

STATE OF MICHIGAN
COURT OF APPEALS

K.H.,

Petitioner-Appellee,

v

P.S.,

Respondent-Appellant.

UNPUBLISHED

August 20, 2020

No. 349224

Oakland Circuit Court

Family Division

LC No. 2015-835608-PH

Before: GADOLA, P.J., and CAVANAGH and M. J. KELLY, JJ.

PER CURIAM.

Respondent appeals as of right the trial court’s order denying her motion to terminate a personal protection order. Respondent also challenges the trial court’s order denying her motion for reconsideration, as well as earlier orders entered by the trial court. We affirm.

I. FACTS

This appeal arises from a nondomestic personal protection order (PPO) obtained by petitioner against respondent in February 2016.¹ In October 2015, petitioner filed a petition in the family division of the circuit court seeking an ex parte nondomestic PPO against respondent. Petitioner alleged that respondent had stalked her, sent threatening messages, and had disparaged her in messages sent to others. The trial court issued an order dated October 7, 2015, denying the request for a PPO to be issued ex parte for the reason that it did “not appear from the facts alleged

¹ Petitioner’s husband formerly was respondent’s husband. Respondent and her former husband were divorced in January 2012. Since that time, they have been involved in a series of disputes arising from that divorce, resulting in respondent being held in criminal contempt for violating a protective order and the judgment of divorce, *Hanley v Seymour*, unpublished per curiam opinion of the Court of Appeals, issued October 26, 2017 (Docket No. 334400), and in this Court sanctioning respondent for filing a vexatious appeal. *Hanley v Seymour*, unpublished per curiam opinion of the Court of Appeals, issued January 30, 2020 (Docket No. 347380).

that immediate, irreparable harm [would] occur during the time required to give notice.” The matter was instead scheduled for hearing.

Later that month, the trial judge presiding over the case transferred from the family division of the circuit court to the civil and criminal division of the circuit court. In keeping with the trial court’s local administrative order, however, the judge continued to preside over this case after the transfer. The trial court thereafter issued a PPO against respondent on February 5, 2016, to remain in effect for three years.

On February 1, 2019, petitioner filed a motion to extend the PPO. The case was reassigned to a successor judge, who entered an order extending the PPO until February 5, 2022. The trial court thereafter denied respondent’s motion to terminate the PPO, and also denied her motion for reconsideration. Respondent now appeals.

II. DISCUSSION

A. NON-FINAL ORDER

Respondent first contends that the trial court’s October 7, 2015 order denying petitioner’s request for an ex parte PPO was a final order that closed the case, and that as a result all orders issued thereafter by the trial court in this case were void. We disagree.

Generally, a final order is “the first judgment or order that disposes of all the claims and adjudicates the rights and liabilities of all the parties” MCR 7.202(6)(a)(i). An order that does not dispose of all issues in a case does not terminate the action. MCR 2.604(A). In this case, the October 7, 2015 order denied petitioner’s request that a PPO be issued against respondent on an ex parte basis, finding that the facts alleged did not indicate that “immediate, irreparable harm will occur during the time required to give notice.” The order did not otherwise dispose of petitioner’s claim for a PPO.

Respondent asserts on appeal that the trial court’s October 7, 2015 order indicated “final disposition closed,” and thereby closed the case. However, nothing in the October 7, 2015 order indicates that it was a final order disposing of the case. Respondent appears to base her contention that the order is a final one upon the trial court’s Register of Actions, the first page of which includes an entry for the October 7, 2015 order labeled “final disposition closed.” But despite the nomenclature employed in the trial court’s record-keeping system, the October 7, 2015 order did not dispose of all the claims nor did it adjudicate all the rights and liabilities of the parties, and therefore was not a final order.

B. SUBJECT MATTER JURISDICTION

Respondent next contends that the trial court lacked subject matter jurisdiction to grant the PPO on February 5, 2016, because at the time the PPO was issued the trial court judge was no longer sitting in the family division of the circuit court. Again, we disagree.

Subject matter jurisdiction is the right of the court to exercise its judicial power over a class of cases. *People v Washington*, 329 Mich App 604, 610; 944 NW2d 142 (2019). If a court lacks subject-matter jurisdiction, a judgment entered by that court is void. *Council of Organizations v*

Michigan, 321 Mich App 456, 465; 909 NW2d 449 (2017). Subject matter jurisdiction may not be waived, *id.* at 465-466, and a challenge to subject matter jurisdiction may be raised at any time. *Kuhlgert Michigan State Univ*, 328 Mich App 357, 379-380; 937 NW2d 716 (2019). A court's subject matter jurisdiction also may be questioned collaterally on appeal. *Altman v Nelson*, 197 Mich App 467, 473; 495 NW2d 826 (1992). Whether a trial court has subject matter jurisdiction is question of law that this Court reviews de novo. *Registered Nurses, Registered Pharmacists Union v Hurley Med Ctr*, 328 Mich App 528, 531; 938 NW2d 800 (2019).

Generally, the family division of each circuit court has exclusive jurisdiction over cases involving personal protection orders. MCL 600.1021(1)(k). In addition, MCL 600.2950a provides that “an individual may petition the family division of [the] circuit court to enter a personal protection order to restrain or enjoin an individual” from engaging in prohibited conduct. MCL 600.2950a(1).

Regarding the reassignment of a pending case, MCL 600.1011 provides in relevant part:

(1) Not later than July 1, 2003, in each judicial circuit, the chief circuit judge and the chief probate judge or judges shall enter into an agreement that establishes a plan known as the “family court plan” that details how the family division will be operated in that circuit

* * *

(5) A family court plan required under subsection (1) may provide that when a judge's service pursuant to the family court plan ends, the pending cases of that judge are to be reassigned to another judge or judges serving pursuant to the family court plan *or are to be resolved by that judge*. [Emphasis added.]

In addition, MCR 8.111(C)(2) provides regarding the reassignment of judges as follows:

If a judge is reassigned under a concurrent jurisdiction plan or a family court plan, the successor judge will be assigned all cases filed after the date of reassignment, any pending matters, and postjudgment matters that relate to disposed cases. The chief judge shall submit a local administrative order under MCR 8.112 identifying the revised caseload distribution.

In this case, the trial judge who initially presided over this case continued to preside over the case after transferring from the family division of the circuit court to the civil and criminal division of the circuit court, issuing the PPO in February 2016. Respondent argues that the trial court lacked subject-matter jurisdiction when it entered the PPO against her in February 2016 because the trial judge issuing the order was no longer assigned to the family division. At that time, the Family Court Plan of the Oakland Circuit Court was set forth in Local Administrative Order 2015-08, which provided in relevant part:

(II.) D. Completion of pending cases upon entry to or exit from the Family Division; Reassignment of Open Cases.

1. Judges leaving the Family Division shall complete all pending motions, trials, and dispositions (*i.e.*, where one or more issues have been adjudicated or have a final judgment or order entered or initial disposition has not been completed). Subject to chief judge approval, a judge may select to keep a case or cases that are included in those to be reassigned

When the initial trial judge left the family division, petitioner's petition for a PPO against respondent was pending. Therefore, under the applicable family court plan, the initial trial court judge was required to continue to preside over petitioner's petition for a PPO. Respondent's contention that the trial court did not have subject matter jurisdiction because the trial judge continued to preside over the case after her transfer to the civil and criminal division of the circuit court is therefore without merit.

C. NOTICE OF HEARING

Respondent also asserts that she was not properly served with notice of the hearing held February 15, 2019, regarding the extension of the PPO. Respondent, however, does not support her assertion with authority, argument, or citation to the record. An appellant may not merely announce her position without citation to proper authority, nor may she give only cursory treatment of the issue. *In re Warshefski*, ___ Mich App ___, ___; ___ NW2d ___ (2020) (Docket No. 346965); slip op at 1. Respondent's failure to provide authority and argument constitutes abandonment of the issue. *Id.* We also note that despite this Court's repeated requests, respondent failed to provide this Court with the transcript of the hearing held before the trial court on April 19, 2019, during which this issue presumably was addressed by the trial court. See MCR 7.210(B)(1)(a). Respondent therefore has waived this issue. See *PT Today, Inc v Comm'r of Office of Fin & Ins Servs*, 270 Mich App 110, 151-152; 715 NW2d 398 (2006).

D. MOTION FOR RECONSIDERATION

Respondent also contends that the trial court erred by denying her motion for reconsideration, and additionally erred by deciding the matter without oral argument. We disagree.

We review for an abuse of discretion the trial court's decision on a motion for reconsideration, which occurs only when the trial court's decision falls outside the range of principled outcomes. *Farm Bureau Ins Co v TNT Equip, Inc*, 328 Mich App 667, 671; 939 NW2d 738 (2019). We also review for an abuse of discretion the trial court's decision to omit or limit oral argument. *Fisher v Belcher*, 269 Mich App 247, 252; 713 NW2d 6 (2005).

MCR 2.119(F)(3) provides that a party seeking reconsideration "must demonstrate a palpable error by which the court and parties have been misled and show that a different disposition of the motion must result from correction of the error." A trial court has considerable discretion in determining a motion for reconsideration. See *Sanders v McLaren-Macomb*, 323 Mich App 254, 264; 916 NW2d 305 (2018). Here, respondent sought reconsideration of the trial court's decision denying her motion to terminate the PPO on the grounds that the February 2016 PPO was void, that petitioner did not adequately serve her with notice of the motion to extend the PPO, and that petitioner did not offer adequate evidentiary support for the motion. In its order denying the motion, the trial court stated that the court was "not convinced there was error in granting the

extension of the personal protection order, nor was the Court misled,” and that all respondent’s arguments “were presented to and considered by the Court at the April 19, 2019 hearing.” Respondent points to nothing in the record to suggest that the trial court’s decision was an abuse of the trial court’s discretion, and we again observe that respondent has not provided this Court with the transcript from the trial court’s April 19, 2019 hearing. We therefore reject respondent’s challenge to the trial court’s decision to deny her motion for reconsideration as without merit.

We also reject respondent’s contention that she was entitled to present oral argument in support of her motion for reconsideration before the trial court. MCR 2.119(F)(2) provides that when a motion for reconsideration is filed “there is no oral argument, unless the court otherwise directs.” In this case, the trial court noted that it had not permitted oral argument on the motion, citing MCR 2.119(F). Respondent thus was not entitled to oral argument on the motion for reconsideration, and nothing in the record suggests that trial court abused its discretion in failing to permit oral argument in this instance.

Affirmed.

/s/ Michael F. Gadola
/s/ Mark J. Cavanagh
/s/ Michael J. Kelly