

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL.	:	The Supreme Court of Ohio
DANIEL J. WILLIAMS	:	Case No. 2011-0959
	:	
Appellant	:	On Appeal From The Hamilton County Court of Appeals First Appellate District
	:	
vs.	:	Court of Appeals Case No. C-1100179
	:	
HON. JON SIEVE, JUDGE	:	Hamilton County
HAMILTON COUNTY COURT OF	:	Court of Common Pleas
COMMON PLEAS DIVISION OF	:	Domestic Relations Division
DOMESTIC RELATIONS	:	
	:	
Appellee	:	Common Pleas Case No. DR.1001444

MERIT BRIEF OF APPELLANT DANIEL J. WILLIAMS JR.

Daniel J. Williams Jr
PRO SE
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Cincinnati, OH 45240
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FILED
AUG 10 2011
CLERK OF COURT
SUPREME COURT OF OHIO

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OF COMMON PLEAS
DOMESTIC RELATIONS

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STATEMENT OF THE CASE AND FACTS

The case arises from the attempt of appellant, Daniel Williams, to have an oral hearing on appellant's motion for disqualification of magistrate before Judge Jon Sieve of Hamilton County Court of Common Pleas, Domestic Relations Division. On March 4, 2011 the appellant filed a Motion for Disqualification of Magistrate asserting that Magistrate Paul Meyers actions have exhibited bias and abuse of discretion in the appellant's divorce proceedings. The appellant was scheduled an oral hearing for said motion on March 15, 2011 before presiding Judge Jon Sieve. At the March 15, 2011 oral hearing, the appellant began by informing the Court that the appellant had concurrently filed an Affidavit of Disqualification with the Ohio Supreme Court of Ohio file dated March 10, 2011. When informed of appellant's actions, Judge Jon Sieve immediately stayed the oral hearing as well as the property trial scheduled March 16, 2011 before Magistrate Paul Meyers pending the disposition of Affidavit of Disqualification filed at the Ohio Supreme Court. Subsequently, the Ohio Supreme Court denied the Affidavit of Disqualification of Judge Jon Sieve. The judgment entry file dated March 16, 2011 stated that an Affidavit of Disqualification is not a vehicle to contest matters of substantive or procedural law. Thereby, the allegation was not compelling enough to overcome the presumption the judge is unbiased and following the law regarding assignment of Magistrate Meyers to appellant's divorce proceedings. Thereafter, on March 28, 2011, the appellant had a pre-trial custody conference before appellee, Judge Jon Sieve, who began conference by addressing the prior oral hearing issue of motion for disqualification of magistrate. Neither the appellant nor opposing attorney were informed that this issue would be litigated and ruled. Furthermore, neither party was allowed to present oral arguments and evidence for or against motion for disqualification. Simply, Judge Jon Sieve ruled that appellant's motion not well taken and denied. In addition, the appellee ordered that the property hearing before

Magistrate Paul Meyers previously stayed was to be rescheduled. Appellee's action of not allowing appellant to present oral arguments and evidence on issue that was originally scheduled as an oral hearing is a violation of federal and state equal protection of the law and procedural due process of law.

The appellant appealed to the Hamilton County First Appellate District Court of Appeals for relief in the form of an issuance of a writ of mandamus to have appellee adhere to federal and state procedural due process statutes and allow scheduled oral hearing with arguments and evidence presented before a determination is rendered. This appeal was filed dated April 1, 2011.

Subsequently, the attorney representing appellee responded with a memorandum in support to dismiss appellant's motion for writ of mandamus. The appellee's attorney argued that appellant did not meet the requirements for a writ of mandamus and that appellant does not have a clear and legal right to relief prayed for, nor does appellee have a clear and legal duty to perform the acts. Furthermore, that appellant was attempting to use a writ of mandamus as a tool to control judicial discretion. The appellant's memorandum in reply to appellee's memorandum to dismiss file dated April 27, 2011, addressed the arguments brought forth by appellee's representative, Charles Anness, Assistant Prosecuting Attorney, Hamilton County Ohio. Appellant wrote "As listed in exhibits A and B, the relator was scheduled on March 15, 2011 an oral hearing before respondent regarding the issue of motion to disqualify magistrate. A hearing never commenced on said issue because Respondent immediately stayed hearing until the motion before the Ohio Supreme Court was determined. Thus, relator presented no evidence as allowed per O.R.C. 2315.08 Trial Procedure, Trial by Court. Subsequently, at the pre-trial child custody conference, 28 March, 2011, the Respondent decided to render a ruling on prior litigation issue of motion for disqualification of magistrate without informing relator nor

plaintiff's attorney in divorce case that the issue would be litigated and ruled. Relator nor plaintiff's attorney were allowed to present any witnesses and evidence as per O.R.C. Statute 2317.01 (Competent Witnesses, Evidence) for or against Motion to Disqualify Magistrate. The Ohio Rules of Evidence (Rule 101) Applicability, states that these rules govern proceedings in the courts of this state. Rule 101 meets the criteria for the first component of O.R.C. 2731.01 in that the relator has a clear and legal right to the relief of having evidence admitted via scheduled oral hearing. Rule 103 A(2) states that in case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer. Thereby, the relator was scheduled an oral hearing before Respondent to present evidence supporting argument. Rule 103 meets the criteria for second component of O.R.C. 2731.01 Mandamus in that the respondent is under a clear and legal duty to perform the act of admitting evidence so as not to affect a substantial right of the relator. Not once has relator argued that the respondent does not have the judicial discretion to remove or not remove the magistrate; only that there has been a due process procedural law violation in not allowing evidence to be presented at a court scheduled oral hearing specifically on said motion." Thereafter, the First District Court of Appeals rendered a judgment dismissing appellant's motion for writ as not well taken entered 4 May, 2011. After receiving the determination, the appellant filed an application for reconsideration of writ of mandamus file dated 11 May, 2011. The application focused on the federal and state due process procedural statutes that were being violated and how a writ of mandamus was the only remedy at law for the relief of due process right of presentation of evidence at a scheduled hearing before a determination on issue. The court of appeals found application for reconsideration not well taken and overruled entered 2 June, 2011. The court of appeals erred in both determinations in failing to recognize that a substantial constitutional right is being jeopardized and that the only remedy at law in this case is the issuance of a writ of mandamus.

Williams filed his notice of appeal to the Supreme Court of Ohio on June 7, 2011. (Appx. 1.)

On June 10, 2011, the Supreme Court granted jurisdiction to hear the case and allowed the appeal.

ARGUMENT IN SUPPORT OF PROPOSITION OF LAW

Proposition of Law No. I: Appellant meets the requirements for a Writ of Mandamus pursuant to O.R.C. 2731.01 in that (1) the relator has a clear legal right to the relief prayed for, (2) respondent is under a corresponding clear legal duty to perform the requested acts, and (3) relator has no plain and adequate legal remedy.

First, it is reiterated that the scheduled hearing for motion for disqualification of magistrate never commenced on 15 March, 2011. Again, the appellee immediately stayed the scheduled oral hearing and neither the appellant nor Plaintiff's attorney presented evidence and arguments for or against appellant's motion. The Ohio Court of Appeals cites as case law precedent *Korn v. Ohio State Medical Board* (1988) 61 Ohio App.3d that the fundamental requirement of procedural due process is notice and hearing, that is, an opportunity to be heard. The Supreme Court of Ohio in *State ex rel Plain Dealer Pub v. Floyd*, 855 N.E. 2d 35, 111 Ohio St.3d 56 (2006) Ohio 4437 opined in the majority that the right to procedural due process is required by the 14th Amendment of the U.S. Constitution and section 16, Article 1 of the Ohio Constitution citing as case law *State v. Hayden* 96 Ohio St.3d 211 (2002). Further along in the opinion, the court writes "at it's core, the procedural due process under both Ohio and the U.S. Constitution requires at a minimum an opportunity to be heard when the state seeks to infringe a protected liberty, or property right citing as case law precedent *Boddie v. Connecticut* (1971) 401 U.S. 371, 377, 91 S.Ct. 780, 28 L.Ed.2d 113. *Boddie* shares similar characteristics with appellant in that party was involved in divorce proceedings and was indigent. Out of *Boddie V. Connecticut*, the United States Supreme Court established the precedent that protection of 14th Amendment components of equal protection of the law and due process is paramount. They affirmed in

opinion this is so because a marriage and the subset issues that encompass a marriage (property, support, custody) can only be dissolved by the state. Marriage is unique and this is not the case in many other civil litigation because those issues can be resolved without the court's involvement. Additionally, the Ohio Court of Appeals in *Doriott v. State Medical Board of Ohio* (2006) Ohio App.10d opinion affirmed that "Due process requires that an individual be given an opportunity for a hearing before being deprived of significant property interest." The magistrate in question was to adjudicate the property trial of appellant's divorce proceedings. The foundation in our accusatorial and adversarial system of legal relief is that it is incumbent upon the trial court to examine evidence before rendering a determination. This meets the first component requirement for appellant's request for writ of mandamus. Regarding the second requirement, the appellant asserts that the appellee has a statutory duty to adhere to the equal protection of the law and due process clauses of the federal and state constitutions. In this instance, the appellee is legally obligated to provide appellant with a hearing and to examine evidence proffered. The appellee's failure to do so is unconstitutional under the equal protection and due process clauses of the federal and state constitutions. The opportunity to be heard must occur at a meaningful time and in a meaningful manner. The Supreme Court of Ohio in *State of Ohio v. Cowan* 103 Ohio St.3d 144 (2004) writes that previously this court has stated that "due process of law implies, in its most comprehensive sense, the right of the person affected thereby to be present before the tribunal which pronounces judgment upon a question of life, liberty or property, to be heard, by testimony or otherwise, and to have the right of controverting, by proof every material fact which bears question of right in the matter involved. If any question of fact or liability be conclusively presumed against him, such is not due process citing as case law *Williams v. Dollison* (1980), 62 Ohio St.2d 297, 299, 160.0. 3d 350, 405 N.E. 2d 714. Again, the appellant has never argued that the trial court judge does not have judicial discretion regarding removal of a magistrate; only that there has been a violation in due process.

Regarding the third requirement for a writ of mandamus. The appellant is not attempting to use a writ of mandamus as an appeal tool. The appellant argues that a writ of mandamus is the only remedy at law available to have the trial court adhere to the federal and state statutes regarding Due process, Equal protection of the law, Evidence (R.C. 2317), Trial Procedure, Trial by Court (R.C. 2315.08) and Ohio Rules of Evidence (Rule 101, 103 A(2), 402). Citing as case law *The State ex rel. Summit County Republican Party Executive Committee v. Brunner Secy of State* (2008) 118 Ohio St.3d, Justice O'Donnell writing for the majority states that "whenever a public officer fails to perform a statutory duty and an affected party has no adequate remedy at law, mandamus is an appropriate remedy." There is no other remedy at law in this instance to compel appellee to carry out his statutory duty other than an issuance of writ of mandamus.

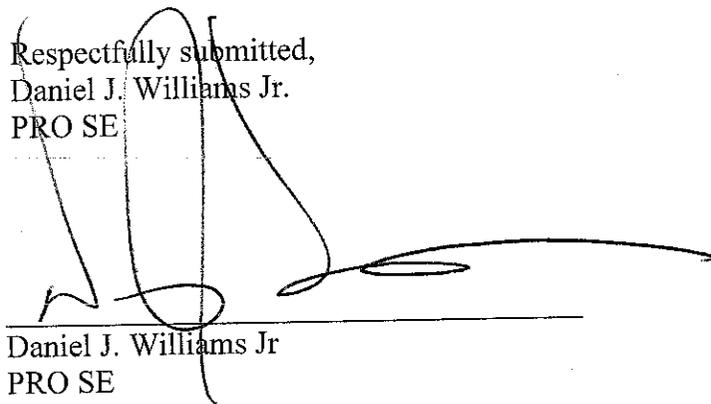
CONCLUSION

The decision of the First District Appellate Court in denial of issuance of writ of mandamus and the ruling of Judge Jon Sieve at the Hamilton County Court of Appeals, Domestic Relations Division is fundamentally wrong in its reasoning and action. The rulings undermine a citizen's federal and state constitutional right of equal protection of the law and due process allowing sworn governmental officials to disregard the supreme law of the land, the U.S. Constitution at their discretion. Once again, the Sixth Amendment bounds judicial officials by an oath of office to support the U.S. Constitution. The judicial officials at the appellate and trial courts have failed to respect the rights of the pro se litigant. Their actions have violated several canons of the code of judicial conduct, including: canon 1, "a judge shall uphold the integrity and the independence of the judiciary"; canon 2A: "a judge shall respect and comply with the law and shall act in a manner that promotes public confidence in the integrity and impartiality of the judiciary"; and canon 3B: "a judge shall perform the duties of judicial office impartially and diligently." Likewise, as a U.S.

Naval Academy graduate and a commissioned naval officer, the appellant took an oath of office to support and defend the U.S. Constitution against all enemies foreign and domestic. A military officer's oath does not end with the resignation of his/her commission but is life long as a citizen. This U.S. Constitution is a contract/agreement between the governed and the government and should be honored. When a party does not abide by the stipulations in a contract that party has defaulted and there is a breach of contract. As a citizen held accountable to the laws of the land, the Appellant must hold the Court accountable to the supreme law of the land, the U.S. Constitution. When a citizen comes before the court, he/she is an equal party in a contract and is not in an inferior or superior position relative to all parties involved and should not be intimidated. Lastly, a question the appellant has asked before and will continue to ask as long as there is bias and abuse of discretion is whether this is 2011 and the court of Judge Jon Sieve or 1857 and the court of Chief Justice Roger Taney and the Dred Scott case before the legislation of the 14th Amendment of the U.S. Constitution and the O.R.C. statutes concerning due process, equal protection of the law, evidence, marriage, divorce in which a Black man has no rights that a White man needs to respect? Thus far in this case, it seems to be the latter rather than the former.

The decision must be reversed. A reversal will promote the spirit and letter of the law in that this is a nation of the rule of law and not the rule of men.

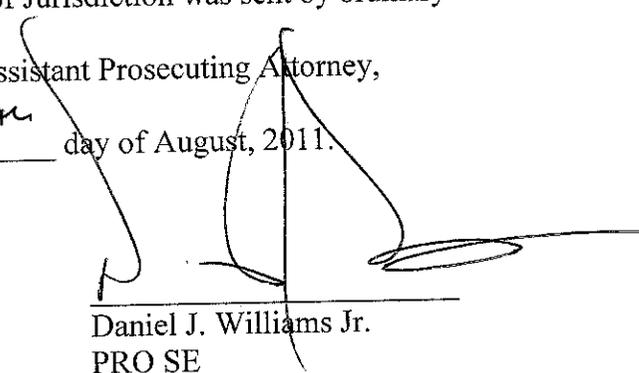
Respectfully submitted,
Daniel J. Williams Jr.
PRO SE



Daniel J. Williams Jr
PRO SE

Certificate of Service

I certify that a copy of this Memorandum in Support of Jurisdiction was sent by ordinary U.S. Mail to counsel for appellee, Charles W. Anness, Assistant Prosecuting Attorney, 230 East Ninth Street, Cincinnati, Ohio 45202 on 9th day of August, 2011.



Daniel J. Williams Jr.
PRO SE

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL.
DANIEL J. WILLIAMS

Appellant

vs.

HON. JON SIEVE, JUDGE
HAMILTON COUNTY COURT OF
COMMON PLEAS DIVISION OF
DOMESTIC RELATIONS

Appellee

On Appeal From the Hamilton
County Court of Appeals,
First Appellate District

Court of Appeals
Case No. C-1100179

11-0959

Hamilton County
Court of Common Pleas
Domestic Relations Division

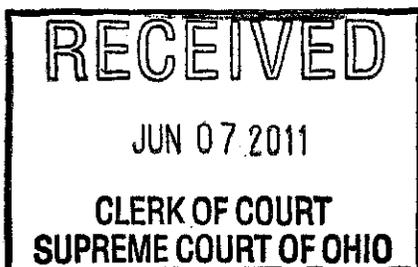
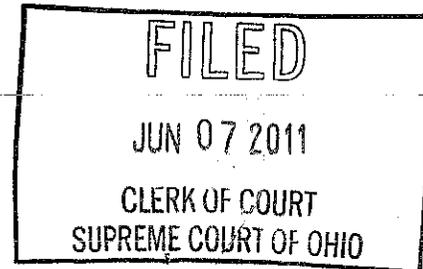
Common Pleas Case No.
DR.1001444

NOTICE OF APPEAL OF APPELLANT DANIEL J. WILLIAMS JR.

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PRO SE
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Assistant Prosecuting Attorney
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COUNSEL FOR APPELLEE,
HON. JON SIEVE, JUDGE
HAMILTON COUNTY COURT
OF COMMON PLEAS
DOMESTIC RELATIONS

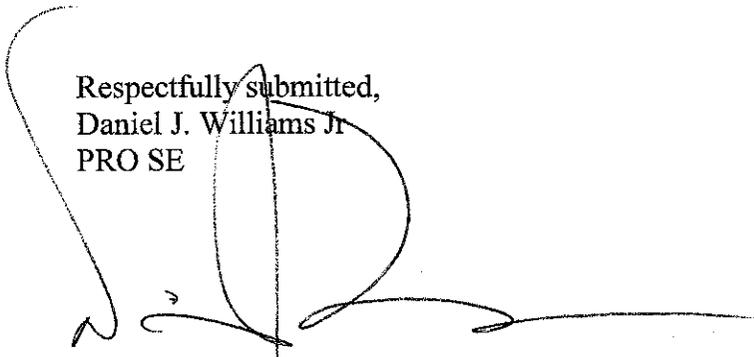


Notice of Appeal of Appellant Daniel J. Williams Jr.

Appellant Daniel J. Williams Jr. hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the Hamilton County Court of Appeals, First Appellate District, entered in Court of Appeals case No. C1100179 Application For Reconsideration filed 11 May 2011 and decision and judgment entry 2 June 2011.

This case raises a substantial constitutional question and is one of public or great general interest.

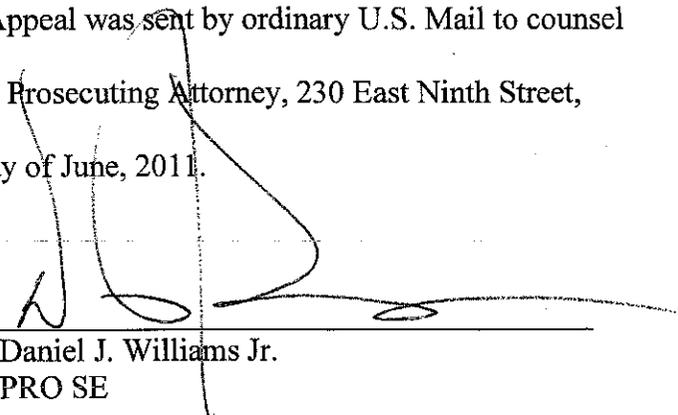
Respectfully submitted,
Daniel J. Williams Jr.
PRO SE



Daniel J. Williams Jr.
PRO SE

Certificate of Service

I certify that a copy of this Notice of Appeal was sent by ordinary U.S. Mail to counsel For appellee, Charles W. Anness, Assistant Prosecuting Attorney, 230 East Ninth Street, Cincinnati, Ohio 45202 on 6th day of June, 2011.



Daniel J. Williams Jr.
PRO SE

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO EX REL.
DANIEL J. WILLIAMS,

APPEAL NO. C-110179

ENTERED

JUN - 2 2011

Relator,

vs

ENTRY OVERRULING APPLICATION
FOR RECONSIDERATION

HON. JON SIEVE, JUDGE,
HAMILTON COUNTY COURT OF
COMMON PLEAS, DIVISION OF
DOMESTIC RELATIONS,

Respondent.



D93291876

This cause was considered upon the application of the relator for reconsideration.

The Court finds that the application is not well taken and is overruled.

To The Clerk:

Enter upon the Journal of the Court on JUN - 2 2011 per order of the Court.

By

A handwritten signature in cursive script, appearing to read "Patricia Dunkelshede".

Presiding Judge

(Copies sent to all counsel)

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL.	:	The Supreme Court of Ohio
DANIEL J. WILLIAMS JR.	:	Case No. 2011-0959
	:	
Appellant	:	On Appeal From The Hamilton
	:	County Court of Appeals
	:	First Appellate District
	:	
vs.	:	Court of Appeals
	:	Case No. C-1100179
	:	
HON. JON SIEVE, JUDGE	:	Hamilton County
HAMILTON COUNTY COURT OF	:	Court of Common Pleas
COMMON PLEAS DIVISION OF	:	Domestic Relations Division
DOMESTIC RELATIONS	:	
	:	
Appellee	:	Common Pleas Case No.
	:	DR.1001444

MOTION TO EXPEDITE RULING FOR STAY

COMES NOW, the Appellant, Daniel J. Williams Jr., by and through counsel, PRO SE, and moves this Court GRANT this Motion to Expedite Ruling For Stay of Domestic Relations Judge Jon Sieve entry judgment regarding parental custody rights in appellant's divorce proceedings entered July 13, 2011. Furthermore, the appellant asks this court to also stay Magistrate Paul Meyers of the court of Judge Jon Sieve, property trial court ruling from proceeding held June 29, 2011. Appellant represents to this court that the judicial officials at the trial court level continue to exhibit such extreme bias and gross abuse of discretion that the appellant is unable to receive an impartial administering of the federal and state statutes in appellant's divorce proceedings. So as to have entered into the record, the appellant will support this position with an Affidavit of Disqualification filing. Presently, the appellant

resides in the marital residence with the minor child. This has been the living arrangement since the plaintiff party in the divorce proceedings abandoned the marital residence for the second time shortly after filing for divorce, June 27, 2010 – present. Further details are in the affidavit of disqualification.

Appellant did file a Notice of Appeal and Memorandum in Support of Jurisdiction involving First District Appellate Court denial ruling for reconsideration of writ of mandamus in trial court divorce proceedings. The Supreme Court of Ohio has ruled that Appellant's appeal should proceed as an appeal of right pursuant to S.Ct. Prac. R. 2.1(A)(1). The appellant believes that the determination on this issue directly affects the validity of trial court divorce proceedings rulings. Again, the central issue of the appeal is a writ of mandamus for Judge Jon Sieve to adhere to federal and state statutes with oral hearing of motion to disqualify magistrate before rendering ruling of denial. At this juncture, the appellant believes that the continuance of divorce proceedings and rulings in the trial court of Judge Jon Sieve is a farce and mockery of the appellant's federal and state rights regarding marriage, divorce and parental rights. If the Supreme Court of Ohio issues a writ of mandamus for Judge Jon Sieve, the appellant believes that the judicial official would simply go through the motions of compliance with the writ but not the spirit to adherence of impartial consideration of arguments and evidence at a hearing before rendering a decision.

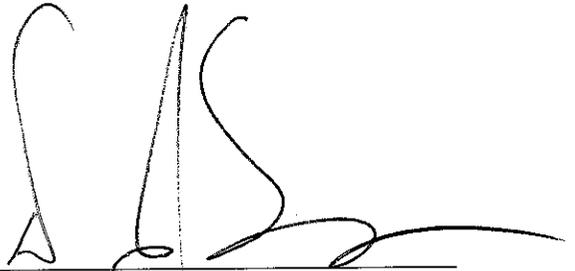
The U.S. Constitution First Amendment restricts the government from denying a citizen the right to petition the government for redress of grievances. Also, two components of the 14th Amendment restricts the states from denying a citizen life, liberty and property without due process of the law and equal protection of the law. Finally, the Sixth Amendment bounds judicial officials by an oath of office to support the U.S. Constitution. The judicial officials at the trial

court have failed to respect the rights of the pro se litigant. Their actions have violated several canons of the code of judicial conduct, including: canon 1, “a judge shall uphold the integrity and the independence of the judiciary”; canon 2A: “a judge shall respect and comply with the law and shall act in a manner that promotes public confidence in the integrity and impartiality of the judiciary”; and canon 3B: “a judge shall perform the duties of judicial office impartially and diligently.” Likewise, as a U.S. Naval Academy graduate and a commissioned naval officer, the appellant took an oath of office to support and defend the U.S. Constitution against all enemies foreign and domestic. A military officer’s oath does not end with the resignation of his/her commission but is life long as a citizen. This U.S. Constitution is a contract/agreement between the governed and the government. When a party does not abide by the stipulations in a contract that party has defaulted and there is a breach of contract. As a citizen held accountable to the laws of the land, the Appellant must hold the Court accountable to the supreme law of the land, the U.S. Constitution. When a citizen comes before the court, he/she is an equal party in a contract and is not in an inferior or superior position relative to all parties involved and should not be intimidated.

Finally, a question the appellant has asked before and will continue to ask is whether this is 2011 and the court of Judge Jon Sieve or 1857 and the court of Chief Justice Roger Taney and the Dred Scott case before the legislation of the 14th Amendment of the U.S. Constitution and the O.R.C. statutes concerning marriage, divorce and spousal support in which a Black man has no rights that a White man needs to respect? Even more specifically, is this 2011 or pre-1865 before the 13th Amendment to the U.S. Constitution when Black people were legal property of White people who exercised all sovereignty and jurisdiction over the affairs of this property including what was the property’s relationship to its offspring in conduct and status? Thus far it seems to be the latter rather than the former. That being so, then please journalize this with an entry of public record.

WHEREFORE, Appellant prays for relief from this Court in the following form: that the Appellant be Granted a Stay of Judge Jon Sieve Trial court parental rights judgment entry and subsequent property trial Judgment until after Ohio Supreme Court ruling on Affidavit of Disqualification and Notice of Appeal for reconsideration of writ of mandamus.

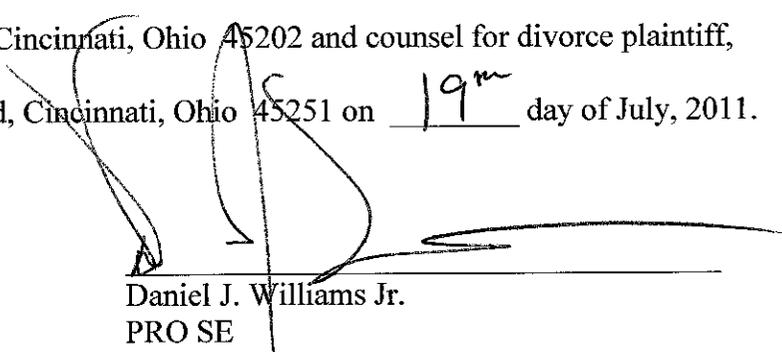
Respectfully submitted on 19th day of July, 2011.



Daniel J. Williams Jr.
Pro Se
11318 Kenshire Drive
Cincinnati, Ohio 45240
(513) 825-1049

Certificate of Service

I certify that a copy of this motion to expedite ruling for stay and continuance was sent by ordinary U.S. Mail to counsel for appellee, Charles W. Anness, Assistant Prosecuting Attorney, 230 East Ninth Street, Cincinnati, Ohio 45202 and counsel for divorce plaintiff, Karl Kilguss, 3515 Springdale Rd, Cincinnati, Ohio 45251 on 19th day of July, 2011.



Daniel J. Williams Jr.
PRO SE

IN THE SUPREME COURT OF OHIO

11-0959

STATE OF OHIO EX REL.
DANIEL J. WILLIAMS JR.

Appellant

vs.

HON. JON SIEVE, JUDGE
HAMILTON COUNTY COURT OF
COMMON PLEAS DIVISION OF
DOMESTIC RELATIONS

Appellee

On Appeal From The Hamilton
County Court of Appeals,
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Court of Appeals
Case No. C-1100179

Hamilton County
Court of Common Pleas
Domestic Relations Division

Common Pleas Case No.
DR.1001444

MOTION TO EXPEDITE RULING FOR STAY AND CONTINUANCE

COMES NOW, the Appellant, Daniel J. Williams Jr., by and through counsel, PRO SE, and moves this Court GRANT this Motion to Expedite Ruling For Stay of First Appellate District judgment and a Continuance of legal proceedings in appellant's divorce proceedings. Appellant represents to this court that the scheduled trial/hearing dates of 13 June, 21 June and 29 June 2011, are in conflict with ongoing Ohio Supreme Court legal issue Notice of Appeal and Memorandum in Support of Jurisdiction involving First District Appellate Court's ruling. The determination on this issue directly affects the validity of future trial court divorce proceedings rulings. As of 22 June, 2011, the appellant has not received a ruling on motion for stay and continuance. Two divorce proceedings, child custody trial(13 June) and waiver of transcript ruling (21 June) have proceeded forth even though appellant did inform trial

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JUN 23 2011

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SUPREME COURT OF OHIO

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JUN 23 2011

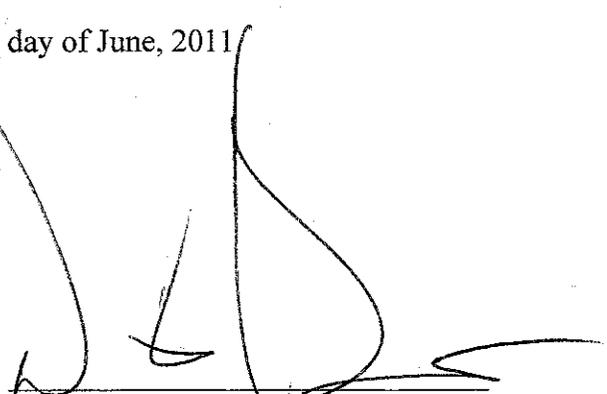
CLERK OF COURT
SUPREME COURT OF OHIO

court of motion to the Supreme Court of Ohio to stay First Appellate Court denial ruling for reconsideration of writ of mandamus and a continuance in trial court's divorce proceeding trials/hearings and voiced objection for the record. The Supreme Court of Ohio has ruled that Appellant's appeal should proceed as an appeal of right pursuant to S.Ct. Prac. R. 2.1(A)(1). The appellant believes that extreme bias and abuse of discretion has taken place thus far in the divorce proceedings and will continue in subsequent hearings unless the trial court judicial officials are restrained through a continuance of divorce proceedings and ruling on appellant's appeal. It is of urgency that the property trial scheduled 29 June, 2011 before Magistrate Paul Meyers be continued, in that the central issue of the appeal is a writ of mandamus for Judge Jon Sieve to adhere to federal and state statutes with oral hearing of motion to disqualify magistrate before rendering ruling of denial. So as to have entered into the record, the appellant will submit an affidavit in support of motion to expedite ruling for stay and continuance. The U.S. Constitution First Amendment restricts the government from denying a citizen the right to petition the government for redress of grievances. Also, two components of the 14th Amendment restricts the states from denying a citizen life, liberty and property without due process of the law and equal protection of the law. Finally, the Sixth Amendment bounds judicial officials by an oath of office to support the U.S. Constitution. The judicial officials at the trial court and First Appellate Court have failed to respect the rights of the pro se litigant. Their actions have violated several canons of the code of judicial conduct, including: canon 1, "a judge shall uphold the integrity and the independence of the judiciary"; canon 2A: "a judge shall respect and comply with the law and shall act in a manner that promotes public confidence in the integrity and impartiality of the judiciary"; and canon 3B: "a judge shall perform the duties of judicial office impartially and diligently." Likewise, as a U.S. Naval Academy graduate and a commissioned naval officer, the

appellant took an oath of office to support and defend the U.S. Constitution against all enemies foreign and domestic. A military officer's oath does not end with the resignation of his/her commission but is life long as a citizen. This U.S. Constitution is a contract/agreement between the governed and the government. When a party does not abide by the stipulations in a contract that party has defaulted and there is a breach of contract. As a citizen held accountable to the laws of the land, the Appellant must hold the Court accountable to the supreme law of the land, the U.S. Constitution.

WHEREFORE, Appellant prays for relief from this Court in the following form: that the Appellant be Granted a Stay of First Appellate District judgment and a Continuance of trial court's legal proceedings to dates as soon after Ohio Supreme Court ruling.

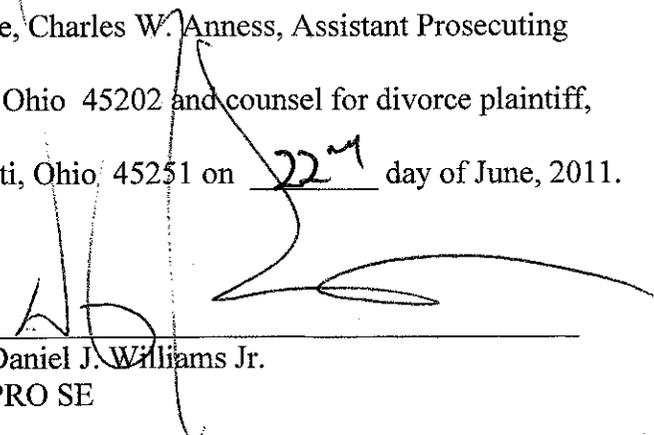
Respectfully submitted on 22nd day of June, 2011



Daniel J. Williams Jr.
Pro Se
11318 Kenshire Drive
Cincinnati, Ohio 45240
(513) 825-1049

Certificate of Service

I certify that a copy of this motion to expedite ruling for stay and continuance was sent by ordinary U.S. Mail to counsel for appellee, Charles W. Anness, Assistant Prosecuting Attorney, 230 East Ninth Street, Cincinnati, Ohio 45202 and counsel for divorce plaintiff, Karl Kilguss, 3515 Springdale Rd, Cincinnati, Ohio 45251 on 22nd day of June, 2011.



Daniel J. Williams Jr.
PRO SE

5. that appellant faces disconnection of basic utilities services (gas, electric, water) and if desired could not receive public financial assistance because utilities are contractually in divorce plaintiff's name and companies bylaws prevent change. Divorce plaintiff's actions violate O.R.C. 3103.08 Responsibility.
6. that appellant and divorce plaintiff never agreed to an immediate separation and the making of provisions for support of either of them and their children during the separation which violates O.R.C. 3103.06 Contracts Affecting Marriage.
7. that appellant is the primary caretaker and first responder to needs of special needs (autistic) minor child. That during the minor child academic school year it is inappropriate for appellant to engage in seeking employment outside the home. During the academic calendar year, school personnel contacted appellant at home numerous times for assistance at close of school day. This is a basis for temporary spousal support per O.R.C. 3105.18 (C)(1)(f) Awarding Spousal Support.
8. that divorce plaintiff's unemployment benefit is marital income in that it began during the marriage per O.R.C. 3105.18 (C)(2) Awarding Spousal Support and amount of benefit is based on number of claimed dependents.
9. that since filing of Complaint for Divorce (24 June, 2010) and subsequent abandonment of marital residence (27 June, 2010 – Present), divorce plaintiff has received \$~~22,952.00~~^{22,952.00} in unemployment benefits and paid \$~~2,181.00~~^{3,182.00} in child support and \$0.00 in spousal support to date.
10. that divorce plaintiff has stated in the record that plaintiff's only expenses at current place of residence is food and personal toiletries.
11. that appellant and minor child standard of living established during the marriage is jeopardized through divorce plaintiff's action and is a basis for temporary spousal support per O.R.C. 3105.18 (C)(1)(g). Awarding Spousal Support.
12. that Magistrate Paul Meyers of the court of Appellee Judge Jon Sieve, in Hamilton County, Ohio Court of Common Pleas Domestic Relations Division has exhibited a continuous bias and abuse of discretion from onset of divorce proceedings toward appellant specifically as follows:
13. falsified information on Magistrate's Prepared form DR 7.5(a) Child Support Computation Worksheet prepared 3 August, 2010 listing father's income as \$15,184.00 annually when appellant's form DR 7.5(a) court entered 7 July, 2010 lists father's income as \$0.00. Furthermore, appellant's Poverty Affidavit on file court entered 29 July, 2010 states \$0.00 monthly income, no savings or liquid assets and that appellant is proceeding without an attorney due to indigence.

14. that Magistrate Meyers actions violated O.R.C. 2701.02 Courts Must Render Decisions Within Time Limit, in not rendering a determination on motion for spousal support litigated in oral hearings conducted August 17, August 25, September 8, and September 22, 2010. Even though this was marked as an issue on form DR 3.7 Request For Oral Hearing court entered 5 August, 2010.

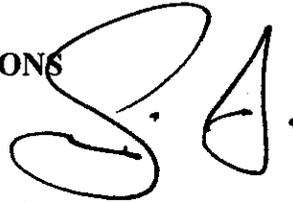
15. that Magistrate Meyers exhibited an abuse of discretion in vacating original 75N Order, court entered 4 August, 2010 which granted appellant temporary residential and legal custody of minor child to father. In Magistrate's Order, court entered 1 October, 2010, these rights were taken from father and given to divorce plaintiff. At subsequent hearing on Motion To Set Aside Magistrate's Order on 1 October, 2010, presiding Judge Ronald Panioto questioned plaintiff's attorney on what change of circumstances warranted the vacating of original 75N Order. The plaintiff's attorney was unable to provide any legitimate answer; however, the Judge did not make a ruling on that issue in the motion believing that written transcripts of hearings were needed. After being informed in appellant's motion that written transcripts were not required per form DR 8.15 Information Sheet Regarding Objections To Magistrate's Orders Or Decisions, Judge Panioto granted appellant a hearing without the requirement of written transcripts. Due to scheduling changes, the hearing date was forwarded to the calendar year 2011 and Judge Panioto retired. In January 2011, Appellee Judge Jon Sieve presided over the hearing unaware of the non-requirement of transcripts and found motion not well taken and denied due to lack of factual evidence ie., no written transcripts.

16. that Magistrate Meyers exhibited an abuse of discretion in assigning Parenting Investigation costs to appellant with the knowledge that appellant is indigent with Poverty Affidavit, Affidavit of Income, Expenses and Financial Disclosure and Property Statement form on file. On the record, Magistrate Meyers stated " if one party pays the initial divorce filing fee, then he assigns the parenting investigation fee to the other party." This action is arbitrary and disregards factoring in specific circumstances of each individual case. Thus violating Local Rule Title 1.22A Indigence Proceedings. Consequently, the appellant filed a motion for Waiver of Parenting Investigation Costs and an oral hearing was held on 18 October, 2010. Magistrate Meyers' Order, court entered 21 October, 2010 found motion not well taken and denied. Again divorce plaintiff's attorney never objected nor counter-argued that appellant had the financial resources to pay and/or should pay parenting investigation costs. Objecting to this ruling, the appellant filed a motion To Set Aside Magistrate's Order and a hearing was held 24 November, 2010 before presiding Judge R. Panioto. Judge Panioto vacated Magistrate's Order and waived the parenting investigation costs.

17. that Magistrate Meyers has exhibited at hearings a continuous bias and abuse of discretion through denial of appellant's exhibits into evidence. Even though appellant is adhering to Local Rules and initially plaintiff's attorney offered no objections. Specifically, at the hearing on 17 August, 2010, the Court advised the appellant to read the Local Rules regarding exhibits so as to adhere to the correct procedure. After reading the Local Rules, Title XX: Exhibits, 20.0 Trial Exhibits, the appellant attempted to provide the Court with the CDR exhibit list and pre-marked exhibits and copies prior to the commencement of the next pre-decree continuance hearing 25 August, 2010. The Court instructed the appellant that this was to be done at the close of the hearing. So after closing statements by the parties and the hearings were completed, 22 September, 2010, the appellant asked the Court to admit twenty-one exhibits into evidence and was denied. The Court stated that the hearing was closed and the opposing attorney was not present to object to any exhibits. The appellant and the divorce plaintiff's attorney returned to the court and the plaintiff's attorney stated that he had no objections to exhibits being admitted as evidence; yet, the Court denied this action stating that the hearing was closed. It is not highly unusual for the Court to extend minor professional courtesy and briefly reopen a hearing to allow exhibits to be admitted as evidence. The Ohio Court of Appeals cites "*Blakemore v. Blakemore*" 1983 5 Ohio St 3d as the case law precedent writing that abuse of discretion takes place when the decision of a trial court is unreasonable, arbitrary and unconscionable.
18. that Magistrate Meyers' decision, court entered 17 February, 2011, on temporary spousal support and order to show cause exhibits a continuous bias and abuse of discretion by this Court. Magistrate Meyers states on the record that there has never been a determination on temporary spousal support prior to support and order to show cause hearing held 8 February, 2011. Magistrate Meyers states on the record that neither the appellant or divorce plaintiff originally requested spousal support in original 75N filing. This is true; however, beginning with oral hearing to set aside original 75N order temporary spousal support was an issue litigated for determination. See point (14). Furthermore, in appellant's eight page Objection to Magistrate's Decision, court entered 25 February, 2011, the appellant details that Magistrate Meyers findings of facts and conclusions of law are rife with errors and faulty logic. See attachment: Objections to Magistrate's Decision.
19. that divorce plaintiff attempted to have a spurious domestic violence charge and civil protection order against appellant heard before Magistrate Meyers with the belief that Magistrate Meyers would continue to exhibit a bias toward appellant in ruling. When informed that the Magistrate handling aspects of the divorce proceedings could not rule on domestic violence charges, the divorce plaintiff requested dismissal of filing. The Plaintiff did refile the entry five days later. A hearing was held before a different Magistrate who ruled the motion to be not well taken and denied.

20. that appellee, Judge Jon Sieve, in Hamilton County, Ohio Court of Common Pleas Domestic Relations Division has exhibited a continuous bias and abuse of discretion from onset of divorce proceedings toward appellant specifically as follows:
21. that appellee, Judge Jon Sieve, on 28th March 2011 violated appellant federal and state statutes of due process through the action of denial ruling on stayed litigation issue of motion to disqualify magistrate without allowing appellant or divorce plaintiff's attorney to present arguments and evidence for or against issue that was originally scheduled as an oral hearing.
22. that appellee, Judge Jon Sieve, at 13th June, 2011 child custody trial exhibited contempt for appellant's notice of appeal and motion for stay and continuance of legal proceedings in the Supreme Court of Ohio though being informed of matter at the commencement of proceedings. The appellant objected for the record to continuing in that the issue before the Supreme Court of Ohio directly affects the validity of the divorce court proceedings rulings. The appellee feigned an attempt at locating the appellant's Supreme Court of Ohio filings even though the filings are date entered 7 June, 2011 by the Clerk of the Supreme Court. The appellee attitude was to claim ignorance of matter; thereby he could proceed. This was contradicted in that appellee asked divorce plaintiff's attorney if he had received notice of service and plaintiff's acknowledge in the affirmative.
23. that appellee, Judge Jon Sieve, at 21st June, 2011 motion for waiver of transcripts or that court request transcripts exhibited an abuse of discretion in denial ruling. Appellant informed the court in written motion and orally that appellant had a poverty affidavit on file entered 29th July, 2011 and has earned \$0.00 income in 2010 and 2011. Appellant stated that he has no automobile, savings or checking account. Appellant is receiving no spousal support and has no tangible assets. Presently, Appellant's only income is a \$74.00 weekly child support order. The appellant stated that he was indigent. The appellee asked appellant why did he believe that being indigent relieved him of paying for the transcripts. Appellant stated according to Local Rules Title 1.22 Indigence Proceeding A. Poverty Affidavits, it reads " the deposit or costs shall be considered met if a party files an affidavit of poverty swearing, in good faith, that the party does not have sufficient funds at present to pay the deposit and there is a certification by the attorney, if any, that no fees have been paid. ...". Appellant added that according to O.R.C. 2301.25 Costs of Transcripts " ... or when ordered by a judge of the court of Common Pleas for his use, in either civil or criminal cases, the costs of transcripts mentioned in section 2301.23 of the Revised Code, shall be taxed as costs in the case, collected as other costs whether such transcripts have been prepaid or not, as provided by section 2301.24 of the Revised Code, and paid by the clerk of court of common pleas, quarterly, into the county treasury, and credited to the general fund ...". Furthermore, without the requested transcripts the appellee could once again deny appellant's motion on the grounds that there is no written transcripts to establish factual evidence and rule motion not well taken. The appellant added that it is a 14th amendment violation for the state to deny a citizen life, liberty or property without due process and equal protection of the law. The transcripts are a critical element in fulfilling this fundamental constitutional right.

COURT OF COMMON PLEAS
DIVISION OF DOMESTIC RELATIONS
HAMILTON COUNTY, OHIO



Stacia E Perry
Plaintiff

: Enter : _____

-vs-

: Date : 03/28/2011
Case No : DR1001444
: File No : E180816
CSEA : 7081247202
: Judge Jon H Sieve

Daniel J Williams Jr
Defendant

ENTRY

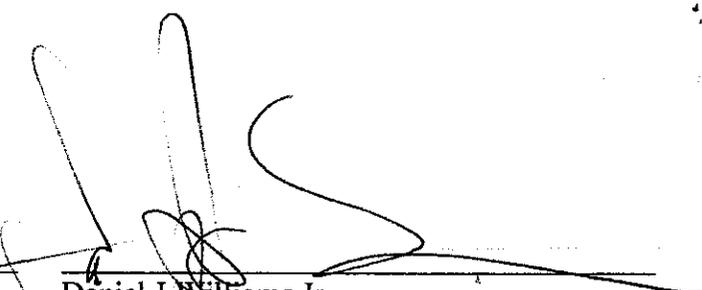
Defendant filed a Motion For Disqualification Of Magistrate on March 4, 2011

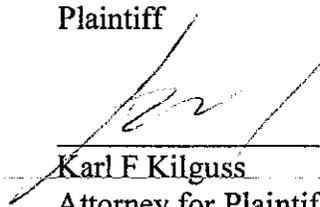
After review of the record and the filings in this matter, this Court finds the Motion not well taken and it is therefore denied.

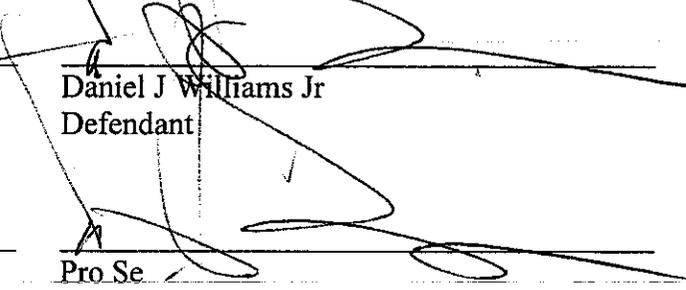
The property hearing before Magistrate Paul Meyers which was previously stayed will now be rescheduled for the earliest available date.

IT IS SO ORDERED.



Stacia E Perry
Plaintiff

Daniel J Williams Jr
Defendant

Karl F Kilguss
Attorney for Plaintiff

Pro Se
Attorney for Defendant



**COURT OF COMMON PLEAS
DIVISION OF DOMESTIC RELATIONS
HAMILTON COUNTY, OHIO**

Stacia E Perry

Plaintiff

- vs -

Daniel J Williams Jr

Defendant

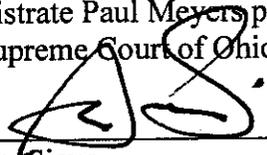
: Case No: DR1001444
: File No : E180816
: CSEA : 7081247202

JUDGES ENTRY
Judge Sieve

This matter came before the Court 03/15/2011 for hearing pursuant to Defendant's Motion For Disqualification Of Magistrate.

Defendant represented that he also filed an Affidavit Of Disqualification with the Ohio Supreme Court on 03/10/2011 seeking to disqualify Judge Sieve from presiding in this case.

Pursuant to that representation, this Court hereby stays today's hearing as well as the property trial scheduled for 03/16/2011 before Magistrate Paul Meyers pending the disposition of the Affidavit of Disqualification filed at the Ohio Supreme Court of Ohio.



Judge Sieve

03/15/2011

Copies sent by Clerk of Courts to:
Karl F Kilguss, Attorney For Plaintiff
Daniel J Williams Jr, PRO SE

