

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

MAURIE NUNN,	:	
Plaintiff-Appellee,	:	
v.	:	No. 111944
DONNELL MITCHELL, ET AL.,	:	
Defendants-Appellants.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: July 20, 2023

Civil Appeal from the Cuyahoga County Court of Common Pleas
Case No. CV-18-892125

Appearances:

Maurie Nunn, *pro se*.

Donnell Mitchell, *pro se*.

MARY J. BOYLE, J.:

{¶ 1} Defendant-appellant, Donnell Mitchell, et al. (“Mitchell”), pro se, appeals the trial court’s judgment following a jury verdict in favor of plaintiff-appellee, Maurie Nunn (“Nunn”), pro se. For the reasons set forth below, we affirm.

I. Facts and Procedural History

{¶ 2} This appeal arises from a five-count complaint filed by Nunn in January 2018 against Mitchell, the Personal Injury Network, LLC, My Spaceship, LLC, MMT Fund, LLC, and King of Hip Hop, LLC (collectively referred to as “defendants”).¹ Nunn alleges that defendants caused damage to his reputation and his bail bond enforcement, photography, videography, real estate, and marketing businesses. Nunn alleges that Mitchell used Personal Injury Network, LLC, My Spaceship, LLC, MMT Fund, LLC, and King of Hip Hop, LLC to post a series of negative, harmful, and defamatory comments on Facebook and other social media platforms about himself personally and his businesses, which resulted in damage to his reputation and the loss of future earnings. Nunn also alleges that defendants used his personal image without compensation when they converted Nunn’s images from a website he does business with and used these images as their own. These allegations form the bases for Counts 1-4 of the complaint (intentional interference with business activity, defamation, false light, and use of personal image without compensation).

{¶ 3} Nunn further alleges that Mitchell incorporated the names of several corporations originally incorporated by Nunn and a business associate Elizabeth Reyes-Large (“Reyes-Large”), and is using these corporations in an attempt to deceptively show that he has Nunn under contract. Reyes-Large was Mitchell’s

¹ Nunn initially filed suit in July 2017, but the parties filed a joint voluntary dismissal without prejudice in December 2017. *See Nunn v. Mitchell*, Cuyahoga C.P. No. CV-17-882549.

paramour when Mitchell and Nunn initially became business associates. Since that time, Nunn and Reyes-Large have become a couple. Nunn alleges that his current relationship with Reyes-Large is the possible motive for Mitchell to create havoc in his businesses. These allegations form the bases for Count 5 (deceptive trade practices).

{¶ 4} The matter proceeded to a jury trial, resulting in a verdict for Nunn and against Mitchell on all counts.² The jury found in favor of Personal Injury Network LLC and against Nunn on Counts 2 and Count 3.³ The verdict is as follows:

\$240,000 for [Nunn] & against defendants Mitchell and Personal Injury Network LLC on Count One;

\$340,000 for [Nunn] & against defendant Mitchell on Count Two;

\$100,000 for [Nunn] & against defendant Mitchell on Count Three;

And \$240,000 for [Nunn] & against defendants Mitchell and Personal Injury Network LLC on Count Four.

Verdicts in favor of Personal Injury Network LLC & against [Nunn] were returned upon Count Two and Count Three.

The parties agree that the \$340,000 verdict against [Mitchell] on Count Two represented \$240,000 plus \$100,000 with the former amount duplicating the verdict on Counts One and Four and the latter amount duplicating the verdict on Count Three.

The parties agreed to the following reduction of the verdicts to judgment; Judgment is hereby entered upon which execution may issue in the amount of \$240,000 in favor of [Nunn] and against defendants [Mitchell and Personal Injury Network LLC] jointly & severally on Counts One, Two and Four and an additional separate

² It appears that Counts 4 and 5 were merged at trial.

³ The remaining defendants were dismissed during trial.

judgment is entered upon which execution may issue in the amount of \$100,000 in favor of [Nunn] and against [Mitchell] on Count Three.

(Judgment entry, Aug. 30, 2022.)

{¶ 5} It is from this order that Mitchell appeals, raising the following 11 assignments of error for review:⁴

Assignment of Error One: [Nunn] failed to offer sufficient proof to allow a reasonable fact-finder to find [Mitchell] liable against the weight of fair evidence.

Assignment of Error Two: This court should not consider unauthenticated illegally downloaded recordings as substantive evidence of guilt.

Assignment of Error Three: The manifest weight of the evidence did not support a liable finding against [Mitchell].

Assignment of Error Four: The trial court erred in admitting out-of-court statements unauthenticated admission of 32 copyrighted videos.

Assignment of Error Five: [Tr. 253 Exs. 1-25.] The trial court judge is confused on copyrights taken from copyright.gov and did not allow them into evidence.

Assignment of Error Six: The trial court erred in piercing the corporate veil by not authenticating who actually owned the Personal Injury Network LLC and who allegedly filed tradenames used as Exhibits BB-NN.

Assignment of Error Seven: The trial court erred in attempting to hide [Nunn's] marriage.

Assignment of Error Eight: [Mitchell] was denied access to records to show what damages were lost by [Nunn]. Nunn refused to show if he even had a legitimate business and refused to show his tax records.

Assignment of Error Nine: The trial court allowed 32 federally copyrighted works into the record with a total disregard for who owned

⁴ We note that Mitchell's listed assignments of error do not correspond to the errors assigned in his appellate brief. We will address the arguments presented by Mitchell in his brief.

the federal copyrights and where they came from. The court acted improper. (Tr. 340 Exs. 4-14)

Assignment of Error Ten: [Tr. 59 and 60.] The court was not qualified to hear this case under commercial court rules.

Assignment of Error Eleven: At trial [Nunn] commits perjury claiming for 5 years he worked for [Reyes-Large] of Large Bonds and Spring Break LLC but at trial [Nunn] claims he worked for Garrett McClellan and Brian Cole since 2010. Which one is it?

II. Law and Analysis

A. Preliminary Matters

{¶ 6} We begin our analysis by noting that Mitchell’s pro se brief does not fully comply with the Ohio Rules of Appellate Procedure. Specifically, App.R. 12(A)(2) provides that 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).” Additionally, App.R. 16(A)(7) provides that the appellant’s brief shall include 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.”

{¶ 7} Here, Mitchell completely failed to articulate error in his fifth, sixth, seventh, eighth, tenth, and eleventh assignments of error in accordance with App.R. 12 and 16. “Pro se civil litigants are bound by the same rules and procedures as those litigants who retain counsel. They are not to be accorded greater rights and must accept the results of their own mistakes and errors.” *Heller v. Ohio Dept. of Jobs &*

Family Servs., 8th Dist. Cuyahoga No. 92965, 2010-Ohio-517, ¶ 18, quoting *Meyers v. First Natl. Bank of Cincinnati*, 3 Ohio App.3d 209, 210, 444 N.E.2d 412 (1st Dist.1981), citing *Dawson v. Pauline Homes, Inc.*, 107 Ohio App. 90, 154 N.E.2d 164 (10th Dist.1958). There is no comprehensible argument for us to review, and as a result, we must summarily overrule these assignments of error.

{¶ 8} Notwithstanding the foregoing, “this appellate court will ordinarily indulge a pro se litigant when there is some semblance of compliance with the appellate rules.” *Delaney v. Cuyahoga Metro. Hous. Auth.*, 8th Dist. Cuyahoga No. 65714, 1994 Ohio App. LEXIS 2980, 4 (July 7, 1994). Thus, we proceed with our analysis of the remaining assigned errors.

B. Defamation and False Light

{¶ 9} In the first assignment of error, Mitchell argues that the defamation and false light verdicts are against the weight of the evidence. Mitchell’s argument focuses on the fact that Nunn was having an extramarital affair with Reyes-Large and Nunn could not keep the affair a secret.

{¶ 10} We note that “[i]n a civil case, in which the burden of persuasion is only by a preponderance of the evidence, rather than beyond a reasonable doubt, evidence must still exist on each element (sufficiency) and the evidence on each element must satisfy the burden of persuasion (weight).” *Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 N.E.2d 517, ¶ 19.

{¶ 11} In the instant case, Mitchell relies on caselaw addressing the sufficiency of the evidence. His argument, however, does not challenge the

sufficiency of evidence supporting the verdict, but rather points out Nunn's infidelity, which goes to the weight of the evidence. In doing so, Mitchell fails to support his argument with citations to the appropriate authorities and parts of the record on which he relies. This court has held that when an appellant fails to cite to any legal authority for their claims, that failure allows this court to disregard their arguments. *Pinkney v. Salett*, 8th Dist. Cuyahoga No. 96130, 2011-Ohio-4121, ¶ 3, citing App.R. 12(A)(2); App.R. 16(A)(7); *State v. Martin*, 12th Dist. Warren No. CA99-01-003, 1999 Ohio App. LEXIS 3266 (July 12, 1999), citing *Meerhoff v. Huntington Mtge. Co.*, 103 Ohio App.3d 164, 658 N.E.2d 1109 (3d Dist.1995); *Siemientkowski v. State Farm Ins.*, 8th Dist. Cuyahoga No. 85323, 2005-Ohio-4295. "If an argument exists that can support this assigned error, it is not this court's duty to root it out." *Id.*, quoting *Cardone v. Cardone*, 9th Dist. Summit Nos. 18349 and 18673, 1998 Ohio App. LEXIS 2028, 22 (May 6, 1998).

{¶ 12} Therefore, the first assignment of error is overruled.

C. Camera Recordings

{¶ 13} In the second, fourth, and ninth assignments of error, Mitchell essentially argues the trial court erred by admitting several camera recordings exhibits into evidence. Mitchell makes a blanket assertion that these recordings contain hearsay without further developing the argument. As the appealing party, Mitchell bears the burden of affirmatively demonstrating error on appeal. App.R.16(A)(7). Moreover, it is not appropriate for this court to construct the legal arguments in support of Mitchell's appeal. *Pinkney* at ¶ 3.

{¶ 14} Therefore, the second, fourth, and ninth assignments of error are overruled.

D. Exhibits BB-NN

{¶ 15} In the third assignment of error, Mitchell contends that the manifest weight of the evidence did not support a \$340,000 liability finding against him, citing to the criminal “beyond a reasonable doubt” standard. He contends the jury lost its way by believing Nunn’s “unauthenticated unsworn evidence.” Mitchell refers to exhibits BB-NN. A review of the record, however, reveals that Mitchell did not object to the admission of these exhibits into evidence at trial. (Tr. 358.) The failure to object to the admission of evidence waives all but plain error on review. *Wallace v. Winn*, 8th Dist. Cuyahoga No. 101341, 2015-Ohio-1537, ¶ 13, citing Evid.R. 103(A)(1) and *State v. Mallette*, 8th Dist. Cuyahoga No. 87984, 2007-Ohio-715, ¶ 12, *discretionary appeal not allowed*, 115 Ohio St.3d 1439, 2007-Ohio-5567, 875 N.E.2d 101. *See also Jones v. Multicare Health & Educational Servs.*, 8th Dist. Cuyahoga No. 100773, 2014-Ohio-3724 (“A party waives [their] right to assign as error the admissibility of evidence if [they fail] to object at the moment of its admission” *Id.* at ¶ 13, quoting *Parma v. Silvis*, 8th Dist. Cuyahoga No. 88104, 2007-Ohio-1157, ¶ 15, citing *Heldman v. Uniroyal, Inc.*, 53 Ohio App.2d 21, 371 N.E.2d 557 (8th Dist.1977)). The plain error doctrine is not favored in civil cases and is applicable “only in the extremely rare case involving exceptional circumstances” where the error “seriously affects the basic fairness, integrity, or public reputation of the judicial process[.]” *Goldfuss v. Davidson*, 79 Ohio St.3d 116,

679 N.E.2d 1099 (1997), syllabus, *approving and following Yungwirth v. McAvoy*, 32 Ohio St.2d 285, 291 N.E.2d 739 (1972); *Schade v. Carnegie Body Co.*, 70 Ohio St.2d 207, 436 N.E.2d 1001 (1982); *Cleveland Elec. Illum. Co. v. Astorhurst Land Co.*, 18 Ohio St.3d 268, 480 N.E.2d 794 (1985).

{¶ 16} We do not find that the circumstances of the instant case give rise to plain error. Nor do we find that the admission of these exhibits seriously affected the basic fairness, integrity, or public reputation of the judicial process.

{¶ 17} Because Mitchell failed to object to the admission of such evidence and failed to demonstrate plain error, the third assignment of error is overruled.

III. Conclusion

{¶ 18} Pro se civil litigants are bound by the same rules and procedures as those litigants who retain counsel. Mitchell fails to present a cognizable argument throughout the majority of his brief. Mitchell also fails to comply with the Rules of Appellate Procedure, which allows this court to disregard the majority of his arguments. With regard to the assigned errors where there was some semblance of compliance with the appellate rules, Mitchell either failed to demonstrate the error, support those errors with proper legal authority, or preserve the error for review on appeal.

{¶ 19} Accordingly, judgment is affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MARY J. BOYLE, JUDGE

LISA B. FORBES, P.J., and
EILEEN T. GALLAGHER, J., CONCUR