TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-17-00096-CV

Rosser B. Melton, Jr., Appellant

v.

The State of Texas, Appellee

FROM THE DISTRICT COURT OF TRAVIS COUNTY, 201ST JUDICIAL DISTRICT
NO. D-1-GN-16-002564, HONORABLE STEPHEN YELENOSKY, JUDGE PRESIDING

M E M O R A N D U M O P I N I O N

Rosser B. Melton, Jr. has filed a pro se appeal from the trial court's final summary judgment awarding the State of Texas $4,259.09 in "administrative penalties and administrative investigative and court costs" and $16,756 in attorney's fees. Melton's appellate brief does not describe the judgment being appealed or address why the trial court erred in rendering the judgment, other than making vague assertions that all lawyers and their bar associations violate the Sherman Antitrust Act. The brief does not include citations to the record; instead, it merely refers us to the clerk's record generally and asks us to visit two websites for more information. Moreover, the brief does not cite to legal authorities, other than the Sherman Antitrust Act, or explain how the law and the facts of this case entitle him to relief from the trial court's judgment.[1]

[1] The following verbatim excerpts show the major themes of Melton's brief:

> Lawyer judges all must recuse themselves for evident institutional bias; Lawyers and judges, via their Bar Association/s are anticompetitive, criminal monopolies which

Therefore, we conclude that any issues Melton may have are inadequately briefed and present nothing for our review. *See* Tex. R. App. P. 38.1(i); *Amir-Sharif v. Hawkins*, 246 S.W.3d 267, 270 (Tex. App.—Dallas 2007, pet. dism'd w.o.j.) ("An issue on appeal unsupported by argument or citation to any legal authority presents nothing for this Court to review."). We will not comb through the record looking for legal errors Melton has not identified and explained. *See Amir-Sharif*, 246 S.W.3d at 270 ("This Court has no duty to perform an independent review of the record and applicable law to determine whether the error complained of occurred."). To do so would be placing ourselves in the role of Melton's advocate. *See Valadez v. Avitia*, 238 S.W.3d 843, 845 (Tex. App.—El Paso 2007, no pet.) ("An appellate court has no duty—or even right—to perform an independent review of the record and applicable law to determine whether there was error. Were we to do so, even on behalf of a *pro se* appellant, we would be abandoning our role as neutral

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> violate the Sherman Antitrust Act (15 USC 1,2, etc.)
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> [T]he lawyers' Bar Associations, to which all lawyers must belong, is in obvious violation of the Sherman Antitrust Act, along with all of the state occupational licensing boards. This is because the Bar/s and boards are governed by persons in the regulated occupation. They are not implementing clear state policy, and they are not under strict state supervision, to echo the declarations of a recent U.S. Supreme Court decision. As such, they are unconvicted criminals who should not be permitted to operate within a justice system without clearing themselves, which they can't do. Paraphrasing Adam Smith, all persons in the same business seldom meet, even for pleasure and merriment, but that the result is a conspiracy against the public, normally that of raising prices.
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> Reservation
> no progress objectively
> unappreciated

adjudicators and become an advocate for that party.") (citation omitted); *see also Holland v. Scroggie*, No. 03-16-00601-CV, 2017 WL 1832491, at *1 (Tex. App.—Austin May 4, 2017, no pet. h.) (mem. op.).

Because Melton has not adequately briefed any issue on appeal, we will affirm the trial court's final summary judgment.[2] However, in its brief, the State asks us "for an order in remittitur" reducing the trial court's attorney's fee award. The State asserts that the final summary judgment failed to reduce the attorney's fee award by the $2,100 that Melton had already paid to the State. The record before us supports the State's assertion. Ordinarily, we would suggest a remittitur. *See* Tex. R. App. P. 46.3. However, because the State has conceded that the attorney's fee award was excessive and has asked us to reduce the amount, we construe this request as accepting the suggested remittitur. Accordingly, we will modify the trial court's judgment to reduce the attorney's fee award by $2,100. *See id.* R. 46.5 ("If the remittitur is timely filed and the court of appeals determines that the voluntary remittitur cures the reversible error, then the court must accept the remittitur and reform and affirm the trial court judgment in accordance with the remittitur."); *Maya Walnut, LLC v. Lopez-Rodriguez*, No. 05-16-00750-CV, 2017 WL 1684679, at *7 (Tex. App.—Dallas May 3, 2017, no pet. h.) (mem. op.) (noting that appellee conceded that damages award was excessive and requested that the court of appeals reform the trial court's judgment and stating, "We construe this request as accepting the suggested remittitur. We, therefore, modify the trial court's judgment to reflect an award of $450 for past lost wages. As modified, we affirm

[2] We note that the trial court granted summary judgment in favor of the State because Melton failed to file a petition for judicial review of the final administrative order within 30 days. *See* Tex. Gov't Code § 2001.176(a).

the trial court's judgment."); *Mesquite Elks Lodge No. 2404 v. Shaikh*, No. 05-08-01372-CV, 2011 WL 989037, at *1 (Tex. App.—Dallas Mar. 22, 2011, no pet.) (mem. op. on reh'g) ("We conclude appellees' voluntary remittitur cures the reversible error, and we accept it. We . . . modify the trial court's judgment to reflect the remittitur . . . and affirm the trial court's judgment as modified.").[3]

CONCLUSION

We modify the trial court's final summary judgment to reduce the award of attorney's fees by $2,100. We affirm the judgment as modified.

Scott K. Field, Justice

Before Chief Justice Rose, Justices Field and Bourland

Modified and, as Modified, Affirmed

Filed: June 21, 2017

[3] The State also includes in its brief a motion asking us to order the Clerk of Court for the Travis County District Courts to disburse funds held in the registry of the Travis County District Courts to the State in the amount of the reformed judgment. However, funds can be paid out of this registry "only on written evidence of the order of the judge of the court in which the funds have been deposited, authorizing the disbursement of the funds." Tex. Loc. Gov't Code § 117.121(b); *see Eikenburg v. Webb*, 880 S.W.2d 781, 782 (Tex. App.—Houston [1st Dist.] 1993, no writ). Therefore, we deny the State's motion. We note that the trial court has the authority to order the district clerk to disburse funds upon the State's motion. *See Schroeder v. LND Mgmt., LLC*, 446 S.W.3d 94, 97 (Tex. App.—Houston [1st Dist.] 2014, no pet.) ("A trial court 'unquestionably ha[s] quasi in rem jurisdiction to determine who owns funds tendered into [its] registry.'") (quoting *Madeksho v. Abraham, Watkins, Nichols & Friend*, 112 S.W.3d 679, 686 (Tex. App.—Houston [14th Dist.] 2003, pet. denied)).