

STATE OF MICHIGAN
COURT OF APPEALS

MAN LEWIS,

Plaintiff-Appellant,

v

DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

UNPUBLISHED
December 4, 2001

No. 224486
Gratiot Circuit Court
LC No. 95-003714-CZ

Before: Fitzgerald, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

Plaintiff appeals as of right the order denying his motion under MCR 2.119(F) for reconsideration of the order granting defendant's motion to strike plaintiff's amended complaint and dismiss plaintiff's claims. We affirm.

A trial court's denial of a motion for reconsideration or rehearing is reviewed for an abuse of discretion. *American Transmission, Inc v Channel 7 of Detroit Inc*, 239 Mich App 695, 709; 609 NW2d 607 (2000). To demonstrate that the trial court abused its discretion, plaintiff must show that the trial court made a palpable error that misled the parties and the court, and show that a different disposition of the motion must result from correction of the error. MCR 2.119(F)(3); *American Transmission, supra* at 709.

Plaintiff filed a complaint alleging violations of his civil rights under the United States and Michigan Constitutions, federal statutes (42 USC 1981,1983, and 1985[3]), and the Civil Rights Act (CRA) (MCL 37.2101 *et seq.*). As a preliminary matter, we note that plaintiff's claims under the CRA were properly dismissed because the CRA precludes suits against "a state or county correctional facility with respect to actions and decisions regarding an individual serving a sentence of imprisonment." Plaintiff's claims under 42 USC 1981 were also properly dismissed because § 1981 only remedies racial discrimination in making or enforcing contracts. *Gallegos v Denver*, 984 F2d 358, 362 (CA 10, 1993). No contractual claims were alleged here.

The trial court based its dismissal of plaintiff's claims on MCR 2.111(A)(1) and MCR 2.111(B)(1). MCR 2.111(A)(1) provides that "[e]ach allegation of a pleading must be clear, concise, and direct." MCR 2.111(B)(1) provides that a complaint must contain:

A statement of the facts, without repetition, on which the pleader relies in stating the cause of action, with the specific allegations necessary to reasonably

inform the adverse party of the nature of the claims the adverse party is called on to defend . . .

Essentially, the complaint must contain sufficiently specific allegations to put the defendant on notice with respect to the nature of the claims against him. *Weymers v Khera*, 454 Mich 639, 654; 563 NW2d 647 (1997). The trial court determined that:

[the] amended complaint, even as supplemented by reference to those materials, completely fails to state facts with sufficient particularity to reasonably inform the defendant of the claims made against him. MCR 2.111(A)(1) and MCR 2.111(B)(1). This Court recognizes that pleadings should be liberally construed; that plaintiff is representing himself; and that a motion for a more definite statement, MCR 1.115(A), and an order allowing amendment of the pleadings, MCR 2.118, are the preferred remedies.

However, a careful review of the long history of this file discloses beyond question that any amendment of the pleadings would be futile. Amendment has been sought and allowed, and pleadings have been submitted and resubmitted. . . . reviewing the amended complaint does not provide anyone notice as to the nature of the case that plaintiff proposes to try.

A review of the trial court's ruling on defendant's motion to strike plaintiff's amended complaint reveals that the trial court applied the appropriate standards in ruling on defendant's motion to strike plaintiff's amended complaint. Plaintiff has failed to establish that the trial court committed a palpable error in dismissing plaintiff's amended complaint and, therefore, has failed to establish that the trial court abused its discretion in denying plaintiff's motion for reconsideration.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Joel P. Hoekstra
/s/ Jane E. Markey