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I. INTRODUCTION

Appellant Robert Hillman, a pro se inmate, is challenging the decision by the Tenth District Court of Appeals Judge Susan Brown to deny his contempt complaint for lack of jurisdiction. That dismissal is the subject of this appeal, despite Hillman's attempt to bring forth several unfounded allegations against Judge Brown and others associated with his previous court filings. The only issue before this Court is whether the Tenth District Court of Appeals properly dismissed Hillman's contempt complaint against Judge Brown for lack of jurisdiction. As argued below, Ohio law required that the Tenth District Court of Appeals dismissed the contempt complaint against Judge Brown because it lacked jurisdiction to consider his contempt complaint.

II. STATEMENT OF CASE

A. Procedural Posture

During an appeal of an expungement case before the Tenth District, Hillman filed a show cause order for contempt against Judge Brown, who had signed a motion as a Tenth District judge during Hillman's appeal. *Hillman v. Brown* (10th Dist. Jan 6, 2011), No. 11AP-22 (Appx. at p. 19). The Tenth District court dismissed Hillman's complaint against Judge Brown for lack of jurisdiction. *Hillman v. State* (10th App. Dist. Sept. 29, 2011), No. 11AP-22 (Appx. at 7). Hillman appealed the Tenth District's dismissal to this Court as of right, which this Court granted. Case no. 2011-1790 (Appx. at pp. 37-38). In response to Hillman's Appellant brief in this action, Appellee Judge Susan Brown now enters her brief.

B. Statement of Facts

On November 20, 2008, Hillman filed a motion to expunge his criminal records in three cases in the Franklin County Court of Common Pleas, pursuant to R.C. 2953.52. *See* Dockets

for Franklin County Case Nos. 95CR-2298, 95CR-5414, and 03CR-3447 (Appx. at pp. 1, 3, and 5).

On April 5, 2010, the Franklin County Court of Common Pleas denied Hillman's motions to expunge his record in these cases. *Hillman v. Brown* (10th App. Dist. Sept. 29, 2011), No. 11-AP-22, p. 1 (Appx. at p.7).

Hillman timely appealed the denial of expungement for each case in the Tenth District Court of Appeals, and the court consolidated those appeals, under dockets for 10th App. Dist. Case Nos. 10AP-424, 10AP-425, and 10AP-426 (Appx. at pp. 10, 12, and 14).

On December 10, 2010, Hillman filed a motion to show cause in the Tenth District against the Franklin County Prosecutor's Office, pursuant to Civil Rule 7(B)(2). *See Hillman v. State* (10th App. Dist. Dec. 10, 2010), Nos. 10AP-424, 10AP-425, 10AP-426 (Appx. at p. 16). In this motion, Hillman requested that the court find the Franklin County Prosecutor in "direct or in-direct civil and criminal contempt of court, for committing fraudulent acts . . ." *Id.* at p. 16.

On December 15, 2010, in response to Hillman's motion, the Tenth District issued a journal entry, stating only that "Appellant's December 10, 2010 motion shall be submitted to the court for determination at such time as the court addresses the merits of this appeal." *State v. Hillman* (10th App. Dist. Dec. 15, 2010), Nos. 10AP-424, 10AP-425, 10AP-426 (Appx. at p. 18). Appellee Judge Susan Brown signed this journal entry. *Id.*

On January 6, 2011, Hillman filed another application for a show cause order in the Tenth District, this time as a separate complaint in mandamus to hold Judge Brown in "direct and or in-direct civil and criminal contempt of court."¹ *Hillman v. Brown* (10th Dist. Jan 6,

¹ Although docketed as a mandamus action, the Hillman Complaint was clearly not seeking a writ of mandamus. The case was mis-captioned for a mandamus petition, and since the issuance of contempt is discretionary, Hillman could never demonstrate a clear legal duty on the part of the Tenth District to grant him the relief he sought.

2011), No. 11AP-0022 (Appx. at p. 19). Hillman, adopting the same language he used in his previous motion for contempt against the Franklin County Prosecutor, alleged that Judge Brown committed fraudulent acts in her December 15, 2010 journal entry. *Id.*

On March 22, 2011, the Tenth District issued a decision in the expungement case overruling Hillman's assignments of error, denying his motion for show cause order against the prosecutor, and affirming the judgment of the Franklin County Court of Common Pleas. *State v. Hillman* (10th App. Dist. March 22, 2011), Nos. 10AP-424, 10AP-425, 10AP-426 (Appx. at pp. 22-26).

On September 29, 2011, the Tenth District issued its decision on Hillman's January 6, 2011 mandamus/contempt complaint against Judge Brown, dismissing his motion for lack of jurisdiction.² *Hillman v. State* (10th App. Dist. Sept. 29, 2011), No. 11AP-22 (Appx. at 9).

This September 29, 2011 decision is the subject of Hillman's current appeal. On October 24, 2011, this Court granted Hillman's appeal as of right. Appx. at p. 37. Hillman filed his appellant brief on December 19, 2011, to which appellee Judge Susan Brown of the Tenth District Court of Appeals now responds.

III. ARGUMENT

A. Standard Of Review

The standard of review for the granting or denial of a motion to dismiss for lack of jurisdiction is whether the complaint raises any cause of action cognizable in the forum. *State ex rel. Bush v. Spurlock* (1989), 42 Ohio St.3d 77, 80. Because Hillman did not raise an action cognizable in the Tenth District Court of Appeals, this Court should uphold the Tenth District's judgment.

² *Id.*

B. The Tenth District Court of Appeals properly dismissed an original complaint in contempt against Appellee Judge Susan Brown for lack of jurisdiction.

The Tenth District Court of Appeals had no jurisdiction to entertain a suit for contempt of court. Ohio courts of appeals are courts of limited jurisdiction, only having “such jurisdiction as may be provided by law.” Section 3, Article IV, Ohio Constitution. The courts of appeals have original jurisdiction over actions in quo warranto, mandamus, habeas corpus, prohibition, procedendo, and “such jurisdiction as may be provided by law to review and affirm, modify, or reverse judgments or final orders of the courts of record inferior to the courts of appeals within the district.” Section 3(B)(2), Article IV, Ohio Constitution. An original action for a “show cause” order is not included in the courts of appeals’ jurisdiction.³

Further, Hillman brought his complaint against Judge Brown pursuant to R.C. 2705.02. The Tenth District has recently considered the legislative intent of two particular contempt statutes, R.C. 2705.01 and 2705.02, in *Anderson v. Smith*, 2011-Ohio-5619. Specifically, the Tenth District determined that neither R.C. 2705.01 nor 2705.02 expressly authorize a party to sue for contempt of court, nor do these statutes create an implied right of action. *Id.* at ¶ 10. The court determined that “the power to punish contempt is inherent in the judiciary, and the statutes simply regulate the exercise of this power,” but the statutes not intended to create a “private, independent right of action.” *Id.* at ¶ 11. That this was the legislature’s intent, reasoned the court, is further supported by the legislature’s choice of language in R.C. 2705.031, which provides “that a party aggrieved by one of the punishable acts could initiate a complaint for contempt.” *Id.* Considering the limits of Section 3(B)(2) and the legislative intent behind R.C. 2705.02, the Tenth District did not have express or implied jurisdiction to hear an original action in contempt.

³ *Id.*

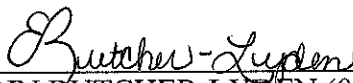
Accordingly, the Tenth District was required to abstain from considering Hillman's original contempt complaint for lack of jurisdiction.

IV. CONCLUSION

For the reasons set forth above, the Tenth District Court of Appeals properly dismissed Hillman's complaint against Appellee Judge Susan Brown for lack of jurisdiction. Therefore, Appellee Judge Susan Brown respectfully requests that this Court uphold the decision of the Tenth District.

Respectfully submitted,

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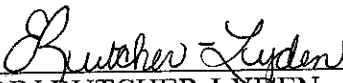
*Counsel for Appellee
Judge Susan Brown*

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Merit Brief of Appellee Judge Susan Brown* was served by regular U.S. mail, postage prepaid, on January 27, 2012, upon the following:

ROBERT L. HILLMAN
#529-955
C.C.I.
P.O. Box 5500
Chillicothe, Ohio 45601

Appellant



ERIN BUTCHER-LYDEN
Assistant Attorney General

APPENDIX

Appeals: 373 S. High St., 23rd Fl. (614) 525 - 3524
 Civil: 345 S. High St., 1st Fl. (614) 525 - 3521
 Criminal: 345 S. High St., 1st Fl. (614) 525 - 3550
 Domestic: 373 S. High St., 4th Fl. (614) 525 - 4410
 Juvenile: 373 S. High St., 4th Fl. (614) 525 - 4411
 Juvenile Traffic: 399 S. Front St., 1st Fl. (614) 525 - 5276
 Public Records: 345 S. High St., 1st Fl. (614) 525 - 3535

Maryellen O'Shaughnessy
 Franklin County Clerk of Courts



Case Information Online

Court Schedule

Home Last Name: First Name: Middle Init: Court: Case:

CRIMINAL CASE DETAIL

CASE NUMBER	HOW FILED	DATE FILED	MUN	COMP	ARREST DATE	STATUS
95 CR 002298	INDICTMENT	04/19/1995	CPD	8985-1-2/95	04/09/1995	CLOSED
JUDGE	COURTROOM	PROSECUTOR				
JOHN F BENDER	COURTROOM 4F 345 SOUTH HIGH STREET 4TH FLOOR COLUMBUS, OH 43215	DOUG P STEAD				

DEFENDANT(S)	Attorney
<input checked="" type="checkbox"/> ROBERT L HILLMAN Co-Defendant(s) None	RICHARD F SWOPE

CHARGES (Disclaimer: The listed "Off. Date" may be inaccurate on cases filed prior to 10/9/92. This is the date the electronic docket for this case was converted to a new system, and not the actual date of the Offense. See docket entries below for Case History.)

Off. Date	Code	Description	Disposition	Degree
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Specifications: None				

Date	Type	Status	Amount	Description	Posted By
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04/21/95	REPORT RECOG	INACTIVE	10,000.00	BOND SET - REPORTING RECOGNIZANCE	N/A

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04/21/95	01	PLEA OF NOT GUILTY	22195	H19	1
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Appeals: 373 S. High St., 23rd Fl. (614) 525 - 3624
 Civil: 345 S. High St., 1st Fl. (614) 525 - 3621
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 Public Records: 345 S. High St., 1st Fl. (614) 525 - 3625

Maryellen O'Shaughnessy
 Franklin County Clerk of Courts



Case Information Online

Court Schedule

Home Last Name: First Name: Middle Init: Court: All Case: CR 005414

Advanced Search

Email Updates

CRIMINAL CASE DETAIL

CASE NUMBER	HOW FILED	DATE FILED	MUN	COMP	ARREST DATE	STATUS
95 CR 005414	INDICTMENT	09/21/1995	CPD	22681/95	08/16/1995	CLOSED
JUDGE	COURTROOM	PROSECUTOR				
TIMOTHY S HORTON	COURTROOM 3F 345 SOUTH HIGH STREET 3RD FLOOR COLUMBUS, OH 43215	MICHAEL R JAKUBOW MICHAEL R JAKUBOW				

DEFENDANT(S)	Name	Attorney
<input checked="" type="checkbox"/>	ROBERT HILLMAN	ROBERT O SCHOPIS
	Co-Defendant(s)	
	None	

CHARGES (Disclaimer: The listed "Off. Date" may be inaccurate on cases filed prior to 10/9/92. This is the date the electronic docket for this case was converted to a new system, and not the actual date of the Offense. See docket entries below for Case History.)

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Specifications: None				

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09/21/95	01	HEARING / ARRAIGNMENT SCHEDULED			

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09/04/03	00	LETTERS	43533	I04	3
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07/31/03	00	SUPPRESS - MOTION TO	43276	H16	6
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06/27/03	00	APPOINTMENT OF PRIVATE COUNSEL	42964	B18	1
06/27/03	00	PUBLIC DEFENDER WITHDRAWN	42964	B18	1
06/27/03	01	RENOTICE OF HEARING SCHEDULED	42964	B18	1
06/24/03	00	SUBPOENA - RETURNED SERVED	42952	A11	1
06/23/03	00	SUPPRESS - MOTION TO	42943	J03	2
06/23/03	00	SUPPRESS - MOTION TO	42943	I20	3
06/20/03	00	SUBPOENA - RETURNED SERVED	42937	D17	1
06/19/03	00	SUBPOENA - FILED	42925	C13	1
06/19/03	00	SUBPOENA - FILED	42925	C12	1
06/12/03	00	ORIGINAL COPY OF HEARING NOTICE FILED			
06/12/03	00	ORIGINAL COPY OF HEARING NOTICE FILED			
06/12/03	00	ORIGINAL COPY OF HEARING NOTICE FILED			
06/12/03	00	ORIGINAL COPY OF HEARING NOTICE FILED			
06/12/03	00	ORIGINAL COPY OF HEARING NOTICE FILED			
06/12/03	00	ORIGINAL COPY OF HEARING NOTICE FILED			
06/10/03	01	HEARING / EVENT SCHEDULED	42819	A12	1
06/10/03	01	HEARING / EVENT SCHEDULED	42819	A12	1
06/09/03	00	DISCOVERY - REQUEST FOR	42835	J01	1
06/03/03	00	DISCOVERY - REQUEST FOR	42786	E09	4
06/03/03	00	ASSIGNMENT OF PUBLIC DEFENDER	42722	J17	1
06/02/03	00	COURT REPORTER CERTIFICATE FILED	42781	H16	1
05/30/03	00	ASSIGNMENT OF ASSISTANT PROSECUTING ATTORNEY	42720	C13	1
05/23/03	00	READING OF THE INDICTMENT WAIVED	42726	D18	1
05/23/03	00	JUDGE ASSIGNED - ORIGINAL	42726	D18	1
05/23/03	00	APPOINTMENT OF PUBLIC DEFENDER	42726	D19	1
05/23/03	00	AFFIDAVIT OF INDIGENCY	42726	D19	1
05/23/03	00	WARRANT - RETURNED SERVED	42709	C17	1
05/23/03	00	BOND SET - RECOGNIZANCE	42726	D17	1
05/23/03	00	BOND SET - SURETY	42726	D17	1
05/23/03	01	FLEA OF NOT GUILTY	42726	D18	1
05/21/03	00	WARRANT ISSUED - TO JAIL	42709	C16	1
05/21/03	00	WARRANT - PROSECUTOR REQUEST FOR	42726	D20	1
05/21/03	00	INDICTMENT FILED	42726	E01	3
05/21/03	00	2849.091 FEE ASSESSED			
05/21/03	00	2743.70 FEE ASSESSED			
05/21/03	01	HEARING / ARRAIGNMENT SCHEDULED			

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT
FRANKLIN COUNTY

2011 SEP 29 PM 2:36
CLERK OF COURTS

Robert L. Hillman,

Plaintiff,

v.

Susan Brown, Judge,
Tenth District Court of Appeals,

Defendant.

Case No. 11AP-22

DECISION AND
JUDGMENT ENTRY

Harsha, P.J.

This matter comes before the Court on Respondent Judge Susan Brown's motion to dismiss Plaintiff Robert L. Hillman's complaint. For the reasons that follow, Judge Brown's motion is **GRANTED** and this case is hereby **DISMISSED**.

PROCEDURAL HISTORY

Hillman filed an application to seal his record pursuant to R.C. 2953.52 in Franklin County Common Pleas Cases 95CR-2298, 95CR-5414, and 03CR-3447. The trial court denied the application on April 5, 2010. Hillman filed three appeals from this decision in *State v. Hillman*, Franklin App. No. 10AP-424, 10AP-425, and 10AP-426, which were subsequently consolidated.

In December 2010, Hillman filed a motion to issue a show cause order against the assistant prosecutor in the case, alleging that he fraudulently concealed material information. In response to this motion, Judge Brown signed a journal entry stating that, "Appellant's December 10, 2010 motion shall be

submitted to the court for determination at such time as the court addresses the merits of this appeal."¹

Thereafter, Hillman filed a complaint against Judge Brown seeking a show cause order against her pursuant to R.C. 2705.02. In his complaint, he argues that Judge Brown made a false statement in her journal entry by saying the Court would "rule on the contempt of court allegations at the same time the Court ruled on the merits or heard the merits of the actual case." Hillman argued that the Court heard the merits of the case on November 17, 2010 – the date of the scheduled oral argument – and, therefore, Judge Brown's statement was false and she should be held in contempt.

Judge Brown filed a motion to dismiss this complaint on the grounds that: (1) the factual allegations in Hillman's complaint misrepresent the record; (2) this Court lacks jurisdiction to hold Judge Brown in contempt because any such request should have been made to the panel hearing Hillman's original appeal; and (3) Ohio courts of appeals have limited original jurisdiction, which does not include the action brought by Hillman. Because we agree that this Court lacks jurisdiction to hear Hillman's complaint, we address this argument first.

LAW AND ANALYSIS

Ohio law is clear that "[c]ourts of appeals have such jurisdiction as may be provided by law to review and affirm, modify, or reverse judgments or final orders of the courts of record inferior to the court of appeals within the district ***."

¹ On March 22, 2011, this Court issued a memorandum decision affirming the trial court's judgment and denying the show cause order. This Court journalized that decision in an entry on

Section 3(B)(2), Article IV, Ohio Constitution. Additionally, courts of appeals have original jurisdiction in the following: (1) quo warranto; (2) mandamus; (3) habeas corpus; (4) prohibition; (5) procedendo; and (6) in any cause on review as may be necessary to its complete determination. *Id.* at Section 3(B)(1).

Hillman is asking this Court to exercise original jurisdiction in a contempt proceeding. Pursuant to the Ohio Constitution, we have no such authority. Therefore, on this basis alone, we must dismiss his complaint.

CONCLUSION

Judge Brown's motion to dismiss is **GRANTED. THIS CASE IS HEREBY DISMISSED. COSTS TO PETITIONER. IT IS SO ORDERED.**

Harsha, P.J., Abele, J. and Kline, J.: Concur.

For the Court,



William H. Harsha, Presiding Judge



Peter B. Abele, Judge



Roger L. Kline, Judge

March 29, 2011.

Appeals: 373 S. High St., 23rd Fl. (614) 525 - 3624
 Civil: 345 S. High St., 1st Fl. (614) 525 - 3621
 Criminal: 345 S. High St., 1st Fl. (614) 525 - 3850
 Domestic: 373 S. High St., 4th Fl. (614) 525 - 4410
 Juvenile: 373 S. High St., 4th Fl. (614) 525 - 4411
 Juvenile Traffic: 280 S. Front St., 1st Fl. (614) 525 - 5279
 Public Records: 345 S. High St., 1st Fl. (614) 525 - 3625

Maryellen O'Shaughnessy
 Franklin County Clerk of Courts



Court Schedule

Case Information Online

Home Last Name: First Name: Middle Init: Court: All Case: AP 000424

Advanced Search Email Updates

APPEALS CASE DETAIL

CASE NUMBER	CAUSE TYPE	LOWER CASE	LC CASE ORD DATE	DATE FILED	STATUS
10-AP-000424	COMMON PLEAS CRIMINAL	08EP646	04/05/10	05/04/10	CLOSED

STYLE CODE: STATE OF OHIO -VS- ROBERT L HILLMAN

LOWER COURT JUDGE: N/A

APPELLANT/RELATOR(S)	MAGISTRATE	COURTROOM
Name ROBERT L. HILLMAN Attorney ROBERT L. HILLMAN	N/A	N/A

APPELLEE/RESPONDENT(S)	Attorney
Name STATE OF OHIO	JOHN COUSINS

DOCKETING STATEMENT	CALENDAR TYPE	ACCELERATED	PROCEEDING STAY
Y			N
TRANSCRIPT			MEDIATION
N			N
CONSOLIDATED CASES	10AP426 STATE OF OHIO 10AP425 STATE OF OHIO		

PENDING EVENTS				
	ORIGINAL	ESTIMATE	ACTUAL	SUB/ARG DATE: 11/17/10
RECORD TRANSMITTAL DATE	05/14/10	05/14/10	05/19/10	
APPELLANT/RELATOR BRIEF DATE	06/01/10	06/07/10	06/14/10	
APPELLEE/RESPONDENT BRIEF DATE	06/21/10	07/02/10	11/05/10	
REPLY BRIEF DATE	N/A	N/A	N/A	
STIPULATION DATE	N/A	N/A	N/A	

DOCKET	Show All Descriptions <input type="checkbox"/>	Select Docket Category	Image	Fiche	Frame	Pages
07/12/11	OHIO SUPREME COURT DECLINES JURISDICTION TO HEAR APPEAL	All		20784	K66	1
06/13/11	RETURN RECEIPT FOR TRIAL COURT FILES			20778	H08	1
04/26/11	NOTICE OF APPEAL FILED - OHIO SUPREME COURT			20767	F22	2
04/18/11	COST BILL PREPARED					
04/12/11	ADDITIONAL COST BILL CREATED					
04/12/11	MOTION DENIED			20764	O86	1
04/12/11	JOURNAL ENTRY			20764	O86	1
04/12/11	PROOF OF REGULAR MAILING					
04/12/11	PROOF OF REGULAR MAILING					
04/07/11	MOTION			20763	F78	5
03/29/11	JURY TRIAL COURT JUDGMENT AFFIRMED			20760	L58	1
03/29/11	PROOF OF REGULAR MAILING					
03/29/11	PROOF OF REGULAR MAILING					
03/22/11	PROOF OF REGULAR MAILING					
03/22/11	PROOF OF REGULAR MAILING					
03/22/11	MEMO DECISION			20758	S94	5
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12/16/10	PROOF OF REGULAR MAILING					
12/15/10	JOURNAL ENTRY			20738	L38	1
12/10/10	MOTION TO SHOW CAUSE			20736	V25	2
12/08/10	MEMO CONTRA			20736	L41	1
11/30/10	JOURNAL ENTRY			20734	O91	1
11/30/10	PROOF OF REGULAR MAILING					
11/30/10	PROOF OF REGULAR MAILING					
11/22/10	MOTION TO SHOW CAUSE			20732	L96	4
11/09/10	PROOF OF REGULAR MAILING					
11/09/10	PROOF OF REGULAR MAILING					

11/09/10	JE - LEAVE TO	20730	D56	1
11/09/10	MOTION GRANTED	20730	D56	1
11/05/10	BRIEF OF APPELLEE	20729	I98	11
11/05/10	MOTION FOR LEAVE TO FILE INSTANTER	20729	J86	2
10/13/10	ORIGINAL COPY OF HEARING NOTICE FILED			
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08/04/10	PROOF OF REGULAR MAILING			
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08/04/10	JOURNAL ENTRY	20706	C20	1
08/04/10	MOTION DENIED	20706	C20	1
08/02/10	MOTION FOR HEARING	20706	J83	1
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07/07/10	PROOF OF REGULAR MAILING			
07/07/10	JOURNAL ENTRY	20698	J05	1
07/07/10	MOTION DENIED	20698	J05	1
07/02/10	MOTION	20697	T10	3
06/21/10	AFFIDAVIT FILED	20695	A88	2
06/21/10	JOURNAL ENTRY	20695	G17	1
06/21/10	MOTION DENIED	20695	G17	1
06/21/10	MOTION DENIED	20695	G17	1
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06/21/10	PROOF OF REGULAR MAILING			
06/21/10	PROOF OF REGULAR MAILING			
06/17/10	MOTION TO SUPPLEMENT THE RECORD	20694	J91	4
06/17/10	MOTION	20694	J91	4
06/17/10	MOTION	20693	K94	17
06/14/10	BRIEF OF APPELLANT			
06/11/10	NARRATIVE SYSTEM GENERATED			
06/11/10	NARRATIVE SYSTEM GENERATED			
06/11/10	NARRATIVE SYSTEM GENERATED			
06/11/10	REQUEST FAILURE TO PROSECUTE NOTICE	20692	W23	1
06/04/10	MOTION DENIED	20691	F02	1
06/04/10	PROOF OF REGULAR MAILING			
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06/04/10	JOURNAL ENTRY	20691	F02	1
06/04/10	MOTION DENIED	20691	F02	1
06/02/10	MOTION FOR TRANSCRIPT AT STATE EXPENSE	20690	S27	1
05/27/10	MOTION FOR TRANSCRIPT AT STATE EXPENSE	20689	M87	1
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05/19/10	NOTICE OF FILING RECORD	20688	E88	1
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05/10/10	APPEARANCE FILED			
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05/10/10	JE - CONSOLIDATE CASE	20685	J79	1
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05/05/10	PROOF OF REGULAR MAILING			
05/04/10	PRAECIPE TO THE CLERK	20684	O84	1
05/04/10	LOWER COURT JUDGMENT	20684	O86	1
05/04/10	LOWER COURT CASE HISTORY PRINTOUT	20684	O80	2
05/04/10	NOTICE OF APPEAL FILED	20684	O82	1
05/04/10	DOCKETING STATEMENT FILED	20684	O83	1
05/04/10	APPEARANCE FILED - PRO SE	UP000	A01	1
05/04/10	AFFIDAVIT OF INDIGENCY	20684	O85	1

Appeals: 373 S. High St., 23rd Fl. (614) 525 - 3624
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 Public Records: 345 S. High St., 1st Fl. (614) 525 - 3625

Maryellen O'Shaughnessy
Franklin County Clerk of Courts



Case Information Online

Court Schedule

Home Last Name: First Name: Middle Init: Court: All Case: AP 000425

APPEALS CASE DETAIL

CASE NUMBER	CAUSE TYPE	LOWER CASE	LC CASE ORD DATE	DATE FILED	STATUS
10-AP-000425	COMMON PLEAS CRIMINAL	08EP665	04/05/10	05/04/10	CLOSED
STYLE CODE: STATE OF OHIO -VS- ROBERT L HILLMAN					
LOWER COURT JUDGE: N/A					

APPELLANT/RELATOR(S)	MAGISTRATE	COURTROOM
Name <input checked="" type="checkbox"/> ROBERT L. HILLMAN Attorney ROBERT L. HILLMAN	N/A	N/A
Name <input checked="" type="checkbox"/> STATE OF OHIO Attorney JOHN COUSINS		

DOCKETING STATEMENT	Y	CALENDAR TYPE	ACCELERATED	PROCEEDING STAY	N
TRANSCRIPT	N			MEDIATION	N
CONSOLIDATED CASES		10AP426 STATE OF OHIO			
		10AP424 STATE OF OHIO			

PENDING EVENTS				
	ORIGINAL	ESTIMATE	ACTUAL	SUB/ARG DATE: 11/17/10
RECORD TRANSMITTAL DATE	05/14/10	05/14/10	05/19/10	
APPELLANT/RELATOR BRIEF DATE	06/01/10	06/07/10	06/14/10	
APPELLEE/RESPONDENT BRIEF DATE	06/21/10	07/02/10	11/05/10	
REPLY BRIEF DATE	N/A	N/A	N/A	
STIPULATION DATE	N/A	N/A	N/A	

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<input checked="" type="checkbox"/>	06/13/11	RETURN RECEIPT FOR TRIAL COURT FILES		20778	H08	1
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11/05/10	BRIEF OF APPELLEE	20729	J98	11
11/05/10	MOTION FOR LEAVE TO FILE INSTANTER	20729	J56	2
10/13/10	ORIGINAL COPY OF HEARING NOTICE FILED			
10/13/10	ORIGINAL COPY OF HEARING NOTICE FILED			
10/13/10	ORIGINAL COPY OF HEARING NOTICE FILED	20720	M54	1
09/28/10	SUBMITTED TO COURT			
08/04/10	PROOF OF REGULAR MAILING			
08/04/10	PROOF OF REGULAR MAILING			
08/04/10	PROOF OF REGULAR MAILING	20706	C20	1
08/04/10	JOURNAL ENTRY	20706	C20	1
08/04/10	MOTION DENIED	20705	J83	1
08/02/10	MOTION FOR HEARING			
07/07/10	PROOF OF REGULAR MAILING			
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07/07/10	JOURNAL ENTRY	20698	J05	1
07/07/10	MOTION DENIED	20698	J05	1
07/07/10	MOTION	20697	T10	3
07/02/10	MOTION	20695	A88	2
06/21/10	AFFIDAVIT FILED	20695	G17	1
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06/21/10	MOTION DENIED	20695	G17	1
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06/17/10	MOTION TO SUPPLEMENT THE RECORD	20694	J91	4
06/17/10	MOTION	20694	J91	4
06/17/10	MOTION	20693	K94	17
06/14/10	BRIEF OF APPELLANT			
06/11/10	NARRATIVE SYSTEM GENERATED			
06/11/10	NARRATIVE SYSTEM GENERATED			
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06/11/10	REQUEST FAILURE TO PROSECUTE NOTICE	20692	W23	1
06/04/10	MOTION DENIED	20791	F02	1
06/04/10	PROOF OF REGULAR MAILING			
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06/04/10	MOTION DENIED	20690	S27	1
06/02/10	MOTION FOR TRANSCRIPT AT STATE EXPENSE	20689	M87	1
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05/19/10	NOTICE OF FILING RECORD	20688	E86	1
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05/10/10	APPEARANCE FILED			
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05/05/10	PROOF OF REGULAR MAILING			
05/04/10	PRAECIPE TO THE CLERK	20684	O78	1
05/04/10	LOWER COURT JUDGMENT	20684	O79	1
05/04/10	LOWER COURT CASE HISTORY PRINTOUT	20684	O73	27
05/04/10	NOTICE OF APPEAL FILED	20684	O75	1
05/04/10	DOCKETING STATEMENT FILED	20684	O76	1
05/04/10	APPEARANCE FILED - PRO SE	UP000	A01	1
05/04/10	AFFIDAVIT OF INDIGENCY	20684	O85	1

Appeals: 373 S. High St., 23rd Fl. (614) 525 - 3624
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 Juvenile Traffic: 389 S. Front St., 1st Fl. (614) 525 - 5276
 Public Records: 345 S. High St., 1st Fl. (614) 525 - 3625

Maryellen O'Shaughnessy
 Franklin County Clerk of Courts



Case Information Online

Court Schedule

Home Last Name: First Name: Middle Init: Court: Case: AP 000426 Email Updates

APPEALS CASE DETAIL

CASE NUMBER	CAUSE TYPE	LOWER CASE	LC CASE ORD DATE	DATE FILED	STATUS
10-AP-000426	COMMON PLEAS CRIMINAL	08EP669	04/05/10	05/04/10	CLOSED

STYLE CODE: STATE OF OHIO -VS- ROBERT L HILLMAN
 LOWER COURT JUDGE: N/A

APPELLANT/RELATOR(S)	MAGISTRATE	COURTROOM
Name <input type="checkbox"/> ROBERT L. HILLMAN Attorney ROBERT L. HILLMAN	N/A	N/A

APPELLEE/RESPONDENT(S)	MAGISTRATE	COURTROOM
Name <input type="checkbox"/> STATE OF OHIO Attorney JOHN COUSINS		

DOCKETING STATEMENT	Y	CALENDAR TYPE	ACCELERATED	PROCEEDING STAY	N
TRANSCRIPT	N			MEDIATION	N
CONSOLIDATED CASES		10AP425 STATE OF OHIO 10AP424 STATE OF OHIO			

PENDING EVENTS				
	ORIGINAL	ESTIMATE	ACTUAL	SUB/ARG DATE: 11/17/10
RECORD TRANSMITTAL DATE	05/14/10	05/14/10	05/19/10	
APPELLANT/RELATOR BRIEF DATE	06/01/10	06/07/10	06/14/10	
APPELLEE/RESPONDENT BRIEF DATE	06/21/10	07/02/10	11/05/10	
REPLY BRIEF DATE	N/A	N/A	N/A	
STIPULATION DATE	N/A	N/A	N/A	

DOCKET	Show All Descriptions <input type="checkbox"/>	Select Docket Category	Image	Fiche	Frame	Pages
<input type="checkbox"/>	07/12/11	OHIO SUPREME COURT DECLINES JURISDICTION TO HEAR APPEAL		20784	K06	1
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<input type="checkbox"/>	04/18/11	COST BILL PREPARED				
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<input type="checkbox"/>	03/22/11	MEMO DECISION		UP000	A01	1
<input type="checkbox"/>	12/16/10	PROOF OF REGULAR MAILING				
<input type="checkbox"/>	12/16/10	PROOF OF REGULAR MAILING		20738	L38	1
<input type="checkbox"/>	12/15/10	JOURNAL ENTRY		20736	V25	2
<input type="checkbox"/>	12/10/10	MOTION TO SHOW CAUSE		20736	L41	1
<input type="checkbox"/>	12/08/10	MEMO CONTRA		20734	O91	1
<input type="checkbox"/>	11/30/10	JOURNAL ENTRY				
<input type="checkbox"/>	11/30/10	PROOF OF REGULAR MAILING				
<input type="checkbox"/>	11/30/10	PROOF OF REGULAR MAILING		20732	L98	4
<input type="checkbox"/>	11/22/10	MOTION TO SHOW CAUSE				
<input type="checkbox"/>	11/09/10	PROOF OF REGULAR MAILING				
<input type="checkbox"/>	11/09/10	PROOF OF REGULAR MAILING				

11/09/10	JE - LEAVE TO	20730	D56	1
11/09/10	MOTION GRANTED	20730	D56	1
11/05/10	BRIEF OF APPELLEE	20729	I98	11
11/05/10	MOTION FOR LEAVE TO FILE INSTANTER	20729	J56	2
10/13/10	ORIGINAL COPY OF HEARING NOTICE FILED			
10/13/10	ORIGINAL COPY OF HEARING NOTICE FILED			
10/13/10	ORIGINAL COPY OF HEARING NOTICE FILED			
09/26/10	SUBMITTED TO COURT	20720	M54	1
08/04/10	PROOF OF REGULAR MAILING			
08/04/10	PROOF OF REGULAR MAILING			
08/04/10	PROOF OF REGULAR MAILING			
08/04/10	JOURNAL ENTRY	20706	C20	1
08/04/10	MOTION DENIED	20706	C20	1
08/02/10	MOTION FOR HEARING	20705	J83	1
07/07/10	PROOF OF REGULAR MAILING			
07/07/10	PROOF OF REGULAR MAILING			
07/07/10	PROOF OF REGULAR MAILING			
07/07/10	JOURNAL ENTRY	20698	J05	1
07/07/10	MOTION DENIED	20698	J05	1
07/02/10	MOTION	20697	T10	3
06/21/10	AFFIDAVIT FILED	20695	A88	2
06/21/10	JOURNAL ENTRY	20695	G17	1
06/21/10	MOTION DENIED	20695	G17	1
06/21/10	MOTION DENIED	20695	G17	1
06/21/10	PROOF OF REGULAR MAILING			
06/21/10	PROOF OF REGULAR MAILING			
06/21/10	PROOF OF REGULAR MAILING			
06/17/10	MOTION TO SUPPLEMENT THE RECORD	20694	J91	4
06/17/10	MOTION	20694	J91	4
06/14/10	BRIEF OF APPELLANT	20693	K94	17
06/11/10	NARRATIVE SYSTEM GENERATED			
06/11/10	NARRATIVE SYSTEM GENERATED			
06/11/10	NARRATIVE SYSTEM GENERATED			
06/11/10	REQUEST FAILURE TO PROSECUTE NOTICE	20692	W23	1
06/04/10	MOTION DENIED	20691	F02	1
06/04/10	PROOF OF REGULAR MAILING			
06/04/10	PROOF OF REGULAR MAILING			
06/04/10	PROOF OF REGULAR MAILING			
06/04/10	JOURNAL ENTRY	20691	F02	1
06/04/10	MOTION DENIED	20691	F02	1
06/02/10	MOTION FOR TRANSCRIPT AT STATE EXPENSE	20690	S27	1
05/27/10	MOTION FOR TRANSCRIPT AT STATE EXPENSE	20689	M87	1
05/19/10	PROOF OF REGULAR MAILING			
05/19/10	PROOF OF REGULAR MAILING			
05/19/10	PROOF OF REGULAR MAILING			
05/19/10	NOTICE OF FILING RECORD	20688	E85	1
05/10/10	NOTICE	20685	N17	1
05/10/10	APPEARANCE FILED			
05/10/10	PROOF OF REGULAR MAILING			
05/10/10	PROOF OF REGULAR MAILING			
05/10/10	JE - CONSOLIDATE CASE	20685	J79	1
05/10/10	JE - CONSOLIDATE CASE	20685	J79	1
05/05/10	PROOF OF REGULAR MAILING			
05/04/10	PRAECIPE TO THE CLERK	20684	O70	1
05/04/10	LOWER COURT JUDGMENT	20684	O72	1
05/04/10	LOWER COURT CASE HISTORY PRINTOUT	20684	O66	2
05/04/10	NOTICE OF APPEAL FILED	20684	O68	1
05/04/10	DOCKETING STATEMENT FILED	20684	O69	1
05/04/10	APPEARANCE FILED - PRO SE	UP000	A01	1
05/04/10	AFFIDAVIT OF INDIGENCY	20684	O71	1

20736 - V25

IN THE TENTH DISTRICT COURT OF APPEALS
FRANKLIN COUNTY, OHIO

✓
2

ROBERT L. HILLMAN#529-955
C.C.I.
POST OFFICE BOX 5500
CHILLICOTHE, OHIO 45601

ORIGINAL

CONTEMPT NO. _____

PLAINTIFF
APPELLANT.

ORIGINAL APPEAL NOS. 10AP-424
10AP-425 AND 10AP_426

-VS-

COMPELLING THE COURT BY
(MOTION TO ISSUE SHOW CAUSE

STATE OF OHIO
FRANKLIN COUNTY PROSECUTOR
MR JOHN COUSINS IV (0083498)
373 SOUTH HIGH STREET
COLUMBUS, OHIO 43215

ORDER). AND
CIVIL RULE 7(B)(2)

DEFENDANT
APPELLEE.

NOW COMES THE APPELLANT-PLAINTIFF RESPECTFULLY REQUESTING THIS COURT TO ISSUE A SHOW CAUSE ORDER UPON THE APPELLEE-DEFENDANT IN THE ABOVE CAPTIONED CASE, AS APPELLANT ON NOVEMBER 22, 2010 FILED WITHIN THIS COURT HIS APPLICATION FOR A SHOW CAUSE ORDER PURSUANT TO R.C. 2705.01 THROUGH 2705.05 ALLEGING THAT ON NOVEMBER 5, 2010 MR. JOHN COUSINS COMMITTED THE CRIMES OF FRAUDULENT CONCEALING MATERIAL INFORMATION IN A DELIBERATE ATTEMPT TO CORRUPT THE OUTCOME OF THESE OFFICIAL PROCEEDINGS WHICH IS CIVIL AND CRIMINAL IN-DIRECT, AND OR DIRECT CONTEMPT ACTS BY DELIBERATELY EVADING THE ISSUE'S AND DEFENDANT IN ACCORDANCE WITH DUE PROCESS REQUIREMENTS MUST BE MADE TO ANSWER THESE CHARGES, AND APPELLANT THE RIGHT TO APPEAL THIS COURTS DECISION.

COURT OF
FRANKLIN COUNTY
CLERK OF COURT
#4-EC 1010 PM

RESPECTFULLY SUBMITTED BY

Robert L. Hillman
APPELLANT ACTING IN PRO SE

[CERTIFICATE OF SERVICE]

THIS IS TO CERTIFY THAT A TRUE COPY OF THE FOREGOING MOTION WAS SENT TO THE APPELLEE AT 373 SOUTH HIGH STREET, COLUMBUS, OHIO 43215 BY REGULAR U.S. MAIL THIS 8th DAY OF DECEMBER 2010.

Appellee's Appendix Page 16 of 21
Robert L. Hillman

20736 - V26

To the Clerk of Court:

Please find enclosed 2 different motions
to be filed within this court.

The contempt of court motion should have
been given a new case number. according
to the rules of court. (yet) this office
did not comply with the rules. which
is why the contempt no _____ is blank.
This office has the opportunity to correct this
clerical mistake prior to the show cause order
being issued.

I would like a time stamp copy back of both
motions. Criminal Rule 55(A) places a duty
upon the clerk to file a complaint with a new case
number.

Thank you for your time

Sincerely

Mc R. L. Hillman

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

DEC 15 PM 3:11
CLERK OF COURTS

State of Ohio,

:

Plaintiff-Appellee,

:

v.

:

Robert L. Hillman,

:

Defendant-Appellant.


:

Nos. 10AP-424
10AP-425
10AP-426

(ACCELERATED CALENDAR)

JOURNAL ENTRY

Appellant's December 10, 2010 motion shall be submitted to the court for determination at such time as the court addresses the merits of this appeal.



Judge Susan Brown

cc: Deputy Court Administrator
Court Assignment Commissioner

off

ORIGINAL

IN THE TENTH DISTRICT COURT OF APPEALS

20743 - N37

FRANKLIN COUNTY, OHIO

ROBERT L. HILLMAN#529-955
C.C.I.
POST OFFICE BOX 5500
CHILLICOTHE, OHIO 45601

2011 JAN -6 AM 10:15
CLEVELAND COUNTY COURTS
CONTEMPT NUMBER.

APPELLANT
COMPLAINANT

11A PD 01 0022

-VS-

TENTH DISTRICT APPELLATE COURT

JUDGE

(COMPLAINT)

SUSAN BROWN
373 SOUTH HIGH STREET
COLUMBUS, OHIO 43215

DEFENDANT.
RESPONDENT.

APPLICATION FOR A SHOW CAUSE ORDER BY THE APPELLANT-COMPLAINANT
AGAINST THE ABOVE NAMED DEFENDANT PURSUANT TO R.C. 2705.02-04

ON THIS 4th DAY OF JANUARY 2011 THE APPELLANT/PLAINTIFF HEREIN ACTING IN PRO SE FILES WITHIN THIS COURT A COMPLAINT AGAINST THE DEFENDANT NAMED IN THE CAPTION FOR DIRECT AND OR IN-DIRECT CIVIL AND CRIMINAL CONTEMPT OF COURT, FOR COMMITTING FRAUDULENT ACTS WITH THE DELIBERATE INTENT TO HINDER THE FAIR AND APPROPRIATE ADMINISTRATION OF JUSTICE, AND OR TO CORRUPT THE OUT-COME OF THESE OFFICIAL PROCEEDINGS BY MAKING KNOWINGLY FALSE MISSTATEMENT OF MATERIAL FACTS, / AMOUNTING TO LEGAL MISREPRESENTATION.

THE PLAINTIFF HEREIN REQUEST A HEARING IN THIS MATTER SO THAT HE CAN PRESENT NOT JUST HIS EVIDENCE WHICH HAS BEEN IGNORED BY THE COURT BECAUSE OF HIS CURRENT POSITION OF BEING IN PRISON, BUT BECAUSE PLAINTIFF FEELS HE HAS

A CONSTITUTIONAL RIGHT TO DUE PROCESS, AND EQUAL PROTECTION OF LAW

SEE TENTH DISTRICT APPELLATE COURT CASE STATE EX REL. BOSTON-VS-THOMPkins

1996 WL 550255 OHIO APP. 10TH DIST STATING AT *1 AND *2;

AS AN INITIAL MATTER, WE NOTE THAT AN ORDER DENYING A MOTION TO SHOW CAUSE CONSTITUTES A FINAL APPEALABLE ORDER WHERE THE PARTY MAKING THE MOTION IS PREJUDICED BY THE DISMISSAL, ALSO SEE DENOVCHek-Vs-Bd OF TRUMBULL CTY, COMMS (1988) 36 ST.3d 14.

FURTHER IN THAT CASE THIS COURT STATES THAT;

IN ALL CONTEMPT PROCEEDINGS, THE COURT SHALL CONDUCT A HEARING AT THE HEARING, THE COURT SHALL INVESTIGATE THE CHARGE AND HEAR ANY ANSWER OR TESTIMONY THAT THE ACCUSED MAKES OR OFFERS, AND DETERMINE WHETHER THE ACCUSED IS GUILTY OF THE CONTEMPT CHARGED.

THE TENTH DISTRICT WENT ON TO SAY;

THAT ALTHOUGH THE VAST BODY OF CASE LAW ADDRESSES ONLY THE ACCUSED RIGHTS TO A HEARING, "WE FIND NO REASON WHY FUNDAMENTAL FAIRNESS DOES NOT ALSO ENTITLE THE MOVING PARTY TO A HEARING.

HERE THE DEFENDANT IN RESPONSE TO THE PLAINTIFF'S APPELLANT'S INQUIRY INTO THE CONTEMPT COMPLAINT HE FILED AGAINST A MR. WILLIAM JOSEPH EDWARDS IN THE COURT ON DECEMBER 10, 2010 DELIBERATELY MADE THE FALSE STATEMENT IN RESPONSE TO THE PLAINTIFF'S INQUIRY THAT THE COURT(TENTH DISTRICT) WOULD RULE ON THE CONTEMPT OF COURT ALLEGATIONS AT THE SAME TIME THE COURT RULED ON THE MERITS OR HEARD THE MERITS OF THE ACTUAL CASE.

THE ACTUAL MERITS OF THE CASE WAS HEARD BACK ON NOVEMBER 17, 2010 WHICH WOULD MAKE THAT STATEMENT FALSE, AND INDICATE THAT THE DEFENDANT WAS SIMPLY WILLING TO SAY ANYTHING IN A RESPONSE TO ME BECAUSE IM A INCARCERATED PRISONER. NONETHELESS, THIS IS A CRIMINAL OFFENSE, AND MISCONDUCT BY A PUBLIC OFFICIAL, AND THIS COURT MUST CONDUCT A HEARING, AND ALLOW THE APPELLANT/PLAINTIFF THE RIGHT TO APPEAL TO THE OHIO SUPREME COURT, AND THE FEDERAL COURT FROM ANY ADVERSE RULING IN THIS MATTER.

RESPECTFULLY SUBMITTED BY

Robert L. Neenan

APPELLANT/ PLAINTIFF PRO SE

CONCLUSION TO MOTION

20743 - N39

APPELLANT SUBMITS THAT THIS WAS THE EXACT SAME SHAM THIS COURT RAN IN CASE NUMBER 06AP-1230, AS ON JANUARY 3, 2008 WHEN THE APPELLANT FILED A MOTION TO STRIKE THE APPELLEE'S BRIEF FOR CONTAINING FRAUDULENT MISSTATEMENTS OF MATERIAL FACTS NOT FOUND ANYWHERE IN THE RECORDS/TRIAL TRANSCRIPTS. (THIS COURT'S RESPONSE THAT DAY WAS, AND I QUOTE"
"APPELLANT'S DECEMBER 31, 2007 MOTION TO STRIKE APPELLEE'S BRIEF IS DENIED, THIS COURT REFERRING TO ADDRESS APPEALS ON THE MERITS BASED UPON BRIEFING FROM ALL THE PARTIES. SIGNED BY JUDGE WILLIAM KLATT, YET ON, JANUARY 14, 2008 THIS COURT RESPONDED TO MY JANUARY 9, 2008 LETTER/MOTION SAYING THIS COURT DOES NOT HEAR COMPLAINTS FILED UNDER R.C. 2935.09 AND 2935.10 SIGNED BY COURT ADMINISTRATOR MR. JACK KULLMAN.

ON MAY 15, 2008 THIS COURT DESPITE BEING MADE AWARE OF THE FACT THAT THE FRANKLIN COUNTY PROSECUTOR WHO HANDLED THE APPEAL ON BEHALF OF THE STATE OF OHIO HAD BLYANTLY LIED TO THIS COURT CONCERNING THE TESTIMONY OF THE ALLEGED VICTIM, THIS COURT AFFIRMED THE CONVICTION BASED UPON THE FALSE STATEMENTS ANYWAY, AND NOW THIS COURT IS ATTEMPTING TO DO THE EXACT SAME THING AGAIN HERE IN THIS CASE. THIS COURT MUST FIRST COMPLY WITH THE RULES OF STATUTORY PROCEDURES, AND ISSUE THE SHOW CAUSE ORDER, AND THEN DETERMINE THE DEFENDANTS GUILT AS A SEPERATE MATTER.

RESPECTFULLY SUBMITTED BY

Robert L. Hillman

APPELLANT

[CERTIFICATE OF SERVICE]

THIS IS TO CERTIFY THAT A TRUE COPY OF THE FOREGOING MOTION WAS SENT TO THE DEFENDANT/RESPONDENT BY REGULAR UNITED STATES MAIL SERVICE LOCATED AT 373 SOUTH HIGH STREET, COLUMBUS, OHIO 43215 ON THIS 4th DAY OF January 2011

signed by

Robert L. Hillman
Appendix Appendix Page 2

Hester ✓
FILED
MAR 22 2011

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

2011 MAR 22 PM 12:00
CLERK OF COURTS

State of Ohio,

Plaintiff-Appellee,

v

Robert L. Hillman,

Defendant-Appellant

Nos 10AP-424
(C P C No 08EP-646)
10AP-425
(C P C No 08EP-669)
10AP-426
(C P C No 08EP-665)

(ACCELERATED CALENDAR)

MEMORANDUM DECISION

Rendered on March 22, 2011

Ron O'Brien, Prosecuting Attorney, and John H. Cousins, IV,
for appellee.

Robert L. Hillman, pro se

APPEALS from the Franklin County Court of Common Pleas

RINGLAND, J

{¶1} Defendant-appellant, Robert L. Hillman, brings these three consolidated appeals from three judgments of the Franklin County Court of Common Pleas denying his request to expunge his record in five separate criminal cases.

{¶2} In expungement case No. 08EP-646, appellant asks to seal the records related to his criminal case No. 94CR-3584, in which he was charged with breaking and entering. Those criminal charges were eventually subject to a nolle prosequi entered by the prosecution when the victim did not appear. In expungement case No. 08EP-665, appellant applied to seal the record in his criminal case No. 94CR-4110, comprising an indictment for aggravated robbery and theft. Appellant entered a guilty plea to a theft charge and the prosecution agreed to enter a nolle prosequi in the aggravated robbery charge. Finally, in expungement case No. 08EP-669, appellant applied to seal the record in three additional criminal cases: case No. 95CR-2298, in which appellant was charged with aggravated burglary and criminal trespass; case No. 95CR-5414, in which appellant was charged with one felony drug possession count, and case No. 03CR-3447, in which appellant was charged with one count of receiving stolen property. All of these criminal charges were eventually dismissed.

{¶3} The Franklin County Court of Common Pleas initially denied appellant's application to seal these records in each of the three expungement cases. Appellant appealed and this court reversed the trial court. *State v. Hillman*, 10th Dist. No. 09AP-478, 2010-Ohio-256. We did so on the basis that the trial court had explicitly cited the incorrect statute in its entries denying the expungement requests. We therefore remanded the matter to the trial court for further proceedings.

{¶4} The trial court has again heard and denied appellant's three expungement cases. Appellant now appeals and brings the following assignments of error

The appellant contends that the trial court denied him due process, and equal protection of the law under the 5th and

14th Amendments to the United States Constitutions when
(1) the trial court abused its discretion in failing to comply with well established law in both the state and federal systems.

(2) For failing to comply with state law, and court rules, and provide written findings of facts and conclusions of law, and

(3) For the trial courts granting of the states objections to the appellants applications without requiring the state to provide a legitimate government need to maintain the records, or constitutional reason.

{¶5} Also before us is appellant's application for a show cause order citing alleged misconduct by the assistant prosecutor defending this appeal.

{¶6} Appellant's assignments of error present related issues and will be addressed together. Appellant has not ordered a transcript in the present case. Appellant did move this court to substitute an audio recording in lieu of a transcript. We denied that motion by entry on June 21, 2010. On July 7, 2010, we denied as untimely appellant's attempt to file an App R 9(C) statement in lieu of a transcript. Neither the appellate rules nor any applicable precedent provide for an audio recording to be substituted for a transcript in an appeal of this nature. Appellant has provided no further supporting argument to establish the availability of such a remedy to furnish a record of the proceedings before the trial court. In addition, there is no indication that the transcript is "unavailable" in the present case as described in App.R. 9(C) for any reason other than appellant's refusal to pay for the transcript and supply it in this appeal.

{¶7} As we noted in our prior decision, it is the responsibility of an appellant to furnish a sufficient record of the case upon appeal to allow review of the proceedings before the trial court. The defendant claiming error bears the burden of proving such

error by reference to matters reflected in the record on appeal *Knapp v Edwards Laboratories* (1980), 61 Ohio St 2d 197, 199. In the absence of a transcript demonstrating the alleged error, we will presume the regularity of proceedings in the trial court. *State v. Rehaut*, 10th Dist No 02AP-571, 2003-Ohio-884, ¶13.

{¶8} While in the prior incarnation of this case before this court we were able to discern error from the face of the trial court's judgment entries, no such error appears in the entries entered by the trial court upon remand.

{¶9} When seeking expungement, the burden is on the movant to show his statutory eligibility to have his record sealed. *State v. Brown*, 10th Dist. No 07AP-255, 2007-Ohio-5016, ¶4. The defendant must also establish his reasons and need to see the records sealed. *State v. Newton*, 10th Dist. No 01AP-1444, 2002-Ohio-5008, ¶9. Even when such reasons are set forth by the person seeking expungement, the trial court must weigh contrary any interest asserted by the State in maintaining free open, and accurate records of criminal proceedings. *Id* ; R.C. 2953.52(C) and 2953.52(B)(2). In weighing the competing interests, the trial courts have great discretion in making a decision, and we will not reverse such a decision in the absence of an abuse of that discretion. *State v. Haney* (1991), 70 Ohio App.3d 135, 139. The term abuse of discretion connotes more than mere error of law or reasoning, it implies that the trial court's attitude was unreasonable, arbitrary, or unconscionable. *State v. Adams* (1980), 62 Ohio St 2d 151, 157.

{¶10} The trial court cited the appropriate statutes on the face of its judgment entries in the present case, respectively for the cases resulting in conviction and those

charges that did not result in conviction. The trial court set forth the appropriate standard in its entry, stating that appellant's interest in sealing the records were outweighed by the governmental interest in maintaining free and open access to criminal records of criminal proceedings. In the absence of a transcript, we are unable to find any basis to conclude that the trial court abused its discretion in denying the expungements sought. Unlike our previous review of this matter, there is no obviously discernable error on the face of the trial court entries, and we have nothing more from which to find error in the present case. Appellant's assignments of error are overruled, and the judgments of the trial court denying appellant's requests to seal his records are affirmed.

{¶11} We now turn to appellant's show cause order, which we deny. Appellant alleges misconduct on the part of opposing counsel in the form of defective legal arguments. Our affirmance of the trial court's decisions largely moots this motion, and in any case, we would note that mere inaccurate legal argument, even if substantiated in the present case which it is not, does not constitute a "fraud upon the court" as appellant asserts.

{¶12} In accordance with the foregoing, appellant's assignments of error are overruled, his motion for a show cause order is denied, and the judgments of the Franklin County Court of Common Pleas are affirmed.

Judgments affirmed

BROWN and CONNOR, JJ., concur

RINGLAND, J., of the Twelfth Appellate District, sitting by
assignment in the Tenth Appellate District

FILED

OCT 24 2011

CLERK OF COURT
SUPREME COURT OF OHIO

The Supreme Court of Ohio

Robert L. Hillman

Case No. 2011-1790

v.

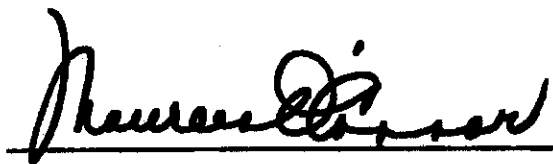
ENTRY

Susan Brown, Judge, Tenth District Court
of Appeals

This cause was filed as a discretionary appeal and claimed appeal of right. Upon consideration of appellant's jurisdictional memorandum, it is determined by the Court that this cause originated in the court of appeals and, therefore, should proceed as an appeal of right pursuant to S.Ct. Prac. R. 2.1(A)(1).

It is ordered by the Court that the Clerk shall issue an order for the transmission of the record from the Court of Appeals for Franklin County, and the parties shall otherwise proceed in accordance with S.Ct. Prac. R. 6.2 - 6.7.

(Franklin County Court of Appeals; No. 11AP-22)



Maureen O'Connor
Chief Justice

FILED
COURT OF APPEALS
FRANKLIN CO. OHIO
2011 OCT 27 PM 2:46
CLERK OF COURTS