

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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LISA PODGAJSKI,

Plaintiff-Appellee,

v

BRAD TIDIK,

Defendant-Appellant.

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UNPUBLISHED  
December 9, 2004

No. 244392  
Wayne Circuit Court  
LC No. 01-133328-PP

Before: Markey, P.J., and Fitzgerald and Owens, JJ.

MEMORANDUM.

Defendant appeals as of right the order finding him in contempt for violating a personal protection order (PPO). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

After the parties were divorced in 1995, plaintiff obtained a series of personal protection orders against defendant. Based on defendant's persistent, frivolous legal activity, the PPO entered in September 2002 included a prohibition on the filing of any new motions, legal proceedings, or lawsuits against plaintiff. After finding that defendant filed ten legal pleadings after the order was filed, the court found defendant in contempt for violating the conditions of the PPO.

On appeal, defendant argues that the court exceeded its power in barring him from filing new pleadings, that there was insufficient evidence to show that he was in criminal contempt, and that the action was barred by res judicata. We disagree.

Under MCL 600.1701, a person may be held in contempt for disobeying any lawful order of the court. The personal protection order was a lawful order. MCL 600.2950 provides that a PPO may restrain a former spouse from engaging in stalking activity prohibited by MCL 750.411h or 750.411i. Stalking is a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested. MCL 750.411h(1)(d). The act of continuing to file a multitude of frivolous legal pleadings could constitute stalking under the statute, and was within the court's power to restrain. There was ample evidence that defendant continued to file legal proceedings in violation of the PPO, and the court did not err in finding him in criminal contempt.

Although the matter of the frivolous liens was litigated in another proceeding, this action was not barred by res judicata. Res judicata requires that: (1) the prior action was decided on the merits; (2) the decree in the prior action was a final decision; (3) the matter contested in the second case was or could have been resolved in the first; and (4) both actions involved the same parties or their privies. *Baraga County v State Tax Comm*, 466 Mich 264, 269; 645 NW2d 13 (2002). A second proceeding is not barred if there are changed or new facts, or a change in law. *In re Hamlet (After Remand)*, 225 Mich App 505, 519; 571 NW2d 750 (1997).

The same party prerequisite of res judicata requires that the parties were previously adversarial. Adverse parties are those who, by the pleadings, are arrayed on opposite sides. *York v Wayne County Sheriff*, 157 Mich App 417, 426-427; 403 NW2d 152 (1987). Plaintiff and defendant were both defendants in the previous action. Thus, defendant has failed to meet the same party prerequisite to res judicata.

Affirmed.

/s/ Jane E. Markey  
/s/ E. Thomas Fitzgerald  
/s/ Donald S. Owens