

No. 1-15-2924

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 DISTRICT

SELENE FINANCE, LP, as Servicer for Taylor, Bean)	Appeal from the
& Whitaker Mortgage Corp.,)	Circuit Court of
)	Cook County
Plaintiff -Appellee,)	
)	
v.)	No. 2012 CH 29160
)	
RUSSELL M. FRYE,)	Honorable
)	Alfred M. Swanson, Jr.,
Defendant-Appellant.)	Judge, Presiding.

PRESIDING JUSTICE HOFFMAN delivered the judgment of the court.
Justices Rochford and Delort concurred in the judgment.

ORDER

- ¶ 1 *Held:* The defendant-appellant's appeal is dismissed for failure to comply with Illinois Supreme Court Rule 341 (eff. Jan. 1, 2016).
- ¶ 2 The *pro se* defendant-appellant, Russell M. Frye, appeals from an order of the circuit court denying his section 2-1401 petition (735 ILCS 5/2-1401 (West 2014)). For the following reasons, we dismiss this appeal.
- ¶ 3 On July 31, 2012, Selene Finance, LP (Selene), as servicer for Taylor, Bean & Whitaker Mortgage Corp., filed its complaint to foreclose a mortgage on property located at 2505 E. 73rd

Place, Chicago, Illinois. Frye was named as a defendant in that suit. On June 12, 2013, the subject property was sold at a public auction, and the circuit court entered an order confirming the sale and distribution on October 15, 2013. Frye appealed, and this court affirmed the circuit court's order confirming the sale and distribution. *Selene Finance, LP v. Frye*, 2015 IL App (1st) 133441-U.

¶ 4 On June 11, 2015, Frye filed a section 2-1401 petition seeking an order vacating the circuit court's order of October 15, 2013, contending that the order was void. On October 9, 2015, the circuit court entered an order denying the petition. This appeal followed.

¶ 5 The appellee, Selene, has not filed a brief in this matter; and as a consequence, this court entered an order April 28, 2017, taking this matter for consideration on Frye's brief and the record. We will not, however, reverse an order of the circuit court *pro forma* merely because an appellee fails to file a brief. *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 131 (1976). When the matter is easily decided in the absence of an appellee's brief, this court will decide the merits of the appeal. *Id.*

¶ 6 The failure of Selene to file a brief notwithstanding, Frye as the appellant was required to file a brief in compliance with Illinois Supreme Court Rule 341 (eff. Jan. 1, 2016). Although Frye filed this appeal *pro se*, he is not relieved from complying as nearly as possible with the Illinois Supreme Court Rules governing practice before this court. *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8. Supreme court rules are not merely advisory suggestions. *Menard, Inc. v. 1945 Cornell, LLC*, 2013 IL App (1st) 121422, ¶ 7. "Where an appellant's brief contains numerous Rule 341 violations and, in particular, impedes our review of the case at hand because of them, it is our right to strike that brief and dismiss the appeal." *Rosestone Investments, LLC v. Garner*, 2013 IL App (1st) 123422, ¶ 18.

¶ 7 Illinois Supreme Court Rule 341(h)(6) (eff. Jan. 1, 2016) requires that an appellant's brief include a statement of facts, containing those facts "necessary to an understanding of the case, stated accurately and fairly *** and with appropriate reference to the pages of the record on appeal." In this case, the statement of facts contained in Frye's brief is nothing more than a recitation of the pleadings and documents contained within the record set forth in paragraph form. There is no statement of the facts necessary to an understanding of the case.

¶ 8 Illinois Supreme Court Rule 341(h)(7) (eff. Jan. 1, 2016), requires that an appellant's brief contain an "Argument" section with "the contentions of the appellant and the reasons therefor." Mere contentions, without argument, do not merit consideration on appeal. *Hall v. Naper Gold Hospitality, LLC*, 2012 IL App (2d) 111151, ¶ 12. The Argument section in Frye's brief consists of nothing more than a recitation of the holdings in cases involving section 2-1401 petitions. However, it fails to set forth any error claimed in the circuit court's disposition of this case. In particular, the argument section in Frye's brief does not set forth any reason why the circuit court erred in dismissing the petition.

¶ 9 In addition to the noted violations of Illinois Supreme Court Rule 341, Frye's brief fails to contain an appendix which includes a "copy of the judgment appealed from." See Ill. S. Ct. R. 342(a) (eff. Jan. 1, 2005).

¶ 10 This court "is not merely a repository into which an appellant may 'dump the burden of argument and research,' nor is it the obligation of this court to act as an advocate or seek error in the record." *U.S. Bank v. Lindsey*, 397 Ill. App. 3d 437, 459 (2009) (quoting *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993)). The noted deficiencies in Frye's brief make it virtually impossible to evaluate his claims of error or to conduct any meaningful review. As a consequence, this appeal is dismissed.

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¶ 11 Appeal dismissed.