

STATE OF MICHIGAN  
COURT OF APPEALS

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ANDERSON MILES,

Plaintiff-Appellant,

V

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,

Defendant-Appellee.

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UNPUBLISHED

May 6, 2014

No. 311699

Wayne Circuit Court

LC No. 10-007305-NF

Before: M. J. KELLY, P.J., and CAVANAGH and FORT HOOD, JJ.

FORT HOOD, J. (*dissenting*).

I respectfully dissent.

Defendant filed a motion for partial summary disposition of the uninsured motorist (UM) claim, and the trial court granted the motion. The litigation continued to address the personal protection insurance (PIP) claim, but ultimately, the parties stipulated to dismiss the action with prejudice before trial. The order dismissing the case with prejudice contained no reservation with regard to an appeal of the dismissal of the UM claim.

“It is elementary that one cannot appeal from a consent judgment, order or decree.” *Dora v Lesinski*, 351 Mich 579, 582; 88 NW2d 592 (1958) (citations omitted). A party cannot complain about a consent judgment because error, if any, arises from its own error, and not an error of the court. *Id.* “Simply put, this Court has jurisdiction only over appeals filed by an ‘aggrieved party.’” *Reddam v Consumer Mtg Corp*, 182 Mich App 754, 757; 452 NW2d 908 (1990), overruled in part on other grounds *CAM Constr v Lake Edgewood Condo Ass’n*, 465 Mich 549, 557; 640 NW2d 256 (2002). A party cannot be aggrieved by the terms of a consent judgment. See *Field Enterprises v Dep’t of Treasury*, 184 Mich App 151, 153; 457 NW2d 113 (1990). Rather, to appeal a consent judgment, the parties must preserve the right to appeal in the judgment. *Id.* In the present case, the parties stipulated to dismiss the case with prejudice, and this order of dismissal did not reserve the right to appeal the grant of partial summary disposition of the UM claim. Accordingly, I conclude that this Court does not have jurisdiction to decide

this appeal. Furthermore, the trial court properly applied the broad transactional test to conclude that res judicata barred this action. *Adair v State of Michigan*, 470 Mich 105, 123-125; 680 NW2d 386 (2004). I would affirm.

/s/ Karen M. Fort Hood