

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-3741-16T4

K.M.F.,

Plaintiff-Respondent,

v.

W.L.F.,

Defendant-Appellant.

Submitted April 17, 2018 – Decided April 26, 2018

Before Judges Reisner and Mayer.

On appeal from Superior Court of New Jersey,
Chancery Division, Family Part, Burlington
County, Docket No. FV-03-1605-17.

Fuhrman & Edelman, attorneys for appellant
(Ronald B. Edelman, on the brief).

Dash Farrow, LLP, attorneys for respondent
(Timothy S. Farrow, on the brief).

PER CURIAM

Defendant W.L.F. appeals from an April 6, 2017 final
restraining order (FRO) entered in favor of plaintiff K.M.F.,
pursuant to the Prevention of Domestic Violence Act (PDVA),
N.J.S.A. 2C:25-17 to -35. We affirm.

The parties were going through a divorce at the time of the FRO hearing. At the hearing, plaintiff testified that on March 19, 2017, defendant was upset and loudly yelling at her over the way she planned to divide some of the marital possessions. According to plaintiff, as she was walking toward the bathroom, and defendant was heading toward her in the opposite direction, he "took his shoulder and . . . slammed it onto mine . . . [l]ike a hockey check." Plaintiff testified that the assault was deliberate and not an accident. The blow was painful and caused her shoulder to ache. Plaintiff testified that their daughter, who was present at the time, witnessed the incident and was upset by it.

Plaintiff also described defendant's past history of domestic violence, including two prior incidents in which he was physically violent toward her. Plaintiff further testified about defendant's pattern of engaging in unpredictable angry outbursts, during which he would tower over her and scream profane and obscene insults in her face. She testified that defendant's conduct made her a "nervous wreck." Plaintiff's mother testified that she witnessed two of defendant's angry outbursts.

Defendant denied hitting plaintiff with his shoulder, claiming that the two of them bumped shoulders while passing each

other. He believed plaintiff "intentionally tried" to bump him. He also denied hitting plaintiff on the prior occasions that she described. Defendant also denied using derogatory language toward plaintiff.

In an oral opinion, placed on the record immediately after the hearing, the judge found plaintiff's testimony more credible than defendant's testimony with respect to her claims of physical and verbal harassment. The judge found that defendant engaged in "a regular course of conduct . . . that was in the nature of harassment, both verbal and physical." See N.J.S.A. 2C:33-4(b). He also credited plaintiff's testimony that she was afraid of defendant, and found that the situation within the family was "dysfunctional."

II

On this appeal, defendant contends that the trial court erred in refusing to admit several police reports in evidence; refusing to admit in evidence a proposed agreement to consent to the entry of civil restraints; and in finding that defendant committed an act of domestic violence against plaintiff.

Defendant's first two arguments are without sufficient merit to warrant discussion in a written opinion, beyond the following comments. R. 2:11-3(e)(1)(E).

We review a trial judge's evidentiary rulings for abuse of discretion, and we find none here. See Estate of Hanges v. Metro. Prop. & Cas. Ins. Co., 202 N.J. 369, 383-84 (2010). Both parties were represented by counsel at the FRO hearing. The trial court permitted defendant's attorney to cross-examine plaintiff about statements contained in certain police reports, but would not allow defense counsel to introduce the reports in evidence. The trial court did not err in declining to admit the police reports in evidence. If properly authenticated, police reports may be admitted in evidence as business records. See N.J.R.E. 803(c)(6). However, in this case, as the judge correctly ruled, the documents were not authenticated, either by a witness or an authenticating affidavit.


The unsigned civil restraints agreement was not admissible in evidence, because it was a proposed settlement of the FRO application. Under N.J.R.E. 408, a proposed settlement agreement cannot be admitted as proof of the invalidity of a party's claim. That was the purpose for which defendant offered the document, and the judge properly exercised discretion in excluding it.

In his third point, defendant argues that the judge's factual findings are against the weight of the evidence, and there was insufficient proof that an FRO was needed. See Silver v. Silver, 387 N.J. Super. 112 (App. Div. 2006). We cannot agree. Having

reviewed the record, we find no basis to disturb the judge's credibility determinations, and his factual findings are supported by substantial credible evidence. See Cesare v. Cesare, 154 N.J. 394, 411-12 (1998). Contrary to defendant's argument, the judge properly found that defendant committed acts of domestic violence, and that plaintiff was in fear of defendant and needed the protection of an FRO.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION