[Cite as *Wright v. Ohio Dept. of Transp.*, 2013-Ohio-2162.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Tina Wright,	:	
Plaintiff-Appellant,	:	
		No. 12AP-974
v.	:	(Ct. of Cl. No. 2012-03514)
Ohio Department of Transportation,	:	(REGULAR CALENDAR)
Defendant-Appellee.	:	

D E C I S I O N

Rendered on May 28, 2013

Tina Wright, pro se.

Michael DeWine, Attorney General, and *Jenna R. Volp*, for appellee.

APPEAL from the Court of Claims of Ohio

McCORMAC, J.

{¶ 1} Plaintiff-appellant, Tina Wright ("appellant"), proceeding pro se, has asserted one lengthy statement labeled "Statements of Assigments of Errors," which contain many allegations, most of which have nothing to do with why the Court of Claims of Ohio granted defendant-appellee, Ohio Department of Transportation ("ODOT"), motion for summary judgment and denied appellant's motion for summary judgment.

{¶ 2} Rather than dismissing the appeal for gross failure to comply with the court of appeals rules of procedure, since appellant is pro se, we will consider the only viable issue. That issue is whether the trial court erred in its rulings on the summary judgment submissions.

{¶ 3} We will restrict our procedural and fact statements to those which are pertinent to appellant's claims, which facts are unassailable and, without a doubt, lead only to the judgments rendered by the trial court. (If it is any consolation to appellant, the best attorney complying completely with all applicable court rules would not have prevailed given the facts of the case.)

{¶ 4} The pertinent facts, all of which are contained in the trial court's entry, together with legal conclusions, will be stated in our de novo review.

{¶ 5} ODOT constructed Interstate 71 ("I-71"), around 1960. Its proximity to appellant's residence at 2205 Atwood Terrace, Columbus, Ohio, has not changed in the past three to four years nor since the time that appellant leased the house.

{¶ 6} Appellant's claim against ODOT is based upon a private nuisance, a public nuisance claim having been previously dismissed. Private nuisance claims are viable in some circumstances. However, as with most claims there are legal impediments that may bar or limit prevailing, such as a limitation of time for bringing the action.

{¶ 7} A nuisance, public or private, may be continuing or permanent. *Kramer v. Angel's Path, L.L.C.*, 174 Ohio App.3d 359, 2007-Ohio-7099 (6th Dist.). A continuing nuisance is ongoing, perpetually generating new violations. Permanent nuisance occurs when the conduct has been completed, but the plaintiff continues to experience injury. In this case, the nuisance, if it be that, is continuous because the alleged tortuous conduct has been completed.

{¶ 8} There is no reasonable doubt that I-71 at 2205 Atwood Terrace was completed and the noise and/or pollution is permanently there. When appellant leased the house, it was located close to I-71, and that will not change.

{¶ 9} For a permanent nuisance to be actionable, a claim must be commenced in the Court of Claims "no later than two years after the date of accrual." R.C. 2743.16(A). The claim herein accrued, at the latest, more than three years prior to the filing of this action.

{¶ 10} The fact that appellant may not have realized the extent the noise or pollution affected her until she built the deck, or that she suffered more problems with it than others, does not alter the application of the statute of limitations. Time for bringing action had expired when the claim was filed.

{¶ 11} Appellant's assignment of error is overruled, and the judgment of the Court of Claims of Ohio is affirmed.

Judgment affirmed.

TYACK and DORRIAN, JJ., concur.

McCORMAC, J., retired, formerly of the Tenth Appellate District, assigned to active duty under the Ohio Constitution, Article IV, Section 6(C).
