

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
August 16, 2016 Session

RANDAL L. ARTHUR v. PAMELA STEWART, ET AL.

**Appeal from the Circuit Court for Sumner County
No. 2014CV1204 Joe Thompson, Judge**

No. M2015-01628-COA-R3-CV – Filed August 30, 2016

A boat repairman sued boat owners in general sessions court for a portion of the cost to repair their boat. The repairman was awarded less than he sought and appealed the case to the circuit court. The circuit court awarded the same amount to the repairman, and the repairman appealed the judgment to this Court. The record contains a statement of evidence, but it contains no transcript of the proceedings or any exhibits. We are unable to conduct a meaningful review based on the record in this case and affirm the trial court's judgment.

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

ANDY D. BENNETT, J., delivered the opinion of the court, in which RICHARD H. DINKINS, J., and J. STEVEN STAFFORD, P.J., W.S., joined.

Randal L. Arthur, Hendersonville, Tennessee, Pro Se.

Monty Stewart and Pamela Stewart, Greenbrier, Tennessee, Pro Se.

MEMORANDUM OPINION¹

The dispute in this case concerns the cost of repairs by Randal L. Arthur to a boat owned by Pamela and Monty Stewart. Ms. Stewart asserts that Mr. Arthur told her he could repair the boat for a total of \$1,000. Mr. Randal asserts the \$1,000 price he gave Mrs. Stewart was merely an estimate. The Stewarts paid Mr. Arthur \$1,000 for his services, and

¹This Court, with the concurrence of all judges participating in the case, may affirm, reverse, or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion, it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case. TENN. R. CT. APP. 10.

Mr. Arthur filed a complaint in Sumner County General Sessions Court seeking an additional \$1,821.07 plus costs. The general sessions judge awarded Mr. Arthur \$500, and Mr. Arthur appealed the judgment to the circuit court.

The parties tried their case in the circuit court. In its memorandum opinion and order, the circuit court made the following findings of fact:

Arthur and the Stewarts were acquaintances who had a prior social relationship before the matters at issue herein. The Stewarts, knowing that Arthur did boat repair work, asked him for an estimate to repair some problems with their houseboat. Arthur provided an estimate and took a \$500 down payment from the Stewarts on December 6, 2013. Pamela Stewart testified that she thought the total estimate for the work was \$1000 at the time she made the initial down payment.

On June 20, 2014, Stewart paid an additional payment of \$500 to Arthur. Arthur testified that the original estimate was not a firm estimate because of the potential for undisclosed defects that might warrant repair and that could cause the total job to exceed \$1000.

As he completed the work, Arthur did in fact encounter undisclosed defects and as a result, Arthur testified that the total contract price was \$1,821.97. The Stewarts refused to pay Arthur any more than the original \$1000.

The court found both parties were credible but determined there was no meeting of the minds for purposes of finding the existence of a contract. In the absence of a contract, the court concluded that Mr. Arthur was entitled to a recovery in *quantum meruit*. The court awarded Mr. Arthur \$500 “based upon the proof submitted at trial.”

Mr. Arthur appealed the circuit court’s judgment. On appeal, Mr. Arthur argues the trial court erred by (1) failing to award him reasonable and fair compensation for his labor and materials to repair the Stewarts’ boat; (2) failing to award him his requested court costs; (3) upholding the ruling by the general sessions judge without engaging in a de novo review; and (4) failing to construct “an honest and true rendering of proceedings,” regardless of Mr. Arthur’s procedural errors.

We review a trial court’s findings of fact de novo, based on the record, and assume the findings are correct unless the evidence preponderates otherwise. Issues of law enjoy no presumption of correctness. TENN. R. APP. P. 13(d); *Nashville Ford Tractor, Inc. v. Great Am. Ins. Co.*, 194 S.W.3d 415, 424-25 (Tenn. Ct. App. 2005). “We will also give great weight to a trial court’s factual findings that rest on determinations of credibility.” *Nashville*

Ford Tractor, 194 S.W.3d at 424.

The record in this case contains neither a transcript from the trial nor any exhibits the parties may have relied on during the trial to prove their case. Both parties submitted statements of evidence, and the trial court approved a heavily redacted statement submitted by the Stewarts. The statement of evidence that the trial court approved is limited to the following:

In May 2013 [Mr. Arthur] and [Mrs. Stewart] came to a verbal agreement to repair some soft spots, caulk around the upper deck and cut out around the steps for \$1,000 on our house boat “The Full Monty.” [Mr. Arthur’s] exact words to [Mrs. Stewart] were “It will cost you a Grand.” Then he said “I may be able to save you some money by using some material I had left over from another job that that guy has already paid for.” [The parties] never discussed how many men or what materials [Mr. Arthur] would use, just that he would do these 3 things for \$1,000 by the end of June 2013. [Mrs. Stewart] never pursued the subject again because [she and Mr. Arthur] came to an agreement that very day (May 2013). [Mr. Arthur] was on top of [the] deck looking at the work to be done at the time he gave [Mrs. Stewart] a firm bid for “A Grand.”

[The Stewarts] went with [Mr. Arthur] because [they] are on a fixed income and needed to save \$300 and [Mr. Arthur] said he could begin right away and it would take 2 to 3 weeks.

Finally in December of 2013 [Mr. Arthur] put a tarp on [the Stewarts’] boat, clamped it down and did not return to even look at the boat, much less remove the tarp as he stated. The clamps were never removed. [Mr. Arthur] kept telling [Mrs. Stewart] he was working on other jobs.

[Mr. Arthur] states that in June 2014, 12 months after he began the project, the drying process was complete and he would begin replacing damaged wood and the deck. He also states the damage was more extensive than he originally thought.

Mr. Arthur filed a motion seeking to add exhibits to the record, which the trial court denied because “neither party made an exhibit of any document or photograph at trial.”

Without a transcript or exhibits to review, we have only the statement of evidence set forth above. Mr. Arthur is unable to prove, based on that evidence, that the trial court erred in awarding him \$500 in addition to the \$1,000 the Stewarts already paid him.

With regard to his argument about court costs, the record contains no motion or other document indicating Mr. Arthur asked the trial court to award him costs. Moreover, the court's order does not mention anything about costs. As a result, we have no basis on which to find the trial court erred in failing to award Mr. Arthur his costs.

Mr. Arthur next contends the trial court failed to conduct a de novo review of the case, as required by law. Mr. Arthur is correct that he was entitled to a trial de novo in the circuit court upon appealing his case from general sessions. Tenn. Code Ann. § 16-15-729. In the absence of a transcript of the proceedings in the circuit court, however, we are unable to determine the extent of the court's proceedings. Based on the court's findings of fact and conclusions of law, however, it appears the court heard the parties' testimony, determined their credibility, and concluded Mr. Arthur was entitled to \$500 based on the doctrine of *quantum meruit*. Without a transcript of the proceedings, Mr. Arthur cannot prevail on his argument that the court failed to conduct a de novo review.

In addition, Mr. Arthur argues the trial court erred by accepting the Stewarts' statement of evidence instead of constructing "an honest and true rendering of proceedings." According to Tenn. R. App. P. 24(c), the appellant, Mr. Arthur, is supposed to prepare a statement of the evidence when no transcript is available. If the appellee(s), the Stewarts in this case, disagree with Mr. Arthur's statement, they are entitled to submit their own statement. *See* TENN. R. APP. P. 24(c), (h). Any differences in the statements submitted by the parties shall be settled by the trial court, TENN. R. APP. P. 24(h), and "the determination of the trial court is conclusive." TENN. R. APP. P. 24(e). Contrary to Mr. Arthur's argument, the trial court is not supposed to construct a "rendering of the proceedings"; instead, it is required to determine whether a statement submitted by a party accurately reflects the proceedings that took place. In redacting the statement proposed by the Stewarts and approving the statement as redacted, the trial court did as it was required.

Finally, we find no basis to grant Mr. Arthur's Emergency Motion to Supplement the Record on Appeal. Therefore, the motion is denied.

The trial court's judgment is affirmed. Costs of this appeal shall be taxed to the appellant, Randal L. Arthur, for which execution shall issue if necessary.

ANDY D. BENNETT, JUDGE