

STATE OF MICHIGAN
COURT OF APPEALS

PETER SHEFMAN,

Plaintiff-Appellant,

v

MICHIGAN FARM BUREAU,

Defendant-Appellee,

and

KURT SIMON,

Defendant.

UNPUBLISHED

December 21, 2010

No. 288587

Wayne Circuit Court

LC No. 06-615743-CK

Before: MARKEY, P.J., and WILDER and STEPHENS, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's October 7, 2008, order of dismissal. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Although plaintiff's stated issues refer to his constitutional rights to due process and equal protection and to the Americans with Disabilities Act, 42 USC 12101 *et seq.*, the argument section of his brief does not develop any argument that concerns his statutory or constitutional rights. Accordingly, plaintiff has abandoned those grounds for relief. An appellant must do more than simply announce a position or assert an error. He must discuss the basis of the trial court's ruling, *Derderian v Genesys Health Care Sys*, 263 Mich App 364, 381; 689 NW2d 145 (2004), and "adequately prime the pump" for the appellate well to flow by explaining the basis of his argument, supported with citations to relevant authorities, *Goolsby v Detroit*, 419 Mich 651, 655 n 1; 358 NW2d 856 (1984).

The crux of plaintiff's argument on appeal concerns the apparent absence of a signed August 28, 2008, order of dismissal. There is no dispute that at a status conference on that date, the trial court stated that it was dismissing plaintiff's case without prejudice for his failure to attend the status conference. However, it is unclear from the record whether the court entered an order on that date. Plaintiff does not address whether dismissal was improper or unwarranted, but instead fixates on the fact that the lower court's docket entries do not show that an order was

entered on August 28, 2008, and that defendant is unable to produce any such order. However, plaintiff does not explain why the absence of an order entered on that date is crucial or prejudicial.

We conclude that the alleged error is harmless. Assuming *arguendo* that, prior to its October 7, 2008 order, the trial court did not enter an order of dismissal to memorialize its August 28, 2008, ruling, plaintiff could have raised that issue below and the trial court could have corrected the omission by entering an order *nunc pro tunc*. See *Sleboede v Sleboede*, 384 Mich 555, 558-559; 184 NW2d 923 (1971) (the function of a *nunc pro tunc* order “is to supply an *omission in the record* of action previously taken by the court but not properly recorded[.]”) The failure to enter the order is not grounds for relief unless refusal to grant relief is inconsistent with substantial justice. MCR 2.613(A). Plaintiff does not provide any basis for this Court to conclude that plaintiff was prejudiced by the alleged irregularity or delay in entering the order dismissing this case. Accordingly, our refusal to disturb the trial court’s October 7, 2008, order of dismissal is not inconsistent with substantial justice.

Affirmed. Defendant, being the prevailing party, may tax costs pursuant to MCR 7.219.

/s/ Jane E. Markey
/s/ Kurtis T. Wilder
/s/ Cynthia Diane Stephens