

MEMORANDUM DECISION

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APPELLANT PRO SE

Michael K. Johnson
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

In the Matter of the Supervised
Estate of Mary Etta Rose,
Deceased

Michael K. Johnson,
Appellant

September 27, 2023

Court of Appeals Case No.
23A-EU-873

Appeal from the Marion Superior
Court

The Honorable David J. Certo,
Judge

Trial Court Cause No.
49D08-0804-EU-18491

Memorandum Decision by Judge Weissmann
Judges Riley and Bradford concur.

Weissmann, Judge.

- [1] The Estate of Mary Etta Rose obtained a money judgment against its former personal representative, Delories Johnson, for misappropriating funds and other property of the Estate. The judgment remained unsatisfied when the trial court closed the Estate a few years later. The court therefore assigned the judgment to the Estate's primary heirs, Michael Johnson and his siblings. A decade later, Michael filed a petition demanding that the trial court—not Delories—pay him \$140,000 in satisfaction of the judgment. The trial court denied Michael's petition, and we affirm.

Facts

- [2] Mary Etta Rose died in 2008. Pursuant to Rose's last will and testament, the trial court appointed Delories as personal representative of Rose's Estate. In 2010, however, the court removed Delories from this position and appointed Nina Warfield as successor personal representative. On behalf of the Estate, Warfield then filed a petition alleging Delories misappropriated funds and other property of the Estate in breach of her fiduciary obligations. The Estate obtained a judgment against Delories for \$186,067.58, and the trial court ordered that a percentage of any funds collected be distributed to Michael and his two siblings, the Estate's primary heirs.
- [3] The Estate did not collect on the judgment and, in 2011, moved to close the Estate. In response, Michael filed a series of pro se motions in which he generally complained about not receiving any judgment-related distributions.

The trial court denied Michael's motions, but in 2013, at the Estate's request, the court entered an order assigning the judgment to Michael and his siblings. The court then closed the Estate.

- [4] Ten years later, Michael filed a pro se petition for funds, demanding that the trial court pay \$140,000 in satisfaction of the assigned judgment. In support of this demand, Michael simply stated: "[W]e have given this court enough time to collect our money and would like to receive our money." App. Vol. II, p. 14. The trial court summarily denied Michael's petition, after which he initiated this pro se appeal. In his appellant's brief, however, Michael does not allege any reversible error by the trial court in denying his petition. For this reason and others, Michael has waived any such claim.

Discussion and Decision

- [5] "An appellant who proceeds pro se is held to the same established rules of procedure that a trained legal counsel is bound to follow and, therefore, must be prepared to accept the consequences of his or her action." *Thacker v. Wentzel*, 797 N.E.2d 342, 345 (Ind. Ct. App. 2003) (internal quotation omitted). "While we prefer to decide cases on their merits, we will deem alleged errors waived where an appellant's noncompliance with the rules of appellate procedure is so substantial it impedes our appellate consideration of the errors." *Id.*
- [6] Indiana Appellate Rule 46(A) governs the arrangement and contents of an appellant's brief. Among other things, the rule requires the brief to include the following sections:

(4) *Statement of Issues*. This statement shall concisely and particularly describe each issue presented for review.

(7) *Summary of Argument*. The summary should contain a succinct, clear, and accurate statement of the arguments made in the body of the brief. . . .

(8) *Argument*. This section shall contain the appellant's contentions why the trial court . . . committed reversible error.

Ind. Appellate Rule 46(A). The purpose of these rules “is to aid and expedite review and to relieve the appellate court of the burden of searching the record and briefing the case.” *Thacker*, 797 N.E.2d at 345.

[7] Michael violated Appellate Rules 46(A)(4), (7), and (8) by not including a *Statement of Issues*, *Summary of Argument*, or *Argument* section in his appellant's brief. Moreover, he does not allege any reversible error by the trial court in denying his petition for funds. In his *Statement of Facts* sections, Michael simply lists nine “counts” of fraud that he claims the trial court committed by not paying the judgment against Delories.¹ Appellant's Br., p. 4. But even these claims violate Appellate Rule 46(A) in a variety of ways. *See, e.g.*, App. R. 46(A)(8)(a) (requiring cogent reasoning and citation to authorities and record);

¹ We note that “Indiana law allows collection only against [a] named judgment-debtor and those the debtor could have pursued themselves.” *Nat'l Mut. Ins. Co. v. Sparks*, 647 N.E.2d 375, 377 (Ind. Ct. App. 1995); *see, e.g., Keaton v. Fort Wayne Neurosurgery*, 780 N.E.2d 1183, 1185 (Ind. Ct. App. 2003) (holding judgment-creditor could not enforce judgment against judgment-debtor's attorney where attorney did not have a present or potential future obligation owing to judgment-debtor).

App. R. 46(A)(8)(b) (requiring statement of procedural and substantive facts necessary to consider issues).

[8] Because Michael's noncompliance with our appellate rules impedes our consideration of any would-be claims of error, we conclude he has waived any such claims. *Thacker*, 797 N.E.2d at 345. We therefore affirm the trial court's judgment.

Riley, J., and Bradford, J., concur.