

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL DIVISION

JANELLE TAYLOR,
Appellee

vs.

HERMAN BRIGGS, III,
Appellant

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:
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No. 25-FC-0921

Janelle Taylor

Pro Se

Herman Briggs, III

Pro Se

FILED
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CARBON COUNTY
CLERK OF COURT

MEMORANDUM OPINION

Matika, J. - July 31, 2025

This Opinion is provided to the Appellate Court in support of our decision granting the Plaintiff, Janell Taylor (hereinafter "Taylor") a Final Protection From Abuse Order "PFA" against the Defendant, Herman Briggs, III (hereinafter "Briggs") from which Briggs has filed this Appeal. For the reasons stated herein, this Court seeks affirmance of that decision.

FACTUAL AND PROCEDURAL BACKGROUND

On May 1, 2025, Taylor filed a Petition for Protection from Abuse against Briggs. On that date, after filing that petition, she presented herself before the Honorable Roger N. Nanovic for an *ex parte* hearing. After said hearing, Judge Nanovic granted her request and issued a temporary protection from abuse Order in her favor and against Briggs, which ordered that the "defendant shall

not abuse, harass, stalk, threaten or attempt to threaten to use physical force against [Plaintiff] in any place where [she] may be found." It also directed, *inter alia*, that the "defendant shall not contact Plaintiff, [. . .] by telephone or by any other means, including going through third persons." On May 6, 2025, Briggs was served with a copy of the Temporary PFA¹ Order and hearing notice. A hearing was scheduled on May 9, 2025.

On May 9, 2025, both parties appeared *pro se*. Taylor testified as a witness on her own behalf. She testified that on a number of occasions beginning in September, 2024, until January 14, 2025, she had been subject to physical contact from Briggs in the way of choking and being "thrown around" the residence the parties shared on Lizard Creek Road, Lehighton. One such incident resulted in her face becoming swollen. She had also been subjected to verbal threats of harm which placed her in fear of Briggs. Briggs was able to get Taylor to acknowledge that throughout this time period, she would exhibit behaviors suggesting she was not afraid of him including text messages which read "I love you." She characterized things with Briggs as a "love/hate relationship."

Briggs called a mutual friend, Felix Caraballo to testify. Caraballo testified that he never saw any physical abuse or

¹ Protection from abuse.

evidence thereof, but he did acknowledge that Taylor had confided in him that Briggs had abused her. He also stated that he did witness verbal arguments between Briggs and Taylor.

Briggs then testified that these allegations of abuse never happened. In fact, Briggs claimed that he and Taylor had engaged in sexual relations even after the date the last abuse occurred.

After hearing all testimony, the Court granted Taylor a Final Protection from Abuse Order for a period of three (3) years or until May 9, 2028. Thereafter, on June 5, 2025, Briggs filed a "Notice of Appeal." Although Briggs did not serve a copy of this notice of appeal on the undersigned in accordance with Pa.R.A.P. Rule 906(2), this Court became aware of it when Briggs filed a Petition to Proceed In Forma Pauperis on June 5, 2025, and it was presented to the Court to act upon on June 6, 2025. On June 10, 2025, this Court issued an Order directing Briggs to file his concise statement pursuant to Pa.R.A.P. Rule 1925(b). On June 20, 2025, Briggs filed that statement. In that statement he alleges that:

1. The trial court erred by admitting and relying on testimony and influence from Tracy Magosin, Appellant's landlord, who acted outside the scope of her role and collaborated with the petitioner.
2. The trial court violated Appellant's due process rights by allowing the petitioner, Janelle Taylor, to introduce new

evidence after her formal presentation concluded, via phone, without providing Appellant the opportunity to respond or object.

3. The trial court improperly accepted testimony that contradicted the timeline of alleged incidents, allowing the petitioner to alter the timing of events during the hearing without correction.
4. The court failed to apply the appropriate legal standard requiring that the PFA be based on the most recent incident of abuse or threat, instead considering old or inconsistent claims.
5. The court disregarded key evidence including video and testimony that would have refuted the claims and established retaliation, bias, and third-party collusion.
6. These procedural and evidentiary errors denied Appellant a fair hearing and materially affected the outcome of the case.

This Court will address each seriatim.

LEGAL DISCUSSION

This Court must first address the vagueness of the Appellant's Concise Statement. The purpose of a concise statement is to allow the trial court to easily discern the issues an appellant intends to pursue on appeal and to allow the court to file an intelligent response thereto. A 1925(b) statement which is too vague to allow

a court to identify the specific issues on appeal is "the functional equivalent on no concise statement at all." *Commonwealth v. McCree*, 857 A.2d 188, 192 (Pa. Super 2001). "Even if the trial court correctly guesses the issues Appellants raise on appeal and writes an opinion pursuant to that supposition, the issues [are] still waived." *Commonwealth v. Heggins*, 807 A.2d 908, 971 (Pa. Super 2002).

To begin with the majority of Briggs' Concise Statement is woeful vague and lacks any cognizant specificity in large part to allow this Court to intellectually formulate a guess as to what he perceives as errors. This Court therefore believes he has waived these issues on appeal, however notwithstanding, this Court will attempt to address them herein in the event the Superior Court finds specificity in their claims.

1. Testimony and Influence of Tracy Magosin

Briggs first claims that the Court erred by admitting and relying on "testimony and influence from Tracy Magosin." Not only did the Court not err in this regard, Tracy Magosin never testified nor was her name ever spoken by any of the witnesses.

2. Due Process Rights Violation/After-Witnessed Evidence

Briggs next claims that his due process rights were violated because of some perceived error in allowing the Plaintiff to "introduce new evidence after her formal presentation had concluded, via phone, without providing Appellant the opportunity

to respond or object." The Court is unclear as to exactly what Briggs is referring to here. Taylor testified on direct examination with some questioning coming from the Court. She was then subject to intense cross-examination from Briggs. When that cross-examination concluded, Taylor's testimony was complete. At no time was any new evidence from Taylor elicited either through live testimony or via a phone. Perhaps Briggs is confusing the record created in this case with that of another case involving Ms. Taylor, because it is certainly not an error on this Court's part when no such scenario existed in this case.

3. Contradicting Evidence BU

Briggs next contends that the Court erred by "improperly accepting testimony that contradicted the timeline of alleged incidents, allowing [Taylor] to alter the timing of events during the hearing without correction.

Again, Briggs' point of contention is so vague and overly broad that this Court cannot identify what his perceived errors pertain to. At best, this Court could guess that he is complaining about a credibility determination as to "who said what, when" and "who to believe" but without more specificity, this Court cannot properly respond except to say credibility determinations are made by the Court which is free to believe, all, some or none of that testimony of any of the witnesses. *Fonner v. Fonner*, 731

A.2d 160 (Pa. Super 1999). Here, this Court believed Taylor moreso than Briggs.

4. Appropriate Legal Standard

Here Briggs seems to imply that not only did the Court fail to apply the appropriate legal standard² but it based its decision on "old or inconsistent claims instead of the most recent incident of abuse or threat."

First, this Court applied the appropriate legal standard in deciding this case. "[B]y a preponderance of the evidence" requires the Court to decide a matter when "the greater weight of the evidence is, i.e. [enough] to tip a scale slightly" in favor of one side or the other. *Raker v. Raker*, 847 A.2d 720, 724 (Pa. Super 2004). Here, this Court decided that the totality of the evidence tipped that scale in favor of Taylor and in favor of granting the final protection order.

To the extent Briggs argues that the Court considered "old" allegations of abuse, this Court is unsure of what he defines as old. Taylor testified specifically regarding incidents of abuse with dates ranging from September, 2024 until January 14, 2025, when she vacated the residence she shared with Briggs. While she also testified that she did not file the underlying petition until April, 2025 when she learned that Briggs was "going to be coming

² This standard is "preponderance of the evidence." See 23 Pa.C.S.A. §6107(a).

around" and she heard him say in the background of a phone call that she was on with a friend that "you better not run your mouth. You better shut up. You better not run your fucking mouth." She then again felt the fear she has removed herself from months earlier. If Briggs is trying to argue that the incidents as far back as September, 2024 are too remote in time to be considered, they are not. [See *Miller on behalf of Walker v. Walker*, 665 A.2d 1252, 1259 (Pa. Super 1995), (finding evidence of abuse from six years earlier relevant to the determination of abuse based largely on those recent events)]. The Court would consider incidents occurring in September, 2024, as "more recent events" and hardly "old". Further, remoteness in time is a matter of weight not the sufficiency of the evidence. *Id.* Thus, this Court sees no error, if in fact these are Briggs' claims here.

5. Disregarding of Key Evidence

Briggs next claims that the Court disregarded key evidence that "would have refuted the claims and established retaliation, bias and third-party collusion. Again, the Court is not responsible to seek out from the record the error upon which Briggs bases his appeal. His failure to be more specific as to what key video or testimonial evidence was "disregarded" in making our decision results in a waiver of this claim.

6. Procedural and Evidentiary Errors

Briggs concluded his list of claimed errors with a generalization that those errors denied him "a fair hearing and materially affected the outcome of the case. Without more, this Court cannot properly defend its decision, thus any claimed procedural or evidentiary errors should be considered waived due to a lack of specificity in those claims.

CONCLUSION

For all the reasons stated herein, the Appeal should be denied and our decision granting Taylor a Final Protection From Abuse Order affirmed.

BY THE COURT:



Joseph J. Matika, J.