MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Kevin Martin,
Appellant-Plaintiff,

v.

J. Harvill, et al.,
Appellees-Defendants.

August 16, 2023

Court of Appeals Case No. 23A-CT-416

Appeal from the LaPorte Circuit Court

The Honorable Michael A. Fish, Special Judge

Trial Court Cause No. 46D02-2008-CT-1555

Memorandum Decision by Judge Kenworthy
Judges Bailey and Tavitas concur.

Kenworthy, Judge.

Case Summary

[1] Kevin Martin appeals the dismissal of his complaint against several parties, all of whom appear to be affiliated with the Indiana Department of Correction (collectively, "DOC Parties"). We affirm.

Facts and Procedural History

[2] Martin is a DOC inmate and frequent litigant. In August 2020, Martin sued the DOC Parties alleging Section 1983 claims for their handling of his legal mail and "negative attention" he received from them during his incarceration. *Appellant's Appendix Vol. 2* at 23. In 2023, Martin moved for default judgment because the DOC Parties had failed to respond to his complaint.[1] The DOC parties responded to the motion for default judgment alleging lack of service. The DOC parties also moved to dismiss Martin's complaint, asserting—among other things—Indiana Code Section 34-58-1-2 required dismissal because Martin raised only frivolous or non-viable claims.[2] The trial court screened

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[1] Martin first filed a motion for default judgment in 2021, but before a ruling was made on that motion, Martin alleged bias by first the regular judge and then a series of special judges who all recused or declined to accept appointment. Judge Michael Fish accepted appointment as special judge in December 2022. Martin filed this second motion for default judgment in January 2023.

[2] Indiana Code Section 34-58-1-2(a) states, "A court shall review a complaint or petition filed by an offender and shall determine if the claim may proceed." This statute, often referred to as the "Screening Statute," is one of the tools in the trial court's toolkit to address abusive and prolific offender litigation and relieve the "heavy burden that those suits have placed on our judicial system." *Smith v. Wal-Mart Stores East, LP*, 853 N.E.2d 478, 481 (Ind. Ct. App. 2006), *trans. denied*; *see Zavodnik v. Harper*, 17 N.E.3d 259, 264 (Ind. 2014) ("Every resource that courts devote to an abusive litigant is a resource denied to other legitimate cases with good-faith litigants."). We remind trial courts that the Screening Statute allows the court to assess an offender complaint as soon as it is received and does not require a motion by the defendant to trigger the screening determination. *See Medley v. Lemmon*, 994 N.E.2d 1177, 1183 (Ind. Ct. App. 2013), *trans. denied*.

Martin's complaint and granted the State's motion, dismissing the action in its entirety. Martin now appeals.

Discussion and Decision

[3] Martin argues the trial court erred when it denied his motion for default judgment and dismissed his complaint. As an initial matter, we note Martin represented himself before the trial court and in this appeal. *Pro se* litigants are held to the same standards as licensed attorneys and are required to follow the procedural rules. *Evans v. State*, 809 N.E.2d 338, 344 (Ind. Ct. App. 2004), *trans. denied*. *Pro se* litigants have "every right to represent" themselves in legal proceedings but are afforded "no inherent leniency simply by virtue of being self-represented." *Zavodnik*, 17 N.E.3d at 266. We therefore do not indulge in any "benevolent presumption" on their behalf or waive any rule for the proper conduct of the appeal. *Foley v. Mannor*, 844 N.E.2d 494, 496 n.1 (Ind. Ct. App. 2006).

[4] Failure to comply with the Indiana Rules of Appellate Procedure does not necessarily result in waiver of a claim on appeal, but waiver is appropriate when violation of those rules substantially impedes our review. *In re Moeder*, 27 N.E.3d 1089, 1097 n.4 (Ind. Ct. App. 2015), *trans. denied*. Several of Martin's previous appeals have been dismissed for failure to comply with the Appellate Rules. *See Martin v. Hunt*, 130 N.E.3d 135, 137–38 (Ind. Ct. App. 2019)

(collecting cases).[3] And again here, we conclude the deficiencies in Martin's brief are of such a substantial nature that he has waived his claims.

[5] Appellate Rule 46(A)(8) requires the contentions in an appellant's brief to be supported by cogent reasoning and appropriate citations to the record and legal authorities. Here, despite our best efforts, it is extremely difficult to understand Martin's argument. His brief consists of grammatically incorrect and incomplete or run-on sentences. Rather than showing his lawsuit was not subject to mandatory dismissal under the Screening Statute or that he was entitled to a default judgment, Martin's argument consists of bald assertions, immaterial facts, legal terms used out of context, and citation to irrelevant legal authorities. *See Kishpaugh v. Odegard*, 17 N.E.3d 363, 373 n.3 (Ind. Ct. App. 2014) (explaining "[i]t is not sufficient for the argument section that an appellant simply recites facts and makes conclusory statements without analysis or authoritative support"). And where Martin has cited relevant caselaw, he fails to apply it to analyze his claims. *See, e.g.*, *Burnell v. State*, 110 N.E.3d 1167, 1171 (Ind. Ct. App. 2018) (noting the presentation of the appellant's contentions must contain "a clear showing of how the issues and contentions relate to particular facts of the case under review").

[6] We prefer to decide cases on their merits when possible. *Basic v. Amouri*, 58 N.E.3d 980, 984 (Ind. Ct. App. 2016). But as the Indiana Supreme Court long

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[3] Since *Martin v. Hunt* was decided in 2019, several additional appeals filed by Martin have been dismissed for the same reasons.

ago stated, "[W]e will not review arguments that are poorly developed, wholly undeveloped, or improperly expressed." *Owen v. State*, 381 N.E.2d 1235, 1239 (1978). Such is the case here—Martin's arguments are too poorly developed for us to review.

Conclusion

[7] Martin's failure to present a cogent argument results in waiver of his issues on appeal. Accordingly, the trial court's dismissal of Martin's complaint is affirmed.

[8] Affirmed.

Bailey, J., and Tavitas, J., concur.