Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2003-231

JANUARY TERM, 2004

Thomas J. Morse v. Peter Sprague, Jennifer= s Restaurant,Craig Goulet, Brighton Garage, Sharon Dexter, Lakefront Inn, Margaret Halpin et al.	APPEALED FROM: Chittenden Superior Court DOCKET NO. S292-92CnC Trial Judge: Matthew I. Katz

In the above-entitled cause, the Clerk will enter:

Plaintiff appeals pro se from a summary judgment dismissing his civil complaint against defendants. We find no error in the court= s decision and therefore, we affirm.

The record on appeal indicates that the essential facts of this case are undisputed. In March 2000, defendant Theodore Miller, constable for the Town of Brighton, served five A Notices of Trespass@ on plaintiff on behalf of himself and defendants Peter Sprague, Craig Goulet, Sharon Dexter, and Margaret Halpin. Miller served the notices by engaging the blue lights on his police cruiser and stopping plaintiff on Cross Street in Brighton. The notices informed plaintiff that he could be prosecuted for criminal trespass if he entered the property the notices described without permission. The properties at issue included businesses located in the Town of Brighton. Two years later, in March 2002, Miller served plaintiff with two additional A Notices of Trespass.@ One notice pertained to defendant Ouida Testut= s home and the other for Testut= s office at North East Kingdom Community Action.

Plaintiff responded by filing the present lawsuit against defendants alleging conspiracy, violation of his civil rights, and violation of the Common Benefits Clause of the Vermont Constitution. Defendants moved to dismiss the suit. Treating defendants= filings as motions for summary judgment, the court determined that the undisputed facts required dismissal of plaintiff= s complaint because (1) the notices have no legal significance other than being a predicate to a charge of criminal trespass; (2) Constable Miller did not unreasonably seize plaintiff under the Fourth Amendment to the United States Constitution when he stopped plaintiff to serve the notices; (3) the complaint did not state any admissible facts supporting plaintiff= s claim that defendants conspired against him to ruin his business or that the alleged conspiracy violated the Vermont Constitution= s Common Benefits Clause. This appeal followed the court= s dismissal.

On appeal, we use the same standard as the trial court to determine whether summary judgment was properly entered. Dulude v. Fletcher Allen Health Care, Inc., 174 Vt. 74, 79 (2002). We will affirm a summary judgment if no genuine issue of material fact exists and any party is entitled to judgment as a matter of law. Id.; see V.R.C.P. 56(c) (setting forth summary judgment standard).

It is clear from plaintiff= s filings that he believes defendants conspired to put him out of business by, among other things, preventing him from entering a number of properties, including businesses, in the Town of Brighton. There is nothing in the record to support a claim of error in granting summary judgment to defendants. Providing written notice to a person that the person is not permitted to enter a particular piece of property is not an actionable wrong for which damages may be sought. Rather, the notice is a necessary prerequisite to a charge of criminal trespass under 13 V.S.A. ' 3705(a). See 13 V.S.A. ' 3705(a)(1) (one element of criminal trespass is that lawful possessor of property actually

communicated notice prohibiting trespass to defendant); State v. Dixon, 169 Vt. 15, 17 (1999) (noting elements of criminal trespass). Plaintiff= s pro se briefs do not provide any cogent legal argument demonstrating why this Court should reverse the trial court= s judgment. See V.R.A.P. 28(a) (appellant= s brief must provide an argument containing the issues for review, how they were preserved, the appellant= s contentions and supporting reasons, and citation to record and legal authorities). Because we cannot discern an appellate argument from plaintiff= s briefs due to their inadequacy under our rules, we do not address the assertions he makes in them. See Johnson v. Johnson, 158 Vt. 160, 164 n.* (1992) (Supreme Court will not consider arguments not adequately briefed).

With respect to plaintiff= s claim that he was unlawfully seized by Constable Miller, we agree with the trial court that the undisputed facts do not establish an unreasonable seizure under the Fourth Amendment of the United States Constitution. The key factor is the reasonableness of the officer= s actions as determined by weighing the public interest against the intrusiveness of the stop on plaintiff= s privacy. See State v. Martin, 145 Vt. 562, 568 (1985). The public has a significant interest in ensuring that civil process servers can accomplish their tasks timely and peacefully because service of process is a fundamental element of our justice system. That interest must be weighed against the facts of the stop as set forth in plaintiff= s complaint, namely that plaintiff was stopped by Constable Miller on Cross Street in Brighton while the blue lights on Miller= s cruiser were on. Based on those facts, we conclude that the stop only minimally intruded on plaintiff= s privacy. Plaintiff was on a public street and the stop was brief. The officer was performing a lawful task. The stop was not unreasonable, and the trial court did not err by so concluding.

Finally, the trial court dismissed plaintiff= s claim under the Common Benefits Clause of the Vermont Constitution because the complaint did not set forth admissible facts establishing a violation of that provision. As we indicated previously, plaintiff= s filings on appeal do not articulate how the trial court= s conclusion on this issue was erroneous. Consequently, we find no reason to disturb the court= s decision to dismiss the claim.

Affirmed.

BY THE COURT:

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Jeffrey L. Amestoy, Chief Justice

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Marilyn S. Skoglund, Associate Justice

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Paul L. Reiber, Associate Justice