

[Cite as *State ex rel. Buoscio v. DeWeese*, 2011-Ohio-598.]

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO, EX REL.,
SAMUEL L. BUOSCIO

Relator

JUDGES:

Hon. William B. Hoffman, P.J.

Hon. Sheila G. Farmer, J.

Hon. John W. Wise, J.

-vs-

JUDGE JAMES DEWEESE

Case No. 10-CA-128

Respondent

OPINION

CHARACTER OF PROCEEDING:

Writ of Mandamus

JUDGMENT:

Dismissed

DATE OF JUDGMENT ENTRY:

February 9, 2011

APPEARANCES:

For Petitioner

For Respondent

SAMUEL L. BUOSCIO
North Central Correctional Institution
670 Marion williams Port Rd.
Marion, OH 43302

NO APPEARANCE

Farmer, J.

{¶1} Relator, Samuel L. Buoscio, has filed a Petition for Writ of Mandamus against Judge James DeWeese.

{¶2} Pursuant to R.C. 2323.52, Relator has been declared to be a vexatious litigator in Case Number CV 2006-05-3153 in the Summit County Court of Common Pleas and in Case Number 03-CVH-12-13184 in the Franklin County Court of Common Pleas.

{¶3} R.C. 2323.52 governs vexatious litigators. Section R.C. 2323.52(D)(3) relates to cases filed by a vexatious litigator in a court of appeals and provides,

{¶4} “(3) A person who is subject to an order entered pursuant to division (D)(1) of this section may not institute legal proceedings in a court of appeals, continue any legal proceedings that the vexatious litigator had instituted in a court of appeals prior to entry of the order, or make any application, other than the application for leave to proceed allowed by division (F)(2) of this section, in any legal proceedings instituted by the vexatious litigator or another person in a court of appeals without first obtaining leave of the court of appeals to proceed pursuant to division (F)(2) of this section.”

{¶5} R.C. 2323.52(F)(2) prohibits Relator from filing anything in the court of appeals except an application for leave. This section provides in part,

{¶6} “(2) A person who is subject to an order entered pursuant to division (D)(1) of this section and who seeks to institute or continue any legal proceedings in a court of appeals or to make an application, other than an application for leave to proceed under division (F)(2) of this section, in any legal proceedings in a court of appeals shall file an

application for leave to proceed in the court of appeals in which the legal proceedings would be instituted or are pending. . .” R.C. § 2323.52.

{¶7} The order entered by the Summit County Court of Common Pleas is an order entered pursuant to R.C. 2323.52(D)(1) which provides,

{¶8} “(D)(1) If the person alleged to be a vexatious litigator is found to be a vexatious litigator, subject to division (D)(2) of this section, the court of common pleas may enter an order prohibiting the vexatious litigator from doing one or more of the following without first obtaining the leave of that court to proceed:

{¶9} (a) Instituting legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court;

{¶10} (b) 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;

{¶11} (c) 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.”

{¶12} R.C. § 2323.52. The Summit County Court of Common Pleas order mirrors the language of R.C. 2323.52(D)(1) and is an order issued pursuant to R.C. 2323.52(D)(1). Because Relator is subject to an order issued pursuant to section (D)(1), he is prohibited by sections (D)(3) and (F)(2) from filing anything other than an application for leave.

{¶13} Relator did not first seek leave to file the instant cause of action, therefore, this cause is dismissed. All motions filed by Relator are denied.

{¶14} CAUSE DISMISSED.

{¶15} COSTS TO RELATOR.

{¶16} IT IS SO ORDERED.

By Farmer, J.

Hoffman, P.J. and

Wise, J. concur.

s/ Sheila G. Farmer

s/ William B. Hoffman

s/ John W. Wise

JUDGES

SGF/as 113

