

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on Thursday the 13th day of February, 2025.*

SANDRA LEIGH TOMEY,

APPELLANT,

against Record No. 240746
 Court of Appeals No. 1469-22-2

BILL HOWARD PROPERTY MANAGEMENT, LLC,

APPELLEE.

FROM THE COURT OF APPEALS OF VIRGINIA

Upon consideration of the record and the pleadings filed in this case, the Court finds that the assignments of error in the petition for appeal are insufficient as they do not address any finding or ruling of the Court of Appeals or any failure of the Court of Appeals to rule on an issue in *Sandra Leigh Tomey v. Bill Howard Property Management*, Court of Appeals No. 1469-22-2, from which an appeal is sought. Accordingly, the petition for appeal is dismissed. Rule 5:17(c)(1)(iii).

A Copy,

Teste:

Muriel-Theresa Pitney, Clerk

By:

Ervina Pajalic

Deputy Clerk

VIRGINIA:

In the Court of Appeals of Virginia on Friday the 2nd day of August, 2024.

Sandra Leigh Tomey, Appellant,

against Record No. 1469-22-2
Circuit Court No. CL22-359

Bill Howard Property Management, Appellee.

From the Circuit Court of the City of Charlottesville

Before Judges O'Brien, Raphael and Senior Judge Annunziata

Appellant Sandra Leigh Tomey appeals the circuit court's order granting a writ of immediate possession in favor of appellee Bill Howard Property Management, in a de novo appeal from Charlottesville General District Court. Her various assignments of error generally assert that the circuit court denied her a fair and unbiased trial. After examining the briefs and record, the panel unanimously holds that oral argument is unnecessary because "the appeal is wholly without merit." Code § 17.1-403(ii)(a); Rule 5A:27(a). Several assignments of error also directly challenge the general district court's judgment. For the following reasons, the assignments of error challenging the district court's judgment are dismissed, and the remaining assignments of error are waived, and the judgment below is affirmed.

BACKGROUND

Elizabeth Payne, through her broker Bill Howard Property Management (“Howard”), leased a residential premises in Charlottesville to Tomey via a lease running from July 1, 2020, through June 30, 2021. The lease automatically renewed for the period beginning July 1, 2021, and ending June 30, 2022. On both February 24, and March 24, 2022, Howard notified Tomey that the lease would not be renewed. Tomey, however, failed to vacate the premises in accordance with these notices, and Howard instituted an unlawful detainer proceeding against her in Charlottesville General District Court to obtain possession of the premises. The district court awarded possession to Howard, and Tomey appealed de novo to the circuit court.

At the September 2, 2022 trial in the circuit court, William Howard testified that Tomey had not vacated the premises and remained in possession. He also testified that the Charlottesville Housing Authority was aware of the eviction proceeding (Tomey was a Section 8 tenant and part of her rent was paid by the Authority). Tomey did not dispute any of the evidence about possession or oppose the admission of exhibits. Howard did not ask for possession based on non-payment of rent and did not request judgment for any unpaid rent. The circuit court granted Howard possession of the premises and ordered the clerk to issue an immediate writ of eviction. The writ of eviction was issued on September 6, 2022. Tomey timely appealed.

ANALYSIS

In her first amended opening brief, Tomey raised three assignments of error: First, she objected that she was denied the right to testify at a motion hearing on May 31, 2022. Second, she objected that the court recognized the appellee as a proper party, rather than “Howard Lewis Howard” as set forth on the “Summons for Unlawful Detainer” filed in general district court. Finally, she claimed that the court failed to “correct a defective pleading at [the] Motion Hearing which prohibited Central Virginia Legal Aid Society [(CVLAS)] legal representation for [her].” These assignments of error all referred to events that occurred during proceedings before the district court before Tomey’s appeal de novo to circuit court.¹ The assignments of error also did not include sufficient preservation references, as required by Rule 5A:20(c). On April 22, 2024, this Court advised Tomey that her assignments of error were deficient because they did not “address the findings, rulings, or failures to rule on issues in the trial court . . . from which an appeal is taken.”² *See* Rule 5A:20(c)(2). We also informed Tomey that for each assignment of error, she must provide “[a]n exact

¹ As indicated by an annotation on the underlying unlawful detainer summons, the May 31, 2022 hearing that Tomey referred to in her first assignment of error was a motion hearing in general district court. The decision to substitute the appellant as a proper party was taken in general district court as well, where “Howard Lewis Howard” was struck out on the unlawful detainer summons, and the name of appellee, Bill Howard Property Management, was inserted. And the alleged CVLAS issue occurred in district court on July 18, 2022, when Tomey “tried to present” an email from a CVLAS attorney to Judge Sneathern of the Charlottesville General District Court but was rebuffed. The date that Tomey cites—July 8, 2022—appears to be a typographical error.

² That is, the circuit court from which Tomey appealed.

reference to the pages of the record where each assignment of error was preserved in the trial court.” See Rule 5A:20(c). Tomey was given 30 days to file a brief correcting the above deficiencies, which she did, timely filing her second amended opening brief on May 17, 2024.

Tomey presents nine assignments of error in her second amended opening brief. She alleges that (1) the “Circuit Trial Court erred to protect [her] right to have her Record on Appeal be legible, without errors and accepted by Court of Appeals of Virginia”; (2) the “Circuit Trial Court erred in protecting [her] right when Judges changed”; (3) the “Circuit Trial Court erred when Judges did not offer or allow Legal Aid”; (4) the “Circuit Trial Court erred as a bias and prejudice trial”; (5) the “Circuit Trial Courts erred by participating in an ex parte conversation about [her]”; (6) the “Circuit Trial Court erred to protect [her] right to include her testimony and evidence in Circuit Court trial on September 2, 2022”; (7) the “Lower Trial Court erred to protect [her] right to have her testimony of her evidence on Court Record for the Motion Hearing on May 31, 2022, 1PM, due to COVID-19 infection when she was excluded from Court”; (8) the “Lower Trial Court erred to identify the plaintiff, Howard Lewis Howard, as a proper party of interest and the parties standing written in his Summons of Unlawful Detainer in the Plaintiff Box as Plaintiff”; and (9) the “Lower Trial Court erred to correct a defective pleading at Motion Hearing which prohibited Central Virginia Legal Aid Society legal representation for Ms. Tomey, who is a Senior, Disabled and on Section Eight Housing Voucher Certificate.”

Although this Court gave Tomey the opportunity to revise her assignments of error to conform to the rules of the Court, her amended assignments of error remain deficient. Her first six assignments of error do not refer to the record at all, much less to where the assignments of error were preserved. “Rule 5A:20(c) . . . requires the appellant’s opening brief to contain ‘[a] statement of the assignments of error with a clear and exact reference to the page(s) of the transcript, written statement, record, or appendix where each assignment of error was preserved in the trial court.’” *West v. West*, 59 Va. App. 225, 235 (2011) (second alteration in original). In addition, Tomey’s assignments of error 7-9 address rulings of the general district court before Tomey’s appeal de novo to circuit court, and the citations to the record that she includes with those

assignments of error refer either to the proceedings of the district court, or to documents not reflecting any court ruling.

“The Court of Appeals of Virginia is a court of limited jurisdiction.” *Canova Elec. Contr. v. LMI Ins. Co.*, 22 Va. App. 595, 599 (1996) (citing *West v. Commonwealth*, 18 Va. App. 456, 457 (1994), *appeal dismissed*, 249 Va. 241, 455 (1995)). “Unless a statute confers jurisdiction in this Court, we are without power to review an appeal.” *Id.* (citing *Polumbo v. Polumbo*, 13 Va. App. 306, 307 (1991)). The appellate jurisdiction that the General Assembly has granted to the Court of Appeals includes, *inter alia*, appeals from administrative agencies, the Virginia Workers’ Compensation Commission, and final decisions from the circuit courts. *See* Code §§ 17.1-405 and 17.1-406. Conspicuously absent from the jurisdiction entrusted to this Court, however, is any authority to adjudicate appeals of actions taken in the district courts. Therefore, “[o]ur appellate jurisdiction does not extend to decisions made by [general district courts]; rather, we are limited to reviewing” final orders from circuit courts. *Jones v. Chesterfield Cnty. Pub. Schs.*, No. 1481-19-2, 2020 Va. App. LEXIS 118 (Va. Ct. App. Apr. 21, 2020).³ “Accordingly,” as to those assignments of error relating to actions taken in the general district court, “there is no ruling that lies within our jurisdiction to review.” *Id.* Thus, those assignments of error challenging the district court’s rulings are dismissed.

The record before us is insufficient to review Tomey’s remaining assignments of error. No transcript of the proceedings in this case has been filed. Instead, Tomey timely filed a written statement in lieu of a transcript. *See* Rule 5A:8(c). Howard, however, timely objected to her written statement, setting forth its own statement of facts. *See* Rule 5A:8(d). The court scheduled a hearing on the conflicting written statements and noticed the parties, but Tomey declined to attend, citing as justification her “hav[ing] made a complaint to the Judicial Inquiry and Review Board of Virginia against [the trial judge] and the Circuit Court

³ “Unpublished opinions, although not binding, may be cited as ‘informative’ and ‘considered for their persuasive value.’” *Osman v. Commonwealth*, 76 Va. App. 613, 653 n.23 (2023) (quoting *Otey v. Commonwealth*, 61 Va. App. 346, 350 n.3 (2012)); *see also* Rule 5A:1(f).

of Charlottesville,” and her “fear [of] further retaliation and false imprisonment by any and or all, for this complaint.” The hearing proceeded in Tomey’s absence, and the court “adopted” paragraphs 1-8 of the appellee’s objection to Tomey’s written statement “as the statement of facts for purposes of this appeal.” Tomey did not object to that determination. *See Rule 5A:8(d)* (“At any time while the record remains in the office of the clerk of the trial court, the trial judge may, after notice to counsel and hearing, correct the transcript or written statement.”).

The record, including the trial court’s adopted written statement of facts, does not substantiate the claims that Tomey sets forth in her amended assignments of error. “On appeal, we presume the judgment of the trial court is correct and the burden is on the appellant to present to us a sufficient record from which we can determine whether the trial court has erred in the respect alleged by appellant.” *Bay v. Commonwealth*, 60 Va. App. 520, 528 (2012) (citing *Justis v. Young*, 202 Va. 631, 632 (1961)). We are not unmindful of Tomey’s status as a *pro se* litigant. But the pleadings of a self-represented party, “however inartfully or informally drafted,” must still “state a case for substantive relief” that this Court can grant. *Strickland v. Dunn*, 219 Va. 76, 80 (1978). As we have long warned, “[e]ven *pro se* litigants must comply with the rules of court.” *Francis v. Francis*, 30 Va. App. 584, 591 (1999). The onus was on Tomey to produce a record on which we could grant her relief. “If appellant fails to do so, the judgment will be affirmed.” *Bay*, 60 Va. App. at 528.

For these reasons, this appeal is dismissed in part, and the judgment of the trial court is affirmed as to the remainder.

This order shall be certified to the trial court.⁴

A Copy,

Teste:

A. John Vollino, Clerk

By:

Kristen M. McKenzie

Deputy Clerk

⁴ On October 14, 2022, Tomey filed a “Motion to Add Alias for Property Manager to Case File 1469-22-2.” In this motion she asks this Court to add the “alias Howard Lewis Howard on [the] original filing in Charlottesville[] General District Court” to this case. “Howard Lewis Howard” was struck from the unlawful detainer summons and replaced with appellee Bill Howard Property Management at the district court prior to Tomey’s appeal de novo to circuit court. As discussed above, this Court does not have appellate jurisdiction over actions taken by the district courts. As such, the motion is dismissed. On October 17, 2023, Tomey filed a motion requesting sanctions against the Charlottesville Circuit Court, and other relief. This motion is denied.

VIRGINIA:

In the Court of Appeals of Virginia on Tuesday the 20th day of June, 2023.

Sandra Leigh Tomey,

Appellant,

against

Record No. 1469-22-2
Circuit Court No. CL22-359

Bill Howard Property Management and
William L. Howard, Jr.,

Appellees.

From the Circuit Court of the City of Charlottesville

On May 19, 2023, came the appellant, in proper person, and filed a petition requesting that a writ of certiorari be awarded, to be directed to the Honorable Llezelle Agustin Dugger, Clerk of the Circuit Court of the City of Charlottesville, requiring her to transmit to this Court the following documents:

1. Ms. Tomey's driver's license;
2. Ms. Tomey's birth certificate;
3. Central Virginia Legal Aid Society (CVLAS) email from Austin Giesel dated May, 27, 2022, from austin@cvlas.org;
4. Dominion Energy of Virginia email from Roslyn Perry, dated July 7, 2022;
5. Letter with photographs from Matthew Chao of the City of Charlottesville Department of Neighborhood Development Services, dated September 6, 2022;
6. VIA Services receipt, dated August 28, 2020;
7. Photograph of refrigerator, dated August 26, 2020;
8. Doug's Maytag receipt, dated June 5, 2020;
9. Eleven photographs of Dominion Energy of Virginia electrical lines for 1910 Cedar Hill Road Apartments A and B;
10. Photograph of electrical exit wounds on thighs, legs and feet of Ms. Tomey;
11. Proof of Social Security benefit statement for Ms. Tomey;
12. Social Security Administration, Supplemental Security Income statement, dated

November 1, 1991;

13. University of Virginia Pharmacy Department Employee Evaluation Record, dated August 19, 1988;
14. Photographs of the excess water runoff from the new storage business building behind Ms. Tomey's apartment;
15. Photographs of mold in attic;
16. Photographs of the flue in the attic that vents the stove; and,
17. Photographs of the muddy water coming out of the facet in the bathtub.

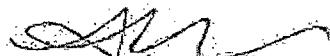
On consideration whereof, the matter is remanded to the trial court with regard to the above referenced materials for a determination as to whether the documents in question were made a part of the record in the trial court. If the trial court determines that the items were made a part of the record, the trial court is directed to tender the items to this Court. If the trial court determines that the items were not made a part of the record, it shall so certify.

A Copy,

Teste:

A. John Vollino, Clerk

By:



Deputy Clerk

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE
ON THE LAW SIDE THEREOF.

Present: - Honorable CLAUDE V. WORRELL, II,
Judge

BILL HOWARD PROPERTY MANAGEMENT AND
WILLIAM L. HOWARD, JR.,
Plaintiff

Vs. File No. CL-22-359

SANDRA LEIGH TOMEY
Respondent

The Court, pursuant the order dated June 20th, 2023
from the Court of Appeals of Virginia, hereby certifies, that the
documents listed therein and requested to be transmitted, were
not made a part of this Court's record.

Enter: Claude V. Worrell

Date: 9/20/23

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE

BILL HOWARD PROPERTY MANAGEMENT,
Plaintiff,

v.

Case No. CL22-359

SANDRA TOMEY,
Defendant.

ORDER

This case came on September 2, 2022 to be heard on the appeal of Defendant Sandra Tomey from an order of the Charlottesville General District Court granting possession of premises known as 1910 Cedar Hill Road, #A, Charlottesville, Virginia 22901 (the "Premises") to Plaintiff Bill Howard Property Management pursuant to summons for unlawful detainer issued by Plaintiff; upon the appearance of Plaintiff by its corporate representative, Bill Howard, in proper person and by counsel; upon the appearance of Defendant *pro se*; upon the evidence received by the Court during the *ore tenus* hearing conducted on September 2, 2022; and was argued by counsel.

Upon consideration whereof the Court, finding that Defendant's right to possession of the Premises has expired or has been otherwise terminated, and that Plaintiff is entitled to possession thereof, doth ORDER that Plaintiff recover possession of the Premises known as 1910 Cedar Hill Road, #A, Charlottesville, Virginia 22901 from Defendant.

Upon further consideration whereof and at the request of Plaintiff the Court doth ORDER that an immediate writ of eviction in favor of Plaintiff shall issue by the Clerk of this Court against Defendant for possession of the Premises.

Further ORDERED [if any] _____

And this cause is continued for implementation of this Order.

Defendant having been present at the time of the ruling of the Court, her endorsement of this Order is dispensed with, and her objections are noted.

ENTER:

Leanne V. Warren, Jr.
Judge

DATE: 9/2/22

I Ask For This:

Ralph E. Main, Jr., p.q.

VSB # 13320

Dygert, Wright, Hobbs & Hernandez, PLC
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