

MIDDLETOWN MUNICIPAL COURT
BUTLER COUNTY, OHIO

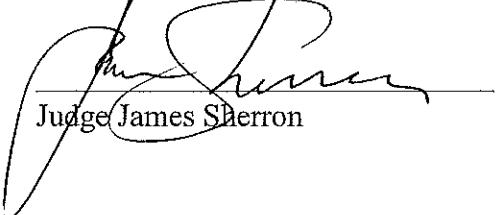
**IN RE: ADMINISTRATIVE ORDER REGARDING EVICTION PROCEDURES IN
MIDDLETOWN MUNICIPAL COURT**

For several years, the procedure in forcible entry and detainer cases in Middletown Municipal Court allowed for evidence to be introduced by affidavit. In many cases, witnesses for the plaintiff have not appeared in open court. Instead, plaintiffs have filed affidavits with the court in which witnesses attest to the grounds for the eviction and service of statutory notices. This procedure was modeled after the practice of the Franklin County Municipal Court. Franklin County Municipal Court had permitted affidavits in lieu of live testimony since at least 1988.

On September 1, 2020, the Ohio's Tenth District Court of Appeals invalidated this procedure through its decision in *T&R Properties, Inc. v. Traci Wimberly*, 2020-Ohio-4279. The decision makes clear that Ohio Rule Civ. Pro. 43, which was adopted in 2015 requires testimony be given in open court. Although this decision is not binding on the Middletown Municipal Court, it thoroughly addressed all arguments regarding the legitimacy of eviction by affidavit.

As a result of the decision in *T&R Properties, Inc. v. Traci Wimberly*, this court will no longer grant judgment in evictions without testimony by plaintiffs or witnesses appearing on their behalf. Witnesses must appear for any eviction filed after the date of this order.

IT IS SO ORDERED.



Judge James Sherron

FILED

OCT 02 2020

Middletown Municipal Court
Steven P. Longworth
Clerk of Court