STATE OF MICHIGAN

COURT OF APPEALS

JAMES E. KIRBY, Next Friend of MICHAEL KIRBY, a minor, and LAKE FENTON COMMUNITY SCHOOL DISTRICT,

Plaintiffs–Appellees,

v

MICHIGAN HIGH SCHOOL ATHLETIC ASSOCIATION,

Defendant–Appellant.

UNPUBLISHED
November 26, 1996

Nos. 183284; 187113
LC No. 95-034575-CZ

Before: Reilly, P.J., and Sawyer and W.E. Collette,* JJ.

PER CURIAM.

In Docket No. 183284, defendant appeals by right the circuit court's injunctive order instructing it to permit Lake Fenton to participate in its wrestling tournament, and to "do all things necessary and/or advisable" to that end. In Docket No. 187113, defendant appeals by right the circuit court's order entering contempt sanctions against it for not abiding by the circuit court's injunctive order. We affirm the circuit court's injunctive order in Docket No. 183284, and affirm the circuit court's contempt order in Docket No. 187113.

In Docket No. 183284, plaintiffs asked the circuit court to order defendant to permit Lake Fenton's wrestling team to participate in a regional wrestling tournament sponsored by defendant. Although Lake Fenton lost in the district tournament, the team it defeated used an ineligible player. Defendant refused to advance Lake Fenton to the regional tournament based on an alleged non-advancement rule. Plaintiff argued that the non-advancement rule did not exist, and that it should be advanced to the regional tournament because defendant had a written rule that forfeited an ineligible team's victory to its opponent. The circuit court granted plaintiffs' requested relief. In Docket No.

---

* Circuit judge, sitting on the Court of Appeals by assignment.

187113, plaintiffs asked the circuit court to hold defendant in contempt for not following the circuit court's injunctive order. The circuit court held defendant in civil contempt.

Docket No. 183284

Defendant first argues that the trial court lacked jurisdiction to grant the relief requested by plaintiffs. We disagree. The circuit court's subject matter jurisdiction is conferred by the constitution and by statute. *Bowie v Arder*, 441 Mich 23, 37; 490 NW2d 568 (1992). Const 1963, art 6, § 13 provides that "t[he] circuit court shall have original jurisdiction in all matters not prohibited by law . . . ." As a court of general equity jurisdiction, the circuit court can issue declaratory rulings, injunctions, and writs of mandamus. *Universal Am-Can v Attorney General*, 197 Mich App 34, 37; 494 NW2d 787 (1992). Furthermore, MCL 600.605; MSA 27A.605 provides that "[c]ircuit courts have original jurisdiction to hear and determine civil claims and remedies, except where exclusive jurisdiction is given in the constitution or by statute to some other court or where the circuit courts are denied jurisdiction by the constitution or statutes of this state."

Defendant has failed to cite a constitutional or statutory provision that precluded the circuit court from considering the underlying controversy. Further, this Court was unable to locate such a provision. Therefore, the circuit court did not lack jurisdiction to determine the merits of plaintiffs' complaint. See *Bowie, supra* at 37; MCL 600.605; MSA 27A.605.

Defendant next argues that the trial court's factual findings justifying its grant of equitable relief were clearly erroneous. We disagree. We will sustain the trial court's findings of fact unless we are convinced that we would have reached a different result. *Fruehauf Trailer v Hagelthorn*, 208 Mich App 447, 449; 528 NW2d 778 (1995).

Plaintiffs argued below that it was unreasonable for defendant to apply an unwritten rule forbidding Lake Fenton's wrestling team from advancing to the regional tournament when a conflicting written rule in defendant's Rule Handbook (Regulation V, Section 4[B]) impliedly permitted the team to advance. The trial court held that plaintiffs established a likelihood of success on the merits. We hold that the trial court did not clearly err in making this finding since we are not convinced that we would have reached a different decision. Even if plaintiffs had constructive notice of the non-advancement policy, it was unreasonable for defendant to expect plaintiffs to abide by this policy when defendant, the organization that promulgated the policy, was unable to produce it. This was especially true since Regulation V, Section 4(B) apparently contradicted the non-advancement policy.

Defendant also argues that the trial court clearly erred in finding that plaintiffs would suffer irreparable injury if it did not issue an injunction. We disagree. A review of the record before us leads us to conclude that the trial court correctly found that irreparable harm would result if the injunction was not granted.

Defendant first argues that the trial court erred in entering contempt sanctions against it because it was unable to comply with the court's injunctive order, and because it was unable to cure the contempt at the time of the contempt hearing. We disagree. As punishment for the contempt, a court may impose a fine of no more than $250, or it may imprison the contemnor, or both. MCL 600.1715(1); MSA 27A.1715(1). The contemnor must also indemnify any person for losses sustained as a direct result of the contemptuous conduct, including attorney fees. MCL 600.1721; MSA 27A.1721; *In re Contempt of Calcutt*, 184 Mich App 749, 758; 458 NW2d 919 (1990). Even if the contemnor is unable to cure the contempt at the time of the contempt proceeding, the court can still impose a compensatory fine. *In re Contempt of Dougherty*, 429 Mich 81, 107; 413 NW2d 392 (1987). But, the court cannot impose a coercive sanction. *In re Contempt of Dougherty, supra* at 111. Furthermore, a court cannot hold a party in contempt for failing to comply with an order with which the party could not comply. *Detroit v Dep't of Social Services*, 197 Mich App 146, 159; 494 NW2d 805 (1992).

We hold that it was not impossible for defendant to comply with the injunctive order. Defendant could have arranged a match between Lake Fenton and Goodwrich in the regional semi-finals; the winner would have wrestled Marlette in the regional finals. Therefore, defendant had to abide by the injunctive order. See *Dep't of Social Services, supra* at 159.

Furthermore, defendant's argument that the trial court's award of sanctions was in error since defendant could not cure the contempt at the time of the contempt hearing is meritless. The court's sanction was permissible because it constituted a compensatory fine, an order to pay plaintiffs' attorney fees and costs, not a coercive sanction. See *In re Contempt of Dougherty, supra* at 111. Accordingly, the trial court's award of sanctions did not constitute an abuse of discretion.

Defendant next argues that the trial court erred in entering contempt sanctions against it because the injunctive order the contempt order was based on was vague and ambiguous. We disagree. A party must obey a circuit court's lawful order even if it was erroneous. *In re Contempt of Calcutt, supra* at 756. However, a party may not be held in contempt for violating an order that was so ambiguous that a reasonable person would not have believed that the action taken by the contemnor would be viewed by the court as contemptuous. See *Dep't of Social Services, supra* at 159.

We hold that a reasonable person would have believed that defendant's actions would be viewed by the court as contemptuous. Although the order was not perfectly drafted, its directive was clear: Defendant was to do everything necessary and/or advisable to permit Lake Fenton to participate in the Regional Tournament. Not only did defendant's rules permit it to stop meets that had already commenced, defendant's rules required it to do so when a court issued an injunction ordering defendant

to permit a team or student to participate in its tournament. Accordingly, the trial court's injunctive order was not so ambiguous to preclude it from holding defendant in contempt for violating that order.

Affirmed.

/s/ Maureen Pulte Reilly
/s/ David H. Sawyer
/s/ William E. Collette