

FILED
IN THE COURT OF COMMON PLEAS, WAYNE COUNTY, OHIO

WAYNE COUNTY, OHIO

ELDON GLICK, et al.,

2007 OCT 10 PM 3 33

Plaintiffs

TIM NEAL CASE NO. 06-CV-0199/0389
CLERK OF COURTS

vs.

TIM McCLINTOCK,

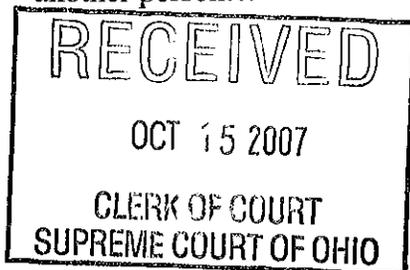
JUDGMENT ENTRY

Defendant

This matter is before the Court on the Motion filed by Defendants, Wayne County Board of County Commissioners, Cheryl A. Noah, Ann M. Obrecht, Scott Wiggam and Tim McClintock for an Order granting Summary Judgment against Plaintiff, Eldon Glick, on their counterclaim in this action. After reviewing the Motion and the response of Plaintiff, the Court makes the following decision.

R.C. 2323.52 creates a civil action to have a person declared a vexatious litigator. It provides as follows:

- (A) As used in this section:
- (1) "Conduct" has the same meaning as in R.C. 2323.51.
 - (2) "Vexatious conduct" means conduct of a party in a civil action that satisfies any of the following:
 - a. The conduct obviously serves merely to harass or maliciously injure another party to the civil action.
 - b. The conduct is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law.
 - c. The conduct is imposed solely for delay.
 - (3) "Vexatious litigator" means 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 court, or county court, whether the person or another person...



I hereby certify that this is a true copy of the original on file,
WITNESS my hand and seal of the Common Pleas Court This 11th day of OCT 20 07
TIM NEAL
Clerk of Courts Wayne County, Ohio
By: [Signature]

The vexatious litigator statute R.C. 2323.52 was held to be constitutional by the Supreme Court in Mayer v. Bristow (2000), 91 Ohio St. 3d 3.

Conduct broadly extends to not only the initial filing and pursuit of a claim, but also to the assertion of positions in connection with the actions, the filing of any motions or papers without reasonable support for the same in fact or law, the inappropriate use of discovery documents, and to the “taking of any other action in connection with a civil action.” Roo v. Sain (May 19, 2005), 2005-Ohio-2436. As evidenced by the evidentiary materials, the Plaintiff has filed numerous documents without any legitimate or good faith basis in either fact or law. Between July 14, 2006 and March 20, 2007 the plaintiff filed over 17 motions which the plaintiff routinely and repeatedly used to harass and maliciously injure the defendants and cause delay in this case. A review of the record uncovers very little that was filed by the plaintiff in which there was a legitimate purpose in furtherance of his case. The following are examples of such motions.

1. On July 14, 2006, the plaintiff Glick filed a document styled “Specific Negative Averment” in Case No. 06 CV 0199, purporting to challenge, without any legitimate basis or good faith justification, the “signatures” of defendants’ counsel on pleadings filed as part of this case. The plaintiff demanded that the Court “strike the signatures of the alleged Defendant’s counsel for fraud, . . .” The plaintiff brazenly alleged that the defendants and counsel had “conspired to ‘*fraudulently*’ use state/county/or public funds to defend McClintock’s personal interest . . .”

2. On August 4, 2006, the plaintiff Glick filed a “Reply to Motion for Judgment on the Pleadings by Affidavit” in Case No. 06 CV 0199, alleging, without any reasonable or good faith belief whatsoever, that defendant McClintock had engaged in a “conspiracy” requiring citizens to “pay im monies directly or through the process known as ‘Operation of Law’ within the Criminal Enterprise known as Wayne County Board of Commissioners.” Plaintiff also relied upon, in his court filing, a “procedural rule” of his own creation, referred to as “tacit procuration,” contending that the defendants had 10 days within which to rebut the plaintiff’s many, varied and scurrilous allegations, or they were somehow

deemed to have “admitted [their] falsehoods, and have no recourse in law.”

3. On August 3, 2006, the plaintiff Glick served answers and responses to defendants’ interrogatories and requests for production of documents in Case No. 06 CV 0199. The plaintiff’s answers provided absolutely no useful or discoverable information whatsoever, and the plaintiff did not produce a single document responsive to the discovery requests. Demonstrative of the plaintiff’s deliberate purpose to obfuscate and frustrate discovery, in response to the simple question calling for the date and place of the plaintiff’s birth, the plaintiff responded “I cannot make a legal determination about what you are asking for.” The conduct of the plaintiff in providing such responses to discovery was obviously to impose delay in the consideration of his alleged claims. The plaintiff filed and served similar, non-responsive discovery replies in Case No. 06 CV 0389 on September 27, 2006.

4. On September 11, 2006, the plaintiff filed and served a “Motion for Requests, Admissions, Interrogatories, and Document Requests” in Case No. 06 CV 0199 and in Case No. 06 CV 0389. The ridiculous scope of the plaintiff’s discovery requests cannot easily be described or summarized in this brief. For whatever reason, the plaintiff requested discovery answers pertaining to some alleged governmental “account agreement.” One of plaintiff’s admission requests demanded that defendants “admit that an agreement cannot be ratified by extortion payments.” (Request No. 28). The plaintiff further proposed in an interrogatory that defendants respond to the question “Is it the Court’s intent to deny equal protection under the law to the accused?” In addition, the plaintiff claimed that answering the interrogatories posed by the plaintiff could result in “waive[r] [of] the attorney client privilege.” Nothing set forth in the discovery submitted by the plaintiff had any bearing on the issues involved in the plaintiff’s suits or defendants’ counterclaim. Finally, in concluding his request for production of documents, the plaintiff stated in his court filing:

If any of these records or information is not available, or cannot be answered, then you are required to include a written explanation as to the reason for each and every piece of information not answered or verified, otherwise by **tacit procurement you have effectively admitted to conspiracy and are acting in a manner related to Criminal Syndicalism, and are proceeding as a Criminal Enterprise against Eldon Glick and his immediate family and friends, which is actionable through the RICO Act.**” (Emphasis added).

5. On September 12, 2006, the plaintiff filed an "Objection to Magistrate's Proposed Decision and Journal Entry(s) and Decision to Void Magistrate's Proposed Decision and All Journal Entry(s)" in Case No. 06 CV 0199. Therein, the plaintiff Glick claimed that the Court's Magistrate had acted unconstitutionally, and therefore the plaintiff was empowered to boldly pronounce that the Magistrate's proposed decision was invalid and "hereby declared disseminated in its entirety." The plaintiff further alleged, without any good faith support, that the defendant McClintock had somehow "automatically removed himself from office." Plaintiff otherwise unilaterally purported to act "by and through the people of the Great State of Ohio" to reportedly invalidate the Magistrate's decision as "void" and again assert his position that matters were somehow admitted in this case under a principle of "tacit procuration." In utter disregard of the defendants' efforts to protect their interests and right in this case, the plaintiff proceeded to declare "all Journal Entry(s) in this action/case . . . void and dismissed with prejudice."

6. On September 21, 2006, the plaintiff filed a "Notice to the Court as Courtesy" in Case No. 06 CV 0199, asserting "I am not one of the servants, and I am not required to go by the rules, as you well know." In the same court filing, the plaintiff suggested that defendants' counsel, who had written to the plaintiff to address the inadequacy of plaintiff's discovery responses, was "trying to terrorize me with harassment type letters." The content of the letter cannot reasonably be interpreted, characterized or construed as tantamount to "terrorizing" the plaintiff.

7. On September 21, 2006, the plaintiff filed a "Judicial Notice of Fraud and Motion to Dismiss Defendants' Counterclaim" in Case No. 06 CV 0199, claiming that the Court's Magistrate, County Prosecutor, defendant Commissioners and defendant McClintock had "conspire[d] together and perpetrate fraud in an attempt to create a situation alleging that I am a vexatious litigator . . ." The plaintiff Glick further labeled defendant McClintock a criminal; "a criminal in sheep's clothing." Moreover, the plaintiff went so far as to assert in his court filing that:

The Commissioners have engaged with the court to threaten Eldon and his family through fraudulent paper terrorism and litigation," (Emphasis added).

8. On September 21, 2006, the plaintiff filed an "Objection for Fraud to Defendant's Amended Answer and Counterclaim" in Case No. 06 CV 0389. In that court filing the plaintiff purported to challenge the capacity of defendants' counsel, demanding that counsel "produce their oaths and bonds" within 10 days or otherwise, by "tacit procuration" somehow admit that defendant McClintock was "never a public 'official.'"

9. On October 12, 2006, the plaintiff Glick filed a "Reply to Judgment Entry on September 28, 2006, and Notice of Invalidity of Judgment." Therein, the plaintiff Glick usurped the lawful authority of this Court, asserting that "Judge Wiest and the Magistrate have conspired with infirmity," and thus, according to the plaintiff, "it is the decision of the citizenry in Wayne County, Ohio, that Eldon Glick is hereby relieved of, and disposed of, further contamination of falsehoods perpetrated upon him and his family members for the duration of their lifetimes."

10. On October 12, 2006, the plaintiff filed a "Reply to Defendants' Brief in Opposition to Plaintiff's Motion to Dismiss Counterclaim" in Case No. 06 CV 0199, contending that the defendants had somehow caused the case to become "a total un-necessary (sic) evil." The plaintiff Glick then declared in his court filing that:

THEREFORE, it is decreed that the servants be aware that they are acting out a non-position in their quest for control, and will be found and laid out for all to see and to decide upon, so that the people will re-attain (sic) their government back in their hands for proper control and meaningful leadership.

It is hereby mandated that Eldon Glick, his family, and friends, be released from all obligations, harassment, and attacks now and forever, and that perpetrators be forever banned from holding an office of stature.

11. On October 26, 2006, the plaintiff filed a "Motion to Strike and Dismiss Defendant's Motions in their Entirety" in Case No. 06 CV 0389. In his court filing, the plaintiff charged, without any legitimate or good faith support, that the defendant was further acting "perpetrated upon fraud, and allowing others to entertain a criminal enterprise within the County of Wayne, Ohio."

12. On October 27, 2006 the plaintiff filed an "Affidavit of Truth" in Case No. 06 CV 0199 and in Case No. 06 CV 0389, asserting a purported civil rule of his own creation ("tacit procuration"), claiming that the multiple averments contained in the "affidavit" were deemed true, and that the defendants "admitted [their] falsehoods."

13. On November 13, 2006, the plaintiff filed a document captioned as a "Mandatory Judicial Notice . . . of Laches Incurred by Default of the Defendants" in Case No. 06 CV 0389. Plaintiff claimed that under his own "civil rule" of "tacit procuration," the plaintiff was entitled to relief

from the Court premised upon "admissions" by silence.

14. On November 13, 2006, the plaintiff filed a second document styled "Mandatory Judicial Notice . . . of Laches Incurred by Default" in Case No. 06 CV 0389, in which the plaintiff again asserted that under some rule of "tacit procuracy" the plaintiff was entitled to judicial relief in this action.

15. On December 29, 2006, the plaintiff filed a "Motion to Strike Defendant's Reply Brief and Cross-motion Demand to Vacate a Void Judgment filed on 12/22/06" in Case No. 06 CV 0389. In his court filing, the plaintiff alleged that the defendant was somehow engaging in "serious crimes against the people of Wayne County." Plaintiff specifically claimed "Under the patriot act this court should be contacting homeland security. These are acts of terrorism."

16. On January 18, 2007, the plaintiff Glick filed a "Notice of Appeal" as part of Case No. 06 CV 0389. In his notice of appeal, the plaintiff unilaterally asserted that a stay was entered as a matter of "right."

17. On March 20, 2007, the plaintiff Glick filed an appellate brief in connection with his appeal in Case No. 06 CV 0389. In his appellate brief, the plaintiff alleged that this Court could not "make a legal determination against the Plaintiff, unless he has agreed with committing treason in the courts."

The plaintiff contends that at no time was his behavior intentionally meant to be malicious or intentionally harm the defendants.

"Vexatious conduct," as defined in Ohio Rev. Code Ann. § 2323.52(A)(2)(a), requires proof that the party's conduct serves merely to harass or maliciously injure another party to the civil action. It is not necessary, therefore, that the harassing party intend for her conduct to be harassing or that she not sincerely believe in the justness of her cause. Rather, it is sufficient that her conduct serves the purpose, or has the effect, of harassing the victim by obligating her to respond to a legal action for which there is no objective, reasonable grounds. Borger v. McErlane (Dec. 14, 2001), 2001-Ohio-4030.

The Plaintiff in this case has consistently filed motions alleging "criminal conspiracies" and "criminal syndicalism" as well as other fraudulent conduct against the defendants not totally unrelated to the action.

The Plaintiff claims that these filings are due to the fact that he has no legal training and that he is merely exercising his constitutional right to prosecute his case. The conduct of the pro se litigant cannot be deemed proper simply due to the fact that he has no legal training. Pursuant to Ohio law, litigants who choose to proceed pro se are presumed to know the law and correct procedure, and are held to the same standards as other litigants. E.g., Yocum v. Means (July 26, 2002), Darke App. No. 15576, 2002-Ohio-3803, ¶20; In re. Estate of Shaw (Sept. 9, 2005), Greene App. No. 2004 CA 111, 2005-Ohio-4743, ¶6. The Plaintiff cites Haines v. Kerner, 404 U.S. 519 (1972) in reference to the fact that pro se litigants pleadings must be held to less stringent standards. The issue in this case is not how the pleadings were written but the content and Haines would therefore not apply.

The court finds that in this case there are no genuine issues of material fact and that the defendants are entitled to summary judgment as a matter of law on their counterclaim.

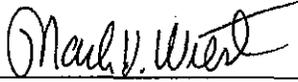
The court makes the following order pursuant to R.C. 2323.52(D)(1):

1. Eldon Glick is declared a vexatious litigator.
2. Eldon Glick is prohibited from instituting legal proceedings in the Wayne County Court of Common Pleas and the Wayne County Municipal Court.
3. Eldon Glick is prohibited from continuing any legal proceedings instituted by him prior to this date in either the Wayne County Court of Common Pleas or the Wayne County Municipal Court.

4. Eldon Glick is prohibited from making any applications [other than one for leave to proceed under R.C. 2323.52(F)(1)] in any legal proceedings instituted by him or another person in the Wayne County Court of Common Pleas or the Wayne County Municipal Court.

Costs shall be paid by Plaintiff.

IT IS SO ORDERED.



Mark K. Wiest, Judge

Dated: 10/10/07

JOURNALIZED

OCT 10 2007

TIM NEAL
CLERK, WAYNE COUNTY, OHIO