

IN THE SUPREME COURT OF OHIO

CHARLES D. ABOOD, JUDGE,

Appellant,

v.

A.J. BORKOWSKI, JR.,

Appellee.

Case No. 06-1913

On Appeal from the Lucas County
Court of Appeals, Sixth Appellate
District

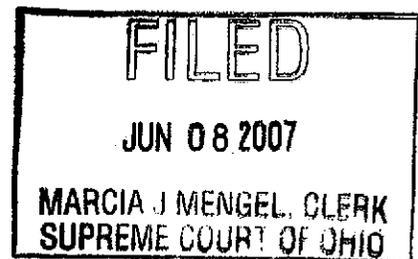
APPELLANT THE HONORABLE JUDGE CHARLES D. ABOOD'S MEMORANDUM IN
OPPOSITION TO APPELLEE'S MOTION TO DISMISS/STRIKE THE INSTANT
APPEAL, REQUEST FOR SANCTIONS, AND NOTICE OF INTENT TO FILE OR TAKE
ALTERNATIVE ACTION IN THE SOUTHERN DISTRICT OF OHIO

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, lwoeber@mrj.cc,
kriley@mrj.cc

*Counsel for Defendant-Appellant
the Honorable Judge Charles D. Abood*

A.J. Borkowski Jr.
PO Box 703
Fayette, Ohio 43521
Tel: 419-237-7017
E-mail:
aborkowskijr@yahoo.com

Pro Se Plaintiff-Appellee



MEMORANDUM

After filing an unsuccessful Motion to Dismiss and an unsuccessful Motion to Strike, *pro se* Appellee A.J. Borkowski now brings a "Motion to Dismiss/Strike" this appeal. In this new motion, Mr. Borkowski essentially raises the same issues and attempts to open another forum to argue his view of the substantive law.

Appellant the Honorable Judge Charles D. Abood requested this discretionary appeal, asserting a question of public interest, pursuant to Supreme Court Rule of Practice III. Rule III permitted this Court to either decline or grant jurisdiction to decide the case on the merits. On February 28, 2007, the Court granted jurisdiction and accepted Judge Abood's appeal. Once the Court accepted the appeal, if it later found there was no question of public interest or that the same question had already been raised or passed upon in a prior appeal, the Court could *sua sponte* dismiss the appeal as improvidently accepted or summarily apply precedent. *See* Supreme Court Rule of Practice XII. However, there is no mechanism in the Supreme Court Rules of Practice for an appellee to repeatedly challenge this Court's discretionary review. Otherwise, this Court would face repeated peripheral attacks to its cases, such as those imposed by Mr. Borkowski.

Even if Mr. Borkowski could properly move for this case's dismissal, there would be no substantive basis to do so: As already explained in Judge Abood's Memorandum in Support of Jurisdiction, this case presents an important question of public interest. Further, no new events or cases have changed the significant public interest at stake in this matter.

There is neither a procedural mechanism nor any substantive support for Mr. Borkowski's Motion to Dismiss/Strike the appeal. It must therefore be denied.

Conclusion

Judge Abood demonstrated in his Memorandum in Support of Jurisdiction why this case presents an important question of public interest. This Court agreed in accepting the appeal for review. Mr. Borkowski is therefore not permitted to move for this appeal's dismissal. Furthermore, even if he could bring such a motion, it is unfounded: For all the reasons already articulated in Judge Abood's Memorandum in Support of Jurisdiction, Appellant the Honorable Judge Charles D. Abood respectfully requests this Court deny Appellee A.J. Borkowski's Motion.

Respectfully submitted,



GEORGE D. JONSON (0027124)
LINDA L. WOEBER (0039112)
KIMBERLY V. 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, lwoeber@mrj.cc,
kriley@mrj.cc
*Counsel for Defendant-Appellant the Honorable
Judge Charles D. Abood*

CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2007, a copy of this Memorandum in Opposition was served, via regular U.S. Mail, upon A.J. Borkowski, Jr., PO Box 703, Fayette, Ohio 43521, *Pro Se Appellee*.



KIMBERLY VANOVER-RILEY