[Cite as *Benson v. Harrison's Home Improvement*, 2025-Ohio-3272.]

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
MAHONING COUNTY

JESSE BENSON,

Plaintiff-Appellant,

v.

HARRISON'S HOME IMPROVEMENT,

Defendant-Appellee.

OPINION AND JUDGMENT ENTRY
Case No. 25 MA 0001

Civil Appeal from the
Youngstown Municipal Court of Mahoning County, Ohio
Case No. 24CVI01975Y

BEFORE:
Carol Ann Robb, Cheryl L. Waite, Katelyn Dickey, Judges.

JUDGMENT:
Affirmed.

Jesse Benson, pro se.

Harrison's Home Improvement, no brief filed.

Dated: September 8, 2025

Robb, P.J.

{¶1} Appellant, Jesse Benson, appeals the trial court's judgment issued after a bench trial, which was held after Appellee objected to the magistrate's decision. Benson challenges the trial court's findings and asks us to reinstate the magistrate's decision. For the following reasons, we affirm.

Statement of the Case

{¶2} Benson filed a small claims complaint against Appellee, Harrison's Home Improvement (Harrison), alleging claims for negligent performance of work, breach of contract, and conversion. Benson alleges he paid Harrison $5,000 in advance for work to be performed on Benson's home. Benson's statement of claim also alleges:

> after much rain there is a problem in my kitchen area, where there was never a problem before the NEW roof was installed. He never once supervised his crew. As a result, a number of items were stolen from me and window screens (4) were damaged. One area of the work was never completed. He has purposefully delayed—so as to void his time warranty.

(Emphasis sic.) (June 10, 2024 Statement of Claim.)

{¶3} A hearing was initially set before a magistrate in August of 2024. Harrison failed to appear, and the matter was reset. Thereafter, both parties appeared for trial before the magistrate, were sworn as witnesses, and testified. This hearing transcript is not in the record.

{¶4} The magistrate found Benson produced a contract and photos of the damages. The magistrate also found the water damage was undisputed. She granted judgment for Benson in the amount of $2,500 plus interest from the date of the judgment. (October 1, 2024 Magistrate's Decision.) Neither side requested findings of fact and conclusions of law.

{¶5} Harrison filed objections in letter form to the magistrate's decision. Harrison asked the court for an opportunity to submit evidence that was not available at the time of the first hearing. Harrison also denied Benson had contacted him about problems with his roof, contrary to Benson's testimony. Harrison alleged the water issues depicted in certain photographs existed before the roof installation. Additionally, Harrison disputed

Benson's damage claims, contending Benson failed to produce estimates of the alleged repair costs at the magistrate's hearing. (October 9, 2024 Objection.)

{¶6} Harrison likewise challenged Benson's testimony about the number of damaged screens. Harrison's objections letter contends Benson complained to him about one damaged screen, not four, and a missing tarp. Harrison contends that when he attempted to return the tarp and repair the screen, "Mr. Benson became volatile, confrontational and threatening. Mr. Benson also stated in court that he prepaid [Harrison] for services, when that wasn't true." (October 9, 2024 Objection.)

{¶7} The court stayed the judgment in favor of Benson pending its resolution of Harrison's objections. (October 23, 2024 Judgment.) The court then issued a judgment indicating it had reviewed the objections and was setting the case for trial before the judge. (November 19, 2024 Judgment.)

{¶8} The trial court held the trial in December of 2024. The transcript is not in the record on appeal, and there is no indication on the municipal court docket the transcript was ordered or filed. We note, however, the record does include four exhibits filed by the plaintiff, including the parties' contract, a Forest Knoll Construction estimate, a Boardman Ace Hardware estimate, and 16 unlabeled photographs.

{¶9} The Harrison's Home Improvement Contract dated July 16, 2023 is signed by two individuals—one in blue ink and one in black. The signatures are illegible. The one-page agreement consists of a typewritten pre-printed form and has a Harrison's Home Improvement letterhead or banner at the top. It reflects it is an agreement for a new roof between "Jessie Binsen" [sic] and Harrison in the amount of $5,000 to be paid "upon completion." Handwritten on the agreement in blue ink, it states in part "Pd in ful." [sic] The agreement also states: "1 Year Warranty and 1 Free Service Call." (Plaintiff's Exhibit A.)

{¶10} The court noted in its December 18, 2024 judgment that it conducted an independent review of the pleadings, objections, and evidence. The court also indicated both parties appeared pro se and testified. The trial court held:

> [T]he Plaintiff unilaterally altered the written contract dated July 16, 2023, provided an 'estimate' for repairs to the alleged chimney flashing, provided an estimate for repair of 1 screen but again unilaterally altered the estimate

> to include three other screens. Plaintiff further provided information he testified was for the cost of a tarp and screen material which the Court did not accept as it was not clear where and what the information actually was for or when it was obtained. Plaintiff testified he has not replaced or repaired any of the alleged damage to date.

(December 18, 2024 Judgment.)

{¶11} The trial court disagreed with the magistrate's decision in part. It reduced the judgment in Benson's favor. The court ordered judgment in favor of Benson in the amount of $778.89, explaining it was awarding "$750.00 to repair the flashing and $28.89 to repair one screen" plus court costs. (December 18, 2024 Judgment.)

{¶12} Benson timely appealed.

Assignments of Error

{¶13} Benson raises several arguments, but does not present formal assignments of error. Benson claims he did not write on the contract or estimates as the trial court found. He denies altering estimates. He further claims he was denied the opportunity to review the contract. Benson additionally denies threatening Harrison.

{¶14} Benson also claims he contacted Harrison numerous times, contrary to the trial court's findings. He further claims Harrison failed to supervise his employees, and they stole from Benson. He asks us to reinstate the magistrate's decision awarding him $2,500. (April 7, 2025 Appellant's Brief.)

{¶15} Civ.R. 53 governs actions referred to magistrates and decisions rendered by magistrates. It states in pertinent part:

> (D)(4)(a) Action of Court Required. A magistrate's decision is not effective unless adopted by the court.
>
> (b) Action on Magistrate's Decision. Whether or not objections are timely filed, a court may adopt or reject a magistrate's decision in whole or in part, with or without modification. A court may hear a previously-referred matter, take additional evidence, or return a matter to a magistrate.
>
> . . .
>
> (d) Action on Objections. If one or more objections to a magistrate's decision are timely filed, the court shall rule on those objections. In ruling

> on objections, the court shall undertake an independent review as to the objected matters to ascertain that the magistrate has properly determined the factual issues and appropriately applied the law. Before so ruling, the court may hear additional evidence but may refuse to do so unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced that evidence for consideration by the magistrate.

{¶16} As detailed in the statement of the case, Harrison timely objected to the magistrate's decision, and the trial court stayed the magistrate's decision pending its review of the objections. Because the trial court did not adopt the magistrate's decision, it never became effective.

{¶17} Instead, the court decided to take additional evidence before ruling on the objections. The trial court judge conducted a separate civil trial and issued its judgment after independently weighing the evidence and objections. Like the magistrate, the court ruled in Benson's favor, but the court disagreed with the damages awarded in light of its review of the evidence.

{¶18} Benson disagrees with the trial court's findings and damage award. He asks us to reject the trial court's findings and reinstate the magistrate's decision. His arguments essentially challenge the evidence supporting the court's decision.

{¶19} When reviewing civil appeals from bench trials, an appellate court applies a manifest weight standard of review. *St. Clairsville Pointe, Inc. v. Musilli*, 2022-Ohio-2646, ¶ 47 (7th Dist.); App.R. 12(C); *Seasons Coal v. Cleveland*, 10 Ohio St.3d 77 (1984).

{¶20} A weight of the evidence argument challenges the believability of the evidence and requires a reviewing court to address the competing inferences suggested by the evidence. *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 19. An Appellate court may not substitute its view for that of the trier of fact. We must review the entire record, weigh the evidence and all reasonable inferences, consider the credibility of witnesses, and determine whether the factfinder clearly lost its way and created such a manifest miscarriage of justice that the judgment must be reversed, and a new trial ordered. *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997).

{¶21} To review the manifest weight of the evidence, an appellate court must have access to the evidence, including exhibits and testimony properly presented to the trial

court. Upon an appeal of an adverse judgment, the appellant has the duty to ensure the record transmitted to the appellate clerk includes a transcription of any proceedings that are necessary for the determination of the appeal. App.R. 9(B) and 10(A). "[W]here a transcript of any proceeding is necessary for disposition of any question on appeal, the appellant bears the burden of taking steps required to have the transcript prepared for inclusion in the record." *State ex rel. Montgomery v. R & D Chem. Co.*, 72 Ohio St.3d 202, 204 (1995), citing *Rose Chevrolet, Inc. v. Adams*, 36 Ohio St.3d 17, 19, (1988).

{¶22} An appellant may submit a statement of evidence in accordance with App.R. 9(C).

{¶23} Our review is limited to what was properly before the trial court since we are a court of record. Absent a transcription of the evidence presented to the court or a compliant statement of the evidence, we cannot address the merits of Benson's challenges.

{¶24} Without a transcript of the evidence properly preserved and presented for our review, we have nothing to review. Thus, we cannot review Benson's challenges to the evidence presented to the trial court, his arguments about whether he altered the contract or estimate, or the court's determination as to the credibility of the witnesses. *Paulin v. Midland Mutl. Life Ins. Co.*, 37 Ohio St.2d 109, 112 (1974); *State v. Ishmail*, 54 Ohio St.2d 402 (1978). Instead, we must presume the regularity of the trial court's decision. *Knapp v. Edwards Laboratories*, 61 Ohio St.2d 197, 199 (1980); *State v. Willett*, 2001-Ohio-3374 (7th Dist.).

{¶25} Last, we note Benson contends the trial court failed or refused to return the photographs he submitted as exhibits. App.R. 9(A)(1) states the original papers and exhibits filed with the clerk of courts or exhibits submitted or offered during hearings shall be contained in the record on appeal. Thus, when an exhibit, such as a photograph, is submitted to a trial court for its consideration, the court is required to maintain that item as an exhibit and part of the record. *Id.*

{¶26} Moreover, the Supreme Court of Ohio's Rules of Superintendence dictate that court records are presumed open to the public. Sup.R. 45(B)(1) states: "A court or clerk of court shall make a court record available by direct access, promptly acknowledge any person's request for direct access, and respond to the request within a reasonable

amount of time." Additionally, Sup.R. 45(B)(2) provides that a court or clerk of courts must permit a "requestor" to make a duplicate or copies of court records. These rules do not address the procedure governing the return of original documents filed with a court, and Benson does not direct us to any rule or case governing this issue.

{¶27} In this case, we note the exhibits before the trial court, including photographs, are in the record. Thus, Benson should have been permitted to review the court's record, including any photographs or other exhibits filed, and make copies of the same. However, to the extent he claims the court erred by failing to return his original photographs, he fails to demonstrate error. "[I]t is not the function of the court of appeals to root out law in support of an argument, App.R. 16(A)(7)." *Matter of E.T.*, 2023-Ohio-444, ¶ 58 (7th Dist.); *Licitri v. DiBaggio*, 2024-Ohio-1154, ¶ 10 (9th Dist.) (an appellant bears the burden of supporting her argument with citations to the record and legal authority).

Conclusion

{¶28} For the following reasons, Benson's arguments on appeal lack merit. We affirm the trial court's judgment.

Waite, J., concurs.

Dickey, J., concurs.

For the reasons stated in the Opinion rendered herein, Benson's arguments on appeal lack merit. It is the final judgment and order of this Court that the judgment of the Youngstown Municipal Court of Mahoning County, Ohio, is affirmed. Costs to be taxed against the Appellant.

A certified copy of this opinion and judgment entry shall constitute the mandate in this case pursuant to Rule 27 of the Rules of Appellate Procedure. It is ordered that a certified copy be sent by the clerk to the trial court to carry this judgment into execution.

NOTICE TO COUNSEL

This document constitutes a final judgment entry.