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NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-0069-ME

STEPHEN SHIELDS — APPELLANT

v.

APPEAL FROM BOONE FAMILY COURT
HONORABLE JENNIFER R. DUSING, JUDGE
ACTION NO. 25-D-00323-001

TASHA ROBINSON — APPELLEE

OPINION
AFFIRMING

** ** ** ** **

BEFORE: CETRULO, MCNEILL, AND TAYLOR, JUDGES.

TAYLOR, JUDGE: Stephen Shields brings this appeal from a December 22, 2025, Domestic Violence Order (DVO) entered by the Boone Family Court. We affirm.

BACKGROUND

The parties to this appeal, Stephen Shields and Tasha Robinson, had been in a relationship for several years and lived together for an unspecified portion of that time in Boone County. Their relationship ended in June of 2025.

Robinson filed a petition/motion for order of protection in the Boone Family Court on October 2, 2025. The court entered an emergency protective order (EPO) on that date. Shields filed a motion to dismiss on October 8, 2025, arguing that the allegations failed to meet the legal requirements for a protective order, and that the petitioner's claims were unfounded.

After two continuances, the court held an evidentiary hearing on December 22, 2025. Both Robinson and Shields appeared with counsel and testified at the hearing. In her testimony, Robinson first described episodes when they were living together when Shields destroyed property in her presence. She asserted that he would physically attack everything but her. She testified that in 2023, he damaged her freezer by punching and kicking it. She said during fights he would punch the walls. Once during a fight, she went to the basement and he punched a hole through the door.

In the months after their breakup, Robinson testified that Shields called her repeatedly and sent numerous text messages to her. She testified that she blocked him from various social media sites and from texting her, after which he then resorted to emailing her. He showed up several times at her residence uninvited. She testified that she had informed him by text that he was not welcome. The first time he went to her residence uninvited, she was out of town. However, she learned he was there because he called her repeatedly and sent her

25-30 texts. The second time Shields came to her residence, Robinson told him she would call the police if he did not leave. She testified that he yelled at her through her doorbell camera continuously for five minutes even after her threat to call the police.

In early October of 2025, Sheilds showed up again at her residence in the late evening on the day before she sought the EPO. Although she was not at home, Shields used the doorbell camera to make accusations and call her offensive names. He returned the next morning at 6:30 a.m., but Robinson would not answer the door. She testified that she thought he had gone on his way when she left for work, but she discovered he was near her residence waiting in his car for her. He flipped her off as she passed, then followed her in his car on Ky. Route 16, weaving through traffic. When Shields caught up with Robinson, he yelled at her through his car window. Robinson described him as "extremely, extremely mad and, I mean, eyes bulging, veins popping. Screaming at me, telling me how he's going to ruin my life, wreck me and that I'm nothing." Video Record (V.R.) – Hearing, December 22, 2025, at 11:23:00 – 11:24:05.

Shields also testified at the hearing. He admitted punching holes in the walls but said that was early in the relationship, and that he never raised a hand to Robinson. He said there were some actions he was not proud of but that he had been to therapy for anger management. He admitted there were times that he had

been emotionally abusive, but he believed that Robinson had no reason to fear for her personal safety.

Following the hearing, Shields renewed his motion to dismiss, which was denied. The family court granted a DVO for a period of three years. The court entered the Administrative Office of the Courts (AOC) Order of Protection Form 275.3 and checked boxes to indicate that acts of domestic violence and abuse had occurred and may again occur. Record at 30-32. In a Calendar Order entered on December 23, 2025, the court made detailed findings and concluded that Shields had inflicted fear of imminent physical injury on Robinson and had engaged in acts of stalking which placed Robinson in fear for her safety. Record at 36-38. This appeal follows.

PRELIMINARY MATTER

As an initial matter, we note that Robinson failed to file a responsive brief in compliance with the Kentucky Rules of Appellate Procedure (RAP). Upon the failure to file an appellee brief, this Court may impose penalties under RAP 31(H)(3), which provides:

> If the appellee's brief has not been filed within the time allowed, the court 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.

The decision whether to impose any penalties is committed to our discretion. *See Roberts v. Bucci*, 218 S.W.3d 395, 396 (Ky. App. 2007). Because of the serious nature of the allegations in this case, we decline to impose any penalties and will proceed to review the appeal on the merits.

STANDARD OF REVIEW

A family court may issue a DVO pursuant to Kentucky Revised Statutes (KRS) 403.740(1) if it "finds by a preponderance of the evidence that domestic violence and abuse has occurred and may again occur[:]"

> The preponderance of the evidence standard is satisfied when sufficient evidence establishes 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). The definition of domestic violence and abuse, as expressed in KRS 403.720(1), includes "physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members [or members of an unmarried couple.]" The standard of review for factual determinations is whether the family court's finding of domestic violence was clearly erroneous. [Kentucky Rules of Civil Procedure (CR)] 52.01; *Reichle v. Reichle*, 719 S.W.2d 442, 444 (Ky. 1986). Findings are not clearly erroneous if they are supported by substantial evidence. *Moore v. Asente*, 110 S.W.3d 336, 354 (Ky. 2003). "[I]n reviewing the decision of a trial court the test is not whether we would have decided it differently, but whether the findings of the trial judge were clearly erroneous or that he abused his discretion." *Cherry v. Cherry*, 634 S.W.2d 423, 425 (Ky. 1982) (citation omitted). Abuse of discretion occurs when a court's decision is unreasonable, unfair, arbitrary or capricious.

> *Kuprion v. Fitzgerald*, 888 S.W.2d 679, 684 (Ky. 1994) (citations omitted).

Caudill v. Caudill, 318 S.W.3d 112, 114-15 (Ky. App. 2010) (footnote omitted).

ANALYSIS

Shields first contends that the family court erred in concluding that his conduct constituted a threat to Robinson due to the lack of evidence presented at the evidentiary hearing to support a finding of second-degree stalking. However, we note that Shields fails to provide a preservation statement in the "argument" section of his appellant's brief showing where or how this issue was preserved below, which is required under RAP 32(A)(4). The preservation statement is not just to pinpoint where the argument is preserved, it is required "so that we, the reviewing Court, can be confident the issue was properly presented to the trial court and therefore, is appropriate for our consideration." *Oakley v. Oakley*, 391 S.W.3d 377, 380 (Ky. App. 2012).

Regardless, we have elected to conduct a *de novo* review of the record below, including the video recording of the evidentiary hearing. The record reflects that Shields did not assert at the hearing before the family court that there was insufficient proof to conclude he had engaged in stalking. Likewise, he did not cross-examine Robinson on that issue either. On December 30, 2025, Shields filed a motion to reconsider the DVO entered on December 22, 2025, pursuant to CR 59.05. Therein, Shields argued that his conduct did not meet the statutory

definition of domestic violence and abuse and thus did not amount to stalking. Record at 39-43. However, on January 13, 2026, Shields moved to withdraw the motion before the family court could rule thereon. Record at 44. On the same day, Shields filed this appeal.

Our review looks to whether Robinson presented evidence at the evidentiary hearing that Shields was stalking her. The statutes relating to domestic violence orders do not define "stalking," but upon appellate review our Court has consistently borrowed the definition of "stalking" contained in and applied under the similar interpersonal protective order (IPO) statutes. *See Halloway v. Simmons*, 532 S.W.3d 158, 162 (Ky. App. 2017); *Meeks v Bandy*, ___ S.W.3d __, 8, 2026 WL 2357335 (Ky. App. 2026). At the time of the events of this case,[1] the IPO legislation at KRS 456.010(7) defined "stalking" as prohibiting the conduct which constitutes stalking under KRS 508.140 (stalking in the first degree) or KRS 508.150 (stalking in the second degree). In *Halloway*, this Court set forth the requirements to establish a petitioner's burden of proof:

> To summarize, for an individual to be granted an IPO [or a DVO] for stalking, he or she must at a minimum prove by a preponderance of the evidence that, an individual intentionally engaged in two or more acts directed at the victim that seriously alarmed, annoyed, intimidated, or harassed the victim, that served no legitimate purpose, and would have caused a reasonable

[1] House Bill 521, which became effective July 15, 2026, amended the definition of stalking in Kentucky Revised Statutes (KRS) 456.010 and in KRS 508.130, and repealed KRS 508.150.

> person to suffer substantial mental distress, and that these acts may occur again. KRS 508.130 and KRS 456.060. Additionally, the individual must prove that there was an implicit or explicit threat by the perpetrator that put the victim in reasonable fear of sexual contact, physical injury, or death. KRS 508.150.

Halloway, 532 S.W.3d at 162. Shields argues that the court did not make the required finding that Robinson suffered "substantial" mental distress, which he argues was absent, and the court erred because there was no implicit or explicit threat by him that put Robinson in reasonable fear of sexual contact, physical injury, or death.

The evidence presented by Robinson at the hearing detailed Shields' harassing conduct which included repeated calling, texting, and emailing Robinson. This fulfilled the requirement that there were two or more acts directed at the victim. The actions were not shown to serve a legitimate purpose. We have no difficulty agreeing with the family court that Robinson was placed under mental distress based upon Shields' course of conduct, which Shields did not deny. The family court entered a specific finding that Shields' actions caused Robinson mental distress, Record at 38. To the extent that the family court failed to make a specific finding of *substantial* mental distress, it was harmless error since the totality of Robinson's testimony sufficiently established that her mental distress was substantial.

Robinson's testimony also supported a finding of an implicit threat that put her in reasonable fear of sexual contact, physical injury, or death. Shields persisted in contacting her after she sought to block contact, and he repeatedly came to her residence knowing he was not invited or welcome on the premises. While there, he directed abusive and insulting remarks at her. There was adequate evidence from which the court could reasonably infer that Shields' escalating behaviors constituted an implicit threat that clearly placed Robinson in fear for her safety.

Shields also argues that he did not make physical contact with Robinson, and his threats were economic rather than physical.[2] This is not sufficient to overcome Robinson's evidence of an implicit threat. Moreover, the family court considered all of the evidence and found Robinson to be credible in her testimony, finding that she was "in fear for her safety." Record at 38. "[T]he family court is in the best position to judge the credibility of the witnesses and weigh the evidence presented." *Hohman v. Dery*, 371 S.W.3d 780, 783 (Ky. App. 2012). The court's finding that Shields' conduct amounted to stalking was not clearly erroneous.

[2] Tasha Robinson testified that Stephen Shields had threatened to go public with an unauthorized video he had made of the couple while living together and that he threatened to get her fired from her job.

Secondly, Shields argues that the evidence was insufficient for the court to conclude that domestic violence had occurred and may again occur. As noted, domestic violence and abuse is defined in KRS 403.720(2) as "[p]hysical injury, serious physical injury, stalking, sexual abuse, strangulation, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, strangulation, or assault between family members or members of an unmarried couple[.]" The court found the existence of domestic violence and abuse on the basis of infliction of fear of imminent physical injury. Record at 38.

Shields alleges this finding was not supported by the evidence. Again, Shields failed to include a preservation statement for this argument as required by RAP. Nevertheless, we will consider the argument as Shields challenged the sufficiency of the evidence of domestic violence and abuse during the hearing and renewed his motion to dismiss at the conclusion of the hearing.

Shields argues the record shows no violence or actual threats of same directed at Robinson by Shields and that he only engaged in verbal abuse, which he argues is not sufficient for finding a reasonable fear of imminent physical injury, citing *Pasley v. Pasley*, 333 S.W.3d 446, 448 (Ky. App. 2010). In *Pasley*, there was no testimony at the hearing that the petitioner was in fear of imminent physical injury. *Id.* In contrast Robinson testified about her fear. Shields also cites *Caudill v. Caudill*, 318 S.W.3d 112, 114 (Ky. App. 2010), where no testimony was given

on the infliction of fear from physical injury at the hearing. Again, Robinson testified about her fear of physical injury and even possible death. V.R. Hearing, December 22, 2025, 11:24:15 – 11:24:55. Thus, we do not find this authority to be supportive of Shields' claims.

Based on our review of the record, we conclude sufficient evidence was admitted at the hearing for the family court to conclude that Robinson feared imminent physical injury by Shields. The infliction of fear of imminent physical injury does not require finding that a physical injury actually occurred. *Hohman v. Dery*, 371 S.W.3d 780, 782-83 (Ky. App. 2012). In *Hohman*, the family court found that the infliction of fear of imminent physical injury occurred, despite the nonexistence of a physical injury. Therein, the petitioner's testimony that she felt threatened by the respondent's actions which included clenching his fists, yelling, and gritting his teeth was sufficient to establish fear of physical injury. *Id*.

At the hearing, when Robinson was asked why she sought the DVO, she responded in part: "Him chasing me down [Route] 16." V.R. Hearing, December 22, 2025, 11:11:20 – 11:20:50. She described his extreme anger when he confronted her, which was comparable to the respondent's actions in *Hohman* where this Court found was sufficient to support entry of a DVO. All of the foregoing supports a reasonable conclusion that Robinson feared imminent physical injury when Shields pursued her. Thus, there was substantial evidence to

support the court's conclusion that domestic violence and abuse occurred, with a likelihood to again occur. Again, the family court's detailed findings were not clearly erroneous.

For the foregoing reasons, the family court's DVO entered December 22, 2025, is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Darrell A. Cox
Covington, Kentucky

NO BRIEF FOR APPELLEE.