

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

D.L.,

Plaintiff and Respondent,

v.

J.H.,

Defendant and Appellant.

2d Civ. No. B350312
(Super. Ct. No. 17FL00123)
(Santa Barbara County)

COURT OF APPEAL – SECOND DIST.

FILED

Sep 03, 2026

EVA McCLINTOCK, Clerk

Adriana Winters Deputy Clerk

D.L. requested a renewal of a domestic violence restraining order (DVRO) against her former partner, J.H. Three days before the hearing, J.H. filed a notice of intent to seek an evidentiary hearing and submitted a witness list. The trial court found good cause to deny the request and renewed the DVRO for five years. J.H. contends the trial court erred by denying an evidentiary hearing and by applying the incorrect legal standard in granting the renewal. We affirm.

FACTS AND PROCEDURAL HISTORY

In March 2017, D.L. obtained a three-year DVRO protecting her and her three children, including the parties’

minor child E.H., from J.H. In 2020, the DVRO was renewed for another five years. In 2023, the court denied J.H.'s request to terminate the DVRO.

In July 2025, D.L. filed a request to renew the restraining order. D.L. averred that she was "afraid or worried that [J.H.] might abuse [her] in the future" and that J.H. violated the previous order. She requested a permanent restraining order and said she believed "that if the restraining order is not renewed, [J.H.] will harm" her.

D.L. summarized abusive conduct that occurred between 2012 and 2017. She described that in 2017, J.H. assaulted her partner during a custody exchange of E.H. After the 2017 restraining order was issued, D.L. asserted that J.H. violated the order "many times" and provided examples, including J.H. coming to her house and E.H.'s school. D.L. also identified other incidents that occurred after the restraining order was renewed, including J.H. showing up at E.H.'s school and driving past D.L.'s home "daily" from 2021 through 2023.

On August 15, 2025, J.H. filed a response, in which he requested the trial court terminate the restraining order. J.H. explained that since 2020, he had "done nothing that would constitute violations" of the restraining order. He asserted that circumstances have changed since the restraining order was first issued in 2017, and that he has not seen D.L. since 2017. He had since married another woman, had another child, and obtained a new job. He initially had a custody arrangement with D.L., but they had a disagreement. He had not seen E.H. since 2022. J.H. also explained a renewal of the restraining order would impact his job. He attached his mother's and wife's declarations. But

J.H. did not request an evidentiary hearing nor serve a witness list on D.L. on that date.

Three days before the scheduled October 3 hearing on the renewal request, J.H. filed a notice of intent to seek a Family Code¹ section 217 evidentiary hearing and a witness list. The witness list included D.L., J.H., J.H.'s wife, and J.H.'s mother. As to each witness, the notice stated that the "evidence to be introduced at the evidentiary hearing will be sought from oral testimony" of each witness regarding the "domestic violence restraining order, and all related issues."

D.L. filed an objection, contending that the request was untimely, there was "no basis" for an evidentiary hearing, and the witness list did not provide what testimony the witnesses would offer.

At the October 3 hearing, the trial court denied J.H.'s request for an evidentiary hearing. The court found D.L.'s objection to the evidentiary hearing "well taken" because the request for hearing was "late" and the "designation . . . inadequate." On that basis, the court found "good cause" to deny the request. Following argument by the parties, the court granted a five-year renewal of the restraining order.

DISCUSSION

1. Evidentiary hearing

J.H. contends the trial court erred in denying him an evidentiary hearing. We disagree.

Section 217, subdivision (a) provides that the court shall receive live testimony relevant to and within the scope of the hearing, subject to subdivision (b). Subdivision (b) provides that

¹ Further unspecified statutory references are to the Family Code.

“[i]n appropriate cases, a court may make a finding of good cause to refuse to receive live testimony and shall state its reasons for the finding on the record or in writing.” “A party seeking to present live testimony from witnesses other than the parties shall, prior to the hearing, file and serve a witness list with a brief description of the anticipated testimony.” (§ 217, subd. (c).)

The court “must consider the following factors in making a finding of good cause to refuse to receive live testimony under Family Code section 217: [¶] (1) Whether a substantive matter is at issue—such as . . . requests for restraining orders . . . ; [¶] (2) Whether material facts are in controversy; [¶] (3) Whether live testimony is necessary for the court to assess the credibility of the parties or other witnesses; [¶] (4) The right of the parties to question anyone submitting reports or other information to the court; [¶] (5) Whether a party offering testimony from a non-party has complied with Family Code section 217(c); and [¶] (6) Any other factor that is just and equitable.” (Cal. Rules of Court,² rule 5.113(b).) “If the court makes a finding of good cause to exclude live testimony, it must state its reasons on the record or in writing. The court is required to state only those factors on which the finding of good cause is based.” (Rule 5.113(c).)

We review the trial court’s denial of an evidentiary hearing for abuse of discretion. (*In re Marriage of Hearn* (2023) 94 Cal.App.5th 380, 390.) An abuse of discretion occurs when the court exceeds the bounds of reason. (*Ashby v. Ashby* (2021) 68 Cal.App.5th 491, 509.)

Here, the trial court found “good cause” to deny the request for an evidentiary hearing because it found J.H.’s request

² Further unspecified rule references are to the California Rules of Court.

untimely and the witness designation “inadequate.” These are sufficient grounds for good cause and the court did not abuse its discretion in refusing to receive live testimony.

“Witness lists required by Family Code section 217(c) must be served along with the request for order or responsive papers in the manner required for the service of those documents.” (Rule 5.113(e).) Here, J.H. responded to the DVRO renewal request on August 15 but did not file his notice of intent to seek an evidentiary hearing until September 30, a mere three days before the scheduled hearing. And in contravention of rule 5.113(e), J.H. did not serve his witness list when he filed his responsive pleadings in August 2025.

Nothing in section 217 or rule 5.113 required the trial court to grant a continuance for J.H. to request an evidentiary hearing. (See § 217, subd. (c) and rule 5.113(e), (f); see also *In re Marriage of George & Deamon* (2019) 35 Cal.App.5th 476, 481–482 [if the person seeking live testimony does not follow proper procedure, the court is not required to receive any such testimony].) Moreover, denial of a continuance was reasonable because J.H. had ample time to request live testimony. J.H. provided no justification for his delay.

Additionally, J.H.’s witness list did not comport with section 217. J.H.’s witness list failed to establish that his proffered witnesses would provide “competent testimony that is relevant and within the scope of the hearing.” (§ 217, subd. (a).) He did not provide an adequate “brief description of the anticipated testimony” of the nonparty witnesses (his wife and mother). (*Id.*, subd. (c).) Instead, the witness list contained only bare assertions that the witnesses would testify regarding the “domestic violence restraining order, and all related issues.”

Good cause to refuse to receive live testimony may be based on noncompliance with section 217, subdivision (c) or “[a]ny other factor that is just and equitable.” (Rule 5.113(b)(5) & (6).) The court did not abuse its discretion by basing good cause to deny an evidentiary hearing on these factors.

J.H. contends he was deprived of due process because he was denied his “‘right to be heard in a meaningful manner.’” (*In re Marriage of D.S. & A.S.* (2023) 87 Cal.App.5th 926, 935.) We are not persuaded. J.H. was given the opportunity to identify witnesses and present live testimony. Because he did not follow the proper procedures under section 217 and rule 5.113, the trial court properly found good cause to refuse live testimony. Furthermore, his written opposition, declarations including those of his mother and wife, and argument at the hearing were considered by the trial court. There was no due process violation.

2. Renewal of the restraining order

J.H. contends the trial court applied the incorrect legal standard when it renewed the restraining order. We conclude otherwise.

A domestic violence restraining order “may be renewed, upon the request of a party, either for five or more years, or permanently, at the discretion of the court, without a showing of further abuse since the issuance of the original order.” (§ 6345, subd. (a).) “A trial court should renew the protective order, if, and only if, it finds by a preponderance of the evidence that the protected party entertains a ‘reasonable apprehension’ of future abuse. . . . [T]his does not mean the court must find it is more likely than not future abuse will occur if the protective order is not renewed. It only means the evidence demonstrates it is more probable than not there is a sufficient risk of future abuse to find

the protected party's apprehension is genuine and reasonable.” (*Ritchie v. Konrad* (2004) 115 Cal.App.4th 1275, 1290 (*Ritchie*).) In determining whether the protected party has a “reasonable apprehension” of future abuse, the court may consider relevant factors such as changes in circumstances, the burdens the protective order imposes on the restrained party, and the physical security of the protected party. (*Id.* at pp. 1291–1292.)

We review the trial court's order to renew a domestic violence restraining order for abuse of discretion. (*Eneaji v. Ubboe* (2014) 229 Cal.App.4th 1457, 1463.) We presume the trial court's orders are correct. The burden is on the appellant to affirmatively show, based on an adequate record, that the trial court erred. (*Jameson v. Desta* (2018) 5 Cal.5th 594, 608–609.) “ ‘All intendments and presumptions are indulged to support [the order] on matters as to which the record is silent.’ ” (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.)

Here, D.L. stated that she was afraid for her and her family's safety and that she believed J.H. would harm her if a restraining order was not renewed. She recounted the incidents of physical violence that led to the restraining order and provided instances where J.H. allegedly violated the order by showing up at her house and E.H.'s school. She also asserted that J.H. and his wife would drive past her house “daily” from 2021 to 2023. From this evidence, the trial court could reasonably find that D.L. had “reasonable apprehension” of future abuse. (*Ritchie, supra*, 115 Cal.App.4th 1275, 1290.)

J.H. presented his own evidence refuting D.L.'s allegations. He also presented evidence of changed circumstances and the burdens a restraining order would have on his life. We presume the trial court considered all the evidence, but ultimately found

in favor of D.L. We defer to the court's credibility determinations and make all reasonable inferences in support of the court's findings. (*Cueto v. Dozier* (2015) 241 Cal.App.4th 550, 560.)

J.H. does not demonstrate the trial court applied the incorrect legal standard or otherwise show prejudicial error. Absent any demonstration to the contrary, we presume the court applied the correct legal standard.

DISPOSITION

The order renewing the restraining order is affirmed.
Respondent shall recover her costs on appeal.

NOT TO BE PUBLISHED.

BALTODANO, J.

We concur:

CODY, P. J.

YEGAN, J.

Donna D. Geck, Judge

Superior Court County of Santa Barbara

Law Office of Vanessa Kirker Wright, Vanessa Kirker
Wright; Sorenson Law and Lacey Sorenson for Defendant and
Appellant.

Morales Law and Marcus Morales for Plaintiff and
Respondent.