

IN THE COURT OF COMMON PLEAS OF
LYCOMING COUNTY, PA

PENELOPE A. BOWER,	:	
Plaintiff	:	NO: 10-20562
	:	
vs.	:	
	:	
JOHN I. BOWER, JR.,	:	CIVIL ACTION
Defendant	:	

OPINION
Issued Pursuant to Pa.R.A.P. 1925(a)

On May 3, 2010 Plaintiff, Penelope Bower, filed a Protection From Abuse Petition seeking protection from her brother, John I. Bower. On June 9, 2010, a full hearing was held. Following the hearing, this Court dismissed Plaintiff’s Petition for Protection From Abuse (hereinafter “PFA”). On July 2, 2010 the Plaintiff filed a Notice of Appeal. In Plaintiff’s Statement of Matters Complained of On Appeal, the Plaintiff contends that this Court committed an error of law because it dismissed Plaintiff’s Petition by distinguishing that “Defendant’s ‘abuse’ arose from business disputes, instead of domestic disputes.” In making his assertion, the Plaintiff mischaracterizes this Court’s Order of June 9, 2010.

In denying the Plaintiff’s Petition seeking Protection From Abuse, this Court noted that this case was really about a business feud, or family feud that had developed between the parties. The Court’s ruling, however, dismissing the PFA was based upon this Court’s belief that the Plaintiff was not in fear and in need of

protection under the PFA Act. The Court made this determination following a full hearing in which the credibility of all of the parties was assessed.

The standard of review in a PFA action, is whether the trial court committed an error of law or abused its discretion. Custer v. Cochran, 933 A.2d 1050 (Pa.Super. 2007). The purpose of the Protection From Abuse Act is to protect victims of domestic violence from those who perpetrate such abuse. Id. at 1054. It is the petitioner's burden in initially seeking a PFA Order to prove that he or she is in immediate and present fear of present danger of abuse. Lanza v. Simconis, 914 A.2d 902 (Pa.Super. 2006). The Plaintiff must show that the Defendant engaged in misconduct as specified in the PFA Act. Yankoskie v. Lenker, 526 A.2d 429 (Pa.Super. 1987). In reviewing a hearing on petition for an order for protection from abuse, the Superior Court is to defer to credibility determinations of the trial court as to witnesses who appeared before it. Custer, supra, p. 1058. Here the Court found Penelope Bower not credible.

In dismissing the PFA in the present action, this Court held that the Plaintiff was not fearful for her safety or "physically scared of anyone." As the purpose of the PFA was not met, this Court entered an Order dismissing the Plaintiff's Petition.

Accordingly, this Court respectfully requests affirmance of its June 9, 2010 Order.

BY THE COURT,

Date

Richard A. Gray, J.

cc: Corey J. Mowrey, Esquire
Christian A. Lovecchio, Esquire
Gary Weber, Esquire