STATE OF MICHIGAN

COURT OF APPEALS

MARTIN ANUMBA and DIABATE FASIRI,

Plaintiffs,

and

GBENGA ANJORIN,

Appellant,

v

CENTRAL STATES TRUCKING COMPANY,

Defendant-Appellee,

and

AIR FRANCE,

Defendant.

UNPUBLISHED
March 6, 2012

No. 300711
Wayne Circuit Court
LC No. 09-009595-CB

Before: GLEICHER, P.J., and METER and DONOFRIO, JJ.

PER CURIAM.

Plaintiffs' attorney, Gbenga Anjorin, appeals as of right the circuit court's March 5, 2010, order imposing sanctions against him in the amount of $2,000 and awarding such sanctions to defendant Central States Trucking Company ("defendant"). Because Anjorin was not entitled to notice and an opportunity to be heard before the trial court entered the March 5, 2010, order, which merely corrected a prior erroneous order, we affirm.[1]

[1] We reject defendant's challenge to this Court's jurisdiction. Although defendant asserts that the trial court denied Anjorin's motion for reconsideration of the March 5, 2010, order on March 26, 2010, no such order appears in the lower court file, nor is any such order listed in the circuit court's register of actions. The record indicates that Anjorin filed his motion for reconsideration

This appeal arises from the trial court's imposition of sanctions against Anjorin, in favor of defendant. The court awarded the sanctions at a January 22, 2010, hearing after determining that Anjorin had falsified documents. The order entered after the hearing, however, assessed the sanctions "against Plaintiffs." Thereafter, plaintiff Martin Anumba, acting in propria persona, filed a motion to set aside the sanctions. At a March 5, 2010, hearing, the circuit court explained that it had intended to impose the sanctions against Anjorin only, and not against plaintiffs. On the same day, the court entered an order specifying that the previously assessed sanctions were against Anjorin only.

Anjorin challenges the March 5, 2010, order on the basis that he was not provided notice of the March 5, 2010, motion hearing or an opportunity to be heard. He contends that "[t]his case is about fundamental fairness, notice and an opportunity to be heard[,]" terms that evoke due process principles. Indeed, the imposition of sanctions implicates due process. See *Klco v Dynamic Training Corp*, 192 Mich App 39, 42-43; 480 NW2d 596 (1991); *Hicks v Ottewell*, 174 Mich App 750, 757-758; 436 NW2d 453 (1989). We review de novo as a question of law whether a party has been afforded due process. *Reed v Reed*, 265 Mich App 131, 157; 693 NW2d 825 (2005).

Here, Anjorin was notified of the possibility of sanctions when defendant requested sanctions in its response to plaintiffs' motion to set aside the summary disposition order. Anjorin was also provided notice of the January 22, 2010, hearing at which the trial court first addressed defendant's request for sanctions. Moreover, Anjorin was provided an opportunity to be heard on the issue at that hearing. Thus, Anjorin was provided notice and an opportunity to be heard regarding the imposition of sanctions. It appears from the record, however, that Anjorin was not provided notice of Anumba's February 12, 2010, in propria persona motion to set aside the sanctions or defendant's February 25, 2010, motion for entry of judgment. There is no indication in the lower court file that Anjorin was served with these motions, and he was not present at the March 5, 2010, hearing on the motions.

"The right to due process of law is a flexible concept and must be analyzed by considering the particular circumstances presented in a given situation." *In re Project Cost & Special Assessment Roll For Chappel Dam*, 282 Mich App 142, 150; 762 NW2d 192 (2009). Following the March 5, 2010, hearing, the trial court entered an order that modified its prior January 22, 2010, order to comport with the court's intention as expressed at the January 22, 2010, hearing. The court had authority to correct the January 22, 2010, order pursuant to MCR 2.612(A)(1), which states:

> Clerical mistakes in judgments, orders, or other parts of the record and errors arising from oversight or omission may be corrected by the court at any time on its own initiative or on motion of a party and after notice, if the court orders it.

---

on March 18, 2010, and defendant submitted a proposed order denying the motion on September 23, 2010, pursuant to the seven-day rule of MCR 2.602(B)(3). On September 30, 2010, the trial court entered an order denying Anjorin's motion for reconsideration. Anjorin's claim of appeal was timely filed from that order on October 19, 2010. MCR 7.204(A)(1)(b).

MCR 2.612(A)(1) allows a court to correct a prior order that does not "comport with the trial court's intended and orally expressed ruling." *McDonald's Corp v Canton Twp*, 177 Mich App 153, 159; 441 NW2d 37 (1989). A review of the January 22, 2010, hearing transcript reveals that the trial court intended to sanction Anjorin only. The court was clearly exasperated with Anjorin and determined that Anjorin had falsified documents. The language of the court rule indicates that due process does not require notice and an opportunity to be heard before the court may correct a previous, erroneous order. Because an order entered under MCR 2.612(A)(1) merely involves the correction of an order previously entered, due process is satisfied if there was notice and an opportunity to be heard before entry of the original order, as occurred in this case. Although the trial court did not expressly refer to MCR 2.612(A)(1) as the basis for its decision, the effect of the March 5, 2010, order was to correct the January 22, 2010, order, as permitted by the court rule. Accordingly, we conclude that the trial court's entry of the March 5, 2010, order did not violate Anjorin's right to procedural due process.

Further, Anjorin has not articulated any basis for concluding that the outcome would have been different if he had been provided notice and an opportunity to be heard before the trial court entered the March 5, 2010, order. See *Verbison v Auto Club Ins Ass'n*, 201 Mich App 635, 640-641; 506 NW2d 920 (1993). The trial court indicated that it was imposing sanctions because of conduct attributable solely to Anjorin, i.e., "because [he] deliberately lied and submitted false pleading[s]." Anjorin does not assert that the trial court's decision was based on a misapprehension of the facts. Because Anjorin has not shown that the outcome would have been different if he had been given notice of and an opportunity to be heard at the March 5, 2010, hearing, he is not entitled to relief.[2]

Affirmed. Defendant, being the prevailing party, may tax costs pursuant to MCR 7.219.

/s/ Pat M. Meter
/s/ Pat M. Donofrio

[2] To the extent that plaintiff attempts to appeal the trial court's September 17, 2010, imposition of sanctions against him in the amount of $1,000, he has abandoned this claim of error. In his statement of the basis of jurisdiction, plaintiff states that he is appealing "two sanction orders issued . . . on March 5, 2010 and September 17, 2010." In the argument section of his brief, plaintiff challenges the March 5, 2010, order on the basis that he did not receive notice and an opportunity to be heard before the court entered the order. With respect to the September 17, 2010, imposition of sanctions, plaintiff merely indicates that the trial court sanctioned him $1,000 on September 17, 2010, when he attempted to receive a hearing with respect to the March 5, 2010, imposition of sanctions. It is undisputed that plaintiff received notice of and an opportunity to be heard at the September 17, 2010, hearing, and he does not offer any alternative argument that the September 17, 2010, imposition of sanctions was erroneous. Plaintiff's failure to brief the merits of his argument results in his abandonment of this issue. *DeGeorge v Warheit*, 276 Mich App 587, 601; 741 NW2d 384 (2007).