

Circuit Court for Montgomery County
Case No. 149779FL

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2228

September Term, 2017

YOSEPH SEYOUM

v.

LEMLEM G. REDAE

Berger,
Friedman,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: January 29, 2019

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Yoseph Seyoum’s theory of the case proceeds in two steps. *First*, he argues that the hearing court granted relief on a single ground: stalking. Then, *second*, he provides a variety of arguments as to why his behavior cannot, as a matter of law, satisfy the definition of stalking. We will not reach that argument, however, because we part ways with him at the first step. We hold that the hearing court granted relief and issued a protective order on two separate and independent grounds: reasonable fear of imminent bodily harm, *and* stalking. Moreover, we hold that the hearing court had more than sufficient evidence to support issuance on the first ground, reasonable fear of imminent bodily harm. Thus, we will affirm the issuance of the protective order without reaching Seyoum’s arguments about stalking.

BACKGROUND

Yoseph Seyoum and Lemlem Redae are the father and mother, respectively, of A.S. The three have lived together under a single roof since A.S. was born in 2013, albeit apparently in separate bedrooms for the most part. In November 2017, Redae filed a Petition for Protection for Domestic Violence in the District Court of Maryland, sitting in Montgomery County, and was granted an interim protective order.¹ Four days later, the

¹ Maryland law provides a variety of protective orders for victims of domestic violence depending on the situation. During a period when courts are closed, a person eligible for relief may seek an *interim* protective order from a district court commissioner. FL §4-504.1(b). An *interim* protective order may be issued without notice to the alleged abuser, but lasts only for a short time, until courts reopen and a hearing can be held. *Id.* Alternatively, if courts are open (or once they reopen), a person eligible for relief may seek a *temporary* protective order. FL §4-505(a)(1). A *temporary* protective order may be issued after a hearing at which only the petitioner appears. The *temporary* protective order lasts for 7 days after service of the order on the alleged abuser. *Id.* A *final* protective order may

District Court held a hearing on the allegations in the petition and granted Redae a temporary protective order.

In December 2017, the case was transferred to the Circuit Court for Montgomery County for a hearing on a final protective order. At the hearing, Redae testified that on November 21, 2017, Seyoum had threatened to “destroy her,” threw a TV remote control at her, and as a result, she was afraid that he was going to harm her. Redae also testified that the events of November 21, 2017 were not isolated and that every time Seyoum was angry he made death threats and threw things at her. Redae further testified that after the temporary protective order was granted and Seyoum was no longer permitted in the apartment, she found video cameras in the closet in his bedroom and in the living room, leading her to believe that Seyoum was “watching [her].”

The circuit court granted Redae’s petition. The transcript of the hearing reflected that the judge orally found Redae “was a person eligible for relief” because she and Seyoum have a child in common and that “the testimony supports the allegation of stalking ... with regards to the surveillance in the home.” Based on these findings, the judge ruled that Redae was entitled to a final protective order. On the final protective order, the judge wrote:

only be issued after service on the alleged abuser. FL §4-506(c)(1). A *final* protective order may last for 1 or, in appropriate circumstances, 2 years. *Id.*

After the appearance of the PETITIONER, PETITIONER'S COUNSEL, RESPONDENT, RESPONDENT'S COUNSEL, and in consideration of the Petition and evidence, the Court makes the following findings:

A. LEMLEM G REDAE, who is a person(s) eligible for relief, is:

A cohabitant with the Respondent.

An individual who has a child(ren) in common with the Respondent: Number of Children: 1 Ages: 4,

[REDACTED]

An individual who has had a sexual relationship with the Respondent within one (1) year before the filing of the Petition.

B. The Petitioner is:

The person eligible for relief

C. There is a preponderance of the evidence to believe that the Respondent committed the following act(s) of abuse:

Placed person eligible for relief in fear of imminent serious bodily harm
Stalking
On 11/21/2017 at 07:00PM
Description of Harm:
RESPONDENT THREATENED TO "DESTROY" PETITIONER IN FRONT OF 4 YEAR OLD SON. HAS THREATENED TO KILL HER IN THE PAST. HISTORY OF ABUSE.

D. The Court lawfully can order Respondent to vacate the home immediately, and award temporary use and possession of the home to the person eligible for relief (or, in the case of alleged abuse of a child or vulnerable adult, award temporary use and possession of the home to an adult living in the home), because the person eligible for relief and the Respondent resided together at the time of the abuse and: are not married, but the name of the person eligible for relief appears on the lease or deed to the home

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Seyoum noted this timely appeal in which he challenges the sufficiency of the evidence for the circuit court's finding that grounds existed for awarding Redae a final protective order.

DISCUSSION

A hearing judge may issue a final protective order if the judge finds by a preponderance of the evidence that abuse has occurred. Md. Code, FAM. LAW ("FL"), §4-506(c)(1)(ii). In reviewing the issuance of the final protective order, we will not set aside the factual findings of the circuit court unless clearly erroneous, but we will review legal determinations without deference to the court below. Md. Rule 8-131(c); *see also Piper v. Layman*, 125 Md. App. 745, 754 (1999) (holding that when deciding whether evidence was insufficient to support a finding of abuse, the appellate court must make an "independent

appraisal” as to the ultimate conclusion, but accept the fact-finding unless clearly erroneous.). Therefore, we review whether the facts found by the circuit court are legally sufficient to constitute a ground for a final protective order without deference. *Id.*

Seyoum’s appeal is entirely predicated on his belief that the sole grounds for issuance of the final protective order against him was the allegation that he was stalking Redae by placing video cameras in his room and in the common rooms of their shared apartment. From this, Seyoum makes several arguments that his conduct did not constitute stalking as that term is defined.

We think, however, that the record is clear that the hearing judge granted relief and issued the final protective order on two separate and independent grounds: (1) fear of imminent bodily harm *and* (2) stalking. We arrive at this conclusion based on the following evidence. *First*, and of great significance, the governing statute treats the two grounds as separate types of abuse:

- (ii) an act that places a person eligible for relief in fear of imminent bodily harm;

* * *

- (vi) stalking under § 3-802 of the Criminal Law Article[.]^[2]

² The statutory definition of “stalking,” under Md. Code, CRIM. LAW (“CR”) § 3-802(1)(i), is, in turn, “a malicious course of conduct that includes approaching or pursuing another where:

- (1) the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear:
 - (i) 1. of serious bodily injury;

FL § 4-501(b)(1)(ii), (vi). *Second*, the hearing court’s written final protective order, reproduced above, supports the conclusion that the judge intended to find two separate grounds because “imminent bodily harm” and “stalking” were placed on two separate lines. *Third*, for Seyoum to be correct, he must read the protective order, reproduced above, as if “[p]laced person eligible for relief in fear of imminent serious bodily harm” is a part of “stalking.” While there is a “fear” element of stalking under CR § 3-802(1)(i), it is phrased slightly differently—“... reasonable fear ... of serious bodily injury.” We are not saying that these different formulations have different meanings—maybe they do and maybe they don’t—we are merely saying that, given the different formulations, it is more likely that

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2. of an assault in any degree;
 3. of rape or sexual offense ... or attempted rape or sexual offense in any degree;
 4. of false imprisonment; or
 5. of death; or
- (ii) that a third person likely will suffer any of the acts listed in item (i) of this item; or
- (2) the person intends to cause or knows or reasonably should have known that the conduct would cause serious emotional distress to another.

CR §3-802(a).

the hearing judge was using the right words to describe a different ground, rather than the wrong words to describe an element of the stalking ground.³

Because we hold that these were two separate and distinct grounds, we may affirm if we find the evidence was sufficient for one of the grounds. *Monumental Life Ins. Co. v. U.S. Fidelity and Guar. Co.*, 94 Md. App. 505, 523 (1993) (holding that “where the lower court relied on several alternative independent grounds in reaching its decision, we must determine that at least *one* of those independent grounds was properly decided ... to affirm that decision.”). Moreover, we affirm the issuance of the final protective order because the facts found below were more than sufficient to find that Seyoum had placed Redae in reasonable fear of imminent bodily harm. The hearing court found Seyoum had threatened to “destroy” Redae in front of their child, threw things at her, and threatened to kill Redae in the past. These facts are sufficient, as a matter of law, to place a reasonable person in fear of serious bodily harm. Therefore, we hold the hearing court did not err in granting Redae a final protective order.

**JUDGMENT OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY
AFFIRMED; COSTS TO BE PAID BY
APPELLANT.**

³ Seyoum argues that the judge’s only comment from the bench was that “the testimony supports stalking” and that that was the sole grounds. We don’t read the hearing court’s comment as exclusive: the hearing court didn’t say that it didn’t find that Redae was in fear of imminent bodily harm, just that it did find stalking.