

ORIGINAL

IN THE SUPREME COURT OF OHIO

State of Ohio Ex Rel.
James L. Chatfield, Relator

Case No. 2011-1843

Petitioner-Appellant,

v.

On Appeal from the Tenth District
Court of Appeals

Walter L. Distelzweig
In His Original Capacity as Chief of
Police of the City of Columbus, Ohio

Respondent-Appellee.

MOTION OF APPELLEE PURSUANT TO S. CT. PRAC. R. 14.2(D)

The Appellee moves the Court for an order pursuant to S. Ct. Prac. R. 14.2(D) to strike Appellant's brief or, in the alternative, to impose a new deadline for filing of Appellee's brief.

Respectfully submitted,

CITY OF COLUMBUS, DEPARTMENT OF LAW
RICHARD C. PFEIFFER, JR., CITY ATTORNEY



Glenn B. Redick (0002513)
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FILED
FEB 13 2012
CLERK OF COURT
SUPREME COURT OF OHIO

MEMORANDUM IN SUPPORT OF MOTION

Relator-Appellant filed a brief with this Court on January 3, 2012. Respondent-Appellee's brief was due to be filed within 30 days of that date. Although Relator-Appellant, who is incarcerated at the London Correctional Institute, signed that a brief was sent to Counsel for the Respondent, Counsel never received the brief, for whatever reason. Counsel did not realize that Appellant's brief had been filed until he checked the Court's docket.

The S. Ct. Prac. R. 14.2(D) addresses the issue of when there has been a failure to provide service upon a party. The rule provides that the party adversely affected may file to strike the document filed or request that an extension be granted for the filing of the document.

It is respectfully requested that the Court sustain this motion and grant Respondent-Appellee leave of seven (7) days to file its brief. Such a short delay will not impact the processing of this appeal and it will allow the Court to reach the merits of this matter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing **Motion Of Appellee Pursuant To S. Ct. Prac. R. 14.2(D)** was mailed by First Class U.S. Mail, postage prepaid, to James L. Chatfield, Inmate # 598-109, P.O. Box 69, 1580 State Route 56 SW, London, OH 43140, this 13th day of February 2012.



Glenn B. Redick
Chief Litigation Attorney

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Court of Appeals Case No.:
11APD-02-119

AFFIDAVIT OF GLENN B. REDICK

STATE OF OHIO }
 } SS:
FRANKLIN COUNTY }

I, Glenn B. Redick, being first duly cautioned and sworn, state that I have personal knowledge of the facts stated herein, that I am competent to testify to the matters stated herein, and that the following matters are true:

1. I am counsel of record for the Appellee in the matter of *Chatfield v. Distelzweig*, Case No. 11-1843.
2. I never received a copy of the brief filed by Appellant with the Court on January 3, 2012.
3. I was unaware than Appellant had filed a brief until I checked the Court docket.

Glenn B. Redick
Glenn B. Redick

SWORN TO BEFORE ME and subscribed in my presence this 10th day of February 2012.



KATHLEEN ADDLESPERGER
NOTARY PUBLIC
Commission Expires 8/30/12

Kathleen Addlesperger
Notary Public, State of Ohio