

STATE OF MICHIGAN
COURT OF APPEALS

D'ETTA WILCOXON,

Plaintiff/Counter-Defendant-
Appellant,

v

WAYNE COUNTY NEIGHBORHOOD LEGAL
SERVICES, a/k/a WCNLS,

Defendant/Counter-Plaintiff-
Appellee,

and

LINDA BERNARD,

Defendant/Counter-Plaintiff.

UNPUBLISHED

April 18, 2006

No. 258585

Wayne Circuit Court

LC No. 98-812419-CZ

Before: Murphy, P.J., and O'Connell and Murray, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order denying her motion to reinstate the case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed suit alleging that she was constructively discharged from her employment with defendant. The case evaluation panel found that plaintiff's suit was frivolous, but awarded defendant \$5,000 on its counterclaim. Defendant accepted the evaluation, but plaintiff rejected it.

In *Wilcoxon v Wayne County Neighborhood Legal Services*, 252 Mich App 549; 652 NW2d 851 (2002), we affirmed the trial court's denial of defendant's motion to dismiss the case. Nevertheless, the case was dismissed again for lack of progress. In June 2004, plaintiff moved to reinstate the case. The trial court denied the motion, finding that no justification existed for plaintiff's delay in seeking to reinstate the case.

A party seeking reinstatement of an action dismissed for lack of progress must show good cause. MCR 2.502(C). In determining whether good cause exists, a court may consider whether

the dismissal was technically or procedurally inappropriate, the length of delay between the dismissal and the motion to reinstate, whether the plaintiff was diligent during the pendency of the original action, the plaintiff's conduct or other facts leading to the dismissal, the plaintiff's diligence in attempting to settle or reinstate the case, and the prejudice to the defendant if the action were to be reinstated. *Wickings v Arctic Enterprises, Inc.*, 244 Mich App 125, 143; 624 NW2d 197 (2000). We review a trial court's decision whether to reinstate an action for an abuse of discretion. *Id.* at 138.

We note that the trial court may very well have acted inadvertently in dismissing the case. Under those circumstances, plaintiff could have sought reinstatement on the ground that the dismissal was procedurally improper. *Id.* at 139. However, plaintiff did not move to reinstate the case until 19 months after the trial court dismissed it and took no action for nearly two years after we initially affirmed the trial court. The rule does not impose a specific time limit for moving to reinstate an action, *id.* at 138-139, but does require a showing of good cause. MCR 2.502(C). Plaintiff simply states, without elaboration, that the trial court's decision was not supported by the record. Plaintiff fails to show good cause, so she has not demonstrated that the trial court abused its discretion by denying her motion to reinstate the case.

Affirmed.

/s/ William B. Murphy
/s/ Peter D. O'Connell
/s/ Christopher M. Murray