Third District Court of Appeal

State of Florida

Opinion filed September 17, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-1644
Lower Tribunal No. 19-23245

Florida High School Athletic Association, Inc.,
Appellant,

vs.

Luther Johnson, IV, etc., et al.,
Appellees.

An Appeal from non-final orders from the Circuit Court for Miami-Dade County, Reemberto Diaz, Judge.

Clayton-Johnston, P.A., and Leonard E. Ireland, Jr. (Gainesville), for appellant.

Law Office of Mark V. Murray, and Mark V. Murray (Tallahassee); Law Office of Terry P. Roberts, and Terry P. Roberts (Tallahassee); Rawsi Williams Law Group, and Rawsi Williams; Kaire & Heffernan, LLC, and David R. Heffernan, for appellees.

Before EMAS, C.J., and SALTER and SCALES, JJ.

SCALES, J.

Appellant, the defendant below, Florida High School Athletic Association, Inc. ("FHSAA"), appeals an August 20, 2019 non-final order denying its motion to transfer venue of the instant action to Alachua County.[1] FHSAA also appeals an August 20, 2019 non-final order granting a temporary injunction of favor of appellees, plaintiffs below, Luther Johnson, IV, Antionette Johnson and Luther Johnson, V. For the following reasons, we affirm the venue order, and reverse and remand the temporary injunction order with instructions.

I. RELEVANT FACTS AND PROCEDURAL BACKGROUND

FHSAA declared Luther Johnson, V ineligible to participate in interscholastic athletic competitions during Johnson's senior year in high school because of Johnson's alleged unsportsmanlike conduct while playing high school lacrosse in the spring of 2019. After pursuing administrative remedies, Johnson and his parents filed the instant action in the Miami-Dade County Circuit Court. The verified complaint seeks emergency injunctive relief and damages against FHSAA, alleging claims for racial discrimination under Florida's Educational Equity Act (Count I), denial of equal protection under the Fourteenth Amendment to the Federal Constitution (Count II), denial of due process rights (Count III), and defamation per se (Count IV). The Johnsons also filed an emergency motion for a temporary

[1] FHSAA is a Florida domestic corporation which, according to FHSAA, maintains its office for the transaction of its customary business in Gainesville, Florida.

restraining order seeking to enjoin FHSAA's suspension of Johnson from participating in interscholastic sports. FHSAA filed a motion, with supporting affidavits, to transfer venue to Alachua County. The motions were filed before any answer or affirmative defenses were filed by FHSAA.

On August 20, 2019, the trial court held an evidentiary hearing on both FHSAA's motion to transfer venue to Alachua County, and the Johnsons' emergency motion for a temporary restraining order against FHSAA. Because no court reporter was present at the evidentiary hearing, there is no hearing transcript. The same day, following the evidentiary hearing, the trial court entered separate orders denying FHSAA's motion to transfer venue and granting a temporary injunction. FHSAA appeals both non-final orders. For the following reasons, we affirm the venue order and reverse the temporary injunction order.

II. ANALYSIS

1. The Venue Order

"[W]hen a trial court is presented with a motion to transfer venue based on the impropriety of the plaintiff's venue selection, the defendant is arguing that, as a matter of law, the lawsuit has been filed in the wrong forum." Tobin v. A&F Eng'g, 979 So. 2d 967, 968 (Fla. 3d DCA 2008) (quoting PricewaterhouseCoopers LLP v. Cedar Res., Inc., 761 So. 2d 1131, 1133 (Fla. 2d DCA 1999)). Where the facts relating to such venue motion are in dispute, the trial court shall hold an evidentiary

hearing to resolve the factual dispute and then make a legal determination on venue. Id.; see also Fla. Gamco, Inc. v. Fontaine, 68 So. 3d 923, 928 (Fla. 4th DCA 2011). We review the trial court's factual determinations to assure they are supported by competent, substantial evidence; we review the trial court's legal determinations *de novo*. See Fla. Gamco, Inc., 68 So. 3d at 928.

The applicable venue statute in this case is section 47.051 of the Florida Statutes (2019), which provides, in relevant part, that "[a]ctions against domestic corporations shall be brought only in the county where such corporation has, or usually keeps, an office for transaction of its customary business, *where the cause of action accrued*, or where the property in litigation is located." (Emphasis added). Because FHSAA provided affidavits controverting the complaint's allegations relevant to where the underlying causes of action accrued, the burden shifted to the Johnsons to prove that venue lies in the Miami-Dade County Circuit Court. See Fla. Gamco, Inc., 68 So. 3d at 928. The record before us at this preliminary stage of the case[2] reflects, and the parties are in agreement, that the lower court conducted an evidentiary hearing at which the parties introduced testimony and other evidence. Because, however, we do not have the benefit of a hearing transcript, we are unable to determine either whether the factual determinations made by the trial court at the

[2] The complaint and motion for temporary injunction were filed on August 6, 2019; the motion to transfer venue was filed on August 12, 2019; and, on August 20, 2019, the evidentiary hearing was held and the orders under review were entered.

evidentiary hearing are supported by competent, substantial evidence, or whether the trial court committed legal error in denying the venue motion. See Garcia v. Garcia, 958 So. 2d 947, 949 (Fla. 3d DCA 2007) (citing Applegate v. Barnett Bank of Tallahassee, 377 So. 2d 1150, 1152 (Fla. 1979)). Accordingly, we are compelled to affirm the order denying FHSAA's motion to transfer venue.

2. The Temporary Injunction Order

"The well-established requirements for the issuance of a temporary injunction are: (1) the likelihood of irreparable harm and the unavailability of an adequate remedy at law; (2) a substantial likelihood of success on the merits; (3) that the threatened injury to the petitioner outweighs any possible harm to the respondent; and, (4) the entry of the injunction will not disserve the public interest." Biscayne Park, LLC v. Wal-Mart Stores E., LP, 34 So. 3d 24, 26 (Fla. 3d DCA 2010). Further, Florida Rule of Civil Procedure 1.610(c) provides that a trial court's written order granting injunctive relief "shall specify the reasons for entry."

Because the trial court's written injunction order failed to specify the reasons for entry of the injunction, we must reverse the injunction and remand to the trial court for further proceedings. See Walton Cty. v. Sandestin Invs., LLC, 148 So. 3d 172, 173 (Fla. 1st DCA 2014); City of Miami v. Coll, 546 So. 2d 775, 776 (Fla. 3d DCA 1989) ("Florida courts have held that the failure to specify adequate reasons

for the entry of a temporary injunction is violative of rule 1.610(c) and renders the order defective.").

III. CONCLUSION

Accordingly, we affirm the August 20, 2019 order denying FHSAA's motion to transfer venue. We reverse the temporary injunction order and remand to the trial court with instructions either to enter a written order that satisfies all the requirements for entry of a temporary injunction or, if appropriate, to enter an order denying the injunction. This opinion shall take effect immediately, notwithstanding the filing of any post-opinion motions.

Venue order affirmed; injunction order reversed and remanded, with instructions.