

IN THE SUPREME COURT OF OHIO

CASE NO.: 07-0056

On Appeal From The
Court Of Appeals Eighth Judicial District
Cuyahoga County, Ohio
Court of Appeals Case No. CA-06-87476

JOHN K. O'TOOLE, Personal Representative and
Administrator for the Estate of Sydney Sawyer,

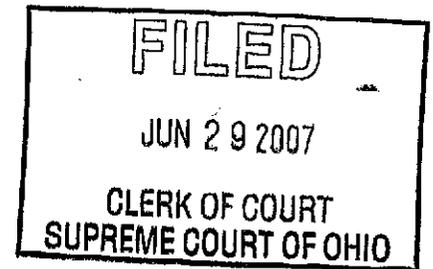
Plaintiff-Appellee,

vs.

WILLIAM DENIHAN, et al.,

Defendants-Appellants.

TRIAL COURT NO.: CV450833



MOTION FOR CLARIFICATION

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Now comes Appellants, DCFS Case Worker Kamesha Duncan and DCFS Executive Director William Denihan and pursuant to Rule XIV, Section 4 of the Rules of Practice of the Ohio Supreme Court, request this Court to clarify its June 20, 2007 order in this matter accepting jurisdiction of Co-Appellant Tallis George Munro's Proposition of Law Number I.

This Court's June 20, 2007 order reported at ___ Ohio St. 3d ___, 2007-Ohio-3063, accepted jurisdiction of Co-Appellant Tallis George Munro's Proposition of Law Number I. Co-Appellant's Proposition of Law Number I provides:

The Appellate Court erred in holding the Defendants Munro and Duncan acted in a 'willful or reckless manner' when the Defendants investigated a complaint of child abuse and made a professional decision not to petition the Juvenile Court of Cuyahoga County for emergency custody.

Appellants, DCFS Case Worker Kamesha Duncan and DCFS Executive Director William Denihan also requested this Court to accept their Proposition of Law Number IV titled:

Political subdivision employees are not personally liable for operations or procedures of the public entity.

Appellants' Proposition of Law Number IV is substantively identical to Co-Appellant Tallis George Munro's Proposition of Law Number I with regard to whether individual employees are personally liable for allegations of recklessly investigating a complaint of child abuse.

While this Court did not accept Case Worker Kamesha Duncan and Executive Director William Denihan's Proposition of Law Number IV regarding the employees' personal liability for Plaintiff's allegations of recklessly investigating a complaint of child abuse, this Court did accept Co-Appellant George Munro's Proposition of Law I that specifically identifies whether

Case Worker Duncan acted in a “wanton or reckless manner” when investigating a complaint of child abuse. Therefore, Appellants Case Worker Kamesha Duncan and Executive Director William Denihan seek clarification from the Court as to whether Appellants, especially Case Worker Kamesha Duncan’s, personal liability for Plaintiff’s allegations of recklessness while investigating a complaint for child abuse may be briefed within Co-Appellant’s Merit Brief in Co-Appellant’s Proposition of Law Number I or whether the Court will accept Proposition of Law IV and allow Appellants to separately brief the identical recklessness issue with regard to Case Worker Kamesha Duncan and Executive Director William Denihan? Appellants’ Propositions of Law I, II and III have previously been accepted. A copy of the Court’s June 20, 2007 order is attached.

Respectfully submitted,



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CERTIFICATE OF SERVICE

A copy of the foregoing document was sent by regular U.S. mail this 29th day of June,

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MICHELLE J. SHEEHAN

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

June 20, 2007

[Cite as *06/20/2007 Case Announcements #2, 2007-Ohio-3063.*]

RECONSIDERATION OF PRIOR DECISIONS

[This is a correction of an entry that was announced
this day at 2007-Ohio-2904.]

2007-0056. O'Toole v. Denihan.

Cuyahoga App. No. 87476, 2006-Ohio-6022. Reported at 113 Ohio St.3d 1465, 2007-Ohio-1722, 864 N.E.2d 652. On motions for reconsideration of Tallis George-Munro and Department of Children and Family Services, William Denihan, and Kamesha Duncan.

Motion of Tallis George-Munro is granted, and that appeal is accepted on Proposition of Law No. I.

Pfeifer, O'Donnell and Lanzinger, JJ., dissent.

Motion of Department of Children and Family Services, William Denihan, and Kamesha Duncan is granted in part, and that appeal is accepted on Proposition of Law Nos. I, II, and III.

Moyer, C.J., Lundberg Stratton and O'Connor, JJ., would also accept that appeal on Proposition of Law No. IV.

Pfeifer and O'Donnell, JJ., dissent.

It is further ordered that the briefing schedule in this appeal is to begin de novo. Appellants shall file their briefs within 40 days of the date of this entry and the parties shall otherwise proceed in accordance with S.Ct.Prac.R. VI.