

CIRCUIT COURT FOR QUEEN ANNE’S COUNTY

JEFFREY DAVID BUDDLE

*

v.

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CASE # C-17-FM-19-000152

HANNAH ELIZABETH DUNN

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MEMORANDUM OPINION AND ORDER REGARDING APPEAL

The above-captioned matter came before the Court on June 18, 2019 on appeal by Jeffrey David Buddle (“Petitioner”) of the decision of the District Court of Maryland for Queen Anne’s County (“District Court”) to deny his request for extension of a final protective order. Petitioner and Hannah Elizabeth Dunn (“Respondent”) appeared for the hearing with counsel. Oral argument was heard by the Court, following which the matter was held *sub curia* for issuance of this memorandum opinion and order.

Background

The District Court granted a final protective order (“FPO”) against Respondent, Petitioner’s ex-girlfriend, on June 26, 2018, with the consent of Respondent (Case No.: D-034-FM-18-000085). The FPO was entered for a period of nine (9) months, set to expire on March 26, 2019.

Prior to the expiration of the FPO, Petitioner filed a motion to extend the FPO with the District Court on March 22, 2019. The District Court, on April 2, 2019, ordered that the matter be set for a hearing on the motion but did not otherwise extend the FPO until the hearing. A hearing was held on April 12, 2019.

At the conclusion of the April 12, 2019 hearing, the District Court denied the extension request, citing as its reason, the prior expiration of the FPO, rendering, in its opinion, the extension request moot. Petitioner filed a timely appeal challenging the decision of the District Court, resulting in the matter being set for a hearing before the Circuit Court.

Discussion

MD CODE ANN., Family Law Article, § 4-507(a)(1)(2012, 2018 Supp), provides a court with jurisdiction to modify a FPO during the term of the protective order. In *La Valle v. La Valle*, 432 Md. 343 (2013), a case with facts that mirror those present here, and upon which the Respondent relies, the Court of Appeals held that “section 4-507 does not permit a court to extend an expired protective order, even when the motion to extend such order was timely filed during the term of the order. An expired protective order no longer exists, and an untimely hearing cannot revive it.” *Id* at 358. In reaching this conclusion, the court relied on a plain reading of the version of § 4-507 that was in effect at the time the case was decided.

In 2014, the year after *La Valle* was decided, the legislature amended § 4-507, adding the following language:

(a)(4)(i) If, during the term of a final protective order, a petitioner or person eligible for relief files a motion to extend the term of the order under paragraph (2) or (3) of this subsection, the court shall hold a hearing on the motion within 30 days after the motion is filed.

(ii) If the hearing on the motion is scheduled after the original expiration date of the final protective order, the court shall extend the order and keep the terms of the order in full force and effect until the hearing on the motion.

A plain reading of § 4-507, as it is currently written, mandates that a court, upon receipt of a timely filed motion to extend, extend the terms of an FPO to the date of the hearing if the hearing date falls after the expiration of the FPO.

Here, Petitioner filed his motion to extend prior to the expiration of the FPO and was therefore timely. There was no specific request contained in the motion that the District Court extend the FPO. The District Court was required to set the matter in for a hearing within thirty (30) days and to extend the FPO until the date of the hearing. Doing so would have afforded the District Court the ability to modify/extend the order at the April 12, 2019 hearing. The latter action, however, was not undertaken by the District Court between the date of filing of the motion by Petitioner on March 22, 2019 and the date the FPO expired on March 26, 2019.

The District Court's failure to extend the FPO until the date of the hearing was not the fault of the Petitioner, but, more importantly, was not the fault of the Respondent, and she should not be prejudiced thereby. The Court concludes that this matter is, in fact, controlled by the mandate of the Court of Appeals in *La Valle*. The FPO could not be extended after its expiration. The legislature, in its 2014 amendment to the statute, chose not to prescribe the extension of the FPO by filing of the motion. Since the statute requires the court to extend the FPO, and no timely action was taken by the court upon the filing of the motion to extend it,¹ the FPO expired on March 26, 2019 and cannot now be revived.

Accordingly, the Court shall affirm the judgment of the District Court.

¹ It appears that the District Court did not review the motion until April 2, 2019, after the FPO expired, when it issued an order to schedule the matter for a hearing.

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ORDER REGARDING APPEAL

For the reasons stated in the foregoing Memorandum Opinion, it is this 24 day of June, 2019, by the Circuit Court for Queen Anne's County, hereby

ORDERED, that the judgment of the District Court of Maryland for Queen Anne's County be, and it is hereby, **AFFIRMED**; and it is

ORDERED, in accordance with Rule 7-115, the Clerk shall transmit a copy of this order, together with the record, to the Clerk, District Court of Maryland for Queen Anne's County.

06/24/2019 04:07:31 PM

Date



Thomas G. Ross, JUDGE

Entered: Clerk, Circuit Court for
Queen Anne's County, MD
June 25, 2019