

FILED
COMMON PLEAS COURT
DARKE COUNTY, OHIO

2009 NOV 5 AM 9 19

CINDY HARRIS
CLERK

IN THE COMMON PLEAS COURT OF DARKE COUNTY, OHIO

THOMAS L. GUILLOZET, Solicitor	:	CASE NO. 09-CV-00241
Plaintiff,	:	JONATHAN P. HEIN, Judge
vs.	:	
JAMES R. SHORT	:	
Defendant.	:	JUDGMENT ENTRY – Decision and Judgment Entry

This matter came before the Court for trial pursuant to notice. The Plaintiff appeared through counsel, William H. Cooper, 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 and, therefore, should be prohibited from unfettered access to the Courts of the State of Ohio.

At the commencement of the trial, the Defendant noted the absence of any witnesses for the Plaintiff and that the Plaintiff himself had not appeared. The Defendant indicated his intention to leave the trial and proceeded to do so in a respectful manner. While leaving, the Court indicated to the Defendant that the trial could continue and that his attendance was optional.

Mr. Cooper then proceeded to identify ten (10) exhibits. The exhibits were certified copies of pleadings filed in this Court and the Court of Appeals for Darke County. Such documents are public records under seal of the issuing agency and self-authenticating. As such, following their presentment by Mr. Cooper, the exhibits were admitted by the Court as

evidence herein. Mr. Cooper made a closing argument and the matter was then ready for decision.

Case Analysis

This proceeding is permissible 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.

© 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 exhibits offered by the Plaintiff. These pleadings show that the Defendant has initiated two appeals from decisions from the Darke County Municipal Court. In each appeal, the merits were void of facts or legal authority to make a reasonable argument that the assignments of error were worthy of consideration by the Court of Appeals. [See Plaintiff's exhibits 2 and 7.] While the Court of Appeals was required to infer the issue being appealed, the Defendant ultimately did not prevail on appeal.

Further, two cases were filed by the Defendant in this Court. One case was determined to have been solely without any merit. [See Plaintiff's Exhibit 5.] The other case was dismissed because the Defendant failed to consider the defense of governmental immunity, which failure the Court finds to have been inexcusable. [See Plaintiff's Exhibit 10.]

In all four cases, the Court takes notice of the pleadings, attendance and actions of the Village of Versailles and its Solicitor in defending the cases.

Finally, in this case, the Court considers the failure of the Defendant to comprehend the Rules of Civil Procedure and his failure to comply with the Order of the Court. Such failures add veracity to the allegation of the Plaintiff that the Defendant's conduct in any litigation is not honorable, appropriate and necessary, but instead is vexatious conduct. Therefore, the Court finds that the Defendant is a "vexatious litigator" as defined by the Ohio Revised Code.

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.

(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.

Conclusion

The Court determines that the Defendant, James R. Short, is a vexatious litigator, as defined by R.C. 2323.52, and that the Plaintiff has proven its case.

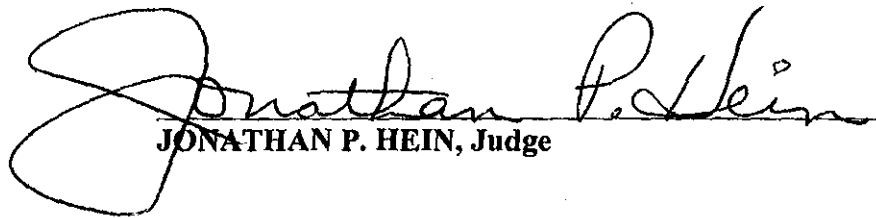
IT IS THEREFORE ORDERED AND DECREED that the Defendant, James R. Short, be restrained from filing any litigation in the trial courts of the State of Ohio unless this Court determines that such future filings are not an abuse of process and that reasonable grounds exist for such future action. See R.C. 2323.52(F)(1).

IT IS FURTHER ORDERED AND DECREED that the Defendant, James R. Short be restrained from filing any appeals or other litigation in the appellate courts of the State of Ohio unless such appellate 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)(2).

IT IS FURTHER ORDERED AND DECREED that the restrictions imposed herein shall remain in effect for a term of five (5) years hereafter.

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 it deems appropriate.

Costs to the Defendant. FINAL APPEALABLE ORDER.


JONATHAN P. HEIN, Judge

cc: William H. Cooper, Attorney for Plaintiffs (via fax)
James R. Short, 610 West Ward Street, Versailles, OH 45380

judge/research/vexatious litigator

