

No. 1-15-0777

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

| | | |
|---------------------------------|---|------------------|
| <i>In re</i> ESTATE OF |) | Appeal from the |
| |) | Circuit Court of |
| JOHN J. LOFTUS, |) | Cook County. |
| |) | |
| Deceased. |) | |
| |) | |
| (Wanda Reichard, |) | |
| |) | No. 09 P 6734 |
| Respondent-Appellant, |) | |
| |) | |
| v. |) | |
| |) | |
| James Loftus and Thomas Loftus, |) | Honorable |
| |) | Karen O'Malley, |
| Petitioners-Appellees.) |) | Judge Presiding. |

JUSTICE CUNNINGHAM delivered the judgment of the court.
Presiding Justice Hoffman and Justice Rochford concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court's judgment of granting appellees' petition to recover assets against the appellant is affirmed where the appellant failed to submit a sufficient record on appeal for this court to review the issues presented.

¶ 2 Following an order from the circuit court of Cook County granting a petition by the estate of John J. Loftus to recover assets from *pro se* respondent-appellant, Wanda Reichard (Reichard), and denying her petition to recover, Reichard now appeals. Because Reichard has

failed to submit a sufficient record on appeal for this court to review the issues presented, we affirm.

¶ 3

BACKGROUND

¶ 4 The decedent, John Loftus (Loftus), died testate on January 29, 2008. He was survived by his two brothers, petitioners-appellees James Loftus and Thomas Loftus (James and Thomas). Loftus was familiar with Reichard, as they knew each other for 45 years. One year before his death, Loftus was diagnosed with cancer and began residing with Reichard in her home, where she cared for him until his death. Prior to that time, Loftus had resided with Thomas.

¶ 5 On November 26, 2007, Loftus executed "Living Trust" documents (the will). The documents bequeathed the net proceeds of any policies or retirement benefits to Reichard. The documents further provided that upon Loftus' death or inability to act as the trustee, Reichard was to act as the successor trustee. On the same date, Reichard executed an "Affidavit of Succession," stating that Loftus was incapacitated and that she assumed control of the trust assets.

¶ 6 On December 17, 2007, Loftus transferred two of his bank accounts into Reichard's name as the joint owner. After Loftus passed away, Reichard removed his name from both accounts, which resulted in her sole ownership of the accounts.

¶ 7 On January 4, 2010, the will was admitted to probate and Reichard was appointed independent executor of Loftus' estate. On March 3, 2010, James and Thomas filed a petition seeking formal proof of will, questioning the validity of the will and claiming that Reichard had undue influence over Loftus when he transferred the bank accounts jointly into her name and when he signed the will.

¶ 8 On June 18, 2010, the trial court revoked the January 4, 2010 order admitting the will into probate, removed Reichard as independent executor, and appointed James and Thomas as independent administrators of the estate.

¶ 9 On April 27, 2012, James and Thomas, on behalf of the estate, filed a petition to recover assets against Reichard. The petition alleged that another will had been destroyed by Reichard before she unduly influenced Loftus to execute the will bequeathing all of his assets to her. The petition sought to invalidate the December 2007 bank title transfers and to recover the funds from Reichard that had been in Loftus' bank accounts on the date of his death. The petition further sought to recover two automobiles in Reichard's possession that were in Loftus' name, and sought to recover all of Loftus' life insurance policies in Reichard's possession.

¶ 10 On November 18, 2014, the trial court held a hearing on the estate's petition to recover. The record reflects that the court heard testimony from Reichard and others about the circumstances of Loftus' relationship with Reichard and the execution of the will. However, no transcript is included in the record. Following the hearing, the parties submitted supplemental briefing, in which Reichard petitioned to recover numerous gifts that Loftus made to her over the course of his lifetime. On February 11, 2015, the trial court granted the estate's petition to recover assets. The judgment found that Reichard breached a fiduciary duty to Loftus, and ordered her to return money from Loftus' bank accounts and one of Loftus' automobiles to the estate. The trial court also denied Reichard's petition to recover.

¶ 11 On March 11, 2015, Reichard filed a notice of appeal.

¶ 12

ANALYSIS

¶ 13 We note that we have jurisdiction to review the trial court's order on February 11, 2015 granting the estate's petition and denying Reichard's petition because Reichard filed a timely notice of appeal following entry of a final order entered in the administration of an estate. See Ill. S. Ct. R. 304(b)(1) (eff. March 8, 2016).

¶ 14 Initially, it must be noted that Reichard's brief fails to comply with Supreme Court Rule 341 on multiple grounds (Ill. S. Ct. R. 341 (eff. Jan. 1, 2016)). Reichard failed to produce her brief by a "word-processing system, typewritten, or commercially printed" required by Rule 341(a). Instead, she submitted a two page, handwritten, annotated brief that failed to clearly define her argument or explain why the trial court erred. Additionally, she failed to include a certificate of compliance as required by Rule 341(c). Most importantly, she failed to follow any of the rules set forth in Rule 341(h), and failed to include proper citations to the record or any legal authorities. She did not even clearly specify which part(s) of the February 11, 2015 order she is appealing. Further, her brief attached several documents and photographs not included in the record. It is well settled that the appellate court is not a place for appellants to submit an assortment of documents and rely on the appellate court to sort out the reasons why the trial court should be overturned. *Thanolpoulos v. Pickens*, 87 Ill. App. 3d 906, 909 (1st Dist. 1980). "A court of review is not required to search the record to find a reason for reversing the judgment of the trial court." *Id.* All appellants, including *pro se* appellants, are required to comply with all parts of Rule 341 as closely as possible. *Rosestone Investments LLC v. Garner*, 2013 IL App (1st) 123422 ¶ 18.

¶ 15 Furthermore, our supreme court has long held that in order to support a claim of error on appeal, the appellant has the burden to present a sufficiently complete record. *Foutch v.*

O'Bryant, 99 Ill. 2d 389, 391–92 (1984)). This court is limited to reviewing the material before the trial court and determining whether it is sufficient to support the trial court's judgment. *In re Marriage of Sharp*, 369 Ill. App. 3d 271, 278 (2006). The appellant must present a complete record that supports her claim that the trial court erred in order for the judgment to be reversed, including transcripts. *Id.* (citing *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391–92 (1984)). In the alternative of a transcript, the appellant may prepare a bystander's report, or the parties may present an agreed statement of facts. *Id.* (citing Ill. S. Ct. R. 323(a) and 323(d) (eff. Dec. 13, 2005)). "Any doubts arising from an incomplete record must be resolved against the appellant." *Id.* In the absence of transcripts, it is presumed that the trial court acted in conformity with the law and that the findings were based on the evidence presented. *Watkins v. Office of State Appellate Defender*, 2012 IL App (1st) 111756, ¶ 19.

¶ 16 Our attempt to review this case on the merits is hampered by Reichard's failure to provide an adequate record. The lack of a transcript or bystander's report in the record before us does not allow us to know what evidence was presented at the hearing or the court's full reasoning for its order. In *Skaggs v. Junis*, 28 Ill. 2d 199 (1963), our supreme court held that where the record lacks information of evidence presented at a hearing, "it is presumed that the court heard adequate evidence to support the decision that was rendered" unless the record indicates otherwise. *Id.* at 201–02.

¶ 17 Reichard's appeal lacks transcripts and evidence from the trial court, and is predicated entirely on exhibits outside the record. Therefore, she has failed to meet her burden of presenting a sufficiently complete record. Under these circumstances, we presume that the trial court heard adequate evidence to support its decision and that its granting of assets recovery against Reichard

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and its denial of Reichard's petition to recover were in conformity with the law. See *Foutch*, 99 Ill. 2d at 392.

¶ 18

CONCLUSION

¶ 19 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 20 Affirmed.