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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

SHARLETTE KANG,

Plaintiff and Respondent,

v.

KIL J. KIM,

Defendant and Appellant.

B284152

(Los Angeles County
Super. Ct. No. BS169374)

APPEAL from an order of the Superior Court of Los Angeles County, Laura Hymowitz, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Terran T. Steinhart for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Kil J. Kim (Kim) appeals a civil harassment restraining order after hearing that was obtained by plaintiff and respondent Sharlette Kang, who has not filed a respondent's brief.

Kim's sole contention on appeal is that the trial court abused its discretion in denying her request for a continuance of the hearing on the request for a civil harassment restraining order. We find no abuse of discretion and affirm.

By way of background, the trial court issued a temporary restraining order on May 25, 2017. On June 16, 2017, when the matter was called for hearing on the petition, Kim's counsel advised the court that Kim was not present due to her incarceration for allegedly violating the temporary restraining order, and counsel requested a continuance. The court granted the request and continued the matter to July 7, 2017.

On July 7, 2017, both Kim and her newly retained attorney were present in court. Kim's counsel requested a continuance of indefinite duration due to Kim's pending criminal case and argued that Kim would be unable to testify due to her Fifth Amendment right not to incriminate herself.

The trial court denied the request, stating "many times there are cases pending and people don't testify. They have every right not to testify, and I would not hold that against her. A lot of times they have [criminal] cases pending and they go forward with it. . . . It would probably not affect the outcome of her criminal case if a restraining order was granted. And the fact that you were hired just the other day—she had an[other] attorney last time; that's her choice to bring in another attorney, so I'm not going to grant the continuance for today."

On our review, we begin with the premise that the trial court has broad discretion in deciding whether to grant a continuance. (*Freeman v. Sullivan* (2011) 192 Cal.App.4th 523, 527.) Code of Civil Procedure section 527.6 (section 527.6) governs civil harassment restraining orders, it governed the proceedings here, and under the statute “there is no mandatory right to a continuance.” (*Freeman, supra*, at p. 527.) Rather, under the statute, a continuance may be granted, in the court’s discretion, “on a showing of good cause.” (§ 527.6, subd. (p)(1).)

In determining whether the trial court abused its discretion in denying a continuance, we bear in mind that, under the statute, a hearing “shall be held” on the request for a restraining order “[w]ithin 21 days, or, if good cause appears to the court, 25 days from the date that a petition for a temporary order is granted or denied.” (§ 527.6, subd. (g).) Here, as indicated, the temporary restraining order was granted on May 25, 2017. Due to the earlier continuance, the trial date of July 7, 2017, was already beyond the 25-day limit imposed by statute, militating against the grant of another continuance.

Further, although the trial court had discretion to stay the civil proceeding until disposition of the related criminal prosecution (*Fuller v. Superior Court* (2001) 87 Cal.App.4th 299, 307), it was not obligated to do so. “Courts faced with a civil defendant who is exposed to a related criminal prosecution have responded with various procedural solutions designed to fairly balance the interests of the parties and the judicial system. Accommodation of the various interests, however, is usually made to a defendant in a civil action ‘*from the standpoint of fairness, not from any constitutional right*. [Citation.]’ [Citation.]” (*Ibid.*, italics added.) Instead of staying the civil

proceeding, the trial court may “allow the civil defendant to invoke the privilege against self-incrimination, even if doing so may limit the defendant’s ability to put on a defense. [Citation.]” (*Id.* at p. 308.) In the instant case, the trial court selected that approach.

Kim’s opening brief does not address any of the extensive case law in this area; the brief simply asserts that the denial of a continuance deprived her of the ability to effectively oppose Kang’s request for relief.¹

Kim’s undeveloped contention that the trial court abused its discretion in denying a continuance does not support reversal. “Perhaps the most fundamental rule of appellate law is that the judgment challenged on appeal is presumed correct, and it is the appellant’s burden to affirmatively demonstrate error.” (*People v. Sanghera* (2006) 139 Cal.App.4th 1567, 1573.) An appellant must do so through reasoned argument, with discussion of legal authority. (*Bullock v. Philip Morris USA, Inc.* (2008) 159 Cal.App.4th 655, 685; *Bell v. H.F. Cox, Inc.* (2012) 209 Cal.App.4th 62, 80.) “When an issue is unsupported by pertinent or cognizable legal argument it may be deemed abandoned and discussion by the reviewing court is unnecessary.” (*Landry v. Berryessa Union School Dist.* (1995) 39 Cal.App.4th 691, 699–700.)

¹ In that regard, we note that although Kim did not testify at the hearing, she was represented by counsel. Kim’s attorney subjected Kang, who appeared in propria persona, to cross-examination. In addition, Kim’s attorney called Kim’s daughter as a witness at the hearing.

DISPOSITION

The July 7, 2017 civil harassment restraining order after hearing is affirmed. No costs are awarded.

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EDMON, P. J.

We concur:

EGERTON, J.

DHANIDINA, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.