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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

MICHELLE TREFETHEN,

Plaintiff and Appellant,

v.

JOSEPH PUERTA,

Defendant and Respondent.

B278554

(Los Angeles County
Super. Ct. No. NC059881)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Michael P. Vicencia, Judge. Affirmed.

Michelle Trefethen, in pro. per., for Appellant.

No appearance by Respondent.

INTRODUCTION

Michelle Trefethen appeals from the judgment entered after the trial court found her liable to Joseph Puerta for slander, libel, and emotional distress. Because the record on appeal is inadequate to demonstrate the trial court committed any error and because Trefethen has not shown reversal would result in a more favorable judgment, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

As best we can tell from Trefethen's four-page opening brief and the virtually nonexistent record, this is what happened: In January 2015 Trefethen sued Puerta for assault, battery, and declaratory relief. The causes of action for assault and battery rested on allegations Trefethen had contracted a sexually transmitted disease from Puerta. The cause of action for declaratory relief rested on allegations relating to an alleged interest in real property. Puerta filed a cross-complaint asserting causes of action for slander per se, libel per se, and emotional distress, presumably alleging what Trefethen admits on appeal, namely, that she told a number of other people she had contracted the sexually transmitted disease from Puerta because she wanted to "warn[] those who had been exposed."

After a court trial, at which there was no court reporter and for which neither party requested a statement of decision, the trial court ruled in favor of Trefethen on her cause of action for battery, awarding her \$50,000 in damages, and against her on her other causes of action. The court ruled in favor of Puerta on all his causes of action, awarding him a total of \$50,000. The

court netted the amounts and entered judgment awarding neither party any damages. Trefethen timely appealed.

DISCUSSION

In her brief on appeal Trefethen states that “[t]his appeal is to address the incorrect decision of ‘slander’” on Puerta’s cross-complaint. She argues that “[t]ruth was the defense offered against the charge of ‘Slander’” and that it was indeed true that she contracted a sexually transmitted disease from Puerta. She describes her attorney’s attempt to establish that truth at trial, which she suggests he bungled intentionally because he and counsel for Puerta “conspired . . . to ‘throw the case.’”¹

“A judgment of the trial court is presumed to be correct, and all intendments and presumptions are indulged to support it on matters as to which the record is silent. [Citation.] It is the appellant’s burden to affirmatively demonstrate reversible error.” (*California Pines Property Owners Assn. v. Pedotti* (2012) 206 Cal.App.4th 384, 392.) “As part of that burden, the appellant must identify each order that [s]he asserts is erroneous, cite to the particular portion of the record wherein that ruling is contained, and identify what particular legal authorities

¹ Trefethen does not argue that the ruling in her favor on her cause of action for battery and the rulings in Puerta’s favor on his causes of action rested on inconsistent findings of fact. (See *Stillwell v. The Salvation Army* (2008) 167 Cal.App.4th 360, 374 [“‘[w]here the findings are contradictory on material issues, and the correct determination of such issues is necessary to sustain the judgment, the inconsistency is reversible error’”].) Even if she had, the inadequacy of the record, as discussed below, would prevent us from meaningfully evaluating the argument.

show error with respect to each challenged order.” (*County of Orange v. Smith* (2005) 132 Cal.App.4th 1434, 1443; see *Lincoln Fountain Villas Homeowners Assn. v. State Farm Fire & Casualty Ins. Co.* (2006) 136 Cal.App.4th 999, 1003, fn. 1 [“to overcome presumption on appeal that an appealed judgment or order is presumed correct, appellant must provide adequate record demonstrating error”]; see also *Foust v. San Jose Construction Co., Inc.* (2011) 198 Cal.App.4th 181, 187 [“the cardinal rule of appellate review [is] that a judgment or order of the trial court is presumed correct and prejudicial error must be affirmatively shown”].) We acknowledge a self-represented litigant’s understanding of the rules on appeal is likely more limited than an experienced appellate attorney’s, and, whenever possible, we will not strictly apply technical rules of procedure in a manner that deprives litigants of a hearing. Nevertheless, we must apply these principles and substantive rules to a self-represented litigant’s arguments on appeal, just as we would to those litigants who are represented by attorneys. (See *Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984-985.)

Although Trefethen’s appeal purportedly challenges an “incorrect decision” by the trial court, her argument focuses on her attorney, who she contends asked Puerta “the wrong question” at a key moment in the trial. But even assuming Trefethen is challenging the trial court’s ruling in favor of Puerta on his cause of action for slander, the inadequacy of the record prevents meaningful review of that decision. (See *People ex rel. Harris v. Shine* (2017) 16 Cal.App.5th 524, 533 [““if the record is inadequate for meaningful review, the appellant defaults and the decision of the trial court should be affirmed””].)

The only documents in the record are the case summary from the superior court website, Trefethen's notices of appeal and designation of the record on appeal, and a proof of service for the latter. We cannot rely on Trefethen's descriptions of the trial proceedings because they are not supported by citations to the record. (See *Humboldt County Adult Protective Services v. Superior Court* (2016) 4 Cal.App.5th 548, 555 [disregarding unsupported factual assertions in a brief].) We must therefore presume the trial court's ruling was correct.

Moreover, "[g]enerally, an appellant must demonstrate prejudice to obtain a reversal." (*Wells Fargo Bank, N.A. v. 6354 Figarden General Partnership* (2015) 238 Cal.App.4th 370, 393.) "Prejudice is not presumed, and the burden is on the appealing party to demonstrate that a miscarriage of justice has occurred.' [Citation.] To establish prejudice, an appellant must show a reasonable probability exists that, in the absence of the error, he or she would have obtained a more favorable result." (*People ex rel. City of Santa Monica v. Gabriel* (2010) 186 Cal.App.4th 882, 887.)

Even assuming the trial court erred in ruling in Puerta's favor on his cause of action for slander, Trefethen has not shown any such error prejudiced her. The judgment nets the \$50,000 the court awarded her against the \$50,000 the court awarded Puerta, so that neither party recovered any amount from the other. The trial court entered judgment in favor of Puerta not only on his cause of action for slander, but also on his causes of action for libel and emotional distress. Therefore, reversing the court's ruling on the cause of action for slander would not result in a more favorable judgment to Trefethen.

DISPOSITION

The judgment is affirmed. Trefethen is to bear her costs on appeal.

SEGAL, J.

We concur:

PERLUSS, P. J.

FEUER, J.