

ORIGINAL

IN THE
SUPREME COURT OF OHIO

STATE OF OHIO EX REL. THE
CINCINNATI ENQUIRER

Petitioner

vs.

THE HONORABLE TRACIE M.
HUNTER, JUDGE, HAMILTON
COUNTY COURT OF COMMON
PLEAS, JUVENILE DIVISION

Respondent

: NO. 13-1171
: On Appeal from the Hamilton County
: Court of Appeals, First Appellate District
:
: Court of Appeals
: Case Number C-130183
:
: This Case Originated in the Court of
: Appeals

**NOTICE OF APPEAL OF RESPONDENT, THE HONORABLE TRACIE M. HUNTER,
JUDGE, HAMILTON COUNTY COURT OF COMMON PLEAS,
JUVENILE DIVISION – EXPEDITED REVIEW REQUESTED**

JOSEPH T. DETERS
PROSECUTING ATTORNEY
HAMILTON COUNTY, OHIO
Christian J. Schaefer, 0015494 – Counsel of Record
James W. Harper, 0009872
Assistant Prosecuting Attorneys
230 East Ninth Street, Suite 4000
Cincinnati, Ohio 45202
(513) 946-3041(Schaefer) / (513) 946-3159 (Harper)
FAX (513) 946-3018
chris.schaefer@hcpros.org
COUNSEL FOR RESPONDENT, JUDGE TRACIE HUNTER

FILED
JUL 24 2013
CLERK OF COURT
SUPREME COURT OF OHIO

John C. Greiner (0005551) – Counsel of Record
Graydon Head & Ritchey, LLP
1900 Fifth Third Center
511 Walnut Street
Cincinnati, Ohio 45202-3157
(513) 629-2734 /FX (513)651-3836
jgreiner@graydon.com

Darren W. Ford (008649)
Graydon Head & Ritchey, LLP
1900 Fifth Third Center
511 Walnut Street
Cincinnati, Ohio 45202-3157
(513) 629-3836
dford@graydon.com

COUNSEL FOR RELATOR, THE CINCINNATI ENQUIRER

**IN THE
SUPREME COURT OF OHIO**

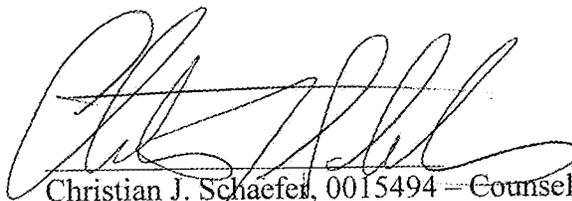
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|---|---|---|
| STATE OF OHIO EX REL. THE CINCINNATI ENQUIRER | : | NO. |
| Petitioner | : | On Appeal from the Hamilton County Court of Appeals, First Appellate District |
| vs. | : | |
| THE HONORABLE TRACIE HUNTER, JUDGE, HAMILTON COUNTY COURT OF COMMON PLEAS, JUVENILE DIVISION | : | Court of Appeals Case Number C-130183 |
| Respondent | : | <u>THIS CASE ORIGINATED IN THE COURT OF APPEALS</u> |

NOTICE OF APPEAL – Expedited Review Requested

Respondent, The Honorable Tracie Hunter, Judge, Hamilton County Court Of Common Pleas, Juvenile Division, hereby gives notice of appeal to the Supreme Court of Ohio from the Judgment of the Court of Appeals, First Appellate District, Hamilton County, Ohio entered in Court of Appeals case number C-130183, on July 23, 2013, and labeled “Entry of Contempt” which found Judge Hunter in Contempt of the Court of Appeals. This case is an appeal as of right as defined by S.Ct. Prac. R. 5.01(A)(3) because it originated in the Court of Appeals. Judge Hunter requests that the Supreme Court expedite the review of the Entry of Contempt

Respectfully,

JOSEPH T. DETERS
PROSECUTING ATTORNEY
HAMILTON COUNTY, OHIO

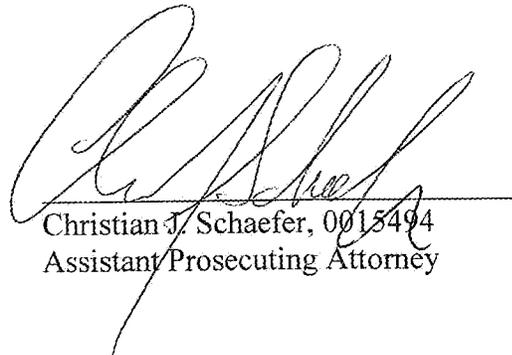


Christian J. Schaefer, 0015494 – Counsel of Record
James W. Harper, 0009872
Assistant Prosecuting Attorney
230 East Ninth Street, Suite 4000
Cincinnati, Ohio 45202
(513) 946-3041(Schaefer)/(513) 946-3159 (Harper)
FAX (513) 946-3018
chris.schaefer@hpros.org

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served upon each party of record in this case by e-mail addressed to: jgreiner@graydon.com and by ordinary U.S. mail on the 24th day of July, 2013 addressed to:

John C. Greiner (0005551)
Graydon Head & Ritchey, LLP
1900 Fifth Third Center
511 Walnut Street
Cincinnati, Ohio 45202-3157



Christian J. Schaefer, 0015494
Assistant Prosecuting Attorney

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE EX REL. THE CINCINNATI
ENQUIRER,

Petitioner,

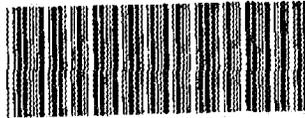
vs.

THE HONORABLE TRACIE M.
HUNTER,

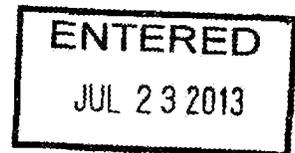
Respondent.

CASE NO. C-130183

ENTRY OF CONTEMPT.



D102897802



Per Curiam.

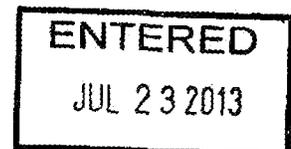
This matter came before the Court on the motion of petitioner, The Cincinnati Enquirer, urging this Court to find respondent the Honorable Tracie M. Hunter, a judge of the Hamilton County Juvenile Court, in contempt of this Court's March 29, 2013, Alternative Writ. Judge Hunter presides over delinquency proceedings brought against six juveniles for the severe beating of a North College Hill man, including a dispositional hearing on June 24, 2013. At that hearing, Judge Hunter imposed conditions of access upon The Enquirer. The newspaper believed those conditions to be in violation of our Alternative Writ, which stayed Judge Hunter's prior orders imposing a name-publication restriction and denying The Enquirer access to the proceedings on that basis.

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On July 22, 2013, Judge Hunter appeared in this Court with statutory counsel, Christian J. Schaefer and James W. Harper, for a hearing on The Enquirer's contempt motion. The Enquirer was represented by its counsel, John C. Greiner and Darren Ford. In addition to the papers already filed in this original action, the parties filed a joint Submission of Evidence composed of a certified copy of Judge Hunter's June 24, 2013, entry and a transcript of the proceedings held that day in juvenile case number 12-7366. At the hearing, the parties offered argument on the motion but declined the opportunity to produce additional evidence.

R.C. 2705.02(A) provides that a person guilty of the disobedience of, or resistance to, "a lawful writ, process, order, rule, judgment, or command of a court" may be punished for contempt. A court's contempt power is employed to ensure the effective administration of justice, to secure the dignity of the court, and to affirm the supremacy of the law. *See Cramer v. Petrie*, 70 Ohio St.3d 131, 133, 637 N.E.2d 882 (1994). A civil-contempt sanction is imposed to coerce a party in violation of the court's orders—the contemnor—to comply and to remedy the harm caused to other parties by its disobedience. *See Brown v. Executive 2000, Inc.*, 64 Ohio St.2d 250, 253, 416 N.E.2d 610 (1980); *see also ConTex, Inc. v. Consol. Technologies, Inc.*, 40 Ohio App.3d 94, 531 N.E.2d 1353 (1st Dist.1988).

A finding of civil contempt requires clear and convincing evidence of the contemnor's disobedience. *See Brown* at 253. Proof of purposeful, willful, or intentional violation of a court's order is not a prerequisite to a finding of civil contempt. *See Pugh v. Pugh*, 15 Ohio St.3d 136, 140, 472 N.E.2d 1085 (1984). The fact that a contemnor acted innocently and not in intentional disregard of a court's order is not a defense to a charge of civil contempt. *See Windham Bank v.*



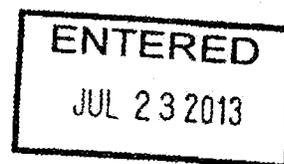
Tomaszczyk, 27 Ohio St.2d 55, 271 N.E.2d 815 (1971), at paragraph three of the syllabus.

On March 15, 2013, Judge Hunter journalized an entry revoking The Enquirer's permission to broadcast, televise, photograph, or record courtroom proceedings in case number 12-7366. As Judge Hunter stated in the entry, the permission had been revoked based upon The Enquirer's violation of her September 17, 2012, order prohibiting the media from publishing the names of the juveniles and their parents "for all current and future proceedings regarding this matter."

Pursuant to the March 15, 2013, entry, Judge Hunter or her court personnel denied Enquirer reporter Jennifer Baker entry into the courtroom on March 18 and March 25, 2013. On March 18, Baker was first instructed to wait outside Judge Hunter's sixth-floor courtroom but then was told by the court bailiff to wait in the first-floor lobby while the court proceedings were under way. Other representatives of the media were admitted to the court proceedings.

In response to Judge Hunter's actions, The Enquirer sought relief in this Court from her order imposing a name-publication restriction and denying The Enquirer access to the juvenile proceedings on that basis.

On March 29, 2013, this Court journalized an Entry Granting Alternative Writ of Prohibition and Establishing Time. The Alternative Writ ordered Judge Hunter "to stay enforcement of the documents dated March 15, 2013 and March 25, 2013, revoking The Cincinnati Enquirer's permission to broadcast, televise, photograph, or record courtroom proceedings. Representatives of The Enquirer shall be permitted in the courtroom." The Alternative Writ stayed enforcement of the name-publication restriction that was the basis of Judge Hunter's March 15 entry denying The Enquirer



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access to her courtroom. Judge Hunter was personally served with a copy of the Alternative Writ on March 29, 2013.

On June 24, 2013, Judge Hunter held a dispositional hearing in case number 12-7366. At the beginning of the hearing, Judge Hunter announced that she had journalized an entry granting The Enquirer's application to attend the hearing. The judge read the entry aloud in open court. The pertinent parts of the entry are provided as follows:

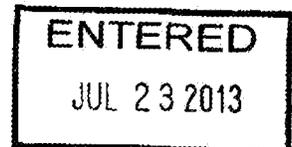
This applicant was previously barred from attending all future proceedings in this matter after violating this Court's conditions in a previous hearing, whereby this Court granted permission to broadcast. This Entry neither alters nor amends this Court's previous Orders or this Court's pending or future Orders, which shall be decided upon proper Motion to this Court on a case by case basis.

The Court, upon consideration of the above request, pursuant only to the First District Court's Order, while a lawsuit litigating these issues, is pending, hereby grants its authorization to broadcast, televise, photograph, or otherwise record judicial proceedings in the above captioned matter, subject to the following conditions:

* * *

Names of the Defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter.

* * *



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If media applicant violates this order, the Judge may revoke violator(s) permission to broadcast, videotape, photograph, or record all future courtroom proceedings; and additionally may take any other actions available under law.

Thus, despite acknowledging this Court's order, Judge Hunter nonetheless placed of record an entry that she maintained "neither alter[ed] nor amend[ed] this Court's previous Orders." Judge Hunter's entry again imposed the name-publication restriction as a condition of access in violation of our Alternative Writ staying, or suspending the effect of, the March 15 entry, and ordering that The Enquirer be admitted to the juvenile proceedings.

When The Enquirer's counsel attempted to object to the revived publication restriction, Judge Hunter refused to hear the objection as reflected in the transcript of the hearing:

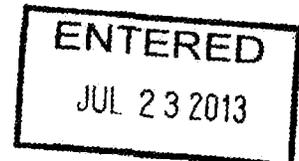
MR. [GREINER]: Your Honor—

THE COURT: * * * Please do not interrupt my court proceeding.

MR. [GREINER]: I believe you gave the opportunity to object.

THE COURT: I'm sorry?

MR. [GREINER]: I thought you said if there was an objection, as you read the entry, I believe you said if any party objects, there would be a closure hearing to the conditions.



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THE COURT: No, there will be a closure hearing to objecting to media access. But I advise you to sit down or you are going to be – thank you.

An order issued by a court with jurisdiction over the subject matter and the person must be obeyed by the parties until it is reversed by orderly and proper proceedings. See *Bd. Of Edn. Of Hamilton City School Dist. v. Hamilton Classroom Teachers Assn.*, 5 Ohio App.3d 51, 53, 449 N.E.2d 26 (12th Dist.1982), citing *United States v. United Mine Workers of America*, 330 U.S. 258, 302-303, 67 S.Ct. 677, 91 L.Ed. 884 (1947); see also *Rowell v. Smith*, 133 Ohio St.3d 288, 2012-Ohio-4313, 978 N.E.2d 146, ¶ 30 (“a party must not be permitted to ignore a court’s order, even when she disagrees with it.”). Judge Hunter is a party to this original action. Her status as a judicial officer does not exempt her from compliance with this Court’s orders.

Thus the Court finds by clear and convincing evidence that by journalizing the June 24, 2013, entry Judge Hunter disobeyed this Court’s March 29, 2013, Alternative Writ. Judge Hunter is in civil contempt of this Court’s Writ.

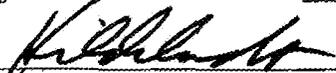
To purge her contempt, Judge Hunter must journalize an entry vacating her June 24, 2013, entry forthwith, and provide this Court with a certified copy of that entry no later than 4:00 p.m., July 25, 2013.

It is so Ordered.

HILDEBRANDT, P.J., CUNNINGHAM and DINKELACKER, JJ.

To the clerk:

Enter upon the journal of the court on JUL 23 2013

per order of the court 

Presiding Judge

