

STATE OF MICHIGAN
COURT OF APPEALS

DAVID CARRILL,

Plaintiff-Appellant,

v

GAYLE CARRILL,

Defendant-Appellee.

UNPUBLISHED

April 12, 2002

No. 227902

Genesee Circuit Court

LC No. 99-066048-NZ

Before: K. F. Kelly, P.J., and Doctoroff and Cavanagh, JJ.

MEMORANDUM.

Plaintiff appeals by right from a circuit court order granting defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant sued plaintiff for divorce. After the trial court declined to enter an ex parte order granting defendant exclusive use of the marital home, defendant obtained a personal protection order (PPO) that prohibited plaintiff from entering the home. Plaintiff claimed that the allegations in the petition for the PPO were false and filed this action for abuse of process. The trial court dismissed the complaint pursuant to MCR 2.116(C)(8) and (10).

The trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). When reviewing a motion decided under MCR 2.116(C)(8), the Court accepts as true all factual allegations and any reasonable inferences drawn from them in support of the claim. Summary disposition for failure to state a claim should be upheld only when the claim is so clearly unenforceable as a matter of law that no factual development could establish the claim and thus justify recovery. *Stott v Wayne Co*, 224 Mich App 422, 426; 569 NW2d 633 (1997), aff'd 459 Mich 999 (1999).

A motion brought under MCR 2.116(C)(10) tests the factual support for a claim. In ruling on such a motion, the trial court must consider not only the pleadings, but also depositions, affidavits, admissions and other documentary evidence, MCR 2.116(G)(5), and must give the benefit of any reasonable doubt to the nonmoving party, being liberal in finding a genuine issue of material fact. Summary disposition is appropriate only if the opposing party fails to present documentary evidence establishing the existence of a material factual dispute. *Smith v Globe Life Ins Co*, 460 Mich 446, 455; 597 NW2d 28 (1999).

Plaintiff first contends that the trial court erred in granting defendant's motion under subrule (C)(8). He argues that had the court clearly examined the allegations in the complaint, it would have reached a different result. Because a party cannot simply announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate his arguments for him, and then search for authority either to sustain or reject his position, the issue is not properly before the Court, and we decline to address it. See *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998).

Plaintiff also contends that the trial court erred in granting defendant's motion under subrule (C)(10) because the evidence he submitted created at least a question of fact whether the allegations in the petition for the PPO were false. Because plaintiff has not cited any case law or other authority in support of his underlying argument that false allegations in the petition for the PPO were sufficient to establish a claim for abuse of process, the issue has not been preserved for appeal. See *Price v Long Realty, Inc*, 199 Mich App 461, 467; 502 NW2d 337 (1993).

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Martin M. Doctoroff
/s/ Mark J. Cavanagh