RENDERED: NOVEMBER 13, 2026; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2025-CA-1356-ME

DEVON ISSAK TURNER — APPELLANT

v.

APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE ROSS EWING, JUDGE
ACTION NO. 25-D-00859-001

SYDNEY PARKER HIGGINS — APPELLEE

OPINION
AFFIRMING

** ** ** ** **

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

KAREM, JUDGE: Devon Issak Turner appeals *pro se* from the Fayette Circuit Court's October 10, 2025, judgment granting Sydney Parker Higgins an interpersonal protective order ("IPO"). After careful review of Turner's brief, the record, and the law, we affirm.

As a preliminary matter, we address the parties' failure to comply with the Kentucky Rules of Appellate Procedure ("RAP").[1]

RAP 32(A)(4) requires that an appellant's brief include "citations of authority pertinent to each issue of law" and "a statement with reference to the record showing whether [the appellant's argument] was properly preserved for review[.]" Turner seemingly complied with this rule; however, after extensive research, this Court determined that four of the cases he cited do not exist and that, even when citing genuine opinions, the legal authority he cited does not stand for the propositions he claims. Additionally, Turner's preservation statement does not include the required references to the record. As such, Turner failed to comply with RAP 32(A)(4).

RAP 30(A) requires that "briefs shall be filed by the respective parties." With an exception that does not apply herein, this includes appellees. *Id.* Higgins did not file a brief, and she therefore failed to comply with RAP 30(A).

When appellate advocates fail to abide by the rules, our options are to: "(1) ignore the deficiency and proceed with the review; (2) strike the brief or its offending portions, [RAP 31(H)]; or (3) review the issues raised in the brief for manifest injustice only." *Hallis v. Hallis*, 328 S.W.3d 694, 696 (Ky. App. 2010)

[1] Although Turner, as a *pro se* litigant, is not held to the same standard as legal counsel, he is nevertheless bound by the RAPs. *Koester v. Koester*, 569 S.W.3d 412, 415 (Ky. App. 2019).

(citing *Elwell v. Stone*, 799 S.W.2d 46, 47 (Ky. App. 1990)). Additionally, regarding Higgins's failure to file a brief specifically, our options include to: (1) accept Turner's statement of the facts and issues as correct; (2) reverse the judgment if Turner's brief reasonably appears to sustain such action; or (3) regard Higgins's failure as a confession of error and reverse the judgment without considering the merits of the case. RAP 31(H)(3).

"The decision as to how to proceed in imposing such penalties is a matter committed to our discretion." *Roberts v. Bucci*, 218 S.W.3d 395, 396 (Ky. App. 2007). We are conscious of the significance of an IPO both in terms of the protection and security it affords Higgins and the impact and harm that an improper order would have on Turner. As such, we elect to review the matter on its merits to the extent permitted by Turner's deficient brief, although we will not research his arguments for him. *See Hadley v. Citizen Deposit Bank*, 186 S.W.3d 754, 759 (Ky. App. 2005). We also caution Turner that any future non-compliant filings with this Court, or any other level of court, may be met with penalties.

BACKGROUND FACTS AND PROCEDURAL HISTORY

In July 2015, Higgins filed a petition alleging that Turner had threatened to kill her on multiple occasions and to ruin her life if she spoke to the police, that he had stolen her dog and attempted to take it across state lines, and

that he had stalked her personally and vicariously for approximately three months. Based on the allegations, the court granted a temporary IPO.

The court held a final hearing on October 10, 2025, and Higgins was the only witness. Higgins testified that she started dating Turner in August 2024, and that he repeatedly threatened to hurt or kill her during their relationship if she did not behave as he wanted. In support, she offered two text exchanges in which Turner said, "[d]on't make me shoot you in the head" and "I'll shoot you in your [] head." Higgins stated that these threats scared her, that Turner was always armed with a handgun, and that she knew if the relationship ended it would not be good for her.

Higgins testified that, in March 2025, Turner insisted on joining her on a girls' trip to Miami and demanded that she stay with him instead of her friends. She stated that during this trip they got into several arguments. Turner became angry with her and texted that they were done and he was taking her dog, who was being watched by one of his friends.

Higgins returned to Kentucky and filed a police report to regain possession of her dog. It was then that she began receiving notifications that she was being tracked by an unknown Apple Airtag. The Airtag had tracked her location for two days, and she provided the notification alerts to the court.

Later that month, she received a cease-and-desist letter regarding her alleged unauthorized use of Turner's audio and video recordings. The letter was purportedly from an Illinois lawyer, but Higgins believed it was created using generative AI. Then, she received a second cease-and-desist demand from the purported attorney via text to herself, two of her family members, and five other phone numbers that Higgins could not identify. Higgins also testified that she believed Turner drained her bank account, vandalized her car, and had four men physically assault a friend and her. Higgins acknowledged that Turner may have moved to Chicago, Illinois, but she was not sure of his location. Nevertheless, she stated that the abuse was likely to occur again because Turner had returned to Lexington multiple times since his purported move; he still had close family and a mutual friend residing there.

On cross examination, Higgins admitted that she had texted Turner on the first day of the Miami trip that she was going to shoot him and his friends because they were late. She explained it was a joke, and she has never possessed a firearm. She admitted that she had not spoken to Turner since March but stated that he had tried calling her and she had repeatedly blocked him from her social media. She admitted that she wrote Turner a note after the Miami trip apologizing for all that had happened, thanking him for the last seven months, and telling him that he could have her dog if she died in an upcoming surgery. She admitted that

she personally served Turner with the temporary IPO when she happened upon him at the bar after she got the paperwork and that she just put it on his table and left.

Higgins was questioned extensively about multiple TikTok posts. She admitted she made some posts about Turner after the breakup, although she denied the videos were made for him to see. Posts about Turner included: "I would win this trend[,] but he'd send me another cease and desist from his ChatGPT lawyer[,]" "see hi[m] in court[,]" and a picture of herself wearing a shirt with Turner's social media brand name modified to contain an expletive. Other posts read: "manipulate him, lie, tell the feds what he does, do makeup, take pics, be evil, ruin his life, wish nothing but the worst"; "karma was taking too long for the things he did"; and "you go low, I go legal[.]" Higgins was unsure when these posts were made, but denied they were about Turner, explaining they were just trend videos she had copied.

After the close of evidence, the court granted the IPO, and this appeal followed. We will introduce additional facts as they become relevant.

STANDARD OF REVIEW

If, following a hearing, "a court finds by a preponderance of the evidence that dating violence and abuse, sexual assault, or stalking has occurred and may again occur, the court may issue an [IPO]." Kentucky Revised Statutes

("KRS") 456.060. Dating violence and abuse includes "the infliction of fear of imminent physical injury[.]" KRS 456.010(2)(a). The preponderance of the evidence standard is satisfied when sufficient evidence establishes that the alleged victim was more likely than not to have been a victim of dating violence. *Dunn v. Thacker*, 546 S.W.3d 576, 580 (Ky. App. 2018).[2]

On appellate review of an IPO, the test is not whether we would have decided it differently, but whether the findings of the court were clearly erroneous or that the court abused its discretion. *Strong v. Gary*, 673 S.W.3d 77, 80 (Ky. App. 2023) (quoting *Cherry v. Cherry*, 634 S.W.2d 423, 425 (Ky. 1982)). A court's findings are clearly erroneous if they are not supported by substantial evidence. *Moore v. Asente*, 110 S.W.3d 336, 354 (Ky. 2003). Substantial evidence is:

> [e]vidence that a reasonable mind would accept as adequate to support a conclusion and evidence that, when taken alone or in the light of all the evidence, . . . has sufficient probative value to induce conviction in the minds of reasonable men. Regardless of conflicting evidence, the weight of the evidence, or the fact that the reviewing court would have reached a contrary finding, due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses because

[2] KRS Chapter 403 governs domestic violence orders ("DVO"), as opposed to IPOs which are found under KRS Chapter 456, and are at issue herein. Kentucky Court's, however, have routinely recognized that, although codified in different chapters of the KRS, the statutes are substantially similar and should be interpreted consistently. *See Smith v. Doe*, 627 S.W.3d 903, 909 (Ky. 2021); *Jones v. Jones*, 617 S.W.3d 418, 424 n.4 (Ky. App. 2021); and *Calhoun v. Wood*, 516 S.W.3d 357, 360 (Ky. App. 2017). Accordingly, we cite without any distinction to cases involving DVOs.

> judging the credibility of witnesses and weighing evidence are tasks within the exclusive province of the trial court. Thus, [m]ere doubt as to the correctness of [a] finding [will] not justify [its] reversal, and appellate courts should not disturb trial court findings that are supported by substantial evidence.

Id. (internal quotation marks and citations omitted). An abuse of discretion occurs when a court's decision is unreasonable, unfair, arbitrary, or capricious. *Caudill v. Caudill*, 318 S.W.3d 112, 115 (Ky. App. 2010) (citing *Kuprion v. Fitzgerald*, 888 S.W.2d 679, 684 (Ky. 1994)).

ANALYSIS

Turner's claims on appeal are: (1) substantial evidence does not support the court's finding that dating violence occurred and may occur again, (2) the court relied on improper character evidence, and (3) cumulative error.[3] We will address each claim in turn.

The court found that dating violence occurred when Turner inflicted fear of imminent physical injury on Higgins by threatening to kill her on multiple occasions. Turner argues this finding is not supported by substantial evidence because his texts threatening to shoot Higgins in the head were jokes, like she claimed her similar text was a joke. He also argues that Higgins demonstrated that

[3] We do not address Turner's arguments that are based on the faulty premise that the family court found that he had stalked Higgins.

she was not in imminent fear when she personally served him with the temporary IPO and continued posting about him on social media.

We are not persuaded by Turner's arguments. Here, Higgins testified that Turner scared her, that he repeatedly threatened, both verbally and by text, to harm or kill her, that she feared crossing him, and that she knew if the relationship ended it would not be good for her. It is not clear error for the court to credit sworn testimony so long as the testimony is not refuted by objective evidence or is so implausible on its face that a reasonable fact finder would not credit it. *Potts v. Commonwealth*, 172 S.W.3d 345 (Ky. 2005). And we conclude that the conflicting evidence cited by Turner is not of such weight as to render the court's reliance on Higgins's sworn testimony erroneous.

Turner also takes issue with the court's finding that dating violence may occur again based on his apparent ongoing interest in Higgins more than six months after the end of their relationship and the totality of the circumstances presented at trial. Turner asserts the court erred in relying on his monitoring of Higgins's social media because it penalized him for preparing his defense in this matter, and it was improper for the court to infer future danger from his lawful access of publicly available information. We again disagree with Turner. Turner did not testify, so the record does not support his claim that he solely viewed Higgins's social media to prepare his defense. Even if we were to give credence to

Turner's argument, his position is refuted by Higgins's testimony that Turner was monitoring her social media and that she had to block him repeatedly in the three months after their breakup before she filed her IPO petition. We also summarily reject Turner's unsupported claim[4] that the legality of his accessing Higgins's social media undermines or precludes the court's finding.

Lastly on this claim, Turner argues that the court's finding that dating violence may occur again is clearly erroneous because Higgins admitted that she had not spoken to him in the six months preceding the final hearing and because he had moved to Chicago. "The predictive nature of the standard requires the . . . court to consider the totality of the circumstances and weigh the risk of future violence against issuing a protective order." *Pettingill v. Pettingill*, 480 S.W.3d 920, 925 (Ky. 2015). Here, we are not convinced the court erred based on Higgins's testimony that Turner had continued to try to contact her, that Turner had been to Lexington multiple times since his alleged move, and that he continued to have close ties with the area.

Based on the above, we conclude the court's findings that dating violence occurred and may occur again are supported by substantial evidence.

[4] Turner cited *Baird v. Baird*, 234 S.W.3d 385, 388 (Ky. App. 2007), and a non-existent cite for the proposition that lawful actions taken for legitimate reasons cannot be transformed into harassment. *Baird* does not support this position.

Next, Turner argues that the court relied on improper evidence. In support, Turner identified multiple alleged errors, only one of which was preserved by a timely challenge. Because the admission of evidence cannot constitute error unless "a timely objection or motion to strike appears of record," Kentucky Rules of Evidence ("KRE") 103(a)(1), we address only the single preserved issue.

During her direct examination, Higgins testified that Turner was employed as a scammer and that he publicly claimed to teach people how to scam online. An error in the admission of evidence is not grounds for disturbing a judgment "unless refusal to take such action appears to the court inconsistent with substantial justice. The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties." Kentucky Rules of Civil Procedure ("CR") 61.01. Even accepting *arguendo* that the testimony was improper, the error did not impact the judgment, and it is therefore harmless.

Finally, Turner's claim of cumulative error is without merit as we have already determined that the only preserved error was harmless.

CONCLUSION

For the foregoing reasons, the judgment of the Fayette Court is AFFIRMED.

ALL CONCUR.

BRIEF FOR APPELLANT:

Devon Issak Turner, *pro se*
Morton Grove, Illinois

NO APPELLEE BRIEF FILED.