

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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IN THE COURT OF APPEALS OF INDIANA

Gabrielle Hull,
Appellant-Respondent,

v.

Brianne Hildenbrand,
Appellee-Petitioner.

November 29, 2021
Court of Appeals Case No.
21A-PO-583
Appeal from the Allen Superior
Court
The Hon. Andrew S. Williams,
Judge
The Hon. Taylor A. Beaty,
Magistrate
Trial Court Cause No.
02D01-2102-PO-260

Bradford, Chief Judge.

Case Summary

- [1] Gabrielle Hull and Brianne Hildenbrand have been involved in a conflict dating back to 2018, when Hildenbrand began dating Hull’s ex-husband. Since then, Hull has, *inter alia*, threatened Hildenbrand with violence, stopped by her residence without invitation after being told not to, delivered items to Hildenbrand that frightened her, and created several social-media accounts concerning Hildenbrand. In February of 2021, Hildenbrand petitioned the trial court for an order of protection against Hull, which the trial court granted pending a hearing. Following a hearing in March of 2021, the trial court granted Hildenbrand an order of protection against Hull. Hull contends that the trial court’s grant of Hildenbrand’s petition for an order of protection was unsupported by sufficient evidence. We affirm.

Facts and Procedural History

- [2] Hull and Hildenbrand have been in conflict since Hildenbrand began dating Hull’s ex-husband Brandon Hull (“Brandon”) in 2018. On February 1, 2021, Hildenbrand petitioned the trial court for an order of protection against Hull on the basis that Hull had threatened Hildenbrand with physical harm, had placed her in fear of physical harm, and had committed repeated acts of harassment against her. Hildenbrand alleged in her petition that

[Hull] has continued to harass me via Facebook messages after I have continually asked her to stop. She has threatened me over the phone numerous times and continues to stop by my house without invitation. [Hull] drops off items at my door and in my mailbox as a way to intimidate and harass me despite me asking

her to stop. She has sent half-naked pictures to myself, my boyfriend, and her own children. My current live in boyfriend is [Hull]'s ex husband and primary custodian of her child. Her most recent threats and actions occur[r]ing on January 19th prove that [Hull] is unstable and I am fearful that she will act upon her threats towards me.

Appellant's App. Vol. II p. 5. The same day, the trial court issued an ex parte order for protection against Hull and scheduled the matter for a hearing on March 4, 2021.

[3] On March 4, 2021, the trial court conducted a hearing on Hildenbrand's request for an order of protection against Hull. The trial court later certified the following statement of the evidence presented at the hearing:

1. A hearing on Petitioner's Ex Parte Petition for Protection Order was conducted on March 4, 2021.
2. Petitioner, Brianne Renee Hildenbrand, appeared and testified as follows:

[Hildenbrand] is in a relationship with [Hull]'s ex-husband, [Brandon]. [Hull] has threatened [Hildenbrand] over the phone and through social media continually since 2018, when [Brandon] and [Hildenbrand] began dating. In May of 2018, [Hull] left [Hildenbrand] a handwritten note stating, "Next time you fight with my ex-husband you will be dealing with me." [Hull] subsequently told [Hildenbrand] "Karma will get you" and "I should have done what I wanted to do a long time ago[.]" In July of 2020, [Hull] sent [Hildenbrand] messages about [Hull]'s sexual preferences along with pictures of intimate notes from [Brandon] and stated, "Here's the guy you'll never have." [Hull] subsequently sent messages to [Hildenbrand] calling her a "w[****]" and a "c[***]", stating "you can kiss my a[**]", "f[***] off", and "you have many years left of dealing with me. Good luck." [Hildenbrand] testified that mutual friends warned her that [Hull] hated her,

wanted to slash her tires, and would give her “an a[**] whooping” before she would give her money. [Hull] has made multiple social media accounts to harass [Hildenbrand]. [Hildenbrand] further testified that [Hull] routinely shows up uninvited to the residence [Hildenbrand] shares with [Brandon] despite repeated requests that she not come to the residence. [Hildenbrand] feels intimidated and harassed by the items [Hull] has left at the residence, which included intimate pictures of [Hull]. [Hildenbrand] testified that she is aware of [Hull]’s violent behavior towards others and she is scared of [Hull]. [Hildenbrand] admitted to posting without consent [Hull]’s intimate pictures on Facebook out of frustration and in a final attempt to get [Hull] to stop her continued “harassment[.]” [Hildenbrand] admitted to calling [Hull] a “s[***]”, “w[****]”, and “an uncle f[*****].” [Hildenbrand] also admitted to posting the intimate pictures on Facebook calling [Hull] a prostitute for “only \$20.00 and a bottle of whiskey[.]”

3. [Joan Hildenbrand (“Joan”)], [Hildenbrand]’s mother, appeared as her witness and testified as follows:

[Joan] testified that [Hull] has harassed her daughter ever since [Hildenbrand] began dating [Brandon] in 2018. [Joan] testified that she became afraid for her daughter’s safety after learning of [Hull]’s violent behavior toward a recent boyfriend, as well as [Hull]’s threatening social media posts directed toward her daughter. [Joan] admitted that she had not personally seen the threatening social media posts.

4. [Brandon], appeared as a witness for [Hildenbrand] and testified as follows:

[Brandon] told [Hull] to stay away from [Hildenbrand] many times. [Brandon] testified that [Hull] attempted to come to the residence he shares with [Hildenbrand] even after [Hildenbrand] received the Ex Parte Order for Protection in this matter on February 1, 2021. [Brandon] admitted that he owned the vehicle that appeared in [Hull]’s intimate pictures

and that he knew the pictures had been taken years prior as a gift to him.

5. Respondent, [Hull], appeared and testified as follows:

[Hull] denied ever harassing or threatening physical harm to [Hildenbrand]. [Hull] also denied sending any intimate pictures to [Hildenbrand] and [Brandon]. [Hull] testified that instead she is the victim of [Hildenbrand]’s stalking, harassment, and plot to ruin her life. [Hull] testified that [Hildenbrand] turned [Hull]’s children against her and that one of her daughters no longer called her “mom[.]” [Hull] admitted to bringing gifts, and sending letters and pictures to her children, who reside in [Brandon] and [Hildenbrand]’s home.

Appellant’s App. Vol. II pp. 19–20.

[4] Following the hearing, the trial court granted Hull’s request for an order for protection in an order that provides, in part, as follows:

- e. The Respondent had notice and an opportunity to be heard.
- f. The Respondent represents a credible threat to the safety of the Petitioner or a member of the Petitioner’s household.
- g. The Petitioner has shown, by a preponderance of the evidence, that stalking has occurred sufficient to justify the issuance of this Order.
- h. The Respondent does not agree to the issuance of the Order for Protection.
- i. The following relief is necessary to bring about a cessation of the violence or the threat of violence.

ORDER

Section 1 - General Provisions

- 1. The Respondent is hereby enjoined from threatening to commit or committing acts of stalking against the Petitioner

and the following designated family or household members, if any:

2. The Respondent is prohibited from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with the Petitioner.

[...]

4. The Respondent is ordered to stay away from the residence, school and/or place of employment of the Petitioner.

Appellee's App. p. 3.

Discussion and Decision

[5] Civil orders of protection are governed by the Indiana Civil Protection Order Act ("CPOA"). *Mysliwy v. Mysliwy*, 953 N.E.2d 1072, 1076 (Ind. Ct. App. 2011), *trans denied*. Pursuant to the CPOA, a person who is or has been subjected to harassment may file a petition for an order of protection against a person who has committed repeated acts of harassment against the petitioner. Ind. Code § 34-26-5-2(b). To obtain relief, a petitioner must establish at least one of the allegations in the petition by a preponderance of the evidence. *A.S. v. T.H.*, 920 N.E.2d 803, 806 (Ind. Ct. App. 2010).

[6] "[I]n granting a protective order the trial court must sua sponte make special findings of fact and conclusions thereon." *Hanauer v. Hanauer*, 981 N.E.2d 147, 148 (Ind. Ct. App. 2013). We apply a two-tiered standard of review to these findings and conclusions:

[F]irst, we determine whether the evidence supports the findings, and second, whether the findings support the [order]. In deference to the trial court's proximity to the issues, we disturb the [order] only where there is no evidence supporting the

findings or the findings fail to support the [order]. We do not reweigh the evidence, but consider only the evidence favorable to the ... [order]. Those appealing the ... [order] must establish that the findings are clearly erroneous. Findings are clearly erroneous when a review of the record leaves us firmly convinced that a mistake has been made.

Id. at 149 (bracketed and omitted material in *Hanauer*). In reviewing the sufficiency of the evidence to support an order for protection, we neither reweigh the evidence nor judge the credibility of witnesses. *A.S.*, 920 N.E.2d at 806. We consider only the probative evidence and reasonable inferences supporting the trial court's judgment. *Id.*

[7] The trial court heard testimony from Hildenbrand that Hull had engaged in a years-long pattern of behavior that included, *inter alia*, threats of physical violence, messages in which she called her a “w*****” and a “c***[,]” the creation of multiple social-media accounts to harass her, routine visits to Hildenbrand and Brandon's residence despite repeated requests that she not do so, and the delivery of items to Hildenbrand including intimate pictures of Hull, all of which caused Hildenbrand to feel intimidated, harassed, and scared. Brandon testified that he had repeatedly told Hull to stay away from Hildenbrand many times to no avail and that she had attempted to visit their residence even after the issuance of the ex parte order of protection. Joan testified that Hull had begun harassing Hildenbrand in 2018, shortly after Hildenbrand began dating Brandon and that she had become afraid for her daughter's safety after learning of Hull's violent behavior directed at a boyfriend and her harassing social-media accounts. This evidence—which the trial court

was entitled to believe—amply supports a finding of repeated harassment, which justifies the issuance of an order of protection against Hull.¹ Hull draws our attention to her own testimony, during which she denied ever harassing Hildenbrand.² The trial court, however, was under no obligation to credit this testimony and did not. Hull’s argument is nothing more than an invitation to reweigh the evidence and assess the credibility of witnesses, which we will not do. *See A.S.*, 920 N.E.2d at 806.

[8] We affirm the judgment of the trial court.

Robb, J., and Altice, J., concur.

¹ We acknowledge that the trial court found that Hull had committed “stalking” against Hildenbrand, which is covered by another provision of the CPOA and would only justify the issuance of an order of protection if Hildenbrand could also establish that she “is or has been a victim of domestic or family violence[,]” which does not seem to be supported by the record. Ind. Code § 34-26-5-2(a). That said, the record easily supports a finding of repeated harassment, and we will affirm on any basis apparent in the record. *See Williams v. Cingular Wireless*, 809 N.E.2d 473, 476 (Ind. Ct. App. 2004) (“We sustain the trial court’s ruling if we can affirm on any basis found in the record.”), *trans. denied*.

² Hull also contends that several exhibits offered by Hildenbrand were erroneously admitted below. Hull, however, acknowledges that she did not object to this evidence in the trial court, and has consequently waived the argument for appellate review. “It is the general rule that a party must object to evidence at the time it is offered into the record.” *Everage v. N. Ind. Pub. Serv. Co.*, 825 N.E.2d 941, 948 (Ind. Ct. App. 2005). “A party that fails to make a timely objection or fails to file a timely motion to strike waives the right to have the evidence excluded at trial and the right on appeal to assert the admission of evidence as erroneous.” *Id.*