

**Commonwealth Of Kentucky**

**Court of Appeals**

NO. 2004-CA-001001-ME

JASON HORSTMAN

APPELLANT

APPEAL FROM JEFFERSON CIRCUIT COURT  
v. HONORABLE PATRICIA WALKER FITZGERALD, JUDGE  
ACTION NO. 02-FC-500518

EVA CRAWFORD, FORMERLY HORSTMAN

APPELLEE

OPINION  
AFFIRMING

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BEFORE: KNOPF AND TACKETT, JUDGES; EMBERTON, SENIOR JUDGE.<sup>1</sup>

EMBERTON, SENIOR JUDGE: This is an appeal from an order of the Jefferson Family Court denying appellant's motion for a change from sole to joint custody of the parties' minor children. In his pro se brief to this court, appellant raises numerous factual challenges to the findings set out in the order denying his motion. Because the record on appeal contains no transcript or video record of the hearing conducted on appellant's motion,

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<sup>1</sup> Senior Judge Thomas D. Emberton sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

and review of the record on appeal confirms that no designation of record was filed as provided for in CR<sup>2</sup> 75.01, this court concludes that no basis for disturbing the decision of the trial court has been demonstrated.

The court, having carefully considered the pleadings, affidavits and reports, finds that they fully support the detailed and well-reasoned decision of the trial court. The report of the court-ordered psychologist, cited at length in the trial court's order, provides ample evidentiary support for its decision. In the absence of a record of the evidence adduced at the hearing, this court must indulge in the presumption that the omitted evidence supports the decision of the trial court.<sup>3</sup> As noted by the court in Burberry v. Bridges, "[i]t is also reasonable to place upon appellant the duty to designate and file a record sufficient to enable the Court to pass the alleged errors."<sup>4</sup>

Accordingly, the decision of the Jefferson Family Court denying appellant's motion for joint custody is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

NO BRIEF FILED FOR APPELLEE:

Jason Horstman, Pro Se  
Rolling Meadows, IL

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<sup>2</sup> Kentucky Rules of Civil Procedure.

<sup>3</sup> Burberry v. Bridges, 427 S.W.2d 583 (Ky. 1968).

<sup>4</sup> Id. at 585.

