

No. 1-10-3214

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

FASCIA EDWARDS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 10 CH 24708
)	
ILLINOIS DEPARTMENT OF FINANCIAL AND)	
PROFESSIONAL REGULATION, JOHN LAGATTUTA)	Honorable
and LYDIA MILLS,)	Daniel A. Riley,
Defendants-Appellees.)	Judge Presiding.

PRESIDING JUSTICE QUINN delivered the judgment of the court.
Justices Cunningham and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* Plaintiff failed to state a cause of action upon which relief could issue. The dismissal of her petition for injunctive relief was affirmed.

¶ 2 Plaintiff Fascia Edwards appeals *pro se* from the circuit court order dismissing plaintiff's complaint for injunctive relief against her employer defendant, Illinois Department of Financial and Professional Regulations and its representatives John Lagattuta and Lydia Mills (Department), on defendants' motion. Plaintiff contends she stated a cause of action and is entitled to relief. We disagree and therefore affirm the circuit court's judgment.

¶ 3 In June 2010, plaintiff filed a *pro se* complaint for injunctive relief against the

Department under the Personnel Record Review Act (Act) (820 ILCS 40/0.01 *et seq.* (West 2008)), which permits an employee to force expungement of false information, knowingly placed in her personnel record by the employer, through legal action. See 820 ILCS 40/6 (West 2008). Plaintiff alleged that the Department had knowingly placed false information in her personnel record that harmed her "employment opportunity" and that the Department refused to remove it. Plaintiff alleged that there was no remedy at law, as monetary relief was inadequate, and thus requested an injunction. Although plaintiff's complaint cited attached documents, none appear in the record.

¶ 4 In August 2010, the Department filed a motion to dismiss the complaint under section 2-619.1 of the Code of Civil Procedure (Code) (735 ILCS 5/2-619.1 (West 2008)). Section 2-619.1 permits a combined motion incorporating sections 2-615 (failure to state a cause of action) and 2-619 (affirmative defense) of the Code (see 735 ILCS 5/2-615, 2-619 (West 2008)). The Department argued plaintiff's claim was barred by sovereign immunity because it sought to control state actions and, further, that she failed to state a cause of action for injunctive relief under section 2-615.

¶ 5 In September 2010, the circuit court granted the Department's motion and dismissed plaintiff's complaint with prejudice. Plaintiff timely appealed.

¶ 6 Plaintiff reasserts that she is entitled to injunctive relief because the Department knowingly placed false documents in her personnel file.

¶ 7 The Department responds that plaintiff failed to state a claim for relief under section 2-615 of the Code (735 ILCS 5/2-615 (West 2008)) and therefore the circuit court correctly dismissed the complaint. We agree.

¶ 8 A section 2-615 motion attacks the legal sufficiency on the face of the complaint. *Behringer v. Page*, 204 Ill. 2d 363, 369 (2003). The question presented by such a motion is whether the allegations in the complaint, when viewed in a light most favorable to the plaintiff,

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are sufficient to state a cause of action upon which relief can be granted. *Id.* A plaintiff must allege facts sufficient to bring her claim within the scope of the cause of action asserted. *Id.* We review a dismissal under section 2-615 *de novo*. *Id.*

¶ 9 In this case, plaintiff alleged no more than that the Department had placed "false, negative items" in her personnel file, then refused to remove them, and that these items harmed her "employment opportunity." For this, she sought injunctive relief.

¶ 10 However, in order to be entitled to an injunction, the party seeking it must demonstrate (1) a clear and ascertainable right in need of protection; (2) that she will suffer irreparable harm if the injunction is not granted; and (3) that there is no adequate remedy at law. *Kopchar v. City of Chicago*, 395 Ill. App. 3d 762, 772 (2009).

¶ 11 Here, although plaintiff had a statutory right to seek expungement of any false information placed in her personnel file, she failed to specify in her complaint what "false, negative items" were placed in her file or exactly how they harmed her employment opportunities. Allegations consisting of mere opinion, conclusion, or belief are not sufficient to support a petition for an injunction. See *In re Marriage of Centioli*, 335 Ill. App. 3d 650, 658 (2002). The facts, as alleged, were insufficient to determine whether plaintiff had a clear and ascertainable need of protection. As she did not meet the first criteria for warranting the extraordinary remedy of an injunction, there is no need to discuss the issue further. Plaintiff failed to allege sufficient facts to support her cause of action, and the circuit court therefore rightly dismissed her complaint.

¶ 12 To the extent plaintiff raises additional arguments in her reply brief, we decline to consider them. Points not argued cannot be raised in her reply brief. See S. Ct. R. 341(h)(7) (eff. July 1, 2008).

¶ 13 The judgment of the circuit court of Cook County is affirmed.

¶ 14 Affirmed.

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