2026 IL App (1st) -U
No. 1-26-0882
Order filed November 25, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THIRD DIVISON

JESAN GRAIL BORJA NONO, Plaintiff-Appellee,

v.

ADRIANO DAVILA, Defendant-Appellant

Appeal from the Circuit Court of Cook County.
Honorable Sunil Shashikant Bhave, Judge, Presiding.
No. 2025 OP 30952

JUSTICE ROCHFORD delivered the judgment of the court.
Presiding Justice Quish and Justice Lampkin concurred in the judgment.

ORDER

¶ 1 *Held*: Denial of mid-hearing motion for directed finding is affirmed, where defendant waived any challenge by proceeding to present evidence in his defense.

¶ 2 Defendant-appellant, Adriano Davila, appeals from the denial of a motion for directed finding he made in this action, which ultimately resulted in the entry of a plenary order of protection in favor of plaintiff-appellee, Jesan Grail Borja Nono. For the following reasons, we affirm.

¶ 3 On November 3, 2025, plaintiff filed a petition for an order of protection against defendant. The petition alleged that on May 8, 2025, defendant "started making threats to [plaintiff.]" The

petition further alleged on May 10, 2025, defendant approached plaintiff's house to talk to her and left once plaintiff's mother told him to go and threatened to call the police. The last four alleged incidents involved allegations of plaintiff's car being damaged in various ways, with the perpetrator being identified in the petition as "someone with the same hoodie" as defendant. After a hearing, the circuit court granted an emergency order of protection that same day based on the petition and plaintiff's testimony.

¶ 4 This case proceeded to a hearing on plaintiff's request for a plenary order of protection, held on April 22, 2026. Plaintiff testified first. On direct examination, plaintiff testified that she is a resident of Hanover Park, Illinois, and that she lives with her mom, four siblings, and her cousin. After identifying defendant in open court, plaintiff explained that she had met defendant when they became coworkers in the summer of 2024. The parties began dating around February or March of 2025, and plaintiff ended the relationship near the end of April or the start of May 2025. Soon after the breakup, defendant sent plaintiff a message on Instagram that read "just wait until everyone at work hears about everything. Don't worry. I've got you fo sho [sic]." Subsequent messages "sent a nude picture of [plaintiff's] breast" to plaintiff, and wrote "[d]on't worry about it tit tit."

¶ 5 Plaintiff then testified about multiple incidents involving cars in her driveway. She testified that in July 2025, her license plates went missing. Plaintiff went on to describe damage that had been done to her car on September 4, 2025, September 16, 2025, October 1, 2025, and November 3, 2025. Plaintiff did not personally witness these occurrences.

¶ 6 After describing the incidents involving damage to her car, plaintiff claimed to have security camera footage of the incidents on September 16, October 1, and November 3, 2025. Plaintiff moved to publish the footage, defendant objected to lack of foundation, and the circuit court sustained the objection. To attempt to lay further foundation, plaintiff provided additional

testimony. The circuit court overruled a second objection from defendant's counsel, finding enough foundation for publication. The circuit court did not grant a motion to admit either the messages or the video footage into evidence.

¶ 7 After plaintiff's testimony, plaintiff rested and defendant moved for a directed finding. Defendant's trial counsel argued that plaintiff only "really proved is that there was an uncomfortable exchange in a text message" after the parties broke up. The circuit court denied defendant's motion. The circuit court reasoned that, "at least with respect to the text messages," plaintiff made a *prima facie* case as the messages "could be construed as abuse, a threat to humiliate the plaintiff." The circuit court relied on the substantive content of the messages when coming to this conclusion. The circuit court further determined that, in conjunction with the messages, plaintiff provided enough testimony about vehicle damage to warrant proceeding with the hearing. Defendant then presented his case-in-chief, which consisted of the defendant's own testimony.

¶ 8 After defendant's testimony, defendant rested and the parties presented closing arguments. After both parties concluded their closing arguments, the circuit court found in favor of plaintiff. The circuit court entered a plenary order of protection with an expiration of April 21, 2028. Defendant timely appealed.

¶ 9 On appeal, defendant does not challenge the circuit court's final order granting a plenary order of protection. Rather, defendant's sole argument is that the circuit court improperly denied his mid-hearing motion for directed finding because the court improperly relied upon evidence—specifically the messages and the security camera footage—that was not properly entered into evidence, and absent that evidence plaintiff did not establish a *prima facie* case. We find that this argument has been waived.

¶ 10 Section 2-1110 of the Code of Civil Procedure provides: "In all cases tried without a jury, defendant may, at the close of plaintiff's case, move for a finding or judgment in his or her favor." 735 ILCS 5/2-1110 (West 2024). However, that section also provides: "If the ruling on the motion is adverse to the defendant, the defendant may proceed to adduce evidence in support of his or her defense, in which event the motion is waived." *Id*. That is exactly what occurred here, where after the circuit court denied defendant's motion for directed finding following plaintiff's presentation of her case defendant testified in support of his defense. As many courts have held and pursuant to the explicit language of section 2-1110, a defendant may not raise a claim on appeal as to the denial of a motion for directed finding in such circumstances. *Pancoe v. Singh*, 376 Ill. App. 3d 900, 909 (2007); *Dwyer v. Love*, 346 Ill. App. 3d 734, 738 (2004); *Arians v. Larkin Bank*, 253 Ill. App. 3d 1037, 1047 (1993).

¶ 11 Anticipating that we might find this argument waived, in his brief defendant asks this court to relax the waiver rule on appeal. First, defendant notes that—generally—the doctrine of waiver is a limitation on the parties, not the court. *Patsis v. Zion-Benton Township High School, No. 126*, 234 Ill. App. 3d 232, 235 (1992). However, the waiver at issue here does not arise out of judicial doctrine, but rather by dint of the explicit language of section 2-1110. Defendant does not cite, nor is this court aware of, any authority for disregarding a waiver provision explicitly provided for by statute. "[W]hile our case law is permeated with the proposition that waiver and forfeiture are limitations on the parties and not on the court, that principle is not and should not be a catchall that confers upon reviewing courts unfettered authority to consider forfeited issues at will." *Jackson v. Board of Election Commissioners of Chicago*, 2012 IL 111928, ¶ 33. Considering the explicit statutory language as to waiver, we decline to exercise any possible authority to relax the waiver

rule in this matter. See *In re D.D.*, 196 Ill. 2d 405, 419 (2001) ("When the language of a statute is plain and unambiguous, courts may not read in exceptions, limitations, or other conditions.").

¶ 12 Second, defendant invokes the doctrine of plain error. However, application of the plain-error doctrine in civil cases is "exceedingly rare" and is reserved for error "so egregious that it deprived the complaining party of a fair trial and substantially impaired the integrity of the judicial process itself." *Wilbourn v. Cavalenes*, 398 Ill. App. 3d 837, 856 (2010). We do not find that this matter presents such a situation, particularly where the waiver results from defendant's own affirmative act in presenting evidence following the denial of his motion for directed finding.

¶ 13 For the reasons stated, we affirm the judgment of the circuit court.

¶ 14 Affirmed.