

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

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

