Circuit Court for Prince George's County
Case No. C-16-FM-25-808703

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 440

September Term, 2025

MARK GOLDSMITH

v.

CHERYL GOLDSMITH

Arthur,
Shaw,
Beachley, Donald E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 25, 2026

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Mark Goldsmith, appellant, appeals from an order issued by the Circuit Court for Prince George's County granting a final protective order against him and in favor of Cheryl Goldsmith, appellee. On appeal, he raises five issues, which reduce to one: whether the court erred in granting the final protective order. For the reasons that follow, we shall reverse the judgment.[1]

Viewed in the light most favorable to appellee, the evidence established that appellant and appellee were married, had an adult son, and owned a house together. Appellant and his son had obtained final protective orders against one another in December 2024. However, appellant's protective order specifically prohibited his son from being at appellant's house. Despite this protective order, and for reasons that are unclear from the record, the son was inside the house with appellee on the date of the incident.

Appellee testified that following a court date on April 16, 2024, appellant arrived at their home and "tried to use his key to access the house." He then "rang the doorbell and attempted to contact [her] on the phone." When she "didn't respond quick enough, and then less than three minutes later, the basement door was kicked in by [appellant]." Appellee testified that she and her son then "called 9-1-1 and [] retreated to my son's vehicle and we waited inside the vehicle until the police arrived." She further indicated that she had been "in fear of [appellant] since July of 2024" but did not provide any specific examples as to why that was the case.

[1] The protective order at issue was voluntarily rescinded by appellee in November 2024. However, given the stigma which could attach to appellant for having been judicially determined to have committed abuse under the Domestic Violence Act, the issue is not moot. *See Piper v. Layman*, 125 Md. App. 745, 753 (1999).

After hearing appellee's testimony and reviewing the competing protective orders, the court stated that there was nothing in the language of the protective orders "clear enough to bar [appellant] from coming in" the house, that appellant had "a right to be there," that it did not think appellant had violated the protective order obtained by his son, and that it "would be easy just to dismiss this[.]" The court nevertheless noted that dismissing the case "creates the next series of problems and I'd like to at least have some beginning resolution on your relationship today."

Recognizing that the parties had a pending divorce case, the court suggested it could "enter an order [making] no finding [of abuse] but . . . that the parties agree to . . . reside in separate places, both have – she stays at the marital home and [appellant] stay[s] at [his] cousin's" until the divorce case was resolved. Initially, both parties seemed amenable to that idea. However, appellant continued to express his frustration that he might be forced out of his house and that "if the [divorce] case takes a year, then [he would be] out of [his] home for a year and I haven't done anything wrong." Eventually, the court retracted its offer and stated:

> All right, tell you what. This is what we're going to do. All right. . . . I'm going to find that she's eligible for relief. . . . I'm going to find that you placed her in fear of imminent bodily or serious bodily harm when you kicked the door in. I'm going to have you vacate the family home.

The same day it entered a final protective order in favor of appellee. This appeal followed.

On appeal, appellant contends that there was insufficient evidence of abuse to support the issuance of the protective order. We agree. Pursuant to Fam. Law Art. § 4-504(a)(1), "[a] petitioner may seek relief from abuse by filing with a court . . . a petition

that alleges abuse of any person eligible for relief by the respondent." In this context, "abuse" can mean "an act that places a person eligible for relief in fear of imminent serious bodily harm[,]" while a "person eligible for relief" includes "the current or former spouse of the respondent[.]" Fam. Law §§ 4-501(b)(1)(ii), (n)(1). The petitioner bears the burden of proving that the alleged abuse has occurred by a preponderance of the evidence. Fam. Law § 4-506(c)(1)(ii). The appropriate standard for determining whether the petitioner's fear of imminent serious bodily harm is reasonable "is an individualized objective one — one that looks at the situation in the light of the circumstances as would be perceived by a reasonable person in the petitioner's position[.]" *Katsenelenbogen v. Katsenelenbogen*, 365 Md. 122, 138-39 (2001). When conflicting evidence is presented, we accept the facts as found by the hearing court unless it is shown that its findings are clearly erroneous. *See* Md. Rule 8-131(c); *Riddick v. State*, 319 Md. 180, 183 (1990). As to the ultimate conclusion, however, we must make our own independent appraisal by reviewing the law and applying it to the facts of the case. *See Aiken v. State*, 101 Md. App. 557, 563, (1994).

After a careful review of the record, we find that the evidence was insufficient to allow an inference that appellant engaged in conduct constituting "abuse" as defined under the Domestic Violence Act. To be sure, we can imagine scenarios in which an individual kicking down the door to a house, even his or her own house, could support the issuance of a protective order. But without more, we cannot say that appellant's actions in this case were sufficient to place appellee in reasonable fear of serious bodily harm. Most notably, there was no evidence that appellant was prohibited from entering the home; that appellee had asked him to leave before he attempted to enter the home; or that he was even aware

appellee was in the home at the time he kicked down the door. Rather, appellee's only testimony about the incident was that appellant had kicked down the "basement door" after he was unable to open the front door with his key and had attempted to reach her over the phone. Moreover, there was no evidence from which the court could infer that appellant had the intent to harm appellee as he did not threaten appellee, or have any other communication with her, either before or after he entered the house. Finally, although the "reasonableness of an asserted fear . . . must be viewed from the perspective of the particular victim," there was no testimony by appellee about any "ancillary or antecedent events" involving her and appellant in the past that might have shaded her perception of the situation or caused her to individually believe that she was in danger of imminent serious bodily harm. *Katsenelenbogen*, 365 Md. at 139 (cleaned up).

In sum, we find that appellee did not meet her burden to show, by clear and convincing evidence, that appellant committed an act of abuse that warranted the protective order. Accordingly, we vacate the finding of abuse and the protective order.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY VACATED. COSTS TO BE PAID BY APPELLEE.