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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

TAEMI NAGAHAMA, Plaintiff and Respondent, v. DANIEL JENKINS, Defendant and Appellant.	B265623 (Los Angeles County Super. Ct. No. YQ022452)

APPEAL from a judgment of the Superior Court of Los Angeles County, Patricia J. Titus, Judge. Affirmed.

Daniel Jenkins, in pro. per., for Defendant and Appellant.

Legal Aid Foundation of Los Angeles and Angie Chang, for Plaintiff and Respondent.

Daniel Jenkins appeals from a domestic violence protective order issued under the Domestic Violence Prevention Act (DVPA) (Fam. Code § 6200 *et seq*.) ordering him to stay away from respondent Taemi Nagahama.[1] Jenkins, acting in propria persona, contends the order is not supported by substantial evidence. We conclude that Jenkins has failed to provide an adequate record on appeal to allow review of his claims, and therefore, we affirm.

FACTS AND PROCEDURAL HISTORY

Nagahama came to the United States on a student visa from Japan and began a relationship with Jenkins in June 2013. Nagahama filed a request for a domestic violence restraining order on March 19, 2015. She described emotional, physical, mental, and financial injuries that she suffered during their relationship.

A hearing was held on April 2, 2015. No reporter's transcript of the proceedings is included in the record on appeal, although a reporter was present for the hearing, and no agreed or settled statement has been submitted. The minute order reflects that the parties appeared, were placed under oath, and testified.

The trial court issued a restraining order against Jenkins that day. He was ordered to stay at least 100 yards away from Nagahama, her home, her car, her school, and her workplace. He may not harass her, contact her, or take any action to obtain her address or location. The court ordered the parties to return on April 23, 2015, for further proceedings on the issue of whether

[1] All further statutory references are to the Family Code.

Jenkins owed money to Nagahama. The restraining order was set to expire on April 2, 2016.

On April 23, 2015, Jenkins filed a motion seeking to have the restraining order rescinded. The case summary reflects that a hearing was held on April 23, 2015, and continued. Another hearing was held on May 4, 2015. The appellate record does not contain reporter's transcripts or settled statements for the April 23 and May 4, 2015 hearings. The record does not contain any ruling on the motion to have the order rescinded.

On July 16, 2015, Jenkins filed a notice of appeal from the April 2, 2015 restraining order. He included several exhibits as part of the clerk's transcript on appeal, including copies of text messages, medical records, copies of check register receipts for rent, and photographs showing bruises and scratches.

DISCUSSION

On appeal, Jenkins contends the trial court erred in issuing the restraining order, because Nagahama lied in her testimony and the court failed to consider Jenkins' objections to her testimony. He asserts that he has had no contact with Nagahama and this appellate court should vacate the restraining order. We conclude that the order must be affirmed based on the lack of an adequate record for review on appeal.

The restraining order in this case was issued pursuant to the DVPA (§ 6200 et seq.). The DVPA authorizes the trial court to issue a restraining order "to prevent acts of domestic violence, abuse, and sexual abuse and to provide for a separation of the persons involved in the domestic violence for a period sufficient to enable these persons to seek a resolution of the causes of the

violence." (§§ 6220, 6300.)

"We review an order granting a protective order under the DVPA for abuse of discretion. [Citation.]" (*In re Marriage of Evilsizor & Sweeney* (2015) 237 Cal.App.4th 1416, 1424.) "'A trial court abuses its discretion when its decision exceeds the bounds of reason by being arbitrary, capricious or patently absurd. [Citation.] In determining whether there has been such an abuse, we cannot reweigh evidence or pass upon witness credibility. The trial court is the sole arbiter of such conflicts. Our role is to interpret the facts and to make all reasonable inferences in support of the order issued. [Citation.]' [Citations.]" (*People ex rel. Harris v. Black Hawk Tobacco, Inc.* (2011) 197 Cal.App.4th 1561, 1567.) A court abuses its discretion "if it applies improper criteria or makes incorrect legal assumptions. [Citation.]" (*In re Marriage of Fajota* (2014) 230 Cal.App.4th 1487, 1497, italics omitted.) "If the record affirmatively shows the trial court misunderstood the proper scope of its discretion, remand to the trial court is required to permit that court to exercise informed discretion with awareness of the full scope of its discretion and applicable law. [Citations.]" (*F.T. v. L.J.* (2011) 194 Cal.App.4th 1, 26, italics omitted.)

"In considering the evidence supporting such an order, 'the reviewing court must apply the "substantial evidence standard of review," meaning "'whether, on the entire record, there is any substantial evidence, contradicted or uncontradicted,' supporting the trial court's finding. [Citation.] 'We must accept as true all evidence . . . tending to establish the correctness of the trial court's findings . . . , resolving every conflict in favor of the judgment.'" [Citation.]' [Citation.]" (*In re Marriage of Evilsizor & Sweeney*, *supra*, 237 Cal.App.4th at p.1424.)

In conducting our review on appeal, we presume that a judgment or order of a lower court is correct. "'All intendments and presumptions are indulged to support [the judgment] on matters as to which the record is silent, and error must be affirmatively shown.'" (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564; *Conservatorship of Rand* (1996) 49 Cal.App.4th 835, 841.) The appellant "has the burden of showing reversible error by an adequate record." (*Ballard v. Uribe* (1986) 41 Cal.3d 564, 574.) "'A necessary corollary to this rule is that if the record is inadequate for meaningful review, the appellant defaults and the decision of the trial court should be affirmed.' [Citations.]" (*Gee v. American Realty & Construction, Inc.* (2002) 99 Cal.App.4th 1412, 1416; see also *Foust v. San Jose Construction Co., Inc.* (2011) 198 Cal.App.4th 181, 187.) When the appellant fails to provide an adequate record as to any issue the appellant has raised on appeal, the issue must be resolved against the appellant. (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295–1296.)

Jenkins must show error on the face of the appellate record in order to overcome the presumption that the trial court's order is correct. Without a record of the testimony received at the hearing by way of a reporter's transcript or agreed or settled statement (Cal. Rules of Court, rules 8.130(g), 8.134, 8.137), we must presume the facts supported the trial court's findings. An appellant who attacks a judgment, but supplies no reporter's transcript, is precluded from asserting that the evidence was insufficient to support the judgment. (*Estate of Fain* (1999) 75 Cal.App.4th 973, 992.) In the absence of a record of evidence received at the hearing, we cannot evaluate issues requiring a factual analysis and must presume "the trial court acted duly and regularly and received substantial evidence to support its

findings." (*Stevens v. Stevens* (1954) 129 Cal.App.2d 19, 20; see *Pringle v. La Chapelle* (1999) 73 Cal.App.4th 1000, 1003; *Hodges v. Mark* (1996) 49 Cal.App.4th 651, 657.) We do not know what objections Jenkins made to evidence during the hearing, and we cannot review the trial court's reasoning in the exercise of its discretion without a record of the hearing.

DISPOSITION

The order is affirmed.

KRIEGLER, J.

We concur:

TURNER, P.J.

KUMAR, J.*

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* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.