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ADAMS COUNTY
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IN THE COURT OF COMMON PLEAS
CIVIL DIVISION
ADAMS COUNTY, OHIO

Spring Hiller
CLERK

SHAWN D. COOLEY, et al.

PLAINTIFFS,

VS.

JOSEPH EDGAR FOREMAN, et al.

DEFENDANTS,

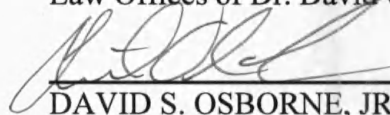
* CASE NO. CVH 2023-0069
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**DEFENDANT JOSEPH EDGAR FOREMAN'S REQUESTED RESPONSE TO
JUDGMENT ENTRY FILE STAMPED FEBRUARY 2, 2026**

Comes now the Defendant, Joseph Foreman, by and through his Counsel and presents the following brief as requested by Judge Jonathan P. Hein in his Judgment Entry file stamped Feb. 2, 2026 at 7:58 AM. This Judgment Entry required counsel to file briefs on the legal authority and argument as to the applicable statute of limitations for the Defendant's Counterclaims. A memorandum in support has been attached and is incorporated hereto by reference.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

On January 20th, 2026, Judge Jonathan P. Hein filed a Judgement Entry requesting that the Defendant clarify and articulate the legal basis upon which the Defendant's claims are recognized under Ohio law. The Defendant was to clarify the Claims of Trespass to Chattels and Conversion. A response was filed as requested and a Judgment Entry was filed on January 27, 2026 clarifying the caselaw that was to be used on those issues. On February 2, 2026, a Judgment Entry was filed that required that counsel brief the issue of the applicable statute of limitations for the Defendant's Counterclaims.

The Defendant filed an Answer and Counterclaim on October 27, 2023. In the Counterclaim the Defendant raises 11 separate causes of action. Three causes of action, causes 9 through 11, were dismissed by the Defendant on June 25, 2025. This leaves the Defendant with seven causes of action against the Plaintiff's. The Defendant raised the issue of Conversion in Counts 1 (doors, door frame, and trim), 2 (closet), 3 (security camera/system), and 5 (money). The Defendant raised the issue of Trespass to Chattels in Counts 4 (security camera/system) and 6 (money). The Defendant raised the claim of Illegal Search and Seizure which was a violation of the Defendant's constitutional rights and actionable under 42 U.S.C. § 1983. The final claim that remains of the Defendant is a claim for Frivolous Conduct under O.R.C. § 2323.51 and Civil Rule 11.

CONVERSION

The Legislature has enumerated the statute of limitations for actions in conversion in Ohio Revised Code Section 2305.09(B). Abraham v. Nat'l City Bank Corp., 50 Ohio St. 3d 175, 176 (1990). Section 2305.09 states in the relevant part:

Except as provided for in division (C) of this section, an action for any of the following causes shall be brought within four years after the cause thereof accrued:

(A) For trespassing upon real property;

(B) **For the recovery of personal property, or for taking or detaining it;**

(C) For relief on the ground of fraud, except when the cause of action is a violation of section 2913.49 of the Revised Code, in which case the action shall be brought within five years after the cause thereof accrued;

(D) For an injury to the rights of the plaintiff not arising on contract nor enumerated in sections 1304.35, 2305.10 to 2305.12, and 2305.14 of the Revised Code;

(E) For relief on the grounds of a physical or regulatory taking of real property.

If the action is for trespassing under ground or injury to mines, or **for the wrongful taking of personal property, the causes thereof shall not accrue until the wrongdoer is discovered**; nor, if it is for fraud, until the fraud is discovered. R.C. 2305.09 (emphasis added).

Section B of 2305.09 provides that claims for the taking of personal property have a four year statute of limitations. R.C. 2305.09(B). The statute of limitations would start to accrue when the taking occurs or when it became known to (or should have been known to) the matter is discovered. R.C. 2305.09.

On August 21, 2022 the Adams County Sheriff's Office executed a search warrant upon the personal residence of the Defendant Joseph Foreman. There is no debate that the Officers bashed their way into the Defendant's home or that the damage that has been alleged occurred during that time. The counterclaims 1, 2, and 3 stem from this date and time. Thus, four-year the statute of limitations for counterclaims 1, 2, 3 started on Aug. 21, 2022 and will run on Aug. 21, 2026. The Defendant is still within the four-year statute of limitations for claims 1 through 3. Counterclaim 5 is a little more complicated.

Counterclaim 5 is more complex as it involves missing money. While the money was seized out of the search of the Defendant's residence on Aug. 21, 2022, it was not discovered that any money was missing until it was returned to the Defendant in November of 2022. Thus, as cash was not discovered, missing until November of 2022 any statute of limitations would start to accrue at that time. The statute of limitations for counterclaim 5 (conversion of cash) started in November 2022 and will run in November of 2026. The Defendant is still within the four-year statute of limitations for counterclaim 5.

TRESPASS TO CHATTELS

Trespass to chattels has been described as the little brother to conversion. They share several of the same elements. When looking to determine what the statute of limitations is for trespass to chattels the honorable 4th District Ohio Court of Appeals has not had the question brought before them for answering. Yet, the 8th District Ohio Court of Appeals has answered this question in 2013. According to the honorable 8th District Ohio Court of Appeals, the statute of limitations for trespass to chattels is governed by O.R.C. § 2305.09. Pointe at Gateway Condo. Owner's Ass'n v. Schmelzer, 2013-Ohio-3615, ¶46 (8th Dist.). Under O.R.C. § 2305.09 the statute of limitations for trespass to chattels is four years from the date the trespass occurred.

In the case at hand, the trespass to chattels is covered by Counterclaims 4 (security camera/system) and 6 (money). The analysis for counterclaim 4 will follow the same as the prior counterclaims 1 through 3. Thus, the statute of limitations for counterclaim 4 started on Aug. 21, 2022 and will run on Aug. 21, 2026. The analysis for counterclaim 6 will follow the analysis of counterclaim 5 as both involve the missing money.

As the money was not discovered missing until November of 2022 when the seized money was returned to Mr. Joseph Foreman. Thus, the statute of limitations would be tolled until the wrongdoing was discovered in November. The statute of limitations started in November 2022 and will run in November 2026. For the claims of Trespass to chattels the defendant is still within the four year statute of limitations.

ILLEGAL SEARCH AND SEIZURE

There exists no federal statute of limitations for 183 claims. However, to correct this issue the United States Supreme Court articulated that each state's general or residual statute of limitations that governs personal-injury actions shall govern the statute of limitations for 183 claims. Owens v. Okure, 488 U.S. 235 (1989). For the state of Ohio, the Ohio Supreme Court

answered this question in 2008 when being asked to address the Ohio state statute of limitations for 1983 claims. Nadra v. Mbah, 119 Ohio St. 3d 305, 305 (2008). The Ohio Supreme Court articulated that statute of limitations for 1983 claims are governed by O.R.C. § 2305.10 which provides a two-year statute of limitations. Nadra at 312. The analysis changes when one looks to suing under state law rather than federal law.

Under Ohio state law, the Ohio Legislature provided in ORC § 2305.09 a greater statute of limitations. Section D of ORC § 2305.09 provides for a four-year statute of limitations for “For an **injury to the rights of the plaintiff** not arising on contract nor enumerated in sections 1304.35, 2305.10 to 2305.12, and 2305.14 of the Revised Code.” R.C. 2305.09(D) (emphasis added). Thus, Ohio citizens suing under Ohio law for a violation of their rights have a four-year statute of limitations.

The interplay of the case of Nadra and ORC § 2305.09(D) has been noted by the United States District Court for the Northern District of Ohio. Nadra involved a Plaintiff who brought a 1983 claim against a social worker for failing to return custody of her child. St. John v. Bosley, Inc., 2011 U.S. Dist. LEXIS 43199, 4 (N.D. Ohio 2011). The District Court noted a distinction between the harm alleged in Nadra and the harm in their current case which involved a claim of harassment. This distinction makes sense as a majority of the 1983 claims brought by injured parties are essentially personal injury claims against law enforcement officers. Thus, when looking at the harm the District Court found that Nadra did not apply nor did ORC § 2305.10. St. John at 3-4.

The statute of limitations starts when the harm occurs for a 1983 claim. In the case at hand the harm to the Defendant occurred on Aug. 21, 2022 when his home was searched with an illegal search warrant. If the statute of limitations is applied as set forth in Nadra, applying the state’s statute of limitations for personal-injury actions, then the statute of limitations for the Defendant’s

counterclaim 8 would have run on Aug. 21, 2024. The Defendant filed his Counterclaim on October 27, 2023 almost a year prior to the statute of limitations running for a 1983 claim as articulated in Nadra. Yet if one looks at the harm that gave rise to the claim of the Defendant it is not a personal injury claim, it is claim for a violation of his rights against unlawful/illegal search and seizure guaranteed to him under the Ohio Constitution and the United States Constitution. Thus, the better analysis is under Ohio law looking at ORC §2305.09(D) which provides a four-year statute of limitations for “injury to the rights of” a person. R.C. § 2305.09(D). This would provide a four-year statute of limitations that would start on Aug. 21, 2022, and would not run till Aug. 21, 2026, four years after the execution of the search warrant. Thus, the Defendant would still be within his four-year statute of limitations.

FRIVOLOUS CONDUCT UNDER REVISED CODE § 2323.51

The time frame to file under ORC § 2323.51 is short. The Ohio Revised Code § 2323.51 in the relevant part states:

... at any time **not more than thirty days after the entry of final judgment** in a civil action or appeal, any party adversely affected by frivolous conduct may file a motion for an award of court costs, reasonable attorney’s fees, and other reasonable expenses incurred in connection with the civil action or appeal. R.C. § 2323.51(B)(1) (emphasis added).

Thus a party has only 30 days after a final judgment to file for “reasonable attorney fees.” R.C. § 2323.51(B)(1). Failure to file within that time period bars recovery.

The Plaintiff’s filed their complaint on 3/13/2023. The Defendant filed a Motion to Dismiss and Motion to Strike the Plaintiff’s Complaint on 4/11/2023. On 5/10/2023 Plaintiff’s file their first Amended Complaint. The Defendant filed an Amended Motion to Dismiss and Motion to Strike the Plaintiff’s Amended Complaint on 5/24/2023. The Court entered a Judgment Entry dismissing Claims 1 and 2 of the Plaintiff’s and allowing the remaining three claims to proceed on

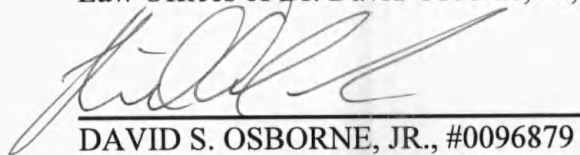
10/10/2023. On 10/27/2023 the Defendant filed an Answer and Counterclaim. Claim 7 of the Defendant's Counterclaims was for attorney fees for Frivolous Conduct by the Plaintiff's in filing their Complaint. Thus, on 10/10/2023 with a Judgment Entry the 30-day clock started running on a recovery under ORC § 2323.51 requiring the Defendant to raise the issue by 11/10/2023 for be barred from raising it. The Answer and Counterclaim was filed only 17 days after the Judgement Entry and within the 30-day statute of limitation imposed by ORC § 2323.51(B)(1) raising the issue and preserving it for the court to rule on.

CONCLUSION

The Defendant has a four-year statute of limitation on his Trespass to Chattels, Conversion and Illegal Search and Seizer Claims and a thirty-day statute of limitation on his Frivolous Conduct Claim. All claims have been filed within the statute of limitations. In all cases, the four-year statute of limitations is still yet to run.

Respectfully submitted,

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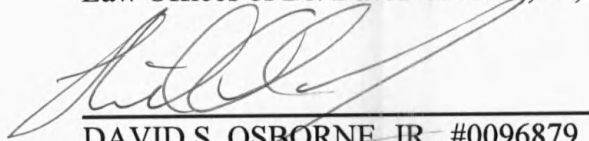
TO THE COURT

The undersigned hereby certifies that he did not use the Artificial Intelligence program ChatGPT 5 Pro.

No legal research was completed using the AI program.

Respectfully submitted,

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Attorney for Joseph Edgar Foreman


PROOF OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served upon to following:

1. **Robert A. Klinger**, Robert A. Klinger Co., LPA, 895 Central Ave. Ste. 300, Cincinnati, Ohio 45202;
2. **Arthur West**, 120 State Ave. NE, #1497, Olympia, WA 98501;
3. **David J. Caray**, ACLU of Ohio Foundation, 4506 Chester Ave., Cleveland, Ohio 44102;
4. **Amy R. Gilbert**, ACLU of Ohio Foundation, 4506 Chester Ave., Cleveland, Ohio 44102;
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6. **Vera Eidelman**, American Civil Liberties Union Foundation, 125 Broad Street, 18th Floor, New York, NY 10004;
7. **David Moser**, Fishel Downey Albrecht and Riepenhoff, LLP, 7775 Walton Parkway, Suite 200, New Albany, Ohio 43054.

by regular U.S. mail, hand delivery, email, fax, by dropping off in the Attorney box at Adams County Court, or email this 9 day of February, 2026.

Law Offices of Dr. David Osborne, Jr., LLC



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Attorney for Joseph Edgar Foreman