

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.

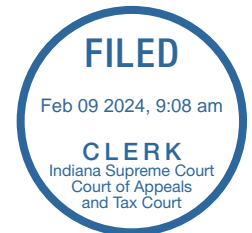


IN THE
Court of Appeals of Indiana

City of Indianapolis,
Appellant-Plaintiff

v.

John Couch,
Appellee-Defendant



February 9, 2024

Court of Appeals Case No.
23A-OV-1311

Appeal from the Marion Superior
Court The Honorable Patrick Dietrick,
Judge

Trial Court Cause No.
49D12-2303-OV-10695

Memorandum Decision by Judge Vaidik
Judges May and Kenworthy concur.

Vaidik, Judge.

- [1] On March 14, 2023, the City of Indianapolis filed an action against John Couch, alleging that on February 26 he had committed ordinance violations relating to his dogs. *See* Cause No. 49D12-2303-OV-10695 (“No. 10695”). That case was still pending when, on May 16, the City filed another action against Couch, alleging that on May 15 he had committed additional ordinance violations relating to his dogs. *See* Cause No. 49D12-2305-OV-19618 (“No. 19618”). Based on the allegations in the second case, the City impounded Couch’s dogs.
- [2] Immediately after his dogs were impounded, Couch, acting pro se, filed an emergency motion in No. 19618 seeking an injunction requiring the release of his dogs. For an unknown reason, he filed the same motion in No. 10695. The trial court set a hearing on Couch’s motion in No. 10695 but not in No. 19618. Though held under No. 10695, the hearing focused on the allegations in No. 19618. After the hearing, the court issued an order—in No. 10695—that addressed the allegations in No. 19618 but not the allegations in No. 10695. The court found that “[o]n May 15, 2023, the City of Indianapolis lacked probable cause to seize, detain and impound Couch’s [dogs],” and it ordered the City to release the dogs. Appellant’s App. Vol. II p. 63. The court also dismissed No. 10695, but it didn’t mention No. 19618.
- [3] The City now appeals, arguing that the trial court erred by dismissing No. 10695 when the hearing and order focused on the allegations in No. 19618. We

agree. It is apparent from the record that the trial court mistakenly believed No. 10695 was based on the May 15 allegations, in large part because Couch incorrectly filed his motion under that cause number in addition to filing it under No. 19618. The parties could have and should have clarified this before or during the hearing. But because of the confusion, and because the dismissal of No. 10695 was clearly a mistake, reversal is appropriate.¹

[4] Reversed and remanded.

May, J., and Kenworthy, J., concur.

ATTORNEY FOR APPELLANT

Brian Coppinger
Assistant Corporation Counsel
Office of Corporation Counsel
Indianapolis, Indiana

APPELLEE PRO SE

John Couch
Indianapolis, Indiana

¹ Because we reverse on these grounds, we need not address the City's alternative argument that "[t]he trial court erred as a matter of law, and prejudiced the City by doing so, when it consolidated an injunction hearing with a trial on the merits in Cause 010695." Appellant's Br. p. 25.