ORIGINAL

IN THE SUPREME COURT OF OHIO

11-0853

James Helfrich,	:	
	:	
Appellant-Petitioner,	:	On Appeal from the Fifth Circuit Court of Appeals
	:	
v.	:	
	:	Court of Appeals Case No. 11CA0037
State of Ohio ex rel., Judge Richard M. Markus	:	
	:	
Appellees.	:	

NOTICE OF APPEAL OF APPELLANT JAMES HELFRICH

DISCRETIONARY APPEAL

James Helfrich
P.O. Box 921
Pataskala, Ohio 43062
(740) 927-7260
Appellant pro se

State of Ohio ex rel.
Judge Richard M. Markus
Licking County Courthouse
Newark, Ohio 43058
(440) 356-2728 – Judge Markus
Counsel for Appellee unknown

FILED
MAY 18 2011
CLERK OF COURT
SUPREME COURT OF OHIO

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EXPLANATION OF WHY THIS CASE IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION

This case presents a number of critical issues of public interest: (1) whether the Court can deny a person's equal protection rights guaranteed under the Fourteenth Amendment; (2) whether the Court can deny property protection rights and rights to remedy, which are guaranteed under the Ohio and United States Constitution; (3) whether the Court can deny the right of remedy merely because the Complaint was not typewritten; (4) whether the Court can arbitrarily, capriciously, and without reasonable grounds alter and/or modify the judgment entry of separate and unrelated cases; (5) whether the Court can modify statutes found within the Ohio Revised Code.

In this case, the Court of Appeals and Trial Court denied an Application to Proceed with an eviction, simply because a pre-printed eviction form obtained from the Municipal Court was completed by handwriting in the proper blanks (Exhibit A). Appellate Judge William B. Hoffman descended and wrote that he would have granted the Application to Proceed.

On March 4, 2011, in Case No. 07-CV-0394, Appellant was found to be a vexatious litigator, it is being appealed separately (the same Trial Court found Helfrich to be a vexatious litigator in 2008, it was appealed and vacated. The March 4, 2011 finding of vexatious litigation is silent to any lawsuit being filed without reasonable basis, and it is also silent to any party being injured or harassed. Instead, the Trial Court found Helfrich guilty of vexatious litigation for publically criticizing Judges and attorneys; therefore, it is being appealed once again).

On March 14, 2011, Helfrich, who holds real property as his sole source of income, filed an Application to Proceed with an eviction for non-payment of rent, which is required by Ohio Revised Code 2323.52 (Exhibit B). Helfrich attached a signed Complaint, which complies with

11, and used a pre-printed form, as he has for thirty years. Helfrich filled in the blanks as he had for the past thirty years.

The day after Helfrich filed his March 14, 2011 Application to Proceed in Case No. 11-MD-6, the Trial Court entered instructions in Case No. 11-MD-6 (not an entry), which informed Helfrich that it would not accept Applications to Proceed unless they were typewritten, accompanied by Affidavits from himself and others, and then denied Helfrich's Application to Proceed because the pre-printed form Helfrich obtained and utilized for more than thirty years was not typed, but utilized handwriting in the proper blanks.

The statute of vexatious litigation, Ohio Revised Code 2323.52, is strictly construed. It mandates that once a person is found to be a vexatious litigator, they must file an Application to Proceed and satisfy the review in Court that the Application to Proceed has reasonable basis. The Appellate Court and Trial Courts have violated Appellant's Constitutional rights to remedy, to defend and hold real property, and due process rights when it denied Helfrich's rights to file a valid complaint, simply because the pre-printed form blanks were not typewritten. The public interest here is that do Courts have the rights to alter statutory law and form their own interpretation of the law. Furthermore, did the Trial Court in Case No. 11-MD-0006 have the right to modify the judgment entry in Case No. 07-CV-0394. In the simplest terms, Helfrich is bound to the judgment entry in Case No. 07-CV-0394, this Court should recognize that it is in the public interest of all Ohioans that Courts cannot come along and modify judgment entries from non-related actions to satisfy their own interpretation of the law.

STATEMENT OF THE CASE AND FACTS (SEE ABOVE)

ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW (SEE ABOVE)

CONCLUSION

It is true that this Brief did not go on for fifteen pages; however, it is just as strong to support public interest. The issues here are if the Trial Court has a right to file instructions that supersede a judgment entry in a separate case. If so, Courts will continue that conduct for Helfrich and others. Did the Trial Court have reasonable basis to deny an Application to Proceed because a few words were not typed? The statute of vexatious litigation, Ohio Revised Code 2323.52, only requires that the moving party demonstrate to the reviewing Court that the Application to Proceed has reasonable basis. The issue of whether it is typewritten or not is not basis for denial. By doing so, the Trial Court and Appellate Court erred in its decision that affects the rights and public interest of all. Municipal Court and Common Pleas Court do not require typewritten complaints. To arbitrarily dismiss a complaint because it is not typewritten is direct evidence that the lower Courts are arbitrarily and capriciously formulating their own form of justice on a person-to-person agenda. Simply stated, both lower Courts have taken the law into their own hands, and ruled that Helfrich cannot pursue legal remedy, and therefore the lower Courts have violated Helfrich's constitutional rights to defend and hold his real property, denied Helfrich equal protection rights under the Fourteenth Amendment, and due process rights.

For the reasons discussed above, this case involves matters of public and great general interest and a substantial constitutional question. Appellant requests that this Court accept jurisdiction in this case so that the important issues presented will be reviewed on the merits.

Respectfully submitted,

James Helfrich
P.O. Box 921
Pataskala, Ohio 43062
(740) 927-7260

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Appeal was sent by ordinary U.S. mail, postage prepaid, to State of Ohio ex rel., Judge Richard M. Markus, at the Licking County Courthouse, Newark, Ohio 43058, on May 17th, 2011.

James Helfrich

FILED

2011 APR 11 A 8:41

CLERK OF COURTS
OF APPEALS
LICKING COUNTY OH
GARY R. WALTERS

IN THE COURT OF APPEALS FOR LICKING COUNTY, OHIO

FIFTH APPELLATE DISTRICT

JAMES HELFRICH Plaintiff - Appellant	Case No. 11CA0037
-vs-	JUDGMENT ENTRY
STATE OF OHIO EX REL. JUDGE RICHARD M. MARKUS Defendant - Appellee	Exhibit A

This matter comes before the Court upon Appellant's Application to Proceed. Appellant seeks leave to file an appeal of the trial court's entry requiring Appellant to file only typewritten documents and the trial court's denial of an application to file an eviction. Appellant further seeks to initiate a mandamus action against the trial court judge.

R.C. 2323.52(F)(2) provides in relevant part,

> (2) A person who is subject to an order entered pursuant to division (D)(1) of this section and who seeks to institute or continue any legal proceedings in a court of appeals . . . shall file an application for leave to proceed in the court of appeals in which the legal proceedings would be instituted or are pending. The court of appeals 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 appeals unless the court of appeals is satisfied that the proceedings or application are not an abuse of process of the court and that there are reasonable grounds for the proceedings or application.

The Court is not satisfied these proceedings are not an abuse of process. There do not appear to be reasonable grounds for either of these actions. For this reason, Appellant's application is denied.

37/246

APPLICATION DENIED.

CAUSE DISMISSED.

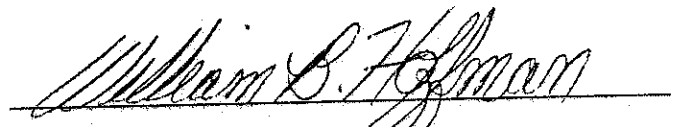
COSTS TO APPELLANT.

JUDGE

JUDGE

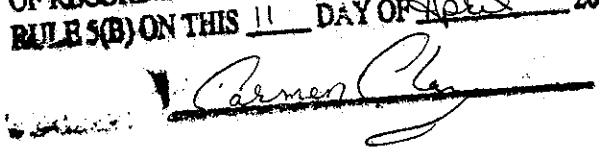
Hoffman, J., dissenting

I would grant the Application to Proceed.



HON. WILLIAM B. HOFFMAN

IN COMPLIANCE WITH CIVIL RULE 58,
IT IS VERIFIED THAT COPIES HAVE BEEN
SENT TO THE PARTIES AND/OR THEIR ATTORNEY
OF RECORD IN A MANNER PRESCRIBED BY CIVIL
RULE 5(B) ON THIS 11 DAY OF April 2011



Application to Proceed

LICKING COUNTY
COMMON PLEAS COURT

2011 MAR 14 A 8:23

FILED
GARY R. WALTERS
CLERK

Application Number
11MD6

James Helfrich
Plaintiff

Defendant

Judge Richard M. Markus

Plaintiffs Application to Proceed

Plaintiffs Application to Proceed with the attached ~~File~~ Complaint James Helfrich v Jeffrey Kayser

James Helfrich

P.O. Box 921

Pataskala, Ohio

740-927-7260

Exhibit B

With Copy To:
Judge Richard M. Markus
3903 North Valley Drive
Fairview Park, Ohio 44126

National Graphics Corp., Cols., O.
Form No. M33-4

COMPLAINT

In Forcible [1] Detention with Claim for Rent

Rev. Code, Secs. 1901.18; 1923.01, .02

James Helfrich
PO Box 921 Pataskala OH 43062
Plaintiff

vs

Jeffrey Kayser
4850 Mink Rd Pataskala OH
43062
Defendant

Municipal Court,
, Ohio

No.

IN FORCIBLE [1] DETENTION

COMPLAINT

James Helfrich, Plaintiff,

states that the Defendant Jeffrey Kayser
has ever since the 12th day of March, ~~19~~ 2011, and does still, unlawfully and forcibly detain, from the Plaintiff possession of the following described premises, situated in the city of Pataskala and County of Licking, State of Ohio, and known as ~~4850~~ 4085 Mink Rd

That said Defendant entered upon said premises as tenant of the Plaintiff under [2] written lease (15 months) Dec 1 2011 - Feb 28 2013 the term of which expired at the time herein first mentioned;

[3] At 995.00 per month plus utilities

and from the time first above mentioned the said Defendant has unlawfully and forcibly held over the said term.

On the 9th day of March, ~~19~~ 2011, the Plaintiff duly served upon the said Defendant, as required by law, notice in writing to leave said premises.

Second cause of action:

Plaintiff for his second cause of action states that the Defendant is or are indebted to said Plaintiff in the sum of $995 as rent for the above named premises for the period from March 1, ~~19~~ 2011, to March 31 2011 19, on a rental basis of $995 per month [4] Defendant's lease expires Feb 28 2013. Defendant is responsible for rent and utilities until rented, + damages.

Plaintiff asks process, restitution, and judgment for $ undetermined ~~Undetermined at~~ this time and costs of this action.

Dated this 14th day of March, ~~19~~ 2011.

740-927-7260

1. If the Complaint claims Forcible Entry and Detention, here insert "Entry and," and make the necessary changes to conform to the facts of the case.
2. Here insert the words applicable, "an oral month-to-month tenancy, or an oral week-to-week tenancy, etc., or written lease." If forcible entry is alleged, this paragraph should be effaced.
3. If a written lease, set forth the pertinent terms of lease.
4. If with damages for breach of any condition of the tenancy, state same.

NOTICE TO LEAVE THE PREMISES
(FOR RESIDENTIAL PROPERTY ONLY)

To Jeffrey Kayser Tenant.

You are hereby notified that I want you on or before March 12th, 2011 To leave the premises you now occupy and which you have rented from James Helfrich, situated and described as follows:

4885 Mink Rd
Pataskala OH 43062

in Pataskala, county of Licking and state of Ohio.

Grounds Non-Payment of rent and other violating of lease (Pets)

YOU ARE BEING ASKED TO LEAVE THE PREMISES. IF YOU DO NOT LEAVE, AN EVICTION ACTION MAY BE INITIATED AGAINST YOU. IF YOU ARE IN DOUBT REGARDING YOUR LEGAL RIGHTS AND OBLIGATIONS, AS A TENANT, IT IS RECOMMENDED THAT YOU SEEK LEGAL ASSISTANCE.

This notice left at property on March 9th, 2011

James Helfrich (landlord)

P.O. BOX 921

Pataskala Ohio 43062