ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
WENDELL L. GRIFFEN, JUDGE

DIVISION III

CA06-1140

October 10, 2007

KENT SMITH
APPELLANT

AN APPEAL FROM GARLAND COUNTY CIRCUIT COURT
[CV2005-461-1]

V.

HON. JOHN HOMER WRIGHT, JUDGE

ALLEN TILLERY CHEVROLET, INC.
APPELLEE

AFFIRMED

Kent Smith appeals pro se from a judgment ordering him to pay appellee, Allen Tillery Chevrolet, Inc., $1280 for the storage of his vehicle on its premises. Appellant asserts five points of error: 1) that the trial court erred in denying his request for a continuance to obtain an attorney; 2) that the trial court erred in considering "fabricated and false" evidence; 3) that the trial court failed to enter a timely judgment; 4) that the trial court entered judgment without hearing all of the evidence; and 5) that the trial court erred in awarding "legal fees." We hold that the trial court did not err in denying appellant's request to reconsider its order because appellant's arguments are either not preserved, are not supported by convincing argument or authority, or are without merit.

I. Facts

On October 24, 2001, appellant had his truck towed to appellee's facility and requested that repairs be made to the truck's diesel engine. Appellee refused to make the repairs under the existing warranty due to the way the truck had been used. Appellant

declined to have appellee repair the vehicle at his expense. Appellee thereafter sent appellant a bill for the cost of the tow, totaling $162.75.

Appellant's truck remained in storage at appellee's facility. Robert Louton, appellee's service manager, testified that he attempted to contact appellant two times by phone in February 2002, but the telephone numbers were disconnected. He also testified that he sent appellant a certified letter that was returned unclaimed.

Apparently, the parties made little, if any, further attempt to contact each other until February 26, 2004, when Louton sent appellant a certified letter stating:

> We have attempted to contact you in the past to no avail. We are sending you this letter to inform [you] that there is a wreckage bill on your vehicle for $161.44 [sic] at Allen Tillery Chevrolet. This vehicle has been stored here since 10/24/2001 at our facility at no charge. However, effective 3/1/2004, we will be charging $20.00 per day storage.

Appellant asserts that he did not receive this letter until late April. Appellant paid his tow bill in full on May 4, 2004, and picked up his truck. He found that appellee had lost the key to his truck and that his truck's interior had been damaged. Appellee thereafter sent appellant a letter demanding $14,891.63 for storage of the vehicle from October 24, 2001, through May 4, 2004. Appellant refused to pay the storage bill.

Appellee filed suit in small claims court to recover the storage fees.[1] Appellant answered, denying that he was at fault, asserting that appellee neglected to contact him, that he paid all storage fees in full when the truck was released, and that appellee waived the remainder of the storage cost.[2]

The hearing was held on January 12, 2005. The district judge denied appellee's claim and dismissed it with prejudice. Appellee appealed to the circuit court on March 1, 2005.

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[1]Pursuant to Admin. Order No. 18(4)(c), certain corporations may bring suit in district court.

[2]Appellant has filed a separate suit for damages that is not the subject of this appeal.

On July 6, 2005, the circuit judge filed a letter that was sent to Louton explaining that a corporation must be represented by an attorney and that a stockholder or corporate officer who is not an attorney cannot represent the corporation.[3]

The judge ordered Louton to have his attorney enter a written appearance within twenty days and indicated that he would schedule the matter for a hearing after counsel entered his appearance. The next day, appellee's counsel entered a written appearance. The hearing was scheduled for October 10, 2005. For reasons that are not clear, the trial was rescheduled for October 17, 2005, and was ultimately held on January 5, 2006.

On December 12, 2005, appellant requested a continuance "to consult with and possibly retain an attorney in this matter." The trial court denied the motion, noting that "this case has been pending for nine months and has been set for trial for two months and that over three weeks remain until the trial date and the df's motion should be denied."

On December 22, 2005, approximately two weeks before trial, appellee filed a "motion to reconsider the order." In this motion, he noted that appellee did not initially have representation and "was given time to get an attorney." Thus, he requested "similar consideration" be given to allow him time to speak to an attorney, and averred that he had a meeting with an attorney scheduled that day. The trial court denied the motion to reconsider for the same reasons set out in the denial of the motion for a continuance.

The hearing was held on January 5, 2006. Louton testified that appellant's vehicle had been stored for 915 days, at the rate of $15 per day. However, the circuit court apparently found that appellant was liable only for storage fees incurred after March 1, 2004, because it entered judgment in favor of appellee for $1280 in storage fees, $450 in attorney's fees, and $100 in costs. Appellant appeals from this order.

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[3]*See* Ark. Code Ann. § 16-22-211 (Supp. 2007).

III. Discussion

Appellant's first argument is styled "Can the court deny a party legal representation?" What he actually appeals from is the trial court's denial of his motion to reconsider the court's denial of his motion for a continuance. Appellant now seems to argue that he was denied due process because he was denied legal representation in this matter. He asserts that "a party in a lawsuit has the right to an attorney." He maintains that, because appellee was granted a continuance to procure an attorney, he should have been granted the same opportunity.

Because pro se appellants are held to the same standards as attorneys, *see Moon v. Holloway*, 353 Ark. 520, 110 S.W.3d 250 (2003), appellant's argument must fail. First, appellant did not raise the specific arguments he raises now to the trial court. It is well settled that this court will not address issues raised for the first time on appeal. *See Harding v. City of Texarkana*, 62 Ark. App. 137, 970 S.W.2d 303 (1998).

Second, appellant provides no convincing argument or authority to counter the well-settled rule that a party is not entitled to an attorney in a civil case. *See Virgin v. A.L. Lockhart*, 288 Ark. 92, 702 S.W.2d 9 (1986). In any event, the hearing was delayed only one day because appellee's attorney entered an appearance the day after the order was entered ordering appellee to obtain an attorney.

Appellant's next argument is that the judgment should be reversed because the court was presented with "false and fabricated" evidence. Appellant asserts that one of two documents created by appellee must be false: Defendant's Exhibit 1 or Plaintiff's Exhibit 1. Defendant's Exhibit 1 is the February 2004 letter explaining that appellee would begin charging a storage fee of $20 per day and indicating that appellant would not be assessed a storage fee until March 1, 2004. Plaintiff's Exhibit 1 is the subsequent statement in which appellee listed the storage fees as $15 per day, and assessed storage fees beginning October

24, 2001. Because the storage fee differs on these documents, appellant alleges that "[o]bviously, one of the documents is fabricated, and thus, false."

This argument also fails because appellant did not raise it below. *See Harding*, *supra*. Below, appellant noted the inconsistency in the rates charged for storage, but he did not argue that the documents were false and fabricated or otherwise challenge their authenticity or admissibility. Regardless, given the undisputed fact that appellee stored appellant's truck for more than two-and-a-half years at the rate of $15 per day, appellant is hard-pressed to complain of prejudice where the trial court obviously used his *own exhibit* as the basis for requiring him to pay storage fees for approximately three months.

Appellant's third argument is that the trial court failed to enter the judgment in a timely manner. The case was heard on January 5, 2006, and the judgment was entered on June 14, 2006. Appellant sent the court a letter that was filed on May 8, 2006, advising the court that no judgment had been reached in the case and requesting a copy of the decision. Without citation to any authority, appellant insists that the fact that the trial court entered the decision five months after the hearing "questions the validity and accuracy of such a decision."

Appellant seems to imply that because a motion is deemed denied after thirty days, *see* Ark. R. Civ. P. 52 (b)(1) and 59(b), a trial court is required to enter judgment within thirty days. However, appellant cites to no authority, and we know of none, requiring a trial court to enter a judgment in a civil (non-dependency/neglect) case within a specified time frame. Thus, we do not consider appellant's argument on the merits because he offers no convincing argument or authority, and because it is not apparent, without further research, that his argument is well taken. *See Rainey v. Hartness*, 339 Ark. 293, 5 S.W.3d 410 (1999). As the post-judgment interest did not begin accumulating until the day the order was entered, we do not see how appellant was harmed by the timing of the entry of the order.

For his fourth argument, appellant asserts that the trial court erred in entering judgment without being presented a "key" piece of evidence: the return receipt showing when appellant received the February 26, 2004 letter informing him that appellee would begin charging him storage fees on March 1, 2004. Appellant maintains that he did not receive this letter until "late in April" and he asserts that, without the return receipt, it was impossible for the trial court to accurately determine when he was made aware of the problem. He also asserts that appellee deliberately failed to produce the return receipt.

The letter was submitted *by appellant* and he did not raise any argument regarding appellee's failure to produce the return receipt to prove when he received the letter. Therefore, we decline to address this argument on the merits. *See Rainey*, *supra*; *Harding*, *supra*. However, we note that, unlike a prosecutor in a criminal case, a plaintiff in a civil trial is not required to produce evidence simply because the evidence may weigh in the defendant's favor.

Appellant's final argument is that the trial court erred in awarding "legal fees", which presumably means the $450 awarded in attorney's fees and $100 awarded in costs. Appellant's argument on this issue is admittedly novel. He argues that because appellee, a corporation, is required to be represented by an attorney, but was not initially represented by an attorney at the circuit court level, it violated Ark. Code Ann. § 16-22-211. Appellant further argues that because appellee did not initially comply with the Code, and because he would not have filed suit for damages but for appellee's negligence in failing to properly look after his vehicle, he should not be liable for attorney's fees incurred when appellee finally complied with the Code and obtained an attorney to prosecute this case.

Nonetheless, we summarily reject appellant's novel argument because he did not raise it below and because he provides no authority to support it. *See Farm Bureau Mut. Ins. Co. of Arkansas, Inc. v. David*, 324 Ark. 387, 921 S.W.2d 930 (1996). We note that appellee was

represented by an attorney at the time of the hearing, and that attorney's fees and costs were awardable pursuant Ark. Code Ann. § 16-22-308 (Repl. 1999), as appellee prevailed in an action for either an account stated or for services rendered (storing his vehicle).

Affirmed.

HART and BIRD, JJ., agree.