2026 IL App (1st) 251511-U
No. 1-25-1511
Order filed November 20, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT, SIXTH DIVISION

RUBEN SANTOYO, Plaintiff-Appellant,

v.

WHITE CASTLE SYSTEM, INC., Defendant-Appellee.

Appeal from the Circuit Court of Cook County.
Honorable Nicole Castillo, Judge, Presiding.
No. 24 M5 003307

JUSTICE HYMAN delivered the judgment of the court.
Justices Pucinski and Evans concurred in the judgment.

ORDER

¶ 1 *Held*: Affirming trial court order denying motion for relief from order dismissing case with prejudice where plaintiff failed to exercise due diligence.

¶ 2 Ruben Santoyo filed a *pro se* complaint seeking the name of an employee of White Castle System, Inc. he claims stalked him. White Castle objected, and when Santoyo failed to respond to the objection, the trial court dismissed the case with prejudice. The trial court also denied Santoyo's motion for relief under section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401 (West 2024)).

¶ 3 Santoyo contends (i) the trial court abused its discretion in denying his section 2-1401 motion because he demonstrated a meritorious claim for pre-suit discovery and exercised due

diligence, (ii) dismissal with prejudice was a disproportionate sanction, and (iii) equity and fundamental fairness compel relief. White Caste did not respond to Santoyo's brief. On our own motion, we ordered the matter taken on the record and Santoyo' brief. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 131-33 (1976).

¶ 4 We affirm. Santoyo did not exercise due diligence when he failed (i) to file a response to White Castle's objection to his discovery request and (ii) to show that equity required we grant relief. Further, without a complete record, we cannot find dismissal an inappropriate sanction.

¶ 5 Background

¶ 6 Santoyo filed a complaint under section 2-402 of the Code (735 ILCS 5/2-402 (West 2024)), naming White Castle as a respondent in discovery and seeking the identity of an employee he claims stalked and harassed him. Specifically, Santoyo alleged that an "old white lady from White Castle" appeared at a Dunkin' Donuts next to the restaurant shortly after he arrived, which he said was not coincidental and "resemeble[d] stalking behavior."

¶ 7 The trial court gave Santoyo 21 days to issue written discovery. Instead, Santoyo filed a motion for leave to issue discovery, asking for 31days of CCTV footage from the White Castle restaurant. White Castle objected, arguing that Santoyo's motion was not a discovery request as ordered by the trial court and that 31 days of CCTV footage was outside the scope of Santoyo's claim and would be burdensome to produce.

¶ 8 After Santoyo failed to appear at a status hearing, the trial court dismissed the case for want of prosecution. The court later reinstated the case and ordered Santoyo to file a written response to White Castle's objection by February 4, 2025, and continued the matter until February 25. Santoyo failed to file a written response by the deadline and at the February 25 status hearing, the trial court dismissed the case with prejudice. A transcript of that hearing is not in the record.

¶ 9 Santoyo moved for relief from judgment under section 2-1401 of the Code. Santoyo acknowledged that he failed to timely respond to White Castle's objection, asserting that when he realized he missed the February 4 deadline, he drafted a motion to file his response instanter on February 25 but withdrew it and the trial court denied the 2-1401 motion.

¶ 10 Analysis

¶ 11 Section 2-1401

¶ 12 Section 2-1401 provides a statutory procedure for vacating final orders, judgments, and decrees after 30 days from entry. 735 ILCS 5/2–1401 (West 2024). For relief under section 2-1401, the petitioner must affirmatively establish factual allegations supporting three elements: (i) the existence of a meritorious defense or claim, (ii) due diligence in presenting the defense or claim to the court in the original action, and (iii) due diligence in filing the section 2-1401 petition for relief." *Smith v. Airoom, Inc.*, 114 Ill.2d 209, 220-21 (1986). Where, as here, the section 2-1401 petition presents a fact-dependent challenge, we review the judgment for abuse of discretion. *Warren County Soil & Water Conservation District v. Walters*, 2015 IL 117783, ¶ 51.

¶ 13 Santoyo contends he met *Airoom*'s requirements. Alternatively, he asserts equity and fairness require relief. He seeks reversal of the order denying relief under section 2-1401 and remand with directions to the trial court to reverse the dismissal of his complaint.

¶ 14 Due Diligence

¶ 15 "Due diligence requires the section 2-1401 petitioner to have a reasonable excuse for failing to act within the appropriate time." *Airoom*, 114 Ill.2d at 222. Section 2-1401 is not intended to relieve litigants of the consequences of their own mistake or negligence. *Id.*; *Warren County*, 2015 IL 117783 at ¶ 38. The petitioner must show that the failure to act resulted from an excusable mistake and that, under the circumstances, petitioner acted reasonably and not negligently. *Id*.

¶ 16 We acknowledge that Santoyo exercised due diligence in filing his section 2-1401 petition, but he failed to establish due diligence in filing his response to White Castle's objection. The trial court reinstated Santoyo's case and directed him to file a written response to the objection by February 4, 2025. Santoyo acknowledges he did not file the response, although he prepared one.

¶ 17 Santoyo's brief attributes his failure to file the response to his *pro se* status and confusion over "when and how to 'respond' in a way that satisfies the court." But our supreme court has repeatedly cautioned self-represented litigants that they will be held to the same standards as a licensed attorney and unfamiliarity is not a reasonable excuse. See *Airoom,* 114 Ill. 2d at 222-223. Santoyo asserts he did not abandon the case, as evidenced by his correspondence with opposing counsel. But that does not compensate for his failure to file a written response as ordered. Thus, Santoyo has failed to provide a reasonable excuse for failing to act. *Id*. at 222.

¶ 18 Equity

¶ 19 Section 2-1401 is rooted in equity and, in limited circumstances, a court "may also consider equitable considerations to relax the applicable due diligence standards." *Airoom,* 114 Ill. 2d at 225-226; *Warren County*, 2015 IL 117783, ¶ 51. The exception, though, is narrow and reserved for cases in which justice and good conscience demand it. *Airoom*, 114 Ill. 2d 225.

¶ 20 Santoyo points to nothing in the record that warrants this extraordinary relief. While he correctly notes that the dismissal prevents him from investigating his claim, that is due to his own failure, which, as noted in *Airoom,* is not grounds for applying equity to excuse neglect. *Id*. at 222.

¶ 21 Because the due diligence element was not satisfied, we need not resolve whether Santoyo's underlying section 2-402 claim was meritorious.

¶ 22 Dismissal With Prejudice

¶ 23 Santoyo contends the dismissal with prejudice was a disproportionate sanction.

¶ 24 An order of dismissal with prejudice is a drastic sanction to be invoked only in those cases where the party's actions show a deliberate, contumacious or unwarranted disregard of the court's authority. *Shimanovsky v. General Motors Corp.*, 181 Ill. 2d 112, 123 (1998). Dismissal should only be employed as a last resort and after all the court's other enforcement powers have failed to advance the litigation. *Id*. Generally, a sanction will not be reversed absent an abuse of discretion. *Id*. at 120. " 'A trial court abuses its discretion only where no reasonable person would take the view adopted by the trial court.' " *In re Marriage of Kasprzyk*, 2019 IL App (4th) 170838, ¶ 47 (quoting *In re Marriage of Schneider*, 214 Ill. 2d 152, 173 (2005)).

¶ 25 An appellant has the burden to present a sufficiently complete record to support a claim of error. *Webster v. Hartman*, 195 Ill. 2d 426, 432 (2001) (citing *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984)). Indeed, "[f]rom the very nature of an appeal it is evident that the court of review must have before it the record to review in order to determine whether there was the error claimed by the appellant." *Foutch*, 99 Ill. 2d at 391. When, as here, the issue relates to the conduct of a hearing or proceeding, review requires a report or record of the proceeding. *Webster*, 195 Ill. 2d at 432. Without that transcript, we have to presume the trial court's rulings conform to the law and have a sufficient factual basis. *Foutch*, 99 Ill. 2d at 391-92. "Any doubts which may arise from the incompleteness of the record will be resolved against the appellant." *Id*. at 392.

¶ 26 A report of proceedings from the February 25 hearing is not in the record. Nor did Santoyo file a bystander's report under Illinois Supreme Court Rule 323(e) (eff. July 1, 2017). Thus, the record is silent on the basis for the court's decision to dismiss with prejudice. A record might have made a difference, but without it, we must presume the order conforms to the law and contains a sufficient factual predicate. *Foutch*, 99 Ill. 2d at 391-92.

¶ 27 Affirmed.