

IN THE SUPREME COURT OF OHIO

IN RE: Affidavit of Disqualification
against Judge O'Grady,
Franklin County Municipal Court

22AP068

STATE OF OHIO

:

RE: CASE NO. 2021 CR B
007956

:

FRANKLIN COUNTY

:

State of Ohio v Holly Kanode

AFFIDAVIT of Special Prosecutor Kathleen Garber

I, Kathleen Garber, being first duly cautioned and sworn, and having personal knowledge of the following, states as follows:

A. Introduction

1. I am an attorney admitted to practice in the State of Ohio and represent the State of Ohio in the matter of *State of Ohio v. Holly Kanode*, Case No. 2021 CR B 007956 which is pending in the Franklin County Municipal Court, Franklin County, Ohio with Judge James P. O'Grady presiding.
2. The trial in the *Kanode* matter, having been scheduled for trial on May 9, 2022, began on May 10, 2022, due to Judge O'Grady becoming unavailable on May 9, 2022 due to a sick child.
3. On May 10, 2022, the trial court, at the suggestion of defense counsel, stated that it would be in recess on Friday, May 13, 2022, to allow defense counsel and the Court to attend the funeral for a former courthouse employee and a gathering afterward.

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CLERK OF COURT
SUPREME COURT OF OHIO

4. On May 9, 2022, due to an unexpected health emergency, the Court recessed when this Prosecutor was taken by medics to the hospital.
5. On Tuesday, May 17, 2022, this Prosecutor informed the Court and defense counsel that her father had passed away the night prior.
6. On Monday, May 23, 2022, Judge O'Grady, stated that the trial will resume on Tuesday, May 31, 2022.
7. This Prosecutor, representing the State of Ohio, through this affidavit and pursuant to Ohio Const. Art. IV, Section 5 and R.C. 2701.03, requests that the Ohio Supreme Court disqualify presiding Judge James P. O'Grady from the *Kanode* case.
8. Disqualification is necessary due to Judge O'Grady's admitted bias for the Defendant, who is a member of the Columbus Division of Police (hereinafter referred to as "CDP"), and Fraternal Order of Police; his bias for defense counsel, who are contracted by the Fraternal Order of Police (hereinafter referred to as "FOP"), his inability to overcome his biases in order to give both the Defendant and the State of Ohio a fair and impartial trial; his interest in having the continuing support of the FOP; his bias against the City of Columbus in it's contract with the FOP requiring witness officers to answer questions and/or testify in investigations related to alleged misconduct by fellow officers; and/or to avoid the appearance of partiality that would leave the State and/or any reasonable and objective observer with serious doubts as to Judge James P. O'Grady's impartiality.
9. Accordingly, as is detailed below, disqualification of Judge James P. O'Grady is necessary to "avoid even an appearance of bias, prejudice, or impropriety, and to ensure the parties, their counsel, and the public the unquestioned neutrality of an impartial [court]." *In re Disqualification of Floyd*, 101 Ohio St.3d 1215, 2003-Ohio-7354, 803 N.E.2d 816 para. 10. Indeed, as the Court has said, it is "of vital importance that the litigant should believe that he will have a fair trial." *State ex rel. Turner v. Marshall*, 123 Ohio St. 586, 587, 9 Ohio Law Abs. 670, 176 N.E. 2d 365 (1996).

B. Statement of Facts

1. On June 8, 2021, Defendant Holly Kanode was arraigned in the Franklin County Municipal Court on two misdemeanor charges of Falsification and Dereliction of Duty. The charges stemmed from Defendant's arrest of a protestor, Nadia Lynch, who had been assaulted by a fellow CDP Officer Shawn Dye.
2. Many pre-trial dates were continued at the request of the Defendant. In December, 2021, defense co-counsel, Kaitlyn Stephens and this Prosecutor met with Judge James P. O'Grady for the first time to discuss the status of the case.
3. During the off-the-record discussions, held in chambers, Judge O'Grady asked whether anyone was going to ask him to recuse himself from the case. He then proceeded to list his potential conflicts of interest including:
 - a. His strong support of the FOP;
 - b. His plans to attend the FOP's raffle that very weekend;
 - c. His relative who had retired from the CDP;
 - d. His concern that if the Defendant was found guilty, "people" were going to want her to go to jail;
 - e. His concern that if he didn't sentence the Defendant to jail "people" were going to be upset;
4. Judge O'Grady then proceeded to ask which judges were assigned to the other cases that had been filed against CDP officers for alleged misconduct during the summer 2020 George Floyd protests. After being told that they were in front of Judge Hummer and Judge D'Varga, Judge O'Grady asked whether everyone could agree to just have Judge Hummer hear the cases since he was the administrative judge.
5. Finally, Judge O'Grady stated that if it was going to be a trial, it should be set soon because the Defendant had been waiting long enough and was likely

subject to "desk duty" since being charged. When this Prosecutor pointed out that it was the defense who had requested each and every continuance thus far and that it was equally likely that the Defendant was not in a rush to go to trial given the possible outcome, the Court had no response.

6. The case was then set for trial for February 14, 2022, to allow defense co-counsel Mark Collins time to undergo a hip replacement.
7. After leaving chambers, and having a few minutes to process what Judge O'Grady shared with the parties, this Prosecutor contacted Ms. Stephens, stating that I would like to approach the Judge to ask him to consider voluntarily recusing himself. While first stating that she would be available any morning that week to approach Judge O'Grady with the State, Ms. Stephens changed course and stated that she would not appear unless ordered to by the Judge.
8. This Prosecutor responded by leaving two (2) voice messages with Judge O'Grady's bailiff, Amy Frank, requesting a status conference with the parties and Judge O'Grady. After a third inquiry, a status conference was set.
9. During the status conference, the State explained its concerns with the statements made by Judge O'Grady previously and asked him whether he would consider voluntarily recusing himself from the *Kanode* case. Ms. Stephens responded that she believed Judge O'Grady could be fair and impartial. When asked by Judge O'Grady whether the case would be a bench trial, Ms. Stephens responded no, that it would be a jury trial. Judge O'Grady stated that he only informed the parties of the "matters" because he didn't want someone going to the media later complaining that they hadn't been told of his connection to the FOP and CDP. Judge O'Grady then stated that "no one wants to hear these cases" but that he felt he could set aside whatever bias and interests he had to preside in a fair and impartial manner. This Prosecutor told Judge O'Grady that

she would then take him at his word and the conference ended.

10. Judge O'Grady's bailiff, Amy Frank, then told the parties that she would contact them one week prior to trial date set for February 14, 2022, as was their policy, to confirm that the case would, in fact, be going to trial, in which case she would contact the jury commissioner to request jurors. Stephens indicated that she hoped Collins would be healthy enough to go forward on that date, given surgery scheduled at that time for the end of January.

11. On January 17, 2022, an arbitrator ruled, in response to a motion filed by the FOP in April, 2021. The FOP's motion was filed on behalf of witness officers who had been ordered by the Chief of Police to appear for interviews by Special Investigator Richard Wozniak, arguing that a provision in the FOP contract preventing focus officers from being subjected to administrative discipline for refusing to cooperate with a criminal investigation, also applied to witness officers. After a hearing in October, 2021, the arbitrator ruled that the provision did not apply to witness officers, allowing Investigator Wozniak to proceed with witness officer interviews.

12. Given the arbitrator's ruling, the State contacted defense counsel to inform them that the State would be requesting a continuance of the February 14, 2022 trial date. Subsequently, the State and Stephens met with Judge O'Grady, regarding the State's request for a continuance. Stephens objected to the request, stating that she and Collins were prepared to go to trial. After some back and forth, Judge O'Grady agreed to continue the case for thirty (30) days, stating that it needed to be set as soon as possible because the Defendant had been waiting too long. He further stated that he did not think it was fair that officers could be forced to answer questions about investigations when no one else has to. The State reminded the Court that every continuance prior had been at the

Defendant's request and that it was only upon the Arbitrator's ruling allowing for the interviewing of officers, that the Defendant objected to this first request by the State for a continuance. Later that day Collins requested a continuance on another case set for trial, stating that he was still weeks away from being healthy enough to try a case.

13. Subsequently, on March 2, 2022, this Prosecutor filed a motion for a continuance of the March 14, 2022 trial date for additional time needed to complete witness officer interviews due to new information obtained during the initial interviews and the lengthy process of scheduling interviews in order to comply with provisions of the FOP contract with the City. Defense counsel filed an objection. Prior to being ruled on, Judge D'Varga granted a continuance requested in the case set before her that similarly involved an officer charged with misconduct stemming from the protests and the need to conduct additional interviews of witness officers following the arbitrator's decision.

14. After receiving an entry a new court date on Judge D'Varga's case, counsel met with Judge O'Grady to get his decision on the State's request for a continuance on the *Kanode* case. When the parties entered, the Judge looked directly at this Prosecutor and stated, "Motion denied," then waited for a reaction. After not receiving a reaction, Judge O'Grady then looked at defense counsel, smiled and said, "I can't tell what she's thinking because of the mask she's wearing."

15. Judge O'Grady then asked whether the state requested a continuance on his case for the same reasons that one was requested in Judge D'Varga's case. This Prosecutor stated, "Yes, with the additional issue here that our victim is not available to testify," due to a work trip. The State elaborated that the victim had been available for every court date prior and having come to court or being on telephone standby each time. In response, Mr. Collins told Judge O'Grady that

the victim was not necessary for the State's case and was in fact, irrelevant, elaborating on what he believed the case was about and what evidence was not relevant to the State's case. Judge O'Grady responded by asking this Prosecutor questions about her evidence and specifically why the victim (of the false arrest) was needed. When this Prosecutor stated to Judge O'Grady that (1) it was not up to defense counsel to determine what evidence the State needed to present in order to prove its case and (2) the Court was asking the State to lay out its case in front of defense counsel. This this Prosecutor then asked Mr. Collins whether they still intended on having a jury trial, stating that if not, I felt it was improper for him to go into the case with Judge O'Grady to the extent he was doing so. Mr. Collins's response was one of exasperation, shouting, "Why do you keep asking that question when we've already said we aren't waiving jury?!"

16. Judge O'Grady then stated that he was going to grant the State's request for a continuance since he didn't feel he had a choice, given Judge D'Varga's decision, that he had a copy of it in front of him and understood her reasoning was to give the State time to conduct officer interviews, but that he disagreed with her decision to toll time. He also stated that it wouldn't look good for two different opinions to come from the same (Franklin County Municipal) Court, but he wasn't inclined to toll time. This prosecutor then stated that if he was not going to toll time, the result would be a dismissal of the case. Judge O'Grady responded by shrugging his shoulders and saying if you ever practiced in front of my father, then you know the apple doesn't fall far..." The parties were given a new date of May 9, 2022 at 11:00a.m., by bailiff Frank, based on defense counsels' and the Court's availability, with the reminder that she would contact the parties one week prior to confirm that the case was going to trial so that parties would not be charged for bringing in jurors if the case was going to be

resolved.

17. On Monday, May 2, 2022, one week prior to the scheduled trial date for *Kanode*, the State was not contacted by Frank. While at the courthouse on Thursday, May 5, 2022, this Prosecutor went to see Frank to inquire as to when the State's witnesses should be at the courthouse for testimony. Frank responded with 11:30a.m. When the State stated that her recollection was that the Court intended to begin the trial at 11:00a.m. and wondered whether it would make sense to have witnesses report to the courthouse in the afternoon, Frank stated that they should be available by noon at the latest. After further inquiry by this Prosecutor, Frank looked at the ground and then quietly stated that she had not yet seen an entry, but believed that the Defendant had decided to waive jury.
18. Minutes after a city attorney confirmed with the jury commissioner that a jury had not been requested by Frank, this Prosecutor received an email from Collins stating that his client may waive her right to a jury trial. This prosecutor then called Collins to ask him whether he truly was going to waive jury after repeatedly stating that they were not, at which point Collins began to scream and yell to the point that this Prosecutor told him she was ending the conversation and hung up.
19. This Prosecutor then left two voicemails for Frank, requesting a conference with Judge O'Grady and defense counsel. When those calls were not returned on Thursday, this Prosecutor emailed Frank Friday morning, requesting a meeting. Frank emailed a copy of the entry filed by defense counsel Wednesday, May 4, 2022, stating Defendant's intention to waive her right to a jury trial. Frank then sent text messages to both the State and defense counsel that she would set up a phone conference with Judge O'Grady.
20. During a phone conference, this Prosecutor stated her concerns with Judge O'Grady serving in place of a jury, acting as fact-finder, given that he had

previously made the decision not to recuse himself after defense counsel had represented that the case would not be a bench trial and given that defense counsel had made arguments to the Court regarding what evidence and witnesses it felt were relevant to the case during our previous meeting. The State, also discovering that defense counsel Stephens was present with Frank and Judge O'Grady while this Prosecutor was told that it would be a phone conference, expressed that she would have liked to have been present in person as well. This Prosecutor was told that it was not necessary. Judge O'Grady stated that he was not going to recuse himself voluntarily and requested that if the State was going to file an affidavit to disqualify him, he be given a heads up so that he could get his counsel working on a response. Defense counsel also requested and the Court asked the State to provide a list of proposed stipulations over the weekend.

21. While spending Mother's Day weekend researching and drafting stipulations, it was clear that any affidavit of disqualification would have to have been filed seven days prior to the trial date. Due to the State not being informed, nor provided an entry of the Defendant's decision to waive her right to a trial jury, until Friday, May 6, 2022, this Prosecutor realized that the affidavit would be barred from consideration. Therefore, the State prepared to move forward with a bench trial in front of Judge O'Grady on May 9, 2022 and provided a list of proposed stipulations to defense counsel.

22. On Monday 9, 2022, the Court emailed parties to inform them that he was continuing the trial date to Tuesday, May 10, 2022, due to needing to stay home with an ill child. The State contacted witnesses to notify them of the change.

23. On May 10, 2022, prior to opening arguments, defense counsel informed the Court that he had learned that the funeral plans for a former courthouse

employee were to be on Friday and therefore, he believed the Court would want to plan to recess for that day so that defense counsel and the Court could attend both the funeral and the gathering afterward. The Court agreed to recess for Friday. The State later contacted witnesses to inform them that they may be needed the following week for testimony.

24. Defense counsel then proceeded to inform the court that they would agree to some of the proposed stipulations to exhibits by the State, while also asking to make an oral motions in limine with respect to other exhibits that the State had described in its proposed stipulations. The Court proceeded to rule on the objections to State's exhibits prior to opening arguments and prior to hearing any testimony by witnesses.
25. Judge O'Grady sustained defense counsel's motion to prohibit any questions, testimony or introduction of documents regarding Defendant's Internal Affairs disciplinary record, as well as any other officer's disciplinary record for *any* purpose.
26. Judge O'Grady sustained defense counsel's objection to the introduction for any purpose, of the Columbus Division of Police Division Directives, which officers are required to know and follow, with deviation being grounds for administrative discipline.
27. Judge O'Grady sustained defense counsel's objection to the introduction, for any purpose, of the Chiefs' Bulletins and emails sent to all officers requesting their cooperation with investigations and directing them to provide any information, photos, or videos regarding incidents being investigated.
28. When the State argued that the failure of witness officers to comply with orders by the Chief goes to their credibility, defense counsel argued that if it were allowed, officers could be forced "to take the 5th." Judge O'Grady stated that

questioning of officers not cooperating with investigations sounded like accusations of obstruction, he didn't want to get into that, and that he would judge the credibility of the witnesses without such testimony. He further ruled that the Defendant's failure to come forward with information regarding the assault of the victim, Nadia Lynch, by another Officer Dye, prior to Kanode becoming a focus officer, was not relevant for any purpose, including her credibility if she testified. He stated that his expectation was the officers would testify truthfully about what the witnesses on the date in question and he would not hear testimony regarding whether or not they cooperated with the investigation after that date.

29. Next, when the State requested a separation of witnesses, noticing that several witness officers were present in the courtroom, Judge O'Grady told the witnesses who were officers that they could go back to his office area to wait. This was just one example of Judge O'Grady's interest in ensuring that the FOP and officers knew that they were being given special consideration in comparison to the civilian witnesses who were cooperating with the State.

30. Additionally, during direct examination of a witness, Judge O'Grady sustained defense counsel's objection to playing crime scene video for a witness despite the witness testifying that the video had been taken by her friend, she had reviewed the video, and the video fairly and accurately reflected what she witnessed that day.

31. Next, Judge O'Grady allowed Collins to scream, rant, and belittle this Prosecutor with no admonishment or reminder to behave professionally, even when Collins suggested that the Court get Ms. Garber a book on the Rules of Evidence after this Prosecutor suggested that he had no legal basis for his objection and asked him to provide one.

32. At the close of day, it was so apparent to any objective observer that Judge O'Grady had not been fair and impartial, one, a member of the media approached this Prosecutor to ask whether I had expected this treatment, and two, a fellow attorney stated that other attorneys needed to hear what was going on and be present during the trial.
33. On Wednesday morning, May 11, 2022, the courtroom was full with spectators. While this appeared to have a limited effect on Judge O'Grady's rulings, most did not return after the lunch break.
34. During testimony by Investigator Wozniak, Judge O'Grady sustained defense counsel's objection to the playing of wagon surveillance video retrieved and reviewed by Wozniak, despite defense counsel previously stipulating to its authenticity/chain of custody.
35. Judge O'Grady also overruled State's objection to defense counsel's attempt to impeach Wozniak with an email between the State's prosecutor and another attorney in which the investigator had been copied, despite the email not being provided in discovery or presented in Court to the State. During redirect, when this prosecutor began questioning to allow the Investigator to further explain why he took steps in his investigation that appeared to be in conflict with what was present in part of the email, the Court quickly instructed the parties to stop and meet in Chambers.
36. While walking to Chambers, Judge O'Grady began chastising the Prosecutor for its line of questioning in redirect. After the Prosecutor responded that the sensitive line of questioning was only in response to what defense counsel had raised and was necessary to negate defense counsel's implication that the witness had acted improperly, the Court instructed the court reporter to go off the record.

37. Subsequent to the State answering questions regarding why Investigator Wozniak took the steps that he did, Judge O'Grady responded that he wanted to move on from that line of questioning. He then went back on the record and stated that the trial would resume with the parties returning to the courtroom.
38. The State's first witness officer testified that he wished he had not been wearing his body worn camera the day of the incident in question because if he hadn't he wouldn't have had to testify. He explained that his camera would not have captured the alleged incident and therefore, he would not have been called to testify. In response, Judge O'Grady smiled, chuckled and nodded his head, rather than being offended that the officer preferred that there be no evidence of the crime, or at least remained neutral.
39. Prior to trial commencing on Thursday, May 12, 2022, this Prosecutor passed out in Judge O'Grady's chambers and was taken by medic to Grant Hospital. Judge O'Grady stated to others present that he would continue the case a month if necessary. On Friday, May 13, 2022, Judge O'Grady sent an email to this Prosecutor, asking how she was doing and stating that he was "not worried about the trial. We obviously will need to figure out a schedule but will defer to you on that. Keep us posted." In response to defense counsel inquiring on Sunday May 15, 2022 about doing a phone conference, Frank requested a telephone conference on Monday, May 16, 2022. Due to this Prosecutor's father being rushed to the hospital and admitted to hospice, this Prosecutor did not immediately see Frank's email. Frank then sent another email stating that the Judge "would like to resume the trial by Monday, 5/23/22, or sooner if possible."
40. On Tuesday morning May 17, 2022, the parties were put on a call and the Judge inquired as to this Prosecutor's status. This prosecutor informed the Judge that she had been instructed to follow up with her general practitioner and a

cardiologist but, unfortunately her father had just passed away the night before.

The court then stated that the defendant had a right to have the trial resume and asked this Prosecutor to contact witnesses to see whether they would be available to resume on Tuesday, May 31, 2022.

41. City Attorney Zach Klein then appointed co-counsel for this Prosecutor due to the fact that there was little time for health issues to be addressed prior to the trial resuming. Co-counsel filed a Motion for a Continuance to have time to become familiar with the case.

42. Frank e-mailed the parties, stating that Judge O'Grady was looking at June 13, 2022 to resume the trial. Defense counsel responded that they would not be available then. During the phone conference Judge O'Grady then stated that he did not see a reason why the State could not go forward on May 31, 2022, despite this Prosecutor stating that she was planning her father's funeral, mourning, not yet cleared by doctors to resume trial, and there was an officer who was not available the week of May 31st. After defense counsel stated that Officer Dye would take the 5th if called to testify, the Court stated that trial would resume on May 31, 2022 at 9a.m.

C. Conclusion

In order to avoid even the appearance of any prejudice, partiality and impropriety, as well as to insure continued confidence in the integrity of the judicial system, the Chief Justice should appoint a new Judge to preside over the *Kanode* case. The State submits that Judge O'Grady's statements, rulings, actions, and inactions demonstrate that he is not able to set aside his bias, interests, and prejudices with respect to this case in order to give both the State and defense counsel a fair trial. Additionally, given that this is a bench trial that has had less than two (2) days of testimony, little of the Court's time was

consumed by this trial beginning. Attached are emails supporting some of the facts listed in this affidavit. The State also expects to receive today a copy of the *Kanode* recordings that it can forward to the Supreme Court for review, if permitted. These recordings are evidence of other facts stated in this affidavit. For these reasons the State, by and through, this Prosecutor Kathleen Garber, respectfully requests that Judge O'Grady be removed from the case and a new judge assigned.

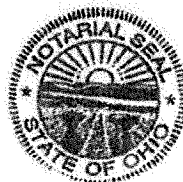
xxKathleen Garber

Kathleen Garber 0065342
City of Columbus
375 S. High Street, 7th Floor
Columbus, Ohio 43235

Sworn to before me and subscribed in my presence this 24th day of May, 2022.

Notary Public

Paul Bernhart 5-24-2022



PAUL M. BERNHART, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served electronically on:

Defense Counsel, Mark Collins and Kaitlyn C. Stephens by electronic mail on this May 24, 2022. A paper copy to be delivered to counsel at 150 E. Mound Street, Suite 308 Columbus, Ohio 43215, and

Judge James P. O'Grady by electronic mail on this May 24, 2022. A paper copy to be delivered to 375 S. High Street, 14C, Columbus Ohio 43215

xxKathleen Garber

Kathleen Garber (0065342)
Columbus City Attorney's Office
Special Prosecutor

IN THE SUPREME COURT OF OHIO

**IN RE: Affidavit of Disqualification
against Judge O'Grady,
Franklin County Municipal Court**

STATE OF OHIO :

RE: CASE NO. 2021 CR B 007956

:

State of Ohio v Holly Kanode

FRANKLIN COUNTY :

:

STATE'S MOTION FOR DISQUALIFICATION

Pursuant to the requirements of SECTION 2701.031, the State hereby requests disqualification of Judge O'Grady based on his bias, interest, and/or prejudice in this case before him. An affidavit of disqualification is attached.

MEMORANDUM IN SUPPORT

Judge O'Grady initially raised his concerns about presiding over this case, when Special Prosecutor Kathleen Garber and defense counsel, Kaitlyn Stephens, first spoke with him about it in chambers during a pre-trial date.

During a subsequent status conference to discuss whether Judge O'Grady would voluntarily recuse himself from the case, Judge O'Grady stated that he felt he could set aside any bias or interest and rule fairly.

Subsequently, when the State discovered two days prior to trial that defense counsel would be requesting a bench trial, the state inquired as to whether Judge O'Grady could set aside his bias and feelings about the case to act as an impartial fact finder. Judge O'Grady stated that he would not recuse himself from the case.

Based on the attached affidavit, the State submits that Judge O'Grady has not been able to set aside his bias, interest, and/or prejudice in this case and requests that he be disqualified

with a new judge being appointed.

Respectfully submitted,

Kathleen Garber
Special Columbus City Prosecutor,

xxKathleen Garber
Kathleen Garber (0065342)
Special Prosecutor
Columbus City Attorney's Office
kgarberlaw@gmail.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served electronically on Defense Counsel, Mark Collins and Kaitlyn C. Stephens by electronic mail on this May 24, 2022.

Judge James P. O'Grady by electronic mail on this May 24, 2022. A paper copy to be delivered to 375 S. High Street, 14C, Columbus Ohio 43215

xxKathleen Garber
Kathleen Garber (0065342)
Special Columbus City Prosecutor

Kathleen Garber <kgarberlaw@gmail.com>

State v. Kanode 21CRB7956 - Motion to Continue

16 messages

FrankA@fcmclerk.com <FrankA@fcmclerk.com>

To: brad.nicodemus@whitehall-oh.us, kgarberlaw@gmail.com, kaitlyn@mcollinslaw.com, mark@mcollinslaw.com

Cc: ogradyj@fcmclerk.com, CourtReporterManagement@fcmclerk.com, ScalesC@fcmclerk.com, AllingK@fcmclerk.com

Mon, May 23, 2022 at 8

I can schedule a telephone conference for later this morning if needed. However, the judge is looking at June 13th as a possible date to resume the trial.

Please let me know your thoughts. Also, if you are available around 10:30 or 11 am today for a phone call.

Thanks

Amy

Kaitlyn Stephens <kaitlyn@mcollinslaw.com>

To: "FrankA@fcmclerk.com" <FrankA@fcmclerk.com>

Cc: "brad.nicodemus@whitehall-oh.us" <brad.nicodemus@whitehall-oh.us>, "kgarberlaw@gmail.com" <kgarberlaw@gmail.com>, "Mark C. Collins" <mark@mcollinslaw.com>

"ogradyj@fcmclerk.com" <ogradyj@fcmclerk.com>, "CourtReporterManagement@fcmclerk.com" <CourtReporterManagement@fcmclerk.com>, "ScalesC@fcmclerk.com" <ScalesC@fcmclerk.com>, "AllingK@fcmclerk.com" <AllingK@fcmclerk.com>

Mon, May 23, 2022 at 8

Mark and I are available for a phone conference.

I have a response to file. Mark and I are in a trial 6/13 for high level drug trafficking case, where our client is incarcerated.

Sent from my iPhone

On May 23, 2022, at 8:06 AM,

wrote:

[Quoted text hidden]

Brad Nicodemus <brad.nicodemus@whitehall-oh.us>

To: Kaitlyn Stephens <kaitlyn@mcollinslaw.com>, "FrankA@fcmclerk.com" <FrankA@fcmclerk.com>

Cc: "kgarberlaw@gmail.com" <kgarberlaw@gmail.com>, "Mark C. Collins" <mark@mcollinslaw.com>, "ogradyj@fcmclerk.com" <ogradyj@fcmclerk.com>, "CourtReporterManagement@fcmclerk.com" <CourtReporterManagement@fcmclerk.com>, "ScalesC@fcmclerk.com" <ScalesC@fcmclerk.com>, "AllingK@fcmclerk.com" <AllingK@fcmclerk.com>

Mon, May 23, 2022 at 8

I have copies for everyone.

From: Kaitlyn Stephens <
Sent: Wednesday, May 11, 2022 8:00 AM
To: Kathleen Garber <
Cc: O'Grady, James <
Subject: Re: Trial Updates

> Mark C. Collins <
> Frank, Amy <

This email originated from outside of FCMC. Please use caution before clicking any links or following instructions below. Do not sign-in with your corporate account. Please contact OIS Helpdesk if in doubt.

[Quoted text hidden]

ogradyj@fcmcclerk.com <ogradyj@fcmcclerk.com>
To: kaitlyn@mcollinslaw.com, kgarberlaw@gmail.com, mark@mcollinslaw.com
Cc: FrankA@fcmcclerk.com

Fri, May 13, 2022 at 6

Kathleen, how are you? You scared us all and we hope you are doing okay. I'm not worried about the trial. We obviously need to figure out a schedule but we will defer to you that. Keep us posted.
Jim.

Sent from my iPhone

On May 11, 2022, at 8:30 AM, O'Grady, James <

> wrote:

[Quoted text hidden]

Kathleen Garber <kgarberlaw@gmail.com>
To: ogradyj@fcmcclerk.com
Cc: FrankA@fcmcclerk.com, kaitlyn@mcollinslaw.com, mark@mcollinslaw.com

Sun, May 15, 2022 at 2

Thank you for checking in, Judge. Fortunately, the tests run at the hospital ruled out anything immediately life-threatening and other than some bruises, no injuries as a result of my fall.

They released me from observation w/ the assurance that Joe would stay w/ me. I have to follow up w/ seeing my gp and a cardiologist to better determine what caused my sudden drop in blood pressure since I'm still having symptoms. I expect to get calls from scheduling tomorrow.

While I appreciate you not being worried about the trial, I know you have your own schedule to worry about, so I can definitely keep you apprised of my status. Please let me know if you would like me to ask someone from the City Attorney's office to stop by to sign a continuance.

Kathleen

Kathleen Garber <kgarberlaw@gmail

resuming the Kanode Trial

9 messages

FrankA@fcmclerk.com <FrankA@fcmclerk.com>
To: mark@mcollinslaw.com, kgarberlaw@gmail.com, kaillyn@mcollinslaw.com
Cc: ogradyj@fcmclerk.com

Mon, May 16, 2022 at 1

The Judge would like to resume the trial by Monday 5/23/22, or sooner if possible. I can schedule a phone call to work out any details if needed.

Mrs. Garber, could you please give me an idea as to your status on this matter? We would like to be able to make any need scheduling changes with our dockets as soon a possible.

Thank

Amy

Kathleen Garber <kgarberlaw@gmail.com>
To: FrankA@fcmclerk.com
Cc: kaillyn@mcollinslaw.com, mark@mcollinslaw.com, ogradyj@fcmclerk.com

Mon, May 16, 2022 at 4

Amy,

What has changed?

Kathleen
[Quoted text hidden]

ogradyj@fcmclerk.com <ogradyj@fcmclerk.com>
To: kgarberlaw@gmail.com
Cc: FrankA@fcmclerk.com, Kaillyn@mcollinslaw.com, mark@mcollinslaw.com

Mon, May 16, 2022 at 7

Nothing has changed, we just want to figure out a schedule. Can you do a phone call tomorrow to talk about things? Say 9 or 10.
Sent from my iPhone

On May 16, 2022, at 4:24 PM, Kathleen Garber <

> wrote:

1 This email originated from outside of F.C.W.V.. Please use caution before clicking any links or following instructions below, as they may contain malware.
account. Please contact OIS Helpdesk if in doubt.

[Quoted text hidden]

Mark C. Collins <mark@mcollinslaw.com>

To: "ogrady@fcmclerk.com" <ogrady@fcmclerk.com>

Cc: "kgarberlaw@gmail.com" <kgarberlaw@gmail.com>, "FrankA@fcmclerk.com" <FrankA@fcmclerk.com>, Kaitlyn Stephens <kaitlyn@mcollinslaw.com>

Mon, May 16, 2022 at 8

I can at either time. I will be in common pleas. I will have my cell phone on. 614-581-0116

Sent from my iPhone

On May 16, 2022, at 7:47 PM,

wrote:

Nothing has changed, we just want to figure out a schedule. Can you do a phone call tomorrow to talk about things? Say 9 or 10.
[Quoted text hidden]

Tue, May 17, 2022 at 9

FrankA@fcmclerk.com <FrankA@fcmclerk.com>
To: mark@mcollinslaw.com, ogrady@fcmclerk.com
Cc: kgarberlaw@gmail.com, kaitlyn@mcollinslaw.com

Good Morning all,

I will initiate a call among the parties at 10 am.

Thank you

Amy

[Quoted text hidden]

Kathleen Garber <kgarberlaw@gmail.com>
To: FrankA@fcmclerk.com
Cc: kaitlyn@mcollinslaw.com, mark@mcollinslaw.com, ogrady@fcmclerk.com

Tue, May 17, 2022 at 9

I'm sorry that I'm just seeing this. If you can call my work cell when you make the call (614.965.0159) that would be best, thanks.
[Quoted text hidden]

Mark C. Collins <mark@mcollinslaw.com>
To: "FrankA@fcmclerk.com" <FrankA@fcmclerk.com>
Cc: "ogrady@fcmclerk.com" <ogrady@fcmclerk.com>, "kgarberlaw@gmail.com" <kgarberlaw@gmail.com>, Kaitlyn Stephens <kaitlyn@mcollinslaw.com>

Tue, May 17, 2022 at 9