IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

RACHEL WHITEHEAD,	)	
	)	
Respondent,	)	
	)	**WD88216**
v.	)	
	)	**OPINION FILED:**
	)	**August 4, 2026**
ZACKERY TODD MOORE JR.,	)	
	)	
Appellant.	)	

Appeal from the Circuit Court of Jackson County, Missouri
The Honorable Adam L. Caine, Judge

Before Division One: Gary D. Witt, Presiding Judge, Mark D. Pfeiffer, Judge, and Thomas N. Chapman, Judge

Mr. Zackery Moore Jr. ("Father") appeals *pro se* from the judgment of the Circuit Court of Jackson County, Missouri ("family court"), arguing that the family court erred in granting Ms. Rachel Whitehead's ("Mother") Motion for Family Access filed against Father. Because Father fails to provide this Court with a record on appeal necessary to determine the issues raised in his brief, we dismiss his appeal.

Procedural History

Mother filed her Motion for Family Access alleging that on two separate occasions, February 18, 2025, and June 3-8, 2025, Father denied or interfered with Mother's custody rights under the parties' existing custody judgment. Father responded to Mother's motion, which detailed his interpretation of the parenting time incidents.

The family court held an evidentiary hearing on Mother's Motion for Family Access. The family court entered its Family Access Judgment on July 18, 2025. The judgment states, in relevant part:

> 2. As to the family access motion for February 18, 2025, *upon the evidence presented*, . . . the court finds that there was no denial of or interference with custody[] . . . or that there was good cause to deny or interfere with custody[] . . . under the judgment of dissolution, legal separation, paternity or modification. . . .
>
> 3. As to the family access motion for June 3 - 8, 2025, *upon the evidence presented*, . . . the court finds that there was a denial or interference with custody[] . . . under the judgment of dissolution, legal separation, paternity or modification without good cause.

(Emphasis added.) The family court granted the following relief to Mother:

- Mother shall receive one week of compensatory parenting time with the minor child;[1]
- Father shall pay the cost of six months of co-parenting counseling, and after six months, the parties share the costs equally as directed in the judgment; and
- Father shall pay court costs incurred in enforcing the judgment.

[1] Pursuant to the directive of section 509.520.1(7) (Supp. IV 2025), we do not use the names of any minors in this opinion.

Father timely appealed. On October 29, 2025, this Court notified Father that his appeal had been placed on the dismissal docket for failure to timely file the record on appeal and that his appeal would be dismissed unless Father submitted the record on appeal before November 13, 2025. Father subsequently filed three motions requesting an extension of time to file the record on appeal—all of which were granted by this Court. In Father's December 12, 2025 motion requesting an extension of time, Father stated that the record on appeal would consist only of the legal file and that he was expressly electing not to file a transcript in this appeal because he believed the issues on appeal could be fully addressed based on the legal file alone. This Court acknowledged receipt of Father's legal file on January 6, 2026.

Father's initial brief was stricken by order of this Court for failing to comply with Rule 84.04.[2] Father then filed an amended appellant's brief.

Analysis

Father raises three points on appeal. Point I alleges that the family court's award of parenting time *exceeded the evidence presented*. Point II alleges that the family court erred in imposing sanctions because *there was insufficient evidence* to order sanctions. And, Point III contains extensive argument about the parties' course of conduct as demonstrated by *the evidence* presented to the family court.

[2] All rule references are to I MISSOURI COURT RULES – STATE 2025.

Because Father has failed to provide the required transcript of the *evidentiary* proceedings documenting the *evidence* relied upon by the family court in arriving at its judgment, we cannot review the merits of his claims of *evidentiary* error on appeal.

Father appears *pro se*, which he has the right to do. *Pearson v. Keystone Temp. Assignment Grp., Inc.*, 588 S.W.3d 546, 549 (Mo. App. E.D. 2019). *Pro se* appellants are not, however, given preferential treatment and must comply with the same rules as attorneys. *Maxwell v. Div. of Emp. Sec.*, 671 S.W.3d 742, 746 (Mo. App. W.D. 2023). *Pro se* litigants must comply with the Missouri Supreme Court Rules dictating the requirements for appellate proceedings before appellate courts. *Acton v. Rahn*, 611 S.W.3d 897, 900-01 (Mo. App. W.D. 2020). Compliance with the requirements of the Missouri Supreme Court Rules is mandatory for all appellants to guarantee that this Court does not become an advocate for either party by speculating on the underlying facts, evidence, or arguments below that relate to the judgment from which the appeal is taken. *R.M. v. King*, 671 S.W.3d 394, 397 (Mo. App. W.D. 2023).

"Rule 81.12(a) provides that the record on appeal shall contain all of the record, proceedings and evidence necessary to the determination of all questions to be presented." *Pickett v. Bostwick*, 667 S.W.3d 653, 662 (Mo. App. W.D. 2023) (citation modified). The record on appeal "is divided into two components: the legal file and the transcript." Rule 81.12(a). "It is the duty of an appellant to furnish a transcript containing a record of the proceedings which he desires to have reviewed. In the absence of such record there is nothing for the appellate court to decide." *Vogel v. Steffen*, 628

S.W.3d 224, 227 (Mo. App. W.D. 2021) (quoting *Milone v. Duncan*, 245 S.W.3d 297, 301 (Mo. App. W.D. 2008)); Rule 81.12(c).

"The 'failure to provide a transcript is more than a procedural deficiency.'" *In re S.R.W.*, 715 S.W.3d 223, 227 (Mo. App. W.D. 2025) (quoting *In re T.C.T.*, 165 S.W.3d 529, 533 (Mo. App. W.D. 2005)). "Without a transcript, we lack the necessary information to rule with any degree of confidence in the fairness, reasonableness and accuracy of our final conclusion." *Equity Tr. Co. v. Givhan*, 604 S.W.3d 921, 922 (Mo. App. W.D. 2020) (quoting *Dale v. Dir., Mo. Dep't of Soc. Servs., Family Support & Children's Div.*, 285 S.W.3d 770, 772 (Mo. App. S.D. 2009)). "Failure to comply with [Rule 81.12] is grounds for dismissal." *Id.* at 922 (quoting *Bishop v. Heartland Chevrolet, Inc.*, 152 S.W.3d 893, 897 (Mo. App. W.D. 2005)).

Here, the family court held an evidentiary hearing on Mother's Motion for Family Access before the court entered its Family Access Judgment. The judgment expressly states that the family court issued its findings "upon the evidence presented."

Thus, the transcript of the evidentiary hearing is a necessary and integral part of the record on appeal because Father's arguments in his appeal take issue with the evidence (or lack thereof) presented at the evidentiary hearing. *See Alagha v. Cottle Auto. Repair, Inc.*, 715 S.W.3d 580, 586 (Mo. App. W.D. 2025) ("A transcript is necessary to this appeal because, as best as we can discern, Alagha raises issues related to the trial court's ruling on his claim for damages . . . . Without a transcript, we lack the necessary record to assess his claims and a means to determine if the trial court committed reversible error.").

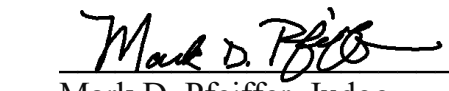
Father's representations to this Court demonstrate that Father was aware of his duty to file a legal file *and transcript* in this appeal. This Court granted three separate motions filed by Father requesting extensions of time to file the record on appeal. Father explicitly represented to this Court, in his last motion for an extension of time, that he had expressly elected *not* to file a transcript in this appeal because he believed the questions raised in his brief could be resolved based upon the legal file alone. We disagree.

Father's failure to file a transcript of the evidentiary hearing with this Court prevents us from reviewing the merits of any of his claims of error. *See id.* at 587 (dismissing the appeal because appellant failed to file the transcript of the evidentiary hearing held on the claims at issue in the appeal); *L.K.B. ex rel. Bethel v. Salmon*, 702 S.W.3d 88, 94 (Mo. App. W.D. 2024) (dismissing the appeal for failure to file a transcript where the judgment "found that the parties presented evidence" and appellant's claim of error hinged on whether appellant objected to certain evidence presented at trial). Without the transcript of the evidentiary hearing, we cannot ascertain what evidence was presented to the family court or if the family court committed reversible error in awarding relief to Mother.[3]

[3] Furthermore, "[w]e are entitled to presume that omitted portions of the record are unfavorable to [Father] and favorable to the [family] court's decision." *State v. Escalona*, 619 S.W.3d 612, 615 n.3 (Mo. App. W.D. 2021) (quoting *State v. Richter*, 504 S.W.3d 205, 208 n.3 (Mo. App. W.D. 2016)).

Conclusion

Therefore, we dismiss Father's appeal for failure to provide this Court with the required record on appeal necessary to resolve the questions raised in his appeal.[4]



Mark D. Pfeiffer, Judge

Gary D. Witt, Presiding Judge, and Thomas N. Chapman, Judge, concur.

[4] There are numerous other briefing deficiencies with Father's appellate brief that would also independently support dismissal of Father's appeal.

First, Rule 84.04(c) requires that the statement of facts "shall be a fair and concise statement of the facts." And, such statement of facts must be presented "in the light most favorable to the [judgment], not simply recount[ing] appellant's version of the events." *Whitehead v. Moore*, 728 S.W.3d 871, 876 (Mo. App. W.D. 2025) (quoting *McKenna v. McKenna*, 717 S.W.3d 634, 641 (Mo. App. W.D. 2025)). "The failure to substantially comply with Rule 84.04(c) 'preserves nothing for review and is a sufficient basis to dismiss an appeal.'" *Id.* (quoting *Shelton v. Shelton*, 717 S.W.3d 810, 815 (Mo. App. W.D. 2025)). Here, Father's statement of facts is nothing more than his argumentative version of the events relevant to the appeal.

Second, Father's brief includes two citations to cases that do not exist in the reporter he cites, and he additionally cites one case for a legal proposition that cannot be reasonably inferred from that case. Citing non-existent case law or misrepresenting the holdings of an existing case is "a flagrant violation of the duties of candor Appellant owes to this Court," which warrants dismissal of an appeal. *See Kruse v. Karlen*, 692 S.W.3d 43, 52 (Mo. App. E.D. 2024).