

STATE OF MICHIGAN
COURT OF APPEALS

LARRY SATTERFIELD,

Plaintiff-Appellee,

v

JOSEPH F. OLIVARES,

Defendant-Appellant.

UNPUBLISHED

May 16, 2013

No. 310820

Washtenaw Circuit Court

LC No. 12-000752-PP

Before: FORT HOOD, P.J., and FITZGERALD and O'CONNELL, JJ.

MEMORANDUM.

Defendant appeals by right the entry of an *ex parte* personal protection order preventing defendant from contacting or threatening plaintiff. We affirm.

Defendant, proceeding in propria persona, essentially alleges that the circuit court erred by entering an *ex parte* personal protection order (PPO). Specifically, defendant asserts that plaintiff did not comply with the statute and court rules governing PPOs, pleadings, and affidavits, and that plaintiff committed perjury by failing to provide testimony or corroborating evidence in support. We disagree. Unpreserved claims are reviewed for plain error affecting substantial rights. *Huntington Nat'l Bank v Ristich*, 292 Mich App 376, 381; 808 NW2d 511 (2011). Appellate review of issues of statutory interpretation is *de novo*. *Johnson v Recca*, 492 Mich 169, 173; 821 NW2d 520 (2012). The interpretation and application of a court rule presents a question of law subject to *de novo* review on appeal. *Haliw v City of Sterling Hts*, 471 Mich 700, 704; 691 NW2d 753 (2005). “[O]ur Supreme Court is the final arbiter of all matters of practice and procedure in the courts of this state. In instances in which a statute and a specific court rule conflict, the court rule prevails.” *In re Contempt of Henry*, 282 Mich App 656, 667; 765 NW2d 44 (2009) (internal citations omitted). “[S]pecific court rules control over general court rules.” *Haliw*, 471 Mich at 706; see also MCR 1.103.

A review of the lower court record reveals that plaintiff complied with the statute and court rules governing PPOs. Plaintiff filed a written petition with an attachment alleging specific and repeated acts of harassment and racial slurs at his place of employment in compliance with MCL 600.2950a(12) and MCR 7.305(A)(2). Plaintiff was not required to also produce an affidavit or sworn testimony because the statute and court rule use the alternative term “or” indicating a choice between two or more things. *Auto-Owners Ins Co v Stenberg Bros, Inc*, 227 Mich App 45, 50; 575 NW2d 79 (1997). Defendant’s reliance on MCR 2.110 and MCR 2.113 is

inappropriate because the specific court rules of MCR 3.700 *et seq.* control. MCR 1.103; *Haliw*, 471 Mich at 706. Plaintiff was not required to provide corroborating evidence or testify in support of his petition. Therefore, defendant is not entitled to appellate relief.

Affirmed. Plaintiff, the prevailing party, may tax costs, MCR 7.219(A).

/s/ Karen M. Fort Hood
/s/ E. Thomas Fitzgerald
/s/ Peter D. O'Connell