IN THE COURT OF APPEALS OF IOWA

No. 8-453 / 97-0664

FILED
NOV 30 1998
CLERK SUPREME COURT

PROPHET KIRK MICAH LIVINGOOD a/k/a KURT MICHAEL LIVENGOOD,
Plaintiff-Appellant,

vs.

BILL WARRUM, GLENN LIVENGOOD, MARY LIVENGOOD, JAMES LIVENGOOD, GLENN TURNER, STARS PUBLICATIONS, CASEY L. KLINGER, KLINGER INTERNATIONAL OBSESSIONS PUBLISHING, BOB SCHULTZ, R.T. LARA, IOWA MEDICAL & CLASSIFICATION CENTER, IOWA DEPARTMENT OF CORRECTIONS, JOHN SISSEL, JEFFREY DITCH, IOWA STATE MEN'S REFORMATORY, UNKNOWN PERSON, COMMUNITY SERVICES, and SCOTT PLANNING & DEVELOPMENT,
Defendants-Appellees.

Appeal from the Iowa District Court for Johnson County, L. Vern Robinson, Judge.

On appeal from the dismissal of his action, the plaintiff claims he is entitled to "declaratory relief" for "leave of court" to proceed with a supplemental pleading.

AFFIRMED.

Prophet Kirk Micah Livingood, Bettendorf, pro se.

No appearances for appellees.

Considered by Sackett, C.J., Streit, and Mahan, JJ.

PER CURIAM.

Plaintiff-Appellant Prophet Kirk Micah Livingood appeals a district court ruling summarily dismissing his multi-count petition. We affirm.

On January 30, 1997, Livingood filed a petition naming numerous defendants and containing allegations that he has been sexually abused and exploited as a minor, had been improperly misdiagnosed by medical authorities, and had been unfairly disciplined while incarcerated in the Iowa Men's Reformatory. On February 21, 1998, the district court ruled the pleadings were not in compliance with Iowa Rule of Civil Procedure 69(a) and (b). The pleadings were described as "prolix and nonsensical." The court notified Livingood it would summarily dismiss the petition on March 28, 1997 unless Livingood complied with the Rules of Civil Procedure. The court also noted it had previously dismissed a lawsuit filed in Jones County that made similar statements.

On March 7, 1997, Livingood filed an amended petition. After reviewing the amended petition, the district court summarily dismissed this case on March 28, 1997. The court found Livingood stated no cause of action against any defendant which could be brought in Johnson County. The court subsequently concluded the case, as a matter of law, should be dismissed on the court's own motion.

Livingood has appealed. Livingood's brief is confusing. He contends he is entitled to "declaratory relief" for "leave of court" to proceed with a supplemental pleading. He asks the case be remanded with instructions that he be allowed to proceed with the supplemental pleading already on file.

The Iowa Rules of Civil Procedure do not specifically vest district courts with the power to dismiss cases on their own motion. However, the Iowa Supreme Court has recognized that if the trial court exercises restraint in doing so, it may dismiss an action sua sponte. *McCormick v. Meyer*, 582 N.W.2d 141, 144 (Iowa 1998); *Rush v. Sioux City*, 240 N.W.2d 431, 439 (Iowa 1976). Our standard of review in such cases is abuse of discretion. See *Rush v. Sioux City*, 240 N.W.2d at 439. However, we must also be mindful that on appeal from dismissal for failure to state a claim review is closely circumscribed. This court shall assess the petition in a light most favorable to the plaintiff and resolve all doubts and ambiguities in plaintiff's favor. *State ex rel. Miller v. Phillip Morris Inc.*, 577 N.W.2d 401, 403 (Iowa 1998).

Upon review of the record, we determine Livingood's petition on its face raises no cause of action under any state of facts. Consequently, there is no reason to allow Livingood to proceed with his previously filed "supplemental pleading." We conclude the district court did not abuse its discretion in summarily dismissing this case.

AFFIRMED.