

APPENDIX A

Filed 9/8/17

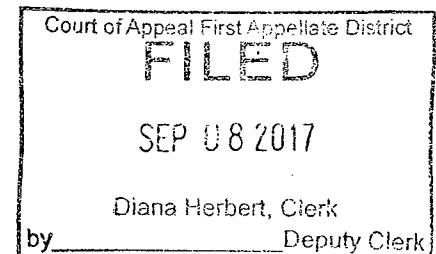
NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**FIRST APPELLATE DISTRICT****DIVISION FIVE**

CHRISTINE CHANG,
Plaintiff and Appellant,
v.
ROBIN ANDREWS,
Defendant and Respondent.

A148818



(Alameda County
Super. Ct. No. RG16815674)

Appellant Christine Chang appeals from the trial court's denial of her May 2016 request for a civil harassment restraining order against respondent Robin Andrews.

Chang alleged that Andrews, who resides in a neighboring apartment, engaged in a series of abusive behaviors starting in February 2013. Most prominently, Chang alleged Andrews sent gang members to assault Chang and her dog.

Following a June 2016 trial at which both Chang and Andrews testified, the trial court found no evidence had been presented that justified issuance of a restraining order and dismissed Chang's petition without prejudice. In making its ruling, the court stated to Chang, "I have no doubt that you were assaulted, but I have no credible evidence other than your suspicions that Ms. Andrews was behind this in some way, shape or form. The other things that you were complaining of do not rise to the level of the definition of civil harassment. And based on all of those factors, I am denying the petition for a civil harassment restraining order." In response to the court's ruling, Chang asserted that

Andrews had lied in her testimony, but the court responded that it found Andrews's testimony "extremely credible."

We review the trial court's denial of a restraining order under the abuse of discretion standard. (*In re Marriage of Nadkarni* (2009) 173 Cal.App.4th 1483, 1495.) "The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court." (Gonzalez v. Munoz (2007) 156 Cal.App.4th 413, 420.) We also observe that the trial court's decision "is presumed correct, and a party attacking the judgment, or any part of it, must affirmatively demonstrate prejudicial error." (People v. Garza (2005) 35 Cal.4th 866, 881.) Accordingly, appellant Chang has the burden of demonstrating reversible error based on adequate legal argument supported by citations to the record. (*Yield Dynamics, Inc. v. TEA Systems Corp.* (2007) 154 Cal.App.4th 547, 556–557.)

On appeal, Chang contends the trial court erred in failing to grant a restraining order because the court relied on Andrews's perjured testimony. However, "it is the exclusive province of the trial judge or jury to determine the credibility of a witness." (Bloxham v. Saldinger (2014) 228 Cal.App.4th 729, 750.) We are obligated to treat Andrews's testimony as sufficient to sustain the trial court's ruling unless it is "physically impossibl[e]" that Andrews's testimony was true or unless the falsity of the testimony is "apparent without resorting to inferences or deductions." (*Ibid.*) In her brief on appeal, Chang points to nothing conclusively proving the falsity of Andrews's testimony. Furthermore, even if Chang did prove Andrews's testimony was unreliable, that does not mean the trial court was obligated to accept Chang's evidence and grant the requested restraining order. At trial, Chang admitted she had only "indirect" evidence Andrews directed others to assault her.

Chang also asserts the trial court had improper ex parte communications with the attorney for the property management company. But her record citations do not support the assertion. In any event, Chang fails to demonstrate how any such communications prejudiced her request for a restraining order. Chang also complains that the attorney

made several comments on the record (identified in the transcript as “unidentified speaker”), but she fails to explain how any of those comments prejudiced her case. The cited comments were neutral and did not support either party’s position. Similarly without basis are Chang’s assertions that the trial court was biased against her. The record demonstrates the court was patient and advised Chang of the showing she needed to make in order to justify issuance of a restraining order; Chang was unable to make the showing.

Finally, Chang makes a difficult to follow argument relating to “subpoenaed surveillance photos” that were attached to an affidavit she submitted to the court but have now “gone missing without a trace.” However, she fails to explain how those photographs would show the trial court abused its discretion in denying her request for a restraining order. At trial, appellant did not claim she had photographic proof of Andrews’s involvement in the assault. Chang also asserted that the people who assaulted her had some connection to Andrews’s unit. However, as the trial court pointed out, that would not prove Andrews directed the assault.

Based on our review of the record, we conclude the trial court acted well within its discretion in denying appellant’s request for a civil harassment restraining order. The court’s order is affirmed. Costs on appeal are awarded to respondent.

SIMONS, Acting P.J.

We concur.

NEEDHAM, J.

BRUINIERS, J.

(A148818)

APPENDIX B

SUPREME COURT
FILED

Court of Appeal, First Appellate District, Division Five - No. A148818

DEC 18 2017

Jorge Navarrete Clark

S244908

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

CHRISTINE CHANG, Plaintiff and Appellant,

v.

ROBIN ANDREWS, Defendant and Respondent.

The petition for review is denied.

CANTIL-SAKAUYE

Chief Justice

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

CHRISTINE CHANG — PETITIONER
(Your Name)

VS.

ROBIN ANDREWS — RESPONDENT(S)

PROOF OF SERVICE

I, CHRISTINE CHANG, do swear or declare that on this date, JUNE 4, 2018, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

ROBIN ANDREWS, 2428 CENTRAL AVE #212, ALAMEDA, CA 94501
COURT CLERK, DEPT 512, HAYWARD HALL OF JUSTICE, 24405 AMADOR ST, CA 94544
COURT CLERK, THE COURT OF APPEAL, FIRST APPELLATE DIST, 350 MCALISTER ST.
COURT CLERK, SUPREME COURT OF CA, 350 MCALISTER ST, SF, CA 94102
I declare under penalty of perjury that the foregoing is true and correct.

Executed on JUNE 4, 2018

Christine Chang
(Signature)