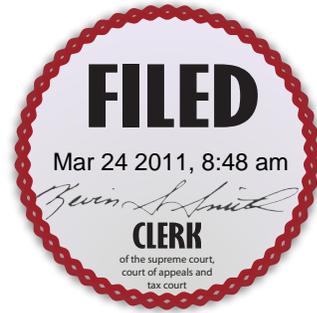


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



APPELLANT PRO SE:

MATTHEW RIDDLE
Tipton, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

MATTHEW RIDDLE,)
)
Appellant-Respondent,)
)
vs.) No. 80A02-1011-PO-1203
)
LEE RIMER,)
)
Appellee-Petitioner.)

APPEAL FROM THE TIPTON CIRCUIT COURT
The Honorable Thomas R. Lett, Judge
Cause No. 80C01-1008-PO-419

March 24, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Matthew Riddle, pro se, appeals the trial court's order granting Lee Rimer's petition for a protective order. Although not clear, we construe Riddle's brief to present two issues for review:

1. Whether Rimer has standing to seek a protective order against Riddle.
2. Whether the evidence supports the order of protection.

We affirm.

FACTS AND PROCEDURAL HISTORY

On August 24, 2010, Rimer filed a pro se complaint and petition seeking a protective order against Riddle. Rimer and Riddle live next door to each other in Elwood. In the complaint and petition, Rimer set out several incidents as the basis for her request for a protective order,¹ including the following episodes :

1. In August 2010, when unprovoked, Riddle pointed a gun at Rimer and her boyfriend and said, "If you cross that line your gonna get it." Clerk's Record, Rimer's Complaint filed August 24, 2010 at *1.² The line referred to a fencerow between Rimer's and Riddle's homes.
2. On July 3, 2010, Riddle telephoned Rimer, who was out of town, and reported that her dogs were out of Rimer's yard and barking. Rimer returned home to find her dogs missing. The dogs were later found by a family friend with their collars missing.

¹ Riddle did not include a copy of the complaint or petition in his appendix, as required by Indiana Appellate Rule 50. In fact, Riddle's appendix does not include many of the documents required by Appellate Rule 50. We remind Riddle that even pro se litigants must comply with the Appellate Rules.

² The clerk of the trial court filed with this court what appears to be the Clerk's Record, bound at the top and containing a black cover. See Ind. Appellate Rule 2(E). Under Appellate Rule 12(A), the trial court clerk "shall retain the Clerk's Record throughout the appeal." The Clerk's Record was erroneously transmitted to this court along with the transcript. However, because Riddle did not include relevant pleadings in his appendix, we will cite to certain pleadings in the Clerk's Record by the title of document and the page number of that document as "[page number]."

3. On August 4, 2010, Rimer's boyfriend raised Rimer and her friend up in the saddle of a crane he operates for work in order to obtain a bird's-eye view of the area. Rimer's friend works for the newspaper. Riddle telephoned the police and complained that Rimer was swinging children from a wrecking ball.

4. Riddle put a metal porch swing next to the fence close to Rimer's house and "began grinding on it." Id. at *5. He then began hammering on an aluminum wheel rim with a sledge hammer while looking at Rimer.

5. On August 7, Riddle began grinding on the metal porch swing, right outside Riddle's bedroom window, at nine o'clock on a Saturday morning. He then ran to his truck, retrieved a gun, and "ran into the back yard shooting screaming "Die mother fucker die." Id. "He did this several times." Id. at *6.

6. On August 8, Riddle stared at Rimer while she was mowing. Rimer grabbed her breasts and then threw her hands up in the air as if to ask him what he was looking at. Riddle went inside his house, retrieved his daughter, and then pointed at his daughter and hugged her. He then reported to police that Rimer had exposed herself to Riddle's daughter.

On her petition for a protective order, Rimer alleged that she was filing the petition for the following reasons: "I am or have been a victim of domestic or family violence" and "I am or have been a victim of stalking." Clerk's Record, Petition for an Order for Protection and Request for a Hearing at *1. On the date of the petition and complaint, the trial court entered an ex parte order for protection.

On September 27, Riddle filed a motion for a hearing on the ex parte order for protection. The court held an evidentiary hearing, at which Rimer appeared in person and Riddle appeared in person and by counsel. On October 19, the trial court found that the ex parte order for protection had been properly entered. Riddle filed a motion to correct error, which the trial court denied. Riddle now appeals.

DISCUSSION AND DECISION

Riddle contends that Rimer did not have standing to seek an order for protection. Alternatively, he argues that the evidence does not support the trial court's issuance of a protective order. We observe initially that Riddle's brief does not comply with Indiana Appellate Rule 46. Specifically, his appellate brief does not include separately a labeled summary of the argument or argument as required by Appellate Rule 46(A)(7) and (8). Riddle is held to same standards as licensed attorneys even though he is pro se. See B.W. v. D.B., 908 N.E.2d 586, 590 (Ind. 2009). But a review of Riddle's appellate brief shows that his argument, although difficult to discern, is contained in the section labeled as the statement of facts. Thus, we consider Riddle's claims below.

Issue One: Standing

Riddle first contends that Rimer lacks standing to file a petition for a protective order. In support, he points out that Rimer sought the protective order on the ground that she had been a victim of domestic or family violence, but Rimer and Riddle have never been anything more than neighbors. But this court has held that domestic or family violence includes stalking:

[F]or purposes of the [Civil Protection Order Act], "domestic and family violence" includes stalking. Moreover, we held that "there is no requirement that the alleged stalking be committed by a family or household member," as those terms are defined by Indiana Code Section 34-6-2-44.8.¹ Therefore, a person who alleges that she is a victim of stalking, even where the alleged stalker is a stranger to the victim, may seek a protection order against the alleged stalker under Indiana Code Section 34-26-5-2(a)(2).

Essany v. Bower, 790 N.E.2d 148, 154 (Ind. Ct. App. 2003) (citations omitted). In the petition for a protective order, Rimer also alleged that she had been a victim of stalking

by Riddle. Therefore, Rimer had standing to seek a protective order against him. See id. Riddle's argument must fail.

Issue Two: Sufficiency of Evidence

Riddle also contends that the evidence does not support the trial court's entry of an order of protection against him. In this regard he presents several specific arguments, which fall into one of the following categories: that Rimer failed to meet her burden of proof or that the trial court improperly weighed or did not consider certain evidence.³ We consider each category in turn.

We first consider Riddle's argument that Rimer failed to meet her burden of proof. Specifically, he argues that Rimer presented no evidence that a reasonable person under the same circumstances would have felt terrorized, frightened, intimidated, or threatened and that she failed to present evidence that there was repeated or continuing harassment. But Riddle did not cogently set out his argument, let alone the elements required for an order of protection. Because his argument is not supported by cogent reasoning, it is waived. See App. R. 46(A)(8)(a).

Additionally, an argument must be supported by "citations to the authorities, statute, and the Appendix or parts of the Record on Appeal relied on[.]" Id. Riddle did not support any of his arguments with citations to the record. We acknowledge that some of Riddle's contentions are based on lack of evidence, and one cannot directly cite to the lack of evidence. But Riddle could have cited to relevant parts of Rimer's testimony in the transcript to show the absence of particular evidence. Instead, he apparently expects

³ Additionally, Riddle argues that he did not commit an act of family or domestic violence. But, as noted above, domestic or family violence includes stalking by a stranger. See Essany, 790 N.E.2d at 154. Thus, whether Riddle committed an act of family or domestic violence is irrelevant.

this court to read the entire transcript to decide his claims on appeal. This we will not do. As such, Riddle’s arguments regarding Rimer’s failure to meet her burden of proof are, again, waived. See id.

Riddle next contends that the court did not take into account or improperly weighed certain evidence, such as the fact that he and Rimer are neighbors and that Rimer’s testimony was contradictory. These arguments amount to a request that we reweigh the evidence, which we will not do. See Alkhalidi v. State, 753 N.E.2d 625, 627 (Ind. 2001) (“we do not reweigh the evidence or judge the credibility of the witnesses, and we respect a fact-finders ‘exclusive province to weigh conflicting evidence.’ ”). He also maintains that the trial court did not take into account the “course of conduct” element of stalking as defined by Indiana Code Section 35-45-10-1. But, again, Riddle did not set out the statute or support his argument with cogent argument. As such, again, that argument is waived. See App. R. 46(A)(8)(a). In any event, Riddle is again asking us to reweigh the evidence, which we will not do. See Alkhalidi, 753 N.E.2d at 627. Riddle’s arguments that the trial court improperly weighed or considered certain evidence must fail.

Affirmed.

DARDEN, J., and BAILEY, J., concur.