

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
OTTAWA COUNTY

J.S. Court of Appeals No. {62}OT-26-010
Appellant Trial Court No. 2025-CV-H-702

v.

M.K. **DECISION AND JUDGMENT**
Appellee Decided: October 20, 2026

* * * * *

Misty Wood, for appellant.

M.K., pro se, appellee.

* * * * *

SULEK, J.

{¶ 1} Petitioner-appellant, J.S., appeals the February 23, 2026 judgment of the Ottawa County Court of Common Pleas adopting the magistrate’s decision denying his petition for a Civil Stalking Protection Order (CSPO) against respondent-appellee, M.K. For the foregoing reasons, the judgment is affirmed.

I. Facts and Procedural Background

{¶ 2} J.S. is an Ohio licensed attorney who shares office space with an “of counsel” attorney, Z.D. M.K. identifies as a civil rights activist and has multiple businesses and media organizations which are active on social media. Z.D. represented M.K. regarding a property loss insurance claim; the outcome displeased M.K.

{¶ 3} On October 28, 2025, J.S. filed a petition for a CSPO as to himself, his wife, and his three children against M.K. claiming that he had “repeatedly posted harassing statements ...on multiple social media platforms ... and has also threatened physical harm against [J.S.] including with the use of firearms [stating]: ‘I got my right to carry and you don’t want to be found somewhere stinking.’” J.S. requested that M.K. be prevented from possessing a firearm and that he permanently remove any reference to J.S. or his employment from all of this social media accounts. The court granted an ex parte CSPO the same day. On November 4 and 5, a magistrate conducted a hearing on the petition with both parties testifying.

{¶ 4} On November 20, the magistrate denied the petition finding:

Given the evidence and the testimony presented, the Court cannot find even by a preponderance of the evidence that [M.K.]’s conduct has risen to the level of menacing by stalking required for the issuance of a protection order in this case. Further, the Court cannot find that [J.S.] nor his family members are in immediate and present danger from [M.K.].

{¶ 5} On November 26, 2025, J.S. filed objections to the magistrate’s conclusion that he failed to meet the burden of proof under R.C. 2903.211(A)(1) by failing to fully consider M.K.’s creation of hundreds of pages of social media posts, admitted into evidence, and many of which were stipulated to by M.K. as a pattern of conduct and that

his inability to eat or sleep evidenced that he suffered mental distress. J.S. further disputed the magistrate's "legal conclusion" as to the "knowingly" element claiming unreasonableness in the magistrate's acceptance of M.K.'s statements that he did not know that his conduct would likely cause mental distress or fear of harm. J.S. also requested leave to supplement the objections after obtaining the transcript.

{¶ 6} On February 5, 2026, J.S. filed a motion for leave to submit evidence of events occurring after the November hearing on the matter. J.S. noted that while the new evidence generally creates a new cause of action, judicial economy would best be served if the court held an additional hearing in the matter.

{¶ 7} On February 20, 2026, the objections were denied due to J.S.'s failure to timely file a transcript under Civ.R. 53. On February 23, the trial court, after review, adopted the magistrate's decision. On February 24, J.S. filed the hearing transcript and exhibits with the court.

{¶ 8} On March 2, 2026, J.S. filed a Civ.R. 60(B) motion for relief from judgment claiming that two days following the court's judgment, M.K. contradicted his hearing testimony and "explicitly revealed" that the media exposure was an extortion scheme. Specifically, M.K. sent J.S. written "settlement" demands stating that he would remove all negative social media posts and dismiss and refrain from civil litigation if J.S. paid him \$300,000. J.S. attached the letters to his motion.

{¶ 9} J.S. filed a notice of appeal on March 9, 2026, and the court remanded the matter for a ruling on the Civ.R. 60(B) motion. On April 15, 2026, the trial court denied

J.S.’s Civ.R. 60(B) motion, finding it based on evidence and exhibits that occurred following the hearing on the petition.

II. Assignments of Error

{¶ 10} On appeal, J.S. raises two assignments of error for review:

1. Findings of fact are against the manifest weight of the evidence.
2. The trial court erred by evaluating the “knowingly” element under a subjective standard.

III. Analysis

A. Weight of the Evidence

{¶ 11} J.S.’s first assignment of error contends that the trial court’s judgment is against the manifest weight of the evidence. Ohio courts have used various standards to review appeals of CSPO judgments including abuse of discretion, manifest weight of the evidence, and a bifurcated review employing both. *P.A. v. Rorick*, 2023-Ohio-4578, ¶ 20 (6th Dist.). This court employs a manifest weight of the evidence review. *Id.* at ¶ 21, citing *Felton v. Felton*, 79 Ohio St.3d 34, 43 (1997). While manifest weight of the evidence is generally our standard of error on review, here J.S. filed objections to the magistrate’s decision but he failed to file a transcript of the hearing as required under Civ.R. 53 and more specifically, Civ.R. 65.1.

{¶ 12} Civ.R. 53 provides the general procedure for filing objections to a magistrate’s decision. Civ.R. 65.1, while similar, applies specifically to CSPO proceedings under R.C. 2903.214, requiring that

[o]bjections 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. 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. If a party files timely objections prior to the date on which a transcript is prepared, the party may seek leave of court to supplement the objections.

Civ.R. 65.1(F)(3)(d)(iv).

{¶ 13} Where a party fails to file a transcript within the allotted time, the trial judge’s review of the magistrate’s decision is limited to the findings set forth therein. *Flippin v. Gray*, 2026-Ohio-515, ¶ 18 (12th Dist.). “On appeal, an ‘appellant is prohibited from challenging the factual findings of the magistrate unless [the appellant] files a transcript of the magistrate’s hearing with the trial court with his objections.’” *J.T. v. J.G.*, 2026-Ohio-1771, ¶ 15 (8th Dist.), quoting *J.S. v. D.L.*, 2018-Ohio-4775, ¶ 10, (8th Dist.), citing *Slepsky v. Slepsky*, 2016-Ohio-8429, ¶ 20 (11th Dist.). Even if the transcript is subsequently filed and is part of the appellate record, a reviewing court may not rely on the transcript and is limited to considering only the evidence before the trial court when ruling on the objections. *J.S.* at ¶ 10, citing *In re A.K.*, 2017-Ohio-9165, ¶ 17 (8th Dist.), citing *State ex rel. Pallone v. Ohio Court of Claims*, 2015-Ohio-2003, ¶ 11; *J.T.* at ¶ 15 (8th); *Moyer v. Robinson*, 2023-Ohio-764, ¶ 9 (11th Dist.). Without a transcript or affidavit, a reviewing court “must presume regularity of the trial court proceedings and accept that the facts were correctly interpreted.” *J.T.* at ¶ 15, citing *T.H. v. Villoni*, 2020-Ohio-3767, ¶ 12 (9th Dist.).

{¶ 14} Here, J.S. argues that the testimony and exhibits presented at the hearing demonstrate M.K.’s pattern of threats and his intent to continue to cause J.S. mental

distress. Because the trial court did not have the transcript to review the objections, this court, likewise, is constrained to find that the magistrate properly interpreted the evidence presented at trial. J.S.’s first assignment of error is not well-taken.

B. Knowingly Element

{¶ 15} In his second assignment of error, J.S. claims the trial court erred as a matter of law by improperly interpreting the statute’s “knowingly” element as a subjective standard requiring intentional conduct based on the following statements in its decision:

Kimble asserted that his words and conduct were not threatening, at least to the extent of intending to causing [sic] physical harm or threats to cause physical harm or to cause emotional distress to [J.S.]. Instead, he asserted that his words and conduct were meant to give exposure to his audience about what he believes is misconduct on the part of [J.S.] for which he should be held accountable.

{¶ 16} The menacing by stalking statute, R.C. 2903.211, relevantly provides:

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.

{¶ 17} Under R.C. 2901.22(B):

A person acts knowingly, regardless of purpose, when the person is aware that the person’s conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist. When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.

In *State v. Crawl*, 2025-Ohio-2799, the Ohio Supreme Court explained that proof that a person acted knowingly does not require a showing of intent, rather, “only an awareness of the probable consequences of one’s action.” *Id.* at ¶ 17, citing *State v. Benson*, 2018-Ohio-2235, ¶ 20 (8th Dist.).

{¶ 18} Reviewing the trial court’s decision, its summation of M.K.’s trial testimony is not akin to a “finding” that M.K. did not act knowingly. The preceding paragraph similarly outlined the basis of J.S.’s claims as testified to at the hearing including that M.K.’s words and conduct were threatening and that, as a result, he had not eaten or slept without being reminded to do so. In the final paragraph of its decision, the court ultimately concludes that after reviewing all the evidence, it “cannot find even by a preponderance of the evidence that [M.K.]’s conduct has risen to the level of menacing by stalking required for the issuance of a protection order in this case.” The court further indicated that it could not “find that J.S. nor his family members are in immediate and present danger from [M.K.]”

{¶ 19} As set forth above, because J.S. failed to support his objections with the hearing transcript, the trial court and this court presume the correctness of the magistrate’s findings. J.S.’s second assignment of error is not well-taken.

IV. Conclusion

{¶ 20} Upon due consideration, the Ottawa County Court of Common Pleas' judgment denying J.S.'s petition for a CSPO is affirmed. Pursuant to App.R. 24, J.S. is ordered to pay the costs of this appeal.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.

Christine E. Mayle, J.

JUDGE

Myron C. Duhart, J.

JUDGE

Charles E. Sulek, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.supremecourt.ohio.gov/ROD/docs/.
