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STATE OF MICHIGAN

COURT OF APPEALS

PAMELA GERALD,

Plaintiff-Appellant,

v

DANIEL STANTON,

Defendant-Appellee.

UNPUBLISHED
November 03, 2026
10:13 AM

No. 376367
Oakland Circuit Court
LC No. 2024-209833-CZ

Before: MURRAY, P.J., and BOONSTRA and RIORDAN, JJ.

PER CURIAM.

In this action for intentional infliction of emotional distress (IIED), abuse of power, and tortious interference with a business relationship, plaintiff appeals as of right the trial court's order granting defendant's motion for summary disposition under MCR 2.116(C)(8) (failure to state a claim). We affirm.

I. FACTS AND PROCEDURAL HISTORY

This case involves altercations between plaintiff and defendant over tree removal on plaintiff's property in the Meadowbrook subdivision in Farmington Hills. As of November 2023, defendant was the president of the Meadowbrook Hills-Woods-Forest Homeowner Association and a member of its board of directors. The HOA's Declaration of Restrictions required membership in the HOA and prohibited residents from removing trees over six inches in diameter without the HOA's permission.

Plaintiff hired Davey Tree Company to remove trees that were growing too close to her house. On July 5, 2023, defendant was driving to work when the street in front of plaintiff's house was blocked by Davey's workers. According to plaintiff, defendant walked up to her and cursed at her and Davey's workers. He allegedly was "very aggressive" and called plaintiff a "bitch." Defendant left after plaintiff called the police. Defendant claimed that he told plaintiff and Davey's workers that they could not block the street without notifying residents. He said that he was "upset" but denied being aggressive toward plaintiff.

On November 9, 2023, Davey's workers returned to plaintiff's house to assess the removal of additional trees. According to defendant, he drove to plaintiff's house and told her "in a very loud . . . voice" to not remove any trees without the HOA's permission. Plaintiff said that defendant told Davey's workers "to get the [h]ell out of my yard" and said that they were not "gonna do shit in my yard . . . ." Defendant also asked plaintiff, "[W]hy are you acting black?" Defendant claimed that he made this remark after plaintiff "charged towards me and . . . said get off my property, drunk Dan." According to defendant, he started backing away when plaintiff told him, "if you want to get rid of my black ass, you can buy my place for $800,000.00." He responded that he "wouldn't buy this piece of shit for anything." Plaintiff said that defendant also asked, "[W]hy don't you just sell your house?" Plaintiff called the police because of defendant's "very intimidating and threatening" behavior.

Plaintiff petitioned for an ex parte personal protection order (PPO) against defendant under MCL 600.2950a(1) based on these altercations. The trial court entered the PPO, prohibiting defendant from stalking or contacting plaintiff. Defendant then moved to terminate the PPO, alleging that he did not harass, stalk, or threaten plaintiff or Davey's workers. The trial court denied the motion after a hearing and ruled that defendant "inten[ded] to cause and did actually cause [plaintiff] to feel frightened, terrorized, intimidated and harassed." The trial court found defendant's testimony at the hearing not credible.

Plaintiff thereafter filed the complaint underlying this appeal *in propria persona*, raising the following three claims. First, plaintiff claimed IIED, arguing that the court's denial of defendant's motion to terminate the PPO demonstrates that he intentionally inflicted emotional distress.[1] Second, plaintiff claimed "abuse of power," requesting that the trial court bar defendant from serving on the HOA board of directors under MCL 450.2514. She also requested that the trial court "permanently de-annex [her] and [her] home from the HOA." Third, plaintiff claimed tortious interference, alleging that defendant tortiously interfered with her tree removal by "aggressively confront[ing]" Davey's workers.

On November 30, 2024, the trial court entered a scheduling order providing that dispositive motions must be filed by June 4, 2025. Defendant moved for summary disposition under MCR 2.116(C)(8) on April 15, 2025. Defendant argued that his remarks were "mere insults" insufficient to support an IIED claim; that the abuse-of-power claim was moot because he no longer was on the board of directors, any request to remove him from the board had to be brought by the HOA, and the trial court had no authority to remove plaintiff from the HOA; and that the tortious-interference claim lacked merit because plaintiff did not establish any interference with a business relationship. The trial court set a June 4, 2025 hearing date for the motion. Meanwhile, plaintiff moved for summary disposition under MCR 2.116(C)(10) (no genuine issue of material fact) on May 29, 2025.

The trial court granted defendant's motion for summary disposition on June 3, 2025, dispensing with oral argument under MCR 2.119(E)(3). In its written opinion, the trial court ruled that plaintiff's allegations regarding her IIED claim were conclusory and failed to demonstrate any

[1] Plaintiff attached the transcript from the PPO proceedings to her complaint.

extreme and outrageous conduct.[2] The trial court also ruled that plaintiff's remaining two claims were meritless as well. Thus, the trial court dismissed the case. In doing so, the trial court did not address plaintiff's motion for summary disposition. Plaintiff now appeals.

II. SUMMARY DISPOSITION

On appeal, plaintiff argues that the trial court erroneously granted summary disposition in favor of defendant because (1) the trial court did not properly weigh the previous PPO proceedings against defendant for the purposes of her IIED claim, and (2) the trial court did not address her motion for summary disposition under MCR 2.116(C)(10) before dismissing the case. We disagree.

A. STANDARD OF REVIEW

"A motion for summary disposition under MCR 2.116(C)(8) tests the legal sufficiency of the claim on the basis of the pleadings alone and the ruling is reviewed de novo." *Bailey v Schaaf*, 494 Mich 595, 603; 835 NW2d 413 (2013). "All well-pleaded factual allegations are accepted as true and construed in a light most favorable to the nonmovant." *Maiden v Rozwood*, 461 Mich 109, 119; 597 NW2d 817 (1999). A (C)(8) motion may only be granted when a claim is "so clearly unenforceable as a matter of law that no factual development could possibly justify recovery." *Id*. (quotation marks and citation omitted).[3]

B. DISCUSSION

Plaintiff argues that the trial court did not properly weigh the PPO proceedings against defendant when deciding her IIED claim. This argument lacks merit. As an initial matter, the trial

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[2] The trial court quoted from the transcript of the PPO proceedings and concluded that defendant's comments, as reflected therein, were "mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities."

[3] When addressing the IIED claim, the trial court considered the transcript from the PPO proceedings, which was attached to, and referenced by, the complaint initiating this case. Under MCR 2.113(C)(1) and (2), a "written instrument" that establishes the basis for a claim must be attached to a pleading and is considered part of the pleading for all purposes. However, the term "written instrument" likely refers to a limited category of legal documents, such as contracts and deeds. See *Yaldo v N Pointe Ins Co*, 217 Mich App 617, 621; 552 NW2d 657 (1996). We question whether the PPO transcript is a "written instrument" contemplated by MCR 2.113(C)(1) and (2).

Regardless, even if the trial court erred by considering the PPO transcript for the purposes of deciding the (C)(8) motion, any error was harmless. See MCR 2.613(A). This is because, as the trial court accurately noted in its opinion, the allegations in the complaint itself were "utterly conclusory." Thus, by reviewing and quoting from the PPO transcript, the trial court essentially engaged in its own expansive consideration of the materials before it to ensure that plaintiff's IIED claim received full treatment by the court. In other words, if the facts reflected in the PPO transcript were insufficient to establish an IIED claim, it necessarily follows that the less-specific, conclusory allegations in the complaint itself also were insufficient to establish an IIED claim.

court did consider the PPO proceedings when deciding her IIED claim. More importantly, the PPO proceedings were distinct from the instant proceedings and involved different legal questions. As a result, the fact that plaintiff was awarded a PPO did not necessarily incorporate a finding that defendant engaged in "extreme and outrageous" conduct for the purposes of IIED. Compare MCL 600.2950a(1) (discussing the requirements of a PPO) with *Swain v Morse*, 332 Mich App 510, 534; 957 NW2d 396 (2020) (discussing the elements of IIED). In other words, it is possible for a person to successfully obtain a PPO on the basis of certain facts, even if those same facts do not also support a successful IIED claim.

In arguing otherwise, plaintiff relies upon MRE 404(b)(2), which allows admission of material other-acts evidence to prove "intent, . . . [or] scheme, plan, or system in doing an act[.]" She argues that the trial court "fail[ed] to properly weigh the PPO's probative value for a non-character purpose, such as establishing intent or a pattern of conduct[] . . . ." However, MRE 404(b) only involves the admissibility of evidence at trial. Plaintiff cites no authority providing that the admissibility of other-acts evidence under MRE 404(b) is relevant to the standard of review under MCR 2.116(C)(8).

More importantly, the trial court ruled that plaintiff did not sufficiently plead her IIED claim for the purposes of MCR 2.116(C)(8). In plaintiff's brief on appeal, she does not dispute that her complaint was legally insufficient to establish her claim under the proper standard of review for a motion under MCR 2.116(C)(8). "An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims . . . ." *Bronson Methodist Hosp v Mich Assigned Claims Facility*, 298 Mich App 192, 199; 826 NW2d 197 (2012) (quotation marks and citation omitted). Thus, plaintiff abandoned any challenge to the sufficiency of her complaint. *Id*.

Even if the issue was not abandoned, the trial court did not err by ruling that plaintiff failed to establish her IIED claim. As noted, to establish an IIED claim, a plaintiff must show that the defendant engaged in extreme and outrageous conduct. *Swain*, 332 Mich App at 534. "Liability does not extend to mere insults, indignities, [or] threats . . . ." *Id*. (quotation marks and citation omitted). The complaint simply asserts that defendant caused plaintiff "to feel terrorized, frightened, intimidated and harassed," and that defendant engaged in "aggressive behavior, confrontations on private property, verbal abuse, discrimination, [and] intimidation[.]" No specific facts were alleged. Further, even considering the PPO transcript, defendant yelled at Davey's workers and insulted plaintiff by, for example, calling her a "bitch" and asking, "[W]hy are you acting black?" Defendant's remarks, while certainly offensive and inappropriate, are the type of insults that do not support an IIED claim. See *id*. In this regard, we note that IIED claims typically require something beyond mere words, such as, for example, locking an injured person inside a building, see *Moore v Detroit*, 252 Mich App 384, 389; 652 NW2d 688 (2002), accompanying threats of physical harm with an ax and a hatchet, see *Haverbush v Powelson*, 217 Mich App 228, 234; 551 NW2d 206 (1996), or maliciously interfering with a person's disability benefits, see *Atkinson v Farley*, 171 Mich App 784, 791; 431 NW2d 95 (1988). Defendant's disrespectful

comments here do not rise to the level of such conduct. Accordingly, defendant was entitled to summary disposition of plaintiff's IIED claim under MCR 2.116(C)(8).[4]

Finally, plaintiff argues that the trial court could not grant summary disposition in favor of defendant under MCR 2.116(C)(8) without considering her motion for summary disposition under MCR 2.116(C)(10). However, as explained, the trial court properly granted defendant summary disposition under MCR 2.116(C)(8). As a result, plaintiff's motion for summary disposition was moot. See *B P 7 v Bureau of State Lottery*, 231 Mich App 356, 359; 586 NW2d 117 (1998) (explaining that courts generally "will not decide moot issues"). In other words, because the trial court ruled that defendant was entitled to summary disposition, it follows that plaintiff could not also be entitled to summary disposition herself, so it was unnecessary to address the merits of her motion. See *id*.

III. CONCLUSION

For the reasons discussed above, we affirm.

/s/ Christopher M. Murray
/s/ Mark T. Boonstra
/s/ Michael J. Riordan

[4] While not argued by plaintiff on appeal, we also briefly note that the trial court did not err by dismissing her remaining two claims as well. Plaintiff alleged an "abuse of power" claim under MCL 450.2514, requesting that the trial court bar defendant from serving on the board of directors and "permanently de-annex [her] and [her] home from the HOA." MCL 450.2514(1) requires that a proceeding to bar a corporate director be commenced by "the corporation, . . . its shareholders holding at least 10% of the outstanding shares . . . , or by 10% of the members . . . ." Plaintiff, as an individual HOA member, does not fall within any of these categories. Plaintiff also alleged that defendant tortiously interfered with Davey's tree-removal work. For a tortious-interference claim, a plaintiff must establish "an intentional interference by the defendant . . . causing a breach or termination of [a business] relationship or expectancy . . . ." *Dalley v Dykema Gossett, PLLC*, 287 Mich App 296, 323; 788 NW2d 679 (2010) (quotation marks and citation omitted). Here, defendant allegedly demanded that Davey's workers leave plaintiff's property and not remove any trees without HOA approval. However, plaintiff never alleged in her complaint that defendant's conduct, while rude and offensive, caused a breach or termination of a business relationship. Therefore, the trial court properly dismissed these two claims.