

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

JOHN GRIMES,	:	APPEAL NO. C-130015
	:	TRIAL NO. A-1101451
Plaintiff-Appellant,	:	
vs.	:	JUDGMENT ENTRY.
ROY NEAL,	:	
and	:	
1717 CAPITAL MANAGEMENT COMPANY,	:	
Defendants-Appellees.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Plaintiff-appellant John Grimes appeals from the trial court's decision overruling his Civ.R. 60(B) motion for relief from judgment. We find no merit in Grimes's sole assignment of error, and we affirm the trial court's judgment.

The record shows that Grimes filed a pro se complaint to vacate an arbitration award issued by the Financial Industry Regulatory Authority in favor of defendants-appellees Roy Neal and 1717 Capital Management Company ("1717 Capital"). 1717 Capital and Neal moved to confirm the award. On June 13, 2011, the trial court journalized an entry denying Grimes's motion to vacate and confirming the award. Grimes did not appeal from that entry. Over a year later, on October 17, 2012, Grimes filed a motion for relief from judgment under Civ.R. 60(B)(5), which the trial court denied. This appeal followed.

The trial court's June 13, 2011 entry confirming the arbitration award was a final, appealable order. R.C. 2711.15. Consequently, Grimes had 30 days to appeal that order, which he did not do. *See* App.R. 4(A); *Lambda Research, Inc. v. Surface Enhancement Technologies*, 1st Dist. Hamilton No. C-100796, 2013-Ohio-348, ¶ 23. Grimes was appearing pro se, but pro se litigants are bound by the same rules and procedures as those litigants who retain counsel. *See Arkwright Mut. Ins. Co. v. Toler*, 1st Dist. Hamilton No. C-020589, 2003-Ohio-2202, ¶ 15.

A Civ.R. 60(B) motion for relief from judgment cannot be used as a substitute for a timely appeal or as a means to extend the time for appealing the original judgment. *Key v. Mitchell*, 81 Ohio St.3d 89, 90-91, 689 N.E.2d 548 (1998); *Jizco Ent., Inc. v. Hegmeyer*, 9th Dist. Summit No. 24803, 2010-Ohio-349, ¶ 8; *Nagy v. Hawkins*, 10th Dist. Franklin No. 08AP-766, 2009-Ohio-756, ¶ 9. Grimes could have raised the grounds for relief set forth in his Civ.R. 60(B) motion in a direct appeal from the trial court's June 13, 2011 entry confirming the arbitration award. Therefore, those issues are res judicata, and Grimes cannot now raise them in his Civ.R. 60(B) motion. *See Key* at 91; *Wells Fargo Bank., N.A., v. Smith*, 10th Dist. Franklin No. 09AP-559, 2009-Ohio-6576, ¶ 11-14; *Karnofel v. Girard Police Dept.*, 11th Dist. Trumbull No. 2009-T-0045, 2009-Ohio-4446, ¶ 10-12.

Grimes also argues that the trial court erred in failing to hold a hearing on his Civ.R. 60(B) motion. But a trial court may summarily deny a Civ.R. 60(B) motion without holding a hearing where the movant has failed to set forth any operative facts that might warrant the granting of relief. *UBS Fin. Serv., Inc. v. Lacava*, 8th Dist. Cuyahoga No. 98919, 2013-Ohio-1669, ¶ 16; *Karnofel* at ¶ 13-14. Because Grimes did not assert any new facts upon which relief could be granted, the trial court was not obligated to hold a hearing on his motion. Consequently, we overrule Grimes's sole assignment of error and affirm the trial court's judgment.

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

HILDEBRANDT, P.J., DINKELACKER and FISCHER, JJ.

To the clerk:

Enter upon the court's journal on December 6, 2013
by order of the court _____.
Presiding Judge

