

2019 IL App (1st) 180338-U

No. 1-18-0338

Order filed May 17, 2019

Fifth 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

TONI DEVEREUEAWAX,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	
)	No. 17 CH 1845
ILLINOIS DEPARTMENT OF CHILDREN AND)	
FAMILY SERVICES, BEVERLY J. WALKER ACTING)	
DIRECTOR,)	Honorable
)	Franklin U. Valderrama,
Defendants-Appellees.)	Judge, presiding.

JUSTICE HALL delivered the judgment of the court.
Justices Hoffman and Lampkin concurred in the judgment.

ORDER

- ¶ 1 *Held:* Judgment of the circuit court is affirmed where plaintiff has failed to file a complete record on appeal.
- ¶ 2 Plaintiff Toni Devereueawax appeals, *pro se*, from a February 14, 2018, circuit court order affirming the decision of the Department of Children and Family Services (DCFS),

dismissing her request to reinstate her parental rights for her five children. We affirm because plaintiff has failed to file a complete record on appeal.

¶ 3 We initially note that the record before us does not include a report of proceedings and the administrative record that was filed with the circuit court was filed under seal because it contained confidential and statutorily protected information regarding the minor children. Plaintiff did not include the sealed material in the record. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984) (It is the appellant's burden to furnish this court with a sufficiently complete record). Thus, we recount the following facts from DCFS's memorandum of law filed in support of the final administrative decision.

¶ 4 To the extent that we can discern, the record shows that on February 12, 2016, plaintiff's parental rights for her three minor children were terminated by the Circuit Court of Winnebago County. On November 23, 2016, plaintiff's parental rights were terminated for two additional minor children by the Circuit Court of Winnebago County.

¶ 5 On November 28, 2016, plaintiff filed a service appeal to DCFS appealing the termination of her parental rights. On January 27, 2017, an administrative law judge issued a final administrative decision dismissing plaintiff's request based on departmental regulations that preclude an appeal when the circuit court has ruled on the issue being appealed.

¶ 6 On February 7, 2017, plaintiff filed a complaint in the Circuit Court of Cook County seeking review of the January 27, 2017, administrative decision. DCFS filed its answer on September 12, 2017. The answer contained the administrative record that was filed under seal. On February 14, 2018, the circuit court affirmed the administrative decision, dismissing

plaintiff's request to have her parental rights reinstated. On that same date, plaintiff filed a *pro se* notice of appeal from the trial court's order affirming the administrative decision.

¶ 7 In this court, plaintiff has filed a *pro se* appellate brief and a common law record without a report of proceedings. While plaintiff's brief is at best cursory in defining her issue, we do have the benefit of the cogent brief of DCFS for guidance. See *Twardowski v. Holiday Hospitality Franchising Inc.*, 321 Ill. App. 3d 509, 511 (2001).

¶ 8 Essentially, plaintiff is appealing the circuit court order affirming the administrative decision denying her request to have her parental rights reinstated. DCFS responds that plaintiff's appeal should be dismissed for her failure to file a complete record on appeal.

¶ 9 The purpose of appellate review is to evaluate the record presented in the trial court and review must be confined to what appears in the record. *People v. Canulli*, 341 Ill. App. 3d 361, 367-68 (2003). The appellant has the burden of presenting a sufficiently complete record to support her claim of error and any doubts arising from the incompleteness of the record will be resolved against her. *Foutch*, 99 Ill. 2d at 391-92. Matters not properly in the record or presented to the trial court will not be considered on review. *Jenkins v. Wu*, 102 Ill. 2d 468, 483-84 (1984). Where the record is incomplete or does not demonstrate the alleged error, a court of review will not speculate as to what errors may have occurred below. *Foutch*, 99 Ill. 2d at 391-92.

¶ 10 As mentioned, plaintiff failed to present a sufficiently complete record by failing to include the sealed administrative record or providing this court with a report of proceedings from the circuit court. Illinois Supreme Court Rules 321 and 324 require an appellant to provide a complete record on appeal including a certified copy of the report of proceedings. See Ill. S. Ct. R. 321 (eff. Feb. 1, 1994); Ill. S. Ct. R. 324 (eff. July 1, 2017). If a verbatim transcript is

unavailable, the appellant may file an acceptable substitute such as a bystander's report or an agreed statement of facts as provided for in Rule 323. See Ill. S. Ct. R. 323 (eff. July 1, 2017). In the absence of a complete record, the reviewing court must indulge in every reasonable presumption favorable to the judgment and will presume that the trial court's judgment conformed with the law and had a sufficient factual basis. *Foutch*, 99 Ill. 2d at 391-92. It is well settled that a *pro se* litigant "must comply with the same rules of procedure required of attorneys" and "this court will not apply a more lenient procedural standard to *pro se* litigants than is generally allowed attorneys." *Harvey v. Carponelli*, 117 Ill. App. 3d 448, 451 (1983).

¶ 11 In her brief, plaintiff alleges that the trial court erred in affirming the administrative law court's ruling denying her request to have her parental rights reinstated. However, without a complete record, we must presume that the trial court's decision conformed with the law. See *Foutch*, 99 Ill. 2d at 391-92 (the reviewing court must indulge in every reasonable presumption favorable to the judgment appealed); see also *People v. Edwards*, 74 Ill. 2d 1, 7 (1978) (holding that a reviewing court may not "guess" at the harm to an appellant where a record is incomplete; rather, it must "refrain from supposition and decide accordingly"). Therefore, we are compelled to affirm the circuit court's order affirming the DCFS decision to dismiss plaintiff's request to have her parental rights reinstated.

¶ 12 Affirmed.