IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON
February 7, 2023 Session

BETTY FRY ET AL. v. NANCY NEELY ET AL.

Appeal from the Chancery Court for Shelby County
No. CH-20-0533-3 JoeDae L. Jenkins, Chancellor

No. W2021-00870-COA-R3-CV

After the trial court issued a temporary injunction affirming a trust's appointment of a new trustee, the former trustee's attorney in other matters sent a letter to financial institutions holding trust assets. The letter stated that the attorney represented the trust, construed the trial court's order as being without factual basis or legal authority, and requested the institutions freeze the trust's assets. Trust beneficiaries and the new trustee brought a motion to hold the former trustee and the attorney in civil contempt. Finding that the former trustee was unaware of the letter, but that the attorney meant the letter to thwart the efforts of the new trustee in violation of the trial court's order, the trial court granted the motion only as to the attorney, who was ordered to pay attorney's fees related to remedying the effects of the letter. Discerning no reversible error in the trial court's judgment, we affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed and Remanded

J. STEVEN STAFFORD, P.J., W.S., delivered the opinion of the court, in which ARNOLD B. GOLDIN and CARMA DENNIS MCGEE, JJ., joined.

Richard W. Parks, Memphis, Tennessee, Pro se.

Richard S. Townley, Memphis, Tennessee, for the appellee Randall J. Fishman, Trustee.

Kirk A. Caraway, Memphis, Tennessee, for the appellees, Betty Fry, Vera Poag, and Henry C. Ellis, IV.

OPINION

I. FACTUAL AND PROCEDURAL BACKGROUND

This case arose at the end of a lengthy dispute regarding which of several beneficiaries to the Henry C. Ellis, III revocable living trust ("the Trust") was to be named the trustee. On May 6, 2020, Petitioners/Appellees Betty Fry, Vera Poag, and Henry C. Ellis, IV (collectively, "Petitioners") brought a petition before the Shelby County Chancery Court ("the trial court") seeking to affirm their removal of the previous trustee, Nancy Neely, and their subsequent appointment of Respondent/Appellee Randall J. Fishman ("Trustee Fishman" and together with Petitioners, "Appellees").[1] The petition also sought to enjoin Ms. Neely from making any transfers, distributions, or payments with the Trust's assets. After a May 7, 2020 hearing, the trial court issued a temporary restraining order prohibiting the transfer of the Trust's assets and agreeing to set a date to hear the underlying questions raised by the petition.

The trial court heard the matter on September 1, 2, 9, and 10, 2020. Referring to the terms of the Trust, the trial court found that Petitioners had effectively removed Ms. Neely as trustee and appropriately substituted Trustee Fishman. The trial court also found that Petitioners had shown that irreparable injury would result if injunctive relief was not awarded to prevent unauthorized transfer, distribution, or encumbrance of the Trust's real property and funds, and that no party would be harmed by the issuance of such relief. Therefore, the trial court issued a Temporary Injunction Order ("the TIO") prohibiting Ms. Neely from "transferring Trust assets, distributing Trust assets[,] or making any payments from Trust assets[,]" and requiring Ms. Neely to provide a complete accounting of the Trust's assets to Trustee Fishman. The TIO stated that it would "serve as notice to all financial institutions, banks, governmental agencies or any other persons or entities" that Ms. Neely was no longer the trustee and had "no power or authority over the Trust or its assets." The TIO was entered October 19, 2020.

Counsel for Trustee Fishman sent out letters to several banks and financial institutions holding assets belonging to the Trust on October 21, 2020. The letters indicated that Trustee Fishman was the new trustee and point of contact for the Trust and requested that Ms. Neely's access to the Trust assets be terminated immediately.

Unbeknownst to Appellees, Appellant Attorney Richard W. Parks ("Appellant") sent to the same institutions a similar letter in favor of Ms. Neely on October 20, 2020. The letter stated that Appellant represented the Trust, described the ongoing litigation involving the Trust, and requested that the institutions take "every reasonable and necessary step to preserve" the Trust's assets until the litigation was fully resolved. The letter indicated that the trial court had entered an order "which purports to" replace Ms. Neely with Trustee Fishman "without cause or legal authority pursuant to the express terms of the Trust or Tennessee Law." The letter further noted that the TIO would not become final and enforceable for at least thirty days, that "the underlying basis allegedly in support of [the

[1] Although there was prior litigation involving the elder Mr. Ellis and the Trust in the Probate, Chancery, and Circuit Courts, we focus exclusively on the aftermath of this petition.

TIO] are still hotly contested[,]" and that:

> In fact, an appeal of the same, along with a "stay" and the setting of a necessary and adequate fidelity bond, is currently being sought. The likelihood that the trial court's order will be set aside is great. Therefore we sincerely urge you to protect the interests of the Trust and all its beneficiaries by maintaining the status quo or even "freezing" the accounts in question until such time as the appeal in progress is decided and/or you receive valid further orders from a court of competent jurisdiction.

It is important to note that, at this time, Appellant had not filed a notice of appearance before the trial court and was not representing Ms. Neely in relation to the May 6 petition.[2] Indeed, Ms. Neely was represented by other counsel prior to the letter, although those attorneys withdrew from the case by order of November 20, 2020.

Trustee Fishman sent Appellant a "cease and desist" letter on November 12, 2020. The letter instructed Appellant to refrain from representing to financial institutions holding Trust assets that he represented the Trust or that Ms. Neely retained authority over the Trust and its assets. The letter further requested that Appellant provide the names of the institutions he contacted after the entering of the TIO.

Petitioners then filed a motion for civil contempt against Ms. Neely and Appellant on November 18, 2020. The motion alleged that several statements in Appellant's letter were false, including (1) that Appellant represented the trust, (2) that the TIO was without cause or adequate legal support, (3) that the TIO would not be enforceable for thirty days, and (4) that further action was being sought at the time of the letter. Petitioners alleged that Appellant's letter was sent to prevent Trustee Fishman from being able to perform his duties as set out by the trial court in the TIO and that Ms. Neely must have requested or approved the letter. Petitioners argued that this attempt to undermine the validity of the trial court's order was subject to a finding of civil contempt and an award of damages, including attorney's fees. Trustee Fishman joined the motion for contempt on November 20, 2020.

Ms. Neely, through new counsel, opposed the contempt motion on February 1, 2021, arguing that Petitioners had not established that she had willfully violated the trial court's order. Instead, Ms. Neely alleged that Appellant acted under his own volition in sending the letter after she requested his input on appropriate steps after the entering of the TIO. Petitioners filed a supplement to their motion for contempt the next day, to include

[2] Appellant had represented Ms. Neely in other cases related to the Trust in Circuit Court, but was not otherwise involved in the case-at-bar. Appellant filed a notice of appeal regarding the TIO on behalf of Ms. Neely on October 28, 2020. However, the appeal was eventually dismissed for lack of jurisdiction because the TIO was not a final, appealable judgment. Although mentioned in his letter, Appellant did not seek a stay of the TIO in the trial court or in this Court upon appeal.

additional authority about the relationship between attorney and client and the nonapplication of the attorney-client privilege to the allegedly contemptuous actions of Appellant and Ms. Neely.

The motion for contempt was set to be heard February 4, 2021. Appellant filed his response to the motion at 9:45 that morning.[3] Therein, Appellant argued that Petitioners did not include in their motion a certification that all counsel had conferred in an attempt to resolve the matter without resort to filing a motion, as required by Local Rule 10(f) of the Chancery Court of Shelby County. Appellant also alleged that his due process rights were violated by Petitioners' failure to personally serve the motion or provide him with "reasonable prior notice" of the supplement to the motion. Appellant argued that he "has never willfully, knowingly[,] or intentionally communicated any false statement of fact or other information" concerning his representation of Ms. Neely or the Trust and apologized "if his choice of words or errors in grammar could possibly be construed otherwise." Finally, Appellant alleged that it was the motion for contempt itself that would "cause any real or substantial damage to the Petitioners and/or the [trial court's] authority and public perception."

Both Ms. Neely and Appellant testified at the hearing. Ms. Neely admitted that she had engaged Appellant to handle an appeal of the TIO prior to her previous counsel's request to withdraw from the case. However, Ms. Neely testified that she did not authorize Appellant to contact any financial institutions on her behalf and did not know about the letter sent by Appellant until she received a copy of the motion for contempt roughly a month after the fact. Appellant agreed that Ms. Neely did not know about or approve the letter prior to his sending it on October 20, 2020. When asked why he decided to send the letter, Appellant testified that "[he] felt like [he] had a duty as the attorney for the trustee, and consequently, the trust, and as well as all of the beneficiaries involved in the trust . . . to do what [he] felt was . . . [in] all their best interest, to try to preserve the assets of the trust for them." Appellant was adamant that he did not violate or encourage anyone else to violate the TIO, but he did acknowledge that the letter requested that the financial institutions freeze the Trust's assets.

Appellant was ordered to disclose the other institutions to which he sent a letter, as well as provide the actual letters and any responses, to be included as a supplement to the record. The letters, provided to Appellees on February 8, 2021, were attached to Petitioners' second supplement to their motion for contempt. The body of each letter was identical, containing both Appellant's statements regarding the status of the Trust litigation and Appellant's request that the Trust assets be "protect[ed]" by "maintaining the status

[3] At this point, however, Appellant was not technically named a party to the lawsuit, nor counsel of record for any party. Appellant was still not a party on April 9, 2021, when the trial court announced its ruling on the motion for contempt. On May 6, 2021, Trustee Fishman filed a cross-petition against Ms. Neely and Appellant for recoupment and disgorgement of attorney's fees based on their actions in another aspect of the Trust litigation, making Appellant a party to the case.

quo or even 'freezing' the accounts in question."

In an oral ruling on April 9, 2021, the trial court denied the motion for contempt as to Ms. Neely, but found that Appellant had "willfully violated the letter and spirit" of the TIO. The trial court then entered an order on April 21, 2021, to clarify the authority of Trustee Fishman as the trustee for the Trust. This time, the trial court specifically stated that any requests or demands made by Appellant or Ms. Neely should be disregarded, as neither had the authority to speak on behalf of the Trust.

Counsel for Petitioners and Trustee Fishman submitted affidavits detailing the time expended in litigating the motion for contempt and the associated costs to their clients. By June 25, 2021, Petitioners were seeking $18,360.00 in attorney's fees and $1,641.15 in expenses.[4] Trustee Fishman sought $1,875.00 for his own time as trustee, $4,800.00 for his attorney's fees, and $66.21 in expenses.[5]

The trial court held a hearing on June 25, 2021 to discuss the damages associated with its granting of the motion for contempt as to Appellant. At 5:37 that morning, Appellant filed his objections to the award of fees. Without pointing to a line item charge more specifically than questioning a four-hour transcript review, Appellant argued that opposing counsel could have avoided "their exorbitant bill" if they had reached out to him directly, rather than filing the motion for contempt. At the hearing, Appellant also argued that even without his letter to the financial institutions, Trustee Fishman and his counsel would have incurred their expenses in marshalling the assets of the Trust.

An order granting in part and denying in part Petitioners' motion for contempt and establishing damages was entered June 30, 2021.[6] Therein, the trial court stated that the evidence would not support a finding that Ms. Neely violated the trial court's order. However, the trial court found that the letters sent by Appellant "contained false assertions and misstatements, [] suggested that the [c]ourt was without cause or legal authority to issue the [TIO,]" and "were intended to thwart the ability of [Trustee] Fishman to marshal the assets of the Trust, and to place doubt as to [the trial court's] authority and jurisdiction." After determining that Appellant was not a credible witness, the trial court found that

[4] The affidavit submitted by Petitioners' counsel indicated that no fees were being sought for time spent solely on establishing that Ms. Neely should be held in contempt. At the hearing on damages, counsel for Petitioners stated that they were seeking $1,290.00 in expenses, bringing the total of their request to $19,650.00.

[5] These fees were included among those approved by the trial court by order of April 13, 2021, and paid from the assets of the Trust. Thus, Trustee Fishman was seeking to have Appellant reimburse the Trust.

[6] This order, while signed by the trial court judge and counsel for Petitioners and Trustee Fishman, was not signed by Appellant and the attached certificate of service was unsigned. Thus, when this Court reviewed the record on appeal, an order was entered requiring Appellant to submit a final, effective judgment. Another copy of the final order, signed by the trial court judge and counsel for Petitioners and including a signed certificate of service, was entered September 14, 2022, designated nunc pro tunc as of June 30, 2021, and included in the appellate record.

Appellant willfully violated the letter and spirit of the TIO and should be held in contempt. The order also incorporated the transcript from the April 9, 2021 hearing as reflecting additional reasoning for its findings and rulings. In that hearing, the trial court stated that Appellant's actions were "beyond zealous" and "designed to spur on confusion and hesitation by the banks in responding to the new trustee," resulting in "additional time and cost to all parties." As to the award of damages, the trial court ordered Appellant to pay $19,650.00 in attorney's fees and expenses to Petitioners, and $6,741.21 in attorney's fees and expenses to the Trust. This appeal followed.

II. DISCUSSION

On appeal, Appellant asks us to consider two questions: (1) whether the trial court erred in finding him in contempt and (2) whether the trial court erred in awarding Appellees their attorney's fees and expenses. In his initial appellate brief, Appellant focused on criminal contempt. Once Appellees established that their motion and the trial court's order involved civil contempt, Appellant switched gears and addressed civil contempt in his reply brief, although he primarily copied his original brief with only minor adjustment.

A.

Before addressing the merits of this action, we note that Appellant is proceeding pro se in this appeal. As such, we keep the following principles in mind:

> Parties who decide to represent themselves are entitled to fair and equal treatment by the courts. . . . However, the courts must also be mindful of the boundary between fairness to a pro se litigant and unfairness to the pro se litigant's adversary. Thus, the courts must not excuse pro se litigants from complying with the same substantive and procedural rules that represented parties are expected to observe.
>
> The courts give pro se litigants who are untrained in the law a certain amount of leeway in drafting their pleadings and briefs. Accordingly, we measure the papers prepared by pro se litigants using standards that are less stringent than those applied to papers prepared by lawyers.

Toomes v. D & S Motors, No. W2022-00244-COA-R3-CV, 2022 WL 17481406, at *3 (Tenn. Ct. App. Dec. 7, 2022) (quoting ***Hessmer v. Hessmer***, 138 S.W.3d 901, 903 (Tenn. Ct. App. 2003)). It is also important to note, however, that Appellant is himself an attorney and only became involved in this case in his capacity as an attorney. Thus, it should not be necessary to afford Appellant the same leeway as pro se litigants who have "no legal training and little familiarity with the judicial system." ***Hessmer***, 138 S.W.3d at 903. Yet Appellant's appellate brief suffers from significant deficiencies that undermine our ability to effectively conduct a review.

Tennessee Rule of Appellate Procedure 27 provides specific rules governing briefs filed to this Court. In particular, Rule 27(a) requires that appellants include in their briefs, among other things, a section setting forth their argument "with citations to the authorities and appropriate references to the record[.]"[7] Tenn. R. App. P. 27(a)(7)(A); *see also* R. Tenn. Ct. App. 6(a) (requiring specific references to the record in the argument section of an appellant's brief). A failure to comply with these rules can have significant consequences: "[a]n issue may be deemed waived, even when it has been specifically raised as an issue, when the brief fails to include an argument satisfying the requirements of Tenn. R. App. P. 27(a)(7)." ***Hodge v. Craig***, 382 S.W.3d 325, 335 (Tenn. 2012); *see also* ***Bean v. Bean***, 40 S.W.3d 52, 55 (Tenn. Ct. App. 2000) ("Plaintiff's failure to comply with the Rules of Appellate Procedure and the rules of this Court waives the issues for review." (citations omitted)).

It is all the more important that litigants follow the rules governing appellate briefs when, as here, the record is voluminous. ***Little v. City of Chattanooga***, 650 S.W.3d 326, 340 (Tenn. Ct. App. 2022), *perm. app. denied* (Tenn. June 14, 2022). The appellate record in this case consists of 12 technical record volumes, 13 transcript volumes, and over 80 exhibits, with no indication of which documents relate specifically to the contempt matter rather than to the underlying litigation involving the Trust. "[W]hen placed in the position of having to review volumes of extraneous, unnecessary, and irrelevant filings, our goal is hindered and the interests of judicial economy are stymied." ***Mitchell v. Jackson Clinic, P.A.***, 420 S.W.3d 1, 3 n.3 (Tenn. Ct. App. 2013). Moreover, "[i]t is not the role of the courts, trial or appellate, to research or construct a litigant's case or arguments for him or her." ***Sneed v. Bd. of Prof'l Resp. of Supreme Ct.***, 301 S.W.3d 603, 615 (Tenn. 2010).

Here, in making his first argument, Appellant includes no citation to the record at all.[8] And beyond a single reference to the standard of review in criminal contempt cases, Appellant includes no reference to legal authority. Instead of explaining how the trial court erred in its finding of contempt, Appellant describes alternative actions Appellees could have taken rather than move for contempt. Importantly, Appellant does not cite any authority in support of his apparent contention that Appellees' contempt motion should have been denied solely because they declined to pursue these less drastic options. So although Appellant has properly designated as an issue the question of whether the trial

[7] This requirement is separate from the obligation to provide "a concise statement of the applicable standard of review[.]" Tenn. R. App. P. 27(a)(7)(B).

[8] Appellant tries to cure this deficiency by way of a supplemental brief filed February 7, 2023—the date of oral argument—which indicates where in the record certain items discussed in the brief and reply brief are located. This Court has consistently held that reply briefs are not the proper vehicle "to correct deficiencies in initial briefs." ***Augustin v. Bradley Cnty. Sheriff's Office***, 598 S.W.3d 220, 227 (Tenn. Ct. App. 2019) (citing ***Fichtel v. Fichtel***, No. M2018-01634-COA-R3-CV, 2019 WL 3027010, at *19 (Tenn. Ct. App. July 10, 2019); ***Ingram v. Ingram***, No. W2017-00640-COA-R3-CV, 2018 WL 2749633, at *11 n.4 (Tenn. Ct. App. June 7, 2018)). Briefs filed after the deadline for a reply brief, therefore, are even less capable of remedying a failure to follow the rules regarding the contents of appellate briefs.

court erred in finding him in contempt, Appellant has failed to otherwise meet the standards required of appellate briefs. "It is not the duty of this court to verify unsupported allegations or search the record for facts in support of an appellant's poorly-argued issues." ***Commerce Union Bank, Brentwood, Tennessee v. Bush***, 512 S.W.3d 217, 224 (Tenn. Ct. App. 2016). For these reasons, we find Appellant's first issue waived.

Regarding his second issue, Appellant's argument, while primarily focused on the nature of contempt rather than the specifics of this case, does include reference to legal authority and some citation to the record. As such, we decline to waive this appeal in toto and will instead look to the merits of Appellant's second issue.

B.

Although once "broad and undefined" the contempt power of the courts is now "purely statutory." ***Konvalinka v. Chattanooga-Hamilton Cnty. Hosp. Auth.***, 249 S.W.3d 346, 354 (Tenn. 2008) (first citing ***Nye v. United States***, 313 U.S. 33, 43–47, 61 S. Ct. 810, 85 L. Ed. 1172 (1941), then citing ***Scott v. State***, 109 Tenn. 390, 394–95, 71 S.W. 824, 825 (1902); ***State ex rel. Flowers v. Tenn. Trucking Ass'n Self Ins. Grp. Tr.***, 209 S.W.3d 602, 611 (Tenn. Ct. App. 2006)). In Tennessee, contempt is governed by Tennessee Code Annotated section 16-1-103, which provides that "[f]or the effectual exercise of its powers, every court is vested with the power to punish for contempt, as provided for in this code." To give effect to this power, Tennessee Code Annotated section 29-9-101, *et seq.*, further defines the scope of the contempt power and outlines the punishment and remedies for contemptuous acts. Of particular relevance to this case,[9] courts are specifically empowered by section 29-9-102(3) to use their contempt power in situations involving "[t]he willful disobedience or resistance of any officer of the such courts, party, juror, witness, or any other person, to a lawful writ, process, order, rule, decree, or command of such courts." Civil contempt actions under this section are "brought to force compliance with the order and thereby secure private rights established by the order." ***Strickland v. Strickland***, 644 S.W.3d 620, 633 (Tenn. Ct. App. 2021), (quoting ***Baker v. State***, 417 S.W.3d 428, 436 (Tenn. 2013)), *perm. app. denied* (Tenn. Mar. 23, 2022).

Section 29-9-103 governs the general scope of punishment available to the court, allowing the imposition of a fine, imprisonment of the contemnor, or both. Tenn. Code Ann. § 29-9-103(a). That section also includes a subsection limiting the amount of the fine and the duration of imprisonment "[w]here not otherwise specifically provided." Tenn. Code Ann. § 29-9-103(b). Appellant looks to this subsection to argue that the trial court

[9] The trial court does not expressly state that it is relying on section 29-9-102(3) in finding Appellant in contempt. However, the trial court does state that Appellant's letters were intended to "thwart the ability of [Trustee] Fishman to marshal the assets of the Trust," despite the ruling in the TIO that Trustee Fishman was "vested with all the power and authority" of a trustee. And "when construing orders and judgments, effect must be given to that which is clearly implied, as well as to that which is expressly stated." ***Morgan Keegan & Co. v. Smythe***, 401 S.W.3d 595, 608 (Tenn. 2013) (citations omitted).

erred in ordering damages above the listed amount. However, sections 29-9-104 and -105 establish more specific punishment guidelines based on whether the contemnor failed to perform a mandated act or performed a forbidden act. When, as here, "the contempt consists in the performance of a forbidden act, the person may be imprisoned until the act is rectified by placing matters and person in status quo, *or by the payment of damages*." Tenn. Code Ann. § 29-9-105 (emphasis added). As such, the court may order the contemnor to pay damages "to compensate the party for injury arising from the illegal disobedience of the court." ***Overnite Transp. Co. v. Teamsters Local Union No. 480***, 172 S.W.3d 507, 511 (Tenn. 2005). And "even when the conduct at issue has ceased, the disobedience of the court's order is not 'rectified' until the offending party pays damages to make the other party whole." ***Cremeens v. Cremeens***, No. M2014-01186-COA-R3-CV, 2015 WL 4511921, at *7 (Tenn. Ct. App. July 24, 2015) (citing ***Overnite Transp. Co.***, 172 S.W.3d at 511). So Appellant's argument that the statutory scheme limits the amount of damages in this case is without merit.

Instead, "[t]he measure of damages is the actual injury sustained as a result of the contempt." ***Overnite Transp. Co.***, 172 S.W.3d at 511**.** The award of attorney's fees is therefore appropriate "because it serves to compensate the prevailing party for the expenses incurred to obtain compliance with a court order." ***Cremeens***, 2015 WL 4511921, at *7 (citing ***Reed v. Hamilton***, 39 S.W.3d 115, 119–20 (Tenn. Ct. App. 2000); ***Keeley v. Massey***, No. 02A01-9307-CH-00159, 1994 WL 59556, at *5 (Tenn. Ct. App. Feb. 28, 1994)); *see also* ***St. John-Parker v. Parker***, 638 S.W.3d 624, 646 (Tenn. Ct. App. 2020) ("[A]ttorney's fees are among the types of compensatory damages that may be awarded in a civil contempt proceeding." (quoting ***Brunetz v. Brunetz***, No. E2018-01116-COA-R3-CV, 2019 WL 1092718, at *11 (Tenn. Ct. App. Mar. 8, 2019))).

The award of damages or other "punishment imposed in contempt proceedings also lies within the sound discretion of the [t]rial [c]ourt." ***Stratienko v. Stratienko***, 529 S.W.3d 389, 412 (Tenn. Ct. App. 2017) (quoting ***Huffine v. Huffine***, No. 03A01-9110-CH-00339, 1992 WL 110788, at *2 (Tenn. Ct. App. May 27, 1992)). Thus, we review contempt findings under the abuse of discretion standard. ***Tigart v. Tigart***, No. M2020-01146-COA-R3-CV, 2021 WL 4352539, at *3 (Tenn. Ct. App. Sept. 24, 2021), (citing ***Outdoor Mgmt., LLC v. Thomas***, 249 S.W.3d 368, 377 (Tenn. Ct. App. 2007)), *perm. app. denied* (Jan. 13, 2022). The Tennessee Supreme Court has explained that

> [a]n abuse of discretion occurs when a court strays beyond the applicable legal standards or when it fails to properly consider the factors customarily used to guide the particular discretionary decision. A court abuses its discretion when it causes an injustice to the party challenging the decision by (1) applying an incorrect legal standard, (2) reaching an illogical or unreasonable decision, or (3) basing its decision on a clearly erroneous assessment of the evidence.

Lee Med., Inc. v. Beecher, 312 S.W.3d 515, 524 (Tenn. 2010) (citations omitted). Under this standard, appellate courts are not allowed to substitute their judgment for that of the trial court. ***Wright ex rel. Wright v. Wright***, 337 S.W.3d 166, 176 (Tenn. 2011) (citing ***Williams v. Baptist Mem'l Hosp.***, 193 S.W.3d 545, 551 (Tenn. 2006); ***Myint v. Allstate Ins.***, 970 S.W.2d 920, 927 (Tenn. 1998)). Accordingly, "a trial court's discretionary decision will be upheld as long as it is not clearly unreasonable[.]" ***Richardson v. Spanos***, 189 S.W.3d 720, 725 (Tenn. Ct. App. 2005) (citing ***Bogan v. Bogan***, 60 S.W.3d 721, 733 (Tenn. 2001)).

Here, the trial court awarded Petitioners $19,650.00 in attorney's fees and expenses and the Trust $6,741.21 as reimbursement for attorney's fees and expenses already paid to Trustee Fishman and his counsel. The ruling came after a hearing to discuss the affidavits provided by counsel for Appellees, which listed their time spent on the matter and the other costs associated with bringing the motion for contempt. The day of the hearing, Appellant raised a general objection to the affidavits provided, arguing that Appellees would not have incurred over $20,000.00 in attorney's fees if they had spoken to him directly prior to moving for contempt. The trial court did not appear to credit this argument. And even if we were to accept Appellant's reasoning that sending the letter was a simple mistake easily corrected by a conversation with Appellees, the record contains no proof that Appellant promptly took any remedial action, either after the cease and desist letter from Trustee Fishman or once the motion for contempt was filed.

Moreover, Appellant took no issue with any specific line item in the affidavits of attorney's fee and expenses as unreasonable, nor did he argue that the billing rates of opposing counsel were inconsistent with those charged in the community by attorneys with similar experience. *See* Tenn. R. Sup. Ct. 8, RPC 1.5(a) (directing that unreasonable attorney's fees should not be charged or collected, and providing a list of factors to determine the reasonableness of an attorney's fee). Even in his appellate briefing, Appellant offers no specific argument that the fees requested by Appellees were not related to establishing his contempt or were otherwise inflated. Indeed, counsel for Petitioners specified when submitting his extensive affidavit and supplemental affidavit that no fees were being sought for any effort solely directed to finding Ms. Neely in contempt. Considering the totality of the circumstances, we cannot say that, in granting Appellees the full amount of their request, the trial court applied an incorrect standard, reached an illogical decision, or based its judgment on an erroneous assessment of the facts. ***Lee Med., Inc***, 312 S.W.3d at 524. We therefore conclude that the trial court did not abuse its discretion in awarding Appellees their attorney's fees and expenses.

III. CONCLUSION

The judgment of the Chancery Court of Shelby County is affirmed, and this matter is remanded to the trial court for further proceedings as may be necessary and consistent with this Opinion. Costs of this appeal are taxed to Appellant Richard W. Parks, for which

execution may issue if required.

s/ J. Steven Stafford
J. STEVEN STAFFORD, JUDGE