

[Cite as *Hameed v. Rhoades*, 2010-Ohio-4894.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94267

AKIL HAMEED

PLAINTIFF-APPELLEE

VS.

MAURICE RHOADES, ZULU

DEFENDANT-APPELLANT

**JUDGMENT:
AFFIRMED**

Civil Appeal from the
Cleveland Municipal Court
Case No. 08 CVG 027400

BEFORE: Kilbane, P.J., Celebrezze, J., and Sweeney, J.

RELEASED AND JOURNALIZED: October 7, 2010

APPELLANT

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ATTORNEY FOR APPELLEE

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MARY EILEEN KILBANE, P.J.:

{¶ 1} Appellant, Maurice Rhoades, Zulu¹ (“Rhoades”), pro se, appeals the Cleveland Municipal Court’s judgment in favor of Appellee, Akil Hameed (“Hameed”), in the amount of \$575. After reviewing the appropriate facts and law, we affirm Rhoades’s appeal.

{¶ 2} On October 27, 2008, Hameed, by and through Fass Management and Consulting Company, filed a two-count eviction complaint against Rhoades in the Cleveland Municipal Court’s Housing Division (“Cleveland Housing Court”). Count 1 alleged forcible entry and detainer and sought immediate possession of the property; Count 2 sought unpaid rent and

¹Although the trial court referred to the appellant as Mr. Rhoades, he refers to himself in the instant appeal as Maurice Rhoades, Zulu. For convention, we refer to Mr. Rhoades in the same manner as the trial court.

further damages for any destruction or unusual wear and tear on the property.

{¶ 3} On November 24, 2008, the trial court granted judgment in favor of Hameed on his first cause of action for possession of the premises.

{¶ 4} On December 23, 2008, Rhoades appealed that decision interlocutorily.

{¶ 5} On January 22, 2009, this court sua sponte dismissed Rhoades's appeal as moot.

{¶ 6} On February 13, 2009, Hameed filed a motion to advance his second cause of action, which was granted on March 13, 2009.

{¶ 7} On April 9, 2009, Rhoades appealed the denial of his interlocutory appeal to the Ohio Supreme Court.

{¶ 8} On July 20, 2009, the Ohio Supreme Court declined to accept jurisdiction to hear the case and dismissed the appeal as not involving any substantial constitutional question.

{¶ 9} On July 22, 2009, a one-day trial convened before a magistrate in Cleveland Housing Court.

{¶ 10} On October 8, 2009, the magistrate issued a decision outlining its findings of facts and conclusions of law, ultimately finding in favor of Hameed in the amount of \$575.

{¶ 11} On November 4, 2009, the Cleveland Housing Court judge adopted the magistrate's decision and entered judgment in favor of Hameed and against Rhoades in the amount of \$575.

{¶ 12} On December 8, 2009, Rhoades filed the instant appeal, asserting two assignments of error:

“I. The trial court erred by desiding [sic], that the United States Constitution's Fourteenth Amendment-Equal Protection under the Law Clause, and it's [sic] Due Process Clause, along with it's [sic] Economic substantive due process doctrine, still, with it's [sic] due process rights-fundamental fairness doctrine, did not constitutionally apply to this Appellant pro se, not this instant case, whereby, violating the 42 U.S.C.A. §1983 Civil Rights Act.”

“II. The trial court erred by unconstitutionally deciding that when examined, analyzed, then applied, the manifest weight of Appellant pro se, submitted, exhibit-A, evidence, or, FASS Management & Consulting 3674 E. 149th., Street, Cleveland, Ohio 44120, lease agreement, or written contract dated April 1, 2008, did not constitutionally apply to this Appellant pro se, nor, this present case at bar [sic].”

Analysis

{¶ 13} In deciding Rhoades's appeal, we need not reach his alleged constitutional claims since he failed to object to the magistrate's decision in the court below. Civ.R. 53(D)(3)(a)(iii) states that parties “shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law

* * * unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).”

{¶ 14} Civ.R. 53 thus imposes an affirmative duty on parties to make timely, specific objections in writing to the trial court, identifying any error of fact or law in the magistrate’s decision. Pursuant to Civ.R. 53(D)(3)(b), a party may not raise on appeal any error pertaining to a trial court’s adoption of any finding of fact or conclusion of law by a magistrate unless that party timely objected to that finding or conclusion as required under the rule. See *State ex rel. Booher v. Honda of Am. Mfg., Inc.*, 88 Ohio St.3d 52, 53-54, 2000-Ohio-269, 723 N.E.2d 571.

{¶ 15} Although pro se, Rhoades is presumed to have notice of this rule since the magistrate’s decision in the underlying case contained large, block-lettered, bold notice with language citing Civ.R. 53 that specifically required all parties to file objections to the magistrate’s decision within 14 days of its journalization. We further note that he has an extensive history in other unrelated cases as a pro se litigant. A review of the record before this court shows that Rhoades failed to object to the magistrate’s decision in the court below under Civ.R. 53. His appeal is therefore affirmed.

Appeal affirmed.

It is ordered that appellee recover of appellant costs herein taxed.

It is ordered that a special mandate be sent to the Cleveland Municipal Court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MARY EILEEN KILBANE, PRESIDING JUDGE

FRANK D. CELEBREZZE, JR., J., and
JAMES J. SWEENEY, J., CONCUR