2024 IL App (1st) 221413-U

No. 1-22-1413

Order filed January 16, 2024.

First Division

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).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

ROSELLA ELLIS, *et al.*,	)	Appeal from the
	)	Circuit Court of
Plaintiffs-Appellants,	)	Cook County.
	)	
v.	)	
	)	No. 21 M 1124124
DEPARTMENT HEALTH, EDUCATION, &	)	
WELFARE, *et al.*,	)	The Honorable
	)	James Derico, Jr.,
Defendants-Appellees.	)	Judge Presiding.

JUSTICE LAVIN delivered the judgment of the court.
Justices Pucinski and Coghlan concurred in the judgment.

ORDER

¶ 1 *Held*: Plaintiff's appeal of the circuit court's order dismissing her complaint with prejudice for lack of standing is affirmed where plaintiff failed to comply with the Illinois Supreme Court Rules governing appeals and where the record on appeal is incomplete.

¶ 2 Plaintiff-appellant Rosella Ellis appeals *pro se* from an order dismissing her claim against the "Department of Health, Education and Welfare" for lack of standing. Because plaintiff has

neither complied with the rules governing appellate briefs nor provided this court with a complete record of proceedings, we affirm.

¶ 3 The record on appeal consists only of the common law record; there are no reports of proceedings. According to the limited record before us, plaintiff, appearing *pro se*, filed a civil action in the circuit court of Cook County on November 12, 2021, identifying herself "et. al [*sic*]" as plaintiffs and "Dept of Health, Education and Welfare, et. al [*sic*]," as defendants.[1] Plaintiff alleged in her complaint as follows:

> "This department is shown to be derelict in its duties. This is demonstrated as follows:
>
> 1. There is a crisis in our health care system.
> 2. There is a crisis in our educational system.
> 3. There is also a crisis in our welfare system.
>
> It is the sworn duty of this department to provide these services."

¶ 4 A summons issued in this case identified "Dept of Health, Education and Welfare" as the defendant and listed two addresses in Washington, D.C., for this purported entity: 400 Maryland Avenue, S.W., and 200 Independence Avenue, S.W. The summons stated that plaintiff claimed $30,000 in damages.

¶ 5 Plaintiff filed a motion to appoint a special process server, which the trial court granted on March 14, 2022. According to an affidavit of service, on December 1, 2021, a special process

[1] We note that the common law record includes materials pertaining to an apparently unrelated case that plaintiff filed against an entity other than "Dept of Health, Education and Welfare."

server served the complaint and summons on "Department of Health Education and Welfare" at 400 Maryland Avenue, S.W.

¶ 6 On June 3, 2022, plaintiff filed a document titled "Appellant's Prove-up Report," identifying herself as "[a]ppellant" and "Dept of Health, Education and Welfare" as "[a]ppellee." Under the heading "U.S. Department of Health Care Failures," the document states, "I know of at least three (3) individuals who [*sic*] insurance premiums of [$1,000] per month. *** God forbid they should be diagnosed with a long-term illness, i.e., cancer, they could be forced to file bankruptcy." The document also states that certain insurers "made over [$35 billion]" in 2021 and that the United States "promotes high cost not quality services."

¶ 7 Under the heading "U.S. Department of Education Failures," the document lists 17 "examples of why" the national educational system is "failing" and concludes that the nation "is behind the times." Under the heading "U.S. Department of Welfare Failures," plaintiff identifies several "serious problems" with the national "welfare system," including that it "creates" poverty and unemployment, and notes that she has experienced homelessness. In conclusion, the document indicates that plaintiff claims $10,000 in damages against each of the three "Departments." The document states that plaintiff is "mentally and emotionally scarred by the[ir] negligence" and hopeful that others will join her in bringing a class action against the "Department of Health, Education and Welfare."

¶ 8 On June 17, 2022, plaintiff filed a motion for default judgment. On July 5, 2022, the trial court granted the motion and set a hearing for prove-up. However, on the hearing date, September 7, 2022, the court dismissed the case with prejudice in a written form order, stating, "Court finds that Plaintiff lacks standing to bring her claims." Plaintiff timely filed a notice of appeal.

¶ 9 Plaintiff, appearing before this court *pro se*, filed an appellate brief. This court, on its own motion, took the appeal on the basis of plaintiff's brief alone. See *First Capital Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 10 We find that our review of this appeal is impeded by plaintiff's failure to submit a brief that complies with Illinois Supreme Court Rule 341(h) (eff. Oct. 1, 2020), which governs the format and content of appellate briefs. The rules of our supreme court are not merely "aspirational" or "suggestions"; rather, " '[t]hey have the force of law, and the presumption must be that they will be obeyed and enforced as written.' " *Robidoux v. Oliphant*, 201 Ill. 2d 324, 340 (quoting *Bright v. Dicke*, 166 Ill. 2d 204, 210 (1995)). A litigant's *pro se* status does not excuse him or her from the obligation to comply with the rules of our supreme court governing the form and content of appellate briefs. *Lewis v. Heartland Food Corp.*, 2014 IL App (1st) 123303, ¶ 5.

¶ 11 Plaintiff's brief meets virtually none of the substantive requirements of Rule 341(h). Without outlining all of the shortcomings of the brief, we note that rather than identifying the basis for this court's jurisdiction to hear the appeal, as the rule requires (Ill. Sup. Ct. R. 341(h)(4) (eff. Oct. 1, 2020)), plaintiff's brief asserts only that she appeals "as a matter of right." Rule 341(h) also requires that the appellant include a statement of "the facts necessary to an understanding of the case *** with appropriate references to the record on appeal." Ill. Sup. Ct. R. 341(h)(6) (eff. Oct. 1, 2020). Here, the statement of facts section of plaintiff's brief consists entirely of two brief, uninformative, and improperly argumentative statements: "A. Lower court failed to provide plaintiff a fair and impartial trial [and] B. Lower court failed to review and/or consider plaintiff's complaint."

¶ 12 Most importantly, Rule 341(h) also requires an "Argument" section that contains "the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on." Ill. Sup. Ct. R. 341(h)(7) (eff. Oct. 1, 2020). But the argument section of plaintiff's brief again comprises two conclusory statements, to wit: "A. Trial court should never have dismissed this case [and] B. Lower court failed to review plaintiff complaint." Plaintiff's brief likewise fails to outline the points argued and authorities cited, as the Rule requires. See Rule 341(h)(1) (eff. Oct. 1, 2020). In particular, nowhere does plaintiff's brief cite a legal basis for bringing suit in state court for money damages against one or more federal agencies based on their "negligence."[2]

¶ 13 "[A] court of review is entitled to have the issues on appeal clearly defined with pertinent authority cited and reasoned, cohesive legal argument." *Cwik v. Giannoulias*, 237 Ill. 2d 409, 423 (2010). Stated differently, "a reviewing court is not simply a depository into which a party may dump the burden of argument and research." *People ex rel. Department of Labor v. E.R.H. Enterprises*, 2013 IL 115106, ¶ 56. Where an appellant has failed to comply with mandates of Rule 341(h), this court has discretion to strike the deficient brief and to dismiss the appeal. *Wing v. Chicago Transit Authority*, 2016 IL App (1st) 153517, ¶ 11.

¶ 14 We acknowledge that the deficiencies of a *pro se* plaintiff's brief will not preclude review by this court where "we understand the issue plaintiff intends to raise and especially where the court has the benefit of a cogent brief of the other party." *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001). However, this is not such a case. In the absence

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[2] Plaintiff, purporting to cite the federal constitution, instead quotes a provision of the Illinois constitution, which states that persons "shall find a certain remedy in the laws for all injuries and wrongs which he receives to his person ***" and "shall obtain justice by law, freely, completely, and promptly." Ill. Const. 1970, art. I, § 12. Such is the sole reference to legal authority in plaintiff's brief.

of a cogent legal brief by any party, this court declines to speculate as to the potential merits of plaintiff's argument that the trial court erred in concluding that she lacked standing to bring her purported claim. See *Sun-Times v. Cook County Health & Hospitals System*, 2022 IL 127519, ¶ 55 ("declin[ing] to advocate for [the] plaintiff on [a] potentially complex issue" where the plaintiff failed to develop an argument on appeal). Arguments that do not comply with Rule 341(h)(7) do not merit consideration on appeal, and this court may reject them on that basis. *Wells Fargo Bank, N.A. v. Sanders*, 2015 IL App (1st) 141272, ¶ 43. Accordingly, as plaintiff's brief fails to comply with Rule 341(h)(7), her arguments are forfeited. *Id.*; *Lewis*, 2014 IL App (1st) 123303, ¶ 5 (arguments on appeal that are not supported by citations to authority are procedurally defaulted).

¶ 15 In addition to the deficiency of plaintiff's brief, the record before us contains no record of proceedings, nor a transcript of the hearing that resulted in the trial court's order dismissing the case with prejudice for lack of standing. The rules of our supreme court require that the record on appeal include, *inter alia*, "any report of proceedings prepared in accordance with Rule 323"—or, where such record is unavailable, a bystander report or a statement of facts as agreed by the parties. Ill. S. Ct. R. 321 (eff. Oct. 1, 2021); Ill. S. Ct. R. 323(c), (d) (eff. July 1, 2017). The appellant—here, plaintiff—bears the burden of ensuring a sufficiently complete record on appeal to support the asserted claims of error by the court below. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Where the record on appeal is incomplete, we should " 'indulge in every reasonable presumption favorable to the judgment from which the appeal is taken, including that the trial court ruled or acted correctly.' " *Smolinski v. Vojta*, 363 Ill. App. 3d 752, 757-58 (2006) (quoting *People v. Majer,* 131 Ill. App. 3d 80, 84 (1985)). Moreover, such circumstances require this court to "presume" that the trial court's judgments were "in conformity with law and had a sufficient

factual basis," and to resolve any doubts that arise from the incompleteness of the record against the appellant. *Foutch*, 99 Ill. 2d at 391-92.

¶ 16 We acknowledge that the absence of a record of proceedings (or a substitution recognized by the Supreme Court Rules) is not necessarily fatal to an appeal, provided the record as submitted permits resolution of the issues raised on appeal. *Landau & Associates, P.C. v. Kennedy,* 262 Ill. App. 3d 89, 92 (1994) (citing *Frisch Contracting Service Co. v. Personnel Protection, Inc.*, 158 Ill. App. 3d 218, 221 (1987)). However, here, the record does not permit an assessment of whether the trial court's conclusion that plaintiff lacked standing to litigate her claim was erroneous. See *Pate v. Wiseman*, 2019 IL App (1st) 190449, ¶ 17 (" 'An issue relating to the circuit court's factual findings and basis for its legal conclusions obviously cannot be reviewed absent a report or record of the proceeding.' ") (quoting *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 156 (2005)); *King v. Find-A-Way Shipping, LLC*, 2020 IL App (1st) 191307, ¶ 31 ("To determine whether the trial court made the error which appellant is claiming, a court of review must have before it the record of the proceedings where the error was allegedly made.") (citing *In re Marriage of Gulla & Kanaval*, 234 Ill. 2d 414, 422 (2009)). This deficiency is compounded by the absence of any appellate brief containing a cogent legal argument.

¶ 17 Under these circumstances, the doubts that arise from the incompleteness of the record must be resolved against the appellant. *Corral*, 217 Ill. 2d at 157. Stated differently, "[a]bsent a sufficient record, a reviewing court presumes that the trial court's order conformed to the law and had a sufficient factual basis." *Wing*, 2016 IL App (1st) 153517, ¶ 9 (citing *Foutch*, 99 Ill. 2d at 392). Where the record contains no basis for evaluating the merits of the claimed error, plaintiff cannot overcome this presumption. *Wing*, 2016 IL App (1st) 153517, ¶ 9. Therefore, while we

make no pronouncement on the correctness of the circuit court's determination that dismissal with prejudice was appropriate because plaintiff lacked standing to bring her claim, we nevertheless affirm the circuit court's judgment. See *Corral*, 217 Ill. 2d at 157.

¶ 18 For the foregoing reasons, we affirm the order of the circuit court of Cook County.

¶ 19 Affirmed.