

IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO

DENNIS WATKINS,  
Plaintiff

CASE NO. 2016 CV 02180

-vs-

JUDGE: RONALD J. RICE

ALFONZIA PERRY,  
Defendant

JUDGMENT ENTRY  
GRANTING PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT

This matter comes before this Court on the Plaintiff's Motion for Summary Judgment filed by the Plaintiff, Dennis Watkins, in his official capacity as Trumbull County Prosecuting Attorney. The Court has reviewed the Motion and all Responses.

Since August 1997, Defendant has overwhelmed this Court with numerous pro se filings in the form of motions, affidavits, and letters, all of which were included in Plaintiff's Motion for Summary Judgment and are a matter of record before this Court. Defendant does not deny filing the documents asserted by the Plaintiff to constitute vexatious conduct and reasonable minds can only conclude that he did in fact file those referenced documents. The Plaintiff brings this action under authority of O.R.C. §2323.52(B).

Defendant was indicted by the January 1994 Term of the Trumbull County Grand Jury on one count of Aggravated Murder pursuant to R.C. 2903.01, for the beating death of his live-in girlfriend, Jeanette Purdue, in Case Number 1994-CR-0042. On November 7, 1994, Perry was convicted of Aggravated Murder and was sentenced to life imprisonment. Defendant filed his direct appeal through licensed counsel with the Eleventh District Court of Appeals on December 6, 1994. The Eleventh District Court of Appeals affirmed the Defendant's conviction and



sentence. *State v. Perry* (Aug. 29, 1997), 11th Dist. No.1994-T-5165, 1997 WL 590789. The Ohio Supreme Court declined jurisdiction in *State v. Perry*, 80 Ohio St. 3d. 1467 (1997).

After the disposition of his direct appeal, Defendant has filed a number of post-conviction motions in this Court resulting in several related appeals before the Eleventh District Court of Appeals. For two of those appeals, Defendant was represented by counsel. *State v. Perry*, 11th Dist. No.1995-T-5315, 1997 WL 269202, *State v. Perry*, 11th Dist. No.1996-T-5597, 1997 WL 772942. All subsequent appeals were handled pro se by Defendant. Notwithstanding the amount of his post-judgment litigation, Defendant has not obtained any modification of his conviction or sentence, nor has any of his ancillary litigation been successful. *State v. Perry*, 11th Dist. No.2008-T-0127, 2009-Ohio-1320, *State v. Perry*, 11th Dist. No. 2009-T-0090, 2010-Ohio-713, ¶ 17, *State v. Perry*, 11th Dist. No. 2010-T-0014, 2010-Ohio-2956, ¶ 13, *Perry v. McKay*, 11<sup>th</sup> Dist. No. 2009-T-0023, 2009-Ohio-5767, *State v. Perry*, 11th Dist. No. 2014-T-0095, 2015-Ohio-2899, ¶ 15, *State v. Perry*, 11<sup>th</sup> Dist. No. 2016-T-0005, 2016-Ohio-7446. Defendant currently has another related case pending before the Eleventh District Court of Appeals in Case No. 2016-T-00098.

In summary, Defendant has filed a copious amount of documents in this Court and in the Eleventh District Court of Appeals. The number of filings for his case alone exceeds seventy (70) documents. (T.d. 48, 52, 53, 56, 60, 61, 63, 66, 67, 69, 71, 74, 78, 80, 84, 86, 88, 90, 91, 92; *State v. Perry*, 11<sup>th</sup> Dist. No. 2008-T-0127; *Perry v. McKay*, 11<sup>th</sup> Dist. No. 2009-T-0023; *State v. Perry*, 11<sup>th</sup> Dist. No. 2009-T-90, *State v. Perry* 11<sup>th</sup> Dist. No. 2010-T-0014; *State v. Perry*, 11<sup>th</sup> Dist. No. 2014-T-95; *State v. Perry*, 11<sup>th</sup> Dist. No. 2016-T-0005; *State v. Perry*, 2016-T-0098).

R.C. 2323.52(3) defines a "vexatious litigator" as:

"any person who has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action or actions, whether in the court of claims or in a court of appeals, court of common pleas, municipal, or county court, whether the person or another person instituted the civil action or actions, and whether the vexatious conduct was against the same party or against different parties in the civil action or actions. 'Vexatious Litigator' does not include a person who is authorized to practice law in the courts of this state under Ohio Supreme Court Rules for the Government of the Bar of Ohio unless that person is representing or has represented self pro se in the civil action or actions."

R.C. 2323.52 (A) (2) defines "vexatious conduct" as (1) conduct that obviously serves merely to harass or maliciously injure another party to the civil action, (2) conduct that is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law. R.C. 2323.53(B) authorizes the prosecuting attorney to file a civil complaint in the court of common pleas to designate a litigator as vexatious when that party has "engaged in the habitual and persistent vexatious conduct."

Defendant has filed a counterclaim arguing that R.C. 2323.52 is unconstitutional. However, the Supreme Court of Ohio has held that the vexatious litigator statute is constitutional in its entirety. *Mayer v. Bristow*, 91 Ohio St.3d 3, 740 N.E.2d 656, 2000-Ohio-109. The Defendant also alleged that the R.C. 2323.52, a civil statute, is inapplicable in criminal cases. Several appellate courts, including the Eleventh District Court of Appeals, have held that a court may look to the rules of civil procedure when the rules of criminal procedure are silent. *State v. Schlee*, 2006-Ohio-3208, aff'd, 2008-Ohio-545, ¶ 23, 117 Ohio St. 3d 153, 882 N.E.2d 431. See also, *State v. Dillon*, 3<sup>rd</sup> Dist. No. No. 5-06-50, 2007-Ohio-4934, ¶ 18. Therefore this Court may apply R.C. 2323.52(B) in this case as no criminal statute or rule of criminal procedure

**PROOF OF SERVICE**

I do hereby certify that a copy of the foregoing *Proposed Judgment Entry Denying Defendant's Motion to Dismiss* was sent by ordinary U.S. Mail to Defendant Alfonsia Perry, Inmate #A300-444, Richland Correctional Institution, 1001 Olivesburg Rd., P.O. Box 8107, Mansfield, Ohio 44901, on this \_\_\_\_\_ day of March, 2017.

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