

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Keith William DeBlasio, Patricia A. Dilts, and Alan J. Dilts v. Cold Spring Forest Sec. 1 Homeowners Association, Inc. and Estel Donald Lambert Jr.

DeBlasio · No. Nos. 12-0652, 12-0686, and 12-0693 · Decided July 8, 2013

SUMMARY

The West Virginia Supreme Court of Appeals affirmed a Morgan County Circuit Court order dismissing Keith William DeBlasio as improperly joined and awarding summary judgment and default judgment against Alan J. Dilts and Patricia A. Dilts in favor of a homeowners association. The court also upheld sanctions against Patricia Dilts, dismissal of third-party claims, and denial of the Diltses’ motions for reconsideration. The decision was issued as a memorandum decision under Rule 21 after the court found no substantial question of law or prejudicial error.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Brent D. Benjamin; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	July 8, 2013
DOCKET	Nos. 12-0652, 12-0686, and 12-0693
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated appeals from a final order of the Circuit Court of Morgan County. DeBlasio appealed his dismissal as an improperly joined defendant; Alan and Patricia Dilts appealed summary judgment, default judgment imposed as a sanction, and the denial of their motions for reconsideration.
STANDARD OF REVIEW	Summary judgment and Rule 59(e) motions concerning summary judgment are reviewed de novo or plenary. An attorney-fee sanction authorized by West Virginia Rule of Civil Procedure 37(b) is reviewed for abuse of discretion.

PRECEDENTIAL VALUE	Memorandum decision; no substantial question of law and no prejudicial error found. The source metadata identifies the opinion as published, but the opinion itself does not state a precedential designation.
PARTIES	Keith William DeBlasio, Patricia A. Dilts, Alan J. Dilts v. Cold Spring Forest Sec. 1 Homeowners Association, Inc., Estel Donald Lambert Jr.

TOPICS

summary judgment default judgment sanctions motion for reconsideration appellate procedure

PRACTICE AREAS

civil procedure real estate homeowners association disputes appellate procedure remedies

QUESTIONS PRESENTED

1. Whether the circuit court erred in allowing the respondents' counsel to represent the homeowners association and its president.
2. Whether Alan J. Dilts was prejudiced by the lack of an interpreter at a November 30, 2011 hearing or was entitled to appointed counsel in the civil case.
3. Whether the circuit court abused its discretion by imposing a \$978.70 attorney-fee and cost sanction on Patricia A. Dilts for failing to attend a deposition.
4. Whether the circuit court properly granted summary judgment on the homeowners association's claim for unpaid assessment fees and on the Diltses' surplus-funds counterclaim.
5. Whether the circuit court properly entered default judgment as a sanction for the Diltses' misconduct.
6. Whether the circuit court properly dismissed DeBlasio for improper joinder and dismissed the third-party complaints for lack of completed or attempted service.
7. Whether the circuit court properly denied Alan and Patricia Dilts's Rule 59(e) motions for reconsideration.

HOLDINGS

1. The objection to respondents' legal representation was without merit because the issue had been previously adjudicated in a related case.
2. The circuit court properly addressed the interpreter issue, and Dilts was not prejudiced by the absence of an interpreter at the November 30, 2011 hearing.
3. The circuit court did not abuse its discretion by awarding \$978.70 in attorney fees and court-reporter costs as a sanction for Dilts's failure to attend her noticed deposition.
4. The circuit court properly denied the Diltses' timely Rule 59(e) motions because they repeated claims and factual allegations already addressed by the court.

5. The court found no prejudicial error in the circuit court's summary judgment rulings or its entry of partial default judgment as a sanction against the Diltzes, and affirmed the final order.

KEY QUOTATIONS

“With respect to all other non-frivolous issues raised, we hereby adopt and incorporate the circuit court’s well-reasoned findings and conclusions as to the assignments of error raised in these consolidated appeals.”
(-5)

“For the foregoing reasons, we find no error in the decisions of the Circuit Court of Morgan County.” (-5)

FACTUAL BACKGROUND

The petitioners owned interests in two subdivision lots and had ongoing disputes with their homeowners association. The association sued Alan and Patricia Dilts for damage to a graveled subdivision road and unpaid annual assessment fees. DeBlasio was joined as an additional defendant, and the petitioners attempted to assert third-party claims against the association's president and another individual. The circuit court found that the petitioners engaged in serious litigation misconduct, including frivolous claims, unsupported factual denials, excessive subpoenas, ethics complaints against opposing counsel, attempted conflicts of interest, improper joinder of DeBlasio, and deliberate deception of the court.

PROCEDURAL HISTORY

The homeowners association sued Alan and Patricia Dilts for \$425 in damage to a subdivision road and \$200 in unpaid 2011 assessment fees. The circuit court joined DeBlasio, later dismissed him for improper joinder, granted the association summary judgment on the assessment and surplus-funds claims, dismissed the third-party complaints, and entered default judgment against the Diltzes as a sanction for litigation misconduct. The court denied the Diltzes' Rule 59(e) motions for reconsideration, and the Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- DeBlasio v. Stone, Nos. 11-1152 and 11-1153, 2012 WL 6097653, at *4 (W. Va. Supreme Court, Dec. 7, 2012)
- White v. Haines, 217 W. Va. 414, 618 S.E.2d 423 (2005)
- Bartles v. Hinkle, 196 W. Va. 381, 472 S.E.2d 827 (1996)
- James M.B. v. Carolyn M., 193 W. Va. 289, 456 S.E.2d 16 (1995)
- Wickland v. American Travellers Life Insurance Co., 204 W. Va. 430, 513 S.E.2d 657 (1998)
- Southern Erectors, Inc. v. Olga Coal Co., 159 W. Va. 385, 223 S.E.2d 46 (1976)
- In Re: A Purported Lien or Claim Against Patricia Ann DeBlasio Dilts, Nos. 11-1523 and 12-0223, 2013 WL 1707695 (W. Va. Supreme Court, Apr. 19, 2013)

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