

COURT OF APPEALS OF OHIO, SECOND APPELLATE DISTRICT,
MONTGOMERY COUNTY

Aboagye v. Peake

2026-Ohio-1578 · No. 30627 · Decided May 1, 2026

SUMMARY

The Ohio Second District Court of Appeals affirmed the denial of Lathedia Peake’s Civ.R. 60(B) motion seeking relief from a default judgment. The court held that Peake failed to establish grounds for relief under Civ.R. 60(B)(1) or (5), including because she did not deny service of process, failed to protect her interests, and filed the motion nearly five years after judgment. The court also rejected her reliance on a case involving a complaint that failed to state a valid claim.

CASE DETAILS

COURT	Court of Appeals of Ohio, Second Appellate District, Montgomery County
WRITING FOR THE COURT	Mary K. Huffman, J.; Epley, J.; Hanseman, J.
JURISDICTION	Ohio Court of Appeals, Second Appellate District, Montgomery County
DECIDED	May 1, 2026
DOCKET	30627
DISPOSITION	affirmed
PROCEDURAL POSTURE	Lathedia Peake appealed the Montgomery County Common Pleas Court’s denial of her Civ.R. 60(B) motion for relief from a default judgment.
STANDARD OF REVIEW	A trial court’s decision to grant or deny a Civ.R. 60(B) motion is reviewed for abuse of discretion; an abuse of discretion occurs when the decision is unreasonable, arbitrary, or unconscionable.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Lathedia Peake v. Kelli Christina Mays-Aboagye

TOPICS

- default judgment
- default
- civil procedure
- standard of review
- appellate procedure

PRACTICE AREAS

civil procedure

appellate procedure

contracts

remedies

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by denying Lathedia Peake's Civ.R. 60(B) motion for relief from the default judgment.
2. Whether Lathedia established the requirements for relief under Civ.R. 60(B), including a meritorious defense, entitlement to relief under an enumerated ground, and filing within a reasonable time.
3. Whether Civ.R. 60(B)(5) could provide relief when Lathedia received service but failed to protect her interests and the motion was filed nearly five years after judgment.

HOLDINGS

1. A movant seeking relief from judgment under Civ.R. 60(B) must demonstrate a meritorious defense or claim, entitlement to relief under one of the grounds stated in Civ.R. 60(B), and that the motion was filed within a reasonable time; all three requirements must be satisfied.
2. Civ.R. 60(B)(5) is an extraordinary catchall provision and cannot be used as a substitute for Civ.R. 60(B) (1), (2), or (3), or to protect a party who ignores the duty to protect her own interests.
3. A Civ.R. 60(B) motion must be supported by evidentiary material containing operative facts; a conclusory affidavit merely attesting to the truth of facts stated elsewhere in the motion is insufficient.
4. The trial court did not abuse its discretion in denying Lathedia Peake's motion to vacate the default judgment because, although she alleged a possible meritorious defense, she failed to establish a qualifying ground for relief and filed the motion outside the one-year period applicable to Civ.R. 60(B) (1).

KEY QUOTATIONS

“To prevail on a motion brought under Civ.R. 60(B), the movant must demonstrate that (1) the party has a meritorious defense or claim to present if relief is granted, (2) the party is entitled to relief under one of the grounds stated in Civ.R. 60(B), and (3) the motion is made within a reasonable time.” (¶ 17)

“It “is not to be used as a substitute for Civil Rule 60(B)(1), (2) or (3), when it is too late to seek relief under these provisions.”” (¶ 19)

“The affidavit itself must contain the operative facts, not simply verify that unspecified facts exist elsewhere in the motion.” (¶ 22)

FACTUAL BACKGROUND

Aboagye alleged that Carlton Peake induced her to lend him \$230,000 by falsely claiming that he was owed substantial funds from an online sports-betting operation. She alleged that Lathedia Peake knew of and participated in the scheme by acting as an intermediary and facilitating the transfer of money into her account. The Peakes failed to respond after service of the complaint, and the trial court entered a \$230,000 default

judgment. Lathedia later claimed that she did not know about the lawsuit, had not participated in the alleged scheme, and learned of the judgment only when attempting to sell her home.

PROCEDURAL HISTORY

Kelli Christina Mays-Aboagye sued Carlton Varnzell Peake, Jr. and Lathedia Peake for breach of contract, unjust enrichment, and fraud in the inducement. After the Peakes failed to answer or appear, the trial court entered a default judgment for \$230,000 plus costs and post-judgment interest. Nearly five years later, Lathedia moved to vacate the judgment under Civ.R. 60(B)(5), asserting lack of knowledge of the complaint and a meritorious defense. The trial court denied the motion as untimely and insufficient under Civ.R. 60(B), and the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- GTE Automatic Elec., Inc. v. ARC Industries, 47 Ohio St. 2d 146 (1976)
- Strack v. Pelton, 70 Ohio St.3d 172 (1994)
- Cincinnati Ins. Co. v. Schaub, 2008-Ohio-4729 (2d Dist.)
- GMAC Mtge., L.L.C. v. Herring, 2010-Ohio-3650 (2d Dist.)
- Liberty Nursing Ctr. of Englewood, Inc. v. Valentine, 2012-Ohio-1096 (2d Dist.)
- Kay v. Marc Glassman, Inc., 76 Ohio St.3d 18 (1996)
- Aurora Loan Servs., L.L.C. v. Wilcox, 2009-Ohio-4577 (2d Dist.)
- Bank of Am., N.A. v. Kutchta, 2014-Ohio-4275
- Adomeit v. Baltimore, 39 Ohio App.2d 97 (8th Dist. 1974)
- Mount Olive Baptist Church v. Pipkins Paints, 64 Ohio App.2d 285 (1979)
- Michael D. Tully Co., L.P.A. v. Dollney, 42 Ohio App.3d 138 (8th Dist. 1987)
- In re Adoption of A.J.W., 2023-Ohio-2609 (2d Dist.)
- Bissell v. Bissell, 2016-Ohio-3086 (2d Dist.)
- AAAA Ents., Inc. v. River Place Community Urban Redevelopment Corp., 50 Ohio St.3d 157 (1990)
- Beach Body Tanning, Inc. v. Kovach, 2005-Ohio-2629 (8th Dist.)

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