

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs September 3, 2025

BRANDON HALL v. KYLE MITCHELL**Appeal from the Circuit Court for Blount County**
No. L21A648 David Reed Duggan, Judge

No. E2025-00374-COA-R3-CV

This is an appeal from the dismissal of a complaint pursuant to the Tennessee Public Participation Act. Because of the deficiencies in the appellant's brief, we deem the appellant's issues waived. We grant the appellee's request for an award of reasonable attorney's fees on appeal but decline to vacate the trial court's order on a post-hearing motion to compel.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed

W. NEAL MCBRAYER, J., delivered the opinion of the court, in which J. STEVEN STAFFORD, P.J., W.S., and JOHN W. MCCLARTY, P.J., E.S., joined.

Gary M. Prince, Knoxville, Tennessee, for the appellant, Brandon Hall.

Daniel A. Horwitz and Sarah L. Martin, Nashville, Tennessee, for the appellee, Kyle Mitchell.

MEMORANDUM OPINION¹**I.**

Brandon Hall, a deputy sheriff in Blount County, sued Kyle Mitchell seeking \$1.1 million in damages. According to the complaint, Mr. Mitchell sent Deputy Hall a "threatening" email at work, filed a complaint in the Sheriff's Office about the deputy's alleged on-duty misconduct, and bad mouthed him to his coworkers. Upon investigation, the Sheriff's Office determined that Mr. Mitchell's allegations "were unfounded." Yet

¹ Under the rules of this Court, as a memorandum opinion, this opinion may not be published, "cited[,] or relied on for any reason in any unrelated case." TENN. CT. APP. R. 10.

Deputy Hall’s family had allegedly “raised concerns regarding [Mr. Mitchell’s] false allegations.”

Mr. Mitchell petitioned to dismiss the complaint pursuant to the Tennessee Public Participation Act (“TPPA”). *See* Tenn. Code Ann. § 20-17-104(a) (2021). He argued that his conduct was protected by the First Amendment. *See* U.S. CONST. amend. I; TENN. CONST. art. I, §§ 19, 23. In his supporting declaration, he insisted that his statements about Deputy Hall were true. He maintained that he filed a citizen complaint to encourage the County Sheriff’s Office to consider and review an important issue: egregious misconduct by a law enforcement officer. He hoped to deter future misconduct that could detrimentally affect the safety and wellbeing of others in the community. In response, Deputy Hall asserted that Mr. Mitchell was motivated by revenge, not altruism. He submitted a sworn affidavit attesting to Mr. Mitchell’s past misbehavior and some unauthenticated medical records.

The trial court dismissed the complaint with prejudice. *See* Tenn. Code Ann. § 20-17-105(e) (2021). Based on the admissible evidence offered by Mr. Mitchell, the court found that he satisfied his burden of showing that Deputy Hall filed the complaint in response to Mr. Mitchell’s exercise of the right to free speech and the right to petition. *See id.* § 20-17-105(a). The burden then shifted to Deputy Hall to come forward with admissible evidence establishing the essential elements of his legal claim. *See id.* § 20-17-105(b). The court was unable to determine Deputy Hall’s claim based on the allegations in the complaint. Even if the court agreed that the complaint stated a claim for defamation, as Deputy Hall suggested at the hearing, it found that he failed to make the requisite showing.

II.

A.

On appeal, Deputy Hall asks this Court to review four issues: (1) whether the trial court abused its discretion when it denied his motion to amend the complaint; (2) whether the complaint stated a claim for relief; (3) whether the TPPA applied to this action; and (4) if it did, whether the court erred in dismissing the complaint. Based on deficiencies in Deputy Hall’s appellate brief, Mr. Mitchell asserts these issues are waived.

“An issue may be deemed waived, even when it has been specifically raised as an issue, when the brief fails to include an argument satisfying the requirements of Tenn. R. App. P. 27(a)(7).” *Hodge v. Craig*, 382 S.W.3d 325, 335 (Tenn. 2012). Rule 27(a)(7) requires appellants to present a written argument setting forth their contentions and reasoning with respect to each issue, including why their contentions warrant appellate relief. TENN. R. APP. P. 27(a)(7). The argument should include appropriate references to the record and citations to relevant legal authority. *Id.* It is not our role “to research or

construct a litigant's case or arguments for him.” *Sneed v. Bd. of Pro. Resp.*, 301 S.W.3d 603, 615 (Tenn. 2010).

Because Deputy Hall's written argument is woefully deficient, we deem his issues waived. The argument section of his brief contains no references to the record or citations to legal authority. It consists of little more than statements of fact interspersed with unsupported legal assertions without any explanation as to why his contentions warrant appellate relief. He says nothing about the sufficiency of his complaint or his efforts to amend it. He does not challenge the evidence Mr. Mitchell submitted in support of his petition to dismiss or argue that this evidence failed to establish a *prima facie* case. Nor does he point to any admissible evidence he submitted to establish the essential elements of his claim.

B.

But our waiver ruling does not fully dispose of this appeal. Mr. Mitchell raises two issues of his own. First, he seeks an award of appellate attorney's fees based on the TPPA. If a court dismisses a petition under the TPPA, the statute provides that the court “shall award” the petitioner “reasonable attorney's fees . . . incurred in filing and prevailing upon the petition.” Tenn. Code Ann. § 20-17-107(a) (2021). Because he is entitled to an award of appellate attorney's fees under these circumstances, we grant his request. *See Nandigam Neurology, PLC v. Beavers*, 639 S.W.3d 651, 670 (Tenn. Ct. App. 2021). We remand for the trial court to determine an appropriate amount. *See Killingsworth v. Ted Russell Ford, Inc.*, 205 S.W.3d 406, 411 n.2 (Tenn. 2006).

Mr. Mitchell's second issue concerns the trial court's decision on an ancillary matter. After the hearing on the petition to dismiss, Deputy Hall asked the court to compel opposing counsel to provide contact information for the court reporter who transcribed the hearing. Deputy Hall's counsel claimed that he had hired a court reporter for the hearing, but “unbeknownst” to him, opposing counsel cancelled his court reporter and “scheduled her own.” He only discovered this problem when he tried to obtain a copy of the transcript. Mr. Mitchell's counsel denied any wrongdoing and suggested that Deputy Hall's court reporter failed to appear at the hearing for unrelated reasons. And she argued that Deputy Hall was not entitled to a copy of the transcript because he did not offer to share in the court reporter's per diem.

The trial court implicitly resolved the factual dispute in Deputy Hall's favor. Under the circumstances, the court granted the motion and ordered defense counsel to provide the contact information and any necessary authorizations within 24 hours. It ordered Deputy Hall to pay one-half of the court reporter's per diem rate for the hearing and the full fee for a copy of the transcript.

Mr. Mitchell contends that the order was “lawless and wrong,” so we should reverse or vacate it. But, as he concedes, Mr. Mitchell has already complied with the court’s order, and Deputy Hall has obtained a copy of the transcript. So we must consider whether this issue remains justiciable given these post-judgment facts. *See Shaw v. Metro. Gov’t of Nashville & Davidson Cnty.*, 651 S.W.3d 907, 911 (Tenn. 2022). Mootness is a justiciability doctrine. For this Court to render a decision, we must be faced with a legal controversy, meaning there is a disputed issue that “is real and existing and not theoretical or abstract.” *Norma Faye Pyles Lynch Fam. Purpose LLC v. Putnam Cnty.*, 301 S.W.3d 196, 203 (Tenn. 2009) (citations omitted). An issue that “no longer serves as a means to provide some sort of judicial relief to the prevailing party” is moot. *Id.* at 204 (citations omitted).

We have discretion to consider a moot issue under exceptional circumstances. *See McIntyre v. Traugher*, 884 S.W.2d 134, 137 (Tenn. Ct. App.1994) (“Decisions concerning whether to take up cases that fit into one of the exceptions to the mootness doctrine are discretionary with the appellate courts.” (citation omitted)). Mr. Mitchell asserts that he still faces collateral consequences from the court’s disclosure order, a recognized exception to the mootness doctrine. *See Norma Faye Pyles Lynch Fam. Purpose LLC*, 301 S.W.3d at 204. According to Mr. Mitchell, he may have to pay Deputy Hall’s share of the court reporter’s per diem and/or attorney’s fees. But this appears to be mere conjecture. We find no indication in the appellate record that Mr. Mitchell currently owes any money. *See Hudson v. Hudson*, 328 S.W.3d 863, 866 (Tenn. 2010) (explaining that this exception applies to “prejudicial collateral consequences”). To the extent Mr. Mitchell remains liable for Deputy Hall’s share of the court reporter fees, he has a remedy in the trial court. Nor has Mr. Mitchell pointed us to a court order legally obligating him to pay a portion of Deputy Hall’s attorney’s fees.

Finally, Mr. Mitchell urges us to vacate the court’s order even if this issue is moot. Vacatur “clears the path for future relitigation of the issues between the parties and eliminates a judgment, review of which was prevented through happenstance.” *U.S. v. Munsingwear, Inc.*, 340 U.S. 36, 40 (1950). And it precludes the unreviewable judgment “from spawning any legal consequences.” *Id.* at 41. We decline to vacate the court’s order under these circumstances.

III.

We affirm the trial court’s judgment. Mr. Mitchell is awarded reasonable attorney’s fees on appeal as mandated by the TPPA. The case is remanded for determination of an appropriate amount of fees and such further proceedings as may be necessary and consistent with this opinion.

s/ W. Neal McBrayer

W. NEAL McBRAYER, JUDGE