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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

BENJAMIN GAISNE,
Plaintiff and Respondent,

v.

KAHMAL GARY-ALI,
Defendants and Appellant.

A132825

(Alameda County
Super. Ct. No. RF11582090)

On July 15, 2011, after an evidentiary hearing, the Alameda County Superior Court (Hon. Cecilia Castellanos) issued a restraining order against appellant Kahmal Gary-Ali and in favor of respondent Benjamin Gaisne and members of Gaisne’s household. The sole ground asserted on appeal by Gary-Ali in his pro se briefs is that respondent Gaisne¹ “perjured himself” before the trial court. Both parties, in their briefs, simply recite and argue their versions of the “facts” underlying the restraining order application. Both parties misapprehend our role as an appellate court.

First, “an appealed judgment is presumed correct, and appellant bears the burden of overcoming the presumption of correctness. [Citation.]” (*Boyle v. CertainTeed Corp.* (2006) 137 Cal.App.4th 645, 649–650 (*Boyle*)). “The [appellant] must affirmatively show error by an adequate record. [Citations.] Error is never presumed. It is incumbent on the [appellant] to make it affirmatively appear that error was committed by the trial court. [Citations.] . . . ‘All intendments and presumptions are indulged to support [the

¹ Gaisne is Gary-Ali’s brother-in-law.

judgment] on matters as to which the record is silent’ [Citation.]” (*Rossiter v. Benoit* (1979) 88 Cal.App.3d 706, 712.) As a result, on appeal “the party asserting trial court error may not . . . rest on the bare assertion of error but must present argument and legal authority on each point raised. [Citation.]” (*Boyle, supra*, 137 Cal.App.4th at p. 649.) “To demonstrate error, appellant must present meaningful legal analysis supported by citations to authority and citations to facts in the record that support the claim of error. [Citations.]” (*In re S.C.* (2006) 138 Cal.App.4th 396, 408; see also Cal Rules of Court, rule 8.204(a)(1)(C).) Gary-Ali does neither. When an appellant raises an issue “but fails to support it with reasoned argument and citations to authority, we treat the point as waived. [Citations.]”² (*Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784–785.) Gary-Ali is not exempt from the rules because he has chosen to represent himself on appeal in propria persona. (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246; *McComber v. Wells* (1999) 72 Cal.App.4th 512, 522–523.) “[S]uch a party is to be treated like any other party and is entitled to the same, but no greater consideration than other litigants and attorneys. [Citation.]” (*Barton v. New United Motor Manufacturing, Inc.* (1996) 43 Cal.App.4th 1200, 1210.)

Second, it is the exclusive province of the trier of fact to determine the credibility of a witness and to resolve evidentiary inconsistencies, and we must defer to the factfinder’s credibility resolutions. (*People v. Young* (2005) 34 Cal.4th 1149, 1181.) “ ‘It is blackletter law that any conflict or contradiction in the evidence, or any inconsistency in the testimony of witnesses must be resolved by the trier of fact who is the sole judge of the credibility of the witnesses.’ ” (*People v. Watts* (1999) 76 Cal.App.4th 1250, 1258.)

DISPOSITION

The judgment is affirmed.

² Gary-Ali lists in his table of authorities three appellate cases by name and date only and without volume and page citation. He makes no mention of the cases in his argument, and he does not tell us why they would be relevant if he had.

Bruiniers, J.

We concur:

Jones, P. J.

Needham, J.