

STATE OF MICHIGAN
COURT OF APPEALS

JAMIE DENELLE-MERCER HANDY,
Petitioner-Appellee,

UNPUBLISHED
August 15, 2017

v

THOMAS ROBERT HANDY,
Respondent-Appellant.

No. 332845
Lenawee Circuit Court
Family Division
LC No. 16-042742-PP

Before: SHAPIRO, P.J., and GLEICHER and O'BRIEN, JJ.

PER CURIAM.

Respondent appeals an order denying his motion to terminate an *ex parte* personal protection order (PPO) issued against him at the request of petitioner, his wife, with whom he was engaged in divorce proceedings. We affirm.

MCL 600.2950(4) requires a trial court to issue a PPO if it finds that “there is reasonable cause to believe that the individual to be restrained or enjoined may commit 1 or more of the acts listed in subsection (1).” *Hayford v Hayford*, 279 Mich App 324, 326, 329; 760 NW2d 503 (2008). “The petitioner bears the burden of establishing reasonable cause for the issuance of a PPO . . . and of establishing a justification for the continuance of a PPO at a hearing on the respondent’s motion to terminate the PPO[.]” *Id.* (citation omitted); MCR 3.310(B)(5) (“At a hearing on a motion to dissolve a restraining order granted without notice, the burden of justifying continuation of the order is on the applicant for the restraining order . . .”). “The trial court must consider the testimony, documents, and other evidence proffered and whether the respondent has previously engaged in the listed acts.” *Hayford*, 279 Mich App at 326. The acts listed in MCL 600.2950(1) include “[a]ssaulting, attacking, beating, molesting, or wounding a named individual,” “[t]hreatening to kill or physically injure a named individual,” possessing a firearm, stalking, and “[a]ny other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence.”¹

¹ We review a trial court’s ruling regarding the issuance or termination of a PPO for an abuse of discretion. *Hayford v Hayford*, 279 Mich App 324, 325, 329; 760 NW2d 503 (2008). We also

At the evidentiary hearing on respondent's motion to terminate the PPO, petitioner reaffirmed the allegations stated in her expedited petition that respondent had been physically and verbally aggressive towards her and her children. Specifically, petitioner averred that respondent yelled at them in their faces, spanked and slapped the minor children leaving welts and bruising, shoved petitioner up against walls while she was holding the minor children, and even threatened to kill petitioner and bury her somewhere on their 80 acres of land. She also asserted that respondent owned many guns and threatened that he had enough ammunition to keep the police away. Petitioner also alleged that respondent had abused their dogs by punching them and throwing them across the room and into furniture. Respondent also testified at the evidentiary hearing and generally denied the allegations in the petition. Respondent acknowledged that he would raise his voice and admitted to spanking his eldest child, but he testified that he had never been physical with petitioner or the children, and he denied that he ever harmed the family pets. Petitioner's testimony at the evidentiary hearing regarding the allegations in her petition was, however, properly considered by the trial court and was sufficient to support a determination that there was reasonable cause to believe respondent may commit the acts listed in MCL 600.2950(1), and that the PPO should be continued. The trial court's finding was, therefore, not clearly erroneous.

Respondent argues that the trial court failed to make the proper statutory finding that there was reasonable cause to believe he would, or had, committed one or more of the listed acts under MCL 600.2950(1). However, in concluding that the PPO would be continued, the trial court indicated that the petition before it detailed "events that caused [petitioner] to feel a bona fide fear[.]" Additionally, the trial court noted that both petitioner and respondent were trained law enforcement officers and that they could probably do great bodily damage to each other, if that was their intent. The foregoing comments can properly be construed as the trial court finding that there was reasonable cause to believe respondent would, or had, committed one or more of the acts listed in MCL 600.2950(1).

Respondent also argues that he was not given a "full" evidentiary hearing because he was allegedly denied the opportunity to cross-examine petitioner because the trial court "ordered" her to sit back down at the conclusion of her testimony. However, our review of the evidentiary hearing transcript indicates that respondent never sought to cross-examine petitioner. Instead, after the trial court told petitioner that she may sit down, respondent's attorney stated that she "would just like to question [respondent], if you will." Therefore, respondent was not denied the opportunity to cross-examine petitioner; he never asked for it.

review for an abuse of discretion a trial court's evidentiary rulings. *Craig v Oakwood Hospital*, 471 Mich 67, 76; 684 NW2d 296 (2004). An abuse of discretion occurs when the decision resulted in an outcome falling beyond a range of principled outcomes. *Hayford*, 279 Mich App at 325. A trial court's findings of fact are reviewed for clear error. *Id.* "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).

Finally, respondent maintains that this Court should not rely on the trial court's credibility determinations. However, it is well established that we do not interfere with such determinations. MCR 2.613(C); *Pickering v Pickering*, 253 Mich App 694, 702; 659 NW2d 649 (2002). Despite respondent's urging, we decline to do so now. The fact that the trial court determined, at the conclusion of the evidentiary hearing, that the PPO should be continued is a clear indication that it found petitioner's allegations and supporting testimony to be more credible than respondent's testimony.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Elizabeth L. Gleicher
/s/ Colleen A. O'Brien