2014 IL App (1st) 131720-U

FIRST DIVISION
January 12, 2015

No. 1-13-1720

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois,	)	Appeal from the Circuit Court of Cook County.
Plaintiff-Appellee,	)	No. 09 CH 29628
v.	)	
JOHN C. JUSTICE d/b/a MICROCOSM,	)	Honorable Kathleen G. Kennedy,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Presiding Justice Delort specially concurred.
Justice Connors concurred in the judgment.

O R D E R

¶ 1 *Held*: Judgment of the circuit court of Cook County affirmed over defendant's challenges to adverse orders entering summary judgment, imposing a civil penalty, and requiring the turnover of assets in his bank account.

¶ 2 Defendant, John C. Justice, *pro se*, d/b/a/ Microcosm, appeals the orders entered against him by the circuit court of Cook County, in a suit filed by plaintiff, Attorney General of the State

of Illinois, alleging violations of the Environmental Protection Act (EPA) in the operation of his business. These orders include the entry of summary judgment, the assessment of a civil penalty for those violations, and the turnover of assets in his bank account after he had not made payments towards that penalty. Defendant requests that these orders be reversed.

¶ 3 The record shows that defendant operates a business which manufactures adhesive labels and tapes. On August 21, 2009, plaintiff filed a six-count complaint against defendant for various violations of the EPA. Plaintiff alleged, *inter alia*, that parts of defendant's manufacturing process failed to meet minimum requirements established by the Illinois Pollution Control Board, and that he was operating without the necessary permits and in violation of others. Plaintiff sought injunctive relief, a civil penalty, and attorney fees and costs. Plaintiff amended that complaint on June 23, 2010, adding allegations of additional permit violations and defendant's failure to maintain required records.

¶ 4 On the same day, defendant filed a "reply" to the amended complaint, stating simply that he "neither admits nor denies the allegations of the complaint" and he "demands trial by a jury of twelve of his peers." Plaintiff moved to strike the "reply" on August 5, 2010, maintaining that it was "inaccurately designated" and that it did not contain an explicit admission or denial of each allegation. Plaintiff's motion was granted on August 24, 2010, and defendant was given 14 days to answer or otherwise plead to the amended complaint.

¶ 5 On September 14, 2010, defendant filed an "Answer to Amended Complaint." In it, defendant set out the allegations of the complaint, admitting and denying some allegations, while admitting and denying others "in part" without further specification.

¶ 6 On November 17, 2011, plaintiff filed a motion for summary judgment on all six counts of the complaint, attaching over 300 pages of exhibits, including *inter alia*, the results of

emission tests, affidavits from EPA employees who inspected defendant's facility, the permits at issue, standard conditions for those permits, a transcript of defendant's deposition, and defendant's response to plaintiff's request to admit facts. Plaintiff also moved to strike defendant's demand for a jury trial because there is no right to a jury trial in a civil enforcement proceeding under the EPA.

¶ 7 The court ordered defendant to file his responses to plaintiff's motions by January 17, 2012, and, on that date, he filed a "RESPONSE TO PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S DEMAND FOR JURY TRIAL, AND TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT." The bulk of defendant's response was composed of long quotations to cases involving the right to a jury trial. Defendant further alleged that a party "must be tried before a Jury if [he] demands it" and, "It is a right; something that cannot be denied." In concluding his response, defendant stated that he "will respond to Plaintiff's Motion for Summary Judgment only after the Plaintiff has presented its case to the Jury." He did not otherwise file a response to plaintiff's motion for summary judgment.

¶ 8 On March 15, 2012, the circuit court granted plaintiff's motions to strike jury demand, and for summary judgment, "finding liability only on all counts of Plaintiff's Amended Complaint." The court did not, however, decide what relief would be granted at that time, and set the matter for further status. On June 11, 2012, plaintiff filed a memorandum of law in support of its request for a civil penalty against defendant, contending that the severity and ongoing nature of defendant's violations justified the imposition of a civil penalty. The matter was set for an evidentiary hearing on September 20, 2012, regarding the penalty to be imposed. Plaintiff filed a list of four potential witnesses to be called at that hearing, and defendant filed a "witness list" including nine individuals who he "intend[ed] to call[.]"

¶ 9 The record reflects that the court conducted a hearing on the referenced date, but no transcript of that hearing has been included in the record on appeal. The court subsequently entered a written order requiring defendant to comply with certain terms of injunctive relief and pay a $50,000 civil penalty. The court further ordered that, if defendant failed to comply with the injunctive relief terms, he would be required to pay an additional $50,000 penalty. Plaintiff was awarded attorney fees and costs, and the court set a briefing schedule on that issue. The circuit court further ordered, "Plaintiff shall prepare a final judgment, consistent with the Court's ruling at the conclusion of the Hearing, and shall present the final judgment to the Court prior to the next status in this case, which is scheduled for November 8, 2012, at 10:15 a.m."

¶ 10 On October 4, 2012, plaintiff filed its petition for attorney fees and costs, requesting an award in the amount of $17,772.50 in attorney fees and $972.65 in costs. Defendant filed a response on October 25, 2012, in which he contended that the proposed fees and costs were "extortionate, inappropriate, and unconstitutional."

¶ 11 On November 8, 2012, the court entered an order entitled "Final Judgment Order" which was similar to the written order entered after the hearing on September 20, 2012, with a few modifications and additions. Although the "Final Judgment Order" was entered on November 8, 2012, it was specified therein that the court would "consider Plaintiff's Petition [for attorney fees and costs] [on] November 8, 2012, at 10:15 a.m." The court, however, entered a separate order on the same date finding "Plaintiff's petition for attorney's fees and the amounts sought therein are reasonable and that no hearing is necessary. Defendant shall make payment in the amount of $17,772.50 in open court."

¶ 12 On January 11, 2013, plaintiff issued a citation to discover assets to BMO Harris Bank. The bank answered on February 19, 2013, indicating that they had frozen $27,432.19 in an account held in defendant's name.

¶ 13 On April 12, 2013, plaintiff filed a "Motion for Turnover." In it, plaintiff alleged that defendant had made no payments toward the judgment, and requested that the court order BMO Harris Bank to turn over that sum. The circuit court granted plaintiff's motion on May 1, 2013, and defendant filed a notice of appeal on May 22, 2013. He then filed an amended notice on May 29, 2013, requesting review of all orders entered in the case from November 2012 through May 1, 2013.

¶ 14 In this court, defendant asserts that the court's orders were erroneous. He specifically contends that (1) he was improperly deprived of his constitutional right to a jury trial, (2) the court erred by failing to determine that the EPA method under which he was liable was "pseudoscience[,]" (3) the court erred by directing the funds in his bank account to be turned over to plaintiff when only "gold or silver Coin[,]" and not "paper money[,]" may be required to satisfy debts under the U.S. Constitution, and (4) the trial judge erred in continuing to preside over the case after he "removed" her from office.

¶ 15 Before considering the merits of plaintiff's contentions, we must determine whether we have jurisdiction to entertain his appeal. *In re Marriage of Baumgartner*, 2014 IL App (1st) 120552, ¶ 33 (reviewing court has a duty to consider its jurisdiction *sua sponte* and dismiss the appeal if it lacks jurisdiction). Plaintiff contends that this court lacks jurisdiction over the court's September 24, 2012 and November 8, 2012, orders imposing a civil penalty against defendant, because the circuit court had not determined the amount of attorney fees and costs. See *March v. Evangelical Covenant Church*, 138 Ill. 2d 458, 465 (1990) (judgment was not final and

appealable where the trial court had not yet resolved the attorney fee claim, and the judgment did not contain language stating that there was no just reason for delaying an appeal). Plaintiff, however, appears to overlook the separate order entered on November 8, 2012, which found the requested attorney fees reasonable, and ordered judgment against defendant in the amount of $17,772.50 for those fees.

¶ 16 Nonetheless, we agree with plaintiff that we lack jurisdiction over those orders, but for a different reason. The "Final Judgment Order" entered on November 8, 2012, was a judgment entered by the court on the merits of the claim and it fixed the rights of the parties absolutely and finally. Following its entry, all that remained was enforcement of the judgment. By definition, it was a final and appealable order. *Indiana Insurance Co. v. Powerscreen of Chicago, Ltd.*, 2012 IL App (1st) 103667, ¶ 22.

¶ 17 Defendant, however, failed to file notice of appeal from that order, and instead waited six months to do so, taking action only after plaintiff sought to enforce the final judgment through a citation to discover assets and a motion for turnover of the funds in his bank account. Under Supreme Court Rule 303(a)(1) (eff. June 4, 2008), the notice of appeal from a final judgment must be filed within 30 days of the entry of the judgment, or within 30 days of the denial of a timely motion directed against the judgment. An untimely notice of appeal deprives the reviewing court of jurisdiction. *Mitchell v. Fiat-Allis*, 158 Ill. 2d 143, 149-50 (1994); *In re Marriage of Singel*, 373 Ill. App. 3d 554, 556 (2007).

¶ 18 Applying this authority to the case at bar, we find that defendant's purported notice of appeal from the earlier orders was untimely, and that we lack jurisdiction to consider his arguments related to the court's granting of summary judgment, and the penalties imposed. Accordingly, we may not review his first two claims—that he was deprived of his right to a jury

trial, and that the court erred by failing to determine that the EPA method under which he was liable was "pseudoscience." We do, however, have jurisdiction to consider his arguments relating to the court's order directing the turnover of assets from defendant's bank account, from which he timely appealed.

¶ 19 Before turning to those issues, we note that our review is inhibited by defendant's failure to comply with Illinois Supreme Court Rule 341(eff. Feb. 6, 2013). Defendant's *pro se* status does not excuse him from complying with the supreme court rules governing appellate procedure (*Coleman v. Akpakpan*, 402 Ill. App. 3d 822, 825 (2010)), and he is expected to meet a minimum standard before this court can adequately review the decision of the circuit court (*Rock Island County v. Boalbey*, 242 Ill. App. 3d 461, 462 (1993)).

¶ 20 We initially observe that defendant's initial brief exceeds the page limit set by Illinois Supreme Court Rule 341(b)(1) (eff. Feb. 6, 2013), and that it was filed without permission to do so. Moreover, it appears that defendant has attempted to circumvent the rule by beginning his page count on the first page of his argument, and not adding page numbers to the following sections: nature of the case, issues presented for review, statement of jurisdiction, statutes involved, constitutional provisions, or statement of facts.

¶ 21 Although defendant purports to challenge 20 separate issues by listing them in his "issues presented for review" section, he has not presented any argument for the remainder of those claims, and, accordingly, they will not be reviewed. *Vancura v. Katris*, 238 Ill. 2d 352, 370 (2010) ("An issue that is merely listed or included in a vague allegation of error is not 'argued' and will not satisfy the requirements of [Illinois Supreme Court Rule 341].") Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) ("Points not argued are waived ***.").

¶ 22 Defendant has also failed to comply with Rule 341(h)(6) (Ill. S. Ct. R. 341(h)(6) (eff. Feb. 6, 2013)), which mandates that the statement of facts "shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment." Defendant, to the contrary, has submitted a fact section which is slightly more than one page long, and omits most of the facts necessary for an understanding of the case, as we have described above. He instead sets forth his own version of the purported facts, without any supporting citations to the record.

¶ 23 Most importantly, however, defendant has failed to articulate an organized and cohesive legal argument sufficient to allow meaningful review of his claims. He devotes large portions of his argument to extended quotations from various sources, including a 22-page quotation of the entire dissent in *Juilliard v. Greenman*, 110 U.S. 421 (1884). See Ill. S. Ct. R. 341(a) (eff. Feb. 6, 2013) (“lengthy quotations are not favored and should be included only where they will aid the court's comprehension of the argument."). Defendant provides scant analysis of these sources, and does not indicate why or how they are applicable to his case. He also quotes a number of secondary sources at length, including "Charles Rappleye's *Sons of Providence*," "Lysander Spooner['s] *Essay on the Trial by Jury*," "Tupper Saussy's 1980 booklet *Miracle of Main Street*," "Robert Sherman['s] pamphlet, *Caveat Against Injustice*" and "Edwin Vieira Jr.'s *Pieces Of Eight*." These secondary sources, however, do not qualify as relevant authority in support of defendant's arguments on appeal. *People v. Heaton*, 266 Ill. App. 3d 469, 476-78 (1994).

¶ 24 Under Rule 341(h)(7) (Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013)), a reviewing court is entitled to have all the issues clearly defined and be provided with meaningful argument. *People ex rel. Illinois Department of Labor v. E.R.H. Enterprises, Inc.*, 2013 IL 115106, ¶ 56. It "is not simply a depository into which a party may dump the burden of argument and research." *E.R.H.*

Enterprises, Inc., 2013 IL 115106, ¶ 56. Appellate briefs which do not satisfy Rule 341 "do not merit consideration on appeal and may be rejected for that reason alone." *Housing Authority of Champaign County v. Lyles*, 395 Ill. App. 3d 1036, 1040 (2009).

¶ 25 Notwithstanding, we will consider the merits of the remaining issues since we are able to glean the essence of those claims, and are aided by the cogent brief filed by plaintiff. *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001)).

¶ 26 Defendant contends that the court erred in "ignor[ing] [his] objection that the judgement [*sic*] debt was subject to the prohibition that 'No State shall… make any Thing but gold and silver Coin a Tender in Payments of Debts[.]'" He maintains that it was error to order "that paper money may be demanded and seized in payment of judgment debt." Congress, however, in accordance with its Constitutional authority, has established that Federal Reserve notes are legal tender. See 31 U.S.C.A. § 5103 ("United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) are legal tender for all debts, public charges, taxes, and dues. Foreign gold or silver coins are not legal tender for debts"). Defendant's argument is therefore wholly without merit. *Julliard v. Greenman* ("The Legal-Tender Cases"), 110 U.S. 421, 447-48 (1884); *Foret v. Wilson*, 725 F.2d 254 (5th Cir.1984) (holding that the plaintiff's "argument, that only gold and silver coin may be constituted legal tender by the United States, is hopeless and frivolous[.]").

¶ 27 Defendant finally asserts that "[a]ll of [the trial judge's] orders and rulings in this case must be vacated" and the judge and Attorney General "must be sanctioned for their acts and orders beyond the date that I removed them from office." The record shows that during an April 13, 2013, hearing, defendant purported to "remove" the court and Attorney General from office.

The court entered an order on that date finding, "as stated on the record, [defendant's] 'removal' of the Attorney General and the court from this case has no legal basis or effect."

¶ 28 In this appeal, defendant asserts that he took an oath when he was appointed as an officer in the Army, to "support and defend the Constitution of the United States against all enemies, foreign and domestic[,]" and, under that authority, he "removed" the trial judge and Attorney General from office during the course of the proceedings. Defendant, however, provides no support for why the taking of this oath gives him the authority to "remove" officers of the court at his whim, and this claim necessitates no further review.

¶ 29 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 30 Affirmed.

PRESIDING JUSTICE DELORT, specially concurring:

¶31 I join the panel's order in full, but write separately to address a troubling aspect of this case. The defendant, John Justice, espouses a number of theories which are not merely incorrect, but which have been manifestly rejected by hundreds of years of American jurisprudence. These are: (1) his demand for a jury trial on a statutory enforcement proceeding, for which jury trials are not available; (2) his insistence that debts can only be paid in gold and silver, and (3) his bizarre assertion that he can "remove" the presiding judge and the Attorney General simply by saying so. All three are hallmarks of what is colloquially known as the "sovereign citizen" movement. It is clear that the purpose of asserting these theories is simply to harass the judges, lawyers, and others involved in litigation against the defendant. The able judges in the trial court and the Attorney General have cited irrefutable authorities to Justice explaining why his theories are nothing but nonsense, but he nonetheless persists in presenting them. For the reasons I stated

in *Parkway Bank v. Korzen*, 2013 IL App (1st) 130380, ¶ 92, I believe that whenever a party uses such tactics, we should impose substantial monetary sanctions to deter similar conduct in the future, and to compensate the taxpayers of this State for the costs incurred by the court system in having to address them.