

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

Union Home Mortgage, et al.

Court of Appeals No. L-25-00273

Appellees

Trial Court No. CI0202302986

v.

Lauren Hinds, et al.

**DECISION AND JUDGMENT**

Appellant

Decided: October 16, 2026

\* \* \* \* \*

Mia L. Conner, for appellee, Union Home Mortgage Corp.

Brady J. Lighthall, for appellee, The Huntington National Bank.

Beau Harvey, pro se, appellant.

\* \* \* \* \*

**SULEK, J.**

{¶ 1} Appellant, Beau Harvey, pro se, appeals the November 20, 2024 judgments of the Lucas County Court of Common Pleas which (1) granted appellee Union Home Mortgage Corporation summary judgment on its foreclosure claim and dismissed the counterclaim of defendant Lauren Hinds and granted judgment on the pleadings as to

Harvey and (2) granted appellee Huntington National Bank default judgment on its cross-claim against Hinds and Harvey. The court then entered a foreclosure decree as to both Harvey and Hinds as co-tenants with survivorship rights, and ordered the sale of the property. Because the record fails to establish that Union Home perfected service of process as to Harvey and that Harvey did not waive the defect, the judgment is reversed, in part, and remanded to the trial court for further proceedings

### **I. Factual and Procedural Background**

{¶ 2} In August 2013, Lauren Hinds, unmarried, executed a promissory note for \$136,704 which was secured by a mortgage on real property located on Timothy Lane in Sylvania, Lucas County, Ohio. Harvey and Hinds became joint tenants of the property with survivorship rights by deed recorded on March 31, 2017. In June 2023, Union Home became the holder of the note. In 2018, Hinds entered into a personal credit line agreement with Huntington, with a \$71,700 limit, which was secured by a mortgage on the Timothy Lane property and signed by Hinds and Harvey.

{¶ 3} On July 7, 2023, Union Home filed a complaint in foreclosure and an amended complaint on July 10. The complaint named Hinds and Harvey as titleholders of the property as well as various lienholders, including Huntington.

{¶ 4} Union Home attempted service of the complaint and amended complaint by certified mail. As to Harvey, there is no evidence in the record, by return of service or otherwise, that Union Home properly served him in accordance with Civ.R. 3(A).

{¶ 5} On September 13, 2023, Hinds filed an answer, asserted fraud and breach of contract counterclaims, and moved to dismiss under Civ.R. 12(B)(6) for failure to state a

claim. Harvey filed no answer, no motion under Civ.R. 12, and no other responsive pleading. He raised no objection to service at any time prior to the foreclosure judgment.

{¶ 6} Huntington filed an answer and cross-claim against Hinds and Harvey claiming that it held a note with a principal of \$71,339.11, which was in default and that it was secured by a valid mortgage on the property. Huntington requested that the mortgage be foreclosed on and that the note be repaid. The record evidences that Huntington served the cross-claim on Harvey and Hinds by certified mail on January 19, 2024.

{¶ 7} On January 30, 2024, the parties participated in court-ordered telephonic mediation, with Hinds and Harvey appearing pro se. The magistrate's report reflects that following discussions, Hinds and Harvey agreed to complete and return a loss mitigation packet and Union Home's counsel would provide reinstatement figures. On March 1, 2024, the magistrate entered a final mediation report stating that "based on the information received from Defendant Beau Harvey, mediation is hereby TERMINATED."

{¶ 8} On March 22, 2024, Union Home moved for summary judgment on its amended complaint and on Hinds' counterclaim. In a separate filing, Union Home moved for judgment on the pleadings as to Harvey and for default judgment as to Capital One Bank and Bank of America. On May 2, 2024, Huntington moved for default judgment on its cross-claim against Hinds and Harvey.

{¶ 9} On September 26, 2024, Judge Mandros requested that the administrative judge reassign the matter to another Lucas County judge. The administrative judge ultimately assigned the matter to Judge Stacy Cook.

{¶ 10} In the interim, on November 20, 2024, a visiting judge granted Union Home summary judgment on its amended foreclosure complaint and dismissed Hinds' counterclaim. The court first concluded that "all necessary parties have been served with Summons according to laws and are properly before the Court." As to Harvey, it found:

[B]ased upon the evidence that Defendant Beau Harvey aka Beauregard M. Harvey, is in default of Motion or Answer but appeared in a limited capacity to participate in court-ordered mediation; based on this limited appearance, Plaintiff's Motion for Judgment on the Pleadings is granted against to [sic] Beau Harvey aka Beauregard M. Harvey.

The court then ordered that the equity of redemption of the property be foreclosed and it be sold.

{¶ 11} In a separate judgment entry, the court granted default judgment on Huntington's cross-claim against Hinds and Harvey finding Hinds in default of the note and Huntington entitled to a foreclosure decree on the mortgage. On December 18, successor Judge Stacy Cook entered a modified judgment entry and foreclosure decree as to Huntington to reflect a recalculation of the debt based on interest rate changes.

{¶ 12} On January 23, 2025, Harvey filed an affidavit with the Ohio Supreme Court seeking to disqualify Judge Dean Mandros from presiding over the matter; the Court summarily denied the request as moot, noting that Judge Mandros had already recused himself.

{¶ 13} Also on January 23, Hinds moved to have the foreclosure judgments vacated based on her assertion that Judge Mandros lacked jurisdiction to sign the October 15, 2024<sup>1</sup> orders after recusing himself on September 26, 2024. Hinds further claimed that Harvey had not been served and that the court failed to follow the scheduling order as set forth in the local rules. Harvey similarly moved to vacate the judgments.

{¶ 14} This appeal followed.

## **II. Assignments of Error**

{¶ 15} Harvey raises five assignments of error for review:

- I. The trial court did not have jurisdiction to enter an order of foreclosure when there is no service over a defendant within one year pursuant to Civil Rule 3(A) rendering all proceedings void ab initio.
- II. The trial court erred by entering orders affecting Beau Harvey's property interest where no service was perfected and no waiver occurred, depriving the court of personal jurisdiction and rendering the foreclosure decree void.
- III. The trial court erred as a matter of law in granting summary judgment.
- IV. The foreclosure decree is void because it was entered during a judicial reassignment by a visiting judge without lawful authority depriving the trial court of the judicial power to enter a final dispositive order.
- V. The proceedings violated appellant's rights to due process and equal protection under the Fifth and Fourteenth Amendments to the United States Constitution and Article I, Sections 1, 2, and 16 of the Ohio Constitution, rendering the foreclosure decree unconstitutional and void.

---

<sup>1</sup>The orders at issue were filed on November 19, 2024, journalized on November 20, and signed by a visiting judge. The court docket reflects an October 15, 2024 add date though the entries each individually state that they were added on November 19.

### III. Preliminary Matters

{¶ 16} Two factors narrow the scope of this appeal. First, Hinds is not a party to it. The filing of a notice of appeal in the trial court—Hinds filed none—invokes the authority of this court. *See* R.C. 2505.04. Second, Harvey, who is not an attorney, may not represent her. Thus, consideration of Harvey’s arguments on appeal are limited to those portions of the judgments directly impacting his interest as a co-tenant of the property.

### IV. Analysis

#### A. Commencement of the Action

{¶ 17} Harvey’s first assignment of error, that the entire action be declared void ab initio, sweeps too broadly. Under Civ.R. 3(A), “[a] civil action is commenced by filing a complaint with the court, if service is obtained within one year from such filing upon *a named defendant...*” (Emphasis added.). The rule “does not require all defendants to have been served for a civil action to be considered commenced.” *Beneficial Ohio, Inc. v. Ellis*, 2009-Ohio-311, ¶ 18; *see also Fong v. Faires*, 2025-Ohio-1032, ¶ 13 (10th Dist.).

{¶ 18} Here, Union Home commenced this civil action when it obtained service on a named defendant (*i.e.*, Hinds) within one year of filing the complaint. Thus, the judgment entered against co-defendant Hinds who signed and defaulted on the notes, and was served, appeared, and litigated is valid. Even if the judgment as to Hinds could be considered voidable, she failed to perfect an appeal in this court to challenge the judgment. Harvey’s first assignment of error is not well-taken.

### **B. Civ.R. 3(A) Service and Personal Jurisdiction**

{¶ 19} Harvey’s second and fifth assignments of contend that the trial court erred by entering orders affecting his property rights where Union Home never served him with the foreclosure complaint and, thus, the action was never commenced and was void ab initio. Appellate review of a trial court’s decision on personal jurisdiction is de novo as a question of law. *Universal Acceptance Corp. v. Colbert*, 2019-Ohio-4377, ¶ 21 (6th Dist.), citing *Fraley v. Estate of Oeding*, 2014-Ohio-452, ¶ 11.

{¶ 20} “Service is an essential component of commencing an action under Civ.R. 3(A) because this is the process through which a court with venue and subject matter jurisdiction ‘asserts jurisdiction over the person of the party served.’” *Messenger v. State*, 2020-Ohio-851, ¶ 11(3d Dist.), quoting *During v. Quoico*, 2012-Ohio-2990, ¶ 25 (10th Dist.), quoting *Mississippi Publishing Corp. v. Murphree*, 326 U.S. 438, 444-45 (1946).

{¶ 21} “‘Inaction upon the part of a defendant who is not served with process, even though he might be aware of the filing of the action, does not dispense with the necessity of service.’” *Gliozzo v. Univ. Urologists of Cleveland, Inc.*, 2007-Ohio-3762, ¶ 16, quoting *Maryhew v. Yova*, 11 Ohio St.3d 154, 157 (1984). The obligation is upon plaintiffs to perfect service of process; defendants have no duty to assist them in fulfilling this obligation. *Maryhew* at 159.

{¶ 22} When service is not properly made, a trial court lacks jurisdiction over the defendant who was not properly served; consequently, any judgment issued against that defendant is void. *Treasurer of Lucas Cty. v. Mt. Airy Invs. Ltd.*, 2019-Ohio-3932, ¶ 12 7.

(6th Dist.), citing *Cavalry Invest., LLC v. Clevenger*, 2005-Ohio-7003, ¶ 9 (6th Dist.). However, as to the served defendant the judgment may be voidable but must be raised either in a motion to vacate or on direct appeal.

{¶ 23} Because proper service is required under Civ.R. 3(A), Civ.R. 12(H) provides the exclusive means by which a party may waive service defects. *Ackman v. Mercy Heath West Hosp., L.L.C.*, 2024-Ohio-3159, ¶ 17. The section relevantly provides:

A defense of lack of jurisdiction over the person, . . . insufficiency of process, or insufficiency of service of process is waived (A) if omitted from a motion in the circumstances described in subdivision (G), or (B) if it is neither made by motion under this rule nor included in a responsive pleading or an amendment thereof permitted by Rule 15(A) to be made as a matter of course.

{¶ 24} Thus, to render a judgment against a defendant who is not served with process, there must be a showing upon the record that the defendant has voluntarily submitted himself to the court’s jurisdiction or committed other acts which constitute a waiver of the jurisdictional defense. *Maryhew* at 156-157. Specifically,

[wa]iver occurs ““(1) if a motion is made raising other Civ.R. 12(B) defenses and it is not included in that motion and (2) if there is no such motion, if it is not raised by separate motion or included in the responsive pleading.”” *Shah v. Simpson*, 10th Dist. Franklin No. 13AP-24, 2014-Ohio-675, 2014 WL 748498, ¶ 15, quoting *Stewart v. Forum Health*, 190 Ohio App.3d 484, 2010-Ohio-4855, 942 N.E.2d 1117, ¶ 36 (7th Dist.), citing *Glozzo v. Univ. Urologists of Cleveland, Inc.*, 114 Ohio St.3d 141, 2007-Ohio-3762, 870 N.E.2d 714, ¶ 9.

*Hubiak v. Ohio Family Practice Ctr.*, 2014-Ohio-3116, ¶ 12 (9th Dist.).

{¶ 25} While a party may affirmatively waive insufficient process under the rule by failing to either include the defense in a responsive pleading or by motion, conversely,

8.

a party's failure to file any responsive pleadings or motions in the matter does not trigger the rule's application. *Maryhew* at 157-159.

{¶ 26} Here, the mere fact that Harvey participated in a limited court-ordered mediation, absent more, does not trigger Civ.R. 12(H)'s waiver provision. Harvey filed no responsive pleadings or motions in the matter until his January 23, 2025 motion to vacate the foreclosure judgment on the basis of failure of service. Union Home's argument that because Huntington independently perfected service on Harvey is likewise unavailing.

{¶ 27} Additionally, Union Home's failure of service as to Harvey and the fact that he filed no responsive pleadings or motions, precludes the court's award of judgment on the pleadings. Under Civ.R. 12(C), [a]fter the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings." Where a party fails to file an answer, the pleadings are not "closed" as contemplated by the rule. *Adlaka v. Giannini*, 2006-Ohio-4611, ¶ 25 (7th Dist.), citing *State ex rel. Kaylor v. Bruening*, 80 Ohio St.3d 142, 143 (1997); *Crenshaw v. Howard*, 2022-Ohio-3914, ¶ 15 (8th Dist.). Where a defendant fails to answer, the proper remedy is a default judgment under Civ.R. 55.

{¶ 28} Because Union Home failed to perfect service on Harvey, he did not waive service and judgment on the pleadings was not appropriate, the trial court lacked personal jurisdiction over Harvey and any judgment as to Harvey is void. Further, because Harvey and Hinds hold title to the property as survivorship co-tenants, a decree foreclosing the

equity of redemption and ordering the property be sold free and clear of the interests of the parties necessarily and improperly adjudicates Harvey's interest.

{¶ 29} Harvey's second assignment of error is well-taken. Because Union Home failed to perfect service on Harvey and the court erred by granting judgment on the pleadings, we need not reach Harvey's due process arguments and his fifth assignment of error is moot.

### **C. Summary Judgment**

{¶ 30} Harvey's third assignment of error asserts that the trial court erroneously granted Union Home summary judgment as to Hinds. As set forth above, because Hinds is not a party to this appeal, Harvey has no standing to raise assignments of error on her behalf. Harvey's third assignment of error is not well-taken.

### **D. Judicial Assignment**

{¶ 31} In his fourth assignment of error, Harvey claims that the November 20 judgment entries were entered by a visiting judge without jurisdiction. Based on the court's conclusion that the judgment entries are void due to lack of service, Harvey's fourth assignment of error is moot and not well-taken.

## **IV. Conclusion**

{¶ 32} Based on the foregoing, the November 20, 2024 judgments of the Lucas County Court of Common Pleas are reversed as to Harvey and the matter is remanded for further proceedings. Pursuant to App.R. 24, appellees are ordered to equally share the costs of this appeal.

Judgment reversed and remanded.

*Court of Appeals No. {48}L-25-00273*  
*Trial Court No. CI202302986*  
*Union Home Mortgage, et al. v. Lauren Hinds, et al.*

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:  
<http://www.supremecourt.ohio.gov/ROD/docs/>.