

2018 IL App (1st) 171750-U

No. 1-17-1750

Order filed November 13, 2018

First Division

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

KELLY KING,)	Appeal from the Circuit Court of
)	Cook County.
Plaintiff-Appellant,)	
)	
v.)	No. 16 M1 625923
)	
CITY OF CHICAGO DEPARTMENT OF)	
ADMINISTRATIVE HEARINGS and CITY)	Honorable Pamela H. Gillespie,
OF CHICAGO DEPARTMENT OF)	Judge presiding.
FINANCE,)	
)	
Defendants-Appellees.)	

JUSTICE Griffin delivered the judgment of the court.
Presiding Justice Mikva and Justice Walker concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court's order affirming administrative agency decision finding plaintiff's speeding citation valid is affirmed.

¶ 2 Plaintiff Kelly King appeals *pro se* from an order of the circuit court of Cook County denying her motions to reconsider and vacate its order affirming the finding of the City of Chicago Department of Administrative Hearings (Department). The Department found that

plaintiff violated Section 9-101-020 of Chicago's Municipal Code (Chicago Municipal Code § 9-101-020 (amended May 6, 2015)), which subjects the registered owner of a vehicle to liability for speeding recorded by an automated speed enforcement system. On appeal, plaintiff appears to contend that the judgment of the circuit court should be reversed because it relied on an incomplete transcript of the administrative hearing. We affirm.

¶ 3 This action arose when plaintiff requested an in-person administrative hearing to contest an automated speed violation resulting in a \$100 fine, recorded on the afternoon of August 4, 2016. On October 4, 2016, following a hearing, an administrative law judge (ALJ) of the Department issued an order finding plaintiff liable for the violation because she “did not raise one of the permitted defenses to the violation as set forth in the ordinance.”

¶ 4 Plaintiff filed a *pro se* complaint in the circuit court of Cook County seeking administrative review of the Department's ruling. The Department filed the administrative record as its answer. In her specification of errors, plaintiff alleged that the transcript of the administrative hearing was “flawed,” and “of no use by the Defendant” because the Department purposefully omitted portions of her oral defense with “inaudibles.”¹

¶ 5 The transcript of the administrative hearing shows that, after the ALJ recited the City of Chicago's evidence in support of the speeding violation, plaintiff's father, identified in the transcript as Marcus Willis, presented plaintiff's defense. The transcript records Willis as stating a single sentence: “My defense is on 4/19/2016 (inaudible) red light tickets are void.” The ALJ asked Willis whether he had anything else to present and Willis replied he had no other defense.

¹ Plaintiff also alleged the transcript incorrectly identified her father's last name as Willis, but she did not state her father's actual name.

The ALJ announced that the City had met its burden of proof that plaintiff's vehicle was more than likely traveling 44 miles per hour in a 30 mile per hour safety zone.

¶ 6 The ALJ then explained that “the case” to which Willis referred was still a pending case and had not been decided yet.² The transcript records Willis's response as “Court has already ruled that it's--.” He subsequently acknowledged as “true” the ALJ's statement that the appellate court had not yet ruled on the cited case, but pointed out that “in the ruling she [presumably the trial court] said all speed camera and red light camera tickets are void.” The ALJ responded that, as there was not a final ruling in the cited case, it had no impact on other cases.

¶ 7 The circuit court affirmed the Department's decision and subsequently denied plaintiff's amended motion to reconsider and motion to vacate.³

¶ 8 On appeal, plaintiff argues the trial court erred in not reversing the Department's decision because the transcript of the Department's hearing was incomplete, “flawed,” and unreliable. She claims, as she did below, that the transcript omitted key portions of her oral defense, substituting the word “inaudible” or “--”, and her testimony at the administrative hearing was therefore not complete. She asserts it was the Department's burden to ensure the transcript reflected “all” the

² In her subsequently filed amended motion to reconsider the trial court's ruling, plaintiff cited *Simpson et al. v. City of Chicago*, 15 CH 4802 (filed Feb. 19, 2016), for the proposition that the circuit court had ruled speeding infractions caught on speed cameras are void. In *Simpson*, the circuit court granted in part the City's motion to dismiss the plaintiffs' putative class action challenging, in relevant part, the notice the City provides for automated speed enforcement violations. We presume this is the same case to which Willis cited.

³ The record on appeal does not contain the circuit court order(s) disposing of plaintiff's motions, although a half-sheet in the record indicates the court denied both motions. Nor does the record on appeal include reports of the trial court proceedings. As the appellant, plaintiff has the burden to provide this court with a sufficiently complete record of the proceedings to support her claim on appeal. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Any doubts arising from the incompleteness of the record will be resolved against plaintiff. *Id.*

testimony, the trial court “could not nor should not rely on [the transcript] as complete testimony,” and it should have reversed the Department’s decision on this basis.

¶ 9 As an initial matter, plaintiff’s brief fails to comply with Illinois Supreme Court Rule 341 (eff. July 1, 2017) governing the form and content of appellate briefs. For example, in violation of Rules 341(h)(1), (h)(6), and (h)(7), her Points and Authorities section contains no citations to authority, her statement of facts is not only argumentative and devoid of record citations but completely inadequate to our understanding of the case, and her argument section contains no relevant legal citations. Even though plaintiff chose to represent herself on appeal, she is held to the same standard as a licensed attorney and must comply with these mandatory rules. *Ammar v. Schiller, DuCanto and Fleck, LLP*, 2017 IL App (1st) 162931, ¶ 16. As her brief lacks any substantial conformity to the relevant Supreme Court rules, we may justifiably strike it. *Hall v. Naper Gold Hosp. LLC*, 2012 IL App (2d) 111151, ¶ 7. Nevertheless, as we have the benefit of the Department’s cogent brief, we will not do so here and instead turn to the merits of plaintiff’s appeal. See *Budzileni v. Department of Human Rights*, 392 Ill. App. 3d 422, 440-41 (2009).

¶ 10 On administrative review, we review the decision of the agency, here the Department, not that of the circuit court. *Marconi v. Chicago Heights Police Pension Board*, 225 Ill. 2d 497, 531 (2006). We are limited to considering the evidence submitted in the administrative hearing and may not hear additional evidence for or against the agency's decision. *Id.* at 532. The standard of review depends on the question presented. *Id.* We review a question of fact under the manifest weight of the evidence standard, a question of law *de novo*, and a mixed question of law and fact under the clearly erroneous standard. *Id.* Under any standard of review, the burden of proof in an administrative proceeding lies with the plaintiff. *Id.* at 532-33.

¶ 11 To determine the standard of review for the Department's decision finding plaintiff's speeding citation valid, we look at the questions presented. *Id.* at 532. Plaintiff, however, does not challenge the Department's decision. Instead, she argues the administrative record was insufficient for the trial court's review of the decision and it should, therefore, have ruled in her favor. She does not, however, cite to any authority for this proposition.

¶ 12 This court is “ ‘not a depository in which the burden of argument and research may be dumped.’ ” *McCann*, 2015 IL App (1st) 141291, ¶ 18 (quoting *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 80). Mere contentions, without argument or citation to authority, do not merit consideration on appeal. *Hall v. Naper Gold Hospital, LLC*, 2012 IL App (2d) 111151, ¶ 12. The failure to provide proper citations to the record is a violation of Rule 341(h)(7), the consequence of which is forfeiture of the argument. *Id.* Accordingly, plaintiff has forfeited her argument.

¶ 13 Moreover, forfeiture notwithstanding, plaintiff's argument is without merit. First, she has not set forth how the omitted testimony precluded her ability to contest the Department's decision in the trial court. See *Express Valet, Inc. v. City of Chicago*, 373 Ill. App. 3d 838, 847-49 (2007) (rejecting petitioners' argument that transcript of administrative proceedings containing “inaudible” portions of a hearing was inadequate for trial court's administrative review of agency decision; petitioners pointed to no specific issue the trial court was unable to review because of the allegedly inadequate transcript).

¶ 14 Moreover, plaintiff claims in her brief that the trial court listened to an audio recording of the administrative hearing and told her it “could make out parts of the audio herself.” If there is such an audio recording, it is necessary to our review of the Department's decision. Yet neither

the audio recording nor transcripts of the trial court's proceedings are in the record on appeal. As the appellant, plaintiff has the burden to provide this court with a sufficiently complete record of the proceedings to support her claim on appeal. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). In the absence of such a record on appeal, any doubts arising from the incompleteness of the record will be resolved against her. *Id.* We therefore presume the trial court's orders were entered in conformity with law and had a sufficient factual basis (*Id.*), and necessarily conclude it properly affirmed the Department's decision.

¶ 15 The judgment of the circuit court of Cook County affirming the Department's decision is affirmed.

¶ 16 Affirmed.