

IN THE SUPREME COURT OF OHIO

CITY OF MIDDLEBURG HEIGHTS,)
STATE OF OHIO)
)
Plaintiff-Appellant,)
v.) On Appeal from the Cuyahoga County,
) Ohio Court of Appeals, Eighth Appellate
) District, Case No. 06-CA-088242
VINCENT QUINONES,)
)
Defendant-Appellee.)

CASE NO. 07-1863

DEFENDANT-APPELLEE'S RESPONSE IN OPPOSITION TO THE MEMORANDUM
IN SUPPORT OF JURISDICTION

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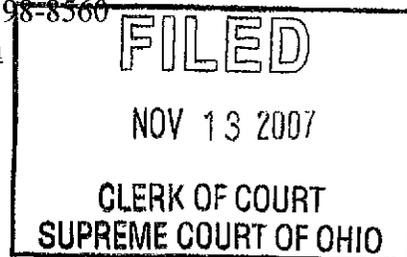


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MEMORANDUM

This case arises from the City of Middleburg Heights filing a Notice of Appeal from the judgment of the Eighth District Court of Appeals finding, inter alia, that the court costs assessed by the Berea Municipal Court against Vincent Quinones were wrongly assessed as excessive and unfair.

All of the issues raised by Appellant were raised in its motion to reconsider the original announced decision by the Court of Appeals.¹ This case was decided with the straightforward application of established legal principals and presents no new or novel law.

This case is not a matter of great public interest and, therefore, jurisdiction should be denied. This case does not involve the interpretation or application of any particular case decided by the Supreme Court of Ohio or the Supreme Court of the United States. This case does not raise a substantial constitutional question nor is it one of public or great general interest. The facts and circumstances of the case at hand dictate that the decision of the Eighth Appellate District remains undisturbed as it follows rules prescribed by the Ohio Supreme Court.

The Appellant argues that it should be allowed to assess multiple court costs against Defendants that are charged with multiple offenses arising from the same occurrence (even if a defendant pleads to just one charge). It argues that defendants charged with multiple offenses take up more of a municipal court's time and expenses and they should be required to bear a greater proportion of the costs associated with their convictions. However, fines address that

¹The announced decision was on July 19, 2007. The Appellant City of Middleburg Heights filed a motion to reconsider. The motion was denied and the decision was journalized on August 29, 2007.

issue as a defendant is assessed fines for each offense. Court costs should not be used to punish a defendant.

The Court of Appeals clearly looked at the appropriate statutes, along with other authorities, and determined what the Berea Municipal Court was doing violated the rights to fair punishment of defendant Vincent Quinones. The Court of Appeals clearly determined that the Berea Municipal Court, and only the Berea Municipal Court, was charging excessive court costs.²

The Appellant raises two propositions. The first proposition raised is that O.R.C. 1901.26 (B)(2) allows for court costs to be assessed for multiple charges rather than per case basis. Notwithstanding that O.R.C. 1901.26 (B)(2) does not stand for said proposition, the Eighth District Court of Appeals considered O.R.C. 1901.26 in its analysis, and/or when it denied the motion to reconsider. The Ohio Attorney General opinions, along with other well reasoned analysis relied upon by the Court of Appeals, clearly states the contrary.

The second proposition is that municipal courts can charge court costs on a per charge basis "as authorized by statute". This proposition is an extension of the first. The second proposition of law fails as it is not authorized by statute and this Court has effectively already

²For example, in addition to other court costs exceeding \$2,000, the Berea Municipal Court charged defendant, Vincent Quinones with a court cost for "construction costs" to build a new courthouse at \$60.00 per offense. Since Quinones was found guilty after a bench trial on four offenses, he was assessed \$240.00 for construction costs. Notwithstanding that it is illegal to pass on such costs to criminal defendants (building a court is the sole responsibility of the municipality that the court sits in), the Court of Appeals was outraged at such costs by the Berea Municipal Court. The Court of Appeals in its decision, reversed conviction on two charges (marked lanes and seat belt), but also stated that only one court cost could apply to the remaining two charges that it affirmed the conviction.

addressed the issue. “Under M.C.R. 12(E), municipal courts and county courts may only assign one case number in situations in which an individual is charged with more than one offense arising from the same act, transaction, or series of acts or transactions. *** Supreme Court of Ohio, The Supreme Court of Ohio Rules of Superintendence Implementation Manual 225 (January 1, 1990) ***”. Thus, it is apparent from the foregoing that this Court has determined that only one court cost be charged as one case exists. For any other conclusion would violate the rules proscribed by the Supreme Court of Ohio.

The Amicus Brief is submitted since the Berea Municipal Clerk of Court and the City of Berea desire to charge defendants in an effort to build a courthouse, rather than the City of Berea (locality where the Court physically sits) paying for it as required by statute. Thus, their brief and propositions of law tangentially relates to that end, rather than a case of statewide public or greater general interest.

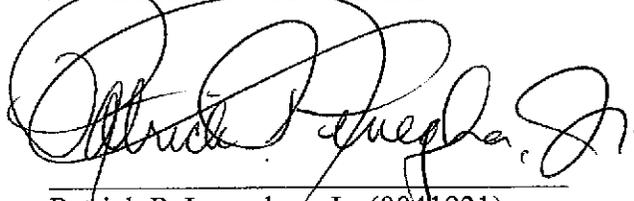
The Berea Clerk of Court maintains that this case has caught the attention of class action attorneys (specifically, a civil case filed in 2005). Apparently, the conduct of the Berea Municipal Court Clerk of Court over charging litigants has been at issue since 2005. The resolution of this case by the Court of Appeals may have resolved the class action case. There is no basis for this Court to take a case simply because litigants may exercise their rights contrary to the adverse party. The Berea Clerk of Court and the City of Berea have gone afoul and have abdicated their responsibilities in favor of excessively charging defendants court costs. This case addresses this one court (Berea Municipal Court) that has gone afoul.

Finally, this is a case of fairness. Defendant-Appellee Vincent Quinones, or for that matter any other defendant, should bear responsibility for court costs, but should not have to pay excessively as determined by the Eighth District Court of Appeals. The Court of Appeals found that the Berea Municipal Court's conduct was not permitted by any statute, thus held that only one court cost should be levied. There are no reasons to disturb that finding.

CONCLUSION

Based upon the foregoing, this Court should not accept jurisdiction to resolve any propositions of law asserted by Appellant and supported by the amici. The Eighth District Court of Appeals decision should remain.

Respectfully submitted,
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CERTIFICATE OF SERVICE

A true copy of the foregoing was served by regular U.S. mail, postage prepaid, this 12th day of November, 2007 upon:

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