MISSOURI COURT OF APPEALS
WESTERN DISTRICT

GEORGE FULLER,

Appellant,

v.

CINDY GRIFFITH, et al.,

Respondents.

DOCKET NUMBER WD83552

Date: August 31, 2021

Appeal from:

Cole County Circuit Court
The Honorable Patricia S. Joyce, Judge

Appellate Judges:

Division One: Alok Ahuja, P.J., and Lisa White Hardwick and Anthony Rex Gabbert, JJ.

Attorneys:

Mark Blanton, Jefferson City, MO, for respondent

George L. Fuller, Charleston, MO, appellant acting pro se

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

GEORGE FULLER, Appellant,
v.
CINDY GRIFFITH, et al., Respondents.

WD83552 Cole County

Before Division One Judges: Alok Ahuja, P.J., and Lisa White Hardwick and Anthony Rex Gabbert, JJ.

George Fuller is currently incarcerated in the Southeast Correctional Center in Charleston. Fuller filed a small claims petition in the Circuit Court of Cole County against multiple employees of the Department of Corrections, alleging that they had destroyed or lost his property.

The small claims division of the circuit court dismissed Fuller's claims on July 8, 2019. Fuller filed an application for a trial *de novo* on July 12, 2019. The Circuit Clerk initially refused to file Fuller's application, however, because it was not accompanied by a filing fee or *in forma pauperis* application. Fuller refiled his application, with an application to proceed *in forma pauperis*, on July 30, 2019. The circuit court dismissed Fuller's refiled application as untimely.

Fuller appeals.

REVERSED AND REMANDED FOR FURTHER PROCEEDINGS.

Division One holds:

The Circuit Clerk lacked authority to refuse to file Fuller's original, timely application for trial *de novo*. The statute authorizing trials *de novo*, § 482.365.2, RSMo, does not require payment of a filing fee, or *in forma pauperis* status, as a condition of filing an application for trial *de novo*, and the circuit court lacked the authority to impose such a requirement. In addition, Fuller had already been granted *in forma pauperis* status in the small claims division, and that status remained in effect under § 506.369.2, RSMo, because no final judgment had been entered in the action.

Opinion by: Alok Ahuja, Judge August 31, 2021

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