

MEMORANDUM DECISION

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IN THE Court of Appeals of Indiana

I.H.,
Appellant-Respondent

v.

O.K.,
Appellee-Petitioner



November 3, 2025

Court of Appeals Case No.
25A-PO-1355

Appeal from the Adams Circuit Court
The Honorable Chad E. Kukelhan, Judge

Trial Court Cause No.
01C01-2408-PO-82

Memorandum Decision by Judge Vaidik
Judges Mathias and Pyle concur.

Vaidik, Judge.

Case Summary

- [1] I.H. (“Husband”) appeals the denial of his motion to vacate a protective order issued for O.K. (“Wife”). We affirm.

Facts and Procedural History

- [2] On August 22, 2024, Wife filed a pro se petition for a protective order against Husband, claiming that he had raped her, physically abused her and their children, stolen money from her, and withheld the family’s immigration documents. The same day, the Adams Superior Court issued an ex parte protective order (effective through August 22, 2026) and then transferred the case to the Adams Circuit Court per local rule. The order was served on Husband that afternoon. Husband retained counsel and, on September 10, filed an objection to Wife’s petition and requested a hearing. On September 16, the trial court scheduled a hearing for November 1.
- [3] On October 15, the State filed four criminal charges against Husband relating to Wife’s allegations: two counts of Level 5 felony domestic battery resulting in serious bodily injury (alleging that Husband kicked Wife’s head and struck her stomach in July 2024), one count of Level 6 felony strangulation (alleging that he strangled Wife in July 2024), and one count of Level 6 felony domestic battery resulting in moderate bodily injury (alleging that he punched one of his sons in September 2023). After being charged, Husband moved to vacate the

protective-order hearing, stating that he wished to prioritize the criminal proceedings. The trial court canceled the hearing.

[4] There was no further activity in the protective-order case until April 2025, when Husband filed a pro se motion to vacate the order under Indiana Trial Rule 60(B). The motion stated, in relevant part:

BACKGROUND

1. On August 22, 2024, this Court issued an Ex Parte Protective Order against [Husband] based on allegations made by [Wife].
2. [Husband] timely objected to the Protective Order and requested a hearing; however, subsequent criminal charges and legal strategy adjustments prevented full litigation of the objection at that time.
3. Significant newly discovered evidence and substantial changes in circumstances now exist, justifying reopening this matter and vacating the Protective Order.

GROUND FOR MOTION

I. Newly Discovered Evidence

4. Since the entry of the Protective Order, [Husband] has obtained critical new evidence, including but not limited to:

- a. A PASRR Level 2 Assessment establishing [Wife's] mental incapacity and reliance on psychotropic medication during the time of her statements;

b. An Affidavit from witness [L.E.] contradicting the alleged domestic violence allegations;

c. Expert psychological evaluations documenting manipulation, pressure, and physical abuse of minor children while under foster care and [Wife's] influence;

d. Evidence that translation services during [Wife's] psychiatric interviews were improperly conducted, further distorting the alleged facts.

II. Fraud Upon the Court

5. The Protective Order was obtained based on materially false, misleading, and incomplete information presented to the Court.

6. [Wife] and associated parties misrepresented facts under oath, amounting to fraud upon the Court.

III. Violation of Due Process

7. [Husband's] constitutional right to due process was violated when the Court issued the Protective Order without access to accurate, full, and verified evidence.

8. The newly discovered facts and evidence demonstrate that the original Order was unjustly entered and must be set aside in the interests of justice.

LEGAL STANDARD

9. Pursuant to Indiana Trial Rule 60(B) and Indiana Code § 34-26-5 [sic], a party may seek to reopen and vacate an order based

on newly discovered evidence, fraud, or substantial changes in circumstances affecting the fairness of the judgment.

Appellant's App. Vol. 2 pp. 41-42. Husband didn't attach the referenced documents or any other documents. The trial court denied the motion without explanation.

[5] Husband, still acting pro se, now appeals.

Discussion and Decision

[6] Husband makes several arguments on appeal. Wife hasn't filed an appellee's brief, so Husband need only make a prima facie showing of error. *See Trinity Homes, LLC v. Fang*, 848 N.E.2d 1065, 1068 (Ind. 2006). He has failed to do so.

[7] Husband first contends that the trial court erred by failing to hold a hearing on Wife's petition for a protective order within 30 days of Wife filing the petition, or at least within 30 days of his request for a hearing. Husband waived this argument in three ways. First, and most importantly, he didn't include it in his 60(B) motion. Second, when the trial court set the protective-order hearing for November 1—more than 30 days after Wife's petition and more than 30 days after Husband's hearing request—Husband didn't object or request an earlier hearing. Third, Husband moved to vacate the November 1 hearing because he wanted to prioritize his criminal case, and he never renewed his request for a hearing. For all these reasons, Husband cannot now be heard to complain about the lack of a hearing.

- [8] Next, Husband argues that the trial court erred by failing to hold an evidentiary hearing on his 60(B) motion. Trial Rule 60(D) provides that a court presented with a 60(B) motion “shall hear any pertinent evidence.” But when there is no “pertinent evidence” to be heard, a hearing is unnecessary. *Thompson v. Thompson*, 811 N.E.2d 888, 904 (Ind. Ct. App. 2004), *reh’g denied, trans. denied*. Here, Husband’s motion consisted of several vague and conclusory allegations, and he didn’t attach any documents to support the allegations. Therefore, there was no pertinent evidence to be heard, and the trial court wasn’t required to hold an evidentiary hearing before denying the motion.
- [9] Finally, Husband argues that if we don’t reverse the trial court based on the existing record, we should either (1) remand the case under Indiana Appellate Rule 37 so that he can present evidence in support of his 60(B) motion or (2) accept and consider the proffered evidence ourselves. While this appeal was pending, Husband filed a separate motion seeking the same extraordinary relief, which our motions panel denied. He has given us no reason to second guess that decision.
- [10] Because Husband hasn’t made a prima facie showing of error, we affirm the trial court’s denial of his motion to vacate the protective order.
- [11] One final note. Husband’s brief is littered with citations to authorities that clearly do not support the propositions for which he cites them. We assume this was the result of Husband using artificial intelligence (AI) to draft court filings. We advise him to exercise great caution when doing so or risk dismissal, filing

restrictions, and/or monetary sanctions. *See Williams v. Kirch*, --- N.E.3d ---, No. 25A-SC-196 (Ind. Ct. App. Aug. 18, 2025).

[12] Affirmed.

Mathias, J., and Pyle, J., concur.

APPELLANT, PRO SE

I.H.

Berne, Indiana