

Order of California Supreme Court
(October 14, 2020)

Court of Appeal, Second Appellate District, Division Eight - No. B289869

OCT 14 2020

Jorge Navarrete Cle

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Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

ANTHONY A. PATEL, Plaintiff and Appellant,

v.

REGENTS OF THE UNIVERSITY OF CALIFORNIA, Defendant and Respondent.

The petition for review is denied.

Groban, J., was recused and did not participate.

CANTIL-SAKAUYE

Chief Justice

Opinion of California Court of
Appeal
(July 6, 2020)

FILED

Jul 06, 2020

DANIEL P. POTTER, Clerk

Richard Cardenas Deputy Clerk

Filed 7/6/20

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

ANTHONY A. PATEL,

B289869

Plaintiff and Appellant,

(Los Angeles County
Super. Ct. No. BC548778)

v.

REGENTS OF THE
UNIVERSITY OF
CALIFORNIA,

Defendant and Respondent.

APPEAL from a judgment of the Superior Court of Los Angeles County. Laura C. Ellison, Judge. Affirmed.

Anthony A. Patel, in pro. per., for Plaintiff and Appellant.

Cole Pedroza, Kenneth R. Pedroza, Dana L. Stenvick, Kristin M. Tannler; Lewis Brisbois Bisgaard & Smith and Gregory Lynch for Defendant and Respondent.

* * * * *

Plaintiff and appellant Anthony A. Patel appeals from the judgment entered, after a jury trial, in favor of defendant and respondent Regents of the University of California.

We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In 2014, plaintiff filed this action alleging, among other things, that defendant and its employees invaded his right to privacy. Plaintiff's claims all stem from his allegation he was misdiagnosed by doctors in the emergency department at Ronald Reagan UCLA Medical Center, a hospital operated by defendant. Plaintiff contends that on the evening of June 14, 2013, and into the early morning hours of June 15, he was wrongly held in the emergency department, evaluated under false pretenses, and given a false diagnosis of bipolar disorder—a diagnosis that was wrongfully shared with his then-wife who was present at the hospital and was one of the family members who sought to have him evaluated that evening. Plaintiff requested a declaratory judgment that he was misdiagnosed, unspecified equitable relief, and damages, including damages arising from his wife's subsequent use of the misdiagnosis to harm him in their divorce proceedings.

After several challenges to the pleadings (including demurrers and motions for summary judgment by both parties), the case proceeded to a jury trial in January 2018 on plaintiff's operative second amended complaint. Plaintiff, who testified he was a licensed attorney in California until resigning from the State Bar in December 2016, represented himself at trial. At the conclusion of plaintiff's case-in-chief, the trial court granted defendant's motion for nonsuit as to all causes of action, except for the invasion of privacy claims (public disclosure of private

facts and false light). Defendant presented additional testimony and then the case was given to the jury.

The jury returned a defense verdict. Plaintiff filed various posttrial motions, including a motion for judgment notwithstanding the verdict. The court denied all of plaintiff's posttrial motions except the motion to tax costs which it granted in part, taxing some of defendant's costs itemized as reporter's fees. The amended judgment was entered in defendant's favor on April 24, 2018.

This appeal followed.

DISCUSSION

Plaintiff's brief enumerates 22 alleged claims of error by the trial court and requests reversal of the judgment. Plaintiff's brief consists entirely of repetitive, generalized pronouncements that the court committed various errors and was biased against him, as were defendant's doctors and nurses. The brief contains almost no citations to the record. There are no citations to legal authorities to support any legal points. No points are developed with citations to the law or the record. Plaintiff's brief reflects his deeply held belief he was unfairly treated and misdiagnosed simply because he wanted to divorce his wife and had lofty political aspirations, but fails to affirmatively show error by the trial court. We therefore affirm.

“‘A judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and *error must be affirmatively shown*. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.’ [Citations.]” (*Denham v. Superior Court of Los Angeles County* (1970) 2 Cal.3d 557, 564, first italics

in the original, second italics added.) It was incumbent upon plaintiff, as the appellant, to “affirmatively demonstrate error through reasoned argument, citation to the appellate record, and discussion of legal authority.” (*Bullock v. Philip Morris USA, Inc.* (2008) 159 Cal.App.4th 655, 685.)

An appellant’s brief must “[s]upport any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears.” (Cal. Rules of Court, rule 8.204(a)(1)(C).) Plaintiff’s brief fails to make any meaningful citation to the record which consists of 13 volumes of an appendix (over 3,000 pages) and five volumes of reporter’s transcript. We are “‘not required to make an independent, unassisted study of the record in search of error or grounds to support the judgment.’ [Citations.] It is the duty of [appellant] to refer the reviewing court to the portion of the record which supports appellant’s contentions on appeal. [Citation.] If no citation ‘is furnished on a particular point, the court may treat it as waived.’” (*Guthrey v. State of California* (1998) 63 Cal.App.4th 1108, 1115; accord, *Young v. Fish & Game Com.* (2018) 24 Cal.App.5th 1178, 1190-1191; *Roman v. BRE Properties, Inc.* (2015) 237 Cal.App.4th 1040, 1053; *Byars v. SCME Mortgage Bankers, Inc.* (2003) 109 Cal.App.4th 1134, 1140.)

Moreover, a brief must, among other things, support each contention with “argument and, if possible, by citation of authority” and “[p]rovide a summary of the significant facts limited to matters in the record.” (Cal. Rules of Court, rule 8.204(a)(1)(B) & (2)(C).) There is no citation to relevant authority in plaintiff’s brief, nor any discussion or application of the law to the specific facts and claims of error plaintiff purports to raise. “When an issue is unsupported by pertinent or

cognizable legal argument it may be deemed abandoned and discussion by the reviewing court is unnecessary.” (*Landry v. Berryessa Union School Dist.* (1995) 39 Cal.App.4th 691, 699-700.)

Plaintiff does briefly mention some cases discussing standards of appellate review generally, but again there is no citation to the specific standards relevant to each contention. Rather, plaintiff invites us to simply review the entire record *de novo* “in order to ensure that the correct and fair result is achieved pursuant to the California Constitution.” Appellate arguments must be tailored “‘to the applicable standard of appellate review.’ [Citation.] Failure to acknowledge the proper scope of review is a concession of a lack of merit.” (*Sonic Manufacturing Technologies, Inc. v. AAE Systems, Inc.* (2011) 196 Cal.App.4th 456, 465.)

The fact plaintiff, who is a formerly licensed attorney, is representing himself on appeal does not exempt him from following these rules. (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246-1247.) “[A] party may choose to act as his or her own attorney. [Citations.] ‘[S]uch a party is to be treated like any other party and is entitled to the same, but no greater consideration than other litigants and attorneys. [Citation.]’” (*Id.* at p. 1247.)

DISPOSITION

The judgment entered in favor of defendant and respondent Regents of the University of California is affirmed.

Defendant shall recover costs of appeal.

GRIMES, Acting P. J.

WE CONCUR:

STRATTON, J.

CHANAY, J.*

* Justice of the Court of Appeal, Second Appellate District, Division One, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.