

STATE OF MICHIGAN
COURT OF APPEALS

KENNETH G. STYBEL,

Petitioner-Appellee,

v

LINDA SCHOONOVER,

Respondent-Appellant.

UNPUBLISHED

October 7, 2008

No. 280005

Monroe Circuit Court

LC No. 07-023631-PH

Before: O’Connell, P.J., and Smolenski and Gleicher, JJ.

PER CURIAM.

Respondent Linda Schoonover appeals as of right the trial court’s decision denying her motion to set aside a personal protection order (PPO). Because we conclude that the trial court did not abuse its discretion when it denied the motion, we affirm.

Schoonover first argues that the trial court erred when it issued the PPO because the PPO did not provide sufficient notice of the crime charged.

A criminal defendant does indeed have a constitutional right to adequate notice of the charges against her. *People v Darden*, 230 Mich App 597, 600; 585 NW2d 27 (1998). But Schoonover was not charged with stalking under MCL 750.411h or 750.411i; she was ordered not to engage in conduct that is prohibited under those statutes. MCL 600.2950a(1). A PPO may be issued whether or not the respondent “has been charged or convicted” of stalking. *Id.* Further, the PPO does not have to include the information required under MCR 6.112(D) for criminal charges, it need only contain the information required by MCL 600.2950a(8). Further, the trial court did not find Schoonover guilty of a crime, it merely found that she engaged in conduct that constituted stalking and, accordingly, that it was proper to continue the PPO. See MCL 600.2950a(1).

Schoonover also argues that the trial court should not have entered the PPO or denied her request to terminate the PPO because petitioner Kenneth Stybel failed to meet his burden of proof that Schoonover’s conduct constituted stalking. See *Hayford v Hayford*, ___ Mich App ___, ___; ___ NW2d ___ (2008) (noting that the petitioner bears the burden of proving reasonable cause for issuance of a PPO and of justifying the continuance of the order at a hearing on respondent’s motion to terminate the PPO). This Court reviews a trial court’s decision to issue or continue a PPO for an abuse of discretion. *Pickering v Pickering*, 253 Mich App 694,

700; 659 NW2d 649 (2002). And reviews the trial court's factual findings for clear error. *Sweebe v Sweebe*, 474 Mich 151, 154; 712 NW2d 708 (2006).

As noted, the statute permits a court to enter a PPO to restrain a person “from engaging in conduct” that is prohibited under MCL 750.411h and 750.411i. MCL 600.2950a(1). Indeed, the order may not be issued “unless the petition alleges facts that constitute stalking as defined in . . . [MCL 750.411h and 750.411i.]” *Id.* Stalking is “a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.” MCL 750.411h(1)(d). Harassment is “conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress.” MCL 750.411h(1)(c).

The evidence showed that Schoonover engaged in a course of conduct that involved unconsented contact directed toward Stybel. She commented on his appearance, left notes commenting on his appearance and indicating a desire for sexual relations, and left notes and food items on his car. Although Schoonover denied that she had been told to leave Stybel alone and stated that she had actually been encouraged to pursue him, the trial court clearly rejected that testimony. Stybel and his witnesses also testified that Schoonover had been repeatedly asked to stop contacting Stybel and that she would stop for a while but then start up again, explaining that “she couldn’t control herself.” Consequently, she was banned from the farm where Stybel lived unless she called and was given permission to come over. Finally, Stybel and the farm owner returned Schoonover’s things and told her that she was not to have any further contact with them at all, but she kept showing up, calling, and leaving notes. Stybel further testified that he felt threatened by Schoonover. The evidence that Schoonover continued to engage in repeated, unconsented contact with Stybel—despite his requests that she stop—gave rise to a presumption that the continued contact caused him “to feel terrorized, frightened, intimidated, threatened, harassed, or molested.” MCL 750.411h(4). Given the totality of this evidence, we cannot conclude that the trial court abused its discretion in continuing the PPO.

Affirmed.

/s/ Peter D. O’Connell
/s/ Michael R. Smolenski
/s/ Elizabeth L. Gleicher