

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
AUGLAIZE COUNTY**

STATE OF OHIO,

CASE NO. 2-26-01

PLAINTIFF-APPELLANT,

v.

JESSICA A. KAMAN,

**OPINION AND
JUDGMENT ENTRY**

DEFENDANT-APELLEE.

**Appeal from Auglaize Municipal Court
Trial Court No. 2025 CRB 248**

Judgment Affirmed

Date of Decision: August 17, 2026

APPEARANCES:

***Joshua A. Muhlenkamp* for Appellant**

***Robert C. Wiesenmayer* for Appellee**

ZIMMERMAN, P.J.

{¶1} Plaintiff-appellant, the State of Ohio, appeals the October 3, 2025 judgment entry of the Auglaize Municipal Court dismissing the criminal complaint against defendant-appellee, Jessica A. Kaman (“Kaman”). For the reasons that follow, we affirm.

{¶2} This case arose from a June 1, 2025 incident reported by Kaman involving her husband, Charles Kaman III (“Charles”), who was intoxicated and allegedly suicidal, and who had left their residence in a vehicle, which prompted a law enforcement response and investigation. The investigation of the incident led to criminal charges against Charles, including rape, sexual battery, and aggravated menacing against Kaman, as well as child endangering involving the couple’s three minor children.

{¶3} On June 4, 2025, the trial court issued a criminal protection order (“CRPO”), naming Kaman as the alleged victim and her three minor children as other protected persons. The CRPO expressly prohibited Charles from initiating or having contact with any protected person, including by telephone or other electronic means. The order explicitly stated that Charles was prohibited from violating the CRPO even with a protected person’s permission.

{¶4} Despite the order, Charles made a series of 34 phone calls to Kaman from jail between June 19 and June 23, 2025. Notably, during a call on June 22,

2025, the voices of two of the minor children could be heard in the background. Also during that call, Charles could be heard instructing Kaman to place him on speakerphone, to which Kaman complied, allowing Charles to speak directly to the minor children, one of whom responded, “Daddy.” (Doc. No. 63).

{¶5} As a result, on July 10, 2025, Kaman was charged by complaint with a single count of complicity to violating a protection order in violation of R.C. 2919.27(A)(2), 2923.03(A)(2), a first-degree misdemeanor.¹ On July 23, 2025, Kaman appeared in the trial court and pleaded not guilty.

{¶6} On October 3, 2025, Kaman filed a motion to dismiss the complaint, arguing that she was immune from prosecution under *State v. Lucas*, 2003-Ohio-4778. The State opposed Kaman’s motion to dismiss. On January 8, 2026, the parties filed joint stipulations of fact reflecting the events described above, clarifying that the complicity charge against Kaman was based solely on her conduct during the June 22, 2025 phone call. Relying on these stipulations, the trial court granted Kaman’s motion to dismiss on January 26, 2026. In its entry granting the motion to dismiss, the trial court expressed its belief that Kaman’s conduct constituted a blatant abuse of the protection order and suggested the facts warranted distinguishing or revisiting the holding in *Lucas*. Nevertheless, acknowledging its

¹ In a separate proceeding, Charles was charged with and convicted of violating the protection order.

strict obligation to follow Supreme Court of Ohio precedent, the trial court concluded that Kaman was immune from prosecution and dismissed the complaint.

{¶7} The State filed its notice of appeal on February 3, 2026. It raises a single assignment of error for our review.

Assignment of Error

A Protected Person On A Protection Order Is Not Entitled To Immunity Under State v. Lucas When They Assist The Defendant/Respondent To Violate The Protection Order By Having Contact With Another Protected Person.

{¶8} In its sole assignment of error, the State argues that the trial court erred by dismissing the complaint against Kaman on immunity grounds. In particular, the State seeks to distinguish *Lucas*, contending that a protected person should not be immune from prosecution for complicity to violating a protection order when he or she assists the restrained party in violating the order by having contact with another protected person.

Standard of Review

{¶9} Generally, we review a trial court's decision to dismiss a criminal complaint for an abuse of discretion. *State v. Matthews*, 2021-Ohio-3556, ¶ 13 (3d Dist.); *State v. Walker*, 2020-Ohio-4949, ¶ 7 (3d Dist.). An abuse of discretion implies that the trial court's attitude was unreasonable, arbitrary, or unconscionable. *State v. Adams*, 62 Ohio St.2d 151, 157 (1980).

{¶10} However, where a trial court’s decision to dismiss a criminal complaint is based purely upon the interpretation of a statute or the application of law to undisputed facts, it presents a question of law that we review de novo. *State v. Vertrees*, 2021-Ohio-1239, ¶ 7 (3d Dist.). “De novo review is independent, without deference to the lower court’s decision.” *State v. Hudson*, 2013-Ohio-647, ¶ 27 (3d Dist.). Because this appeal centers entirely on the legal application of *Lucas*, 2003-Ohio-4778, to facts stipulated by the parties, it presents a pure question of law. Accordingly, our review is de novo.

Analysis

{¶11} To sustain a conviction for complicity to violating a protection order, the State must establish that the defendant aided or abetted the principal offender in recklessly violating the terms of a valid protection order. *State v. Sheldon*, 2019-Ohio-4123, ¶ 39 (3d Dist.); R.C. 2919.27(A)(2); R.C. 2901.22(C). A person who aids or abets another with the requisite culpability may be prosecuted as a principal offender under Ohio’s complicity statute. R.C. 2923.03(F). “A person acts recklessly when, with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk that the person’s conduct is likely to cause a certain result or is likely to be of a certain nature.” R.C. 2901.22(C).

{¶12} Nevertheless, the Supreme Court of Ohio has established a strict exception regarding the prosecution of persons protected by such orders. The court has unequivocally held that “[a]n individual who is the protected subject of a

temporary protection order may not be prosecuted for aiding and abetting the restrainee under the protection order in violating said order.” *Lucas* at paragraph one of the syllabus.

{¶13} On appeal, the State urges this court to carve out an exception to *Lucas*, arguing that, while Kaman may be immune from prosecution for consenting to contact with Charles on her own behalf, she cannot unilaterally facilitate contact on behalf of the minor children.

{¶14} We decline the State’s invitation to carve out such an exception. Critically, the holding in *Lucas* does not hinge on the absence of other protected parties; rather, it relies on the statutory framework that places the legal burden of compliance exclusively on the restrained party. *See State v. Conklin*, 2021-Ohio-417, ¶ 57-58 (11th Dist.) (explaining that the statutory framework reflects the General Assembly’s intent that ““only one party—the respondent—can be criminally responsible for the violation of a protection order,”” and that the respondent must comply “even with the protected party’s permission”), quoting *Lucas* at ¶ 35. *See also State v. Youngpeter*, 2005-Ohio-329, ¶ 13 (3d Dist.).

{¶15} Indeed, the rationale is clear and absolute: protection orders are designed to regulate the behavior of the respondent, not the petitioner. *See Lucas* at ¶ 38-39. Importantly, the Supreme Court emphasized that holding a protected party criminally liable for complicity is effectively issuing and enforcing a mutual protection order without adhering to the statutory requirements and due process

mandated by the General Assembly. *Id.* at ¶ 30. The court further noted that “an invitation by the petitioner for the respondent to violate the terms of a protection order [is] irrelevant to a respondent’s guilt. Protection orders are about the behavior of the respondent and nothing else.” *Id.* at ¶ 39. Therefore, we conclude that the presence of additional protected parties does not shift criminal liability to a co-protected person.

{¶16} For these reasons, because Kaman is a protected subject of the CRPO, she cannot be prosecuted for complicity in violating it. Therefore, the trial court did not err by granting Kaman’s motion to dismiss.

{¶17} The State’s sole assignment of error is overruled.

{¶18} Having found no error prejudicial to the appellant herein in the particulars assigned and argued, we affirm the judgment of the trial court.

Judgment Affirmed

MILLER and WILLAMOWSKI, J.J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, the assignment of error is overruled and it is the judgment and order of this Court that the judgment of the trial court is affirmed with costs assessed to Appellant for which judgment is hereby rendered. The cause is hereby remanded to the trial court for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. *See* App.R. 30.

William R. Zimmerman, Judge

Mark C. Miller, Judge

John R. Willamowski, Judge

DATED:
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