

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Tareq Jabr,	:	
Plaintiff-Appellant,	:	
v.	:	No. 23AP-182 (C.P.C. No. 22CV-5922)
The City of Columbus [et al.],	:	(ACCELERATED CALENDAR)
Defendants-Appellees.	:	

D E C I S I O N

Rendered on August 10, 2023

On brief: *Tareq Jabr*, pro se. **Argued:** *Tareq Jabr*.

On brief: *Zach Klein*, City Attorney, and *Michael R. Halloran* for appellees. **Argued:** *Michael R. Halloran*.

APPEAL from the Franklin County Court of Common Pleas

PER CURIAM

{¶ 1} Plaintiff-appellant, Tareq Jabr, appeals, pro se, from a judgment of the Franklin County Court of Common Pleas dismissing his complaint against defendant-appellee, the City of Columbus (“City”), pursuant to Civ.R. 12(B)(6). For the foregoing reasons, we affirm.

I. FACTS AND PROCEDURAL OVERVIEW

{¶ 2} On August 26, 2022, Mr. Jabr initiated a civil action against the City in the court below seeking damages and equitable relief. In his complaint, Mr. Jabr alleged he was the target of a law-enforcement investigation and accused “detectives” of engaging in unlawful conduct during the course of that investigation, which resulted in harm to Mr. Jabr and his wife.¹ (Aug. 26, 2022 Compl. at 1-2.) These accusations included illegal

¹ In the body of his complaint, Mr. Jabr also identifies his spouse, Eman J. Jabr, as an injured party-plaintiff. (See, e.g., Aug. 26, 2022 Compl. at 1-2.) But he did not name her as a party-plaintiff in the caption of the

installation of electronic tracking (GPS) devices on his vehicles, illegal installation of surveillance cameras on a pole behind his home, illegal stalking, and copyright infringement. He also complained about the existence of a “case” he believes remains open against him, but he did not provide any identifying information about it in his complaint.

{¶ 3} Mr. Jabr also did not state in his complaint when any of this allegedly unlawful conduct occurred. And, most pointedly, he did not identify the person(s) or agencies he claimed had committed, were involved in, or were otherwise responsible for the purportedly illegal conduct. Indeed, other than the City itself, no particular City employee or agency was named as a party-defendant in the filed complaint. In fact, the complaint makes no clear connection between the City and the purportedly illegal conduct which forms the basis for Mr. Jabr’s claims against it.

{¶ 4} Important context relevant to Mr. Jabr’s allegations is gleaned, however, from the document attached to his complaint. That document is an order from the Franklin County Municipal Court authorizing members of the Ohio Department of Taxation—Criminal Investigation Division (“state tax department”) to install an electronic tracking device on Mr. Jabr’s vehicle. (*See* Compl. at 4-5.) It also permitted members of the state tax department to use and monitor the electronic tracking device “throughout the period” of that order, including “when the subject vehicle is located in a place where there is a reasonable expectation of privacy.” (*See* Compl. at 5.) That order was issued on April 14, 2015 at the request of a state agent involved in the state tax department’s investigation of Mr. Jabr for possible violations of Ohio’s cigarette tax laws. (*See* Compl. at 4-5.) It required the state tax department’s operation of “the electronic tracking device as a physical surveillance aid” to terminate, at the latest, by May 29, 2015. (*See* Compl. at 5.)

{¶ 5} On September 30, 2022, the City moved to dismiss Mr. Jabr’s complaint under Civ.R. 12(B)(6). It argued that neither Mr. Jabr’s complaint nor the order attached to it implicated any act or alleged any misconduct by the City, its agencies, or its employees. Because Mr. Jabr’s complaint took issue with the installation and collection of electronic

complaint (*id.* at 1), and Ms. Jabr did not sign the pleading either (*id.* at 3). Nothing in the record before us suggests that Mr. Jabr is an attorney authorized to practice law in Ohio. Laypersons are not permitted to act in a representative capacity in Ohio. *See, e.g., Disciplinary Counsel v. Givens*, 106 Ohio St.3d 144, 2005-Ohio-4104, ¶ 7. Although a party may act in a pro se capacity by representing himself in court without a lawyer, a nonlawyer is generally not allowed to represent another in a legal action. *See* R.C. 4705.01; *Lusk v. Crown Pointe Care Ctr.*, 10th Dist. No. 18AP-549, 2019-Ohio-1326, ¶ 8. Our analysis is thus confined to Mr. Jabr as the sole plaintiff in this case.

surveillance data by law enforcement and Mr. Jabr included with his complaint the court order authorizing state agents to engage in this precise conduct, the City posited that Mr. Jabr's complaint failed to state any claims against the City upon which relief could be granted. And the City contended the complaint did not allege the City, any City agencies, or any City employees assisted or were otherwise involved in the state tax department's investigation of Mr. Jabr. Thus, it argued dismissal was warranted.

{¶ 6} Although Mr. Jabr filed his written opposition to the City's motion on October 11, 2022, he did not make any arguments against dismissal under the applicable legal standard. On February 1, 2023, Mr. Jabr filed a motion styled as a "motion or stipulation to amend pleadings." This styling was inaccurate, however, as Mr. Jabr explicitly disclaimed any need to amend his complaint and did not include the City's written consent stipulating to any amendment as required by Civ.R. 15(A).

{¶ 7} Mr. Jabr also filed several pleadings and motions concerning discovery-related matters between October 2022 and March 2023.² Relatedly, he moved the trial court to compel the City to respond to his interrogatories and for sanctions on February 23, 2023, and filed another motion to compel the City's response to his requests for admissions on March 8, 2023.

{¶ 8} On March 10, 2023, the trial court issued an entry granting the City's motion to dismiss pursuant to Civ.R. 12(B)(6). Noting that Mr. Jabr's complaint neither alleged any misconduct by the City or its employees nor claimed the City or its employees took any actions in connection with the state tax department's investigation of him, the trial court found his complaint failed to state a claim against the City upon which relief could be granted. (Decision and Entry at 3.) It also explicitly denied, as moot, Mr. Jabr's motion to compel and for sanctions, as well as his motion or stipulation to amend the pleadings.

{¶ 9} Mr. Jabr timely appealed from that judgment. He has failed to clearly identify, however, any specific assignment(s) of error. Under the "Assignments of Error" heading in his brief, Mr. Jabr states the following:

NOW COMES THE PLAINTIFF, APPELLANT, TAREQ
JABR, STATING THAT THE COURT OF COMMON PLEAS, DID
LOTS OF ERRORS, THE TRIAL COURT JUDGE, 1ST OF ALL THE

² Mr. Jabr filed a motion styled as a "motion to compel" on October 24, 2022. Finding that motion failed to comply with Civ.R. 37(A)(1)'s requirements, the trial court issued an entry denying it on December 29, 2022. Mr. Jabr does not challenge that ruling on appeal.

DUE PROCESS, LAWS ARE VIOLATED, THAT I TAREQ JABR FILED A MOTION TO COMPELL ALL, 3RD PARTIES, INVOLVED, IN THE CD, PROOF, THAT I HAVE, THAT WILL BE ATTACHED IN FOR PROOF, IN AS A EXHIBIT , A.B, AND ALL THAT'S ON IT. ALSO I TAREQ JABR FILED THE MOTION TO COMPELL ON 3-8-23, WHICH IS COMPELL UNDER THE 3RD, PARTY PRACTICE, WHICH IS LEGAL DUE PROCESS OF LAWS. AND BY LAWS THE JUDGE AND COURT OF COMMON PLEAS , ERRORED, THAT THE LAW REQUIRES, THAT ANY MOTION , THAT THE JUDGE NEEDS TO WAIT AT LEAST 120 DAYS BY LAW BEFORE, HE OR SHE CAN RULE ON IT. THE COURT AND JUDGE, DISMISSED THE CASE JUST 2 DAYS , ON 3-10-23, MOTION WAS FILED JUST ON 3-8-23, THAT TELLS YOU THAT THE CITY OF COLUMBUS IS IN MANY FRAUDS AND, THE CRIMINALS ARE IN THE CITY OF COLUMBUS, AND THE PEACE OFFICER, WHICH MADE A SERIOUS MISTAKE , AND THIS CASE IS IN ILLEGAL OPEN STATUS, FOR OVER 8 YEARS ON TAREQ JABR, YOUR HONORS OF THE COURT.

(Sic passim.)

II. LEGAL ANALYSIS

{¶ 10} As an initial matter, we note that Mr. Jabr's brief fails to comply with App.R. 16(A)(3) and 16(A)(7). Under App.R. 12(A)(2), we are permitted to “disregard an assignment of error presented for review if the party raising it fails to identify in the record the error on which the assignment of error is based or fails to argue the assignment separately in the brief, as required under App.R. 16(A).” *See also* App.R. 12(A)(1)(b) (requiring appellate courts to “[d]etermine the appeal on its merits on the assignments of error set forth in the briefs under App.R. 16.”).

{¶ 11} Mr. Jabr's assignment of error is procedurally deficient because he fails “to identify in the record the error on which the assignment of error is based.” App.R. 12(A)(2). *See also* App.R. 16(A)(3). Appellants bear the burden of demonstrating error on appeal by reference to the record of the proceedings below and must designate specific rulings challenged on appeal. *See, e.g., Lee v. Ohio Dept. of Job & Family Servs.*, 10th Dist. No. 06AP-625, 2006-Ohio-6658, ¶ 9; *In re Guardianship of Williams*, 8th Dist. No. 110781, 2022-Ohio-617, ¶ 26. Mr. Jabr's broad and general contention that the trial court committed “lots of errors” does not satisfy the mandates of App.R. 16(A)(3). (*See* Appellant's Brief at 1.) Without any specific assignment of error, we have nothing to review. *See, e.g., Angus v. Angus*, 10th Dist. No. 14AP-742, 2015-Ohio-2538, ¶ 8, citing *Pack v. Hillock Auto Sales*, 10th Dist. No. 12AP-48, 2012-Ohio-4076, ¶ 13. However, we note the

trial court's March 10, 2023 decision and entry is the only final judgment entry appealed from in this case. (*See* Mar. 17, 2023 Notice of Appeal.)

{¶ 12} App.R. 16(A)(7) mandates that an appellant's brief include "[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." Thus, Mr. Jabr's brief is also substantively deficient because he fails to provide any cognizable argument or legal authority to support his contention that the trial court erred in dismissing his complaint for failure to sufficiently allege any cause of action against the City. Instead, Mr. Jabr's brief mostly comprises of accusations he makes against the city attorney, an assistant city attorney, the trial court judge, and/or law enforcement, the veracity of which is not properly before us on appeal.

{¶ 13} Based on Mr. Jabr's failure to comply with App.R. 16(A)(3) and (7), we could disregard and summarily overrule his assignment of error. *See* App.R. 12(A)(2). *See also* *Angus* at ¶ 10, citing *CitiMortgage, Inc. v. Asamoah*, 10th Dist. No. 12AP-212, 2012-Ohio-4422, ¶ 5; *Tonti v. Tonti*, 10th Dist. No. 06AP-732, 2007-Ohio-2658, ¶ 2. "Many times, however, appellate courts instead review the appealed judgment using the appellants' arguments in the interest of serving justice." *Angus* at ¶ 10. But, if we "cannot understand an appellant's arguments, [we] cannot grant relief." *Id.* at ¶ 10, citing *State v. Dunlap*, 10th Dist. No. 05AP-260, 2005-Ohio-6754, ¶ 10. And, while we "will construe pro se filings generously, appellate courts cannot construct legal arguments for an appellant." *Id.*, citing *Williams v. Barrick*, 10th Dist. No. 08AP-133, 2008-Ohio-4592, ¶ 24; *Miller v. Johnson & Angelo*, 10th Dist. No. 01AP-1210, 2002-Ohio-3681, ¶ 2.

{¶ 14} Notwithstanding the deficiencies in Mr. Jabr's brief, we will review the propriety of the trial court's rulings in its March 10, 2023 judgment entry. *See, e.g., Angus* at ¶ 11; *Guardianship of Williams*, 2022-Ohio-617 at ¶ 31.

{¶ 15} At the outset, we note that it appears Mr. Jabr's primary contention on appeal is that the trial court was required "by law" to wait at least 120 days before ruling on any motion, and particularly, before it ruled on his March 8, 2023 motion to compel. (*See* Appellant's Brief at 1-2.) But, he cites no legal authority to support that contention. And, it is not well-taken. "[T]rial courts have inherent authority to manage their own dockets and

the cases before them.” (Citations omitted.) *Lupo v. Columbus*, 10th Dist. No. 13AP-1063, 2014-Ohio-2792, ¶ 20. Accordingly, the trial court had the “innate ability” to rule on the City’s motion to dismiss at any point after Mr. Jabr’s 14-day response period expired. *See, e.g., id.* *See also* Civ.R. 6(C)(1); *Mayrides v. Franklin Cty. Prosecutor’s Office*, 71 Ohio App.3d 381, 384 (10th Dist.1991) (holding that a trial court may dismiss a complaint sua sponte pursuant to Civ.R. 12(B)(6) after it gives the parties written notice of its intention to dismiss the action and an opportunity to respond).

{¶ 16} We also see no legal basis for Mr. Jabr to challenge the trial court’s denial of his March 8, 2023 motion to compel before ***the City’s*** 14-day period to oppose that motion expired. Indeed, “a judgment preventing the requesting party from pursuing discovery will not be reversed unless the ruling causes substantial prejudice.” (Citations omitted.) *WFG Natl. Title Ins. Co. v. Meehan*, 8th Dist. No. 105677, 2018-Ohio-491, ¶ 18. Mr. Jabr was not prejudiced by the trial court ruling on his motion before ***the City*** responded to it.

{¶ 17} Our appellate review is thus limited to the legal issues properly before us, which are twofold. First, whether the trial court erred in granting the City’s motion to dismiss and dismissing Mr. Jabr’s complaint pursuant to Civ.R. 12(B)(6). Second, whether the trial court erred in denying as moot Mr. Jabr’s March 8, 2023 motion to compel/for sanctions.³ We address these challenges in that order.

A. Granting of the City’s motion to dismiss pursuant to Civ.R. 12(B)(6)

{¶ 18} The trial court granted the City’s motion to dismiss Mr. Jabr’s complaint 168 days after the City filed its motion to dismiss. As noted above, Mr. Jabr generally takes issue on appeal with the trial court’s decision to grant the City’s motion to dismiss his complaint pursuant to Civ.R. 12(B)(6). He does not, however, make any arguments under the applicable law or controlling standard of review. Notwithstanding Mr. Jabr’s failure to

³ We note the trial court also denied Mr. Jabr’s February 1, 2023 “motion or stipulation to amend pleadings” in the March 10, 2023 judgment entry from which Mr. Jabr now appeals. In his statement of the assignment of error, however, Mr. Jabr makes no reference to that motion or the trial court’s decision to deny it. (*See* Appellant’s Brief at 1.) Nor does he discuss or attribute error to that decision anywhere in his appellate brief. We also find it is significant that Mr. Jabr asserted in the first sentence of his motion to amend pleadings that he “need not amend his complaint.” (Capitalization deleted.) (Feb. 1, 2023 Mot. or Stipulation to Amend Pleadings at 1.) And, consistent with that averment, Mr. Jabr did not request or otherwise express any desire to amend any pleading in that motion. For these reasons, and in light of Mr. Jabr’s failure to comply with App.R. 16(A), we decline to construe Mr. Jabr’s brief as challenging the trial court’s denial of his February 1, 2023 “motion or stipulation to amend pleadings” as part of this appeal. Accordingly, we will not review the merits of that ruling in this decision.

make any arguments under the controlling legal authority, we review—and affirm—the trial court’s dismissal of his complaint under Civ.R. 12(B)(6) as follows.

1. Applicable Law and Standard of Review

{¶ 19} A motion to dismiss for failure to state a claim upon which relief can be granted under Civ.R. 12(B)(6) is a procedural test of a civil complaint’s sufficiency. *Cool v. Frenchko*, 10th Dist. No. 21AP-4, 2022-Ohio-3747, ¶ 13, quoting *Morrow v. Reminger & Reminger Co. LPA*, 183 Ohio App.3d 40, 2009-Ohio-2665, ¶ 7 (10th Dist.). Dismissal of a complaint pursuant to Civ.R. 12(B)(6) is appropriate “only if it appears beyond a doubt that the plaintiff can prove no set of facts entitling the plaintiff to recovery.” *Bullard v. McDonald’s*, 10th Dist. No. 20AP-374, 2021-Ohio-1505, ¶ 11. In determining whether dismissal is appropriate, the trial court “must presume all factual allegations contained in the complaint to be true and must make all reasonable inferences in favor of the plaintiff.” *Id.* “The court need not, however, accept as true any unsupported and conclusory legal propositions advanced in the complaint.” *Id.*

{¶ 20} We review a trial court’s dismissal pursuant to Civ.R. 12(B)(6) de novo. *State ex rel. Ohio Civ. Serv. Emps. Assn. v. State*, 146 Ohio St.3d 315, 2016-Ohio-478, ¶ 12, citing *Perrysburg Twp. v. Rossford*, 103 Ohio St.3d 79, 2004-Ohio-4362, ¶ 5. When reviewing the sufficiency of a complaint under Civ.R. 12(B)(6), we are mindful that Civ.R. 8(A) provides for notice pleading, which requires only a “short and plain statement of the claim showing that the party is entitled to relief, and * * * a demand for judgment for the relief to which the party claims to be entitled.” Accordingly, “[a] judgment granting a Civ.R. 12(B)(6) motion to dismiss may be affirmed only when there is no set of facts under which the nonmoving party could recover.” *Dunlop v. Ohio Dept. of Job & Family Servs.*, 10th Dist. No. 16AP-550, 2017-Ohio-5531, ¶ 10, citing *O’Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242 (1975), syllabus.

2. Analysis

{¶ 21} Mr. Jabr’s complaint alleged illegal conduct by unidentified detectives from an unspecified law-enforcement agency caused harm to him. He attached to his complaint a 2015 court order authorizing state agents to conduct electronic surveillance on him as part of a state tax department investigation. Taken together, we find his complaint fails to allege any misconduct by the City, its agencies, or its employees. Nor does it allege any involvement by the City, its agencies, or its employees in connection with the 2015 court

order or the state tax department's investigation of him. Because Mr. Jabr's complaint and its attachment did not present factual allegations against the City, any City agency, or any City employee, we thus find the complaint failed to state any claims ***against the City*** upon which relief may be granted. *See, e.g., Bullard* at ¶ 12-13.

{¶ 22} Accordingly, we find the trial court did not err in granting the City's motion to dismiss pursuant to Civ.R. 12(B)(6).

B. Denial of Mr. Jabr's March 8, 2023 motion to compel as moot.

{¶ 23} Mr. Jabr also generally takes issue on appeal with the trial court's denial of his March 8, 2023 motion to compel. Again, he offers no legal arguments or authority to support his contention that the trial court erred in denying this motion.

{¶ 24} In any event, the trial court's dismissal of Mr. Jabr's complaint pursuant to Civ.R. 12(B)(6) rendered his motion to compel discovery/for sanctions moot. *See, e.g., Winkle v. Southdown, Inc.*, 2d Dist. No. 92-CA-107, 1993 Ohio App. LEXIS 4295, *14 (Sept. 3, 1993); *Caterpillar Fin. Servs. Corp. v. Harold Tatman & Son's Ents.*, 4th Dist. No. 18CA3646, 2019-Ohio-2110, ¶ 21-26. Accordingly, we find the trial court did not err in denying, as moot, Mr. Jabr's discovery motion.

{¶ 25} Based on the foregoing, we overrule Mr. Jabr's sole assignment of error.

III. CONCLUSION

{¶ 26} Having overruled Mr. Jabr's sole assignment of error, we affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

MENTEL, BOGGS, and EDELSTEIN, JJ., concur.
