

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 92024**

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**MAURICE RHOADES**

PLAINTIFF-APPELLANT

VS.

**GREATER CLEVELAND  
REGIONAL TRANSIT AUTHORITY, ET AL.**

DEFENDANTS-APPELLEES

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**JUDGMENT:  
AFFIRMED**

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Civil Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CV-657145

**BEFORE:** McMonagle, J., Rocco, P.J., and Sweeney, J.

**RELEASED:** May 28, 2009

**JOURNALIZED:**

**FOR APPELLANT**

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N.B. This entry is an announcement of the court's decision. See App.R. 22(B) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(C) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(C). See, also, S.Ct. Prac.R. II, Section 2(A)(1).

CHRISTINE T. McMONAGLE, J.:

{¶ 1} After settling his lawsuit with defendants-appellees, Greater Cleveland Regional Transit Authority (“RTA”) and Cheryl Price for \$260, plaintiff-appellant, Maurice Rhoades filed a Civ.R. 60(B)(5) motion for relief from judgment. In his motion, Rhoades argued that he was too “discombobulated and stressed” on the day of settlement “to be effective or realistic in his negotiation of a settlement.” The trial court denied the motion and Rhoades now appeals. Finding no merit to his appeal, we affirm.

### **Background**

{¶ 2} In September 2007, Rhoades boarded an RTA bus in Cleveland. He created a disturbance and Price, the bus driver, called RTA Transit Police, who removed Rhoades from the bus. He subsequently filed suit against RTA and Price for slander and negligent infliction of emotional distress. Price filed an answer to the complaint and RTA filed a motion to dismiss the complaint.

{¶ 3} The trial court set a hearing on the motion to dismiss for July 1, 2008. During the hearing, the trial judge questioned the parties about the incident that led to the lawsuit. The judge asked Rhoades what relief he was seeking in his suit, and Rhoades explained that RTA had rejected his earlier offer of \$500 to settle the suit. The judge then asked Rhoades if he “want[ed] to talk settlement with the defense,” and Rhoades responded, “[y]es, I do.” When the judge asked Rhoades if he had any objection to the judge meeting separately

with the parties to try to settle the case, Rhoades replied, “I was hoping you would. I would like to resolve the matter.”

{¶ 4} The parties agreed to a settlement of \$260 and signed a “Stipulation for Dismissal and Judgment Entry” that day; it was signed by the trial judge and filed on July 3, 2008. After apparently having a change of heart about the settlement, on August 1, 2008, Rhoades filed a motion for relief from judgment under Civ.R. 60(B)(5), which the trial court denied.

### **Discussion**

{¶ 5} Civ.R. 60(B) allows a court to relieve a party from a final judgment for reasons such as mistake, newly discovered evidence, fraud, or a satisfied judgment. Civ.R. 60(B)(5) allows relief to be granted for “any other reason justifying relief from the judgment.” It is intended as a catch-all provision reflecting the inherent power of a court to relieve a person of the unjust operation of a judgment. *Smith v. Smith*, 8<sup>th</sup> Dist. No. 83275, 2004-Ohio-5589, ¶16. But, as public policy favors finality of judgment, grounds for invoking Civ.R. 60(B)(5) must be substantial and relief should be afforded only under exceptional circumstances. *Id.*; see, also, *Caruso-Ciresi, Inc. v. Lohman* (1983), 5 Ohio St.3d 64, 66; *Natl. City Home Loan Serv., Inc. v. Gillette*, 4<sup>th</sup> Dist. No. 05CA3027, 2006-Ohio-2881, ¶23.

{¶ 6} Before relief from judgment may be granted, the moving party must show that it (1) has a meritorious defense, (2) is entitled to relief under one of

the grounds stated in Civ.R. 60(B), and (3) has moved for relief within a reasonable time.

{¶ 7} A trial court's decision regarding a Civ.R. 60(B) motion will not be reversed on appeal absent a showing of abuse of discretion. *Doddridge v. Fitzpatrick* (1978), 53 Ohio St.2d 9, 11. A court abuses its discretion when its decision is unreasonable, arbitrary or unconscionable. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219.

{¶ 8} We agree with the trial court that Rhoades failed to demonstrate that he was entitled to relief under Civ.R. 60(B)(5). Other than his bare assertions, he offered no evidence to demonstrate that he was too stressed during the settlement negotiations "to focus and concentrate on the task at hand." The record indicates instead that Rhoades advised the judge that he wanted to try to settle the matter and never told him that he was either unprepared or too anxious to enter into settlement negotiations.

{¶ 9} Furthermore, even if Rhoades' claims of emotional distress were true, they do not form a basis for relief from judgment. In *Wine v. Wine*, 4<sup>th</sup> Dist. No. 06CA6, 2006-Ohio-6995, an ex-wife moved for relief from a dissolution decree containing an unfavorable property settlement. She claimed in her 60(B) motion that she only agreed to the terms of the property distribution because she was unrepresented, under emotional duress, and had been threatened by her ex-husband. The trial court denied the ex-wife's motion and the appellate court

upheld the denial. Acknowledging that the termination of a marital relationship is an extremely stressful event, the appellate court nevertheless concluded that “the stress associated with this type of situation does not somehow relieve a [self-represented] party of the duty and obligation to understand and protect their interests.” *Id.*, ¶15.

{¶ 10} Rhoades chose to represent himself in this case. In Ohio, pro se litigants are bound by the same rules and procedures as litigants who retain counsel. *Tisdale v. Javitch, Block & Rathbone*, 8<sup>th</sup> Dist. No. 83119, 2003-Ohio-6883, ¶10. They are not to be accorded greater rights and must accept the results of their own mistakes and errors. *Id.* Although he now wants to change his mind, Rhoades voluntarily entered into settlement negotiations, agreed to the settlement, and then failed to demonstrate substantial grounds or exceptional circumstances that would justify relief from judgment under Civ.R. 60(B)(5). Accordingly, the trial court did not abuse its discretion in denying his motion.

{¶ 11} Appellant’s assignment of error is overruled; judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

CHRISTINE T. McMONAGLE, JUDGE

KENNETH A. ROCCO, P.J., and  
JAMES J. SWEENEY, J., CONCUR