

RENDERED: FEBRUARY 1, 2019; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky
Court of Appeals

NO. 2017-CA-001995-ME

JEREMY STONE

APPELLANT

v. APPEAL FROM HARRISON CIRCUIT COURT
HONORABLE HEATHER FRYMAN, JUDGE
ACTION NO. 17-D-00071-001

JESSICA KAY BEAGLE; AND
COMMONWEALTH OF KENTUCKY

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: DIXON, JONES, AND K. THOMPSON, JUDGES.

DIXON, JUDGE: Jeremy Stone appeals from an order of the Harrison Circuit Court finding him in contempt of court for violating a domestic violence order (DVO). We affirm.

On October 18, 2017, Stone appeared in court for a domestic violence hearing on an emergency protection order (EPO) obtained by his ex-girlfriend,

Jessica Kay Beagle. The court heard testimony and entered a DVO against Stone. The court also found Stone was in direct criminal contempt of the EPO when he made contact with Beagle in the courtroom prior to the DVO hearing. The court sentenced Stone to serve twenty-four hours in jail for contempt and warned him not to contact Beagle because it would violate the terms of the DVO. Following the hearing, Officer Lane, a bailiff, escorted Beagle to her car. As they walked to her vehicle, Lane observed Stone standing outside the courthouse shouting expletives at Beagle, including a threat that he would kill her. Lane reported the incident to his supervisor and to the court. At a subsequent show cause hearing, Stone appeared and denied the allegations. The court then appointed counsel to represent Stone and scheduled a contempt hearing.

At the hearing, the court heard testimony from Lane, Beagle, and Stone. Lane identified Stone in the courtroom, and he explained he could see Stone on the sidewalk as he escorted Beagle out of the courthouse. Lane heard Stone yelling and threatening Beagle as he helped her get in her vehicle. Beagle immediately left the parking lot, and Lane then saw Stone leave the courthouse premises on foot. Beagle testified and asserted she did not hear anything while walking to her car. Stone testified and denied shouting at Beagle. According to Stone, he was afraid of the court's warning about violating the DVO, so he immediately left the courthouse premises. The court addressed Stone from the

bench, noting it had observed his demeanor during three hearings and emphasizing he had been expressly warned to follow court's order to have no contact or communication with Beagle. The court explained it found Lane's testimony credible, and it believed the events happened as Lane described. The court found Stone in indirect criminal contempt for violating the DVO and sentenced him to serve six months in jail. This appeal followed.

We are mindful that a trial court has broad authority when exercising its contempt powers; consequently, our review is limited to a determination of whether the court abused its discretion. *Kentucky River Community Care, Inc. v. Stallard*, 294 S.W.3d 29, 31 (Ky. App. 2008). "The test for abuse of discretion is whether the trial judge's decision was arbitrary, unreasonable, unfair, or unsupported by sound legal principles." *Commonwealth v. English*, 993 S.W.2d 941, 945 (Ky. 1999).

On appeal, Stone challenges the sufficiency of the evidence supporting the court's finding that he was in indirect criminal contempt of court for violating the DVO.

The Kentucky Supreme Court has explained that "[i]ndirect criminal contempt is committed outside the presence of the court and requires a hearing and the presentation of evidence to establish a violation of the court's order. It may be punished only in proceedings that satisfy due process." *Commonwealth v. Burge*,

947 S.W.2d 805, 808 (Ky. 1996). In *Commonwealth v. Pace*, 15 S.W.3d 393 (Ky. App. 2000), this Court set forth the evidentiary standard as follows:

When contempt is criminal in nature, it is necessary for all elements of the contempt to be proven beyond a reasonable doubt. Evidence necessary for a finding of contempt must show willful disobedience toward, or open disrespect for, the rule or orders of a court.

Id. at 396 (internal citations omitted).

We reiterate that a trial court has broad authority in exercising its contempt powers. Here, the court heard testimony from Officer Lane, the bailiff, that he observed Stone shouting threats at Beagle outside the courthouse. Stone, on the other hand, denied Lane's account and insisted he immediately left the courthouse premises. The trial court was in the best position to weigh the evidence, and it simply found Lane's testimony to be more credible than the testimony offered by Stone. We conclude the court did not abuse its discretion by finding Stone in indirect criminal contempt of court for violating the DVO.

For the reasons stated herein, the order of the Harrison Circuit Court is affirmed.

ALL CONCUR.

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