

*Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2007-342

MARCH TERM, 2008

Bernadette Bousquet	}	APPEALED FROM:
	}	
v.	}	Rutland Family Court
	}	
Albert J. Gionet	}	DOCKET NO. 328-7-07 Rdfa

Trial Judge: Thomas J. Devine

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

Defendant Albert Gionet appeals pro se from the court’s final relief-from-abuse order and its denial of his motion to reconsider and motion for a new hearing. He argues that the court erred in issuing its order because he did not physically threaten the victim. We affirm.

The record indicates the following. In July 2007, plaintiff sought a relief-from-abuse order against defendant, her former husband. Plaintiff indicated that defendant had called her very early in the morning to discuss a contempt-of-court proceeding related to the sale of the former marital home. When she called him back, defendant was very angry, and he told her she would be sorry if she did not stop pursuing the court action against him. Defendant also stated that if plaintiff did not comply with his request, she should be very afraid of him. Plaintiff indicated that she was in fact afraid of defendant. The court issued a temporary relief-from-abuse order and, after a hearing, it issued a final relief-from-abuse order covering a one-year period. The court found that defendant placed plaintiff in fear of imminent serious physical harm and that there was a danger of further abuse. As part of the order, defendant was required to surrender his firearms to law enforcement officers until July 2008. Defendant filed several post-judgment motions, which the court denied. This appeal followed.

On appeal, defendant argues that he did not physically threaten plaintiff. He also asserts that he provided the court with sufficient information to question plaintiff’s credibility. We find these arguments unpersuasive. As set forth above, the family court concluded that there had been a threat that caused plaintiff to experience fear of imminent serious physical harm, and on that basis, as well as on the basis of a likelihood of further abuse, a relief-from-abuse order should issue. See 15 V.S.A. § 1101(1)(B) (“abuse” includes “placing another in fear of imminent serious physical harm”). The court’s decision is supported by the record. As the court explained, defendant acknowledged that he called plaintiff very early in the morning and that he

was very angry and unhappy about the contempt-of-court proceedings. The court found plaintiff credible in her statement that defendant told her that she should be not only afraid, but very afraid. Given the backdrop of the ongoing court proceedings, the family court found the situation sufficiently serious to warrant the issuance of a relief-from-abuse order. While defendant argues that plaintiff was not credible, it is for the family court, not this Court, to determine the credibility of witnesses and assess the weight of the evidence. Cabot v. Cabot, 166 Vt. 485, 497 (1997). We find no basis to disturb the court's order.

Finally, we reject defendant's unsubstantiated assertions that the court erred in its consideration and denial of his post-judgment motions and that it was biased in plaintiff's favor.

Affirmed.

BY THE COURT:

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John A. Dooley, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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Brian L. Burgess, Associate Justice