

IN THE COURT OF COMMON PLEAS, MADISON COUNTY, OHIO

D. Vincent Faris,

Case No. CVH 20180242

Plaintiff,

FILED :

JUDGE: EAMON P. COSTELLO

In The Court of Common Pleas
Madison County, Ohio

vs.

SEP 30 2019

JUDGMENT ENTRY GRANTING
PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT

Renee J. Glendon
Clerk of Courts

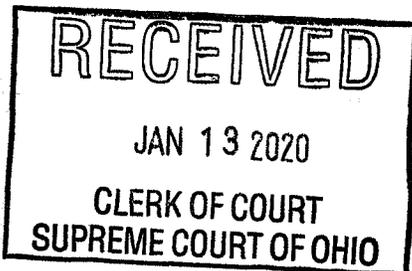
James W.D. Williams, IV,

Defendant.

FINAL APPEALABLE ORDER

On, December 11, 2018, Plaintiff, D. Vincent Faris, in his official capacity as Clermont County Prosecuting Attorney filed a complaint to have Defendant, James W.D. Williams, IV declared a vexatious litigator pursuant to Revised Code 2323.52(B). This matter now comes before this Court on a Motion for Summary Judgment filed by the Plaintiff. The Court has reviewed the Motion and Response.

A motion for summary judgment may only be granted where there exists no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Civ.R. 56(C). Moreover, summary judgment is inappropriate unless it appears from the evidence that reasonable minds could come to but one conclusion and that conclusion is adverse to the nonmoving party. Id. In reviewing a motion for summary judgment, this Court must construe the evidence in a light most favorable to the party opposing the motion. Temple v. Wean United, Inc., (1977), 50 Ohio St. 2d 317, Toledo's Great Eastern Shoppers City, Inc. v. Abde's Black Angus Steakhouse No. III, Inc. (1986), 24 Ohio St.3d 198).



Summary judgment may be granted only if the moving party makes an affirmative showing that no genuine issues exist as to any material fact and that such party is entitled to judgment as a matter of law. Toledo's Great Eastern Shoppers City, Inc., supra.; Harless v. Wills Day Warehousing Co., (1978), 54 Ohio St. 2d 64. The burden is on the moving party to establish the nonexistence of any material factual issues. Morris v. Ohio Cas. Ins. Co. (1988), 35 Ohio St.3d 45. When a motion is made and properly supported as required by Civ.R. 56, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavit, or as otherwise provided in this rule, must set forth specific facts showing there is genuine issue for trial. Civ.R. 56(E).

Revised Code 2323.52 (A)(2) defines "vexatious conduct" 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.
- (c) The conduct is imposed solely for delay.

Vexatious litigator is defined in R.C. 2323.52 (A)(3) which states:

"Vexatious litigator" means 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. For the purposes of division (A)(3) of this section,

"civil action" includes a proceeding under section 2743.75 of the Revised Code.

The Ohio Supreme Court has determined that the purpose of the vexatious litigator statute is "to prevent abuse of the system by those persons who persistently and habitually file lawsuits without reasonable grounds and/or otherwise engage in frivolous conduct in the trial courts of this state. Such conduct clogs the court dockets, results in increased costs, and oftentimes is a waste of judicial resources—resources that are supported by the taxpayers of this state. The unreasonable burden placed upon courts by such baseless litigation prevents the speedy consideration of proper litigation." *Mayer v. Bristow*, 91 Ohio St. 3d 3, 13 (2000).

Defendant, Williams, is currently an inmate in the Ohio Penitentiary System serving time for a felony conviction. Since being incarcerated in 2018, Williams has filed the following lawsuits:

- (1) Hamilton County Common Pleas Case Number A1803176 against the Clermont County Sheriff's Office alleging breach of contract for failure to pay Williams for a tractor confiscated by the Sheriff's Office because it was suspected to be stolen. Williams was eventually charged with Receiving Stolen Property as a result of his possession of the tractor. The case was dismissed at Williams' request after he was charged. In the two months that the case was pending, Williams filed 16 pleadings and documents.
- (2) Hamilton County Common Pleas Case number A1804082 against the judge who presided over his criminal case alleging numerous tortious complaints. The judge's motion to dismiss was granted based on judicial immunity. In the less than three months that the case was pending, Williams filed 20 motions or other documents.
- (3) Clermont County Common Pleas Case Number 2018 CVH 00913 against the attorney who represented him in the criminal matter for three counts of breach of contract.

Summary Judgment was granted in favor of the attorney. Williams filed 29 documents and motions in the four months that the case was pending.

(4) Hamilton County Common Pleas Case number A1803174 against an attorney who represented Williams in a prior criminal matter for breach of contract. The attorney's motion to dismiss was granted. Williams filed 12 documents in the four months that this case was pending.

(5) Hamilton County Common Pleas Case Number A1803174 against Walmart's President and various unnamed employees alleging wrongful or illegal detainment, negligence, slander, defamation of character and cruel and unusual punishment. The case was dismissed upon motion filed by Walmart. Williams filed 33 documents in the course of this case.

(6) Hamilton County Common Pleas Case Number A1802988 against his fiancée and Progressive Insurance. The case was ultimately dismissed upon a stipulation of dismissal. During the nine months that the case was pending, Williams filed 44 documents including a motion to dismiss his fiancée, motion to withdraw that motion to dismiss, and then a motion to add his fiancée as a defendant. He also filed eight separate motions to compel discovery and five motions for default.

(7) In addition to the civil cases, Williams has filed numerous post-conviction motions in his criminal cases and appeals.

During the course of these actions, Williams filed numerous motions and requests including Motions for Gag Orders requesting the court to order parties and witnesses not to communicate with each other, various Motions for Recusal of Opposing Counsel, Prosecutors and Judges, Motions to Stay Proceedings and Motions to Strike various filings by opposing

counsel. Similar motions were filed in almost every case and often, Williams would file the same or similar motions repeatedly in the same case. During the course of the six *civil* cases commenced in 2018, Williams filed 154 motions, requests and/or other documents.

The Court finds that Williams' civil actions and filings in those cases serve merely to harass the parties, are not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law. See R.C. 2323.52(A)(2)(a) and (b). Further, the Court finds that Williams' filings consist of allegations or other factual contentions that have no evidentiary support or are not warranted by the evidence, and it is clear he cannot prove material facts in support of the many of the claims. R.C. 2323.51(A)(2)(a) and (b).

As noted by the Supreme Court of Ohio, vexatious litigators are individuals who "use litigation, with seemingly indefatigable resolve and prolificacy to intimidate public officials and employees or cause the emotional and financial decimation of their targets. Such conduct, which employs court processes as amusement or a weapon in itself, undermines the people's faith in the legal system." *Mayer*, supra at 13.

Williams' litigious behavior falls squarely within this description and a few of his filings clearly epitomize this behavior. For example, Williams filed a "Respectful Demand for Settlement" in his case against the Clermont County Sheriff's Office in which he offered to dismiss his civil suit if the charges he is currently incarcerated on are dismissed and he is released from prison (Plaintiff's Motion for Summary Judgment Ex.H3). Additionally, the "Notice of Intent to File Civil Action" filed in the case against his fiancée and Progressive Insurance is also of particular concern. In this document, Williams states that he is prepared to file a civil action against the judge presiding over the case however he will not do so if the judge

were to "begin to immediately act in accordance with law, local and Ohio Rules of Civil Procedures by not continuing to show deliberate indifference, bias and prejudice towards me on your own free will....." Williams concludes by stating that the document is "not intended to threaten you or to intimidate you in any matter whatsoever. Instead, it is to simply inform you of my claims, my notice of intent to file civil complaint against you and to allow you to rectify your wrongs as an alternative to an unnecessary avoidable endless legal battle between yourself and myself in a separate purported civil complaint." (Plaintiff's Motion for Summary Judgment Ex. E8).

These documents speak for themselves. They are but two of many examples of Williams' filings that were done to harass and intimidate individuals involved in various aspects of Williams' litigation. This unconscionable behavior is the type of conduct the vexatious litigator statute is meant to address.

Finally, there are no genuine issues of fact regarding Williams' habitually persistent litigious behavior. The record of cases, and filings in those cases, speak for itself. He filed frivolous lawsuits and then repeatedly asserted claims of unethical behavior, conflicts of interest and bias on the part of the parties, witnesses and judges seeking that they all be removed from the cases and any filings made be stricken. He filed numerous other frivolous motions and requests which had no basis in law.

Williams filed a Response to Plaintiff's Motion for Summary Judgment arguing that a genuine issue of material fact existed. Although he did not cite to any authority or provide any support, Williams argued that a genuine issue of material fact exists as to whether his conduct was meant to harass. However, a finding of vexatious conduct is not dependent upon whether the litigant intended for his conduct to be harassing, rather, the focus is whether the conduct

serves the purpose of or has the effect of harassing others by obligating them to respond to lawsuits for which there are not objective, legal grounds. See *Farley v. Farley* (June 19, 2003), 2003 WL 21405558, ¶51(10th Dist. 2003), citing *Borger v. McErlane* (Dec. 14, 2001) 2001 WL 1591338 (1st Dist., 2001). Thus the Court is not required to look to and determine Williams' subjective aim but instead can look at the effect his lawsuits have had upon the opposing parties and judicial system. From the documents provided in the Motion for Summary Judgment, it is clear that Williams' lawsuits have had a harassing and injurious effect, especially in the form of the costs borne by the state and the efforts expended by counsel in performing Plaintiff's legal obligation to defend the actions and respond to the numerous frivolous motions and filings.

Having reviewed the Motion for Summary Judgment and the attached filings, the result is abundantly clear. Williams' actions constitute vexatious conduct as set forth in R.C. 2323.52 and he is clearly a vexatious litigator. This Court finds that there are no genuine issues of fact and that weighing matters in a light most favorable to the Defendant, reasonable minds can come to only one conclusion – that Summary Judgment is appropriate in this matter in favor of the Plaintiff, D. Vincent Faris, Clermont County Prosecuting Attorney and is granted. Defendant, James W.D. Williams, IV is hereby DECLARED A VEXATIOUS LITIGATOR.

Pursuant to R.C. 2323.52(D)(1), Defendant, James W.D. Williams, IV is prohibited from doing the following without first obtaining leave of court to proceed:

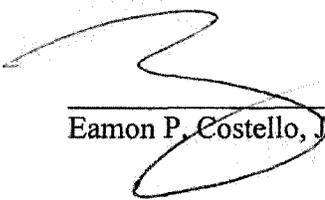
- (1) Instituting legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court;
- (2) Continuing any legal proceedings that he has instituted in any of the aforesaid courts prior to the entry of this Order; and

(3) Making any application, other than the application for leave to proceed under R.C. 2323.52(F)(1), in any legal proceeding instituted by Defendant or another person in the court of claims, or in a court of common pleas, municipal court, or county court.

It is FURTHER ORDERED that, pursuant to R.C. 2323.52(H), the clerk of the court shall send a certified copy of this Order to the Clerk of the Supreme Court of Ohio for publication in a manner that the Supreme Court determines is appropriate and that will facilitate the clerk of the court of claims and a clerk of a court of appeals, court of common pleas, municipal court or county court in refusing to accept pleadings or other papers submitted for filing by Williams without first obtaining leave to proceed under this section.

There is no just cause for delay.

ENTER:



Eamon P. Costello, Judge

**THE CLERK OF COURTS IS HEREBY
ORDERED TO SERVE COPIES OF THIS
ENTRY TO ALL COUNSEL OF RECORD.**

JUDGE EAMON P. COSTELLO

I HEREBY CERTIFY THAT THIS
IS A TRUE COPY OF THE
ORIGINAL ON FILE
RENAE E. ZABLOUDIL
CLERK OF COURTS
BY 