

# Commonwealth of Kentucky

## Court of Appeals

NO. 2006-CA-000844-MR

ALLIE MAE WALKER

APPELLANT

v. APPEAL FROM CHRISTIAN CIRCUIT COURT  
HONORABLE JOHN L. ATKINS, JUDGE  
ACTION NO. 02-CI-01057

CHAD KELLY MACIAS

APPELLEE

OPINION  
AFFIRMING

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BEFORE: ACREE, HOWARD, AND LAMBERT, JUDGES.

LAMBERT, JUDGE: Allie Mae Walker appeals from a bench trial in which the circuit court declined to grant her judgment on her intentional-infliction-of-emotional-distress claim against Chad Kelly Macias. Upon full review, we affirm the judgment below.

At trial, Walker, 72, presented evidence that convinced the court below that Macias had intentionally made several harassing and life-threatening telephone calls to her. The court also was convinced that the medical evidence indicated that Walker suffered from serious or extreme emotional distress. But, because Walker's treating

physician indicated in his testimony that (1) the messy divorce of her son was a significant factor causing her anxiety; and (2) failed to specifically indicate that Macias' telephone calls were a direct cause of her emotional distress, the court below declined to grant judgment in her favor on the ground that she had not proved the factual element of causation.

As this case was tried by the court without a jury, the trial court's findings of fact will not be set aside unless they are clearly erroneous. *See* CR 52.01; *see also*, *e.g.*, *Gosney v. Glenn*, 163 S.W.3d 894, 898 (Ky.App. 2005). A factual finding is not clearly erroneous if it is supported by substantial evidence. *Id.* Substantial evidence is evidence which, when taken alone or in light of all the evidence, has sufficient probative value to induce conviction in the mind of a reasonable person. *Id.* Thus, as long as the trial court reasonably construed the medical evidence regarding causation, we must affirm even if we might have reached a different conclusion. Indeed, we have neither the duty nor right to review this action *de novo*. *E.g.*, *Fleming v. Rife*, 328 S.W.2d 151, 152 (Ky. 1959).

Based on our review of the medical evidence, we find that the proof on the element of causation was not at all clear cut and that reasonable jurists could disagree whether Walker proved that Macias' threatening telephone calls caused her subsequent emotional distress as opposed to other stress inducing matters in her life. Though Walker's doctor indicated that her condition declined following the telephone calls, he failed to make clear that a causal relationship existed between the two. Consequently, we

find that the trial court's view that Walker failed to prove the element of causation (1) was reasonable; (2) was based on substantial evidence; and (3) was not clearly erroneous. And, although we are sympathetic with Walker's case and might have adjudicated it differently, we nevertheless are constrained to affirm the judgment of the Christian Circuit Court.

ALL CONCUR.

BRIEF FOR APPELLANT:

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