. Hixon filed petitions for CSPOs against the Gipsons, alleging that they had engaged in racial intimidation and harassment of her and her family. To obtain a CSPO under R.C. 2903.214, a petitioner must show by a preponderance of the evidence that the respondent engaged in conduct constituting menacing by stalking in violation of R.C. 2903.211. R.C. 2903.214(C)(1); *Mullen v. Hobbs*, 1st Dist. Hamilton No. C-120362, 2012-Ohio-6098. R.C. 2903.211(A)(1) provides: “No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the

offender will cause physical harm to the other person or cause mental distress to the other person.” The magistrate granted ex parte CSPOs and set the matter for an evidentiary hearing.

At the evidentiary hearing, Mrs. Hixon and her husband, Barry Hixon, Jr., testified that they had been subjected to the Gipsons’ threatening conduct that included profanity and racial epithets. Mr. Gipson denied the allegations and testified that his wife had been the subject of insults by Mrs. Hixon. The Gipsons also presented the testimony of two other neighbors, neither of whom had heard the Gipsons use racial slurs or threaten the Hixons.

At the conclusion of the hearing, the magistrate found that Mrs. Hixon had proven by a preponderance of the evidence that the Gipsons had engaged in a pattern of conduct that “basically amounted to racial intimidation” that had caused Mrs. Hixon to fear for her family’s safety and had caused her mental distress. The magistrate specifically noted that his determination was based on the credibility of the witnesses. Following the hearing, the magistrate granted CSPOs that expire on July 24, 2018, which were adopted by the trial court. The trial court overruled the Gipsons’ objections to the orders. This appeal followed.

In two assignments of error, the Gipsons challenge the weight and sufficiency of the evidence underlying the issuance of the CSPOs. Following our review of the record, we hold that Mrs. Hixon presented sufficient evidence to prove that the Gipsons had engaged in menacing by stalking. The evidence demonstrated that for months, the Gipsons had engaged in threatening and harassing behavior, causing the Hixons to suffer significant stress, anxiety, and fear for their safety. R.C. 2903.211(A)(1); *Mullen; Smith v. Hein*, 1st Dist. Hamilton No. C-140529, 2015-Ohio-2749. Moreover, we cannot say that the trial court lost its way and committed such a manifest miscarriage

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of justice that the judgment must be reversed. *Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 N.E.2d 517, ¶ 14-23, citing *State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997). Accordingly, the judgments were supported by sufficient evidence and were not against the manifest weight of the evidence.

Therefore, we overrule both assignments of error and affirm the judgments of the trial court.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

FISCHER, P.J., HENDON and DEWINE, JJ.

To the clerk:

Enter upon the journal of the court on July 8, 2016

per order of the court _____.
Presiding Judge