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IN THE
COURT OF APPEALS OF INDIANA

LOKMAR ABDUL-WADOOD,	)	
	)	
Appellant- Plaintiff,	)	
	)	
vs.	)	No. 46A03-0902-CV-65
	)	
OFFICERS CROSS AND STANG,	)	
	)	
Appellees- Defendants.	)	

APPEAL FROM THE LAPORTE SUPERIOR COURT
The Honorable Jennifer Koethe, Judge
Cause No. 46D03-0807-SC-1232

September 4, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

Case Summary and Issues

Lokmar Abdul-Wadood, a prisoner at the Westville Correctional Facility, appeals pro se the small claims court's judgment in favor of Officers Cross and Stang (the "Officers") on Abdul-Wadood's notice of claim. For our review, Abdul-Wadood raises two issues, which we restate as: 1) whether the small claims court erred when it entered judgment for the Officers,[1] and 2) whether the small claims court erred when it refused to admit Abdul-Wadood's rebuttal evidence. Finding no error, we affirm.

Facts and Procedural History

Abdul-Wadood is incarcerated at the Westville Correctional Facility. During his incarceration, Abdul-Wadood has purchased several items of clothing, including a sweatshirt, sweatpants, and thermal underwear, from the prison commissary. On April 11, 2008, prison guards told Abdul-Wadood to pack up his personal belongings to be stored while he underwent prostate surgery at Wishard Hospital in Indianapolis. Following his surgery and nearly two months in the prison's hospital ward, Abdul-Wadood returned to his cell and his personal belongings were returned to him. However, the clothing he had purchased was missing.

On July 22, 2008, Abdul-Wadood filed a notice of claim seeking compensation for the lost clothing in the amount of $50.00. On November 3, 2008, the small claims court entered a briefing order requiring the parties to submit all briefs by January 6, 2009. Abdul-Wadood filed his proposed findings of fact and conclusions of law on December 5, 2008. On December 22, 2008, the Officers filed a memorandum in opposition to

[1] We note that Abdul-Wadood frames his first issue in terms of the small claims court's dismissal of his claim. However, the small claims court's order is clearly a judgment on the merits of the case.

judgment for the plaintiff.[2] On January 2, 2009, Abdul-Wadood gave his rebuttal brief to his prison counselor to be sent to the small claims court; however, the small claims court did not receive the document until January 8, 2009. Meanwhile, on January 6, 2009, the small claims court entered judgment in favor of the Officers. On January 22, 2009, Abdul-Wadood filed a motion for relief from judgment arguing the small claims court should reconsider its decision in light of his rebuttal evidence. The small claims court denied the motion on January 23, 2009. Abdul-Wadood now appeals.

Discussion and Decision

I. Standard of Review

Generally, judgments in small claims actions are "subject to review as prescribed by relevant Indiana rules and statutes." Ind. Small Claims Rule 11(A). Under Indiana Trial Rule 52(A), the clearly erroneous standard applies to appellate review of facts determined in a bench trial with due regard given to the opportunity of the trial court to assess witness credibility. Trinity Homes, LLC v. Fang, 848 N.E.2d 1065, 1068 (Ind. 2006). However, when a small claims case turns solely on documentary evidence, we review the judgment de novo, just as we review summary judgment and other "paper records." Id. at 1069.

II. Small Claims Court's Judgment

Abdul-Wadood's proposed findings of fact and conclusions of law and the rebuttal evidence discussed below constitute the only evidence he submitted in favor of his

[2] A copy of the Officers' filing is not contained in the record on appeal.

claims.[3] Other than in the caption of the case and in general terms as defendants in the prayer for relief, Abdul-Wadood's proposed findings of fact and conclusions of law never mention the Officers. Neither does Abdul-Wadood ever allege why these specific Officers' should be held liable for the loss of his property. Accepting as true Abdul-Wadood's claim that the clothing was missing when his personal property was returned, he may well have a valid claim for replacement or reimbursement, but he has presented absolutely no basis for the small claims court to impose liability upon the Officers. Therefore, the small claims court did not err when it granted judgment in favor of the Officers.

III. Abdul-Wadood's Rebuttal Evidence

Abdul-Wadood next argues the small claims court should have admitted his rebuttal evidence because it was timely filed according to the mailbox rule. "Under the 'prison mailbox rule' recognized by the United States Supreme Court in Houston v. Lack, [487 U.S. 266 (1988),] pro se filings from an incarcerated litigant are deemed filed when they are delivered to prison officials for mailing." Dowell v. State, 908 N.E.2d 643, 646-47 (Ind. Ct. App. 2009). Abdul-Wadood is correct that if he handed his rebuttal brief to his prison counselor to mail on January 2, 2009, it was timely filed and the small claims court should have considered it in reaching its decision. However, Abdul-Wadood did not provide us with a copy of his rebuttal brief or any other evidence from which we

[3] We point out that Abdul-Wadood did not provide this court with even this much as his appendix contains only the CCS, the small claims court's judgment, the notice of completion of the clerk's record, and the notice of appeal. What little documentation we do have was provided by the State in its own appendix. We direct Abdul-Wadood to Appellate Rule 50(2), which lists the required contents of an appendix.

could verify his argument. Abdul-Wadood also did not provide us with his motion for relief from judgment, in which he claims he argued this point to the small claims court.

Appellate Rule 50(A)(2)(f) requires Abdul-Wadood to file an appendix containing "pleadings and other documents from the Clerk's Record … that are necessary for resolution of the issues raised on appeal." We might have been sympathetic to Abdul-Wadood's failure given his pro se status[4] except that Abdul-Wadood has filed several previous lawsuits and appeals[5] and, thus, should be familiar with the Appellate Rules. Appellate Rule 49(B) prevents Abdul-Wadood's omissions from resulting in a waiver of the issue; however, Abdul-Wadood has certainly failed to persuade us that the small claims court erred when it refused to consider his rebuttal evidence, or even that the small claims court did in fact refuse to consider it.

Conclusion

Abdul-Wadood failed to present any evidence to support his claim against the Officers. In addition, Abdul-Wadood failed to persuade us the small claims court erred by not considering his rebuttal evidence.

Affirmed.

DARDEN, J., and MATHIAS, J., concur.

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[4] We point out, however, that it is well settled that pro se litigants are held to the same standard as trained lawyers and are required to know and follow procedural rules. See Ross v. State, 877 N.E.2d 829, 833 (Ind. Ct. App. 2007).

[5] Our review of the docket shows eleven civil appeals with Abdul-Wadood as a litigant.