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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

VASU D. ARORA,

Plaintiff and Appellant,

v.

ARNOLD LAUB, et al.,

Defendants and Respondents.

A144579

(San Francisco County
Super. Ct. No. CGC-13-533184)

Plaintiff Vasu Arora appeals from an order denying a motion for reconsideration of an *earlier* order denying a motion to *vacate* a judgment dismissing his complaint. The same order adjudged him a vexatious litigant.

We affirm.

BACKGROUND

Arora initiated this action in 2013 against his former employer attorney, Arnold Laub, and various business entities associated with Laub’s law practice (Law Offices of Arnold Laub, 807 Montgomery Associates, LLC, and Arnold Laub) alleging claims in connection with Arora’s alleged wrongful discharge from Laub’s employment. Arora had previously filed a similar action in San Francisco Superior Court against Laub in 2010, which the parties settled in 2012. Arora’s first cause of action was for unlawful discrimination, seeking damages, back pay, wages and various penalties. The other cause of action was for “breach” of the 2012 settlement agreement, alleging the settlement agreement was void and unenforceable on a number of grounds.

The defendants successfully demurred to both causes of action. The trial court sustained the demurrer to Arora's first cause of action without leave to amend, on the grounds both that it was barred by res judicata due to the previous state court litigation and also barred by a release contained in the 2012 settlement agreement. Arora was granted leave to amend the second cause of action concerning the settlement agreement, within 10 days. Arora didn't timely amend the complaint thereafter, the defendants successfully moved to dismiss the action and, on July 29, 2014, the trial court entered a judgment of dismissal.

Arora then moved to vacate the judgment, and the trial court denied his motion on August 22, 2014. Then followed a series of filings by Arora, culminating in a motion filed nearly two months later, on October 15, 2014, seeking reconsideration of the August 22, 2014 ruling. The defendants responded, meanwhile, by filing a motion asking the trial court to declare Arora a vexatious litigant. Both motions were heard and argued on January 22, 2015, and, in a single written order, the trial court both granted the motion to declare Arora a vexatious litigant and denied Arora's motion for reconsideration. Arora then initiated this appeal from the January 22, 2015 order.

We affirm the trial court's order, on multiple grounds.

First, despite having been declared a vexatious litigant, Arora did not obtain permission from the administrative presiding justice of this court to proceed with this appeal. (See Code Civ. Proc., § 391.7, subd. (c); *McColm v. Westwood Park Assn.* (1998) 62 Cal.App.4th 1211, 1217, disapproved on another ground in *John v. Superior Court* (2016) 63 Cal.4th 91, 99, fn. 2; *Say & Say, Inc. v. Ebershoff* (1993) 20 Cal.App.4th 1759, 1761–1762.) The consequence, among other things, is that we could refer the appeal to our administrative presiding justice in order to have it immediately stayed, and then possibly dismissed if Arora did not secure permission to proceed.¹ We decline to

¹ Section 391.7, subdivision (c) states in relevant part: “The clerk may not file any litigation presented by a vexatious litigant subject to a prefiling order unless the vexatious litigant first obtains an order from the presiding justice or presiding judge permitting the filing. If the clerk mistakenly files the litigation without the order, any

take that step, only because the defendants did not bring this to our attention nor request the court to require a bond, the appeal is now fully briefed, and we are in just as good a position as our administrative presiding justice to decide if this appeal “has merit” and we conclude it does not. (See Code Civ. Proc., § 391.7, subd. (b).)

Arora’s appellate briefing is rambling and largely unintelligible, it has no factual summary, and no citations to the record. We reject his appeal on this ground alone. “ ‘It is the duty of a party to support the arguments in its briefs by appropriate reference to the record, which includes providing exact page citations.’ [Citations.] If a party fails to support an argument with the necessary citations to the record, that portion of the brief may be stricken and the argument deemed to have been waived.” (*Duarte v. Chino Community Hospital* (1999) 72 Cal.App.4th 849, 856; accord, *Jumaane v. City of Los Angeles* (2015) 241 Cal.App.4th 1390, 1406 [“The court is not required to make an independent search of the record and may disregard any claims when no reference is furnished”]; *Cassidy v. California Bd. of Accountancy* (2013) 220 Cal.App.4th 620, 628 [“We disregard assertions and arguments that lack record references [citations] or lack citations to legal authority”].) Although Arora is not represented by counsel, “he must ‘be treated like any other party and is entitled to the same, but no greater consideration than other litigants and attorneys.’ ” (*Cassidy*, at p. 628.) Simply put, his briefing makes for hard work, and we are unable to glean any meaningful factual or legal analysis. (See *Singh v. Lipworth* (2014) 227 Cal.App.4th 813, 817 [all points asserted on appeal held forfeited, where opening brief was “a rambling and disjointed series of accusations, . . . none of which can be considered ‘meaningful legal analysis supported by citations to

party may file with the clerk and serve, or the presiding justice or presiding judge may direct the clerk to file and serve, on the plaintiff and other parties a notice stating that the plaintiff is a vexatious litigant subject to a pre-filing order as set forth in subdivision (a). The filing of the notice shall automatically stay the litigation. The litigation shall be automatically dismissed unless the plaintiff within 10 days of the filing of that notice obtains an order from the presiding justice or presiding judge permitting the filing of the litigation as set forth in subdivision (b).”

authority and citations to facts in the record that support the claim of error,’ ” and argument section “contains no citations to the record at all”].)

Second, from what we can tell, the trial court denied Arora’s motion for reconsideration on the ground it was untimely, yet nowhere in the briefing can we discern any argument by Arora that the motion *was* timely. Therefore, any challenge to the correctness of the court’s ruling on that ground has been forfeited, because a party’s failure to brief an issue “constitutes a waiver or abandonment of the issue on appeal.” (*Behr v. Redmond* (2011) 193 Cal.App.4th 517, 537.) As a result, we cannot disturb the ruling. “[I]t is settled that: ‘[a] judgment or order of the lower court is *presumed correct* . . . and error must be affirmatively shown. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.’ ” (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.)

We are hard-pressed to discern any error in the vexatious litigant ruling, too.² The trial court declared Arora a vexatious litigant under Code of Civil Procedure section 391, subdivision (b)(2). That provision applies to a person who, “[a]fter a litigation has been finally determined against the person, repeatedly relitigates or attempts to relitigate, in propria persona, either (i) the validity of the determination against the same defendant or defendants as to whom the litigation was finally determined or (ii) the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the final determination against the same defendant or defendants as to whom the litigation was finally determined.” (Code Civ. Proc., § 391, subd. (b)(2).) Arora challenges this ruling on the ground that “[t]here was not a shred of evidence qualifying [him] for this vexatious litigant determination” But Arora’s only support for this statement is,

² We review a vexatious litigant order deferentially. “ ‘ “A court exercises its discretion in determining whether a person is a vexatious litigant. [Citation.] We uphold the court’s ruling if it is supported by substantial evidence. [Citations.] On appeal, we presume the order declaring a litigant vexatious is correct and imply findings necessary to support the judgment.” ’ ” (*In re Marriage of Rifkin & Carty* (2015) 234 Cal.App.4th 1339, 1346.)

“Please see Court Rept. Transcript already submitted” where Arora contends “[t]hese were pointed out repeatedly by Arora to the Court” We disregard arguments in the brief that merely incorporate by reference arguments made below. (See *Serri v. Santa Clara University* (2014) 226 Cal.App.4th 830, 854.) Furthermore, his brief “must set forth all of the material evidence bearing on the issue . . . and it also must show how the evidence does not sustain the challenged finding. [Citations.] Where, as here, the appellant fails to set forth all of the material evidence, a claim of insufficiency of the evidence fails.” (*Grassilli v. Barr* (2006) 142 Cal.App.4th 1260, 1278–1279.) And again, Arora’s failure cogently to explain the facts, much less provide appropriate record citations, doubly forfeits this issue. From what we can tell, it appears that multiple lawsuits were filed over a period of time, with overlapping parties *and* issues which would bring Arora well within the contemplation of the vexatious litigant statute. It is the appellant’s burden to demonstrate error (*Denham v. Superior Court, supra*, 2 Cal.3d at p. 564), and we will not sift through three volumes of clerk’s transcript to sort out the details for ourselves.

In his reply brief, Arora contends—again without citing anything in the record—that the prior “[l]itigation has not been finally determined against the defendants,” (underscore omitted) because the time to appeal had not yet expired, and he also appears to suggest that appeals apparently are pending. He also argues in his reply brief that neither the parties nor the causes of action were the same in the prior actions. We disregard these contentions because they were raised for the first time in a reply brief and thus have been forfeited. (See *Mt. Hawley Ins. Co. v. Lopez* (2013) 215 Cal.App.4th 1385, 1426.) By proceeding in this fashion, Arora deprived defendants of an opportunity to address these points. We also note that even if the judgments weren’t yet final when the trial court considered them in declaring Arora a vexatious litigant, Arora didn’t show that he had, or would, appeal any of the judgments. So any error would appear to be harmless.

Finally, Arora makes a number of arguments that appear to be directed to the merits of the demurrer ruling and/or the denial of Arora’s motion to vacate the judgment.

We lack jurisdiction to consider such issues, as neither the judgment nor the denial of Arora's motion to vacate it have been appealed.

DISPOSITION

The January 22, 2015 Order Re: Motion To Declare Vasu D. Arora A Vexatious Litigant; And Order Denying Motion To Reconsider is affirmed. Defendants are awarded their costs on appeal.

STEWART, J.

We concur.

KLINE, P.J.

RICHMAN, J.