

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
BUTLER COUNTY

ROGER MANDZAK,	:	
Plaintiff-Appellant,	:	CASE NO. CA2009-06-173
- vs -	:	<u>OPINION</u>
	:	2/22/2010
KYRIA GRAVES,	:	
Defendant-Appellee.	:	

CIVIL APPEAL FROM FAIRFIELD MUNICIPAL COURT
Case No. 2008-SCI-144

Clayton G. Napier, 29 North "D" Street, Hamilton, Ohio 45013, for plaintiff-appellant
Kari E. Yeomans, 123 Boggs Lane, Cincinnati, Ohio 45246, for defendant-appellee

RINGLAND, J.

{¶1} Plaintiff-appellant, Roger Mandzak, appeals a decision of the Fairfield Municipal Court entering judgment in favor of defendant-appellee, Kyria Graves.

{¶2} Mandzak was the owner of a condominium located at 3895 Mack Road in Fairfield, which was subject to a foreclosure. On or about August 15, 2006, a writ of possession was executed on the property. Graves was hired by the bank which purchased the property, Wells Fargo, to ensure that all of appellant's property had been removed from the premises and secure the property. Additional individuals from the

bank were at the property that day moving appellant's belongings from the residence and appellant transported them to a different location.

{¶3} The movers completed removing all of appellant's property late in the evening. Graves was at the property to lock the door and secure the property for the bank. Mandzak returned to the property around midnight, asking to inspect the condominium one final time to ensure that the bank's movers had removed everything and whether there was any remaining property. According to Mandzak, Graves had a dog with him and blocked the entrance to the condominium, denying entrance.

{¶4} After later conducting an inventory of his belongings, Mandzak noticed that some of his property was missing. Mandzak filed suit against Graves for denying entrance to the condominium and stealing or converting his property. Following trial before a magistrate, the magistrate filed a written decision entering judgment in favor of Mandzak and ordering Graves to pay \$2,275. Graves filed timely objections to the magistrate's decision. Following a hearing on the objections, the trial court reversed the magistrate's decision and entered judgment in favor of Graves. Mandzak timely appeals, raising one assignment of error:

{¶5} "THE TRIAL COURT COMMITTED PREJUDICE [sic] ERROR IN REVERSING THE MAGISTRATE'S DECISION WHILE CLAIMING NO LEGAL OR FACTUAL BASIS WHATSOEVER."

{¶6} In his brief, Mandzak attacks the trial court's entry of a general decision in this matter, which reversed the decision of the magistrate and entered judgment in favor of Graves. Mandzak claims that reversal of a magistrate's decision without a legal or factual finding and basis is an abuse of discretion. Specifically, Mandzak urges, it "is absolutely incomprehensible because the court gave absolutely no reason whatsoever for reversing a thorough and carefully reasoned opinion."

{¶7} In ruling on objections to a magistrate's decision, Civ.R. 53(D)(4)(d) requires a trial court to undertake an independent review of the objected matters to ascertain whether the magistrate properly determined the factual issues and appropriately applied the law. *Koeppen v. Swank*, Butler App. No. CA2008-09-234, 2009-Ohio-3675, ¶26; see, also, *McCarty v. Hayner*, Jackson App. No. 08CA8, 2009-Ohio-4540, ¶17, citing *Knauer v. Keener* (2001), 143 Ohio App.3d 789, 793-794. In so doing, a court may reject or adopt the magistrate's decision in whole or in part, and with or without modification. Civ.R. 53(D)(4)(b); *Hampton v. Hampton*, Clermont App. No. CA2007-03-033, 2008-Ohio-868, fn. 3. In turn, the trial court has the "ultimate authority and responsibility over the [magistrate's] findings and rulings," and its independent analysis may result in a different conclusion than that of the magistrate. *State ex rel. Hrelec v. Campbell*, 146 Ohio App.3d 112, 117, 2001-Ohio-3425, quoting *Hartt v. Munobe*, 67 Ohio St.3d 3, 5, 1993-Ohio-177; *McElrath v. Travel Safe.com Vacation Ins.*, Trumbull App. No. 2002-T-0085, 2003-Ohio-7206, ¶25. As a result, the trial court's rulings on objections to a magistrate's decision lies within its sound discretion and will not be reversed on appeal absent an abuse thereof. *Setzekorn v. Kost USA, Inc.*, Warren App. No. CA2008-02-017, 2009-Ohio-1011, ¶9; *Bartlett v. Sobetsky*, Clermont App. No. CA2007-07-085, 2008-Ohio-4432, ¶8, citing *Foster v. Foster*, 150 Ohio App.3d 298, 2002-Ohio-6390, ¶9. An abuse of discretion is more than error of law or judgment; it requires a finding that the trial court's attitude was unreasonable, arbitrary or unconscionable. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219.

{¶8} Mandzak complains that the trial court had a duty to submit a written decision in this case explaining its reasoning for the judgment overruling the magistrate's decision. The court has no such duty. Civ.R. 52 allows a trial court to enter a general judgment in favor of a party. Further, Civ.R. 52 obligates a party to request findings of

fact and conclusions of law. *L.T.M. Builders v. Village of Jefferson* (1980), 61 Ohio St.2d 91, 94-95. See, also, *Reynolds v. Nibert*, Scioto App. No. 01CA2771, 2002-Ohio-6133, ¶11-13. The request may be made prior to the court's entry of judgment or within seven days after the party filing the request has been given notice of the court's decision. Civ.R. 52. The purpose of this rule is to enable a reviewing court to determine the existence of assigned error. *Abney v. Western Res. Mut. Cas. Co.* (1991), 76 Ohio St.3d 424, 431.

{¶9} It is long-standing Ohio law that a court of record speaks only through its journal. *Schenley v. Kauth* (1953), 160 Ohio St. 109, paragraph one of the syllabus. Without findings of fact and conclusions of law, it is difficult for a reviewing court to conduct a meaningful review, determine the validity of the trial court's decision, or determine the existence of an assigned error on appeal. See *Natl. City Mtge. Co. v. Wellman*, 174 Ohio App.3d 622, 2008-Ohio-207, ¶25; *Info. Leasing Corp. v. Chambers*, 152 Ohio App.3d 715, 2003-Ohio-2670, ¶74; and *Creggin Group, Ltd. v. Crown Diversified Industries Corp.* (1996), 113 Ohio App.3d 853, 859.

{¶10} Mandzak never requested findings of fact or conclusions of law following receipt of the trial court's decision. In its judgment entry, the trial court stated that it examined the pleadings and exhibits in the file and reviewed the hearing before the magistrate. Because Mandzak failed to request findings pursuant to Civ.R. 52, our review is limited in this matter. Absent findings of fact or conclusions of law, we must presume regularity of the proceedings and proper application of the law by the trial court. *A.S. v. D.G.*, Clinton App. No. CA2006-05-017, 2007-Ohio-1556, footnote one, citing *Allstate Financial v. Westfield Serv. Mgt.* (1989), 62 Ohio App.3d 657, 662. After review of the record, we cannot say the trial court abused its discretion in granting judgment in favor of Graves. *Bd. of Trustees of Miami Township v. Fraternal Order of*

Police, Ohio Labor Council, Inc., Butler App. No. CA2005-05-041, 2006-Ohio-150, ¶36.

{¶11} Mandzak's sole assignment of error is overruled.

{¶12} Judgment affirmed.

BRESSLER, P.J., and HENDRICKSON, J., concur.