

Commonwealth of Kentucky
Court of Appeals

NO. 2017-CA-000375-MR

ARTIS ANDERSON

APPELLANT

v. APPEAL FROM CLARK CIRCUIT COURT
HONORABLE WILLIAM G. CLOUSE, JR., JUDGE
ACTION NO. 16-CI-00548

MARY ELLEN REYNOLDS

APPELLEE

OPINION
AFFIRMING

** **

BEFORE: COMBS, KRAMER AND THOMPSON, JUDGES.

THOMPSON, JUDGE: Artis Anderson, *pro se*, appeals from a summary judgment of the Clark Circuit Court in favor of Mary Ellen Reynolds, entitling her, through her guardian/conservator, Robert Horn, to immediate possession of a 2013 Ford F-130 pickup truck, and its title and keys. The judgment further granted costs of \$176 for the filing fee.

Initially, we note that Anderson's brief only marginally complies with Kentucky Rules of Civil Procedure (CR) 76.12, which addresses the form and content for appellate briefs filed in this Court. As noted by the Court in *Hallis v. Hallis*, 328 S.W.3d 694, 696 (Ky.App. 2010), "[a]ll of the rules for preparing a brief before this Court are contained in CR 76.12 or rules cited therein. Lack of a legal education is not an impediment to following these rules." The deficiencies here include failing to provide references to the specific pages of the record on appeal supporting each statement of fact. CR 76.12(4)(c)(iv). Further, the brief fails to show whether the issues were preserved for review. CR 76.12(4)(c)(v). Most problematic, Anderson's brief fails to provide a cogent statement of the case including a chronological summary of the facts and procedural events necessary for this Court to understand the issues. CR 76.12(4)(c)(iv).

"Our options when an appellate advocate fails to abide by the rules are: (1) to ignore the deficiency and proceed with the review; (2) to strike the brief or its offending portions, CR 76.12(8)(a); or (3) to review the issues raised in the brief for manifest injustice only[.]" *Hallis*, 328 S.W.3d at 696. Although we decide to proceed with review, Anderson's failure to comply with CR 76.12 has made it difficult to ascertain the facts and to identify and address the issues raised on appeal.

Much of Anderson's recitation of facts are those developed in other cases involving the parties and this Court has no access to those court records to determine the accuracy of those facts. However, with those limitations noted and as fully as possible, we recite the facts as we understand them to be.

In November 2015, Mary Ellen was found to be wholly disabled in managing her personal and financial affairs by a Woodford County jury. The Woodford District Court appointed the Cabinet for Health and Family Services as her guardian and conservator. Mary Ellen's guardian then filed a petition in the Jessamine Circuit Court to annul Mary Ellen's and Artis's May 2015 marriage. After a hearing, the marriage was annulled.¹ Robert Horn was later appointed as Mary Ellen's guardian/conservator.

On December 12, 2016, the present action was commenced seeking a judgment of replevin against Artis ordering him to return the 2013 Ford F-150 titled in Mary Ellen's name. Artis did not file an answer but, instead, on January 9, 2016, filed a MOTION FOR AN INDEFINITE EXTENSION OF TIME TO ANSWER. In that motion, among his rambling words, was the allegation that he was seeking federal prosecution of Horn (and it appears state court judges and state agents and employees who he alleged had been co-conspirators with Horn).

¹ Artis states in his brief that he sued the judges presiding over the guardianship proceeding and the annulment proceeding in federal court. This Court is unaware if that statement is true or the status of that case.

On January 30, 2017, a motion for summary judgment was filed on Mary Ellen’s behalf and the parties appeared in court. The circuit court judgment states that Artis “admitted and confirmed that the Plaintiff’s vehicle was titled in her name and not his[.]”

Artis presents three issues in his brief. First, he contends that the circuit court could not enter “judgment only on the complaint and argument of counsel.” CR 56.03 provides that summary judgment “shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, stipulations, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.”

Mary Ellen’s and Artis’s marriage was annulled in the Jessamine Circuit Court and Artis did not deny that he had possession of the truck that was titled in Mary Ellen’s name.² Summary judgment was appropriately granted.

Artis presents two remaining issues, neither of which is properly before this Court. He argues that the Woodford District Court did not comply with Kentucky Statutes when it appointed a guardian over Mary Ellen in 2015, and that

² Artis did not designate a copy of the hearing to be included on the record on appeal. Although he does not appear to deny that he admitted his name was not on the title, we note that when the complete record is not before this Court, we “must assume that the omitted record supports the decision of the trial court.” *Commonwealth v. Thompson*, 697 S.W.2d 143, 145 (Ky. 1985).

his marriage to Mary Ellen could not be annulled by the Jessamine Circuit Court in 2015. While Artis makes various rambling arguments concerning the validity of these earlier court orders, this appeal is from the Clark Circuit Court's February 2, 2017 order and judgment. The remaining issues presented by Artis are not properly before this Court.

The order and judgment of the Clark Circuit Court is affirmed.

ALL CONCUR.

BRIEFS FOR APPELLANT:

Artis Anderson, *Pro se*
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BRIEF FOR APPELLEE:

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Nicholasville, Kentucky