OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT

Weese v. Dalton

2026-Ohio-796 (Ohio Ct. App. 5th Dist. 2026) · No. 25 CA 000012 · Decided March 9, 2026

SUMMARY

The Fifth District Court of Appeals of Ohio granted Christina Dalton's application for reconsideration of its prior decision concerning William Weese's judgment lien and foreclosure efforts. The court held that Weese's lien attached only to Charles Dalton's former undivided one-half interest in the property, and that Christina Dalton's statutory homestead exemption exceeded the lien amount. The court vacated conflicting portions of its February 13, 2026 opinion and affirmed the trial court's May 1, 2025 judgment barring foreclosure at that time.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District
WRITING FOR THE COURT	David M. Gormley; William B. Hoffman; Andrew J. King
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District, Guernsey County
DECIDED	March 9, 2026
DOCKET	25 CA 000012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed the Guernsey County Court of Common Pleas' judgment in a foreclosure action. The Fifth District granted the defendant's application for reconsideration of its prior opinion and affirmed the trial court's judgment barring the foreclosure.
STANDARD OF REVIEW	Appellate review of an application for reconsideration under Ohio Appellate Rule 26(A); the opinion does not state a separate standard of review.
PRECEDENTIAL VALUE	Published and precedential Ohio Court of Appeals opinion
PARTIES	William Weese v. Christina Dalton, Charles W. Dalton III, et al.

TOPICS

appellate procedure · foreclosure · homestead · title disputes · statutory interpretation

PRACTICE AREAS

appellate procedure | real estate law | foreclosure | judgment liens | homestead exemption | probate and succession

QUESTIONS PRESENTED

1. Whether the court should reconsider its prior decision concerning the interaction between Christina Dalton's statutory homestead exemption and Weese's judgment lien.
2. Whether a judgment lien filed when the judgment debtor owned only an undivided one-half interest in real property attaches to the entire property or only to the debtor's one-half interest.
3. Whether Christina Dalton's homestead exemption exceeds the amount of Weese's lien so as to bar foreclosure.

HOLDINGS

1. A judgment lien attaches only to the interest in real property actually owned by the judgment debtor when the certificate of judgment is filed; because Charles Dalton owned only an undivided one-half interest at that time, Weese's lien attached only to that one-half interest.
2. Foreclosure is barred where the debtor's statutory homestead exemption exceeds the amount of the judgment lien attached to the debtor's interest in the property.
3. Christina Dalton's application for reconsideration was granted, and the portions of the court's February 13, 2026 opinion that conflicted with the corrected lien analysis were vacated.

KEY QUOTATIONS

> *"Because, when Weese filed his certificate of judgment in Guernsey County in 2018, Charles owned not the entire property but instead an undivided one-half interest in it, we now understand that Weese's lien attached at that point solely to Charles's half interest rather than to the entire property."* (¶ 8)

> *"Because Christina Dalton's statutory homestead exemption of $182,625 exceeds the amount of that lien, we now acknowledge that the trial court correctly found that Weese cannot proceed with his foreclosure efforts now."* (¶ 10)

FACTUAL BACKGROUND

William Weese obtained a judgment of approximately $88,000 plus interest against Charles Dalton and filed the certificate of judgment in Guernsey County in 2018, when Charles owned an undivided one-half interest in the property. Charles died in 2020, and his interest passed to his widow, Christina Dalton, who became the sole owner and continued to reside in the home. The property was appraised at $189,000, while Christina's statutory homestead exemption was $182,625. The appellate court concluded on reconsideration that Weese's lien attached only to Charles's former one-half interest, valued at no more than $94,500, and therefore was fully exceeded by the homestead exemption.

PROCEDURAL HISTORY

Weese obtained a judgment against Charles Dalton and filed a certificate of judgment in Guernsey County. After Charles died, his undivided one-half interest in the property passed to his widow, Christina Dalton, who resided there. The trial court ruled that Christina's homestead exemption prevented Weese from proceeding with foreclosure. The appellate court initially reached a contrary conclusion, but on reconsideration granted Christina's application, vacated the conflicting portions of its prior opinion, and affirmed the trial court's May 1, 2025 judgment.

DISPOSITION

affirmed

CASES CITED

- Weese v. Dalton, 2026-Ohio-537 (5th Dist.)
- Deutsche Bank Natl. Trust Co. v. Boswell, 2011-Ohio-673, ¶ 31 (1st Dist.)
- Society Natl. Bank v. Repasky, 2000-Ohio-2646 (7th Dist.)
- Melville v. Small, 1999 WL 1069766, *2 (3d Dist. Nov. 1, 1999)
- Natl. City Bank NW v. Ledgard, 1995 WL 557317, *4 (6th Dist. Sept. 22, 1995)
- Beneficial Mtge. Co. of Ohio v. Amodeo, 1989 WL 86284, *2 (9th Dist. Aug. 2, 1989)
- Miller v. Albright, 60 Ohio St. 48, 51 (1899)

OPINION

Weese v. Dalton
2026 Ohio 796
PER CURIAM.
[Cite as Weese v. Dalton, 2026-Ohio-796.]
COURT OF APPEALS
GUERNSEY COUNTY, OHIO
FIFTH APPELLATE DISTRICT
WILLIAM WEESE, Case No. 25 CA 000012 Plaintiff - Appellant Opinion & Judgment Entry Granting Christina Dalton’s 2/23/26 -vs- Application for Reconsideration CHARLES W. DALTON III, et al., Appeal from the Court of Common Pleas of Guernsey County, Defendants - Appellees Case No. 21CV000242 Judgment: Reconsideration of 2/13/26 Opinion and Judgment Granted, And Trial Court’s 5/1/25 Judgment Affirmed Date of Judgment: March 9, 2026 BEFORE: William B. Hoffman; Andrew J. King; David M. Gormley, Judges APPEARANCES: Brian W. Benbow, Zanesville, Ohio, for Plaintiff-Appellant William Weese; Ryan A. McCarthy (Legal Aid of Southeast and Central Ohio), New Philadelphia, Ohio, for Defendant-Appellee Christina Dalton. Gormley, J. {¶1} We held last month in this case that defendant Christina Dalton can invoke the R.C. 2329.66 homestead exemption in response to plaintiff William Weese’s efforts to foreclose on real property in which Christina resides, but we concluded that a sale of Christina’s

home is nonetheless not barred because the amount of her exemption under that statute is less than the home's appraised value. {¶2} Christina, in accordance with Appellate Rule 26(A), has now asked us to reconsider that decision. After reflecting on her application as well as Weese's response, we now acknowledge that we erred in our analysis of the interplay between Christina's statutory homestead exemption and Weese's lien on her property. {¶3} As we explained in last month's decision — Weese v. Dalton, 2026-Ohio- 537 (5th Dist.) — Weese obtained a Coshocton County judgment of nearly $88,000 plus interest against Charles Dalton in March 2018. Several months later, Weese filed his certificate of judgment in Guernsey County, where Charles owned an undivided one-half interest in the real property at issue in this foreclosure case. {¶4} Charles Dalton died in 2020, and Charles's undivided half interest in the property then passed, under R.C. 2105.06(B), to his widow Christina. She is now the sole owner of the property, and she continues to reside there. {¶5} When Weese filed in the trial court a foreclosure complaint to collect his judgment against Charles, Christina argued that the statutory homestead exemption in R.C. 2329.66 bars Weese from forcing a sale of her home while she resides there. The trial court agreed with Christina, and Weese appealed. {¶6} Analyzing the protection afforded to Christina by the statutory homestead exemption in last month's opinion, we noted that the appraised value of the property is $189,000, the amount of the judgment owed to Weese is $87,994.66 plus interest, and the amount of Christina's homestead exemption under R.C. 2329.66(A)(1)(b) is $182,625. We then explained that because Christina's "exempt interest in the property does not exceed the home's appraised value," Weese "is entitled to pursue his foreclosure claim in the trial court." Weese v. Dalton, 2026-Ohio-537, ¶ 38. {¶7} That conclusion, we now see, was wrong. Though, as we noted in last month's opinion, a person's interest in exempt property is, according to R.C. 2329.66(D)(2) — the homestead exemption statute — determined "as of the date of an appraisal" or on the date when a writ of execution is issued, we overlooked the fact that the amount of a creditor's lien on real property is, under R.C. 2329.02, determined at "the time" when that creditor's certificate of judgment "is filed" in the county clerk's office. {¶8} That means, of course, that though we rightly determined Christina's current homestead exemption amount to be $182,625, we mistakenly viewed Weese's lien as applying to the entire $189,000 value of Christina's property. Because, when Weese filed his certificate of judgment in Guernsey County in 2018, Charles owned not the entire property but instead an undivided one-half interest in it, we now understand that Weese's lien attached at that point solely to Charles's half interest rather than to the entire property. {¶9} Our review of several court rulings now convinces us that Weese's lien applies to just half of the $189,000 Dalton property — Charles's former half — rather than the entire property now owed by Charles's widow Christina. See, e.g., Deutsche Bank Natl. Trust Co. v. Boswell, 2011-Ohio-673, ¶ 31 (1st Dist.) ("Because Alter Boswell only owned a one-half interest in the property when Freeman recorded his certificate of judgment, his lien attached only to Alter Boswell's one-half interest in the property"); Society Natl. Bank v. Repasky, 2000-Ohio-2646 (7th Dist.) ("a judgment creditor's rights as to a lien on real estate do not rise to those of a bona fide purchaser[,] and the judgment lien is confined to that which actually belongs to the judgment debtor and is not extended to that which belongs to anyone other than the judgment debtor"); Melville v. Small, 1999 WL 1069766, *2 (3d Dist. Nov. 1, 1999) ("Tommy Joe contends that a judgment lien on co-owned lands is limited to that which actually belongs to the judgment debtor. . . . [W]e agree"); Natl. City Bank NW v. Ledgard, 1995 WL 557317, *4 (6th Dist. Sept. 22, 1995) ("Since Charles and Nancy Stark held the property in question as tenants in common at the time the lien attached, Charles Stark never held more than an undivided one-half interest in the real property. Consequently, the lien attached only to his one-half interest and not the entire estate"); Beneficial Mtge. Co. of Ohio v. Amodeo, 1989 WL 86284, *2 (9th Dist. Aug. 2, 1989) ("a judgment creditor may only levy against property actually owned by the debtor at the time the judgment lien is filed"); Miller v. Albright, 60 Ohio St. 48, 51 (1899) ("it is a well-established rule that the lien of a judgment attaches only to such beneficial interest in land as the judgment debtor has at the time of its rendition"). {¶10} Given that the appraised value of the Dalton property is $189,000, we now realize that Weese's lien applies to no more than half of that amount, which is $94,500. Because Christina Dalton's statutory homestead exemption of $182,625 exceeds the amount of that lien, we now acknowledge that the trial court correctly found that Weese cannot proceed with his foreclosure efforts now. {¶11} Those parts of our February 13, 2026 opinion that conflict with today's conclusion — the last sentence of ¶ 2, ¶ 37, ¶ 38, the first sentence of ¶ 48, and the first sentence of ¶ 52 of the opinion cited as Weese v. Dalton, 2026-Ohio-537 (5th Dist.) — are now vacated. {¶12} For these reasons, we grant Christina Dalton's motion for reconsideration, and we affirm the trial court's May 1, 2025 judgment. Any additional costs must be paid by appellant William Weese. By: Gormley, J.; Hoffman, P.J. and King, J. concur.

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