

[Cite as *Carrelli v. Derrick Petroleum* , 2008-Ohio-3649.]

COURT OF APPEALS
MUSKINGUM COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STEVEN J. CARRELLI
Plaintiff-Appellant

-vs-

DERRICK PETROLEUM
Defendant-Appellee

JUDGES:
Hon. William B. Hoffman, P.J.
Hon. W. Scott Gwin, J.
Hon. Sheila G. Farmer, J.

Case No. CT2007-0067

OPINION

CHARACTER OF PROCEEDING: Appeal from the Muskingum County Court,
Case No. CV10700789

JUDGMENT: Affirmed

DATE OF JUDGMENT ENTRY: July 14, 2008

APPEARANCES:

For Plaintiff-Appellant

For Defendant-Appellee

STEVEN J. CARRELLI, PRO SE
10999 Hewitt Road
Newark, Ohio 43055

DERRICK PETROLEUM
4130 N. Market
Bladensburg, Ohio 43005

Hoffman, P.J.

{¶1} Plaintiff-appellant Steven J. Carrelli appeals the September 10, 2007 Judgment entry entered by the Muskingum County Court, which entered judgment in favor of Appellant in the amount of \$450.00. Defendant-appellee is Derrick Petroleum.¹

STATEMENT OF THE CASE²

{¶2} On August 7, 2007, Appellant filed a Small Claims Complaint in the Muskingum County Court, alleging Appellee purposely and with destructive intent removed surveyor plat pins, and destroyed boundary and land not owned by Appellee. Appellant further alleged Appellee trespassed with criminal intent after being notified of said boundary lines. Appellant prayed for judgment in the amount of \$3,000.00, plus interest.

{¶3} The trial court scheduled the matter for hearing on September 4, 2007. The matter proceeded as scheduled. Via Judgment Entry filed September 10, 2007, the trial court granted judgment in favor of Appellant in the amount of \$450.00. Appellant filed a Notice of Appeal from that Judgment Entry on October 10, 2007. On December 14, 2007, Appellant filed a Pro Se Merit Brief in this Court.

{¶4} We begin by noting Appellant has failed to comply with App. R. 16.

{¶5} App. R. 16(A) provides:

{¶6} “The appellant shall include in its brief, under the headings and in the order indicated, *all* of the following:

{¶7} “(1) A table of contents, with page references.

¹ Appellee has not filed a brief in this matter.

² A Statement of the Facts underlying this matter is not necessary to our disposition to this appeal; therefore, such shall not be included herein.

{¶8} “(2) A table of cases alphabetically arranged, statutes, and other authorities cited, with references to the pages of the brief where cited.

{¶9} “(3) A statement of the assignments of error presented for review, with reference to the place in the record where each error is reflected.

{¶10} “(4) A statement of the issues presented for review, with references to the assignments of error to which each issue relates.

{¶11} “(5) A statement of the case briefly describing the nature of the case, the course of proceedings, and the disposition in the court below.

{¶12} “(6) A statement of the facts relevant to the assignments of error presented for review, with appropriate references to the record * * *

{¶13} “(7) An argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which appellant relies. The argument may be preceded by a summary.

{¶14} “(8) A conclusion briefly stating the precise relief sought.”

{¶15} Appellant's brief does not satisfy any of the aforementioned requirements; therefore, is noncompliant. Absent minimal compliance with App. R. 16(A), this Court cannot reasonably respond to Appellant's claims, and may, in its discretion, disregard those claims. See, *Foster v. Board of Elections* (1977), 53 Ohio App.2d 213, 228, 373 N.E.2d 1274. Further, the deficiencies in Appellant's brief are tantamount to the failure to file a brief. Pursuant to App. R. 18(C), this Court has the authority to dismiss this appeal for failure to file a brief.

{¶16} Assuming, arguendo, Appellant's brief was compliant, the record reflects Appellant failed to request a transcript of the September 4, 2007 hearing pursuant to App. R. 9(B), or submit a statement of evidence pursuant to App. R. 9(C).

{¶17} When portions of the transcript necessary for resolution of assigned errors are omitted from the record, the reviewing court has nothing to pass upon and thus, as to those assigned errors, the court has no choice but to presume the validity of the lower court's proceedings, and affirm. *Knapp v. Edwards Lab.* (1980), 61 Ohio St.2d 197, 400 N.E.2d 384. Because Appellant has failed to provide this Court with those portions of the transcript necessary for resolution of this appeal, i.e., the transcript of the September 4, 2007 hearing, we must presume the regularity of the proceedings below and affirm, pursuant to the directive set forth above in *Knapp*, supra.

{¶18} Appellant's appeal is overruled.

{¶19} The judgment of the Muskingum County Court is affirmed.

By: Hoffman, P.J.

Gwin, J. and

Farmer, J. concur

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ W. Scott Gwin
HON. W. SCOTT GWIN

s/ Sheila G. Farmer
HON. SHEILA G. FARMER

IN THE COURT OF APPEALS FOR MUSKINGUM COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STEVEN J. CARRELLI

Plaintiff-Appellant

-vs-

DERRICK PETROLEUM

Defendant-Appellee

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JUDGMENT ENTRY

Case No. CT2007-0067

For the reasons stated in our accompanying Memorandum-Opinion, the judgment of the Muskingum County Court is affirmed. Costs assessed to Appellant.

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ W. Scott Gwin
HON. W. SCOTT GWIN

s/ Sheila G. Farmer
HON. SHEILA G. FARMER