

TRIAL NO. _____

APPEAL NO. _____

RELATED APPEALS _____

Court of Appeals of Ohio Second Appellate District

CIVIL DOCKET STATEMENT

CLERKS USE ONLY

☒ DIRECT APPEAL ☐ CROSS-APPEAL ☐ JOINT APPEAL

NOTE: A TIME-STAMPED COPY OF THE FINAL JUDGMENT BEING APPEALED MUST BE ATTACHED TO THIS STATEMENT.

CASE CAPTION (SEE INSTRUCTION NO. 7 ON REVERSE SIDE)	
VERSUS Miami Township Board of Trustees Plaintiff-Appellant / Appellee (Circle Designation) Edward S. Dowd (0018681) Counsel for Plaintiff, S. Ct. Regis. No./Pro Se Plaintiff 8163 Old Yankee St., Ste. C, Dayton OH 45458 Address (937) 222-2333 Phone Number (List additional attorneys on bottom of this sheet.) Edward S. Dowd Indicate Primary Counsel	Darren Powlette Defendant-Appellant / Appellee (Circle Designation) Gregory S. Page (0065264) Counsel for Defendant, S. Ct. Regis. No./Pro Se Defendant 7501 Paragon Road, Dayton, OH 45459 Address (937) 434-1908 Phone Number (List additional attorneys on bottom of this sheet.) Gregory S. Page Indicate Primary Counsel
HISTORY OF THE CASE: (Check appropriate box and provide requested information) TRIAL COURT <u>Montgomery County Common Pleas</u> DATES: JUDGMENT APPEALED <u>12/29/21</u> NOTICE OF APPEAL _____ DOES THIS APPEAL INVOLVE SUMMARY JUDGMENT? ☒ Yes ☐ No MOTION TO DISMISS? ☐ Yes ☐ No GRANT/VACATE DEFAULT JUDGMENT? ☐ Yes ☐ No EXPEDITED PER LOC. R. 2.8(A)? ☐ Yes ☒ No NATURE OF THE CASE: ☐ ORIGINAL ACTION ☐ DOMESTIC RELATIONS ☐ ADMINISTRATIVE APPEAL ☒ GENERAL CIVIL APPEAL ☐ JUVENILE /PROBATE PROBABLE ISSUE(S) FOR REVIEW AND SPECIFY NATURE <u>Whether use of property violated zoning regulations or was a proper use of the property under Ohio's agritourism statute</u> MULTIPLE CLAIMS/PARTIES: CIV. R. 54(B) APPLY: ☒ Yes ☐ No IS THERE "NO JUST REASON FOR DELAY" CERTIFICATION: ☒ Yes ☐ No THE RECORD (Indicate the type of record to be filed): ☒ SUMMARY OF DOCKET AND JOURNAL ENTRIES ONLY (No transcript, App. R. 9(C) statement, or agreed statement will be filed). ☐ STATEMENT OF THE RECORD PURSUANT TO APP. R. 9(C) ☐ AGREED STATEMENT OF THE RECORD PURSUANT TO APP. R. 9(D) ☐ TRANSCRIPT OF PROCEEDINGS: ☐ Full ☐ Partial - (If partial, designate parts/dates of hearing) _____ NAME OF THE COURT REPORTER: _____ PROJECTED DATE FOR FILING TRANSCRIPT: _____ NOTE: A COPY OF THE REQUEST FOR THE TRANSCRIPT MUST BE FILED WITH THE CLERK & A FILE-STAMPED COPY SERVED ON THE COURT REPORTER.	

USE THIS SPACE FOR ADDITIONAL ATTORNEYS

_____ _____ _____	_____ _____ _____
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IN THE COURT OF COMMON PLEAS, MONTGOMERY COUNTY, OHIO
CIVIL DIVISION

Miami Township Board of Trustees, :	Case No. 2019 CV 05444
Plaintiff, :	Hon. Richard S. Skelton
v. :	
Darren Powlette, et al., :	
Defendants. :	

FINAL JUDGMENT ENTRY; INJUNCTION

On December 13, 2021, the Court granted summary judgment in favor of plaintiff and denied the cross-motion of defendants, that the defendants' activities at a former "horse barn" located at 7757 Upper Miamisburg Road, Miami Township, in Montgomery County, Ohio, violate the Miami Township Zoning Resolution Section 307, in that the use of the property for celebratory events, such as weddings, does not constitute "agritourism" as defined in R.C. 901.80(A), incorporated by reference in R.C. 519.21(D)(2). The defendants' activities are not "agriculturally related" activities within the meaning of the statutory language. The activities are for business use prohibited in Article 8 of the Zoning Resolution and not incident to agricultural activities. The Court concludes that the Township zoning authority is not prohibited by R.C. 519.21(A), and injunctive relief is authorized and appropriate pursuant to R.C. 519.24 enjoining the use as violating the zoning resolution.

Now therefore, it is hereby

ORDERED, ADJUDGED, AND DECREED that Defendants, Darren Powlette and Stoney Hill Rustic Wedding, LLC (including officers, agents, servants, and employees, attorneys and those persons in active concert or participation with them), are ENJOINED AND PROHIBITED from renting, leasing, or otherwise operating for a fee, the barn located at 7757 Upper Miamisburg Road, Miami Township, Montgomery County, Ohio, for weddings, receptions, graduation parties, or other celebratory events; it is

FURTHER ORDERED that Defendants shall pay the costs of this action and this Court will retain jurisdiction for the purpose of enforcing this Judgment.

SO ORDERED.

Richard S. Skelton, Judge

Cc: Edward J. Dowd
937 222-2333
Attorney for Plaintiff

Gregory S. Page
937 434-1908
Attorney for Defendants

Cynthia Miller, Bailiff, 225-4368; Cynthia.miller@montcourt.oh.gov



General Division
Montgomery County Common Pleas Court
41 N. Perry Street, Dayton, Ohio 45422

Case Number:
2019 CV 05444

Case Title:
MIAMI TOWNSHIP BOARD OF TRUSTEES vs DARREN
POWLETTE

Type:

Final Judgment Entry

So Ordered,