

## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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APPELLANT PRO SE

Jessica Jennings  
Indianapolis, Indiana

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## IN THE COURT OF APPEALS OF INDIANA

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Jessica Rae Jennings,  
*Appellant-Plaintiff,*

v.

Daniel Ray Lewis, Jr.,  
*Appellee-Defendant.*

December 30, 2022

Court of Appeals Case No.  
22A-SC-1720

Appeal from the  
Marion County Small Claims  
Court

The Honorable  
Kimberly J. Bacon, Judge

Trial Court Cause No.  
49K03-2204-SC-927

**Foley, Judge.**

- [1] Jessica Rae Jennings (“Jennings”) filed a small claims action against Daniel Ray Lewis, Jr. (“Lewis”), alleging he had given her two sexually transmitted diseases and seeking medical expenses and pain and suffering. The trial court found in favor of Lewis, and Jennings appeals, asserting that the trial court

erred in its decision. Because Jennings has violated numerous provisions of Indiana Appellate Rule 46, including the failure to present cogent arguments, we conclude that she has waived appellate review of her issue. We, therefore, affirm the trial court's judgment.

### **Facts and Procedural History<sup>1</sup>**

[2] Jennings and Lewis were previously involved in an intimate relationship, beginning in 1995, and they had a child together in 1996. They later got married in 2007, but subsequently split up. The record does not reflect whether the marriage between Jennings and Lewis was dissolved or not. Jennings alleged that, in August 2015, she had unprotected sex with Lewis and that she contracted two sexually transmitted diseases from that interaction. Jennings discovered that she tested positive for the two sexually transmitted diseases on November 29, 2016.

[3] On April 8, 2022, Jennings filed a small claims action against Lewis seeking \$10,000 for medical expenses, pain and suffering, and for giving her the two sexually transmitted diseases. The trial court held a bench trial on Jennings's claims on May 26, 2022, and both Jennings and Lewis were present. It is unclear what testimony and evidence was presented because a transcript was not provided. After the bench trial, the trial court issued an order on July 1,

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<sup>1</sup> The underlying facts of this case are limited because Jennings did not request a copy of the transcript from the bench trial. Instead, we have had to glean the facts from the limited information included in her appendix and brief.

2022, finding in favor of Lewis. The trial court specifically found that Jennings had “failed to meet her burden of proof . . . [and her] injuries [were] outside of the statute of limitations for civil proceedings.” Appellant’s App. Vol. 2 at 5. Jennings now appeals.

## Discussion and Decision

[4] Initially, we note that Jennings has chosen to proceed pro se. A litigant is not given special consideration by virtue of his or her pro se status. *Kelley v. State*, 166 N.E.3d 936, 937 (Ind. Ct. App. 2021). “It is well settled that pro se litigants are held to the same legal standards as licensed attorneys. This means that pro se litigants are bound to follow the established rules of procedure and must be prepared to accept the consequences of their failure to do so.” *Basic v. Amouri*, 58 N.E.3d 980, 983–84 (Ind. Ct. App. 2016) (internal citations omitted), *reh’g denied*. These consequences include waiver for failure to present cogent arguments on appeal. *Id.* at 984. Although we prefer to decide issues on the merits, where the appellant’s noncompliance with the rules of appellate procedure is so substantial that it impedes our appellate consideration of the errors, we may deem the alleged errors waived. *Id.*

[5] The purpose of our appellate rules, and Indiana 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.” *Dridi v. Cole Kline LLC*, 172 N.E.3d 361, 364 (Ind. Ct. App. 2021) (quoting *Ramsey v. Rev. Bd. of Ind. Dep’t of Workforce Dev.*, 789 N.E.2d 486, 487 (Ind. Ct. App. 2003)). We will not become

an advocate for a party and will not address arguments which are either inappropriate, too poorly developed, or improperly expressed to be understood.  
*Id.*

[6] Jennings’s appellate brief contains many deficiencies and violates several provisions of Appellate Rule 46(A) in some manner.

- Appellate Rule 46(A)(2) requires a table of authorities;
- Appellate Rule 46(4) provides that the statement of issues section “shall concisely and particularly describe each issue presented for review”;
- Appellate Rule 46(A)(6) requires a statement of facts that consists of a narrative statement of the facts presented in accordance with the standard of review appropriate to the judgment being appealed and supported by page references to the Record on Appeal or the Appendix;
- Appellate Rule 46(A)(7) requires a summary of argument section, which “should contain a succinct, clear, and accurate statement of the arguments made in the body of the brief”; and
- Appellate Rule 46(A)(8) requires an argument section that contains the appellant’s contentions and must be supported by cogent reasoning and citations to the authorities and parts of the record relied on.

[7] Jennings’s brief did not meet any of these requirements. “While we are often tolerant of minor infractions of the appellate rules so that we may decide

appeals on their merits, those rules are nonetheless binding on all persons bringing appeals to this court.” *Ramsey*, 789 N.E.2d at 490 (quoting *Sartain v. Blunck*, 453 N.E.2d 324, 325 (Ind. Ct. App. 1983)). Jennings’s noncompliance with the appellate rules impedes us from reaching the merits of her appeal. Most importantly, Jennings’s lack of cogent argument and failure to cite to legal authority or portions of the record to support her assertions impedes our ability to provide meaningful appellate review of her arguments. 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. *Clary-Ghosh v. Ghosh*, 26 N.E.3d 986, 989 n.1 (Ind. Ct. App. 2015) (citing *Dickes v. Felger*, 981 N.E.2d 559, 562 (Ind. Ct. App. 2012)), *trans. denied*. We, therefore, conclude that Jennings has waived her issues on appeal and affirm the trial court’s grant of judgment in favor of Lewis.

[8] Affirmed.

Robb, J., Mathias, J., concur.