

INMATES LEGAL ASSOCIATION, INC V. MICHELLE RICCI

NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE APPELLATE DIVISION
SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0

INMATES LEGAL ASSOCIATION, INC.,
EDWARD GRIMES, BOBBY BROWN, SEAN
WASHINGTON, JOHN TELL, DHARUBA
KALAHARI, JOSEPH AUSTIN, MELVIN
MASON, AUDBERTO EGIPCIACO, PHILLIP
WOOD and HARRY JAMES,

Plaintiffs,

and

RA'ZULU S. UKAWABUTU,

Plaintiff-Appellant,

v.

MICHELLE RICCI, WILLIAM MOLEINS,
JAMES BARNES, BRENDA HUTTON,
PETER RONAGHAN, SHIRLEY STEPHENS,
DENISE GRAY, DANIEL FINLAY,
NORMA BLAKE and RAPHEAL DOLCE,

Defendants-Respondents.

November 12, 2013

Submitted: October 30, 2013 Decided:

Before Judges Fasciale and Haas.

On appeal from the Superior Court of New Jersey, Law Division, Mercer County, Docket No. L-2638-09.

Ra'Zulu S. Ukawabutu, appellant pro se.

John J. Hoffman, Acting Attorney General, attorney for respondents (Lewis A. Scheindlin, Assistant Attorney General, of counsel; Christopher C. Josephson, Deputy Attorney General, on the brief).

PER CURIAM

Plaintiff Ra'Zulu Ukawabutu¹ appeals from two June 2, 2011 orders of the Law Division granting defendants'² separate motions to set aside default and to dismiss plaintiffs' complaint.³ We are constrained to reverse and remand because the court did not make findings of fact and conclusions of law on the issues raised by defendants' motions.

On October 20, 2009, plaintiffs filed a complaint in the Law Division alleging that defendants had failed to comply with the terms of a settlement agreement reached in a prior federal action, *Valentine v. Beyer*, Civil Action No. 85-4401. On March 1, 2010, defendants removed the matter to the United States District Court for the District of New Jersey pursuant to 28 U.S.C.A. 1446(a). Plaintiffs filed a motion to remand and, on November 30, 2010, the district court granted plaintiffs' motion and remanded the matter to the Law Division for consideration.

On March 14, 2011, plaintiffs filed the remand order with the Law Division. The next day, they asked the court to enter default against defendants because they had not responded to plaintiffs' complaint. On March 18, 2011, default was entered against defendants. On April 15, 2011, plaintiffs filed a motion for the entry of a default judgment. On May 11, 2011, defendants filed a cross-motion to vacate the default. Pursuant to Rule 4:43-3, defendants' motion to vacate the default was accompanied by a "dispositive motion," in this case a motion to dismiss plaintiffs' complaint. Defendants asked that their motion to dismiss be filed if the default was vacated. Plaintiffs did not respond to the motion to vacate the default.

On June 2, 2011, the trial court granted defendants' motion to vacate the default and entered an order directing the clerk to file defendants' motion to dismiss plaintiffs' complaint. On that same date, the court entered a second order granting defendants' motion to dismiss the complaint. In a very brief statement on the record, the court stated:

Docket Number L-2638-09. The same matter, there is a motion to dismiss the complaint in lieu of answer. There's no opposition. For the reasons set forth in the moving papers the motion is granted.

No further explanation for the court's ruling was provided.

Ukawabutu appeals, claiming the court erred in dismissing the complaint. However, because the court failed to provide adequate findings of fact and conclusions of law supporting its decision, this appeal cannot be decided on the merits.

Rule 1:7-4(a) clearly states that a trial "court shall, by an opinion or memorandum decision, either written or oral, find the facts and state its conclusions of law thereon . . . on every motion decided by a written order that is appealable as of right[.]" See *Shulas v. Estabrook*, 385 N.J. Super. 91, 96 (App. Div. 2006) (requiring an adequate explanation of basis for court's action).

"The rule requires specific findings of fact and conclusions of law" Pressler & Verniero, Current N.J. Court Rules, comment 1 on R. 1:7-4 (2014). The Supreme Court has expounded on this essential obligation:

Failure to perform that duty constitutes a disservice to the litigants, the attorneys and the appellate court. Naked conclusions do not satisfy the purpose of [Rule] 1:7-4. Rather, the trial court must state clearly its factual findings and correlate them with the relevant legal conclusions.

[Curtis v. Finneran, 83 N.J. 563, 569-70 (1980) (citation and internal quotation marks omitted).]

The rule does not indicate any particular method by which a judge must present his or her findings, and we have recognized that such presentation is "vested in the sound discretion of the trial judge." *In re Trust Created by Agreement Dated Dec. 20, 1961*, 399 N.J. Super. 237, 253 (App. Div. 2006), *aff'd*, 194 N.J. 276 (2008). In *In re Trust*, for example, we stated:

[A] judge may grant or deny a new trial motion for the reasons posited by the parties rather than issue a statement of its grounds, as long as the judge makes such reliance explicit. The purpose of the rule is to make sure that the court makes its own determination of the matter.

[*Id.* at 253-54 (citations and internal quotation marks omitted).]

In that case, we concluded that the trial judge had not erred by adopting the proposed findings and conclusions submitted in a brief of one of the parties. *Id.* at 254. The judge "made clear the extent of his agreement with and reliance on [the] proposed findings of fact and conclusions of law," and "supplied a summary of his findings in his oral opinion," which "provide[d] clear evidence that the trial judge carefully considered the evidentiary record and did not abdicate his decision-making responsibility." *Ibid.*

Here, on the other hand, the trial court merely stated that its decision was made "[f]or the reasons set forth in the moving papers[.]" The court did not identify which aspects of defendants' arguments it was adopting, make clear the extent of its agreement with and reliance on those arguments, or clearly set forth its reasons for adopting them. As a result, we have no way of knowing why it determined to vacate the default and then immediately dismiss the complaint. The court's failure to provide the findings of fact and conclusions of law required by Rule 1:7-4(a) necessitates a remand for fulfillment of the court's obligation in this regard.

Remanded for findings of fact and conclusions of law. We do not retain jurisdiction.

1 Ukawabutu is an inmate at the New Jersey State Prison in Trenton. He is the executive director of the Inmate Legal Association, Inc. (ILA), a corporation that provides legal services to inmates. Other current or former inmates were also named as plaintiffs in this litigation, as was the ILA. However, Ukawabutu is the only plaintiff involved in the current appeal.

2 Defendants are current or former employees of the New Jersey Department of Corrections.

3 Plaintiff's notice of appeal states he is appealing the April 27, 2012 decision of the Law Division denying his motion for reconsideration of the June 2, 2011 orders. Although both parties state in their respective briefs that a motion for reconsideration was filed and denied on April 27, 2012, neither party has provided us with a copy of the order or of the transcript of the trial court's decision. Instead, both parties have treated this matter as an appeal that is solely limited to the June 2, 2011 orders and, therefore, we will limit our discussion to those orders.