

RENDERED: JANUARY 11, 2013; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2010-CA-000545-MR

DENNIS L. MEREDITH

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE OLU A. STEVENS, JUDGE
ACTION NO. 09-CI-008466

CHASE BANK USA, N.A.

APPELLEE

OPINION AND ORDER
STRIKING BRIEF AND DISMISSING APPEAL

** ** * * * **

BEFORE: ACREE, CHIEF JUDGE; CLAYTON AND KELLER, JUDGES.

ACREE, CHIEF JUDGE: On August 19, 2009, Chase Bank U.S.A. filed suit in the Jefferson Circuit Court against Dennis L. Meredith, claiming Meredith had defaulted on a credit card debt. The circuit court entered summary judgment in favor of Chase on February 19, 2010, in addition to an order of garnishment.

Meredith appealed. Unfortunately, the attempt to present Meredith's arguments on

appeal can be most generously described as unsatisfactory. We will not disturb the judgment.

The rules setting the standards for appellants' briefs are readily accessible and straightforward enough to be understood even by *pro se* advocates; nevertheless, Meredith has failed to comply with a great many of them. The "argument" portion of his brief contains no citation to legal authority. CR 76.12(4)(c)(v). The sole exception is a general reference to *Steelvest, Inc. v. Scansteel Service Center, Inc.*, 807 S.W.2d 476 (Ky. 1991), which neither identifies the rules of law stated in the case, nor attempts to apply those rules to the issues on appeal. "Our courts have established that an alleged error may be deemed waived where an appellant fails to cite any authority in support of the issues and arguments advanced on appeal. . . . It is not our function as an appellate court to research and construct a party's legal arguments[.]" *Hadley v. Citizen Deposit Bank*, 186 S.W.3d 754, 759 (Ky. App. 2005)(citations omitted). Under this rule, Meredith has effectively waived all arguments.

The brief does not contain a single reference to the record and there is no statement of preservation, in violation of CR 76.12(4)(c)(iv)-(v). Furthermore, Meredith refers to factual matters which are plainly outside the record and of

dubious relevance to the issue at hand.¹ CR 76.12(4)(c)(iv); *see also Baker v. Jones*, 199 S.W.3d 749, 753 (Ky. App. 2006).

The index to the appendix fails to “set forth where the documents may be found in the record” in violation of CR 76.12(4)(c)(vi). Finally, the order from which Meredith has appealed has not been included in the appendix at all. CR 76.12(4)(c)(vii) (“The appellant shall place the judgment, opinion, or order under review immediately after the appendix list so that it is most readily available to the court.”).

On many occasions we have disclosed the purpose of these rules and explained why failure to comply with them hinders our ability to review an appellant’s arguments. *See, e.g., Hallis v. Hallis*, 328 S.W.3d 694, 695-97 (Ky. App. 2010). In most circumstances, we choose the least severe consequence for noncompliance with CR 76.12 and review the trial court’s order for manifest injustice. *See id.*; *see also Elwell v. Stone*, 799 S.W.2d 46, 48 (Ky. App. 1990). Meredith’s brief, however, evinces such a serious lack of regard for the rules of appellate practice that we find it appropriate to strike his brief and dismiss the appeal. CR 76.12(8)(a); *Mullins v. Hess*, 131 S.W.3d 769, 772, n.2 (Ky. App. 2004).

¹ For example, Meredith asserts, “As the result of the current recession, the Circuit and District Courts of the Commonwealth of Kentucky have been flooded with suits brought by banks and credit card holders to collect debts. Many of these debts are valid[;] however, others are simply run through a paper mill. Suits are filed, flimsy evidence is presented, affidavits are prepared for an individual to stamp and sign without reading or examining the file or having any firsthand knowledge[,] and Motions are made for Summary Judgment without producing any factual basis for a debt other than a ledger showing the balance due.”

For the reasons stated above, this Court ORDERS that the appellant's brief be stricken and the appeal dismissed.

CLAYTON, JUDGE, CONCURS.

ENTERED: January 11, 2013 /s/ Glenn E. Acree
CHIEF JUDGE, COURT OF APPEALS

KELLER, JUDGE, DISSENTS AND FILES A SEPARATE
OPINION.

KELLER, JUDGE, DISSENTING: Respectfully, I dissent. I agree that the Appellant's brief is deficient. However, it is not so deficient as to foreclose us from reviewing the issues raised. Therefore, I would not dismiss this appeal but would address it on its merits.

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