

No. 1-17-2947

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 DISTRICT

<i>In re</i> MARRIAGE OF MITCHELL)	Appeal from the
SZCZEPANCZYK,)	Circuit Court of
)	Cook County
Petitioner-Appellee,)	
)	Nos. 16 D 1185 and
v.)	17 OP 76950 (cons.)
)	
SABRINA SZCZEPANCZYK,)	Honorable
)	Mark J. Lopez,
Respondent-Appellant.)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* The judgment of the circuit court is affirmed where its underlying order imposing sanctions pursuant to Illinois Supreme Court Rule 219(c) (eff. July 1, 2002) was not an abuse of discretion.

¶ 2 The respondent, Sabrina Szczepanczyk, appeals from orders of the Circuit Court of Cook County that (1) struck her pleadings, motions, and petitions and barred her from presenting evidence or calling witnesses at trial, and (2) entered judgment in favor of the petitioner, Mitchell Szczepanczyk, on his petition for dissolution of marriage and allocation of parental responsibility for their minor child. For the reasons that follow, we affirm.

¶ 3 The following factual and procedural history is derived from the pleadings and exhibits of record.

¶ 4 The parties married on January 20, 2009, in Chicago, Illinois and have one minor child born on March 7, 2010. On February 9, 2016, the petitioner filed a petition for dissolution of marriage and allocation of parental responsibilities. On December 15, 2016, the petitioner served the respondent with interrogatories and requests for the production of certain documents. The respondent did not answer the interrogatories or produce the requested documents. On June 21, 2017, the petitioner's counsel wrote to the respondent's counsel and requested to resolve the discovery issues pursuant to Illinois Supreme Court Rule 201(k) (eff. Jan. 1, 2013). On June 23, 2017, the circuit court entered an agreed order that reset the discovery deadline to July 17, 2017, and set the case for bench trial on October 10, 2017. On July 7, 2017, counsel for the respondent withdrew and on July 20, 2017, the respondent filed her *pro se* appearance.

¶ 5 The respondent tendered no discovery to the petitioner by July 17, 2017. On July 18, 2017, the petitioner filed a motion to compel the respondent to answer the interrogatories and to produce certain documents and sought sanctions pursuant to Illinois Supreme Court Rule 219(c) (eff. July 1, 2002). Additionally, on July 14, 2017, the petitioner served the respondent with a subpoena for deposition that was scheduled for August 29, 2017. The respondent did not appear for her scheduled deposition. On August 30, 2017, the petitioner filed a petition seeking the issuance of a rule to show cause why the respondent should not be held in indirect civil contempt for her failure to appear for her deposition. On September 14, 2017, the circuit court heard both motions and ordered the respondent to fully comply with the discovery requests by September 28, 2017, and to appear for her deposition on September 29, 2017. The order stated that her failure to "fully comply within 14 days shall result in the [r]espondent being barred from

presenting evidence, testifying, and/or calling witnesses at trial."

¶ 6 On September 27, 2017, the respondent tendered to the petitioner a witness disclosure list pursuant to Illinois Supreme Court Rule 213(f)(1) (eff. Jan. 1, 2007), containing more than 80 entries. Some of the entries did not identify witnesses by name, but only by general descriptions, such as "representatives of the Chicago Police Department." The respondent provided only her address and specific descriptions of the expected testimony for only four witnesses. As for the remaining witnesses, the list contained only vague descriptions of their expected testimony, such as, "portions of conversations had" and "matters" regarding the parties' child. On September 28, 2017, the respondent delivered to the petitioner's counsel a box of unlabeled and unorganized papers; two flash drives; and handwritten answers to the interrogatories, many of which were incomplete and illegible. Specifically, the respondent answered several questions with "forthcoming," "I will try to get as much to you as I can by September 29, 2017," or "I don't understand what you are asking." The respondent also provided a handwritten note in the box stating that she would later number the papers enclosed once she knew what she would be presenting at trial.

¶ 7 On September 29, 2017, the petitioner filed and presented an emergency motion seeking sanctions pursuant to Supreme Court Rule 219(c) by reason of the respondent's failure to comply with the discovery requests. The circuit court entered a written order finding that the respondent "unreasonably failed to comply with the order of [September 14, 2017], with Illinois Supreme Court Rule 214, and IL discovery rules by failing to provide full response to the [p]etitioner's discovery requests by [September 28, 2017]." Specifically, the circuit court noted that the respondent's "tendering a box of unnumbered, unlabeled, out of order, and, in cases, illegible documents *** did not constitute adequate or reasonable discovery compliance and was

tantamount to producing nothing." Consequently, the court struck "all pleadings, motions, and petitions previously filed or later filed by the [r]espondent." Notwithstanding, the court did not enter a default judgment and allowed the matter to proceed to trial, but barred the respondent "from presenting evidence or calling witnesses at trial." The respondent did not appear for her court-ordered deposition that was scheduled for later that day.

¶ 8 After a bench trial on October 10, 2017, the trial court entered a written order granting the petitioner's petition for dissolution of marriage and awarded him full parental responsibilities of their minor child. The respondent filed a motion to reconsider, which was denied on November 23, 2017. Thereafter, the respondent filed this appeal *pro se*.

¶ 9 Initially, we note that the respondent's brief on appeal fails to comply with Illinois Supreme Court Rule 341. In addition to the lack of a jurisdictional statement required by Rule 341 or an appendix that includes a "copy of the judgment appealed from" required by Rule 342 (Ill. S. Ct. R. 342 (eff. July 1, 2017)), the respondent's brief lacked a statement of objective facts "necessary to an understanding of the case, stated accurately and fairly *** and with appropriate reference to the pages of the record on appeal" (Ill. S. Ct. R. 341(h)(6)). Instead, the respondent provided only a single paragraph titled "Introduction," which was devoid of citations to the record.

¶ 10 Supreme Court Rules are not merely advisory suggestions, but rather rules to be followed. *Menard, Inc. v. 1945 Cornell, LLC*, 2013 IL App (1st) 121422, ¶ 7. The fact that the respondent filed this appeal *pro se* does not relieve her from complying as nearly as possible with the rules governing practice before this court. *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8. It is within this court's discretion to dismiss an appeal for an appellant's failure to follow those rules. *In re Marriage of Hluska*, 2011 IL App (1st) 092636, ¶ 57. However, we will consider the

case because the record is simple and the issue can easily be decided without the aid of the respondent's brief. *Tamraz v. Tamraz*, 2016 IL App (1st) 151854, ¶ 17.

¶ 11 The respondent argues that the circuit court abused its discretion when it struck her pleadings, motions, and petitions and when it barred her from presenting evidence or calling witnesses at trial. She contends that she made a good faith effort to comply with the discovery requests and the circuit court's orders, and that the sanctions were punitive and did not coerce compliance with discovery. We disagree.

¶ 12 Rule 219(c) authorizes a trial court to impose a sanction "upon any party who unreasonably refuses to comply with any provisions of this court's discovery rules or any order entered pursuant to these rules." *Cronin v. Kottke Associates, LLC*, 2012 IL App (1st) 111632, ¶ 35 (quoting *Shimanovsky v. General Motors Corp.*, 181 Ill. 2d 112, 120 (1998)). The imposition of a particular sanction under Rule 219(c) is within the discretion of the circuit court and, thus, the court's decision in fashioning a sanction will not be disturbed on appeal absent a clear abuse of discretion. *Nedzvekas v. Fung*, 374 Ill. App. 3d 618, 620-21 (2007).

¶ 13 In relevant part, Rule 219(c) provides that the court may bar a non-complying party "from filing any other pleading relating to any issue to which the refusal or failure relates" or "from maintaining any particular claim, counterclaim, third-party complaint, or defense relating to that issue;" bar a witness "from testifying concerning that issue;" or strike "any portion of the offending party's pleadings relating to that issue." Ill. S. Ct. R. 219(c)(ii), (iii), (iv), (vi) (eff. July 1, 2002). Specifically, the trial court may strike a party's pleading (*Pickering v. Owens-Corning Fiberglas Corp.*, 265 Ill. App. 3d 806, 820 (1994)) or bar a party's witness from testifying (*Shimanovsky*, 181 Ill. 2d at 120) where the party's noncompliance with discovery has been unreasonable. To determine whether noncompliance with discovery rules is unreasonable, the

standard is whether the offending party's conduct can be characterized as a deliberate and pronounced disregard both for the discovery rules and for the court. *Cyclonaire Corp. v. ISG Riverdale, Inc.*, 378 Ill. App. 3d 554, 562 (2007).

¶ 14 The record reveals that the respondent did not answer interrogatories or produce the documents requested by the petitioner on December 15, 2016. The circuit court reset the discovery deadline in its June 23, 2017 order to give the respondent an additional month to answer. However, the respondent wholly failed to tender any documents or answer the written interrogatories. Next, she failed to appear for her deposition scheduled for August 29, 2017. Despite the respondent's violation and failed appearance, on September 14, 2017, the circuit court entered a second order that granted her a two-week extension to respond to discovery by September 28, 2017, ordered her to appear for her deposition on September 29, 2017, and warned her of the consequences of her noncompliance.

¶ 15 Subsequently, the respondent tendered to the petitioner's counsel handwritten answers to interrogatories, a box of papers, and a witness disclosure list by the deadline on September 28, 2017. However, the circuit court found that the respondent's answers and disclosures did not constitute compliance with its September 14, 2017 order because she failed to provide "full responses" and because her box of "unnumbered" and "unlabeled" documents was "tantamount to producing nothing." The record supports such a finding. The respondent's answers to interrogatories were illegible and incomplete; her witness list failed to identify all witnesses by name, included only one witness's address, and vaguely described the expected testimony of all but four witnesses; and her box of papers failed to identify which requests the documents answered or what information she intended to use at trial. Therefore, the respondent's answers and productions did not amount to full responses.

¶ 16 The record reveals that the circuit court could have reasonably concluded that the respondent's conduct in providing untimely and inadequate discovery was deliberate and in direct defiance of its June 23, 2017 and September 14, 2017 orders and of the discovery rules. *Harris v. Harris*, 196 Ill. App. 3d 815, 823 (1990). Moreover, it was only after the circuit court issued a new discovery deadline, provided an extension to said deadline, and warned the respondent about the consequences of her noncompliance that it sanctioned her. It is clear from the circuit court's orders that its sanctions were not punitive and that it took several measures to coerce compliance. *Shimanovsky*, 181 Ill. 2d at 123

¶ 17 Therefore, we find that the circuit court did not abuse its discretion by striking the respondent's pleadings, motions, and petitions and by barring her from presenting evidence or calling witnesses at trial. Based on the foregoing, we affirm the orders of the circuit court that imposed Rule 219 sanctions and entered a judgment in favor of the petitioner on his petition for dissolution of marriage and allocation of parental responsibilities for the parties' minor child.

¶ 18 Affirmed.