

MEMORANDUM DECISION

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IN THE Court of Appeals of Indiana

Sean W. Holmes,
Appellant

v.

Forum Credit Union,
Appellee

February 29, 2024

Court of Appeals Case No.
23A-CC-1996

Appeal from the Morgan Circuit
The Honorable Matthew G. Hanson, Judge
Trial Court Cause No.
55C01-2304-CC-707

Memorandum Decision by Judge Pyle
Judges Bailey and Crone concur.

Pyle, Judge.

- [1] Sean W. Holmes (“Holmes”) appeals, pro se, the trial court’s order granting summary judgment to Forum Credit Union (“Forum”) on Forum’s complaint against Holmes for collection of a loan debt and Holmes’ counterclaims against Forum. Holmes argues that the trial court erred by granting summary judgment to Forum.¹
- [2] Summary judgment is appropriate only where the designated evidence shows “that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Ind. Trial Rule 56(C). A trial court’s grant of summary judgment is “clothed with a presumption of validity,” and an appellant has the burden of demonstrating that the grant of summary judgment was erroneous. *Williams v. Tharp*, 914 N.E.2d 756, 762 (Ind. 2009) (internal quotation marks and citation omitted).
- [3] We note that Holmes is proceeding pro se in this appeal. Our Court has explained that

one 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

¹ We note that Appellee did not file an Appellee’s brief. When the Appellee fails to submit an appellate brief, “we need not undertake the burden of developing an argument on the [A]ppellee’s behalf.” *Front Row Motors, LLC v. Jones*, 5 N.E.3d 753, 758 (Ind. 2014) (internal quotation marks and citation omitted). Rather, “we will reverse the trial court’s judgment if the [A]ppellant’s brief presents a case of prima facie error[.]” which “is defined as, at first sight, on first appearance, or on the face of it.” *Id.* (internal quotation marks and citations omitted).

her action. While we prefer to decide cases on the 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.* The purpose of our appellate rules, Ind. Appellate Rule 46 in particular, is to aid and expedite review and to relieve the appellate court of the burden of searching the record and briefing the case. *We will not become an advocate for a party, nor will we address arguments which are either inappropriate, too poorly developed or improperly expressed to be understood.*

In re Garrard, 985 N.E.2d 1097, 1103 (Ind. Ct. App. 2013) (internal quotation marks and citations omitted) (emphasis added by *In re Garrard*), *reh'g denied*, *trans. denied*.

- [4] Here, Holmes has failed to comply with our Indiana Appellate Rules in both his brief and appendix. For example, contrary to Appellate Rule 46(A)(8), Holmes has failed to support his bare assertions of error with cogent argument. Nor has he provided citations to case law or relevant citations to the record on appeal. Holmes' lack of cogent argument impedes our ability to provide meaningful appellate review of his challenge to the trial court's summary judgment order. "A party waives an issue where the party fails to develop a cogent argument or provide adequate citation to authority and portions of the record." *In re Garrard*, 985 N.E.2d at 1104. *See also Thacker v. Wentzel*, 797 N.E.2d 342, 345 (Ind. Ct. App. 2003) ("It is well settled that we will not consider an appellant's assertion on appeal when he has not presented cogent argument supported by authority and references to the record as required by the rules.").

[5] Furthermore, contrary to Appellate Rule 50(A)(2), Holmes has failed to include a copy of either parties' summary judgment motions or designated evidence in his appendix.² Holmes' failure to provide the relevant trial court pleadings and documents that are necessary for resolution of the issue raised on appeal further impedes our ability to provide appellate review. "[B]oth our appellate rules as well as applicable case law clearly indicate that when appealing the grant or denial of a motion for summary judgment, the moving party must file with the appellate court those materials that were designated to the trial court for purposes of reviewing the motion for summary judgment." *Yoquelet v. Marshall County*, 811 N.E.2d 826, 829-30 (Ind. Ct. App. 2004). *See also Hughes v. King*, 808 N.E.2d 146, 148 (Ind. Ct. App. 2004) (dismissing appeal of grant of summary judgment when appellant failed to include all designated evidence in the appendix).

[6] Holmes' noncompliance with the Appellate Rules—most notably his failure to provide cogent argument and failure to provide the relevant summary judgment record from below—substantially impedes us from reaching the merits of this appeal.³ Thus, we conclude that he has waived his argument in this appeal, and we affirm the trial court's judgment. *See, e.g., In re Garrard*, 985 N.E.2d at 1105

² Additionally, Holmes did not include Forum's complaint or his counterclaim in his appendix. Holmes' appendix, however, contains some of his own documents that do not contain a file stamp from the trial court clerk. Accordingly, it is unclear whether these documents are part of the record on appeal.

³ Holmes has failed to comply with other Appellate Rules; however, we need not list the remaining litany of errors.

(holding that the appellant had waived all appellate issues based on his failure to make a cogent argument and follow appellate rules); *Yoquelet*, 811 N.E.2d at 830 (affirming the trial court's grant of summary judgment where the appellant failed to include the relevant summary judgment record that the trial court relied upon in drafting its summary judgment order).

[7] Affirmed.

Bailey, J., and Crone, J., concur.

APPELLANT, PRO SE

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