

IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
ERIE COUNTY

Robert C. Egger, Guardian of the  
Estate of Edward I. Soltesz

Appellee

Court of Appeals No. E-11-047

Trial Court Nos. 07-2-028  
07-2-028 A

v.

Edward I. Soltesz, et al.

Appellant

**DECISION AND JUDGMENT**

Decided: August 9, 2011

\* \* \* \* \*

John F. Kirwan, for appellee.

E. Dean Soltesz, pro se.

\* \* \* \* \*

PER CURIAM.

{¶ 1} This matter is before the court on a motion to compel filed by appellee, Robert C. Egger, on July 8, 2011. In his motion, appellee asks this court to order appellant, E. Dean Soltesz, to provide a complete transcript of a hearing held by the trial court on April 21, 2011, as part of the record on appeal in this case. In support, appellee

states that appellant refused his written request to provide a complete transcript, and that the request is not overburdensome to appellant since the hearing in question was only 25 minutes in length. Appellee further states that a complete transcript is necessary to address the "40 probable issues" referenced in appellant's docketing statement that was filed along with the notice of appeal. Appellee has attached to his motion copies of appellant's written refusal to provide a full transcript, appellee's reply to appellant's refusal in which he explains the need for a full transcript, and a copy of the above-referenced docket statement.

{¶ 2} On July 15, 2011, appellant, acting pro se, filed a response in opposition to appellee's motion to compel. In his response, appellant states that appellee's request should be denied because his father, Edward I. Soltesz, whose estate was the subject of the hearing on April 21, 2011, was not present at the hearing, and has not received notice of the instant motion pursuant to App.R. 15(A). Appellant further states that a full transcript is not necessary because appellee did not make any statements at the hearing which would support appellee's position on appeal.

{¶ 3} App.R. 9(B), which governs the transcript of proceedings on appeal, states, in relevant part, that:

{¶ 4} "Unless the entire transcript is to be included [on appeal], the appellant, with the notice of appeal, shall file with the clerk of the trial court and serve on the appellee a description of the parts of the transcript that the appellant intends to include in the record, \* \* \*, and a statement of the assignments of error the appellant intends to present on the

appeal. If the appellee considers a transcript of other parts of the proceedings necessary, the appellee, within ten days after the service of the statement of the appellant, shall file and serve on the appellant a designation of additional parts to be included. \* \* \*

{¶ 5} "If the appellant refuses or fails, within ten days after service on the appellant of appellee's designation, to order the additional parts, the appellee, within five days thereafter, shall either order the parts in writing from the reporter or apply to the court of appeals for an order requiring the appellant to do so. At the time of ordering, the party ordering the transcript shall arrange for the payment to the reporter of the cost of the transcript. \* \* \*"

{¶ 6} Pursuant to App.R. 9, it is the duty of the appellant to provide a transcript for appellate review. *Mentor v. Molk*, 11th Dist. No. 2010-L-112, 2011-Ohio-3120, ¶ 11, citing *Warren v. Clay*, 11th Dist. No. 2003-T-0134, 2004-Ohio-4386; *Knapp v. Edwards Laboratories* (1980), 61 Ohio St.2d 197, 199. This duty is "necessary because an appellant shoulders the burden of demonstrating error by reference to matters within the record." *Id.* If the appellant fails to provide a complete transcript, the appellate court will presume the regularity of the trial court's proceedings in evaluating the issues presented on appeal. *Hartt v. Munobe* (1993), 67 Ohio St.3d 3, 7. See, also, *Knapp*, *supra*.

{¶ 7} Appellant has chosen not to provide this court with a complete transcript of the trial court's proceedings. Likewise, appellee chose not to have the entire transcript prepared at his own expense, as allowed by App.R. 9(B). Accordingly, appellee's request

for us to compel appellant to provide a complete transcript at this time is found not well-taken and is denied.

{¶ 8} It is so ordered.

MOTION DENIED.

Peter M. Handwork, J.

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JUDGE

Mark L. Pietrykowski, J.

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JUDGE

Thomas J. Osowik, P.J.  
CONCUR.

\_\_\_\_\_  
JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:  
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