

IN THE COURT OF COMMON PLEAS  
FOR FRANKLIN COUNTY, OHIO  
GENERAL DIVISION

DAVE YOST, ATTORNEY GENERAL,

Plaintiff,

v.

JERONE MCDOUGALD,

Defendant.

Case No. 21 CV 5335

JUDGE MILLER

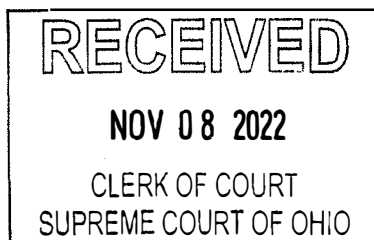
**DECISION GRANTING PLAINTIFF'S JUNE 10, 2022 MOTION FOR  
SUMMARY JUDGMENT**

**AND**

**JUDGMENT ENTRY DECLARING DEFENDANT A VEXATIOUS LITIGATOR**

On August 20, 2021, Plaintiff filed its complaint against Defendant seeking for the Court to declare Defendant a vexatious litigator pursuant to R.C. 2323.52. Plaintiff alleges that Defendant has engaged in vexatious conduct throughout Ohio courts, including the Court of Claims, Lucas County Court of Common Pleas, the Fourth District Court of Appeals, and the Tenth District Court of Appeals.

On September 27, 2021 and October 15, 2021, Defendant moved for additional time to respond to the complaint. Those motions were granted, and Defendant had until November 22, 2021 to file his response to the complaint. Nonetheless, Defendant untimely filed his answer on December 3, 2021.



On March 9, 2022, the Court held a case management conference to discuss the case schedule and status of the case. Plaintiff was present, but the Court was informed by the Toledo Correctional Institution that Defendant refused to attend.

On June 10, 2022, Plaintiff filed the motion for summary judgment, which is now before the Court. Attached to the motion are Defendant's numerous complaints, orders, and decisions in several civil matters filed by Defendant. Defendant did not oppose the motion. For the reasons below, Plaintiff's motion for summary judgment is hereby **GRANTED**.

### **I. STANDARD OF DECISION**

Summary judgment under Ohio Civil Rule 56(C) is a procedural device designed to terminate litigation when there is no need for a formal trial. *See Norris v. Ohio Std. Co.*, 70 Ohio St. 2d 1 (1982). Under Civ. R. 56, summary judgment is proper when “(1) [n]o genuine issue as to any material fact remains to be litigated; (2) the moving party is entitled to judgment as a matter of law; and (3) it appears from the evidence that reasonable minds can come to but one conclusion, and viewing such evidence most strongly in favor of the party against whom the motion for summary judgment is made, that conclusion is adverse to that party.” *Temple v. Wean United, Inc.*, 50 Ohio St. 2d 317, 327 (1977).

Where the moving party meets its initial burden, the nonmoving party has a reciprocal burden outlined in Civ. R. 56(E). Civ. R. 56(E) provides that when a motion for summary judgment is otherwise properly supported under division (C), “an adverse party may not rest upon the mere allegations or denials of the party's pleadings, but the party's response, by affidavit or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the party does not so respond, summary judgment, if appropriate, shall be entered against the

party.” See e.g. *Wing v. Anchor Media, Ltd. of Texas*, 59 Ohio St. 3d 108, paragraph three of the syllabus (1991).

## II. LAW & ANALYSIS

R.C. 2323.52 authorizes a common pleas court to designate a person a vexatious litigator. An individual who has defended against habitual and persistent vexatious conduct in the court of claims or in a court of appeals or court of common pleas may commence a civil action in a common pleas court to have that person declared a vexatious litigator. 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.” That conduct may have been taken against the same party or against different parties. R.C. 2323.52(A)(3). The statute also defines “vexatious conduct,” which may consist of any of the following three elements:

- (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.

R.C. 2323.52(A)(2).

A court may examine other actions that a person has participated in to determine if that person is a vexatious litigator. *Catudal v. Catudal*, 10th Dist. Franklin, 2016-Ohio-8498, ¶ 46. As such, the trial court may review vexatious “conduct in other proceedings to adjudge whether” an individual is a “vexatious litigator.” *Id.* ¶ 46 (quotation omitted).

The Ohio Supreme Court has held that “R.C. 2323.52 is constitutional in its entirety,” and that the statute “is not designed, nor does it operate, to preclude vexatious litigators from proceeding forward on their legitimate claims.” *Mayer v. Bristow*, 91 Ohio St.3d 3, 14, (2000).

Rather, the statute serves as a “screening mechanism under which the vexatious litigator can petition the declaring court, on a case-by-case basis, for a determination of whether any proposed action is abusive or groundless.” *Id.* Indeed, vexatious conduct clogs the court dockets, increases costs, and is a waste of judicial resources that are supported by the taxpayers of this state. *Id.* With this purpose in mind, the Tenth District Court of Appeals has held that a vexatious litigator designation may be based upon a person’s behavior in a single civil action or multiple civil actions. *Farley v. Farley*, 10th Dist. Franklin, 2003-Ohio-3185, ¶ 48.

Here, the Court finds that Defendant has engaged in vexatious conduct and that Plaintiff is entitled to judgment as a matter of law.

**A. Conduct to Harass or Maliciously Injure Others**

Upon careful examination of the numerous filings by Defendant, the Court finds that Defendant has engaged in conduct designed to harass or injure his opponents. As an example, Defendant unexplainably destroyed the speaker phone at a September 22, 2020 remote trial as the magistrate attempted to commence the trial. *See Exhibit Z-1.* Moreover, Defendant has filed repeated motions, which have been denied. *See McDougald v. Department of Rehabilitation & Correction*, Ct. of Cl. No. 2019-00788JD.

**B. Conduct Not Warranted Under Existing Law**

The undisputed evidence further demonstrates that Defendant’s lawsuits were not warranted under existing law. Defendant filed at least eight lawsuits containing claims over which the Ohio Court of Claims had no jurisdiction, and that were dismissed. *See Plaintiff’s Exhibits F, H, K, P, Q, R, S, Y.* In another seven lawsuits, Defendant failed to produce sufficient evidence to survive summary judgment. *See, e.g. Plaintiff’s Exhibits E, G, L, U, V, AA, CC.* And, Defendant has not prevailed on any of the 28 civil lawsuits he filed in the Court of Claims within the last six

years. Accordingly, the Court finds that, because these complaints were routinely dismissed by dispositive motions and because those dismissals were repeatedly upheld by the Tenth District Court of Appeals, Defendant's claims were not warranted under existing law.

### **C. Conduct Solely for Delay**

The Court also finds that Defendant has repeatedly filed civil actions solely for delay. Specifically, the Court finds that Defendant has often failed to appear for court hearings, sought multiple extensions at the eleventh hour, and failed to further prosecute cases after filing the complaint. *See, e.g.* DD, DD-1, DD-2, EE-2, FF-2, W, W-1, W-2. Moreover, Defendant has engaged in actions for the purpose of delay by failing to comply with simple court orders. Consequently, courts have dismissed his cases.

### **D. Persistent and Habitual Conduct**

Lastly, the Court finds that Defendant's conduct has been persistent and habitual. Since 2016, Defendant has instituted twenty-eight cases in the Ohio Court of Claims, three cases in Lucas County, eight cases in the Tenth District Court of Appeals, and thirteen mandamus suits in the Ohio Supreme Court. These cases show a persistent pattern and practice of filing baseless and unwarranted litigation that are filed solely to delay and to harass and insult his opponents in each case. As such, the Court finds that there is no genuine issue of material fact that Defendant is a vexatious litigator as defined by R.C. 2323.52(A)(3).

Accordingly, the Court finds that Defendant has engaged in vexatious conduct as set forth in R.C. 2323.52(A)(2)(a)-(c), and thus a vexatious litigator designation is appropriate under R.C. 2323.52(A)(3). Plaintiff's motion for summary judgment is **GRANTED**.

Therefore, pursuant to R.C. 2323.52(D) and (F), it is hereby **ORDERED, ADJUDGED and DECREED** that Defendant Jerone McDougald is **PROHIBITED** from:

- (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 the vexatious litigator had instituted in any of the courts specified in division (D)(1)(a) of this section prior to the entry of the order;
- (3) Making any application, other than an application for leave to proceed under division (F)(1) of this section, in any legal proceedings instituted by the vexatious litigator or another person in any of the courts specified in division (D)(1)(a) of this section.
- (4) "A court of common pleas...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, municipal court, or county court 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." R.C. 2323.52(F)(1).

This matter will be set for a hearing on Plaintiff's request for attorney fees via a separate entry.

**IT IS SO ORDERED.**

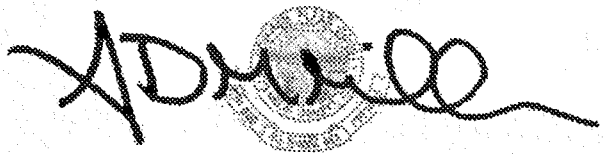
*Electronically Signed*  
\_\_\_\_\_  
**JUDGE ANDY MILLER**

COPIES TO: (via e-filing notification):  
Counsel and parties of Record

Franklin County Court of Common Pleas

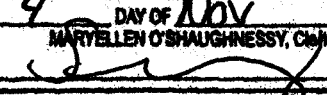
**Date:** 11-03-2022  
**Case Title:** DAVE YOST ATTORNEY GENERAL -VS- JERONE MCDUGALD  
**Case Number:** 21CV005335  
**Type:** DECISION

It Is So Ordered.



/s/ Judge Andrew D.M. Miller

Electronically signed on 2022-Nov-03 page 7 of 7

THE STATE OF OHIO } Franklin County, ss }	I, MARYELLEN O'SHAUGHNESSY, Clerk OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY, HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL.
<b>JUDGMENT ENTRY</b>	
NOW ON FILE IN MY OFFICE	
WITNESS MY HAND AND SEAL OF SAID COUNTY	
THIS 3 DAY OF Nov	A.D. 20 22
MARYELLEN O'SHAUGHNESSY, Clerk	
By 	Deputy

Court Disposition

Case Number: 21CV005335

Case Style: DAVE YOST ATTORNEY GENERAL -VS- JERONE  
MCDUGALD

Motion Tie Off Information:

1. Motion CMS Document Id: 21CV0053352022-06-1099980000  
Document Title: 06-10-2022-MOTION FOR SUMMARY  
JUDGMENT - PLAINTIFF: DAVE YOST ATTORNEY GENERAL  
Disposition: MOTION GRANTED

