

FILED

02/23/2023

Clerk of the  
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE  
AT JACKSON

Assigned on Briefs February 1, 2023

**BRAD COEN v. MYRA (COEN) HORAN**

**Appeal from the Chancery Court for Benton County**  
**No. 3454 Carma Dennis McGee, Chancellor**

---

**No. W2019-00404-COA-R3-CV**

---

The mother of the parties' only child filed a *pro se* appeal of the trial court's order granting the father's Petition to Allow Relocation and for Modification of the Parties' Permanent Parenting Plan. The final order was entered on January 25, 2019, and the mother filed a timely Notice of Appeal; however, the technical record was not filed with this court until three years later, on June 7, 2022. While the mother's *pro se* appellate brief was timely filed, her brief is profoundly deficient for it fails to comply with Rule 27(a) of the Tennessee Rules of Appellate Procedure and Rule 6 of the Rules of the Court of Appeals of Tennessee in many material respects. Specifically, her Statement of the Case and Statement of Facts are littered with a series of assertions unrelated to the merits of this appeal, and she fails to provide the requisite citations to the record as required by Rule 27(a)(6) of the Tennessee Rules of Appellate Procedure. Further, her brief fails to set forth relevant arguments with respect to the issues presented as required by Rule 27(a) of the Tennessee Rules of Appellate Procedure, and the few citations to legal authorities she provides are not on point. Based on her failure to comply with Rule 27(a)(7) of the Tennessee Rules of Appellate Procedure and Rule 6 of the Rules of the Court of Appeals of Tennessee, Mother has waived her right to an appeal. Accordingly, this appeal is dismissed.

**Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed**

FRANK G. CLEMENT, JR., P.J., M.S., delivered the opinion of the Court, in which ARNOLD B. GOLDIN AND KRISTI M. DAVIS, JJ., joined.

Myra Horan (Coen), Aiken, South Carolina, *pro se* appellant.

**OPINION**

Myra Coen (“Mother”) and Brad Coen (“Father”)<sup>1</sup> were granted a divorce on January 9, 2017, by the Chancery Court for Benton County, Tennessee. The divorce decree approved the parties’ Agreed Permanent Parenting Plan, wherein the parties shared time equally with their only child, Edward Lee Coen, (“Edward Lee”) who was six years old. At the time of the divorce, both parties lived in Big Sandy, Tennessee.

Eight months later, on August 30, 2017, Father filed his Petition to Allow Relocation and for Modification of the Parties’ Permanent Parenting Plan. At the time, Father resided in Big Sandy, Tennessee, where he lived with the parties’ son Edward Lee and Father’s older child from a prior relationship. Father had also remarried but his wife and her children lived in Idaho, where he wished to relocate. When the petition was filed, Mother resided in Henry County, Tennessee, where Edward Lee attended school in Buchanan, Tennessee.

The case was tried on December 10, 2018, and both parties testified. After completion of the proof, the court took the matter under advisement. In a memorandum opinion entered on January 31, 2019, the court made extensive findings of fact regarding the comparative analysis of the parties as required by Tennessee Code Annotated § 36-6-108. The findings favored Father’s requested relocation. Accordingly, the Trial Court granted Father’s petition to relocate, approved an amended Permanent Parenting Plan in which the court designated Father as the Primary Residential Parent for Edward Lee, designated Mother as the Alternate Residential Parent, and set child support. The final order, which incorporated the memorandum opinion and Permanent Parenting Plan, was filed on January 31, 2019. This appeal followed.<sup>2</sup>

## ISSUES

The issues as stated by Mother read as follows:

This matter is brought forth for review based upon a myriad of acts both criminal and in contravention to law by those under the colour of authority in direct impairment of contract obligations, in breach of contract, fraud and in excess of constitutional limitation that would have ultimately rendered the inferior court without jurisdiction. If jurisdiction ever existed where the inferior court chancellor *coram non judice* proceeded to use an office with the STATE OF TENNESSEE to directly impair contract obligations and enforce a contract brought forth by fraud based on clearly fraudulent testimony, ultimately trafficking Petitioner's child across state lines in excess

---

<sup>1</sup> Brad Coen did not file an Appellee’s brief.

<sup>2</sup> The final order was filed on January 31, 2019. Mother filed a timely Notice of Appeal. For reasons unexplained by the record before this Court, the technical record from the trial court was not filed with the Clerk’s Office of this Court until June 7, 2022.

of constitutional limitation.

- 1.) Does the STATE OF TENNESSEE have the authority to impair contract obligations?
- 2.) Does the STATE OF TENNESSEE have the authority to intervene on Petitioner's right to contract?
- 3.) Does a Chancellor, *coram non judice*, have authority to impair contract obligations?
- 4.) Does a Chancellor *coram non judice* have authority to deprive a mother of the right to see and raise her child with no proven and/or provable harm to the child?
- 5.) Does the STATE OF TENNESSEE consider a contract procured by fraud to be valid, binding and enforceable?

Father did not file a brief.

## ANALYSIS

### I. PRO SE LITIGANTS

Although Mother was represented by counsel during a portion of the Trial Court proceedings, she dismissed her attorney and has been proceeding *pro se* ever since.

The rights and responsibilities of *pro se* litigants have been addressed on numerous occasions by this court:

Parties who decide to represent themselves are entitled to fair and equal treatment by the courts. The courts should take into account that many pro se litigants have no legal training and little familiarity with the judicial system. However, the courts must also be mindful of the boundary between fairness to a pro se litigant and unfairness to the pro se litigant's adversary. Thus, the courts must not excuse pro se litigants from complying with the same substantive and procedural rules that represented parties are expected to observe.

*Murray v. Miracle*, 457 S.W.3d 399, 402 (Tenn. Ct. App. 2014) (quoting *Young v. Barrow*, 130 S.W.3d 59, 62–63 (Tenn. Ct. App. 2003) (internal citations omitted)); *see also Hessmer v. Hessmer*, 138 S.W.3d 901, 903 (Tenn. Ct. App. 2003).

Consequently, a pro se litigant should not “be permitted to shift the burden of the litigation to the courts or to their adversaries.” *Young*, 130 S.W.3d at 63. Further, a *pro se* litigant must comply with the same rules that lawyers must observe. *Watson v. City of Jackson*, 448 S.W.3d 919, 926 (Tenn. Ct. App. 2014).

## II. WAIVER OF APPELLATE REVIEW

Our review of Mother’s brief readily reveals that her brief fails to comply with the most fundamental of appellate rules of practice, specifically Rule 27 of the Tennessee Rules of Appellate Procedure and Rule 6 of the Rules of the Court of Appeals of Tennessee.

“Courts have routinely held that the failure to make appropriate references to the record and to cite relevant authority in the argument section of the brief as required by [Tenn. R. App. P.] 27(a)(7) constitutes a waiver of the issue.” *Bean v. Bean*, 40 S.W.3d 52, 55 (Tenn. Ct. App. 2000) (listing cases). All filers, including *pro se* filers, must comply with Rule 27’s basic requirements. *See Murray*, 457 S.W.3d at 404. Further, a *pro se* filer’s failure “to comply in any significant way with Tenn. R. App. P. 27” results in waiver on appeal. *Id.*

Rule 27 of the Tennessee Rules of Appellate Procedure states in pertinent part:

- (a) Brief of the Appellant. The brief of the appellant shall contain under appropriate headings and in the order here indicated:

. . .

(5) A statement of the case, indicating briefly the nature of the case, the course of proceedings, and its disposition in the court below;

(6) A statement of facts, setting forth the facts relevant to the issues presented for review with appropriate references to the record;

(7) An argument, which may be preceded by a summary of argument, setting forth: (A) the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record (which may be quoted verbatim) relied on; and (B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues);

(8) A short conclusion, stating the precise relief sought.

Similarly, Rule 6 of the Rules of the Court of Appeals of Tennessee provides in pertinent part:

- (a) Written argument in regard to each issue on appeal shall contain:
  - (1) A statement by the appellant of the alleged erroneous action of the trial court which raises the issue and a statement by the appellee of any action of the trial court which is relied upon to correct the alleged error, with citation to the record where the erroneous or corrective action is recorded.
  - (2) A statement showing how such alleged error was seasonably called to the attention of the trial judge with citation to that part of the record where appellant's challenge of the alleged error is recorded.
  - (3) A statement reciting wherein appellant was prejudiced by such alleged error, with citations to the record showing where the resultant prejudice is recorded.
  - (4) A statement of each determinative fact relied upon with citation to the record where evidence of each such fact may be found.
- (b) No complaint of or reliance upon action by the trial court will be considered on appeal unless the argument contains a specific reference to the page or pages of the record where such action is recorded. No assertion of fact will be considered on appeal unless the argument contains a reference to the page or pages of the record where evidence of such fact is recorded.

Mother's statement of the Issues Presented for Review fails to address what the trial court did or did not do that allegedly constitutes error.<sup>3</sup> Instead, Mother's "issues" are more

---

<sup>3</sup> As this Court explained in *In re Estate of Wilson*, No. W2012-01390-COA-R3CV, 2013 WL 357561, at \*4 (Tenn. Ct. App. Jan. 30, 2013) (emphasis in original) (quoting *Craig v. Hodge*, 382 S.W.3d 325, 334 (Tenn. 2012) (footnotes omitted)):

Rather than searching for hidden questions, appellate courts prefer to know immediately what questions they are supposed to answer. Bryan A. Garner, *Garner on Language and Writing* 115 (2009); Robert L. Stern, *Appellate Practice in the United States* § 10.9, at 263 (2d ed.1989). Accordingly, "[a]n effectively crafted issue statement will define the question to be considered and begin disposing the court to decide in the client's favor." Judith D. Fischer, *Got Issues? An Empirical Study About Framing Them*, 6 J. Ass'n Legal Writing Directors 1, 25 (2009); see also *State v. Williams*, 914 S.W.2d 940, 948 (Tenn. Crim. App.1995) (stating that "[e]ach issue should . . . relate the conclusion that the

theoretical and resemble the type of questions that might be presented in a law school class. For example, her third issue reads: “3.) Does a Chancellor, *coram non judice*, have authority to impair contract obligations?” Having considered each issue, we find they all fail to comply with Rule 27(a)(4) of the Tennessee Rules of Appellate Procedure or Rule 6 of the Rules of the Court of Appeals of Tennessee.

Her brief also lacks a proper statement of the case, statement of facts, and argument. *See* Tenn. R. App. P. 27(a)(5)-(7). For example, her statement of the case reads, in part:

6. Petitioner is entitled relief, cure, and maintenance wherein your Petitioner, one of the People not franchised into either the municipality and/or body politic and with no lawful abridgment to Petitioner's personality and/or individualism, holds and has a signed and sealed de jure private law extrajudicial contract with Brad Lee Coen as a FINAL SETTLEMENT AGREEMENT, as protected under Amendment V and Article I sec. 10 of the constitution for the United States, as supported and adopted upon the record of the de facto chancery process 3454 as a final settlement. Bad actors within the STATE OF TENNESSEE chancery courts have not proceeded pursuant to Article III, have not proceeded in good behavior, and have utilized simulated legal process under the colour [sic] of authority *Coram non Judice* and did knowingly, willfully and with impair the obligations of a signed and sealed contract and attempted to override the signed contract with an inferior facially deficient contract that was not signed or agreed upon which was brought forth in clear fraud of forgery whereby said fraudulent forged nullity document was unlawfully and illegally utilized as authority to deprive your Petitioner of the right to see and raise her child, interfering with the bonds of blood and kinship in excess of constitutional limitation pursuant to the supreme law of Tennessee.

As for her Statement of the Facts, her brief fails to make any citations to the record to support her statement as required by our rules. *See* Tenn. R. App. P, 27(a)(6).

Tennessee Rule of Appellate Procedure 27(a)(7) requires an appellant to include in her brief:

(7) An argument, which may be preceded by a summary of argument, setting forth: (A) the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and

---

party wants the appellate court to reach”); Karl N. Llewellyn, *A Lecture on Appellate Advocacy*, 29 U. Chi. L.Rev. 627, 630 (1962) (stating that “the first thing that comes up is the issue and the first art is the framing of the issue so that if your framing is accepted the case comes out your way”).

appropriate references to the record (which may be quoted verbatim) relied on; and (B) for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues)[.]

As for Mother's arguments, they are most difficult to comprehend, and she only provides a handful of citations to authorities, most of which are irrelevant to the argument being addressed. Simply put, Mother's arguments are so deficient that they fail to comply with Rule 27(a)(7). As this court more recently explained in *Chiozza v. Chiozza*, 315 S.W.3d 482, 489 (Tenn. Ct. App. 2009):

**Our Courts have “routinely held that the failure to make appropriate references to the record and to cite relevant authority in the argument section of the brief as described by Rule 27(a)(7) constitutes a waiver of the issue[s] [raised].”** *Bean v. Bean*, 40 S.W.3d 52, 55 (Tenn. Ct. App. 2000). In *Bean*, we went on to hold that “an issue is waived where it is simply raised without any argument regarding its merits.” *Id.* at 56; *see also Newcomb v. Kohler Co.*, 222 S.W.3d 368, 401 (Tenn. Ct. App. 2006) (holding that the failure of a party to cite to any authority or to construct an argument regarding his or her position on appeal constitutes waiver of that issue). As we stated in *Newcomb*, a “skeletal argument that is really nothing more than an assertion will not properly preserve a claim.” *Newcomb*, 222 S.W.3d at 400. **It is not the function of this Court to . . . research and construct the party's argument.** *Bean*, 40 S.W.3d at 56.

(Emphasis added).

Our Supreme Court has held “it will not find this Court in error for not considering a case on its merits where the [appellant] did not comply with the rules of this Court.” *Bean*, 40 S.W.3d at 54-55 (citing *Crowe v. Birmingham & N.W. Ry. Co.*, 1 S.W.2d 781 (Tenn. 1928)). Accordingly, based upon the foregoing legal principles, the profound deficiencies in the brief, and the failure to comply with Rules 27(a)(5)–(7) of the Tennessee Rules of Appellate Procedure, as well as Rule 6 of the Rules of the Court of Appeals of Tennessee, Mother has waived her right to an appeal as to any issue. Therefore, the appeal is dismissed.

#### CONCLUSION

The appeal is dismissed for the foregoing reasons, and costs of appeal are assessed against the appellant, Myra (Coen) Horan, for which execution may issue if necessary.

---

FRANK G. CLEMENT, JR., JUDGE