



Note: In the case title, an asterisk () indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

ENTRY ORDER

JANUARY TERM, 2025

Holly Danger v. David Friedman*	}	APPEALED FROM:
	}	Superior Court, Caledonia Unit,
	}	Family Division
	}	CASE NO. 22-FA-01473
		Trial Judge: Benjamin D. Battles

In the above-entitled cause, the Clerk will enter:

Defendant appeals the trial court's order granting plaintiff's motion to extend a final relief-from-abuse (RFA) order against him. We affirm.

In May 2022, plaintiff filed an RFA complaint against defendant. The court granted a temporary order. In June 2022, the parties stipulated to a final order and waived findings of fact. The final order prohibited defendant from abusing, following, stalking, or contacting plaintiff for one year. Plaintiff moved to modify the order to extend the same prohibitions to her children. After a hearing, in July 2022 the court granted plaintiff's motion and issued an amended final order.

In July 2023, plaintiff filed a new RFA complaint against defendant, which the court construed as a motion to extend the existing order. After an evidentiary hearing, which defendant did not attend, the court granted the motion in a written order. The court found that the parties were in a romantic relationship between November 2021 and May 2022. Plaintiff and her two children lived with defendant during the latter part of this period. The court found that during three separate incidents in May 2022, defendant bit plaintiff's arm, threw her to the ground, and kicked her to the ground and stomped on her ankle. Plaintiff also testified that defendant verbally abused her and threatened to remove her and her children from the home. The court noted that defendant was subject to criminal conditions restricting him from contacting plaintiff but found that there was a danger of further abuse if those conditions were lifted. It therefore granted the motion to extend the RFA order until June 2024.

In May 2024, plaintiff moved to extend the RFA order for five additional years. The court set a hearing for June 2024. Defendant's attorney attended the hearing, but defendant was not present. Plaintiff testified that she continued to experience significant fear and anxiety and to have nightmares about the abuse, as did her children. She feared leaving her house because she might see defendant. She felt like she had to hide all the time. Plaintiff's daughter did not put a school lawn sign out because she was afraid that defendant would see it and know where she

attended school. Plaintiff's children were worried and fearful and did not want to be alone. Plaintiff testified that she had not had contact with defendant since May 2022 and he had not tried to see her or go to her workplace or home, or her daughters' schools.

The court granted plaintiff's motion in part and extended the RFA order for an additional two years. The court found that, given its prior findings of abuse, there was a continuing danger of abuse. It found that the RFA conditions, along with defendant's criminal conditions of release, had been effective at preventing contact between defendant and plaintiff. It reasoned that because the outcome of defendant's criminal case was uncertain, an extension of the RFA order was necessary to protect plaintiff from further abuse. Defendant appealed.

Defendant argues that the evidence and findings were insufficient to show that extending the RFA order was necessary to protect plaintiff and her children from further abuse. Section 1103(e) of Title 15 provides that upon the expiration of a final RFA order, "the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff, the children, or both, from abuse." "In matters of personal relations, such as abuse prevention, the family court is in a unique position to assess the credibility of witnesses and weigh the strength of evidence at hearing." Raynes v. Rogers, 2008 VT 52, ¶ 9, 183 Vt. 513. We therefore review the court's decision to extend an RFA order for abuse of discretion. Forrett v. Stone, 2021 VT 17, ¶ 35, 214 Vt. 283 (per curiam).

Defendant argues that plaintiff failed to show at the June 2024 hearing that he abused her or placed her in fear of serious imminent physical harm, which he argues was required to support an extension of the RFA order. He further claims that plaintiff's fear of him was unreasonable because he had not contacted her or her daughters since the RFA order had been in place, and that her fear was insufficient to support a finding that there was a risk of future abuse.

These arguments are unavailing. First, "as is evident from the plain language of the statute, the court was not required to make findings to support the initial orders in deciding whether to extend the orders." Swett v. Gates, 2023 VT 26, ¶ 16, 218 Vt. 76. Defendant stipulated to the initial 2022 order and waived findings. In its 2023 order, however, the court expressly found that defendant had physically abused and threatened plaintiff and that there was a danger of further abuse. Defendant did not appeal that order and is therefore precluded from relitigating the court's findings. See In re P.J., 2009 VT 5, ¶ 9, 185 Vt. 606 (mem.) (holding that determination that child was in need of care or supervision (CHINS) based on nutritional neglect precluded mother's subsequent appeal from substantiation decision following initial nutritional neglect report, where mother did not contest facts underlying CHINS merits decision or appeal). Contrary to defendant's argument, these findings were part of the record that the court could consider in rendering its decision. See In re A.M., 2015 VT 109, ¶ 31, 200 Vt. 189 (explaining that trial court may rely on prior findings within same case); cf. Forrett, 2021 VT 17, ¶ 38 (holding extension of RFA order had to be grounded solely in evidence presented in hearing on motion to extend order because plaintiff never presented evidence of abuse to support initial order).

Moreover, the statute makes clear that "[a] plaintiff need not prove additional acts of abuse or violations during the term of an RFA order to secure an extension." Forrett, 2021 VT 17, ¶ 36; 15 V.S.A. § 1103(e) ("It is not necessary for the court to find that abuse has occurred during the pendency of the order to extend the terms of the order."). As we have explained, the facts underlying the original order may be "sufficient to support an extension, or even multiple extensions, of an RFA order without significant intervening events." Forrett, 2021 VT 17, ¶ 36.

Here, the family court concluded that the prior findings of abuse, coupled with plaintiff's ongoing fear of encountering defendant and the significant impact it had on her and her children's daily life, and the uncertainty regarding whether defendant's criminal conditions would continue, supported an extension of the order. The court adequately explained its reasoning, and its decision is supported by the record. We therefore see no abuse of discretion.

Affirmed.

BY THE COURT:

Harold E. Eaton, Jr., Associate Justice

William D. Cohen, Associate Justice

Nancy J. Waples, Associate Justice