

IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

FILED

September 25, 2026

DONALD R. MOLLOHAN,
Plaintiff Below, Petitioner

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

v.) No. 26-ICA-86 (Cir. Ct. of Kanawha Cnty. Case No. CC-20-2025-C-267)

CHAMBERS AUTO REPAIR & TOWING,
Defendant Below, Respondent

MEMORANDUM DECISION

Petitioner Donald R. Mollohan appeals the Final Order entered by the Circuit Court of Kanawha County on March 2, 2026, awarding him damages following a bench trial. Respondent Chambers Auto Repair & Towing (“Chambers Auto”) did not participate in this appeal.¹

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2026). 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.

Based on the limited record, the relevant facts are as follows. On February 27, 2025, Mr. Mollohan filed a complaint in circuit court alleging that Chambers Auto failed to pay him \$4,900 for a Robinair AC machine that he purchased and provided to Chambers Auto. Mr. Mollohan claimed that the machine broke while in Chambers Auto’s possession and that its owners refused to pay for the machine’s repair. He further asserted that Chambers Auto financially benefited from using the machine to service vehicles in its automotive repair business. Mr. Mollohan alleged total damages of \$12,867.42, which included repair costs, depreciation, court costs, and out-of-pocket expenses incurred while using machines at other shops during the repair period.

Chambers Auto filed an answer denying the existence of any contract to purchase the machine and requesting dismissal of the case. It did not address any of the remaining allegations in the complaint. The court determined that trial would address two issues: (1) whether a contract existed between the parties, and (2) whether Chambers Auto benefited from the use of the machine.

¹ Petitioner is self-represented.

At trial, two of Mr. Mollohan's witnesses did not appear. The court noted that the first witness had been served with a subpoena but concluded, based on Mr. Mollohan's proffer, that his testimony was unnecessary. The second witness, who purportedly repaired the machine and could testify regarding the repair costs, was not subpoenaed. Mr. Mollohan instead introduced an invoice reflecting that he paid \$2,350.79 for the repairs. Chambers Auto's owners testified, disputing the existence of a contract but acknowledging that the machine broke while in its possession. The head mechanic at Chambers Auto testified that he used the machine to repair only one vehicle at the shop other than Mr. Mollohan's vehicles. Mr. Mollohan disagreed but acknowledged that Chambers Auto paid him for the vehicles he brought to its shop to be serviced using the machine.

At the close of evidence, the court determined that Mr. Mollohan failed to prove a contract existed between the parties. The court found, however, that the machine broke while in Chambers Auto's possession and that Mr. Mollohan paid for its repair. The court therefore awarded Mr. Mollohan \$2,850.79 in damages. This appeal followed.

In this appeal, we apply the following standard of review:

In reviewing challenges to the findings and conclusions of the circuit court made after a bench trial, a two-pronged deferential standard of review is applied. The final order and the ultimate disposition are reviewed under an abuse of discretion standard, and the circuit court's underlying factual findings are reviewed under a clearly erroneous standard. Questions of law are subject to a *de novo* review.

Syl. Pt. 1, *Pub. Citizen, Inc. v. First Nat'l Bank in Fairmont*, 198 W. Va. 329, 480 S.E.2d 538 (1996).

On appeal, Mr. Mollohan raises several arguments, stemming from his overarching contention that the circuit court erred by failing to award him the full amount of damages he requested. However, the lack of a proper appellate record prevents Mr. Mollohan from establishing error on appeal.

Pointedly, our review is hampered by his failure to include within the appendix relevant documentation from the proceedings below. Rule 7(d) of the West Virginia Rules of Appellate Procedure requires that a petitioner "shall prepare and file an appendix containing," among other items, "the judgment or order appealed from, and all other orders applicable to the assignments of error on appeal," "material excerpts from official transcripts of testimony or from documents in connection with a motion," and "other parts of the record necessary for consideration of the appeal." (citation modified).

This requirement is expounded upon in Rule 10(c)(7) of the West Virginia Rules of Appellate Procedure, which requires that "the argument must contain appropriate and

specific citations to the record on appeal, including citations that pinpoint when and how the issues in the assignments of error were presented to the lower tribunal.” (citation modified). This rule further provides that this Court “may disregard errors that are not adequately supported by specific references to the record on appeal.” *Id.* Likewise, the appellate rules apply equally to both represented and self-represented parties. *See State v. Gibson*, No. 23-556, 2025 WL 3287585, at *2 (W. Va. Nov. 25, 2025) (memorandum decision) (reiterating that self-represented petitioners must comply with Rule 10(c)(7)).

It is well established that on appeal, error is never presumed, and a petitioner carries the burden of affirmatively establishing the error of which they complain through presentation of the record. *See* Syl. Pt. 5, *Morgan v. Price*, 151 W. Va. 158, 150 S.E.2d 897 (1966). Further, an appellate court “will not consider an error which is not properly preserved in the record nor apparent on the face of the record.” Syl. Pt. 4, *State v. Browning*, 199 W. Va. 417, 485 S.E.2d 1 (1997).

Here, Mr. Mollohan failed to include relevant documents from the circuit court proceeding, failed to adequately brief his assignments of error, and failed to cite to the record to show how and when the issues raised in those assignments were presented to the circuit court.² Based on the limited record presented, we find that Mr. Mollohan has failed to provide this Court with a record affirmatively showing error below. *See Smith v. Ball*, No. 24-ICA-26, 2024 WL 5003294, at *4 (W. Va. Ct. App. Dec. 6, 2024) (memorandum decision) (citation modified) (“Indeed, courts should strive to ensure that the diligent self-represented party does not forfeit any substantial rights by inadvertent omission or mistake. However, ultimately, the self-represented litigant must bear the responsibility and accept the consequences of any mistakes and errors.”); *Haske v. Judge*, No. 23-ICA-50, 2024 WL 794601, at *3 (W. Va. Ct. App. Feb. 27, 2024) (memorandum decision) (affirming circuit court’s order and finding self-represented petitioner failed to preserve objections below for appellate review).

We conclude that Mr. Mollohan has not established any basis for relief. Therefore, we find no abuse of discretion or clear error by the circuit court.

Accordingly, we affirm.

Affirmed.

² For example, Mr. Mollohan did not include a transcript of the circuit court proceedings in his appendix. A transcript is not only integral to this Court’s review of the proceedings below; it is also a necessary component of the appendix to establish the evidence considered by the circuit court, as well as any arguments or objections asserted by him.

ISSUED: September 25, 2026

CONCURRED IN BY:

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