IN THE COURT OF APPEALS OF IOWA

No. 7-319 / 06-0663
Filed July 12, 2007

STATE OF IOWA,
Plaintiff-Appellee,

vs.

APRIL ANN WALTMANN,
Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, Joseph Moothart, District Associate Judge.

April Waltmann appeals from her conviction for stalking. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Theresa R. Wilson, Assistant Appellate Defender, for appellant.

April Ann Waltmann, pro se.

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Jill Dashner, Assistant County Attorney, for appellee.

Considered by Huitink, P.J., and Zimmer and Vaitheswaran, JJ.

VAITHESWARAN, J.

A jury found April Waltmann guilty of stalking her former high school psychology teacher. *See* Iowa Code §§ 708.11(2), 708.11(3)(c) (2003). On appeal, she contends trial counsel was ineffective in failing to "object to or seek redaction of letters and testimony in which [she] referred to prior drug use, thefts, assaults and other mischief." She points to (1) a reference to having been officially arrested for pulling a fire alarm and hiding from law enforcement, (2) references to smoking marijuana, using drugs with her mother, lying, stealing, and sinning against God, and (3) testimony that she caused others bodily harm.

The record is adequate for us to decide the issue on direct appeal. *State v. Casady*, 597 N.W.2d 801, 807 (Iowa 1999). On our de novo review of that record, we are convinced Waltmann cannot establish *Strickland* prejudice, which requires her to show a reasonable probability that the result of the proceeding would have been different had counsel successfully objected to the cited evidence. *Strickland v. Washington,* 466 U.S. 668, 695, 104 S. Ct. 2052, 2068, 80 L. Ed. 2d 674, 698 (1984).

The jury was instructed that the State would have to prove the following elements of stalking:

> 1. During the period from February 2004 through November 2005, the defendant purposefully engaged in a course of conduct directed at Andrea Aykens that would cause a reasonable person to fear bodily injury or death.
> 2. The defendant knew or should have known that Andrea Aykens would be placed in reasonable fear of bodily injury or death.
> 3. The defendant's course of conduct caused Andrea Aykens to fear bodily injury or death.

Aykens testified that in February 2004, Waltmann "showed up" at her front door. Aykens told Waltmann that it was inappropriate for her to be there and she needed to leave. Waltmann left, but returned the same night. Aykens called 911 and police came and took her away. Later that year, Waltmann left telephone messages for Aykens on her home phone.

In the spring of 2005, Aykens received a letter from Waltmann at her home, stating, "Maybe I shouldn't be sending this letter to you because of what you wrote to me about not contacting you." The letter continued with an acknowledgment that Aykens could have feared her actions and Aykens could have worried about what Waltmann "planned to do" to her. Aykens testified the letter made her feel "intimidated" and afraid.

In the fall of that year, Waltmann taped a note to Aykens's home mailbox. The letter stated in part:

> So do you wonder why I keep in contact with you even though you don't seem to want me to? But I like to have fun with people. I like to play with people. In a good way, I guess. In a way, I was playing with you, maybe with your head or your emotions or whatever. I am serious that I like you a lot, but I was playing with you sort of by coming over to your house, sending you letters, and calling and leaving that message. Although I was serious, I suppose the question was will I get in trouble or not. Will I get a restraining order put on me. Will I get arrested. I wonder what that is like.

Aykens testified she felt "very threatened" by the letter. She told school personnel she did not feel safe at home or at work. She inquired about getting a restraining order.

In November 2005, Waltmann called Aykens at 9:15 p.m. and left a message asking her to call back. At 11:18 p.m., Waltmann left a second

message stating she was at the emergency room, had gotten high that night, and needed a safe place. At approximately midnight, Waltmann came to Aykens's home and started ringing the doorbell, pounding on the door, and yelling Aykens's name. She tried to enter the house, but the doors were locked. She then entered a detached garage. Aykens called 911 and police arrived and placed Waltmann under arrest.

We conclude the evidence of stalking was overwhelming. *State v. White*, 668 N.W.2d 850, 859 (Iowa 2003). Therefore, there was no reasonable probability that, had trial counsel successfully objected to the challenged evidence, the outcome would have been different. *Id.*

We affirm Waltmann's judgment and sentence for stalking.

AFFIRMED.