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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

MICHELE BARLOW,

Plaintiff and Respondent,

v.

ALADDIN DINAALI,

Defendant and Appellant.

E061915

(Super.Ct.No. CIVVS1400332)

OPINION

APPEAL from the Superior Court of San Bernardino County. Eric M. Nakata, Judge. Affirmed.

Aladdin Dinaali, in pro. per., for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Plaintiff and respondent Michele Barlow obtained a temporary civil harassment restraining order (restraining order) against defendant and appellant Aladdin Dinaali. Defendant contests the issuance of the restraining order, as well as various other orders issued by the trial court. Because the record on appeal does not demonstrate any error, we affirm.

## I. FACTS AND PROCEDURAL BACKGROUND

On August 20, 2014, plaintiff requested a restraining order to protect herself, her husband, and her child from defendant, alleging attempted extortion and criminal trespassing. According to her papers, defendant had been hired to inspect plaintiff's property in connection with a refinancing, but subsequently tried to extort "money [and] work," making multiple threats by email and phone to "call code enforcement," which he in fact carried out.<sup>1</sup> Defendant also is alleged to have "illegally obtained access under [plaintiff's] house via [the] crawlspace."

On September 11, 2014, the trial court denied defendant's oral request for a continuance of the hearing on plaintiff's request for a restraining order so that he could "file an anti-SLAPP motion"; the proposed anti-SLAPP motion does not appear in our record. According to the court's minute order of the hearing, plaintiff, her husband, and a county code enforcement officer testified on plaintiff's behalf; defendant testified on his own behalf, after being advised of his Fifth Amendment rights, in light of "pending charges."<sup>2</sup> No transcript of this testimony was included in the record on appeal. The trial court granted plaintiff's request for a restraining order.

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<sup>1</sup> Defendant's briefing on appeal indicates that he "reported the subject property to California Department of Social Services as unsafe." The record on appeal also includes an email chain between defendant and a representative of the Code Enforcement Division of the San Bernardino County Land Use Services Department.

<sup>2</sup> A booking record, indicating defendant was booked on a charge of extortion on August 21, 2014, appears in our record.

On September 26, 2014, defendant filed a motion “for a new trial to set aside Civil Harassment Judgment and terminate [plaintiff’s] Restraining Order.” The trial court denied the motion after a hearing on October 21, 2014.

## II. DISCUSSION

Defendant contends that the trial court erred in issuing the restraining order against him, arguing that he “has never harassed or threatened [plaintiff] and this case is completely meritless and should be set aside.” We find no error.

“A person who has suffered harassment” may seek “an injunction prohibiting harassment . . . .” (Code Civ. Proc.,<sup>3</sup> former § 527.6, subd. (a).) “Harassment” includes “a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose.” (*Id.*, subd. (b).) If, after a hearing, the trial court finds “by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment.” (*Id.*, subd. (i).)

We review the trial court’s decision for substantial evidence, applying the “customary rules of appellate review.” (*Schild v. Rubin* (1991) 232 Cal.App.3d 755, 762.) “The most fundamental rule of appellate review is that a judgment is presumed correct, all intendments and presumptions are indulged in its favor, and ambiguities are resolved in favor of affirmance.” (*City of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 286 (*City of Santa Maria*).)

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<sup>3</sup> Further statutory references are to the Code of Civil Procedure unless otherwise indicated.

The record on appeal is devoid of any oral proceedings in the trial court. The trial court's minute order of the hearing on plaintiff's request for a restraining order indicates that a court reporter was present, but defendant elected not to include the reporter's transcript in the record on appeal. We cannot review whether the trial court's ruling was supported by substantial evidence if the evidence presented to the trial court is not included in the record on appeal. Indeed, to the extent a partial record of trial court proceedings does not reveal substantial evidence in support of the judgment, we must presume such evidence was contained in the missing portion. (See *City of Santa Maria, supra*, 211 Cal.App.4th at p. 286; see also *Buckhart v. San Francisco Residential Rent etc., Bd.* (1988) 197 Cal.App.3d 1032, 1036 [““[I]f any matters could have been presented to the court below which would have authorized the order complained of, it will be presumed that such matters were presented.””].) As such, on the present record, we must affirm the trial court's decision to issue the restraining order.

Defendant also contends that the trial court erred by not considering the “anti-SLAPP” motion that he proposed to file in opposition to the request for a restraining order. In light of the trial court's ruling on the request for a restraining order, however, and our conclusion that ruling must be affirmed, it follows that plaintiff would have been able to carry her burden to show a likelihood of success, even assuming defendant could have shown the request for a restraining order constituted protected activity under section 425.16. (See *Anderson v. Geist* (2015) 236 Cal.App.4th 79, 85 [Fourth Dist., Div. Two] [discussing anti-SLAPP analysis].) As such, defendant cannot demonstrate any prejudice from the denial of his request for a continuance.

Defendant further contends that the trial court erred by denying his motion for a “new trial” and to set aside the restraining order. Again, given the partial state of the record, we have no proper basis on which to review the trial court’ ruling, let alone reverse it.

### III. DISPOSITION

The judgment is affirmed. Plaintiff is awarded costs on appeal.

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HOLLENHORST

Acting P. J.

We concur:

MCKINSTER

J.

SLOUGH

J.