

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Cavalry SPV I, LLC,	:	
Plaintiff-Appellee,	:	
v.	:	No. 11AP-426
Cleophus Dulaney,	:	(M.C. No. 2010 CVF 037949)
Defendant-Appellant.	:	(REGULAR CALENDAR)

D E C I S I O N

Rendered on January 19, 2012

Stuart Tobin, for appellee.

Cleophus Dulaney, pro se.

APPEAL from the Franklin County Municipal Court

CONNOR, J.

{¶1} Defendant-appellant, Cleophus Dulaney ("Dulaney"), appeals pro se the decision of the Franklin County Municipal Court granting summary judgment in favor of plaintiff-appellee, Cavalry SPV I, LLC ("Cavalry"). For the reasons that follow, we affirm.

{¶2} On September 23, 2010, Cavalry filed a complaint against Dulaney alleging he was in default on a credit card debt. According to the complaint, Cavalry purchased the debt of Washington Mutual Bank ("Washington Mutual"). Dulaney filed an answer denying any obligation to Cavalry. Each party served discovery requests upon the other.

{¶3} On March 24, 2011, Cavalry filed a motion for summary judgment. Dulaney opposed the motion and argued that Cavalry had not evidenced the debt by providing the charge card receipts with his signature. Dulaney also filed a motion to dismiss and motion to compel discovery. On April 12, 2011, the trial court denied Dulaney's motions and granted Cavalry's motion for summary judgment. Dulaney has timely appealed and challenges the summary judgment granted in Cavalry's favor.

{¶4} An appellate court's review of summary judgment is de novo. *Helton v. Scioto Cty. Bd. Of Commrs.* (1997), 123 Ohio App.3d 158, 162. Under such a review, an appellate court stands in the shoes of the trial court and conducts an independent review of the record. *Jones v. Shelly Co.* (1995), 106 Ohio App.3d 440, 445. The judgment must be affirmed if any of the grounds raised by the movant support it, even if the trial court failed to consider those grounds. *Coventry Twp. v. Ecker* (1995), 101 Ohio App.3d 38, 41-42.

{¶5} Summary judgment is proper only when the party moving for summary judgment demonstrates that: (1) no genuine issue of material fact exists; (2) the moving party is entitled to judgment as a matter of law; and (3) reasonable minds could come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence most strongly construed in that party's favor. Civ.R. 56(C); *State ex rel. Grady v. State Emp. Relations Bd.*, 78 Ohio St.3d 181, 183, 1997-Ohio-221.

{¶6} Attached to Cavalry's motion for summary judgment were credit card statements addressed to Dulaney at the same address listed through these proceedings.

These statements generally demonstrated that Dulaney charged purchases to and made payments on the credit card account with Washington Mutual.

{¶7} Furthermore, on December 30, 2010, Cavalry served upon Dulaney requests for admissions. Dulaney never responded to these requests. On March 4, 2011, Cavalry sought to have all of its requests be deemed admitted, in accordance with Civ.R. 36(A), which provides in pertinent part:

(1) Each matter of which an admission is requested shall be separately set forth. The party to whom the requests for admissions have been directed shall quote each request for admission immediately preceding the corresponding answer or objection. The matter is admitted unless, within a period designated in the request, not less than twenty-eight days after service of a printed copy of the request or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by the party's attorney. * * *

On March 24, 2011, the trial court issued an entry deeming the facts admitted.

{¶8} Thus, according to the undisputed facts in the record, Dulaney opened a credit card account in 2007 with Washington Mutual. He made purchases on the account and was charged accurately for these purchases. He received the monthly statements that were mailed to his address. He never notified Washington Mutual of any disputes with regard to the purchases made on his account, nor was he entitled to any credits, offsets, or deductions regarding these purchases. Dulaney acknowledged the transfer from Washington Mutual to Calvary. Thus, the balance sought by Calvary was due and owing by Dulaney.

{¶9} Based upon the record before us, there are no genuine issues of material fact. Thus, the trial court did not err in granting summary judgment in favor of Cavalry.

We therefore overrule Dulaney's sole assignment of error and affirm the judgment of the Franklin County Municipal Court.

Judgment affirmed.

BRYANT and FRENCH, JJ., concur.
