

CMECF, Cat03, Gallas, Reopen, Termed

**U.S. District Court
Northern District of Ohio (Akron)
CIVIL DOCKET FOR CASE #: 5:96-cv-02687-DDD**

Alkire v. Irving et al
Assigned to: Hon. David D. Dowd, Jr
Cause: 42:1983 Civil Rights Act

Date Filed: 12/16/1996
Jury Demand: Defendant
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff**Lloyd D. Alkire**

represented by **Edward A. Icové**
Smith & Condeni
Ohio Savings Plaza
1801 East Ninth Street
Cleveland, OH 44114-1807
216-771-1760
Fax: 216-771-3387
Email: edward@smith-condeni.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Gary M. Smith
Graham, McClland, Ransbottom
11 North Fourth Street
P.O. Box 340
Zanesville, OH 43702-0340
740-454-8585
Fax: 740-454-0111
Email: gmsmith@gmrlaw.net
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Judith B. Goldstein
Equal Justice Foundation
Ste. 1590
88 East Broad Street
Columbus, OH 43215
614-221-9800
Fax: 614-221-9810
Email:
jgoldstein@equaljusticefoundation.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant**Jane Irving**

Judge, Holmes County Court
TERMINATED: 09/25/2003

represented by **Timothy T. Reid**
Reid, Marshall & Wargo, Ltd.
2000 Illuminating Building
55 Public Square
Cleveland, OH 44113-1901
216-861-3086
Fax: 216-861-4409
Email: TReid@rmwlaw.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael J. Smakula
Reid, Berry, Marshall & Wargo
2010 Illuminating Bldg.
55 Public Square
Cleveland, OH 44113
216-861-3086
Fax: 216-861-4409
Email: MSmakula@rbmw-law.com
ATTORNEY TO BE NOTICED

Defendant**Holmes County Court**

in its official capacity only
TERMINATED: 09/25/2003

represented by **Timothy T. Reid**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael J. Smakula
(See above for address)
ATTORNEY TO BE NOTICED

Defendant**Holmes County**

in its official capacity only

represented by **Timothy T. Reid**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael J. Smakula
(See above for address)
ATTORNEY TO BE NOTICED

Defendant**Timothy Zimmerly**

Sheriff, Holmes County

represented by **Timothy T. Reid**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael J. Smakula

(See above for address)
ATTORNEY TO BE NOTICED

Mediator

Esq. Annette G. Butler

Mediator

TERMINATED: 12/19/2003

represented by **Annette G. Butler**

Office of the U.S. Attorney

Northern District of Ohio

801 Superior Avenue, W

Cleveland, OH 44113

216-622-3718

Fax: 216-522-4982

Email: annette.butler@usdoj.gov

TERMINATED: 12/19/2003

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/09/2000		Case closed for statistical purposes. See ICMS Document Nos. 130 and 131(L, T) (Entered: 07/24/2003)
07/14/2003	148	Mandate from the United States Court of Appeals for the Sixth Circuit reversing on the first and second issues and remanding for further proceedings and affirming on the third and fourth issues. Clerk, Leonard Green; Moore, Cole, Tarnow, Circuit Judges. (Filed in USCA on 7/10/03) Case Reopened.(L, T) Modified to change document number on 7/24/2003 (L, T). (Entered: 07/24/2003)
07/14/2003	149	See ICMS docket sheet for entries 1-148. (L, T) Modified to change document number on 7/24/2003 (L, T). (Entered: 07/24/2003)
07/14/2003	150	Notice of Placement of case in the CM/ECF Docketing System. (L, T) (Entered: 07/24/2003)
07/24/2003	151	Order that the mandate directs the Court to determine if "Ohio" would be legally liable for a judgment against the Holmes County Court and requires the Court to proceed to trial on the issue of whether the Sheriff of Holmes County engaged in a constitutional tort by holding plaintiff in custody beyond 48 hours without releasing him; FURTHER the plaintiff is directed to brief the remand question by 8/16/03; defendants have leave until 9/5/03 to file a brief in response; trial as required by remand is scheduled for a two-week period beginning 10/20/2003 in Courtroom 442. Signed by Judge David D. Dowd Jr. on 7/15/2003. (L, T) (Entered: 07/24/2003)
07/28/2003	152	TRIAL Order scheduling case for trial on a standby basis for the two-week period beginning October 20, 2003, at 8:30 A.M. Final joint stipulations to be filed by October 20, 2003. Status conference to be held on September 25, 2003, at 12:30 P.M. Signed by Judge David D. Dowd Jr. on July 18, 2003. (M, D) (Entered: 07/28/2003)

07/31/2003	153	Joint Motion for extension of time <i>to file briefs; leave to file motion for attorney fees and responses, and referral to mediator Annette G. Bulter</i> filed by all parties. (Icove, Edward) Modified filers on 8/1/2003 (P, G). (Entered: 07/31/2003)
07/31/2003	154	Attorney Appearance of <i>Additional Counsel</i> , Michael J. Smakula, filed by on behalf of all defendants. (Smakula, Michael) Modified text on 8/1/2003 (P, G). (Entered: 07/31/2003)
08/05/2003	155	ORDER granting Motion for extension of time to brief the remand question. The plaintiff's brief is due on August 25, 2003, and the defendants' brief is due September 12, 2003. The balance of the motion directed to attorney fees is premature. The Court still has the issue of the remand question and the trial on the merits. The motion setting dates for plaintiff's motion for attorney fees is DENIED. (Related Doc # 153). Signed by Judge David D. Dowd Jr. on 8/4/2003.(M, D) (Entered: 08/05/2003)
08/22/2003	156	Joint Motion for extension of time <i>to File Briefs</i> , filed by all parties. (Icove, Edward) Modified filers on 8/25/2003 (P, G). (Entered: 08/22/2003)
08/25/2003	157	Marginal Order granting second motion for extension of time (Related Doc # 156). Signed by Judge David D. Dowd Jr. on 8/25/03.(D, S) (Entered: 08/25/2003)
09/03/2003	158	Brief on Remand filed by Lloyd D. Alkire. (Attachments: # 1 Case # C-1-97-1041 # 2 Financial Report # 3 Handbook) (Icove, Edward) Modified text on 9/4/2003 (P, G). (Entered: 09/03/2003)
09/03/2003	159	Unopposed Motion to continue <i>Trial date from 10/20/03 to at least 11/17/03 with memorandum</i> , filed by Lloyd D. Alkire. (Icove, Edward) Modified text on 9/17/2003 (P, G). (Entered: 09/03/2003)
09/05/2003	160	Order denying Motion to continue trial (Related Doc # 159). Signed by Judge David D. Dowd Jr. on 9/5/03.(D, S) (Entered: 09/05/2003)
09/16/2003	161	Motion for extension of time until 10/03/03 <i>to File Brief</i> filed by all defendants. (Smakula, Michael) Modified text on 9/17/2003 (P, G). (Entered: 09/16/2003)
09/18/2003	162	Order denying defendants' Motion for extension of time to 10/3/03 to file brief on remand issues (Related Doc # 161); there being no good cause for further delay of this case, defendants' brief is due by 4:00 p.m. on Monday, 9/22/03; no replies permitted. SEE ORDER FOR DETAILS. Signed by Judge David D. Dowd Jr. on 9/17/03.(D, S) (Entered: 09/18/2003)
09/22/2003	163	Brief on Remand, (Related document # 162) filed by Holmes County, Holmes County Court. (Smakula, Michael) Modified on 9/23/2003 to create link (P, G). (Entered: 09/22/2003)
09/25/2003	164	Memorandum, Opinion and Order concluding that defendant Holmes County Court is not sui juris and must be dismissed, along with

		defendant Judge Jane Irving; further, dismissing the claims for damages set forth in the second through sixth claims for relief in the amended complaint, with all that remains for trial being the question of whether defendant Holmes County, through its agent defendant Sheriff Timothy Zimmerly, unconstitutionally detained the plaintiff without a prompt probable cause hearing; and further confirming that this ruling has no effect on the stipulated settlement of the parties with respect to the declaratory and injunctive portions of the suit. SEE ORDER FOR DISCUSSION. Signed by Judge David D. Dowd Jr. on 9/25/03. (D, S) (Entered: 09/25/2003)
09/25/2003	165	Judgment Entry dismissing defendants Holmes County Court and Judge Jane Irving as well as the second through sixth claims in the amended complaint. Related Doc. 164 Signed by Judge David D. Dowd Jr. on 9/25/03. (D, S) (Entered: 09/25/2003)
09/25/2003	166	Amended Trial Order setting new deadlines, to accommodate settlement discussions with Magistrate Judge Gallas to be completed by 10/10/03, as follows: final undisputed fact stipulations due by 8:00 a.m. on 10/20/03 (see order for more specifics); trial briefs, exhibits and motions in limine due by 12:00 noon on 10/17/03; all other directives of the original Trial Order remain in force (Related Doc. # 152). Signed by Judge David D. Dowd Jr. on 9/25/03. (D, S) (Entered: 09/25/2003)
09/26/2003	167	Order scheduling settlement conference for 10/10/2003 at 1:30 p.m. before Magistrate Judge James S. Gallas; Lead counsel and parties are to attend; Parties are to hand-deliver position statements to the Court by 10/7/2003. (Related document # 166). Signed by Magistrate Judge James S. Gallas on 9/26/2003. (P, J) (Entered: 09/26/2003)
10/10/2003	168	Report and Recommendation: Settlement conference was held on 10/10/2003; The claim of Lloyd Alkire was settled and dismissal entry to provide each party to pay their own costs; Details of the settlement were put on the record electronically, with the issue of attorney fees left open and to be resolved by mediation. (Related Documents # 166 , 167). Signed by Magistrate Judge James S. Gallas on 10/10/2003. (P, J) (Entered: 10/10/2003)
10/14/2003	169	Judgment Entry ordering the docket be marked, "Settled and dismissed, with prejudice.", each party to bear its own costs. By separate order and with the consent of the parties and counsel, the Court will direct the matter of attorney fees to mediation by Attorney Annette Butler. (Related document # 168). Signed by Judge David D. Dowd Jr. on 10/14/03. (P, G) (Entered: 10/15/2003)
10/16/2003	170	Order referring matter of attorney fees to mediation. The Court requests that Attorney Annette Butler be appointed as the mediator. The Clerk is directed to send a copy of the Order to the ADR Administrator (Related document # 169). Signed by Judge David D. Dowd Jr. on 10/16/03. (P, G) (Entered: 10/16/2003)
10/17/2003	171	Notice of designation of neutral - Mediator advised to schedule mediation

		conference no later than 12/31/2003. Report of Mediator to be filed manually no later than 1/12/2004. REPORT OF MEDIATOR FORM ATTACHED TO THE NOTICE OF DESIGNATION. Mediator to schedule mediation conference and file electronic notice setting forth the date, time and location of the mediation conference. Mediation process to be completed by 1/12/2004. Designated neutral: Annette G. Butler (Related document(s) 170). (D, P) (Entered: 10/17/2003)
12/19/2003	172	Final Mediation Report filed manually with ADR Administrator. Disp. Code: 8. Future ADR: Require that all parties to mediation arrive with reasonable authority. Otherwise, a good faith mediation cannot occur (Related document(s) 171). (D, P) (Entered: 12/19/2003)
12/19/2003	173	Notice of ADR Administrator - mediation conference held 12/17/2003 and as a result, the process is complete. Case returned to chambers for further settlement negotiations and case processing (Related document(s) 172). (D, P) (Entered: 12/19/2003)
01/07/2004	174	Order directing plaintiff to file a properly supported application for attorney fees by 1/30/2004 and defendants to respond by 2/27/2004. Signed by Judge David D. Dowd Jr. on 1/7/2004. (D, S) (Entered: 01/07/2004)
01/30/2004	175	Motion for attorney fees <i>and expenses</i> by Edward A. Icové filed by on behalf of Lloyd D. Alkire. (Attachments: # 1 Exhibit A-Declaration # 2 Detail slip listing # 3 Pre-bill worksheet # 4 Exhibit B# 5 Exhibit C# 6 Exhibit D# 7 Exhibit E# 8 Exhibit F)(Icové, Edward) Modified text and attachments on 2/2/2004 (P, G). (Entered: 01/30/2004)
02/27/2004	176	Memorandum <i>in Opposition to Plaintiff's Counsels' Application for Attorneys Fees and Expense Reimbursement</i> , filed by Holmes County, Holmes County Court, Jane Irving, Timothy Zimmerly. (Smakula, Michael) Modified text on 3/1/2004 (P, G). (Entered: 02/27/2004)
05/03/2004	177	Memorandum Opinion and Order that plaintiff is awarded attorney's fees as follows, including post-judgment interest from 10/14/2003 until 5/3/2004: Edward Icové \$71,448.64; Gary Smith \$39,776.48; Louise McKinney \$18,562.36; Judith Goldstein \$10,543.29; Rachel Robinson \$755.25; (Grand Total of \$141,086.02). The above amounts shall be paid by the defendants to the individual attorneys, with interest until the date of payment at the rate fixed by federal law. (Related Doc # 175). Signed by Judge David D. Dowd Jr. on 5/3/2004. (Attachments: # 1 Rate)(M, D) Modified Text on 5/3/2004 (M, D). (Entered: 05/03/2004)
05/03/2004	178	Judgment Entry that defendants shall pay the following attorney's fees, with interest, totaling \$141,086.02, plus interest until the date of payment at the rate fixed by federal law: Edward Icové \$71,448.64; Gary Smith \$39,776.48; Louise McKinney \$18,562.36; Judith Goldstein \$10,543.29; Rachel Robinson \$755.25. Signed by Judge David D. Dowd Jr. on 5/3/2004. (M, D) (Entered: 05/03/2004)
06/14/2004	179	Motion for extension of time <i>to File Notice of Appeal</i> filed by all defendants. (Smakula, Michael) (Entered: 06/14/2004)

06/15/2004	180	Order denying the defendants' Motion for extension of time for filing an appeal (Related Doc # 179), finding no excusable neglect or good cause. Signed by Judge David D. Dowd Jr. on 6/15/04.(D, S) (Entered: 06/15/2004)
07/19/2004	181	Judgment Satisfaction filed by Lloyd D. Alkire. (Icove, Edward) (Entered: 07/19/2004)
07/20/2004	182	Order of Satisfaction of Judgment. Signed by Judge David D. Dowd Jr. on 7/19/2004. (M, D) (Entered: 07/20/2004)

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