

No. 2013-0274

Original Action for Writ of Quo Warranto

In the Supreme Court of Ohio

STATE OF OHIO ex rel. TIMOTHY A. SWANSON

Relator,

v.

GEORGE T. MAIER

Respondent.

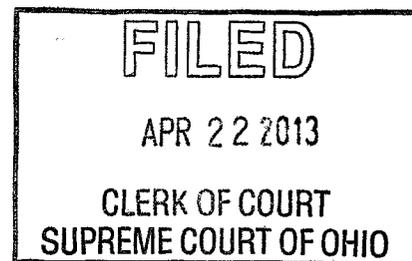
**RESPONDENT'S OBJECTIONS AND MOTIONS TO STRIKE TESTIMONY
SUBMITTED AS EVIDENCE**

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Testimony from Timothy A. Swanson, George T. Maier and Ronald J. Myers has been presented to the Court. During the taking of such testimony, Respondent objected or moved to strike certain testimony. The following are Respondent's objections and/or moves to strike raised during the testimony, for the Court's consideration:

TESTIMONY OF TIMOTHY A. SWANSON – APRIL 4, 2013

1. Page 40, lines 12 through 15 - Plaintiff moved to strike the testimony of Mr. Swanson on the basis of hearsay. Mr. Swanson answers in part:

I had questions in regard to that, and I was told that he doesn't find qualification, he just orders the background check.

2. Page 24, lines 14 through 16 - move to strike as hearsay is withdrawn by Respondent.

TESTIMONY OF GEORGE T. MAIER – APRIL 4, 2013

1. Page 28, line 7. Objection, because one cannot disregard the Application for Sheriff as argued by Relator.

2. Page 28, line 10 - same objection.

3. Page 28, line 15 – same objection.

4. Page 31, line 5 – objection withdrawn.

5. Page 31, line 10 – objection, Relator's counsel indicates that he obtained documents pursuant to a public record request from the Harrison County Sheriff and inquires as to why a resignation letter is not in the documents provided to him by the Harrison County Sheriff. Respondent Maier would have no knowledge as to why documents were or were not provided by the Harrison County Sheriff to Attorney Beck (Mr. Maier does acknowledge in his testimony (page 31, lines 13 through 14) that he sent the Sheriff of Harrison County a resignation letter).

6. Page 36, line 6 – objection, previously asked and answered and also a lack of foundation for what is meant by “relationship” as used in the question by Plaintiff’s counsel as to whether there is a “relationship” between an application for appointment to Stark County Sheriff as a job, or as Deputy Sheriff in Harrison County.

7. Page 36, line 9 – same objection and basis.

8. Page 36, lines 14 through 17 – objection, the same question has been asked for the third time.

9. Page 38, lines 13 through 14 – objection, the witness is being asked where the Sheriff from Harrison County obtained history without a foundation being laid as to whether the witness knows where the Sheriff from Harrison County obtained the history and if he does not, then it is speculative at best.

10. Page 42, lines 15 through 19 – objection withdrawn as Plaintiff’s counsel corrected his question as a result of the objection.

11. Page 43, line 13 – objection, asks witness to explain what the meaning is of references in a statute (Ohio Revised Code Section 311.01) which is improper testimony.

12. Page 50, line 8 - objection, asks witness to determine how many hours he would need to qualify under a statute (Ohio Revised Code Section 311.01(A)(9)(b)) which is not the subject of proper testimony.

13. Page 52, line 12 – objection withdrawn since the witness indicated he did not know the answer to the question presented.

14. Page 105, line 7 – objection, asks what the Administrative Judge of the Court of Common Pleas is doing on his (the Judge’s) report.

15. Page 109, line 8 – objection, argumentative by Plaintiff’s counsel.

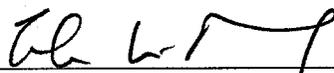
16. Page 109, line 19 – objection, argumentative by Plaintiff’s counsel.
17. Page 113, line 9 – objection, asks the witness for a legal conclusion as to whether or not his work for the Harrison County Sheriff qualifies under the statute as work performed as a Deputy Sheriff.
18. Page 113, line 15 – objection, same objection. Plaintiff’s counsel is asking the witness whether or not certain work performed as the Deputy Sheriff for Harrison County qualifies under the statute for credit as a Peace Officer to which, even the witness indicates that it is a legal question that he is not qualified to answer.
19. Page 113, line 23 – objection, argumentative.
20. Page 114, lines 1 through 3 – objection, argumentative and the question seems to be just a statement being made by Plaintiff’s counsel referring back to the question on page 113, lines 18 through 22 in which Plaintiff’s counsel states in part that “you want us to believe that the only reason you went down to take another full-time job is just to help out the Harrison County Sheriff’s Department, is that it?”
21. Page 114, line 15 – objection, speculative.
22. Page 114, line 20 – objection, irrelevant or speculative.
23. Page 114, lines 24 through 25 – objection, irrelevant and speculative.
24. Page 115, line 3 - objection, irrelevant and speculative.
25. Page 117, line 24 – objection, asks the witness if he understands that a Judge only speaks through his judgment entry which is irrelevant and calls for a legal conclusion.
26. Page 118, line 3 – objection, same question asked for a second time, calls for a legal conclusion.
27. Page 118, line 11 – objection withdrawn.

TESTIMONY OF RONALD J. MYERS – APRIL 5, 2013

1. Page 12, line 20 – leading, argumentative, no foundation.
2. Page 13, line 1 – objection, leading.
3. Page 13, line 19 – objection, leading.
4. Page 18, line 14 – objection, leading.
5. Page 21, line 3 – objection, leading.
6. Page 22, line 22 – objection, leading.
7. Page 24, line 19 – objection, leading.
8. Page 26, line 5 – objection, leading.
9. Page 27, line 10 – objection, leading.
10. Page 35, line 11 – objection, relevance. It is irrelevant as to whether or not the Sheriff of Harrison County is familiar with the process of notifying the Ohio Peace Officers Training Academy of the process for terminating a Deputy Sheriff.
11. Page 36 – lines 6 through 7 – objection, calls for a legal conclusion in that it asks the Sheriff of Harrison County as to whether or not a Deputy Sheriff can maintain two appointments.
12. Page 40, line 23 – objection, leading.
13. Page 41, line 1 – objection, leading.

It should be noted that in the testimony of Ronald J. Myers, objections are often listed in the transcript after the answer is given simply because the court reporter placed the objection after the answer even though the objection was made before or contemporaneously with the answer being provided.

Respectfully submitted,



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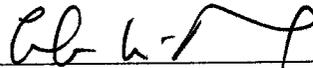
PROOF OF SERVICE

A copy of the foregoing was served this 22nd day of April, 2013, pursuant to Civ. R.

5(B)(2)(f), by e-mail to:

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