

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2010-CA-000704-ME

RUSSELL R. HINKLE

APPELLANT

v. APPEAL FROM BULLITT CIRCUIT COURT  
HONORABLE ELISE SPAINHOUR, JUDGE  
ACTION NO. 10-D-00067

CARRIE L. THOMPSON

APPELLEE

OPINION  
AFFIRMING

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BEFORE: CLAYTON, NICKELL AND THOMPSON, JUDGES.

NICKELL, JUDGE: Russell R. Hinkle, *pro se*, appeals from entry of a domestic violence order by the Bullitt Circuit Court. We affirm.

Hinkle and Carrie L. Thompson divorced in December of 2009. On February 25, 2010, Thompson filed a domestic violence petition alleging:

[Hinkle] has harassed me and my children since we left. We have been divorced since December. He continues to show up at my job & calls the store almost daily. He has

followed me and when I pulled onto my dad's street he took off. After him calling the store to see if I was there I had a nail in my tire. He is sending letters to my childrens (sic) school & starting a website that is slandering to me and my kids. I am scared for me and my kids of what he might do next. I have even contacted the FBI regarding the website. Please HELP.

A hearing was convened on March 8, 2010, at which both Thompson and Hinkle testified. Thompson, who works at Sam's Club, confirmed the allegations stated in the petition were true. Hinkle, a retired teacher/principal, was represented by counsel who moved to dismiss the petition because it did not allege violence or the threat of violence. The court responded that it was concerned about Hinkle stalking Thompson and the taking of proof continued. Hinkle denied following Thompson, but admitted launching a website to give his side of the divorce. He denied threatening Thompson on the website. He explained that the only time he goes to Sam's Club is to pick up photos that have been processed or to buy household items. If he sees Thompson during his visits to Sam's Club he inquires of her how their sons are doing. He denied sending letters to the children's school and putting a nail in Thompson's tire. Through counsel, Hinkle suggested he was contacting Thompson to collect a debt from her that remained unpaid after the divorce.

At the conclusion of eleven minutes of testimony, the court stated: "I think an act of domestic violence has occurred here, i.e. you cannot repeatedly call somebody at work, show up at their place of employment, and quite frankly, I think you were following her." Thereafter, the court ordered that Hinkle have no

contact with Thompson and remain 1,500 feet away from her; that Hinkle attend anger management counseling; and that Thompson attend the Choices counseling program. The court stated it thought there was a better way to handle a divorce than “going online and following and bugging somebody at work.”

Hinkle appealed to this Court. We set forth his one-page brief in its entirety.

### INTRODUCTION

This is a case in which an individual appeals a Domestic Violence Order (DVO). The specific issues are: 1. no violence occurred nor were there any threats of violence; 2. the judge who signed the DVO failed to rule on a motion to dismiss; 3. of the six allegations contained in the Domestic Violence Petition, there was only one piece of evidence submitted on one of the six allegations while the other allegations went unsubstantial (sic) without evidence; 4. the individual on which the DVO was placed was never informed by the Judge not (sic) his attorney that a “trial” was in process.

Appellant, Russell R. Hinkle did not check out the record.

Appendix consists of:           Copy of DVO  
  Page 3 of DVO Summons  
  Copy of video of “hearing”

## CONCLUSION

I am not a lawyer but it (sic) seems clear that justice was not served and I feel that before a person can be placed on a DVO and court ordered to attend anger management counseling that it should be shown that violence or threat of violence should be demonstrated, that the judge should have ruled on the motion to dismiss, that evidence must be presented proving allegations and that one should be informed that a trial is in progress!

We are mindful that Hinkle is conducting his own appeal and courts generally hold *pro se* litigants to a lesser standard than that imposed upon attorneys, with some leniency being given when evaluating compliance with procedural requirements. *Miller v. Commonwealth*, 416 S.W.2d 358, 360 (Ky. 1967), *Case v. Commonwealth*, 467 S.W.2d 358, 360 (Ky. 1971). However, there are rules, both procedural and substantive, that are so deeply ingrained in our jurisprudence that even under the rule of lenity, they cannot be wholly ignored. For example, Hinkle's brief fails to cite any authority. If a party does not cite authority for an argument, we are not required to address the argument. See CR<sup>1</sup> 76.12; *Cherry v. Augustus*, 245 S.W.3d 766, 781 (Ky. App. 2006). His brief is also devoid of citations to the record or a statement regarding proper preservation of the alleged errors in the proceedings below, both of which are mandated by CR 76.12. Thus, he has failed to even minimally comply with the procedural requirements for filing a brief.

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<sup>1</sup> Kentucky Rules of Civil Procedure.

We afford leeway to *pro se* litigants. *Beecham v. Commonwealth*, 657 S.W.2d 234, 236 (Ky. 1983). However, the deficiencies in Hinkle’s brief are so glaring and so pervasive it is extremely difficult to determine the issues he asks us to review on appeal. Nevertheless, because of the leniency afforded *pro se* litigants, we will comment briefly upon the issues mentioned in Hinkle’s brief.

Pursuant to KRS<sup>2</sup> 403.750(1), a court may enter a domestic violence order “if it finds from a preponderance of the evidence that an act or acts of domestic violence and abuse have occurred and may again occur.” “Domestic violence and abuse,” as defined in the statutes, 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[.]” KRS 403.720(1). A DVO may restrain the adverse party from certain conduct, including contacting or communicating with the victim, committing further acts of domestic violence and abuse, and disposing of or damaging any of the parties' property. KRS 403.750(1)(a)-(c). *Kessler v. Switzer*, 289 S.W.3d 228 (Ky. App. 2009). Thompson’s testimony, confirming the truthfulness of the allegations contained in the domestic violence petition, was sufficient evidence to support the finding of the court that Thompson “more likely than not was a victim of domestic violence.” *Holland v. Commonwealth*, 192 S.W.3d 433, 437 (Ky. App. 2005) (citing *Commonwealth v. Anderson*, 934 S.W.2d 276, 278 (Ky. 1996)).

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<sup>2</sup> Kentucky Revised Statutes.

As for the trial court's failure to issue a specific order denying the motion to dismiss the domestic violence petition, it is clear from the court's action in entering the domestic violence order that the motion to dismiss was denied. Furthermore, Hinkle did not move for specific findings of fact as required by CR 52.01.

Next, during the hearing, Thompson alleged that Hinkle repeatedly came to her workplace and harassed her. Hinkle acknowledged coming to the store and chatting with Thompson, but attributed his visits to picking up photos or buying household goods. Thus, there was evidence that Hinkle was visiting the store. There was also proof that Hinkle had sent a letter to his children's school and that he had launched a website, ostensibly to tell his side of the divorce. Based upon the foregoing recitation of evidence, the trial court did not commit clear error in entering the domestic violence order. CR 52.01, *Reichle v. Reichle*, 719 S.W.2d 442 (Ky. 1986).

Finally, Hinkle alleges he was never told a "trial" was underway. The court called the case and swore both Thompson and Hinkle. Thereafter, the court began hearing proof in the matter. Hinkle is a retired teacher/principal. As an educated man, who knew enough to obtain counsel for the hearing, we place responsibility on him to understand the purpose of the hearing, as specified in the summons he received, was "to respond to these allegations" of domestic violence. Thus, Hinkle's allegation of error is without merit.

For the foregoing reasons, the entry of the domestic violence order by the Bullitt Circuit Court is AFFIRMED.

ALL CONCUR.

BRIEF FOR APPELLANT:

Russell R. Hinkle, *pro se*  
Harrodsburg, Kentucky

BRIEF FOR APPELLEE:

No brief filed.