

STATE OF MICHIGAN
COURT OF APPEALS

CARLA O'NEILL,

Plaintiff-Appellant,

v

NINETEENTH DISTRICT COURT JUDGE
WILLIAM C. HULTGREN, CITY OF
DEARBORN and NINETEENTH DISTRICT
COURT JUDGE WILLIAM J. RUNCO,

Defendants-Appellees.

UNPUBLISHED

January 25, 2002

No. 223700

Wayne Circuit Court

LC No. 99-919080-CZ

Before: Saad, P.J., and Sawyer and O'Connell, JJ.

PER CURIAM.

Plaintiff appeals as of right from the November 1, 1999, order of the trial court granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(8). We affirm.

The parties do not dispute the essential facts of this case. After the Judicial Tenure Commission began to investigate alleged misconduct on the part of defendant Judge William J. Runco stemming from conduct when he was a practicing attorney, he sought to have the 19th District Court pay a portion of his attorney fees.¹ In his capacity as chief judge of the 19th District Court, Judge William C. Hultgren authorized a disbursement in the amount of \$48,708.12 from district court funds to pay a portion of Judge Runco's attorney fees.

Plaintiff filed suit on June 21, 1999. The complaint alleged that defendants Chief Judge Hultgren and City of Dearborn did not have the "power or authority to pay for attorney fees incurred by a district court judge in connection with judicial tenure proceedings involving allegations that the district court judge engaged in improper conduct many years before the judge became a judge and while the judge was a private, practicing attorney." As relevant to this appeal, defendants then moved for summary disposition. Following a hearing on August 13, 1999, the trial court partially granted Judge Runco's motion for summary disposition pursuant to MCR 2.116(C)(8), holding that its ruling applied equally to defendants Judge Hultgren and defendant City of Dearborn. Specifically, the trial court found that MCR 8.110(C)(3)(f) allowed

¹ The Supreme Court entered a public censure of Judge Runco in a January 17, 2001, judgment. *In re Runco*, 463 Mich 517; 620 NW2d 844 (2001).

Chief Judge Hultgren to authorize the payment of Judge Runco’s attorney fees “incurred in representation before the Judicial Tenure Commission.”

We review de novo a trial court's decision regarding a motion for summary disposition. *Spiek v Dep’t of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). The trial court granted summary disposition to defendants under MCR 2.116(C)(8).

A motion for summary disposition brought under MCR 2.116(C)(8) tests the legal sufficiency of the complaint on the basis of the pleadings alone. The purpose of such a motion is to determine whether the plaintiff has stated a claim upon which relief can be granted. The motion should be granted if no factual development could possibly justify recovery. [*Beaudrie v Henderson*, 465 Mich 124, 129-130; 631 NW2d 308 (2001).]

The thrust of plaintiff’s argument on appeal is that Chief Judge Hultgren’s action in authorizing the payment of a portion of Judge Runco’s attorney fees was unlawful. Specifically, although plaintiff concedes that a chief judge retains discretion to manage the funds allocated to the district court, plaintiff maintains that such discretion is not unlimited.

We disagree with plaintiff’s contention that Chief Judge Hultgren acted unlawfully in authorizing the payment of a portion of Judge Runco’s attorney fees. MCR 8.110 defines the authority of the chief judge of the district court. MCR 8.110(C) addresses the duties and powers of a chief judge. This subrule provides in pertinent part:

(3) As director of the administration of the court, a chief judge shall have administrative superintending power and control over the judges of the court and all court personnel with authority and responsibility to:

(f) supervise court finances, including financial planning, the preparation and presentation of budgets, and financial reporting;

(i) perform any act or duty or enter any order necessarily incidental to carrying out the purposes of this rule.

We agree with the trial court that pursuant to MCR 8.110(C)(3)(f) and (i), Chief Judge Hultgren was authorized to allow the payment of a portion of Judge Runco’s legal expenses.² Throughout her briefs on appeal, plaintiff places great emphasis on the fact that the court rules do not explicitly permit such action. However, our Supreme Court recently rejected an analogous argument in *Schell v Baker Furniture Co*, 461 Mich 502, 512-513; 607 NW2d 358 (2000). In *Schell*, the Supreme Court expressly rejected this Court’s prior holding that a chief judge may not take action that is not specifically permitted by the clear language of MCR 8.110.

² In the present appeal, we are asked only to address the question of the chief judge’s authority to administer his budget. We render no opinion and do not address the propriety of utilizing public funds to defend against alleged misconduct that occurred before a judge has taken the bench. Rather, our opinion in this case is limited to the issue whether the chief judge of the district court possesses the authority to manage and allocate funds of the district court.

A chief judge has the specific authority and responsibility to act in accordance with each separate provision of [MCR 8.110]. In promulgating the rule however, [the Supreme Court] also intended that a chief judge have the authority to employ creative and energetic means to improve the delivery of justice to citizens who come before the court.

The opinion of the Court of Appeals reflects the assumption that a chief judge is unable to take measures not specifically authorized by the court rule. We instead have invested chief judges with the authority to take measures not *prohibited* by the letter or spirit of the court rules. [*Id.* (emphasis in original) (citation omitted).]

The unanimous Supreme Court went on to recognize the “broad powers of a chief judge” and further held that that “an administrative action is not automatically ultra vires if unmentioned in MCR 8.110.” *Id.* at 515.

Likewise, we disagree with plaintiff’s contention that Chief Judge Hultgren acted in contravention of Chapter 82 of the Revised Judicature Act, MCL 600.8201 *et seq.* Specifically, MCL 600.8221 provides that “[t]he presiding judge [of the district court] *shall have full authority and control, subject to supervision of the supreme court, over all matters of administration.*” (Emphasis supplied). See *Menken v 31st Dist Court*, 179 Mich App 379, 381; 445 NW2d 527 (1989); *Stanley v Ferndale*, 115 Mich App 703, 707; 321 NW2d 681 (1982); *Judges of the 74th Judicial Dist v Bay Co*, 385 Mich 710, 723; 190 NW2d 219 (1971).³

As then Chief Justice Mallet, writing for the majority in *Judicial Attorneys Ass’n v Michigan*, 459 Mich 291, 299; 586 NW2d 894 (1998), explained:

[T]he day-to-day operation of the state’s trial courts is in the hands of the chief judges of each court. The chief judges in turn are accountable to the Supreme Court, and to the public for the operation of their courts, and are dependent on over 150 separate local governmental units for the bulk of the operational funding for their courts. Const 1963, art 6, § § 1, 4. MCR 8.110. *Grand Traverse Co v Michigan*, 450 Mich 457, 475; 538 NW2d 1 (1995). As a further complication, the jurisdiction of some courts is spread amongst several counties or municipalities, which must share funding responsibilities.

Despite the complications of the trial court environment, the case law, taken as a whole, has come to *strongly affirm that the fundamental and ultimate responsibility for all aspects of court administration, including operations and personnel matters within trial courts, resides within the inherent authority of the judicial branch.* [Emphasis supplied.]

³ Similarly, we reject plaintiff’s claim that defendant City of Dearborn was not authorized to provide the funds to the district court to pay Runco’s attorney fees. See *Cameron v Monroe Co Probate Court*, 457 Mich 423, 428; 579 NW2d 859 (1998); MCL 600.8103(3); MCL 600.8104(1)(b), (2); MCL 600.8121(4); MCL 800.8271(1).

Accordingly, we conclude that the trial court properly granted summary disposition in favor of defendants.

Affirmed.

/s/ David H. Sawyer
/s/ Peter D. O'Connell

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SAAD, P.J. (concurring).

I concur in the result only because we have been asked only to address the question of the chief judge's authority to administer his budget. We have not been asked to address the propriety of spending public funds for alleged private misconduct which precedes the judge's service on the bench.

I write separately to say that regardless of the merits of the ethical misconduct charged against Judge Runco,¹ I do not believe it is appropriate to spend public funds to defend against charges of unethical conduct when the conduct in question occurred prior to the judge taking the bench and is unrelated to the judge's judicial duties.

/s/ Henry William Saad

¹ I express no opinion on the merits of the charge of unethical conduct because that issue is not before this Court.