

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

DUANE JOHNSON

Plaintiff-Appellant

-vs-

JAMES NICE, ET AL.

Defendants-Appellees

JUDGES:

Hon. John W. Wise, P.J.
Hon. William B. Hoffman, J.
Hon. Craig R. Baldwin, J.

Case No. 2017CA00204

O P I N I O N

CHARACTER OF PROCEEDING:

Appeal from the Stark County Common
Pleas Court, Case No. 2017CV01797

JUDGMENT:

Dismissed

DATE OF JUDGMENT ENTRY:

January 29, 2018

APPEARANCES:

For Plaintiff-Appellant

For Defendants-Appellees

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Hoffman, J.

{¶1} Appellant Duane Johnson appeals the judgment entered by the Stark County Common Pleas Court transferring venue of his complaint against Appellees James Nice, Richard Edwards, Gertrude Wilms and Andrew Moss to the Summit County Court of Common Pleas.

STATEMENT OF THE CASE¹

{¶2} On September 1, 2017, Appellant filed the instant action in the Stark County Common Pleas Court seeking damages in the amount of \$4,000,000.00 from Appellees for trespass and dereliction of duty. Appellees filed a motion to transfer venue to Summit County, arguing the events underlying the complaint occurred in Summit County, and Appellees all reside and/or have their principal place of governmental business in Summit County. Appellant responded, arguing he would not receive a fair and just trial in Summit County. On October 27, 2017, the trial court transferred venue to Summit County.

{¶3} From this judgment Appellant prosecutes the instant appeal. Although he does not specifically assign error to the judgment, he has filed a brief arguing Summit County is not an impartial tribunal. Appellees filed a motion to dismiss the appeal on December 7, 2017, arguing the judgment appealed from is not a final, appealable order.

{¶4} This case comes to us on the accelerated calendar. App.R. 11.1, which governs accelerated calendar cases, provides, in pertinent part:

(E) Determination and judgment on appeal.

¹ A rendition of the facts is unnecessary for our disposition of this appeal.

The appeal will be determined as provided by App.R. 11.1. It shall be sufficient compliance with App.R. 12(A) for the statement of the reason for the court's decision as to each error to be in brief and conclusionary form.

The decision may be by judgment entry in which case it will not be published in any form.

{¶5} This appeal shall be considered in accordance with the aforementioned rule.

{¶6} Article IV, Section 3(B)(2) of the Ohio Constitution grants jurisdiction to courts of appeals “to review and affirm, modify, or reverse judgments or final orders of the courts of record inferior to the court of appeals within the district.” Consequently, if an order is not a final appealable order, an appellate court has no jurisdiction. *Gen. Acc. Ins. Co. v. Ins. Co. of N. Am.*, 44 Ohio St.3d 17, 20, 540 N.E.2d 266 (1989).

{¶7} The denial or granting of a motion to change venue is not a final, appealable order. *Jackson v. Friedlander*, 5th Dist. Stark No. 2016CA00053, 2016-Ohio-7503, ¶ 9, *appeal not allowed*, 149 Ohio St.3d 1463, 2017-Ohio-5699, 77 N.E.3d 988, ¶ 9 (2017), *citing Gray v. Lloyd Ward, P.C.*, 5th Dist. Fairfield No. 13 CA 42, 2014–Ohio–190; *State of Ohio ex rel. Edwards v. Tompkins*, 5th Dist. Muskingum No. CT2010–0035, 2011–Ohio–32; *State ex rel. Lyons v. Zaleski*, 75 Ohio St.3d 623, 665 N.E.2d 212 (1996).

{¶8} Because the order appealed from is not a final, appealable order, this Court lacks jurisdiction and Appellant's appeal is dismissed.

By: Hoffman, J.

Wise, John, P.J. and

Baldwin, J. concur