

COMMON PLEAS COURT
WASHINGTON COUNTY, OHIO

FILED
CLERK OF COURTS

2010 OCT 26 AM 10: 51

WASHINGTON CO. OHIO

Conrad Nikolas Kinze :

Plaintiff :

vs. :

Michele Coxe Kinze Maley :

Defendant :

Case No. 03 DF 209

Judge Ed Lane

FIRST AMENDED

DECISION AND JOURNAL ENTRY

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This document is being amended to correct the proper party on page 6 of 6 in the first full paragraph. It should read "... grants the PLAINTIFF'S Motions."

The above styled action came on to the Court for non-oral hearing on September 24, 2010 on two motions. The Plaintiff, Conrad Kinze, filed pursuant to the provisions of Ohio Civil Rule 60(B)(4) a Motion for Relief From Judgment in this action on January 29, 2010. On the same date, he filed a motion to declare his former wife, and Defendant herein, Michele Coxe Kinze Maley, a vexatious litigator pursuant to the dictates of 2323.52 of the Ohio Revised Code.

Prior to the filing of these motions, on December 31, 2009, this Court entered a final entry in this action regarding then pending motions wherein it made specific findings as to the conduct of the defendant throughout these proceedings. It was this Court's finding, at that time, and it continues to be this Court's finding today, that the Defendant, Michele Coxe Kinze Maley, has committed fraud upon the Court on numerous occasions by altering exhibits and by perjury. This was admitted to in the prior hearing by the Defendant. Shortly after the Plaintiff filed the aforesaid motions, the Defendant filed a Notice of Appeal from this Court's decision and entry of

December 31, 2009. Her Notice of Appeal was timely filed with the clear objective of delaying this Court in ultimately deciding the issues presented by her former husband in the now pending motions. Once she filed the appeal, she took no action to prosecute her appeal. No transcript of proceedings was filed, despite several continuances by the Court of Appeals and requests for the same. On July 14, 2010 the Court of Appeals for the Fourth Appellate District for Washington County, Ohio, dismissed the Defendant's appeal of the decision issued by this Court on December 31, 2009. The findings of the Court in that decision are now uncontroverted and cannot be contested. This Court now finds that the Defendant's actions in filing an appeal were an attempt to delay the ultimate resolution of the Plaintiff's motions. Her actions in this Court parallel her actions in her present husband's case in the Athens County Common Pleas Court. In that case, she attempted to use a power of attorney to file repeated motions to delay the proceedings of the Athens County Court of Common Pleas.

Notice of the non-oral hearing was filed in the present action on August 26, 2010 and sent by ordinary mail to the Defendant. The hearing was noticed for September 24, 2010 at 11:15 a.m. It is important to note that the Defendant, Michele Coxe Kinze Maley, has filed no response to the pending motions. These motions are uncontested and their assertions therein are uncontroverted. On May 13, 2010, the Plaintiff filed an Amended Motion for Relief From Judgment.

The Court will first address the Plaintiff's Motion for Relief From Judgment. Rule 60(B)(4) provides that relief from judgment may be granted when the judgment has been satisfied, released or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or is **no longer equitable that the judgment should have prospective**

application. (Emphasis supplied)

The Defendant has filed numerous motions since these parties' final divorce. Many of the motions sought judgment for the Plaintiff's alleged failure to pay the uninsured medical bills of the parties' then minor children. The Defendant has had an extensive practice of not providing copies of the bills to the Plaintiff in order that he could timely pay for uninsured medical expenses. In her testimony on December 11, 2009 in this Court, she admitted that many of the amounts had not been in fact paid by her, that some of the judgments had been paid by either her insurance or her present husband's insurance on the children, or the Defendant's insurance. She admitted that she in fact had lied at prior hearings. She also testified at the hearing that she would receive health insurance payments for the minor children's medical bills and would then alter the bills in an attempt to receive double compensation by having the Plaintiff pay for the same expense when it had already been paid by health insurance. She also admitted that at times she did not use insurance proceeds to pay the bills and that some of the bills, such as the orthodontia work she had not made payments on. All of this was in direct contravention of her prior testimony in this Court on numerous occasions.

This Court in 23 years on the bench has seen no case that fits the definition of Civil Rule 60(B)(4) better than the present case. It is not equitable that any of the judgments entered against the Plaintiff herein should continue into effect. All are hereby held to be void and of no further legal effect. **THE CLERK OF THIS COURT SHALL ORDER A DISCHARGE ON EACH OF THE JUDGMENTS OF RECORD ON THE JUDGMENT RECORDS AND JOURNALS OF THIS COURT. THEY SHALL BE OF NO FURTHER LEGAL EFFECT.** The judgments for child support were in part based on false testimony. She obtained

some judgments by testifying that the parties' son was enrolled full time in school when he was not. All of the Plaintiff's child support is satisfied.

This Court has previously entered an order for spousal alimony to be paid by the Plaintiff to compensate the Defendant for medical and other bills. All of the money that is presently being held in impoundment by the Washington County Child Support Enforcement Agency shall forthwith be returned to the Plaintiff to give him partial compensation for the amounts of money that he had been ordered to pay by this Court that were obtained on false testimony and fraudulent evidence.

The Court will now address the Plaintiff's Motion to declare the Defendant a vexatious litigator. A vexatious litigator

2323.52 Civil action to declare person vexatious litigator.

1. (A) As used in this section:

(1) "Conduct" has the same meaning as in section 2323.51 of the Revised Code.

(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 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 the 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.

(B) A person, the office of the attorney general, or a prosecuting attorney, city director of law, village solicitor, or similar chief legal officer of a municipal corporation who has defended against habitual and persistent vexatious conduct in the court of claims or in a court of appeals, court of common pleas, municipal court, or county court may commence a civil action in a court of common pleas with jurisdiction over the person who allegedly engaged in the habitual and persistent vexatious conduct to have that person declared a vexatious litigator. The person, office of the attorney general, prosecuting attorney, city director of law, village solicitor, or similar chief legal officer of a municipal corporation may commence this civil action while the civil action or actions in which the habitual and persistent vexatious conduct occurred are still pending or within one year after the termination of the civil action or actions in which the habitual and persistent vexatious conduct occurred.

(C) A civil action to have a person declared a vexatious litigator shall proceed as any other civil action, and the Ohio Rules of Civil Procedure apply to the action.

(D)(1) If the person alleged to be a vexatious litigator is found to be a vexatious litigator, subject to division (D)(2) of this section, the court of common pleas may enter an order prohibiting the vexatious litigator from doing one or more of the following without first obtaining the leave of that court to proceed:

(a) Instituting legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court;

(b) Continuing any legal proceedings that the vexatious litigator had instituted in any of the courts specified in division (D)(1)(a) of this section prior to the entry of the order;

(c) Making any application, other than an application for leave to proceed under division (F)(1) of this section, in any legal proceedings instituted by the vexatious litigator or another person in any of the courts specified in division (D)(1)(a) of this section.

The inescapable conclusion of this Court, based upon the prior testimony of the Defendant is that she is a classic vexatious litigator. She has filed repeated motions in this Court that were not in fact supported by truthful evidence in an attempt to harass the Plaintiff, punish him for the breakup of the parties' marriage and alienate the parties' children from him. **This Court hereby finds Michele Coxe Kinze Maley to be a vexatious litigator who has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in this civil action.** None of her motives appear to be a proper or legal motive for bringing these

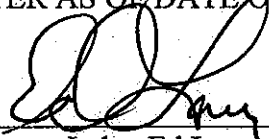
numerous motions to this Court and were based on false and fraudulent testimony and doctored exhibits.

For all of the reasons set forth herein above, this Court grants the Plaintiff's Motions. All court costs incurred in this matter shall be assessed against and paid by the Defendant, Michele Coxe Kinze Maley, forthwith. All money presently impounded by the Washington County Child Support Enforcement Agency shall be returned to the Plaintiff forthwith.

The Clerk of this Court shall cause a certified copy of this Entry to be transferred to the Clerk of The Ohio Supreme Court pursuant to the dictates of 2325.52(H) of the Ohio Revised Code.

ALL OF WHICH IS ORDERED AND ADJUDGED ACCORDINGLY.

ENTER AS OF DATE OF FILING:



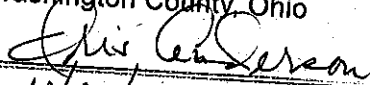
Judge Ed Lane

c: C. Kinze
M. Maley

**NOTICE TO CLERK'S OFFICE
FINAL APPEALABLE ORDER**

I certify the foregoing to be a true and correct copy of the original

Brenda L. Wolfe, Clerk of Courts
Common Pleas Court-Court of Appeals
Washington County, Ohio

By 
10/27/10 Deputy Clerk