

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

Naeem Triplett, et al.

Court of Appeals No. L-26-00111

Appellant

Trial Court No. CVF-25-17958

v.

Lynnboro LLC

DECISION AND JUDGMENT

Appellee

Decided: September 29, 2026

* * * * *

Naeem Triplett and Degan Smith, pro se appellants.

Douglas A. Wilkins, for appellee.

* * * * *

DUHART, J.

{¶ 1} Appellants, Naeem Triplett and Degan Smith, appeal from the judgment of the Toledo Municipal Court denying their Civ.R. 60(B) motion for relief from judgment and entering judgment against them and in favor of appellee, Lynnboro LLC. For the reasons that follow, the trial court’s judgment is affirmed.

Background and Facts

{¶ 2} On October 16, 2025, appellants filed a complaint against their former landlord, appellee, to secure a monetary judgment relating to their former tenancy at 1665 Palmwood, Toledo, OH 43607. After an unsuccessful mediation on February 9, 2026, the case was scheduled for trial on March 12, 2026.

{¶ 3} Appellee appeared for trial on March 12, 2026, with counsel. Appellants failed to appear. Appellee proceeded to offer testimony and exhibits in support of its counterclaim and it moved to dismiss appellants' complaint. Judgment was awarded in favor of appellee and against appellants, and the matter was continued for the submission of a judgment entry.

{¶ 4} Almost immediately after the trial was concluded on March 12, 2026, appellants filed a motion for relief from judgment pursuant to Civ.R. 60(B). In the motion, appellants alleged that their failure to appear was due to car trouble that had prevented them from reaching the courthouse in time for the scheduled trial and, as such, constituted excusable neglect. The trial court docket reflected a deadline of March 30, 2026, for appellee to respond to appellants' motion. Appellee never filed a response.

{¶ 5} On March 19, 2026, the trial court issued a formal judgment entry in favor of appellee and against appellants, in the amount of \$2,048.39, plus interest and costs.

{¶ 6} The same day, the trial court issued a second judgment entry denying appellants' motion for relief from judgment. In that judgment entry, the trial court stated in relevant part:

In the matter at hand, Plaintiffs attribute their failure to appear to a mechanical error in their transportation. The court notes that no efforts were made to contact the court and no emergency motions were filed in the duration of time immediately prior to the court opening its docket and the case being called onto the record. Plaintiffs were given a standard amount of time to appear past the scheduled hearing time of 9:00 am. No documentation or sworn affidavit is attached to Plaintiffs' motion. The court finds that no grounds exist under Civ.R. 60(B), including excusable neglect, which entitle Plaintiffs to relief. As Plaintiffs have failed to demonstrate a single prong of the [test set forth in *G.T.E. Automatic Electric, Inc. v. A.R.C. Industries*, 47 Ohio St.2d 146 (1976)], further examination of the other prongs is moot. Plaintiffs' Motion for Relief is not well-taken.

The court therefore affirms the judgment entered on Mar. 12, 2026 and accepts Defendant's tendered judgment entry.

{¶ 7} On March 27, 2026, appellants filed a supplemental memorandum and affidavit in support of their motion for relief from judgment. Included with the filing was a towing company invoice together with an affidavit by appellants explaining how the car had become inoperable on the way to court and needed to be towed, thus preventing appellants from arriving at the courthouse in time for the scheduled trial. On March 31, 2026, the trial court deemed the March 27 filing moot for the reason that there was no motion pending.

{¶ 8} Appellants timely appealed the judgment of the trial court.

Assignment of Error

{¶ 9} On appeal, appellants assert the following assignment of error:

- I. The trial court abused its discretion and deprived Appellants of a meaningful opportunity to be heard when it denied Appellants' Civ.R. 60(B) motion only seven days after it was filed, before the response deadline reflected on the docket had

expired, and then refused to consider Appellants' March 27, 2026 supplemental memorandum and affidavit because the motion had already been denied. The error is reflected in the March 19, 2026 Judgment Entry denying relief from judgment, the March 27, 2026 supplemental filing, and the later docket entries stating that no action would be taken because the motion had been denied before the memorandum was filed.

Law and Analysis

{¶ 10} In their sole assignment of error, appellants argue that the trial court should have considered their March 27 supplemental filing because the March 30 response deadline for appellee had not yet expired, and so “motion practice remained open through March 30.”

{¶ 11} Under Civ.R. 60(B), a party may be relieved from a final judgment for the following reasons:

- (1) mistake, inadvertence, surprise or excusable neglect;
- (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(B);
- (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation or other misconduct of an adverse party;
- (4) the judgment has been satisfied, released or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or
- (5) any other reason justifying relief from the judgment.

{¶ 12} A motion filed under Civ.R. 60(B) “shall be made within a reasonable time, and for reasons (1), (2) and (3) not more than one year after the judgment, order or proceeding was entered or taken.” Civ.R. 60(B).

{¶ 13} “The Supreme Court of Ohio has held that ‘[t]o succeed on a motion for relief from judgment under Civ.R. 60(B), a movant must establish (1) a meritorious defense or claim to present, in the event that relief from judgment is granted, (2) entitlement to relief under one of the provisions in Civ.R. 60(B)(1) through (5), and (3) compliance with the rule's time requirements.’” *Ferrell v. Kakika Enterprises, Ltd.*, 2019-Ohio-575, ¶ 17 (6th Dist.), quoting *Bank of Am., N.A. v. Kuchta*, 2014-Ohio-4275, ¶ 11, citing *GTE Automatic Elec., Inc. v. ARC Industries, Inc.*, 47 Ohio St.2d 146 (1976), paragraph two of the syllabus. “If any of the three requirements is not met, the motion should be denied.” *Id.*, citing *Rose Chevrolet v. Adams*, 36 Ohio St.3d 17, 20 (1988).

{¶ 14} In order for a party to prevail on a Civ.R. 60(B) motion, “the allegation of operative facts must be of such evidentiary quality as affidavits, depositions, answers to interrogatories, written admissions, written stipulations, or other sworn testimony.” *Dawson v. Udelsen*, 37 Ohio App.3d 141, 142 (8th Dist. 1987). “[U]nsworn allegations of operative facts contained in a motion for relief from judgment filed under Civ.R. 60(B) or in a brief attached to the motion are not sufficient evidence upon which to grant a motion to vacate judgment,” *RHDK Oil & Gas, LLC v. Willowbrook Coal Co.*, 2024-Ohio-1134, ¶ 43 (5th Dist.). Here, because appellants relied exclusively on unsworn allegations of operative facts, the trial court properly denied appellants’ motion. Given

the trial court's decision, appellants' later-filed supplemental memorandum and affidavit in support of the denied motion were appropriately disregarded as moot.

{¶ 15} To the extent that appellants' March 27 filing could be construed as the filing of a second Civ.R. 60(B) motion, we note that “[r]es judicata prevents the successive filings of Civ.R. 60(B) motions [for] relief from a valid, final judgment when based upon the same facts and same grounds or based upon facts that could have been raised in the prior motion.” *Harris v. Anderson*, 2006-Ohio-1934, ¶ 8, quoting *Beck-Durell Creative Dept., Inc. v. Imaging Power, Inc.*, 2002-Ohio-5908, ¶ 16 (10th Dist.). Because appellants' March 27 filing was based on the same grounds and same facts or was based on facts that could have been raised in their initial Civ.R. 60(B) motion, even if the filing could be construed as a second Civ.R. 60(B) motion -- rather than just a supplement to the first -- it was nevertheless barred by res judicata. *See also Dawson* at 142-143 (where “renewed” motion to vacate judgment, newly supported by the appellee's affidavit, was based on the same facts as the first motion, principles of res judicata prevented the appellee from prevailing on the second motion “especially since the first motion's insufficiency was the result of [the] appellee's own inadvertence”).

{¶ 16} Finally, we address appellants' claim that the trial court erred in ruling on their Civ.R. 60(B) motion before appellee's period to oppose that motion expired. Under Civ.R. 61,

[N]o error or defect in any ruling or order or in anything done or omitted by the court ... is ground for ... vacating, modifying or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice. The court at every stage of the

proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.

{¶ 17} “For an error to be harmless, the appellate court must weigh the prejudicial effect of the error and determine that the outcome would have been the same if the error had not occurred.” *Smith v. Strong*, 2017-Ohio-6918, ¶ 12, citing *Miller v. Defiance Regional Med. Ctr.*, 2007-Ohio-7101, ¶ 20, citing *O’Brien v. Angley*, 63 Ohio St.2d 159, 164 (1980).

{¶ 18} Here, there is no question that appellants were not prejudiced by the trial court having ruled on their motion before appellee responded to it. *See Jabr v. Columbus*, 2023-Ohio-2781, ¶ 16 (trial court’s denial of the appellant’s motion to compel prior to the appellee’s 14-day period to oppose that motion held not to have prejudiced the appellant). Because the outcome would have been the same if the trial court had waited until appellee’s response period had ended before ruling on appellants’ motion, any error that resulted from the trial court’s arguably premature ruling was harmless. Appellants’ sole assignment of error is therefore found not well-taken.

Conclusion

{¶ 19} The judgment of the Toledo Municipal Court is affirmed. Appellant is ordered to pay the costs of appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.
See also 6th Dist.Loc.App.R. 4.

Christine E. Mayle, J

JUDGE

Myron C. Duhart, J

JUDGE

Charles Sulek, J
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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