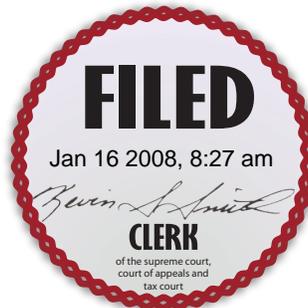


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



PRO SE APPELLANT:

ATTORNEY FOR APPELLEE:

STEVE BODNAR
Westville Correctional Facility
Westville, Indiana

JILL SISSON
Valparaiso, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

STEVE BODNAR,)

Appellant-Respondent,)

vs.)

STATE OF INDIANA,)

Appellee-Petitioner.)

No. 64A03-0608-CV-389

APPEAL FROM THE PORTER SUPERIOR COURT
The Honorable David L. Chidester, Judge
Cause No. 64D04-0606-PO-5755

January 16, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Steven G. Bodnar, *pro se*, appeals the trial court's order granting a permanent protective order to Dena Schroeter.¹ He argues that the trial court erred in granting Schroeter an order of protection because she failed to present sufficient evidence to show that she is a victim of domestic or family violence under the Indiana Civil Protection Order Act ("CPOA"). Finding that sufficient evidence exists to show that Schroeter is a victim of domestic or family violence under the CPOA, we affirm the judgment of the trial court.

Facts and Procedural History

On December 17, 2003, Schroeter obtained a two-year order of protection against Bodnar under Cause No. 64D04-0311-PO-10343. Bodnar was in prison at the time the protective order was entered against him. After entry of the order, Bodnar continued to contact Schroeter by telephone and letters. Bodnar's continuous attempts to communicate with Schroeter violated the protective order and resulted in him losing earned credit time. On October 31, 2005, Schroeter filed a Verified Petition to Renew Order for Protection to try to extend her protective order that was set to expire on December 17, 2005. Finding no statutory authority to extend the protective order past the original two-year span, the trial court denied Schroeter's petition. Thus, on December 17, 2005, Schroeter's initial order of protection against Bodnar expired.

Thereafter, on June 1, 2006, Bodnar forged Internal Revenue Service ("IRS") form 4506-T and fraudulently obtained copies of Schroeter's 2005 federal income tax returns,

¹ On October 19, 2007, Bodnar filed a "Motion for Court to 'ReConsider' its "Order" of 10-11-07,, page 3, Number 5 [sic]," which we hereby deny.

which contained her address. On June 15, 2006, Bodnar attempted to contact Schroeter by writing to Teresa Hansen, a woman with whom Schroeter had previously worked. On June 27, 2006, Bodnar sent a written letter to Schroeter at her residence, which stated,

I've been trying to Appologize [sic] to you for YEARS now. I'm Still in Prison Just because of that, As I should of been Home Over A Year Ago! Hate me All you want, But Don't THINK that I don't care, Because I Do!! I Screwed up, And I lost A lot, And A lot of Time, But Mostly, Again, I lost a good friend. Blame me for Anything you want to, But Also Remember what Jesus Said, 'If you're Without Sin, Cast the first Stone.'"! I Know you're Writing, 'Return to Sender, Addressee Unknown,' for I Still have Copies of All those Stupid Protective Orders And Motions you Signed And wrote on thus Showing And Proving the Handwriting Is yours. The Post office does have your Address, which I'm Sure you're Wondering How I got it, It's All in How you Word Something As to the Kind of Answer you'll get from it. As you know, I got A big Answer from that Stupid letter I wrote over 3 years Ago! Please, Forgive Me for that?

I've had that Address for A while, it Just took Me a while to TRY And write. I figured it would be better than Trying to Get A letter to you this way, which I know is Stupid, And I'm Sure you Don't like too much . .

..

Appellee's App. p. 11-12. After receiving this letter, Schroeter contacted the Porter County Sheriff's Department.

On June 30, 2006, Schroeter filed a Petition For An Order For Protection And Request For A Hearing against Bodnar, claiming that he was stalking her. Schroeter acknowledged, "I have had no relationship with [Bodnar]." *Id.* at 1. Upon receipt of the Petition, the trial court granted an Ex Parte Temporary Order of Protection pending an August 2, 2006, hearing on the issue of whether the temporary order should be made permanent. At the hearing, the trial court engaged in the following dialogue with Schroeter:

THE COURT: The statute since there is no physical touching here obviously but by correspondence, the statute requires that a showing be

made that these communications with you through the mail cause you to be and I'm quoting from the stalking statute, in Indiana Code 35-45-10 you have to feel "terrorized, frightened, intimidated or threatened". What is it about these correspondences sent to you and him knowing your address that makes you feel terrorized, frightened, intimidated or threatened?

THE PETITIONER: It's like I'm constantly having to look over my shoulder. I don't want any contact with this person at all. It frightens me that he sends correspondence through other inmates, you know to try to reach me. I'm constantly having to move, change jobs, I'm afraid he's going to follow me or have people follow me as he's stated before and I don't trust him and it makes me fearful.

THE COURT: And do you believe that his correspondences to you represent a credible threat of [sic] possibility of violence to you?

THE PETITIONER: Yes I do.

THE COURT: All right. Anything else before your direct examination is concluded?

Q.: Has it affected your health?

A.: Yes, it makes me an emotional wreck.

Q.: Has it affected your sleep habits?

A.: Yes. I'm up, I don't sleep, it's constantly on my mind it seems like. You know, where is he going to find me next or where can I go to make it clear to him I don't want any contact, none.

Q.: When you receive a letter . . . does that sort of strike terror in you?

A.: Yes it does, yes it does. I get jittery, I start getting nervous, my heart starts pumping too fast and I just want it to stop.

Q.: You just want all contact from Mr. Bodnar to stop?

A.: Yes. I don't want to hear from him, I don't want him looking into my business, I don't want him to try to contact me, I don't even want to hear his voice, it makes me upset and nervous.

Q.: You want him to end it?

A.: Yes.

Q.: It's so simple if he just ends all contact with you and with me - -

A.: Forget he knew me, yes. Forget he ever knew me.

Q.: Want it to be over with?

A.: Yes, because I am getting very angry at his persistence of pursuing my private life and especially now trying to obtain my tax information and to constantly find out where I am living. Leave me alone.

Tr. p. 11-13. Bodnar responded, in part, by stating:

Well I would just like to say that I have never threatened her or intimidated her in any way and it's her decision if she decides to open the mail and read it or not. My Court Order from you that says that Protective Orders are meant to cease violence not prohibit correspondence and the letters that I have sent to her there's no violence mentioned at all in it. They are more or less just apology letters.

Id. at 13-14. After the hearing, the trial court issued written findings, which provide, in relevant part:

- a. Respondent filed a timely Request for Hearing pursuant to Indiana Code 34-26-5-10(a); and/or,
- b. The Court is required to hold a hearing pursuant to Indiana Code 34-26-5-10(b).
- c. The Petitioner was present at the hearing and the Respondent was present [by speaker phone].
- d. This order does not protect an intimate partner or child.
- e. The Respondent had notice and an opportunity to be heard.
- f. The Respondent represents a credible threat to the safety of the Petitioner or a member of the Petitioner's household.
- g. The Petitioner has shown, by a preponderance of the evidence, that domestic or family violence has occurred sufficient to justify the issuance of this Order.
- h. The Respondent has failed to show good cause why this Order for Protection should not be issued.
- i. The Respondent does not agree to the issuance of the Order of Protection.
- j. The following relief is necessary to bring about a cessation of the violence or the threat of violence.

Appellee's App. p. 52. Additionally, the Court found

that [Bodnar], a prison inmate, has instituted a series of contacts with [Schroeter] through the IRS and her former employer, all attempting to learn the mailing address of [Schroeter]. [Bodnar] has instituted a course of conduct seeking to instill fear into [Schroeter]. [Bodnar] has instituted a course of conduct meant to harass [Schroeter].

Id. at 57-58.

The court concluded, "Whether the fears are real or imagined, the actions of [Bodnar] comprise the definition of stalking." *Id.* at 57. The court then made Schroeter's Order of Protection against Bodnar permanent. Bodnar now appeals.

Discussion and Decision

On appeal, Bodnar appears to argue that the trial court's order of protection must be reversed because Schroeter presented insufficient evidence to support that she is or has been a victim of domestic or family violence under the CPOA. However, in his appellate brief, Bodnar has failed to comply with several of our appellate rules. It is well settled that *pro se* litigants are held to the same standard as are licensed attorneys. *Goossens v. Goossens*, 829 N.E.2d 36, 43 (Ind. Ct. App. 2005). In Bodnar's "Statement of the Facts," he fails to describe the facts relevant to the issues, support the facts with page references to the record, and state the facts in accordance with the standard of review appropriate to the judgment. *See* Ind. Appellate Rule 46(A)(6)(a), (b). Bodnar has also not set forth the applicable standard of review. *See* App. R. 46(A)(8)(b). More importantly, in his

argument section, Bodnar does not make cogent arguments in support of his contentions, and therefore the issues he raises on appeal are waived.² *See* App. R. 46(A)(8)(a).

Waiver notwithstanding, we hold that sufficient evidence exists to support the conclusion that Schroeter is or has been a victim of domestic or family violence under the CPOA. Indiana Code § 34-26-5-9 places the burden on the petitioner to prove at least one allegation in a petition for a protective order by a preponderance of the evidence. *See Tons v. Bley*, 815 N.E.2d 508, 511 (Ind. Ct. App. 2004). In determining the sufficiency of the evidence, we neither reweigh the evidence nor resolve questions of credibility. *Id.* We look only to the evidence of probative value and reasonable inferences that support a trial court's judgment.

The CPOA “shall be construed to promote the: (1) protection and safety of all victims of domestic or family violence in a fair, prompt, and effective manner; and (2) prevention of future domestic and family violence.” Ind. Code § 34-26-5-1. Indiana Code § 34-26-5-2 establishes who may seek a protective order under the CPOA and provides, in relevant part:

(a) A person who is or has been a victim of domestic or family violence may file a petition for an order of protection against a:

(1) family or household member who commits an act of domestic or family violence; or

² In Bodnar's appellate brief, he mentions that he is appealing certain conduct reports, which contained complaints that he violated Schroeter's previously-obtained (December 17, 2003) and since-expired (December 17, 2005) protective order against him under Cause No. 64D04-0311-PO-10343 and apparently led to the deprivation of earned credit time he had accumulated while in prison. Specifically, Bodnar states, “I Am Appealing these Conduct Reports (Exhibit ‘D’) in the higher Courts as well.” Appellant's Br. p. 7. We assume that Bodnar is appealing these conduct reports in another case, as they are not at issue here. Regarding this citation to the record as “Appellant's Brief p. 7,” we note that in the argument section of Bodnar's appellate brief, he numbered every page as “7.” Thus, for clarification purposes, our citation in this footnote to “Appellant's Br. p. 7” refers to the sixth page “7.”

(2) person who has committed stalking under [Indiana Code §] 35-45-10-5 .

...

Although Schroeter has not been a victim of domestic or family violence, for purposes of the CPOA, “domestic and family violence also includes stalking (as defined in [Indiana Code §] 35-45-10-1) or a sex offense under [Indiana Code §] 35-24-4.” Ind. Code § 34-6-4-34.5. Thus, Schroeter seeks protection against Bodnar for committing stalking against her under subsection (a)(2) of the CPOA.

To support a finding of stalking, Schroeter had to demonstrate that Bodnar: (1) knowingly or intentionally; (2) engaged in a course of conduct involving continuous or repeated harassment; (3) that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened; and (4) actually caused that person to feel terrorized, frightened, intimidated, or threatened. Ind. Code § 35-45-10-1. Harassment involves conduct aimed at a victim “that includes but is not limited to repeated or continuing impermissible contact that would cause a reasonable person to suffer emotional distress and that actually causes the victim to suffer emotional distress.” Ind. Code § 35-45-10-2.

Bodnar argues that the trial court erred in granting Schroeter an order of protection because she has not provided sufficient evidence to support the trial court’s finding of stalking and thus did not set forth sufficient evidence to prove that she was a victim of family or domestic violence under the CPOA. Additionally Bodnar argues that Schroeter voided her previous protection order by initiating communications with him. We disagree.

First, regarding Bodnar's contention that Schroeter voided the protective order by initiating contact with him while a previous protective order was in place, we note that we have previously held that when considering whether a party violated a protective order, "appellate courts do not consider whether the victim knowingly ignored the protective order but, rather, whether the defendant knowingly violated the protective order." *See* Ind. Code § 34-26-5-11 (providing, "If a respondent is . . . ordered to stay away from a petitioner, an invitation by the petitioner to do so does not waive or nullify an order for protection."); *Dixon v. State*, 869 N.E.2d 516, 520 (Ind. Ct. App. 2007). This is because the protective order is between Bodnar and the State, not Bodnar and Schroeter. Thus, any communications Schroeter initiated with Bodnar did not void Schroeter's protective order against Bodnar. Second, ample evidence exists to support the trial court's determination that Bodnar committed stalking against Schroeter. Bodnar fraudulently obtained Schroeter's 2005 federal income tax returns and attempted to contact Schroeter indirectly through her former employer and then directly via a letter sent to Schroeter's residence. Moreover, Schroeter testified that Bodnar's attempts at correspondence with her terrorized her because she was constantly having to look over her shoulder in fear for her safety, to move, and to change jobs, fearful that Bodnar was having people follow her. Schroeter additionally testified that she believed that Bodnar's attempts at communicating with her represented a credible threat of violence and caused her to become "an emotional wreck." Tr. p. 12. This is sufficient evidence to support that Bodnar stalked Schroeter. Bodnar's argument otherwise is merely a request for us to

reweigh the evidence, which we cannot do. Sufficient evidence exists to support that Schroeter is a victim of domestic or family violence under the CPOA.

Affirmed.

BAKER, C.J., and BAILEY, J., concur.