

RENDERED: SEPTEMBER 9, 2005; 2:00 p.m.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-002524-MR

STEVEN FRANKLIN BREWSTER

APPELLANT

v. APPEAL FROM JESSAMINE CIRCUIT COURT
HONORABLE C. HUNTER DAUGHERTY, JUDGE
ACTION NO. 03-CI-00651

ROBERT LON BREWSTER

APPELLEE

OPINION AND ORDER
STRIKING APPELLANT'S BRIEF
AND DISMISSING APPEAL

** ** * * *

BEFORE: COMBS, CHIEF JUDGE; McANULTY, JUDGE; MILLER, SENIOR
JUDGE.¹

McANULTY, JUDGE: Steven Franklin Brewster (Appellant) appeals
the order of the Jessamine Circuit Court dismissing his
complaint for failure to state a claim. His pro se appeal
raises no issues and requests that the Appellee pay him one
hundred million dollars for trespassing.

¹ Senior Judge John D. Miller sitting as Special Judge by assignment of the
Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and
KRS 21.580.

This case arose out of the probate of the will and administration of the estate of Appellant's mother who died on May 18, 2003. Appellant was appointed executor of the estate on May 28, 2003. On July 25, 2003, an order from the district court was issued removing Appellant as executor pursuant to a Motion filed by Robert Lon Brewster (Appellee), Appellant's brother. Following the removal order, Appellant filed several more motions with the court, all of which were denied. The final motion was denied with an oral advisory from the district court that further motions could subject Appellant to paying the estate's attorney fees.

On September 22, 2003, Appellant filed suit against Appellee in the Jessamine Circuit Court. Appellant's complaint was filed after the time to appeal the order of the probate court had expired. Appellee moved the court to dismiss Appellant's complaint for failure to state a cause of action upon which relief may be granted and/or for summary judgment. The motion was heard on November 13, 2003, and the court dismissed Appellant's complaint for failure to state a cause of action upon which relief may be granted. This appeal followed.

Appellant filed a brief as required by CR 76.12. CR 76.12(4)(c)(iv) requires that an appellant's brief include a statement of the case consisting of a chronological summary of the facts and procedural issues necessary to the understanding

of the issues presented by appeal. Here, Appellant's statement is incomplete. See Squires v. Squires, 854 S.W.2d 765, 770 (Ky. 1993).

CR 76.12(4)(c)(v) requires an argument with ample supportive references to the record and citations of authority pertinent to each issue of law, which "shall contain at the beginning of the argument a statement with reference to the record showing whether the issue was properly preserved for review and, if so, in what manner." Appellant's argument fails to refer to the record or to cite any legal authority.

CR 76.12(4)(c)(vi) requires a conclusion setting forth the specific relief sought from the appellate court. Appellant fails to explain or justify the relief he would like for this court to grant.

Where serious deficiencies exist in appellant's brief, the court is justified in ordering appellant's brief stricken. Robbins v. Robbins, 849 S.W.2d 571, 572 (Ky.App. 1993). Under CR 76.12(8)(a), the appropriate remedy is to dismiss the appeal.

Pro se movants are not held to the same standards as counsel for purposes of determining sufficiency of pleadings. Commonwealth v. Miller, 416 S.W.2d 358, 360 (Ky. 1967). Even applying more lenient standards we are unable to discern a claim or a basis on which to grant relief.

We conclude the Appellant's brief is inadequate and fails to state any issues to which a response can be given. For the foregoing reasons, we order the appeal dismissed sua sponte.

ORDER

For the reasons stated above, it is hereby ORDERED *sua sponte* that Appellant's brief shall be stricken from the record.

It is further ORDERED that this appeal be and the same is hereby DISMISSED.

ALL CONCUR.

ENTERED: September 9, 2005

/s/ William E. McAnulty
JUDGE, COURT OF APPEALS

BRIEF FOR APPELLANT:

Steven Franklin Brewster,
Pro Se
Lexington, Kentucky

BRIEF FOR APPELLEE:

Kathy W. Stein
Lexington, Kentucky