

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CV-21-586

JACOB WILSON

APPELLANT

V.

SAMMIE CRIBBS

APPELLEE

Opinion Delivered October 5, 2022

APPEAL FROM THE BOONE
COUNTY CIRCUIT COURT
[NO. 05DR-20-411]

HONORABLE ANDREW S. BAILEY,
JUDGE

AFFIRMED

N. MARK KLAPPENBACH, Judge

Appellant Jacob Wilson appeals from an order of protection that prohibited him from contacting his former girlfriend, appellee Sammie Cribbs, for a period of one year. Jacob’s sole argument on appeal is that there is insufficient evidence to support the order because there was a lack of evidence of domestic abuse committed against Sammie. We affirm.

As a threshold matter, we first briefly address the issue of mootness. Generally, a case becomes moot when any judgment rendered would have no practical effect upon a then-existing legal controversy. *Davis v. Brushy Island Pub. Water Auth.*, 375 Ark. 249, 290 S.W.3d 16 (2008). Here, the one-year final order of protection was entered on September 2, 2021, and expired on September 2, 2022. However, pursuant to our holding in *Poland v. Poland*, 2017 Ark. App. 178, 518 S.W.3d 98, Jacob’s appeal of the expired final order of protection is not moot due to the adverse collateral consequences that attend a finding of domestic abuse. See also *Kankey v. Quimby*, 2020 Ark. App. 471, 611 S.W.3d 671.

When a petition for a protective order is filed under the Domestic Abuse Act, the circuit court may provide relief to the petitioner upon a finding of domestic abuse. Ark. Code Ann. § 9-15-205(a) (Repl. 2020). Pursuant to Arkansas Code Annotated section 9-15-103(3)(A) (Repl. 2020), “domestic abuse” is defined as “[p]hysical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members.”

Sammie and Jacob had previously been in a relationship and were briefly engaged, but the relationship deteriorated. In a November 2020 affidavit, Sammie described the reasons she was asking for an order of protection: In January 2020, Sammie asked Jacob to move all his belongings out of her house. In response, Jacob repeatedly called, texted, and emailed her. In February 2020, Jacob placed “his hand/arm around my neck in an argument in the garage.” By May 2020, Jacob had removed all his belongings. She wanted their relationship to end. In July 2020, Jacob confronted her as she was walking across a boat dock and tried to separate her from the friend she was with. Sammie said Jacob began calling, texting, and emailing repeatedly and daily, both to her work and personal contacts (typically over sixty calls and fifteen emails per day). He had been verbally abusive to her in phone conversations. Jacob would show up at her house and knock on the window. She had repeatedly told Jacob not to contact her anymore, and she had had other people (friends, coworkers, law enforcement) tell Jacob the same thing. Sammie believed Jacob’s “behavior is escalating and may become violent as he has in the past.” The trial court issued a temporary order of protection until a final order could be considered at a full hearing.

When the matter was heard in September 2021, Sammie explained that she felt controlled during the relationship, and as the relationship deteriorated, she felt more ill at ease. She confirmed everything she had written in her affidavit. She explained that in the “heated discussion” in her garage, she was sitting in her vehicle and Jacob “removed me from the vehicle with his hand around my neck.” That incident alarmed and concerned her. In May, she had to let Jacob in her house to remove his remaining items, but she was afraid and in fear for her life being alone with him. In the incident she described at the boat dock, Jacob put his hands on her shoulders and pushed her away and toward a wooded area; she felt threatened. She found a sheriff’s deputy nearby and waved him down. She told the deputy, whom she knew, that she was going home, and the deputy followed Jacob out of the park.

Sammie believed Jacob was spying on her every move, calling and telling her about things she had acquired and things she had done in remote locations, none of which he could have known without somehow tracking her. She had a sheriff’s deputy answer her phone and tell Jacob to stop calling. She had the victim’s witness coordinator, who worked for the sheriff’s office, pick up a call she was receiving from Jacob and tell Jacob to stop calling. According to Sammie, Jacob was threatening, making demands that she had to meet with him, and using fake phone numbers to trick her into answering her phone. She admittedly would talk to Jacob occasionally and be civil with him just to get him to leave her alone for a while. Jacob had told her she would be better off if her mother was dead. She said that Jacob had violated the temporary order of protection by text and email.

Sammie did not want to have to involve law enforcement but felt she had to do something to get Jacob to stop.

Donna Boehm testified that she had been present during multiple phone calls between Jacob and Sammie during which Jacob would scream at Sammie and at times tell Sammie that she needed “to watch her back.” Donna remembered a time when Sammie’s phone displayed that the caller was “Mom,” but Jacob was on the phone when Sammie answered. Donna had heard Jacob say to Sammie, “I’m sorry I put my hands on you.” Sammie stayed at Donna’s house for several days because Jacob would not leave her (Sammie’s) house, and she was afraid to go home. Jacob did not testify or call any witnesses.

The trial court issued the final one-year order of protection. In it, Jacob was prohibited from engaging in any domestic abuse, harassment, harassing communications, stalking, or terroristic threatening. Jacob was excluded from Sammie’s residence and place of work, and he was prohibited from initiating any type of contact. The order noted, for identification purposes, that Jacob is five feet ten inches tall, weighs 220 pounds, and possesses a firearm. This appeal followed.

The crux of Jacob’s argument is that there was no evidence that he ever physically harmed or threatened to harm Sammie, so Sammie’s purported fear of Jacob was unfounded by the evidence. Without evidence of “domestic abuse” as defined by statute, he argues, there is insufficient evidence to support the existence of an order of protection. We disagree.

The standard of review following a bench trial is whether the trial court’s findings are clearly erroneous. *Poland, supra*. A finding is clearly erroneous when, although there is

evidence to support it, the reviewing court on the entire evidence is left with a definite and firm conviction that a mistake has been committed. *Id.* Disputed facts and determinations of credibility are within the province of the factfinder. *Id.*

The relevant statute defines “domestic abuse” to include “infliction of fear of imminent physical harm, bodily injury, or assault.” Sammie testified that she was afraid of Jacob and tormented by his behavior. Sammie had experienced at least two confrontations during which Jacob put his hands on her in a violent way: pulling her out of a car by her neck and pushing her toward a wooded area by her shoulders. Donna heard some of the loud phone calls, one of which included Jacob telling Sammie that she needed to watch her back and another in which he expressed remorse for having put his hands on Sammie. Leaving credibility decisions to the trial court, as we must, we are not left with a definite and firm conviction that the trial court erred in finding domestic abuse and entering the protective order restricting Jacob’s contact with Sammie. Therefore, the order of protection is affirmed.

Affirmed.

VIRDEN and WHITEAKER, JJ., agree.

Kevin L. Hickey, for appellant.

Stanley & Woodard, PLC, by: *Bill Stanley*, for appellee.