

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Conner Ryan Gilles,
Appellant-Respondent,

v.

M.M.G.,
Appellee-Petitioner

October 10, 2023

Court of Appeals Case No.
23A-PO-1255

Appeal from the Hamilton
Superior Court

The Honorable Andrew Bloch,
Special Judge

Trial Court Cause No.
29D06-2303-PO-2960

Memorandum Decision by Judge Crone
Judges Riley and Mathias concur.

Crone, Judge.

Case Summary

- [1] Connor Ryan Gilles (Husband) appeals the trial court’s issuance of a protective order against him and in favor of his estranged wife M.M.G. (Wife), arguing that there is insufficient evidence to support the issuance of the order. Concluding that the evidence is sufficient, we affirm.

Facts and Procedural History

- [2] Husband and Wife are married and have two children together, C.G., born in 2019, and G.G., born in 2020 (the Children). Husband has filed a petition for dissolution of marriage that currently remains pending.
- [3] The record indicates that in the early morning hours of a day in the summer of 2021, Wife requested that Husband take the “night shift” with G.G., the parties’ infant son. Tr. Vol. 2 at 20. Between 3:30 a.m. and 5:30 a.m., Husband awakened Wife to tell her that he could not handle trying to get the infant back to sleep, and he informed her that he had punched G.G.’s crib because he was so “frustrated” with the crying infant. *Id.* at 11. Wife went to G.G.’s room and observed that G.G. was “hysterical” and seemed “fearful” and “in distress.” *Id.* at 12. The next morning, Wife noticed that the railing of the solid wood crib had a large crack in it.
- [4] On November 17, 2022, Husband became upset with Wife after he had returned from a business trip because he was unable to spend sufficient time with the Children before they left for school. When Husband and Wife were discussing how to avoid this problem in the future, Husband’s face “lit up with rage and

anger,” and he “got in [Wife’s] face, veins popping, face red, yelling, had [his] hands pulled back in fists” *Id.* at 18. Wife was afraid that Husband was close to putting his hands on her.

[5] On December 16, 2022, Husband again became upset with Wife about planning for the Christmas holiday. After a “tense” but “calm-ish” conversation about the situation, and after it appeared that the parties were not “seeming to reach any sort of agreement,” Wife tried to leave the room, but Husband put his “face very close to [Wife’s] face, veins popping, ... yelling in [her] face, hands were pulled back in fists as he was yelling at [Wife].” *Id.* at 32. Husband did not strike Wife, but he “turned around and flipped over a footstool and grabbed papers off of his desk and threw them across the room.” *Id.* at 32-33. This behavior caused Wife to feel “scared” that Husband was eventually going to “harm” her “on purpose.” *Id.* at 33.

[6] The following week, over the Christmas holiday, Husband was outside cooking steaks for Christmas dinner while Wife, her parents, and the Children were all in the “living room/kitchen” area of the home. *Id.* at 36. When Husband came inside, Wife informed him that her parents had offered to babysit G.G. during an upcoming medical appointment for C.G. Husband became incredibly angry and “threw potholders across the room” and started cussing and yelling in front of the Children. *Id.* at 36-37. Husband’s reaction was so “[u]nhinged” both “verbally and physically” that it caused everyone in the room to be “fearful of what he was going to do next.” *Id.* at 39, 89.

[7] Then, on March 28, 2023, Wife was upstairs in the parties' home getting into the shower. Husband came upstairs and entered the bathroom. Husband was "very angry and confrontational" after having seen a notification on the parties' shared calendar device that indicated that Wife had attended a meeting with a family law attorney. *Id.* at 43. Husband began "yelling" and was "very, very upset." *Id.* at 45. Wife was "very scared" for her safety because she had seen how Husband's anger can "escalate[]." *Id.* Husband made various threats about kicking Wife out of the home and withholding financial support from her in order to "intimidate" her. *Id.* at 66. Shortly thereafter, Wife fled with the Children to her parents' home in Cincinnati for "[s]afety" reasons. *Id.* at 50.

[8] In March 2023, Wife filed a petition for a protective order and a request for a hearing.¹ The trial court held a hearing on May 9, 2023. During the hearing, Wife testified at length regarding the foregoing incidents involving Husband losing his temper, which caused her to be fearful for both her and the Children's safety. Wife testified that, although she only recounted certain incidents, there were "dozens" of such incidents where Husband had displayed intense anger toward her. *Id.* at 78. Wife's mother testified about Husband's behavior that she had witnessed, stating that she was "absolutely" concerned for her daughter's safety. *Id.* at 91. Husband also testified, denied Wife's version of the incidents

¹ The record indicates that Husband filed a petition for dissolution of marriage two days after Wife filed for the protective order.

or that he has an anger problem, and expressed his disagreement regarding the need for a protective order.

- [9] At the conclusion of the hearing, the trial court granted Wife’s petition for a protective order. Specifically, the trial court found that Wife had shown by a preponderance of the evidence that domestic or family violence had occurred sufficient to justify issuance of a protective order and that such order is necessary to bring about the cessation of violence or the threat of violence. The order prohibits Husband from threatening to commit or committing acts of domestic or family violence against Wife or the Children. Among other things, Husband is prohibited from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with Wife except through “Our Family Wizard” with respect to the needs of the Children and to arrange parenting time. Appealed Order at 2. The trial court further ordered Husband to undergo an anger management assessment. Husband now appeals.

Discussion and Decision

- [10] The Indiana Civil Protection Order Act (CPOA) has the express purpose of promoting the “(1) protection and safety of all victims of domestic or family violence in a fair, prompt, and effective manner; (2) protection and safety of all victims of harassment in a fair, prompt, and effective manner; and (3) prevention of future domestic violence, family violence, and harassment.” Ind. Code § 34-26-5-1. “Domestic or family violence” includes “[p]lacing a family or household member in fear of physical harm.” Ind. Code § 34-6-2-34.5. A finding that domestic violence has occurred sufficient to justify the issuance of a

protective order means that the respondent “represents” – present tense – “a credible threat to the safety of a petitioner or a member of a petitioner’s household.” Ind. Code § 34-26-5-9(h). Thus, the respondent must pose a threat to a protected person’s safety when the petitioner seeks relief. *S.H. v. D.W.*, 139 N.E.3d 214, 219 (Ind. 2020). Upon a showing of domestic violence “by a preponderance of the evidence, the court shall grant relief necessary to bring about a cessation of the violence or the threat of violence.” Ind. Code § 34-26-5-9(h).

[11] Protective orders are similar to injunctions, and therefore in granting an order the trial court must make special findings of fact and conclusions thereon. *Hanauer v. Hanauer*, 981 N.E.2d 147, 148 (Ind. Ct. App. 2013) (citations omitted). On appeal, we apply a two-tiered standard of review: we first determine whether the evidence supports the findings, and then we determine whether the findings support the order. *Id.* at 149. “In deference to the trial court’s proximity to the issues, we disturb the order only where there is no evidence supporting the findings or the findings fail to support the order.” *Fox v. Bonam*, 45 N.E.3d 794, 798 (Ind. Ct. App. 2015). We neither reweigh evidence nor reassess witness credibility, and we consider only the evidence favorable to the trial court’s order. *Id.* The party appealing the trial court’s order must establish that the findings are clearly erroneous. *Id.* “Findings are clearly erroneous when a review of the record leaves us firmly convinced that a mistake has been made.” *Id.* (quoting *Mysliwy v. Mysliwy*, 953 N.E.2d 1072, 1076 (Ind. Ct. App. 2011), *trans. denied*).

[12] Husband first asserts that Wife failed to present sufficient evidence to support the trial court's finding that domestic or family violence has occurred. Although Husband belabors Wife's admissions that he never struck or physically harmed her, or verbally threatened to strike or physically harm her, "[d]omestic or family violence" includes "[p]lacing a family or household member in fear of physical harm." Ind. Code § 34-6-2-34.5. Wife testified in detail about multiple incidents involving Husband's outbursts of anger, and she was unequivocal that these repeated verbal and physical outbursts placed her in fear of physical harm. Although Husband's testimony downplayed the severity of his behavior, the trial court ultimately found Wife more credible, and it is not our prerogative on appeal to question that determination. Based upon the evidence presented, the trial court could reasonably conclude that Husband placed Wife in fear of physical harm, supporting its finding that Husband's actions constituted domestic or family violence.

[13] Husband next asserts that Wife failed to present sufficient evidence that he posed a present credible threat to her safety. As stated above, the respondent must post a threat to the protected person's safety at the time that person seeks relief. *S.H.*, 139 N.E.3d at 219. "In addition to focusing on the parties' present situation, the Act requires that the threat posed by the respondent be viewed objectively." *Id.* at 220. Here, Husband's actions, viewed objectively at the time Wife sought relief, provided the trial court with reasonable grounds to conclude that he posed an objective, credible threat to Wife's safety. Two of the more troubling incidents that placed Wife in fear of physical harm took place in late

2022, and the most recent altercation between Husband and Wife occurred just one day before Wife filed for a protective order and only a few months before the order was issued. Moreover, Wife testified that she fled with the Children to her parents' home for "[s]afety" reasons immediately after filing for the protective order. Tr. Vol. 2 at 50. From the evidence presented, the trial court could reasonably conclude that Husband posed an objectively credible threat to Wife's safety at the time Wife sought relief.

[14] In sum, sufficient evidence supports the trial court's findings, and we defer to its ultimate decision to grant the relief necessary to bring about a cessation of the violence or the threat of violence. There is no question that the trial court here weighed the testimony of the parties and determined, based upon the evidence, that Husband has a severe anger problem and that he has committed acts of domestic or family violence and presently represents a credible threat to Wife's safety. To be sure, the court stated that it did not "believe" Husband's denials regarding his outbursts of anger. *Id.* at 127. Moreover, the court specifically noted Husband's demeanor during his mother-in-law's testimony, stating directly to Husband, "If I could have recorded how you glared at [y]our mother-in-law when she was talking about what an anger problem you have and show it back to you, you'd think differently about whether you have an anger problem[.]" *Id.*

[15] As our supreme court very recently observed,

In close cases—such as the one before us today—when the evidence could lead a court to grant or deny a petition, we echo

Judge Altice’s observation that “the trial court is the one to make that call.” [*S.D. v. G.D.*, 195 N.E.3d 406, 411 (Ind. Ct. App. 2022)] (Altice, J., dissenting). Indeed, our trial courts are far better than appellate courts “at weighing evidence and assessing witness credibility.” *Snow v. State*, 77 N.E.3d 173, 177 (Ind. 2017). And this is particularly true in protective order cases, where our trial judges see and hear the parties interact as they relay details about intensely personal, traumatic events. Our review of this evidence on appeal is far less clear from our vantage point in the “far corner of the upper deck.” *Id.* (quoting *State v. Keck*, 4 N.E.3d 1180, 1185 (Ind. 2014)).

S.D. v. G.D., 211 N.E.3d 494, 498 (Ind. 2023). We affirm the trial court’s issuance of the protective order.

[16] Affirmed.

Riley, J., and Mathias, J., concur.