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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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FELIPE HERNANDEZ,	)	Appeal from the Circuit Court of
	)	Cook County.
Plaintiff-Appellant,	)	
	)	No. 16 M1 450401
v.	)	
	)	Honorable Joseph M. Sconza,
CITY OF CHICAGO,	)	Judge presiding.
	)	
Defendant-Appellee.	)	

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JUSTICE GRIFFIN delivered the judgment of the court.  
Justices Pierce and Walker concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* The circuit court did not abuse its discretion when it dismissed plaintiff's administrative review action for want of prosecution and denied his motion to vacate the dismissal after plaintiff failed to appear four times.
- ¶ 2 Plaintiff Felipe Hernandez appeals *pro se* from orders of the circuit court dismissing his administrative review action against defendant the City of Chicago (the City) for want of prosecution and denying his motion to vacate the dismissal. Plaintiff raises numerous arguments unrelated to these orders and, with regard to the dismissal, simply argues, without citation to authority or the record, "I was framed with too many DWP." We affirm.

¶ 3 As an initial matter, plaintiff's briefs are singularly lacking in clarity or compliance with Illinois Supreme Court Rule 341 (eff. May 25, 2018), which governs the contents of appellate briefs. In fact, it is impossible to determine the issue on appeal from his briefs. Where a brief fails to substantially conform to the pertinent rule, we may strike the brief in its entirety. *In re Marriage of Reidy*, 2018 IL App (1st) 170054, ¶ 18. However, as we have the benefit of the City's response brief and the common law record shows the issue necessarily presented here, we address the merits of plaintiff's appeal, and will simply disregard the noncompliant material. See *Id.*

¶ 4 Plaintiff has not provided this court with reports of the trial court proceedings. Thus, the following recitation of the procedural history is taken solely from the common law record. As the appellant, it is plaintiff's burden to provide us with a sufficiently complete record, and any doubts which arise as a result of an incomplete record will be held against him. See *Romito v. City of Chicago*, 2019 IL App (1st) 181152, ¶ 23 (citing *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984)).

¶ 5 In January 2016, the City notified plaintiff of an ordinance violation and set a date for an administrative hearing. The notice charged plaintiff with, as relevant here, having weeds in excess of 10 inches in a lot he owned. Following an administrative hearing, plaintiff was found in violation and assessed \$660 in fines and costs.

¶ 6 On December 1, 2016, plaintiff filed a complaint for administrative review. The City answered the complaint and filed the record of the administrative proceeding. The matter was continued until August 7, 2017, at 2 p.m. On that date, when plaintiff had not appeared in court by 4:11 p.m., the court entered an order dismissing the matter for want of prosecution.

¶ 7 On August 21, 2017, the circuit court granted plaintiff's motion to vacate the dismissal and continued the matter several times until December 18, 2017 at 2 p.m. On that date, when plaintiff had failed to appear by 4:49 p.m., the court ordered: "This matter is stricken from the call." The case next appeared on the court's docket on after the City filed a motion for substitution of judge. The court granted the motion and continued the case until March 14, 2018, at 2 p.m. On that date, when plaintiff had not appeared by 3:59 p.m., the court again dismissed the matter for want of prosecution.

¶ 8 On April 17, 2018, the circuit court granted plaintiff's motion to vacate the dismissal and continued the matter until May 9, 2018 at 2 p.m. When plaintiff had not appeared by 2:35 p.m. on that date, the court dismissed the matter for want of prosecution for the third time.

¶ 9 On July 3, 2018, the court granted plaintiff's motion to vacate the dismissal and continued the matter until August 14, 2018, at 2 p.m. When plaintiff had not appeared by 2:55 p.m. on that date, the court dismissed the matter for want of prosecution for the fourth time. Plaintiff moved to vacate the dismissal and the court denied the motion on September 25, 2018. Plaintiff appealed.

¶ 10 As previously mentioned, the issue on appeal is not evident from plaintiff's opening brief. Although he makes cursory mention that the trial court judges and lawyers "framed [him] with dismiss for want of prosecution," his arguments are directed to challenging the administrative agency's decision and the administrative proceedings. However, the common law record shows the trial court did not reach the merits of plaintiff's administrative review action because it dismissed plaintiff's action for want of prosecution and denied his motion to vacate

that dismissal. Thus, as the City points out, the issue on appeal is necessarily whether the court erred in entering these orders.

¶ 11 In Illinois, courts in civil actions can exercise discretion to dismiss a proceeding “ ‘for inexcusable delay and lack of diligence,’ ” which is referred to as a dismissal for want of prosecution. *People v. Kruger*, 2015 IL App (4th) 131080, ¶ 11 (quoting *City of Crystal Lake v. Sak*, 52 Ill.App.3d 684, 688 (1977)). “Plaintiffs have a nondelegable duty to take all necessary steps to bring their actions to a prompt conclusion.” *Minikon v. Escobedo*, 324 Ill. App. 3d 1073, 1080 (2001). Although courts generally prefer to resolve cases on their merits, a trial court may dismiss a case for want of prosecution due to the plaintiff’s failure to prosecute the case with due diligence, “in order to manage the court’s docket and avoid unnecessary burdens on the court and opposing parties.” *Illinois Bone and Joint Institute v. Kime*, 396 Ill. App. 3d 881, 883 (2009). The determination of whether to dismiss for want of prosecution must be made on the particular facts of the case and rests within the trial court’s discretion. *Kruger*, 2015 IL App (4th) 131080, ¶ 11 (citing *Department of Revenue v. Steinkopf*, 160 Ill. App. 3d 1008, 1018 (1987)). We will reverse the circuit court only if it has abused its discretion in dismissing for want of prosecution.<sup>1</sup> *Prosen v. Chowaniec*, 271 Ill. App. 3d 65, 67 (1995).

¶ 12 Similarly, we will reverse the circuit court’s denial of a motion to vacate a dismissal for want of prosecution only if the court abused its discretion. See *Mann v. Upjohn Co.*, 324 Ill. App. 3d 367, 377 (2001). When ruling on a motion to vacate a dismissal for want of prosecution,

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<sup>1</sup> We note that, generally, a dismissal for want of prosecution remains an interlocutory order until the passage of one year or the expiration of the statute of limitations on the underlying action, whichever is greater. *Illinois Bone and Joint Institute*, 396 Ill. App. 3d at 884 (citing 735 ILCS 5/13-217 (West 1994) (when an action is dismissed for want of prosecution, the plaintiff may commence a new action within one year or within the remaining period of limitation, whichever is greater). However, in administrative review cases, such as the case at bar, the Code of Civil Procedure prohibits refiling and the order is a final and appealable order. See 735 ILCS 5/3-102 (West 2016)

the trial court should consider whether substantial justice is being done between the parties, and whether it is reasonable under the circumstances to proceed to a trial on the merits. *Id.* The court should consider all events leading up to the judgment. *Id.* The plaintiff, as the moving party, bears the burden of establishing sufficient grounds for vacating the dismissal. *Id.*

¶ 13 Here, there is nothing in the record to suggest that the circuit court abused its discretion when it dismissed plaintiff's case for want of prosecution. According to orders entered in the circuit court, plaintiff failed to appear at scheduled court hearings on at least five occasions and his case was dismissed for want of prosecution four times. There is no reasonable argument that plaintiff was unaware of the need to appear at scheduled hearings and the potential consequences of failing to appear. Yet he repeatedly burdened the court and the opposing party by failing to appear and prosecute his claim with due diligence. Therefore, given plaintiff's history of deliberate and continued inexcusable delay and lack of diligence, we conclude that the circuit court did not abuse its discretion when it dismissed plaintiff's case for want of prosecution.

¶ 14 In his reply brief, plaintiff argues that he was actually present on each court date and that the judges presiding over his case "are committing fraud and suppressing evidence." There is no support in the record for these allegations and, indeed, plaintiff points to nothing in the record demonstrating that he was, in fact, present when his case was called. As the appellant, it is plaintiff's burden to present a sufficiently complete record for our review of the issues presented. *Webster v. Hartman*, 195 Ill. 2d 426, 432 (2001). In the absence of reports of proceedings or an acceptable substitute, we must presume that the trial court acted " 'in conformity with the law and had a sufficient factual basis' " for its decisions. *Romito*, 2019 IL App (1st) 181152 ¶ 23 (quoting *Foutch*, 99 Ill. 2d at 391-92). The allegations plaintiff made in his reply brief are not an

acceptable substitute for a report of proceedings (see Ill. S. Ct. R. 323(c) (eff. July 1, 2017)). We therefore reject his unsupported assertions and find the court did not abuse its discretion in dismissing his action for want of prosecution.

¶ 15 Similarly, we find the court did not abuse its discretion in denying plaintiff's motion to vacate the fourth dismissal for want of prosecution. A dismissal for want of prosecution should be set aside only where (1) a satisfactory explanation of the apparent delay has been given, (2) there has been no intentional or willful disregard of the directions of the court, and (3) it does not appear that further postponement of the controversy on its merits would result in prejudice or hardship to any of the parties. *In re Marriage of Dague*, 136 Ill. App. 3d 297, 299 (1985). Plaintiff's written motion to vacate the dismissal contains no allegations of fact in support of his motion. It contains nothing against which the trial court, or this court, could judge whether vacating the dismissal is necessary to do justice between the parties. As the proponent of the motion, plaintiff was obligated to provide grounds for vacating the dismissal. See *Mann*, 324 Ill. App. 3d at 377. Moreover, plaintiff has failed to provide this court with a report of proceedings or acceptable substitute (see Ill. S. Ct. R. 323(c) (eff. July 1, 2017)) to document any grounds he might have alleged orally. Accordingly, we must assume that the trial court acted in conformity with the law and has a sufficient factual basis when it denied plaintiff's motion to vacate the dismissal. See *Romito*, 2019 IL App (1st) 181152, ¶ 23.

¶ 16 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 17 Affirmed.