2025 IL App (2d) 240553-U
No. 2-24-0553
Order filed March 18, 2025

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

GREGORY HALPERN and DIANNE HALPERN,	)	Appeal from the Circuit Court of McHenry County.
Plaintiffs-Appellants,	)	
v.	)	No. 24-LA-148
THE VILLAGE OF SPRING GROVE and THE McHENRY COUNTY CORONER,	)	Honorable Kevin G. Costello,
Defendants-Appellees.	)	Judge, Presiding.

JUSTICE BIRKETT delivered the judgment of the court.
Presiding Justice Kennedy and Justice Schostok concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court properly dismissed plaintiffs' complaint: the record did not show that the judge was biased against plaintiffs; plaintiffs failed to state a cause of action for false imprisonment, abuse of process, or intentional infliction of emotional distress; and the dismissal did not violate plaintiffs' rights to a remedy and a jury trial, because they failed to state a cause of action.

¶ 2 Plaintiffs, Gregory Halpern (Gregory) and Dianne Halpern (Dianne), appeal from the dismissal, for failure to state a cause of action, of their *pro se* amended complaint against defendants, the Village of Spring Grove (Village) and the McHenry County Coroner (Coroner). Plaintiffs argue on appeal that (1) the trial court violated provisions of the Illinois Code of Judicial

Conduct by showing bias against them, (2) the dismissal of their amended complaint deprived them of their constitutional rights to a remedy and to have their case heard by a jury, and (3) the amended complaint stated causes of action for abuse of process, false imprisonment, and intentional infliction of emotional distress. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Plaintiffs' *pro se* amended complaint was 55 pages long and contained eight counts. However, only three counts are at issue on appeal, and a brief summary of the allegations will suffice. Dianne was married to Edward Halpern, who died at their home on December 1, 2023, at the age of 93, months after suffering a serious head injury in a fall. Gregory is Dianne and Edward's son. He moved into their home earlier that year. The amended complaint alleged that Edward's primary care physician, who assumed that he was responsible for preparing Edward's death certificate, wrote that Edward died of natural causes. At some point on the day of Edward's death, plaintiffs called 911, and the Spring Grove Fire Department "medic team" pronounced Edward dead.

¶ 5 Shortly thereafter, a Spring Grove police officer visited Edward's home, and at some point, a McHenry County deputy coroner also arrived. According to the amended complaint, the police officer and the deputy coroner turned the home into a "Suspicious Death Investigation Crime Scene." Edward's remains were transported from his home, and the Coroner conducted an autopsy. (Plaintiffs later had a private autopsy performed.) A police report prepared in connection with Edward's death allegedly contained the words " 'DEATH SUSPICIOUS CIRCUMSTANCES,' " but described the " 'Case Status' " as " 'CLEARED.' " The Coroner's report indicated that Edward died from natural causes.

¶ 6 Count I of the amended complaint raised a claim of abuse of process against defendants. As to the Village, plaintiffs alleged, *inter alia*:

> "The DEFENDANT was caught doing and saying several things on the Police Body Worn Camera, including telling the PLAINTIFFS to sit and wait at the kitchen table for Police permission to spend time with the family's beloved Edward at the opposite most end of the home where [a police officer] promised the PLAINTIFFS that they would be allowed to spend the final moments with Edward after certain things happened. ***."

Plaintiffs alleged that, ultimately, they were not allowed to spend time with Edward before his remains were removed from the home. According to count I, "[t]he DEFENDANT willfully abused legal processes by falsely imprisoning the PLAINTIFFS, investigating foul play without cause, and never telling the Halperns what they were doing or why they were deliberately harming the PLAINTIFFS." Plaintiffs alleged that the Coroner was liable under a theory of abuse of process because a deputy coroner falsely imprisoned them with the ulterior motive of "secretly operat[ing] in the background to practice a fake murder investigation."

¶ 7 In count IV of the amended complaint, Gregory and Dianne sought recovery from the Village for false imprisonment, alleging:

> "[A Spring Grove Police officer] intentionally and unlawfully restricted, confined, and blocked PLAINTIFFS Dianne and Gregory Halpern's movement on multiple occasions in their own home, substantially interfering with their liberty, by moving PLAINTIFF'S [*sic*] from wherever they moved in their own home to the kitchen table, by confining them in that place where the restriction commenced and in a place to which they had been moved, without consent and with the DEFENDANTS [*sic*] knowledge that the restriction was unlawful. The DEFENDANTS [*sic*] violation of false imprisonment against PLAINTIFFS

> permanently prevented the Halperns from being able to enter the master bedroom or be [*sic*] able to see or say goodbye to their beloved Edward Halpern on the day of his death."

Plaintiffs elaborated that the officer in question "misled [them] several times to stay on the opposite side of the family home, seated at their kitchen table, falsely promising that after certain things happened, [they] would be able to see Edward Halpern and say their goodbyes." Count IV also alleged that the deputy coroner engaged in essentially the same conduct. Count VIII sought recovery against the Village and the Coroner under a theory of intentional infliction of emotional distress (we relate the allegations of this count in our analysis section, *infra* ¶¶ 20-24).

¶ 8 The Village filed a motion under section 2-615 of the Code of Civil Procedure (Code) (735 ILCS 5/2-615 (West 2022)) to dismiss the amended complaint for failure to state a cause of action. The Coroner filed a combined motion under sections 2-615 and 2-619 of the Code (*id.* § 2-619), seeking to dismiss the amended complaint for failure to state a cause of action and asserting the affirmative defense of immunity under section 2-201 of the Local Governmental and Governmental Employees Tort Immunity Act (Tort Immunity Act) (745 ILCS 10/2-201 (West 2022)). Following a hearing, the trial court dismissed the amended complaint for failure to state a cause of action against either defendant. The court did not rule on the Coroner's immunity defense. Plaintiffs filed a timely notice of appeal.

¶ 9 II. ANALYSIS

¶ 10 At the outset, we note that, as defendants correctly point out, plaintiffs' opening brief does not comply with Illinois Supreme Court Rule 341(h) (eff. Oct. 1, 2020). Rule 341(h)(2) provides that the appellant's brief must include "[a]n introductory *paragraph* stating (i) the nature of the action and of the judgment appealed from and whether the judgment is based upon the verdict of

a jury, and (ii) whether any question is raised on the pleadings and, if so, the nature of the question." (Emphasis added.) Ill. S. Ct. R. 341(h)(2) (eff. Oct. 1, 2020). Under Rule 341(h)(6), the brief must include a "Statement of Facts, which shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal ***." Ill. S. Ct. R. 341(h)(6) (eff. Oct. 1, 2020). Plaintiffs' brief has no section entitled "Statement of Facts." The "Nature of the Action" section consists of 13 paragraphs combining factual assertions, conclusions, and argument. The introductory paragraph required by Rule 341(h)(2) is not meant to function as a surrogate statement of facts, but even if it were, plaintiffs' "Nature of the Action" section, lacking record references, cannot compensate for the absence of a statement of facts.

¶ 11 Rule 341(h)(7) provides that the brief must have an "Argument, which shall contain the contentions of the appellant and the reasons therefor, *with citation of the authorities* *** *relied on.*" (Emphasis added.) Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020). Several of the arguments advanced in plaintiffs' brief are unsupported by any citation of authority. It is well established that "a reviewing court is not simply a depository into which a party may dump the burden of argument and research." *People ex rel. Illinois Department of Labor v. E.R.H. Enterprises, Inc.*, 2013 IL 115106, ¶ 56. Where an appellant fails to cite authority supporting his or her arguments, the reviewing court is under no obligation to research the issues on the appellant's behalf, and the arguments are forfeited. *Gakuba v. Kurtz*, 2015 IL App (2d) 140252, ¶ 19.

¶ 12 Plaintiffs' brief also lacks a statement of the standard of review (Ill. S. Ct. R. 341(h)(4) (eff. Oct. 1, 2020)) and an appendix (Ill. S. Ct. R. 341(h)(9) (eff. Oct. 1, 2020)). Finally, the brief is not accompanied by a certificate of compliance (Ill. S. Ct. R. 341(c) (eff. Oct. 1, 2020)). The rules of procedure regarding appellate briefs are not mere suggestions, and when procedural

violations interfere with our review of the issues on appeal, it is within our discretion to, *inter alia*, strike the brief for failure to comply with the rules. See *Parkway Bank & Trust Co. v. Korzen*, 2013 IL App (1st) 130380, ¶ 10. However, because the issues in this appeal are straightforward and easily resolved, we choose to consider them on the merits.

¶ 13 Plaintiffs initially argue that the trial judge was biased against them in violation of Rules 2.2 ("Impartiality and Fairness"), 2.3 ("Bias, Prejudice, and Harassment"), and 2.6 ("Ensuring the Right to Be Heard") of the Illinois Code of Judicial Conduct of 2023 (eff. May 17, 2023). According to plaintiffs,

> "[the trial judge] repeatedly exhibited outright contempt for [plaintiffs] throughout the proceedings, frequently sounding like he was an attorney working on behalf of the Defendants' interests. [The trial judge] acted outrageously, improperly, and without cause in his judicial capacity against the Plaintiffs, ensuring an unfair, biased, and detrimental proceeding."

Specifically, plaintiffs note that, at the hearing on defendants' motions to dismiss, the trial judge frequently interrupted plaintiffs but allowed counsel for defendants to present their arguments without interruption. The contention is meritless. At the hearing, Gregory argued for plaintiffs. Unlike defendants' arguments, Gregory's argument was a dialogue with the judge, who occasionally interrupted Gregory. It is evident, however, that the judge engaged with Gregory only to ensure that the judge understood Gregory's argument and that Gregory did not digress into matters having no bearing on the motions to dismiss. That the judge took this interactive approach with a *pro se* litigant in no way suggests that the judge harbored any bias against plaintiffs or was unwilling or unable to decide the matter fairly and impartially.

¶ 14 Moreover, our record review shows that, despite isolated lapses of patience with Gregory, the judge treated him fairly and respectfully. For instance, the judge considered plaintiffs' replies to defendants' motions to dismiss even though those replies significantly exceeded the page limits under the trial court's local rules. Thus, the judge relaxed a procedural requirement in order to afford plaintiffs the fullest opportunity to respond to the motions to dismiss. In another instance, after the Village presented its argument in support of its motion to dismiss, the judge addressed Gregory, "*I want to make sure it's fair to you*. Would you prefer that [the Coroner] make [its] argument and then you respond to both?" (Emphasis added.) When Gregory ultimately gave his reply, the court asked him a series of helpful clarifying questions. The record leaves no question that the judge generously accommodated Gregory and gave him ample scope for presenting plaintiffs' arguments.

¶ 15 Plaintiffs also contend that dismissing the amended complaint deprived them of their constitutional rights to a remedy and a jury trial. Article I, section 12, of the Illinois Constitution of 1970 (Ill. Const. 1970, art. I, § 12) provides, "Every person shall find a certain remedy in the laws for all injuries and wrongs which he receives to his person, privacy, property or reputation." However, this provision does not eliminate the need to plead a cognizable cause of action. See *Huter v. Ekman*, 137 Ill. App. 3d 733, 735 (1985) (article I, section 12, "does not mandate the creation of a new cause of action"). Rather, it "has been construed as an expression of philosophy which was not meant to have a substantive effect on Illinois law." *Id.* Moreover, there is no right to a jury trial unless the plaintiff's complaint states a cause of action. *Belmar Drive-In Theatre Co. v. Illinois State Toll Highway Comm'n*, 34 Ill. 2d 544, 549 (1966). As explained below, plaintiffs' amended complaint failed to do so.

¶ 16 We turn next to whether the amended complaint was sufficient to survive defendants' motions to dismiss for failure to state a cause of action. As noted, plaintiffs address the merits of only three of the eight counts of the amended complaint. The following principles govern our review of the sufficiency of the amended complaint to survive a motion to dismiss for failure to state a cause of action:

> "A motion to dismiss under section 2-615 of the Code [citation] challenges the legal sufficiency of a complaint, based on facial defects of the complaint. [Citation.] A trial court should grant a section 2-615 motion to dismiss only if 'it is clearly apparent that no set of facts can be proved that would entitle the plaintiff to relief.' [Citation.] A court must accept as 'true all well-pleaded facts and all reasonable inferences that may be drawn from those facts.' [Citation.] This court conducts a *de novo* review of a trial court's ruling on a motion to dismiss. [Citation.] While allegations in the complaint are viewed in the light most favorable to the plaintiff, the decision to dismiss a case may be affirmed on any basis contained in the record, 'whether or not the trial court relied on that basis or its reasoning was correct.' " *Johnson v. Filler*, 2018 IL App (2d) 170923, ¶ 15.

It is firmly established that "[a] plaintiff cannot merely paraphrase the elements of a cause of action in conclusory terms but must plead specific facts to support the cause of action." *Id.* ¶ 16.

¶ 17 We first consider whether the amended complaint stated a cause of action for false imprisonment. "False imprisonment is an unreasonable restraint of an individual's liberty, against his will, caused or procured by the defendant." *Meerbrey v. Marshall Field & Co.*, 139 Ill. 2d 455, 474 (1990). Section 35 of the Restatement (Second) of Torts (Restatement (Second) of Torts § 35 (1965)) is instructive. Although our supreme court has not adopted section 35, which would have

made it binding on Illinois courts, the provision remains persuasive authority. See *Tilschner v. Spangler*, 409 Ill. App. 3d 988, 994 (2011). It provides:

> "(1) An actor is subject to liability to another for false imprisonment if
>
> (a) he acts intending to confine the other or a third person within boundaries fixed by the actor, and
>
> (b) his act directly or indirectly results in such a confinement of the other[.]"
>
> Restatement (Second) of Torts § 35 (1965).

¶ 18 Notably, under the Restatement, the confinement must be within fixed boundaries; merely preventing an individual from being where that person has a right or privilege to be is not false imprisonment. *Id.* § 36(1). *Trevino v. Flash Cab Co.*, 272 Ill. App. 3d 1022 (1995), illustrates this principle. In *Trevino*, a cab driver was dispatched to a hospital and picked up a passenger, who directed the driver to transport her home. *Id.* at 1025-26. After the driver took several wrong turns and ignored the passenger's repeated offers to give him directions, the driver ejected the passenger at a location farther from her home than when she entered the cab. *Id.* at 1026. After she was injured while walking home, the passenger sued the cab company and the driver, alleging, *inter alia*, false imprisonment. *Id.* at 1025. The *Trevino* court affirmed the entry of summary judgment for the cab company, reasoning that the passenger "was neither detained nor confined against her will, unless one absurdly considers the [passenger] to have been confined to all the world except the defendants' taxi." *Id.* at 1031.

¶ 19 Here, plaintiffs alleged that a Spring Grove police officer and a deputy coroner "restricted," "blocked," and "confined" plaintiffs' movements within their home. These terms are mere conclusions, not well-pleaded facts. The salient facts alleged supporting these conclusions were that plaintiffs were moved to the kitchen table and told to wait there for permission to see Edward's

remains. In the context of the surrounding circumstances described in the complaint, the directive to wait at the kitchen table can be reasonably interpreted only as a measure to prevent plaintiffs from interfering with the deputy coroner's performance of his duties *if plaintiffs wished to remain in the house*. (Indeed, at the hearing on the motions to dismiss, Gregory admitted that plaintiffs were told they were free to leave the house.) Although plaintiffs might have been temporarily deprived of full access to their home, the complaint cannot reasonably be read to allege they were not free to leave the home if they chose; thus, their alleged confinement was not within fixed boundaries. Accordingly, the claim was properly dismissed.

¶ 20 Plaintiffs' amended complaint also failed to state a cause of action for abuse of process. The elements of that cause of action are "(1) the existence of an ulterior purpose or motive and (2) some act in the use of legal process not proper in the regular prosecution of the proceedings." *Kumar v. Bornstein*, 354 Ill. App. 3d 159, 165 (2004). "Process is defined as 'any means used by the court to require or to exercise its jurisdiction over a person or over specific property.' " *Austin Liquor Mart, Inc. v. Department of Revenue*, 18 Ill. App. 3d 894, 905 (1974) (quoting *Holiday Magic, Inc. v. Scott*, 4 Ill App. 3d 962, 968 (1972)). None of the acts alleged in the amended complaint conferred any court with jurisdiction over plaintiffs or their property. Thus, the abuse-of-process claim was properly dismissed for failure to state a cause of action.

¶ 21 Finally, we consider whether the trial court erred in dismissing plaintiffs' claims of intentional infliction of emotional distress against defendants. As stated in *Koeller v. Cook County*, 180 Ill. App. 3d 425, 434 (1989),

> "to sustain an action for either intentional or reckless infliction of emotional distress: (1) the conduct giving rise to it must be so outrageous in character and so extreme in nature as to go beyond all possible bounds of decency; (2) the emotional distress was so severe

> that no reasonable person could be expected to endure it; and (3) despite a high probability that such severe emotional distress will follow, the actor goes ahead with the conduct in conscious disregard of that probability."

¶ 22 The thrust of the claim against the Village was that a Spring Grove police officer (1) falsely imprisoned plaintiffs, (2) prevented them from adequately mourning the loss of Edward by denying them an opportunity to spend time with his remains before the Coroner removed the remains from the home, and (3) turned the peaceful environment surrounding Edward's death into a "suspicious death investigation murder crime scene." In so acting, plaintiffs alleged, the Village "either intended to cause emotional distress or recklessly or consciously disregarded the probability of causing emotional distress." As previously discussed, the well-pleaded allegations of the amended complaint did not show that plaintiffs were falsely imprisoned. Moreover, next of kin have no common-law right to visit a relative's remains. *Taliani v. Resurreccion*, 2018 IL App (3d) 160327, ¶ 33. Although this itself might not entirely foreclose an action for intentional infliction of emotional distress, it strongly militates against a finding that the alleged conduct was outrageous. Further, although the Coroner took custody of Edward's remains, there appears to be no allegation that the Spring Grove officer believed that plaintiffs would not ultimately regain possession of the remains. Thus, while the officer's conduct might have been insensitive, and the suggestion that Edward died under suspicious circumstances might have been troubling to plaintiffs, the conduct was not so outrageous or extreme as to exceed all possible bounds of decency. Therefore, the claim against the Village was properly dismissed.

¶ 23 We now turn to the emotional-distress claim against the Coroner. Section 3-3013 of the Counties Code (55 ILCS 5/3-3013 (West 2022)) provides that, when a coroner becomes aware of the presence of a dead body within the coroner's county and it is suspected that the death occurred

without a licensed physician in attendance, the coroner "shall go to the place where the dead body is, and take charge of the same and shall make a preliminary investigation into the circumstances of the death." Moreover, "[i]n the case of death without attendance by a licensed physician the body may be moved with the coroner's consent from the place of death to a mortuary in the same county." *Id.*

¶ 24 Section 3-3015(a) of the Counties Code (*id.* § 3-3015(a)) provides:

> "(a) Where a death has occurred and the circumstances concerning the death are suspicious, obscure, mysterious, or otherwise unexplained and in the opinion of the examining physician or the coroner the cause of death cannot be established definitely except by autopsy, *** it is declared that the public interest requires that an autopsy be performed, and it shall be the duty and responsibility of the coroner to cause an autopsy to be performed, including the taking of x-rays and the performance of other medical tests as the coroner deems appropriate."

It has been held that, under this provision, "the coroner can decide, based solely on his or her opinion, that an autopsy is required when the coroner believes a death is suspicious." *Wright v. Moss*, 2015 IL App (5th) 140021, ¶ 12. This is true even when the deceased's primary care physician is of the view that the death was due to natural causes. *Id.*

¶ 25 The thrust of the claim against the Coroner was that a deputy coroner conspired to falsely imprison plaintiffs and deprive them of the opportunity to mourn Edward. The amended complaint alleged that the deputy coroner was recorded on body camera video saying he had legal authority to take possession of the home and "unwittingly explaining *** that he can do whatever he wants to [plaintiffs]." Plaintiffs also alleged, in essence, that the Coroner's autopsy was a "sham" because it was clear that Edward died of natural causes.

¶ 26 These allegations were insufficient. Again, we note that the amended complaint was insufficient to state a claim for false imprisonment and that there is no common-law right for next of kin to visit the remains of a relative (*Taliani*, 2018 IL App (3d) 160327, ¶ 33). Also, because no physician was in attendance when Edward died, the Coroner was required to take charge of the place where Edward's body was located and investigate the circumstances of his death. See 55 ILCS 5/3-3013 (West 2022). As for the deputy coroner's alleged assertion of authority captured on the body camera video, plaintiffs did not allege that the deputy coroner made these remarks in their presence in a manner that might cause emotional distress. See *Public Finance Corp. v. Davis*, 66 Ill. 2d 85, 92 (1976) (a defendant is not liable "where he has done no more than to insist upon his legal rights in a permissible way, even though he is well aware that such insist[e]nce is certain to cause emotional distress" (internal quotation marks omitted)).

¶ 27 The allegation that the Coroner conducted a "sham" autopsy apparently stemmed from the premise that, given Edward's age, it was clear that he died of natural causes. While the Coroner's opinion that an autopsy was appropriate might arguably have been unreasonable, performing the autopsy was hardly beyond the bounds of decency.

¶ 28 In any event, because the decision to conduct an autopsy is discretionary, the Coroner is immune from liability arising from that decision. Under section 2-201 of the Tort Immunity Act (745 ILCS 10/2-201 (West 2022)), "a public employee serving in a position involving the determination of policy or the exercise of discretion is not liable for an injury resulting from his act or omission in determining policy when acting in the exercise of such discretion even though abused." The immunity applies even when an employee acts with malicious or corrupt motives. *Village of Bloomingdale v. CDG Enterprises, Inc.*, 196 Ill. 2d 484, 493 (2001). The Coroner's decision whether to conduct an autopsy pursuant to section 3-3015(a) of the Counties Code is

protected by this immunity. *Wright*, 2015 IL App (5th) 140021, ¶ 13. We recognize that, although the Coroner properly raised this defense in the portion of his motion to dismiss brought under section 2-619 of the Code (735 ILCS 5/2-619 (West 2022)), the trial court did not rule on the defense and the Coroner did not raise the issue in his appellate brief. However, it is well established that we may affirm the trial court's judgment on any basis supported by the record, regardless of whether that basis was ruled on by the trial court (*Moore v. Pendavinji*, 2024 IL App (1st) 231305, ¶ 20) or argued on appeal (*Tuna v. Wisner*, 2023 IL App (1st) 211327, ¶ 54). Accordingly, we hold that the trial court properly dismissed the claim against the Coroner for intentional infliction of emotional distress.

¶ 29 III. CONCLUSION

¶ 30 For the reasons stated, we affirm the judgment of the circuit court of McHenry County.

¶ 31 Affirmed.