

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALFRED T. BARTLEY,	§
	§
Plaintiff Below-	§ No. 47, 2002
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
MELVIN E. SOLL,	§ in and for New Castle County
	§ C.A. No. 01C-11-130
Defendant Below-	§
Appellee.	§

Submitted: May 10, 2002

Decided: July 1, 2002

Before **HOLLAND, BERGER** and **STEELE**, Justices

ORDER

This 1st day of July 2002, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The plaintiff-appellant, Alfred T. Bartley, filed this appeal from the November 21, 2001 order of the Superior Court dismissing his complaint as legally frivolous. We find no merit to the appeal. Accordingly, we **AFFIRM**.

(2) In this appeal, Bartley claims that the Superior Court improperly dismissed his legal malpractice complaint as legally frivolous. He requests this Court to issue a declaration that the defendant-appellee, Melvin E. Soll, Esquire,

violated his rights; order Soll to represent him in pursuing his medical malpractice claim or, in the alternative, provide sufficient funds to retain another attorney to do so; and award him compensatory damages.

(3) On November 14, 2001, Bartley filed a legal malpractice complaint in the Superior Court against Soll. The record reflects that, from about October 1999 until about October 2000, Soll had investigated the possibility of filing a medical malpractice claim against medical personnel at the Delaware Correctional Center (“DCC”) on behalf of Bartley, a DCC inmate. The record further reflects that Soll returned Bartley’s client file to him in October 2000 and, on April 28, 2001, Bartley, acting pro se, filed a medical malpractice complaint in the Superior Court. The Superior Court’s subsequent dismissal of that complaint for failure to pay the filing fee was affirmed by this Court.¹

¹*Bartley v. Covert*, Del. Supr., No. 544, 2001, Veasey, C.J. (Mar. 22, 2002).

(4) In his legal malpractice complaint, Bartley claimed that Soll had “deliberately failed to perform the legal duty’s (sic) as required in an attorney-client relationship,” including failing to act with diligence and promptness, explain legal matters to the client, reasonably expedite litigation, and keep the client informed of the progress of the litigation. Bartley also claimed that Soll’s actions “caused a breach of contract with the client.” Bartley requested the Superior Court to declare that Soll had violated his rights; order Soll to represent him in pursuing his medical malpractice claim or, in the alternative, issue sufficient funds to retain another attorney to do so; and order compensatory damages against Soll. Also on November 14, 2001, Bartley filed an affidavit in support of his request to proceed in forma pauperis.²

(5) By order dated November 21, 2001, the Superior Court dismissed Bartley’s complaint as legally frivolous³ because it failed to state: what damage to Bartley’s medical malpractice claim was suffered as a result of Soll’s actions; the nature of the alleged contract between Bartley and Soll; the applicable standard

²DEL. CODE ANN. tit. 10, § 8802(b) (1999).

³DEL. CODE ANN. tit. 10, § 8803(b) (1999).

of care alleged to have been breached by Soll; and the legal basis for the relief sought.⁴

⁴The Superior Court granted Bartley's application to proceed in forma pauperis on December 14, 2001. On January 8, 2002, the Prothonotary sent Bartley a letter informing him that, while his application to proceed in forma pauperis had been granted, his complaint already had been dismissed as legally frivolous.

(6) In all cases in which an individual has been granted leave to proceed in forma pauperis, the Superior Court is required to review such individual's complaint from both a legal and factual perspective to determine whether the action should be permitted to proceed.⁵ We have reviewed Bartley's complaint and the Superior Court's November 21, 2001 order and conclude that there was no error or abuse of discretion on the part of the Superior Court in dismissing Bartley's complaint as legally frivolous.⁶

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

⁵Id.

⁶Soll's argument that the Superior Court's dismissal of Bartley's complaint constituted an interlocutory order is stricken, since we previously ruled against Soll on that identical issue in *Bartley v. Soll*, Del. Supr., No. 47, 2002, Veasey, C.J. (Apr. 26, 2002). SUPR. CT. R. 34.