ORIGINAL

BEFORE THE BOARD OF COMMISSIONERS
ON
GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO

09-0719

In Re:	:	
Complaint against	:	**Case No. 08-066**
David A. Rohrer **Attorney Reg. No. 0042428**	:	**Findings of Fact, Conclusion of Law and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio**
Respondent	:	
Disciplinary Counsel	:	
Relator	:	

INTRODUCTION AND PROCEDURAL BACKGROUND

This matter was heard on January 16, 2009 in Columbus, Ohio, before a hearing panel composed of Jana Emerick, Stephen Rodeheffer, and Paul De Marco, the panel chair. None of the panel members is from the appellate district from which the complaint arose and none was a member of the probable cause panel that certified the matter to the Board.

FINDINGS OF FACT

The parties stipulated to the following facts:

1. Respondent was admitted to the practice of law in the state of Ohio on November 6, 1989. Respondent is subject to the Code of Professional Responsibility, the Ohio Rules of Professional Conduct, and the Rules for the Government of the Bar of Ohio.

2. On September 21, 2007, the Darke County Prosecutors Office filed a Complaint in the Darke County Juvenile Court against 10-year-old Timothy Byers with five delinquency

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CLERK OF COURT
SUPREME COURT OF OHIO

counts of murder and one delinquency count of aggravated arson as a result of a September 16, 2007 fire that killed Byers's mother, sister and three other children.

3. That same day, Byers was remanded to the custody of West Central Juvenile Detention Center in Troy, Ohio.

4. On September 25, 2007, respondent was retained to represent 10-year-old Timothy Byers.

5. On September 26, 2007, Darke County Juvenile Court Judge Michael McClurg sealed the court file. On September 28, 2007, Judge McClurg issued a verbal order that prohibited respondent and the prosecuting attorney from discussing the case with the media. This verbal order was journalized on October 24, 2007 and is attached hereto as Joint Exhibit 6.

6. On September 27, 2007, respondent filed a request for discovery with the Darke County Juvenile court. A copy of the request for discovery is attached hereto as Joint Exhibit 1.

7. On October 5, 2007, respondent filed a motion to compel discovery asking the court to compel the Darke County Prosecutor to promptly provide a response to respondent's discovery request. A copy of the motion to compel is attached hereto as Joint Exhibit 3.

8. On this same date, respondent directed a member of his office staff to deliver a copy of the motion to compel discovery to the Darke County Daily Advocate newspaper ("Daily Advocate"). By doing so, respondent violated Judge McClurg's order regarding communications with the media.

9. The October 9, 2007 edition of the Daily Advocate included an article on the motion to compel discovery filed by respondent. A copy of the October 9, 2007 article is attached hereto as Joint Exhibit 4.

10. On October 11, 2007, Judge McClurg conducted a hearing to address the October 9, 2007 Daily Advocate article and determine whether respondent violated the order regarding communications with the media. (Agreed Stipulations ¶ 10)

11. A portion of the hearing was conducted on the record. A copy of the transcript from the portion of the hearing that was on the record is attached hereto as Joint Exhibit 5.

12. At this hearing, Respondent made the following statements:

- "I said some things to my staff that I believe... I believe was misconstrued, but I'm not going to hold them responsible and I believe that a copy of that...of that motion later on in the day got delivered over there without my knowledge." (Ex. 5 at 8-9)
- "I take responsibility for that because if they thought that that was my intent or that's what I wanted to happen, and they did that, then that's still my responsibility. It was...it was not my intent." (Ex. 5 at 9)

13. In light of the fact that respondent had previously directed a member of his staff to deliver the motion to compel to the Daily Advocate, the above referenced statements were false and misleading.

14. On or about November 7, 2007, Darke County Prosecutor Phillip D. Hoover filed a grievance with the Darke County Bar Association. Mr. Hoover also sent a copy of the grievance to Judge McClurg.

15. On November 29, 2007, Judge McClurg issued an entry concluding that Mr. Rohrer violated the court order prohibiting communication with the media. A copy of the November 29, 2007 entry is attached hereto as Joint Exhibit 7.

16. In March 2008, Darke County Juvenile Court Judge Michael McClurg found Byers not competent to face juvenile delinquency charges against him and dismissed the pending charges.

17. After respondent's assistant Daphne Laux informed the prosecutor's office that he had instructed her to send the motion to compel to the newspaper, respondent terminated her for violating his office policy against divulging confidential information about cases. In a subsequent letter to the unemployment bureau concerning her termination, he again suggested that Ms. Laux was responsible for sending the motion to the newspaper

CONCLUSIONS OF LAW

Relator and respondent stipulated that respondent's conduct violated the following Ohio Rules of Professional Conduct: Rule 3.3(a)(1) [a lawyer shall not knowingly make a false statement of fact to a tribunal or fail to correct a false statement of material fact previously made to a tribunal by the lawyer]; Rule 3.4(c) [a lawyer shall not knowingly disobey an obligation under the rules of a tribunal]; Rule 8.4(c) [a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation]; and Rule 8.4(d) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice]. Accordingly, the panel finds that respondent's conduct violated the above Rules.

Respondent disagrees with relator's contention that his conduct violated Ohio Rule of Professional Conduct: 8.4(h) [a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law]. Based upon the panel's inability to discern whether respondent's conduct was impulsive or not (discussed in detailed below), the panel does find by clear and convincing evidence that his conduct adversely reflected upon his fitness to practice law.

APPROPRIATE SANCTION

Relator asks for a six-month actual suspension, while respondent urges "something less than an actual suspension." In deciding between these alternatives, the panel gave consideration

to the recognized factors in aggravation and mitigation and to precedents established by the Supreme Court of Ohio.

AGGRAVATING FACTORS

Relator urges the panel to find as an aggravating factor that respondent acted with a selfish or dishonest motive. In violating the juvenile court's gag order, respondent seems to have let three factors cloud his judgment: (1) his concern for the safety of a ten-year old boy in lock-up; (2) his antagonistic history with the assistant prosecutor;[1] and (3) his perception that the publicity he was generating by releasing his motion to the newspaper would somehow nudge the judge in a direction favorable to his client. The judge took the measure of this violation and punished respondent by citing him for contempt and imposing a fine and jail time, which the court suspended on the condition that respondent not engage in further violations of the gag order or "attacks of a personal nature ...." All indications are respondent's violation of the gag order was the impulsive act of an attorney whose judgment was clouded in the heat of battle. If any motive can be discerned from this at all – for acting with a motive seems to us inconsistent with acting impulsively – the panel cannot conclude it was a selfish one, since respondent seemed so clearly intent on protecting a vulnerable client.

As for whether respondent made his false statement to the juvenile court with a selfish or dishonest motive, it bears noting that the judge was unconvinced by respondent's cover story – *i.e.*, that a member of his staff leaked the filing without his approval – given the judge's statement in his entry that respondent had "made a mistake" and "let his emotions get the best of him." (Ex.7) Unconvincing though respondent's cover story might have been to this particular judge, it nevertheless constituted a false statement to a court on a matter directly relevant to a

[1] The juvenile court's entry sanctioning respondent repeatedly referred to the feud between respondent and the assistant prosecutor, noting that the violation had occurred "in the middle of a personal conflict" characterized by "both sides making personal attacks through filings or the Court process." (Ex.7)

violation of one of the court's orders, and we must treat it as such. In this instance, respondent knew he was being summoned to court to discuss an apparent violation of the gag order. He certainly had time to consider the explanation he would give. In that sense, he had a sufficient opportunity to form a motive to mislead the judge. But we cannot tell from the evidence before us whether respondent went to court with his cover story in mind,[2] or went intending to come clean with the judge and impulsively blurted out the cover story instead. While we believe that respondent acted dishonestly by not owning up to his misconduct and that his misstatement was a clumsy attempt to deflect blame from himself, we do not have a sufficient basis for finding as an aggravating factor that he acted with a dishonest or selfish motive, since, as note above, acting with such a motive seems to us inconsistent with acting impulsively.

Relator also urges us to interpret respondent's representations to the juvenile court and to the unemployment bureau as repetitively deceptive and to find as an aggravating factor that respondent engaged in a "pattern of misconduct." The panel does not find this argument convincing. We regard respondent's false statements to the court as comprising a single, inaccurate cover story. His extrajudicial statements concerning Ms. Laux in the letter to the unemployment bureau, while they pertain to the same general subject matter as his statements in court, are not sufficiently linked to those in-court statements (for example, they were made several months after the case ended) to constitute any salient "pattern" of deception on respondent's part. Having listened to all of the evidence concerning the letter to the unemployment bureau and its apparent subtext, we can only say this much with confidence: by initially casting blame on his staff member and subordinate (Daphne Laux), and firing her,

[2] Neither Ms. Laux nor any other employee who might have personal knowledge relevant to this point was called as a witness.

respondent neutralized the impact of his later mea culpas.[3] While we do not find as an aggravating factor that respondent refused to acknowledge the wrongful nature of his conduct in these proceedings, it would strain credulity for us to find as a mitigating factor that he immediately and unequivocally took responsibility for his actions or made timely efforts to rectify their consequences.

Relator also contends that respondent made false statements during the disciplinary process by downplaying the situation in a letter to relator. We disagree. In actuality, respondent's letter accurately recounted statements made by the juvenile court in its entry. While those statements could be interpreted as downplaying the situation, that is precisely what the juvenile court's entry seemed intent on doing. We do not find as an aggravating factor that respondent made false statements to relator.[4]

For all of these reasons, we find no aggravating factors by clear and convincing evidence and, thus, no justification for recommending a more severe sanction.

MITIGATING FACTORS

The parties have stipulated to the following mitigating factors: (1) respondent has no prior disciplinary record; and (2) respondent has displayed a cooperative attitude toward these proceedings. Based on these stipulations and the evidence presented, the panel finds clear and convincing evidence of the following mitigating factors: (1) respondent has no prior disciplinary record; (2) the juvenile court already imposed sanctions on him; (3) respondent has displayed a cooperative attitude toward these proceedings; and (4) he has presented character witnesses and letters attesting to his good character and reputation.

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[3] Based on respondent's unsubstantiated but also unrebutted assertion that Ms. Laux's alleged relationship and communications with someone in the prosecutor's office figured in her firing, we are not confident we know the full story about her firing and, thus, are reluctant to base more than this conclusion on it.

[4] The juvenile court judge did not testify in this matter.

The witnesses and letters presented describe a dedicated attorney who feels a deep sense of obligation to those who place their trust in him. As one example of this, respondent and his wife adopted one of the vulnerable, unwanted children he routinely encountered in his work with abused or neglected children. This perhaps provides insight about the extent to which respondent's violation of the gag order might have been affected by his concern for the safety of a ten-year old boy in lock-up. We also note that respondent's witnesses and letters stressed the effect that a suspension of respondent from the practice of law would have on the already strained pool of criminal lawyers qualified to accept appointments for felony indigent defense cases in Darke County.

PRECEDENTS ESTABLISHED BY THE SUPREME COURT

At the panel's request, the parties submitted post-hearing briefs discussing established Supreme Court precedents relevant to the appropriate sanction in this case. Each side has cited cases supporting and refuting the proposition that lawyers who make misrepresentations to courts are invariably given actual suspensions.

Relator quotes the Supreme Court's emphatic statement in *Cleveland Bar Assn. v. Herzog* (1999), 87 Ohio St.3d 215, 217, "We will not allow attorneys who lie to courts to continue practicing law without interruption." In *Herzog*, the attorney made misrepresentations to the bankruptcy court in his own bankruptcy proceedings. These misrepresentations were ineffectual insofar as that court did not appear to believe them. In that sense, *Herzog*, in which the attorney was suspended for six months, seems facially similar to this case. It bears noting, however, that Mr. Herzog's misrepresentations were made in sworn testimony and as part of a "course of conduct" indicating a clear pattern of deception and concealment on his part, which included his efforts to hide assets and conceal income from the bankruptcy trustee. Thus, while *Herzog* may

appear facially similar to this case in that the court in each case appeared to see through the attorney's in-court misrepresentations, the panel finds *Herzog* distinguishable from this case in that Mr. Herzog's course of conduct lasted throughout, and clearly impeded, his bankruptcy proceedings. The fact that Mr. Herzog's actions warranted an actual suspension of six months must be considered in this light, particularly when comparing *Herzog* to a case like this one, in which respondent's misrepresentations comprised a discrete, isolated part of the proceedings that had no relationship to or effect on the rest of the case.

For his part, respondent relies on various Supreme Court decisions involving dishonesty on the part of lawyers, only one of which the Court's recent 4-3 decision in *Disciplinary Counsel v. Taylor*, 120 Ohio St.3d 366, 2008-Ohio-6202, involved a lawyer's misrepresentation made directly to a judge. Among other ethical lapses, the lawyer in *Taylor* had told the court he was representing an individual, without mentioning the individual had died. Id. at ¶ 14. The Supreme Court imposed a stayed one-year suspension (after the Board had recommended a stayed six-month suspension), noting the attorney's history of competent, ethical practice and the fact his actions were part of a sincere and selfless course of conduct. In discounting the need for actual time off from the practice of law, the Court stressed that "[t]he disciplinary process exists 'not to punish the offender but to protect the public from lawyers who are unworthy of the trust and confidence essential to the attorney-client relationship and to allow us to ascertain the lawyer's fitness to practice law.'" Id. at ¶ 20 citing *Akron Bar Assn. v. Catanzarite*, 119 Ohio St. 3d 313, 2008-Ohio-4063, ¶ 37.

Focusing on what public protection demands, the panel concludes respondent's isolated misrepresentation more closely resembles the situation in *Taylor* than that of *Herzog*. Although one could argue that respondent's violation of a court order compounded his misrepresentation,

that additional feature does not make an actual suspension imperative. See *Stark Cty Bar Assn v. Ake*, 111 Ohio St.3d 266, 2006-Ohio-5704, ¶ 39 (despite noting the lawyer "'deliberately'" and "'in a calculated fashion'" had "'violated a court's order on five separate occasions'" and that "'[t]his was hardly a spontaneous act in the heat of battle,'" the Court declined to order an actual suspension). Given that the juvenile court vindicated its own processes by sanctioning respondent for disobeying its gag order, we primarily view our task as fashioning a sanction that will protect the public from the prospect that respondent will again make a misrepresentation to a court. Whether respondent's false statement was the product of a carefully conceived motive to deceive or simply an impulse to conceal his culpability, a misrepresentation to a court is a misrepresentation to a court, and cannot be condoned. A court's ability to uncover and remedy an attorney's violation of one of its orders depends on complete candor from all lawyers involved. When the lawyers involved instead misrepresent their or one another's culpability for such a violation, it undermines not only the order violated but also the court's ability to remedy the violation and avoid repetition. Still, as noted, our task is to prescribe a sanction that will protect the public from this particular lawyer. Observing respondent's demeanor at the hearing and listening to the testimony of his witnesses convinced us that actual time off from the practice of law is not necessary to protect the public from further misstatements by this particular lawyer.

The Supreme Court repeatedly has observed that, while conduct by an attorney involving dishonesty or misrepresentation "usually requires an actual suspension from the practice of law for an appropriate period of time, . . . mitigating evidence can justify a lesser sanction." *Disciplinary Counsel v. Carroll*, 106 Ohio St.3d 84, 2005-Ohio-3805, ¶ 13. In *Carroll*, despite the attorney's representation, mitigating factors – such as the absence of a prior disciplinary record, his cooperation in the disciplinary proceedings, the fact he already had been otherwise

punished, the lack of a selfish or dishonest motive, his reputation for good character, and his representation of needy clients – and the absence of any aggravating factors convinced the Supreme Court that a lesser sanction than actual suspension was warranted. Because the same mitigating factors exist in this case and the aggravating factors found in *Taylor* are not present here, the panel concludes, as the Supreme Court did in *Carroll*, that a six-month suspension, stayed in its entirety, will adequately protect the public.

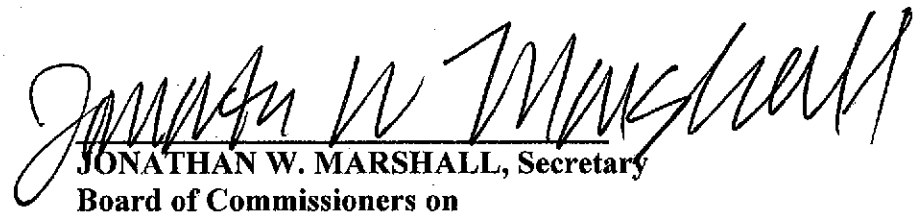
CONCLUSION

Accordingly, the panel recommends as the appropriate sanction that respondent receive a six-month suspension, stayed in its entirety, on the condition that he commits no further misconduct during the length of the stay.

BOARD RECOMMENDATION

Pursuant to Gov. Bar Rule V(6)(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on April 3, 2009. The Board adopted the Findings of Fact, Conclusions of Law, and Recommendation of the Panel and recommends that Respondent, David A. Rohrer, be suspended for six months with six months stayed on conditions in the State of Ohio. The Board further recommends that the cost of these proceedings be taxed to Respondent in any disciplinary order entered, so that execution may issue.

Pursuant to the order of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio, I hereby certify the foregoing Findings of Fact, Conclusions of Law, and Recommendations as those of the Board.



JONATHAN W. MARSHALL, Secretary
Board of Commissioners on
Grievances and Discipline of
The Supreme Court of Ohio

BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO

In re: Complaint against:	:	
David A. Rohrer, Esq. Attorney Registration (0042428)	:	Case No. 08-066
Respondent,	:	FILED
Disciplinary Counsel	:	JAN 14 2009
Relator.	:	BOARD OF COMMISSIONERS ON GRIEVANCES & DISCIPLINE

AGREED STIPULATIONS

INTRODUCTION

Relator Disciplinary Counsel, and Respondent David A. Rohrer, do hereby stipulate to the admission of the following facts, violations, mitigation, and exhibits.

STIPULATED FACTS

1. Respondent was admitted to the practice of law in the state of Ohio on November 6, 1989. Respondent is subject to the Code of Professional Responsibility, the Ohio Rules of Professional Conduct, and the Rules for the government of the Bar of Ohio.

2. On September 21, 2007, the Darke County Prosecutors Office filed a Complaint in the Darke County Juvenile Court against 10-year-old Timothy Byers with five delinquency counts of murder and one delinquency count of aggravated arson as a

result of a September 16, 2007 fire that killed Byers' mother, sister and three other children.

3. That same day, Byers was remanded to the custody of West Central Juvenile Detention Center in Troy, Ohio.

4. On September 25, 2007, respondent was retained to represent 10-year-old Timothy Byers.

5. On September 26, 2007 Darke County Juvenile Court Judge Michael McClurg sealed the court file. On September 28, 2007, Judge McClurg issued a verbal order that prohibited respondent and the prosecuting attorney from discussing the case with the media. This verbal order was journalized on October 24, 2007 and is attached hereto as Joint Exhibit 6.

6. On September 27, 2007, Respondent filed a request for discovery with the Darke County Juvenile Court. A copy of the request for discovery is attached hereto as Joint Exhibit 1.

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8. On this same date, respondent directed a member of his office staff to deliver a copy of the motion to compel discovery to the Darke County Daily Advocate newspaper ("Daily Advocate"). By doing so, respondent violated Judge McClurg's order regarding communications with the media.

9. The October 9, 2007 edition of the Daily Advocate included an article on the motion to compel discovery filed by respondent. A copy of the October 9, 2007 article is attached hereto as Joint Exhibit 4.

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11. A portion of the hearing was conducted on the record. A copy of the transcript from the portion of the hearing that was on the record is attached hereto as Joint Exhibit 5.

12. At this hearing, Respondent made the following statements:

- "I said some things to my staff that I believe . . . I believe was misconstrued but I'm not going to hold them responsible and I believe that a copy of that . . . of that motion later on in the day got delivered over there without my knowledge."
- "I take responsibility for that because if they thought that that was my intent or that's what I wanted to happen, and they did that, then that's still my responsibility. It was . . . it was not my intent."

13. In light of the fact that Respondent had previously directed a member of his staff to deliver the motion to compel to the Daily Advocate, the above referenced statements were false and misleading.

14. On or about November 7, 2007, Darke County Prosecutor Phillip D. Hoover filed a grievance with the Darke County Bar Association. Mr. Hoover also sent a copy of the grievance to Judge McClurg.

15. On November 29, 2007, Judge McClurg issued an entry concluding that Mr. Rohrer violated the court order prohibiting communication with the media. A copy of the November 29, 2007 entry is attached hereto as Joint Exhibit 7.

16. In March of 2008, Darke County Juvenile Court Judge Michael McClurg found Byers not competent to face juvenile delinquency charges against him and dismissed the pending charges.

STIPULATED VIOLATIONS

Relator and Respondent stipulate that respondent's conduct violates Ohio Rules of Professional Conduct: 3.3(a)(1) [a lawyer shall not knowingly make a false statement of fact to a tribunal or fail to correct a false statement of material fact previously made to a tribunal by the lawyer]; 3.4(c) [a lawyer shall not knowingly disobey an obligation under the rules of a tribunal]; 8.4(c) [a lawyer shall not engage in conduct involving fraud, deceit, dishonesty, or misrepresentation]; and 8.4(d) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice].

DISPUTED VIOLATIONS

Relator and Respondent disagree that respondent's conduct violates Ohio Rule of Professional Conduct: 8.4(h) [a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law].

STIPULATED MITIGATION

1. Respondent has no prior disciplinary record.

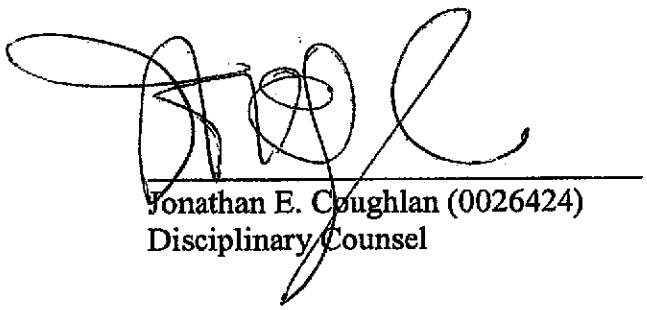
2. Respondent has displayed a cooperative attitude toward these proceedings.

STIPULATED EXHIBITS

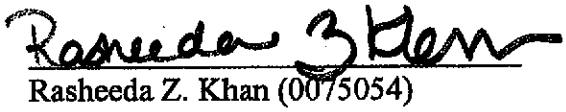
Exhibit 1	September 27, 2007 Notice of Appearance and Request for Discovery
Exhibit 2	October 1, 2007 Entry
Exhibit 3	October 5, 2007 Motion to Compel
Exhibit 4	October 9, 2007 article from the Daily Advocate
Exhibit 5	Hearing transcript from October 11, 2007
Exhibit 6	October 24, 2007 Entry
Exhibit 7	November 29, 2007 Entry
Exhibit 8	Court docket for Timothy Byers matter

CONCLUSION

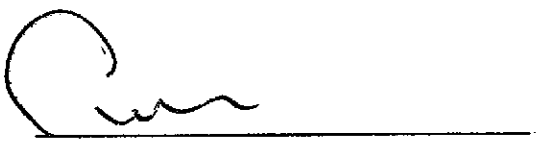
The above are stipulated to and entered into by agreement by the undersigned parties on this 14th day of January 2009.



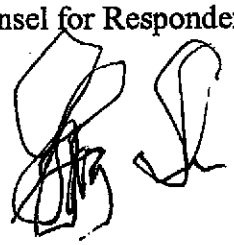
Jonathan E. Coughlan (0026424)
Disciplinary Counsel



Rasheeda Z. Khan (0075054)
Kegler Brown Hill & Ritter Co., L.P.A.
Counsel for Respondent



Robert Berger (0064922)
Assistant Disciplinary Counsel
Counsel for Relator



Geoffrey Stern (0013119)
Kegler Brown Hill & Ritter Co., L.P.A.
Counsel for Respondent

David A. Rohrer, per fax authority attached 1/14/09 by RZK

David A. Rohrer, Esq. (0042428)
Respondent

CONCLUSION

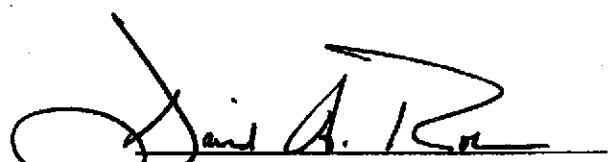
The above are stipulated to and entered into by agreement by the undersigned parties on this _____ day of January 2009.

Jonathan E. Coughlan (0026424)
Disciplinary Counsel

Rasheeda Z. Khan (0075054)
Kegler Brown Hill & Ritter Co., L.P.A.
Counsel for Respondent

Robert Berger (0064922)
Assistant Disciplinary Counsel
Counsel for Relator

Geoffrey Stern (0013119)
Kegler Brown Hill & Ritter Co., L.P.A.
Counsel for Respondent



David A. Rohrer, Esq. (0042428)
Respondent

SEP 2 7 2007

IN THE COMMON PLEAS COURT OF DARKE COUNTY, OHIO
JUVENILE DIVISION

IN THE MATTER OF:	:	**CASE NO: 20720309**
	:	
TIMOTHY D. BYERS	:	**MICHAEL D. McCLURG, JUDGE**
Alleged Delinquent Child	:	
	:	**NOTICE OF APPEARANCE; REQUEST FOR DISCOVERY**

Now comes Attorney, David A. Rohrer, and enters his appearance as trial attorney for the Alleged Delinquent Child, TIMOTHY D. BYERS.

Now comes TIMOTHY D. BYERS, by and through his Attorney, David A. Rohrer, and hereby makes this written request, pursuant to Rule 24(A) of the Ohio Rules of Juvenile Procedure, to all other parties to allow inspection, copying, or photographing of the following information, documents, and material in your custody, control or possession:

1. The names and last known addresses of each witness to the occurrence which forms the basis of the charge or defense;

2. Copies of any written statements made by any party or witness;

3. Transcriptions, recordings, and summaries of any oral statements of any party or witness, except the work product of counsel;

4. Any scientific or other reports which a party intends to introduce at the hearing, or which pertain to physical evidence which a party intends to introduce;

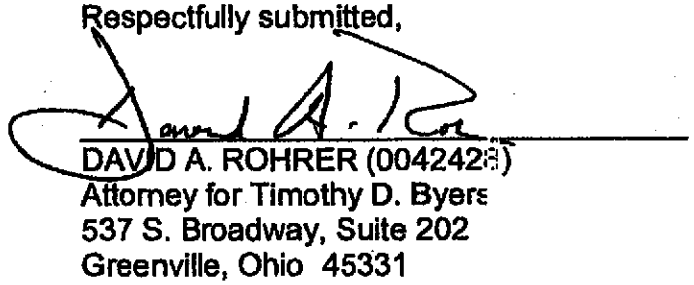
LAW OFFICE OF
DAVID A. ROHRER
ATTORNEY AT LAW
537 SOUTH BROADWAY
SUITE 202
GREENVILLE, OH 45331

TELEPHONE (937) 548-0010
FACSIMILE (937) 548-5006

5. Photographs and any physical evidence which a party intends to introduce at the hearing.

The undersigned also asks that the Prosecutor, or other party to whom this request is directed, promptly make available for discovery and inspection any additional information which you may discover, subsequent to compliance with this request that would have been subject to inspection, discovery, or disclosure under this original Request.

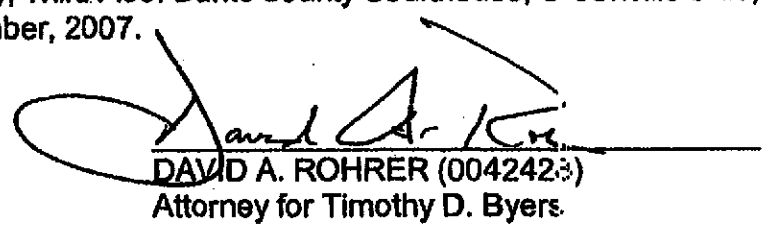
Respectfully submitted,



DAVID A. ROHRER (0042428)
Attorney for Timothy D. Byers
537 S. Broadway, Suite 202
Greenville, Ohio 45331
(937) 548-0010

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of Appearance and Request for Discovery was served upon Phillip D. Hoover, Assistant Prosecuting Attorney, Third Floor Darke County Courthouse, Greenville Ohio, 45331 this 27th day of September, 2007.



DAVID A. ROHRER (0042428)
Attorney for Timothy D. Byers

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FILED
Juvenile Court
OCT 01 2007
DARKE COUNTY, OHIO
Michael McClurg, Juvenile Judge

IN THE COMMON PLEAS COURT OF DARKE COUNTY, OHIO

JUVENILE DIVISION

IN THE MATTER OF: CASE NUMBER: 2007-0309

(AN UNNAMED CHILD) ENTRY

AN ALLEGED DELINQUENT CHILD

This matter came on for hearing on the 28th day of September, 2007 on the issues of closure to the press, the use of the child's name and related GAG orders. Present at the hearing were the G.A.L., Children Services Attorney and representatives, Prosecutor's Office, various members of the media and their counsel, various members of the Court's staff and Defense counsel and maternal grandmother and step grandfather.

Testimony was given and statements were made by certain members of the press and attorneys for several media outlets. A good discussion was held on the issues and all who attended were given an opportunity to speak.

The Court may close the proceedings altogether, open the proceedings completely, or some combination thereof.

It can further issue GAG orders that it deems appropriate.

It can further remove the press from parts of the proceedings that address highly, sensitive issues that affect the child and its' future from a social, psychological or family history standpoint. If the Court would do this, it acknowledges an in camera inspection of the record by counsel for the media can be held at a later time and objections made to the Court rulings.

There is no constitutional right of access to juvenile delinquency proceedings. Traditional interests of confidentiality and rehabilitation prevent the public from having a qualified constitutional right of access to juvenile delinquency proceedings.

The Court indicated it had a job to do and that is to act as a steward of the judicial system. Juvenile Courts serve an unique role as instruments of real rehabilitation. The Court indicated that it deals with a lot of bad kids, but we deal with more good kids who do real dumb things. The press needs to think about that and do responsible reporting.

The Court believes that press access to Juvenile Court proceedings can be done on a case by case basis.

Therefore, based upon the testimony, the statements of counsel, documents filed and the totality of the circumstances, the Court will allow the press access to these proceedings, but that they may not use the juvenile's name or televise or take pictures of said juvenile with conditions further shown below.

The Court finds that televising or photography of said juvenile and the use of his name could harm the child and affect the fairness of the proceedings.

The Court further finds that the harm to the child by photographing, televising and using the child's name outweighs the benefit of public access.

The age of the child; the fact that he's still only accused, not convicted; the short and long term effect on the child and his family, physically, socially and emotionally; the need to shield the child as much as possible from publicity; the threats to safety and need to protect from harm or violence all are aspects considered by the Court in its' decisions.

The updated Order as to press coverage is as follows:

As to press coverage, it is the Order of the Court that the press and news media will be allowed to attend Court hearings, on the following conditions:

1.) a written request will need to be made to the Court to be able to be able to attend a hearing.

2.) only one person per newspaper, T.V. station; or media unit, unless prior permission obtained from the Court.

3.) pictures, radio and T.V. transmissions, and voice recording devices will be allowed so long as no pictures or T.V. transmission of the child whatsoever may be taken. This applies to the Court parking lot, hallways and anywhere the child might be Ordered to during these proceedings.

4.) Channel 7 and Steve Baker specifically shall be the only TV coverage allowed in the Courtroom and he will dispense the televising of the proceedings from there.

5.) no cell phones, pagers, or beepers shall be allowed without the consent of the Court.

6.) child's name shall not be used unless the proceedings become a court authorized S.Y.O. proceeding.

The Court wishes to again make it clear that this does not authorize public access, only the press.

Persons committing any violations of proper conduct shall be removed from the Courtroom, hallway, waiting area, or entryways.

The above are the Orders of the Court.

Michael D. McClurg
Darke County Juvenile Judge

CC: Prosecution
Defense
Children Services
GAL
Mr. Robinson, Greenville Daily Advocate
Counsel for Dayton Daily News, T.V. 2, and Channel 7

10/01/07 PERSONALLY HANDED TO JOSEPH TOMAINS
ATTORNEY ASSOCIATED PRESS

FILED
Juvenile Court

OCT 05 2007

DARKE COUNTY, OHIO
Michael D. McClurg, Juvenile Judge

IN THE COMMON PLEAS COURT OF DARKE COUNTY, OHIO
JUVENILE DIVISION

IN THE MATTER OF:	:	**CASE NO: 20720309**
TIMOTHY D. BYERS	:	**MICHAEL D. McCLURG, JUDGE**
	:	
Alleged Delinquent Child	:	**MOTION TO COMPEL DISCOVERY**
	:	

Now comes the Alleged Delinquent Child, Timothy D. Byers, by and through counsel, David A. Rohrer, and pursuant to Rule 24 (B) of the Ohio Rules of Juvenile Procedure, hereby moves this Court for an Order compelling the State of Ohio to provide discovery to Counsel for the alleged juvenile delinquent immediately and to sanction the State of Ohio, prohibit the State of Ohio from introducing in evidence the material not disclosed and/or sanction the State of Ohio for refusing to timely submit discovery to counsel for the accused.

Defendant sets forth the reasons for this Motion in the accompanying memorandum.

Respectfully submitted,

DAVID A. ROHRER (0042428)
Attorney for Minor Child
537 S. Broadway, Suite 202
Greenville, Ohio 45331
(937) 548-0010

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ATTORNEY AT LAW
537 SOUTH BROADWAY
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MEMORANDUM

On September 21, 2007, the Darke County Prosecutors Office filed a Complaint in the Darke County Juvenile Court against the minor child for one count of Aggravated Arson, contrary to Section 2909.02 (A)(1) of the Ohio Revised Code, and being a felony of the first degree if committed by an adult, and five counts of Murder, contrary to Section 2903.02 (B) of the Ohio Revised Code, being an unclassified felony if committed by an adult. That same day the minor child was remanded to the custody of West Central Juvenile Detention Facility in Troy, Ohio. On September 27, 2007, Counsel for the minor child filed a Notice of Appearance and Request for Discovery with the Darke County Juvenile Court along with other motions and said motions were delivered personally to the Darke County Prosecutor's Office the same day.

To date, there has been no discovery released from the Darke County Prosecutor's Office to Counsel for the minor child. This has occurred despite the fact that two hearings have already been conducted in the Darke County Juvenile Court in this matter: the first on Friday, September 28, 2007 concerning press coverage and an initial hearing on Monday, October 1, 2007 which addressed continued incarceration of the minor child. On Wednesday, October 3, 2007, Counsel for the minor child spoke to Assistant Prosecuting Attorney Phillip Hoover by telephone requesting that discovery be sent to his office immediately. That request obviously fell on deaf ears.

Pursuant to Rule 24 of the Ohio Rules of Juvenile Procedure, "If at any time during the course of the proceedings it is brought to the attention of the court that a person has failed to comply with an order issued pursuant to this rule, the court may grant a continuance, prohibit the person from introducing in evidence the material not disclosed, or enter such other order as it deems just under the

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circumstances."

Counsel for the minor child has been handcuffed by the Darke County Prosecutor's Office in preparing an aggressive and adequate defense for the minor child by withholding discovery. Counsel for the minor child is also concerned by the failure of the State of Ohio to provide discovery in a timely matter due to the fact that the Assistant Prosecuting Attorney Phillip Hoover has already been admonished in prior Darke County Common Pleas cases for withholding discovery or springing surprise discovery immediately prior to trial.

WHEREFORE, Counsel for the minor child requests this Honorable Court to compel the State of Ohio to immediately provide discovery to counsel for the minor child and to sanction the State of Ohio with appropriate fines so that this pattern of failing to provide discovery ceases on behalf of the State of Ohio.

Respectfully submitted,

DAVID A. ROHRER (0042428)
Attorney for the Minor Child

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion To Compel Discovery was forwarded by regular U.S. Mail, postage prepaid to Phillip Hoover, Assistant Prosecuting Attorney, Darke County Courthouse, Greenville, Ohio 45331 this 5th day of October, 20076.

DAVID A. ROHRER (0042428)
Attorney for the Minor Child

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high temperatures continue to influence the greater Chicago area, Monday.

Adv. 10/9/2007 p. 1

Complaint filed

Defense attorney for 10-year-old boy files a motion to compel discovery against DC prosecutor Phil Hoover

By Christina Chalmers
Advocate Correspondent
cchalmers@dailyadvocate.com

GREENVILLE - "Counsel for the minor child has been handcuffed by the Darke County Prosecutor's office in preparing an aggressive and adequate defense for the minor child by withholding discovery."

This statement was in a Motion To Compel Discovery by David Rohrer, attorney for the 10-year-old boy accused of starting the Sep. 16th fire. The motion was filed on the minor's behalf Friday.

On Sep. 27, Rohrer filed the initial Request For Discovery with the Darke County Juvenile Court in an effort to obtain all information and evidence that the Prosecutor's Office and Assisting Prosecuting Attorney Phil Hoover may have regarding the boy.

As of Friday, he had not received the information.

Rohrer filed the complaint because he stated that there had already been two hearings conducted and he had personally talked to Hoover last Wednesday.

According to the court document, this request has not been filled.

At press time, Hoover's office was closed and he was not available to comment.

Guideline for political letters

Effective Monday, October 29 at 9 a.m. our standard guidelines for political letters will be observed.

Letters involving any upcoming issues at the polls on November 6 will be limited to a maximum of 600 words. No exceptions.

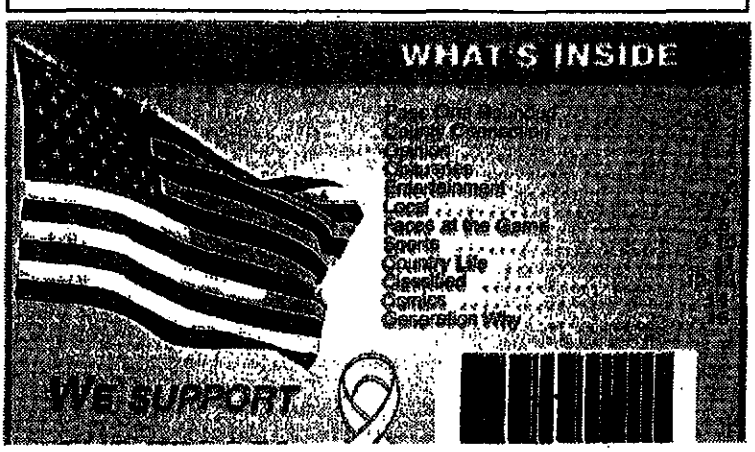
Please be advised that while policy allows 600 word letters, The Daily Advocate still recommends keeping letters brief and to-the-point. They will reach more readers.

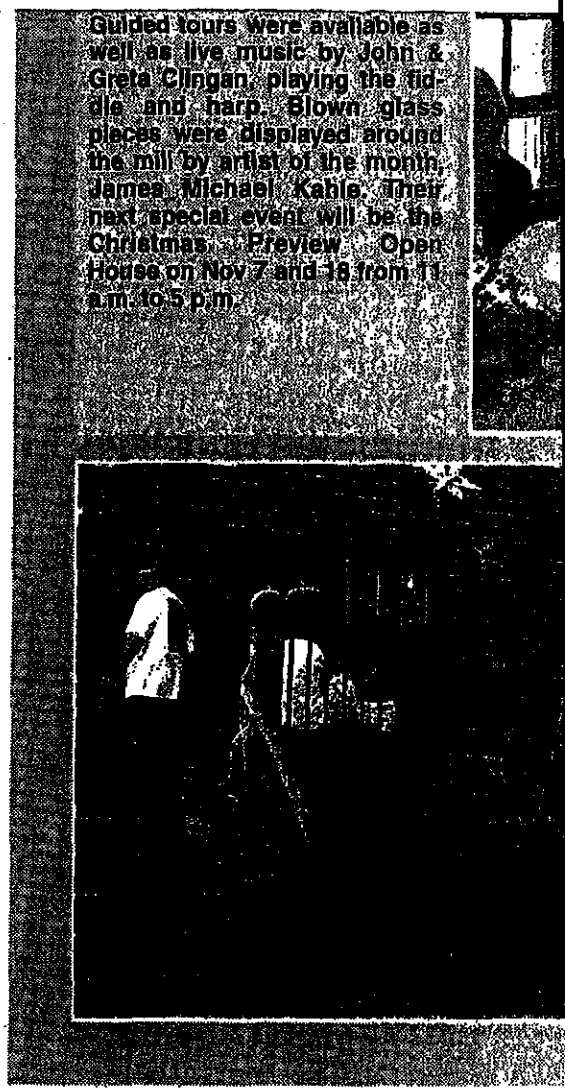
E-mailed letters will be verified by return e-mail. Typed or hand-written letters must be clearly legible and have a daytime phone number for verification. Letters that cannot be verified will not be published. All letters must include the community you reside in.

Deadline for receipt of political letters is 9 a.m. Monday Oct. 29.

Watch for our special political edition of The Daily Advocate to be published on Nov. 2.

A moratorim on all political editorial content will be observed starting with the Saturday Nov. Nov. 3 issue.





Guided tours were available as well as live music by John & Greta Clingan, playing the fiddle and harp. Blown glass pieces were displayed around the mill by artist of the month, James Michael Kahle. Their next special event will be the Christmas Preview Open House on Nov 7 and 18 from 11 a.m. to 5 p.m.

Thornhill on t tour of duty

By George Starks
Sports Reporter
gstarks@dailyadvocate.com

ANSONIA — When Ansonia native Daniel Thornhill enlisted in the United States Army five years ago, little did he know where it might lead him.

After two tours of duty in Iraq, and now deployed in Afghanistan with the 173rd Airbourne, Thornhill is back in the states for an 18-day stay with his family in Ansonia.

According to Thornhill, staying alive and performing your given duties in a combat situation is a job in itself. He gives credit where credit is due.

"I can thank my drill sergeants for my ability to react

Thornhill. "Wh
into the Army,
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that I have to t
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from artillery t
was an easy
Thornhill.

"There isn't m
artillery person
world, but there
a use for law en
cers. So I decid
Thornhill point

FILED
Juvenile Court
APR 03 2008
DARKE COUNTY, OHIO
Michael D. McClurg, Juvenile Judge

IN RE: DARKE COUNTY JUVENILE COURT

CASE NUMBER 20720309

UNNAMED CHILD

OCTOBER 11, 2007

1 (Thereupon, the following was
2 transcribed via audio file.)
3 THE COURT: We're on the record in
4 regard to the Timothy Douglas Byers matter, Case
5 Number 20720309.
6 And we are on the record but the
7 reason for the record is to have a record of what
8 we have talked about here today. This is not
9 intended to be used formally, but just to be,
10 again, something to make sure that we know what
11 we talk about.
12 I have a -- let me go back just a
13 little bit. From what I understand anyway, the
14 file in this case is sealed. I've checked with
15 my staff. No documents have left this office.
16 The only one handling it is my clerk
17 Patty. Patty has assured me that no documents
18 have left this office. No documents have been
19 shared. No information has been shared with
20 anyone.
21 So, again, the file is sealed and
22 any documents obviously in it, I have issued a
23 gag order that neither one of you as counsel are
24 to discuss this case with the press. And I
25 didn't expect any games to be played with that.

1 I don't particularly want to show --
2 file any motion to show cause. I thought I made
3 myself clear. I -- I want to assure you guys
4 that I will not let this case be tried in the
5 press and I don't feel that -- that I've wavered
6 in that in any way, shape or form. The case is
7 only three weeks old, maybe, at the most.
8 We have -- you were supposed to both
9 be called and told that the competency exam
10 couldn't be completed in the time that they had
11 him there so he went back or he's going back and
12 that's the end of this month, not even this
13 week -- if not -- I think maybe next week, next
14 Friday or something.
15 UNIDENTIFIED SPEAKER: We were
16 advised of that, your Honor.
17 MR. ROHRER: Yeah. We were advised
18 too, your Honor.
19 THE COURT: Okay. All right. We --
20 I don't want to ever get to the point where I
21 have to remove anybody from a case. I don't want
22 to get involved -- I know, quite honestly, you
23 guys have bad blood. I mean, that's pretty
24 well-known. There is bad blood.
25 And you need to take the interest of

1 the child at heart here. You know, understand
2 when you make comments or you do things that are
3 outside -- and then, Dave, you haven't even
4 indicated yet to me what happened or how this
5 happened but -- and you'll get a chance.
6 MR. ROHRER: Thank you.
7 THE COURT: But, you know, I am
8 making a shot over the bow here this morning that
9 I will not tolerate it and I don't think anybody
10 wants to be removed from the case. And I don't
11 see doing this kind of thing had any
12 justification. You have issues like the filing
13 of the SYF, which is their judgment call. Of
14 course it's prosecutorial discretion that has to
15 be exercised as to whether or not that's done.
16 They've been patient with that. They've
17 (unintelligible) it.
18 They've -- if they have reasons
19 under the discovery rules to withhold certain
20 things from discovery for certain reasons,
21 juvenile rules allow that to be done. But you
22 don't not say it. You file it and say this is
23 why we're not giving it.
24 Is the time that we have reasonable
25 in terms of them getting their discovery

1 together? Is there some reason logically?
2 You guys were both scheduled --
3 you're both scheduled to be in here on another
4 case early next week. My intent was to use that
5 as when we get done with that, just pull you in
6 and say, hey, where are we, everybody okay, is
7 discovery being exchanged, et cetera.
8 The Court has no -- I mean, we
9 have -- I think you guys have been in enough
10 pretrials with me and, you know, we talk about
11 the discovery, whatever, we put more things in
12 the entries than we ever have before about the
13 discovery process and what's been talked about,
14 et cetera; but we haven't gone to the formality
15 of what some courts do in terms of automatically,
16 boom, automatically this has to happen, and
17 this -- quite frankly, we don't have the staff to
18 oversee that quite like that.
19 I mean, we don't have somebody
20 assigned to five cases so they can spend their
21 entire day making sure that case is taken care
22 of.
23 But back to this, I have tried to
24 personally want to remain judicial about all of
25 this. I have -- when I first saw that, my blood

1 pressure did rise. I am sure the prosecutor's
2 did too.
3 I took a couple of days to think
4 about it. I was trying to get ahold of Dave
5 just -- I think you know I was trying to get
6 ahold of Phil. We were trying to get a phone
7 conference just to say, hey, don't do it anymore.
8 When can we get together.
9 So when I put this time together
10 this morning, I appreciate you being here, it was
11 because I really couldn't get ahold of you. Phil
12 was still in -- Phil and Dick were available that
13 afternoon if we had to meet.
14 All right. In terms of the article
15 that appeared. I've read it a number of times.
16 I just don't understand, David, what happened.
17 MR. ROHRER: Okay. Thank you, your
18 Honor. First of all, I want to apologize. I was
19 in Xenia and Dayton on Tuesday. And I didn't get
20 back, Judge, until about 4 o'clock in the
21 afternoon and then I didn't get the message that
22 you had called. I think somebody had called my
23 cell phone. But I was unavailable Tuesday.
24 So I wasn't -- I didn't know what
25 had gone on until I came back.

1 I will state this for the record.
2 Since the gag order has been on, I have had
3 absolutely no contact with the press, period. I
4 do believe I know what went on here and I will
5 express what I believe went on and I will accept
6 responsibility for what I think went on.
7 If I may, I talked to this Court
8 last -- I think it was last Wednesday when I was
9 out here because I think we -- I was out here on
10 a case and I think you called me in the office or
11 I came in the office and you talked about us
12 getting together and maybe discussing things
13 informally on this case.
14 And I told you I didn't think that
15 was a bad idea, but I said I didn't have any
16 discovery yet and I really didn't feel I could do
17 anything until I had discovery.
18 THE COURT: All right.
19 MR. ROHRER: I was informed by the
20 prosecutor -- my secretary was informed by Jeanie
21 of the prosecutor's office that we would have
22 discovery last Thursday. Nothing was forthcoming
23 last Thursday.
24 I then prepared a motion to compel
25 discovery Friday and was not going to -- I'm not

1 sure when it got served on the prosecutor's
2 office. But I was trying to wait until the end
3 of the day Friday to see if I got discovery from
4 the prosecutor's office.
5 Although I think, Judge, it may have
6 been filed -- I don't -- what is the file stamp
7 on it? Do you have the file stamp?
8 UNIDENTIFIED SPEAKER: Wait a
9 minute.
10 THE COURT: It was Friday.
11 MR. ROHRER: Okay. That's right.
12 There isn't a time.
13 THE COURT: It doesn't have a time.
14 MR. ROHRER: That's right. Anyway,
15 Judge, I think it was shortly after noon that it
16 was filed and then I think it was delivered to
17 the prosecutor's office. I think it was
18 delivered to the prosecutor's office shortly
19 after noon, if I recall. I was hoping I would
20 get a response. I did not get a response.
21 I will be honest with the Court that
22 I was quite upset that I had not got discovery at
23 this time. I said some things to my staff that I
24 believe -- I believe was misconstrued but I'm not
25 going to hold them responsible and I believe that

1 a copy of that -- of that motion later on in the
2 day got delivered over there without my
3 knowledge.
4 I was as surprised to see that in
5 the paper Tuesday. I have had no contact with
6 the Daily Advocate. I have had no contact with
7 Bob Robinson. I don't know who wrote it. I
8 don't even remember who wrote it.
9 So I was surprised to see that in
10 the paper Tuesday because as soon as I got back
11 Tuesday, your Honor, from being down in Dayton
12 and Xenia, they said Judge McClurg has been
13 trying to get ahold of you.
14 And I said what's up. And they
15 showed me the paper and I called them in and I go
16 what the heck is going on.
17 I take responsibility for that
18 because if they thought that that was my intent
19 or that's what I wanted to happen, and they did
20 that, then that's still my responsibility. It
21 was -- it was not my intent. I am -- I will
22 honor this Court's decision.
23 I am concerned with the way this
24 case is going because this is a major case and I
25 believe as long as this goes and the longer this

1 goes, there is more damage that is done to this
2 10-year-old child every day that this keeps on
3 going on.
4 And I understand this is not
5 something that is going to be resolved, your
6 Honor, in a month. I understand we have
7 competency. We have a lot of things to do.
8 UNIDENTIFIED SPEAKER:
9 (Unintelligible.)
10 MR. ROHRER: I want there to be --
11 and as far as -- I will address one thing. As
12 far as I know, there is no bad blood between Dick
13 and I. I'm not going to respond to the other
14 party here. Okay.
15 But my problem is this, I need to
16 have discovery. I can't -- I can't get experts.
17 I can't do anything yet. I mean, I could start,
18 but I don't know where to start, your Honor,
19 because the only thing I know about this fire is
20 what I've read in the paper and what I've been
21 told through some family members.
22 And I know nothing yet. And I
23 understand this case is somewhat just beginning.
24 Actually this Friday it will be four weeks since
25 he was arrested and sent to Miami Detention

1 Center.
2 THE COURT: What is -- wasn't --
3 MR. ROHRER: All in all -- all in
4 all, your Honor, that does not justify what went
5 on and I understand that.
6 THE COURT: All right. I'm going to
7 go off the record in a few minutes --
8 MR. ROHRER: Go ahead. Sure.
9 THE COURT: -- after they've had a
10 chance to address this issue of violation of the
11 gag order in some way, shape or form.
12 Again, and I'm glad you said I
13 accept responsibility for my staff because --
14 MR. ROHRER: I do.
15 THE COURT: -- you know, that takes
16 all the second guessing out. Now you know what
17 happened. Now we know what happened.
18 MR. ROHRER: And I would never
19 allow --
20 THE COURT: It's my idea so
21 everybody knows --
22 MR. ROHRER: I would never allow
23 responsibility to be taken -- your staff has
24 always been professional so, I mean, I've --
25 THE COURT: (Unintelligible) --

1 MR. ROHRER: I dug down too deep.
2 THE COURT: -- I got on it right
3 away because I didn't want it to be a screw up on
4 our part.
5 MR. ROHRER: I understand.
6 THE COURT: Where somebody got it to
7 somebody at the courthouse and somebody decided
8 to make a copy and then get in the middle of this
9 and cause problems for all of us. It appears
10 that didn't happen.
11 Okay. I feel a little bit like Joe
12 Paterno bringing in two senior linemen to talk
13 about the best thing for the team. And you're
14 both experienced. You're both -- you're all
15 experienced.
16 We represent our county. We
17 represent God, country, justice, the whole
18 shooting match. I don't have to, you know, spell
19 it out to you. And I know emotions run high and
20 I'm trying to be someone who's guiding this ship
21 in the right direction.
22 I have -- I -- I don't have a rule
23 about that he has to have his discovery done in X
24 days. I didn't put anything on yet that says
25 discovery has to be completed.

1 Quite frankly, among us all, Dick is
2 the most experienced, what is a responsible time
3 to get discovery? Does it depend on the type of
4 case? Can you ease it out? Do you want to do it
5 in one big package?
6 What it is, I don't know, quite
7 frankly. But this is the first -- I mean, I
8 guess we've had motions to compel before and
9 they've been filed against not -- others and Mr.
10 Hoover, although he's out here the most, and
11 legitimately it's never gone to where we have to
12 do sanctions or anything and I've never, quite
13 frankly, had anybody or a staff member disobey a
14 gag order.
15 MR. ROHRER: Understand.
16 THE COURT: So this is a shot over
17 the bow. Can't happen again. I won't allow it
18 to happen again. If it does, I'm going to be
19 looking at some serious consequences.
20 MR. ROHRER: I understand.
21 THE COURT: And I don't think you
22 want to be removed from this case.
23 MR. ROHRER: I understand, your
24 Honor.
25 THE COURT: Okay. All right.

1 MR. ROHRER: And, your Honor, just
2 so the Court understands, I understand being a
3 prior assistant prosecuting attorney that they
4 may not have all the discovery at this point in
5 time. There may not be a (unintelligible) report
6 on it. That doesn't mean that they don't have
7 discovery.
8 Obviously they've got some discovery
9 or they wouldn't have been able to go as far as
10 they have on this case so far.
11 THE COURT: All right.
12 MR. ROHRER: So I'm not asking --
13 I'm just asking get the discovery to me that you
14 had.
15 THE COURT: I can understand being
16 fired up about your client, et cetera. But part
17 of this -- part of this process when you say you
18 can't do anything, yes, you can. You can be
19 sitting down in their office saying what can we
20 do about this case.
21 We've got a 10-year-old kid that, I
22 feel you've made it clear, should never have been
23 prosecuted. On and on and on. What are we going
24 to do. Where is the bottom line. What can we
25 do. Can we keep this SYO from being filed. What

1 can I do to prevent it. There are things that
2 can be done.
3 Now, I'll get to this whole thing
4 about my patience and how I'm approaching this
5 case and how I think time is of essence in the
6 sense of taking our time. To act too quickly is
7 a mistake in any juvenile case.
8 MR. ROHRER: I understand
9 respectfully, your Honor. It's hard -- I still
10 believe it's hard for me to sit down and talk
11 about a case that I'm at a distinct --
12 THE COURT: We'll get to the rest of
13 this.
14 MR. ROHRER: Okay.
15 THE COURT: We'll get to the
16 discovery situation in a few minutes.
17 MR. ROHRER: That's fine.
18 THE COURT: As to the situation, you
19 guys didn't violate this, Mr. Prosecutors. And I
20 understand there is some things said that this --
21 that would -- would -- that maybe go beyond -- I
22 mean, there was icing on the cake, so to speak,
23 with allegations as to Mr. Hoover having been
24 previously cited, for example. That would incite
25 the best of us.

1 And I understand that you could be
2 saying to me that we need this enforced, we need
3 you dah, dah, dah, boom, boom, boom. Here's what
4 we want done and I need to hear from you what
5 your opinion is.
6 UNIDENTIFIED SPEAKER: May I address
7 the Court, your Honor?
8 THE COURT: Either you or Mr.
9 Howell, whichever.
10 UNIDENTIFIED SPEAKER: May I start?
11 May I start?
12 UNIDENTIFIED SPEAKER: Go ahead.
13 UNIDENTIFIED SPEAKER: First of all,
14 your Honor. I believe Thursday alone, pertaining
15 to the discovery issue, Mr. Rohrer's secretary
16 called my office and left a message I believe it
17 was during the noon hour.
18 Before I even had a chance to call
19 her back or Mr. Rohrer's office back, Dave
20 called. And when Dave called, I told him -- as a
21 matter of fact, Craig Cramer even heard the phone
22 call, and my portion of it, and I told Dave I
23 said, as a matter of fact, Craig is making copies
24 now.
25 I spoke with both Betsy Irwin in our

1 office and Craig Cramer. At the time that we
2 received this motion and I was aware of the
3 motion to compel, that's when actually news media
4 came into my office to get a statement from me,
5 that's the first I became aware of this motion.
6 I asked Betsy how many days she had
7 been working on discovery. It was three days for
8 her and two days for Craig Cramer.
9 Part of the reason the discovery is
10 not accelerated as the case that just has a four
11 page police report, is we have a box that
12 measures about three feet by two feet that is
13 full of documents from the ATF, state agencies
14 and all the local agencies that were involved in
15 this.
16 Each local agency and state agency
17 and federal agency has more than one officer that
18 generated their own report. Obviously I need to
19 review that before it goes to make sure it's
20 discoverable. Okay. It's not like a regular
21 case.
22 Second of all, he filed his motion
23 for discovery or request for discovery, eight
24 days later he files a motion to compel. Second
25 of all --

1 THE COURT: What is the normal time?
2 What do you guys deal with normally, thirty days?
3 UNIDENTIFIED SPEAKER: On a normal
4 case we can make a copy of a police report and if
5 there is photos, we can have those generated in
6 one day.
7 But this thing is not a normal case
8 and just sifting through -- reading all the
9 documents that go to Mr. Rohrer, looking at all
10 the DVDs, the CDs that they take statements from
11 people and then providing it to him, will take
12 me, doing nothing else, probably two full weeks.
13 Okay.
14 But I want to point to the Court,
15 first of all, there is no motion to compel that
16 is even under the juvenile rules. Under Juvenile
17 Rule 24, your Honor, pertaining to discovery,
18 there is a protocol that has to be followed.
19 And the reason I articulated about
20 the contacts made on Thursday is Mr. Rohrer
21 personally from me was aware we're doing anything
22 as expeditiously as possible to get this stuff to
23 you as quickly as possible.
24 Under Juvenile Rule 24B, it is a
25 motion for an order granting discovery, not a

1 motion to compel. And for the defendant to file
2 that and request the Court to intervene and grant
3 an order for discovery, he has to certify that he
4 has made a request for discovery and specifically
5 I had refused it.
6 There was no certification attached
7 to this. There was no refusal and, quite the
8 contrary, Dave knew that not only was I working
9 on it, I don't believe he knew Betsy was working
10 on it, but I specifically told him Craig was
11 doing nothing but working on that and we were
12 trying to get it to him as quick as possible.
13 Now, he knew this wasn't a one page
14 police report or a thirty page police report that
15 we could have just done like that.
16 And the personal attack that he did
17 on page 3 on this, when you read that, you know
18 with specificity that this wasn't a document that
19 was generated with that attack on me to just sit
20 in a court file and never be seen by the press.
21 This was meant to be published.
22 Just like the first statement when he took over
23 the case and the front page banner headline of
24 the Dayton Daily News claiming that we filed the
25 murder charge completely political.

1 He was a prosecutor. He knew that
2 that was incorrect or false. This was a personal
3 attack that was meant to be published.
4 The fact that it was delivered to
5 the press before it was even delivered to our
6 office, you know, to -- to say that that's like a
7 secretarial error, you know, if Dave has a
8 problem with me, that's fine. I don't have a
9 problem with him.
10 I treat him -- actually if I feel
11 that an attorney has a problem with me. I bend
12 over backwards to ensure that they have full file
13 discovery when maybe I wouldn't ordinarily.
14 Dave knows in the last two jury
15 trials that we had scheduled, I called him at
16 least two or three days before the jury trial and
17 said, my file, my exhibits, everything is open to
18 you, if you have time, come to my office, you can
19 see everything I have.
20 He knows I am bending over backwards
21 as far as discovery with him. For him to make
22 that personal attack on me was, A, political and
23 that's the only reason for it. And he knows that
24 I've done everything probably in the past year
25 with him discoverywise, there's never been any

1 problem as far as getting discovery with him.
2 The personal attack was so it could
3 be delivered to the press because there was no
4 other reason for it. Thank you, your Honor.
5 THE COURT: The little extra things,
6 Mr. Rohrer, that are thrown into your documents
7 that I don't normally see, you need to be -- you
8 have to be careful about.
9 MR. ROHRER: I understand, your
10 Honor.
11 THE COURT: Okay. It's -- it's, you
12 know, you've done it long enough. You're on --
13 you're on the edge or are you not. You can have
14 a conversation with Mr. Howell about I need to do
15 my job, can you -- well, let's -- we'll go there
16 that way in a few minutes.
17 As to the -- as to the issue of --
18 of the gag violation -- violation of the gag
19 order, specifically, you've done a good job, Mr.
20 Hoover, pointing out that juvenile court is
21 different.
22 I was going to say that myself this
23 morning. We all have to be careful as we proceed
24 in this case that juvenile court is different.
25 And the rules -- there are things -- there are

1 things that we could possibly be using in this
2 case that we've never used before or never had to
3 deal with and we have to be careful about that.
4 And for -- as best you can, you need
5 to work together. And, you know, that's where
6 Mr. Howell is trying -- going to have to decide
7 whether this is going to work or not.
8 UNIDENTIFIED SPEAKER: One other
9 thing I would like to add.
10 THE COURT: Okay.
11 UNIDENTIFIED SPEAKER: I was over in
12 an attorney's office yesterday afternoon. And
13 this is the buzz all over this place, this
14 personal attack on me, and it almost looks like
15 I've been sanctioned all over the place.
16 It was a personal insult in its
17 tact, deliberately meant to be published.
18 THE COURT: Okay.
19 UNIDENTIFIED SPEAKER: And then --
20 THE COURT: As to -- as to -- as to
21 the violation of the gag order, Mr. Rohrer has
22 accepted full responsibility.
23 Do you have anything else to say in
24 terms of the violation of the gag order and then
25 we'll get into some of these other things about

1 discovery and when can you get it and all this
2 other stuff. Again, we need to have a formal
3 pretrial.
4 I'll tell you what my idea was about
5 timing on the pretrial, but anything as far as
6 the gag order so I can get off the record.
7 UNIDENTIFIED SPEAKER: Just very
8 briefly, your Honor, I feel that there should be
9 an entry from the Court sanctioning Mr. Rohrer
10 even if it's just in writing that he violated --
11 there was a violation of the gag order and that
12 the prosecutor's office did nothing as far as any
13 discovery violations that should be released to
14 the press because we've had two black eyes,
15 neither one of them being warranted, one of them
16 claiming that the filing of the murder charges
17 were political and now this personal assault on
18 me.
19 I think there should be something
20 redeeming me and especially when he's
21 articulating to the press about sanctions against
22 me quid pro quo.
23 THE COURT: Okay. All right. Dick.
24 UNIDENTIFIED SPEAKER: Your Honor,
25 we had a motion for sanctions actually prepared,

1 your Honor, but I think we'll defer at this
2 point. Obviously I'll have to concur with Phil
3 here, I think this was -- was intended. This was
4 drafted with the intent of being published to be
5 honest with you. That's what it appears to be.
6 And it certainly whatever -- even if
7 it's true that Phil had a discovery situation in
8 common pleas court, what's that got to do with
9 this case, in juvenile court. So I can't think
10 of any other reason (unintelligible).
11 For the record (unintelligible), I
12 am the chief prosecutor on this case. If Mr.
13 Rohrer wants to make any contact with my office,
14 he is to make it with me.
15 THE COURT: All right.
16 UNIDENTIFIED SPEAKER: Mr. Hoover is
17 going to be my assistant. He is going to assist
18 me with it. It's a very delicate and
19 sophisticated and complicated case. But I am the
20 chief prosecutor. It's my case. So there should
21 be no reason for him to ever even mention Mr.
22 Hoover again.
23 THE COURT: Okay.
24 UNIDENTIFIED SPEAKER: Other than
25 that, I don't have anything else.

1 THE COURT: Okay. All right. Okay.
2 Anything else about the violation of the gag
3 order? Okay. We're going to go off the record
4 in regard to that.
5 (Thereupon, the proceeding was
6 concluded.)
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STATE OF OHIO)

COUNTY OF MONTGOMERY) SS: CERTIFICATE

I, Monica M. Wiedenheft Wright, a Notary Public within and for the State of Ohio, duly commissioned and qualified,

DO HEREBY CERTIFY that the above-named taped proceeding was reduced to writing by me stenographically and thereafter reduced to typewriting.

I FURTHER CERTIFY that I am not a relative or Attorney of either party nor in any manner interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office at Dayton, Ohio, on this 2nd day of April, 2008.

Monica M. Wiedenheft Wright

MONICA M. WIEDENHEFT WRIGHT, RPR
NOTARY PUBLIC, STATE OF OHIO
My commission expires 9-2-2009

IN THE COMMON PLEAS COURT OF DARKE COUNTY, OHIO

JUVENILE DIVISION

FILED
Juvenile Court
OCT 24 2007
DARKE COUNTY, OHIO
Michael D. McClurg, Juvenile Judge

IN THE MATTER OF: **CASE NUMBER: 20720309**

TIMOTHY D. BYERS **ENTRY**

ALLEGED DELINQUENT CHILD

At the hearing of September 28, 2007, the Court addressed the issues of closure to the press, the use of the child's name, and related GAG orders.

An Entry was immediately filed stating the Court's position on these matters. The Court, on the record, at the hearing, had clearly indicated that the access allowed was to the press to report to the public and not to allow the general public in these proceedings. The Court further issued a GAG order to counsel in this case, prosecution and defense.

Through inadvertence and oversight the following three (3) paragraphs which were in the Court's draft, did not make it into the formal entry journalizing the hearing. The Court now wishes to make these three (3) paragraphs a part of that Order and Entry.

Those paragraphs to be added are as follows:

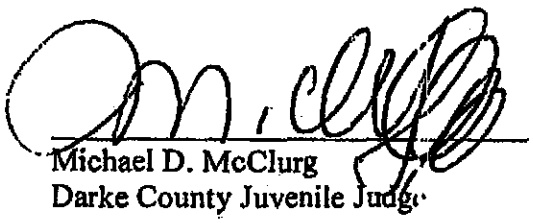
The Court has provided a reasonable alternative to complete closure of the proceedings.

The Court further wants to make it clear that the access allowed is to the press to report to the public and <u>not</u> to allow the general public in these proceedings.

The Court further issues a GAG Order to counsel in this case, prosecution and defense, to <u>not</u> discuss this case in the media, so as to not affect the fairness of these proceedings.

The above paragraphs were to be placed in between paragraphs eleven (11) and twelve (12) in the previously filed entry of October 1, 2007.

The above are the Orders of the Court.



Michael D. McClurg
Darke County Juvenile Judge

CC: David Rohrer, Defense Counsel
Richard Howell, Prosecution
Jose Lopez, GAL

IN THE COMMON PLEAS COURT OF DARKE COUNTY, OHIO

JUVENILE DIVISION

FILED
Juvenile Court
NOV 29 2007
DARKE COUNTY, OHIO
Michael D. McClurg, Juvenile Judge

IN THE MATTER OF: CASE NUMBER: 20720309

(AN UNNAMED CHILD) ENTRY

ALLEGED DELINQUENT CHILD

On the 11th day of October, 2007, the Court conducted a hearing involving an article that was published in the Greenville Advocate on October 9th, 2007 to determine possible violations of a previous Court GAG Order. The Court had previously sealed the file, and therefore filed documents were not to be released without the Court's permission.

Present were David Rohrer, Defense Counsel, and Richard Howell and Phil Hoover from the Prosecutor's Office. Part of the hearing was on the record and part was off the record.

Among other things, the Court explained to counsel that it did not want them to play games; that the file wasn't that old in terms of discovery, or its' process; that Juvenile Court was different than adult criminal cases and that counsel needed to be aware of those differences and the Juvenile Rules.

The Court indicated that this hearing was an attempt to explain the Court's expectations of case management; that it would not allow the case to be tried in the press; and that the Court could remove, but didn't want to have to remove, counsel from the case. The Court also talked about the additional sanctions of fine and jail.

Discovery time periods were discussed; a formal motion to show cause was discussed but not filed by the Prosecutor's Office; the discovery process in Juvenile

Court was discussed; and various other case related matters were discussed, including where this case was headed, including the S.Y.O. possibility, the competency exam, and a new GAL.

An oral motion was made by the Prosecutor's Office to strike any personal references made in the recent motion and newspaper article as to opposing counsel.

Mr. Rohrer accepted full responsibility for violating the GAG Order, and indicated how he thought it happened.

The Court has purposely delayed publication of its ruling on this matter to see if the newspaper article would go further than publication locally and it did not. The article itself did not address any of the specifics that the Prosecutor's Office was upset about as far as any personal attacks. It goes only so far.

The Court is concerned not only with a violation of a Court Order, but is extremely concerned with both sides making personal attacks through filings or the Court process.

It must stop and will not be allowed.

The Court hereby sanctions Mr. Rohrer and considers his Motion to Compel to be Moot as discovery is complete to this point.

Finding a violation to have occurred, Mr. Rohrer is fined Five hundred dollars ($500.00) and sentenced to three (3) days in jail.

Mr. Rohrer's sentence and fine are suspended and the sanction is purged if there are no further violations of the GAG Order and no further attacks of a personal nature, in writing or in any Court procedure.

The motion of the Prosecutor to strike the reference in the Motion to Compel, as to any personal attacks, is hereby granted and said language is **Ordered** stricken.

Mr. Rohrer has never had any problems with this Court. In the heat of battle, he let his emotions get the best of him. He made a mistake that he has taken full responsibility for.

Mr. Rohrer needs to regroup and move on. He has a 10 year old that needs his help and shouldn't be placed in the middle of a personal conflict.

The Court does not wish this part of the proceeding to detract from the important job ahead on this case and we need now to concentrate on these proceedings, going ahead in as fair and impartial a way as possible.

The contents of this Entry are sealed and are not be discussed.

The above are the **Orders** of the Court.

Michael D. McClurg
Darke County Juvenile Judge

CC: Richard Howell, Prosecuting Attorney
David Rohrer, Defense Attorney

Attachment (Daily Advocate article)

Tuesday, October 9, 2007

Daily Advocate

www.dailyadvocate.com THE NEWSPAPER OF HISTORIC DARKE COUNTY

Generation Why

The new black

See page 16

Weather

Today: Scattered t-storms, high 75

See page 2

Local

LWV to sponsor forum

See page 2

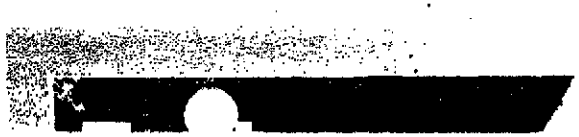
Sports

Lady Wave falls to Piqua on Senior Night

See page 9

ablished 1883. Vol. 124, No. 280 Greenville, Ohio News stand price 50 cents

leat wave



hid imperatures continue to influence the ... Chicago a Monday.

Complaint filed

Defense attorney for 10-year-old boy files a motion to compel discovery against DC prosecutor Phil Hoover

By Christina Chalmers
Advocate Correspondent
cchalmers@dailyadvocate.com

GREENVILLE - "Counsel for the minor child has been handcuffed by the Darke County Prosecutor's office in preparing an aggressive and adequate defense for the minor child by withholding discovery."

This statement was in a Motion To Compel Discovery by David Rohrer, attorney for the 10-year-old boy accused of starting the Sep. 16th fire. The motion was filed on the minor's behalf Friday.

On Sep. 27, Rohrer filed the initial Request For Discovery with the Darke County Juvenile Court in an effort to obtain all information and evidence that the Prosecutor's Office and Assisting Prosecuting Attorney Phil Hoover may have regarding the boy.

As of Friday, he had not received the information.

Rohrer filed the complaint because he stated that there had already been two hearings conducted and he had personally talked to Hoover last Wednesday.

According to the court document, this request has not been filled.

At press time, Hoover's office was closed and he was not available to comment.

Guideline for political letters

Effective Monday, October 29 at 9 a.m. our standard guidelines for political letters will be observed.

Letters involving any upcoming issues at the polls on November 6 will be limited to a maximum of 600 words. No exceptions.

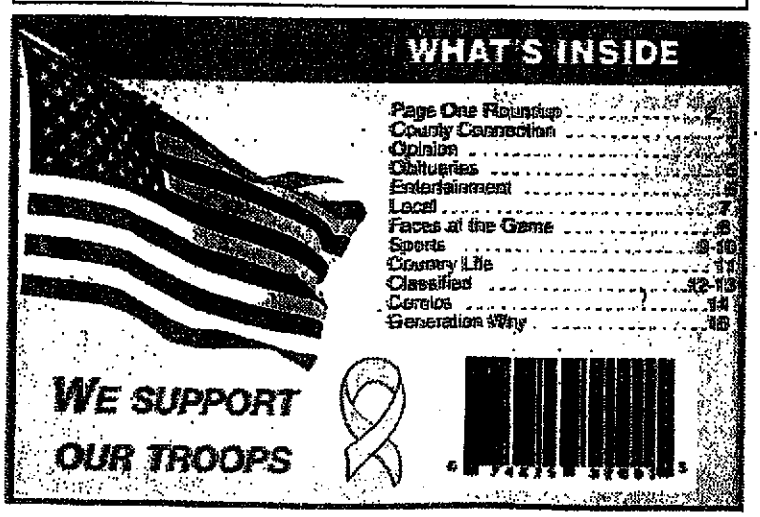
Please be advised that while policy allows 600 word letters, The Daily Advocate still recommends keeping letters brief and to-the-point. They will reach more readers.

E-mailed letters will be verified by return e-mail. Typed or hand-written letters must be clearly legible and have a daytime phone number for verification. Letters that cannot be verified will not be published. All letters must include the community you reside in.

Deadline for receipt of political letters is 9 a.m. Monday Oct. 29.

Watch for our special political edition of The Daily Advocate to be published on Nov. 2.

A moratorim on all political editorial content will be observed starting with the Saturday Nov. Nov. 3 issue.


WHAT'S INSIDE

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WE SUPPORT OUR TROOPS

Guided tours were avai
well as live music by
Greta Clingan, playing
die and harp. Blown
pieces were displayed
the mill by artist of the
James Michael Kahle
next special event will
Christmas Preview
House on Nov 7 and 18
a.m. to 5 p.m.

Thornhil tour of d

By George Starks
Sports Reporter
gstarks@dailyadvocate.com

ANSONIA — When Ansonia native Daniel Thornhill enlisted in the United States Army five years ago, little did he know where it might lead him.

After two tours of duty in Iraq, and now deployed in Afghanistan with the 173rd Airbourne, Thornhill is back in the states for an 18-day stay with his family in Ansonia.

According to Thornhill, staying alive and performing your given duties in a combat situation is a job in itself. He gives credit where credit is due.

"I can thank my drill sergeants for my ability to react and not even have to think about it," said the 28-year-old

Case No... 20720309
Concerning BYERS, TIMOTHY D

09/21/2007

CASE FILED BY JASON MARION
BYERS, TIMOTHY D
222 SURREY LANE GREENVILLE OH 45331

09/21/2007

CHARGE 01 SEC # 2909.02 AGGRV ARSON

09/21/2007

CHARGE 02 SEC # 2903.02 MURDER

09/21/2007

CHARGE 03 SEC # 2903.02 MURDER

09/21/2007

CHARGE 04 SEC # 2903.02 MURDER

09/21/2007

CHARGE 05 SEC # 2903.02 MURDER

09/21/2007

CHARGE 06 SEC # 2903.02 MURDER

09/21/2007

CASE SET FOR DETENTION HEARING ON 09/24/2007 AT 8:30 AM.

09/21/2007

CASE SET FOR DETENTION HEARING ON 09/24/2007 AT 8:00 AM.

09/24/2007

DETENTION HEARING

09/24/2007

CASE SET FOR INITIAL ON 10/01/2007 AT 8:00 AM.

09/26/2007

JUDGMENT ENTRY: PLEASE BE ADVISED THAT TIMOTHY DOUGLAS BYERS CAN BE RELEASED FROM THE SEGREGATED POPULATION INTO THE GENERAL POPULATION OF WEST CENTRAL JUVENILE DETENTION CENTER

Case No... 20720309
Concerning BYERS, TIMOTHY D

09/25/2007

COMPLAINT FILED AMENDED COMPLAINT FILED BY THE PROSECUTOR'F OFFICE

09/25/2007

ENTRY PLEASE BE ADVISED THAT UNNAMED CHILD CAN BE RELEASED FROM SEGREGATED POPULATION TO THE GENERAL POPULATION AT WEST CENTRAL

09/26/2007

JUDGMENT ENTRY: MOTION THAT THE ENTIRE FILE OF UNNAMED CHILD SHALL BE SEALED UNTIL MATTER BECOMES SYO PROCEEDING. PRESS COVERAGE IT IS AN ORDER OF COURT THAT PRESS AND NEWS MEDIA BE ALLOWED TO ATTEND COURT HEARINGS ON THE FOLLOWING CONDITIONS: SEE ENTRY FOR CONDITIONS

09/28/2007

CASE SET FOR EVIDENTIARY HEARING ON 09/28/2007 AT 10:00 AM.

10/01/2007

ENTRY, FINDINGS FROM THE EVIDENTIARY HEARING HELD ON 09-28-07, JUDGES ORDER TO THE PRESS

10/01/2007

M RANDUM IN OPPOSITION TO ENTRY OF PRIOR RESTRAINT

10/01/2007

JUDGMENT ENTRY

10/01/2007

MOTION FOR EXTENSION OF TIME, FOR FILING FOR SERIOUS YOUTHFUL OFFENDER DISPOSITION UNDER R.C. 2152.13

09/28/2007

MEMORANDUM REGARDING WDTN-TV'S REQUEST FOR ACCESS TO PROCEEDINGS

09/28/2007

MOTION TO ALLOW DAYTON NEWSPAPERS, INC. TO TAKE PHOTOGRAPHS OF AND PUBLISH THE NAME OF CHILD IN ITS NEWSPAPERS

09/28/2007

MEMORANDUM OF WHIO-TV-7 IN SUPPORT OF ITS REQUEST TO ATTEND, PHOTOGRAPH AND BROADCAST COURT PROCEEDINGS

Case No... 20720309
Concerning BYERS, TIMOTHY D

09/28/2007

MOTION TO CLOSE PROCEEDINGS TO THE PUBLIC AND MEMORANDUM

09/27/2007

MOTION FOR EVALUATION OF COMPETENCY OF MINOR CHILD

09/27/2007

NOTICE OF APPEARANCE; REQUEST FOR DISCOVERY

09/27/2007

EMERGENCY MOTION FOR RELEASE FROM DETENTION AND PLACEMENT WITH GRANDPARENTS

09/27/2007

ENTRY SETTING A EVIDENTIARY HEARING ON 09-28-07 WHICH WAS SENT TO ALL PRESS TO PRESS AND NEWS AGENCIES

09/27/2007

ENTRY JUDGE APPOINTS JASON ASLINGER TO BE THE GUARDIAN AD LITEM FOR UNNAMED CHILD ON 09-27-07

10/01/2007

ORDER

10/01/2007

ENTRY

10/15/2007

CERTIFICATE OF COMPLIANCE AND REQUEST FOR DISCOVERY

10/15/2007

MOTION TO COMPEL DISCOVERY

10/23/2007

ENTRY

10/24/2007

ENTRY

Case No... 20720309
Concerning BYERS, TIMOTHY D

11/21/2007

MOTION FOR AN INDEPENDENT FORENSIC COMPETENCY EVALUATION OF TIMOTHY D. BYERS

11/29/2007

ENTRY

12/05/2007

ENTRY SETTING MATTER FOR A HEARING ON THE ISSUE OF THE COMPENTENCY OF SAID MINOR CHILD

12/04/2007

MEMORANDUM IN OPPOSITION TO STATE'S MOTION FOR AN INDEPENDENT FORENSIC COMPETENCY EVALUATION OF TIMOTHY D. BYERS

12/06/2007

ENTRY

12/27/2007

CASE SET FOR COMPETENCY HEARING ON 01/22/2008 AT 9:00 AM.

1: 1/2007

SUBPOENA
DR. BERGMAN SERVED BY BRENDA BURNS ON 12-31-07 - RACHAEL RANDOLPH REC'D SUBPOENA AT 12 W WENDER RD., ENGLEWOOD, OH

01/10/2008

NOTICE TO PRESS AND OTHERS

01/11/2008

MOTION FOR CONTINUANCE

01/11/2008

ENTRY

03/25/2008

COUNT 01 DISMISSED

03/25/2008

COUNT 02 DISMISSED

Case No... 20720309
Concerning BYERS, TIMOTHY D

03/25/2008

COUNT 01 DISMISSED

03/25/2008

COUNT 03 DISMISSED

03/25/2008

COUNT 04 DISMISSED

03/25/2008

COUNT 05 DISMISSED

03/25/2008

COUNT 06 DISMISSED

03/25/2008

DISPOSITION OF COUNT 01
09-24-07 DETENTION HRG, DETENTION IS REQUIRED TO PROTECT THE PERSON AND PROPERTY OF OTHERS OR THOSE FROM THE CHILD
10-01-07 DENY, SET FOR PT, HOUSE ARREST UNTIL FURTHER ORDERS BY THE COURT, ALTERNATIVE SCHOOL PROVIDED BY GCS, TEMPORARY CUSTODY TO TAMMY REED, RELEASE FROM WCJDC, PLACE ON PT SUPERVISION WITH THE PROB DEPT, ATTEND DCMH

03/25/2008

DISPOSITION OF COUNT 02
10-01-07 DENY, SET FOR PT SEE ORDERS IN 1ST CHARGE
03-25-08 DISMISSED CHARGE OF MURDER, JUVENILE FOUND TO BE IMCOMPETENT TO STAND TRIAL AND UNRESTORABLE, JUVENILE FOUND TO BE A DEPENDENT CHILD UNDER 2151.04A&C OF THE ORC, REFER TO ATACHED ENTRY COMPLETED BY CSU REGARDING ORDERS FOR DEPENDENCY, JUVENILE'S FILE WILL REMAIN SEALED, GAG ORDER WILL

03/25/2008

DISPOSITION OF COUNT 03
10-01-07 DENY, SET FOR PT SEE ORDERS ON 1ST CHARGE
03-25-08 DISMISSED CHARGE OF MURDER, JUVENILE WAS FOUND TO BE INCOMPETENT TO STAND TRIAL AND UNRESTORABLE, DISMISS ALL CHARGES AND VACATE PREVIOUS COUR ORDERS, JUVENILE FOUND TO BE A DEPENDENT CHILD UNDER 2151.04A&C OF THE ORC, REFER TO ATTACHED ENTRY COMPLETED BY CSU REGARDING ORDERS FOR

Case No... 20720309
Concerning BYERS, TIMOTHY D

03/25/2008

DISPOSITION OF COUNT 04
10-01-07 DENY, SET FOR PT, SEE ORDERS ON FIRST CHARGE
02-35-08 DISMISSED CHARGE OF MURDER, JUVENILE WAS FOUND TO BE INCOMPETENT TO STAND TRIAL AND UNRESTORABLE, DISMISS ALL CHARGES AND VACATE PREVIOUS COURT ORDERS, JUVENILE FOUND TO BE A DEPENDENT CHILD UNDER 2151.04A&C OF THE ORC, REFER TO ATTACHED ENTRY COMPLETED BY CSU REGARDING ORDERS FOR

03/25/2008

DISPOSITION OF COUNT 05
10-01-07 DENY, SET FOR PT, SEE ORDERS ON 1ST CHARGE
03-25-08 DISMISSED CHARGE OF MURDER, JUVENILE WAS FOUND TO BE INCOMPETENT TO STAND TRIAL AND UNRESTORABLE, DISMISS ALL CHARGES AND VACATE PREVIOUS COURT ORDERS, JUVENILE FOUND TO BE A DEPENDENT CHILD UNDER 2151.04A&C OF THE ORC, REFER TO ATTACHED ENTRY COMPLETED BY CSU REGARDING ORDERS FOR

03/25/2008

DISPOSITION OF COUNT 06
10-01-07 DENY, SET FOR PT, SEE ORDERS ON 1ST CHARGE
03-25-08 DISMISSED CHARGE OF MURDER, JUVENILE WAS FOUND TO BE INCOMPETENT AND UNRESTORABLE, DISMISS ALL CHARGES AND VACATE PREVIOUS COURT ORDERS, JUVENILE FOUND TO BE A DEPENDENT CHILD UNDER 2151.04A&C OF THE ORC, REFER TO ATTACHED ENTRY COMPLETED BY CSU REGARDING ORDERS FOR DEPENDENCY,

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0 :7/2008

CASE SET FOR COMPETENCY HEARING ON 03/25/2008 AT 1:00 PM.

04/01/2008

JUDGMENT ENTRY: