

MEMORANDUM DECISION

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IN THE Court of Appeals of Indiana

A.R.,
Appellant-Respondent

v.

S.S.,
Appellee-Petitioner

May 7, 2025

Court of Appeals Case No.
24A-PO-1726

Appeal from the Lake Superior Court
The Honorable Bruce D. Parent, Judge

Trial Court Cause No.
45D11-2304-PO-541

Memorandum Decision by Chief Judge Altice
Judges Brown and Taviton concur.

Altice, Chief Judge.

Case Summary

[1] A.R., pro se, appeals the trial court’s denial of her motion for relief from order by which she sought to set aside a protective order entered against her. A.R. presents two issues, which we consolidate and restate as: Did the trial court err in denying A.R.’s motion?

[2] We affirm.

Facts & Procedural History

[3] In the words of the trial court, this matter is “ridiculous.” *Transcript* at 46. S.S. had a three-month sexual relationship with A.R.’s ex-husband, and since that time, there has been an onslaught of allegations between S.S. and A.R. about who is harassing whom. As pertinent here, S.S. filed a petition for an order of protection against A.R. on April 20, 2023.¹ The trial court held an evidentiary hearing on the petition on May 15, 2023, at which S.S. and A.R. both appeared pro se.

[4] At the hearing, S.S. told the court of two instances in which she felt she was a victim of stalking and repeated harassment by A.R. She testified that on April 17, 2023, a coworker told her that he saw A.R. sitting in a car at the end of the

¹ S.S. previously had filed two separate ex parte petitions for a protective order against A.R. that were denied due to a lack of evidence.

block, which was a dead end, near S.S.'s place of employment during business hours. That same day, S.S. contacted the police to make a complaint for stalking. She informed the responding officer that she had previously filed complaints for harassment against A.R., that a coworker told her A.R. had been parked nearby, and that she had received calls on her phone, two from "no caller ID" and one from A.R.'s number, earlier that day.² *Exhibits* at 5.

[5] As to the second incident, S.S. testified that the day after she filed the above police report, A.R. contacted S.S.'s employer and filed a complaint. S.S. testified that she was contacted by her employer's human resources department about the complaint and that her boss told her the filing of the complaint "looks bad" and that her employer did not want to "deal with drama." *Transcript* at 12. In response, A.R. denied calling S.S.'s employer and claimed that her ex-husband, B.R., made the complaint. B.R., however, testified that he did not make the complaint and that he did not know who did. A.R. then tried telling the court about other incidents between her and S.S., which the trial court found to be unrelated to the instant matter. The trial court did inquire, however, as to whether A.R. had obtained a protective order against S.S., and A.R. confirmed she had not.

[6] S.S. then introduced into evidence a letter she received from her employer indicating that the complaint was filed by someone with the same first name as

² The responding officer included the information he gathered from S.S. in his police report, which was admitted as Petitioner's Exhibit 2.

A.R.³ After being presented with the letter from S.S.’s employer, A.R. admitted to contacting S.S.’s employer but qualified her response by testifying that she “did not file a complaint to get [S.S.] fired from her job.” *Id.* at 34. The trial court took a short recess to consider the evidence presented. When the hearing resumed, the court advised S.S. and A.R. that it was taking judicial notice of a criminal action, 45D08-2304-CM-1288 (CM-1288),⁴ which the court believed to have been referenced by both parties. The court then granted S.S.’s petition for a protective order against A.R., finding that S.S. had shown by a preponderance of the evidence that A.R. had engaged in stalking or repeated acts of harassment and that A.R. presented a credible threat to S.S.’s safety.⁵

[7] On April 23, 2024, A.R., pro se, filed a motion for relief from order based on Ind. Trial Rule 60(B).⁶ The trial court set the matter for a hearing on June 26, 2024. On June 21, the trial judge recused, and the scheduled hearing was vacated. The matter was transferred to a different court, which court denied

³ S.S.’s employer did not provide her with any other details about the complaint.

⁴ In CM-1288, A.R. was charged on April 27, 2023, with misdemeanor harassment by means of a telephone call.

⁵ The protective order is set to expire on May 15, 2025.

⁶ A.R. first filed a pro se “Motion for Relief From Order” on March 11, 2024. That motion was denied the same day because the court’s records showed A.R. was represented by counsel and the motion was not signed by counsel in accordance with Ind. Trial Rule 11(A). *Appendix Vol. 2* at 4. Counsel withdrew from representation of A.R. on April 22, 2024.

A.R.’s motion without a hearing.⁷ A.R. now appeals. Additional facts will be provided as necessary.

Discussion & Decision

[8] “Where, as here, the appellee does not submit a brief on appeal, the appellate court need not develop an argument for the appellee but instead will ‘reverse the trial court’s judgment if the appellant’s brief presents a case of prima facie error.’” *Salyer v. Washington Regular Baptist Church Cemetery*, 141 N.E.3d 384, 386 (Ind. 2020) (quoting *Front Row Motors, LLC v. Jones*, 5 N.E.3d 753, 758 (Ind. 2014)) (cleaned up). “Prima facie error in this context means ‘at first sight, on first appearance, or on the face of it.’” *Id.* Ordinarily, we review under an abuse of discretion standard a trial court’s denial of a motion for relief from judgment filed under T.R. 60(B). *Baird v. Lake Santee Reg’l Waste and Water Dist.*, 945 N.E.2d 711, 714 (Ind. Ct. App. 2011). However, where, as here, the trial court rules on the motion without conducting an evidentiary hearing, we review the decision *de novo*.⁸ *Id.*

⁷ The trial court cited Ind. Code § 34-26-5-10(a)(2) as the basis for denying A.R. her requested relief, finding that A.R.’s motion was “well beyond the thirty day period upon which to contest the present protective order.” *Appendix Vol. 4* at 2. That statute does not, as indicated by the trial court, provide for a thirty-day window to contest a protective order. Rather, the cited statute applies to hearings following the issuance of ex parte orders of protection, which is not the situation presented in this case. The trial court’s reliance on this statute was erroneous.

⁸ We note that pursuant to T.R. 60(D), hearings on T.R. 60(B) motions are required, except where the motion lacks “pertinent” evidence to support it. *Integrated Home Technologies, Inc. v. Draper*, 724 N.E.2d 641, 642 (Ind. Ct. App. 2000); *see also Darling v. Martin*, 827 N.E.2d 1199, 1202 (Ind. Ct. App. 2005) (ruling that court did not abuse its discretion by failing to conduct a hearing on Trial Rule 60(B) motion where no “pertinent” evidence existed).

- [9] In her motion and her appellant’s brief, A.R. makes a slew of baseless allegations against S.S. (and even the trial court). The gist of her argument appears to be that she is entitled to relief based on fraud. *See* T.R.60(B)(3). For instance, A.R. asserts that S.S. made “false allegations” in support of her request for an order for protection, pointing out that she was “acquitted of all charges related to the false allegations made by [S.S.] as evidenced by the dismissals and subsequent expungements”⁹ of the criminal matter represented by CM-1288.¹⁰ *Appendix Vol. 6* at 2, 2-3.
- [10] A.R.’s claim of fraud fails on its face. First, contrary to A.R.’s statement, dismissal of charges is not tantamount to an acquittal. *See Copeland v. State*, 178 N.E.2d 463, 463 (Ind. 1961) (stating that “dismissal is not tantamount to an acquittal as it is not an adjudication of the guilt or innocence”), *on reh’g*. Second, dismissal of charges alone is not sufficient evidence of fraud.
- [11] A.R. makes a second assertion of fraud, claiming generally that S.S. did not advise the court of her own criminal actions. A.R. attached to her motion for relief a CCS for a criminal action filed against S.S. after the order for protection against A.R. was issued. This criminal action was supported by a probable cause affidavit setting out the details of an incident that allegedly occurred in

⁹ The CCS for CM-1288 shows that such matter was dismissed on September 25, 2023.

¹⁰ A.R. also makes reference to a second criminal matter, 45D08-2305-CM-154 (CM-154), which had not been filed at the time of the hearing on S.S.’s request for a protective order. A.R. makes baseless allegations against S.S. and the trial court related to CM-154 but does not in any way demonstrate how such action had any impact on the granting of the order for protection two weeks prior to its filing.

December 2022. Again, A.R.’s claim of fraud falls flat. Aside from the fact that the criminal action was not filed until after the order for protection was issued, we observe that S.S.’s conduct was not the matter under consideration by the court as S.S.’s request for a protective order was based on wholly separate circumstances relating to A.R.’s conduct.

[12] A.R. makes several other statements in her motion and in her appellate brief purporting to entitle her to relief, including that the court was without jurisdiction to grant the protective order and that S.S. engaged in forum shopping. In a rambling paragraph, A.R. also suggests that she was entitled to relief from the protective order because the trial court did not permit her to be heard and present evidence that she was the victim of harassment and stalking. In sum, these arguments are based on bald assertions and/or not supported by citation to authority or the record. A.R. has fallen short of providing “cogent reasoning” required by our appellate rules. Ind. Appellate Rule 46(8)(a) (“The argument must contain the contentions of the appellant on the issues presented, supported by cogent reasoning. Each contention must be supported by citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on, in accordance with Rule 22.”).

[13] A.R. also alludes that there was insufficient evidence to support the issuance of the protective order and claims that her motion should have been granted “due to lacking the legal requirements for obtaining a protective order.” *Appellant’s Brief* at 16. A challenge to the sufficiency of the evidence is a matter for direct appeal, which A.R. did not pursue and for which the time to file has long

passed. *See* Ind. Appellate Rule 9(1) (noting that, unless a timely motion to correct error is filed by any party, a Notice of Appeal from a final judgment “must be filed within thirty (30) days after the court’s ruling on such motion is noted in the Chronological Case Summary”). The court issued a final, appealable order on May 15, 2023. A.R. cannot directly challenge the trial court’s order nearly one year later.

[14] Having reviewed A.R.’s motion for relief, we conclude that she presented no pertinent evidence that would have warranted a hearing. We also conclude that A.R. has not shown that she was entitled to relief on the basis of fraud.

[15] Judgment affirmed.

Brown, J. and Tavitas, J., concur.

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