

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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IW, formerly known as IM,

Petitioner-Appellee,

v

MM,

Respondent-Appellant.

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UNPUBLISHED  
October 29, 2020

No. 350711  
Oakland Circuit Court  
LC No. 2017-854298-PP

Before: GADOLA, P.J., and RONAYNE KRAUSE and O'BRIEN, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order denying his motion to terminate an ex parte personal protection order (PPO) issued to petitioner, his ex-wife. Respondent also challenges earlier orders issuing and extending the PPO. We affirm.

This case arises from the trial court's entry of an ex parte PPO against respondent on June 20, 2017. The PPO was extended four times and the fourth extension is set to expire on November 1, 2020. Respondent filed numerous motions to terminate or modify the PPO, but withdrew most of these motions before a hearing was held. Respondent filed a motion to terminate the PPO on August 6, 2019, which the trial court denied on September 4, 2019, for failure to properly file a notice of hearing for the motion to be heard on that date. Respondent appeals from that order, but also challenges the issuance of the PPO and the extensions of the PPO.

**I. ISSUANCE OF PPO**

Respondent first argues that the trial court erred by issuing the ex parte PPO on June 20, 2017. We disagree.

"We review for an abuse of discretion a trial court's determination whether to issue a PPO because it is an injunctive order." *Hayford v Hayford*, 279 Mich App 324, 325; 760 NW2d 503 (2008). "An abuse of discretion occurs when the decision resulted in an outcome falling outside the range of principled outcomes." *Id.*

MCL 600.2950 applies to this case, which involves a former spouse. MCL 600.2950(1) provides:

Except as otherwise provided in subsections (26) and (27), by commencing an independent action to obtain relief under this section, by joining a claim to an action, or by filing a motion in an action in which the petitioner and the individual to be restrained or enjoined are parties, an individual may petition the family division of circuit court to enter a personal protection order to restrain or enjoin a spouse, a former spouse, an individual with whom he or she has had a child in common, an individual with whom he or she has or has had a dating relationship, or an individual residing or having resided in the same household as the petitioner from doing 1 or more of the following:

- (a) Entering onto premises.
- (b) Assaulting, attacking, beating, molesting, or wounding a named individual.
- (c) Threatening to kill or physically injure a named individual.
- (d) Removing minor children from the individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.
- (e) Purchasing or possessing a firearm.
- (f) Interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined.
- (g) Interfering with petitioner at petitioner's place of employment or education or engaging in conduct that impairs petitioner's employment or educational relationship or environment.
- (h) If the petitioner is a minor who has been the victim of sexual assault, as that term is defined in section 2950a, by the respondent and if the petitioner is enrolled in a public or nonpublic school that operates any of grades K to 12, attending school in the same building as the petitioner.
- (i) Having access to information in records concerning a minor child of both petitioner and respondent that will inform respondent about the address or telephone number of petitioner and petitioner's minor child or about petitioner's employment address.
- (j) Engaging in conduct that is prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

(k) Any of the following with the intent to cause the petitioner mental distress or to exert control over the petitioner with respect to an animal in which the petitioner has an ownership interest:

(i) Injuring, killing, torturing, neglecting, or threatening to injure, kill, torture, or neglect the animal. A restraining order that enjoins conduct under this subparagraph does not prohibit the lawful killing or other use of the animal as described in section 50(11) of the Michigan penal code, 1931 PA 328, MCL 750.50.

(ii) Removing the animal from the petitioner's possession.

(iii) Retaining or obtaining possession of the animal.

(l) Any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence.

MCL 600.2950(4) provides:

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).

Furthermore, MCL 600.2950(12) provides:

A court shall issue an ex parte personal protection order without written or oral notice to the individual restrained or enjoined or his or her attorney if it clearly appears from specific facts shown by a verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued.

MCR 3.705(A) also relates to ex parte orders and provides, in relevant part:

(2) If it clearly appears from specific facts shown by verified complaint, written petition, or affidavit that the petitioner is entitled to the relief sought, an ex parte order shall be granted if immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued. In a proceeding under MCL 600.2950a, the court must state in writing the specific reasons for issuance of the order. A permanent record or memorandum must be

made of any nonwritten evidence, argument or other representations made in support of issuance of an ex parte order.

“The petitioner bears the burden of establishing reasonable cause for issuance of a PPO[.]” *Hayford*, 279 Mich App at 326.

Respondent asserts that the evidence petitioner relied on in support of her request for a PPO was not relevant and was insufficient to support issuance of a PPO. In particular, he claims that evidence that he served petitioner with documents in a case in which she was not represented by counsel was not relevant and that her statements were not credible. He further claims that the evidence was insufficient to show that he ever committed, threatened, or posed a credible threat to petitioner.

Although respondent argues that service of documents on petitioner in a related fraud case did not support issuance of the PPO, the petition contained numerous other allegations in support of the requested PPO. Petitioner alleged that respondent continued to contact her even after the judge in a related divorce case told him not to do so. She further alleged that respondent had told her mother that he was driving petitioner to kill herself. Petitioner expressed her fear that respondent would harm her and make it look like a suicide. Under MCL 600.2950(4), petitioner was not required to show that respondent committed one of the acts listed in MCL 600.2950(1), only that there was reasonable cause to believe that he may commit one of the acts. While respondent claims that petitioner was not credible, the trial court properly considered petitioner’s statements in support of the petition and did not abuse its discretion by finding reasonable cause to believe that respondent might commit one of the prohibited acts. In addition, the trial court did not abuse its discretion by finding that immediate and irreparable injury, loss, or damage would result from the delay required to give notice to respondent. MCL 600.2950(12).

Respondent also suggests that the trial court erred by failing to make findings on the record and without holding a hearing. A hearing was not required, however, because petitioner requested an ex parte order. See MCR 3.705(B)(1)(a). In addition, if the respondent files a motion to rescind the PPO within 14 days after the order is served or after the respondent has received actual notice of the order, the court must schedule a hearing. See MCL 600.2950(13)-(14). Respondent, however, filed his first motion to terminate on July 24, 2017, more than 14 days after issuance of the PPO, without establishing good cause for the late filing. Therefore, the trial court was not required to hold a hearing. Furthermore, a trial court is only required to state in writing the reasons for issuance of the PPO in proceedings under MCL 600.2950a (PPOs involving stalking and sexual assault), see MCR 3.705(A)(2), or on the record after a hearing is held, see MCR 3.705(B)(6).

Finally, respondent argues that the PPO should be set aside under MCR 2.612(C)(1)(a) (mistake, inadvertence, surprise, or excusable neglect) and (f) (any other reason justifying relief). Preliminarily, this argument is abandoned because respondent has failed to elaborate on his claim. See *Berger v Berger*, 277 Mich App 700, 712; 747 NW2d 336 (2008) (“A party abandons a claim when it fails to make a meaningful argument in support of its position.”). Nonetheless, MCR 2.612 pertains to relief from judgments or orders, but respondent is not appealing an order denying a motion for relief from the PPO. Furthermore, for the reasons discussed earlier, the trial court did not abuse its discretion by issuing the PPO and respondent fails to establish any grounds to set aside the PPO under this court rule.

## II. EXTENSION OF PPO

Next, respondent argues that the trial court erred by extending the ex parte PPO on June 12, 2018, and August 15, 2018. We disagree.

We also review a trial court's decision to continue a PPO for an abuse of discretion. See *Hayford*, 279 Mich App at 329. The petitioner bears the burden of establishing a justification for continuance of a PPO at a hearing on a motion to terminate the PPO. *Id.* at 326.

Respondent argues that petitioner failed to establish her burden to extend the PPO. In her motion to extend the PPO, petitioner alleged that respondent continued to contact her and that she was fearful of harm. Again, the trial court did not abuse its discretion by finding that the evidence petitioner submitted was sufficient to continue the PPO when she alleged that respondent was continuing to contact and harass her in violation of the PPO.

Moreover, the trial court explained at the hearing on September 26, 2018, that the extensions were "bridge extensions" and that it was standard procedure to issue "bridge" PPOs until the court had an opportunity to hear from the parties. The trial court planned to hear from the parties on November 1, 2018, and respondent did not object to the court's use of bridge extensions.

Respondent also argues that the trial court erred by failing to hold a hearing and issue findings with regard to the extensions. Although a hearing was scheduled for November 1, 2018, the hearing was never held. Under MCR 3.705(B)(1), a hearing is required if "the petition does not request an ex parte order" or "the court refuses to enter an ex parte order and the petitioner subsequently requests a hearing." Respondent argues that because hearings were scheduled, either the petition did not request the extensions to be issued ex parte or the trial court determined that it would not grant an ex parte extension. Even if hearings on the extensions were required, however, it was respondent who cancelled the hearing on November 1, 2018. Accordingly, there was no error and the trial court did not abuse its discretion by issuing the extensions without a hearing or without stating its findings.

Finally, respondent argues that the extensions should be set aside under MCR 2.612(C)(1)(a) (mistake, inadvertence, surprise, or excusable neglect), (e) (judgment satisfied), and (f) (any other reason justifying relief), but he fails to elaborate on this claim and, thus, it is abandoned. See *Berger*, 277 Mich App at 712. Nonetheless, as discussed earlier, respondent is not appealing an order denying a motion for relief from the extended PPOs. Furthermore, the extensions were properly issued and respondent fails to establish a basis to set aside the extensions under MCR 2.612(C)(1)(a), (e), or (f).

## III. MOTION TO TERMINATE PPO

Lastly, respondent argues that the trial court erred by denying his motion to terminate the PPO on September 4, 2019. We disagree.

We review a decision to deny a respondent's motion to terminate a PPO for an abuse of discretion. *Brown v Rudy*, 324 Mich App 277, 288; 922 NW2d 915 (2018). The trial court's

factual findings are reviewed for clear error. *Id.* Questions of law are reviewed de novo. See *Pickering v Pickering*, 253 Mich App 694, 697; 659 NW2d 649 (2002).

“A respondent may file a motion to terminate a PPO, MCR 3.707(A)(1)(b), in which case the court must schedule and hold a hearing on [the] motion to . . . terminate [the PPO] within 14 days of the filing of the motion, MCR 3.707(A)(2).” *Patterson v Beverwyk*, 320 Mich App 670, 683; 922 NW2d 904 (2017) (quotation marks omitted). Under MCR 3.707(A)(1)(c), “[t]he moving party shall serve the motion to modify or terminate the order and the notice of hearing at least 7 days before the hearing date as provided in MCR 2.105(A)(2) at the mailing address or addresses provided to the court.” “The court must schedule and hold a hearing on a motion to modify or terminate a personal protection order within 14 days of the filing of the motion[.]” MCR 3.707(A)(2).

Respondent served the motion to terminate on petitioner on August 6, 2019. On August 8, 2019, he served petitioner with an amended notice of hearing, setting the hearing for August 28, 2019, and he filed the amended notice of hearing with the trial court on August 13, 2019. On August 19, 2019, respondent cancelled the hearing set for August 28, 2019. On September 3, 2019, respondent filed a notice of hearing for his motion to terminate to be heard at the hearing on September 4, 2019. According to the record, respondent served the notice of hearing on petitioner on August 26, 2019.

At the hearing on September 4, 2019, the trial court found that respondent failed to file a notice of hearing for the motion to terminate to be heard on that date. However, the record establishes that respondent did file a notice of hearing the day before, on September 3, 2019, and timely served the notice of hearing on petitioner. Accordingly, the trial court clearly erred by finding that respondent failed to file a notice of hearing for respondent’s motion to terminate the PPO to be heard at the September 4, 2019 hearing.

Nonetheless, the trial court properly denied respondent’s motion to terminate the PPO. MCR 3.707(A)(1)(b) provides:

The respondent may file a motion to modify or terminate an ex parte personal protection order or an ex parte order extending a personal protection order and request a hearing within 14 days after being served with, or receiving actual notice of, the order. *Any motion otherwise to modify or terminate a personal protection order by the respondent requires a showing of good cause.* [Emphasis added.]

The fourth extended PPO was entered on November 2, 2018. It is unclear when respondent was served with the PPO, but he had actual notice at least by April 2019, when he filed a motion to terminate the fourth extended PPO. The motion at issue, however, was not filed until August 2019. Because the motion was not filed within 14 days after respondent was served with the PPO or received actual notice of the PPO, respondent was required to show good cause. See MCR 3.707(A)(1)(b). Respondent’s motion, however, did not allege or discuss good cause and therefore it was properly denied.

Respondent also argues that because the second extended PPO expired on September 26, 2018, there was no PPO to extend on November 1, 2018. Although the second extended PPO expired on September 26, 2018, the third extended PPO was issued *nunc pro tunc* on August 31, 2018. Respondent argues that there was no basis for issuance of the third extended PPO, but it appears that, like the first and second extensions, the third extension was a “bridge extension” until a hearing could be held. As discussed earlier, respondent cancelled the hearing scheduled for November 1, 2018. Thus, there was no error in issuing the third extended PPO.

Finally, respondent argues that a new hearing should be held or the orders reversed under MCR 2.611(A). MCR 2.611 relates to new trials or amendments of judgments and thus does not appear to apply in this case. Respondent has also abandoned this argument by failing to elaborate on this claim. See *Berger*, 277 Mich App at 712. To the extent that this court rule does apply, respondent fails to establish any grounds for a new hearing or to reverse the trial court’s orders.

Affirmed.

/s/ Michael F. Gadola  
/s/ Amy Ronayne Krause  
/s/ Colleen A. O’Brien