

STATE OF MICHIGAN
COURT OF APPEALS

MICHAEL KELLY,

Plaintiff-Appellant,

v

DENNIS EDMONDS, BRENDA WALLACE,
and MAUDE EDMONDS,

Defendants-Appellees.

UNPUBLISHED
November 7, 2006

No. 265180
Wayne Circuit Court
LC No. 04-414252-CH

Before: Whitbeck, C.J., and Saad and Schuette, JJ.

PER CURIAM.

Plaintiff Michael Kelly was a tax deed holder and brought this action to quiet title, for a writ of assistance to take possession, and for rent. Following a bench trial, the trial court determined that defendants Dennis Edmonds and Brenda Wallace did not receive notice of the tax sale and awarded them title to the property. Kelly appeals as of right. We affirm. We decide this case without oral argument.¹

I. Basic Facts And Procedural History

The record title holders of the subject premises were Maude Edmonds² and her children Dennis Edmonds and Brenda Wallace. Kelly claimed that Wayne County Deputy Sheriff Damon Creighton properly served notice of a tax sale on Edmonds and Wallace under MCL 211.140(6),³ which stated, in pertinent part:

¹ MCR 7.214(E).

² Maude Edmonds died in 1997 or 1998. Dennis Edmonds and Brenda Wallace inherited her assets.

³ This statute was repealed by 2001 PA 94, effective December 31, 2003, but was in effect at all times relevant to this appeal.

Service may be made on a resident of this state by leaving the notice at that person's usual place of residence with a member of that person's family of mature age.

Testimony at trial indicated that Creighton left two copies of the notice at the subject premises with Raymond Wallace, who was the estranged husband of Brenda Wallace. Brenda Wallace lived at the home. Her brother, Dennis Edmonds, testified that he lived elsewhere. Both Wallace and Edmonds denied receiving service.

The trial court concluded that Edmonds did not live at the property and, therefore, was not properly served under the statute. As for Brenda Wallace, the court stated:

And the only question of any substance is whether service on an estranged husband who lived somewhere else is service on a member of that person's family. I think it isn't.

The trial court further noted that Edmonds and Wallace continued paying taxes on the subject premises, which is not something they would have done if they knew their title was in jeopardy.

II. Service Of Notice Of Tax Sale

A. Standard Of Review

Kelly argues that the trial court erred in determining that Edmonds and Wallace did not receive notice. We review for clear error a trial court's findings of fact in a bench trial, and we review de novo its conclusions of law.⁴

B. Service On Dennis Edmonds

Kelly argues that service on Dennis Edmonds was proper because he did not present evidence to corroborate his claim that he did not reside at the property, and his testimony was "sketchy at best."

Although Dennis Edmonds did not present corroborative evidence, Kelly did not present compelling evidence to contradict it. The trial court believed Edmonds' testimony. Due regard is given to the special ability of the trial court to judge the credibility of the witnesses before it.⁵ We are not persuaded that the trial court's finding was clearly erroneous. Because the statute on which Kelly relied allows service to be made by leaving the notice "at the person's usual place of residence . . ." and the trial court did not clearly err in finding that Edmonds did not live at the property, Kelly did not demonstrate that service on Edmonds was proper under the statute.

⁴ MCR 2.613(C); *Amb v Kalamazoo Co Rd Comm*, 255 Mich App 637, 651; 662 NW2d 424 (2003).

⁵ MCR 2.613(C).

C. Service On Brenda Wallace

Kelly argues that service on Brenda Wallace was proper because the notice was left at her usual place of residence and with “a member of [her] family,” i.e., Raymond Wallace, to whom she was still legally married. However, Kelly has failed to adequately brief this issue. The term “family” is not defined in the statute. It is “one of great flexibility.”⁶ Under some definitions of “family,” an estranged spouse living in another household would not qualify as a member of the family.⁷ Kelly does not cite any authority, not even a dictionary definition, in support of his position.

[A] mere statement without authority is insufficient to bring an issue before this Court. It is not sufficient for a party “simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position.”⁸

In addition, Kelly does not address the basis of the trial court’s ruling that Raymond Wallace did not qualify because he lived elsewhere. Kelly’s failure to address the basis for the trial court’s decision precludes appellate relief.⁹

Affirmed.

/s/ William C. Whitbeck
/s/ Henry William Saad
/s/ Bill Schuette

⁶ *Rogers v Kuhnreich*, 247 Mich 204, 206; 225 NW 622 (1929).

⁷ See *Random House Webster’s College Dictionary* (1997).

⁸ *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998), quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959).

⁹ *Roberts & Son Contracting, Inc v North Oakland Dev Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987) (appellate relief is precluded where the appellant fails to address the basis of the trial court’s decision).