

IN THE UNITED STATES DISTRICT COURT  
IN THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION-DAYTON

FILED

DEC 20 2002

MICHAEL A. GALLUZZO  
PLAINTIFF,

KENNETH J. MURPHY, Clerk  
DAYTON, OHIO

CASE NO. C-3-01-174

VS.

CHAMPAIGN COUNTY COURT  
OF COMMON PLEAS, et al.  
DEFENDANT.

Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

**REQUEST OF PLAINTIFF FOR CLARIFICATION OF  
SCHEDULING ORDER FILED DECEMBER 16, 2002**

In the interests of minimizing further delay, and as to not misinterpret the Scheduling Order filed December 16, 2002, Plaintiff Michael Galluzzo requests clarification of the following issues:

1. Is Plaintiff correct to understand that the Attorney General will not be filing an additional brief subsequent to the State of Ohio's Motion for Leave to Participate as Amicus Curiae filed December 11, 2002 "that the arguments made in the body of that document are the arguments the Attorney General wishes to place before the court, *rather than a prelude to additional briefing.*" {See Scheduling Order filed December 16, 2002}?
2. If there are no additional Briefings filed, then Plaintiff wants to clarify for the Court that his Motion to Strike and in the alternative Memo Contra filed December 13, 2002 fully incorporate his arguments, as well as all of the previous filings in this case for the past year and a half, directly address the dismissal and jurisdiction issues, including the oral hearing held January 9, 2002 before Magistrate Merz.  
Does the Court require anything further in response to the Attorney General's persuasive attempt for dismissal where Plaintiff did not incorporate these issues in his Brief on *the merits of the constitutional question*?
3. Plaintiff requested permission for amicus briefs supporting Plaintiff's position in this same Motion (above) and is awaiting the Court's decision.
4. If the Court permits the Plaintiff's supporting amicus briefs, as it has done for Defendant's position:

(a) What date are the Amicus Briefs due?

-And-

(b) Do the amicus curiae need to file a motion for leave and attach their Brief?

5. If *amicus briefs* are accepted, does the Attorney General need to request permission to file their extended briefing of the issues since the FRAP rules only permit 10 pages (Plaintiff could not find any rules regarding amicus briefs in the district court local rules), and where the State of Ohio's Motion/Brief was 16 pages?
6. Plaintiff wants to further clarify for the Court that his Brief (Motion for Leave to File an Extended Brief and Motion for Summary Judgment & Merit Brief attached Instanter) was filed on December 18, 2002 *directly on the merits of the constitutional challenge to Ohio law* and not on the dismissal issues raised *again* by the Attorney General. Plaintiff is awaiting the Court's GRANTING of his Motion to File an Extended Brief where his Motion for Summary Judgment/Merit Brief was 43 pages, exceeding the 20 pages under local rules.

Plaintiff respectfully submits these points for clarification and to make sure that he has not misunderstood the Court's intent.

Respectfully submitted,



Michael A. Galluzzo, Plaintiff  
P.O. Box 710  
St. Paris, Ohio 43072  
937-663-4505

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A TRUE AND ACCURATE COPY OF THE FOREGOING MOTION WAS SERVED UPON SANFORD FLACK, ATTORNEY FOR DEFENDANT TERESA COOK, BY ORDINARY MAIL, POSTAGE PREPAID AT 101 NORTH FOUNTAIN BLVD., SPRINGFIELD, OHIO, THE 20<sup>TH</sup> DAY OF DECEMBER 2002.



Michael A. Galluzzo