

Circuit Court for Montgomery County
Case No. 466725-V

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0241
September Term, 2020

WILLIAM BROWN, II

v.

PETER MURTAUGH, et al.

Nazarian,
Friedman,
Kenney, James A., III
(Senior Judge, Specially Assigned)

JJ.

Opinion by Friedman, J.

Filed: August 25, 2021

Peter and Laurie Murtaugh, appellees, sued William Brown II, appellant, for failing to finish building their in-law suite. Brown did not defend the lawsuit and the circuit court entered an order of default.¹ At a hearing three months later, the circuit court entered a default judgment against Brown and awarded the Murtaughs their damages. Brown now appeals. For the reasons below, we affirm the judgment of the circuit court.

BACKGROUND

In June 2017, the Murtaughs hired Brown and his company, Straight Up Custom Homes, to renovate their home and add an in-law suite. The parties executed a contract agreeing that the work would be done for \$495,685.00. After starting work and receiving \$285,000.00 in advance payments, however, Brown and his employees stopped showing up. The Murtaughs had others finish building the in-law suite and later sued Brown, alleging that he had stolen the money that they had paid him.

At the circuit court hearing on damages, Peter Murtaugh testified that, as the result of having to pay others to finish the work that Brown had left incomplete, Murtaugh and his family ultimately paid \$717,433.91 to complete the renovations, \$221,748.94 more than they had originally agreed to pay in the contract with Brown. The circuit court then admitted—over Brown’s hearsay objection—a binder in which the Murtaughs had collected the invoices, receipts, and cancelled checks that they and their in-laws had paid to complete the in-law suite. For reasons that are not entirely clear, the Murtaughs explicitly

¹ See MD. R. 2-613(b).

waived all claims in excess of \$175,000.00, so the circuit court awarded the Murtaughs \$175,000.00 in damages. Brown has now appealed the damages award to this Court.

DISCUSSION

In an action tried without a jury, we review the case on both the law and the evidence. MD. R. 8-131(c). We review the circuit court's legal conclusions without deference, and we review the factual findings for clear error only. *MAS Associates, LLC v. Korotki*, 465 Md. 457, 474-75 (2019). Brown raises three issues on appeal, none of which have any merit. We address each in turn.

First, Brown argues that the Murtaughs did not prove causation. This argument must fail, however, based on the procedural posture of the case. A default judgment is considered an admission of liability that establishes causation and leaves open only the question of the amount of damages owed to the plaintiff. *Md. Bd. of Physicians v. Geier*, 241 Md. App. 429, 534 (2019); *Greer v. Inman*, 79 Md. App. 350, 356-57 (1989). Because the circuit court entered a default judgment against Brown, he cannot challenge the question of causation. *Geier*, 241 Md. App. at 534.

Second, Brown argues that the circuit court erred in admitting and relying on the invoices, receipts, and cancelled checks offered into evidence by the Murtaughs because the documents were inadmissible hearsay. This argument fails, however, because any error would be harmless. Peter Murtaugh testified that Brown did not finish building the in-law suite, that the Murtaughs had to find others to finish the work abandoned by Brown, that the Murtaughs had paid Brown in advance for work he ultimately did not do, and that, as a result, Murtaugh and his family spent about \$717,000.00 on the work, roughly

\$220,000.00 over the original budget. Peter Murtaugh was competent to testify to these matters because they were within his personal knowledge. *See* MD. R. 5-602. Thus, even without the invoices, receipts, and cancelled checks, the circuit court had sufficient competent material evidence on which to base its factual findings. Thus, error, if any, in the admission of the documents, was harmless.

Third, Brown argues that the trial court erred in allowing Murtaugh to testify as an expert in the area of construction without properly qualifying him as an expert witness. This final argument fails because the record does not support Brown's assertion that Murtaugh testified as an expert in construction. Expert testimony is only necessary when the subject under inquiry is beyond the basic knowledge of the average layperson. *See Hartford Acc. & Indem. Co. v. Scarlett Harbor Associates Ltd. P'ship*, 109 Md. App. 217, 257-58 (1997). Murtaugh did not offer opinion testimony about the quality of the construction work or defective performance, but rather about work that was not done at all. No specialized skill, experience, training, or education is necessary to observe when work is simply not completed. *See* MD. R. 5-702. Murtaugh's testimony was rationally based on his personal knowledge and perception, and did not require special qualification as an expert witness. It was therefore unnecessary for the circuit court to qualify him as an expert witness.

**JUDGMENT OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY
AFFIRMED. COSTS TO BE PAID BY THE
APPELLANT.**