

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel : Case Number 07-1157
(Formerly Board Case No. 05-091)
Relater :
Honorable George Mathew Parker :
Respondent

Brief of William Scherpenberg, Amicus Curiae

Jonathan E. Coughlin
Office of Disciplinary Counsel
250 Civic Center Dr
Suite 325
Columbus, Ohio 43215- 7411
614-461-0256

Joseph Caligiuri
Office of Disciplinary Counsel
250 Civic Center Dr
Suite 325
Columbus, Ohio 43215- 7411
614-461-0256

Disciplinary and Assistant Disciplinary Counsel

George Jonson
Montgomery Rennie and Jonson
36 East 7th St Suite 2100
Cincinnati Ohio 45202
513-241-4722

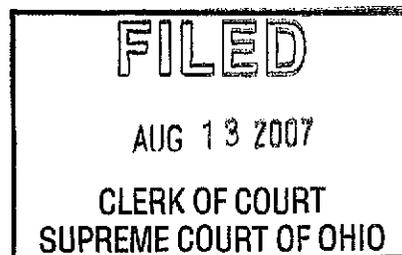


TABLE OF CONTENTS

Table of Contents	Page 2
Statement of Facts	Page 3
Argument	Page 4
Proposition No. 1	
The actions of the Respondent, found to be violations by the Panel, were the actions of a judge intent on following and administering the law; construed, skewed and presented as violations at the behest and direction of local authorities intent on the suppression and removal of Respondent and the Municipal Court.	
Conclusions	Page 28
Certificate of Service	Page 37
Table of Authorities	None

Statement of Facts

The Law Director, Prosecutor and City Council of the City of Mason directed the filing of all violations before the Panel. To accomplish this task, each complaint was fashioned to look different than it was. Take for example if you were told that someone saw another person take a knife and rip open a person's chest, take a prying device and spread the rib cage and then remove the heart, immediately you perceive a ghoulish event or a heinous crime. But if put in the proper context and you are told that all of these actions were performed by a skilled surgeon the perception changes and you marvel at the skill of the surgeon.

Simply put, the Judge required the prosecutor, law enforcement and defense attorneys to do their jobs without promise or expectation of compromise and as a reprisal for these efforts this action was formulated using the example outlined above as a guide to rid themselves of this Judge.

This matter is before this Honorable Court upon the recommendation of the Panel that the Respondent be suspended for a period of 18 months with six months stayed.

Argument

Proposition No. 1 – The actions of the Respondent, found to be violations by the Panel, were the actions of a judge intent on following and administering the law; construed, skewed and presented as violations at the behest and direction of local authorities intent on the suppression and removal of Respondent and the Municipal Court.

Honorable Justices of the Supreme Court of Ohio: This brief is in support of neither party, rather it is offered as a cautioned warning of the negative precedent that it will set by affirming the findings of the Disciplinary Panel.

It has been predicted that the downfall of the United States' form of government will occur without a single shot being fired. To that end, congressional representative Adam Schiff of California, in an address to the United States House of Representatives to honor Chief Justice Rehnquist, reviewed the Chief Justice's attempts to bring peace and harmony between the legislature and the courts of the Federal Government in his final years. When describing congressional action he points out, "It includes measures stripping the courts of jurisdiction to hear particular cases, condemning the court for the citation of certain precedent, and splitting circuits out of a dislike for their jurisprudence."

I implore you to be cautious at this point and include in your decision all possibilities, some of which were not addressed or discarded out-of-hand by the three-member board and ultimately the full Disciplinary Counsel. Take care that you are thoroughly convinced that this action is not the product of the local legislative authority's attempt at showing their disfavor with the court. By ignoring the following information,

and not factoring it into your consideration, you may miss the opportunity to convince yourselves that this case is not quite what it appears to be. When a person desires to take the spotlight off themselves, the best way to accomplish this feat is to merely create a more intriguing diversion that will refocus the attention on another.

I ask you to consider the above captioned matter that is now before you as an effort by the local funding authority to manipulate the court system in Mason to best meet their needs. While it has been alleged that the changes within the court were initiated by the Judge simply to feed his ego, I would like to apprise you of facts applying to each of Parker's actions suggesting that Parker had quite a different motive than alleged. I ask that you take a few minutes before passing judgment on what has been presented to you as unadulterated truthful facts and to take into consideration the precedence being set here. Keep in mind that the motivation for this action was not to remove a rogue judge; but rather, to obtain, through extortion and intimidation, permanent changes in the behavior of a judge and the way a court should operate. The problematic issue for me is that they are not only attempting to manipulate/change the way judges' act and the way judges are elected, but more importantly if and how a judge should stay in office...taking from the voter his/her right of choice.

As the Clerk of the Mason Municipal Court, I have been present for all but one of the matters considered by the Disciplinary Counsel in relation to George Parker. I can assure you that while the matters before you are predominantly true, they have been tainted with seemingly insignificant innuendo and purposefully compelling inaccuracies

to ensure the desired effect of making the truth something different than it was. As I stated earlier, I was present for all but one of the matters before you. I have noticed that with each failed attempt (complaint) to force the judge to behave, make decisions, and operate the court as the Mason City Council desired that the stakes have escalated and become increasingly extortive. When the initial push seemed to attain the expected result of the new judge maintaining all the old practices everyone seemed content. However, once their failure to persuade the judge became evident they switched their goal from requiring judicial compliance to ensuring removal from office. While I don't typically subscribe to conspiracy theories, the facts that follow may lead you to a similar conclusion. Moreover, as I read the findings of the three-member board, later accepted by the full panel, I did not hear or see a lot of the facts I knew to be true or facts that would have helped the Panel reach a different/more reasonable conclusion.

Formerly a member of the Armed Forces of the United States who served in intimate contact with the Commander and Chief, in preparation for that position, the Federal government and the armed forces investigated me extensively. Because of those investigations, the government gave me a security clearance and a measure of trust high enough that it wasn't until many years after being discharged from active duty that I was totally debriefed. I was then and am today considered an honorable and truthful man. I have "no dog" in this fight, so I have nothing to gain or lose from the way the Supreme Court decides concerning Judge Parker. The overwhelming interest I have is to see the preservation of a separate but equal judiciary that allows for a judge to be duly elected by the public he/she serves, free to act (within the parameters set by the judicial canon)

while at the same time having some latitude to interject some new ideas to improve the court and apply the codified laws of the land, enjoy reasonable assurances of remaining in office especially when decisions made or actions taken are contrary to the political desires of community leaders who seek to force different applications of law or control the judge to run the courts as they see fit.

As I watch this process unfold, it appears to be eroding a process I hold sacred and believe in firmly. A separate and independent judiciary separates our form of government from all others in the world. While I am not likening the judge to a soldier giving his life for his country, I will say he is sacrificing his livelihood for what he holds sacred and believes in deeply. The Judge may not always implement changes with handholding and tact, he does and has implemented changes to the court that have made the court more efficient, effective, and operate in a manner the law requires. This and this alone, has created the hornet's nest of controversy currently surrounding Mason Municipal Court. Had the judge avoided conflict and given into extortive efforts to stay "in line", none of this would be occurring. Mason, however, would no longer have a municipal court rather would return to the previous version of the court that was a municipal court, but run actually as a mayor's court and furtherance of efforts made by the Mason City Council in support of a more permanent change to the court...a mayor's court.

Here is some history that may well explain the root and cause of the problem. The previous Judge of the Mason Municipal Court, whom I have known for many years

and admire, sat the bench for 30 years. By his own admission, with age setting in and the returning symptoms of a childhood disease increasingly becoming an issue, he grew complacent in the job, often finding it easier to defer to the demands of the legislative authority and executive branch rather than impose the court's will and what was best.

When taking office in 2002, George Parker found the court operations to be in a blissful state of disarray. Confronted by this disarray, he felt a compelling necessity to make changes to the court's operations almost immediately. Most of the changes proposed and implemented by Judge Parker were characterized by the Legislative Authority as one or all of the following: a criticism of the previous Judge (which could not have been further from the truth), a calculated swipe at the prosecutor (whose life each change seemed to dramatically effect), or as completely unnecessary (merely an ego enhancer). Because of the 30-year tenure of the previous judge, each practice, procedure, and process was engrained in the legislative authority's mind as correct and the only way to do things. This was frequently evidenced by the comment, "That's the way we have always done it." The corrective actions taken by Parker were never intended to be criticism, swipes, or ego enhancers; but rather, the changes were intended to correct and streamline court practices, make the court more effective and efficient, and ensure that the court and its operations conformed to the law. George Parker did not intend his actions to be self-aggrandizing or self-serving, although his actions could and often were described as such by court detractors. As always, the judge, a promoter of public education where the law is concerned, attempted to make the public aware of the reasons for the changes, but his efforts were promptly blocked. Because of their dislike for the

changes to the court and the judge's unwillingness to revert to a bygone era, the prosecutor, the Legislative Authority, and the city government started to promote a distorted perception to the public of George Parker as being a person who seeks change merely to enhance his own importance. Isn't this precisely what George Parker is being accused of?

Summing up the position of the coalition of Council members who felt change to the court was not required, Victor Kidd was quoted as saying, "we want a judge who can be fired if he is not making the decisions we wish." Tony Bradburn, another member of Council seeking the court to be changed to a mayor's type court, led many to believe that a court should be a money making source of revenue for the city as it was the court in the City of Springdale, Ohio (this is a mayor's type court).

Despite the legislative authority's belief that a court should be a profit center, Mason Municipal Court was costing the City of Mason money. To that end, prompted by Tony Bradburn's mayor's court experience and reasoning, Victor Kidd decided to contact Doug Stevens at the Supreme Court of Ohio and requested a critical review of Mason Municipal Court. The reason he gave for requesting this review was the lack of a profit being generated by the court, proving that the court was ill managed. It is my understanding that the results of this critical review justified the changes initiated by George Parker and his staff's efforts and presented the court in a favorable light. The reason for the reviews findings having never been published has never been made clear to Mason Municipal Court.

A lengthy study of 16 courts was conducted by Mason Municipal Court to determine how their court operations compared to other municipal courts and to see if Victor Kidd's charge of ill management had any basis in fact. What was discovered was that Mason Municipal Court was not only being run efficiently and effectively but that it compared favorably to the 15 other courts surveyed. In fact, the only disparity between the 16 courts was that Mason Municipal Court staff was paid significantly less than the staff of similar average municipal courts.

As you are well aware, the three-member panel dismissed the conflict between George Parker and the Legislative Authority as inconsequential to this action. While I respect the work of the three-member panel, this brief contends that the conflict, politically motivated, is the very reason for this action against Parker. It is believed by the local government that establishing a negative perception of the court in general will engender the Supreme Court to change Mason Municipal Court from a municipal court to a mayor's type court.

It should be noted that George Parker is a strict constructionist and a stickler for detail. His every effort as judge has been to identify and correct all court practices that are found not to be in compliance with outlined procedures in the law, the Rules of Superintendence, and Civil and Criminal Rules of Procedure. When Parker was elected judge, he discovered that many court practices were antiquated and were often instituted and maintained as a matter of convenience not correctness. The mere suggestion of a

different or corrective practice was depicted as a criticism of the old judge, where none was present. Each change was characterized as Parker's way of increasing his power while diminishing everyone else's. To say Mason was a good ole boy community with a good ole boy court is a monumental understatement. To say that the pre-Parker court was a mayor's court in municipal court's clothing would be closer to the truth. The biggest problem for the good ole boys was that George Parker was now the judge who won the election by a landslide and was not going to play the mayor's court game.

All attempts to educate the public as to a municipal court's mission, purpose, and why changes to operations were necessary was distorted by the local government's ongoing portrayal of the court as an ill-managed white elephant with a power hungry judge during cable broadcasted council meetings. The public was never permitted to know what a municipal court was or what functions a municipal court should be expected to perform.

The remainder of the government was even less enthusiastic about Parker's proposals/changes and retaliated swiftly. Mason City Councilman Reverend Victor Kidd and Mason Prosecutor Robert Peeler made an appointment to meet with Judge Parker in his office. At that meeting in the Judge's office, where I was present, the two men informed Judge Parker that he must begin to do as they said or he and his family would suffer the consequences of humiliation and embarrassment publicly. In sworn deposition, Robert Peeler gave an account of this meeting and characterized Parker's behavior during the meeting as the Judge having a "psychotic episode." I believe any man, particularly a

family man of character, would have reacted to this blackmail effort as aggressively as did Parker. It is ironic that the very family values that the Republican Party espouses were the attack-of-choice employed by Kidd and Peeler to extort the desired behavior from one they believed to be another party member.

As promised, obvious embarrassment and humiliation followed. Death threats ensued and were found plausible because the Judge's private contact information was being published on a website operated by a Mason Police Department Sergeant. Along with the belittling and critical attitude exhibited publicly by the Legislative Authority toward Judge Parker, it is not surprising that death threats were made (as predicted by Justice Sandra Day O'Connor in an address to a graduating Georgetown University Law Class). Death threats and stalking episodes caused the Judge to abandon his family residence and move out of the City of Mason to an undisclosed location within Deerfield Township. He still resides within the jurisdiction of the court as is required, albeit the location of his residence is somewhat hidden and he is unable to have a home phone for fear his unlisted number will be discovered and his family's safety jeopardized. Law enforcement officers and a former council member spoke with me about this matter and stated that these incidences were of "no great significance and warranted no intervention on the part of law enforcement" since such threats were considered a part of his job.

Please keep in mind that the Judge reported himself to the Disciplinary Counsel for what he believed to be his failure to effect the needed changes, expecting punishment for those failed efforts.

Upon learning of his self-reporting, the legislative authority, as blatant retribution for the holding of the Chief of Police in contempt for failure to transport a prisoner as required by a court order, deputized the law director (Mason City Ordinance 2004-100) to solicit complaints from the general public demonstrating their clear intentions to discredit, humiliate, and embarrass the Judge and his family as had been threatened. Clearly, the government, as importantly, took the focus away from the corrections to court procedures made by George Parker because they feared possible litigation should the old practices become public knowledge. Many of the practices being changed by Parker were not always to make the court more effective and efficient, some of the practices brought change because the old practices did not conform to the current law. Evidenced by the absence of a public release of information concerning past practices of the court serves as proof that it was not the intention of George Parker to make a public spectacle of any of the past practices, but merely to change them to conform to the law.

Despite their efforts to collect public complaints against the judge, the legislative authority received only one complaint from the public, which did support their contention that George Parker exhibited unprofessional behavior as judge. Having failed to prove their point through the collection of public complaints, complaints still needed to be generated. The prosecutor and his assistant submitted the complaints. All complaints developed, either by the prosecutor or his assistant, were submitted to Ken Schneider (Mason Law Director) who published them to the news media and eventually forwarded them to the Disciplinary Counsel. My understanding of the filing process, which should

be well known by attorney Ken Schneider, is that the process is confidential until some finding of probable cause is found by a review panel.

No one purported as a victim originated a complaint as a victim. To outline the pain and suffering experienced by victims at the hands of Judge Parker, the prosecutor and his assistant resorted to listing what they imagined the pain and suffering to be. This is not hearsay, it is fabrication.

While developing these complaints, the prosecutor's assistant was receiving compensation from both the Warren County Prosecutor's office as a part time victim's advocate and as the prosecutor's assistant, in effect double dipping. Suffice to say that both the Republican-controlled County and City were paying Ms. Wilson to develop complaints against Parker on company time. The prosecutor's assistant would sit in court taking copious notes about the Judge's goings on while neglecting her actual duties as victim's advocate. When she felt something warranted publication, she notified the news media and gave her uninformed and uneducated rendition of the situation, knowing full well that a judge is not permitted to respond.

Each alleged victim in the investigated matters did not learn that he or she was a victim until contacted by the Disciplinary Counsel. It is my understanding that each newfound victim was given a fully developed document, created by the Disciplinary Counsel to sign, outlining their complaint. Not until the alleged victim was apprised of the colored facts and told the possible harm it will cause the judge did the victim feel

injured. It is not surprising that judges rarely receive awards for popularity. It is also not surprising that many defendants need someone to blame for their negative situation...other than themselves of course.

Each complaint filed by the prosecutor and his assistant were completely unrelated to the issues the Judge brought to the attention of the Disciplinary Counsel. In the end, the findings by the three-member panel had nothing to do with why the proceedings were convened in the first place. The affirmation by the three-member panel and later the full board sets as precedence that it is not necessary to follow the procedures outlined in the law and rules of court. It is not necessary to protect the victim's and defendant's rights. The Board apparently was not interested in the Judge's efforts to preserve the judiciary and the processes of law, since not one word was entered upon the record, not one sentence was spoken, and not one moment of investigative time was spent on the Judge's initial complaints. This in and of itself should send this matter back to another board for a fresh review.

Initially, each complaint was submitted to the Law Director by the Prosecutor and his assistant to seize the moment and to transform this matter from Judge Parker's complaint to theirs. Had the prosecutor spent one-tenth the time in case preparation for cases he presented in the municipal court, as he did trying to cover-up his unwillingness to do his job correctly by this charade, maybe his win-loss record at jury trial would not be as horrendous as it is. Any prosecutor who loses 35 out of 42 jury trials should be sanctioned at minimum. Mr. Peeler has a 21-year history of "that's how it's always been

done” and will do anything to preserve status quo. He expects and has convinced others, mainly law enforcement, that any missed element of a crime that he fails to prove should automatically be filled in by the judge. It apparently does not work with a jury and now does not work with the Judge. Too bad for the Judge that old prosecutors don't seem to want to learn new (correct) courtroom procedures, practices, etc. The prosecutor would rather focus on the Judge and not his own performance shortcomings. If George Parker is a bad judge (which I don't believe he is), Robert Peeler is a horrendous prosecutor.

Further, except for the incident when an attorney interrupted the judge in the pronouncement of a decision (Teresa Wade matter) and was embarrassed by what I perceived to be a fair and appropriate rebuke (since judge's are not normally the subject of inquisition), there has not been one single complaint from the public regarding Judge Parker. So what really is this matter about?

Change without perceived reason is change without necessity. Reason is a perception of the mind and does not necessarily have to be rooted in reality. While the Judge dealt with reality, people that he did not recognize as opponents dealt with perceived necessity. “That's the way we have always done it” was their consistent mantra; and in their minds, logical response regardless of the proof that the law presented them. What the Judge implemented as improvement, they defined as bullying. What the Judge implemented as legally sound, they chose to disregard. The height of their rebuff came when a legal opinion was rendered by Kenneth Schneider, the Law Director for the City of Mason. In his opinion, he blatantly advises that no court order, if considered unreasonable, need be followed. His intent was clearly not to undermine George Parker the person; but rather undermine the authority Parker possessed as a member of the

judicial branch of government. More importantly, the law director's opinion was fashioned to benefit the local legislative authority, his client, in an effort to return the court's control back to them, as it had always been.

Noted results of this flawed opinion were the failed prisoner transport order that precipitated the 911 incidents and ultimately the holding of the Chief of Police in contempt of court. Taking each of these issues in chronological order, the 911 incident, a matter before the Disciplinary Counsel, came first, but the point here is both the 911 incident and the holding of the Chief of Police are interrelated and one of the perceived authority for the decisions in these matters stem directly from that opinion.

It was determined that prior to Parker's arrival, a pre-signed but otherwise blank document captioned "commitment" could be used by law enforcement as an arrest warrant to incarcerate alleged offenders. The practice, used throughout Warren County, assured that all arrests affected after hours could be done so without the need of a judge or judge's designee because there were both felony as well as misdemeanor bond schedules and court only met once a week. As a result, it was not uncommon for a defendant charged with a felony to have a preliminary hearing held up to 25 days after his/her arrest while remaining incarcerated for the entire time. This merely was another way of doing things; and as a practical matter, permitted the county prosecutor a longer time to prepare and present the case to the Grand Jury. All preliminary hearings were perceived as "give me's"; a precept that Parker could not get his mind around or accept as proper. Parker publicly supported alternatives to preliminary hearings, even with the

Grand Jury meeting once a week, in the form of direct and rapid indictments. While this would eliminate the need for prolonged pre-indictment jail stays and the need for preliminary hearings, the County Prosecutor refused to use these practices.

The issuance of pre-arrest warrants or post-arrest warrants did not conform to the Criminal Rules. The use of the pre-signed document excluded the need for pre-arrest warrants. In the extreme event that a pre-arrest or post-arrest warrant was needed there existed pre-signed, tri-pack forms that contained a complaint with an executed jurat, a pre-signed arrest warrant, a pre-signed summons, and the service of either. While law enforcement was permitted to issue their own warrants, which is permitted if the administrative judge of the court authorizes it (Criminal Rule 4), the issued warrant must contain the signature of the officer that issued the warrant not the judge or clerk of court that placed their signature on the pre-signed document. If viewed from a distance everything appeared to be performed correctly despite the practice being totally incorrect.

When George Parker replaced these practices, he ensured designated court personnel were available to law enforcement 24/7. He abandoned the use of the tri-pack form and implemented the use of the State accepted three-page complaint, warrant or summons, and service notice. When these changes were implemented, a mutiny ensued. These actions were viewed as signs of court's distrust of law enforcement. Even though these efforts curbed the need for amended complaint filings by almost 25%, the process brought criticism from law enforcement accusing the clerk of the court of practicing law. Each effort made by Parker was billed as his making himself look important. Quite

simply, law enforcement had gotten accustomed to a pattern of practice that was convenient yet improper and were certainly not anxious for change. With the era of mistrust now in full swing, the focus was fixed on all actions taken by the court. Anything requested by the court was denied. All orders of the court were determined to be unreasonable, and based on Ken Schneider's legal opinion, were ignored.

This brings us to May 14, 2003, and the 911 incident. Mr. Michaels, the incarcerated defendant, was scheduled for a trial to the court. A court order sent to Court Services at the Warren County Sheriff's Patrol, which traditionally did prisoner transport for the court, was responded to by Lt. George Hunter with the comment "you all down there are attempting to make the Mason Court a full-time court. I assure you the Sheriff and I are not going to help you with that effort". He then cited that the Sheriff was only responsible to transport prisoners post conviction; but transported defendants pre conviction as a courtesy to all Warren County courts but only once a week and Mason Municipal Court would be no exception. The same order was sent to the City of Mason Police Department where a Sergeant Matt Conner responded simply "NO! This is not a Mason Case!"

Prior to these events George Parker expanded the court schedule to have court five days a week albeit not all daylong. The prosecutor was disenchanted with this process and sent a letter to City Council stating that George Parker's changes were intended to pack the docket to solicit a full time court and that his actions, expanding the

court schedule among others, were intentionally interfering with the quality of the prosecutor's life. In his estimation there were no reasons for these changes.

On the other hand, in Parker's defense, under his plan the court would be available so no case went beyond time, all preliminary hearings were held in the time required, no incarcerated person spent one day in jail that was not approved by a judge (directly address the jail overcrowded issue, and OVI arraignments could take place in the time frame prescribe by the Traffic Rules. Pre-signed documents were eliminated. In the Michael's case, the attorney reasoned that the government was holding the defendant; the defendant could not arrive at court on his own because the government would not permit that, so it was the government's responsibility to insure the appearance of his defendant as is required by the court. Using the Michaels case as an example is what prompted the court to be in session every day, upon arrest, the prisoner could be brought to the local holding facility as prescribed by ORC §2935.01 through ORC §2935.10 and the case could immediately proceed.

On May 14, 2003, unbeknown to George Parker and I, the assistant City Manager, the Chief of Police and the Law Director, citing another one of the Law Director's flawed legal opinions were setting plans to defy any court order for prisoner transport on cases that were generated by Deerfield Township Deputy Sheriffs. Relying on an opinion issued by Ken Schneider to address the staffing of court security, the law director cited that the responsibility for prisoner transport was seated in ORC §1901.32, with particularity to the part that states "cases within their jurisdiction". Reasoning that the

Michael's case was a Deerfield Township Police generated case thus the Mason Police Department had no responsibility to the court for prisoner transport as this case was developed outside their jurisdiction but within the court's jurisdiction. My interpretation of the same section is that as ex-officio bailiffs can only receive their authority from the judge, bailiff or clerk of court thus any Mason Police Officer has a fiduciary obligation created by that section and any order of the judge, clerk of court or bailiff to execute any lawful court order.

The result of the meeting generated the decision that Mr. Michaels was not going to be transported by a Mason Police officer and each police officer if directly confronted with a court order to transport would use as a defense that the order was not reasonable and their Chief had ordered them not to transport. The full weight of this decision will be brought to bear the very next day when another defendant, again the product of a Deerfield arrest, was ordered by the court to be in court for a scheduled preliminary hearing. While ignoring the court order in the Michaels issue caused an OR bond and the case rescheduled for a trial that still could be held within the prescribed time, this case was set for a preliminary hearing and this was the last day court was in session during the permissible time for the preliminary hearing. In defense of the Chief of Police the Prosecutor reduced the importance of the hearing by causing the case to be rushed to the Grand Jury after the fact. Mr. Peeler blatantly perjured himself in court at the contempt hearing by stating the case before the Grand Jury the very next day. The decision not to transport was advanced by the Chief of Police in a private meeting between him and the Judge, ending with the Chief of Police being held in contempt of court.

During the time that the Judge witnessed the meeting between Matt Graber and Michael Davis, Parker was looking for applicable law and procedures to deal with this matter on his computer. As part of that research he must have found a reference to hold the individual officer in contempt for failure to obey a lawful court order and had developed a complaint outlining the responding officer's expected refusal to transport Mr. Michaels. I know he did this because I saw it on his computer and I was with him from the time he developed it until the time he left the building. This document was never printed nor shown to anyone but me that night. That document, having never been printed to my knowledge appears as evidence against him in this matter. All law enforcement officers have access to keys for all parts of the court facility in the event of their services being needed. The second aspect of this matter that is intriguing is that three stories were told concerning the incident of dialing 911, each participant told a story that was significantly different from the other two. What I question is how two different stories are truthful and a third different story is a lie. I am not sure that is possible and exactly how is it that one story was determined to be untruthful.

As a reasonably intelligent politician and legal practitioner, I believe that George Parker was not blind to the impact this single act would have on his political career. Knowing its impact and knowing that impact would be negative certainly does not play well to his medical diagnosis. If he indeed was seeking importance as stated, why would a person seeking importance commit an act that would ultimately take that importance away from him? It would be my belief that a person seeking importance would do those things necessary to keep his/her importance not running any risk of destroying it. George

Parker had to know full well he was legally right. He had to know from the beginning he could win if the matter concerning the transport of prisoners was tried fairly, and the case was brought to completion. It is clear that Parker acted in what he believed to be the interest of the defendant's rights, obviously not his own.

House Bill 490 clearly articulated the will of the State Legislature with regards to misdemeanor sentencing. It clearly embraced the notion that something more had to be done with regards to sentencing at the misdemeanor level. Jails statewide were overcrowded and with the down loading effect felt by the closing of state penal institutions, proposed as a money saving measure, the problem worsened. The realignment of the levels for different offenses increased the pressure on the local jails. Clearly most sheriffs realized the extreme burden this was going to create on their jails and sought their legislative authorities to make improvements before it was too late. Warren County and the Sheriff were at odds when considering the necessary improvement to the jail. For the most part the legislative authority was against it with the Sheriff seeking to enlarge his empire by enlarging his jail. This bickering created a time delay in making a decision on that subject that still exists today.

Warren Young and I sought new ways to determine the motivation of defendants that caused their behavior and investigated proper treatment regiments to correct that motivation. To that end, many complaints center on the efforts to get inside the mind of the defendant so the chosen sentence would have its intended effect. All of these efforts

were viewed as self serving on the part of the Judge and his efforts in this area were merely to belittle the defendant.

As part of the court's efforts to determine a defendant's motivation and to determine that an alternative to incarceration was imperative, a fully functional probation department was established and it was determined that they should have cars to effect home visits, and guns for their protection as permitted by proper training and law. The chief of probation was aggressive in his efforts to enforce court sentencing orders, advising defendants that the right to be on probation was an alternative to incarceration and a privilege. This process gave the judge an alternative when determined that a sentence of incarceration would be devastating to the defendant's family and his or her life. Although the sentence by sentencing standards may have been consider mild, understanding the defendant's life's problems and the impact a sentence to a term of incarceration would have in the defendant's life and his ability to provide for his family, his family would become secondary victims as a result of the sentence. The Judge then could freely determined if the expected sentence would be more devastating to the defendant or his family then the framers of the law and sentence intended it to have for the violation of law charge. The sheriff viewed these efforts as a rebuff to his efforts to get a new jail as he firmly believes it is he who determines the length of term concerning incarceration not the judge. The local legislative authority viewed probation as a waste of the money they sought to control or felt they were entitled to, albeit the cost of the probation operation was self funding. One would think that self funding the probation

operation was a good thing however the legislative authority viewed the issues simply as money they did not get.

In a county where 70% of the inmates in the Warren County Jail are there pre conviction speaks volumes to the intent of the Sheriff and the passive attitudes of the Judges. If a person is permitted to remain incarcerated by using pre-signed documents inferring judicial intervention where there is none and the Sheriff is upset, as he was in this case, because Parker brought an end to their use, and in spite of the non-use of the pre-signed document prisoners still remain incarcerated pre-conviction long term, it is the Sheriff that is determining sentence without the benefit of trial not the courts.

I personally am taken aback by the statement of the panel that seemingly permits the raising of hands in the courtroom to be proper behavior by describing the event as the ebb and flow of normal courtroom activity. This creates a woeful precedent that will be impossible to overcome in the daily attempts of judges to keep order in the courtroom. I suppose that a judge must determine the truthfulness of statements made by parties. I also suppose that one must determine which facts have become benign, as in this case we have transference away from facts and bring focus on an un-provable event (of what was said) to arrive at the sought after finding. One person says one thing was said. Another person says something else was said. At the time the statement was made a tape recording was being made, one would think you would have an undisputable record of the event. Alas, due to another event happening at the same time the statement was made, the recording will confirm neither persons utterance. Does that mean no one else

proximate to the statement could hear what was said? Of course not. I was personally there. I know what happened and what was said. Despite the flawed and misleading attempt at a video rendition, keep in mind that the alleged video was the product of a combining of a dissimilar audio and video track into one video event that did not show what happened. In the end however, it does not matter what actually was said. The mere fact that anything was said at all is the point. She admits she said something. If there is a difference of opinion of what was said is not important, the mere fact that she spoke after she was told not to for the third time and after being told to leave and she persisted is the issue. The former Judge of the court was standing directly next to me and he told me that the Judge had reacted calmly and professionally to the matter and if it had been him he would have reacted much more harshly as Ms. Gadberry was out of control.

When the board was presented with each of the alleged complaints, each was crafted in such a way as to ignore the motives of the Judge and focused on the government's created perception that each was made to increase George Parker's self importance. This focus played well to the panel. This brief is placed before you in contradiction to those beliefs and to draw attention to the appropriateness of most of George Parker's actions when viewed in light of his true motive. I perceived each effort was to ensure that the perceived as well as the real danger to the victim was taken into consideration with each decision. If errors were to be made, they were made on the side of caution and safety.

In order to intervene in a matter which appeared on its face to be adverse to the interest of the victim is manifested in the case when the judge ordered the victim photographed. I again was there and it appeared that the defense attorney was acting within a conflict. It is my understanding that the wife had contacted this attorney on behalf of her husband who had been arrested the night before for domestic violence. From my vantage point it was unclear if the attorney was advocating for the defendant or the wife. When he approached the bench he articulated the wishes of the wife to drop the charges against her husband. Sporting visible injuries it seemed apparent the victim was involved in a confrontation but it had not been determined that the injuries sustained by the victim were the product of that confrontation. I believe the efforts of the Judge were to protect the victim from an attorney supporting the interest of his client while directing actions of the victim that were in his client's best interest. Moreover it was apparent that the victim was in fear of her husband at minimum or in fear of what she believed was going to happen at most.

There was clear evidence that the victim was wishing to recant. There were strong indications of coercion on the part of the husband toward the wife as the body language of the wife indicated. Clearly it was apparent that pressure had been placed on the victim to tell a different story than the one she originally told and was being articulated by the defendant by and through his attorney. In this case the court if it erred at all erred on the part of safety and caution.

Conclusion

Robert Peeler, the prosecutor, and his assistant, Ms. Wilson, have never advanced other suggestions as to curbing recidivism, but they certainly have led the vanguard against any new attempts at curbing it. With this mandate affirmed by you, your decision will certainly be well known by all defendants. Each will pay little attention to a judge's attempt to redirect their behavior as they know full well that they need merely report the judge and his punishment will have more impact on the judge's life than if the judge had committed murder.

Maybe it is a fable but it is alleged that a person stopped for OVI has driven drunk on at least 99 other occasions. If that's the case it would mean that a person being convicted for the second time has driven at minimum two hundred times drunk. For someone under thirty, that's significant. The court must attempt to aid the defendant to realize the tight grip alcohol has on his or her life. It has been proven that any treatment program the court may order the defendant into will not work if they choose not to accept their dependency. No amount of effort will divert their third OVI if incarceration is the only attempt of changing their behavior. In the interest of public safety, any court has a moral responsibility to make a strong effort to change the defendant's behavior. As stated, for any treatment to be effective the defendant must realize he/she has two

problems, one they drink too much and the other is they drive when they drink. It is apparent at this point that the established sentence of a 72 hour program and/or three days in jail with the appropriate recovery programs, license suspension and monetary fine had no effect on them the first time around. It is also apparent the defendant does not see that he has a serious problem that it is creating a clear and present danger for himself and others. Maybe just maybe it is time for the kid gloves to come off and the boxing gloves to go on. Continued pacification of a defendant's actions with knee jerk reactive remedies instead of pro-active responses should be considered. George Parker did so by making them shockingly declare in public, the very public they would or may have already injured with their actions, their alcohol dependency. They must understand that due to their inability to make a proper choice not to drink and drive, that they should think when they are about to drive drunk. As an example it was suggested they throw their keys as far as they can, because maybe when they find them they will be sober. None of Judge Parker's actions in my estimation were intended to make them look or feel more important, rather to seek a more meaningful method of sentencing.

Is a second-time offender hurt more by his/her publicly identifying his/her substance abuse problem in court or would it be more hurtful returning to court for an OVI-related manslaughter? Furthermore, who is offended more by a defendant publicly professing his substance abuse problem? Is it the defendant, who deep down realizes his/her actions are potentially injurious to themselves and/or family, or is it the non substance abusing public who don't have an inkling of the havoc this abuse is creating in the defendant's life? The person who complained of this situation and described it as

humiliating was the prosecutor, a man who is suspected to be neither an alcoholic nor is it anticipated that any of his family members are alcoholic. The offender should have been humiliated by the mere fact that he/she is in court in the first place. If humiliation is the yardstick to measure the do's and don'ts, then shouldn't appearance in any court be done away with?

The motivation for the law director's opinion stating that court orders thought to be unreasonable need not be obeyed was a knee jerk reaction to the lack of control the legislative authority perceived they lost when Parker made and implemented court's decisions, an authority the former judge had permitted the legislative authority to exercise. To counter the Judge's denial to letting them control the court as they wished, the Judge was branded a person not willing to play well with others, he was branded as arrogant, obnoxious and rude. The Judge apparently perceived his oath to protect and defend the Constitution of the United States and State of Ohio a duty he took seriously. Your affirmation that Parker's actions were unacceptable will handcuff any judge in any court from having control, impede a judge's ability to implement new and necessary programs, and will force each court to be a profit center.

The affirmation of the Board's decision by this honorable Supreme Court resulting in the loss of his license to practice law is precisely what was sought at the beginning of this case. As intended this will send a message to Parker that his actions were totally unacceptable making every change he implemented wrong. To all other judges it is telling them to do as they are told and not what they are trained to do. His

being publicly branded insane along with all the allegations of his dishonesty, although not even remotely or technically correct, is how the findings of the board are being published by the media and perceived by the public. As the finding by the three member panel was published and later affirmed by the full board, the findings enfranchise legislative authorities giving them the tools of extortion to force judges and court administrators to do as they say. As articulated by Congressman Adam Schiff in his address to the House of Representatives on September 8, 2005 “Even though many of these legislative initiatives have yet to pass, we are already witnessing the direct consequence to our court system. In recent years there has been a marked decline in the level of interest and service on the bench among highly qualified attorneys. Judges are leaving the bench to return to private practice. Reckless talk in the House Committee on the judiciary about the potential impeachment of judges not for unethical conduct but out of a disagreement with their decisions has only added to the chilling effect on the courts and peoples willingness to serve” show the nationwide proliferation this practice has.

For Warren County this move on Parker is imperative so they can return the courts to those practices and procedures that Parker found not to conform to the Constitution of the United State, the State of Ohio, and the good law of the land. Ask yourself the question, is the substance of the complaints substantial enough to support the Board’s findings, if viewed in the light where the motives of the Judge were different than originally perceived. Each complaint, upon which a decision was entered, does not directly address the issues raised in the complaint rather they access some subtle non-proven facet of the alleged actions of the Judge as he handled the aftermath. What needs

review, is how a choice was made between more than two different stories relating to the same event, with the Judge always being wrong when at least one other of the stories would equally have to be wrong. Furthermore would it not make sense that a person trained as a lawyer would recognize how blatantly wrong his story would appear if it was different than all other stories. Even more intriguing is when one party has access to all the other stories prior to his/her telling of the story wouldn't one think that the teller would attempt to fashion his/her story linking it to one or the other stories to hide any untruth he/she may tell. Parker did not do this as he had both depositions when he testified.

Regardless of the outcome, now fully empowered, the County Government and local legislative authority will applaud these findings as a victory and use them as threats to any Judge taking the bench and actions taken by them against the judge that is not doing what they want. It is unlikely and ill advised that another judge would think to take the stand that this Judge has taken and suffers the life altering consequences he is now required to suffer for his actions. Painting a horse a color other than a color horses generally are does not change the fact that it is still a horse.

One may well argue that his actions were unacceptable and that is the reason he should be punished. One may well argue that the conduct he exhibited was found to be unacceptable. He exhibited no remorse for those actions and this proves their point. While maybe his behavior was outside the box, each action when viewed with honorable intent is not wrong at all. If one takes this tact it is easy to understand that the Judge viewed his actions as attempts at good not harm. Overall, probation, his creation, has far

more successes than failures. Successes made possible by George Parker's thinking and guidance.

The lynchpin for those beliefs is that George Parker acted in a self serving manner and not in the interest of the dignity of the court or defendant. No longer does there exist an independent judiciary in Warren County and likely enough will migrate throughout the State. While local legislative authorities having municipal courts are likely to be the first to employ such extortion tactics, surely county operated courts, and common pleas courts seem just as vulnerable. The now stymied effort to prevent the incarceration of a person for up to seven days in jail without judicial invention will return. Review by courts is alleged impossible because they only meet once a week. This decision will exacerbate the negative views of Parker's actions and will cause the unquestioned re-developing of pre-executed and signed documents, making them available for use and the reliance on them to give the impression of judicial involvement where there is none. The result will indicate that the judiciary has fallen on its sword.

If the Judge's efforts at protecting the process makes him insane, arrogant, obnoxious then maybe he should plead guilty... guilty... guilty. If the Judge refused to be dissuaded by the opinions of others, to make decisions based on the evidence and testimony present not the direction of others, the fill in the blank practices of the last court, then he is wrong and should plead Guilty. If it is appropriate to operate a court that dismisses the importance of each and every individual by forcing resolutions to cases by plea agreements that are not supported by fact, be they victim, witness, defendant, lawyer

or law enforcement officer, for the sake of brevity, the sake of generating revenue or for the reason "that's the way we have always done it", he should not only plead guilty but be found guilty. But this did not happen did it? Instead he fought against the practices of a flawed system where plea agreements are substantiated by no real facts and cases are disposed of simply for convenience. When initial charges are burglary, a felony of the second degree, and the plea agreement is a payout minor misdemeanor disorderly conduct something is drastically wrong. If complaints need not describe the offense nor be reviewed by a judicial officer or court officer as outlined in Criminal Rule 4 to be valid, if warrants are freely issued and are merely used as licenses to incarcerate defendants pre-conviction, everything the Judge has attempted to change and the scourging he has received for his efforts are all in vane.

While you have been led to believe that the provocation for the Judge's behavior is caused by a mental condition which motivates him to feel and act important, it seems to have been presented as an alibi for the Judge's behavior and worsen the impact of the Board's findings. The belief that the diagnostic value of a three hour consultation is sufficient to make such a drastic determination is challengeable, especially when such a finding is not supported by one scientific test. Scientific tests used are generally used by a physician to diagnose this condition but in this case were not. Most would agree if such tests were non-existent or if the cost or time required to perform such tests were exorbitantly prohibitive one could understand their non use. It is my understanding that George Parker personally paid an independent physician to certify the findings of the physician whose report has been used to establish his mental condition by the board. He

performed scientific tests accepted by the medical community to arrive at a diagnosis of this mental condition and as purported in the finding of the panel. It is my understanding that this physician's finding do not agree with the board's physician. This brief contends that the possibility of a reliable diagnosis is greater when definitive scientific testing is performed, than when inference is drawn from an interview and reading a transcript of the proceedings.

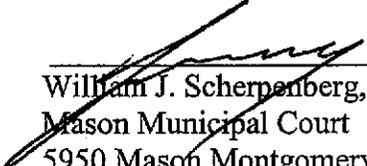
As I indicated at the beginning of this document I am not writing this in support of either side, but rather, so that when your final decision is rendered I know in my heart that I did everything I could to ensure that you had all the information that is pertinent to understanding the environment in which the Judge of Mason Municipal Court sat. Six years is a long time to level an attack against someone, particularly a judge you want ousted and is unable to defend himself publicly.

The following are excerpts from the address that California Congressman Adam B. Schiff made during the September 8, 2005 session of the United States House of Representatives concerning Chief Justice Robert Rehnquist's retirement and the relationship of the Supreme Court with the Congress of the United States that seem appropriately applicable.:

"In recent years there has been a marked decline in the level of interest and service on the bench among highly qualified attorneys. Judges are leaving the bench to return to private practice. Reckless talk in the House Committee on the Judiciary about the potential impeachment of judges not for unethical conduct but out of a disagreement with their decisions has only added to the chilling effect on the courts and people's willingness to serve.

"Former Chief Justice Charles Evans Hughes admonished the Congress of his day that `in the great enterprise of making democracy workable, we are all partners. One member of our body politic cannot say to another `I have no need of thee.'"

"174 years ago, Supreme Court Chief Justice John Marshall warned, `The greatest scourge an angry heaven ever inflicted upon an ungrateful and sinning people was an ignorant, a corrupt, or a dependent judiciary.'"



William J. Scherperberg, Clerk
Mason Municipal Court
5950 Mason Montgomery Road
Mason, Ohio 45040
(513) 701-6133

PROOF OF SERVICE

A copy of the foregoing was served upon:

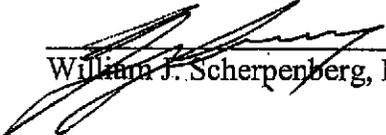
Jonathan E, Coughlin
Office of Disciplinary Counsel
250 Civic Center Dr
Suite 325
Columbus, Ohio 43215- 7411
614-461-0256

Joseph Caligiuri
Office of Disciplinary Counsel
250 Civic Center Dr
Suite 325
Columbus, Ohio 43215- 7411
614-461-0256

Disciplinary and Assistant Disciplinary Counsel

George Jonson
Montgomery Rennie and Jonson
36 East 7th St Suite 2100
Cincinnati Ohio 45202
513-241-4722

I William Scherpenberg certify that the above named individuals have been served by ordinary United States mail this 13th day of August, 2007



William J. Scherpenberg, Pro Se