

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-11-00275-CV

ANA MARGARET PIN, Appellant

V.

LOURDES C. MICHEL, Appellee

**On Appeal from the 418th District Court
Montgomery County, Texas
Trial Cause No. 11-04-03697-CV**

MEMORANDUM OPINION

Ana Margaret Pin challenges the trial court's order granting the application for a family violence protective order filed by Pin's sister, Lourdes C. Michel. *See* Tex. Fam. Code Ann. §§ 82.009, 85.001 (West 2008). We affirm the trial court's protective order.

A family member is entitled to a protective order if the trial court finds that family violence has occurred and is likely to occur in the future. *See* Tex. Fam. Code Ann. § 81.001 (West 2008). Michel filed an application for a protective order on April 4, 2011. Michel alleged that she and Pin are members of the same family. Michel sought

protection for herself, her children, and her husband. Michel alleged that Pin had committed family violence and is likely to commit family violence in the future. The application was supported by an affidavit. Pin was served with an ex parte temporary restraining order and notice of the application for a protective order on April 13, 2011. *See* Tex. Fam. Code Ann. § 82.043 (West 2008).

A hearing on the application for protective order was conducted on April 19, 2011. *See generally* Tex. Fam. Code Ann. § 84.001 (West 2008). Michel appeared at the hearing and testified that Pin has a long history of mental illness and that Pin has a history of noncompliance with her medications. Michel testified that in February 2011 Pin tried to break down the glass door at their parents' home. At that time, Pin had a knife in her pocket and another knife in her purse. According to Michel, on April 2, 2011, Pin forced entry into their parents' home, struck their father in the groin three times, and shoved their mother's face onto a tile floor. Then Pin drove to Michel's house and confronted Michel and her husband on their front lawn.

The trial court asked Michel whether Pin had ever placed her in fear of imminent harm. Michel replied that Pin had told her that if Michel were to "ever call the cops on her she's going to turn them into ground beef."

Pin did not appear at the hearing. On appeal, Pin explains that she did not appear at the hearing because she does not "want to be placed in any opposing stance against [her] sister." "A court may render a protective order that is binding on a respondent who

does not attend a hearing if the respondent received service of the application and notice of the hearing.” Tex. Fam. Code Ann. § 85.006(a) (West 2008).

On appeal, Pin challenges the truth and accuracy of both Michel’s supporting affidavit for the application for a protective order and Michel’s testimony at the hearing. As the trier of fact, the trial court is the sole judge of the credibility of the witnesses. *See Wilkerson v. Wilkerson*, 321 S.W.3d 110, 116 (Tex. App.—Houston [1st Dist.] 2010, pet. dism’d).

Pin argues that entry of a protective order is inappropriate here because she has never harmed Michel or her family. “‘Family violence’” includes “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[.]” Tex. Fam. Code Ann. § 71.004(1) (West 2008). Michel’s description of the April 2 altercation between Pin and her parents meets the definition of family violence. *Id.* The trial court could reasonably have chosen to believe Michel’s uncontroverted testimony about the events that transpired on April 2. *Wilkerson*, 321 S.W.3d at 116. We hold the trial court did not abuse its discretion in rendering a protective order in this case.

Pin also asks this Court to expunge records of a November 2010 arrest for evading arrest, simple assault, and failure to identify. No expunction petition was before the trial court. Accordingly, we lack appellate jurisdiction over the matter. *See Erback v.*

Donald, 170 S.W.2d 289, 294 (Tex. Civ. App.—Fort Worth 1943, writ ref'd w.o.m.) (“Our authority is only to review what was done in the trial court.”); *see generally* Tex. Gov’t Code Ann. § 22.220 (West Supp. 2010).

We overrule the issues raised in the appellant’s brief and affirm the protective order.

AFFIRMED.

CHARLES KREGER
Justice

Submitted on August 18, 2011
Opinion Delivered August 25, 2011

Before McKeithen, C.J., Gaultney and Kreger, JJ.