

2022 IL App (2d) 210594-U
No. 2-21-0594
Order filed August 15, 2022

NOTICE: This order was filed under Supreme Court Rule 23(b) and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

GARY GRASSO,)	Appeal from the Circuit Court
)	of Du Page County.
Plaintiff-Appellee and Cross-Appellant,)	
)	
v.)	No. 21 MR 158
)	
STEVEN MUELLER,)	
)	Honorable
Defendant-Appellant and)	Paul M. Fullerton,
Cross-Appellee.)	Judge, Presiding.

JUSTICE BIRKETT delivered the judgment of the court.
Justices Hudson and Brennan concurred in the judgment.

ORDER

¶ 1 *Held:* (1) The circuit court did not err in denying defendant's request for sanctions under Illinois Supreme Court Rule 137 because, although plaintiff's argument was incorrect, it was not objectively unreasonable; and (2) the court properly dismissed plaintiff's request for Rule 137 sanctions because the allegedly sanctionable document was not filed in the circuit court, but rather, involved an objection to plaintiff's nomination papers filed with an electoral board.

¶ 2 This case concerns dueling requests for sanctions. Defendant, Steven Mueller, appeals the order of the circuit court of Du Page County denying his petition for sanctions against plaintiff, Gary Grasso, under Illinois Supreme Court Rule 137 (eff. Jan. 1, 2018). Grasso cross-appeals,

contending that the court erred in dismissing his petition for Rule 137 sanctions that he filed against Mueller. We affirm.

¶ 3

I. BACKGROUND

¶ 4 On February 17, 2021, Grasso, the current mayor of Burr Ridge, filed a “Rule 137 Petition For Sanctions” (Grasso Petition) against Mueller for allegedly filing frivolous objections to Grasso’s candidacy for re-election in the April 6, 2021, consolidated election. Grasso sought a finding that Mueller’s objections “lacked any legal basis in law or fact” and requested that sanctions be entered against Mueller and, “if warranted,” his attorney.

¶ 5 The Grasso Petition alleged as follows. Grasso timely filed his petitions, statement of candidacy, and other related documents necessary to run for re-election. Mueller filed objections to Grasso’s nomination papers on the basis that: (1) the documents “used the titles of Village President/Mayor and Village President,” and (2) the notary jurat on Grasso’s statement of candidacy was incorrect because the year 2021 appeared on the statement, rather than the correct year, 2020. Grasso retained counsel who filed a motion to dismiss, which contained “citations to case law and precedent directly contrary to Mueller’s challenge on both issues.” Mueller then withdrew his challenge based on the use of the titles, and a hearing on the remaining objection was held before the Municipal Officers Electoral Board of the Village of Burr Ridge (Electoral Board). At the conclusion of those proceedings, the Electoral Board concluded that, although the incorrect year in the notary jurat was a technical violation, the error did not invalidate Grasso’s nomination papers.

¶ 6 Grasso did not seek any form of sanctions against Mueller or his counsel before the Electoral Board, and Mueller did not appeal the Electoral Board’s decision. See 10 ILCS 5/10-10.1 (West 2020) (providing for the filing of a petition for judicial review of the decision of an

electoral board). Thus, the merits of the Electoral Board's decision were never subject to review by the circuit court.

¶ 7 On June 11, 2014, Grasso filed a "Motion for Leave to Amend Caption." He asserted that the Grasso Petition "arises from and within the election board challenge [that was] styled *Mueller v. Grasso*, 2021 MOEB 001," which was the case number of the proceedings before the Electoral Board. He asserted that, on February 11, 2021, he attempted to file the Grasso Petition in the circuit court utilizing that same caption and case number, while additionally listing himself as counter-petitioner and Mueller as counter-respondent, but the clerk of court rejected the filing, commenting: "Please submit in existing case with case number or submit as a new case filing and remove the counter party names." Grasso asserted that, after speaking with the clerk, he "understood *** that the Court's filing system could not take the case with [the Electoral Board] file number because there was no caption in the court system." Grasso then removed the counter parties and again attempted to file the Grasso Petition, but the clerk rejected the second attempt at filing, commenting: "If this is a review of administrative proceedings type then you will need to include the mailing fees and addresses to send mailings. If this is another case type[,] you will need to let us know which case type you would like us to file it under." Grasso's office again contacted the clerk and, according to Grasso's motion, was "instructed to file it as a petition under [Grasso's] name, and it would assign a case number." Grasso did so, "as [he] understood was required by the Clerk's office for filing."

¶ 8 On June 14, 2021, Mueller filed a motion to dismiss the Grasso Petition. Pertinently, he argued that dismissal was warranted under 2-615 of the Code of Civil Procedure, (Code) (735 ILCS 5/2-615 (West 2020)) because the petition was an attempt to assert a violation of Rule 137 as a separate, stand-alone, cause of action in direct contravention of Rule 137, itself. See Ill. S.

Ct. R. 137(b) (eff. Jan. 1, 2018) (“[N]o violation or alleged violation of this rule shall give rise to a separate civil suit, but shall be considered a claim within the same civil action.”) Mueller posited that Grasso “either does not understand Rule 137” or was “attempting to obfuscate because he understands well that what he has done is a blatant abuse of Rule 137.”

¶ 9 On June 14, 2021, the court denied Grasso’s motion to amend the case caption and stated that the proceedings would continue under the case number assigned by the clerk. The court continued the matter for one week, at which time a briefing schedule was established pertaining to Mueller’s motion to dismiss.

¶ 10 On July 12, 2021, Grasso responded to Mueller’s motion to dismiss. Pertinently, he argued that the Grasso Petition was not a new cause of action because it “arose directly from” the Electoral Board proceedings, but that the clerk “required the caption to be reversed” and assigned it an “MR (miscellaneous remedy) [case] number” so that it would “conform with court administrative requirements.” He described the circumstances as an “administrative issue” whose genesis was the failure of the clerk’s filing system to “recognize MOEB filings.” He characterized Mueller’s motion to dismiss as arguing “form over substance in claiming this is a new action,” and maintained that Rule 137 applies broadly, including to the proceeding before the Electoral Board, because Mueller’s counsel signed the objections to Grasso’s nomination papers. See Ill. S. Ct. R. 137 (eff. Jan. 1, 2018) (providing that the signature of an attorney or party on any pleading, motion, or other document is a certification that the document is well grounded in fact and warranted by law).

¶ 11 Following briefing and oral argument, the court entered an order on August 10, 2021, granting Mueller’s motion to dismiss the Grasso Petition. In issuing his ruling, the judge commented:

“I believe that [Rule] 137(b) cannot be more clear [*sic*] as far as the language that it does not create or rise to a separate cause of action. It needs to be brought within an underlying cause of action. *** [The Grasso] petition, as it stands, is invalid under 137(b).”

¶ 12 Following dismissal of the Grasso Petition, on September 3, 2021, Mueller filed his own motion seeking Rule 137 sanctions (Mueller Petition). He raised two primary points. First, he asserted that the Grasso Petition was a “stand-alone civil suit” in direct contravention of Rule 137(b) and was not warranted by existing law or supported by a good faith argument for the extension, modification, or reversal of existing law. Second, he argued that Grasso should be sanctioned because the Grasso Petition was “filed for the improper purpose of wringing information out of Mueller.” Mueller appended to the motion a newspaper article in which Grasso commented that he “assume[d] someone asked Mueller to be a front and paid Mueller’s fees,” and that Grasso wished to pursue “the real culprit” who encouraged Mueller to file the objections to Grasso’s candidacy before the Electoral Board. He also attached a series of e-mails between Mueller’s counsel and Grasso. In an e-mail dated June 14, 2021, Grasso stated that his “goal was not to pursue Mr. Mueller *** but the person or persons I am confident who put Mueller up to” filing objections to Grasso’s candidacy. He also requested “permission from Mueller to tell me who asked him to do this – and pay his fees,” and that, if the information was divulged, he would no longer pursue the Grasso Petition. Grasso reiterated the request in a June 18, 2021, e-mail, stating: “[t]ell me who asked [Mueller] to file the challenge—that’s it—Mueller’s done after that.”

¶ 13 On September 7, 2021, Grasso moved to reconsider the dismissal of the Grasso Petition. He argued that, from the inception of the circuit court proceedings, he informed the court that there was no procedural path to seek sanctions before the Electoral Board for a frivolous election challenge, and that the only forum available to seek sanctions was the circuit court, which is where

“appeals [of Electoral Board decisions] are first directed.” Grasso lamented that the Election Code did not provide a “procedure to challenge frivolous challenges such as the one Mueller filed,” but he asserted that “other rules,” such as Rule 137, “can be used for that purpose.” He again recounted his attempts to file the case in the circuit court using the same case number and caption as the Electoral Board proceedings, but he was unsuccessful because the clerk had “no filing mechanics to accept an election commission action” in that format, and so the clerk “converted the caption and assigned a case number consistent with its procedures.” Grasso maintained that the clerk’s requirement of a different case caption and case number did not transform the proceeding into one separate from the Electoral Board proceedings, but rather, was a claim within those same proceedings. Lastly, Grasso argued that the court’s ruling had the effect of abrogating his right to seek a remedy, which he suggested was violative of section 12 of the Illinois Constitution.

¶ 14 On October 8, 2021, the circuit court denied Grasso’s motion to reconsider as well as the Mueller Petition. In addressing Grasso’s motion to reconsider, the court reiterated its prior finding that the petition “is not a continuation of the election action,” as well as commented that “pursuing a [Rule] 137 petition as a stand-alone petition doesn’t fly.” Turning to the Mueller Petition, the judge stated: “I strongly don’t believe that there’s any basis for this lawsuit” and that Grasso’s position “caused the Court great pause because Rule 137 is “very clear that you can’t have a stand-alone action under subsection (b).” Nevertheless, the court stated that it was “giving Mr. Grasso the benefit of the doubt” and declined to sanction him. In reiterating that it would not sanction either party, the judge commented that the rulings could, of course, be appealed, but he “hope[d] that the parties just walk away, but that’s up to the parties.”

¶ 15 Mueller timely filed a notice of appeal and Grasso timely filed a notice of cross appeal.

¶ 16

II. ANALYSIS

¶ 17 Mueller contends that the circuit court erred in denying his petition for sanctions because the Grasso Petition was objectively frivolous and was filed for an improper purpose. Grasso's response and cross-appeal contend that the court properly denied the Mueller Petition, and further asserts that the court should not have dismissed the Grasso Petition because it was not a "separate civil suit" under Rule 137(b), and that the dismissal had the effect of depriving him of a remedy in violation of the Illinois constitution.

¶ 18 A. Illinois Supreme Court Rule 137

¶ 19 Rule 137 governs the "Signing of Pleadings, Motions[,] and Other Documents," as well provides a means of seeking sanctions from a party or their counsel for violating the rule. It states:

"(a) Signature requirement/certification. Every pleading, motion and other document of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion, or other document and state his address. *** 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 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.

(b) Procedure for Alleging Violations of This Rule. All proceedings under this rule shall be brought within the civil action in which the pleading, motion or other document referred to has been filed, and no violation or alleged violation of this rule shall give rise to a separate civil suit, but shall be considered a claim within the same civil action.” Ill. S. Ct. R. 137(b) (eff. Jan 1, 2018).

¶ 20 The purpose of the rule is to prevent the abuse of the judicial process by penalizing claimants who advance vexatious and harassing actions that are based on unsupported allegations of law or fact, not to punish litigants or their attorneys because they were zealous yet unsuccessful in the litigation. *Edwards v. City of Henry*, 385 Ill. App. 3d 1026, 1034 (2008). See also *Garlick v. Bloomington Township*, 2018 IL App (2d) 171013, ¶ 43 (“[t]he purpose of Rule 137 is to prevent to filing of false and frivolous lawsuits” (quoting *Yunker v. Farmers Automobile Management Corp.*, 404 Ill. App. 3d 816, 824 (2010))). Rule 137 applies to pleadings and, thus, does not authorize sanctions for all violations of court rules and acts of misconduct. *Krautsack v. Anderson*, 223 Ill. 2d 541, 562 (2006). The rule is penal in nature and is to be strictly construed. *Diocese of Quincy v. Episcopal Church*, 2016 IL App (4th) 150193, ¶ 40. The court should reserve sanctions only for the most egregious cases. *Patton v. Lee*, 406 Ill. App. 3d 195, 202 (2010). The rule allows, but does not require, the imposition of sanctions. *Kuykendall v. Schneidewind*, 2017 IL App (5th) 160013, ¶ 40. To determine whether a party’s conduct violates the rule, the court must use an objective standard and determine what was reasonable at the time the party filed its pleading. *Baker v. Daniel S. Berger, Ltd.*, 323 Ill. App. 3d 956, 963 (2001).

¶ 21 We begin by addressing the matters raised by Grasso’s cross-appeal, namely, whether the circuit court erred in dismissing the Grasso Petition pursuant to section 2-615 of the Code. A motion to dismiss under section 2-615 challenges the legal sufficiency of the complaint based upon defects that are apparent on its face. *Reynolds v. Jimmy John’s Enterprises, LLC*, 2013 IL App (4th) 120139, ¶ 25. In ruling on a section 2-615 motion, the court must accept as true all well-pleaded facts as well as any reasonable inferences that may arise from those facts. *Borcia v. Hatyina*, 2015 IL App (2d) 140559, ¶ 20. “The critical inquiry is whether the allegations of the complaint, when construed in the light most favorable to the plaintiff, are sufficient to establish a cause of action on which relief may be granted.” *Id.* Such a motion to dismiss may not be granted unless it is apparent that no set of facts could be proved that would entitle the plaintiff to relief. *McIlvaine v. City of St. Charles*, 2015 IL App (2d) 141183, ¶ 14. We review *de novo* an order granting a section 2-615 motion to dismiss. *Solaia Technology, LLC v. Specialty Publishing Co.*, 221 Ill. 2d 558, 579 (2006).

¶ 22 In his cross-appeal, Grasso contends that the objections filed by Mueller to Grasso’s candidacy “lacked any support in law” and thus were sanctionable under Rule 137. Without elaborating, he contends that “a simple check of state law” would have shown that the use of multiple office names in his nomination papers was proper under the Election Code, and he notes that Mueller withdrew that objection “as soon as Grasso filed a motion to dismiss.” Concerning the incorrect year in the notary jurat, Grasso asserts that Mueller “offered nothing to rebut Grasso’s position” and conceded before the Electoral Board that Grasso “took all the required actions.”

¶ 23 Grasso’s arguments regarding the applicability of Rule 137 to proceedings before the Electoral Board are similarly unrefined. He appears to argue that Mueller was a “party” to those proceedings within the meaning of Rule 137, as well as that his objections to Grasso’s nomination

papers, signed by Mueller's counsel, constituted a "pleading" or "other document" within the meaning of the rule. He asserts that, because "Mueller's attorney *** signed the petitions and Mueller verified them," those signatures reflected a certification that the objections to Grasso's nomination papers had a valid basis in law under Rule 137. In a conclusory manner, Grasso states in his brief that "Rule 137 seems to cover an election challenge that can have severe consequences to candidate and municipality alike," as well as that "Rule 137 is a rule for all proceedings, including Mueller's [objection to Grasso's nomination papers]."

¶ 24 Grasso also disputes that the Grasso Petition is a "separate civil suit" violative of Rule 137(b), which requires that "[a]ll proceedings under this rule shall be brought within the civil action in which the pleading, motion or other document referred to has been filed." In Grasso's view, the petition "comported with this requirement" because it is a continuation of the proceedings that Mueller initiated before the Electoral Board. He maintains that describing his sanctions petition as a "stand-alone cause of action," as Mueller did in his motion to dismiss, amounts to a "distortion of the available forum and procedural history." He asserts that the Election Code does not authorize the Electoral Board to impose sanctions, and so he sought sanctions "from the only forum available to him for Rule 137 sanctions," namely the circuit court of Du Page County, which "directly hears election board matters." In his opening brief, just as in his "Motion for Leave to Amend Caption," Grasso details his multiple unsuccessful attempts to file his sanctions petition with the same case caption and "MOEB" case number as in the Electoral Board proceedings, and that he did so "to assure it was not a separate action." In the first rejection, the clerk's office informed Grasso to "[p]lease submit in existing case with case number or submit as a new case filing and remove the counter party names." Grasso apparently removed the counter party names and attempted to refile the sanctions petition with the "MOEB" case number, but the

clerk's office likewise rejected it, commenting: "If this is a review of [an] administrative proceedings case type then you will need to include the mailing fees and addresses to send mailings. If this is another case type[,] you will need to let us know which case type you would like us to file it under." Grasso states in his opening brief that the clerk later "instructed [him] to file it as a petition under [his] name." According to Grasso, the clerk "initiated the change in the caption and case numbering" and only accepted his petition after he complied with its requirements.

¶ 25 The threshold issue in Grasso's cross-appeal is whether Rule 137 is applicable to proceedings that are independent of the trial court. In *Benz v. Department of Children and Family Services*, 2015 IL App (1st) 130414, which neither party cites, the appellate court answered this question in the negative. In *Benz*, the plaintiffs argued that they were entitled to Rule 137 sanctions against the Department of Children and Family Services (DCFS) because, during an administrative hearing, DCFS advanced a legally erroneous argument. *Id.* ¶ 43. Plaintiffs relied on Rule 137(c), which provides that Rule 137 applies to State entities just as any other party, to argue that this provision offers a vehicle to seek sanctions in the trial court for a "false argument" made during administrative proceedings. *Id.* ¶ 46. See Ill. S. Ct. R. 137(c) (eff. July 1, 2013) ("[w]here the litigation involves review of a determination of an administrative agency, the court may include in its award for expenses an amount to compensate a party for costs actually incurred by that party in contesting on the administrative level an allegation or denial made by the State without reasonable cause and found to be untrue").

¶ 26 The appellate court rejected the defendants' argument and held that that Rule 137(c) "does not provide a vehicle for a sanction order that is independent of the proceedings in the trial court." *Id.* ¶ 47. In support, the court reasoned that Supreme Court Rule 1 (eff. July 1, 1982) limits the

applicability of the supreme court rules to civil and criminal proceedings and that, in the context of circuit court review of administrative proceedings, “litigation commences and parties become ‘litigants’ within the meaning of the rules when a plaintiff files a complaint for administrative review in the circuit court.” *Id.* at 45 (citing *Rodriguez v. Sheriff’s Merit Comm’n*, 2018 Ill. 2d 342, 354 (2006)). The court further explained that, although Rule 137(c) “extend[s] the reach of Rule 137 sanctions to the administrative level,” that reach is “much more limited” than Rule 137(a), which requires an attorney’s signature certifying that the pleading, motion, or other document is well grounded in fact and warranted by law. In contrast, Rule 137(c) allows for recovery of costs incurred during administrative proceedings relating only to factual allegations or the denial of factual allegations (*id.* ¶ 48) but, even then, only where the State is also sanctioned for “an improper court filing” (emphasis in original) (*id.* ¶ 47).

¶ 27 Grasso’s cross-appeal, of course, does not involve allegedly sanctionable conduct by a State entity under Rule 137(c), but rather, private individuals—Mueller and his counsel before the Electoral Board. Nevertheless, the reasoning in *Benz* applies to the instant matter with equal force. Grasso filed a motion in the circuit court seeking Rule 137 sanctions for Mueller’s “baseless” challenge to Grasso’s nomination papers before the Electoral Board. Even assuming that the Grasso Petition *was* a continuation of the Electoral Board’s proceedings, Rule 137 does not allow the circuit court to enter an order for sanctions that is independent of the circuit court proceedings. *Benz*, 2015 IL App (1st) 130414, ¶ 47. See *Jackson v. Board of Election Commissioners of City of Chicago*, 2012 IL 111928, ¶ 46 (judicial review of an electoral board’s decision under the Election Code is “in the nature of administrative review”). Similar to *Benz*, the parties were not engaged in civil or criminal proceedings during the Electoral Board proceedings and, as a result, the supreme court rules did not apply. *Benz*, 2014 IL App (1st) 130414, ¶ 15.

¶ 28 While the court in *Benz* acknowledged that Rule 137(c) “does extend the reach of Rule 137 sanctions to the administrative level,” that provision does not aid Grasso. Rule 137(c) is inapplicable because it applies only when a party incurs costs during administrative proceedings in contesting factual allegations made by the State. *Benz*, 2015 IL App (1st) 130414, ¶ 48. Here, Grasso seeks sanctions related to alleged legally erroneous arguments made by a private party. *Benz* makes clear that a circuit court may award expenses actually incurred during such an administrative proceeding only where a sanction order is entered for an improper court filing. *Benz*, 2015 IL App (1st) 130414, ¶ 47 (Rule 137(c) “allows that a sanction order for an improper court filing may also include expenses incurred at the administrative level.” (Emphasis in original)). Grasso has not alleged any violation by Mueller of Rule 137 concerning any court proceedings. See also *Nolan v. Hearthside Homebuilders, Inc.*, 2020 IL App (1st) 182492, ¶¶ 109-14 (holding that Rule 137 is inapplicable to affidavit that was tendered directly to opposing party but not filed in court because the rule “does not apply to matters other than those filed with the court”). Because Rule 137 did not apply to the proceedings before the Electoral Board, sanctions against Mueller for purportedly filing a frivolous election challenge before that tribunal were thus unavailable.

¶ 29 In a related argument, Grasso asserts that the circuit court, by dismissing his sanctions petition, left him without a remedy at law in violation of the “open courts” provision of the Illinois Constitution. It states: “Every person shall find a certain remedy in the laws for all injuries and wrongs which he receives to his person, privacy, property or reputation. He shall obtain justice, by law, freely, completely, and promptly.” Ill. Const. 1970, art. I, § 12.

¶ 30 In essence, Grasso argues that Rule 137 must be the legal vehicle for his “claim” against Mueller because Section 12 of the Illinois Constitution guarantees a remedy. Contrary to the

argument, the circuit court's dismissal of the Grasso Petition did not amount to an abrogation of Grasso's right to seek a remedy for a perceived wrong. Foremost, the "open courts" provision of the Illinois Constitution does not create a constitutional right to a particular remedy or mandate that a particular remedy be provided in a certain form. *Schultz v. Lakewood Electric Corporation*, 362 Ill. App. 3d 716, 724 (2005). Rather, our supreme court has stated that this provision "is merely an expression of philosophy and not a mandate that a 'certain remedy' be provided in any specific form. *Clark v. Children's Memorial Hospital*, 2011 IL 108656, ¶ 82. The fact that Rule 137, in particular, is unavailable to Grasso as a means to seek redress for a perceived injury does not amount to a constitutional violation. The "open courts" provision does not require that Grasso be provided a remedy in the form of Rule 137 sanctions. Our supreme court has stated that "[t]he provision requires only that there be some remedy for an alleged wrong." *Clark*, 2011 IL 108656, ¶ 82 (citing *Berlin v. Nathan*, 64 Ill. App. 3d 940, 950 (1978)).

¶ 31 Indeed, the Grasso Petition purported to identify other potential legal avenues that Grasso could have explored in seeking relief. There, he stated that he "reserves his rights to add Abuse of Process and Malicious Prosecution causes of action against [Mueller] and any others who assisted [Mueller] in his [election] challenge." He reiterated this point during the hearing on Mueller's motion to dismiss, when he stated that if his request for Rule 137 sanctions was dismissed, "then I guess I have to pursue whatever other civil remedies in terms of abuse of process and malicious prosecution might give me here." Thus, as Grasso recognized, other causes of action were perhaps available to him, but he opted not to explore them. His decision to forgo those options does not somehow mean that the court's dismissal of his request for Rule 137 sanctions amounted to a constitutional violation. See *Berlin*, 64 Ill. App. 3d at 951 ("The failure to state a

cause of action cannot be cured by alleging that the plaintiff should have a remedy as provided in Section 12”). The circuit court properly dismissed Grasso’s petition for sanctions.

¶ 32 C. Denial of the Mueller Petition

¶ 33 We now turn to the Mueller’s appeal. Mueller asserts that the circuit court erred in denying the Mueller Petition because the Grasso Petition was not warranted by law and, additionally, was filed for an improper purpose. Mueller emphasizes that the actions Grasso complains of occurred before the Electoral Board, whose decision was not appealed to the circuit court. He concludes that the Grasso Petition constituted a “separate civil suit,” which Rule 137(b) expressly prohibits. See Ill. S. Ct. R. 137(b) (eff. Jan. 1, 2018) (“All proceedings under this rule shall be brought within the civil action in which the pleading, motion or other document referred to has been filed, and no violation or alleged violation of this rule shall give rise to a separate civil suit, but shall be considered a claim within the same civil action”).

¶ 34 Generally, the determination of whether to impose sanctions rests within the sound discretion of the circuit court, whose decision is entitled to great weight and will not be disturbed absent an abuse of discretion. *Toland v. Davis*, 295 Ill. App. 3d 652, 654 (1998). Mueller argues that we should review the circuit court’s decision to deny the Mueller Petition *de novo* because its decision was based only on documentary submissions and the credibility of the parties was not a factor in its decision. See *Nolan*, 2020 IL App (1st) 182492, ¶¶ 83-84 (*de novo* review appropriate to review judge’s decision vacating prior judge’s sanctions order because decision was based on documentary submissions, credibility was not a factor, and only a legal question was presented). We need not consider which standard of review applies because, under either standard, the circuit court’s ruling denying the Mueller Petition should be affirmed.

¶ 35 Foremost, Mueller fixates on the idea that the Grasso Petition is a “separate civil suit” under Rule 137 while simultaneously misstating Grasso’s argument. Mueller contends in his opening brief that sanctions are warranted because, “[i]nstead of reading [Rule 137] to say that violations of Rule 137 *cannot* give rise to a separate civil suit, Grasso instead decided that this language means he *can* file a separate civil suit.” (Emphasis in original.) Describing Grasso’s response to Mueller’s motion to dismiss, he asserts that Grasso “doubl[ed] down on the baseless assertion that Rule 137 can be a stand-alone cause of action.” He further asserts that, during the hearing on the motion to dismiss, “Grasso doubled down to the very end on his baseless position.” Mueller contends that the Grasso Petition was objectively frivolous and baseless, and he asserts that “[i]t is quintessential frivolity for a litigant to read a supreme court rule and then claim the right to do precisely what the rule unambiguously prohibits.”

¶ 36 Mueller misconstrues Grasso’s position. Grasso did not “decide[] that [Rule 137] means he can file a separate suit,” nor did he “assert[] that Rule 137 can be a stand-alone cause of action.” Likewise, he did not “double[] down to the very end on his baseless position” during the hearing on Mueller’s motion to dismiss. Instead, the record amply demonstrates that Grasso disputed that the Grasso Petition was a “separate civil suit” at all. As outlined above, Grasso argued in his “Motion for Leave to Amend Caption” that his sanctions petition “arises from and within the election board challenge [that was] styled *Mueller v. Grasso*, 2021 MOEB 001,” and he detailed two unsuccessful attempts to initially file the petition in the circuit court using that case number and caption. In his opening brief, Mueller describes the motion as a “bizarre blaming of the [clerk] for not allowing [Grasso] to devise his own case number docketing system *** and initiate a new case with a caption that makes it look like he is the defendant and Mueller is the plaintiff.” Mueller fails to recognize that Grasso’s serial efforts to file the petition using the identical caption and case

number as the proceedings before the Electoral Board, as well as his “Motion to Amend Caption,” suggest that Grasso attempted in good faith to give his sanctions petition continuity with the Electoral Board proceedings. Although the double rejection by the clerk’s office perhaps should have put him on notice that his filing was irregular, we cannot say that his decision to file it anyway, under a new case number, warrants sanctions. The Grasso Petition was premised on the argument that Rule 137 sanctions were available because Mueller’s counsel signed the documents that initiated the challenge to Grasso’s candidacy, which lacked a valid basis in law. See Ill. S. Ct. R. 137 (eff. Jan. 1, 2018) (providing that the signature of an attorney or party on any pleading, motion, or other document is a certification that the document is well grounded in fact and warranted by law). Further, Grasso reasoned that because the Election Code does not provide a mechanism to seek sanctions before an electoral board, he filed his request in the first available forum that was authorized to impose sanctions, namely the circuit court. That Grasso’s argument was unsuccessful does not itself mean that the Grasso Petition was filed without a basis in law or fact. It is well established that a court should not impose sanctions on a party who presents objectively reasonable arguments for his or her position, regardless of whether the argument is unpersuasive or determined to be incorrect. *McClaghry v. Village of Antioch*, 296 Ill. App. 3d 636, 645 (1998).

¶ 37 Mueller argues that the Grasso Petition constituted an impermissible “separate civil suit” under Rule 137(b), without ever considering whether Rule 137 was applicable to proceedings before the Electoral Board in the first place. If he had, his research presumably would have led him to *Benz*, which holds that Rule 137 “does not provide a vehicle for a sanction order that is independent of the proceedings in the trial court,” but rather, allows “a sanction order for an improper *court* filing.” *Benz*, 2015 IL App (1st) 130414, ¶ 47. In effect, Mueller was correct that Rule 137 sanctions were unavailable to Grasso in connection with the Electoral Board proceedings,

but for the wrong reason. Again, Grasso believed that because Mueller’s counsel signed the objections to Grasso’s nomination papers and Mueller verified them, those signatures amounted to a certification under Rule 137 that the objections had a valid basis under the law. In light of Mueller’s misapprehension of the facts, as well as his own apparent failure to cite authority, fatal to Grasso’s position, holding that Rule 137 sanctions are available only for improper *court* filings—and not proceedings before other tribunals, such as the Electoral Board—we cannot say the circuit court erred in “giving Mr. Grasso the benefit of the doubt” and denying the Mueller Petition for sanctions.

¶ 38 In a related argument, Mueller contends that “this situation involves a heightened need for sanctions to punish Grasso” because his sanctions petition was filed for “the improper purpose of squeezing Mueller for information that Grasso was not lawfully entitled to obtain.” Mueller points to the e-mail exchanges between his counsel and Grasso, wherein Grasso offered to dismiss his case if he divulged “the real culprit” who encouraged Mueller to file objections to Grasso’s nomination papers. Mueller concludes that “Grasso’s purposes were demonstrably and objectively improper and he should be sanctioned for it.” Mueller’s brief contains no citation to authority to support this argument, and we therefore find the issue forfeited. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (requiring an appellant’s brief to contain argument supported by citations to the authorities and stating that points not argued are forfeited).

¶ 39 III. CONCLUSION

¶ 40 For the reasons stated, we affirm the judgment of the circuit court of Du Page County.

¶ 41 Affirmed.