

NOTICE

Decision filed 08/18/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 250709-U

NO. 5-25-0709

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE

This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

MONICA CRUZ,	)	Appeal from the
	)	Circuit Court of
Petitioner-Appellant,	)	Macon County.
	)	
v.	)	No. 25-OP-326
	)	
LISA HOLMES,	)	Honorable
	)	Michael B. Baggett,
Respondent-Appellee.	)	Judge, presiding.

JUSTICE BARBERIS delivered the judgment of the court.
Justices McHaney and Hackett concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court’s denial of a petition for a plenary stalking no contact order was not against the manifest weight of the evidence and is affirmed.

¶ 2 Petitioner, Monica Cruz, appeals from the Macon County circuit court’s September 3, 2025, denial of a plenary stalking no contact order against respondent, Lisa Holmes. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 On May 21, 2025, Cruz filed a *pro se* verified petition for stalking no contact order against Holmes. The petition included Cruz’s two minor children as additional protected parties. According to the petition, the following occurred:

“1st ocurence [sic] Lisa let dogs out on 5/19/25 to attack children me and my child ran into the house.

2nd occurrence on 05/20/2025 she was walking down the street and state if my dog bit a child that is their fault and said that included you to [sic] and pointed at me and she said the dog was going to bite my child to the bone with the dog bloody teeth.

3rd ocurence [sic] She was yelling at me saying she don’t care about my son for her dog to bite my son.

4th occurene [sic] Called police they arrested her I gave video to officer. Officer gave me a number to file with my restraining order 25004652 she kept stalking me standing in front of my house all day on the fire hydrant. Her daughter said my son had nothing to do with her dogs. She kept threatening me and my 4 year old son in front of the officers to harm us with her dogs.”

The same day, the petition was called for an *ex parte* emergency hearing. Cruz was present and presented testimony.¹ The circuit court granted an emergency stalking no contact order that expired on June 5, 2025, at 9:30 a.m. The circuit court set the matter for a first appearance on June 5, 2025, at 9:30 a.m. Holmes was served with a summons for a stalking no contact order on May 22, 2025, which advised that if she failed to appear on June 5, 2025, a default order may be entered against her.

¶ 5 The circuit court called the case on June 5, 2025, at 9:30 a.m. Cruz was present; however, Holmes failed to appear. The circuit court found Holmes was in default and entered a plenary order

¹A transcript from the emergency hearing on May 21, 2025, is not contained within the record on appeal.

against her. The same day, Holmes filed a *pro se* “Motion to Vacate,” which set forth the following:

“Let me explain my side of the story. I missed the court date this ofp [sic] say that I am armed and dangrous [sic]. I have edivence [sic] to rufuit [sic] the claim by the plantif [sic]. I’m sorry I missed to date. I’m asking the Court to give a chance to claify [sic] the dafimation [sic] agaist [sic] me.”

¶ 6 On July 9, 2025, the circuit court vacated the default judgment, terminated the plenary order, and reinstated the emergency order. A hearing on a plenary order was scheduled for September 3, 2025.

¶ 7 Both parties appeared *pro se* on September 3, 2025, and the matter proceeded to a hearing on the petition for a plenary stalking no contact order. Cruz testified on her own behalf.

¶ 8 Cruz testified that Holmes is a neighbor who lives directly behind her house. The circuit court reviewed the allegations of the petition with Cruz. Regarding the alleged May 19, 2025, incident, Cruz read from her petition, which alleged Holmes “let her dogs out and they were attacking children.” She stated, “My child ran in the house because she doesn’t have control of her dogs. So they got out, and my child ran in the house, and children were running on top of cars in the neighborhood.” Cruz testified that on May 19, 2025, she personally observed Holmes letting her two pit bull dogs out.

¶ 9 After the circuit court inquired if Cruz had any evidence that Holmes is directing the dogs to attack Cruz’s children, Cruz replied yes and referred to a video and an incident on or around May 23, 2025. Next, Cruz testified that on May 20, 2025, Holmes was walking down the street with another neighbor. Cruz heard Holmes say, “If my dog bites a child that is [their] fault,” then

said, “That includes you,” and pointed to Cruz and her son. Cruz testified that Holmes also said her dog was going to bite her child to the bone with bloody dog teeth.

¶ 10 Next, Cruz described video footage that she took with her cell phone that included a statement that Holmes’s dogs, who she referred to as “sons,” were better than Cruz’s son and to bite Cruz’s son. The circuit court viewed video footage; however, this footage is not contained within the record on appeal.

¶ 11 Cruz testified that Holmes sat on a fire hydrant in front of Cruz’s home and stared at her to intimidate her. Cruz called the police, who arrested Holmes.

¶ 12 On cross-examination, Holmes asked Cruz to explain why she thinks the dogs are vicious. Cruz stated, “You cannot control your dogs. Your dogs have got out several times. The kids have run in the neighborhood. My—I can’t even walk past—you can’t—I can’t even go in my backyard because if—your dog could jump that fence and bite my child and kill my child. We can’t even go to the park because you let your dogs out.”

¶ 13 Holmes then testified on her own behalf. Holmes testified that on May 19, 2025, her dogs escaped her residence while she was not at home. When she returned home, she noticed they were loose. When she found the dogs, they were surrounded by 20 kids, and no one was bitten by the dogs. Holmes believed someone opened her gate, and that is how the dogs became loose on May 19, 2025. Since that incident of them getting out, Holmes testified that she now has “secured fences and cameras” because she thought individuals were purposely opening the gate.

¶ 14 Holmes testified that she did not make any statements regarding Cruz or her children and the dogs. Holmes stated while walking with a neighbor she was “venting” and said she did not feel like it was her responsibility if kids opened her gate.

¶ 15 On cross-examination, Holmes testified that she lets her dogs out to play in the yard at their home because it is also the dogs' yard. Holmes testified the last time the dogs were loose from her yard was on "that day," presumably referring to May 19, 2025.

¶ 16 The circuit court explained that stalking requires a course of conduct that is defined as two or more acts. The circuit court found that the evidence proved one incident when Holmes was sitting on the fire hydrant in front of Cruz's house and staring at her home. Next, the circuit court found there was evidence that Holmes's dogs were getting loose; however, there was no evidence that Holmes was intentionally releasing the dogs or causing them to act in an aggressive fashion directed at Cruz or her children. Based on the foregoing, the circuit court found that Cruz did not meet her burden of proving a course of conduct of stalking behavior, so the petition for a plenary stalking no contact order was denied. Cruz filed a timely notice of appeal on September 4, 2025.

¶ 17 II. ANALYSIS

¶ 18 On appeal, Cruz argues the circuit court erred in denying her petition for a plenary stalking no contact order because she sustained her burden of proof and Holmes "gave false characterization of herself under oath stating that she was and [sic] outstanding law abiding citizen."

¶ 19 Holmes did not file an appellee brief. We do not automatically reverse a circuit court's order when an appellee has not filed a brief. *People v. Williams*, 339 Ill. App. 3d 956, 958 (2003).

¶ 20 Pursuant to the Stalking No Contact Order Act (Act), a victim of stalking may seek a civil remedy requiring the stalker to stay away from him or her. 740 ILCS 21/5 (West 2024). The Act defines stalking as "engaging in a course of conduct directed at a specific person," when the respondent "knows or should know that this course of conduct would cause a reasonable person to fear for his or her safety, the safety of a workplace, school, or place of worship, or the safety of a

third person or suffer emotional distress.” *Id.* § 10. A course of conduct means two or more acts “including but not limited to acts in which a respondent directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, or threatens a person, workplace, school, or place of worship.” *Id.* Contact is defined to include, in part,

“any contact with the victim, that is initiated or continued without the victim’s consent, or that is in disregard of the victim’s expressed desire that the contact be avoided or discontinued, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; *** and appearing at the prohibited workplace, school, or place of worship.” *Id.*

¶ 21 The stalker’s conduct must be nonconsensual, but the victim need not contact the stalker to inform him that the contact is unwanted. *Piester v. Escobar*, 2015 IL App (3d) 140457, ¶ 12. The Act focuses on whether the stalker’s behavior would cause a reasonable person to be fearful for his safety or to suffer emotional distress. *Id.*; *McNally v. Bredemann*, 2015 IL App (1st) 134048, ¶ 14. A reasonable person is “a person in the petitioner’s circumstances with the petitioner’s knowledge of the respondent and the respondent’s prior acts,” while emotional distress is defined as “significant mental suffering, anxiety or alarm.” 740 ILCS 21/10 (West 2024).

¶ 22 A petitioner seeking a stalking no contact order is required to prove stalking by a preponderance of the evidence. *Piester*, 2015 IL App (3d) 140457, ¶ 12; 740 ILCS 21/30(a) (West 2024). We will not reverse a circuit court’s decision to issue a stalking no contact order unless it is against the manifest weight of the evidence. *Piester*, 2015 IL App (3d) 140457, ¶ 12. A finding is against the manifest weight of the evidence if it is clearly apparent that the opposite conclusion should have been reached or the finding is unreasonable, arbitrary, or not based upon the evidence presented. *McNally*, 2015 IL App (1st) 134048, ¶ 12. Further, questions of witness credibility and conflicting evidence are matters for the circuit court to resolve as the trier of fact, and not a reviewing court. *Best v. Best*, 223 Ill. 3d 342, 350-51 (2006).

¶ 23 On appeal, Cruz is requesting this court to reach a different result based on the same testimony and evidence presented to the circuit court. Each party presented their own version of events, and the circuit court was required to determine credibility. The circuit court found that Cruz proved one incident of stalking behavior. However, the circuit court found the incidents with the dogs did not rise to the level of stalking behavior. Accordingly, the petition for plenary stalking no contact order was denied. Cruz's brief does not set forth a basis to find the circuit court's conclusion was against the manifest weight of the evidence, and we find none. We affirm the circuit court's September 3, 2025, order which denied the request to issue a plenary stalking no contact order.

¶ 24 III. CONCLUSION

¶ 25 Based on the foregoing reasons, we affirm the September 3, 2025, order of the circuit court of Macon County.

¶ 26 Affirmed.