

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
STARK COUNTY, OHIO

YALANDA WISDOM,

Plaintiff - Appellant

-vs-

OSCAR'S TOWING & RECOVERY,

Defendant - Appellee

Case No. 2026CA00129

Opinion & Judgment Entry

Appeal from the Court of Common Pleas
of Stark County, Case No. 2026CV00774

Judgment: Affirmed

Date of Judgment: September 28, 2026

BEFORE: Andrew J. King, Robert G. Montgomery, and David M. Gormley, Judges

APPEARANCES: Yalanda Wisdom briefed the case on her own behalf as Plaintiff-Appellant; Adam M. Runkle and Frank A. Lucas (Starkey & Runkle, LLC), Hartville, Ohio, for Defendant-Appellee.

Gormley, J.

{¶1} Plaintiff Yalanda Wisdom appeals the trial court's judgment dismissing her complaint against defendant Oscar's Towing & Recovery. The towing company, which had towed Wisdom's vehicle at the direction of a law-enforcement agency, kept that vehicle for several months waiting for Wisdom to pay accrued towing and storage fees. Because Wisdom failed to allege in her complaint a claim against Oscar's Towing that would relieve her of the obligation to pay those fees, we affirm the trial court's judgment dismissing Wisdom's complaint.

The Key Facts

{¶2} In October 2025, Wisdom's vehicle, which she was driving when she allegedly committed a traffic offense, was towed by Oscar's Towing at the direction of a law-enforcement agency. In December 2025, the Canton Municipal Court issued an order

allowing the vehicle to be released. Oscar's Towing, though, refused to release the vehicle to Wisdom until she paid any accrued towing and storage fees.

{¶3} Wisdom filed a complaint seeking damages from Oscar's Towing's for refusing to return her vehicle. Wisdom attached to her complaint a copy of the vehicle-release order issued by the Canton Municipal Court. Wisdom filed, as well, a motion requesting the immediate release of the vehicle. The trial court promptly denied that motion, finding that the Canton Municipal Court, in addressing a similar request that Wisdom had filed there, had determined that any release order did not relieve Wisdom of her obligation to pay the towing company's fees.

{¶4} Oscar's Towing then filed in the trial court a motion to dismiss Wisdom's complaint for failing to state a claim upon which relief could be granted. The trial court granted the motion and dismissed Wisdom's complaint with prejudice. Wisdom now appeals.

Deficiencies in Wisdom's Appellate Brief

{¶5} We begin by addressing several shortcomings in Wisdom's appellate brief and in the presentation of the issues that she asks us to review.

{¶6} In several key ways, Wisdom had failed to comply with Appellate Rule 16. Her brief does not contain: a table of contents with page references (App.R. 16(A)(1)); a table of cases, statutes, and other authorities cited, along with references to the pages of the brief where those authorities are cited (App.R. 16(A)(2)); a statement of the assignments of error, together with reference to the place in the record where each alleged error is reflected (App.R. 16(A)(3)); a statement of the issues presented for review, along with references to the assignments of error to which each issue relates (App.R. 16(A)(4)); a statement of facts

relevant to the assignments of error, together with appropriate references to the record (App.R. 16(A)(6)); and an argument containing appellant's contentions with respect to each assignment of error and the reasons in support of those contentions, along with citations to the authorities, statutes, and parts of the record on which the appellant relies (App.R. 16(A)(7)).

{¶7} This court “may disregard an assignment of error presented for review if the party raising it fails to identify in the record the error on which the assignment of error is based or fails to argue the assignment separately in the brief.” App.R. 12(A)(2). We understand that Wisdom has filed this appeal without the assistance of legal counsel, but the Supreme Court of Ohio has “repeatedly declared that ‘pro se litigants . . . must follow the same procedures as litigants represented by counsel.’” *State ex rel. Neil v. French*, 2018-Ohio-2692, ¶ 10, quoting *State ex rel. Gessner v. Vore*, 2009-Ohio-4150, ¶ 5. Non-attorney litigants who choose to represent themselves in court are also “‘presumed to have knowledge of the law and legal procedures and . . . are held to the same standard as litigants who are represented by counsel.’” *State ex rel. Fuller v. Mengel*, 2003-Ohio-6448, ¶ 10, quoting *Sabouri v. Ohio Dept. of Job & Family Servs.*, 145 Ohio App.3d 651, 654 (10th Dist. 2001).

{¶8} Wisdom tells us that she has been unable to afford an attorney to assist her in the trial court and now here. Without the assistance of counsel, Wisdom has attempted to present her arguments to the court in a manner that conforms with the Rules of Appellate Procedure. Although the deficiencies in Wisdom's brief could reasonably justify the dismissal of her appeal, we find that Wisdom has provided enough information to allow us to discern the assignments of error that she intends to present. In the “interests of justice and finality, we elect to review the appeal.” *Foster v. Stuff*, 2025-Ohio-5584, ¶ 14 (5th Dist.).

Wisdom Has Failed to State a Claim Upon Which Relief Can Be Granted

{¶9} Wisdom appeals the trial court’s judgment granting the towing company’s motion to dismiss her complaint. The trial court found that Wisdom’s complaint failed to state any claims upon which relief could be granted.

{¶10} Notably, of course, Ohio is a notice-pleading state, and so “a plaintiff is not required to prove his or her case at the pleading stage.” *York v. Ohio State Highway Patrol*, 60 Ohio St.3d 143, 144–145 (1991). Civil Rule 8(A) requires only “a short and plain statement of the claim showing that the party is entitled to relief.”

{¶11} When considering, under Civil Rule 12(B)(6), a motion to dismiss for failure to state a claim upon which relief can be granted, a trial court determines whether, based on the allegations in the pleading, the plaintiff can prove any set of facts entitling him to recovery. *O’Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242, 245 (1975). All factual allegations in the pleading must be taken as true, and all reasonable inferences must be drawn in favor of the nonmoving party. *Mitchell v. Lawson Milk Co.*, 40 Ohio St.3d 190, 192 (1988). Unsupported conclusions in a pleading, however, are not considered true and are not sufficient to withstand a motion to dismiss. *Armatas v. Haws*, 2018-Ohio-1371, ¶ 17 (5th Dist.) citing *State ex rel. Hickman v. Capots*, 45 Ohio St.3d 324 (1989). We review anew a trial court’s decision granting a motion to dismiss and give no deference to that judgment. *Armatas v. Aultman Hospital*, 2022-Ohio-4376, ¶ 11 (5th Dist.).

{¶12} “[C]ourts cannot rely on evidence or allegations outside the complaint to determine a Civ.R. 12(B)(6) motion.” *State ex rel. Fuqua v. Alexander*, 79 Ohio St.3d 206, 207 (1997). A court may, however, consider material incorporated within the complaint as part

of that pleading without the need to convert the Civ.R. 12(B)(6) motion into a summary-judgment motion. *Midgett v. Sheldon*, 2021-Ohio-3096, ¶ 10 (5th Dist.).

{¶13} Because Wisdom’s appellate brief does not comply with the Rules of Appellate Procedure by setting forth assignments of error for our review, we have on our own, from the narrative argument in Wisdom’s appellate brief, identified the following assignments of error.

{¶14} We first note that Wisdom’s appellate brief relies on facts that are not in the record. “[T]his Court does not have discretion and must disregard facts, arguments, or evidence presented in the appellate brief when those facts, arguments, or evidence were not presented to the trial court.” *State v. McRae*, 2026-Ohio-2631, ¶ 14 (5th Dist.). “[A] reviewing court cannot add matter to the record before it that was not a part of the trial court’s proceedings” and then “decide the appeal on the basis of the new matter.” *State v. Hooks*, 92 Ohio St.3d 83, 83 (2001). We will, therefore, disregard any facts in Wisdom’s appellate brief that are not drawn from the trial-court record. *McRae* at ¶ 14.

Wisdom Failed to Plead a Violation of an Ohio Administrative Rule or Statute

{¶15} Wisdom first argues that Oscar’s Towing has charged a daily storage fee that exceeds what is permitted under Ohio law. Wisdom alleged in her complaint that the towing company charged a daily rate of \$40, which exceeds, she says, a \$22 daily rate prescribed by the Ohio Administrative Code.

{¶16} Wisdom acknowledged in her complaint that her vehicle was towed by the towing company at the direction of a law-enforcement agency after she allegedly committed a traffic offense that is not at issue here. Wisdom relies on the maximum fees for towing and storage that are set forth in Ohio Administrative Code 4901:2-24-03. That rule applies to charges by either towing services or storage facilities for the removal of vehicles under R.C.

4513.60 and R.C. 4513.601. The statutes referred to in the rule govern the removal and storage of vehicles that have been left on *private* property. See R.C. 4513.60 and R.C. 4513.601.

{¶17} Because Wisdom’s vehicle was not towed under the circumstances described in R.C. 4513.60 and R.C. 4513.601, the fees set forth in Ohio Administrative Code 4901:2-24-03 do not apply. Oscar’s Towing cannot be found to have violated a rule that does not apply to the towed-from-a-public-roadway circumstance described in Wisdom’s complaint.

{¶18} Wisdom’s argument that she is entitled to damages under R.C. 4513.611 does not fare any better. That statute provides for civil actions against towing services and storage facilities for specified violations. In her complaint, Wisdom alleged that Oscar’s Towing refused to release her vehicle and demanded illegal fees, thereby committing what she describes as a “major violation” under R.C. 4513.611(A)(2).

{¶19} “Major violations” listed in the statute include failing to give notification that an owner may trigger the immediate release of a vehicle by paying a fee of “not more than one-half of the fee for the removal of the vehicle,” as well as failing to release a vehicle upon receiving this payment. R.C. 4513.611(A)(2)(a) and (b). Other “major violations” include refusing to allow a vehicle owner to reclaim a vehicle upon the payment of applicable fees established by the Public Utilities Commission, refusing to allow a vehicle owner to retrieve personal items from a vehicle, failing to provide notice to the appropriate law-enforcement agency within two hours of removing a vehicle, failing to send notice to the owner that the vehicle has been towed, and failing to display the certificate number from the towing company’s certificate of public convenience and necessity. R.C. 4513.611(A)(2)(c)–(g).

{¶20} Wisdom did not allege that she paid any fees to Oscar’s Towing and instead argued that she is not responsible for paying the fees. And Wisdom did not allege in her complaint any of the other violations in R.C. 4513.611(A)(2). It is not a violation of that statute for Oscar’s Towing to refuse to release Wisdom’s vehicle until she pays the towing and storage fees.

{¶21} Because Wisdom failed to plead a violation of Ohio Administrative Code 4901:2-24-03 or R.C. 4513.611, her complaint failed to state a claim upon which relief could be granted for excessive fees or for a “major violation.”

Wisdom Failed to State a Claim for Relief Based on a Violation of the Municipal Court’s Order

{¶22} Wisdom next argues that Oscar’s Towing has continued to charge a daily storage fee in violation of an order issued by the Canton Municipal Court in her underlying traffic case. Wisdom alleged in her complaint that the towing company’s refusal to comply with the court’s order has caused monetary damage to her.

{¶23} The judge who presided over Wisdom’s traffic case issued a “Judgment Entry (Relief from Vehicle Penalty)” in December 2025. That entry ordered that Wisdom’s vehicle and license plates be released to her, but it said nothing about the payment of any towing and storage fees.

{¶24} The municipal court’s vehicle-release order could not, in fact, address the issue that Wisdom raises here because a trial court in a criminal or traffic case has no authority to deprive a third party, such as a towing company, of the possession of personal property in which that party has asserted an interest. *State v. White*, 2018-Ohio-2573, ¶ 15 (2d Dist.). *See also Wacksman v. Harrell*, 174 Ohio St. 338, 342 (1963) (“it is axiomatic that one may not be deprived of property in his possession in a proceeding to which he is not a party”). Oscar’s

Towing had no opportunity to assert its rights in Wisdom's municipal-court case because that towing company was not a party to that case.

{¶25} In a situation where a law-enforcement agency directs a third party to tow a vehicle in connection with a criminal or traffic charge, the remedy for an owner seeking to recover the vehicle lies not in the criminal or traffic case but rather in an appropriate civil proceeding. *White* at ¶ 15, citing *State v. Labriola*, 1983 Ohio App. LEXIS 14407, *6 (9th Dist. Feb. 9, 1983). Although Wisdom sought relief through a civil proceeding, she wrongly relies on the municipal court's traffic-case judgment entry as the basis for her claim that Oscar's Towing has refused to comply with that court's vehicle-release order.

{¶26} Because the municipal-court order does not govern the fee-related dispute between Wisdom and the towing company, Wisdom's complaint alleging a violation of that order does not state a claim upon which any relief could be granted.

Wisdom Failed to State a Claim for Conversion

{¶27} Wisdom also argues that Oscar's Towing has wrongly converted her property by demanding the full payment of fees that she cannot afford. We construe this argument as one that assigns error to the trial court's decision to dismiss Wisdom's conversion claim.

{¶28} Conversion is defined as "the wrongful exercise of dominion over property to the exclusion of the rights of the owner" or the act of "withholding it from his possession under a claim inconsistent with his rights." *Joyce v. General Motors Corp.*, 49 Ohio St.3d 93, 96 (1990). Courts generally find that the following three elements must be established to prove a claim for conversion: "(1) a defendant's exercise of dominion or control; (2) over a plaintiff's property; and (3) in a manner inconsistent with the plaintiff's rights of ownership." *Heflin v.*

Ossman, 2005-Ohio-6876, ¶ 20 (5th Dist.), citing *Cozmyk Ent., Inc. v. Hoy*, 1997 Ohio App. LEXIS 2864, *12 (10th Dist. June 30, 1997).

{¶29} Wisdom contends that a law-enforcement agency acted under the authority provided in R.C. 4513.61 when it ordered her vehicle to be towed. The circumstances of the underlying offense and why the law-enforcement agency caused Wisdom’s car to be towed are not in the record before this court. Even if we assume that the law-enforcement agency acted under the authority of R.C. 4513.61 in arranging for the removal of Wisdom’s vehicle by a towing service, that statute provides that the vehicle owner “is responsible for payment of any expenses or charges incurred in its removal and storage.” R.C. 4513.61(C)(2).

{¶30} Wisdom admits that she has not paid the towing and storage fees, and we agree with the trial court that her failure to do so defeats any claim for conversion. Although Oscar’s Towing is exercising control over Wisdom’s vehicle, that control cannot be described as inconsistent with Wisdom’s right of ownership where she has failed to pay the fees that she is required by law to pay.

{¶31} For these reasons, the judgment of the Court of Common Pleas of Stark County is affirmed. Costs are to be paid by Appellant Yalanda Wisdom.

By: Gormley, J.;

King, P.J. and

Montgomery, J. concur.