

Commonwealth Of Kentucky

Court Of Appeals

NO. 1997-CA-003093-MR

LAWRENCE M. FROMAN

APPELLANT

v. APPEAL FROM BOYLE CIRCUIT COURT
HONORABLE STEPHEN M. SHEWMAKER, JUDGE
ACTION NO. 96-CI-000094

DR. GEORGE NOE

APPELLEE

OPINION
AFFIRMING
** **

BEFORE: DYCHE, GUIDUGLI, AND MCANULTY, JUDGES.

DYCHE, JUDGE: Appellant is an inmate incarcerated by the Corrections Cabinet ("Corrections"). While he was a prisoner at Northpoint Training Center in Boyle County, he was a patient of appellee, who is an employee of Corrections. He apparently grew dissatisfied with his treatment, and initiated two separate actions against appellee, claiming injury as a result of appellee's neglect or indifference to his medical conditions.

The two actions were consolidated by the Boyle Circuit Court, and discovery requests were traded by the parties. Appellee served appellant with Interrogatories and a Request for Production of Documents on October 10, 1996. Due to appellant's

transfer to another institution, appellee offered, and appellant accepted, an extension of time until January 1, 1997, to respond. He did not do so, and appellee sought a motion to compel; appellant's response to the motion indicated that he was not going to answer because he was dissatisfied with appellee's response to his discovery requests.

On February 11, 1997, the trial court ordered Froman to respond within thirty days. On February 22, 1997, he filed a response, but gave substantive answers to only two of eleven interrogatories, and gave no substantive response to the other request.

On April 9, 1997, appellee moved the trial court to dismiss the action for appellant's failure to comply with the earlier order. Appellant responded to that motion with a motion for judgment on the pleadings. Ky. R. Civ. Pro. 12.03. The trial court denied both motions, and ordered appellant to respond to the discovery requests within ten days of the date of the order.

He did not do so, and appellee again asked the trial court to dismiss the action; appellant responded to the motion by claiming physical disability, limited access to legal resources, and past compliance to the best of his ability. The trial court granted appellee's motion, and this appeal followed. We affirm.

The trial court gave as its reason for dismissal appellant's failure to comply with its February 11 and October 21, 1997, orders. We think this is a sufficient articulation of reason to comply with Greathouse v. American National Bank &

Trust Company, Ky. App., 796 S.W.2d 868 (1990). The facts are clear. Appellant wilfully and repeatedly refused to comply with orders of the trial court, despite multiple opportunities to do so. Dismissal is within the trial court's discretion, and we find no abuse of same.

The order of the Boyle Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Lawrence M. Froman, *Pro Se*
LaGrange, Kentucky

BRIEF FOR APPELLEE:

Amy V. Barker
Justice Cabinet
Frankfort, Kentucky