RENDERED: NOVEMBER 6, 2026; 10:00 A.M.
NOT TO BE PUBLISHED

# Commonwealth of Kentucky

# Court of Appeals

NO. 2025-CA-1613-ME

BILLIE WEST — APPELLANT

v.

APPEAL FROM WARREN CIRCUIT COURT
FAMILY COURT DIVISION
HONORABLE STEVE ALAN WILSON, JUDGE
ACTION NO. 25-D-00677-001

ABIGAIL TAYLOR HARBIN — APPELLEE

OPINION
REVERSING AND REMANDING

** ** ** ** **

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

JONES, L., JUDGE: Billie West brings this appeal from a December 17, 2025 Order of the Warren Circuit Court, Family Court Division (family court), granting an Interpersonal Protective Order (IPO) in favor of Abigail Harbin finding Billie West committed an act or acts of stalking and that same may again occur. We reverse and remand.

On December 4, 2025, Abigail filed petitions seeking entry of IPOs against Billie West and David Hensley.[1] Based upon the petitions, the family court granted emergency protective orders in favor of Abigail against both Billie and David. When the incidents that formed the basis for the petitions occurred, David was married to Abigail's aunt, Megan Hensley, but the couple was in the process of obtaining a divorce. Some members of Abigail's family apparently believed David was having an extramarital affair with Billie, a claim Billie denied.

A hearing on the petitions was conducted on December 15, 2025. Relevant to this appeal, Abigail, Billie, and Officer J. Delgado of the Bowling Green Police Department testified at the hearing. The testimony adduced at the hearing revealed that on several occasions in late November and early December of 2025, Billie visited Chuck E. Cheese where Abigail was employed. On the first occasion, Abigail stated Billie and David came into Chuck E. Cheese together and kept staring at Abigail and making her feel uncomfortable. The following week, Abigail was working as a hostess for her cousin's birthday party at Chuck E. Cheese when Billie came into the restaurant. Abigail claimed Billie immediately started screaming and cursing at Abigail's grandmother, Lisa Alderson.[2] In an

[1] The petition for entry of an IPO that Abigail filed against David Hensley in Warren Circuit Court, Family Court Division (Action No. 25-D-00678-001) was dismissed following a hearing. The order dismissing was entered December 15, 2025, and no appeal was taken from that order.

[2] Lisa Alderson is Abigail's maternal grandmother and the mother of Abigail's aunt, Megan, who was married to David.

attempt to avoid further conflict, Abigail said her family promptly left the restaurant. Billie stayed and called the police. Officer Delgado responded to the call. Abigail further testified she later asked her boss if she could leave work early as she was "uncomfortable and scared for her life" as she had heard Billie talking about guns. Abigail testified that the day following the party, she went into Chuck E. Cheese to pick up her schedule and Billie was there again. Then, the very next day, Billie came into Chuck E. Cheese while Abigail was working. Billie called the police and reported that Abigail was taking pictures of Billie's children. The following day, Abigail ran into Billie at the mall, and Abigail left because she was fearful of Billie. On cross-examination, Abigail confirmed that Billie had been granted an IPO against Lisa and several of Abigail's family members had unsuccessfully sought to obtain IPOs against Billie.

Billie testified she was married, had five children, and David was a long-time friend of her family. Billie further stated her family has a pass to Chuck E. Cheese, and they go there frequently to take their special needs child. Billie testified that although she had an IPO against Lisa, she didn't immediately recognize her upon entering Chuck E. Cheese. Billie further stated she did not know Abigail and had never communicated with her.

Officer Delgado also testified at the evidentiary hearing. Officer Delgado testified that he confirmed Lisa was the first to arrive at Chuck E. Cheese

that day and Billie arrived after Lisa. He further testified that Lisa, who was in the restaurant's parking lot, was non-compliant and had to be placed in handcuffs.

Following the hearing, an order was entered December 17, 2025, granting an IPO in favor of Abigail against Billie. The family court found that Billie had committed an act or acts of stalking against Abigail and that such act or acts may again occur. This appeal followed.

As a preliminary matter, we note that Abigail failed to file an appellee's brief herein. Pursuant to RAP[3] 31(H)(3), this Court may impose various penalties upon a party that does not file a brief. However, given the serious nature of interpersonal protective orders, we decline to impose any such penalty. We likewise note that Billie's brief lacks a preservation statement for her argument as required by RAP 32(A)(4). RAP 32(A)(4) requires "a statement with reference to the record showing whether the issue was properly preserved for review and, if so, in what manner." A preservation statement is not simply a minor technical or perfunctory requirement in our appellate rules. Indeed, the purpose of requiring a preservation statement:

> is so that we, [as] the reviewing Court, can be confident the issue was properly presented to the trial court and therefore, is appropriate for our consideration. It also has a bearing on whether we employ the recognized standard of review, or in the case of an unpreserved error, whether

[3] Kentucky Rules of Appellate Procedure.

> palpable error review is being requested and may be granted.

*Oakley v. Oakley*, 391 S.W.3d 377, 380 (Ky. App. 2012).

The available consequences for Billie's failure to substantially comply with our appellate rules include striking her brief. RAP 10(B)(3). However, we elect to disregard Billie's lack of a preservation statement as it is clear what order is being appealed and the record is not voluminous. We remind Billie's counsel that a search on Westlaw reveals he has been previously warned about the consequences of failure to include a preservation statement and should not expect continued leniency. *See Hampton v. Commonwealth*, ___ S.W.3d ____, No. 2025-CA-0785-MR, 2026 WL 2065696 (Ky. App. Jul. 17, 2026), *discretionary review filed* (Aug. 6, 2026).

Upon reviewing a petition for an IPO, the family court must decide whether a basis for the petition exists; if so, the court shall conduct an evidentiary hearing. KRS[4] 456.040(1)(a). Following the evidentiary hearing, the family court must make the necessary findings of fact. This Court reviews the family court's findings of fact under the clearly erroneous standard. *Jones v. Jones*, 617 S.W.3d 418, 423 (Ky. App. 2021); Kentucky Rules of Civil Procedure (CR) 52.01. A finding of fact is not clearly erroneous if supported by substantial evidence of a

[4] Kentucky Revised Statutes.

probative value. *Jones*, 617 S.W.3d at 423 (citing *Moore v. Asente*, 110 S.W.3d 336, 354 (Ky. 2003)). And, due regard shall be given to the family court regarding the credibility of witnesses. CR 52.01. We review issues of law *de novo*. *Halloway v. Simmons*, 532 S.W.3d 158, 161 (Ky. App. 2017).

Billie contends the evidence presented at the hearing was insufficient to warrant issuing an IPO. More specifically, Billie contends she did not engage in stalking as defined by KRS Chapter 456; therefore, the IPO was issued in error.

KRS Chapter 456 permits a victim of stalking to petition the court for an IPO against the perpetrator. KRS 456.030; *Halloway*, 532 S.W.3d at 161. Following an evidentiary hearing, the family court must find by a preponderance of the evidence that stalking has occurred and may occur again, before issuing an IPO. KRS 456.060(1). "The preponderance of the evidence standard is met when sufficient evidence establishes that the alleged victim 'was more likely than not to have been a victim of domestic violence.'" *Baird v. Baird*, 234 S.W.3d 385, 387 (Ky. App. 2007) (quoting *Commonwealth v. Anderson*, 934 S.W.2d 276, 278 (Ky. 1996)). More particularly, in this case, the family court could issue an IPO if it found by a preponderance of the evidence that stalking had occurred and may occur again. *See* KRS 456.060(1).

KRS 456.010(8), as it existed at the time of these events, defines stalking to include conduct that is prohibited under KRS 508.150.[5] KRS 508.150 defines stalking in the second degree as follows:

> (1) A person is guilty of stalking in the second degree when he intentionally:
>
> (a) Stalks another person; and
>
> (b) Makes an explicit or implicit threat with the intent to place that person in reasonable fear of:
>
> 1. Sexual contact as defined in KRS 510.010;
>
> 2. Physical injury; or
>
> 3. Death.

And, the term "stalk" is defined in KRS 508.130, in relevant part, as follows:

> (1) (a) To "stalk" means to engage in an intentional course of conduct:
>
> 1. Directed at a specific person or persons;
>
> 2. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and
>
> 3. Which serves no legitimate purpose.

[5] KRS 508.150 was repealed effective July 15, 2026. As provided in 2026 Ky. Acts Ch. 67 § 17, the Act shall not affect the validity of an IPO "issued under KRS Chapter 456 prior to the effective date of this Act where the basis of the petition was stalking." The effective date of the Act was July 15, 2026, well after the incidents described herein occurred. KRS 456.010(8) was amended to reflect this, defining stalking as conduct prohibited by KRS 508.130. 2026 Ky. Acts Ch. 67 § 10.

(b) The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.

(2) "Course of conduct" means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose.

Under the above statutes, Abigail was required to prove by a preponderance of the evidence that Billie stalked Abigail by intentionally: (1) making implicit or explicit threats to Abigail that placed her in fear of physical injury or death, and (2) engaging in a course of conduct, including two or more acts, that were harassing, annoying, alarming, or intimidating and were directed toward Abigail with no legitimate purpose and which would cause a reasonable person in Abigail's position substantial mental distress. *See Strong v. Gary*, 673 S.W.3d 77, 80 (Ky. App. 2023).

In the case *sub judice*, clearly absent from the evidence presented at the evidentiary hearing was any implicit or explicit threat with the intent to place Abigail in reasonable fear of sexual contact, physical injury, or death. In fact, there was no evidence presented that Billie even talked to Abigail during the brief encounters. Abigail mentioned she heard Billie reference "guns" but did not say this was part of a threat or elaborate on the context.[6] In the absence of substantial evidence to support the family court's finding that stalking occurred and may occur

[6] Video Record 12/15/2025 at 12:07:03 p.m.

again, we are compelled to conclude that the family court abused its discretion by issuing an IPO against Billie under the facts presented at the hearing. In sum, we reverse the December 17, 2025 IPO granted in favor of Abigail against Billie and remand to the family court to dismiss the Petition for Order of Protection.

We view any remaining contentions of error as moot or without merit.

For the foregoing reasons, the December 17, 2025 Interpersonal Protection Order is reversed, and this matter is remanded to the family court for proceedings consistent with this Opinion.

ALL CONCUR.

BRIEF FOR APPELLANT:

Matthew J. Baker
Bowling Green, Kentucky

NO BRIEF FOR APPELLEE.