

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel.,
GREGORY T. HOWARD

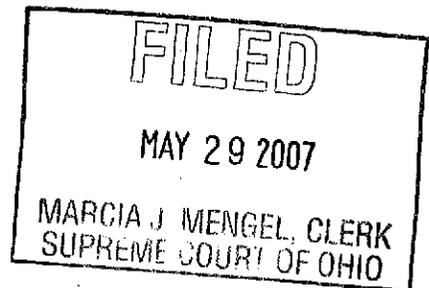
Appellant,

-vs-

SEAWAY FOOD TOWN, INC., et al.,

Appellees.

Case No. 03-1572
Trial Court Case No. 97AP-860



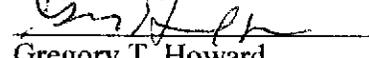
APPLICATION FOR LEAVE TO FILE THE ATTACHED MEMORANDUM IN
SUPPORT OF RECONSIDERATION OF THIS COURT'S DENIAL OF
APPELLANT'S APPLICATION FOR LEAVE TO FILE A VALID ACTION
AGAINST JUDGE JOHN F. BENDER IN THIS COURT, *INSTANTER*

On September 24, 2004, this Court wrongfully declared Gregory T. Howard, pro-
se, a vexatious litigator pursuant to S. Ct. Prac. R. XIV, Section 5(B). Accordingly,
Howard must obtain leave of this Court to institute any proceeding, continue any
proceeding he instituted, or make any application in this Court. The time for filing an
appeal of which this Court is named as a Defendant therein from Judge Bender's January

11, 2006 defective orders has long ago expired. *Howard v. Ohio State Supreme Court*, Case No. 05CVH-01-398.

Based upon the undisputed factual or legal basis, the facts or laws for all of the claims Appellant has made or raised herein and incorporated by reference, Appellant respectfully requests this Honorable Court to permit him leave of Court to file the attached Memorandum in Support of Reconsideration of this Court's denial of Appellant's Application for leave to file a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly*, on the reasonable grounds outlined below in the accompanying memorandum in support, this Court must as a matter of law reconsider its denial of Appellant's Application for leave to file a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly*.

Respectfully submitted,


Gregory T. Howard
P.O. Box 3096
Toledo, Ohio 43607-0096
Telephone: (419) 450-3408

Relator-Appellant, Pro-se

MEMORANDUM IN SUPPORT

Gregory T. Howard as an Appellant has sought leave of this Court to bring a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly*, on the reasonable grounds, that Judge Bender knowingly has violated his civil rights by acting without jurisdiction when he entered an order on January 11, 2006 before he was assigned to the case in *Howard v. Ohio Supreme Court*, Case No. 05CV000398 and that as a result Judge Bender is guilty of interfering with the Appellant's civil rights, a misdemeanor of the first degree pursuant to O.R.C. 2921.45(B). The January 11, 2006

vexatious litigator order wrongfully determined that the Appellant was a vexatious litigator, as the undisputed facts demonstrated that defamatory matter was published against him by the Ohio Supreme Court in violation O.R.C. 2739.01 and O.R.C. 2921.13.

Here, the Ohio Supreme Court did not contest the facts set out in the motion for summary judgment. Those facts show that the Ohio Supreme Court in *Howard v. Ohio Supreme Court*, Court of Claims of Ohio Case No. 2004-07743, erroneously referred to Appellant as a vexatious litigator in the August 27, 2004, motion to dismiss and that it should be sanctioned for falsification in violation of R.C. 2921.13. The Ohio Supreme Court did not dispute that R.C. 2921.13 is a criminal statute. Consequently, the Franklin County Court of Common Pleas had jurisdiction to grant the requested relief pursuant to O.R.C. 2931.03 and Section 4, Article IV of the Ohio Constitution.

O.R.C. 2921.45 provides that, no public servant, under color of their office, employment, or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right. Accordingly, whosoever violates O.R.C. 2921.45(A) is guilty of interfering with civil rights, a misdemeanor of the first degree. O.R.C. 2921.45(B). The purpose of misdemeanor sentencing is for any violation of any provision of the Revised Code, to protect the public from future crime by the offenders and others and to punish the offender. O.R.C. 2929.21. There is a definite jail term for misdemeanor of the first degree, of not more than one hundred eighty days. O.R.C. 2929.24(A(1)). The statute O.R.C. 2929.22 requires that a sentencing court consider any relevant oral or written statement made by the victim or other parties regarding sentencing for a misdemeanor. Ohio S. Ct. Prac. R. XI, Section 2(A) provides for a reconsideration of the Ohio Supreme Court's entry and reopening of a case.

In the case *sub judice*, the Ohio State Supreme Court that being Chief Justice Thomas J. Moyer, Justice Terrence O'Donnell, Justice Evelyn Lundberg Stratton, Justice Robert R. Cupp, Justice Paul E. Pfeifer, Justice Maureen O'Connor and Justice Judith Ann Lanzinger has engaged in conduct in violation of O.R.C. 2921.45. Ohio State Supreme Court knowingly deprived the Appellant of a constitutional right under Article I, Section 16 of the Ohio Constitution and under O.R.C. Chapter 2731, and O.R.C. 2921.45 when it improperly denied Appellant's Application for leave to file a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly*, on May 21, 2007 in violation of O.R.C. 2921.45. As a result, Judge Bender and the Ohio State Supreme Court are guilty of interfering with the Appellant's civil rights, a misdemeanor of the first degree pursuant to O.R.C. 2921.45(B).

Furthermore, the Appellant claims that since the May 21, 2007, decision does not contain any determination as to the validity of his Application for leave to file a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly*, just a denial of the filing or application for leave to proceed, without any citation to any rule or statute that was violated by him, that the instant memoranda of law is confined strictly to the grounds urged for reconsideration and does not constitute a reargument of the instant case. To the extent, for good cause shown that this memoranda should be construed or considered as an application for reopening of the case (Franklin County Court of Appeals; No. 97AP860) from the May 21, 2007, judgment of denial, which did not properly consider the merits of the case or did not consider the claims of the Appellant based on a claim that Judge Bender and the Ohio State Supreme Court are guilty of interfering with the Appellant's civil rights, a misdemeanor of the first degree

pursuant to O.R.C. 2921.45(B). Consequently, the Appellant suggests that his May 17, 2007 Application for leave to file a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly*, was not an abuse of process of the Court in question and that there are reasonable grounds for his May 17, 2007 Application for leave to file a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly*. Accordingly, as a matter of law this Court should have granted Appellant leave of court to proceed with his May 17, 2007 Application for leave to file a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly*.

Furthermore, Appellant claims that in *State ex rel. Howard v. Seaway Food Town, Inc., et al.*, Ohio Supreme Court Case No. 2003-1572, Chief Justice Thomas J. Moyer knowingly condones interference of his civil rights which were committed by Judge Bender, frivolous conduct, violations of the Ohio Revised Code, etc., in violation of O.R.C. 2929.21 and O.R.C. 2921.45. As Chief Justice Moyer knows, Judge Bender in *Howard v. Ohio Supreme Court*, Franklin County Court of Common Pleas, Case No. 05CV000398 acted before he was assigned to the case and thus Judge Bender acted without jurisdiction, therefore, depriving him of judicial immunity or his judicial immunity was otherwise lost as a result of his order entered on January 11, 2006. A copy of the Ohio State Bar Association October 26, 2006, decision and the Disciplinary Counsel decision of March 30, 2007, are attached hereto as Exhibit "1" and made a part hereof. Consequently, based upon this substantial and credible evidence, this Court of superior jurisdiction was obligated to determine the validity of the Appellant's legal

arguments made in his May 17, 2007 Application for leave to file a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly*.

Accordingly, as a matter of law since the Appellant's application for leave to proceed was not an abuse of process of the Court in question and there are reasonable grounds stated in that application this Court should have granted Appellant leave of court to proceed with his May 17, 2007 Application for leave to file a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly*.

Lastly, Chief Justice Moyer conspired or aided or abetted Judge Bender in violating O.R.C. 2921.45 and other applicable legal provisions or deliberately failed to make a determination as to the claims that Judge Bender acted without jurisdiction, or lacked jurisdiction to enter an order on January 11, 2006 and that Judge Bender was deprived of Judicial Immunity which is relevant to purely legal issues and is appropriate for pursuing a remedy through the litigation process in violations of O.R.C. 2923.03 and O.R.C. 2923.01. See O.R.C. 2929.21. Judges are never immune from investigation/litigation and as appropriate, prosecution under the Ohio Revised Code. See O.R.C. 2921.45 and O.R.C. 2929.21. Accordingly, as a matter of law since the Appellant's application for leave to proceed was not an abuse of process of the Court in question and there are reasonable grounds stated in that application this Court should have granted Appellant leave of court to proceed with his May 17, 2007 Application for leave to file a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly*. See O.R.C. 2323.52(F).

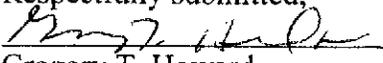
WHEREFORE, for all of the foregoing reasons, Appellant respectfully requests that this Court permit him to file *instantly* the attached Memorandum in Support of

Reconsideration of this Court's denial of Appellant's Application for leave to file a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly*, pursuant to Ohio S. Ct. Prac. R. XI, Section 2(A) and other applicable legal provisions; that this Court disqualify itself from further proceedings in this matter, that this Court reopen the instant case (Franklin County Court of Appeals; No. 97AP860) from the May 21, 2007, judgment of denial, which did not properly consider the merits of the case or did not consider the claims of the Appellant based on a claim that Judge Bender and the Ohio State Supreme Court are guilty of interfering with the Appellant's civil rights, a misdemeanor of the first degree pursuant to O.R.C. 2921.45(B); that appropriate sanctions be imposed by degree of misdemeanor against Judge Bender, Chief Justice Moyer and other the Justices for their violations of the Ohio Revised Code pursuant to O.R.C. 2921.45, the Ohio Constitution, the U.S. Constitution and other applicable legal provisions for all of the preceding reasons including the reasons stated in the Appellant's November 8, 2005 lawfully filed motions to recuse the Ohio Supreme Court, motion to reinstate the case and request for sanctions; further request that the Court allow further proceedings as to the validity of Appellant's legal arguments raised in his May 17, 2007 Application for leave to file a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly*, as well as all other relief this Court shall deem proper and just. See O.R.C. 2323.52(F), also see, Rule II (4) of the Ohio Supreme Court Rules for the Government of the Judiciary of Ohio, and also see, Article II (38) of the Ohio Constitution.

In the alternative, this Court should refer the relevant disciplinary matters of this case to the Ohio Disciplinary Counsel to determine whether Chief Justice Thomas J.

Moyer, Justice Terrence O'Donnell, Justice Evelyn Lundberg Stratton, Justice Robert R. Cupp, Justice Paul E. Pfeifer, Justice Maureen O'Connor and Justice Judith Ann Lanzinger violated Canon 1 (judge shall uphold the integrity and independence of the judiciary), Canon 2 (judge shall respect and comply with the law and shall at all times act in a manner that promotes public confidence in the integrity and impartiality of the judiciary), Canon 3(B)(1) (judge shall hear and decide matters assigned to the judge), and Canon 4(A) (judge shall not permit others to convey the impression that they are in a special position to influence the judge) of the Code of Judicial Conduct by denying Appellant's May 17, 2007 Application for leave to file a valid action against Judge John F. Bender pursuant to O.R.C. 2921.45 in this Court, *Instantly* and by failing to hear and decide Appellant's lawfully filed November 8, 2005 or valid motion to recuse the Ohio Supreme Court, motion to reinstate the case, and request for sanctions in Ohio Supreme Court Case No. 2003-1572 as ordered by Chief Justice Moyer which was filed within 10 days from the date of his entry in its May 21, 2007, Entry in violation of Canon 3(B)(1) (judge shall hear and decide matters assigned to the judge) of the Code of Judicial Conduct.

To facilitate this process, the Court should direct that the Ohio Disciplinary Counsel file a formal complaint against Judge Bender, Chief Justice Thomas J. Moyer, Justice Terrence O'Donnell, Justice Evelyn Lundberg Stratton, Justice Robert R. Cupp, Justice Paul E. Pfeifer, Justice Maureen O'Connor and Justice Judith Ann Lanzinger, for their judicial misconduct since judges are never immune from investigation and as appropriate, prosecution under the Code of Judicial Conduct, pursuant to V(4)(C) of the Ohio Rules for the Government of Bar.

Respectfully submitted,

Gregory T. Howard
P.O. Box 3096
Toledo, Ohio 43607-0096
Telephone: (419) 450-3408

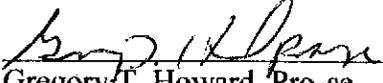
Relator-Appellant, Pro-se

STATE OF OHIO

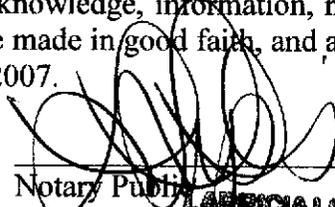
SS:

COUNTY OF LUCAS

Gregory T. Howard, being duly sworn, according to law, deposes and says that he is the Claimant, pro-se herein, and duly authorized in the premises; that he has read the foregoing application/memoranda of law and attests to the fact that the injured worker is entitled to the benefits of R.C. Chapter 4123., including a determination of being permanently and totally disabled because of one or more allowed conditions in his two industrial claims, without reference to the vocational factors listed in Rule 4121-3-34(B)(3), included in the provision of O.A.C. rule 4121-3-34(D)(2)(a), and are made a part hereof and this Military Affidavit, and that the facts stated, and allegations contained therein are true as he verily believes; he further deposes and says that the Part(ies) herein is not in any branch of the military service of the United States.


Gregory T. Howard, Pro-se

Sworn to before me, a notary public in and for the State of Ohio and appeared the above signed, Gregory T. Howard by me identified to be one and same, who then subscribed his signature and made solemn affirmation that the facts alleged in his Affidavit were true and correct to the best of his knowledge, information, memory, and belief, he believes the same to be true, that they are made in good faith, and are voluntary acts and deeds before me this 25th day of May, 2007.


Notary Public

LARRICIA LINDPINE
Notary Public, State of Ohio

My Commission Expires Feb. 28, 2008

PROOF OF SERVICE

This is to certify that a copy of the foregoing of Gregory T. Howard was sent via ordinary U.S. Mail this 24th day of May, 2007 to:

Eastman & Smith, Ltd.
C/O Thomas A. Dixon, Esq.
One Seagate, 24th Floor
Toledo, Ohio 43699-0032

Ohio Attorney General Office
Shawn M. Wollam, Esq.
150 East Gay Street, 22nd Floor
Columbus, Ohio 43215

Governor Ted Strickland
77 High Street, 30th Floor
Columbus, Ohio 43215-6117

The Ohio Attorney General Chief of
Chief Counsel Staff-Atty Carney
State Office Tower
30 East Broad Street, 17th Floor
Columbus, Ohio 43266-0410

The Federal Trade Commission:
Privacy-Steering-Committee
Federal-Trade-Commission
600-Pennsylvania-Avenue,N.W.
Washington,DC-20580

Judge John F. Bender
Fax: (614) 462-2462

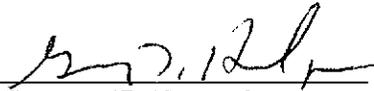
Attn: Deputy Director, Office of the Executive Director

Re: Eastman & Smith, et al.

State of Ohio Office of the Attorney General Complaint #: 327061 & 330421

Federal Trade Commission Complaint # 10010756 & 10299071

Comptroller of the Currency #685430


Gregory T. Howard
Appellant-Claimant, pro-se

FILED

MAY 22 2007

The Supreme Court of Ohio

MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

State of Ohio ex rel. Gregory T. Howard

Case No. 2003-1572

v.

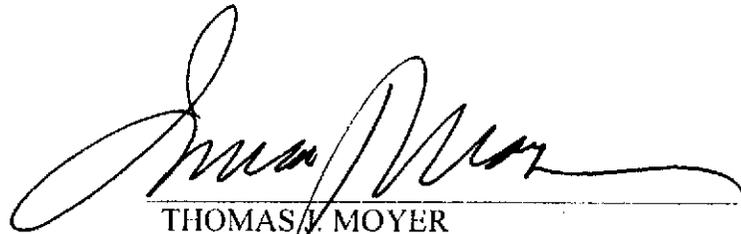
ENTRY

Industrial Commission of Ohio et al.

On September 24, 2004, this Court found appellant Gregory T. Howard to be a vexatious litigator under S.Ct.Prac.R. XIV(5)(B). This Court further ordered that appellant was prohibited from continuing or instituting legal proceedings in this Court without first obtaining leave. On May 17, 2007, appellant filed a motion for leave to file a valid action against Judge John F. Bender in this Court, instanter,

It is ordered by the Court that the motion is denied.

(Franklin County Court of Appeals; No. 97AP860)



THOMAS J. MOYER
Chief Justice

FILED

MAY 22 2007

The Supreme Court of Ohio

MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

State of Ohio ex rel. Gregory T. Howard

Case No. 2003-1572

v.

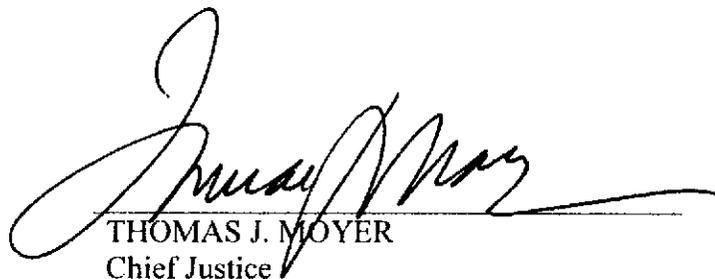
ENTRY

Industrial Commission of Ohio et al.

On September 24, 2004, this Court found appellant Gregory T. Howard to be a vexatious litigator under S.Ct.Prac.R. XIV(5)(B). This Court further ordered that appellant was prohibited from continuing or instituting legal proceedings in the Court without obtaining leave. On May 17, 2007, appellant filed a motion for leave to file a motion to reconsider this Court's denial of Howard's motion for leave to pursue an action against the Ohio Bureau of Workers' Compensation in this Court, instantler,

It is ordered by the Court that the motion is denied.

(Franklin County Court of Appeals; No. 97AP860)



THOMAS J. MOYER
Chief Justice

October 26, 2006

Mr. Gregory T. Howard
P.O. Box 3096
Toledo, OH 43607-0096

**RE: Grievance Against Judge John F. Bender
File No. 0609098 RFJ**

Dear Mr. Howard:

The Legal Ethics and Professional Conduct Committee of the Ohio State Bar Association has carefully considered the matter of the grievance which you filed against Judge John F. Bender of the Franklin County Court of Common Pleas.

During the course of the Committee's consideration of your grievance, you have provided various documents which have been helpful to the Committee in reaching a determination.

The essence of your grievance is that in "*Howard v. Ohio Supreme Court*", Case No. 05 CV 000398, Judge Bender "acted before he was assigned to the case." You have also argued that the judge acted "without jurisdiction", thus depriving him of "judicial immunity".

The Committee can make no determination as to the claim that the judge was deprived of "judicial immunity" for other purposes, since the concept of "judicial immunity" is not relevant to disciplinary matters — judges are never "immune" from investigation and, as appropriate, prosecution under the Code of Judicial Conduct.

Your claim relating to the judge acting without jurisdiction raises a purely legal issue; and, therein lies the difficulty with pursuing your grievance through the disciplinary process.

Your argument is that the judge "lacked jurisdiction" to enter an order on January 11, 2006. This argument is purely legal in substance. Your remedy is to seek relief through the courts, via appeal or otherwise, not through the grievance process. The Committee cannot, and does not, make any determination as to the validity of your legal arguments. It has, however, determined that there is no basis under the Code of Judicial Conduct for filing a formal complaint against Judge Bender.

Accordingly, it was determined that your grievance should be dismissed and our file closed on this matter.

EX 11/10

Mr. Gregory T. Howard
October 26, 2006
Page 2

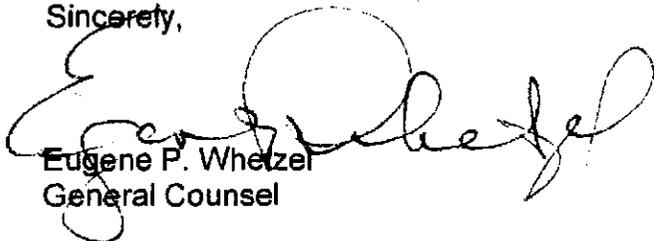
Pursuant to Rule V(4)(I)(5) of the Ohio Supreme Court Rules for the Government of the Bar, you may secure a review of our determination by filing a written request with the Secretary of the Board of Commissioners on Grievances and Discipline within fourteen days of your receipt of this letter. You may write to the Secretary of the Board at the following address:

Jonathan W. Marshall, Secretary
Board of Commissioners on Grievances and Discipline
65 South Front Street, 5th Floor
Columbus, Ohio 43215-3431

In order for the Board of Commissioners to consider any appeal, a copy of this letter must be included in your correspondence to the Board.

Even though the Ohio State Bar Association has dismissed your grievance, we are nonetheless appreciative that you have been willing to express your concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Eugene P. Whezzel". The signature is written in a cursive style with a large, prominent loop at the beginning.

Eugene P. Whezzel
General Counsel

cc: Judge John F. Bender

November 6, 2006

Jonathan W. Marshall, Secretary
Board of Commissioners on Grievances and Discipline
65 South Front Street, 5th Floor
Columbus, OH 43215-3431

**RE: Gregory T. Howard vs. Judge John F. Bender
Our File No. 0609098 RFJ**

Dear Mr. Marshall:

Per your request, we have forwarded a complete copy of our file on the above case to the Office of Disciplinary Counsel for a review of our determination not to file further proceedings.

Sincerely,

Eugene P. Whetzel /pkh

Eugene P. Whetzel
General Counsel

EPW/pkh

cc: Office of Disciplinary Counsel
Mr. Gregory T. Howard
Judge John F. Bender

Disciplinary Counsel

THE SUPREME COURT OF OHIO

250 N. WALDEN CENTER DRIVE, SUITE 900
COLUMBUS, OHIO 43260-2411
614-467-5200
FAX: (614) 467-5205
T 800-548-5500

DISCIPLINARY COUNSEL
THE SUPREME COURT OF OHIO

FIRST ASSISTANT DISCIPLINARY COUNSEL
THE SUPREME COURT OF OHIO

ASSISTANT DISCIPLINARY COUNSEL
STEADY GOLDCHER BELKMAN
ROBERT R. BERGER
JOSEPH M. CAUGIARI
CAROL A. COSTA
HEATHER L. THISSON
PHILIP A. KING
AMY C. STONE

March 30, 2007

PERSONAL AND CONFIDENTIAL

Gregory T. Howard
P.O. Box 3096
Toledo, Ohio 43607

Re: Judge John Bender
ODC File No. A6-2911A

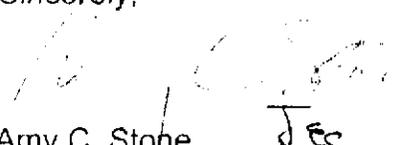
Dear Mr. Howard:

After consideration of your most recent correspondence, we have determined that further investigation of your complaints against Judge John Bender is not warranted under the circumstances.

Notwithstanding your belief to the contrary, we have evaluated the issues raised in your complaints. You have complained about Judge Bender's legal determinations. Dissatisfaction or disagreement with a judge's rulings of law are legal issues subject to appeal. Whether Judge Bender had jurisdiction to even make a determination is also a legal issue that would need to be decided by a court of superior jurisdiction. Your dispute of Judge Bender's decisions is not a claim of ethical misconduct against him, which is why your grievance was dismissed by the Ohio State Bar Association and that dismissal decision was upheld by this office.

Gov. Bar R. V 4(1)(5) provides, in relevant part, that, "[n]o further review or appeal [of a decision by Disciplinary Counsel to dismiss a complaint] by a grievant shall be authorized." (Emphasis added) Accordingly, our file on this matter will remain closed.

Sincerely,


Amy C. Stone
Assistant Disciplinary Counsel

ACS:lj

cc: Judge John Bender

2921.45 Interfering with civil rights.

(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.

Effective Date: 01-01-1974

2923.02 Attempt to commit an offense.

(A) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense.

(B) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

(C) ~~No person who is convicted of committing a specific offense, of complicity in the commission of an offense, or of conspiracy to commit an offense shall be convicted of an attempt to commit the same offense in violation of this section.~~

(D) It is an affirmative defense to a charge under this section that the actor abandoned the actor's effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

(E)(1) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit aggravated murder, murder, or an offense for which the maximum penalty is imprisonment for life is a felony of the first degree. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other offense is an offense of the next lesser degree than the offense attempted. In the case of an attempt to commit an offense other than a violation of Chapter 3734. of the Revised Code that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. In the case of an attempt to commit a violation of any provision of Chapter 3734. of the Revised Code, other than section 3734.18 of the Revised Code, that relates to hazardous wastes, an attempt is a felony punishable by a fine of not more than twenty-five thousand dollars or imprisonment for not more than eighteen months, or both. An attempt to commit a minor misdemeanor, or to engage in conspiracy, is not an offense under this section.

(2) In addition to any other sanctions imposed pursuant to division (E)(1) of this section for an attempt to commit aggravated murder or murder in violation of division (A) of this section, if the offender used a motor vehicle as the means to attempt to commit the offense, the court shall impose upon the offender a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege as specified in division (A)(2) of section 4510.02 of the Revised Code.

(3) If a person is convicted of or pleads guilty to attempted rape and also is convicted of or pleads guilty to a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code, the offender shall be sentenced to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code.

(F) As used in this section:

(1) "Drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code.

(2) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.

Effective Date: 03-23-2000; 01-02-2007; 04-04-2007

2923.03 Complicity.

(A) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

- (1) Solicit or procure another to commit the offense;
- (2) Aid or abet another in committing the offense;
- (3) Conspire with another to commit the offense in violation of section 2923.01 of the Revised Code;
- (4) Cause an innocent or irresponsible person to commit the offense.

(B) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.

(C) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of section 2923.02 of the Revised Code.

(D) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense, or an offense, the court, when it charges the jury, shall state substantially the following:

"The testimony of an accomplice does not become inadmissible because of his complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect his credibility and make his testimony subject to grave suspicion, and require that it be weighed with great caution.

It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth."

(E) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his complicity, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.

(F) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.

Effective Date: 09-17-1986

2705.02 Acts in contempt of court.

A person guilty of any of the following acts may be punished as for a contempt:

- (A) Disobedience of, or resistance to, a lawful writ, process, order, rule, judgment, or command of a court or officer;
- (B) Misbehavior of an officer of the court in the performance of official duties, or in official transactions;
- (C) A failure to obey a subpoena duly served, or a refusal to be sworn or to answer as a witness, when lawfully required;
- (D) The rescue, or attempted rescue, of a person or of property in the custody of an officer by virtue of an order or process of court held by the officer;
- (E) A failure upon the part of a person recognized to appear as a witness in a court to appear in compliance with the terms of the person's recognizance;
- (F) A failure to comply with an order issued pursuant to section 3109.19 or 3111.81 of the Revised Code;
- (G) A failure to obey a subpoena issued by the department of job and family services or a child support enforcement agency pursuant to section 5101.37 of the Revised Code;
- (H) A willful failure to submit to genetic testing, or a willful failure to submit a child to genetic testing, as required by an order for genetic testing issued under section 3111.41 of the Revised Code.

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