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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

BARBARA MOORE, Plaintiff and Respondent, v. TABATHA COX, Appellant.	B251739 (Los Angeles County Super. Ct. No. SS023721)

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

Tabatha Cox, in propria persona, for Appellant.

No appearance for Plaintiff and Respondent.

Tabatha Cox appeals from a two-year restraining order entered in favor of Barbara Moore, contending the trial court was deceived by Moore and the order is overbroad and oppressive. We will affirm the order because appellant raises matters only the trial court, not an appellate court, can consider.

BACKGROUND

The proceedings below involved two cases arising from one dispute: This case, *Barbara Moore v. Drake Alexander*, Los Angeles Superior Court (LASC) case No. SS023721, and a counter-petition, *Drake Alexander Counnas v. Barbara Moore*, LASC case No. SS023731.

For a recitation of the facts we rely on the reporter's transcript of the restraining order hearing. Only Cox and Moore testified at the hearing, mainly concerning matters not already covered in mediation reports that had been submitted to the trial court. The court made no findings of fact. Our statement of the facts is therefore conditional and incomplete.

The Moore and Cox families were near neighbors and good friends. Their doors opened across from each other overlooking a small common area and they shared a common pool. Tabatha Cox is the mother of nine-year-old Drake Alexander.[1] Barbara Moore is the mother of six-year-old Pricilla. Cox testified, "We were all friends. I watched her kid, she watched mine. We were all really close for a long time. There's never ever been a situation to where she's afraid of my son or anything. We all got along really well until the day of the pool party . . . ."

On August 24, 2013, Moore and her father took Drake and Pricilla to a pool party. Cox "worked the pool party" at a location away from the pool itself. Moore testified that while they were in the pool, Drake "tried to drown" Pricilla and many other children by "choking them and pulling them under the water." When she and her father took the children home, Drake "was very violent" toward Cox.

[1] Cox contends Drake's last name is actually Counnas.

The next day, on August 25, Cox filed a criminal complaint against Moore, alleging she physically abused Drake.

On August 27, 2013, Moore petitioned the court for a restraining order against Drake.

On August 28, Drake, through Cox as his guardian ad litem, petitioned the court for a restraining order against Moore.

The families appeared at the hearing on September 18, 2013, but only Moore and Cox testified, the trial court declining to hear from either Drake or Moore's father. The court limited testimony to events that occurred after the petitions were filed. Moore testified Cox forced Pricilla to leave the common pool on one occasion and insisted Moore's family could not use the common area they both shared. Cox testified Moore physically abused Drake originally and, in retaliation for Cox filing criminal charges, spread untrue rumors about him in their neighborhood and at his school and petitioned for a restraining order against him.

After this testimony, the trial court granted cross-restraining orders. It stated they would not be stay-away orders, as the families lived very close to each other and the children attended the same school, but personal conduct orders that enjoined the parties not to contact or harass one another.

On the same day, the court issued a minute order in case No. SS023721, stating in pertinent part that after "finding clear and convincing evidence," the court granted "Petitioner's request for a restraining order" and issued a two-year order "pursuant to the Restraining Order After Hearing." The record does not contain Moore's request, the "Restraining Order After Hearing" template from which the court's order was apparently crafted, or the minute order issued in case No. SS023731.

Cox timely appealed.

DISCUSSION

Cox contends the trial court, under time constraints imposed by a mediator, gave insufficient attention to this matter, failed to consider Drake's testimony, and was deceived by Moore's perjured testimony, which caused the court to misunderstand the

nature of the dispute and enter an unsupported protective order against Cox. She contends the court's overarching confusion is demonstrated by the minute order itself, which has Drake's last name wrong—it is Counnas, not Alexander—and was entered against her rather than him. The real facts, she contends, are that Moore became intoxicated at a pool party, beat Drake savagely—leading to criminal charges against her and ultimately a conviction—then filed for a protective order against and spread rumors about Drake and Cox in an effort to avoid the legal consequences of her actions. Cox asks that we consider seven documents, six of which were considered by the trial court but not admitted into evidence, that demonstrate that Moore abused Drake and deceived the court, and that the protective order against him and Cox has disrupted his education and personal freedom.

We have no reason to doubt Cox's representations, but she fundamentally misconceives the role of an appellate court.

A person who has suffered harassment may seek an injunction prohibiting the harassment. (Code Civ. Proc., § 527.6, subd. (a)(1).)[2] "Harassment" includes "a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner." (§ 527.6, subd. (b)(3).) The trial court must hold a hearing on the petition within 21 days, at which it "shall receive any testimony that is relevant" and issue the injunction if it "finds by clear and convincing evidence that unlawful harassment exists." (§ 527.6, subds. (g), (i).)

Our role on appeal is limited—we may reverse the injunction order only if we conclude it is unsupported by substantial evidence. In determining this, we review the record in a light most favorable to the order and draw all inferences from the evidence that supports it. (*People v. Alcala* (1984) 36 Cal.3d 604, 623; *People v. Johnson* (1980)

[2] Undesignated statutory references will be to the Code of Civil Procedure.

26 Cal.3d 557, 576.) Our only role is to determine whether any rational trier of fact could have been persuaded that the order was correct. (*People v. Johnson*, *supra*, at p. 576.)

An appellate court does not reassess the credibility of witnesses. (*People v. Barnes* (1986) 42 Cal.3d 284, 303-304.)

Here, Moore testified Drake "tried to drown" her daughter and other children, and was "was very violent" toward her. She testified Cox ordered her daughter to leave the common pool and prohibited Moore's family from using a common area. This testimony, if believed, sufficed to show Drake and Cox engaged in a course of conduct that seriously annoyed or harassed Moore and Pricilla, served no legitimate purpose, and would cause a reasonable person to suffer substantial emotional distress. Given that the record discloses substantial evidence in support of the trial court's ruling, we cannot disturb that ruling.

Cox argues the trial court should not have believed Moore, as evidenced by several documents that Cox argues demonstrate Moore perjured herself in order to avoid the criminal consequences of physically abusing Drake. Whether Moore perjured herself or not is not for us to decide. (*People v. Brady* (2010) 50 Cal.4th 547, 574, fn. 12 ["it is not the role of an appellate court to assess a witness's credibility"].) Only a trial court may judge whether a witness is telling the truth.[3]

Cox also argues the trial court refused to consider Drake's testimony and spent insufficient time—only 20 minutes—considering the two petitions. The argument is without merit. A trial judge enjoys great discretion in determining how much time to spend on a matter and how much evidence to admit or exclude. We review a court's decision to admit or exclude evidence for an abuse of discretion, and will overturn the exercise of this discretion only on a showing that it was exercised "in an arbitrary, capricious or patently absurd manner that resulted in a manifest miscarriage of justice." (*People v. Jordan* (1986) 42 Cal.3d 308, 316; see *People v. Marshall* (1996) 13 Cal.4th 799, 832-833.)

[3] Cox's motion to augment the record to include the documents—denominated as attachments 2, 3, 5-8—is therefore denied.

Here, Cox testified that Drake did not harass Pricilla, but on the contrary, Moore abused and harassed Drake. The trial court apparently disbelieved the first part of Cox's testimony but accepted the second part, as it issued cross-injunctions against both sides. Because nothing in the record suggests Drake's testimony would have varied from Cox's, the court was well within its discretion to exclude what would have amounted to repetitive and cumulative evidence. Similarly, nothing suggests 20 minutes was insufficient time for the court to understand two straightforward harassment claims and determine that good cause existed to order the families simply to leave each other alone.

Cox argues the protective order interferes with Drake's school and home life. If that is true, her remedy is to seek termination or modification of the order in the trial court. (§ 527.6, subd. (j)(1) [a civil protective order may be terminated or modified on the motion of a party].) Termination or modification is also the remedy if Cox wishes the order to reflect Drake's correct name or if she wishes to complain about the conduct of mediators.

Cox argues the trial court improperly entered an injunction against her as well as Drake, whereas Moore sought an injunction only against Drake. The state of the record precludes our consideration of this argument, as it contains neither Moore's petition nor the mediation report, and the only order before us lists solely Drake as the respondent; Cox is listed as his guardian ad litem. Cox therefore failed to establish even for purposes of argument that Moore sought no injunction against her or that the injunction ultimately entered against Drake applied also to her. (See *Maroney v. Iacobsohn* (2015) 233 Cal.App.4th 900, 912 [inadequate record establishes no grounds for reversal].)

Cox argues Moore should not have been allowed to testify because she represented herself, and her dual role as a party and advocate violates rules of professional conduct applicable to attorneys. The argument is without merit. Parties in restraining order proceedings are entitled to and "may often seek relief without the benefit of a lawyer. (See § 527.6, subds. (d) [trial court makes an 'independent inquiry' into the facts] & (m) [Judicial Council forms to be 'simple and concise].')" (*Siam v. Kizilbash* (2005) 130

Cal.App.4th 1563, 1573.) A party representing herself could hardly seek injunctive relief if she was to be prohibited from testifying about the grounds for it.

We reiterate in conclusion that an appellate court reviews matters of law while the trial court adjudicates matters of fact. A trial court's factual finding becomes a question of law only if no evidence supports it. Here, the trial court's factual findings and consequent orders were supported by substantial evidence. If Cox disputes the findings or seeks to change the orders, she must do so in the trial court by way of a motion for modification. (§ 527.6, subd. (j)(1).)

DISPOSITION

The order granting an injunction under Code of Civil Procedure section 527.6 is affirmed.

NOT TO BE PUBLISHED.

CHANEY, J.

We concur:

ROTHSCHILD, P. J.

JOHNSON, J.