

**To the Clerk of the Supreme Court of Ohio**

**Joel A Helms**

witness affidavit

-VS.-

**Beth A Diefendorf**

pending validation

21-0645

**Duane Groeger** Amended additional defendant

8<sup>th</sup> floor City Building

166 S. High Street

Akron, OH 44308

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**ORC 2935.09 Affidavit requesting  
quo warranto and prohibition  
Memo of Jurisdiction  
as original action or on appeal**

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Joel Helms

4977 Massillon Rd

Canton OH 447201459

330.815.9930 jscott7413@gmail.com

**Affidavit Complaint**

**RECEIVED**

**MAY 13 2021**

CLERK OF COURT  
SUPREME COURT OF OHIO

**FILED**

**MAY 13 2021**

CLERK OF COURT  
SUPREME COURT OF OHIO

## Memorandum of Jurisdiction

... If the citizen affidavit charges a felony, R.C. 2935.10 directs a judge who is reviewing the affidavit to do one of two things: (1) "issue a warrant for the arrest of the person charged in the affidavit" or (2) "refer the matter to the prosecuting attorney \* \* \* for investigation prior to the issuance of [a] warrant" if the judge "has reason to believe that [the affidavit] was not filed in good faith, or the claim is not meritorious. {¶12} *State ex rel. Brown v. Nusbaum*, No. 2017-Ohio-9141.

Once summoned, a protective order could be issued, stopping felony in progress.

This is only process given the citizen to challenge unlawful behavior of an entrenched bureaucracy. i.e. given to disinterested court in SouthEast Ohio for politically charged N issue. This was first submitted to 9<sup>th</sup> District who declared themselves non-court of record, dismissed. Therefore this issue may be a direct appeal, S.Ct.Prac.R.6.01 of determination of jurisdiction or could be taken as original jurisdiction of this Court S.Ct.Prac.R.12.02.

### Direct Appeal

Appellant Court refused jurisdiction based on language content interpretation that they are not a 'court of record'. Nusbaum and 'trial court' are synonyms in *State ex rel. Brown v. Nusbaum*, 152 Ohio St.3d 284, 2017-Ohio-9141. The Supreme Court makes no differential with 'Courts of record' found in ORC 2935.09 and the interchangeable Nusbaum or 'trial court'. Intent is clear in ORC 2963.31 Appropriate court defined and ORC 2935.06 Private person making arrest, offer specific conditions related to definition in use. And an inherent exclusionary clause in ORC 109.57 (A) (2) *Every clerk of a court of record in this state, other than the supreme court or a court of appeals;* directly states Appeal courts are 'courts of record'. The legislative intent of language is clear and 9<sup>th</sup> dismissal grounds are void.

## **Original Action**

Lacking the records necessary to initiate an administrative appeal and BD's ignoring legal requirements in 5<sup>th</sup> March Notification and that ORC 715.262 delegates this plea/appeal 'preference over all civil proceedings'. Helms as owner/general contractor, victims, plead protection from further actions of BD and Agency. A further affidavit for first degree felony has since been filed on continued activity and discovery of identification. Jurisdiction is immediate in;

**quo warranto** by summons or warrant a document issued by a court of law formally requiring somebody to state by what authority he or she has acted or has held a position.

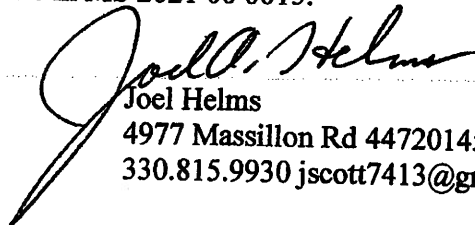
**prohibition** order that forbids completion of raze pending authority determination [stay].

Joel Helms fully acknowledges he lacks immunity for action of arrest if affidavit facts as stated result in warrant restricting liberty of accused are found false. Any judge or judge panel must assume affidavit is true and if sufficient must statutorily issue warrant. Lacking statutory defined good faith or not meritorious, must be in the alternative given to Prosecutor. Good faith and meritorious are well defined in Blacks Law and if used without specificity are violation of Article I, Section 10a (A) (4).

The very nature is equivalent of grand jury and notice to respondent not necessary..

Municipal Clerk refused, 9<sup>th</sup> denied jurisdiction, Summit Common Pleas pending (not ripe, non-responsive). Original affidavits are in MS 2021 00 0015.

Respectfully submitted,



Joel Helms  
4977 Massillon Rd 447201459  
330.815.9930 jscott7413@gmail.com

December 2020 Posting  
5<sup>th</sup> March Notice  
31<sup>st</sup> March Affidavit  
19<sup>th</sup> April Affidavit  
29<sup>th</sup> March 9<sup>th</sup> dismissal

# Notice of Rehab

ANYONE ON THIS PROPERTY AT THE INSTRUCTION OF AKRON HOUSING

## Take Notice

Affidavit of Condemnation is fraudulent on its face  
Forester claims jurisdiction thru 150.19, that Code does not exit

Further claim that Board ordered condemnation is without merit, as Board never scheduled a Hearing  
She further makes claim of being Secretary to the Board. Claim has no minutes so substantiating

This property is being rehabbed under authority of 150.15. A certified letter of  
question of implied procedure was requested 23 November 2020. No reply, therefore no policy in place.  
[lacking procedure redacts authority of relevant code]

Anyone on property is subject to [REDACTED] citation or arrest on Order of Owner John Helms

Once being informed of evident fraudulent source of purpose of reason on premises, removes any governmental immunity.

# Notice of Rehab

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This property is being rehabbed under authority of 150.15. A certified letter of  
question of implied procedure was requested 23 November 2020. No reply, therefore no policy in place.  
[lacking procedure redacts authority of relevant code]

Anyone on property is subject to [REDACTED] citation or arrest on Order of Owner Tom Lavery

Once being informed of evident fraudulent source of purpose of reason on premises, removes any governmental immunity.

Beth Diefendorf

Reference 30 October 2020 letter from DEGroeger in reference to **984 W Waterloo**

Whereas ORC 715.26 provides . . . The owners of record of such property or the holders of liens of record upon such property may enter into an agreement with the municipal corporation, . . . to perform the removal or repair

Whereas ACO150.201 No person shall enter any dwelling that has been condemned as unfit for human habitation or use, and so designated and placarded by the Housing Inspector, and that has been vacated, **except between the hours of 7:00 a.m. and 7:00 p.m. for the specific purpose of repairing the dwelling,**...

Whereas ACO 150.15 B. Any dwelling or premises declared unfit for human habitation or use **may be restored to a habitable condition.**

Whereas Public Information Request requesting Policy on these rights was submitted by mail on the 23 of November [after receptionist refused request in person], lacking a reply to date.

Whereas Helms proposed offer of bond and expenses to the City on 30<sup>th</sup> November and has received no answer.

Whereas the Agency requested hold on all permits issued from Summit County Building Standards Department on 22<sup>nd</sup> December, permits required for remediation.

Whereas the Agency had First Energy remove property power taps February 22<sup>nd</sup>, contrary to active building permit.

Whereas a Condemnation Notice posted to Summit County Land Records September 21<sup>st</sup>, 2020 with multiple defects

1) **Jurisdiction** quoted as **ACO150.19** does not exist in present Code.

2) Forester is not the Secretary of the ACO150.04 Board

3) There is no record (minutes) where Board scheduled hearing for this address.

4) There is no record of Board notifying Owners as established in Land records (see 55969979, parcel#6746771) 150.051A On receipt of a report of the Housing Inspector that a premises is in violation of this chapter, **the Board shall:** 1.) Give written notice to the owner and all other persons having an interest in the premises, as shown by the land records of Summit County, to appear before the Board on the date specified in the notice; [Agency sent certified letter noting a date and subject matter but delivery or mention of Board ordered not documented in record request]

5) there exist no signed Final Order of the voting majority of Board or of certified Secretary claiming representation action, and date when mailed to owners by the Board: 150.051A4. Issue an order based upon the findings of fact made, commanding, if proper, that the dwelling or premises must be demolished. This order shall be served on all persons specified in subsection 1 of this section. The order shall state that the dwelling or premises will be demolished by the city, and that there is a right to appeal the Board's order pursuant to Revised Code Chapter 2506.

6) Whereas the Board was first required to order repair: ACO 150.051D When a dwelling or premises can reasonably be repaired so that it will no longer exist in violation of any of the provisions of this chapter, **it shall be ordered repaired; repairs since completed with improvements blocked by permit hold.**

Whereas there is no date when written summary was available of Board's action, a requirement to initiate appeal: 150.05E Records. The proceedings at the hearings, including the findings and decision of the Board and reasons therefor, shall be **summarized in writing** and entered as a matter of public record in the office of the Director of Neighborhood Assistance. The record shall also include a copy of every notice and order issued in connection with the matter. Any person aggrieved by the decision of the Board may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the state.

As evidenced in public records request received 6<sup>th</sup> February 2021

Whereas SCBS denied application for permit to upgrade property on 23<sup>rd</sup> December 2020 lacking any contractual duty to Akron or law based on said defective Condemnation Order. Helms application with money returned.

**Therefore, lacking jurisdiction and color of Law, Plaintiff Demands immediate cancellation of defective Condemnation Posting to Land Records and postponement of all demolition actions of the City until approved Policy is available.**

**Therefore, lacking jurisdiction and color of law pending development of such Policy, remove improper restriction to SCBS in accepting applications for permits.**

John Helms Owner 56599624 330.815.0718 johnishelms@gmail.com 5 March 2021

**Law:** Consider this an appeal to actions taken and pending by the City of Akron that by law no appeal may yet be filed on the actions of Appeal Board [and of questionable jurisdiction with Board not scheduling].

ORC 715.262 In an appeal from an order made under authority of division (A) or (B) of section 715.26 of the Revised Code, a provision of a municipal charter which has the same or a similar purpose as such divisions, or an ordinance or regulation adopted under such authorities, and in any appeal relating to violation of an ordinance or regulation adopted under authority of such divisions or provision of a municipal charter, the court shall give **preference to all proceedings** in connection with such appeal over all civil cases, irrespective of the position of the proceedings on the calendar of the court.

Court's inaction will deprive the City of Akron \$10k in uncollected taxes & assessments & \$3k in demolition cost. I wish to further note that in December, Forester told APD that we were trespassing on property and should be arrested. I can find nothing on file or in records search to substantiate her claims and would consider it kidnapping if arrested with all rights to resist. **This property is still posted allowing repairs between 7: & 7:.**

Clerk of the Supreme Court of Ohio

ORC 2935.09 Affidavit Complaint

I, Joel Helms submit affidavit concerning **Beth A. Diefendorf**, [BD,] an employee of the City of Akron for Grand Theft, a forth degree felony. ORC2913.02 or other included crimes.

Numbered indented are affidavit statements supplemented by full width comments.

- 1) Property known as 984 W Waterloo Rd, parcel # 6835776, has building value in excess of ten thousand dollars per Summit County Auditors web portal. Property value of 10k will be less than 3k on nonconforming lot.
- 2) John Helms is owner of property. Wayne Stewart (Beverly Musser) previous owner, Joel Helms licensed general contractor.
- 3) Property is posted 'no trespassing' with note that any City of Akron personnel alerted to fact that 'Condemnation Affidavit', presumed authorization for onsite activity, is fraudulent on its surface.
- 4) US mail notice was delivered to BD on the 8<sup>th</sup> March 2021 detailing deficiencies of process requesting vacation of 'Condemnation Affidavit' and removal of 'Building permit hold' pending development of repair Policy. attached copy  
BD acknowledged receipt on the 9<sup>th</sup> on phone conversation with John Helms.
- 5) BD office is on eighth floor of 'City Building' that houses all Housing records and staff.
- 6) I requested to review file concerning 984 from Housing records and based on virus protocols was sent copy of holdings dated 3<sup>rd</sup> February 2021, received 6<sup>th</sup> with note 'no record of text for ACO 150.19.'

ACO 150.19 quoted as jurisdiction for Affidavit of Condemnation [556578484], doesn't exist, presumed previously declared unconstitutional/removed. Forester declaration of being secretary, not substantiated in Board's minutes or correspondence.

- 7) A review of 984 public info notes many deficiencies required by law
  - a) A request for policy concerning rehabbing property once condemned, offering bond and costs received on 30 November 2020 from John Helms was not answered.
  - b) Agency requested SummitCountyBuildingStandards not to issue permits 22<sup>nd</sup> December.
  - c) Agency had APD threaten me with arrest for rehabbing property 22 Dec. 2020, Posted allowed activityPermits generally required by ORC 715.26, ACO 150.15B, ACO150.051D
  - d) There is no record of Board scheduling and notifying owners of Hearing. ACO150.051A
  - e) No signed Final Order of the voting majority of Board or of a certified Secretary claiming representation action, and date when mailed to owners and agency by the Board, 150.051A4
  - f) There was no **summarized writing** of Board reasons required for appeal, and hence no required reasonableness of repair evaluation. ACO 150.05E, 150.051D

Having full knowledge of claimed deficiencies and ability to confirm intra office

- 8) BD did order the demolition of 984 the 22<sup>nd</sup> March with contractors starting at 16:40 24<sup>th</sup>. Contractors acknowledged reading notice but claimed BD letter as authorization.
- 9) There exist unpaid tax liabilities and future demolition costs, un-collectable if razed
  - a) tax certificate 56344184, \$3681.72 plus interest to date 1503.37
  - b) present taxes 9923.16
  - c) minus pending assessment reduction request of \$2656 more or less
  - d) demolition cost estimated between 3300 to 12,000 [transplanted army barracks, possible asbestos glad]BD demolition order will deprive taxpayers of Ohio in excess of \$15,000 from treasuries.

Joel Helms subscribed before me 31<sup>st</sup> March 2021 and sworn the above to be true

Clerk of the Common Pleas Court of Ohio

Joel Helms Affidavit / Complainant

B Diefendorf Defendant

Kandi O'Connor Magistrate, Other Party

**Duane Groeger** Amended additional defendant  
Municipal Building  
166 South High Street  
Akron, OH 44308 330.375-2366

**MS 2021 00 0015**

Additional Affidavit - Party

ORC 2935.09 Affidavit Complaint

I, Joel Helms submit affidavit concerning Housing Administrator **Duane Groeger** [DG,] an employee of the City of Akron for aggravated Theft, a **first degree felony**. ORC2913.02 or other included crimes or as defined in 2923.31E.

Numbered indented are affidavit statements supplemented by full width comments.

- 1) Property known as 575 N Portage Path, Akron 44303, parcel # 6801673, had building value in excess of one hundred fifty thousand dollars per Summit County Auditors web portal, \$202,540. Land value of \$97k will be less lacking building.
- 2) Thomas L Lavery Jr is the owner of property, Joel Helms, licensed general contractor.
- 3) Property was posted 'No Trespassing' and each door posted that any City of Akron personnel alerted to fact that 'Condemnation Affidavit', presumed authorization for onsite activity, is fraudulent on its surface and house was being rehabbed as allowed by Ohio and Akron code. [attached]
- 4) Helms inspected property as to rehabbing value and determined roof repairs at \$3k and interior damage from power shut off at \$8k and \$1k allowance for permits.

Lacking Policy for rehabbing as allowed under State and City Code, Lavery took out roofing permit and posted property. By State regulation, gave him year to complete improvements. Lack of Policy was confirmed in previous affidavit through John Helms's inquiry. Permits generally required by ORC 715.26, ACO 150.15B, ACO150.051D

- 5) Tom agreed to have roof repaired and clutter removed to allow interior completion by Helms before permits expired.
- 6) I acquired Hearing audio and reviewed Lavery's legal challenges to date and filed Amicus curiae in July for CA29318. The courts and Groeger's administration refused to provide records, a requirement before Lavery could appeal. The Board refused to do a required reasonableness of repair evaluation. ACO 150.05E, 150.051D. Citizen complaint nonexistent or Board did not schedule Hearing. 150.05C, 150.051A1

ACO 150.19 quoted as jurisdiction for Affidavit of Condemnation [556578484], doesn't exist, presumed previously declared unconstitutional/removed. Forester declaration of being secretary, not substantiated in the Board's minutes or correspondence.

As administrator having full knowledge of claimed deficiencies & ability to confirm intra office. DG office is presumed on eighth floor of 'City Building' that houses all Housing records / staff. ORC Chapter 2913 Section 2913.02 | Theft

- (A) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:
- (1) Without the consent of the owner or person authorized to give consent;
  - (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
  - (3) By deception;

**OVER**

STATE OF OHIO )  
 )ss:  
COUNTY OF SUMMIT )

IN THE COURT OF APPEALS  
NINTH JUDICIAL DISTRICT

IN RE: AFFIDAVIT OF JOEL  
HELMS

C.A. No. 29947

## JOURNAL ENTRY

Joel Helms has filed a private citizen affidavit to seek the arrest of a city of Akron employee for grand theft, a fourth degree felony.

R.C. 2935.09 and 2935.10 provide a procedure for a private citizen to file an affidavit to cause an arrest or prosecution. The Ohio Supreme Court has outlined the process, starting with a *trial court's* obligations:

A trial court's obligations with regard to citizen affidavits are defined by R.C. 2935.09 and 2935.10. R.C. 2935.09(D) authorizes a private citizen "who seeks to cause an arrest or prosecution" to "file an affidavit charging the offense committed with a reviewing official for the purpose of review to determine if a complaint should be filed by the prosecuting attorney." We read this section in *pari materia* with R.C. 2935.10, which "prescribes the procedure to be followed once a citizen files a criminal complaint" under R.C. 2935.09. *State ex rel. Bunting v. Styer*, 147 Ohio St.3d 462, 2016-Ohio-5781, 67 N.E.3d 755, ¶ 15. If the citizen affidavit charges a felony, R.C. 2935.10 directs a judge who is reviewing the affidavit to do one of two things: (1) "issue a warrant for the arrest of the person charged in the affidavit" or (2) "refer the matter to the prosecuting attorney \* \* \* for investigation prior to the issuance of [a] warrant" if the judge "has reason to believe that [the affidavit] was not filed in good faith, or the claim is not meritorious." R.C. 2935.10(A); see *State ex rel. Boylen v. Harmon*, 107 Ohio St.3d 370, 2006-Ohio-7, 839 N.E.2d 934, ¶ 7.

*State ex rel. Brown v. Nusbaum*, 152 Ohio St.3d 284, 2017-Ohio-9141, ¶ 12.



Journal Entry, C.A. No. 29947  
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The Supreme Court focused on a *trial court's* obligation because R.C. 2935.09(A) defines a "reviewing official" as "a *judge of a court of record*, the prosecuting attorney or attorney charged by law with the prosecution of offenses in a court or before a magistrate, or a magistrate." (Emphasis added). An appellate court is not a "court of record" and, therefore, the judges of the Ninth District Court of Appeals do not meet the definition of a "reviewing official."

Because this Court is not a court of record, R.C. 2935.09 and 2935.10 do not authorize the judges of an appellate court to act. Accordingly, this matter must be dismissed.

This case is dismissed. Costs are taxed to Joel Helms.

The clerk of courts is hereby directed to serve upon all parties not in default notice of this judgment and its date of entry upon the journal. Civ.R. 58.

  
\_\_\_\_\_  
Judge

Concur:  
Hensal, J.  
Teodosio, J.