

FILED
JUN 08 2012
CLERK OF COURT
SUPREME COURT OF OHIO

THE SUPREME COURT OF OHIO

LORAIN COUNTY BAR ASSOC.

CASE NO. 2011-0465

Relator,

v.

**KING AYETTEY ZUBAIDAH,
fka GERALD McGEE, ET AL.**

**RELATOR'S MOTION TO
LIFT STAY AND REVIVE
MOTION TO SHOW CAUSE
AND REQUEST FOR SANCTIONS:
MOTION TO SUPPLEMENT
WITH TRANSCRIPT**

Respondents.

.....

Now comes the Lorain County Bar Association, by and through the undersigned Bar Counsel, and respectfully moves this Honorable Court for an Order Lifting the Stay on Relator's Motion filed April 11, 2012, requiring Respondents, King Ayettey Zubaidah, fka Gerald McGee, and STAND, Inc., to appear before it and show cause why they should not be held in contempt for failing to comply with this Court's Order of April 29, 2011 requiring that they immediately cease and desist engaging in the unauthorized practice of law and for sanctions.

For cause, Relator states that on April 11, 2012 it filed it's Motion to Show Cause and For Sanctions as a result of Respondent's violation of this court's cease and desist order when Respondent interfered in the matter of *State of Ohio v. Kareem Tucker*, Case No. 0CR081026, Lorain County Court of Common Pleas.

On April 20, 2012 Relator requested that Motion, and any ruling thereon, be stayed as the parties had entered into a Joint Motion to Approve Consent Decree in the underlying

RECEIVED
JUN 08 2012
CLERK OF COURT
SUPREME COURT OF OHIO

UPL matter presently pending before the Board on the Unauthorized Practice of Law. On April 30, 2012, this court granted the stay.

Shortly thereafter, the parties discovered that Respondent had surreptitiously and without notice written next to his name on the Proposed Consent Decree the words “under duress.” As a result, the parties withdrew the Joint Motion to Approve Consent Decree and the matter proceeded to a full hearing before a UPL Board Panel. The hearing was had on May 15, 2012 and no decision has yet been rendered.

During the Panel Hearing, testimony was elicited regarding Respondent’s involvement in the *Tucker* matter, and Relator respectfully moves to include said testimony in support of the original Motion to Show Cause.

Judge Mark Betleski of the Lorain County Court of Common Pleas, the trial judge who presided over the *Tucker* matter, testified at the Panel Hearing that he knew Respondent and that he initially believed that Respondent was “assisting African-Americans in understanding the court process better . . .” (Transcript of Proceedings, 05/15/12, p.283, attached and incorporated herein as Exhibit “A.”)

Judge Betleski’s opinion regarding Respondent’s conduct changed “probably [in] August of last year.” (Exhibit “A,” p.284.) When asked why his opinion changed, Judge Betleski stated “Because . . . Kareem Tucker . . . was resisting his lawyer’s advice, started to make certain statements on the court record with regard to his ethnic background and his ability to avoid the responsibilities of criminal acts in the county, and prior to him making those statements, he was seated next to Mr. Zubaidah in the courtroom.” (Exhibit “A,” p.284-285.)

Later, under cross examination, Judge Betleski stated “Mr. Tucker and Mr. Zubaidah were sitting next to each other in the back row.” (Exhibit “A,” p.286.)

And, when asked on cross if Respondent had “ruffled the feathers” of some judges and court-appointed lawyers, Judge Betleski said “. . . Are there some lawyers who are disappointed in what their clients have done after consulting with him? Absolutely. Are there some judges unhappy with what defendants have done after meeting with him? Absolutely. No question about it.” (Exhibit “A,” p.289.)

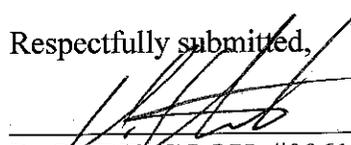
When asked if he himself was disappointed in what occurred in the *Tucker* case, Judge Betleski stated “I – am I disappointed in his involvement in any case in my court . . . In particular the *Tucker* case? Yes.” (Exhibit “A,” p.289.)

Later, Judge Betleski testified that Respondent had been with Mr. Tucker in the courtroom “on two occasions, at different pre-trials;” that Respondent “sat through the *Tucker* trial on the defendant’s side;” and that “. . . some of the individuals who have consulted with him have made very bad mistakes and bad decisions and, ultimately, as a result of those bad decisions, judges like myself have had to make very difficult decisions, and we are not happy about having to make those types of decisions.” (Exhibit “A,” p.290-291.)

Given the totality of the facts before this court as relayed in Relator’s Motion to Show Cause and the transcript from the Hearing, a reasonable inference can be drawn that Respondent violated this court’s cease and desist order and that he should be held accountable for same.

WHEREFORE, Relator respectfully requests the Order granting a Stay be lifted; that Relator's Motion requiring Respondents to Show Cause as to why they should not be held in contempt and For Sanctions, filed April 11, 2012 be ruled upon; and that leave be granted to supplement said Motion with the partial transcript of proceedings attached and incorporated herein as Exhibit "A."

Respectfully submitted,



D. CHRIS COOK, #0061073
520 Broadway, Third Floor
Lorain, OH 44052
PH: (440) 246-2665
FX: (440) 246-2670
email: cooklaw@centurytel.net
Attorney for Relator

PROOF OF SERVICE

This is to certify that a copy of the foregoing Motion was sent to the following via regular U.S. Mail this 6th day of June, 2012:

Michael J. Duff, Esq.
745 Broadway Ave.
Lorain, OH 44052
Attorney for Respondents

Minerva Elizaga
Board on Unauthorized Practice of Law
The Supreme Court of Ohio
65 S. Front Street, 5th Floor
Columbus, Ohio 43215

Gene Whetzel, General Counsel
Ohio State Bar Assoc.
1700 Lakeshore Drive
Columbus, Ohio 43204



D. CHRIS COOK
Attorney for Relator

BOARD ON THE UNAUTHORIZED PRACTICE OF LAW
OF THE SUPREME COURT OF OHIO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LORAIN COUNTY BAR ASSOCIATION, :

Relator, :

vs. :

Case No. UPL 11-01

KING AYETTEY ZUBAIDAH, fka :

GERALD McGEE and STAND, Inc., :

Respondents. :

TRANSCRIPT OF PROCEEDINGS

held before Kenneth A. Kraus, Esq., Panel Chair,
Mark J. Huller, Esq., and Kevin L. Williams, Esq.,
at the Lorain County Justice Center, 225 Court
Street, Elyria, Ohio on Tuesday, May 15, 2012
commencing at 10:05 a.m.

Keller Court Reporting Services, Ltd.
440-724-6715
www.kellercourtreporting.com



1 APPEARANCES

2 D. Chris Cook, Esq.
3 520 Broadway Avenue, Third Floor
4 Lorain, Ohio 44052

5 On behalf of the Relator

6 Michael J. Duff, Esq.
7 745 Broadway Avenue
8 Lorain, Ohio 44052

9 On behalf of the Respondents

10 Also Present: John Pincura, Esq.

11 - - -

12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 Q. Can you be any more specific as to what
2 makes you look at it different -- in a different
3 light today than in '09?

4 MR. DUFF: Object.

5 CHAIRMAN KRAUS: Overruled.

6 A. When I first met Mr. Zubaidah, he advised
7 me that he was assisting African-Americans in
8 understanding the court process better, and I
9 thought that that -- because of his prior
10 experience in the court system, and I thought
11 that that was -- and understand, one of his first
12 jobs was with my bailiff's brother's clothing
13 company, and so my bailiff knew him, as well, at
14 the time, very, very well, because he used to
15 work for that company.

16 But back then, I thought that, in light of
17 the fact that a significant percentage of our
18 lawyers who practice criminal defense work are
19 not African-American, that it could not hurt this
20 judicial community to have someone who has an
21 experience in the court processes assisting young
22 African males, as he described to me is what he
23 was doing; assisting young African males in
24 understanding the court process.

25 Q. And did that change over time, Your

1 Honor?

2 MR. DUFF: Object.

3 A. Not over time --

4 CHAIRMAN KRAUS: Well --

5 MR. DUFF: Object.

6 A. Just -- I'm sorry. I spoke too soon.

7 MR. DUFF: Object.

8 CHAIRMAN KRAUS: No, no. Overruled,
9 but we're going to bring an end to this.

10 MR. DUFF: I hope so.

11 A. It changed probably August of last year.

12 Q. What changed it, Your Honor?

13 MR. DUFF: Object. Judge, haven't we
14 gone far enough, Your Honor, up there?

15 CHAIRMAN KRAUS: One more question
16 and answer. Overruled.

17 MR. DUFF: Oh --

18 A. Because an individual, who was in my
19 courtroom, who was by the name of Kareem Tucker,
20 who was not -- who was resisting his lawyer's
21 advice, started to make certain statements on the
22 court record with regard to his ethnic background
23 and his ability to avoid the responsibilities of
24 criminal acts in the county, and prior to him
25 making those statements, he was seated next to

1 Mr. Zubaidah in the courtroom.

2 Q. Thank you, Your Honor.

3 MR. COOK: No further questions.

4 CHAIRMAN KRAUS: Anything else,

5 Mr. Duff.

6 RECROSS-EXAMINATION

7 BY MR. DUFF:

8 Q. You don't know what was said between those
9 individuals?

10 A. I have no idea. They were in the back
11 row.

12 Q. Nothing --

13 CHAIRMAN KRAUS: Thank you, Judge.

14 MR. DUFF: Wait a minute. Hold on.

15 BY MR. DUFF:

16 Q. Judge, wasn't Kareem -- who was Kareem's
17 lawyer?

18 A. Kareem's lawyer at the time was Michael
19 Stepanik from Jack Bradley's office.

20 Q. All right. Wasn't he sitting with his
21 lawyer and not Mr. -- not the King?

22 A. During the hearing, he sat -- well, you
23 know, at the time, Mr. Stepanik had a Motion to
24 Withdraw as counsel.

25 I'll just say this: During the morning

1 session, Mr. Tucker and Mr. Zubaidah were sitting
2 next to each other in the back row. When they
3 called the case, Mr. Tucker came up, and he
4 either stood next to Mr. Stepanik in front of my
5 bailiff's -- my court reporter's location or they
6 were at the trial table. I'm not sure which.
7 And my recollection, I really can't tell you,
8 but --

9 Q. He never said he was representing that
10 individual, did he? To you.

11 A. Did Mr. Zubaidah?

12 Q. Yeah.

13 A. Oh, no, no. I don't think I've talked to
14 this gentleman in years.

15 Q. On that Tucker case --

16 A. Yes.

17 Q. -- handing you what's been marked as
18 Plaintiff's Exhibit 20, a letter of
19 introduction. Did you get one of those letters
20 on the Tucker case?

21 A. I did not.

22 Q. All right. Judge, you spoke earlier about
23 you welcomed and you embraced, and you said a
24 significant -- well, the truth of the matter is,
25 our Bar, as it's composed right now, the criminal

1 defense Bar in this county, has one black lawyer,
2 Anthony Baker? Because Attorney Smith, who was
3 here, left. He's relocated to California. Is
4 that correct? Is that your understanding?

5 A. Well, the Lorain County Bar Association --
6 that may be correct. I have other African-
7 American lawyers who come in and represent
8 Defendants, but they usually are from Cuyahoga
9 County.

10 Q. Right.

11 I'm talking, the court-appointed Bar of
12 Lorain County is constituted with one black
13 lawyer; is that correct?

14 A. I think that may be correct.

15 Q. All right. So you welcomed and you
16 thought he was going to act like -- as a civil
17 rights advocate, community activist or --
18 activist or maybe a court watchdog, and you
19 thought that was a good idea, correct?

20 A. I disagree with the first two comments,
21 but the court watchdog, yeah.

22 Q. Community activist, you've got a problem
23 with?

24 A. I -- I didn't --

25 Q. Think he was --

1 A. He didn't portray himself as a community
2 activist. He just --

3 Q. Or a civil rights advocate?

4 A. No. Never was portrayed to me. You've
5 talked about that, but I've never --

6 Q. All right.

7 A. He's never talked to me about that.

8 Q. That would be fine with you, right?

9 A. Civil rights activist? Yeah, absolutely.

10 Q. Yeah.

11 A. Yeah.

12 Q. And a court watchdog.

13 And along that line, Judge, the truth of
14 the matter is, he's ruffled the feathers of some
15 judges in this building, including you, correct?

16 MR. COOK: Objection.

17 A. No.

18 CHAIRMAN KRAUS: Overruled.

19 Q. Judge --

20 A. Well, wait a minute. I -- I can tell
21 you -- you added me.

22 Q. I'm sorry?

23 A. He's not ruffled my feathers. I don't
24 think we've ever had a problem in our lives.

25 Q. All right.

1 A. I can't speak to the other judges.

2 Q. Okay. You've heard talk that he's ruffled
3 people's feathers in this building?

4 A. You know, that's not the way they
5 portrayed it to me.

6 Q. He's ruffled the feathers of some court-
7 appointed lawyers, correct? You've heard that,
8 Judge?

9 A. I -- I've got to -- never the term
10 "ruffled the feathers," and I --

11 Q. All right. What --

12 A. For me to be able to answer it, I need to
13 have a better understanding of it. Are there
14 some lawyers who are disappointed in what their
15 clients have done after consulting with him?
16 Absolutely. Are there some judges unhappy with
17 what defendants have done after meeting with
18 him? Absolutely. No question about it.

19 Q. And you're one of those?

20 A. I -- am I disappointed in his involvement
21 in any case in my court?

22 Q. The Tucker case.

23 A. In particular, the Tucker case? Yes.

24 Q. And other than sitting in your courtroom
25 watching the Tucker case and perhaps whispering

1 in a gentleman's ear in the back of the courtroom
2 when the case wasn't on your docket -- wasn't in
3 session, he's done nothing else to lead you to
4 believe that he had any involvement in that case,
5 correct, Your Honor?

6 A. It's actually been two occasions that he
7 was with Mr. Tucker in my courtroom at different
8 pretrials. And I'm trying to think of anything
9 else. He sat through the Tucker trial, for most
10 of the Tucker trial, at trial, on the defendant's
11 side. And his son was also there.

12 Q. There's nothing inappropriate about that?

13 A. I don't know if the son was communicating
14 information to Mr. Tucker at the county jail.
15 That would obviously be a --

16 Q. But that's speculation, right?

17 A. I don't know. I'm assuming they have a
18 guest list, as to whether King --

19 Q. You have no evidence that he participated
20 in that in any way?

21 A. In any communication between his son and
22 the -- and Mr. Tucker? No. I don't have any
23 evidence it ever happened.

24 Q. He's kind of upset the apple cart in the
25 courthouse for the last three or four years?

1 MR. COOK: Objection.

2 CHAIRMAN KRAUS: Overruled.

3 BY MR. DUFF:

4 Q. You know what I'm saying, Judge?

5 A. You know, I wouldn't agree with that
6 characterization.

7 Q. How would you characterize it?

8 A. I would characterize it that some of the
9 individuals who have consulted with him have made
10 very bad mistakes and bad decisions and,
11 ultimately, as a result of those bad decisions,
12 judges like myself have had to make very
13 difficult decisions, and we are not happy about
14 having to make those types of decisions.

15 Q. I understand that, Judge. But --

16 A. Some judges --

17 Q. Judge, I --

18 A. Some judges react to that more --

19 Q. Judge --

20 A. -- aggressively than I.

21 Q. -- I've known you for a long time. I'm
22 not going to say you gave Mr. Tucker that
23 sentence because of King. You gave that --
24 Mr. Tucker the sentence because, after trial, you
25 heard facts that you weren't -- you did not know

1 were involved in the case, correct?

2 A. That's part of it, yes.

3 Q. I mean, you don't base your decision on
4 giving Mr. Tucker a lengthy sentence because he
5 talked to the King?

6 A. Oh, absolutely not.

7 Q. You wouldn't do that?

8 A. Wouldn't do it.

9 Q. I agree. I agree.

10 So Mr. Tucker took the risk of you
11 learning the ugly parts of his case by going to
12 trial; is that correct?

13 A. That's not the only reason I sentenced him
14 as long as I did, but that was a significant
15 portion of it, yes.

16 Q. And you're not offering any evidence here
17 that the King practiced law -- the unauthorized
18 practice of law in the Tucker case, are you?
19 You're not saying that, Judge?

20 A. I've already told you the contact that
21 I've had --

22 Q. And that's it?

23 A. -- with Mr. Zubaidah with regard to the
24 Tucker case. I've had no other contacts with
25 him, to my recollection.

1 STATE OF OHIO)
2) ss:
3 COUNTY OF LORAIN.)

4 CERTIFICATE

5 I, Laurel M. Keller, RPR, and Notary Public
6 within and for the State of Ohio, duly commissioned
7 and qualified, hereby certify that before the giving
8 of their testimony, all witnesses were first duly
9 sworn to testify to the truth, the whole truth, and
10 nothing but the truth in the case aforesaid and that
11 the testimony was taken by me by means of stenotype in
12 the presence of said witnesses.

13 I further certify that said hearing was held
14 at the time and place specified in the above caption
15 and was concluded on the 15th day of May 2012.

16 Further, I certify that I am not a relative,
17 counsel, or attorney at law for any party to this
18 suit, nor am I interested in the event of same.

19 IN WITNESS WHEREOF, I have hereunto set my
20 hand and affixed my seal of office at Wellington, Ohio
21 this 30th day of May 2012.

22
23
24
25

Laurel M. Keller, RPR
Registered Professional Reporter
and Notary Public within and for
the State of Ohio.
My commission expires 12/11/15.