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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION TWO

JESSE WASHINGTON,

Plaintiff and Appellant,

v.

LOS ANGELES SUPERIOR COURT,

Defendant and Respondent.

B265015

(Los Angeles County  
Super. Ct. No. BS152819)

APPEAL from an order of the Superior Court of Los Angeles County. James C. Chalfant, Judge. Affirmed.

Jesse Washington, in. pro. per. for Plaintiff and Appellant.

Frederick R. Bennett for Defendant and Respondent.

Jesse Washington (appellant) appeals from an order dismissing his case. Appellant has failed to meet his burden of establishing that the trial court erred. Specifically, appellant has failed to provide citations to applicable law and the record on the issue of whether the trial court abused its discretion in dismissing the matter for failure to prosecute. Therefore, we affirm the order.

## **BACKGROUND**

### **Proceedings in the trial court**

On June 27, 1996, appellant was convicted by jury of burglary in the first degree under Penal Code section 459.

On January 6, 2015, appellant filed a writ of replevin, naming the Los Angeles County Superior Court as defendant. The writ alleged the following: in the criminal action, appellant was assessed financial responsibility pursuant to Penal Code section 18, subdivision (b). Appellant's trial counsel failed to inform appellant of the financial obligations imposed. Due to trial counsel's failure to inform appellant of the financial responsibility, appellant was held liable for unpaid fines and a judgment of default was entered against him. The court imposed a lien on certain unidentified real property. Through his writ, appellant sought a release of the lien on the real property by posting of adequate security.<sup>1</sup>

On June 2, 2015, the trial court held a hearing on its order to show cause re: dismissal for failure to prosecute. The matter was called for hearing, and there was no appearance on behalf of the respondent. The court conferred with appellant regarding his request to be released from prison. The court indicated that it

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<sup>1</sup> The record on appeal does not contain any documents related to the underlying proceedings that gave rise to appellant's allegations.

was unable to grant appellant's request, and as such, it was denied. The case was ordered dismissed on that date.

On June 18, 2015, appellant filed his notice of appeal from the dismissal.

### **Proceedings on appeal**

On May 18, 2017, an order of dismissal was filed in the Court of Appeal. On June 6, 2017, the order of dismissal was vacated and the matter reinstated.

On January 11, 2018, appellant filed his opening brief. Appellant seeks reversal of the trial court's order dismissing his civil complaint and remand to accept certain bonds and release the lien. Appellant's opening brief does not address the issue of whether the trial court abused its discretion in dismissing the matter for failure to prosecute.

The clerk of the Court of Appeal inquired of the named respondent, Los Angeles Superior Court, whether it intended to file a response to appellant's opening brief. On March 6, 2018, the Superior Court in response, filed a letter indicating that it did not make an appearance in the trial court in this matter and is not a proper respondent in the appeal. The Superior Court cited *Steen v. Appellate Division of Superior Court* (2014) 59 Cal.4th 1045, 1050, footnote 1, for the proposition that, with certain exceptions not relevant here, "Courts have no beneficial interest in the outcome of the cases they decide and are not entitled to litigate the correctness of their rulings in a reviewing court. [Citations.]"

On March 19, 2018, appellant filed a reply to the Superior Court's March 6, 2018 letter. Appellant argued that the Los Angeles County Superior Court has been the only respondent in this matter. Thus, appellant requested that this court hold respondent in default on appeal and remand the matter to the trial court.

## DISCUSSION

The Court of Appeal reviews errors in an order or decision of the trial court. (Code Civ. Proc., § 906.) The order appealed from in this matter is an order of dismissal for failure to prosecute. Thus, the sole issue on appeal is whether the trial court abused its discretion in dismissing the matter for failure to prosecute. (*Lopez v. State of California* (1996) 49 Cal.App.4th 1292, 1295.) An exercise of trial court discretion will be disturbed only for clear abuse. (*Denham v. Superior Court of Los Angeles County* (1970) 2 Cal.3d 557, 564.)

Because appellant has not addressed this issue in his opening brief, appellant has forfeited his claim of error. “Generally, appellants forfeit or abandon contentions of error regarding the dismissal of a cause of action by failing to raise or address the contentions in their briefs on appeal. [Citations.]” (*Wall Street Network, Ltd. v. New York Times Co.* (2008) 164 Cal.App.4th 1171, 1177.)

Respondent’s failure to file a brief does not result in default on appeal. Instead, the court may decide the appeal on the record. (Cal. Rules Court, rule 8.220(a)(2).) “[A]ppellant still has the affirmative burden of establishing error, and respondent’s failure to contest the appeal does not require an automatic reversal. [Citations.]” (*In re Janette H.* (1987) 196 Cal.App.3d 1421, 1426.)

A trial court judgment is presumed correct. (*Swigart v. Bruno* (2017) 13 Cal.App.5th 529, 535.) Appellant has the burden of establishing reversible error as to the order of dismissal. (*Ibid.*) Because appellant failed to address the issue of whether the trial court erred in dismissing his writ of replevin for failure to prosecute, appellant has failed to meet his burden of establishing error.

**DISPOSITION**

The order is affirmed.

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\_\_\_\_\_, J.  
CHAVEZ

We concur:

\_\_\_\_\_, P. J.  
LUI

\_\_\_\_\_, J.  
ASHMANN-GERST