[Cite as *Watchman v. Prigge*, 2026-Ohio-4656.]

IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
HENRY COUNTY

DIANA WACHTMAN, TREASURER OF HENRY COUNTY

PLAINTIFF-APPELLEE,

v.

MATTHEW T. PRIGGE,

DEFENDANT-APPELLEE

-And-

DOUGLAS A. PELMEAR,

DEFENDANT-APPELLANT.

CASE NO. 7-26-05

OPINION AND JUDGMENT ENTRY

Appeal from Henry County Common Pleas Court
Trial Court No. 21CV082

Judgment Affirmed

Date of Decision: November 23, 2026

APPEARANCES:

***Douglas Alan Pelmear,* Appellant**

ZIMMERMAN, P.J.

{¶1} Defendant-appellant, Douglas A. Pelmear ("Pelmear"), pro se, appeals the April 13, 2026 judgment of the Henry County Court of Common Pleas denying his Civ.R. 60(B) motion for relief from judgement from the trial court's January 6, 2022 judgment entry dismissing the foreclosure action without prejudice. For the reasons that follow, we affirm.

{¶2} Defendant-appellee, Matthew T. Prigge ("Prigge"), owns the property—a decommissioned schoolhouse—at the center of this dispute, holding title via a deed recorded in Volume 2, Page 567 of the Henry County Official Records. Prigge previously allowed Pelmear to store personal property on the premises. After voluntarily paying over $14,000 to halt a prior 2017 tax foreclosure action against Prigge, Pelmear recorded what he characterized as a "federal common law lien" against the property.[1] *Henry Cty. Land Reutilization Corp. v. Pelmear*, 2023-Ohio-2718, ¶ 6 (3d Dist.).

{¶3} On October 14, 2021, Diana Wachtman ("Wachtman"), Treasurer of Henry County, Ohio, filed a subsequent foreclosure complaint against Prigge and Pelmear. The complaint alleged that the property was subject to a lien for $10,660.87 in unpaid taxes, penalties, and interest. Wachtman further asserted that

[1] In Pelmear's 2023 appeal in an eviction case, this court stated that "Pelmear's claim to a federal common law lien on real property is . . . entirely without legal merit." *Henry Cty. Land Reutilization Corp. v. Pelmear*, 2023-Ohio-2718, ¶ 32, fn. 3 (3d Dist.).

Pelmear might claim an interest in the property by virtue of his previously recorded $14,308.30 lien, which was filed in Volume 310, Page 678 of the Henry County Official Records.

{¶4} Pelmear filed an answer to the foreclosure complaint on December 6, 2021. While the action was pending, Prigge agreed to transfer the property to the Henry County Land Reutilization Corporation (the "Land Bank") in lieu of foreclosure. Accordingly, on January 5, 2022, Prigge executed a quitclaim deed transferring ownership of the property to the Land Bank. *See id.* at ¶ 8. Because of this transfer, Wachtman moved to dismiss the foreclosure complaint without prejudice on January 5, 2022, which the trial court granted the following day. Contesting the dismissal, Pelmear filed a motion requesting a hearing, which the trial court denied. Subsequently, the Land Bank initiated and ultimately prevailed in a forcible entry and detainer action to evict Pelmear from the premises. *See id.* at ¶ 9, 14, 33.

{¶5} Following his eviction, Pelmear continued to challenge the validity of the January 5, 2022 property transfer through collateral litigation. *See id.*; *State ex rel. Pelmear v. Henry Cty. Land Reutilization Corp.*, 2025-Ohio-4998 (3d Dist.). On January 4, 2024, Pelmear initiated a mandamus action alleging that the Land Bank violated Ohio's Open Meetings Act by accepting the deed in lieu of foreclosure without a properly noticed public meeting. We ultimately affirmed the trial court's determination that Pelmear failed to meet his burden of proving the

Land Bank violated the Open Meetings Act's public notice requirements regarding the transfer.

{¶6} On February 13, 2026, Pelmear filed a Civ.R. 60(B) motion in this case, requesting the trial court to "reopen this case, vacate the dismissal, and set this case for immediate hearing . . . ." (Doc. No. 27). In his motion, Pelmear argued that relief should be granted under three specific provisions of Civ.R. 60(B)—namely, Civ.R. 60(B)(2), (3), and (5).

{¶7} On April 13, 2026, the trial court denied Pelmear's Civ.R. 60(B) motion after concluding that his motion was untimely and inapplicable to Civ.R. 60(B)(5). Relevantly, the trial court determined that, while Civ.R. 60(B)(5) is not subject to the one-year time constraint, Pelmear's reliance on that section was misplaced because it is not applicable when one of the other more specific Civ.R. 60(B) grounds applies. The trial court found that Civ.R. 60(B)(2) and (3) applied to his claims but were time-barred.

{¶8} Pelmear filed his notice of appeal on May 7, 2026.[2] He raises one assignment of error for our review.

Assignment of Error

The Trial Court Erred By Not Granting Relief Pursuant To Civ.R. 60(B)(5) From Fraud On The Court Which Failed to Afford The Defendant Minimum Due Process Protections

[2] The appellees did not file an appellee's brief in this case. Under such "circumstances, App.R. 18(C) provides that we 'may accept the appellant's statement of the facts and issues as correct and reverse the judgment if appellant's brief reasonably appears to sustain such action.'" *Prater v. Mullins*, 2013-Ohio-3981, ¶ 4, fn. 1 (3d Dist.), quoting *Heilman v. Heilman*, 2012-Ohio-5133, ¶ 16 (3d Dist.).

Contained In The Fifth Amendment And Fourteenth Amendments Requiring Notice And An Opportunity To Be Heard.

{¶9} In his assignment of error, Pelmear argues that the trial court erred by denying his Civ.R. 60(B) motion because the underlying dismissal was procured through a fraud on the court that deprived him of his constitutional right to due process. Specifically, he contends that the trial court improperly evaluated his allegations under Civ.R. 60(B)(3) rather than Civ.R. 60(B)(5), which caused the trial court to erroneously dismiss his request for relief as time-barred.

Standard of Review

{¶10} We review a trial court's denial of a motion for relief from judgment pursuant to Civ.R. 60(B) for an abuse of discretion. *Bish Constr., Inc. v. Wickham*, 2013-Ohio-421, ¶ 14 (3d Dist.). An abuse of discretion suggests the trial court's decision is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

Analysis

{¶11} "Civ.R. 60(B) provides litigants with a vehicle to seek relief from a final judgment." *Urdiales v. Latin Am. Club of Defiance Ohio*, 2026-Ohio-1239, ¶ 13 (3d Dist.). "To prevail on a Civ.R. 60(B) motion, the movant must establish that (1) a meritorious claim or defense exists to be presented if relief from judgment is granted; (2) one of the grounds listed in Civ.R. 60(B)(1)-(5) entitles the movant to relief; and (3) the timeliness requirements set forth in Civ.R. 60(B) have been

satisfied." *Id.*, citing *GTE Automatic Elec., Inc. v. ARC Industries, Inc.*, 47 Ohio St.2d 146, 150-151 (1976). "If the movant fails to establish any of the three prongs of this *GTE* test, the trial court should deny the Civ.R. 60(B) motion." *Id.*

{¶12} Under the timeliness prong, "[a] motion made pursuant Civ.R. 60(B)(1)-(3) must be filed within a reasonable time that is 'not more than one year after the judgment . . . .'" *Id.* at ¶ 18, quoting Civ.R. 60(B). Conversely, a motion made pursuant to the "catchall" provision in Civ.R. 60(B)(5) is not subject to the strict one-year limit and need only be made within a "reasonable time." *Id.* Whether a motion is filed within a reasonable time rests within the sound discretion of the trial court and depends upon the specific facts and circumstances of each case. *Id.*

{¶13} Based on our review of the record, we conclude that the trial court was without jurisdiction to consider Pelmear's Civ.R. 60(B) motion. By its express language, Civ.R. 60(B) permits a trial court to grant relief only from a final judgment, order, or proceeding. *Smith v. Wells*, 2024-Ohio-3243, ¶ 8 (3d Dist.). A voluntary dismissal without prejudice under Civ.R. 41(A) does not operate as an adjudication on the merits and is therefore not a final judgment from which Civ.R. 60(B) can afford relief. *Id.* Rather, "'once a plaintiff voluntarily dismisses all claims against a defendant, the court is divested of jurisdiction over those claims.'" *Id.*, quoting *State ex rel. Fifth Third Mtge. Co. v. Russo*, 2011-Ohio-3177, ¶ 17.

{¶14} In this case, Wachtman moved to dismiss the foreclosure action without prejudice after the property was transferred to the Land Bank, and the trial

court granted the motion. Because the trial court's January 6, 2022 entry dismissing the case without prejudice did not constitute an adjudication on the merits, there was no final judgment for the trial court to vacate. *Accord id.* at ¶ 9. As a result, the trial court lacked jurisdiction to entertain Pelmear's Civ.R. 60(B) motion. *Accord id.* at 9-10 (noting that although the trial court denied the motion rather than dismissing it, the ultimate result is the same because a voluntarily dismissed case cannot be reopened).

{¶15} Moreover, even if the trial court had jurisdiction to consider Pelmear's Civ.R. 60(B) motion, it is highly doubtful that Pelmear could establish a meritorious claim to present if relief were granted, given this court's previous position that "Pelmear's claim to a federal common law lien on real property is . . . entirely without legal merit." *Henry Cty. Land Reutilization Corp.*, 2023-Ohio-2718, at ¶ 32, fn. 3 (3d Dist.).

{¶16} Consequently, Pelmear's assignment of error is overruled.

{¶17} Having found no error prejudicial to the appellant herein in the particulars assigned and argued, we affirm the judgment of the trial court.

Judgment Affirmed

MILLER and WALDICK, J.J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, the assignment of error is overruled and it is the judgment and order of this Court that the judgment of the trial court is affirmed with costs assessed to Appellant for which judgment is hereby rendered. The cause is hereby remanded to the trial court for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. *See* App.R. 30.

William R. Zimmerman, Judge

Mark C. Miller, Judge

Juergen A. Waldick, Judge

DATED:
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