

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, EX REL. :  
ROBERT W. RUSSELL : Case No. GEN-2006-0526  
: :  
Relator-Appellant, :  
: On Appeal from the Wayne  
v. : County Court of Appeals, Ninth  
: Appellate District  
STEPHEN W. THORNTON, :  
WOOSTER CHIEF OF POLICE :  
: Court of Appeals  
Respondent-Appellee. : Case No. 05-CA-0082

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MOTION FOR RECONSIDERATION OF APPELLANT ROBERT W. RUSSELL

S.Ct. Prac. Rule XI, Section 2(A)(4)

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Robert W. Russell, 453-744  
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Mansfield, Ohio 44901-0788

Appellant, Pro Se

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Amicus Curiae, Pro se for  
Robert W. Russell  
Relator-Appellant

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SUPREME COURT OF OHIO

MEMORANDUM IN SUPPORT

Appellant has sought only offense and incident reports which merely initiate criminal investigations. R.C. 149.43(B)(4) does not prevent release of these records. The Ninth District Court of Appeals erred in their ruling as the language in a number of cases carefully crafted the distinction of what constitutes Public Record.

This case presented a unique opportunity for this Court to cure a form of judicial myopia and to correspondingly enhance the lower court's reading comprehension. The inability to acquire critical Offense and Incident Reports is a denial of Due Process, Confrontation of Witnesses, Equal Protection, and a Fair Trial as guaranteed by the United States and Ohio Constitutions. Open discovery is being denied in Ohio and the constitutional right to counsel is rendered ineffective for the lack of timely critical information. In Townsend v. Burke (1948) 334 U.S. 736, 68 S.Ct. 1252, 92 L.ed 1690 "a sentence premised upon unreliable facts is unconstitutional."

If the decision by this Court is not reconsidered, but permitted to stand as decided on November 29, 2006, entropy will have increased and disrespect for the competency of the Court will have been magnified significantly. The decision

lacked perspicacity and wasn't a punctilious interpretation of this Court's prior decisions or legislative intent.

The calculus of the concurring panel's analysis was flawed and it's reasoning myopic. They were befogged by a badly understood distinction between logic, theory and emotion. The administration of justice involves forms of syllogistic reasoning, but vast gaps permit reason to falter and entropy to manifest, which is clearly demonstrated by the decision: It was not rational.

Our judicial economy suffers from the lack of an algebraic calculus applicable to legal decisions. Without such a high science, emotion deceived the concurring panel allowing them to act in error.

The only gatekeepers are judges at all levels, few are sufficiently educated in the precepts of such a high science, and are befogged by a badly understood distinction between logic and emotion. The chief defect in many judges is that they occupy themselves only with vague and well worn arguments while there is such a fine field for exercising their minds in solid and real objects to the advantage of the public.

If the insular world of high judicial office prevents exposure to the realities of everyday concerns, permit the cite from an article which appeared in the Cleveland Plain Dealer on October 25, 2006 to wit:

Regina Brett, excerpt:

"Open discovery, as it is called, isn't given, even though it would keep us from sending people to prison for crimes they did not commit."

Ms. Brett requested letters to be sent to Ellen Cline of The Ohio Supreme Court for her review in support of the required modifications. Appellant has appended the full text of the article along with his letter, dated November 3, 2006.

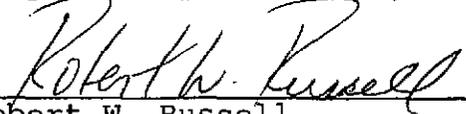
It is of great public interest that this subreption of public information be attenuated and corrected. The decision in the instant case draws into question the competency of the concurring panel and it's political agenda. The composition of the concurring panel needs senior judicial scrutiny to correct faulty thinking, which corrodes the rule of law and civilization itself. The code of law must be adhered to punctiliously, or ipso facto, no rule of law exists. The well documented public conduct of some of the concurring panelists is less than exemplary, and this holding serves to reinforce that reason itself is in jeopardy. As the composition of the members of the Court has changed, entropy has increased and reason has been diminished in direct relation to the change in composition.

CONCLUSION

To prevent the ongoing subreption of discovery and public ridicule, the decision must be reconsidered and reversed to demonstrate that reason is alive and well in our highest Court. The Court must be staffed by jurists of impeccable credentials, conduct and moral integrity. Perturbations created by gross breaches of personal conduct and linear reason must be carefully ameliorated, lest the public come to believe the decisions of the Court are ecru and lacking in perception.

Appellant lacks training in the fine filigree of jurisprudence, however it may be efficacious as the training may impact one's ability to retain his reason as demonstrated by this decision. It must be reversed if for no other reason than to nullify the hubris displayed by the decision, and to restore an already tarnished image. The tipping point into chaos is always closer than it appears to be.

Respectfully submitted,

  
Robert W. Russell  
P.O. Box 788 (453-744)  
Mansfield, Ohio 44901-0788

CERTIFICATE OF SERVICE

I hereby certify that a true copy of a:

Motion For Reconsideration

in case no. OSC Gen 2006-0526, C.A. case no. 05-CA-0082 was sent to Richard R. Benson, Jr., Director of Law, City of Wooster, 538 N. Market st., Wooster Ohio 44691 via U.S. Mail, postage prepaid on this 5<sup>th</sup> day of December, 2006.

  
Robert W. Russell  
Relator, -Appellant  
pro se

# APPENDIX

TO: Ms. J. E. Cline, Legislative Counsel  
Supreme Court of Ohio  
65 S. Front St., 7th Floor  
Columbus, Ohio 43215-3431

CC: File, blind

From: Robert W. Russell  
P.O. Box 788 [453-744]  
Mansfield, Ohio 44901-0788

Date: November 3, 2006

Subject: Discovery Subreption

The current state of affairs is untenable and contrary to requirements of the United States and Ohio Constitutions. When the subreption of discovery, is coupled to the perfidious practice of over-indictment, the burdens placed on the defendant and his defense counsel are overwhelming. These wrongful, but effective techniques, succeed in coercing plea bargains [over 90%] sometimes from innocent individuals.

The burden on defense counsel and their clients has reached a zenith yielding little or no opportunity to effectively defend against a plethora, of sometimes baseless charges. The prosecution is presently permitted to extort plea agreements utilizing wrongful procedures. Ohio prosecutor's present "ex parte" to a grand jury enabling them to indict the proverbial "ham sandwich" and more often then not, a "king size cornbeef" extra lean on evidence.

The world stands on:

On Justice

On Truth

On Peace

[mosaic law]

Most all major civilizations declined from within. Faulty thinking and expedient self-serving conduct precipitated a pernicious erosion of civility. Those perturbations created distortions in the quantum foam, so to speak, sparking a pattern of systemic decline and ultimate societal destruction. The tipping point is always closer than we can readily discern. Each act, word, or thought

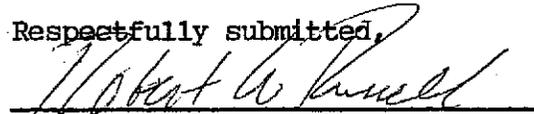
which breaches fairness and the rule of law corrodes civilization. The code of law must be adhered to punctiliously or ipso facto no rule of law exists.

Power is always abused and no political office is more powerful in any jurisdiction than a County Prosecutor and his minions. Their arrogance and hubris are legendary with few checks or balances.

I would not plea bargain under any circumstances to a plethora of false charges in 2003. The charges from 1987 were manufactured by certain family members to wrest control of estate related assets. Their extortion did not work on me nor did the prosecutions withholding of evidence. I'm still litigating [Ohio Supreme Court - 2006-0526] in an attempt to obtain the Offense and Incident Reports from the police. Those documents would have added significant weight to ~~my~~ claims of actual innocence. Juries make decisions principally on emotion, not pure critical thinking, evidence unrepresented can be a death knell. I suggest the revisions instituted by this Honorable Court in 1994 pertaining to discovery be immediately rectumified to preserve fairness, civility and the rule of law.

Arrogance is a form of idolatry.

Respectfully submitted,

  
Robert W. Russell

REGINA BRETT



## Ohioans deserve open discovery

Bob Kreisler used to carry a copy of the U.S. Constitution in his pocket. I carry one in my backpack to work.

The same document that protects freedom of the press guarantees us the right to a speedy and public trial, an impartial jury to be informed of the nature of accusations against us, to be confronted with the witnesses against us, to have the assistance of counsel for our defense.

The Bill of Rights guarantees us the right to an attorney in up to each state to go in there.

In Ohio, defense attorneys don't have access to information needed to defend our liberty and in some cases, our lives.

Bob Kreisler ended up in prison after a fight with a neighbor six years ago. You might recall the story. Plain Dealer reporter Andrea Spink's article about Kreisler and the punch he threw.

The man, Kreisler, punched said in court that Kreisler repeatedly kicked him with steel-toed boots in the head.

The emergency room report and police report told the truth — Kreisler never kicked the man in the face. But those reports never saw the light of a courtroom.

In Ohio, prosecutors don't have to share information, even when it can vindicate a man.

Open discovery, as it is called, isn't a given, even though it would keep us from sending people to prison for crimes they did

the worst cases, they hide information that might point to another suspect.

Defense attorneys are at the mercy of prosecutors. That's fine when you have an honest, ethical prosecutor who isn't concerned about getting another victory notch in his or her belt.

But what if you don't?

Too often, prosecutors withhold information or discard evidence that doesn't "fit" the accused and points to another suspect. They want to win the case at any cost.

Why should prosecutors be allowed to decide what is and isn't relevant to the defense?

The defense can get the list of witnesses the prosecution plans to call, but what about witnesses the prosecution leaves off the list because they have information that could free the accused?

What happens if a prosecutor collects evidence that exonerates the suspect? Shouldn't the accused have access to that through his or her attorney?

A 1994 ruling by the Ohio Supreme Court bars defendants, inmates, and their attorneys from getting police records.

Attorneys should have access. The person who needs to know the most should not be in the worst position to get it.

It's outrageous that defense attorneys fighting for a person's life can't get information that a journalist can get for a story.

You can help change that.

The Supreme Court of Ohio is accepting public comments on open discovery until Nov. 9.

Please write to: Ellen Chine, Legislative Counsel, Supreme Court of Ohio, 65 South Front St., 7th Floor, Columbus, OH 43215-3431, or email: CHINEJ@scnet.state.oh.us

Tell her you want prosecutors to share all law enforcement reports before trials.

Tell her you want prosecutors to share all witness statements before trials.

Tell her you want open discovery in Ohio because everyone has the right to a fair trial.

Tell her that the constitutional right to an attorney isn't any good if that attorney has no access to information.