

SUPREME COURT OF RHODE ISLAND

Freitas v. Cruso

868 A.2d 45 (R.I. 2005) · Decided February 15, 2005

SUMMARY

The Rhode Island Supreme Court reviewed an appeal from a preliminary injunction prohibiting the defendant from harassing, interfering with, molesting, or threatening the plaintiff. The court held that the hearing justice did not abuse his discretion in granting the injunction based on the plaintiff’s testimony and corroborating audio recording, and it denied and dismissed the appeal.

CASE DETAILS

COURT	Supreme Court of Rhode Island
JURISDICTION	Rhode Island
DECIDED	February 15, 2005
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant appealed from a Superior Court order granting plaintiff a preliminary injunction barring defendant from harassing, interfering with, molesting, or threatening plaintiff.
STANDARD OF REVIEW	A preliminary injunction is reviewed for abuse of discretion, under a higher standard of review than a permanent injunction.
PRECEDENTIAL VALUE	Published Rhode Island Supreme Court opinion; precedential
PARTIES	Joseph M. Cruso v. Emanuel A. Freitas

TOPICS

- injunctions
- appellate procedure
- standard of review
- civil procedure

PRACTICE AREAS

- Civil procedure
- Appellate procedure
- Injunctions

QUESTIONS PRESENTED

- Whether the Superior Court abused its discretion by granting a preliminary injunction without making explicit findings that defendant's conduct constituted more than mere hostility.

2. Whether the record supported the preliminary injunction where plaintiff's testimony was corroborated by an audio recording and was not contradicted by defendant.

HOLDINGS

1. A preliminary injunction need not be vacated for lack of explicit findings where the hearing justice's decision implicitly reflects that the proper preliminary-injunction analysis was performed.
2. The hearing justice did not inappropriately exercise or abuse his discretion by granting the preliminary injunction.
3. A party seeking a preliminary injunction must show a reasonable likelihood of success on the merits, irreparable harm absent relief, a balance of equities favoring relief, and that the injunction will preserve the status quo.

KEY QUOTATIONS

“Our review is limited “to a determination of whether the hearing justice abused [his or her] discretion.””
(868 A.2d at 45)

“[T]he hearing justice should determine whether the moving party (1) has a reasonable likelihood of success on the merits, (2) will suffer irreparable harm without the requested injunctive relief, (3) has the balance of the equities, including the possible hardships to each party and to the public interest, tip in its favor, and (4) has shown that the issuance of a preliminary injunction will preserve the status quo.” (868 A.2d at 46)

FACTUAL BACKGROUND

Freitas testified that Cruso made threatening telephone calls, stated that he would murder Freitas, and came to Freitas's home, where he pounded on the door and rang the doorbell. The hearing justice found Freitas's testimony corroborated by an audio recording. Cruso presented no evidence contradicting Freitas's testimony.

PROCEDURAL HISTORY

The Superior Court granted Freitas a preliminary injunction after a brief hearing. Cruso appealed, arguing that the hearing justice failed to make specific findings showing more than mere hostility. The Rhode Island Supreme Court ordered the parties to show cause why the appeal should not be summarily decided; after Freitas failed to appear, the Court decided the appeal on the submitted papers and denied and dismissed it.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

The papers in the case were returned to the Superior Court; no further substantive instructions were issued.

CASES CITED

- Iggy's Doughboys, Inc. v. Giroux, 729 A.2d 701, 705 (R.I. 1999)

- School Committee of the Town of North Kingstown v. Crouch, 808 A.2d 1074, 1077 (R.I. 2002)

OPINION

PER CURIAM.

ORDER This case presents some of the most difficult and troubling issues a trial justice confronts: citizens who, for one reason or another, real or perceived, cannot get along and resort to the courts for restraining orders.

The pro se plaintiff, Emanuel A. Freitas (Freitas or plaintiff), was granted a preliminary injunction, by a justice of the Superior Court, barring the defendant, Joseph M. Cruso (Cruso or defendant), from “harassing, interfering with, molesting, or threatening” Freitas.

The defendant appeals to this Court, arguing that the hearing justice erred in granting an injunction in the absence of specific findings that Cruso exhibited anything more than mere hostility towards Freitas.¹ This case came before the Supreme Court on February 2, 2005, pursuant to an order directing the parties to appear and show cause why the issues raised in this appeal should not summarily be decided.

When the plaintiff failed to appear at the scheduled oral argument, this Court announced that, under Rule 22(f) of the Supreme Court Rules of Appellate Procedure, it would decide the case based on the papers submitted.

After careful review of the record and the memorandum submitted by the defendant,² we are satisfied that cause has not been shown. Accordingly, we shall decide the appeal at this time. Because we are presented with a preliminary injunction, we apply a higher standard of review than if a permanent injunction were before us. Our review is limited “to a determination of whether the hearing justice abused [his or her] discretion.” *Iggy’s Doughboys, Inc. v. Giroux*, 729 A.2d 701, 705 (R.I.1999).

Our careful review of the record reveals that, although the hearing justice, in a very brief hearing, did not elaborate on the factors considered, it is implicit in his decision that he carried out the proper analysis.³ See *School Committee of the Town of North Kingstown v. Crouch*, 808 A.2d 1074, 1077 (R.I.2002) (refusing to vacate preliminary injunction despite lack of explicit findings on factors considered).

At the hearing, the defendant failed to present any evidence to contradict the testimony of the plaintiff, which, the hearing justice found, was corroborated by an audio tape recording. Accordingly, we are not convinced that the hearing justice inappropriately exercised or abused his discretion.

For the reasons set forth herein, we deny and dismiss the appeal and return the papers in this case to the Superior Court.. The plaintiff testified that he received threatening phone calls from

defendant, that defendant said he would murder plaintiff, and that defendant came to plaintiff's house, pounded on the door and rang the doorbell..

The plaintiff has not filed any memoranda with regard to this appeal.. In *Iggy's Doughboys, Inc. v. Giroux*, 729 A.2d 701, 705 (R.I.1999), we set forth the findings that warrant a grant of a preliminary injunction: "[T]he hearing justice should determine whether the moving party (1) has a reasonable likelihood of success on the merits, (2) will suffer irreparable harm without the requested injunctive relief, (3) has the balance of the equities, including the possible hardships to each party and to the public interest, tip in its favor, and (4) has shown that the issuance of a preliminary injunction will preserve the status quo."