2014 IL App (4th) 130737-U

NO. 4-13-0737

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
June 24, 2014
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Macon County
DEENA SALLEE,	)	No. 10CF1712
Defendant-Appellant.	)	
	)	Honorable
	)	Timothy J. Steadman,
	)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Presiding Justice Appleton and Justice Turner concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed the defendant's conviction for disorderly conduct, rejecting defendant's arguments regarding (1) the sufficiency of State's evidence and (2) the trial court's evidentiary ruling.

¶ 2 Following a bench trial that ended in June 2013, the trial court convicted defendant, Deena Sallee, of disorderly conduct under section 26-1(a)(4) of the Criminal Code of 2012 (Criminal Code) (720 ILCS 5/26-1(a)(4) (West 2012)), finding that defendant reported a crime to the police knowing that no reasonable grounds existed for her allegation. In July 2013, the court sentenced defendant to 24 months of probation.

¶ 3 Defendant appeals, arguing that (1) the State failed to prove her guilty beyond a reasonable doubt and (2) the trial court abused its discretion by denying the introduction of evidence pertaining to a pending civil suit. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 A. The State's Charges

¶ 6 In November 2010, the State charged defendant with disorderly conduct, alleging that defendant reported a crime to the chief of the Blue Mound police department, knowing that no reasonable grounds existed for her allegation.

¶ 7 B. The Evidence Presented at Defendant's Trial

¶ 8 At defendant's trial, which began in March 2013 and ended in June 2013, defendant was represented by Diana Lenik and Ruth Wyman. Immediately prior to the presentation of evidence in this case, the following discussion occurred, which was initiated by Lenik:

> "MS. LENIK: *** Your Honor, we would ask that the court take judicial notice of two orders of protection files, [Macon County case Nos.] 10-OP-488 and 10-OP451. Those files should have been brought up[.] One of those files is *Deena Sallee [v.] Paul Keen* [case No. 10-OP-451]. One of those files is *Paul Keen [v.] Deena Sallee* [case No. 10-OP-448]. And we believe that at some point the orders that were made in those files will be relevant.
>
> THE COURT: *** You're asking [the court] to take judicial notice of the court files?
>
> [THE STATE]: No objection. ***
>
> THE COURT: All right. [The court will] take notice[.]"

(On October 26, 2010, Judge Thomas E. Little held a consolidated hearing on the aforementioned cases in which Keen and defendant each filed a petition, seeking a plenary order of pro-

tection against one another. Following the presentation of evidence and argument, Judge Little found that evidence existed to find "separate incidents of *** abuse and harassment within the meaning of the Illinois Domestic Violence Act [(750 ILCS 60/101 to 401 (West 2012))] to justify a plenary order of protection in both cases.").

¶ 9 1. *The State's Evidence*

¶ 10 Tom Bingaman testified that in August 2010, he was the chief of police and sole law enforcement officer for the Village of Blue Mound, Illinois, which had a population of approximately 1,200. Bingaman knew Keen for about 14 years and described his relationship with Keen as typical "law enforcement and citizen contact." Bingaman was less acquainted with defendant, recalling that he saw defendant sometime after she moved into Keen's home.

¶ 11 On the afternoon of August 19, 2010, defendant went to the Blue Mound police station, where she provided a signed, handwritten statement. In her statement, defendant alleged that at about 1 a.m. on August 15, 2010, Keen did the following:

> "Attacked me with a knife[. H]e came [at] me, lifting his arms toward my face. I placed my arms up to block him, and he continued to strike at me several times[. T]he knife got stuck in my right finger nail and then fell to the floor hitting my right foot. I was yelling [at] him to get away from me and he turned and went to the bedroom door and started yelling [at] his mom to 'wake up.'! I grabbed my cell phone [at] that point and ran into the bathroom, shut and locked the door and started to clean the blood running down my arms. I could hear [Keen] telling his mom that I had cut myself with a piece of plastic. I came out of the bathroom once

[Keen's mother] was in the room and showed her my arms and told her that [Keen] had cut me with a knife."

¶ 12 That same day, Bingaman took pictures of defendant's arms, which depicted (1) "some possible cut wounds" on the "pinky-finger side" of both of defendant's forearms and (2) a small cut above defendant's big toe on her right foot. No stitches or surgical dressings appeared on defendant's arm. Bingaman opined that defendant's injuries were superficial. Bingaman investigated defendant's complaint and later arrested defendant, charging her with disorderly conduct for filing a false report.

¶ 13 Keen, who was 39 years old, testified that he had been in a two-year relationship with defendant that ended in August 2010. Keen estimated that defendant and her three children moved in with him during the last six months of that relationship. Keen's mother, Catherine Keen, resided in Florida, but was staying in Keen's home during the summer of 2010. (By August 2010, one of defendant's children had moved out of Keen's home.)

¶ 14 At approximately 8 p.m. on August 14, 2010, Keen and defendant argued. Keen left his home and went to the local park festival, where he visited with friends. Keen later saw Catherine at the festival and joined her in playing bingo until about midnight. Thereafter, Keen and Catherine returned home. Upon his return, Keen and defendant argued in their bedroom. Keen stated that he had been with another woman, which caused defendant to get out of bed and start screaming. Keen then asked defendant to start making plans to live somewhere else. In response, defendant picked up what Keen suspected was a piece of plastic and "put a mark on her arm" while screaming. When Keen opened his bedroom door to leave, he saw Catherine standing just outside the bedroom doorway. Defendant then started scratching her other forearm with the same object. While doing so, Keen observed defendant look at Catherine and yell, "Look at

what your son is doing to me." Keen and Catherine left the bedroom and went into the living room. Neither Keen nor defendant (1) called the police or (2) left the home that night.

¶ 15 On August 18, 2010, Keen filed for an emergency order of protection based, in part, on the cutting incident, which the trial court granted the following day. (The record at the October 2010 hearing on Keen's petition for plenary order of protection showed that Keen sought an emergency order of protection because of defendant's previous aggression against Keen, which caused Keen to seek police assistance, and defendant's history of making false police reports for her own benefit. Keen was concerned about the possible future risk to his person and property based on defendant's history of abusive behavior.)

¶ 16 Later that same day—August 19, 2010—defendant arrived at Keen's home, where Keen was speaking to James Knierim and Aron Kitchens. Keen told defendant about the order of protection, but she ignored him. Their conversation then changed to defendant's allegation that Keen had cut her. When Keen claimed that Catherine observed defendant cutting herself, defendant became agitated and told Keen in front of Knierim and Kitchens that, "Your mom wasn't even in the room whenever I did that."

¶ 17 The State then questioned Keen about the October 2010 consolidated hearing (hereinafter, the OP hearing) at which Keen and defendant sought plenary orders of protection against each other:

> "[THE STATE:] *** [S]kipping forward *** a few weeks, was there a hearing on the orders of protection?
>
> [KEEN:] Yes[.]
>
> [THE STATE:] Was it on October 26, 2010?
>
> [KEEN:] I'm sure it was.

[THE STATE:] By that point in time, had [defendant] also filed for an order of protection against you?

[KEEN:] Yes.

[THE STATE:] And did the court consolidate both of those [cases] for hearing on one date?

[KEEN:] Yes.

[THE STATE:] Were you present for that entire hearing?

[KEEN:] Yes.

[THE STATE:] Did [defendant] testify concerning this alleged knife attack?

[KEEN:] Yes.

* * *

[THE STATE:] *** [D]id [defendant] testify that she had been attacked with a knife?

[KEEN:] Knife? No.

[THE STATE:] What did [defendant] testify you had attacked her with *** at the order of protection?

MS. LENIK: Your Honor, I'm going to object to this. We have the record. The record speaks for itself.

THE COURT: The transcript?

MS. LENIK: Yes.

[THE STATE:] *** If defense counsel is willing to stipulate to the accuracy of the [transcript, the State] will put it into evi-

dence now and cease this line of questioning.

THE COURT: *** Ms. Lenik?

MS. LENIK: Sure. We agree.

THE COURT: *** So there is a stipulation as to foundation of the transcripts of testimony taken on *** October 26, 2010."

¶ 18 The State asked Keen no further questions about defendant's testimony at the OP hearing. Instead, the admitted transcript of the OP hearing showed that defendant testified on direct examination that she was not sure what weapon Keen possessed when he attacked her on August 15, 2010. Specifically, defendant testified, "At first, I didn't realize he had anything in his hand until it started hurting when he was cutting my arms." Defendant added that, "[I]t could have been a knife or I'm not sure what it was." On cross-examination, defendant confirmed that she was not sure what object defendant possessed, elaborating, "[w]hatever he had cut my arms."

¶ 19 Knierim, a Decatur police officer, testified that he lived next door to Keen. Knierim characterized his relationship with Keen as friendly, explaining that he was a year or two ahead of Keen in school. Although Knierim could not remember when defendant began living with Keen, he knew she resided in Keen's home during the summer of 2010. On August 19, 2010, Knierim parked his pickup truck in his driveway and noticed Keen. Shortly thereafter, defendant drove up with a passenger, and they both exited defendant's car. The passenger asked Keen, "Why are you doing this?" Keen responded that "he was going through all this because *** [defendant] had made claims that he had cut her arms." Keen then told defendant, "[m]y mom was in the room when that happened, and it didn't occur." Knierim then observed defendant begin yelling and screaming that, "[y]our mom wasn't in there when I did that." Knierim

stated that during the exchange between Keen and defendant, (1) Knierim stood next to his pickup truck, (2) his line of sight was not obscured, and (3) a camper was not located in his driveway.

¶ 20 Kitchens lived a block away from Keen and considered him a lifelong friend. On August 19, 2010, Kitchens was outside of Keen's home, speaking with Keen and Knierim near Knierim's truck when defendant drove up. Kitchens observed that defendant was upset. After Keen and defendant had a conversation regarding an order of protection Keen obtained against defendant, the subject changed to allegations of Keen cutting defendant. Kitchens could not recall what Keen said but noted that defendant yelled that "Keen's mother couldn't have seen her *** cut herself because she was not in the room." Kitchens had an unobstructed view of the conversation, which he estimated occurred 25 feet from where he and Knierim were standing.

¶ 21 Catherine testified that on August 14, 2010, she stayed at the home Keen shared with defendant and her children. That same evening, she played bingo with Keen and others at a festival until approximately 11 p.m. Upon their return home, Catherine went to sleep on the living room couch, and Keen went into the bedroom he shared with defendant. Sometime thereafter, Catherine heard screaming coming from Keen's bedroom. Catherine approached the closed bedroom door, went inside, and observed defendant "mad and screaming," and "cutting her arms" with a white object she did not recognize. While doing so, defendant accused Keen "of doing that to her." Defendant then ran into the bathroom. Keen left the bedroom, and he later fell asleep in the living room. Catherine did not see Keen cut defendant with any object.

¶ 22 2. *Defendant's Evidence*

¶ 23 As part of her case in chief, defendant called Keen and inquired about Macon County case No. 11-SC-453—a pending small claims case in which defendant was suing Keen

for personal property defendant claimed Keen would not return. Keen acknowledged that if the trial court found in defendant's favor, he could be liable for up to $10,000. When defendant attempted to solicit additional testimony regarding case No. 11-SC-453, the court sustained the State's relevance objection and instructed defendant to stop her inquiry into case No. 11-SC-453. Keen denied that he posted disparaging remarks on defendant's Facebook page, noting that defendant knew his Facebook account password.

¶ 24 Danielle Sallee, defendant's 14-year-old daughter, testified that on the evening of August 14, 2010, she returned home from a festival and went to sleep in her bedroom. Danielle's bedroom door was open, which gave a clear view of Keen's bedroom door. Danielle later awoke to yelling coming from Keen's bedroom, but she did not see anyone go into that room. Danielle stated that Catherine remained sleeping on the living room couch.

¶ 25 During cross-examination, Danielle acknowledged that she testified at the OP hearing at which defendant and Keen sought orders of protection against each other. The following exchange then occurred between the State and Danielle regarding testimony Danielle provided at that hearing:

> "[THE STATE:] *** [D]o you recall being asked the question, 'When the arguing was going on, and you heard someone yell "stop," and you heard [Keen] say "she cut herself," and [defendant] said, "Look what he did to me," where was [Catherine]?' Do you recall being asked that question?
>
> [DANIELLE:] I don't know. ***
>
> [THE STATE:] Do you recall answering, 'I don't know because I wasn't out in the room at that time?"

* * *

[DANIELLE:] I don't remember anything."

¶ 26 Thereafter, defendant called Jill Waters, her sister, to testify to an agreement Waters assisted in drafting, which was the basis of defendant's small claims suit against Keen in Macon County case No. 11-SC-453. After the State renewed its relevance objection, the trial court permitted defendant to make the following offer of proof.

¶ 27 Waters testified that the general provisions of the agreement stated that if defendant moved out within two years of February 2009, Keen was obligated to reimburse defendant for improvements defendant made to Keen's home. Jill noted that the terms of that agreement were still in effect when defendant moved out of Keen's home in August 2010. (The record shows that defendant claimed she could not produce a copy of the agreement because Keen retained the original document.) Thereafter, the trial court sustained the State's relevance objection, finding that the writing in question was too tenuous and remote.

¶ 28 Defendant, who was 40 years old, testified that on August 14, 2010, she was involved in a romantic relationship with Keen, and she and two of her children lived with him in his home. On that day, defendant argued with Keen because he found out that she was planning to move out. Keen angrily asked defendant for her phone to check who contacted her, which defendant claimed Keen did regularly. Defendant then left to attend a local festival.

¶ 29 At about 10 p.m., defendant returned home with her two children, and they went to bed in their respective bedrooms. Defendant was later awakened by a phone call from Jill, but she did not notice Keen standing at the foot of the bed. Keen starting yelling at defendant, demanding to know who was calling her at 11:30 p.m. After defendant's conversation with Jill ended, she returned to bed. Keen continued questioning defendant about the call from the foot of

the bed. Defendant got out of bed to leave, but Keen approached her with one arm raised. Defendant instinctively raised her arms. Keen then began hitting defendant. During that encounter defendant felt her arms hurting. Defendant noted that "whatever [Keen] had got caught in my thumbnail and it fell to the floor *** and hit my foot[.]" As Keen turned, defendant ran into the bathroom and did not come out until she heard Catherine's voice. As she exited the bathroom, defendant showed Catherine her arms and stated, "Look at what [Keen] just did to me; he cut me." Catherine did not respond. Keen and Catherine left and went to the living room.

¶ 30 On the morning of August 15, 2010, defendant and her children left Keen's home, but defendant returned later that afternoon to pack her belongings. Catherine and Keen were home, but Catherine did not leave Keen's side while defendant was in the house. Defendant returned later that evening with a friend and briefly saw Knierim and Kitchens, but they disappeared behind a tall camper parked on Knierim's property. Defendant (1) denied ever cutting herself or saying that she cut herself, (2) stated that she was left-handed, and (3) confirmed that the locations of the cuts were on the outer portions of both her arms. Defendant explained that she was not able to report Keen's assault until August 19, 2010, "[b]ecause [Chief] Bingaman kept telling me that Keen said I cut myself so they [(*sic*)] wouldn't let me fill out [a report]."

¶ 31 Defendant stated that she received numerous disparaging Facebook messages from Keen's Facebook account, noting that she did not know Keen's Facebook account password. After printing out the Facebook posts she received from Keen, defendant deleted Keen as a Facebook friend, which deleted Keen's messages from her Facebook account. Defendant acknowledged that anyone can login to a Facebook account if the person knows the electronic mail address associated with the account and the accompanying password.

¶ 32 Defendant admitted that following the attack, she went into the bathroom with her

cell phone, but she did not call for assistance even though she was bleeding. After she exited the bathroom, defendant did not retrieve the weapon Keen used to cut her. Instead, defendant remained awake sitting by the bedroom door the entire night. Defendant admitted further that in her August 19, 2010, statement to Bingaman, she claimed that Keen attacked her with a knife, but at the October 2010 hearing on the plenary orders of protection, defendant testified multiple times that she was not sure what weapon Keen used. Defendant stated that she assumed initially that Keen used a knife to cut her.

¶ 33 3. *The Trial Court's Ruling*

¶ 34 Following the presentation of evidence and argument, the trial court found defendant guilty of disorderly conduct as alleged by the State. In so finding, the court noted that defendant (1) incurred injuries as depicted in the admitted photographs and (2) reported to the police that Keen inflicted her injuries. The remaining question was whether defendant knew that her report was false. In this regard, the court noted the following:

> "So, the defendant suggests that *** Keen assaulted her with some sort of sharp instrumentality, be it a knife or otherwise. That he slashed her arms at least [seven] times and probably more it looks like and [defendant] did not report it to the police immediately. That makes no sense whatsoever from an objective standpoint. Anyone who is assaulted like that and received this many injuries surely would take immediate steps to do something. They wouldn't just stay in the same residence where this person who caused the injuries happens to live and moreover than that, [defendant's] children were there. *** Danielle would have been 10 or 11 years

of age. It makes absolutely no sense to a reasonable person that if *** Keen had inflicted the injuries that the defendant would simply have stayed there and done nothing until the following morning. That's ridiculous. The court rejects that notion completely. It flies in the face of common sense."

¶ 35 To determine the truthfulness of defendant's allegation, the trial court focused on "the evidence which is reliable and *** neutral and doesn't suffer from all the biases, interest, and prejudice" that may exist when family members testify. In this regard, the court found the testimony of Knierim and Kitchens concerning defendant's admission that she inflicted the wounds upon her person "extremely convincing and reliable evidence from neutral witnesses."

¶ 36 In July 2013, the trial court sentenced defendant to 24 months of probation.

¶ 37 This appeal followed.

¶ 38 II. ANALYSIS

¶ 39 A. Defendant's Sufficiency of the Evidence Claim

¶ 40 Defendant argues that the State failed to prove her guilty beyond a reasonable doubt. We disagree.

¶ 41 Section 26-1(a)(4) of the Code provides, as follows:

"(a) A person commits disorderly conduct when *** she knowingly:

* * *

(4) Transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an of-

fense *** has been committed, knowing at the time of the transmission that there is no reasonable ground for believing that the offense *** has been committed[.]" 720 ILCS 5/26-1(a)(4) (West 2012).

¶ 42 "[W]hen a defendant challenges the sufficiency of the evidence, the appellate court's 'standard of review is whether, when viewing the evidence in the light most favorable to the State, any rationale trier of fact could have found the essential elements of the crime beyond a reasonable doubt.' " *People v. Ramirez*, 2013 IL App (4th) 121153, ¶ 82, 996 N.E.2d 1227 (quoting *People v. Teague*, 2013 IL App (1st) 110349, ¶ 23, 986 N.E.2d 149). In so doing, we draw all reasonable inferences from the record in favor of the State. *People v. Johnson*, 2013 IL App (4th) 120162, ¶ 20, 986 N.E.2d 782.

¶ 43 We will not retry a defendant when considering a challenge to the sufficiency of the evidence. *People v. Wheeler*, 226 Ill. 2d 92, 114, 871 N.E.2d 728, 740 (2007). "The trier of fact is best equipped to judge the credibility of witnesses, and due consideration must be given to the fact that it was the trial court *** that saw and heard the witnesses." *Id*. at 114-15, 871 N.E.2d at 740. Thus, the trier of fact's findings concerning credibility are entitled to great weight. *Id*. at 115, 871 N.E.2d at 740. "In short, we will not overturn a criminal conviction unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt." (Internal quotations omitted.) *Johnson*, 2013 IL App (4th) 120162, ¶ 20, 986 N.E.2d 782.

¶ 44 In this case, defendant challenges (1) the sufficiency of the State's evidence and (2) the trial court's credibility determinations with regard to testimony provided by Knierim and Kitchens. As to both claims, defendant relies on the court's decision to take judicial notice of the

OP hearing in case No. 10-OP-451, which granted defendant a plenary order of protection against Keen.

¶ 45 As to her first claim, defendant contends that the trial court "disregarded entirely" the findings at the OP hearing, which granted defendant a plenary order of protection against Keen. Specifically, defendant posits—without citation to any authority—that because the court in case No. 10-OP-451 found that Keen "had harassed and abused defendant in violation of the Illinois Domestic Violence Act," no rational trier of fact could have found defendant guilty beyond a reasonable doubt of the elements of disorderly conduct under section 26-1(a)(4) of the Criminal Code. Essentially, defendant asserts that because a different trial judge in a different case found that Keen engaged in conduct that warranted the issuance of a plenary order of protection, that finding alone negated any possibility that the trier of fact in this case could have found the State satisfied its burden of proof. We reject defendant's claim as groundless.

¶ 46 As to her second claim, defendant contends that the court "ignored the evidence and testimony that it agreed to take judicial notice of in the [OP hearing]" by considering Knierim and Kitchens "neutral witnesses." Defendant posits that Knierim and Kitchens were not neutral witnesses but, respectively, a next-door neighbor and lifelong friend—the inference being that both witnesses were biased in favor of Keen. This contention is also groundless.

¶ 47 Defendant bases her credibility argument on the testimony Knierim and Kitchens provided at the OP hearing, but the record shows that their respective testimony at defendant's trial was essentially the same. Further, given that Knierim and Kitchens both testified at the bench trial before Judge Steadman, we see no reason why he would have concerned himself with what they may have said when testifying at the OP hearing before Judge Little, and the record contains no indication that he ever bothered to read their testimony. We note that one of defend-

ant's trial counsel specifically asked Judge Steadman to consider that the transcript of the OP hearing contains regarding defendant's testimony at that proceeding, but no similar request was made regarding the testimony of either Knierim or Kitchens.

¶ 48 Here, the State had the burden of proving beyond a reasonable doubt that defendant made a report to a police officer about a crime, knowing at the time she made her report, no reasonable basis existed for believing that offense she reported had been committed. Simply put, the State had to prove defendant reported a crime to the police that she knew was false at the time she reported it. The evidence the State presented showed that on August 19, 2010, defendant signed a handwritten statement, which she provided to Bingaman, a police chief, claiming that Keen had cut her arms with a knife four days earlier.

¶ 49 As the trial court correctly noted, the paramount question was whether at the time defendant made her statement, did she know it to be false? To satisfy its burden of proof as to that element, the State solicited testimony from Bingaman, Keen, Knierim, Kitchens, and Catherine about the events that occurred during and after the alleged crime. The court, in evaluating the evidence presented, found that among the State's witnesses, the accounts provided by Knierim and Kitchens were credible and reliable, noting that they were neutral witnesses in that they did not suffer from bias, interest, and prejudice that may exist when family members testify.

¶ 50 We conclude that viewing the evidence presented in the light most favorable to the State—coupled with the considerable deference afforded the trial court's credibility determinations—a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. Accordingly, we reject defendant's claim that the State failed to prove her guilt beyond a reasonable doubt.

¶ 51 B. Defendant's Evidentiary Claim

¶ 52 Defendant argues that the trial court abused its discretion by denying her request to introduce evidence regarding a contractual agreement. We disagree.

¶ 53 " 'Evidence is relevant when it tends to prove a fact in controversy or render a matter in issue more or less probable.' " *People v. Lynn*, 388 Ill. App. 3d 272, 280, 904 N.E.2d 987, 994 (2009) (quoting *Tones v. Rallos*, 384 Ill. App. 3d 73, 92, 890 N.E.2d 1190, 1207 (2008)). " 'The determination as to whether evidence is relevant and admissible is within the sound discretion of the trial court, and its ruling will not be reversed absent a clear abuse of discretion resulting in manifest prejudice to the defendant.' " *Id*. (quoting *People v. Bui*, 381 Ill. App. 3d 397, 422, 885 N.E.2d 506, 528 (2008).

¶ 54 In support of her argument, defendant cites *People v. Peltz*, 143 Ill. App. 181, 182 (1908), for the unremarkable proposition that where a witness in a criminal prosecution has a civil action pending against the accused, the witness cannot be said to be without an interest that might affect his credibility. Defendant is correct that the introduction of evidence that a "witness has brought or is contemplating a civil action" is appropriate to establish the existence of interest, bias, corruption, or coercion. See M. Graham, Graham's Handbook of Illinois Evidence § 607.7, at 463 (10th ed. 2010) (collecting cases for that proposition). However, the existence of such litigation is merely a factor for the trier of fact to consider when it evaluates a witness' testimony. The trier of fact is entirely free to deem the witness' testimony credible and rule accordingly, despite the litigation between the witness and defendant. That is what the trial court as trier of fact did in this case, and we deem its conclusion as being entirely appropriate based upon the record in this case.

¶ 55 In this case, Keen testified that defendant had a pending civil suit against him that could subject him to $10,000 liability. However, after considering defendant's offer of proof, the

trial court denied defendant's attempts to introduce additional evidence regarding the specific terms of a contractual agreement between her and Keen because the court found that evidence was not relevant. Having reviewed defendant's offer of proof, we agree with the court's decision. Based on the properly admitted evidence, the court—as the trier of fact—was already aware of the civil suit and defendant's claim of bias in the form of hostility that existed between Keen and defendant. Indeed, the court specifically commented on that aspect of this case before rendering its verdict. Accordingly, we reject defendant's assertion that the court's denial of her attempt to introduce evidence concerning the details of the contractual agreement that formed the basis of her pending suit against Keen was an abuse of discretion.

¶ 56 In so concluding, we commend the trial court for its written order, explaining its findings of fact and the rational underlying its credibility determinations, which this court found helpful to the resolution of this case.

¶ 57 III. CONCLUSION

¶ 58 For the reasons stated, we affirm the trial court's judgment. As part of our judgment, we award the State its $75 statutory assessment against defendant as costs of this appeal.

¶ 59 Affirmed.