

[Cite as *Sami v. Geiger*, 2023-Ohio-2410.]

IN THE COURT OF APPEALS OF OHIO  
SECOND APPELLATE DISTRICT  
MONTGOMERY COUNTY

AMILIA SAMI

Appellant

V.

TANYA GEIGER

Appellee

[illegible]

C.A. No. 29723

Trial Court Case No. 2022 CV 05468

(Civil Appeal from Common Pleas Court)

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## AMENDED OPINION

Rendered on July 20, 2023

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AMILIA SAMI, Pro Se Appellant

TANYA GEIGER, Pro Se Appellee

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HUFFMAN, J.

{¶ 1} Amilia Sami appeals pro se from the trial court’s judgment denying Sami’s petition for a civil stalking protection order (“CSPO”) against Tanya Geiger after a full hearing. Having reviewed the matter, we conclude that Sami may not challenge the denial of the CSPO on appeal because she failed to file timely objections to the trial court’s adoption of the magistrate’s decision, as required by Civ.R. 65.1(G). Further, the

doctrine of plain error does not apply because Civ.R. 65.1, unlike Civ.R. 53(D)(3)(b)(iv), does not provide for plain error review where a party fails to object to a decision in the trial court. Accordingly, the judgment of the trial court will be affirmed.

### **Facts and Procedural History**

{¶ 2} On December 7, 2022, Sami filed a pro se petition for a CSPO alleging that Geiger had repeatedly harassed her. After Sami waived an ex parte hearing, the full hearing occurred before a magistrate on January 3, 2023. After the hearing, the magistrate determined that Geiger's testimony was more credible than Sami's and that Sami had failed to establish by a preponderance of the evidence that Geiger had engaged in a pattern of conduct which caused Sami to reasonably fear physical harm. On January 13, 2023, the trial court adopted the magistrate's decision, finding that there was no error of law or other defect on the face of the order.

{¶ 3} On February 13, 2023, Sami filed an untimely pro se "Objection to Magistrate's Final Decision Received by mail." She filed her notice of appeal on the same day. Geiger did not file a responsive brief.

### **Discussion**

{¶ 4} R.C. 2903.214 permits a person to seek a protection order against anyone over the age of 18 who has engaged in menacing by stalking, in violation of R.C. 2903.211. That offense includes "engaging in a pattern of conduct" that knowingly causes "another person to believe that the offender will cause physical harm to the other person \* \* \* or cause mental distress to the other person \* \* \*." R.C. 2903.211(A).

{¶ 5} Civ.R. 65.1 governs civil protection orders. A trial court "may refer the

proceedings under these special statutory proceedings to a magistrate.” R.C. 65.1(F)(1). If the matter is referred for a full hearing and determination, “the magistrate shall conduct the full hearing and, upon conclusion of the hearing, deny or grant a protection order.” Civ.R. 65(F)(3)(a). “A magistrate’s denial or granting of a protection order after a full hearing shall comply with the statutory requirements relating to such orders and is not effective unless adopted by the court.” Civ.R. 65.1(F)(3)(c)(i). “When a magistrate has denied or granted a protection order after a full hearing, the court may adopt the magistrate’s denial or granting of the protection order upon review of the order and a determination that there is no error of law or other defect evident on the face of the order.” Civ.R. 65.1(F)(3)(c)(ii). “A court’s adoption \* \* \* of a magistrate’s denial or granting of a protection order after a full hearing shall be effective when signed by the court and filed with the clerk.” Civ.R. 65.1(F)(3)(c)(v).

{¶ 6} “A party may file written objections to a court’s adoption, modification, or rejection of a magistrate’s denial or granting of a protection order after a full hearing, or any terms of such an order, *within fourteen days of the court’s filing of the order.* \* \* \*.” (Emphasis added.) Civ.R. 65.1(F)(3)(d)(i). A party objecting “under this division has the burden of showing that an error of law or other defect is evident on the face of the order, or that the credible evidence of record is insufficient to support the granting or denial of the protection order, or that the magistrate abused the magistrate’s discretion in including or failing to include specific terms in the protection order.” Civ.R. 65.1(F)(3)(d)(iii).

{¶ 7} Civ.R. 65.1(F)(3)(d)(iv) provides:

Objections based upon evidence of record shall be supported by a transcript

of all the evidence submitted to the magistrate or an affidavit of that evidence if a transcript is not available. \* \* \* The objecting party shall file the transcript or affidavit with the court within thirty days after filing objections unless the court extends the time in writing for preparation of the transcript or other good cause. \* \* \*

**{¶ 8}** Most significantly,

Notwithstanding the provisions of any other rule, an order entered by the court under division (F)(3)(c) \* \* \* of this rule is a final, appealable order. However, *a party must timely file objections to such an order under division (F)(3)(d) of this rule prior to filing an appeal*, and the *timely* filing of such objections shall stay the running of the time for appeal until the filing of the court's ruling on the objections.

(Emphasis added.) Civ.R.65.1(G).

**{¶ 9}** Civ.R. 65.1 was amended in 2016 “to preclude challenges to civil protection orders when an appellant fails to object to a trial court decision.” *Curry v. Bettison*, 2d Dist. Montgomery No. 29662, 2023-Ohio-1911, ¶ 41. Here, the record reflects that Sami did not timely file her objections to the trial court's adoption of the magistrate's decision denying her petition for a CSPO against Geiger. The trial court adopted the magistrate's decision on January 13, 2023, and Sami's objections were filed on February 13, 2023, well beyond the 14-day time limit provided in Civ.R. 65.1(F)(d)(i).

**{¶ 10}** *Curry* further discussed whether a plain error analysis applies in these cases, noting that “Civ.R. 65.1, unlike Civ.R. 53(D)(3)(b)(iv), does not provide for plain

error review where a party fails to object to a decision in the trial court.” *Id.* at ¶ 2. *Curry* clarified and summarized the analysis that should occur in Civ.R. 65.1 appeals, stating:

(1) where litigants fail to comply with Civ.R. 65.1(G)’s requirement of filing of objections, they cannot challenge the trial court’s decision on appeal, and the decision must be affirmed; (2) no issues that are raised, whether they are phrased as error or plain error, can be considered; (3) this court should not engage in any analysis that directly or indirectly involves the merits of the trial court order; (4) where a litigant has objected in the trial court as specified by Civ.R. 65.1, this court retains the ability to consider error that is raised on appeal, including plain error, if the latter type of error is raised by a party \* \* \*; and (5) when a party fails to file objections, the court of appeals cannot consider or cite the content of the transcript.

(Citations omitted.) *Id.* at ¶ 67.

{¶ 11} Because Sami failed to timely file objections in the trial court, we will not consider her arguments. The judgment of the trial court is affirmed.

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TUCKER, J. and LEWIS, J., concur.