

RECORD IMPOUNDED

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THE APPROVAL OF THE COMMITTEE ON OPINIONS

SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY
CHANCERY DIVISION, FAMILY PART
DOCKET NO. FV-02-1094-19

E.S.,

Plaintiff,

v.

C.D.,¹

Defendant.

APPROVED FOR PUBLICATION

July 15, 2019

COMMITTEE ON OPINIONS

Decided: December 24, 2018

E.S., plaintiff, pro se.

C.D., defendant, did not appear.

STEINHART, J.S.C.

This matter comes before the court by way of a hearing for a final restraining order under the Prevention of Domestic Violence Act (PDVA). N.J.S.A. 2C:25-17 to -35. The issue is whether plaintiff is a party entitled to protection under the PDVA, given the parties' economic relationship. Plaintiff

¹ The parties' initials have been used to protect their privacy. R. 1:38-3(d)(10).

has alleged that defendant committed the predicate acts of harassment, cyber-harassment and terroristic threats.

Defendant was employed as a full time nanny in plaintiff's household from March 2018 until October 2018. Defendant was fired from her position in October 2018 for having assaulted plaintiff's child. Moreover, plaintiff had discovered that defendant had applied for the nanny position using an alias. For weeks after being discharged, defendant made numerous telephone calls, and sent threatening and harassing text messages to plaintiff.

The PDVA defines victims of domestic violence to include any person eighteen years or older who has been subjected to domestic violence by a person who "was at any time a household member." N.J.S.A. 2C:25-19(d). Coleman v. Romano, 388 N.J. Super. 342, 351-52 (Ch. Div. 2006), lists six considerations to determine whether the parties qualify as household members for purposes of the PDVA: 1) the nature and duration of the prior relationship; 2) whether the past domestic violence relationship provided a special opportunity for abuse and controlling behavior; 3) the passage of time since the end of the relationship; 4) the extent and nature of any intervening contacts; 5) the nature of the precipitating incident; and 6) the likelihood of ongoing contact or relationship.

As a nanny under the circumstances of this case, defendant had no right to or expectation of a continued relationship with the child and/or plaintiff

after their professional relationship was terminated. However, it was not the nanny who was victimized. Defendant had resided in plaintiff's home for seven months with plaintiff and plaintiff's child. That defendant was employed as the child's nanny provided her with insight into the child's nature and to that of plaintiff, rendering plaintiff and the child vulnerable to defendant's personal attacks. For example, defendant threatened to fabricate the truth to the child's father in an effort to cause plaintiff to lose custody of the child.

Only two months had passed since defendant left plaintiff's household after being discharged. The threats and harassment occurred after defendant was discharged. There was no intervening act after defendant left the household that would have given cause for any exacerbation of defendant's actions. Defendant threatened and harassed plaintiff after their relationship, albeit an economic one, terminated. Moreover, the likelihood of contact has been heightened over the twelve years since the Coleman decision, in light of the use and popularity of cell phones, texting and social media.

In S.Z. v. M.C., 417 N.J. Super. 622 (App. Div. 2011), a male guest who lived with the plaintiff for seven months was considered a household member for purposes of the PDVA, despite the absence of a traditional familial, sexual or romantic relationship. The defendant in S.Z. was employed as a bookkeeper for the plaintiff's renovation business and needed a place to live. Id. at 623.

This is not dissimilar to the matter at hand, in which defendant resided in plaintiff's home to accommodate her employment as the child's nanny. That a person receives a monetary benefit from engaging in a relationship does not automatically disqualify that person from seeking relief under the PDVA. J.S. v. J.F., 410 N.J. Super. 611, 615 (App. Div. 2009). Analogously, that a victim had provided an economic benefit to a defendant should not automatically disqualify the victim from seeking relief under the PDVA.

Victims of domestic violence come from all social and economic backgrounds. It was the intent of the legislature that victims of domestic violence are afforded the maximum protection from abuse the law can provide. N.J.S.A. 2C:25-18. Notwithstanding the economic relationship of the parties, plaintiff and defendant are former household members. As such, plaintiff is a protected party under the PDVA.