IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

MINI-DOZER WORK,	)	
WAYNE R. RICHARDSON,	)	No. 64951-5-I
	)	
Appellant,	)	DIVISION ONE
	)	
v.	)	
	)	
LINH NGUYEN PHUNG,	)	UNPUBLISHED OPINION
	)	
Respondent.	)	FILED: July 25, 2011
________________________________	)	

Becker, J. — An appellant who fails to comply with the procedural rules on appeal and fails to provide an adequate record for review is not entitled to relief. In this case, Wayne Richardson sued Linh Phung. About two months after the scheduled trial date had passed, the trial court entered an order dismissing Richardson's claims and Phung's counterclaims. Richardson,

appearing pro se both below and on appeal, challenges the order of dismissal. However, he fails to provide precise assignments of error, meaningful legal analysis, citations to relevant legal authority, references to the record in support of his statement of facts, or a complete record to enable appellate review. Because these deficiencies are fatal to his appeal, we affirm.

Wayne Richardson filed a complaint in May 2008. His primary allegation was that Phung refused to pay him for services he performed in connection with a legal proceeding. Richardson cited the Consumer Protection Act, but failed to identify any other legal cause of action. It appears that Phung answered the complaint and asserted counterclaims against Richardson, but the record on appeal does not include her responsive pleading.

About two weeks before the October 26, 2009, scheduled trial date, Phung filed a motion to dismiss. That motion is not in the record. In response, Richardson filed a document titled, "Plaintiff's Motion to Deny Defendant's Motion to Dismiss for Improper Service of Process Per LR 7(3)(a); LR 56 and CR 5(b)(2). Motion is Convoluted." He also delivered to the court a notebook containing proposed trial exhibits.

On December 18, 2009, nearly two months after the scheduled trial date, the court entered an order denying the defendant's motion to dismiss because it was unclear whether the defendant sought to dismiss the case in its entirety, or to dismiss only the plaintiff's claims. That same day, on its own motion, the court

issued an order to show cause: noting that the parties were not ready for trial on October 26, 2009, and were therefore "instructed" not to appear for trial, "which has left this case . . . unresolved without action by either party." The court ordered both Richardson and defense counsel to "show cause by way of a declaration . . . as to why all claims of both parties should not be dismissed."

Phung submitted a responsive declaration. Again, that document is not in the record before us. Richardson submitted an "Answer Complying with Court Order to Show Cause Service of Process Motion to Enter House at 18911 SE 144th St., Renton, WA 98059-8012. Sheriff to Confirm Personal Property Status." The court reviewed the pleadings of both parties and the entire court record, and determined there was an "insufficient showing by either party to demonstrate why this cause should not be dismissed." Accordingly, the court dismissed all claims between the parties. On appeal, Richardson challenges the order of dismissal.

Pro se litigants are held to the same standard as attorneys and must comply with all procedural rules on appeal. In re Marriage of Olson, 69 Wn. App. 621, 626, 850 P.2d 527 (1993). Failure to do so may preclude appellate review. State v. Marintorres, 93 Wn. App. 442, 452, 969 P.2d 501 (1999). An appellant must provide "argument in support of the issues presented for review, together with citations to legal authority and references to relevant parts of the record." RAP 10.3(a)(6). Arguments that are not supported by any reference to

the record or by citation of authority need not be considered. Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992).

Richardson's brief contains a recitation of facts as an "Introduction" that relate to the basis for his lawsuit against Phung, but includes none of the facts and procedure "relevant to the issues presented for review" nor a single citation to the record. See RAP 10.3(a)(5); Appellant's Brief at 1-5. RAP 10.3(a)(5) requires that "reference to the record must be included for each factual statement." Richardson's brief is only partially compliant with this rule; some factual statements found in his brief are supported by references to the record, others are not.

Richardson fails to provide precise, "concise" assignments of error. See RAP 10.3(4). Richardson lists several issues presented for review, but does not provide meaningful analysis or argument in support of the issues "together with citations to legal authority and references to relevant parts of the record" as required by RAP 10.3(a)(6). Richardson cites two legal decisions and a provision of the mechanics' and materialmen's liens statute in his brief. He does not explain in any manner, and we fail to see, the relevancy of this cited authority. In short, Richardson's brief provides a litany of complaints presented in a stream-of- consciousness fashion, which wholly fails to serve the purpose of a legal brief which is to identify errors and present the legal and factual basis for those claims of error.

Furthermore, Richardson has not met his burden of providing a sufficient record to review the issues raised on appeal. RAP 9.2; In re Marriage of Haugh, 58 Wn. App. 1, 6, 790 P.2d 1266 (1990). The record is largely comprised of only Richardson's own filings in the proceedings below. Without Phung's October 2009 motion to dismiss and her declaration in response to the trial court's show cause, we are unable to fully appreciate the procedural background or discern the basis for the dismissal. Because these omissions affect our ability to review the issues presented on appeal, they are fatal. Bulzomi v. Dep't of Labor & Indus., 72 Wn. App. 522, 525, 864 P.2d 996 (1994) (insufficient record on appeal precludes review); Olmsted v. Mulder, 72 Wn. App. 169, 183, 863 P.2d 1355 (1993) (failure to designate relevant portions of the record precludes review), review denied, 123 Wn.2d 1025 (1994).

Phung seeks attorney fees on appeal under RAP 18.1 and RAP 18.9(a), arguing that the appeal is frivolous. Under RAP 18.9(a), our court may impose sanctions for any frivolous appeal. An appeal is frivolous if it presents no debatable issues upon which reasonable minds might differ, and it is so totally devoid of merit that there was no reasonable possibility of success. In re Recall of Feetham, 149 Wn.2d 860, 872, 72 P.3d 741 (2003). Considering the substantial procedural and substantive failures of Richardson's appeal, we are convinced that the appeal presents no debatable issues upon which reasonable minds might differ and is devoid of merit. We award reasonable appellate

attorney fees to Phung under RAP 18.9 upon her compliance with RAP 18.1.

Affirmed.

Becker, J.

WE CONCUR:

Appelwick, J.

Cox, J.