2019 IL App (1st) 181187-U

No. 1-18-1187

Order filed September 30, 2019

First Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE *ex rel.* KIMBERLY M. FOXX, State's Attorney of Cook County, Illinois,	)	Appeal from the Circuit Court of Cook County.
Plaintiff-Appellee,	)	
v.	)	
2005 AUDI ALL ROAD & $3581.00 U.S.C.,	)	No. 17 COFO 3559
Defendant,	)	
(Leilani Villlariny,	)	Honorable Paul Karkula,
Claimant-Appellant).	)	Judge, presiding.

JUSTICE PIERCE delivered the judgment of the court.
Justices Griffin and Walker concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm the trial court's judgment where claimant-appellant's brief is insufficient to ascertain her claims and she failed to furnish a sufficient record such that error can be determined.

¶ 2 Claimant, Leilani Villariny, appeals *pro se* from the trial court's forfeiture judgment, entered after trial. On appeal, claimant contends that the trial court erred when it did not return her property because the arresting officer "made false statements under oath" and she told the court the truth. We affirm.

¶ 3 There is no report of the trial court proceedings in the record on appeal. However, the following facts can be gleaned from the limited record on appeal, which includes the State's complaint for forfeiture, claimant's claim, and the trial court's judgment.

¶ 4 On November 22, 2017, the State filed a complaint for forfeiture in the circuit court seeking a 2005 Audi All Road (the Audi), and $3851. The complaint alleged that Franklin Park police officers provided an informant with $100 in pre-recorded funds in order to purchase narcotics from "the Mexican" who lived at a certain address on Pacific Avenue in Franklin Park (the Pacific Avenue address). On September 1, 2017, officers observed the Audi arrive at a location. Claimant was driving, and a man, later identified as Joshua Rivera, was in the front passenger seat. Officers further observed Rivera exit the Audi, and tender the informant cocaine in exchange for the pre-recorded funds. Officers then followed the Audi to the Pacific Avenue address.

¶ 5 The complaint additionally alleged that on September 19, 2017, the informant met Rivera at the Pacific Avenue address where they exchanged pre-recorded funds for cocaine. Officers executed a search warrant at the Pacific Avenue address on September 21, 2017. The Audi was observed outside the Pacific Avenue address, 12.5 grams of suspect cannabis was recovered from a kitchen cabinet, and $3851 was recovered from a closet. A canine "positively alerted" for the odor of narcotics on the recovered currency, and claimant and Rivera were taken into

custody. After being apprised of the *Miranda* warnings, Rivera admitted that the cannabis belonged to him and that he both used cocaine and sold and gave it to others.

¶ 6 Based on the foregoing, the complaint alleged that the Audi was subject to forfeiture as it "was used or was intended to be used to transport, or to facilitate the transportation, sale, receipt, possession, or concealment of cannabis and/or controlled substance." The complaint similarly concluded that the money was subject to forfeiture because it was "recovered in close proximity to forfeitable substances, to forfeitable drug manufacturing or distributing paraphernalia, or to forfeitable records of the importation, manufacture or distribution of substances."

¶ 7 Claimant filed a verified claim asserting that both the Audi and the money belonged to her. The matter was set for a bench trial on May 10, 2018.

¶ 8 Following trial, the trial court entered an order stating the Audi and money were "used in the commission of a criminal offense as alleged in said Verified Complaint while in possession and control of JOSHUA RIVERA and said seizure was effect[ed] by Police Officers of the FRANKLIN PARK Police Department on or about 9/21, 2017." The court therefore ordered that the Audi and the money were forfeited pursuant to the Controlled Substances Act (720 ILCS 570/505 (West 2016)). Claimant filed a timely *pro se* notice of appeal.

¶ 9 On appeal, claimant contends that the trial court erred when it found the Audi and money forfeited as she truthfully told the court that the items were hers, and the arresting officer lied to the court.

¶ 10 As a preliminary matter, we note that our review of claimant's appeal is hindered by her failure to fully comply with Supreme Court Rule 341 (eff. May 28, 2018), which "governs the form and content of appellate briefs." *McCann v. Dart*, 2015 IL App (1st) 141291, ¶ 12.

Although claimant is a *pro se* litigant, this status does not lessen her burden on appeal. "In Illinois, parties choosing to represent themselves without a lawyer must comply with the same rules and are held to the same standards as licensed attorneys." *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 78. Supreme Court Rule 341(h) provides that all briefs should contain a statement of "the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment" and an argument "which 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)(6), (7) (eff. May 28, 2018). Pursuant to the rule, a reviewing court is entitled to have issues clearly defined with "cohesive arguments" presented and pertinent authority cited. *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993).

¶ 11 Here, although claimant used a form approved by the Illinois Supreme Court when filing her brief, she has failed to articulate a legal argument which would allow a meaningful review of her claims, and provides no citations to the record. An appellant is required to cite to the pages and volumes of the record on appeal upon which she relies "so that we are able to assess whether the facts which [the appellant] presents are accurate and a fair portrayal of the events in this case." *In re Marriage of Hluska*, 2011 IL App (1st) 092636, ¶ 58; see also Ill. S. Ct. R. 341(h)(7) (eff. May 25, 2018). Moreover, claimant cites no pertinent legal authority to support her arguments on appeal. See *People v. Hood*, 210 Ill. App. 3d 743, 746 (1991) ("A reviewing court is entitled to have the issues clearly defined with pertinent authority cited and is not simply a depository into which the appealing party may dump the burden of argument and research."). "Arguments that do not comply with Rule 341(h)(7) do not merit consideration on appeal and may be rejected by this court for that reason alone." *Wells Fargo Bank, N.A. v. Sanders*, 2015 IL

App (1st) 141272, ¶ 43. Thus, to the extent that claimant's brief fails to comply with Supreme Court Rule 341(h)(7), her arguments are forfeited.

¶ 12 Considering the content of claimant's brief, it would be within our discretion to dismiss the instant appeal. See *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005) ("Where an appellant's brief fails to comply with supreme court rules, this court has the inherent authority to dismiss the appeal."). However, because the issues in this case are simple, claimant made an effort to present her appeal by use of the approved form brief, and we have the benefit of a cogent appellee's brief (see *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001)), we choose not to dismiss the appeal on that ground. See *Harvey v. Carponelli*, 117 Ill. App. 3d 448, 451 (1983).

¶ 13 That said, the deficiencies in the record still prevent us from reaching this appeal on the merits. On appeal, the appellant, in this case claimant, has the burden to provide a complete record for review in the appellate court to support a claim of error. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391 (1984). If no such record is provided, "it will be presumed that the order entered by the trial court was in conformity with law and had a sufficient factual basis." *Id.* at 392. This is because, in order to determine whether there was actually an error, a reviewing court must have a record before it to review. *Id.*

¶ 14 Here, the record on appeal does not contain a report of proceedings from the trial or an acceptable substitute such as a bystander's report or agreed statement of facts pursuant to Supreme Court Rule 323. See Ill. S. Ct. R. 323(a), (c), (d) (eff. July 1, 2017). Without a trial transcript or an acceptable substitute, we are unable to review the interaction between claimant and the trial court or determine what evidence was admitted or excluded at trial. Moreover, we

have no knowledge of what arguments were presented at trial and no record of the trial court's evidentiary or other rulings. Under these circumstances, we must presume that the court acted in conformity with the law and ruled properly after considering the evidence before it. *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 156-57 (2005). In the absence of a report of proceedings or other record of the trial, we have no basis for disturbing the trial court's judgment. *Foutch*, 99 Ill. 2d at 391-92.

¶ 15 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 16 Affirmed.