

[Cite as *Rieger v. Montgomery Cty.*, 2010-Ohio-4764.]

IN THE COURT OF APPEALS FOR MONTGOMERY COUNTY, OHIO

JOSEPH M. RIEGER	:	
Plaintiff-Appellant	:	C.A. CASE NO. 23877 23878
v.	:	T.C. NO. 08CV8912
MONTGOMERY COUNTY, OHIO, et al.	:	07CV374
Defendants-Appellees	:	(Civil appeal from Common Pleas Court)

OPINION

Rendered on the 1st day of October, 2010.

JOSEPH M. RIEGER, 443 McGuerin Street, Dayton, Ohio 45431
Plaintiff-Appellant

JOHN A. CUMMING, Atty. Reg. No. 0018710, Assistant Prosecuting Attorney, 301 W.
Third Street, 5th Floor, Dayton, Ohio 45422
Attorney for Defendants-Appellees

DONOVAN, P.J.

{¶ 1} This matter is before the Court on the consolidated pro se Notices of Appeal of Joseph M. Rieger, filed February 17, 2010. On September 5, 2007, Rieger filed a “Complaint for Damages” against “Montgomery County Government - Judges Section,

Montgomery County, Ohio,” in case number 2007 CV 7374, and on September 30, 2008, he filed a “Complaint for Damages” against the Montgomery County Sheriff, Phil Plummer, and the Sheriff’s office, Timothy O’Connell, and “Montgomery County, Ohio,” in case number 2008 CV 8912. On December 17, 2009, prior to a bench trial in the above matters, the parties reached an agreement that Rieger would dismiss both matters with prejudice in exchange for the State’s agreement to cancel a Brady disqualification, form 10-A, from the NCIC/LEADS system. The terms of the agreement were stated on the record. On December 30, 2009, the Appellees filed a Motion to Enforce Settlement Agreement in both cases, asserting that the Brady form 10-A had been cancelled and that Rieger refused to sign dismissal entries in the above matters. Rieger filed multiple motions asking the court “to reset for bench trial 2007 CV 7374.” The trial court issued a Judgment Entry and Order sustaining the Appellees’ motion, overruling Rieger’s motions and dismissing case numbers 2007 CV 7374 and 2008 CV 8912.

{¶ 2} On March 9, 2010, Rieger filed herein a “Motion to Protect Two Brady Forms/CSPO Dated Approximately May 6, 2005 & August 31, 2005.” In overruling his motion, we noted, a “careful examination of the trial court record in both 2007-CV-7374 and 2008-CV-8912 * * * indicates that the two Brady Form 10A documents to which Rieger refers were not made part of the record. This court has no jurisdiction over orders that are not part of the record in the above-captioned appeal.”

{¶ 3} Rieger’s brief does not delineate coherent assigned errors. We agree with Appellees that Rieger is essentially arguing that the trial court erred in granting the Appellees’ motion to enforce the settlement agreement and in dismissing case numbers 2007

CV 7374 and 2008 CV 8912. There being no merit to Rieger's argument, it is overruled.

{¶ 4} As the trial court correctly held, “[i]t is axiomatic that a settlement agreement is a contract designed to terminate a claim by preventing or ending litigation and such agreements are valid and enforceable by either party.’ *Continental W. Condominium Unit Owners Assn. v. Howard E. Ferguson, Inc.* (1996), 74 Ohio St.3d 501, 502. Because a valid settlement agreement is a binding contract between the parties, it requires a meeting of the minds as well as an offer and acceptance. *Rulli v. Fan Co.* (1997), 79 Ohio St.3d 374, 376, citing *Noroski v. Fallet* (1982), 2 Ohio St.3d 77, 79. Consequently, a settlement agreement must meet the essential requirements of contract law before it will be subject to enforcement. *Id.* Moreover, ‘it is within the sound discretion of the trial court to enforce a settlement agreement, and its judgment will not be reversed where the record contains some competent, credible evidence to support its findings regarding the settlement.’ *Mentor v. Lagoons Point Land Co.* (Dec. 17, 1999), [Lake App. No. 98-L 190]. Where there is a dispute regarding the meaning of the terms of a settlement agreement or where there is a dispute of whether a valid settlement agreement exists, a trial court must conduct an evidentiary hearing. *Rulli v. Fan Co.*, supra, syllabus.” We further note, “in Ohio an oral settlement agreement voluntarily entered into by the parties in the presence of the court constitutes a binding contract.” *Wolff v. Flanagan* (Oct. 2, 1980), Cuyahoga App. No. 41746, citing *Spercel v. Sterling Industries* (1972), 31 Ohio St.2d 36.

{¶ 5} The record of the December 17, 2009 hearing establishes the existence of the settlement agreement and its unambiguous terms. Any suggestion by Rieger that the agreement is not enforceable because it was not reduced to writing finds no support in Ohio

law. Rieger’s further suggestion that the settlement agreement was a “fraud on the court,” because “the Appeals Court said there was no Brady form,” misstates our previous decision in which we noted that the forms were not made part of the record.

{¶ 6} There being no merit to Rieger’s appeal, and no abuse of discretion, the judgment of the trial court is affirmed.

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FAIN, J. and FROELICH, J., concur.

Copies mailed to:

Joseph M. Rieger
John A. Cumming
Hon. Sumner E. Walters