

IN THE SUPREME COURT OF OHIO

Howard E. Martin, III
Appellant

V.

E. W. Scripps Company
Appellate,

12-1138

On Appeal from Hamilton
County Court Of Appeals,
First Appellate District

Court of Appeals
Case No.

MEMORANDUM IN SUPPORT OF JURISDICTION
OF APPELLANT HOWARD E. MARTIN, III

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JUL 05 2012
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SUPREME COURT OF OHIO

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(May 03. 2012)1

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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 cause presents three critical issues for the future of employees working in Ohio. (1)
Should our government develop protection clause against Neo-cheaters, this will be provisional
criteria for stricken Pro se briefs to promote a more balanced plexiform structure for justice?
(2) Why is the court of appeals continuing the abuse of the appellant’s by avoiding prosecution

of violators of their constitutional rights? (3) Where is the justice when the Citizens of Ohio Fifth Amendment constitutional rights are violated?

In this case, the court of appeals failed to provide Due Process for the appellant which is a violation of his constitutional rights. The Constitution states only one command twice. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states including Ohio. These words have as their central promise an assurance that all levels of American government must operate within the law ("legality") and provide fair procedures.

In this matter the Appellant did not receive notification from The First Appellate Court of Hamilton County of an extension until May 29, 2012 for appellant to file an amended brief in conformance with the rules of the court. Moreover, The First Appellate Court of Hamilton County entry striking appellant's brief on May 3, 2012 Transmute the Appellant's legal requirements. When a brief is stricken the new brief becomes the original non-amended brief. Therefore it does not have to meet the requirement of and amended document and it merits consideration. Hence, Appellant's May 10, 2012 brief is acceptable and merits the consideration of the Court of Appeals.

The Private Sector is doing fine when Companies can violate public policies and Ohio citizens become victims of their Odious Practices. The Private Sector is doing fine when we have to occupy the streets of America just to fight for a fair opportunity in the workplace. When we Al-'Alaq Al-Baiyina (Read The Clear Evidence) we can see the nefarious actions in policy that become destruction engines which will in turn develop constant harm toward the success for

the American People. How long must we continue to occupy for justice? State to state we work to empower ourselves with equality, freedom, liberty, and justice for all.

STATEMENT OF THE CASE AND FACTS

The case arises from the attempt of appellant Howard E. Martin, III to receive fair treatment at work. While employed at WCPO TV and subsidiary of the E. W. Scripps Company Howard E. Martin, III report to Joseph M. Martinelli Sr. Several times that Michael J. Pretot was creating a hostel work environment, and Joseph M. Martinelli Sr. ignored his concerns. For the eleven years that Howard E. Martin, III was employed by WCPO TV and subsidiary of the E. W. Scripps Company, He never received an evaluation of his work performance.

When Howard E. Martin, III contacted the EEOC ("Equal Employment Opportunity Commission") he was engaging in a protection activity. Terminating an employee for protection activity is obvious violations of "public policy". January 17, 2011 by slander, Joseph M. Martinelli, Sr. again retaliated against Howard E. Martin for reporting alleged unlawful conduct by the employer. Appeal No.: C-110262 As a result of Joseph M. Martinelli, Sr. mendacious the Appellant was incarcerated from January 17, 2011 to June 26, 2011 and sentenced to EMD for Five Years.

ASSIGNMENT OF ERROR

It is a constitutional right that all citizens receive due process of the law. Dismissing this case when it merits consideration is harmful to the appellant's quality of survival. The ability

and willingness to make moral judgments are necessary to make sound decisions and function effectively. Some of the traps and errors are those that the non-judgment advocates take out of context to support their harangues that moral judgments should be avoided. This Type of sciolism is not conducive for ones success in America. This is Actions that goes against the core values of the American people. The private sector is doing fine when we compare them to the millions of protesters who occupy across our nation. The wealthy Americans should be accountable when they have benefited the most from America's Debt.

In sum, this case puts in issue the fairness of the judicial process. They assume that they are correct because of the mysticism that is created from their traditional education. Most sciolist only have specialized knowledge to compensate they become neo-cheaters. This is a Typhoid Mary type disease that destroys progress. The action of neo-cheating destroys any efforts towards due process. Due process is a constitutional right of the American Citizens.

In support of his position on these issues, the appellant presents the following argument.

ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW

Proposition of Law No. I

The Equal Protection Clause, part of the Fourteenth Amendment to the United States Constitution.

The Equal Protection Clause, part of the Fourteenth Amendment to the United States Constitution, provides that "no state shall ... deny to any person within its jurisdiction the equal

protection of the laws." The Equal Protection Clause can be seen as an attempt to secure the promise of the United States' professed commitment to the proposition that "all men are created equal" by empowering the judiciary to enforce that principle against the states. The Fourteenth Amendment Equal Protection Clause applies only to state governments, but the requirement of equal protection has been read to apply to the federal government as a component of Fifth Amendment due process. The Equal Protection Clause can be seen as an attempt to secure the promise of the United States' professed commitment to the proposition that "all men are created equal". Joseph M. Martinelli, Sr. was retaliating against Mr. Howard E. Martin, III for contacting the EEOC ("Equal Employment Opportunity Commission") prior to his termination which is a violation of public policy.

Proposition of Law No. II:

Ohio Revised Code Section

2953.02 Review of judgments on appeal.

"A judgment or final order of the court of appeals involving a question arising under the Constitution of the United States or of this state may be appealed to the supreme court as a matter of right."

Proposition of Law No. III:

14th Amendment: XIV Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall

make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Proposition of Law No. IV:

Title VII of the Civil Rights Act of 1964 (Title VII)

This law makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate applicants' and employees' sincerely held religious practices, unless doing so would impose an undue hardship on the operation of the employer's business.

Proposition of Law No. V:

Statutes

R.C. 4112.02

(A) For any employer, because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any person, to discharge without just cause, to refuse to hire, or otherwise to discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment.

(B) For an employment agency or personnel placement service, because of race, color, religion, sex, military status, national origin, disability, age, or ancestry, to do any of the following:

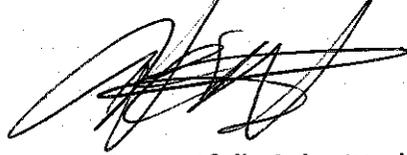
(1) Refuse or fail to accept, register, classify properly, or refer for employment, or otherwise discriminate against any person;

(2) Comply with a request from an employer for referral of applicants for employment if the request directly or indirectly indicates that the employer fails to comply with the provisions of sections 4112.01 to 4112.07 of the Revised Code.

The Appellant Contacted the EEOC to report the odious practices of The Management at WCPO TV and subsidiary of the E. W. Scripps Company in June 2008. The appellant was fired on July 15, 2008 after he had contacted the EEOC ("Equal Employment Opportunity Commission"). This is a violation of Title VII of the Civil Rights Act of 1964. That clear public policy existed and was manifested in a state or federal constitution, statute or administrative regulation, or in the common law.

CONCLUSION

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



Respectfully Submitted,

Howard E. Martin, III Pro se



Howard E. Martin, III Pro Se

APPELLANT

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 WCPO TV and subsidiary of the E. W. Scripps Company, M. Scott McIntyre, Baker & Hostetler LLP, 312 Walnut Street Suite 3200, Cincinnati, Ohio 45202-4074 on July 02, 2012.



Howard E. Martin, III Pro Se

APPELLANT

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

HOWARD MARTIN,

APPEAL NO. C-120064

Appellant,

vs.

ENTRY STRIKING
APPELLANT'S BRIEF

SCRIPPS HOWARD, et al.,

Appellee.

This cause came on to be considered upon the brief of the appellant filed on May 2, 2012.

The Court *sua sponte* strikes said brief for the following reason(s):

- the brief fails to recite the assignments of error [See Appellate Rule 16(A)]
- the brief does not have a copy of the final order appended to it [See Local Rule 16.1(A)(6)(a)]

The Court further orders that appellant shall have until May 21, 2012 to file an amended brief in conformance with the rules of this Court.

To The Clerk:

Enter upon the Journal of the Court on MAY - 3 2012 per order of the Court.

By: *William A. Hill* (Copies sent to all counsel)

Presiding Judge

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

HOWARD E. MARTIN, III,

Appellant,

vs.

APPEAL NO. C-120064
TRIAL NO. A-1109065

ENTRY OF DISMISSAL

SCRIPPS HOWARD, et al.,

Appellees .

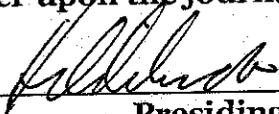
This cause came on to be considered upon the Court's entry of May 11, 2012 granting an extension until May 29, 2012 for appellant to file an amended brief in conformance with the rules of this Court.

The Court finds that appellant did not file an amended brief as ordered and *sua sponte* dismisses the appeal for failure of the appellant to comply with the Ohio Rules of Appellate Procedure to wit: the appellant's brief was not filed [See Appellate Rule 18(C)].

It is further ordered that a certified copy of this judgment shall constitute the mandate to the trial court pursuant to Rule 27, Ohio Rules of Appellate Procedure.

To the clerk:

Enter upon the journal of the court on JUN - 4 2012 per order of the court.

By: 

Presiding Judge

(Copies sent to all counsel)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Howard E. Martin, III
2233 Burnet Ave. # 3
Cincinnati, OH 45219

From: Cincinnati Area Office
John W. Peck Fed. Bldg
550 Main St Room 10-019
Cincinnati, OH 45202

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

473-2011-01250

Wyndell J. Smith,
Investigator Support Asst

(513) 684-2003

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

Other (briefly state)

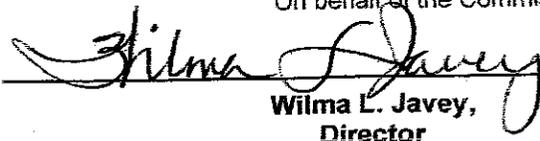
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission


Wilma L. Javey,
Director

10/5/11
(Date Mailed)

Enclosures(s)

cc: Marlene Stein
HR
WCPO TV CH9
1720 Gilbert Ave.
Cincinnati, OH 45202

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10 – not 12/1/10** – in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

FEPA
 EEOC

473-2011-01250

Ohio Civil Rights Commission

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Home Phone (Incl. Area Code)

Date of Birth

Mr. Howard E. Martin, III

(513) 721-4444

12-25-1972

Street Address

City, State and ZIP Code

EEOC, CINCINNATI AREA OFFICE

2233 Burnet Ave. # 3, Cincinnati, OH 45219

SEP 06 2011

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

RECEIVED

Name

No. Employees, Members

Phone No. (Include Area Code)

WCPO TV CH 9

201 - 500

(513) 852-4007

Street Address

City, State and ZIP Code

1720 Gilbert Ave., Cincinnati, OH 45202

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY GENETIC INFORMATION
 OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE
 Earliest Latest

07-15-2008

01-12-2011

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

1. On July 15, 2008, I was discharged from WCPO TV unjustly. Since my termination, I have tried to retrieve some of my belongings that were not returned. On January 12, 2011, Joseph Martinelli (Supervisor) retaliated against me by having me falsely imprisoned.
2. Joseph Martinelli (Supervisor) filed a telephone harassment complaint, which lead to my arrest and Imprisonment.
3. I believe I have been discriminated against based on my previous Equal Employment Opportunity Commission charge (#473-2008-01196) in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

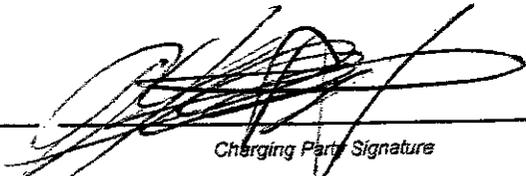
NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Sept 2, 2011
 Date



Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (month, day, year)