

**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

DONALD F. PARSONS, JR.
VICE CHANCELLOR

New Castle County CourtHouse
500 N. King Street, Suite 11400
Wilmington, Delaware 19801-3734

Date Submitted: May 19, 2009

Date Decided: May 29, 2009

Mr. Courtland C. Pitts
c/o YMCA
Room 448
501 W. 11th Street
Wilmington, DE 19805

Daniel F. McAllister, Esquire
City of Wilmington Law Department
City/County Building, 9th Floor
800 N. French Street
Wilmington, DE 19801-3537

Aaron R. Goldstein, Esquire
Department of Justice
Carvel State Office Building
820 N. French Street
Wilmington, DE 19801

Robert K. Beste, III, Esquire
Smith Katzenstein & Furlow LLP
800 Delaware Avenue, Suite 1000
P.O. Box 410
Wilmington, DE 19899

Michael P. Morton, Esquire
Michael P. Morton, P.A.
1203 N. Orange Street
Wilmington, DE 19801

Re: *Courtland Pitts v. City of Wilmington, et al.*,
Civil Action No. 4166-VCP

Dear Mr. Pitts and Counsel:

This matter is currently before me on Courtland C. Pitts's letter dated May 12, 2009, requesting reconsideration of certain decisions reflected in this Court's letter opinion dated April 27, 2009 ("Letter Opinion"), and order dated April 28, 2009. Specifically, Pitts seeks reconsideration of the Court's dismissal of his claims against the City of Wilmington and denial of Pitts's request for appointment of an attorney to

represent him in this action. For the reasons stated herein, I deny reargument as to both those requests.

Under Court of Chancery Rule 59(f), a motion for reargument may be served and filed within five days “after the filing of the Court’s opinion or the receipt of the Court’s decision.” Rule 6(a) governs the computation of time and provides, in pertinent part, that when the time prescribed is less than eleven days, “intermediate Saturdays, Sundays and other legal holidays shall be excluded in the computation.” Applying those Rules to this case, a request for reconsideration of any part of the Court’s April 27 and 28, 2009 decisions should have been filed on or before May 5, at the latest. Pitts did not file his letter containing the pending request for reconsideration until May 12. Thus, even if Pitts did not receive the April 27 and 28 letters from the Court until a couple of days later, his request for reconsideration still would be untimely. The fact that Pitts is prosecuting this action pro se does not excuse him from complying with the procedural rules of this Court.¹ Thus, Pitts’s request for reconsideration could be denied summarily as being untimely.

Because this litigation is still at an early stage and Pitts is proceeding pro se, however, I also have considered the merits of his motion for reconsideration. For the reasons explained below, I conclude that Pitts has not shown any basis for reconsidering

¹ See *Thornton v. Bernard Tech., Inc.*, 2009 WL 426179, at 1 (Del. Ch. 2009); *Sloan v. Segal*, 2008 WL 81513, at 2 (Del. Ch. 2008).

or modifying the Court's rulings as to either the dismissal of the City or the denial of his request for appointment of an attorney to represent him.

Focusing first on the dismissal of the City, I note, as mentioned in the Letter Opinion, that to obtain reargument a party must show that the "Court's decision was predicated upon a misunderstanding of a material fact or a misapplication of the law" such that "the outcome of the decision would be affected."² Pitts's May 12 letter fails to identify any instance in which the Court misunderstood a material fact or misapplied the law as to his claim against the City. Accordingly, even if Pitts's request for reargument had been timely, that aspect of his request lacks merit and must be denied.

Similarly, I find unpersuasive Pitts's challenge to the denial of his request for the Court to appoint counsel to represent him in this matter either pro bono or at the State's expense. Pitts relies on 28 U.S.C. § 1915 to support his request for the appointment of counsel. That federal statute does provide that a court of the United States "may request an attorney to represent any person unable to afford counsel."³ There is no analogous Delaware statute, however, applicable to the Court of Chancery. In addition, the District Court for the District of Delaware has a panel of volunteer attorneys, the Federal Civil Panel, who are willing to accept civil cases in certain subject areas where a litigant is unable to afford an attorney and the court determines to refer the case to a member of the

² Letter Op. at 10-11.

³ 28 U.S.C. § 1915(e)(1).

Panel.⁴ There is no similar panel of attorneys available to this Court.⁵ Instead, as indicated in my April 28 letter, it would be most unusual for this Court to appoint counsel in a case unrelated to a guardianship or similar matter in which the Court itself functions in a fiduciary capacity. Because I did not misapprehend any fact or legal principle in connection with my earlier decision to deny Pitts's request for the appointment of counsel, there is no basis for reargument on that decision.

Thus, for the reasons stated in this letter, the requests for reconsideration set forth in Pitts's letter of May 12, 2009 are hereby denied.⁶

IT IS SO ORDERED.

Sincerely,

/s/Donald F. Parsons, Jr.

Vice Chancellor

⁴ D. Del. Standing Order, dated May 25, 1999, *available at* <http://www.ded.uscourts.gov/FCP/FCPMain.htm>.

⁵ For a number of years, organizations such as Community Legal Aid Society, Inc., Delaware Volunteer Legal Services, Inc., and Legal Services Corporation of Delaware Inc. have provided legal services to the indigent in Delaware. Those agencies, however, operate independently of the courts and are not affiliated with the Court of Chancery. The various legal service agencies generally also have their own eligibility criteria.

⁶ In his May 12 letter, Pitts also effectively requested leave to proceed in forma pauperis in the sense that he not be required to pay the full amount of filing and other fees or provide security for such payments. This ruling is without prejudice to Pitts's ability to pursue that request by filling out and submitting to the Register in Chancery the appropriate form available on the Court of Chancery's website.