

**SUCCESSION OF
BERNADETTE GAINES
GILBERT**

VERSUS

* **NO. 2016-CA-0609**
* **COURT OF APPEAL**
* **FOURTH CIRCUIT**
* **STATE OF LOUISIANA**

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CONSOLIDATED WITH:

**SUCCESSION OF BERNADETTE
GAINES GILBERT**

VERSUS

CONSOLIDATED WITH:

NO. 2017-CA-0147

BROUSSARD, J., PRO TEMPORE DISSENTS WITH REASONS

I would not consider the instant appeal.

First, I would give great consideration to the appellant's status as *pro se* litigant throughout the sensitive and contentious history of this litigation. The appellant has shown a considerable effort as a *pro se* litigant to perfect his appeal and epitomize his legal rights. Not only does the appellant have to show this Court that he is assertive in his desire to litigate and protect his rights, which has been demonstrated herein; he must show this Court that he is worthy of a legal resolution in his favor, but needs to be aware that the obligation imposed upon him as a *pro se* litigant he must assume the responsibility for his lack of knowledge of the law. See *Food Perfect, Inc. v. United Fire and Cas. Co.*, 2016-0145, (La. 1/18/13) 106 So.3d. 107. I agree that the majority is correct in also looking to *In re Med. Review Panel Claim of Scott*, 2016-0145, p.15 (La. App. 4 Cir. 12/14/16), 206 So. 3d 1049, 1058, by stating:

We recognize that *pro se* plaintiffs should generally be given more latitude than plaintiffs represented by counsel

because they lack formal training in the law and rules of procedure. See *Dowl v. Redi Care Home Health Ass'n*, 09–1300, 09–1301, pp. 16–17 (La. App. 4 Cir. 2/3/10), 31 So.3d 596, 608. Nevertheless, a pro se litigant assumes responsibility for her lack of knowledge of the law, and must carry her burden of proof to be entitled to relief.

The appellant offers more than twenty assignments of error and twelve issues of review for this Court’s analysis. The core of the appellant’s argument is that the trial court abused its discretion in sentencing him to eleven days in jail finding him in contempt of court¹, thus violating his due process rights. Although he argues that his Sixth Amendment rights were violated, his dispute is not properly raised in the instant appeal.

Critically, the appellant fails to identify the precise judgment from which he seeks relief. The timeframe within which to appeal his incarceration for contempt has lapsed and his appeal is untimely. The length of time between the judgment and the appeal suggests that the appellant abandoned his appeal and that he failed to pursue his rights. Failure of a *pro se* litigant to comply with established court procedures, timeframes or standards is fatal to the appellant’s cause since a pro se litigant is presumed to be responsible for his lack of knowledge of the law. *Food Perfect, Inc. v. United Fire and Cas. Co.*, 2016-0145 (La. 1/18/13) 106 So.3d 107.

I am unable to discern from the appellate brief either the judgment from which the appellant seeks this Court’s review, or the relief that the appellant seeks. He has failed to comply with Rule 2-12.4 of the Uniform Rules, Courts of Appeal. “According to Uniform Rules, Courts of Appeal Rule 2-12.4, an argument on an assignment of error in a brief shall include a suitable reference by volume and page to the place in the record which contains the basis for the alleged error. This Court may disregard an argument on that error in the event suitable reference to the

¹ On May 6, 2016, the trial court ordered that the appellant be incarcerated after finding him guilty of direct and constructive contempt of court. His consecutive sentences placed him in the custody of the Orleans Parish Sheriff’s Office to serve in Orleans Parish Prison for eleven days.

record is not made....” *State v. Rouser*, 14-0613, p. 18 (La. App. 4 Cir. 1/7/15), 158 So.3d 860, 873, n. 13; Uniform Rules, Courts of Appeal Rule 2-12.4(A)(4) and (7).

The appellant’s assignments of error are not properly briefed and/or proffered. I do not think this Court is in a position to affirm a judgment or judgment(s) not properly identified in the record by the appellant and not timely appealed.