MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

Mark E. Miller
Mark Miller Law Office
Evansville, Indiana

ATTORNEY FOR APPELLEE

Laurie Baiden Bumb
Bumb Law Office, LLC
Evansville, Indiana

IN THE COURT OF APPEALS OF INDIANA

Dustin M. Nevil,
Appellant-Respondent,

v.

Laurie B. Nevil,
Appellee-Petitioner.

July 11, 2022

Court of Appeals Case No. 22A-PO-327

Appeal from the Gibson Circuit Court

The Honorable Jeffrey F. Meade, Judge

Trial Court Cause No. 26C01-2201-PO-5

Mathias, Judge.

[1] Dustin M. Nevil appeals the Gibson Circuit Court's issuance of an order for protection against him and on behalf of Laurie B. Nevil. Dustin raises four issues for our review, which we consolidate and restate as whether the trial court's issuance of the order for protection is clearly erroneous. We affirm.

Facts and Procedural History

[2] In November 2021, after about eight and one-half years of marriage, Laurie filed a petition for the dissolution of her marriage to Dustin. On January 3, 2022, Laurie filed a petition for an *ex parte* order for protection against Dustin, which the trial court granted that same day. On January 14, the court held a hearing with all parties present on Laurie's petition.

[3] At that hearing, Laurie testified that "a number of incidents . . . have led to" her filing the petition for an order for protection. Tr. Vol. 2, p. 8. She testified that, in March of 2021, Dustin had come home in "an absolute fit of rage," broke things, and pushed her before he "turned on" their teenage son, T. *Id.* at 8-9. This incident "scared" Laurie and T. *Id.* at 8. On other occasions, Dustin would "get mad, and he'd break" things around the home, which on one occasion included a door. *Id.* at 10.

[4] After Laurie filed her petition for dissolution, Dustin engaged in an "almost . . . daily" campaign "where something [wa]s done to" harass her, scare her, or cause her some kind of difficulty. *Id.* at 40. For example, he would "repeatedly" direct loud music at the house during the night-time hours, while Laurie was attempting to sleep, in order to "keep [her] up all night." *Id.* at 10-11. On one such occasion, after he had done that, Dustin then came back into the house and "passed out in bed with his gun." *Id.* at 11. On another occasion, Dustin called Laurie multiple times "through the middle of the night" before "blaring music again" while she tried to sleep. *Id.* at 14-15.

[5] In late December, Dustin told Laurie, while he was intoxicated and "unstable," that he "hat[es] what he was going to have to do to [her]. And he was going to have to do it." *Id.* at 14-15. He also told her that "he would have to hurt you to protect himself." *Id.* at 31. And he told a third party that he was trying to "driv[e Laurie] crazy." *Id.* at 36-37. Laurie felt such comments were "threatening." *Id.* at 15.

[6] Dustin owns a number of firearms. On one occasion, he "put a gun up to" their dog's "head." *Id.* at 26. On another occasion, Dustin, while in possession of a firearm, threatened to harm a third party whom Dustin believed had stolen from him. *Id.* at 27-28.

[7] Dustin also had a number of security cameras installed at the parties' residence. Following Laurie's petition for dissolution, Dustin placed security cameras on adjacent properties and would remotely operate the cameras to follow Laurie as she walked around her property. *Id.* at 17-18.

[8] On a final occasion, Dustin caused a large amount of gravel to be dumped in Laurie's driveway. The gravel served no purpose other than "to cause [Laurie] an issue" by blocking her ability to access the driveway and her garage. *Id.* at 37-38.

[9] At the conclusion of the hearing on Laurie's order for protection, the trial court found that Laurie had proven by a preponderance of the evidence that she was the victim of domestic violence and that Dustin had stalked and harassed her. *Id.* at 125-26. The court then issued an order for protection on Laurie's behalf

and against Dustin, which order the court reduced to a written judgment with findings of fact and conclusions thereon. This appeal ensued.

Standard of Review

[10] Dustin appeals the trial court's issuance of the order for protection. Our standard of review in such appeals is well established. We first determine whether the evidence supports the trial court's findings, and we then determine whether the findings support the order. *Fox v. Bonam*, 45 N.E.3d 794, 798 (Ind. Ct. App. 2015). 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. *Id.* We do not reweigh evidence or reassess witness credibility, and we consider only the evidence favorable to the trial court's order. *Id.* The party appealing the order must establish that the findings are clearly erroneous. *Id.* Findings are clearly erroneous when a review of the record leaves us firmly convinced that a mistake has been made. *Id.* (quotation marks omitted). We do not defer to conclusions of law, however, and evaluate them de novo. *Id.* (quotation marks omitted).

Discussion and Decision

[11] On appeal, Dustin first argues that the trial court's findings of fact are inadequate as a matter of law. We cannot agree. "[E]ven though findings are required to grant" an order for protection, "the findings need not be extensive." *Costello v. Zollman*, 51 N.E.3d 361, 365 (Ind. Ct. App. 2016), *trans. denied*. For

example, in *Hanauer v. Hanauer*, we held that the trial court's "findings," while not extensive, were adequate for appellate review when:

> the trial court found that "domestic or family violence, [or] stalking[ ] . . . occurred sufficient to justify the issuance of [the Protective Order]." (App. at 9.) The court further found that Husband "represents a credible threat to the safety of [Wife] . . . or a member of . . . [Wife's] household." (App. at 9.) And, with these findings, the court concluded that Wife was a victim of domestic violence and entitled to the issuance of a protective order.

981 N.E.2d 147, 149 (Ind. Ct. App. 2013) (alterations and omissions in original).

[12] Similarly here, in its written order granting the order for protection, the trial court found that Dustin "represents a credible threat to the safety of [Laurie or T.]." Appellant's App. Vol. 2, p. 7. The court further found that Laurie "has shown, by a preponderance of the evidence, that domestic or family violence, stalking, or repeated acts of harassment has (sic) occurred sufficient to justify the issuance of this Order," and that the issuance of the order was "necessary to bring about a cessation of the violence or the threat of violence." *Id.* Thus, while we agree with Dustin that the court's findings leave room for greater detail and could be more extensive, we cannot say that they are inadequate as a matter of law.

[13] We thus turn to Dustin's argument that the trial court's issuance of the order for protection is clearly erroneous. The trial court found both that Laurie was the

victim of domestic or family violence and also that she had been subjected to harassment by Dustin. Each of those findings independently would support the issuance of the order for protection. *See* Ind. Code § 34-26-5-2 (2021). Although Dustin challenges both findings on appeal, because they are disjunctive and we affirm, we need only consider one. *See, e.g.*, *In re L.S.*, 717 N.E.2d 204, 209 (Ind. Ct. App. 1999), *trans. denied*.

[14] And we hold that the trial court's finding that Dustin harassed Laurie is not clearly erroneous. Under the Indiana Code:

> (a) "Harassment" . . . means conduct directed toward a victim that includes, but is not limited to, repeated or continuing impermissible contact:
>
> > (1) that would cause a reasonable person to suffer emotional distress; and
> >
> > (2) that actually causes the victim to suffer emotional distress.
>
> (b) "Harassment" does not include statutorily or constitutionally protected activity, such as lawful picketing pursuant to labor disputes or lawful employer-related activities pursuant to labor disputes.

I.C. § 34-6-2-51.5.

[15] Here, the record most favorable to the trial court's judgment makes clear that Dustin repeatedly engaged Laurie in a manner that would cause a reasonable person to suffer emotional distress. On at least one occasion, he came home

intoxicated, pushed her, and then turned on T. On other occasions, he would be angry and break things in their home. Then, after she filed the petition for dissolution, he engaged in an "almost . . . daily" campaign "where something [wa]s done to" harass her, scare her, or cause her some kind of difficulty. Tr. Vol. 2, p. 40. He would "repeatedly" direct loud music at the house during the night-time hours, while Laurie was attempting to sleep, in order to "keep [her] up all night." *Id.* at 11-12. He would call Laurie multiple times "through the middle of the night" while she tried to sleep. *Id.* at 14-15. He placed security cameras on adjacent properties and would remotely operate the cameras to follow Laurie as she walked around her property. *Id.* at 17-18. He caused a large amount of gravel to be dumped in Laurie's driveway in order to block Laurie's ability to access the driveway and her garage. *Id.* at 37-38.

[16] The record readily establishes that Dustin, at a minimum, harassed Laurie. Further, Dustin's arguments on appeal notwithstanding, Laurie also testified that his actions made her feel "scared" and "threaten[ed]." *Id.* at 8, 15. Indeed, any reasonable fact-finder could find that Dustin's federally-licensed gun dealer status, together with the number of guns that had been on the premises during the marriage, some of which he slept with in their marital bed, and his irrational, retributive behavior sufficed to make Dustin a credible threat to Laurie. In sum, Dustin's arguments that the trial court's judgment is clearly erroneous amount to nothing more than requests for this Court to disregard the evidence most favorable to the judgment and reweigh the evidence for ourselves, which we will not do. The trial court's judgment is not clearly

erroneous, and we therefore affirm the court's issuance of the order for protection.

[17] Affirmed.

Brown, J., and Molter, J., concur.