MEMORANDUM DECISION

APPELLANT PRO SE

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IN THE
COURT OF APPEALS OF INDIANA

Dwane Ingalls,
Appellant-Plaintiff,

v.

Bridgestone Retail Operations, LLC,
Appellee-Defendant.

November 17, 2021

Court of Appeals Case No. 21A-SC-667

Appeal from the Johnson Circuit and Superior Courts, Magistrate Division

The Honorable Douglas B. Cummins, Magistrate

Trial Court Cause No. 41D01-2010-SC-1617

Friedlander, Senior Judge.

[1] Dwane Ingalls appeals the trial court's entry of judgment for Bridgestone Retail Operations, LLC on his negligence claim. We affirm.

[2] Ingalls drove his vehicle to Bridgestone on June 16, 2020. In Bridgestone's parking lot, there is a large, blue support pole for Bridgestone's advertising sign

in front of and partially blocking one of the parking spaces. When Ingalls arrived, this space was the only one available. In attempting to park in this spot, Ingalls collided with the pole, causing damage to his vehicle. Thereafter, he filed a small claims action against Bridgestone seeking reimbursement for the property damage.

[3] A bench trial was held on February 18, 2021, at which Ingalls appeared pro se and submitted photos of the pole and parking space in support of his claim that Bridgestone was negligent for obstructing the parking space with the pole and thus causing damage to his vehicle. On cross-examination, Ingalls acknowledged the weather was clear on February 18, he was not impaired, he did not require glasses to drive, there was nothing preventing him from seeing the pole when he was parking, and that, as a driver, he had a duty to keep a proper lookout. The court took the matter under advisement and later issued its judgment in favor of Bridgestone. Ingalls now appeals.

[4] Judgments in small claims actions are "subject to review as prescribed by relevant Indiana rules and statutes." Ind. Small Claims Rule 11(A). On appeal, we will reverse only for clear error. *Pfledderer v. Pratt*, 142 N.E.3d 492 (Ind. Ct. App. 2020). We neither reweigh the evidence nor assess witness credibility, and we consider only the evidence most favorable to the judgment. *Id.* We are particularly deferential to the trial court in small claims actions where trials are informal and the sole objective is dispensing speedy justice between the parties according to the rules of substantive law. *Harvey v. Keyed In Prop. Mgmt., LLC*, 165 N.E.3d 584 (Ind. Ct. App. 2021), *trans. denied*.

[5] It is a cardinal rule of appellate review that the appellant bears the burden of showing reversible error, as all presumptions are in favor of the trial court's judgment. *Gibson v. Bojrab*, 950 N.E.2d 347 (Ind. Ct. App. 2011). Although Ingalls has chosen to proceed pro se, he is still held to the same legal standards as licensed attorneys, including following established rules of procedure and accepting the consequences of his failure to do so. *Basic v. Amouri*, 58 N.E.3d 980 (Ind. Ct. App. 2016). These consequences can include waiver for failure to present cogent argument on appeal. *Id.*

[6] Here, Ingalls has failed to comply with Appellate Rule 46(A)(8)(a), which requires the argument section of the appellant's brief to "contain the contentions of the appellant on the issues presented, supported by cogent reasoning." Although Ingalls' brief contains citations to legal authority, it lacks any argument or analysis of the way in which the referenced authorities relate to his case.

[7] Waiver notwithstanding, we can discern the crux of Ingalls' argument from the "Summary of the Argument" section of his brief. There, he states that Bridgestone owed him a duty of care to provide customer parking "devoid of foreseeable risks," Bridgestone breached their duty by obstructing the parking space, and such breach is the cause of damage to his vehicle. He further claims the trial court incorrectly applied comparative fault to the facts.

[8] To prevail on a theory of negligence, a plaintiff must prove: (1) that defendant owed plaintiff a duty; (2) that defendant breached that duty; and (3) that

plaintiff's injury was proximately caused by the breach. *Winfrey v. NLMP, Inc.*, 963 N.E.2d 609 (Ind. Ct. App. 2012). The status of the plaintiff determines the duty owed to him by the defendant. *Henderson v. Reid Hosp. & Healthcare Servs.*, 17 N.E.3d 311 (Ind. Ct. App. 2014), *trans. denied* (2015). The parties here agree that Ingalls was an invitee of Bridgestone, and, as such, he was owed a duty to exercise reasonable care for his protection while he was on the premises. *See id.* (invitee is person who goes onto land of another at invitation of owner/occupant to transact business or for mutual benefit of parties and to whom owner/occupant owes duty of reasonable care).

[9] Under Indiana's comparative fault scheme, however, even if the factfinder determines that the owner/occupant failed to exercise reasonable care, the invitee will not recover if the factfinder also concludes that the invitee was more than fifty percent at fault for his damages. *See* Ind. Code §34-51-2-6 (1998). An individual is required to make reasonable use of his faculties and senses to discover dangers and conditions to which he is or might be exposed, and, if a danger is so great and so near that a prudent man knowing of its existence would not have encountered it, then it constitutes contributory negligence such as will defeat a recovery. *Coffman v. PSI Energy, Inc.*, 815 N.E.2d 522 (Ind. Ct. App. 2004), *trans. denied* (2005).

[10] Judging by the evidence and the trial court's order, that is what occurred here. Although noting that the "signpost is certainly in an odd position relative to the parking space in question," the court also considered that Ingalls had been to Bridgestone before, knew of the post's location, and parked in the spot anyway.

Appellee's App. Vol. II, p. 7. The court further found that Ingalls "failed to maintain situational awareness of his surroundings as he was parking" and struck the post. *Id.* The court thus determined that Ingalls' "actions clearly indicate that he was contributorily negligent regarding the damage to his vehicle." *Id.*

[11] Based on the foregoing, we conclude the trial court's judgment was not clearly erroneous.

[12] Judgment affirmed.

Crone, J., and Molter, J., concur.