

[Cite as *Shumate v. Gahanna*, 2003-Ohio-1329.]

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Sharon Shumate,	:	
	:	No. 02AP-881
Plaintiff-Appellant,	:	(C.P.C. No. 02CVH-05-4837)
v.	:	
	:	(ACCELERATED CALENDAR)
The City of Gahanna,	:	
	:	
Defendant-Appellee.	:	

D E C I S I O N

Rendered on March 20, 2003

Sharon Shumate, pro se.

Schottenstein, Zox & Dunn, Stephen J. Smith, Brian M. Zets
and *Philip K. Hartmann*, for appellee.

APPEAL from the Franklin County Court of Common Pleas.

PETREE, P.J.

{¶1} On May 2, 2002, plaintiff, Sharon Shumate, filed a three-page handwritten complaint with the Franklin County Court of Common Pleas against the City of Gahanna. That complaint has been attached to this decision as Appendix A.

{¶2} In her complaint, plaintiff listed several “causes of action,” including “better police training and discipline,” a “better court system including city clerk, city attorney and magistrate,” “a city counsel that is responsive to community needs and makes the city’s departments accountable for their actions. / A city with a better attitude,” to “act on

attachments in case no 01 CV08 8386 and this case,” “Hammer Law Instituted,” and finally a prayer requesting five million dollars, tax free, for “pain and suffering.”

{¶3} On June 5, 2002, defendant filed a motion to dismiss plaintiff’s complaint pursuant to Civ.R. 12(B)(6). Civ.R. 12(B)(6) authorizes a court to dismiss a complaint for failure to state a claim upon which relief may be granted. On July 18, 2002, the trial court granted the defendant’s motion to dismiss, finding plaintiff’s complaint was frivolous and failed to allege or set forth facts sufficient to state any cognizable legal action upon which relief can be granted. *O’Brien v. Univ. Community Tenants Union, Inc.* (1975), 42 Ohio St.2d 242. Plaintiff now appeals, ostensibly raising the following two assignments of error:

{¶4} “1. There was no status conference, hearing or trial in Franklin County Common Pleas Court.

{¶5} “2. The pro se/appellant filed another complaint and cross referenced it to CVH 08 8386 for more information. I was ill. The original and current cause of action is to award the plaintiff, Sharon Shumate five million dollars for intentional harm and negligence caused by the City and citizens of Gahanna. After researching the possibility, and even with the award of five million dollars, the palintiff [sic], Sharon Shumate, found it fiscally and physically impossible to move from the area. Although not the pro se’s responsibility, the pro se suggested the attachment of property and use of the forfeiture of property federal law if necessary. Also other recommendations were made by the pro se which were not the pro se’s responsibility. No action or follow up was done by the counsel in regards to the monetary award or verification of facts in regards to witchcraft by the City of Gahanna. A deposition or affidavits rather than a brief is the appropriate means to gain specific information on the probable cause of wtichcraft [sic], create more safety issues and undermine the federal law. The federal law states no notice or hearing needs to take place before the State takes the property. (Because of the circumstance, on the form for ths [sic] complaint, the pro se/appellant indicated that a case was given to Judge Travis and was dismissed and it was requested that this case was not to be given to him. Judge O’Neil [sic] was assigned the case but a judgment to dismiss the case filed July 17th was sent with only part of the case addressed and signed by Judge Travis. The appellant has a right to file a law suit [sic] and time is running out on some of the named

defendants. There was lack of due process. All the Bill of Rights Amendments were violated in this case.”

{¶6} The burden of affirmatively demonstrating error on appeal rests solely with the appealing party, in this case, the plaintiff. App.R. 16(A)(7); App.R. 9; and *State ex rel. Fulton v. Halliday* (1944), 142 Ohio St. 548. Pursuant to App.R. 16(A)(7), plaintiff must present her contentions with respect to each assignment of error presented for review, in addition to the reasons in support of those contentions, with citations to the authorities, statutes, and parts of the record on which she relies. It is not the duty of this court to search the record for evidence to support an appellant’s argument as to alleged error. *Slyder v. Slyder* (Dec. 29, 1993), Summit App. No. 16224. Absent the foregoing, unsubstantiated assertions will not be considered on appeal. *Sykes Constr. Co. v. Martell* (Jan. 18, 1992), Summit App. No. 15034. It is also not appropriate for this court to construct the legal arguments in support of plaintiff’s appeal. “If an argument exists that can support this assignment of error, it is not this court’s duty to root it out.” *Cardone v. Cardone* (May 6, 1998), Summit App. No. 18349.

{¶7} Despite our diligent effort to decipher a cognizable argument from plaintiff’s brief and notice of appeal, we have been unable to do so. In her brief, plaintiff engages in a rambling and disjointed factual discourse and has submitted absolutely no authority in support of her contentions. Clearly, the burden of affirmatively demonstrating error rests with the plaintiff. App.R. 16(A)(7); App.R. 9; and *Fulton*, supra. However, in this case, plaintiff has failed to argue or present any evidence or legal authority in support of the assignments of error or issues raised in her appellate brief. Plaintiff has provided no citations to authorities, statutes, or legal opinions. Again, it is not the duty of this court to search the record for evidence to support plaintiff’s argument as to the alleged error. *Slyder*, supra.

{¶8} Consequently, plaintiff’s two assignments of error are overruled, and the judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

BROWN and KLATT, JJ., concur.

Appendix A

Franklin County, Ohio Common Pleas Court

87475F09 General Division
Civil Case

02CVH-5 4837
FILED
COURT OF APPEALS
FRANKLIN CO. OHIO
02 AUG 22 AM 11:18
CLERK OF COURTS

Sharon Shumate
130 Gossy Creek S.
Cahanna, Ohio 43200

vs.

City of Cahanna
200 S. Hamilton
Cahanna, Ohio Immediate Action

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
2002 MAY -2 AM 9:09
CLERK OF COURTS-CY

Sharon Shumate
ON COMPUTER 3

Immediate Action

87475F10

02CVH-5 4837

Complaint

The City of Gahanna has created an environment where plaintiff Sheron St. ^{St. James} has literally and figuratively experienced pain in the butt and other problems which ~~are~~ ^{are} due to negligence and intentional harm. See case no 02 CVH 08 2386 for other examples and more information.

FILED COURT
FRANKLIN CO. OHIO
APR 22 AM 11:59
CLERK OF COURTS

FILED COURT
FRANKLIN CO. OHIO
MAY -2 AM 9:10
CLERK OF COURTS-CV

RECEIPT #	(COST)	(DEPOSITS)
88029304		
CLERK	\$ 25	\$ 25
DAILY REPORTER	10	10
COMP. LEG. RES.	3	3
COURT COMP.	10	10
LEGAL AID	15	15
FR. CO. SHERIFF		
DEPOSIT FOR FOREIGN SHERIFF		
DEPOSIT FOR ORDER OF SALE		
DEPOSIT FOR BOND		
DEPOSIT FOR ATTORNEY		1162

10

Course of Action

02CVH-5 4837

87475F11

- ① Better Police training and discipline
- ② Better Court System including city clerk, city attorney and magistrates.
- ③ A city council that is responsive to community needs and makes the city's departments accountable for their actions. / A city with a better attitude
- ④ Act on Attachments in case no 01 CVH08 8386 and this case
- ⑤ Hammer Law Instituted
- ⑥ City of Gahanna gives five million dollars \$5,000,000 without tax to Sharon Shumeto for pain and suffering.

FILED
 CLERK OF SUPERIOR COURT
 02 MAY -2 AM 9:09
 DEPT. OF COURTS-CV