

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

UZI ORA,	:	APPEAL NO. C-190297
	:	TRIAL NO. A-1900015
Plaintiff-Appellant,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
MCA CENTER, LLC,	:	
	:	
and	:	
	:	
SUBWAY SANDWICHES AND	:	
SALADS,	:	
	:	
Defendants-Appellants.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Plaintiff-appellant Uzi Ora appeals from the judgment of the Hamilton County Court of Common Pleas granting motions for judgment on the pleadings filed by defendants-appellees Subway Sandwiches and Salads (“Subway”) and MCA Center, LLC, (“MCA”). In his sole assignment of error, Ora contends that the trial court erred in dismissing his claim for personal injury. He argues that when the trial court told him, a pro se litigant, that he could refile a previous case at any time using R.C. 2305.19, the savings statute, the court was estopped from granting a motion for dismissal because his complaint was not refiled within one year. This assignment of error is not well taken.

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Under Civ.R. 12(C), a court may grant judgment on the pleadings where no material issue of fact exists and the moving party is entitled to judgment as a matter of law. The court may consider only the allegations in the pleadings. It must construe all material allegations in the complaint, along with all reasonable inferences, as true and in favor of the nonmoving party. We review the trial court's entry of judgment on the pleadings de novo. *State ex rel. Pirman v. Money*, 69 Ohio St.3d 591, 592-593, 635 N.E.2d 26 (1994); *Amadasu v. O'Neal*, 176 Ohio App.3d 217, 2008-Ohio-1730, 891 N.E.2d 802, ¶ 5 (1st Dist.).

R.C. 2305.19(A) provides that “[i]n any action that is commenced or attempted to be commenced, * * * if the plaintiff fails otherwise than upon the merits, the plaintiff * * * may commence a new action within one year after the date of * * * the plaintiff's failure otherwise than upon the merits or within the period of the original applicable statute of limitations, whichever occurs later.” Thus, a party's claim dismissed without prejudice could be saved by refileing it within one year of the dismissal. *McNeal v. Durrani*, 2019-Ohio-5351, 138 N.E.3d 1231, ¶ 11 (1st Dist.).

The complaint in the present case alleged that Ora had filed a timely complaint against the same defendants in the Hamilton County Common Pleas Court in the case numbered A-1500854. That case was dismissed without prejudice on December 7, 2015. Ora filed his complaint in the present case on January 2, 2019, more than three years after the prior case was dismissed. Thus, the four corners of the complaint show that Ora did not refile his case within one year of when his complaint was voluntarily dismissed.

Ora contends that his status as a pro se litigant at the time his first complaint was dismissed prevented the court from granting the motions for judgment on the pleadings. But, pro se litigants are bound by the same rules and procedures as those

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litigants who retain counsel. *Kidz Bop, LLC, v. Broadhead*, 1st Dist. Hamilton No. C-140686, 2015-Ohio-3744, ¶ 13. This argument also ignores the fact that Ora was represented by counsel when the latest complaint was filed, and that he never sought to amend his complaint as provided for in Civ.R. 15. See *Isco Industries, Inc. v. Great Am. Ins.*, 1st Dist. Hamilton No. C-180636, 2019-Ohio-4852, ¶ 52; *Hensley v. Durrani*, 1st Dist. Hamilton No. C-130005, 2013-Ohio-4711, ¶ 14.

Under the circumstances, we hold that the trial court did not err in granting MCA's and Subway's motions for judgment on the pleadings. Consequently, we overrule Ora's assignment of error and affirm the trial court's judgment.

A certified copy of this judgment entry constitutes the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MOCK, P.J., ZAYAS and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on October 21, 2020
per order of the court _____.
Presiding Judge