

No. 1-15-2219

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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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CLIMMIE FOWLKES and LORRAINE )	Appeal from the Circuit Court
HOUSE, )	of Cook County.
)	
Plaintiffs-Appellees, )	
)	
v. )	
)	No. 15 M1 713028
KERMIT J. WILLIAMS, )	
)	The Honorable
Defendant-Appellant. )	David A. Skryd,
)	Judge, presiding.

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JUSTICE GORDON delivered the judgment of the court.  
Presiding Justice Reyes and Justice Lampkin concurred in the judgment.

**ORDER**



stated that: "You have rights." The rights included "the right to come to court and tell your side of the story," the right to a trial by jury, and the right to self-representation or representation by an attorney. The summons also informed defendant about ways that he might obtain an attorney if he could not afford one.

¶ 6 An "Affidavit of Service" indicated that defendant was personally served by the Cook County Sheriff's Office on July 15, 2015, by leaving a copy with defendant and "personally and informing defendant/respondent of contents." Another "Affidavit of Service" indicated that the "unknown occupants" were served by the Cook County Sheriff's Office on July 15, 2015, "by leaving a copy of the summons and complaint naming 'unknown occupants' with a person of the age of 13 or upwards occupying such premises." The affidavit states that this copy was served on defendant. Both affidavits were filed with the circuit court on July 17, 2015.

¶ 7 On July 28, 2015, the trial court entered a continuance order, continuing the matter for trial on August 5, 2015.

¶ 8 On August 5, 2015, the trial court granted defendant's motion to defend as an indigent person without payment of fees, costs or charges. In his application for waiver of court fees, defendant stated that he lived at the

premises in question on South State Street, that he was 52 years old, that his monthly expense for rent was zero, and that he had no income.

¶ 9 On August 5, 2015, defendant entered an appearance stating the he was representing himself and filed a one-page "Notice of Motion" stating that he "shall \*\*\* present in court a Petitioner's Petition of Grievance(s): Exordium Brief Summary Report – etc." The sections entitled "Proof of Service" were left blank and instead, next to each section, is a handwritten note which states "\*Ref. To '\_\_\_Brief Summary\_\_\_' Enclosed/Attached."

¶ 10 On August 5, 2015, defendant also filed a document entitled "Petitioner's Petition of Grievances; Exordium Brief Summary Report." The petition contains a section entitled "Affidavit(s)" which states in full:

"- The Affiant-Defendant in the matter of Case # 15M1713028 with respect to my CONTEST TO THE CLAIM and my COUNTER CHARGE and CLAIM; my filing of an APPEARANCE all governed by Ill. S. Ct. Rule 298, pursuant to my rights retained, right to remedy and justice and respect to the Constitution of the State of Illinois, Constitution of the United States and Universal Declaration of Human Rights in accordance at large respectively; and other applicable laws, etc.

- The Affiant-Defendant Kermit J. Williams is a poor person and unable to pay costs, and that this-my cause of action is meritorious; the

named-herein Affiant-Defendant is a governmental assistance recipient current active case(s) in the SWAP program and ACA.

- Affiant's-Defendant's EXHIBIT A is one copy of the email communication transaction to Plaintiffs' Attorney.

-- The Affiant-Defendant Kermit J. Williams on motion of the Defendant Kermit J. Williams events [*sic*] after filing action to give security to the payment of costs in such action. That the Defendant Kermit J. Williams has reasons to believe, and does believe, that in case such action is prosecuted to a conclusion. As this relate to the security costs too."

¶ 11 Although entitled an affidavit, it is neither notarized nor sworn under oath.

¶ 12 In the "Prayer(s)/Motion(s)" section of the petition, defendant refers to the "absence of material evidence" which is "related to the complete trust agreement, dated 3/9/1993 known [as] trust # 1098747." This evidence was "to be provided by the Plaintiffs' Atty," but defendant stated that another option was "to have the Chicago Title and Trust Company \*\*\* assist the Court by providing" it.

¶ 13 The email referred to in the above affidavit was sent from defendant to Adrian Zeno of the Zeno Law Office,<sup>1</sup> and it is entitled an "Inquiry for review of records on June 19, 2015." The email asked to review "records," without specifying what those records were.

¶ 14 On August 5, 2015, the trial court entered an order, entitled "Order for Possession," which stated, in relevant part, that:

"This cause coming on to be heard upon the complaint of the Plaintiff(s), Climmie Fowlkes and Lorraine House, and the issues thereof having been heard and determined by [the] court and said court having found that the Plaintiff(s) Climmie Fowlkes and Lorraine House is/are entitled to the possession of the premises described herein."

¶ 15 The order stated that plaintiffs were to recover possession of the property from defendant but were not entitled to costs. The order also stated that Adrian Zeno, referred to in defendant's petition above, was plaintiffs' attorney.

¶ 16 Defendant filed a notice of appeal on August 5, 2015, which stated, in relevant part:

"Relief sought from Reviewing Court: Possession and Claim for Damages and Costs – etc. The court order should ha[ve] been ---

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<sup>1</sup> The trial court's August 5, 2015, order stated that Adrian Zeno, who is referred to in the email, was plaintiffs' attorney.

Dismissals For Want of Security --- etc. – and not to uphold the 8-5-15 Judgement Order."

¶ 17 On December 29, 2015, defendant filed a motion with this court asking to file additional documents, including "documents filed on 10-21-15, 11-16-15 and 11-10-15 by the *pro se* defendant-appellant." On January 20, 2016, this court denied the motion without prejudice to refiling in compliance with supreme court rules. We stated in full:

"This cause coming to be heard on defendant-appellant's one copy of an untitled motion that was presented for filing over the counter in the Appellate Court Clerk's Office. Defendant was informed by staff in the Appellate Court Clerk's Office that pursuant to Supreme Court Rules he must provide the original motion and three copies, and defendant failed to comply with this request and submitted only one copy for filing.

IT IS HEREBY ORDERED that defendant-appellant's motion is DENIED WITHOUT PREJUDICE to refile upon compliance with Supreme Court Rules."

¶ 18 On March 31, 2016, this court, upon the court's own motion, issued an order stating that the appellees failed to file a brief within the time prescribed by Illinois Supreme Court Rule 343(a) (eff. July 1, 2008) and, thus, this case

was taken for consideration on the record and appellant's brief alone. This appeal followed.

¶ 19

### ANALYSIS

¶ 20

On this appeal, defendant contests the trial court's August 5, 2015, order which awarded possession of the premises on South State Street in Chicago to plaintiffs and which entitled plaintiffs to recover possession of the premises from defendant.

¶ 21

Defendant appears to contest this order based upon an alleged misrepresentation of the relationship between himself and plaintiffs and upon events that occurred subsequent to the entry of the trial court's August 5, 2015, order of possession. These events primarily concern his eviction. We use the word "appears" because defendant's appellate brief is long on legalese but short on facts. However, his arguments to this court appear to be based on an allegedly misrepresented relationship and on events which occurred after the entry of the trial court's order.

¶ 22

In his brief, he claims that the premises is a "single family residence, the owner was the father [who] is current[ly] deceased, the Defendant gr[e]w up in the house and \*\*\* hath been living there and is still living at the premises." Defendant claims that plaintiffs' attorney misrepresented to the court the relationship between himself and plaintiffs as it pertained to the issues before



the trial court. In addition, in his "Petition" before the trial court, defendant argued that there was a relevant and missing trust document.

¶ 23 Unfortunately, the record provided to this court contains neither any documents showing the relationship among the parties nor any documents after the trial court's order, except for the notice of appeal, the request for preparation of the record on appeal and a fee waiver. The record, as defendant correctly observed, also does not contain a trust document.

¶ 24 " This court has long held that in order to sustain a claim of error on appeal the appellant has the burden to present a sufficiently complete record.' " *State Place Condominium Ass'n v. Magpayo*, 2016 IL App (1st) 140426, ¶ 16 (quoting *Webster v. Hartman*, 195 Ill. 2d 426, 432 (2001) (citing *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-91 (1984)); *Longo Realty v. Menard, Inc.*, 2016 IL App (1st) 151231, ¶ 44 ("The appellant has the burden to present a sufficiently complete record to support a claim of error on appeal.")).

¶ 25 We resolve any doubts that arise from the incompleteness of the record against the appellant. *State Place*, 2016 IL App (1st) 140426, ¶ 16 (citing *Foutch*, 99 Ill. 2d at 392). Without a sufficiently complete record, we must presume that the ruling entered by the trial court conforms to the law and has a sufficient factual basis. *Longo*, 2016 IL App (1st) 151231, ¶ 44; *Foutch*, 99 Ill. 2d at 391-92 ("[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.").

¶ 26 "While *pro se* litigants are held to a lesser standard in complying with the rules for appealing to the appellate court, there is a minimum which even they must meet before the appellate court can adequately review the lower court's decision." *Rock Island County v. Boalbey*, 242 Ill. App. 3d 461, 462 (1993). That minimum includes "a record of the trial court proceedings sufficient for reviewing the issues" which they have "raised on appeal." *Rock Island*, 242 Ill. App. 3d at 462.

¶ 27 In the case at bar, as in *Rock Island*, the *pro se* appellant filed only the common law record with this court and failed to file a report of proceedings or bystander's report pursuant to Illinois Supreme Court Rule 323 (eff. Dec. 13, 2005). *Rock Island*, 242 Ill. App. 3d at 462. In addition, in the instant case, the trial court's written order does not state the reasons for the court's decision or the evidence upon which the trial court relied. "Thus, the record does not reflect what evidence the trial court heard concerning the plaintiff's and defendant's contentions. In the absence of such a record, we must presume the trial court had ample grounds supporting its determination." *Rock Island*, 242 Ill. App. 3d at 462.

¶ 28 This court has previously held that, when a *pro se* litigant's "failure to comply with the rules hinders our review," we may still consider the appeal, so long as "we are still able to understand the issues raised on appeal." *Coleman v. Akpakpan*, 402 Ill. App. 3d 822, 825 (2010). In the instant appeal, without a transcript, report of proceedings or written order detailing the evidence presented to the trial court, and without other documents upon which defendant appears to rely in making his appellate arguments, we are unable to understand the issues being raised by defendant on appeal. Therefore, we have no choice but to affirm the trial court's August 25, 2015, "Order for Possession."

¶ 29 CONCLUSION

¶ 30 The trial court's order of possession is affirmed.

¶ 31 Affirmed.