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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-0404-21

N.T., [1]

Plaintiff-Respondent,

v.

A.T,

Defendant-Appellant.

Submitted May 9, 2023 – Decided May 22, 2023

Before Judges Susswein and Chase.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Monmouth County, Docket No. FV-13-0817-09.

A.T., appellant pro se.

Respondent has not filed a brief.

PER CURIAM

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[1] We use initials to protect the privacy of the parties and confidentiality of these proceedings. See R.1:38-3(d)(10).

Twelve years after a trial that resulted in a Final Restraining Order (FRO), self-represented defendant, A.T., filed a motion for a new trial which was denied by the trial judge as being untimely filed. This appeal comes before us unopposed and citing criminal rules not applicable to Family Part proceedings. We affirm.

In 2008, under the Prevention of Domestic Violence Act (PVDA), N.J.S.A. 2C:25-17 to-35, an FRO was issued against A.T. The basis for the FRO involved a phone call that occurred a year after the parties' 2007 divorce. A.T. called N.T.'s home and her sister answered. A.T. warned N.T.'s sister that "if the children didn't live with him, something bad would happen." N.T. subsequently called the Marlboro Police Department to report the incident and filed a Temporary Restraining Order (TRO) which ultimately led to the FRO trial. At trial, the judge made credibility findings and issued the FRO against A.T.

A.T. appealed and we affirmed the entry of the FRO in an unpublished opinion. N.T. v. A.T., No. A-2175-08T (App. Div. Aug. 27, 2009) (slip op. at 2). In March 2010, A.T. filed a reconsideration motion under N.J.S.A. 2C:25-29(d) which was denied as untimely. A.T. appealed that order as well. We affirmed, citing Rule 2:11-3(e)(1)(E), stating that A.T.'s arguments "are without

sufficient merit to warrant discussion in a written opinion." N.T. v. A.T., No. A-4412-09T (App. Div. March 29, 2011) (slip op. at 4). Now, A.T. appeals the courts finding that Rules 3:20-1 and -2 are not applicable, and this motion is out of time.

We begin our analysis by acknowledging the foundational legal principles governing this appeal. The scope of our review of Family Part orders is narrow. Appellate courts "accord substantial deference to Family Part judges, who routinely hear domestic violence cases and are 'specially trained to detect the difference between domestic violence and more ordinary differences that arise between couples.'" C.C. v. J.A.H., 463 N.J. Super. 419, 428 (App. Div. 2020) (quoting J.D. v. M.D.F., 207 N.J. 458, 482 (2011)). Moreover, "[d]eference is especially appropriate 'when 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 to J.W.D., 149 N.J. 108, 117 (1997)). Accordingly, we will not disturb the factual findings of the trial judge unless they are so "manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the interests of justice." C.C., 463 N.J. Super. at 428 (quoting S.D. v. M.J.R., 415 N.J. Super. 417, 429 (App. Div. 2010)). "Only when the trial court's conclusions are so 'clearly mistaken' or

'wide of the mark' should [we] intervene and make [our] own findings to ensure that there is not a denial of justice." N.J. Div. of Youth & Fam. Servs. v. E.P., 196 N.J. 88, 104 (2008) (quoting N.J. Div. of Youth & Fam. Servs. v. G.L., 191 N.J. 596, 605 (2007)).

To the extent the trial court's decision implicates questions of law, we independently evaluate those legal rulings de novo. Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995). The PDVA is designed to "assure victims of domestic violence the maximum protection from abuse the law can provide." N.J.S.A. 2C:25-18. However, "[t]he Legislature did not intend that every final restraining order issued pursuant to the [PDVA] be forever etched in judicial stone." A.B. v. L.M., 289 N.J. Super. 125, 128 (App. Div. 1996). Accordingly, a court may vacate an FRO upon good cause shown. N.J.S.A. 2C:25-29(d); see also Carfagno v. Carfagno, 288 N.J. Super. 424 (Ch. Div. 1995). In Carfagno, the court established eleven factors that a court should weigh to determine if a defendant established the requisite good cause. Id. at 435; accord T.M.S. v. W.C.P., 450 N.J. Super. 499, 502 (App. Div. 2017).

A.T. asserts that the trial judge's issuance of the FRO reflects a failure to adequately evaluate N.T's credibility. Specifically, A.T. contends that since N.T. and her sister, who both testified during the trial, have been deemed not

credible in subsequent civil proceedings, this new evidence justifies a new trial. However, Rule 3:20-1, which pertains to the granting of new trials based on newly discovered evidence, solely applies to criminal cases and does not extend to Family Part proceedings, including the current case. Thus, the endeavor to apply this rule to the present matter is misplaced and lacks merit.

As an FRO is a civil order, a motion for a new trial is governed by Rules 4:49-1 and -2. (See Rule 5:1-1 which provides that civil family actions shall also be governed by Part IV of the court rules). Therefore, the judge was correct in denying the motion as untimely since it was filed twelve years after the FRO was issued, well beyond the twenty-day requirement under Rules 4:49-1 and -2.

To the extent we have not specifically addressed them, any remaining arguments raised by A.T. lack sufficient merit to warrant discussion. R. 2:11-3(e)(1)(E).

Affirmed.

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

CLERK OF THE APPELLATE DIVISION