

Pending before the Court is a Request for Review of a Commissioner's Order ("ROCO") filed by R----- T----- B----- ("Respondent"). Respondent is seeking a review of the Order entered by Commissioner Jennifer Mayo on May 29, 2026 Granting a Petition for Protection from Abuse filed by L----- H----- ("Petitioner"). Specifically, Respondent alleges that the Commissioner erred by not dismissing the Petition as the incidents of alleged abuse took place in the State of Maryland and that Delaware did not have jurisdiction to hear the Petition. Respondent also alleges that Petitioner has engaged in conduct following the entry of the PFA which he feels is inconsistent with being concerned for her personal safety. Finally, the Respondent argues that the Court should not have permitted the introduction of the video into evidence as it does not have audio and does not accurately portray the circumstances surrounding the video. The Court finds no merit to the arguments raised by Petitioner in this ROCO.

For the reasons cited herein, the Court affirms the Commissioner's Order in its entirety.

STANDARD OF REVIEW

A party may seek a review of a Commissioner's Order pursuant to 10 *Del. C.* § 915(d)(1), which provides:

Any party, except a party in default of appearance before a Commissioner, may appeal a final order of a Commissioner to a judge of the Court by filing and serving written objections to such order, as provided by the rules of Court, within 30 days from the date of the Commissioner's order. A judge of the Court shall make a *de novo* determination of those portions of the Commissioner's order to which objection is made. A judge of the Court may accept, reject, or modify in whole or in part the Order of the Commissioner.

The judge may also receive further evidence or recommit the matter to the Commissioner with instruction.¹

Because this was a Commissioner's final order, the Court reviews the Order *de novo*.²

According to *Black's Law Dictionary* a *de novo* review is "[a]n appeal in which the appellate court uses the trial court's record but reviews the evidence and law without deference to the trial court's rulings."³ Pursuant to Family Court Civil Rule 53.1(b), an appeal of a Commissioner's Order must "set forth with particularity the basis for each objection."⁴ Upon taking the matter under review, a judge of the Court will make a *de novo* determination regarding the objected to portions of the Commissioner's Order.⁵ A judge will make an independent decision by reviewing the Commissioner's findings of fact determined at the Commissioner's hearing, any testimony and documentary evidence on the record, and the specific objections of the moving party.⁶

ARGUMENTS RAISED

The Court has reviewed the transcript of the proceedings along with the evidence which was contained in the Court's file. As noted above, Respondent argues that the Court lacked jurisdiction, that the Court should consider Respondent's conduct after the Order was entered and that the video should not have been entered into evidence (or considered by the Court).

¹ 10 *Del. C.* § 915(d)(1).

² *Id.*

³ *Black's Law Dictionary* (10th ed. 2014).

⁴ FAM. CT. CIV. P. R. 53.1(b).

⁵ 10 *Del. C.* § 915(d)(1); *see also* FAM. CT. CIV. P. R. 53.1(e).

⁶ *C.M. v. L.A.*, 2007 WL 4793042, at *1 (Del. Fam. Ct. Dec. 27, 2007).

ANALYSIS

THE COURT LACKED JURISDICTION AS THE INCIDENTS ALLEGED OCCURRED IN MARYLAND AND HE IS A MARYLAND RESIDENT

Respondent alleges that the Court lacked jurisdiction as the incidents alleged by Petitioner took place in Maryland and he is a Maryland resident. Although Respondent did not specifically raise this issue at the hearing, the Court will consider it as it pertains to jurisdiction. Pursuant to 10 *Del. C.* §1042(c), “A petition for a protective order may be filed in any county where the petitioner resides, the respondent resides, the alleged domestic violence occurred or where Petitioner is temporarily located to avoid domestic violence.” Additionally, Family Court Civil Rule 402(c)(4) addresses nonresidents and their contacts or lack thereof with the State of Delaware. The Rule states that the absence of contacts with the State of Delaware by a non-resident is not a ground for dismissal but may limit the scope of available relief. Rule 405(d) clarifies that if a nonresident does not have contacts with the State of Delaware, relief is limited to protective relief. In other words, the Court could not order ancillary relief such as child support or custody in a case where the Respondent is a nonresident and there are no minimum contacts or actual notice to the Respondent. In the present case, the only relief awarded is protective relief. Therefore, the Commissioner did not commit legal error and the Court does have jurisdiction over Respondent and only granted protective relief.

PETITIONER’S SUBSEQUENT ACTIONS ARE NOT CONSISTENT WITH A PERSON CONCERNED FOR THEIR PERSONAL SAFETY

The Court cannot consider evidence of incidents that took place after the hearing in determining whether Respondent committed an act of abuse. The Court will only consider in this appeal the evidence and record from the hearing. This argument does not have any validity.

THE COURT ERRED BY ADMITTING THE VIDEO EVIDENCE OR BY RELYING UPON THE VIDEO EVIDENCE IN MAKING THE FINDING OF ABUSE

The Court is not entirely clear if Respondent is arguing that the video should not have been entered into evidence or if he is arguing that the Court should not have given the weight to the video that was given in making the finding of abuse. The Court stated that the video, in conjunction with the photograph of the bruise and the testimony of the Petitioner, consistent with the bruise, was the basis for the finding of abuse. There was no error in admitting the video. Petitioner was able to lay the foundation for the video and testified that she recorded the video. Once Petitioner lays this foundation, under Delaware’s case law on electronic evidence, which follows the Texas rule⁷, Respondent would need to prove that it was fake if he is making that allegation. Respondent offered no evidence at all that the video was fake. It appears that Respondent is primarily arguing that the video did not take into consideration the context of what was unfolding at the time as opposed to it being altered. While the video itself did not have

⁷ *Parker v. State*, 85 A.3d 682 (Del. 2014).

audio, both parties testified regarding the scene unfolding at the time and the visible portions of the events are generally consistent with the parties' testimony.

Although the video may not have included audio, the Court could observe facial expressions and body language during the video. Respondent appeared relaxed and smiling at the beginning of the video, not startled and shocked. Both parties gave their own versions of what transpired. Both acknowledge that Petitioner was on a video call with another woman who had a romantic relationship with Respondent. Under either version, both parties went to grab for the phone at some point and the video essentially goes dark after the phone is knocked out of Petitioner's hands. When the video comes back on there appears to be a shove of Petitioner by Respondent, though it is hard to tell. The testimony of the Petitioner was that the Respondent was yanking her arm around. This testimony was consistent with the apparent scuffle for the phone and the photograph of the bruises. The Commissioner is the best judge of the credibility of testimony as she observed the parties in the Courtroom, and the Commissioner found Petitioner to be credible. Reviewing the video, the photograph and the testimony from the hearing, the Court finds that the Commissioner's finding of abuse is supported by the record.

For the foregoing reasons, the Court finds that the Commissioner's Order is **AFFIRMED in its entirety.**

IT IS SO ORDERED.

/ Felice Glennon Kerr /
FELICE GLENNON KERR, Judge

Cc: Parties/Counsel
The Honorable Jennifer Mayo

Date mailed:

