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**IN THE
COURT OF APPEALS OF INDIANA**

JACK DEMOSS,)
)
Appellant-Defendant,)
)
vs.) No. 28A01-0701-CV-17
)
PATRICIA QUINTANA,)
)
Appellee-Petitioner.)

APPEAL FROM THE GREENE SUPERIOR COURT
The Honorable J. David Holt, Judge
Cause No. 28D01-0610-PO-432

August 6, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Jack DeMoss appeals the granting of Patricia Quintana's petition for an order for protection. We affirm.

Issue

DeMoss raises one issue, which we restate as whether was sufficient evidence to support the issuance of a protective order.

Facts

Quintana had custody of her and DeMoss's five-year-old granddaughter. In late September and early October of 2006, DeMoss ran into Quintana and their granddaughter at Long John Silver's, Wal-Mart, and at their granddaughter's soccer games. On October 16, 2006, Quintana, DeMoss's ex-wife, filed a petition for an ex parte order for protection for her and her granddaughter against DeMoss. The trial court granted Quintana's petition and later held a hearing, which DeMoss attended. After the hearing, the trial court renewed the protective order regarding Quintana, but did not renew it as to their granddaughter.

Analysis

Initially, we note that Quintana did not file an appellee's brief. When the appellee fails to submit a brief, we need not undertake the burden of developing an argument on the appellee's behalf. Trinity Homes, LLC v. Fang, 848 N.E.2d 1065, 1068 (Ind. 2006). Rather, we will reverse the trial court's judgment if the appellant's brief presents a case of prima facie error. Id. "Prima facie error in this context is defined as, 'at first sight, on

first appearance, or on the face of it.’’ Id. (citation omitted). Where an appellant does not meet this burden, we will affirm. Id.

Although his argument is difficult to comprehend,¹ DeMoss appears to argue there is not sufficient evidence to support the issuance of a protective order. DeMoss, however, has not established prima facie error.

Civil orders for protection are governed by Indiana Code Section 34-26-5-9, the Civil Protection Order Act (“CPOA”). We have observed that “our legislature has dictated that 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.” Aiken v. Stanley, 816 N.E.2d 427, 430 (Ind. Ct. App. 2004).

Indiana Code Section 34-26-5-2(a)(1) provides that a person who is or has been a victim of domestic or family violence may file a petition for an order for protection against a family or household member who commits an act of domestic or family violence. An individual is a “family or household member” of another person if the individual is a current or former spouse of the other person. Ind. Code § 34-6-2-44.8(a)(1). “Domestic or family violence” means placing a family or household member in fear of physical harm. I.C. § 34-6-2-34.5(2). Further:

¹ DeMoss did not file an appendix. See Ind. Appellate Rule 49(A). His brief does not include the appropriate standard of review and provides sparse reference to the civil order of protection statute. See App. R. 46(A). Further, to the extent he argues that the protective order includes a “Brady Disqualification,” the issue is waived for failing to develop a cogent argument and failing to provide citation to authority. See id.

A finding that domestic or family violence has occurred sufficient to justify the issuance of an order under this section means that a respondent represents a credible threat to the safety of a petitioner or a member of a petitioner's household. Upon a showing of domestic or family violence by a preponderance of the evidence, the court shall grant relief necessary to bring about a cessation of the violence or the threat of violence.

I.C. § 34-26-5-9(f). Finally, "A court may not deny a petitioner relief under section 9 of this chapter solely because of a lapse of time between an act of domestic or family violence and the filing of a petition." I.C. § 34-26-5-13(f).

At the hearing, Quintana testified that she and DeMoss were divorced in 1991, that there was a history of abuse between them, and that she felt threatened by his recent actions. She testified that she knew "what he's capable of" and did not want to live in fear of DeMoss again. Tr. pp. 12-13. Based on this evidence, DeMoss has not established prima facie error. The evidence supports the trial court's decision to issue an order of protection against him. See Aiken, 816 N.E.2d at 432.

Conclusion

DeMoss has not established that the trial court improperly issued a civil order for protection. We affirm.

Affirmed.

NAJAM, J., and RILEY, J., concur.