

NOT DESIGNATED FOR PUBLICATION

MARIA MURO * **NO. 2015-CA-1162**
VERSUS * **COURT OF APPEAL**
DEANNA HAND * **FOURTH CIRCUIT**
C/W * **STATE OF LOUISIANA**
RICHARD SPINELLI, JR. **NO. 2015-CA-1163**
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VERSUS * **COURT OF APPEAL**
*
DEANNA HAND * **FOURTH CIRCUIT**
*
* **STATE OF LOUISIANA**
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APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2015-08063, DIVISION "D"
Honorable Nakisha Ervin-Knott, JUDGE

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Judge Dennis R. Bagneris, Sr.

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(Court composed of Judge Dennis R. Bagneris, Sr., Judge Roland L. Belsome,
Judge Madeleine M. Landrieu)

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APRIL 20, 2016

AFFIRMED

This is an appeal by the defendant, Deanna Hand, from an order of protection, dated September 10, 2015, issuing a permanent injunction against her and in favor of the petitioners, Maria Muro, and Richard Spinelli, Jr. The order prohibits Ms. Hand from stalking, harassing, contacting, or going within 100 yards of the petitioners' residence and place of employment. After a thorough review of the record and applicable law, we affirm.

FACTUAL BACKGROUND

On August 24, 2015, Mr. Spinelli filed a form "Petition for Protection from Abuse" pursuant to La. R.S. 46:2131 *et seq.* or La. R.S. 46:2151, naming Ms. Hand as defendant. On that same date, Ms. Muro filed a form "Petition for Protection from Stalking" pursuant to La. R.S. 46:2171 *et seq.*, naming Ms. Hand as defendant. Petitioners alleged that Ms. Hand was stalking and harassing them to the point that they were living in fear. On the same day the petitions were filed, the trial court entered a temporary restraining order ("TRO") that was effective until September 10, 2015, the date of the hearing. After the hearing, the trial court rendered an order of protection (permanent injunction) effective through March 10, 2017.

At the hearing, Mr. Spinelli testified that he and Ms. Hand were married in March of 2006, and divorced on August 5, 2015. Mr. Spinelli testified that following their divorce, and upon him beginning a new relationship with Ms. Muro, Ms. Hand started harassing him by sending inappropriate e-mails, voicemails, and text messages. Specifically, Mr. Spinelli testified that on August 21, 2015, Ms. Hand e-mailed him saying, “‘I hope your last breath is on an overnight,’ meaning when I am away at work on an overnight trip, ‘and you have no one there to help you. Hope the last thing you remember is what you have caused me. I hate you and what you have done to Andre [his step-daughter].’” Mr. Spinelli also testified that he feared for his safety on the night of August 23, 2015, when he was walking Ms. Muro to her residence and noticed Ms. Hand driving very slowly with her window rolled down while “smiling and waving to us.” After testifying, Mr. Spinelli submitted thirty documents evidencing the harassing communications he received from Ms. Hand.

In response to Ms. Hand’s questions during cross-examination as to why Mr. Spinelli face timed her from December of 2014 until March of 2015, as well as continued to e-mail and call her, Mr. Spinelli responded that he had “no problem engaging in communications related to your [Ms. Hand’s] monthly support that I give you, bank account payments that I make to your bank accounts, information regarding Andre” but that “[t]here was nothing that was in any way suggestive of a relationship, of a love relationship, anything sexual.”

Maria Muro also testified that she received a barrage of inappropriate text messages and e-mails from Ms. Hand. Ms. Muro testified that she suffered emotional distress as a result of Ms. Hand’s behavior and feared for her physical safety. Ms. Muro testified that she went straight to the police after Ms. Hand

showed up at her house on the night of August 23, 2015, with her window down and waving hysterically. She also submitted documents evidencing the harassing communications she received from Ms. Hand.

On cross-examination, Ms. Hand asked Ms. Muro why she reached out to her on August 7, 2015, saying “[y]ou are now divorced, get a life, move on.” Ms. Muro responded that she “did not reach out to this woman [Ms. Hand]” but “responded to her barrage of e-mails to tell her to leave us alone, and I copied our attorney.” Ms. Hand had no other questions.

Ms. Hand, who was unrepresented, chose not to call any witnesses and testified that she did not send any disparaging or derogatory texts or e-mails to Mr. Spinelli or Ms. Muro. Ms. Hand testified that her emails to Mr. Spinelli were in reference to health insurance, and that Ms. Muro’s e-mails came to her first and that she only responded to Ms. Muro’s e-mails.

During the hearing, the trial court encouraged Ms. Hand to testify, and to submit any evidence, on her behalf. At trial, after reviewing the evidence submitted by the petitioners, the trial judge stated that she was “left with no choice but to grant their [petitioners] petitions.” Ms. Hand now appeals the granting of these two petitions on September 10, 2015.

DISCUSSION

On appeal, Ms. Hand, still unrepresented, argues that she was denied due process by not having an adequate opportunity to question the witnesses and present her case. After a review of the record, we find no merit in this argument.

The trial transcript reflects that the trial judge aided Ms. Hand in examining the witnesses and presenting her case. The trial judge not only explained to Ms. Hand when it was her turn to cross-examine the witnesses, but helped her to

formulate questions for both Mr. Spinelli and Ms. Muro. The trial judge provided Ms. Hand the opportunity to call her witnesses, to introduce evidence into the record, and to testify on her behalf. Specifically, the trial judge stated as follows:

Judge: Okay. Ms. Hand, at this time you have an opportunity to call any witnesses on your behalf.

Ms. Hand: I don't have any witnesses, but I do have you know, the e-mails between her and I, and - -I mean, am I finished with answering questions? Can I present my evidence?

Judge: You are finished with asking questions. You can make a statement to the court, and once you are done, Mr. Duncan can cross-examine you.

* * *

Judge: Okay. So here in your chance to put on your defense. Again, when we started this, you decided you were going to go forward. You contacted an attorney, but you decided you were going to go forward. So now here is your chance to put on your defense.

Ms. Hand: Meaning like I can tell my side of the story?

Judge: Tell your side of the story.

Ms. Hand: Can I grab my phone, if I may?

Judge: Sure.

After finding much of Ms. Hand's testimony irrelevant, the trial judge stated as follows:

Judge: Ms. Hand, I understand whatever happened as it relates to the marriage and the divorce. What you are here about today is the stalking, okay. They have alleged through their testimony that you have constantly berated them, disparaged them through e-mails, text messages, through Facebook. Now the evidence that has been submitted that's going to be passed up to me, am I going to see in that list of e-mails where you have contacted them and used some disparaging remarks? Am I going to see that, Ms. Hand?

* * *

Ms. Hand: Yes, it is my e-mail address, but this stuff is old. This had to do with - - nothing to do with Maria. Like these e-mails have nothing to do with Maria. The only e-mails that they are talking about that is August 21st to right now is because I - -when Richard was granted the divorce August 5th, the judge told him he can't have a gap in my insurance. He's - -

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Judge: Okay. Do you have any evidence you want to present to the court?

Ms. Hand: Well, this is the evidence. She [Ms. Muro] reached out to me and I just responded back to her e-mail. So I didn't reach out to her first. So they have twisted their story. But as of what happened on that Saturday or that Thursday was I don't have health insurance, and I still don't have health insurance.

The trial judge, again, found Ms. Hand's evidence to be irrelevant, and stated as follows:

Judge: I have heard - - no, no, I need you to listen now. I have heard your statement. I have heard the testimony of Mr. Spinelli and I have heard the testimony of Ms. Muro. I have seen these messages. I have read the petitions. We are prepared today. ...And based upon what I have here, and I find them to be credible witnesses, I am left with no choice but to grant their petitions.

After carefully reviewing the record, we find that Ms. Hand was given ample opportunities to present her testimony as well as evidence. Thus, we find no merit in her argument that she was denied due process at the hearing on the petitions for protection. For these reasons, we hereby affirm the trial court's judgment, dated September 10, 2015, which granted the order of protection in favor of Mr. Spinelli and Ms. Muro, and against Ms. Hand.

AFFIRMED