

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2010-CA-001553-ME

KIMBERLY HARRIS, ON BEHALF OF  
C.C., A MINOR CHILD

APPELLANT

v. APPEAL FROM WARREN CIRCUIT COURT  
HONORABLE CATHERINE RICE HOLDERFIELD, JUDGE  
ACTION NO. 00-D-00060

STEVEN COFFEY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: CAPERTON, MOORE, AND STUMBO, JUDGES.

MOORE, JUDGE: Kimberly Harris appeals the Warren Circuit Court's denial of her motion to extend a domestic violence order (DVO) entered on June 21, 2010.

After a careful review of the record, we affirm.

This matter arose from an incident of alleged abuse of the parties' then fifteen-year-old son, C.C., after he was spanked by his father with a belt. On

May 26, 2010, nearly three days after the alleged abuse occurred, Kimberly filed for a motion for an emergency protective order on behalf of C.C. An emergency protective order was entered that day. A hearing was then held on June 21, 2010. The trial court entered a short-term DVO, effective for thirty days. The court observed that this case would be more appropriately addressed by the Cabinet for Health and Family Services (Cabinet) and required both parties to comply with the case plan set forth by the Cabinet.<sup>1</sup>

On June 28, 2010, Kimberly filed a motion to amend the prior DVO. Kimberly indicated that she wished to have the DVO extended to allow time for her to file for custody of C.C. At the hearing, the trial court found that seeking a modification of custody was an insufficient basis for extending the DVO. The court also indicated that there had not been any change in circumstances to warrant an extension. Accordingly, the trial court denied the extension and again found that any issues arising from this matter would be more appropriately addressed by the Cabinet. Kimberly now appeals.

We review a trial court's decision regarding the duration of a DVO for an abuse of discretion. *Buddenberg v. Buddenberg*, 304 S.W.3d 717, 722 (Ky. App. 2010). Furthermore, "the length of the DVO is within the sound discretion of the trial court." *Id.* The trial court has the authority to determine the duration of the DVO so long as it does not exceed three years, and there are no specific factors

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<sup>1</sup> Both parties mention in their respective briefs that C.C. is currently in foster care. The record before us does not include any documentation of this.

which the court must follow when making this determination. Kentucky Revised Statutes (KRS) 403.750 (2); *Buddenberg*, 304 S.W.3d at 721-22.

Kimberly argues that the trial court abused its discretion when it denied her motion to extend the DVO. In support, she contends that 1) the trial court applied an incorrect standard, *i.e.* changed circumstances, for denying the extension of time, and 2) the DVO was still necessary for the protection of the child.

As to her first contention, no specific standard is imposed upon a trial court's determination as to the duration of a DVO. *Buddenberg*, 304 S.W.3d at 721-22. Instead, a court is afforded broad discretion. *See id.* Additionally, while the court did indicate that there had not been a change in circumstances, we interpret the court's statement to mean that the court did not find Kimberly's reasons for requesting an extension to be sufficient to warrant a modification of the court's initial determination, rather than a statement of the standard governing its decision.

As to her second contention, the trial court is in the best position to determine if continued protection is necessary for the child. *Buddenberg*, 304 S.W.3d at 720 (noting that a trial court is in the better position to assess the credibility of witnesses and make a finding of domestic violence). Furthermore, the trial court, in its wisdom, allowed a thirty-day period after which it believed that it would be appropriate for C.C. to continue residing with his father with the

Cabinet's involvement. We can find nothing in the record that would indicate that the trial court's refusal to modify its initial determination is clearly erroneous.

Accordingly, we find no abuse of discretion and affirm.

ALL CONCUR.

BRIEF FOR APPELLANT:

Paul Neil Kerr II  
Russellville, Kentucky

BRIEF FOR APPELLEE:

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