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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

CITY OF BEAUMONT et al.,

Petitioners,

v.

THE SUPERIOR COURT OF
RIVERSIDE COUNTY,

Respondent;

SHANNON LUELLEN et al.,

Real Parties in Interest.

G064543

(Super. Ct. No. CVMV2305331)

O P I N I O N

Appeal treated as a petition for writ of mandate challenging an order of the Superior Court of Riverside County, Joshua Andrew Knight, Judge. Petition denied.

Slovak Baron Empey Murphy & Pinkney and Shaun M. Murphy for Petitioners.

No appearance for Respondent.

Geragos & Geragos and Daniel Tapetillo for Real Parties in Interest.

Shannon Luellen and Gary Blackwell (collectively, the parents) filed claims for damages, pursuant to the California Tort Claims Act now known as the Government Claims Act (the Act; Gov. Code, § 810 et seq.),¹ based on allegations City of Beaumont police officers fatally shot their son during a January 14, 2023 incident. Although the parents timely filed their claims for damages within the six-month period required by the Act, they filed them with the wrong governmental entity. Consequently, they failed to timely file their claims with the proper governmental entity, the City of Beaumont (Beaumont).

The parents filed a petition in the trial court, under section 946.6, seeking relief from their failure to timely file the claims for damages with Beaumont and permission to file a lawsuit. The trial court granted the parents' petition and Beaumont appealed.

For the reasons we explain, the order granting the parents' petition is not appealable. However, we exercise our discretion to treat Beaumont's appeal as a petition for a writ of mandate and deny the petition.

FACTUAL AND PROCEDURAL BACKGROUND

Pursuant to sections 911.2 and 945.4, the parents had until July 14, 2023 to file their claims for damages with respect to the January 14, 2023 incident. They each filed a timely claim but did so with the City of Riverside instead of Beaumont. The City of Riverside acknowledged receipt of the claims on June 13, 2023—nearly a month before the deadline—but waited until July 12, 2023, to send letters to the parents by mail rejecting the claims.

¹ All further statutory references are to the Government Code unless otherwise indicated.

The rejection letters were not received by the parents' counsel until four days after the deadline under the Act had expired.

The parents each presented an application for permission to present a late tort claim to Beaumont, both of which Beaumont denied on August 15, 2023. Next, they filed a petition under section 946.6 in the Riverside County Superior Court seeking relief from their failure to timely file their claims for damages with Beaumont and permission to file a lawsuit against Beaumont. The matter was assigned to Department MV2 in the Moreno Valley Courthouse.

Before the hearing on the petition, the parties filed a stipulation for an order transferring the matter to the Riverside Historic Courthouse. After the trial court did not immediately issue the requested order, Beaumont filed an ex parte application requesting such a transfer. The trial court denied the ex parte application, stating the parties "may not stipulate to transfer" the matter, and declaring the matter had been correctly assigned to Department MV2.

For unrelated procedural reasons, the matter was subsequently transferred to Department S102 of the Southwest Justice Center, also located in Riverside County. The trial court heard the matter and issued an order granting the petition, thereby allowing the parents to file their lawsuit against Beaumont.

DISCUSSION

I.

APPEALABILITY OF AN ORDER GRANTING RELIEF UNDER SECTION 946.6

In their initial briefing, both parties agreed the order granting relief under section 946.6 is appealable. This is incorrect.² An order *denying* a petition for relief from the requirement of presenting a timely claim is an appealable order, but an order *granting* the petition is not. (*Church v. County of Humboldt* (1967) 248 Cal.App.2d 855, 857–858.) This distinction stems from the basic rule of appealability: a trial court order is final and appealable when it “determines the merits of a controversy, or the rights of the parties, and leaves nothing for future determination or consideration.” (*Id.* at p. 857.)

When relief under section 946.6 is denied, there is a final determination of a claimant’s rights which makes the denial appealable. (*Church v. County of Humboldt, supra*, 248 Cal.App.2d at p. 857.) When relief is denied, there is nothing else to be determined. On the other hand, an order granting relief is simply a gateway to further proceedings which will eventually lead to a final determination for all parties. Such an order “must therefore be regarded as interlocutory in nature, and not appealable.” (*Ibid.*) The issue can always be raised on appeal after judgment is entered in the ensuing matter.

County of Alameda v. Superior Court (1987) 196 Cal.App.3d 619, 623 (*Alameda*) is instructive regarding whether an order granting relief under section 946.6 may nevertheless be reviewed by way of a petition for

² We invited the parties to submit supplemental briefing on the issue of appealability and asked whether there were grounds to treat this appeal as a petition for writ of mandate. The parties submitted letter briefs accordingly.

writ of mandamus. In *Alameda*, the county sought writ review of the trial court order granting section 946.6 relief, and the appellate court initially denied the petition. (*Alameda, supra*, 196 Cal.App.3d at p. 622.) The county petitioned the Supreme Court, which transferred the case back to the appellate court with directions it review the merits of the county's arguments. (*Ibid.*)

The *Alameda* court reviewed legal precedent related to appellate review and concluded writ review of this type of order is permissible only when a party can show that the remedy of appeal after judgment would be inadequate. (*Alameda, supra*, 196 Cal.App.3d. at p. 623.) It is not enough to simply assert defending the case will be expensive or that litigation will take a long time. There must be sufficient facts to distinguish the litigation from every other type of litigation against a governmental entity. (*Ibid.*) The appellate court nevertheless reviewed the merits of the petition at the direction of the Supreme Court. (*Id.* at p. 622–623.)

We conclude treating this appeal as a writ petition is warranted in the case before us. The parties' supplemental briefing revealed the parents filed their civil lawsuit against Beaumont in the United States District Court for the Central District of California, rather than a California superior court. No federal court can review the order granting section 946.6 relief. As there is no federal question involved, and the ruling predates the filing of the pending federal lawsuit, the federal district court will not have the occasion to review the trial court's order granting section 946.6 relief. (See, e.g., *Sutter & Gillham PLLC v. Henry* (8th Cir. 2025) 146 F.4th 699, 702.) Nor can the order be challenged in a federal court of appeal, which can only review final orders and judgments issued by a federal district court and various federal administrative agencies. (See 28 U.S.C. §§ 1291, 1292 & 1295.) Under these

circumstances, we exercise our discretion to treat Beaumont's appeal as a petition for writ of mandate and review the merits of Beaumont's challenges to the order granting section 949.6 relief.

II.

THE TRIAL COURT DID NOT ERR BY REFUSING TO TRANSFER THE MATTER

A petition under section 946.6 should be filed in "a superior court that would be a proper court for the trial of an action on the cause of action to which the claim relates." (*Id.* at subd. (a).) If the petition is filed in an improper court, it may be transferred to a proper court if any party makes that motion. (*Ibid.*)

Beaumont argues the trial court erred in refusing to transfer the matter to the Riverside Historic Courthouse because Moreno Valley was not the proper court for the trial of the parents' claims against Beaumont. Beaumont further argues the court did not have the discretion to retain the matter after Beaumont filed its ex parte application for transfer. Beaumont's arguments fail for a few reasons.

First, Beaumont has not established any error. We are not convinced that any of the multiple courtrooms to which this matter was assigned for hearing on the parents' petition was improper.

Second, section 946.6, subdivision (a), requires the filing of a motion before the trial court is mandated to transfer the matter. The motion would presumably include facts to support a finding the assigned courtroom was improper. Beaumont did not file any such motion. An ex parte application asking the court to issue an order in conformity with the parties' conclusory stipulation is not a motion.

Finally, the trial court has discretion to disregard stipulations between parties, especially when that stipulation conflicts with the court's

inherent authority to control its own calendars and dockets. (*Walker v. Superior Court* (1991) 53 Cal.3d 257, 267–268.) The department to which matters are assigned is a function of each court’s procedures. It is a case management issue. The City of Beaumont is located within Riverside County, and the events of the alleged police shooting occurred in Riverside County. The petition was filed in a Riverside Superior Court, and the petition was heard by a Riverside Superior Court judge.

III.

REASONABLENESS OF COUNSEL’S MISTAKE

Relief under section 946.6 is mandatory when three conditions are met: (1) the petitioner applied for late claim relief within a reasonable time; (2) the petitioner’s application for late claim relief was denied; and (3) the petitioner’s “failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect.” (§ 946.6, subd. (c)(1).)

Beaumont’s arguments focus only on the third element, which requires the same showing as that under Code of Civil Procedure section 473 for relieving a party from the consequence of a default judgment. (*Tammen v. County of San Diego* (1967) 66 Cal.2d 468, 476 (*Tammen*).) While not every mistake is excusable, the determining factor is whether the mistake was reasonable. (*Viles v. State of California* (1967) 66 Cal.2d 24, 29 (*Viles*).) Beaumont argues the mistake here was not reasonable because the parents and their counsel knew the incident occurred in Beaumont and that Beaumont police officers were involved. Filing a claim with the City of Riverside was therefore not a reasonable, excusable mistake.

We review the trial court’s ruling on this type of petition for abuse of discretion. (*Bettencourt v. Los Rios Community College Dist.* (1986) 42 Cal.3d 270, 275 (*Bettencourt*).) Given the remedial nature of section 946.6,

a court decision *denying* relief from failure to present notice of claim under the Act will be scrutinized more carefully than an order *granting* relief. (*Bettencourt, supra*, at p. 276.) Abuse of discretion occurs when the court's ruling exceeds the bounds of reason or contravenes the uncontradicted evidence. (*Baypoint Mortgage Corp. v. Crest Premium Real Estate etc. Trust* (1985) 168 Cal.App.3d 818, 824.)

The reasonableness of a mistake is mainly a factual question. (*Fidelity Federal Sav. & Loan Assn. of Glendale v. Long* (1959) 175 Cal.App.2d 149, 154.) Whether counsel's error was excusable and therefore subject to relief is determined by: "(1) the nature of the mistake or neglect; and (2) whether counsel was otherwise diligent in investigating and pursuing the claim." (*Bettencourt, supra*, 42 Cal.3d at p. 276.)

The parents filed declarations from both counsel and a law clerk in support of their petition. The law clerk's declaration stated she mistakenly believed the claim form she downloaded was the correct form for the City of Beaumont in Riverside County. She e-mailed the claim forms to counsel with the subject line "Beaumont (Riverside County) 910 Form," thinking she had the correct document. The e-mail said, "Looks like we can submit it electronically or in person." The forms were already filled out and were not modified by counsel before being sent to his assistant, with instructions to submit the claim forms through the online portal referenced in the law clerk's e-mail and to also send physical copies via mail.

Beaumont relies on several cases to support its argument that this mistake was not reasonable or excusable. It cites *Tammen*, in which the petitioner and his counsel failed to file a timely claim despite counsel's knowledge several months before the late claim filing that the State of California was a potential defendant. (*Tammen, supra*, 66 Cal.2d at pp. 477–

478.) There is a distinct difference between the late filing in *Tammen* and the clerical mistake here because *Tammen*'s counsel failed to diligently investigate the claim.

Beaumont also relies on *Greene v. State of California* (1990) 222 Cal.App.3d 117, a case where there was also a lack of diligence and inattentiveness by counsel and his secretary which resulted in the filing of a claim with the county rather than the state. (*Id.* at pp. 122–123.) Both *Tammen* and *Greene* are thus distinguishable from the instant case because in those cases, counsel claimed ignorance of the correct defendant. (*Tammen*, *supra*, 66 Cal.2d at p. 477; *Greene*, *supra*, at p. 122.)

Finally, Beaumont contends the case of *Bettencourt* is distinguishable from the facts in the instant case. In *Bettencourt*, there was confusion as to the differences between the funding and control over various entities in the higher education system in California, and the claimant mistakenly believed that employees of Sacramento City College were employees of the State of California. (*Bettencourt*, *supra*, 42 Cal.3d at p. 274.) Beaumont argues there is no such confusion here, where Beaumont is the obvious defendant entity and, therefore, the mistake of filing the claim with the City of Riverside was not reasonable or excusable.

Beaumont's arguments mischaracterize the mistake here as one in which the parents' counsel was genuinely confused as to the proper entity with which to file a claim. The nature of the mistake in this case is clerical. There was no lack of diligence in investigation, no declaration from counsel asserting he did not understand the difference between the entities, and no apparent confusion other than the law clerk's use of the wrong claim form. The law clerk's mistake in downloading a claim form for the City of Riverside, while serious, is reasonable and excusable, especially considering the incident

occurred in Riverside County. Counsel's mistake in not looking more closely at the claim forms before instructing his assistant to file them is also serious. However, a serious mistake is not necessarily unreasonable.

Reviewing courts have often held that relief is warranted for mistakes similar to the one made here, e.g., when clerical errors occur or a staff member's mistake was overlooked, unnoticed, and uncorrected by counsel. (See, e.g., *Nilsson v. City of Los Angeles* (1967) 249 Cal.App.2d 976, 983 (*Nilsson*) [it was abuse of discretion to deny relief when deadline was missed due to a calendaring mistake by counsel's staff]; *Flores v. Board of Supervisors* (1970) 13 Cal.App.3d 480, 483 (*Flores*) [it was abuse of discretion to deny relief when office staff failed to follow office procedures and open a file, which would have reminded staff and counsel of the deadline].)

In contrast to the cases cited by Beaumont, the court in *Kaslavage v. West Kern County Water District* (1978) 84 Cal.App.3d 529 determined relief was appropriate where counsel's investigator misidentified a responsible government entity in a case in which the claimant was injured diving into a canal from a water pipe that traversed it. (*Id.* at pp. 532–533.) The investigator identified several possible responsible entities but failed to determine who had control over the pipe. (*Id.* at pp. 533–534.) The appellate court stated the investigator made “grave errors” (*id.* at p. 535) and noted his “failure to make [certain] inquiries was neglectful” (*id.* at p. 536). Nevertheless, it characterized the mistake as “less culpable” than the failures in either *Nilsson* or *Flores* (*id.* at pp. 536–537), noting that courts are loath to penalize a litigant for his attorney's mistakes, especially when the litigant has acted promptly in hiring an attorney and pursuing his claims (*id.* at p. 537). The policy of the law is to “encourag[e] trial and disposition on the

merits,” with “doubts [to] be resolved in favor of the party attempting to get to trial.” (*Ibid.*)

Review of the trial court’s ruling does not require the determination of whether the court could have denied relief based on the instant facts and case law. Rather, our function is to determine whether the granting of relief was an abuse of the court’s discretion. (*Tammen, supra*, 66 Cal.2d at p. 476.) In light of precedent and the record in this case, we find no abuse of discretion in the trial court’s determination that the mistake was reasonable.

DISPOSITION

The appeal is treated as a petition for writ of mandate. The petition challenging the section 946.6 ruling is denied. The parents are awarded their costs in this proceeding.

MOTOIKE, ACTING P. J.

WE CONCUR:

DELANEY, J.

SCOTT, J.