SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2724-20

L.A.[1],

Plaintiff-Respondent,

v.

A.A.E.,

Defendant-Appellant.

Submitted March 21, 2022 – Decided April 26, 2022

Before Judges Mayer and Natali.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Ocean County, Docket No. FV-15-0208-21.

The Bianchi Law Group, LLC, attorneys for respondent (Joseph A. Giordano, of counsel and on the brief).

Respondent has not filed a brief.

PER CURIAM

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[1] We use initials and pseudonyms to protect the identity of the victims and to preserve the confidentiality of these proceedings. R. 1:38-3(d)(10).

Defendant A.A.E. appeals from an April 21, 2021 final restraining order (FRO) entered against him pursuant to the Prevention of Domestic Violence Act (PDVA), N.J.S.A. 2C:25-17 to -35. We affirm.

I.

After a telephonic hearing, in which plaintiff testified, a municipal court judge concluded defendant committed the predicate act of harassment, N.J.S.A. 2C:33-4(c), and granted plaintiff's request for a temporary restraining order (TRO). The judge included plaintiff's then-boyfriend, A.A. (Alan), as a protected party, as he had been the subject, along with plaintiff, of defendant's harassing and vulgar communications underpinning the judge's harassment finding.

Defendant was served with the TRO on August 1, 2020. Plaintiff later amended the TRO, first on August 11, 2020 and again on August 25, 2020, to include details regarding the prior history of domestic violence between the parties. Specifically, the amended TROs outlined various arguments and physical violence occurring between May 2017 to February 2020. Defendant was served with the August 25, 2020 amended TRO that same day.

Defendant appealed the TRO nearly three months later, on November 10, 2020, alleging that it was improperly entered. He attributed his delay in filing

to "much back and forth with [Point Pleasant Beach municipal court] for nearly two months" in an effort to obtain the audio recording from the telephonic TRO hearing. Defendant denied committing the predicate act of harassment, claiming any offensive communication had been directed only at Alan, not plaintiff. Defendant further emphasized that at the time of plaintiff's application, he had not directly communicated with her for approximately five months, and therefore maintained "the time and expense of a trial" was unnecessary.

On March 17, 2021, the parties appeared for a virtual hearing before a Superior Court judge. As best we can discern from the record, the inordinate three-month delay between defendant's appeal and the scheduled hearing was due in part to defendant's inability to obtain the recording of the TRO application, and his requests for an in-person hearing with respect to that appeal, despite the difficulties in scheduling such a proceeding due to the COVID-19 pandemic.

At the March 17th proceeding, defense counsel renewed his request for an in-person hearing as it related to his appeal and assumedly, any FRO hearing, but the court rejected the request, explaining that the "downsides" of a virtual hearing did not outweigh the risk of an in-person hearing, which it did not foresee happening for a "long, long time." Because the proceedings had already

been delayed, the court determined the best course was to proceed to a virtual FRO hearing rather than first address defendant's appeal of the TRO. The court did, however, grant defendant's request for an adjournment to permit his counsel to prepare for the hearing which was conducted before a different judge.

Judge Deborah L. Gramiccioni presided over the FRO hearing, where plaintiff was the only witness, and during which she testified largely consistent with her testimony in support of the TRO. Specifically, plaintiff stated that throughout their relationship, defendant had been physically, mentally, and emotionally abusive toward her. She explained that the pair broke off their engagement in November 2019, but "continued to try to work things out" through the beginning of January 2020. Thereafter, defendant began sending her harassing text messages and emails that "fluctuate[d] from, I love you . . . I'm supposed to marry you" to calling her insulting names and stating, "you're ruining my life. You're going to regret this."

After she blocked defendant's phone number in November 2019, plaintiff testified that defendant began to email her, which continued through March 2020. The emails used crude language, and insulted Alan, who also worked at the Passaic County Sheriff's Office. The emails also threatened plaintiff's job, stating that she would never "advance . . . as long as he's around."

Plaintiff also testified that beginning in May 2020, Alan began to receive phone calls and text messages from "phony numbers" she believed belonged to defendant. One text message requested Alan ask plaintiff about the time she and defendant engaged in a "sexual situation," which plaintiff testified nobody else knew about. Alan also received a text claiming plaintiff had previous relationships with other police officers, which was consistent with defendant's prior accusations that plaintiff was "sleeping with multiple officers that work[ed] within [the] department."

Additional messages threatened Alan's job and warned that he should "get used to staying at [his] post." Plaintiff testified that she believed these texts came from defendant because he had authority to assign officer posts in his position as sergeant. The text messages continued throughout the summer, with Alan receiving another "set of texts" in June 2020 after plaintiff and Alan became engaged. At that point, plaintiff reported the text messages to the Internal Affairs division of the Sheriff's Office, to her direct supervisor, and to the PBA president.

On the evening of July 31, 2020, Alan received numerous calls from defendant's phone number, which Alan saved in his phone. Alan also received various threatening text messages from unknown numbers that night, including

one that stated, "[y]ou're . . . known to other cops as dirty . . . [and] as a fiancé stealer." Plaintiff testified that she was standing next to Alan as he received the text messages, and she read the messages off his phone. Other texts referred to plaintiff, stating "[t]hat whore is damaged goods." Plaintiff stated she recognized that phrase specifically, as defendant previously called her "damaged goods."

Alan's telephone call log from July 31, 2020 also revealed various calls from the same unknown number that sent the aforementioned text messages. When plaintiff and Alan answered those calls, a computerized female voice appeared to direct insults toward plaintiff, stating, "Your [d]ad's a pedophile. Your girl has a hairy ass." Alan also received voicemails with the same computerized female voice, calling him a "fatso" and a "coward," and challenged Alan to come see him to "stand up for that whore." At least four of these voicemails came from defendant's number. Plaintiff testified that additional voicemails from unknown numbers used "the same female computerized voice that [she] heard when one of the phone calls that came from [defendant's] phone number was answered."

Plaintiff also detailed numerous incidents of domestic violence throughout her relationship with defendant, including several occasions when

defendant physically assaulted her. During one incident, defendant "got angry . . . grabbed [plaintiff] by both of [her] arms and . . . [plaintiff] got tossed into the wall," and she briefly blacked out. On another, he punched plaintiff's rear-view mirror off her windshield because he hated seeing her prayer beads in her car and "didn't like the fact that [she] was Muslim."

Plaintiff also recounted an incident from August of 2019, when she returned to her house at approximately 2:00 a.m. and received a phone call from defendant. He asked why she had returned home so late and admitted that he had been watching her. She testified that she noticed defendant's car parked outside her house, which she had seen him do on several previous occasions. She also stated that she noticed his supervisor drive by her house "multiple times."

Plaintiff further testified that defendant would exhibit controlling and jealous behavior, specifically recalling an incident in October 2019 when defendant became angry that she did not use a password associated with him to set up a new television. Defendant picked up plaintiff "by both of [her] arms and . . . dangl[ed] [her] over the stairs," threatening to kill her.

Plaintiff explained she filed for a TRO because she "felt scared" and "very harassed." She stated that she believed defendant was "terroriz[ing]" her by

sending messages to Alan. Plaintiff confirmed that the last direct communication she had with defendant was on March 2, 2020, but felt confident the texts Alan received from unknown numbers came from defendant because "[t]hey were things that only [she] and [defendant] would know." She stated that she believed defendant directed the messages to Alan because he was "simply the vessel that was being used to get to [her]." Defendant did not testify nor offer any evidence in his defense.

Judge Gramiccioni granted plaintiff's request for a FRO and issued an attendant April 21, 2021 order. In her accompanying oral decision, the judge first concluded that the court had jurisdiction under N.J.S.A. 2C:25-19(d) based on the parties' dating relationship. The judge also made extensive and detailed credibility determinations that credited plaintiff's testimony and specifically noted "there was a vividness that she was able to bestow through her testimony even without the corroborating exhibits."

Judge Gramiccioni next analyzed the two-part Silver[2] test, and concluded plaintiff established by a preponderance of credible evidence the predicate act

[2] Under Silver, before entering a FRO, the court must find: (1) defendant committed a predicate act within N.J.S.A. 2C:25-19(a); and (2) a FRO is necessary to protect the victim from immediate danger or to prevent further abuse. Silver v. Silver, 387 N.J. Super. 112, 125-27 (2006).

of harassment. Relying on N.J.S.A. 2C:33-4 and State v. Castagna, 387 N.J. Super. 598, 605 (App. Div. 2006), the judge found that though defendant directed many of the harassing communications toward Alan, defendant intended those messages to be delivered to the plaintiff. The judge specifically noted that the voicemails and phone calls that employed a computerized female voice were "designed to harass the plaintiff . . . using her fiancé as [defendant's] conduit."

Judge Gramiccioni characterized defendant's messages as crude and "offensively coarse." Highlighting plaintiff's testimony that she had seen defendant outside her house on various occasions, the judge further found it was "not entirely a coincidence" that Alan received harassing text messages while he was "physically with plaintiff." Judge Gramiccioni explained "defendant knew or at least had assumed that the plaintiff was with her fiancé when he sent those messages to her fiancé. And that, too, undergirds the [c]ourt's findings that the defendant intended those communications be communicated to the plaintiff specifically." The judge also determined that Alan never initiated the conversations or antagonized defendant.

Finally, Judge Gramiccioni found defendant's actions established a "course of repeated conduct designed to harass" under subsection (c) of the

harassment statute. She determined defendant's conduct to be "so utterly controlling in nature that it does defy not only common sense but decorum in civil society."

Under the second Silver prong, the judge analyzed the statutory factors under N.J.S.A. 2C:25-29(a)(1) through (6), finding "complete attempts to control the plaintiff through . . . physical and emotional behavior by the defendant." The judge also determined plaintiff did not harbor an ulterior motive that defendant be fired from his job. Given the prior history of domestic violence, Judge Gramiccioni concluded the second prong of Silver had been satisfied and plaintiff was entitled to a final restraining order against defendant that included Alan as a protected party.

This appeal followed in which defendant raises four arguments. First, defendant maintains the virtual nature of the proceedings violated his due process rights. Second, he contends the court's failure to hold a hearing with respect to the appeal of the temporary restraining order (TRO) violated his rights under N.J.S.A. 2C:25-28(i). Third, he argues the FRO should be vacated because he did not commit the predicate act of harassment. Finally, he maintains court erred when it admitted text messages and computerized female voicemails

from unknown numbers, as those communications constituted unauthenticated and inadmissible hearsay.

We have considered defendant's arguments and affirm substantially for the reasons expressed in Judge Gramiccioni's thorough and comprehensive April 21, 2021 oral decision. We add the following to amplify our decision and to address the specific arguments raised by defendant on appeal.

II.

As noted, defendant argues his due process rights were violated when he was "forced" to participate in a virtual trial and contends that the court failed to consider whether plaintiff's virtual testimony satisfied the requirements of Pathri v. Kakarlamath, 462 N.J. Super. 208, 212 (App. Div. 2021). We disagree.

Our Supreme Court recently recognized the technological problems that arise in virtual settings, noting that "virtual proceedings are a temporary measure invoked to meet an extraordinary, life-threatening public health crisis" because "the criminal and civil justice system cannot stand still." State v. Vega-Larregui, 246 N.J. 94, 136 (2021). There, the Court concluded that the virtual nature of a grand jury proceeding did not violate the fundamental fairness doctrine or defendant's constitutional rights, as the court took diligent precautions to preserve the sanctity of these proceedings. Id. at 134.

On the other hand, in D.M.R. v. M.K.G., 467 N.J. Super. 308, 320-22 (App. Div. 2021), we concluded defendant's due process rights had been violated when the court held a remote FRO trial over Zoom that consisted of several "irregularities." In D.M.R., plaintiff's mother was present in the room with him throughout the trial and spoke during his testimony; the parties improperly addressed one another directly; and the court questioned plaintiff's mother in a manner that resembled advocacy. Ibid. We emphasized that during a virtual trial, "each witness must be alone while remotely testifying . . . to 'discourage collusion and expose contrived testimony.'" D.M.R., 467 N.J. Super. at 320 (quoting Morton Bldgs. Inc. v. Rezultz, Inc., 127 N.J. 227, 233 (1992)). Because of these errors, we concluded that the defendant had been deprived of her due process rights. Id. at 322.

Prior to the COVID-19 pandemic, we outlined factors for courts to consider in determining whether to allow witnesses to testify via video transmission. Pathri, 462 N.J. Super. at 212. These factors include, among others, "the witness' importance to the proceeding [and] the severity of the factual dispute to which the witness will testify," "whether the factfinder is a judge or a jury," and "the delay caused by insisting on the witness' physical

appearance in court versus the speed and convenience of allowing the transmission in some other manner." Id. at 216.

We are satisfied that the virtual format of the trial did not violate defendant's due process rights. First, the Zoom trial did not suffer from the same procedural infirmities as those in D.M.R. Indeed, the judge began trial emphasizing the expectation that "[t]here are rules of the court [and] a decorum that adheres even in these virtual cases."

The judge also instructed all parties to stop speaking should an objection be lodged and informed counsel and the parties of the "mutual sequestration order" requiring:

> [A]ll witnesses to either remain in the breakout room or 'on standby' as the case may be. Meaning that they have to be outside the virtual courtroom until such time as they are called to testify. Obviously, this does not include the plaintiff and the defendant. But the Sequestration Order also prohibits any witness, that does include the plaintiff and the defendant, from discussing the nature or anything relating to their own testimony with any witness who has not yet been called.

Nothing in the record suggests prospective witnesses, or other third parties, were present in the room with plaintiff or defendant, nor did plaintiff and defendant ever address each other.

We also reject defendant's reliance on Pathri, 462 N.J. Super. at 216. Weighing the factors addressed in that case, we are satisfied that proceeding virtually was the proper course. While plaintiff was the only witness, the factfinder was a judge experienced with Zoom trials and the associated complexities. In addition, the delay involved with awaiting an in-person proceeding weighed in favor of proceeding virtually in this case. Ibid. This is best explained by the fact that only on June 15, 2021 did the New Jersey Judiciary authorize "up to 50%" of judiciary staff to be present on-site, and at that point, courts remained closed to the public, "except in emergencies and other limited situations." See Notice to the Bar, COVID-19 – Next Phase of Court Operations: (1) Continued Increase in On-Site Presence of Judges and Employees; (2) Expanded Capacity for In-Person Court Events; and (3) Continuation of Certain Proceedings Remotely (June 2, 2021).

In sum, we are satisfied that the virtual format of the trial did not deprive defendant of his due process rights. The record reflects that the court maintained the formality of the proceedings, ably managed objections, and the parties exhibited the "decorum" requested before testimony began.

III.

Defendant also argues the court deprived him a meaningful opportunity to be heard with respect to his appeal of the TRO when it decided to proceed directly to the FRO trial. Again, we disagree.

The entry of a TRO can deprive a defendant of significant rights, by allowing "any relief necessary to prevent further abuse." N.J.S.A. 2C:25-29(b). Such relief may include "restraining the defendant from [contacting] the plaintiff or others," allowing "exclusive possession to the plaintiff of the residence or household," restricting parenting time, or awarding plaintiff emergency monetary relief. See N.J.S.A. 2C:25-29(b)(1)-(19).

Under N.J.S.A. 2C:25-28(i), a TRO is:

> immediately appealable for a plenary hearing de novo not on the record before any judge of the Family Part of the county in which the plaintiff resides or is sheltered if that judge issued the temporary order or has access to the reasons for the issuance of the temporary order and sets forth in the record the reasons for the modification or dissolution.
>
> [N.J.S.A. 2C:25-28(i).]

After any appeal of a TRO, a final hearing "shall be held in the Family Part of the Chancery Division of the Superior Court within [ten] days of the filing of a complaint." N.J.S.A. 2C:25-29(a); see also State of New Jersey

Domestic Violence Procedures Manual §4.9.1 (2008) (hereinafter "Procedures Manual"). Neither the PDVA nor the Procedures Manual address the propriety of the court foregoing a hearing on an appeal of a TRO, but one court has recognized that "both parties may consent to converting an appeal hearing into a final hearing, as long as they are fully aware of the consequences and ramifications of doing so." Vendetti v. Meltz, 359 N.J. Super. 63, 67–68 (Ch. Div. 2002).

The availability of an immediate appeal of a TRO "appears to be designed to balance the fact that TROs are most often issued ex parte, without notice to the defendant, with the fundamental procedural due process rights of all litigants, particularly in light of the consequential relief most often granted in a TRO." Id. at 67–68. There may be circumstances in which "a defendant disputes the very occurrence of the alleged act of domestic violence that underpins the issuance of the TRO." Id. at 68. As such, "the defendant often seeks vacation of the TRO or at least significant modification of the restraints contained therein." Ibid.

We have previously emphasized the obvious point that under the PDVA, "[d]ue process is a fundamental right accorded to both parties." T.M.S. v. W.C.P., 450 N.J. Super. 499, 505 (App. Div. 2017). At a minimum, due process

"requires that a party in a judicial hearing receive notice defining the issues and an adequate opportunity to prepare and respond." J.D. v. M.D.F., 207 N.J. 458, 478 (2011) (quoting H.E.S. v. J.C.S., 175 N.J. 309, 321-22 (2003)).

Additionally, our Supreme Court has stressed the significant due process and fundamental fairness considerations attendant to hearings under the PDVA, noting that "due process forbids the trial court 'to convert a hearing on a complaint alleging one act of domestic violence into a hearing on other acts of domestic violence which are not even alleged in the complaint.'" H.E.S., 175 N.J. at 322 (quoting J.F. v. B.K., 308 N.J. Super. 387, 391-92 (App. Div. 1998)). Consequently, a judge considering the entry of a FRO should not rely upon a prior alleged course of violent conduct if it was not mentioned in the TRO application served upon a defendant, unless that defendant has been given fair notice of the complainant's desire to rely upon those past alleged incidents and an adequate opportunity to prepare a defense to those contentions. Id. at 321-22.

Applying these principles, we are satisfied that under the unique circumstances presented by this case, the court did not err in its decision to forego a separate hearing with respect to defendant's appeal of the TRO. First, it is undisputed that defendant was provided proper notice of the TRO. Indeed,

the original TRO, and the second amended TRO, were both served on defendant the same day they were granted, but defendant did not appeal until two months later, claiming he needed to obtain a transcript of the telephonic hearing. That litigation decision undoubtedly contributed to the delay in resolution of the matter. We also note that appeals of TROs occur routinely in the Family Part without the need, and related delay associated with, obtaining transcripts.

Second, it is clear from our review of the record that the judge did not impose the FRO on grounds distinct from those included in the amended TRO, nor did plaintiff testify to additional instances of domestic violence or harassment other those outlined in the amended TRO. See H.E.S., 175 N.J. at 321-22. See also J.F., 308 N.J. Super. at 391-92 (trial court's finding that defendant committed an act of domestic violence based on a course of prior conduct never mentioned in the complaint deprived defendant of due process).

Although the preferable course would have been for the court to have held a hearing on defendant's TRO appeal, we are satisfied that the court did not violate defendant's due process rights when it decided to forego a hearing on the merits of the TRO, as he had ample time to "prepare and respond" for the FRO hearing. See J.D., 207 N.J. at 478. In addition, the court independently evaluated the propriety of entering the FRO, and addressed all of defendant's

claims of error with respect to the entry of the TRO, effectively mooting any challenge to the TRO.

IV.

Defendant further argues the court erred when it granted the FRO because he did not commit the predicate act of harassment. He maintains that plaintiff's proofs fail both prongs of the two-part Silver test, as his communications with plaintiff ceased five months prior to her TRO application and were primarily directed at Alan. We reject these arguments.

Our review of a family judge's factual findings is limited. N.J. Div. of Child Prot. & Permanency v. J.B., 459 N.J. Super. 442, 450 (App. Div. 2019). We defer to a family judge's factual findings when supported by substantial, credible evidence in the record because the judge "has the superior ability to gauge the credibility of the witnesses who testify" and has "special expertise in matters related to the family." N.J. Div. of Youth & Fam. Servs. v. F.M., 211 N.J. 420, 448 (2012); see also Cesare v. Cesare, 154 N.J. 394, 413 (1998). "We recognize that the cold record, which we review, can never adequately convey the actual happenings in a courtroom." F.M., 211 N.J. at 448.

We intervene only when a trial judge's factual conclusions are "so wide of the mark" they are "clearly mistaken." N.J. Div. Youth & Fam. Servs. v. G.L.,

191 N.J. 596, 605 (2007). Questions of law are reviewed de novo and are not entitled to any special deference. See Gere v. Louis, 209 N.J. 486, 499 (2012). We will not defer to the Family Part's legal conclusions if "based upon a misunderstanding of . . . applicable legal principles." T.M.S., 450 N.J. Super. at 502 (quoting N.T.B. v. D.D.B., 442 N.J. Super. 205, 215 (App. Div. 2015)).

As discussed, a plaintiff must satisfy the two-prong test set forth in Silver to obtain a FRO. Under the first Silver prong, defendant argues there was no predicate act of harassment directed at plaintiff. We have previously identified harassment as "the most frequently reported predicate offense," L.M.F. v. J.A.F., Jr., 421 N.J. Super. 523, 533 (App. Div. 2011), in domestic violence cases. Harassment is established where a person:

> a. Makes, or causes to be made, a communication or communications anonymously or at extremely inconvenient hours, or in offensively coarse language, or any other manner likely to cause annoyance or alarm;
>
> b. Subjects another to striking, kicking, shoving, or other offensive touching, or threatens to do so; or
>
> c. Engages in any other course of alarming conduct or of repeatedly committed acts with purpose to alarm or seriously annoy such other person.
>
> [N.J.S.A. 2C:33-4.]

The phrase "to alarm or seriously annoy" in subsection (c) means "to weary, worry, trouble, or offend." State v. Hoffman, 149 N.J. 564, 580-81 (1997); see also J.D., 207 N.J. at 478. A finding of harassment also requires proof of an intent or purpose to harass. Hoffman, 149 N.J. at 576-77. In other words, a plaintiff must prove "the actor's conscious object was to alarm or annoy." J.D., 207 N.J. at 486-87 (finding defendant's "snide remarks" made to plaintiff's boyfriend when she was not present were not sufficient to establish intent). In addition, the communication must be delivered to the victim for harassment to occur, and "mere awareness that someone might be alarmed or annoyed is insufficient." R.G. v. R.G., 449 N.J. Super. 208, 226 (App. Div. 2017) (citing J.D., 207 N.J. at 487).

A finding that a defendant committed a predicate act does not "automatically mandate[ ]" the entry of a FRO. Silver, 387 N.J. Super. at 126-27. Where a predicate act is found, the evidence must establish the defendant "subjected [the victim] to potential abusive and controlling behavior" as a result of the parties' previous domestic relationship. R.G., 449 N.J. Super. at 229. Under the second Silver prong, "the guiding standard is whether a restraining order is necessary, upon an evaluation of the factors set forth in N.J.S.A. 2C:25-29(a)(1) to -29(a)(6), to protect the victim from an immediate danger or to

prevent further abuse." Silver, 387 N.J. Super. at 127. "[W]hen determining whether a restraining order should be issued based on . . . any of the predicate acts, the court must consider the evidence in light of whether there is a previous history of domestic violence, and whether there exists immediate danger to person or property." Silver, 387 N.J. Super. at 126.

We are satisfied the judge's conclusion that defendant harassed plaintiff, as defined under N.J.S.A. 2C:33-4, was based upon substantial, credible evidence in the record. That evidence amply supports the finding that defendant possessed the conscious objective to use Alan as an instrument of harassment. We agree with the judge that defendant's disclosure of "intimate and personal details" in the communications supported a finding of purposeful harassment through Alan as a "vessel." Indeed, defendant's purpose is established by his own words when he expressly requested Alan deliver a message to plaintiff.

The record also establishes that defendant made communications to plaintiff "in offensively coarse language" and in a "manner likely to cause annoyance or alarm . . . ." N.J.S.A. 2C:33-4(a). Plaintiff testified, and the text messages show, that defendant called her a "whore," a "slut" and "damaged goods," among other vulgar names. She further stated that defendant sent various threatening text messages to her before he began to contact Alan, and

later threatened Alan's job. She also testified that she saw defendant parked outside her house on various occasions, all of which the judge found to be credible.

We are also satisfied that the judge's conclusion that plaintiff needed permanent protection from defendant is sufficiently supported by the record, given the violent behavior defendant exhibited throughout the nearly five-year-long relationship, which the judge carefully considered under N.J.S.A. 2C:25-29(a)(1)-(6). Indeed, the record clearly establishes that defendant engaged in a course of abusive conduct over several years. See J.D., 207 N.J. at 478. Plaintiff testified to numerous instances in which plaintiff physically assaulted her, including one when he threatened to kill her. We also consider significant the judge's amply supported finding that plaintiff did not have any vindictive motives. Indeed, plaintiff testified that her intent was not to harm defendant, or for him to lose his pension, but rather, she wanted to be free from his constant contact.

V.

Finally, defendant argues the court erred when it admitted female voice recordings and text messages that came from unknown numbers. Specifically, defendant contends his due process rights were violated because the court did

not sustain his hearsay objections and "glossed over an obvious authenticity issue." We disagree.

We defer to a trial court's evidentiary ruling absent an abuse of discretion. State v. Garcia, 245 N.J. 412, 430 (2021). We do so because "the decision to admit or exclude evidence is one firmly entrusted to the trial court's discretion." State v. Prall, 231 N.J. 567, 580 (2018) (quoting Est. of Hanges v. Metro. Prop. & Cas. Ins. Co., 202 N.J. 369, 383-84 (2010)).

We evaluate defendant's arguments after considering the applicable evidentiary rules. First, N.J.R.E. 901 states that "[t]he requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter is what its proponent claims." As we pointed out in Kalola v. Eisenberg, "[N.J.R.E.] 901 'does not erect a particularly high hurdle' . . . The proponent of the evidence is not required 'to rule out all possibilities inconsistent with authenticity, or to prove beyond any doubt that the evidence is what it purports to be.'" 344 N.J. Super. 198, 205-06 (Law Div. 2001) (quoting United States v. Dhinsa, 243 F.3d 635, 658 (2d Cir. 2001)). "The requirement under [N.J.R.E.] 901 is satisfied if sufficient proof has been introduced so that a reasonable juror could find that the matter in question is what its proponent claims." Ibid.

In addition, hearsay is defined as "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." N.J.R.E. 801(c). Because hearsay is deemed "untrustworthy and unreliable," State v. White, 158 N.J. 230, 238 (1999), it is "not admissible except as provided by [the Rules of Evidence] or by other law," N.J.R.E. 802. However, "if evidence is not offered for the truth of the matter asserted, the evidence is not hearsay, and no exception to the hearsay rule is necessary to introduce that evidence at trial." State v. Long, 173 N.J. 138, 152 (2002).

The party-opponent statement exception to the hearsay rule applies when the statement is "offered against a party-opponent" and is either that party-opponent's own statement, adopted by word or conduct or manifestly believed by the party-opponent, made by an agent concerning their agency, or "made at the time the party-opponent and the declarant were participating in a plan to commit a crime or civil wrong and the statement was made in furtherance of that plan." N.J.R.E. 803(b)(1)-(5).

First, we reject defendant's argument that plaintiff's proofs were not properly authenticated under N.J.R.E. 901. Plaintiff introduced sufficient proof "to support a finding that the matter in question is what its proponent claims."

N.J.R.E. 901. Plaintiff testified as to each exhibit, describing the screenshots she took of the text messages and telephone call records on Alan's phone. The voicemail recordings were played in court, transcribed into the record, and plaintiff authenticated them as a "fair and accurate" representation of voicemails she listened to on Alan's phone. Plaintiff did the same for the text messages, stating she observed the messages on Alan's phone as he received them.

Second, we are satisfied that it was not plain error for the judge to admit both the text messages from unknown numbers and the computerized voicemails from defendant's number to which defendant did not object. See State v. Singh, 245 N.J. 1, 13 (2021). Finding plaintiff credible, the judge concluded the text messages from unknown numbers came from defendant because they included information about plaintiff that only he knew, thereby satisfying the party-opponent exception under N.J.R.E. 803(b).

With respect to the computerized voicemail recordings from unknown numbers, we conclude Judge Gramiccioni did not abuse her discretion when she admitted those recordings over defendant's objection. See Garcia, 245 N.J. at 430. Plaintiff testified that the female voice from these numbers matched that of the voicemails from defendant's number, which we discern the judge reasoned sufficient to satisfy N.J.R.E. 901 and 803(b).

In sum, we have carefully reviewed the record in light of defendant's arguments and are satisfied that Judge Gramiccioni sufficiently assessed the testimonial evidence and exhibits in making her factual findings. We discern no basis to disturb her conclusions regarding the admissibility of the challenged evidence, including the applicability of N.J.R.E. 803(b), as her findings were adequately supported by substantial, credible evidence contained in the record supporting the conclusion that defendant sent the text messages and computerized voicemails to Alan's phone. See State v. Locurto, 157 N.J. 463, 472 (1999).

To the extent we have not specifically addressed any of defendant's arguments, it is because we conclude they are of insufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.