

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION

Gregory T. Howard,

Plaintiff,

v.

Ohio State Supreme Court,

Defendant.

Case No. 05CVH-01-398

FILED COURT
CLERK OF COURTS
2006 JAN 11 AM 10:05

**NUNC PRO TUNC
FINAL JUDGMENT ENTRY AND ORDER**

This cause came before the court for consideration of Defendant Supreme Court of Ohio's Motion to Dismiss Plaintiff's Complaint and corresponding Counterclaim, seeking only to have Plaintiff declared a "vexatious litigator." The court, being fully advised, in a Decision rendered April 28, 2005, finds that the Supreme Court of Ohio's Motion to Dismiss and Counterclaim is **WELL-TAKEN** and is therefore **GRANTED** in its entirety.

Furthermore, pursuant to R.C. §2323.52, the State of Ohio has defended against the habitual and persistent vexatious conduct of Plaintiff Gregory T. Howard in various courts across the state. Thus, this Court hereby specifically finds that Howard is a "vexatious litigator" within the meaning of the statute, and intends that the prohibitions contained in R.C. §2323.52 shall operate to the fullest extent. Pursuant to R.C. §2323.52, Howard has repeatedly engaged in vexatious conduct in various civil actions he has brought, including but not limited to those against the Supreme Court of Ohio, as a pro se plaintiff. This Court finds that Howard's conduct has overwhelmingly not been warranted under existing law and has not been supported by a good-faith argument for an extension, modification, or reversal of existing law.

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MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

Therefore, it is hereby **ORDERED** that Howard is prohibited from doing any of the following without first obtaining leave of this Court to Proceed:

1. Howard shall not institute any legal proceeding, nor make any application, other than an application to this Court for leave to proceed under division (F) of R.C. §2323.52, in the Ohio Court of Claims, or in any county court of common pleas, municipal court, or other county court of Ohio.
2. Howard shall not continue in any legal proceeding that he has instituted in the Ohio Court of Claims, or in any court of common pleas, municipal court, or other county court of Ohio prior to the date of the Entry of this Order.
3. Howard shall not institute a legal proceeding in any court of appeals, or continue any legal proceeding already instituted in a court of appeals prior to entry of this order, other than an application for leave to proceed under division (F) of R.C. §2323.52.

Pursuant to R.C. §2323.52(E), this Order shall remain in force indefinitely.

Pursuant to R.C. §2323.52(F), only this Court may grant Howard leave for institution or continuance of, or making an application in, legal proceedings in the Ohio Court of Claims, or in any court of common pleas, municipal court, or any county court in Ohio. This court will only grant such leave if it is satisfied that the proceedings or application are not an abuse of process of the court in question, and that there are reasonable grounds for the proceeding or application. If leave is granted, it will be in the form of a written order by this Court. Pursuant to R.C. §2323.52(D)(3), only the relevant court of appeals may grant Howard leave to institute or continue an action in the relevant court of appeals.

Additionally, if Howard requests this Court to grant him leave to proceed as described in R.C. §2323.52(F), the period of time commencing with the filing with this Court of an application for the issuance of an order granting leave to proceed and ending with the issuance of

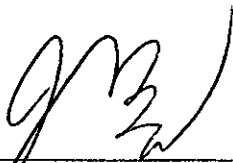
an order of that nature shall not be computed as part of an applicable period of limitations within which the legal proceedings or application involved generally must be instituted or made.

Pursuant to R.C. §2323.52(G), no appeal by Howard shall lie from a decision of this Court if this Court denies Howard, under R.C. §2323.52(F), leave for the institution or continuance of, or the making of an application in, legal proceedings in the Ohio Court of Claims or in any court of common pleas, municipal court, or county court in Ohio.

Pursuant to R.C. §2323.52(H), the Franklin County Common Pleas Clerk of Courts shall immediately send a certified copy of this order to the Ohio Supreme Court for publication in a manner that the Supreme Court determines is appropriate and that will facilitate the clerk of the Court of Claims and clerks of all courts of common pleas, municipal courts, or any county courts in Ohio in refusing to accept pleadings or other papers submitted for filing by Howard if he has failed to obtain leave under R.C. §2323.52(F) to proceed.

Pursuant to R.C. §2323.52(I), whenever it appears by suggestion of the parties or otherwise that Howard has instituted, continued, or made an application in legal proceedings without obtaining leave to proceed from this court, the court in which legal proceedings are pending shall immediately dismiss the proceeding or application of Howard.

IT IS SO ORDERED.



Judge John F. Bender

Submitted by:

/s/ _____
Rene L. Rimelspach (0073972)
Counsel for Defendant, Supreme Court of Ohio

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Judge John F. Bender

FILED IN COURT
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DECISION AND ENTRY
DENYING MOTION OF PLAINTIFF FOR LEAVE TO FILE
A MOTION TO VACATE THE COURT'S ENTRY OF 5/10/2005
Filed November 15, 2005.

And
DENYING MOTION FOR LEAVE TO FILE
AN ACTION AGAINST A SELF-INSURED EMPLOYER
Filed December 19, 2005

RENDERED THIS ____ DAY OF JANUARY 2006

BENDER, J.

Plaintiff's November 15, 2005 Motion

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SUPREME COURT OF OHIO

On November 15, 2005, Plaintiff Gregory T. Howard filed a motion for leave to file a motion to vacate the court's entry of May 10, 2005 and to reinstate the instant case. Contemporaneously, Plaintiff proceeded to file without leave his motion to vacate the court's May 10, 2005 entry.

This court's May 10, 2005 order declared Plaintiff to be a vexatious litigator, requiring him to apply to this court before instituting legal proceedings. Plaintiff's motion to vacate is based largely on his claim that the court's May 10, 2005 order is void because it is based on a statute which has been repealed. While it is true that the May

10, 2005 decision refers to various sections of R.C. 2323.54, and that R.C. 2323.54 has been repealed, the references to R.C. 2323.54 are clearly typographical errors, albeit repeated ones. The court's analysis precisely tracks the various sections of R.C. 2323.52. Accordingly, the court will issue a nunc pro tunc entry correcting these typographical errors.

This court "shall not grant a person found to be a vexatious litigator leave for the institution or continuance of, or the making of an application in, legal proceedings in the court of claims or in a court of common pleas, * * * unless the court of common pleas that entered that order is satisfied that the proceedings or application are not an abuse of process of the court in question and that there are reasonable grounds for the proceedings or application." Upon review, the court finds that there are not reasonable legal grounds for this motion. Accordingly, Plaintiff's motion for leave to file a motion to vacate the court's May 10, 2005 entry is overruled.

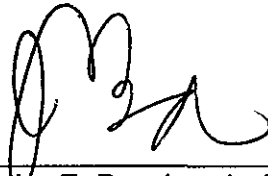
Plaintiff's December 19, 2005 Motion

In his December 19, 2005 motion, Plaintiff seeks leave to file an action against his former employer, claiming that his former employer "harassed" him in retaliation for filing a mandamus action in the Tenth District Court of Appeals, Case No. 97AP-860. Plaintiff submits a letter to him from the Bureau of Workers' Compensation, which Plaintiff claims supports his need to file another lawsuit.

Plaintiff states he seeks to file a claim pursuant to R.C. 4123.90. A claim pursuant to R.C. 4123.90 "shall be forever barred unless filed within one hundred eighty days immediately following the discharge, demotion, reassignment, or punitive action taken, and no action may be instituted or maintained unless the employer has received

written notice of a claimed violation of this paragraph within the ninety days immediately following the discharge, demotion, reassignment, or punitive action taken." Plaintiff's mandamus action was filed in 1997. Plaintiff has not alleged that he gave the required notice within 90 days of the allegedly retaliatory action, as he must before he can sue under the statute. Further, Plaintiff has not alleged that he sought to file the action within 180 days of the allegedly retaliatory action, as he must in order to sue under the statute. Plaintiff has not demonstrated there are reasonable grounds for his application to proceed. His application is therefore overruled.

SO ORDERED.



John F. Bender, Judge

Copies to:

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