

IN THE COURT OF APPEALS OF TENNESSEE

AT KNOXVILLE
FILED

November 23, 1999

Cecil Crowson, Jr.
Appellate Court Clerk

BAPTIST HEALTH CARE SYSTEMS,)	C/A NO. 03A01-9905-CV-00187
)	
Plaintiff-Appellee,)	HAMBLEN CIRCUIT
)	
vs.)	HON. KENDALL LAWSON,
)	JUDGE
MARY & JAMES C. YOUNG,)	
)	AFFIRMED AND
Defendants-Appellants.)	REMANDED

WM. STANTON MASSA, III, Morristown, for Plaintiff-Appellee.

MARY & JAMES C. YOUNG, pro se.

OPINION

Franks, J.

This action on debt originated in the Sessions Court, and upon an unfavorable judgment, the defendants appealed the matter to Circuit Court. After trial, a judgment was entered which states, in pertinent part:

[t]he Court found the plaintiff’s complaint for a non–payment of medical services provided to the defendant, James C. Young, to be well founded and supported by the overwhelming weight of the testimony of both parties, specifically:

1. That defendant James C. Young admitted to having received the services and treatment alleged to have been provided by the plaintiff.

2. That the defendant James C. Young admitted that he had not paid for said services.
3. That the defendant James C. Young admitted that he and defendant Mary Young were husband and wife at the time of treatment by plaintiff.
4. That the defendants' argument that their insurer should have paid the debt owing the plaintiff, is insufficient cause to deny judgment to plaintiff in that the defendant is liable to plaintiff for the services.

The Court then entered judgment against defendants in the amount of \$3,951.16, plus costs.

Appellants' issues on appeal are:

1. The Trial Court committed prejudicial and reversible error by denying the appellants' motion to dismiss on the grounds that the warrants and affidavits relevant to this matter were illegally and unlawfully obtained . . .
2. The Trial Court committed reversible error and prejudicial error in denying appellants' request for a continuance, when the material witness who appellants had subpoenaed duces tecum, failed to appear at the trial.
3. The Trial Court committed prejudicial and reversible error by failing to advise appellants of their due process right to have a court reporter present in court to record the proceedings of this non-jury trial.

The appellants issues are without merit for several reasons. First and foremost, there is no statement or transcript of evidence, and we are required to conclusively presume that the Trial Court's findings of fact are correct. *Leek v. Powell*, 884 S.W.2d 118 (Tenn. Ct. App. 1994.) The record before us does not establish that appellants' first issue was raised before the Circuit Court where the case was tried *de novo*, and it lacks sufficient specificity to be reviewed.

As to issue No. 2, it cannot be gleaned from the record that a subpoena duces tecum was issued, nor does the record contain any basis for granting a continuance.

Finally, appellants argue that the Trial Court committed reversible error by failing to advise them that they could have a court reporter present. Rule 24(c) T.R.A.P., provides that a party may submit a statement of evidence where no court reporter was present for the trial. Plaintiffs have demonstrated no prejudice, and failed to utilize the process provided in the Rules to file a narrative of the evidence. Accordingly, we affirm the judgment of the Trial Court and remand, with costs of the appeal assessed to appellants.

Herschel P. Franks, J.

CONCUR:

Charles D. Susano, Jr., J.

D. Michael Swiney, J.