

FILED

09/29/2023

Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs July 3, 2023

IN RE CONSERVATORSHIP OF TARA YOUNG

Appeal from the Circuit Court for Davidson County (Probate Division)

No. 22P1043

Amanda McClendon, Judge

No. M2022-01448-COA-R3-CV

This case involves an appeal from the trial court's appointment of a permanent conservator to oversee the person and property of the appellant, Tara Young. Ms. Young's brother, Daniel Wood, petitioned for a conservatorship after he discovered that Ms. Young had been admitted to the Vanderbilt Adult Psychiatric Hospital following a car accident. After several months of proceedings and a two-day trial, the trial court concluded that a conservatorship was warranted and appointed a conservator for the person and property of Ms. Young. The trial court further determined that medical decisions should remain vested with Ms. Young. Ms. Young timely appealed. On appeal, Mr. Wood did not file a brief in response to Ms. Young's appellate brief. Upon review, we conclude that Ms. Young's brief lacks a statement of the issues presented for review and therefore does not comport with Tennessee Rule of Appellate Procedure 27(a)(4). Inasmuch as Ms. Young has not presented any issues on appeal as required by Rule 27, we dismiss this appeal.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

THOMAS R. FRIERSON, II, J., delivered the opinion of the court, in which FRANK G. CLEMENT, JR., P.J., M.S., and ARNOLD B. GOLDIN, J., joined.

Tarsila Crawford and James Widrig, Brentwood, Tennessee, for the appellant, Tara Young.

MEMORANDUM OPINION¹

¹ Tennessee Court of Appeals Rule 10 provides as follows:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

I. Failure to Comply with Tennessee Rule of Appellate Procedure 27

Ms. Young, by counsel, has filed a brief that does not include a statement of the issues presented for review. As a threshold matter, we address, *sua sponte*, Ms. Young's failure to comply with the Tennessee Rules of Appellate Procedure and the rules of this Court. Tennessee Rule of Appellate Procedure 27 succinctly and clearly outlines those elements required for a brief on appeal:

(a) Brief of the Appellant. The brief of the appellant shall contain under appropriate headings and in the order here indicated:

- (1) A table of contents, with references to the pages in the brief;
- (2) A table of authorities, including cases (alphabetically arranged), statutes and other authorities cited, with references to the pages in the brief where they are cited;

* * *

- (4) A statement of the issues presented for review;
- (5) A statement of the case, indicating briefly the nature of the case, the course of proceedings, and its disposition in the court below;
- (6) A statement of facts, setting forth the facts relevant to the issues presented for review with appropriate references to the record;
- (7) An argument, which may be preceded by a summary of argument, setting forth:
 - (A) the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record (which may be quoted verbatim) relied on; and
 - (B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues)

- (8) A short conclusion, stating the precise relief sought.

Similarly, Tennessee Court of Appeals Rule 6 provides in pertinent part:

- (a) Written argument in regard to each issue on appeal shall contain:
 - (1) A statement by the appellant of the alleged erroneous action of the trial court which raises the issue and a statement by the appellee of any action of the trial court which is relied upon to correct the alleged error, with citation to the record where the erroneous or corrective action is recorded.
 - (2) A statement showing how such alleged error was seasonably called to the attention of the trial judge with citation to that part of the record where appellant's challenge of the alleged error is recorded.
 - (3) A statement reciting wherein appellant was prejudiced by such alleged error, with citations to the record showing where the resultant prejudice is recorded.
 - (4) A statement of each determinative fact relied upon with citation to the record where evidence of each such fact may be found.
- (b) No complaint of or reliance upon action by the trial court will be considered on appeal unless the argument contains a specific reference to the page or pages of the record where such action is recorded. No assertion of fact will be considered on appeal unless the argument contains a reference to the page or pages of the record where evidence of such fact is recorded.

In the instant case, although Ms. Young's appellate brief advances arguments challenging and objecting to the trial court's appointment of a conservator, her brief fails to include a statement of the issues for our review as required by Tennessee Rule of Appellate Procedure 27(a)(4).

As this Court has previously explained:

The requirement of a statement of the issues raised on appeal is no mere technicality . . . Most important, this Court is not charged with the responsibility of scouring the appellate record for any reversible error the

trial court may have committed. On appeal, “[r]eview generally will extend only to those issues presented for review.” Tenn. R. App. P. 13.

Owen v. Long Tire, LLC, No. W2011-01227-COA-R3-CV, 2011 WL 6777014, at *4 (Tenn. Ct. App. Dec. 22, 2011) (footnote omitted).

Our Supreme Court has recently explained that an appellant’s issues may be deemed waived when the appellant fails to present issues for review on appeal in proper form or supported by substantive argument:

This Court previously has made clear that, to be properly raised on appeal, an issue must be presented in the manner prescribed by Rule 27 of the Tennessee Rules of Appellate Procedure. *Hodge v. Craig*, 382 S.W.3d 325, 334 (Tenn. 2012). As this Court explained in *Hodge*, “[r]ather than searching for hidden questions, appellate courts prefer to know immediately what questions they are supposed to answer” and, consequently, “[a]ppellate review is generally limited to the issues that have been presented for review.” *Id.* This Court further explained in *Hodge* that an issue may be deemed waived when it is argued in the brief but is not designated as an issue in accordance with Rule 27(a)(4). It also may be deemed waived when it has been expressly raised as an issue, but the brief fails to include an argument satisfying the requirements of Rule 27(a)(7). *Id.* at 335.

City of Memphis v. Edwards by & Through Edwards, ___ S.W.3d ___, ___, No. W2022-00087-SC-R11-CV, 2023 WL 4414598, at *2 (Tenn. July 5, 2023) (emphasis added). In *City of Memphis*, the Supreme Court further noted that this Court

repeatedly has recognized the importance of properly raising an issue on appeal and the consequence of a failure to comply with the requirements of Rule 27. Indeed, in a recent opinion including two members of the panel in this case, the Court of Appeals similarly emphasized the importance of compliance with Rule 27 and found a waiver of the issue due to non-compliance:

The contents of appellate briefs are governed by Rule 27 of the Tennessee Rules of Appellate Procedure, which requires an appellant’s brief to list “[a] statement of the issues presented for review” Tenn. R. App. P. 27(a)(4). The statement of the issues is vitally important to the appeal as it provides this Court with the questions that we are asked to answer on review. The statement is also significant because our “[a]ppellate review is generally limited” to those issues listed in it. *Hodge v. Craig*, 382 S.W.3d 325, 334 (Tenn. 2012) (citing Tenn. R. App. P. 13(b)). Indeed, “[c]ourts have

consistently held that . . . [a]n issue not included [in the statement of the issues] is not properly before the Court of Appeals.” *Hawkins v. Hart*, 86 S.W.3d 522, 531 (Tenn. Ct. App. 2001). Accordingly, appellants should endeavor to frame each issue “as specifically as the nature of the error will permit,” *Hodge*, 382 S.W.3d at 335 (citing *Fahey v. Eldridge*, 46 S.W.3d 138, 143-44 (Tenn. 2001); *State v. Williams*, 914 S.W.2d 940, 948 (Tenn. Crim. App. 1995)), as this Court is not required to “search[] for hidden questions” in appellants’ briefs. *Hodge*, 382 S.W.3d at 334 (citing Bryan A. Garner, *Garner on Language and Writing* 115 (2009); Robert L. Stern, *Appellate Practice in the United States* § 10.9, at 263 (2d ed. 1989)). Having failed to include as an issue whether the trial court erred when it granted the DSW Trust #2’s motion to dismiss before fully considering Wife’s motion for leave to amend the complaint, Wife has waived this issue.

Waddell v. Waddell, No. W2020-00220-COA-R3-CV, 2023 WL 2485667, at *9, n.8 (Tenn. Ct. App. Mar. 14, 2023) (alterations in original).

Id.

In the instant case, we conclude that Ms. Young’s appellate brief is significantly deficient in that it fails to designate any issues for this Court to review in accordance with Tennessee Rule of Appellate Procedure 27(a)(4). Although the brief contains a table of contents, table of authorities, statement of facts, and argument section, there is no section, title, or other designation anywhere in the brief signifying any specific issue presented for this Court’s review on appeal. As stated above, this Court is not required to search “for hidden questions” in appellate briefs. We find no cause for exercising our discretion to suspend the requirements and provisions of this Court’s rules. *See Bean v. Bean*, 40 S.W.3d 52, 54 (Tenn. Ct. App. 2000) (“For good cause, we may suspend the requirements or provisions of [the Rules of Appellate Procedure] in a given case. However, the Supreme Court has held that it will not find this Court in error for not considering a case on its merits where the plaintiff did not comply with the rules of this Court.” (citing *Crowe v. Birmingham & N.W. Ry. Co.*, 156 Tenn. 349 (1928))). Therefore, we conclude that any issues that Ms. Young may have intended to raise on appeal have been waived due to her failure to comply with Tennessee Rule of Appellate Procedure 27. We accordingly dismiss the appeal.

II. Conclusion

For the foregoing reasons, Ms. Young's issues on appeal are deemed waived, and this appeal is dismissed. The case is remanded to the trial court for collection of costs assessed below. Costs on appeal are taxed to the appellant, Tara Young.

s/Thomas R. Frierson, II
THOMAS R. FRIERSON, II, JUDGE