

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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BRADFORD D. BRYANT,

Plaintiff-Appellee,

v

WILLIAM PATTISON,

Defendant-Appellant.

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UNPUBLISHED  
March 28, 2000

No. 210395  
Wayne Circuit Court  
Family Division  
LC No. 98-802334

Before: Wilder, P.J., and Sawyer and Markey, JJ.

PER CURIAM.

Defendant appeals as of right from the circuit court's order denying his motion to rescind a personal protection order (PPO) entered in favor of plaintiff. We reverse.

Plaintiff filed a petition pursuant to MCL 600.2950a; MSA 27A.2950(1) seeking a non-domestic PPO against defendant. Plaintiff alleged that defendant, his co-employee at the Michigan Department of Corrections (DOC), was engaging in harassing and threatening behavior towards him. The trial court issued an ex-parte PPO prohibiting defendant from contacting plaintiff in any way or from coming within one hundred feet of plaintiff or his vehicle.

Defendant moved to rescind or modify the PPO. At the hearing, plaintiff acknowledged that he had no direct evidence that defendant had engaged in the activities of which he complained, and that much of what he alleged was based on speculation. Plaintiff's witnesses admitted that they had no direct knowledge that defendant had engaged in harassing or threatening behavior toward plaintiff. The trial court denied defendant's motion, finding that continuation of the PPO, "whether well founded or not," would be prudent given the contentious relationship between plaintiff and defendant.

A PPO shall not be issued on an ex-parte basis unless it clearly appears from the petition that the petitioner would suffer "immediate and irreparable injury, loss, or damage" in the absence of an ex-parte order. MCL 600.2950a(9); MSA 27A.2950(1)(9); MCR 3.705(A)(2). A PPO is an injunctive order which precludes a person from engaging in specific types of conduct. MCL 600.2950a(1); MSA 27A.2950(1)(1); MCR 3.706(A)(1). As a general rule, when determining whether to grant injunctive

relief, a court should consider the following factors: (1) the likelihood that the party seeking the injunction will prevail on the merits; (2) the danger that the party seeking the injunction will suffer irreparable injury if the injunction is not issued; (3) the risk that the party seeking the injunction would be harmed more by the absence of an injunction than the opposing party would be by the granting of the relief; and (4) the harm to the public interest if the injunction is issued. *Michigan State Employees Ass'n v Dep't of Mental Health*, 421 Mich 152, 157-158; 365 NW2d 93 (1984). We review a decision to grant or deny a request for injunctive relief for an abuse of discretion. *Fancy v Egrin*, 177 Mich App 714, 719; 442 NW2d 765 (1989).

Defendant argues that the trial court abused its discretion both by issuing the ex-parte PPO and denying his motion to rescind the order. We agree, and reverse the trial court's order denying defendant's motion to rescind. Plaintiff presented no direct evidence that defendant engaged in the activities complained of in the petition. He relied on conjecture, hearsay, and unsubstantiated allegations. Plaintiff did not specify what, if any, immediate and irreparable harm he would suffer in the absence of a PPO. MCL 600.2950a(9); MSA 27A.2950(1)(9); MCR 3.705(A)(2). At the hearing, the trial court could not conclude with certainty that the PPO was well founded. The trial court abused its discretion by issuing and continuing the PPO in the absence of evidence either that defendant engaged in the activities of which plaintiff complained, or that plaintiff would suffer immediate and irreparable harm in the absence of a PPO.

We reverse the trial court's order denying defendant's motion to rescind the PPO.

/s/ Kurtis T. Wilder  
/s/ David H. Sawyer  
/s/ Jane E. Markey