

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).

2018 IL App (4th) 170375-U

NO. 4-17-0375

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

January 12, 2018

Carla Bender

4th District Appellate Court, IL

<i>In re</i> MARRIAGE OF TONYA C. MORAN,)	Appeal from
Petitioner-Appellee and Cross-)	Circuit Court of
Appellant,)	Sangamon County
and)	No. 10D100
STEVEN R. MORAN,)	
Respondent-Appellant and Cross-)	Honorable
Appellee.)	Jack D. Davis II,
)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.

Justices Holder White and Turner concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court (1) dismissed the appeal for failure to comply with Illinois Supreme Court Rule 341 (eff. Jan. 1, 2016) and (2) in relation to the cross-appeal, affirmed the trial court’s valuation of certain marital property.

¶ 2 In August 1995, petitioner, Tonya C. Moran, and respondent, Steven R. Moran, were married. The marriage produced three children: Megan (born May 1, 1996), Kyle (born July 3, 1998), and Katelyn (born October 21, 1999). In February 2010, Tonya filed a petition for dissolution of marriage.

¶ 3 In March 2013, the trial court conducted a hearing on Tonya’s petition for dissolution. In its July 2013 order dissolving the parties’ marriage, the court found that the parties owned a corporation called SMTKK, Inc., the assets of which included a Culver’s restaurant and the real estate on which the restaurant was located. The trial court valued SMTKK at \$1,433,816 and determined that Steven should pay Tonya \$254,417.50 for her share of SMTKK.

¶ 4 In April 2017, the trial court determined that Steven should pay 9% interest on the amount of the \$254,417.50 that he had not yet paid to Tonya. In addition, the court ruled that Steven was not entitled to reimbursement for amounts he paid toward medical insurance expenses for Megan.

¶ 5 Steven *pro se* appeals, raising the following arguments (as best we can tell): (1) the trial court erred by not requiring Tonya to reimburse Steven for Megan's medical insurance expenses; (2) the court erred in its valuation of SMTKK; (3) the court erred by ordering Steven to pay 9% interest on the amount he owed Tonya for her share of SMTKK; (4) the trial court erred in its distribution of assets; and (5) the trial court erred by assessing a penalty against Steven for failing to pay Tonya for her share of the marital home. Tonya cross-appeals, also arguing that the court erred in its valuation of SMTKK.

¶ 6 We dismiss Steven's appeal for failure to comply with Illinois Supreme Court Rule 341 (eff. Jan. 1, 2016). In response to Tonya's cross-appeal, we affirm the trial court's valuation of SMTKK.

¶ 7 I. BACKGROUND

¶ 8 In August 1995, Tonya and Steven were married. The marriage produced three children: Megan, Kyle, and Katelyn. In February 2010, Tonya filed a petition for dissolution of marriage.

¶ 9 In March 2013, the trial court conducted a hearing on the petition for dissolution. At the hearing, evidence was presented that Tonya and Steven owned a corporation called SMTKK, which owned a Culver's restaurant along with the real estate on which the restaurant was located. Steven offered exhibit B3, which calculated the value of the restaurant based on a formula used by the Culver's corporate office. The exhibit calculated the value of the restaurant

business at \$1,433,816. The exhibit further calculated that the business owed \$924,981 in outstanding loans, resulting in a net value of \$508,835. The exhibit further calculated the business' "current liabilities," including payroll and insurance and subtracted those from the net value, resulting in a value of \$424,635. Based on that figure, the exhibit concluded that Tonya was owed half of that final value, or \$212,317.50. At the hearing, Steven testified that he did not disagree with a tax assessment that valued the Culver's real estate at approximately \$1,200,000. Steven testified further that he agreed with the formula used in exhibit B3 that valued the restaurant at \$1,433,816.

¶ 10 At the end of the March 2013 hearing, the trial court and the parties reviewed the various exhibits that the parties had relied on during the hearing. Tonya objected to exhibit B3, which the court described as containing "expert opinions of Culver's Corporation." In support of her objection, Tonya argued, "I don't believe there is any testimony on that." The court apparently agreed, stating, "There was no testimony with respect to this, other than the statement, so I'm going to keep it for the record, but not admit it for evidence." The court then took the matter under advisement.

¶ 11 In July 2013, the trial court entered an order dissolving the parties' marriage. At the time of dissolution, Tonya was 42 years of age, and Steven was 52. The court explained that the "only credible evidence" provided on the value of the Culver's business was the formula contained in exhibit B3. The court relied on that formula and valued the restaurant and real estate at \$1,433, 816. The court distributed the restaurant and real estate to Steven, while ordering that Steven pay Tonya \$254,417.50, which the court found was half of the value of the restaurant and real estate minus liabilities.

¶ 12 Within 30 days of the judgment of dissolution, both parties filed motions to re-

consider, arguing that the trial court's valuation of SMTKK was in error. Steven argued that the court's valuation failed to address certain liabilities owed by SMTKK. Tonya argued that the court's valuation was not based on a legitimate business evaluation. Tonya therefore requested the court to reopen the proofs so that a proper business evaluation of SMTKK could be considered by the court. Tonya also requested that the court reopen the proofs as to the value of certain marital property (two vehicles) and on the issue of maintenance.

¶ 13 In November 2013, the court denied the motions to reconsider its valuation of SMTKK. The court granted Tonya's motion to reopen the proofs as to the value of the vehicles and as to maintenance and therefore reserved ruling on those issues. The court's order included language that the order should not be considered a final and appealable order until certain evidence was presented and the court ruled on the reserved issues.

¶ 14 In July 2014, Tonya filed a petition for educational expenses under section 513 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/513(a)(2) (West 2014)), requesting that the trial court order Steven to contribute to Megan's college expenses, including one-half of Megan's medical insurance costs. In January 2015, the court ordered Tonya, Steven, and Megan to each pay one-third of Megan's medical insurance expenses while Megan obtained a four-year college degree.

¶ 15 In June 2016, Tonya filed a petition to enforce the judgment of dissolution of marriage. In it, Tonya claimed that Steven had not been paying his one-third share of Megan's medical insurance expenses. Tonya requested the trial court to order Steven to pay those arrearages, plus interest.

¶ 16 After a June 2016 hearing (a transcript of which does not appear in the record), the trial court issued a written order, ruling on all pending motions. The court found Steven in

indirect civil contempt of court for failing to pay his share of Megan's medical insurance expenses. The court ordered Steven to make those payments but did not address the matter of interest on those late payments.

¶ 17 As to the valuation of SMTKK's assets, the trial court found that Tonya had presented no evidence of SMTKK's value, despite being awarded \$6000 to conduct a business appraisal, which she never obtained. The court explained that the only evidence of SMTKK's value was Steven's testimony at the dissolution hearing, along with exhibit B3, which the court described as being admitted by Steven without objection by Tonya. (We note that Tonya did not object to exhibit B3 three years earlier at the March 2013 hearing.) The court explained that the exhibit calculated that Tonya was owed \$212,317.50. Therefore, the court entered judgment against Steven in that amount, plus interest of 9%.

¶ 18 In June and July 2016, Steven filed various motions addressing the trial court's June 2016 judgment. Tonya filed responses to those motions.

¶ 19 In October 2016, the trial court conducted a hearing on the parties' pending motions. (No transcript of that hearing appears in the record.) Later that month, the court entered a written order resolving the parties' motions. The court explained that it was denying all of Steven's motions, characterizing those filings as motions to reconsider the court's June 2016 judgment. The court clarified that its June 2016 order assessed 9% interest on the \$212,317.50 judgment against Steven and that the interest was to start accumulating as of June 20, 2016.

¶ 20 In November 2016, Tonya filed a motion to reconsider, arguing that the trial court erred by ordering interest to accumulate from June 20, 2016, instead of from the date of the judgment of dissolution—July 8, 2013.

¶ 21 In March 2017, Tonya filed a motion, arguing that Steven had not paid her the

entirety of the \$254,417.50 for her share of SMTKK that the trial court awarded her in its July 2013 judgment of dissolution of marriage. She argued that the court mistakenly described the award as merely \$212,317.50 in its June 2016 order. Tonya requested that the trial court impose 9% interest retroactive to the date of the original judgment—July 8, 2013—on the remaining \$89,073.73 that Steven had yet to pay on the \$254,417.50 judgment.

¶ 22 In April 2017, the trial court conducted a hearing on all contested issues. (No transcript of that hearing appears in the record.) In an order entered that same month, the trial court resolved Steven’s claim that Tonya had not contributed to Megan’s medical insurance expenses. The court found that both parties had paid for separate medical insurance for Megan, resulting in Megan being “double covered.” The court determined that Steven was therefore not entitled to reimbursement from Tonya for the costs Steven paid toward Megan’s medical insurance.

¶ 23 In addition, the trial court determined that at the March 2013 hearing on the petition for dissolution of marriage, the court refused to admit Steven’s exhibit B3 establishing the value of SMTKK’s assets. Despite the lack of evidence of SMTKK’s value, the court clarified that in its July 2013 judgment of dissolution, the court determined that Tonya was entitled to \$254,417.50 for her share of the value of SMTKK. The court found further that Steven still owed \$89,073.73 to Tonya for her share of SMTKK. The court again determined that interest on the outstanding judgment should accrue at 9% from June 20, 2016.

¶ 24 This appeal and cross-appeal followed.

¶ 25 II. ANALYSIS

¶ 26 Steven appears to raise the following arguments on appeal: (1) the trial court erred by not requiring Tonya to reimburse Steven for Megan’s medical insurance expenses; (2) the

court erred in its valuation of SMTKK; (3) the court erred by ordering Steven to pay 9% interest on the amount he owed Tonya for her share of SMTKK; (4) the trial court erred in its distribution of assets; and (5) the trial court erred by assessing a penalty against Steven for failing to pay Tonya for her share of the marital home. Tonya cross-appeals, also arguing that the court erred in its valuation of SMTKK.

¶ 27

A. Steven's Brief

¶ 28

Steven's *pro se* brief fails to conform with several of the requirements of Illinois Supreme Court Rule 341 (eff. Jan. 1, 2016). Our supreme court rules governing the contents of appellate briefs are not mere suggestions. *Niewold v. Fry*, 306 Ill. App. 3d 735, 737, 714 N.E.2d 1082, 1084 (1999). Their purpose is to ensure that the parties present clear and orderly arguments so the reviewing court can properly ascertain and address the issues involved. *La Grange Memorial Hospital v. St. Paul Insurance Co.*, 317 Ill. App. 3d 863, 876, 740 N.E.2d 21, 32 (2000). "The fact that a party appears *pro se* does not relieve that party from complying as nearly as possible to the Illinois Supreme Court Rules for practice before this court." *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8, 961 N.E.2d 475. When an appellant's brief fails to comply with the rules, a reviewing court possesses the inherent authority to dismiss the appeal for noncompliance with the rules. *La Grange Memorial Hospital*, 317 Ill. App. 3d at 876, 740 N.E.2d at 32.

¶ 29

In this case, Steven's appellant brief lacks the following sections required by the supreme court rules: (1) an introductory paragraph stating the nature of the action and of the judgment appealed from (Ill. S. Ct. R. 341(h)(2) (eff. July 1, 2017)); (2) a statement of the issues presented for review, without detail or citation of authorities (Ill. S. Ct. R. 341(h)(3) (eff. July 1, 2017)); (3) a statement of jurisdiction (Ill. S. Ct. R. 341(h)(4) (eff. July 1, 2017)); (4) a statement of facts (Ill. S. Ct. R. 341(h)(6) (eff. July 1, 2017)); (5) a short conclusion stating the precise re-

lief sought (Ill. S. Ct. R. 341(h)(8) (eff. July 1, 2017)); and (6) an appendix as required by Rule 342 (Ill. S. Ct. R. 341(h)(9) (eff. July 1, 2017)). In addition, as the appellant, Steven “has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error.” *Foutch v. O’Bryant*, 99 Ill. 2d 389, 391-92, 459 N.E.2d 958, 959 (1984). The record contains no transcript, bystander’s report, or agreed statement of facts of the hearings held in June 2016, October 2016, and April 2017. See Ill. S. Ct. R. 323(c), (d) (eff. July 1, 2017) (allowing for the filing of a bystander’s report or agreed statement of facts in lieu of a transcript).

¶ 30 Striking a brief or dismissing an appeal for failure to comply with supreme court rules is a harsh sanction. *North Community Bank v. 17011 South Park Ave., LLC*, 2015 IL App (1st) 133672, ¶ 14, 29 N.E.3d 627. Such a sanction is appropriate only when the noncompliance interferes with or precludes our review of the issues on appeal. *People v. Thomas*, 364 Ill. App. 3d 91, 97, 845 N.E.2d 843, 849 (2006). In this case, Steven’s noncompliance has interfered with our review of the issues Steven raises on appeal. In particular, without a statement of facts, it is difficult to understand which actions taken by the trial court Steven contests. Further, his argument sections are nearly unintelligible. Because Steven’s failure to comply with the supreme court rules has impeded our review of his claims, we dismiss his appeal.

¶ 31 We note that this is not the first time the Illinois Appellate Court has dismissed an appeal as the result of a noncompliant appellant’s brief. See, e.g., *McCann v. Dart*, 2015 IL App (1st) 141291, ¶¶ 12-21, 30 N.E.3d 468; *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶¶ 6-16, 969 N.E.2d 930; *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42-43, 839 N.E.2d 532, 537-38 (2005); *La Grange Memorial Hospital*, 317 Ill. App. 3d at 876, 740 N.E.2d at 32.

¶ 32 B. Tonya’s Cross Appeal

¶ 33 Tonya cross-appeals, arguing that the trial court erred in its valuation of

SMTKK's assets, *i.e.*, the Culver's restaurant and the real estate on which it is located.

¶ 34 We note that although neither party has addressed our jurisdiction to review the trial court's valuation of SMTKK, we have "an independent duty to ascertain our jurisdiction." *People v. Shaw*, 2016 IL App (4th) 150444, ¶ 55, 52 N.E.3d 728. The court's initial valuation of SMTKK was entered years ago—in the July 2013 judgment of dissolution. However, post-judgment motions were filed by both parties, and the trial court's rulings on certain issues raised by those motions were delayed and reserved for extended periods of time. See *In re Marriage of Mardjetko*, 369 Ill. App. 3d 934, 936, 861 N.E.2d 354, 355 (2007) (reservation of issues in dissolution proceeding prevents final, appealable order). It appears from this record that a final judgment was eventually entered on April 26, 2017. Tonya filed her cross-appeal on May 24, 2017, within 30 days of that judgment, in compliance with Illinois Supreme Court Rule 303(a)(3) (eff. Jan. 1, 2015). We therefore conclude that we have jurisdiction over Tonya's cross-appeal.

¶ 35 In support of her argument, Tonya claims that the only evidence offered on the value of the Culver's restaurant was Steven's exhibit B3, which the trial court did not admit into evidence. Tonya therefore argues that the valuation of SMTKK was in error and should be reversed. Tonya does not offer an explanation or argument as to what the proper value of SMTKK should have been. Tonya mentions that the court admitted her exhibit H, which was a real estate assessment establishing the market value of the real estate the restaurant is situated on. But Tonya does not explain what evidence the court should have relied on to value the business itself.

¶ 36 The valuation of marital property is a question of fact for the trial court. *In re Marriage of Johnson*, 2016 IL App (5th) 140479, ¶ 75, 47 N.E.3d 1061. The court's valuation will not be reversed on appeal unless the valuation is against the manifest weight of the evidence. *Id.* A decision is against the manifest weight of the evidence when the opposite conclu-

sion is clearly apparent or where the trial court's findings are unreasonable, arbitrary, or not based on the evidence. *Id.* The burden of presenting the court with sufficient evidence to fairly value the marital property falls upon both spouses. *Blackstone v. Blackstone*, 288 Ill. App. 3d 905, 910, 681 N.E.2d 72, 76 (1997).

¶ 37 As we noted previously, no transcript appears in the record of the April 2017 hearing when the trial court explained its reasoning and the evidence it was relying on to confirm its valuation of SMTKK. Absent a transcript of that hearing, we will presume that the trial court's decision was in conformity with the law and had a sufficient factual basis. *Webster v. Hartman*, 195 Ill. 2d 426, 432, 749 N.E.2d 958, 962 (2001). We therefore affirm the trial court's judgment.

¶ 38 III. CONCLUSION

¶ 39 For the foregoing reasons, we dismiss appellant's appeal; on the cross-appeal, we affirm the trial court's judgment.

¶ 40 Appeal dismissed in part; in the cross-appeal, judgment affirmed.