

No. 1-15-0668

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

CLARINDA DEVEAUX,)	Appeal from the
)	Circuit Court of
Respondent-Appellant,)	Cook County.
)	
v.)	
)	14 OP 74747
LOUISE NEAL,)	
)	
Petitioner-Appellee.)	Honorable
)	Patrice Ball-Reed,
)	Judge Presiding.

JUSTICE HALL delivered the judgment of the court.
Presiding Justice Gordon and Justice Reyes concurred in the judgment.

ORDER

¶ 1 *Held:* Respondent's failure to obtain a ruling on her motion to vacate judgment prior to filing her notice of appeal resulted in her abandonment of the motion.

¶ 2 Respondent, Clarinda Deveaux, appeals the trial court's order striking her motion to vacate petitioner's order of protection. For the reasons that follow, we dismiss this appeal.

¶ 3 **BACKGROUND**

¶ 4 On August 8, 2014, petitioner, Louise Neal, filed a petition for an emergency order of protection against respondent. The trial court entered the order against respondent and set it to expire on August 29, 2014. Through subsequent hearings, the order of protection was extended while petitioner attempted to serve notice of the order on respondent. After serving notice by publication, the trial court entered a default judgment against respondent on November 18, 2014, and issued a plenary order of protection set to expire on November 18, 2016.

¶ 5 Subsequently, respondent filed a motion to vacate the order of protection on December 18, 2014, and on January 20, 2015, her motion to vacate was entered and continued. The trial court set the next status date for February 10, 2015, and stated that the motion to vacate would be stricken if respondent failed to serve petitioner with notice of the motion by the next court date.

¶ 6 In response, respondent filed a motion to change the February 10, 2015 status date and transfer the case to another judge (motion to transfer). Respondent claimed that she had a trial on the same day of the status and would be unable to appear. The trial court entered and continued respondent's motion to transfer on February 3, 2015. A status hearing on the motion to transfer was set for February 24, 2015. On February 10, 2015, neither party appeared for the status hearing on respondent's motion to vacate, which resulted in the trial court striking respondent's motion. Likewise, neither party appeared for the status hearing on respondent's motion to transfer, and the trial court struck that motion as well.

¶ 7

ANALYSIS

¶ 8 Petitioner did not file an appellee's brief in this case. However, since the record is fairly simple and the case can be decided without an appellee's brief, we will review the case on the appellant's brief alone. See *First Capital Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976). The threshold question before us is whether the trial court erred in striking respondent's motion to vacate.

¶ 9

I. Motion to Vacate

¶ 10 It is well settled that an order striking a motion to vacate does not constitute a ruling on the merits, and instead the struck motion remains pending. *Won v. Grant Park 2, L.L.C.*, 2013 IL App (1st) 122523, ¶ 40 (citing *Belluomini v. Lancome*, 207 Ill. App. 3d 583, 586 (1990)).

Moreover, a court's failure to rule on a motion does not constitute a denial of the motion. See *Rodriguez v. Prisoner Review Board*, 376 Ill. App. 3d 429, 432 (2007) (“A litigant's failure to obtain a ruling on a motion does not translate into a denial of the motion by the court”); *Commerce Trust Co. v. Air 1st Aviation Cos.*, 366 Ill. App. 3d 135, 142 (2006); *Herricane Graphics, Inc. v. Blinderman Construction Co.*, 354 Ill. App. 3d 151, 158 (2004). Rather, “it is the responsibility of the party filing a motion to request the trial judge to rule on it, and when no ruling has been made on a motion, the motion is presumed to have been abandoned absent circumstances indicating otherwise.” *Rodriguez*, 376 Ill. App. 3d at 433.

¶ 11 In this case, respondent has not presented any claim or evidence that the trial court ruled on the merits of the motion to vacate. The record contains neither an order denying respondent's motion, nor any indication that respondent sought a ruling on her motion. An appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of

error, and any doubts which may arise from the incompleteness of the record will be resolved against the appellant. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391 (1984).

¶ 12 The record demonstrates that respondent proceeded to file her notice of appeal on March 4, 2015 rather than seeking rulings on any of her motions. Thus, respondent's failure to obtain a ruling from the trial court on her motion to vacate judgment prior to filing her notice of appeal resulted in her abandonment of the motion and created a procedural default of any issue related to that motion for the purpose of appeal. *Rodriguez*, 376 Ill. App. 3d at 433. We therefore need not address this issue on appeal. *Id.*

¶ 13 II. Jurisdiction

¶ 14 Next we address respondent's argument that her motion to transfer deprived the trial court of jurisdiction to strike any subsequent motions. In addressing this claim, we note that respondent has not presented this court with any authority supporting her argument. Supreme Court Rule 341 requires that the parties present a fully developed argument with adequate legal and factual support (*Housing Authority of Champaign County v. Lyles*, 395 Ill. App. 3d 1036, 1040 (2009)), cite to the record for all factual assertions made and cite to legal authority for the arguments advocated (*Soter v. Christoforacos*, 53 Ill. App. 2d 133, 137 (1964)). See generally Ill. S. Ct. Rule 341(h)(6), (7) (eff. Feb.6, 2013). As a *pro se* litigant, respondent is not relieved of following these procedural rules. *Tannenbaum v. Lincoln National Bank*, 143 Ill. App. 3d 572, 574, (1986). Although her right to appear *pro se* is well established, it is equally well established that when she does appear *pro se*, she must comply with the established rules of procedure. *Id.*

¶ 15 Assuming *arguendo* that respondent's motion to transfer did deprive the trial court of jurisdiction to strike any subsequent motion, the record demonstrates that the motion to vacate

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preceded her motion to transfer. Therefore, her contention would be without merit under the facts of this case.

¶ 16 For the reasons stated above, we conclude that respondent's appeal must be dismissed.

Appeal dismissed.