

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Thomas Robinson, :
Appellant :
v. : No. 281 C.D. 2009
Glenda Holder and : Submitted: May 29, 2009
Felicia Wilson :

OPINION NOT REPORTED

MEMORANDUM OPINION
PER CURIAM

FILED: August 12, 2009

Thomas Robinson (Robinson) appeals, *pro se*, from a final order of the Court of Common Pleas of the First Judicial District of the Commonwealth of Pennsylvania (trial court) granting the motion for summary judgment filed by Glenda Holder and Felicia Wilson (collectively, Defendants). We affirm.

Holder is a social worker with the Philadelphia Department of Human Services (DHS). Wilson is Holder's supervisor at DHS. On January 18, 2007, Robinson filed a Complaint with the trial court against the Defendants for alleged actions or inactions in connection with the welfare of Robinson's two minor sons, Damien and Darren Cody. Robinson is serving a sentence for murdering the boys' mother and is incarcerated at the State Correctional Institute at Graterford.

In the Complaint, Robinson alleged that Defendants, acting in their personal and individual capacities, negligently and/or intentionally breached their duties and/or responsibility (1) of securing the best interest and permanent welfare of the children by placing Damien Cody in foster care; (2) by failing and/or refusing to make necessary arrangements for and denying Robinson of his rights to

participate in the Family Court proceedings; and (3) by depriving Robinson of his constitutional rights of participating in the Family Service Plan proceeding. Robinson further alleged that Defendants knowingly, intentionally and maliciously committed fraud by misrepresenting and/or lying about Robinson's participation in the August 22, 2006 Family Service Plan proceeding. Robinson alleged that he did not participate telephonically in the meeting as stated in the Family Service Plan report. Robinson alleged that this deprived him of his constitutional rights to make important decisions concerning his sons. Robinson sought compensatory and punitive damages against Defendants totaling two million dollars to be paid to him.¹

The facts, as found by the trial court, in the light most favorable to Robinson, are as follows. On February 19, 2006, while the boys were in the care of their maternal grandmother, "events transpired which caused [DHS] to get involved" in the care and custody of the minor children.² Proceedings concerning the children's welfare were held before Philadelphia Court of Common Pleas – Family Division (Family Court) on February 22, 2006, March 7, 2006 and August 22, 2006. The August 22, 2006 proceeding was a Family Service Plan meeting. Defendant Holder was not the DHS social worker assigned to the case on February 22, 2006 or March 7, 2006. Defendants Holder and Wilson have had involvement with the Cody

¹ Defendants filed a Notice of Removal on April 13, 2007 seeking to remove the case to the United States District Court for the Eastern District of Pennsylvania. Upon determining that Robinson's action did not invoke a federal constitutional question, the U.S. District Court remanded the action to the trial court and marked its action closed.

² The boys' grandmother was hospitalized and attempted to have a neighbor care for the boys. The neighbor, however, was unable to continue the care and DHS became involved.

case since May 2, 2006. Defendant Holder was the DHS social worker assigned to the Cody case on August 22, 2006.

Defendants answered Robinson's Complaint. On May 5, 2008, Defendants filed a motion for summary judgment on the basis that Robinson cannot prevail on any of the claims asserted. Defendants assert that Robinson cannot succeed on his negligence claims against them as they are barred by the "Political Subdivision Tort Claims Act"³ and monetary relief is not available for alleged violations of his constitutional rights. Defendants later argued that Robinson had not adduced sufficient evidence to support his claim of fraud or intentional misrepresentation in relation to his participation at the August 22, 2006 Family Service Plan meeting.

By order dated July 15, 2008, the trial court granted Defendants' motion for summary judgment. This appeal followed.^{4,5} In this appeal, Robinson raises the following issues for our review:

1. Whether the trial court considered and/or addressed Robinson's civil action in the light most favorable to Robinson.
2. Whether the trial court recognized the fact that Robinson presented unrebutted and undisputed documented evidence from the Department of Corrections and Defendants

³ Sections 8541 - 8542 of the Judicial Code, 42 Pa. C.S. §§8541 – 8542.

⁴ This Court's scope of review of a grant or denial of summary judgment is limited to determining whether the trial court committed an error of law or abused its discretion. Salerno v. LaBarr, 632 A.2d 1002 (Pa. Cmwlth. 1993), petition for allowance of appeal denied, 537 Pa. 655, 644 A.2d 740 (1994). Summary judgment is only appropriate when, after examining the record in the light most favorable to the non-moving party, there is no genuine issue of material fact, and the moving party clearly establishes that he is entitled to judgment as a matter of law. Id.

⁵ The appeal was timely filed with the Superior Court and then transferred to this Court.

proving and establishing that Robinson's claims are meritorious.

3. Whether the trial court considered and/or addressed Robinson's claim that Defendants' action and omissions constitute an intentional tort, willful misconduct, actual fraud and crime under Section 4991 of Crimes Code, 18 Pa. C.S. §4911, specifically:
 - a. Whether Defendants intentional misrepresentation (by writing) in the official state records that Robinson participated in the August 22, 2006 Family Service Plan conference, when in fact Robinson wanted to participate and arrangements were made for Robinson to participate, however Robinson did not participate because Defendants refused and failed to call into the institution where Robinson is confined, constituted actual fraud, and
 - b. Whether Defendants' actions of intentionally falsifying state records constituted a crime.
4. Whether the trial court refused and failed to consider and/or address Robinson's claim that he was denied the opportunity to be heard in numerous family court proceedings in violation of the Due Process Clause of the 14th Amendment of the U.S. Constitution; Article 1, Section 1 of the Pennsylvania Constitution; and Section 5345 of the Uniform Child Custody Jurisdiction Act, 23 Pa. C.S. §5345.⁶
5. Whether the trial court refused and failed to consider and/or address Robinson's claim that Defendants' actions and omissions of leaving Robinson's oldest son in the foster care system for seven months without investigating paternal and maternal family members for placement of Robinson's sons constitutes a breach of legal duty and

⁶ This section was repealed by the Act of June 15, 2004, P.L. 236, effective August 16, 2004. The subject matter is now covered by Section 5425 of the Uniform Child Custody Jurisdiction and Enforcement Act, 23 P.S. §5425.

state law, namely the Juvenile Act, 42 Pa. C.S. §§ 6301-6365.

6. Whether the trial court refused and failed to grant Robinson's request for vital discovery material prior to ruling on Defendants' motion for summary judgment.

These issues were raised by Robinson in his Statement of Errors Complained of on Appeal. We conclude that the trial court has thoroughly and correctly analyzed these issues and that this matter was ably disposed of in the well-reasoned opinion of the Honorable Patricia A. McInerney. Accordingly, we affirm on the basis of her opinion in Robinson v. Holder, et al., (No. 2102, January Term, 2007, filed October 6, 2008).

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	:	
Glenda Holder and	:	
Felicia Wilson	:	

PER CURIAM

ORDER

AND NOW, this 12th day of August, 2009, the order of the Court of Common Pleas of the First Judicial District of the Commonwealth of Pennsylvania, dated June 16, 2008, at No. 2102, is AFFIRMED.