2014 IL App (5th) 130297-U

NO. 5-13-0297

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

EDDY BROWN, Plaintiff-Appellant, v. MADISON COUNTY PLANNING & DEVELOPMENT DEPARTMENT, Defendant-Appellee.	)	Appeal from the Circuit Court of Madison County. No. 12-MR-242 Honorable Barbara L. Crowder, Judge, presiding.

JUSTICE STEWART delivered the judgment of the court.
Justices Goldenhersh and Chapman concurred in the judgment.

ORDER

¶ 1 *Held*: Due to a lack of cohesive argument in the appellant's brief, this appeal is dismissed.

¶ 2 An administrative hearing officer in the code hearing unit of the planning and development department of Madison County issued a decision finding Eddy Brown liable for three violations of ordinances promulgated by Madison County. These violations concerned conditions at Brown's residence at 2190 Shirlene Drive in unincorporated Madison County near Granite City. Acting *pro se*, Brown filed in the circuit court of Madison County a complaint for administrative review of the decision. The circuit court

affirmed. Again acting *pro se*, Brown now appeals from the circuit court's judgment affirming the administrative decision. See 735 ILCS 5/3-112 (West 2012) ("A final decision, order, or judgment of the Circuit Court, entered in an action to review a decision of an administrative agency, is reviewable by appeal as in other civil cases."). Brown raises four points in this court. However, this court does not reach the merits of Brown's contentions, for they have not been properly presented on appeal. Most importantly, his contentions are unsupported by cohesive argument. As a result, Brown's issues are forfeited, and this appeal is dismissed.

¶ 3 BACKGROUND

¶ 4 The record on appeal shows that an administrative hearing to determine whether Brown was liable for certain code violations was scheduled for September 2, 2011. The record does not contain a transcript, or any kind of written summary, of a hearing on that date. However, on September 27, 2011, the administrative hearing officer issued his written findings, decision, and order. The hearing officer indicated therein that Brown failed to appear for the hearing. The hearing officer further indicated that sworn testimony was taken at the hearing and that certain exhibits–specifically, the county's "inspection report" dated September 1, 2011, and 18 photographs–were admitted into evidence. The hearing officer found that "an accumulation of junk, debris, old car parts, shingles, scrap metal, wood fencing material, tarped piles of debris, old lawn mowers, noxious weeds or plant growth in excess of 10 inches, including thistle, and 3 unlicensed vehicles" were on Brown's property. Based on these findings of fact, the hearing officer determined that Madison County had proved by a preponderance of the evidence that

Brown was liable for violating sections 93.025(I)(1) and 93.025(I)(4) of the Madison County zoning code and section 302.4 of the Madison County property maintenance code. The hearing officer imposed a fine of $1,000, directed Brown to correct the violations within 21 days, and scheduled a review hearing for November 4, 2011.

¶ 5 The record does not include the 18 photographs admitted into evidence at the September 2, 2011, hearing. It contains only black-and-white photocopies of those photographs. Most of the photocopies are of poor visual quality. Two or more of the photographs show an older-model automobile partially covered by a tarpaulin, and another vehicle completely covered by a tarpaulin. Two other photos show a truck, similar to a delivery truck, with no registration plate on the front or rear. Two other photos show a tire, part of a wooden fence, and sundry other items piled alongside the exterior wall of a house. One photo depicts pieces of machinery or car parts lying in a yard. Another shows a lawn mower that is partially obscured by vines or shrubbery. Still another photo shows tall weeds, including thistle.

¶ 6 On November 4, 2011, a review hearing was held. According to a written "report of proceedings" included in the record on appeal, Brown appeared *pro se* at that hearing. Wayne Brendel, a Madison County code enforcement inspector, testified that the tall weeds on Brown's property had been cut. Brendel also presented 11 photographs dated November 1, 2011. He testified that five of the photos established that an "unsightly" accumulation of junk and debris remained on the property, and that three of the photos established the continued presence of unlicensed and inoperable vehicles on the property. The hearing officer stated that two photos showed "a partially covered white truck with a

fender touching *** the pavement," one photo showed "outside storage of mowing equipment and roping," and five other photographs showed "outside storage of various items." The record on appeal includes photocopies of the photographs admitted into evidence. The photocopies are not of a high visual quality, but they show vehicles under tarpaulins; two lawnmowers underneath a leafy plant in a yard; a dolly, a propane tank, and various other items piled along an exterior wall of a structure; and a table and a cart, both covered with car parts, sitting in a yard. The hearing officer found that the county had "satisfied its burden of proof on the violations and on the review," and gave Brown an opportunity to testify. Brown testified that he had removed two vehicles from his property and that all of the vehicles that remained in his yard were registered and operable. Some of the items in his yard had been in storage, but he "lost" his storage space and was forced to move the items to his home. Brown further testified that many of the items in his yard, including automobile parts, were worth significant sums of money, and therefore could not properly be considered junk or debris. Brown insisted that he was in compliance with city ordinances. The hearing officer took the matter under advisement.

¶ 7 On November 8, 2011, the hearing officer issued an order finding that Brown had partially corrected the violations, but one unlicensed or inoperable vehicle remained on the property, and junk or debris remained on the property. The hearing officer imposed another $1,000 fine.

¶ 8 Other review hearings followed, and additional fines were imposed. Finally, on September 7, 2012, the hearing officer found that all violations had been corrected. At that point, the fines were in the amount of $10,900.

¶ 9 Pursuant to the Administrative Review Law (Review Law) (735 ILCS 5/3-101 *et seq.* (West 2012)), Brown filed in the circuit court of Madison County a complaint for review of the administrative decision. After a hearing, the circuit court found that the decision was not against the manifest weight of the evidence and that sufficient evidence in the record supported the decision and fines. The court affirmed the administrative decision in its entirety. Brown then brought this appeal.

¶ 10 ANALYSIS

¶ 11 Brown raised four issues in the "Issue Presented For Review" section of the *pro se* appellant's brief that he filed in this court. Those issues are:

> "[1] The first question for review is, did the Third Judicial Court of Madison County filed May 21, 2013 the honorable Judge Crowder presiding, correctly interpret Section 93.025(1) & Section 93.060 in regards to junk and debris?
>
> [2] Secondly, did they err to wrongfully accuse the plaintiff for violation ordinance Section 302.4 Weeds, (R-228) after the weeds were cut and maintained according to the code regarding corrective action?
>
> [3] Lastly, did the Third Judicial Court of Madison County Illinois err in ruling as a matter of Law, regarding the Vehicle Code Section 93.025(I) & Section 93.060 of the Madison County Zoning Ordinance regarding unlicensed and or

inoperable vehicles(s) on the property of 2190 Shirlene, Granite City, Illinois, when the corrective action says, 'that can be made operable?'

[4] Fourthly, did the Third Judicial Court, presided over by Judge Crowder, err in affirming the preponderance of the evidence presented by the Madison County Hearing Officer by accepting their statements as fact which included faulty photographs, incorrect information and quotations such as 'not capable of being made roadworthy?' "

¶ 12 This court does not reach the merits of Brown's contentions, for those contentions have not been properly presented on appeal. Under Supreme Court Rule 341(h)(7), the "argument" section of an appellant's brief "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)(7) (eff. Feb. 6, 2013). "Points not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing." *Id.* By virtue of Rule 341(h)(7), a reviewing court is entitled to have the issues clearly defined and supported by cohesive arguments and citations to pertinent authorities. *Sexton v. City of Chicago*, 2012 IL App (1st) 100010, ¶ 79. Statements unsupported by argument or by citation of relevant authority do not merit consideration on review. *Holmstrom v. Kunis*, 221 Ill. App. 3d 317, 325 (1991). A party's *pro se* status does not relieve him of the burden of complying with the rules governing appellate briefs. *Biggs v. Spader*, 411 Ill. 42, 44-46 (1951).

¶ 13 The "argument" section of Brown's brief is less than two pages in length. Though peppered with rhetorical questions, it is bereft of developed arguments and sorely lacking

in citations to pertinent legal authorities. It does not cite to any case law. Brown has barely articulated, let alone properly supported, any ground for disturbing the decision rendered by the hearing officer. Due to the severe deficiencies in Brown's brief, the points raised therein are forfeited. On that basis, this court hereby dismisses the instant appeal.

¶ 14 Even if Brown had presented cohesive arguments, he likely would not have prevailed on appeal. This court's independent examination of the record has not revealed any reversible error in the hearing officer's findings that Brown was liable for code violations.

¶ 15 In an appeal involving a final administrative decision under the Review Law, such as the instant appeal, this court reviews the decision rendered by the administrative agency and not the determination of the circuit court that reviewed the decision. *Marconi v. Chicago Heights Police Pension Board*, 225 Ill. 2d 497, 531 (2006) (*per curiam*). An administrative agency's factual findings and conclusions are deemed *prima facie* true and correct. 735 ILCS 5/3-110 (West 2012); *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 210 (2008). This court will not disturb those findings and conclusions unless they are against the manifest weight of the evidence. *Id.* An administrative agency's decision is against the manifest weight of the evidence only if the opposite conclusion is clearly evident. *Abrahamson v. Illinois Department of Professional Regulation*, 153 Ill. 2d 76, 88 (1992).

¶ 16 Here, the hearing officer's decision that Brown was liable for code violations was certainly not against the manifest weight of the evidence.

¶ 17 Section 93.025(I) of the Madison County zoning code lists five "prohibited uses" of property in single-family residential districts, such as the one in which Brown resides. "Junk yards" is one of these prohibited uses. Madison County Zoning Code § 93.025(I)(1). The zoning code defines "junk yard" as follows: "Any area where scrap, metal, paper, rags, or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including auto and building salvage yards." Madison County Zoning Code § 93.007(B). The zoning code defines "junk" broadly. The term includes "appliances, furniture, *** tires, inoperable motor vehicles, [and] machinery parts *** [that] may reasonably be construed to be unsightly ***." Madison County Zoning Code § 93.007(B). Another prohibited use in single-family residential districts is as follows: "Vehicles, such as automobiles, buses, and trucks that do not bear a current set of license plates; or are not in running condition; or are in such a condition that they are inoperable on public streets shall not be permitted. Penalty, see § 93.000." Madison County Zoning Code § 93.025(I)(4). The Madison County Property Maintenance Code section 302.4 prohibits all noxious weeds and all weeds in excess of 10 inches in height.

¶ 18 The photographs admitted into evidence at the administrative hearing of September 2, 2011, provide abundant support for the hearing officer's decision. Those photos showed tall weeds, piles of unsightly junk, and at least one vehicle without license plates on Brown's property. To say the least, a conclusion opposite to the hearing officer's conclusion is not clearly evident.

¶ 19 Appeal dismissed.