

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Ryan C. McGee,
Appellant-Respondent,

v.

G.B.,
Appellee-Petitioner

May 28, 2021

Court of Appeals Case No.
20A-PO-2385

Appeal from the Jasper Circuit
Court

The Honorable Michael Shurn,
Special Judge

Trial Court Cause No.
37C01-2011-PO-924

Crone, Judge.

Case Summary

- [1] Ryan C. McGee appeals the trial court’s issuance of a protective order against him and in favor of his now-estranged wife G.B., arguing that there is insufficient evidence to support the issuance of the order. Concluding that the evidence is sufficient, we affirm the trial court’s grant of a protective order in favor of G.B.

Facts and Procedural History

- [2] McGee and G.B. married in March 2016. They had been together for eight years prior to their marriage. During McGee’s twenty-year military career, he and G.B. lived all over the world, but in September 2019, McGee and G.B. moved back to Indiana and purchased a home together.
- [3] On October 21, 2020, McGee became upset over an incident with another family member. McGee was “off the rails upset,” and this was just one of the many times that he had been “triggered by something that someone had done or said.” Tr. Vol. 2 at 8. G.B. disagreed with how upset McGee was about the situation, so the two began arguing. The argument escalated to the point that McGee threatened to “kill” G.B. *Id.* at 9. G.B. de-escalated the situation by getting “out of [McGee’s] line of sight” and going into another bedroom, which she often did “in reaction to those sorts of arguments” with McGee. *Id.* McGee owns “roughly ten” firearms, and G.B. was “terrified” that McGee would “kill” her. *Id.* at 10, 12. Indeed, McGee routinely carried a gun on his person, and he kept that gun on the kitchen island so it was always “easily

within reach.” *Id.* at 11. G.B. did not call the police because she believed that she “would have been dead” before dialing. *Id.* at 20. A week later, on October 28, McGee again became “very heated” and “screamed” at G.B. that if she was cheating on him or taking all of his money, he would “kill [her] right now.” *Id.* at 10. G.B. de-escalated the situation by moving away from McGee, waiting a little while, and “then thr[owing] what [she] could in a bag and le[aving].” *Id.* at 11.

[4] On November 4, 2020, both G.B. and McGee filed for dissolution of marriage in different trial courts, and on November 17, 2020, McGee filed a motion for a no-contact order against G.B. Then, on November 24, 2020, G.B. filed a petition for a protective order against McGee based on the above-described incidents. On that date, the trial court entered an ex parte order for protection. Thereafter, a protective order evidentiary hearing was held on December 4, 2020. During the hearing, G.B. gave a detailed account of both incidents and stated that she was “fearful” for her life and safety due to McGee’s repeated threatening behavior. G.B.’s father testified that McGee telephoned him on October 31, 2020 and admitted that he had threatened to kill G.B. and her family. *Id.* at 56. G.B.’s father stated that he believed that McGee represented a credible threat to both G.B. and her family. *Id.* at 57. McGee also testified at the hearing, but he denied ever threatening to kill G.B. McGee admitted that he handled his gun during the October 21 incident, but he denied pointing it at G.B. McGee explained that he has been diagnosed with traumatic brain injury

(TBI) and post-traumatic stress disorder (PTSD), and he agreed that, due to those disorders, he “escalate[s] situations quickly.” *Id.* at 79.

[5] At the conclusion of the hearing, the trial court found that G.B. had shown, by a preponderance of the evidence, that McGee represented a credible threat to her safety sufficient to justify the issuance of a protective order. Specifically, the trial court’s order provides:

The court finds by a preponderance of the evidence that the respondent threatened to kill the petitioner during a heated argument, while holding a firearm, on October 21, 2020, and petitioner was in fear of her life and undertook de-escalation of the incident like she has done in past arguments. When later confronted by petitioner’s father about the incident, respondent did not deny the facts of the incident. Respondent testified as to a TBI and PTSD which can be triggered by certain words and actions of others. The court concludes this protective order should continue during the duration of a companion case [the parties’ dissolution of marriage proceedings].

Appealed Order at 1. This appeal ensued.

Discussion and Decision

[6] Before turning to McGee’s challenge to the protective order, we begin by noting that G.B. has not filed an appellee’s brief, and therefore we will not undertake the burden of developing arguments for her. *Mullett v. Baker*, 120 N.E.3d 630, 632 (Ind. Ct. App. 2019). Instead, our standard of review is less stringent, and we will reverse only upon a showing of “prima facie error, which is error at first sight, on first appearance, or on the face of it.” *Id.* Nevertheless, to determine

whether reversal is required, we are still obligated to correctly apply the law to the facts in the record. *Id.*

- [7] The Indiana Civil Protection Order Act (CPOA) has the express purpose of promoting the: “(1) protection and safety of all victims of domestic or family violence in a fair, prompt, and effective manner; (2) protection and safety of all victims of harassment in a fair, prompt, and effective manner; and (3) prevention of future domestic violence, family violence, and harassment.” Ind. Code § 34-26-5-1. “Domestic or family violence” includes “[a]ttempting to cause, threatening to cause, or causing physical harm to another family or household member” and “[p]lacing a family or household member in fear of physical harm.” Ind. Code § 34-6-2-34.5(1), -(2). “To obtain a protective order, the petitioner must show the respondent represents—present tense—a credible threat to the safety of a petitioner or a member of a petitioner’s household.” *S.H. v. D.W.*, 139 N.E.3d 214, 219-20 (Ind. 2020) (citation and quotation marks omitted). If the trial court finds that the petitioner has met this burden by a preponderance of the evidence, “the court shall grant relief necessary to bring about a cessation of the violence or the threat of violence.” Ind. Code § 34-26-5-9. In assessing the sufficiency of the evidence, we neither reweigh the evidence nor judge witness credibility. *Costello v. Zollman*, 51 N.E.3d 361, 367 (Ind. Ct. App. 2016), *trans. denied*. We consider only the evidence of probative value and reasonable inferences that support the judgment. *Id.*

- [8] Based upon the record before us, we conclude that G.B. presented sufficient evidence of probative value to support the trial court’s finding that McGee

presently represents a credible threat to her safety. G.B. testified that McGee had very recently threatened to kill her, that he owned numerous guns, and that his threats, coupled with his admitted delicate mental state, placed her in fear of physical harm. Her father corroborated her claims. The trial court tailored a limited order that it believed to be necessary to bring about the cessation of the threat of violence during the pendency of the parties' dissolution of marriage proceedings. McGee's assertions on appeal are simply requests for this Court to reweigh the evidence and reassess witness credibility, tasks not within our purview on appeal. The trial court's order is affirmed.

[9] Affirmed.

Riley, J., and Mathias, J., concur.