OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT, FAIRFIELD COUNTY

Deutsche Bank National Trust Co. v. Wolfe

2026-Ohio-622 · No. 2025 CA 00011 · Decided February 23, 2026

SUMMARY

The Fifth District Court of Appeals affirmed the denial of Anita Graf and Neil Morgan's Civil Rule 60(B)(3) motion seeking relief from a foreclosure judgment. The court held that their allegations concerning omitted mortgage payments and inaccuracies in the bank's records attacked the evidence supporting summary judgment and should have been raised at the summary-judgment stage or on direct appeal.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District, Fairfield County
WRITING FOR THE COURT	David M. Gormley; Craig R. Baldwin; Kevin W. Popham
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District, Fairfield County
DECIDED	February 23, 2026
DOCKET	2025 CA 00011
DISPOSITION	affirmed
PROCEDURAL POSTURE	Intervenors appealed the denial of their Civ.R. 60(B)(3) motion seeking relief from a foreclosure judgment entered on summary judgment.
STANDARD OF REVIEW	Abuse of discretion. An abuse of discretion is more than an error in law or judgment and implies that the trial court's attitude was unreasonable, arbitrary, or unconscionable.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Anita L. Graf, Neil A. Morgan II v. Deutsche Bank National Trust Co.

TOPICS

foreclosure · civil procedure · summary judgment · appellate procedure · standard of review

PRACTICE AREAS

civil procedure | foreclosure | appellate procedure | remedies | real estate

QUESTIONS PRESENTED

1. Whether a Civ.R. 60(B)(3) motion may be used to challenge the accuracy or sufficiency of evidence supporting a prior summary-judgment foreclosure decree when the alleged evidentiary error could have been raised before judgment or on direct appeal.
2. Whether the trial court abused its discretion by denying Graf and Morgan's Civ.R. 60(B)(3) motion for relief from the foreclosure judgment.

HOLDINGS

1. A Civ.R. 60(B) motion is not a proper vehicle to attack the evidence on which a trial court relied in granting summary judgment when the alleged error could have been raised at the summary-judgment stage or in a direct appeal.
2. The trial court did not abuse its discretion by denying Graf and Morgan's Civ.R. 60(B)(3) motion because their alleged defects in the bank's payment records and affidavit were challenges to the original foreclosure judgment that should have been raised earlier.

KEY QUOTATIONS

> *"A Civ.R. 60(B) motion cannot be used to attack the evidence upon which a trial court relied in granting a motion for summary judgment, and that kind of argument should instead be raised in a direct appeal from the trial court's judgment."* (¶ 11)

> *"Civil Rule 60(B) was not a proper vehicle for Graf and Morgan to attack, a year after the initial judgment, the evidence on which the trial court had relied when that court granted Deutsche Bank's summary-judgment motion."* (¶ 14)

FACTUAL BACKGROUND

Deutsche Bank sought to foreclose on a 2005 promissory note secured by real property, alleging that the borrower was in default. At the summary-judgment stage, Deutsche Bank submitted a records custodian's affidavit and payment history showing that the last payment received had been applied to the February 2021 obligation. Graf and Morgan, who claimed an interest through a land contract, did not challenge the payment records or present evidence of additional payments before judgment or in their direct appeal. They later sought Civ.R. 60(B)(3) relief based on alleged 2022 payments omitted from the bank's records.

PROCEDURAL HISTORY

Deutsche Bank filed a foreclosure complaint in 2021 and obtained summary judgment and a decree of foreclosure in November 2023. Graf and Morgan appealed that judgment, challenging the adequacy of the default notice, and the appellate court affirmed. In November 2024, they filed a Civ.R. 60(B)(3) motion alleging that Deutsche Bank had fraudulently failed to account for four mortgage payments; the trial court denied the motion, and the Fifth District affirmed.

DISPOSITION

affirmed

CASES CITED

- Deutsche Bank Natl. Trust Co. v. Unknown Spouse of Wolfe, 2024-Ohio-2940, ¶ 21 (5th Dist.)
- Maynard v. Scales, 2025-Ohio-5124, ¶ 15 (5th Dist.)
- Blakemore v. Blakemore, 5 Ohio St.3d 217, 219 (1983)
- Beyoglides v. Elmore, 2012-Ohio-3979, ¶ 17 (2d Dist.)
- Key v. Mitchell, 81 Ohio St.3d 89, 91 (1998)
- Nationstar Mtge. LLC v. Groves, 2017-Ohio-887, ¶ 16 (11th Dist.)
- Navy Fed. Credit Union v. McAfee, 2024-Ohio-5794, ¶ 15 (1st Dist.)
