

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

RAYMOND C. HERRING, :
 :
 Plaintiff-Appellant, :
 : No. 112177
 v. :
 :
 SHERRLENA D. COLEMAN, :
 :
 Defendant-Appellee. :
 :

JOURNAL ENTRY AND OPINION

**JUDGMENT: AFFIRMED IN PART AND VACATED IN PART
RELEASED AND JOURNALIZED: September 14, 2023**

Civil Appeal from the Cuyahoga County Court of Common Pleas
Case No. CV-22-963827

Appearances:

Raymond C. Herring, *pro se*.

EMANUELLA D. GROVES, J.:

{¶ 1} This case came to be heard upon the accelerated calendar pursuant to App.R. 11.1 and Loc.App.R. 11.1. Plaintiff-appellant Raymond C. Herring (“Herring”) appeals the trial court’s dismissal of his complaint for lack of jurisdiction. For the reasons that follow we affirm in part and vacate in part.

Procedural History and Factual Background

{¶ 2} On May 25, 2022, Herring filed a complaint with the General Division of the Cuyahoga County Court of Common Pleas (the “general division”) requesting declaratory judgment and injunctive relief against defendant-appellee Sherrlena Coleman (“Coleman”). Herring alleged that Coleman filed a petition for divorce in the state of Nevada naming him as the other party in 2019. Herring, an inmate in an Ohio prison at the time, alleged that Coleman requested to receive a portion of his earnings since the marriage, which allegedly occurred in 1993. However, Herring claimed that the two had never been married. The Nevada case was dismissed in February 2020.

{¶ 3} Herring was concerned that Coleman might make future demands upon his release from prison in December 2022. In his complaint, Herring requested declaratory judgment to declare that

(1) Although Herring and Coleman applied for three marriage licenses between June 4, 1992 and September 17, 1993, they never married and never returned a marriage certificate to probate court.

(2) On September 16, 2019, Coleman, through counsel, filed a complaint for divorce in Nevada based on claims the two were married on September 17, 1993.

(3) Herring answered the divorce complaint alleging that the two were not married and that Coleman had married someone else in 2002 in the state of Georgia.

(4) In the three marriage license applications, Coleman was identified as “Sherrlena Dianne Gardner,” which substantiates Herring’s claim that Coleman married someone named Coleman between September 17, 1993, and September 16, 2019.

(5) Herring has demonstrated that the two were never married, and that any claim to the contrary would be frivolous and fraudulent.

{¶ 4} Herring also requested injunctive relief preventing Herring from initiating further divorce proceedings; claiming marriage to him on any financial instrument, deed, or application for credit; from harassing Herring, his family or fiancée with threats of legal action; and from interfering or claiming entitlement to any assets Herring has or may acquire by claiming she is his wife.

{¶ 5} In response, Coleman wrote a letter to the court, explaining that she was a resident of Nevada, and requesting additional time to respond to Herring's complaint. Coleman did not participate further in the proceedings.

{¶ 6} Herring attended a telephone pretrial conference with the court, after which he filed a pro se motion in support of jurisdiction. Herring argued in the motion that although the Nevada case had been dismissed, Coleman's actions indicate she may file future petitions in an attempt to acquire Herring's assets. He also suggested in the motion that since the two had never been married, the Domestic Relations Division of the Cuyahoga County Common Pleas Court (the "domestic relations division") did not have jurisdiction and that the general division was the appropriate court to hear his complaint.

{¶ 7} The trial court dismissed the case finding that it did not have jurisdiction over the matter and that there was no cognizable claim pending before the court.

{¶ 8} Herring now appeals and assigns the following error for our review.

Assignment of Error

The trial court erred to the prejudice of plaintiff-appellant when it ruled the court lacked jurisdiction and there was no cognizable claim.

Law and Analysis

{¶ 9} Herring has separated his assignment of error into two issues. First, he alleges that his complaint was properly filed with the general division and that the domestic relations division did not have jurisdiction. Second, he alleges Coleman may repeat her actions and refile a divorce action; therefore, there is a justiciable controversy and a cognizable claim that the trial court should have addressed. Because the issue of jurisdiction resolves the issue of whether there is a cognizable claim, we will address it first.

{¶ 10} The jurisdiction of both the common pleas court and the domestic relations division is defined by the General Assembly. *Pula v. Pula-Branch*, 129 Ohio St.3d 196, 2011-Ohio-2896, 951 N.E.2d 72, ¶ 6, citing Ohio Constitution Article IV, Sections 4(A) and (B). The jurisdiction of the state domestic relations courts differs by county and is defined in R.C. 2301.03. *Id.* In Cuyahoga County, the domestic relations division has jurisdiction over all marriage-related cases, which limits the ability of other common pleas judges to handle those cases. *Id.* R.C. 2301.03(L)(1). In addition, the legislature has allowed domestic relations judges in Cuyahoga County to “retain the same powers and jurisdiction * * * as other judges of the court of common pleas.” *Id.*, quoting R.C. 2301.03(L)(1).

{¶ 11} Herron argues that the domestic relations division does not have jurisdiction over his lawsuit because his request is not governed under any of the provisions of R.C. 3105.011 that provides:

The court of common pleas including divisions of courts of domestic relations, has full equitable powers and jurisdiction appropriate to the determination of all domestic relations matters. This section is not a determination by the general assembly that such equitable powers and jurisdiction do not exist with respect to any such matter.

R.C. 3105.011(A).

{¶ 12} Accordingly, the domestic relations division is limited to determining domestic relations matters. *Lisboa v. Karner*, 167 Ohio App.3d 359, 2006-Ohio-3024, 855 N.E.2d 136, ¶ 6 (8th Dist.). Further, R.C. 3105.011 defines “domestic relations matters” as including “actions and proceedings under Chapter 3105 * * * of the Revised Code.” This would include R.C. 3105.12, titled “Evidence of marriage; common law marriage prohibited.” The section defines marriage in the state and establishes the proof required to show a marriage.

(A) Except as provided in division (B) of this section, proof of cohabitation and reputation of the marriage of a man and woman is competent evidence to prove their marriage, and, in the discretion of the court, that proof may be sufficient to establish their marriage for a particular purpose.

(B)(1) On and after October 10, 1991, except as provided in divisions (B)(2) and (3) of this section, common law marriages are prohibited in this state, and the marriage of a man and woman may occur in this state only if the marriage is solemnized by a person described in section 3101.08 of the Revised Code and only if the marriage otherwise is in compliance with Chapter 3101. of the Revised Code.

{¶ 13} At its core, Herring’s complaint asked the court to determine whether or not a marriage existed between himself and Coleman. Pursuant to R.C. 2301.03(L), 3105.011(A), and 3105.12, the domestic relations division has jurisdiction over his complaint. Accordingly, the trial court did not err when it dismissed the complaint for lack of jurisdiction.

{¶ 14} Because the trial court lacked jurisdiction, its holding that there was no cognizable issue must be vacated. The domestic relations division will have to make that determination.

{¶ 15} Accordingly, the order of the trial court dismissing the complaint for lack of jurisdiction is affirmed. The remainder of the order is vacated.

{¶ 16} Judgment affirmed in part and vacated in part.

It is ordered that appellee and appellant share equally costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said 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.

EMANUELLA D. GROVES, JUDGE

MICHELLE J. SHEEHAN, P.J., and
SEAN C. GALLAGHER, J., CONCUR