

RENDERED: AUGUST 9, 2013; 10:00 A.M.  
NOT TO BE PUBLISHED

# Commonwealth of Kentucky

## Court of Appeals

NO. 2012-CA-000401-MR

SUSAN GIBSON

APPELLANT

v. APPEAL FROM WARREN CIRCUIT COURT  
HONORABLE STEVE ALAN WILSON, JUDGE  
ACTION NO. 11-CI-01223

RUSSELLVILLE ROAD  
SELF STORAGE

APPELLEE

OPINION  
AFFIRMING

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BEFORE: ACREE, CHIEF JUDGE; LAMBERT AND STUMBO, JUDGES.

ACREE, CHIEF JUDGE: Susan Gibson appeals from the Warren Circuit Court's January 26, 2012, order dismissing her action against Russellville Road Self Storage (RR). We affirm.

Gibson, acting *pro se*, filed a complaint against RR on July 20, 2011, in which she alleged that RR had illegally auctioned her personal property. RR filed an answer, also proceeding *pro se*. Following Gibson's motion for a jury

trial, a pretrial order was entered on November 23, 2011, which scheduled a pretrial conference for January 20, 2012, and a two-day jury trial for February 2, 2012. A subsequent order was entered, identical in all respects with the exception of correcting typographical errors regard discovery deadlines. However, the second order, like the first, clearly stated that a pre-trial conference would be held on January 20, 2012.

On December 28, 2011, Gibson filed a *pro-se* notice that she had retained counsel. However, no entry of appearance was filed by an attorney. In fact, the attorney Gibson claimed was representing her, Ken Meredith, would eventually file a notice of *non*-representation.

In the meantime, on January 2, 2012, as the date for the pretrial conference was approaching, Gibson wrote to the court stating, “In order to properly confer with Legal Counsel, I hereby request a 2-week delay for the Pre-Trial Conference; i.e., to ‘around’ January 25, 2012. Thank you.” Gibson, who had successfully engaged in motion practice to obtain a trial date, did not notice her request to delay the pre-trial conference to be heard on any date, nor did she indicate that she had served a copy on RR. The court took no action.

On January 20, 2012, the court called Gibson’s case for the pre-trial conference. Gibson did not appear nor was she represented by counsel. The court did not proceed in her absence. After the circuit court received Mr. Meredith’s notice of non-representation, it dismissed the case with prejudice for Gibson’s failure to comply with its order to attend the pre-trial conference.

Gibson appeals this order.

Gibson's brief before this court points us to no authority whatsoever that would justify reversal; we will not construct appellant's legal argument for her. *Hadley v. Citizen Deposit Bank*, 186 S.W.3d 754, 759 (Ky. App. 2005) ("It is not our function as an appellate court to research and construct a party's legal arguments[.]"). For her part, Gibson effectively throws herself on the mercy of this Court, stating: "While the trial court's action is certainly understandable, it deprives the ignorant *pro se* litigant of her day in court." We disagree. Gibson's day in court began on January 20, 2012; nothing in the record indicates an impediment at least to her attendance. The circuit court was prepared to give Gibson her day in court, but she elected not to show up that day.

For the foregoing reasons, the January 26, 2012, order of dismissal of the Warren Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

NO BRIEF FOR APPELLEE.

Travis B. Lock  
Bowling Green, Kentucky