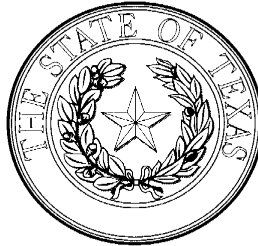
Opinion issued August 23, 2022



In The

Court of Appeals

For The

First District of Texas

NO. 01-21-00633-CV

MONTRIEL VINZANT, Appellant

V.

MATTHIAS HELDUSER, Appellee

On Appeal from the 280th District Court
Harris County, Texas
Trial Court Case No. 2021-51028

MEMORANDUM OPINION

Appellant, Montriel Vinzant, challenges the trial court's issuance of a final protective order prohibiting him from, among other things, committing family violence against, communicating with, threatening, and going within 500 feet of appellee, Matthias Helduser. In four issues, Vinzant contends that the evidence is

legally and factually insufficient to support the trial court's issuance of the final protective order.

We affirm.

Background

On August 17, 2021, Helduser filed an application for a protective order against Vinzant, alleging that he was the "[o]wner of [the] property leased by [Vinzant]." According to Helduser, Vinzant had "engaged in conduct that constitute[d] family violence" in that he committed acts that he intended "to result in physical harm, bodily injury, [or] assault" or that were "threats that reasonably placed [Helduser] in fear of imminent physical harm, bodily injury, [or] assault." And Vinzant's "conduct was reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass [Helduser]." Thus, Helduser requested the issuance of a protective order to prohibit Vinzant from:

- "committing family violence as described in [Texas Family Code] section 71.004";[1]
- "doing any act that is intended to result in physical harm, bodily injury, [or] assault . . . against [Helduser]";
- "doing any act that is a threat that reasonably places [Helduser] in fear of imminent physical harm, bodily injury, [or] assault";
- "communicating directly with [Helduser] in a threatening or harassing manner";

---

[1] *See* TEX. FAM. CODE ANN. § 71.004.

- "communicating a threat through any person to [Helduser]";

- "communicating in any manner with [Helduser] except through [Vinzant's] attorney or a person appointed by the [c]ourt";

- "engaging in conduct directed specifically toward [Helduser], including following [Helduser], that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass [Helduser]";

- "going to or near, or within 200 yards of, any location where [Helduser] is known by [Vinzant] to be and from remaining within 200 yards after [Vinzant] becomes aware of [Helduser's] presence";

- "going to or near the residences or places of employment or business of [Helduser]";

- "possessing a firearm or ammunition unless [Vinzant] is a peace officer, . . . actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision";[2] and

- "interfering with [Helduser's] use of [his property]," "including but not limited to disconnecting utilities or telephone service or causing such services to be disconnected."

Helduser also asked the trial court to suspend Vinzant's license to carry a firearm. And he asserted that the protective order he sought was "in the best interest of the family, household, or member of the family or household." Helduser requested that the trial court assess his reasonable attorney's fees and costs against Vinzant.

---

[2] *See* TEX. PENAL CODE ANN. § 1.07(36) (defining "[p]eace officer" (internal quotations omitted)).

In his affidavit attached to the application for a protective order, Helduser stated that Vinzant, Helduser's tenant, had "brandished a firearm" at him and accused Helduser of "having a weapon of [his] own." Vinzant had approached Helduser "in a very threatening and aggressive manner." Vinzant was upset that Helduser had asked him to "vacate [Helduser's] property due to [his] constant harassment" and the "volatile nature of [Vinzant's] temperament." At the time, Helduser felt afraid because Vinzant held a firearm in his hand. According to Helduser, he had been having "multiple issues" with Vinzant for a few months before he filed the application for a protective order and he did "not feel safe" in his property with Vinzant there. And although Vinzant had moved out of the property, Helduser was still afraid for his safety because he was worried that Vinzant would return.

At the hearing on his application for a protective order, Helduser testified that sometime before June 10, 2021, Vinzant rented a room from Helduser in Helduser's house. Before Vinzant moved into Helduser's house, he and Helduser had known each other for about three or four years. During that time, they had become "good friends." In fact, when Helduser bought his house, he was concerned about carrying a large check for the down payment. He knew that Vinzant had a firearm, so he asked Vinzant to carry his firearm and accompany Helduser as "kind of armed security" when he brought the check to the closing.

After Vinzant moved into Helduser's house, "several issues" arose between Helduser and Vinzant that had led Helduser to "try[] to avoid" going to his house because he felt like he was under "arrest in [his] own home." For example, while Helduser worked from home, Vinzant "would stay on the staircase watching [Helduser] work" or he would "sit down" near Helduser and make telephone calls or "randomly yell[]." And "[t]here were moments when [Helduser] was communicating" with Vinzant when Helduser "would step away from conversations" with Vinzant "and [Vinzant] would run after [Helduser] and yell at [him]." Those prior incidents did not involve any "threat of physical violence."

However, on the night of June 10, 2021, Helduser went out to dinner with his friend, Jessica Newman. After dinner, Newman "didn't want to drive back to Katy[, Texas] where she [lived]," so she went with Helduser to stay overnight at his house. When they arrived, at about 1:30 a.m., Helduser "set[] [Newman] up on the living room couch" and then went upstairs to his bedroom to get a blanket and a cellular telephone charger for Newman. When he left his bedroom to go back downstairs, he saw Vinzant "standing on the other end of the hallway" and holding a firearm. Vinzant walked toward Helduser and began "yelling at [him]" and demanding to know why Helduser was "holding a knife." But Helduser was not holding a knife.

Helduser "felt scared," so he "went downstairs." Then, "about 20 seconds later," Vinzant followed Helduser. When Vinzant got downstairs, "he noticed that

[Newman] was present." On seeing Newman, Vinzant exclaimed, "[O]h no, you brought a witness." Vinzant then told Newman "that he was scared because he believed [that Helduser] had a knife." In response, Helduser showed Vinzant his empty hands and pulled his pockets inside out to demonstrate to Vinzant that he was "not carrying or holding a knife."

Helduser and Newman decided that they would leave Helduser's house and go to Newman's home because they did not "feel comfortable" with the idea of staying at Helduser's house while Vinzant was there. Helduser asked Newman to go upstairs with him so that he could "pack a few things." Newman accompanied Helduser to his bedroom. When Vinzant saw Newman go into Helduser's bedroom, he "yell[ed] at [Newman]," asking her "why she was going into [Helduser's] [bed]room." Newman waited in the bedroom with Helduser while he packed a bag. When Helduser finished packing the bag, he and Newman walked out of the bedroom and tried to leave, but Vinzant "blocked the hallway and said [that they] couldn't leave." Vinzant told Helduser and Newman that "he wanted to make a [tele]phone call and wanted somebody else to show up," but "until then, [Helduser and Newman] weren't allowed to leave." Vinzant then appeared to use his cellular telephone.

Helduser did not try to ask Vinzant to let them leave because he was "scared and . . . wanted to escape the situation as fast as possible." Vinzant's "erratic yelling

and behavior" made the situation feel "very unpredictable." Eventually, Newman was able to convince Vinzant to let her and Helduser leave the house. After they left, they went to a "police station," where Helduser filed an incident report.

Sometime in the following weeks, Helduser had a notice of eviction posted for Vinzant. Helduser did not return to his house until about four weeks later, after Vinzant had moved out.

Since Vinzant had moved out of Helduser's house, Vinzant had not communicated directly with Helduser. But Vinzant had sent text messages to Helduser's former girlfriend stating that Helduser had "cheated on her." And Helduser learned that Vinzant had told some of their common acquaintances that Helduser had "extorted sexual favors from [Vinzant]." The instances of Vinzant talking to other people "behind [Helduser's] back" in "untrue and negative ways" made Helduser believe there were "things" still "going on." Helduser wanted a protective order issued against Vinzant because he "still fear[ed] for [his] safety."

Vinzant testified that, at the time of trial, he lived about fifteen to twenty miles away from Helduser's house. Before June 10, 2021, Vinzant and Helduser had been friends, and Vinzant had become Helduser's "tenant" and "roommate[]." As roommates, they had arguments because Helduser "was a little picky about a few things, like crumbs on the stove" and "vacuuming." But "outside of that," they did "not really" have "any issues."

On June 10, 2021, at about 2:00 a.m., Vinzant "was woken up." Helduser had not been at the house for "two or three weeks," and there had been "a series of break-ins around the area." Vinzant thought "okay, somebody's in the house" and that maybe it was Helduser, but he "wasn't sure." Vinzant noted that sometime in May 2021, Helduser had given Vinzant notice to vacate the house by June 3rd or 4th, and he had told Vinzant "that he wasn't going to come back until [Vinzant] left the house." So Vinzant thought that whoever had entered the house that night might "be burglars."

Vinzant opened his bedroom door and turned on the hall light. And as he began to walk "very slowly" to the hall, he "grab[bed] . . . a striking cane," which Vinzant explained was "a long thin black cane . . . used for martial arts" and "self-defense."

Vinzant stated that he heard noises, specifically, "some clattering" coming from Helduser's bedroom and "some sort of dishes or some sort of movement around downstairs." The noises he heard coming from downstairs made Vinzant think that whoever had entered the house might not be Helduser, which "gave [him] a moment of pause."

Vinzant approached Helduser's bedroom and "opened the door." According to Vinzant, he saw Helduser holding a "small" kitchen or "steak knife" and "dancing around goo-goo." Vinzant thought that Helduser was intoxicated. He told Helduser

to “put the knife down.” Helduser responded that he did not “have a knife.” Vinzant did not close the door to Helduser’s bedroom, return to his own bedroom, and lock the door “[b]ecause [he] didn’t know what [Helduser] was going to do.” Vinzant “was just very fearful that [Helduser] was gonna do something more with the knife.”

Vinzant stated that, at the time, he “only had on boxers,” so he “went back” to his bedroom “to get dressed.” After he was dressed, he went downstairs and saw Helduser “there with [a] friend,” Newman. Vinzant said that he was going to call law enforcement because Helduser had a knife. Newman then asked Helduser to “empty his pockets to prove that he . . . no longer had the knife on him.”

Vinzant did not call law enforcement that night. Helduser “laid a pallet out for [Newman] on the couch and then [Vinzant] went back upstairs.” Helduser “left the house about an hour later,” after doing “some work” in the study. Vinzant believed that Newman “stayed the night,” but he did not know what time she left. By the time Vinzant “woke up” around 9:00 a.m. and went downstairs, no one was there and the blanket that Newman had used “was folded up and placed on the couch.” Vinzant acknowledged that his assumption that Newman had stayed the night may have been incorrect.

Vinzant also testified that he did not drink any alcoholic beverages on the night of June 10, 2021 and he did not carry a firearm. He denied owning a firearm

or having a license to carry a firearm. And he denied having ever physically assaulted Helduser or "imped[ed] anyone from leaving" the house.

At the close of the hearing, the trial court made the following findings:

- Helduser and Vinzant "were members of the same family or household" and "share[d] a household together";
- "[F]amily violence ha[d] occurred, it [was] likely to occur in the future" and Vinzant "ha[d] committed such family violence";
- A "protective order [was] necessary for the safety and welfare of the [Helduser]";
- The protective order was "in [Helduser's] best interest and for the prevention of further family violence";
- Vinzant's conduct "could [have] be[en] a felony [offense], if charged, in that [he] had a weapon and had brandished that weapon toward [Helduser]"; and
- There was "good cause" to make the protective order "a no contact protective order because there was no reason for [Helduser and Vinzant] to have any further contact with one another."[3]

Following the hearing, the trial court signed a final protective order. In the order, the trial court found "that family violence was committed by [Vinzant] in th[e] matter" and Vinzant had "committed an act constituting a felony offense involving family violence against [Helduser], regardless of whether [he] ha[d] been charged with or convicted of the offense." The order granted Helduser the relief that he had

[3] *See* TEX. FAM. CODE ANN. § 85.001 ("Required Findings and Orders").

requested in his application for a protective order, including awarding Helduser §3,985.50 in attorney's fees. And the order required Vinzant to complete "a battering intervention and prevention program." Based on its findings, the trial court made its protective order effective until October 4, 2031.[4]

Vinzant filed a motion to set aside the final protective order and for a new trial, asserting that Helduser did not establish the statutory "grounds to qualify for a protective order" and the evidence was legally and factually insufficient to support the trial court's final protective order or the final protective order's ten-year duration. The trial court denied Vinzant's motion.

Sufficiency of Pleadings

In his first issue, Vinzant argues that the trial court erred issuing the final protective order "beyond the statutory two[-]year duration proscribed in" Texas Family Code section 85.025 because Helduser's application for a protective order did not specifically allege that Vinzant had engaged in acts constituting a felony offense, and thus, Vinzant did not have notice that Helduser was requesting a protective order of more than two years' duration.

To preserve a complaint for appellate review, Texas Rule of Appellate Procedure 33.1 requires a party to first make a complaint to the trial court by "a timely request, objection, or motion." TEX. R. APP. P. 33.1(a)(1); *see also Valdez v.*

---

[4] *See id.* §§ 85.001(d), 85.025(a), (a-1).

Valdez, 930 S.W.2d 725, 728 (Tex. App.—Houston [1st Dist.] 1996, no writ) (because party never complained to the trial court, he never gave trial court opportunity to correct alleged error). If a party fails to do this, error is not preserved, and the complaint is waived. *Bushell v. Dean*, 803 S.W.2d 711, 712 (Tex. 1991); *see also Humble Surgical Hosp., LLC v. Davis*, 542 S.W.3d 12, 21 (Tex. App.—Houston [14th Dist.] 2017, pet. denied) ("Rule 33.1 requires the appealing party to adequately raise issues before the trial court to give the trial court notice of [the party's] complaint."). Here, Vinzant did not complain in the trial court that its findings did not conform with the pleadings, and he did not ask the trial court to modify its final protective order on the ground that the trial court's findings did not conform with the pleadings or that the relief granted in the protective order had not been pled. *Cf. Sharp v. Jimmerson*, No. 01-20-00360-CV, 2021 WL 3624712, at *3 (Tex. App.—Houston [1st Dist.] Aug. 17, 2021, no pet.) (mem. op.). A party may not raise a lack-of-pleading issue for the first time on appeal. *See id.*; *In re C.Z.P.*, No. 14-17-00565-CV, 2019 WL 386048, at *7 (Tex. App.—Houston [14th Dist.] Jan. 31, 2019, no pet.) (mem. op.); *see also* TEX. R. APP. P. 33.1(a)(1). We hold that Vinzant failed to preserve his first issue for appellate review.

Sufficiency of Evidence

In his second issue, Vinzant argues that the trial court erred in issuing the final protective order because Helduser failed to establish that he and Vinzant were

members of the same household as required by Texas Family Code section 71.005. *See* TEX. FAM. CODE ANN. § 71.005. In his third and fourth issues, Vinzant argues that the trial court erred in issuing the final protective order "beyond the two[-]year statutory period . . . proscribed by Texas Family Code section 85.025" because the evidence is legally and factually insufficient to support a finding that Vinzant committed any felony offense or a finding that he was likely to commit family violence in the future. *See id.* §§ 85.001(d), 85.025(a), (a-1).

We review the sufficiency of a trial court's findings supporting a protective order under the same standards we use in evaluating the sufficiency of evidence following a jury verdict. *See Lei Yang v. Yuzhuo Cao*, 629 S.W.3d 666, 670 (Tex. App.—Houston [1st Dist.] 2021, no pet.); *Johnson v. Garcia*, No. 14-18-00397-CV, 2019 WL 4021886, at *3 (Tex. App.—Houston [14th Dist.] Aug. 27, 2019, no pet.) (mem. op.). When, as here, an appellant attacks the legal sufficiency of an adverse finding on an issue on which he did not have the burden of proof, he must demonstrate that no evidence supports the finding. *See Exxon Corp. v. Emerald Oil & Gas Co.*, 348 S.W.3d 194, 215 (Tex. 2011). We will sustain a legal-sufficiency or "no-evidence" challenge if the record shows one of the following: (1) a complete absence of evidence of a vital fact; (2) rules of law or evidence bar the court from giving weight to the only evidence offered to prove a vital fact; (3) the evidence offered to prove a vital fact is no more than a scintilla; or (4) the evidence establishes

conclusively the opposite of the vital fact. *City of Keller v. Wilson*, 168 S.W.3d 802, 810 (Tex. 2005). We consider the evidence in the light most favorable to the finding and indulge every reasonable inference that would support it. *Id.* at 822.

When a party attacks the factual sufficiency of an adverse finding on an issue on which he did not have the burden of proof, he must demonstrate that the adverse finding is so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. *See Cain v. Bain*, 709 S.W.2d 175, 176 (Tex. 1986); *Estrada v. Cheshire*, 470 S.W.3d 109, 120 (Tex. App.—Houston [1st Dist.] 2015, pet. denied). In conducting a factual-sufficiency review, we examine, consider, and weigh all evidence that supports or contradicts the fact finder's determination. *See Dow Chem. Co. v. Francis*, 46 S.W.3d 237, 242 (Tex. 2001); *Plas-Tex, Inc. v. U.S. Steel Corp.*, 772 S.W.2d 442, 445 (Tex. 1989).

We are mindful that the trial court, as the fact finder in a bench trial, is the sole judge of the credibility of the witnesses and the weight to be given their testimony. *See City of Keller*, 168 S.W.3d at 819; *McKeehan v. Wilmington Sav. Fund Soc'y, FSB*, 554 S.W.3d 692, 698 (Tex. App.—Houston [1st Dist.] 2018, no pet.). Thus, the trial court may choose to believe one witness and disbelieve another. *McKeehan*, 554 S.W.3d at 698; *see also City of Keller*, 168 S.W.3d at 819. It is the

fact finder's role to resolve conflicts in the evidence, and we may not substitute our judgment for that of the fact finder.[5] *See McKeehan*, 554 S.W.3d at 698.

Vinzant argues that the evidence is legally and factually insufficient to support the trial court's finding that he and Helduser were members of the same household as required under Texas Family Code section 82.002 because the evidence showed only that Helduser and Vinzant "were in a landlord[-]tenant relationship." And although they had been roommates before June 10, 2021, they were not roommates on June 10, 2021 when the incident took place.

Texas Family Code section 82.002 allows a person to file an application for a protective order to protect against family violence. *See* TEX. FAM. CODE ANN.

---

[5] Vinzant invites us to apply an abuse-of-discretion standard to review the trial court's final protective order. Texas's intermediate courts of appeals have different opinions on whether to review the findings supporting a protective order under an evidentiary-sufficiency standard or an abuse-of-discretion standard. *Compare Gabel v. Gabel-Koehne*, No. 01-20-00261-CV, 2022 WL 904629, at *7 (Tex. App.—Houston [1st Dist.] Mar. 29, 2022, no pet.) (mem. op.) (applying legal- and factual-sufficiency standards to review findings supporting protective order), *with In re Epperson*, 213 S.W.3d 541, 542–43 (Tex. App.—Texarkana 2007, no pet.) (reasoning abuse-of-discretion standard applies to review protective orders because it applies to review other forms of injunctive relief); *see also Cox v. Walden*, No. 13-20-00283-CV, 2022 WL 120014, at *5 (Tex. App.—Corpus Christi–Edinburg Jan. 13, 2022, no pet.) (mem. op.) (stating appellate court reviews provisions included in protective order under Texas Family Code sections 85.021 and 85.022 for abuse of discretion). Our own precedent dictates that we apply the legal- and factual-sufficiency standards of review. *See, e.g.*, *Gabel*, 2022 WL 904629, at *7; *Lei Yang v. Yuzhuo Cao*, 629 S.W.3d 666, 670 (Tex. App.—Houston [1st Dist.] 2021, no pet.). Because Vinzant does not assert that the application of an abuse-of-discretion standard would probably result in a different outcome, we need not consider his invitation. *See* TEX. R. APP. P. 44.1.

§ 82.002; *see also Sharp*, 2021 WL 3624712, at *3. The Texas Family Code defines "[f]amily violence" as:

> an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, [or] assault or . . . that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, [or] assault, . . . but does not include defensive measures to protect oneself.

TEX. FAM. CODE ANN. § 71.004(1) (internal quotations omitted). "Household" means "a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other." *Id.* § 71.005 (internal quotations omitted). And a "[m]ember of a household" includes "a person who previously lived in a household." *Id.* § 71.006 (internal quotations omitted).

At the hearing, Vinzant testified that he was Helduser's tenant and roommate. And the evidence shows that on the night of June 10, 2021, Helduser entered his house without notifying Vinzant that he would do so, and he retrieved a blanket and a charging cord from his bedroom for his friend, Newman. According to Vinzant, Helduser actually did "some work" in the study before leaving the house that night. Thus, there was some evidence presented at the hearing that Helduser still lived in the household. But even if he did not, he would still be able to apply for a protective order as a former member of the household. *See id.* § 82.002 (adult member of household may file application for protective order); *see also id.* § 71.006 ("Member

of a household includes a person who previously lived in a household." (internal quotations omitted)).

Vinzant also argues that the evidence is legally and factually insufficient to support the trial court's issuance of the final protective order effective for more than two years because "the record fails to establish any felony offense committed by Vinzant" and that Vinzant "was likely to commit family violence in the future."

A trial court may issue a protective order for a period of more than two years if it finds that the person who is the subject of the protective order "committed an act constituting a felony offense involving family violence against the applicant or a member of the applicant's family or household, regardless of whether the person has been charged with or convicted of the offense." *Id.* § 85.025(a-1)(1). "If the court renders a protective order for a period of more than two years, the court must include in the order a finding described by [Texas Family Code] [s]ection 85.025(a-1)." *Id.* § 85.001(d).

At the close of the hearing on Helduser's application for a protective order, the trial court found that Vinzant's conduct "could [have] be[en] a felony [offense], if charged, in that [he] had a weapon and had brandished that weapon toward [Helduser]." A person commits the felony offense of aggravated assault if the person "intentionally or knowingly threatens another with imminent bodily injury" while using or exhibiting a deadly weapon. *See* TEX. PENAL CODE ANN. §§ 22.01(a)(2),

22.02(a)(2). A firearm constitutes a deadly weapon per se. *See id.* § 1.07(a)(17)(A); *see also Braughton v. State*, 522 S.W.3d 714, 728 (Tex. App.—Houston [1st Dist.] 2017), *aff'd*, 569 S.W.3d 592 (Tex. Crim. App. 2018). According to Helduser's testimony, on the night of June 10, 2021, Vinzant, while holding a firearm, approached Helduser in the hall, yelling at Helduser and falsely accusing Helduser of holding a knife. And Vinzant admitted that he picked up a "striking cane," which was used for "martial arts" and "self-defense," and carried it with him into the hall toward Helduser. *See* TEX. PENAL CODE ANN. § 1.07(a)(17)(B) ("[d]eadly weapon" means "anything that in the manner of its use or intended use is capable of causing death or serious bodily injury" (internal quotations omitted)); *see also Jones v. State*, 241 S.W.3d 666, 671 (Tex. App.—Texarkana 2007, no pet.) (cane constituted deadly weapon when used in certain manner by defendant). The evidence presented at the hearing supports the trial court's finding that Vinzant's actions against Helduser constituted a felony offense.

We note that Vinzant argues that he did not commit the felony offense of aggravated assault because, although he was holding a "striking cane" during the incident, he did not verbally threaten Helduser. But a threat can be verbal or nonverbal. *See Smith v. State*, 286 S.W.3d 333, 343 (Tex. Crim. App. 2009); *Linares-Lainez v. State*, No. 01-17-00232-CR, 2018 WL 1161553, at *4 (Tex. App.—Houston [1st Dist.] Mar. 6, 2018, no pet.) (mem. op., not designated for

publication); *Burt v. Francis*, 528 S.W.3d 549, 553–54 (Tex. App.—Eastland 2016, no pet.) ("Even in circumstances where no express threats are conveyed, the factfinder may nonetheless conclude that an individual was reasonably placed in fear."); *Gillette v. State*, 444 S.W.3d 713, 723 (Tex. App.—Corpus Christi–Edinburg 2014, no pet.) ("Nothing in the statute or in Black's [Law Dictionary's] definition of 'threat' limits a threat to verbal communication."); *see also* TEX. R. EVID. 801(a) (statement includes nonverbal conduct if conduct is intended as substitute for verbal expression). Here, Vinzant was holding a firearm while accusing Helduser of having a knife, and he followed Helduser when Helduser tried to retreat downstairs. This evidence, viewed in the light most favorable to the trial court's finding, is sufficient to support the trial court's finding that Vinzant "committed an act constituting a felony offense involving family violence against [Helduser]," in that Vinzant intentionally or knowingly threatened Helduser with imminent bodily injury while using or exhibiting a deadly weapon. *See* TEX. PENAL CODE ANN. §§ 22.01(a)(2), 22.02(a)(2); *City of Keller*, 168 S.W.3d at 822. And, viewing the evidence in a neutral light, such a finding is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. *See Cain*, 709 S.W.2d at 176; *Estrada*, 470 S.W.3d at 120.

Vinzant also asserts that the evidence does not support the trial court's finding that he was likely to commit family violence in the future. *See* TEX. FAM. CODE ANN. § 85.001(a) (to enter protective order, trial court must find that "family violence has occurred" and is "likely to occur in the future").

Vinzant acknowledges that a single act of family violence supports a finding that the person who is the subject of the protective order is likely to engage in future family violence. The applicable statutes do not require more. *See* TEX. FAM. CODE ANN. §§ 81.001, 85.001(a), (b); *Boyd v. Palmore*, 425 S.W.3d 425, 432 (Tex. App.—Houston [1st Dist.] 2011, no pet.); *Maples v. Maples*, 601 S.W.3d 23, 28–29 (Tex. App.—Tyler 2020, no pet.). Here, we have already found that the evidence is legally and factually sufficient to support the trial court's finding that Vinzant committed an act constituting a felony offense involving family violence against Helduser. Vinzant's commission of a felony offense involving family violence on June 10, 2021 permits a finding that he is likely to engage in future family violence. *See Maples*, 601 S.W.3d at 28–29; *Martin v. Martin*, 545 S.W.3d 162, 168 (Tex. App.—El Paso 2017, no pet.). Thus, there is more than a scintilla of evidence supporting the trial court's finding that Vinzant was likely to engage in family violence in the future, and the evidence is legally sufficient to support the trial court's finding. *See City of Keller*, 168 S.W.3d at 810.

Vinzant points out that he and Helduser have had no contact since the June 10, 2021 incident, except for one occasion in which Helduser saw Vinzant at a bar. But, at the hearing, Helduser testified that after Vinzant moved out of Helduser's house, Vinzant sent text messages to Helduser's former girlfriend, stating that Helduser had "cheated on her." And Vinzant told some of their common acquaintances that Helduser had "extorted sexual favors from [Vinzant]." Those false accusations led Helduser to believe that Vinzant was continuing to act against Helduser in negative and harassing ways. Viewing all the evidence in a neutral light, the trial court's finding that family violence was likely to occur in the future is not so contrary to the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. *See, e.g.*, *Boyd*, 425 S.W.3d at 433 (evidence supporting finding future family violence was likely was factually sufficient where it showed appellant continued to send harassing text messages in months following incident of family violence).

Because legally and factually sufficient evidence supports the trial court's findings challenged by Helduser, we hold that the trial court did not err in issuing the final protective order.

We overrule Vinzant's second, third, and fourth issues.

Conclusion

We affirm the trial court court's final protective order.

Julie Countiss
Justice

Panel consists of Justices Kelly, Countiss, and Rivas-Molloy.