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DISTRICT IV

March 19, 2013

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

2012AP1884 Kelly M. Baird v. Bradlee D. Baird (L.C. # 2012CV118)

Before Lundsten, P.J., Blanchard and Kloppenburg, JJ.

Bradlee Baird appeals an order of the circuit court granting a domestic abuse injunction. 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 affirm.

Bradlee Baird and Kelly Baird were married and had ten children together when, in 2008, Kelly reported that Bradlee had engaged in physically and verbally abusive behavior. A domestic abuse injunction was issued against Bradlee at that time with a duration of four years, the statutory limit. *See* WIS. STAT. § 813.12(4)(c)1. (2005-06). The couple divorced in 2009.

[1] All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

Just prior to the time that that injunction would have expired in 2012, Kelly petitioned the circuit court for a new injunction. After an evidentiary hearing, the circuit court issued a new injunction, again with a duration of four years. Bradlee appeals.

Bradlee first argues that the circuit court applied an incorrect legal standard. According to Bradlee, the circuit court applied a standard that required a lower showing for the issuance of the injunction than the showing required by the statute. We disagree.

The circuit court stated that "under the facts unique to this case [the standard for a second injunction] cannot be the same standard that would apply if there had been no injunction for the last four years." When we view this comment in its larger context, we are satisfied that the circuit court was merely expressing the correct view that the court could take into account the basis for the prior injunction and the fact that the prior injunction was in place. Stated differently, the circuit court was merely expressing the correct view that the court was not limited to considering allegations against Bradlee relating to events after the last injunction was issued, but that the court needed to consider those allegations in the context of the prior injunction.

Most of the new allegations against Bradlee might appear to be benign if Bradlee had not taken the alleged actions in the context of being under an existing injunction prohibiting contact with Kelly. However, Bradlee's repeated attempts to have even brief contact with Kelly in violation of an existing injunction were cause for serious concern. *See* ***Wittig v. Hoffart***, 2005 WI App 198, ¶15, 287 Wis. 2d 353, 704 N.W.2d 415 ("The trial court [correctly] recognized that the acts underlying [a prior] domestic-abuse injunction were relevant both to predict [the respondent's] future conduct *vis-à-vis* [the petitioner], and, also, to gauge the seriousness of his

threats against her."); *see also* ***id.***, ¶13 (fact finder not prevented "from considering a person's other acts in order to determine whether that person will do something in the future"). We understand the circuit court here to have done nothing more than express its understanding that acts that might not normally support an injunction take on different meaning when a prior injunction is in place.

Bradlee may be making a second argument. He might be asserting that, even if the circuit court applied a correct legal standard, the information before the court was insufficient to support the issuance of a new injunction. If Bradlee intends to make this argument, we reject it. In this part of Bradlee's brief-in-chief, he essentially makes the sort of arguments that are appropriately directed to a circuit court in the first instance. For example, Bradlee asserts that none of the conduct he allegedly committed since the first injunction was issued involved actual threats and that the contacts he did have with Kelly were simply the product of having several children in common and living in such a small community. Such arguments do not show that the evidence was insufficient; they are merely appeals to us to view the evidence differently.

Moreover, the evidence was easily sufficient to support the issuance of the injunction at issue here. While the prior injunction was in place, Bradlee's behavior included:

- Entering a parking lot during an exchange of children when he was required to remain at another parking lot.
- Parking his vehicle and watching Kelly and the children at a park, and then attempting to approach the area where they had been.
- Approaching Kelly during a placement exchange, retreating when he saw a police car, and then approaching her again when the police car was gone.
- Remaining in a parking lot outside a church, effectively preventing Kelly from leaving the church.

- Emailing Kelly's attorney a link to an editorial, and commenting: "I understand why we read headlines about people killing themselves or their estranged spouses in marital disputes."

Therefore,

IT IS ORDERED that the order is summarily affirmed. *See* WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals