

IN THE SUPREME COURT OF IOWA

No. 17–1982

Polk County No. EQCE082353

ORDER

JAYSEN MCCLEARY,
Plaintiff,

vs.

CLARK KAUFFMAN and
DES MOINES REGISTER,
Defendants.

This matter comes before the court, upon the plaintiff’s “Amended Emergency Combined Applications For: Interlocutory Appeal and Writ of Certiorari” filed December 8, 2017 (combined applications). The plaintiff seeks review of the district court’s December 7, 2017, “Ruling on Motion for Temporary Injunction.” The plaintiff also requested the imposition of an immediate stay. *See* Iowa R. App. P. 6.1002(4) (“motions for temporary orders in which it appears that rights would be lost or greatly impaired by delay, may be ruled upon at any time without awaiting a resistance”). In an order filed December 11, 2017, this court imposed a temporary stay and directed the defendants to file a response to the plaintiff’s combined applications.

On December 14, 2017, the defendants filed a resistance to the combined applications. The defendants’ resistance also contained a motion to vacate the single-justice order filed December 11, 2017. On December 18, 2017, the plaintiff filed a reply. This matter now comes before the court to rule on the plaintiff’s combined applications and the defendants’ motion to vacate the temporary stay.

A review of the district court docket reveals the plaintiff filed suit against the defendants on November 27, 2017 (*McCleary v. Kauffman and Des Moines Register*,

EQCE082353). The petition raises claims of intrusion upon seclusion (Count I) and intentional and negligent infliction of emotional distress (Count II). The petition seeks compensatory and punitive damages and asserts “prior restraint” is required to “preserve the status quo and prevent irreparable damage.”

On November 28, 2017, the plaintiff filed a motion seeking temporary and permanent injunctive relief. (The plaintiff filed an amended version of this motion on December 6.) In an order filed November 30, 2017, the district court scheduled a hearing for December 7, 2017, on the plaintiff’s motion for a temporary injunction. The November 30 order denied the plaintiff’s request for an ex parte temporary injunction.

A hearing was held on December 7 and on the same date the district court filed an order denying the plaintiff’s motion for a temporary injunction. It is from that order that the plaintiff seeks interlocutory and certiorari review.

Upon receipt of the plaintiff’s combined applications for interlocutory and certiorari review, this court entered a temporary stay. *See generally* Iowa R. App. P. 6.1002(4). The stay was strictly temporary in nature, its duration limited to the time necessary for the filing of the defendants’ response, the plaintiff’s reply, and this court’s entry of a ruling on the plaintiff’s combined applications.

Upon a review of the parties’ filings, the court now denies the plaintiff’s combined applications for interlocutory and certiorari review. Because this court has denied the plaintiff’s combined applications the temporary stay is lifted, mooting the need for this court to address the defendants’ motion to vacate.

Copies to:

Michael A. Giudicessi

Jaysen C. McCleary

Iowa District Court Polk County



IOWA APPELLATE COURTS

State of Iowa Courts

Case Number
17-1982

Case Title
McCleary v. Kauffman

So Ordered

A handwritten signature in black ink, which appears to read "David S. Wiggins". The signature is written in a cursive style and is positioned above a horizontal line.

David S. Wiggins
Justice

Electronically signed on 2017-12-19 10:02:38