

IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

FILED

August 27, 2026

**MAGUS AHNEND,
Plaintiff Below, Petitioner**

ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

v.) No. 25-ICA-468 (Cir. Ct. Raleigh Cnty. Case No. CC-41-2025-C-348)

**OCIE HELTON,
Defendant Below, Respondent**

MEMORANDUM DECISION

Petitioner Magus Ahnend appeals the October 30, 2025, order from the Circuit Court of Raleigh County granting Respondent Ocie Helton's Motion to Dismiss with prejudice and ordering Mr. Ahnend to vacate a property located in Beckley, West Virginia. Ms. Helton filed a response.¹ Mr. Ahnend filed a reply.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2024). After considering the parties' arguments, the record on appeal, and the applicable law, this Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the circuit court's order is appropriate under Rule 21 of the West Virginia Rules of Appellate Procedure.

From the outset, we note that the record on appeal is sparse, which limits this Court's recitation of the facts. This appeal arises from a dispute concerning residential property located in Beckley, West Virginia, (the "Property") which was sold in a foreclosure sale at the Raleigh County courthouse. On May 5, 2022, the parties entered into a West Virginia Residential Purchase Agreement regarding the Property. Pursuant to this agreement, Mr. Ahnend and a Daniel McMillion agreed to purchase the Property from Ms. Helton for \$80,000. Mr. Ahnend and Mr. McMillion agreed to pay a down payment of \$3,000; to pay the remaining balance of \$77,000 in monthly installments for 110 months; and to pay annual property taxes, homeowner's insurance, and property maintenance for the life of the contract.

The parties' loan agreement was memorialized in a Promissory Note dated May 13, 2022, in which Mr. Ahnend and Mr. McMillion agreed to pay \$77,000 in principal to Ms. Helton in monthly installments of \$700.51 beginning on June 13, 2022, with no interest. The loan was secured with a recorded Deed of Trust dated May 13, 2022, which was signed

¹ Mr. Ahnend is self-represented. Ms. Helton is represented by G. Todd Houck, Esq.

by Mr. Ahnend and Mr. McMillion. Also on May 13, 2022, Ms. Helton signed a warranty deed conveying the property to Mr. Ahnend and Mr. McMillion for \$80,000. This deed was also recorded. The original Deed of Trust named Robert H. Skeen, Jr., as the Trustee. On July 11, 2025, Ms. Helton designated G. Todd Houck as Successor Trustee in an instrument that was recorded on July 15, 2025.

Mr. Houck sent Mr. Ahnend a letter dated August 5, 2025, providing notice of his default as borrower. The correspondence further stated that Ms. Helton requested to accelerate and declare all sums secured by the Deed of Trust be immediately due and payable and that the Property would be sold at public auction at the Raleigh County courthouse on September 8, 2025.

Sometime thereafter, Mr. Ahnend filed a complaint in the Circuit Court of Raleigh County seeking a permanent injunction to bar the foreclosure and to quiet title to the Property.² The complaint alleged that Mr. Ahnend acquired the Property on May 13, 2022, by warranty deed from Ms. Helton and that this deed was recorded. He further alleged that Mr. McMillion conveyed all his interests to Mr. Ahnend via quitclaim deed on April 10, 2024. The complaint alleges that neither the warranty deed nor the quitclaim deed contained a reservation of lien or deed of trust, and, accordingly, his title to the Property was free of any liens or deed of trust. Mr. Ahnend's complaint further alleged that he never received a notice of default or was given the mandatory ten-day cure period as required by law prior to Ms. Helton's attempt to conduct the foreclosure sale. Mr. Ahnend moved the circuit court to issue a permanent injunction related to the foreclosure sale; sought a declaration that the foreclosure sale was void because no lien or deed encumbered the Property; and sought other various monetary damages.

At some point after the filing of the complaint, Ms. Helton filed a motion to dismiss, and the circuit court conducted a hearing on this motion on October 7, 2025. Mr. Ahnend did not appear at this hearing, as the circuit court noted in its subsequent order, but Ms. Helton appeared with counsel and presented argument.

On October 30, 2025, the circuit court entered an order dismissing this case with prejudice and ordering Mr. Ahnend to vacate the property on or before December 1, 2025. In its order, the circuit court determined the foreclosure sale occurred on September 8, 2025, after proper notice to Mr. Ahnend and the public. It further found that Mr. Ahnend signed the real estate purchase agreement, note, and deed of trust, and was, therefore, obligated to a mortgage he entered in order to purchase the Property from Ms. Helton. The

² Neither party included Mr. Ahnend's complaint in the appendix record before this Court. However, Mr. Ahnend inserted a document into his Petitioner's brief that he purports is a copy of his complaint. Ms. Helton did not dispute the authenticity of this document.

court found that Ms. Helton supported her motion to dismiss with a notice of substitute trustee and affidavit of legal publication for the September 8, 2025, foreclosure sale. The order noted that Mr. Ahnend failed to appear at the hearing but took notice that his pleadings requested an injunction rather than a motion to set aside the foreclosure. The court concluded that the trustee had authority to foreclose on the property, provided proper notice of the foreclosure to Mr. Ahnend, and that the foreclosure was reasonably conducted in conformity with the applicable law. It is from this order that Mr. Ahnend now appeals.

This Court reviews a circuit court's rulings on a motion to dismiss under a *de novo* standard of review. Syl. Pt. 2, *State ex rel. McGraw v. Scott Runyan Pontiac-Buick, Inc.*, 194 W. Va. 770, 461 S.E.2d 516 (1995) ("Appellate review of a circuit court's order granting a motion to dismiss a complaint is *de novo*."). "The trial court, in appraising the sufficiency of a complaint on a Rule 12(b)(6) motion, should not dismiss the complaint unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Syl. Pt. 3, *Chapman v. Kane Transfer Co., Inc.*, 160 W. Va. 530, 236 S.E.2d 207 (1977) (citation omitted).

On appeal, Mr. Ahnend asserts four assignments of error.³ First, he argues that the circuit court abused its power and illegally removed him from a home that he still owns. Second, Mr. Ahnend argues that a hearing was held without his knowledge and that Ms. Helton rescheduled the hearing multiple times without notifying Mr. Ahnend. Third, he argues he was never given a notice of default and the circuit court allowed a letter to be admitted related to notice, which was improper.⁴ Finally, he argues the circuit court allowed the Property to be sold for well under market value and held that his deeds did not apply.

At the outset, we must note that Mr. Ahnend's brief fails to include any arguments "exhibiting the points of fact and law presented, the standard of review applicable, and citing the authorities relied on, under headings that correspond with the assignments of error" as required by Rule 10(c)(7) of the West Virginia Rules of Appellate Procedure. He

³ In this case, we note that our review is hampered by Mr. Ahnend's failure to file an appendix that complies with the requirements set forth in Rule 7 of the West Virginia Rules of Appellate Procedure. Mr. Ahnend failed to provide this Court with a docket sheet, Ms. Helton's motion to dismiss, the October 7, 2025, hearing transcript, and exhibits and any other necessary case related documents. Nevertheless, we will consider and rule on his appeal with the limited information provided.

⁴ It is unclear which hearing Mr. Ahnend's second assignment of error references or which letter he alleges the circuit court considered in assignment of error three. If these assignments of error relate to the circuit court's October 7, 2025, hearing on Ms. Helton's motion to dismiss, Mr. Ahnend failed to include the hearing transcript or any exhibits admitted at that hearing in the record on appeal.

further fails to provide any supporting points of fact and law or any citations to the record to assist this Court in its understanding of these arguments. As we have observed previously, we cannot consider indecipherable arguments made in appellate briefs. *See Vogt v. Macy's, Inc.*, No. 22-ICA-162, 2023 WL 4027501, at *4 (W. Va. Ct. App. June 15, 2023) (memorandum decision) (citing *State v. Lilly*, 194 W. Va. 595, 605 n.16, 461 S.E.2d 101, 111 n.16 (1995)); *see also Megan W. v. Robert R.*, No. 23-ICA-353, 2024 WL 1592600, at *5 (W. Va. Ct. App. Feb. 27, 2024) (memorandum decision) (“It is well established that, ‘[a] skeletal “argument,” really nothing more than an assertion, does not preserve a claim[.]’”) (quoting *State v. Lambert*, 236 W. Va. 80, 100, 777 S.E.2d 649, 669 (2015)). Moreover, as our Supreme Court of Appeals has held,

[a]n appellant must carry the burden of showing error in the judgment of which he complains. This Court will not reverse the judgment of a trial court unless error affirmatively appears from the record. Error will not be presumed, all presumptions being in favor of the correctness of the judgment.

Syl. Pt. 5, *Morgan v. Price*, 151 W. Va. 158, 150 S.E.2d 897 (1966); *see also Cobble v. Lester*, No. 24-ICA-201, 2024 WL 5201017, at *2 (W. Va. Ct. App. Dec. 23, 2024) (memorandum decision). Mr. Ahnend has failed to develop his arguments, and the briefing and record contain no factual or legal support. Accordingly, he has not met his burden, and we cannot find any error in the circuit court’s order based on these unsupported assignments of error.⁵

Accordingly, we affirm the circuit court’s October 30, 2025, order.

Affirmed.

ISSUED: August 27, 2026

⁵ Mr. Ahnend’s reply brief includes a new argument that the circuit court violated his due process right to notice by holding a hearing on Ms. Helton’s motion to dismiss the day after she filed it. He also offers more detailed versions of arguments raised only in conclusory fashion in the opening brief, including his argument that Mr. Houck’s August 5, 2025, notice of default violated West Virginia Code § 46A-2-106. However, we do not address nonjurisdictional arguments raised for the first time in a reply brief. *See Fein v. Peckenpaugh*, No. 24-ICA-444, 2025 WL 2491020, at *5 (W. Va. Ct. App. Aug. 29, 2025) (memorandum decision). Moreover, even were we inclined to address these belated contentions, Mr. Ahnend’s failure to provide an adequate appendix would preclude review.

CONCURRED IN BY:

Chief Judge Daniel W. Greear
Judge Charles O. Lorensen
Judge S. Ryan White