STATE OF MICHIGAN

COURT OF APPEALS

HUSSEIN HAZIME,

Plaintiff-Appellee,

v

JOSEPH LEE BUTLER,

Defendant-Appellant.

UNPUBLISHED
December 28, 2004

No. 249520
Wayne Circuit Court
LC No. 02-228408-CH

Before: Meter, P.J., and Wilder and Schuette, JJ

PER CURIAM.

Defendant appeals as of right from a circuit court order denying his motion for relief from a default judgment. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

I. FACTS

The trial court granted plaintiff's motion for a default judgment against defendant as a sanction for failing to provide discovery. Defendant moved for relief on the ground that he had not received notice of the hearing on the motion. The trial court denied the motion without prejudice.

II. STANDARD OF REVIEW

Whether defendant's motion is deemed one for reconsideration, one to set aside a default judgment or one for relief from judgment, the trial court's ruling is reviewed for an abuse of discretion. *Developers, Inc v Team Ace Joint Venture*, 469 Mich 90, 97; 666 NW2d 623 (2003); . *Jones v Enertel, Inc*, 254 Mich App 432, 434; 656 NW2d 870 (2002); *Churchman v Rickerson*, 240 Mich App 223, 233; 611 NW2d 333 (2000).

III. ANALYSIS

A copy of a motion, a supporting brief, and notice of hearing must be served on the opposing party. MCR 2.107(A)(1); MCR 2.119(C)(1). Because defendant was defending the action on his own behalf, the papers had to be delivered to him personally, left with another responsible person at his address, or sent to him by first class mail. MCR 2.107(B)(3), (C)(2), (3). If the papers are served by mail, service is complete upon mailing. MCR 2.107(C)(3). The

proof of service for the motion shows that the motion and notice of hearing were sent to defendant by first class mail to his home address on March 6, 2003. They were accompanied by a cover letter clarifying that the motion would be heard on March 28th. Documents properly addressed and placed in the mail are presumed to reach their destination. *Crawford v Michigan*, 208 Mich App 117, 121; 527 NW2d 30 (1994), lv den 450 Mich 921 (1995). "This presumption may be rebutted by evidence, but whether it was is a question for the trier of fact." *Stacey v Sankovich*, 19 Mich App 688, 694; 173 NW2d 225 (1969). Defendant denied service but presented no evidence, not even his own affidavit, to rebut the presumption of receipt. The mere denial of service is insufficient to rebut the presumption. Cf. *Ins Co of North America v Issett*, 84 Mich App 45, 49; 269 NW2d 301 (1978); *James v James*, 57 Mich App 452, 454; 225 NW2d 804 (1975). Therefore, the trial court did not abuse its discretion in denying defendant's motion.

Defendant argues that the trial court erred in ruling on his motion without first considering his rebuttal to plaintiff's argument. We disagree. The court is not required to hear argument at all on a contested motion. If it does hear argument, it may limit it. MCR 2.119(E)(3).

Defendant also argues that the court failed to make sufficient findings to support its ruling. This issue has not been preserved for appeal because defendant did not include it in his statement of questions presented for review. *Busch v Holmes*, 256 Mich App 4, 12; 662 NW2d 64 (2003). That aside, defendant's argument is without merit. "Findings of fact and conclusions of law are unnecessary in decisions on motions unless findings are required by a particular rule." MCR 2.517(A)(4). None of the rules arguably applicable here, MCR 2.119(F), MCR 2.603(D) and MCR 2.612(C), requires that the court make such findings.

Affirmed.

/s/ Patrick M. Meter
/s/ Kurtis T. Wilder
/s/ Bill Schuette