

IN THE COURT OF COMMON PLEAS  
- GENERAL DIVISION -  
TRUMBULL COUNTY, OHIO

CASE NUMBER: 2016 CV 1012

DENNIS WATKINS,  
Trumbull County Prosecuting Attorney,

PLAINTIFF.

vs.

JUDGE PETER J. KONTOS

LANCE POUGH,

DEFENDANT.

JUDGMENT ENTRY

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 2003, Defendant Pough has deluged this Court with affidavits and letters, motions and petitions, all of which are stated in the Plaintiff's Motion for Summary Judgment and are a matter of record before this Court. Mr. Pough 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).

On May 5, 2000, the Trumbull County Grand Jury returned an indictment against Lance Pough for his role in the 1998 death of Braderick McMillan. He was charged with Aggravated Murder and Conspiracy to Commit Aggravated Murder in Trumbull County Case No. 2000-CR-280. Pough entered into a plea agreement in that case and entered a guilty plea to an amended count of Complicity to Commit Murder, in violation of R.C. 2923.03(A)(1) and 2903.02(A), along with a firearm specification in violation of R.C. 2941.145(A).



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On November 30, 2000 Pough was sentenced and ordered to serve a term of fifteen years to life in prison, along with three years for the firearm specification. These terms were to be served concurrently with the sentence Pough was already serving in federal prison in Case No. 4:98-CR-234. Although appellant pursued an appeal to the 11<sup>th</sup> District Court of Appeals arguing that his plea was not knowing and voluntary and his trial counsel was ineffective, the appellate court held that the guilty plea was valid and affirmed the decision of the trial court. *State v. Pough*, 11<sup>th</sup> Dist. Trumbull No. 2000-T00151, 2002-Ohio-6927.

After the disposition of initial appeal, Pough submitted a series of post-judgment motions before this Court, and has filed cases resulting in seven related appeals before the Eleventh District Court of Appeals. However, notwithstanding the amount of his post-judgment litigation, appellant has not obtained any modification of his conviction or sentence, nor has any of his ancillary litigation been successful. *See State v. Pough*, 11<sup>th</sup> Dist. No. 2003-T-0129; *State v. Pough*, 2003-T-0151; *State v. Pough*, 2010-T-0117; *Pough v. McKay*, 2015-T00094; *Pough v. Ohio*, 2007-T-0005; *State v. Pough*, 2015-T-0095. The number of filings by Pough in the initial criminal case, Case No. 2000-CR-280, exceeds sixty (60) documents.

R.C. 2323.52(A)(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 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.

R.C. 2323.52(A)(2) defines "vexatious conduct" as follows: (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.

Defendant Pough 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.

Having reviewed the Motion for Summary Judgment and the attached filings and having taken judicial notice of the case docket of this Court, the result in this case is abundantly clear. The Court finds that reasonable minds can come to only one conclusion, and, having weighed matters in a light most favorable to the Defendant, Lance Pough, the Court finds that Summary Judgment is appropriate in this matter in favor of the Plaintiff, Dennis Watkins, Trumbull County Prosecutor.

NOW THEREFORE, pursuant to R.C. §2323.52, the Court hereby declares the Defendant, Lance Pough, a vexatious litigator, and hereby enters an Order as follows:

Defendant, Lance Pough, is hereby prohibited from the following unless having first obtained proper leave of this Court and upon proper service of any and all affected parties:

1. Instituting legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court.
2. Continuing any legal proceedings that he has instituted in any of the aforesaid courts prior to the entry of this Order; and
3. Making any application, other than an application for leave to proceed under division (F)(1) of R.C. §2323.52, in any legal proceedings instituted by the vexatious litigator (Pough) or another person in any of the courts specified in division (D)(1)(a) of R.C. §2323.52.

The Plaintiff's Motion for Summary Judgment is hereby GRANTED. Case concluded.  
Costs to the Defendant, Lance Pough. This is a final appealable order and there is no just cause  
for delay.

SO ORDERED/

*P. J. Kontos*  
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JUDGE PETER J. KONTOS

**FILED**  
COURT OF COMMON PLEAS  
OCT 3 2016  
TRUMBULL COUNTY, OH  
KAREN INFANTE ALLEN, CLERK

**TO THE CLERK OF COURTS:  
YOU ARE ORDERED TO SERVE COPIES OF THIS JUDGMENT  
ON ALL COUNSEL OF RECORD OR UPON THE PARTIES  
WHO ARE UNREPRESENTED FORTHWITH  
BY ORDINARY MAIL.**

*P. J. Kontos*  
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JUDGE PETER J. KONTOS

*1-5-2018*  
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This is a true and correct copy of the original.  
*KA*  
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KAREN INFANTE ALLEN, CLERK  
By *M Thomas* Deputy