

IN THE SUPREME COURT OF OHIO

A.J. BORKOWSKI, JR.,

Appellant,

v.

CHARLES D. ABOOD, JUDGE,

Appellee.

: On Appeal from the Lucas County  
: Court of Appeals, Sixth Appellate  
: District  
:  
: Court of Appeals Case No. L-05-1425  
:  
: Supreme Court Case No.: 06-1913  
:  
:

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APPELLANT THE HONORABLE JUDGE CHARLES D. ABOOD'S MEMORANDUM IN  
OPPOSITION TO MOTION TO DISMISS APPEAL AND REQUEST FOR  
APPROPRIATE SANCTIONS

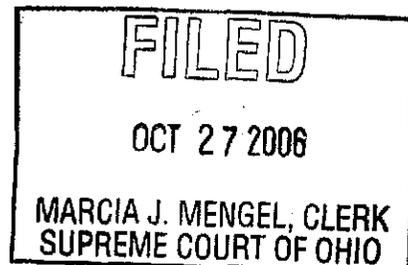
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A.J. Borkowski Jr.  
PO Box 703  
Fayette, Ohio 43521  
Tel: 419-237-7017

*Pro Se*

George D. Jonson (0027124)  
Linda L. Woeber (0039112)  
Kimberly Vanover Riley  
(0068187)(Counsel of Record)  
MONTGOMERY, RENNIE & JONSON  
36 East Seventh Street, Suite 2100  
Cincinnati, Ohio 45202  
Tel: 513-241-4722  
Fax: 513-241-8775  
E-mail: [gjonson@mrj.cc](mailto:gjonson@mrj.cc),  
[lwoeber@mrj.cc](mailto:lwoeber@mrj.cc), [kriley@mrj.cc](mailto:kriley@mrj.cc)

*Counsel for Defendant-Appellee  
Judge Charles D. Abood*



## Memorandum

### Motion to Dismiss Appeal

*Pro se* Appellee Borkowski brings a Motion to Dismiss Appellant Judge Abood's Notice of Appeal for lacking a memorandum in support of jurisdiction. However, pursuant to Ohio S. Ct. Prac. R. II, Section 1(3)(a), a memorandum in support is not yet due: because Judge Abood sought an immediate stay of the proceedings of the Court of Appeals' judgment along with his appropriate appeal, he was permitted to "file a notice of appeal in the Supreme Court *without* an accompanying memorandum in support of jurisdiction" provided he attached both a motion for the stay of the Court of Appeals' judgment and a copy of the opinion and entry being appealed. If the above conditions are met, the memorandum in support of jurisdiction may be filed within 45 days of the entry of the court of appeals judgment being appealed. Ohio S. Ct. Prac. R. II, Section 1(3)(b).

Appellant Abood filed his notice of appeal on October 11, 2006 along with a motion for stay of the Court of Appeals' judgment and a copy of its Opinion and Judgment Entry. Consequently, Judge Abood complied with the standards of Ohio S. Ct. Prac. R. II, Section 1(3)(a) and still has 45 days from the judgment to file the memorandum in support of jurisdiction. Appellee's motion to dismiss the appeal is therefore premature and must be denied.

### Motion to Post Bond

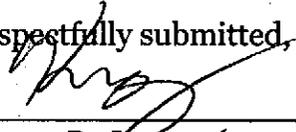
Furthermore, Appellee requested that Judge Abood post a \$1,000,000 bond in support of his motion to stay and moved for sanctions for Judge Abood's failure to mention bond in his motion to stay. First, no mention of bond was appropriate in this matter: S. Ct. Prac. Rule XIV, Section 4(A), which Appellee relied upon, only requires a

bond be included with a motion for stay if relevant. This matter being appealed has had no underlying judgment for which bond is required or relevant. The lower court's decisions were solely based upon the trial court's dismissal of the Complaint under Ohio R. Civ. P. 12(b)(6). In any event, this Court already denied Judge Abood's motion to stay on October 20, 2006, so this matter is now moot.

**Conclusion**

For the foregoing reasons, Appellant Judge Abood respectfully requests this Court deny Appellee's Motion.

Respectfully submitted,



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George D. Jonson (0027124)  
Linda L. Woeber (0039112)  
Kimberly Vanover Riley (0068187)  
MONTGOMERY, RENNIE & JONSON  
36 East Seventh Street, Suite 2100  
Cincinnati, Ohio 45202  
Tel: 513-241-4722  
Fax: 513-241-8775  
E-mail: [gjonson@mrj.cc](mailto:gjonson@mrj.cc), [lwoeber@mrj.cc](mailto:lwoeber@mrj.cc),  
[kriley@mrj.cc](mailto:kriley@mrj.cc)

*Counsel for Defendant-Appellee  
Judge Charles D. Abood*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 24, 2006, a copy of the Memorandum in Opposition was served, via regular U.S. Mail, upon the following:

A.J. Borkowski Jr.  
PO Box 703  
Fayette, Ohio 43521  
*Pro Se Appellant*



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KIMBERLY VANOVER RILEY