

# OHIO COURT OF APPEALS, ELEVENTH APPELLATE DISTRICT

## Ziegler v. Tameris

2022-Ohio-4044 (Ohio Ct. App. 2022) · No. 2022-L-042 · Decided November 14, 2022

### SUMMARY

The Ohio Eleventh District Court of Appeals affirmed a judgment granting Mary B. Ziegler a civil stalking protection order against her neighbor, Eve Tameris. The court held that the evidence was legally sufficient to establish a pattern of conduct constituting menacing by stalking under Ohio Revised Code 2903.211(A)(1), including conduct that caused Ziegler mental distress.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                  |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Ohio Court of Appeals, Eleventh Appellate District                                                                                                                                                                               |
| WRITING FOR THE COURT | Thomas R. Wright, P.J.; Cynthia Westcott Rice, J.; Mary Jane Trapp, J.                                                                                                                                                           |
| JURISDICTION          | Ohio                                                                                                                                                                                                                             |
| DECIDED               | November 14, 2022                                                                                                                                                                                                                |
| DOCKET                | 2022-L-042                                                                                                                                                                                                                       |
| DISPOSITION           | affirmed                                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | Respondent appealed from the Lake County Court of Common Pleas judgment overruling her objections to the magistrate's decision and granting petitioner a civil stalking protection order.                                        |
| STANDARD OF REVIEW    | The appellate court reviewed the sufficiency of the evidence by viewing the evidence in the light most favorable to the petitioner and determining whether some evidence supported all elements of the claim as a matter of law. |
| PRECEDENTIAL VALUE    | Published Ohio Court of Appeals opinion                                                                                                                                                                                          |
| PARTIES               | Eve Tameris, Respondent-Appellant v. Mary B. Ziegler, Petitioner-Appellee                                                                                                                                                        |

### TOPICS

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

### PRACTICE AREAS

- civil procedure
- protective orders
- stalking and harassment
- appellate law

## QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to support issuance of a civil stalking protection order under R.C. 2903.214.
2. Whether the evidence established that Tameris engaged in a pattern of conduct constituting menacing by stalking under R.C. 2903.211(A)(1), including conduct knowingly causing Ziegler to believe that Tameris would cause her mental distress.

## HOLDINGS

1. The evidence was legally sufficient to support the finding that Tameris committed acts constituting menacing by stalking and therefore supported the civil stalking protection order.
2. The cumulative pattern and frequency of Tameris's conduct were sufficient to establish a statutory pattern of conduct and support a finding that the conduct caused Ziegler mental distress.

## KEY QUOTATIONS

*“Importantly, “in determining whether or not to grant a stalking civil protection order, the trial court needs to view the actions with respect to their effect on the petitioner.”” (¶ 9)*

*“we conclude that the evidence was legally sufficient to support a decision that Tameris has committed acts against Ziegler that constitute menacing by stalking under R.C. 2903.211(A)(1).” (¶ 14)*

## FACTUAL BACKGROUND

Ziegler and Tameris were next-door neighbors whose homes were less than 100 feet apart. Over approximately a year, Tameris allegedly engaged in repeated conduct directed at Ziegler, including loud music, insults, intimidating gestures, surveillance-like photography and recording, nighttime activity, property-line conduct, and other acts that caused Ziegler anxiety, sleeplessness, nightmares, fear, and continuing efforts to avoid Tameris. The magistrate credited Ziegler, her husband, her adult daughter, and a sheriff's deputy, found Tameris not credible, and concluded that the cumulative conduct constituted menacing by stalking.

## PROCEDURAL HISTORY

Ziegler petitioned for a civil stalking protection order under R.C. 2903.214. After an ex parte order and a full hearing, the magistrate recommended granting the order through January 1, 2024. The trial court adopted the magistrate's decision and later overruled Tameris's objections and supplemental objections. Tameris appealed, challenging the sufficiency of the evidence.

## DISPOSITION

affirmed

## CASES CITED

- State v. Wilson, 113 Ohio St.3d 382, 2007-Ohio-2202, 865 N.E.2d 1264, ¶ 25
- State v. Thompson, 78 Ohio St.3d 380, 386-387, 678 N.E.2d 541 (1997)

- L.M.W. v. B.A., 2022-Ohio-2416, 191 N.E.3d 1240, ¶¶ 18, 27 (8th Dist.)
- Lloyd v. Thornsbery, 11th Dist. Portage No. 2017-P-0029, 2018-Ohio-2893, ¶ 9
- Lane v. Brewster, 12th Dist. Clermont No. CA2011-08-060, 2012-Ohio-1290, ¶ 18
- Tuuri v. Snyder, 11th Dist. Geauga No. 2000-G-2325, 2002 WL 818427, \*3 (Apr. 30, 2002)
- Cooper v. Manta, 11th Dist. Lake No. 2011-L-035, 2012-Ohio-867, ¶¶ 33, 39
- State v. Bone, 10th Dist. Franklin No. 05AP-565, 2006-Ohio-3809, ¶ 24
- McKinley v. Kuhn, 4th Dist. Hocking No. 10CA5, 2011-Ohio-134, ¶¶ 14, 17
- R.R. v. J.H., 8th Dist. Cuyahoga No. 109465, 2021-Ohio-706, ¶ 29
- State v. Horsley, 10th Dist. Franklin No. 05AP-350, 2006-Ohio-1208, ¶ 48
- J.A.C. v. A.L., 8th Dist. Cuyahoga No. 110999, 2022-Ohio-2275, ¶ 18
- Kramer v. Kramer, 3d Dist. Seneca No. 13-02-03, 2002-Ohio-4383, ¶ 17