

No. 1-18-0415

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re ESTATE OF CLYDE DEARMOND, a minor,)
) Appeal from the
) Circuit Court of
(Jesus M. Chacon,) Cook County
)
)
Petitioner-Appellant,)
)
)
v.) No. 17 P 4458
)
)
Madelyn Dearmond,)
)
)
)
Respondent-Appellee).) Honorable
) Susan Kennedy Sullivan,
) Judge Presiding.
)
)
)

JUSTICE REYES delivered the judgment of the court.
Justices Gordon and Burke concurred in the judgment.

ORDER

- ¶ 1 *Held:* Affirming the judgment of the circuit court of Cook County where the record demonstrates the circuit court did not abuse its discretion when it held a hearing by the agreement of the parties.
- ¶ 2 Petitioner Jesus Chacon, *pro se*, appeals from an order of the circuit court denying his

petition for guardianship over his purported paternal great-grandson, Clyde Dearmond.¹ On appeal, petitioner maintains that the circuit court erred when it did not grant his request for a continuance and held a hearing the same day the report from the guardian *ad litem* was submitted to him. Because the record discloses that the hearing commenced by agreement of the parties, we affirm the judgment of the circuit court.

¶ 3 BACKGROUND

¶ 4 On appeal, petitioner maintains that the court erred in denying his motion for a continuance. He does not contest the circuit court's finding that the minor's parents were willing and able to care for their son. Accordingly, we recite only those facts pertinent to the disposition of this appeal.

¶ 5 On July 14, 2017, petitioner, through counsel, filed a petition for guardianship over Clyde. The petition indicated that the whereabouts of Clyde's parents were unknown and generally alleged that there were "substance abuse" issues.

¶ 6 Thereafter, on August 28, 2017, the minors' parents, Madelyn Dearmond and Clyde Delapaz, appeared in court and an order was entered appointing an attorney from Chicago Volunteer Legal Services (CVLS) as the guardian *ad litem*. The order further provided that CVLS was to conduct an investigation of the minor's best interest and make a recommendation to the court. The matter was set for status on October 30, 2017.

¶ 7 On October 30, 2017, the guardian *ad litem* filed her report and provided copies to the parties as well as the court in which she recommended, in part, that the minor be in the custody of his parents. That same day, the circuit court conducted a hearing and entered an order denying the petition finding the minor's parents were willing and able to care for Clyde. The

¹ The record indicates that no father was named on Clyde's birth certificate.

order provided that the hearing commenced “with the agreement of the parties” and that all parties, including the guardian *ad litem*, were present for the hearing. Petitioner was also represented by counsel. Petitioner declined to testify and, after hearing testimony from the parents, the circuit court found that the parents’ testimony was credible and determined they were willing and able to care for the minor.

¶ 8 Thereafter, petitioner filed a motion to vacate and then was granted leave to file an amended motion to vacate. In the amended motion petitioner argued he should have been provided with the opportunity to conduct discovery where the guardian *ad litem*’s report was filed the same day as the hearing and that he was denied the opportunity to testify. On January 25, 2018, the circuit court denied the motion and recounted in its order that the parties were given time on October 30, 2017, to prepare for a 3 p.m. hearing, but petitioner’s counsel “said he could not return and would rather proceed in the morning.” The order further indicated that petitioner declined to testify at the hearing, despite being provided with the opportunity to do so.

¶ 9 Petitioner filed a timely notice of appeal from the court’s orders of October 30, 2017, and January 25, 2018; however, no arguments were raised in his brief as to the denial of the amended motion to vacate. No response brief has been filed. Nonetheless, we choose to address the merits of the appeal because the record in the case is simple and the issues are such that we can easily resolve them without the aid of an appellee’s brief. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 10 ANALYSIS

¶ 11 Prior to addressing the merits of the appeal, we observe that *pro se* litigants, such as petitioner here, are not entitled to more lenient treatment than attorneys. See *Lewis v. Heartland Food Corp.*, 2014 IL App (1st) 123303, ¶ 5. In Illinois, parties choosing to represent themselves

without a lawyer are “presumed to have full knowledge of applicable court rules and procedures and must comply with the same rules and procedures as would be required of litigants represented by attorneys.” *In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1067 (2009).

¶ 12 With these principles in mind, we note that the brief filed by petitioner fails to comply with our supreme court rules at various levels. First, petitioner’s brief fails to abide by our supreme court’s rules regarding the structure and content of appellate briefs. See Ill. S. Ct. R. 341 (eff. Nov. 1, 2017); R. 342 (eff. July 1, 2017). These rules are not mere suggestions, but are compulsory. *In re Marriage of Hluska*, 2011 IL App (1st) 092636, ¶ 57. The purpose of these rules is to require the parties to present clear and orderly arguments before a reviewing court, so that the court can properly ascertain and dispose of the issues involved. *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 7.

¶ 13 Here, petitioner’s brief fails to provide a statement of facts “stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal” in violation of Rule 341(h)(6). Ill. S. Ct. R. 341(h)(6) (eff. Nov. 1, 2017). The failure to substantiate factual assertions with such citation to the record warrants the dismissal of an appeal because it renders it “next to impossible for this court to assess whether the facts as presented *** are an accurate and fair portrayal of the events in this case.” *Collier v. Avis Rent A Car System, Inc.*, 248 Ill. App. 3d 1088, 1095 (1993). Petitioner’s brief also does not contain an appendix as required by Illinois Supreme Court Rule 342 (eff. July 1, 2017).

¶ 14 Second, petitioner’s assertions are not coherent legal arguments and are not supported by citations to legal authority as required by Illinois Supreme Court Rule 341. Rule 341(h)(7) requires that the argument “shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on.” Ill S. Ct. R.

341(h)(7) (eff. Nov. 1, 2017). “It is a rudimentary rule of appellate practice that an appellant may not make a point merely by stating it without presenting any argument in support.” *Housing Authority of Champaign County v. Lyles*, 395 Ill. App. 3d 1036, 1040 (2009). Failure to properly develop an argument does “not merit consideration on appeal and may be rejected for that reason alone.” *Id.*

¶ 15 While we understand that petitioner represents himself in this appeal, we cannot bypass our supreme court rules to make an exception for a brief that does not comply with the rules in multiple aspects. “Supreme Court Rule 341 governing the form and contents of briefs is not just an arbitrary exercise of the supreme court’s supervisory powers; its end purpose is that a reviewing court may properly ascertain and dispose of the issues involved.” *Tannenbaum v. Lincoln National Bank*, 143 Ill. App. 3d 572, 574-75 (1986). As a reviewing court, we are entitled to have the issues clearly defined with pertinent authority cited. *McCann v. Dart*, 2015 IL App (1st) 141291, ¶ 15 (quoting *Northwestern Memorial Hospital v. Sharif*, 2014 IL App (1st) 133008, ¶ 20). An appellant cannot expect this court to develop arguments and research the issues on the appellant’s behalf. See *Northwestern Memorial Hospital*, 2014 IL App (1st) 133008, ¶ 20. Despite the deficiencies in petitioner’s brief, however, we will turn to consider the merits of the appeal.

¶ 16 Because petitioner’s brief lacks any citation to authority and his legal arguments are not developed, as best we can ascertain, petitioner argues on appeal that the circuit court erred when it denied his request for a continuance of the hearing. “[A] party has no absolute right to a continuance.” *In re Tashika F.*, 333 Ill. App. 3d 165, 169 (2002). A circuit court’s decision to grant or deny a motion to continue is a discretionary matter, and this court will not set aside the circuit court’s determination unless it amounts to an abuse of discretion. *In re Nancy A.*, 344 Ill.

App. 3d 540, 550 (2003). A court abuses its discretion where its decision is arbitrary, fanciful or unreasonable, or when no reasonable person would take the same view. *In re Estate of Rivera*, 2018 IL App (1st) 171214, ¶ 66.

¶ 17 We do not have the benefit of a record of proceedings in this matter and no bystander's report was filed. Illinois Supreme Court Rules 321 and 324 require an appellant to provide a complete record on appeal, including a certified copy of the report of proceedings. See Ill. S. Ct. R. 321 (eff. Feb. 1, 1994); Ill. S. Ct. R. 324 (eff. July 1, 2017). If a verbatim transcript is unavailable, the appellant may file an acceptable substitute, such as bystander's report or an agreed statement of facts, as provided for in Rule 323. See Ill. S. Ct. R. 323 (eff. July 1, 2017). The burden of providing a sufficient record on appeal rests with the appellant (here, petitioner). *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 156 (2005); *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92, (1984). In the absence of such a record, we must presume the circuit court acted in conformity with the law and with a sufficient factual basis for its findings. *Foutch*, 99 Ill. 2d at 392. Furthermore, any doubts arising from an incomplete record will be resolved against the appellant. *Id.*

¶ 18 Here, petitioner maintains that the circuit court erred when it denied his request for a continuance of the hearing. Notably, the record does not reflect that petitioner made such a request. Because the request was not memorialized in writing and we do not have a record of proceedings it is not clear when, if ever, the motion was presented. Thus, if such a motion was made, due to the insufficient record before us, we must presume that the circuit court acted properly when it denied petitioner's request. See *id.*

¶ 19 We observe, however, that the circuit court memorialized the agreement of the parties to conduct the hearing in its written orders of October 30, 2017, and January 25, 2018. The

October 30, 2017, order provides that the hearing commenced “with the agreement of the parties” and that petitioner declined to testify. In addition, in its January 25, 2018, order denying petitioner’s amended motion to vacate, the circuit court clarified that, “[t]he Court recalls clearly the parties were given time on October 30 to prepare for a 3pm hearing, but counsel for [petitioner] said he could not return and would rather proceed in the morning.” The circuit court went on to state, “the Court recalls clearly giving [petitioner] the opportunity to respond to the mother’s and father’s sworn testimony, and he declined to testify.” Accordingly, based on the record before us, we must presume that the circuit court acted in conformity with the law and did not abuse its discretion.

¶ 20

CONCLUSION

¶ 21 For the reasons stated, the judgment of the circuit court of Cook County is affirmed.

¶ 22 Affirmed.