

01/15/96

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY

January 15, 1997

DISCRETIONARY APPEALS NOT ALLOWED

96-1628. Garnett v. Public Storage.

Upon consideration of the jurisdictional memoranda filed in this case, the court, sua sponte, determines this appeal to be frivolous and hereby grants an award of reasonable expenses, including costs and reasonable attorney fees, to appellees.

WHEREAS the court finds that, after a finding by the court of appeals in its opinion dated June 8, 1995, in case No. 67458, that appellant's appeal was frivolous, appellant sought to appeal to this court in case No. 95-1573;

WHEREAS the court finds that appellant subsequently sought to appeal to this court in case No. 96-1628 a nunc pro tunc entry and a journal entry granting appellees' motion for attorney fees relating to the frivolous appeal entered by the court of appeals in case No. 67458 on May 16, 1996; and

WHEREAS the court finds that appellant's appeals to this court from court of appeals case No. 67458, namely, Supreme Court case Nos. 95-1573 and 96-1628, are both frivolous,

IT IS ORDERED by the court, sua sponte, that reasonable expenses, including attorney fees and costs, are awarded to appellees in an amount to be determined upon submission by counsel for appellees of a statement of fees and costs incurred in representing appellees before this court in case Nos. 95-1573 and 96-1628. The statement of fees and costs shall be filed within twenty days of the date of this entry.

IT IS FURTHER ORDERED by the court that appellant may file objections to the statement of fees and costs within ten days of the date of filing of the statement, after which time this court will enter an order regarding the fees and costs to be assessed against appellant in favor of appellees.

Douglas, Resnick and F.E. Sweeney, JJ., concur with the denial of the discretionary appeal but dissent from the award of reasonable expenses, including attorney fees and costs.