

COPY

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COMMON PLEAS COURT
ERIE COUNTY, OHIO

2017 Feb-16 PM 4:34

Kevin J. Baxter,
Erie County Prosecuting Attorney
Plaintiff

vs

David Aaron
Defendant

: Case No. 2016-CV-0457

: Judge Roger E. Binette

: JUDGMENT ENTRY

:::

LUVADA S WILSON
CLERK OF COURTS

2016 CV 0457

Roger E Binette

This matter came before this Court on *Plaintiff's Renewed Motion For Summary Judgment* (filed on or about December 14, 2016).

This Court held in the attached Judgment Entry that Plaintiff was entitled to have Summary Judgment entered in his favor, declaring that David Aaron was a "Vexatious Litigator" pursuant to R.C. 2323.52.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendant David Aaron is hereby determined to be a Vexatious Litigator as defined in R.C. 2323.52 (A) (3).

IT IS FURTHER ORDERED that Defendant David Aaron be, and hereby is, prohibited from doing all of the following without first obtaining leave of this Court to proceed:

- (a) Institute any legal proceedings in the Court of Claims, in any Ohio Court of Common Pleas, Municipal Court or County Court;
- (b) Continue any legal proceedings that defendant had instituted in the Court of Claims, in any Ohio court of common pleas, municipal court or county court prior to the entry of this Order; and
- (c) Making any application, other than an application for leave to proceed under R.C. 2323.52 (F) in any legal proceeding instituted by the Defendant or another person in the Court of Claims, in any Ohio court of common pleas, municipal court or county court.

IT IS FURTHER ORDERED that this Order shall remain in force indefinitely and the Clerk of this Court shall send a certified copy of this Order to The Supreme Court of Ohio, pursuant to R.C. 2323.52 (H).

IT IS SO ORDERED.

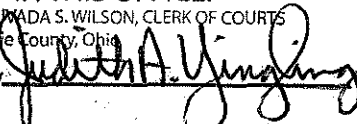
Praecipe:

The Clerk is ordered to serve the parties a copy of this Order both electronically and by certified mail.

I HEREBY CERTIFY THIS TO BE
A TRUE COPY OF THE ORIGINAL
FILED IN THIS OFFICE.

LUVADA S. WILSON, CLERK OF COURTS
Erie County, Ohio

By



Journalized 02/17/2017

/s/ ROGER E BINETTE, Judge

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Erie County Common Pleas Court Judge Binette

ATTACHED

E-FILED
COMMON PLEAS COURT
OHIO COUNTY, OHIO

2017 Feb-15 PM 3:03

Kevin J. Baxter, Erie County Prosecuting Attorney Plaintiff	:	Case No. 2016-CV-0457	LUVADA S WILSON CLERK OF COURTS
vs	:	Judge Roger E. Binette	2016 CV 0457
David Aaron Defendant	:	JUDGMENT ENTRY	Roger E Binette
	:		

This matter is before this Court on *Plaintiff's Renewed Motion For Summary Judgment* ("Renewed Motion For Summary Judgment") (filed on or about December 14, 2016.)

This Court has reviewed and considered the *Renewed Motion For Summary Judgment*; Defendant's *Memorandum* (filed on or about December 29, 2016); *Plaintiff's Reply To Defendant's Response To Plaintiff's Renewed Motion For Summary Judgment* (filed on or about December 29, 2016); the record and applicable law.

This Court **FINDS** and **HOLDS**:

1. Erie County Prosecuting Attorney, Kevin J. Baxter ("Plaintiff") brings this action against David Aaron ("Defendant") to have Defendant declared a "vexatious litigator";
2. Plaintiff alleges in part that Defendant has filed at least 34 civil actions against various Defendants since May 2015. Three (3) of those actions Defendant filed were against Erie County officials or employees Plaintiff's office was called upon to defend;
3. Summary Judgment may not be awarded unless the evidence demonstrates that: a) there is no genuine issue as to any material fact to be litigated; b) the moving party is entitled to judgment as a matter of law, and c) reasonable minds can come to but one conclusion, and after reviewing the evidence most strongly in favor of the non-moving party, that conclusion is adverse to the party against whom the motion for Summary Judgment is made. *Temple v. Wean United, Inc.* (1977), 50 Ohio St. 3d 317, 327; *Vahlia v. Hall* (1997), 77 Ohio St. 3d 421, 429-30. All inferences are to be drawn in the light most favorable to the non-moving party and any doubt is to be resolved in favor of the non-moving party. *Viock v. Stowe Woodard Co.* (1983), 12 Ohio App. 3d 7, 12;
4. R.C. 2323.52 provides the process for having a litigant declared a "vexatious litigator." R.C. 2323.52 (B) provides in relevant part:

A person, the office of the attorney general, or a prosecuting attorney, city, director of law, village solicitor... who has defended against habitual and persistent vexatious conduct in the court of claims or in a court of appeals, court of common pleas, municipal court, or county court may commence a civil action in a court of common pleas with jurisdiction over the person who allegedly engaged in the habitual and persistent vexatious conduct to have that person declared a vexatious litigator...;
5. "Vexatious Conduct" is defined as "conduct of a party in a civil action that satisfies any of the following... a) The conduct obviously serves merely to harass or maliciously injure another party to the civil action; b) The conduct is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law or c) The conduct is imposed solely for delay." R.C. 2323.52 (A) (2);
6. A "Vexatious Litigator" is "any person who has habitually, persistently and without reasonable grounds engaged in vexatious conduct in a civil action or actions, whether in the court of claims or in a court of appeals, court of common pleas, municipal court, or county court, whether the person or another person instituted the civil action or actions, and whether the vexatious conduct was against the same party or against different parties in the civil action or actions;"...

7. Plaintiff attached certified records from the office of the Erie County, Ohio Clerk of Courts of the Complaints and dispositions (Judgment Entries of Dismissal) in nine (9) cases: 1) 2016-CV-0252 – *David Aaron v. Tygh Tone*; 2) 2016-CV-0254 – *David Aaron v. Mary Aaron, et al.*; 3) 2016-CV-0331 – *David Aaron v. Erie County Clerk of Courts*; 4) 2016-CV-0022 – *David Aaron v. Squeaky Wheel Shuttle Service*; 5) 2016-CV-0226 – *David Aaron v. Chris Smith, et al.*; 6) 2016-CV-0319 – *David Aaron v. Provide A Ride*; 7) 2016-CV-0321 – *David Aaron v. Wal-Mart, et al.*; 8) 2016-CV-0334 – *David Aaron v. Fox 8 News Center, Dick Goddard and City of Cleveland* and 9) 2016-CV-0335 – *David Aaron v. Timothy Cardwell, Judge Huron Co. Juvenile Court, et al.*;
8. These are certified records of actual public Court filings, certified by one of the Clerks in the Erie County Clerk's Office. They are admissible in evidence as a public record. This Court is deeming these certified Court records as an Affidavit for purposes of Civ. R. 56 (c);
9. In Case No. 2016-CV-0252, Defendant sued Judge Tone alleging slander. On October 31, 2016, Judge Thomas Pokorny, sitting by assignment, DISMISSED the case, finding that there was no viable cause of action as a matter of law;
10. In Case No. 2016-CV-0254, Defendant sued Mary Aaron and Steven Alt (employees at the Erie County Department of Job and Family Services "ECDJFS"), Karen Balconi Ghezzi (the Director of ECDJFS) and Erie County Human Services. The allegation related to non-receipt of food stamp assistance. On August 23, 2016, this Court dismissed the case, finding it was a frivolous filing;
11. Defendant sued the Erie County Clerk of Courts in Case No. 2016-CV-0331, alleging papers had been altered as evidence. On October 31, 2016, Judge Pokorny (sitting by assignment) dismissed the action, holding the pleading was frivolous;
12. Defendant sued Squeaky Wheel Shuttle Service ("Squeaky Wheel") in Case No. 2016-CV-0022 alleging, in short, that cab service he had arranged was an hour late. On August 25, 2016, this Court granted Squeaky Wheel Summary Judgment on the merits of the claim; but denied Summary Judgment on the Counterclaim to have Defendant declared a "vexatious litigator" as Squeaky Wheel had failed to place any evidence of the other actions into the record;
13. In Case No. 2016-CV-0226, Defendant sued Chris Smith, The City of Sandusky and Kim Jones (lil Kim) claiming he had not received money, clothes, food, transportation, and housing he'd requested. On June 29, 2016, this Court dismissed the claims against The City of Sandusky with prejudice, and also dismissed the claims against Chris Smith and Kim Jones (lil Kim) without prejudice. (The allegations did not sufficiently address what relationship, if any, the named Defendants had with Mr. Aaron;)
14. Defendant sued Provide A Ride in Case No. 2016-CV-0319 claiming he was harassed and not provided a safe, reliable or trustworthy ride. On June 9, 2016, this Court dismissed the case without prejudice for failing to comply with a prior Court Order pursuant to Provide A Ride's *Motion For A More Definite Statement*;
15. In Case No. 2016-CV-0321, Defendant sued Wal Mart and (Attorney) Jan Roller in an unintelligible Complaint. This Court on May 20, 2016, Dismissed the case without prejudice pursuant to Civ. R. 12 (B) (6) and 12 (F);
16. Defendant sued Fox 8 News Center, Dick Goddard and the City of Cleveland for a comment Goddard made about a "niglet of nesting birds." On July 20, 2016, this Court Dismissed the claims with prejudice. The claims against the City of Cleveland were Dismissed sua sponte as there was no conceivable cause of action against the municipality;
17. In Case No. 2016-CV-0335, Defendant sued Judge Timothy Cardwell, Huron County, Huron County Child Support Enforcement and (Attorney) Beverly Newell, claiming a "fake case" and asking that a paternity case be re-examined. On October 31, 2016, Judge Pokorny (sitting by assignment) Dismissed the case on the basis there was no viable cause of action as a matter of law;

18. While not in the evidentiary record for Summary Judgment purposes, and thus not being considered here for such purposes, Mr. Aaron has in the past two (2) years, also sued utility companies over billing disputes; celebrities for doing/saying things Mr. Aaron found offensive; Attorneys for not accepting representation of him in various matters, and family members for not providing him with financial support;
19. Plaintiff has met his initial Summary Judgment burden here. Plaintiff has defended against habitual and persistent vexatious conduct by Mr. Aaron. Defendant has filed a number of civil actions in Erie Co. Common Pleas Court which were frivolous, not warranted by existing law and unsupportable by good faith argument for extension, modification or reversal of existing law. The above referenced nine (9) actions clearly show this, even without consideration of more than a score more which Defendant has filed in this Court;
20. Defendant has failed to point to any evidence to show the existence of a genuine issue of material fact. Therefore, Plaintiff is entitled to have Summary Judgment rendered in his favor.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED based on the foregoing, that *Plaintiff's Renewed Motion For Summary Judgment* (filed on or about December 14, 2016) is found well taken and **GRANTED**. This Court is simultaneously issuing a separate Judgment Entry declaring David Aaron a "Vexatious Litigator" and ordering that a Certified Copy be sent to the Clerk to The Supreme Court of Ohio pursuant to R.C. 2323.52.

IT IS SO ORDERED.

Journalized 02/15/2017	/s/ ROGER E BINETTE Judge <i>[Signature]</i> 2/15/17
E-FILED 2017 Feb 15 PM 3 03	Erie County Common Pleas Court Judge Binette