

# Appendix

OR DESIGNATION OF RECORD

## TABLE OF CONTENTS

### APPENDIX EXHIBITS

**DECISION of State Supreme Court denying Petitioner..... 1**

**LOWER COURTS' ENTRIES, decision suspending**

**Petitioner's Constitutional Rights ..... 2**

**RESPONDANT(S) FILINGS for Immunity from Prosecution ..... 3**

**PETITIONER EXHIBITS ..... 4**

.....

# **PETITIONER**

## **APPENDIX 1**

FILED  
COURT OF APPEALS  
NO. 19BE44  
Cynthia L. Fregiato  
CLERK OF COURTS, BELMONT COUNTY

FILED

APR 28 2020

CLERK OF COURT  
SUPREME COURT OF OHIO

# The Supreme Court of Ohio

MAY - 4 2020

Greg P. Givens

v.

Clyde Yates, Jr., et al.

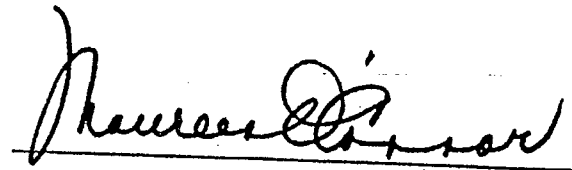
Case No. 2019-1663

RECONSIDERATION ENTRY

Belmont County

It is ordered by the court that the motion for reconsideration in this case is denied.

(Belmont County Court of Appeals; No. 19 BE 0044)



Maureen O'Connor  
Chief Justice

FILED  
COURT OF APPEALS  
NO. 19BE44  
Cynthia L. Fregiato  
CLERK OF COURTS, BELMONT COUNTY

*The Supreme Court of Ohio*  
MAY - 4 2020

FILED

FEB 18 2020

CLERK OF COURT  
SUPREME COURT OF OHIO

Greg P. Givens

v.

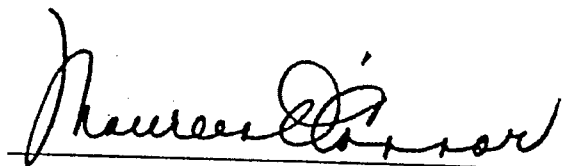
Clyde Yates. Jr., et al.

Case No. 2019-1663

ENTRY

Upon consideration of the jurisdictional memoranda filed in this case, the court declines to accept jurisdiction of the appeal pursuant to S.Ct.Prac.R. 7.08(B)(4).

(Belmont County Court of Appeals; No. 19 BE 0044)



Maureen O'Connor  
Chief Justice

# **PETITIONER**

## **APPENDIX 2**

STATE OF OHIO	)	IN THE COURT OF APPEALS OF OHIO
	)	
BELMONT COUNTY	)	SS: SEVENTH DISTRICT
	)	<b>FILED</b>
	)	COURT OF APPEALS
GREG P. GIVENS,	)	NO. <u>19 BE 0044</u>
	)	Cynthia L. Fregia
PLAINTIFF-APPELLANT,	)	CLERK OF COURTS, BELMONT COUNTY
	)	<b>NOV 04 2019</b>
V.	)	CASE NO. 19 BE 0044
	)	
CLYDE YATES, JR. ET AL.,	)	JUDGMENT ENTRY
	)	
DEFENDANTS-APPELLEES.	)	

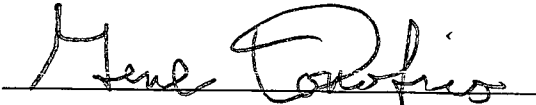
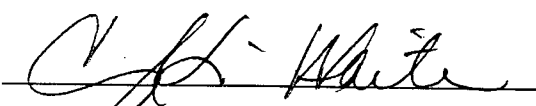

This matter comes before us on its own accord for review and determination of whether Plaintiff-Appellant Greg P. Givens's notice of appeal is sufficient to invoke this Court's appellate jurisdiction, which is limited to final and appealable orders. Ohio Constitution, Article IV, Section 3(B)(2); R.C. 2505.01 et seq. Proceeding on his own behalf, Appellant filed a lawsuit against numerous defendants in the trial court below. In response, counsel for two of those defendants, Defendants-Appellees Clyde Yates, Jr. and Kimberly Yates, filed a motion for a more definite statement pursuant to Civ.R. 12(E). The trial court conducted a hearing on the motion, sustained the motion, and gave Appellant thirty (30) days to submit an amended complaint which is "concise, unambiguous, and specific." Appellant submitted an amended complaint and the trial court conducted a hearing concerning the sufficiency of Appellant's amended complaint. In a docket and journal entry filed September 6, 2019, the trial court made a finding that Appellant's amended complaint failed to comply with Civ.R. 12(E) and dismissed the case without prejudice to re-filing. Appellant has filed a notice of appeal directed to that entry.

As indicated, this Court only has appellate review jurisdiction over final and appealable orders. Ohio Constitution, Article IV, Section 3(B)(2); R.C. 2505.01 et seq. And we have held an involuntary dismissal without prejudice is not a final appealable order. *Selmon v. Crestview Nursing & Rehab. Ctr., Inc.*, 184 Ohio App.3d 317, 2009-Ohio-5078, 920 N.E.2d 1017, ¶ 2 (7th Dist.). Other appellate courts have held likewise.

*Dues v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. No. 08AP-943, 2009-Ohio-1668, ¶ 9-10; *Arner v. Andover Bank*, 11th Dist. Ashtabula No. 2008-A-0056, 2008-Ohio-5857, ¶ 2; *Thompson v. Ohio State Univ. Hosps.*, 10th Dist. Franklin No. 06AP-1117, 2007-Ohio-4668. Courts hold this way because a dismissal without prejudice leaves the parties in the same position they were in prior to the action being filed; the action is treated as though it had never been commenced. *Arner*, 11th Ashtabula Dist. No. 2008-A-0056, 2008-Ohio-5857, at ¶ 2, citing *Johnson v. H & M Auto Serv.*, 10th Dist. Franklin No. 07AP-123, 2007-Ohio-5794. Therefore, a dismissal without prejudice is not a final determination of the rights of the parties and does not constitute a final order pursuant to R.C. 2505.02, because the parties (as the trial court here expressly stated) have the ability to refile the complaint. *Davis v. Paige*, 5th Dist. Stark No. 2007 CA 00248, 2008-Ohio-6415, ¶ 31, citing *Lantsberry v. Tilley Lamp Co.*, 27 Ohio St.2d 303, 272 N.E.2d 127 (1971); *Schindler v. Std. Oil Co.*, 165 Ohio St. 76, 133 N.E.2d 336 (1956); and *McIntosh v. Slick*, 5th Dist. Stark Nos. 2001CA00268 and 2001CA00273, 2002-Ohio-3599.

Accordingly, based upon the foregoing reasons, this appeal is dismissed for lack of a final appealable order. Costs taxed against Appellant.

Copy to Appellant, Appellees, any and all counsel of record in the case, and Judge Frank A. Fregiato. (Belmont County Common Pleas Court Case No. 19 CV 0200).

  
  
  
JUDGES

STATE OF OHIO, COUNTY OF BELMONT  
COURT OF COMMON PLEAS  
DOCKET AND JOURNAL ENTRY

COMMON PLEAS COURT  
BELMONT CO. OH

2019 SEP -6 PM 1:01

SYNTHIA L. FREGIATO  
CLERK OF COURT

Greg P. Givens,  
Plaintiff  
vs.

Case No.: 19 CV 200

Clyde Yates, Jr., et al.,  
Defendants

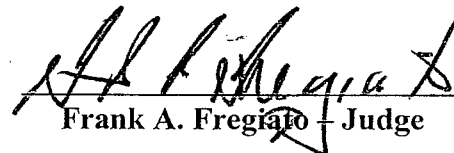
Date of Entry: September 6, 2019

This matter came before the Court for Hearing on September 6, 2019, with Pro Se Plaintiff, Greg Givens, appearing in open court; Attorney Daniel D. Eisenbrei, counsel for Defendants Loeffler, Newhart, Rodgers, Merryman, Gorrell, Napolitano and Collette; and Attorney Eric Costine appearing on behalf of Defendant Yates.

The Court hereby finds that there has not been compliance with Civ. Rule 12(E), in accord with the prior Order of July 29, 2019.

In accord with Civ. Rule 12(E) and the above-stated finding, this matter is hereby dismissed without prejudice to re-filing.

This is a Final, Appealable Order.

  
Frank A. Fregiato - Judge

pc: Greg Givens, Plaintiff  
Eric Costine, Attorney for Defendant Yates  
Daniel D. Eisenbrei, Attorney for Defendants Loeffler; Newhart; Rodgers; Merryman; Gorrell;  
Napolitano; and Collette

FAF/lz



STATE OF OHIO, COUNTY OF BELMONT  
COURT OF COMMON PLEAS  
DOCKET AND JOURNAL ENTRY

COMMON PLEAS COURT  
BELMONT CO OH

2019 JUL 29 AM 9:58

Greg P. Givens,  
Plaintiff  
vs.

Case No.: 19 CV 200

Clyde Yates, Jr., et al.,  
Defendants

Date of Entry: July 26, 2019

Defendant's Motion for More Definite Statement under Ohio Civil Rule 12(E) and Plaintiff's Motion to Strike All (or Portion) of Defendant Yates Motion for More Definite Statement came before the Court for Hearing on July 26, 2019. Plaintiff, Greg P. Givens, appeared in open court as a *Pro Se* litigant; Attorney Eric Costine appeared on behalf of Clyde Yates, Jr.; and Attorney Daniel D. Eisenbrei appearing on behalf of remaining Defendants, Loeffler; Newhart; Rodgers; Merryman; Gorrell; Napolitano; and Collette.

For good cause shown, Defendant Clyde Yates, Jr.'s Motion for a More Definite Statement pursuant to Ohio Civil Rule 12(E) is hereby Sustained.

Plaintiff shall within thirty (30) days submit an amended Complaint which is concise, unambiguous and specific. Should the Plaintiff fail to do so, the Plaintiff's Complaint may be dismissed with prejudice. Plaintiff is strongly encouraged to retain an attorney.

Upon the Plaintiff filing an amended Complaint in accordance with Ohio Civil Rule 12(E), the Defendants shall have twenty-eight (28) days from the date of said filing to file an Answer.

Plaintiff's "Motion" to Strike is hereby Overruled.

All subject to further Order of the Court.

  
Frank A. Fregiato - Judge

pc: Greg Givens, Plaintiff  
Eric Costine, Attorney for Defendant Yates  
Daniel D. Eisenbrei, Attorney for Defendants Loeffler; Newhart; Rodgers; Merryman; Gorrell;  
Napolitano; and Collette

FAF/lz

# **PETITIONER**

## **APPENDIX 3**

STATE OF OHIO, COUNTY OF BELMONT  
COURT OF COMMON PLEAS

DOCKET AND JOURNAL ENTRY

COMMON PLEAS COURT  
BELMONT CO. OH

2019 SEP -3 AM 9:47

CYNTHIA L. FREGIATO  
CLERK OF COURT

Greg P. Givens,

**Plaintiff**

Vs.

Case No.: 19 CV 200

Date of Entry: August 29, 2019

Clyde Yates, Jr., et al.,

**Defendants**

---

Review of Defendant's Notification of Filing Under Bankruptcy Act and Suggestion of Stay is hereby scheduled for September 6, 2019, at 8:30 a.m., noting a hearing to determine whether Plaintiff has complied with this Court's Order of July 26, 2019, was previously scheduled for that date and time.

All subject to further Order of the Court.

---

  
FRANK A. FREGIATO-JUDGE

pc: Greg P. Givens, Plaintiff  
Eric Costine, Atty./Def. Yates  
Daniel D. Eisenbrei, Atty./Def. Loeffler; Newhart; Rodgers; Merryman; Gorrell; Napolitano; and Collette  
Richard Loew, Jr., Def.  
Kimberly Harris, Def.  
Joe Klug aka Joseph Klug, Def.  
Village of Shadyside, Def.  
Kelly G. Kotur, Bankruptcy Attorney for Defendant Daniel S. Napolitano  
Kristi L. Lipscomb, Court Reporter

FAF/jsm

Counsel is filing this to provide notice of the bankruptcy filing but is not making an appearance as counsel for the Defendant.

By: \_\_\_\_\_

Kelly Gene Kotur, 81295  
407-A Howard Street  
Bridgeport, OH 43912  
Phone: (740) 635-1217  
Fax: (740) 633-9843  
E-mail: [janelle@davisandkotur.com](mailto:janelle@davisandkotur.com)  
Attorney for Defendant  
Richard L. Loew, Jr.

**CERTIFICATE OF SERVICE**

The undersigned certifies that a photocopy of the foregoing Notice was served upon the following parties by first-class mail, postage prepaid, this 27<sup>th</sup> day of May, 2020:

- 1) Greg P. Givens, P.O. Box 117, Bellaire, OH 43906.

Davis and Kotur Law Office Co. LPA

By: \_\_\_\_\_

Kelly Gene Kotur, 81295  
Attorney for Defendant  
Richard L. Loew, Jr.

# **PETITIONER**

## **APPENDIX 4**





# BELMONT COUNTY AUDITOR

Andrew L. Sutak

[Home](#)[Owner Search](#)[Address Search](#)[Parcel Search](#)[Quick Search](#)[Sales Search](#)

17-00271.000

3743 1/2 HIGHLAND AVE

Print ?

[General Info](#)[Tax](#)[History](#)[Tax Estimator](#)

Print All

## Property Information

Property Number	17-00271.000	Property Address:
Owner Name	STEINER DONALD ROBERT	3743 1/2 HIGHLAND AVE
Owner Address	3743 1 / 2 HIGHLAND SHADYSIDE OH 43947	SHADYSIDE OH
Tax Set	17 SHADYSIDE CORPORATION	
School District	705 SHADYSIDE LSD	
Neighborhood	51000 SHADYSIDE CORP	
Use Code	500 Residential vacant land	Tax Payer Address:
Acres	.00000	STEINER DONALD ROBERT
		3743 1 / 2 HIGHLAND AVE
		SHADYSIDE OH 43947
		USA
Description		
IN-LOT 64-A MC G .045 AC		

		Current Value		Recent Transfer	
Board of Revision	N	Mkt Land Value	\$6,860	Valid Sale	N
Homestead/Disability	N	CAUV	\$0	# Parcels	1
2.5% Reduction	N	Mkt Impr Value	\$0	Deed Type	113
Divided Property	N	Total	\$6,860	Amount	\$17,500
New Construction	N	Current Tax		Sale Date	11/14/2005
Foreclosure	N	Annual Tax *	\$126.63	Conveyance/Deed	02898
Other Assessments	N	Paid **	\$0.00	Map #	4
Front Ft.	0	Delq	\$470.87		

&lt;&lt; Previous Card

Card 1 of 0

Next Card &gt;&gt;

## Land

Land Type	Acres	Square Ft.	Actual Frontage	Eff. Frontage	Depth	No Of Units	Adjusted Rate	Value
FRFront Lot [DEPTHC]	0.05	0		40.00	49.00	0	\$173	\$6,240

## CAUV Land Lines

No CAUV Land On This Parcel

Card - 1

## Improvements

IMPR Type	Description	Area	Year Built	Value
No Improvements Found				

Card - 1

## Property Sketch -- Card 1

## Property Sketch









# BELMONT COUNTY AUDITOR

Andrew L. Sutak

[Home](#)[Owner Search](#)[Address Search](#)[Parcel Search](#)[Quick Search](#)[Sales Search](#)

17-00270.000

3743 1/2 HIGHLAND AVE

Print ?

[General Info](#) [Tax](#) [History](#) [Tax Estimator](#)

Print All

Property Information					
Property Number	17-00270.000			Property Address:	
Owner Name	STEINER DONALD ROBERT			3743 1/2 HIGHLAND AVE	
Owner Address	3743 1 / 2 HIGHLAND SHADYSIDE OH 43947			SHADYSIDE OH	
Tax Set	17 SHADYSIDE CORPORATION				
School District	705 SHADYSIDE LSD				
Neighborhood	51000 SHADYSIDE CORP			Tax Payer Address:	
Use Code	520 2-family owner occupies 1 unit			STEINER DONALD ROBERT	
Acres	.00000			3743 1 / 2 HIGHLAND AVE	
Description			SHADYSIDE OH 43947		
IN-LOT 63-A MCG 2 .045 AC			USA		
Current Value			Recent Transfer		
Board of Revision	N	Mkt Land Value	\$6,860	Valid Sale	N
Homestead/Disability	N	CAUV	\$0	# Parcels	1
2.5% Reduction	N	Mkt Impr Value	\$33,150	Deed Type	113
Divided Property	N	Total	\$40,010	Amount	\$17,500
New Construction	N	Current Tax		Sale Date	11/14/2005
Foreclosure	N	Annual Tax *	\$749.43	Conveyance/Deed	02898
Other Assessments	Y	Paid **	\$0.00	Map #	4
Front Ft.	0	Delq	\$2,243.25		

&lt;&lt; Previous Card    Card 1 of 1    Next Card &gt;&gt;

Dwelling Information					
Sq Ft Finished	1680	Room Count	6	Fireplace(s)	0
1st Floor Area	840	Story Height	2	Year Built	1914
Upper Floor Area	840	# Bedrooms	3	Year Remodeled	0
Half Story Area	0	Full Baths	2	Grade	D
Attic Area	0	Half Baths	0	Style	Duplex
Finished Basement	0	Heating	Gravity Air	Ext Walls	Frame - FRAME
Basement Type	None	Air Cond	NONE		

Land								
Land Type	Acres	Square Ft.	Actual Frontage	Eff. Frontage	Depth	No Of Units	Adjusted Rate	Value
FRFront Lot [DEPTHC]	0.05	0		40.00	49.00	0	\$173	\$6,240

## CAUV Land Lines

No CAUV Land On This Parcel

Card - 1

Improvements				
IMPR Type	Description	Area	Year Built	Value
Addition	OFF OFF	96 SQ FT		\$2,300
Addition	OFF2 OFF2	96 SQ FT		\$2,200
Feature	CLU CLU	1		\$4,380
Other Improvement	DCBG Detached Concrete Block Garage	900	1961	\$4,630

Card - 1

Property Sketch -- Card 1

Property Sketch



0 078s

Scale 5 ft

ID	Label	Area	Perimeter	Dimension
A	2 s Fr	840	118	N/A
B	OFFP2	96	44	N/A
5	OFFP	0	0	

Print Version

Last Updated: 5/19/2017





