

COURT OF APPEALS
MORGAN COUNTY, OHIO
FIFTH APPELLATE DISTRICT

DWIGHT L. BURT

Plaintiff-Appellant

-vs-

VILLAGE OF STOCKPORT, ET AL.

Defendants-Appellees

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JUDGES:

Hon. W. Scott Gwin, P.J.

Hon. Sheila G. Farmer, J.

Hon. Craig R. Baldwin, J.

Case No. 15 AP 0001

O P I N I O N

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

WILLIAM L. BURTON
119 Maple Street
Marietta, OH 45750

For Defendants-Appellees

MICHAEL J. VALENTINE
MELVIN J. DAVIS
65 East State Street
4th Floor

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:

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{¶4} "THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY FAILING TO MAKE FINDINGS SUPPORTING ITS DECISION."

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{¶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.

{¶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.

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