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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

ALBER BASELIOUS,

Plaintiff and Appellant,

v.

IBTESAM GUIRGUIS,

Defendant and Respondent.

B252279

(Los Angeles County
Super. Ct. No. KQ017396)

APPEAL from an order of the Superior Court of Los Angeles County.
Susan Lopez-Giss, Judge. Affirmed.

Alber Baselious, in pro. per., for Plaintiff and Appellant.

No appearance for Defendant and Respondent.

Plaintiff and appellant Alber Baselious, a self-represented litigant, appeals an order denying his request for a domestic violence restraining order. We affirm.

FACTS

Baselious married Inas Hennawi and are the parents of a minor child. Baselious claims that Hennawi's sister, Ibtesam Guirguis, and her husband, Joseph Guirguis, do not like Baselious, and that they verbally and emotionally abuse Hennawi for marrying Baselious.¹ Baselious claims that Ibtesam and Joseph want Baselious and Hennawi "to get separated."

In August 2013, Hennawi filed requests for domestic violence restraining orders against Ibtesam and Joseph in Los Angeles Superior Court case numbers KQ017366 and KQ017367. Hennawi's complaints advised the superior court that she wanted to protect additional family members, namely, Baselious and their minor child.

On August 30, 2013, the superior court issued a temporary restraining order in case number KQ017367, protecting Hennawi, Baselious, and their minor child. The court set a hearing for September 16, 2013. At some point not clear from the record, Hennawi either dropped her request or the superior court dismissed her proceedings.

On September 9, 2013, Baselious filed requests for domestic violence restraining orders as to Ibtesam and Joseph in Los Angeles Superior Court case numbers KQ017396 and KQ017397. Baselious's current appeal is from case number KQ017396 against Ibtesam only.²

At a hearing on September 26, 2013, Baselious appeared in the superior court to argue case number KQ017396. Ibtesam appeared at the hearing, represented by counsel. During the course of the hearing, Ibtesam promised that she would stay away from Baselious, and Ibtesam's counsel promised to tell Ibtesam to stay away from Baselious. At the end of the hearing, the court denied Baselious's request for a domestic violence restraining order, and dissolved any temporary orders.

¹ We hereafter refer to the Guirguises by their first names to avoid confusion.

² Baselious has filed a separate appeal from case number KQ017397 against Joseph. We address that appeal in a separate opinion.

In October 2013, Baseliious filed a notice of appeal in case number KQ017396.

DISCUSSION

Baseliious claims the order denying his request for a domestic violence restraining order against his sister-in-law, Ibtesam, must be reversed because the trial court violated his due process rights. Baseliious contends the court denied his right to due process when it based its decision to deny a restraining order on Ibtesam's promise that she would stay away from Baseliious, while disregarding Baseliious's showing that he is afraid for himself and his family. He also claims the trial court erred in denying the request for a restraining order because it ignored recent incidents of domestic violence. We read the record differently and find no error.

A court may issue a domestic violence prevention restraining order to prevent a recurrence of domestic violence and to ensure a period of separation for the persons who are involved, provided an applicant shows "to the satisfaction of the court" that there has been "a past act or acts of abuse." (Fam. Code, § 6300.) Abuse includes intentionally or recklessly causing or attempting to cause bodily injury, placing a person in reasonable apprehension of imminent serious bodily injury, or engaging in any behavior that may be enjoined under section Family Code section 6320. (See Fam. Code, § 6203.)

Certainly the due process right to present evidence is a barren one if the trier of fact fails to consider the evidence. (See generally *Morgan v. United States* (1936) 298 U.S. 468, 479-481.) However, the record reflects this is not what the trial court did when it called Baseliious's claims against Ibtesam for hearing. When denying the request for a restraining order, the court stated, "I didn't find a basis to issue a restraining order."

The issue presented to the trial court by Baseliious's request for a restraining order was whether he demonstrated — "to the trial court's satisfaction" — reasonable proof of abuse and the necessity for such an order. (Fam. Code, § 6300.) Because we do not have a copy of Baseliious's written request for a restraining order in case number KQ017396 against Ibtesam, it is difficult to say whether or not Baseliious provided reasonable proof of past abuse and the need for a restraining order. Apart from this, Baseliious's arguments on appeal do not otherwise persuade us to find a denial of due process.

In focusing so much on the trial court's extraction of a promise from Ibtesam that she would stay away from Baselious, he overstates the basis for the trial court's decision not to issue a restraining order. The record demonstrates the trial court found it unclear from Baselious's evidence whether domestic violence had actually taken place in any setting, or whether the respondents' activities were ongoing family tensions and a dislike of Baselious, which would not justify a restraining order. To put it in other terms, even assuming we accepted Baselious's claims to be true to some extent, it does not necessarily follow that the trial court abused its discretion in denying his request for a restraining order. The purpose of a domestic violence prevention order is to prevent a recurrence of domestic violence and to ensure a period of separation of the persons involved in order to resolve its underlying causes. (Fam. Code, § 6300.) In the matter before us, there was a reasonable basis for the court to conclude that any alleged domestic violence was not going to recur, and an order was unnecessary to keep the family separated. That the trial court ruled against Baselious is not a showing that the court violated his due process rights.

Baselious also contends the trial court otherwise erred in denying the restraining order. We are not persuaded. We review the court's issuance of a restraining order under the Domestic Violence Prevention Act (Fam. Code, § 6200 et seq.) for abuse of discretion. (*S.M. v. E.P.* (2010) 184 Cal.App.4th 1249, 1264.) “The appropriate test for abuse of discretion is whether the court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing trial court has no authority to substitute its decision for that of the trial court.” (*Gonzalez v. Munoz* (2007) 156 Cal.App.4th 413, 420.) “To the extent that we are called upon to review the trial court's factual findings, we apply a substantial evidence standard of review.” (*Loeffler v. Medina* (2009) 174 Cal.App.4th 1495, 1505.) The trial court's decision to deny the restraining order based on the evidence presented at the hearing, outlined above, does not indicate an abuse of discretion. The court did not exceed the bounds of reason because there was insufficient evidence to support the issuance of a restraining order.

DISPOSITION

The order is affirmed.

BIGELOW, P.J.

We concur:

FLIER, J.

GRIMES, J.