

**IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
LUCAS COUNTY**

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**K.C.,**

**CASE NO. L-24-1083**

**PETITIONER-APPELLEE,**

**v.**

**T.D.,**

**OPINION**

**RESPONDENT-APPELLANT.**

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**Appeal from Lucas County Common Pleas Court  
Trial Court No. CI0202303944**

**Judgment Affirmed**

**Date of Decision: November 25, 2024**

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**APPEARANCES:**

***T.D.*, Appellant**

**PER CURIAM.**

{¶1} Respondent-appellant T.D. brings this appeal from the judgment of the Court of Common Pleas of Lucas County granting a civil protection order (“CPO”) to petitioner-appellee K.C. On appeal T.D. alleges that 1) K.C. caused a fraudulent CPO to be issued 2) the trial court erred in overruling T.D.’s objections to the CPO without explaining why it did so, and 3) the trial court’s ruling violated the First, Ninth, Thirteenth, and Fourteenth Amendments to the Constitution of the United States. For the reasons set forth below, the judgment is affirmed.

{¶2} On October 6, 2023, K.C. filed a petition for a CPO alleging that T.D. was stalking her. The magistrate held an ex parte hearing and granted a temporary CPO. A full hearing was held on June 22, 2024 and the magistrate granted the CPO. T.D. filed timely objections to the magistrate’s decision. On March 11, 2024, the trial court held a hearing on T.D.’s objections. At the conclusion of the hearing, the trial court overruled the objections and issued the CPO to be effective until January 22, 2029. T.D. appealed from this judgment and on appeal raises the following assignments of error.

1. The trial court erred by allowing K.C. to “fabricate, falsify and forge signatures and information on court documents.”

2. The trial court erred by not writing a ruling that explained how the trial court reached its decision by a preponderance of the evidence and the evidence was insufficient to support the decision.
3. The trial court violated T.D.'s rights under the First Amendment.
4. The trial court violated T.D.'s rights under the Ninth Amendment.
5. The trial court violated T.D.'s rights under the Thirteenth Amendment.
6. The trial court violated T.D.'s rights under the Fourteenth Amendment.

*Standard of Review*

{¶3} When an appellant challenges the decision to issue a CPO, the decision is reviewed under a manifest weight of the evidence standard. *S.Y. v. A.L.*, 2023-Ohio-3964, ¶ 32 (6th Dist.). A trial court's decision will not be reversed if it is supported by some competent, credible evidence going to all the essential elements of the case. *Id.*

{¶4} "When granting a protection order, the trial court must find that petitioner has shown by a preponderance of the evidence that petitioner or petitioner's family or household members are in danger". *Felton v. Felton*, 1997-Ohio-302. "The decision to grant or dismiss a request for a civil protection order is within the discretion of the trial court." *Rangel v. Woodbury*, 2009-Ohio-4407, ¶ 11 (6th Dist.). The decision will not be reversed unless the trial court's attitude was

unreasonable, arbitrary or unconscionable. *Spaulding v. Spaulding*, 2021-Ohio-533 (6<sup>th</sup> Dist.).

*Fabrication of Documents*

{¶5} In her first assignment of error, T.D. alleges that K.C. fabricated, falsified and forged signatures on court documents. A version of this claim was raised in T.D.'s objections to the magistrate's decision granting the CPO. However, the record contains no evidence that such occurred. A hearing was held on the objections at which T.D. presented her arguments. No transcript of the hearing was provided for this court. The appellant bears the burden of preparing a transcript for inclusion in the record. *State ex rel. Montgomery v. R & D Chem. Co.*, 1995-Ohio-21. "Absent a transcript or alternative record under App.R. 9(C) or an agreed statement of the record under App.R. 9(D), we must presume regularity in the proceedings below. *State v. Maddox*, 2010-Ohio-1476 (6th Dist.). The trial court overruled the objections, finding that when the court requested T.D. present specific violations of procedure or law, none were raised. The trial court did clarify that the order did not prohibit T.D. from appearing in the court house for her scheduled hearings or in the Clerk's Office. The record contains no evidence to support the claim raised by T.D. that K.C. forged documents or signatures, therefore this Court overrules the first assignment of error.

*Findings of Fact.*

{¶6} T.D.'s second assignment of error alleges that the trial court erred by failing to provide T.D. with an explanation for overruling the objections and affirming the CPO. If a party in a case does not believe that a judgment contains sufficient explanation, the party is permitted to request findings of fact and conclusions of law.

When questions of fact are tried by the court without a jury, judgment may be general for the prevailing party unless one of the parties in writing requests otherwise before the entry of judgment pursuant to Civ.R. 58 or not later than seven days after the party filing the request has been given notice of the court's announcement of its decision, whichever is later, in which case, the court shall state in writing the findings of fact found separately from the conclusions of law.

Civ.R. 52. If a party fails to request findings of fact and conclusions of law, the party waives the right to challenge the trial court's lack of explicit findings. *Goddard v. Goddard*, 2011-Ohio-680 (4<sup>th</sup> Dist.). Review by the appellate court is circumscribed by the failure of T.D. to request the findings of fact and conclusions of law, requiring the appellate court to presume that the trial court correctly applied the law and affirm its judgment if some evidence in the record supports its judgment. *Id.* at ¶ 25. Here, the magistrate found that there was evidence that T.D. had engaged in a pattern of conduct causing mental distress. T.D. did not provide a transcript to show that this was incorrect. Thus, we must presume that the magistrate's findings were accurate and this would be some evidence to support the trial court's judgment.

As T.D. failed to request findings of fact and conclusions of law, the trial court did not err in issuing a general decision overruling the objections. The second assignment of error is overruled.

*First Amendment*

{¶7} T.D. claims in the third assignment of error that the CPO violates her First Amendment rights. The First Amendment to the U.S. Constitution guarantees that the government will not pass a law abridging the freedom of speech. T.D.’s argument appears to be that K.C. is silencing her by getting the CPO. However, T.D. does not explain how her First Amendment right to free speech is being limited by government action. The CPO does prohibit T.D. from contacting K.C. or K.C.’s family members, but does not otherwise limit her speech. Additionally, the right to free speech is not absolute and the government may regulate it in a manner consistent with the Constitution. *Virginia v. Black*, 538 U.S. 343 (2003). Ohio law recognizes that threats which intimidate or cause fear or apprehension by the recipient are unprotected by the First Amendment. *Miller v. Leone*, 2024-Ohio-1325 (7th Dist.). It is not ‘within the protection of the First Amendment’s guarantee of free speech to knowingly cause another to believe one will cause physical harm or mental distress to him or her by engaging in two or more actions or incidents closely related in time.’ *State v. Benner*, 96 Ohio App.3d 327, 329-330 (1st Dist. 1994). Here, T.D. was accused of making social media posts which caused mental

distress to K.C. Without a transcript being provided to us by T.D., we do not know what the testimony showed regarding the posts. Thus, we presume the regularity of the court proceedings and that the magistrate and trial judge reached the correct result. The third assignment of error is overruled.

*Remaining Constitutional Arguments*

{¶8} In T.D.'s fourth, fifth and sixth assignments of error, she claims that the CPO violates her rights under the Ninth, Thirteenth, and Fourteenth Amendments. The Ninth Amendment provides that any non-enumerated rights are reserved for citizens. The Thirteenth Amendment abolished slavery and involuntary servitude. The Fourteenth Amendment defined citizenship and requires states to provide due process and equal protection under the law. A review of T.D.'s brief provides no argument as to why she believes these Amendments are applicable in this case. This Court has reviewed the record before us and finds no plain error violation of any of these Amendments. Thus, the fourth, fifth, and sixth assignments of error are overruled.

*Conclusion*

{¶9} In response to T.D.'s appeal, K.C. filed a motion seeking relief from a frivolous filing by dismissing the appeal and awarding sanctions. This motion was held in abeyance pending the opinion. The motion is hereby denied.

{¶10} Having found no prejudicial error in the particulars assigned and argued, the judgment of the Court of Common Pleas of Lucas County is affirmed.

*Judgment Affirmed*

**WILLAMOWSKI, P.J., WALDICK, J. and MILLER, J., concur.**

/hls

**Judges John R. Willamowski, Juergen A. Waldick, and Mark C. Miller, from the Third District Court of Appeals, sitting by assignment of the Chief Justice of the Supreme Court of Ohio.**