

**IN THE COURT OF APPEALS OF IOWA**

No. 7-081 / 06-0696  
Filed March 28, 2007

**JANE DOE,**  
Plaintiff,

**vs.**

**IOWA DISTRICT COURT FOR  
SCOTT COUNTY,**  
Defendant.

---

Certiorari to the Iowa District Court for Scott County, Gary McKenrick  
Judge.

Petition for writ of certiorari challenging the district court's dismissal of her  
petition for an order of protection. **WRIT SUSTAINED AND REMANDED.**

James L. Ottesen, Davenport, for appellant.

Kendra Mills-Arnold, Drake Legal Clinic, Des Moines, for appellee.

Heard by Miller, P.J., and Vaitheswaran and Eisenhauer, JJ. Vogel, J.  
takes no part.

**EISENHAUER, J.**

In April 2006, petitioner-appellant Jane Doe filed an application for an order of protection against her husband, the defendant, in the Iowa District Court for Scott County. At the time the petition was filed, petitioner had recently moved to Iowa. The defendant resides in Wisconsin. There is no indication in the record that the defendant has any contact with Iowa except that his former wife lives here. The petitioner alleged three instances of abuse, all of which occurred outside Iowa while petitioner and the defendant were residing in Pennsylvania or Florida. On the same day the petition was filed, as is customary, it was presented to the district court for issuance of a temporary protective order. The district court wrote on the face of the petition “denied no jurisdiction constitutionally”. Petitioner started this certiorari action, claiming the district court erred in dismissing petitioner’s application. The Iowa Supreme Court granted certiorari.

Our review in an original certiorari proceeding is for correction of errors of law. *Sorci v. Iowa District Court for Polk County*, 671 N.W.2d 482, 488-89 (Iowa 2003).

Under Iowa’s Domestic Abuse Act, a plaintiff may seek relief from domestic abuse by filing a petition for an order of protection in a civil action. Iowa Code §236.3 (2005). The statute does not specify personal jurisdiction requirements. However, the Iowa Supreme Court discussed this issue in depth in *Bartsch v. Bartsch*, 636 N.W.2d 3 (Iowa 2001). The facts in *Bartsch* are substantially similar to those in this case. See *id.* at 5. In that case, the wife requested an order of protection against her husband. *Id.* The district court

found the husband did not have sufficient minimum contacts with Iowa for personal jurisdiction. *Id.* It nevertheless granted the wife an emergency protective order. *Id.* The husband filed a motion to dismiss challenging the order for lack of personal jurisdiction. *Id.* The district court denied his motion. *Id.* On appeal, the Iowa Supreme Court held that personal jurisdiction over the defendant was not required in the proceedings to grant a protective order. *Id.* at 6. The supreme court reasoned that, just like a marriage-dissolution or a child custody action, adjudication on a protective order is a status determination. *Id.* The forum state has such a strong interest concerning these matters that its courts may consider the petition even when one of the parties does not have sufficient minimum contact with the state. *Id.* at 7. Although there are some factual differences, we conclude *Bartsch* is applicable to the present case and the district court's dismissal of the petition is contrary to the law as set forth in *Bartsch*.

**WRIT SUSTAINED AND REMANDED.**

Miller, J. concurs specially.

**MILLER, J.** (concurrs specially)

The plaintiff's petition sought, both on an ex-parte temporary basis and as a final order following hearing, orders that the defendant stay away from the plaintiff's home, work, and school, and that the defendant not contact the plaintiff either personally or through another, by telephone, writing, or any other way. I agree with the dissenting opinion in *Bartsch* that the orders sought would (1) go beyond a status determination and constitute a grant of injunctive relief against the defendant, and (2) therefore require that the defendant have minimum contacts with the State of Iowa sufficient to avoid offending historical and well-developed concepts of due process of law. I nevertheless concur in the result, based on the controlling authority set forth in the majority opinion in *Bartsch*.