

NOV. 13 20 11

This is a true and correct copy of the original

IN THE COURT OF COMMON PLEAS
- GENERAL DIVISION -
TRUMBULL COUNTY, OHIO

KAREN INFANTE ALLEN
Clerk of Courts

By *ALLM*

CASE NUMBER: 2011 CV 2091

DENNIS WATKINS,
Trumbull County Prosecuting Attorney,

PLAINTIFF.

vs.

JUDGE W. WYATT MCKAY

ANTHONY CIOFFI, Jr.,

DEFENDANT.

JUDGMENT ENTRY

This matter comes before this Court on the non-oral hearing on all pending motions before this Court. Pending before this Court is the Motion for Summary Judgment filed by the Plaintiff, Dennis Watkins, in his official capacity as Trumbull County Prosecuting Attorney, and a Motion to Dismiss filed by the Defendant, Anthony Cioffi, Jr. The Court has reviewed the Motions and all Responses.

On November 17, 1995, the Defendant, Anthony Cioffi, Jr., was indicted on two counts of Gross Sexual Imposition, felonies of the third degree, in violation of R.C. 2907.05(A)(4), and one count of Kidnapping, an aggravated felony of the second degree, in violation of R.C. 2905.01(A)(2). See Trumbull C.P. Case No. 95-CR-696. While that case was pending, Cioffi was indicted for a second time on September 27, 1996. In that indictment, Cioffi was charged with three counts of Rape, aggravated felonies of the first degree (with life specifications), in violation of R.C. 2907.02(A)(1)(b)(2), and three counts of Gross Sexual Imposition, in violation of R.C. 2907.05(A)(4). See Trumbull C.P. Case No. 96-CR-599.

On December 3, 1996, Cioffi voluntarily, willingly and knowingly entered into a plea agreement covering both indictments. Cioffi then agreed to plead guilty to one count of Gross Sexual Imposition and one count of Kidnapping on the first indictment. Cioffi also agreed to plead guilty to three counts of Rape (without life specifications) and three counts of Gross

RECEIVED
CLERK OF COURT
SUPREME COURT OF OHIO
DEC 21 2011



2011 CV
02091
00065556350
0

Sexual Imposition on the second indictment. Cioffi was sentenced on December 6, 1996, to an aggregate term of 10 to 25 years imprisonment.

In 2001, Cioffi filed a motion to set aside his conviction. Following a hearing, the Court denied his motion and this denial was appealed to the Eleventh District Court of Appeals. *State v. Cioffi*, 11th Dist. Nos. 2002-T-0037, 2002-T-0039, 2003-Ohio-2374. The denial was unanimously affirmed by the Eleventh District Court of Appeals.

Since 2005, Cioffi has deluged this Court with affidavits and letters, motions and complaints, all of which are stated in the Plaintiff's Motion for Summary Judgment and are a matter of record before this Court. Mr. Cioffi does not deny filing the documents asserted by the Plaintiff to constitute vexatious conduct. The Plaintiff brings this action under authority of O.R.C. §2323.52 (B).

R.C. 2323.52(A)(3) defines a "vexatious litigator" as:

...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. "Vexatious litigator" does not include a person who is authorized to practice law in the courts of this state under the Ohio Supreme Court Rules for the Government of the Bar of Ohio unless that person is representing or has represented self pro se in the civil action or actions.

R.C. 2323.52(A)(2) defines "vexatious conduct" as follows: (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.

Having reviewed the Motion for Summary Judgment and the attached filings and having taken judicial notice of the case docket of this Court, the result in this case is abundantly clear.

The Court finds that reasonable minds can come to only one conclusion, and, having weighed matters in a light most favorable to the Defendant, Anthony Cioffi, Jr., the Court finds that Summary Judgment is appropriate in this matter in favor of the Plaintiff, Dennis Watkins, Trumbull County Prosecutor.

NOW THEREFORE, pursuant to R.C. §2323.52, the Court hereby declares the Defendant, Anthony Cioffi, Jr., a vexatious litigator, and hereby enters an Order as follows:

Defendant, Anthony Cioffi, Jr. is hereby prohibited from the following unless having first obtained proper leave of this Court and upon proper service of any and all affected parties:

1. Instituting legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court.
2. Continuing any legal proceedings that he has instituted in any of the aforesaid courts prior to the entry of this Order; and
3. Making any application, other than an application for leave to proceed under division (F)(1) of R.C. §2323.52, in any legal proceedings instituted by the vexatious litigator (Cioffi) or another person in any of the courts specified in division (D)(1)(a) of R.C. §2323.52.

The Plaintiff's Motion for Summary Judgment is hereby GRANTED. The Defendant's Motion to Dismiss is not well taken and is DENIED. Case concluded. Costs to the Defendant, Anthony Cioffi, Jr. This is a final appealable order and there is no just cause for delay.

SO ORDERED.

m
JUDGE W. WYATT MCKAY

TO THE CLERK OF COURTS:
YOU ARE ORDERED TO SERVE COPIES OF THIS JUDGMENT
ON ALL COUNSEL OF RECORD OR UPON THE PARTIES
WHO ARE UNREPRESENTED FORTHWITH
BY ORDINARY MAIL.

m

JUDGE W WYATT MCKAY

12-7-11
Copies to:
Proc.
A. Cioffi

2011 DEC - 7 PM 1:37
TRUMBULL COUNTY CLERK OF COURTS
MCKAY
ALLEN
TRUMBULL COUNTY CLERK OF COURTS