

VIRGINIA:

In the Court of Appeals of Virginia on Tuesday, the 18th day of February, 2020.

Michael L. Sweet, Jr.,

Appellant,

against

Record No. 1133-19-4
Circuit Court No. CL18-452

Esther P. Sweet,

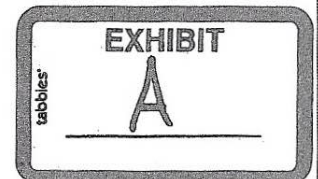
Appellee.

From the Circuit Court of the City of Winchester

Before Judges Beales, Huff and Senior Judge Annunziata

Appellant, Michael L. Sweet, Jr., *pro se*, appeals a final decree of divorce. In his eleven assignments of error, he argues that the circuit court made erroneous findings and rulings regarding the parties' marital settlement agreement, equitable distribution, child support, and spousal support. Upon reviewing the record and briefs of the parties, we conclude that this appeal is without merit. Accordingly, we summarily affirm the decision of the circuit court. See Rule 5A:27. **They reviewed the record.**

The parties were married on September 14, 2014, and separated on August 1, 2017. Two minor children were born of the marriage. On August 2, 2018, appellee, Esther P. Sweet, by counsel, filed a complaint for divorce and attached a copy of the parties' marital settlement agreement dated July 31, 2017.¹ The Winchester City Juvenile and Domestic Relations District Court entered orders regarding child custody and visitation. The parties appeared before the circuit court on March 28, 2019, for a hearing on the grounds of divorce, equitable distribution, child support, spousal support, and attorney's fees.²



¹ The parties' marital settlement agreement reserved the issues of spousal support, child support, and equitable distribution "for future agreement of the parties or determination by a court of competent jurisdiction."

² A transcript of the hearing is not in the record, but the circuit court endorsed a written statement of facts submitted by appellee. The circuit court "decline[d] to endorse" appellant's proposed written statement of facts.

After hearing the parties' evidence and arguments, the circuit court took the matter under advisement and issued letter opinions on April 19, 2019, and May 6, 2019. The circuit court awarded appellee a divorce based on the parties having lived separate and apart for more than one year. The circuit court considered the equitable distribution factors in Code § 20-107.3, classified and valued the parties' marital property and debts, and distributed the marital property and debts. Appellant retained the marital home and business and was ordered to pay appellee for her interest in those assets. After reviewing the spousal support factors in Code § 20-107.1(E), the circuit court ordered appellant to pay spousal support to appellee in the amount of \$800 per month for two years. Applying the child support guidelines, the circuit court ordered appellant to pay child support to appellee in the amount of \$1,116.80 per month. The circuit court declined to award appellee additional attorney's fees, beyond what was previously ordered in the *pendente lite* decree.

Appellant filed a motion to reconsider, and both parties filed motions for sanctions. The circuit court denied appellant's motions, granted appellee's motion for sanctions, and awarded her \$500 in attorney's fees. On June 13, 2019, the circuit court entered a final decree of divorce and an order regarding the post-trial motions. Appellant endorsed the final decree of divorce as "Seen & object to." The circuit court noted appellant's exception to the denial of his post-trial motions and waived his endorsement of that order under Rule 1:13. This appeal followed.

Appellant has the burden of showing that reversible error was committed. See Burke v. Catawba Hosp., 59 Va. App. 828, 838 (2012). Appellant's opening brief does not comply with Rule 5A:20.³ Rule 5A:20(c) states that an opening brief shall contain a "statement of the assignments of error with a clear and

³ Appellant also failed to comply with Rule 5A:25. Appellant's appendix did not include many of the required documents, such as the initial pleadings, the final decree of divorce, and the written statement of facts in lieu of a transcript. "The appendix is a tool vital to the function of the appellate process in Virginia. . . . By requiring the inclusion of all parts of the record germane to the issues, the Rules promote the cause of plenary justice." Patterson v. City of Richmond, 39 Va. App. 706, 717 (2003) (quoting Thrasher v. Burlage, 219 Va. 1007, 1009-10 (1979) (*per curiam*)). "Thus, the filing of an appendix that complies with the Rules, is 'essential to an informed collegiate decision.'" Id. at 717 (quoting Thrasher, 219 Va. at 1010). Appellee, however, filed an appendix that contained the necessary documents for a review of the assignments of error.

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.” Appellant’s opening brief included assignments of error, but he did not refer to the record or appendix to show where his arguments were preserved. The purpose of assignments of error is to “point out the errors with reasonable certainty in order to direct [the] court and opposing counsel to the points on which appellant intends to ask a reversal of the judgment, and to limit discussion to these points.” Carroll v. Commonwealth, 280 Va. 641, 649 (2010) (quoting Yeatts v. Murray, 249 Va. 285, 290 (1995)). An appellant must “lay his finger on the error.” Id. Appellant failed to do so. **I pin pointed the errors.**

In addition, appellant failed to comply with Rule 5A:20(e), which requires that an appellant’s opening brief contain “[t]he standard of review and the argument (including principles of law and authorities) relating to each assignment of error.” Appellant listed two cases and four code sections, but he failed to explain how those legal principles and authorities applied to his arguments.

“[I]t is not the function of this Court to ‘search the record for error in order to interpret the appellant’s contention and correct deficiencies in a brief.’” West v. West, 59 Va. App. 225, 235 (2011) (quoting Buchanan v. Buchanan, 14 Va. App. 53, 56 (1992)). “Nor is it this Court’s ‘function to comb through the record . . . in order to ferret-out for ourselves the validity of [appellant’s] claims.’” Burke, 59 Va. App. at 838 (quoting Fitzgerald v. Bass, 6 Va. App. 38, 56 n.7 (1988) (*en banc*)). “Even *pro se* litigants must comply with the rules of court.” Francis v. Francis, 30 Va. App. 584, 591 (1999). **It’s not the court’s job to look for the errors**

We find that appellant’s failure to comply with Rule 5A:20 is significant, so we do not reach his arguments. See Fadness v. Fadness, 52 Va. App. 833, 851 (2008) (“If the parties believed that the circuit court erred, it was their duty to present that error to us with legal authority to support their contention.”); Parks v. Parks, 52 Va. App. 663, 664 (2008). **I pin pointed the errors.**

Appellee asks this Court to award her attorney’s fees and costs incurred on appeal. See O’Loughlin v. O’Loughlin, 23 Va. App. 690, 695 (1996). “The decision of whether to award attorney’s fees and costs incurred on appeal is discretionary.” Friedman v. Smith, 68 Va. App. 529, 545 (2018). Having reviewed and considered the entire record in this case, we hold that appellee is entitled to a reasonable amount of attorney’s

fees and costs incurred in this appeal, and we remand for the circuit court to set a reasonable award of attorney's fees and costs incurred by appellee in this appeal. Rule 5A:30(b).

For the foregoing reasons, the circuit court's ruling is summarily affirmed. Rule 5A:27. The appellant shall pay to the appellee damages according to law.

This order shall be certified to the trial court.

A Copy,

Teste:

Cynthia L. McCoy, Clerk

By:



Deputy Clerk