IN THE COURT OF APPEALS OF IOWA

No. 8-646 / 05-1899
Filed October 1, 2008

MARILYN ANN WINKE,
Plaintiff-Appellee,

vs.

JAMES BERNARD WINKE,
Defendant-Appellant.

Appeal from the Iowa District Court for Lee (North) County, Daniel P. Wilson, Judge.

Defendant appeals from district court rulings in a temporary receivership proceeding. **AFFIRMED.**

James Winke, Fort Madison, pro se.

No appearance by appellee.

W. Scott Power of Aspelmeier, Fisch, Power, Engberg & Helling, P.L.C., Burlington, for temporary receiver.

Considered by Mahan, P.J., and Vaitheswaran and Doyle, JJ.

PER CURIAM

James Winke, whom we once described as a "prolific *pro se* filer," *see In re Marriage of Winke*, No. 97-1779 (Iowa Ct. App. Dec. 12, 2001), appeals from three district court rulings in a temporary receivership proceeding involving a corporation purportedly owned by the parties pursuant to the terms of a dissolution decree. He raises numerous claims regarding these rulings. We affirm the judgment of the district court.

James and Marilyn Winke were divorced in 1996 pursuant to a stipulated dissolution decree that awarded them equal ownership of Progas Service, Inc., a liquid propane gas business. The parties were thereafter unable to agree as to the control, management, or operation of the corporation. Marilyn consequently filed a petition for appointment of a temporary receiver, which was granted by the district court in March 1997, to facilitate resolution of the parties' disputes. Unfortunately, James has since been engaged in a protracted pro se legal campaign, filing countless actions involving Marilyn, the temporary receiver, and peripherally involved parties in our state and federal courts.[1]

The present consolidated appeal arises from the following three district court rulings that aimed to bring an end to these proceedings: (1) a March 29, 2004 order approving the sale of the corporation's gas terminal facility, its major remaining asset; (2) a November 4, 2005 order amending the March 29, 2004

[1] A search performed on Iowa Courts Online reveals that James has filed over twenty cases in district court and initiated more than fifty appeals in our appellate courts. On at least six occasions, we have found James's appeals to be without merit. *See Winke v. Winke*, No. 06-0159 (Iowa Ct. App. July 12, 2007); *Winke v. Winke*, No. 05-2129 (Iowa Ct. App. June 13, 2007); *Winke v. Winke*, No. 03-0368 (Iowa Ct. App. April 13, 2005); *Winke v. Winke*, No. 00-0864 (Iowa Ct. App. Aug. 26, 2004); *Bradshaw, Fowler, Proctor & Fairgrave, P.C. v. Winke*, No. 99-1549 (Iowa Ct. App. Sept. 12, 2001); *In re Marriage of Winke*, No. 97-1779 (Iowa Ct. App. Dec. 12, 2001).

order; and (3) a second November 4, 2005 order approving the temporary receiver's final reports and contemplating the close of the receivership and dissolution of the corporation.

In his pro se appeal, James filed three appellate briefs totaling approximately forty-nine pages in addition to a forty-five page reply brief. *See* Iowa R. App. P. 6.14(8) ("[R]eply briefs shall not exceed 25 numbered pages."). He identified thirty-nine separately stated issues for our consideration in these briefs. His eleven-volume appendix is more than two thousand pages long and replete with irrelevant exhibits, duplicate copies of court documents, and numerous blank pages marked "this page intentionally left blank." *See* Iowa R. App. P. 6.15(1) (directing the appellant to include only relevant portions of the record in the appendix); *see also State v. Oppelt*, 329 N.W.2d 17, 21 (Iowa 1983) (noting the burden placed on appellate courts by overly lengthy appendices). Additionally, the arrangement of the appendix does not comply with Iowa Rule of Appellate Procedure 6.15(4).

Despite the breadth of James's appeal, he failed to follow the Iowa Rules of Appellate Procedure, which govern the form and manner of briefs filed in our court. *See In re Estate of DeTar*, 572 N.W.2d 178, 180 (Iowa Ct. App. 1997). Although James 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.*

Our rules of appellate procedure provide:

> The argument shall contain in separately numbered divisions corresponding to the separately stated issues the contentions of appellant with respect to the issues presented and the reasons

> therefor with citations to the authorities relied on and to the pertinent parts of the record . . . . Each division of the argument shall begin with a discussion, citing relevant authority, concerning the scope or standard of appellate review (e.g., "on error," "abuse of discretion," "de novo") and shall state how the issue was preserved for review, with references to the places in the record where the issue was raised and decided.

Iowa R. App. P. 6.14(1)(*f*). James's briefs do not follow this rule. His contentions regarding the issues presented are not contained in separately numbered divisions corresponding to the separately stated issues. He does not state how any of his issues were preserved for appeal or refer to the places in the extensive record where those issues were raised and decided. Nor does he, until his reply brief, state the standard or scope of review applicable to each of the issues he raises on appeal.

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).

Many of the issues raised by James throughout his briefs are not supported by any applicable authority or are only briefly mentioned. *See* Iowa R. App. P. 6.14(1)(*c*) ("Failure in the brief to state, to argue or to cite authority in support of an issue may be deemed waiver of that issue."); *see also Soo Line R. Co. v. Iowa Dep't of Transp.*, 521 N.W.2d 685, 691 (Iowa 1994) ("[R]andom mention of [an] issue, without elaboration or supportive authority, is insufficient to raise the issue for our consideration."). We therefore deem those issues waived. In addition, some of the issues presented for our review were neither raised nor

ruled upon by the district court. *See Meier v. Senecaut*, 641 N.W.2d 532, 537 (Iowa 2002) ("It is a fundamental doctrine of appellate review that issues must ordinarily be both raised and decided by the district court before we will decide them on appeal."). We thus need not and do not consider those issues not properly preserved for our review.

After a thorough review and consideration of the record, we agree with the findings contained in the district court's rulings and discern no errors of law therein as to the assignments of error properly presented by James. *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 James Winke.

AFFIRMED.