MEMORANDUM DECISION

APPELLANT *PRO SE*

Al Taylor
Hammond, Indiana

ATTORNEYS FOR APPELLEE

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IN THE COURT OF APPEALS OF INDIANA

Al Taylor,
Appellant-Defendant

v.

City of Hammond, Indiana[1],
Appellee-Plaintiff

March 11, 2022

Court of Appeals Case No. 21A-OV-345

Appeal from the Lake Superior Court

The Honorable Aleksandra Dimitrijevic, Judge

[1] Taylor's notice of appeal lists several parties other than the City of Hammond. Despite Taylor's attempt to raise claims on appeal against parties other than the City of Hammond, the City of Hammond initiated this action, and no other party was joined below. Taylor may not unilaterally add parties to this appeal who were not parties to the trial court proceedings.

Trial Court Cause No.
45D12-2003-OV-1053

Bradford, Chief Judge.

Case Summary

[1] Between 2018 and 2020, Al Taylor received notice of multiple ordinance violations from the City of Hammond ("the City"), mostly for substandard property maintenance and lawn care. After being found to have committed some of the alleged violations, Taylor was fined $1500.00. Taylor then filed multiple motions, which the trial court treated as motions to correct error. Following a hearing on the matter, Taylor's motions were denied.

[2] Taylor appealed, filing an appellate brief that fails to comply with Appellate Rule 46(A). The City argues that due to the implausibility of Taylor's claims as well as Taylor's continued bad-faith pursuit of this litigation, an award of attorneys' fees is appropriate. Given that the deficiencies in Taylor's appellate brief are so great that they impede our ability to review the merits of Taylor's appellate claims, we conclude that his claims are waived. Further, given that Taylor's brief is full of vexatiousness and unsupported claims, we grant the

City's request for appellate attorneys' fees. We affirm and remand for further proceedings.

Facts and Procedural History

[3] On June 15, 2018, the City alleged that Taylor committed the following ordinance violations: (1) excessive weeds; (2) excessive weeds, vegetation, brush, grass, and trees; (3) failure to maintain property; and (4) failure to maintain a premises under Cause Number 45H04-1806-OV-51573 in Hammond City Court. On May 15, 2020, after the permanent closure of Hammond City Court, the matter was transferred to Lake Superior Court and was renamed Cause Number 45D12-1806-OV-51573 ("Cause 51573"). On February 11, 2020, during the pendency of Cause 51573, Taylor was cited for additional violations under Cause Number 45D12-2003-OV-1053 ("Cause 1053"). On May 8, 2020, Cause Nos. 51573 and 1053 were scheduled concurrently and were treated as combined from that point forward.

[4] On November 30, 2020, under Cause 1053, Taylor was found liable for six ordinance violations and found not liable for four violations, resulting in a fine of $1500.00. The trial court ordered that Cause 51573 and all other pending matters be disposed of pursuant to the judgment against him in Cause 1053.

[5] Following the judgment, Taylor filed multiple motions[2], which the trial court treated as motions to correct error and set for hearing on February 3, 2021. Following the hearing the trial court denied Taylor's motions to correct error.

Discussion and Decision

[6] We note that Taylor has chosen to proceed *pro se*. "It is well settled that pro se litigants are held to the same legal standards as licensed attorneys." *Lowrance v. State*, 64 N.E.3d 935, 938 (Ind. Ct. App. 2016), *trans. denied*. "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." *Id.* "These consequences include waiver for failure to present cogent argument on appeal." *Basic v. Amouri*, 58 N.E.3d 980, 984 (Ind. Ct. App. 2016). "While we prefer to decide issues on the merits, where the appellant's noncompliance with appellate rules is so substantial as to impede our consideration of the issues, we may deem the alleged errors waived." *Id.* Further, we will not become an "advocate for a party, or address arguments that are inappropriate or too poorly developed

[2] On December 21, 2020, Taylor filed combined motions titled "Verified Notice of Falsified Unsigned Order of Denial of 12/2/2020 Proposed Order on Motion to Compel Court Reporter Frances N. Delia and *Blatant Lie Typed On the Bottom Thereof In Red* & Motion to Correct Error and That Lie." Appellees App. Vol. II p. 28-34. On December 22, 2020, Taylor filed combined motions titled "Defendants Verified Combined Motion for (60) day Extension of Time & His *Abbreviated Incomplete* Motion to Correct Error Due to Court Reporters Failure to Correct Her Mistakes for Transcripts Requested and Court & Reporter to Acknowledge Defendants Indigence as Declared by Lake County Circuit Court, Crown Point Indiana[.]" Appellees App. Vol. II p. 35-43.

or expressed to be understood." *Perry v. Anonymous Physician 1*, 25 N.E.3d 103, 105 n.1 (Ind. Ct. App. 2014), *trans. denied*.

I. Deficiencies in Taylor's Appellate Brief

[7] Indiana Rule of Appellate Procedure 46(A) requires that an appellant's brief contain, *inter alia*, a statement of the issues, a statement of the case, a statement of facts, a summary of the appellant's argument, and the appellant's argument. Each of the above-named sections of Taylor's appellate brief are deficient to varying degrees.

[8] The statement of the issues "shall concisely and particularly describe each issue presented for review." App. R. 46(A)(4). While Taylor's summation of his seven issues is lengthy, the section is also rife with confusing sentences and typographical errors, to the point that some of Taylor's statements are difficult to follow.

[9] The 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[.]" App. R. 46(A)(5). The statement of facts "shall describe the facts relevant to the issues presented for review but need not repeat what is in the statement of the case." App. R. 46(A)(6). Though Taylor's brief contains a separate statement of case and statement of facts, the two sections both present a mix of procedural history, alleged facts, and argument. Both sections contain minimal citations to the record or authority to support Taylor's assertions and arguments. Taylor largely relies on citation to

rules[3] rather than case law and cites frequently to exhibits which contain many handwritten notes in the margins that emphasize Taylor's narrative.

[10] The summary of the argument "should contain a succinct, clear, and accurate statement of the arguments made in the body of the brief. It should not be a mere repetition of the argument headings." App. R. 46(A)(7). Taylor's summary of argument fails to succinctly or clearly cover the issues, even apparently failing to mention some of issues listed in his statement of issues.

[11] The argument "shall contain the appellant's contentions why the trial court […] committed reversible error." App. R. 46(A)(8). Taylor's brief fails to make arguments "supported by cogent reasoning[,]" or "supported by citations to the authorities, statutes, or the Appendix or parts of the Record on Appeal relied on, in accordance with Rule 22." App. R. 46(A)(8)(a). Indiana Rule of Appellate Procedure 46(A)(8)(b) states that "The argument must include for each issue a concise statement of the applicable standard of review; this statement may appear in the discussion of each issue or under a separate heading placed before the discussion of the issues." Taylor concludes his argument section by stating, "It would do well if this Court based upon the contents herein were to look at this court DE NOVO appellant is pretty certain it would be dismissed with prejudice and sanctions would stem against the parties and judge for the reasons outlined herein above elsewhere." Appellant's

[3] For instance, Taylor's table of authorities lists twelve authorities: nine from the Indiana Rules of Trial Procedure, one from a Lake County Local Rule, and two from the Indiana Rules of Professional Conduct.

Br. p. 19. Taylor provides no other standards of review for his arguments and this claim, unsupported by legal authority or citation, does not satisfy the requirements for a standard of review under Appellate Rule 46(A)(8)(b).

[12] Further, Appellate Rule 46(A)(8)(b) requires that "the argument must include 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." While Taylor does include some factual and procedural history in his argument, it is entirely unsupported by citation to the record and fails to convey much of the information necessary to review his claims.

[13] Taylor's argument section also fails to comply with the requirement that "Each argument shall have an argument heading." App. R. 46(A)(8)(c). Though Indiana Rule of Appellate Procedure 46(A)(8)(c) allows that "[i]f substantially the same issue is raised by more than one asserted error, they may be grouped and supported by one argument[,]" here Taylor's issues are wide-ranging, and his noncompliance with other rules and failure to present cogent arguments make this omission a hinderance on our review of his appeal. The sum of Taylor's noncompliance with our appellate rules is so great that it has seriously impeded our review, ultimately resulting in a waiver of his claims.

II. Attorneys' Fees

[14] Indiana Rule of Appellate Procedure 66(E) provides that we "may assess damages if an appeal, petition, or motion, or response, is frivolous or in bad

faith. Damages shall be in the Court's discretion and may include attorneys' fees." "Appellate Rule 66(E) is limited, however, to instances when an appeal is permeated with meritlessness, bad faith, frivolity, harassment, vexatiousness, or purpose of delay." *Thacker v. Wentzel*, 797 N.E.2d 342, 346 (Ind. Ct. App. 2003). The City argues that Taylor's "bad-faith litigation is demonstrated constantly[,]" Appellee's Br. p. 27, and that none of Taylor's "seven issues were cogently argued or supported by any authority other than [Taylor]." Appellee's Br. p. 28.

> While Appellate Rule 66(E) allows us to award damages on appeal, we must act with extreme restraint in this regard due to the potential chilling effect on the exercise of the right to appeal. A strong showing is required to justify an award of appellate damages, and the sanction is not imposed to punish mere lack of merit, but something more egregious.

Flick v. Reuter, 5 N.E.3d 372, 383 (Ind. Ct. App. 2014) (citations omitted), *trans. denied*.

[15] As stated above, Taylor has waived our review on the merits of his arguments by failing to present a brief which complies with our appellate rules. The City argues that

> the underlying litigation was based on ordinance violations for excessive weeds and other minor violations, but is now before the Court of Appeals with unfounded claims of conspiracy, bribery, and racist allegations. That is solely the doing of [Taylor]. Taylor has chosen to litigate this matter continuously, and in a manner that is most disrespectful to the tribunal.

Appellee's Br. p. 28. We agree. Taylor's brief, which is almost entirely unsupported by citations to the record or to relevant authority, attempts to

undermine and harass civil-servants and members of the judiciary. Further, Taylor has expended untold, valuable judicial resources in pursuit of these vexatious claims. Therefore, because Taylor's brief is so "permeated with meritlessness, bad faith, frivolity, harassment, vexatiousness, or purpose of delay[,]" we believe that, though rare, it is appropriate in this case to award attorneys' fees to the City. *Thacker*, 797 N.E.2d at 346.

[16] The judgment of the trial court is affirmed, and we remand this matter to the trial court for an appropriate determination and award of appellate attorneys' fees.

Crone, J., and Tavitas, J., concur.