

COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT

Alsup v. Alsup

2026-Ohio-233 · No. 25AP0002 · Decided January 23, 2026

SUMMARY

The Ohio Fifth District Court of Appeals affirmed a domestic violence civil protection order issued by the Morgan County Court of Common Pleas. The court held that service of the continuance entry by email to the respondent’s attorney was proper under Ohio Civil Rules 65.1 and 5, and that the respondent’s challenge to the petition’s factual sufficiency was waived because it was not raised below. The court also concluded that the petition was sufficient and that the trial court did not abuse its discretion in issuing the order.

CASE DETAILS

COURT	Court of Appeals of Ohio, Fifth Appellate District
WRITING FOR THE COURT	Craig R. Baldwin, P.J.; William B. Hoffman, J.; David M. Gormley, J.
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District
DECIDED	January 23, 2026
DOCKET	25AP0002
DISPOSITION	affirmed
PROCEDURAL POSTURE	Respondent appealed from the Morgan County Court of Common Pleas' denial of his motion for relief from judgment and to vacate a full domestic violence civil protection order.
STANDARD OF REVIEW	Abuse of discretion. The court reviewed the trial court's determination that notice of the continued hearing was proper and its decision to issue a civil protection order under that standard.
PRECEDENTIAL VALUE	Published
PARTIES	Matthew Razen Alsup v. Traci Donn Alsup

TOPICS

- domestic violence
- family law
- civil procedure
- service of process
- appellate procedure

PRACTICE AREAS

- family law
- domestic violence
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court provided proper notice of the continued full domestic violence civil protection order hearing through electronic service on respondent's counsel.
2. Whether the respondent could raise for the first time on appeal an argument that the protection-order petition failed to state specific factual allegations or relief.
3. Assuming the pleading challenge was reviewable, whether the petition adequately stated facts and requested relief to support issuance of the protection order.

HOLDINGS

1. Electronic service of the entry continuing the hearing was proper because respondent's attorney provided an email address in filings and received the email containing the file-stamped continuance entry. The trial court therefore did not abuse its discretion by proceeding with the July 9, 2025 hearing.
2. The respondent waived appellate review of his argument that the petition was deficient because he did not present that argument to the trial court.
3. Even if the pleading challenge had been preserved, the petition was sufficient because its attachment alleged specific acts of abuse and stated that the petitioner sought a domestic violence civil protection order. The trial court did not act unreasonably, arbitrarily, or unconscionably in issuing the order.

KEY QUOTATIONS

“A document is served under this rule by: (a) Handing it to the person; (b) Leaving it: (i) At the person’s office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or (ii) If the person has no office or the office is closed, at the person’s dwelling or usual place of abode with someone of suitable age and discretion who resides there; (c) Mailing it to the person’s last known address by United States mail, in which event service is complete upon mailing; (d) Delivering it to a commercial carrier service for delivery to the person’s last known address within three calendar days, in which event service is complete upon delivery to the carrier; (e) Leaving it with the clerk of court if the person has no known address; or (f) Sending it by electronic means to a facsimile number or e-mail address provided in accordance with Civ.R. 11 by the attorney or party to be served, or, if mutually agreed in writing by all counsel and unrepresented parties, any other electronic media platform(s), in which event service is complete upon transmission, but is not effective if the serving party learns that it did not reach the person served.” (¶ 14)

“A party cannot assert new arguments for the first time on appeal.” (¶ 21)

FACTUAL BACKGROUND

Traci Donn Alsup filed a petition for a domestic violence civil protection order alleging physical, verbal, sexual, financial, and controlling abuse by her husband, Matthew Razen Alsup. After Matthew's counsel requested a continuance of the originally scheduled hearing, the trial court rescheduled the hearing and emailed the file-stamped continuance entry to counsel at the email address provided in counsel's filings. Counsel received the email but did not review the attached documents, and neither Matthew nor counsel appeared at the rescheduled hearing. The trial court issued the protection order and later denied Matthew's motion to vacate it.

PROCEDURAL HISTORY

Traci Donn Alsup petitioned for a domestic violence civil protection order under R.C. 3113.31. The trial court granted an ex parte order, personally served Matthew Razen Alsup, continued the full hearing from June 30 to July 9, 2025, and served the continuance entry by email to his attorney. Neither Alsup nor his counsel appeared at the July 9 hearing, and the trial court issued a full protection order. The trial court denied Alsup's subsequent motion for relief from judgment and to vacate the order, and the Fifth District affirmed.

DISPOSITION

affirmed

CASES CITED

- Huntington Nat'l Bank v. Payson, 2015-Ohio-1976, ¶ 32 (2nd Dist.)
- Sears v. Kuhn, 2022-Ohio-2898, ¶ 15 (4th Dist.)
- L.L. v. R.B., 2017-Ohio-7553, ¶ 21 (5th Dist.)
- Singhaus v. Zumbar, 2015-Ohio-4755, ¶ 22 (5th Dist.)
- Blakemore v. Blakemore, 5 Ohio St.3d 217 (1983)
- AAAA Enterprises, Inc. v. River Place Community Urban Redevelopment Corp., 50 Ohio St.3d 157, 161 (1990)
- Bank One, NA v. Ray, 2005-Ohio-3277, ¶ 15 (10th Dist.)
- Kennedy v. Green, 2019-Ohio-854, ¶ 35 (5th Dist.)
- Stores Realty Co. v. Cleveland, 41 Ohio St. 2d 41, 322 N.E.2d 629 (1975)
- The Strip Delaware, LLC v. Landry's Restaurants, Inc., 2011-Ohio-4075 (5th Dist.)
- May v. Westfield Vill. L.P., 2003-Ohio-5023 (5th Dist.)
- Lippy v. Society Nat'l Bank, 88 Ohio App.3d 33, 623 N.E.2d 108 (1993)
- Stottlemeyer Hydromulching, Inc. v. Dearlove, 2015-Ohio-750, ¶ 31 (5th Dist.)

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