

[Cite as *Little v. Little*, 2011-Ohio-318.]

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Damon L. Little, :
 :
 Petitioner-Appellant, :
 :
 v. : No. 10AP-843
 : (C.P.C. No. 09DV-08-1249)
 Yolanda L. Little, : (ACCELERATED CALENDAR)
 :
 Respondent-Appellee. :

D E C I S I O N

Rendered on January 27, 2011

Damon L. Little, pro se.

APPEAL from the Franklin County Court of Common Pleas,
Division of Domestic Relations.

SADLER, J.

{¶1} Petitioner-appellant, Damon L. Little, appeals from the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, dismissing his motion to extend the civil protection order ("CPO") previously issued by that court upon his petition.

{¶2} On August 17, 2009, appellant filed a petition for a CPO, pursuant to R.C. 3113.31, which provides for orders concerning domestic violence and allows a person to

petition a court for a protective order on his or her own behalf or on behalf of a family or household member. Appellant sought the CPO against his spouse, respondent-appellee, Yolanda L. Little. On the same day appellant filed the petition, the trial court granted appellant an ex parte CPO, effective until August 24, 2009, and set the matter for a full hearing. After the full hearing, the trial court issued a CPO against appellee, and the order was to remain in full force and effect until July 22, 2010.

{¶3} On June 23, 2010, appellant filed a motion to extend the CPO for an additional three years based on appellee's alleged failure to comply with the CPO's current terms. This motion does not contain a certificate of service indicating that appellee was served with a copy of the motion. A hearing on appellant's motion was held on August 10, 2010. On August 16, 2010, the trial court issued a decision and entry dismissing appellant's June 23, 2010 motion.

{¶4} Appellant filed an appeal from this decision and presents the following assignment of error:

Appellant was denied the Extension of a Civil Protection Order.

{¶5} Specifically, it is appellant's contention that the trial court's decision dismissing his motion to extend the CPO was against the manifest weight of the evidence. According to appellant, though appellee did not appear at the August 19, 2010 hearing, the trial court nonetheless informed him that it would not be extending the original CPO. Instead, appellant asserts the trial court instructed him to file a new request for a CPO so that appellee would be served again.

{¶6} R.C. 3113.31 provides that a protection order issued under that section "shall be valid until a date certain," but not later than five years from the date of issuance. R.C. 3113.31(E)(3)(a). At the time of the motion hearing held on August 10, 2010, the initial CPO had expired by its terms and was no longer valid as its July 22, 2010 expiration date had passed. However, a protection order "may be renewed in the same manner as the original order." R.C. 3113.31(E)(3)(c). In other words, the procedure for issuing a renewal order must go forward in the same manner as that for issuing an original protection order. *Woolum v. Woolum* (1999), 131 Ohio App.3d 818, 823.

{¶7} Though appellant contends it was error for the trial court to dismiss his motion, we are unable to review the merits of appellant's assignment of error because appellant has not provided this court with a transcript of the hearing held on appellant's motion. *513 E. Rich St. Co. v. McGreevy*, 10th Dist. No. 02AP-1207, 2003-Ohio-2487, ¶12, citing *Miller v. Ameritech*, 10th Dist. No. 01AP-1209, 2002-Ohio-1209. The duty to provide a transcript for appellate review is with the appellant as the appellant has the burden of showing error by reference to the record. *Miller*, citing *Knapp v. Edwards Laboratories* (1980), 61 Ohio St.2d 197, 199. See also App.R. 9(B). "When portions of the transcript necessary for resolution of assigned errors are omitted from the record, the reviewing court has nothing to pass upon and, thus, the court has no choice but to presume the validity of the trial court's proceedings and affirm." *Id.*, citing *Knapp* at 199.

{¶8} In *Eble v. Emery*, 10th Dist. No. 06AP-1007, 2007-Ohio-4857, an appeal was taken from the trial court's decision granting a motion to dismiss a previously entered CPO. However, because the appellant failed to provide this court with a transcript of the proceedings, or App.R. 9(D) substitute thereof, this court found no basis upon which it

could make a determination as to the manifest weight of the evidence, and affirmed the judgment of the trial court.

{¶9} In the matter before us, appellant has failed to provide us with a transcript of the hearing on his motion to extend the CPO. Because of this, we are prevented from making a determination on appellant's assignment of error challenging the weight of the evidence, and we presume the validity of the trial court's proceedings.

{¶10} For the foregoing reasons, appellant's single assignment of error is overruled, and the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, is hereby affirmed.

Judgment affirmed.

BROWN and TYACK, JJ., concur.
