

RENDERED: MARCH 26, 2010; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2009-CA-001385-ME

SEAN IAN RICE

APPELLANT

v. APPEAL FROM JEFFERSON FAMILY COURT
HONORABLE JOSEPH W. O'REILLY, JUDGE
ACTION NO. 09-D-501985

STACEY RICE

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: DIXON AND NICKELL, JUDGES; KNOPF,¹ SENIOR JUDGE.

DIXON, JUDGE: Sean Ian Rice appeals from the entry of a Domestic Violence Order (DVO) against him by the Jefferson Family Court, based upon a petition filed by his former wife, Stacey Rice. We affirm.

¹ Senior Judge William L. Knopf sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes (KRS) 21.580.

On June 18, 2009, Stacey filed a Domestic Violence Petition alleging, among other things, that Sean had phoned her six times in one hour and stated he would be at her house in five minutes, “and he would do something.” Stacey further alleged that she was afraid of Sean, and “what he might try to do.” The court issued a domestic violence summons to Sean and set a hearing date for July 1, 2009. Following the hearing, the Jefferson Family Court issued a DVO against Sean that is in effect until June 30, 2010. This appeal by Sean followed.²

Although Sean challenges the sufficiency of the evidence, he acknowledges that the record on appeal does not include a recording of the DVO hearing. Sean asserts that “there may not be a videotape nor an audiotape available[,]” and he bases his appellate argument on his recollection of the testimony at the hearing.³

It is the Appellant’s duty to ensure that the record on appeal is “sufficient to enable the court to pass on the alleged errors.” *Burberry v. Bridges*, 427 S.W.2d 583, 585 (Ky. 1968). “It has long been held that, when the complete record is not before the appellate court, that court must assume that the omitted record supports the decision of the trial court.” *Commonwealth v. Thompson*, 697

² Stacey did not file a brief in this appeal.

³ A review of the record indicates that Sean failed to file a designation of record as required by Kentucky Rules of Civil Procedure (CR) 75.01. A properly filed designation of record provides the court clerk with a list of the “untranscribed portions of the proceedings stenographically or electronically recorded as appellant wishes to be included in the record on appeal.” CR 75.01(1).

S.W.2d 143, 145 (Ky. 1985). Accordingly, we assume the testimony presented at the hearing supports the family court's decision to issue a DVO against Sean.

For the reasons stated herein, the order of the Jefferson Family Court is affirmed.

ALL CONCUR.

~~BRIEF FOR APPELLANT:~~ — ~~NO BRIEF FOR APPELLEE~~ — —

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