

NOTICE  
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2019 IL App (5th) 170003-U

NO. 5-17-0003

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	St. Clair County.
	)	
v.	)	No. 15-MR-226
	)	
ONE 2015 BUICK VERANO,	)	
	)	Honorable
Defendant	)	Heinz M. Rudolf,
(Sandra Lancaster, Claimant-Appellant).	)	Judge, presiding.

JUSTICE MOORE delivered the judgment of the court.  
Justices Cates and Barberis concurred in the judgment.

**ORDER**

¶ 1 *Held*: Claimant’s arguments waived where appellant and reply briefs failed to comply with Supreme Court Rule 341(h) and (j) (eff. May 25, 2018). Waiver notwithstanding, summary judgment in favor of the State affirmed where there were no genuine issues of material fact and the State was entitled to judgment as a matter of law.

¶ 2 The claimant, Sandra Lancaster, appeals the forfeiture of a 2015 Buick Verano automobile (Buick), following the circuit court’s granting the State’s motion for summary judgment, after Sandra pleaded guilty to the traffic offenses underlying the forfeiture complaint. For the following reasons, we affirm.

¶ 3

## FACTS

¶ 4 On June 25, 2015, the State filed a request for a preliminary review to determine whether there was probable cause that the Buick may be subject to forfeiture, pursuant to section 36-1 of the Criminal Code of 2012 (720 ILCS 5/36-1 (West 2014)). On August 5, 2015, the circuit court entered an order, finding probable cause that the Buick may be subject to forfeiture and setting the matter for a hearing on October 8, 2015. On September 1, 2015, the State filed a forfeiture complaint, requesting a forfeiture of the Buick. On September 22, 2015, Sandra filed a motion to dismiss the forfeiture complaint.

¶ 5 At the hearing on October 8, 2015, Leonard Wright testified that he has been in a common law relationship with Sandra approximately 25 years. He confirmed that they were never officially married and his name is not on the title to the Buick. He testified that the Buick is the only source of transportation that he and Sandra have and they need it so he can drive her to Alcoholics Anonymous (AA) meetings, psychiatrist appointments, and medical appointments. Leonard added that their only other option for travel is to rely on public transportation, which is a financial hardship.

¶ 6 Leonard testified that although he is retired, he still does landscaping work and the Buick is his only source of transportation to get to and from work. He stated that he is the only one who drives the Buick and he would never allow Sandra to drive it. He acknowledged that Sandra had previous DUIs, but testified that he just learned that morning at the proceedings that her driver's license was suspended. Leonard denied that he ever had a DUI and stated that he understood that if the Buick was returned, it would

be given to him and titled in his name. He confirmed once more that the Buick is his sole source of transportation.

¶ 7 The circuit court asked Leonard if he understood that if the title to the Buick were transferred to him, he would be responsible for any payments on the Buick, as well as obtaining insurance on it. Leonard replied that he understood. The circuit court asked Leonard if he would insure the Buick, to which Leonard responded in the affirmative. Leonard denied that he had any restrictions that would affect his ability to drive, acknowledged the pending criminal charges against Sandra, and emphasized that he would not, under any circumstances, allow Sandra to drive the Buick.

¶ 8 At the conclusion of the hearing, the circuit court entered an order granting Sandra's motion to dismiss the forfeiture complaint, transferring the title of the Buick to Leonard, ordering Sandra to not operate the Buick under any circumstances, and forbidding the Buick's release to Leonard until he produced proof of a valid title, registration, and insurance. On October 15, 2015, the State filed a motion to reconsider. The motion alleged, *inter alia*, that sometime on October 15, 2015, Detective Schrieber of the Fairview Heights Police Department discovered that Leonard had driven a 1996 Chevrolet GC1 pickup truck (truck). Upon conducting a registration check on the truck, Schrieber discovered it to be titled and registered to Leonard.

¶ 9 A hearing on the motion to reconsider was conducted on November 12, 2015. At the outset of the hearing, Sandra's counsel notified the circuit court that Sandra stipulated that Detective Schrieber saw Leonard driving the truck and that the truck is registered in Leonard's name. Louise Wright, Leonard's sister, took the stand and testified that she

pays the note on the truck and she owns the truck, but it is titled in both her and Leonard's names and registered solely in Leonard's name. She testified that the truck is kept at Leonard's address because a vehicle she owned earlier was vandalized while at her address. Louise added that Leonard has the keys to the truck, he drives her to and from work every day, and he has free access to drive the truck because it is his only method of transportation. She testified that this arrangement with Leonard was the same with the vehicle she previously owned.

¶ 10 Patrick Hughes testified that he lives next door to Leonard and he frequently sees the truck parked at Leonard's house and he sees Leonard driving the truck. Patrick added that he also observes a car at Leonard's home that is driven by someone named Mary who resides with Leonard.

¶ 11 Brenda Essington testified that for three months she babysat her grandchildren through the week at her son's home that is located across the street from Leonard's home. Brenda testified that she consistently observed the truck parked at Leonard's home three or four times a week throughout the three months that she babysat.

¶ 12 Leonard testified that his niece, Mary, resides in a separate upstairs space at his home and that she owns a 2005 Kia that is parked at his residence. Leonard testified that Louise owns the truck and that it is common for him to borrow the truck anytime he needs it. Leonard agreed that the truck is registered in his name at his address because there is low crime in his neighborhood, resulting in cheaper insurance on the truck. Leonard confirmed that Louise makes the payments on the truck and he pays the insurance premiums.

¶ 13 At the conclusion of the hearing, the circuit court reconsidered its earlier finding that the Buick was Sandra and Leonard's sole source of transportation and entered an order, granting the State's motion to reconsider and vacating its October 8, 2015, order. The circuit court granted Sandra 30 days to file an answer to the complaint for forfeiture, declared void the title to the Buick in Leonard's name, and ordered it to be titled as it was before the transfer to Leonard.

¶ 14 On April 25, 2016, Sandra filed a motion to stay the forfeiture proceedings, noting that a resolution of her underlying felony traffic charges may resolve the forfeiture action. The following day, the circuit court entered an order, granting Sandra's motion to stay, pending the resolution of her criminal case. On September 12, 2016, the State filed a motion for summary judgment. The motion alleged that the State was entitled to judgment as a matter of law because there were no genuine issues of material fact at issue after Sandra pleaded guilty to the criminal traffic charges underlying the forfeiture proceedings.

¶ 15 On October 6, 2016, the circuit court entered an order, granting the State's motion for summary judgment and awarding the Buick to the Fairview Heights Police Department. On October 26, 2016, Sandra filed what the circuit court construed as a *pro se* motion to reconsider. The motion alleged that Sandra had new evidence in the form of certificates of attendance at AA meetings. The motion further alleged that Sandra had health problems, including a heart condition, and that she needed the Buick for transportation.

¶ 16 On October 31, 2016, the circuit court entered an order, acknowledging the *pro se* motion to reconsider, observing that Sandra had previously been represented by counsel, and noting that it did not appear that counsel was copied on the motion to reconsider. Accordingly, the circuit court ordered the circuit clerk’s office to copy Sandra’s counsel and the State on the *pro se* motion and scheduled the matter for a hearing on December 8, 2016. After the hearing, the circuit court entered an order denying Sandra’s motion to reconsider. Sandra filed, *pro se*, a timely notice of appeal.<sup>1</sup> Additional facts will be provided as necessary in the remainder of this order.

¶ 17 ANALYSIS

¶ 18 We observe at the outset that Sandra’s brief is deficient. “A reviewing court is entitled to have the issues on appeal clearly defined with pertinent authority cited and a cohesive legal argument presented.” *Thrall Car Manufacturing Co. v. Lindquist*, 145 Ill. App. 3d 712, 719 (1986). “The appellate court is not a depository in which the appellant may dump the burden of argument and research.” *Id.*

¶ 19 “Supreme Court Rules 341(h)(6) and (7) [(eff. May 25, 2018)] require a statement of the facts, with citation to the record, necessary for an understanding of the case and a clear statement of contentions with supporting citation of authorities and pages of the record relied on.” *Walters v. Rodriguez*, 2011 IL App (1st) 103488, ¶ 5. “These rules are not merely suggestions, but are necessary for the proper and efficient administration of the courts.” *Id.* “Issues that are ill-defined and insufficiently presented do not satisfy the

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<sup>1</sup>We reiterate that Sandra was represented by counsel below, but opted to proceed *pro se*, beginning with her motion to reconsider and continuing throughout this appeal.

rule[s] and are considered waived.” *Id.* ¶ 6. “*Pro se* litigants are not excused from following rules that dictate the form and content of appellate briefs.” *Lewis v. Heartland Food Corp.*, 2014 IL App (1st) 123303, ¶ 5.

¶ 20 Here, Sandra’s brief fails to clearly define the issues, fails to cite to authority, fails to cite to pages in the record, and fails to present a cohesive legal argument. Sandra used a fill-in-the-blank form brief, which provides instructions in the margins to, *inter alia*, complete and use a “Points and Authorities” section, cite to pages in the record to support her argument, and explain the law and how it applies to the case, all of which Sandra failed to do. For these reasons, her arguments are waived. See *Walters*, 2011 IL App (1st) 103488, ¶ 6.

¶ 21 Waiver notwithstanding and assuming, *arguendo*, that Sandra’s brief is compliant, her appeal still fails on the merits. The sole issue raised by Sandra on appeal is restated as whether the circuit court erred by granting the State’s motion for summary judgment which resulted in the forfeiture of the Buick. The circuit court’s ruling on a motion for summary judgment is reviewed *de novo*. See *Hernandez v. Alexian Brothers Health System*, 384 Ill. App. 3d 510, 519 (2008). “Summary judgment is proper where the pleadings, depositions, admissions, and affidavits on file reveal that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” *Morningside North Apartments I, LLC v. 1000 N. LaSalle, LLC*, 2017 IL App (1st) 162274, ¶ 10.

¶ 22 Section 36-1 of the Illinois Criminal Code of 2012 provides that a vehicle is subject to forfeiture if, with the knowledge and consent of the owner, it is used in

commission of one of the offenses enumerated therein. 720 ILCS 5/36-1 (West 2014). Here, Sandra pleaded guilty to aggravated driving under the influence and driving on a suspended license, both of which occurred while she was driving her Buick, and make her Buick subject to forfeiture under section 36-1 of the Illinois Criminal Code of 2012. See *id.*

¶ 23 Sandra summarizes her argument with a statement that the circuit court erred by “instructing me what to do about my car then it was recanted.” Her fill-in-the-blank brief instructs her to explain her argument, using the law to demonstrate how the outcome should have been different. The heading of her explanation is limited to the allegation that “my evidence was never submitted to the courts.” However, Sandra failed to elaborate on what that “evidence” consisted of.

¶ 24 The record indicates that—at the hearing on the motion to reconsider—Sandra testified that she had “new evidence” consisting of certificates of completion of AA meetings in addition to a reference that her underlying criminal charges were expected to be reduced from a felony to a misdemeanor upon completion of probation. As correctly held by the circuit court, none of this alleged “new evidence” has any relevance to the proceedings involving the forfeiture of the Buick.

¶ 25 Also at the hearing on the motion to reconsider, Sandra mentioned her need for the Buick due to various health conditions, which does not constitute new evidence, as these facts were derived in other proceedings prior to the hearing and were known by counsel who represented her at that time. For these reasons, we find there were no genuine issues

of material fact and the State was entitled to judgment as a matter of law. Accordingly, the circuit court did not err by granting the State's motion for summary judgment.

¶ 26 As a final note, Sandra raises a new issue in her reply brief regarding a violation of her constitutional rights that she failed to raise in her appellant brief. That issue is waived. See Ill. S. Ct. R. 341(h)(7) (eff. May 25, 2018) (issues not raised in appellant brief are waived and shall not be raised in, *inter alia*, the reply brief). See also Ill. S. Ct. R. 341(j) (eff. May 25, 2018) (the reply brief is strictly confined to replying to arguments raised in the appellee brief).

¶ 27 **CONCLUSION**

¶ 28 For the foregoing reasons, we affirm the October 6, 2016, order of the circuit court of St. Clair County that granted the State's motion for summary judgment.

¶ 29 Affirmed.