

[Cite as *Wallace v. Halder*, 2011-Ohio-850.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
Nos. 95324 and 95341

**BRIAN WALLACE, ADMINISTRATOR
OF THE ESTATE OF NORMAN WALLACE**

PLAINTIFF-APPELLANT/
CROSS-APPELLEE

vs.

BISWANATH HALDER, ET AL.

DEFENDANT-APPELLEES/
CROSS-APPELLANTS

**JUDGMENT:
DISMISSED**

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CV-591169

BEFORE: Keough, J., Gallagher, P.J., and Rocco, J.

RELEASED AND JOURNALIZED: February 24, 2011

ATTORNEY FOR APPELLANT/CROSS-APPELLEE

Percy Squire
Percy Squire Co., LLC
514 S. High Street
Columbus, OH 43215

FOR APPELLEE/CROSS-APPELLANT

Biswanath Halder, pro se
Inmate No. 501-980
Mansfield Correctional Institution
P.O. Box 788
Mansfield, OH 44901-0788

KATHLEEN ANN KEOUGH, J.:

{¶ 1} In this consolidated appeal, plaintiff-appellant/cross-appellee, Brian Wallace, Administrator of the Estate of Norman Wallace (“Wallace”), appeals the trial court’s decision denying defendant-appellee/cross-appellant, Biswanath Halder’s (“Halder”), motion for leave to join third-party defendants. Halder also filed a notice of appeal, which this court determined was a timely-filed cross appeal.

{¶ 2} In 2006, Wallace filed a wrongful death complaint alleging that Halder was civilly liable for the death of Norman Wallace. In 2007, Halder filed a motion for leave to join third-party defendants, seeking to join three Case Western Reserve University (“CWRU”) employees as third-party defendants in the wrongful death action. He claimed that these individuals hacked into his computer accounts at CWRU and destroyed his cyber property. He further asserted that he would not have committed the violent actions at CWRU in 2003 had these individuals not deleted his computer files. Based on the alleged conduct of these three individuals, Halder asserted a claim of contribution against them for any judgment rendered against him. The trial court denied Halder’s motion, finding that he “ha[d] no right of contribution from others for committing the murder of Norman Wallace.”

{¶ 3} In 2010, following a jury trial, Halder was found civilly liable for the death of Norman Wallace and judgment was rendered in favor of Wallace against Halder in the amount of \$3.8 million dollars.

APPEAL NO. 95341: HALDER’S APPEAL

{¶ 4} Although Halder filed a notice of appeal, he failed to file a brief in support. Therefore, Halder’s cross-appeal is dismissed pursuant to App.R. 18(C).

{¶ 5} Accordingly, Halder’s appeal is dismissed.

APPEAL NO. 95324: WALLACE'S APPEAL

{¶ 6} In his sole assignment of error, Wallace argues that the trial court erred when it denied Halder's motion for leave to file a third-party complaint and ultimately, determined that Halder had no right of contribution from others for the wrongful death of Norman Wallace.

{¶ 7} We note that although Wallace's notice of appeal indicates that he is appealing from the trial court's May 27, 2010 journal entry denying his May 25, 2010 motion to add John Does 6-8 as parties to this action, Wallace does not make any argument in his merit brief addressing this decision. Rather, Wallace's arguments in his sole assignment of error relate only to the trial court's decision denying Halder's 2007 motion for leave to file a third-party complaint and concluding that Halder had no right of contribution.

{¶ 8} App.R. 3(D) provides, in pertinent part, that the notice of appeal "shall designate the judgment, order or part thereof appealed from * * *." Wallace's notice of appeal only designates only the trial court's order denying his May 2010 motion as the order or judgment appealed from.

{¶ 9} It is axiomatic that the notice of appeal must specify the judgment being appealed. See App.R. 3(D); *State v. Pond*, Cuyahoga App. No. 91061, 2009-Ohio-849, ¶4. Therefore, we lack jurisdiction to consider any assignment of error regarding Halder's 2007 motion and subsequent order

denying said motion. See *Slone v. Bd. of Embalmers & Funeral Dirs.* (1997), 123 Ohio App.3d 545, 704 N.E.2d 633; *Parks v. Baltimore & Ohio RR.* (1991), 77 Ohio App.3d 426, 427, 602 N.E.2d 674 (holding that a court of appeals lacks jurisdiction to review a judgment or order that is not designated in the notice of appeal).

{¶ 10} Accordingly, Wallace's appeal is dismissed.

Appeals dismissed.

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.

KATHLEEN ANN KEOUGH, JUDGE

SEAN C. GALLAGHER, P.J., and
KENNETH A. ROCCO, J., CONCUR