MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Robert Scartozzi,
Appellant-Defendant,

v.

TruWorth Auto,
Appellee-Plaintiff

July 28, 2023

Court of Appeals Case No. 23A-SC-155

Appeal from the Hamilton Superior Court

The Honorable P. Chadwick Hill, Magistrate

Trial Court Cause No. 29D05-2201-SC-546

Memorandum Decision by Judge Crone
Judge Brown and Senior Judge Robb concur.

Crone, Judge.

Case Summary

[1] Robert Scartozzi appeals the trial court's order granting TruWorth Auto's motion to correct error, in which the court set aside its judgment in favor of Scartozzi and entered judgment in favor of TruWorth on TruWorth's claim against Scartozzi for breach of contract/unjust enrichment. Scartozzi argues that the trial court erred by granting TruWorth's motion. Finding no error, we affirm.

Facts and Procedural History

[2] In November 2021, Scartozzi went to TruWorth, an Indianapolis used car dealership, to purchase a vehicle. TruWorth's sales manager, Najee Whitson, prepared a motor vehicle retail purchase order (Purchase Order), which indicated that the total delivered price was $31,126, provided a trade-in allowance of $11,000, and showed a cash deposit of $5,116, leaving a final balance of $15,010 due on delivery. Scartozzi received financing to pay the final balance. Scartozzi was informed that he could not use a credit card to make the down payment and that he should obtain a cashier's check from a bank. Scartozzi left, and when he returned, Whitson realized that Scartozzi had not signed all the required documents. In his effort to obtain Scartozzi's signature, Whitson was distracted from collecting the down payment. Scartozzi took possession of the new vehicle. TruWorth sold the vehicle that Scartozzi had traded in. Whitson tried to contact Scartozzi to collect the down payment by calling Scartozzi and sending multiple text messages and emails, but Scartozzi did not respond. Eventually, TruWorth's bank representative called Scartozzi,

who told her that the Purchase Order was his receipt that the money had been paid.

[3] In January 2022, TruWorth filed a small claims complaint for breach of contract and/or unjust enrichment, alleging that Scartozzi had failed to pay the down payment of $5,116. On October 25, 2022, a trial was held. The sole witness was Whitson, who testified that the Purchase Order was not a receipt, and at the time he and Scartozzi signed the Purchase Order, two things remained to be done: TruWorth needed to receive the down payment money, and Scartozzi needed to take the vehicle. Whitson also testified that Scartozzi did not provide a down payment by cashier's check on the purchase date and did not provide any other form of down payment. The Purchase Order as well as the retail installment contract and security agreement were entered into evidence. Scartozzi appeared at trial but did not testify. The same day, the trial court entered an order denying TruWorth's claim.

[4] On November 28, 2022, TruWorth filed a motion to correct error. Following oral argument, the trial court granted the motion to correct error, vacated the judgment for Scartozzi, and entered judgment in favor of TruWorth for $5,116 plus costs. Specifically, the trial court found that it had "previously incorrectly determined that the greater weight of the evidence did not support recovery on either of [TruWorth's] theories[,]" and that "[o]n reconsideration, … the greater weight of the evidence—specifically the oral testimony of sales manager Whitson and the undisputed exhibits show[s]" that TruWorth rendered a measurable benefit to Scartozzi, namely, a car; TruWorth expected payment for

the car, including a down payment of $5,116; Scartozzi did not provide this payment; and allowing Scartozzi to keep both the car and the down payment of $5,116 would be unjust and contrary to the terms of the agreement. Appealed Order at 2. This appeal ensued.

Discussion and Decision

[5] Initially, we note that Scartozzi's brief does not comply with the Indiana Rules of Appellate Procedure. "The purpose of our appellate rules, especially Indiana Appellate Rule 46, is to aid and expedite review and to relieve the appellate court of the burden of searching the record and briefing the case." *Tipton v. Est. of Hofmann*, 118 N.E.3d 771, 776 (Ind. Ct. App. 2019). Scartozzi's statement of the case is not supported by page references to the record on appeal or appendix in contravention of Appellate Rule 46(A)(5). Scartozzi's statement of facts is not stated in accordance with our standard of review as required by Appellate Rule 46(A)(6)(b). In his argument, Scartozzi fails to provide any pinpoint citations in violation of Appellate Rules 46(A)(8) and 22(A). In addition, Appellate Rule 46(A)(8) requires that the appellant's argument include the applicable standard of review, but Scartozzi's argument sets forth the standard of review for a judgment on the evidence, not the standard of review for a ruling on a motion to correct error. Last, contrary to Appellate Rule 50(A)(2)(f), Scartozzi has not filed an appendix with the pleadings and other documents necessary for resolution of the issues raised on appeal. These failures have impeded our review. Similar violations of our appellate rules have resulted in waiver of claims on appeal. *See Martin v. Brown*, 129 N.E.3d 283, 286 (Ind. Ct.

App. 2019) (waiving claims on appeal when violations of Appellate Rules impeded ability to review). However, given our preference to decide cases on their merits when possible, we address his appeal.

[6] We review a trial court's ruling on a motion to correct error for an abuse of discretion. *Poiry v. City of New Haven*, 113 N.E.3d 1236, 1239 (Ind. Ct. App. 2018). "An abuse of discretion occurs if a ruling is clearly against the logic and effect of the facts and circumstances or if the trial court erred on a matter of law." *Patrick v. Painted Hills Ass'n*, 134 N.E.3d 518, 520 (Ind. Ct. App. 2019). "The trial court's decision on a motion to correct error comes to us cloaked with a presumption of correctness, and the appellant has the burden of showing an abuse of discretion." *Est. of Peters*, 206 N.E.3d 434, 445-46 (Ind. Ct. App. 2023).

[7] Here, the trial court concluded that the weight of the evidence supported TruWorth's claim for unjust enrichment. "To prevail on a claim of unjust enrichment, a plaintiff must establish that a measurable benefit has been conferred on the defendant under such circumstances that the defendant's retention of the benefit without payment would be unjust." *Kohl's Indiana, L.P. v. Owens*, 979 N.E.2d 159, 167 (Ind. Ct. App. 2012). In essence, Scartozzi's argument is that TruWorth failed to establish that he did not provide the down payment. "When reviewing challenges to the sufficiency of the evidence, it is axiomatic that we cannot reweigh the evidence or judge the credibility of the witnesses." *Peters*, 206 N.E.3d at 442.

[8] Specifically, Scartozzi contends that the Purchase Order is a contract, which TruWorth does not dispute. *See Mueller v. Karns*, 873 N.E.2d 652, 657 (Ind. Ct. App. 2007) ("The basic requirements for a contract are offer, acceptance, consideration, and a meeting of the minds of the contracting parties."). According to Scartozzi, the Purchase Order shows that all the terms were completed, including the $5,116 down payment. In support, Scartozzi directs us to Whitson's testimony on cross-examination that by signing the Purchase Order, Whitson was indicating that the transaction was "completed." Tr. Vol. 2 at 23.

[9] Scartozzi ignores Whitson's testimony that the Purchase Order is not a receipt. In addition, on redirect, Whitson clarified that by "completed" he meant that "all of my documents had been signed[,]" and he explained that two things still needed to be done: Scartozzi needed to provide the down payment to TruWorth and TruWorth needed to hand over the vehicle to Scartozzi. *Id*. at 31. Whitson unequivocally testified that Scartozzi had not provided the down payment. Scartozzi's argument amounts to a request for us to reweigh the evidence, which we must decline. *See Peters*, 206 N.E.3d at 442. We cannot say that the trial abused its discretion by granting TruWorth's motion to correct error. Accordingly, we affirm.[1]

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[1] Scartozzi also asserts that the motion to correct error was untimely because it was not filed within the thirty-day deadline provided under Indiana Trial Rule 59(C). We disagree. Indiana Trial Rule 6(A) provides that if the last day of the period falls on a holiday, the period runs to the end of the next day that is not a Saturday, a Sunday, a legal holiday, or a day on which the clerk's office is closed. Here, the last day of the

[10] Affirmed.

Brown, J., and Robb, Sr.J., concur.

period fell on Thanksgiving, and thus the period continued to run until the following Monday, which is when TruWorth filed the motion.