[Cite as *Dept. of Pub. Util v. Beaucage*, 2012-Ohio-3108.]

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

Department of Public Utilities	Court of Appeals No. L-11-1158
Appellee	Trial Court No. CVF-10-22307
v.	
Robert Beaucage	**DECISION AND JUDGMENT**
Appellant	Decided: July 6, 2012

* * * * *

Adam W. Loukx, City of Toledo Law Director, and Joyce Anagnos, Senior Attorney, for appellee.

Robert Beaucage, pro se.

* * * * *

YARBROUGH, J.

{¶ 1} Robert Beaucage appeals, pro se, from a judgment of the Toledo Municipal Court, finding that he owes the City of Toledo Department of Public Utilities ("the city") $750.78. We affirm.

I. Facts and Procedural Background

{¶ 2} On November 23, 2010, the city filed its complaint against Beaucage for money allegedly owed on his accounts for water, sewer, storm water, and garbage services. Beaucage answered this complaint, pro se, denying the allegations. Trial was eventually set for May 20, 2011. On April 30, 2011, Beaucage moved for a pretrial by telephone, or for allowance to appear by telephone at trial. In support, Beaucage stated that he lives in California and is unable to travel to Ohio for the trial. The trial court denied Beaucage's motion on May 9, 2011.

{¶ 3} Shortly before the trial, Beaucage filed a letter to the trial court judge in which he stated that (1) he cancelled the services with the city prior to the charges being accrued, (2) he transferred the property, as evidenced by the attached copy of the deed transfer, and the charges that accrued prior to the transfer totaled only $375, and (3) he was told by Angela in the city's legal department on May 11, 2011, that the account would be recalled from collections and that the trial scheduled for May 20, 2011, would be cancelled. Beaucage concluded the letter by requesting that the case be decided in his favor.

{¶ 4} On May 20, 2011, Beaucage failed to appear, and the trial proceeded ex parte. Following the trial, the court entered judgment in favor of the city in the amount of $750.78. Beaucage now appeals.

II. Analysis

{¶ 5} Although Beaucage does not identify any assignments of error as required by App.R. 16, in the interests of justice we will examine the four issues he has presented.

{¶ 6} First, Beaucage argues that since he does not live in Ohio, the trial court should have allowed him to appear by telephone. Further, he contends that requiring him to be physically present would cause him to incur travel expenses in excess of the disputed amount, thereby leaving him without a remedy. We disagree.

{¶ 7} We review a trial court's denial of a motion to appear by telephone for an abuse of discretion. *See Entel v. Resnik*, 8th Dist. No. 80847, 2002-Ohio-4038, ¶ 67. An abuse of discretion implies that the trial court's attitude was unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983). Here, we cannot say that the trial court abused its discretion in denying Beaucage's request to participate in the trial by telephone, where Beaucage's decision not to physically appear was for purely financial reasons.

{¶ 8} Accordingly, we find this argument to be without merit.

{¶ 9} In his second and third arguments, Beaucage contests the findings and the manner of proceedings in the trial court. In his second argument, Beaucage contends that he should not have been charged for services after he transferred the property, and that the disputed amount should not be higher than $375. In order to prove the transfer, Beaucage relies on a copy of the deed transfer submitted with his letter to the trial court judge. However, this document was not entered into evidence since Beaucage did not

appear at the trial. This leads to his third argument in which he complains that the letter and attached copy of the deed transfer were not admitted at trial even though they were admissible and relevant.

{¶ 10} We initially note that appellant "bears the burden of showing error by reference to matters in the record." *Knapp v. Edwards Laboratories*, 61 Ohio St.2d 197, 199, 400 N.E.2d 384 (1980). Here, Beaucage has not provided a transcript or other record of the proceedings as required by App.R. 9. Consequently, we cannot be certain what evidence was or was not admitted, nor can we ascertain the basis for the trial court's judgment to determine if it was in error. Therefore, because Beaucage has provided nothing to contradict "the presumption of regularity accorded all judicial proceedings," his arguments are without merit. *State v. Sweet*, 72 Ohio St.3d 375, 376, 650 N.E.2d 450 (1995).

{¶ 11} Further, we note that the trial court properly conducted an ex parte trial upon Beaucage's failure to appear. *Ohio Valley Radiology Assoc., Inc. v. Ohio Valley Hosp. Assn.*, 28 Ohio St.3d 118, 122, 502 N.E.2d 599 (1986) ("The proper action for a court to take when a defending party who has pleaded fails to show for trial is to require the party seeking relief to proceed ex parte in the opponent's absence.") Because Beaucage did not appear, he could not move to admit evidence. Thus, the trial court did not err in not considering evidence that was never submitted.

{¶ 12} Further still, even if the letter and deed transfer had been admitted as evidence, we fail to see how the result would have been different. First, Beaucage has

presented nothing to support his defense that he cancelled services in 2008. Second, in response to his defense that he transferred the property in 2009 and, therefore, should not be liable for any services provided after that date, the city cites Toledo Municipal Code Part 9, Title 3, Appx. C, § 102.03:

> Sellers of property receiving Utility Services must contact the Department to discontinue Utility Services, to request a final meter read and arrange for payment of the final bill(s). * * * Failure to perform these actions may result in the termination of Utility Services and/or the Department taking any and all available collection activities;

and Toledo Municipal Code Part 9, Title 3, Appx. C, § 102.04:

> On every account, Utility Service shall be continuous until such time as a final read is obtained by the Department or until the Department discontinues Utility Service due to problems such as delinquencies or violations of any law, rule or regulation.

{¶ 13} Accordingly, we find Beaucage's second and third arguments to be without merit.

{¶ 14} Finally, Beaucage's fourth argument is that the city committed misconduct and misrepresentation when it claimed it would recall the case and negotiate with him directly, but never did so. We are uncertain if Beaucage is raising this in the context of a defense or counterclaim in the action, or as an argument the city breached a settlement

agreement, or simply as a matter of equity. Nevertheless, Beaucage has pointed to nothing in the record to substantiate this allegation.

{¶ 15} Accordingly, we find Beaucage's fourth argument to be without merit.

III. Conclusion

{¶ 16} For the foregoing reasons, the judgment of the Toledo Municipal Court is affirmed. Costs are assessed to Beaucage pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J. _____
JUDGE

Arlene Singer, P.J. _____
JUDGE

Stephen A. Yarbrough, J. _____
CONCUR.
JUDGE