

IN THE COURT OF APPEALS OF OHIO  
FOURTH APPELLATE DISTRICT  
HOCKING COUNTY

SHELLEY R. DENNIS,	:	
	:	
Petitioner-Appellee,	:	Case No. 08CA15
	:	
vs.	:	<b>Released: June 17, 2009</b>
	:	
CHARLES S. PAULSEN,	:	<u>DECISION AND JUDGMENT</u>
	:	<u>ENTRY</u>
Respondent-Appellant.	:	

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APPEARANCES:

Ric Daniell, Columbus, Ohio, for Respondent-Appellant.

Shelley R. Dennis, Logan, Ohio, Petitioner-Appellee, pro se.

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McFarland, J.:

{¶1} Respondent-Appellant, Charles S. Paulsen, appeals the decision of the Hocking County Court of Common Pleas, granting the motion of Petitioner-Appellee, Shelley R. Dennis, to continue a civil stalking protection order (CSPO). Because the trial court abused its discretion in extending the protection order beyond the maximum time period allowed under R.C. 2903.214(E)(2)(a), we sustain Appellant's assignment of error, reverse the decision of the trial court and remand to the trial court for further action consistent with this opinion.

## I. Facts

{¶2} On July 20, 2005, Appellee filed a civil stalking petition against Appellant. On the same day, the trial court issued an ex parte protection order and scheduled the matter for a full hearing. On September 20, 2005, after the hearing, the trial court issued a three-year civil stalking protection order against Appellant, which was to remain in effect until September 20, 2008.

{¶3} On September 10, 2008, Appellee filed a motion to continue the protection order for a period of three additional years. In that motion, Appellee stated that Appellant was currently on probation for twice violating the existing protection order and that he had also filed a frivolous lawsuit against her for the purpose of harassment. The next day, on September 11, without holding a hearing on the matter, the trial court granted Appellee's motion to continue the stalking protection order for an additional three years. Following the trial court's entry, Appellant timely filed the current appeal.

## II. Assignment of Error

- I. DID THE LOWER COURT ISSUE OR EXTEND A CIVIL STALKING ORDER WITHOUT NOTICE OF AN OPPORTUNITY TO APPEAR AND BE HEARD BEING OFFERED TO THE RESPONDENT?

### III. Standard of Review

{¶4} The decision to grant a civil stalking protection order is left to a trial court's sound discretion and will not be reversed on appeal absent an abuse of that discretion. *Smith v. Wunsch* (2005), 162 Ohio App.3d 21, 2005-Ohio-3498, 832 N.E.2d 757, at ¶10. The term “abuse of discretion” connotes more than an error of law or judgment; it implies that the court's attitude is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219, 450 N.E.2d 1140. When reviewing a matter under the abuse-of-discretion standard, appellate courts must not substitute their judgment for that of the trial court. *Berk v. Matthews* (1990), 53 Ohio St.3d 161, 169, 559 N.E.2d 1301.

### IV. Legal Analysis

{¶5} As his sole assignment of error, Appellant argues that the trial court's decision to continue the civil stalking protection order violated his right to due process. In his brief, he states, in pertinent part:

{¶6} “Revised Code 2903.214(E)(2)(b) states that ‘[A]ny protection order issued pursuant to this section may be renewed in the same manner as the original order was issued. [sic] The ‘same order’ [sic] would presumably include notice and an opportunity for a hearing. However, in this case the statutory framework was not followed and the

Respondent, Charles Paulsen, Appellant, was not afforded basic due process.”

{¶7} For the reasons stated below, we agree with Appellant that the trial court abused its discretion in continuing the civil stalking protection order for an additional three years.

{¶8} R.C. 2903.214 governs protection orders for victims of menacing by stalking. The three subsections relevant to our analysis are as follows: “If the court, after an ex parte hearing, issues a protection order described in division (E) of this section, the court shall schedule a full hearing for a date that is within ten court days after the ex parte hearing. The court shall give the respondent notice of, and an opportunity to be heard at, the full hearing.” R.C. 2903.214(D)(2)(a). “Any protection order issued pursuant to this section shall be valid until a date certain but not later than five years from the date of its issuance.” R.C. 2903.214(E)(2)(a). “Any protection order issued pursuant to this section may be renewed in the same manner as the original order was issued.” R.C. 2903.214(E)(2)(b).

{¶9} In the case sub judice, nine days before the original three-year CSPO was set to expire, the trial court continued the order for three additional years. While only nine days remained, the original CSPO was

still in effect at the time the trial court granted Appellee's motion to continue the order. Here, the trial court's order to extend the CSPO for three additional years clearly violated R.C. 2903.214(E)(2)(a).

{¶10} R.C. 2903.214(E)(2)(a) limits a CSPO to a maximum of five years from the date of issuance. Even assuming the trial court had the power to modify its original order, the order had already been in effect for three years. By granting Appellee's motion to continue the order for an additional three years, the trial court extended the CSPO beyond the five-year maximum imposed by R.C. 2903.214(E)(2)(a). As such, the trial court abused its discretion.

{¶11} Further, we agree with Appellant that, in order to renew a CSPO, the respondent must be given notice and an opportunity to be heard. R.C. 2903.214(E)(2)(b) states that a protection order can be renewed "in the same manner as the original." Under R.C. 2903.214(D)(2)(a), the original imposition of a CSPO requires a full hearing. Accordingly, we find that a renewal of a CSPO also requires a full hearing.

{¶12} Finally, we stress that nothing in this opinion affects no-contact orders which may have resulted from Appellant's criminal violations of the original CSPO. Such violations are criminal matters

outside the purview of this civil appeal and any resulting court orders remain in full effect.

#### V. Conclusion

{¶13} Because the trial court's three-year continuation of the civil stalking protection order violated the maximum duration imposed by R.C. 2903.214(E)(2)(a), the trial court abused its discretion in issuing such order. Under R.C. 2903.214(E)(2)(b), civil stalking protection orders must be renewed in the same manner as originally issued, thus renewals also require notice and a hearing. Accordingly, we sustain Appellant's assignment of error, reverse the decision of the trial court and remand to trial court for further action consistent with this opinion.

**JUDGMENT REVERSED AND  
THE CAUSE REMANDED.**

**JUDGMENT ENTRY**

It is ordered that the JUDGMENT BE REVERSED AND THE CAUSE REMANDED and that the Appellant recover of Appellee costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Hocking County Court of Common Pleas Court to carry this judgment into execution.

Any stay previously granted by this Court is hereby terminated as of the date of this entry.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.  
Exceptions.

Kline, P.J. and Harsha, J.: Concur in Judgment and Opinion.

For the Court,

BY: \_\_\_\_\_  
Judge Matthew W. McFarland

**NOTICE TO COUNSEL**

**Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.**