

STATE OF MICHIGAN
COURT OF APPEALS

In re JCM.

DN,

Petitioner-Appellee,

v

JCM,

Respondent-Appellant.

UNPUBLISHED

January 28, 2021

No. 351666

Clare Circuit Court

Family Division

LC No. 19-900314-PH

Before: SHAPIRO, P.J., and SAWYER and BECKERING, JJ.

PER CURIAM.

Respondent appeals by right his conviction of criminal contempt based on his violation of a personal protection order (PPO), MCL 600.2950a. Respondent was sentenced to serve one year of probation with six days in jail. We affirm.

I. BACKGROUND

Petitioner brought this action to stop respondent from engaging in stalking activities. Petitioner purchased a house that previously belonged to respondent and had been repossessed by the bank. When petitioner went to the property, respondent was present and refused to leave; this led to respondent being convicted of trespassing. Subsequent to this conviction, respondent began to slowly drive his car past petitioner's house on a daily basis. Pursuant to MCL 600.2950a, the trial court entered an ex parte nondomestic PPO that prohibited respondent from engaging in stalking activities, such as appearing within petitioner's sight or entering petitioner's property. After the PPO was entered, respondent continued to drive past petitioner's house and attempted to gain access to petitioner's pole barn. Petitioner petitioned for a hearing to show cause why respondent should not be held in contempt, and a hearing was scheduled. At the conclusion of the hearing, the trial court found respondent guilty of criminal contempt. This appeal followed.

II. ANALYSIS

This Court reviews “a trial court’s findings in a contempt proceeding for clear error, and such findings must be affirmed if there is competent evidence to support them.” *In re Kabanuk*, 295 Mich App 252, 256; 813 NW2d 348 (2012). This Court does “not weigh the evidence or the credibility of the witnesses in determining whether there is competent evidence to support the findings. This Court reviews a trial court’s issuance of an order of contempt for an abuse of discretion.” *Id.* (citation omitted). An individual who fails to abide by the terms of a PPO is subject to the trial court’s contempt powers. MCL 600.2950a(23). For the trial court to have properly found respondent guilty of criminal contempt, petitioner must have proved beyond a reasonable doubt that respondent violated the PPO. MCR 3.708(H)(3).

The nondomestic PPO issued against respondent prohibited him from partaking in stalking behavior such as “appearing within sight of the petitioner” and “entering onto or remaining on property owned, leased, or occupied by the petitioner.” “ ‘Stalking’ means 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). Petitioner testified that respondent continued to drive past her house on a daily basis after the personal protection order was issued. Petitioner described an encounter during which she confronted respondent at the end of her driveway. Petitioner testified that respondent attempted to enter the pole barn on her property. Petitioner testified that respondent’s behavior caused her to be afraid to be in her house. This evidence was sufficient for the trial court to find beyond a reasonable doubt that respondent violated the terms of his PPO by stalking petitioner. Therefore, the trial court did not commit clear error.

Affirmed.

/s/ Douglas B. Shapiro
/s/ David H. Sawyer
/s/ Jane M. Beckering