IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

THURSTON COUNTY, Appellant, v. JOHN ALTON BURNELL, Respondent.	No. 37660-1-II UNPUBLISHED OPINION

Bridgewater, J. — John Alton Burnell stores numerous vehicles on his property that were found to be a public nuisance. He appeals the trial court's order of abatement and order finding him in contempt. We affirm.

FACTS

For the past several years, Thurston County (County) and Burnell have been embroiled in a land use dispute, in which the County has sought to clear numerous vehicles and other items (collectively junk) from Burnell's property. The dispute culminated when the trial court granted the County summary judgment[1] to enjoin Burnell from illegally storing junk on his property. Burnell failed to remove the junk as ordered, and the trial court issued a warrant of abatement. In

[1] Burnell appealed the trial court's decision to grant summary judgment to the County. In an unpublished case, we upheld the summary judgment but remanded for a hearing to determine whether Burnell received proper service of process. *Thurston County v. Burnell*, noted at 122 Wn. App. 1021 (2004). On remand, the trial court found that the County properly served Burnell.

response, Burnell, through his counsel, filed a motion to restrain the abatement.

On March 11, 2008, the trial court denied Burnell's motion to restrain, ruling that (1) people cannot reside in vehicles while on Burnell's property, (2) the County may not remove licensed vehicles until further ruling otherwise, (3) the County may remove junk already found to be illegally stored, (4) and the County must reinspect 11 vehicles to show that they were illegally stored. [2]

Two days later, on March 13, after the County's reinspection, the trial court ruled that one of those 11 vehicles, junk vehicle (JV) 006, was illegally stored and that the County must exclude the other 10 from the abatement. The trial court also found that Burnell was in contempt of its March 11 ruling, but it declined to sanction him unless he continued to defy the ruling in the future.

The County soon arrived at Burnell's property to execute the scheduled abatement and remove the illegally stored junk as the trial court had ordered. But it had difficulty removing that junk because Burnell obstructed its efforts, obstruction for which he was arrested twice. Also, during its attempts to remove Burnell's junk, the County observed three people residing in vehicles on his property.

Burnell asked the trial court to reconsider its order denying his motion to restrain the

[2] The 11 vehicles that the County reinspected were: JV 001 (aka JV 117); JV 002 (aka JV 112); JV 003 (aka JV 111); JV 004 (aka JV 083); JV 005 (aka JV 080); JV 006 (aka JV 078); JV 007 (aka JV 075); JV 008 (aka JV 052); JV 009 (aka JV 047); JV 010 (aka JV 036); and JV 011 (aka JV 004). These 11 vehicles were part of those vehicles that Burnell had sought to restrain from the abatement because he claimed to have licensed them, and thus, he maintains that were no longer illegal junk.

abatement of certain items.[3] On March 28, 2008, the trial court denied Burnell's motion for reconsideration and found him in contempt of its March 11 ruling. Burnell's counsel soon thereafter filed a notice of intent to withdraw, and on April 28, 2008, Burnell filed this pro se appeal.

ANALYSIS

I. Scope of Review

"A party seeking review of a trial court decision reviewable as a matter of right must file a notice of appeal." RAP 5.1(a). Here, Burnell appeals "any and all decisions and determinations about the abatement . . . nuisance, contempt, contract and award of contract in this matter." *See s*pindle. But this court has already upheld the trial court's ruling that Burnell's junk constituted a public nuisance, and Burnell did not challenge below the County's award of contract to clean his property. Based on his otherwise vague notice of appeal, we will only review the two orders that he attached to it: (1) an "order adding additional vehicles to warrant of abatement and order of contempt," and (2) an "order of contempt and order denying defendant's motion for reconsideration." *See s*pindle; CP at 668-70; 745-47 (capitalization omitted).

[3] Burnell filed what amounted to a partial motion for reconsideration because he asked the trial court to reconsider restraining the abatement of only the following property: BV 5, 6, 7-8 (same building), 10, and 13; SW 11; and JV 25, 68, and 69. Although his motion for reconsideration vaguely requested that the trial court also *clarify* what vehicles were licensed and operable, he never asked the trial court to *reconsider* whether JV 006 should be restrained as a licensed and operable vehicle. Therefore, we will not consider JV 006 in reviewing the trial court's denial of his motion for reconsideration.

II. Untimely Appeal

Burnell argues that the trial court erred in ordering the County to abate an additional vehicle because that vehicle was not illegal junk. The County responds that his untimely notice of appeal waived the right to appeal this order. We agree with the County.

RAP 2.2(a)(13) permits a party to appeal a trial court's "final order made after judgment that affects a substantial right." The party who appeals as a matter of right must file notice within 30 days after the trial court enters the decision that the party filing notice wants reviewed. RAP 5.1(a); RAP 5.2(a). Pro se litigants are bound to the same rules of procedure and substantive law as attorneys. *Westberg v. All-Purpose Structures, Inc.*, 86 Wn. App. 405, 411, 936 P.2d 1175 (1997).

Here, the trial court entered its decision finding that Burnell was illegally storing JV 006 on March 13, 2008. Although he filed a motion for reconsideration, that motion did not ask the trial court to reconsider whether JV 006 constituted junk. Instead, that motion for reconsideration only asked the trial court to reconsider its finding that *other* vehicles and items were junk. Because he did not ask the trial court to reconsider finding JV 006 as junk, we decline to toll the order to abate and hold that he had 30 days from March 13, 2008, to appeal the court's order to abate JV 006. *See* RAP 5.1(a). He filed his appeal on April 28, 2008. Thus, his appeal was untimely, and we decline to review the issue.

III. Contempt and Motion for Reconsideration

Burnell next appeals the trial court's order finding him in contempt and the order denying

his motion for reconsideration. We decline to address his procedurally deficient claims because he does not provide any citation to the record, nor any reasoned cites to authority, and he does not challenge any specific findings of fact.

RAP 10.3(a)(5) and (g) requires parties to cite to the record for every factual statement and refer to the findings of fact by number when assigning error to them. Parties must demonstrate why specific findings of the trial court are not supported by the evidence and must cite to the record in support of that argument. *In re Estate of Lint*, 135 Wn.2d 518, 532, 957 P.2d 755 (1998). We can waive some technical violations of the rules where the briefing makes the nature of the challenge perfectly clear, *Daughtry v. Jet Aeration Co.*, 91 Wn.2d 704, 710, 592 P.2d 631 (1979), but the Supreme Court has stated:

> Strict adherence to [RAP 10.3] is not merely a technical nicety. Rather, the rule recognizes that in most cases . . . there is more than one version of the facts. If we were to ignore the rule requiring counsel to direct argument to specific findings of fact which are assailed and to cite to relevant parts of the record as support for that argument, we would be assuming an obligation to comb the record with a view toward constructing arguments for counsel as to what findings are to be assailed and why the evidence does not support these findings. This we will not and should not do.

Lint, 135 Wn.2d at 532. Burnell did not comply with RAP 10.3 because he failed to assign error to *any* of the trial court's specific factual findings and because he failed to cite the record whatsoever. He is a pro se litigant held to the same procedural rules as an attorney. *Westberg*, 86 Wn. App at 411. In the absence of his clear challenge, we therefore treat the trial court's findings as verities on appeal. *Lint*, 135 Wn.2d at 533.

To the extent that Burnell challenges the sufficiency of the evidence for the trial court's

order of contempt and order denying reconsideration, our review is limited to determining whether the findings of fact support the conclusions of law. *State v. Rodgers*, 146 Wn.2d 55, 61, 43 P.3d 1 (2002). In the present case, the trial court's findings of fact do support the conclusions of law. First, regarding the contempt, the trial court found that Burnell obstructed its order of abatement and that he disobeyed its order to stop allowing people to reside in unpermitted structures on his property. These support the conclusion of law that he was in contempt, as RCW 7.21.010(1)(b) defines "[c]ontempt of court" as "intentional . . . [d]isobedience of any lawful judgment, decree, *order*, or process of the court." (Emphasis added). Next, the trial court found that Burnell failed to provide any new facts or authorities that should compel it to reconsider a previous order. This supports its conclusion that his motion for reconsideration is without basis because Thurston County Local Court Rule 59(a)(3) states that the trial court ordinarily denies them "in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence."

Affirmed.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

Bridgewater J.

We concur:

Armstrong, J.

Penoyar, A.C.J.