

APPENDIX A

Order from the Chancery Court for

Hawkins County, Tennessee

Case Number 2017-CH-32

IN THE CHANCERY COURT FOR HAWKINS COUNTY, TENNESSEE
AT ROGERSVILLE

FILED
CLERK & MASTER
2017 SEP 15 PM 12:54

RICHARD DARRELL TRIGG,

Plaintiff,

v.

JOSEPH and KIMI CHURCH,

Defendants.

DOCKET NO. 2017-CH-32

MEMORANDUM AND ORDER

This matter is before the Court upon the Defendants' motion for summary judgment. Defendants' claim they are bonafide purchasers in good faith of the subject property, that Plaintiff is barred by collateral estoppel, and that the complaint does not state a claim for relief against these Defendants.

Procedural and Historical Background

Richard Darrell Trigg was married to Lori Jones Trigg (now Jones) on April 30, 1988. Approximately twenty-four years later on April 12, 2012, Ms. Trigg filed a complaint for divorce alleging irreconcilable differences and inappropriate marital conduct. On June 21, 2012, Mr. Trigg filed his answer. An order of protection was entered prohibiting Mr. Trigg from contacting his wife. Ms. Trigg then filed a contempt petition alleging that her husband had contacted her constantly, to the point of harassment since the order of protection. On January 11, 2013, the parties entered into a marital dissolution agreement ("MDA"). Both parties' and their attorney's signatures appear on the document which was entered into as a result of a mediation.¹

On March 5, 2013, the Trial Court entered a final judgment of divorce which

¹ Trigg v. Trigg, 2015 W.L. 66544 (Tenn. Ct. App. 2015).

property from her for \$415,000, which was exactly the same price that Mr. Trigg had agreed to sell the property to the Clevenger's less than six months earlier. In his complaint, Mr. Trigg relies upon Tenn. Code Ann. § 39-14-111 which is a criminal statute prohibiting the exploitation of an adult who is unable to manage his/her own resources. However, contained within this statute is a civil remedy which provides as follows:

In addition to other remedies provided by law, an adult in that person's own right, or by conservator or next friend, shall have a right of recovery in a civil action for exploitation as defined in this section or for theft of such persons or adult's money or property whether by fraud, conceit, coercion, or otherwise. Such right of action against a wrongdoer shall not abate or be extinguished by the death of an adult, but shall pass as provided in Section 20-5-106, unless the alleged wrongdoer is a family member, in which case the cause of action shall pass to the victim's personal representative.

T.C.A. § 39-14-111(h)

T.C.A. § 39-14-111 defines "exploitation" as "the improper use by a caretaker of funds that have been paid to an adult or to the caretaker for the use or care of the adult." The allegations by Mr. Trigg fail to state a claim upon which relief can be granted pursuant to the provisions of this statute. Rather than using funds of Ms. Jones, it was the Churches who paid Ms. Jones \$415,000 for her property. Although not included in the definition of "exploitation" the civil remedy includes theft of property; however, Mr. Trigg has failed to prove the Churches exploited Lori Jones in any way when they purchased the subject property for a price which the Circuit Court of Hawkins County had previously approved as being fair and reasonable. Thus, Mr. Trigg has failed to state or prove his claim that the Churches exploited Ms. Jones, who has not been found to be incompetent by any mental health professional or any Court.

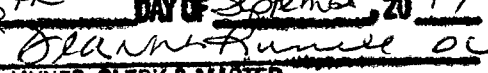
Defendants have also alleged that Mr. Trigg has raised and litigated the issue of his wife's mental health in his divorce case and therefore should be estopped from relitigating the issue. Whether collateral estoppel applies is a question of law and summary judgment is an

Master is directed not to accept or file any pleadings by Mr. Trigg against the Churches or any other person regarding Lori Jones' mental condition, or his Final Decree of Divorce with Lori Jones. This Order does not prevent Mr. Trigg from filing any post-judgment motions or Notice of Appeal with this Court in this case or the Court of Appeals.

For the reasons set forth above, it is hereby **ORDERED and DECREED** that Defendants' motion for summary judgment is granted; that Plaintiff's complaint is dismissed with prejudice; and that Defendants are entitled to their attorney's fees and expenses pursuant to Rule 11 of the Tennessee Rules of Civil Procedure. Costs taxed to the Plaintiff.

ENTER this 30 day of August, 2017.


ROBERT E. LEE DAVIES, SENIOR JUDGE

STATE OF TENNESSEE, COUNTY OF HAWKINS
I HEREBY CERTIFY THE WITHIN TO BE A TRUE COPY OF
THE ORIGINAL Memorandum Order w/ Attachments
AS APPEARS OF RECORD ON FILE IN MY OFFICE.
THIS 5th DAY OF September, 20 17

HOLLY H. JAYNES, CLERK & MASTER