

ORIGINAL

IN THE SUPREME COURT OF OHIO

FRANK RAY SHOOP	:	CASE NO. 2014 -0199
Appellant,	:	On Appeal From the
v.	:	Hancock County Court
STATE OF OHIO,	:	of Appeals, Third
Appellee.	:	Appellate District
	:	Court of Appeals
	:	Case No. 5-13-19

**MOTION BY APPELLEE, STATE OF OHIO, TO DECLARE
FRANK RAY SHOOP AS A VEXTACIOUS LITIGATOR**

Frank Ray Shoop, #253-298
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Plaintiff-Appellee,	:	On Appeal From the
v.	:	Hancock County Court
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Defendant-Appellant.	:	Appellate District
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**MOTION BY APPELLEE, STATE OF OHIO, TO DECLARE
FRANK RAY SHOOP AS A VEXTACIOUS LITIGATOR**

Now comes the Appellee, State of Ohio and moves this Court to declare Appellant, Frank R. Shoop to be a vexatious litigator pursuant to S.Ct.Prac. R. 4.03(B). Shoop has filed and continues to file frivolous motions and appeals that consume judicial resources and are little more than complaints about what Shoop believes the law of Ohio should be. Most recently he has used the appellate process to make contemptuous comments about members of the judiciary.

Additional reasoning is contained in the accompanying memorandum.

Respectfully submitted,



MARK C. MILLER (0055702)
Prosecuting Attorney
Hancock County, Ohio

MEMORANDUM

Appellant, Frank R. Shoop should be declared a vexatious litigator pursuant to S.Ct.Prac.R. 4.03(B). Shoop has filed numerous motions and appeals wherein he attempted to relitigate issues that are barred by res judicata. In the instant case where Shoop has filed a jurisdictional memorandum he attempts to obtain documents claiming they were not provided to him as part of his case in the trial court. For example, he has repeatedly sought items such as grand jury transcripts, his presentence report and trial juror information among others. He has previously sought these items in the trial court by filing motions for "Exchange of Exculpatory Evidence." These motions were denied as were the subsequent appeals.

This Court's docket reveals that, in addition to the instant case, Shoop has attempted to invoke the jurisdiction of this Court six (6) times since 1992 and has filed two original actions with this Court. Most recently, Shoop has utilized a tactic of filing affidavits of prejudice against the trial judge. All of this in addition to the many pleadings he continues to file in the lower courts.

In its decision denying Shoop's appeal on his request for public records, the appellate court noted the prolific nature of Shoop's various motions stating ". . . Shoop filed numerous post-conviction motions, all of which the trial court denied. We either affirmed the trial court's decisions or dismissed the appeals for lack of jurisdiction." See *State v. Shoop*, 3rd Dist. App. No. 5-13-19, (Dec. 23, 2013). The court of appeals continued by outlining all of Shoop's various appeals. For example, the court noted that after the appeal of his original conviction Shoop attempted to have his indictment dismissed for an alleged speedy trial violation. See *State v. Shoop* (June 8, 2004), 3rd Dist. No. 05-04-25, unreported (June 8, 2004). He then

filed a motion requesting DNA testing on evidence that no longer exists. This motion was denied and he appealed. See *State v. Shoop*, 3rd Dist. No. 05-05-11, unreported (Aug. 16, 2005). He next filed a motion to “Dismiss the Labeling process” which challenged the trial court’s ability to classify him as a sexual offender. See *State v. Shoop*, 3rd Dist. App. 05-06-16, unreported (April 26, 2006). He also filed motions claiming his conviction was void, challenging the trial court’s jurisdiction to conduct a trial on his indictment and requesting an exchange of exculpatory evidence. See *State v. Shoop*, 3rd Dist. No. 05-10-33, unreported (Nov. 23, 2010). Then he attempted to renew his challenge to the trial court’s jurisdiction which was denied and appealed. See *State v. Shoop*, 3rd Dist. No. 05-11-09, unreported (April 12, 2011). He again filed a motion for “an exchange of exculpatory evidence.” The trial court denied the motion. The subsequent appeal also failed. See *State v. Shoop*, 3rd Dist. No. 5-12-24, unreported (Aug. 14, 2012). The fact that Shoop believes that his motions and appeals were improperly decided, or that he failed to raise certain issues during his appeal, does not entitle him to continue to litigate matters that are res judicata. ¹

To further demonstrate the frivolous nature of Shoop’s motions the Court’s attention is directed to the Memorandum in Support of Jurisdiction Shoop filed in this appeal. In his memorandum, Shoop casts aspersions on various members of the judiciary. At page two of his memorandum he states:

*** I Do wonder if Court Administrator and Magistrate Gregory B. Miller is RELATED to Hancock County Prosecutor Mark C. Miller?? Appeal Court Judge Vernon Preston sat on the very Bench that Trial Court

¹ While the court of appeals declined to label appellant as vexatious it is noteworthy that there is no appellate rule that would allow an appellate court to make such a finding. The only avenues are S.Ct.Prac.R. 4.03 and R.C. 2323.52.

Prosecutor Robert Fry is NOW sitting at AND Hancock County Common Pleas Court Judge Reginald J. Routson was also a part of that Court. I was Informed that Appeal Court Judge Shaw is from Hancock County also. HOW can that NOT be PREJUDICIAL towards the Appellant?? (capitalization in original)

Shoop has also filed affidavits of disqualification against Judge Reginald Routson pursuant to R.C. 2701.03. His first affidavit was denied in part because he failed to identify what, if anything, was pending on the trial court's docket on which the judge needed to rule. See affidavit-of-disqualification case No. 13-AP-076. His most recent attempt to disqualify the trial judge was also denied because there was nothing pending on the docket. See affidavit-of-disqualification case No. 14-AP-008. The Chief Justice also noted that "even if Shoop had demonstrated that a motion was pending, he has not set forth sufficient grounds for disqualification. Judge Routson denies any familial relationship with Shoop, and Shoop has failed to substantiate this allegation. Shoop's vague and unsubstantiated allegation is therefore insufficient to establish bias or prejudice." *Id.*

Supreme Court Rule of Practice 4.03(B) sets forth that:

If a party habitually, persistently, and without reasonable cause engages in frivolous conduct under division (A) of this rule, the Supreme Court may, sua sponte or on motion by a party, find the party to be a vexatious litigator. If the Supreme Court determines that a party is a vexatious litigator under division (A) of this rule, the court may impose filing restrictions on the party. The restrictions may include prohibiting the party from continuing or instituting legal proceedings in the Supreme Court without first obtaining leave, prohibiting the filing of actions in the Supreme Court without the filing fee or security for costs required by S.Ct.Prac.R. 3.04 and 3.05, or any other restriction the Supreme Court considers just.

Shoop has more than availed himself of alternative remedies to redress his challenges to his indictment, jurisdiction of the trial court, right to a speedy trial, requests for discovery all to the point of burdening the resources of the prosecutor

and the courts. While some of his initial claims may have been valid, Shoop's repeated attempts to pursue meritless issues via numerous venues including several direct appeals and post-conviction proceedings, are unwarranted. Moreover, his attitude to the judiciary is wholly inappropriate. This Court should declare him a vexatious litigator and impose appropriate filing restrictions upon his future attempts to litigate these issues in the Ohio courts.

CONCLUSION

For the above reasons, this Court should declare Shoop to be a vexatious litigator and issue an order refuse to accept for filing any further pleadings by Shoop regarding these issues.

Respectfully submitted,



MARK C. MILLER (0055702)
Prosecuting Attorney
Hancock County

CERTIFICATE OF SERVICE

I, the undersigned, hereby acknowledge that a true and correct copy of the foregoing Memorandum not in Support of Jurisdiction has on this 5th day of March, 2014, been served upon Frank Ray Shoop, Defendant Appellee, Pro se, Inmate No. 253-298 at Marion Correctional Institution, P.O. Box 57, Marion, Ohio 43301-0057 by regular U.S. mail, postage pre-paid.



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