

IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
LUCAS COUNTY

Alberta Jean Reed

Court of Appeals No. L-10-1287

Appellant

Trial Court No. CVI-08-13460

v.

Rodney Scott Temple

**DECISION AND JUDGMENT**

Appellee

Decided: December 30, 2011

\* \* \* \* \*

Alberta Jean Reed, Pro se.

\* \* \* \* \*

HANDWORK, J.

{¶1} Appellant, Alberta Jean Reed, appeals, pro se, from a judgment that the Toledo Municipal Court entered against her, and in favor of appellee, Rodney Scott Temple. For the reasons that follow, we reverse the judgment of the trial court.

{¶2} This case involves a claim for monetary damages by Reed against Temple. At a hearing on the matter, held before a magistrate, evidence of the following facts was adduced.

{¶3} Reed and Temple had had a long-term personal relationship, and for over a year lived in a house that they had purchased together.

{¶4} On March 9, 2008, Temple reported to police that Reed had attempted to burn him with curling irons. At the hearing, Temple testified that at the time of the March 9, 2008 attack, he had just come out of the shower, when he and Reed began to argue and, during the course of their altercation, Reed attempted to burn Temple's testicles with her curling irons. Temple stated that he sustained a burn on his forearm as he tried to fight Reed off.

{¶5} On March 22, 2008, Reed reported to police that she had been injured when, during a subsequent argument with Temple, Temple pushed Reed into a wall, causing her to fall down. At the hearing, Reed testified that, as a result of the fall, she sprained and bruised her hand. According to testimony by Temple, Reed became injured during the course of Temple's attempts to defend himself.

{¶6} At some point during the investigation of the March 22, 2008 incident, the responding officers determined that there existed two outstanding warrants against Reed. As a result of those warrants -- both of which were connected to the March 9, 2008 incident with Temple -- Reed was taken into custody and booked.

{¶7} On March 23, 2008, Reed went to the hospital for evaluation and treatment of the injuries sustained during the March 22, 2008 incident. As a result of the hospital visit, Reed incurred expenses amounting to \$1,969.

{¶8} Reed was ultimately charged with domestic violence and assault in regard to the March 9, 2008 incident. She pleaded not guilty to the offense and, following a trial held on May 6, 2008, was adjudged not guilty.

{¶9} On July 14, 2008, Reed filed a small claims complaint against Temple, wherein she requested \$3,000 for monetary damages “due to court costs, legal fees, hospital bills, jail fees, housing expenses, and small claims court filing fees, before during and after criminal court found Plaintiff to be NOT GUILTY in the domestic violence case in April [sic], 2008.”

{¶10} At the hearing, Reed introduced evidence that, as a result of the March 23, 2008 hospital visit, she incurred expenses amounting to \$1,969. She additionally testified that, as a result of the criminal charges that were filed against her, she was forced to find alternative housing for a period of 60 days, and that the cost of such housing was \$400.

{¶11} In addition to testimony regarding the March 9, 2008 and March 22, 2008 incidents, Temple introduced police reports of prior assaults alleged to have been committed by Reed against Temple. He also introduced photos of himself depicting injuries allegedly inflicted by Reed during an earlier, separate incident.

{¶12} Following the trial, the magistrate filed findings of fact and conclusions of law, and ultimately concluded that Reed had failed to prove her case by a preponderance of the evidence. Reed filed an objection to the magistrate’s findings. The trial court, upon reviewing the record, issued an order that both adopted the magistrate’s decision and overruled Reed’s objection.

{¶13} Reed appealed from the trial court’s order, raising the following assignments of error:

{¶14} I. “In paragraph one of the Findings of Fact, Magistrate Smith notes that Plaintiff Reed ‘alleges that defendant caused her to suffer monetary damages as a result of his [Defendant Temple’s] actions concerning her arrest.’”

{¶15} II. “In paragraph one of the Findings of Fact, Magistrate Smith states that Plaintiff Reed ‘alleges that she was found ‘not guilty.’”

{¶16} III. “In paragraph three of the Findings of Fact, Magistrate Smith confuses evidence presented and the chronology of the events testified to by both parties of the trial.”

{¶17} IV. “In paragraph one of the Conclusions of Law, Magistrate Smith states ‘Plaintiff alleged that she was falsely arrested in March of this year.’”

{¶18} V. “In paragraph one of the Conclusions of Law, Magistrate Smith states, ‘\* \* \* she was arrested for her actions.’”

{¶19} VI. “In paragraph one of the Conclusions of Law, Magistrate Smith states ‘\* \* \* her injuries were a result of her own actions (i.e., the assault with the hot curling irons).’”

{¶20} Because all of Reed’s assignments of error involve overlapping issues -- specifically, alleged errors in the trial court’s determinations of fact -- they will be considered together in this analysis.

{¶21} An appellate court gives due deference to the trial court's findings of fact where they are supported by competent, credible evidence; but where a legal conclusion is arrived at on the basis of findings of fact that are contrary to the undisputed facts in a case, reversible error may be found. See *Four Howards, Ltd. v. J&F Wenz Rd. Invest., L.L.C.*, 179 Ohio App.3d 399, 2008-Ohio-6174, ¶ 63.

{¶22} In her first assignment of error, Reed alleges error in the trial court’s finding that Reed “alleges that defendant caused her to suffer monetary damages as a result of his [Defendant Temple’s] actions concerning her arrest.” We find that this is a true, but incomplete statement about the nature of Reed’s claim. Although part of Reed’s claim certainly does involve a request for damages stemming from Temple’s going forward with the criminal case that arose from the March 9, 2008 argument, another part of her claim goes to the physical injuries she allegedly suffered during the March 22, 2008 incident, an incident for which she was not arrested. Because the court’s finding,

although in and of itself incomplete, is supported by competent, credible evidence, we find Reed's first assignment of error not well-taken. See *Four Howards, Ltd.*, supra.

{¶23} Reed argues in her second assignment of error that the trial court erred in finding that Reed "alleges that she was found 'not guilty.'" Although Reed appears to have a problem with the court's finding that she "alleged" to have been found not guilty in the case involving the March 9, 2008 incident, the evidence is undisputed that she was, in fact, found not guilty. Inasmuch as the trial court does not take issue with this fact or otherwise find, we find Reed's second assignment of error not well-taken.

{¶24} Reed argues in her third assignment of error that the magistrate, in paragraph three of his findings of fact, confuses the evidence that was presented and the chronology of events that was testified to by both parties at trial. Specifically, Reed points to the magistrate's finding that "Defendant testified that he was defending himself from an attack by plaintiff who 'was going for my testicles' with two hot curling irons; and, that caused the injuries plaintiff complained of."

{¶25} Upon reading this finding of fact in conjunction all of the other findings of fact and with the evidence contained in the record, we agree with Reed. In this case, the magistrate appears to have confused, or perhaps conflated, in his decision the facts of the curling iron incident of March 9, 2008 with the facts of the March 22, 2008 incident during which Reed alleges she was injured. Because the magistrate's finding of fact is

not supported by competent, credible evidence, we find Reed's third assignment of error well-taken. See *Four Howards, Ltd.*, supra.

{¶26} In her fourth assignment of error, Reed challenges the magistrate's conclusion of law that "Plaintiff alleged that she was falsely arrested in March of this year." In fact, Reed made no such allegation, nor does the record support such. To the extent that this is a legal conclusion arrived at on the basis of findings of fact that are contrary to the undisputed facts of the case, we find appellant's fourth assignment of error well-taken. See *Four Howards, Ltd.*, supra.

{¶27} Reed's fifth and sixth assignments of error both speak to the court's apparent confusion/conflation with respect to the chronology of events. Here, the magistrate relevantly stated in his conclusions of law:

{¶28} "The Court is convinced that plaintiff attacked defendant and as a result of a police investigation, she was arrested for her actions. Further, plaintiff fails to prove that her injuries were not the result of her own actions (i.e., the assault with the curling irons)."

{¶29} Read together, the above-mentioned sentences reveal, once again, consistent confusion on the part of the magistrate regarding the relevant facts. Again, the magistrate seems to have confused the March 9, 2008 curling iron incident, which did not result in alleged injuries to Reed, with the March 22, 2008 incident, which did result in alleged injuries. Because the trial court's legal conclusions were arrived at on the basis of

findings of fact that are contrary to the undisputed facts of the case, appellant's fifth and sixth assignments of error are found well-taken. See *Four Howards Ltd.*, supra.

{¶30} Where, as here, the trial court's order, as evidenced by the findings of fact and conclusions of law, is unsupported by competent, credible evidence, we decline to search the record to find some factual or legal basis upon which the trial court's order may have been founded; instead, we remand such a case to the trial court for further consideration and determination of the issues based upon the evidence in the record. Cf., *In the Matter of Eaglewood Care Center v. The State Certificate of Need Review Bd.* (March 17, 1992), 10th Dist. No. 91AP-357 (holding that where an order of the State Certificate of Need Review Board, as evidenced by the findings of fact and conclusions of law, is either unsupported by reliable, probative and substantial evidence, or contrary to law, the matter is to be remanded to the review board for determination of remaining issues).

{¶31} For all of the foregoing reasons, the judgment of the Toledo Municipal Court is reversed and the case is remanded to the trial court for it to assess plaintiff's claims based on the facts testified to at the hearing. Appellee is ordered to pay the costs of this appeal pursuant to App.R. 24.

JUDGMENT REVERSED.

Alberta Jean Reed  
v. Rodney Scott Temple  
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A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.  
See, also, 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

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JUDGE

Mark L. Pietrykowski, J.

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JUDGE

Thomas J. Osowik, P.J.  
CONCUR.

\_\_\_\_\_  
JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:  
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.