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NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-0735-ME

MICHAEL AARON JOSEPH — APPELLANT

v.

APPEAL FROM ANDERSON CIRCUIT COURT
HONORABLE S. MARIE HELLARD, JUDGE
ACTION NO. 14-D-00032-001

SHELBY LAYNE JOSEPH (DYE) — APPELLEE

OPINION
AFFIRMING

** ** ** ** **

BEFORE: COMBS, A. JONES, AND MOYNAHAN, JUDGES.

COMBS, JUDGE: Appellant, Michael Aaron Joseph, *pro se*, appeals from an Order of the Anderson Circuit Court Family Division extending a prior domestic violence Order (DVO) against him. After our review, we affirm.

On June 6, 2014, the Appellee, Shelby Layne Joseph (Dye), filed a domestic violence petition against Michael alleging that he had assaulted her with a pistol, held her down at gun point, and tattooed the word, "SLUT," on her back.

Michael was served with summons on June 6, 2014. On June 13, 2014, the court entered a DVO restraining Michael from committing further acts of abuse or threats of abuse and from any contact with Shelby effective until June 13, 2017. Since that time, the family court has extended the DVO several times upon Shelby's timely motions, as follows:

> 04/30/2017: Shelby filed motion to amend to extend original 2014 DVO.
> 05/09/2017: Amended DVO entered extending prior DVO until May 9, 2020.
>
> 04/20/2020: Shelby filed motion to amend to extend prior DVO.
> 04/28/2020 Amended DVO entered extending prior DVO until April 28, 2023.
>
> 01/30/2023: Shelby filed motion to amend to extend prior DVO.
> 04/11/2023: Amended DVO entered extending prior DVO until April 11, 2026.

Shelby filed the most recent motion on March 25, 2026. On March 31, 2026, the family court heard the motion and entered an Amended DVO -- extended for three years until March 31, 2029. That DVO is the subject of this appeal. The accompanying March 31, 2026, docket Order reflects the following findings:

> [Michael] registered numerous objections to extension. However, after a review of the record, and upon testimony of [Shelby], it is apparent that [Shelby] continues to be in fear for her safety, and in fact, has a difficult time even being in the presence of [Michael] for

> the purpose of asking for an extension. [Shelby] reasonably fears for her safety as a result of the past history of domestic violence, and [Michael] is attempting to reach out to family members of [Shelby] which is concerning to [Shelby].

On April 9, 2026, Michael filed a motion to alter, amend, or vacate pursuant to CR[1] 59.05. By docket Order entered on April 21, 2026, the court allowed Shelby ten days to respond and advised that the matter would be taken under submission on May 4, 2026. On April 29, 2026, Shelby filed a response in letter form. On May 4, 2026, Michael filed a reply to Shelby's response and a Form AOC-280 notice of submission for final adjudication.

On May 15, 2026, the family court entered an Opinion and Order denying Michael's CR 59.05 motion, noting that it found Shelby's testimony credible.

Then on May 20, 2026, Michael filed another motion -- a combined motion to strike Shelby's April 29, 2026, *ex parte* letter and to reconsider findings of fact to correct the record under CR 52.02. The family court denied both motions by docket Order entered on June 9, 2026. The court explained that despite lack of certificate of service, Michael had filed a reply to Shelby's letter/response; thus, he had an opportunity to respond. The court considered the remainder of Michael's motion to be without merit.

[1] Kentucky Rules of Civil Procedure.

On June 9, 2026, Michael, *pro se*, filed a notice of appeal to this Court from the family court's Orders of May 15, 2026, and June 9, 2026.

Michael first argues that the family court lacked jurisdiction to enter the DVO -- thus rendering it void *ab initio*. In subsection "A" of this argument, Michael contends that the family court did not have personal jurisdiction over him "due to a total failure of service regarding the May 2017 extension order."

The original DVO was entered on June 13, 2014, effective until June 13, 2017. On May 1, 2017, Shelby timely moved to extend it. Hearing was set for May 9, 2017. The record reflects that notice of hearing was mailed to Michael on May 2, 2017, but was returned to the court clerk as "unable to forward." On May 9, 2017, the family court entered an Amended DVO extending the terms of the prior DVO for three years -- effective until May 9, 2020.

The family court had jurisdiction to extend the original 2014 DVO. Michael was properly before the court, and the DVO was still in effect when Shelby moved to extend it. **"**Once a court has acquired subject matter and personal jurisdiction, challenges to its subsequent rulings and judgment are questions incident to the exercise of jurisdiction rather than to the *existence* of jurisdiction." *Hisle v. Lexington–Fayette Urban County Government*, 258 S.W.3d 422, 429–30 (Ky. App. 2008) (quoting *Buckalew v. Buckalew*, 754 N.E.2d 896, 898 (Ind.

2001)); *see Wooldridge v. Zimmerer*, 311 S.W.3d 254, 255-56 (Ky. App. 2010) (discussing jurisdictional prerequisites for extending DVO).

The issue is one of due process rather than of jurisdiction. Michael did not receive notice of the May 9, 2017, hearing and thus did not have an opportunity to be heard. However, Michael did not file a post-judgment motion to set aside the 2017 Amended DVO. Nor did he appeal after the DVO was extended in 2020 and again in 2023. Indeed, Michael states that he "raised the threshold issue of the foundational 2017 failure of service for the first time in open court" at a June 9, 2026, hearing.[2] (Appellant's brief, pp. 4, 7.) That objection occurred nine years after the fact. In light of Michael's failure to raise the issue within a reasonable time and his continued participation in subsequent proceedings, we consider the issue waived.

Subsection "B" of Michael's first argument concerns an alleged "irregular entry dated May 9, 2019" on the official docket sheet. There is ***no*** entry on the certified case history dated May 9, 2019, or in 2019 whatsoever.

Michael's second argument also contains subsections "A" and "B." Both lack merit and require no further discussion.

[2] June 9, 2026, was the date of the motion hour concerning Michael's May 20, 2026, combined motion to strike and motion to reconsider.

The essence of Michael's third argument is that the evidence was insufficient to support extending the DVO. We disagree.

> KRS[3] 403.740(4) does not require proof of additional acts of domestic violence before extending a DVO. Rather, the absence of additional actions of domestic violence is merely one factor which the court may consider in deciding whether to extend a DVO. The trial court may consider all facts and circumstances, including the nature, extent and severity of the original acts of domestic violence, in finding that there is a continuing need for the DVO.

Cottrell v. Cottrell, 571 S.W.3d 590, 592 (Ky. App. 2019) (citations omitted).

At the March 31, 2026, hearing on Shelby's motion to extend the DVO, the court addressed Michael, stating that:

> I hear your argument and I understand your argument. However, I'm not going to ignore what brought, gave rise to this in the first place . . . . I think it was very serious and the fact that she [Shelby] tells me today that she's having a hard time even being here is not something that the court takes lightly.

The family court considered all the appropriate factors. As was its prerogative, the court found Shelby's testimony credible. *Pennie v. Mohamed*, 720 S.W.3d 606, 620 (Ky. App. 2025). The evidence presented established sufficient grounds to reissue the DVO. We find no error.

[3] Kentucky Revised Statutes.

Michael's remaining arguments lack merit and do not require further discussion other than to note that "[a] party cannot invoke CR 59.05 to raise arguments and to introduce evidence that should have been presented during the proceedings before the entry of the judgment." *Gullion v. Gullion*, 163 S.W.3d 888, 893 (Ky. 2005). Moreover, orders denying CR 59.05 motions "are interlocutory and not appealable. . . . [W]e construe the attempt to appeal from the denial of CR 59.05 relief as an appeal from the underlying judgment. . . . [W]e do not review the family court's denial of the motion to vacate in itself." *Turner v. Turner*, 672 S.W.3d 43, 49-50 (Ky. App. 2023).

We affirm the Order of the Anderson Circuit Court.

ALL CONCUR.

BRIEFS FOR APPELLANT:	BRIEF FOR APPELLEE:
Michael A. Joseph, *pro se* Louisville, Kentucky	Shelby Layne Dye, *pro se* Lawrenceburg, Kentucky