

COURT OF APPEALS  
RICHLAND COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

TINA LEFLORE

Plaintiff - Appellee

-vs-

CHARLES LEFLORE

Defendant - Appellant

JUDGES:

Hon. W. Scott Gwin, P.J.  
Hon. Sheila G. Farmer, J.  
Hon. Craig R. Baldwin, J.

Case No. 14CA38

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Richland County  
Court of Common Pleas, Domestic  
Relations Division, Case No.  
2013 CPO 0067

JUDGMENT:

Affirmed

DATE OF JUDGMENT:

November 25, 2014

APPEARANCES:

For Plaintiff-Appellee

TINA LEFLORE (Pro Se)  
276 E. Arch Street  
Mansfield, Ohio 44902

For Defendant-Appellant

CHARLES LEFLORE (Pro Se)  
DRC # A642-344  
Richland Correctional Institution  
P.O. Box 8107  
Mansfield, OH 44901-8107

*Baldwin, J.*

{¶1} Defendant-appellant Charles Leflore appeals from the April 7, 2014 Judgment Entry of the Richland County Court of Common Pleas, Domestic Relations Division, overruling his Motion to Vacate CPO (Civil Protection Order).

#### STATEMENT OF THE FACTS AND CASE

{¶2} On January 15, 2013, appellee Tina Leflore filed a Petition for Domestic Violence Civil Protection Order pursuant to R.C. 3113.31 against appellant Charles Leflore. Appellee, in her petition, alleged that she was appellant's spouse and that she was a family or household member of appellant. A Domestic Violence Civil Protection Order Ex Parte was issued on the same date. The order scheduled a full hearing for January 30, 2013. Appellant was personally served with a copy of the Ex Parte Order and notice of hearing on January 15, 2013 at the Richland County Jail.

{¶3} A hearing was held on January 30, 2013. Appellant was not present at the hearing and was not represented by counsel. A Domestic Violence Civil Protection Order was filed on February 1, 2013 that was effective until January 15, 2016. Appellant was personally served with the same on February 4, 2013 at the jail.

{¶4} Thereafter, appellant, on May 8, 2013, filed a Motion to Modify the Civil Protection Order. Appellant, in his motion, asked that the Civil Protection Order be modified to permit him to communicate in writing with his daughter. Via a Notice filed on May 20, 2013, a hearing was scheduled on such motion for June 10, 2013. A copy was mailed to appellant by ordinary mail. Appellant, who was incarcerated in the jail, was not present at the hearing. Pursuant to a Judgment Entry filed on June 13, 2013, the Civil Protection Order was modified, with appellee's consent, to allow appellant to

communicate in writing with the parties' child while he was incarcerated. A Modified Civil Protection Order was filed on June 13, 2013. It appears that appellant was never served with a copy of the same.

{¶5} Appellant, on April 4, 2014, filed a Motion to Vacate the Civil Protection Order. Appellant, in his motion, argued that any protection order against him was invalid because he was not allowed to be present at the June 10, 2013 hearing or any other of the hearings held by the trial court in this case. Appellant sought to either modify or terminate the Civil Protection Order filed on February 1, 2013.

{¶6} The trial court, pursuant to a Judgment Entry filed on April 7, 2014, overruled appellant's motion.

{¶7} Appellant now raises the following assignments of error on appeal:

{¶8} TRIAL COURT VIOLATED APPELLANT'S 14TH AMENDMENT RIGHT TO DUE PROCESS WHEN APPELLANT WAS NOT ALLOWED TO BE PRSENT (SIC) AT ANY HEARING HELD BY THE TRIAL COURT AS STATED IN OHIO REVISED CODE 3113.31.

{¶9} TRIAL COURT ERRED WHEN IT ABUSED ITS DISCRETION BY OVER-RULING APPELLANT'S MOTION TO VACATE INVAILED (SIC) CIVIL PROTECTION ORDER.

I, II

{¶10} Appellant, in his first assignment of error, argues that his due process rights were violated when he was not allowed to be present at the hearing on the Petition for a Civil Protection Order. Appellant, in his second assignment of error,

argues that the trial court erred in overruling his Motion to Vacate the Civil Protection Order.

{¶11} The right to procedural due process is guaranteed by the Fourteenth Amendment to the United States Constitution and Section 16, Article I of the Ohio Constitution. At its core, due process demands notice and an opportunity to be heard. See *Cleveland Bd. of Edn. v. Loudermill*, 470 U.S. 532, 542, 105 S.Ct. 1487, 84 L.E.2d 494 (1985). “[A]n individual does not have an absolute right to be present in a civil case to which he is a party.” *In the Matter of Joseph P.*, 6th Dist. No. L-02-1385, 2003-Ohio-2217, ¶ 52, citing *In re Sprague*, 113 Ohio App.3d 274, 276, 680 N.E.2d 1041 (12th Dist.1996). More specifically, prisoners have no constitutional right to be personally present at any stage of the judicial proceedings. *Mancino v. Lakewood*, 36 Ohio App.3d 219, 221, 523 N.E.2d 332 (8th Dist.1987).

{¶12} As is stated above, appellant, who was in jail at the time, was personally served on January 15, 2013 with a copy of the January 15, 2013 Order setting the full hearing on the Petition for Domestic Violence Civil Protection Order for January 30, 2013. Appellant had a reasonable opportunity to secure the services of an attorney to prepare a defense against appellee’s claims or to request a continuance. Appellant, however, did not do so. Nor did appellant file a direct appeal from the trial court’s February 1, 2013 Order granting a Civil Protection Order.

{¶13} Because the Civil Protection Order was valid, the trial court did not err in declining to vacate the same.

{¶14} We note that appellant, in his brief, argues, in part, that the Civil Protection Order should have been vacated because appellant was not present at the June 10,

2013 hearing on his Motion to Modify the Civil Protection Order. A copy of the notice setting the hearing was mailed to appellant by ordinary mail and there is no indication in the record that the mail was not received. Moreover, as stated above, appellant did not file a direct appeal from the trial court's February 1, 2013 Order granting a Civil Protection Order. Finally, appellant, in his Motion to Modify, asked that the Protection Order be modified to allow him to write to his daughter. At the June 10, 2013 hearing, appellee consented to the requested modification and the Order was modified to permit appellant to communicate with his daughter in writing during his incarceration.

{¶15} Appellant's two assignments of error are, therefore, overruled.

{¶16} Accordingly, the judgment of the Richland County Court of Common Pleas, Domestic Relations Division, is affirmed.

By: Baldwin, J.

Gwin, P.J. and

Farmer, J. concur.