

IN THE SUPREME COURT OF OHIO

Jack S. Hooks,

:

18-1153

Appellant,

:

On Appeal from the Richland

v.

:

County Court of Appeals

:

5th Appellate District

Roger Hooks et. al.,

:

Appellees.

:

Case No. 18CA42

MEMORANDUM IN SUPPORT OF JURISDICTION

Jack S. Hooks, Pro Se

1700 S. Main St.

Mansfield OH, 44907

APPELLANT, PRO SE 419-610-4682

Roger Hooks Et. Al.

Robert Franco Attorney

1007 Lexington Ave.

Mansfield OH, 44907 419-756-0831

FILED

AUG 13 2018

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SUPREME COURT OF OHIO

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SUPREME COURT OF OHIO

Table of Contents

I.	Table of Authorities.....	4
II.	Jurisdiction and Proposition of Law.....	5&6&7
III.	History and Arguments in Support of Proposition of Law.....	8&9
IV.	Conclusion.....	9
V.	Certificate of Service.....	10

Table of Authorities

State v. Thyot.....Ohio Supreme Court

Cite as State v. Thyot,.....2018-ohio-644

State v. Mason.....Ohio Supreme Court

Cite as State v. Mason.....2017-ohio-7065

State v. Stacey.....Ohio Supreme Court

Cite as State v. Stacey.....2013-ohio-4422

State v. Caulfield.....Ohio Supreme Court

Cite as State v. Caulfield.....2013-ohio-3029

This case raises a substantial Constitutional question and the case is one of great public and general interest. The substantial Constitutional question in this appeal is that evidence that is self-authenticating must be considered in the evaluation of the entire case. Ohio rule of evidence 9.02 (4) and federal rule of evidence 9.02 (4). This appeal is also public and great general interest because the public must secure in their 4th amendment rights in the Constitution of the United States of America, that life, liberty and property must not be denied without due process, in this case, there was not even a trial. The Richland County Court of Common Pleas after waiting over a year, scheduled a trial and then two weeks before trial, canceled the jury trial without notifying the defendant, Jack Hooks. The trial court overruled the self-authenticated evidence and then gave the plaintiff judgment of the pleadings and are now trying to partition property the plaintiffs do not own. The 5th Court of Appeals then ruled that this suppression of evidence was not a final order, I have confidence that the Justices of the Ohio Supreme Court will see that this violates my fundamental rights guaranteed by the 4th amendment of the United States Constitution, as the Ohio Supreme Court is truly the guardian of fundamental rights.

Jurisdiction and Proposition of Law

The Supreme Court is given its jurisdiction authority from article IV section 2 of the Constitution of the state of Ohio.

First... Proposition of Law

Ohio Revised Code 2505.02 (A) (3) and 2505.02 (B) (2)

2505.02 Final orders.

(A) As used in this section:

(3) "Provisional remedy" means a proceeding ancillary to an action, including, but not limited to, a proceeding for a preliminary injunction, attachment, discovery of privileged matter, suppression of evidence, a prima-facie showing pursuant to section 2307.85 or 2307.86 of the Revised Code, a prima-facie showing pursuant to section 2307.92 of the Revised Code, or a finding made pursuant to division (A)(3) of section 2307.93 of the Revised Code.

(B) An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following:

(2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;

Jurisdiction and Proposition of Law Cont.

Second...Proposition of Law

OHIO RULES OF EVIDENCE

RULE 902. Self-Authentication Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(4) Certified copies of public records. A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with paragraph (1), (2), or (3) of this rule or complying with any law of a jurisdiction, state or federal, or rule prescribed by the Supreme Court of Ohio.

FEDERAL RULES OF EVIDENCE

Rule 902. Evidence That Is Self-Authenticating

The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted:

(4) *Certified Copies of Public Records.* A copy of an official record — or a copy of a document that was recorded or filed in a public office as authorized by law — if the copy is certified as correct by: **(A)** the custodian or another person authorized to make the certification; or **(B)** a certificate that complies with Rule 902(1), (2), or (3), a federal statute, or a rule prescribed by the Supreme Court

History and Arguments in Support of Proposition of Law

This case involves the ownership of property assigned in 1998 to the Appellant, Jack S. Hooks. This assignment is Notarized and Recorded on Volume 611 Pg. 122 and 123 of the Richland County Recorder's Office. This assignment was also witnessed by two signatures. In Ohio, pre-2005 any transaction in real estate had to be witnessed by two additional signatures apart from the notary. This assignment from 1998 replicates those requirements. The plaintiffs, Roger E. Hooks et al. through their attorney, Robert Franco have suppressed this assignment as evidence from consideration in this case throughout the Richland County Court of Common Pleas and the 5th District Appellant Court of Ohio. This assignment of interest is the most important document of the entire case because it shows Jack S. Hooks is the true owner the properties. Ohio Rules of Evidence 9.02 (4) and Federal Rules of Evidence 9.02 (4) explains that this assignment is self-authenticating, yet the Richland County Court of Common Pleas and the 5th District Appellant Court of Ohio have diminished its importance by suppressing this vital piece of evidence from consideration.

History and Arguments in Support of Proposition of Law Cont.

This leads to our first and only Assignment of Error, suppression of evidence as a final order. The Richland County Common Pleas Court and the Ohio 5th District Court of Appeals have stated that since this suppression of evidence is part of the beginning of a partition action that it is not then a final order. **2505.02 Final orders.**

(A) As used in this section:

(3) "Provisional remedy" means a proceeding ancillary to an action, including, but not limited to, a proceeding for a preliminary injunction, attachment, discovery of privileged matter, suppression of evidence, a prima-facie showing pursuant to section 2307.85 or 2307.86 of the Revised Code, a prima-facie showing pursuant to section 2307.92 of the Revised Code, or a finding made pursuant to division (A)(3) of section 2307.93 of the Revised Code.

(B) An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following:

(2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;

CONCLUSION

Therefore, we ask the Supreme Court of Ohio to REVERSE the Richland County Common Pleas Court and the Ohio 5th District Court of Appeals decision and to state that suppression of evidence in this case is a final appealable order.

Jack Hooks



Certificate of Service

I certify that a copy of this document was mailed to R. Franco & Z. Fowler by regular U.S. Mail to 1007 Lexington Ave. Mansfield, OH 44907 & P.O Box 8005 Bellevue, OH 44811 on

8/9/2018.

A handwritten signature in black ink, appearing to read "Jack Hooks", written in a cursive style.

IN THE COURT OF APPEALS FOR RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

COURT OF APPEALS
RICHLAND COUNTY OHIO
FILED

2018 JUL -5 A 9 10

LINDA H. FRARY
CLERK OF COURTS

JACK S. HOOKS

Plaintiff - Appellant

-vs-

ROGER E. HOOKS, ET AL.

Defendants-Appellees

Case No. 18CA42

JUDGMENT ENTRY

This matter comes before the Court upon Appellees' Motion to Dismiss for lack of a final, appealable order. Appellant filed a response in opposition to the motion.

The order being appealed denies numerous motions filed by Appellant in a partition action. The trial court has not yet issued a final, appealable order.

As we have explained, "It has often been held that final orders from which appeals may be had in partition are limited to the order of partition and the order confirming the sale." *Haynes v. Haynes*, 5th Dist. No. 16-CA-49, 2017-Ohio-49, 80 N.E.3d 1105, ¶ 13 (internal citations omitted). An order of partition and order of sale have not yet issued, therefore, the order sought to be appealed is not yet ripe for review.

This Court lacks jurisdiction over orders which are not final and appealable. Therefore, the motion to dismiss for lack of a final, appealable order is granted.

MOTION GRANTED.

CAUSE DISMISSED.

COSTS TO APPELLANT.

IT IS SO ORDERED.

Earle E. Wise Jr

JUDGE EARLE E. WISE, JR.

William B. Hoffman

JUDGE WILLIAM B. HOFFMAN

W. Scott Gwin

JUDGE W. SCOTT GWIN

CC: Jack Hooks
Robert Franco
Zachary Fowler

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served according to appellate rules and by

☒ Regular Mail.

☒ Placed in Counsel's box in Clerk of Courts

this 5 day of July, 18

B. Sklar
Clerk of Courts