

STATE OF MICHIGAN
COURT OF APPEALS

PAMELA C. BUSHEY,

Plaintiff-Appellant,

v

MARIE HAUNER and DO BOY DONUTS, INC.,

Defendants-Appellees.

UNPUBLISHED

July 25, 1997

No. 197165

St. Clair Circuit Court

LC No. 96-001198 NZ

Before: Jansen, P.J., and Wahls and P.R. Joslyn*, JJ.

MEMORANDUM.

Plaintiff appeals by right dismissal of her civil rights action based on failure to post security for costs required by the circuit court under MCR 2.109(A). Plaintiff claims that the trial court erred, in light of her indigent status, in granting defendants' motion for security for costs, even in the reduced amount of one-third of the dollar amount defendant requested. This case is being decided without oral argument pursuant to MCR 7.214(E).

It is within a trial court's discretion to order security for costs, and this Court will reverse only when the imposition of security represents an abuse of that discretion. *Dunn v Emergency Physicians Medical Group, PC*, 189 Mich App 519, 522; 473 NW2d 762 (1991); *Hall v Harmony Hills Recreation, Inc.*, 186 Mich App 265, 270; 463 NW2d 254 (1990).

Here, without using plaintiff's indigency as a reason for granting defendants' motion, the trial court properly noted that plaintiff had previously filed an essentially identical complaint with the Michigan Civil Rights Commission, which after investigation determined that there was no factual support for the allegations of pregnancy discrimination. Even if this adjudication did not preclude pursuit of this judicial action on res judicata grounds, such an assessment of the facts of the case by an impartial arbiter fully justifies requiring security for costs even though plaintiff's complaint is not otherwise based on a tenuous legal theory of liability. *Farleigh v Amalgamated Transit Union, Local 1251*, 199 Mich App 631, 634; 502 NW2d 371 (1993). Accordingly, the circuit court did not abuse its discretion in requiring security for costs under these circumstances.

* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Kathleen Jansen
/s/ Myron H. Wahls
/s/ Patrick R. Joslyn