

RENDERED: March 27, 1998; 10:00 a.m.  
NOT TO BE PUBLISHED

NO. 96-CA-3115-MR

PHILLIP M. BEDFORD

APPELLANT

V. APPEAL FROM JEFFERSON CIRCUIT COURT  
HONORABLE JAMES M. SHAKE, JUDGE  
ACTION NO. 95-CI-04258

MARK A. WEIDEKAMP

APPELLEE

**OPINION**  
**AFFIRMING**

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BEFORE: COMBS, GUIDUGLI, and JOHNSON, Judges.

COMBS, JUDGE: Phillip M. Bedford appeals from an order of the Jefferson Circuit Court entered July 23, 1996, dismissing his claims against Mark A. Weidekamp for failure to respond to discovery requests and for failing to release a Notice of lis pendens filed against Weidekamp's residence after having been ordered by the trial court to do so. Having considered the record, the arguments of counsel, and the applicable law, we affirm.

On July 27, 1995, Bedford ventured into Weidekamp's yard and allegedly encountered Weidekamp's dog. According to Bedford, the dog bit him, causing Bedford to sustain physical injury. On August 1, 1995, Bedford filed this action against Weidekamp to seek recovery for his injury.

On January 3, 1996, Bedford filed a Notice of lis pendens in the office of the Jefferson County Clerk against Weidekamp's residence. In response, Weidekamp filed a motion to have the lis pendens notice released of record. Following a hearing, the trial court entered an order requiring Bedford to file a release of the lis pendens by March 11, 1996.

Bedford failed to comply with the trial court's order, and on July 23, 1996, the trial court entered its order dismissing Bedford's claims against Weidekamp. It is from this order that Bedford appeals.

Bedford argues that the trial court's dismissal of his claims against Weidekamp constitutes an abuse of discretion. We disagree.

CR 41.02(1) provides, in pertinent part, as follows:

For failure of the plaintiff to . . . comply . . . with . . . any order of the court, a defendant may move for dismissal of an action or of any claim against him.

The trial court is vested with broad discretion regarding the involuntary dismissal of claims or actions under CR 41.02.

Thompson v. Kentucky Power Co., Ky. App., 551 S.W.2d 815 (1977).

Bedford's failure to file the release of the lis pendens clearly constitutes a failure to comply with an order of the court as

provided by CR 41.02(1). Weidekamp moved for dismissal as permitted by CR 41.02, and an order of dismissal was duly granted. On these facts, we cannot say that the trial court abused its discretion in dismissing Bedford's claims.

Alternatively, Bedford maintains that the trial court lacked jurisdiction either to release or to order him to release the lis pendens. We find no merit in this argument. Furthermore, we note that any time a party perceives that a trial court is exceeding its jurisdiction, he may petition for a writ of prohibition.

Based upon the foregoing, the order of the Jefferson Circuit Court is affirmed.

ALL CONCUR.

BRIEFS FOR APPELLANT *PRO SE*:

Phillip M. Bedford  
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BRIEF FOR APPELLEE:

Walter L. Porter  
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