

**IN THE  
SUPREME COURT OF OHIO**

<b>ANTHONY J. DENOMA</b>	:	NO. 2012-1073
Plaintiff-Appellant	:	On Appeal from the Hamilton County Court of Appeals, First Appellate District
vs.	:	
<b>JOSEPH T. DETERS, ET AL.</b>	:	Court of Appeals Case Number C-110616
Defendants-Appellees	:	

**APPELLEES' MEMORANDUM IN OPPOSITION TO JURISDICTION**

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PLAINTIFF-APPELLANT

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**TABLE OF CONTENTS**

	<b><u>PAGE</u></b>
EXPLANATION OF WHY THIS CASE IS NOT A CASE OF PUBLIC OR GREAT GENERAL INTEREST AND DOES NOT INVOLVE A SUBSTANTIAL CONSTITUTIONAL QUESTION.....	1
STATEMENT OF THE CASE AND FACTS .....	1
ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW.....	3
Proposition of Law No. 1: Political-subdivision employees are generally immune from liability unless their acts or omissions are “manifestly outside the scope of the employee’s employment or official responsibilities.” .....	3
Proposition of Law No. 2: Prosecutors are entitled to absolute immunity for conduct associated with the judicial phase of the criminal process. ....	3
Proposition of Law No. 3: It is proper for a trial court to dismiss a complaint where the plaintiff can prove no set of facts entitling him to relief.....	4
CONCLUSION.....	5
PROOF OF SERVICE.....	6

**EXPLANATION OF WHY THIS CASE IS NOT A CASE OF PUBLIC OR GREAT GENERAL INTEREST AND DOES NOT INVOLVE A SUBSTANTIAL CONSTITUTIONAL QUESTION**

Anthony DeNoma is imprisoned for raping his child. This case does not involve any violation of DeNoma's Constitutional rights. The First District Court of Appeals properly decided the case by applying established case law, and the facts and issues raised here do not present a case of public or great general interest. For these reasons, this Court should deny jurisdiction.

**STATEMENT OF THE CASE AND FACTS**

**Procedural Posture:**

This case involves a Complaint filed in the Hamilton County Court of Common Pleas alleging that Hamilton County Prosecutor Joseph T. Deters, Assistant Prosecuting Attorneys Patrick X. Dressing and Paula Adams, Hamilton County Sheriff Simon L. Leis, a multitude of other County Elected Officials and Employees<sup>1</sup>, and the State of Ohio engaged in malicious prosecution, libel, fraud, corrupt activity, and violated DeNoma's civil rights. DeNoma initiated this civil action in Hamilton County Common Pleas Court on February 3, 2010.<sup>2</sup> County Defendants were served with the complaint on January 29-31, 2011.<sup>3</sup> County Defendants' Motion to Dismiss was filed on February 24, 2011.<sup>4</sup> The Trial Court granted the Motion to Dismiss on September 6, 2011.<sup>5</sup> DeNoma filed his Notice of Appeal on October 3, 2011.<sup>6</sup> The

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<sup>1</sup> This multitude of assorted County Elected Officials and Employees is not represented, as none of these individuals have been served with a copy of DeNoma's Complaint.

<sup>2</sup> T.d. 1

<sup>3</sup> T.d. 3-4

<sup>4</sup> T.d. 4

<sup>5</sup> Id.

<sup>6</sup> Id.

Court of Appeals entered their judgment on May 16, 2012, affirming the judgment of the trial court.<sup>7</sup> This appeal followed.

**Facts:**

DeNoma is a prisoner, serving 10 to 25 years in the State Correctional System after having plead guilty to the offenses of rape and felonious sexual penetration of his offspring on April 6, 1995. In early 2008, Appellant sought to contest his administrative reclassification as a Tier III Sex Offender as a result of the Adam Walsh Child Protection Act of 2006. Appellant filed his petition in Hamilton County Common Pleas Court.<sup>8</sup> At the trial level, Common Pleas Judge Ralph E. Winkler adjudicated DeNoma as a Sexually Oriented Offender and granted him relief from community notification requirements. DeNoma chose to appeal this ruling. At the Court of Appeals, the Court dismissed his appeal because under *State v. Christian*, 10th Dist. No. 08AP-170, 2008-Ohio-6304, the trial judge gave him all relief to which he was entitled.<sup>9</sup> DeNoma's further appeals to the Supreme Court were not heard.<sup>10</sup>

Appellant filed a similar petition in the Ross County Court of Common Pleas. Appellant's petition was dismissed for being out of time, specifically, Appellant filed well after the 60 days he could petition under R.C. 2950.032(E). The Ross County Court of Appeals upheld the dismissal of Appellant's petition.<sup>11</sup>

Independent of Appellant's legal actions, the Ohio Supreme Court, in *State v. Bodyke* (2010), 126 Ohio St. 3d 266, 933 N.E.2d 753, stated the administrative reclassification of sex offenders under the Adam Walsh Act was an unconstitutional violation of the separation of powers. By operation of law, Appellant was classified as a sexually oriented offender.

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<sup>7</sup> *DeNoma v. Deters*, 1 Dist. No. C110616 (May 16, 2012)

<sup>8</sup> *State v. DeNoma*, 1 Dist. No. SP0800368 (Jan.29, 2009)

<sup>9</sup> *State v. DeNoma*, 1 Dist. No. C081178 (Jan.29, 2009)

<sup>10</sup> *State v. DeNoma* (2009), 121 Ohio St.3d 1505, 2009-Ohio-2511, 907 N.E. 327

<sup>11</sup> *State v. DeNoma*, 4th Dist. No. 09CA3089, 2009-Ohio-6547, 2009 WL 4761561 (Dec. 8, 2009)

## ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW

**Proposition of Law No. 1: Political-subdivision employees are generally immune from liability unless their acts or omissions are “manifestly outside the scope of the employee’s employment or official responsibilities.”**

**Proposition of Law No. 2: Prosecutors are entitled to absolute immunity for conduct associated with the judicial phase of the criminal process.**

### **[ARGUED TOGETHER]**

R.C. 2744.03(A)(6) states that political-subdivision employees are generally immune from liability unless their acts or omissions are “manifestly outside the scope of the employee’s employment or official responsibilities.” Plaintiff has not presented any facts which could possibly defeat the R.C. 2744 immunity of the Defendants.

In addition, the Hamilton County Prosecutor, Mr. Deters and Assistant Prosecuting Attorneys Mr. Dressing and Ms. Adams are immune from liability under the doctrine of prosecutorial immunity. R.C. 2744.01(C)(2)(f) and R.C. 2744.03(A)(7). Absolute immunity defeats a lawsuit at the outset, so long as the actions are within the scope of the protection. *Imbler v. Pachtman* (1976), 424 U.S. 409, 419, fn. 13, 96 S.Ct. 984, 47 L.Ed.2d 128.

There can be no liability upon Mr. Deters, Mr. Dressing and Ms. Adams for the results of any adjudicatory or judicial hearing, including the conviction or sex offender classification of DeNoma. All allegations against Mr. Deters, Mr. Dressing and Ms. Adams as prosecutors, or that relate to the conduct of those hearings, the production of evidence, the prosecutorial or judicial conduct are absolutely immune from liability. As the unspecified damages of DeNoma relate only to Plaintiff’s 1995 conviction and ensuing sex offender classification hearings, DeNoma failed to state a claim upon which relief can be granted. Therefore, the trial court did not err in dismissing DeNoma’s claims.

**Proposition of Law No. 3: It is proper for a trial court to dismiss a complaint where the plaintiff can prove no set of facts entitling him to relief.**

To the extent that DeNoma's complaint is petitioning the trial court to contest his sexual offender classification and registration requirements, the Hamilton County Common Pleas Court does not have jurisdiction. Pursuant to R.C. 2950.031(E), a petition contesting reclassification and new registration requirements must be filed and the hearing held in the court of common pleas where the Petitioner resides or if the Petitioner does not reside in the State of Ohio in the court of common pleas of the county where the Petitioner has registered at a school or place of employment. Petitioner is currently an inmate in the Hocking Correctional Facility. Since the Petitioner currently does not reside in or is otherwise registered in Hamilton County the trial court lacks jurisdiction to hear Plaintiff's sexual offender classification and registration requirement claims.

The Supreme Court of Ohio has held that, "a valid, final judgment rendered upon the merits bars all subsequent actions based upon any claim arising out of the transaction or occurrence that was the subject matter of the previous action." *Grava v. Parkman Twp.*, 73 Ohio St. 3d 379, 382, 653 N.E.2d 226, 229 (1995). In this case, Plaintiff's claims regarding his sex offender classification have already been decided by the Ross County Court of Common Pleas<sup>12</sup>, Ross County Court of Appeals<sup>13</sup>, Hamilton County Common Pleas Court<sup>14</sup>, and Hamilton County Court of Appeals<sup>15</sup>. As a final judgment has been rendered, *res judicata* bars Plaintiff from raising the issue again. The trial court properly dismissed Plaintiff's Complaint as it was barred by the doctrine of *res judicata*.

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<sup>12</sup> *State v. DeNoma*, 4th Dist. No. 08CI000831

<sup>13</sup> *State v. DeNoma*, 4th Dist. No. 09CA3089, 2009-Ohio-6547, 2009 WL 4761561 (Dec. 8, 2009)

<sup>14</sup> *State v. DeNoma*, 1st Dist. No. SP0800368 (Jan.29, 2009)

<sup>15</sup> *State v. DeNoma*, 1st Dist. No. C081178 (Jan.29, 2009)

The claims related to DeNoma's sexual offender classification and registration requirements had been rendered moot by the Supreme Court of Ohio's decision in *Bodyke*. The Court held, "R.C. 2950.031 and 2950.032 violate the separation-of-powers doctrine by requiring the opening of final judgments." *Bodyke* at 281. By operation of law, DeNoma was classified as a sexually oriented offender, not a Tier III sex offender. As DeNoma's claims have been settled by the Supreme Court of Ohio, the trial court did not err in dismissing DeNoma's claims as moot.

Based on the above reasons and general lunacy of Plaintiff's complaint, Plaintiff can prove no set of facts entitling him to relief. See *O'Brien v. Univ. Community Tenants Union, Inc.* (1975), 42 Ohio St.2d 242, 327 N.E.2d 753.

### CONCLUSION

The trial court correctly ruled, and the court of appeals correctly affirmed that Plaintiff's complaint should be dismissed as the Defendants are immune and Plaintiff can prove no set of facts entitling him to relief. Because this case does present a case of public or great general interest, and because it does not raise a substantial constitutional claim, the state requests that this Court deny jurisdiction and dismiss the appeal.

Respectfully,

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**PROOF OF SERVICE**

I hereby certify that I have sent a copy of the foregoing Memorandum in Response, by United States mail, addressed to Anthony J .DeNoma, Inmate #308-836, PO Box 59, Hocking Correctional Facility, 16754 Snake Hollow Road, Nelsonville, Ohio 45764, *pro se*, this 3rd day of July, 2012.



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Assistant Prosecuting Attorney