

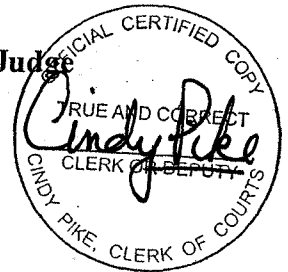
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COMMON PLEAS COURT
DARKE COUNTY, OHIO

2018 OCT 10 PM 1:20

CINDY PIKE
CLERK

IN THE COMMON PLEAS COURT OF DARKE COUNTY, OHIO

ASHLEY SCHUTZ : **CASE NO. 17-CV-00211**
Plaintiff, : **JONATHAN P. HEIN, Judge**
vs. :
CRYSTAL SCHUTZ, nka MILLER :
Defendant. : **JUDGMENT ENTRY –**
Decision and Judgment Entry



This matter came before the Court for trial to the Court pursuant to notice. The Plaintiff appeared along with counsel, Patrick Janis, Esq. The Defendant appeared *pro se*. The allegation in the Complaint is that the Defendant is a vexatious litigator who has abused the legal process in Case No. 10-DIS-00857 and, therefore, should be prohibited from unfettered access to the Court in Case No. 10-DIS-00857.

Available Evidence

The evidence in this matter consists of 44 paper exhibits presented by the Plaintiff which were pleadings in Case No. 10-DIS-00857. Also, the Court admitted Exhibit 45 which is a Request for Admissions not answered by Ms. Miller but which the Court later deemed to have been admitted by her. Testimony from Jeremy Tomb, Esq. and Ms. Miller was heard. Also, the Court took judicial notice of all proceedings and pleadings in Case No. 10-DIS-00857. Finally, the document attached to the complaint but under seal was considered. Mr. Janis and Ms. Miller made closing arguments and the matter is ready for decision.

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Case Analysis

This case proceeds under the provisions of R.C. 2323.52. Relevant portions of the statute are set forth as follows:

(A)(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.

(A)(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.

Decision

The Court has considered the evidentiary items described above. The evidence shows that the Defendant has persisted in a habitual course of conduct that has persisted against the Plaintiff in Case No. 10-DIS-00857 since 2016 and thereafter. This conduct was malicious and unwarranted. Especially persuasive in reaching this conclusion are the following: (1) Magistrate's finding dated August 2, 2017 [Exhibit 43]; (2) repeated findings of non-compliance with Orders and findings of contempt directed against Ms. Miller as found by the Magistrate on September 6, 2017 [Exhibit 44]; and (3) the filing of successive, overlapping motions in Case No. 10-DIS-00857 which were filed prior to adjudication of prior pending motions.

The Defendant's explanation for the overlapping motions was that she was acting in the "best interests of the children." However sincere this might sound, for several reasons, her subjective motive is insufficient and contrary to law. First, Ms. Miller did not comply with decisions of the Court which were based on the best interests of the children. Her subjective intentions are an insufficient rationale for obstinance and disobedience regarding child-related matters. Instead of deferring to the decisions of the Court, as would be expected in an orderly society, she engaged in an escalating battle of argumentative pleadings without allowing any time for the decisions to be implemented within the parenting relationship between Ms. Miller and Mr. Schutz. The "best interests of the children" is not license to litigate *ad nauseum*. Second, transcripts in Case No. 10-DIS-00857 demonstrate a lack of proper decorum and respect for other participants, including her ex-spouse, the Guardian ad Litem and the Magistrate. Such conduct was memorialized in the transcripts of Case No. 10-DIS-00857 and significantly outweigh the innocent-sounding testimony she presented at trial. The humility portrayed during trial does not outweigh the facts that Ms. Miller does not defer to the judgments of the Court, recommendations of the Guardian ad Litem, or standards of reasonable civility between ex-spouses in the context of parenting conduct. [While it may be that she has learned lessons and that the future will be more amicable, this will only be determined based on Defendant's her future actions...¹]

The Court finds that the Defendant's conduct was not honorable, appropriate and necessary, but instead was vexatious conduct. Therefore, the Court concludes that the Defendant is a "vexatious litigator" as defined by the Ohio Revised Code.

¹ While it may be common for litigants to represent themselves in litigation today, especially on the domestic relations docket, self-representation does not allow a party to receive accurate legal advice in an objective context. Pro se litigants may receive some variance from the strict application of the Rules of Civil Procedure and governing statutes; however, pro se litigants are not excused from the substance of the Rules and statutes.

Remedies

The Ohio Revised Code specifies various remedies which can be imposed against a person determined to be a vexatious litigator. R.C. 2323.52 provides:

(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.

* * *

(D) (3) A person who is subject to an order entered pursuant to division (D)(1) of this section may not institute legal proceedings in a court of appeals, continue any legal proceedings that the vexatious litigator had instituted in a court of appeals prior to entry of the order, or make any application, other than the application for leave to proceed allowed by division (F)(2) of this section, in any legal proceedings instituted by the vexatious litigator or another person in a court of appeals without first obtaining leave of the court of appeals to proceed pursuant to division (F)(2) of this section.

* * *

(F)(1) A court of common pleas that entered an order under division (D)(1) of this section shall not grant a person found to be a vexatious litigator leave for the institution or continuance of, or the making of an application in, legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court unless the court of common pleas that entered that order is satisfied that the proceedings or application are not an abuse of process of the court in question and that there are reasonable grounds for the proceedings or application. If a person who has been found to be a vexatious litigator under this section requests the court of common pleas that entered an order under division (D)(1) of this section to grant the person leave to proceed as described in division (F)(1) of this section, the period of time commencing with the filing with that court of an application for the issuance of an order granting leave to proceed and ending with the issuance of an order of that nature shall not be computed as a part of an applicable period of limitations within which the legal proceedings or application involved generally must be instituted or made.

Regarding the remedy herein, the Court is aware of the need for access to the Court when child-related issues are involved. However, Ms. Miller has proven that she is not responsible enough to be given unfettered access. Therefore, two requirements for filing motions are ordered.

First, Crystal Miller is not permitted to file any motions or other pleadings requesting affirmative relief without first presenting the motion to the Court for prior approval (i.e. not submitted to the Clerk for filing). Any motion shall include appropriate statements of fact and citations to legal authority demonstrating that the motion complies with statutory and common law requirements, such as demonstrating changes of circumstances, etc. A copy of any motion shall also be provided to Mr. Schutz or his counsel. In considering the propriety of any future motion, this Court shall determine whether such proposed filings is an abuse of process and whether reasonable grounds exist for such future action.

Second, if the Court approves any motion for filing, Ms. Miller shall pay the customary filing fee for reopening cases as to each approved motion. This requirement, along with prior Court approval, is meant to be a financial disincentive to frivolous filings and to prevent successive, repetitive filings. Given her good health, post-high school education, potential income, this financial requirement is not construed as a penalty in the context of this decision.

Conclusion

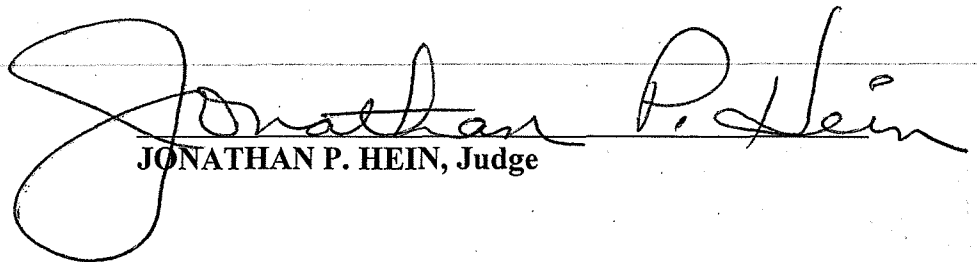
The Court determines that the Plaintiff has proven his case. Defendant, Crystal Miller, is determined to be a vexatious litigator, as defined by R.C. 2323.52. Restrictions are imposed on Crystal Miller regarding the filing of future motions in Case No. 10-DIS-0857.

IT IS THEREFORE ORDERED AND DECREED that the Defendant, Crystal Schutz, nka Crystal Miller, be restrained from filing any future motions in Case No. 10-DIS-00.857 of the Darke County Court of Common Pleas unless this Court determines that such future filings are not an abuse of process and that reasonable grounds exist for such future action. See R.C. 2323.52(F)(1).

IT IS FURTHER ORDERED AND DECREED that the restrictions imposed herein shall remain in effect for a term of three (3) years after date of this Entry.

IT IS FURTHER ORDERED AND DECREED that the Clerk of Courts shall forward a certified copy of this Entry to the Supreme Court of Ohio for publication and/or distribution as appropriate.

Costs to the Defendant. FINAL APPEALABLE ORDER.


JONATHAN P. HEIN, Judge

cc: Patrick J. Janis, Attorney for Plaintiff (via email)
Crystal Miller, 1417 East Market Street, Logansport, IN 46947

judge/research/vexatious litigator