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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

KATIE BASSEY,

Plaintiff and Appellant,

v.

BENJAMIN FRANKLIN WEIGEL,

Defendant and Respondent.

F068756

(Super. Ct. No. FL625818)

**OPINION**

**THE COURT\***

APPEAL from an order of the Superior Court of Kern County. John D. Oglesby, Judge.

Katie Bassey, in propria persona, for Plaintiff and Appellant.

No appearance for Defendant and Respondent.

-ooOoo-

Plaintiff Katie Bassey (Bassey) appeals, in propria persona, from a January 10, 2014 order denying her request for a domestic violence restraining order against defendant Benjamin Franklin Weigel (Weigel). Bassey claims the trial court erred in denying her request because Weigel's actions constituted harassment. Because Bassey

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\* Before Gomes, Acting P.J., Peña, J. and Smith, J.

failed to provide a record adequate to support her argument on appeal, we affirm the trial court's order.

### **PROCEDURAL HISTORY**

Since Bassey elected to proceed without a reporter's transcript as part of the record on appeal, the following procedural facts are taken from the clerk's transcript, which consists of only (1) a December 9, 2013 minute order issuing a temporary restraining order and taking the issue of a permanent order under submission, (2) a restraining order after hearing, filed on December 11, 2013, which expired on January 8, 2014, (3) the notice of appeal, (4) Bassey's notice designating the record on appeal, and (5) the register of actions.

In July 2013, Bassey filed an order to show cause and obtained a temporary domestic violence restraining order against Weigel, to which Weigel filed a response. A hearing on the order to show cause was continued from August 19, 2013 to September 30, 2013. At the September 30, 2013 hearing, at which Weigel appeared late, Bassey testified and presented other evidence. The trial court denied the request for a permanent restraining order and dissolved the temporary restraining order.

On November 20, 2013, Bassey filed a second order to show cause and obtained a temporary domestic violence restraining order against Weigel. The hearing was held on December 9, 2013, with Bassey and Weigel both present and representing themselves. The trial court took the matter under submission, stating that the restraining order previously made remained in effect, and if it did not rule within 30 days the temporary order would expire at that time. The trial court directed Bassey to prepare an order. On December 11, 2013, the domestic violence restraining order with an expiration date of January 8, 2014 was signed by the trial court and filed. On December 13, 2013, Bassey filed a peremptory challenge pursuant to Code of Civil Procedure section 170.6, which the trial court struck as untimely. On January 10, 2014, the trial court issued its ruling by a minute order, which states that it "does not grant domestic violence restraining

orders[,]” and that it “finds Mr. Weigel’s testimony that the one telephone call was accidental, to be credible.”

### DISCUSSION

On appeal, Bassey contends the trial court erred in denying her a permanent restraining order against Weigel. Bassey asserts the trial court found at the September 30 hearing that Weigel harassed and stalked her, yet failed to issue a permanent restraining order and instead warned Weigel that it would award a permanent restraining order in the future should his actions persist. She further asserts that thereafter, Weigel called her and left a blank message recording, after which she filed a second time for a restraining order, but the trial court refused to issue a permanent order because Weigel said it was accidental. She contends Weigel failed to meet his burden of proving that his intrusions were welcomed, and all the evidence supports a finding that she was harassed, therefore the trial court erred in denying the permanent restraining order. The record on appeal is not adequate to support Bassey’s argument.

The decision to deny a permanent restraining order “rests in the sound discretion of the trial court upon a consideration of all the particular circumstances of each individual case, and the trial court’s judgment will not be modified or dissolved on appeal except for an abuse of discretion.” (*Professional Engineers v. Department of Transportation* (1997) 15 Cal.4th 543, 562.) As the party challenging the trial court’s decision, Bassey has “an affirmative obligation to provide an adequate record so that we may assess whether the trial court abused its discretion.” (*Vo v. Las Virgenes Municipal Water Dist.* (2000) 79 Cal.App.4th 440, 447.) “Where no reporter’s transcript has been provided and no error is apparent on the face of the existing appellate record, the judgment must be *conclusively presumed correct as to all evidentiary matters*. To put it another way, it is presumed that the unreported trial testimony would demonstrate the absence of error.” (*Estate of Fain* (1999) 75 Cal.App.4th 973, 992; original italics.) “The orders of the trial court are presumed to be valid and [the appellant] has the burden

of providing a record adequate to support his arguments on appeal.” (*People v. Malabag* (1997) 51 Cal.App.4th 1419, 1427.)

Here, Bassey has failed to satisfy her obligation to provide an adequate record on appeal. Bassey has not included in the clerk’s transcript either of her orders to show cause, which would show why she was requesting a restraining order. Bassey asserts that her peremptory challenge was timely filed, but failed to include the document in the clerk’s transcript. While Bassey makes numerous factual assertions in her opening brief, none are supported by the minimal record before us. Without a reporter’s transcript, we do not know what evidence the parties presented to the trial court and therefore cannot assess whether the trial court abused its discretion in denying Bassey’s request for a permanent restraining order against Weigel. In the absence of an adequate appellate record, we must presume the court’s decision to deny the restraining order was supported by the evidence, and did not constitute an abuse of the court’s discretion.

We acknowledge that Bassey is representing herself on appeal. While under the law one may act as her own attorney, when a litigant does so, she is held to the same restrictive rules of procedure and evidence as an attorney. (*Nelson v. Gaunt* (1981) 125 Cal.App.3d 623, 638-639; *Monastero v. Los Angeles Transit Co.* (1955) 131 Cal.App.2d 156, 160-161.)

#### **DISPOSITION**

The order denying a permanent domestic violence restraining order is affirmed.