

COURT OF APPEALS OF OHIO, FIFTH APPELLATE DISTRICT

Burt v. Stockport

2015-Ohio-3461 (Ohio Ct. App. 2015) · No. 15 AP 0001 · Decided August 25, 2015

SUMMARY

The Ohio Fifth District Court of Appeals affirmed the Morgan County Court of Common Pleas' grant of summary judgment to the Village of Stockport and related officials. The court held that findings of fact and conclusions of law are unnecessary when ruling on a summary-judgment motion under Ohio Civ.R. 56, and denied the appellant's sole assignment of error.

CASE DETAILS

COURT	Court of Appeals of Ohio, Fifth Appellate District
WRITING FOR THE COURT	Sheila G. Farmer, J.; W. Scott Gwin, P.J.; Craig R. Baldwin, J.
JURISDICTION	Ohio
DECIDED	August 25, 2015
DOCKET	15 AP 0001
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the grant of appellees' motion for summary judgment and dismissal of appellant's complaint by the Morgan County Court of Common Pleas.
STANDARD OF REVIEW	The court reviewed the legal question whether findings of fact and conclusions of law were required when ruling on a motion for summary judgment.
PRECEDENTIAL VALUE	Published appellate opinion
PARTIES	Dwight L. Burt v. Village of Stockport, Various officials

TOPICS

- summary judgment
- civil procedure
- appellate procedure
- municipal law
- civil rights

PRACTICE AREAS

- Civil procedure
- Appellate procedure
- Municipal law
- Civil rights

QUESTIONS PRESENTED

1. Whether a trial court must enter findings of fact and conclusions of law when granting a motion for summary judgment under Ohio Civil Rule 56.

HOLDINGS

1. Findings of fact and conclusions of law are unnecessary when a trial court rules on a motion for summary judgment under Ohio Civil Rule 56.

KEY QUOTATIONS

“Findings of fact and conclusions of law required by this rule and by Rule 41(B)(2) are unnecessary upon all other motions including those pursuant to Rule 12, Rule 55 and Rule 56.” (§6)

“Civ.R. 52 and Civ.R. 56 are incompatible rules and to apply one necessarily excludes the other” (§6)

FACTUAL BACKGROUND

Dwight Burt alleged that the Village of Stockport and various officials engaged in twenty-six instances of conduct constituting corrupt activity and violations of his constitutional rights concerning water and sewer matters. The appellees moved for summary judgment, and the trial court granted the motion and dismissed the complaint. The appeal concerned only whether the trial court was required to issue findings supporting that summary-judgment ruling.

PROCEDURAL HISTORY

Dwight Burt filed a complaint in 2010 against the Village of Stockport and various officials, alleging corrupt activity and constitutional-rights violations concerning water and sewer issues. Appellees moved for summary judgment, and the trial court granted the motion and dismissed the complaint on December 11, 2014. Burt appealed, arguing that the trial court was required to make findings of fact and conclusions of law in granting summary judgment. The Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Koch v. Etna Township, 5th Dist. Licking Nos. CA-3643 and CA-3644, 1991 WL 148092 (Ohio Ct. App. July 18, 1991)

OPINION

PER CURIAM.

[Cite as Burt v. Stockport, 2015-Ohio-3461.] COURT OF APPEALS MORGAN COUNTY, OHIO
FIFTH APPELLATE DISTRICT DWIGHT L. BURT: JUDGES:: Hon. W. Scott Gwin, P.J.
Plaintiff-Appellant: Hon. Sheila G. Farmer, J.: Hon. Craig R. Baldwin, J. -vs-: VILLAGE OF
STOCKPORT, ET AL.: Case No. 15 AP 0001 Defendants-Appellees: OPINION CHARACTER

OF PROCEEDING: Appeal from the Court of Common Pleas, Case No. 10CV0072 JUDGMENT: Affirmed DATE OF JUDGMENT: August 25, 2015 APPEARANCES: For Plaintiff-Appellant For Defendants-Appellees WILLIAM L. BURTON MICHAEL J. VALENTINE 119 Maple Street MELVIN J. DAVIS Marietta, OH 45750 65 East State Street 4th Floor Morgan County, Case No. 15 AP 0001 2 Columbus, OH 43215 Farmer, J. ¶1 On April 13, 2010, appellant, Dwight Burt, filed a complaint against appellees, Village of Stockport and various officials, claiming twenty-six instances of conduct amounting to corrupt activity and violations of his constitutional rights regarding water and sewer issues. ¶2 On December 20, 2012, appellees filed a motion for summary judgment.

By journal entry filed December 11, 2014, the trial court granted the motion and dismissed the complaint. ¶3 Appellant filed an appeal and this matter is now before this court for consideration. Assignment of error is as follows: I ¶4 "THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY FAILING TO MAKE FINDINGS SUPPORTING ITS DECISION." I ¶5 Appellant claims the trial court erred in not entering findings in granting appellees' motion for summary judgment.

We disagree. ¶6 Pursuant to Civ.R. 52, "[f]indings of fact and conclusions of law required by this rule and by Rule 41(B)(2) are unnecessary upon all other motions including those pursuant to Rule 12, Rule 55 and Rule 56." See also Koch v. Etna Township, 5th Dist. Licking Nos. CA-3643 and CA-3644, 1991 WL 148092 (July 18, 1991) ("Civ.R. 52 and Civ.R. 56 are incompatible rules and to apply one necessarily excludes the other"). ¶7 During oral argument, appellant's counsel conceded that Civ.R.

52 does not apply to rulings for summary judgment under Civ.R. 56. Morgan County, Case No. 15 AP 0001 3 ¶8 The sole assignment of error is denied. ¶9 The judgment of the Court of Common Pleas of Morgan County, Ohio is hereby affirmed. By Farmer, J. Gwin, P.J. and Delaney, J. concur. SGF/sg 807