

IMPORTANT NOTICE
NOT TO BE PUBLISHED OPINION

THIS OPINION IS DESIGNATED "NOT TO BE PUBLISHED." PURSUANT TO THE RULES OF CIVIL PROCEDURE PROMULGATED BY THE SUPREME COURT, CR 76.28 (4) (c), THIS OPINION IS NOT TO BE PUBLISHED AND SHALL NOT BE CITED OR USED AS AUTHORITY IN ANY OTHER CASE IN ANY COURT OF THIS STATE.

RENDERED: NOVEMBER 18, 2004
NOT TO BE PUBLISHED

Supreme Court of Kentucky
FINAL

2004-SC-0176-MR

DATE 12-9-04 ELAGrow, H.D.C.

ABDULMAHDI ALKHALIDI

APPELLANT

V.

APPEAL FROM COURT OF APPEALS
2003-CA-2538-OA
JEFFERSON CIRCUIT COURT NO. 2002-CI-1121

HON. GEOFFREY MORRIS, JUDGE,
JEFFERSON CIRCUIT COURT

APPELLEE

AND

ALLSTATE INSURANCE COMPANY

REAL PARTY IN INTEREST

MEMORANDUM OPINION OF THE COURT

AFFIRMING

Appellant, Abdulmahdi Alkhalidi, appeals as a matter of right from an order of the Court of Appeals denying petitions for a writ of mandamus and a writ of prohibition. For the reasons set forth below, we affirm.

This appeal arises from a jury verdict returned in a personal injury suit involving an automobile accident. After the Jefferson County jury returned its verdict awarding damages for lost wages and pain and suffering, members of the law firm representing the defendant, Allstate Insurance Company, entered the jury room and removed twenty-four slips of paper. Jefferson Circuit Court Judge Ann Shake accompanied the members of the Allstate team into the jury room. Pursuant to instructions received by

Judge Morris, the presiding trial judge, Judge Shake placed the slips of paper into a sealed envelope and later filed it with the court.

A judgment consistent with the verdict was entered a week later. Shortly thereafter, Allstate filed a motion for a new trial pursuant to CR 59 claiming juror misconduct. A hearing was held, at which Judge Morris revealed that he had spoken with members of the jury following the verdict and had inquired as to how they had reached the verdict. The discussion with the jury led Judge Morris to believe that it had entered into a quotient verdict, a conclusion that was documented in part by the slips of paper retrieved in the jury deliberation room. The motion for a new trial was granted.

Subsequently, the plaintiff, Alkhalidi, filed a motion to reinstate the previous judgment, which was denied. Alkhalidi then filed an original action with the Court of Appeals seeking a writ of mandamus and a writ of prohibition, requesting that Judge Morris be ordered to reinstate the original judgment. The Court of Appeals denied Alkhalidi's requests.

A writ of prohibition or mandamus is an extraordinary remedy and should be granted only in exceptional circumstances. James v. Shadoan, Ky., 58 S.W.3d 884, 885 (2001). The party seeking relief must first show that he or she has no adequate remedy by appeal or otherwise. In addition, that party must show that either the court below is acting outside of its jurisdiction or that he or she will suffer great, irreparable injury if the relief is not granted. Id.

Here, Alkhalidi has failed to demonstrate that no adequate means of redress by appeal exist. A trial court holds broad discretion in granting a new trial, and whether that discretion was abused in this case is an issue that can adequately be appealed once a final judgment in the matter is rendered. See Shelby County Bd. of Ed. v.

Wright, Ky., 390 S.W.2d 654, 655-56 (1965). Thus, we need not consider Alkhalidi's arguments that the trial court acted outside of its jurisdiction, or that the trial court's actions will cause irreparable harm if relief is not granted.

For the reasons set forth above, the decision of the Court of Appeals is affirmed.

All concur.

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