2016 IL App (1st) 152511-U

SIXTH DIVISION
September 30, 2016

No. 1-15-2511

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MELANIE REYES, Petitioner-Appellant, vs. RICHARD RODRIGUEZ, Respondent-Appellee.	)	Appeal from the Circuit Court of Cook County. No. 12 D 52031 Honorable Lionel Jean-Baptiste, Judge Presiding.

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

ORDER

¶ 1 ***Held:*** The appeal is dismissed because the appellant's brief fails to set forth a coherent argument with citations to authority as required by the Illinois Supreme Court rules.

¶ 2 Petitioner Melanie Reyes filed a complaint to determine the existence of a father-child relationship between respondent Richard Rodriguez and Melanie's daughter, A. R.-R. Reyes and Rodriguez were never married to each other. After the trial court determined that Rodriguez was Melanie's biological father, the parties proceeded to litigate various issues relating to child support and custody of A. R-R. The parties fought contentiously over custody over the next three years, and the court entered numerous interim orders regarding visitation and custody. These orders, over the course of time, gradually diminished Reyes's custodial time and

responsibilities in favor of Rodriguez. Court-ordered drug testing on Reyes revealed positive results for cocaine use. Accordingly, the court ordered Reyes to undergo "intensive rehab treatment" at Mt. Sinai Hospital, and Rodriguez petitioned for custody of A. R.-R. The court later characterized the results of Reyes's tests as "excessively positive for cocaine after three separate tests."

¶ 3 During this time, the circuit court appointed a guardian *ad litem* for A. R.-R. who was eventually designated as the child's representative. The representative issued a detailed report which referenced Reyes's "diagnosis of cocaine abuse" and which recommended that the court not award joint custody. She stated that Reyes was in a "state of denial" and was not a fit candidate for sole custody. The representative recommended that the court grant sole custody to Rodriguez with "ample" visitation rights for Reyes.

¶ 4 The custody and visitation dispute culminated in an evidentiary hearing which the circuit court conducted over the course of three days in 2015. The hearing, which is memorialized in a 410-page transcript in the record, involved the testimony of four witnesses and the admission of numerous exhibits. Under the statue then in force, 750 ILCS 5/602(a) (West 2014), a court determined custody based on the best interests of the child, taking into consideration ten specific factors. After taking the matter under advisement, the court issued a detailed order reviewing each of the statutory factors in detail and explaining how particular evidence supported its finding regarding each factor. The order states: "the court heard and considered the testimony of the parties and other witnesses[es], taking into consideration their demeanor. Additionally, the court had the opportunity to observe both parents and was able to evaluate their personalities, capabilities, and dispositions."

¶ 5 The court found that Reyes was "not now a fit parent to have custody," that Rodriguez was fit to have custody, and that it was in the best interests of A. R.-R. that Rodriguez be her custodial parent. The court ordered Reyes to continue various drug programs and directed the attorneys to prepare a supervised visitation schedule for Reyes. Reyes filed a timely appeal from that order. Rodriguez has not filed a brief with this court. We therefore consider the appeal based on Reyes's brief alone. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128 (1976).

¶ 6 We cannot disturb a trial court's custody award unless the court abused its discretion or its factual determinations are against the manifest weight of the evidence. *In re Marriage of Perez*, 2015 IL App (3d) 140876, ¶ 24. An abuse of discretion occurs only when no reasonable person could find as the trial court did. *In re Marriage of Ward*, 267 Ill. App. 3d 35, 41 (1994). "A decision is against the manifest weight of the evidence only when an opposite conclusion is apparent[.]" *Eychaner v. Gross*, 202 Ill. 2d 228, 252 (2002). To convince us that the trial court's custody decision should be reversed under this standard, it was Reyes's burden to discuss all the evidence in detail and show us why it was either inadmissible or did not support the trial court's conclusion. Since we may reverse the trial court's factual determinations only when they are against the manifest weight of the evidence, the sheer volume of evidence in this record makes Reyes's burden here especially difficult.

¶ 7 Reyes has filed a *pro se* brief which contains numerous crucial omissions. The brief contains no index to the record and no copy of the notice of appeal, as required by Illinois Supreme Court Rule 342(a) (Ill. Sup. Ct. R. 342(a) (eff. Jan. 1, 1995)). It also contains no jurisdictional statement and no statement of facts summarizing evidence presented during the

three-day-long hearing, as required by Illinois Supreme Court Rule 341(h)(4) and 341 (h)(6) (eff. Jan. 1, 2016).

¶ 8 The most critical omission, however, relates to Reyes's argument. Supreme Court Rule 341(h)(7) governs the requirements for appellants' briefs. With respect to arguments, the rule states that the briefs shall contain: "Argument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on." Ill. Sup. Ct. R. 341(h)(7). Both an argument and citation to relevant authority are required. An argument that contains merely vague allegations may be insufficient if it does not include citations to authority. *See, e.g., Dillon v. Evanston Hospital*, 199 Ill. 2d 483, 493 (three-paragraph argument insufficient to satisfy Rule 341 where argument did not include any citations to authority).

¶ 9 The entire argument in Reyes's brief, which is one page long, merely argues that the judge was wrong and that Rodriguez is an unfit father because of things such as his breaches of "courtroom etiquette." She asks us to review and reverse the decision below based solely on her disagreement with it. She cites no authority, legal or otherwise, for her contentions. Reyes misunderstands the function of a court of review. As our supreme court has stated, a "reviewing court is not simply a depository into which a party may dump the burden of argument and research." *People ex rel. Illinois Department of Labor v. E.R.H. Enterprises*, 2013 IL 115106, ¶ 56. The rules of procedure concerning appellate briefs are rules, not mere suggestions, and it is within our discretion to strike a brief and dismiss the appeal for failure to comply with those rules. See *Niewold v. Fry*, 306 Ill. App. 3d 735, 737 (1999). Due to the multiple violations of applicable court rules exhibited by Reyes's brief, we must strike the brief and dismiss the appeal.

¶ 10 Dismissed.