

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

JEANNE K. LEE,	:	APPEAL NO. C-170069
Plaintiff-Appellee,	:	TRIAL NO. DV-1000910
vs.	:	<i>JUDGMENT ENTRY.</i>
RICHARD ELLISON,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

In four assignments of error, defendant-appellant Richard Ellison claims that the trial court erred when it denied his motion to terminate the protective order issued against him in favor of his mother, plaintiff-appellee Jeanne K. Lee. We affirm.

On August 11, 2010, Lee obtained a protection order against Ellison. The order was granted shortly before Ellison's release from prison. He had been sentenced to six years in prison for aggravated burglary, kidnapping, and abduction for an incident that had involved Lee and her husband. *See State v. Ellison*, 1st Dist. Hamilton No. C-050553, 2006-Ohio-2620. On July 21, 2015, Lee filed a motion to extend the order. After overruling Ellison's objections, the trial court granted the extension. Ellison appealed that decision to this court, which affirmed the decision of the trial court to extend the order. *See Lee v. Ellison*, 1st Dist. Hamilton No. C-150580 (May 13, 2016). Ellison appealed that decision to the Ohio Supreme Court, which declined to accept the appeal on October 5, 2016. *Lee v. Ellison*, 146 Ohio St.3d 1515, 2016-Ohio-7199, 60 N.E.3d 7. Ellison's motion to reconsider was denied on December 20, 2016. *Lee v. Ellison*, 147 Ohio St.3d 1459, 2016-Ohio-8121, 64

N.E.3d 1003. Two weeks after that decision was released, Ellison filed a motion to terminate the protective order. The trial court denied the motion, holding that his arguments were barred by res judicata.

We agree with the trial court. While Ellison raises four assignments of error, the substance of his arguments go to whether the initial protection order should have been granted in 2010, or extended in 2015. Those judgments are now final. “A valid, final judgment rendered upon the merits bars all subsequent actions based upon any claim arising out of the transaction or occurrence that was the subject matter of the previous action.” *Grava v. Parkman Twp.*, 73 Ohio St.3d 379, 653 N.E.2d 226 (1995), syllabus. While Ellison has cited to a number of arguments that he had not made in the previous adjudications, the test for res judicata is not whether arguments had actually been made, but rather whether they could have been made. The doctrine of res judicata requires a party to present every ground for relief in the first action, or be forever barred from asserting it. *Id.* at 382. The arguments Ellison makes could have been raised in the previous adjudications.

We overrule Ellison’s four assignments of error, and affirm the judgment of the trial court.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MOCK, P.J., CUNNINGHAM and DETERS, JJ.

To the clerk:

Enter upon the journal of the court on November 8, 2017
per order of the court _____.
Presiding Judge