

No. 1-18-1793

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

LISA GILLARD,)	On Appeal from the Circuit Court of Cook
)	County, Illinois
Plaintiff-Appellant,)	
)	
v.)	No. 17 L 12098
)	
)	
BENEDICTO CARADANG; QUINTEN)	
JOHNSTON; DENISE DATULLO;)	
KWAME RAOUL, in His Official Capacity)	
as Attorney General of Illinois; TONI)	
PRECKWINKLE, in Her Official Capacity)	
as President of the Cook County Board of)	
Commissioners; and TOMMY)	
PAWLOWSKI,)	
)	The Honorable Clare Elizabeth McWilliams,
Defendants.)	Judge Presiding.

PRESIDING JUSTICE DELORT delivered the judgment of the court.
Justices Connors and Harris concurred in the judgment.

ORDER

¶ 1 **Held:** The appeal is dismissed because the appellant’s brief violates Illinois Supreme Court Rule 341 in several ways and does not contain an argument directed at the order appealed.

¶ 2 Plaintiff-appellant Lisa Gillard appeals from the dismissal of her amended complaint against several deputy sheriffs and public officials. We dismiss the appeal because her brief contains numerous violations of Illinois Supreme Court Rule 341 and contains no argument directed at the rationale upon which the circuit court relied to dismiss the case.

¶ 3 Gillard filed a eight-count amended complaint which begins with several pages of laudatory descriptions of Gillard as, among other things, an activist, writer, collaborator with state officials, and as someone who devotes “her individual and private support for our esteemed U.S. President Donald J. Trump, Sr. as a Special Advisor for Minority and Indigent Relations.” The main substantive allegation in the amended complaint is that on September 12, 2017, Cook County sheriff employees (defendants Sergeant Benedicto Caradang and deputies Quinten Johnston and Denise Datullo) used excessive force when they arrested Gillard at the Daley Center courthouse. The amended complaint then alleges a series of incidents, disconnected in time from the main one, during which some of those officers and another defendant, deputy Tommy Pawlowski, harassed and stalked Gillard, and then “retaliated” against her. The caption of the amended complaint lists Lisa Madigan, the then-Attorney General of Illinois,¹ and Toni Preckwinkle, president of the Cook County Board of Commissioners, as defendants, but the amended complaint contains no other reference to or allegations regarding them, so we will treat them as if they are not parties at all. Adding to the confusion, the caption does not list Cook County as a defendant and the amended complaint does not make specific allegations directed at Cook County, but Cook County nonetheless appeared in the case through the State’s Attorney.

¶ 4 Count I of the amended complaint is a tort claim brought against Cook County as employer of the deputy sheriffs under the doctrine of *respondeat superior*. As noted, however,

¹We substitute the current Attorney General of Illinois, Kwame Raoul, for his predecessor, Lisa Madigan, pursuant to section 2-1008(d) of the Code of Civil Procedure (735 ILCS 5/2-1008(d) (West 2016)).

Cook County is not listed in the case caption. Count II seeks indemnification by Cook County for any award resulting from the deputies' conduct. Count III is labeled as a common law claim for assault and battery, but cites sections 12-1 and 12-3 of the Criminal Code of 2012 (Criminal Code) (720 ILCS 5/12-1, 12-3 (West 2016)), which establish the crimes of assault and battery but do not create a private cause of action for assault or battery. Count IV is similarly labeled as a claim for "attempted murder," citing section 8-4 of the Criminal Code (720 ILCS 5/8-4 (West 2016)). Count V is a federal claim for conspiracy to violate Gillard's civil rights under color of law, brought under 42 U.S.C. § 1983. Count VI is a section 1983 action that conclusorily alleges that the Cook County Sheriff engages in an unlawful pattern and practice of using excessive force. Count VII is another section 1983 claim for "failure to intervene" to prevent the violation of Gillard's civil rights. Count VIII is also a section 1983 claim labeled "retaliation," but it contains no new allegations about which defendants committed what actions that constituted retaliation against Gillard for any particular thing that she had done.

¶ 5 The case shuffled back and forth between numerous Law Division judges, some of whom recused themselves from Gillard's cases. Along the way, Gillard filed a host of motions, and what appear to be *ex parte* demands to the Presiding Judge of the division, expressing her distrust of a long list of specified judges and insisting they be replaced on the bench, and a plea to have hearings on the case closed to the public.

¶ 6 Eventually, all of the defendants filed a joint motion to dismiss pursuant to section 2-619.1 of the Code of Civil Procedure (Code) (735 ILCS 5/2-619.1 (West 2016)). The section 2-619 portion of the motion (735 ILCS 5/2-619 (West 2016)) argued that Cook County was not responsible for indemnifying the sheriff's employees, who were immune from suit, citing *Moy v. County of Cook*, 159 Ill. 2d 519 (1994) (holding Cook County is not responsible to indemnify

claims against sheriffs because they are not in an employment relationship with the county). It also argued that all counts of the amended complaint against President Preckwinkle and deputy Pawloski should be dismissed because there were insufficient allegations of willful and wanton conduct by them, rendering them immunized from the claims by the Local Governmental and Governmental Employees Tort Immunity Act (the Tort Immunity Act) (745 ILCS 10/1-101 *et seq.* (West 2016)). (Actually, as explained above, there are no claims whatsoever in the amended complaint against Preckwinkle.) Another portion of the section 2-619 portion of the motion asked the court to take judicial notice of the fact that the sheriff's employees used reasonable force to execute a valid outstanding arrest warrant against Gillard, and that she was ultimately found guilty of two counts of resisting arrest in the underlying criminal case.

¶ 7 The section 2-615 portion of the motion (735 ILCS 5/2-615 (West 2016)) argued that the amended complaint generally lacked sufficient facts to support valid claims for conspiracy, failure to intervene, retaliation, excessive force, or violation of Gillard's constitutional rights. The motion to dismiss concluded with a separate request to strike the self-promotional allegations Gillard set forth in the initial paragraphs of her amended complaint.

¶ 8 On August 3, 2018, after briefing, the circuit court issued a memorandum opinion and order resolving the motion to dismiss. The court addressed the section 2-619 portion of the motion only. It found: (1) Attorney General Madigan was immune from suit because of sovereign immunity; (2) under *Moy*, Cook County was not responsible for indemnifying the sheriff's employees; (3) there were no allegations in the amended complaint against Preckwinkle; and (4) the sheriff's employees were immune under the Tort Immunity Act because the amended complaint failed to allege willful and wanton conduct. Based on this disposition, the court found it unnecessary to address the section 2-615 portion of the motion. The court

dismissed all counts as to all defendants with prejudice. Gillard never moved to file a second amended complaint to cure the defects raised in the motion to dismiss, but instead filed even more strident letters and motions requesting substitution and recusal of judges, along with a “motion to reinstate,” which was the functional equivalent of a motion to reconsider. On August 9, the court denied Gillard’s motions and again dismissed the case with prejudice. Gillard filed a timely notice of appeal on August 17.

¶ 9 Gillard has filed a brief in this court that violates Illinois Supreme Court Rule 341 (Ill. S. Ct. R. 341 (eff. May 25, 2018)) in numerous ways. The Statement of Facts, consisting of a single page, contains no references to the pages of the record indicating where pleadings and orders are located. The Statement of Facts addresses the main issue in the case—the defendants’ motion to dismiss—in a most cursory manner, omitting any description of the motions or the court’s rationale for granting them.

¶ 10 Like the Statement of Facts, the argument section contains not a single citation to the record. More important, though, is the brief’s lack of substantive content. It consists largely of snippets of legal text taken completely out of context. The brief argues for *de novo* review (which is correct) but then addresses how a reviewing court considers the credibility of witnesses and perjury (even no trial or evidentiary hearing was ever conducted). The brief also contains several references to the law regarding affidavits and asserts that Gillard produced unspecified affidavits that the circuit court ignored, but no evidentiary affidavit is in the record. And the argument section contains nonsensical statements such as “Rather, the trial court gives no federal grounds on her abandonment of these federal laws.” Then, the argument proceeds to discuss the standards a court applies when considering whether a law is unconstitutional. Again, no challenge to a law’s constitutionality is involved in this case. The argument also discusses

principles regarding equal protection claims, but the amended complaint contains no such claim. The argument contains no argument actually directed at the circuit court's rationale, such as why it erred with respect to the application of sovereign immunity and tort immunity, the willful and wanton conduct pleading deficiencies, or the *Moy* indemnification doctrine.

¶ 11 This court is entitled to be presented with clearly defined issues, citations to pertinent authority and cohesive arguments. This failure to develop and support any viable argument is fatal to Gillard's claim on appeal. See Ill. S. Ct. R. 341(h)(7) (eff. May 25, 2018) (providing that an appellant's brief must contain "[a]rgument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on"); *CE Design, Ltd. v. Speedway Crane, LLC*, 2015 IL App (1st) 132572, ¶ 18 ("The failure to provide an argument and to cite to facts and authority, in violation of Rule 341, results in the party forfeiting consideration of the issue."). The court "is not merely a repository into which an appellant may 'dump the burden of argument and research.'" *U.S. Bank v. Lindsey*, 397 Ill. App. 3d 437, 459 (2009) (quoting *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993)). The rules of procedure concerning appellate briefs are rules, not mere suggestions, and it is within our discretion to strike a brief and dismiss the appeal for failure to comply with those rules. See *Niewold v. Fry*, 306 Ill. App. 3d 735, 737 (1999). We therefore strike the brief and dismiss the appeal.

¶ 12 As explained in other cases we are issuing contemporaneously with this order² and in an order we issued last year (*Gillard v. Northwestern Memorial Hospital*, 2018 IL App (1st) 180922-U, ¶ 23), Gillard is a prolific self-represented litigant who has filed many frivolous and duplicative lawsuits against individuals, officials, institutions, and businesses over the course of

² *Gillard v. McWilliams*, 2019 IL App (1st) 182217-U, *Gillard v. Northwestern Memorial Hospital*, 2019 IL App (1st) 182348, *Gillard v. Panera, LLC*, 2019 IL App (1st) 182520-U, and *Gillard v. Dart*, 2019 IL App (1st) 182521-U.

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at least the last 20 years. Gillard's approach to this case proves no exception to that pattern. We have addressed sanctions against Gillard in an opinion issued contemporaneously, *Gillard v. Northwestern Memorial Hospital*, 2019 IL App (1st) 182348.

¶ 13 Dismissed.