

STATE OF MICHIGAN
COURT OF APPEALS

KEITH REID,

Plaintiff-Appellant,

v

FLINT CIVIL SERVICE COMMISSION,

Defendant-Appellee,

and

HURLEY MEDICAL CENTER,

Appellee.

UNPUBLISHED

February 5, 2009

No. 281935

Genesee Circuit Court

LC No. 06-085387-AS

Before: Cavanagh, P.J., and Jansen and Meter, JJ.

PER CURIAM.

Plaintiff appeals as of right from the circuit court's order denying plaintiff's motion for superintending control. Plaintiff sought to overturn a decision of the Flint Civil Service Commission upholding his termination from his employment at Hurley Medical Center (HMC). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Plaintiff was ostensibly fired for missing three consecutive days of work due to incarceration, in violation of HMC's work rules and the collective bargaining agreement. He elected to have his grievance heard by the Flint Civil Service Commission. Following a hearing, which Hurley apparently tried to prevent through its own complaint to the circuit court for a writ of superintending control, the Commission concluded that there was just cause for discipline and that the termination was appropriate. Plaintiff filed a complaint for superintending control in the circuit court. The circuit court denied plaintiff's motion, finding that plaintiff presented no evidence to justify the issuance of an order for superintending control.

Generally, we review a circuit court's decision to deny a request for superintending control for an abuse of discretion. *In re Grant*, 250 Mich App 13, 14; 645 NW2d 79 (2002). The abuse of discretion standard recognizes that there are circumstances in which there will be more than one reasonable and principled outcome. *Maldonado v Ford Motor Co*, 476 Mich 372,

388; 719 NW2d 809 (2006). If the circuit court's conclusion reflects one such outcome, the circuit court has not abused its discretion and will be affirmed. *Id.*

A writ of superintending control is an original action designed to order a lower court or tribunal to perform a legal duty. See MCR 3.302; *Shepherd Montessori v Ann Arbor Twp*, 259 Mich App 315, 346-347; 675 NW2d 271 (2003). Ordinarily, the decision of a civil service commission, which is reviewed by a complaint for superintending control, will be affirmed if substantial evidence supports it. *In re Payne*, 444 Mich 679, 687, 690 (Boyle, J.), 698-699 (Riley, J.), 719 (Levin, J., dissenting); 514 NW2d 121 (1994). Substantial evidence is "any evidence that reasonable minds would accept as sufficient to support the decision; it is more than a mere scintilla of evidence but may be less than a preponderance of the evidence." *In re Grant* at 18-19. The circuit court may not substitute its discretion for that of the lower tribunal if sufficient evidence supports the decision, even if the court might have reached a different result. *Id.* at 19; *Fritz v St Joseph Co Drain Commr*, 255 Mich App 154, 163; 661 NW2d 605 (2003). "Our review of the circuit court's decision is limited to determining whether the court applied correct legal principles and whether it misapprehended or grossly misapplied the substantial evidence test to the agency's factual findings." *In re Grant, supra* at 18 (quotation omitted).

Plaintiff has provided very little in support of his claim. He does not discuss how the circuit court's decision was erroneous. He does not discuss, or provide any authority in support of, any legal claims surrounding his termination, such as an apparent claim of disparate treatment compared to other Hurley employees who were incarcerated for various periods during their employment. While he challenges factual findings made by the Commission, he does not discuss the circuit court's determination that he objected to only one of the findings, again concerning the treatment of other employees, or provide any evidentiary support for his claim that the circuit court erred in its holding that plaintiff had not shown that the employees were similarly situated. He does not discuss in any detail his claim on appeal that an officer called plaintiff's supervisor from the Genesee County Jail on December 21, 2005, and informed plaintiff's supervisor that plaintiff would not be at work on December 22, 2005; how this would have constituted adequate notice; or how this would have affected Hurley's decision to terminate his employment. An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims; nor may he give issues cursory treatment with little or no citation to supporting authority. *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 406; 651 NW2d 756 (2002). An appellant's failure to properly address the merits of his assertion of error constitutes abandonment of the issue on appeal. *Id.* We thus decline to review this issue.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Patrick M. Meter