

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 09-FM-966

M R APPELLANT,

v.

J T , APPELLEE.

Appeal from the Superior Court  
of the District of Columbia  
Family Division

(Hon. Erik P. Christian, Trial Judge)

(Submitted November 10, 2010)

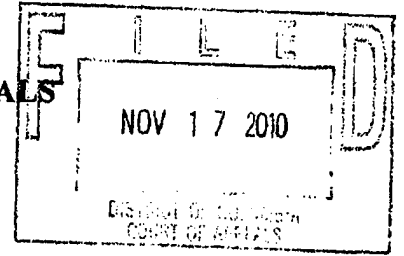
Decided November 17, 2010)

Before REID and GLICKMAN, *Associate Judges*, and NEWMAN, *Senior Judge*.

**MEMORANDUM OPINION AND JUDGMENT**

PER CURIAM: R appeals the trial court's denial of a Civil Protective Order asserting, among other things, that the trial court's crucial findings of facts are not supported by evidence. We agree and reverse.

It was not disputed that R and T were romantically involved in a relationship within the purview of D.C. Code § 16-1001 *et seq.* R presented evidence consisting of her own testimony and that of other witnesses, which if credited, would justify the granting of a civil protective order against T. T, proceeding pro se, presented no admissible evidence; his one evidentiary proffer, an email, was ruled inadmissible. In closing argument, T attempted to "testify" to facts not in evidence, which the trial court properly refused to allow him to do. However, the trial court's Finding of Facts includes findings "crediting the testimony" of T on crucial issues. See, e.g., Appendix at 83-84. Since there was no "testimony" by T this was error. See *Shewaregav v. Yegzaw*, 947 A.2d 53 (D.C. 2008). We review a decision of the trial court concerning the grant or denial of civil protective orders for abuse of discretion. *Murphy v. Okeke*, 951 A.2d 289 (D.C. 2008). Since the trial court here based its ruling in significant part on "testimony" that did not exist, it abused its



discretion. *See Johnson v. United States*, 398 A.2d 354 (D.C. 1979).<sup>1</sup> Accordingly, it is

ORDERED and ADJUDGED that the judgment on appeal herein is hereby reversed.

ENTERED BY DIRECTION OF THE COURT:



Julio Castillo  
Clerk of the Court

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<sup>1</sup> Given our disposition on this issue, we need not address Ray's assertion that the trial court erred in its analysis of the "self-defense" issue. *But see, e.g., Murphy v. Okeke*, 951 A.2d 783 (D.C. 2008); *In re Robertson*, 940 A.2d 1050 (D.C. 2008).