



Note: In the case title, an asterisk () indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

ENTRY ORDER

SEPTEMBER TERM, 2026

Adam Pruett v. Tyler Shubert*	}	APPEALED FROM:
	}	Superior Court, Bennington Unit,
	}	Civil Division
	}	CASE NO. 24-ST-01187
		Trial Judge: David A. Barra

In the above-entitled cause, the Clerk will enter:

Defendant appeals the trial court's decision to extend an anti-stalking order for an additional year. We affirm.

In November 2024, plaintiff filed a complaint in the civil division for an anti-stalking order against defendant. Plaintiff alleged that he is a psychiatrist in Manchester, Vermont. He supervises a nurse practitioner who lives in Alabama but sees patients in Vermont through telemedicine. In August 2024, defendant, who lives in Montpelier, contacted the nurse practitioner and said that he was suicidal and had guns in his home. The nurse practitioner called plaintiff, who advised her to call the mobile crisis unit for an evaluation. The mobile crisis unit went to check on defendant. This upset defendant, who drove down to plaintiff's office in September 2024 and demanded to see him. Defendant was not a patient of plaintiff's and had never met him before. Staff refused to let defendant see plaintiff and defendant left. Plaintiff and his assistant were frightened by the interaction. Nearly two months later, defendant sent two emails to plaintiff in which he stated that he was "dedicating my life and every single cent I make into fucking up [plaintiff's] life as much as he did mine," threatened to sue plaintiff, told plaintiff to do the world a favor and die or "kill yourself," and stated that plaintiff tried to have him institutionalized and that "your [sic] going to pay, cocksucker." Plaintiff feared that defendant's behavior was escalating and that he intended to harm plaintiff. Plaintiff therefore sought a protective order.

Defendant was personally served with notice of the final hearing in November 2024 but did not appear. Plaintiff and his assistant testified at the hearing. Based on their testimony, the court found that defendant had engaged in a course of conduct of threatening plaintiff and granted a final order directing defendant to refrain from contacting plaintiff or going within 300 feet of plaintiff for one year.

In November 2025, plaintiff moved to extend the stalking order on the grounds that defendant had made false allegations about him to licensing agencies and appeared to still be fixated on him. Defendant, now represented by counsel, moved to vacate the original order pursuant to Vermont Rule of Civil Procedure 60(b)(6), asserting that he was never served with the complaint and the evidence did not support the order.

At a hearing in December 2025, defendant testified that he was served with the temporary and final orders. He further testified that he “immediately lost all the paperwork,” and “tried joining via the phone number” but did not have cell-phone reception. The court denied the motion to vacate, finding that defendant received notice of the final hearing and tried to call but didn’t attempt to contact the court for help when he was unable to connect.

Plaintiff then testified that defendant continued to harass him by making false allegations against him to the Vermont and Alabama Medical Boards, showing that defendant continued to be preoccupied with him. Plaintiff’s staff walked him to his car at work and turned on their alarm every day, and his family was fearful. The court concluded based on this evidence that an extension of the order was necessary for plaintiff’s protection and granted a one-year extension.

On appeal, defendant first argues that the court erred in denying his motion to vacate the original order because he was not properly served with the complaint. Rule 60(b) permits the court to vacate a final judgment for certain enumerated reasons not applicable here or for “any other reason justifying relief from the operation of the judgment.” V.R.C.P. 60(b)(6). “We review a court’s exercise of discretion in denying a request for relief under Rule 60(b)(6) for an abuse of discretion.” Penland v. Warren, 2018 VT 70, ¶ 6, 208 Vt. 15.

Section 5135(a) of Title 12 provides that “[a] complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the Vermont Rules of Civil Procedure.” Defendant argues that he was not served with the initial complaint in accordance with Vermont Rule of Civil Procedure 4(d), which requires the complaint and summons to be served together. He argues that the defective service deprived him of notice of the allegations against him and a meaningful opportunity to be heard.

Defendant did not testify or provide an affidavit to support his claim that he was not properly served. He appears to rely on the fact that on the return of service form filed with the court, only the box for “temporary order” is checked. Even if he did not receive the complaint, however, the record shows that defendant had actual notice of the November 2024 hearing. He testified that he was served with the temporary order, which contained the hearing date and instructions for joining the hearing, and he attempted to call in to the hearing. Having received actual notice, defendant was required to raise the defense of insufficiency of service of process prior to or at the original hearing. See Rollo v. Cameron, 2013 VT 74, ¶ 11, 194 Vt. 499 (holding that defendant who received actual notice of relief-from-abuse hearing but did not appear waived defense of insufficiency of service of process). “[W]here, as here, a party was afforded actual notice of an action, and later suffers a default judgment, the failure to plead defective service results in a waiver of the issue on appeal.” Id. ¶ 12; see also V.R.C.P. 12(h)(1) (listing insufficiency of process and service of process as defenses that are waived if not timely raised). Defendant did not timely raise his claim of insufficiency of service of process and therefore waived that defense. The court thus acted within its discretion in declining to vacate the original order due to the allegedly defective service.

Defendant further argues that it was unfair to extend the original order because he did not appear at the first hearing and therefore did not have an opportunity to contest the merits of that

order. We conclude that the court acted within its discretion in extending the order here. See Raynes v. Rogers, 2008 VT 52, ¶ 9, 183 Vt. 513 (explaining that anti-stalking order is reviewed for abuse of discretion). Section 5133(e) of Title 12 provides that the court may extend an original order upon motion “for such additional time as it deems necessary to protect the plaintiff or the plaintiff’s children, or both. It is not necessary for the court to find that the defendant stalked or sexually assaulted the plaintiff during the pendency of the order to extend the terms of the order.” As explained above, defendant waived his challenge to the original order. The court found that an extension of that order was necessary to protect plaintiff based on plaintiff’s testimony that defendant continued to harass him by making false complaints to licensing boards. Defendant appeared at the extension hearing with counsel and had a full and fair opportunity to challenge plaintiff’s testimony. The court’s decision was reasonable in light of the record and we see no basis to disturb it.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Christina E. Nolan, Associate Justice