

COURT OF APPEALS OF OHIO, TWELFTH APPELLATE DISTRICT, BUTLER COUNTY

American Express Natl. Bank v. Jenkins

2026-Ohio-774 · No. CA2025-08-083 · Decided March 9, 2026

SUMMARY

The Twelfth District Court of Appeals of Ohio affirmed the denial of Elyse Jenkins's Civ.R. 60(B) motion for relief from a \$15,667.28 summary judgment in favor of American Express National Bank. The court held that Jenkins's standing, service, evidentiary, garnishment, and statutory arguments either were untimely, procedurally barred, moot, or could not be raised through a Civ.R. 60(B) motion. The court also rejected sovereign-citizen theories and upheld the striking of postjudgment counterclaims.

CASE DETAILS

COURT	Court of Appeals of Ohio, Twelfth Appellate District, Butler County
WRITING FOR THE COURT	Mike Powell; Robin N. Piper; Melena S. Siebert
JURISDICTION	Ohio Court of Appeals, Twelfth District, Butler County
DECIDED	March 9, 2026
DOCKET	CA2025-08-083
DISPOSITION	affirmed
PROCEDURAL POSTURE	Elyse Jenkins appealed the Butler County Court of Common Pleas order denying her Civ.R. 60(B) motion for relief from the summary judgment entered against her and striking her postjudgment counterclaims.
STANDARD OF REVIEW	Abuse of discretion for the denial of Civ.R. 60(B) relief; appellate jurisdiction and finality were reviewed de novo as jurisdictional matters.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Elyse Jenkins, Selebrian Enterprises, LLC v. American Express National Bank

TOPICS

- civil procedure
- appellate procedure
- appellate jurisdiction
- motion for reconsideration
- breach of contract

PRACTICE AREAS

civil procedure

appellate procedure

contracts

consumer protection

commercial litigation

QUESTIONS PRESENTED

1. Whether the appeal was timely and properly limited to the order denying Civ.R. 60(B) relief.
2. Whether lack of standing could be used to obtain relief from judgment under Civ.R. 60(B) or collaterally attack the judgment as void.
3. Whether Jenkins's challenge to service of the summary-judgment motion was preserved for review.
4. Whether challenges to the garnishment hearing were reviewable where no funds were recovered and the garnishment order had no practical effect.
5. Whether Jenkins could use Civ.R. 60(B) to challenge the evidence supporting the underlying summary judgment.
6. Whether the trial court properly struck counterclaims filed after final judgment and outside a responsive pleading.
7. Whether alleged recordkeeping irregularities warranted relief absent use of App.R. 9(E) and a showing of prejudice.
8. Whether FDCPA, TILA, and UCC claims first asserted after judgment were forfeited under neutral Ohio procedural rules.

HOLDINGS

1. The appeal was untimely to the extent it sought direct review of the May 19, 2025 summary judgment because the notice of appeal was filed more than 30 days after that final order. The appeal was timely only as to the July 10, 2025 order denying Civ.R. 60(B) relief and striking the postjudgment counterclaims.
2. A lack-of-standing argument cannot support Civ.R. 60(B) relief or a collateral attack on a judgment as void. Standing defects are cognizable on direct appeal and do not deprive a common pleas court of subject-matter jurisdiction.
3. American Express had standing to sue because it was the original creditor, extended credit to Jenkins, and suffered an injury when the account went into default.
4. Jenkins could not raise the service challenge because she failed to present it in the Civ.R. 60(B) motion under review and raised it only belatedly.
5. The garnishment-related order was not final and appealable and the issues were moot because no funds were recovered and no property changed hands.
6. Jenkins could not use Civ.R. 60(B) to challenge the sufficiency of the evidence or burden-shifting in the underlying summary judgment because those arguments belonged in a timely direct appeal.
7. The trial court properly struck counterclaims filed after final judgment because Civ.R. 13 requires counterclaims to be asserted in a responsive pleading and does not authorize an independent postjudgment filing of counterclaims.

8. The alleged recordkeeping irregularities did not warrant relief because Jenkins failed to invoke App.R. 9(E) and failed to show prejudice to a substantial right.
9. Jenkins forfeited her FDCPA, TILA, and UCC tender-discharge claims by asserting them for the first time after final judgment rather than in a timely responsive pleading or counterclaim.

KEY QUOTATIONS

“(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)(1) through (5); and (3) the motion is made within a reasonable time, and, where the grounds of relief are Civ.R. 60(B)(1), (2) or (3), not more than one year after the judgment, order or proceeding was entered or taken.” (¶ 30)

“lack of standing cannot support a motion for relief from judgment” (¶ 41)

“Because standing is “cognizable on appeal,” the Court explained, “it cannot be used to collaterally attack a judgment.”” (¶ 42)

“A counterclaim is not a free-floating pleading that may be lobbed into a case at any time.” (¶ 71)

FACTUAL BACKGROUND

American Express extended business credit to Jenkins and Selebrian Enterprises, LLC. Jenkins used the card, the account went into default, and an unpaid balance of \$15,667.28 remained. American Express supported its claims with the Cardmember Agreement, account statements, and an affidavit stating that it was the original creditor and had not assigned the account. Jenkins did not answer the complaint or oppose the summary-judgment motion, and she attempted to raise standing, statutory, and other defenses only after judgment.

PROCEDURAL HISTORY

American Express sued Jenkins and Selebrian Enterprises, LLC, for an unpaid credit-card balance. The trial court entered default judgment against Selebrian and summary judgment against Jenkins. Jenkins did not timely appeal the summary judgment; instead, she filed Civ.R. 60(B) motions and attempted to assert counterclaims after judgment. The trial court denied relief and struck the counterclaims, and Jenkins timely appealed only that order.

DISPOSITION

affirmed

CASES CITED

- Bank of Am., N.A. v. Kuchta, 2014-Ohio-4275
- Griffey v. Rajan, 33 Ohio St.3d 75, 77 (1987)
- GTE Automatic Electric, Inc. v. ARC Industries, Inc., 47 Ohio St.2d 146 (1976)
- Rose Chevrolet, Inc. v. Adams, 36 Ohio St.3d 17, 20 (1988)
- Doe v. Trumbull Cty. Children Servs. Bd., 28 Ohio St.3d 128, 130-131 (1986)

- Fed. Home Loan Mortgage Corp. v. Schwartzwald, 2012-Ohio-5017
- State ex rel. Dallman v. Franklin Cty. Court of Common Pleas, 35 Ohio St.2d 176, 179 (1973)
- Patton v. Diemer, 35 Ohio St.3d 68 (1988)
- Asset Acceptance LLC v. Davis, 2004-Ohio-6967
- Discover Bank v. Poling, 2005-Ohio-1543
- State ex rel. Gaylor, Inc. v. Goodenow, 2010-Ohio-1844
- Dresher v. Burt, 75 Ohio St.3d 280, 1996-Ohio-107
- Grava v. Parkman Twp., 73 Ohio St.3d 379, 1995-Ohio-331
- State v. Schiebel, 55 Ohio St.3d 71, 82 (1990)
- SoFi Lending Corp. v. Williams, 2024-Ohio-1166, ¶ 21 (8th Dist.)
- United States v. Benabe, 654 F.3d 753, 767 (7th Cir. 2011)
- State v. Thompson, 2024-Ohio-2112, ¶ 46 (12th Dist.)
- In re A.V., 2022-Ohio-4719, ¶ 18 fn. 6 (12th Dist.)
- Testa v. Katt, 330 U.S. 386 (1947)