

APPENDIX LIST

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Champaign County Common Pleas Court, Ohio
Case No. 2022-CV-033 May 4, 2024

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Case No. 2022-CV-033 May 4, 2024

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Appendix G

Transcript (excerpts) of March 9, 2023

The Supreme Court of Ohio

Robin K. Edwards, Champaign County
Treasurer

Case No. 2024-1271

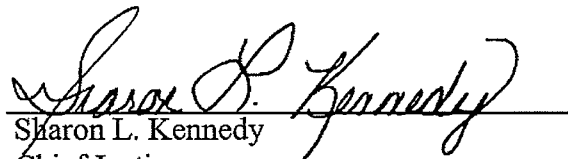
ENTRY

v.

Michael Galluzzo, et al.

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).

(Champaign County Court of Appeals; No. 2023-CA-21)


Sharon L. Kennedy
Chief Justice

The Official Case Announcement can be found at <http://www.supremecourt.ohio.gov/ROD/docs/>

APPENDIX F

FILED

2023 MAY -4 PM 2:20

PENNY S. UNDERWOOD
COMMON PLEAS COURT
CHAMPAIGN COUNTY, OHIO

IN THE COURT OF COMMON PLEAS, CHAMPAIGN COUNTY, OHIO

Robin K. Edwards,
Champaign County Treasurer

Case Number 2022 CV 000

Plaintiff,

Parcel Numbers: F20-24-00-01-08-002-00

C-18

F20-24-00-01-08-004-00

-VS-

Michael Galluzzo, et al.,
Defendants.

FINAL
APPEALABLE
ORDER

JUDGEMENT ENTRY

This cause came on for consideration pursuant to the Motion for Default Judgment filed by Plaintiff Robin K. Edwards, Champaign County Treasurer against Defendants Larry Galluzzo and the Unknown Spouse of Larry Galluzzo. Neither appeared for the default judgment hearing. Moreover, this matter is also before this Court on the Plaintiff Robin K. Edwards, Champaign County Treasurer's Motion for Summary Judgement as to Defendant Michael Galluzzo. The Court finds that all necessary parties have been duly served and this matter is properly before the Court. The Court, having reviewed said Motions and the Court's file in this matter, determines said Motions to be well taken, and hereby sustains the same.

With respect to the Motion for Default Judgement, the Court finds that Larry Galluzzo and the Unknown Spouse of Larry Galluzzo have failed to file an Answer or other responsive pleading. The Court finds that the failure to deny the allegations in the Complaint result in them being admitted pursuant to Rule 8(D) of the Ohio Rules of Civil Procedure. As a result, with respect to such Defendants, the Court hereby GRANTS Plaintiff's Motion for Default Judgement and enters Judgement in favor of the Plaintiff and against Larry Galluzzo and Unknown Spouse of Larry Galluzzo for the relief sought in Plaintiff's Complaint.

In response to the Motion for Summary Judgement, the Court has reviewed the Complaint,

the Answer filed by Michael Galluzzo, the Motion Contra to Plaintiff's Motion for Summary Judgment filed by Michael Galluzzo, and all evidence submitted. The Court finds that there are no genuine issues of material fact and that Plaintiff is entitled to judgement in her favor as a matter of law. The Court further finds that reasonable minds can come to but one conclusion, which is adverse to the foregoing Defendant and therefore GRANTS Plaintiff's Motion for Summary Judgment as to Michael Galluzzo.


The Court finds that there is due from Defendant Michael Galluzzo the sum of Six Thousand, Two Hundred, Fifty-One Dollars and Seventy-Six Cents (\$6,251.76), representing delinquent real estate taxes, assessments, interest, and penalties upon the Property (Parcel 1 & 2) as of March 17, 2022. A complete legal description of the Property is attached as Exhibit A.

It is therefore, ORDERED, ADJUDGED, AND DECREED, that the Plaintiff, Robin K. Edwards, Champaign County Treasurer, be, and hereby is, awarded judgment against Defendant Michael Galluzzo for Six Thousand, Two Hundred, Fifty-One Dollars and Seventy-Six Cents (\$6,251.76), plus additional taxes, interest, penalties, and charges that may accrue during the pendency of this matter, costs that have been or will be incurred for preservation of the Property, and court costs, for all of which amounts judgment is hereby awarded. Real estate taxes will be prorated to the date of sale.

It is further ORDERED, ADJUDGED, AND DECREED that unless Defendants pay or cause to be paid, the costs of this action, delinquent taxes, assessments, interest, penalties, and taxes and assessments now due on the Property described in Plaintiff's Complaint, within three (3) days after the filing of this Entry, that the equity of redemption of Michael Galluzzo in the Property be foreclosed and that the same be sold, that an Order of Sale be issued to the Sheriff of Champaign County, Ohio, directing him to advertise and sell the Property according to law and the orders of

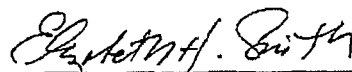
the Court herein, for no less than the sum of delinquent real estate taxes, assessments, interest, penalties and costs due and report her proceedings to the Court.

It is further ORDERED, ADJUDGED, AND DECREED that Defendants Larry Galluzzo and the Unknown Spouse of Larry Galluzzo have failed to answer to the Complaint, and therefore are to be forever barred from asserting the same hereafter, and such claims or interest in the Property shall be foreclosed and shall be released against the Property upon sale without consideration of any interest in the Property.



Nick A. Selvaggio, Judge

APPROVED:



Elizabeth Hanning Smith (0076701)
Assistant Champaign County Prosecutor

Submitted/Mailed 3/8/23

Michael Galluzzo, Pro Se Defendant

EXHIBIT A

Situate in the Village of St. Paris, in the County of Champaign and State of Ohio,
bounded and described as follows:

Being Lots numbered 70 and 71 in Rhodes and Barley's extension to Furrow, Rhodes and Barley's Addition to the Village of St. Paris, Ohio, known as East Lawn as is shown and designated on the recorded plat of St. Paris.

Excepting therefrom, the following described real estate:
Situated in the Village of St. Paris, the County of Champaign and the State of Ohio, and bounded and described as follows:

Being 75 feet taken by parallel lines off the entire sides of Lots Nos. 70 and 71 of the Rhoads and Barley Plat, known as the East Lawn Extension, recorded in Vol. B, Page 177, Champaign County Plat Records. Also the portion of the vacated alley listed in ordinance #549. recorded in PR198-353. Subject to all restrictive covenants and easements of record.

AKA: 307 East Main Street, St. Paris, Ohio 43072

**Parcel Numbers: F20-24-00-01-08-002-00
F20-24-00-01-08-004-00**

**Prior Deed Reference Volume 500, Page 276, Deed Records
Champaign County Recorder's Office**

Defendant: Michael Galluzzo

IN THE COURT OF COMMON PLEAS,
CHAMPAIGN COUNTY, OHIO

ROBIN K. EDWARDS, Champaign
County Treasurer,

Case No. 2022 CV 033

Plaintiff,

Judge Nick A. Selvaggio

- VS. -

MICHAEL GALLUZZO, et al.,

Defendants.

FILED
2023 MAY -4 PM 2:20
PENNY S. UNDERWOOD
COMMON PLEAS COURT
CHAMPAIGN COUNTY, OHIO

JOURNAL ENTRY OVERRULING OBJECTIONS
FILED BY DEFENDANT MICHAEL GALLUZZO TO MAGISTRATE'S DECISION;
ADOPTING SAID MAGISTRATE'S DECISION; AND
GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AGAINST
MICHAEL GALLUZZO AND FOR DEFAULT JUDGMENT AGAINST LARRY
GALLUZZO and HIS UNKNOWN SPOUSE, IF ANY

BACKGROUND

Robin K. Edwards, Champaign County Treasurer ("the Treasurer"), has filed suit to foreclose on real property addressed as 307 East Main Street, St Paris, Ohio (Permanent Parcel Nos. F20-24-00-01-08-002-00 & F20-24-00-01-08-004-00). The complaint names Michael Galluzzo ("Galluzzo"), Larry Galluzzo, and the Unknown Spouse of Larry Galluzzo, if any, as defendants.

On May 2, 2022, Galluzzo filed a pro se answer. That same day, he filed a document captioned "Writ of Counterclaim / Cross Claim", which adds Karen T. Bailey, Champaign County Auditor ("the Auditor"), and Glenda L. Bayman, Champaign County Recorder ("the Recorder"), as parties. He did not file a praecipe for service at that time.

APPENDIX B

On May 31, 2022, the Treasurer filed a motion to strike counterclaim / crossclaim, or in the alternative, for a more definite statement. Galluzzo, in turn, filed a motion for leave to file first amended counterclaim on June 15, 2022. The Treasurer did not file a response to this motion within the time periods prescribed by the Civil Rules. Galluzzo filed an amended pleading captioned "Amended Writ of Counterclaim / Third Party Claim" on July 7, 2022, prior to the Court addressing his motion to amend.

AMENDED WRIT OF COUNTERCLAIM / THIRD PARTY CLAIM

In his "Amended Writ of Counterclaim / Third Party Claim," Galluzzo alleges five apparent theories of recovery, arising under the federal Racketeer Influenced and Corrupt Organizations Act, several federal criminal statutes pertaining to the deprivation of civil rights and money laundering, and a generalized claim of "Making War against the Constitution of the United States of America, Tyranny."

The "Amended Writ of Counterclaim / Third Party Claim" also includes four "Claims," wherein Galluzzo alleges that the Treasurer, Auditor, and Recorder have failed to properly record his real property, have failed to assess its value in lawful U.S. Dollars, and have attempted to collect an unlawful property taxes in other than lawful U.S. Dollars pursuant to Article I, Section 10 of the United States Constitution. He claims that the Treasurer has falsely accused him of failing to pay alleged property taxes, that the Auditor has improperly assessed his realty as taxable, and that the Recorder has improperly recorded his deed as taxable.

The pleading also states seven "Facts," the first of which references Article I, Section 10 of the United States Constitution, which provides

"No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque or Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility."

In "Facts 2, 3 and 4," Galluzzo raises various jurisdictional issues. In "Fact 2," he contends that the Treasurer has failed to prove territorial jurisdiction, as required by R.C. 2938.10. In "Facts 3 and 4," Galluzzo contends that this Court lacks jurisdiction (both subject matter and personal) over this matter due to his diversity of citizenship. Galluzzo also contends that the Treasurer does not have the authority to collect property taxes from private people. Instead, relying upon Article XIII, Section 4 of the Ohio Constitution, ("The property of corporations, now existing or hereafter created, shall forever be subject to taxation, the same as the property of individuals") he claims that only property owned by corporations is subject to taxation.

In "Fact 5", Galluzzo contends that the Treasurer may not collect taxes from him because he has not contracted with the State of Ohio. Galluzzo also contends that the Treasurer has attempted to contract with and has filed suit against Michael Galluzzo, an unknown entity, thereby rendering the present action defective. In his "Amended Writ of Counterclaim / Third Party Claim," Galluzzo identifies himself as "Michael Anthony Galluzzo, a living man with a soul, an 'entity.'"

In "Fact 6," Galluzzo contends that the Treasurer lacks the authority to assess and collect property taxes for school funding. He relies upon *DeRolph v. State*, 78 Ohio St. 3d 193, 577 N.E.2d 723 (1997), wherein the Ohio Supreme Court found that Ohio's elementary and secondary public school financing system violates Section 2, Article VI of the Ohio Constitution, which mandates a thorough and efficient system of common

schools throughout the state. Galluzzo maintains that attempts to collect school taxes constitutes fraud and/or racketeering.

Finally, in "Fact 7," Galluzzo contends that the Treasurer is seeking to collect taxes on what he characterizes as "Indian Land." He claims that all lands in the Northwest Territory fall under the Treaty of Lenape with William Penn in 1682 and therefore are not subject to state statutes.

On September 20, 2022, this Court granted the Treasurer's motion to dismiss the "Amended Writ of Counterclaim / Third Party Claim" filed by Galluzzo and dismissed the same with prejudice. Galluzzo filed an appeal, which was dismissed for want of a final appealable order.

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND DEFAULT JUDGMENT

Thereafter, the Treasurer moved for summary judgment against Galluzzo and for default judgment against his brother, Larry Galluzzo, and the Unknown Spouse of Larry Galluzzo. Galluzzo filed a response captioned "Answer Contra to Plaintiff's Motion for Summary and Default Judgments." Therein Galluzzo restates the jurisdictional objections set forth in his "Amended Writ of Counterclaim / Third Party Claim." Galluzzo also contends that the Treasurer may not collect taxes from him because he has not contracted with the State of Ohio, and that the complaint was defective because it does not use his full name, i.e., Michael Anthony Galluzzo, but only his first and last names, i.e., Michael Galluzzo. He also claims that the collection of property taxes for school funding is unconstitutional, relying upon the *DeRolph* decision, that only property owned by corporations is subject to taxation, and that the Treasurer is attempting to collect

taxes on Indian lands. He also questions the form of tender which the Treasurer would accept as payment.

Finally, Galluzzo contends that he had the authority to file an answer on behalf of his brother and any unknown spouse, despite not being a licensed attorney. More particularly, he claims that laymen are allowed to assist litigants during judicial proceedings and that the State of Ohio lacks the authority to proscribe such conduct.

MAGISTRATE'S DECISION AND OBJECTIONS THERETO

Galluzzo appeared before Magistrate Scott D. Schockling at the default judgment hearing held on March 9, 2023. The Treasurer also appeared along with Assistant Prosecuting Attorney Jane A. Napier. The following day, Magistrate Schockling filed a magistrate's decision granting the Treasurer's motion for summary judgment against Galluzzo and for default judgment against the other defendants.

On March 23, 2023, Galluzzo filed objections to the magistrate's decision. Therein, he restates the arguments previously made in the "Amended Writ of Counterclaim / Third Party Claim" and the "Answer Contra to Plaintiff's Motion for Summary and Default Judgments." He also asserts the right to include his brother, Larry Galluzzo, and his unknown spouse in his answer. He also questions the effectiveness of service by publication on these defendants since his brother resides in the Cincinnati area, some distance from Champaign County.

RULING OF THE COURT

Initially, the Court noticed that in the second sentence of the March 23, 2023 "Defendant's Objections to Magistrate's Decision", Galluzzo sets forth that the audio of the March 9, 2023 hearing was "requested, not yet received".

Before ruling on Galluzzo's objections, the Court verified with Court Staff that Galluzzo subsequently appeared in court offices and received the requested audio recording.

An objection to a factual finding made by a magistrate, whether or not specifically designated as a finding of fact, shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that finding. See Civ.R. 53(D)(3)(a)(ii).

To date, Galluzzo has not provided a transcript. However, the Court finds that a transcript is unnecessary in this case since Galluzzo's objections present pure questions of law.

Pursuant to Civ.R. 53(D)(3)(b), a party who disagrees with a magistrate's proposed decision must file objections to said decision. When reviewing objections to a magistrate's decision, the trial court is not required to follow or accept the findings or recommendations of its magistrate. *New Lebanon v. Krahn*, 2015-Ohio-4791, 50 N.E.3d 291, ¶86 (2d Dist.). In accordance with Civ.R. 53, the trial court must conduct an independent review of the facts and conclusions contained in the magistrate's report and enter its own judgment. *Dayton v. Whiting*, 110 Ohio App.3d 115, 118, 673 N.E.2d 671 (2d Dist. 1996). Thus, a trial court's review of a magistrate's decision is de novo.

In his objections to the Magistrate's Decision, Galluzzo basically restated the arguments made in his "Answer Contra to Plaintiff's Motion for Summary and Default Judgments". Notwithstanding that restatement and the conclusions of the Court drawn from them, the Court conduct an independent review of the facts and conclusions contained in Magistrate Schockling's report.

SUMMARY JUDGMENT

The Court is unpersuaded that Magistrate Schockling erred in granting Plaintiff's Motion for Summary Judgment. The Court finds that Magistrate Schockling properly applied the legal conclusions contained the September 20, 2022 ruling of the Court dismissing Galluzzo's "Amended Writ of Counterclaim / Third Party Claim" and cited and applied the correct standard for granting Plaintiff's Motion for Summary Judgment.

DEFAULT JUDGMENT

The unauthorized practice of law in Ohio includes the drafting and preparation of pleadings filed in the courts of this state. *Disciplinary Counsel v. Hernandez*, 142 Ohio St. 3d 251, 2014-Ohio-5486, 29 N.E.3d 916, ¶16. Thus, Galluzzo, as a layperson, cannot answer the Treasurer's complaint for his brother, Larry Galluzzo, and his unknown spouse, if any. It also precludes Galluzzo from raising any challenge to the Treasurer serving those parties by publication. The Court finds that Magistrate Schockling properly concluded that Larry Galluzzo and his unknown spouse, if any, failed to properly answer the Treasurer's complaint. Therefore, as a matter of law, the Treasurer is entitled to default judgment against Larry Galluzzo and his unknown spouse, if any.

AUTHORITY OF MAGISTRATE

Finally, Galluzzo claims that Magistrate Schockling's decision is void ab initio as he does not have an oath of office on file with the Clerk of Courts.

Superintendence Rule 19(D)(1) provides that a magistrate, upon appointment, shall take an oath of office administered by the administrative judge of that court or

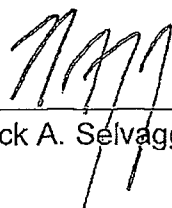
division. Said oath shall be filed with the Clerk of Courts within 30 days of the appointment. Superintendence Rule 19(D)(2).

The requirement applies to all appointments made on or after January 1, 2018. It does not apply to appointments occurring before that date.¹ Since Magistrate Schockling was appointed on February 5, 2013, the requirement does not apply to him. See Champaign C.P. Misc. No. 2013 MS 4 – Appointment of Magistrate for the Court of Common Pleas, General Division.

Accordingly, the Court **OVERRULES** the objections to the Magistrate's Decision, file-stamped March 10, 2023, and **ADOPTS** said decision as its own, including any findings of fact and conclusions of law contained therein.

Wherefore, the Treasurer's Motion for Summary Judgment against Michael Galluzzo and for Default Judgment against Larry Galluzzo and his Unknown Spouse, if any, is **GRANTED**. A separate journal entry granting foreclosure accompanies this entry.

IT IS SO ORDERED.



Nick A. Selvaggio, Judge

Copies by Clerk:

- Jane A. Napier, Counsel for Plaintiff, 200 N. Main Street, Urbana, OH 43078
- Michael A. Galluzzo, P.O. Box 710, St. Paris, OH 43072
- Michael A. Galluzzo, 307 E. Main St., St. Paris, OH 43072
- Larry Galluzzo, 376 Compton Rd., Cincinnati, OH 45215
- Unknown Spouse of Larry Galluzzo, 376 Compton Rd., Cincinnati, OH 45215

¹ See Administrative Judges Notification of Magistrate Appointments and Terminations – <https://www.supremecourt ohio.gov/attorneys/magistrate-registration/magistrate-appointments-and-terminations/> (accessed May 1, 2023).

FILED
Champaign County, Ohio

MAY 24 2024

Penny S Underwood
Clerk of Court of Appeals

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CHAMPAIGN COUNTY

ROBIN K. EDWARDS,
CHAMPAIGN COUNTY TREASURER

Appellees

v.

MICHAEL GALLUZZO, ET AL.

Appellant

C.A. No. 2023-CA-21

Trial Court Case No. 2022 CV 00033

(Civil Appeal from Common Pleas
Court)

.....
OPINION

Rendered on May 24, 2024
.....

MICHAEL GALLUZZO, Pro Se Appellant

JANE A. NAPIER, Attorney for Appellee
.....

LEWIS, J.

{¶ 1} Defendant-Appellant Michael Galluzzo appeals from an order of the Champaign County Common Pleas Court, which granted summary judgment in favor of Robin Edwards0. in her official capacity as Champaign County Treasurer ("Treasurer"). For the following reasons, we will affirm the trial court's judgment.

APPENDIX C

I. Facts and Procedural History

{¶ 2} On March 17, 2022, the Champaign County Prosecutor's Office filed a delinquent tax foreclosure complaint on behalf of the Treasurer against Michael Galluzzo ("Galluzzo"), Larry Galluzzo ("Larry"), and the Unknown Spouse of Larry Galluzzo ("Unknown Spouse"), to foreclose on two parcels of real property located at 307 East Main Street in St. Paris, Ohio, which is located in Champaign County. The complaint alleged that Galluzzo was the record owner of the parcels and that Larry might have had an interest in the property by virtue of a \$75,000 lien, which was recorded September 26, 2011. Because the recorded deed did not identify whether Larry was married, the complaint also included the Unknown Spouse as an individual who may have had an interest by virtue of any dower.

{¶ 3} The complaint further alleged that the Champaign County Auditor, pursuant to R.C. 5721.13, had filed a delinquent land tax certificate for the parcels with the Champaign County Prosecutor's Office. According to the certificate, a total amount of \$6,251.76, together with unpaid interest, court costs, and penalties, was owed and due. The complaint alleged that the taxes had been delinquent for at least one year after having been certified as delinquent and that the State of Ohio had the first and best lien on the real property pursuant to R.C. 5721.10. The complaint sought an order that the liens on the property be marshaled, that the property be sold by the Champaign County Sheriff pursuant to R.C. 5721.19, and that the amount due, including any additional taxes, assessments, or penalties accrued during the pendency of the action, be paid to the Treasurer from the proceeds of the sale of the parcels.

{¶ 4} An October 18, 2021 certificate of title, which identified the two parcels in

detail, was attached to the filing of the complaint. The certificate indicated that the parcels were vested in Galluzzo by virtue of a September 19, 2011 Quit Claim Deed from Larry, which was recorded on September 20, 2011, with the Champaign County Recorder's Office. According to the certificate, there was a lien on the property held by Larry in the original amount of \$75,000, which was recorded on September 26, 2011 with the Champaign County Recorder's Office. The total taxes for tax year 2020 for the two parcels amounted to \$543.72 per half year, with a 2020 Homestead Reduction of \$188.38 per half year, with a total arrearage at that time of \$5,590.

{¶ 5} Galluzzo was served with the complaint by certified mail on April 4, 2022. Although a summons was sent to Larry's last known address in Cincinnati, Ohio, Larry and the Unknown Spouse were also served by publication in the Urbana Daily Citizen, a daily newspaper of general circulation in Urbana, which is in Champaign County. Notice of the complaint and summons was posted once a week for three consecutive weeks with service completed on April 8, 2022. Galluzzo was also listed in the publication.

{¶ 6} On May 5, 2022, Galluzzo filed an answer, "in propria persona," on behalf of himself only, denying all the allegations set forth in the complaint (hereinafter "Answer"). Galluzzo asserted several defenses. He stated that: the court had neither subject matter nor personal jurisdiction; the Treasurer lacked the authority to assess and levy taxes; the Treasurer failed to state a claim upon which relief could be granted; the complaint failed to identify the real party in interest; the Treasurer lacked authority to collect property taxes; and the Treasurer lacked authority to assess and collect property taxes for school funding or on " 'Indian Land', i.e., Ohio." Galluzzo's Answer was signed in his name only.

{¶ 7} That same day, Galluzzo filed a "WRIT OF COUNTERCLAIM/CROSS

CLAIM" (hereinafter "Counterclaim") requesting preliminary and injunctive relief, a declaratory judgment, and a request for damages. Galluzzo's Counterclaim also named as parties Karen T. Bailey, the Champaign County Auditor ("Auditor"), and Glenda L. Bayman, the Champaign County Recorder ("Recorder"). No praecipes for service were filed relating to Galluzzo's Counterclaim.

{¶ 8} On May 31, 2022, the Treasurer moved to strike Galluzzo's Counterclaim or, in the alternative, for a more definite statement. In response, on June 15, 2022, Galluzzo filed a motion for leave to file an amended counterclaim.

{¶ 9} Without receiving leave of court, Galluzzo filed an "AMENDED WRIT OF COUNTERCLAIM/THIRD PARTY CLAIM" (hereinafter "Amended Counterclaim") on July 7, 2022. Galluzzo filed a praecipe with the Amended Counterclaim to be served by certified mail.

{¶ 10} On August 4, 2022, the Treasurer filed a motion to dismiss or, in the alternative, to strike Galluzzo's Amended Counterclaim. After being granted additional time to respond, Galluzzo filed a response.

{¶ 11} On September 20, 2022, the trial court issued a decision granting the Treasurer's motion to dismiss the Amended Counterclaim with prejudice, finding that the Amended Counterclaim failed to state a claim upon which relief could be granted. Galluzzo attempted to appeal that decision to this court, but we dismissed it for lack of a final appealable order.

{¶ 12} On January 31, 2023, the Treasurer filed a motion for summary judgment against Galluzzo and for default judgment against Larry and the Unknown Spouse. Accompanying the motion was a notarized affidavit of the Treasurer submitted in her

official capacity. In addition to the information alleged in the complaint, the affidavit also provided that the parcels had been first certified delinquent on December 31, 2015, and had remained delinquent since that time. The affidavit also stated that no tax certificate respecting the property had been sold in accordance with R.C. 5721.32 or R.C. 5721.33 and taxes were not the subject of a valid delinquent tax contract under R.C. 323.31. As of the date of filing the complaint, Galluzzo owed \$6,251.76 in delinquent taxes, special assessments, interest, and penalties to the Treasurer. The trial court, through a magistrate, issued an entry setting a hearing on the Treasurer's motion for March 9, 2023.

{¶ 13} On February 27, 2023, Galluzzo filed a response to the motion for summary judgment in which he also included a response to the motion for default judgment against Larry and the Unknown Spouse. Galluzzo argued that the Treasurer lacked jurisdiction to bring the action, that the complaint failed to identify the proper party of interest, and that his Answer to the complaint previously filed was also made on behalf of Larry and the Unknown Spouse. An unsigned and unfiled copy of Galluzzo's Answer was attached in support of his response.

{¶ 14} That same day, Galluzzo filed a request for interrogatories, admissions, and production of documents. He also filed a motion to disqualify the magistrate based on alleged bias against Galluzzo and his family and a "lack of basic knowledge in Law." The motion for disqualification was based on a prior civil case in which the magistrate had ruled against Galluzzo. The trial court overruled Galluzzo's motion to disqualify the magistrate.

{¶ 15} Neither Larry, the Unknown Spouse, nor a representative for either appeared for the March 9, 2023 hearing before the magistrate. Although Galluzzo

attempted to appear on their behalf, the magistrate did not permit it, determining that Galluzzo was not a licensed attorney who could appear on their behalf. The magistrate granted the Treasurer's motion for summary judgment against Galluzzo and granted the motion for declaratory judgment against Larry and the Unknown Spouse.

{¶ 16} Galluzzo filed objections to the magistrate's decision, which were overruled by the trial court. Having granted the Treasurer's motion for summary judgment and motion for default judgment, the trial court awarded the Treasurer judgment against Galluzzo in the amount of \$6,251.76, plus additional taxes, interest, penalties, and charges that might accrue during the pendency of the matter, costs that had been or would be incurred for preservation of the property, and court costs. The trial court further ordered that failure to pay the costs imposed within three days after the filing of the entry would foreclose Galluzzo's equity of redemption in the property and that the property would be ordered sold according to law.

{¶ 17} Galluzzo filed a timely appeal, raising four assignments of error.

{¶ 18} Before considering Galluzzo's assignments of error, we note that Galluzzo attached some documents to his reply brief for this court to consider on appeal. He submitted a purported copy of a release of lien for the property at issue from his brother Larry along with documents appearing to relate to an unrelated federal habeas case involving Galluzzo. "An appellate court's review in a direct appeal is limited to the materials in the record and the facts and evidence presented to the trial court." *Yates v. Kanani*, 2d Dist. Montgomery No. 23492, 2010-Ohio-2631, ¶ 24. Accordingly, these documents will not be considered. Moreover, a reply brief is not intended to allow a party to advance new arguments not previously raised. *Am. Fiber Sys., Inc. v. Levin*, 125 Ohio

St.3d 374, 2010-Ohio-1468, 928 N.E.2d 695, ¶ 21. Any new arguments Galluzzo has attempted to raise in his reply brief will likewise not be considered.

II. First Assignment of Error

{¶ 19} Galluzzo's first assignment of error states as follows:

As a matter of Law, the court committed plain error when it failed to adhere to the Constitutional requirement of an Oath of Office for persons appointed as a judicial officer of the several states pursuant to Article VI, clause 3 of the Constitution of the United States of America and Article XV, Section 7 of the Ohio Constitution.

{¶ 20} Galluzzo argues that the trial court committed plain error by allowing the magistrate to preside over the case without an oath of office on file with the clerk of courts. Galluzzo did not raise this issue until he filed his objections to the magistrate's decision, wherein Galluzzo alleged that it "recently came to [his] attention" that the magistrate did not have an oath of office on file as required by the Ohio Rules of Superintendence for the Courts Rule 19(D)(1). Accordingly, Galluzzo argued that, because the magistrate lacked an oath of office on file, then the magistrate lacked jurisdiction to preside over the case and its decision was void ab initio.

{¶ 21} In overruling Galluzzo's objections, the trial court found that Sup.R. 19(D) did not apply to appointments of magistrates that occurred prior to January 1, 2018, the effective date of the rule. Because the magistrate in this case was appointed on February 5, 2013, the requirement did not apply.

{¶ 22} Galluzzo's argument in the trial court was predicated on the requirements set forth in the Ohio Rules of Superintendence for the Courts, not Article VI, clause 3 of

the United States Constitution or Article XV, Section 7 of the Ohio Constitution. Parties may not raise any new issues or legal theories for the first time on appeal that were not raised in the lower court. *Independence v. Office of the Cuyahoga Cty. Executive*, 142 Ohio St.3d 125, 2014-Ohio-4650, 28 N.E.3d 1182, ¶ 30. Accordingly, Galluzzo waived this argument he has raised for the first time on appeal, and we will only review this issue for plain error.

{¶ 23} When plain error is contemplated, "we require a showing that but for a plain or obvious error, the outcome of the proceeding would have been otherwise, and reversal must be necessary to correct a manifest miscarriage of justice." *State v. Quarterman*, 140 Ohio St.3d 464, 2014-Ohio-4034, 19 N.E.3d 900, ¶ 16, citing *State v. Davis*, 127 Ohio St.3d 268, 2010-Ohio-5706, 939 N.E.2d 147, ¶ 29. "The burden of demonstrating plain error is on the party asserting it." *Id.*, citing *State v. Payne*, 114 Ohio St.3d 502, 2007-Ohio-4642, 873 N.E.2d 306, ¶ 17.

{¶ 24} Article VI, clause 3 of the United States Constitution provides, in relevant part, that "all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution[.]" Article XV, Section 7 of the Ohio Constitution states: "Every person chosen or appointed to any office under this state, before entering upon the discharge of its duties, shall take an oath or affirmation, to support the constitution of the United States, and of this state, and also an oath of office." While both the United States Constitution and the Ohio Constitution require a judicial officer to take an oath or affirmation, neither requires a magistrate's oath of office be filed with the clerk of courts.

{¶ 25} The requirement that a magistrate submit his or her oath of office to the

clerk of courts is established by Sup.R. 19(D). The Rules of Superintendence for the Courts of Ohio are promulgated pursuant to Article IV, Section 5(A)(1) of the Ohio Constitution, which grants the Supreme Court general superintendence over all courts in the state. Sup.R. 1(B). Pursuant to Sup.R. 19(D), upon the appointment of a magistrate to a court or a division of a court, the magistrate shall take an oath of office administered by the administrative judge of that court or division. Sup.R. 19(D)(1). Within 30 days of the appointment, the magistrate must file a certificate of oath, signed by the administrative judge who administered the oath, with the clerk of courts in which the magistrate serves. Sup.R. 19(D)(2). The effective date of the amendments to Sup.R. 19 that implemented the oath requirement, was January 1, 2018. Sup.R. 99 (EEEE). According to the Ohio Supreme Court, "[a]lthough magistrates appointed prior to Jan. 1, 2018 are not subject to the oath requirement, the Office of Attorney Services encourages all magistrates - regardless of when they are appointed - be given the oath and file it." Administrative Judges Notification of Magistrate Appointments and Terminations, <https://www.supremecourt.ohio.gov/attorneys/magistrate-registration/magistrate-appointments-and-terminations/> (accessed February 26, 2024).

{¶ 26} There was no allegation by Galluzzo in the trial court or indication in the record that the magistrate never took an oath of office, only that an oath of office had not been filed with the clerk's office. While a judge of a county court has long been required to take an oath of office and file it with the clerk of courts pursuant to statutory requirements, the same cannot be said for a magistrate. Prior to the enactment of Sup.R. 19(D), as a subordinate officer of the court, there was no requirement that the magistrate's oath be on file in order for the magistrate to hear a case. *Baker v. Paluch*,

9th Dist. Summit No. 22078, 2004-Ohio-6744, ¶ 10. Accordingly, the trial court's decision finding that the oath filing requirement in Sup.R. 19(D) did not apply was not error, plain or otherwise.

{¶ 27} Galluzzo's first assignment of error is overruled.

III. Second Assignment of Error

{¶ 28} Galluzzo's second assignment of error states the following:

As a matter of Law, the court committed plain error when it failed to dismiss the action under a default and estoppel by silence against the Plaintiff.

{¶ 29} In this assignment of error, Galluzzo explains that in a prior case involving the same set of facts and circumstances, he filed an answer and a "Notice of Default," neither of which the Treasurer responded to prior to the trial court's dismissal of that cause. According to Galluzzo, because the Treasurer failed to respond to his answer and "Notice of Default" in the prior case, the Treasurer acquiesced to the assertions in Galluzzo's filings, which he contends warrant dismissal in this case. We do not agree.

{¶ 30} The first time Galluzzo mentioned a prior case potentially affecting the Treasurer's ability to succeed on summary judgment was in his objections to the magistrate's decision granting summary judgment. He alleged that when the Treasurer failed to respond to his filings in the prior case, it initiated an estoppel by silence of any further administrative or judicial action against the Defendants.

{¶ 31} The prior case to which Galluzzo refers is not in our record. While Galluzzo referenced the prior case in his objection, he never presented any evidence to support his position. As noted above, this court's review is limited to the record on appeal. *State v. Ishmail*, 54 Ohio St.2d 402, 406, 377 N.E.2d 500 (1978). Here, the record

includes only scant details about the prior case and insufficient information for us to consider whether the prior case precluded the Treasurer from pursuing the present action. Moreover, because the pleadings and trial court's decisions on those pleadings in any prior case are not properly before us, we cannot consider error that is predicated on their existence. As a result, we reject Galluzzo's alleged error because it is based on evidence that is not in the record.

{¶ 32} Moreover, Galluzzo did not set forth in his Answer the affirmative defense of estoppel. See Civ.R. 8(C) (identifying estoppel as an affirmative defense). "When a party fails to assert a claim for estoppel in the pleadings, the party may not raise the affirmative defense of estoppel via a separate procedural mechanism at a subsequent point in the proceedings." (Citation omitted.) *Brunswick Hills Twp. v. G & K Constr., Inc.*, 9th Dist. Medina No. 14CA0017-M, 2016-Ohio-57, ¶ 6. Accordingly, Galluzzo could not rely on estoppel when he objected to the magistrate's decision and cannot now rely upon it on appeal.

{¶ 33} Finally, "[t]o constitute an estoppel by silence there must be something more than an opportunity to speak. There must be an obligation." *Wiser v. Lawler*, 189 U.S. 260, 270, 23 S.Ct. 624, 47 L.Ed. 802 (1903). But the Treasurer had no obligation to respond to Galluzzo's answer unless the trial court ordered the Treasurer to do so. Civ.R. 7(A). There is no evidence in the record to suggest that the trial court required the Treasurer to respond to Galluzzo's answer, either in this case or in a prior case. Absent any obligation of the Treasurer to reply, Galluzzo cannot establish that estoppel by silence even applied.

{¶ 34} Galluzzo's second assignment of error is overruled.

IV. Third Assignment of Error

{¶ 35} Galluzzo's third assignment of error states:

As a matter of Law, the court committed plain error and demonstrated bias and prejudice in favor of the Prosecution when it asserted that Defendant Michael Anthony Galluzzo could not answer for other defendants or raise any challenge to the Treasurer's service by publication because he did not have a "license to practice law in Ohio" while at the same time ignoring the fact that the assistant prosecutor, as well, does not have a "license to practice law in Ohio."

{¶ 36} Galluzzo argues that the trial court erred in granting default judgment to the Treasurer against Larry and the Unknown Spouse. We find no error for several reasons. First, Galluzzo filed the notice of appeal on his own behalf, "in propria persona." "In propria persona" means "in his own person." *Black's Law Dictionary* 1414 (10th Ed.2014). No notice of appeal was filed by Larry or the Unknown Spouse. Any error relating to Larry or the Unknown Spouse would only affect the validity of the judgment as to Larry and/or the Unknown Spouse, not Galluzzo, and therefore he cannot raise any arguments on their behalf. *KeyBank Natl. Assn. v. Harrison*, 2d Dist. Montgomery No. 26580, 2015-Ohio-3264, ¶ 27. "It is fundamental that appeal lies only on behalf of a party aggrieved. Unless an appellant can show that *his rights* have been invaded, no error is shown to have been committed by the court or body which entered the final order." (Emphasis sic.) *Ohio Contract Carriers Assn. v. Pub. Util. Comm.*, 140 Ohio St. 160, 161, 42 N.E.2d 758 (1942). Galluzzo has neither established nor even argued that he personally was prejudiced as a result of the trial court's decision granting default judgment

against Larry and the Unknown Spouse. Accordingly, no error is shown.

{¶ 37} Second, although Galluzzo claims that he represented his family members and himself in this matter, each of his filings indicated that he was filing as an individual "in propria persona." All documents were signed in his name only and not on behalf of any of his family members. No pleadings or motions were filed on behalf of Larry or the Unknown Spouse. "Civ.R. 55 generally authorizes the entry of a default judgment based on the fact that the defending party has failed to plead or otherwise defend against the claims." *Brookville Ents., Inc. v. Seibel*, 2d Dist. Montgomery No. 28561, 2020-Ohio-948, ¶ 23. Based on the fact that Galluzzo's filings in the trial court were made only on his own behalf, and in the absence of any pleadings or motions from Larry and the Unknown Spouse defending against the Treasurer's action, we cannot conclude that the trial court erred in granting default judgment against them.

{¶ 38} Finally, Galluzzo claims that he "represent[s] myself and family members in this matter," and therefore his Answer to the complaint was for himself and for Larry and the Unknown Spouse. However, as the trial court noted, Galluzzo has never been admitted to the practice of law in Ohio and is not otherwise authorized to practice law in this state. Therefore, he could not have represented Larry or the Unknown Spouse in the trial court. Absent an answer or any other effort to defend by Larry or the Unknown Spouse, the trial court did not err in granting default judgment.

{¶ 39} While Galluzzo seems to argue that a state cannot regulate who may practice law, he is mistaken. "Section 2(B)(1)(g), Article IV of the Ohio Constitution gives the Supreme Court power over all matters relating to the practice of law. Pursuant to the Constitution and to secure the public's interest in competent legal representation, [the

Supreme Court has] promulgated rules with respect to admission to the practice of law, rules to govern the conduct of those admitted to the practice, and rules to ensure that those admitted maintain their knowledge and skills through continuing legal education." *Disciplinary Counsel v. Coleman*, 88 Ohio St.3d 155, 157, 724 N.E.2d 402 (2000). The practice of law is restricted to licensed practitioners as a means to "protect the public against incompetence, divided loyalties, and other attendant evils that are often associated with unskilled representation." *Cleveland Bar Assn. v. CompManagement, Inc.*, 104 Ohio St.3d 168, 2004-Ohio-6506, 818 N.E.2d 1181, ¶ 40. Moreover, "[t]he practice of law is not limited to appearances in court. It also embraces the preparation of papers that are to be filed in court on another's behalf and that are otherwise incident to a lawsuit." *Trumbull Cty. Bar Assn. v. Legal Aid State Servs. Inc.*, 109 Ohio St.3d 93, 2006-Ohio-1931, 846 N.E.2d 35, ¶ 7.

{¶ 40} The "unauthorized practice of law" includes "[t]he rendering of legal services for another by any person not admitted to practice in Ohio under Rule I of the Supreme Court Rules for the Government of the Bar" unless certain exceptions apply; none of the exceptions apply here. Gov.Bar R. VII(31)(J)(1)(a). It matters not that Galluzzo claims he did not receive payment from Larry or the Unknown Spouse for his services. Because Galluzzo could not prepare or file any documents on behalf of Larry and the Unknown Spouse as an unlicensed attorney, the trial court did not err in granting the default judgment.

{¶ 41} Galluzzo's third assignment of error is overruled.

V. Fourth Assignment of Error

{¶ 42} Galluzzo's final assignment of error states:

As a matter of Law, the court committed plain error when it failed to require the Plaintiff to place jurisdiction and standing on the record when challenged by the Defendants. The Plaintiff provided no Constitutional authority for the Complaint and failed to identify the proper Defendants in the action.

{¶ 43} Although not entirely clear from his brief, it appears that Galluzzo is arguing that the trial court erred in entering summary judgment against him. Galluzzo reasserts the issues he raised in his Answer, which he incorporated into his response to the Treasurer's motion for summary judgment. Galluzzo first argues that the trial court lacked jurisdiction and standing because the Treasurer failed to enter jurisdiction into the record. Second, the trial court lacked personal jurisdiction over Galluzzo because he "identified himself as the beneficiary Michael Anthony Galluzzo, upper and lower case name, the flesh and blood man and stated that he was not the named defendant MICHAEL GALLUZZO, all caps, the Ens Legis entity, the state created, *cestui que* instrument, corporate entity." Brief of Appellant at p. 11. Third, the Champaign County Treasurer lacked authority under the Ohio Constitution to collect property taxes from private people. Fourth, the Treasurer was "attempting to collect taxes in private script, i.e., federal reserve accounting units (notes) in violation of the Constitutional requirements of Article I, Section 10, clause 1[.]" We are not persuaded by Galluzzo's arguments and conclude that the trial court properly granted summary judgment.

a. Summary Judgment Standard

{¶ 44} We review a trial court's ruling on a summary judgment motion de novo.

Schroeder v. Henness, 2d Dist. Miami No. 2012-CA-18, 2013-Ohio-2767, ¶ 42. Under Civ.R. 56(C), a movant is entitled to summary judgment when it is demonstrated "that there is no issue as to any material fact, that the moving party is entitled to judgment as a matter of law, and that reasonable minds can come to but one conclusion, and that conclusion is adverse to the nonmoving party." (Citation omitted.) *Miller v. Bike Athletic Co.*, 80 Ohio St.3d 607, 617, 687 N.E.2d 735 (1998).

{¶ 45} "[T]he moving party bears the initial responsibility of informing the trial court of the basis for the motion, and identifying those portions of the record before the trial court which demonstrate the absence of a genuine issue of fact on a material element of the nonmoving party's claim." *Dresher v. Burt*, 75 Ohio St.3d 280, 292, 662 N.E.2d 264 (1996). The burden then shifts to the defending party to set forth specific facts showing that there is a genuine issue for trial. *Id.* at 293. If the defending party does not so respond, summary judgment, if appropriate, may be entered in favor of the party seeking affirmative relief. *Id.* The non-moving party may not rest upon the mere allegations or denials in his pleadings, but instead must submit evidence as outlined in Civ.R. 56(C). *Id.*

b. Summary Judgment Was Properly Granted

{¶ 46} The trial court found that no genuine issue of material fact existed and that the Treasurer was entitled to judgment as a matter of law. We agree with the trial court.

{¶ 47} "It is elementary that the power and right to tax, for any reason, rest with the government, whether that government be federal, state, or municipal in character. The power and right to tax give rise to the power and right to collect and police that tax." *S.S. Kresge Co. v. Bowers*, 2 Ohio St.2d 113, 116, 206 N.E.2d 905 (1965). "The foundation

of the state's taxing authority is in Section 1, Article II, of the Ohio Constitution, which confers general legislative power upon the General Assembly." *Callison v. Huelsman*, 168 Ohio App.3d 471, 2006-Ohio-4395, 860 N.E.2d 829, ¶ 7 (2d Dist.), citing *Haefner v. Youngstown*, 147 Ohio St. 58, 68 N.E.2d 64 (1946). "Article XII, Section 2 of the Ohio Constitution empowers the General Assembly to determine the subjects and methods of taxation and exemption of real and personal property, limited only by Article I of the Ohio Constitution." (Citations omitted.) *Sullivan v. Monument Homes Inc.*, 10th Dist. Franklin No. 19AP-814, 2020-Ohio-2846, ¶ 13.

{¶ 48} R.C. Chapters 323, 5709, and 5721, were enacted by the General Assembly regarding property taxes. R.C. 5709.01(A) provides: "All real property in this state is subject to taxation, except only such as is expressly exempted therefrom." R.C. 323.12(A) further requires that "[e]ach person charged with taxes shall pay to the county treasurer the full amount of such taxes or shall pay one-half of the current taxes together with the full amount of any delinquent taxes on or before the thirty-first day of December * * *." Property taxes for each year attach to and become a lien on the property on the first day of January of that year, and continue until such taxes, including any penalties, interest, or other charges accruing thereon, are paid. R.C. 323.11. "[O]nce tax payments are untimely, R.C. 323.25 provides that the county treasurer shall enforce a resulting lien for real property taxes owed in a civil action for the sale of such property, in the court of common pleas and in the same way in which mortgage liens are enforced." *Callison* at ¶ 8.

{¶ 49} "The procedure to be followed with regard to foreclosure of delinquent land is found in R.C. 5721.13 and R.C. 5721.18." *Alt v. Pazmino-Stanfield*, 3d Dist. Seneca

No. 13-17-34, 2018-Ohio-2346, ¶ 18. R.C. 5721.13(A) provides that:

One year after certification of a delinquent land list, the county auditor shall make in duplicate a certificate, to be known as a delinquent land tax certificate, of each delinquent tract of land, * * * upon which the taxes, assessments, charges, interest, and penalties have not been paid, describing each tract of land or city or town lot in the same manner as it is described on the delinquent tax list and the amount of the taxes, assessments, charges, interest, and penalties due and unpaid, and stating that the amount has been certified to the county prosecuting attorney as delinquent. The certificate shall be signed by the auditor or his deputy, and the original certificate shall be filed with the prosecuting attorney.

{¶ 50} Upon the delivery to the prosecuting attorney by the county auditor of a delinquent land tax certificate, or of a master list of delinquent land tracts, the county prosecuting attorney:

shall institute a foreclosure proceeding under this section in the name of the county treasurer to foreclose the lien of the state, in any court with jurisdiction * * *, unless the taxes, assessments, charges, penalties, and interest are paid prior to the time a complaint is filed, or unless a foreclosure or foreclosure and forfeiture action has been or will be instituted under section 323.25, sections 323.65 to 323.79, or section 5721.14 of the Revised Code.

R.C. 5721.18.

{¶ 51} The foreclosure proceedings initiated pursuant to R.C. 5721.18 may be

instituted in the common pleas court for the county in which the property is located. The judicial power of the state is vested in "such other courts inferior to the supreme court as may from time to time be established by law." Article IV, Section 1, Ohio Constitution. The Ohio Constitution specifically established Ohio's common pleas courts, which are endowed with "original jurisdiction over all justiciable matters * * * as may be provided by law." Article IV, Section 4(B), Ohio Constitution. Jurisdiction has been "provided by law" pursuant to R.C. 2305.01, which states that courts of common pleas have "original jurisdiction in all civil cases in which the sum or matter in dispute exceeds the exclusive original jurisdiction of county courts." The Ohio Supreme Court "has long held that the court of common pleas is a court of general jurisdiction, with subject-matter jurisdiction that extends to 'all matters at law and in equity that are not denied to it.' " *Bank of Am., N.A. v. Kuchta*, 141 Ohio St.3d 75, 2014-Ohio-4275, 21 N.E.3d 1040, ¶ 20, quoting *Saxton v. Seiberling*, 48 Ohio St. 554, 558-559, 29 N.E. 179 (1891). The Ohio Supreme Court has "also long held that actions in foreclosure are within the subject-matter jurisdiction of a court of common pleas." *Id.*, citing *Robinson v. Williams*, 62 Ohio St. 401, 408, 57 N.E. 55 (1900).

{¶ 52} Accordingly, the Champaign County Court of Common Pleas had subject matter jurisdiction to hear Galluzzo's delinquent tax foreclosure action for the parcels located within Champaign County. Moreover, the Champaign County Prosecuting Attorney was authorized by statute to institute the delinquent tax foreclosure proceedings on behalf of the named county treasurer. Because the Treasurer had a sufficient stake in an otherwise justiciable controversy to obtain judicial resolution of that controversy, the Treasurer had standing to invoke the jurisdiction of the court to proceed in a foreclosure

action. *Davet v. Sheehan*, 8th Dist. Cuyahoga No. 101452, 2014-Ohio-5694, ¶ 22-23.

{¶ 53} In this case, the Champaign County Prosecutor's Office filed a delinquent tax foreclosure complaint on behalf of the duly elected and acting Champaign County Treasurer against Galluzzo, Larry, and the Unknown Spouse, to foreclose on two parcels of real property located in Champaign County, which were described in detail. Evidence presented by the Treasurer demonstrated that Galluzzo was the record owner of the parcels by virtue of a Quit Claim Deed recorded on September 20, 2011, in the Champaign County Recorder's Office. Pursuant to the provisions of R.C. 5721.13, the Champaign County Auditor filed a delinquent land tax certificate for the parcels with the Champaign County Prosecutor's Office indicating that the taxes had been delinquent and had not been paid for at least one year after having been certified delinquent. Notably, the taxes had been delinquent since December 31, 2015, and had remained delinquent since that time. A total amount of \$6,251.76, together with unpaid interest, court costs, and penalties, was owed and due at the time of the filing of the complaint. The State of Ohio had the first and best lien on the property pursuant to R.C. 5721.10. Moreover, no tax certificate respecting the property had been sold in accordance with R.C. 5721.32 or R.C. 5721.33 and taxes were not the subject of a valid delinquent tax contract under R.C. 323.31.

{¶ 54} Galluzzo was served with the complaint by certified mail and via publication as provided for in R.C. 5721.18(A)(1) and was identified in the complaint by name and address. Although Galluzzo claims that the complaint identified him with all capital letters, this is not accurate. See Complaint. To the extent that the complaint did not include Galluzzo's middle name, we do not find that to have been necessary to properly

identify Galluzzo and notify him that he was an interested party in question. Notably, the quit claim deed for the property identified the named titleholder of record as "Michael Galluzzo," not "Michael Anthony Galluzzo." Finally, to the extent that Galluzzo's argument relies on "sovereign citizen" type arguments, it is wholly frivolous. "Regardless of an individual's claimed status of descent, be it as a 'sovereign citizen,' 'a secured party creditor,' or a 'flesh and blood human being,' that person is not beyond the jurisdiction of the courts." *United States v. Benabe*, 654 F.3d 753, 767 (7th Cir.2011). Galluzzo was sufficiently apprised of notice of the pendency of the action and afforded an opportunity to present his objections. *In re Foreclosure of Liens for Delinquent Taxes*, 62 Ohio St.2d 333, 405 N.E.2d 1030 (1980), paragraph one of the syllabus. Therefore, his due process rights were satisfied, and the trial court had jurisdiction to proceed with the foreclosure.

{¶ 55} Galluzzo did not counter the Treasurer's evidence with any evidence under Civ.R. 56(E) to dispute that his taxes and related charges were delinquent or to question the accuracy of the stated amount. Rather, he relied on the argument that the Treasurer lacked the authority to institute any proceedings against him and that the trial court lacked jurisdiction to grant the Treasurer any relief. Galluzzo also has failed to bring to the attention of this court any provision of the Ohio Revised Code that would exempt him or his real property from the property tax liability imposed by Chapters 5709 and 323. Accordingly, we conclude that there was sufficient evidence in the record to allow the trial court to enter a judgment of foreclosure and to order a sheriff's sale of the property under R.C. 5721.18 and 5721.19.

{¶ 56} We also conclude that Galluzzo's theory that the Treasurer was attempting to collect taxes in violation of Article I, Section 10, clause 1 of the United States

Constitution, is not supported by the law. "[T]he provision of Section 10, Article I of the United States Constitution that '[n]o state shall * * * make any Thing but gold and silver Coin a Tender in Payment of Debts' is not a directive to states to use only gold or silver coins; it is merely a restriction preventing states from establishing their own legal tender other than gold or silver coins." *State ex rel. White v. Mack*, 93 Ohio St.3d 572, 573, 757 N.E.2d 353 (2001). "Article 1, section 8, clause 5 of the Constitution gives Congress the authority '[t]o coin Money, and regulate the Value thereof * * *.' This clause gives Congress the exclusive ability to determine what will be legal tender throughout the country." (Citations omitted.) *State v. Morgan*, 2d Dist. Clark No. 2294, 1987 WL 11809, *10 (May 28, 1987). 31 U.S.C § 5103 was enacted pursuant to Congress' authority, which provides that "United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) are legal tender for all debts, public charges, taxes, and dues." Accordingly, the Treasurer's attempt to collect on Galluzzo's tax debts by cash, check, or bank check was not unconstitutional.

{¶ 57} The trial court did not err in granting summary judgment in favor of the Treasurer. Galluzzo's fourth assignment of error is overruled.

VI. Conclusion

{¶ 58} Having overruled all of Galluzzo's assignments of error, the judgment of the trial court will be affirmed.

.....

EPLEY, P.J., and WELBAUM, J., concur.

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CHAMPAIGN COUNTY, OHIO**

Michael Anthony Galluzzo, et al,
Appellants/Defendants,

Case No. 23 CA 21

vs.

Case No. 2020 CV 0033

FILED
Champaign County, Ohio

ROBIN K. EDWARDS,
CHAMPAIGN COUNTY TREASURER,
Appellee/Plaintiff,

JUN 11 2024

Penny S Underwood
Clerk of Court of Appeals

MOTION FOR RECONSIDERATION OF JUDGMENT ENTRY

The Appellants' motion the court for Leave to file a Motion for Reconsideration Out of Time is due to extensive delay in delivery time in receiving Notice from the court of the Journal Entry allegedly docketed on May 24, 2024.

First Assignment of Error

In addressing the First Assignment of Error, the issue as to the magistrate's Oath of Office was raised as soon as discovered. This court argues that the Appellants' only argued the oath under the Superintendence for the Courts Rule 19(D)(1). It is without question that the magistrate did not have an oath of office since it is not on file with the clerk. The issue of the magistrate's oath was raised in the trial court though under Sup.R.19(D)(1), but that does not negate the fact that the magistrate is in violation of the Constitution of the United States, Article VI, clause 3, Stat. I, Chap. I, Sec. 3, *And be it further enacted, ...* And the members of the several State legislatures, and all executive and judicial officers of the several States, who shall be chosen or appointed...

APPENDIX D

And let's not forget, *Oath of officers*, Art. XV §7 Every person chosen or appointed to any office under this State, before entering upon the discharge of its duties, shall take an oath or affirmation, to support the Constitution of the United States, and of this State, and also an oath of office. (1851) This court is trying to suppress the Laws of the United States of America which have been in effect for over 230 years and the Laws of the state Ohio for over 170 years.

The Rights of the People guaranteed by the Constitution of the United States of American and placing restraints on government are fundamental to the protection of the People and the Republic. Those who have taken an Oath to that Constitution and failed in their duty to protect it are considered it to be "warring against the Constitution," the Republic and the People protected by that Constitution. When one breaks the Law of the Land, he is a Law breaker. If he breaks that Law in an office of honor, he is still a Law breaker and holds that office in "fraud" and actions in fraud may be challenged at any time. Likewise, Jurisdiction may be challenged at any time, even on appeal. (Citations omitted)

The court stated, "While both the United States Constitution and the Ohio Constitution require a judicial officer to take an oath or affirmation, neither requires a magistrate's oath of office to be filed with the clerk of courts." If it is not on file, it must not exist! All other public officers have oaths and they are on file, with the clerk or some other department, but they are on file. Those Constitutional requirements long predate and negate the Superintendence Rules.

This court should reverse its decision on this matter in favor of justice and both constitutions.

Third Assignment of Error

Article I, Section 10, Clause 1, restricts the states from impairing the Obligation of Contracts. This court claims Galluzzo cannot assist his brother and file documents on his behalf because he is not "licensed to practice law" in Ohio. This court claims that Galluzzo filed documents for himself as "in propria persona" (in his own person). The filings clearly indicate that Galluzzo was filing for all parties in defense, et al. Galluzzo signed as a flesh and blood man, not to be confused with the corporate entity. An agreement/contract between Galluzzo and

his brother, whether written or unwritten, gave him authority to operate on his brother's behalf, a Right protected by the Constitution. Galluzzo has never professed to be an attorney or to engage in the "practice" of law for profit. The insinuation that, "No pleadings or motion were filed on behalf of Larry or the Unknown Spouse." This statement is in fact not true, where all pleadings and motions were filed for the Defendants/Appellants, et al. The state may have authority to oversee the "practice of law" as a "commercial enterprise," but has no authority to bar private individuals from assisting each other in matters of Law.

On February 1-10, 1790, the United States Supreme Court held their first meeting in New York City. It was recorded that, "By adjournment on February 10, a total of 19 counselors and 7 attorneys will be certified and take an oath drawn up by the justices." Also, under the 14th Amendment, one may counsel as a Private Attorney General.

Where Galluzzo is NOT "practicing" law, i.e., engaging in a commercial business, the state has no need (?) to protect the public against incompetence, the state has no need (?) to "protect the public against divided loyalties, and the state has no need (?) to "protect the public against other attendant evils where Galluzzo poses no threat to the public. The courts assertion the Galluzzo is "practicing law without a license" is misleading and prejudice his pleadings to assist his brother, by agreement, in this matter. The 'default' judgment was obtained in error and should be reversed and dismissed as a matter of justice.

Fourth Assignment of Error

On page 16, the court states "that there is no issue as to any material fact," The Appellants raised a number of issues; jurisdiction not placed on the record, the law form are you operating in, standing, failure to identify the proper parties and jurisdiction thereof (flesh and blood man vs. Ens Legis entity), Constitutional authority to act against private people and property, the nature and cause of the action and the magistrate blocking the Defendants' Interrogatories, all issues raised and not answered or addressed, just shoved aside and forgotten.


On page 21, the court states, "Galluzzo's argument relies on "sovereign citizen" type arguments, it is wholly frivolous." I am yet to find a case where these so-called "sovereign citizen type arguments" have been addressed in full and defeated. As in this case, it is easier to ignore them then address them.

A willful or culpable silence is absence of a duty to speak.
"Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading."
United States v. Tweel, 550 F.2d 297 (1977) citing United States v. Prudden, 425 F.2d 1021 (1970).

This Error should be reversed and remanded for prejudice and failure to protect rights guaranteed under your oath of office and the Law of the Land and failure to provide due process of Law.

UNDER WITNESS OF GOD: I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.
Executed on June 11, 2024.

Respectfully submitted,
All Rights Reserved,


Michael Anthony Galluzzo
Appellants / Defendants
in propria persona
c/o P.O. Box 710
St. Paris, Ohio the state [43072]

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of this filing was served upon the Champaign County Prosecutor, in person, at 200 N. Main St., Urbana, Ohio on June 11, 2024.

GARY RAY WEAVER: NOTARY
Gary Ray Weaver: NOTARY


Michael Anthony Galluzzo



GARY RAY WEAVER
Notary Public
State of Ohio
My Comm. Expires
October 19, 2024

FILED
Champaign County, Ohio

JUL 30 2024

Penny S Underwood
Clerk of Court of Appeals

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CHAMPAIGN COUNTY

ROBIN K. EDWARDS,
CHAMPAIGN COUNTY
TREASURER

Appellees

v.

MICHAEL GALLUZZO, ET AL.

Appellant

C.A. No. 2023-CA-21

Trial Court Case No. 2022 CV 00033

**ORDER ON APPLICATION FOR
RECONSIDERATION**

PER CURIAM:

{¶ 1} On June 11, 2024, Appellant Michael Galluzzo filed an application for reconsideration and a motion for leave to file a delayed application for reconsideration requesting that this court reconsider its May 24, 2024 opinion affirming a judgment of the Champaign County Common Pleas Court. *Edwards v. Galluzzo*, 2024-Ohio-2005 (2d Dist.).

{¶ 2} An application for reconsideration must be filed "in writing no later than ten days after the clerk has both mailed to the parties the judgment or order in question and made a note on the docket of the mailing as required by App. R. 30(A)." App.R. 26(A)(1)(a). Our opinion was rendered on May 24, 2024, and the clerk noted on the docket the notice and mailing that same day. Galluzzo's application for reconsideration

APPENDIX E

should have been filed on or before June 3, 2024 to be timely. Galluzzo filed both his motion for leave to file a delayed application for reconsideration and his application for reconsideration on June 11, 2024. His application is clearly untimely.

{¶ 3} Nevertheless, an applicant may file a motion for an enlargement of time to file an application for reconsideration pursuant to App. R. 26(A), but it "shall not be granted except on a showing of extraordinary circumstances." App.R. 14(B). According to Galluzzo, the extraordinary circumstance justifying his tardiness was a delay in the mail. Galluzzo states in his motion that the Champaign County Clerk mailed the notice of this Court's judgment on May 29, 2024, and was received on June 1, 2024. He then states that the judgment itself was received from this Court on June 3, 2024.

{¶ 4} The time frame established in App.R. 26(A) is based on when "the clerk has both mailed to the parties the judgment or order in question and made a note on the docket of the mailing." There is no consideration under the rule for when the documents are received. We note that the three-day rule of App.R. 14(C) does not apply to applications for reconsideration. *Peters v. Tipton*, 2015-Ohio-3307 (7th Dist.).

{¶ 5} According to the docket, both the mailing of the judgment and notation on the docket occurred on May 24, 2024. Even if we were to accept Galluzzo's contention that the clerk did not mail the notice until May 29, 2024, the application for reconsideration would have been due by June 10, 2024; because the tenth day fell on a weekend, the period ran until the end of the next day which was not a weekend or legal holiday. App.R. 14(A). But Galluzzo provided no explanation for why he could not have timely filed by June 10, 2024. Under these facts, we cannot conclude that Galluzzo has made a showing of extraordinary circumstances. Therefore, we must deny Galluzzo's application for

reconsideration as untimely.

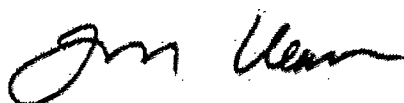
{¶ 6} Further, it is clear from the arguments in Galluzzo's application for reconsideration that he merely disagrees with the decision of and logic used by this court. "The test generally applied upon the filing of a motion for reconsideration in the court of appeals is whether the motion calls to the attention of the court an obvious error in its decision, or raises an issue for consideration that was either not considered at all or was not fully considered by the court when it should have been." *Columbus v. Hodge*, 37 Ohio App.3d 68 (10th Dist. 1987), paragraph one of the syllabus. "An application for reconsideration is not designed for use in instances where a party simply disagrees with the conclusions reached and the logic used by an appellate court." *State v. Owens*, 112 Ohio App. 3d 334, 334-36 (11th Dist. 1996). Galluzzo's application does not demonstrate any obvious errors or raise any issues that were not adequately addressed in our previous opinion. Rather, Galluzzo raises the same arguments he previously made in his merit brief and that we fully considered and addressed in our decision. Therefore, we must deny Galluzzo's application for reconsideration.

{¶ 7} For the foregoing reasons, we deny Galluzzo's motion for leave to file an untimely application for reconsideration and his application for reconsideration.

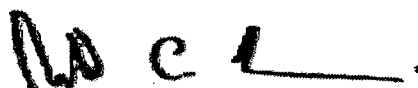
SO ORDERED.



CHRISTOPHER B. EPLEY, PRESIDING JUDGE



JEFFREY M. WELBAUM, JUDGE



RONALD C. LEWIS, JUDGE

IN THE COMMON PLEAS COURT OF CHAMPAIGN COUNTY, OHIO

Robin K. Edwards,
Champaign County
Treasurer,

Plaintiff,

- vs -

Michael Galluzzo, et al.,

Defendant.

2B CA 21

Case No. 2022 CV 033

TRANSCRIPT OF RECORDED PROCEEDINGS
BEFORE Magistrate Scott D. Schockling

March 9, 2023

FILED
CHAMPAIGN COUNTY OHIO

JUL 31 2023

Transcribed By:

Belinda M. Wolford
Registered Professional Reporter
Notary Public, State of Ohio


CLERK OF COURT OF APPEALS

APPEARANCES:

Assistant Prosecuting Attorney Jane A. Napier
On Behalf of Plaintiff.
Michael Galluzzo, pro se.

ALSO PRESENT:

Robin K. Edwards, Champaign County Treasurer.



ORIGINAL

2023 JUL 31 PM 1:39
PENNY S. UNDERWOOD
COMMON PLEAS COURT
CHAMPAIGN COUNTY, OHIO

FILED

APPENDIX G

1 arguments you've raised here before. I mean, these
2 arguments have been kicked around in not only the
3 State of Ohio but I think in other states as well,
4 and I don't think any of the litigants who have
5 raised these issues have had any success, and
6 meanwhile the meter keeps running here as far as
7 the taxes. And, you know, these cases are fairly
8 straightforward: Do you own the property; did you
9 pay the taxes. That's basically all that's really
10 at issue.

11 MR. GALLUZZO: Well --

12 THE COURT: And it's like the meter keeps
13 running. It's like you're in the taxicab and the
14 meter, it just keeps running and running and the
15 bill gets higher and higher. At some point in time
16 there will be a day of reckoning.

17 MR. GALLUZZO: Well, there's -- there have
18 been a number of questions I've put to the
19 plaintiff on jurisdiction, on authority, the law.

20 THE COURT: The Court's already ruled upon
21 those issues and the Court's not -- but so that's
22 over and done with. As far as for this proceeding
23 the Court's found in its previous entry that it
24 has -- that the treasurer is authorized to do what
25 she's doing here and the Court has jurisdiction to

1 this is not the time for that. He needs legal
2 counsel. I cannot get into a big discussion about
3 how it came about with Justice Harlan and whatever
4 he said before he died.

5 THE COURT: Which Justice Harlan? I mean --
6 I mean, the Court's not going to sit here and
7 listen to stuff about how we have two federal
8 governments and two state governments and how
9 there's, you know -- it's just -- it's just not
10 there. I mean, you know, the case is fairly
11 straightforward. Do you have a defense to it.
12 Answer looks like no. So that will be all.

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14 (End of recording.)
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