

RECORD IMPOUNDED

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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0716-16T2

M.M.F.,

Plaintiff-Respondent,

v.

B.M.F.,

Defendant-Appellant.

Submitted November 30, 2017 – Decided December 13, 2017

Before Judges Haas and Rothstadt.

On appeal from Superior Court of New Jersey,
Chancery Division, Family Part, Morris County,
FV-14-0168-17.

Previte & Nachlinger, PC, attorneys for
appellant (John Nachlinger and Christina
Previte, on the brief).

Nicholas J. Palma, attorney for respondent
(Valerie Palma DeLuisi, on the brief).

PER CURIAM

Plaintiff commenced this action, pursuant to the Prevention
of Domestic Violence Act, N.J.S.A. 2C:25-17 to -35, based on an
allegation that defendant harassed and intimidated her by cursing

and throwing things after their eight-year-old child asked plaintiff to go with him and defendant to a baseball field. At the conclusion of a final hearing at which only the parties testified,¹ the judge rendered detailed findings of fact and entered a final restraining order (FRO).

On appeal, defendant argues the judge erred "in finding a predicate act of harassment" and that a FRO was needed "to protect . . . plaintiff." We find insufficient merit in these arguments to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). We add only the following brief comments.

Our standard of review requires deference to findings of fact that are based on "adequate, substantial, credible evidence"; that is especially true when, as here, "the evidence is largely testimonial and involves questions of credibility." Cesare v. Cesare, 154 N.J. 394, 412 (1998) (quoting In re Return of Weapons of J.W.D., 149 N.J. 108, 117 (1997)). Such findings become binding on appeal because it is the trial judge who "sees and observes the witnesses," thereby possessing "a better perspective than a reviewing court in evaluating the veracity of witnesses." Pascale v. Pascale, 113 N.J. 20, 33 (1988) (quoting Gallo v. Gallo, 66 N.J. Super. 1, 5 (App. Div. 1961)). Therefore, we will not disturb

¹ Both parties were represented by counsel at the hearing.

a judge's factual findings unless convinced "they are so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the interests of justice." Rova Farms Resort, Inc. v. Inv'rs Ins. Co. of Am., 65 N.J. 474, 484 (1974) (quoting Fagliarone v. Twp. of N. Bergen, 78 N.J. Super. 154, 155 (App. Div. 1963)).


After considering the parties' testimony, the judge found plaintiff to be an "immensely credible" witness; he did not find defendant to be credible. The judge's determination that defendant harassed plaintiff was squarely based upon plaintiff's credible testimony concerning the predicate act, and her equally "consistent and believable" testimony about defendant's prior history of harassment.

Among other things, the judge found that defendant assaulted plaintiff by pushing her aside on one occasion; menaced her another time in the laundry room by slamming open the door, picking up all of the laundry, and throwing "it everywhere"; and repeatedly cursed at her and called her vulgar names. The judge also accepted plaintiff's testimony that defendant continuously attempted to interfere with her attempts to maintain her sobriety by offering her alcohol, smoking marijuana in front of her, and criticizing her for attending AA meetings. We discern no principled reason for second-guessing these determinations.

After careful examination of the record, we are also satisfied that this same evidence more than amply supported the judge's determination that plaintiff was in need of a FRO to protect her from further domestic violence. Silver v. Silver, 387 N.J. Super. 112, 126-27 (App. Div. 2006).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION