

Filed 9/18/26

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

ERIC IRVINE,
Plaintiff and Respondent,
v.
TIARE JUNE IRVINE,
Defendant and Appellant.

A172066

(Marin County Super. Ct.
No. FL 0000904)

In May 2024, Eric Irvine obtained a domestic violence temporary restraining order (TRO) against his ex-wife, Tiare Irvine.¹ She was arrested a week later and charged with, among other things, battery of a former spouse. Three times, the trial court granted her requests to continue the hearing on Eric's petition for a restraining order. But it denied a fourth request — which was based on her intent to assert her Fifth Amendment right to remain silent due to the pending criminal case — and issued a three-year restraining order after a hearing. On appeal, she contends the court abused its discretion by denying her request to continue the hearing until after her criminal matter had been resolved.

¹ Intending no disrespect, we use first names to avoid confusion. All dates refer to 2024 unless otherwise indicated. We grant Eric's unopposed request for judicial notice of records from Tiare's criminal case. (Evid. Code, § 452, subd. (d).)

Respondents in a domestic violence restraining order proceeding who intend to assert their Fifth Amendment right against self-incrimination are not automatically entitled to a continuance. (*People v. Coleman* (1975) 13 Cal.3d 867, 885.) Instead, when determining whether good cause exists to delay the hearing, the trial court should balance the respondent's Fifth Amendment rights against competing interests, such as the petitioner's interest in moving forward and the potential prejudice a delay would cause them; the court's interest in the efficient use of judicial resources; the interests of nonparties; and the purpose of the Domestic Violence Prevention Act (Fam. Code, § 6200 et seq., undesignated statutory references are to this code; DVPA). (*Alpha Media Resort Investment Cases* (2019) 39 Cal.App.5th 1121, 1132.) The record demonstrates the court below appropriately considered the competing interests before denying Tiare's request for a fourth continuance. As no abuse of discretion appears, we affirm.

BACKGROUND

Eric and Tiare married in 2014 and divorced in 2022. In late 2023, she began harassing him with "non-stop" text messages and "calls from multiple phone numbers." He blocked her messages, but she told him if her messages "stop going through [she] will make another account and keep calling." Her messages were "manipulative" and "threatening." She repeatedly indicated she was "on the verge of committing suicide, describing the particular methods she plan[ned] to use, writing sentimental farewells, sending [him] bills for her funeral expenses, even filming herself swallowing huge numbers of unknown pills." When her messages did not have their desired effect, she "threatened to damage [his] career and reputation by spreading falsehoods about [him] on social media."

When Tiare learned Eric was in a new relationship, her “harassment and abuse reached a new level of menace and violence.” On May 6, she texted that she’d “found [his girlfriend]. . . . I know who she is.” She sent him the name, age, employer, phone number, and e-mail address of his girlfriend and threatened to contact her. Later that day, she sent messages to his girlfriend in which she expressed her intent to commit suicide and a “‘suicide video’” of her ingesting many pills. Tiare was detained for psychiatric treatment.

On May 8, Eric filed a petition for a restraining order and obtained a TRO, which included him and his girlfriend as protected parties. On May 11, Tiare called him hundreds of times and did so again the next day. On the evening of May 13, she told him she was “out of the hospital now.” The next day, she sent his girlfriend a message that said, “‘I’m out,’” and asked to “‘talk.’” Tiare e-mailed her — copying Eric on the e-mail — offering relationship “advice” and again expressing an intent to commit suicide. She also called Eric more than 1,000 times in a seven-hour period starting early on May 14. He went to the police station, spoke with officers, and returned home.

Shortly after Eric arrived home, Tiare entered the yard and “came straight at [him], swatting away [his] cell phone as [he] tried to call 911.” As he cried out for help, she repeatedly bit his fingers, shoulder, and wrists, requiring him to go to the emergency room. When the police arrived, she was clutching his shirt and refused to let go; they had to pry her off him. She was arrested and charged with, among other things, battery of a former spouse and unauthorized entry of an occupied dwelling. A judge issued an emergency protective order (EPO) — it barred her from contacting Eric or

coming within 100 yards of him or his home — and the police served her with the order.

On May 17, the trial court in the criminal matter issued a criminal protective order (CPO) — it prohibited Tiare from abusing or contacting Eric or coming within 100 yards of him, his home, workplace, or vehicle, but it did not list his girlfriend as a protected party — and Tiare was served with the order at the hearing. Despite the orders, she returned to the home on May 19. Neighbors identified her, and she fled when an officer responded to the scene. She was arrested the next day for violating a court order. Undeterred, once released from custody, she phoned and e-mailed Eric on May 23, admitting she'd come to the property days earlier, acknowledging the EPO and CPO, and expressing awareness of the next day's hearing on his request for a restraining order. She also made disparaging remarks about him and his girlfriend.

At the May 24 hearing on the petition for a restraining order, the parties appeared, Tiare accepted service of the TRO, and the trial court continued the hearing to June 25 to give her time to file a response. On June 25, both parties — now represented — appeared, but Tiare's counsel did not. Tiare said her counsel advised her not “to proceed . . . today on the basis of the criminal charges.” The court and Eric's counsel agreed the hearing should be continued to allow Tiare's counsel to appear, and the matter was continued to August 27. But the court warned “this will be the last continuance.”

But Tiare's counsel sought another continuance at the August 27 hearing. He said she was in residential treatment in Florida, continued to face criminal charges, and had a “right not to incriminate herself.” Eric's counsel objected. He noted the matter had been pending for almost four

months, the trial court had previously indicated no further continuances would be granted, witnesses had been subpoenaed to testify, and Eric and his girlfriend had taken time off work to attend the August 27 hearing. Moreover, counsel noted “this is no small matter to continue this for my client and his family. It’s a very emotional situation.” Ultimately, the court continued the matter to September 24, finding good cause owing to Tiare being in residential treatment. But it indicated it would grant no further continuances and would proceed the next time even if she appeared and asserted her right to remain silent.

On September 24, the parties appeared with their attorneys, and Tiare’s counsel sought a fourth continuance. He cited the still pending criminal matter and her Fifth Amendment right to remain silent, and he argued the civil and criminal matters arose “out of the same facts” and Eric would not be prejudiced because the CPO remained in place. Eric’s counsel opposed the request; he noted, under Tiare’s reasoning, the matter should be continued indefinitely until the criminal case was resolved. Tiare’s counsel conceded his client’s concern would remain so long as the criminal case was “open” — she planned to request mental health diversion in the case but apparently had not done so yet — and he argued that moving forward while the case was pending would violate her constitutional rights.² The trial court denied the request for another continuance and proceeded with the hearing. Based on Eric’s petition, exhibits, and declaration, the court concluded he had proven Tiare had committed acts of abuse, and it issued a three-year restraining order protecting Eric and his girlfriend.

² Tiare’s motion for diversion was granted in January 2025; she completed a 12-month diversion; and in January 2026 — more than 20 months after Eric filed his restraining order petition — her criminal case was dismissed and the CPO was terminated.

DISCUSSION

Tiare contends the trial court abused its discretion by denying her request to continue the hearing on Eric’s restraining order petition until her criminal case was resolved. She argues her intent to assert her Fifth Amendment right against self-incrimination, under the circumstances here, obligated the court to delay resolution of Eric’s request. We disagree.

The DVPA was enacted “to prevent acts of domestic violence, abuse, and sexual abuse and to provide for a separation of the persons involved in the domestic violence for a period sufficient to enable these persons to seek a resolution of the causes of the violence.” (§ 6220.) To address this “urgent public safety and public health crisis,” the Legislature designed the proceedings to be “streamlined” and “expeditious.” (§ 6309, subd. (a)(1)(A); *Rivera v. Hillard* (2023) 89 Cal.App.5th 964, 983; *S.A. v. Maiden* (2014) 229 Cal.App.4th 27, 40 [“expedited and simplified”]; see *Goals for Autism v. Rosas* (2021) 65 Cal.App.5th 1041, 1045 [civil restraining order matters “to be resolved promptly, and generally within a matter of weeks”].) To wit, the Legislature provided a TRO generally must be “issued or denied on the same day” a request is submitted, a hearing must generally take place within 21 days of the ruling, and hearings must “take precedence over all other matters on the calendar that day.” (§§ 6326, 242, subd. (a), 244.)

Section 245 further evidences the Legislature’s intent to fashion an expedited process. It entitles a respondent “to one continuance for a reasonable period” to file a response. (§ 245, subd. (a); *Ross v. Figueroa* (2006) 139 Cal.App.4th 856, 861–862 [construing predecessor statute]; *Goals for Autism v. Rosas, supra*, 65 Cal.App.5th at p. 1046 [construing nearly identical provision].) Otherwise, upon a showing of good cause, either party may request a continuance. (§ 245, subd. (b); *N.M. v. W.K.* (2024) 100

Cal.App.5th 978, 983 “[s]uch a continuance is discretionary”). This balances “due process considerations with the need to promptly conduct hearings and issue restraining orders” when petitioners meet their burden, and it “preserves the trial court’s right to control the proceedings and resolve these matters in a timely fashion.” (*Goals for Autism*, at p. 1048.) We review the denial of a continuance for abuse of discretion, implying findings in support of a court’s order. (*In re Marriage of Tara & Robert D.* (2024) 99 Cal.App.5th 871, 881; *In re Marriage of Ciprari* (2019) 32 Cal.App.5th 83, 93–94.)

Here, as per section 245, subdivision (a), the trial court granted a first continuance to give Tiare time to respond to Eric’s petition. And as per section 245, subdivision (b), it granted a second and third continuance after finding good cause, i.e., the absence of her attorney at one hearing, and her being in residential treatment for the next one. But it denied her fourth continuance request — which was “based on the 5th Amendment” and her pending criminal case — impliedly determining she had failed to demonstrate good cause for yet another continuance. (*N.M. v. W.K.*, *supra*, 100 Cal.App.5th at p. 983.)

Under the Fifth Amendment, a person cannot “be compelled in any criminal case to be a witness against himself.” (U.S. Const., 5th Amend.) The right “can be asserted in any proceeding, civil or criminal, administrative or judicial, investigatory or adjudicatory; and it protects against any disclosures that the witness reasonably believes could be used in a criminal prosecution or could lead to other evidence that might be so used.” (*Kastigar v. United States* (1972) 406 U.S. 441, 444–445, fns. omitted.) But “‘the fact that a man is indicted cannot give him a blank check to block all civil litigation on the same or related underlying subject matter. Justice is meted out in both civil and criminal litigation. The overall interest of the courts

that justice be done may very well require that the . . . remedy due a civil plaintiff should not be delayed (and possibly denied). The court, in its sound discretion, must assess and balance the nature and substantiality of the injustices claimed on either side.’ ” (*People v. Coleman, supra*, 13 Cal.3d at p. 885; *Keating v. Office of Thrift Supervision* (9th Cir. 1995) 45 F.3d 322, 324.)

As both parties acknowledge, state and federal courts have concluded the decision to delay “civil proceedings pending the outcome of a parallel criminal case should be made in light of the particular circumstances and interests at hand.” (*Alpha Media Resort Investment Cases, supra*, 39 Cal.App.5th at p. 1132; *Avant! Corp. v. Superior Court* (2000) 79 Cal.App.4th 876, 887; *Keating v. Office of Thrift Supervision, supra*, 45 F.3d at pp. 324–325.) In the context of DVPA proceedings, when deciding whether to delay a restraining order hearing, a trial court should consider and weigh (1) the respondent’s Fifth Amendment right against self-incrimination, and the burden that proceeding with the hearing would impose; (2) the petitioner’s interest in proceeding, and the potential prejudice they would suffer as a result of a delay; (3) the court’s interest in efficiently managing judicial resources; (4) the interests of nonparties; and (5) the DVPA’s purpose of expeditiously resolving domestic violence proceedings. (See *Alpha Media Resort Investment Cases*, at p. 1132.) The record reflects the trial court here appropriately took account of the relevant interests before denying Tiare’s request for a fourth continuance.

Respondent’s interest: At the September 24 hearing, Tiare’s attorney noted the criminal matter was still pending, and he asserted the restraining order hearing “implicates direct issues or arises out of the same facts as the criminal case.” Although she had a Fifth Amendment right to remain silent,

Tiare “wanted to testify and tell her side of the story” but could not do so without potentially incriminating herself. On the other hand, Eric’s attorney noted that the petition for a restraining order was filed *before* the acts giving rise to the criminal charges so the hearing could focus on the allegations in the DV-100 form, which mainly concerned Tiare’s many text messages, e-mails, social media posts, and phone calls.³ Moreover, Tiare’s assertion of her right to remain silent did not prevent her from opposing the issuance of the restraining order. She remained free to cross-examine his witnesses, attempt to undermine his evidence, offer other witnesses or evidence of her own, or argue he failed to meet his burden. She also could have sought use immunity so she could testify without fear of her testimony being used against her later. (*Pacers, Inc. v. Superior Court* (1984) 162 Cal.App.3d 686, 688.)

Petitioner’s interest: At the September 24 hearing, Eric’s counsel noted the matter had been pending for nearly five months, it had previously been continued three times, and the trial court warned the parties on two prior occasions that no further continuances would be granted. Counsel also observed the grounds cited for Tiare’s request essentially meant the court should “indefinitely postpone” the hearing until the criminal matter ended, and the failure to resolve the matter had been “enormously stressful on my client and his family.” At the August 27 hearing, counsel noted each continuance required Eric and his girlfriend to take time off work, arrange

³ As Eric notes, an individual may not make a “blanket assertion of the privilege against self-incrimination.” (*People v. Trujeque* (2015) 61 Cal.4th 227, 267.) Instead, the assertion must allow a trial court to “‘make “a particularized inquiry, deciding, in connection with each specific area . . . whether or not the privilege is well founded.” ’” (*Id.* at p. 268.) While Tiare’s counsel did not explain how testifying about the allegations in the DV-100 would implicate her right against self-incrimination, we need not resolve whether her assertion of the privilege had merit.

for the appearance of witnesses, and continue to confront a “very emotional situation.”⁴ And Eric points out that, at each continued hearing, he and his girlfriend had to confront their abuser, “a traumatic and anxiety-inducing event.” Finally, repeated continuances raise the specter of lost evidence, faded memories, or unavailable witnesses. (*Avant! Corp. v. Superior Court*, *supra*, 79 Cal.App.4th at p. 887.)

At the hearing and on appeal, Tiare contends Eric would not have been prejudiced by another continuance because the CPO remained in effect. But as Eric correctly notes, domestic violence restraining orders “and other protective orders are not fungible.” The DVPA gives a petitioner significant control over the process. They decide whether to seek a restraining order; what remedies to request; and whether to seek to modify, terminate, or renew its terms. Moreover, domestic violence restraining orders “may sweep more broadly than criminal protective orders.” (*Lugo v. Corona* (2019) 35 Cal.App.5th 865, 870.) Here, for example, Eric requested and obtained a TRO that protected his girlfriend, while the CPO did not include her as a protected party. And unlike the restraining order, the trial court noted the CPO would likely cease whenever the criminal case was resolved. Moreover, Eric notes the CPO was not effective in curbing Tiare’s abuse.

Court’s interest: Trial courts have an important interest “in fairly and expeditiously disposing of civil cases, and in efficiently utilizing judicial

⁴ We are mindful that “the vast majority” of litigants in domestic violence proceedings are unrepresented — perhaps more than “‘90 percent of the time.’” (*Ross v. Figueroa*, *supra*, 139 Cal.App.4th at p. 861 & fn. 3.) As amicus curiae Bay Area Legal Aid notes, continuances may force litigants to repeatedly arrange for childcare, navigate transportation hurdles, and risk their jobs due to taking time off work to attend hearings. Given the burdens caused by multiple continuances, some litigants may abandon meritorious restraining order petitions.

resources.” (*Fuller v. Superior Court* (2001) 87 Cal.App.4th 299, 306.) “Courts must control the pace of litigation, reduce delay, and maintain a current docket so as to enable the just, expeditious, and efficient resolution of cases.” (*Id.* at pp. 306–307; § 244 [restraining order hearings to “be set for trial at the earliest possible date and shall take precedence over all other matters”].) That interest is advanced by the denial of requests to delay proceedings. (*Alpha Media Resort Investment Cases, supra*, 39 Cal.App.5th at p. 1132.) Here, the trial court’s desire to efficiently resolve the pending restraining order request is evident. At the June 25 hearing, the court continued the matter due to the failure of Tiare’s counsel to appear, but it warned her, “No more continuances, okay? [¶] You can proceed with or without a lawyer, but this will be the last continuance.” At the August 27 hearing, the court nonetheless granted another continuance because Tiare was not present due to being in residential treatment but noted it would grant no further continuances even if she appeared and asserted her Fifth Amendment right.

Tiare asserts she was only seeking a short continuance because “there was a trial date set a month away in the criminal case.” She mischaracterizes the record. At the August 27 and September 24 hearings, she made clear she would be asserting her Fifth Amendment right as a basis for a continuance so long as her “criminal case is pending.” Moreover, while she planned to seek mental health diversion in her criminal case, she apparently had not done so as of the September 24 hearing. And her counsel indicated he would be seeking a continuance of the restraining order hearing until her charges were dismissed (pursuant to her successful completion of diversion) or otherwise resolved (if she was unsuccessful). Thus, the record

belies the notion that one more short continuance would have resolved the issue.⁵

Interest of nonparties: The record demonstrates the trial court was aware of the interest of nonparties in resolving the matter without further delay. A law enforcement officer was present at the June 25 hearing, having been subpoenaed by Eric. The continuance of the matter required the court to order the officer to appear at the August 27 hearing. The same officer appeared at the August 27 hearing, along with a second officer. The continuance of that hearing meant that both witnesses had to be ordered to appear at the September 24 hearing, and the court apologized to them for the inconvenience. Additionally, while Eric's girlfriend was listed as a protected party in the TRO, she too was a nonparty whose interest was served by not further delaying a resolution of the request for a restraining order.

Purpose of the DVPA: As previously discussed, the Legislature intended DVPA proceedings to be “streamlined” and “expeditious” to address the “urgent public safety and public health crisis” of domestic violence. (*Rivera v. Hillard, supra*, 89 Cal.App.5th at p. 983; § 6309, subd. (a)(1)(A); *Goals for Autism v. Rosas, supra*, 65 Cal.App.5th at p. 1046.) Prompt resolution of requests for restraining orders serves the purpose of preventing further acts of domestic abuse and providing “for a separation of the persons involved in the domestic violence for a period sufficient to enable these persons to seek a resolution of the causes of the violence.” (§ 6220.) The repeated continuance of DVPA matters undermines this legislative purpose because, among other things, it leaves the parties without a final resolution of the restraining order request, it forces the parties to come into repeated contact with each other at

⁵ Of course, we know now that the criminal case was not resolved until January 2026, upon Tiare's successful completion of diversion.

the courthouse, and it may discourage petitioners from pursuing meritorious requests because of the attendant burdens associated with a lengthy process. (*Avant! Corp. v. Superior Court*, *supra*, 79 Cal.App.4th at p. 889.)

Contrary to Tiare's assertion, the record demonstrates the trial court was aware of and weighed these various interests. Tiare's counsel cited *Avant! Corp. v. Superior Court* to the court, so it was aware of the need to balance the competing interests. Counsel explained his client intended to assert her Fifth Amendment right to remain silent despite her desire to address the allegations. But the court also questioned whether the fact that the allegations in the DV-100 preceded the criminal charges meant she could proceed with the hearing. For his part, Eric's counsel explained the impact the various continuances was having on Eric and his girlfriend. And the court twice expressed its intent not to grant further continuances, and it expressed concern that Tiare would seek a delay for an indefinite period. The court also acknowledged the impact repeated continuances was having on nonparties, such as the law enforcement witnesses. Finally, the court expressed awareness that this litigation was in the context of the DVPA.

The record reflects the trial court appropriately considered and weighed the competing interests before denying Tiare's request for a fourth continuance. By denying the request, the court impliedly found that, to the extent that Tiare's Fifth Amendment rights were implicated, that interest was outweighed by the countervailing factors — that is, the interests of Eric, the court, and nonparties in having the matter resolved without further delay, and the purpose of the DVPA in resolving the matter expeditiously. The court did not abuse its discretion by reaching that conclusion.

DISPOSITION

The judgment is affirmed. Eric Irvine is to recover his costs on appeal.
(Cal. Rules of Court, rule 8.278(a)(2).)

RODRÍGUEZ, J.

WE CONCUR:

FUJISAKI, Acting P. J.

PETROU, J.

A172066; *Irvine v. Irvine*

Superior Court of Marin County, Beth S. Jordan, Judge.

Katsuranis & Rodriguez, Francisco J. Rodriguez and Lauren Katsuranis, for Defendant and Appellant.

Family Violence Appellate Project, Jennafer Dorfman Wagner and Taylor Campion; Gibson, Dunn & Crutcher, Jennafer M. Tryck, James Rex Lee, Nicholas Whetstone, Rachel Iida and Ani Boyadjian, for Plaintiff and Respondent.

Bay Area Legal Aid, Erin Orum, Brenda Star Adams and Julie Lemmer; Levine Advocacy and Elana R. Levine, as Amicus Curiae on behalf of Plaintiff and Respondent.