

2018 IL App (1st) 173035-U

No. 1-17-3035

Order filed September 28, 2018

Fourth 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

THE PEOPLE OF THE STATE OF ILLINOIS)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee)	Cook County
)	
v.)	No. 20771501
)	
LISA J. GILLARD,)	Honorable
)	Jim Ryan,
Defendant-Appellant.)	Judge Presiding.

JUSTICE BURKE delivered the judgment of the court.
Presiding Justice McBride and Justice Gordon concurred in the judgment.

ORDER

¶ 1 *Held:* We dismiss the appeal due to defendant's failure to comply with Supreme Court Rules 341 (eff. May 25, 2018) and 342 (eff. July 1, 2017).

¶ 2 Following a bench trial, defendant Lisa Gillard, *pro se*, was found guilty of two counts of resisting a peace officer (720 ILCS 5/31-1(a) (West 2014)) and sentenced to 10 days in the Cook County Department of Corrections. On appeal, defendant contends that the court abused its discretion in denying her motion to vacate the judgment based on newly discovered evidence, that the State failed to prove her guilty beyond a reasonable doubt, and that the trial court judge

should have recused himself because of his relationship to the Cook County Sheriff's Department. For the reasons that follow, we strike defendant's brief and dismiss the appeal.

¶ 3

I. Background

¶ 4 The record filed on appeal shows that defendant was charged with one count of battery and two counts of resisting a peace officer in connection with an incident that took place on September 12, 2017. On that date, defendant was in court at the Daley Center at 50 West Washington Street in Chicago, Illinois. Cook County Sheriff's Deputy Quentin Johnston testified that on that day he was assigned to a courtroom on the 22nd floor. He observed defendant in the courtroom and knew that she had two active warrants for her arrest, one for battery and one for harassment by telephone. Deputy Johnston alerted his partner, Deputy Denise Dattulo, and the two waited for defendant's case to conclude. As defendant was exiting the courtroom, Deputy Johnston approached defendant and told her that she had to come with him because she had a pending warrant for her arrest.

¶ 5 Defendant pushed Deputy Johnston in the chest with both hands causing him to stumble into the doorway. Defendant and Deputy Johnston became entangled in a "little struggle" where defendant stiffened up and "wouldn't stop resisting." Sergeant Benedicto Carandang came to assist Deputy Johnston and was able to grab defendant's wrist. Deputy Johnston attempted to put handcuffs around defendant's wrists, but she was "stiffening up and moving away." Deputy Johnston was eventually able to handcuff defendant despite her continued resistance. Deputy Johnston denied placing his hands on defendant's neck and did not observe any injuries to her neck. In their testimony, Deputy Dattulo and Sergeant Carandang repeated the version of events described by Deputy Johnston. All three officers testified that it is not standard procedure to

show someone the warrant before arresting them. Sergeant Carandang testified that before arresting defendant, he verified her warrant by checking “LEADS.”

¶ 6 Sergeant Garrett, Sergeant Warren, and Sergeant Galas testified on defendant’s behalf that a standard arrest generally involves verifying the warrant through LEADS and then taking the person into custody. Each officer testified that an officer may inform the arrestee that there is an active warrant and may ask for identification, but the procedure can vary depending on the circumstances. Defendant then read her own affidavit into evidence in which she averred that Sergeant Carandang and Deputy Johnston used excessive force in arresting her and failed to show her legal documentation or ask for her identification at the time of her arrest.

¶ 7 The court found that the testimony of Deputy Johnston, Deputy Dattulo, and Sergeant Carandang was credible, and that defendant’s testimony was incredible. The court determined that the officers had a valid warrant and defendant was “hung up” on the fact that they did not ask for her identification, which was not required when the officers knew who defendant was and knew the warrant was valid. The court determined that Deputy Johnston informed defendant that he had a warrant for her arrest and she improperly resisted the arrest. The court determined that defendant was proved guilty beyond a reasonable doubt of two counts of resisting a peace officer, but not proved guilty of battery because all of her actions were done in the course of resisting the arrest. The court subsequently sentenced defendant to 10 days in the Cook County Department of Corrections, with time considered served.

¶ 8 Defendant filed an “Amended Motion to Vacate Judgment Pursuant to 735 ILCS 5/2-1203” contending that her arrest was wrongful and that the officers used excessive force. The court denied her motion finding that her motion stated some potential civil claims, but those claims were unrelated to the ruling in this case.

¶ 9

II. ANALYSIS

¶ 10 Defendant now appeals from the trial court's judgment. In her *pro se* brief, defendant asks this court to reverse and vacate the trial court's judgment and award her "damages and restitution" of \$51 million.

¶ 11 We note that we previously struck defendant's brief for failure to comply with Supreme Court Rule 341(h) (eff. May 25, 2018), and granted defendant leave to re-file a brief in compliance with the Illinois Supreme Court rules. Defendant's new brief suffers from the same infirmities that prompted us to strike her initial brief. In particular, defendant's brief fails to comply with subsections (h)(6) and (h)(7) of Rule 341. Rule 341(h)(6) requires the appellant's brief to contain a statement of facts necessary to an understanding of the case with appropriate reference to the pages of the record. Ill. S. Ct. R. 341(h)(6) (eff. May 25, 2018). Defendant's brief, however, does not include a statement of facts. Similarly, Rule 341(h)(7) requires citation to the record in the argument section of an appellant's brief. Ill. S. Ct. R. 341(h)(7) (eff. May 25, 2018). Defendant does not cite to the record in any section of her brief. Further, subsection (h)(9) of Rule 341 requires an appendix in accordance with Supreme Court Rule 342 (eff. July 1, 2017), which requires a table of contents, and the inclusion of the judgment appealed from, or other orders entered by the trial court. Here, there is no appendix attached to defendant's opening brief and attached to defendant's reply brief is her complaint in an unrelated civil action.

¶ 12 Our supreme court has stated that Illinois Supreme Court rules "are not aspirational. They are not suggestions. They have the force of law, and the presumption must be that they will be obeyed and enforced as written." (Internal quotation marks omitted.) *Rodriguez v. Sheriff's Merit Commission of Kane County*, 218 Ill. 2d 342, 353 (2006) (quoting *Roth v. Illinois Farmers Insurance Co.*, 202 Ill. 2d 490, 494 (2002)). We are cognizant of defendant's *pro se* status, but

recognize that *pro se* litigants must comply with the applicable court rules. See *In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1067 (2009) (“we note that *pro se* litigants are presumed to have full knowledge of applicable court rules and procedures and must comply with the same rules and procedures as would be required of litigants represented by attorneys.”). Where a party fails to comply with these procedural rules we may, in our discretion, strike the brief and dismiss the appeal. *McCann v. Dart*, 2015 IL App (1st) 141291, ¶ 12 (citing *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 77). Here, in our discretion, we strike defendant’s brief and dismiss the appeal.

¶ 13 Even if we were to consider the merits of defendant’s arguments in spite of these omissions, we would find defendant’s brief deficient. Although defendant provides ample citations to Illinois and United States Supreme Court precedent and Illinois statutes with extensive quoting, defendant fails to make any arguments in support of her contentions. Indeed, without the argument headings, it is difficult to discern the substance of defendant’s contentions. Defendant cites broad legal standards such as the definition of a conspiracy and the prohibitions against chokeholds by peace officers, but fails to adequately identify with either citations to the record or legal argument how such standards are applicable to the case at bar.

¶ 14 To the extent defendant challenges the sufficiency of the evidence to sustain her conviction, we note that it is responsibility of the trier of fact to determine the credibility of the witnesses and the weight to be given their testimony, to resolve any conflicts and inconsistencies in the evidence, and to draw reasonable inferences therefrom. *People v. Sutherland*, 223 Ill. 2d 187, 242 (2006). Here, the State presented evidence from the three officers who were involved in defendant’s arrest and court found them to be credible witnesses and that their testimony adequately established the elements of the charged offense. Defendant did not introduce any

evidence at trial to rebut the State's evidence and defendant fails to raise any argument before this court to rebut the trial court's ruling.

¶ 15 Defendant also raises a contention that the trial court judge should have recused himself because of his relationship to the Cook County Sheriff's Department. Defendant raises this argument for the first time on appeal. "To preserve an issue for appeal, both a timely objection at trial and written posttrial motion raising the issue are required." *People v. Harris*, 228 Ill. 2d 222, 229 (2008) (citing *People v. Enoch*, 122 Ill. 2d 176, 186 (1988)). Here, defendant failed to raise this issue at any point before the trial court and, perhaps more importantly, fails to support her contention with any record citations that would show a suggestion of bias necessitating the trial judge's recusal or present any other evidence or argument suggesting that recusal was required in this case.

¶ 16 In short, defendant's brief is wholly deficient and without a coherent argument section containing adequate citation to the record, it is impossible for this court to address the contentions in her brief. This court has already provided defendant with the opportunity to correct her brief to address these issues, but she has failed to do so. Therefore, in our discretion, we strike defendant's brief and dismiss this appeal.

¶ 17

III. CONCLUSION

¶ 18 Appeal dismissed.