

No. 1-15-0053

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

In re APPLICATION OF THE COUNTY COLLECTOR) Appeal from the Circuit Court
OF COOK COUNTY ILLINOIS, for Judgment and Sale) of Cook County.
Against Real Estate Returned Delinquent for the)
Nonpayment of General Taxes for the Year 2006)
and Prior Years.) No. 10 COTD 2221
)
(Four Bees Investment, Inc., Petitioner-Appellant v. Jack)
Ochana, Respondent-Appellee, and BMO Harris Bank,)
N.A., formerly d/b/a Harris N.A., Respondent))
)

)
(Jack Ochana, Petitioner-Appellant v. Maria Pappas, in her)
official capacity as County Treasurer of Cook County,) Honorable
Illinois, and Trustee of the Indemnity Fund, Respondent-) Robert Bertucci,
Appellee, and Jim Ochana, Third Party Defendant.)) Judge Presiding.

JUSTICE DELORT delivered the judgment of the court.
Presiding Justice Rochford and Justice Hall concurred in the judgment.

ORDER

¶ 1 **Held:** In this case involving the judicial issuance of a tax deed to tax-delinquent property, we dismiss portions of the appeal because: (1) the order dismissing the original property owner’s claim against the county indemnity fund is not listed in the notice of appeal, and that order was not part of the procedural progression to the orders actually listed in the notice of appeal; and (2) his appeal of the order dismissing his section 2-1401 petition to overturn the tax deed was untimely. We reject the owner’s claims against the order granting possession of the subject

property to a tax buyer. We also reject his challenge to an order denying a different party's discovery request for a copy of his deposition transcript, finding that he forfeited review of the issue by not raising it below, and, in the alternative, that he lacks standing to appeal the order to this court.

¶ 2 This case involves the judicial issuance of a deed to tax-delinquent property and has a rather convoluted procedural history, much of which is relevant to the disposition of this appeal. We set out the pertinent events in chronological order.

¶ 3 **BACKGROUND**

¶ 4 On April 14, 2011, the circuit court of Cook County entered an order directing the issuance of a tax deed to petitioner Four Bees Investment, LLC (Four Bees), for tax-delinquent property in Hoffman Estates, Illinois owned by Jack Ochana. The order was made final and appealable under Illinois Supreme Court Rule 304(a) (eff. Feb. 6, 2010). The order also reserved jurisdiction for the court to enter future orders placing Four Bees in possession of the property.

¶ 5 On May 31, 2011, after no appeal was filed from the April 14 tax deed order, Four Bees filed an application for an order of possession of the property and sent notices thereof to various affected individuals. At the hearing on the possession motion on June 7, 2011, Jack¹ and Harris, N.A. (Harris), a lender which held a mortgage on the property, appeared through the same attorney and were given time to file a written appearance. The court continued the motion for possession.

¶ 6 On July 21, 2011, Jack and Harris filed a section 2-1401 petition (735 ILCS 5/2-1401 (West 2010)) challenging the April 14 tax deed order. The section 2-1401 petition claimed that Four Bees had represented to the court, and that the court had found, that all taxes on the property which had become due and payable after the date of the tax delinquency sale had, in

¹ Because the two brothers involved in the litigation, Jim Ochana and Jack Ochana, have the same last name, we refer to them by their first names.

fact, been paid, as required by law. However, the petition contended, Four Bees' representation was false because Four Bees did not actually pay some of those taxes until May 6, 2011, a few weeks after the April 14 hearing. Because of this error, the section 2-1401 petition requested that the order granting the tax deed be vacated and the tax deed itself be deemed to be void.

¶ 7 Four Bees moved to dismiss the section 2-1401 petition pursuant to section 2-615 of the Illinois Code of Civil Procedure (735 ILCS 5/2-615 (West 2010)). The motion argued that the section 2-1401 petition did not state a sufficient basis to overturn the tax deed order.

¶ 8 On December 7, 2011, before the motion to dismiss the original section 2-1401 petition was resolved, the court entered an order granting Jack leave to file an amended section 2-1401 petition, "including counts requesting relief from the indemnity fund", with summons to issue, by December 14, 2011. No such amended petition was filed by that deadline.

¶ 9 On January 25, 2012, the court again ordered that Jack could file an amended section 2-1401 petition, this time setting a deadline of February 1, 2012. Again, Jack filed no such amended petition by the deadline.

¶ 10 On February 3, 2012, the court granted Four Bees' motion to dismiss and dismissed the original section 2-1401 petition. In the same order, the court continued the case for "status on the petition for indemnity." The February 3 order makes no mention of any amended section 2-1401 petition.

¶ 11 On February 3, 2012, although the February 1 deadline to file an amended section 2-1401 petition had passed, Jack and Harris filed a new pleading containing three "counts". The first count purported to be an amended section 2-1401 petition (the "amended petition"), but was actually the same as the previously dismissed petition. The second and third counts pled an entirely new causes of action against a party not previously in the case, brought under section 21-

295 of the Property Tax Code (35 ILCS 200/21-295 (West 2010)), seeking an indemnification payment from the county indemnity fund for the loss Jack incurred because of the tax sale.

¶ 12 On April 5, 2012, the County Collector, as *ex officio* Trustee of the Indemnity Fund (Trustee), who was the named defendant in counts 2 and 3, moved to dismiss those counts. On June 27, 2012, the circuit court denied the motion to dismiss. The Trustee then answered those counts. For the next two years, the parties appeared before the court frequently on contentious discovery disputes, most of which were repeated requests by the Trustee to dismiss the indemnity claims as a sanction for Jack's failures to respond to discovery requests to the Trustee's satisfaction.

¶ 13 On February 11, 2014, Four Bees again filed an application for possession.

¶ 14 On April 14, 2014, the Trustee received leave of court to file a third-party complaint, by virtue of her status as a named defendant in counts 2 and 3 of the amended petition, against Jim Ochana, Jack's brother, seeking subrogation for unpaid taxes from any indemnification payment the Trustee might be ordered to pay. The third-party complaint alleged that Jim: (1) had deeded the property to Jack in 2005; (2) nonetheless still resided at the property; (3) was responsible to pay the taxes for the period of time covered by the tax deed proceedings; and (4) had failed to pay those taxes and that the taxes were still due to Cook County. The third-party complaint requested that any money which Jack might obtain from the indemnity fund should not be given to Jack, but instead be applied to satisfy Jim's still-outstanding property tax obligations. On May 21, 2014, attorney Joseph Younes filed an appearance for Jim in his capacity as a defendant in the Trustee's third-party complaint.

¶ 15 On June 25, 2014, Four Bees withdrew its motion for possession. On November 12, 2014, Jack's and Harris's original counsel was granted leave to withdraw. In light of the many

discovery disputes and a series of frequently continued trial dates, the court entered a “last chance” order, striking the latest trial date and continuing the case for status until December 10, 2014, and noting that “upon [Jack’s] failure to appear through new counsel, the matter is subject to dismissal at that time.”

¶ 16 On December 3, 2015, the court entered an order of possession declaring that: (1) Four Bees was the owner of the property; (2) the court had previously retained jurisdiction “for the purpose of maintaining or placing” Four Bees in possession; (3) Four Bees was entitled to possession of the property; and (4) the Sheriff was ordered to evict Jim, various family members, and other occupants from the premises. The court stayed that order until January 5, 2015.

¶ 17 On December 10, 2014, Jack failed to appear with new counsel, and the circuit court entered a final and appealable order dismissing counts 2 and 3 of the amended petition with prejudice. The court also dismissed the Trustee’s third-party complaint against Jim, presumably because the dismissal of counts 2 and 3 of the amended petition rendered the third-party complaint moot. The order did not specifically mention Jack’s “amended” section 2-1401 petition, which had been pled as count 1 of the amended petition. The December 10 order had the effects of: (1) terminating the Ochanas’ interest in the property; and (2) enforcing the earlier order granting Four Bees possession of it.

¶ 18 On December 18, 2014, Jack, now represented by Joseph Younes, who had already been representing his brother Jim in the case for some time, filed his first motion to stay possession, captioned as an “emergency motion to stay enforcement of order pending appeal and for other relief.” In that motion, he referred to himself as a “2-1401 petitioner” and noted that “it is anticipated that this Honorable Court will enter its final order denying Petitioner’s Amended 2-1401 Petition.” Based on that anticipated action, he stated that he “must file its [sic] Notice of

Appeal no later than January 2, 2015,” a date which was 30 days from the date of the December 3 possession order. The motion sought no relief with respect to any pending section 2-1401 petition, but merely requested that the court prevent Four Bees “from transferring or encumbering his [*sic*] interest in the property while an appeal is pending.” The next day, December 19, Younes filed an “additional” appearance for Jack.

¶ 19 On December 22, 2014, the court denied this motion to stay. The court’s three-page order contains 16 paragraphs of prefatory recitals outlining the chronology of the case. In summary, the recitals state that Jack’s original section 2-1401 petition had been dismissed, that count 1 of his three-count amended petition was the same as the original section 2-1401 which had already been dismissed, and that, accordingly, the only portion of the amended petition pending as of February 3, 2012 was the portion claiming monies from the indemnity fund, *i.e.*, counts 2 and 3. Further, the order recited that the court’s December 10, 2014 order had dismissed the only remaining portion of the amended petition for want of prosecution. The sole statement in the decretal portion of the order reads: “1. Jack Ochana’s Motion to Stay Enforcement of Order Pending Appeal and for Other Relief is hereby denied.”

¶ 20 On December 24, 2014, Jack filed his second motion to stay possession, which was similar to the one he filed on December 18 and which was denied on December 22. Also on December 24, Jack filed a motion asking the court “for entry of an order ruling” on his “Amended 2-1401 Petition,” or in the alternative, to reconsider the December 22 order. This motion took issue with the recitals in the December 22 order regarding the status of the “amended” section 2-1401 petition. It asserted that the “amended” section 2-1401 petition was still pending because the court had never entered an order “unequivocally” dismissing Jack’s “amended” section 2-1401 petition. No order specifically resolving the December 24 motion

appears in the record, but it appears that the parties considered it to be supplanted by the December 31 motion discussed below.

¶ 21 On December 31, 2014, Jack filed yet another motion to reconsider the December 10 possession order, asserting that there was a written repurchase agreement (“or alternatively in [*sic*] oral lease”) between Four Bees and him which, in effect, gave him rights to remain at the property notwithstanding any possessory rights granted to Four Bees by previous court orders. The motion also challenged Four Bees’ current efforts to obtain a possession order as being barred by laches because of the age of the original tax deed order. Attached to this motion was a five-page repurchase agreement “and assignment of judgment rights” between Four Bees, Harris, and Jack. Jack contends this established a landlord-tenant relationship between him and Four Bees. However, the written agreement was signed only by Jack. The lines for signatures by Four Bees and Harris were blank.

¶ 22 On January 7, 2015, the court held a lengthy hearing on the third of Jack’s motions to stay possession, the motion he filed on December 31, 2014. The transcript of that hearing is in the record. The trial judge recited his understanding of the history of the case and its previous orders in great detail. He took issue with Jack’s assertion that there was any “amended” section 2-1401 pending, noting repeatedly that count 1 of the amended petition was essentially duplicative surplusage which had been definitively resolved by previous orders dismissing the section 2-1401 petition. He stated that he gave Jack several chances to amend the section 2-1401 petition. He also explained why he allowed the amended petition to be filed in the form it was, with three counts:

“only to add an indemnity count because his alternative is to file a brand new case with an indemnity number, COIN * * *, as

opposed to making it part of the [original] 2-1401 under 2010 CoTD 2221, not pay any extra fees, so it's done out of convenience. That's allowed here. Attorneys do it all the time. So that was represented to the court as the sole reason."

During the hearing, the judge pointedly took issue with Jack's contention that there was still a pending section 2-1401 petition. He stated: "And I will say the order I entered denying the 2-1401 *** covered the count in the amended 2-1401, because that was only being filed out of courtesy to counsel late because it was on his desk and he didn't bring it over and touching it up or whatever it was, to add the indemnity count. There's no question the Court's ruling went to that. *** It was a final order and the parties could have done what they wanted to with it." The court also explained that it still had jurisdiction to enter a possession order because the "property tax code clearly provides" that "the parties could come back at whatever time to get possession" after the entry of a tax deed order. The trial judge also noted that the delay was created by the anticipated filing of an amended section 2-1401 petition.

¶ 23 The trial judge also rejected Jack's reliance on the alleged landlord-tenant agreement to support his claim against Four Bees' request for possession, commenting that it was not signed by the requisite parties. Jack also contended that his payment of certain additional property taxes supported a finding that a new oral contract existed granting him protection against Four Bees' request for a possession order. Even if the contract had been fully signed, the judge noted that it would not affect the possession rights granted through the tax deed because they were enforceable in the pending case under the Property Tax Code and the prior possession order. He noted that any new rights vested by the contract or the property tax payment would only be

enforceable elsewhere, perhaps in a forcible entry and detainer setting. The court orally denied all relief requested by Jack.

¶ 24 After the hearing, the court entered a written order resolving the December 31, 2014 motion. The only decretal language in the order is: “This misfiled and previously addressed motion predicated on a non-existent ‘agreement’ is hereby denied.”

¶ 25 On January 9, 2015, Jack filed a notice of appeal stating that he sought review of the five orders entered on: April 14, 2011; February 3, 2012; December 3, 2014; December 22, 2014; and January 7, 2014 [*sic*²]. The record contains no proof of service of the notice of appeal whatsoever. Jim did not file a notice of appeal.

¶ 26 ANALYSIS

¶ 27 We first address the issue of jurisdiction. The only party other than the appellant, Jack Ochana, who has filed a brief in this appeal is the Cook County Collector in her capacity as the Trustee of the Indemnity Fund. Two different attorneys simultaneously filed appearances for Four Bees in this court, but neither has filed a brief. One of Four Bees’ attorneys sent an email to the clerk of this court, indicating that Four Bees would not file a brief and stating “We believe the record speaks for itself.”

¶ 28 The Trustee has moved to dismiss the appeal as to herself on several bases, including the failure to file a proof of service of the notice of appeal, various deficiencies in Jack’s appellate brief, and failure to list the crucial December 10, 2014 order which dismissed counts 2 and 3 of the amended petition in the notice of appeal. Jack responded to that motion, and a justice of this court ordered that the motion be taken with the case. Upon plenary review of the briefs and entire record, we dismiss the appeal as to the Trustee for lack of jurisdiction.

²We will presume that this reference is intended to refer to the order dated January 7, 2015.

¶ 29 Jack’s appellate brief raises a host of issues which fall into two general categories. One group of issues relates to the dismissal of his section 2-1401 petition, whether in its original or “amended” form. The other group deals with the dismissal of counts 2 and 3 of the amended petition, his claims for relief from the indemnity fund. The litigation below precisely tracked this bifurcation.

¶ 30 The original tax deed proceeding terminated first when the deed was issued, and terminated a second time when the court dismissed the section 2-1401 petition. Maintaining the same case number (apparently, as the court explained, to save filing fees), the case then began a second life as an entirely new cause of action in which Jack sought relief from the indemnity fund. That portion of the case ended when the court dismissed the indemnity claims and the third-party complaint.

¶ 31 All five orders listed in the notice of appeal deal solely with the first part of the case, *i.e.*, the part regarding the issuance of the tax deed: April 14, 2011 (directing issuance of the tax deed and reserving jurisdiction for the court to enter a possession order); February 2, 2012 (dismissing the section 2-1401 petition); December 3, 2014 (granting Four Bees a possession order); December 22, 2014 (denying motion for a stay of the possession order); and January 7, 2015 (denying motion to reconsider a stay of the possession order and finding there was no agreement preventing possession from transferring pursuant to the tax deed).

¶ 32 Since nothing in any of these five orders resolves anything regarding the indemnity claims, the Trustee argues that we lack jurisdiction over any challenge Jack makes to the dismissal of the indemnity claims. Jack concedes that the December 10, 2014 order which actually *did* dismiss the indemnity claim is not listed in the notice of appeal, but he asserts that it was an error of form, not substance. He specifically relies on a clause in the recitals in the

December 22, 2014 order reading: “That on December 10, 2014, upon proof of notice to his former client, the remaining Count, seeking indemnity, was dismissed (for want of prosecution).” He also asserts that the order was “drafted by the trial court itself” but it actually bears the address block of Four Bees’ attorneys in the lower left margin of the last page, indicating that it was prepared by counsel.

¶ 33 Supreme Court Rule 303(b)(2) provides that a notice of appeal “shall specify the judgment or part thereof or other orders appealed from and the relief sought from the reviewing court.” Ill. S. Ct. R. 303(b)(2) (eff. Sept. 1, 2006). The filing of a notice of appeal is the “jurisdictional step which initiates appellate review.” (Internal quotation marks omitted.) *General Motors Corp. v. Pappas*, 242 Ill. 2d 163, 176 (2011). “A notice of appeal confers jurisdiction on a court of review to consider only the judgments or parts of judgments specified in the notice of appeal.” *Id.* Our supreme court has explained that a notice of appeal “will confer jurisdiction on an appellate court if the notice, when considered as a whole, fairly and adequately sets out the judgment complained of and the relief sought so that the successful party is advised of the nature of the appeal.” *Burtell v. First Charter Service Corp.*, 76 Ill. 2d 427, 433-34 (1979).

¶ 34 We acknowledge that we must construe notices of appeal liberally. *In re Marriage of O’Brien*, 2011 IL 109039, ¶ 22. Even if the order actually appealed is not expressly listed in the notice of appeal, we have jurisdiction if that order was a step in the procedural progression leading to the order listed in the notice of appeal. *Id.* ¶ 23.

¶ 35 Jack argues that the omission of the December 10 order is not fatal to his appeal because, among other things, it was part of the procedural progression leading to the December 22 order. We disagree. A careful examination of the December 22 order reveals Jack’s reliance on it is

misplaced. As noted above, the clause referring to the December 10 order is merely part of the December 22 order's three-page-long recital of the case history. The clause referring to the December 10 order falls before the decretal portion of the order. The actual decree of the order merely denies Jack's request for a stay of possession under the original tax deed order. The December 22 order does not actually resolve anything regarding the indemnity fund, and therefore its listing in the notice of appeal does not grant us jurisdiction over the December 10 order.

¶ 36 The December 10 order, which dismissed the indemnity claim, also was not a step in the procedural progression leading to either the December 22, 2014 or January 7, 2015 orders, so as to grant us jurisdiction over Jack's challenge to the December 10 order. Both of *those* orders related only to the tax deed/possession portion of the case, rather than to the indemnity counts resolved in the December 10 order. Further, it cannot be fairly said that the notice of appeal placed the Trustee on notice that the dismissal of the indemnity claim was to be reviewed in this appeal so as to create jurisdiction for this court to review the December 10 order.

¶ 37 Since none of the orders listed in the notice of appeal relate to the indemnity claims, we must dismiss the appeal as to the Trustee.

¶ 38 We now examine Jack's appeal of various orders entered in Four Bees' tax deed proceedings. Since Four Bees has not filed a brief, we will consider this portion of the appeal under the principles set forth in *First Capital Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 39 As noted above, the record contains no proof of service that Jack ever transmitted his notice of appeal to counsel for Four Bees. The Trustee noted this deficiency in her motion to dismiss filed in this court on August 12, 2015. Since being placed on notice of this omission

nine months ago, Jack has never amended the record to correct this deficiency. The “short file” maintained by the clerk of this court, however, contains a copy of the notice of appeal to which a contemporaneously time-stamped proof of service has been attached, signed by Younes and indicating that he emailed a copy of the notice of appeal to the appropriate parties on January 9, 2015, the same day as he filed the notice of appeal. However, on January 9, 2015, Illinois Supreme Court Rule 11(b)(6) did not allow service of pleadings by email in the trial courts unless the receiving party had consented to email service by indicating an email address on her pleadings. See Ill. Sup. Ct. R. 11(b)(6) (eff. July 1, 2013). (The rule has since been changed to require all attorneys to provide an email address on their pleadings and to more liberally permit service by email. See Ill. Sup. Ct. Rs. 11(b)(6), 131(d)(2) (eff. Jan. 1, 2016)). Service by email was therefore ineffective. However, in light of all the relevant circumstances, including the fact that attorneys for Four Bees filed appearances in this court and did not object to lack of service, we find that dismissal is not warranted either because of a missing proof of service of the notice of appeal, or because of its transmission by an ineffective email method of service.

¶ 40 On appeal, Jack raises several issues regarding Four Bees, which we consider in turn. He first argues that the trial court erred in dismissing his “original” section 2-1401 petition. Although a section 2-1401 petition is filed in the same action as the judgment which it attacks was entered, the petition is a “new and separate” cause of action, not a continuation of the original action. *Price v. Philip Morris, Inc.*, 2015 IL 117687, ¶ 23. The court dismissed the original section 2-1401 petition on February 3, 2012. That order was immediately appealable as of right, and the notice of appeal from that order was due 30 days later, or March 4, 2012. Ill. Sup. Ct. R. 304(b)(3).

¶ 41 As noted above, the “amended” section 2-1401 petition was not filed until after the deadline the court had set for Jack to replace it with an amended petition. If a court dismisses or denies a section 2-1401 petition but, in so doing, grants leave to file an amended petition, the dismissal or denial order is not final or appealable. *Sullivan v. Bach*, 100 Ill. App. 3d 1135, 1139 (1981). Here, however, the order dismissing the section 2-1401 was entered on February 2, 2012, *after* both the December 14, 2011 and February 1, 2012 deadlines to file an amended section 2-1401 had passed. A party may file more than one timely section 2-1401 petition attacking the same judgment without leave of court. *People v. Walker*, 395 Ill. App. 3d 860, 869 (2009). However, if leave is not granted to amend the section 2-1401 petition, the time to appeal the dismissal of the original section 2-1401 petition is not tolled. *Holloway v. Kroger Co.*, 253 Ill. App. 3d 944, 947 (1993). “A party may not avoid or extend the time for appeal of a final order by filing successive and repetitious motions pursuant to section 2–1401 of the Code.” *Holloway v. Kroger Co.*, 253 Ill. App. 3d 944, 948 (1993). Additionally, a trial court has no authority to grant relief under a section 2-1401 petition which raises the same issues as in a previous section 2-1401 petition. *Kirk v. Kirk*, 85 Ill. App. 3d 805, 809 (1980).

¶ 42 Because the section 2-1401 petition stood on its own as a separate cause of action, its dismissal was immediately appealable without regard for any other pending matters filed under the case number. Since no notice of appeal of the dismissal of the February 3, 2012 order dismissing the original section 2-1401 petition was filed until 2014, we must dismiss the part of the appeal attacking the dismissal of the original section 2-1401 petition for lack of jurisdiction.

¶ 43 Jack’s appeal of the April 14, 2011 order which directed issuance of the tax deed and reserved jurisdiction for the court to enter a possession order fails for a similar, but more straightforward, reason. The April 14 order was made final and appealable under Illinois

Supreme Court Rule 304(a), so the notice of appeal of that order was due 30 days later. Since Jack filed no notice of appeal in this case until January 9, 2015, we also lack jurisdiction over his appeal of the April 14, 2011 order. See *Lutkauskas v. Ricker*, 2015 IL 117090, ¶ 61 (holding that an appeal from a final judgment following a Rule 304(a) finding must be filed “within 30 days of the entry of that finding”).

¶ 44 Jack next contends that the trial court erred by “refusing to rule” on the “amended” section 2-1401 petition. However, the trial court did in fact rule on it, by finding that there was never any such “amended” section 2-1401 petition pending, because what Jack labeled as such was simply a refiling of the original one in its exact original form—a fact which Jack does not dispute and which the record supports. Even if there was an amended section 2-1401 petition on file, it would fail merely because it was duplicative of the original. *Kirk v. Kirk*, 85 Ill. App. 3d 805, 809 (1980). We therefore find no basis to reverse on this issue.

¶ 45 Jack also raises issues regarding the possession order, all of which rely on an alleged landlord-tenant relationship established between Four Bees and him through the written contract and his payment of certain property taxes. Jack’s argument that the court lost the ability to enter a possession order because of the passage of time is without merit, as the court specifically retained jurisdiction in the original tax deed order to grant Four Bees possession by court order at a future time, something which the Property Tax Code enables it to do. See 35 ILCS 200/22-40 (West 2012). Jack’s reliance on the contract is also misplaced because he never produced an actual copy of a fully signed contract showing that Four Bees had ever actually agreed to it. We therefore affirm the trial court’s order denying Jack’s request for relief related to Four Bees’ possession of the property, as well.

¶ 46 The final issue in Jack’s appellate brief relates to an issue which his brother, Jim, raised below with respect to the indemnity petition. Jim filed a notice to produce on the Trustee, requesting a copy of any statements she had which Jack had made, a request which was apparently aimed at getting a free copy of the transcript of Jack’s deposition. On August 6, 2014, the court entered an order indicating that Jim could “request and pay for a copy” of the transcript (apparently from the court reporter), that the Trustee need not copy the deposition transcript, and that no copy of the deposition need be filed with the court clerk. Jack challenges this ruling on appeal, arguing that this transcript was necessary material for his appeal of certain issues. This leaves us with the rather strange situation where a party is appealing an order denying a different party access to a free transcript of the *appellant’s own* deposition. Jim was the one who moved for production of the transcript in the court below. Since only Jack has appealed, and the record does not show that Jack ever made such a request himself or joined in his brother’s request, we find that Jack has forfeited review of this issue. *Int’l Union of Operating Engineers, Local 150 v. Lowe Excavating Co.*, 225 Ill. 2d 456, 491 (2006) (party who fails to raise issue below forfeits review). Additionally, Jack lacks standing to appeal the denial of Jim’s motion. See *Powell v. Dean Foods Co.*, 2012 IL 111714, ¶ 41 (party who did not make motion lacks standing to appeal denial of the motion). We therefore affirm the trial court’s order denying production of the transcript.

¶ 47

CONCLUSION

¶ 48 For these reasons, we grant the Trustee’s motion to dismiss and dismiss the appeal as to her. We also dismiss the portion of the appeal challenging the order of April 14, 2011 (granting the tax deed to Four Bees), and the order of February 2, 2012 (dismissing the “original” section 2-1401 petition). We affirm the orders of August 6, 2014 (denying production of a free copy of

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the deposition transcript); December 3, 2014 (granting Four Bees a possession order); December 22, 2014 (denying motion for a stay of the possession order); and January 7, 2015 (denying motion to reconsider a stay of the possession order and finding there was no agreement preventing possession from transferring pursuant to the tax deed).

¶ 49 Affirmed in part and dismissed in part.