

Circuit Court for Anne Arundel County
Case No. C-02-FM-24-807342

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 143

September Term, 2024

PHILIP CLARKE

v.

CHINYERE GIBSON

Berger,
Albright,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: October 15, 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).

This appeal arises out of the issuance of a final protective order by the Circuit Court for Anne Arundel County against appellant, Philip Clarke (“Mr. Clarke”), and in favor of appellee, Chinyere Gibson (“Ms. Gibson”). In February 2024, Ms. Gibson filed a petition for a protective order against Mr. Clarke on behalf of herself and their shared children, “A.C.” and “O.C.,” asserting that Mr. Clarke committed “threats of violence” and “mental injury of a child” against A.C. and O.C. At the temporary protective order hearing, Ms. Gibson alleged that A.C. informed her that Mr. Clarke had recently threatened to punch A.C., punched the headboard next to her head, and punched a hole in the wall in her bedroom. Ms. Gibson further alleged that A.C. told her that Mr. Clarke had punched O.C. in the chest and threatened to throw O.C. into a wall. A temporary protective order was granted. At the final protective order hearing, Ms. Gibson testified that A.C. had told her that Mr. Clarke had punched O.C. in the chest. Mr. Clarke testified that he had never physically abused A.C. or O.C. Based on the evidence presented, the court determined that Mr. Clarke was not credible. The circuit court, therefore, granted a final protective order against Mr. Clarke, granting Ms. Gibson full custody of A.C. and O.C., and granting Mr. Clarke supervised visitation. This appeal followed.

Mr. Clarke presents four questions for our review, which we have recast and rephrased slightly as follows:¹

¹ Mr. Clarke presented the questions as follows:

- A. Did the trial court err when it scheduled the hearing in the excess of seven (7) days without stating a good cause reason on the record?

- I. Whether the trial court erred when it scheduled a final protective order hearing for 16 days after granting a temporary protective order to Ms. Gibson.
- II. Whether the trial court erred by allowing Ms. Gibson to present evidence of physical abuse by Mr. Clarke when the Petition of Protection filed by Ms. Gibson only alleged “threats of violence” and “mental injury of” A.C. and O.C.
- III. Whether the trial court erred when it admitted hearsay testimony from Ms. Gibson over objections from Mr. Clarke, and if so, whether the error was sufficiently prejudicial to warrant reversal.
- IV. Whether the trial court erred in finding by a preponderance of the evidence that Mr. Clarke had abused A.C. and O.C.

For the following reasons, we affirm the judgment of the Circuit Court for Anne Arundel County.

BACKGROUND

Parties’ History

Ms. Gibson and Mr. Clarke are parents to A.C., born in 2012, and O.C., born in 2014. Ms. Gibson and Mr. Clarke were married in 2013. On June 30, 2016, Mr. Clarke filed a Complaint for Limited Divorce. On February 9, 2017, the court issued a judgment

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- B. Did the trial court err and violate Appellant’s due process rights when the Petition for Protection failed to plead any form of physical assault or child abuse?
 - C. Did the trial court err when it failed to sustain the objections of Appellant and admit inadmissible evidence?
 - D. Did the trial court err in finding abuse when there was insufficient evidence in the record?

of Absolute Divorce granting the parties joint legal and shared physical custody of A.C. and O.C. The court further ordered Mr. Clarke to pay \$200.00 per month in addition to a child support obligation that had been established for A.C. in a previous case. On March 1, 2021, Mr. Clarke filed a Complaint for Modification of Custody, alleging, among other things, that Ms. Gibson had withheld A.C. and O.C. from Mr. Clarke; Ms. Gibson had placed A.C. and O.C. in dangerous situations; Ms. Gibson did not provide A.C. and O.C. with safe and stable housing; and A.C. and O.C. had missed many days of school and assignments while in Ms. Gibson’s care. The court entered a Temporary Consent Order Regarding Custodial Schedule on February 2, 2022, providing a one-week on/one-week off schedule and outlining other requirements of Ms. Gibson and Mr. Clarke. Following a modification hearing on May 23 and 24, 2022, the court issued a report and recommendation on September 14, 2022, and an order on October 12, 2022, granting Mr. Clarke primary physical and sole legal custody of A.C. and O.C., and granting Ms. Gibson visitation every other weekend.

Petition for Protection and Temporary Protective Order Hearing

On February 7, 2024, Ms. Gibson filed a Petition for Protection from Child Abuse requesting relief for A.C. and O.C. from abuse by Mr. Clarke. In the petition, Ms. Gibson indicated that Mr. Clarke had committed “threats of violence” and “mental injury of a child” against A.C. and O.C. A Protection Order hearing was held that same day. At the hearing, Ms. Gibson testified that on February 2, 2024, she received a text message from A.C. stating that A.C. was “scared of her dad, she didn’t feel safe and that she wanted to come home with [Ms. Gibson].” Ms. Gibson informed A.C. that Ms. Gibson would pick

her up for scheduled visitation that evening. Ms. Gibson testified that A.C. told her that on January 31, 2024, Mr. Clarke had threatened to punch A.C., punched the headboard next to her head, and punched a hole in the wall in her bedroom. Ms. Gibson additionally testified that A.C. told her that on February 1, 2024, Mr. Clarke punched O.C. in the chest and threatened to throw O.C. into the wall.

The court granted Ms. Gibson’s request for a temporary protective order. The court found that there were reasonable grounds to believe that Mr. Clarke committed physical and mental abuse of a child. The court stated its reasoning for the finding of abuse, specifically that “on January 31, 2024, [Mr. Clarke] punched O.C. in the chest and threatened to throw her into the wall. And on February [1], 2024, [Mr. Clarke] threatened to punch A.C. and punched her headboard and punched a hole in the wall.” The court scheduled a final protective order hearing, stating it would “set a date for two weeks rather than one because [Child Protective Services] will be involved . . . and they’ll have to have a report. So that would be two weeks from today.” The court asked Ms. Gibson when she was available, and set the hearing for Friday, February 23, 2024. The court forwarded the temporary protective order to the Department of Social Services (“DSS”) and the Sheriff’s Office.

Final Protective Order Hearing

On February 23, 2024, the court held a hearing to determine whether to enter a final protective order against Mr. Clarke. Prior to arguments, the court gave the parties the opportunity to review the DSS report completed by the DSS worker, Donyell Brodie (“Ms. Brodie”). Ms. Gibson called Ms. Brodie as a witness and the following testimony ensued:

[MS. GIBSON]: Ms. Brodie, on page seven when you had -- where it says that, “Mom tried to have conversation about the reason O.C. (phonetic) was crying, but he did not want to hear it. Prior to talking to mom, dad threatened to punch her in the chest on Thanksgiving Day 2023 before they went into the grocery store. As they were walking into the store, she was putting on her coat. He thought she wasn’t listening, so he punched O.C. in her chest. By the time they went in -- went with mom, she was sick and could barely walk. She stated that O.C. has to have her jacket on with [layers] because she has asthma which cause her to get sick. When he punched her in her chest --

[COUNSEL FOR MR. CLARKE]: Objection, Your Honor. We just --

THE COURT: Yes.

[COUNSEL FOR MR. CLARKE]: (unintelligible) is there going to be a -- is there --

THE COURT: I was gonna wait until the end of the sentence to see if there was --

[COUNSEL FOR MR. CLARKE]: Okay.

THE COURT: -- going to be a question.

[COUNSEL FOR MR. CLARKE]: Okay.

THE COURT: So, let’s hold on that. But go ahead.

[MS. GIBSON]: “When he punched her in the chest, she tried not to cry in an effort [not] to make a scene.” When O.C. stated that to you, what -- when O.C. stated that to you, did she say what she was doing. Like, as far as, why her -- why did she think her dad punched her?

[MS. BRODIE]: No, only what you read here is --

[MS. GIBSON]: Okay.

[MS. BRODIE]: -- what she shared.

[MS. GIBSON]: The reason I asked her that is –

THE COURT: So –

MS. GIBSON: Okay.

THE COURT: -- you can't testify.

MS. GIBSON: Okay.

THE COURT: So, you have to ask questions of this worker.

Ms. Gibson asked no further questions of Ms. Brodie. Mr. Clarke declined to ask any questions of Ms. Brodie. The DSS report was marked for identification purposes but was not entered into evidence. Next, Ms. Gibson called her sister, Princess Nadia Agbeko, to testify. Ms. Agbeko testified that she was present on February 4, 2024 when A.C. and O.C. were returned to Mr. Clarke's care. Ms. Agbeko testified that A.C. was frowning and that O.C. appeared scared. Ms. Gibson stated that she did not have any more witnesses, and Mr. Clarke moved to dismiss the action seeking a final protective order. Ms. Gibson then asked for the opportunity to present her evidence, and the court allowed her to testify.

Ms. Gibson testified regarding several phone calls on January 31, 2024, between 6:02 p.m. and 6:11 p.m., when she was attempting to contact A.C. and O.C. for their nightly phone calls allowed by the custody agreement. The phone calls were between Ms. Gibson's cell phone and both A.C.'s and Mr. Clarke's cell phones. Ms. Gibson testified that Mr. Clarke answered one of the calls to his cell phone, explaining that O.C. had messed up a spelling word and was being punished. Ms. Gibson testified that A.C. was crying and saying that she had gotten in trouble -- Mr. Clarke objected to this statement, and the court

overruled the objection. Ms. Gibson testified that she texted Mr. Clarke stating that he was “mentally and verbally -- emotionally abusing the children,” to which Mr. Clarke responded with “laughing emojis.” Ms. Gibson continued, testifying that she called police to request a wellness check at 6:35 p.m., which was completed shortly thereafter, and A.C. went to cheerleading practice. Ms. Gibson testified that she received a text message from A.C. on February 2, 2024. Mr. Clarke objected when Ms. Gibson began testifying as to the contents of the message. Ms. Gibson then testified that A.C. wrote a letter to her as well, outlining what occurred “between January 31st and February 2nd of the incident of Philip Clarke being frustrated with the children.” The court sustained Mr. Clarke’s subsequent objection to the contents of the letter. Ms. Gibson then testified as follows:

[MS. GIBSON]: Philip Clarke had on January 31st as the phone call was interrupting, the -- there was -- had punched --

[COUNSEL FOR MR. CLARKE]: Objection.

THE COURT: Overruled.

[MS. GIBSON]: He had punched O.C. because she was crying. He had punched her as --

[COUNSEL FOR MR. CLARKE]: Objection. She’s saying that he did something. She was not present.

THE COURT: Well, that’s what I’m trying to get to. So, I can’t hear, like, I know that you’re, like, being, like, very -- you’re being an advocate and I get that, but she’s pro se. So, it’s different when someone -- the counsel asks a question --

[COUNSEL FOR MR. CLARKE]: Mm-hmm.

THE COURT: -- and I can, like, cut it off. But I have to let her go, so I can decide whether to consider it or disregard it.

[COUNSEL FOR MR. CLARKE]: Okay.

THE COURT: All right, go ahead.

[MS. GIBSON]: He had, because she was crying and upset that what was going on, he had punched her in her chest and her throat and yoked her up her up, stating that he would throw her in the wall if she did not stop crying.

[COUNSEL FOR MR. CLARKE]: Objection.

THE COURT: Overruled.

[MS. GIBSON]: If she did not stop crying. When the children were going to bed, as A.C. was sleeping, he was angry for some sort and --

THE COURT: Well, let me just stop you right there, just so I understand what the foundation --

[MS. GIBSON]: Mm-hmm.

THE COURT: How do you know this?

[MS. GIBSON]: From A.C. and O.C. Clarke.

THE COURT: Okay, and when did you get this information?

[MS. GIBSON]: I received this information on February the 2nd.

THE COURT: Okay, so is that at the same time that this is happening or a time after that?

[MS. GIBSON]: This was time after that.

THE COURT: Okay, all right.

[MS. GIBSON]: I couldn't get the -- what was going on because as I was -- as I started before, at -- when I tried to call, he did not want to -- I was asking him what was going on. He did not want to talk to me, so that's why I text him because of

what I was hearing on the phone to tell him that he was abusing them. And he just text back with laughing emojis.

THE COURT: Okay, understood. Okay, go ahead.

[COUNSEL FOR MR. CLARKE]: Your Honor, I would renew my objection and move to strike all the previous testimony as to what she supposedly learned about after the fact.

THE COURT: Okay, all right. So, I'm gonna sustain the objection. So, it's important for me to understand is it something that you are hearing that the children are telling you, at what point in time? So, that's part of it. So, for instance, is it something that when you said about the phone call, you made clear about that. That it was you were trying to call and couldn't get through to the children or you spoke to the children, that information I want to hear. But if it's after the fact, two days when they're back in your custody, don't -- I cannot hear --not that I don't want to hear, but evidence-wise, I can't hear. If it's at the same time it's happening, I can hear that. Does that make sense?

Following Ms. Gibson's testimony, Mr. Clarke moved to dismiss the action seeking a final protective order, stating that the original petition for protection identified "threats of violence" and "mental injury" as the reason for seeking a protection order. Mr. Clarke further sought dismissal because Ms. Gibson argued that A.C. and O.C. had been physically abused, but she had not presented sufficient evidence to grant a final protective order on the issues alleged in the petition for protection. The court denied the motion, stating that there was sufficient evidence presented by Ms. Gibson to grant a final protective order.

Mr. Clarke then testified in his own defense. Mr. Clarke testified that he punished A.C. on January 31, 2024, because she was being disruptive in class and disrespecting her

teacher. As punishment, Mr. Clarke testified that A.C. was required to write a five-page paper. He further testified that he took her phone and threatened to take her off the cheerleading team. Mr. Clarke testified that O.C. was also punished, stating that he “used an open palm on O.C.’s backside and told her to stop yelling and screaming and throwing a tantrum and do what [Mr. Clarke] told her to do.” Mr. Clarke testified that he never punched, threatened violence against, or mentally abused A.C. or O.C.

Mr. Clarke’s fiancé, Kitoya Williams (“Ms. Williams”) then testified for the defense. Ms. Williams testified that on January 31, 2024, she observed A.C. and O.C. crying because they had been punished. Ms. Williams testified that she did not see Mr. Clarke threaten to abuse, physically assault, or punch either of the children. On cross-examination, Ms. Williams testified that on January 31, 2024, when A.C. and O.C. were crying, she was present and did not see Mr. Clarke hit the children at all. Neither A.C. nor O.C. testified at the final protective order hearing.

After considering all testimony and evidence, the court made the following factual findings:

[T]he Court, after consideration of all of the evidence, the credibility of witnesses, finds that there is preponderance of the evidence to believe that the respondent committed the following acts of abuse. Assault in any degree and statutory abuse of a child physical, specifically punching O.C. in the chest.

The evidence was -- persuaded this Court. I know that there was testimony to the contrary as far as the respondent stating that -- denying that he hurt her in any way, but I just did not find his testimony credible at all. Particularly given when his fiancé’s testimony seemed to contradict his testimony and

his attempt to minimize the physical touching. So, I did not find his testimony credible at all.

The court, therefore, issued a final protective order against Mr. Clarke. The court granted custody of A.C. and O.C. to Ms. Gibson and granted Mr. Clarke supervised access to the children. The order specified that Mr. Clarke committed physical abuse of a child by punching O.C. in the chest and ordered Mr. Clarke to surrender all firearms and attend anger management classes.

Following the court's order, Mr. Clarke reiterated that the petition for protection only alleged threats of violence and mental injury of a child and did not allege any physical abuse, and therefore, Mr. Clarke had not been given proper notice in violation of his procedural due process rights. The court disagreed, stating that Mr. Clarke would have received notice “when he was served with a temporary protective order where the findings of the Court indicated that [Mr. Clarke] punched O.C. in the chest and threatened to throw her into a wall. [Mr. Clarke] threatened to punch A.C. and punched her headboard and punched a hole in the wall. So, if you're concerned about notice, that information was provided to [Mr. Clarke] when he was served with a temporary protective order.” Mr. Clarke then filed this timely appeal.

STANDARD OF REVIEW

A trial court may grant a final protective order once a petitioner has shown “by a preponderance of the evidence that the alleged abuse has occurred[.]” Md. Code (1984, 2019 Repl. Vol.) § 4-506(c)(1)(ii) of the Family Law Article (“FL”). “Abuse” includes “the physical or mental injury of a child under circumstances that indicate that the child's

health or welfare is harmed or at substantial risk of being harmed by[] a parent.” FL § 5-701(b)(1)(i)(1). “If the court finds that the petitioner has met the burden, it may issue a protective order tailored to fit particular needs that the petitioner has demonstrated are necessary to provide relief from abuse.” *Piper v. Layman*, 125 Md. App. 745, 754 (1999) (quoting *Ricker v. Ricker*, 114 Md. App. 583, 586 (1997)).

When we review a trial court’s grant of a final protective order, we accept the trial court’s findings of fact unless they are clearly erroneous. *C.M. v. J.M.*, 258 Md. App. 40, 58 (2023). A trial court’s findings of fact are not clearly erroneous so long as they are supported by substantial evidence. *Innerbichler v. Innerbichler*, 132 Md. App. 207, 230 (2000). We defer to the trial court’s determination of credibility because it has “the opportunity to gauge and observe the witnesses’ behavior and testimony” throughout the proceedings. *Barton v. Hirshberg*, 137 Md. App. 1, 21 (2001) (quoting *Ricker*, 114 Md. App. at 592). The trial court is “entitled to accept – or reject – *all, part, or none* of the testimony of any witness.” *Omayaka v. Omayaka*, 417 Md. 643, 659 (2011) (emphasis in original). “It is ‘not our role, as an appellate court, to second-guess the trial judge’s assessment of a witness’s credibility.’” *C.M., supra*, 258 Md. App. at 58 (quoting *Gizzo v. Gerstman*, 245 Md. App. 168, 203 (2020)).

We consider the evidence produced at trial in the light most favorable to the prevailing party. *Ryan v. Thurston*, 276 Md. 390, 392 (1975). “As to the ultimate conclusion, however, we must make our own independent appraisal by reviewing the law and applying it to the facts of the case.” *Piper, supra*, 125 Md. App. at 754.

DISCUSSION

I. The trial court did not err when it scheduled a final protective order hearing for 16 days after it granted a temporary protective order to Ms. Gibson.

Mr. Clarke first contends that the trial court erred when it scheduled the final protective order hearing for February 23, 2024, 16 days after the temporary protective order hearing held on February 7, 2024. In support, Mr. Clarke cites FL § 4-506(b)(1)(ii), which provides: “Except as provided in § 4-505(c) of this subtitle, or unless continued for good cause, the final protective order hearing shall be held no later than 7 days after the temporary protective order is served on the respondent.”

FL § 4-505(c)(1) further provides: “Except as otherwise provided in this subsection, the temporary protective order shall be effective for not more than 7 days after service of the order.” FL § 4-505(c)(2) provides: “The judge may extend the temporary protective order as needed, but not to exceed 6 months, to effectuate service of the order where necessary to provide protection or for other good cause.”

When the trial court granted Ms. Gibson’s request for a temporary restraining order, the court appeared to recognize the 7-day limitation, stating: “I’m going to set a date for two weeks rather than one because [Child Protective Services] will be involved, the Department of Social Services, and they’ll have to have a report. So, that would be two weeks from today.” The court then proceeded to ask Ms. Gibson what day of the week she was available to ensure she was able to attend the final protective order hearing.

Mr. Clarke argues that the extension of the temporary restraining order to 16 days was in violation of FL § 4-505 and § 4-506 because the court did not state on the record

good cause for exceeding the 7-day requirement. Mr. Clarke cites no case law defining what constitutes a “good cause” reason for extending a temporary protective order, and solely claims that the court’s determination that DSS would need additional time to complete its report did not amount to good cause. Mr. Clarke further maintains that the court needed to state on the record that it “knew DSS was running behind, [was] short staffed, or any other reason that it would need more time than [the] seven (7) day statutory period.”

There is no requirement in the Family Law Article that the court specify with particularity its reasoning for extending a temporary protective order. The court indicated that it was extending the order approximately one additional week because DSS needed time to complete an investigation and report as mandated by FL § 4-505(e). In our view, allowing DSS time to complete its investigation into an allegation of child abuse is more than sufficient for extending a temporary protective order to ensure children’s safety. It makes no difference how long the investigation ultimately took DSS to complete, only that the court believed that good cause existed to extend the temporary protective order in the interim. Therefore, we find no error with the trial court’s extension of the temporary protective order against Mr. Clarke for a total of 16 days.

II. The trial court did not err when it allowed Ms. Gibson to present evidence of physical abuse when the petition for protection filed only alleged “threats of violence” and “mental injury of” A.C. and O.C.

Mr. Clarke next contends that because the initial petition for protection filed by Ms. Gibson alleged “threats of violence” and “mental injury of a child,” Mr. Clarke had not been given notice which amounted to a violation of his procedural due process rights. Mr.

Clarke, therefore, argues that allowing Ms. Gibson to allege physical abuse of O.C. was a violation of his due process right because he was only on notice of the non-physical abuse allegations noted in the petition.

In support, Mr. Clarke cites FL § 4-504(b)(1)(ii) which requires that the petition include:

1. the nature and extent of the abuse for which the relief is being sought, including information known to the petitioner concerning previous injury resulting from abuse by the respondent;
2. each previous action between the parties in any court;
3. each pending action between the parties in any court;
4. the whereabouts of the respondent, if known;
5. if financial relief is requested, information known to the petitioner regarding the financial resources of the respondent; and
6. in a case of alleged child abuse or alleged abuse of a vulnerable adult, the whereabouts of the child or vulnerable adult and any other information relating to the abuse of the child or vulnerable adult.

Mr. Clarke maintains that it is “Petitioner’s pleading under oath that gives notice to the Respondent of what the allegations are and what relief is being requested.” Mr. Clarke continues, citing FL § 4-505, which provides: “If, after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that a person eligible for relief has been abused, the judge may enter a temporary protective order to protect any person eligible for relief from abuse.” FL § 4-505(a)(1). Mr. Clarke notes that FL § 4-505 lacks any provisions permitting the trial court to “add additional allegations”

to the petition for protection; however, he also fails to recognize that FL § 4-505 does not prohibit the trial court from doing just that.

Notably, temporary protective order hearings provide petitioners with the opportunity to elaborate on the allegations outlined in their petitions for protective orders. Under Mr. Clarke's interpretation, courts would no longer need to hold a hearing on a petition to determine whether to enter a temporary protective order because they would only be permitted to consider what was written on the protective order petition when filed. We decline to read FL § 4-505 to render a hearing on a petition for protection meaningless.

The circuit court expressly noted that Mr. Clarke received notice when the temporary protective order was served on him, which included the allegations of physical abuse against O.C. and threats of violence against A.C. and O.C. If, following the hearing on the petition for protection, the court had determined that a temporary protective order was not warranted and therefore was not granted, Mr. Clarke would not have been served with any documents, and may never have known that a petition for protection had been filed at all. Without the temporary order of protection, which outlined the allegations of physical abuse against Mr. Clarke, he may not have seen the petition for protection. Thus, when Mr. Clarke was served with the temporary protective order, he was given notice of the allegations against him, even though they were not outlined with clarity in the petition for protection filed by Ms. Gibson. Therefore, the trial court did not err when it considered allegations of physical abuse, rather than only threats of violence and mental injury at the final protective order hearing.

III. The trial court did not admit into evidence the hearsay testimony of Ms. Gibson, and therefore, did not err in its evidentiary determination.

Mr. Clarke next contends that the trial court erred because it improperly admitted hearsay testimony by Ms. Gibson, and ultimately relied on that testimony in determining that Mr. Clarke had abused O.C. Mr. Clarke maintains that Ms. Gibson’s questioning of the DSS worker, Ms. Brodie, and Ms. Gibson’s own testimony are particularly problematic. Hearsay is defined as “a statement, other than the one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Maryland Rule 5-801(c). Hearsay may only be admitted if it falls under a recognized exception. *Bernadyn v. State*, 390 Md. 1, 8 (2005).

Here, at the final protective order hearing, A.C. and O.C. did not testify; instead, Ms. Gibson attempted to testify as to what A.C. and O.C. allegedly told her regarding the abuse by their father. On multiple occasions, Ms. Gibson’s testimony was cut off by the objection of Mr. Clarke’s counsel. First, Ms. Gibson called the DSS worker, Ms. Brodie, to testify. During questioning, Ms. Gibson began with a long-winded statement that included the allegation made by A.C. and O.C. Mr. Clarke objected, to which the court responded that it “was gonna wait until the end of the sentence to see if there was . . . going to be a question.” After Ms. Gibson finished her question, the court stated: “[Y]ou can’t testify,” and reminded Ms. Gibson that she was required to ask Ms. Brodie questions.

Later, during Ms. Gibson’s testimony, Ms. Gibson attempted to recount the events of January 31, 2024, as told to her by A.C. Mr. Clarke objected multiple times throughout

Ms. Gibson’s testimony, arguing that Ms. Gibson could not testify regarding events she was not present for. The court overruled these objections, stating:

Well, that’s what I’m trying to get to. So, I can’t hear, like, I know that you’re, like, being, like, very -- you’re being an advocate and I get that, but she’s pro se. So, it’s different when someone -- the counsel asks a question --

* * *

-- and I can, like, cut it off. But I have to let her go, so I can decide whether to consider it or disregard it.

The court allowed Ms. Gibson to continue. Following Ms. Gibson’s testimony, Mr. Clarke renewed his objection, and moved to strike “all the previous testimony as to what she supposedly learned about after the fact.” The court responded, “So, I’m gonna sustain the objection,” and proceeded to remind Ms. Gibson that the court could only hear testimony regarding events she witnessed directly, such as her phone call with A.C. and O.C. on the evening of January 31, 2024.

The record reflects that the court ultimately sustained Mr. Clarke’s objections to Ms. Gibson’s hearsay testimony on both occasions. Although Mr. Clarke argues that it is unclear what the court decided regarding Mr. Clarke’s objection during Ms. Brodie’s testimony, we read this interaction, reminding Ms. Gibson that she could not testify, as disregarding Ms. Gibson’s lengthy question, thereby sustaining the objection. Furthermore, following Ms. Gibson’s direct testimony, the court clearly struck Ms. Gibson’s hearsay testimony when it stated that it would sustain the objection, referring to Mr. Clarke’s objection moving to strike all of Ms. Gibson’s previous testimony.

Although the court seemed to grant Ms. Gibson leeway in her questioning and testimony, the court indicated that this was because Ms. Gibson was proceeding pro se, and it emphasized that the court was able to distinguish what testimony it was permitted to consider when making its ruling. This is further reflected in the court's findings, addressed below, which indicate that the court did not rely on any of Ms. Gibson's testimony in making its ruling, and expressly noting that it did not find Mr. Clarke to be credible. Because the trial court did not admit and consider the hearsay testimony of Ms. Gibson, it therefore committed no error in its evidentiary ruling.

IV. The trial court did not err when it found by a preponderance of the evidence that Mr. Clarke committed physical abuse against A.C. and O.C.

Mr. Clarke argues that the trial court erred when it found that he had committed physical abuse against A.C. and O.C. because it relied on improperly admitted hearsay evidence. As noted above, the trial court did not admit hearsay testimony by Ms. Gibson and did not rely on hearsay testimony for its ruling. The trial court found as follows:

All right, so I've had an opportunity to consider the evidence and also, which was highly significant for my determination, the credibility of witnesses.

So, after the appearance of the petitioner, the respondent, the respondent's counsel; the Court makes the following findings that the person eligible for (unintelligible) is a individual related to the respondent by blood, marriage, or adoption; that the petitioner in the case of a . . . minor child is a relative; the Court, after consideration of all of the evidence, the credibility of witnesses, finds that there is preponderance of the evidence to believe that the respondent committed the following acts of abuse. Assault in any degree and statutory abuse of a child physical, specifically punching O.C. in the chest.

The evidence was -- persuaded this Court. I know that there was testimony to the contrary as far as the respondent stating that -- denying that he hurt her in any way, but I just did not find his testimony credible at all. Particularly given when his fiancé's testimony seemed to contradict his testimony and his attempt to minimize the physical touching. So, I did not find his testimony credible at all.

The court based its finding of physical abuse of O.C. on Mr. Clarke's own testimony which was contradicted by Ms. Williams' testimony. The court explicitly stated that its finding was predicated on the fact that it did not find Mr. Clarke to be credible. As noted, we defer to the trial court's credibility determinations because the court has had the opportunity to observe and assess witness behavior during proceedings. *Barton, supra*, 137 Md. App. at 21. "It is not our role, as an appellate court, to second-guess the trial judge's assessment of a witness's credibility." *C.M., supra*, 258 Md. App. at 58 (internal quotations and citations omitted). Notably, the trial court did not find Mr. Clarke's explanation of events to be credible, and discounted his testimony that he never punched, threatened violence against, or mentally abused A.C. or O.C. As a result, based on the trial court's credibility determinations, there is sufficient evidence in the record to support the trial court's finding, by a preponderance of the evidence, that Mr. Clarke had committed physical abuse against A.C. or O.C. Accordingly, the circuit court did not err by granting the final protective order against Mr. Clarke. We, therefore, affirm.

**JUDGMENT OF THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**