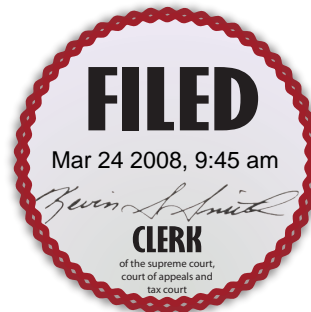


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

SHAVAUGHN CARLOS WILSON-EL,)
)
Appellant-Plaintiff,)
)
vs.)
)
INDIANA DEPARTMENT OF CORRECTION,)
)
Appellee-Defendant.)

No. 46A05-0705-CV-265

APPEAL FROM THE LAPORTE SUPERIOR COURT
The Honorable William J. Boklund
Cause No. 46D04-0504-SC-908

March 24, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION
BARNES, Judge

Case Summary

Shavaughn Wilson-El appeals the small claims court's judgment of \$175. We affirm.

Issues

Wilson-El raises two issues on appeal, which we restate as:

- I. whether the trial court abused its discretion in handling Wilson-El's discovery requests; and
- II. whether the trial court properly awarded Wilson-El only \$175 in damages.

Facts

Wilson-El filed a small claims action against the Indiana State Prison and its superintendent¹ ("DOC") on May 13, 2005. He alleged that the DOC wrongfully destroyed some of his possessions, including: a drum machine, two hot pots, two wooden spoons, a fan, and eight photographs. The property was confiscated on June 13, 2004.² He also alleged that the DOC wrongfully withheld a \$10 medical co-payment for services that were not rendered. He requested \$528 in damages.

The DOC contended that certain items were confiscated and not returned because they were not in compliance with policies. Specifically, the hot pots were "unauthorized" or "altered," the wooden spoons were "unauthorized," and the fan belonged to another

¹ The small claims court changed the named defendant to the Indiana Department of Correction ("DOC").

² Wilson-El was transferred from the Indiana State Prison to the Wabash Valley Correctional Facility on June 27, 2004.

inmate. App. p. 11. The DOC contended that the photographs were not distributed to Wilson-El because he had insufficient funds in his trust account to pay for them.

The small claims court held a bench trial on November 14, 2006. Wilson-El appeared via video conferencing. On January 22, 2007, the small claims court issued written findings and a judgment. It concluded that the DOC was responsible for the loss of the drum machine and awarded \$175 to reflect its fair market value. The small claims court found that Wilson-El did not provide sufficient evidence to support an award for the medical co-payment and photographs, and that the other items were properly confiscated.

On February 14, 2007, Wilson-El filed a motion to correct error. The DOC filed a motion in opposition, and Wilson-El filed a reply.³ On March 15, 2007, the trial court denied the motion to correct error. This appeal followed.

Analysis

The trial court certified Wilson-El's statement of the evidence on June 29, 2007.⁴ The DOC filed a motion to certify its own statement of evidence on August 2, 2007, but the record does not reveal that the trial court ever certified it. We are unsure why the trial certified Wilson-El's statement of the evidence, because it clearly contains speculative and argumentative statements and does not appear to be the "statement of the evidence from the best available sources" that Indiana Appellate Rule 31 contemplates. In

³ These pleadings were not included in the record.

⁴ Wilson-El contends that the certified statement of the evidence wholly supports his case on appeal and must be taken as true to entitle him "to the relief sought on appeal." Appellant's Br. p. 20. We realize that a great deal of the statements in this certified document are summaries of Wilson-El's allegations. Although we acknowledge that he made these allegations and arguments at trial, a certified statement summarizing them does not necessarily give them merit.

addition, it is unclear from the statement of the evidence and the additional items in the record whether or not Exhibits A through C were admitted during the bench trial. Nonetheless, we proceed with our review.

I. Discovery Dispute

A trial court has broad discretion to rule on discovery issues and we review such rulings for an abuse of discretion. Allstate Ins. Co. v. Scroghan, 851 N.E.2d 317, 321 (Ind. Ct. App. 2006). An abuse of discretion occurs when the trial court reaches a conclusion that is against the logic and natural inferences drawn from the facts and circumstances before it. Id. at 322.

On March 27, 2005, Wilson-El filed a request for issuance of subpoenas and motion for discovery. Wilson-El requested subpoenas for the appearance of various DOC officers at his small claims trial and the production of certain records and incident reports related to his claim. Wilson-El filed a request for rulings and request for court to compel defendants to produce on February 28, 2006. On March 6, 2006, the small claims court granted Wilson-El's request for issuance of subpoenas and motion for discovery. The subpoenas were not issued and the requested documents were not produced to Wilson-El. There is no evidence before this court that Wilson-El made any attempts at informal resolution of the matter with opposing counsel or drafted and sent any subpoenas.

Despite this unfinished business, the small claims bench trial proceeded on November 14, 2006. It is unclear from the record what remedies regarding this outstanding discovery matter, if any, Wilson-El requested prior to or during the bench

trial. Wilson-El contends that the failure of the small claims court to enforce the motion for discovery amounted to a denial of his due process rights.

Indiana Small Claims Rule 6 provides:

Discovery may be had in a manner generally pursuant to the rules governing any other civil action, but only upon the approval of the court and under such limitations as may be specified. The court should grant discovery only upon notice and good cause shown and should limit such action to the necessities of the case.

Indiana trial rules are relaxed in small claims court and as such the traditional discovery rules do not apply in full force. “An expeditious resolution of the claim is essential to the efficacy and attractiveness of the small claims process.” Stout v. Kokomo Manor Apts., 677 N.E.2d 1060, 1067 (Ind. Ct. App. 1997). We conclude that the small claims court here had discretion to proceed with hearing even in the face of an outstanding discovery dispute. Moreover, even though the small claims court allowed discovery, the discovery dispute is an issue separate and distinct from the small claims court’s ultimate decision on the merits.

The unresolved discovery dispute does not automatically equate to prejudice to Wilson-El and mandate reversal. Rather, the dispute was an issue for the trial court to resolve via orders or sanctions if requested by Wilson-El. Although it appears that the DOC acknowledged its failure to respond to discovery requests, it remains unclear whether the requested items existed or whether they would have supported Wilson-El’s claim. The trial court was free to analyze the evidence before it and reach a conclusion on the merits.

II. Damages

Our standard of review is particularly deferential in small claims actions, where “trials are informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law.” Ind. Small Claims Rule 8(A); Trinity Homes, LLC v. Fang, 848 N.E.2d 1065, 1067-68 (Ind. 2006). Although the method of proof may be informal, the parties in a small claims court bear the same burdens of proof as they would in a regular civil action on the same issues. LTL Truck Serv. LLC v. Safeguard, Inc., 817 N.E.2d 664, 668 (Ind. Ct. App. 2004). The party who bears the burden of proof must demonstrate that he or she is entitled to the recovery sought. Id.

Judgments in small claims actions are “subject to review as prescribed by relevant Indiana rules and statutes.” Ind. S.C.R. 11(A). The clearly erroneous standard applies to appellate review of facts determined in bench trials, and we give due regard to the opportunity of the trial court to assess witness credibility. Ind. Trial Rule 52(A); Trinity Homes, 848 N.E.2d at 1067-68.

Wilson-El submitted evidence to the small claims court that the cost of a new drum machine would be \$285. The small claims court did not award the replacement cost; it awarded the fair market value. The measure of damages for the destruction of personal property is the fair market value at the time of loss. Lachenman v. Stice, 838 N.E.2d 451, 466 (Ind. Ct. App. 2005), trans. denied. The fair market value is “the price a willing seller will accept from a willing buyer.” Campins v. Capels, 461 N.E.2d 712, 719 (Ind. Ct. App. 1984). The small claims court took into account that the drum machine

was not brand new and assessed its value at \$175. We conclude that this assessment and award were not clearly erroneous.

Wilson-El alleges that defendants improperly deducted ten dollars from his spending account for medical services that were not rendered. The small claims court found that Wilson-El did not present sufficient evidence to support such a claim. Wilson-El alleges the medical care was not provided, but has not supported this claim with sufficient evidence. We conclude Wilson-El has not met his burden of proving this decision was clearly erroneous.

Wilson-El contends the small claims court erred by not awarding him damages for the confiscation and destruction of two hot pots, two wooden spoons, and a fan. Wilson-El contends these items were destroyed prematurely and against DOC policy while his grievance process was still ongoing. These items were confiscated on June 13, 2004. It is unclear from the record when they were destroyed, but Wilson-El appears to have been informed of the destruction in October of 2004.

The DOC contends these items were altered or unauthorized or the property of another inmate, and therefore subject to confiscation and destruction within sixty days according to policy. Wilson-El contends that even unauthorized items can be sent to inmate's families and he requested these items to be sent to his family. Wilson-El includes an August 25, 2004 letter purporting to contest the confiscation and requesting his family be contacted. We note this letter is dated more than sixty days after confiscation. It is also unclear when Wilson-El initiated the grievance process and

whether such process even began before the sixty days passed. The first grievance appears to have been drafted in September of 2004.

The small claims court determined that because they consisted of unauthorized items, the DOC was free to seize and destroy the fan, spoons, and hot pots. We cannot conclude that such a result was clearly erroneous, considering the timeline between the confiscation, request to send home, if any, the confusion surrounding the timeline of the grievance, and the ultimate destruction.

Wilson-El also contends that the DOC wrongfully withheld four graduation photos from him, which he paid \$10 to receive. The DOC contends that Wilson-El's trust account did not have sufficient funds to pay for the photos, and as such, they were neither paid for, nor delivered to him. The superintendent informed Wilson-El in writing of the situation and the lack of funds on September 14, 2004. Wilson-El does not present sufficient evidence to support that the funds existed or meet his burden to prove that the small claims court erred in denying relief on this matter.

Conclusion

We conclude that the small claims court did not deny Wilson-El his due process rights when it proceeded with the small claims trial despite an ongoing discovery dispute. We conclude the small claims court did not err in awarding \$175 for the destroyed drum and denying the remainder of Wilson-El's claims. We affirm.

Affirmed.

SHARPNACK, J., and VAIDIK, J., concur.