

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs December 10, 2008

JOSEPH MORGAN v. DARIN HALL ET AL.

**Appeal from the Circuit Court for Davidson County
No. 08C-1339 Thomas W. Brothers, Judge**

No. M2008-01231-COA-R3-CV - Filed February 4, 2009

A former inmate in the Davidson County jail filed a Petition for Permanent Injunction against the Davidson County Sheriff and the Davidson County Sheriff's Office in which he alleged he had been mistreated while incarcerated. The defendants moved to dismiss the former inmate's petition for injunctive relief on the ground that he was no longer incarcerated, and thus his action for injunctive relief was moot. The plaintiff failed to respond to the motion and did not attend the hearing on the motion. The trial court granted the defendants' motion to dismiss from which the plaintiff appealed. Finding no error, we affirm.

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

FRANK G. CLEMENT, JR., J., delivered the opinion of the court, in which ANDY D. BENNETT and RICHARD H. DINKINS, JJ., joined.

Joseph Morgan, Nashville, Tennessee, Pro Se.

Kevin C. Klein, Andrew D. McClanahan and Christopher M. Lackey, Nashville, Tennessee, for the Appellee, Sheriff Daron Hall¹ and Davidson County Sheriff's Office.

¹Plaintiff incorrectly identified Davidson County Sheriff Daron Hall as "Darin" Hall in the caption of the Petition and throughout the petition.

MEMORANDUM OPINION²

Joseph Morgan (“Plaintiff”) filed a Petition for Permanent Injunction in the Circuit Court for Davidson County on April 21, 2008 against the Sheriff of Davidson County and the Davidson County Sheriff’s Office (collectively, “Defendants”) following his release from their custody.

Plaintiff alleges in the Petition that while he was in Defendants’ custody that Defendants: (1) used jailhouse informants to “harass, annoy, and attack” him; (2) held “illegal and meritless” disciplinary board hearings; (3) put foreign objects such as body fluids, chemical cleaning agents, and metal shavings in his food; and (4) turned off the lights in his cell from the control room so he was not able to see “bad food.” The sole relief sought in this action is that of injunctive relief.

On June 3, 2008, Defendants moved to dismiss the Petition for Permanent Injunction for lack of subject matter jurisdiction. In their motion, Defendants contended that Plaintiff was no longer in the custody of the Davidson County Sheriff’s Office; therefore, his petition for injunctive relief was moot. Plaintiff failed to respond to Defendants’ motion or appear at the hearing. When the motion came on for hearing, the trial court dismissed the petition with prejudice on July 8, 2008. This appeal followed.

We find no merit to Plaintiff’s appeal for two reasons. Plaintiff failed to respond to the motion to dismiss or appear at the hearing and therefore has waived the issue. Further, Plaintiff’s request for injunctive relief is moot as he was no longer incarcerated. Accordingly, Plaintiff’s petition was properly dismissed.

The judgment of the trial court is affirmed, and this matter is remanded with costs of appeal assessed against Plaintiff, Joseph Morgan.

FRANK G. CLEMENT, JR., JUDGE

²Tenn. Ct. App. R. 10 states:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.