



SUMMIT COUNTY PROSECUTING ATTORNEY
SHERRI BEVAN WALSH

SPRING 2008



NEWS FROM THE CIVIL DIVISION

A MESSAGE FROM PROSECUTOR SHERRI BEVAN WALSH

The Prosecutor



Our article in this quarter's newsletter deals with the need for help for a growing number of elderly throughout Summit County. As our county's population ages and the demographics begin to shift, we increasingly find ourselves having to address the issue of offering assistance to our older citizens whose needs range from financial help to mental health services to responding to reports of abuse or neglect.

The Summit County Prosecutor's Office works closely with Summit County Adult Protective Services whenever issues arise that require our legal

expertise in this area. Summit County Adult Protective Services (APS) is the entity charged with the extremely important mission of assisting those who are truly in need: our seniors.

APS is one of our all important societal safety nets. They are obligated to investigate any report involving a substantial risk of physical harm within 24 hours. Additionally, it is incumbent upon them to investigate any other report within three working days. I have attached a common listing of potential signs of elder abuse.

With the difficulty that many are experiencing economically, another area of increasing concern when it comes to our elderly population is financial exploitation. In this context, exploitation

is unlawfully using the elderly subject's resources for one's own monetary or personal benefit. This type of occurrence is being discovered more and more throughout Summit County and I can assure you that we prosecute these types of crimes to the full extent of the law.

The senior members of our population have been selfless in their devotion to their families and their country, and regrettably many now find themselves in a position where they need to rely on the good work of others to assist them during the course of their daily lives. We are very fortunate to have in place organizations like APS to offer those who need it the necessary assistance. As your Summit County Prosecutor, I know we endeavor every day to assist them in this important mission.

ADULT PROTECTIVE SERVICES AND ELDER ABUSE

As the elderly population increases, reports of abuse, neglect and exploitation increase. For the fiscal year ending June 30, 2005, county agencies in Ohio received a total of 14,969 reports of abuse, neglect and exploitation for individuals age 18 and older. Of these incidences, 14,103 were for adults age 60 and older. There were 1,868 reports of physical abuse for seniors age 60 and older; there were 10,974 reports of neglect (the majority of which were for self-neglect); and there were 1,938 reports of exploitation.

Physical abuse includes, but is not limited to, pushing, hitting, slapping, pinching and other ways of physically harming a person. It can also mean incorrect positioning, force-feeding, restraining or giving medication without the senior's knowledge. Neglect is defined as the failure of an adult to provide for themselves the goods or services necessary to avoid physical harm, mental anguish, or mental illness, or the failure of a caretaker to provide such goods or services. Exploitation means the unlawful or improper act of a caretaker using an adult or an adult's resources for their monetary or personal benefit or gain.

The Summit County Adult Protective Services (APS) is required to investigate and evaluate all reports of suspected abuse, neglect and exploitation of adults age 60 and older in Summit County. If you suspect an older person is being abused, you should contact Summit County APS at (330) 643-7217. Be prepared to give the senior's name, address, telephone number (if you know it), and details about why you are concerned. Although you may be asked for your name and contact information, in almost all cases, you may remain anonymous.

Here is a list of potential signs of elder abuse, courtesy of <http://goldenbuckeye.com>:

- **Declining physical appearance:** inappropriate, inadequate or damaged clothing, bruises, black eyes, welts, lacerations, rope marks, poor personal hygiene.
- **Severe or frequent injury or illness:** bone fractures and breaks, dehydration, malnutrition, untreated bed sores, unattended or untreated health problems.
- **Substandard living conditions:** unsafe environment (e.g., improper wiring, no heat, or no running water in the home) or unclean or unsanitary conditions (e.g., dirt, fleas, stains on bed and furniture, fecal or urine smell).
- **Problems with care providers:** substandard care, lack of necessary medical aides (e.g., eyeglasses, hearing aids, dentures); caregiver refuses to let visitors see the individual alone.
- **Financial issues:** Bills aren't getting paid (despite adequate financial resources), sudden changes in bank account or banking practice, unexplained withdrawal of a large sum of money, abrupt changes in a will or other financial documents, unexplained disappearance of funds or valuable possessions, the individual's signature being forged for financial

ADULT PROTECTIVE SERVICES AND ELDER ABUSE (CONTINUED)

- **Behavior changes:** the adult suddenly begins acting erratically or irrationally (e.g., becomes emotionally upset or agitated, or extremely withdrawn).

APS must investigate “emergency” reports within 24 hours and all other reports within three working days. An emergency report is one in which there is a substantial risk of immediate physical harm to an adult. The investigator must meet face to face with the abused adult, and, when possible, consult with the person who made the report. In the event that APS determines that a report of abuse, neglect or exploitation is substantiated, APS can arrange for or assist in the provision of casework services, medical care, mental health services, fiscal management, home health care, homemaker services, housing-related services, guardianship services and placement services. APS may also arrange for the provision of food, clothing and shelter.

Many people believe that APS caseworkers have one goal in mind – to remove the adult from his or her home. Nothing could be further from the truth. While some circumstances may require that a senior be placed in a nursing home, APS’s goals are:

- To prevent, reduce, or remedy conditions causing endangerment to adults age 60 and over through provision of services appropriate to the adult’s need;
- To maximize the adult’s independence and self-direction; and
- To prevent unnecessary institutionalization and to enable the adult to remain in his or her own home as long as possible, by selection of the least restrictive alternative. The least restrictive alternative means the change resulting in the least loss of self-determination that will meet the specified need.

In fiscal year 2005, there were 4,655 adults over age 60 in need of protective services in Ohio. Of this number, 2,925 adults agreed to receive services; 1,158 refused services; 363 were unable to refuse or agree to services, and 134 were court ordered services.

Because a great many of APS’ clients need help only with their finances, Summit County Department of Job and Family Services has developed the County Representative Payee Program. Referrals can be made by the Summit County Probate Court, Social Security Administration, and APS. A physician must confirm that the adult needs a payee. There is no cost to the adult for this service.

June 15, 2008 is World Elder Abuse Awareness Day. The first Awareness Day in 2006 involved several hundred organizations and governmental bodies at international, national, regional, local, community and neighborhood level, in every continent in the world. The day is in support of the United Nations International Plan of Action which recognizes the significance of elder abuse as a public health and human rights issue. If you’d like more information on what you can do to help bring an end to elder abuse and neglect, visit the International Network for the Prevention of Elder Abuse’s (INPEA) website at www.inpea.net.

CIVIL CASE REVIEW

In Re: The Enlargement of the Barberton-Norton Mosquito Abatement District, A Name Change and Appointment of Appraisers

Case No.: CV2005-05-2623

The Barberton-Norton Mosquito Abatement District (MAD) filed a petition in court pursuant to R.C. Chapter 6115 to request the enlargement of its district to include the City of New Franklin, City of Green, Village of Clinton, Village of Lakemore, Coventry Township, Springfield Township, and Copley Township. The Barberton-Norton MAD also sought to change its name to the "Summit Mosquito Abatement District", and to appoint appraisers. Summit County, each of the local governments and hundreds of property owners, filed objections with the court on the basis that the Summit County Health District already provided mosquito control services in those areas and that taxpayers should not be forced to pay an additional cost (over \$650,000 per year) for duplicate services. After a hearing, the court found that the services were already provided by the Summit County Health District and that the Barberton-Norton MAD had not established that the expansion was necessary or conducive to the public health, safety, comfort, convenience or welfare of the public. The court dismissed the petition.

State ex rel Steven Bozsik v. Judges Slaby and Dickinson

Case No.: 08-0591

Relator is a convicted murderer who has been determined to be a vexatious litigator. Relator has filed a number of lawsuits in an attempt to overturn that decision, including the instant petition for writ of mandamus which sought an order from the Ohio Supreme Court ordering the 9th District Court of Appeals to not enforce the vexatious litigator statute against the Plaintiff. The Supreme Court granted the Respondent's motion to dismiss without opinion.

The Hertz Corp. v. Larry Kopowski v. Daniel Horrigan

Case No.: CV 2007 06 4433

Mr. Kopowski bought a car from a used car dealership in Florida, which had bought the vehicle from a tow yard which had gained title to the car via Florida's abandoned vehicle law. When Mr. Kopowski brought the car back to Ohio, the clerk's office refused to issue an Ohio title because the vehicle had been listed as stolen. Mr. Kopowski filed a mandamus action against the Clerk of Courts, and Hertz Corp., who alleged true ownership and filed suit against Mr. Kopowski for return of the vehicle. The cases were consolidated, and upon competing motions for summary judgment, Judge Teodosio found that Mr. Kopowski had received a valid title to the vehicle under Florida law and found that there was no reason that an Ohio title should not be issued. Hertz Corp. initially appealed the decision, but withdrew the appeal at a later date.

Carl Cannon v. Summit County Juvenile Court

Case No.: CV 2007 03 2489

Plaintiff was an employee at the Summit County Juvenile Court. He was videotaped doing no work-related activities for two consecutive days and was terminated from his position as a result. Plaintiff alleged he had been discriminated against on the basis of his race. The court granted the Juvenile

CIVIL CASE REVIEW
(CONTINUED)

Court's motion for summary judgment, finding that there was no discrimination in the decision to terminate the Plaintiff. The Plaintiff did not appeal the decision.

Tina Durant v. County of Summit

Case No.: CV 2007 10 7144

Ms. Durant sued on behalf of the Estate of Willie Herrin, who died of a heart condition while an inmate in the Summit County jail. The matter was dismissed by the Court due to a resolution of the matter between the Plaintiff and the Jail Health Care provider.

Clarence Elkins v. County of Summit

Case No.: 5:06CV03004

Mr. Elkins sued the Prosecutor and several of her employees regarding the prosecution and handling of post-conviction matters against him. The Court held that not only was the Prosecutor and her employees immune from liability for their actions as Prosecutors regarding his case, but also that the settlement which he obtained from the State of Ohio precluded claims against said parties regarding the same matter.

Estate of Victoria Baker v. Summit County Medical Examiner

Case No.: CV 2007 02 1660

Plaintiff Estate brought suit against Summit County Medical Examiner pursuant to O.R.C. Sec. 313.19 in an effort to obtain an order from the Common Pleas Court changing the cause and manner of death of the decedent, an 84-year-old woman who had died in a hospital. After the conclusion of discovery and on the eve of trial, Plaintiff voluntarily dismissed the case when it became apparent that their expert was not qualified to render the testimony they needed.

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NEW SUMMIT COUNTY LEGISLATION

Below is a partial list of legislation passed by Summit County Council which may be of interest to you. A full copy of the legislation may be obtained from the Summit County Web site at www.co.summit.oh.us/council.

Ordinance No. 2008-026

An Ordinance amending numerous sections of Part Eleven of the Codified Ordinances of the County of Summit, entitled "Subdivision Regulations," for the Planning Commission and the Executive's Department of Community and Economic Development.

Resolution No. 2008-027

A Resolution authorizing the County Executive to execute a development agreement with the Village of Lakemore for the purpose of improving housing conditions, remedying infrastructure deficiencies and developing business and recreational uses in the Lakemore Community Investment Area, in Council District 8, for the Executive's Department of Community and Economic Development.

Resolution No. 2008-031

A Resolution authorizing the County Executive to execute a one (1) year dispatch services agreement with Springfield Township pursuant to which the County Sheriff will provide dispatch services from January 1, 2008 through December 31, 2008, for the amount of \$101,040.00, for the Sheriff.

Resolution No. 2008-043

A Resolution authorizing the County Executive to execute a contract with the City of Cuyahoga Falls for a one-time grant in the amount of \$10,000.00, with an equal local match, for the demolition of an auto service garage and associated clean-up and site restoration located at 2300 2nd Street, Cuyahoga Falls, Ohio 44221, which is necessary for the creation of additional green space, parking and beautification of downtown Cuyahoga Falls, Ohio.

Resolution No. 2008-047

A Resolution authorizing the County Executive to execute a lease, subject to the approval of the Board of Control, with New Plaza Management, LLC, for 1,960 square feet of space located at Northfield Plaza 10333 Northfield Road, Northfield Village, Ohio 44067, in Council District 1, for use as a Title Bureau Office by the Clerk of Courts, for a seven year term, for the amount of \$5.00/sq. ft. for rent, plus a common area charge of \$1.20/sq. ft. for the first two years of the lease, to be increased by an amount not to exceed eight percent every two years, plus \$595.24/mo. to repay build-out costs of \$50,000.16 to be advanced by New Plaza Management, for an amount not to exceed \$136,847.76 over the seven-year term of the lease, for the Clerk of Courts.

Resolution No. 2008-050

A Resolution confirming an award by the Board of Control of a lease with the Akron Law Library Association for approximately 9,000 square feet of space located at 209 S. High Street, Akron, Ohio, Council District 4, for the period 1/1/08 through 12/31/08, with four (4) annual options to renew, in an amount of \$7,500.00 per month, for a total amount of \$90,000.00 for the initial one year term, with the rent to be increased for any renewal term by the increase in the Consumer Price Index - All Urban Consumers (All Items - Not Seasonally Adjusted) over the previous term, with payment to be made by the Association pursuant to Section 3375.49 of the Ohio Revised Code, for the Executive's Department of Law.

Ordinance No. 2008-108

An Ordinance amending Section 177.15 of the Codified Ordinances of the County of Summit, entitled "Real Property Acquisition," for the purposes of clarification and consistency, for the Executive's Department of Law.

WE'RE ON THE WEB!

WWW.CO.SUMMIT.OH.US/PROSECUTOR