

IN THE SUPREME COURT OF OHIO

JEFFREY C. KEITH,

Appellant,

v.

Case No. 07-1982

DAVID BOBBY, WARDEN,

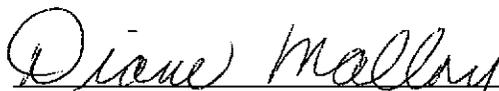
Appellee.

MOTION TO STRIKE APPELLANT'S BRIEF

Appellee moves the Court to strike Appellant's Reply Brief pursuant to Rule XIV, Section 2(D)(1), of the Rules of Practice of the Supreme Court of Ohio. Appellee's Memorandum in Support is attached.

Respectfully submitted,

Marc Dann
Ohio Attorney General


Diane Mallory (0014867)
Assistant Attorney General
Corrections Litigation Section
150 East Gay Street, 16th Floor
Columbus, Ohio 43215
(614) 644-7233

MEMORANDUM IN SUPPORT

Appellant's Reply Brief was due in this Court on January 28, 2008. On January 31, 2008, undersigned counsel for Appellee looked up the case on the Supreme Court's website and learned that Appellant filed his Reply Brief on January 25, 2008.

As of today, January 31, 2008, Appellee's counsel has not been served with a copy of Appellant's Reply Brief. When undersigned counsel filed Appellee's Brief, she included a cover page with her name and address. A copy of the brief, including the cover page, was served on Appellant. In his Reply Brief, Appellant has included a Certificate of Service, but it indicates that he mailed it to a different person at a different address.¹ (The certificate of service indicates that he mailed it to Marc Dann at 30 East Broad Street on January 17, 2008.)

According to Rule XIV, Section 2(A), service on a party represented by counsel shall be made on counsel of record. Appellant did not serve his Reply Brief on counsel of record and did not send it to counsel's correct address. Therefore, Appellee moves the Court to strike Appellant's Reply Brief.

Respectfully submitted,

Marc Dann
Ohio Attorney General


Diane Mallory (0014867)
Assistant Attorney General
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(614) 644-7233

¹ According to his Merit Brief, p. 8, Appellant is a former attorney who was admitted to the practice of law in Ohio, Pennsylvania and Florida. He clearly knows how to serve a pleading.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed by regular, first-class mail to Jeffery Keith, #334-054, Trumbull Correctional Institution, 5701 Burnett Road, Leavittsburg, Ohio 44430, on the 31st day of January, 2008.