



**In the Missouri Court of Appeals
Eastern District
DIVISION THREE**

ST. LOUIS COUNTY,)	No. ED108623
)	
Respondent,)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	Municipal Division
)	
)	Honorable Craig J. Concannon
JANET SHANKLIN,)	
)	
Appellant.)	Filed: November 17, 2020

The defendant, Janet Shanklin, appeals *pro se* the judgment and sentence entered by the Circuit Court of St. Louis County, Municipal Division, following her conviction by a jury of three counts of violation of orders of protection and one count of harassment. The trial court sentenced Shanklin to 14 days of confinement each on counts II and III, to be served consecutively in the county jail. On counts IV and V, the court sentenced Shanklin to 14 days of confinement with execution suspended and two years of probation for each. Shanklin challenges her conviction on numerous bases. Her failure to comply with the appellate briefing standards of Missouri Supreme Court Rule 84.04 is so substantial, however, that her brief preserves nothing for our review.¹ Therefore, we dismiss the appeal.

¹ All rule references are to Missouri Supreme Court Rules (2020).

Factual and Procedural Background

The charges against Shanklin arose from incidents involving her next-door neighbor that occurred from July 15, 2013 through December 20, 2016. The neighbor obtained multiple orders of protection against Shanklin, and police were called over 300 times to investigate complaints against her.

St. Louis County charged Shanklin with 28 violations of county ordinances. The trial court joined five charges and confined the trial to the following: (1) count I, violation of orders of protection, which involved the display of a firearm on July 15, 2013; (2) count II, harassment, occurring on April 10, 2016; (3) count III, violation of orders of protection on November 11, 2016, which involved Shanklin “stalking” the neighbor, as he described it, and talking and singing at him; (4) count IV, violation of orders of protection, which involved the presence of floodlights on Shanklin’s property shining into her neighbor’s house on November 28, 2016; and (5) count V, violation of orders of protection, which involved the presence of floodlights on Shanklin’s property shining into her neighbor’s house on December 20, 2016. A series of attorneys, both paid and appointed, represented Shanklin, including the appointed counsel who represented her at trial.

Shanklin testified on her own behalf. She acknowledged that she knew of each order of protection against her, and that she had floodlights on her property in violation of the orders. The jury acquitted Shanklin on count I, which involved the display of a firearm, and convicted her on the other four charges, namely three counts of violation of protective orders and one count of harassment.

The trial court sentenced Shanklin to 14 days of confinement in the county jail on count II and on count III, to be served consecutively, and to 14 days of confinement in the

county jail with execution suspended and two years of probation on count IV and on count V. Shanklin appeals.

Discussion

Shanklin presents twelve points on appeal. Her failure to comply with the appellate briefing standards of Missouri Supreme Court Rule 84.04 is so substantial, however, that her brief preserves nothing for our review.

For appeals of criminal cases, Rule 30.06(a) provides that “[t]he form and contents of the briefs shall contain the material prescribed by Rule 84.04 and Rule 84.06.” Rule 84.04 sets forth the requirements for all briefs filed in this Court. *State v. Bell*, 266 S.W.3d 287, 288 (Mo. App. E.D. 2008). When, as here, an appellant appears *pro se* in an appeal, she is still generally held to the same standard as a licensed attorney, and so she must substantially comply with the requirements of Rule 84.04. *City of St. Louis v. Hill*, 488 S.W.3d 156, 159 (Mo. App. E.D. 2016). Compliance with Rule 84.04 is mandatory to ensure that appellate courts do not become advocates by speculating on facts and arguments that have not been asserted. *Campbell v. Woodland Lakes Trusteeship, Inc.*, 591 S.W.3d 511, 512 (Mo. App. E.D. 2019). We prefer to decide cases on the merits when possible, and we will do so as long as we can ascertain the gist of an appellant’s arguments, notwithstanding minor shortcomings in briefing. *Unifund CCR Partners v. Myers*, 563 S.W.3d 740, 743 (Mo. App. E.D. 2018). “However, if the brief is so deficient that we cannot competently rule on the merits without first reconstructing the facts and supplementing the appellant’s legal arguments, then nothing is preserved for review and we must dismiss the appeal.” *Id.*

Rule 84.04(a) states that an appellant’s brief shall contain:

- (1) A detailed table of contents, with page references, and a table of cases (alphabetically arranged), statutes, and other authorities cited, with reference to the pages of the brief where they are cited;
- (2) A concise statement of the grounds on which jurisdiction of the review court is invoked;
- (3) A statement of facts;
- (4) The points relied on;
- (5) An argument, which shall substantially follow the order of the points relied on; and
- (6) A short conclusion stating the precise relief sought.

Rule 84.04(b) through (i) further details what each of these requirements should include. *Bell*, 266 S.W.3d at 289.

Shanklin’s brief violates Rule 84.04 in multiple respects, leaving nothing for appellate review. *In re Estate of Hanks*, 589 S.W.3d 604, 606 (Mo. App. E.D. 2019). Although we are mindful of the challenges that *pro se* litigants face, judicial impartiality, judicial economy, and fairness to all parties dictate that we do not grant *pro se* appellants preferential treatment regarding compliance with the rules of appellate procedure. *Midtown Home Improvements, Inc. v. Taylor*, 578 S.W.3d 793, 796 (Mo. App. E.D. 2019). We cannot reach the merits of the appeal without becoming Shanklin’s advocate by reconstructing the facts of the case, speculating about the possible claims of error, and crafting a legal argument on her behalf. *Campbell*, 591 S.W.3d at 512.

First, under Rule 84.04(b), “[t]he jurisdictional statement shall set forth sufficient factual data to demonstrate the applicability of the particular provision or provisions of Article V, section 3 of the Constitution upon which jurisdiction is sought to be predicated.”

Shanklin’s jurisdictional statement fails to state the legal basis for this Court’s jurisdiction.

Second, under Rule 84.04(c), an appellant’s brief must contain “a fair and concise statement of the facts relevant to the questions presented for determination without argument.” Shanklin’s statement of facts fails to detail the basic factual background

concerning the underlying offenses necessary to resolve her claims on appeal. Instead, she discusses, in no particular order, the trial court's joinder of the five offenses; the plea deals she rejected; trial counsel's efforts to withdraw his representation; her efforts to achieve her neighbor's arrest in 2010; and the impropriety of the orders of protection that her neighbor obtained against her, purportedly under the federal Violence Against Women Act. Ultimately, Shanklin fails to provide "an immediate, accurate, complete and unbiased understanding of the facts of the case." *Hamilton v. Archer*, 545 S.W.3d 377, 379 (Mo. App. E.D. 2018) (quoting *Kuenz v. Walker*, 244 S.W.3d 191, 193 (Mo. App. E.D. 2007)).

Third, Shanklin sets forth twelve points relied on, all of which fail to comply with Rule 84.04(d)(1). Each point must: "(A) Identify the trial court ruling or action that the appellant challenges; (B) State concisely the legal reasons for the appellant's claim of reversible error; and (C) Explain in summary fashion why, in the context of the case, those legal reasons support the claim of reversible error." Rule 84.04(d)(1). Points relied on should be in substantially the following form: "The trial court erred in [*identify the challenged ruling or action*], because [*state the legal reasons for the claim of reversible error*], in that [*explain why the legal reasons, in the context of the case, support the claim of reversible error*]." *Id.* (emphasis in original). This rule is not a judicial word game or a matter of hypertechnicality on the part of appellate courts. *Hanks*, 589 S.W.3d at 606. Rather, the rule serves to notify the opposing party of the precise matters challenged, and to inform our Court of the issues presented for review. *Hamilton*, 545 S.W.3d at 380.

Here, Shanklin simply asserts that the trial court erred in various ways, such as by depriving her of effective assistance of counsel, finding her guilty, imposing probation, granting St. Louis County's motion for joinder for the five charges tried, and denying her due

process. Shanklin’s points relied on fail to concisely state the legal reasons for her claim of reversible error, and to explain why those legal reasons, in the context of the case, support her claim. Rule 84.04(d)(1); *Hamilton*, 545 S.W.3d at 380. Given that Rule 84.04(d)(1) provides a template, appellants simply have no excuse for failing to submit adequate points relied on. *Scott v. King*, 510 S.W.3d 887, 892 (Mo. App. E.D. 2017). Further, Shanklin often asserts multiple errors within a single point. Multifarious points relied on do not comply with Rule 84.04(d) and preserve nothing for our review. *Campbell*, 591 S.W.3d at 513.

Next and most importantly, Shanklin’s argument section does not comply with Rule 84.04(e). Rule 84.04(e) requires an appellant to restate the point relied on at the beginning of the argument section for that point. Shanklin omits this requirement and introduces her argument section for each point—other than point one, which is not briefed at all—with a heading such as “Point 4 – Count II Conviction & Reversible Error” or “Point 10 – Wrongful Conviction.” Moreover, to properly brief a case, an appellant must develop the issue raised in the point relied on in the argument section of her brief. *Hanks*, 589 S.W.3d at 606. Overall, Shanklin’s argument provides abstract pronouncements of law and conclusions that are not developed, lack legal analysis and supporting rationale, and are not linked to specific evidence. *Midtown Home Improvements*, 578 S.W.3d at 797-98. Shanklin completely fails to develop an argument explaining how the principles of law and the facts of the case interact. *Campbell*, 591 S.W.3d at 513. For example, the argument in point twelve simply states, “Defendant makes a claim of ineffective assistance and trial error which violate state and federal constitutional law. Defendant seeks de novo review by the Court.”

Shanklin’s arguments do not explain how the principles of law and the facts of the case support a claim of reversible error. When a party fails to support a contention with

argument beyond conclusions, we consider the point abandoned. *Prosser v. State*, 243 S.W.3d 496, 497 (Mo. App. E.D. 2008). To attempt to review Shanklin’s points on appeal, we would have to unnecessarily reconstruct her points, scour the record for facts to support her contentions, and research the existence of applicable authority to support these contentions. *Id.* at 498. To do so would require us to act as an advocate for Shanklin, which we cannot do. *Bell*, 266 S.W.3d at 289. Addressing arguments that an appellant did not sufficiently develop would risk creating poor precedent and manipulating the adversarial process. *Hamilton*, 545 S.W.3d at 381.

“For each claim of error, the argument shall also include a concise statement describing whether the error was preserved for appellate review; if so, how it was preserved; and the applicable standard of review.” Rule 84.04(e). Shanklin’s brief fails to include the required preservation statement and standard of review for any of her points. At the end of her brief, Shanklin has placed a section titled “Standard of Review,” wherein she requests *de novo* review, and cites Louisiana cases for a “manifest-error” standard that she seems to suggest we should use to reject the factfinder’s implicit credibility determinations.

In addition, Shanklin’s legal file fails to comply with Rule 81.12, adding to the difficulty of review. In appeals of criminal cases, “[t]he legal file shall be prepared as provided in Rule 81.12, except that the legal file shall always include, in chronological order: the indictment or information on which defendant was tried” Rule 30.04(b). Here, the legal file contains documents in random order, and lacks essential documents such as the charging documents and jury instructions. Further, Shanklin has not included, as part of the record on appeal, the county ordinances of which the jury found her guilty. A municipal

ordinance may be included in the transcript on appeal or filed separately with the Court as an exhibit. *Hill*, 488 S.W.3d at 160 n.6.

Finally, we acknowledge the receipt of photographic exhibits submitted the morning of oral argument, which this Court permitted Shanklin to file out of time. However, Rule 81.16(b) requires that a party depositing exhibits with the appellate Court include a list containing a description of each exhibit deposited. No such list accompanies the exhibits. It also appears that Shanklin submitted additional materials that were not admitted into evidence in the trial court, and that she assembled the photographic exhibits into displays with additional explanation that was not admitted into evidence at trial. On appeal, we consider only the record made before the trial court, and we cannot consider evidence extraneous to the record. *Stucker v. Stucker*, 558 S.W.3d 119, 122 (Mo. App. E.D. 2018).

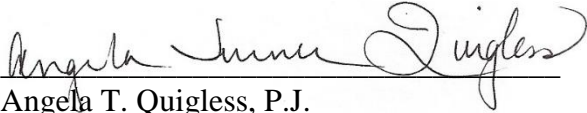
We have discretion to review an appeal despite the appellant's failure to comply with Rule 84.04. *Prosser*, 243 S.W.3d at 498. However, we will not exercise this discretion when, as here, the failure to comply with the technical requirements of Rule 84.04 substantially impedes our disposition on the merits. *Id.* Because it fails so substantially to comply with Rule 84.04, Shanklin's brief is inadequate to allow us to conduct a meaningful review without improperly advocating for her. *Id.* We should not be expected either to decide the case on the basis of inadequate briefing or to undertake additional research and a search of the record to cure the deficiency. *Id.* (citing *Thummel v. King*, 570 S.W.2d 679, 686 (Mo. banc 1978)).

As mentioned above, "the function of an appellate court is not to serve as an advocate for the parties on appeal, and this Court must carefully safeguard its role as a neutral adjudicator." *Hamilton*, 545 S.W.3d at 381. Addressing Shanklin's claims on appeal would

send the implicit message that substandard briefing is acceptable, which it is not. *Scott*, 510 S.W.3d at 892.

Conclusion

Shanklin's failure to comply with the requirements of Rule 84.04 impedes our ability to reach a disposition on the merits to such an extent that we cannot conduct a meaningful review without improperly advocating for her. Accordingly, we dismiss the appeal.


Angela T. Quigless, P.J.

Kurt S. Odenwald, J., and
James M. Dowd, J., concur.