MEMORANDUM DECISION

IN THE
Court of Appeals of Indiana

Douglas Alan Dyson,
Appellant-Plaintiff

v.

Whitley County Regional Water & Sewer District, and Indiana Department of Environmental Management,
Appellees-Respondents

March 26, 2024

Court of Appeals Case No.
23A-MI-2465

Appeal from the Whitley Circuit Court

The Honorable Matthew J. Rentschler, Judge

Trial Court Cause No.
92C01-2210-MI-884

Memorandum Decision by Judge Vaidik
Judges May and Kenworthy concur.

Vaidik, Judge.

[1] The Indiana Department of Environmental Management (IDEM) issued a sanitary sewer construction permit to the Whitley County Regional Water and Sewer District. Douglas Alan Dyson sought review by the Office of Environmental Adjudication, and an environmental law judge upheld the permit. Dyson then filed a petition for judicial review, which the trial court denied. Dyson now appeals, pro se. We conclude that Dyson waived his arguments by failing to comply with the Indiana Rules of Appellate Procedure.

[2] To begin, Dyson's Statement of Case and Statement of Facts do not make clear what was at issue at the administrative level and in the trial court or what is at issue in this appeal. Appellate Rule 46(A)(5) provides that an appellant's Statement of Case "shall briefly describe the nature of the case, the course of the proceedings relevant to the issues presented for review, and the disposition of these issues by the trial court or Administrative Agency." Dyson's Statement of Case tells us that IDEM issued a sanitary sewer construction permit, that an environmental law judge issued "Findings of Fact, Conclusions of Law and Final Order," and that the trial court issued "Amended Findings of Fact, Conclusions of Law, and Order." Appellant's Br. pp. 7-9. He doesn't say who received the permit, who the parties were at the administrative level and in the trial court, or what the ultimate ruling was at each stage.

[3] Dyson's Statement of Facts is even less helpful. Appellate Rule 46(A)(6) provides that an appellant's Statement of Facts "shall describe the facts relevant

to the issues presented for review," "stated in accordance with the standard of review appropriate to the judgment or order being appealed," and "in narrative form[.]" Dyson's statement isn't a narrative recounting of relevant facts. Instead, it starts with criticism of the environmental law judge and the trial court judge, turns to a discussion of recent decisions by the U.S. Supreme Court, and ends with a lengthy, contextless block quote from the transcript of an unspecified hearing. Appellant's Br. pp. 9-13.

[4] But the biggest problems are in the Argument section of Dyson's brief. Appellate Rule 46(A)(8) provides that an appellant's argument must contain, among other things, "the contentions of the appellant on the issues presented," supported by "cogent reasoning" and "citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on," and "a brief statement of the procedural and substantive facts necessary for consideration of the issues presented on appeal, including a statement of how the issues relevant to the appeal were raised and resolved by any Administrative Agency or trial court." Dyson's arguments don't come close to satisfying these requirements.

[5] He cites the Northwest Ordinance of 1787 for the proposition that he was entitled to "trial by jury" and "judicial proceedings according to the course of the common law," Appellant's Br. p. 17, but he cites no caselaw applying these provisions and doesn't explain what he thinks the latter phrase means, why the right to jury trial should extend to a petition for judicial review of an agency decision, or why we should find these provisions to be judicially enforceable. He argues that Whitley County was an "improper venue," *id.* at 23, but he

doesn't explain what would have been a proper venue or why he filed his petition in Whitley County if he believed it was an improper venue. He argues that the environmental law judge's order was "void, a sham a scam, and unconstitutional" because she had not taken an oath of office, *id.* at 25, but he cites no authority requiring an environmental law judge—an employee of an administrative agency—to take an oath. He argues that the trial court "had no jurisdictional authority to repudiate my constitutional right to the free exercise clause of the First Amendment," *id.* at 26, but he offers no First Amendment analysis. And he argues that the trial court "had NO jurisdictional authority to control my right to contract," *id.* at 30, but he cites no evidence that he has been ordered to enter into a contract or barred from entering into a contract.

[6] Given the lack of cogent argument and the other significant rule violations, Dyson has waived appellate review. *See Perry v. Anonymous Physician 1*, 25 N.E.3d 103, 105 n.1 (Ind. Ct. App. 2014) ("While we prefer to decide cases on their merits, alleged errors are waived where an appellant's noncompliance with the rules of appellate procedure is so substantial it impedes our appellate consideration of the errors."), *trans. denied*. We therefore affirm the trial court's denial of Dyson's petition for judicial review.

[7] Affirmed.

May, J., and Kenworthy, J., concur.

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