

IN THE DISTRICT COURT OF APPEAL, LAKE LAND, FLORIDA

January 20, 2006

JUDY L. WINSLOW HOFFMAN,)
)
 Appellant,)
)
 v.)
)
 CARMELLA E. DUKE,)
)
 Appellee.)
 _____)

Case No. 2D04-3970

BY ORDER OF THE COURT:

Appellant's motion to reinstate motion for rehearing or in the alternative enable provisions of equal access for a disabled adult is granted. Appellant's motion for rehearing filed October 24, 2005, is treated as timely filed and is granted. The per curiam affirmed decision of this court dated September 28, 2005, is withdrawn and the attached opinion is substituted therefor.

I HEREBY CERTIFY THE FOREGOING IS A
TRUE COPY OF THE ORIGINAL COURT ORDER

JAMES BIRK HOLD, CLERK

c: Judy L. Winslow Hoffman
Carmella E. Duke

Abuse, and (Extrinsic) Exploitation by the Petitioner" in which she alleged that she is a disabled adult who has been the victim of fraud, misrepresentation, and misconduct on the part of Petitioner in the initial injunction proceeding. That motion was denied as legally insufficient. In May 2004, Hoffman filed a motion to dismiss the injunction in which she again alleged that she was being abused and exploited by the Petitioner. Hoffman also requested a hearing on her motion to dismiss, which was accompanied by an "Affidavit of Fear" directed at the trial judge.

On June 29, 2004, the trial court entered an order denying Hoffman's motion to dismiss as legally insufficient. The court stated in its order: "Respondent complains of prior judicial acts which do not qualify for a request for recusal if that is what she seeks." Hoffman then filed a "Motion for Reconsideration of a Hearing" on July 2, 2004, in which she argued that the trial judge "has no authority over this matter," presumably because he did not recuse himself when Hoffman filed her "Affidavit of Fear" in June 2004. She also claims in her motion for reconsideration that she was denied due process when the trial court failed to hold a hearing on her motion to dismiss. The trial court entered an order on July 27, 2004, denying the motion and noting: "petitioner argues with previous rulings and states opinions. The statute requires action only on stated facts."

Hoffman argues on appeal that the 2001 injunction was issued without evidentiary support. She seeks reversal and remand to allow her an opportunity to challenge the trial court's issuance of the injunction. However, she fails to present argument directed to the order that is the subject of this appeal. We conclude that the trial court did not err in denying the motion for reconsideration of the motion to dismiss

because it is apparent that Hoffman's sole basis for dismissal was her assertion that prior court rulings, which are not before this court for review, were incorrect.

Affirmed.

VILLANTI and LaROSE, JJ., Concur.