

FIRST DIVISION
September 14, 2015

No. 1-14-3074

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**

ESTATE OF PATRICIA HERARD,)	Appeal from the
a disabled person,)	Circuit Court of
)	Cook County.
ARSENE HERARD and PATRICIA A. HERARD,)	
)	
Petitioners-Appellants,)	
)	No. 09 P 366
v.)	
)	
ADAM N. STERN, guardian <i>ad litem</i> for)	
PATRICIA HERARD,)	Honorable
)	Kathleen McGury,
Respondent-Appellee.)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court
Justices Cunningham and Connors concurred in the judgment.

ORDER

¶ 1 *Held:* Petitioners' appeal is dismissed for failure to comply with Illinois Supreme Court Rules 341 (eff. Feb. 6, 2013), and 342 (eff. Jan. 1, 2005), and for lack of jurisdiction.

¶ 2 Petitioners Arsene and Patricia Herard appeal the orders of the circuit court striking their petition pursuant to section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401 (West 2010), and denying another section 2-1401 petition. On appeal, the Herards contend that the trial court erred in striking and denying their petitions and request that the lien against their property be removed. For the following reasons, we dismiss the appeals.

¶ 3 JURISDICTION

¶ 4 The trial court denied with prejudice one section 2-1401 petition on September 18, 2014, and struck the other section 2-1401 petition on September 30, 2014. Petitioners filed their notices of appeal on October 3, 2014. Accordingly, this court has jurisdiction pursuant to Illinois Supreme Court Rules 301 and 303 governing appeals from final judgments entered below. Ill. S. Ct. R. 301 (eff. Feb. 1, 1994); R. 303 (eff. May 30, 2008).

¶ 5 BACKGROUND

¶ 6 This appeal involves the guardianship estate of Patricia Herard, a disabled person. In a prior appeal, *In re Estate of Patricia Herard*, 2013 IL App (1st) 130234-U, this court affirmed the removal of petitioner Patricia A. Herard as plenary guardian of Patricia's person. As stated in the case, Patricia was adjudicated a disabled person on February 24, 2009, and the court appointed her mother as plenary guardian of her person and appointed Bank of America plenary guardian of her \$2 million estate. Respondent Adam Stern was appointed guardian *ad litem* (GAL). Mr. Stern filed a petition for citation to remove the guardian, arguing that Mrs. Herard refused to give Patricia prescribed seizure medications and that the Herards could not provide a safe and healthy environment for Patricia. The trial court ordered Mrs. Herard removed as guardian of Patricia's person, finding her "unsuitable to discharge the duties related to making medical decisions including medicine dispensation and management on behalf of her daughter."

¶ 7 At issue in this appeal are two subsequent orders by the trial court granting a lien in favor of Patricia's estate and against the Herards' residence. On October 14, 2010, and December 15, 2010, the trial court entered orders approving a lien against the Herards' residence for repairs paid for by Patricia's estate. At a hearing on March 25, 2014, to set the lien amount, the trial court approved a lien amount of \$67,683.60, which represented costs associated with the Herards' "responsibilities as owners of the house." The trial court expressly stated that the amount did not include the costs of repairs caused by Patricia's destructive behavior, for which her estate was responsible.

¶ 8 After the trial court entered the order approving the lien, petitioners filed, *pro se*, numerous motions to vacate and petitions to clarify. On August 12, 2014, they filed a section 2-1401 petition seeking to vacate the lien order but the trial court found it lacked jurisdiction due to lack of proper service. The trial court continued the petition to give petitioners an opportunity to provide proper service. The Herards then filed a second section 2-1401 petition seeking removal of Rehab Assist as successor guardian and restitution of guardianship to the Herards. On September 18, 2014, the trial court entered an order denying the first section 2-1401 petition with prejudice for "reasons stated on the record." The transcript of this proceeding is not contained in the record on appeal. On September 30, 2014, the trial court entered an order striking the second section 2-1401 petition "for the reasons stated on the record." Again, the transcript of this proceeding is not contained in the record on appeal. Petitioners filed two notices of appeal on October 3, 2014, one for each of the trial court's September orders.

¶ 9

ANALYSIS

¶ 10 Initially, we note that the trial court's September 30, 2014, order did not deny the petition, but rather struck the petition "for the reasons stated on the record." We do not have a transcript of the proceeding in the record, but we presume that since the trial court struck the petition it did not rule on the merits of the petition. Therefore, the trial court has issued no final order on the petition and it remains pending. *Belluomimi v. Lancome*, 207 Ill. App. 3d 583, 586 (1991). Since no final, appealable order was issued, this court is without jurisdiction to review petitioners' appeal of the September 30, 2014, order and must dismiss that appeal. *Onewest Bank, FSB v. Topor*, 2013 IL App (1st) 120010, ¶ 17.

¶ 11 Petitioners also appeal the trial court's September 18, 2014, order denying the first section 2-1401 petition with prejudice for "reasons stated on the record." They contend that respondent lied to the trial court in order to obtain the lien order, the trial court ordered expenses petitioners did not ask for, the payments ordered by the trial court were to fix damages caused by their daughter, Patricia, and that they are entitled to guardian fees for taking care of their daughter without using money from her estate.

¶ 12 Petitioners' brief, filed *pro se*, does not comply with Illinois Supreme Court Rules 341(h)(6) and (7), nor does it contain an appendix as required by Illinois Supreme Court Rule 342. Rule 341(h)(6) requires a statement of facts, "stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal." Ill. S. Ct. R. 341(h)(6) (eff. Feb. 6, 2013). Petitioners' statement of facts contains argument and comment, and does not reference the appropriate pages of the record. Rule 341(h)(7) mandates that petitioners' arguments cite to "the authorities and the pages of the record relied on." Ill. S.

Ct. R. 341(h)(7) (eff. Feb. 6, 2013). The argument section of petitioners' brief does not cite to any authorities relied on for support, nor does it cite the pages of the record relied on.

¶ 13 These supreme court rules are not mere suggestions, but are compulsory. *Niewold v. Fry*, 306 Ill. App. 3d 735, 737 (1999). The purpose of the rules is to require parties to present clear and orderly arguments before a reviewing court so that it can properly ascertain and dispose of the issues. *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2nd) 111151, ¶ 7. "The appellate court is not a depository into which a party may dump the burden of research" and "[a] conclusory assertion without supporting analysis is not enough" to satisfy Rule 341. (Internal quotation marks omitted.) *In re Marriage of Petrik*, 2012 IL App (2nd) 110495, ¶¶ 38-40. The fact that petitioners appear *pro se* does not relieve them from complying with the supreme court rules. *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8. This court may dismiss an appeal for failure to comply with the supreme court rules. *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005).

¶ 14 Even if we did not dismiss petitioners' appeal for noncompliance with the rules, petitioners could not prevail on the merits. Petitioners' arguments in support of their claims refer to statements made during various proceedings and the trial court's reasoning. The record on appeal, however, does not contain transcripts of the proceedings or an acceptable equivalent. Without a complete record or any citations to the record, this court is not in a position to consider petitioners' claims. "[A]n appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the order entered by the trial court was in conformity with law and had a sufficient factual basis." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 392-92 (1984).

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¶ 15 For the foregoing reasons, petitioners' appeals are dismissed.

¶ 16 Appeal dismissed.