

[Cite as *Damron v. Eads*, 2009-Ohio-4947.]

IN THE COURT OF APPEALS FOR MONTGOMERY COUNTY, OHIO

ROBERT C. DAMRON

:

Plaintiff-Appellant

C.A. CASE NO.  
22885

v.

T.C. NO. 2008  
CVI 0720

TONYA EADS

:

(Civil appeal from  
County Court Area #2)

Defendant-Appellee

:

:

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**OPINION**

Rendered on the 18<sup>th</sup> day of September, 2009.

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ROBERT C. DAMRON, 2900 Gaylord Avenue, Dayton, Ohio 45419  
Plaintiff-Appellant

TONYA EADS, 6451 Pheasant Valley, Dayton, Ohio 45424  
Defendant-Appellee

.....

DONOVAN, P.J.

{¶ 1} This matter is before the Court on the pro se Notice of Appeal of Robert C.

Damron, filed August 7, 2008. Damron appeals from the judgment of the County Court of Montgomery, Ohio, Area Two, Small Claims Division, denying judgment in favor of Damron on his complaint and granting judgment for the defendant, Tonya Eads, on her counterclaim, in the amount of \$1000.000, plus costs and interest. Eads did not respond to Damron's brief.

{¶ 2} “Litigants who choose to proceed pro se are presumed to know the law and correct procedure, and are held to the same standard as other litigants.” *Yocum v. Means*, Darke App. No. 1576, 2002-Ohio-3803. A litigant proceeding pro se “cannot expect or demand special treatment from the judge, who is to sit as an impartial arbiter.” *Id.* (Internal citations omitted).

{¶ 3} Of initial note, Damron's brief fails to comply with App. R. 16 (A), which provides:

{¶ 4} “The appellant shall include in its brief, under the headings and in the order indicated, all of the following:

{¶ 5} “(1) A table of contents, with page references.

{¶ 6} “(2) A table of cases alphabetically arranged, statutes, and other authorities cited, with references to the pages of the brief where cited.

{¶ 7} “(3) A statement of the assignments of error presented for review, with reference to the place in the record where each error is reflected.

{¶ 8} “(4) A statement of the issues presented for review, with references to the assignments of error to which each issue relates.

{¶ 9} \* \*

{¶ 10} “(6) A statement of facts relevant to the assignments of error presented for

review, with appropriate references to the record in accordance with division (D) of this rule.

{¶ 11} “(7) An argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which appellant relies.

{¶ 12} \* \* .”

{¶ 13} Further App. R. 9., provides in relevant part:

{¶ 14} “The original papers and exhibits thereto filed in the trial court, the transcript of proceedings, if any, including exhibits, and a certified copy of the docket and journal entries prepared by the clerk of the trial court shall constitute the record on appeal in all cases. A videotape recording of the proceedings constitutes the transcript of proceedings other than hereinafter provided, and for purposes of filing, need not be transcribed into written form. \* \* \* When the transcript of proceedings is in the videotape medium, counsel shall type or print those portions of such transcript necessary for the court to determine the questions presented, certify their accuracy, and append such copy of the portions of the transcripts to their briefs.” App.R. 9 (A).

{¶ 15} Additionally, “[a]t the time of filing the notice of appeal the appellant, in writing, shall order from the reporter a complete transcript or a transcript of the parts of the proceedings not already on file as the appellant considers necessary for inclusion in the record and file a copy of the order with the clerk.” App.R.9 (B).

{¶ 16} “The duty to provide a transcript for appellate review falls upon the appellant. (Internal citations omitted). An appellant bears the burden of showing prejudicial error by reference to matters in the record.” *Shirley v. Kruse*, Greene

App. No. 2006-CA-12, 2007-Ohio-193. “When portions of the transcript necessary for resolution of assigned errors are omitted from the record, we have nothing to pass upon and, thus, we have no choice but to presume the validity of the lower court’s proceedings and affirm.” *Id.*

{¶ 17} Damron’s brief sets forth no identifiable assignments of error, no statement of the issues presented for review, no citation to authority, and no references to the record. Further, in the absence of a printed transcript, we must presume the validity of the proceedings below.

Judgment affirmed.

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BROGAN, J. and GRADY, J., concur.

Copies mailed to:

Robert D. Damron  
Tonya Eads  
Hon. James A. Hensley, Jr.