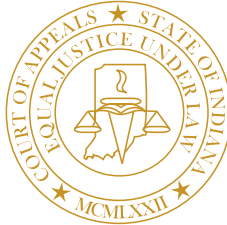


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE Court of Appeals of Indiana

William Elliot Smith,
Appellant-Defendant

v.

Brandon Arizpe,
Appellee-Plaintiff

July 21, 2025

Court of Appeals Case No.
25A-EV-147

Appeal from the St. Joseph Superior Court
The Honorable Elizabeth Hardtke, Magistrate
Trial Court Cause No.
71D05-2408-EV-1651

Memorandum Decision by Judge Vaidik
Judges Tavitas and Felix concur.

Vaidik, Judge.

- [1] In August 2024, Brandon Arizpe filed an eviction action against William Elliot Smith in small-claims court requesting a judgment of \$5,000 plus a final order of possession. Smith, pro se, filed a counterclaim. A hearing was held in December, following which the trial court issued a judgment of \$4,759.58 plus costs and a final order of possession for Arizpe. Smith requested a video recording of the hearing. The trial court issued an order acknowledging that it had received Smith's request but noting that there was no video recording. The court stated Smith could request a transcript in the Notice of Appeal. *See Order, Cause No. 71D05-2408-EV-1651 (Dec. 16, 2024).*
- [2] In January 2025, Smith, still pro se, filed a Notice of Appeal, but he didn't request a transcript of the December 2024 hearing. *See Notice of Appeal, Case No. 25A-EV-147 (Jan. 17, 2025); see also Amended Notice of Completion of Clerk's Record, Case No. 25A-EV-147 (May 22, 2025) (noting that a transcript was not requested in the Notice of Appeal).* Thus, no transcript was prepared.
- [3] Smith raises two issues on appeal: (1) the trial court awarded "excessively harsh, illegal double damages" to Arizpe and (2) the court exhibited bias against him at the December 2024 hearing in violation of the Fourteenth Amendment to the United States Constitution. Appellant's Br. p. 5. Arizpe didn't file an appellee's brief, so Smith need only make a prima facie showing of error. *See Trinity Homes, LLC v. Fang*, 848 N.E.2d 1065, 1068 (Ind. 2006). He hasn't done so.

[4] To review the issues Smith raises on appeal, we need a transcript of the December 2024 hearing, which Smith didn't request. *See* Ind. Appellate Rule 9(F)(5) (explaining that the Notice of Appeal must designate "all portions of the Transcript necessary to present fairly and decide the issues on appeal"). And because there is no transcript, Smith obviously doesn't cite it in his brief, which is required. *See* App. R. 46(A)(6)(a) ("The facts shall be supported by page references to the Record on Appeal or Appendix"); App. R. 46(A)(8)(a) (providing that appellant's argument must be supported by citations to "the Appendix or parts of the Record on Appeal relied on"). Smith has waived review of the issues and therefore hasn't shown prima facie error. *See Martinez v. State*, 82 N.E.3d 261, 264 (Ind. Ct. App. 2017) (explaining that it is appellant's burden to provide the reviewing court with a complete record and that a failure to do so results in waiver), *trans. denied*. We therefore affirm the trial court.

[5] Affirmed.

Tavitas, J., and Felix, J., concur.

APPELLANT, PRO SE

William Elliot Smith
Notre Dame, Indiana