RENDERED: MARCH 6, 2026; 10:00 A.M.
TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2025-CA-0887-ME

GARRY DEWAYNE EDWARDS — APPELLANT

v.

APPEAL FROM ROCKCASTLE CIRCUIT COURT
HONORABLE KENT HENDRICKSON, SPECIAL JUDGE
ACTION NO. 22-D-00035-001

GLORIA DENISE EDWARDS AND
R.I.E., A MINOR CHILD — APPELLEES

OPINION AND ORDER
DISMISSING

** ** ** ** **

BEFORE: ECKERLE, A. JONES, AND L. JONES, JUDGES.

ECKERLE, JUDGE: Appellant, Garry[1] Dewayne Edwards ("Garry"), seeks reversal of an order of the Rockcastle Circuit Court extending a domestic violence order ("DVO") prohibiting him from contacting Appellees, his ex-wife, Gloria

[1] Appellant's first name is alternately spelled "Garry" and "Gary" in the record, including by Appellant himself. We use "Garry" because that is how he spelled his name in his notice of appeal.

Denise Edwards ("Gloria") and their child, R.I.E., a Minor Child.[2] We dismiss this appeal due to Garry's deficient brief.

BACKGROUND

In 2022, the Rockcastle Circuit Court issued a DVO prohibiting Garry from contacting Gloria and R.I.E. for three years.[3] We affirmed the Trial Court's denial of Garry's motion to dissolve the DVO. *Edwards v. Edwards*, No. 2022-CA-1527-MR, 2023 WL 5656197, at *2 (Ky. App. Sep. 1, 2023) (unpublished).

In June of 2025, Gloria filed a motion to extend the DVO for three years on behalf of herself and R.I.E. On June 23, 2025, the Trial Court issued an order scheduling a hearing on Gloria's motion for June 26, 2025. The order expressly stated that the hearing would be held via Zoom, and it contained the information necessary for the parties to participate via that electronic system. The Trial Court also ordered the Pulaski County Sheriff's Department to hand-deliver a copy of the scheduling order and Gloria's motion to Garry. The record shows that a deputy Sheriff served Garry with those documents that same day. The next day, Garry filed a motion demanding an in-person hearing and asserting that the hearing should be delayed for 30 days to enable him to subpoena witnesses to testify.

[2] We use initials to refer to minors. *See* Kentucky Rule of Appellate Procedure ("RAP") 5(B)(2).

[3] We do not have the record of the DVO proceedings; instead, the record before us begins with Gloria's motion to extend that DVO.

Gloria participated in the June 26 hearing via Zoom, but Garry did not. After noting that Garry had been served, the Trial Court denied *in absentia* his demand for an in-person hearing. Gloria then testified for approximately one minute, expressing her concerns of what would happen if the DVO expired. For example, she stated that she feared that Garry would harm her or kidnap their autistic son, R.I.E. She also briefly noted misconduct Garry had purportedly engaged in, such as having threatened to set her on fire.[4] The Trial Court granted Gloria's motion and extended the DVO for three years. Garry then filed this appeal.

ANALYSIS

We begin by noting Garry's vehement disagreement with our conclusion that oral argument is unnecessary to resolve this appeal. Garry's brief, more akin to a rambling rant or diatribe, expresses his extreme displeasure with the Trial Court's ruling. While we understand that losing parties are often unhappy with the results, and Garry's anger is palpable, Appellate Courts must look to the controlling law to resolve grievances. Garry insists that he has a constitutional right to oral argument in this Court. He does not.

Our Supreme Court has squarely rejected Garry's argument:

[4] Though Gloria did not specify the date for this allegation, it appears that it occurred before the issuance of the DVO.

> The open courts provision of the Kentucky Constitution, Ky. Const. § 14, does not explicitly provide a right to oral argument before Kentucky's appellate courts. And Kentucky courts have never interpreted Ky. Const. § 14 as guaranteeing a right to oral argument before Kentucky appellate courts. Similarly, no other provision of the Kentucky Constitution or the United States Constitution provides a right to oral argument before Kentucky appellate courts.

Combs v. Kentucky Court of Appeals, 312 S.W.3d 363, 364 n.7 (Ky. 2010). *See also* RAP 38(A) ("Oral arguments on the merits will be heard in cases designated by the appellate court.").

Next, we must determine the impact of Appellees' failure to file an appellee brief. When that occurs, under RAP 31(H)(3) we may: "(a) accept the appellant's statement of the facts and issues as correct; (b) reverse the judgment if appellant's brief reasonably appears to sustain such action; or (c) regard the appellee's failure as a confession of error and reverse the judgment without considering the merits of the case." Of course, "the decision whether to impose any penalties is within our discretion." *Lankford v. Lankford*, 688 S.W.3d 536, 537 n.1 (Ky. App. 2024). After considering the facts and nature of this appeal, we decline to impose any penalties for Appellees' failure to submit briefs.

Finally, we must address the numerous, major deficiencies in Garry's *pro se* brief. Garry's highly idiosyncratic brief fails to comply with at least six significant requirements in RAP:

1. The statement of points and authorities contains neither points nor authorities. Instead, that section contains Garry's notation that he filed a motion for an in-person hearing, which he alleges the Trial Court ignored. (Actually, the Trial Court denied the motion at the beginning of the Zoom hearing.) Thus, this section of Garry's brief violates the requirement in RAP 32(A)(2) that the statement of points and authorities of an appellant's brief must "set forth, succinctly and in the order in which they are discussed in the body of the argument, the appellant's contentions with respect to each issue of law relied upon for a reversal, listing under each the authorities cited on that point and the respective pages of the brief on which the argument appears and on which the authorities are cited.";
2. The statement of the case section does not contain <u>any</u> pinpoint citations to the Trial Court record; nor does it provide an adequate factual and procedural background of this case. Instead, this section contains Garry's incorrect insistence that he had a constitutional right to an in-person hearing in the Trial Court, a topic to which we shall return. This section of Garry's brief violates the requirement in RAP 32(A)(3) that the statement of the case section of an appellant's brief must contain "a summary of the facts and procedural events relevant and necessary to an understanding of the issues presented by the appeal, with ample references to the specific location in the

record supporting each of the statements contained in the summary." Even by itself, an appellant's failure to cite amply to the record justifies striking a brief and dismissing an appeal. *W.I.S. v. K.M.B.*, 722 S.W.3d 569, 576 (Ky. App. 2025); *Commonwealth v. Roth*, 567 S.W.3d 591, 594-95 (Ky. 2019);

3. The argument section does not meaningfully conform to the statement of points and authorities and does not contain <u>any</u> pinpoint citations to the Trial Court record. Thus, this section violates the requirements in RAP 32(A)(4) that the argument section of an appellant's brief must "conform[] to the statement of points and authorities" and contain "ample references to the specific location in the record and citations of authority pertinent to each issue of law . . . .";
4. The argument section of Garry's brief also only contains one citation to authority, and that citation is to a 1963 opinion of the United States Court of Appeals for the Seventh Circuit that has little bearing on this appeal and is not binding on Kentucky State Courts. Thus, this section violates the requirement in RAP 32(A)(4) that the argument section of an appellant's brief must contain "citations of authority pertinent to each issue of law . . . ." Garry's failure to cite to supporting authority, by itself, is a sufficient basis to affirm summarily the Trial Court because "[a]ssertions of error devoid of any controlling authority do not merit relief." *Koester v. Koester*, 569

S.W.3d 412, 414 (Ky. App. 2019). Of course, we decline to conduct legal research on Garry's behalf since "[s]earching for cases and arguments to promote and support one position is not our role." *W.I.S.*, 722 S.W.3d at 575. Garry has chosen to serve as his own advocate, and he must comply with the duties of such role;

5. The argument section of Garry's brief also does not contain any statements showing whether (and, if so, in what manner) he preserved his arguments for appellate review. Indeed, it is difficult to discern with reliable precision the issues that Garry wishes us to address on the merits. Regardless, this section of Garry's brief plainly violates the requirement in RAP 32(A)(4) that the argument section of an appellant's brief must "contain at the beginning of the argument a statement with reference to the record showing whether the issue was properly preserved for review and, if so, in what manner." Parties are strictly required to comply with the preservation statement requirements of RAP, *W.I.S.*, 722 S.W.3d at 576, and we may strike a brief that does not contain proper preservation statements. *See, e.g.*, *Krugman v. CMI, Inc.*, 437 S.W.3d 167 (Ky. App. 2014);
6. The appendix to Garry's brief does not conform to RAP in two main respects: (a) the first attached document is not the order from which Garry appeals. Therefore, the brief violates the requirement in RAP 32(E)(1)(a)

that an appellant must "place the judgment, opinion, or order under review immediately after the appendix list so that it is most readily available to the court"; and (b) Garry has not provided pinpoint citations to where the documents in his appendix may be found in the Trial Court record. Garry's brief consequently violates the requirement in RAP 32(E)(1)(d) that the appendix to an appellant's brief must include an index which "shall set forth where each document may be found in the record." As we recently explained, "[t]he purpose of requiring a pinpoint citation to the record for matters included in an appendix is to show that the appended items were presented to a Trial Court because, with very limited exceptions, it is improper for a party to include matters in an appendix that are not contained in the Trial Court record." *W.I.S.*, 722 S.W.3d at 578. A party's failure to specify where items in an appendix may be located in the Trial Court record "is not a mere technical error devoid of practical impact" because we will "decline to rummage" through the Trial Court record "to discern whether, and if so how, the items contained in [an] appendix may be located in the record." *Id.*

Even though Garry is proceeding *pro se*, he is not exempt from making a good faith effort to comply with mandatory briefing rules. *See, e.g.*, *Koester*, 569 S.W.3d at 415. The overwhelmingly noncompliant nature of Garry's

brief shows that he has not made a good faith effort at compliance. The question then becomes what action we should take in response to Garry's deficient brief.

RAP 31(H)(1) provides that "[a] brief may be stricken for failure to substantially comply with the requirements of these rules." *See also* RAP 10(B). It is beyond reasonable dispute that Garry's brief fails to comply substantially with RAP. We have concluded that Garry's brief is so irredeemably deficient that it must be stricken. Striking Garry's brief "necessarily requires" us to dismiss this appeal. *Roth*, 567 S.W.3d at 593.

Nonetheless, and not because we are required to do so, which we are not, we shall briefly address the lack of merit of Garry's insistence that his due process rights were violated. "The fundamental requirement of procedural due process is simply that all affected parties be given the opportunity to be heard at a meaningful time and in a meaningful manner." *Hilltop Basic Resources, Inc. v. Cnty. of Boone*, 180 S.W.3d 464, 469 (Ky. 2005) (internal quotation marks and citations omitted). "However, neither the statute nor due process requires an evidentiary hearing prior to the extension of a DVO." *Cottrell v. Cottrell*, 571 S.W.3d 590, 592 (Ky. App. 2019). *See also Kessler v. Switzer*, 289 S.W.3d 228, 232 (Ky. App. 2009).

Here, Garry was served with a copy of the motion and the Trial Court's order scheduling the hearing that provided Garry with the necessary log-in

information to participate in the hearing by Zoom. Thus, Garry received adequate notice and a meaningful opportunity to be heard. Garry chose not to appear via Zoom, but he did not show that he was unable to do so. Garry's deliberate failure to participate in the hearing as directed by the Trial Court constitutes a waiver of his right to contest Gloria's motion.

We also reject Garry's assertion that holding the hearing by Zoom violated his constitutional rights. First, the Trial Court was not absolutely required to conduct a hearing at all before resolving Gloria's motion. *Cottrell*, 571 S.W.3d at 592. Second, Garry cites no authority that prevents a Trial Court from electing to conduct a hearing electronically on a motion to extend a DVO.

Section A of Order 2022-12 from the Kentucky Supreme Court provides that "Courts are encouraged to continue hearing civil and criminal matters using available telephonic and video technology to conduct proceedings remotely."[5] Moreover, a Special Judge presided over this matter, and thus, the interests of judicial economy favored conducting a hearing electronically to avoid the inefficiency of the Judge having to travel from his normal duty station to Rockcastle County and back again to preside over one hearing on one motion. Even if conducted by Zoom, the hearing was still an official Court proceeding

[5] That order may be viewed at https://www.kycourts.gov/Courts/Supreme-Court/Supreme%20Court%20Orders/202212.pdf (last visited February of 2026).

presided over by a Judicial Officer that afforded Garry an opportunity to be heard in a meaningful manner—an opportunity that he intentionally failed to take. In short, the Trial Court had the discretion to conduct a hearing on whether the DVO should be extended remotely, and Garry has not shown an abuse of that discretion.

Because Garry deliberately waived his right to be heard regarding Gloria's motion, we decline to address further any alleged errors.

CONCLUSION

For the foregoing reasons, it is ORDERED that the brief submitted by Garry Edwards is STRICKEN, and this appeal is DISMISSED.

ALL CONCUR.

ENTERED: March 6, 2026

HON. AUDRA J. ECKERLE
JUDGE, COURT OF APPEALS

BRIEF FOR APPELLANT:

Garry Edwards, *Pro Se*
Somerset, Kentucky

NO BRIEF FOR APPELLEES.