Circuit Court for Baltimore County
Case No. C-03-FM-24-807410

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 2

September Term, 2024

COLE BAYNES

v.

CHETELL STEPNEY

Graeff,
Zic,
Eyler, Deborah, S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Eyler, J.

Filed: August 30, 2024

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Cole Baynes (Father), the appellant, challenges a final protective order entered against him by the Circuit Court for Baltimore County. The protective order was sought by Chetell Stepney (Mother), the appellee, on behalf of the parties' child, "N."

By way of an informal brief, Father raises several "issues," which we have rephrased and consolidated as follows: Did the circuit court err in entering the final protective order?

Finding no error, we shall affirm the judgment.

FACTS AND PROCEEDINGS

Father and Mother are former spouses and the parents of N., who was born in 2009. On February 13, 2024, in the Circuit Court for Baltimore County, Mother filed a petition for protective order against Father on behalf of N. Mother alleged that Father had engaged in behavior that caused mental injury to N. That same day, the court granted N. a temporary protective order against Father.

On February 20, 2024, the parties appeared in court for a final protective order hearing. N. testified about a recent incident that occurred while she and Father were sitting in Father's car. According to N., Father became upset with her for some reason and "snatched [her] phone and smashed it on the concrete outside." N. related that, prior to that incident, Father had threatened her with violence by stating that he "would have people come beat [her] up[.]" N. testified that Father also had engaged in "[n]ame-calling" and had referred to her as "retard, cunt, bitch." N. asserted that she did not feel safe with Father and that his behavior had adversely affected her grades and was causing her to lose focus and have nightmares. She added that, when she had stayed at Father's house in the past, he had made her "feel uncomfortable . . . like he doesn't want [her] . . . in his house."

According to N., if she were to return to Father's house, she would feel "unsafe" because she did not "know what's going to happen[.]"

Jonathan Young, Mother's husband, testified that he observed behavioral changes in N. after she spent time with Father. N. "comes in depressed" and "anxious" and she "jumps, like she thinks someone's going to hurt her." Mr. Young further testified that Father had sent inappropriate text messages to N.'s phone. The court thereafter accepted into evidence various text messages Father had sent either to N. or to Mother.[1]

At the close of the evidence, the court found that Father had smashed N.'s phone in N.'s presence; had "called her names"; and had placed her "in fear of imminent serious bodily harm." On those factual findings, the court ruled, by a preponderance of the evidence, that N. was entitled to a protective order against Father, and entered the order.

Father noted this timely appeal. Additional facts will be supplied as necessary to our discussion.

DISCUSSION

Father contends the circuit court erred in entering the final protective order. He argues that the order was not supported by "hard evidence" and instead was based on

[1] Father takes issue with the court's receipt in evidence of text messages he sent to Mother along with text messages he sent to N., arguing that that made it appear as if he had sent *all* the text messages to N. Father raised that issue at trial, and the court responded that it would admit the text messages "and consider them in that context." It is clear that the court recognized that some of the text messages had been sent to Mother, not N. Thus, to the extent that Father is arguing that the court erred by considering the text messages as if they had all been sent to N., that claim is not supported by the record.

"fiction stories[.]"[2] Mother disagrees, contending the evidence adduced at the final protective order hearing supported the court's judgment.[3]

"When reviewing an action tried without a jury, we review the judgment of the trial court 'on both the law and evidence.'" *Baltimore Police Dep't v. Brooks*, 247 Md. App. 193, 205 (2020) (quoting *Banks v. Pusey*, 393 Md. 688, 697 (2006)). We "will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and [we] will give due regard to the opportunity of the trial court to judge the credibility of the witnesses." Md. Rule 8-131(c). Issues of law are reviewed *de novo*. *Brooks*, 247 Md. App. at 205.

"A petitioner may seek relief from abuse by filing with a court . . . a petition that alleges abuse of any person eligible for relief by the [alleged abuser]." Md. Code, Fam. Law ("Fam. Law") § 4-504(a)(1). The statute defines "petitioner" to include the parent of a minor child, Fam. Law § 4-501(o)(2)(ii), and the statute defines "person eligible for relief" to include the natural child of the alleged abuser. Fam. Law § 4-501(m)(3). "Abuse" is defined, in relevant part, as "an act that places a person eligible for relief in fear of imminent serious bodily harm[.]" Fam. Law § 4-501(b)(1)(ii). The proper standard for determining whether a person eligible for relief has been placed in fear of serious bodily harm "is an individualized objective one – one that looks at the situation in the light of the

[2] Father also states that the court's order infringed upon his fundamental right to parent and his "2nd Amendment right." Because Father cites no supporting authority and gives no argument for either assertion, we shall not address them.

[3] In her informal brief, Mother raises several contentions, including several claims of error, that were not raised by Father. Because Mother did not note a cross-appeal, those contentions are not properly before this Court. *Maxwell v. Ingerman*, 107 Md. App. 677, 681 (1996); *see also* Md. Rule 8-202.

circumstances as would be perceived by a reasonable person in the petitioner's position[.]" *Katsenelenbogen v. Katsenelenbogen*, 365 Md. 122, 138 (2001). Thus, "[t]he reasonableness of an asserted fear . . . must be viewed from the perspective of the particular victim[,]" and "[a]ny special vulnerability or dependence by the victim, by virtue of physical, mental, or emotional condition or impairment, . . . must be taken into account." *Id.* at 139.

To issue a final protective order, the court must find abuse by a preponderance of the evidence. *C.M. v. J.M.*, 258 Md. App. 40, 56 (2023). "'Preponderance of the evidence means more likely than not.'" *Id.* at 56-57 (cleaned up) (quoting *State v. Sample*, 468 Md. 560, 598 (2020)). When conflicting evidence is presented at a protective order hearing, '"we accept the facts as found by the hearing court unless it is shown that its findings are clearly erroneous.'" *Barton v. Hirshberg*, 137 Md. App. 1, 21 (2001) (quoting *Piper v. Layman*, 125 Md. App. 745, 754 (1999)). Moreover, "[w]e leave the determination of credibility to the trial court[.]" *Id.*

Against that backdrop, we hold that the circuit court did not err in entering the final protective order in this case. N. testified that Father sometimes called her derogatory and belittling names such as "retard, cunt, bitch"; that he had threatened her with violence, saying he "would have people come beat [her] up"; and that recently, he had lashed out in anger toward her by smashing her cell phone on the concrete next to his car. N. further testified that she did not feel safe with Father, that he made her "feel uncomfortable," and that, if she were to go back to Father's house, she would feel "unsafe" because she did not "know what's going to happen[.]" Mr. Young, Mother's current husband, testified that,

when N. returned from spending time with Father, she was "depressed" and "anxious" and she "jump[ed], like she thinks someone's going to hurt her."

This evidence was legally sufficient for the court reasonably to find, by a preponderance of evidence standard, that Father had placed N. in fear of serious bodily harm, i.e., that he had committed abuse toward her. Father's only argument challenging the court's finding is that the court should not have believed the testimony of N. and Mr. Young. It was within the purview of the court to make credibility findings, however. As such, the court did not err in entering the final protective order.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED; COSTS TO BE PAID BY THE APPELLANT.