

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

**Robert Sanchez,
Plaintiff Below, Petitioner**

vs.) No. 101573 (Jackson County 10-C-81)

**Tod Benson,
Defendant Below, Respondent**

FILED

January 13, 2012
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioner Robert Sanchez appeals the circuit court's judgment order awarding judgment in Respondent Tod Benson's favor on the ground that petitioner failed to prove that respondent maliciously or falsely caused criminal proceedings to be instituted against him. Both proceeded *pro se* in the proceedings below. The instant appeal was timely filed by the petitioner with a portion of the record being designated on appeal. The Court has carefully reviewed the written arguments contained in the petition, and the case is mature for consideration.

Pursuant to Revised Rule 1(d) of the Revised Rules of Appellate Procedure, this Court is of the opinion that this matter is appropriate for consideration under the Revised Rules. Having considered the petition and the relevant decision of the lower tribunal, the Court is of the opinion that the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the Court determines that there is no prejudicial error. This case does not present either a new or significant question of law. For these reasons, a memorandum decision is appropriate under Rule 21 of the Revised Rules of Appellate Procedure.

In the criminal action which gave rise to petitioner's civil action, the West Virginia State Police charged him in the Magistrate Court of Jackson County with misdemeanor battery against the respondent. The criminal complaint was later dismissed. Thereafter, petitioner filed his civil complaint in the Circuit Court of Jackson County alleging that "[respondent] provided false information to law enforcement that led me being charged with a crime that I did not commit." Petitioner's complaint sought \$5,000 in compensatory damages for "false accusation, aggravation, and the disruption of the lives of my wife and I" and \$5,000 in punitive damages. Respondent then filed an answer where he denied giving false information to the police. Respondent further asserted that "[witness] Brandon Stutler did not tell the truth in his statement and I don't owe anyone anything."

Neither petitioner nor respondent sought a jury trial, so the circuit court set the matter for a bench trial. At the same time, the circuit court recommended to petitioner and respondent that “they have the right to be represented by counsel and that each should engage counsel.” Petitioner and respondent each told the circuit court that he would continue *pro se*.

Following the bench trial, the court ruled that petitioner shall take nothing and that judgment was rendered for respondent based upon the following Findings of Fact and Conclusions of Law:

1. [Petitioner] has failed to prove by a preponderance of the evidence that he is entitled to a judgment as prayed for.
2. [Petitioner] has failed to prove that [respondent] maliciously or falsely caused the institution of criminal proceedings against [petitioner]; [petitioner] has failed to offer any evidence of damages allegedly incurred as a result of any alleged malicious or false commencement of a prosecution against him.

Petitioner now appeals.

On appeal, petitioner states that he is not an attorney and challenges the manner in which the circuit court conducted the bench trial below. “A court ‘has inherent power to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction.’” *The Daily Gazette Company, Inc. v. Canady*, 175 W.Va. 249, 251, 332 S.E.2d 262, 264 (1992) (quoting Syl. Pt. 3, *Shields v. Romine*, 122 W.Va. 639, 13 S.E.2d 16 (1940)). Prior to trial, the circuit court advised both parties of the perils of self-representation. While a circuit court should strive to ensure that a diligent *pro se* litigant does not forfeit any substantial rights, “ultimately, the *pro se* litigant must bear the responsibility and accept the consequences of any mistakes and errors.” *WV Department of Health and Human Resources Employees Federal Credit Union v. Tennant*, 215 W.Va. 387, 393, 599 S.E.2d 810, 816 (2004) (*per curiam*). Petitioner also complains that the circuit court credited witness Natasha Rhodes’s testimony when it should not have. However, as the circuit court was the trier of fact in the case *sub judice*, which witnesses’ testimony to credit and whether to rule in petitioner’s favor or respondent’s were for the circuit court to determine. *See* Rule 52(a), W.V.R.C.P. (When a court sits without a jury, “[f]indings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses.”). No issue petitioner raises on appeal demonstrates that the circuit court clearly erred in rendering judgment for respondent.

For the foregoing reasons, we find no error in the decision of the circuit court and the judgement order in respondent's favor is affirmed.

Affirmed.

ISSUED: January 13, 2012

CONCURRED IN BY:

Chief Justice Menis E. Ketchum
Justice Robin Jean Davis
Justice Brent D. Benjamin
Justice Margaret L. Workman

DISQUALIFIED:

Justice Thomas E. McHugh