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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION TWO**

BRIANNA DINNEN,

Plaintiff and Respondent,

v.

GABRIELLA FIELDS,

Defendant and Appellant.

E081152

(Super.Ct.No. PRRI2201337)

OPINION

APPEAL from the Superior Court of Riverside County. Jacqueline C. Jackson, Judge. Affirmed.

Gabriella Fields, in pro. per., for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Gabriella Fields appeals an elder abuse restraining order prohibiting her from abusing or contacting Elli Palestini and plaintiff and respondent Brianna Dinnen. Finding no error, we affirm.<sup>1</sup>

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<sup>1</sup> Undesignated statutory references are to the Welfare and Institutions Code.

## I. BACKGROUND

According to the restraining order request, Palestini is an elderly woman under a conservatorship with Dinnen as the conservator. Fields is Palestini's daughter, and Dinnen is Palestini's granddaughter and Fields's niece.

On July 15, 2022, Dinnen filed a request for elder abuse restraining order. The request alleges two incidents of abuse. On July 9, 2022, Fields snuck into Palestini's room at a senior living facility. Fields "refused to leave the facility[,] getting irate and angry [and] causing an unsafe environment and situation," so staff called the police to remove her. Fields left voluntarily but stayed "in the street and continued to call the police and fire department even tho[ugh] there was no emergency and even after the police and fire department asked her to stop."

Two days later, on July 11, Fields had the fire department "show up to the [senior living] facility for the 6th time in 48 hours with no real emergency." Fields then called the public guardian's office, claiming that Palestini was in the hospital and that the office needed to pick up [Palestini's husband] and take him, when in fact she was not in the hospital." Dinnen stated she feared for the safety of Palestini and Palestini's husband and that she feared Fields "will somehow get to them and harm or kidnap them." Dinnen sought a restraining order against Fields for Palestini, Palestini's husband, herself, and her husband. The request sought an order prohibiting Fields from abusing, harassing, or contacting the protected parties, among other actions, as well as a stay-away order. The trial court issued a temporary restraining order.

The hearing on the restraining order request took place over two days, February 7 and 27, 2023. Several witnesses testified, including Palestini. Palestini stated she was 85 years old. When asked about how she felt about visiting with Fields, Palestini responded that she did not want to see her. Palestini twice stated that Fields caused her too much “damage.” She explained that Fields and Fields’s husband had taken, and never returned, three cars from her and her former husband. Palestini again stated that she did not want to see Fields.

Dinnen testified that before becoming Palestini’s conservator, Dinnen had tried to get Palestini moved from a senior living home because it was infested with cockroaches. Moving Palestini to a different facility led Dinnen to seek a conservatorship over Palestini. Once Dinnen became Palestini’s conservator and “could get everything in order,” Dinnen moved Palestini to a different facility. When asked what prompted her to seek a restraining order, Dinnen responded: “I was worried that, once I move[d] my grandma to the new facility, that the harassment would continue and she would be kicked out of this facility like she was in 2017 at [another facility] because of the harassment [Fields] had done.” Dinnen said she sought to “protect [her] grandma and her living situation in life.” She stated that staff at the senior living facility contacted her several times on July 9, 2022. Much of Dinnen’s other testimony about July 9 and 11 was stricken as hearsay.

Fields testified that, before July 9, 2022, Palestini had never expressed to her that she did not want to see her. She stated that before that day, she had been visiting

Palestini “about 8 to 15 times a month” but had never seen her room. On July 9, Fields visited Palestini and saw a cockroach crawling out from her door and Palestini “lying in urine.” Fields called the nonemergency police number but denied ever calling 911 or the fire department. She did not call Dinnen because she did not have her number. A police officer arrived and told Fields to leave.

Fields testified that Palestini lost the ability to drive in 2009 after a stroke and that Palestini’s vehicles were legally transferred to her (Fields). When asked whether Palestini has ever told Fields why she thinks the cars were stolen, Fields stated it was “[b]ecause she keeps hearing that” from Dinnen and Dinnen’s mother. Asked whether Fields was susceptible to what people tell her, Fields said yes.

Fields’s husband and daughter testified as well. Fields’s husband testified that Palestini’s former husband transferred ownership of the vehicles to Fields because they owed the Fields money.

The trial court granted a one-year restraining order. Ruling from the bench, the court stated it was “focus[ed] on” Palestini’s statements that she did not want to see Fields and her belief that Fields wrongfully took her cars. The court noted that, given Palestini’s age, having to move facilities is highly disruptive, and the court was concerned that “the behavior of the repetitive phone calls for law enforcement and their reaction” might jeopardize Palestini’s current placement. The trial court did not extend the restraining order to Dinnen’s husband, as it found insufficient evidence to do so.

## II. DISCUSSION

Under the Elder Abuse and Dependent Adult Civil Protection Act (Elder Abuse Act, § 15600 et seq.), a trial court may issue a restraining order to protect an “elder” who has suffered “abuse.” (§ 15657.03, subds. (a), (b).) Abuse of an elder includes “[p]hysical abuse, neglect, abandonment, isolation, abduction, or *other treatment* with resulting physical harm or pain or mental suffering.” (§ 15610.07, subd. (a)(1), italics added.)

The party seeking an elder abuse restraining order must show one is necessary by a preponderance of the evidence, and we review such orders for abuse of discretion. (*White v. Wear* (2022) 76 Cal.App.5th 24, 35.) “““The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.””” (*Goodman v. Lozano* (2010) 47 Cal.4th 1327, 1339.) “We could therefore disagree with the trial court’s conclusion, but if the trial court’s conclusion was a reasonable exercise of its discretion, we are not free to substitute our discretion for that of the trial court.” (*Avant! Corp. v. Superior Court* (2000) 79 Cal.App.4th 876, 881-882.)

Dinnen did not file a respondent’s brief. As a result, “the court may decide the appeal on the record, the opening brief, and any oral argument by the appellant.” (Cal. Rules of Court, rule 8.220(a)(2).) However, the failure to file a respondent’s brief does not merit an automatic reversal. (*Griffin v. The Haunted Hotel, Inc.* (2015) 242

Cal.App.4th 490, 505 [“if a respondent in a civil case files no brief at all, we still examine the record to see if it supports any claims of error made by the appellant”].)

We first note that the restraining order has already expired. “““If relief granted by the trial court is temporal, and if the relief granted expires before an appeal can be heard, then an appeal by the adverse party is moot.””” (*Harris v. Stampolis* (2016) 248 Cal.App.4th 484, 495.) Fields contends that the matter is not moot, however, as she claims Dinnen has moved to renew the restraining order. But the factual claim is unsubstantiated, and Fields’s suggestion that we judicially notice the renewal is not filed as a proper motion. (Cal. Rules of Court, rule 8.252(a)(1) [“To obtain judicial notice by a reviewing court under Evidence Code section 459, a party must serve and file a separate motion with a proposed order.”].)

The appeal is therefore moot, but we will nevertheless exercise our discretion to consider the claims on the merits. A discretion exception to mootness applies “““when there may be a recurrence of the controversy between the parties.””” (*Harris v. Stampolis, supra*, 248 Cal.App.4th at p. 495.) There may be a recurrence of the controversy here if in fact there is a motion to renew the restraining order, particularly as an elder abuse restraining order may be renewed “without a showing of any further abuse since the issuance of the original order” (§ 15657.03, subd. (i)(1)). We therefore find a mootness exception applies and will consider the merits of Fields’s appeal. (See also *Harris v. Stampolis, supra*, at p. 496.)

The trial court did not abuse its discretion. It implicitly found that, from Palestini's testimony, Fields's behavior was causing Palestini mental suffering. This was reasonable, as Palestini repeatedly stated during her testimony that she did not want to see Fields because of the "damage" Fields caused her by taking her vehicles.

Fields's three arguments to the contrary are unpersuasive. First, she contends that Palestini's refusal to see her merely stems from Palestini's "dementia-like confusion." But no evidence shows that Palestini suffers from dementia or any other mental illness. During her testimony at the hearing, Fields repeatedly attempted to claim that Palestini has dementia, but those statements were stricken on various grounds. As a result, Fields's claim that the trial court had been "misled" into "elevat[ing] the mercurial wishes of an elder who suffers from 'mental . . . limitations'" is unsubstantiated, as are her implied claims that Palestini has dementia.

Second, Fields argues that she is in a better position than Dinnen to guard against potential abuse toward Palestini, partially because, as Fields claims, Dinnen's mother (and Fields's sister) has abused Palestini. We need not decide whether any of the factual claims underlying this argument, such as Dinnen's alleged lack of diligence or her mother's (i.e., Fields's sister's) alleged abuse of Palestini, are true. Such an argument neglects the fact that Fields has been found to have committed abuse against Palestini by imposition of the restraining order.<sup>2</sup> Nothing in the Elder Abuse Act requires trial courts

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<sup>2</sup> Fields's claims regarding Palestini's mental state can arguably be construed as an argument that the trial court's implied finding of Fields's abuse lacks substantial evidence. (See *White v. Wear, supra*, 76 Cal.App.5th at p. 35 [trial court's "underlying  
[footnote continued on next page]

to consider whether an abuser is better situated to protect against abuse than anyone else. The trial court did not abuse its discretion in not considering potential harm Fields might be able to prevent.

Third, Fields contends that the trial court abused its discretion in declining to consider less restrictive options. She states, for instance, that the trial court could have instead limited Fields’s visits with Palestini to instances when a “mutually acceptable neutral monitor was present.” Again, however, nothing in the Elder Abuse Act requires this. Fields was not entitled to a “least restrictive means” restraining order that best accommodates her desires. Rather, once the trial court found that Fields had abused Palestini, Palestini was entitled to a restraining order that offered protection from further abuse. Neither the scope of the restraining order nor any other aspect of it constituted an abuse of the trial court’s discretion.

### III. DISPOSITION

The order is affirmed. The parties are to bear their own costs.

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RAPHAEL  
J.

We concur:

MILLER  
Acting P. J.

CODRINGTON  
J.

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factual findings” are reviewed “under the substantial evidence test”].) However, as discussed above, those claims are themselves unsubstantiated.