

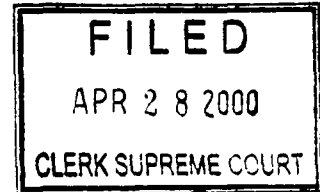
IN THE COURT OF APPEALS OF IOWA

No. 1999-547 (9-808) / 98-2239
Filed April 28, 2000

JANE ROE,
Plaintiff-Appellant,

vs.

**ANDREW J. LENAGHAN, CHRIS McCORMICK
PRIES, GREG MAINEY, BECKY SCHROEDER
VAN NICE AND VERA FRENCH COMMUNITY
MENTAL HEALTH CENTER,**
Defendants-Appellants.



Appeal from the Iowa District Court for Scott County, James E. Kelley,
Judge.

Jane Roe appeals the district court order granting defendants summary
judgment and sanctions under Iowa Rule of Civil Procedure 80(b) in a suit for
violation of mental health confidentiality. **AFFIRMED.**

Jane Roe, Coralville, pro se appellant.

Jack E. Dusthimer, Davenport, and George A. Goebel of Goebel, Koury &
Walker, Davenport, for appellee.

Considered by Streit, P.J., and Zimmer and Hecht, JJ.

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PER CURIAM

Jane Roe¹ appeals the decision of the district court which granted summary judgment to defendants in her suit for violation of mental health confidentiality laws. The district court also imposed sanctions against Roe under Iowa Rule of Civil Procedure 80(b). We affirm on appeal.

In early 1996 Roe was a patient at the Vera French Community Mental Health Center. During this time she was under investigation in California for forgery. In February 1996 Investigator Stan Interrante and Attorney Gregory Page telephoned the Center and inquired about Roe in connection with the forgery case. Becky Van Nice, Roe's caseworker, told them she knew Roe and could give no further information without a written release. Roe's mother, who was aware Roe was a patient at the Center, also telephoned. Van Nice indicated she would need a written release before she could discuss Roe's case.

In February 1998 Roe, acting pro se, filed an action seeking damages against the Center and four employees, claiming they had released mental health information about her in violation of Iowa Code chapter 228. Following much discovery, defendants filed a motion for summary judgment and a motion for sanctions pursuant to rule 80(b). The district court granted the motion for summary judgment. The court found no information about Roe's treatment had been released and the statute had not been violated. The court also found Roe

¹ The name Jane Roe is a pseudonym employed by plaintiff for confidentiality purposes.

had instituted three frivolous lawsuits within the last five years and sanctions under rule 80(b) were appropriate.²

I. Summary Judgment.

We review a summary judgment ruling for correction of errors of law. *Howell v. Merritt Co.*, 585 N.W.2d 278, 280 (Iowa 1998). Under Iowa Rule of Civil Procedure 237, summary judgment is appropriate when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. *Id.* The facts are reviewed in the light most favorable to the nonmoving party. *Shriver v. City of Okoboji*, 567 N.W.2d 397, 400 (Iowa 1997).

We find summary judgment was appropriate in this case. Section 228.2(1) prohibits mental health professionals and employees from disclosing or permitting the disclosure of mental health information. Section 228.1(5) provides:

"Mental health information" means oral, written, or recorded information which indicates the identity of an individual receiving professional services and which relates to the diagnosis, course, or treatment of the individual's mental or emotional condition.

Even taking the facts in a light most favorable to Roe, no information regarding her diagnosis, course, or treatment was revealed. The facts do not show any violation of chapter 228, and Roe's petition was properly dismissed.

II. Sanctions.

The district court imposed sanctions in this case under rule 80(b), which provides:

² As a sanction, the court prohibited Roe from further prosecuting this action, except by appeal, unless she furnished an undertaking secured by cash or approved sureties to pay all costs to opposing parties, including attorney fees.

~~If a party~~ commencing an action has in the preceding five-
~~year period~~ unsuccessfully prosecuted three or more actions, the
~~court may~~ if it deems the actions to have been frivolous, stay the
~~proceedings~~ until that party furnishes an undertaking secured by
~~cash or~~ approved sureties to pay all costs resulting to opposing
parties to the action including a reasonable attorney fee.

A trial court's imposition of sanctions is reviewed for an abuse of discretion. *Harris v. Iowa Dist. Ct.*, 570 N.W.2d 772, 776 (Iowa App. 1997). Roe was involved in three previous lawsuits within the past five years, one in Illinois and two in California. Due to the two California actions, Roe was declared a "vexatious litigant." A review of the record shows these cases could well be considered frivolous; they were based on evidence fabricated by Roe.

Rule 80(b) was designed to provide relief in actions that already have been filed rather than in possible future lawsuits. *Slade v. M.L.E. Inv. Co.*, 566 N.W.2d 503, 506 (Iowa 1997). Here, the district court properly limited the sanction to further proceedings in this action, except an appeal. We find the district court did not abuse its discretion in imposing sanctions in this case.

We affirm the decision of the district court. Costs of this appeal are assessed to Roe.

AFFIRMED.