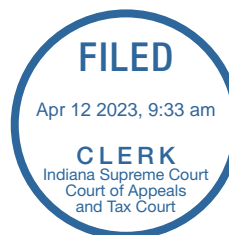


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

Alexandria J. Calabresi,

*Appellant-Defendant,*

v.

State of Indiana,

*Appellee-Plaintiff.*

April 12, 2023

Court of Appeals Case No.  
22A-CR-2767

Appeal from the Allen Superior  
Court

The Honorable Frances C. Gull,  
Judge

The Honorable Jason C. Custer,  
Magistrate

Trial Court Cause No.  
02D05-1912-CM-5689

**Memorandum Decision by Chief Judge Altice**  
Judges Riley and Pyle concur.

**Altice, Chief Judge.**

## **Case Summary**

- [1] Alexandria J. Calabresi appeals her conviction for invasion of privacy, a class A misdemeanor, challenging the sufficiency of the evidence. Calabresi maintains that her conviction must be reversed because the State failed to show that an ex parte order of protection was in effect when she allegedly sent a text message to the victim in violation of that order. Calabresi also claims that there was no proof that she was the sender of that message.
- [2] We affirm.

## **Facts and Procedural History**

- [3] During the winter months of 2018, Calabresi began attending fitness classes that Jennifer England taught at a Fort Wayne YMCA. Calabresi, a dog trainer, then started participating in England's classes at other YMCA locations. She also joined various online groups that England hosted. At some point, Calabresi started bringing gifts to class for England and her family members.
- [4] The relationship between England and Calabresi became hostile, and on October 29, 2019, England filed a request for an ex parte protective order against Calabresi, alleging that Calabresi had been stalking her. England's

request for the ex parte protective order was granted and Calabresi was served with the order on October 30, 2019, in open court. Calabresi then requested a hearing on the matter.

- [5] On November 12, 2019, England received a text message that Calabresi purportedly sent that stated, “fake ass wantabe [sic] bitch. Go f\*\*k yourself.” *Transcript Vol. II* at 72-73, *State’s Ex. 2* at 4-6. England became frightened, took a screen shot of the text, and sent it to Allen County Police Officer Pedro Yaruchyuk, a family friend who was also a resource officer at the school where England’s children attended.
- [6] Officer Yaruchyuk commenced an investigation and determined that the message England received was sent by way of a phone application called “Textnow.” *Transcript Vol. I* at 83. That application allows Textnow customers to create an account and request anonymous phone numbers to make calls and send messages. Officer Yaruchyuk contacted Textnow’s security agents and requested the customer account information that was associated with the phone number attached to the message that England received. Officer Yaruchyuk learned that the account assigned to that phone number was created on October 17, 2019 and was registered to A.J. Calabresi with a username of Alpha One K-9 LLC, and an email address of alphaonek9llc@gmail.com. Officer Yaruchyuk later determined that Calabresi owned Alpha One K-9 LLC—a dog training business—and that her company email address was used to create the Textnow account.

- [7] On December 5, 2019, both Calabresi and England appeared for a hearing on the protective order. Five days later, the State charged Calabresi with invasion of privacy for violating the ex parte protective order because she sent England the November 12 text message.
- [8] On March 10, 2020, the trial court granted a full protective order that prevented Calabresi from contacting England or her family in any manner. The trial court found that Calabresi “represents a credible threat to the safety of [England] or a member of [her] household,” and that “stalking has occurred to justify the issuance of the order for protection.” *State’s Exhibit 1*.
- [9] Following the conclusion of a jury trial on the invasion of privacy charge on August 20, 2020, Calabresi was found guilty and sentenced to 365 days on home detention.
- [10] Calabresi now appeals.

## **Discussion and Decision**

- [11] Our standard of review for claims challenging the sufficiency of the evidence is well-settled:

Sufficiency-of-the-evidence claims . . . warrant a deferential standard, in which we neither reweigh the evidence nor judge witness credibility. Rather we consider only the evidence supporting the judgment and any reasonable inferences drawn from that evidence. We will affirm a conviction if there is substantial evidence of probative value that would lead a

reasonable trier of fact to conclude that the defendant was guilty beyond a reasonable doubt.

*Powell v. State*, 151 N.E.3d 256, 262-63 (Ind. 2020). To convict Calabresi of invasion of privacy, a class A misdemeanor, the State was required to prove beyond a reasonable doubt that Calabresi knowingly or intentionally violated the ex parte protective order issued against her by contacting England. See I.C. § 35-46-1-15.1.

[12] Here, Calabresi initially claims that her conviction must be set aside because the State failed to prove that an ex parte order of protection was in effect when the offense was committed. England, however, testified at trial that the trial court granted her request for the ex parte order against Calabresi on October 29, 2019, prohibiting Calabresi from contacting England or her family members. And the exhibits admitted at trial established that Calabresi was served with a copy of that order “in open court,” on October 30. *State’s Exhibit 1, 3*. Calabresi also filed a timely request for a hearing on the matter. Additionally, Officer Yaruchyk testified that after England notified him of the November 12 text message, he located the ex parte order of protection that the trial court had issued against Calabresi. The evidence was more than sufficient to show that Calabresi knew that the ex parte order of protection had been issued against her on October 29, 2019.

[13] Calabresi also argues that the State failed to prove that she was the individual who sent the November 12 text message. The evidence showed that the Textnow phone number used to send the message to England was registered to

Calabresi. The Textnow account used the name of Calabresi's business and her company's email address. From this evidence, the jury could logically infer that Calabresi created the Textnow account. And because Textnow's purpose is to provide its customers with anonymous phone numbers, the jury could reasonably infer that it was Calabresi who messaged England through Textnow to avoid detection. Calabresi's arguments that her conviction must be reversed "because Textnow does not verify the email address on the account or the identity of the user," *appellant's brief* at 11, are invitations to reweigh the evidence, which we decline. *See McHenry v. State*, 820 N.E.2d 124, 126-27 (Ind. 2005). Thus, we conclude that the evidence was sufficient to support Calabresi's conviction for invasion of privacy.

[14] Judgment affirmed.

Riley, J. and Pyle, J., concur.