

ORIGINAL

IN THE SUPREME COURT OF OHIO

CHONG HAO SU : Ohio first district appellate court

Appellant : Case No: C100609

VS : pro bono publico

11-0108

Ohio Cincinnati city :

Appellees

FIRST APPELLATE COURT ORDER CERTIFYING A CONFLICT FROM APPELLANT CHONG H SU.

Pro Se

Chong Hao Su APPELLANT

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Roselands NSW 2196

Cincinnati city APPELLEE

Prosecutor office

Room 202 Cincinnati city Hall

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JAN 19 2011
CLERK OF COURT
SUPREME COURT OF OHIO

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C.1

Appellant stands the four times convicted of the two minor misdemeanor charges of Cincinnati Building Code violation; and stands the two convictions of the two charges of the obstructing the business performance that arose from breaking search and seizure for the building inspections under neither the probable cause nor the public exigency. The first appeal court, by implementing its rule that is "Appeals on questions of law and fact are abolished", dismissed the appeal application and the motion of the reconsideration and affirms the six convictions for the four charges that conflict with the Amendment 5.

The First appeal court rule is the big conflict with the following law and the appeal court due duty. "Ohio Rules of Appellate Procedure ... Appeals on questions of law and fact are abolished. [Effective: July 1, 1971.]" The conflict decides that I had no the due process procedure in the appeal as follows.

The appraisal of a conflict for the requirement of the court rule "S.Ct. Prac. R. 4.1." needs the establishment of the court due duty scope and the appraisal standard. "It is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon."¹ Every judge office oath is the correction of the unconstitutional ordinance and action. "MAPP v. OHIO" and Const. have the higher jurisdiction than any court rule. When a court rule conflicts with the higher jurisdiction law, a judge has to obey his office oath to comply with the higher jurisdiction law, regardless of the court rule. The appeal applications and the annex already prove the appeal involved the constitutional question and federal issue for the public vital interests protection; in addition already proved Cincinnati Building Code has the much conflicts with the US Const. and Ohio Const. and private ownership system and the property right law. Thus the annulment of the CBC is the appeal court due duty.

¹ "MAPP v. OHIO" 367 U.S. 643 (1961)

The First appeal court rule conflicts with the supreme clause and deprived the appellant of the due process procedure as follows.

The first appeal court had no the due procedure for the interlocutory appeal application. The applicant filed the interlocutory appeal for the two requirements. No. 1 the applicant asked to suppress the false evidence and alleged evidences from the violation of the applicant constitutional rights. No. 2 to seek the due process procedure and defense right and jury trial right. Thus we have to review the defense history.

The aggrieved owners belong the middle class. Notwithstanding the middle class could hire the best attorney to use the perfect law. But Cincinnati court judges are the accomplices of Cincinnati city Gov. in the active abolition of the constitutional process and rights for the management privilege over law. The middle class still stood twice convicted of the CBC violation. The misjudgments manifests that the constitutional process and democracy obstruct the public management performance; the rule by law becomes the lip service. Otherwise the CBC can't exist. The applicant studied the victimized owners defense experience as follows.

Amendment 4 ordains the warrant for search and seizure and dictates the particularly describing the place to be searched, and the persons or things to be seized. The applicant filed the discovery motions for him and his wife Martha Lee. No search warrant and seizure warrant and no warrant for the legality of the inspector' orders were produced by the prosecution, nor were the failure to produce one explained or accounted for. When the city could not describe the detail of the indictments, the applicant asked to dismiss the charge. But the judges prohibited to finish the defense. The judge prohibited to discuss the important legal issues: if the orders conflict with the Cincinnati historic existing codes; 2) whether the unconstitutional vague orders could pass the constitutional muster and an architect identification; 3) were the

alleged evidence from the breaking into search or the trespasser occupied building at the back of the city police men? If judges did not rescind the constitutional process and defense right and the jury trial, the CBC would not exist. For the redress of a grievance, the applicant filed the many motions and posted the complaints to the supervision organs with the law and evidences. But the judges still prohibit to say the defense and refused the motions for the trial by jury against the three constitutional challenge motions. Since the judges knew that a jury and an architect certainly suppressed the unconstitutional vague orders, even to comply with the submitted law to strike down the CBC.

There are the two kinds of the CBC. No. 1 CBC is for the public exigency condition elimination in the CBC section 1101-57. and 1101-63.3 and 1101-63.4 and 101-57.6” etc. Under such good CBC, the city has to eliminate the public exigency straight away and put the elimination in the public record system. The owner pays the cost.

Of course the other CBC is not for the public exigency on the face of its words. We call the No.2 CBC, as follows: the CBC Sec. 1117-13. until 1117- 61.2. (No.2 CBC) command to decorate and perfect Every portion of the vacant Lots and a safe vacant building and residence. The CBC “Sec. 1117-07.1 General and 1119.01.4 Scope” and “1119-01.5” stipulate the above portions shall be maintained in good repair. Such as: the indoor painting color, visibility of the home inside, interior walls peeling, unclean flaky, all accessory and appurtenant and trash, etc. The CBC enacted a sweeping set of the vague mandates for the comprehensive mandatory sanction. The city orders and indictments and “Case History and Report” and the inspector speaking **did not cite No. 1 CBC** and did quote the No.2 CBC . They never mentioned the public exigency elimination condition and embodied the six months waiting. No architectural company could offer a letter for the vague orders. Any alleged evidences had not an acquisitive date without the concrete violation address and the location of the violation and the violation degree. The judges stubbornly prohibited the cross examination to the vague evidences. The arbitrary and

uncertain orders and indictments bear no relation to the evidences and the public use or public exigency or nuisance or tort. The CBC and the orders and the repair permit and the police report and public record system were altogether irrelevant to the public exigency and the public use and a warrant, moreover were not for the habitability restrictions in the literal construction. The city evidences are the typical irrelevant and incompetent and immaterial.

The following analysis proves the oral public exigency is the sophism. The maximum deal of the blurred orders and the CBC target entirely was the doubtful vague condition of a building inside or the superficial interior material. My wife' buildings and many owners buildings have the big front yard and back yard and are vacant and are locked. Their buildings distinctly far separate from the other buildings. According to the city orders, the alleged CBC violation can't possibly cause the public exigency in such buildings. The many bridges are old than our buildings. They never collapse. They and our building are the same material. A building collapse can't so quick than the traffic incident and the bomb incident and certainly shows the big break and the other obvious apparent warning signs. Anyone can see the warning sign and scare such building. The per centum of the building collapse probability is less than the traffic incident probability and the crime probability. "Mapp V. Ohio" judicial precedent prohibited the alleged bombing pretext. Our buildings passed the Section 8 office inspection and the previous inspector inspection every year and obtained the occupied certificates. If the public exigency prevention was not the sophism, the judges would not funk jury trial and scare to say the defense and cross examination and "Brandeis Brief" fact. Of course the public exigency prevention is the beautiful lie. Thus the unconstitutional vague CBC is the incompetent and the immaterial and the irrelevant to the legitimate legislative purpose according to the law. The judges prohibited to say the defense and refused the motions for the trial by jury. For 2 years the appellant filed many motions with the undisputed evidences for himself and his wife,

as the defense evidences for the rectification of the miscarriage justice in future. The motions analyzed and criticized the unconstitutional CBC and orders. The motions asked to quash the charges; the motion demanded to reply the motion; the motion requested to dismiss the charges for no reply...etc. The motions cited the concerned judicial precedents with the evidences copy. The four charges were the completely consistent with the below judicial precedents. "Silverman V. United States"² extended the protection of 4 Amendment from the property to the reasonable expectation of privacy. "Johnson V. U.S."³ held: "Its protection consists in requiring that those inferences be drawn by a neutral and detached judicial magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime." "The Four Amendment does not contemplate the executive officers of Government as natural and detached magistrates. Their duty and responsibility is to enforce the laws, to investigate and to prosecute.... Those charged with this investigative and prosecutorial duty should not be the sole judges of when to utilize constitutionally sensitive means in pursuing their tasks."⁴ Actually a fire police is legal layman and can't act as a judge to issue a warrant. Thus under justice precedent, "Lo Ji Sales. INC. V. New York (442 U. S. 319, 327(1979))", the fire police officer has no qualification to issue the warrant of arrest. An inspector is Government employee, his illegal evidence can be express abrogation by the Const.14 and below judicial precedent Justice precedent. "Michigan V. Tyler, 436 U.S. 499(1978), held: Under performance of the business, Fire police illegal evidence is Government's action and can be suppressed. "Mapp V. Ohio"⁵ prohibits to criminalize an individual with an evidence

² 365 U.S. 505 (1961)

³ 333 U.S. 10. 13-14 (1948)

⁴ United States V. United States Dist. Court, 407 U.S. 297(1972)

⁵ 367 U.S. 643 (1961)

obtained by the warrantless searches and seizures. "Camara V. Municipal Court "⁶ prohibit penalty for the rejection of the warrantless inspection. "Ohio arrest, search and seizure by Lewis R. Katz" emphasized warrant for the executive administration and prohibited warrantless breaking into arrest for the minor misdemeanor charge notice. "Wilson V. city of Cincinnati"⁷ repealed the CBC and prohibited to criminalize the owner. Ohio Const. §19 and Blanchard V. Department of Transp⁸ prohibit the government to abuse its eminent domain to the private property without the public use or a public exigency. The orders and the charges and the prosecutors speaking were refuted down to the last point. Cincinnati Judge Richard Bernat and Ted Berry and judge Brad Greenberang willfully prohibited to say the defense and forbade the jury trial motions. If the charges were legitimacy, Cincinnati court judges would not deprive me of the defense right and jury trial right. The Judges tried to use the false warrant that is the other name and other address. Cincinnati court clerk refused to accept the motions. The appellant posted the motions and filed the complaint to the supervisor organs for the return of the constitutional prescriptive defense right and procedure. The appellant filed the interlocutory appeal applications for him and his wife according to the above and the below conditions. Cincinnati court refused to accept the interlocutory appeal applications. I talked to a male administrant in the first appeal court for the reception, then Cincinnati court accepted the interlocutory appeal. The interlocutory appeal rose from the city and judges used the illegal evidences and false warrant to frame a case against me. The prosecutor alleged to have warrant. I insisted to see. Her warrants were the other name and address. The orders and indictments and the city documents did not mention an evidence. They were the

⁶ 387 U.S. 523(1967).

⁷ (Ohio 1976) 46 Ohio St.2d 138

⁸ 798A . 2d 1119 Me., 2002

unconstitutional vague without **an ascertainable adjudicative material fact for guilty** and had not the violations concrete address and location. The alleged evidences had not particularly describing the concrete place and reason to be searched **without the concrete acquisitive date**. The two police men supported the trespasser to break into and occupied my Race home. The evidences were from the breaking into search and seizure without the warrant under neither the probable cause nor the public exigency. A reasonable personnel does not know where the evidences were from and when the evidences were from. The evidences were not beyond the much doubts. They did not meet the requirements of the criminal evidence act and the inspection rules. The interlocutory appeal asked to suppress the fruits of the poison tree and demanded the constitutional prescriptive defense right and the due process procedure. Ohio Const. prohibits to deprive any one of the property and liberty without the due process procedure and the jury trial; furthermore ordains the remedy for a victim. To return the above rights is the irrepealable basic civil rights . The maximum deal of the interlocutory appeal requirement is the chance to say the defense. It does not affect the judgment. In New Jersey my tenant works in a court. A court manager is her boy friend and mad a trouble to me. After I filed the complaint to the appeal court before the trial. The special judge was for me and dismissed the case after I just said the fact. For the other matter, the appeal court direct posted the appeal form to me.

On the contrary of the above law, the first appeal court never arranged any due process procedure and never asked the city to reply the interlocutory appeal application and never posted a notice to me. The appeal court ought not to dismiss the interlocutory appeal without the any action and notice. Thus judge Brad Greenburg dare to prohibit me to say the defense and suppressed the motions of the jury trial application. He threatened me to accept the plea bargain for the avoidance of staying in jail before a trial. He continued to

use the illegal evidence for the double conditions. Thus the first appeal court needs to reply why the appeal court accepted the interlocutory without any due process procedure and any notice to me. Why didn't the appeal court comply with the above law?

The first appeal continued to fail to give the basic due procedure to me and did not return my defense rights. The court neglected my correct contact address and did contact me by the wrong way and wrong address. Thus I could not get the due process procedure. Judge Brad deprived me of the appeal right, so that after jail released me, I filed the appeal application over the limitation by Email. The first appeal court did Email the reply to my Email address through the internet. So I posted the four appeal applications and the constitutional challenge to Cincinnati court in the different period. I asked to waive the fee for the transcription of the trial record. My appeal applications explained why the first appeal court needs to use the internet for the noticing me: my Race home was closed; I depend on the foreign relatives for survival. The first appeal court sent the judgment to my previous race home and did not send to me by Email. Since the Ohio supreme court asked the judgment. Thus I filed the document for the judgment. Hereby the judgment for the motion of the reconsideration was sent to me by the internet. Hereof before the judgment, the first appeal court certainly sent everything to the wrong address, so that I could not possibly obtain the any reply and the notices. The endless seizures and double convictions resulted in the bankrupt and the bad health condition to my couple. Someone handed me to the oversea for the survival. I have no previous defense document and have no money to hire attorney. Cincinnati court website locked me, so that I can't visit Cincinnati court website from oversea. I filed the same defense motions for my wife. Thus I used her case number in the appeal application. The other two appeal application case numbers are right. According to the routine practice, the first appeal court ought to notice me: the appeal court can't file your case...etc,

like the Supreme court of Ohio clerk. This is common sense. If the first appeal court replied me like the previous first time reply, I would correct the error and file the motion of the reconsideration. My appeal applications included the constitutional challenge and are excellent. Then the court certainly accepted my case, so that I could go home for the litigations without any error. But the First appeal sent the wrong address. The blame is not mine.

After I filed the motion of the reconsideration in time, the first appeal court never notice me for the reception of the motion and never notice to me for the next procedure. If the appeal court noticed me for the reception, I would go home for the litigation. The first appeal court replied me to dismiss the motion. Based on the foregoing, the first appeal court rule and actions prove that the first appeal court did not grant the lowest level due process procedure to me in the disposal of the interlocutory appeal and the appeal and the motion for the case of the reconsideration. The constitutional challenge belongs to this court jurisdiction. In accordance with this court rule, I respectfully request that this court accepts jurisdiction in this case, so that the important issues will be reviewed on the merits that will detail the more condition. The many people know the matter. The history will record people thanks.

Respectfully submitted,

Applicants: Chong Hao Su (writer) Martha W Lee (wife) was convicted for the same building.

Applicants: Signature: 苏崇豪 李慧娟 suchong5@gmail.com



THE CERTIFICATE OF THE SERVICE

I, Chong Hao Su serviced the S.Ct. prac.R4.1 Court of appeals order certifying a conflict document to the prosecutor office in the Cincinnati city hall in 801 Plum street Cincinnati Ohio 45202. The send date is January 8, 2011, by the general mail.

Previously Martha Lee also send the copy to the Cincinnati at the same address.

APPLICANT: Chong Hao Su

Applicants: Signature: 苏崇豪



Jan 9, 2011.

