

COURT OF APPEALS  
GUERNSEY COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

JOHN WESTFALL	:	JUDGES:
RICHARD WESTFALL	:	W. Scott Gwin, P.J.
Plaintiff-Appellant	:	William B. Hoffman, J.
	:	Julie A. Edwards, J.
-vs-	:	
	:	Case No. 02CA19
	:	
JAMES GRANITSAS	:	
Defendant-Appellee	:	<u>OPINION</u>

CHARACTER OF PROCEEDING:	Civil appeal from the Guernsey County Court of Common Pleas, Case No. 02CV182
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JUDGMENT:	Affirmed
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DATE OF JUDGMENT ENTRY:	April 25, 2003
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APPEARANCES:

For Plaintiff-Appellant	For Defendant-Appellee
JOHN T. WEST PRO SE	JAMES GRANITSAS PRO SE
P.O. Box 201	139 West 8 <sup>th</sup> Street
Cambridge, OH 43723	Cambridge, OH 43725

*Gwin, P.J.*

{¶1.} Plaintiffs John and Richard Westfall appeal a judgment of the Court of Common Pleas of Guernsey County, Ohio, dismissing their complaint for failure to state a claim

upon which relief can be granted. Although appellants failed to set forth a specific assignment of error, their *pro se* brief argues if they were allowed to explain their claim more thoroughly in the common pleas court, they could pursue their action.

{¶2.} Civ. R. 12 (B) (6) provides the trial court with an opportunity to review the complaint and avoid unnecessary delay if it determines, construing as true all the material and allegations in the complaint, and all reasonable inferences be drawn therefrom, in favor of the non-moving party, nevertheless finds the plaintiff could prove no set of facts in support of his or her claim that would entitle him or her to relief, see *Hester v. Dwivedi*, 89 Ohio St. 3d 575, 2000-Ohio-230, 733 N.E. 2d 1161, citations deleted. The trial court's review is limited to the complaint.

{¶3.} Appellants' complaint, filed April 19, 2002, alleges appellee has acted to libel and slander himself regarding facts about appellants' father's will, as well as about appellants.

{¶4.} Our review of the complaint leads us to agree with the trial court it does not contain sufficient allegations to demonstrate appellants are entitled to relief.

{¶5.} In addition, the complaint does not contain a prayer for relief which the court has jurisdiction to grant.

{¶6.} We find the trial court did not err in dismissing the within for failure to state a claim upon which relief may be granted.

{¶7.} For the forgoing reasons, the judgment of the Court of Common Pleas of Guernsey County, Ohio, is affirmed.

Judgment affirmed.

Hoffman and Edwards, JJ., concur.

Topic: Civil Procedure – Civ. R. 12 (B)(6)

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JUDGES

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