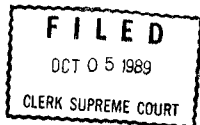


IN THE COURT OF APPEALS OF IOWA

No. 9-173 / 88-1112



W. DAVIS FALTIS and CHRYSTAL R. FALTIS,

Plaintiffs-Appellants,

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vs.

THE INCORPORATED CITY OF CEDAR RAPIDS, IOWA, et al.,

Defendants-Appellees.

Appeal from the Iowa District Court for Linn County,
Kristin L. Hibbs, Judge.

Plaintiffs appeal the judgment for \$55,000 entered in district court on a jury verdict after defendant City of Cedar Rapids condemned plaintiffs' property. Plaintiffs claim the district court erred in sustaining a hearsay objection to evidence of value by two appraisers retained by the City who were not called as witnesses. **AFFIRMED.**

William L. Meardon of Meardon, Sueppel, Downer & Hayes,
Iowa City, for plaintiffs-appellants.

David F. McGuire, City Attorney, Cedar Rapids, for
defendants-appellees.

Heard by Donielson, P.J., and Hayden and Sackett, JJ.

DONIELSON, P.J.

Plaintiffs W. David Faltis and Chrystal R. Faltis owned rental property in Cedar Rapids, Iowa. In about May 1984 the City of Cedar Rapids was contemplating condemning the property and sent two appraisers to value it. Mr. Deskin valued it at \$65,000 and Mr. Wehr valued it at \$57,500. Sometime after this Mr. Deskin became incompetent. The City did not actually condemn the property until August 26, 1985. At that time a new appraisal was made by Keith Westercamp, who valued the property at \$52,000. The Condemnation Commission awarded plaintiffs \$55,000.

Plaintiffs appealed the commission award and filed a petition at law, seeking an award of \$85,000. During the trial in district court before a jury, plaintiffs sought to place into evidence, through direct examination of David Faltis, the amount of the appraisals prepared by Deskin and Wehr. Neither Deskin nor Wehr were called as witnesses, nor did plaintiffs attempt to admit the written appraisals into evidence. The court ruled this evidence was hearsay and was not admissible. Plaintiffs made an offer of proof. The jury returned a verdict of \$55,000 and the court entered judgment on this verdict. Plaintiffs now appeal the judgment of the district court.

Plaintiffs contend the evidence was an admission by a party-opponent under Iowa Rule of Evidence 801(d)(2). Plaintiffs also contend a statement of value may come within one of the exceptions in rule 803. Plaintiffs ask

for a new trial. Our review is for correction of errors at law. Iowa R. App. P. 4.

At the outset this court notes the dearth of authority provided in support of plaintiffs' claims. The failure to cite authority in support of an issue may be deemed a waiver of the issue. Iowa R. App. P. 14(a)(3). Plaintiffs' argument based upon Iowa Rule of Evidence 803 is especially bothersome in that all plaintiffs' brief states with regard to this claim is:

Also if the statement of value is hearsay, is it excepted under the provisions of Rule 803, Iowa Rules of Evidence?

From a review of the record it would appear plaintiffs never raised a rule 803 exception before the trial court. Furthermore, rule 803 sets forth twenty-four separate exceptions to the hearsay rule and plaintiffs have given this court no indication as to which specific exceptions would apply in this case. We do not consider arguments which consist of nothing more than a bald assertion without any elaboration. Kellar v. Peoples Natural Gas Co., 352 N.W.2d 688, 691 (Iowa App. 1984). Matters contained in a brief point must be sufficient in and of themselves to lay before the court, without independent investigation, the precise ruling complained of and the law applicable. Cook v. State, 431 N.W.2d 800, 804 (Iowa 1988). Without further explanation from plaintiffs as to which rule 803 exception should apply, the court cannot address this claim.

Aside from plaintiffs' claims of admission by a party-opponent and rule 803 exceptions, there are two alternative bases for affirming the trial court's decision.¹ First, the evidence plaintiffs wished to admit involved appraisals made in May 1984. The City did not actually condemn the property until August 26, 1985. The City argued the May 1984 appraisals were so remote in time so as not to be relevant to the jury's determination. The trial court is vested with considerable discretion in determining the admissibility of appraisals made prior to the date of condemnation. Crist v. Iowa State Highway Commission, 255 Iowa 615, 629, 123 N.W.2d 424, 432 (1963). Plaintiffs conceded in their testimony as to the drop in property values prior to the City's condemnation of their property. It was not unreasonable for the trial court to conclude evidence of the Deskin and Wehr appraisals was not relevant and should be excluded from the jury.

A second basis for excluding the evidence with regard to Wehr's appraisal is that it was improper rebuttal evidence. Plaintiffs did not introduce evidence of Wehr's appraisal in their case in chief, but instead introduced it in rebuttal. In its defense, the City never introduced any

1. The trial court excluded plaintiffs' evidence on the basis that it was hearsay. We may affirm trial court rulings on appeal where any proper basis appears for a ruling, even though it is not the one upon which the court based its holding. Citizens First Nat. Bank v. Hoyt, 297 N.W.2d 329, 332 (Iowa 1980).

evidence which referred to the Wehr appraisal. Generally, evidence which has no direct tendency to impeach, contradict, explain, or otherwise rebut evidence is not admissible on rebuttal. State v. Hephner, 161 N.W.2d 714, 718 (Iowa 1968). The trial court has a good deal of discretion in determining what is proper rebuttal testimony. Renze Hybrids, Inc. v. Shell Oil Co., 418 N.W.2d 634, 640 (Iowa 1988). See also Iowa R. Civ. P. 191(d). We find no abuse of discretion in the trial court's decision to exclude evidence of Wehr's appraisal from plaintiffs' rebuttal testimony.

A trial court judge has wide discretion in ruling on the admissibility of evidence, and her decisions will not be disturbed unless there is a clear and prejudicial abuse of discretion. Carter v. Wiese Corp., 360 N.W.2d 122, 131 (Iowa App. 1984). Finding no abuse of discretion in this case, the decision of the trial court is affirmed.

AFFIRMED.