

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).

2017 IL App (4th) 160648-U

NO. 4-16-0648

FILED

September 7, 2017
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

DAVID J. BABB, JR.,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Livingston County
JACQUELYN ROACH,)	No. 16SC33
Defendant-Appellant.)	
)	Honorable
)	Jennifer H. Bauknecht,
)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Turner and Justice Holder White concurred in the judgment.

ORDER

¶ 1 *Held: Pro se* appellant’s procedural errors preclude review of the trial court’s judgment; the trial court’s holding is therefore presumptively correct.

¶ 2 Defendant, Jacquelyn Roach, appeals *pro se* the trial court’s judgment ordering her to pay \$5,105.62 and court costs to plaintiff, David J. Babb, Jr. Roach appeals, arguing (1) Babb’s breach of the oral contract voided the entire contract, and (2) the trial court improperly denied her the right to call a witness. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In February 2016, Babb, an attorney, filed a small-claims complaint against Roach, seeking payment of \$5,459.77 plus costs. According to the complaint, the parties entered into an oral contract for legal services in November 2014, when Roach hired Babb to act as

counsel in a Livingston County guardianship proceeding.

¶ 5 In July 2016, Roach moved to dismiss the complaint. In her motion, Roach asserted a company called “Legal Shield” referred Babb to her and her husband, Jacob Roach. This referral entitled Roach and her husband to a 25% discount off Babb’s hourly rate. According to Roach, Babb solicited her and her husband to retain him, presenting them with a written contract for services. Roach and her husband refused to sign the written agreement, but they ultimately entered an oral agreement under which the cost of services, with a 25% discount, would not exceed \$3,000.

¶ 6 On August 5, 2016, Roach filed a petition for writ of *habeas corpus*, asserting she was unable to pay the expense of bringing her husband, who was serving a sentence in the Illinois Department of Corrections, to court to testify at the August 11, 2016, hearing.

¶ 7 On August 11, 2016, a trial was held. The record contains no transcript of the hearing. The docket sheet indicates both parties appeared *pro se*. The trial court denied the motion to dismiss. The trial court prepared a written order awarding judgment for Babb in the amount of \$5,105.62 plus costs.

¶ 8 On November 1, 2016, Roach filed a “Plaintiff Bystander’s Report.” In the report, Roach asserts the parties agreed and stipulated to a list of facts related to the trial court proceedings. Only Roach’s signature appears on the report.

¶ 9 This appeal followed.

¶ 10 II. ANALYSIS

¶ 11 Roach first argues the trial court failed to consider “well-settled law” showing Babb’s breach of the oral contract voided the entire contract. Roach, without citing the record,

asserts, when Babb moved to withdraw as counsel in the underlying proceeding, he advised her he would no longer provide services at a 25% discount. This act, a “breach” according to Roach, voided the contract. Roach argues the trial court should not have entered judgment for Babb.

¶ 12 Roach’s *pro se* brief suffers a number of procedural errors. She cited neither authority nor evidence in the record in support of this claim.

¶ 13 Illinois Supreme Court Rule 341(h) sets forth the requirements for an appellant’s brief. Ill. S. Ct. R. 341(h) (eff. Jan. 1, 2016). An appellant “brief shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on.” Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016). A litigant who fails to comply by not citing authority in support of his or her contention forfeits that argument on appeal. *People v. Manoharan*, 394 Ill. App. 3d 762, 772, 916 N.E.2d 134, 143 (2009). These procedural rules apply equally to *pro se* litigants and litigants represented by counsel. See *Multiut Corp. v. Draitmani*, 359 Ill. App. 3d 527, 534, 834 N.E.2d 43, 48 (2005). Roach has not provided any authority for the “well-settled” contention, and she has therefore forfeited this argument on appeal. See *id.*

¶ 14 Roach next argues the trial court improperly denied her the right to have her spouse testify on her behalf. Roach, without citation to the record, contends the court stated it had forgotten to issue the order to have her spouse brought to trial and stated “she will see how things go today and see if we need him.” According to Roach, the court then heard testimony from both parties and made a ruling without permitting her husband to testify.

¶ 15 Because Roach provided no record upon which this court can review the trial court’s ruling, we affirm. There is no transcript, and the bystander’s report is insufficient.

According to Illinois Supreme Court Rule 323 (eff. Dec. 13, 2005), only bystander's reports that are stipulated to by both parties or are "certified" may be included in the record on appeal. The process to be "certified" involves a proposal by one party, time to respond for the opposing party, and, if necessary, a hearing by the trial court to "promptly settle, certify, and order filed an accurate report of proceedings." Ill. S. Ct. Rule 323(c) (eff. Dec. 13, 2005). Roach did not provide a stipulated or certified bystander's report.

¶ 16 An appellant bears the burden of presenting a sufficiently complete record to support a claim of error on appeal. *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 156, 839 N.E.2d 524, 531 (2005). This court cannot review an issue related to a trial court's factual findings or legal conclusions absent a report or record of proceedings. *Id.* at 156, 839 N.E.2d at 532. Absent a sufficient record, we must presume the trial court "had a sufficient factual basis for its holding and that its order conforms with the law." *Id.* at 157, 839 N.E.2d at 532.

¶ 17 The record is insufficient to review the trial court's decision to forego ordering Roach's spouse to appear to testify. We presume the court's decision had a sufficient factual basis and conforms with the law.

¶ 18 III. CONCLUSION

¶ 19 We affirm the trial court's judgment.

¶ 20 Affirmed.