

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-16-00175-CV

THOMAS LESLIE MACE, Appellant

V.

JILL BOWEN, Appellee

On Appeal from the County Court at Law
Polk County, Texas
Trial Cause No. CIV29227

MEMORANDUM OPINION

Thomas Leslie Mace appeals the modification of a protective order. On May 11, 2015, the trial court found that Mace and Jill Bowen had a dating relationship and that family violence had occurred and was likely to occur in the future. The trial court signed a protective order to remain in effect until May 11, 2017, prohibiting Mace from communicating with Bowen in a threatening or harassing manner and excluding Mace from Bowen's residence. Bowen filed a motion to modify the

protective order to include Bowen's child, A.M.B.¹ A hearing was scheduled for May 18, 2016, and Mace appeared at the hearing.

Bowen testified that after the protective order originally issued, Mace assaulted her while she was pregnant. The child was an infant when the trial court heard the motion to modify the protective order. According to Bowen, Mace was warned that he was not allowed to write to her because of the protective order. Mace then started writing letters to her under another inmate's name. The officer assigned to Bowen's case visited Mace in jail and warned him to stop writing to Bowen. At that point, Mace started writing letters to the child. The letters discussed the events that transpired between Mace and Bowen, and Bowen stated they were actually meant for her and not for an infant too young to read. Additionally, Mace sent Bowen threatening text messages after the protective order issued. In one exchange of text messages between Mace and Bowen, Bowen suggested that she would have a friend come over to protect her and the baby, and Mace replied, "And he won't help." The trial court modified the protective order to prohibit Mace from harassing or physically threatening the child or going within 200 yards of the child or his childcare facility. Mace filed a notice of appeal.

¹ Bowen stated that Mace is the child's father, but at the time of the hearing, no paternity action had been filed.

Mace argues he was unprepared for a hearing and claims Bowen is not a credible witness. Mace did not request a continuance and, accordingly, waived any complaint that the trial court proceeded with the hearing. *See* Tex. R. App. P. 33.1. In a protective order hearing, the trial court is the trier of fact and the sole judge of the credibility of the witnesses and the weight to be given their testimony. *Boyd v. Palmore*, 425 S.W.3d 425, 431 (Tex. App.—Houston [1st Dist.] 2011, no pet.). Bowen presented evidence that Mace subverted the protective order through the child, and Mace offered no evidence to challenge Bowen’s credibility in the hearing.² The trial court’s order modifying the protective order is affirmed.

AFFIRMED.

CHARLES KREGER
Justice

Submitted on September 11, 2017
Opinion Delivered September 21, 2017

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

² Additionally, Mace argues he has a legitimate reason to contact the child because his paternity was adjudicated in a separate case after the trial court modified the protective order. That case was resolved in a separate appeal and is not at issue here. *See In re A.M.B.*, No. 09-16-0373-CV, 2017 WL 706498, at *1 (Tex. App.—Beaumont Feb. 23, 2017, no pet.) (mem. op.).