

ORIGINAL

IN THE SUPREME COURT OF OHIO

Cinseree Johnson
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Athens, Ohio 45701

Relator

Case Number: **10-2145**

**ORIGINAL ACTION
IN PROHIBITION**

vs.

The Court of Common Pleas
of Athens County, Ohio
1 South Court Street
Athens, Ohio 45701

Respondent

The Honorable Michael Ward
1 South Court Street
Athens, Ohio 45701

Respondent

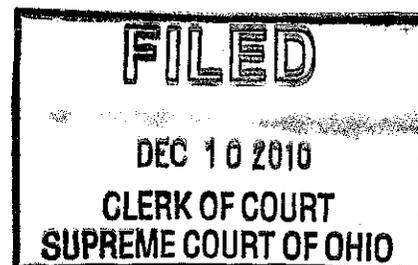
COMPLAINT FOR ORIGINAL WRIT OF PROHIBITION

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Relator pro se

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Counsel for Respondents



NEED FOR IMMEDIATE RELIEF

(1) This is an original action for a writ of prohibition to restrain the Respondent court and the Respondent judge from enforcing an unconstitutional order that is an abuse of process, a violation of Relators right to due process, and profoundly unlawful. In the underlying matter (*Johnson vs Pyles et al 08CI805 and 08CI803*) Respondent declared Relator a vexatious litigator without regard for state law which governs the commencement of an action to declare one a vexatious litigator. Such an action must be brought by a person of standing, one who has repeatedly litigated against the party one seeks to declare a vexatious litigator. For purposes of the herein complaint, the Ohio Vexatious Litigator Statute reads (in part) as follows:

(3) Vexatious litigator means any person who has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action or actions, whether in the court of claims or in a court of common pleas, municipal court, or county court, whether the person or another person instituted the civil action or actions, and whether the vexatious conduct was against the same party or against different parties in the civil action or actions. Vexatious litigator does not include a person who is authorized to practice law in the courts of this state under the Ohio Supreme Court Rules for the Government of the Bar of Ohio unless that person is representing or has represented self pro se in the civil action or actions.

(B) A person, the office of the attorney general, or a prosecuting attorney, city director of law, village solicitor, or similar chief legal officer of a municipal corporation who has defended against habitual and persistent vexatious conduct in the court of claims or in a court of common pleas, municipal court, or county court may commence a civil action in a court of common pleas with jurisdiction over the person who

allegedly engaged in the habitual and persistent vexatious conduct to have that person declared a vexatious litigator. The person, office of the attorney general, prosecuting attorney, city director of law, village solicitor, or similar chief legal officer of a municipal corporation may commence this civil action while the civil action or actions in which the habitual and persistent vexatious conduct occurred are still pending or within one year after the termination of the civil action or actions in which the habitual and persistent vexatious conduct occurred.

(C) A civil action to have a person declared a vexatious litigator shall proceed as any other civil action, and the Ohio Rules of Civil Procedure apply to the action.

(D)(1) If the person alleged to be a vexatious litigator is found to be a vexatious litigator, subject to division (D)(2) of this section, the court of common pleas may enter an order prohibiting the vexatious litigator from doing one or more of the following without first obtaining the leave of that court to proceed:

(a) Instituting legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court;

(b) Continuing any legal proceedings that the vexatious litigator had instituted in the court of claims or in a court of common pleas, municipal court, or county court prior to the entry of the order;

(c) Making any application, other than an application for leave to proceed under division (F) of this section, in any legal proceedings instituted by the vexatious litigator or another person in the court of claims or in a court of common pleas, municipal court, or county court.

(2) If the court of common pleas finds a person who is authorized to practice law in the courts of this state under the Ohio Supreme Court Rules for the Government of the Bar of Ohio to be a vexatious litigator and enters an order described in division (D)(1) of this section in connection with that finding, the order shall apply to the person only insofar as the person would seek to institute proceedings described in division (D)(1)(a) of this section on a pro se basis, continue proceedings described in division (D)(1)(b) of this section on a pro se basis, or make an application described in division (D)(1)(c) of this section on a pro se

basis. The order shall not apply to the person insofar as the person represents one or more other persons in the person's capacity as a licensed and registered attorney in a civil or criminal action or proceeding or other matter in a court of common pleas, municipal court, or county court or in the court of claims. Division (D)(2) of this section does not affect any remedy that is available to a court or an adversely affected party under section 2323.51 or another section of the Revised Code, under Civil Rule 11 or another provision of the Ohio Rules of Civil Procedure, or under the common law of this state as a result of frivolous conduct or other inappropriate conduct by an attorney who represents one or more clients in connection with a civil or criminal action or proceeding or other matter in a court of common pleas, municipal court, or county court or in the court of claims.

(E) An order that is entered under division (D)(1) of this section shall remain in force indefinitely unless the order provides for its expiration after a specified period of time.

(F) A court of common pleas that entered an order under division (D)(1) of this section shall not grant a person found to be a vexatious litigator leave for the institution or continuance of, or the making of an application in, legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court unless the court of common pleas that entered that order is satisfied that the proceedings or application are not an abuse of process of the court in question and that there are reasonable grounds for the proceedings or application. If a person who has been found to be a vexatious litigator under this section requests the court of common pleas that entered an order under division (D)(1) of this section to grant the person leave to proceed as described in this division, the period of time commencing with the filing with that court of an application for the issuance of an order granting leave to proceed and ending with the issuance of an order of that nature shall not be computed as a part of an applicable period of limitations within which the legal proceedings or application involved generally must be instituted or made.

(G) During the period of time that the order entered under division (D)(1) of this section is in force, no appeal by the person who is the subject of that order shall lie from a decision of the court of common pleas under division (F) of this section that denies that person leave for

the institution or continuance of, or the making of an application in, legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court.

(H) The clerk of the court of common pleas that enters an order under division (D)(1) of this section shall send a certified copy of the order to the supreme court for publication in a manner that the supreme court determines is appropriate and that will facilitate the clerk of the court of claims and a clerk of a court of common pleas, municipal court, or county court in refusing to accept pleadings or other papers submitted for filing by persons who have been found to be a vexatious litigator under this section and who have failed to obtain leave to proceed under this section.

(I) Whenever it appears by suggestion of the parties or otherwise that a person found to be a vexatious litigator under this section has instituted, continued, or made an application in legal proceedings without obtaining leave to proceed from the appropriate court of common pleas to do so under division (F) of this section, the court in which the legal proceedings are pending shall dismiss the proceedings or application of the vexatious litigator.

Because Relator , has never appeared in any court of common pleas, municipal court, court of claims or county court with Wines or the named or intended defendants in the underlying matter; because the action to declare Relator a vexatious litigator was not brought by a proper party/person of standing as defined in ORC 2323.52 (B), and because the action to declare Relator a vexatious litigator did not proceed “as any other civil action,” immediate relief is sought by means of an preemptory or alternative writ pursuant to S. Ct. Prac R 10.6.

JURISDICTION

(2) This is an action in prohibition to remedy an unconstitutional order by the Respondents which declared Relator a vexatious litigator under color of law, without regard for state law or due process. This court has jurisdiction pursuant to Amendment 14 as relates to due process and equal protection under the law and 28 USC 1343 (3).

PARTIES

(3) Relator is Cinseree Johnson. Respondents are The Honorable Michael Ward and The Court of Common Pleas of Athens County, Ohio.

RESPONDENTS UNCONSTITUTIONAL ORDER

(4) The Order that declared Relator a vexatious litigator was entered outside the scope of the law. It did not adhere to ORC 2323.52 which sets forth rules and procedure that govern the commencing of an the action to declare one a vexatious litigator.

The named defendants in the action, '*Chris Pyles*' and '*Ambling Companies Inc.*' were not properly named or served, thus the action was essentially brought by Attorney Larry Wines. Even if the defendants had been properly named, neither they nor Wines were in a position to commence the vexatious litigator action in the underlying matter, and the Respondents had no authority to enter the order which declared Relator a vexatious litigator. Furthermore, ORC 2323.52 is a state law, thus, it has no bearing on federal law or court. Respondents then, further erred by entering an order which barred Relator from filing in the Federal Court, as Respondents lacked jurisdiction to enter such an order because ORC 2323.52 is a state law, not a federal one. Moreover, at the time the action was brought, Relator had no physical address in Athens County, Ohio, and instead, had a permanent place of residence in Cuyahoga County. Simply, the complaint to declare Relator a vexatious litigator failed to conform to the rules which govern the manner in which such an action may be commenced. The action was not commenced by a party of standing; nor had Relator ever been before this or any other state court habitually; nor was Relator ever in litigation with the named or intended parties in any court. Incidentally, Relator sought to appeal the matter in the Fourth District Court of Appeals, however, the Court failed to notify Relator of the order which granted her motion for

leave to appeal. Such order was not served (properly or otherwise) upon the Relator, nor was it listed on the docket. Relator learned of the order by accident, long after its entry, and brought such error to the courts attention. Relator sought to continue the appeal on the basis of court error. The Court refused to be accountable and the order has never, to date, been served (properly or otherwise) upon the Relator.

Relator asserts that the above referenced activity suggests a discriminatory agenda toward black and pro se litigants on the part of the courts. Relator further asserts that Respondents and the Appellate Courts action and inaction in the underlying matter is driven by a racist, discriminatory agenda designed to bridle and intimidate Relator. Regardless of motive, Respondents have entered an order which is inherently unlawful.

VIOLATION OF 28 USC 1343 (3) and 1331

(5) Respondents conduct deprives Relator of rights, privileges, and immunities under color of law. Such rights are protected by the Constitution, specifically pursuant to the 14th Amendment.

VIOLATION OF FEDERAL CONSTITUTIONAL RIGHTS

(6) Respondents conduct deprives Relator of equal protection under the law and due process.

ENTITLEMENT TO A WRIT OF PROHIBITION

(7) Respondents conduct, as relates to the order which declared Relator a vexatious litigator, constitute gross disregard for the law, negligence and abuse of process under color of law. The action to declare Relator a vexatious litigator was not commenced in accordance with law, and the Order which declared Relator a vexatious litigator was not entered in accordance with law. Respondents conduct constitute defamation of character, and deprive Relator of due process and equal protection under the law.

Respondents have usurped judicial power and exercised judicial power that is unauthorized by law. Respondents must be prohibited from enforcing the unlawful and unconstitutional order entered in the underlying proceeding.

Relator has no adequate remedy in the ordinary course of law by which to relieve the harms done by Respondents. In addition to The Fourth District Court of Appeals refusal to continue the appeal, the appellate Court has exhibited prejudice toward Relator as a pro se litigant and engaged in behaviors that seek to intimidate Relator as a black litigant challenging 'white authoritarian figures and institutions.'

The order in the underlying matter is, on its face, unlawful, thus an immediate remedy is imperative to relieve the harms done by Respondents unconstitutional order

The present action constitutes a proper proceeding for redress of Respondents actions within the meaning of 42 USC 1983, and will provide a significant public benefit in confirming Americans fundamental right to due process and equal protection under the law, requiring vexatious litigator complaints to be brought in accordance with state law (even though ORC 2323. 542 is itself, unconstitutional for reasons that Relator will not argue at this time).

PRAYER

WHEREFORE Relator prays: (1) That this court immediately issue a peremptory writ of prohibition, or, at a minimum, an alternative writ of prohibition, forbidding Respondents from exercising judicial powers that enforce the unlawful order which declared Relator a vexatious litigator.

(2) That this court issue a final writ of prohibition forbidding Respondents from exercising judicial power to enforce the order in the underlying matter.

(3) That this court command Respondents to vacate the unconstitutional and unlawful order which declared Relator a vexatious litigator.

(4) That the Respondent Judge be sanctioned for abuse of process and knowingly usurping the law and judicial power.

(5) That Relator be awarded costs for this present action and damages.



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