

STATE OF MICHIGAN
COURT OF APPEALS

BRADLEY D. VIVIER,

Plaintiff-Appellant,

v

MICHELLE D. NADOROZNY,

Defendant-Appellee.

UNPUBLISHED

February 27, 2001

No. 219939

Wayne Circuit Court

LC No. 98-827670-NZ

Before: Collins, P.J., and Doctoroff and White, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendant's motion for summary disposition under MCR 2.116(C)(8) in this abuse of process action. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant filed a complaint for a personal protection order after the breakdown in her relationship with plaintiff. The order was granted on November 20, 1997, and dissolved on February 7, 1998. Plaintiff brought this action for abuse of process based on defendant's allegations in seeking the PPO.

To recover under a theory of abuse of process, a plaintiff must plead and prove (1) an ulterior purpose, and (2) an act in the use of process that is improper in the regular prosecution of the proceeding. *Friedman v Dozor*, 412 Mich 1, 30; 312 NW2d 585 (1981); *Bonner v Chicago Title Ins Co*, 194 Mich App 462, 472; 487 NW2d 807 (1992). A meritorious claim arises out of a situation where a defendant has used a proper legal procedure for a purpose collateral to the intended use of that procedure. *Id.* Some corroborating act must demonstrate the ulterior purpose. A bad motive alone will not establish an abuse of process. *Id.*

The trial court properly granted summary disposition under MCR 2.116(C)(8), where plaintiff failed to allege an improper act in the use of process on the part of defendant intended to further an ulterior purpose.

Affirmed.

/s/ Jeffrey G. Collins
/s/ Martin M. Doctoroff
/s/ Helene N. White