

NOTICE: Summary decisions issued by the Appeals Court pursuant to its rule 1:28, as amended by 73 Mass. App. Ct. 1001 (2009), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

15-P-157

DERIC WICKER

vs.

CHRISTINE MONIZ.

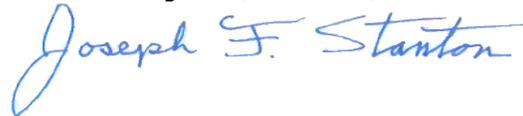
MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

Before us is the defendant's timely appeal from an order dated November 7, 2014, allowing the plaintiff's application for a civil harassment prevention order (HPO) order against her. See G. L. c. 258E, inserted by St. 2010, c. 23. After review, we agree with the defendant that the legal standards for the issuance of the harassment prevention order were not met. "To establish harassment [under c. 258E], a complainant must prove that the defendant, motivated by cruelty, hostility, or revenge, wilfully committed three or more acts aimed at a specific person, each with the intent to cause that person to experience fear or intimidation, or to cause abuse or damage to property, which, considered together, did in fact cause fear, intimidation, abuse, or damage to property." O'Brien v. Borowski, 461 Mass. 415, 426 (2012). Even giving the

plaintiff's affidavit and testimony the most liberal interpretation, it is plain that he failed to allege, much less prove, three or more distinct acts of harassment as defined by law. We therefore remand the case to the District Court for entry of an order vacating the November 7, 2014, HPO against the defendant. See Seney v. Morhy, 467 Mass. 58, 64 (2014).

So ordered.

By the Court (Cohen,
Grainger &
Wolohojian, JJ.¹),



Clerk

Entered: January 7, 2016.

¹ The panelists are listed in order of seniority.