

No. 1-12-2883

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 JUDICIAL DISTRICT

WIESLAWA FILIPEK,)	Appeal from the
)	the Circuit Court
Plaintiff-Appellant,)	of Cook County
)	
v.)	No. 10 D 4957
)	
MAREK FILIPEK,)	Honorable
)	Patricia M. Logue,
Defendant-Appellee.)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Presiding Justice Quinn and Justice Simon concurred in the judgment.

ORDER

Held: In this case we exercise our discretion to strike appellant's brief and dismiss her appeal. Appellant failed to abide by the applicable rules of appellate practice, and her argument is undeveloped and incoherent. We therefore strike appellant's brief and dismiss her appeal.

¶ 1 Plaintiff, Wieslawa Filipek, *pro se*, appeals the denial of her amended motion to modify an agreed judgment for dissolution of marriage entered into with her ex-husband, defendant,

Marek Filipek.¹ The circuit court denied Wieslawa's motion and her subsequent oral motion to file another amended motion, with prejudice. Wieslawa appealed and filed her initial brief before this court. Marek, however, failed to file a brief before this court. At issue is whether this matter should be dismissed based on Wieslawa's deficient brief. We hold it should. We exercise our discretion to strike Wieslawa's brief and dismiss her appeal. Wieslawa's argument is undeveloped and incoherent and she failed to abide by the applicable rules of appellate practice. Accordingly, we strike Wieslawa's brief and dismiss her appeal.

¶ 2

BACKGROUND

¶ 3 On May 13, 2010, Marek filed a petition for dissolution of marriage from Wieslawa. Wieslawa subsequently filed a counter-petition. On March 21, 2012, the circuit court entered an agreed judgment of dissolution of marriage. Relevant to this appeal, the circuit court ordered Wieslawa be granted sole custody of their minor child and that both parties waive maintenance, and are barred from seeking maintenance. Regarding child support, the judgment provides:

"The Social Security Dependent Disability benefits paid by the Social Security Administration to [Wieslawa] fully satisfy [Marek's] child support obligation. For each year in which child support is to be paid, the parties shall exchange their complete federal income tax returns within fourteen days of filing. Should [Marek] become employed before the minor child's emancipation, he shall disclose his employment and

¹ As discussed *infra*, based on our review of the record, it is unclear whether the parties are properly designated before this court. We will refer to each party by their first name.

compensation to [Wieslawa] within fourteen days."

The judgment ordered the parties to be equally responsible for the minor child's "unreimbursed medical expenses" and "school-related expenses limited to field trip and activity fees, registration costs and gym uniforms." The judgment ordered each party to pay \$100 a month to Glen Orthodontics until each parent had paid 50% of the unpaid balance on the outstanding bill, including late fees. It appears the parties owned two condominium units, which the judgment ordered to be sold. Wieslawa was awarded exclusive possession of the unit located at 2315 East Olive, #3K, in Arlington Heights, Illinois. She was to choose the broker and was responsible for the unit's expenses until its sale. Marek was awarded the same rights and responsibilities as to the unit located at 2315 East Olive, #1H, in Arlington Heights, Illinois. Concerning the property under Marek's supervision, the judgment "contemplated" a short sale would occur with no proceeds, but ordered that any proceeds be shared equally. In the event of a deficiency judgment due to a foreclosure sale, however, the judgment provided Marek would be solely responsible for such a judgment as he was the only mortgagor. The judgment also provided that real estate in Poland that the parties owned together would also be sold, and any proceeds divided equally. In addressing debts, the judgment provided,

"Each party shall be solely responsible for those debts now in existence and known by them to be in their own respective name and each party shall indemnify, defend, and hold the other free and harmless with respect to any such debts. Neither shall incur any debts in the other's name or credit. [Marek] shall be solely

responsible for his outstanding child support obligation in the
Country of Poland."

Each party had previously had consent judgments entered against them by their respective attorneys. The judgment stated that the consent judgments "shall be satisfied from each party's respective share of real estate proceeds."

¶ 4 On June 11, 2012, Wieslawa, now proceeding *pro se*, filed a motion to modify the judgment and for rehearing. In her motion, Wieslawa asked that the judgment be modified as follows: that Marek "insure continued payment of Social Security DD benefits for the minor child;" that the outstanding balance owed to Glen Orthodontics be added to the judgment; that a bill to Carter Reporting Service of \$420 be added to the judgment, and be paid equally by each party; to include a \$300 maintenance payment for herself from Marek; that she be awarded sole ownership in the condominium located at 2315 East Olive, #3K, in Arlington Heights, Illinois; and to add a paragraph stating that "the parties shall inform each other of any change of address within 7 days."

¶ 5 On June 21, 2012, the circuit court struck Wieslawa's motion to modify the judgment, but allowed her to file an amended motion. She did so on July 11, 2012. In her amended motion she again asked that the judgment be modified to "insure continued payment of social security benefits for the minor child;" to include the outstanding balance to Glen Orthodontics; to award her possession of the condominium located at 2315 East Olive, #3K, in Arlington Heights, Illinois; and to add a paragraph stating that "the parties shall inform each other of any change of address within 7 days." Additionally, she added that the judgment should be modified to

"[p]rovide summer care total 4 weeks first four weeks of the summer vacation [*sic*];" and to include a \$500 yearly payment, presumably from Marek, for clothes for their minor child.

Missing from her amended motion, were her requests to modify the judgment to include her request for \$300 of maintenance, and the bill to Carter Reporting Services, which were included in her originally filed, but stricken motion.

¶ 6 On August 28, 2012, the circuit court denied Wieslawa's amended motion to modify the judgment, with prejudice. The circuit court denied her subsequent oral motion to amend, with prejudice.

¶ 7 On September 25, 2012, Wieslawa, still *pro se*, filed her notice of appeal asking this court to "amend points E, G, N, P, S, T of the judgment, vacate point P and turn it to Poland's Court decision [*sic*]." ²

¶ 8 On May 29, 2013, this court, upon its own motion, ordered this matter be taken for consideration on the record and Wieslawa's brief only after Marek failed to file a responsive brief within the time prescribed by Illinois Supreme Court Rule 343(a). Ill. S. Ct. R. 343 (a) (eff. July 1, 2008).

¶ 9 ANALYSIS

¶ 10 Initially, we note that it is not clear from our review of the record whether the parties are properly designated before this court. On May 13, 2010, Marek filed the petition for dissolution

² Points E, G, N, P, S, and T of the judgment addressed the waiver of maintenance payments, the minor child's medical expenses, the condominium Wieslawa was responsible for selling, the real estate in Poland, the parties' debts, and the parties attorneys fees, respectively.

of marriage from Wieslawa, which would indicate that Marek is either the petitioner or plaintiff and Wieslawa is the respondent or defendant. Adding to the confusion, all of the documents in the record are under circuit court case number "2010 D 4957." Wieslawa's brief, however, indicates that case number "2010 D 4957," had been consolidated with case number "10 OP 30364." There are no documents in the record containing the case number "10 OP 30364." It is the burden of the appellant to present a complete record of proceedings. *In re Marriage of Gulla*, 234 Ill. 2d 414, 422 (2009). Furthermore, "[a]ny doubts which may arise from the completeness of the record will be resolved against the appellant." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Due to our ultimate conclusion in this case, the dismissal of the appeal based on Wieslawa's deficient brief, we do not need to determine the parties' proper designation.

¶ 11 In her brief before this court, Wieslawa, *pro se*, asks us to modify the agreed judgment for dissolution of marriage as follows: to "insure continued payment" of social security benefits to her minor child; include the balance of a bill to Glen Orthodontics; add \$300 of maintenance payments from Marek to herself; award her ownership in a condominium unit in Arlington Heights, Illinois; and to add a clause stating that the parties have seven days to notify each other of a change in address.

¶ 12 After reviewing Wieslawa's brief, we hold that it fails to conform with Illinois Supreme Court Rule 341. Ill. S. Ct. R. 341 (eff. Feb. 6, 2013). Illinois Supreme Court Rule 341 governs the form and contents of appellate briefs. *Voris v. Voris*, 2011 IL App (1st) 103814, ¶8. Compliance with Rule 341 is mandatory, and Wieslawa's status as a *pro se* litigant does not relieve her of her noncompliance with appellate practice rules. *Id.* This court has the discretion

to strike a brief and dismiss an appeal based on the failure to comply with the applicable rules of appellate procedure. *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 80.

¶ 13 Wieslawa's brief contains numerous violations of Illinois Supreme Court Rule 341. For example, subsections (h)(6) and (7) of Rule 341 require citation to the record in both the statement of facts and argument sections of an appellant's brief. Ill. S. Ct. R. 341(h) (6), (7) (eff. Feb. 6, 2013). Wieslawa makes no citations to the record in any section of her brief. Rule 341(h)(9) requires an appendix according to Rule 342. Ill. S. Ct. R. 341(h)(9) (eff. Feb. 6, 2013). Rule 342(a), in turn, requires "a complete table of contents, with page references, of the record on appeal." Ill. S. Ct. R. 342(a) (eff. Jan. 1, 2005). Wieslawa did not include either an appendix or a table of contents to the record. Wieslawa also failed to include a proper statement of the standard of review in violation of Rule 341(h)(3). Ill. S. Ct. R. 341(h)(3) (eff. Feb. 6, 2013) ("The appellant must include a concise statement of the applicable standard of review for each issue, with citation to authority, either in the discussion of the issue in the argument or under a separate heading placed before the discussion in the argument."). Wieslawa alleges the standard of review is "*de novo*," but cites no authority. She failed to provide a statement of jurisdiction, in violation of Rule 341(h)(4). Ill. S. Ct. R. 341(h)(4) (eff. Feb. 6, 2013).

¶ 14 Additionally, and most importantly, Wieslawa cited no authority, legal or otherwise, for her position. She simply asks us to amend the agreed judgment of dissolution of marriage she entered into with her ex-husband without providing any reason or authority. This makes her brief very difficult to follow as it is not cohesive, coherent, or developed. See *Vancura v. Katris*, 238 Ill. 2d 352, 369-70 (2010); *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 80 ("This court is

not a depository in which the burden of argument and research may be dumped."). This court has held that the failure to elaborate on an argument, cite persuasive authority, or present a well-reasoned argument violates Rule 341(h)(7) and results in waiver of that argument. *Sakellariadas v. Campbell*, 391 Ill. App. 3d 795, 804 (2009) ("The failure to assert a well-reasoned argument supported by legal authority is a violation of Supreme Court Rule 341(h)(7), resulting in waiver."); Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013). Wieslawa's brief does not cite authority, or even present an argument with reasons for her position. Therefore, she has violated the applicable rules of appellate practice.

¶ 15 Accordingly, we exercise our discretion and strike Wieslawa's brief and dismiss her appeal. *Holzrichter*, 2013 IL App (1st) 110287, ¶ 80. In addition to presenting an undeveloped and incoherent argument before this court, Wieslawa has failed to abide by the applicable rules of appellate practice. Her brief contained numerous violations of Illinois Supreme Court Rule 341. Ill. S. Ct. R. 341 (eff. Feb. 6, 2013). Accordingly, we strike Wieslawa's brief and dismiss this appeal.

¶ 16 CONCLUSION

¶ 17 Appeal dismissed.