

DA 16-0006

IN THE SUPREME COURT OF THE STATE OF MONTANA

2016 MT 149N

ANGELA E. HELVEY,

Plaintiff and Appellant,

v.

KENNETH R. THOMPSON,

Defendant and Appellee.

APPEAL FROM: District Court of the Twelfth Judicial District,
In and For the County of Liberty, Cause No. DV-14-11
Honorable Daniel A. Boucher, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Angela E. Helvey (Self-Represented), Great Falls, Montana

For Appellee:

Kenneth R. Thompson (Self-Represented), Joplin, Montana

Submitted on Briefs: May 18, 2016

Decided: June 14, 2016

Filed:



Clerk

Justice Michael E Wheat delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Angela E. Helvey (Helvey) appeals from the Order of the Montana Twelfth Judicial District Court, Liberty County, dismissing her civil action because she twice failed to appear at the regularly scheduled pretrial conferences. We affirm.

¶3 Helvey and Kenneth Thompson (Thompson) are pro se litigants. Thompson did not answer Helvey's brief; thus, no reply was filed. Helvey devotes the better part of argument on appeal to her cause of action which she describes as a romance scam or fraud. She alleges that the defendant engaged in a plan to gain her affection and then use that goodwill to borrow money which he allegedly never repaid. We decline to review the merits of her claim, as the sole issue is whether the District Court abused its discretion when it dismissed Helvey's case due to her failure to appear.

¶4 Neither party appeared at the pretrial conference set at the District Court on December 16, 2015. Helvey also failed to appear at the first pretrial conference that was set for June 17, 2015. Helvey admits on appeal that she did not attend the December pretrial conference but contends that she had the flu and could not attend. She adds she submitted her sick leave approval from the Browning School District to show the court

proof of her illness, but the court ignored the document. Because Helvey failed to appear at the pretrial conferences, the District Court dismissed the matter on its own initiative. Helvey appeals from the order.

¶5 “A district court has broad discretion in sanctioning pretrial conduct and we generally defer to its decisions in such matters.” *Vermeer of Wash., Inc. v. Jones*, 2004 MT 77, ¶ 7, 320 Mont. 435, 87 P.3d 516. M. R. Civ. P. 16 generally addresses a district court’s pretrial case management functions. *Vermeer*, ¶ 9. M. R. Civ. P. 16(f)(1)(A) authorizes a district court, on its own initiative or upon motion, to order sanctions for “[failure] to appear at a scheduling or other pre-trial conference.” *Vermeer*, ¶ 9.

¶6 The court set the matter for pretrial conference twice. Helvey did not appear either time. The district court dockets are crowded and do not contain time for late arrivals and no-shows. In this case, the court graciously gave Helvey a second chance for a December pretrial conference. Still, Helvey failed to attend or notify the court that she would be unable to attend due to illness. We do not find an abuse of discretion where the court gave plaintiff a second chance and subsequently dismissed the matter when the Rules still were not followed.

¶7 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review.

¶8 Affirmed.

/S/ MICHAEL E WHEAT

We Concur:

/S/ JAMES JEREMIAH SHEA

/S/ PATRICIA COTTER

/S/ LAURIE McKINNON

/S/ JIM RICE