Supreme Court of Ohio Clerk of Court - Filed January 11, 2016 - Case No. 2015-0767

IN THE SUPREME COURT OF OHIO

MARCUS PRYOR II,	:	Case Nos. 2015-0767; 2015-0770
	:	
Appellee,	:	On Appeal from the
	:	Summit County
v.	:	Court of Appeals,
	:	Ninth Appellate District
DIRECTOR, OHIO DEPARTMENT OF	:	
JOB AND FAMILY Services,	:	Court of Appeals
	:	Case No. 27225
Appellant	:	

REQUEST OF AMICI CURIAE THE LEGAL AID SOCIETY OF CLEVELAND, THE LEGAL AID SOCIETY OF COLUMBUS, COMMUNITY LEGAL AID SERVICES, INC., SOUTHEASTERN OHIO LEGAL SERVICES, THE LEGAL AID SOCIETY OF SOUTHWEST OHIO, LLC, LEGAL AID OF WESTERN OHIO, INC., AND THE OHIO POVERTY LAW CENTER
TO PARTICIPATE IN ORAL ARGUMENT

Charles Cohara (0076387)
Southeastern Ohio Legal Services
964 E. State Street
Athens, OH 45701
740.594.3558 (phone)
740.594.3791 (facsimile)
Ccohara@oslsa.org

Julie Cortes (0083321)
The Legal Aid Society of Cleveland
1223 West Sixth Street
Cleveland, OH 44113
(216)861-5697 (phone)
(216)861-5694 (facsimile)
julie.cortes@lasclev.org

Lori K. Elliott (0014935)
Legal Aid Society of Southwest Ohio
10 Journal Square
Hamilton, Ohio 45011
513.362.2819 (phone)
513.894.7669 (facsimile)
lelliott@lscinti.org

Janet E. Hales (0058435)
Ohio Poverty Law Center
555 Buttles Avenue
Columbus, OH 43214
614.824.2501 (phone)
614. 221.7625 (facsimile)
jhales@ohiopovertylaw.org

Kathleen C. McGarvey (0076328)
The Legal Aid Society of Columbus
COUNSEL OF RECORD
1108 City Park Avenue
Columbus, OH 43206
614.224.8374 (phone)
614.224.4514 (facsimile)
kmcgarvey@columbuslegalaid.org

Julita L. Varner (0072096)
Legal Aid of Western Ohio
525 Jefferson Ave., Ste. 400
Toledo, Ohio 43604
419.930.2404 (phone)
419. 321.1582 (facsimile)
jvarner@lawolaw.org

Michelle Wrona Fox (0070425)
Attorney at Law
Community Legal Aid Services, Inc.
11 Federal Plaza Central, Suite 700
Youngstown , Ohio 44503-1589
330 983 2603
330 744 2503 (fax)
mwrona@communitylegalaid.org

The undersigned Amici Curiae (collectively "Amici")—The Legal Aid Society of Cleveland, The Legal Aid Society of Columbus, Community Legal Aid Services, Inc., Southeastern Ohio Legal Services, The Legal Aid Society of Southwest Ohio, Legal Aid of Western Ohio, Inc., and The Ohio Poverty Law Center, Pro Seniors, Inc.,—seek leave from the Court to participate in the oral argument scheduled for January 27, 2016. Supreme Court Practice Rule 17.06(A)(2) states as follows:

> If an amicus curiae wishes to participate in oral argument but either does not receive the consent of counsel for the side whose position the amicus curiae supports or does not expressly support the position of any parties to the case, the amicus curiae may seek leave from the Supreme Court to participate in oral argument, but such leave will be granted only in the most extraordinary circumstances.

The Amici have been unable to receive consent from pro se Appellee Marcus Pryor who wishes to use his full argument time. The Appellee's pro se representation and the focus of his arguments have created an "extraordinary" circumstance that justifies amicus participation in the oral argument.

The central issue in this case is what is needed to perfect an appeal of an unemployment compensation decision. Appellant argues that all interested parties must be listed on the Notice of Appeal and that without the listing of those parties, that the court lacks jurisdiction. Appellee, supported by the Ninth District, argues that "To perfect an appeal, only two things are required: the notice of appeal must be timely filed and it must identify the decision appealed." *Pryor v. Dir., Ohio Dept. of Job & Family Servs.*, 9th Dist. Summit No. 272225, 2015-Ohio-1255 at ¶11 (March 31, 2015).

Appellee Pryor did file his own Merit brief, however, Amici present an unique perspective on this issue. As noted in the Statement of Interest in the Amicus brief, Amici directly represent individual claimants in the unemployment compensation appeals

process. Further, for many years, Amici have been involved with monitoring unemployment compensation legislation and rule changes. As a result, Amici have information regarding the legislative history of the rule in question this case, as well as documentation regarding Defendant's changed notice practices. The Amici therefore seek to offer legal argument and analysis that are not available from any other source. If the Amici are not permitted to argue, the presentation of this case will be inherently imbalanced in favor of the position advocated by the Appellant.

Amici request only five minutes of argument time which will only add a small amount of time to the overall proceedings. The inconvenience of the small amount of additional time is greatly outweighed by the advantage of having counsel available to argue on Appellee's behalf. Our adversarial system of law is best served when both sides of an argument are fully aired, especially where, as here, the decision will affect hundreds of thousands of Ohioans. As the Court has stated, "it is a fundamental tenet of judicial review in Ohio that courts should decide cases on the merits." *DeHart v. Aetna Life Ins. Co.*, 69 Ohio St. 2d 189, 192, 431 N.E.2d 644 (1982); *see also, e.g., Perotti v. Ferguson*, 7 Ohio St. 3d 1, 3, 454 N.E.2d 951 (1983); *Maritime Manufacturers, Inc. v. Hi-Skipper Marina*, 70 Ohio St.2d 257, 260, 436 N.E.2d 1034 (1982). Given the extraordinary circumstance of the Appellee's pro se appearance and the import of the issues to be decided by the Court, the Amici respectfully request permission to be the oral argument on January 27, 2016.

Respectfully Submitted,

/s/ Kathleen C. McGarvey
Kathleen C. McGarvey (0076328)

COUNSEL OF RECORD
The Legal Aid Society of Columbus
1108 City Park Avenue
Columbus, OH 43206
614.224.8374 ext. 146 (phone)
614.224.4514 (facsimile)
kmcgarvey@columbuslegelaid.org

COUNSEL FOR AMICI CURIAE
OHIO LEGAL SERVICES PROGRAMS AND THE OHIO POVERTY LAW CENTER.

CERTIFICATE OF SERVICE

The following were served by ordinary U.S. Mail on January 11th, 2016:

APPELLEE

Marcus Pryor II
809 Mishler Road
Mogadore, Ohio 44260

COUNSEL FOR APPELLANT

Eric E. Murphy
State Solicitor
Stephen P. Carney
Deputy Solicitor
Susan M. Shefield
Assistant Attorney General
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
Columbus, OH 43215

Respectfully Submitted,

/s/ Kathleen C. McGarvey
Kathleen C. McGarvey (0076328)