

No. 1-11-2222

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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|                       |   |                               |
|-----------------------|---|-------------------------------|
| IMGE HULUR,           | ) | Appeal from the Circuit Court |
|                       | ) | of Cook County                |
| Petitioner-Appellant, | ) |                               |
|                       | ) |                               |
| v.                    | ) | No. 10 OP 5494                |
|                       | ) |                               |
| SYLWESTER MACA,       | ) |                               |
|                       | ) | Honorable Mauricio Araujo,    |
| Respondent-Appellee.  | ) | Judge Presiding.              |

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JUSTICE MURPHY delivered the judgment of the court.  
Presiding Justice Steele and Justice Salone concurred in the judgment.

**ORDER**

¶ 1 *HELD:* Where petitioner and respondent entered settlement negotiations and formed basic agreement before petitioner sought attorney fees, at respondent's motion to compel settlement, the facts on appeal demonstrate the trial court did not err in dismissing the petition for entry of a protective order because dispute was no longer a matter of protection from likely future abuse under the Illinois Domestic Violence Act.

¶ 2 On August 31, 2010, petitioner, Imge Hulur, filed a petition for order of protection against respondent, Sylwester Maca, pursuant to the Illinois Domestic Violence Act (Act).

Pursuant to section 214(b)(13) of the Act (750 ILCS 60/214(b)(13) (West 2010)), as a result of

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the abuse suffered, petitioner sought payment of \$8,000 for losses incurred from hospital bills, unpaid rent and bills and loans to respondent for his tuition. The trial court granted petitioner's request for an emergency order of protection and set a hearing date, which was extended to April 4, 2011. In the interim the parties entered into settlement negotiations and respondent filed a motion to compel settlement. On June 8, 2011, the trial court heard respondent's motion, denied the motion and dismissed petitioner's complaint. Petitioner filed a motion to reconsider that was denied and this appeal followed. For the following reasons, we affirm the judgment of the trial court.

¶ 3

### I. BACKGROUND

¶ 4 On August 31, 2010, petitioner filed a petition for order of protection against respondent pursuant to the Act. Petitioner alleged that she had been sharing a common dwelling with respondent and that he had been physically and emotionally abusive toward her the past three years. She claimed that respondent had been using her for money and planning to leave her for another woman after her money ran out.

¶ 5 Petitioner claimed that she caught respondent cheating on her and when she confronted him he physically abused her, ripping her close off her body and punching her in her face and body. Petitioner alleged that this caused bruising covering her arms and a displaced fracture in her finger that required surgery. She also claimed that he threatened to ruin her life if she went to the police.

¶ 6 Petitioner claimed that respondent, a "computer guy," stole her computer and hard drive and told her if she went to the police he would ruin her life. She asserted that respondent had also copied all of her personal information from her computer. He allegedly threatened that he

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would use this information against her and her family.

¶ 7 Petitioner sought a protective order against any contact from respondent. Petitioner also prayed for the return of her personal property and destruction of her personal files and information on respondent's computers. Pursuant to section 214(b)(13) of the Act (750 ILCS 60/214(b)(13) (West 2010)), as a result of the abuse suffered, Hukur sought payment of \$8,000 for losses incurred. Specifically, petitioner sought payment of \$1,000 for her hospital bills, \$6,000 for unpaid rent and bills and \$1,000 for funds lent to respondent for his tuition payments.

¶ 8 An emergency order of protection was entered with a hearing date set for September 21, 2010. Respondent was served in open court on September 21, 2010, and the emergency order of protection was extended to April 14, 2011, with a hearing set for that date. On April 4, 2011, respondent filed a motion to compel settlement. Respondent asserted that the parties had initiated settlement negotiations in November 2010 and petitioner had demanded \$8,000 for restitution as detailed in the petition.

¶ 9 Respondent stated that his counsel twice wrote offers to petitioner to settle the matter in November 2010 and February 2011, offering to pay the \$8,000 amount in exchange for a general release and dismissal of the petition. Counsel for petitioner sent a letter on February 28, 2011, agreeing to the settlement offer and respondent obtained a cashier's check in the amount of \$8,000 and respondent's counsel sent a general release to petitioner's counsel with an offer to tender the cashier's check. On March 28, 2011, petitioner's counsel sent a letter to respondent in an attempt to repudiate the settlement agreement. Respondent asserted that petitioner acted in bad faith and prayed that the court compel the settlement between the parties.

¶ 10 The parties appeared before the court on respondent's motion on April 11, 2011, and a

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briefing and hearing schedule were set. Petitioner responded to the motion. Petitioner agreed that efforts were made to negotiate a settlement, but asserting that there was never a final agreement and respondent had not forwarded a check to her by the date requested.

¶ 11 On June 8, 2011, The trial court heard argument and dismissed the petition. The court noted that the original order was entered in August 2010 and asserted that it could not enforce any settlement as claimed because it would violate public policy and because the matter was in the nature of a tort or contract action. Accordingly, the trial court entered an order noting that the emergency order of protection, issued on August 31, 2010, and extended on April 11, 2011, was terminated and the case dismissed.

¶ 12 Petitioner filed a motion to reconsider the trial court's June 8, 2011, order and reinstate the emergency order of protection. Petitioner argued that respondent had filed the motion to compel settlement and that there had been no signed settlement agreement, no payment, and only appeared before the court to defend against respondent's motion. The trial court denied petitioner's motion, noting that its purpose was to hear orders of protection and not oversee settlement negotiations. This appeal followed.

¶ 13 **II. ANALYSIS**

¶ 14 We begin by noting that we are unfortunately without the benefit of a reply brief to provide any explanation or discussion of this issue. However, because this matter involves a single issue on appeal, we consider the parties' arguments.

¶ 15 Petitioner asserts that the trial court violated section 112A-12(a) of the Code of Criminal Procedure of 1963 (725 ILCS 5/112A-12(a) (West 2010)) and section 214(c) Illinois Domestic Violence Act of 1968 (750 ILCS 60/214(c) (West 2010)) in failing to decide on the merits her

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petition for an emergency order of protection. She contends that, pursuant to these statutory provisions, the trial court was required to make a factual determination on her petition. *Hedrick-Koroll v. Bagley*, 352 Ill. App. 3d 590 (2004). She concludes that the failure to make the required findings constitutes reversible error. *Id.* at 594.

¶ 16 Section 112A-12(a) of the Code of Criminal Procedure of 1963 reads:

"A petition for an order of protection shall be treated as an expedited proceeding, and no court shall transfer or otherwise decline to decide all or part of such petition, except as otherwise provided herein. Nothing in this Section shall prevent the court from reserving issues when jurisdiction or notice requirements are not met." 725 ILCS 5/112A-12(a) (West 2010).

¶ 17 Section 214(c) Illinois Domestic Violence Act of 1968 reads:

" *Relevant factors; findings.*

(1) In determining whether to grant a specific remedy, other than payment of support, the court shall consider relevant factors, including but not limited to the following:

(i) the nature, frequency, severity, pattern and consequences of the respondent's past abuse, neglect or exploitation of the petitioner or any family or household member, including the concealment of his or her location in order to evade service of process or notice, and the likelihood of danger of future abuse, neglect, or exploitation to

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petitioner or any member of petitioner's or respondent's family or household; and

(ii) the danger that any minor child will be abused or neglected or improperly removed from the jurisdiction, improperly concealed within the State or improperly separated from the child's primary caretaker.

(2) In comparing relative hardships resulting to the parties from loss of possession of the family home, the court shall consider relevant factors, including but not limited to the following:

(i) availability, accessibility, cost, safety, adequacy, location and other characteristics of alternate housing for each party and any minor child or dependent adult in the party's care;

(ii) the effect on the party's employment; and

(iii) the effect on the relationship of the party, and any minor child or dependent adult in the party's care, to family, school, church and community.

(3) Subject to the exceptions set forth in paragraph (4) of this subsection, the court shall make its findings in an official record or in writing, and shall at a minimum set forth the following:

- (i) That the court has considered the applicable relevant factors described in paragraphs (1) and (2) of this subsection.
- (ii) Whether the conduct or actions of respondent, unless prohibited, will likely cause irreparable harm or continued abuse.
- (iii) Whether it is necessary to grant the requested relief in order to protect petitioner or other alleged abused persons." 750 ILCS 60/214(c) (West 2010).

¶ 18 We agree with respondent that petitioner's readings of the statutes and *Hedrick-Koroll* are unavailing. As respondent points out, the statutory provisions require specific findings of fact for entering an order of protection, not for dismissing a complaint. That is the precise scenario in *Hedrick-Koroll*, where the second district of this court reversed the trial court's order of protection. The *Hedrick-Koroll* court noted that it could reverse the order of protection outright, but as the order of protection was still valid, the trial court should make the required findings before imposing sanctions. *Hedrick-Koroll* at 594. There was no discussion of the dismissal of an order of protection in the trial court. We agree with respondent that the statutory requirements cited by petitioner extend to the granting of an order of protection and not to the dismissal.

¶ 19 Furthermore, as addressed by respondent, the trial court reviewed the parties' briefs and heard argument before dismissing the matter based on findings explained in open court. The trial court highlighted that an emergency order had been entered and continued and months after that order was entered, the parties had started negotiations to settle and appeared to have reached

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an agreeable settlement before petitioner indicated she also sought payment of attorney fees.

Accordingly, the trial court concluded that the matter was not properly before it for an order of protection, but was a contract or tort issue and declined to grant a specific remedy. Based on the arguments of the parties and petitioner's stated willingness to reach a settlement and dismiss her complaint, an order to prevent further abuse was unnecessary and the trial court's dismissal is affirmed.

¶ 20

### III. CONCLUSION

¶ 21 For the foregoing reasons, the judgment of the trial court is affirmed.

¶ 22 Affirmed.