

No. 1-12-0295

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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JOSEPH AMEDU,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	
	)	No. 11 M1 450197
CITY OF CHICAGO DEPARTMENT OF	)	
ADMINISTRATIVE HEARINGS and CITY OF	)	
CHICAGO DEPARTMENT OF BUSINESS AFFAIRS	)	
AND CONSUMER PROTECTION,	)	
	)	Honorable
Defendants-Appellees.	)	Patrick T. Rogers,
	)	Judge Presiding.

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PRESIDING JUSTICE NEVILLE delivered the judgment of the court.  
Justices Sterba and Hyman concurred in the judgment.

O R D E R

- ¶ 1 *Held:* The decision of the City of Chicago's Department of Administrative Hearings that plaintiff, a taxi cab driver, had violated municipal rules prohibiting discourteous conduct, as well as abusive behavior, assault, and profane language, was not against the manifest weight of the evidence or clearly erroneous.
- ¶ 2 Joseph Amedu, the plaintiff, appeals *pro se* from an order of the circuit court of Cook County affirming the decision of the City of Chicago's Department of Administrative Hearings (DOAH) that plaintiff, a taxi cab driver, had violated municipal rules prohibiting discourteous conduct, as well as

abusive behavior, assault, and profane language, but reversing the DOAH's finding that plaintiff had engaged in unsafe driving. On appeal, plaintiff contends that the testimony of the complaining witness was not worthy of belief and that the DOAH's administrative law judge (ALJ) acted improperly. For the reasons that follow, we affirm.

¶ 3 Plaintiff's appeal arises from the events of November 10, 2010. On that date, plaintiff's taxi and a car driven by Isaaq Sumira were involved in an accident. Sumira submitted a Taxicab Complaint Affidavit with the Department of Business Affairs and Consumer Protection, alleging that plaintiff ran into his car while talking on a cell phone and then displayed aggressive behavior and "used a lot of F words."

¶ 4 The DOAH held an administrative hearing, at which Sumira testified that plaintiff was talking on his cell phone when he hit Sumira's car. According to Sumira, he honked and waved at plaintiff out his window. He had to tell plaintiff, who was still on the phone, to pull over several times before plaintiff stopped his taxi. When Sumira asked plaintiff whether he saw the construction signs at the intersection where the accident occurred, plaintiff engaged in threatening physical behavior and "[a]ll that came out of his mouth was profanity." Sumira testified that he suggested they drive to the police station. There, they filed police reports.

¶ 5 In contrast, plaintiff testified that Sumira's car hit his, that he did not use his cell phone other than to call the police after he and Sumira got out of their cars, and that he did not use any profanity.

¶ 6 The ALJ found plaintiff liable, based on Sumira's testimony, of violations of rules prohibiting (1) discourteous conduct; (2) abusive behavior, assault, and profane language; and (3) unsafe driving. The ALJ imposed a fine of \$225 on each finding of liability. Plaintiff thereafter filed a complaint for administrative review. The trial court affirmed the first two findings, but reversed the finding regarding unsafe driving.

¶ 7 On appeal, plaintiff contends that Sumira's testimony was not worthy of belief due to inaccuracies and inconsistencies. He further contends that the ALJ acted improperly by helping Sumira answer a question, not allowing into evidence letters praising plaintiff for his good conduct, telling the City's attorney to use certain photographs as evidence, and taking a telephone call during the hearing.

¶ 8 Defendants assert that the appeal should be dismissed because plaintiff's brief does not comply with Illinois Supreme Court Rules governing briefs. In particular, defendants note that the brief lists the wrong judge; contains improper argument in the introductory paragraph; does not provide the applicable standard of review or a summary statement of points argued; contains argument in the statement of facts; does not cite any pertinent legal authority or develop any coherent argument tied to the applicable standard of review; does not describe the nature of the case; and does not contain a statement of jurisdiction, an appendix, a table of contents of the record on appeal, a copy of the judgment appealed from, or the notice of appeal.

¶ 9 It is true that as a reviewing court, we are entitled to have the issues clearly defined, pertinent authority cited, and a cohesive legal argument presented. *Thrall Car Manufacturing Co. v. Lindquist*, 145 Ill. App. 3d 712, 719 (1986). Arguments that are not supported by citations to authority and the record fail to meet the requirements of Supreme Court Rule 341(h)(7) (eff. July 1, 2008) and are forfeited. *Elder v. Bryant*, 324 Ill. App. 3d 526, 533 (2001). For all the reasons identified by defendants, plaintiff's brief does not comply with Rule 341(h), and therefore does not justify review of the circuit court's judgment. Accordingly, plaintiff's contentions are forfeited.

¶ 10 Forfeiture aside, even if we were to consider plaintiff's arguments, they would fail.

¶ 11 In an administrative appeal, this court reviews the determination of the agency, not that of the trial court. *Marconi v. Chicago Heights Police Pension Board*, 225 Ill. 2d 497, 531 (2006). An agency's rulings on issues of fact will be reversed only if they are against the manifest weight of the

evidence. *Marconi*, 225 Ill. 2d at 532. Its rulings on issues of law are reviewed *de novo*, and a mixed question of law and fact is reviewed under the clearly erroneous standard. *Marconi*, 225 Ill. 2d at 532.

¶ 12 In his brief, plaintiff asserts that Sumira's testimony was not worthy of belief due to inaccuracies and inconsistencies. For the most part, plaintiff complains that Sumira gave inconsistent testimony regarding where the collision took place, when and whether plaintiff was talking on a cell phone, how the two men could have spoken to each other through closed car windows, and when plaintiff uttered obscenities. We have reviewed the alleged deficiencies in Sumira's testimony identified by plaintiff and find that they are matters properly resolved by the ALJ in its role as the trier of fact. We will not substitute our judgment for the agency's on credibility matters, on its resolution of conflicts in testimony or the amount of weight it gives to a witness' testimony. See *McLean v. Department of Revenue*, 326 Ill. App. 3d 667, 673 (2001) (the administrative agency weighs the evidence, determines the credibility of witnesses, and resolves conflicts in testimony). Accordingly, we hold that the Agency's findings, based on Sumira's testimony of violations of rules prohibiting (1) discourteous conduct, and (2) abusive behavior and the use of profane language, were not against the manifest weight of the evidence.

¶ 13 Plaintiff further argues that the ALJ acted improperly in four ways. First, plaintiff claims that the ALJ helped Sumira answer "no" to a question whether there was a left-turn arrow. In fact, the record shows that the ALJ listened to several questions and answers on the topic and then stated, "He said no. Next question." We agree with defendants that this statement was merely an attempt by the ALJ to move through the substantial confusion about what plaintiff was trying to ask and what Sumira's responses were.

¶ 14 Second, plaintiff complains that the ALJ did not allow into evidence letters praising him for his good conduct. The ALJ did not err by excluding the letters because the letters were irrelevant to the issues in the case.

¶ 15 Third, plaintiff asserts that the ALJ improperly told the City's attorney to use certain photographs as evidence. We cannot agree with this interpretation of what occurred at the hearing. Plaintiff had presented the photographs during his testimony but had not moved for their admission into evidence. Later, the City prosecutor referred to the photographs and asked the ALJ whether he could "use the pictures." The ALJ answered that the City could use them, but they would have to be marked. The ALJ asked plaintiff whether he had any objection to the prosecutor marking the photographs, and plaintiff answered, "No." Nothing in the record indicates that the ALJ told the attorney to use the photographs as evidence.

¶ 16 Finally, plaintiff argues that the ALJ was distracted by a telephone call during the hearing, which caused the ALJ to not "give the case the full thought, concentration and respect that it deserved." The record reveals that the following telephone call occurred just as the City's attorney was about to begin cross-examination of plaintiff:

"[City's Attorney]: Answer that, your Honor?

ALJ: Yeah.

(Whereby a phone call was had.)

ALJ: Room 106. Hi, Pat. Good. Do you have time to see me today? I'm right in the middle of a hearing right now. I want to say by about 4:00. Can I stop up for a second?

UNIDENTIFIED: Yeah, sure.

ALJ: Okay, very good, thank you. Bye bye."

(Where[by] the phone call was concluded.)

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ALJ: Sorry, go ahead."

Following the call, the hearing continued where it had left off. We agree with defendants that the transcript does not show any sign that the ALJ was distracted when proceedings recommenced. The brief interruption in the proceedings does not show that the ALJ failed to give the case proper consideration.

¶ 17 For the reasons explained above, we affirm the judgment of the circuit court of Cook County.

¶ 18 Affirmed.