

NOTICE
This Order was filed under
Supreme Court Rule 23 and
is not precedent except in the
limited circumstances
allowed under Rule 23(e)(1).

2021 IL App (4th) 200148-U
NO. 4-20-0148
IN THE APPELLATE COURT
OF ILLINOIS

FILED
October 20, 2021
Carla Bender
4th District Appellate
Court, IL

FOURTH DISTRICT

RODNEY LOVE,)	Appeal from the
Plaintiff-Appellant,)	Circuit Court of
v.)	Sangamon County
ILLINOIS STATE POLICE,)	No. 18MR963
Defendant-Appellee.)	
)	Honorable
)	Rudolph M. Braud Jr.,
)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Justices Turner and Harris concurred in the judgment.

ORDER

- ¶ 1 *Held:* The appellate court affirmed, finding due to the numerous deficiencies in plaintiff’s brief where plaintiff failed to present claims of error which were supported by well-reasoned argument, relevant legal authority, and citations to the record, we must presume the trial court properly dismissed plaintiff’s complaint for declaratory judgment and injunctive relief.
- ¶ 2 In December 2018, plaintiff, Rodney Love, an inmate currently incarcerated at Stateville Correctional Center, filed a complaint for declaratory judgment and injunctive relief against defendant, the Illinois State Police (ISP), pursuant to the Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2018)), requesting the trial court find ISP in violation of FOIA and order ISP to release the documents related to his FOIA request.
- ¶ 3 In May 2019, ISP filed a motion to dismiss pursuant to section 2-619.1 of the Code of Civil Procedure (Civil Code) (735 ILCS 5/2-619.1 (West 2018)), arguing plaintiff’s

request was unduly burdensome under section 3(g) of FOIA (5 ILCS 140/3(g) (West 2018)) and was a repeated request. In March 2020, the trial court entered a written order granting ISP's motion.

¶ 4 Plaintiff appeals *pro se*, raising the following issues: (1) ISP failed to produce an index of records; (2) ISP failed to answer plaintiff's motions for production of documents and admission of facts; (3) ISP failed to follow sections 2-605(a) and (b) of the Civil Code (735 ILCS 5/2-605(a), (b) (West 2018)); (4) ISP's affidavits were vague; and (5) the trial court abused its discretion. We affirm.

¶ 5 I. BACKGROUND

¶ 6 In August 2018, plaintiff submitted a FOIA request to ISP, stating, "pursuant to 5 ILCS 140/1.1 I'm requesting the fingerprints that was [*sic*] tested on Evidence inventory under #10026088. The Evidence was received by this department on 9-9-02."

¶ 7 In September 2018, ISP denied plaintiff's FOIA request. ISP explained the lab reports plaintiff sought "contain[ed] personal information which would clearly constitute an unwarranted invasion of personal privacy" and were therefore exempted from disclosure pursuant to section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c) (West 2018)). Thereafter, ISP's FOIA officer, Erin Davis, sent plaintiff a "Revised Response To FOIA Request," indicating ISP "cited the incorrect denial reason on the initial response." Davis informed plaintiff of ISP's determination his request was instead "unduly burdensome" under section 3(g) of FOIA (5 ILCS 140/3(g) (West 2018)) because ISP previously provided plaintiff with "all three complete lab case files in response to [his] previous FOIR #15-1956." Davis further explained ISP previously "advised [plaintiff] in response to [his] previous FOIR # 15-2304 and again in response to [his] previous FOIR # 16-1092 that [he] had already been provided with the entire case files and there

were no additional records to provide to [him].” Nevertheless, Davis stated, “Inventory # 1[0]026088 (Haskell model JS-45 handgun) was never processed for fingerprints by [ISP] so there are no records responsive to [plaintiff’s] request for fingerprint results related to that inventory number.”

¶ 8 In December 2018, plaintiff filed a complaint for declaratory judgment and injunctive relief against ISP pursuant to FOIA. Plaintiff requested the trial court find ISP in violation of FOIA and order ISP to release the documents related to his FOIA request.

¶ 9 On February 11, 2019, plaintiff filed a motion for production of documents, seeking “all documents responsive to Plaintiff[’s] foia [*sic*] request which are the subject of the complaint.” That same day, plaintiff filed an accompanying motion for admission of fact, requesting ISP make “admissions relating too [*sic*] Plaintiff’s foia [*sic*] request and evidence sent to and by [ISP].”

¶ 10 In May 2019, ISP filed a motion to dismiss plaintiff’s complaint pursuant to section 2-619.1 of the Civil Code (735 ILCS 5/2-619.1 (West 2018)). ISP argued, in relevant part, “[p]laintiff’s request for fingerprints was for records or information from the same case files [ISP] had already provided, and [ISP] informed [plaintiff] there were no additional records from those files. As such, Plaintiff’s request is a repeated request and thus unduly burdensome under § 3(g) [of FOIA].” In support of its motion to dismiss, ISP attached the affidavit of Davis. Davis’s affidavit averred plaintiff “previously requested laboratory case files and was provided with those entire files. He then sent additional FOIA requests for the same records and information. ISP informed him that he had already been provided with the case files, and that there were no additional records to provide.”

¶ 11 In his June 2020 response to ISP’s motion to dismiss, plaintiff asserted, *inter alia*, there were “numerous documents that [ISP] hasn’t turned over.” Plaintiff argued an index of records was necessary because there was a “genuine issue of disputed facts dealing with [ISP] claiming [it] gave all the records.”

¶ 12 In February 2020, the trial court conducted a telephone hearing on ISP’s motion to dismiss plaintiff’s complaint. (We note no report of the proceedings or bystander’s report for this hearing is included in the record on appeal.) In March 2020, the court entered a written order granting ISP’s motion to dismiss with prejudice.

¶ 13 This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 As previously stated, plaintiff raised five issues on appeal. However, plaintiff’s brief contains no real analysis on any of the issues. Instead, he mostly provided extended quotations from statutes—when he cited statutes—without providing any specifics regarding these allegations or explaining how the law supports his claims of error.

¶ 16 Illinois Supreme Court Rule 341(h) (eff. May 25, 2018) sets forth the necessary requirements which must be met when filing an appellant brief. Rule 341(h)(7) states an appellant’s brief shall include:

“Argument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on. Evidence shall not be copied at length, but reference shall be made to the pages of the record on appeal where evidence may be found.” Ill. S. Ct. R. 341(h)(7) (eff. May 25, 2018).

The rules of our supreme court are not aspirational. “ ‘They have the force of law, and the presumption must be that they will be obeyed and enforced as written.’ ” *Billerbeck v. Caterpillar Tractor Co.*, 292 Ill. App. 3d 350, 353, 685 N.E.2d 1018, 1020 (1997) (quoting *Bright v. Dicke*, 166 Ill. 2d 204, 210, 652 N.E.2d 275, 277-78 (1995)). “A reviewing court is entitled to have issues clearly defined with pertinent authority cited and coherent arguments presented; arguments inadequately presented on appeal are waived. [Citation.] Statements unsupported by argument or citation of relevant authority do not merit consideration on review. [Citation.] A reviewing court will not become an advocate for, as well as the judge of, points the appellant seeks to raise. [Citation.]” *Vernon Hills III Ltd. Partnership v. St. Paul Fire & Marine Insurance Co.*, 287 Ill. App. 3d 303, 311, 678 N.E.2d 374, 379 (1997). “A party’s status as a *pro se* litigant, as here, does not relieve him [or her] of [the] obligation to comply with appellate rules.” *Matlock v. Illinois Department of Employment Security*, 2019 IL App (1st) 180645, ¶ 14, 130 N.E.3d 41. A reviewing court “is not a repository for an appellant to foist the burden of argument and research.” *Enadeghe v. Dahms*, 2017 IL App (1st) 162170, ¶ 23, 95 N.E.3d 1170.

¶ 17 Plaintiff’s brief fails to comply with Rule 341(h) in a number of particulars. Plaintiff failed to provide any jurisdictional statement as required by Illinois Supreme Court Rule 341(h)(4) (eff. May 25, 2018), and he failed to provide a concise statement of the applicable standard of review, with citation of authority for each issue, as required by Illinois Supreme Court Rule 341(h)(3) (eff. May 25, 2018). He failed to provide proper citations to the record, develop legal argument, or cite relevant authority. Further, plaintiff’s “statement of facts” section provided the following in its entirety: “Rodney Love filed a Petition 735 ILCS 5/2-701, 5 ILCS 140-1.1 arguing that the defendants denied Plaintiff access to Public records. Following arguments, the circuit court granted the State’s motion to dismiss Rodney Love’s Petition.”

There are no specific facts regarding what transpired at that hearing to form the bases for plaintiff's claims. Moreover, no facts are presented indicating (1) what "Public records" ISP purportedly denied plaintiff access to or (2) what the trial court allegedly did—or failed to do—in support of plaintiff's contentions on appeal. See Ill. S. Ct. R. 341(h)(6) (eff. May 25, 2018) (stating an appellant's brief "shall contain the facts necessary to an understanding of the case"). It is therefore impossible to ascertain any relevant background information regarding the issues precipitating this appeal without extracting them from the record ourselves—a task we are not and should not be expected to do. The best this court could do was recite the facts as they appear from the common law record. Because plaintiff utterly failed to comply with the briefing requirements, he forfeited all five issues he raised on appeal.

¶ 18 Even seeking to charitably interpret plaintiff's statement that "[d]efendants failed to produce an index of records," as a cogent argument, there is little, if anything, which could be construed as a legal argument therein. Even so, plaintiff's contention fails, as the record in this case contains no evidence plaintiff was denied access to any records. See 5 ILCS 140/11(e) (West 2018) ("On motion of the plaintiff, *** the court shall order the public body to provide an index of the records *to which access has been denied.*" (Emphasis added.)). To the contrary, Davis's affidavit averred plaintiff "had already been provided with the case files, and that there were no additional records to provide."

¶ 19 Plaintiff did not include in the record on appeal a transcript of the hearing on ISP's motion to dismiss. As a result, we are unable to discern exactly what evidence was before the trial court and on what basis the trial court made its rulings without scouring the common law record in an attempt to extract information consistent with plaintiff's cryptic claims. Although it is clear plaintiff seeks reversal of the trial court's granting of ISP's motion to dismiss, without

that information, we are to presume the trial court made the correct finding based on the evidence before it. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92, 459 N.E.2d 958, 959 (1984) (“[A]n appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the order entered by the trial court was in conformity with law and had a sufficient factual basis. Any doubts which may arise from the incompleteness of the record will be resolved against the appellant.”). Therefore, rather than simply dismissing the appeal due to its many deficiencies, we affirm the trial court’s judgment.

¶ 20

III. CONCLUSION

¶ 21

For the foregoing reasons, we affirm the trial court’s judgment.

¶ 22

Affirmed.