

Circuit Court for Montgomery County
Case No. 135300C

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 558

September Term, 2019

JAMES E. HALL

v.

STATE OF MARYLAND

Nazarian,
Shaw Geter,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 13, 2020

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Convicted by a jury in the Circuit Court for Montgomery County of harassment, stalking, and failure to comply with a peace order on January 22, 2019, James E. Hall, appellant, presents for our review thirteen questions, which we reduce to three and rephrase: (1) whether the court erred in admitting into evidence “alleged postings on Facebook,” (2) whether the evidence is sufficient to sustain the convictions, and (3) whether the court erred in imposing sentence and certain terms of probation. For the reasons that follow, we shall affirm the judgments of the circuit court.

At trial, the State called K.C., who testified that she works and lives on the grounds of a religious temple known as “ISKCON D.C.” In December 2017, K.C. “was at the temple” when Mr. Hall approached, introduced himself, and stated that “he was a fan of . . . music” that K.C. had recorded and posted on “Facebook” and “Sound Cloud.” K.C. allowed Mr. Hall to become her friend on Facebook but “added him on a certain setting so he couldn’t see everything [that K.C.] posted.” K.C. subsequently received on Facebook messages containing Mr. Hall’s name and a request that she “come over to [Mr. Hall’s] house” so they “could do music together,” and because Mr. Hall “wanted to get to know [K.C.] better.” When K.C. did not respond to the messages, Mr. Hall “kept persistently sending them to [K.C.], repeating the same thing over and over again, and getting more intense with it, . . . trying to . . . make himself someone that [K.C.] should really consider . . . getting involved with.” When K.C. “would be having conversations with people at the temple or going around doing [her] service,” Mr. Hall “would just be incessantly staring at” and “following” her. Mr. Hall also “got [K.C.’s] phone number from someone else and started calling [the] phone.”

When Mr. Hall “handed [K.C.] a letter . . . while he was shaking, angry, . . . saying, if you take this, . . . I’ll leave you alone,” K.C. concluded that “something had to be done.” K.C. subsequently met with Mr. Hall and told him: “I want nothing to do with you. Please leave me alone. [D]on’t contact me in any form. I don’t want to be friends. I don’t want anything to do with you. [I]f you don’t leave me alone, I’m going to get the . . . temple authorities involved, and you will be asked to leave.” Mr. Hall indicated that he understood, but “it didn’t stop there.”

On June 22, 2018, the District Court for Montgomery County awarded K.C. a peace order against Mr. Hall. The court ordered that Mr. Hall “shall not commit or threaten to commit [certain] acts against” K.C., including “an act that places [her] in fear of imminent serious bodily harm,” “harassment,” “stalking,” “misuse of telephone facilities and equipment,” “misuse of electronic communication or interactive computer service,” and “visual surveillance,” or “contact (in person, by telephone, in writing, or by any other means), attempt to contact, or harass” K.C. The court further ordered that Mr. Hall “shall stay away from” 825 Ellsworth Drive in Silver Spring, a location where, on Saturdays and Sundays, “members of the congregation of [K.C.’s] Temple . . . sing on the streets.” On June 30, 2018, K.C. was walking to the Ellsworth Drive location when she “learned [that Mr. Hall] had visited” the location. K.C. did not “turn around,” because she was told that Mr. Hall “was already gone.”

On September 13, 2018, Mr. Hall sent to K.C. three text messages, which stated, *verbatim*:

- “Have mercy – I am father to two and can’t afford to go to jail – feel free to call or review my proposal to Her via the Gita – jail is no fun[.]”
- “I am fighting Anandas claims on my own but it would a [sic] great help if You withdrew them on your own[.]”
- “One last thing and I hope you don’t send me to prison fir [sic] being a nice guy who is fond of the Divine – but I have shown trust like no other – have endured the frost – and if you do your research you will find I am just find [sic] of Her hoof and snout – and if it does not work out I really do not care what happens [] but think about being merciful soon[.]”

K.C. further testified that after she “blocked” Mr. Hall on Facebook, she began to receive messages on Facebook from a sender identified only as “Facebook User.” K.C. concluded that Mr. Hall was the sender, because the “[m]essages prior that [Mr. Hall had] sent [her] were there,” and they included “the same type of way of speaking, the same content, referencing to [K.C.], pleading with [K.C.], number included, same number.” The State subsequently submitted into evidence, over objection, approximately thirty messages to K.C. from “Facebook User,” in which the sender stated, in pertinent part:

- “In case you did not provide pick up on it [sic] the only future I care about is with you and am yearning for face to face companionship, will be an eternal friend and great daddy – and if not, there are other solutions . . . but they are gruesome and I won’t go into them[.]”
- “If you do not say ‘no’ and to stop My description of a telepath orgasm could be subtle or graphic and depending on preference, you could guide me with words[.]”
- “Since you did not tell me not to tell you – the secret to pleasuring a female telepath is that they can do it on their own but it helps to provide some brief linguistic worship, adoring their brain, talent and beauty – and using superior genetic features to love them as long as they desire[.]”
- “[A]s long as I am condemning Myself to jail time for worshipping at your feet – note that somewhere in those comments above is the promise to treasure your intellect while pinning you to the bed as Your heels scrape My powerful thighs[.]”

- “[J]ust know that I know you are drawn to the Fire but that I [do not] necessarily have eternal patience and you could take a few lessons from me[.]”
- “Still waiting for you to develop a backbone – and say yes or no and read my book at our wedding and adore my poetry that we created together and admit [t]hat you[] are a telepath and help me make everyone come out of the closet as they want to[.]”
- “[T]he proper thing to do is to provide an answer – if not then sometime soon I might start telling You that I know how to give telepath women ‘satisfaction[.]’”

On January 10, 2019, K.C. obtained from the District Court an extension of the peace order, because Mr. Hall “was still trying to contact” her. Later that month, K.C. was served with a package, which she arranged for a police officer to open. The package contained four books written by Mr. Hall, three of which were “[d]edicated to [K.C.]”

The State next called Lawson Knight, who testified that he is a volunteer at the temple where K.C. is employed. On June 23, 2018, Mr. Knight was at the Ellsworth Drive location when Mr. Hall “showed up . . . and . . . stood on the corner . . . within several feet of” Mr. Knight and his companions. On June 30, 2018, Mr. Knight was at the Ellsworth Drive location when Mr. Hall again “approached . . . and stood on the corner.” Mr. Knight told Mr. Hall that “he shouldn’t be there,” and used a cellphone to record Mr. Hall’s presence. Mr. Hall subsequently appeared at the Ellsworth Drive location “every single weekend . . . up to and including July 22nd.”

The State also called Aaron Alberts, who testified that on January 22, 2019, he served K.C. with “a priority envelope and a list of legal documents.” The State also called Lisa Garton, who testified that she manages a process serving company that Mr. Hall engaged to serve K.C. with the package. After the company served the package, Mr. Hall

sent to the company an e-mail in which he stated that “the recent Brief which needs to be served also has four accompanying books,” and “[i]f the woman providing service happened to indicate that this is incredibly romantic, it would also be appreciated.” When Ms. Garton replied that “going forward [the company would] only serve legal documents,” Mr. Hall sent additional e-mails in which he stated that K.C. “already knows how romantic She is,” and that he has “now had the opportunity to actually serve [K.C.] with the books She wrote Herself with Her type-writer, which is [Mr. Hall’s] brain.”

Following the close of the State’s case, Mr. Hall took the stand and admitted that on June 23, June 30, and July 22, 2018, he went to the Ellsworth Drive location to “market[his] books.” Mr. Hall testified that his “understanding of [the] peace order” was that he could “approach [the] vicinity” of the Ellsworth Drive location if K.C. was not present. Mr. Hall further testified that he had the process serving company serve K.C. with “a brief . . . associated with . . . a notice of removal to the Circuit Court [and] a jury demand for the peace order hearing.”

Following trial, the jury convicted Mr. Hall of the aforementioned offenses. The court subsequently sentenced Mr. Hall to a term of imprisonment of five years, all but eighteen months suspended, for the stalking conviction. For the harassment conviction, the court sentenced Mr. Hall to a term of imprisonment of ninety days, suspended that sentence, and ordered that the sentence be served consecutive to the sentence for stalking. For the failure to comply with the peace order, the court sentenced Mr. Hall to a term of imprisonment of ninety days, suspended that sentence, and ordered that the sentence be served consecutive to the sentence for harassment. The court also ordered that upon

release, Mr. Hall be placed on supervised probation for a period of five years. As “[s]pecial conditions of [the] probation,” the court ordered Mr. Hall “to submit to an evaluation, attend and successfully complete any mental health treatment as directed by [his] supervising agent,” and “as part of that mental health evaluation,” to “have a psychological sexual evaluation.” The court further ordered Mr. Hall “not to come anywhere or be found near any place that [K.C.] works or lives,” and “that would include the temple . . . as well as the Silver Spring address that was at issue in this case [and] in the peace order.”

Mr. Hall first contends that the trial court “err[ed] in admitting the alleged Facebook messages . . . without further evidence in support of identity of the sender.” We disagree. The Court of Appeals has stated that “where there is an issue as to authenticating social media evidence, the question is whether there is sufficient evidence for a reasonable juror to find that it is more likely than not that the social media evidence is what the proponent of the evidence purports it to be.” *State v. Sample*, 468 Md. 560, 598-99 (2020) (footnote omitted). Here, K.C. testified that she initially granted Mr. Hall access to her Facebook page, but later “blocked” him. Subsequent to the blocking, K.C. received messages which, she testified, were connected to the messages that Mr. Hall had sent to her prior to the blocking. Those messages contained Mr. Hall’s manner of speaking, content equal to the previous messages, and his phone number. We conclude that this evidence was sufficient for a reasonable juror to find that it is more likely that not that the messages to K.C. from “Facebook User” were authored by Mr. Hall. Hence, the court did not abuse its discretion in admitting the messages.

Mr. Hall next contends that, for numerous reasons,¹ the evidence is insufficient to sustain the convictions. We disagree. Md. Code (2002, 2012 Repl. Vol.), § 3-803(a) of the Criminal Law Article (“CL”), defines harassment as when a person “follow[s] another in or about a public place or maliciously engage[s] in a course of conduct that alarms or seriously annoys the other . . . with the intent to harass, alarm, or annoy the other[,] after receiving a reasonable warning or request to stop by or on behalf of the other[,] and . . .

¹Specifically, Mr. Hall contends that:

- “If a peace order is contested, then there is a legal and lawful right to appeal said peace order.”
- “There is a requirement to serve legal papers to the other party[] in the appeal of a peace order.”
- “Appeal . . . of a peace order[] is protected, and not a violation of the subject peace order.”
- “[F]or activity on social media to constitute ‘approaching, or pursuing another,’ . . . there would need to be a clear and tangible threat, expressed in direct language, identity would require attribution, and . . . material background would also include malicious behavior demonstrating an intent to harm, or intimidate.”
- “Without a position of trust, there is no merit to the assertions made by the State, that there is a relationship . . . which could be exploited,” and “the two individuals are virtually unknown to one another.”
- A “printed scrivener’s error, in conflict with the judicial order, does not supersede the order issued by []the judicial officer.”
- K.C. “testified that she had not been witness to, or present for, any alleged violation” of the peace order, and Mr. Hall’s “activities” at the Ellsworth Drive location “are not in violation of the judicial order given,” and constitute “free commerce, political expression[,] and the right to provide information to others.”

without a legal purpose.” CL § 3-802(a) defines stalking as “a malicious course of conduct that includes approaching or pursuing another where the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear . . . of serious bodily injury[,] of an assault in any degree[,] of rape or sexual offense . . . or attempted rape or sexual offense in any degree[,] of false imprisonment[,] or . . . of death.” We conclude that the evidence produced by the State, as summarized above, could convince a rational trier of fact beyond a reasonable doubt that Mr. Hall harassed and stalked K.C., and failed to comply with the peace order on January 22, 2019. Hence, the evidence is sufficient to sustain the convictions.

Finally, Mr. Hall contends that the court erred “in issuing a sentence of five years[] for the stalking charge” and “a combined sentence of six years[] and three months[] when the guidelines[] indicated probation to three months,” that “the inclusion of addresses of business interest to a competitor[] are inappropriate[] given the rights to freedom of speech, . . . to express a political view, [to] provide information to others, [and] to engage in free commerce,” and that “the inclusion of a psychosexual evaluation[] without any charges having been brought concerning a sexually-oriented crime[] is also inappropriate.” We disagree. We have stated that “[s]entencing guidelines in Maryland are not mandatory, and any deviation from them is not a basis for vacating the sentence or requiring a new sentencing hearing.” *Cruz-Quintanilla v. State*, 228 Md. App. 64, 71 (2016) (citations omitted). Also, the Court of Appeals has stated that “the court has broad discretion to impose conditions that curtail the defendant’s liberty while on probation,” *Allen v. State*, 449 Md. 98, 111 (2016) (citations omitted), and Mr. Hall does not cite any authority that

supports his contention that his constitutional rights precluded the court from prohibiting him from entering K.C.'s residence or place of employment or approaching a location that she regularly frequents. Finally, we conclude that in light of the evidence produced by the State, especially the content of the Facebook messages sent to K.C. by Mr. Hall, the court did not abuse its discretion in ordering the completion of a "psychological sexual evaluation." Hence, the court did not err or abuse its discretion in imposing the total term of imprisonment or the challenged terms of probation.

**JUDGMENTS OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**