

STATE OF MICHIGAN
COURT OF APPEALS

JAMES DALE LOUGH,

Plaintiff-Appellee,

v

ARDEN HILSEN, a/k/a ARDEN GAY LOUGH,

Defendant-Appellant.

UNPUBLISHED

May 27, 2014

No. 314838

Oakland Circuit Court

LC No. 2010-771172-DO

Before: CAVANAGH, P.J., and OWENS and M. J. KELLY, JJ.

PER CURIAM.

In this dispute arising after a divorce settlement, defendant Arden Hilsen, acting on her own behalf, appeals by right the trial court's order compelling her to pay \$2,000 in sanctions to plaintiff James Dale Lough for filing unsupported motions. Because we conclude there were no errors warranting relief, we affirm.

Lough sued Hilsen for a divorce in 2010. Shortly thereafter, Lough and Hilsen settled their claims through mediation. Hilsen regretted settling and moved to set aside the agreement. Lough agreed to modify the settlement and, in November 2010, the trial court entered a judgment of divorce in accord with the modified agreement. Hilsen, however, remained dissatisfied and continued to challenge it both in this Court and the trial court. Lough moved for sanctions on the grounds that Hilsen's motions were unsupported by facts or law. The trial court entered an order holding Lough's request for sanctions in the amount of \$1,200 in abeyance, but warned Hilsen that sanctions would be imposed if she continued to file motions without "an adequate factual and legal basis."

In November 2012, Hilsen moved for relief from judgment. She claimed that she did not consent to the terms of the divorce judgment and that transcripts of prior hearings were inaccurate. She also claimed that Lough had hidden assets. The trial court scheduled an evidentiary hearing on Hilsen's claims. At the hearing, Hilsen was unable to present any evidence that Lough had hidden assets. The trial court adjourned the hearing to provide Hilsen with additional time to compare transcripts to video recordings of court proceedings and identify any inconsistencies. Lough again asked for sanctions and the trial court held his renewed request in abeyance pending the outcome of the hearing. When the hearing resumed, Hilsen was unable to produce any evidence of errors in the transcripts. Consequently, the trial court dismissed her motion and ordered her to pay Lough \$2,000 in sanctions.

Hilsen now appeals the trial court's decision to award sanctions.

On appeal, Hilsen contends that the trial court erred by ordering her to pay sanctions. Specifically, she argues that Lough failed to demonstrate that he was entitled to his reasonable attorney fees under MCR 2.403, MCL 552.13, or MCR 3.206(C)(2)(a), and that the trial court erred by ordering her to pay fees without first holding a hearing to determine the reasonableness of the fees.

We note that the trial court did not rely on MCR 2.403, MCL 552.13 or MCR 3.206(C)(2)(a) in its order for sanctions. Rather, it ordered Hilsen to pay sanctions after she alleged baseless claims in her motion, violated the court's own directive to present a detailed summary of errors in trial transcripts, and wasted Lough's time by forcing him to defend her unfounded motion. Given these circumstances, the trial court had the authority to order sanctions under MCR 2.114(E) and as part of its inherent authority to impose sanctions on the basis of a party's misconduct. *Persichini v William Beaumont Hosp*, 238 Mich App 626, 639; 607 NW2d 100 (1999).

A trial court may order a party to pay "reasonable attorney fees" as a sanction under MCR 2.114(E). Our Supreme Court outlined the basic principles for determining a reasonable attorney fee in *Smith v Khouri*, 481 Mich 519, 530-531; 751 NW2d 472 (2008). Generally, if the requested attorney fee is challenged, the trial court should conduct an evidentiary hearing to determine its reasonableness. *Miller v Meijer, Inc*, 219 Mich App 476, 479; 556 NW2d 890 (1996). However, the trial court does not have to hold an evidentiary hearing if there is sufficient evidence to allow the trial court to determine the amount of attorney fees. *John J Fannon Co v Fannon Products, LLC*, 269 Mich App 162, 171; 712 NW2d 731 (2005).

In this case, Lough accounted for his lawyer's services in response to several of Hilsen's motions. Indeed, the trial court had already authorized \$1,200 in sanctions should Hilsen continue to file unsupported motions and Lough demonstrated that he had incurred far more than \$800 in additional fees since then. Hilsen never challenged Lough's accounting or the reasonableness of the fees and does not do so on appeal. Therefore, the trial court had no reason to conduct an evidentiary hearing before imposing sanctions and we find no basis for ordering one now.

There were no errors warranting relief.

Affirmed. As the prevailing party, James Dale Lough may tax his costs. MCR 7.219(A).

/s/ Mark J. Cavanagh
/s/ Donald S. Owens
/s/ Michael J. Kelly