In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth

No. 02-19-00182-CV

MOHAMMAD Z. RAHMAN, Appellant

V.

DISCOVER BANK, Appellee

On Appeal from County Court at Law No. 1
Tarrant County, Texas
Trial Court No. 2018-007169-1

Before Bassel, Womack, and Wallach, JJ.
Per Curiam Memorandum Opinion

MEMORANDUM OPINION

Appellant Mohammad Z. Rahman, who is appearing pro se, appeals the summary judgment granted to Appellee Discover Bank. We notified Appellant by letter that the document filed as his brief failed to meet almost every requirement specified in the Texas Rules of Appellate Procedure. *See generally* Tex. R. App. P. 38.1. Nothing that Appellant has filed subsequently overcomes the deficiencies that we identified in our letter. Instead, he filed a letter, stating that he was seeking to retain a lawyer and was attempting to settle the matter. Consequently, we are faced with the situation of having to decide this matter based on Appellant's failure to present any cognizable argument that we can review. We must hold pro se litigants to the same standards as we hold any other litigant; if we did otherwise and made arguments for a party, then we would become an advocate. Because that is a role we cannot assume, we affirm.

Appellee sued to collect a credit-card debt. Appellant answered. Four months after Appellant answered, Appellee filed a motion for summary judgment, which attached an affidavit proving up the debt. In response to the motion for summary judgment, Appellant filed an unsworn "Defendant's Original Answer," stating that he needed six months to gather documents, that he did not think he owed the amount of money claimed, and that he needed six months to hire a lawyer. Attached to the "answer" was a notice of the date and time of the summary-judgment hearing. The trial court heard and granted Appellee's motion for summary judgment.

Approximately one hour after the summary-judgment order was file-stamped, Appellant filed a notice of appeal and a motion for new trial. Though filed immediately after the summary-judgment order, the motion claimed that Appellant thought that the hearing had been reset as he had requested in his original answer. The trial court denied the motion for new trial by written order.

Appellant filed a brief in this court that appears to be a photocopied form that includes two handwritten paragraphs in which he asserts that (1) Appellee kept sending him a blank check that he eventually cashed, (2) the interest rate on the debt was not disclosed to him, (3) he was cheated because he could not read the fine print on the contract, and (4) he wanted to make a settlement offer. None of the factual statements about how the debt was incurred or about the failure to disclose the intertest rate was presented to the trial court.

We notified Appellant by letter of the numerous deficiencies in his brief and granted him an extension of time to file an amended brief. We later granted Appellant two additional extensions of time to file a brief that corrected the deficiencies in his original brief. Appellant eventually filed a letter that reiterated the factual statements and settlement offer that he had made in his original filing and outlined his efforts to retain a lawyer.

We are now confronted with a trial court record in which Appellant presented no viable challenge to Appellee's motion for summary judgment and an appellate brief

that fails to meet almost every requirement of the Texas Rules of Appellate Procedure. *See id.*

We hold pro se litigants to the same standards as licensed attorneys:

> Although Appellant is proceeding pro se, he must comply with all applicable procedural rules. *See Weaver v. E[-]Z Mart Stores, Inc.*, 942 S.W.2d 167, 169 (Tex. App.—Texarkana 1997, no [writ]). A pro se litigant is held to the same standard that applies to a licensed attorney. *Id.*; *Brown v. Tex. [Emp't] Comm'n*, 801 S.W.2d 5, 8 (Tex. App.—Houston [14th Dist.] 1990, writ denied). No allowance is to be made for the fact that a plaintiff is not a lawyer. *Weaver*, 942 S.W.2d at 169; *Bailey v. Rogers*, 631 S.W.2d 784, 786 (Tex. App.—Austin 1982, no writ).

Maddox v. Hutchens, No. 02-02-00159-CV, 2003 WL 21983260, at *1 (Tex. App.—Fort Worth Aug. 21, 2003, no pet.) (per curiam) (mem. op.); *see also Smale v. Williams*, 590 S.W.3d 633, 639 (Tex. App.—Texarkana 2019, no pet.) ("The law is well settled that '[a] party proceeding pro se must comply with all applicable procedural rules' and is held to the same standards as a licensed attorney." (quoting *Paselk v. Rabun*, 293 S.W.3d 600, 611 (Tex. App.—Texarkana 2009, pet. denied))). Thus, we cannot grant Appellant any special accommodations simply because he is pro se.

Nor can we ignore the deficiencies in Appellant's filing. Cases from our court and others demonstrate both why Appellant's filings are so deficient that any claim of error is waived and why we abdicate our role as judges if we become a party's advocate by, in effect, writing a brief for them:

> The rules of appellate procedure require that an appellant's brief contain "a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record." Tex. R. App. P. 38.1(i). When appellate issues are not supported by argument, citations

> to the record, or legal authority, nothing is presented for review. *Hernandez v. Hernandez*, 318 S.W.3d 464, 465 (Tex. App.—El Paso 2010, no pet.). It is an appellant's burden to discuss his assertions of error, and appellate courts have no duty—or even the right—to perform an independent review of the record and the applicable law to determine whether there was error. *Id.* at 466. Were appellate courts to do so, they would be abandoning their role as neutral adjudicators and become an advocate for that party. *Valadez v. Avitia*, 238 S.W.3d 843, 845 (Tex. App.—El Paso 2007, no pet.).

Ihnfeldt v. Reagan, No 02-14-00220-CV, 2016 WL 7010922, at *9 (Tex. App.—Fort Worth Dec. 1, 2016, pet. denied) (mem. op.). We are constrained to affirm the trial court's judgment because "[i]n civil cases, we have no discretion to consider an issue not raised in appellant's brief, even if the court may perceive that the ends of justice seem to require it." *See Liles v. Contreras*, 547 S.W.3d 280, 296 (Tex. App.—San Antonio 2018, pets. denied).[1]

[1]The record contains a letter from Wolfgang P. Hirczy de Mino PhD offering to file an amicus brief on Appellant's behalf. Mr. Hirczy de Mino is not an attorney licensed in the State of Texas. The brief he wishes to file does not meet the definition of an amicus brief. An amicus brief is filed by "[a]n amicus curiae [who] is a 'bystander' [and] whose mission is to aid the court, to act only for the benefit of the court." *Johnson v. Conner*, No. 07-11-00055-CV, 2011 WL 3587425, at *2 (Tex. App.—Amarillo Aug. 16, 2011, no pet.) (mem. op.) (citing *Burger v. Burger*, 156 Tex. 584, 585–86, 298 S.W.2d 119, 120–21 (1957)). Instead, the proposed brief would function as advocacy on Appellant's behalf and would be the equivalent of an appellant's brief. The amicus process cannot be used to circumvent the prohibition of a layperson acting as counsel for a party to an appeal. *See Paselk*, 293 S.W.3d at 606 ("Although a layperson has the right to represent [himself], a layperson does not have the right to represent others."). Further, there is no good cause to permit the filing of such a brief. *See* Tex. R. App. P. 11 (stating that appellate court "for good cause may refuse to consider the [amicus] brief and order that it be returned"). We view the letter request by Mr. Hirczy de Mino as a nullity, but to the extent that it can broadly be construed as a motion to permit the filing of an amicus brief, it is denied.

Accordingly, we affirm the trial court's judgment.[2]

Per Curiam

Delivered: May 7, 2020

[2]On April 1, 2020, we received a letter from Appellant requesting that we "hold [off] on any kind of activities [in] this case until [the] COVID-19[] virus emergency [returns to a] normal situation." As noted, we initially granted Appellant additional time to file a brief that complied with the rules and then granted him two additional extensions, which gave him time to comply if he were going to do so before the onset of the present crisis. Because we have received briefs from both sides and the case has been submitted, we deny Appellant's request.