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CLERK OF COURT
SUPREME COURT OF OHIO

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE ex rel,
ROBERT HARSH

FILED
NOV 04 2013
CLERK OF COURT
SUPREME COURT OF OHIO

Case No. 2013-1561
originating action in mandamus

v.

ROBERT RINGLAND
ADMINISTRATIVE JUDGE
Respondent

MOTION TO STRIKE THE RESPONDENTS MOTION TO DISMISS FOR LACK OF SERVICE OF ALL DOCUMENTS AND EXHIBITS SUBMITTED TO THE COURT BUT NOT SERVED UPON RELATOR, PURSUANT TO CIVIL RULE 12 (F) and SANCTIONS AGAINST RESPONDENTS APPOINTED COUNSEL PURSUANT TO CIVIL R, 11 FRIVOLOUS CONDUCT* R.C. § 2323.51,**

I. PART ONE MOVE TO STRIKE MOTION TO DISMISS;

The Relator moves this court to strike the Respondents pleading of motion to dismiss for insufficiency of service upon Relator. As noted in the Respondents pleading of motion to dismiss pg. 1,2,3 they keep referencing their Respondents exhibits (A) but they never attached any kind of exhibits to the Relators copy of their pleading's .therefore it must be stricken from the record .

1 The Respondent is manifestly hiding these documents for good reason because the Relator has clearly been falsely imprisoned for seven years on a crime that carries no prison term i.e., (R.C § 2929.13(C)(1) misdemeanor O.V.I. Or even a first time felony four O.V.I. offender) and if the Relator did manage to get a copy of those exhibits or judgment entry he could file an appeal of right to the Ohio Supreme Court and show the world the severe , malicious mis carriage of justice and the corrupt illegal acts of some demonic state employee's

fn1As to the motion to strike, HN2Civ.R. 12(F) provides that on motion of a party, "the court may order stricken from any pleading any insufficient claim or defense or any redundant, immaterial, impertinent or scandalous matter.

The continuing jurisdiction of the court shall be invoked by motion filed in the original action, notice of which shall be served in the manner provided for the service of process under Civ.R. 4 to 4.6." HN4

Civ.R. 4(A) requires that process be served directly upon the party. Rather than serving only a partial piece meal part of the motion upon the opposing party a trial court lacks jurisdiction over a motion that is not personally served with all the documents submitted to the court served up[on the opposing party]. Szymczak v. Szymczak (2000), 136 Ohio App.3d 706, 737 N.E.2d 980; Carson v. Carson (May 1, 1989), 62 Ohio App. 3d 670, 577 N.E.2d 391; Hansen v. Hansen (1985), 21 Ohio App.3d 216, at 218, 21 Ohio B. 231, 486 N.E.2d 1252.

II. PART TWO MOVE FOR SANCTIONS AGAINST THE RESPONDENTS APPOINTED COUNSEL FOR FRIVOLOUS CONDUCT AND MISREPRESENTATIONS OF THE FACTS TO THE HIGH COURT;

Now come the Relator and moves for sanctions against the Respondents appointed counsel I.e., (ERIN BUTCHER LYDEN, DARLENE PETTIT) for fraud upon the court, misrepresentation of facts to the court and frivolous insufficient service of all documents to the Relator.

- ☉ First ,the nescient attorneys misrepresentation of facts in failing to serve all documents and exhibits submitted to the court upon the Relator and lying to the court stating they were served upon Relator on OCTOBER 24,2013 The nescient attorneys referencing exhibit (A) and not providing the Relator with any exhibits. The Relator original writ was just for claiming no service of the judgment entry which is now again clearly what the attorneys are keeping from me in failing to provide me the exhibit.
- ☉ Second the nescient attorneys are indulged in misrepresentation of facts to the court in their motion to dismiss file October 24,2013 they stated in pg 1 , section II STATE OF FACTS , that the Relator was convicted of by jury of a felony of the fourth degree O.V.I. This is clearly a lie as the jury verdict form was attached to the complaint see (appendix pg 5) and pursuant to Ohio Statue O.R.C. 2945.75 (A)(2) the jury verdict form clearly states (misdemeanor in the least degree O.V.I.) as such this is clearly misrepresentation of the facts.
- ☉ Third the nescient attorneys are stating the Respondent does not have any duty to order the clerk to serve upon the opposing party a certified journalized judgment entry as this is clearly contrary to civil rules of procedure Civ R, 58 (b) ,App R ,22 and Ohio Supreme court precedent. Again misrepresentation of the facts of law.

As such sanctions are clearly warranted in this case subjudice.

Frivolous conduct is defined to include " *** factual contentions that are not warranted by the evidence." R.C. 2323.51(A)(2)(a)(iv). llows a trial court to award attorney fees to any party adversely affected by frivolous conduct. That conduct is frivolous if it is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law. Ohio Rev. Code Ann. § 2323.51(A)(2)(a)(ii). More Like This Headnote Ohio Rev. Code Ann. § 2323.51(B)(1)

an attorney who knowingly acquiesces in the active misrepresentation of facts by his or her co-counsel to a court, without clarifying that misrepresentation to a court, can likewise be found to have engaged in frivolous conduct. More Like This Headnote

; Sigmon v. Southwest Gen. Health Ctr., 8th Dist. Cuyahoga No. 88276, 2007 Ohio 2117, ¶ 19 [**23] (affirming imposition of **sanctions against an attorney for frivolous conduct** in filing a claim); Judd v. Meszaroz, 10th Dist. Franklin No. 10AP-1189, 2011 Ohio 4983, ¶ 18 (involving a property dispute and a related motion for sanctions against the attorneys).

Shields v. City of Englewood, C.A. CASE NO. 21733, COURT OF APPEALS OF OHIO, SECOND APPELLATE DISTRICT, MONTGOMERY COUNTY, 172 Ohio App. 3d 620; 2007-Ohio-3165; 876 N.E.2d 972; 2007 Ohio App. LEXIS 2905, June 22, 2007, Rendered

WHEREFORE the relator so prayed for relief;

1. The writ of mandamus is granted and the Relator is finally supplied a copy of the journalized judgment entry of which he has been so maliciously denied.
2. The Respondents are sanctioned for fraud upon the court and the Relator.
3. The Relator is supplied copies of any and all exhibits submitted to the court , and the respondents motion to dismiss is stickend from the record for insufficient service.

Respectfully submitted ;

Robert Harsh

Robert Harsh (00547305)

CERTIFICATE OF SERVICE

Robert Ringland

4. 1001 Reinartz

Middleton OH
45042

sent thru U.S. MAIL 10/29/13

Robert Harsh
(00547305)

PO Box 69

LONDON OH

43140

*Clerk of Court

A time stamped copy Requested "PLEASE" @

EXHIBIT 1
MR HARSH JURY VERDICT
FORM

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO

Plaintiff

vs.

ROBERT HARSH

Defendant

CASE NO: CROB 03 0500

(Judge Patricia S. Oney)

VERDICT - COUNT ONE

We, the jury, being first duly impaneled and sworn, find the Defendant,
Robert T. Harsh, (*) Guilty of operating a motor vehicle
under the influence on or about the 11th day of February, 2005

(*) Insert "Guilty" or "Not guilty," according to your findings.

- | | |
|----------------------------|---------------------------|
| 1. <u>Steph J Sullivan</u> | 7. <u>David Chalk</u> |
| 2. <u>Steve Hartman</u> | 8. <u>John Best</u> |
| 3. <u>Barbara Simard</u> | 9. <u>Diane Sparks</u> |
| 4. <u>Juliana Stewart</u> | 10. <u>Cheryl Adams</u> |
| 5. <u>Kathleen Switzer</u> | 11. <u>Angie Thompson</u> |
| 6. <u>Bob How</u> | 12. <u>Keith W. Small</u> |

Dated this 24th day of January, 2007.

ENTER

Patricia Oney, Judge

See P.A.G. 04-3629

RC 2945.75.(A)(2)
MISDEMEANOR JURY VERDICT

(10A) FACIALLY VOID JUDGMENT

Judge ONEY

You NEED to Report what DAVID L KASH did to ME in

SEE... STATE OF OHIO Vs Robert Harsh CR-2006-03-0500 +

SEE... STATE OF OHIO Vs Robert Harsh CA 2007-03-083

TELL THEM I... (NEW PROSECUTOR MICHAEL GOSMER) I

WAS ALSO CONVICTED OF A CRIME NEVER SHOWN TO THE JURY; Multi Felony offender SPECIFICATION RC 2941.1413

TELL HIM I DO NOT EVEN HAVE A FELONY, OF ANY KIND, ALSO TELL HIM I WAS NEVER INDICTED FOR THIS SPECIFICATION EITHER OF THEM R.C. 2941.1413 OR R.C. 2941.1416. TELL HIM MY CONVICTION IS UNLAWFUL AND ASK HIM SHOULD I FILE CRIMINAL COMPLAINTS

SEE...

AS WELL? "THANKS FOR YOUR HELP" ALSO TELL HIM ABOUT THE FAKE BUT THEY LIED ABOUT, "THAT I NEVER HAD"

SEEN IN:

CINCINNATI ENQUIRER

HAMILTON JOURNAL NEWS.

1 of 20 ARTICLES

Assistant county prosecutor Phillabaum fired, subpoenaed

By Lauren Paetz Staff Writer



Michael Gosmer

HAMILTON — Jason Phillabaum has lost his job as Butler County assistant prosecutor and been subpoenaed to appear in court today to answer questions about a grand jury indictment that may have been altered.

Michael Gosmer, the county's newly appointed prosecutor, filed a motion Monday in the case of Tyree Johnson, stating the firearms specifications in his indictment were added without presentation to — and a vote by — a grand jury.

Altering an indictment or prosecuting a case on charges that were not considered by a grand jury could result in criminal charges, according to officials.

Johnson's case was assigned to Phillabaum and is to be tried before Butler County Common Pleas Judge Michael Sage. On Tuesday, a subpoena was sent to Phillabaum. It is unclear whether Phillabaum was the prosecutor who presented the Johnson case

to the grand jury. News of the subpoena and of Phillabaum's firing surfaced Wednesday.

Gosmer was elected Tuesday night by Butler County Republican Party Central Committee to fill the unexpired term of former Prosecutor Robin Piper, who is now a 12th District Court of Appeals judge.

Phillabaum had run against Gosmer, who tallied 118 out of possible 235 votes.

Within hours of his appointment, Gosmer had terminated Phillabaum and replaced him with another losing candidate for the prosecutor's post, Lance Salyers.

Salyers, a former assistant county prosecutor, resigned late last year after accusing Phillabaum of plagiarism. Gosmer said he hired Salyers Tuesday night, noting he believed the Monroe resident had integrity and talent.

"That is from my own experience as both a defense attorney 35

and prosecutor. He has won my admiration," Gosmer said.

Gosmer added he gave Phillabaum, who campaigned for more than a year to be prosecutor, a chance to resign or be terminated. Phillabaum, who remained on vacation through Wednesday, did not resign. Gosmer said Phillabaum would receive his letter of termination today.

"I thought it was best for the prosecutor's office to eliminate the tension that would be inevitable," Gosmer said. "I did wish him well."

Phillabaum said Wednesday, "Many doors will open when another one closes."

He had no comment about the subpoena or the grand jury issue.

Johnson, 17, who is being tried as an adult, is facing three counts of felonious assault and two counts of aggravated robbery for a shooting that occurred Oct. 3 in Hamilton. Each charge currently includes a gun specification that would add an automatic three additional years for each charge if his is found guilty.

Remember They LIED SAID THE WAS @ THE CRIME LA

EXHIBIT E



MIKE DEWINE

OHIO ATTORNEY GENERAL

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Columbus, Ohio 43215
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October 24, 2013

Robert Harsh, #547-305
London Correctional Institution
P. O. Box 69
London, Ohio 43140

RE: *State ex rel. Harsh v. Ringland*
Ohio Supreme Court, Case No. 2013-1561

Dear Mr. Harsh,

Please find enclosed for your records a copy of *Motion to Dismiss of Respondents* filed on this date in the above referenced matter.

Very respectfully yours,

MIKE DEWINE
Ohio Attorney General

/s/ *Erin Butcher-Lyden* /clk

Erin Butcher-Lyden
Assistant Attorney General

/clk
Enclosures

NOTION TO STRIKE : CIVIL R. 12 (F) INSUFFICIENT PROCESS

- o There is NO EXHIBITS ATTACHED!
- o MEMORANDUM IN OPPOSITION TO RESPONDENT
- o MOTION TO DISMISS 6