

ARKANSAS COURT OF APPEALS

EN BANC
No. CA11-167

HERMANN FELIX JONAK
APPELLANT

V.

BRIAN T. MOYNIHAN, LIBBY VINES,
and ROBERT WILSON
APPELLEES

Opinion Delivered MAY 25, 2011

APPEAL FROM THE GARLAND
COUNTY CIRCUIT COURT
[NO. CV-10-1040-2]

HONORABLE VICKI SHAW COOK,
JUDGE

APPEAL DISMISSED

PER CURIAM

Appellant Hermann Jonak sued appellees Libby Vines, Robert Wilson, and Brian Moynihan in their individual and representative capacities to challenge a nonjudicial foreclosure action against Mr. Jonak instituted by Bank of America. All three appellees filed motions to dismiss in the trial court, and all three motions were granted and a final order was entered on November 19, 2010. Mr. Jonak, acting pro se, filed a timely notice of appeal on November 23, 2010. The record was lodged with the clerk of our court on February 17, 2011.

Mr. Jonak first attempted to file his brief on March 16, 2011, and the clerk refused to accept it because it failed to comply with Rule 4-2 of the Rules of the Supreme Court and Court of Appeals. A cursory review of the brief reveals the following deficiencies: there are no references to the record or the addendum in the statement of the case and the argument

(Rule 4-2(a)(6) and (a)(7)); there is no table of contents for the addendum (Rule 4-2(a)(1)); the argument does not relate to the points on appeal (Rule 4-2(a)(7)); the addendum does not contain any pleadings, motions, or exhibits (and did not contain the notice of appeal until submitted on May 3, 2011) (Rule 4-2 (a)(8)); and the addendum contains argument and other materials not a part of the record (Rule 4-2 (a)(8)).

The clerk provided Mr. Jonak seven days to make corrections and resubmit the brief. On March 24, 2011, Mr. Jonak tendered the brief; however, he refused to make the corrections identified by the clerk. The clerk again refused to accept the brief for filing and informed Mr. Jonak that he could submit to the court a motion to file a nonconforming brief. On April 4, 2011, Mr. Jonak sent a letter to the clerk denying that the clerk had the authority to require him to either file a conforming brief or file a motion to file a nonconforming brief. He did not file a motion for a nonconforming brief.

On April 6, 2011, Mr. Jonak filed a “Petition Fortiori” in which he, among other things, refused to correct his brief or move to file a nonconforming brief. The court denied his petition on April 27, 2011, and gave him seven additional days to properly supplement his addendum. Mr. Jonak responded on May 3, 2011, by attaching a copy of his notice of appeal to the addendum. The deficiencies outlined above remain.

Appellants, even those who proceed pro se, are responsible for following the rules of the court and the rules of appellate procedure, and pro se litigants are held to the same standards in preparing their briefs as attorneys. *Moon v. Holloway*, 353 Ark. 520, 110 S.W.3d

Cite as 2011 Ark. App. 394

250 (2003); *Perry v. State*, 287 Ark. 384, 699 S.W.2d 739 (1985); *Walker v. State*, 283 Ark. 339, 676 S.W.2d 460 (1984). Mr. Jonak's brief has not been accepted by the clerk, and he has refused to make the noted corrections or to file a motion to file a nonconforming brief. Therefore, the court orders the clerk not to file the appellant's brief. The case is dismissed pursuant to Rule 4-2(c) of the Rules of the Supreme Court and Court of Appeals.