

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
STARK COUNTY, OHIO

MARK MILLS,

Plaintiff - Appellee

-vs-

SHAWN M. JONES, ET AL.,

Defendants - Appellants

Case No. 2026CA00090

Opinion And Judgment Entry

Appeal from the Canton Municipal Court, Stark
County, Ohio, Case No. 2003 CVG 3979

Judgment: Reversed & Remanded

Date of Judgment Entry: October 8, 2026

BEFORE: William B. Hoffman; Craig R. Baldwin; Robert G. Montgomery, Judges

APPEARANCES: No Appearance Filed, for Plaintiff-Appellee; ANTHONY DOMINIC KENNEDY, SR., Pro Se, Defendant-Appellant.

Montgomery, J.

{¶1} Defendant-Appellant, Anthony Dominic Kennedy, Sr., appeals from the judgment of the Canton Municipal Court, Stark County, Ohio, denying his Motion to restrict public access to civil eviction record or to redact personal identifiers, filed April 2, 2026. For the reasons below, we reverse and remand to the trial court for further proceedings.

BACKGROUND FACTS

{¶2} This appeal arises from an eviction matter originating in the Canton Municipal Court over 22 years ago, in 2003. The record is quite slim, other than the docket statement from 2003. That statement reflects Appellant, Anthony Dominic Kennedy Sr. (“Appellant”) and Shawn M. Jones, were named as Defendants in case number 2003 CVG 3979. On June 23, 2003, Mark Mills filed an eviction action against the two defendants, Shawn Jones and Appellant. On June 24, 2003, the summons and complaint were sent to Jones and Appellant via ordinary mail.

{¶3} That same day, the summons and complaint were provided to the bailiff's office for personal service on Jones and Kennedy, at the following address: 1106 Oak Ave., NW, Canton, OH 44703. On June 25, 2003, the summons was returned as posted to the door at the Oak Avenue address. On July 21, 2003, a writ of restitution and an order to vacate was issued to the bailiff for service and to schedule forcible eviction. On July 31, 2003, an “alias writ” was returned as evicted, meaning the tenant and/or their belongings were removed from the property. On December 8, 2023, the court sent a Civil Rule 40 notification, the case was set for dismissal on January 7, 2004. On January 7, 2004, the case was dismissed.

{¶4} Nearly 23 years later, on April 2, 2026, Appellant filed a motion to restrict access to the civil eviction record and/or to redact certain personal information. Appellant argued that the eviction record prevents him from obtaining stable housing and creates ongoing individual hardship. Further, since the case was dismissed, Appellant argues that public policy is best served by removing the eviction complaint from his record. On April 8, 2026, the trial court overruled the motion. The Judgment Entry states:

Defendant, Anthony Kennedy's, motion to restrict public access to civil eviction record and to redact personal identifiers filed on April 2, 2026, is overruled.

{¶5} Appellant filed a motion to reconsider; and on April 9, 2026, Appellant's motion was similarly overruled. Appellant timely filed a notice of appeal.

{¶6} On May 4, 2026, Appellant filed a docketing statement and attached to that statement is a document with five "assignments of error" and "supporting authority." However, this is not a Brief in any respect. On May 6, 2026, Appellant filed another document with a statement of the facts and case, and arguments, labeled as Appellant's Brief, and stating a sole assignment of error, but presenting four separate arguments related to that alleged error.

SOLE ASSIGNMENT OF ERROR

{¶7} "I. THE TRIAL COURT ABUSED ITS DISCRETION BY DENYING APPELLANT'S MOTION WHERE THE RECORD CONTAINS NO COMPETENT EVIDENCE ESTABLISHING APPELLANT AS THE TENANT OR RESPONSIBLE PARTY."

{¶8} In essence, Appellant's four arguments claim there is simply no evidence to demonstrate that he was a tenant or subject to the lease agreement that was the subject of the underlying eviction action and thus, there is no connection between him and the action. Appellant claims, "The trial court abused its discretion in maintaining Appellant as a responsible party where the record contains no competent evidence establishing such status." Because there is no evidence that Appellant was a tenant, or otherwise connecting him to the lease, he claims the eviction record and/or his personal information must be restricted from public access. In his original motion filed at the trial court level, Appellant complains that

the decades old eviction action has been and continues to cause him undue harm, including housing issues.

Appellate Rule 16

{¶9} We must first address Appellant's Brief. Appellant's brief fails to comply with Appellate Rule 16. Ohio Rule of Appellate Procedure 16 requires:

The appellant shall include in its brief, under the headings and in the order indicated, all of the following:

- (1) A table of contents, with page references.
- (2) A table of cases alphabetically arranged, statutes, and other authorities cited, with references to the pages of the brief where cited.
- (3) A statement of the assignments of error presented for review, with reference to the place in the record where each error is reflected.
- (4) A statement of the issues presented for review, with references to the assignments of error to which each issue relates.
- (5) A statement of the case briefly describing the nature of the case, the course of proceedings, and the disposition in the court below.
- (6) A statement of facts relevant to the assignments of error presented for review, with appropriate references to the record in accordance with division (D) of this rule.
- (7) An 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. The argument may be preceded by a summary.

(8) A conclusion briefly stating the precise relief sought.

{¶10} Compliance with the above-stated rules is mandatory. App.R. 12(A)(2) states, “(2) The court may 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).” *Mock v. Schupp*, 2025-Ohio-4659, ¶ 25 (5th Dist.). Thus, an appellate court may rely upon App.R. 12(A) in overruling or disregarding an assignment of error because of “the lack of briefing” on the assignment of error. *Henry v. Gastaldo*, 2005-Ohio-4109 (5th Dist.), citing *Hawley v. Ritley*, 35 Ohio St.3d 157, 159 (1988); *State v. Watson*, 126 Ohio App.3d, 316 (1998), *discretionary appeal disallowed*, 82 Ohio St.3d 1413 (1998).

{¶11} Here, Appellant's brief fails to comply with the Ohio Rules of Appellate Procedure. Briefs filed in this Court, whether by counsel or pro se, must comply with App.R. 16.¹ Among other things, Appellant's brief does not include a table of contents with page references, or a table of cases, statutes, and other authority, in violation of App.R. 16(A)(1) and (2). And, although Appellant's brief attempts to include a brief statement of facts and a brief statment of the case, it does not include actual “facts” such as how the case arose, the basis for his claim that he was not a tenant, or any other necessary details. Rather, the “facts” include only Appellant’s position of the case and his claimed lack of evidence.

¹ While we acknowledge Appellant filed this appeal without the assistance of legal counsel, the Supreme Court of Ohio has "repeatedly declared that 'pro se litigants * * * must follow the same procedures as litigants represented by counsel.'" *State ex rel. Neil v. French*, 2018-Ohio-2692, ¶ 10, quoting *State ex rel. Gessner v. Vore*, 2009-Ohio-4150, ¶ 5. Pro se litigants who choose to represent themselves in court are also "'presumed to have knowledge of the law and legal procedures and . . . are held to the same standard as litigants who are represented by counsel.'" *State ex rel. Fuller v. Mengel*, 2003-Ohio-6448, ¶ 10, quoting *Sabouri v. Ohio Dep't of Job & Family Servs.*, 145 Ohio App.3d 651, 654 (10th Dist. 2001).

{¶12} Additionally, Appellant’s brief fails to reference the record where any alleged error is reflected or at the very least, demonstrate in some manner how he should not have been named in the eviction action. “It is the duty of the appellant, not this court, to demonstrate his assigned error through an argument that is supported by citations to legal authority and facts in the record.” *State v. Humphries*, 2008-Ohio-388, ¶ 47, quoting *State v. Taylor*, 1999 Ohio App. LEXIS 397, *9 (9th Dist.); see also, App.R. 16(A)(7); *Kremer v. Cox*, 114 Ohio App.3d 41, 60 (1996); *Eberly v. Danley*, 2021-Ohio-2919, ¶ 18 (5th Dist.) (“This Court will not assume the role of advocate for Appellant in attempting to organize and prosecute the arguments on appeal. * * *”), quoting *Musleve v. Musleve*, 2008-Ohio-3961 (5th Dist.). Although the record in and of itself appears lacking, this Court cannot conduct a proper analysis on Appellant’s arguments alone.

{¶13} Although Appellant’s Brief falls short of the above requirements, in the interest of justice and finality, we will address the assignment of error on the merits. *Foster v. Stuff*, 2025-Ohio-5584, ¶ 14 (5th Dist.).

Access to Public Records – Motion to Restrict or Redact Information

{¶14} Access to court records promotes openness, transparency of process, and accountability. *Dodd v. Preston*, 2026-Ohio-1887, ¶ 14 (2d Dist.), citing *State ex rel. Cincinnati Enquirer v. Lyons*, 2014-Ohio-2354, ¶ 14. More importantly, court records generally remain open to the public due to First Amendment constitutional guarantees. See, *In re Estate of Carpenter*, 2004-Ohio-830, ¶ 8, (1st Dist.) (“Under federal common law and the First Amendment to the United States Constitution, trials and court records are presumptively open and available for public inspection.”). However, under limited circumstances, a court

may restrict access or redact certain information. Sup.R. 45 specifically governs court records and public access to those records. Subsection (E)(1) states:

Any party to a judicial action or proceeding or other person who is the subject of information in a case document may, by written motion to the court, request that the court restrict public access to the information or, if necessary, the entire document. Additionally, the court may restrict public access to the information in the case document or, if necessary, the entire document upon its own order. The court shall give notice of the motion or order to all parties in the case. The court may schedule a hearing on the motion.

Thus, Sup.R. 45(E) provides, “[a]ny party to a judicial action or proceeding” may petition the trial court to “restrict public access to the information or, if necessary, the entire document.” (Emphasis added.). The Supreme Court of Ohio held:

The Rules of Superintendence provide that a court, sua sponte or on a party's motion, may restrict public access to case information or documents. Sup.R. 45(E)(1). But when so doing, the court must find that the presumption of allowing public access is outweighed by a stronger interest, Sup.R. 45(E)(2), such as a public policy served by restricting public access, Sup.R. 45(E)(2)(a). And the court must restrict access by “the least restrictive means available,” Sup.R. 45(E)(3); *accord* Loc.R. 9.16(4), such as restricting only online, but not direct, access, Sup.R. 45(E)(3)(b). These rules align with long-standing precedent holding that restrictions on court access “should be narrowly tailored to serve the competing interest without unduly burdening the public's right of access,” *State ex rel. Cincinnati Post v. Second District Court of*

Appeals, 65 Ohio St.3d 378, 381, 604 N.E.2d 153 (1992); *see also Bloom* at ¶ 50-53.

Dodd, ¶ 18.

{¶15} Importantly, this Court determined that Sup.R. 45 applies to eviction actions. *Hurst v. Peters*, 2025-Ohio-1958, ¶ 11 (5th Dist.). Further, this Court is not aware of any time limit regarding filing such a motion.

{¶16} In order for case documents to be restricted, Sup.R. 45(E)(2) provides that “[a] court shall restrict public access to information in a case document or, if necessary, the entire document, if it finds by clear and convincing evidence that the presumption of allowing public access is outweighed by a higher interest after considering each of the following: (a) Whether public policy is served by restricting public access; (b) Whether any state, federal, or common law exempts the document or information from public access; (c) Whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary business information, public safety, and fairness of the adjudicatory process.” Sup.R. 45(E)(2). “When restricting public access to a case document or information in a case document * * *, the court shall use the least restrictive means available * * *.” *Dodd*, ¶ 13; Sup.R. 45(E)(3).² Here, as stated, the trial court denied Appellant’s motion but did not state its reasons.

² Means of restriction include, but are not limited to the following: (a) Redacting the information rather than limiting public access to the entire document; (b) Restricting remote access to either the document or the information while maintaining its direct access; (c) Restricting public access to either the document or the information for a specific period of time; (d) Using a generic title or description for the document or the information in a case management system or register of actions; (e) Using initials or other identifier for the parties’ proper names.” Sup.R. 45(E)(3),

{¶17} Appellant’s arguments and underlying motion to restrict access or redact personal information rest on his claim that the record contains no underlying documentation establishing Appellant as the tenant or responsible party. Specifically, Appellant asserts the record lacks a lease agreement; a complaint identifying Appellant as the tenant; proof of service upon Appellant; documentation linking Appellant to the tenancy. “Despite the absence of such evidence, Appellant’s name remains associated with the eviction record.” *See*, Appellant’s Brief, p. 1. Appellant further complains that the decades old eviction action has been and continues to cause him undue harm. As stated above, the trial court simply overruled Appellant’s motion without any explanation.

{¶18} Because the trial court record is so lacking, and it simply denied Appellant’s motion to restrict access without any explanation or analysis, we are compelled to reverse and remand this matter to the trial court for further clarification of its decision to overrule Appellant’s motion. *See Dodd, supra*. (“Where a tenant seeks to seal eviction records based on housing discrimination concerns * * * a trial court errs by denying the motion without conducting the required Sup.R. 45(E)(2) analysis weighing the presumption of public access against competing interests, and without considering least restrictive alternatives like redaction.”); *see also, S.C. v. T.H.*, 2020-Ohio-2698, ¶ 10 (9th Dist.) (holding that because the trial court summarily denied T.H.’s Sup.R. 45 motion without explaining its reasoning, and while the Rules do not require a trial court to explain its reasoning, “the lack of *any* explanation puts this Court in the position of having to determine the merits of T.H.’s arguments in the first instance, which this Court will not do.”), citing *Catalanotto v. Byrd*, 2016-Ohio-2815, ¶ 12 (9th Dist.) (“Due to our role as a reviewing court, we cannot make a determination regarding the merits of an argument in the first instance.”).

{¶19} While we are not suggesting a certain result, we do lack the necessary information to properly address Appellant's assignment of error. The complete absence of the required balancing test analysis warrants reversal and remand. Therefore, we reverse and remand to the trial court for further clarification and proceedings consistent with this decision. Appellant's assignment of error is sustained.

CONCLUSION

{¶20} For the reasons above, we reverse the trial court and remand for further proceedings consistent with this opinion.

{¶21} Costs are waived.

By: Montgomery, J. and

Baldwin, J. concur.

Hoffman, P.J. dissenting.

Hoffman, P.J., dissenting

{¶22} I respectfully dissent from the majority opinion.

{¶23} It is usually beneficial for appellate review for a trial court to state its reason(s) for arriving at a particular decision. However, as acknowledged by the majority, it is not required to do so in this matter. Furthermore, pursuant to Sup. R. 45 (E)(1), the trial court may, but is not required to, schedule a hearing on the motion.

{¶24} As an appellate court, we presume the trial court knew and followed the law, unless the record affirmatively demonstrates otherwise. When coupled with the presumption in favor of allowing public access to court proceedings, I cannot say the trial court abused its discretion in denying Appellant's motion. To the extent the Ninth District Court of Appeals held otherwise, *In Re: S.C.*, supra, I am not persuaded to follow its decision.