Affirmed and Opinion filed June 29, 2000.

In The

Fourteenth Court of Appeals

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NO. 14-99-00102-CV

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FITZ JACKSON, Appellant

V.

RUSSELL RUSH, Appellee

On Appeal from the 240th District Court
Fort Bend County, Texas
Trial Court Cause No. 86,863

O P I N I O N

This is an appeal from a take-nothing judgment entered after a jury verdict in favor of appellee, Russell Rush. Appellant, Fitz Jackson, sued Rush claiming personal injuries sustained from a dog attack. On appeal, appellant complains of the improper exclusion of certain statutes and ordinances he would have used to prove negligence. We affirm.

I.
Background

The following facts are derived from the clerk's record and the uncontroverted statements of facts in the briefs of the parties. *See* TEX. R. APP. P. 38.1(f). On January 6, 1994, appellant was jogging on a public road in Fort Bend County. As he passed appellee's property, a large dog belonging to the appellee attacked appellant, knocking him to the ground. Appellant claimed he suffered severe physical injury and long-term psychosomatic disorders as a result of the attack. Appellee answered with a general denial and asserted that appellant was contributorily negligent. At a pretrial hearing, appellee secured an order on a motion in limine which, among other things, prohibited appellant from referring to or quoting from statutes or city ordinances without first requesting and obtaining a ruling outside the presence of the jury. There is no indication in the record before us on appeal that appellant objected to that motion or the order granting it. After a trial on the merits, the jury found negligence could not be attributed to either party and the trial court entered judgment on the verdict. Both at trial and on appeal, appellant is *pro se*.

II.
Motion in Limine

After careful review of appellant's brief, we construe appellant's complaint on appeal to be that the order on the motion in limine effectively prevented him from offering evidence that would help him prove appellee's liability. Unfortunately, appellant failed to provide a reporter's record after he was notified by the clerk of this court that if he failed to provide a reporter's record we would consider and decide only those issues or points that do not require a reporter's record. *See* TEX. R. APP. P. 37.3(c). Accordingly, we must review this complaint without the benefit of a reporter's record.[1] A plain reading of the order on the motion in limine reveals that appellant was ordered to refrain from offering evidence regarding city ordinances, statutes or insurance pertaining to appellee without first requesting and obtaining a ruling from the court outside the presence of the jury. Appellant asserts that at the pretrial

[1] Indeed, appellant admits in his reply brief that he is relying on the clerk's record to support his argument on appeal because the reporter's record is unnecessary for this appeal.

hearing on the motion in limine the trial court categorically forbade him from offering the evidence, effectively finding it to be inadmissible. Appellant additionally claims that he was threatened with severe sanctions if he ever attempted to offer the ordinances and statutes into evidence. However, no reporter was present at the hearing and, thus, this court's record does not reflect any threat of sanctions by the trial court.

The record does not reflect that the court ruled the evidence inadmissible; the court merely sustained a majority of the motion's requests. The only evidence of a *de facto* ruling of inadmissibility is the appellant's bare assertion that he was told *in camera* that he could never offer ordinances and statutes into evidence. Contravening this assertion is the written order which clearly states that appellant must not offer this evidence without first requesting and securing a ruling on its admissibility. Allegations of the existence of facts may not be considered without record support. *See Monreal v. State*, 923 S.W.2d 61, 71 (Tex. App.—San Antonio 1996), *aff'd*, 947 S.W.2d 559 (Tex. Crim. App. 1997). Without other proof of a ruling of inadmissibility, this Court cannot construe the motion in limine as anything other than a legitimate, preliminary measure preventing improper admission of evidence. *See*, *e.g.*, *Hartford Accident & Indem. Co. v. McCardell*, 369 S.W.2d 331, 335 (Tex. 1963).

III.

Preservation of Error

Even if the trial court's ruling constituted an exclusion of ordinances and statutes, appellant failed to preserve error. A motion in limine does not preserve error—it merely precludes the parties from referring to the subject matter of the motion without first obtaining a ruling. *See Hartford*, 369 S.W.2d at 335; *see also Union Carbide Corp. v. Burton*, 618 S.W.2d 410, 415 (Tex. Civ. App.—Houston [14th Dist.] 1981, writ ref'd n.r.e.). To preserve the error of a trial judge in excluding evidence, a party must:

> (1) attempt during the evidentiary portion of the trial to introduce the evidence, (2) if an objection is lodged, specify the purpose for which [the evidence] is offered and give the trial judge reasons why the evidence is admissible, (3) obtain a ruling from the court, and (4) if the judge rules the evidence

> inadmissible, make a record, through a bill of exceptions, of the precise evidence the party desires admitted.

Estate of Veale v. Teledyne Indus., Inc., 899 S.W.2d 239, 242 (Tex. App.—Houston [14th Dist.] 1995, writ denied).

If appellant were actually ordered not to introduce statutes and ordinances under any circumstances, his recourse would have been to object to that ruling and follow the procedure detailed above. There is nothing in the record before us indicating he did so.

IV.
Bill of Exception

We note, however, appellant attempted to preserve error in the court below by filing what he thought was a bill of exception. However the document filed does not meet the strict requirements for a bill of exception set out in Texas Rule of Appellate Procedure 33.2. *See* TEX. R. APP. P. 33.2 (to complain on appeal about a matter that would not otherwise appear in the record, a party must file a formal bill of exception). These requirements ensure that the bill is accurate and complete. *See McInnes v. Yamaha Motor Corp., U.S.A.*, 673 S.W.2d 185, 187 (Tex. 1984). The purported bill contained in this record does not bear the signature of the trial court or opposing counsel, nor can it be considered a bystanders' bill. A formal bill of exception not approved by the trial court or opposing counsel, and not a bystanders' bill is inadequate to preserve a complaint on appeal. *See Raw Hide Oil & Gas, Inc. v. Maxus Exploration Co.*, 766 S.W.2d 264, 275 (Tex. App.—Amarillo 1988, writ denied).

Appellant is not an attorney and appeared *pro se* at trial and on appeal. Nevertheless, litigants choosing to appear *pro se* are held to the same standards as licensed attorneys and must comply with applicable laws and rules of procedure. *See Greenstreet v. Heiskell*, 940 S.W.2d 831, 834 (Tex. App.—Amarillo 1997, no pet.). To allow different treatment for such litigants would provide them with an unfair advantage over litigants represented by counsel. *See Mansfield State Bank v. Cohn*, 573 S.W.2d 181, 184 (Tex. 1978); *Chandler v. Chandler*, 991 S.W.2d 367, 378-79, (Tex. App.—El Paso 1999, pet. denied). Additionally, relaxing standards in this case would undermine the purposes of procedural requirements for bills of

exception. *See McInnes*, 673 S.W.2d at 187. Applying these principles to the matter before us, appellant's *pro se* status does not affect our decision.

V.
Conclusion

Because appellant failed to present either a clerk's record or a reporter's record preserving the complaint on appeal, he has waived his sole point on appeal. *See* TEX. R. APP. P. 33.1. Accordingly, we affirm the trial court's judgment.

/s/ John S. Anderson
Justice

Judgment rendered and Opinion filed June 29, 2000.

Panel consists of Justices Amidei, Anderson, and Frost.

Do Not Publish — TEX. R. APP. P. 47.3(b).