

FILED**JUL 15 2019**LOUIS P. GIAVASIS
STARK COUNTY OHIO
CLERK OF COURTS**IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO****BENJAMIN D. SUAREZ**

Case No. 2018CV01984

Plaintiff

v.

ORDER**THE HONORABLE SHERROD
BROWN, et al.**

Defendants

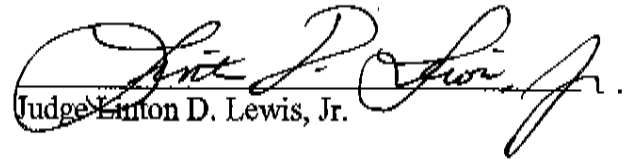
This matter came on before this Court upon Defendants The Honorable Sherrod Brown and Friends Of Sherrod Brown, Inc. aka Friends Of Sherrod Brown's Motion To Dismiss First Amended Complaint filed February 15, 2019. After having considered the same, this Court makes the following ruling regarding Defendants' Civ. R. 12(B)(6) Motion to Dismiss.

"In order to dismiss a complaint pursuant to Civil Rule 12(B)(6), it must appear beyond doubt that the Plaintiff can prove no set of facts in support of the claim that would entitle plaintiff to relief." And, "the court may look only to the complaint itself, and no evidence or allegation outside the complaint, when ruling on a Civ. R. 12(B)(6) motion." Bunting v. Watts, 2018-Ohio-3357 ¶ 13 (5th Dist.). "As long as there is a set of facts, consistent with the plaintiff's complaint, which would allow the plaintiff to recover, the court may not grant a defendant's motion to dismiss." Cincinnati v. Beretta U.S.A. Corp., 95 Ohio St. 3d 416, 418, 768 N.E. 2d 1136, 2002-Ohio-2480 ¶ 5.

A motion to dismiss tests the sufficiency of the complaint. The court must accept as true the facts stated in the complaint. Lyons v. Link 2004 Ohio 5524 (4 CA 4, 5th Dist. CA 2004).

Likewise, a trial court normally cannot rely upon evidence or allegations outside the complaint to decide a motion to dismiss. Gardner v. Paxton 17 CA 22, 4th Dist. CA 2018.

Wherefore, having considered the same, this Court hereby denies Defendants' Motion To Dismiss. **IT IS SO ORDERED.**


Judge Linton D. Lewis, Jr.