MEMORANDUM IN SUPPORT OF JURISDICTION
IN THE SUPREME COURT OF OHIO

Robert Warner	Case Number _____
Appellant, Pro Se,	On Appeal From The Court Of Appeals Of Ohio Eighth Appellate District, County Of Cuyahoga.
vs.	
Ohio Department Of Jobs and Family Service, et al.	Court Of Appeals Case Number: CA-23-112471
Defendants.	Decided September 07, 2023

MEMORANDUM IN SUPPORT OF JURISDICTION

Appellant Robert Warner
17029 Madison Avenue
Apt. 102
Lakewood Ohio 44107
Plaintiff- Appellant

Appellee Amazon.Com Services LLC
410 Terry Ave N.,
Seattle, WA 98109

Appellee Corporate Cost Control Inc Attn: Amazon.Com Service LLC
PO Box 1180
Londonderry, Nh 43215

Appellee Laurence R Snyder (0037290)
Assistant Attorney General
Counsel for Ohio Department Of Job Family Services
615 West Superior Avenue 11th Floor
Cleveland, Oh 44113-0000
Ph: 216-787-3030

TABLE OF CONTENTS

Page

EXPLANATION OF WHY THIS CASE IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION

The Decision, if allowed to stand would create many disturbing precedents that will alter the well-established foundation of contract law, unemployment insurance law, and would grant companies in Ohio the right to force unwilling citizens into their service, thereby allowing Involuntary Servitude. This violates both Ohio Constitution Article I - Bill of Rights § 6 and the Thirteenth Amendment to the United States Constitution, both of which ban involuntary servitude:

> *Ohio Constitution, Article I - Bill of Rights, § 6 Slavery and involuntary servitude.*
> *§6 There shall be no slavery in this State; nor involuntary servitude, unless for the punishment of crime.*

> *United States Constitution, Amendment XIII, Section 1.*
> *Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.*

The Decision, if allowed to stand, would up-end well established contract law which requires a meeting of the minds for any agreement to be legally enforceable; as the Decision stands, negotiations would become dangerous endeavors because while I offered two conditions for my rehire, and Amazon refused one of them, the Appeals Court deemed that as an agreement

The Decision, if allowed to stand, would allow companies, individuals or entities to unilaterally establish business relationships by making unauthorized deposits into financial accounts to which they either illegally obtained access or exceeded their authorized access; while Amazon received no authorization to deposit funds into my account, the Appeals Court deemed that unauthorized deposit as creating a contract.

The Decision, if allowed to stand, would change a termination of employment from a

dispositive action to one with a changeable nature, with the nature of that changeability being solely at the whim of the employer; while there was a clear disagreement on the conditions to be met for me to accept their re-hire offer, the Appeals Court allowed Amazon to unilaterally impose their conditions and employment upon me.

The Decision, if allowed to stand, would effectively alter the text of the law which concerns whether an application for unemployment benefits is valid. Should the Decision be allowed to stand, the relevant law as written;

> *"As used in this division, an individual is "unemployed" if, with respect to the calendar week in which such application is filed, the individual is "partially unemployed" or "totally unemployed" as defined in this section* **OR** *if, prior to filing the application, the individual was separated from the individual's most recent work for any reason which terminated the individual's employee-employer relationship, or was laid off indefinitely or for a definite period of seven or more days"* (emphasis added).

would be effectively changed to;

> *"As used in this division, an individual is "unemployed" if, with respect to the calendar week in which such application is filed, the individual is "partially unemployed" or "totally unemployed" as defined in this section***"**.

To be clear, no one- not even the Appeals Court- disputes that on the day I filed my application for benefits only two elements existed; I had been fired without cause prior to filing my claim for benefits and I filed a claim for benefits. Everything else cited by the Appeals Court occurred AFER I filed my claim for benefits. If such logic is allowed to stand, all companies in Ohio will be given the green light to use their sophisticated, trained, and licensed lawyers to engage in legal gamesmanship with the vast, vast majority of citizens- such as myself- who possess no legal training. The law must be interpreted as CLEARLY written; if an application for benefits filed after being

fired can be ruled invalid by machinations occurring only AFTER the application is filed, unemployment insurance is no longer guaranteed for workers fired through no fault of their own.

STATEMENT OF THE CASE AND FACTS

This case arises from a simple matter; Amazon fired me, I filed a claim for unemployment insurance, and Amazon admitted that the termination was without cause. Everything else that occurred in this case, everything that the appellees and all courts used to deny unemployment insurance benefits to me, occurred well after those events.

On April 23, 2022, I was fired from Amazon.com/ Amazon.Com Services, LLC. ("Employer" or "Amazon") and immediately filed an application for unemployment compensation. The application was wrongfully disallowed for supposed failure to provide information to verify my identity. On June 29, 2022, the Director issued a Redetermination finding that I had provided the necessary information to verify my identity but wrongfully canceling the application on the erroneous basis that I was supposedly not unemployed on the date I filed my application. I filed an appeal from the Director's Redetermination. The Director transferred jurisdiction to the Unemployment Compensation Review Commission and a telephone hearing was held on August 5, 2020. I appeared and testified on my own behalf and the employer did not appear. On August II, 2020, the Review Commission issued its Decision affirming the Director's Redetermination. I filed a Request for Review which was disallowed by the Review Commission on August 17, 2022. On August 26, 2022, I filed a timely appeal (CV-22-967947) in the Court Of Common Pleas, Cuyahoga County, Ohio which ruled against me without explanation on February 6, 2023. 29 days later, I filed a timely appeal of that decision with Court Of Appeals Of Ohio, Eighth Appellate District, on March 7, 2023 and the Appeals Court affirmed the ruling of the lower Court in their decision, issued on September 07, 2023. It is that Decision which I herein Appeal.

ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW

I am appealing the Decision of the Appeals Court both on the basis of clear-cut, unambiguous law, and because the precedents that that decision created are incredibly problematic; they allow for involuntary servitude, are against public interests, and are contrary to well-established contract law. Hence, the case raises a substantial constitutional question and is one of public or great general interest, as unemployment insurance decisions, and precedents, effect the vast majority of workers in Ohio and in the United States.

I was fired by Amazon on April 23, 2022 and immediately filed a claim for unemployment benefits on April 25, 2022. During the same period, I contacted legal counsel for Amazon (with whom I was already embroiled in a retaliation lawsuit) to alert them that I would be filing a motion in Federal Court to preserve video evidence of my presence at work during the times when Amazon said I was absent, their original basis for termination. After requesting that I write a proposed supporting memorandum, and only after receiving that proposed memorandum, did Amazon then engage me in an email conversation regarding my returning to work for them. NEVER was a meeting of the minds established in regard to me going back to work for them; indeed, any fair reading of the conversation- in the record- shows EXPLICITLY that there was NO meeting of the minds, that I never agreed to go back to work for them. We had a single conversation, which took place in just over four hours via email, in which they sought to rehire me;

- First, Amazon said that they would pay me for the missed week;
- Second, I counter-offered with a demand for the week's pay AND twenty hours of unpaid time off,
- Third, Amazon refused my counter-offer;
- Fourth (though all deciders of fact, thus far, seem inexplicably confused on this point

though it is clear in the record), Amazon terminated the discussion with another termination letter which purported to change the date of my termination.

The Appeals Court relied heavily on the fact that Amazon deposited the equivalent of a week's pay into my account, declaring that I "accepted" that money, thus creating an employment agreement. "Acceptance", however, is a an intentional, voluntary, knowing act; nowhere in the record does it show me taking any action whatsoever in the transference of that money from Amazon's account to my account. Amazon had no authorization to deposit anything into my account after they fired me and I never acceded- in any way, shape or form- to that financial transfer.

When an employer fires an employee, it is a fait accompli- it simply cannot be reversed. The moment that a person is fired- **that very second**- the employer-employee relation is completely and utterly severed. That very second, any authority that an employer has over an employee becomes non-existent. It cannot be reversed, especially with the consent of only one party. Any further relations between the two parties must be re-established by mutual agreement- a new agreement, or contract, must be entered into. The second that Amazon deposited money into my account, exploiting their possession of my bank account numbers, and used that deposit to attempt to create an employment agreement, is the second that an attempt at involuntary servitude commenced. The second that a governmental body gave it's imprimatur to such an attempt, and ruled it valid, is the second that my involuntary servitude was established as having been created. Amazon, or any other employer, cannot unilaterally establish an employment agreement- that is the very definition of involuntary servitude. The record is clear- Amazon fired me and a meeting of the minds for a new employment agreement never occurred.

The record is clear that the discussion of my re-hire, which took place in a span of just over 4 hours, took a very definite path which clearly shows that no agreement for re-employment was

created;

1. Amazon offered to rehire me under a certain, single condition;

2. I counter-offered with multiple conditions;

3. Amazon explicitly refused my counter-offer with the same, single condition;

4. Amazon terminated the discussion with another termination email, purportedly changing my date of termination.

I will not insult this esteemed Court by lecturing it on basic contract law. Suffice it to say that four of the basic, and indispensable, elements needed to establish any agreement, or contract, are consideration, offer, acceptance, and mutual assent. The record clearly shows that not only was there not mutual assent, but that I explicitly denied their offer with my counter-offer, and that Amazon explicitly denied my counter-offer. While the Appeals Court relied heavily on what they termed my "acceptance" of monies as creating an employment agreement, the record clearly shows that at no time did I agree to accept such payment and the record clearly shows that those monies were deposited into my account without ANY authorization by me.

Under the circumstances of this case, to term me as an employee of Amazon, after they fired me on April 23, 2023, is to allow Amazon to force me into their employ- that is involuntary servitude. The Appeals Court, in sections 22 through 25, clearly details the offers and counter offers of my returning to work for Amazon, which all occurred over a single period of just over 4 hours:

Section 22: Amazon: "*I'd like to talk to you about returning to work*".

Section 23: Me: "*I'd like to be paid for all the time I missed and I'd like to have the full 20 hours of UPT [unpaid time] put back on my account.*"

Section 24: Amazon: "*We will not be giving you an additional 20 hours of UPT.*"

This clearly shows that no meeting of the minds ever took place concerning any rehire. The

Court went on to declare that I did not respond to that last email and attributed my lack of response as acquiescence. However, the Transcript filed by the Ohio Department Of Job Family Services, on pages 268 and 269 shows the reason for my lack of response; Amazon's declaration that "*We will not be giving you an additional 20 hours of UPT.*" was IMMEDIATELY followed by a second termination letter, which any reasonable person would interpret as an end to the negotiations. Furthermore, such logic- as employed by the Appeals Court- would establish silence in negotiations as an agreement. Though no law, precedent or logic supports such inference, the Decision attempts to establish such a precedent. Every person involved in a contract dispute can cite the decision to have silence interpreted as agreement.

In the face of that clear failure to reach agreement, The Appeals Court's determination, that Amazon's deposit into my account constitutes an employment agreement, creates several problematic precedents. Though the record clearly shows a lack of agreement as to me returning to Amazon's employ- the Appeals Court details Amazon's offer and my counteroffer and shows no agreement expressed or implied- the Decision allows Amazon to unilaterally force their original, declined offer upon me by their unauthorized access to my financial account. This Decision, all at once, removes mutual assent and acceptance as necessary elements of contracts and allows Amazon to force me into their service involuntarily- into involuntary servitude.

I ask this esteemed Court to consider the modern nature of finance, money, and banking. In today's world, money transfers over the internet are ubiquitous. If one orders a coffee cup, pays a bill, or gives someone a money gift, it is very probably done by an electronic transfer of funds- credit card, debit card, or directly from a bank account. As a result, companies routinely gain possession of people's account numbers. This Decision, if allowed to stand, will legalize those companies' use of those account numbers without permission after the original authorization no longer exists. THAT

is what happened here; upon hiring me, Amazon gained access to my account numbers for the purpose of depositing my pay. After they terminated my employment, that authorization ceased to exist. The deposit that the Appeals Court relied on to imply my agreement to be re-hired was never authorized and no such authorization exists in the record. Silence on my part is not agreement, especially since Amazon unilaterally terminated negotiations less than four hours after they began.

The law is clear- my application for benefits was valid. This matter, from the start, dealt with a very narrow question; was the application for benefits valid? Under the law, in this particular case, the validity of my application is determined by the answer to a single question; prior to filing the application, was I fired? The answer is unambiguously yes. The law which applies here is Ohio Revised Code, Section 4141.01(R)(4), which states that;

> "*As used in this division, an individual is "unemployed" if, with respect to the calendar week in which such application is filed, the individual is "partially unemployed" or "totally unemployed" as defined in this section or if, prior to filing the application, the individual was separated from the individual's most recent work for any reason which terminated the individual's employee-employer relationship, or was laid off indefinitely or for a definite period of seven or more days. "*

Each clause of that law, separated by the word "or", is a separate and independent clause. The basic mistake by the Appeals Court was treating them as dependent on one another. The Appeals Court read the law as if it says that if even one of the four conditions is not met, the application is invalid. In reality the law, as written, mandates that an application for benefits is valid if any clause is true. The Court went through an extensive analysis, to which even the Court acknowledges much confusion and ambiguity, to determine if Amazon's firing of me was mistaken and if such a mistake means that I was actually still employed at the time of the application. This opens up a huge problem with the future of Ohio unemployment insurance law; employers, once they realize that they will lose an unemployment case, can start playing games by convincing the courts of any of an unlimited

number of reasons why the legal threshold of *"partially unemployed" or "totally unemployed"* was not met by the employee. However, the legislature- in crafting that law- foresaw such problems and inserted words in the law to preclude such wrangling; the phrase "*or if, prior to filing the application, the individual was separated from the individual's most recent work for any reason which terminated the individual's employee-employer relationship*" precludes the exhaustive analysis embarked upon by the Appeals Court; even if an applicant is not *"partially unemployed" or "totally unemployed"*, if "*prior to filing the application, the individual was separated from the individual's most recent work for any reason which terminated the individual's employee-employer relationship",* the application is valid. While other legal issues may be raised by Amazon's actions after I filed my application, none of those have been raised. The only question here is if that application is valid. To that point, ONLY matters which occurred up to, and including, my application for benefits is relevant. Any interactions between me and Amazon that occurred after that termination on April 23, 2022 can only, legally and practically, be considered to be interactions between a company and an ex-employee. That is what a termination does- it is a fait accompli.

CONCLUSION

The Appeals Court erred and produced problematic precedents. In the face of a clearly documented, and never resolved, conflict in positions between me and Amazon, the Court allowed Amazon to force me back into their employ with no more than an unauthorized deposit into my account- silence in negotiations is not assent, especially when disagreement is so clearly documented. Such a precedent up-ends basic contract law which requires a meeting of the minds in any agreement and threatens the capability of all citizens to engage in basic negotiating.

The Appeals Court strained to neutralize the clause in law which unambiguously validates an application for benefits when someone is fired, while the only question that is relevant is whether

or not the firing was for cause- which the record clearly indicates was for no cause.

They have set a precedent in which terminations of employment are not final and dispositive actions, which is simply not the case. “You’re Fired!” is final, dispositive, conclusory, and irreversible. While a person can be re-hired, nothing can change the past. Amazon cannot simply deem me (or anyone else) as rehired, and cannot simply vanquish their firing of me from history.

/S/ Robert Warner

Robert Warner
17029 Madison Ave.
Apt. 102
Lakewood, OH 44107
Plaintiff, Pro Se
10/16/2023

CERTIFICATE OF SERVICE

This Memorandum In Support Of Jurisdiction was served by regular mail to all appellees via regular U.S. Mail on October 16, 2023. Those appellees are:

Appellee Laurence R Snyder (0037290)
Assistant Attorney General
Counsel for Ohio Department Of Job Family Services
615 West Superior Avenue 11th Floor
Cleveland, Oh 44113-0000

Appellee Amazon.Com Services LLC
410 Terry Ave N.,
Seattle, WA 98109

Appellee Corporate Cost Control Inc Attn: Amazon.Com Service LLC
PO Box 1180
Londonderry, Nh 43215

Additionally, Appellee Laurence R Snyder, Assistant Attorney General, Counsel for Ohio Department Of Job Family Services (full info listed above) was served via email at his email address of record, Laurence.Snyder@OhioAGO.gov

/S/ Robert Warner

Robert Warner
17029 Madison Ave.
Apt. 102
Lakewood, OH 44107
Plaintiff, Pro Se
10/16/2023