

No. 1-15-1994

**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

MARLON THOMAS,	)	Appeal from the
	)	Circuit Court of
	)	Cook County
Plaintiff-Appellant,	)	
	)	
v.	)	No. 08 M1 146630
	)	
LAKEVIEW AS APARTMENT PEOPLE,	)	
	)	Honorable
Defendant-Appellee.	)	Daniel J. Kubasiak,
	)	Judge Presiding.

PRESIDING JUSTICE REYES delivered the judgment of the court.  
Justices Gordon and Lampkin concurred in the judgment.

**ORDER**

¶ 1 *Held:* Affirming judgment of circuit court where appellant has failed to present sufficiently complete record and court is presumed to have acted in conformity with law.

¶ 2 In 2008, Marlon Thomas (Thomas) secured a default judgment against Lakeview Apartments for \$1,500. Approximately seven years later, Thomas filed a motion seeking payment of such amount from "Lakeview as Apartment People." The circuit court of Cook County denied Thomas's motion and ordered that "all matters in this proceeding against The

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Apartment People are terminated." Thomas initiated this *pro se* appeal and filed his initial brief. The Apartment People did not file a brief,<sup>1</sup> and we entered an order taking this matter for consideration on Thomas's brief and the record only. For the reasons that follow, we affirm the judgment of the circuit court.

¶ 3

### BACKGROUND

¶ 4 Thomas filed a *pro se* complaint against Lakeview Apartment (Lakeview) on June 10, 2008; the complaint is not included in the record on appeal.<sup>2</sup> In an order captioned "Marlon Thomas v. Lakeview Apts.," Thomas was awarded an *ex parte* default judgment in the amount of \$1,500 on August 4, 2008. Based on the docket sheet, it appears that Thomas issued citations to discover assets against Lakeview in 2008 through 2010, and citations and/or alias citations against "People Apartments," "People Apartment," and "Peoples Apartment" in March through June of 2010. Thomas has stated that he has been "incarcerated" in a "mental health center" since June 18, 2010. The docket sheet indicates that there was no activity in Thomas's case from July 2, 2010 – when "Apartment People" filed an "answer"<sup>3</sup> – until his *pro se* filings in 2015, discussed below.

¶ 5 In a "motion to freeze assets" filed against "Lakeview now known as People Apartments" on May 13, 2015, Thomas asserted that he "was granted after trial damages of [\$1,500] by [a]

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<sup>1</sup> As discussed herein, "The Apartment People, Ltd." filed a "Response of The Apartment People to Notice of Appeal," claiming no "knowledge or affiliation with any entity by the name of Lakeview Apartments." We recognize there is ambiguity and/or disagreement regarding the name and identity of the appellee in this appeal. However, for purposes of continuity and clarity, we refer in the case caption to "Lakeview as Apartment People," the appellee designated in Thomas's notice of appeal. In light of our disposition of this appeal, we need not resolve any confusion.

<sup>2</sup> The docket sheet refers to the defendant as "Lakeview Apartment."

<sup>3</sup> The "Response of The Apartment People to Notice of Appeal" states that "[o]n June 29, 2010, The Apartment People, Ltd., through its attorney, filed an Answer to Third Party Respondent Citation" indicating it "holds no money belonging" to Thomas. We assume, although need not decide, that this is the "answer" referenced in the July 2, 2010, entry on the docket sheet.

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judge and never did receive[] the granted damages." He sought collection of the \$1,500. The record also includes a separate document entitled "Motion by Marlon Thomas for Freeze Assets," which was received by the court clerk on June 9, 2015. The caption on the motion lists the defendant as "Lakeview as Apartment People." Other than the title of the motion, the motion contains no information or argument regarding the requested relief. On the same date, the court clerk received Thomas's notice of motion. The notice referenced a hearing date of June 25, 2015, but did not include any identifying information regarding the motion.

¶ 6 The circuit court entered an order on June 25, 2015; the caption of the order identifies Lakeview Apartments as the defendant and The Apartment People as the third-party respondent. Thomas was not present at the hearing. The order states that The Apartment People had moved for "dismissal of motion/citation." The order provides that: (a) Thomas's motion was denied in its entirety; (b) "Citation to Discover Assets is dismissed and The Apartment People is discharged"; and (c) "all matters in this proceeding against The Apartment People are terminated."

¶ 7 On July 14, 2015, Thomas filed a notice of appeal; the circuit court's order entered on June 25, 2015, is appended to the notice. The notice lists the "defendants" as "Lakeview as Apartment People." Thomas filed his appellant brief on October 8, 2015. In a motion filed on December 21, 2015, Thomas stated: "Motion a judgement [*sic*] of default in appeal 15-19-94 appellee failure to file brief as of this date 12-16-2015" and "[m]otion a judgement [*sic*] of default case number 08M1146630 appeal 15-19-94[.]" In a January 22, 2016, order, we entered and continued the motion – which we characterized as a "Motion to Consider Appeal on Appellant's Brief Only" – "for plaintiff-appellant to serve the appellee with a copy of the notice of appeal and defendant's opening brief and to file with the Court a proof of service."

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¶ 8 On February 25, 2016, The Apartment People, Ltd. filed a "Response of The Apartment People to Notice of Appeal." The response provided, in part:

- "a) The Apartment People, Ltd.'s only dealings with Mr. Thomas occurred in 2008 and involved the receipt and refund of a \$560 deposit on a rental that was never consummated;
- b) The Apartment People, Ltd. has no knowledge or affiliation with any entity by the name of Lakeview Apartments;
- c) The Apartment People, Ltd. was never served with any Summons or Complaint in the underlying lawsuit and has no idea the basis for that lawsuit or those claims or who was allegedly served with any Summons or Complaint – there is no proof of service in any court file that counsel has been able to obtain; and
- d) There is no judgment entered against The Apartment People, Ltd. There appears to be a judgment entered against, if any entity, a "Lakeview Apt.", [sic] but that judgment has no bearing or effect on The Apartment People, Ltd."

The response further provided that "The Apartment People, Ltd. does not understand what order is being appealed by Mr. Thomas or what claim is being made against The Apartment People, Ltd. in these proceedings."

¶ 9 In a filing on March 11, 2016, Thomas stated, in part, "Appellee committe[d] perjury under oath 3121 Apartment People year 2008 was name [sic] Lakeview and change there [sic] name to Apartment People[.]" He also stated, "Apartment People ask plaintiff did he want the apartment after viewing the apartment with possession of plaintiff 560 dollors [sic] and Transunion credit files plaintiff said yes he wanted apartment \*\*\* wait two or three days later and said they had to give plaintiff back and Transunion files had to live on streets."

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¶ 10 On March 11, 2016, we entered an order taking the case for consideration on the record and Thomas's brief only based on the appellee's failure to file a brief within the time prescribed by Supreme Court Rule 343(a). Ill. S. Ct. R. 343(a) (eff. July 1, 2008). The order indicated that Thomas's motion was "not considered."

¶ 11 ANALYSIS

¶ 12 In his brief, Thomas appears to challenge the circuit court's order entered on June 25, 2015, denying his motion to freeze the assets of "Lakeview as Apartment People" based on his unsatisfied judgment for \$1,500. However, we are unable to discern any coherent point beyond this basic contention. His brief lacks clear or developed arguments and otherwise fails to comply with the applicable rules of appellate practice.

¶ 13 Thomas's brief does not conform to many of the mandatory requirements of Illinois Supreme Court Rules 341 and 342. *See Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8; Ill. S. Ct. R. 341 (eff. Feb. 6, 2013); Ill. S. Ct. R. 342 (eff. Jan. 1, 2005). Among other things, his brief: fails to comply with formatting requirements (Ill. S. Ct. R. 341(a)); lacks a certificate of compliance (Ill. S. Ct. R. 341(c)); lacks "Points and Authorities" (Ill. S. Ct. R. 341(h)(1)); lacks a statement of the issue or issues presented for review (Ill. S. Ct. R. 341(h)(3)); lacks a statement of jurisdiction (Ill. S. Ct. R. 341(h)(4)); lacks a statement of facts "with appropriate reference to the pages of the record on appeal" (Ill. S. Ct. R. 341(h)(6)); and lacks an appendix (Ill. S. Ct. R. 341(a)(9); Ill. S. Ct. Rule 342(a)).

¶ 14 "In addition, Rule 341(h)(7) requires the appellant to present reasoned argument and citation to legal authority and to specific portions of the record in support of his claim of error." *McCann v. Dart*, 2015 IL App (1st) 141291, ¶ 15; Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013). "This rule is especially important because, when reviewing a case, the appellate court starts with

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the presumption that the circuit court's ruling was in conformity with the law and the facts."

*McCann*, 2015 IL App (1st) 141291, ¶ 15. Thomas's brief contains no citations to the record or to any authority in support of his position; he fails to "present reasoned argument." *Id.* As our supreme court "has repeatedly held[,] \*\*\* the failure to argue a point in the appellant's opening brief results in forfeiture of the issue." *Vancura v. Katris*, 238 Ill. 2d 352, 369 (2010); Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) (noting that "[p]oints not argued are waived").

¶ 15 We recognize that Thomas is a *pro se* appellant. However, "[t]he fact that a party appears *pro se* does not relieve that party from complying as nearly as possible to the Illinois Supreme Court Rules for practice before this court." *Voris*, 2011 IL App (1st) 103814, ¶ 8. "This court is not a depository in which the burden of argument and research may be dumped." *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 80. "Although we seldom enter an order dismissing an appeal for failure to comply with supreme court rules, our sound discretion permits us to do so." *McCann*, 2015 IL App (1st) 141291, ¶ 20; *Holzrichter*, 2013 IL App (1st) 110287, ¶ 77 (stating that "[t]his court has the discretion to strike an appellant's brief and dismiss an appeal for failure to comply with Rule 341"); *Voris*, 2011 IL App (1st) 103814, ¶ 8 (noting that "[b]ased upon \*\*\* noncompliance, his appeal is subject to dismissal").

¶ 16 Assuming *arguendo* that we are able to consider Thomas's brief, his arguments are not supported by the record. As the appellant, Thomas "has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). "[I]n 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." *Id.* at 392. "Any doubts which may arise from the incompleteness of the record will be resolved against the appellant." *Id.* Although Thomas filed a notice of motion regarding a hearing on

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June 25, 2015, the record indicates that he did not appear at the hearing *pro se* or through counsel. The record does not include a transcript, bystander's report or agreed statement of facts regarding such proceedings (Ill. S. Ct. R. 323 (eff. Dec. 13, 2005)). See *Foutch*, 99 Ill. 2d at 392. The record on appeal, in its entirety, consists of the following: (a) a docket sheet for the circuit court proceeding; (b) the August 4, 2008, *ex parte* default judgment for \$1,500; (c) "daily motion call" or "daily court sheets" print-outs (portions of which are illegible); (d) the motions and notices described above; (e) the circuit court order entered on June 25, 2015; and (f) Thomas's notice of appeal and request for preparation of record on appeal. Based on the record before us, we are unable to determine whether there was error, and we presume that circuit court's order is in conformity with applicable law and has a sufficient factual basis. *Foutch*, 99 Ill. 2d at 391-92. Even if we were to consider the additional materials submitted to this court, our conclusion herein remains the same.

¶ 17

#### CONCLUSION

¶ 18 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 19 Affirmed.