MEMORANDUM DECISION

APPELLANT PRO SE

Willie Rogers
South Bend, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Jodi Kathryn Stein
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Willie Rogers,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

August 3, 2023

Court of Appeals Case No.
23A-CR-832

Appeal from the
LaGrange Circuit Court

The Honorable
William R. Walz IV, Judge

Trial Court Cause No.
44C01-2109-CM-388

Memorandum Decision by Judge Foley
Chief Judge Altice and Judge May concur.

Foley, Judge.

[1] Willie Rogers ("Rogers") appeals his conviction for misdemeanor invasion of privacy. Rogers has represented himself both on appeal and at trial. He seeks to argue that alleged false statements in the probable cause affidavit underlying his original charges somehow affect the validity of his conviction. We cannot agree. His claims are waived, but we briefly address why they are also meritless, and affirm the trial court.

Facts and Procedural History

[2] The conviction arises from Rogers's second violation of a protective order issued on behalf of a former co-worker.[1] In April 2021, the former co-worker received an anonymous message asking her to either call a listed telephone number or visit a particular address. She verified that the address belonged to Rogers and reported the message to the police, who also verified the address. An officer then called the phone number from the message and received a return call identifying the caller as Rogers.

[3] The former co-worker received yet another call from that number a few months later. She took a screenshot of the incoming call and once again contacted the police. The State then charged Rogers with invasion of privacy as a Class A misdemeanor and harassment as a Class B misdemeanor.[2] Rogers proceeded to a jury trial wherein he represented himself. The jury found him guilty, and the

[1] He pleaded guilty to Class B misdemeanor harassment in 2020.

[2] The harassment charge was dismissed prior to trial.

trial court sentenced Rogers to one year in prison with all but 120 days suspended to probation. This appeal ensued.

Discussion and Decision

[4] When an indigent criminal defendant elects to waive his right to be represented by counsel, he must be advised—as a constitutional matter—of the perils of self-representation. *Faretta v. California,* 422 U.S. 806, 835 (1975). One of the many "'dangers and disadvantages of self-representation'" is that a pro se litigant is treated no differently than a represented one. *Poynter v. State*, 749 N.E.2d 1122, 1126 (Ind. 2001) (quoting *Faretta*, 422 U.S. at 835). "[A] pro se litigant is held to the same standards as a trained attorney and is afforded no inherent leniency simply by virtue of being self-represented." *Zavodnik v. Harper*, 17 N.E.3d 259, 266 (Ind. 2014). "This means that pro se litigants are bound to follow the established rules of procedure and must be prepared to accept the consequences of their failure to do so." *Picket Fence Prop. Co. v. Davis*, 109 N.E.3d 1021, 1029 (Ind. Ct. App. 2018) (citing *Basic v. Amouri*, 58 N.E.3d 980, 983–84 (Ind. Ct. App. 2016)). Although we prefer to decide cases on their merits, arguments are waived where an appellant's noncompliance with the rules of appellate procedure is so substantial it impedes our appellate consideration of the errors. *Id.*

[5] Indiana Appellate Rule 46(A)(8)(a) requires that the argument section of a brief "contain the contentions of the appellant on the issues presented, supported by cogent reasoning. Each contention must be supported by citations to the

authorities, statutes, and the Appendix or parts of the Record on Appeal relied on . . . ."[3] We will not consider an assertion on appeal when there is no cogent argument supported by authority and there are no references to the record as required by the rules. *Id.* "'We will not become an advocate for a party or address arguments that are inappropriate or too poorly developed or expressed to be understood.'" *Picket Fence*, 109 N.E.3d at 1029 (quoting *Basic*, 58 N.E.3d at 984).

[6] Rogers chose to represent himself, first at trial, and now on appeal. The result is a jury conviction and appellate brief that does not fully develop a legal argument. The argument section of Rogers's brief consists of a single page listing eight headers followed by eight one-sentence assertions that the trial court abused its discretion. It contains no citations to authority. It contains no cogent reasoning, which is to say it cannot be followed or understood. We have little difficulty concluding that our efforts at review are comprehensively hampered. Whatever Rogers's arguments may be, they are waived. Poorly developed arguments force courts to fill in the gaps. But we cannot do that. We must take each argument as it is presented to us.

[7] To the extent that a position can be discerned, Rogers appears to be focused on what he believes are misstatements or fabrications in the probable cause affidavit that led to his arrest. His primary concern seems to be that the

---

[3] Initially, Rogers did not even file an Appendix in this case, in contravention of Appellate Rule 50. He eventually filed one after being ordered to comply with the Appellate Rules.

affidavit implied consistency between the phone numbers used: (1) as part of a harassment incident for which Rogers was convicted in 2020; and (2) the invasion of privacy which was the subject of the trial in the present case. First, we note that Rogers had the opportunity to cross-examine the officer who composed the probable cause affidavit, and that officer admitted that he may have made a mistake: he meant to say the address had stayed the same, not the phone numbers.[4]

[8] But more importantly, even if this mistake did invalidate the probable cause for *arresting and detaining* Rogers, "'lack of probable cause is not grounds for dismissing a *charging information*[.]'" *State v. I.T.*, 4 N.E.3d 1139, 1142 (Ind. 2014) (quoting *Flowers v. State*, 738 N.E.2d 1051, 1055 (Ind. 2000)). "'The proper method to challenge deficiencies in a charging information is to file a motion to dismiss the information, no later than twenty days before the omnibus date.'" *Brown v. State*, 64 N.E.3d 1219, 1233 (Ind. Ct. App. 2016) (quoting *Miller v. State*, 634 N.E.2d 57, 60 (Ind. Ct. App. 1994)). And the record reflects that Rogers did indeed file two motions to dismiss the charges, both of which were denied. He does not appeal those denials here. But those were his avenues to a remedy. Probable cause for an arrest has no legal connection to the eventual verdict. The affidavits are rarely admitted as evidence, and the existence, or lack thereof, of probable cause does not bear on

[4] Even removing this mistake from the equation, it seems highly likely that the affidavit still contained other evidence sufficient for a finding of probable cause.

the question of guilt. It is the evidence presented at trial, not the information from the probable cause affidavit, that determines guilt.

[9] Affirmed.

Altice, C.J., and May, J., concur.