

IN THE SUPREME COURT OF OHIO

STEPHEN E. JOHNSON

Appellant (Sui juris)

-vs-

RENEA MILLER

Appellee

:
: Ohio Supreme Court# 2023-0241
:
: On Appeal from the Cuyahoga
: County Court of Appeals, Eighth
: Appellant District
: CA-22-111526
:
:
:

MOTION FOR RECONSIDERATION OF REFUSAL TO ACCEPT APPEAL
OF APPELLANT STEPHEN E. JOHNSON

STEPHEN E. JOHNSON
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Appellant (Sui juris)

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OF APPELLANT STEPHEN E. JOHNSON**

Pursuant to S.Ct. Prac. R.18.02, Appellant Stephen E. Johnson ask this Court to reconsider its decision of May 9th 2023 declining jurisdiction. Support of this motion I found in attached memorandum of law.

Respectfully Submitted,

/s/STEPHEN E. JOHNSON

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MEMORANDUM IN SUPPORT OF RECONSIDERATION

This court is asked to reconsider its decision to accept jurisdiction for appellant Proposition of Law I which is based on Damages of Due process and Equal protection violations which Adjudicated Facts were not enforced equally in which the results were a serious injury of appellants Due process and Equal protection Guaranteed by The State of Ohio Constitution. The U.S. Supreme Court has stated that "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it.". Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958) appellant filed his counterclaim on November 12th 2019 in the Euclid Municipal Court. The appellant filed Affidavit of Specific Negative Averment and Affidavit of facts in support of his Counterclaim which has never been *rebutted* by any parties or courts. The appellant filed Mandatory Judicial Notice(s) into the record. The Euclid Municipal Judge made a Journal entry without properly stating appellants full name on April 14th 2022 stricken appellants counterclaim without holding any hearings before such action while being conscious of the fact that **O.R.C. 1907.03(B)** shall *certify the action to the court of common pleas* because Euclid Municipal Court Lacks Jurisdiction based on the legal nature and complex issues the counterclaim amount exceeds its jurisdiction.

The appellant filed NOTICE OF EXCUSAL OR RECUSAL in the Eighth District Court on 10/12/2022, which was granted on 10/13/2022. The Eighth District Court claimed on 11/23/2022 the case would be considered on 1/4/2023 by the panel. The Eighth District Court on 12/13/2022 claimed appeal is dismissed for lack of final appealable order based on false presumptions and incorrect comprehension of the LAW, in which violates all due process and equal protection rights.

Proposition of Law I:

Proposition of Law I: The Eighth District Court Panel of Judges have violated the State of Ohio Constitution by violating the Canon Laws prior to its decision made on 12/13/2022. The appellee failed to answer Appellant Stephen Johnson's Brief and has since then Eighth District Court Panel of Judges has given unreasonable extensions of time to reply once appellees failed again another attempt was made to give more time until Appellant Stephen Johnson's Affidavit NOTICE OF EXCUSAL OR RECUSAL was filed in the Eighth District Court of appeals Court on 10/12/2022, which was granted on 10/13/2022. Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in "fraud upon the court". In *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function thus where the impartial functions of the court have been directly corrupted. See definition

FRAUD.

An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right; a false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury. *Brainerd Dispatch Newspaper Co. v. Crow Wing County*, 196 Minn. 194, 264 N.W. 779, 780. Any kind of artifice employed by one person to deceive another. *Goldstein v. Equitable Life Assur. Soc. of U. S.*, 160 Misc. 364, 289 N.Y.S.

1064, 1067. A generic term, embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated. Johnson v. McDonald, 170 Okl. 117, 39 P.2d 150. "Bad faith" and "fraud" are synonymous, and also synonyms of dishonesty, infidelity, faithlessness, perfidy, unfair-ness, etc.

The 8th District Appellate Court has erred intentionally with its Grammar (***The entry provides notice for a potential dismissal of the second cause of action and contemplates further action by the trial court***) by adding in the word "potential" in which is not found anywhere on the lower courts Journal Entry Order, this kind of typo is DANGEROUS and displays Fraud upon the courts. "Fraud destroys the validity of everything into which it enters," ***Nudd v. Burrows, 91 U.S 426,***

Appellant Stephen Johnson's Counterclaim was stricken by the lower courts (IT IS ORDERED, ADJUDGED AND DECREED) April 14th 2022 Journal Entry Order, therefore Counterclaimant Stephen Johnson's final appealable order to file his appeal timely on May 13th 2022 preserving his rights as Counterclaimant was accepted by The 8th District Appellate Courts. If the courts deny Appellant Stephen Johnson's right to appeal that would be a major malfeasance, serious substantial right's violation O.R.C. 2505.02(A)(1) and serious deprivation of rights violation. **O.R.C. 2505.02(A)(1)** "Substantial right" means a right that the United States Constitution, the Ohio Constitution, a statute, the common law, or a rule of procedure entitles a person to enforce or protect & **ORC 2921.45 (A)** *No public servant, under color of his office, employment, or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right. (B) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree.*

Judges are bound by the Canon Laws: **Canon 1** A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. **RULE 1.1 Compliance with the Law** A judge shall comply with the law. **Comparison to Ohio Code of Judicial Conduct** Rule 1.1 is comparable to the first portion of Canon 2 of the Ohio Code. **Canon 2** A judge shall perform the duties of judicial office *impartially*, competently, and diligently. **RULE 2.2 Impartiality and Fairness** A judge shall uphold and apply the *law*, and shall perform all duties of judicial office fairly and *impartially*. **Comment** [1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded. [2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question. [3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this rule. [4] To ensure self-represented litigants the opportunity to have their matters fairly heard, a judge may make reasonable accommodations to a self-represented litigant consistent with the law. **RULE 2.3 Bias, Prejudice, and Harassment** (A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice. (B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so. (C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin,

ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others. (D) The restrictions of divisions (B) and (C) of this rule do not preclude judges or lawyers from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

Comment [1] A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. [2] Examples of manifestations of bias or prejudice include, but are not limited to: epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and lawyers in the proceeding, jurors, the media, and others an appearance of bias or prejudice. A judge must avoid conduct that may reasonably be perceived as prejudiced or biased. [3] Harassment, as referred to in divisions (B) and (C), is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation. [4] Sexual harassment includes, but is not limited to, sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome. **RULE 2.6 Ensuring the Right to Be**

Heard (A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to *law*. (B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement. **Comment** [1] The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed. [1A] The

rapid growth in litigation involving self-represented litigants and increasing awareness of the significance of the role of the courts in promoting access to justice have led to additional flexibility by judges and other court officials in order to facilitate a self-represented litigant's ability to be heard. By way of illustration, individual judges have found the following affirmative, nonprejudicial steps helpful in this regard: (1) providing brief information about the proceeding and evidentiary and foundational requirements; (2) modifying the traditional order of taking evidence; (3) refraining from using legal jargon; (4) explaining the basis for a ruling; and (5) making referrals to any resources available to assist the litigant in the preparation of the case. [2] The judge plays an important role in overseeing the settlement of disputes, but should be careful that efforts to further settlement do not undermine any party's right to be heard according to law. The judge should keep in mind the effect that the judge's participation in settlement discussions may have, not only on the judge's own views of the case, but also on the perceptions of the lawyers and the parties if the case remains with the judge after settlement efforts are unsuccessful. Among the factors that a judge should consider when deciding upon an appropriate settlement practice for a case are: (1) whether the parties have requested or voluntarily consented to a certain level of participation by the judge in settlement discussions; (2) whether the parties and their counsel are relatively sophisticated in legal matters; (3) whether the case will be tried by the judge or a jury; (4) whether the parties participate with their counsel in settlement discussions; (5) whether any parties are unrepresented by counsel; and (6) whether the matter is civil or criminal. [3] Judges must be mindful of the effect settlement discussions can have, not only on their objectivity and impartiality, but also on the appearance of their objectivity and impartiality.

A judge is not the court. People v. Zajic, 88 Ill.App.3d 477, 410 N.E.2d 626 (1980).

The Eighth District Court claimed on 11/23/2022 the case would be considered on 1/4/2023 by the panel but decided to create its own interpretation of the Law by not holding up its oath. The 8th District Appellate Court erred by dismissing for lack of a final appealable order claiming it lacks jurisdiction because the plaintiffs/appellee second cause of action does not remain pending, according to the Journal Entry Order states plaintiff's/appellee Complaint *shall* be dismissed for lack of prosecution thirty (30) days from the date of this Order April 14th 2022. The plaintiff/appellee failed to show the lower court any good cause within the (7) day period of the Journal Entry Order date April 14th 2022 and no further action was taken by the lower court regarding the second cause of action because the plaintiff/appellee failed to do so.

CONCLUSION

Wherefore, this Court should reconsider and accept the instant case and exercise constitutional authority over the issue presented.

Respectfully Submitted,

/s/STEPHEN E. JOHNSON

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CERTIFICATE OF SERVICE

A Copy of the foregoing was forwarded by regular U.S. Mail
on Friday, May 19th 2023, to

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Respectfully Submitted,

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