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DISTRICT II

January 28, 2015

To:

Hon. Dennis D. Costello
Reserve Judge

Sheila Reiff
Clerk of Circuit Court
Walworth County Courthouse
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Jason Donald Johnson

You are hereby notified that the Court has entered the following opinion and order:

2014AP223

Jason Donald Johnson v. Carissa M. Reiff (L.C. # 2014CV47)

Before Brown, C.J., Reilly and Gundrum, JJ.

Carissa M. Reiff appeals from an order granting a domestic abuse injunction against her in favor of Jason Donald Johnson. She contends that the circuit court lacked authority to grant the injunction because Johnson presented no evidence in support of his petition. Based on our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2011-12).¹ We reverse the order of the circuit court.

Reiff and Johnson were in a dating relationship from approximately July 2013 to January 2014. Their relationship ended after a physical altercation on January 11, 2014. Shortly thereafter, each party filed a petition for temporary restraining order and/or petition and motion

¹ All references to the Wisconsin Statutes are to the 2011-12 version.

for injunction hearing. The circuit court granted each party's request and scheduled an injunction hearing.

At the injunction hearing, the circuit court took testimony from Reiff but not Johnson. Reif testified about her past relationship with Johnson and the physical abuse she experienced. She also described harassing and threatening text messages she had received and expressed fear for her and her family's safety.

At the conclusion of Reiff's testimony, the circuit court granted each party the injunction he or she was seeking. Although Reiff objected to the granting of Johnson's injunction based on the absence of evidence supporting his petition, the circuit court granted it nonetheless. The court reasoned that the injunction would protect Johnson so that he would not get into trouble if Reiff came to his house or called him. This appeal follows.

This case requires us to interpret and apply WIS. STAT. § 813.12, the statute governing domestic abuse injunctions. The interpretation and application of a statute to a set of facts is a question of law that we review de novo. *Acuity v. Albert*, 2012 WI App 87, ¶8, 343 Wis. 2d 594, 819 N.W.2d 340.

WISCONSIN STAT. § 813.12 provides in relevant part:

(4) INJUNCTION. (a) A judge or circuit court commissioner may grant an injunction ... if all of the following occur:

1. The petitioner files a petition alleging the elements set forth under sub. (5)(a).
2. The petitioner serves upon the respondent a copy or summary of the petition and notice of the time for hearing on the issuance of the injunction, or the respondent serves upon the petitioner notice of the time for hearing on the issuance of the injunction.

3. After hearing, the judge or circuit court commissioner finds reasonable grounds to believe that the respondent has engaged in, or based upon prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner.

Reviewing the above statute and applying it to the facts of this case, we conclude that the circuit court erred in granting the injunction against Reiff. Not only did the court fail to make the requisite findings under WIS. STAT. § 813.12(4)(a)3., but there was also a complete absence of any evidence testimony, primarily by Johnson, that could have served as “reasonable grounds” to believe that Reiff had engaged in, or may engage in, domestic abuse against Johnson. It appears that Johnson would have testified, but the court ruled without taking the testimony. As we have previously observed, “The issuing of an injunction against one does not by itself support issuing an injunction against the other.” *See Laluzerne v. Stange*, 200 Wis. 2d 179, 184, 546 N.W.2d 182 (Ct. App. 1996). Because there was no statutory basis to grant the injunction against Reiff, we must reverse the order of the court.

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily reversed, pursuant to WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals