

# **IN THE COURT OF APPEALS OF OHIO**

FIFTH APPELLATE DISTRICT  
DELAWARE COUNTY

W.R.,

Petitioner-Appellee,

v.

T.D.,

Respondent-Appellant.

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## **OPINION AND JUDGMENT ENTRY**

**Case No. 25 CAF 010004**

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Civil Appeal from the  
Court of Common Pleas, Domestic Relations Division,  
of Delaware County, Ohio  
Case No. 23 DV H 12 0763

### **BEFORE:**

Mark A. Hanni, Cheryl L. Waite, Carol Ann Robb, Judges of the Seventh District  
Court of Appeals, Sitting by Assignment.

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### **JUDGMENT:**

Affirmed.

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W.R., *Pro se*, Petitioner-Appellee and

T.D., *Pro se*, Respondent-Appellant.

Dated: June 16, 2025

**HANNI, J.**

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{¶1} Respondent-Appellant, T.D., appeals from a Delaware County Common Pleas Court judgment overruling her objections to the court’s adoption of a ruling granting the motion of Petitioner-Appellee, W.R., for a domestic violence civil protection order (CPO). Because Appellant failed to file a transcript of the CPO hearing and because the evidence set forth by the magistrate supports the decision to issue the CPO, the trial court’s judgment is affirmed.

{¶2} Appellant and Appellee are biological sisters. On December 21, 2023, Appellee filed a petition for a CPO against Appellant. The petition alleged Appellant was harassing and threatening Appellee and Appellant was mentally unstable. A magistrate held an ex parte hearing that same day, granted the petition, and set the matter for a full hearing. On February 15, 2024, Appellant filed a motion to modify or terminate the CPO.

{¶3} The magistrate held a full hearing on Appellee’s petition for a CPO and Appellant’s motion to modify or terminate on March 5, 2024. Appellee appeared with counsel. Appellant appeared pro se. Both parties presented evidence and testified. Their mother also testified. The magistrate issued her decision on May 6, 2024, finding that Appellant engaged in a pattern of behavior that was menacing to Appellee, which caused her mental distress and caused her to be fearful of Appellant. The magistrate granted the CPO and denied Appellant’s motion to modify or terminate the CPO.

{¶4} In granting the CPO, the magistrate made the following findings.

{¶5} Appellee testified that Appellant stayed with her in 2023, after Appellant had been hospitalized for mental health issues. She stated that afterward, Appellant began sending her threatening and upsetting text messages that caused Appellee to become fearful of Appellant. In the text messages, which were presented to the magistrate, Appellant told Appellee: “This will never be over until you tell the truth. Until then save up. I am coming for you”; “I am coming for you [Appellee]”; “I am going to remind you every day.” Appellee asked Appellant to stop sending these messages but Appellant continued. These messages started in August 2023. Appellee blocked Appellant from

her phone in September 2023 because Appellee felt Appellant's tone was becoming increasingly aggressive.

{¶16} Appellee then presented Exhibit 9, which contained numerous Facebook posts by Appellant about Appellee. Appellant stated in the posts that Appellee has mental health issues. She stated Appellee is being controlled by Appellant's ex-husband, who is engaged in illegal activities. Appellant stated that she "won't let [Appellee] get away with it. [Appellee is] mafia adjacent." She stated Appellee is involved in a sex trafficking and blackmail operation. Appellant stated that Appellee would be punished for her bad, illegal, and immoral decisions. Finally, she stated, "[r]egardless of what happens to me, everything will still happen to you."

{¶17} Appellee filed a police report in September 2023, and the police told Appellant to stop contacting Appellee. Nonetheless, Appellee stated that Appellant's behavior and the tone of her Facebook posts escalated through December 2023. Appellee testified that Appellant's behavior has affected every aspect of her life because she is fearful of Appellant and what she might do. She testified she was frightened of Appellant and the escalation in her tone and fearful that Appellant would next turn to physical harm. And Appellee testified that she distanced herself from family and social events because she was afraid Appellant would attack their family members. She also changed her garage code. And she eliminated herself from her social media.

{¶18} Much of Appellant's testimony was centered on her children and her custody dispute with her ex-husband. She testified that her Facebook posts about Appellee were an exercise of her free speech. She admitted to repeatedly texting Appellee.

{¶19} Based on this evidence, the magistrate found that Appellant caused Appellee mental stress and caused Appellee to be fearful of Appellant such as to warrant a CPO. The magistrate found the evidence proved that Appellant placed Appellee in fear and/or caused her mental distress as a result of menacing by stalking.

{¶10} On May 20, 2024, Appellant filed one signed objection and one unsigned objection to the magistrate's decision. Upon review, the trial court found neither objection complied with Civ.R. 5 or Civ.R. 11. The court ordered Appellant to file amended objections that complied with the Civil Rules. On June 13, 2024, Appellant filed her

amended objections pursuant to the trial court's instructions.

{¶11} After conducting an independent review, on December 27, 2024, the trial court overruled Appellant's objections. The court found there was sufficient credible evidence to support the magistrate's decision issuing the CPO and the magistrate did not abuse her discretion.

{¶12} Appellant, still acting pro se, filed a timely notice of appeal on January 17, 2025. She now raises a single assignment of error that states:

ASSIGNMENT OF ERRORS INCLUDE VIOLATING FREEDOM OF SPEECH, DISPARAGING, OBSTRUCTION OF JUSTICE, TAMPERING AND NOT APPLYING THE RULE OF LAW REQUIRED BY THE SUPREME COURT OF OHIO AND UNITED STATES OF AMERICA. MAGISTRATE JAMIE ALLEN, *EX-PARTE DOMESTIC VIOLENCE CIVIL PROTECTION ORDER* (12/21/2023), THE JUDGE FULLER *RULING*, (04/29/2024) AND *JUDGMENT* (12/27/2024).

{¶13} Appellant's argument is convoluted. Appellant makes a multitude of allegations, including statements that:

- "It is obvious that [the judge] and [the magistrate] are attempting to ruin [Appellant's] reputation and background at the request of a Human Trafficking cell." (Brief p. 2).
- The approval of the CPO is "approved at the request of a Human Trafficking cell to control, torture and abuse [Appellant and her family]." (Brief p. 3).
- "It is obvious to any ethical, moral human being that Delaware County courts is colluding with a Human Trafficking cell to end [Appellant's] life." (Brief p. 6).
- Appellant's ex-husband drugged and raped her and Appellee is assisting in hiding these crimes. (Brief p. 7).
- Appellee is trying to fabricate a mental health disorder for Appellant so that Appellee can take Appellant's children from her. (Brief p. 7).

- “How many people have disappeared because of *Judgments* and *Rulings* made by [the trial court]?” (Brief p. 20).

{¶14} Appellant also makes numerous references to the evidence put forth at the hearing on this matter. She refers repeatedly to both testimony and exhibits from the CPO hearing. But the glaring issue with these evidentiary arguments is that Appellant failed to order a transcript of the CPO hearing.

{¶15} Appellant goes on to argue that the trial court’s judgment was against the manifest weight of the evidence. She claims there was no evidence that she caused Appellee physical harm or mental distress. And she argues the court’s decision was based solely on Appellee’s testimony, which she claims was not credible. She then spends some time alleging that Appellee is mentally unstable. Appellant also spends considerable time arguing that Appellee, whom she claims is working with a human trafficking ring, has abducted her children. And she goes on for pages alleging that Appellee is abusing her children and failing to provide for their care. Appellant further claims that Delaware County is complicit in the abuse she and her children are suffering.

{¶16} Whether or not to grant a civil protection order is within the trial court’s discretion. *Singhaus v. Zumbar*, 2015-Ohio-4755, ¶ 12 (5th Dist.). Thus, we will review the trial court’s decision for abuse of discretion. An abuse of discretion is more than an error of judgment; it implies the trial court’s judgment was unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

{¶17} R.C. 3113.31 provides that to obtain a domestic violence CPO, the petitioner must prove by a preponderance of the evidence that the respondent has engaged in an act of domestic violence against petitioner or petitioner’s family or household members. *Felton v. Felton*, 79 Ohio St.3d 34 (1997). “Preponderance of the evidence” is “evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.” *Horne v. Stafford*, 2020-Ohio-5073, ¶ 10 (5th Dist.) citing *Black’s Law Dictionary* 1182 (6th Ed.1990).

{¶18} “Domestic violence” means the occurrence of one or more of the following acts against a family or household member . . . Placing another person by the threat of force in fear of imminent serious physical harm or committing a violation of section

2903.211 or 2911.211 of the Revised Code[.]” R.C. 3113.31(A)(1)(a)(ii).

**{¶19}** Here, the trial court issued a domestic violence CPO as proved by menacing by stalking. R.C. 2903.211 is the menacing by stalking statute. Pursuant to its terms:

(A)(1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. . .

(2) No person, through the use of any form of written communication or any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, computer system, or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to do either of the following:

(a) Violate division (A)(1) of this section[.]

R.C. 2903.211(A).

**{¶20}** Thus, in order for a court to issue a CPO based on menacing by stalking, the petitioner must show that the respondent engaged in a pattern of conduct by which the respondent knowingly (1) caused the petitioner mental distress, (2) caused the petitioner to believe that the respondent would cause the petitioner physical harm, or (3) caused the petitioner to believe the respondent would cause her mental distress. R.C. 2903.211(A)(1).

**{¶21}** A reviewing court will not substitute its judgment for that of the trial court where some competent, credible evidence exists supporting the trial court’s judgment. *Swartz v. Van Deest*, 2023-Ohio-1882, ¶ 18 (5th Dist.), citing *Eastley v. Volkman*, 2012-Ohio-2179.

**{¶22}** The magistrate made the following factual findings that support the elements of domestic violence by menacing by stalking. The evidence demonstrated that Appellant was hospitalized in 2023 for a mental illness and then resided briefly with

Appellee. After Appellant left Appellee's home, Appellant began texting Appellee and posting messages on Facebook regarding Appellee. Appellee found the tone of the messages to be threatening and emotionally upsetting, so much so that Appellee became fearful of Appellant. The messages accused Appellee of being involved in sex trafficking, the mafia, and covering up criminal activity. The messages stated things such as: "This will never be over until you tell the truth"; "I am coming for you"; and "I am going to remind you every day." Appellee asked Appellant to stop this behavior, but Appellant continued. Appellee blocked Appellant from her phone and deleted her Facebook account because she felt threatened by Appellant. Appellee saw Appellant's behavior escalate from August 2023 through December 2023. Appellee testified she was fearful of Appellant and what she might do. Appellee stated that she isolated herself from her family members due to Appellant's threats because she feared that Appellant would target them as well. She also had to change the code to her garage to prevent Appellant from accessing it. Appellee testified that she suffers mental distress from Appellant's actions and fears Appellant may resort to physical harm.

**{¶23}** The magistrate concluded that a preponderance of the evidence demonstrated that Appellant is a family or household member of Appellee, and that Appellant engaged in a pattern of behavior that was menacing to Appellee, caused Appellee mental distress, and caused Appellee to be fearful of Appellant. Thus, the magistrate issued the CPO. The trial court approved of the magistrate's findings.

**{¶24}** Appellant's objections focused on attacking the weight of the evidence. She asserted that the evidence did not support issuing the CPO, that she never threatened violence against Appellee or caused Appellee mental distress, that Appellee was colluding with a human trafficking ring, that Appellee suffers from a mental health issue, and that her constitutional rights were being violated. Appellant attached an "affidavit" to her objections.

**{¶25}** The trial court thoroughly reviewed Appellant's objections. It first pointed out that Appellant failed to file a transcript of the hearing before the magistrate, which is required.

**{¶26}** Civ.R. 53(D)(3)(b)(iii) provides:

An objection to a factual finding, whether or not specifically designated as a finding of fact under Civ.R. 53(D)(3)(a)(ii), shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that finding or an affidavit of that evidence if a transcript is not available. With leave of court, alternative technology or manner of reviewing the relevant evidence may be considered. 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.

**{¶27}** Pursuant to the Civil Rules, Appellant was required to provide the trial court with a transcript of the hearing before the magistrate. She did not. If a transcript was not available, Appellant could have filed an affidavit of evidence. But there is no indication on the record that Appellant could not have obtained a transcript of the hearing. Moreover, Appellant attached what she terms an “affidavit” to her objections. But this “affidavit” was not a statement of the evidence. It was akin to an argument with “facts” in support. Moreover, the “affidavit” was not sworn or notarized as is required for an affidavit.

**{¶28}** Thus, the trial court was left with no choice other than to accept the magistrate’s factual findings.

**{¶29}** The same applies to this appeal. Pursuant to App.R. 9(A)(4), if a transcript is not available, the appellant may use one of the transcript substitutes set out in App.R. 9(C) or 9(D). “If the appellant intends to present an assignment of error on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the weight of the evidence, the appellant shall include in the record a transcript of proceedings that includes all evidence relevant to the findings or conclusion.” App.R. 9(A)(4).

**{¶30}** “When portions of the transcript necessary for resolution of assigned errors are omitted from the record, the reviewing court has nothing to pass upon and thus, as to those assigned errors, the court has no choice but to presume the validity of the lower court’s proceedings and affirm.” *Knapp v. Edwards Laboratories*, 61 Ohio St.2d 197, 199, (1980).



{¶31} Appellant did not provide this court with a trial transcript substitute as required by App.R. 9. It is the Appellant's responsibility to provide this court with a record of the facts, testimony, and evidence in support of the assignments of error.

{¶32} Without a transcript, we have no choice but to conclude that the magistrate's factual findings were established by the evidence. As the magistrate's decision issuing the CPO is supported by the preponderance of the evidence, there was no abuse of discretion in issuing the CPO.

{¶33} Accordingly, Appellant's sole assignment of error is without merit and is overruled.

{¶34} For the reasons stated above, the trial court's judgment is hereby affirmed.

Waite, J., concurs.

Robb, P.J., concurs.

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For the reasons stated in the Opinion rendered herein, the assignment of error is overruled and it is the final judgment and order of this Court that the judgment of the Court of Common Pleas, Domestic Relations Division, of Delaware County, Ohio, is affirmed. Costs to be taxed against the Appellant.

A certified copy of this opinion and judgment entry shall constitute the mandate in this case pursuant to Rule 27 of the Rules of Appellate Procedure. It is ordered that a certified copy be sent by the clerk to the trial court to carry this judgment into execution.

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