

ORIGINAL

IN THE SUPREME COURT OF OHIO

State ex rel. Randy H. Davis, : Case no. 20-1130
Petitioner/Appellant,

v. :

Neil Turner, Warden, : On Appeal from the Third Appellate
Respondent/Appellant. District, Marion, County case no.
9-20-12

MERIT BRIEF OF APPELLANT RANDY H. DAVIS

Randy H. Davis
#A415-695
P.O. Box 1812
Marion, Ohio
43301

Appellant, pro se

Stephanie L. Watson
Assistant Prosecuting Attorney
150 East Gay St. 16th Fl.
Columbus, Ohio 43215

Counsel for Appellee

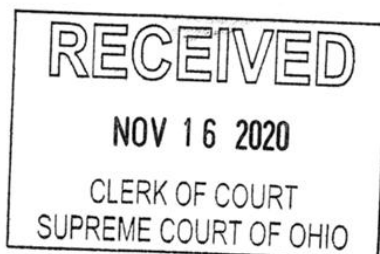
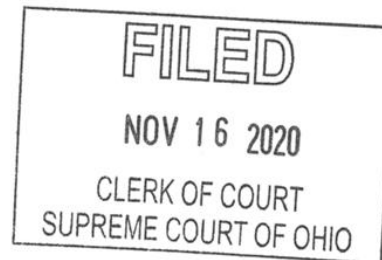


TABLE OF CONTENTS

STATEMENT OF THE CASE AND FACTS..... N/A

ARGUMENTS IN SUPPORT OF PROPOSITIONS OF LAW

Proposition of law No. One: 3

APPELLANT'S FUNDS ARE EXEMPT FROM COLLECTION PURSUANT TO
R.C. 2329.66(a) and STATE EX REL. LONG V. TURNER, CASE NO
19CV0680.

Issues presented for review:

Appellant is being denied equal protection under the law due to the different
treatment he has received compared to the prisoner in State ex rel. Long v. Turner.

CONCLUSION..... 4

CERTIFICATE OF SERVICE..... 5

APPENDIX

- a. Judgment entry and opinion of First District Court of Appeals.
- b. exhibits

Proposition of law No. One:

APPELLANT'S FUNDS ARE EXEMPT FROM COLLECTION PURSUANT TO R.C. 2329.66(a) and STATE EX REL. LONG V. TURNER, CASE NO 19CV0680.

Appellant is appealing the Third Appellate District's denial of appellant's "Objection to Judgment for Payment" related to the above captioned case. The appellate court held that an "objection" to payment for court costs is not properly filed in a *closed* habeas corpus action. (emphasis added) However, the fact that appellant's habeas corpus case was closed with that court should be irrelevant to the decision. Appellant was unable to object to the imposition of court cost prior to the closure of the habeas case because the court cost had not yet been imposed. Therefore, the appellate court in this case has abused its discretion and is willfully denying appellant equal protection under the law. Attached to this appeal is form DRC 1598, Notice to the Petitioner with the Order, Attachments from Court, Summary list of Exemptions, and Objections Form, DRC Form 1599. Petitioner timely objected to the costs imposed upon appellant for the above captioned case. Appellant asserted that he was exempt from collection of the court's cost because his funds are protected by the exemption provided by Ohio Revised Code Section 2329.66(A)(3). The statute creates an exemption from execution, garnishment, attachment, or sale to satisfy a judgment or order, in the person's interest, not to exceed \$400, in cash in hand, money due on deposit with the bank, savings and

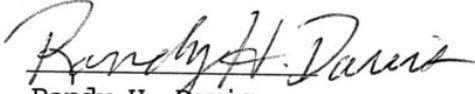
loan associations, credit union, public utility, landlord, or other person, other than personal earnings. Said exemption is subject to a provision allowing for an increase in the exemption to adjust for inflation, and the present exemption available is now \$475.00.

The appellate court previously determined that no conflict exists between Ohio Revised Code section 2329.66(A) and Ohio Revised Code Section 5120.133. That exact same court has even recently determined in State ex rel. Long v. Turner, case no. 19CV0680 that because petitioner has less than \$475.00 in his inmate trust fund account, he qualifies for the exemption from garnishment pursuant to 2329.66(A)(3 and 5120.33 and Ohio Administrative Code Rule 5120-5-03. To deny appellant the equal protection from garnishment under the above stated statutes is an abuse of discretion and denial of equal protection under the law and this court should not permit such actions. Appellant respectfully requests that this court remand this matter with instructions for the appellate court to direct the NCCC cashier's office to return any funds it has collected pursuant to the appellate court's erroneous order. It is so prayed.

CONCLUSION

The greatest crime of all in a civilized society is an unjust conviction. It is truly a scandal which reflects unfavorably on all participants in the criminal justice system. As this court knows all too well, we live in an imperfect world, one which includes a criminal justice system that can err in frightening ways. It is unrealistic to believe that all such errors can be eliminated at the source, but Appellant submits, it is not asking too much to insist that the system take reasonable steps to correct such injustices once they do come to light. It has come to light that appellant's limited funds are exempt by statute from garnishment, yet the appellate court has chosen to ignore the unambiguous law in an apparent attempt to discourage appellant from challenging his conviction any further. This court has the opportunity to make a statement that deters such retaliation and abuse of discretion. It is so prayed.


Respectfully submitted,


Randy H. Davis, pro se

North Central Correctional Complex
P.O. Box 1812
Marion, Ohio 43301

Certificate of Service

I certify that a copy of this Objection to Judgment for Payment was sent by ordinary First Class U.S. mail, postage prepaid to the office of counsel for appellees on this 10TH day of the month of NOVEMBER 2020.


Randy H. Davis, pro se

IN THE COURT OF APPEALS
THIRD APPELLATE DISTRICT
MARION COUNTY OHIO

State ex rel. Randy H. Davis

* Case no. 9-20-12

Petitioner,

v.

*

Neil Turner, Warden,

Respondent.

*

OBJECTION TO JUDGMENT FOR PAYMENT

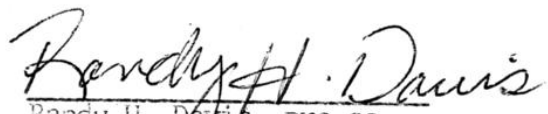
The cashier's office at the North Central Correctional Complex sent Petitioner, Randy H. Davis, form DRC 1598 Notice to the Petitioner with the Order, Attachments from Court, Summary list of Exemptions, and Objections Form, DRC Form 1599. The Warden's designee also notified the cashier to place a hold on Relator's account with Form DRC 1603.

Petitioner objects to the cost imposed upon Petitioner for the above captioned case. Petitioner asserts that he is exempt from collection of this court cost because his funds are protected by the exemption provided by Ohio Revised Code Section 2329.66(A)(3). This statute creates an exemption from execution, garnishment, attachment, or sale to satisfy a judgment or order, in the person's interest, not to exceed \$400.00, in cash in hand, money due and payable, money to become due in 90 days, tax refunds, and money on deposit with the bank, savings and loan associations, credit union, public utility, landlord, or other person, other than personal earnings. Said exemption is subject to a provision

allowing for an increase in the exemption to adjust for inflation, and the present exemption available is now \$475.00.

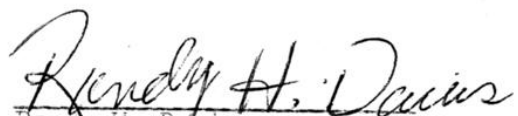
This court has previously determined that no conflict exists between Ohio Revised Code Section 2329.66(A) and Ohio Revised Code Section 5120.133. This court has determined in State ex rel. Long v. Turner, case no. 19CV0680 that because petitioner has less than \$475.00 in his inmate trust fund account, he qualifies for the exemption from garnishment pursuant to 2329.66(A)(3) and 5120.33 and Ohio Administrative Code Rule 5120-5-03. To deny Petitioner's under \$400.00 account exemption would deny petitioner equal protection under the law. Petitioner respectfully request that this court waive the court costs in this matter and direct the NCCC cashier to return any funds it may have collected pursuant to this court's Judgment for Payment.

Respectfully submitted,


Randy H. Davis, pro se
#A415-695
P.O. Box 1812
Marion, Ohio
43301

Certificate of Service

Petitioner, Randy H. Davis do hereby certify that a true and correct copy of the foregoing Objection to Judgment for Payment was mailed to the Respondent on this 12TH day of August 2020 by First Class U.S. mail, postage prepaid.


Randy H. Davis

Notice of Objection to Judgment for Payment

Inmate Name: DAVIS, RANDY HOLMES	Inmate Number: A415695	Court Case Number: 9-20-012	County: MARION
-------------------------------------	---------------------------	--------------------------------	-------------------

From: Warden's Collection Designee, (Name and Job Title):

ROSE M WEST - ACCOUNTING CLERK

I object to the withdrawal of money from my personal account based on the judgment ordering me to pay a stated obligation. In my opinion, some or all monies in my account are exempt from collection (cannot be taken from me) under Ohio Revised Code section 2329.66, as explained below. Alternatively, other laws of Ohio or the United States provide a defense(s) to the validity of the judgment itself, as explained below. I (check one) do ☐ or do not ☒ need to further discuss my exemption(s) or defense(s).

To be Considered, Objections Must be Delivered to the Warden's Collection Designee by the following Due Date: 08/10/2020.

I hereby respectfully object to the payment of the stated obligation. Pursuant to 2329.66(A) Every person who is domiciled in this state may hold property exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order, as follows:

(3) the persons interest, not to exceed four hundred dollars, in cash on hand, money due and payable, money to become due within ninety days, tax refunds, and money on deposit with a bank, savings and loan association, credit union, public utility, landlord, or other person, other than personal earnings.

Inmates asserts that the above stated law is applicable in this situation due to the fact that this inmate does not have in excess of four hundred dollars on his account and has no assets of any value.

You need to send your objection to the Judge! Write a letter to the Judge!

If additional space is needed attach additional sheets.

Inmate Signature: <i>Randy H. Davis</i>	Inmate Number: A415695	Date: 7-29-20
--	---------------------------	------------------

DRC1599 (Rev 02/05) Distribution: White - Inmate, Canary - Collections File

R West
7.31.2020

IN THE SUPREME COURT OF OHIO

Randy H. Davis,
Plaintiff/Appellant,

Case No.

20-1130

v.

On Appeal from the Third Appellate
District, Marion County
Case no. 9-20-12

Neil Turner, Warden,
Respondent/Appellee

AFFIDAVIT OF INDIGENCY

FILED
SEP 18 2020
CLERK OF COURT
SUPREME COURT OF OHIO

I, Randy H. Davis, do hereby state that I am without the necessary funds to pay the costs of this action for the following reasons:

I am currently incarcerated at the North Central Correctional Complex and I work at the prison but only receive \$20 per month. The majority of that money is used to provide for postage, legal copies and the necessities of day to day living within the institution.

Pursuant to Rule 3.06 of the Rules of Practice of the Supreme Court of Ohio, I am requesting that the filing fee and security deposit, if applicable, be waived.

Randy H. Davis
Randy H. Davis

Sworn to and subscribed in my presence this 15 day of September 2020.

Shelley L. Curry
NOTARY PUBLIC



Shelley L. Curry
Notary Public
State of Ohio
My Commission Expires
April 4, 2021

RECEIVED
SEP 18 2020
CLERK OF COURT
SUPREME COURT OF OHIO