

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2015-CA-001575-ME

WILLIAM DEANGELO

APPELLANT

v.

APPEAL FROM JEFFERSON CIRCUIT COURT  
HONORABLE DEANA C. MCDONALD, JUDGE  
ACTION NO. 15-D-501985-001

MICHELLE DEANGELO

APPELLEE

OPINION  
AFFIRMING

\*\* \*\* \* \* \* \* \*

BEFORE: KRAMER, CHIEF JUDGE; ACREE AND D. LAMBERT, JUDGES.

D. LAMBERT, JUDGE: In this appeal, William DeAngelo argues the Jefferson Family Court improperly entered a domestic violence order (DVO) against him.

After review, we affirm.

## I. BACKGROUND

William DeAngelo and Michelle DeAngelo were married for 13 years. They had four children together. As they were going through a divorce, however, their relationship was filled with animosity. Michelle petitioned for the family court to enter a DVO against William. The family court entered the DVO after Michelle testified that William had threatened to kill her if she divorced him and that he had access to a firearm to make good on his threat. The family court also found based on the testimony of Michelle's sister, who the family court determined was a credible witness, that William once threw his children's diaper bag at Michelle in the front yard of their home. This appeal followed the denial of William's motion to alter, amend or vacate the entry of the DVO.

## II. STANDARD OF REVIEW

When reviewing the issuance of a domestic violence order, the family court's factual findings will not be set aside unless they were clearly erroneous. Kentucky Rules of Civil Procedure (CR) 52.01. Factual findings are not clearly erroneous if supported by substantial evidence. *Moore v. Asente*, 110 S.W.3d 336, 354 (Ky. 2003). The family court's ultimate decision as to whether domestic violence occurred is reviewed for an abuse of discretion. *Caudill v. Caudill*, 318 S.W.3d 112, 114 (Ky. App. 2010). The decision must be reasonable and not arbitrary. *Kentucky Nat. Park Com'n ex rel. Commonwealth v. Russell*, 191 S.W.2d 214, 217 (Ky. 1945).

### III. DISCUSSION

On appeal, William argues the family court abused its discretion in finding that he engaged in domestic violence. He specifically contends that the family court's factual findings were insufficient under Kentucky law to qualify as domestic violence and abuse. For the following reasons, however, we disagree.

Kentucky Revised Statutes (KRS) 403.740 authorizes the family court to issue a DVO if it finds "by a preponderance of the evidence that domestic violence and abuse has occurred and may again occur." Kentucky further defines domestic violence and abuse as "physical injury, serious physical injury, stalking, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members . . . ." KRS 403.720.

Here, the family court found William had threatened to kill Michelle and had a gun in a closet at his home based on Michelle's testimony. The family court also found, based on the testimony of a credible witness, that in addition to a history of angry outbursts during the marriage, William once threw a diaper bag at Michelle while cursing. These findings were reasonably based on information in the record; and from these reasonable findings, the family court properly concluded that William had inflicted fear of imminent physical injury, assault, and physical injury against Michelle and that he would continue to do so in absence of a court order. Accordingly, the Jefferson Family Court's decision to issue the DVO is hereby affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Victor E. Tackett, Jr.  
New Albany, Indiana

BRIEF FOR APPELLEE:

Michelle Deangelo, pro se  
Louisville, Kentucky