[Cite as *McCoy v. Bonifant,* 2015-Ohio-2506.]

COURT OF APPEALS
LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

CHARLES McCOY

Plaintiff-Appellant

-vs-

HEATHER A. BONIFANT

Defendant-Appellee

JUDGES:
Hon. W. Scott Gwin, P. J.
Hon. Sheila G. Farmer, J.
Hon. John W. Wise, J.

Case No. 15 CA 8

O P I N I O N

CHARACTER OF PROCEEDING:	Civil Appeal from the Court of Common Pleas, Case No. 14 CV 1083
JUDGMENT:	Dismissed
DATE OF JUDGMENT ENTRY:	June 15, 2015

APPEARANCES:

For Plaintiff-Appellant	For Defendant-Appellee
CHARLES MCCOY, PRO SE LoCI, A-3 Post Office Box 69 London, Ohio 43140	DAVID C. MORRISON MORRISON & BINDLEY 987 Professional Parkway Heath, Ohio 43056-1698

Wise, J.

{¶1}. Plaintiff-Appellant Charles McCoy appeals the January 26, 2015 decision of the Court of Common Pleas, Licking County, in regard to his civil lawsuit against Appellee Heather Bonifant. The relevant facts leading to this appeal are as follows.

{¶2}. In February 2005, under a different trial court case number, appellant was found guilty of one count of aggravated robbery in violation of R.C. 2911.01(A)(1), one count of attempted murder in violation of R.C. 2903.02 and R.C. 2923.02, one count of felonious assault in violation of R.C. 2903.11(A)(1), and two counts of kidnapping in violation of R.C. 2905.01(B). These charges arose from the robbery of a Dairy Queen restaurant. One of the employees at the time of the robbery, Appellee Bonifant, testified at the 2005 criminal trial.

{¶3}. On February 9, 2005, the trial court sentenced appellant to an aggregate term of thirty years in prison. Upon appellant's direct appeal, this Court affirmed the convictions and sentence. *See State v. McCoy,* 5th Dist. Licking No. 05–CA–29, 2006–Ohio–56.

{¶4}. Appellant has additionally pursued post-conviction litigation at the state and federal levels, the details of which are not necessary to recite herein.

{¶5}. On December 12, 2014, appellant filed a pro se civil complaint against appellee in the Licking County Court of Common Pleas, alleging conspiracy, perjury, and sham legal process, apparently based on appellee's participation in the aforesaid 2005 criminal investigation and trial.

{¶6}. On December 16, 2014, appellee filed a motion to dismiss appellant's complaint pursuant to Civ.R. 12(B)(6). Appellant filed a response on December 24, 2014.

{¶7}. Via a judgment entry filed January 26, 2015, the trial court denied appellee's motion to dismiss the complaint.

{¶8}. On February 2, 2015, appellant filed a notice of appeal. He herein raises the following seven Assignments of Error:

{¶9}. "I. THE COURT ERRED BY FAILING TO RECOGNIZE THAT THE DEFENDANT HAD IN FACT WILLINGLY AND KNOWINGLY PARTICIPATED IN SHAM LEGAL PROCESS BY TESTIFYING TO FALSE STATEMENTS IN AN OPEN-COURT [SIC] OF LAW DURING A TRIAL SETTING IN RE: TO PLAIN ERROR ISSUES.

{¶10}. "II. THE COURT ERRED BY FAILING TO RECOGNIZE THAT THE DEFENDANT HAD IN FACT WILLINGLY AND KNOWINGLY COMMITTED CONSPIRACY BY INCLUDING FALSIFIED INFORMATION IN A STATEMENT FOR POLICE AND BY TESTIFYING TO THOSE FALSIFIED DETAILS IN RE: TO PLAIN ERROR ISSUES IN AN OPEN-COURT [SIC] OF LAW DURING A TRIAL SETTING.

{¶11}. "III. THE COURT ERRED BY FAILING TO RECOGNIZE THAT THE DEFENDANT HAD IN FACT WILLINGLY AND KNOWINGLY COMMITTED PERJURY IN RE: TO PLAIN ERROR ISSUES BY FALSIFYING A STATEMENT FOR POLICE AND TESTIFYING TO IT IN AN OPEN-COURT [SIC] OF LAW DURING A TRIAL SETTING.

{¶12}. "IV. THE COURT ERRED BY FAILING TO RECOGNIZE THAT AN INMATE INCARCERATED MAY PARTICIPATE IN ANY AND ALL HEARINGS IN RE: TO CIVIL ACTIONS UPON PROOF SUBMITTED TO THE COURT FROM PLAINTIFF FROM JUDGE GREGORY L. FROST (FEDERAL JUDGE AND FORMER LICKING CO., OHIO COMMON PLEAS JUDGE).

{¶13}. "V. THE COURT ERRED BY NOT ALLOWING PLAINTIFF TO AT LEAST SUBMIT EVIDENCE TO PROVE HIS CASE AGAINST THE DEFENDANT. THIS EVIDENCE INCLUDED DEFENDANT'S STATEMENT FOR POLICE, TESTIMONY FROM TRIAL TRANSCRIPTS AND THE JUDGMENT ENTRY BY JUDGE JON R. SPAHR AS HE SOUGHT TO 'JUSTIFIED' [SIC] THE SENTENCING ACCUSING PLAINTIFF HEREIN OF THE FALSIFIED DETAILS DEFENDANT HEREIN GAVE TO POLICE AND TO THE COURT DURING TRIAL.

{¶14}. "VI. THE COURT ERRED BY FAILING TO RECOGNIZE THAT PLAINTIFF HEREIN HAD IN FACT STATED, NOT JUST ONE, BUT ALL CLAIMS AGAINST DEFENDANT HEREIN.

{¶15}. "VII. THE COURT FAILED TO RECOGNIZE THAT DEFENDANT'S FALSIFIED POLICE STATEMENT AND FALSIFIED TESTIMONY FOR THE STATE PUT THE STATE, EVEN AT THE LEVEL OF THE FIFTH DISTRICT COURT OF APPEALS, IN THE POSITION TO USE THIS FALSIFIED INFORMATION AGAINST PLAINTIFF HEREIN IN THEIR DECISION DURING HIS DIRECT APPEAL IN 2006. THIS WOULD, OF COURSE, BE IN CONJUNCTION WITH OVER ALL FALSEHOODS OF COUNTLESS ACCUSATIONS."

I., II., III., IV., V., VI., VII.

{¶16}. Initially, we must consider the question of the final appealability of the judgment entry in question. An appellate court's jurisdiction over trial court rulings extends only to “judgments or final orders.” Ohio Constitution, Art. IV, Section 3(B)(2). As a general rule, a judgment that leaves issues unresolved and contemplates that further action must be taken is not a final appealable order. *See Moscarello v. Moscarello,* 5th Dist. Stark No. 2014CA00181, 2015–Ohio–654, ¶ 11, quoting *Rice v. Lewis,* 4th Dist. Scioto No. 11CA3451, 2012–Ohio–2588, ¶ 14 (additional citations omitted). The Ohio Supreme Court has generally held that the denial of a Civ.R. 12(B)(6) motion to dismiss is not a final, appealable order. *See State Auto. Mut. Ins. Co. v. Titanium Metals Corp*., 108 Ohio St.3d 540, 2006-Ohio-1713, 844 N.E.2d 1199.

{¶17}. Accordingly, we find no existence of a final appealable order warranting our review at this juncture. Appellant's First, Second, Third, Fourth, Fifth, Sixth, and Seventh Assignments of Error are therefore found premature, and the appeal will be dismissed and remanded for further proceedings.

{¶18}. For the reasons stated in the foregoing opinion, the appeal of the judgment of the Court of Common Pleas, Licking County, Ohio, is hereby dismissed.

By: Wise, J.

Gwin, P. J., and

Farmer, J., concur.

JWW/d 0521