

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

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BRENDA WILSON,

Plaintiff-Appellee,

v

GEORGE BOSLEY,

Defendant-Appellant.

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UNPUBLISHED

September 17, 2013

No. 311761

Manistee Circuit Court

LC No. 12-014625-PH

Before: SAAD, P.J., and K. F. KELLY and GLEICHER, JJ.

PER CURIAM.

George Bosley appeals the trial court's denial of his motion to terminate a personal protection order ("PPO").<sup>1</sup> Bosley argues that Brenda Wilson presented insufficient evidence to maintain the PPO and that the trial court failed to make adequate findings of fact. For the reasons set forth below, we affirm the trial court's order.

Bosley and Wilson are neighbors and have had various conflicts. Wilson alleged that Bosley trespassed on her property to antagonize her dogs, used racial slurs against her, fired his gun to intimidate her, pointed his finger at her as though he was shooting her, told her that her child's disability was the result of her drug use, spit on her son, made noise early in the morning, and disrupted her daughter's graduation party. Bosley's wife testified that Bosley could not have spit on Wilson's son because Bosley's health problems make it impossible for him to spit. She also testified that she had no knowledge that Bosley ever fired his gun, trespassed on Wilson's property, or made noise early in the morning. Bosley's wife claimed that when the police investigated Wilson's trespassing allegations, they were unable to match the tracks that led from Bosley's property to Bosley's shoes. Finally, Bosley's wife claimed that Wilson's son pulled down his pants in front of them. Wilson denied that her son ever did so, but acknowledged that she does not watch her son at all times.

The trial court did not explicitly announce that it was making factual findings, but told Bosley that he could not trespass on Wilson's property and antagonize her dogs, that he could

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<sup>1</sup> While denying the Bosley's motion to terminate the PPO, the circuit court amended the order reducing the length of the PPO from five years to one year.

not make motions indicating he was shooting Wilson, and that it was the court's opinion that Bosley had fired his gun to intimidate Wilson.

The decision to issue a PPO is a decision to grant injunctive relief and "granting injunctive relief is in the sound discretion of the trial court and will not be reversed on appeal absent an abuse of discretion." *Pickering v Pickering*, 253 Mich App 694, 700; 659 NW2d 649 (2002). Questions related to the interpretation of a statute are, however, "question[s] of law that [are] reviewed de novo." *Pobursky v Gee*, 249 Mich App 44, 45; 640 NW2d 597 (2001), citing *Markille v Livingston Co Bd of Rd Comm'rs*, 210 Mich App 16, 21 532 NW2d 878 (1995). The trial court's findings of fact are reviewed for clear error. *Hayford v Hayford*, 279 Mich App 324, 325, 329; 760 NW2d 503 (2008); MCR 2.613(C). "The clear error standard provides that factual findings are clearly erroneous where there is no evidentiary support for them or where there is supporting evidence but the reviewing court is nevertheless left with a definite and firm conviction that the trial court made a mistake." *Hill v City of Warren*, 276 Mich App 299, 308; 740 NW2d 706 (2007). This Court defers to the trial court's credibility determinations. MCR 2.613(C); *Pickering*, 253 Mich App at 702.

Bosley asserts that there was insufficient evidence to issue and maintain the PPO against him. MCL 600.2950a requires that "[r]elief under this section shall not be granted unless the petition alleges facts that constitute stalking." MCL 600.2950a. Stalking is defined identically in both MCL 750.411h and MCL 750.411i. The elements necessary to prove that Bosley was stalking, and therefore that the PPO was properly issued and maintained, are 1) that Bosley's conduct was a "willful course of conduct"; 2) that it was "repeated or continuing"; 3) that it was "harassment"; 4) that it "would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested"; and 5) that Wilson actually felt "terrorized, frightened, intimidated, threatened, harassed or molested." MCL 750.411h(1)(d).

"Course of conduct" is defined as a "pattern of conduct composed of a series of 2 or more separate noncontinuous acts evidencing a continuity of purpose." MCL 750.411h(1)(a). Wilson alleged more than one act that occurred on more than one day. Bosley does not deny that his conduct involved more than one act on more than one day. Therefore, Bosley's actions constituted a "willful course of conduct." Bosley's conduct was also "repeated or continuing." Wilson alleged facts that incidents occurred repeatedly since April 2012, and Bosley does not deny this.

Regarding the third element, "harassment" is defined as "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 caused the victim to suffer emotional distress." MCL 750.411h(1)(c). "Unconsented contact" includes but is not limited to "approaching or confronting that individual in a public place or on private property [or] . . . [e]ntering onto or remaining on property owned, leased, or occupied by that individual"; however, "any contact" that is against the desire of the petitioner can constitute harassment. MCL 750.411h(1)(e).

Bosley argues that because the trespassing allegation was not substantiated by a police investigation, no harassment occurred. Presuming the truth of the testimony that the police were not able to substantiate Wilson's claim, it was still within the court's province to find that Bosley

did trespass and there was no clear error. See *Hayford*, 279 Mich App at 328. Moreover, Bosley did not contest numerous other allegations mentioned by Wilson. Further, the court stated that it believed Bosley made threatening gestures toward Wilson and fired his gun to intimidate her. Finding that these actions constituted “harassment” was not clear error.

In light of the numerous allegations, and the fact that most were uncontested, the court also did not clearly err in ruling that this conduct “would cause a reasonable person to feel terrorized, frightened, intimidated, harassed, or molested,” MCL 750.411h(1)(d), especially in light of the ongoing tension between the parties. Finally, Wilson stated numerous times that she was scared of Bosley and that she was scared to go into her own back yard because of Bosley’s conduct. There was sufficient evidence for the trial court to issue and maintain the PPO.

Bosley also argues that the trial court did not make an explicit finding of fact that Wilson proved all of the necessary elements and therefore this Court should remand to the trial court with instructions to make a more explicit finding. Both the statute authorizing the PPO and the court rules require the judge to state the reasons for granting or denying a PPO. MCL 600.2950a(7) and MCR 3.705(B)(6). Following the ex-parte hearing, the judge did not specifically state on the record why he was granting the PPO, but on the order form he wrote that Bosley committed instances of harm and harassing acts. At the motion to terminate the PPO, the judge also did not explicitly state he was making factual findings or legal conclusions, but he told Bosley that he could not trespass on Wilson’s property or use threatening gestures toward Wilson. The judge also told Bosley that he believed Bosley fired his gun to intimidate Wilson. Again, though the judge did not preface these remarks with a statement that he was making findings of fact and conclusions of law, it is clear that the judge found that Bosley trespassed and threatened Wilson and that these acts constituted stalking.

Were we to find that the judge’s ruling contained some technical deficiencies, “an error in a ruling or order . . . is not ground[s] for granting a new trial, setting aside a verdict, or for vacating, modifying, or otherwise disturbing a judgment or order, unless refusal to take this action appears to the court inconsistent with substantial justice.” MCR 2.613(A). As set forth above, there was sufficient evidence to impose and maintain the PPO, and the trial court ruled accordingly. The trial court’s ruling is not “inconsistent with substantial justice”, MCR 2.613 (A), and therefore we will not disturb it on appeal.

Affirmed.

/s/ Henry William Saad  
/s/ Kirsten Frank Kelly  
/s/ Elizabeth L. Gleicher