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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re Marriage of INTIFADEH  
AYESH and ILYA SHILOV.

B290817

(Los Angeles County  
Super. Ct. No.  
18STFL01305)

INTIFADEH AYESH,

Respondent,

v.

ILYA SHILOV,

Appellant.

APPEAL from an order of the Los Angeles County Superior Court, Doreen B. Boxer, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Ilya Shilov, in pro. per., for Appellant.

Law Office of Steven A. Simons and Steven A. Simons for Respondent.

Ilya Shilov appeals from a domestic violence restraining order (DVRO) issued in favor of his wife, Intifadeh Ayesh. Shilov contends the trial court abused its discretion in issuing the DVRO because the court based the order solely on the testimony of Ayesh and there was no evidence Shilov would commit future abuse. Shilov also argues Ayesh had a motive to lie because she was seeking to have their marriage annulled. Because the trial court did not abuse its discretion in issuing the DVRO under Family Code sections 6203 and 6320,<sup>1</sup> we affirm.

## **FACTUAL AND BACKGROUND FACTS**

### **A. *Ayesh's Request for a DVRO***

On February 13, 2018 Ayesh filed a request for a DVRO against Shilov, and the trial court issued a temporary DVRO that day.<sup>2</sup> Ayesh stated in her request Shilov had taken surveillance of her without her consent and “blackmailed [her] to cancel [her] pending annulment.” Ayesh also declared Shilov had “a history of stalking and harassing [her].” Further, Shilov “[t]hreatened to involve [R]ussian criminals to ‘make troubles for [her]’ and ‘destroy [her].’” Ayesh noted since she filed her petition for an annulment from Shilov, and since she served the petition, Shilov had stalked her and filmed her without her consent to blackmail her to withdraw her petition.

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<sup>1</sup> All further references are to the Family Code unless otherwise indicated.

<sup>2</sup> On our own motion we augment the record to include Ayesh’s February 13, 2018 request for a DVRO and the order issued that day. (Cal. Rules of Court, rule 8.155(a)(1)(A).)

B. *The Hearing and Issuance of the DVRO*

On April 20, 2018 the trial court held a hearing on Ayesh's request.

1. *Ayesh's testimony*

Ayesh and Shilov were married on July 19, 2017. They met while Shilov was a college student and Ayesh was employed by the college as a student advisor. She was a devout Muslim, and Shilov told her that he would convert to Islam. In early January 2018, after Shilov failed to convert, Ayesh moved out of their home. After she moved out, Shilov and his attorney met with Ayesh to convince her to remain married so Shilov could become a United States citizen. On February 1 Ayesh filed a petition seeking to annul the marriage.

On February 5, two days after Shilov was served with the petition, Shilov approached Ayesh at the college where she worked.<sup>3</sup> Shilov gestured for Ayesh to follow him downstairs. Ayesh was scared of Shilov because "[h]e was harassing me, following me. He knew my hours at work. He knew when I had a morning shift, he knew when I had an evening shift, and he would meet me at my parking lot, drive by my car." Ayesh followed Shilov out of the building because she did not want to make a scene. She thought Shilov's behavior "was kind of weird

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<sup>3</sup> At the hearing, the court took judicial notice of the proof of service of the petition for annulment on Shilov on February 3. Shilov argued in response he was not served with the petition until March 1, but he conceded Ayesh and her friends told him about the paperwork when they tried to serve him on February 3, but he refused to accept the papers. Whether Shilov was notified or served on February 3 does not affect our analysis.

because he put his hoodie on when he saw the cameras in the elevator.”

Once outside the building, Shilov showed Ayesh videos on his cell phone that he had secretly taken of her in their bedroom without her consent. Ayesh described the videos as “compromising videos of both of us in the bedroom.” When the court inquired about her appearance in the video, Ayesh clarified she was dressed. But she added, “[H]e said that he has more. And the fact that where the video was put, it was like in the corner of like that corner right there. So it was open space for where I changed, from where the bed was, for many things, you know. And so it freaked me out, yes, especially where the position where it was.” Shilov showed Ayesh “thumbnails” of other videos he had taken of her, but he did not show her the videos. Shilov told her, “I made so many I can make a movie.” Ayesh believed some of the videos showed her without any clothes, but she could not tell from the thumbnails. Because of her religion, disclosing the videos taken in the bedroom would be difficult for her.

When Shilov showed her the video, he demanded, “[Y]ou need to cancel the annulment, and then we can divorce instead.” He added, “I’m going to show all your information, your paperwork, your picture, everything to my Russian people. My people in Russia, and then they are going to come here and make trouble for you.” Shilov also said he would report Ayesh for immigration fraud (presumably for marrying Shilov), for which she would serve five years in prison. On February 9 Ayesh filed a police report about the incident, which she attached to her request for a DVRO, although the top of the report with the date was cut off.

Ayesh was fearful Shilov would physically harm her because he used to be a body builder, and at the end of November 2017 “he grabbed [her] wrist really hard” after she said something to upset him. Ayesh explained, “[H]e grabbed hold of my wrist and then he wanted to like wrestle or something on the bed, but it wasn’t—it wasn’t gentle.” The encounter did not leave a bruise.

On March 1, 2018 Ayesh served Shilov with the temporary DVRO. Although Shilov did not contact Ayesh after that date, she was still afraid of him because he was “trying really, really hard to stay married to me, that means he’ll do whatever. And the look in his eyes and those, the videos and everything, of course, he’s going to keep going. Of course he’s going to keep going with his threats and everything like that. He’s not—I mean he’s not afraid. He basically told me ‘If I go down, you go down with me.’ So if he has nothing to lose in the end, then that’s it. You know what I mean? Then he’ll do anything just to destroy the person who he says ruined it for him.”

When asked by Shilov on cross-examination whether she ever saw him record videos of her at home, Ayesh responded, “Yeah, you did. . . . I knew there was a video of us in the kitchen and I was cooking, washing the dishes, and you recorded videos . . . .” But she never observed him record her in the bedroom.

## 2. *Shilov’s testimony*

Shilov testified he went to the college where Ayesh worked on February 5 because, as a former student, he “was wondering about [his] paperwork and about [his] school status.” Shilov was concerned that because he had not notified the school of his

marriage, it could affect his student visa. He did not dispute he was wearing a hoodie, but explained he “always wear[s] a hoodie when it’s cold outside because [he didn’t] wear [a] hat.” Shilov inquired about his status in person, instead of calling, because he wanted to visit his friends at the college, as he had done on three or four prior occasions. He had not contacted his friends since the prior November other than seeing them when he visited the school. Because Ayesh told him to leave, he did not see his friends that day.

According to Shilov, he did not tell Ayesh to come downstairs; instead, she would not let him inside and ordered him to meet her downstairs. He denied they discussed a video and asserted he did not have a camera in their bedroom. He also denied telling Ayesh he had Russian friends who would come to harm her, adding, “I don’t have any criminal friends.” Rather, his friends were fellow students and filmmakers. The conversation lasted no longer than five minutes. Shilov was not aware Ayesh was seeking an annulment, and he did not try to convince her to stay married. Shilov denied grabbing Ayesh’s wrists in a harmful way, threatening her, or pushing her toward the bed. If he touched her, “it was very gentle and it wasn’t harmful at all.”

On cross-examination, Shilov admitted he was no longer a student at the college, and he went to the school on February 5 without an appointment. Although Shilov initially testified he stopped attending the school when he got married in July 2017, he later admitted that before he got married he was terminated for not attending classes.

### 3. *The trial court's ruling*

After hearing testimony from Ayesh and Shilov, the trial court found Ayesh and Shilov were married, and “by a preponderance of the evidence, [Ayesh] has proven that [Shilov] has engaged in an act or acts of abuse within the meaning of Family Code sections 6203 and 6320, in that, he did keep her under surveillance, he did threaten her, harass her, and disturb her peace.” The trial court found Shilov was not credible, stating his “testimony isn’t terribly believable, especially with regards to going to school just a little bit over a day after this incident where they tried to serve you . . . . I don’t believe that you went there to see any friends.”

On April 20, 2018 the trial court issued an 18-month DVRO prohibiting Shilov from harassing or contacting Ayesh and requiring him to stay at least 100 yards away from Ayesh’s home, job, workplace, and vehicle. The order provided Shilov could contact the college for official business using a number Ayesh’s counsel would provide.

Shilov timely appealed.

## DISCUSSION

### A. *Standard of Review*

“We review the grant or denial of a request for a DVRO for abuse of discretion.” (*In re Marriage of Davila and Mejia* (2018) 29 Cal.App.5th 220, 226 (*Davila*); accord, *Herriott v. Herriott* (2019) 33 Cal.App.5th 212, 223 (*Herriott*); *In re Marriage of G.* (2017) 11 Cal.App.5th 773, 780.) ““The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be

deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.”” (*In re Marriage of G.*, at p. 780; accord, *Herriott*, at p. 223 [““A trial court’s exercise of discretion will not be disturbed on appeal unless, as a matter of law, an abuse of discretion is shown—i.e.,—where, considering all the relevant circumstances, the court has ‘exceeded the bounds of reason’ or it can ‘fairly be said’ that no judge would reasonably make the same order under the same circumstances.””]; *Denham v. Superior Court* (1970) 2 Cal.3d 557, 566 [“[U]nless a clear case of abuse is shown and unless there has been a miscarriage of justice a reviewing court will not substitute its opinion and thereby divest the trial court of its discretionary power.”].)

““To the extent that we are called upon to review the trial court’s factual findings, we apply a substantial evidence standard of review.”” (*Davila, supra*, 29 Cal.App.5th at p. 226; accord, *Herriott, supra*, 33 Cal.App.5th at p. 223; *In re Marriage of Evilsizor & Sweeney* (2015) 237 Cal.App.4th 1416, 1424 (*Evilsizor*).) “““We must accept as true all evidence . . . tending to establish the correctness of the trial court’s findings . . . , resolving every conflict in favor of the judgment.”” (*Evilsizor*, at p. 1424; accord, *Herriott*, at p. 223.) We defer to the trial court’s evaluation of credibility. (*Herriott*, at p. 223 [“It was for the trial court to weigh the evidence and consider the demeanor and credibility of the witness, as ‘credibility issues [are] routinely resolved by [the] trier[] of fact.’”]; *Evilsizor*, at p. 1426 [“the trial court was in the best position to evaluate credibility and to resolve factual disputes”].)



B. *The Domestic Violence Prevention Act*

The Domestic Violence Prevention Act (DVPA; Fam. Code, § 6200 et seq.) allows a trial court to issue a protective order ““to restrain any person for the purpose of preventing a recurrence of domestic violence and ensuring a period of separation of the persons involved” upon “reasonable proof of a past act or acts of abuse.”” (*Davila, supra*, 29 Cal.App.5th at p. 225; accord, *Nevarez v. Tonna* (2014) 227 Cal.App.4th 774, 782.)

The DVPA defines domestic violence as “abuse perpetrated against . . . [¶] (a) A spouse or former spouse.” (§ 6211, subd. (a).) A restraining order may be issued upon showing of “reasonable proof of a past act or acts of abuse.” (§ 6300, subd. (a).) “Abuse includes ‘plac[ing] a person in reasonable apprehension of imminent serious bodily injury to that person or to another’ or ‘engag[ing] in any behavior that has been or could be enjoined pursuant to Section 6320.’ (§ 6203, subd. (a)(3), (4).)” (*Davila, supra*, 29 Cal.App.5th at p. 226.)

“Abuse is not limited to the actual infliction of physical injury or assault.” (§ 6203, subd. (b).) Section 6320, subdivision (a), includes within conduct that may be enjoined, “molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, . . . harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the other party . . . .” (See *Hogue v. Hogue* (2017) 16 Cal.App.5th 833, 839 [“The act of purposefully sending a video of a mock suicide to plaintiff in California . . . is indisputably conduct that would disturb plaintiff’s peace of mind within the meaning of the act

and be the basis for granting a restraining order”]; *Perez v. Torres-Hernandez* (2016) 1 Cal.App.5th 389, 398 [“[P]rotective orders can be issued because of persistent unwanted phone calls or letters—which fall into the same category as “molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, [or] harassing” the protected party.”]; *Evilsizor, supra*, 237 Cal.App.4th at pp. 1420-1421, 1424-1425 [husband’s downloading of wife’s text messages, personal notes, and e-mails on wife’s telephone and Facebook account; disclosing of wife’s sensitive information on her phone to her parents; and filing of text messages in family court proceeding constituted abuse under DVPA]; *Nevarez v. Tonna, supra*, 227 Cal.App.4th at p. 784 [affirming finding of abuse where plaintiff’s ex-boyfriend grabbed her by the wrist, pushed her, sent texts and e-mails at all hours, and came to her workplace and prevented her from getting in her car]; *Burquet v. Brumbaugh* (2014) 223 Cal.App.4th 1140, 1144 [ex-boyfriend’s continued contact with plaintiff by phone, e-mail, text, and unannounced visit to her home to beseech her to renew their relationship constituted abuse under the DVPA]; *In re Marriage of Nadkarni* (2009) 173 Cal.App.4th 1483, 1498 [“[T]he plain meaning of the phrase ‘disturbing the peace’ in section 6320 may include, as abuse within the meaning of the DVPA, a former husband’s alleged conduct in destroying the mental or emotional calm of his former wife by accessing, reading and publicly disclosing her confidential e-mails.”]; cf. *S.M. v. E.P.* (2010) 184 Cal.App.4th 1249, 1266 [father’s “badgering” of mother during argument over her plan to take their child to Iowa for a trip, including demanding she sign a stipulation to return with the child and refusing to let her leave the home, did not rise to level of harassment or abuse under DVPA].)

C. *The Trial Court Did Not Abuse Its Discretion by Issuing the DVRO*

Shilov contends Ayesh's testimony without corroborating evidence, such as police reports or witness statements, was insufficient to support the issuance of a DVRO. Shilov's contention lacks merit given the substantial evidence of his past abuse.

"The DVPA requires a showing of past abuse by a preponderance of the evidence." (*Davila, supra*, 29 Cal.App.5th at p. 226; accord, *Cooper v. Bettinger* (2015) 242 Cal.App.4th 77, 90, fn. 14 ["[A] lower level of proof is required for issuance of a protective order under the DVPA . . .—a preponderance of the evidence, rather than clear and convincing evidence."].)

Under section 6300, subdivision (a), testimony alone is sufficient to meet a party's burden: "The court may issue an order under this part based solely on the affidavit or testimony of the person requesting the restraining order." Further, unless a statute provides otherwise, "[e]vidence of even one credible witness 'is sufficient for proof of any fact.'" (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 334; accord, *In re Marriage of Mix* (1975) 14 Cal.3d 604, 614 ["The testimony of a witness, even the party himself [or herself], may be sufficient."]; see Evid. Code, § 411 ["Except where additional evidence is required by statute, the direct evidence of one witness who is entitled to full credit is sufficient for proof of any fact."].)

Ayesh testified Shilov "was harassing [her and] following [her]," drove by her workplace or met her in the parking lot, secretly took videos of her in the bedroom, threatened to reveal other videos he had taken of her, told her he had "Russian

people” who would come and “make trouble” for her, threatened to report her for immigration fraud, and three months earlier had grabbed her wrist and pushed her toward the bed. Ayesh was afraid Shilov would physically harm her, and she feared he would continue to threaten her to prevent her from obtaining an annulment. Shilov told her in essence, “If I go down, you go down with me.”

Shilov denied he had videotaped Ayesh, threatened that his Russian friends would harm her, tried to convince her to stay married, or grabbed her. But the trial court found Shilov was not credible in light of his account he visited the school not to threaten Ayesh, but to resolve his school status and see his friends just days after learning Ayesh was seeking an annulment. We defer to the trial court’s credibility findings. (*Herriott, supra*, 33 Cal.App.5th at p. 223; *Evilsizor, supra*, 237 Cal.App.4th at p. 1426.) Shilov’s argument Ayesh was not credible because she had a motive to lie given the annulment proceeding likewise lacks merit. It was for the trial court to assess the credibility of both Ayesh and Shilov. (See *In re Marriage of Fregoso & Hernandez* (2016) 5 Cal.App.5th 698, 703 [rejecting husband’s argument wife sought restraining order to obtain tactical advantage in child custody proceedings because “[t]he issue is not whether there is evidence in the record to support a different finding, but whether there is some evidence that, if believed, would support the findings of the trier of fact”].)

Further, contrary to Shilov’s contention, Ayesh was not required to show Shilov was likely to commit future acts of abuse. As we explained in *Rodriguez v. Menjivar* (2015) 243 Cal.App.4th 816, 823, “No showing of the probability of future abuse is required to issue a DVPA restraining order: ‘A trial court is

vested with discretion to issue a protective order under the DVPA simply on the basis of an affidavit showing past abuse.” (Accord, *Nevarez v. Tonna*, *supra*, 227 Cal.App.4th at p. 783 “[T]he trial court was not required to find a probability that [defendant] would commit future abuse before issuing a restraining order under section 6300.”].)

The trial court did not abuse its discretion by issuing the DVRO based on the substantial evidence of Shilov’s prior abuse, including his physical abuse in November 2017 and his later conduct in threatening, harassing, and disturbing the peace of Ayesha. (§§ 6203, subd. (a)(4), 6320, subd. (a); see *Evilsizor*, *supra*, 237 Cal.App.4th at pp. 1420-1421, 1424-1425; *Nevarez v. Tonna*, *supra*, 227 Cal.App.4th at p. 784; *Burquet v. Brumbaugh*, *supra*, 223 Cal.App.4th at p. 1144.)

## **DISPOSITION**

The order is affirmed.

FEUER, J.

WE CONCUR:

PERLUSS, P. J.

ZELON, J.