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Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
January 4, 2023 Session

JOHN A. GENTRY v. SPEAKER OF THE HOUSE

Appeal from the Chancery Court for Davidson County
No. 21-2165-IV Russell T. Perkins, Chancellor

No. M2022-00654-COA-R3-CV

Plaintiff sues to enforce his perceived right to address the House of Representatives. Finding that the case is identical to a prior case in that it involves a court of competent jurisdiction, the same parties as a previous case, a prior final decision on the merits, and the same parties and cause of action, the trial court applied the doctrine of res judicata and dismissed the case. We affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed

ANDY D. BENNETT, J., delivered the opinion of the Court, in which W. NEAL MCBRAYER and JEFFREY USMAN, JJ., joined.

John A. Gentry, Goodlettsville, Tennessee, pro se.

Jonathan Skrmetti, Attorney General and Reporter, Andrée Blumstein, Solicitor General, and Janet M. Kleinfelter, Deputy Attorney General, for the appellee, House Speaker Cameron Sexton.

OPINION

FACTUAL AND PROCEDURAL BACKGROUND

This is not Mr. Gentry's first Writ of Mandamus case.

In May 2019, Mr. Gentry filed a petition for writ of mandamus in the chancery court against Former Speaker of the House Glen Casada, Lieutenant Governor McNally, and the chief clerks of the House and the Senate. The petition sought an order mandating that the House and Senate clerks "properly announce" the petition of remonstrance in accordance with Senate Rule 22 and House Rule 15 and an order requiring the Senate and

House “to hear and decide” the petition of remonstrance pursuant to article 1, sections 1, 23, and 35 of the Tennessee Constitution. The defendants filed a motion to dismiss for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted.

Gentry v. Former Speaker of the House Glen Casada, No. M2019-02230-COA-R3-CV, 2020 WL 5587720, at *1 (Tenn. Ct. App. Sept. 17, 2020), *perm. app. denied*, (Jan. 13, 2021), *cert. denied*, 141 S. Ct. 2804 (June 21, 2021) (“*Gentry I*”). The trial court found against Mr. Gentry’s claims. The Court of Appeals affirmed. *Id.* at *10.

Before his case was even decided in the Court of Appeals, Mr. Gentry tried anew to have his complaints heard. He submitted a copy of an “Application by Address: Restoration of Right to Apply for Redress of Grievance or Other Proper Purpose of Address or Remonstrance” to Representative Johnny Garrett, who filed it with the Chief Clerk of the House on May 3, 2021. Mr. Gentry sent numerous emails to Representative Garrett and Speaker of the House Cameron Sexton. Representative Garrett eventually responded to Mr. Gentry via email stating,

According to the Court of Appeals, . . . “the General Assembly had no duty to read at the table or to hear and decide Mr. Gentry’s petition of remonstrance.” It appears you are asking for the same action by our speaker that contradicts the opinion of the Court of Appeals. . . .

Mr. Gentry filed a Verified Petition for Writ of Mandamus in the Davidson County Chancery Court against Speaker Sexton alleging that he “ignore[d] his duties as Speaker of the House,” which violated Mr. Gentry’s rights under article 1, sections 17 and 23 and article 11, section 16 of the Tennessee Constitution. The trial court granted summary judgment to Speaker Sexton, finding no authority to compel the Speaker to act contrary to the rules of proceeding adopted by the House and finding that the doctrine of res judicata applies to the case. Mr. Gentry appealed.

ANALYSIS

“The doctrine of res judicata bars a second suit between the same parties or their privies on the same cause of action with respect to all issues which were or could have been litigated in the former suit.” *Massengill v. Scott*, 738 S.W.2d 629, 631 (Tenn. 1987). The doctrine’s purpose is “to promote finality in litigation, prevent inconsistent or contradictory judgments, conserve legal resources, and protect litigants from the cost and vexation of multiple law suits.” *Creech v. Addington*, 281 S.W.3d 363, 376 (Tenn. 2009) (citing *Sweatt v. Tenn. Dep’t of Corr.*, 88 S.W.3d 567, 570 (Tenn. Ct. App. 2002)). The application of res judicata is a matter of law that we review de novo with no presumption of correctness. *Ralph v. Scruggs Farm Supply LLC*, 470 S.W.3d 48, 52 (Tenn. Ct. App. 2014). For res judicata to apply, four elements must be shown: “(1) that a court of competent jurisdiction

rendered the prior judgment, (2) that the prior judgment was final and on the merits, (3) that both proceedings involved the same parties or their privies, and (4) that both proceedings involved the same cause of action.” *Young v. Barrow*, 130 S.W.3d 59, 64 (Tenn. Ct. App. 2003) (citing *Lee v. Hall*, 790 S.W.2d 293, 294 (Tenn. Ct. App. 1990)).

Court of Competent Jurisdiction

Mr. Gentry maintains that the trial court and this Court are not courts of competent jurisdiction because all judges have an interest in his remonstrance against judges. We admitted this interest in an order on his request for recusal in *Gentry I*. We also determined that the Rule of Necessity applied and allowed us to hear the case. Mr. Gentry sought Tennessee Supreme Court review of that order, and the Court determined that we did not err in denying Mr. Gentry’s motion for recusal.

Mr. Gentry’s argument on this element is misplaced in any event. The prior judgment must be rendered by a court of competent jurisdiction. This refers to a court with the proper constitutional or statutory authority to hear the case. Chancery courts have statutory authority to issue writs of mandamus. Tenn. Code Ann. § 29-25-101. The Court of Appeals hears appeals from the Chancery Courts. Tenn. Code Ann. § 16-4-108. Thus, each court involved in *Gentry I* was a court of competent jurisdiction.

Judgment Final and on the Merits

Mr. Gentry maintains that the judgment was not final and on the merits because the case was dismissed *sua sponte* without a hearing and without a motion to dismiss. These considerations are not relevant to whether the judgment in *Gentry I* was final and on the merits.

A judgment is final when it decides the whole case, leaving nothing else for the court to do. *Richardson v. Tenn. Bd. of Dentistry*, 913 S.W.2d 446, 460 (Tenn. 1995). A hearing on the merits is not necessary. *Ralph*, 470 S.W.3d at 53. In *Gentry I*, both the trial court and the Court of Appeals determined that Mr. Gentry was not entitled to mandamus relief. That was a final decision on the merits.

Same Parties or their Privies

Mr. Gentry maintains that Speaker Sexton was not Speaker of the House of Representatives in *Gentry I*, so the parties are not the same. Each petition for mandamus did name a different person as Speaker of the House, but he sued the speakers in their official capacities. As the chancellor so aptly put it, “[w]hen state officials holding the same office in succession are sued in their official capacities in two successive lawsuits, the actual defendant in both lawsuits is the State of Tennessee or the applicable state office.” There is no merit to Mr. Gentry’s contention that they are different parties.

Same Cause of Action

Mr. Gentry contends that the two cases are not the same cause of action because *Gentry I* involved a written petition of remonstrance and the instant matter involves an application to orally address the House. A remonstrance is written, he says, and an address is oral. Mr. Gentry asserts that, unlike the prior case, he is now seeking to exercise a right to petition orally by address pursuant to article I, section 23 of the Tennessee Constitution. In *Gentry I*, Mr. Gentry's Amended Petition for Writ of Mandamus, relying on article I, section 23 of the Tennessee Constitution, asked the trial court "[t]o mandate the Clerk's Office of the Senate to properly announce Petitioner's Petition of Remonstrance filed with the Senate, pursuant to Senate Rule of Order, Rule 22 and uphold **and** honor Petitioner's constitutional right to petition by address (orally)." (Emphasis added). Thus, Mr. Gentry sought an oral address pursuant to article I, section 23 in both cases. It is the same cause of action.

CONCLUSION

This case is governed by the doctrine of res judicata and must be dismissed. Costs are assessed against Mr. Gentry, for which execution may issue if necessary.

 /s/ Andy D. Bennett
ANDY D. BENNETT, JUDGE