IN THE OHIO SUPREME COURT OF OHIO
CASE NOS.: 2024-0757 and 2024-0999

Appeal from the Court of Appeals
Ninth Appellate District
Medina County, Ohio
Case No. 2023CA0035-M

NATHAN GAULT, etc.

Plaintiff-Appellee

v.

CLERK, MEDINA COUNTY COURT OF COMMON PLEAS, et al.

Defendants-Appellants

Amicus Brief by a Co-Sponsor Member of the Ohio General Assembly, in Support of Appellee-Plaintiff

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ASSIGNMENT OF ERRORS

Proposition of Law I: The plain language of R.C. 2303.20(H) authorizes a county clerk of courts to impose a technology fee for "each page" when a record/index is created. (R.C. 2303.20(H) and R.C. 2303.201(B)(1) applied.)

> **PLAINTIFF-APPELLEE'S RESPONSE:** The parties do not dispute the operation of R.C. 2303.20(H), which directs the clerk to charge 'per page' for a copy of the complete record.

Proposition of Law II: The "service" referred to in R.C. 2303.201(B)(1) is expressly defined by R.C. 2303.20(H) and authorizes a per-page fee for making a complete record – not a one-dollar limitation – to fund technological advances and computerization of the office of the clerk of court of common pleas. (R.C. 2303.20(H) and R.C. 2303.201(B)(1) applied.)

> **PLAINTIFF-APPELLEE'S RESPONSE:** R.C. 2303.201(B)(1), which is worded by the legislature differently than R.C. 2303.20(H), does not direct a second, per page charge for the complete record, but a single, additional one dollar charge for the "service of making the complete record."

Accepted Conflict Question: "Does R.C. 2303.20(H) authorize the county clerk to impose a computerization/technology fee under R.C. 2303.20(B)(1) of 'one dollar for each page of making complete record, including indexing' of one dollar total?"

STATEMENT OF FACTS

Amici adopts the Statement of Facts submitted by Plaintiff-Appellee.

INTEREST OF AMICI

Amicus Sen. Tom Patton is a member of the Ohio General Assembly who was co-sponsor of 2012 H.B. 197, 129th General Assembly. That legislation amended R.C. 2303.201(B)(1), regarding the statutory language that is the subject of this appeal. This brief is filed in support of the decision of the Ninth District, finding for Plaintiff-Appellee. That Opinion correctly describes the meaning and intent of R.C. 2303.201(B)(1). This brief is submitted to bring that to this Honorable Court's attention, so the law is properly applied to Ohio citizens.

ARGUMENT

The General Assembly is aware of and alert to the nature of legislation being enacted. Some laws are general and original, with the intent that they apply broadly to categories of subjects or activities. Others are specific, dealing with particular issues and needs.

The laws providing for assessment of fees for functional operation of the courts are long-standing. For example, R.C. 2303.20, enacted in that form in 1996 and in existence for decades before, is the broad provision enabling clerks to assess fees and costs in cases before the court. These charges were not directed at funding a particular or limited operation of the court, and rather dealt with general, daily activity.

Despite being general provisions, these laws were written and enacted with certain specific limits on the amounts charged. For example, R.C. 2303.20 begins with the warning that "the clerk shall charge the following fees **and no more**." (emphasis added)

Turning now to R.C. 2303.201 involved in this suit, this statute was not a general enactment, but a specific law for a designated and stated purpose. As the introduction explains, the purpose of the law was directed to "the efficient operation of the court [for which] additional funds are required to computerize the court, to make available computerized legal research services, or to do both." See, R.C. 2303.201(A).

Computers made it important to update formerly 'all paper' systems to data systems. This effort began in around 1996. Even the earliest versions of this effort had specific limits on the amounts to be charged. For example, original R.C. 2303.201(A) directed that "the court shall authorize and direct the clerk of the court of common pleas to charge one additional fee, **not to exceed** three dollars, on the filing of each cause of action or appeal[.]" (emphasis added)

Subsequently, this language "not to exceed" was retained, but the fee was raised by amendment to "six-dollars." See, current R.C. 2303.201(A).

The key point is the limited nature of the permissions granted by section .201.

Fast forward beyond 1996, as computers took a leading role in societal activity. The Legislature once again recognized that "additional funds are required to make technological advances in" the computer systems being implemented, by the court itself and the office of the clerk. To facilitate that update, the General Assembly enacted the legislation that is the subject of this suit, H.B. 197. This new provision permitted the clerk to assess an additional charge. But once again, the amount was limited by definite wording. *See*, R.C. 2303.201(B).

Specifically, when H.B. 129 was considered and then enacted, the law (R.C. 2303.20) already provided—unrelated to technology, computerization, or technological advances—for a per page charge for copies of certain documents. Relevant to the present matter, R.C. 2303.20(H) allowed the clerk, when making a copy of the complete record, to charge ***per page*** for that copy: "The clerk shall charge the following fees and no more: . . . (H) One dollar <u>for each page</u>, for making complete record, including indexing."

The legislature was aware of that existing section when drafting and enacting H.B. 197. The new fee permitted under that bill was not a duplication of the one dollar per page charge for the copy of the record. The legislature could have done that but did not. Rather, the new fee was tied not to pages, but to the service of providing them. And it was expressly limited to one dollar.

The Ninth District correctly recognized this important point:

> ¶36 The one dollar per service fee is separate and distinct from those fees listed in R.C. 2303.20. The fact that R.C. 2302.20 includes a per page fee does not affect the plain language of R.C. 2303.201(B)(1), which does *not* include a per page fee. R.C. 2303.201(B)(1) unambiguously references the "services; in divisions (B), (C), (D), (F), (H), and (L) of section 2303.20; it does not reference or incorporate the per page fees in that section.

R.C. 2303.201(B)(1) thus limits this new charge to 'no more than one dollar' for the ***service*** of making the complete record: "The court of common pleas of any county may * * * authorize and direct the clerk of the court of common pleas to charge an additional fee * * * ***not to exceed*** one dollar for each of the *services* described in divisions (B), (C), (D), (F), (H), and (L) of section 2303.20 of the Revised Code." (Emphasis added.) (Division (H) is 'making the complete record.').

The Ninth District also correctly recognized this in its opinion. The new charge was focused on the service provided:

> ¶34 A plain reading of R.C. 2303.201(B)(1) conveys that the clerk is authorized to charge an "additional fee," which is singular, "not to exceed one dollar for each of the services." … The only service under R.C. 2302.20(H) is the "making complete record, including indexing." This is a singular service, and as such, a clerk is authorized to charge only one additional fee "not to exceed one dollar" for that service. *Id.*

This was exactly the focus of H.B. 197. As the Ninth District explained, each time the clerk provides a service under the listed sections, it may charge one dollar, and only one dollar:

> ¶35 It belies the plain language of the statute to conclude that the clerk is allowed to charge one dollar fee for each page of the record when it is a singular fee incurred on the service. Regardless of the number of pages in the record, the preparation of it constitutes one service such that a party should be charged a single one dollar fee.

CONCLUSION

H.B. 197 contained an amendment to a specific law, to address a narrow purpose. It was not enacted to duplicate the fees already assessed in R.C. 2303.20, nor was it to allow a double charging of the fees already assessed there. It was to enact a new, limited fee on a single basis for the service provided, not to exceed one dollar for the service. The Ninth District was correct in its decision supporting Plaintiff-Appellee and should be affirmed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing Amicus Brief was filed January 7, 2025. A true copy of the foregoing Brief was served as a courtesy by electronic mail upon:

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