

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

WARREN E. BELL,

Appellant,

v.

SNOHOMISH COUNTY,

Respondent.

No. 67410-2-I

DIVISION ONE

UNPUBLISHED OPINION

FILED: December 17, 2012

PER CURIAM – Warren Bell appeals the denial of his motion to vacate an order dismissing his action against Snohomish County for violations of the Public Records Act (PRA), RCW 42.56. He claims the county’s motion for summary judgment relied on a declaration from Mary Halberg that was not provided to the court. Because Bell fails to demonstrate that the trial court relied upon any facts or argument attributable to Halberg, we affirm.

In 2009, Bell sent a public records request to the Snohomish County Sheriff’s Office. In 2010, he sued the county, alleging that it had not properly responded to his records request and had violated the PRA. The county moved for summary judgment. In the “Evidence Relied Upon” section of its motion, the county listed a declaration from Mary Halberg, but no declaration from Halberg was filed with the court.

The superior court granted summary judgment and dismissed Bell’s action with prejudice. The summary judgment order did not include Halberg’s declaration in the list of evidence the court considered in deciding the motion.

Bell then moved to vacate the summary judgment under CR 60(b)(4), (11). The court denied the motion and entered the following findings:

1. Snohomish County served [Bell] with timely notice of its Motion for Summary Judgment and all declarations in support thereof;
2. Snohomish County did not rely upon a declaration from Mary Halberg in successfully arguing its Motion for Summary Judgment;
3. Snohomish County did not commit fraud, misrepresentation, or other misconduct in arguing its Motion for Summary Judgment;
4. [Bell] was not prevented from fully and fairly presenting his defense to Snohomish County's Motion for Summary Judgment.

Bell appeals.

We review a decision denying a motion to vacate a judgment for abuse of discretion.¹ Our review is limited to the order on the motion to vacate; we do not review the underlying judgment.²

Bell claims that the county's motion for summary judgment did not comply with CR 56(c) because it mentioned, but did not provide, Halberg's declaration. He further contends that in the absence of Halberg's declaration, the court ruled on an incomplete record and denied him "a full and fair hearing. But the court expressly found that the county did not rely on Halberg's declaration, and nothing in the record indicates that either the county or the court actually relied on any facts or argument attributable to Halberg. Accordingly, the court did not abuse its discretion in denying Bell's motion to

¹ Rapid Settlements, Ltd. v. Symetra Life Ins. Co., 166 Wn. App. 683, 690, 271 P.3d 925 (2012) (citing Vance v. Offices of Thurston County Comm'rs, 117 Wn. App. 660, 671, 71 P.3d 680 (2003)).

² Barr v. MacGugan, 119 Wn. App. 43, 48, 78 P.3d 660 (2003); Bjurstrom v. Campbell, 27 Wn. App. 449, 451, 618 P.2d 533 (1980).

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vacate.

Bell's requests that we strike the county's brief, impose sanctions, and award him costs and attorney fees on appeal are denied.

Affirmed.

FOR THE COURT:

