

NO. 10J701053

(12)

JEFFERSON DISTRICT COURT
JUVENILE SESSION
DIVISION 88/99
JUDGE DEANA McDONALD

IN THE INTEREST OF:

**MEMORANDUM IN SUPPORT OF SAVANNAH DIETRICH'S REQUEST FOR AN
OPEN AND PUBLIC HEARING ON THE CHARGE OF INDIRECT CRIMINAL
CONTEMPT OF COURT**

Savannah Dietrich, A CHILD

* * * * *

Comes the accused, Savannah Dietrich, by Counsel, Daniel E. Whitley and Emily N. Farrar-Crockett, pursuant to the First, Sixth, and Fourteenth Amendments to the United States Constitution and Sections One, Eight, and Eleven of the Kentucky Constitution, the Kentucky Rules of Evidence and Procedure, and KRS Chapters 600 to 645, and moves this Court, in accordance with the requirements of due process, to grant Savannah Dietrich an open and public hearing on the charge of indirect criminal contempt of court.

BACKGROUND

1. Savannah Dietrich is the child victim of Sexual Abuse in the First Degree and Voyeurism committed against her by A.Z. and W.F. In August 2011, A.Z. and W.F. were drinking alcohol with Savannah at her residence. At some point during the night Savannah became physically helpless and A.Z. and W.F. took off her

clothes and penetrated her vagina with their fingers. Savannah did not consent to the acts of sexual abuse perpetrated against her. Nor, did she consent to A.Z. and W.F. taking several naked photographs of her. A.Z. and W.F. showed those photographs to other juveniles. Only after being told about the existence of the photographs did Savannah realize that she had been violated and victimized.

2. On June 27, 2012, Judge Angela McCormick Bisig, sitting in Jefferson District Court, Juvenile Session, Division 88, appointed the Office of the Louisville Metro Public Defender to represent Savannah Dietrich, a child victim of sexual abuse and voyeurism, on a "Joint Motion of the Juvenile Respondents for an Order Finding the Complainant/Witness in Contempt of This Court," filed by attorneys David Mejia and Christopher Klein, on behalf of their juvenile clients A.Z. and W.F.
3. A.Z. and W.F. had been arraigned on the charges of Sexual Abuse in the First Degree and Voyeurism on March 16, 2012, in Jefferson District Court, Juvenile Session, Division 88, by Judge McCormick Bisig.
4. On June 26, 2012, both A.Z. and W.F. appeared before Judge Deana McDonald, in Jefferson District Court, Juvenile Session, Division 88, and entered pleas to Sexual Abuse in the First Degree and Voyeurism.
5. At the conclusion of the entry of the pleas, Christopher Klein, counsel for W.F., asked Judge McDonald for some "guidance" as to the rules of confidentiality with regard to juvenile court proceedings. Judge McDonald then addressed all persons in the courtroom, including Savannah Dietrich and her mother, regarding the

confidentiality she expected to be honored. Specifically, she explained that while she did not have the law in front of her that the statute is clear that there is a heavy veil of confidentiality. She stated that there was "to be nothing said outside of the courtroom by anyone in the courtroom, regarding anything that has happened in the courtroom today." Her "order" at that point in time was that, "Nothing is to be spoken outside of this courtroom." The breach for doing so could be "contempt of court" and could result in "jail." Furthermore, "no one" should "speak about the incident to anyone for any reason." "No one is to talk or type anything." "If there's to be any speech about it, it's to be done amongst you all in here."

6. On June 27, 2012, David Mejia, attorney for A.Z., and Christopher Klein, attorney for W.F., filed in open court a joint motion requesting that the Jefferson County District Court, Juvenile Session, Division 88, find Miss Dietrich in Contempt for violating Judge McDonald's "order." Specifically, it was alleged that Miss Dietrich posted comments on her twitter account in violation of Judge McDonald's order. The motion accused her of "using profanity," making "false allegations of criminal activity" and "expressing contemptuous remarks at this court." The alleged comments are as follows:

- "They said I can't talk about it or I'll be locked up. So I'm waiting for them to read this and lock me up. Fuck Justice."

- "[W. F.] and [A. Z.]¹ sexually assaulted me. There you go, lock me up. I'm not protecting anyone that made my life a living Hell."
- "Throw me in jail already now. See if I give a fuck read my tweets. I care just about as much as you all now. I don't care at all. Lock me up."
- "Protect rapist is more important than getting justice for the victim in Louisville."
- "I need something to ease my mind...I don't want to think right now."
- "All people are, are selfish. Only think about themselves. Dog eat dog world, if you don't come out on top, prepare to linger at the bottom."
- "Having someone fill your pockets can easily change someone's decision making. Money can sway anybody. Money can buy you anything."
- "Don't expect anybody to give a damn. Cause in reality nobody does."
- "A barrel to the head sounds a lot friendly then most of y'all out there..."
- "If it means going to jail, so be it. They took away my rights before and I'm not gonna let you take away anymore."

7. Assistant County Attorney, Paul Richwalsky, who is handling the prosecution of A.Z. and W.F., was noticed that the joint motion for a finding of contempt would be made the same morning as its filing, Wednesday, June 27, 2012, at 9:00 a.m., in Division 88. Neither Savannah Dietrich, nor her parents were noticed for that date.

¹ The first and last names of the juvenile offenders were used.

8. On June 27, 2012, David Mejia, Christopher Klein, and Paul Richwalsky appeared before Judge Angela McCormick Bisig, who allowed the merits of the motion to be argued by Mr. Mejia and Mr. Klein. Mr. Richwalsky also participated in the proceeding when he commented on the events that preceded the filing of the contempt motion. It was determined at that time that a contempt hearing would be scheduled for the following day.
9. On June 28, 2012, Miss Dietrich made her first appearance in this Court with regard to the motion for contempt filed against her. She was not arraigned on that day and she has yet to be arraigned.
10. The joint motion that was filed by Mr. Mejia and Mr. Klein was not accompanied by an affidavit.
11. The motion was filed in the interest of A.Z. and W.F., not Savannah Dietrich. It was also filed under the juvenile records of A.Z. and W.F., not Savannah Dietrich's juvenile record.
12. On July 3, 2012, Miss Dietrich made a motion to have the motion transferred to her file. That motion was granted, but no petition number has been assigned to the charge of indirect criminal contempt, as no petition has been filed against Miss Dietrich, pursuant to the Juvenile Code, KRS Chapters 600 to 645, KRS 610.010, KRS 610.020 and KRS 610.060.
13. Mr. Mejia has expressed on the record that he is seeking to have the information he believes Miss Dietrich posted to her supposed twitter account removed, he wants an apology made to his client and this Court, he wants restitution for his

client to help cover his attorney fees, and whatever other sanctions this Court feels is appropriate. Mr. Klein also wishes to have the alleged tweets removed from Ms. Dietrich's supposed twitter account. Additionally, this Court stated on June 26, 2012, any speech outside of the courtroom regarding the incident, for which A.Z. and W.F. have entered pleas of guilty, could result in contempt of court and "jail time."

14. On July 2nd, 2012, Mr. Richwalsky stated that the County Attorney's Office is not pursuing the contempt charge against Miss Dietrich and will not be participating in her prosecution. Additionally, Mr. Richwalsky has asserted to this Court that he is in fact a witness with regard to the charge of contempt.
15. On June 28, 2012, Miss Dietrich filed a motion to dismiss the contempt action, which was denied.
16. On July 3, 2012, Miss Dietrich filed a motion for a specific bill of particulars, which was denied.
17. On July 5, Miss Dietrich made a request pursuant to KRS 26.020 to Disqualify Judge Angela McCormick Bisig and filed a motion to stay the proceedings until the Chief Justice acted or designated a special judge. Judge Bisig did not think that request to disqualify her was supported by any basis for which she should disqualify herself. Judge Bisig did pass the case to July 6, 2012, in order to give all interested parties an opportunity to respond to the motion to stay the proceedings.

18. On July 6, 2012, Judge Bisig disqualified herself from the case. She maintained that she did not believe that she had engaged in *ex parte* or improper communications in the case, but that she "always wants parties to feel that they have a fair and impartial judge." She assigned Judge McDonald to preside over the case since Judge McDonald entered the orders that are the subject of the contempt motion.
19. On July 6, 2012, Miss Dietrich asked Judge McDonald to disqualify herself as the Judge hearing the contempt motion because Miss Dietrich felt that Judge McDonald's "order" regarding confidentiality had been specifically directed to her and her mother, and that Judge McDonald should not sit in a position to subjectively rule as to whether her oral "order" was a valid order. The motion to disqualify was overruled. Judge McDonald stated that the Court has inherent contempt powers. She also stated that she "didn't know who the victim was" at the point in time that she addressed the courtroom with regard to confidentiality and that she "outlined what this Court's knowledge of the confidentiality laws of this State are for everyone in this Court." Additionally, as far as the court being a witness it was "incomprehensible" to her that if she made a ruling that she could not "be viewed as an unbiased person to hear the result of an alleged violation" of her "order." She thought it was "unfortunate" that Miss Dietrich has "hurt feelings regarding what she views as a personal targeting of her," but "that was certainly not the Court's intention." According to this Court, that basis alone was not sufficient for this Court to disqualify itself from hearing the contempt case.

20. On July 6, 2012, Miss Dietrich also made a motion to voir dire Judge McDonald. After some consideration and an initial ruling granting a five question voir dire, that motion was also overruled.
21. On July 6, 2012, Miss Dietrich made a motion to dismiss the contempt on the basis that there was not proper personal jurisdiction, subject matter jurisdiction, that the "order" at issue violated Miss Dietrich's First Amendment right to free speech, and that a valid order did not exist because the order of this Court was not written. The motion to dismiss was denied on all grounds. Judge McDonald stated specifically that, "This Court views Ms. Dietrich as being in front of it pursuant to its contempt powers as outlined by the statute."
22. After the denial of the motion to dismiss, Miss Dietrich made a motion for a jury trial, which was overruled. This Court stated that Miss Dietrich was before this Court "under 610.010(11), as such this entire proceeding is within the confidentiality of juvenile court."
23. After the denial of a jury trial, Miss Dietrich requested that her contempt proceedings be made public and open and has signed a waiver of confidentiality. That motion is the subject of this memorandum, which is being provided at the request of this Court.

MEMORANDUM OF LAW

"The right to be heard in open court before one is condemned is too valuable to be whittled away under the guise of 'demoralization of the court's authority.'"²

Savannah Dietrich believes that due process demands appropriate regard for the requirements of a public proceeding in her case of indirect criminal contempt. The shroud of secrecy and confidentiality enacted in the Juvenile Code, KRS Chapters 600 to 645, was designed to protect the juvenile, but in this instance serves to harm Miss Dietrich and does not satisfy the appearance of justice that can best be provided by allowing a public proceeding. The confidentiality that is provided for in KRS 610.070, 610.320, and 610.340 rests with the child before the court and is within Miss Dietrich's rights to waive.

A public trial is guaranteed to all criminal defendants by the Sixth Amendment and the Due Process Clause of the Fourteenth Amendment. *Waller v. Georgia*, 467 U.S. 39 (1984). Denial of a public trial is a "structural error" that requires no showing of prejudice and is not subject to harmless error analysis. *Woolfork v. Commonwealth*, 339 S.W.3d 411, 418, Fn 6 (Ky. 2011). Section Eleven of the Kentucky Constitution likewise requires a public trial. While a criminal contempt proceeding is not a "criminal prosecution" within the meaning of the Sixth Amendment, the Supreme Court has noted

² *In re Oliver*, 333 U.S. 257, 278 (1948).

that more than the Sixth Amendment is involved. *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 574, (1980); citing *Levine v. United States*, 362 U.S. 610 (1960).

"But while the right to a 'public trial' is explicitly guaranteed by the Sixth Amendment only for 'criminal prosecutions,' that provision is a reflection of the notion deeply rooted in common law, that 'justice must satisfy the appearance of justice.' ... [Due] process demands appropriate regard for the requirements of a public proceeding in cases of criminal contempt . . . as it does for all adjudications through the exercise of the judicial power, barring narrowly limited categories of exceptions" *Levine v. United States*, at 616 (citing *Offutt v. United States*, 348 U.S. 11, 14 (1954) and *In re Oliver*, 333 U.S. 257).

The United States Supreme Court has clearly stated that the "'law of the land' that no man's life, liberty or property be forfeited as a punishment until there has been a charge fairly made and fairly tried in a public tribunal" applies to the criminal contempt defendant. *In re Oliver*, 333 U.S. at 278; See also *Riley v. Gibson*, 338 S.W.3d 230, 234 (Ky. 2011). In this case, Savannah Dietrich should be allowed to waive the confidentiality enacted (for her protection) by the Kentucky Legislature in juvenile proceedings and have a public proceeding that comports with all requirements of due process such as any adult would be afforded.

I. This Court's assertion that Savannah Dietrich is properly before the Court pursuant to KRS 610.010(11) demands that she have a public trial in order to satisfy due process.

Savannah Dietrich is before this Court on a motion to hold her in indirect criminal contempt for violating this Court's "order" regarding the confidentiality of juvenile court proceedings. Savannah Dietrich was allowed to be present for the juvenile court proceedings because of her status as a victim of sexual abuse and voyeurism, charges

to which the two juvenile "respondents" pled guilty on June 26, 2012. This motion was filed by the "respondents" counsel on June 27, 2012, and was unsupported by an affidavit. This Court has ruled that a verified petition is not required in this case, contrary to Miss Dietrich's assertion that such is required by KRS 610.020, 610.030, and 610.060. The alleged contempt is an original action not arising from any underlying public offense, for which Ms. Dietrich is charged. The contempt motion is not being prosecuted by the Jefferson County Attorney's Office. In fact, Assistant County Attorney Paul Richwalsky has declared himself a witness. Thus far, counsel for the "respondents" has been allowed to prosecute Ms. Dietrich. For these reasons Miss Dietrich still firmly asserts that this Court does not have proper personal or subject matter jurisdiction in this case. However, Miss Dietrich recognizes that this Court has ruled that she and the indirect criminal contempt motion filed against her are properly before this Court pursuant to KRS 610.010(11). In light of the unique procedural history of this case and this Court's rulings regarding jurisdiction, Savannah Dietrich believes legislatively created rules of confidentiality cannot and do not trump her constitutional right to have a hearing that satisfies due process, which should include a public hearing in this instance.

A. This Court's exercise of its contempt power pursuant to KRS 610.010(11) is improper and does not place Savannah Dietrich in any different posture when facing criminal contempt than an adult.

The Kentucky Supreme Court has acknowledged there is authority for the appropriate use of the court's inherent contempt powers in connection with the juvenile

court's enforcement of its orders. *A.W. v. Commonwealth*, 163 S.W.3d 4, 6 (Ky. 2005). The Court in *A.W.* noted that KRS 610.010(11) specifically acknowledges that "(n)othing in this chapter shall prevent the court from holding a child in contempt of court to enforce *valid court orders* previously issued by the court." However, 610.010(11) further states that the exercise of that contempt power is "*subject to the requirements contained in KRS 610.265 and 630.080.*" A closer examination of the specified requirements is appropriate in this case and illustrates that Savannah Dietrich is not before this pursuant to the Juvenile Code, KRS Chapters 600-645.

KRS 610.265 speaks to the ability of the Court to detain a child that is before it. Subsection (1) speaks in part to the detention of a child who is accused of being in contempt of court on an underlying finding that the child is a status offender. Subsection (3)(e) speaks in part to the detention of a child "charged" with contempt of court on an "underlying public offense." This statute does not provide for or discuss the detention of a child who is before the Court for indirect criminal contempt that does not arise from an underlying public offense for which this child is charged.

KRS 630.080 applies only to the detention of status offenders or alleged status offenders. Subsection (4) specifically addresses detention of a status offender or alleged status offender subject to a "valid court order" upon a finding that the child violated that "valid court order." Per KRS 600.020(61), a "valid court order" is defined as a court order issued by a judge to a child alleged or found to be a "status offender" who (a) was brought before the court and made subject to the order; (b) whose future conduct was regulated by the order; (c) who was given written and verbal warning of the

consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided written notice . . . ; and (d) who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States. Savannah Dietrich is clearly not a status offender or an alleged status offender before this Court who has been made subject to a "valid court order."

Additionally, contempt is specifically excluded from the definition a "public offense" contained in KRS 600.020(47). Examining this fact in combination with KRS 610.010(11), 610.265, 630.080, and 600.020(61), it is clear that the form of contempt and the nature of the contempt proceedings Miss Dietrich faces before this Court were not contemplated by the legislature as being subject to the provisions of the Juvenile Code. The stated purpose of the contempt power to be exercised against juveniles also supports this position.

The Kentucky Supreme Court in stated in *A.W. v. Commonwealth*, that "the contempt power exists for the purpose of compelling the juvenile to comply with the court's orders and to enable the court to help the juvenile become a productive citizen." *Id.* at 7-8. Certainly this Court's exercise of the contempt power over Miss Dietrich to make her comply with what is essentially a gag order and a restriction of her free speech with regard to a sexual assault that was committed against her does not in any way advance the purpose of helping her to become a productive member of society. Nor, does her alleged conduct in any way indicate that she is not or will not be a productive member of society.

Furthermore, the exercise of this Court's contempt power pursuant to 610.010(11), in this instance, goes completely against the stated goals of the Juvenile Code. "The Juvenile Code was enacted with the stated goal of rehabilitating juvenile offenders, when feasible, as opposed to the primary punitive nature of the adult penal code." *Phelps v. Commonwealth*, 125 S.W.3d 237 (Ky. 2004); See KRS 600.010(2)(d) ("[a]ny child brought before the court under KRS Chapters 600-645 shall have a right to treatment reasonably calculated to bring about an improvement of his or her condition..."); See KRS 600.010(2)(g) ("It shall further be the policy of this Commonwealth to provide judicial procedures in which rights and interests of all parties, including... the victims, are recognized and all parties are assured... fair hearings" "Unless otherwise provided, such protections belong to the child individually and may not be waived by another party."). The possible sanction for contempt as stated by this Court is "jail." The sanctions as requested by Mr. Mejia, on behalf of his client, have included an apology to his client, an apology to this Court, and the possibility of a demand for restitution to cover his attorney fees for bringing and litigating this contempt action. These sanctions are punitive in nature. They do not further the goals of rehabilitation. They do not improve her condition as a victim or a defendant. Her rights, interests and the assurance of fair proceedings are not being protected.

For all of these reasons, it is Miss Dietrich's position that the indirect criminal contempt pending before this Court is and should be treated the same as that any contempt proceeding an adult would face as provided for and subject to the provisions

of KRS Chapter 432. Indirect criminal contempt may be punished only in proceedings that satisfy due process. *Commonwealth v. Burge*, 947 S.W.2d 805, 808 (Ky. 1996) (citing *Cooke v. United States*, 267 U.S. 517 (1925)). As noted above, due process for the charge of indirect criminal contempt can only be satisfied when the charge is "fairly made and fairly tried in a public tribunal" *In re Oliver*, 333 U.S. 257, 278 (1948).

B. Regardless of whether proper personal or subject matter jurisdiction exists in this case, pursuant to KRS 610.010(11), Savannah Dietrich is entitled to waive confidentiality in her juvenile court proceeding and have a public hearing.

The United States Supreme Court has shown "historical evidence demonstrates conclusively that at the time when our organic laws were adopted, criminal trials both here and in England had long been presumptively open." *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980). It is an "indispensable attribute of an Anglo-American trial." *Id.* Open proceedings "gave assurance that the proceedings were conducted fairly to all concerned, and it discouraged perjury, the misconduct of participants, and decisions based on secret bias or partiality." *Id.* "To work effectively, it is important that society's criminal process 'satisfy the appearance of justice,' and the appearance of justice can best be provided by allowing people to observe it." *Id.* at U.S. 572 (citing, *Offutt v. United States*, 384 U.S. 11, 14 (1954)). The "value to the public of this openness lies in the fact that people not actually attending trials have confidence that standards of fairness are being observed; the sure knowledge that anyone is free to attend gives assurance that established procedures are being followed and that deviations will become known." *Riley v. Gibson*, 338 S.W.3d 230, 235 (Ky. 2011) (citing

Press-Enterprise v. Superior Court I, 464 U.S. 501, 508 (1984)). Miss Dietrich sees the value of openness for the same aforementioned reasons.

As previously stated, the “law of the land’ that no man’s life, liberty or property be fortified as a punishment until there has been a charge fairly made and fairly tried in a public tribunal” applies to the criminal contempt defendant. *In re Oliver*, 333 U.S. 257, 278 (1948). The right to a public hearing belongs to the criminal contempt defendant. *Riley v. Gibson*, 338 S.W.3d 230, 234 (Ky. 2011). That right to a public hearing can be waived by a defendant as long as that waiver is based on the defendant’s conclusion that his interests will be better served foregoing the privilege than by exercising it. *Levine v. U.S.*, 362 U.S. 610, 626 (1960) (dissenting opinion; citing *United States v. Sorrentino*, 175 F.2d 721, 723 (3rd Cir. 1949)).

Additionally, the right of access to criminal trials is not absolute despite its “constitutional stature.” *Globe Newspaper Co. v. Superior Court for Norfolk County*, 457 U.S. 596, 606 (1982). States may deny access, but the justification for doing so must be a weighty one. *Id.* Our legislature has denied juveniles public trials when it afforded juveniles confidentiality in the Juvenile Code, Chapters 600-645. The specific statutes that require examination by this Court are KRS 610.320 and 610.340. The statutes address “juvenile proceedings” and “juvenile records” differently.

KRS 610.320(1) provides that in all cases a special record book referred to as the “juvenile record” should be kept. The law enforcement and court records regarding the child shall not be open to scrutiny by the public, except that a separate public record may be maintained with limitations for children who are at least fourteen years old and

have been adjudicated of an offense that would be a Capital Offense, or a Class A, B, or C felony if the juvenile were an adult. KRS 610.320(3). "All juvenile records of any nature generated pursuant to KRS 600-645 shall be deemed confidential and shall not be disclosed unless ordered by the court for good cause." KRS 610.340(1)(a). Additionally, "no person . . . shall disclose any confidential record or any information contained therein . . . except as permitted by specific court order of the court." KRS 610.340(6).

However, according to KRS 610.320(7) "This section shall not prohibit the release of information regarding juvenile proceedings in District Court which do not reveal the identity of the child or its parents or guardians." While the general public is excluded from juvenile proceedings, the judge has the ability to admit such persons that have a "direct interest in the case" or "the work of the court", and "such other persons as agreed to by the child and his attorney." KRS 610.070(3).

"The purpose of the shroud of secrecy and confidentiality mandated by the above cited statutes is to protect the juvenile." *F.T.P. v. Courier-Journal and Louisville Times Co.*, 774 S.W.2d 444, 446 (Ky. 1989) (discussing KRS 610.070 and KRS 610.340). "Clearly this purpose was uppermost in the minds of the General Assembly." *Id.* "It was intended that the trials of juveniles not be publicized . . . as such publicity would possibly deprive the juvenile of a fair trial and, more particularly, would likely diminish his or her prospect for rehabilitation." *Id.* As previously asserted, the stated purpose for confidentiality does not have any merit when applied to Savannah Dietrich's case. Because Miss Dietrich believes there are serious procedural and jurisdictional

concerns with regard to the pending motion to hold her in indirect criminal contempt, the "shroud of secrecy" does not further her interest in a fair hearing, nor does it diminish any prospect of rehabilitation. The "shroud of secrecy" only serves to further protect the reputation of the two juvenile sex offenders who are seeking to have this Court silence Miss Dietrich and allow for her persecution by two members of the private defense bar.

The confidentiality statutes clearly place the protections on the juvenile defendant. Because Miss Dietrich is being harmed rather than protected by those same statutes she should have the ability to waive confidentiality with regard to her proceeding and the records associated with it. The fact that KRS 610.070(3) allows the child and her attorney to choose which persons they would like to be present supports Miss Dietrich's position that the issue of her confidentiality as a defendant resets solely with her. Much as an adult criminal defendant can waive the right to a public trial when it is in her interest, a child must surely be able to waive her right to confidentiality when there are constitutional concerns such as exist in this case.

"Our courts have acknowledged that because of their minority status, children should be granted a heightened assurance of the protection of their constitutional rights within the justice system." *D.G. v. Commonwealth*, 335 S.W.3d 476 (Ky. App. 2011); citing *Humphrey v. Commonwealth*, 153 S.W.3d 854, 858-59 (Ky. App. 2004). Those constitutional rights should take precedence over legislatively enacted rules of confidentiality.

II. Savannah Dietrich does not have a duty to protect the confidentiality of the two juvenile "respondents" that initiated this contempt action against.

"Contempt is the willful disobedience toward, or open disrespect for, the rules or orders of a court." *Commonwealth v. Burge*, 947 S.W.2d 805, 808 (Ky. 1997). "Criminal contempt is conduct 'which amounts to an obstruction of justice, and which tends to bring the court into disrepute.'" *Id.* (quoting *Gordon v. Commonwealth*, 141 Ky. 461, 463, 133 S.W. 206, 208 (1911)). As such, there is no person who is the victim of contempt and the two juvenile respondents who initiated the contempt proceeding against Miss Dietrich are not "victims" of her alleged contemptuous acts. Nor, are they parties as contemplated by KRS 600.010(g), for whom judicial procedures in which the rights, interests and fair hearings are to be protected by the policy of this Commonwealth. Therefore, it is not Savannah Dietrich's duty or responsibility to protect the identities of A.Z. and W.F. in the contempt action that they initiated, by way of their counsel, against Miss Dietrich. Furthermore, by initiating the contempt proceedings by filing their motion in this Court, the "respondents" have thereby waived any confidentiality to which they would otherwise be entitled under the Juvenile Code.

However, counsel for Miss Dietrich, has as a matter of courtesy, tried to respect the privacy of A.Z. and W.F. in proceedings because the bounds of confidentiality are being adamantly contested in Miss Dietrich's contempt proceedings. Counsel also previously stated to this Court that Miss Dietrich does not intend to directly identify A.Z. and W.F. in Miss Dietrich's contempt hearing if this Court grants Miss Dietrich's motion for a public hearing. Based on the aforementioned representations by counsel on July 6,

2012, this Court asked counsel to explain how a public hearing could take place without violating the confidentiality of A.Z. and W.F. with regard to their juvenile court proceedings. The following suggestions are being made in accordance with this Court's request:

1. In all open court proceedings counsel and all parties will continue to refer to the two juvenile "respondents" by their initials A.Z. and W.F.
2. In all written motions, responses, and orders the two juvenile "respondents" will continue to be referenced by their initials A.Z. and W.F.
3. Since the testimony of A.Z. and W.F. will be essential to Miss Dietrich's defense and to mitigation in the contempt proceeding, counsel for Miss Dietrich is not averse to deposing A.Z. and W.F. for the purpose of using their testimony at the public hearing.
4. To further protect the confidentiality that A.Z. and W.F. believe they have in Miss Dietrich's contempt hearing, their testimony provided at the suggested depositions could be transcribed and have any identifying information redacted and therefore be available to the public.

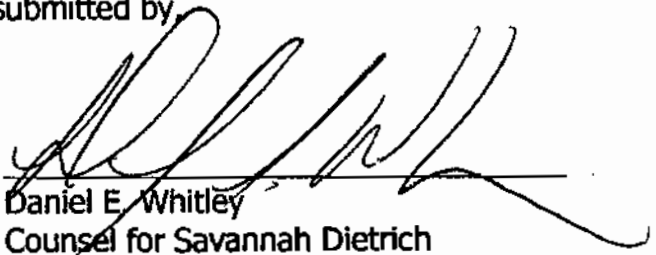
CONCLUSION

The unique procedural circumstances of this case, the fact that a child victim is being denied her right to free of speech, and the failure of the County Attorney to provide oversight to make sure that the State's interests are being protected and prevent Miss Dietrich from being persecuted by her abusers, have created a proceeding that falls outside the contempt process that was contemplated by the Kentucky State

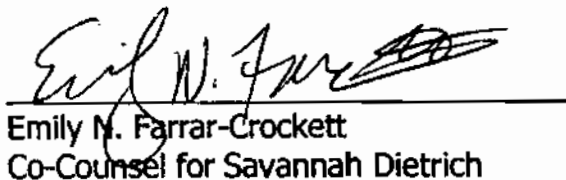
Legislature when it enacted the Juvenile Code. Miss Dietrich's fundamental right to a proceeding that satisfies due process demands that her indirect criminal contempt hearing be heard and fairly tried in an open and public proceeding. "The right to be heard in open court before one is condemned is too valuable to be whittled away under the guise of 'demoralization of the court's authority.'" *In re Oliver*, 333 U.S. 257, 278 (1948).

Wherefore, Savannah Dietrich requests that this Court grant her motion for an open and public hearing on the allegations of indirect criminal contempt made against her.

Respectfully submitted by,



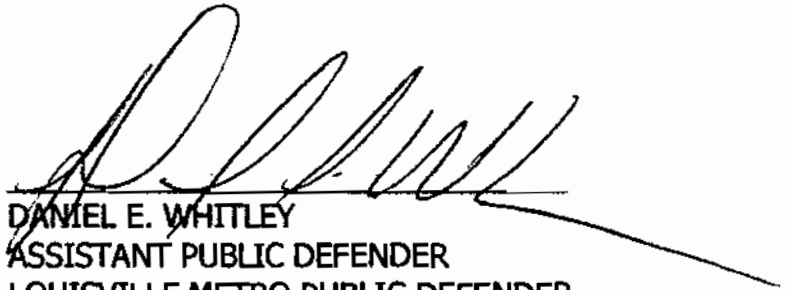
Daniel E. Whitley
Counsel for Savannah Dietrich



Emily N. Farrar-Crockett
Co-Counsel for Savannah Dietrich

CERTIFICATE

This is to certify that a copy of the foregoing was delivered by hand, in open court, to the Honorable David Mejia, counsel for A.Z., and the Honorable Christopher Klein, counsel for W.F., or their agents, on this the 11th day of July, 2012.



DANIEL E. WHITLEY
ASSISTANT PUBLIC DEFENDER
LOUISVILLE METRO PUBLIC DEFENDER
200 ADVOCACY PLAZA
719 WEST JEFFERSON STREET
LOUISVILLE, KENTUCKY 40202
(502) 574-3800



EMILY N. FARRAR-CROCKETT
ASSISTANT PUBLIC DEFENDER
LOUISVILLE METRO PUBLIC DEFENDER
200 ADVOCACY PLAZA
719 WEST JEFFERSON STREET
LOUISVILLE, KENTUCKY 40202
(502) 574-3800

NO. 12-J-700321

MOT
02

FILED IN CLERK'S OFFICE
JEFFERSON DISTRICT COURT
JEFFERSON DISTRICT COURT
JUVENILE SESSION
DIVISION 88/99
2012 JUL 27 A 1:00
JUDGE DEANA MCDONALD

IN THE INTEREST OF: WILLIAM FREY, A CHILD

NOTICE-MOTION-ORDER

TO:

Hon. David Mejia
455 S. 4th Street, Suite 382
Louisville, KY 40202

Hon. Christopher J. Klein
600 West Main Street, Suite 300
Louisville, KY 40202

Paul Richwalsky
Jefferson County Attorney's Office
600 W. Jefferson Street
Louisville, KY 40202

NOTICE

Please take notice that the undersigned will on Monday, July 30, 2012 at 1:00 p.m., make the following motion and tender the attached Order.

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing Notice-Motion-Order was this 27th day of July, 2012, mailed to the persons at the addresses above listed.

MOTION TO DISQUALIFY
JEFFERSON COUNTY ATTORNEY'S OFFICE
FROM FURTHER PARTICIPATION IN ALL CASES LISTED ABOVE

Comes Savannah Dietrich, a child, by counsel, and for her Motion to Disqualify Jefferson County Attorney's Office from Further Participation In the Case Listed Above, states as follows:

1. She is the prosecuting witness/victim in the following cases:
 - a. Commonwealth of Kentucky v. William Joseph Frey, Case No. 12-J-700321;
 - b. Commonwealth of Kentucky v. Austin Zehnder, Case No. 12-J-700320;
2. Both juveniles named above have been charged with Sexual Abuse, First Degree (KRS 510.110 – Class D Felony), and Voyeurism (KRS 531.090 – Class A Misdemeanor).
3. On June 26, 2012, both Frey and Zehnder entered “Admissions of Guilt” to both charges.
4. Prior to their appearance, Hon. Paul Richwalsky, Assistant County Attorney, head of the Jefferson County Attorney's Juvenile Division, prepared typed “Recommendations/Agreements/Dispositions” for both Frey and Zehnder. These documents contain identical “Commonwealth's Recommendations/Agreements.”
5. The Recommendations are an affront to Savannah Dietrick, the victim in these cases.
6. Certain provisions of the “Agreements” appear to violate state law in addition to imposing conditions on Frey and Zehnder that are lenient to the point of being absurd.
7. Specific conditions that appear to violate Kentucky law include the following:
 - a. “DEF. is to be Committed-Probated to the Department of Juvenile Justice (DJJ).”

There is no provision in KRS 635.500, et seq., “Treatment of Juvenile Sex Offenders,” for a “probated commitment” to DJJ. KRS 635.510(3) provides:

There is no provision in KRS 635.500, et seq., "Treatment of Juvenile Sex Offenders," for a "probated commitment" to DJJ. KRS 635.510(3) provides:

Upon final adjudication by the juvenile court under subsection (2) of this section, the juvenile court judge shall order a juvenile sexual offender assessment to be conducted on the child by the Department of Juvenile Justice treatment program or by a qualified professional approved by the program which shall recommend whether the child be declared a sexual offender and receive sexual offender treatment. Upon receipt of the findings of the assessment, the juvenile court judge shall determine whether the child shall be declared a juvenile sexual offender, and, if so, shall initiate a referral to the Departments of Juvenile Justice treatment program for treatment.

To the extent that any commitment to DJJ is "probated," this provision is contrary to KRS 635.510(3) which requires the judge to order a "sexual offender assessment" by DJJ. DJJ then recommends to the court whether the child should be declared a sexual offender and be required to receive sexual offender treatment.

While the "Recommendation" does allude to the referral to the Sex Offender Treatment Program, for "assessment, counseling and treatment if found to be required and/or necessary," the "Probated to the Department of Juvenile Justice (DJJ)," there is no provisions in the law for a probated commitment.

b. "DIVERSION AT AGE NINETEEN AND A HALF (19 ½): DEF. may move to Set Aside Guilty Plea – Withdraw Guilty Plea – Dismiss Case AND have His Record Expunged = Provided All Terms, Conditions, and requirements (especially those of any treatment program) have been met and there have been No New Offenses."

This provision appears to violate KRS 610.300(1), Expungement of juvenile court records:

Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635 (with regard to status offenses,

misdemeanors, or violations only), or 645, but not KRS Chapters 620 or 640, may petition the court for the expungement of his or her juvenile court record, except for adjudications involving guilt of an offense which would have been a felony if the offense was committed by an adult.

Additionally, allowing Frey and Zehnder to move to set aside their guilty pleas at age 19 ½ is a flagrant abuse of prosecutorial discretion given the heinous nature of the acts both Frey and Zehnder performed on the physically helpless victim in this case.

c. The Recommendation/Agreement allows Frey and Zehnder to withdraw their “guilty plea” at any time.

DEF. has the right – without Objection by the Commonwealth – to WITHDRAW his Guilty Plea at any time up to and including Final Sentencing – thereby allowing the case to revert to its Pre-Trial status.

While this provision may not be illegal per se, the undersigned has never seen a similar provision in thirty-eight years of criminal defense practice.

The entire resolution of the Frey and Zehnder cases wreaks of favoritism. The crime of Sexual Abuse, First Degree, subjects both Frey and Zehnder to special provisions of the Juvenile Code which indicate a heightened need for their evaluation and treatment, not a resolution which will be wiped from the slate and expunged from court records in a short time.

8. The actions of Mr. Richwalsky call into question the manner in which the charges against Frey and Zehnder were prosecuted. Both Frey and Zehnder are entering their senior year at Trinity High School. Mr. Richwalsky is a member of the Trinity class of '67, and he serves on the reunion committee. He is also a member of the 1953 Society's President's Circle.

9. As the Chief of the County Attorney's Juvenile Division, Mr. Richwalsky assigns all cases to assistant county attorneys who work in this section. He assigned this case to himself.

10. On information and belief, Mr. Richwalsky engaged in communications with the presiding judge regarding the contempt issue raised against Savannah Dietrich without notifying Savannah or her representative.

11. On information and belief, Mr. Richwalsky's preparation of a typed "Recommendation/Agreement Disposition" in the Frey and Zehnder's cases was unprecedented.

12. In Mr. Richwalsky's affidavit filed in response to affidavits to recuse Judge Bisig, he accuses Savannah of being "in error (or at worst intentionally attempting to mislead the Court) when she stated she did not know "the terms and conditions of any proposed guilty plea." (Affidavit, ¶ 21, attached hereto.) The affidavit contains further invectives which clearly establish that Mr. Richwalsky has lost his objectivity when it comes to dealing with Savannah. (KRS 26A.020 provides for an ex-parte application by a *party* to the Chief Justice for removal of a presiding judge. [Emphasis added.] Mr. Richwalsky's "Affidavit In Response" is not authorized by this statute.)

Based upon the foregoing facts, Savannah Dietrich moves the Court to disqualify the Office of the Jefferson County Attorney from further participation in cases No. 12-J-700320 and 12-J-700321.

Respectfully submitted,



THOMAS E. CLAY, P.S.C.
Clay Frederick Adams, PLC
101 Meidinger Tower
462 S. Fourth Street
Louisville, KY 40202
(502) 561-2005
tclay@tclaylaw.com
Counsel for Savannah Dietrich

NO. 12-J-700321

FILED IN CLERK'S OFFICE
JEFFERSON DISTRICT COURT
JEFFERSON CIRCUIT CT.
JUVENILE SESSION
DIVISION 88/99
2012 JUL 27 A. 10:10
JUDGE DEANA MCDONALD

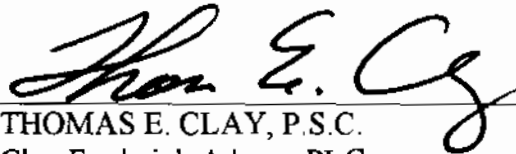
IN THE INTEREST OF: WILLIAM JOSEPH FREY

BY _____

ENTRY OF APPEARANCE

Please take notice that the undersigned, Thomas E. Clay, P.S.C., hereby enters his appearance as counsel of record for Savannah Dietrich, a child, in the above-styled action.

Respectfully submitted,



THOMAS E. CLAY, P.S.C.
Clay Frederick Adams, PLC
101 Meidinger Tower
462 S. Fourth Street
Louisville, KY 40202
(502) 561-2005
tclay@tclaylaw.com

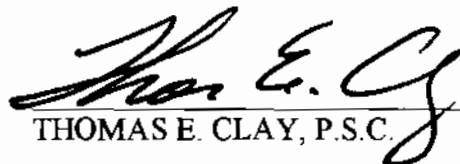
CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing was this 26th day of July 2012, mailed to:

Paul Richwalski
Jefferson County Attorney's Office
600 W. Jefferson Street
Louisville, KY 40202

Hon. David Mejia
455 S. 4th Street, Suite 382
Louisville, KY 40202

Hon. Christopher J. Klein
600 West Main Street, Suite 300
Louisville, KY 40202



THOMAS E. CLAY, P.S.C.

CASE NO. 10-J-701053

WTH
①②
7-23-12

JEFFERSON JUVENILE DISTRICT COURT
DIVISION NINETY-NINE (99)

IN RE: SAVANNAH DIETRICH, A CHILD

NOTICE-MOTION-ORDER

*** **

TO: Hon. Paul Richwalsky
Jefferson County Attorney
600 West Jefferson Street
Louisville, KY 40202

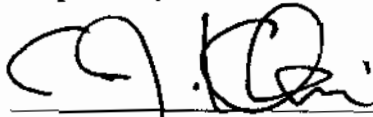
Hon. Emily M. Farrar-Crockett
Hon. David E. Whitley
Assistant Public Defenders
719 West Jefferson Street
Louisville, KY 40202

Please take notice that the undersigned will make the following Motion and tender the attached Order on Monday, July 23, 2012 at 1:00 p.m. in the above-listed courtroom.

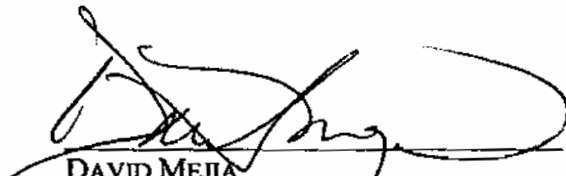
**JOINT MOTION TO WITHDRAW MOTION TO
HOLD SAVANNAH DIETRICH IN CONTEMPT**

Come W.F. and A.Z. by and through counsel, HON. CHRISTOPHER J. KLEIN and HON. DAVID MEJA, and respectfully move this Court to enter the attached Order withdrawing their Motion to hold Savannah Dietrich in contempt.

Respectfully submitted,



CHRISTOPHER J. KLEIN
600 West Main Street, Suite 300
Louisville, KY 40202
(502) 589-6190
COUNSEL FOR W.F.



DAVID MEJA
455 South 4th Street, Suite 382
Louisville, KY 40202
(502) 584-8991
COUNSEL FOR A.Z.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was hand-delivered, in Open Court, to the above individuals on this the 23rd day of July, 2012.


CHRISTOPHER J. KLEIN

7/30/12

CM

00

1.36-12 ✓

No. 10-J-701053
No. 12-J-700320
No. 12-J-700321

02

JEFFERSON DISTRICT COURT
JUVENILE DIVISION 99

In Re: SAVANNAH DIETRICH
AUSTIN ZEHNDER
WILLIAM FREY

ORDER

This matter came before the court at 9:00 am on June 26, 2012. (It should be noted that the undersigned is regularly assigned to the 1:00 pm docket of juvenile court and was simply covering this docket for the judge normally assigned to this division). On that date, Assistant County Attorney Paul Riehwalisky announced that he had reached a plea agreement with defense counsel and both juveniles entered pleas of guilty to the offenses as charged. The cases were passed to August 21, 2012 at 9:00 am for disposition. Prior to adjourning, counsel for the juvenile defendants requested that the court advise all present of the confidential nature of the proceedings, which the undersigned did.

The following day counsel for the juvenile defendants filed a motion in the morning session of juvenile court, requesting that Savannah Dietrich be held in contempt for allegedly violating the undersigned's admonition of confidentiality in juvenile cases by posting comments on her Twitter page naming the defendants and stating what they had done to her, among other things. Ultimately, the undersigned agreed to hear this motion, as she was the one who advised those present in court of the confidential nature of juvenile court proceedings. After much media attention, counsel for the juvenile defendants withdrew this motion on July 23, 2012.

There are presently four (4) motions before this Court: Hon. Thomas Clay, who has just entered his appearance as counsel for Ms. Dietrich, has moved to have the Jefferson County Attorney's Office disqualified from the above cited cases. Court appointed counsel for Ms. Dietrich and counsel for the Courier-Journal have both moved the court to lift, what they have described as a "gag order" imposed by this court on June

26, 2012. The Courier-Journal has also moved the Court to allow it to review the juvenile files of Ms. Dietrich and both juvenile defendants.

These shall be addressed in inverse order.

MOTION TO REVIEW JUVENILE FILES

The Court will grant the motion to review the juvenile files, so long as Ms. Dietrich and/or the juvenile defendants have no objection to the motion. In that event, an Agreed Order shall be tendered to this court for its review, signed by counsel, parties and parents. If either Ms. Dietrich and/or the juvenile defendants object to the motion, they are instructed to docket the matter on the 9:00 am session of juvenile court to request a hearing date. All motions docketed are to come before the Court prior to the 9:00 am, August 21, 2012 disposition date, still pending for the juvenile defendants.

“GAG ORDER”

Ms. Dietrich and the Courier-Journal have both moved the court to lift what they describe as a “gag order.” This motion is moot, and is accordingly denied, as no “gag order” was ever imposed by this Court. On June 26, 2012, the Court was asked to advise those present in the courtroom of the confidential nature of juvenile proceedings. The Court then attempted to express, in lay terminology, the legislative requirements contained within KRS 610.340(1) (a), KRS 310.320 (3) and KRS 610.070.

To be perfectly clear, there is no “gag order” currently in place, nor has there ever been one entered in this case. If a gag order had been entered by this Court, it should be obvious, with as much media exposure as this matter has received, the Court, sua sponte, would have immediately ordered all concerned to court for either admonishments and/or sanctions.

The Court is charged with the responsibility of enforcing the laws enacted by the legislature, which provide in pertinent part:

KRS 610.340(1) (a) - unless a specific provision of KRS Chapters 600 to 645 specifies otherwise, **all juvenile court records of any nature** (emphasis added) generated pursuant to KRS chapters 600 to 645 by any agency or instrumentality, public or private, **shall be deemed to be confidential and shall not be disclosed except to the child, parent, victims, or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070** (emphasis added) unless ordered by the court for good cause.

KRS 610.320(3) - All law enforcement and court records regarding children who have not reached their eighteenth birthday shall not be opened to scrutiny by the public, except that a separate public record shall be kept by the clerk of the court which shall be accessible to the public for court records, limited to the petition, order of the adjudication, and disposition in juvenile delinquency proceedings concerning a child who is fourteen (14) years of age or older at the time of the commission of the offense, and who is adjudicated a juvenile delinquent for the commission of an offense that would constitute a capital offense or a Class A, B, or C felony if the juvenile were an adult or any offense involving a deadly weapon, or an offense wherein a deadly weapon is used or displayed.

KRS 610.070 - The general public shall be excluded and only the immediate families or guardians of the parties before the court, witnesses necessary for the prosecution and defense of the case, the probation worker with direct interest in the case, a representative from the Department of Juvenile Justice, the victim his parent or legal guardian, or if emancipated, his spouse, or a legal representative of either, such persons admitted as the judge shall find have a direct interest in the case or in the work of the court, and such other persons as agreed by the child and his attorney may be admitted to the hearing.

The legislature has made violation of the above statutes a crime, providing, in

KRS 610.990 PENALTY

Any person who *intentionally* (emphasis added) violates any of the provisions of this chapter *shall* (emphasis added) be guilty of a Class B misdemeanor.

The Kentucky Supreme Court in *F.T.P. v Courier-Journal*, 774 S.W. 2d 444 (Ky. 1989) outlines that the purpose of the confidentiality provided in these statutes is to ensure a fair trial and enhance prospects for rehabilitation. *Id.* At 446. The juvenile defendants currently before this court are entitled to the same confidentiality as was afforded Ms. Dietrich on the prior occasions when she was before the court as a defendant.

Unfortunately, a great deal of misinformation has been disseminated to the public about this case, not the least of which is that a "gag order" had been entered. So that there is no further misunderstanding or mistake, everyone, including Ms. Dietrich, must simply comply with the laws of this Commonwealth as detailed above; no more and no less. This is as true today as it was on June 26, 2012, when the court so advised those present.

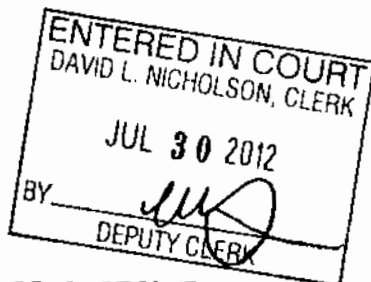
MOTION TO DISQUALIFY COUNTY ATTORNEY

This case originated on the morning juvenile docket and is currently on that docket for disposition in cases 12-J-700320 and 12-J-700321 on August 21, 2012. The only aspect of this case within the purview of the undersigned was the motion for contempt against Ms. Dietrich. That motion having been withdrawn, this matter is remanded back to the morning juvenile division for all further proceedings. As there are no longer charges pending against Ms. Dietrich, the Public Defender is removed from representing her.

Hon. Thomas Clay has entered his appearance on Ms. Dietrich's behalf, and has moved the Court to disqualify the Jefferson County Attorney's Office from further involvement in this case. This matter is hereby docketed for Friday, August 3, 2012 at 9:00 am to obtain a date for a hearing on the above referenced motion. Counsel may advance that motion by re-docketing it prior to that date.

Any further motions shall be made on the 9:00a.m. docket well in advance of August 21, 2012.

THIS IS A FINAL AND APPEALABLE ORDER



Entered this 30th day of July, 2012

A handwritten signature in black ink, appearing to read "Dee McDonald".

Dee McDonald, Judge
Jefferson District Court
Juvenile Session

CC: ALL COUNSEL

NO. 12J700320 and 12J700321

JEFFERSON DISTRICT COURT
JUVENILE SESSION
DIVISION #88

NOTICE – MOTION – ORDER

IN THE INTEREST OF:

AUSTIN ZEHNDER, and
WILLIAM JOSEPH FREY

* * * * *

NOTICE

FILED IN OFFICE OF THE
JEFFERSON DISTRICT COURT
2012 JUN 28 A 9:23
CLERK IC
BY _____

TO: Honorable Paul W. Richwalsky, Jr.
Assistant County Attorney
600 W. Jefferson Street, Suite 2086
Louisville, KY 40202

Honorable David S. Mejia
Attorney for Austin Zehnder
455 S. 4th Street, Suite 382
Louisville, KY 40202
(502) 584-8991

Honorable Christopher J. Klein
Attorney for William Frey
600 W. Main Street, Suite 300
Louisville, KY 40202

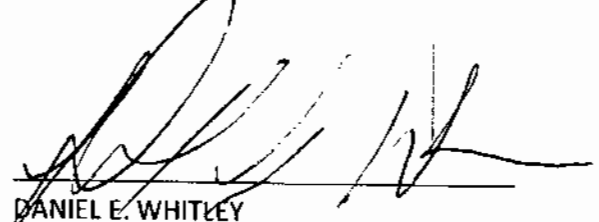
Please take notice that the following motion will be made on Thursday, the 28th day of June,
2012 at 9:00 a.m.

MOTION TO DISMISS JOINT CONTEMPT MOTION

* * * * *

Comes Savannah Dietrich, by counsel, Daniel E. Whitley, and respectfully moves this Honorable
Court to dismiss the Joint Contempt Motion filed by Zehnder and Frey on Wednesday, June 27, 2012. In
support of this motion Savannah states as follows:

1. The juvenile sex offenders listed above pled guilty to a felony sex offense in which Savannah
Dietrich was the victim.



DANIEL E. WHITLEY
ASSISTANT PUBLIC DEFENDER
LOUISVILLE METRO PUBLIC DEFENDER
719 WEST JEFFERSON STREET
LOUISVILLE, KENTUCKY 40202
(502) 574-3800

Original

COUNTY OF KENTUCKY
COURT OF JUSTICE
JEFFERSON COUNTY DISTRICT COURT, JUVENILE DIVISION

IN THE INTEREST OF:

AUSTIN ZEHNDER, and
WILLIAM JOSEPH FREY

CASE NO. 12-J-700320
CASE NO. 12-J-700321

JOINT CONTEMPT MOTION

NOTICE

TO: Paul W. Richwalsky, Jr.
Assistant County Attorney, Court Div. 88
600 W. Jefferson Street, Suite 2086
Louisville, KY 40202

Please take notice that the following motion will be made on Wednesday, June 27, 2012,
at 9:00 a.m. in the above-captioned court.

**JOINT MOTION OF THE JUVENILE RESPONDENTS
FOR AN ORDER FINDING THE COMPLAINTANT/WITNESS
IN CONTEMPT OF THIS COURT**

Austin Zehnder, by his attorney, David S. Mejia, and William Joseph Frey, by his attorney, Christopher Klein, moves this Honorable Court for an order holding Savannah Dietrich in indirect contempt of this court for intentional and willful violation of this court's order of yesterday, June 26, 2012, that she not discuss this case, the charges, the facts, the allegations and disposition with anyone by direct or indirect means including internet communications. In support, the following is said:

1. On June 26, 2012, Admissions of Guilt upon an Agreed Recommendation of Diversion were entered by both Respondents in this court. Present with Austin Zehnder and

William Frey were their privately-retained attorneys, the county attorney, the Respondents' parents and the Complainant/Witness, Savannah Dietrich and her mother. Also present was the lead investigator, Detective Christopher Horn.

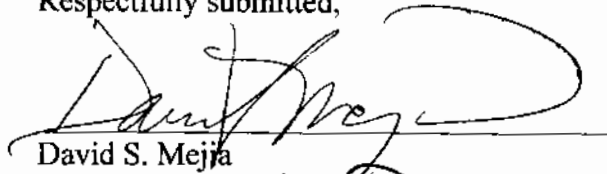
2. At the close of proceedings, the Honorable Judge Deana H. McDonald, at the request of defense counsel and the parents for the two juveniles before the court, specifically requested an admonishment to the Ms. Dietrich and her mother to respect and follow the statute and laws regarding privacy and confidentiality of juvenile proceedings in the Commonwealth of Kentucky. Judge McDonald specifically ordered that no one is allowed to discuss the charges, the allegations, the facts and the legal proceedings in this matter for the protection of the two juveniles, as well as the Complainant/Witness, - all who are under the age of 18.

3. During the pendency of this case, Assistant County Attorney Paul Riehwalzsky has assured counsel for the juveniles that Ms. Dietrich has been directed not to discuss this matter outside the court room, and specifically not to violate the provisions of the Juvenile Court Act with respect to confidentiality and privacy in these juvenile proceedings.

4. After court yesterday, in violation of this court's order, Ms. Dietrich's Twitter Account communicated with what are believed to be multiple hundreds of others using profanity, false allegations of criminal activity and expressing contemptuous remarks at this court. Photocopies of her communications, including her photograph, and negative references to Austin Zchndcr, William Frey and this court are attached.

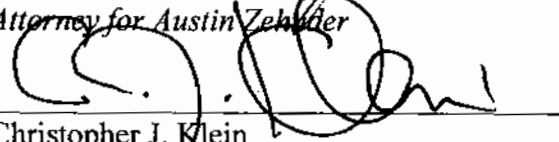
WHEREFORE, upon the foregoing, it is requested that this court give immediate notice to Savannah Dietrich to appear in this court and show cause why she should not be held in contempt.

Respectfully submitted,



David S. Mejia

Attorney for Austin Zehnder



Christopher J. Klein

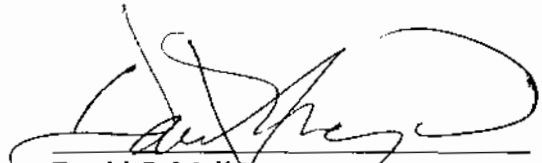
600 W. Main Street, Suite 300

Louisville, Kentucky 40202

Attorney for William Frey

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon Assistant County Attorney,
Paul W. Richwalsky, Jr., in open court, on Wednesday, June 27, 2012.



David S. Mejia

Attorney for Austin Zehnder

455 S. 4th Street, Suite 382

Louisville, KY 40202

(502) 584-8991

Savannah Dietrich's twitters

by Savannah Dietrich
12/20/12

Her profile picture as of date listed above



to appear from http://a0.twimg.com/profile_images/2305916705/image.jpg

1h

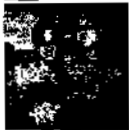


Savannah Dietrich@Savy ThePlan

@LightsOnDWADE They said I can't talk about it or I'll be locked up. So I'm waiting for them to read this and lock me up. Fuck justice.

4:59 PM - 26 Jun 12 via web · [Details](#)

1h



Devin Lawrence@LightsOnDWADE

@Savy ThePlan who's going to lock you up?

4:59 PM - 26 Jun 12 via [Twitter for iPhone](#) · [Details](#)

1h



Savannah Dietrich@Savy ThePlan

Will Frey and Austin Zehnder sexually assaulted me. There you go, lock me up. I'm not protecting anyone that made my life a living Hell.

4:56 PM - 26 Jun 12 via web · [Details](#)

4:56 PM - 26 Jun 12 via web · [Details](#)

Pasted from: <http://twitter.com/>

1h



Savannah Dietrich@Savy ThePlan

Throw me in jail already now. See if I give a fuck read my tweets. I care just about as much as you all now. I don't care at all. Lock me up

4:54 PM - 26 Jun 12 via web · [Details](#)

1h



Savannah Dietrich@Savy ThePlan

Protect rapist is more important than getting justice for the victim in Louisville.

4:53 PM - 26 Jun 12 via web · [Details](#)

1h



Savannah Dietrich@Savy ThePlan

I need something to ease my mind... I don't want to think right now.

4:49 PM - 26 Jun 12 via web · [Details](#)

1h



Savannah Dietrich@Savy ThePlan

All people are, are selfish. Only think about themselves. Dog eat dog world, if you don't come out on top, prepare to linger at the bottom.

4:46 PM - 26 Jun 12 via web · [Details](#)

1h



Savannah Dietrich@Savy ThePlan

Having someone fill your pockets can easily change someone's decision making. Money can sway anybody. Money can buy anything.

4:45 PM - 26 Jun 12 via web · [Details](#)

1h



Savannah Dietrich@Savy ThePlan

Don't expect anybody to give a damn. Cause in reality nobody does.

4:41 PM - 26 Jun 12 via web · [Details](#)

1h



Savannah Dietrich@Savy ThePlan

A barrel to the head sounds a lot friendly then most of y'all out there..

4:30 PM - 26 Jun 12 via web · [Details](#)

3h



Savannah Dietrich@Savy ThePlan

If it means going to jail, so be it. They took away my rights before and I'm not gonna let you take away anymore.

Pasted from <<http://by160w.bay160.mail.live.com/mail/InboxLight.aspx?n=529136546>>

Kimberly Smalley

From: Susan Zehnder [srzehnder@hotmail.com]

Sent: Tuesday, June 26, 2012 5:47 PM

To: chris.horn@louisvilleky.gov

Cc: david.mejia; kimberly@dmejialaw.com



Savannah Dietrich
@Savy ThePlan

Protect rapist is more important than getting justice for the victim in Louisville.

8:53pm Tues Jun 26 via web

susan zehnder

idea source

id:123456789

Huber Decor

id:123456789

Louisville, Ky

502.552.5159 p

502.228.1410 f

CASE NUMBER 12-J-700321 - (02) ✓ CK JUVENILE COURT
EOP 6-26-12 DIVISION 88 X 99

ADMISSION OF GUILT

IN RE: William Joseph Frey

1. HOW OLD ARE YOU? (DATE OF BIRTH) 17 1.10.95
2. ARE YOU SATISFIED WITH YOUR ATTORNEY? YES NO
3. HAS YOUR ATTORNEY EXPLAINED TO YOU THAT YOU HAVE CERTAIN RIGHTS THAT YOU GIVE UP IF YOU ADMIT YOUR GUILT HERE TODAY? YES NO
4. DO YOU KNOW THAT YOU HAVE THE RIGHT TO A TRIAL? YES NO
5. DO YOU KNOW THAT YOU HAVE THE RIGHT TO REMAIN SILENT? YES NO
6. DO YOU KNOW THAT YOU HAVE THE RIGHT TO QUESTION WITNESSES WHO TESTIFY AGAINST YOU AND THAT YOU CAN CALL WITNESSES ON YOUR BEHALF? YES NO
7. DO YOU KNOW THAT YOU HAVE THE RIGHT TO APPEAL TO A HIGHER COURT IF YOU LOSE YOUR CASE AT TRIAL IN THIS COURT? YES NO
8. ARE YOU UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR NARCOTICS? YES NO
9. HAS ANYONE MADE YOU ADMIT YOUR GUILT BY THREATS OR PROMISED YOU ANYTHING TO MAKE YOU ADMIT IT? YES NO
10. DO YOU SUFFER FROM ANY MENTAL ILLNESS? YES NO
11. IS THIS PLEA PURSUANT TO A DIVERSION AGREEMENT? YES NO
12. ARE YOU GIVING UP YOUR RIGHTS AND ADMITTING TO THE COURT THAT YOU ARE GUILTY OF Sexual Abuse - 1st +? YES NO
13. DOES THE ATTORNEY STIPULATE A FACTUAL BASIS FOR THE ADMISSION? YES NO

[Signature]
JUVENILE

ENTERED IN COURT
DAVID L. NICHOLSON, CLERK
JUN 26 2012
BY [Signature] DEPUTY CLERK
JUDGE [Signature]

DATE 6/26/12

