[Cite as *K.J. v. K.R.*, 2026-Ohio-4497.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

[K.J.],	:	
Petitioner-Appellee,	:	
v.	:	No. 25AP-411 (C.P.C. No. 25DV-0357)
[K.R.],	:	(REGULAR CALENDAR)
Respondent-Appellant.	:	

D E C I S I O N

Rendered on November 12, 2026

On brief: [*K.R.*], pro se.

APPEAL from the Franklin County Court of Common Pleas,
Division of Domestic Relations

MENTEL, J.

{¶ 1} Respondent-appellant, K.R., appeals from the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, granting the petition of petitioner-appellee, K.J., for a domestic violence civil protection order ("DVCPO") under R.C. 3113.31, arguing that he never received service of process and was therefore deprived of the opportunity to respond or defend. Because the record belies K.R.'s assertion, we affirm the judgment of the trial court.

{¶ 2} On February 25, 2025, K.J. filed a petition under R.C. 3113.31 in the trial court seeking a DVCPO against K.R. (Feb. 25, 2025 Petition at 4.) K.J. alleged that K.R. was "mentally, emotionally, and psychologically abusive" and had physically threatened her. *Id.* K.J. also alleged that she had sent her five-year-old child to live with relatives after the child had described sexual abuse by K.R. After an ex parte hearing, a magistrate issued a temporary order of protection, set a date of March 4, 2025 for a full hearing, and ordered

the Franklin County Sheriff to serve K.R. with the order. (Feb. 25, 2025 Order of Protection; Feb. 25, 2025 Order to Serve.)

{¶ 3} On March 4, 2025, the sheriff returned the order to serve with an indication that service had failed. The trial court continued the hearing until March 25, 2025 because of the failure and issued a new order of service.

{¶ 4} On March 6, 2025, the order of service was returned and filed, indicating that K.R. had been personally served on March 5, 2025.

{¶ 5} On March 25, 2025, a full hearing was held before a magistrate. The trial court issued a DVCPO, which noted that K.R. "was served on 3/5/25 and otherwise failed to appear." (Mar. 25, 2025 Order of Protection at 2.) The final DVCPO was served on K.R. by the Lorain County Sheriff on April 15, 2025. (Apr. 21, 2025 Order to Serve & Sheriff's Return.)

{¶ 6} K.R. filed a notice of appeal on May 15, 2025.

{¶ 7} K.R.'s merit brief alleges that although he "was served a notice of a 'full civil protection order' against him, from the date of February 25, 2025 to May 8, 2025, [he] never received notice of" the temporary order issued after the initial hearing or full hearing resulting in the issuance of the DVCPO. (Aug. 7, 2025 Merit Brief at 1.)

{¶ 8} As a preliminary matter, we note that K.R.'s merit brief contains no assignment of error. Under App.R. 16(A)(3), the appellant's brief must contain "[a] statement of the assignments of error presented for review, with reference to the place in the record where each error is reflected." An appellate court is required to "[d]etermine the appeal on its merits on the assignments of error set forth in the briefs under App.R. 16" under App.R. 12(A)(1)(b). Thus, "assignments of error constitute an integral, indispensable element of an appeal." *Nelson v. State Farm Fire & Cas. Co.*, 2023-Ohio-1982, ¶ 27 (10th Dist.). The failure to assign error on appeal is usually fatal to an appellant's case, as the court has nothing to rule upon without an express designation of error. "Nevertheless, an appellant's failure to assign error does not invariably doom an appeal. In the absence of assignments of error, a court of appeals may construe the issues presented as assignments of error." *Id.* Because K.R.'s brief alleges only one possible basis for reversal, the failure of service, we will construe the brief to have assigned such error "in the interest of serving justice" and examine the merits of his claim. *In re J.P.*, 2019-Ohio-1619, ¶ 17 (10th Dist.)

(inferring assignments of error "using the appellant's arguments" where appellant failed to assign error).

{¶ 9} The provisions of Civ.R. 65.1 apply to domestic violence civil protection order proceedings. Civ.R. 65.1(A). Under Civ.R. 65.1(C), "[i]nitial service, and service of any ex parte protection order that is entered, shall be made in accordance with the provisions for personal service of process within the state under Civ.R. 4.1(B) or outside the state under Civ.R. 4.3(B)(2)." The procedure for personal service is set forth under Civ.R. 4.1(B)(2)(a), which states:

> The person serving process shall locate the person to be served and shall tender a copy of the process and accompanying documents to the person to be served. When the copy of the process has been served, the person serving process shall endorse that fact on the process and return it to the clerk, who shall make the appropriate entry on the appearance docket.

{¶ 10} Although the initial attempt to personally serve K.R. failed, as indicated by the March 4, 2025 return of service and the continuance order entered the same day, the sheriff subsequently perfected process on March 5, as indicated by the March 6, 2025 entry. In addition, the trial court noted in the DVCPO that K.R. "was served on 3/5/25 and otherwise failed to appear." (Mar. 25, 2025 Order of Protection at 2.)

{¶ 11} "If a plaintiff follows the civil rules governing service of process, a rebuttable presumption of proper service arises." *Chuang Dev. LLC v. Raina*, 2017-Ohio-3000, ¶ 31 (10th Dist.), citing *Cincinnati Ins. Co. v. Emge*, 124 Ohio App.3d 61, 63 (1st Dist. 1997). A party may "rebut the presumption of proper service with sufficient evidence that service was not accomplished despite that a signed receipt is returned and entered on the docket." *Ross v. Berdyck*, 2026-Ohio-2693, ¶ 23 (10th Dist.). As indicated, the return of service affirmatively indicated that K.R. was personally served. Thus, there is a presumption of service that K.R. has the burden to rebut with sufficient evidence to show that he was not, in fact, actually served.

{¶ 12} K.R. alleges that the trial court was "clearly aware of his incarceration" because he was ultimately served the final DVCPO at the location where he is incarcerated. (Aug. 7, 2025 Merit Brief at 2.) He asserts that he was not served and that the case proceeded "without his knowledge." *Id.* "The records show . . . that appellant was never properly served," he claims. *Id.* He elaborates no further.

{¶ 13} The bare assertion that service failed and that the record demonstrates such failure, with no citation to any portion of the record to support this claim, is insufficient to rebut the presumption of proper service. Our review of the record, as outlined previously, demonstrates that the personal service requirements of Civ.R. 4.1(B) were complied with. Accordingly, we find no merit to K.R.'s claim and overrule the assignment of error as construed above.

{¶ 14} Having overruled the sole basis for alleged error in K.R.'s appeal, the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, is affirmed.

Judgment affirmed.

DORRIAN and BEATTY BLUNT, JJ., concur.