

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of Contempt of Donald W. Stolberg.

ANN B. STOLBERG,

Plaintiff-Appellee,

v

DONALD W. STOLBERG,

Defendant-Appellant.

UNPUBLISHED

April 21, 2000

No. 208431

Oakland Circuit Court

LC No. 96-524324

Before: Gribbs, P.J., and Doctoroff and T.L. Ludington*, JJ.

MEMORANDUM.

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

In the course of acrimonious family relations during a pending divorce, plaintiff obtained a personal protection order restricting contact from defendant, her father. Plaintiff sought to hold defendant in contempt for a stalking incident that occurred on September 3, 1997. Defendant maintained that the personal protection order was extinguished through the terms of the divorce that was entered prior to the incident. The court found that the order had not been vacated, and that plaintiff's credible testimony established a violation of the order.

Under MCL 600.2950a(20); MSA 27A.2950(1)(20), a person who fails to comply with a personal protection order is subject to the criminal contempt powers of the court. For conviction in a criminal contempt matter, it is necessary to find the defendant guilty beyond a reasonable doubt. *People v Little*, 115 Mich App 662; 321 NW2d 763 (1982).

* Circuit judge, sitting on the Court of Appeals by assignment.

Defendant failed to establish that the divorce judgment extinguished the personal protection order obtained by plaintiff. Plaintiff was not a party to the divorce judgment, and it is not binding on her. The court noted that a valid order was still on the record, and had not been vacated as of the date of the incident.

Defendant asserts that the statute requires a showing that the contact was repeated, that plaintiff suffered from emotional distress, and that the court failed to consider whether his conduct was constitutionally protected. Defendant failed to cite any authority for his arguments, and further review is waived. A party may not leave it to this Court to search for authority to sustain or reject its position. *Magee v Magee*, 218 Mich App 158, 161; 553 NW2d 363 (1996).

There is no showing that defendant was denied the effective assistance of counsel. Defendant has failed to show that he was prejudiced by the actions of his counsel. *People v Pickens*, 446 Mich 298; 521 NW2d 797 (1994). Both parties presented their version of events to the court, and the court determined that plaintiff's testimony was more credible. No omissions of counsel affected the result.

Affirmed.

/s/ Roman S. Gibbs

/s/ Martin M. Doctoroff

/s/ Thomas L. Ludington