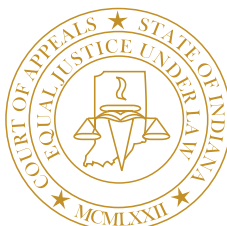


Pursuant to Indiana Appellate Rule 65(E), the trial court and parties shall not take any action in reliance upon this opinion until it is certified.



IN THE
Court of Appeals of Indiana

A.T.,
Appellant-Respondent

v.

J.T.,
Appellee-Petitioner



October 2, 2026

Court of Appeals Case No.
26A-PO-1428

Appeal from the White Circuit Court
The Honorable Jason A. Thompson, Judge
Trial Court Cause No.
91C01-2405-PO-74

Opinion by Judge Bradford
Judges Bailey and Altice concur.

Bradford, Judge.

Case Summary

- [1] In 2024, the trial court issued a protective order against A.T. prohibiting him from contacting his brother, J.T. In February of 2026, J.T. petitioned the trial court to extend the protective order, which was granted. A.T. argues that the trial court erred in extending the protective order through May 8, 2028, without evidence of a continuing threat to J.T. Because we agree, we reverse.

Facts and Procedural History

- [2] A.T. and J.T. are brothers. The parties' mother passed away in November of 2022. Managing her estate and the family business primarily contributed to the brothers' deteriorating relationship. On May 8, 2024, J.T. petitioned the trial court for a protective order against A.T. The trial court entered an ex parte temporary restraining order that day.
- [3] The trial court conducted an evidentiary hearing on July 12, 2024. J.T. presented evidence of ongoing litigation between him and A.T.'s son regarding management of the family business, A.T. wandering around J.T.'s property and taking photos, and several threatening communications to J.T. from A.T. At the conclusion of the hearing, the trial court ordered that the protective order against A.T. would stay "in full force and effect" until May 8, 2026. Tr. Vol. II p. 47.

[4] On February 23, 2026, J.T. petitioned the trial court to extend the protective order. On April 17, 2026, the trial court conducted an evidentiary hearing, and on April 29, 2026, ordered the protective order to be extended until May 8, 2028. Although the parties' mother's estate had been closed, the trial court determined that ongoing litigation between J.T. and A.T.'s son, as well as "perpetual threats" from A.T. (evidence of which had been presented at the hearing for the initial protective order), justified extending the protective order. Appellant's App. Vol. II p. 10. The trial court considered the following to be perpetual threats:

- a) "Now the game will begin, see you in court"
- b) "I will see you in person and we will settle your childish foolish actions"
- c) "See you in federal court"
- d) "I will come to office and straighten you out"
- e) [A.T.] was visible on videos at late hours of the evening on the business/farm property

Appellant's App. Vol. II pp. 10–11 (internal record citations omitted).

Discussion and Decision

[5] A.T. argues that the trial court erred in extending the protective order. "When, as here, a party appeals a trial court's judgment entering a protective order, we apply a two-tiered standard of review—we consider whether the evidence supports the court's findings and, if so, whether those findings support the judgment." *S.D. v. G.D.*, 211 N.E.3d 494, 497 (Ind. 2023). "In making these determinations, we neither reweigh the evidence nor determine the credibility

of witnesses, and we consider only the evidence favorable to the trial court's decision." *Id.*

- [6] The Indiana Civil Protective Order Act ("CPOA") "shall be construed to promote the: (1) protection and safety of all victims of domestic or family violence in a fair, prompt, and effective manner; (2) protection and safety of all victims of harassment in a fair, prompt, and effective manner; and (3) prevention of future domestic violence, family violence, and harassment." Ind. Code § 34-26-5-1.

A finding that domestic or family violence or harassment has occurred sufficient to justify the issuance of an order under this section means that a respondent represents a credible threat to the safety of a petitioner or a member of a petitioner's household. Upon a showing of domestic or family violence or harassment by a preponderance of the evidence, the court shall grant relief necessary to bring about a cessation of the violence or the threat of violence.

Ind. Code § 34-26-5-9(h). Generally, a protective order "is effective for two (2) years after the date of issuance." Ind. Code § 34-26-5-9(f). "[B]ecause an extension is necessarily derived from the original protective order, the trial court's determination must be viewed in light of the continuing harm or the threat of continuing harm that necessitated the issuance of the protective order in the first instance." *A.N. v. K.G.*, 10 N.E.3d 1270, 1272 (Ind. Ct. App. 2014). The petitioner who seeks an extension of a protective order "bears the burden of proving by a preponderance of the evidence that a new protective order or

extension of an existing order is required.” *J.K. v. T.C.*, 25 N.E.3d 179, 182 (Ind. Ct. App. 2015).

- [7] “[E]xtension must be based upon evidence that a protective order *currently* is necessary to bring about a cessation of the violence or the threat of violence because of a continuing threat of harm.” *Id.* (internal quotation omitted; emphasis in original). Evidence of new threatening behavior is not necessarily needed to demonstrate a continuing threat.

An example of a one-time threat that would justify reissuing, renewing, or extending an order for protection is where a respondent—even just once—issues what amounts to a perpetual threat: “You’ll never be safe. You’ll never know when I’ll show up. You’d better always be looking over your shoulder. Because one day—next week, next month, next year—I’ll get you. I promise you that.”

S.H. v. D.W., 139 N.E.3d 214, 220 (Ind. 2020). However, the Indiana Supreme Court has held that “a single episode of physical violence with no follow-up act, no threat that the violence will recur, and no other reasonable grounds to believe that” a present intent to harm exists does not justify extending a protective order. *Id.*

- [8] A.T. argues that the trial court erred in extending the protective order based only on the same circumstances that had led to the issuance of the initial order. We agree. At the hearing on J.T.’s petition to extend the protective order, neither party presented evidence of new threatening communications or problems that had not already been considered by the trial court when it had

initially issued the protective order. “[T]he circumstances leading to entry of a prior order generally cannot be the sole basis for entering a new order or renewing or extending the previous one.” *S.H.*, 139 N.E.3d at 220. Instead, J.T. sought to keep the protective order in place “until the remainder of the bad blood ... of the family resolves[.]” Tr. Vol. II p. 52. Although the litigation between J.T. and A.T.’s son was still pending, the parties’ mother’s estate, the primary point of contention between the parties, had been closed since the protective order was initially issued. J.T. had also conceded that “since the order was issued we have not had a violation of it, and so to be fair about it, it seems to have worked and has been respected and all of the issues that were coming up on a rather frequent basis have been completely [re]solved.” Tr. Vol. II p. 51. “[W]hen, as here, the respondent did not violate the prior order, we would put the respondent in an impossible, no-win situation ‘if full compliance with a protective order can be a basis for extending the order or issuing a new one.’” *S.H.*, 139 N.E.3d at 221 (quoting *J.K.*, 25 N.E.3d at 183) (bracketed text omitted).

- [9] In support of the extension, J.T. contends that the trial court properly determined that A.T. had made perpetual threats against him. The trial court concluded that “Now the game will begin see you court,” “I will see you in person and we will settle your childish foolish actions,” “See you in federal court,” and “I will come to office and straighten you out,” together with A.T. walking J.T.’s property late at night, constituted perpetual threats. We are

unpersuaded that any of these actions rise to the level of a perpetual threat, especially in light of the fact that none of them have reoccurred.

[10] During the 2024 evidentiary hearing, J.T. could only speculate as to what “the game” meant. Tr. Vol. II p. 11. In the earlier part of this message, A.T. had stated that he would “insist on a supervised estate” and seek to recover J.T.’s alleged underpayment of rent. Ex. 1. Because the parties’ mother’s estate has since closed, the threat of A.T.’s hypothetical game has also likely ended. J.T. testified that A.T.’s statements about settling his “childish foolish actions” and A.T. coming to J.T.’s office to “straighten [him] out” came after J.T. had hung up the phone on A.T. Tr. Vol. II pp. 13, 17. When A.T. had told J.T. that he would arrive at his office in thirty minutes, A.T. had never come. These statements are not like the examples provided by the Indiana Supreme Court in *S.H.*, in which the threats were explicitly perpetual. 139 N.E.3d at 220. Therefore, we conclude that there was insufficient evidence to support the extension of the protective order. *Id.* at 221 (“[A] trial court may issue a protective order only if presented with enough evidence that the respondent represents a present, credible threat to the petitioner’s safety.”).

[11] The judgment of the trial court is reversed.

Bailey, J., and Altice, J., concur.

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