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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

JAE PAK,)	Appeal from the Circuit Court
)	of Cook County.
Petitioner-Appellant,)	
)	
v.)	No. 12 D2 30125
)	
SUNG KIM,)	
)	The Honorable
Respondent-Appellee.)	Jeanne M. Reynolds,
)	Judge Presiding.

JUSTICE PUCINSKI delivered the judgment of the court.
Justices Lavin and Hyman concurred in the judgment.

ORDER

¶ 1 *Held:* Where the petitioner failed to comply with the threshold statutory requirements for a petition for substitution of judge for cause, the trial court did not err in denying the petition without transferring it to another judge.

¶ 2 Petitioner, Jae Pak, acting *pro se*, appeals from the trial court’s denial of his petition for substitution of judge for cause pursuant to section 2-1001(a)(3) of the Illinois Code of Civil Procedure (“Code”) (735 ILCS 5/2-1001(a)(3) (West 2018)). For the reasons that follow, we affirm.

¶ 3

BACKGROUND

¶ 4

In 2014, the trial court entered a judgment of dissolution dissolving the marriage between petitioner and respondent, Sung Kim, and resolving, among others, issues related to the custody and support of and visitation with the parties' minor child. In the following years, the parties continued to litigate issues related to petitioner's visitation with the child, specifically the restrictions that had been placed on petitioner's visitation, and petitioner's financial obligations for child support and other costs, such as guardian *ad litem* fees. The judgment of dissolution was entered by Judge Jeanne Reynolds and she also presided over all of the post-judgment proceedings, without objection by petitioner. In addition, until now, petitioner did not appeal any of the orders entered by Judge Reynolds in these proceedings.

¶ 5

In April 2018, petitioner filed a "Petition to Show Cause for Substitution of Judge." In it, he recited his complaints with Judge Reynolds' handling of a number of post-judgment petitions and motions. Specifically, he alleged that Judge Reynolds denied his motion to modify his visitation with the parties' child, ordered him to pay \$1,000 per month in child support while he was unemployed, rejected the evidence he presented at hearings, ordered supervised visits with the parties' child without following proper procedure, and ordered him to contribute to the payment of the guardian *ad litem* fees. In addition, he alleged that he had appealed from an order entered in a separate order of protection proceeding presided over by Judges Thaddeus Machnick and Callie Lynn Baird. Petitioner was successful in that appeal. *Kim v. Pak*, 2012 IL App (1st) 110784-U. Petitioner then mistakenly alleged that Judge Reynolds was a part of that appeal and attempted to ascribe what he characterizes as her "vindictive" rulings against him in the case before her to that 2012 appeal, which did not involve any action by Judge Reynolds. According to petitioner, Judge Reynolds "demonstrated vindictive rulings after Appellate Court ruled in

favor of [petitioner] and since maliciously abusing the process of civil contempt with excess financial obligations.” It is clearly a mistake to link Judge Reynolds and her rulings in the present case to petitioner’s success on appeal in a case that did not involve Judge Reynolds in any way.

¶ 6 Petitioner asked that a different judge review his petition for substitution of judge and enter an order striking all orders entered since April 2016. Petitioner did not submit an affidavit in support of his petition, and although the petition referenced a number of exhibits, they were not attached to the petition in the record on appeal.

¶ 7 After a hearing on the matter, Judge Reynolds denied petitioner’s petition for substitution of judge. Although the record on appeal does not contain a transcript of that hearing, the written order denying the petition states that Judge Reynolds found that the petition failed to allege grounds that, if true, would justify granting a substitution of judge for cause, and the petition was not well grounded in fact or warranted by existing law. Accordingly, Judge Reynolds denied the petition pursuant to *In re Estate of Wilson*, 238 Ill. 2d 519 (2010). She also ordered petitioner to pay \$300 to respondent’s counsel as sanctions under Supreme Court Rule 137 (eff. Jan. 1, 2018).

¶ 8 Petitioner then appealed.

¶ 9 ANALYSIS

¶ 10 On appeal, petitioner asks that we reverse the trial court’s denial of his petition for substitution of judge and entry of Rule 137 sanctions. In support, petitioner argues that it was error for Judge Reynolds to rule on the petition for substitution of judge rather than referring it to another judge for decision. He then goes on to argue all the ways he believes that Judge Reynolds erred in ruling on various post-judgment motions and petitions related to the custody and support of and visitation with the parties’ child. Although not made explicit in his brief, it

appears that petitioner intends to argue that Judge Reynolds' alleged errors over the course of the proceedings are evidence of her bias and prejudice against petitioner.

¶ 11 Section 2-1001(a)(3) of the Code provides as follows:

“(i) Each party shall be entitled to a substitution or substitutions of judge for cause.

(ii) Every application for substitution of judge for cause shall be made by petition, setting forth the specific cause for substitution and pray a substitution of judge. The petition shall be verified by the affidavit of the applicant.

(iii) Upon the filing of a petition for substitution of judge for cause, a hearing to determine whether the cause exists shall be conducted as soon as possible by a judge other than the judge named in the petition. *** If the petition is allowed, the case shall be assigned to a judge not named in the petition. If the petition is denied, the case shall be assigned back to the judge named in the petition.” 735 ILCS 5/2-1001(a)(3).

Our supreme court has held that although section 2-1001(a)(3)(iii) provides for a hearing by another judge, such a right is not automatic. Before a petitioner is entitled to a hearing by a different judge on his petition for substitution, his petition must first meet the threshold statutory requirements, namely, the request for substitution of judge must be made in a petition, the petition must set forth specific cause for substitution, and the petition must be verified by affidavit. *Wilson*, 238 Ill. 2d at 553. In addition, the petition must allege grounds that, if true, would justify granting the substitution of judge for cause. *Id.* at 554. If the petitioner fails to meet these threshold requirements, the judge named in the petition may deny the petition without first referring it to a different judge for decision. *Petalino v. Williams*, 2016 IL App (1st) 151861, ¶ 35.

¶ 12 “Cause” has been interpreted to require a showing of actual prejudice, *i.e.*, prejudicial trial conduct or personal bias. *In re Marriage of O’Brien*, 2011 IL 109039, ¶ 30. Normally, where bias or prejudice is alleged as cause, the bias or prejudice must stem from an extrajudicial source, *i.e.*, it cannot stem from what the judge learned during his or her participation in the case. *Wilson*, 238 Ill. 2d at 554. Our supreme court has repeatedly stated that a judge’s previous adverse rulings against a party generally do not demonstrate that the judge has a personal bias or prejudice either in favor of or against a litigant. *Id.* (“A judge’s previous rulings almost never constitute a valid basis for a claim of judicial bias or partiality.”); *Eychaner v. Gross*, 202 Ill. 2d 228, 280 (2002) (“Allegedly erroneous findings and rulings by the trial court are insufficient reasons to believe that the court has a personal bias for or against a litigant.”). A judge’s opinions formed based on information learned during the course of the proceedings cannot form the basis of a claim of bias or prejudice unless “ ‘they display a deep-seated favoritism or antagonism that would make fair judgment impossible.’ ” *Eychaner*, 202 Ill. 2d at 281 (quoting *Liteky v. United States*, 510 U.S. 540, 555 (1994)). Trial judges are presumed to be impartial, and a petitioner bears the burden of overcoming that presumption with a showing of prejudicial conduct or personal bias by the judge. *O’Brien*, 2011 IL 109039, ¶ 31.

¶ 13 Here, petitioner failed to satisfy the threshold requirements in a number of ways. First, petitioner’s petition for a substitution of judge was not verified by affidavit. His petition did not reference any affidavit, and there was no affidavit included in the record on appeal.

¶ 14 Second, and more importantly, petitioner failed to allege grounds that, if true, would justify granting the substitution. In his petition, as grounds for substitution for cause, petitioner alleged that Judge Reynolds was biased and prejudiced against him. According to petitioner, Judge Reynolds became “vindictive” after the appellate court found that she abused her

discretion in entering a plenary order of protection in *Kim v. Pak*, 2012 IL App (1st) 110784-U. This is false, however, as Judge Reynolds was not involved in that order of protection proceeding in any manner. Judges Machnik and Baird presided over that matter, not Judge Reynolds. Accordingly, this Court had no occasion to pass on any of Judge Reynolds' actions at that time, and our decision in that appeal would have had no effect on Judge Reynolds' opinions of petitioner in the dissolution proceedings.

¶ 15 The only other contentions that petitioner makes in support of his claim that Judge Reynolds was biased and prejudiced against him were that Judge Reynolds ruled adversely to petitioner on a number postjudgment motions related to child custody, visitation, and financial obligations or that she failed to follow proper procedure in making those rulings. These allegations, even if true, are not sufficient to demonstrate bias or prejudice warranting a substitution of judge. First, the allegations do not identify any extrajudicial source of Judge Reynolds' alleged bias or prejudice. Second, petitioner does not argue or offer any explanation of how Judge Reynolds' adverse rulings demonstrated a deep-seated favoritism or antagonism. Finally, as we have discussed, adverse rulings rarely demonstrate a bias or prejudice on the part of the ruling judge. See, e.g., *Deutsche Bank National Trust Co. v. Nichols*, 2013 IL App (1st) 120350, ¶ 17 (where the defendant cited a previous adverse ruling as evidence of bias but did not offer any explanation of how that ruling revealed extrajudicial bias, favoritism, or antagonism, she failed to meet the threshold requirements of a petition for substitution of judge for cause).

¶ 16 We also note that petitioner's petition was untimely. Although section 2-1001(a)(3) of the Code does not provide for a specific timeframe to file a petition for substitution of judge for cause, our supreme court has held that such petitions must be brought at the "earliest practical moment" after the cause for substitution was discovered. *Wilson*, 238 Ill. 2d at 556. The adverse

rulings on which petitioner relies as evidence of Judge Reynolds' bias took place no later than 2016. Nevertheless, petitioner did not file his petition for substitution of judge until 2018. Given this, we cannot say that petitioner filed his petition at the "earliest practical moment." See *id.* at 556-57 (holding that the petition for substitution of judge was not timely where it was filed more than four months after the hearing that formed the basis of the petition).

¶ 17 Because petitioner failed to verify his petition with an affidavit; allege facts that, if true, would justify granting his petition; and timely file his petition for substitution of judge for cause, he has failed to satisfy the threshold requirements for such a petition. Therefore, the trial court did not err in denying his petition without first referring it to another judge for decision. See *id.* at 554-56 (petition for substitution of judge for cause properly denied without referring to a different judge where the petition was not verified by affidavit, did not allege facts that would justify granting the petition, and was untimely); *Petalino*, 2016 IL App (1st) 151861, ¶¶ 36-37 (petition for substitution of judge for cause properly denied where it did not meet the threshold requirements of being verified by affidavit and stating a specific cause for substitution); *Deutsche Bank*, 2013 IL App (1st) 120350 (petition for substitution of judge for cause did not meet threshold requirements where it alleged judicial bias based on an unfavorable past ruling).

¶ 18 Petitioner also argues that we should reverse the trial court's award of \$300 to respondent's counsel as sanctions under Supreme Court Rule 137. Rule 137 provides in relevant part:

"The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other document; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of

existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. *** If a pleading, motion, or other document is signed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion or other document, including a reasonable attorney fee.”

The trial court’s determination that a party has violated Rule 137 will be reversed only if it is against the manifest weight of the evidence. *Stiffle v. Baker Epstein Marz*, 2016 IL App (1st) 150180, ¶ 29. The trial court’s decision to impose sanctions for violations of Rule 137, however, is reviewed for an abuse of discretion. *Id.* at ¶ 44.

¶ 19 Here, in denying petitioner’s petition for substitution of judge for cause, the trial court specifically found that the petition was not well grounded in fact or warranted by existing law. Petitioner argues that this was error because he was merely seeking an impartial hearing to restore his rights as a father, which he claims is a liberty interest protected by the Due Process Clause of the Fourteenth Amendment of the United States Constitution. He does not, however, make any argument as to how his petition for substitution of judge for cause was supported by existing caselaw or how the prior adverse rulings by Judge Reynolds warranted a conclusion that she was biased against petitioner. In fact, he makes no substantive argument at all directed against the trial court’s finding that his petition was not supported by fact or law. He also does not cite any authority in support of his position that Rule 137 sanctions were inappropriate under the circumstances or any authority discussing Rule 137 whatsoever. Given all of this, we conclude that petitioner has waived any contention in this respect and, thus, we have no basis on

which to conclude that the trial court abused its discretion in awarding Rule 137 sanctions. See Ill. S. Ct. R. 341(h)(7) (eff. May 25, 2018) (requiring that the argument section of an appellant's brief contain "the contentions of the appellant and the reasons therefor, with citations of the authorities and the pages of the record relied on."); *First National Bank of LaGrange v. Lowrey*, 375 Ill. App. 3d 181, 208 (2007) (concluding that the appellant waived his contention by failing to cite pertinent authority in support as required by Rule 341(h)(7)); see also *Thrall Car Manufacturing Co. v. Lindquist*, 145 Ill. App. 3d 712, 719 (1986) ("A reviewing court is entitled to have the issues on appeal clearly defined with pertinent authority cited and a cohesive legal argument presented. The appellate court is not a depository in which the appellant may dump the burden of argument and research.").

¶ 20 Moreover, even if petitioner had not waived this contention of error for failing to articulate a cohesive legal argument and cite supporting authority, we would still be unable to conduct a meaningful review of whether petitioner violated Rule 137, because petitioner failed to include in the record on appeal a transcript of the hearing on his petition for substitution of judge for cause. Without said transcript, we do not know what evidence was presented or arguments made to the trial court either in support of or against the finding of a Rule 137 violation and imposition of sanctions. Because petitioner has failed to carry his burden of providing a sufficiently complete record on appeal to allow us to review his claims of error, we must conclude that the trial court's findings that petitioner violated Rule 137 and that sanctions were warranted was proper. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984) ("[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. Any

doubts which may arise from the incompleteness of the record will be resolved against the appellant.”).

¶ 21

CONCLUSION

¶ 22

For the foregoing reasons, the judgment of the Circuit Court of Cook County is affirmed.

¶ 23

Affirmed.