

# RECORD IMPOUNDED

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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-2322-22

D.D.I.,

Plaintiff-Respondent,

v.

E.D.,

Defendant-Appellant.

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Submitted June 4, 2024 – Decided June 11, 2024

Before Judges Gooden Brown and Haas.

On appeal from the Superior Court of New Jersey,  
Chancery Division, Family Part, Burlington County,  
Docket No. FV-03-1190-23.

Caruso Smith Picino, attorneys for appellant (Annette  
Verdesco, on the brief).

Hark & Hark, attorneys for respondent (Michael Joseph  
Collis, on the brief).

PER CURIAM

Plaintiff commenced this action, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 to -35, based on an allegation that defendant harassed her by twice threatening to kill her both before and after she broke off her five-month dating relationship with him. During that relationship, plaintiff testified that defendant, who referred to himself as a "swinger," encouraged her to have sex with multiple men at various "sex clubs." Defendant filmed plaintiff engaging in this behavior. When plaintiff refused to continue to participate in these activities, defendant "threatened to kill her and send videos of [plaintiff] to her family."

Plaintiff stated defendant texted her that he was her "master" and she did not have his "permission to end things with" him. Defendant sent plaintiff a number of other texts, including one that stated:

I would marry you, sponsor you for permanent, resident status so you don't have to worry about your legal status. However, I would want absolute obedience sexually. You would model for photographers without pay. Good ones don't pay. You would keep a very sexy, model profile online

You would have unprotected sex all the time, and I would also F you every time so we have the same risk. I would want . . . you to train with a black master, like a teacher, to train you to be more submissive. You would be mine for life but never complain about sex or STD. We can reduce risk by picking clean people and sometimes play risky.

Plaintiff asserted these acts frightened her and she sought a final restraining order (FRO) because defendant continued to threaten her.

At the conclusion of a final hearing at which only the parties testified, Judge Reema Y. Hindawi Scaramella rendered detailed findings of fact and entered an FRO in plaintiff's favor. On appeal, defendant argues that the judge "committed reversible error in entering a[n] [FRO] against [him]." We find insufficient merit in this argument to warrant discussion in a written opinion. See R. 2:11-3(e)(1)(E). We affirm substantially for the reasons set forth by Judge Hindawi Scaramella in her comprehensive oral decision. We add the following brief comments.

Our review of a trial judge's fact-finding function is limited. Cesare v. Cesare, 154 N.J. 394, 411 (1998). A judge's findings of fact are "binding on appeal when supported by adequate, substantial, credible evidence." Id. at 411-12.

Deference is particularly warranted where, as here, "the evidence is largely testimonial and involves questions of credibility." Ibid. (quoting In re Return of Weapons to J.W.D., 149 N.J. 108, 117 (1997)). Such findings become binding on appeal because it is the trial judge who "sees and observes the witnesses," thereby possessing "a better perspective than a reviewing court in

evaluating the veracity of witnesses." Pascale v. Pascale, 113 N.J. 20, 33 (1988) (quoting Gallo v. Gallo, 66 N.J. Super. 1, 5 (App. Div. 1961)). Therefore, we will not disturb a judge's factual findings unless convinced "they are so manifestly unsupported by or inconsistent with the competent, relevant[,] and reasonably credible evidence as to offend the interests of justice." Rova Farms Resort v. Invs. Ins. Co., 65 N.J. 474, 484 (1974) (quoting Fagliarone v. Twp. of N. Bergen, 78 N.J. Super. 154, 155 (App. Div. 1963)).


After considering the parties' testimony, Judge Hindawi Scaramella found plaintiff to be a credible witness because "[s]he testified as if she were reliving the event. Her hands never stopped shaking. She testified with great emotion and was not evasive in any of her responses. She provided great detail and was forthcoming." On the other hand, the judge determined defendant attempted to hide at least one inculpatory text message and that his testimony was inconsistent and lacked credibility.

In light of plaintiff's credible testimony concerning defendant's conduct, Judge Hindawi Scaramella found that defendant's threats to physically harm plaintiff and to send the videos to her family constituted harassment. That determination was plainly supported by the record and we discern no principled reason for second-guessing it. After careful examination of the record, we are

also satisfied that this same evidence more than amply supported the judge's finding that plaintiff was in need of an FRO to protect her from further domestic violence. Silver v. Silver, 387 N.J. Super. 112, 126-27 (App. Div. 2006).

Affirmed.

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



CLERK OF THE APPELLATE DIVISION