AFFIRMED; Opinion Filed November 7, 2017.

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-16-01196-CV

WANDA LEE BOWLING, Appellant
V.
LESTER JOHN DAHLHEIMER, JR. AND LESTER JOHN DAHLHEIMER, SR., Appellees

On Appeal from the 469th Judicial District Court
Collin County, Texas
Trial Court Cause No. 469-51274-2015

MEMORANDUM OPINION

Before Justices Lang, Evans, and Schenck
Opinion by Justice Evans

Wanda Lee Bowling appeals from the trial court's final divorce decree. She complains she received inadequate notice of the trial date and a hearing on her second recusal motion. She also challenges rulings on her and Lester John Dahlheimer, Jr.'s competing requests for protective orders against each other, the denial of her recusal motions, the imposition of monetary sanctions against her, certain oral rulings made by the trial court, and the appointment of a receiver to handle the maintenance and sale of certain real property. We affirm the trial court's judgment for the reasons that follow.

BACKGROUND

Bowling and Dahlheimer married in October 2004. In March 2015, Bowling filed for divorce.[1] Dahlheimer filed a counterpetition for divorce and the parties later entered into a rule 11 agreement that provided, in part, that both parties were enjoined from going near or within 500 feet of the other party, the residence awarded to the other party, or the place of employment of the other party. In October, Bowling sought a protective order against Dahlheimer asserting he violated the rule 11 agreement by showing up at her church. Dahlheimer responded and filed a counter-application for a protective order. After a hearing at which both parties testified, the trial court granted Dahlheimer a protective order and denied Bowling's request.

In November, Bowling moved to recuse Judge Piper McCraw as the trial judge and also filed a motion for continuance. The regional presiding judge assigned Judge Richard Davis to hear the recusal motion. A hearing on both motions was held on December 4. The court denied the recusal motion but granted a continuance, resetting the trial date to February 9, 2016.

The trial date was rescheduled to May 17, 2016 after the trial court granted Bowling another continuance. About two weeks before the May trial date, Bowling filed a third amended petition without leave of court joining Dahlheimer's father as a third-party defendant, alleging he and/or Dahlheimer fraudulently deprived Bowling of her separate property. On May 5, 2016, the trial court heard Bowling's fourth request for a continuance and rescheduled the trial for July 7, 2016. At a June 29, 2016 hearing, the trial court denied Bowling's fifth request for continuance as well as her motions to compel a deposition and substitute party pursuant to rule 152 of the

[1] Bowling was represented by counsel when the petition was first filed. As the matter proceeded, however, there were periods when Bowling represented herself without an attorney and other times when she had counsel.

Texas Rules of Civil Procedure.[2] The trial court also instructed the parties on the record to be ready to proceed to trial on July 7.

Two days before the July 7 trial date, however, Bowling filed a second motion to recuse Judge McCraw. Judge Davis heard and denied the recusal motion on July 7. The case was tried before Judge McCraw, sitting without a jury, immediately following the denial of Bowling's second recusal motion. Bowling did not appear for either the recusal hearing or the trial.[3] The trial court signed a final decree of divorce dissolving the marriage, dividing the marital estate, and appointing a receiver to take charge and possession of the home on Hallmark Drive in Plano. The trial court also signed a take-nothing judgment against Bowling on her third party action against Dahlheimer's father. Bowling, representing herself without an attorney, timely filed this appeal.[4]

ANALYSIS

A. Motions for Protective Order

In her first and second issues, Bowling contends the trial court erred in granting Dahlheimer a protective order against her and denying her motion for a protective order. Specifically, she asserts there was "indisputable evidence [Dahlheimer] is the violent party" and that Dahlheimer provided no evidence to support his claim that she was violent toward him or that violence against him would likely occur in the future. We review challenges to family

[2] Dahlheimer's father filed an answer on June 8, 2016 but died shortly thereafter.

[3] The record reveals Bowling was notified by telephone on July 7 that her recusal motion was being heard that day.

[4] Bowling did not file a motion for new trial or otherwise move to set aside the judgment in the trial court. Additionally, she does not specifically challenge the take-nothing judgment in the third party action.

violence protective orders for legal and factual sufficiency. *See In re E.A.K.*, No. 05-16-00724-CV, 2017 WL 2391722, at *3 (Tex. App.—Dallas June 1, 2017, no pet.) (mem. op.).[5]

With respect to Bowling's challenge to the protective order granted against her, we may sustain a legal sufficiency challenge only if: (1) the record discloses a complete absence of evidence of a vital fact; (2) the court is barred by rules of law or evidence from considering the only evidence offered to prove a vital fact; (3) the evidence offered to prove a vital fact is no more than a mere scintilla; or (4) the evidence establishes conclusively the opposite of the vital fact. *See In re F.K.M.*, No. 05-11-00276-CV 2012 WL 939271, at *3 (Tex. App.—Dallas Mar. 19, 2012, no pet.) (mem. op.).

On the other hand, to successfully challenge the legal sufficiency of the trial court's denial of her request for a protective order, Bowling must demonstrate that the evidence established as a matter of law each element necessary for a protective order. *See Garcia v. Tautenhahn*, 314 S.W.3d 541, 544 (Tex. App.—Corpus Christi 2010, no pet.). In a legal sufficiency challenge, we view the evidence in the light most favorable to the verdict crediting favorable evidence if a reasonable fact finder could and disregarding contrary evidence unless a reasonable fact finder could not. *In re F.K.M.*, 2012 WL 939271 at *3. In reviewing for legal sufficiency, we must also be mindful that the fact finder is the sole judge of the credibility of the witnesses and the weight to be given their testimony. *See City of Keller v. Wilson*, 168 S.W.3d 802, 819 (Tex. 2005). The fact finder may decide to believe one witness and disbelieve another. *Id*.

To be entitled to a protective order under the family code, a party must prove family violence has occurred and is likely to occur in the future. TEX. FAM. CODE ANN. § 85.001 (West

[5] Although Bowling asserts the trial court abused its discretion with respect to its protective order rulings, we construe her argument as a challenge to the legal and factual sufficiency of the evidence because she contends there was "indisputable evidence" to support her claim and "no evidence" to support Dahlheimer's claim.

2014). "Family violence" is defined as "an act by a member of a family . . . against another member of the family . . . intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault or sexual assault, but does not include defensive measures to protect oneself." *Id*. § 71.004(1) (West Supp. 2016).

In the protective order against Bowling, the trial court found that Bowling committed an act of family violence, violated the rule 11 agreement by disturbing the peace of Dahlheimer, that family violence was likely to occur in the future, and that the protective order was necessary and in the best interest of Dahlheimer.

There was evidence before the trial court that both parties had been physically violent to each other during the marriage. Bowling testified that the last violent event with Dahlheimer was in May 2014 while the two were arguing. She stated Dahlheimer pushed her through the garage door and her head hit the knob and she fell with her face on the ground. Dahlheimer testified that Bowling was very intoxicated during this altercation and she bit through Dahlheimer's lower lip. There was evidence the police responded to Bowling's 9-1-1 call involving this incident. The police incident report indicates Bowling stated she bit Dahlheimer's lip and there was a photograph admitted into evidence of Dahlheimer's bloody lip and chin. At the hearing, however, Bowling denied biting Dahlheimer.

Bowling also testified that she had recently been made aware that Dahlheimer had been violating the rule 11 agreement by attending her church which she claimed was within 300 feet of her residence. According to Bowling, it was after she saw Dahlheimer at the church on October 11, 2015 that she obtained an ex parte protective order against him. Bowling attempted to get Dahlheimer's attention at church, but when she could not, she took a picture of him and

left. She further testified that she had him arrested on October 18 for violating the ex parte order by attending church.

Dahlheimer testified that he and Bowling had been attending that church since May 2014 and he continued to do so after signing the rule 11 agreement. According to Dahlheimer, because there was only one service, he would always stay far away from Bowling. An email to Bowling from her pastor dated October 13, 2015 indicated that there were many Sundays when the two had sat in different areas of the church.

Dahlheimer further testified that he was afraid of Bowling and that in September 2014, Bowling purchased a dive knife that she opened in front of him and stated that if he ever "F'd" with her again she would kill him. There was also evidence that in August 2015, Bowling was arrested, but not charged for, bringing a loaded handgun into the courthouse. At the hearing she testified that she was in a hurry and was not cognizant of the fact the gun was in her purse. She also admitted that she had two other guns in her possession that belonged to Dahlheimer.

Although Bowling's testimony suggested she was an innocent victim that was currently being stalked at church by Dahlheimer, the trial court was free to disbelieve her and instead believe that Bowling had not only bit through Dahlheimer's lip, but had also threatened him with future violence. Based on our review of the evidence under the applicable standards, and giving required deference to the trial court's credibility determinations and weighing of the evidence, we conclude the evidence was legally and factually sufficient to support the trial court's protective order against Bowling and its denial of Bowling's request for a protective order against Dahlheimer.[6] We resolve Bowling's first and second issues against her.

[6] Under these issues, Bowling also complains about certain items she asserts are missing from the reporter's record. Bowling has not established these items were ever admitted into evidence. Accordingly, she has not shown any error in connection with their omission from the record.

B. Sanctions

In her third issue, Bowling challenges what she characterizes as three "sanction" awards that the trial court rendered against her. She complains about $500 in costs the trial court imposed against her in connection with Dahlheimer's motion to compel discovery. Bowling also argues the trial court abused its discretion in awarding monetary sanctions against her in connection with her second recusal motion.

Bowling first asserts the trial court abused its discretion in awarding Dahlheimer $500 pursuant to rule of civil procedure 215.1(d) because her opposition to the motion to compel discovery was substantially justified.[7] We review a trial court's award of expenses under 215.1(d) for an abuse of discretion. *Rammah v. Abdeljaber*, 235 S.W.3d 269, 273 (Tex. App.—Dallas 2007, no pet.). At the hearing, there was evidence that Bowling responded to Dahlheimer's inquiry regarding missing discovery items by stating, among other things, " . . . you don't dictate when I respond to you" and "I'll get back with you at a later date when I have time to rummage through boxes again for the old stuff and look for the 3405 bank account folders." She also indicated Dahlheimer could access certain items himself and was to blame for any items missing from "the earlier stuff." In a later email, Bowling admitted she had discovery supplements but indicated she would not provide them until certain events transpired. Moreover, Bowling concedes in her appellate brief that at the motion hearing, she produced for the court "the very same records complained about in the email" sent by Dahlheimer's attorney. Dahlheimer's attorney testified at the hearing that her hourly fee is $350 per hour and that she had incurred over $2,500 in fees trying to obtain the requested documentation. Based on the

[7] An award of expenses including attorney's fees to obtain an order compelling discovery pursuant to rule 215.1(d) is not a sanction. *See MacDonald Devin, PC v. Rice*, No. 05-14-00938-CV, 2015 WL 6468188, at *4 (Tex. App.—Dallas Oct. 27, 2015, no pet.) (mem. op.) (citing *Blake v. Dorado*, 211 S.W.3d 429, 434 (Tex. App.—El Paso 2006, no pet.)).

evidence before it, we conclude the trial court did not abuse its discretion in awarding $500 to Dahlheimer.

In reaching this conclusion, we necessarily reject Bowling's assertion that the order was defective because it did not state the basis of the sanction imposed as required by section 10.005 of the Texas Civil Practice and Remedies Code. As noted above, the $500 assessed against Bowling was for expenses associated with Dahlheimer's motion to compel discovery pursuant to rule 215.1(d) and not a sanction under chapter 10.

Bowling also challenges monetary sanctions awarded against her in connection with her second recusal motion. After the hearing, the judge denied the recusal motion and awarded monetary sanctions of $5,000 to Dahlheimer and $700 to the attorney representing the interests of Dahlheimer, Sr.'s heirs.[8] Both lawyers opposing Bowling's recusal motion presented evidence of their hourly rates and the time they spent opposing the motion. Bowling argues (1) she did not have proper notice or an opportunity to be heard before the sanctions were imposed, (2) appellees failed to prove her second recusal motion was filed in bad faith, and (3) the order does not explain the basis for the monetary sanctions imposed.

When a party fails to complain of the sanction imposed and fails to ask a trial court to reconsider its actions in imposing the sanction, the party forfeits any complaint about the trial court's actions. *See* TEX. R. APP. P. 33.1(a)(1); *Canine, Inc., v. Golla*, 380 S.W.3d 189, 194 (Tex. App.—Dallas 2012, pet. denied) (failing to preserve complaint that trial court erred by assessing monetary sanction). Our review of the record reveals Bowling never presented the complaints she now raises on appeal to the trial court. In her brief, Bowling suggests her July 7, 2017 letter requesting the recusal motion be rescheduled preserves her notice claim regarding

[8] As noted above, Bowling was aware of the hearing but did not attend, complaining that she received inadequate notice.

sanctions. We do not agree. The July 7 letter complains only about the notice Bowling received with respect to the recusal hearing and made no mention of sanctions. Because Bowling never specifically objected in the trial court to these monetary sanctions, the court below had no opportunity to correct the alleged errors when in a position to do so. We therefore conclude Bowling failed to preserve these complaints for appellate review. We resolve Bowling's third issue against her.

C. Default Judgment

In her fourth issue, Bowling seeks to set aside the trial court's judgment of divorce complaining about the "impromptu bench trial that was reset without notifying" her. Rule 245 of the Texas Rules of Civil Procedure provides in part "when a case previously has been set for trial, the Court may reset said contested case to a later date on any reasonable notice to the parties." TEX. R. CIV. P. 245. Although Bowling contends the trial was reset for July 7, 2016 without her knowledge, our review of the record reveals that appellant was first notified of the July 7 trial date at a hearing on May 5, 2016, after the trial court granted Bowling's fourth motion for continuance.

On June 29, 2016, the trial court held a hearing on several additional motions, including Bowling's motion to compel a deposition, motion for substitute third party, and her fifth motion for a continuance. The trial court denied the motion to compel and the motion for continuance and advised the parties she would rule on the remaining motions in two days. The trial judge further stated, "At some point the discovery period has to end and we are going to move forward then on July 7th. So I would like everyone to be prepared and ready to proceed at that time." There is also evidence in the record that the trial court sent the parties a memorandum by email on July 1 ruling on the outstanding motions and indicating that the case would proceed to trial on July 7th.

Bowling filed her second motion to recuse two days before the July 7th trial date reiterating arguments and grounds from her first recusal motion and making additional complaints involving the June 29th hearing and the judge's adverse rulings on her motions. There is nothing in the record to support Bowling's contention that the trial was "reset" to July 7 without notice to her or that her filing of the second recusal motion excused her from appearing for trial on July 7. The only basis for her contention appears to be a July 6 email from opposing counsel to the court attached to her brief as exhibit "A." The email requests a setting for the recusal motion and states "due to the timing of the motion, the trial date of July 7, 2016 is no longer feasible." It also inquires about other available trial dates. Bowling does not provide a citation to the record where this email can be found and it does not appear to be part of the appellate record. It is well-established that documents attached to an appellate brief which are not part of the record may not be considered by the appellate court. *See Perry v. Kroger Stores, Store No. 119*, 741 S.W.2d 533, 534 (Tex. App.—Dallas 1987, no writ) (op. on reh'g). Moreover, to the extent Bowling's complaint requires extrinsic evidence, a motion for new trial filed in the trial court is a prerequisite to complaining on appeal that a default judgment should be set aside. *See Ginn v. Forrester*, 282 S.W.3d 430, 432 (Tex. 2009). Having failed to file a motion for new trial, Bowling has forfeited any complaint about the default judgment that required such evidence. *Id.*

Bowling also complains that she had inadequate notice of the hearing on her second motion for recusal. The appellate rules require a brief to contain a clear and concise argument for the contentions made with appropriate citations to the authorities and the record. *See* TEX. R. APP. P. 38.1(i).[9] Bowling has presented no legal support or analysis to support her contention

[9] Pro se litigants are not treated differently from those litigants who are represented by a licensed attorney and must adhere to our rules of appellate procedure if they choose to represent themselves at the appellate level. *See Bolling Farmers Branch Indep. Sch. Dist.*, 315 S.W.3d 893, 895 (Tex. App.—Dallas 2010, no pet.).

that being notified that her recusal motion would be heard on the day she was already supposed to be present for trial was unreasonable, improper, or violated her due process rights. She has, therefore, failed to adequately brief this issue. *See id*. As noted above, Bowling was directed to appear for trial on July 7. She did not. According to the reporter's record of the July 7 hearing, Bowling's second motion to recuse was forwarded to the administrative judge of the first judicial region who assigned the motion to Judge Davis. When it was determined her recusal motion would be heard on July 7, immediately before the trial, the court contacted her by telephone to advise her of the hearing time. She chose not to attend and instead objected to the hearing taking place. Bowling had actual notice of the recusal hearing and has not explained how she was harmed by having the hearing immediately prior to the trial for which she failed to appear after receiving proper and repeated notice. Bowling filed her second recusal motion a few days before trial. Because her fifth continuance motion had recently been denied, Bowling should have expected the trial court to take up the recusal motion with other unheard pretrial motions at the start of trial in order to resolve all pending matters necessary to commence trial.

Bowling also identifies four additional "complaints" resulting from the trial court's default judgment but does nothing more. Because these complaints constitute bare assertions of error without any legal argument, analysis, or discussion they present nothing for us to decide. *See In re N.E.B.*, 251 S.W.3d 211, 212 (Tex. App.—Dallas 2008, no pet.). We overrule Bowling's fourth issue.

D. Oral Rulings

Under her sixth issue, Bowling complains about the denial of the following motions: (1) her motion to compel the deposition of Lee Walla; (2) her motion for a fifth continuance; and

(3) her motion to substitute party.[10] She also requests that we direct the trial court to sign written orders on these motions "so that [Bowling] has adequate remedy to address errors of the court." Bowling's brief provides no legal authority or substantive analysis to explain how the lack of written orders on these motions prevents her from challenging these rulings nor does it present any discussion regarding how the trial court's rulings on these motions probably caused rendition of an improper judgment or probably prevented her from properly presenting this appeal. *See* TEX. R. APP. P. 44.1. In fact, the sole legal authority cited to support her contentions under this issue is rule 152 of the rules of civil procedure. *See* TEX. R. CIV. P. 152 (requiring upon suggestion of death the clerk to issue a scire facias for administrator, executor or heir to appear and defend suit).[11] As noted above, bare assertions of error without authority or argument are forfeit whatever issue was attempted to be raised. *See In re N.E.B.*, 251 S.W.3d at 212. Accordingly, these complaints present nothing for our review. We resolve Bowling's sixth issue against her.

E. Recusal Motions

In her fifth issue, Bowling complains about the denials of her two motions to recuse Judge Piper McCraw. She asserts Judge McCraw should have been recused because she demonstrated a personal bias and partiality against Bowling. In her appellate brief, Bowling sets forth many of the trial court's adverse rulings as evidence of Judge McCraw's partiality including the denial of her motion for emergency relief, denial of her motions for protective orders from discovery, as well as the granting of Dahlheimer's motion to extend time to answer

[10] Bowling filed the motion to substitute party after Dahlheimer, Sr. died.

[11] We note that our review of the reporter's record reveals that before proceeding with the trial, the court confirmed that counsel originally representing Dahlheimer Sr. had the authority to act on behalf of his heirs. Counsel further stated that he had filed an answer on behalf of the heirs.

discovery and his motion for entry onto property.[12] She also asserts Judge McCraw allowed opposing counsel "to tamper" with her exhibits at a hearing, "paid no attention to hard evidence" submitted by Bowling, never sent her orders, heard motions that Dahlheimer failed to properly serve on her, improperly handled her motions, hampered her ability to respond to Dahlheimer's motions, and corroborated an alleged false assertion that opposing counsel made in a hearing about the presence of a witness in court. Finally, Bowling alleges Judge McCraw *may* have had an ex parte communication with opposing counsel based on discrepancies between the filed-stamped order for entry on property versus the unfiled one she received from opposing counsel.

We review the denial of a motion to recuse under an abuse of discretion standard. *See* TEX. R. CIV. P. 18a(j)(1)(A). Besides citing rule 18b(1)(b) of the Texas Rules of Civil Procedure and a few cases generally addressing impartiality, Bowling has provided no analysis or legal authority to support her assertion the assigned judge that heard the recusal motions abused his discretion in denying the recusal motions. Instead, Bowling devotes eight pages of her brief complaining about various adverse rulings and actions that she contends demonstrates the Judge McCraw's bias or partiality against her. Accordingly, this issue is inadequately briefed. *See* TEX. R. APP. P. 38.1(h). Nevertheless, assuming this issue was properly before us, the movant bears the burden of proving recusal is warranted and that burden is met only through a showing of bias or partiality to such an extent that the movant was deprived of a fair trial. *See In re H.M.S.*, 349 S.W.3d 250, 253 (Tex. App.—Dallas 2011, pet. denied). A trial judge's rulings alone almost never constitute a valid basis for recusal based on bias or partiality. TEX. R. CIV. P. 18a(a)(3); s*ee also Dow Chem. Co. v. Francis*, 46 S.W.3d 237, 240 (Tex. 2001) (per curiam). Rather, the remedy for unfair rulings is to assign error on the basis of the adverse rulings. *See*

[12] In addition to other rulings, Bowling asserts the complaints she raises in her first, second, third, fourth, and sixth issues all support her claim the trial judge was biased and prejudiced against her. Having previously resolved all of these complaints against Bowling, we conclude they do not support her contention.

Grider v. Boston Co., 773 S.W.2d 338, 346 (Tex. App.—Dallas 1989, writ denied), *disapproved on other grounds by Tex. Commerce Bank, N.A. v. Grizzle*, 96 S.W.3d 240, 256 n.42 (Tex. 2002). Moreover, a judge's ordinary efforts at courtroom administration, even if stern or short-tempered, are not a valid basis for recusal. *See In re H.M.S.*, 349 S.W.3d at 253. Because Bowling's recusal motions were based on nothing more than adverse rulings and ordinary courtroom administration, we conclude the assigned judge did not abuse his discretion in denying the motions to recuse Judge McCraw. *Id.*

Under this issue, Bowling also complains about the process by which the recusal motions were referred to, and heard by, Judge Davis. With respect to the first motion, the record reveals Bowling appeared for the December 4 hearing before Judge Davis and raised none of the complaints she now raises on appeal. Accordingly, they have not been preserved for appellate review. *See* TEX. R. APP. P. 33.1. We have previously addressed and rejected Bowling's due process complaints regarding her second recusal motion under her fourth issue. We resolve Bowling's fifth issue against her.

F. Order Appointing Successor Receiver

In her seventh issue, Bowling challenges the trial court's March 2, 2017 order appointing a successor receiver for the property at Hallmark Drive in Plano, Texas. Bowling generally asserts: (1) the trial court erred in appointing a successor receiver; (2) she should have been allowed to prove the home was her separate property at the March 1 hearing; and (3) the trial court exceeded the scope of our appellate order by authorizing the receiver to dispose of the property.[13] We conclude all of these arguments are without merit.

[13] Bowling also presented these arguments to this Court in her March 23, 2017 "Emergency motion to vacate order and consider transfer venue." We denied the motion by order dated March 29, 2017.

The family code provides the trial court with broad discretion to appoint a receiver for the preservation and protection of the parties' property toward its goal of dividing the community estate in a just and right manner and its order will not be disturbed absent an abuse of discretion. *See Norem v. Norem*, 105 S.W.3d 213, 216 (Tex. App.—Dallas 2003, no pet.). In the final divorce decree, the trial court granted Dahlheimer's motion to appoint a receiver to take charge and possession of the real and personal property located on Hallmark Drive. Among other things, the receiver was authorized to enter into a real estate brokerage agreement and a contract for sale of the property.[14] However, the court-appointed receiver resigned in December 2016, during the pendency of this appeal. On February 10, 2017, we granted Dahlheimer's motion for temporary relief to the extent that we ordered the trial court to conduct a hearing and make written findings as to whether a new receiver should be appointed. We also instructed that upon finding a new receiver was needed, the trial court should appoint one and specify the receiver's duties.

The trial court held the hearing, made the requested findings, and signed an order appointing a successor receiver. The order authorized the new receiver to enter into a real estate brokerage agreement and a contract for sale of the property.

Among other findings, the trial court found: (1) the home sustained water damage to the floors and hail damage to the roof during Bowling's exclusive possession; (2) insurance checks had not been disbursed for repairs that had been performed because the parties could not agree; (3) certain repairs were not completed and placed the property in danger of material injury; and (4) the home is currently vacant. The court further found that after the receiver resigned, the pool declined to a state of uncleanliness and disrepair and Bowling had received at least one

[14] The divorce decree awarded one-half of the net proceeds of the sale to Bowling and one-half of the net sale proceeds to Dahlheimer.

disconnection notice from the electric service provider. The court found all of these conditions placed the property in danger of damage or material injury.

Bowling does not challenge any of these findings. Instead, her arguments are largely premised on her contention that the home was her separate property and the order improperly ordered the sale of the home. As noted above, however, ownership of the property was not an issue to be determined at the March 1 hearing and the scope of the receiver's duties were not expanded from the final divorce decree appointing the former receiver.[15] Because the trial court's unchallenged findings support its appointment of a successor receiver, we conclude the trial court did not abuse its discretion and we resolve Bowling's seventh issue against her.

CONCLUSION

We conclude Bowling has failed to establish any reversible error with respect to the seven issues she raises regarding the trial court's judgment. We therefore affirm the trial court's final decree of divorce.

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/David W. Evans/
DAVID EVANS
JUSTICE

[15] In a paragraph under her fourth issue, Bowling also challenges the appointment of a receiver in the final divorce decree. Having never objected in the trial court to the appointment of the receiver in the divorce decree, however, she has not preserved this complaint for appeal. *See* TEX. R. APP. P. 33.1. She cannot now challenge the scope of the duties granted to the successor receiver when they mirror those authorized in the final decree.

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

WANDA LEE BOWLING, Appellant

No. 05-16-01196-CV V.

LESTER JOHN DAHLHEIMER, JR. AND LESTER JOHN DAHLHEIMER, SR., Appellees

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Opinion delivered by Justice Evans, Justices Lang and Schenk participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

It is **ORDERED** that appellees Lester John Dahlheimer, Jr. and Lester John Dahlheimer, Sr. recover their costs of this appeal from appellant Wanda Lee Bowling.

Judgment entered this 7th day of November, 2017.