

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
BELMONT COUNTY

GREG P. GIVENS,
Petitioner-Appellant,

v.

CLYDE E. YATES AND KIMBERLY MICHELLE CRAIG YATES,
Respondents-Appellees.

OPINION AND JUDGMENT ENTRY
Case Nos. 22 BE 0043; 22 BE 0044

Civil Appeal from the
Court of Common Pleas of Belmont County, Ohio
Case Nos. 22 DR 0206; 22 DR 0207

BEFORE:

Cheryl L. Waite, Carol Ann Robb, David A. D'Apolito, Judges.

JUDGMENT:

Affirmed.

Greg P. Givens, Pro se, P.O. Box 117, Bellaire, Ohio 43906, Petitioner-Appellant

Clyde E. Yates, Jr. Pro se, 3743 Highland Avenue, Shadyside, Ohio 43947, Respondent-Appellee.

Dated: December 21, 2023

WAITE, J.

{¶1} *Pro se* Appellant Greg P. Givens has appealed the denial of two petitions for civil stalking protection orders (CSPO) against Appellees Clyde E. Yates and Kimberly Michelle Craig Yates. Appellant's assignments of error suggest that the trial court's ruling was against the manifest weight of the evidence. Appellant has not provided the transcript of the final hearing on this matter, and therefore, we must presume the regularity of the proceedings below and affirm the judgment of the trial court.

History of the Case

{¶2} Because there is no transcript of proceedings, the record of this case is limited to the trial court's file and its judgment entries. On June 23, 2022, Appellant filed two separate petitions for CSPO in the Belmont County Court of Common Pleas against Clyde E. Yates (Case No. 2022 DR 00206) and Kimberly Michelle Craig Yates (Case No. 2022 CR 00207). On June 24, 2022, a magistrate held an *ex parte* hearing with Appellant present. The court did not grant a temporary *ex parte* protection order, but ordered a full hearing, set for July 14, 2022. The hearing was continued to August 16, 2022, and again to September 1, 2022, on motion of Appellant.

{¶3} All three parties were present at the final hearing, and the two cases were consolidated. The court took testimony from three witnesses. The court then denied the petitions for CSPO. Although the two cases were consolidated and only one judgment entry issued on September 1, 2022, Appellant filed two separate notices of appeal on September 15, 2022. *We sua sponte* consolidated the appeals on October 14, 2022.

{¶4} On June 12, 2023, we *sua sponte* issued a judgment entry finding that Appellant had been declared a vexatious litigator on April 20, 2023, and ordered Appellant

to file for leave to continue the appeal within fourteen days. Appellant filed a motion for leave to proceed on June 20, 2023, which was granted.

{¶15} Appellant filed a *pro se* brief on February 10, 2023. Appellees did not respond. As we may not consider any evidence that was not before the trial court and Appellant's brief has attachments that are not part of the trial court record, we must strike them from the appellate record. Further, Appellant's brief contains no actual argument, other than a single unsubstantiated paragraph in which he attacks the character of the trial judge.

{¶16} Appellant raises three assignments of error. They will be discussed together since Appellant has not actually presented any arguments in support of these assignments.

ASSIGNMENT OF ERROR NO. 1

TRIAL COURT ERRED IN THE INSTANT DISMISSAL OF HEARING AND COMPLAINT AND DID SO WITH DETERMINATION UPON THE PREPONDERANCE OF EVIDENCE, PROVING, IN ITS OWN WORDS, THAT THE PETITIONER MORE THAN PROVED HIS CASE, AND YET WOULD NOT GRANT PETITIONER JUST RELIEF.

ASSIGNMENT OF ERROR NO. 2

TRIAL COURT ERRED IN FAILURE TO ADHERE TO, AND OBEY OHIO STATUTE, HIGHER COURT OPINIONS, DETERMINATION, MANDATES OF THE OHIO SUPREME COURT, AND DISTRICT COURT OPINIONS, ISSUED ACCORDINGLY.

ASSIGNMENT OF ERROR NO. 3

TRIAL COURT ERRED IN DENIAL OF COMPLAINT FOR REASONS NOT PRESENTED BY RESPONDENT(S), DESPITE PETITIONER PRIMA FACIE CASE, AND OBJECTIONS.

{¶7} Although Appellant has included three assignments of error in his brief, he does not include any argument in support of these assignments of error. He merely lists legal citations and recites his dissatisfaction with the trial in this matter. He also uses his brief to castigate the trial judge. Appellant mentions the legal principle of manifest weight of the evidence under assignment of error number two, and the appeal may be decided on that ground.

{¶8} This Court reviews the decision to grant or deny a CSPO for an abuse of discretion. *Kranek v. Richards*, 7th Dist. Jefferson No. 11 JE 2, 2011-Ohio-6374, ¶ 14. “An abuse of discretion is more than an error of law or judgment; it implies that the court’s attitude is unreasonable, arbitrary or unconscionable.” *Thompson Farms, Inc. v. Estate of Thompson*, 7th Dist. Columbiana No. 20 CO 0014, 2021-Ohio-2364, ¶ 79, citing *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983).

{¶9} A judgment supported by some competent, credible evidence going to all the essential elements of the case will not be reversed as being against the manifest weight of the evidence. *In re Termination of Guardianship of Hendrickson*, 152 Ohio App.3d 116, 2003-Ohio-1220, 786 N.E.2d 937, ¶ 19 (7th Dist.), citing *C.E. Morris Co. v. Foley Constr. Co.*, 54 Ohio St.2d 279, 280, 8 O.O.3d 261, 376 N.E.2d 578 (1978).

[W]hen there is no record we, the appellate court, are to presume the regularity of the proceedings and the validity of the trial court's judgments. *Knapp v. Edwards Laboratory* (1980), 61 Ohio St.2d 197, 400 N.E.2d 384. Consequently, arguments that could rely only on the record for support would be deemed meritless in the absence of a record.

Marsilio v. Brian Bennett Constr., 7th Dist. Mahoning No. 06 MA 180, 2008-Ohio-5049, ¶ 14.

{¶10} "[A] manifest weight argument * * * is impossible to properly evaluate in the absence of a complete transcript of proceedings to review. * * * Thus, in the absence of a complete record sufficient for appellate review, we must presume the regularity of the proceedings below." *Palmer v. Palmer*, 7th Dist. Belmont No. 12 BE 12, 2013-Ohio-2875, ¶ 2.

{¶11} App.R. 9(B)(1) places the burden on the Appellant to ensure that all parts of the record necessary for appeal are transcribed and included into the appellate record. "It is well established that pro se litigants are presumed to have knowledge of the law and legal procedures and that they are held to the same standard as litigants who are represented by counsel." *State ex rel. Fuller v. Mengel*, 100 Ohio St.3d 352, 2003-Ohio-6448, 800 N.E.2d 25. This is particularly true with respect to Appellant, who is no stranger to the Rules of Appellate Procedure or the process of litigating an appeal. Appellant has recently been designated as a vexatious litigator due to his multitudinous filings in Belmont County, and he currently has eleven appeals pending before this Court. He has also litigated, pro se, three previous appeals to this Court. As in all of his appeals, both prior and pending, it was Appellant's responsibility to provide the appropriate record

necessary to support his arguments on appeal. Finding that, we have nothing to review. Appellant cannot succeed on a manifest weight of the evidence argument, which is entirely based on testimony and other evidence submitted at trial, without a complete record from the trial court. Absent such record, we are left with no alternative but to affirm the judgment of the trial court. Appellant's assignments of error are overruled, and the judgment of the trial court is affirmed.

Conclusion

{¶12} *Pro se* Appellant appealed the denial of two petitions for CSPO. Appellant appears to argue that the trial court judgment was against the manifest weight of the evidence. Appellant did not provide the transcript of the final hearing on this matter. An appellant cannot succeed on a manifest weight of the evidence argument without a trial transcript. Due to the lack of a transcript, we presume the regularity of the proceedings below and affirm the judgment of the trial court.

Robb, J. concurs.

D'Apolito, P.J. concurs.

For the reasons stated in the Opinion rendered herein, Appellant's assignments of error are overruled and it is the final judgment and order of this Court that the judgment of the Court of Common Pleas of Belmont County, Ohio, is affirmed. Costs to be taxed against the Appellant.

A certified copy of this opinion and judgment entry shall constitute the mandate in this case pursuant to Rule 27 of the Rules of Appellate Procedure. It is ordered that a certified copy be sent by the clerk to the trial court to carry this judgment into execution.

NOTICE TO COUNSEL

This document constitutes a final judgment entry.