

No.

IN THE
SUPREME COURT OF THE UNITED STATES

ELLA N. LIGGINS, — Petitioner

VS.

JP MORGAN CHASE BANK, NA, — Respondent

MOTION SEEKING LEAVE TO FILE OUT OF TIME

Ella Liggins, files this motion for leave to file out of time, due to a medical incident (please see accompanying affidavit) I did not meet the December 4, 2020 deadline to file my petition, I did file the petition on December 7, 2020. I ask that the Court allow additional time, no later than February 1, 2021 to file my petition. The time is not sought to unnecessarily delay this matter, I do not believe that any prejudice will result to any party from this delay.

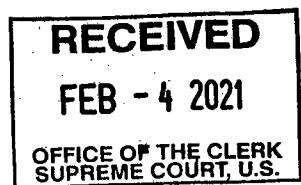
I did call and leave a message for counsel regarding this matter. I had not heard from them before I placed this motion in the mail.

Ella N. Liggins respectfully requests the Court grant this motion for leave to file out of time.

Respectfully submitted,

Ella Liggins

Ella Liggins



AFFIDAVIT OF ELLA N. LIGGINS

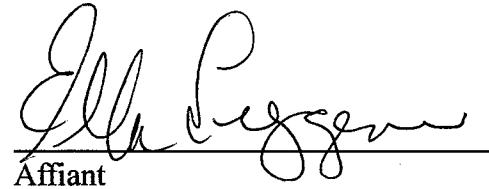
STATE OF OHIO

SS.

COUNTY OF FRANKLIN

I, Ella N. Liggins, affirm according to law, having personal first hand knowledge, do state the following as truth:

1. I have Chronic Obstructive Pulmonary Disease (COPD). In order to breath it is necessary for me to use inhalants twice a day (Flovent HFA), every two hours (Ventolin HFA) and Nebulizer equipment to administer Albuterol Sulfate medication every four hours.
2. In November of 2020, I developed an infection which was undiagnosed until December 17, 2020.
3. The infection coupled with the side effects of the above medication and others I must take caused me to lose my ability to think clearly as well as balance, because of this I thought I was mailing my petition the week before the deadline of December 4th. I was unaware it was late until I received Ms. Nesbitt's notification.
4. I have no idea why my petition was not received by the Court until December 28, 2020, except for a delay due to the holiday and COVID-19. My receipt list a two-day delivery date.



Affiant

Sworn to, or affirmed, and subscribed in my presence this 29th day of January,
2021.



Connor Benjamin Favre
Notary Public

My Commission Expires: 08-22-2024.



CONNOR BENJAMIN FAVRE
Notary Public, State of Ohio
My Commission Expires
August 22, 2024

Appendix A

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

JPMorgan Chase Bank,
National Association,

:

Plaintiff-Appellee,

No. 18AP-725

v.

(C.P.C. No. 13CV-12908)

Ella N. Liggins,

(REGULAR CALENDAR)

Defendant-Appellant,

:

James Doe et al.,

:

Defendants-Appellees.

:

JOURNAL ENTRY

For the reasons stated in the memorandum decision of this court rendered herein on August 29, 2019, it is the order of this court that the application for reconsideration, filed April 11, 2019, is denied.

DORRIAN, BROWN & McGRATH, JJ.

By /S/ JUDGE

Judge Julia L. Dorrian

Tenth District Court of Appeals

Date: 08-30-2019
Case Title: JPMORGAN CHASE BANK NATIONAL ASSOCIATION -VS-
ELLA N LIGGINS ET AL
Case Number: 18AP000725
Type: JOURNAL ENTRY

So Ordered


Julia L. Dorrian

/s/ Judge Julia L. Dorrian

Court Disposition

Case Number: 18AP000725

Case Style: JPMORGAN CHASE BANK NATIONAL ASSOCIATION -
VS- ELLA N LIGGINS ET AL

Motion Tie Off Information:

1. Motion CMS Document Id: 18AP0007252019-04-1199980000
Document Title: 04-11-2019-MOTION TO RECONSIDER - ELLA
N. LIGGINS
Disposition: 3200

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

JPMorgan Chase Bank,
National Association, :
Plaintiff-Appellee, :
v. : No. 18AP-725
(C.P.C. No. 13CV-12908)
Ella N. Liggins, : (REGULAR CALENDAR)
Defendant-Appellant, :
James Doe et al., :
Defendants-Appellees. :
:

D E C I S I O N

Rendered on March 26, 2019

On brief: *Bricker & Eckler LLP*, and *Anne Marie Sferra*, for
appellee. **Argued:** *Anne Marie Sferra*.

On brief: *Ella N. Liggins*, pro se. **Argued:** *Ella N. Liggins*.

APPEAL from the Franklin County Court of Common Pleas
DORRIAN, J.

{¶ 1} Defendant-appellant, Ella N. Liggins, appeals, pro se, from a judgment entry of the Franklin County Court of Common Pleas dismissing as moot her motion for relief from that court's prior judgment entry and decree in foreclosure. Because we conclude the trial court did not abuse its discretion by denying the motion without a hearing, we affirm.

I. Facts and Procedural History

{¶ 2} This court previously considered Liggins's pro se direct appeal from the trial court's judgment entry and decree in foreclosure. *JPMorgan Chase Bank, N.A. v. Liggins*, 10th Dist. No. 15AP-242, 2016-Ohio-3528. The facts of the case are more fully set forth in

the court's decision denying that direct appeal and affirming the trial court's judgment. *See id.* at ¶ 2-7. In brief, plaintiff-appellee, JPMorgan Chase Bank, N.A. ("JPMorgan Chase") filed a complaint in foreclosure on November 26, 2013 asserting it was entitled to enforce a note signed by Liggins that was secured by a mortgage on Liggins's home. *Id.* at ¶ 2. A magistrate of the trial court conducted a trial and issued a decision containing findings of fact and conclusions of law. *Id.* at ¶ 3-4. The magistrate concluded the mortgage was a valid lien on the real estate and that JPMorgan Chase was entitled to judgment on the note. The magistrate further concluded the mortgage should be foreclosed and the real estate ordered sold to satisfy the judgment. *Id.* at ¶ 4. Liggins filed objections to the magistrate's decision, but failed to file a transcript of the trial before the magistrate in support of her objections. *Id.* at ¶ 5. The trial court concluded that because no transcript had been filed it was limited in its review of Liggins's objections to the magistrate's findings of fact. On March 10, 2015, the trial court overruled Liggins's objections and adopted the magistrate's decision as its own, issuing a judgment entry and decree in foreclosure. *Id.* at ¶ 6.

{¶ 3} Liggins appealed to this court and requested a transcript of the trial before the magistrate the same day she filed her appeal. On May 12, 2015, the transcript was filed with the trial court. *Id.* at ¶ 7. On appeal, this court concluded it was bound by the magistrate's findings of fact that were adopted by the trial court and limited to considering only legal conclusions, because Liggins failed to provide a transcript to the trial court in support of her objections to the magistrate's decision and failed to show that a transcript was otherwise unavailable for purposes of Civ.R. 53. *Id.* at ¶ 12-14. In the context of this limited scope of review, the court found no merit in any of Liggins's legal arguments and affirmed the judgment of the trial court. *Id.* at ¶ 34.¹

{¶ 4} On August 21, 2018, Liggins filed a pro se motion, pursuant to Civ.R. 60(B), for relief from the judgment entry and decree in foreclosure. On August 30, 2018, the trial court issued a decision and entry denying the motion as moot.

II. Assignments of Error

{¶ 5} Liggins appeals and assigns the following four assignments of error for our review:

¹ This court denied a subsequent motion for reconsideration filed by Liggins. Both the Supreme Court of Ohio and the United States Supreme Court declined Liggins's appeals of this court's judgment on her direct appeal.

[I.] The trial court erred an abused its discretion when it denied the appellant's 60(B) relief from judgment motion to vacate, without holding a hearing, as there are questions of fact to be resolved.

[II.] The court erred and abused its discretion when it denied the appellant's Civ.R. 60(B) motion, when deliberate intentional deception and misrepresentation was used in order to obtain a judgement [sic] Fraud Upon the Court is committed, which allows relief from judgment.

[III.] The court erred and abused its discretion in denying the Motion for relief from judgement [sic], because it is uncertain who owns the mortgage for this property. There are multiple claimants to this property therefore JP Morgan Chase Bank, NA is not a real party in interest and lacked standing to invoke the jurisdiction of the court.

[IV.] The court erred and abused its discretion when it failed to correctly apply FHA/HUD laws governing the assignment, transfer, modification, default, loss mitigation, pre-foreclosure, foreclosure and sale of FHA mortgages and property.

III. Analysis

{¶ 6} We begin with Liggins's second, third, and fourth assignments of error, in which she challenges the trial court's denial of her motion for relief from judgment. Because these assignments of error each involve the merits of Liggins's motion for relief from judgment, we will address them together.

{¶ 7} A trial court's decision to grant or deny a motion for relief from judgment under Civ.R. 60(B) is subject to review for abuse of discretion. *Wiltz v. Accountancy Bd. of Ohio*, 10th Dist. No. 16AP-169, 2016-Ohio-8345, ¶ 35. An abuse of discretion occurs when a court's judgment is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

{¶ 8} A party seeking relief from judgment under Civ.R. 60(B) "must demonstrate that: (1) the party has a meritorious defense or claim to present if relief is granted; (2) the party is entitled to relief under one of the grounds stated in Civ.R. 60(B)(1) through (5); and (3) the motion is made within a reasonable time, and, where the grounds of relief are Civ.R. 60(B)(1), (2), or (3) not more than one year after the judgment, order or proceeding was

entered or taken." *GTE Automatic Elec., Inc. v. ARC Industries, Inc.*, 47 Ohio St.2d 146 (1976), paragraph two of the syllabus. Civ.R. 60(B) requires a party to demonstrate one of the following grounds to support the request for relief from judgment:

- (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.

Liggins asserts she is entitled to relief under Civ.R. 60(B)(3) on the basis of fraud and misrepresentation.

{¶ 9} Initially, we note a motion for relief from judgment on the basis of Civ.R. 60(B)(3) must be filed within one year after the judgment at issue. The judgment entry and decree in foreclosure from which Liggins sought relief was issued on March 10, 2015. Liggins filed her motion for relief from judgment more than three years later, on August 21, 2018. Therefore, the motion is untimely and cannot be considered. However, if we were to consider the merits of Liggins's pro se motion for relief from judgment, we would affirm the trial court's judgment as her arguments are not meritorious for reasons explained below.

{¶ 10} Liggins argues in her motion that JPMorgan Chase failed to establish it owned the note and mortgage and, thus, lacked standing to seek foreclosure. Liggins also argues JPMorgan Chase failed to comply with federal regulations governing pre-foreclosure requirements, and claims false documents were filed with the court in an attempt to establish compliance with those regulations. These are arguments that Liggins raised in her direct appeal from the judgment entry and decree in foreclosure. *See Liggins* at ¶ 17-23, 29-33. This court has previously held that "[a] litigant cannot use Civ.R. 60(B) to contest the legal correctness of the underlying judgment." *Stoyer v. Fogelman*, 10th Dist. No. 12AP-690, 2013-Ohio-1254, ¶ 5. *See also Wells Fargo Bank, N.A. v. Smith*, 10th Dist. No. 09AP-559, 2009-Ohio-6576, ¶ 12 (holding trial court properly denied motion for relief from judgment where it "was nothing more than an attempt to reargue the merits of the summary judgment motion and not a proper use of Civ.R. 60(B)"); *Sain v. Roo*, 10th Dist.

No. 02AP-448, 2003-Ohio-626, ¶ 12 ("This court has carefully reviewed the allegations in appellants' latest motions and briefs, and finds that appellants have not presented any new evidence or arguments that would support relief under Civ.R. 60(B)(5)."). Thus, because Liggins's motion for relief from judgment simply reiterates her arguments regarding the trial court's original judgment, which we have affirmed, we conclude the trial court did not abuse its discretion by denying the motion.

{¶ 11} Accordingly, we overrule Liggins's second, third, and fourth assignments of error.

{¶ 12} In her first assignment of error, Liggins asserts the trial court abused its discretion by denying her motion for relief from judgment without conducting a hearing. "[I]f the Civ.R. 60(B) motion contains allegations of operative facts which would warrant relief from judgment, the trial court should grant a hearing to take evidence to verify those facts before it rules on the motion." *State ex rel. Richard v. Seidner*, 76 Ohio St.3d 149, 151 (1996). "Conversely, an evidentiary hearing is not required where the motion and attached evidentiary material do not contain allegations of operative facts which would warrant relief under Civ.R. 60(B)." *Id.* As explained above, Liggins's motion simply reasserted her arguments relating to the judgment entry and decree in foreclosure, which is not a proper basis for relief under Civ.R. 60(B). Therefore, the trial court did not abuse its discretion by denying the motion for relief from judgment.

{¶ 13} Accordingly, we overrule Liggins's first assignment of error.

IV. Conclusion

{¶ 14} For the foregoing reasons, we overrule Liggins's four assignments of error and affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

BROWN and McGRATH, JJ., concur.

McGRATH, J., retired, formerly of the Tenth Appellate District, assigned to active duty under authority of the Ohio Constitution, Article IV, Section 6(C).

Appendix B

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION

JP Morgan Chase Bank N.A.,

Plaintiff,

Case No. 13 CV 12908

v.

Ella N. Liggins, *et. al.*,

Judge Beatty Blunt

Defendants.

DECISION & ENTRY ON MOTION TO STAY & MOTION TO VACATE

This matter is before the Court pursuant to the following filings: (1) Defendant Ella Liggins' 8/21/18 Motion to Void and Vacate the Foreclosure Judgment Under Civ.R. 60(B) and Civ.R. 12(B)(1); and (2) Defendant Ella Liggins' 8/21/18 Emergency Motion for Stay Pending Determination of Motion for Relief from Judgment.

Final judgment in favor of Chase entered in March 2015 and established that Ms. Liggins' account is due for February 2010, more than eight years ago. Ms. Liggins appealed. The Tenth District affirmed, and both the Supreme Court of Ohio and the United States Supreme Court declined jurisdiction.

Accordingly, because Ms. Liggins exercised her right to appeal and the foreclosure judgment was affirmed, the Court holds that the Civ.R.60(B) motion and the motion to stay are **MOOT**.

IT IS SO ORDERED.

Copies to:

All counsel (Electronically)

Ella N. Liggins, *Pro Se Defendant*
683 South Kellner Road
Columbus, Ohio 43209

Franklin County Court of Common Pleas

Date: 08-30-2018

Case Title: JPMORGAN CHASE BANK NATIONAL ASSOCIATION -VS-
ELLA N LIGGINS ET AL

Case Number: 13CV012908

Type: ENTRY

It Is So Ordered.

A handwritten signature in black ink, appearing to read "Laurel Beatty Blunt". The signature is fluid and cursive, with "Laurel" and "Beatty" on the first line and "Blunt" on the second line.

/s/ Judge Laurel Beatty Blunt

Court Disposition

Case Number: 13CV012908

Case Style: JPMORGAN CHASE BANK NATIONAL ASSOCIATION -
VS- ELLA N LIGGINS ET AL

Motion Tie Off Information:

1. Motion CMS Document Id: 13CV0129082018-08-2199960000
Document Title: 08-21-2018-MOTION TO VACATE JUDGMENT -
DEFENDANT: ELLA N. LIGGINS
Disposition: MOTION IS MOOT

2. Motion CMS Document Id: 13CV0129082018-08-2199980000
Document Title: 08-21-2018-MOTION TO STAY - DEFENDANT:
ELLA N. LIGGINS
Disposition: MOTION IS MOOT

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

JPMorgan Chase Bank,
National Association,

Plaintiff-Appellee,
v.

Ella N. Liggins, (REGULAR CALENDAR)

Defendant-Appellant,
v.

James Doe et al.,

Defendants-Appellees.

No. 18AP-725
(C.P.C. No. 13CV-12908)

JUDGMENT ENTRY

For the reasons stated in the decision of this court rendered herein on March 26, 2019, appellant's four assignments of error are overruled, and it is the judgment and order of this court that the judgment of the Franklin County Court of Common Pleas is affirmed. Costs assessed to appellant.

DORRIAN, BROWN & MCGRATH, JJ.

By /S/ JUDGE
Judge Julia L. Dorrian

McGRATH, J., retired, formerly of the Tenth Appellate District,
assigned to active duty under authority of the Ohio
Constitution, Article IV, Section 6(C).

Tenth District Court of Appeals

Date: 04-02-2019

Case Title: JPMORGAN CHASE BANK NATIONAL ASSOCIATION -VS-
ELLA N LIGGINS ET AL

Case Number: 18AP000725

Type: JEJ - JUDGMENT ENTRY

So Ordered


Julia L. Dorrian

/s/ Judge Julia L. Dorrian

Appendix C

FILED
The Supreme Court of Ohio

JUL -7 2020

CLERK OF COURT
SUPREME COURT OF OHIO

JPMorgan Chase Bank, National Association

v.

Ella N. Liggins, James Doe et al.

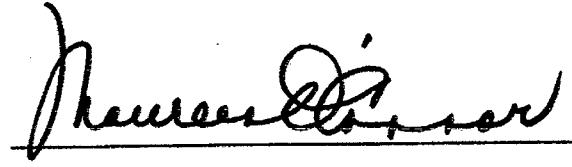
Case No. 2020-0104

RECONSIDERATION ENTRY

Franklin County

It is ordered by the court that the motion for reconsideration in this case is denied.

(Franklin County Court of Appeals; No. 18AP-725)



Maureen O'Connor
Chief Justice

FILED
The Supreme Court of Ohio
MAR 17 2020

CLERK OF COURT
SUPREME COURT OF OHIO

JPMorgan Chase Bank, National Association

Case No. 2020-0104

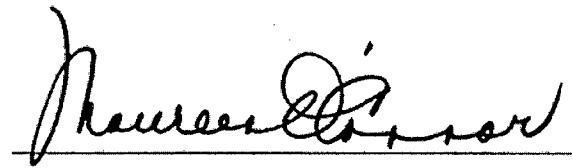
v.

ENTRY

Ella N. Liggins, James Doe et al.

Upon consideration of the jurisdictional memoranda filed in this case, the court declines to accept jurisdiction of the appeal pursuant to S.Ct.Prac.R. 7.08(B)(4).

(Franklin County Court of Appeals; No. 18AP-725)



Maureen O'Connor
Chief Justice

**Additional material
from this filing is
available in the
Clerk's Office.**