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APPELLANT PRO SE:

UMA D. CHALUVADI
Indianapolis, Indiana

COURT OF APPEALS OF INDIANA

UMA D. CHALUVADI,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-1003-OV-230
	)	
CITY OF INDIANAPOLIS,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable William E. Young, Judge
Cause No. 49G13-0912-OV-162117

August 25, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Uma D. Chaluvadi appeals the trial court's order denying her motion to set aside default judgment. Chaluvadi argues that she has established excusable neglect pursuant to Trial Rule 60(B). We agree with Chaluvadi and reverse and remand for further proceedings.

Facts

On November 30, 2009, Chaluvadi was driving on Michigan Road in Indianapolis and was stopped by a police officer for driving at a speed in excess of the posted school zone speed limit. The police officer issued a traffic ticket with the "amount owed" portion of the ticket crossed out, with no amount included that Chaluvadi was required to pay. Chaluvadi, therefore, assumed that the ticket was merely a warning and did not pay any fine as she believed that no fine had been assessed.

Chaluvadi then had to leave the country to care for a sick family member. On February 12, 2010, the trial court herein entered a default judgment on the traffic ticket and ordered that Chaluvadi's driver's license be suspended. On February 24, 2010, Chaluvadi filed a motion to set aside the default judgment, which the trial court denied the next day.

City of Indianapolis is Not Participating on Appeal

The City of Indianapolis[1] did not file a brief in this appeal. When an appellee does not submit a brief, we do not undertake the burden of developing arguments for that party. Thurman v. Thurman, 777 N.E.2d 41, 42 (Ind. Ct. App. 2002). Instead, we apply a less stringent standard of review and may reverse the trial court if the appellant establishes prima facie error. Id.

Trial Rule 60(B): Excusable Neglect

Chaluvadi argues that the trial court should have granted her motion to set aside the default judgment. Trial Rule 60(B) provides, among other things, that a default judgment may be set aside because of the complaining party's mistake, surprise, or excusable neglect. Ind. Trial Rule 60(B)(1). Here, we find that Chaluvadi has established excusable neglect. Her initial confusion, based upon the "amount owed" portion of the traffic ticket being crossed out, is entirely understandable and excusable. Her subsequent absence from the country, coupled with that confusion, led to her absence at the traffic court proceeding at which her traffic ticket was considered.

Trial Rule 60(B): Meritorious Defense

Trial Rule 60(B) also provides, however, that a movant "must allege a meritorious claim or defense" to be entitled to relief. See also Heartland Res., Inc. v. Bedel, 903 N.E.2d 1004, 1007 (Ind. Ct. App. 2009) (explaining that "[a] meritorious defense is one that would lead to a different result if the case were tried on the merits"). Chaluvadi has

[1] The City of Indianapolis, rather than the State of Indiana, is the proper appellee in this appeal because Chaluvadi was found to have violated a local ordinance rather than a state statute.

not explicitly included an argument regarding this part of the rule. She also did not explicitly include this argument in the motion that she filed with the trial court. We note, however, that the form provided by the trial court for litigants seeking to set aside a default judgment is entirely unhelpful to those litigants, inasmuch as it does not emphasize the need to provide a meritorious claim or defense. Instead, it merely includes a number of blank lines following this statement: "I am asking the Court to set aside the default judgment in this case because . . . ." Motion to Set Aside Default Judgment.[2]

Given the form's vagueness and the City of Indianapolis's failure to file a brief on appeal, we will endeavor to glean from the materials available to us what Chaluvadi's defense would be. To that end, we infer that Chaluvadi has two defenses to the speeding ticket itself. First, she would argue that the police officer did not intend to issue a ticket, given that he crossed out that portion of the ticket that referenced a fine, and did not include an amount owed. Second, Chaluvadi would contend that she does not drive over thirty miles per hour to save gas, so the police officer who pulled her over was mistaken regarding the speed at which he alleged she was driving. We find that this constitutes a meritorious defense pursuant to Trial Rule 60(B). Therefore, under these circumstances, we conclude that the trial court erred by denying Chaluvadi's motion to set aside the default judgment.

[2] Chaluvadi's motion was not included in her appendix and is instead a document that was filed separately by the Clerk's Office.

The judgment of the trial court is reversed and remanded for further proceedings.

RILEY, J., and BAILEY, J., concur.