

STATE OF OHIO                    )  
  )ss:  
COUNTY OF SUMMIT            )

IN THE COURT OF APPEALS  
NINTH JUDICIAL DISTRICT

NAOMI SMITH

C.A. No.       25021

Appellee

v.

DON DOWNS, dba SOVEREIGN  
SANGUINIS

APPEAL FROM JUDGMENT  
ENTERED IN THE  
AKRON MUNICIPAL COURT  
COUNTY OF SUMMIT, OHIO  
CASE No.     09-CV-04066

Appellant

DECISION AND JOURNAL ENTRY

Dated: June 9, 2010

---

MOORE, Judge.

{¶1} Appellant, Don Downs, aka Sovereign Sanguinis, appeals from the decision of the Akron Municipal Court. This Court affirms.

I.

{¶2} On April 23, 2009, Naomi Smith, the administrator of Barbra Smith’s estate, filed a complaint for forcible entry and detainer and for monies due against Don Downs, aka Sovereign Sanguinis. On May 21, 2009, the court issued a writ of restitution for the property. On May 26, 2009, Sanguinis filed a motion to stay the execution of the judgment and an objection to the May 21, 2009 decision. On May 29, 2009, the trial court granted Sanguinis’ motion to stay the execution of the judgment. On June 4, 2009, Sanguinis filed his answer and counterclaim.

{¶3} On September 9, 2009, Smith filed a motion to dismiss Sanguinis’ counterclaim. The trial court subsequently dismissed Sanguinis’ counterclaim and reinstated the writ of

restitution. Sanguinis timely appealed, and has raised five assignments of error for our review. We have combined them for ease of review.

## II.

### **ASSIGNMENT OF ERROR I**

“THE CLAIMS OF THE APPELLEE/PLAINTIFF ARE UNFOUNDED AS THEY ARE WITHOUT MERIT, AND BASED UPON CIRCUMSTANTIAL HEARSAY.”

### **ASSIGNMENT OF ERROR II**

“THE DECISION AGAINST THE DEFENDANT ‘SOVEREIGN SANGUINIS’ IS WITHOUT MERIT, AND AGAINST THE MANIFEST WEIGHT OF SUBSTANTIAL EVIDENCE PROVIDED BY THE OPERATION OF LAW TO THE COURT BY VALID DOCUMENTATION.”

### **ASSIGNMENT OF ERROR III**

“THE COURT DID NOT TAKE ALL THE EVIDENCE PRESENTED INTO ACCOUNT AND HAVE A HEARING BASED ON THE RELEVANT FACTS WITH ALL REAL PARTIES IN INTEREST PRESENT TO HEAR AND VERIFY THE EVIDENCE AS PRESENTED.”

### **ASSIGNMENT OF ERROR IV**

“THE COURT DISMISSED THE REQUESTS OF THE DEFENDANT WITHOUT A PERSON TO PERSON HEARING TO DETERMINE WHETHER THE ISSUES PRESENTED HAD ANY MERIT OR FACTS TO SUPPORT THE DECISIONS.”

### **ASSIGNMENT OF ERROR V**

“THE COURT MADE A DECISION AGAINST THE APPELLANT WITHOUT KNOWING THE FACT THAT THE APPELLEE HAD NO CONTRACT WITH THE APPELLANT.”

{¶4} In his five assignments of error, Sanguinis appears to challenge factual and procedural decisions made by the trial court. He has, however, failed to present an argument with regard to any of his assigned errors.

{¶5} Sanguinis bore the burden on appeal to affirmatively demonstrate error. *Smith v. City Of Akron Housing Appeals Bd. Of Dept. Of Public Health*, 9th Dist. No. 21103, 2003-Ohio-93, at ¶26. Notably, he was required to present this court with “[a]n argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which appellant relies.” App.R. 16(A)(7). In support of his contentions, Sanguinis presents this Court with a list of his assignments of error, each with one subsection. Even if we were to construe these subsections as arguments, Sanguinis does not point to the record, case law, or statutes to support his arguments. App.R. 16(A)(7).

{¶6} When an appeal comes before this Court for review, “[i]t is not the function of this court to construct a foundation for a party’s claims; failure to comply with the rules governing practice in the appellate courts is a tactic which is ordinarily fatal.” *Kremer v. Cox* (1996), 114 Ohio App.3d 41, 60. We have consistently held that “[i]f an argument exists that can support [appellant’s] assignment[s] of error, it is not this court’s duty to root it out.” *Cardone v. Cardone* (May 6, 1998), 9th Dist. No. 18349, at \*8. If the appellant fails to identify in the record the error upon which the assignment of error is based, this Court may decline to address it. App.R. 12(A)(2).

{¶7} We note that Sanguinis has presented his argument before this Court pro se. With respect to pro se litigants, this Court has observed:

“[P]ro se litigants should be granted reasonable leeway such that their motions and pleadings should be liberally construed so as to decide the issues on the merits, as opposed to technicalities. However, a pro se litigant is presumed to have knowledge of the law and correct legal procedures so that he remains subject to the same rules and procedures to which represented litigants are bound. He is not given greater rights than represented parties, and must bear the consequences of his mistakes. This Court, therefore, must hold [pro se appellants] to the same

standard as any represented party.” (Internal citations omitted.) *Sherlock v. Myers*, 9th Dist. No. 22071, 2004-Ohio-5178, at ¶3.

{¶8} Even a liberal reading of Sanguinis’ brief does not reveal that he has presented an argument to support his assignments of error as necessitated by the Appellate Rules. *First Merit Bank v. Williams*, 9th Dist. No. 24011, 2008-Ohio-5038, at ¶9. Accordingly, his assignments of error are overruled.

### III.

{¶9} Sanguinis’ assignments of error are overruled, and the judgment of the Akron Municipal Court is affirmed.

Judgment affirmed.

---

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Akron Municipal Court, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

---

CARLA MOORE  
FOR THE COURT

CARR, P. J.  
WHITMORE, J.  
CONCUR

APPEARANCES:

SOVEREIGN SANGUINIS, pro se, Appellant.

ROBERT A. INCORVATI, Attorney at Law, for Appellee.