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JAMES BONINI
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2010 JUL 16 P 12:15

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

Tammy Thomas,	:	Case No. 2:10-cv-00139
	:	
Plaintiff	:	
	:	
vs.	:	Judge Michael H. Watson
	:	
Steven Koebel et al.,	:	Magistrate Judge Norah McCann King
	:	
Defendants	:	<u>AGREED PERMANENT</u>
	:	<u>INJUNCTION</u>
	:	
	:	

On April 29, 2010, the Plaintiff filed a Motion for a Preliminary Injunction seeking to enjoin Defendant Village of Middleport from convening and adjudicating cases in the Middleport Mayor's Court under its current policies. Doc. 19. Pursuant to Fed. R. Civ. Proc. 65, the parties have now stipulated to the entry of a permanent injunction as follows:

WHEREAS the Due Process Clause of the Fourteenth Amendment of the U. S. Constitution requires notice to persons charged with crimes of the charges pending against them, and an opportunity to respond to them, entitling an individual the right to appear in court and speak;

WHEREAS The Sixth Amendment and the Due Process Clause of the U.S. Constitution guarantee to those charged with crimes the right to counsel, the right to call witnesses, and the right to confront their accusers;

WHEREAS the Due Process Clause of the Fourteenth Amendment to the U. S. Constitution requires that criminal cases be adjudicated by a neutral decision-maker;

WHEREAS the Village of Middleport seeks to conduct proceedings in Mayor's Court consistent with the U.S. Constitution;

THEREFORE, the Parties agree that:

1. The Defendant Village of Middleport ("the Village"), the mayor of Middleport, and each of the Village officers, principals, agents, servants, employees, successors and assigns, and all those in concert or participation with Defendant, are permanently enjoined from adjudicating "contested" cases in its Mayor's Court.

2. A "contested" case is a case where an individual pleads not guilty or requests a trial.

3. The Village Mayor's Court may adjudicate cases where an individual pleads guilty or no contest.

4. The Village will adopt, implement and comply with the Ohio Supreme Court rules applicable to Mayor's Court, described as the "Mayor's Court Education and Procedure Rules" attached hereto as "Attachment 1" herein in its entirety (including the Appendix of Forms) and any amendments issued by the Ohio Supreme Court to said rules.

5. There will be an audio, video or stenographic record made of all proceedings in the Village Mayor's Court.

6. Whoever serves as Mayor shall obtain the minimum number of hours of continuing education required by Rules 3 and 4 of the Mayor's Court Education and Procedure Rules, as adopted by the Supreme Court of Ohio. The Defendant Village shall keep and maintain all certificates of attendance that are received under Rule 5, and copies of these certificates shall be made available upon request.

7. This injunction shall not prohibit the Village from retaining the services of a qualified, neutral attorney as magistrate and permitting the magistrate to hear contested and uncontested cases as permitted by law.

8. No rights shall be denied to the accused in the Village Mayor's Court due to poverty and provisions shall be made to permit all rights to be exercised regardless of wealth.

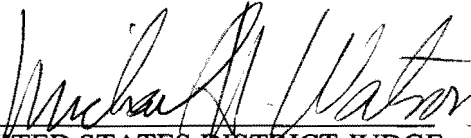
9. All announcements, forms and scripts used by the presiding officer of the Village Mayor's Court will comply with the terms of this injunction.

10. Only the plaintiff shall have standing to enforce this injunction. Prior to any filing in court the plaintiff must give notice to Counsel for the Village of any alleged failure to abide by the injunction and the Village must have at least 30 days to respond to the concerns of Plaintiff.

11. Pursuant to 42 U.S.C. §1988 Plaintiff shall be deemed the prevailing party with respect to the claim for injunctive relief. The parties shall attempt to negotiate and/or mediate the attorney fee and expense claim and if they are not successful the plaintiff may apply for fees and expenses in this Court. Should the

issue of fees and expenses be submitted to the Court, no interest shall accrue on any award for the period from the date of this order through the date such motion for fees and expenses is filed.

SO ORDERED


UNITED STATES DISTRICT JUDGE

Agreed:

<u>s/Alphonse A. Gerhardstein</u> Alphonse A. Gerhardstein Counsel for Plaintiff Tammy Thomas	<u>s/William Charles Curley</u> William Charles Curley James Quinn Dorgan, III Counsel for Defendant Village of Middleport
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