

Circuit Court for Baltimore City
Case No. 24-D-23-003461

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2118

September Term, 2023

LYNVAL JACKSON

v.

ALLANA JACKSON

Zic,
Ripken,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 10, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Lynval Jackson, appellant, appeals from an order issued by the Circuit Court for Baltimore City granting a final protective order against him, and in favor of Allana Jackson, appellee. On appeal, appellant contends that: (1) there was “[n]o temporary protective order issued[;]” (2) he never assaulted appellee; and (3) the protective order prevents him from carrying a weapon, which he needs for work. For the reasons that follow, we shall affirm.

In reviewing the issuance of a final protective order, we accept the circuit court’s findings of facts unless they are clearly erroneous. Maryland Rule 8-131(c); *Barton v. Hirshberg*, 137 Md. App. 1, 21 (2001). In doing so, we defer to the court’s determinations of credibility, as it has “‘the opportunity to gauge and observe the witnesses’ behavior and testimony during the [hearing].” *Barton*, 137 Md. App. at 21 (quoting *Ricker v. Ricker*, 114 Md. App. 583, 592 (1997)). In assessing the credibility of the witnesses who testify at a final protective order hearing, the circuit court is “entitled to accept – or reject – *all, part, or none* of” their testimony, “whether that testimony was or was not contradicted or corroborated by any other evidence.” *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.” *Gizzo v. Gerstman*, 245 Md. App. 168, 203 (2020).

Following a hearing, the court entered a final protective order, finding that appellant had assaulted appellee by “continually touch[ing]” her and “making advances” without her consent. This finding was based on appellee’s testimony to that effect, which the court found to be credible. On appeal, appellant first contends that “[n]o temporary protective

order was issued[.]” This claim, however, is not preserved as he did not raise it in the circuit court. *See* Maryland Rule 8-131(a). Moreover, appellant does not indicate why, even if true, this would warrant reversal of the final protective order. But in any event, the record indicates that a temporary protective order was entered on October 20, 2023, and was served on appellant on October 24, 2023.

Appellant also generally denies assaulting appellee and claims that she only brought the protective order action because he was “seeking divorce and was not willing to agree to [a] verbal contract [regarding the] splitting of [their home]” and she “wants to see [him] suffer.” But appellant raised these allegations at the hearing in an attempt to discredit appellee. Yet the court ultimately found appellee’s testimony to be believable. And based on our review of the record, we cannot say that the court’s credibility determination with respect to the appellee’s testimony was clearly erroneous.¹

Finally, appellant notes that he needs a firearm for work, but is no longer allowed to possess one because of the protective order. As an initial matter, appellant does not indicate why he believes the court erred in prohibiting him from possessing a firearm. But in any event, Section 5-133(b)(14)(i) of the Public Safety Article prohibits the possession of a firearm when a “current non ex parte civil protective order has been entered under §

¹ In an attempt to undermine the court’s credibility findings, appellant has attached phone records to his brief which allegedly show certain conversations between himself and appellee. Because these records were not admitted as evidence at the protective order hearing, we may not consider them on appeal. *See Cochran v. Griffith Energy Serv., Inc.*, 191 Md. App. 625, 663 (2010) (noting that “an appellate court must confine its review to the evidence actually before the trial court when it reached its decision”).

4-506 of the Family Law Article[.]” Moreover, the United State Supreme Court has recently held that that the Second Amendment does not limit the government’s ability to prohibit firearm possession by a person with a civil domestic violence restraining order. *United States v. Rahimi*, 144 S.Ct. 1889 (2024). Consequently, we shall affirm the judgment of the circuit court.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
AFFIRMED. COSTS TO BE PAID
BY APPELLANT.**