

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

FILED
NOV 10 2003
DAYTON, OHIO Clerk

MICHAEL A. GALLUZZO
PLAINTIFF,

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

**MOTION OF PLAINTIFF FOR LEAVE TO FILE MOTION
CONTRA TO DEFENDANT'S MOTION FOR RULING
AND
PLAINTIFF'S MEMO CONTRA**

Plaintiff Michael Galluzzo respectfully requests Leave of Court where Plaintiff be permitted to file a Motion Contra to Defendant's Motion for Ruling filed Sept. 26, 2003. Plaintiff just received this motion and apologizes to the court for this late response. As Plaintiff too desires a ruling in this matter, the assertion of state issues in the instant matter are inappropriate and should be ignored by the court. However, the Plaintiff would like to briefly respond with the Courts permission.

Items 1 and 2: The Champaign County judge has stayed any further action in these cases as to all of Mrs. Cook's alleged claims. One can only conclude that the Champaign County judge and prosecutor believe the Federal question has merit. However, matters in the state court have no bearing on the Federal question before this Court.

Item 3: I have no response for the actions of the State court in this matter.

Item 4: The alleged child support arrearage has no basis in that there has been no judgment from the court since the pendency of this action. Pursuant to this Court's abstention in the previous State contempt matter at the onset of this Federal case, Mrs. Cook's allegations have no bearing on the Federal question before this Court.

The Defendant failed to fully inform the court as to her personal motive behind the instant motion and Mrs. Cook's and her husband's pending foreclosure due to the Defendant's and her new husband's excessive lifestyle.¹ This motion is a merely a sympathy plea and her attempt to influence this Court and once again blame the Plaintiff for all of Mrs. Cook's and her husband's personal financial troubles.

The Plaintiff feels the frustration of the Defendant in that Plaintiff has motions that have been pending for over six (6) years, many years before the Federal question even came to light, that have not been addressed by the State court. The Court has made it abundantly clear that it will not intrude into the realm of the State court decisions, as it properly should not.

The delay in the progress of the State cases is an unfortunate and frustrating circumstance of divorce litigation for BOTH parties, but has no bearing on the Constitutional question before this Court and should have no impact whatsoever for this Court to make the appropriate decision pursuant to the Federal issue currently pending.

Wherefore, Plaintiff respectfully requests the Court to issue the appropriate decision pursuant to the Constitutional question and to disregard any pending actions in the State courts.

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 OF RECORD FOR DEFENDANT TERESA COOK, AT 101 NORTH FOUNTAIN BLVD., SPRINGFIELD, OHIO, AND UPON TERESA COOK (AS MOTION WAS FILED PRO SE) AT 5569 RUNKLE RD., ST. PARIS, OHIO, BY ORDINARY MAIL, POSTAGE PREPAID, THE 10TH DAY OF NOVEMBER 2003.



Michael A. Galluzzo, Plaintiff

¹ Defendant and new spouse have purchased a new home, 2 new vehicles and who knows what else.