

IN THE SUPREME COURT OF OHIO

TRAVIS LANIER WILLIAMS,	:	Case No. 2019-1784
Plaintiff-Appellant,	:	
-vs-	:	On Appeal From
	:	The Montgomery County Court of Appeals,
	:	Second Appellate District
BRANDON C. McCLAIN,	:	CA 28475
Defendant-Appellee.	:	

**MEMORANDUM IN RESPONSE OF APPELLEE,
BRANDON C. McCLAIN**

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TABLE OF CONTENTS

WHY LEAVE TO APPEAL SHOULD NOT BE GRANTED	1
STATEMENT OF THE CASE AND FACTS	1
ARGUMENT	3
CONCLUSION	5
CERTIFICATE OF SERVICE	6

WHY LEAVE TO APPEAL SHOULD NOT BE GRANTED

This Court should decline to hear Plaintiff-Appellant Travis Lanier Williams' ("Williams") appeal because this case does not involve a substantial constitutional question, nor does it involve a question of public or great general interest. In his Memorandum in Support of Jurisdiction, Williams does not explain why this case involves questions of public or great general interest. Rather, Williams states that the Supreme Court of Ohio has jurisdiction to hear this case "due to the county recorder [Defendant-Appellee] and his clerk not performing their duties on the 15th of January, 2019...[and] due to the trial case magistrate and judge having and [sic] conflict of interest..."

In finding that the trial court did not err in granting summary judgment to Brandon C. McClain ("McClain") against Williams, the court of appeals did not misapply or misinterpret the law, it did not create new law, nor did it change existing law. Rather, the Second District Court of Appeals relied upon the well-settled law regarding the discretion of a county recorder to refuse to record an instrument and Williams lack of any evidence other than his own affidavit to support his claims in reaching its decision.

Williams makes no argument as to why the Court of Appeals' dismissal of his case as untimely involves questions of public or great general interest or a substantial constitutional question. As such, this Court should not accept jurisdiction over this case.

STATEMENT OF THE CASE AND FACTS

On January 15, 2019, Travis Lanier Williams presented an affidavit he created to the Montgomery County Recorder's Office concerning a home located at 1955 Kipling Drive in Dayton, Ohio. In this affidavit, Williams stated: "I am claiming the home [by] Heirship to Eula W. Carroll, my great-grandmother, due to the fact that my is [in] jail I am claiming the home as an

heir to my great grandmother corresponding with [R]evised [C]ode 5301.252 to be transferred to my revocable trust.”

The Affidavit was recorded by the Recorder’s Office as a miscellaneous document. Williams maintains that the affidavit he created should have been recorded as a deed. Williams filed a Complaint against Brandon C. McClain, the Montgomery County Recorder, seeking relief under R.C. 317.13(C), specifically asking the trial court to compel the Montgomery County Recorder to record Williams’ affidavit as a deed and to award one million dollars (\$1,000,000.00) to Williams.

McClain filed an Answer on January 24, 2019. McClain filed a Motion for Summary Judgment on May 17, 2019. Williams did not file a timely response in opposition to McClain’s Motion for Summary Judgment. On July 2, 2019, Magistrate Kristi A. McCartney of the Montgomery County Court of Common Pleas issued a Magistrate’s Decision recommending that McClain’s Motion for Summary Judgment against Williams be granted. Williams did not file any objections to the Magistrate’s Decision under Civ.R. 53.

On July 8, 2019, Williams filed a “Brief Statement with Affidavit.” On July 12, 2019, Williams filed a second “Brief Statement with Affidavit.”

The Trial Court issued a Judgment Entry on July 19, 2019 which adopted the Magistrate’s Decision and granted McClain’s Motion for Summary Judgment. Williams filed a Notice of Appeal on July 22, 2019. Williams filed his two-page Appellant Brief on July 25, 2019. McClain filed his appellee brief on September 27, 2019.

On November 22, 2019, the Second District Court of Appeals issued an opinion affirming the ruling of the trial court which entered summary judgment against Williams. Undeterred,

Williams filed an appeal with this Court on December 24, 2019 and a Memorandum in Support of Jurisdiction on December 26, 2019.

ARGUMENT

Montgomery County Recorder, Brandon C. McClain did not Violate Ohio Law by Refusing to Record Williams' Affidavit as a Deed; the Appellate Court did not Err by Upholding the Trial Court's Entry that Granted Judgment in Favor of Brandon C. McClain.

Williams failed to include any propositions of law within his memorandum in support of jurisdiction as required by S.Ct.Prac.R. 7.02(C)(1). Instead, Williams recites his same litany about how Brandon C. McClain, the Montgomery County Recorder, did not comply with the Ohio Revised Code because he did not record Williams' affidavit concerning the real property located at 1955 Kipling Road in Dayton, Ohio because McClain recorded the affidavit as a "miscellaneous document" instead and not a "deed" which is how Williams insists the affidavit should have been recorded.

Although the memorandum in support of jurisdiction is challenging to discern, Williams also appears to claim that the magistrate and trial court judge have some undescribed "conflict of interest" and the appellate court did not "give any consideration to R.C. 5301.252" which is the Ohio Revised Code section concerning recording affidavits relating to title.

The duties of a county recorder are set forth in R.C. § 317.13, which states, in relevant part: "[T]he county recorder shall record in the official records...all deeds, mortgages, plats, or other instruments of writing that are required or authorized by the Revised Code to be recorded and that are presented to the county recorder for that purpose." R.C. § 317.13(A). The county recorder is not required to record all instruments presented to him or her. Pursuant to R.C. § 317.13(B):

The county recorder may refuse to record an instrument of writing presented for recording if the instrument is not required or authorized by the Revised Code to be recorder or the county recorder has reasonable cause to believe the instrument is materially false or fraudulent. This division does not create a duty upon a recorder

to inspect, evaluate, or investigate an instrument of writing that is presented for recording.

(Emphasis added).

If the county recorder refuses to record an instrument, the person presenting the instrument may file a cause of action. Pursuant to R.C. § 317.13(C):

If a person presents an instrument of writing to the county recorder for recording and the county recorder, pursuant to division (B) of this section, refuses to record the instrument, the person has a cause of action for an order from the court of common pleas in the county that the county recorder serves, to require the county recorder to record the instrument. If the court determines that the instrument is required or authorized by the Revised Code to be recorded and is not materially false or fraudulent, it shall order the county recorder to record the instrument.

(Emphasis added).

Williams alleges that McClain violated R.C. 317.13 as a result of McClain not recording Williams' affidavit as a deed. Under R.C. § 317.13(B), the county recorder may refuse to record an instrument presented to the recorder if the recorder has reasonable cause to believe the instrument is materially false or fraudulent.

As the Appellate Court noted, "Williams was not entitled to a court order directing McClain to record the affidavit [as a deed]." *Williams v. McClain*, 2nd Dist. Montgomery No. 28475, 2019-Ohio-4802, ¶ 10. "Nor did the trial court err in upholding McClain's decision to record the deed as a "miscellaneous" document. Williams lacked any evidence other than his own affidavit to support his claim about being his great-grandmother's lawful heir. As the magistrate noted, Williams did not even know whether his great-grandmother had a will, and he acknowledged having a living brother who also could be an heir if Eula Carroll died intestate." *Id.*

Moreover, the Appellate Court was not convinced "that an affidavit filed under the statute *is* a deed or that it has the *legal effect* of a deed, which appears to be what Williams is arguing." *Id.* at ¶ 11. An affidavit filed under R.C. 5301.252, "in and of itself, creates no interest

in the subject real estate[.]” *Catawba West, Inc. v. Domo*, 75 Ohio App.3d 80, 83, 598 N.E.2d 883, 885 (6th Dist.1991). Rather, it is a statutory device for giving notice and for “recording facts which *may* affect title to real estate in the State of Ohio.” (Emphasis sic.) *Id.*

To date, Williams has failed to produce one iota of evidence to support the claims made within the affidavit he created. As this case has progressed from the trial court, to the Second District Court of Appeals, and now to this Court, Williams has failed to make any cogent argument as to why the affidavit he created should have been recorded as a deed. Accordingly, both the trial court and the Second District correctly found in favor of McClain against Williams.

CONCLUSION

This case does not involve questions of public or great general interest, and it does not involve a substantial constitutional question. For the reasons set forth above, Brandon C. McClain respectfully requests that this Court find Travis Lanier Williams’ propositions of law meritless and deny him jurisdiction to appeal.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Memorandum in Response* was sent to the following by regular U.S. mail, postage prepaid on January 23, 2020:

Travis Lanier Williams
1955 Kipling Road
Dayton, OH 45406
Plaintiff-Appellant

/s/ Collin B. Showe
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