

IN THE COURT OF APPEALS OF IOWA

No. 8-1009 / 07-0926
Filed January 22, 2009

MERLE RICHARD SCHMIDT,
Plaintiff-Appellant,

vs.

DAVID F. SEABA,
Defendant-Appellee.

Appeal from the Iowa District Court for Iowa County, Robert E. Sosalla,
Judge.

Merle Richard Schmidt appeals from the district court's grant of a directed
verdict in favor of the defendant. **AFFIRMED.**

Merle Richard Schmidt "R", Victor, pro se.

James Craig and Brenda K. Wallrichs, Cedar Rapids, and Michael W.
Mahaffey, Montezuma, for appellee.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

PER CURIAM

Merle Schmidt is a prolific pro se litigant. Schmidt represents himself under the appellation “Merle Richard Schmidt ‘R.’” He, personally and on behalf of the River Valley Family Trust, has filed numerous actions in state and federal courts contending the River Valley Family Trust, for which he is a trustee, holds an allodial title to certain property in Iowa County under a federal land patent or grant. His theory has been uniformly and repeatedly rejected by the courts. He frequently includes public officials, such as county attorneys, sheriffs, and judges, as defendants in his suits.

Judge Sosalla was succinct in his September 13, 2007 order:

Other than this lawsuit, Merle Schmidt (Merle) has individually or through an alter ego filed at least nine lawsuits in state and federal court that the courts dismissed. Schmidt named David Seaba (Seaba) as a defendant in at least six of these lawsuits. The respective courts have determined that Schmidt’s lawsuits were without merit or frivolous.

...
Those lawsuits had a central theme—the ownership of land once Merle’s that Seaba purchased through a tax sale. As the district and appellate courts’ decisions in both the state and federal systems have demonstrated, Merle has a distorted, misguided, and wrong belief in the scope of proprietary rights versus the authority of a duly constituted governmental entity. To say that Merle’s belief system is not main-stream is a gross understatement. This has resulted in the myriad of frivolous lawsuits Merle has filed.

Schmidt is no stranger to our appellate courts. Despite his appellate experience, he failed to follow the Iowa Rules of Appellate Procedure that govern the form and manner of briefs and appendices filed in our court. See *In re Estate of DeTar*, 572 N.W.2d 178, 180 (Iowa Ct. App. 1997). Although Schmidt is a non-lawyer, he is bound by the same standards as lawyers. *Id.* Thus

“[s]ubstantial departures from appellate procedures cannot be permitted on the basis that a non-lawyer is handling [his] own appeal.” *Id.*

Without going into detail, Schmidt’s brief is in violation of Iowa Rules of Appellate Procedure 6.14(1)(c), (d), (e), (f), and (g). His appendix is in violation of rules 6.15(1)(a). Numerous pages are out of order, and many of the documents included are seemingly irrelevant to the issues raised on appeal. The most substantial defect is his failure to include relevant portions of the trial transcript. In fact, there is no transcript at all. See Iowa R. App. P. 6.10(2)(c). We are not obligated to divine what occurred at trial.

When a party’s brief fails to comply with our rules of appellate procedure, we are not bound to consider that party’s position. *DeTar*, 572 N.W.2d at 181. Failures such as those set forth above “can lead to summary disposition of an appeal.” *Id.*; see also *Inghram v. Dairyland Mut. Ins. Co.*, 215 N.W.2d 239, 240 (Iowa 1974) (dismissing appeal based on party’s failure to cite any authority).

This appeal arises from a claim by Schmidt and his wife, Peggy Schmidt, for intentional infliction of emotional distress.¹ The case proceeded to trial before a jury on plaintiffs’ claims and defendant’s counterclaim. After the Schmidts presented their claim in chief, the district court directed a verdict in favor of the defendant, David Seaba, and dismissed the plaintiffs’ action. Further evidence was presented with respect to Seaba’s counterclaim. The jury returned a verdict in favor of Seaba and awarded him damages in the amount of \$16,443 and punitive damages in the amount of \$85,000. Judgment was entered in favor of Seaba and against the Schmidts. The Schmidts’ motions for new trial and other

¹ Peggy Schmidt does not appear to be a party to this appeal.

post-trial filings were overruled, and their post-trial petition for declaratory judgment was dismissed.

Although difficult, if not impossible, to discern from Schmidt's unorthodox filings, to the extent Schmidt's appeal asserts the directed verdict was unsupported by the evidence or contrary to the evidence, we conclude that our review of this claim is fatally impaired by Schmidt's failure to provide an adequate record for review. When a party asserts that a district court's finding or conclusion is not supported by the evidence or is contrary to the evidence, the party must include a transcript of all evidence relevant to such a finding or conclusion. Iowa R. App. P. 6.10(2)(c). As previously noted, Schmidt provided no transcript. He has failed in his duty to provide a record that affirmatively discloses the alleged error by the district court. See *In re F.W.S.*, 698 N.W.2d 134, 135 (Iowa 2005). Thus, any review of his claim would be improvidently and inappropriately grounded in speculation. See *id.* Schmidt's failure to provide an adequate record precludes him from seeking relief on appeal and requires this court to uphold the district court's findings and conclusions. See *id.* at 136.

With regard to Schmidt's other arguments on appeal, we find they have no basis in fact or law and we agree with the findings contained in the district court's post-trial rulings. We discern no errors of law therein as to the assignments of error presented by Schmidt. See Iowa R. App. P. 6.24(1), (4).

For the foregoing reasons, we affirm the judgment of the district court. Costs of this appeal are assessed to Merle Richard Schmidt.

AFFIRMED.