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APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1029-22**

PHILIP HAHN,

Plaintiff-Appellant,

v.

**BERGEN REGIONAL
MEDICAL CENTER,**

Defendant-Respondent.

Argued September 14, 2023 – Decided September 27, 2023

Before Judges Gummer and Walcott-Henderson.

On appeal from the Superior Court of New Jersey, Law
Division, Bergen County, Docket No. L-1852-07.

Philip Hahn, appellant, argued the cause pro se.

Respondent has not filed a brief.

PER CURIAM

Plaintiff Philip Hahn appeals from a November 17, 2022 order by the Bergen County assignment judge dismissing his "Notice of Motion" as frivolous pursuant to an order entered by a prior assignment judge. We affirm.

Plaintiff filed this lawsuit on March 12, 2007, alleging he had been "misdiagnosed with a psychiatric illness and therefore improperly admitted" to defendant Bergen Regional Medical Center's facility. See Hahn v. Bergen Reg'l Med. Ctr., No. A-2869-09, A-6282-09, A-1924-10 (App. Div. June 23, 2011) (slip op. at 7). On January 7, 2010, the trial court granted defendant's summary-judgment motion and entered a dismissal order based on legal issues, including the lack of an affidavit of merit and expert reports, statutory immunity under N.J.S.A. 30:4-27.7, and the statute of limitations under N.J.S.A. 2A:14-2. Id. at 7. We affirmed that order in 2011. Id. at 8-12, 18. According to plaintiff, the Supreme Court denied his petition for certification.¹

On November 14, 2022, plaintiff submitted to the trial court a "Notice of Motion" in this case. According to the certification he submitted in support of the motion, plaintiff moved for a declaration "that the court is bound by the prior [S]upreme [C]ourt opinions." Plaintiff titled the brief he submitted in support

¹ Our research reveals plaintiff did not file a petition for certification with the Supreme Court.

of the motion "[b]rief in support of declaratory judgment." Thus, plaintiff was seeking a declaratory judgment regarding a case the court had dismissed by granting defendant's summary-judgment motion over twelve years ago. In the brief, plaintiff appeared to argue the court had deprived him of his right to a jury trial by granting the summary-judgment motion. However, as our Supreme Court held in the seminal case Brill v. Guardian Life Insurance Co. of America, "a jury resolves factual, not legal, disputes. . . . [T]he right to a jury trial has never prevented our courts from granting summary judgment in an appropriate case We are satisfied that the summary judgment standard we adopt does not 'denigrate the role of the jury.'" 142 N.J. 520, 537 (1995) (quoting Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986)).

On November 17, 2022, the assignment judge entered an order sua sponte dismissing the Notice of Motion "as frivolous" pursuant to a March 9, 2012 order filed by a prior assignment judge and Rules 4:6-4 and 4:5-2 "for non-compliance and failure to set forth a statement of facts on which the claim is based or that would place [d]efendant(s) on notice of a justiciable claim so that a responsive pleading could be framed."

In the March 9, 2012 order, the prior assignment judge directed that "all lawsuits filed by Hahn shall be reviewed by the [a]ssignment [j]udge as soon as

practicable after having been filed but before service is effectuated, with this court to then have the opportunity to determine, for good cause, whether to sua sponte dismiss any patently frivolous or non-meritorious lawsuit." In a ten-page opinion, the prior assignment judge described plaintiff as a "frequent pro se filer," finding he had filed approximately seventeen lawsuits in five years, nearly all of which had been dismissed. After describing plaintiff's lawsuits and his failure to comply with an order requiring him to submit financial documents, the judge found plaintiff's "actions patently demonstrate[d] a willful desire to abuse the judicial process and absorb State and judicial resources" and that other sanctions would not be effective. The judge held an injunction was "the only alternative which remain[ed] to protect against future frivolous litigation." Nothing in the record indicates plaintiff appealed the March 9, 2012 order. It remains the law of this case.

Under Rule 1:4-8(c), a trial court on its own initiative can impose sanctions on a pro se party for filing frivolous litigation. We review a trial court's decision to impose sanctions pursuant to Rule 1:4-8 under an abuse-of-discretion standard. United Hearts, L.L.C. v. Zahabian, 407 N.J. Super. 379, 390 (App. Div. 2009). In Rosenblum v. Borough of Closter, 333 N.J. Super. 385, 391 (App. Div. 2000), we held that where traditional sanctions have failed

to deter a litigant from his pattern of bringing repetitive, meritless, and harassing actions, an assignment judge may enjoin the litigant's bringing of a further action. The power to enjoin prospective harassing litigation must be "exercised consistently with the fundamental right of the public to access to the courts in order to secure adjudication of claims on their merits." D'Amore v. D'Amore, 186 N.J. Super. 525, 530 (App. Div. 1982).

With these principles in mind and based upon our review of the record, we perceive no legal error or abuse of discretion in the assignment judge's dismissal of plaintiff's Notice of Motion "as frivolous" pursuant to the March 9, 2012 order. Accordingly, we affirm the November 17, 2022 order.

Having affirmed the dismissal order on that basis, we do not address the judge's application of Rules 4:6-4 and 4:5-2.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION