

NOT DESIGNATED FOR PUBLICATION

SUCCESSION OF	*	NO. 2016-CA-0609
BERNADETTE GAINES		
GILBERT	*	
		COURT OF APPEAL
	*	
		FOURTH CIRCUIT
	*	
		STATE OF LOUISIANA

* * * * *

CONSOLIDATED WITH:

**SUCCESSION OF BERNADETTE
GAINES GILBERT**

CONSOLIDATED WITH:

NO. 2017-CA-0147

APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2012-01923, DIVISION "C"
Honorable Sidney H. Cates, Judge

* * * * *

Judge Daniel L. Dysart

* * * * *

(Court composed of Judge Daniel L. Dysart, Judge Regina Bartholomew-Woods,
Judge Terrel J. Broussard, Pro Tempore)

BROUSSARD, J., PRO TEMPORE DISSENTS WITH REASONS

Dean E. Gilbert
P. O. Box 19801
New Orleans, LA 70179-0801
PLAINTIFF/APPELLANT/IN PROPER PERSON

Thomas J. Cortazzo
BALDWIN HASPEL BURKE & MAYER
1100 Poydras Street, Suite 3600
New Orleans, LA 70163
COUNSEL FOR DEFENDANT/APPELLEE

AFFIRMED

NOVEMBER 8, 2017

Dean Gilbert seeks review of two judgments rendered by the trial court. In No. 2016-0609, appellant seeks review of a Judgment of Possession rendered by the trial court in the proceedings relative to his mother's succession. In No. 2017-0147, appellant seeks review of a judgment finding him in both direct and constructive contempt of court. For the reasons that follow, we affirm both judgments.

Bernadette Gaines Gilbert died intestate on December 9, 2011, in Orleans Parish. Appellant petitioned the court to be appointed administrator of her estate, which the trial court granted. On April 26, 2012, appellant's two brothers, Dwight and Darryl Gilbert, moved to have the appointment revoked. The trial court subsequently appointed Dwight Gilbert as the administrator.

As administrator, Dwight filed a petition for possession and a sworn descriptive list of the estate's assets and liabilities. In May of 2012, the trial court signed a partial judgment of possession. During the course of several years, other

accountings were filed, culminating in a Judgment of Final Possession signed on October 12, 2015. This judgment is the basis for the appeal in No. 2016-0609.

During the course of the litigation, appellant filed a multitude of pleadings, all containing abusive and discourteous language toward the judges of Civil District Court and the law firm representing the succession. Several motions to recuse the various judges involved in this case (duty judges and judges who replaced prior judges on the bench) were filed by appellant.¹ As a result of the abusive and discourteous language contained in his court filings, as well as contact with members of the district court's staff, the court ordered appellant to only communicate with the court through written pleadings, and to stop harassing court personnel. The court also advised appellant to cease using abusive language, giving appellant specific examples of what type of language was prohibited.

In April 2015, the court held a contempt hearing based on appellant's continued use of insulting, abusive, discourteous language in his pleadings, as well as his direct contact with court staff. The court found him in contempt and sentenced him to 48 hours in Orleans Parish Prison, but suspended the sentence.

In May 2015, the trial court again found appellant in contempt of court. The judgment of contempt is the basis for the consolidated appeal in this matter, 2017-0147.

¹ None of the motions to recuse in the trial court involved Judge Bartholomew-Woods; however, appellant did file a motion to recuse Judge Bartholomew-Woods with this Court. Judge Bartholomew-Woods left the bench prior to oral argument, the motion was heard by the remaining two members of this panel, and denied prior to oral argument on the merits.

DISCUSSION:

First, we consider appellant's *pro se* status. We recognize that litigants appearing *pro se* should generally be given wide latitude, as they are at a disadvantage having no formal training in the law and rules of procedure. *See, In Re: Medical Review Panel Claim of Scott*, 16-0145, pp. 14-15 (La.App. 4 Cir. 12/14/16), 206 So.3d 1049, 1058. Nevertheless, a *pro se* litigant assumes responsibility for his lack of knowledge of the law, and must carry his burden of proof to be entitled to relief. *Id.*

Addressing appellant's appeal in No. 2016-0609, we note that he has made 25 assignments of error and 12 issues of review. While his assignments of error clearly state his criticism of the trial court's ruling, his brief does not contain any argument, does not cite to any jurisprudence to support his position, and is generally lacking in substance. Thus, although this Court has carefully read his brief and has thoughtfully considered his oral argument, we cannot grant him the relief he seeks. Because of the shortcomings of his brief, we cannot find merit in his arguments.

Uniform Rules – Courts of Appeal 2-12.4 B(4) provides that “[a]ll assignments of error and issues for review must be briefed. The court may consider as abandoned any assignment of error or issue for review which has not been briefed.” Accordingly, this Court must affirm the ruling of the trial court.

Appellant's brief filed in connection with No. 2017-0147, does contain argument sufficient for this Court to consider two of his assignments of error.

First, appellant argues that he was denied a public trial. A reading of the transcript on the day of the underlying ruling reveals that the trial court closed the proceedings as the record in this case had been sealed. The decision to seal the record was never appealed, and therefore became final long before the subject contempt hearing. We find no merit to appellant's complaint.

Appellant also complains that he was not aware of the charges against him. The record in this case, including transcripts of the various hearings during which the trial court cautioned appellant about his use of discourteous, harassing, and abusive language makes it clear that appellant had clear knowledge of what the trial court considered contemptuous. Despite the numerous warnings issued by the trial court, appellant continued to file offensive pleadings and to personally contact court staff.

The judgment on the second rule for contempt indicates that the trial court considered the entire record, specifically its own Order to Show Cause on Rule for Contempt, the prior Judgment of Contempt, and emails to members of the court's staff. The trial court found appellant's behavior to be willful and intentional.

Based on our review of the complete record of this case, we cannot say that the trial court erred in finding appellant in contempt of court. To the trial court's credit, it is apparent that it too gave appellant much latitude in the proceedings below.

For the reasons assigned, we affirm both judgments of the trial court.

AFFIRMED