

FILED  
IN THE COURT OF COMMON PLEAS  
LAKE COUNTY, OHIO

FEB 8 10 05 AM '88

STATE OF OHIO, ex rel.	)	CASE NO. 85 CIV 0815
Plaintiff	)	
vs	)	JUDGMENT ENTRY
ROBERT E. GIBBS	)	February 8, 1988
Defendant	)	

The following matters filed by non-party movant, Evelyn Gibbs, came on for consideration by the Court, after an oral hearing on January 21, 1988.

Upon review of the motions filed by non-party movant, the Court finds said Motions are not well taken and ought to be denied.

With respect to movant's request to vacate appointment of the Receiver, appointed herein by order dated April 3, 1987, the Court finds that movant's reliance upon R.C. 2937.36 and Crim.R. 46(m) is misplaced as those provisions relate to the posting of bail and forfeiture thereof in criminal proceedings. The Receiver appointed in this case is a necessary provisional measure invoked by the Court to protect the interests of the parties under the consent decree ordered September 17, 1986, and to which movant was fully apprised by her then counsel. In no sense does the Receiver's appointment have the effect of forfeiting or otherwise finally determining rights to property interests which are the subject of this action.

Furthermore, the Court is well aware that contempt proceedings are quasi-criminal in nature, and that certain procedural due process considerations are applicable, but contempt proceedings are not criminal actions governed by the criminal code, State v. Local Union 5760, (1960), 172 O.S. 75, 83.

Additionally, the specific statute authorizing contempt powers, R.C. 2705.05 et sec, makes no provision for application of Title 29 of the Revised Code.

For the foregoing reasons, movant's various remaining motions invoking the Rules of Criminal Procedure are also not well taken and ought to be denied including, to wit: Motion for Voir Dire of Identification of Witnesses; Motion to Suppress; Motion for Discovery and to Examine Exculpatory and Mitigatory Material; Motion for Bill of Particulars; and Motion for Trial by Jury, which even under Constitutional due process requirements is not recognized in contempt proceedings unless a serious offense is involved, that is, one involving more than six months imprisonment, State v. Weiner, (1974), 37 O.S. 2d 11 and Codispoti v. Pennsylvania, 418 U.S. 506, 94 S.Ct. 2697, 41 L.Ed. 2d 912 (1974).

It is further noted that the Receiver herein has volunteered certain information with respect to movant's discovery and bill of particulars only as an accommodation in the spirit of cooperation, and expressly does not waive his position that said information is not discoverable in a contempt proceeding.

WHEREFORE, it is the order of this Court that the several motions of non-party movant Evelyn Gibbs Motion to Vacate Appointment of the Receiver; Motion for Voir Dire of Identification of Witnesses; Motion to Suppress; Motion for Discovery and to Examine Exculpatory and Mitigatory Material; Motion for Bill of Particulars and Motion for Trial by Jury be and hereby are denied.

IT IS SO ORDERED.



PAUL H. MITROVICH, JUDGE

Copies to:  
J. Michael Marous, Asst. Atty. Gen.  
David A. McGee, Esq.  
Steven C. LaTourette, Esq.  
Timothy P. Cannon, Esq.  
William T. Wuliger, Esq.