Court of Appeals, State of Michigan

ORDER

ROBERT DAVIS V BRENDA GREEN

Docket No. 380929

LC No. 26-007478-CZ

Allie Greenleaf Maldonado
Presiding Judge

Michael F. Gadola
Chief Judge

Mariam S. Bazzi
Judge

The motion for immediate consideration is GRANTED.

The motion to "take judicial notice . . . ." is DENIED. Plaintiff asks in this motion that this Court take "judicial notice" of several documents that were not filed in the trial court or this Court previously. Rather, since the issuance of this Court's June 5, 2026 opinion, plaintiff appears to have searched for and obtained additional documentation he argues supports his position as to one candidate. While presented as a motion to "take judicial notice" of these documents, the motion actually seeks to expand the record. As plaintiff himself has argued in this very case, this Court's review is limited to the record established in the trial court. *Magley v M & W Inc*, 325 Mich App 307, 322 n 8; 926 NW2d 1 (2018). Further, as this matter is now in a reconsideration posture, this Court may, and does, exercise its discretion to refuse to consider evidence and legal arguments that could have been made before this Court issued its opinion. *Yoost v Caspari*, 295 Mich App 209, 220; 813 NW2d 783 (2012). The fact that plaintiff was able to procure all of these additional documents so quickly after this Court issued its opinion indicates that he could have done the same long ago, presented it to the trial court, and properly made it part of the record. We cannot countenance allowing plaintiff to add to the record at this stage of the proceeding.

The motion for reconsideration is DENIED for the following reasons. First, to the extent plaintiff believes this Court's failure to consider the new documents of which he asked this Court to take "judicial notice," his motion to take judicial notice of the documents is denied for reasons explained. This Court did not palpably err by failing to consider documents plaintiff did not provide to the trial court or this Court previously.

Second, plaintiff asserts that this Court decided the matter without the lower court record having been transmitted to this Court. As with most election matters, plaintiff himself requested a decision on the matter in an extremely short timeframe. Plaintiff is also very experienced in such matters. In this case, he filed an appendix with his claim of appeal, and again with his brief on appeal, that included the documents relevant to his arguments. This Court relied on plaintiff's brief and appendix to adjudicate the issues plaintiff raised. And while plaintiff now argues that this Court did not have the complete lower court file when it issued its opinion, he fails to identify any document or pleading that was not filed with this Court (other than those which he now tries to add to the record despite not filing them in the trial court) which he believes this Court should have considered. Plaintiff has failed to demonstrate palpable error that would lead to a different result in this regard. MCR 2.119(F)(3).

Third, plaintiff complains that this Court did not have the transcript of the May 26, 2026 hearing when this matter was decided, and claims that this transcript shows that he did present sufficient evidence proving that Robinson's affidavit of identity contains a false statement with respect to the spelling of her first name. Again, this matter is an election case, and plaintiff specifically requested action on or before June 5, 2026. It is also plaintiff's responsibility, as the appellant in this case, to secure filing of the transcript. MCR 7.210(B)(1). As of June 5, 2026, the transcript was not filed with this Court, but in order to meet plaintiff's requested timeline, and to avoid disrupting the ballot printing process, this Court issued an opinion on the afternoon of June 5, 2026. This Court did not have the hearing transcript at that point in time but did have the trial court's thorough written opinion in hand which explained its analysis. This Court also had plaintiff's brief on appeal, in which he did not suggest the transcript was necessary to resolve the case. Further, the transcript has since been filed with this Court. It was not produced until several days after this Court issued its opinion, and so it would have been impossible to decide the case both within plaintiff's requested timeline and with the benefit of the transcript. But in any event, plaintiff has not demonstrated that anything in the transcript would result in a different disposition of the appeal. As such, he again fails to demonstrate that reconsideration would be warranted. MCR 2.119(F)(3).

The motion to "file unredacted copies" is DENIED. Previously, this Court sanctioned plaintiff for filing a document containing unredacted personal identifying information in his exhibits filed in this Court. *Davis v Green*, unpublished order of the Court of Appeals, entered June 5, 2026 (Docket No. 380929). Specifically, plaintiff filed an exhibit containing the unredacted, complete social security number (SSN) of another individual, contrary to MCR 1.109(D)(9)(b)(ii). Plaintiff now asks this Court to consider various documents which, for reasons explained, this Court declines to consider. Several of these documents also contain the individual's complete, unredacted SSN. In this motion, plaintiff has asked this Court to seal these documents, as well as others containing the individual's address and birthdate.

Because the individual's address and birthdate are readily available to the public, we decline to seal any documents on that basis. We further note that one's address is not "personal identifying information" under MCR 1.109(D)(9)(a). As for those documents containing the individual's complete, unredacted SSN, a motion to seal is not the appropriate procedure. Rather, pursuant to MCR 1.109(D)(9)(b)(ii), "Where a social security number is required to be filed with the court, *it shall be the last four digits only*." (Emphasis added.) We find it to have been completely unnecessary to have filed documents containing any portion of the individual's SSN. Contrary to plaintiff's assertions, knowing this individual's full, or even partial, SSN is unnecessary to resolve this matter. But minimally, plaintiff's obligation was to redact all but the last four digits of the SSN. MCR 1.109(D)(9)(b)(ii); MCR 1.109(D)(10). Had plaintiff simply complied with the Court Rules, the motion to "file unredacted copies" would have been unnecessary.

Because plaintiff has once again filed documents containing this individual's unredacted SSN, pursuant to MCR 1.109(D)(9)(b)(vii), we direct any documents containing the individual's SSN shall be sealed. These documents shall not be disclosed nor made available for public viewing. The Clerk is directed to forward a copy of this order to the Clerk of the Supreme Court and to the State Court Administrative Office. And, we find it appropriate to assess additional costs against plaintiff in addition to those contained in this Court's June 5, 2026 order. Given that we previously assessed costs in this same case for plaintiff's failure to comply with his obligations under MCR 1.109(D)(9) and (10), and that he nonetheless failed to comply with these rules, we assess costs of $1,500, against plaintiff, to be paid to

this Court within 21 days of the date of the Clerk's certification of this order. Failure to pay costs as ordered may result in an order barring plaintiff from filing any future matters in this Court until the costs are paid.

Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

June 12, 2026
Date

Chief Clerk