

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

FILED
07/08/2024
Clerk of the
Appellate Courts

KISHA DEAN TREZEVANT v. STANLEY H. TREZEVANT, III

**Circuit Court for Shelby County
No. CT-003516-13**

No. W2023-00682-SC-R11-CV

ORDER

This appeal arises from petitions for criminal contempt that Kisha Trezevant filed against her former husband, Stanley Trezevant, in this divorce action. Ms. Trezevant alleged that Mr. Trezevant violated prior court orders regarding the parties' assets, with her allegations falling into two categories: three counts of contempt related to the sale of certain real property, and seven counts of contempt related to certain bank account transactions.

Following a hearing, the trial court entered an order on the petitions. The trial court first addressed Mr. Trezevant's arguments that the contempt charges were barred by the statute of limitations applicable to misdemeanors in Tenn. Code Ann. § 40-12-102. The trial court reasoned that it need not determine whether the statute applies because, even if applicable, the claims of contempt were not time-barred. More specifically, the trial court determined that Ms. Trezevant's initial September 30, 2021 petition for contempt fell within the one-year statute of limitations, and her amended February 3, 2022 petition related back to the original petition. The trial court also rejected Mr. Trezevant's arguments that he did not receive sufficient notice of the charges against him.

Turning to the specific allegations of criminal contempt, the trial court declined to find Mr. Trezevant in criminal contempt for any of the real property sales. However, the trial court found Mr. Trezevant in criminal contempt on four of the seven counts related to the bank account transactions. The trial court sentenced Mr. Trezevant to ten days of incarceration for each count of contempt to be served consecutively for a total of forty days.

Mr. Trezevant appealed the trial court's order. In his brief, he presented the following four issues, corresponding to each of the four counts on which the trial court had found him in contempt:

- I. Whether the trial court erred in finding [Mr. Trezevant] guilty of criminal contempt for his alleged failure to add [Ms. Trezevant]’s name to and closing Cayman National Bank account #10621 in the name of Seven Mile Beach Hotel Development Corp., Ltd.?
- II. Whether the trial court erred in finding [Mr. Trezevant] guilty of criminal contempt for withdrawing the sum of \$194,428.04 from Cayman National Bank account #10621 on January 22, 2021?[¹]
- III. Whether the trial court erred in finding [Mr. Trezevant] guilty of criminal contempt for withdrawing the sum of \$36,606.50 from Cayman National Bank account #10621 on January 28, 2021?
- IV. Whether the trial court erred in finding [Mr. Trezevant] guilty of criminal contempt for withdrawing the sum of \$4,202.40 from Cayman National Bank account #10621 on January 22, 2021?[²]

The argument section of the brief included arguments under the following headings, which were also set forth in the brief’s table of contents:

- I. The trial court erred in finding [Mr. Trezevant] guilty of criminal contempt for his alleged failure to add [Ms. Trezevant]’s name to and closing Cayman National Bank account #10621 in the name of Seven Mile Beach Hotel Development Corp., Ltd.
 - (A) The trial court erroneously held that the charge raised for the first time in [Ms. Trezevant]’s February 3, 2022 Amended Petition “related back” to the date of the filing of [Ms. Trezevant]’s September 30, 2021 Petition.
 - (B) The one[-]year statute of limitations applies to this misdemeanor prosecution.
 - (C) The prosecution against [Mr. Trezevant] was not commenced before the running of the one[-]year statute of limitations.
 - (D) The statute of limitation[s] was not tolled.
 - (E) The statute of limitations was not waived.
 - (F) The charging instrument did not provide proper notice of the charge.

¹ The parties and the trial court varyingly referred to the amount as either \$193,428.04 or \$194,428.04. Any distinction in this amount is immaterial to the issue before this Court.

² The parties and the trial court varyingly referred to the date of this transaction as either January 22, 2021, or February 3, 2021. Again, any distinction in the relevant date is immaterial to the issue before this Court.

The argument section of the brief repeated this structure for each of the other three issues, raising the same arguments as set forth in subsections (A)–(F) for each of the other three charges.

Ms. Trezevant’s brief as appellee responded to each of Mr. Trezevant’s four stated issues, asserting that the trial court had appropriately found Mr. Trezevant in criminal contempt on each of the four counts. The argument section of Ms. Trezevant’s brief responded directly to each of Mr. Trezevant’s arguments as delineated in subsections (A)–(F). Specifically, Ms. Trezevant argued that the statute of limitations for misdemeanors does not apply, and even if it did, it was tolled. She also argued Mr. Trezevant had waived his arguments regarding the statute of limitations because he failed to raise it as a defense in a pre-trial motion. She also argued that her 2022 petition related back to her 2021 petition. Finally, she argued Mr. Trezevant had received sufficient notice of the charges against him.

The Court of Appeals issued its opinion finding that Mr. Trezevant’s stated issues concerned only the sufficiency of the evidence and did not encompass Mr. Trezevant’s arguments regarding the statute of limitations and the sufficiency of notice. As a result, the Court of Appeals found those arguments waived and dismissed the appeal. Mr. Trezevant filed a petition for rehearing, asserting the Court of Appeals had erred in dismissing his appeal and requesting that the Court of Appeals consider the merits of his issues and arguments. The Court of Appeals denied the petition for rehearing.

Mr. Trezevant filed an application for permission to appeal in this Court asserting that the Court of Appeals erred in dismissing his appeal due to perceived deficiencies in his statement of the issues. We agree.

The Tennessee Rules of Appellate Procedure provide that an appellant’s brief shall contain “[a] statement of the issues presented for review,” as well as an argument setting forth “the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief[.]” Tenn. R. App. P. 27(a)(4), (7). The Advisory Commission Comments to Rule 27 further provide that “[b]riefs will be oriented toward a statement of the issues presented in a case and the arguments in support thereof.” Thus, our rules consider the statement of the issues and the argument as distinct but complementary parts of an appellant’s brief. As a result, “[a]n issue may be deemed waived, even when it has been specifically raised as an issue, when the brief fails to include an argument satisfying the requirements of Tenn. R. App. P. 27(a)(7).” *Hodge v. Craig*, 382 S.W.3d 325, 335 (Tenn. 2012). “By the same token, an issue may be deemed waived when it is argued in the brief but is not designated as an issue in accordance with Tenn. R. App. P. 27(a)(4).” *Id.*

We previously have addressed the importance of a brief’s statement of issues, explaining that “[a]ppellate review is generally limited to the issues that have been

presented for review.” *Id.* at 334. This is because the statement of issues ensures that the opposing party has notice of the issues to which it must respond, and further ensures that the reviewing court is not tasked with scouring the record for reversible errors. *Donovan v. Hastings*, 652 S.W.3d 1, 9 (Tenn. 2022); *see also Hodge*, 382 S.W.3d at 334. We have explained that an effectively crafted issue indicates the conclusion the litigant wants the reviewing court to reach, and we have cautioned appellants that “issues should be framed as specifically as the nature of the error will permit in order to avoid any potential risk of waiver.” *Hodge*, 382 S.W.3d at 335.

In applying these requirements for an appellant’s brief, we also must consider that the Tennessee Rules of Appellate Procedure are to “be construed to secure the just, speedy, and inexpensive determination of every proceeding on its merits.” Tenn. R. App. P. 1. The Advisory Commission Comments to Rule 1 further provide that it is the policy of the rules to disregard technicality in form in order to determine every appellate proceeding on its merits. We have explained that “[t]he general policy of the rules, as suggested by the Advisory Commission and interpreted by the courts, emphasizes reaching a just result and disregarding technicality in form,” and that “once a timely notice of appeal is filed, the rules should not erect unjustified technical barriers which prevent consideration of the merits of the appeal.” *Johnson v. Hardin*, 926 S.W.2d 236, 238 (Tenn. 1996). This Court has emphasized the importance of applying the Rules of Appellate Procedure to reach a just result:

[T]he overall intent of the rules is to allow cases to be resolved on their merits. A court’s construction and application of the rules should further that intent and should enhance, not impede, the search for justice. Tennessee appellate courts must give thoughtful consideration to the intent of the rules each time a procedural matter is resolved.

Id. at 238–39.

Taking all of these principles into consideration, we conclude that, when the arguments set forth in an appellate brief fall within the scope of the stated issues, and the issues and argument taken together clearly present the grounds for appellate relief, the reviewing court should review the substantive issues. Our appellate courts should not decline to address a clearly presented argument that falls within the scope of the stated issues simply because the stated issues were not crafted as precisely as they could have been. At the same time, an appellant that broadly asserts error in the statement of issues and presents an argument that leaves the opposing party guessing at the issues to which it must respond, or leaves the reviewing court scouring the record for reversible errors, risks having its issues waived. This gives appropriate effect to the Tennessee Rules of Appellate Procedure, which “anticipate that both the parties and the courts will act diligently and responsibly to assure that appeals are resolved on the merits.” *Johnson*, 926 S.W.2d at 239; *see also Fahey v. Eldridge*, 46 S.W.3d 138, 143 (Tenn. 2001) (“[J]ust as parties must

endeavor to specifically state the issues raised so as to avoid any potential for future waiver, appellate courts should not lightly dismiss an issue on appeal under a strict or technical application of' the applicable rules.).

Here, Mr. Trezevant's four stated issues asserted that the trial court erred in finding him guilty on each of the four separate counts of criminal contempt. The argument section of the brief then explained, for each issue corresponding to each count, why Mr. Trezevant asserted the trial court erred. Thus, Mr. Trezevant's arguments regarding the statute of limitations and the sufficiency of notice of the charges fell within the scope of his stated issues. In addition, the stated issues and argument taken together clearly presented the asserted grounds for appellate relief, as specifically delineated in subsections (A)–(F) of the brief. Ms. Trezevant clearly understood the issues and arguments that Mr. Trezevant raised, responding to each in her appellee brief. The Court of Appeals likewise understood the grounds for reversal Mr. Trezevant asserted with respect to the statute of limitations and the sufficiency of notice. It simply declined to consider them because it incorrectly viewed the stated issues as inadequate to encompass them. Therefore, we conclude that the Court of Appeals erred in dismissing the appeal, and we remand to the Court of Appeals for consideration of the parties' substantive arguments. All other issues raised in Mr. Trezevant's application for permission to appeal are pretermitted.

This order is designated for publication pursuant to Tennessee Supreme Court Rule 4.

PER CURIAM