

COURT OF APPEALS OF OREGON

M. Z. v. Horning

348 Or. App. 78 (2026) · No. A183521 · Decided April 1, 2026

SUMMARY

The Oregon Court of Appeals affirmed the continuation of a Family Abuse Prevention Act restraining order. The court held that the evidence, viewed in context, supported findings that the respondent’s conduct constituted abuse, that the petitioner reasonably feared for her physical safety, and that the respondent posed a credible threat. The court also declined to review the case de novo.

CASE DETAILS

COURT	Court of Appeals of Oregon
WRITING FOR THE COURT	Powers, J.; Shorr, Presiding Judge; Powers, Judge; Pagán, Judge
JURISDICTION	Oregon Court of Appeals
DECIDED	April 1, 2026
DOCKET	A183521
DISPOSITION	affirmed
PROCEDURAL POSTURE	Father appealed from the continuation of a Family Abuse Prevention Act restraining order after a contested hearing.
STANDARD OF REVIEW	Because the case did not meet the criteria for discretionary de novo review, the court was bound by the trial court’s factual findings if supported by any evidence in the record; absent express factual findings, the court presumed findings consistent with the ultimate judgment. Legal conclusions were reviewed for legal error.
PRECEDENTIAL VALUE	Published precedential opinion of the Court of Appeals of Oregon.
PARTIES	Shane Horning v. M. Z.

TOPICS

- domestic violence
- family law procedure
- appellate procedure
- standard of review
- preservation of error

PRACTICE AREAS

- family law
- domestic violence
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court erred in finding that Horning's conduct constituted abuse under the Family Abuse Prevention Act.
2. Whether the evidence was sufficient to establish that M. Z. reasonably feared for her physical safety.
3. Whether the evidence was sufficient to establish that Horning represented a credible threat to M. Z.'s physical safety.
4. Whether the Court of Appeals should exercise discretionary de novo review.

HOLDINGS

1. The court declined to exercise discretionary de novo review because the case did not meet the established criteria for such review.
2. The evidence was sufficient to establish abuse because Horning intentionally, knowingly, or recklessly placed M. Z. in fear of imminent bodily injury by breaking into the home and bedroom, obtaining a firearm, placing it in his pocket in front of her, and stating that he could return whenever he wanted and would be back.
3. The evidence was sufficient to support the trial court's finding that M. Z. reasonably feared for her physical safety.
4. The evidence was sufficient to support the finding that Horning represented a credible threat to M. Z.'s physical safety, notwithstanding that the parties had separated.

KEY QUOTATIONS

“Therefore, we are bound by the trial court’s factual findings if they are supported by any evidence in the record, and in the absence of express factual findings, we presume that the court made findings consistent with its ultimate judgment.” (79)

“Accordingly, given the totality of the circumstances—including the context of father misleading the police to believe that the parties had agreed that he could go inside the home and breaking doors to get inside the home and bedroom, such that mother described father’s conduct as violent and that she was afraid—we conclude that there is sufficient evidence to support the trial court’s determination that, by placing a firearm in his pocket in front of mother while stating that he could return any time he wanted, despite whether the parties knew if it was loaded, father intentionally, knowingly, or recklessly placed mother in fear of imminent bodily injury.” (83)

FACTUAL BACKGROUND

M. Z. and Horning had been in a long-term domestic relationship, jointly owned a home, and had a teenage son together. After the parties separated, Horning came to the home, first with their son and a police officer and later to retrieve personal property. Although M. Z. had packed Horning's and the son's belongings and placed them in the driveway, Horning repeatedly demanded entry, kicked through multiple locked doors, entered M. Z.'s bedroom, removed a firearm from a gun safe, placed it in his pocket in front of her, and stated that he could

return whenever he wanted and would be back. M. Z. testified that Horning's conduct was violent and intimidating and that she feared for her safety.

PROCEDURAL HISTORY

M. Z. obtained a FAPA restraining order against Shane Horning. After Horning requested and received a contested hearing, the Umatilla County Circuit Court continued the order, finding that abuse had occurred, that M. Z. reasonably feared for her physical safety, and that Horning posed a credible threat. Horning timely appealed, arguing that the evidence was legally insufficient and requesting discretionary de novo review. The Oregon Court of Appeals declined de novo review and affirmed.

DISPOSITION

affirmed

CASES CITED

- J. V.-B. v. Burns, 284 Or. App. 366, 367, 392 P.3d 386 (2017)
- K. G. G. v. Lucarelli, 310 Or. App. 835, 836, 486 P.3d 860 (2021)
- J. E. L. v. Lefebvre, 165 Or. App. 297, 301, 996 P.2d 518 (2000)
- V. S. v. Sterba, 340 Or. App. 608, 613, 517 P.3d 1117 (2025)
- M. A. B. v. Buell, 308 Or. App. 98, 104-05, 479 P.3d 1087 (2020)
- Hubbell v. Sanders, 245 Or. App. 321, 327, 263 P.3d 1096 (2011)

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