

STATE OF MICHIGAN  
COURT OF APPEALS

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SHAPHAN RAMAH GLENN

Plaintiff-Appellant,

v

GARY HOSBEIN,

Defendant-Appellee,

and

JEFFREY ROBBINS

Defendant.

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UNPUBLISHED

February 14, 1997

No. 190279

Berrien County

LC No. 95-001057-NM

Before: Young, P.J., and O'Connell and W.J. Nykamp,\* JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's orders dismissing the case against defendants and denying plaintiff's motion for reconsideration. We affirm.

Plaintiff filed a legal malpractice action against defendants arising from their prior representation of plaintiff as court appointed counsel in a criminal matter. Defendant Gary Hosbein appeared and responded to the complaint with a motion for summary disposition, arguing that plaintiff's complaint was barred against *both* defendants for failure to commence the action within the applicable statute of limitations, MCL 600.5838; MSA 27A.5838. Defendant Jeffrey Robbins never appeared or answered. The court granted defendant's motion for summary disposition and entered an order dismissing *both* defendants.

Plaintiff responded with a motion for reconsideration, arguing that the court improperly dismissed defendant Jeffrey Robbins, because he failed to appear in this matter or answer plaintiffs'

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\* Circuit judge, sitting on the Court of Appeals by assignment.

complaint. The court denied the motion for reconsideration, observing that defendant Robbins had not been served within the time prescribed for serving the summons.

On appeal, plaintiff raises the same issue, insisting that defendant Robbins as co-defendant Hosbein's law partner, received actual notice of the complaint. We disagree. Plaintiff failed to serve defendant Robbins as required by MCR 2.105(A)(2). While defective process of service can be excused pursuant to MCR 2.105(J), complete failure of service will not. *Holliday v Townley*, 189 Mich App 424, 426; 473 NW2d 733 (1991).

Affirmed.

/s/ Robert P. Young, Jr.

/s/ Peter D. O'Connell

/s/ Wesley J. Nykamp