

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, STATE OF FLORIDA
CRIMINAL DIVISION

STATE OF FLORIDA,
Plaintiff,

v.

Case No.: CRC-1400216FAES

Division: 1

CURTIS J. REEVES,
Defendant.

Spn 00683538 _____ /

**DEFENDANT’S REPLY TO STATE’S RESPONSE TO DEFENDANT’S MOTION TO
CHIEF JUDGE REQUESTING AUTHORIZATION TO NOT FILE DEPOSITION
TRANSCRIPTS**

COMES NOW, the Defendant, CURTIS J. REEVES, by and through Undersigned counsels, and replies to the State’s Response to Defendant’s Motion to Chief Judge Requesting Authorization to Not File Deposition Transcripts (“State’s Response”), and as grounds therefore states as follows:

The State erroneously contends that Judge Barthle’s prior ruling that Administrative Order PA/PI-Cir-99-35 (“Administrative Order”) applies to the Defendant legally bars Mr. Reeves from seeking the Chief Judge’s authorization to not file his deposition transcripts. The State’s argument is predicated on a fundamental misunderstanding and misapplication of the principle of res judicata.

As the State cited in its Response, the principle of res judicata means that “[1] a judgment on the merits rendered in a former suit between the same parties or their privies, [2] *upon the same cause of action*, [3] *by a court of competent jurisdiction*, is [4] conclusive not only as to every matter which was offered and received to sustain or defeat the claim, but as to [5] *every other*

matter which might with propriety have been litigated and determined in that action.” State’s Response, at 7 (citing and quoting *State v. McBride*, 848 So. 2d 287, 289 (Fla. 2003) (emphasis added)). Although the same parties (i.e. the State and the Defendant) litigated before Judge Barthle the issue of whether the Administrative Order applies to Mr. Reeves, it was a different “cause of action” from the one pending before the Chief Judge.

The State, in both of its motion to compel disclosure, solely contended that the Administrative Order applies to this Defendant. The Defense challenged this argument by detailing, among other things, that the Administrative Order was: (1) preempted by amendments to the Florida Constitution and is therefore null and void; and (2) inapplicable to defendants with privately retained counsel using private funds to purchase deposition transcripts. Judge Barthle ultimately sided with the State and held that the Administrative Order applied to the Defendant. The issue of whether the Chief Judge *can* or *will* authorize the Defendant to not file deposition transcripts – a completely different legal claim and cause of action - was never litigated before Judge Barthle, and therefore the principle of res judicata does not apply.

A critical reason why the State’s contention is fundamentally erroneous is because this particular matter could not, with “propriety[,] have been litigated and determined” before Judge Barthle. *McBride*, 848 So. 2d at 289. It would be utterly improper for the Defendant to have asked Judge Barthle, a *circuit judge*, to grant authorization to the Defense to not file deposition transcripts when the Administrative Order clearly and unambiguously states that **only** the “*chief judge*” may grant such relief. *Administrative Order*, Section (B)(1) (“[t]he original transcript of a deposition or other proceeding in a criminal case shall be filed in the court file, unless upon an attorney’s request the *chief judge* authorizes otherwise.”) (emphasis added).

Similarly, Judge Barthle was not a “court of competent jurisdiction” to consider whether the Chief Judge of the Sixth Judicial Circuit will grant authorization to not file deposition transcripts. *McBride*, at 289. Judge Barthle did not have the authority or power (i.e. jurisdiction) to make a ruling on whether the Chief Judge would grant this Defendant authorization pursuant to Section (B)(1) of the Administrative Order. In fact, had Judge Barthle exercised authority that the Administrative Order unambiguously solely delegates to the Chief Judge of this Judicial Circuit, she would have been flouting the directives of the Florida Supreme Court and subject to possible sanctions. *See Fla. R. Jud. Admin. 2.215(11)* (“The failure of any judge to comply with an order or directive of the chief judge shall be considered neglect of duty and may be reported by the chief judge to the chief justice of the supreme court who shall have the authority to take any corrective action as may be appropriate. The chief judge may report the neglect of duty by a judge to the Judicial Qualifications Commission or other appropriate person or body, or take such other corrective action as may be appropriate.”).

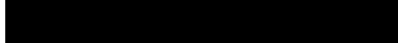
In light of the above facts, the State’s claim that the principle of res judicata bars the Defendant from asking for authorization from the Chief Judge under Section (B)(1) is meritless and should be denied.


CONCLUSION

The State’s objection to the Defendant’s request that the Chief Judge grant authorization to not file deposition transcripts should be rejected.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and accurate copy of this DEFENDANT'S REPLY TO STATE'S RESPONSE TO DEFENDANT'S MOTION TO CHIEF JUDGE REQUESTING AUTHORIZATION TO NOT FILE DEPOSITION TRANSCRIPTS has been furnished by United States Postal Service to: the Office of the State Attorney for the Sixth Judicial Circuit, P.O. Box 5028, Clearwater, Florida 33758; Honorable Susan Barthle, 38043 Live Oak Avenue, Room 106A, Dade City, Florida 33523; Honorable Anthony Rondolino (Chief Judge), 545 First Avenue North, Room 400, St. Petersburg, FL 33701; this 18th day of May, 2016.


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