

IN THE CIRCUIT COURT OF THE TWELTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

CONNIE FORSYTHE,)
)
 Petitioner,)
)
 vs.) No. 19 OP 1740
)
 JOHN NORTON,)
)
 Respondent.)

**CONNIE FORSYTHE’S RESPONSE TO JOHN NORTON’S
EMERGENCY MOTION TO VACATE ORDER OF PROTECTION**

Now Comes the Petitioner, Connie Forsythe, by and through her attorney, Robert T. Hanlon, with her response in opposition of Respondent, John Norton’s (“Norton”) “Emergency Motion for Order to Vacate Order of Protection” (hereinafter simply “Norton’s Motion”) and in opposition thereto states as follows:

I. Introduction

This court ought to deny the relief sought in Norton’s Motion because he fails to plead facts to warrant the relief he seeks, fails to comply with the Illinois Code of Civil Procedure, relies upon impermissible pleading and pleads evidence improperly.

II. Violates Rules for Pleading and Rules of Evidence

A. Pleading – fails to properly plead facts.

Illinois is a fact pleading jurisdiction. *City of Chicago v. Baretta*, 213 Ill. 2d 351, 368-69 (2004). A party cannot plead evidence or allege hearsay. See *Powers v. Delnor Hosp.*, 135 Ill.App.3d 317, 481 N.E.2d 968 (2nd Dist.,1985). Respondent makes the mistake of offering for the proof of the matter asserted in his emergency motion items

which are hearsay and claims that violate the Rules of Evidence 402, 403, and 801. Since it is improper to plead evidence, it follows that it is also improper to plead bad evidence.

Illinois Rule of Evidence 802 and 805 specifically prohibits the use of out of court statements offered to prove the truth of the matter asserted. In particular, the rambling of Mr. Norton includes statements by a judge ruling on an ordinance violation case decided June 15, 2020. But see *Powers v. Delnor Hosp.*, 135 Ill.App.3d 317, 481 N.E.2d 968 (2nd Dist.,1985). The statements of Judge Colon-Sayre are not relevant to this case and are precluded by Rule 802. Moreover, Judge Colon-Sayre did not hear evidence at trial in this matter and petitioner here was not a party to the ordinance violation that is discussed repeatedly in the Norton Motion. That judge did not that did not hear evidence in this case at trial of this matter. Rather, Norton envisions his recalling of what took place at an ordinance violation case as relevant when in fact it is not relevant. For instance in violation of Rule 802 the Norton motion references he filed a motion for discovery in a separate case. See Norton Motion paragraph 5. So what? The allegation in paragraph 5 is meaningless to this case. Similarly, paragraph 6 references a Wilmington police officer that was placed on administrative leave when he was not a witness in this case at trial. Again, So what? The allegation in paragraph 6 is in violation of ILRE 802 and does not bear on the issues in this case. Paragraph 7 is likewise unsupported and alleges that in the future the Petitioner in this case will have followed the Respondent. In paragraph 8, Respondent references the first witness that testified at trial of this case. After continuing the trial so that MR. Norton could advance a defense witness he called James Spinale with his testimony impeaching Norton. Another example that did not rule in this case viewed the Respondent's failure to comply with IL.R. Evid. 402 and 802

renders much of his “Emergency Motion for Order to Vacate Order of Protection” improper.

There is no affirmative defense to an order of protection based on what a media group does or doesn't do. The discussion in paragraph 8 associated with the tax structure of a non-party beguiles all thought and reason. The conclusions in the motion are also quite telling in that they carry with it a presumption that Petition was waiting for Norton to exit a building. This is speculation as the Respondent also shows that Petitioner was with others in a public location. More craziness is encapsulated in Norton's motion with a reference to his being escorted to his vehicle. See para 11. So what? What does that have to do with the price of tea in China? Its just another allegation that is not well pled and not relevant.

In paragraph 12 the Norton motion relies upon hearsay within hearsay as Norton references what he was told by an unnamed deputy that he would inform the judge of what he observed. What was it he observed? As much as Petitioner's counsel would ordinarily inquire about what was observed, Petitioner's counsel is frankly no longer wish to play the ridiculous game of circuitousness. Only in the mind of Mr. Norton do those answers exist and will not exist in a logical manner as it relates to this case.

B. Norton's Motion fails to comply with Local Rule 6.01

Local Rule 601 requires all supplemental proceedings to be in a form in accordance with Supreme Court Rule 277 and Section 5/2-1401 of the Code of Civil procedure. However, Respondent's motion fails to set forth what section of the Code of Civil procedure it is advanced under and fails to cite to either 5/2-1401 or 5/2-1301 to alert the Petitioner of the basis under which Norton's Motion is advanced.

III. Additional Substantive Reasons to Deny the Norton Motion.

A. The Norton Motion is an Abuse of Process.

The “Law of the case” is an established principle in which to streamline judicial economy we avoid re-litigating the same issues. Here, it is clear that John Norton does not like the results and is simply attempting to recast a purported defense without advancing any necessary step to support his position. This conduct is designed to increase the expense of litigation by requiring Connie Forsythe to incur legal fees and costs in responding to a motion directed at facts decided at trial without a scintilla of actual evidence and advanced in a way that was decidedly advanced to cause expense to Petitioner. At what point does this Court limit a party from advancing specious unsupported motions? This too will be addressed by additional motion.

Moreover, Respondent has plagued this court and the participants in this case from inception with a litany of items that are completely irrelevant to the order of protection. In the case at bar, Respondent, John Norton has rambled on repeatedly concerning irrelevant matters with a focus of wasting the resources of opposing counsel to drive up the attorney fees of Petitioner. See Declaration of Robert Hanlon.

Norton’s charade before this Court is combined with his disdain for the orders of this court which the Wilmington Police have failed to enforce.

In addition to claims that the Defendants’ position is without authority, Plaintiff asserts that the conclusions in the complaint are facts. While it is true that all well pled

facts must be taken as true for the purposes of a motion to dismiss, this very motion goes to the heart of what is and what is not a well pled fact.

The vast deviation from any normal pleading might ordinarily be attributed to Mr. Norton's lack of education or inexperience with motion practice. However, his behavior requires looking to the wisdom established in a children's book. Quoting therefrom "Did you ever stop to think, and forget to start again?" – Winnie the Pooh by Alan Alexander Milne. The disjointed ramblings of Mr. Norton embody what Milne observed in a comical setting. Nevertheless it holds true that Mr. Norton has abused the process in this case and that he has knowingly elected to abuse the process of this court for his entertainment.

B. Waiver.

"[U]nsupported and underdeveloped arguments are waived." *United States v. Turcotte*, 405 F.3d 515 (7th Cir.2005). "Threadbare recitals do not suffice." *Iqbal*, 129 S.Ct. at 1949. An argument that is undeveloped and unsupported by authority need not be considered by the Court. *Commonwealth Edison Co. v. Illinois Commerce Com'n*, 398 Ill.App.3d 510 (2nd Dist 2009). See also: *Grimes v. Saikley*, 388 Ill.App.3d 802, 904 N.E.2d 183 (4 Dist.,2009).

Here, John Norton failed to articulate the legal basis for his defense at the time of trial. For Petitioner to have obtained the order of protection, establishing a conviction under ordinance violation was not necessary. Thus the fact that an ordinance violation was not found by the court in a separate case is not dispositive of anything. A "not guilty" verdict is not preclusive to the facts and evidence advanced at trial mostly because Connie Forsythe was not a party to the ordinance violation. Thus, judicial estoppel does

not apply in this case related to the ordinance violation. All of the allegations within the Norton Motion when examined independently or collectively do not address the issues of fact or law that are applicable to orders of protection. Thus, Norton has not stated any position that would allow him the right to vacate the order of protection.

It is Mr. Norton's conduct that the Court examined and found to have been adequately sufficient to warrant the issuance of an order of protection. Noting in the Norton Motion sheds light on any lawful basis to have this Court vacate the order of protection and the findings at trial.

Under the Act, stalking specifically means, "engaging in a course of conduct directed at a specific person," where the respondent "knows or should know that this course of conduct would cause a reasonable person to fear for his or her safety or the safety of a third person or suffer emotional distress." 740 ILCS 21/10 (West 2012). A "course of conduct" is "2 or more acts *** in which a respondent directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other contact, or interferes with or damages a person's property or pet." Id. In addition to surveillance, examples of stalking include appearing at the person's home and sending unwanted emails or electronic communications. 740 ILCS 21/5 (West 2012). The term "contact" is "any contact with the victim, that is initiated or continued without the victim's consent, or that is in disregard of the victim's expressed desire that the contact be avoided or discontinued." 740 ILCS 21/10 (West 2012). Nothing in the Norton Motion addresses any element of the cause of action or a reason that he believes is a proper basis to vacate the judgment rendered at trial.

Wherefore, the Petitioner, Connie Forsythe, prays that this honorable Court grant the following relief:

- A. Deny the relief sought in the Norton Motion
- B. Award the Petitioner her reasonable attorney fees for protecting the judgment in this case pursuant to 740 ILCS 21/1 et seq.

Respectfully submitted,

/s/Robert T. Hanlon, Esq.

Robert T. Hanlon
Attorney for Defendants

Robert T. Hanlon
The Law Offices of Robert T. Hanlon & Assocs., P.C.
Atty. for Plaintiffs
14212 Washington St., #200
Woodstock, IL 60098
(815) 206-2200

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DECLARATION OF ATTORNEY ROBERT HANLON

1. I am an attorney licensed to practice law in the state of Illinois and I am admitted to practice law before the following United States District Courts: Northern Illinois, Central Illinois, Northern Indiana, Eastern Wisconsin, Western Wisconsin, North Dakota, Colorado and Southern Texas.

2. On or about January 16, 2020 I was present in the Will County Courthouse for John Norton’s Motion to Reconsider.

3. At the conclusion of the hearing Mr. Norton stated to me that he intended to drive up the Petitioner’s costs. Specifically John Norton stated: “There’s nothing you can do to stop me and she’ll be bankrupt with your fees when I’m done”.

I declare under penalty of perjury under the laws of the State of Illinois and the laws of the United States of America that the foregoing is true and correct.

/s/Robert Hanlon