



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-17-00180-CV

Carlos A. **GARCIA**,
Appellant

v.

SCHLUMBERGER TECHNOLOGY CORPORATION,
Appellee

From the 49th Judicial District Court, Webb County, Texas
Trial Court No. 2016CVT001478-D1
Honorable Jose A. Lopez, Judge Presiding

Opinion by: Rebeca C. Martinez, Justice

Sitting: Karen Angelini, Justice
Rebeca C. Martinez, Justice
Patricia O. Alvarez, Justice

Delivered and Filed: November 29, 2017

AFFIRMED

Carlos A. Garcia appeals a no evidence summary judgment granted in favor of Schlumberger Technology Corporation on Garcia's false imprisonment claim. Garcia contends Schlumberger had the burden of proof on the third element of his claim; therefore, the trial court erred in granting a no evidence motion for summary judgment. Garcia also contends the trial court erred in denying his request for sanctions against Schlumberger for filing a baseless no-evidence motion. We affirm the trial court's judgment.

BACKGROUND

Garcia was employed by Schlumberger as a mechanic. Schlumberger provided Garcia with a backpack. When Garcia exchanged his old backpack for a new backpack, a co-worker found a plastic bag containing white powder in the old backpack and called the police. Although Garcia denied any knowledge of the plastic bag or the powder, he was arrested and taken to jail. The charges against Garcia were dropped after the white powder was tested and determined not to be a controlled substance. Garcia then sued Schlumberger for false imprisonment.

Nine months after Garcia filed his lawsuit, Schlumberger filed a no evidence motion for summary judgment challenging all three elements of Garcia's false imprisonment claim. Rather than filing a response to Schlumberger's motion, Garcia filed a motion for sanctions, asserting Schlumberger's motion was groundless "because the law does not permit a party who has an evidentiary burden at trial to file a no evidence motion." Specifically, Garcia alleged Schlumberger had the burden to prove that his arrest was lawful. After a hearing, the trial court granted Schlumberger's no evidence motion for summary judgment and denied Garcia's motion for sanctions. Garcia appeals.

DISCUSSION

"We review a trial court's order granting summary judgment de novo." *Cnty. Health Sys. Prof'l Servs. Corp. v. Hansen*, 525 S.W.3d 671, 680 (Tex. 2017). "A motion for summary judgment must be granted if: (1) the moving party asserts that there is no evidence of one or more specified elements of a claim or defense on which the adverse party would have the burden of proof at trial; and (2) the respondent [fails to produce more than a scintilla of] summary judgment evidence raising a genuine issue of material fact on those elements." *Sudan v. Sudan*, 199 S.W.3d 291, 292 (Tex. 2006); *see also Medistar Corp. v. Schmidt*, 267 S.W.3d 150, 157 (Tex. App.—San Antonio 2008, pet. denied).

“The essential elements of a cause of action for false imprisonment are: (1) willful detention; (2) without consent; and (3) without authority of law.” *Sears, Roebuck & Co. v. Castillo*, 693 S.W.2d 374, 375 (Tex. 1985). Schlumberger’s motion asserted there was no evidence of any of these elements.

Garcia contends the trial court erred in granting the no evidence motion for summary judgment in the instant case because Schlumberger had the burden to prove the third element of his false imprisonment claim.¹ Garcia is correct that a no evidence motion for summary judgment is appropriate only “when the party without the burden of proof moves for summary judgment on the basis that the party with the burden of proof at trial cannot produce legally sufficient evidence to support its theory of liability.” *La Tier v. Compaq Computer Corp.*, 123 S.W.3d 557, 561 (Tex. App.—San Antonio 2003, no pet.). Garcia is incorrect, however, in his assertion that Schlumberger had the burden to prove the third element of his false imprisonment claim.

In support of his argument, Garcia primarily relies on *Castillo v. Canavati*, 152 S.W.2d 785 (Tex. Civ. App.—San Antonio 1941, writ ref’d w.o.m.), and *Hicks v. Matthews*, 261 S.W.2d 207 (Tex. Civ. App.—Beaumont 1953), *rev’d*, 266 S.W.2d 846 (Tex. 1954). Both of the cases Garcia cites pre-date the Texas Supreme Court’s decision in *Sears, Roebuck & Co. v. Castillo*, 693 S.W.2d 374 (Tex. 1985). In that decision, the Texas Supreme Court stated, “The plaintiff must

¹ Because Garcia only challenges the granting of the no evidence motion on one of the three elements of his claim, we could affirm the trial court’s judgment based on Garcia’s failure to challenge the granting of the no evidence motion on the other two elements of his claim. See *Miller v. El Campo Holdings LLC*, No. 02-15-00388-CV, 2017 WL 370936, at *5 (Tex. App.—Fort Worth Jan. 26, 2017, no pet.) (mem. op.); see also *Manautou v. Ebby Halliday Real Estate, Inc.*, No. 05-13-01035-CV, 2015 WL 870215, at *3 (Tex. App.—Dallas Feb. 27, 2015, pet. denied) (“When a trial court grants a no-evidence motion for summary judgment, in order to adequately challenge on appeal each possible ground for summary judgment, an appellant must cite the specific evidence in the record that it relied upon to defeat the motion and describe why that evidence raised a fact issue.”); see generally Timothy Patton, *Summary Judgments in Texas* § 8.03[2] (3d ed. 2017) (noting “summary judgment must be affirmed if there is an unchallenged ground upon which the trial court could have based the summary judgment”).

prove the absence of authority in order to establish the third element of a false imprisonment cause of action.” *Id.* at 376. This court has also recognized that the plaintiff bears the burden “to prove all three elements including the absence of authority.” *Wal-Mart Stores, Inc. v. Odem*, 929 S.W.2d 513, 519 (Tex. App.—San Antonio 1996, writ denied); *see also Carr v. H.E. Butt Grocery Co.*, No. 03-07-00149-CV, 2009 WL 3230834, at *4 (Tex. App.—Austin Oct. 7, 2009, no pet.) (mem. op.) (asserting plaintiff must prove all three elements); *Wal-Mart Stores, Inc. v. Cockrell*, 61 S.W.3d 774, 777 (Tex. App.—Corpus Christi 2001, no pet.) (recognizing same burden); *Raiford v. May Dept. Stores Co.*, 2 S.W.3d 527, 533 (Tex. App.—Houston [14th Dist.] 1999, no pet.) (recognizing same burden). Because Garcia had the burden of proof on all three elements of his claim and failed to produce any evidence in response to Schlumberger’s motion, the trial court did not err in granting Schlumberger’s no evidence motion for summary judgment or in denying Garcia’s motion for sanctions.

CONCLUSION

The trial court’s judgment is affirmed.

Rebeca C. Martinez, Justice