



COUNCILMAN LOSES 2 DECISIONS IN A WEEK APPEALS COURT AGREES THAT KILBY WAS DISORDERLY - COLLEAGUES REBUKE HIM

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An Akron city councilman who claimed police shouldn't have arrested him for disorderly conduct lost his appeal yesterday.

The 9th District Court of Appeals upheld the conviction of Bruce Kilby, D-10. The court said witnesses -- including the arresting officer -- testified Kilby was loud and argumentative, yelling "You must not know who the (expletive) I am," before his arrest.

Yesterday's ruling came one week after Kilby angered police officials by criticizing the disorderly conduct arrest of two of his constituents. After Police Chief Larry Givens demanded that Kilby write an apology for calling officers Gestapos, the councilman sent a letter saying he was misquoted.

Kilby could not be reached for comment last night.

The appeal stemmed from Kilby's arrest Aug. 27, 1993, when he was campaigning for City Council. Police were summoned to a store in Kilby's ward by a clerk who claimed he'd been harassing her for two days, and that he'd followed her into the store and refused to leave. "I just want him to go away and leave me alone," the woman said.

According to the police report, the conflict started the day before when Kilby went to the woman's home to discuss her decision to remove one of his campaign signs from her yard and replace it with a sign for one of the other two Democrats who were running in the September council primary.

The ruling said the officer who responded to the complaint was berated by Kilby, who told her she didn't know how to do her job. While the officer was summoning more police, Kilby ran toward the clerk, but was stopped by another person at the store.

Kilby was arrested, handcuffed and charged with disorderly conduct. After his conviction in Akron Municipal Court, he hired David Bertsch, an attorney with Buckingham, Doolittle and Burroughs, to appeal.

The ruling was issued yesterday morning. Before noon, photocopies were circulating through Akron City Hall, where officials were making jokes about the case and noting that Kilby had challenge the conviction -- which led to a \$137 fine -- with help from one of the city's most prestigious law firms.

Officials then started asking each other whether they should take some action to demonstrate their unhappiness with Kilby.

That's what had already happened on Monday, when council members used some extraordinary parliamentary procedures to overrule Kilby.

Kilby -- along with Ernie Tarle, D-5, and Ward 2 candidate Warner Mendenhall, who formerly represented Ward 5 -- are the core of a coalition that hopes to seize control of the council. They have repeatedly clashed with the council's majority, and it was Kilby's turn Monday.

Basically, Kilby tried to block the council from appointing David Portis to Akron's Housing Appeals Board; Portis is the Democrat who ran against Tarle last year. "It was pure revenge," said Councilman John Frank, R-8.

When Kilby realized the council wouldn't let him block Portis, he attempted to withdraw the effort. In an extremely unusual move, Frank, Councilman Bruce Bolden, D-1, and Councilman Don Mittiga, D-2, cooperated in a parliamentary move to seize control of Kilby's legislation and force a vote. They publicly chastised Kilby for being ignorant of the city's charter, then appointed Portis on the spot.

As Portis watched the confrontation from the back of council chambers, he shook his head and said, "Hey, I didn't even ask for this job. I was recruited for this because nobody else wanted it."

After the meeting, Kilby, Tarle and Mendenhall approached Councilman Marco Sommerville, D-3, who has given the coalition support at times in the past. When Tarle asked why Sommerville didn't help them, Sommerville stood up and shouted at them, saying they were taking stupid positions that he couldn't support.