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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

SAIID ELYASSIAN,

Appellant,

v.

NASRIN ELYASSIAN,

Respondent.

B276350

(Los Angeles County
Super. Ct. No. SD031561)

APPEAL from judgment of the Superior Court of Los Angeles County, Matthew St. George, Commissioner.
Affirmed.

Saiid Elyassian, in pro. per., for Appellant.

Law Office of Ardalan Samandari and Ardalan
Samandari, for Respondent.

Plaintiff and appellant Saiid Elyassian appeals a family law judgment entered on May 17, 2016. Defendant and respondent Nasrin Elyassian points to numerous deficiencies in appellant's opening brief, and notes the judgment is supported by substantial evidence.

We agree that appellant's opening and reply briefs do not comply with California Rules of Court, rule 8.204(a)(1)(A)-(C).¹ After conducting an independent review of the record in light of the arguments raised by both parties, we affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND²

Appellant and respondent separated in January 2013, after over 32 years of marriage. On January 15, 2013, respondent obtained a temporary restraining order to keep

¹ All further rule references are to the California Rules of Court unless otherwise stated.

² Despite purporting to cover a marriage lasting more than 32 years and a four-year process of separation and divorce, appellant's factual summary contains only a single record citation, and that one citation lacks any relevance to the issues on appeal. The factual and procedural background is based solely on our independent review of the record. We ignore any factual assertions made by appellant without citation to the record. (*Yeboah v. Progeny Ventures, Inc.* (2005) 128 Cal.App.4th 443, 451.)

appellant away from respondent and their three daughters, ages 23, 25, and 30. The hearing for a longer-term restraining order was continued to allow respondent to present new evidence. Respondent filed a supplemental declaration describing several instances when appellant reportedly violated the restraining order. After a hearing on February 25, 2013, attended by both parties, the court issued a five-year restraining order against appellant. The court's order specified two dates and times during which appellant could go to a specified residence to retrieve his personal belongings.

Appellant initiated marital dissolution proceedings in April 2013. The record contains no substantive detail³ on what transpired in the dissolution proceedings prior to the time when the parties filed their respective financial declarations in February 2015.

On April 29, 2015, the court conducted a hearing on various issues. Appellant was self-represented. The court denied an ex parte motion and a request for restraining order filed by appellant. The court ordered the marriage dissolved, entering judgment on the issue of marital status only and reserving all other issues. The court scheduled a trial setting conference for July 29, 2015. It identified spousal support and division of property as issues for trial, noting that there was "still discovery to be conducted," and that either party could request spousal support.

³ There is a single minute order dated November 5, 2014, consolidating a related case with this one.

On July 23, 2015, respondent filed her mandatory settlement brief, as well as an income and expense declaration. The brief sets forth a proposed division of property. The trial was continued, and the record again falls silent on what transpired until both parties filed trial briefs and exhibit and witness lists on March 30, 2016. Respondent filed income and expense declarations on that date as well.

The court conducted a trial on April 8, 2016. At the outset, appellant conceded that a number of the witnesses listed in his trial brief were unavailable for various reasons. Appellant's exhibits were not properly marked, but they were mostly photos of items that appellant asserted were community property.⁴ The court heard testimony and reviewed the photographs and a 2009 tax return that formed the basis for valuing the community property business at a little over \$250,000.

On May 17, 2016, the court entered judgment, specifying a division of property, including a list of personal property items. The court reserved for future determination the issue of spousal support for respondent, and terminated

⁴ Appellant has presented some photos as attachments to his opening brief. The photos appear to be copies of exhibits proffered at trial, but appellant does not establish they were admitted into evidence. (Rule 8.204(d) [permitting parties to attach copies of exhibits to a brief].) We do not rely upon the photos in reaching our decision.

jurisdiction as to spousal support for appellant. Appellant filed his notice of appeal on July 15, 2016.

DISCUSSION

Contents and form of appellant's brief

Appellant's brief fails to comply with rule 8.204(a)(1)(A)-(C). It lacks a table of contents or table of authorities, and the factual summary is devoid of any citations to the record.⁵ The headings do not identify any valid contentions on appeal. In addition, in the text following three separate headings titled "MEMORANDUM OF POINTS AND AUTHORITIES," appellant accuses respondent of committing perjury, violating the 2013 restraining order, and misrepresenting the value of a community property business. Appellant offers no coherent legal argument about how such accusations—even if proven—caused the trial court to commit reversible error in entering judgment.

The rules of court require that briefs filed by any party must "[s]tate each point under a separate heading or subheading summarizing the point, and support each point by argument and, if possible, by citation of authority." (Rule

⁵ Appellant's statement of facts contains only one citation to the record. The substance of that single record citation is to call our attention to the fact that a police report dated April 18, 2010, does not mention any assault.

8.204(a)(1)(B).) “Failure to provide proper headings forfeits issues that may be discussed in the brief but are not clearly identified by a heading.” (*Pizarro v. Reynoso* (2017) 10 Cal.App.5th 172, 179; *Nelson v. Avondale Homeowners Assn.* (2009) 172 Cal.App.4th 857, 862 [treating as waived arguments made in appellate brief with no reasoned argument or citation to authority].) Appellant’s “status as a party appearing in propria persona does not provide a basis for preferential consideration. A party proceeding in propria persona ‘is to be treated like any other party and is entitled to the same, but no greater consideration than other litigants and attorneys.’ [Citation.]” (*First American Title Co. v. Mirzaian* (2003) 108 Cal.App.4th 956, 958, fn. 1.)

Rather than striking the brief, we affirm the lower court’s judgment based on the absence of any reversible error as discussed in the next section. (Rule 8.204(e).)

No reversible error

1. Termination of appellant’s right to spousal support

Appellant challenges the lower court’s order terminating jurisdiction over the issue of appellant’s right to spousal support, arguing the order is based on a domestic violence restraining order that respondent obtained through perjury. The trial court observed and appellant conceded that the domestic violence restraining order remained in place. The domestic violence restraining order is a final,

valid order, and provides a valid basis for the court's decision.

2. *Witness unavailability*

Appellant makes a contention, unsupported by the record, that his witnesses were available for a March 11, 2016 trial date, but not for the actual April 8, 2016 date, and the court denied his request for a new trial date. The reporter's transcript demonstrates that several of appellant's witnesses were not available, but appellant did not request a continuance until after the trial had commenced and appellant had started presenting evidence. The trial court acted well within its discretion in denying the continuance. (*Volkerling v. Allen* (1950) 96 Cal.App.2d 804, 807 [denial of a continuance reviewed for abuse of discretion].)

3. *Division of property*

Appellant makes various assertions about why the court incorrectly calculated the value of certain items of separate and community property. Appellant has not demonstrated that the trial court's determination was unsupported by substantial evidence, so we affirm.

DISPOSITION

The May 17, 2016 judgment is affirmed. Costs on appeal are awarded to respondent Nasrin Elyassian.

KRIEGLER, Acting P.J.

We concur:

BAKER, J.

RAPHAEL, J.*

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