Affirmed; Opinion Filed January 11, 2018.

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-16-01338-CV

GABRIEL ISAAC, Appellant
V.
VILLAS DEL ZOCALO 3, Appellee

On Appeal from the County Court at Law No. 4
Dallas County, Texas
Trial Court Cause No. CC-16-05241-D

MEMORANDUM OPINION

Before Justices Francis, Evans, and Boatright
Opinion by Justice Evans

Appellant Gabriel Isaac appeals from a final judgment that included authorization of his eviction from his apartment.[1] Isaac asserts that the trial court lacked jurisdiction and erred by failing to postpone the trial. Isaac also accuses the Villas del Zocalo 3 ("Villas") of committing "fraud upon the court" by: (1) changing Isaac's name in the caption from "Isaac" to "Issac"; (2) failing to serve pleadings and motions in accordance with the local rules; and (3) fabricating evidence. We affirm.

[1] Appellant notes that the correct spelling of his last name is "Isaac" not "Issac." Appellee's petition for eviction in justice court used the "Issac" spelling in its caption. However, appellant used the "Isaac" spelling in his original answer in county court and appellee used the "Isaac" spelling in its first amended petition in county court. Other pleadings used the "Issac" spelling in the county court but the final judgment in county court used the "Isaac" spelling. In addition, appellant's notice of the appeal to this Court used the "Isaac" spelling in the caption. As such, we refer to appellant in the caption and throughout this opinion as "Isaac."

BACKGROUND

On October 14, 2016, Villas filed a petition for eviction against Isaac in Dallas County justice court. The justice court ordered that Villas receive possession of the premises and past due rent. Isaac appealed the judgment to the county court.

Villas filed a first amended petition for forcible detainer in the county court. Isaac filed an answer and countersuit. Villas then filed a plea to the jurisdiction and motion to strike Isaac's counterclaim. The county court granted Villas's plea to the jurisdiction and motion to strike in part. The county court severed the counterclaim and gave Isaac thirty days to pay a filing fee or demonstrate inability to pay. A jury trial was conducted on Villas's forcible detainer action and the jury found in favor of Villas. The county court ordered Isaac to vacate the apartment and pay damages and fees. Isaac then filed this appeal.

ANALYSIS

We start with the admonition that an appellant's brief must contain a clear and concise argument for the contentions made and citations to authorities and the record. TEX. R. APP. P. 38.1(i). Rule 38 requires a party to provide us with such discussion of the facts and authorities relied upon as may be necessary to present the issue. *Gonzalez v. VATR Const. LLC*, No. 05-12-00277-CV, 2013 WL 6504813, at *4 (Tex. App.—Dallas Dec. 12, 2013, no pet.). Although we construe pro se pleadings and briefs liberally, we hold pro se litigants to the same standards as licensed attorneys and require them to comply with the applicable laws and rules of procedure. *In re N.E.B*, 251 S.W.3d 211, 211–12 (Tex. App.—Dallas 2008, no pet.); *see also Gonzalez*, 2013 WL 6504813 at *4 ("Appellate courts must construe briefing requirements reasonably and liberally, but a party asserting error on appeal still must put forth some specific argument and analysis showing that the record and the law support his contention."). To do otherwise would give a pro se litigant an unfair advantage over a litigant who is represented by counsel. *In re*

N.E.B., 251 S.W.3d at 212. In addition, to guess at or make an argument for a party would violate the structure of our system of justice, be unwise, and change our role from neutral and impartial decision makers to advocates.

> [C]ourts should rely on the adversary system of justice, which depends on the parties to frame the issues for decision and assigns to courts the role of neutral arbiter of the matters that the parties present. *Greenlaw v. United States*, 554 U.S. 237, 243 (2008). One rationale for this system is that the parties and their counsel usually know far better than the courts what is best for them, so they are responsible for advancing the facts and arguments entitling them to relief. *Id*. at 244. Resolving disputes only on grounds raised by the parties also serves judicial economy, keeps courts within their constitutionally assigned role as impartial and "neutral arbiter[s]," *id*. at 243, and enables courts to make well-informed decisions based on full adversary presentation and testing of the arguments on either side of the issue at hand.

Ward v. Lamar Univ., 484 S.W.3d 440, 453–54 (Tex. App.—Houston [14th Dist.] 2016, no pet.) (footnotes and citations omitted).

I. Failing to Postpone Trial

In his second issue, Isaac argues that the trial court abused its discretion when it failed to grant his motion to postpone trial. The general rule is that the trial court's refusal to grant a postponement will not be disturbed unless the record shows a clear abuse of discretion. *Crane v. Texas Dept. of Transp.*, 880 S.W.2d 55, 58 (Tex. App.—Tyler 1994, writ denied). Further, rule 251 provides that a continuance shall not be granted except for sufficient cause supported by affidavit, or by consent of the parties, or by operation of law. *See* TEX. R. CIV. P. 251. Here, Isaac requested a continuance on the day of trial and did not submit a written motion or an affidavit. Isaac argues that he was entitled to a postponement because he "was dumped with court proceedings of over (45) forty-five pages, inside the court-room." These documents included Villas's motion in limine. Isaac raised this issue to the court and the court stated as follows:

> Look, it's proper to file a motion in limine. They don't have to do it prior to the trial, so long as it's done at least the morning of trial before we actually begin jury

> selection and the jury trial. They don't have to do it unless I sign an order saying that the motion in limine has to be filed by a certain date. That order did not exist here. It was timely for them to file it prior to the trial setting at any time before we actually started the trial.

Isaac further argues that there was a gross abuse of discretion because the trial court denied his request to reschedule. We disagree. Trial courts have inherent power to control the disposition of cases with economy of time and effort for itself, for counsel, and for litigants. *See King Fisher Marine Serv., L.P. v. Tamez*, 443 S.W.3d 838, 843 (Tex. 2014). Accordingly, the discretion vested in the trial court over the conduct of a trial is great. *Id.* This discretion empowers a trial court to fulfill a duty to schedule its cases in such a manner as to expeditiously dispose of them. *Id.* Further, although Isaac says that he needed time to study the documents, understand the facts and prepare a defense, he fails to state in his brief what those arguments would have been now that he has had time to do so. As Isaac has not demonstrated any harm, we cannot agree that the trial court abused its discretion in denying Isaac's motion for continuance in this instance and we overrule Isaac's second issue.

II. Lack of Jurisdiction

In his fourth issue, Isaac argues that the county court lacked jurisdiction to consider Villas's first amended petition for forcible detainer and motion in limine. Isaac argued that because appeals to county courts do not require any further pleadings, the county court was without authority to consider Villas's amended petition and the motion in limine. In support of this assertion, Isaac cites to Texas government code section 28.053. This code section, however, was repealed prior to this litigation. *See* Act of June 29, 2011 82nd Leg., 1st C.S., ch. 3, § 5.06, 2011 Tex. Sess. Law Serv. 116, 135 (abolishing all small claims courts effective May 1, 2013).[2] Accordingly, we overrule Isaac's fourth issue.

[2] The legislature later extended the date for abolishing all small claims courts to August 31, 2013.

III. Remaining Arguments

In Isaac's remaining issues, he accuses the Villas of committing "fraud upon the court" by: (1) changing Isaac's name on the caption; (2) failing to serve pleadings and motions in accordance with the local rules; and (3) fabricating evidence. Isaac only complains about actions taken by Villas, not any decisions of the trial court. Regarding whether the trial court ruled on these arguments, we have no right or obligation to search through the record to find facts or research relevant law that might support an appellant's position because doing so would "improperly transform this Court from neutral adjudicators to advocates." *Chappell v. Allen*, 414 S.W.3d 316, 321 (Tex. App.—El Paso 2013, no pet.) (citing *Valadez v. Avitia*, 238 S.W.3d 843, 845 (Tex. App.—El Paso 2007, no pet.)).

As an appellate court, we review a trial court's ruling or an objection to its refusal to rule. *See* TEX. R. APP. P. 33.1(a)(2); *Texas Dep't of Protective & Regulatory Servs. v. Sherry*, 46 S.W.3d 857, 861 (Tex.2001) (constitutional claim on appeal in paternity suit waived by failure to raise complaint at trial) (citing *Dreyer v. Greene*, 871 S.W.2d 697, 698 (Tex.1993)); *Quintana v. CrossFit Dallas, L.L.C.*, 347 S.W.3d 445, 448–49 (Tex. App.—Dallas 2011, no pet.). "Important prudential considerations underscore our rules on preservation. Requiring parties to raise complaints at trial conserves judicial resources by giving trial courts an opportunity to correct an error before an appeal proceeds." *In re B.L.D.*, 113 S.W.3d 340, 350 (Tex. 2003). This is called preservation of error and requires that "a party's argument on appeal must comport with its argument in the trial court." *Knapp v. Wilson N. Jones Mem'l Hosp.*, 281 S.W.3d 163, 170 (Tex. App.—Dallas 2009, no pet.); *see* TEX. R. APP. P. 33.1(a)(1). If an issue has not been presented to the trial court so it is not preserved for appeal, we should not address it because nothing is presented for our review. *See In re R.B.*, 200 S.W.3d 311, 317 (Tex. App.—Dallas 2006, pet. denied) (preservation of error requires a timely objection in the absence of which

nothing is presented for appellate court review). Because Isaac does not complain about a trial court ruling or even point out that the trial court was given the opportunity to rule on his arguments, we overrule Isaac's remaining arguments.

IV. Villas's Motion to Partially Dismiss the Appeal

On May 25, 2017, Villas filed a motion to partially dismiss the appeal. In the motion, Villas argued that this court lacked jurisdiction over this appeal to the extent Isaac was seeking any relief regarding possession of the premises as the issue of possession was moot. Villas also filed a letter stating that it would not file a brief but would "stand on [the motion to partially dismiss] to the same extent it was filed as an Appellee's Brief." This Court opted to defer to the panel hearing this case to decide the motion as well as what weight, if any, to give the motion as a substitute for a brief. We agree with Villas that the relief sought by Isaac is unclear. However, as we have denied all relief sought by Isaac, we need not reach the issue of whether Isaac is seeking possession of the apartment and we affirm the judgment entered against Isaac.

CONCLUSION

We resolve Isaac's issues against him and affirm the trial court's judgment.

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/David Evans/
DAVID EVANS
JUSTICE

Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

GABRIEL ISAAC, Appellant

No. 05-16-01338-CV V.

VILLAS DEL ZOCALO 3, Appellee

On Appeal from the County Court at Law No. 4, Dallas County, Texas
Trial Court Cause No. CC-16-05241-D.
Opinion delivered by Justice Evans.
Justices Francis and Boatright participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

It is **ORDERED** that appellee VILLAS DEL ZOCALO 3 recover its costs of this appeal from appellant GABRIEL ISAAC.

Judgment entered this 11th day of January, 2018.