

IN THE
SUPREME COURT OF OHIO

**STATE OF OHIO EX REL. THE
CINCINNATI ENQUIRER**

Appellee

vs.

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

Appellant

: 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

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

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vs.	:	Court of Appeals Case Number C-130183
THE HONORABLE TRACIE HUNTER, JUDGE, HAMILTON COUNTY COURT OF COMMON PLEAS, JUVENILE DIVISION	:	<u>This Case Originated In The Court Of Appeals</u>
Appellant	:	<u>MERIT BRIEF OF APPELLANT</u>

I. STATEMENT OF FACTS

A. Introduction¹

This is an appeal from a judgment by the Court of Appeals, First Appellate District, Hamilton County, Ohio, finding Judge Hunter in contempt because she violated its Alternative Writ and Stay of March 29, 2013. (Appx. 10 thru 15). The only issue in the case is whether the Alternative Writ and Stay prohibited Judge Hunter, in subsequent hearings, from (1) reciting the requirements of Ham. Cty. Loc. Juv. Rule 14 (D) which were initially set out in September 17, 2012, journal entries, and (2) reciting limitations set out in an agreement between Enquirer attorneys and the attorneys for the juveniles at a hearing before Magistrate Kelley. (Supp. 4 thru 19; Appx. 28 thru 37).

¹ There are twelve Juvenile Court cases involving six juveniles who were alleged to be delinquent based upon beating a man in North College Hill, a municipal corporation in Hamilton County, Ohio. Throughout the litigation, "North College Hill Cases" has been used as a shorthand reference for these twelve cases.

In order to understand the Entry of Contempt (Appx. 10 thru 15) and the error of the Court of Appeals, this Court must consider all of the facts and circumstances that culminated in that determination by the Court of Appeals.

The procedural and factual setting of the case is, at best, convoluted. There are four significant events occurring in Juvenile Court, and a series of smaller events that demonstrate the importance of the four significant events. The first significant event is an agreement between all media attorneys – including the Enquirer – and the attorneys representing the six juveniles. This agreement was recited in before Magistrate Kelley. (Supp. 4 thru 19). The second significant event is the set of September 17, 2012 orders reciting the restrictions of, but not citing, Ham. Cty. Loc. Juv. R 14. (Appx. 28 thru 37). The set of identical orders of March 15, 2013 and March 25, 2013 finding violations of the September 17, 2012 order constitute the third significant. (Appx. 18 thru 27). The final significant event in Juvenile court is the hearing and order dated June 24, 2013. (Appx. 16)

Each of the following impacts four significant events. In turn, the four significant events in Juvenile Court are the key to the determination of whether the Entry of Contempt was properly issued by the Court of Appeals.

B. The Complaint in the Court of Appeals

This case began with the filing of a Complaint, several Affidavits, and a request for injunctive relief. (Supp. 160 thru 204). In particular, the Complaint alleged that six Juveniles were alleged to be delinquent with because they committed criminal acts amounting to Aggravated Riot and Felonious Assault.² (Supp. 161, 162). These acts of alleged delinquency were charged in twelve case numbers, two for each Juvenile. (Supp. 51 thru 62). The Complaint went on to allege that attorneys for the six juveniles and attorneys for The Enquirer, and four

² The victim of these offences has since died.

television stations, entered an agreement about the coverage of the Juvenile Court Hearings in exchange for the six attorneys waiving the right of the Juveniles to seek closure of the proceedings. The agreement was recited before Juvenile Court Magistrate Kelley. (Supp 162, 163). The Complaint then alleged that, without notice to the Enquirer, Judge Hunter changed the terms of the Kelley agreement on September 17, 2013. (Supp. 163). Finally, The Enquirer stated that it was barred from attending future hearings in the cases by Order's issued on March 15, 2013 and March 25, 2013 by Judge Hunter. (Appx. 18 thru 27).

C. The Alternative Writ

The Enquirer filed a Motion for Injunctive relief reciting the allegations of the complaint and, among other things, attached an affidavit of an Enquirer attorney who misremembered the Magistrate Kelley agreement. The remedy requested in the Motion for Injunctive relief was that the proceedings in the underlying Juvenile cases be precluded from proceeding. (Supp. 171). The Court of Appeals considered the request for injunctive relief as a request for alternative writ and stay. The stay requirements contained in the Alternative writ were as follows:

The court grants an alternative writ of prohibition ordering the respondent to stay the 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.

This stay pertained to all twelve North College Hill cases. (Appx. 17). Judge Hunter had previously issued an order excluding The Enquirer from her courtroom by identical orders issued on March 15, 2013 and March 25, 2013 in ten of the twelve North College Hill cases. (Appx. 18 thru 27).

D. The progress of the writ litigation

The initial time period for filing a Stipulated Record was extended to May 1, 2013 because Judge Hunter was at a judicial conference and the email connection was unreliable.³ (Supp. 205). On May 1, 2013, instead of filing a stipulated record, the assistant prosecutor filed a notice to the Court of Appeals that Judge Hunter had not authorized any stipulation. (Supp. 206). Thereafter, on May 7, 2013, the date on which the Answer was due, the assistant prosecuting attorney filed a request that the Court of extend time to accomplish various actions needed to properly defend the case. (Supp. 208). Later, on May 7, 2013, an Answer was filed. (Supp. 212 thru 218). The Court of Appeals, *sua sponte*, ordered the Presiding and Administrative Judge of the Juvenile Court to prepare and transmit to the Court of Appeals the transcript of the Magistrate Kelley hearing setting out the agreement between the attorneys representing the news media and juveniles concerning reporting on the case and the docket and journal entries of the 12 cases involving the six Juveniles. (Supp. 219). The Presiding and Administrative Judge complied with the Order and filed the items ordered by the Court of Appeals. (Supp. 1 thru 159).

The assistant prosecuting attorney representing Judge Hunter requested that the Court of Appeals consolidate this case with a similar one filed by Scripp's Media Inc., d/b/a WCPO over the similar issues and to order a complete transcript of proceedings in all twelve Juvenile cases because various media requests and rulings had been made through the pendency of the twelve Juvenile Court cases. The Enquirer and Scripp's media objected to the additional transcripts on the basis that the assistant prosecuting attorney requested that the limitations of *Juv. R. 37* be

³ Since this was an original action, not an appeal, *Juv. R. 37(B)* limits the ability of a prosecuting attorney to order a transcript of proceedings without authorization of the Judge of the Juvenile Court.

imposed upon the use of the transcripts. The Court of Appeals consolidated the two cases for certain issues⁴, but denied the request for additional transcripts. (Supp. 220, 221).

Thereafter, cross motions for Summary Judgment were filed. The merits of the case had been set for argument on July 31, 2013, but the events surrounding the “Entry of Contempt” and appeal cause the Court of Appeals to vacate the hearing date.

E. The Scripp’s Media case

The Scripps media filed a complaint in Case C-130247 requesting relief similar to that requested by The Enquirer in case C-130183 as well as other relief. The Court of Appeals in the *Scripp’s* case sought and received an Order from the Court of Appeals that the Magistrate Kelley Agreement remain in effect until the case was resolved. (Supp. 276). Unlike the Enquirer Alternative Writ, the Scripp’s case did identify the September 17, 2012 order as the order being stayed. This occurred before the transcript of the Kelley case had been ordered filed. (Supp. 219). The Scripp’s case was punctuated by attorneys other than assistant prosecuting attorneys attempting to represent Judge Hunter and Judge Hunter a filing *pro se* Motion to Dismiss. The Court of Appeals struck the documents filed by Judge Hunter, *pro se*, and the other attorneys because no appointment of counsel other than the prosecuting attorney had been sought in the manner required by statute⁵. (Supp. 272).

F. The Content of the Magistrate Kelley Agreement.

Because of the nature of the alleged acts of delinquency, all four television stations and the Enquirer believed the progress of the Juvenile Court proceedings would be of public interest. On August 24, 2012, the attorneys representing all twelve Juveniles and five media outlets met

⁴ The Enquirer is the relator in two other cases pending in the court of appeal, C-1300072 and C-1300397.

⁵ See *State ex rel. Gains v. Maloney* (2004) 102 Ohio St. 3d 254.

and worked out an agreement. (Supp. 4 thru 19). Obviously, the attorneys representing the Juveniles were concerned with the publicity concerning their clients.

With this background the two sides reached an agreement. The portion about the continued publication of the names was set out by Enquirer attorney Kent Wellington. In reading the terms of this agreement, this Court must remember that there has to be *quid pro quo* and the drafter is the Enquirer Attorney because he was the one stating it in the record.

Enquirer attorney Wellington begins by acknowledging that the first of the two main issues is: “use of names.” (Supp. 7,8). So, there must be some *quid pro quo* about the first of the two main issues – the use of names. Enquirer attorney Wellington starts out his recitation of the agreement on the “use of the names” issue by stating that the Enquirer already published the names and that they would continue to “reference those to the extent it’s appropriate.” (Supp. 8). At this point, there is no *quid pro quo* regarding names unless Enquirer attorney Wellington goes on to define the term “to the extent it’s appropriate.” Enquirer attorney Wellington does exactly that. He defined the term “to the extent it’s appropriate” by stating:

“Now this is a compromise, and we should probably add that it’s applicable to these juvenile proceedings only.

The reporting about the Juvenile by name in the courtroom, we would like to be able to have the right to reference those individuals when a verdict comes out. For example, your honor, if four are found to be innocent and two are found to be guilty, we’d like to be able to report the names of the two who are guilty or of the four who were innocent.”

(Supp. 8, 9; Kelly Tr. pg 8, ln. 22 thru 25; pg 9, ln. 1 thru 8). The compromise is that the Enquirer agreed not to publish the names unless there was a split verdict and the attorneys for the Juveniles withdrew their motion to close the hearing. That is the only way to understand this agreement. Otherwise, there would be no consideration for the agreement of six attorneys representing the six Juveniles to waive their right to ask that the hearing be closed to the public.

At the time the Juvenile record was filed, five juveniles entered plea bargains admitting their involvement and one juvenile has not had his case resolved because of delays associated with this litigation. The triggering mechanism for the Enquirer to use the names – split verdicts – has not occurred. (Supp. 146 thru 159).

G. The Media Attorneys forget what had been Agreed upon before Magistrate Kelley

The media attorneys became concerned about their recollection of the terms of the agreement. This is because it was not committed to writing by the attorneys involved. (Supp. 16 thru 19; Kelly Tr, pg.16, ln. 22 thru pg. 19, ln. 21). So, they filed a motion for the Court to release the transcript two weeks after the Kelley hearing and two days after Judge Hunter first reminded the media members not to publish the names of the Juveniles. (Supp. 63 thru 121).

The timing of this request also occurred after a significant event. The Juveniles were designated “serious youthful offenders” on September 4, 2012. (Supp. 51 thru 62) At the magistrate Kelley hearing, where the agreement between the media attorneys and attorneys for the Juveniles was stated on the record, that a Serious Youthful Offender designation was being sought by the prosecutor. (Supp. 19, 20, Kelly Tr. pg. 19, ln. 22 thru pg. 20, ln. 2). Once the designation actually occurs, the hearings can no longer be closed to the public. See Ohio Juv. R. 27. But, the Kent Wellington recitation of the agreement specifically set out the type of change in circumstance that would void the agreement as follows:

Of course if any of the six defendants are bound over, that changes things, and the restrictions wouldn't apply in that case.

(Supp. 10; Kelly Transcript, p. 10, ln. 1 thru 4).

A bindover transfers jurisdiction to the general division of the Court of Common Pleas. *R.C. 2152.12*. The serious youthful offender designation does not. *R.C. 2152.121* and *R.C. 2152.13*. Thus the distinction set out by Mr. Wellington makes sense because

the Court in which the case is to be heard changes with a bindover. The case progressed and eventually, Judge Hunter denied the request for a transcript of the Kelly hearing to the media attorneys based upon a literal interpretation of the Juv. R. 2(Y) and Ham. Cty. Juv. R. 10(C). (Supp. 122 thru 133). Thus, at the time that this case, and the WCPO case, was filed, the media attorneys had nothing more than their notes and recollections as to the terms of the Magistrate Kelley agreement.

H. Joint Trials

It was assumed that the cases would progress together, when the September 17, 2012 order was issued. At first it appears that scheduling conflicts with the attorneys led to separate proceedings in the 12 cases by default. Later, an order granting separate trials was entered on February 19, 2013. (Supp. 134 thru 145).

I. The Orders of March 15, 2013 and March 25, 2013 excluding the Enquirer

The Enquirer admittedly printed the names of the Juveniles after the agreement made on the Enquirer's behalf by its attorney Kent Wellington not to print the names. (Supp. 163, 172 thru 186). The publication on the names was also prohibited by the September 17, 2012 order of Judge Hunter. The remedy provided in Sup. R. 12(D) when a member of the media violates the rule regarding photographing the proceedings is exclusion of that media member from the court room. There is no evidence that WCPO, WKRC, WXIX, or WLWT published the names of the Juveniles in violation of the agreement recited in the Kelly transcript or the September 17, 2012 order. The reasonable remedy, was to exclude the media outlet, the Enquirer, from the hearings and that is what Judge Hunter essentially did by Journal Entries dated March 15, 2013 and March 25, 2013. (Appx. 18 thru 27). The members of the media who complied with the Kelley agreement were permitted to continue to attend and cover the proceedings.

Since the Enquirer and Scripps Media objected to the motion to file transcripts of all hearings, the actual proceedings leading to Judge Hunter's Orders of March 15, 2013 and March 25, 2013 is unknown. The orders do not cite violations of the Magistrate Kelley agreement. Instead, as alleged in the Complaint, they cite an order issued September 17, 2012, by Judge Hunter. The language of the September 17, 2012, Order regarding the Enquirer recites that the names of the Juveniles and their parents may not be published. This language appears to be copied from *Ham. Cty. Local Juv. R. 14(D)*. That rule is not cited in the September 17, 2012 Order.

Additionally, because the Court had not yet granted the motion for separate trials, it was assumed on September 17, 2012, that all twelve cases would be tried together. The September 17, 2012 order was actually entered in only in two cases, 12-7306 and 12-7388, involving only one of the six Juveniles. (Appx . 28 thru 37).

In the other ten cases, there is no docketed order pertaining to the Enquirer issued on September 17, 2012. Because at the time the September 17, 2012, order was issued joint trials were presumed, orders barring the Enquirer from attending hearings on issued March 15, 2013 or March 25, 2013 cited the September 17, 2012 order from cases 12-7306 and 12-7388 as the basis for exclusion. (Appx. 18 thru 27).

J. The March 15, 2013 and March 25, 2013 Orders issued by Judge Hunter

The construction of Judge Hunter's March 15 and March 25 order entitled "Entry Revoking the Enquirer's Permission to Broadcast, Televis, Photograph, or Record Courtroom Proceedings" is as follows:

1. The first sentence identifies a violation of an earlier order.
2. The second sentence identifies the order violated.

3. The remainder of the first paragraph quotes an order from on September 17, 2012 that limited publication on names, photography and the like by the Enquirer in case 12-7306 and 12-7388.
4. The Final Sentence of the March 15, 2013 document imposes the penalty on the Enquirer representatives set out in Superintendence Rule 12(D) excluding them from the hearing. (Appx. 18 thru 27).

The Alternative Writ did not stay enforcement of the September 17, 2012 order by Judge Hunter. It did not stay enforcement of the Magistrate Kelley agreement. These were addressed in the Scripp's case, not The Enquirer case. (Supp. 276) The March 15, 2013, Entry imposed no new restriction upon publication by the Enquirer. Instead, it only imposed the penalty of exclusion, for violation of a September 17, 2012 order. The September 17, 2012, order was not mentioned in the Alternative Writ, and remained in effect. (Appx. 17)

K. The Events of June 24, 2013

On June 24, 2013, Judge Hunter allowed Enquirer representatives in the Courtroom as required by the Alternative Writ for the disposition hearing in case 12-7366. The transcript of that hearing indicates that both Jennifer Baker, an Enquirer reporter, and Jack Greiner [misidentified as Jack Ryan] were permitted to attend the hearing of June 24, 2013. (Supp. 241, 242; Transcript June 24, 2013, p. 4, ln. 2 thru p. 5 ln. 13).

On June 24, 2013, Judge Hunter also issued an order essentially restating the restrictions set out in the un-stayed order of September 17, 2012, entered in cases 12-7306 and 12-7388. This Order does recite *Ham. Cty. Local Juv. R. 14(D)* as the basis for the restriction on the Enquirer for publication of the names of the Juveniles. (Appx. 16).

L. The Contempt Hearing

The Enquirer filed a Motion to hold Judge Hunter in contempt because it alleged she violated the Alternative Writ and Stay issued March 19, 2013. (Supp. 222 thru 235). The Court

of Appeals set the matter for an Evidentiary Hearing on July 22, 2013, and gave the parties until July 18, 2013, to file stipulated facts. Because a stipulation could not be reached, the parties agreed to submit a “Joint Submission of Evidence” consisting of self authenticating certified copies of the Transcript of Proceedings occurring before Judge Hunter on June 24, 2013 in case 12-7366 as well as a certified copy of Judge Hunter’s Order of June 24, 2013. (Supp. 236 thru 271).

The hearing itself was attended by Judge Hunter, but involved no testimony. Instead the attorneys representing the Enquirer and the assistant prosecutor argued the law and facts presented in the record before the Court of Appeals.

M. The Entry of Contempt

The July 23, 2013, Entry of Contempt assumes that the March 15, 2013, order, in Juvenile case 12-7366 restricted publication by the Enquirer. It simply did not do that. It merely applied a penalty of exclusion for violation of a prior order. (Appx. 18 thru 27).

The issue before this Court is whether the Court of Appeals erred in finding Judge Hunter in contempt. Judge Hunter has often disagreed with the arguments made by the assistant prosecuting attorneys defending her in her official capacity. On July 24, she issued a press release containing a “Response to Contempt” setting out her argument as to why the determination that she was in contempt was erroneous. It is attached hereto so that this Court will have the benefit of her arguments concerning this appeal. (Appx. 38, 39).

II. ARGUMENT

Proposition of Law I

It is axiomatic that settlements are favored in the law and that courts have authority to enforce agreements. Settlement agreements are as binding, conclusive, and final as if they had been incorporated into a judgment.

It is axiomatic that settlements are favored in the law and that courts have authority to enforce agreements. See, *Spercel v. Sterling Industries, Inc.* (1972), 31 Ohio St.2d 36, 38. Settlement agreements are as binding, conclusive, and final as if they had been incorporated into a judgment. *RE/MAX Int'l., Inc. v. Realty One, Inc.* (6th Cir 2001), 271 F.3d 633, 466. It is appropriate for courts to summarily enforce settlement agreements when there is no dispute as to the terms. *Id.* Courts are not required to conduct an evidentiary hearing concerning the terms of a settlement agreement in the absence of allegations of fraud, duress, undue influence, or factual dispute concerning it's the existence or terms of the agreement. *Mack v. Polson Rubber Co.* (1984), 14 Ohio St.3d 34, 37.

Settlement agreements are contracts designed to terminate a claim by preventing or ending litigation and they are valid and enforceable by any party to the agreement. *Continental W. Condominium Unit Owners Assn. v. Howard E. Ferguson, Inc.* (1996), 74 Ohio St.3d 501. Such agreements may be written or oral. *Spercel, supra* at 40, *RE/MAX, supra* at 646. In contract, acceptance of an offer may be made by "word, sign, writing, or act . . . even silence and inaction, under the proper circumstances can constitute acceptance." *Nilavar v. Osborn* (1998), 127 Ohio App.3d 1, 12.

Attorneys for parties to a lawsuit may confess judgment on their behalf or vacate a judgment previously entered. *Garrett v. Hanshue* (1895) 53 Ohio St. 482, 494. An attorney's

authorization to “negotiate and settle a client’s claim need not be express, but may be ascertained from the surrounding circumstances.” *Elliott v. General Motors Corp.* (3d. Dist, 1991), 72 Ohio App.3d 486, 488. A settlement entered into by an attorney authorized to negotiate and settle a claim is enforceable regardless of whether the terms of the settlement were approved by, or acceptable to the client. See, *Argo Plastic Products Co. v. City of Cleveland* (1984) 15 Ohio St.3d 389, 393, (holding settlement enforceable against the city for damages in the amount of \$500,000 agreed to by attorney when actual authority was only \$2,500). Even unauthorized settlements entered into by an attorney may be ratified by a client. *Morr v. Crouch* (1969), 19 Ohio St.2d 24. “Ratification may be implied . . . from the client’s negligence, inaction, or apparent acquiescence in the settlement.” *Id.* at 29.

In this case, the Enquirer attorneys entered into a settlement agreement with the attorneys for the six Juveniles. It induced those attorneys not to exercise their rights to seek to have the hearings closed in exchange for the Enquirer waiving its right to publish the names of the Juveniles, absent a split verdict.

Every day, constitutional rights are waived. These waivers happen after arrests during police interviews. Waivers happen whenever a person pleads guilty to a criminal case. The right to remain silent, the right to an attorney, the right to a jury trial, the right to confront accusers, and the right to require the state to prove guilt beyond a reasonable doubt are all extremely valuable constitutional rights that are waived routinely. Additionally, the right to be secure from unreasonable searches can be implicitly waived by driving a car or even walking onto a commercial aircraft or into an Ohio court room.

The First Amendment rights can also be waived. The United States Supreme Court has held that publication rights may be waived. Although a majority of cases considering

constitutional waivers concern contractual obligations, see, e.g., *Snepp v. United States*, 444 U.S. 507 (1980) (*per curiam*) (considering a contract between the CIA and its former employee regarding publication rights); *D.H. Overmyer Co. v. Frick Co.*, 405 U.S. 174 (1972) (outlining the considerations relevant to determination of a contractual waiver of due process rights); waiver is not required to be contractual form. In *Cohen v. Cowles Media Co.*, 501 U.S. 663 (1991), the Supreme Court addressed whether the First Amendment prohibits a plaintiff from recovering damages, under state promissory-estoppel law, for a newspaper's breach of a promise of confidentiality given to the plaintiff in exchange for information. *Id.* at 665. The Court allowed the claim to advance, despite “the absence of a contract, [which] creates obligations never explicitly assumed by the parties.” *Id.* at 668. With this determination, the Court implicitly held that a party's voluntary promise to keep information confidential constituted a valid waiver of First Amendment rights, even in the absence of an enforceable contract.

In this case there was a contract with bargained for exchange. The attorney for the Enquirer read out the terms of the agreement in open court. Magistrate Kelley noted that “some time” had been spent between the attorneys for the six juveniles and the media in working out an agreement. The Enquirer attorney called it a “collaborative agreement.” (Kelly Tp. pg. 7). Since the terms were set out solely by the media attorneys, any ambiguity in the agreement must be construed against the Enquirer. *Piening v. Ent. Rent-A-Car of Cincinnati, Inc.* (1st Dist. 2007) 2007 -Ohio- 4709, &19; *Westfield Ins. Co. v. Factfinder Marketing Research, Inc.* (1st Dist. 2006)168 Ohio App.3d 391, 860 N.E.2d 145.

In short, the Enquirer waived its First Amendment rights regarding publication of the names. Rather than close the courtroom to the public, the least restrictive manner in dealing with the situation is to use the remedy of exclusion set out in *Sup. R. 12*. And, that is exactly the

effect of Judge Hunter's March 15 and 25, 2013 orders excluding the Enquirer. The Alternative Writ did not void or even mention the Magistrate Kelley agreement. Again, the actual affect of Judge Hunter's Order of June 24, was to hold the Enquirer to the terms it had agreed to in the Magistrate Kelley agreement.

Enforcement of the Magistrate Kelley agreement should not be basis to hold Judge Hunter in contempt. To do so will invite media outlets to inveigle their way in to hearings by inducing Juvenile's to waive their right to request closure of a hearing on a false promise to restrict news coverage. It will also adversely impact Juvenile Court's all over the state. Since agreements with news media will become unenforceable, every delinquency case a reporter attends will be subject to a closure hearing. The net effect for the news media will be the expenditure of legal fees to hire attorneys to oppose the closure motions. The net effect upon the public at large is that less information will be available for newsworthy Juvenile proceedings.

Proposition of Law II

Where a Court order does not spell out the details of compliance in clear, specific and unambiguous terms the exact duties and obligations imposed by the Court order, it may not form the basis of a finding of contempt.

The Court of Appeals March 29, 2013 Alternative Writ did not specifically address Ham. Cty. Juv. Ct. Local R. 14. It did not mention the reporting of the names of juveniles by the Enquirer. It did not mention the Magistrate Kelley agreement. It did not mention the September 17, 2012 order.

In *Morrow v. Becker* (9th Dist. 2012) unreported case No. 11CA0066-M, 2012 WL 3641582, 2012 -Ohio- 3875 the Court held:

{¶ 53} . . . Before a party may be held in contempt for disobeying a court order, the prior order "must spell out the details of compliance in clear, specific and unambiguous terms so that such person will readily know exactly what duties or obligations are imposed upon him." *Collette v. Collette*, 9th Dist. No. 20423, 2001 WL

986209 (Aug. 22, 2001).

Similarly, in *Rohr v. Williams* (7th Dist. 2007) unreported case 06 MA 171, 2007 WL 4696807, 2007-Ohio-7207 explained:

{¶ 36} This court has declared that “[a] party cannot be found in contempt if the contempt charge is premised on a party’s failure to obey an order of the court and the order is not clear, definite, and unambiguous and is subject to dual interpretations.” *Contos*, 7th Dist. No. 04MO3 at ¶ 15, citing *Chilcote v. Gleason Const. Co.* (Feb. 6, 2002), 5th Dist. No. 01COA01397; *Collette v. Collette* (Aug. 21, 2001), 9th Dist. No. 20423; *Marysville v. Wilson* (July 20, 1994), 3d Dist. No. 14-94-8; *Smith v. Smith* (Jan. 13, 1994), 10th Dist. No. 93AP-958; *In re Contempt of Gilbert* (Dec. 16, 1993), 8th Dist. Nos. 64299, 64300. We also held:

{¶ 37} “A trial court cannot impose contempt sanctions on a party if the party cannot know whether or not its actions violate the trial court’s order. Merely because the trial court knew what its order meant does not mean the parties knew what the order meant.” *Id.* at ¶ 24.

In short, if a court order merely implies cross references to other documents or assumes the reader should know what the reader of the Order means, it cannot be the basis for a finding of contempt.

The procedural posture of this case demonstrates that the Court of Appeals erred in finding Judge Hunter in Contempt of its Alternative Writ of March 29, 2013. The underlying delinquency case is 12-7366. The Alternative Writ, in pertinent part, set out the following requirements for compliance by Judge Hunter:

The court grants an alternative writ of prohibition ordering the respondent to stay the 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.

Other than allowing Enquirer representatives in her courtroom for case 12-7366, the only other thing required of Judge Hunter was that her document dated March 15, 2013 could not be enforced. The Enquirer, in defense of the “Entry of Contempt” will argue that the reference to the March 15, 2013 document really meant that Judge Hunter was precluded issuing any further

orders that were consistent with *Ham. Cty. Juv. R. 14(D)*; the Magistrate Kelley agreement; or, her prior order of September 17, 2012. If that is what the Court of Appeals meant, it should have placed those restrictions in its Alternative Writ issued March 29, 2013. It could not assume that Judge Hunter knew what the meant, but failed to state.

The construction of Judge Hunter's March 15 "Entry Revoking the Enquirer's Permission to Broadcast, Televis, Photograph, or Record Courtroom Proceedings" is as follows:

1. The first sentence identifies a violation of an earlier order.
2. The second sentence identifies the order violated.
3. The remainder of the first paragraph quotes an order from on September 17, 2012 that limited publication on names, photography and the like by the Enquirer in case 12-7366.
4. The Final Sentence of the March 15, 2013 document imposes the penalty on the Enquirer representatives set out in Superintendence Rule 12(D) excluding them from the hearing. (Appx. 18 thru 27).

The Alternative Writ did not mention or stay the September 17, 2012 order by Judge Hunter. It did not void or mention the Magistrate Kelley Agreement. (Appx. 17). It did not even mention *Ham. Cty. Juv. R. 14(D)*.

Interestingly, in that partially consolidated case of *State ex rel. Scripps Media, Inc., v Hunter* C-130241, the Court of Appeals demonstrated that it could reference the September 17, 2012 order and the Magistrate Kelley agreement. In case C-130241 it explicitly stayed enforcement of the September 17, 2012 order and ordered the enforcement of the Magistrate Kelley agreement. (Supp. 276).

In case C-1300183, the Enquirer did not ask for, and the Court of Appeals did not grant, a stay the September 17, 2013 Order. The Enquirer did not ask for, and the Court of Appeals did

not grant a stay of enforcement of *Ham. Cty. Juv. R. 14(D)*. The Enquirer did not ask for and the Court of Appeals did not grant a stay of enforcement of the Magistrate Kelley agreement.

On June 24, 2013, Judge Hunter allowed Enquirer representatives in the Courtroom as required by the Alternative Writ. On June 24, 2013, Judge Hunter issued an order essentially restating the restrictions set out in the un-stayed order of September 17, 2012, (this order was not stayed in the case in which contempt was found). These restrictions are substantially similar to those the un-stayed Magistrate Kelley agreement and identical to the restrictions contained in un-stayed *Ham. Cty. Juv. R. 14(D)*.

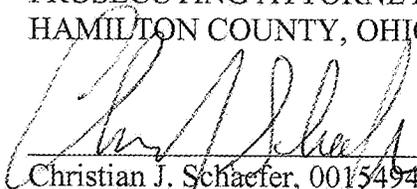
The Entry of Contempt assumes that the March 15, 2013, order restricted publication by the Enquirer. It simply did not do that. The Entry of Contempt should be vacated.

III. CONCLUSION

This Court should reverse the Judgment of the Court of Appeals finding Judge Hunter in contempt issued on July 23, 2013.

Respectfully,

JOSEPH T. DETERS
PROSECUTING ATTORNEY
HAMILTON COUNTY, OHIO

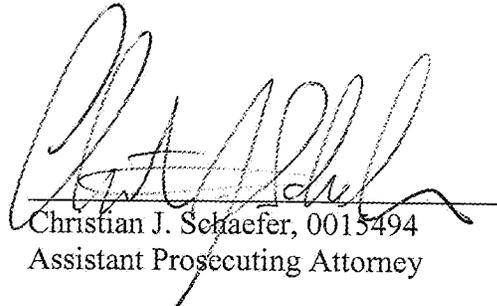


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PROOF OF SERVICE

I hereby certify that a copy of this document was served upon each party of record in this case by hand delivery on the 9th day of August, 2013 addressed to:

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Christian J. Schaefer, 0015494
Assistant Prosecuting Attorney

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**

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FILED
JUL 24 2013
CLERK OF COURT
SUPREME COURT OF OHIO

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COUNSEL FOR RELATOR, THE CINCINNATI ENQUIRER

**IN THE
SUPREME COURT OF OHIO**

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

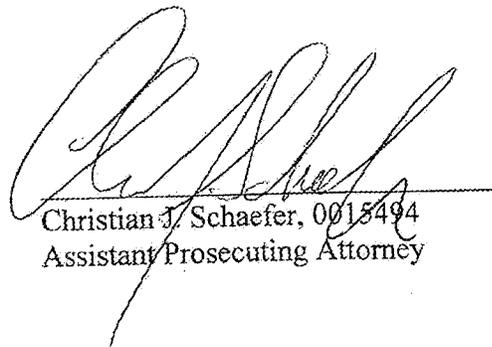


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CERTIFICATE OF SERVICE

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:

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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.
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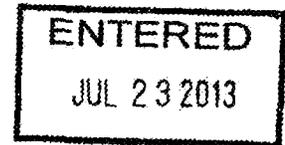
Respondent.

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.

OHIO FIRST DISTRICT COURT OF APPEALS

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.*

ENTERED JUL 23 2013

OHIO FIRST DISTRICT COURT OF APPEALS

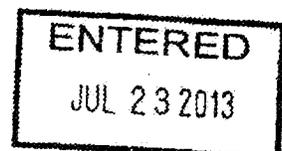
Tomaszczyk, 27 Ohio St.2d 55, 271 N.E.2d 815 (1971), at paragraph three of the syllabus.

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



OHIO FIRST DISTRICT COURT OF APPEALS

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.

* * *

ENTERED JUL 23 2013

OHIO FIRST DISTRICT COURT OF APPEALS

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:

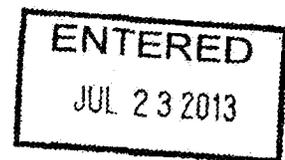
MR. [GREINER]: Your Honor—

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.



OHIO FIRST DISTRICT COURT OF APPEALS

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.

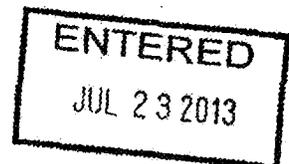
It is so Ordered.

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 *[Signature]*

Presiding Judge



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

STATE EX REL. THE CINCINNATI
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Petitioner,

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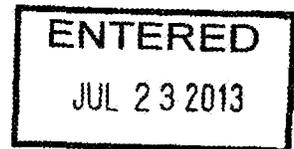
Respondent.

CASE NO. C-130183

ENTRY OF CONTEMPT.



D102897802



Per Curiam.

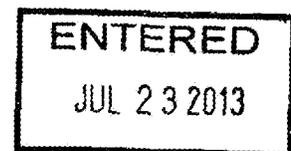
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OHIO FIRST DISTRICT COURT OF APPEALS

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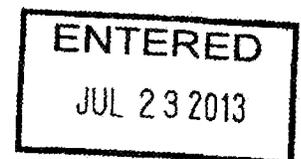
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OHIO FIRST DISTRICT COURT OF APPEALS

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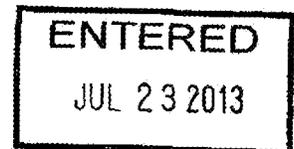
This applicant was previously barred from attending all future proceedings in this matter after violating this Court's conditions in a previous hearing, whereby this Court granted permission to broadcast. This Entry neither alters nor amends this Court's previous Orders or this Court's pending or future 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.

* * *



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:

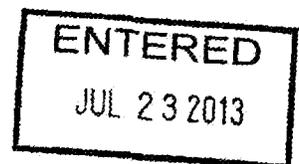
MR. [GREINER]: Your Honor—

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.



HAMILTON COUNTY, OHIO
CERTIFIED COPY JUVENILE COURT

I hereby certify that this document is a true copy of the original on file in the Hamilton County Juvenile Court.

CASE NO. 12-7366

ANTONIO HENDRIX

Date: July 15, 2013

JUDGE TRACIE M. HUNTER

By: [Signature]
Deputy Clerk.

ENTRY GRANTING RESTRICTED ACCESS TO BROADCAST, TELEVISION, RECORD OR PHOTOGRAPH COURTROOM PROCEEDINGS

The person(s) below requested permission to broadcast, televise, photograph, or otherwise record proceedings in the above captioned case.

Cincinnati Enquirer, Applicant

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:

All persons approved to broadcast, televise, photograph, or record courtroom proceedings must comply with Ohio Rules of Superintendence, Rule 12; and Rule 14 of the Rules of Practice of the Hamilton County Juvenile Court.

Broadcasts, videotapes, photographs and recordings may include full images and sound of the judge and all courtroom staff.

In accordance with Superintendence Rule 12 and Rule 14 of the Rules of Practice, all victims and witnesses may object to being filmed, videotaped, recorded, or photographed. If they do object, they **MAY NOT** be filmed, videotaped, recorded, or photographed.

Juvenile Defendants may only be videotaped below the waist. Names of the Defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter. Photographing the Defendants' parents is prohibited, as it may compromise the safety of the juveniles. If Defendants object at any time, a closure hearing shall be conducted.

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.

[Signature] 6/24/2013
Judge Tracie M. Hunter Date

/12/007366 06/24/2013



J7797417 E03

JUVENILE COURT
HAMILTON COUNTY, OHIO

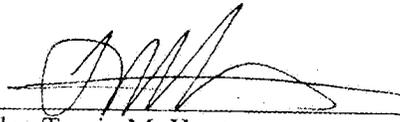
IN RE: D. C.

§ CASE NUMBER: 12-7304

§ ENTRY REVOKING THE
CINCINNATI ENQUIRER'S
PERMISSION TO BROADCAST,
TELEVISION, PHOTOGRAPH, OR
RECORD COURTROOM
PROCEEDINGS

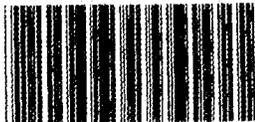
The Cincinnati Enquirer listed the Defendant's name and age in the March 12, 2013 newspaper. The Cincinnati Enquirer was granted permission to broadcast, televise, photograph, or record courtroom proceedings, on September 17, 2012. This permission was conditional in that "Juvenile Defendant may only be videotaped below the waist. Names of the defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter. Photographs of the defendants' parents are prohibited, as it may compromise the safety of the juveniles. If Defendant objects at any time, a closure hearing will be conducted. Otherwise, this journalization reflects the policy for all future proceedings in the above referenced matter."

In accordance with Superintendence Rule 12(D), the Cincinnati Enquirer's permission to broadcast, televise, photograph, or otherwise record proceedings in the above captioned case is hereby revoked.



Judge Tracie M. Hunter
March 15, 2013

/12/007304 03/15/2013



J7733158

E03

JUVENILE COURT
HAMILTON COUNTY, OHIO

IN RE: A. H.

§ CASE NUMBER: 12-7366

§ ENTRY REVOKING THE
CINCINNATI ENQUIRER'S
PERMISSION TO BROADCAST,
TELEVISION, PHOTOGRAPH, OR
RECORD COURTROOM
PROCEEDINGS

The Cincinnati Enquirer listed the Defendant's name and age in the March 12, 2013 newspaper. The Cincinnati Enquirer was granted permission to broadcast, televise, photograph, or record courtroom proceedings, on September 17, 2012. This permission was conditional in that "Juvenile Defendant may only be videotaped below the waist. Names of the defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter. Photographs of the defendants' parents are prohibited, as it may compromise the safety of the juveniles. If Defendant objects at any time, a closure hearing will be conducted. Otherwise, this journalization reflects the policy for all future proceedings in the above referenced matter."

In accordance with Superintendence Rule 12(D), the Cincinnati Enquirer's permission to broadcast, televise, photograph, or otherwise record proceedings in the above captioned case is hereby revoked.



Judge Tracie M. Hunter
March 15, 2013



JUVENILE COURT
HAMILTON COUNTY, OHIO

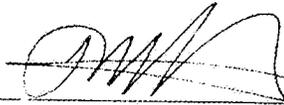
IN RE: A. H.

§ CASE NUMBER: 12-7367

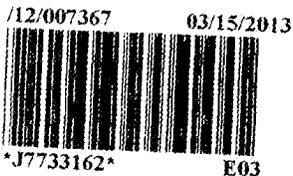
§ ENTRY REVOKING THE
CINCINNATI ENQUIRER'S
PERMISSION TO BROADCAST,
TELEVISION, PHOTOGRAPH, OR
RECORD COURTROOM
PROCEEDINGS

The Cincinnati Enquirer listed the Defendant's name and age in the March 12, 2013 newspaper. The Cincinnati Enquirer was granted permission to broadcast, televise, photograph, or record courtroom proceedings, on September 17, 2012. This permission was conditional in that "Juvenile Defendant may only be videotaped below the waist. Names of the defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter. Photographs of the defendants' parents are prohibited, as it may compromise the safety of the juveniles. If Defendant objects at any time, a closure hearing will be conducted. Otherwise, this journalization reflects the policy for all future proceedings in the above referenced matter."

In accordance with Superintendence Rule 12(D), the Cincinnati Enquirer's permission to broadcast, televise, photograph, or otherwise record proceedings in the above captioned case is hereby revoked.



Judge Tracie M. Hunter
March 15, 2013



JUVENILE COURT
HAMILTON COUNTY, OHIO

IN RE: L. C.

§ CASE NUMBER: 12-7307

§ ENTRY REVOKING THE
CINCINNATI ENQUIRER'S
PERMISSION TO BROADCAST,
TELEVISION, PHOTOGRAPH, OR
RECORD COURTROOM
PROCEEDINGS

The Cincinnati Enquirer listed the Defendant's name and age in the March 12, 2013 newspaper. The Cincinnati Enquirer was granted permission to broadcast, televise, photograph, or record courtroom proceedings, on September 17, 2012. This permission was conditional in that "Juvenile Defendant may only be videotaped below the waist. Names of the defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter. Photographs of the defendants' parents are prohibited, as it may compromise the safety of the juveniles. If Defendant objects at any time, a closure hearing will be conducted. Otherwise, this journalization reflects the policy for all future proceedings in the above referenced matter."

In accordance with Superintendence Rule 12(D), the Cincinnati Enquirer's permission to broadcast, televise, photograph, or otherwise record proceedings in the above captioned case is hereby revoked.



Judge Tracie M. Hunter
March 15, 2013

/12/007307 03/15/2013



J7733157

E03

JUVENILE COURT
HAMILTON COUNTY, OHIO

IN RE: T. M.

§ CASE NUMBER: 12-7285

§ ENTRY REVOKING THE
CINCINNATI ENQUIRER'S
PERMISSION TO BROADCAST,
TELEVISION, PHOTOGRAPH, OR
RECORD COURTROOM
PROCEEDINGS

The Cincinnati Enquirer listed the Defendant's name and age in the March 12, 2013 newspaper. The Cincinnati Enquirer was granted permission to broadcast, televise, photograph, or record courtroom proceedings, on September 17, 2012. This permission was conditional in that "Juvenile Defendant may only be videotaped below the waist. Names of the defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter. Photographs of the defendants' parents are prohibited, as it may compromise the safety of the juveniles. If Defendant objects at any time, a closure hearing will be conducted. Otherwise, this journalization reflects the policy for all future proceedings in the above referenced matter."

In accordance with Superintendence Rule 12(D), the Cincinnati Enquirer's permission to broadcast, televise, photograph, or otherwise record proceedings in the above captioned case is hereby revoked.



Judge Tracie M. Hunter
March 25, 2013

/12/007285

03/25/2013



J7737250

E03

JUVENILE COURT
HAMILTON COUNTY, OHIO

IN RE: T. M.

§ CASE NUMBER: 12-7305

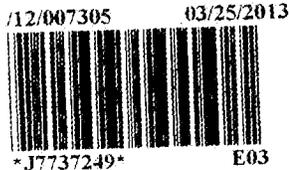
§ ENTRY REVOKING THE
CINCINNATI ENQUIRER'S
PERMISSION TO BROADCAST,
TELEVISION, PHOTOGRAPH, OR
RECORD COURTROOM
PROCEEDINGS

The Cincinnati Enquirer listed the Defendant's name and age in the March 12, 2013 newspaper. The Cincinnati Enquirer was granted permission to broadcast, televise, photograph, or record courtroom proceedings, on September 17, 2012. This permission was conditional in that "Juvenile Defendant may only be videotaped below the waist. Names of the defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter. Photographs of the defendants' parents are prohibited, as it may compromise the safety of the juveniles. If Defendant objects at any time, a closure hearing will be conducted. Otherwise, this journalization reflects the policy for all future proceedings in the above referenced matter."

In accordance with Superintendence Rule 12(D), the Cincinnati Enquirer's permission to broadcast, televise, photograph, or otherwise record proceedings in the above captioned case is hereby revoked.



Judge Tracie M. Hunter
March 25, 2013



JUVENILE COURT
HAMILTON COUNTY, OHIO

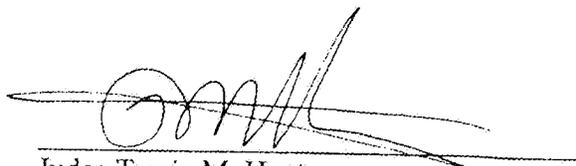
IN RE: M. J.

§ CASE NUMBER: 12-7279

§ ENTRY REVOKING THE
CINCINNATI ENQUIRER'S
PERMISSION TO BROADCAST,
TELEVISION, PHOTOGRAPH, OR
RECORD COURTROOM
PROCEEDINGS

The Cincinnati Enquirer listed the Defendant's name and age in the March 12, 2013 newspaper. The Cincinnati Enquirer was granted permission to broadcast, televise, photograph, or record courtroom proceedings, on September 17, 2012. This permission was conditional in that "Juvenile Defendant may only be videotaped below the waist. Names of the defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter. Photographs of the defendants' parents are prohibited, as it may compromise the safety of the juveniles. If Defendant objects at any time, a closure hearing will be conducted. Otherwise, this journalization reflects the policy for all future proceedings in the above referenced matter."

In accordance with Superintendence Rule 12(D), the Cincinnati Enquirer's permission to broadcast, televise, photograph, or otherwise record proceedings in the above captioned case is hereby revoked.



Judge Tracie M. Hunter
March 25, 2013

/12/007279 03/25/2013



J7737246

E03

JUVENILE COURT
HAMILTON COUNTY, OHIO

IN RE: M. J.

§ CASE NUMBER: 12-7308

§ ENTRY REVOKING THE
CINCINNATI ENQUIRER'S
PERMISSION TO BROADCAST,
TELEVISION, PHOTOGRAPH, OR
RECORD COURTROOM
PROCEEDINGS

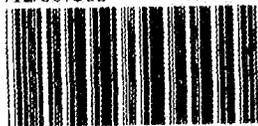
The Cincinnati Enquirer listed the Defendant's name and age in the March 12, 2013 newspaper. The Cincinnati Enquirer was granted permission to broadcast, televise, photograph, or record courtroom proceedings, on September 17, 2012. This permission was conditional in that "Juvenile Defendant may only be videotaped below the waist. Names of the defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter. Photographs of the defendants' parents are prohibited, as it may compromise the safety of the juveniles. If Defendant objects at any time, a closure hearing will be conducted. Otherwise, this journalization reflects the policy for all future proceedings in the above referenced matter."

In accordance with Superintendence Rule 12(D), the Cincinnati Enquirer's permission to broadcast, televise, photograph, or otherwise record proceedings in the above captioned case is hereby revoked.



Judge Tracie M. Hunter
March 25, 2013

/12/007308 03/25/2013



J7737247

E03

JUVENILE COURT
HAMILTON COUNTY, OHIO

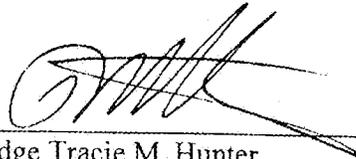
IN RE: T. M.

§ CASE NUMBER: 12-7288

§ ENTRY REVOKING THE
CINCINNATI ENQUIRER'S
PERMISSION TO BROADCAST,
TELEVISION, PHOTOGRAPH, OR
RECORD COURTROOM
PROCEEDINGS

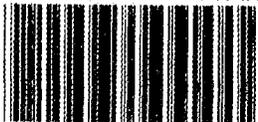
The Cincinnati Enquirer listed the Defendant's name and age in the March 12, 2013 newspaper. The Cincinnati Enquirer was granted permission to broadcast, televise, photograph, or record courtroom proceedings, on September 17, 2012. This permission was conditional in that "Juvenile Defendant may only be videotaped below the waist. Names of the defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter. Photographs of the defendants' parents are prohibited, as it may compromise the safety of the juveniles. If Defendant objects at any time, a closure hearing will be conducted. Otherwise, this journalization reflects the policy for all future proceedings in the above referenced matter."

In accordance with Superintendence Rule 12(D), the Cincinnati Enquirer's permission to broadcast, televise, photograph, or otherwise record proceedings in the above captioned case is hereby revoked.



Judge Tracie M. Hunter
March 25, 2013

/12/007288 03/25/2013



J7737252

E03

JUVENILE COURT
HAMILTON COUNTY, OHIO

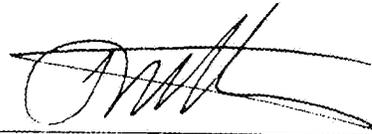
IN RE: T. M.

§ CASE NUMBER: 12-7306

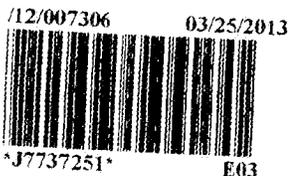
§ ENTRY REVOKING THE
CINCINNATI ENQUIRER'S
PERMISSION TO BROADCAST,
TELEVISION, PHOTOGRAPH, OR
RECORD COURTROOM
PROCEEDINGS

The Cincinnati Enquirer listed the Defendant's name and age in the March 12, 2013 newspaper. The Cincinnati Enquirer was granted permission to broadcast, televise, photograph, or record courtroom proceedings, on September 17, 2012. This permission was conditional in that "Juvenile Defendant may only be videotaped below the waist. Names of the defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter. Photographs of the defendants' parents are prohibited, as it may compromise the safety of the juveniles. If Defendant objects at any time, a closure hearing will be conducted. Otherwise, this journalization reflects the policy for all future proceedings in the above referenced matter."

In accordance with Superintendence Rule 12(D), the Cincinnati Enquirer's permission to broadcast, televise, photograph, or otherwise record proceedings in the above captioned case is hereby revoked.



Judge Tracie M. Hunter
March 25, 2013



HAMILTON COUNTY, OHIO
JUVENILE COURT

TERREL MIZELL

§ CASE NO. 12/7288 12/7306



JUDGE TRACIE M. HUNTER

§ APPLICATION REQUESTING PERMISSION TO
BROADCAST, TELEVISION, PHOTOGRAPH, OR
RECORD COURTROOM PROCEEDINGS

The person(s) below hereby request permission to broadcast, televise, photograph, or otherwise record proceedings in the above captioned case under the provisions of Ohio Superintendence Rule 12. We hereby certify that the conditions for recording established by the Supreme Court of Ohio and such rules as are established by this Court will be complied with and any cost arising therefrom shall be borne by the undersigned applicant(s).

Cincinnati Enquirer
Applicant

The Court, upon consideration of the above request, hereby grants its authorization to broadcast, televise, photograph, or otherwise record judicial proceedings in the above captioned matter, subject to the following conditions:

All persons approved to broadcast, televise, photograph, or record courtroom proceedings must comply with Ohio Rules of Superintendence, Rule 12 attached to this application / order.

All persons approved to broadcast, televise, photograph, or record courtroom proceedings must comply with Ohio Rules of Superintendence, Rule 12.

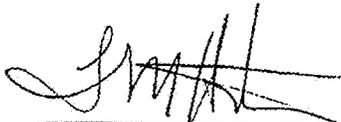
Broadcasts, videotape, photographs and recordings may include full images and sound of the judge and all courtroom staff.

In accordance with Superintendence Rule 12, all victims and witnesses may object to being filmed, videotaped, recorded, or photographed; and if they do object, they MAY NOT be filmed, videotaped, recorded, or photographed.

Juvenile Defendant may only be videotaped below the waist. Names of the defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter. Photographs of the defendants' parents are prohibited, as it may compromise the safety of the juveniles. If Defendants object at any time, a closure hearing will be conducted. Otherwise, this journalization reflects the policy for all future proceedings in the above referenced matter.

Seek permission from the prosecutor and defense counsel regarding filming them.

In ReTR, 52 OS 3rd 6 (990)
Dispatch v. Green, 114 OS 3rd 511 (2007)
National Broadcasting v. Lake County, 52 OS 3rd 4 (1990)
Grinnell v. Love, 62 OS 2nd 399 (1980)
Plain Dealer v. Geauga County, 90 OS 3rd 79 (2000)
Conway v. United States, 852 F 2nd 157 (1988)


Judge Tracie M. Hunter Sept 17, 2012
Date

RULE 12. Conditions for Broadcasting and Photographing Court Proceedings.

(A) **Presiding judge.** The judge assigned to the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings that are open to the public as provided by Ohio law. After consultation with the media, the judge shall specify the place or places in the courtroom where the operators and equipment are to be positioned. Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the written order of the judge shall be made a part of the record of the proceedings.

(B) Permissible equipment and operators.

(1) Use of more than one portable television, videotape, or movie camera with one operator shall be allowed only with the permission of the judge.

(2) Not more than one still photographer shall be permitted to photograph trial proceedings without permission of the judge. Still photographers shall be limited to two cameras with two lenses for each camera.

(3) For radio broadcast purposes, not more than one audio system shall be permitted in court. Where available and suitable, existing audio pickup systems in the court facility shall be used by the media. If existing audio pickup systems are not available, microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible but shall be visible.

(4) Visible audio recording equipment may be used by news media reporters with the prior permission of the judge.

(5) Arrangements between or among media for "pooling" of equipment shall be the responsibility of the media representative authorized to cover the proceeding. "Pooling" arrangements are to be made outside the courtroom and without imposing on the judge or court personnel. If disputes arise over arrangements between or among media representatives, the judge may exclude all contesting representatives from the proceedings.

(6) The judge shall prohibit the use of electronic or photographic equipment that produces distracting sound or light. No artificial lighting other than that normally used in the courtroom shall be employed, provided that, if the normal lighting in the courtroom can be improved without becoming obtrusive, the judge may permit modification.

(7) Still photographers and television and radio representatives shall be afforded a clear view but shall not be permitted to move about in the courtroom during court proceedings from the places where they have been positioned by the judge, except to leave or enter the courtroom.

Rule 12(B) Permissible Equipment and Operators

Not more than one portable television, videotape, or movie camera with one operator and not more than one still photographer with two cameras shall be allowed unless the judge presiding at the trial or hearing specifically permits additional cameras or operators. Each of the two still cameras permitted by the rule is limited to two lenses.

For purposes of radio broadcasting, not more than one audio system is permitted. If an existing audio system is available and suitable, it shall be used. If an audio system is not available, then microphones and other necessary equipment "shall be as inconspicuous as possible but must be visible."

Portable audio recording equipment may be used by reporters if it is visible and if the permission of the judge presiding at the trial or hearing is first obtained.

All pooling arrangements are the responsibility of the media representatives. Pooling arrangements must be made without involving the court. If any disputes arise, the judge may exclude all contesting media representatives.

Electronic or photographic equipment that produces distracting sound or light shall be prohibited by the judge. No artificial lighting, other than that normally used in the courtroom, is permitted unless the judge, upon request and after consultation with the media representatives, determines that the normal light can be improved without becoming obtrusive.

Still photographers and television and radio representatives shall not move about the courtroom from the place where they have been positioned by the judge, except to leave or enter the courtroom.

Rule 12(C) Limitations

Audio pickup or broadcast of conferences in a court facility between attorney and client or between counsel and the judge are prohibited.

The trial judge must advise victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.

No part of Rule 12 gives authority for media coverage where it is otherwise limited or prohibited by law.

While the court is in session, media representatives are not permitted to either transmit or record anything from the courtroom other than court proceedings.

(C) Limitations.

(1) There shall be no audio pickup or broadcast of conferences conducted in a court facility between attorneys and clients or co-counsel or of conferences conducted at the bench between counsel and the judge.

(2) The judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.

(3) This rule shall not be construed to grant media representatives any greater rights than permitted by law.

(4) Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.

(D) Revocation of permission. Upon the failure of any media representative to comply with the conditions prescribed by this rule or the judge, the judge may revoke the permission to broadcast or photograph the trial or hearing.

Commentary (July 1, 1997)

Rule 12 is analogous to former C.P. Sup. R. 11 and M.C. Sup. R. 9. Division (A) was revised to include a reference to standards set forth in Ohio law, such as *In re T.R.* (1990), 52 Ohio St.3d 6, that govern public access to court proceedings. The 1997 amendments also eliminated the prohibition against changing film and videotape during court proceedings.

Rule 12(A) Presiding Judge

The judge assigned to the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings open to the public, upon request, if the judge determines that to do so would not distract the participants, impair the dignity of the proceedings or otherwise materially interfere with the achievement of a fair trial. Both the request for permission and the ruling on the request must be in writing and made a part of the record of the proceedings.

The filming, videotaping, recording, or taking of photographs of victims or witnesses who object shall not be permitted.

After consultation with the media the judge specifies the locations within the courtroom where operators and equipment may be located. However, still photographers and television and radio representatives must be given a clear view of the proceedings under division (B)(7).

Rule 12(D) Revocation of Permission

If any media representative fails to comply with the conditions set by either the judge or this rule, the judge may revoke the permission to broadcast or photograph the trial or hearing

HAMILTON COUNTY, OHIO
JUVENILE COURT

TERREL MIZELL

§ CASE NO.12/7288 (2/7306)



JUDGE TRACIE M. HUNTER

§ APPLICATION REQUESTING PERMISSION TO
BROADCAST, TELEWISE, PHOTOGRAPH, OR
RECORD COURTROOM PROCEEDINGS

The person(s) below hereby request permission to broadcast, televise, photograph, or otherwise record proceedings in the above captioned case under the provisions of Ohio Superintendence Rule 12. We hereby certify that the conditions for recording established by the Supreme Court of Ohio and such rules as are established by this Court will be complied with and any cost arising therefrom shall be borne by the undersigned applicant(s).

Cincinnati Enquirer
Applicant

The Court, upon consideration of the above request, hereby grants its authorization to broadcast, televise, photograph, or otherwise record judicial proceedings in the above captioned matter, subject to the following conditions:

All persons approved to broadcast, televise, photograph, or record courtroom proceedings must comply with Ohio Rules of Superintendence, Rule 12 attached to this application / order.

All persons approved to broadcast, televise, photograph, or record courtroom proceedings must comply with Ohio Rules of Superintendence, Rule 12.

Broadcasts, videotape, photographs and recordings may include full images and sound of the judge and all courtroom staff.

In accordance with Superintendence Rule 12, all victims and witnesses may object to being filmed, videotaped, recorded, or photographed; and if they do object, they MAY NOT be filmed, videotaped, recorded, or photographed.

Juvenile Defendant may only be videotaped below the waist. Names of the defendants and their parents are barred from publication or broadcast for all current and future proceedings regarding this matter. Photographs of the defendants' parents are prohibited, as it may compromise the safety of the juveniles. If Defendants object at any time, a closure hearing will be conducted. Otherwise, this journalization reflects the policy for all future proceedings in the above referenced matter.

Seek permission from the prosecutor and defense counsel regarding filming them. ,

In ReTR, 52 OS 3rd 6 (990)
Dispatch v Green, 114 OS 3rd 511 (2007)
National Broadcasting v Lake County, 52 OS 3rd 4 (1990)
Grinell v Love, 62 OS 2nd 399 (1980)
Plain Dealer v Geauga County, 90 OS 3rd 79 (2000)
Conway v United States, 852 F 2nd 157 (1988)

 Sept 17, 2012

Judge Tracie M. Hunter Date

RULE 12. Conditions for Broadcasting and Photographing Court Proceedings.

(A) **Presiding judge.** The judge assigned to the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings that are open to the public as provided by Ohio law. After consultation with the media, the judge shall specify the place or places in the courtroom where the operators and equipment are to be positioned. Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the written order of the judge shall be made a part of the record of the proceedings.

(B) **Permissible equipment and operators.**

(1) Use of more than one portable television, videotape, or movie camera with one operator shall be allowed only with the permission of the judge.

(2) Not more than one still photographer shall be permitted to photograph trial proceedings without permission of the judge. Still photographers shall be limited to two cameras with two lenses for each camera.

(3) For radio broadcast purposes, not more than one audio system shall be permitted in court. Where available and suitable, existing audio pickup systems in the court facility shall be used by the media. If existing audio pickup systems are not available, microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible but shall be visible.

(4) Visible audio recording equipment may be used by news media reporters with the prior permission of the judge.

(5) Arrangements between or among media for "pooling" of equipment shall be the responsibility of the media representative authorized to cover the proceeding. "Pooling" arrangements are to be made outside the courtroom and without imposing on the judge or court personnel. If disputes arise over arrangements between or among media representatives, the judge may exclude all contesting representatives from the proceedings.

(6) The judge shall prohibit the use of electronic or photographic equipment that produces distracting sound or light. No artificial lighting other than that normally used in the courtroom shall be employed, provided that, if the normal lighting in the courtroom can be improved without becoming obtrusive, the judge may permit modification.

(7) Still photographers and television and radio representatives shall be afforded a clear view but shall not be permitted to move about in the courtroom during court proceedings from the places where they have been positioned by the judge, except to leave or enter the courtroom.

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Rule 12(B) Permissible Equipment and Operators

Not more than one portable television, videotape, or movie camera with one operator and not more than one still photographer with two cameras shall be allowed unless the judge presiding at the trial or hearing specifically permits additional cameras or operators. Each of the two still cameras permitted by the rule is limited to two lenses.

For purposes of radio broadcasting, not more than one audio system is permitted. If an existing audio system is available and suitable, it shall be used. If an audio system is not available, then microphones and other necessary equipment "shall be as inconspicuous as possible but must be visible."

Portable audio recording equipment may be used by reporters if it is visible and if the permission of the judge presiding at the trial or hearing is first obtained.

All pooling arrangements are the responsibility of the media representatives. Pooling arrangements must be made without involving the court. If any disputes arise, the judge may exclude all contesting media representatives.

Electronic or photographic equipment that produces distracting sound or light shall be prohibited by the judge. No artificial lighting, other than that normally used in the courtroom, is permitted unless the judge, upon request and after consultation with the media representatives, determines that the normal light can be improved without becoming obtrusive.

Still photographers and television and radio representatives shall not move about the courtroom from the place where they have been positioned by the judge, except to leave or enter the courtroom.

Rule 12(C) Limitations

Audio pickup or broadcast of conferences in a court facility between attorney and client or between counsel and the judge are prohibited.

The trial judge must advise victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.

No part of Rule 12 gives authority for media coverage where it is otherwise limited or prohibited by law.

While the court is in session, media representatives are not permitted to either transmit or record anything from the courtroom other than court proceedings.

(C) Limitations.

(1) There shall be no audio pickup or broadcast of conferences conducted in a court facility between attorneys and clients or co-counsel or of conferences conducted at the bench between counsel and the judge.

(2) The judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.

(3) This rule shall not be construed to grant media representatives any greater rights than permitted by law.

(4) Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.

(D) Revocation of permission. Upon the failure of any media representative to comply with the conditions prescribed by this rule or the judge, the judge may revoke the permission to broadcast or photograph the trial or hearing.

Commentary (July 1, 1997)

Rule 12 is analogous to former C.P. Sup. R. 11 and M.C. Sup. R. 9. Division (A) was revised to include a reference to standards set forth in Ohio law, such as *In re T.R.* (1990), 52 Ohio St.3d 6, that govern public access to court proceedings. The 1997 amendments also eliminated the prohibition against changing film and videotape during court proceedings.

Rule 12(A) Presiding Judge

The judge assigned to the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings open to the public, upon request, if the judge determines that to do so would not distract the participants, impair the dignity of the proceedings or otherwise materially interfere with the achievement of a fair trial. Both the request for permission and the ruling on the request must be in writing and made a part of the record of the proceedings.

The filming, videotaping, recording, or taking of photographs of victims or witnesses who object shall not be permitted.

After consultation with the media the judge specifies the locations within the courtroom where operators and equipment may be located. However, still photographers and television and radio representatives must be given a clear view of the proceedings under division (B)(7).

Rule 12(D) Revocation of Permission

If any media representative fails to comply with the conditions set by either the judge or this rule, the judge may revoke the permission to broadcast or photograph the trial or hearing

Hamilton County Juvenile Court



FOR IMMEDIATE RELEASE

July 24, 2013

CONTACT: Judge Tracie M. Hunter
Hamilton County Juvenile Court
800 Broadway, 12th floor
Cincinnati, Ohio 45202
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RESPONSE TO CONTEMPT

CINCINNATI, OH-The tenets and policies of Juvenile Court require Juvenile Court Judges to do what is in the best interest of children. Children are treated differently than adults in order to rehabilitate. While the laws protect the public's right to know, and the media's first amendment rights to publish, these same laws also require a balancing act when dealing with juveniles, which allows juvenile court judges to weigh the public interest versus the potential harm to a child when making a determination whether or not to open or close a proceeding. Unlike adult criminal proceedings, which are open to the public, juvenile proceedings are neither presumed opened or closed. The laws, Ohio Rules of Superintendence and Hamilton County Local Rules of Practice must guide a juvenile court Judge in making a critical decision as to whether or not to open or close a juvenile delinquency proceeding.

In making my decisions regarding opening cases to the media, I rely on Ohio Superintendence Rule 12 and Rule 14 of the Rules of Practice of the Hamilton County Juvenile Court. These pre-existing rules, which long proceed my judicial tenure, govern my courtroom operation.

RULE 12. Conditions for Broadcasting and Photographing Court Proceedings.

(A) Presiding judge. The judge assigned to the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings that are open to the public as provided by Ohio law. ... Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the written order of the judge shall be made a part of the record of the proceedings.

(D) Revocation of permission. Upon the failure of any media representative to comply with the conditions prescribed by this rule or the judge, the judge may revoke the permission to broadcast or photograph the trial or hearing.

RULE 14. Broadcasting, Televising, Photographing, or Recording of Proceedings

(A) Request to Broadcast, Televising, Photograph, or Record Proceedings

Requests for permission to broadcast, televise, photograph, or otherwise record courtroom proceedings shall be submitted in writing to the judge or magistrate presiding over the hearing. The request shall be made as far in advance as is reasonably possible, but in no event later than 24 hours before the hearing to be recorded. The judge or magistrate may waive the advance notice provision for good cause. The court shall immediately attempt to inform the attorneys for all parties of a request by the media through means most suitable to achieve actual and prompt notice of the request.

(D) Victims, Witnesses and Jurors; Identification of Parties

The filming, videotaping, recording, or photographing of a victim, witness, or juror is prohibited without specific authorization of the court. If the subject matter of the proceeding is a child, the name or identity of any party, witness, child, parent, or participant shall not be disclosed unless by specific authorization of the court.

While as a Judge, I am not free to comment on pending cases, which limits my ability to defend my decision to exercise judicial discretion in implementing the laws and rules, it is my practice to strictly follow the aforementioned rules in every juvenile case, in a manner that protects the best interest of the juveniles. Pursuant to evidence-based best practices, in juvenile justice reform, if juveniles who offend early are properly rehabilitated with the least amount of trauma, the Juvenile Court, can meet the objectives of treating children and reducing the recidivism rate. It is with these goals in mind that I rule on a case by case basis to protect children each day.

I have never prohibited any media from attending any initial proceeding in my courtroom, if proper application has been made, but I routinely bar the publishing of names in compliance with Rule 14 at those proceedings. I have only barred a media from attending hearings after the violation of my written rulings, pursuant to Rule 12(D). My rulings comply with Rule 14(D).

As a Judge, I would never disobey a higher Court Order. It is my belief that I was following a Court Order, when subsequently charged and held in contempt. I was ordered to allow the barred media to attend hearings in my courtroom. Pursuant to the First District Court of Appeals, I opened the hearings; the media was granted access and did attend the hearings. I followed Rule 14, as that it is the current Rule of Practice for Hamilton County. I was subsequently held in contempt of court, to the best of my knowledge, for following Rule 14. At no time was any media, prohibited or barred from attending any hearing in my courtroom after a court order.

Judicial Officers are held to the highest standards, and in following the rules of Court and the existing laws of the land, while balancing the policies governing the treatment of children, I believe that I have followed the law and upheld my judicial obligations to the public.

I am appealing the finding of contempt to the Ohio Supreme Court because I followed the Court Order exactly as it was written. Appeal is the only remedy available to prove my compliance.

R.C. 309.09 Legal adviser - additional legal counsel.

(A) The prosecuting attorney shall be the legal adviser of the board of county commissioners, board of elections, all other county officers and boards, and all tax-supported public libraries, and any of them may require written opinions or instructions from the prosecuting attorney in matters connected with their official duties. The prosecuting attorney shall prosecute and defend all suits and actions that any such officer, board, or tax-supported public library directs or to which it is a party, and no county officer may employ any other counsel or attorney at the expense of the county, except as provided in section 305.14 of the Revised Code.

(B)

(1) The prosecuting attorney shall be the legal adviser for all township officers, boards, and commissions, unless, subject to division (B)(2) of this section, the township has adopted a limited home rule government pursuant to Chapter 504. of the Revised Code and has not entered into a contract to have the prosecuting attorney serve as the township law director, in which case, subject to division (B)(2) of this section, the township law director, whether serving full-time or part-time, shall be the legal adviser for all township officers, boards, and commissions. When the board of township trustees finds it advisable or necessary to have additional legal counsel, it may employ an attorney other than the township law director or the prosecuting attorney of the county, either for a particular matter or on an annual basis, to represent the township and its officers, boards, and commissions in their official capacities and to advise them on legal matters. No such legal counsel may be employed, except on the order of the board of township trustees, duly entered upon its journal, in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the township fund.

Nothing in this division confers any of the powers or duties of a prosecuting attorney under section 309.08 of the Revised Code upon a township law director.

(2)

(a) If any township in the county served by the prosecuting attorney has adopted any resolution regarding the operation of adult entertainment establishments pursuant to the authority that is granted under section 503.52 of the Revised Code or if a resolution of that nature has been adopted under section 503.53 of the Revised Code in a township in the county served by the prosecuting attorney, all of the following apply:

(i) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(c) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township in the trial and argument in any court or tribunal of any challenge to the validity of the resolution. If the challenge to the validity of the resolution is before a federal court, the prosecuting attorney may request the attorney general to assist the

prosecuting attorney in prosecuting and defending the challenge and, upon the prosecuting attorney's making of such a request, the attorney general shall assist the prosecuting attorney in performing that service if the resolution was drafted in accordance with legal guidance provided by the attorney general as described in division (B)(2) of section 503.52 of the Revised Code. The attorney general shall provide this assistance without charge to the township for which the service is performed. If a township adopts a resolution without the legal guidance of the attorney general, the attorney general is not required to provide assistance as described in this division to a prosecuting attorney.

(ii) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(a) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township a civil action to enjoin the violation of the resolution in question.

(iii) Upon the request of a township in the county that has adopted, or in which has been adopted, a resolution of that nature that is made pursuant to division (E)(1)(b) of section 503.52 of the Revised Code, the prosecuting attorney shall prosecute and defend on behalf of the township a civil action under Chapter 3767. of the Revised Code to abate as a nuisance the place in the unincorporated area of the township at which the resolution is being or has been violated. Proceeds from the sale of personal property or contents seized pursuant to the action shall be applied and deposited in accordance with division (E)(1)(b) of section 503.52 of the Revised Code.

(b) The provisions of division (B)(2)(a) of this section apply regarding all townships, including townships that have adopted a limited home rule government pursuant to Chapter 504. of the Revised Code, and regardless of whether a township that has so adopted a limited home rule government has entered into a contract with the prosecuting attorney as described in division (B) of section 504.15 of the Revised Code or has appointed a law director as described in division (A) of that section.

The prosecuting attorney shall prosecute and defend in the actions and proceedings described in division (B)(2)(a) of this section without charge to the township for which the services are performed.

(C) Whenever the board of county commissioners employs an attorney other than the prosecuting attorney of the county, without the authorization of the court of common pleas as provided in section 305.14 of the Revised Code, either for a particular matter or on an annual basis, to represent the board in its official capacity and to advise it on legal matters, the board shall enter upon its journal an order of the board in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the county general fund. The total compensation paid, in any year, by the board for legal services under this division shall not exceed the total annual compensation of the prosecuting attorney for that county.

(D) The prosecuting attorney and the board of county commissioners jointly may contract with a board of park commissioners under section 1545.07 of the Revised Code for the prosecuting attorney to provide legal services to the park district the board of park commissioners operates.

(E) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint fire district created under section 505.371 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioner approves, to authorize the prosecuting attorney to provide legal services to the district.

(F) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint ambulance district created under section 505.71 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(G) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a joint emergency medical services district created under section 307.052 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(H) The prosecuting attorney may be, in the prosecuting attorney's discretion and with the approval of the board of county commissioners, the legal adviser of a fire and ambulance district created under section 505.375 of the Revised Code at no cost to the district or may be the legal adviser to the district under a contract that the prosecuting attorney and the district enter into, and that the board of county commissioners approves, to authorize the prosecuting attorney to provide legal services to the district.

(I) All money received pursuant to a contract entered into under division (D), (E), (F), (G), or (H) of this section shall be deposited into the prosecuting attorney's legal services fund, which shall be established in the county treasury of each county in which such a contract exists. Moneys in that fund may be appropriated only to the prosecuting attorney for the purpose of providing legal services to a park district, joint fire district, joint ambulance district, joint emergency medical services district, or a fire and ambulance district, as applicable, under a contract entered into under the applicable division.

R.C. 2152.12 Transfer of cases.

(A)

(1)

(a) After a complaint has been filed alleging that a child is a delinquent child for committing an act that would be aggravated murder, murder, attempted aggravated murder, or attempted murder if committed by an adult, the juvenile court at a hearing shall transfer the case if either of the following applies:

(i) The child was sixteen or seventeen years of age at the time of the act charged and there is probable cause to believe that the child committed the act charged.

(ii) The child was fourteen or fifteen years of age at the time of the act charged, section 2152.10 of the Revised Code provides that the child is eligible for mandatory transfer, and there is probable cause to believe that the child committed the act charged.

(b) After a complaint has been filed alleging that a child is a delinquent child by reason of committing a category two offense, the juvenile court at a hearing shall transfer the case if the child was sixteen or seventeen years of age at the time of the act charged and either of the following applies:

(i) Division (A)(2)(a) of section 2152.10 of the Revised Code requires the mandatory transfer of the case, and there is probable cause to believe that the child committed the act charged.

(ii) Division (A)(2)(b) of section 2152.10 of the Revised Code requires the mandatory transfer of the case, and there is probable cause to believe that the child committed the act charged.

(2) The juvenile court also shall transfer a case in the circumstances described in division (C)(5) of section 2152.02 of the Revised Code or if either of the following applies:

(a) A complaint is filed against a child who is eligible for a discretionary transfer under section 2152.10 of the Revised Code and who previously was convicted of or pleaded guilty to a felony in a case that was transferred to a criminal court.

(b) A complaint is filed against a child who is domiciled in another state alleging that the child is a delinquent child for committing an act that would be a felony if committed by an adult, and, if the act charged had been committed in that other state, the child would be subject to criminal prosecution as an adult under the law of that other state without the

need for a transfer of jurisdiction from a juvenile, family, or similar noncriminal court to a criminal court.

(3) If a complaint is filed against a child alleging that the child is a delinquent child and the case is transferred pursuant to division (A)(1)(a)(i) or (A)(1)(b)(ii) of this section and if the child subsequently is convicted of or pleads guilty to an offense in that case, the sentence to be imposed or disposition to be made of the child shall be determined in accordance with section 2152.121 of the Revised Code.

(B) Except as provided in division (A) of this section, after a complaint has been filed alleging that a child is a delinquent child for committing an act that would be a felony if committed by an adult, the juvenile court at a hearing may transfer the case if the court finds all of the following:

(1) The child was fourteen years of age or older at the time of the act charged.

(2) There is probable cause to believe that the child committed the act charged.

(3) The child is not amenable to care or rehabilitation within the juvenile system, and the safety of the community may require that the child be subject to adult sanctions. In making its decision under this division, the court shall consider whether the applicable factors under division (D) of this section indicating that the case should be transferred outweigh the applicable factors under division (E) of this section indicating that the case should not be transferred. The record shall indicate the specific factors that were applicable and that the court weighed.

(C) Before considering a transfer under division (B) of this section, the juvenile court shall order an investigation into the child's social history, education, family situation, and any other factor bearing on whether the child is amenable to juvenile rehabilitation, including a mental examination of the child by a public or private agency or a person qualified to make the examination. The investigation shall be completed and a report on the investigation shall be submitted to the court as soon as possible but not more than forty-five calendar days after the court orders the investigation. The court may grant one or more extensions for a reasonable length of time. The child may waive the examination required by this division if the court finds that the waiver is competently and intelligently made. Refusal to submit to a mental examination by the child constitutes a waiver of the examination.

(D) In considering whether to transfer a child under division (B) of this section, the juvenile court shall consider the following relevant factors, and any other relevant factors, in favor of a transfer under that division:

(1) The victim of the act charged suffered physical or psychological harm, or serious economic harm, as a result of the alleged act.

(2) The physical or psychological harm suffered by the victim due to the alleged act of the child was exacerbated because of the physical or psychological vulnerability or the age of the victim.

(3) The child's relationship with the victim facilitated the act charged.

(4) The child allegedly committed the act charged for hire or as a part of a gang or other organized criminal activity.

(5) The child had a firearm on or about the child's person or under the child's control at the time of the act charged, the act charged is not a violation of section 2923.12 of the Revised Code, and the child, during the commission of the act charged, allegedly used or displayed the firearm, brandished the firearm, or indicated that the child possessed a firearm.

(6) At the time of the act charged, the child was awaiting adjudication or disposition as a delinquent child, was under a community control sanction, or was on parole for a prior delinquent child adjudication or conviction.

(7) The results of any previous juvenile sanctions and programs indicate that rehabilitation of the child will not occur in the juvenile system.

(8) The child is emotionally, physically, or psychologically mature enough for the transfer.

(9) There is not sufficient time to rehabilitate the child within the juvenile system.

(E) In considering whether to transfer a child under division (B) of this section, the juvenile court shall consider the following relevant factors, and any other relevant factors, against a transfer under that division:

(1) The victim induced or facilitated the act charged.

(2) The child acted under provocation in allegedly committing the act charged.

(3) The child was not the principal actor in the act charged, or, at the time of the act charged, the child was under the negative influence or coercion of another person.

(4) The child did not cause physical harm to any person or property, or have reasonable cause to believe that harm of that nature would occur, in allegedly committing the act charged.

(5) The child previously has not been adjudicated a delinquent child.

(6) The child is not emotionally, physically, or psychologically mature enough for the transfer.

(7) The child has a mental illness or is a mentally retarded person.

(8) There is sufficient time to rehabilitate the child within the juvenile system and the level of security available in the juvenile system provides a reasonable assurance of public safety.

(F) If one or more complaints are filed alleging that a child is a delinquent child for committing two or more acts that would be offenses if committed by an adult, if a motion is made alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred for, and if a motion also is made requesting that the case or cases involving one or more of the acts charged be transferred pursuant to division (B) of this section, the juvenile court, in deciding the motions, shall proceed in the following manner:

(1) Initially, the court shall decide the motion alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred.

(2) If the court determines that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred, the court shall transfer the case or cases in accordance with that division. After the transfer pursuant to division (A) of this section, the court shall decide, in accordance with division (B) of this section, whether to grant the motion requesting that the case or cases involving one or more of the acts charged be transferred pursuant to that division. Notwithstanding division (B) of this section, prior to transferring a case pursuant to division (A) of this section, the court is not required to consider any factor specified in division (D) or (E) of this section or to conduct an investigation under division (C) of this section.

(3) If the court determines that division (A) of this section does not require that the case or cases involving one or more of the acts charged be transferred, the court shall decide in accordance with division (B) of this section whether to grant the motion requesting that the case or cases involving one or more of the acts charged be transferred pursuant to that division.

(4) No report on an investigation conducted pursuant to division (C) of this section shall include details of the alleged offense as reported by the child.

(G) The court shall give notice in writing of the time, place, and purpose of any hearing held pursuant to division (A) or (B) of this section to the child's parents, guardian, or other custodian and to the child's counsel at least three days prior to the hearing.

(H) No person, either before or after reaching eighteen years of age, shall be prosecuted as an adult for an offense committed prior to becoming eighteen years of age, unless the person has been transferred as provided in division (A) or (B) of this section or unless division (J) of this section applies. Any prosecution that is had in a criminal court on the mistaken belief that the person who is the subject of the case was eighteen years of age or older at the time of the commission of the offense shall be deemed a nullity, and the person shall not be considered to have been in jeopardy on the offense.

(I) Upon the transfer of a case under division (A) or (B) of this section, the juvenile court shall state the reasons for the transfer on the record, and shall order the child to enter into a recognizance with good and sufficient surety for the child's appearance before the appropriate court for any disposition that the court is authorized to make for a similar act committed by an adult. The transfer abates the jurisdiction of the juvenile court with respect to the delinquent acts alleged in the complaint, and, upon the transfer, all further proceedings pertaining to the act charged shall be discontinued in the juvenile court, and the case then shall be within the jurisdiction of the court to which it is transferred as described in division (H) of section 2151.23 of the Revised Code.

(J) If a person under eighteen years of age allegedly commits an act that would be a felony if committed by an adult and if the person is not taken into custody or apprehended for that act until after the person attains twenty-one years of age, the juvenile court does not have jurisdiction to hear or determine any portion of the case charging the person with committing that act. In those circumstances, divisions (A) and (B) of this section do not apply regarding the act, and the case charging the person with committing the act shall be a criminal prosecution commenced and heard in the appropriate court having jurisdiction of the offense as if the person had been eighteen years of age or older when the person committed the act. All proceedings pertaining to the act shall be within the jurisdiction of the court having jurisdiction of the offense, and that court has all the authority and duties in the case as it has in other criminal cases in that court.

R.C. 2152.121 Retention of jurisdiction for purposes of making disposition.

(A) If a complaint is filed against a child alleging that the child is a delinquent child and the case is transferred pursuant to division (A)(1)(a)(i) or (A)(1)(b)(ii) of section 2152.12 of the Revised Code, the juvenile court that transferred the case shall retain jurisdiction for purposes of making disposition of the child when required under division (B) of this section.

(B) If a complaint is filed against a child alleging that the child is a delinquent child, if the case is transferred pursuant to division (A)(1)(a)(i) or (A)(1)(b)(ii) of section 2152.12 of the Revised Code, and if the child subsequently is convicted of or pleads guilty to an offense in that case, the sentence to be imposed or disposition to be made of the child shall be determined as follows:

(1) The court in which the child is convicted of or pleads guilty to the offense shall determine whether, had a complaint been filed in juvenile court alleging that the child was a delinquent child for committing an act that would be that offense if committed by an adult, division (A) of section 2152.12 of the Revised Code would have required mandatory transfer of the case or division (B) of that section would have allowed discretionary transfer of the case. The court shall not consider the factor specified in division (B)(3) of section 2152.12 of the Revised Code in making its determination under this division.

(2) If the court in which the child is convicted of or pleads guilty to the offense determines under division (B)(1) of this section that, had a complaint been filed in juvenile court alleging that the child was a delinquent child for committing an act that would be that offense if committed by an adult, division (A) of section 2152.12 of the Revised Code would not have required mandatory transfer of the case, and division (B) of that section would not have allowed discretionary transfer of the case, the court shall transfer jurisdiction of the case back to the juvenile court that initially transferred the case, the court and all other agencies that have any record of the conviction of the child or the child's guilty plea shall expunge the conviction or guilty plea and all records of it, the conviction or guilty plea shall be considered and treated for all purposes other than as provided in this section to have never occurred, the conviction or guilty plea shall be considered and treated for all purposes other than as provided in this section to have been a delinquent child adjudication of the child, and the juvenile court shall impose one or more traditional juvenile dispositions upon the child under sections 2152.19 and 2152.20 of the Revised Code.

(3) If the court in which the child is convicted of or pleads guilty to the offense determines under division (B)(1) of this section that, had a complaint been filed in juvenile court alleging that the child was a delinquent child for committing an act that would be that offense if committed by an adult, division (A) of section 2152.12 of the Revised Code would not have required mandatory transfer of the case but division (B) of that section would have allowed discretionary transfer of the case, the court shall determine the sentence it believes should be imposed upon the child under Chapter 2929.

of the Revised Code, shall impose that sentence upon the child, and shall stay that sentence pending completion of the procedures specified in this division. Upon imposition and staying of the sentence, the court shall transfer jurisdiction of the case back to the juvenile court that initially transferred the case and the juvenile court shall proceed in accordance with this division. In no case may the child waive a right to a hearing of the type described in division (B)(3)(b) of this section, regarding a motion filed as described in that division by the prosecuting attorney in the case. Upon transfer of jurisdiction of the case back to the juvenile court, both of the following apply:

(a) Except as otherwise provided in division (B)(3)(b) of this section, the juvenile court shall impose a serious youthful offender dispositional sentence upon the child under division (D)(1) of section 2152.13 of the Revised Code. In imposing the adult portion of that sentence, the juvenile court shall consider and give preference to the sentence imposed upon the child by the court in which the child was convicted of or pleaded guilty to the offense. Upon imposing a serious youthful offender dispositional sentence upon the child as described in this division, the juvenile court shall notify the court in which the child was convicted of or pleaded guilty to the offense, the sentence imposed upon the child by that court shall terminate, the court and all other agencies that have any record of the conviction of the child or the child's guilty plea shall expunge the conviction or guilty plea and all records of it, the conviction or guilty plea shall be considered and treated for all purposes other than as provided in this section to have never occurred, and the conviction or guilty plea shall be considered and treated for all purposes other than as provided in this section to have been a delinquent child adjudication of the child.

(b) Within fourteen days after the filing of the journal entry regarding the transfer, the prosecuting attorney in the case may file a motion in the juvenile court that objects to the imposition of a serious youthful offender dispositional sentence upon the child and requests that the sentence imposed upon the child by the court in which the child was convicted of or pleaded guilty to the offense be invoked. Upon the filing of a motion under this division, the juvenile court shall hold a hearing to determine whether the child is not amenable to care or rehabilitation within the juvenile system and whether the safety of the community may require that the child be subject solely to adult sanctions. If the juvenile court at the hearing finds that the child is not amenable to care or rehabilitation within the juvenile system or that the safety of the community may require that the child be subject solely to adult sanctions, the court shall grant the motion. Absent such a finding, the juvenile court shall deny the motion. In making its decision under this division, the juvenile court shall consider the factors listed in division (D) of section 2152.12 of the Revised Code as factors indicating that the motion should be granted, shall consider the factors listed in division (E) of that section as factors indicating that the motion should not be granted, and shall consider whether the applicable factors listed in division (D) of that section outweigh the applicable factors listed in division (E) of that section.

If the juvenile court grants the motion of the prosecuting attorney under this division, the juvenile court shall transfer jurisdiction of the case back to the court in which the child was convicted of or pleaded guilty to the offense, and the sentence imposed by that court

shall be invoked. If the juvenile court denies the motion of the prosecuting attorney under this section, the juvenile court shall impose a serious youthful offender dispositional sentence upon the child in accordance with division (B)(3)(a) of this section.

(4) If the court in which the child is convicted of or pleads guilty to the offense determines under division (B)(1) of this section that, had a complaint been filed in juvenile court alleging that the child was a delinquent child for committing an act that would be that offense if committed by an adult, division (A) of section 2152.12 of the Revised Code would have required mandatory transfer of the case, the court shall impose sentence upon the child under Chapter 2929. of the Revised Code.

2152.13 Serious youthful dispositional sentence and serious youthful offender dispositional sentence.

(A) A juvenile court shall impose a serious youthful dispositional sentence on a child when required under division (B)(3) of section 2152.121 of the Revised Code. In such a case, the remaining provisions of this division and divisions (B) and (C) do not apply to the child, and the court shall impose the mandatory serious youthful dispositional sentence under division (D)(1) of this section.

In all other cases, a juvenile court may impose a serious youthful offender dispositional sentence on a child only if the prosecuting attorney of the county in which the delinquent act allegedly occurred initiates the process against the child in accordance with this division, and the child is an alleged delinquent child who is eligible for the dispositional sentence. The prosecuting attorney may initiate the process in any of the following ways:

- (1) Obtaining an indictment of the child as a serious youthful offender;
- (2) The child waives the right to indictment, charging the child in a bill of information as a serious youthful offender;
- (3) Until an indictment or information is obtained, requesting a serious youthful offender dispositional sentence in the original complaint alleging that the child is a delinquent child;
- (4) Until an indictment or information is obtained, if the original complaint does not request a serious youthful offender dispositional sentence, filing with the juvenile court a written notice of intent to seek a serious youthful offender dispositional sentence within twenty days after the later of the following, unless the time is extended by the juvenile court for good cause shown:
 - (a) The date of the child's first juvenile court hearing regarding the complaint;
 - (b) The date the juvenile court determines not to transfer the case under section 2152.12 of the Revised Code.

After a written notice is filed under division (A)(4) of this section, the juvenile court shall serve a copy of the notice on the child and advise the child of the prosecuting attorney's intent to seek a serious youthful offender dispositional sentence in the case.

(B) If an alleged delinquent child is not indicted or charged by information as described in division (A)(1) or (2) of this section and if a notice or complaint as described in division (A)(3) or (4) of this section indicates that the prosecuting attorney intends to

pursue a serious youthful offender dispositional sentence in the case, the juvenile court shall hold a preliminary hearing to determine if there is probable cause that the child committed the act charged and is by age eligible for, or required to receive, a serious youthful offender dispositional sentence.

(C)

(1) A child for whom a serious youthful offender dispositional sentence is sought by a prosecuting attorney has the right to a grand jury determination of probable cause that the child committed the act charged and that the child is eligible by age for a serious youthful offender dispositional sentence. The grand jury may be impaneled by the court of common pleas or the juvenile court.

Once a child is indicted, or charged by information or the juvenile court determines that the child is eligible for a serious youthful offender dispositional sentence, the child is entitled to an open and speedy trial by jury in juvenile court and to be provided with a transcript of the proceedings. The time within which the trial is to be held under Title XXIX of the Revised Code commences on whichever of the following dates is applicable:

(a) If the child is indicted or charged by information, on the date of the filing of the indictment or information.

(b) If the child is charged by an original complaint that requests a serious youthful offender dispositional sentence, on the date of the filing of the complaint.

(c) If the child is not charged by an original complaint that requests a serious youthful offender dispositional sentence, on the date that the prosecuting attorney files the written notice of intent to seek a serious youthful offender dispositional sentence.

(2) If the child is detained awaiting adjudication, upon indictment or being charged by information, the child has the same right to bail as an adult charged with the offense the alleged delinquent act would be if committed by an adult. Except as provided in division (D) of section 2152.14 of the Revised Code, all provisions of Title XXIX of the Revised Code and the Criminal Rules shall apply in the case and to the child. The juvenile court shall afford the child all rights afforded a person who is prosecuted for committing a crime including the right to counsel and the right to raise the issue of competency. The child may not waive the right to counsel.

(D)

(1) If a child is adjudicated a delinquent child for committing an act under circumstances that require the juvenile court to impose upon the child a serious youthful offender

dispositional sentence under section 2152.11 of the Revised Code, all of the following apply:

(a) The juvenile court shall impose upon the child a sentence available for the violation, as if the child were an adult, under Chapter 2929. of the Revised Code, except that the juvenile court shall not impose on the child a sentence of death or life imprisonment without parole.

(b) The juvenile court also shall impose upon the child one or more traditional juvenile dispositions under sections 2152.16, 2152.19, and 2152.20, and, if applicable, section 2152.17 of the Revised Code.

(c) The juvenile court shall stay the adult portion of the serious youthful offender dispositional sentence pending the successful completion of the traditional juvenile dispositions imposed.

(2)

(a) If a child is adjudicated a delinquent child for committing an act under circumstances that allow, but do not require, the juvenile court to impose on the child a serious youthful offender dispositional sentence under section 2152.11 of the Revised Code, all of the following apply:

(i) If the juvenile court on the record makes a finding that, given the nature and circumstances of the violation and the history of the child, the length of time, level of security, and types of programming and resources available in the juvenile system alone are not adequate to provide the juvenile court with a reasonable expectation that the purposes set forth in section 2152.01 of the Revised Code will be met, the juvenile court may impose upon the child a sentence available for the violation, as if the child were an adult, under Chapter 2929. of the Revised Code, except that the juvenile court shall not impose on the child a sentence of death or life imprisonment without parole.

(ii) If a sentence is imposed under division (D)(2)(a)(i) of this section, the juvenile court also shall impose upon the child one or more traditional juvenile dispositions under sections 2152.16, 2152.19, and 2152.20 and, if applicable, section 2152.17 of the Revised Code.

(iii) The juvenile court shall stay the adult portion of the serious youthful offender dispositional sentence pending the successful completion of the traditional juvenile dispositions imposed.

(b) If the juvenile court does not find that a sentence should be imposed under division (D)(2)(a)(i) of this section, the juvenile court may impose one or more traditional juvenile

dispositions under sections 2152.16, 2152.19, 2152.20, and, if applicable, section 2152.17 of the Revised Code.

(3) A child upon whom a serious youthful offender dispositional sentence is imposed under division (D)(1) or (2) of this section has a right to appeal under division (A)(1), (3), (4), or (5) of section 2953.08 of the Revised Code the adult portion of the serious youthful offender dispositional sentence when any of those divisions apply. The child may appeal the adult portion, and the court shall consider the appeal as if the adult portion were not stayed.

Hamilton County Juvenile Court Local Rules of Procedure

RULE 10. Record of Hearing

(A) Official Record.

A complete record of all testimony or other oral proceeding shall be made in all official cases by means of a court reporter or an audio or audiovisual recording device provided by the court. This record shall be the official record of the case unless a transcript is filed pursuant to division (C) of this rule. Rules of Practice of the Hamilton County Juvenile Court 7

(B) Inspection of the Audio or Audiovisual Record.

Any person who is a party to a case as defined by the Juvenile Rules or that person's attorney or guardian ad litem may listen to or view the record made in a case after a request is submitted and authorized. The judge, court administrator, chief magistrate or deputy chief magistrate, chief deputy clerk, or executive director of case management may authorize such requests.

(C) Transcription of the Record

For hearings before a judge, the transcription of a stenographic record shall be the responsibility of the court reporter who produced the record. The transcription of an audio or audiovisual record shall be the responsibility of the person assigned to do so by the judge who heard the case. For hearings before a magistrate, the transcription of the audio or audiovisual record shall be the responsibility of the person designated by the judge who has administrative responsibility for the case. If a request for a transcript is made for purposes of appeal, the person seeking the transcript may directly request the court reporter or the person assigned by the judge to transcribe the record. The court reporter or person assigned shall certify the docketing statement by indicating the estimated number of pages and how much time is needed to complete the transcript. No transcript will be begun or provided until satisfactory arrangements for payment have been concluded.

If a request for a transcript is made for purposes of objections filed pursuant to Juvenile Rule 40, regarding a case pending within the court, or regarding a criminal prosecution that was transferred pursuant to Juvenile Rule 30, the person seeking the transcript may directly request the court reporter or the person assigned by the judge to transcribe the record. The transcript will not be begun or provided until satisfactory arrangements for the payment have been concluded. Except for requests for the purposes stated above, any party requesting a full or partial transcript of the record shall file a written request with the clerk and provide a copy to the person responsible for transcription. All written requests for a transcript shall contain the case number, presiding judge or magistrate, date of hearing, reason for the request, number of copies in addition to the original, payor of the transcript, and any other pertinent information. The judge assigned administrative responsibility for the case may schedule a hearing or may rule on the request upon the pleadings. The fees allowable for preparation of a transcript and copies shall be as prescribed in the Rules of Practice of the Hamilton County Court of Common Pleas.

All original transcripts shall be filed by the court reporter or person responsible for transcription with the clerk and shall thereby become the official record of the case.

(D) Reproduction of Audiovisual Record

No copy of an audio or audiovisual record shall be made unless by order or permission of a judge. Any party requesting reproduction of an audio or audiovisual record shall file a motion with the clerk. The judge assigned administrative responsibility for the case may schedule a hearing or may rule on the request upon the pleadings.

Hamilton County Juvenile Court Local Rules of Procedure

RULE 14. Broadcasting, Televising, Photographing, or Recording of Proceedings

(A) Request to Broadcast, Televis, Photograph, or Record Proceedings

Requests for permission to broadcast, televise, photograph, or otherwise record courtroom proceedings shall be submitted in writing to the judge or magistrate presiding over the hearing. The request shall be made as far in advance as is reasonably possible, but in no event later than 24 hours before the hearing to be recorded. The judge or magistrate may waive the advance notice provision for good cause. The court shall immediately attempt to inform the attorneys for all parties of a request by the media through means most suitable to achieve actual and prompt notice of the request.

(B) Media Pool

The judge or magistrate presiding over the hearing may require media representatives interested in recording courtroom proceedings to do so through the pooling of their resources as described in the Rules of Practice of the Hamilton County Court of Common Pleas.

(C) Equipment

The media representative and/or the pool coordinator shall consult with the court in advance of the hearing about the placement of audio and video equipment. All equipment in the courtroom must be fully set up and operational before the beginning of the court proceeding. Once equipment has been positioned, media representatives shall remain in the designated area and act and operate the equipment so as not to distract the attention of the court or the parties. No changes of cassettes, film, film magazines, camera lenses, and similar supplies shall be made Rules of Practice of the Hamilton County Juvenile Court 13 inside the courtroom except during a recess. Proper courtroom decorum shall be maintained at all times by media representatives, including appropriate courtroom attire.

(D) Victims, Witnesses and Jurors; Identification of Parties

The filming, videotaping, recording, or photographing of a victim, witness, or juror is prohibited without specific authorization of the court. If the subject matter of the proceeding is a child, the name or identity of any party, witness, child, parent, or participant shall not be disclosed unless by specific authorization of the court.

Ohio Rules of Juvenile Procedure

Rule 2. Definitions

(Y) "**Party**" means a child who is the subject of a juvenile court proceeding, the child's spouse, if any, the child's parent or parents, or if the parent of a child is a child, the parent of that parent, in appropriate cases, the child's custodian, guardian, or guardian ad litem, the state, and any other person specifically designated by the court.

Rule 27. Hearings: General

(A) **General provisions.** Unless otherwise stated in this rule, the juvenile court may conduct its hearings in an informal manner and may adjourn its hearings from time to time.

The court may excuse the attendance of the child at the hearing in neglect, dependency, or abuse cases.

(1) **Public access to hearings.** In serious youthful offender proceedings, hearings shall be open to the public. In all other proceedings, the court may exclude the general public from any hearing, but may not exclude either of the following:

(a) persons with a direct interest in the case;

(b) persons who demonstrate, at a hearing, a countervailing right to be present.

(2) **Separation of juvenile and adult cases.** Cases involving children shall be heard separate and apart from the trial of cases against adults, except for cases involving chronic or habitual truancy.

(3) **Jury trials.** The court shall hear and determine all cases of children without a jury, except for the adjudication of a serious youthful offender complaint, indictment, or information in which trial by jury has not been waived.

(B) Special provisions for abuse, neglect, and dependency proceedings.

(1) In any proceeding involving abuse, neglect, or dependency at which the court removes a child from the child's home or continues the removal of a child from the child's home, or in a proceeding where the court orders detention, the court shall determine whether the person who filed the complaint in the case and removed the child from the child's home has custody of the child or will be given custody and has made reasonable efforts to do any of the following:

(a) Prevent the removal of the child from the child's home;

(b) Eliminate the continued removal of the child from the child's home;

(c) Make it possible for the child to return home.

(2) In a proceeding involving abuse, neglect, or dependency, the examination made by the court to determine whether a child is a competent witness shall comply with all of the following:

(a) Occur in an area other than a courtroom or hearing room;

(b) Be conducted in the presence of only those individuals considered necessary by the court for the conduct of the examination or the well being of the child;

(c) Be recorded in accordance with Juv. R. 37 or Juv. R. 40. The court may allow the prosecutor, guardian ad litem, or attorney for any party to submit questions for use by the court in determining whether the child is a competent witness.

(3) In a proceeding where a child is alleged to be an abused child, the court may order that the testimony of the child be taken by deposition in the presence of a judge or a magistrate. On motion of the prosecuting attorney, guardian ad litem, or a party, or in its own discretion, the court may order that the deposition be videotaped. All or part of the deposition is admissible in evidence where all of the following apply:

(a) It is filed with the clerk;

(b) Counsel for all parties had an opportunity and similar motive at the time of the taking of the deposition to develop the testimony by direct, cross, or redirect examination;

(c) The judge or magistrate determines there is reasonable cause to believe that if the child were to testify in person at the hearing, the child would experience emotional trauma as a result of the child's participation at the hearing.

Ohio Rules of Juvenile Procedure

RULE 37. Recording of Proceedings

(A) Recording of proceedings. The juvenile court shall make a record of adjudicatory and dispositional proceedings in abuse, neglect, dependent, unruly, and delinquent cases; permanent custody cases; and proceedings before magistrates. In all other proceedings governed by these rules, a record shall be made upon request of a party or upon motion of the court. The record shall be taken in shorthand, stenotype, or by any other adequate mechanical, electronic, or video recording device.

(B) Restrictions on use of recording or transcript. No public use shall be made by any person, including a party, of any juvenile court record, including the recording or a transcript of any juvenile court hearing, except in the course of an appeal or as authorized by order of the court or by statute.

Ohio Rules of Superintendence for the Courts

RULE 12. Conditions for Broadcasting and Photographing Court Proceedings.

(A) Presiding judge. The judge assigned to the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings that are open to the public as provided by Ohio law. After consultation with the media, the judge shall specify the place or places in the courtroom where the operators and equipment are to be positioned. Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the written order of the judge shall be made a part of the record of the proceedings.

(B) Permissible equipment and operators.

(1) Use of more than one portable television, videotape, or movie camera with one operator shall be allowed only with the permission of the judge.

(2) Not more than one still photographer shall be permitted to photograph trial proceedings without permission of the judge. Still photographers shall be limited to two cameras with two lenses for each camera.

(3) For radio broadcast purposes, not more than one audio system shall be permitted in court. Where available and suitable, existing audio pickup systems in the court facility shall be used by the media. If existing audio pickup systems are not available, microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible but shall be visible.

(4) Visible audio recording equipment may be used by news media reporters with the prior permission of the judge.

(5) Arrangements between or among media for "pooling" of equipment shall be the responsibility of the media representative authorized to cover the proceeding. "Pooling" arrangements are to be made outside the courtroom and without imposing on the judge or court personnel. If disputes arise over arrangements between or among media representatives, the judge may exclude all contesting representatives from the proceedings.

(6) The judge shall prohibit the use of electronic or photographic equipment that produces distracting sound or light. No artificial lighting other than that normally used in the courtroom shall be employed, provided that, if the normal lighting in the courtroom can be improved without becoming obtrusive, the judge may permit modification.

(7) Still photographers and television and radio representatives shall be afforded a clear view but shall not be permitted to move about in the courtroom during court proceedings from the places where they have been positioned by the judge, except to leave or enter the courtroom.

(C) Limitations.

(1) There shall be no audio pickup or broadcast of conferences conducted in a court facility between attorneys and clients or co-counsel or of conferences conducted at the bench between counsel and the judge.

(2) The judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.

(3) This rule shall not be construed to grant media representatives any greater rights than permitted by law.

(4) Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.

(D) Revocation of permission. Upon the failure of any media representative to comply with the conditions prescribed by this rule or the judge, the judge may revoke the permission to broadcast or photograph the trial or hearing.