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2015 IL App (3d) 140564-U

Order filed March 20, 2015

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2015

KATHLEEN M. GARTHUS,)	Appeal from the Circuit Court
)	of the 12th Judicial Circuit,
Plaintiff-Appellant,)	Will County, Illinois.
)	
v.)	Appeal No. 3-14-0564
)	Circuit No. 13-SC-7769
LAWRENCE J. BECKER,)	
)	Honorable Theodore J. Jarz,
Defendant-Appellee.)	Judge, Presiding.

JUSTICE SCHMIDT delivered the judgment of the court.
Justices O'Brien and Wright concurred in the judgment.

ORDER

- ¶ 1 *Held:* Plaintiff waived all issues by failing to cite any authority to support her arguments.
- ¶ 2 Plaintiff, Kathleen Garthus, filed a small claims complaint against defendant, Lawrence Becker, alleging that defendant damaged and stole plaintiff's personal property. During a bench trial, the court rejected plaintiff's offer of a police report into evidence. The trial court also refused to allow plaintiff to question defendant regarding a phone conversation that occurred between defendant and the Illinois Department of Labor. Ultimately, the court found that

plaintiff failed to meet her burden of proof with one exception. The trial court entered judgment in favor of plaintiff in the amount of \$5.

¶ 3 Plaintiff appeals, arguing that the court erred by: (1) rejecting offered evidence consisting of a police report and defendant's written response to the Illinois Department of Labor; and (2) allowing defendant to commit perjury. For the following reasons, we affirm.

¶ 4 BACKGROUND

¶ 5 Plaintiff worked for defendant mowing grass. After defendant's wife passed away in 1999, plaintiff moved into defendant's three-bedroom motor home; plaintiff paid rent. In October 2011, Centerpoint purchased defendant's property; Centerpoint required that defendant and plaintiff move out of the premises within one year. Defendant moved out of the home on December 19, 2012, and turned in the keys to Centerpoint on December 20, 2012. Defendant currently resides in Missouri.

¶ 6 On June 18, 2012, plaintiff and defendant engaged in an altercation. Ultimately, the trial court entered an emergency protection order against plaintiff, prohibiting her from occupying or visiting the premises. However, the court provided plaintiff an opportunity to collect her personal belongings. On July 21, 2012, the police accompanied plaintiff to retrieve her items from the premises. Plaintiff failed to remove all of her personal belongings during the visit. On January 15, 2013, plaintiff returned to the property in an attempt to collect the remainder of her items. At such time, she allegedly discovered that some of her items had been damaged and other items were missing. By this point, defendant had moved all of his personal belongings from the premises.

¶ 7 Plaintiff filed a small claims complaint, alleging that defendant stole and damaged her personal property. She provided defendant with a six-page list setting forth the specific items

that were damaged or lost. The list included, but was not limited to: a John Deere Tractor; a lawnmower; a custom gutter; a truck battery; a Jacuzzi; and a BB gun. At trial, defendant testified that he did not possess any of the items on the list, except the BB gun and lawnmower. He testified that he kept the BB gun because plaintiff gave it to him after she borrowed his previous BB gun and never returned it. Defendant also testified that he owned the lawnmower and never told plaintiff that she could have it. He testified that he sold the Jacuzzi only after plaintiff said that she had no use for it; the Jacuzzi was broken.

¶ 8 Defendant's daughter, Sonya Becker, also testified at trial. She helped defendant pack and move; she did not load any items included on plaintiff's six-page list onto the truck. She further testified that she did not take control or possession of such items. Sonya returned to the premises on January 4, 2013, to gather mowing blades that defendant left behind; Centerpoint gave Sonya permission to enter the premises and remove the mowing blades.

¶ 9 At trial, plaintiff offered a police report about plaintiff's claim into evidence, which the court denied. The court also did not allow plaintiff to examine defendant regarding his conversation with the Illinois Department of Labor. Ultimately, the court found that the plaintiff failed to meet her burden of proof concerning all of the items, except the custom gutter.

¶ 10 Plaintiff appeals. We affirm.

¶ 11 ANALYSIS

¶ 12 As an initial matter, we note that plaintiff's brief is, for all intents and purposes, unintelligible. Plaintiff neither complies with Rule 341 (Ill. S. Ct. R. 341(eff. Feb. 6, 2013)), nor advances a cogent argument supported by case law. Supreme Court Rule 341(h)(7) requires an appellant to cite authority in support of his or her arguments. We find that plaintiff waived all issues by failing to cite to any authority. *People v. Clinton*, 397 Ill. App. 3d 215, 223-24 (2009).

We acknowledge that petitioner is *pro se*, but the rules of procedure apply to her all the same. *Lewis v. Heartland Food Corp.*, 2014 IL App (1st) 123303. Defendant has not filed an appellee's brief. Notwithstanding plaintiff's waiver, we will attempt to explain why her arguments are without merit.

¶ 13 Plaintiff argues that the trial court erred in rejecting evidence offered consisting of a police report and defendant's written response to the Department of Labor. Plaintiff failed to cite any authority in support of this argument because there is none. Police reports are inadmissible hearsay. *People v. Williams*, 240 Ill. App. 3d 505, 506 (1992). We accordingly find that the trial court did not err in rejecting the offered police report.

¶ 14 Based on the record, it is not clear whether plaintiff even offered defendant's written statement to the Department of Labor. A party complaining that the court did not provide her with an opportunity to prove her case must present the reviewing court with an adequate offer of proof as to what the trial court excluded. *Kim v. Mercedes-Benz, U.S.A., Inc.*, 353 Ill. App. 3d 444, 451 (2004). An adequate offer of proof discloses to the trial court the nature of the offered evidence. *Id.* Where plaintiff fails to make an offer of proof, she waives the issue on appeal. *Id.* at 452. Here, plaintiff did not provide us with an adequate offer of proof. The record indicates that she attempted to question defendant about his conversation with the Department of Labor. Moreover, plaintiff fails to cite to a page in the record indicating that she actually offered defendant's written statement. Further, after reviewing the record, it is unclear whether she offered such evidence. Plaintiff waived the issue.

¶ 15 Plaintiff also argues that the trial court erred in allowing defendant to commit perjury on the stand. Again, plaintiff waived this issue by failing to cite authority for such argument. *People v. Clinton*, 397 Ill. App. 3d at 223-24. Furthermore, it is not our charge to determine the

credibility of a witness; the trial court is in a better position to weigh the evidence and determine the credibility of witnesses. *Marth v. Illinois Weather-Seal, Inc.*, 50 Ill. App. 3d 577, 581 (1977). Plaintiff's entire appeal is frivolous. Accordingly, we find that the trial court did not err.

¶ 16

CONCLUSION

¶ 17

For the foregoing reasons, the judgment of the circuit court of Will County is affirmed.

¶ 18

Affirmed.