



## STATEMENT OF THE CASE

James Bedree, pro se, appeals the trial court's dismissal of his complaint against Leonard Darling.<sup>1</sup>

We dismiss.

### ISSUE

Whether the trial court abused its discretion in denying Bedree's motion for relief from its order dismissing his complaint.

### FACTS

The chronological case summary reveals the following facts.<sup>2</sup> On September 23, 2005, Bedree filed a complaint against Darling for criminal conversion in Allen Circuit Court. On July 26, 2006, the trial court ordered Bedree to show good cause for not dismissing his complaint for failure to prosecute pursuant to Indiana Trial Rule 41(E).

After attempting to serve Darling on August 23, 2006, and September 25, 2006, Bedree filed an alias summons on January 9, 2007. Darling appeared by counsel on February 5, 2007, and filed his answer on March 13, 2007.

On March 29, 2007, Bedree filed a motion for change of venue from judge. The trial court granted Bedree's motion on April 4, 2007, and appointed Judge J. Scott Vanderbeck of LaGrange Circuit Court as special judge.

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<sup>1</sup> Darling has not filed a brief. "[W]e do not undertake the burden of developing arguments for the appellee." *Damon Corp. v. Estes*, 750 N.E.2d 891, 892-93 (Ind. Ct. App. 2001). In such cases, we apply a less stringent standard of review with respect to demonstrating reversible error; accordingly, we will reverse if the appellant establishes prima facie error. *Id.* at 893.

<sup>2</sup> Bedree has failed to provide this Court with copies of any orders or pleadings.

Darling filed a motion to dismiss on May 16, 2007. On May 29, 2007, Bedree filed a second motion for change of venue from judge, and on June 13, 2007, filed a response to Darling's motion to dismiss. On September 18, 2007, the trial court denied both the motion to dismiss and the motion for change of venue from judge. It also set a pre-trial conference for October 12, 2007, and ordered Bedree to initiate a conference call between the parties and the trial court. On September 26, 2007, Bedree filed a notice that he does not have a telephone.

On October 12, 2007, the trial court set a bench trial for November 2, 2007, and issued a notice to all parties. On November 2, 2007, the trial court entered an order of dismissal at Bedree's cost.

Bedree filed a motion for relief from judgment on May 30, 2008, which the trial court set for hearing on August 22, 2008. The trial court denied Bedree's motion on August 22, 2008.

Bedree filed a motion to correct error and relief from judgment on September 19, 2008, which the trial court denied on October 23, 2008, finding that Bedree had received notice of the bench trial. Bedree again filed a motion for relief from judgment on November 21, 2008, which the trial court denied on January 9, 2009. Bedree filed a notice of appeal on February 6, 2009.

### DECISION

Bedree asserts that the trial court abused its discretion in denying his motion for relief from its order dismissing his complaint. We, however, decline to reach the merits of this appeal for the reasons set forth below.

## 1. Notice of Appeal

We first find that dismissal of this case is warranted due to Bedree's untimely notice of appeal. Indiana Appellate Rule 9(A) provides, in relevant part, as follows:

(1) Appeals from Final Judgments. A party initiates an appeal by filing a Notice of Appeal with the trial court clerk within thirty (30) days after the entry of a Final Judgment. However, if any party files a timely motion to correct error, a Notice of Appeal must be filed within thirty (30) days after the court's ruling on such motion, or thirty (30) days after the motion is deemed denied under Trial Rule 53.3, whichever occurs first.

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(5) Forfeiture of Appeal. Unless the Notice of Appeal is timely filed, the right to appeal shall be forfeited . . . .

"The timely filing of a notice of appeal is a jurisdictional prerequisite, and failure to conform to the applicable time limits results in forfeiture of an appeal." *Trinity Baptist Church v. Howard*, 869 N.E.2d 1225, 1227 (Ind. Ct. App. 2007), *trans. denied*.

The trial court entered its order of dismissal on November 2, 2007. Bedree filed his motion for relief on May 30, 2008. The trial court denied the motion on August 22, 2008. Bedree then filed a motion to correct error on September 19, 2008, which the trial court denied on October 23, 2008. Bedree did not file his notice of appeal until February 6, 2009. By failing to timely file his notice of appeal, he has forfeited his right to appeal.<sup>3</sup>

## 2. Waiver

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<sup>3</sup> Bedree filed another motion for relief from judgment on November 21, 2008, which the trial court denied on January 9, 2009. This repetitive motion, however, did not extend the deadline for filing his notice of appeal. *See* Ind. Trial Rule 53.4(A) ("[A] motion by any party or the court or such action to reconsider by the court shall not . . . extend the time for any further required or permitted action, motion, or proceedings under these rules."); *see also* *Citizens Industrial Group v. Heartland Gas Pipeline, LLC*, 856 N.E.2d 734, 737 (Ind. Ct. App. 2006) (noting that "in general civil practice a motion to reconsider does not toll the time period within which an appellant must file a notice of appeal"), *trans. denied*.

We also find that dismissal of this action is warranted because Bedree has blatantly disregarded our appellate rules. Bedree's brief fails to comply with Indiana Appellate Rule 46(A)(2), (5), (6), (8), and (10); and his appendix fails to comply fully with Appellate Rules 50(A) and 51(C). Bedree's failure to provide an adequate record for review waives his right to appellate review. *See Miller v. State*, 753 N.E.2d 1284, 1287 (Ind. 2001), *reh'g denied*. He also presents no facts, authority, or argument to support his claims, resulting in waiver.<sup>4</sup> *See* Ind. Appellate Rule 46(A)(8)(a); *Smith v. State*, 822 N.E.2d 193, 202-03 (Ind. Ct. App. 2005), *trans. denied*.

We recognize that Bedree is proceeding pro se. Nonetheless, “[i]t is well settled that pro se litigants are held to the same standard as are licensed lawyers.” *Goossens v. Goossens*, 829 N.E.2d 36, 43 (Ind. Ct. App. 2005). Furthermore, Bedree cannot claim ignorance of our appellate rules given his extensive experience with the legal system. In addition to any actions he has commenced in trial courts, our docket shows that he has initiated numerous appeals in civil cases. Given the numerous and flagrant violations of the appellate rules, we must dismiss Bedree's appeal. *See Galvan v. State*, 877 N.E.2d 213, 216 (Ind. Ct. App. 2007) (finding dismissal proper due to noncompliance with the appellate rules).

Dismissed.

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<sup>4</sup> We remind Bedree that on January 15, 2008, this Court issued an order that he “must FIRST file a motion for leave of this Court to file any additional appeal directed to this Court seeking review of ANY MATTER arising out of or in any way related to the administration of the Estate of Emily Bedree.” (Order, Jan. 15, 2008). In his Statement of the Case, Bedree admits that his appeal is related to that case. *See* Bedree's Br. at 1 (“Appellant avers that Appellee participated in conspiracy, fraud and theft by conversion regarding business and personal property legally owned by Appellant but held by the estate” of Emily Bedree.). He, however, failed to file a motion for leave of this Court to file this appeal, subjecting it to dismissal with prejudice.

ROBB, J., and MATHIAS, J., concur.