

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
LICKING COUNTY, OHIO

DEBORAH A. MERRILL,

Petitioner - Appellee

-vs-

KORY A. SHARP,

Respondent - Appellant

Case No. 2026 CA 00046

Opinion And Judgment Entry

Appeal from the Licking County Court of
Common Pleas, Domestic Relations Division,
Case No. 25 DR 01015

Judgment: Affirmed

Date of Judgment Entry: October 13, 2026

BEFORE: Craig R. Baldwin; Kevin W. Popham; Robert G. Montgomery, Judges

APPEARANCES: DEBORAH A. MERRILL, No Appearance, for Petitioner-Appellee;
KORY A. SHARP, Pro Se, for Respondent-Appellant.

Baldwin, P.J.

{¶1} The appellant, Kory A. Sharp, appeals the judgment of the Licking County Court of Common Pleas, Domestic Relations Division, granting and modifying a domestic violence civil protection order against him. The appellee is Deborah A. Merrill. The relevant facts are as follows.

STATEMENT OF FACTS AND THE CASE

{¶2} On October 31, 2025, the appellee filed a petition for a domestic violence civil protection order against the appellant pursuant to R.C. 3113.31. The trial court issued an ex parte protection order and scheduled a full hearing for November 7, 2025. The appellant was personally served on November 4, 2025. He did not appear at the hearing.

{¶3} On November 25, 2025, the trial court issued a domestic violence civil protection order effective until October 31, 2030. The trial court found that the parties had been in a romantic relationship and had children together. It found that on or about October 23, 2025, while the parties were preparing to separate, the appellant attempted to take the children while intoxicated, punched a wall and threw himself at it, brandished a firearm, and grabbed the appellee. It further found that, as the appellee attempted to leave the home in a vehicle, the appellant chased her down the driveway, leapt onto her car, and was thrown from it when she continued to drive. The trial court found that the appellee was in reasonable fear of imminent harm from the appellant. It also noted that the appellant was committed to a hospital for a time following the incident, which the trial court described as a sudden and pronounced mental health episode, and found it unlikely that this was the first such event.

{¶4} On April 17, 2026, the appellant filed a motion to reopen the case and to modify or terminate the protection order, as well as a motion for limited modification of the protection order to address financial obligations. He also filed several other motions. In them, he asserted, among other things, that he had not been properly served and that the November 25, 2025, order contained factual errors.

{¶5} On May 15, 2026, the trial court held a hearing on the appellant's motions. Both parties appeared pro se and presented evidence. On June 5, 2026, the trial court granted the appellant's motion to modify in part. After considering the factors set forth in R.C. 3113.31(E)(8), the trial court found, among other things, that the appellee consented to modification in some respects but not others, that she continued to fear the appellant, that the appellant had not completed treatment, an intervention program, or other counseling, and that the last incident of violence occurred on or about October 23, 2025. The trial court

modified the protection order consistent with the appellee's wishes and incorporated by reference the findings underlying the November 25, 2025, order. The modified order retained the original expiration date of October 31, 2030.

{¶6} On June 18, 2026, the appellant filed a notice of appeal. The trial court subsequently entered a judgment noting that the appellant had not paid the deposit required for preparation of a transcript and that it would take no further action on his request. No transcripts of the November 7, 2025, or May 15, 2026, hearings have been filed, and the appellant did not submit a statement of the evidence or proceedings under App.R. 9(C).

{¶7} The appellant raises the following three assignments of error:

{¶8} "I. THE TRIAL COURT ABUSED ITS DISCRETION BY RELYING ON FACTS NOT IN EVIDENCE, SPECIFICALLY, AN ALLEGED 'MENTAL HEALTH EPISODE,' IN VIOLATION OF R.C. 3113.31 AND THE FIFTH DISTRICT'S REQUIREMENT THAT CIVIL PROTECTION ORDERS BE SUPPORTED BY COMPETENT, CREDIBLE EVIDENCE."

{¶9} "II. THE TRIAL COURT ERRED AND DENIED APPELLANT A FAIR HEARING BY STATING THAT 'THE COURT FINDS IT UNLIKELY THAT THIS WAS THE FIRST SUCH EVENT' IN A DOMESTIC-VIOLENCE SITUATION, DESPITE THE ABSENCE OF ANY TESTIMONY, EXHIBITS, OR CRIMINAL HISTORY SUPPORTING SUCH A CONCLUSION."

{¶10} "III. THE TRIAL COURT VIOLATED APPELLANT'S DUE PROCESS RIGHTS BY PROCEEDING DESPITE DEFECTIVE SERVICE, INADEQUATE NOTICE, AND CREDIBILITY DETERMINATIONS RENDERED UNRELIABLE BY THE PROCEDURAL UNFAIRNESS SURROUNDING THE HEARING."

{¶11} The appellee did not file a brief. Under App.R. 18(C), this Court may accept the appellant's statement of the facts and issues as correct and reverse the judgment if the appellant's brief reasonably appears to sustain such action. Having reviewed the appellant's brief and the record, we conclude that it does not.

{¶12} The appellant has not provided a transcript of either hearing. The duty to provide a transcript for appellate review falls upon the appellant, because the appellant bears the burden of showing error by reference to matters in the record. *Knapp v. Edwards Laboratories*, 61 Ohio St.2d 197, 199 (1980). "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." *Id.*

I., II.

{¶13} In his first and second assignments of error, the appellant challenges the trial court's statements that he was committed to a hospital following the October 23, 2025, incident, which the trial court described as a sudden and pronounced mental health episode, and its finding that it was unlikely that this was the first such event. He contends that no evidence supported these statements and findings, that the trial court made additional improper remarks at the May 15, 2026, hearing, and that the trial court was not neutral. We disagree.

{¶14} Each of these arguments depends on what occurred at the hearings, and the appellant has failed to provide a transcript of either one. We therefore presume that the trial court's statements and findings in the November 25, 2025, order were supported by evidence

presented at the November 7, 2025, hearing, and we have no record of the remarks the appellant attributes to the trial court at either hearing. *Knapp* at 199.

{¶15} Moreover, the trial court's findings regarding the October 23, 2025, incident, that the appellant brandished a firearm, grabbed the appellee, and leapt onto her vehicle as she attempted to leave, independently support its conclusion that the appellee was in reasonable fear of imminent harm. An error is harmless where, had it not occurred, the trier of fact would probably have made the same decision. Civ.R. 61; *M.S. v. Ives*, 2025-Ohio-5312, ¶ 30 (5th Dist.). Even setting aside the challenged statements and findings, the trial court would probably have reached the same decision. *Ives* at ¶ 33.

{¶16} Accordingly, the appellant's first and second assignments of error are overruled.

III.

{¶17} In his third assignment of error, the appellant argues that the trial court violated his right to due process by proceeding despite defective service and inadequate notice, which he claims deprived him of the opportunity to prepare a defense and rendered the trial court's credibility determinations unreliable. We disagree.

STANDARD OF REVIEW

{¶18} "It is rudimentary that in order to render a valid personal judgment, a court must have personal jurisdiction over the defendant." *Maryhew v. Yova*, 11 Ohio St.3d 154, 156 (1984). A court may obtain personal jurisdiction by service of process, voluntary appearance, or waiver. *Id.* We therefore review the record for proper service. Failure of proper service deprives the court of personal jurisdiction and renders any judgment void ab initio. *TM Three*

Advertising, L.L.C. v. Rodriguez, 2021-Ohio-2759, ¶ 21 (5th Dist.), citing *Pippin v. M.A. Hauser Ent., Inc.*, 111 Ohio App.3d 557, 565 (6th Dist.1996).

{¶19} “The trial court’s determination of whether service was completed will not be disturbed absent an abuse of discretion.” (Citations omitted.) *Ramirez v. Shagawat*, 2005-Ohio-3159, ¶ 11 (8th Dist.). To find an abuse of discretion, we must conclude that the trial court’s decision was arbitrary, unconscionable, or unreasonable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

ANALYSIS

{¶20} A respondent to a petition for a domestic violence civil protection order is entitled to be served with the petition before the full hearing and to a full hearing on the matters alleged. *Ives* at ¶ 27, citing R.C. 3113.31(D)(2)(a). Due process requires notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

{¶21} The record reflects that the appellant was personally served on November 4, 2025, three days before the hearing. The appellant does not explain why that service failed to apprise him of the proceedings, and nothing in the record suggests that he requested a continuance or otherwise brought the matter to the trial court’s attention before the hearing. To the extent the appellant contends that the proceedings at the hearing were unfair, he has not provided a transcript, and we must presume regularity. *Knapp* at 199. Accordingly, we find no abuse of discretion.

{¶22} The appellant’s third assignment of error is overruled.

CONCLUSION

{¶23} For the foregoing reasons, the judgment of the Licking County Court of Common Pleas, Domestic Relations Division, is hereby affirmed.

{¶24} Costs to the appellant.

By: Baldwin, P.J.

Popham, J. and

Montgomery, J. concur.