

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Regina M. Ibanez, :  
 :  
 Plaintiff-Appellant, :  
 :  
 v. : No. 11AP-1101  
 : (C.P.C. No. 11CVC-09-12205)  
 Jabin Ibanez, : (REGULAR CALENDAR)  
 :  
 Defendant-Appellee. :

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D E C I S I O N

Rendered on November 13, 2012

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*Regina M. Ibanez, pro se.*

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APPEAL from the Franklin County Court of Common Pleas

KLATT, J.

{¶ 1} Plaintiff-appellant, Regina M. Ibanez, appeals a judgment of the Franklin County Court of Common Pleas that dismissed her complaint against defendant-appellee, Jabin Ibanez. For the following reasons, we affirm.

{¶ 2} Regina, proceeding pro se, filed a complaint against her son, Jabin. The complaint alleged that Jabin: (1) filed a motion in a separate action requesting that the court evaluate Regina for a bipolar or schizophrenic condition, (2) falsely stated that Regina was bipolar and refusing to take her medication in an affidavit submitted to the Franklin County Probate Court, (3) "g[ave] assertions to administer medication to [Regina] for a mental disorder without a Psychiatrist diagnosis," and (4) failed to attend counseling with Regina. (R. 3 at 1-2.) For relief, the complaint requested that the trial court order: (1) Jabin to attend five years of mental health and drug counseling and (2) prohibit Jabin from being in the presence of children under the age of 18. (R. 3 at 4.)

{¶ 3} Although Jabin received service of the complaint and summons, he did not answer. Regina filed a motion for default judgment. In that motion, Regina represented

that she did not seek any monetary relief. Instead, she asked the trial court to order Jabin to undergo a mental health screening and drug test and serve five years of probation that would include drug evaluations and mental health counseling.

{¶ 4} In a decision and entry issued December 1, 2011, the trial court denied Regina's motion for default judgment and sua sponte dismissed Regina's complaint. In so ruling, the trial court found that:

Not only can the Court not grant the relief [Regina] seeks in the context of [her motion for default judgment], the Court cannot grant the relief sought by [Regina] at all. This is a civil case and all of the orders requested by [Regina] could only be issued, if at all, in a criminal case.

(R. 32 at 1.)

{¶ 5} Regina now appeals from the December 1, 2011 judgment, and she assigns the following error:

The trial court erred by Decision and Entry Denying Plaintiffs [sic] Motion for Default Judgment, Filed November 7, 2011 [and] Entry Dismissing Plaintiff's Complaint with Prejudice.

{¶ 6} A court may dismiss a complaint sua sponte and without notice if the complaint is frivolous or the claimant obviously cannot prevail on the facts alleged in the complaint. *State ex rel. Cincinnati Enquirer v. Ronan*, 124 Ohio St.3d 17, 2009-Ohio-5947, ¶ 3; *Concord Health Care, Inc. v. Schroeder*, 177 Ohio App.3d 228, 2008-Ohio-3392, ¶ 11 (11th Dist.); *Columbus Metro. Hous. Auth. v. Flowers*, 10th Dist. No. 05AP-87, 2005-Ohio-6615, ¶ 17. Here, as the trial court held, the trial court could not accord Regina the relief that she requested. Consequently, Regina obviously could not prevail on her complaint. We thus conclude that the trial court did not err in sua sponte dismissing Regina's complaint. Given the dismissal, Regina's motion for default judgment was moot, and therefore, appropriately denied.

{¶ 7} For the foregoing reasons, we overrule the sole assignment of error, and we affirm the judgment of the Franklin County Court of Common Pleas.

*Judgment affirmed.*

SADLER and FRENCH, JJ., concur.

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