2019 IL App (4th) 190042-U

NO. 4-19-0042

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
September 20, 2019
Carla Bender
4th District Appellate
Court, IL

M.C.,	)	Appeal from the
Petitioner-Appellee,	)	Circuit Court of
v.	)	Sangamon County
T.W.,	)	No. 18OP1745
Respondent-Appellant.	)	
	)	Honorable
	)	Jennifer M. Ascher,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Steigmann and DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err in granting petitioner a plenary order of protection against respondent.

¶ 2 Petitioner, M.C., filed a verified petition for an order of protection against respondent, T.W. Following a hearing, the trial court granted the petition and entered a plenary order of protection. T.W. appeals, arguing (1) the court failed to make sufficient findings to support its grant of the petition and (2) the court's determination that he abused M.C. was against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On September 4, 2018, M.C. filed a verified petition for an order of protection against T.W. pursuant to the Illinois Domestic Violence Act of 1986 (Act) (750 ILCS 60/214

(West 2016)). Both parties were minors at the time the petition was filed and attended the same high school. In the petition, M.C. alleged that she and T.W. were in a dating relationship. She asserted that the previous day, September 3, 2018, without her consent and while she resisted, T.W. touched her, held her down, rubbed his penis on her, and placed his penis in her mouth and ejaculated. The same day the petition was filed, the trial court entered an emergency order of protection on M.C.'s behalf against T.W.

¶ 5 On October 11, 2018, the trial court conducted a hearing to determine whether to issue a plenary order of protection. M.C. testified she was 16 years old. On the morning of September 3, 2018, T.W. called M.C. and asked if she wanted to "get some food" with him, a friend named Michael M., and a friend whose name M.C. could not remember but whom the record otherwise identifies as "Dionte." According to M.C., the group drove to a McDonald's restaurant and then to Dionte's home. M.C. testified that T.W. wanted her to stay in the car with him while Michael and Dionte went inside Dionte's house. While in the car, T.W. "started grabbing on [M.C.'s] thighs." He asked M.C. if she wanted him to put "covers up on the windows" but she "didn't see no [*sic*] reason for it." M.C. testified T.W. then pulled her on top of him and locked his hands behind her back so she could not get up. M.C. stated she told T.W. she wanted to get up but he would not let her.

¶ 6 M.C. asserted that T.W. next moved his hands from behind her back and began trying to take her shorts off while she "continuously told him ['']no, I don't want that.['']" She was eventually able to get off of T.W. and sit next to him close to the car door. M.C. stated that T.W. then "ended up laying [her] down and getting on top of [her] in the backseat." She testified "he pulled out his penis and started rubbing it against the bottom of [her] shorts." She told T.W.

he was making her uncomfortable and she "didn't want that." According to M.C., T.W. asked her to "give [him] a good reason to stop," and she responded that "no should have been a good enough reason." Ultimately, Michael returned to the car and T.W. got off of M.C. Michael said they would go to his house, but M.C. indicated that she wanted to go home. M.C. testified Michael stated that they "were just going to go inside and play some Fortnite and have some pizza" and that M.C. could have a glass of water.

¶ 7 M.C. testified she agreed to go inside Michael's residence, which was located in the same trailer park where she resided. As she was drinking water in Michael's living room, T.W. came up behind her and picked her up. She "squirm[ed] to get away as he took her to Michael's parent's bedroom. M.C. testified T.W. laid her on the bed and locked the door. He started taking off his shirt and pants but M.C. told him to leave his boxers on because she did not "want it to get any more uncomfortable than it already [was]." She stated T.W. climbed on top of her while she put her hands up, told him she did not "want him to get on top of [her]," and stated "this is weird." M.C. testified T.W. tried to take her pants off but she kept "fighting him to try to get them on." She asserted that she told T.W. she did not "want to do this," that it was not right, and she did not "want this to happen." Again, T.W. asked M.C. to "give [him] a good reason [to stop]," and M.C. responded "that no should have been a good enough reason."

¶ 8 M.C. testified that after fighting with T.W. to keep her pants on, he was able to get her shirt off. He then sat on her stomach and began "thrusting" between her breasts. M.C. stated she was telling T.W. "no" and to get off of her but her hands were trapped under his knees and she could not get up. Eventually, she got her hands free, pushed T.W. backwards, and tried to run to the bedroom door. However, T.W. grabbed her by her arms, laid her back down, and sat

on her upper chest. M.C. testified he put her hands under his knees again and then put his penis in her mouth and ejaculated.

¶ 9 M.C. further asserted that Michael knocked on the bedroom door and stated that T.W. had to leave for football practice. She testified that she "ended up running out [of] the door." According to M.C., she ran half way down the road before seeing that her friend Brian M. had texted her. She told Brian to meet her at the park so that she could talk to him. M.C. stated she told Brian everything that happened. She also described what happened to another friend and "the neighborhood grandma." All three individuals advised M.C. to go to the authorities. M.C. testified she waited for her sister to get home and then "told her everything that happened." M.C. then immediately went to the police and then to the hospital "to get a rape kit."

¶ 10 M.C. testified that she was concerned for her safety because of what happened. She and T.W. attended the same high school and M.C. did not feel comfortable when T.W. was around her. M.C. stated she felt like T.W. would "do something again." The day of the incident, she was only expecting to "go get food and maybe hang out." She did not expect anything else to happen because T.W. "never really was pushy or anything like that" and "[t]hat's usually all [they] did was just hang out."

¶ 11 On cross-examination, M.C. testified that she was a freshman in high school and T.W. was a sophomore. She first met T.W. when she was in seventh grade and he was in eighth grade. They communicated by phone and through Facebook Messenger. M.C. described them as having a dating relationship that began during the beginning or middle of 2016. She stated they broke up in the summer of 2016 and were not dating during the summer of 2018. Prior to the incident on September 3, 2018, T.W. had never been "forceful" with her.

¶ 12 During her cross-examination, M.C. identified copies of several text message exchanges between herself and T.W., which T.W. submitted into evidence. She acknowledged that on July 4, 2017, she sent a text message to T.W. stating her intention to have a child with T.W. in the future.

¶ 13 M.C. testified that she had been to Michael's residence once before the September 3, 2018, incident. Specifically, she visited Michael's home during the summer of 2017, and had consensual sexual intercourse with T.W. in the bathroom. Later, Michael made a comment to M.C. about having intercourse with T.W. in the bathroom that made M.C. upset. She discussed Michael's comment with T.W. in a text exchange, which she asserted took place in July 2017.

¶ 14 M.C. further acknowledged having a text exchange with T.W. in August 2018, asking why he would not date her. She testified she was trying to reconcile with T.W. and stated they had promised each other that they "would both be each other's no matter what happened." However, during the exchange, T.W. expressed that he did not want a serious girlfriend. Specifically, the text messages show that in response to M.C.'s inquiry as to why T.W. would not "date [her] now," T.W. responded that he wanted them "to have kids and settle down but not [right now]." He expressed that he was "only a sophomore" and had too much to worry about with respect to football and school. During that exchange T.W. also reminded M.C. that he had previously told her: "I'm yours no matter what [you] say."

¶ 15 During another text message exchange, which M.C. agreed occurred in August 2018, M.C. questioned why T.W. was not communicating with her by sending him the following text: "So, like last summer, [you] said [you] was gonna [*sic*] be all over me this year[,] so like why have [you] barely talk[ed] to me at all like [*sic*] low key breaks my heart." She also asked

T.W. whether they were "still going to homecoming together" and T.W. responded that he was not planning on going.

¶ 16 M.C. further identified text message exchanges that occurred between August 25, 2018, and September 3, 2018. She acknowledged that a text message was sent to T.W. on August 29, stating, "meet me in the bathroom"; however, M.C. asserted that particular message had been sent to T.W. by her friend Alex, after Alex had taken M.C.'s phone and "was joking around." M.C. then identified exchanges between her and T.W. from September 3, 2018, discussing their plans for the day. M.C. testified that at 3:50 p.m. that day she texted T.W. the words "[n]ever again." T.W. responded by asking M.C. what she meant.

¶ 17 On cross-examination, M.C. also testified regarding the specific events of September 3, 2018. She stated that when the group arrived at Dionte's house, no one else was home. She thought that Dionte's mom or dad came home while the group was present. M.C. stated that while she and T.W. were in the car, Michael and Dionte were inside the house. At some point, they also played basketball. M.C. asserted that about five minutes after arriving at Dionte's house, she and T.W. got out of the car and walked "up to the *** garage" to talk with Michael and Dionte. She and T.W. then returned to the car and T.W. began touching her without her consent. M.C. testified that she did not yell and she did not know if the car doors were locked. The following colloquy then occurred between M.C. and T.W.'s counsel:

> "Q. Okay. Did you have your phone on you?
>
> A. No.
>
> Q. You didn't have a phone at all?
>
> A. No. I didn't have a phone at that time.

Q. Huh?

A. I didn't have a phone at that time.

Q. You had left it at home?

A. Uh-huh."

M.C. then testified that Michael returned to the car without Dionte. She denied saying anything to Michael at that time.

¶ 18 M.C. testified that she did not immediately go home after what happened in the car because Michael told her that he would not leave her and T.W. alone, that they would "just go inside, play Fortnite, have some pizza, and drink some water." M.C. believed "everything would maybe have calmed down by then." She also stated she was not "really comprehending what was happening yet." M.C. testified that she did not know why Michael reassured her that he would not leave her alone and stated she did not say anything to Michael about T.W. being inappropriate, asserting, "I don't talk to Michael."

¶ 19 When she went inside the house and T.W. picked her up, Michael was not in the room with them. She stated she was "squirming" to get away as T.W. carried her to the bedroom. M.C. testified she tried to grab the door frame as he carried her but agreed that she did not yell. As soon as she entered the bedroom, she tried to leave. She agreed that she did not yell or scream, but she pushed T.W. off of her multiple times and bit him on his upper shoulder. When Michael knocked on the bedroom door, she did not say anything but T.W. told Michael to " '[give] me a few more minutes.' " Michael did not knock on the door until after T.W. had ejaculated in her mouth. M.C. denied seeing Michael later that day after leaving his residence.

¶ 20 Following M.C.'s testimony, her counsel identified M.C.'s sister, Randi S., as his

next witness. However, Randi was unable to be present at the hearing because she had given birth the previous day. T.W. agreed to stipulate that M.C. "went to her sister to talk to her" on September 3, 2018. M.C. then took the stand and testified regarding her conversation with Randi, which she stated occurred approximately three hours after the incident at issue. She testified that she told Randi she had been sexually assaulted and "told her everything that happened."

¶ 21 Michael testified on T.W.'s behalf. He stated he had known T.W. since sixth grade and saw him once or twice a week. He did not know M.C. until she came to his house on a couple of occasions with T.W. Michael stated M.C. did not visit his house in 2017 and he did not know her at that time. Instead, T.W. first brought M.C. to Michael's house in the summer of 2018. M.C.'s 12-year-old niece also accompanied them. Michael testified T.W. and M.C. went into the bathroom and remained there for 45 to 50 minutes. He heard moaning coming from the bathroom. After that incident, Michael saw M.C. at the park and "called her stupid and stuff for bragging about" what she had done with T.W. He stated that T.W. did not tell him to make that statement to M.C. nor had they had any conversation about her that day. On questioning by the trial court, Michael testified he stayed with M.C.'s niece in his room "playing Fortnite" while M.C. and T.W. were in the bathroom together.

¶ 22 Michael testified that on September 3, 2018, he was with T.W. and Dionte at Dionte's house. T.W. stated he wanted to "hang out" with M.C. so they went to pick her up. The group went to McDonald's for food and then back to Dionte's house. At Dionte's house, M.C. stayed in the car while everyone else played basketball. Michael denied that anyone went inside Dionte's house when M.C. was with them. According to Michael, T.W. got back in the car after M.C. used "a baby voice" and asked him to " 'please get back in the car.' " Michael testified

T.W. and M.C. were "making out and stuff" while he and Dionte played basketball. He asserted the car was parked next to the basketball hoop and he could see what T.W. and M.C. were doing. Michael stated he observed T.W. and M.C. sitting next to each other and kissing. M.C. then "got on top of [T.W.] and they were kissing and stuff." Michael testified that when Dionte's parents arrived home, he knocked on the car window and told T.W. and M.C. to stop. He denied witnessing "any nonconsensual behavior."

¶ 23 Michael testified he, T.W., and M.C. left Dionte's house and went to his residence. He denied making any statements to M.C. prior to entering his home or that M.C. appeared to be in distress. Michael stated the first thing he did after arriving home was look for his cat. After "a minute or so" he decided to "forget it," determining the cat was probably sleeping. He then laid on his couch for 5 or 10 minutes. Michael testified he did not see T.W. and called out for him. T.W. responded and Michael knew T.W. and M.C. were in his mother's bedroom. Michael testified he did not hear T.W. and M.C. go into the bedroom. He also did not hear any sort of struggle or yelling. Eventually, Michael received a message from someone saying that T.W. had football practice. He knocked on the bedroom door and told T.W. he had practice. According to Michael, T.W. responded that he was not going to practice. Michael asked if he could come in and M.C. responded that she did not have a shirt on. He stated T.W. and M.C. then agreed that they would be out in 10 or 15 minutes. Michael also asserted that there was no lock on the bedroom door.

¶ 24 Michael testified that when T.W. and M.C. exited the bedroom "they were getting their stuff on ***, like, shoes or whatever." M.C. said, " '[b]ye, guys' " as everyone was leaving and Michael denied that she seemed to be in distress. Michael testified M.C. left on foot and he

did not know whether she had a phone. Michael stated he dropped T.W. off at football practice and later that day saw M.C. "walking with another dude." He asked M.C. whether she was " 'serious doing [T.W.] dirty like that' " and "some other stuff, too."

¶ 25 T.W. testified on his own behalf. He stated he was 15 years old and a sophomore in high school. He first met M.C. around seventh or eighth grade. T.W. denied that the two ever had a "boyfriend-girlfriend relationship." T.W. asserted he did not start "hanging out" with M.C. until summer 2018. He recalled that he first saw her outside of school on July 4, 2018. He stated he was at Michael's house and texting "on and off" with M.C. when she asked him to "hang out" with her. T.W. told Michael he was leaving to "hang out" with M.C., and Michael responded that he did not like M.C. because " 'something was off about her.' " T.W. left anyway and met M.C. at the park behind Michael's house. Eventually, Michael came outside and told T.W. to " 'stop hanging out with [M.C.]' " Everyone then went inside Michael's house. T.W. testified that they were playing Fortnite, hanging out, and goofing off. He stated he went to the bathroom and M.C. came up behind him and started "making out" with him. T.W. testified, "it went from there." Also present at Michael's residence on that occasion was M.C.'s niece and T.W.'s friend Bradley.

¶ 26 Following the July 4, 2018, encounter, T.W. and M.C. continued to text one another. T.W. stated that M.C. contacted him "[a] lot." He asserted that he did not want a dating relationship with her and was "trying to be polite about it."

¶ 27 On September 3, 2018, M.C. contacted him while he was at Dionte's house with Michael. He told her he was going to Michael's house and asked her if she wanted to hang out. T.W. stated they picked M.C. up, went to McDonald's, and then returned to Dionte's residence. He testified he played basketball with Dionte and Michael while M.C. stayed in the car and used

his phone to get on Facebook. T.W. did not know if M.C. had her own phone with her. According to T.W., M.C. called him back to the car to "hang out." He stated he sat on the edge of the seat with his feet outside of the door and M.C. wrapped her arms around his shoulders, pulled him back into the car, and started kissing him. T.W. asserted they were "making out in the car" until Dionte's sister and parents returned home. Michael then knocked on the car window and told them to " '[s]top making out' " and to " '[g]et out [of] the car because you don't want his parents to see that[.]' " T.W. stated he got out of the car and talked to Dionte's little sister. Dionte's sister asked who was in the car and T.W. responded that it was M.C.

¶ 28 T.W. denied that the car doors were locked when he was in the car with M.C. or that he was ever on top of M.C. and holding her down. He further testified that M.C. never said "no" or "stop" and that he did not believe she was "not consenting."

¶ 29 T.W. further testified that after talking with Dionte's sister, the group went to Michael's house. On the way, T.W. asked M.C. if she wanted to go home and she declined. According to T.W., they sat at Michael's house for 5 or 10 minutes before Michael asked for help finding his cat. T.W. looked for the cat in Michael's mother's bedroom. He stated he turned around and saw M.C. standing at the bedroom door. She asked if T.W. wanted to have sex with her and he told her no. T.W. testified M.C. then asked, " '[w]ell, at least do you want, like, to make out again?' " T.W. stated he responded, " 'I guess,' " and the two started "making out." M.C. then asked if T.W. wanted her to perform oral sex on him. He stated he sat on the side of the bed and M.C. performed oral sex on him until Michael knocked on the bedroom door and said T.W. had to go to practice. T.W. testified that M.C. told Michael not to come in because she did not have a shirt on and he told Michael to " '[g]ive [him] about five minutes.' "

¶ 30 T.W. testified that the bedroom door was not locked and that he never pinned M.C. down or threw her on the bed. He stated that as she was leaving, M.C. said, " '[g]ood-bye, guys' " and started "skipping down the road." T.W. acknowledged that M.C. texted him the words "never again" later that day but asserted he had "[n]o idea" what she meant.

¶ 31 On cross-examination, T.W. testified that he ejaculated in M.C.'s mouth when she performed oral sex on him. He stated that he was positioned "[o]n the side of the bed leaning against it" and M.C. was "[o]n the floor." When asked "whose idea was it to do that," T.W. responded that "it just happened, I guess."

¶ 32 T.W. further acknowledged that M.C. sent him a text, which stated as follows: "So like last summer [you] said [you] was gonna be all over me this year." He testified that he and M.C. had been texting back and forth but that they were not in a relationship. He explained M.C. had "been trying to get with [him] since, like, [s]eventh [g]rade" and he had "been trying to put her down nicely."

¶ 33 Next, T.W.'s mother, Kiana Goossen, testified. She stated she did not know M.C. but had heard about her from T.W. The first time she saw M.C. was in court at a previous court date. M.C. appeared to be upset and was crying. After court, she saw M.C. "in the lobby talking." Goossen then testified as follows:

> "I heard a cough behind us, and I looked, and it was, like, like a cover-up, a laugh kind of cough, and, um, I seen [*sic*] [M.C.] walking, so the cough happened kind of like directly behind [T.W.], and she continued to walk out of the door and right in front of the—like, going down the stairs, she threw her head back laughing and making, like weird hand signals, like talking hand signals."

Goossen testified M.C.'s behavior seemed "taunting" and like she was not taking the matter seriously.

¶ 34 Finally, M.C. testified as a rebuttal witness. She testified she was not "familiar" with the incident described by Goossen. She also asserted that she was taking the case "as serious as possible." M.C. further acknowledged hearing Michael testify that his mother's bedroom door did not lock; however, she stated she observed T.W. "reach behind him and do something with the doorknob as soon as [they] stepped into the room." She also stated she remembered that Michael was looking for his cat but she believed that T.W. was "more worried about [her]."

¶ 35 Following the testimony and the parties' arguments, the trial court took a recess before making its ruling. Upon resuming the proceedings, the court noted that it had reviewed the testimony and exhibits and determined that M.C. had "met her burden of proving that there was knowing and reckless use of physical force and restraint." It entered a plenary order of protection effective until June 7, 2019. In its written order, the court found that M.C. and T.W. had a dating relationship and that T.W. had abused M.C. The written order further stated as follows:

> "[T]he [c]ourt has considered all relevant factors, including, but not limited to the nature, frequency, severity, pattern, and consequences of Respondent's past abuse, neglect, or exploitation of Petitioner or any family/household member, including Respondent's concealment of his/her location in order to evade service of process or notice, and the likelihood of danger of future abuse, neglect, or exploitation of the party(ies) to be protected[.]"

¶ 36 On November 13, 2018, T.W. filed a motion to reconsider the trial court's ruling. On January 7, 2019, the court conducted a hearing on T.W.'s motion. He argued the court's deci-

sion was against the manifest weight of the evidence and questioned why the court found M.C. more credible than T.W. or his witnesses. In denying T.W.'s motion, the court stated as follows:

> "I wish there was a bright-line test for credibility ***, but that's why we're tasked with such a difficult job, it is courtroom demeanor, it is witnesses testifying and the observations I make here in court when I assess credibility. This certainly, as I think everyone would agree, was not an easy case. But I am going to stand by the findings that I made on October 11th and that will be the ruling of the Court."

¶ 37 This appeal followed.

¶ 38 II. ANALYSIS

¶ 39 On appeal, T.W. challenges the trial court's decision to grant M.C. a plenary order of protection. He argues that the court failed to make sufficient findings to support its decision to grant the petition and that the court's abuse finding was against the manifest weight of the evidence.

¶ 40 A. Mootness

¶ 41 We note that the plenary order of protection in this case expired on June 7, 2019. Thus, we initially address whether the mootness doctrine applies such that we should decline to review the issues presented on appeal.

¶ 42 "An issue raised on appeal becomes moot when the issue no longer exists due to events occurring after the filing of appeal that make it impossible for the appellate court to grant effective relief." *Benjamin v. McKinnon*, 379 Ill. App. 3d 1013, 1020, 887 N.E.2d 14, 20 (2008). However, "[a] case that is considered moot may still be subject to review if it involves a question

of great public interest." *Whitten v. Whitten*, 292 Ill. App. 3d 780, 784, 686 N.E.2d 19, 22 (1997). This court has held that, even assuming that the expiration of an order of protection rendered issues raised on appeal "formally moot," the issues are nevertheless reviewable "under the public-interest exception to the mootness doctrine." *Benjamin*, 379 Ill. App. 3d at 1020; see also *Whitten*, 292 Ill. App. 3d at 784 (holding that the Act addresses "a grave societal problem" and involves matters of public interest). T.W. argues that his appeal should not be dismissed as moot because it involves a matter of public concern. We agree and address the merits of his appeal.

¶ 43 B. Standard of Review

¶ 44 "In any proceeding to obtain an order of protection, the central inquiry is whether the petitioner has been abused." *Best v. Best*, 223 Ill. 2d 342, 348, 860 N.E.2d 240, 244 (2006). If the trial court finds that a petitioner has been abused, the Act provides that an order of protection "shall issue." 750 ILCS 60/214(a) (West 2016)). The Act defines "abuse" as "physical abuse, harassment, intimidation of a dependent, interference with personal liberty[,] or willful deprivation." *Id.* § 103(1). Further, it defines "physical abuse" as including "sexual abuse" and any "knowing or reckless use of physical force, confinement[,] or restraint." *Id.* § 103(14).

¶ 45 "[P]roceedings to obtain an order of protection are civil in nature and governed by a preponderance of the evidence standard." *Best*, 223 Ill. 2d at 348. On review, this court will reverse the trial court's factual findings only if they are against the manifest weight of the evidence. *Id.* at 348-349. "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or if the finding itself is unreasonable, arbitrary, or not based on the evidence presented." *Id.* at 350.

¶ 46 C. Sufficiency of the Trial Court's Findings

¶ 47 On appeal, we initially address T.W.'s contention that the trial court's findings were insufficient. He asserts that the court determined M.C.'s legal burden had been met but otherwise "made no actual findings." T.W. argues that the court should have explained its rationale for determining that M.C. was the more credible witness and complains that the court "made no findings related to the weight of the evidence and the many contradictions therein."

¶ 48 M.C. responds by arguing that the trial court's oral ruling and written order were sufficient to meet the minimum statutory requirements regarding the necessary findings to be made by the court when granting an order of protection. She also points out T.W.'s failure to cite any legal authority for the proposition that the trial court must articulate specific factual findings relative to the credibility of witnesses or the weight of the evidence.

¶ 49 Section 214(c)(3) of the Act (750 ILCS 60/214(c)(3) (West 2016)) requires that the trial court make findings "in an official record or in writing" when ruling on a petition for an order of protection. It provides that, "at a minimum," the court shall set forth (1) that it considered the applicable relevant factors described in sections 214(c)(1) and (c)(2) of the Act (*id.* § 214(c)(1), (c)(2)), (2) whether the respondent's conduct or actions will likely cause irreparable harm or continued abuse unless prohibited, and (3) whether it is necessary to grant the requested relief to protect the petitioner. *Id.* § 214(c)(3). Factors for consideration under section 214(c)(1) include the following:

> "(i) the nature, frequency, severity, pattern and consequences of the respondent's past abuse, neglect or exploitation of the petitioner or any family or household member, including the concealment of his or her location in order to evade service of process or notice, and the likelihood of danger of future abuse,

neglect, or exploitation to petitioner or any member of petitioner's or respondent's family or household; and

(ii) the danger that any minor child will be abused or neglected or improperly relocated from the jurisdiction, improperly concealed within the State or improperly separated from the child's primary caretaker." *Id.* § 214(c)(1).

Although not at issue in this appeal, section 214(c)(2) of the Act sets forth factors that the court must consider when the case involves the loss of possession of a family home by one party. *Id.* § 214(c)(2).

¶ 50 Notably, on appeal, T.W. does not cite section 214(c)(3) of the Act, note or discuss the minimum findings to be articulated by a trial court per that section, or argue that the court failed to meet section 214(c)(3)'s "minimum" requirements in this case. Rather, he contends that a court should be required to do more than the statutory minimum and explicitly set forth detailed findings as to witness credibility and the weight of the evidence. While more detailed findings by a trial court would undoubtedly aid both the parties' understanding of the court's decision as well as appellate review, we find no legal authority which would support such a requirement.

¶ 51 On review, T.W. cites *Minteer v. Kozin*, 297 Ill. App. 3d 1038, 697 N.E.2d 891 (1998), to support his contention that the trial court's findings were insufficient. However, that case concerned the trial court's failure to meet only the minimum requirements for specific findings under section 214(c)(3)—an issue not argued by T.W. on appeal. *Id.* at 1043-44. *Minteer* is inapposite as it simply does not support the argument that T.W. does make—that more detailed factual findings are, or should be, required. Given that the court was not required to make the

detailed factual findings that T.W. contends were necessary, his argument on appeal sets forth no basis for reversal of the lower court's decision.

¶ 52 D. The Trial Court's Finding of Abuse

¶ 53 As stated, T.W. also argues that the trial court's finding of abuse was against the manifest weight of the evidence. He argues that rather than supporting a finding of abuse, the evidence presented showed M.C. consented to everything that occurred between her and T.W. on September 3, 2018, and that M.C. "changed her mind only after the acts occurred." T.W. asserts that M.C.'s testimony was unworthy of belief because it was contradictory and logically unsound.

¶ 54 "Under the manifest weight standard, we give deference to the trial court as the finder of fact because it is in the best position to observe the conduct and demeanor of the parties and witnesses." *Best*, 223 Ill. 2d at 350. "A reviewing court will not substitute its judgment for that of the trial court regarding the credibility of witnesses, the weight to be given to the evidence, or the inferences to be drawn." *Id.* at 350-51. As stated above, "[a] finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or if the finding itself is unreasonable, arbitrary, or not based on the evidence presented." *Id.* at 350.

¶ 55 Here, the trial court was essentially presented with two conflicting versions of the events. It found that M.C. had proven by a preponderance of the evidence "that there was knowing and reckless use of physical force and restraint" by T.W. The court's comments also reflect that it found M.C.'s testimony regarding what occurred to be more credible than the evidence presented by T.W. After reviewing the record, we cannot say the court erred in its decision.

¶ 56 At the hearing, M.C. testified that T.W. physically restrained her and touched her

without her consent. She further described how T.W. held her down at Michael's house, prevented her from leaving the bedroom, and forced her to engage in an act of oral sex. After leaving Michael's residence, M.C. immediately reported what occurred to various individuals. The same day, she reported the incident to the authorities.

¶ 57 T.W. challenges M.C.'s testimony on the basis that her version of events was not logical. He questions why M.C. went to Michael's house after allegedly having been assaulted by T.W. in the car. He also contends that there was "no logical reason why [M.C.] did not yell and scream and cause Michael to intervene" if she was being assaulted.

¶ 58 First, M.C. explained that although she initially indicated that she wanted to go home after the incident at Dionte's house, she agreed to go to Michael's residence because he told her that they would "play Fortnite, have some pizza, and drink some water." She also believed that "everything would maybe have calmed down by then" and stated she was "not really comprehending what was happening yet." Neither M.C.'s actions nor her explanation for those actions are so illogical as to render her account incredible.

¶ 59 Second, M.C. described her verbal and physical resistance to T.W.'s alleged advances. She testified that she told T.W. no and to stop, "squirmed" to get away from him, fought him to keep her pants on, stated she did not "want to do this," bit him on the shoulder, and tried to run from him. After leaving Michael's house, she reported what occurred to several different individuals and made a complaint to the authorities the same day. In other words, M.C.'s testimony demonstrates a lack of consent. Contrary to T.W.'s assertions, the fact that M.C. did not also yell or scream does not render her account of the events unbelievable.

¶ 60 Additionally, there are "logical" reasons why the victim of a sexual assault may

not scream or yell for help, including fear or futility. See *People v. Clarke*, 50 Ill. 2d 104, 109, 277 N.E.2d 866, 869 (1971), (holding that in the context of a sexual assault, "resistance is not necessary under circumstances where resistance would be futile and would endanger the life of the [victim], or where [the victim] is overcome by superior strength or paralyzed by fear"). In this case, M.C. was not explicitly asked at the hearing on the plenary order of protection to explain why she did not yell for help or scream. However, she did testify that she did not tell Michael that T.W. was acting inappropriately while they were in the car, stating, "I don't talk to Michael." The record also shows that M.C. was with T.W. and his friends when both the car incident and the bedroom incident occurred. Further, the record indicates that M.C. did not know Dionte very well (M.C. could not recall Dionte's name at the hearing) and shows that M.C. did not have a good relationship with Michael. A reasonable inference may be drawn that M.C. determined that yelling and screaming for T.W.'s friends to intervene would have been futile.

¶ 61 T.W. also argues that M.C.'s testimony was contradictory in several respects, evidencing a lack of credibility. He first contends that M.C. "clearly lied" on direct examination by initially implying that she and T.W. had only a non-intimate dating relationship and then admitting on cross-examination that they previously engaged in sexual intercourse. We disagree that M.C. was contradictory on this point and find that T.W. mischaracterizes her testimony. On direct examination, M.C. testified that she was just expecting to "hang out" with T.W. on September 3, 2018, asserting T.W. was not typically "pushy" and "usually all [they] did was just hang out." She did not provide details regarding the parties' prior contacts on direct examination, and her testimony falls far short of a denial of previous sexual activity or an intimate relationship. Accordingly, we find no inconsistency.

¶ 62 T.W. also asserts M.C.'s testimony was contradictory regarding whether she and T.W. got out of the car at Dionte's house and whether she had a cell phone with her on the day in question. Again, we do not find M.C.'s testimony regarding getting out of the car to be contradictory. Instead, the record reflects that M.C. simply testified in greater detail in response to the questions posed on cross-examination regarding the order of events at Dionte's house than she did on direct examination. Further, although the record does suggest an inconsistency regarding M.C.'s possession of a cell phone on the day in question, we disagree that such an inconsistency renders her testimony wholly unbelievable. Rather, it was a factor for the court to consider when determining issues of credibility.

¶ 63 Moreover, contrary to T.W.'s assertions on appeal, there were also inconsistencies in the evidence he presented. Specifically, T.W. and Michael did not testify consistently regarding the other individuals who were present at the time T.W. and M.C. had previously engaged in consensual sexual intercourse at Michael's residence or during the incident in the car at Dionte's residence. Notably, T.W. described having a conversation with Dionte's sister, whom neither M.C. nor Michael described as being present. Additionally, T.W.'s suggestion that it was only M.C. who pursued a dating-type relationship with him while he tried to "let her down easy" was contradicted by text messages in which he expressed that he wanted the two of them "to have kids and settle down" in the future and stated to M.C. that he was hers "no matter what ***." Further, T.W. also testified inconsistently by initially asserting that M.C. propositioned him with oral sex at Michael's residence and then stating that the oral sex "just happened."

¶ 64 Finally, we note that in his reply brief, T.W. raises allegations of judicial bias or prejudice based solely on his counsel's "experience before the lower court," arguing as follows:

> "And in experience before the lower court, the undersigned understands exactly why [the trial court did not provide detailed findings]: the lower court in this matter is particularly disturbed by allegations of violence and sexual assault. And in hearing testimony presented on those types of issues, the lower court in this matter errs on the side of accepting contradictory testimony from alleged female victims as true and ignores reasonable explanations from alleged male aggressors. This is not the first time the undersigned has seen this particular court accept allegations of sexual assault that were contradictory and make findings based upon facts that appeared to be fabricated."

Because these allegations are wholly unsubstantiated by the record, we reject them and deem their inclusion in T.W.'s reply brief to be totally inappropriate. Moreover, not only is it the trial judge's responsibility to resolve conflicts in the evidence where it is the trier of fact but "[a] trial judge is presumed to be impartial" and "[a] judge's rulings alone almost never constitute a valid basis for a claim of judicial bias or partiality." *Eychaner v. Gross*, 202 Ill. 2d 228, 280, 779 N.E.2d 1115, 1146 (2002).

¶ 65 T.W. also suggests that the trial court's lack of detailed factual findings are evidence of its bias. He describes the trial court as having "concealed its reasoning" from the parties and states as follows: "[I]n this matter, the [c]ourt's restraint from explaining any reasoning as to what testimony was credible and what was not, was telling." However, we reject any suggestion that we may find evidence of judicial bias from the court's failure to set forth detailed findings, particularly where the court was not required to explicitly articulate those findings orally or in a written order.

¶ 66 Here, the trial court had the opportunity to observe the witnesses as they testified and consider their conduct and demeanor. The court expressed that it was "not an easy case" but it ultimately ruled in favor of M.C. The appellate record does not show that the opposite conclusion from the one reached by the court was clearly evident or that the court's finding of abuse was unreasonable, arbitrary, or not based on the evidence presented. Accordingly, the court's decision was not against the manifest weight of the evidence.

¶ 67 III. CONCLUSION

¶ 68 For the reasons stated, we affirm the trial court's judgment.

¶ 69 Affirmed.