

IN THE COURT OF APPEALS OF IOWA

No. 0-972 / 08-1896
Filed February 23, 2011

JIMMIE E. SMALL,
Plaintiff-Appellant,

vs.

**CITY OF MILTON, LINDI THOMAS,
CHARLES BOYD, and RATHBUN REGIONAL
WATER ASSOCIATION, INC.,**
Defendants-Appellees.

Appeal from the Iowa District Court for Van Buren County, Daniel P. Wilson, Judge.

Plaintiff appeals the district court's grant of summary judgment in favor of the defendants. **AFFIRMED.**

Jimmie E. Small, Milton, pro se.

Steven E. Ort of Bell, Ort & Liechty, New London, for appellees City of Milton, Lindi Thomas and Charles Boyd.

Thomas L. Anders, Centerville, for appellee Rathbun Regional Water Association, Inc.

Considered by Mansfield, P.J., and Danilson and Tabor, JJ.

MANSFIELD, P.J.

Jimmie Small appeals the district court's grant of summary judgment in favor of the City of Milton, two city officials, and Rathbun Regional Water Association, Inc. (RRWA). Upon our review, we affirm.

In 2004, Small paid \$500 for a parcel of land located at 606 West Highway #2 in Milton. After purchasing the property, Small placed an RV on the parcel and began occupying the RV as his residence.

In July 2005, Small asked RRWA to connect his RV to the RRWA water distribution system that abutted his property. RRWA offered to do so, but advised Small he would be responsible for the costs and materials of the connection, estimated at \$1065.37.

In August 2005, Small requested the City connect his property to the City's water and sewer systems. The City denied the request, stating that its water and sewer systems did not currently extend to his property and that it was not practical to connect his property because of the distance and the private properties that would have to be crossed. The City also indicated that Small could obtain water from RRWA.

Small filed complaints, unsuccessfully, with the Iowa Civil Rights Commission and the Iowa Utilities Board challenging the defendants' actions. He then brought the present action in district court on July 30, 2007. In his petition, Small alleged the City and RRWA had entered into a public utility contract as a condition of obtaining federal funding that contained certain nondiscrimination covenants. Small claimed the defendants breached those covenants by discriminating against him on the basis of his disability when they denied him

access to the water and sewer systems. Small further sought writs of certiorari and mandamus against the City and the city officials, alleging they had acted illegally in failing to connect his property to the water and sewer systems and should be ordered to provide such connections.¹

On March 7, 2008, Small filed a motion for sanctions against the City for failure to comply with discovery requests. Although Small had apparently received the discovery responses, he alleged they were untimely and the accompanying certificate of service had the wrong date. The City responded and admitted to both errors, but argued that Small could not show any prejudice. A hearing on the motion was set for April 4, 2008. On the morning of the hearing, Small filed a motion for continuance. That afternoon, the court denied the motion for continuance and struck the motion for sanctions when Small failed to appear.

On May 27, 2008, Small filed a second motion for sanctions that essentially duplicated his March 7 motion for sanctions. That motion was overruled on June 24, 2008.

The defendants eventually moved for summary judgment. On October 23, 2008, the district court granted summary judgment. It determined the evidence did not support Small's contract/discrimination claim or the issuance of writs of certiorari or mandamus.

Small appealed, but eventually moved to stay or postpone the filing of his appellate proof brief alleging the judicial record was unavailable, inaccurate, and

¹ Small also brought a count for assault and battery against the City of Milton and Charles Boyd individually relating to an incident that had allegedly occurred in September 2005. That count was severed from the remaining proceedings and is not at issue in this appeal.

incomplete. Accordingly, the supreme court allowed Small fourteen days to file a motion with the district court to correct or modify the record and set forth the alleged errors in the docket and transcript.

On June 3, 2009, Small filed his motion to amend, modify, and supplement the district court record. After reviewing the motion and the record, the district court, on July 24, 2009, determined that Small was essentially rearguing the merits of his claims and that he should proceed with his appeal.

This appeal ensued. Small now claims the district court erred in: (1) failing to make factual findings on the motion to amend or supplement the record; (2) granting defendants' motions for summary judgment; and (3) denying his motions for sanctions.

Upon our review of the entire record, we affirm the district court's grant of summary judgment and related rulings dated April 4, 2008, June 24, 2008, October 23, 2008, and July 24, 2009, pursuant to Iowa Court Rule 21.29(1)(d). We commend the district court for its patience and thoroughness in addressing and resolving Small's pro se claims. The judgment below is affirmed.

AFFIRMED.