

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
WARREN COUNTY

WESBANCO BANK, INC.,	:	CASE NO. CA2026-03-039
Appellee,	:	
vs.	:	<u>OPINION AND</u>
	:	<u>JUDGMENT ENTRY</u>
	:	8/17/2026
TROY ANGLES PARKER,	:	
Appellant.	:	
	:	

CIVIL APPEAL FROM WARREN COUNTY COURT OF COMMON PLEAS
Case No. 26CV100285

Flagel & Papakirk, LLC, and Josie A. Croce and Todd Flagel, for appellee.

J. Davis Law Firm, PLLC, and Jamir Davis, for appellant.

OPINION

PIPER, P.J.

{¶ 1} Appellant, Troy Angles Parker, filed a notice of appeal from a Warren County Court of Common Pleas order dated February 23, 2026, which entered a cognovit judgment against him and in favor of appellee, WesBanco Bank, Inc., in the amount of \$146,416.25, plus interest.¹ The common pleas court entered the order after Parker's trial

1. Pursuant to Loc.App.R. 6(A), we sua sponte remove this appeal from the accelerated calendar for purposes of issuing this opinion.

counsel confessed judgment against Parker on Counts 1, 2, and 3 of WesBanco's cognovit complaint.² In those three counts, WesBanco alleged, with supporting documentation attached, that Parker was the guarantor of three cognovit promissory notes that had since fallen into default, thereby obligating Parker, in his individual capacity, to pay and make WesBanco whole with respect to each of those three notes.

{¶ 2} "A cognovit promissory note is a special type of commercial paper by which a debtor authorizes a creditor, in the event of the debtor's default on his payment obligation, to obtain an immediate judgment against him without prior notice or an opportunity to be heard." *Sutton Bank v. Progressive Polymers, LLC*, 2020-Ohio-5101, ¶ 12. "Cognovit promissory notes are expressly permitted by Ohio law." *Hilliard Lending, LLC v. H-9, LLC*, 2026-Ohio-1907, ¶ 11 (9th Dist.). "At bottom, 'the purpose of a cognovit note is to allow the holder of the note to quickly obtain judgment, without the possibility of a trial.'" *Sutton Bank*, quoting *Sky Bank v. Colley*, 2008-Ohio-1217, ¶ 7 (10th Dist.). That is, "[a] cognovit note effectively eliminates the debtor's opportunity to be heard before judgment is rendered." *Waldman Financial v. Digital Color Imaging, Inc.*, 2006-Ohio-4077, ¶ 9 (9th Dist.).

{¶ 3} As the basis for his appeal, rather than mounting any meaningful challenge to the cognovit judgment that the common pleas court entered against him, Parker has instead moved this court to vacate the common pleas court's judgment. He made this request pursuant to Civ.R. 60(B). However, it is well established that "Civ.R. 60(B) does not apply to appellate proceedings." *Lane v. U.S. Bank N.A.*, 2024-Ohio-4884, ¶ 9 (10th Dist.), citing *Martin v. Roeder*, 1996-Ohio-451, ¶ 4 (holding that Civ.R. 60[B] is "clearly inapplicable" when reviewing a trial court's judgment on appeal). For this court to grant

2. Parker's trial counsel was different than his current appellate counsel now representing him in this appeal.

relief under Civ.R. 60(B) in a direct appeal would be tantamount to issuing an advisory opinion. It would also undermine the basic purpose for which Civ.R. 60(B) was originally provided, namely, to allow trial courts to vacate voidable judgments due to mistake, inadvertence, excusable neglect, newly discovered evidence, fraud, etc. See Staff Note, Civ.R. 60(B).

{¶ 4} For Civ.R. 60(B) to apply, rather than moving this court to vacate the court's judgment, Parker must instead request the common pleas court to vacate its judgment and show, upon such terms as are just, that he is entitled to relief under any one of the grounds stated in Civ.R. 60(B)(1) through (5). This includes, for example, fraud, misrepresentation, or other misconduct of an adverse party. Civ.R. 60(B)(3). Only then, after the common pleas court has issued a decision on the Civ.R. 60(B) motion, may this court review whether the common pleas court erred in deciding the motion in the manner that it did. See App.R. 12(A)(1)(a). Therefore, because Civ.R. 60(B) does not apply to appellate proceedings, we dismiss Parker's appeal.

{¶ 5} Appeal dismissed.

M. POWELL and SIEBERT, JJ., concur.

JUDGMENT ENTRY

Upon consideration of the appeal and briefs before this court and the above Opinion, it is the order of this court that this appeal should be, and hereby is, dismissed because appellant requests that this court grant relief under Civ.R. 60(B), which does not apply to appellate proceedings and would be tantamount to this court issuing an advisory opinion.

It is further ordered that a mandate be sent to the Warren County Court of Common Pleas for execution upon this judgment and that a certified copy of this Opinion and Judgment Entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed to appellant.

/s/ Robin N. Piper, Presiding Judge

/s/ Mike Powell, Judge

/s/ Melena S. Siebert, Judge