STATE OF MICHIGAN

COURT OF APPEALS

SHARON LYNN JANNARO,

Petitioner-Appellee,

v

ALLEN SCHAMP,

Respondent-Appellant.

UNPUBLISHED
December 21, 1999

No. 210740
Wayne Circuit Court
LC No. 97-739184

Before: Cavanagh, P.J., and Doctoroff and O'Connell, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order denying his motion to terminate a personal protection order. We affirm.

Respondent is the father of petitioner's child. According to petitioner, respondent has used abusive language, been violent, threatened to kill petitioner and her family, been physically and emotionally abusive, and has been removed from her property by the police. Petitioner sought and was granted a personal protection order ("PPO") under MCL 600.2950; MSA 27A.2950. Respondent filed a motion to terminate the PPO, which the trial court denied.

A personal protection order is an injunctive order. MCL 600.2950(30)(c); MSA 27A.2950(30)(c). Granting injunctive relief is within the sound discretion of the trial court. *Holland v Miller*, 325 Mich 604, 611; 39 NW2d 87 (1949); *Kernen v Homestead Development Co*, 232 Mich App 503, 509; 591 NW2d 369 (1998). Thus, we review a trial court's decision for an abuse of discretion. *Kernen*, supra at 510. An abuse of discretion occurs where an unprejudiced person, considering the facts upon which the trial court acted, would say there was no justification or excuse for the ruling. *Auto Club Ins Ass'n v State Farm Ins Cos*, 221 Mich App 154, 167; 561 NW2d 445 (1997).

This Court has not been provided with a copy of the hearing transcript as provided by MCR 7.210(B)(1). Because the standard of review requires that this Court review the trial court's decision for an abuse of discretion and respondent has not filed the transcript of the trial court's decision with this Court, this Court is unable to consider respondent's claim that the PPO should have been terminated.

Meagher v Wayne State University, 222 Mich App 700, 725; 565 NW2d 401 (1997). On the basis of the trial court's order and the record that was provided, however, no error is apparent.

Respondent alleges that, at the motion hearing, witnesses testified as to the events that occurred days prior to petitioner seeking the PPO. According to respondent, the Friend of the Court had issued its recommendation regarding changes to a consent judgment concerning a child born to the couple out of wedlock. In that recommendation, respondent was no longer to have parenting time every Sunday, but, rather, would be limited to parenting time every other weekend. The recommendation had not yet been adopted or entered by the trial court. Yet, when respondent arrived to pick up the child on December 7, 1997, petitioner and her husband refused to allow respondent to exercise parenting time based on the Friend of the Court recommendation, which it appears they mistook as an order changing the prior visitation schedule. When petitioner refused visitation, respondent admits that he became angry, swore, and threatened petitioner's husband. Respondent admits that police were called and, after the officers read the prior visitation order and the Friend of the Court recommendation, and spoke to respondent, respondent left. Based on this alleged testimony, respondent argues that the trial court erred by denying his motion to terminate the PPO because petitioner had unclean hands, he was exercising his constitutionally protected right to parent his child, and the PPO infringed on his right to free speech. We disagree.

Personal protection orders are governed by MCL 600.2950; MSA 27A.2950. The Legislature passed the statute as a package of laws intended to curb and prevent domestic violence. 1994 PA 61; 1994 PA 402. The statute empowers the court to issue a personal protection order to restrain or enjoin certain conduct, including "[a]ny other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence." MCL 600.2950(1)(h); MSA 27A.2950(1)(h). Specifically, the statute provides as follows:

> The court shall issue a personal protection order under this section if the court determines that there is reasonable cause to believe that the individual to be restrained or enjoined may commit 1 or more of the acts listed in subsection (1). In determining whether reasonable cause exists, the court shall consider all of the following:
>
> (a) Testimony, documents, or other evidence offered in support of the request for a personal protection order.
>
> (b) Whether the individual to be restrained or enjoined has previously committed or threatened to commit 1 or more of the acts listed in subsection (1).

Based on the petition and the verified statement regarding the PPO action, we cannot say that the trial court abused its discretion by issuing the PPO. Petitioner stated acts sufficient to establish reasonable cause to believe that respondent may commit a prohibited act. With that in mind, we will review respondent's arguments for terminating the PPO.

The fact that petitioner mistook the FOC recommendation as an order, a mistake apparently also made by the police who responded to the scene, does not mean petitioner had "unclean hands."

"[The clean hands maxim] is a self-imposed ordinance that closes the doors of a court of equity to one tainted with inequitableness or bad faith relative to the matter in which he seeks relief, however improper may have been the behavior of the defendant." *Mudge v Macomb Co*, 458 Mich 87, 109 n 23; 580 NW2d 845 (1998), quoting *Stachnik v Winkel*, 394 Mich 375, 382; 230 NW2d 529 (1975). Refusing visitation based on the mistaken belief that the FOC recommendation was controlling does not constitute grounds for terminating a PPO.

We are not persuaded by respondent's argument that he only threatened petitioner's husband and not petitioner herself, or that he was exercising a constitutionally protected right when he shouted, swore and threatened petitioner's husband on December 7, 1997. The United States Supreme Court has long recognized that parents have a constitutionally protected interest, with certain constraints, in raising their children without state interference. *Lehr v Robertson*, 463 US 248, 256-262; 103 S Ct 2985; 77 L Ed 2d 614 (1983) (citations omitted). It is the relationship between the parent and child that triggers significant constitutional protection. *In re Clausen*, 442 Mich 648, 682; 502 NW2d 649 (1993).

However, the PPO does not restrain respondent's parenting rights, but rather, only places constraints on his behavior in relation to petitioner. Moreover, this Court has recognized that Michigan's anti-stalking laws do not impinge on a defendant's right of free speech under the United States and the Michigan Constitutions. *People v White*, 212 Mich App 298, 309; 536 NW2d 876 (1995) (citation omitted). Therefore, we find no violation of respondent's constitutionally protected rights.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Martin M. Doctoroff
/s/ Peter D. O'Connell