

STATE OF MICHIGAN
COURT OF APPEALS

ROBERT S. WOLF,

Plaintiff-Appellant,

v

GLEN CLAFTON,

Defendant-Appellee.

UNPUBLISHED

September 28, 1999

No. 210299

Wayne Circuit Court

LC No. 96-645935 CK

Before: Collins, P.J., and Sawyer and Cavanagh, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the trial court's order dismissing this matter with prejudice. We affirm.

Plaintiff argues that the trial court abused its discretion in dismissing this matter with prejudice. We disagree. As plaintiff admits, he was fully aware of the scheduled trial date. For reasons that are not clear, he chose not to appear for trial. Although plaintiff's attorney claimed that he thought plaintiff was in Florida, plaintiff was actually at home and on vacation. Thus, the record indicates that plaintiff was aware of the trial date, available for trial, and simply chose not to appear. Under these circumstances, we cannot conclude that the trial court abused its discretion in dismissing this matter with prejudice. MCR 2.504(B); *Vicencio v Ramirez*, 211 Mich App 501; 536 NW2d 280 (1995); *Williams v Kroger Food Co*, 46 Mich App 514, 516; 208 NW2d 549 (1973).

Finally, we find no merit to plaintiff's argument that dismissal was not warranted because no written order was entered establishing the December 17, 1997, trial date. MCR 2.501(C) provides that notice of trial "may be given orally if the party is before the court when the matter is scheduled." It is undisputed that the trial judge orally notified the parties of the trial date when they appeared before the court on June 26, 1997. Therefore, the trial date was properly scheduled and plaintiff was properly notified of the date of trial, despite the fact that no written order was entered.

Affirmed.

/s/ Jeffrey G. Collins
/s/ David H. Sawyer
/s/ Mark J. Cavanagh