

STATE OF MICHIGAN
COURT OF APPEALS

PAUL E. WABEKE,

Plaintiff-Appellant,

v

CITY OF HOLLAND,

Defendant-Appellee.

UNPUBLISHED

February 23, 1999

No. 207260

Ottawa Circuit Court

LC No. 97-028451 CZ

Before: McDonald, P.J., and Hood and Doctoroff, JJ.

MEMORANDUM.

Plaintiff appeals of right from the trial court order granting defendant's motion for summary disposition and issuing a permanent injunction regarding his filing of further litigation. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed an action for injunctive relief seeking to preclude defendant from expending public monies for a certain project. The complaint was the 17th action filed by plaintiff against defendant and other parties since 1979. The trial court denied plaintiff's motion for a preliminary injunction.

Defendant moved for summary disposition pursuant to MCR 2.116(C)(8), and sought dismissal of the action for the reason that the complaint did not allege that plaintiff would suffer damage as a taxpayer as a result of defendant's actions. In addition, defendant sought entry of a permanent injunction precluding the circuit court clerk from accepting further pleadings from plaintiff absent prior determination that the verification requirements of MCR 2.114 had been met. The trial court granted the motion for summary disposition and dismissed the complaint. The trial court granted the request for injunctive relief, but excepted any action alleging a personal injury resulting from tortious conduct by defendant or defendant's agents from the requirement that any pleadings filed by plaintiff must be found to be in compliance with MCR 2.114. Finally, the trial court assessed costs in the amount of \$500.

On appeal plaintiff, acting in propria persona, argues that the trial court abused its discretion and exceeded its authority by entering the order dismissing the case and imposing sanctions. We disagree and affirm. Entry of the order denying plaintiff's motion for a preliminary injunction did not terminate the case. An order denying a motion for a preliminary injunction is not a decision on the merits of the case.

MCR 3.310(A)(2); *Kuizema v Breen*, 316 Mich 492, 496; 25 NW2d 596 (1947). The order dismissing the complaint constituted the final order in this case.

If a trial court determines that a pleading has been signed in violation of MCR 2.114, imposition of a sanction is mandatory. The determination of an appropriate sanction is within the discretion of the trial court. MCR 2.114(E). We review a trial court's decision regarding the imposition of sanctions to determine if it is clearly erroneous. *Schadewald v Brule*, 225 Mich App 26, 41; 570 NW2d 788 (1997).

The trial court did not clearly err in determining that sanctions were warranted, and did not abuse its discretion by imposing costs in the amount of \$500 and by enjoining the circuit court clerk from accepting any further pleadings from plaintiff without prior approval from a circuit court judge. The trial court found that plaintiff signed the instant complaint in violation of MCR 2.114(D). This suit was the 17th action filed by plaintiff against defendant and other parties since 1979. All previous actions were dismissed. Sanctions were imposed in several cases; however, plaintiff did not pay as ordered. Plaintiff was afforded due process in connection with the imposition of sanctions. See *People v Herrera (On Remand)*, 204 Mich App 333, 339; 514 NW2d 543 (1994). Plaintiff's documented history of filing frivolous actions and ignoring orders warranted imposition of sanctions designed to prevent such actions in the future.

Affirmed.

/s/ Gary R. McDonald

/s/ Harold Hood

/s/ Martin M. Doctoroff