

IN THE UTAH COURT OF APPEALS

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Lynn A. Jenkins,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellant,)	
)	Case No. 20050795-CA
v.)	
)	
National Product Sales, Inc.)	F I L E D
dba NPS; and John Does I-X,)	(August 24, 2006)
)	
Defendants and Appellees.)	2006 UT App 351

Third District, Salt Lake Department, 010911737
The Honorable John Paul Kennedy

Attorneys: Lynn A. Jenkins, Bountiful, Appellant Pro Se
Terry M. Plant and Andrew M. Wadsworth, Salt Lake
City, for Appellees

Before Judges Bench, Billings, and Thorne.

PER CURIAM:

Appellant Lynn A. Jenkins appeals the dismissal of his complaint for no cause of action based upon a jury's special verdict. Appellee National Product Sales (NPS) seeks sanctions for a frivolous appeal.

Jenkins appears to claim that the court incorrectly instructed the jury on "citizen's arrest," incorrectly ordered Jenkins to pay court costs, and erred by denying him "damages awarded to him by the jury." The brief, however, contains no factual statement and no reasoned analysis in support of these claims.

Appellate courts may disregard or strike noncomplying briefs. See Utah R. App. P. 24(k). In State v. Sloan, 2003 UT App 170, 72 P.3d 138, we stated:

Briefs that are not in compliance with [r]ule 24 [of the Utah Rules of Appellate Procedure] may be disregarded or stricken sua sponte by the court. Briefs must contain reasoned analysis based upon relevant legal authority.

An issue is inadequately briefed when the overall analysis of the issue is so lacking as to shift the burden of research and argument to the reviewing court.

Id. at ¶13.

Jenkins's briefing of the issues regarding jury instructions neither specifically identifies the instructions nor provides meaningful analysis. The jury found that Jenkins was intentionally detained by NPS without his consent and that he was aware of the detention or was damaged by it, thus establishing a prima facie case for false imprisonment. Nevertheless, the jury also found that NPS lawfully detained Jenkins based upon the merchant's authority to detain under Utah Code section 78-11-18. See Utah Code Ann. § 78-11-18 (2002). Accordingly, any allegedly improper instruction on citizen's arrest was harmless because that was not a basis for the jury's decision.

Jenkins's claim that the court erred in ordering him to pay NPS's costs is without merit. NPS was the prevailing party at trial and was properly awarded its costs.

Finally, Jenkins contends that the court erred in failing to award damages to him. Although the jury found on the special verdict form that Jenkins suffered damages, the jury also found that NPS had established that it was entitled to the merchant's immunity from liability. Jenkins suggests in his argument that Utah Code section 78-11-18 is unconstitutional. He claims simply that the merchant's immunity is contrary to the "immunity standard established by the Utah Supreme Court" in Laney v. Fairview City, 2002 UT 79, 57 P.3d 1007. While including quotations from the Laney case, he provides no reasoned analysis in support of its application to this case. Similarly, he contends that the statute violates equal protection guarantees, citing Gallivan v. Walker, 2002 UT 89, 54 P.3d 1069. In the absence of any reasoned analysis, we decline to consider the constitutional claims.

NPS seeks an award of attorney fees against Jenkins for a frivolous appeal under rule 33 of the Utah Rules of Appellate Procedure. See Utah R. App. P. 33. Our docket review reflects that Jenkins has initiated at least eighteen cases in this court or in the Utah Supreme Court. Because Jenkins "avails [himself] of the judicial machinery as a matter of routine, special leniency on the basis of pro se status is manifestly inappropriate." Lundahl v. Quinn, 2003 UT 11, ¶4, 67 P.3d 1000. Failure to adequately brief the claims on appeal may support an award of attorney fees. See Nipper v. Douglas, 2004 UT App 118, ¶20, 90 P.2d 649 (awarding attorney fees against an

appellant's attorney predicated on the failure to adequately brief the issues raised on appeal). Thus, NPS is entitled to its attorney fees reasonably incurred in responding to this appeal. We direct the district court to determine the amount of the sanction.

We affirm the decision of the district court and remand for determination of the attorney fees reasonably incurred by NPS in defending against this appeal.

Russell W. Bench,
Presiding Judge

Judith M. Billings, Judge

William A. Thorne Jr., Judge