

No. 1-17-3056

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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PIERRE JAMES,	)	
	)	Appeal from the Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 17 L 4739
	)	
BARRY M. LEWIS,	)	Honorable Irwin Solganick,
	)	Judge Presiding.
Defendant-Appellee.	)	
	)	

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JUSTICE ELLIS delivered the judgment of the court.  
Justices Howse and Cobbs concurred in the judgment.

**ORDER**

¶ 1 *Held:* Dismissal for want of prosecution affirmed, as appellant’s appellate brief does not contain any argument attacking the specific basis for the circuit court’s order of dismissal.

¶ 2 Plaintiff-appellant Pierre James, a prisoner currently serving a 40-year sentence for first-degree murder, sued his attorney, defendant-appellee Barry M. Lewis, whom he retained for purposes of filing a successive post-conviction petition. The circuit court dismissed the case for want of prosecution, because James failed to appear. On appeal, James directs his arguments towards a different issue altogether: He raises a number of arguments regarding purported defects in how service was carried out (or more accurately, not carried out) on Lewis. That,

unfortunately, is a fatal flaw. Because James has raised no arguments attacking the dismissal for want of prosecution for failure to appear in court, we have no basis to review, much less reverse, the trial court's order. We thus affirm that judgment.

¶ 3 In 1998, defendant was charged with first-degree murder. He was convicted in 2001 and sentenced to 40 years' imprisonment. In 2004, this court affirmed James' conviction. *People v. James*, 348 Ill. App. 3d 498 (2004).

¶ 4 In October 2014, James hired Lewis to represent him in connection with a successive post-conviction petition. According to James' complaint, Lewis was paid a flat fee of \$6000. However, over time, the attorney-client relationship deteriorated, culminating with James filing a complaint against Lewis with the Illinois Attorney Registration and Disciplinary Commission, and Lewis filing to a motion to withdraw as counsel. Lewis's motion, in turn, led to this legal malpractice lawsuit. Filed on May 10, 2017, James's complaint alleged, among other things, that Lewis (1) "failed to exercise a reasonable degree of care and skill in representing and defending Plaintiff in connection with the Successive Petition for Post Conviction Relief" and (2) "failed to return to Plaintiff a reasonable 'refund' from the \$6,000.00 paid in full to him."

¶ 5 On July 10, 2017, James's case was "dismissed for want of prosecution for failure of plaintiff to appear pursuant to prior Court order."

¶ 6 On August 30, 2017, James filed a motion to reconsider, arguing, among other things, that he had "no knowledge of any existing court order that would bring [him] from his confinement in prison where he has resided for over 19 years." On October 30, 2017, the circuit court struck James's motion. That was the last order in the case entered by the circuit court.

¶ 7 On November 26, 2017, James placed a notice a notice of appeal in the institutional mail at Hill Correctional Center, the Illinois Department of Corrections facility where James resides.

The notice of appeal was received and filed by the clerk of the circuit court on December 1, 2017. The only order specifically named in the notice of appeal was the October 30, 2017 order.

¶ 8 On appeal, James raises a variety of arguments that pertain to how service of process was attempted on Lewis. But James is appealing an order striking a motion to reconsider the dismissal of his complaint due to *James'* failure to appear. James' appellate brief does not explain why the dismissal for want of prosecution due to *James'* failure to appear was improper.

¶ 9 Supreme Court Rule 341(h)(7) (eff. May 25, 2018) provides that all arguments not raised in the appellant's appellate brief are forfeited. That rule applies to *pro se* litigants as much as it does any other party. *Lewis v. Heartland Food Corp.*, 2014 IL App (1st) 123303, ¶ 5 (finding forfeiture for failing to provide argument or basis to overturn judgment below: "Pro se litigants are not excused from following rules that dictate the form and content of appellate briefs."). For that reason, even if we assume that all of James' arguments directed towards the service issue are correct, we still could not grant him any relief, because James has forfeited any and all arguments that he might have raised to attack the actual basis for the circuit court's judgment.

¶ 10 The closest James comes to offering a cogent argument in support of reversal is his claim that the clerk of the circuit court failed to provide James with timely status updates regarding his case, which in turn operated to prevent James from timely refiling his claim under section 13-217 of the Code of Civil Procedure. 735 ILCS 5/13-217 (West 2016). Section 13-217 allows a plaintiff whose case was dismissed for want of prosecution to refile his or her case within a year of the dismissal or within the remainder of the statute of limitations, whichever is greater. *Id.*; see *BankFinancial, FSB v. Tandon*, 2013 IL App (1st) 113152, ¶ 22.

¶ 11 But the record belies any such argument. James's case was dismissed on July 10, 2017, and we know that he had notice of that dismissal by no later than August 30, 2017—because on

that day, he filed a motion to reconsider. That motion was stricken on October 30, and James had notice of that action by November 26, 2017, because that day he filed a notice of appeal specifically appealing the October 30 order. All of these events occurred well within one year of July 10, 2017. Once James knew his case had been dismissed for want of prosecution (which, we reiterate, James knew of by August 30), he could have exercised his right to refile his complaint. Instead, he filed a motion to reconsider and then took this appeal. His failure to refile the case within a year of its dismissal was not affected in any way by a lack of communication from the clerk's office.

¶ 12 Because the arguments raised in his brief do not speak in any way to the basis for the circuit court's order he is appealing, we have no choice but to deem those arguments forfeited. We thus affirm the circuit court's judgment.

¶ 13 Affirmed.