

IN THE COURT OF APPEALS OF TENNESSEE
WESTERN SECTION AT JACKSON

FILED

RONNIE BRADFIELD,

Plaintiff/Appellant,

vs.

STEVE DOTSON, et al.,

Defendants/Appellees.

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Lake Circuit No. 95-7308

Appeal No. 02A01-9707-CV-00152

February 17, 1998

Cecil Crowson, Jr.

Appellate Court Clerk

APPEAL FROM THE CIRCUIT COURT OF LAKE COUNTY
AT TIPTONVILLE, TENNESSEE

THE HONORABLE R. LEE MOORE, JR., JUDGE

For the Plaintiff/Appellant:

For the Defendants/Appellees:

Ronnie Bradfield, Pro Se
Tiptonville, Tennessee

John Knox Walkup
Kyle P. Sowell
Nashville, Tennessee

**AFFIRMED IN PART, REVERSED IN PART
AND REMANDED**

HOLLY KIRBY LILLARD, JUDGE

CONCUR:

W. FRANK CRAWFORD, P.J., W.S.

ALAN E. HIGHERS, J.

OPINION

In this case, an inmate at a state correctional institution filed a defamation law suit in circuit court against two state employees. The trial court granted summary judgment in favor of the defendants, holding that the Tennessee Claims Commission had exclusive jurisdiction over the matter. The trial court also denied the plaintiff's requests for default judgment. We affirm in part, reverse in part, and remand.

Plaintiff/Appellant Ronnie Bradfield (a.k.a. Paul Farnsworth) ("Bradfield"), an inmate at the Lake County Regional Correctional Facility ("Correctional Facility"), is no stranger to this court. In October of 1995, Bradfield filed a *pro se* complaint in Lake County Circuit Court against Defendant/Appellee Ouida Stamper ("Stamper"), a state probation officer, and Defendant/Appellee Steve Dotson ("Dotson"), an associate warden at the Correctional Facility. Bradfield's complaint alleges:

The defendant(s), willing with Malice and intent, defame the Character of the Plaintiff, as well as, falsified information to the Criminal Courts of Shelby County, on September 20th, 1995. Of information that the Defendant(s) knew was incorrect, as well as, no foundation to prove there action(s) and/or words Slanderous and damaging to the Plaintiff legal Litigation which did affect his legal litigation and cause his serve harm.

In January 1996, the defendants filed a motion for dismissal based on lack of subject matter jurisdiction and lack of personal jurisdiction pursuant to Rules 12.02(1) and 12.02(2) of the Tennessee Rules of Civil Procedure. The motion asserted that the Tennessee Claims Commission has exclusive jurisdiction to hear the case, pursuant to Tennessee Code Annotated § 9-8-307(a)(1)(R) (1997).¹ There were no affidavits or other documents to support the motion.

The trial court granted the defendants' motion. Bradfield appealed the dismissal. This Court, finding "nothing in the record to establish lack of subject matter jurisdiction," issued an order vacating the trial court's order and remanding the case.

On remand, the defendants filed a motion for summary judgment. The motion was supported by affidavits filed by Stamper and Dotson. The affidavits stated that Bradfield's complaint concerned a pre-sentence report prepared and submitted by Stamper and Dotson for use at Bradfield's sentencing hearing. Stamper testified in her affidavit that the pre-sentence report was

¹ This statute provides that the Claims Commission retains exclusive jurisdiction for "[c]laims for libel and/or slander where a state employee is determined to be acting within the scope of employment." *Id.*

the only information she had ever provided to the Shelby County Criminal Court concerning Bradfield. Dotson testified in his affidavit that he never provided any information about Bradfield directly to the Shelby County Criminal Court, but that he provided “certain information . . . regarding [Bradfield’s] adaptation to prison life” to Stamper, with the understanding that this would be included in Bradfield’s presentence report. Both defendants testified that the information was provided “in the course and scope” of their employment with the State.

The trial court granted the defendants’ motion and dismissed the case. From this order, Bradfield now appeals. On appeal Bradfield claims that the trial court erred by failing to award him a default judgment and by dismissing his complaint.

Bradfield first alleges that the trial court erred by failing to grant him a judgment by default. Bradfield filed several motions for default judgment, based on the defendants’ failure to timely respond to his summons and complaint as well as his discovery requests. In several instances, the trial court granted the defendants an extension of time after which the defendants filed a responsive pleading. Whether to grant a motion for default judgment is a decision within the sound discretion of the trial court. *Thomas v. Commissioner of Safety*, No. 01-A-019011-CH-412, 1991 WL 111428, *4 (Tenn. App. June 26, 1991). This argument is without merit.

Bradfield next contends that the trial court erred in granting the defendants’ motion for summary judgment. A motion for summary judgment should be granted when the movant demonstrates that there are no genuine issues of material fact and that the moving party is entitled to a judgment as a matter of law. Tenn. R. Civ. P. 56.03. The party moving for summary judgment bears the burden of demonstrating that no genuine issue of material fact exists. *Byrd v. Hall*, 847 S.W.2d 208, 211 (Tenn. 1993). On a motion for summary judgment, the court must take the strongest legitimate view of the evidence in favor of the nonmoving party, allow all reasonable inferences in favor of that party, and discard all countervailing evidence. *Id.* at 210-11. Summary judgment is only appropriate when the facts and the legal conclusions drawn from the facts reasonably permit only one conclusion. *Carvell v. Bottoms*, 900 S.W.2d 23, 26 (Tenn. 1995). Since only questions of law are involved, there is no presumption of correctness regarding a trial court's

grant of summary judgment. *Id.* Therefore, our review of the trial court’s grant of summary judgment is *de novo* on the record before this Court. *Id.*

Bradfield contends that summary judgment was inappropriate because the defendants did not respond to his discovery requests. Bradfield filed interrogatories and a request for production of documents in November 1995. The record does not reveal that the defendants ever responded to these requests. After the defendants filed their summary judgment motion, Bradfield filed an affidavit asserting that the defendants failed to comply with his discovery requests. This affidavit was in effect a motion to compel discovery, under Rule 37.01 of the Tennessee Rules of Civil Procedure. The trial court did not rule on Bradfield’s assertion that the defendants failed to respond to his discovery requests.

The United States Supreme Court has held that “[l]awful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system.” *Price v. Johnston*, 334 U.S. 266, 285, 68 S.Ct. 1049, 1060, 92 L.Ed. 1356 (1948). The inmate’s interest in pursuing his lawsuit must be weighed against the institutional concerns of the prisons. *See Wolff v. McDonnell*, 418 U.S. 539, 567-69, 94 S.Ct. 2963, 2980-81, 41 L.Ed. 935 (1974).

In *Whisnant v. Byrd*, 525 S.W.2d 152 (Tenn. 1975), the Tennessee Supreme Court discussed a prisoner’s right to pursue civil litigation:

We . . . hold that a prisoner has a constitutional right to institute and prosecute a civil action seeking redress for injury or damage to his person or property, or for the vindication of any other legal right; however, this is a *qualified* and *restricted* right.

Id. at 153 (emphasis added). The *Whisnant* Court noted the danger of courts and wardens being “swamped with an endless number of unnecessary and even spurious lawsuits.” *Id.* (quoting *Tabor v. Hardwick*, 224 F.2d 526 (5th Cir. 1955)).

A prisoner pursuing a civil lawsuit may conduct discovery, but the discovery is subject to appropriate limitations imposed by the trial court. The scope of discovery is within the “sound discretion of the trial court.” *State, Dept. of Commerce & Ins. v. Firsttrust Money Services, Inc.*, 931 S.W.2d 226, 230 (Tenn. App. 1996); *Loveall v. American Honda Motor Co.*, 694 S.W.2d 937, 939 (Tenn. 1985). In *Bell v. Godinez*, 92 C 8447, 1995 WL 519970 (N.D.Ill. Aug. 30, 1995), an

Ohio district court considered a discovery request by a *pro se* inmate plaintiff to conduct oral depositions of prison officials. The court held:

No doubt a prisoner has the right to take discovery, but that right does not necessarily include conducting oral depositions of prison officials if there are compelling reasons weighing against such depositions and if the prisoner is able to obtain the necessary information by written discovery.

Id. at *2. The court found that the prisoner was able to obtain the discovery he needed through “other, less problematic means” that were not “highly disruptive of prison administration.” *Id.*; *see also James v. Roberts*, 163 F.R.D. 260, 261-62 (S.D. Ohio 1995) (weighing an inmate’s rights against prison administrative concerns); *Holt v. Pitts*, 619 F.2d 558, 560-62 (6th Cir. 1980) (same).

We find that it was inappropriate for the trial court to grant the defendants’ motion for summary judgment without considering the Plaintiff’s request that the trial court compel the defendants to respond to his discovery requests. In determining the discovery to which the plaintiff may be entitled, the trial court may limit the discovery to that which is pertinent to the Defendant’s motion for summary judgment, and may weigh the plaintiff’s interests against the institutional concerns of the Correctional Facility. The trial court has wide discretion to fashion appropriate limitations on the scope and manner of the discovery in this case.

In sum, the trial court’s denial of the plaintiff’s motions for default judgment is affirmed. The trial court’s grant of summary judgment in favor of the defendants is reversed. The cause is remanded for the trial court’s consideration of the plaintiff’s motion to compel discovery, and the trial court has discretion to place appropriate limits on the discovery permitted. All remaining issues raised by the plaintiff on appeal are without merit.

The decision of the trial court is affirmed in part, reversed in part, and remanded for further proceedings consistent with this Opinion. Costs are assessed equally against Appellant and Appellees, for which execution may issue.

HOLLY KIRBY LILLARD, J.

CONCUR:

W. FRANK CRAWFORD, P. J., W.S.

ALAN E. HIGHERS, J.