

APR 22 2004

JAMES BONINI, Clerk
DAYTON, OHIO

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

MICHAEL A. GALLUZZO

Plaintiff,

Case No. 3:01-cv-174

VS.

Magistrate Judge Michael R. Merz

CHAMPAIGN COUNTY COURT
OF COMMON PLEAS, et al.

Defendants,


**Motion for Stay of Orders and Decision of Magistrate Michael R. Merz
dated January 23, 2004 and February 4, 2004**

For good cause shown, Plaintiff-Appellant Michael A. Galluzzo moves the Court for an order staying its order of dismissal of his complaint herein, and the effect thereof, pending his appeal to the United States Court of Appeals for the Sixth Circuit, pursuant to the provisions of Rule 8(a)(1), Federal Rules of Appellate Procedure.

In support of this motion, the Plaintiff represents that he has filed a timely Notice of Appeal, wherein this Court's ruling which granted summary judgment in favor of the Defendants is being assigned as error. The Plaintiff submits that, without a stay thereof, he will be irreparably harmed in that a prosecution of him based upon the challenged statute will proceed to conclusion unless the same is stayed, resulting in very arguably an unjust conviction and sentence. Plaintiff's request for a grant of a stay of the effect of this order will permit the determination of the merits of this appeal prior to the recommencement of criminal proceedings in the State court.

Plaintiff's request is not an attempt to vacate Champaign County's case or avoid the case from proceeding at a proper time. Plaintiff has no desire for Champaign County to expend more of its limited resources on litigation that may prove fruitless when grant of a stay pending resolution of the issues in the federal courts will not harm Champaign County's case.

No prejudice will result from the granting of this motion, but unfair and irreparable harm to the Plaintiff will be prevented by granting of the same.



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 was served upon the Defendant Teresa A. Cook and to the Champaign County Prosecutor by ordinary mail this 22nd day of April 2004.



Michael A. Galluzzo, Plaintiff