

IN THE COURT OF COMMON PLEAS
COLUMBIANA COUNTY, OHIO

JESSE LEE PHILLIS
Plaintiff

CASE NO. 14 CV 450

-vs-

FILED
COLUMBIANA COUNTY
COURT OF COMMON PLEAS

DECISION AND
JUDGMENT ENTRY

COMMUNITY ACTION AGENCY OF
COLUMBIANA COUNTY INC., et al
Defendants

SEP - 2 2015

ANTHONY J. DATTILIO
CLERK (CAP)

The Motion for summary judgment of Defendant Community Action Agency of Columbiana County, Inc. dba Head Start Preschool (Head Start), filed July 27, 2015, and the Motion for summary judgment of Defendant Abdrrasul Fawzi Daoud Revocable Family Trust (Trust), filed July 30, 2015, are before the Court for further consideration and decision.

Summary judgment is appropriate when: (1) no genuine issue of material fact remains to be litigated; (2) the moving party is entitled to judgment as a matter of law; and (3) viewing the evidence most strongly in favor of the non-moving party, reasonable minds can come to but one conclusion and that conclusion is adverse to the non-moving party.¹ A fact is material when it affects the outcome of the litigation under the applicable substantive law.² Summary judgment is not appropriate where the facts are subject to reasonable dispute.³

When moving for summary judgment, the moving party bears the initial responsibility of informing the trial court of the basis for the motion, and identifying those portions of the record that demonstrate the absence of a

¹ Civ. R. 56(C); Temple v. Wean United, Inc. (1977), 50 Ohio St. 2d 317, 364 N.E. 2d 267; Doe v. Shaffer (2000), 90 Ohio St. 3d 388, 738 N.E. 2d 1243, 2000-Ohio-186.

² Russell v. Interim Personnel, Inc. (1999), 135 Ohio App. 3d 301, 733 N.E. 2d 1186.

³ Burkes v. Stidham (1995), 107 Ohio App. 3d 363, 668 N.E.2d 982.

genuine issue of fact on a material element of the non-moving party's claim.⁴ A trial court should not enter summary judgment if it appears a material fact is genuinely disputed, nor if, construing the allegations most favorably towards the non-moving party, reasonable minds could draw different conclusions from the undisputed facts.⁵ The court may not resolve ambiguities in the evidence presented.⁶

In this case each of the Defendants have supported their respective Motions for summary judgment with the type of evidence contemplated by Civ. R. 56. Specifically, Defendant Community Action Agency of Columbiana County, Inc. dba Head Start Preschool relies on the deposition testimony of Jessica M. Yeager. Defendant Abdlrasul Fawzi Daoud Revocable Family Trust relies on the affidavit of Fawzi Abdlrasul. Based upon consideration of the same this Court believes that the Defendants have carried their initial burden of identifying those portions of the record that demonstrate the absence of a genuine issue of fact on a material element of the claims of the Plaintiffs.

The Supreme Court has generally determined that summary judgment should be granted with caution, with a court construing all evidence and deciding any doubt in favor of the non-moving party.⁷ However, the law is clear that when faced with a properly supported motion for summary judgment, the non-moving party must produce some evidence demonstrating a reasonable fact-finder could

⁴ Dresher v. Burt (1996), 75 Ohio St. 3d 280, 662 N.E. 2d 264, 1996-Ohio-107.

⁵ Hounshell v. American States Insurance Co. (1981), 67 Ohio St. 2d 427, 424 N.E. 2d 311.

⁶ Inland Refuse Transfer Co. v. Browning-Ferris Industries of Ohio, Inc. (1984), 15 Ohio St. 3d 321, 474 N.E. 2d 271.

⁷ Murphy v. Reynoldsburg (1992), 65 Ohio St. 3d 356, 604 N.E. 2d 138, 1992-Ohio-95; Osborne v. Lyles (1992), 63 Ohio St. 3d 326, 587 N.E. 2d 825.

find in favor of the non-moving party. In other words, the non-moving party cannot rest on mere allegations or denials in pleadings.⁸

The Motion for summary judgment of Defendant Community Action Agency of Columbiana County, Inc. dba Head Start Preschool and the Motion for summary judgment of Defendant Abdirasul Fawzi Daoud Revocable Family Trust are hereby granted. The Complaint is hereby dismissed.


Pursuant to Civ. R. 54, this is a final appealable Order.

Pursuant to Civ. R. 58(B), the Clerk of this Court is requested to serve upon all parties not in default a notice of this judgment and the date of entry upon the journal.

The costs of this action are taxed against the Plaintiffs.

IT IS SO ORDERED.

September 1, 2015


Scott A. Washam, Judge

cc: James E. Lanzo, Esq.
Robert Yallech, Esq.
Kevin Zimmerman, Esq.

⁸ Brewer v. Cleveland Bd. of Edn. (1997), 122 Ohio App. 3d 378, 701 N.E. 2d 1023; Dresher v. Burt, 75 Ohio St. 3d at 296, 662 N.E. 2d 264.