

EXPLANATION OF WHY THIS CASE IS A CASE OF GREAT PUBLIC INTEREST AND INVOLVES SUBSTANTIAL CONSTITUTIONAL QUESTIONS.....	1
STATEMENT OF THE CASE AND FACTS.....	2
ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW I.....	6
United States Supreme Court case in which the Court unanimously held that the warrantless search and seizure of digital contents of a cell phone during an arrest is unconstitutional Fourth Amendment values.....	6
ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW II	7
deputies acting outside of his authority January 15, 2021, if a suspect is stopped by police is not voluntary and the police restrain his freedom in any way, then he is in Miranda custody.....	7
ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW III.....	10
Capacity by oath and bond #1 Due process of clerk, CANON 1 A judge shall uphold and promote the independence, integrity, and impartiality VI and XIV Amendments.....	10
ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW IV	13
Ohio's wiretapping law is a "one-party consent".....	13
ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW V	14
The 30-day time period to file a notice of appeal is GOVERNED CLERMONT Cty. Transp. Improvement Dist. v. Gator Milford, L.L.C., Slip Opinion No. 2015-Ohio-241.]	14
SUMMARY OF ARGUMENT	14
CONCLUSION	15
CERTIFICATE OF SERVICE	16

APPENDIX

**JUDGMENT ENTRY OF THE HAMILTON COUNTY COURT OF APPEALS,
OPINION OF THE HAMILTON COUNTY COURT OF APPEALS.**

EXPLANATION OF WHY THIS CASE IS A CASE OF GREAT PUBLIC INTEREST AND INVOLVES SUBSTANTIAL CONSTITUTIONAL QUESTIONS.

This jurisdictional appeal, this case presents critical issues the court will consider, Ohio Constitution Article IV, Section 2(B)(2)(a)(iii) and Article IV, Section 2(B)(2)(e) Article IV, Section 5(B) The Supreme Court shall prescribe rules governing practice and procedure in all courts of the state, which rules shall not abridge, enlarge, or modify any substantive right. The first is to many Americans to be the most important rights established by the United States Constitution, the First Amendment rights cover some of the most fundamental freedoms Americans enjoy. The next is the fourth amendment. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. "The Ohio rule of Superintendence OHIO COURT SECURITY STANDARDS APPENDIX C PREAMBLE is clear. Court security and emergency strategies and actions must be consistent with individual rights, civil liberties, and freedoms protected by the United States Constitution, the Ohio Constitution, and the rule of law. The Hamilton County Court Standards routinely violate this. The citizens of Ohio must be assured that any security practice or policy is employed in a neutral manner. The next is the Amendment VI In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

STATEMENT OF THE CASE AND FACTS

PARTIES

I, James Sullivan Counter claimant “(hereinafter " Sullivan)” is one of the people of Ohio, and in this court of record in the above-captioned matter, under oath do hereby state and depose, my statement is made on personal firsthand knowledge, and I am competent to do so. I have made this statement in the State of Ohio in the, County of Hamilton.

1. Judge Robert Ruehlman; Michael Dryer, Dennis Brogan, et, al. Each Counter Defendant exceeded his jurisdiction by either directly, through an agent, or in concert with another did cause Counter claimant, Sullivan to be unlawfully and forcibly carried away and imprisoned against his will, without jurisdiction or good cause. At the onset of the unlawful imprisonment Counter claimant Sullivan was duly engaged in good faith negotiations to use the courts audio visual equipment, by verifying function and exercising his substantive right on another matter. Sullivans appointment was on January 15, 2021, with Court administrator Andrew Gillen and Roger the courts IT professional. Said, Plaintiffs without good cause, interrupted. Sullivans travel about 40 seconds after passing a security check by officers Speers and Officer Ober. Sullivan pushed the button for elevator and did not have time to pull out any device other than putting said devices in courts security bin at check point. Gipson was approximately 40 plus feet away from deputy Mason Speers. Mr. Gipson was in compliance with local rules of court and Glik Vs. Cunniffe, 655 F.3d 78 (1st Cir. 2011)¹, checking the function of his equipment near the public coffee shop. Deputy Mason Speers on her own left her post and starts to harass Mr. Gipson and wanted to know what is in his phone. Mr. Sullivan asked Deputy Speers if there was a problem. Deputy Mason Speers asked Mr. Sullivan to social distance. Deputy Speers not wearing a mask and just had contact. Deputy Speers continued to harass Mr. Gipson, for the contents of his phone. As Mr. Sullivan backed away both Sullivan and Gipson in a Public area.

¹ Glik v. Cunniffe, 655 F.3d 78 (1st Cir. 2011) is a case in which the United States Court of Appeals for the First Circuit held that a private citizen has the right to record video and audio of police carrying out their duties in a public place, and that the arrest of the citizen for a wiretapping violation violated his First and Fourth Amendment rights.

Gipson with only is cell phone out and Sullivan with his in his jacket pocket. A Sargent Dryer came running into the hallway with a bill of attainder rolled up and stated he had an order². The approximately 8 sheriff deputies began to surround Mr. Sullivan and Mr. Gipson. At that point Sargent Dryer was harassing both Mr. Sullivan and Mr. Gipson. Mr. Sullivan asked to see said order. The Sargent Dryer process was void ab-initio³. Sargent Dryer would not give said order and in fact stopped Mr. Sullivan and Mr. Gipson from meeting with court administration by blocking with his Deputies. The Ruehlman court lacked subject matter jurisdiction; The alleged offence happened in a public hallway. 42 U.S.C. §2000a (a) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination on the ground of race, color, religion, or national origin. Sargent Dryer was asked by Mr. Sullivan, if what he had was a policy or a law. Mr. Sullivan and Mr. Gipson 100% in compliance with local court rules. The Judge Ruehlmann's court is three floors above the coffee shop. Judge Ruehlmann's hallway 33 (D) (6) sign appeared after 02/25/21 and is still there today. However, it is not the same verbiage as proposed in 2017 rule 33 or 2020 Rule 33 both not approved by the RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO. The Judge Ruehlmann's hallway sign only covers inside the courtroom. It states, "ANY CELL PHONES SEEN OR HEARD IN COURT WILL BE CONFISCATED PURSUANTE TO LOCAL RULE 33 (D) (6) Confiscated phones will be destroyed and the violator may be subject to fines or criminal conduct, this does not apply to lawyer's law enforcement and court

² United States Constitution article-1 section-9 clause-3 A bill of attainder (also known as an act of attainder or writ of attainder or bill of penalties) is an act of a legislature declaring a person, or a group of persons, guilty of some crime, and punishing them, often without a trial. As with attainder resulting from the normal judicial process. BILL OF ATTAINDER, legislation, punishment. An act of the legislature by which one or more persons are declared to be attainted, and their property confiscated. 2. The Constitution of the United States declares that no state shall pass any bill of attainder.

³ Florida v. Royer, 460 U.S. 491 (1983), was a U.S. Supreme Court case dealing with issues involving the Fourth Amendment. Specifically, the case establishes a firm line in cases where police conduct search and seizure without a warrant. The court ruled that, while it is legal for authorities to target and approach a person based on their behavior, absent more, they cannot detain or search such individual without a warrant.

personal.” This and one handwritten post is the only known record of said rule. It is mentioned in “citations only” *Vanessa Enoch v. Hamilton Cty. Sheriff's Office*, 19-3428 (6th Cir. 2020)⁴ The court held, the scope of Rule 33 does not present a purely legal question because the text of the rule is not dispositive. The enumerated list of covered areas does not include hallways, nor are hallways necessarily an “ancillary area.” The invocation of “the sole discretion of the Court” further muddies the waters because it appears that judges must make periodic determinations as to what constitutes an ancillary area—and perhaps, as the magistrate judge tentatively opined, as to what constitutes any of the areas in the list. Sullivan has attempted to obtain the original copy. Sullivan has local Book rules back to 1976. It is just not available.

Mr. Sullivan and Mr. Gipson were under unreasonable detainment taken around the court as the deputies lead by Sargent Dryer went on a Judge shopping tour. After being refused by three Judges Honorable Thomas Heekin Room 595, being one of them. Mr. Sullivan and Mr. Gipson were never read Miranda rights, *Miranda v. Arizona*, 384 U. S. 436 (1966). Major Walter Hendricks and Lieutenant Brogan and Sargent Michael Dryer all knew court deputies had blocked Mr. Sullivans access to the county building and court buildings many times. Sargent Michael Dryer and Major Walter Hendricks were given notice to cease and desist harassment. said notice is public record. This in fact is the only contract on the record. Mr. Sullivans contract with the Hamilton County court filed 01/10/2013 docketed 01/11/2013 M/12/TRD/54534 11/13/2012 this contract is still in effect today. The contract accepted by the court. An accepting of the oath of all Hamilton County sworn officers and state of Ohio judicial sworn officers and Judges." Sargent Michael Dryer on or about December 3rd, 2021, threaten Sullivan stating their will be ramifications right outside in front of the courthouse 1000 main Street. Mr. Gipson exercised his 1st amendment rights and this recording is on Mr. Gipson's confiscated cell phone. The recording was played for the 1st district court of appeals during a Zoom hearing. Sargent Michael Dryer tried to get other Judges to join in his verbale contract. The Ruehlman court executes joinder with Sargent Dryer. The Ruehlman

⁴ The scope of Rule 33 The list of covered areas does not include hallways, nor are hallways necessarily an “ancillary area.”

court did abused its discretion by stating Constitutional rights were forfeited. The abuse of discretion standard is used by appellate courts to review lower court decisions in both criminal law and civil law. Supreme Court of the UNITED STATES in *General Electric Co. v. Joiner*, 522 U.S. 136 (1997), the Supreme Court held that abuse of discretion standard is the proper standard to use when reviewing evidentiary rulings. The Ruehlman court completely overlooks "clearly established" 1st amendment rights in the case Supreme Court of the UNITED STATES in *Riley v. California*, 573 U.S. 373 (2014), and US Court of Appeals for the Sixth Circuit. *Vanessa Enoch v. Hamilton Cty. Sheriff's Office*, 19-3428 (6th Cir. 2020). The fact that Gipson was not disrupting of Court business and Gipson had business in said courthouse. The plainest example of an unconstitutional grant of unbridled discretion is a law that gives a government official power to grant permits but that provides no standards by which the official's decision must be guided." The lack of deputies training or very minimal training is still a problem today. The record shows the deputies had no manual or any guidance about said undocumented rule. "In seeking summary judgment reversal on plaintiff's official capacity claims, Counter claimant argues that at the time of Counter claimants arrest, Hamilton County had no policy and practice which detainees receive a probable cause hearing within 48 hours of incarceration, as required by *McLaughlin*, 500 U.S. 44. As stated above, however, liability is an act of an ultimate county decision-maker (Policy maker is the Judges as stated by Judge Ruehlman on pg 16 lines 24, 25 pg 17 line 1" well we wrote it the judges wrote it") the fact is a commission is the body that makes the rules. Local book rule states the committee should be made up by the following list.

Courthouse;

- a. A designee or representative of each of the Courts housed in the Hamilton County
- b. The Hamilton County Sheriff;
- c. The Hamilton County Clerk of Courts
- d. The President of the Hamilton County Commissioners;
- e. trial lawyer;

f. citizen representative.

The Court Security Committee should include representatives of first responders, emergency management agencies, and funding authorities, and may include representatives from each entity within the court facility and the community. Mr. Sullivan requested from the court said document of any meeting. The fact is the Security Policy and Procedures Manual is a protected document. The request that any meeting took place at all is not protected. Mr. Dressing and his current staff has no understanding of the current rules of SUPERINTENDENCE FOR THE COURTS OF OHIO/ Pembaur v. City of Cincinnati, 475 U.S. 469 (1986). Plaintiff's official capacity claims can therefore survive summary judgment if county decision-maker can show a genuine issue or violation. Counter claimant states Judge Ruehlman self-proclaimed the judges are the ultimate county decision-makers caused the violation of Counter claimants right to be free from unconstitutional detention under the Fourth Amendment. Under Ohio law, the sheriff is responsible for taking care of the jail of her county and its prisoners Sheriff McGuffey caused Counter claimant to be detained without a probable cause hearing. Viewing the evidence in the light most favorable to plaintiff, a reasonable jury could so find. As stated above, the record indicates that Sheriff McGuffey's agents acting with Judge Ruehlman incarcerated Counter claimant for twenty-one days without a probable cause hearing or bond.").

ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW I.

UNITED STATES SUPREME COURT CASE IN WHICH THE COURT UNANIMOUSLY HELD THAT THE WARRANTLESS SEARCH AND SEIZURE OF DIGITAL CONTENTS OF A CELL PHONE DURING AN ARREST IS UNCONSTITUTIONAL FOURTH AMENDMENT VALUES.

If a suspect is stopped by police is not voluntary and the police restrain his freedom in any way, then he is in Miranda custody. According to the Court, "[by custodial] interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. "According to the Court, custodial interrogation occurs, and consequently Miranda warnings are required only when the suspect is aware that the person to whom he is speaking is a law enforcement official. only

custodial interrogations trigger the need for Miranda warnings⁵. Sullivan was falsely accused of yelling by Deputy Spears and was in custodial interrogation. Deputy Ober took his body camera that was off the whole time. Deputy Ober admitted to an illegal search. *Riley v. California*, 573 U.S. 373 (2014), After an order filed by the appeals court to return said phone and camera with contents not erased the Ruehlman court has not complied with order as of 04/22/22, Judge Ruehlman was seen by Sullivan and Gipson in the clerk's office on 04/06/2022 after exchanging pleasantries with Judge Ruehlman, The court still has not returned said property. A motion to compel had to be filed on 04/06/2022.

ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW II

DEPUTIES ACTING OUTSIDE OF HIS AUTHORITY JANUARY 15, 2021, IF A SUSPECT IS STOPPED BY POLICE IS NOT VOLUNTARY AND THE POLICE RESTRAIN HIS FREEDOM IN ANY WAY, THEN HE IS IN MIRANDA CUSTODY.

Sullivan was never given the opportunity to inspect any documents and other tangibles Crim. R. 16(C)(1) demands (1) Any written or recorded statement by the defendant or a co-defendant, including police summaries of such statements, and including grand jury testimony by either the defendant or co-defendant;" "a seizing of cell phones is a very prototype to the greatest threat to First Amendment values. Sullivan then witnessed a complete breakdown of any judicial procedure's a tattered misplaced sign inside the Ruehlman court with missing letters was unclear. On the record Sullivan and Gipson ask to see a presiding Judge at the time it was Judge Leubbers. Judge Ruehlman when asked a direct question about a presiding Judge, Ruehlmans response was "Huh" quoting *UNITED STATES v. TWEEL* 550 F.2d 297 (1977) The Prudden court also stated that: Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading. What was clear a Ms. Hayslip acting as if she was the new presiding Judge yelling and stating "I am in charge" this was a complete misrepresentation. Sargent Dryer with no warrant after coming from his secret meeting with Judge

⁵ *Id.*, citing *Oregon v. Mathiason* (1977), 429 U.S. 492, 495; see *State v. Mason* (1998), 82 Ohio St.3d 144, 153; *State v. Wenzler* (Apr. 9, 2004), 2nd Dist. No.2003 CA 16, 2004 Ohio1811, ¶ 15.

Ruehlman and lieutenant Dennis Brogan. Sargent Dryer then, also had an outburst. Sullivan managed to calm down Dryer and Hayslip. Sargent Dryer ordered Hayslip to “get Gipson’s IPAD”. After about 10 minutes Lieutenant Brogan appears and had full opportunity to prejudice the record, Noted in the transcripts. Judge Ruehlman appears and operating with no Prosecutor, no full-time clerk. Violates all of the following.

THE 1ST DISTRICT COURT OF APPEALS ERROR in its opinion PARAGRAPH one facts and procedure As the court failed to look into the facts of as stated by Sullivan when he was asked if his body cam was on, Sullivan stated “it is possible” Sullivan in handcuffs watched the untrained Ober try to figure out the Axon Body Camera. page 6 in the Recording with the Axon Body Camera manual states the following:

1. Move the Power Switch on the camera to the On position.

When the camera turned on, the Operation LED will be solid red, and it takes a few seconds to **boot up and enter BUFFERING mode.** **When BUFFERING begins:**

The Operation LED on the camera will blink green.

- The camera will be capturing video, but no audio, and will not record to permanent memory while in BUFFERING mode.
- Buffered video duration is 30 seconds by default (00:00:30).

Transcript Pg 19 lines 12 through 25 as Sullivan stated camera was off and in Deputy Obers possession, Ober turned the camera on himself prima facia evidence of his own malice and stated “I searched him in front left inner pocket there was a body camera. I took it out it was flashing green. When I got it he said it means it is charged, I saw the flashing was off and I brought it to you. Sullivan was handcuffed at the time, Deputy Obers impeached himself. Judge Ruehlman Crim. R. 16(C)(1) with his own lack of knowledge. Judge Ruehlman had access to I.T. techs on the record.

- a. Section 4705.01 | Practice of law - prohibited acts. Paragraph 4 “No judge of any court of record in this state shall engage in the practice of law during the judge's term of office, either by appearing in court, by acting as advisory or consulting counsel ,[Emphasized

added] for attorneys **or others**,[Emphasized added] by accepting employment or acting as an attorney, solicitor, collector, or legal advisor for any bank, corporation, or loan or trust company, or by otherwise engaging in the practice of law in this state, in or out of the courts, except as provided in section 1901.11 of the Revised Code”. The record shows Judge Ruehlman acts by acting as advisory or consulting counsel for Deputy Speers; Deputy Michael Dryer, Deputy Dennis Brogan, Deputy Ober and Deputy Hrnyak. The record shows Judge Ruehlman acts as judge; tribunal, Prosecutor and witness.

- b. Rule 605. Judge’s Competency as a Witness The presiding judge may not testify as a witness at the trial. A party need not object to preserve the issue. *Burns v. Reed*, 500 U.S. 478, 496 (1991) (absolute immunity does not extend to a prosecutor offering legal advice to the police).
- c. The Ruehlman court did not comply with R.C. 309.02 Qualifications of candidate for prosecuting attorney. The court allowed Deputy Brogan and Speers to act as prosecuting attorneys and unsworn witnesses, in an impromptu process.
- d. The Ruehlman court did not comply with R.C. 4705.01 Deputy acting as prosecuting attorney
- e. The Ruehlman court did not comply with R.C. 2705.01 empowers a court to “summarily punish” direct contempt. (Sullivan and Gipson were not near room 300 prior to seizure)
- f. The Ruehlman court did not have a public proceeding.
- g. The Ruehlman court did not follow the Ohio rules of Evidence, RULE 802.Hearsay Rule
- h. The Ruehlman court does not meet the definition of a court in the state of OHIO.
- i. The Ruehlman court operates as a De facto court. (Citing *Mireles v. Waco*, 502 U.S. 9, 9 (1991). Sullivan claims of judicial misconduct is where: 1) the judge's actions were clearly non-judicial in nature and therefore outside the scope of the judge's judicial capacity; or 2) the judge's actions were taken in the absence of all jurisdictions. *Mireles*, 502 U.S. at 12
- j. In a summary proceeding, the court is not required to accord the person the usual due-process protections, such as notice of the charge, the taking of evidence, and the right to

counsel. See *Cleveland v. Bright*, 2020-Ohio-5180, 162 N.E.3d 153, ¶ 27 (8th Dist.). Absent conduct that “creates. This changed after Sullivan was in custody if fact the court was unaware of any disruption. When Deputy Obers executes his own fraud on the record. To justify a summary sanction, two elements must be proven by proof beyond a reasonable doubt: (1) misbehavior in the presence of the court; and (2) that “poses an imminent threat to the administration of justice.” *Id.* at ¶ 39, quoting *Howard* at 619; *State v. Schiewe*, 110 Ohio App.3d 170, 173, 673 N.E.2d 941 (6th Dist.1996). The record does not reflect that any other cases were on the docket or any members of the general public were present. There is no indication that Sullivan’s conduct disrupted the court proceedings. The Ruehlman court does not meet any of the above requirements.

ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW III

CAPACITY BY OATH AND BOND #1 DUE PROCESS OF CLERK, CANON 1 A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY VI AND XIV AMENDMENTS

The Hamilton County court did not have the capacity to run a court in the state of Ohio as the clerk Aftab Pureval had moved on to start as the Mayor of Cincinnati. The Ruehlman court could not supply any basic functions of a court of record. The Hamilton County treasurer. states bonds are not in effect for 41 out of 42 judges, do not have a bond on file. A blanket bond before 12/03/2021 Hamilton County is still looking . The Rules of Superintendence does require a notice before any change to a substantive right. December 31st 2020, is the cut off for a 2021 rule change. No notice was given by the Hamilton county Court. Clerk Jody Schneier states the Supreme court has no record of a rule change

33 6 (D). No notice was given by the Hamilton county Court under Rule 83 - Ohio Crim. R. 57 Rule of Court

(A) A court may adopt local rules of practice which shall not be inconsistent with these rules or with other rules promulgated by the Supreme Court and shall file its local rules of practice with the Clerk of the Supreme Court.

(B) Local rules of practice shall be adopted only after the court gives appropriate notice and an opportunity for comment. If a court determines that there is an immediate need for a rule, it may adopt the rule without prior notice and opportunity for comment, but promptly shall afford notice and opportunity for comment. Also under Ohio Crim. R. 57 As amended through March 8, 2022 Rule 57 - Rule of Court; Procedure Not Otherwise Specified

(A) Rule of court.

(1) The expression "rule of court" as used in these rules means a rule promulgated by the Supreme Court or a rule concerning local practice adopted by another court that is not inconsistent with the rules promulgated by the Supreme Court and is filed with the Supreme Court.

(2) Local rules shall be adopted only after the court gives appropriate notice and an opportunity for comment. If the court determines that there is an immediate need for a rule, the court may adopt the rule without prior notice and opportunity for comment, but promptly shall afford notice and opportunity for comment.

(B) Procedure not otherwise specified. If no procedure is specifically prescribed by rule, the court may proceed in any lawful manner not inconsistent with these rules of criminal procedure and shall look to the rules of civil procedure and to the applicable law if no rule of criminal procedure exists.

The acting Clerk of court for Hamilton County Liza Brackman⁶ states in letter and emails clerks are not required to keep said record. Pat Dressing (Court administrator custodian of the records) states go to the web site. Susan Dostal (Assistant Court administrator) states all rules are on the internet and Hamilton County Court is not required to certify any of the local rules.

⁶ RULE 22. Entry of Judgment (A) Form. All judgments shall be in the form of a judgment signed by a judge or judges of the court which shall be prepared by the court and filed with the clerk for journalization. The clerk shall enter the judgment on the journal the day it is filed. A judgment is effective only when entered by the clerk upon the journal.(B) Notice. Notice of the filing of judgment and its date of entry on the journal shall be made pursuant to App. R. 30. (C) Filing. The filing of a judgment by the court with the clerk for journalization constitutes entry of the judgment.

The closest thing to a rule change is a draft Incorporating a joint committee dated, Sep 09, 2020. In fact there is no, 33 6 (D) in said draft. The joint committee Sep 09, 2020 only addresses electronic devices in the courtroom not in the hallway. The court administrator Pat Dressing states said records are not available. This does not change the fact of a substantial right has been encroached. **Local Rule 33 has not been Amended since 11/1/2010.** After speaking with Ms. Susan Dostal (Assistant Court administrator) this document is not on the internet at present, however the whole process was filmed in Mp4 format and saved to the cloud by Mr. Sullivan.

<https://hamiltoncountycourts.org/wp-content/uploads/2020/09/09.17.2020.Local-Rule-33.pdf>

There is a 2017 of a rules 33 change, however **there is no Local Rule 33 6 (D).** see link below.

<https://hamiltoncountycourts.org/wp-content/uploads/2017/07/RULE-33.pdf>

The court held in Norton v. Shelby County, 118 U.S. 425 p. 442 ⁷"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed." The Hamilton County court has not established a legitimate process of local book rules. The court tries to bury its rulemaking in Rules of superintendence 9 Appendix C, however all elements cannot be covered up As it is required by the Ohio Constitution art IV § 5 (B) The Supreme court shall prescribe rules governing practice and procedure in all courts of the state, which rules shall not abridge, enlarge, or modify any substantive right. There is no evidence of any complete procedure followed by the Hamilton County court, or any procedure in compliance with the Rules of superintendence procedure Proposed rules shall be filed by the court, not later than the fifteenth day of January, with the clerk of each house of the General Assembly during a regular session thereof, and amendments to any such proposed rules may be so filed not later than the first day of May in that session. Such rules shall take effect on the following first day of July, unless prior to such day the General Assembly adopts a concurrent resolution of disapproval. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect. The Ruchlman court acted as a trespasser. The need for judicial review as held in Marbury v. Madison, 5 U.S. 137, 180

⁷ Norton v. Shelby County, 118 U.S. 425 p. 442 it creates no office; it is in legal contemplation, as inoperative as though it had never been passed.

(1803)⁸"... the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void, and that courts, as well as other departments, are bound by that instrument." "In declaring what shall be the supreme law of the land, the Constitution itself is first mentioned; and not the laws of the United States generally, but those only which shall be made in pursuance of the Constitution, have that rank". "All law (rules and practices) which are repugnant to the Constitution are VOID". Since the 14th Amendment to the Constitution states "NO State (Jurisdiction) shall make or enforce any law which **shall abridge the rights**, privileges, or immunities of citizens of the United States nor deprive any citizens of life, liberty, or property, without due process of law, ... or equal protection under the law", this renders judicial immunity unconstitutional. Judges loses immunity if they act without jurisdiction, Stump, 435 U.S. at 357 n.7 (citing Bradley v. Fisher, 80 U.S. 335, 352 (1871))

ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW IV

OHIO'S WIRETAPPING LAW IS A "ONE-PARTY CONSENT"...

Ohio's wiretapping law is a "one-party consent" law. Ohio law makes it a crime to intercept or record any "wire, oral, or electronic communication" unless one party to the conversation consents. Ohio Rev. Code § 2933.52. the fact that Mr. Sullivan was in the building for approximately one minute and deputy Mason Speers wanted to inspect Mr. Gipson's phone as Speers did interfere with a judicial process. Sargent Dryer and other deputies had no probable cause to detain Mr. Sullivan as deputy Mason Speers had the opportunity to request anything at the security check point. Mr. Sullivan does have a right to walk through a courthouse unencumbered without being pulled into a court via an illegal bill of attainder this is prohibited by Article I, Section 9, Clause 3 United States Constitution. Stromberb v. California, 283 U.S.

⁸ Marbury v. Madison, 5 U.S. (2 Cranch) 137, 180 (1803) where a specific duty is assigned by law, and individual rights depend upon the performance of that duty, it seems equally clear that the individual who considers himself injured has a right to resort to the laws of his country for a remedy.

359 (1931)⁹; NAACP v. Alabama, 375 U.S. 449 (1958)¹⁰" The assertion of federal rights, when plainly and reasonably made, are not to be defeated under the name of local practice.

(1) "Substantial right" means a right that the United States Constitution, the Ohio Constitution, a statute, the common law, or a rule of procedure entitles a person to enforce or protect.

(2) "Special proceeding" means an action or proceeding that is specially created by statute and that prior to 1853 was not denoted as an action at law or a suit in equity. The Ruehlman court does not meet the requirement of a "Special proceeding"

ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW V

THE 30-DAY TIME PERIOD TO FILE A NOTICE OF APPEAL IS GOVERNED CLERMONT CTY. TRANSP. IMPROVEMENT DIST. V. GATOR MILFORD, L.L.C., SLIP OPINION NO. 2015-OHIO-241.]

The allegation that Sullivans appeal was not timely filed. The clerk never served notice on Sullivan. The fact a clerk was not sworn into office until 12/30/2021 The 30-day time period to file a notice of appeal begins upon service of notice of the judgment and notation of service on the docket by the clerk of courts regardless of actual knowledge of the judgment by the parties. Clermont Cty. Transp. Improvement Dist. v. Gator Milford, L.L.C., Slip Opinion No. 2015-Ohio-241.] Therefore, anyone executing said Minute Order denying appeal may be exceeding their jurisdiction.

SUMMARY OF ARGUMENT

1. NOW COMES the Counter Claimant, pro se and prays this Honorable Court to vacate the counter Defendant's Minute Order for the following reasons: the Ruehlman Court and said orders were void ab-initio the court action is outside its Jurisdiction

⁹ A statute which upon its face, and authoritatively construed, is so vague and indefinite as to permit the punishment of the fair use of this opportunity is repugnant to the guaranty of liberty contained in the Fourteenth Amendment.

¹⁰NAACP v. Alabama, 375 U.S. 449 (1958) The claim and exercise of a Constitutional right cannot be converted into a crime"... "a denial of them would be a denial of due process of law".

2. The court erred Because the Minute Order is not created by the independent tribunal, but is created by the magistrate, it cannot be a valid order from a court of record.
3. The court erred, When Sullivan objected to, and Sullivan did not agreed to a nisi prius court, the said Ruehlman's Court ignored Sullivans objection and has exceeded its jurisdiction, in issuing said orders that were void ab-initio. The Ruehlman court erred by exceeding its jurisdiction beyond the demising wall defined by its own untimely posted sign, of an unpublished Rule 33 (D) 6 "that is also not on the record"
4. The Court erred, when it failed to follow proper procedure of the rules of Superintendence for the courts of Ohio regarding a notice before any change to a substantive right. Enforcing of an unpublished Rule 33 (D) 6 and other rule that shall abridge the rights of Ohioans in a public building. This encroachment on the 1st amendment casts a very dark shadow on the Judicial branch of the state of Ohio and is the very definition of a "Police State".

CONCLUSION

For the reasons discussed above, this case involves matters of public and great general interest and a substantial constitutional question. The Appellant requests that this court accept "jurisdiction in this case so that important issues presented will be reviewed on the merits.

SIGNED BY: _____

James Sullivan
Ohio
County Hamilton

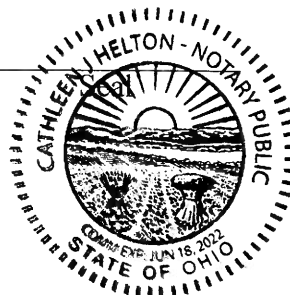
Respectfully submitted,

Public Notary Witness:

Today, on the 26th, of month, in the year 2022, I was visited by a man properly identified or known to me to be James Edward Sullivan and he did establish this record before me and sign it for the purposes stipulated herein, and I do accordingly add my signature and seal:

My commission expires on: June 18, 2022

Ohio Public Notary _____

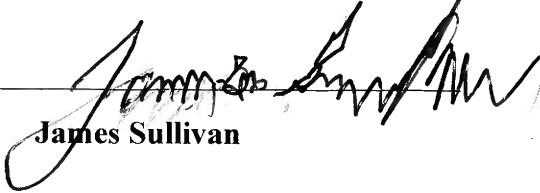


James Sullivan C/O
3556 Wilson Ave
Cincinnati, OH 45229

CERTIFICATE OF SERVICE

I hereby certify on this day 26th of April 2022, a true and accurate copy of the foregoing Motion. Notice of filing will be sent to all parties by operation of the courts electronic filing system. Parties who are not served via Court's electronic filing system, copies will be mailed USPS to other parties.

SIGNED BY: _____


James Sullivan

APPENDIX

**JUDGMENT ENTRY OF THE HAMILTON COUNTY COURT OF APPEALS,
OPINION OF THE HAMILTON COUNTY COURT OF APPEALS**

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

APPEAL NO. C-210217
TRIAL NOS. M-210049
M-210051
JUDGMENT ENTRY

A TRUE COPY ATTEST
CLERK OF THE HAMILTON COUNTY
COURT, HAMILTON COUNTY, OHIO
cm DEPUTY

ENTERED

MAR 18 2022

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

IN RE: JAMES SULLIVAN.

: APPEAL NO. C-210217
: TRIAL NOS. M-210049
: M-210051

: *OPINION.*

**PRESENTED TO THE CLERK
OF COURTS FOR FILING**

MAR 18 2022

Appeal From: Hamilton County Court of Common Pleas

COURT OF APPEALS

Judgments Appealed From Are: Reversed and Cause Remanded in Part; Appeal
Dismissed in Part

Date of Judgment Entry on Appeal: March 18, 2022

James Sullivan, pro se,

*Joseph T. Deters, Hamilton County Prosecuting Attorney, Pamela J. Sears, Assistant
Prosecuting Attorney, and Christopher Sawyer, Assistant Prosecuting Attorney, for
Appellees.*



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COURT, HAMILTON COUNTY, OHIO

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DEPUTY

ENTERED

MAR 18 2022

CROUSE, Judge.

{¶1} Appellant James Sullivan raises six assignments of error for the court's review. For the following reasons, we lack jurisdiction to address Sullivan's first, second, third, fourth, and sixth assignments of error. However, his fifth assignment of error, which appellees concede, is sustained.

Facts and Procedure

{¶2} On January 15, 2021, Sullivan was found in direct criminal contempt of court and sentenced to three days in jail for "causing total disruption in the courtroom, screaming and yelling in the courtroom."¹ After he was sentenced, Sullivan was taken from the courtroom to be booked into the jail. During a search of Sullivan's person, a Hamilton County Sheriff's Deputy found a body camera in Sullivan's pocket, which he believed to be recording. The deputy brought Sullivan back into the courtroom and told the court:

[a]s I searched him, in his front left inner pocket there was a body camera. I took it out. It was flashing green. When I got to it, he said, that means it's charged. I saw the flashing was off, and we brought it right to you.

The court responded, "Just opened it up, looked through it. No password. He was recording. 30 days. See you. We'll write that up. And I'm confiscating the recording device." Sullivan was sentenced to an additional 30 days in jail for "illegally recording video and audio with a body camera in violation of the Courthouse rules."²

¹ Case numbered M-210049

² Case numbered M-210051



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CLERK OF THE HAMILTON COUNTY
COURT, HAMILTON COUNTY, OHIO
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{¶3} Sullivan was released early for health reasons on February 4, 2021, after contracting COVID-19 while incarcerated. After his release, he moved for the return of his property.³ During a February 25, 2021 hearing, the court acknowledged that a body camera and a cell phone were taken from Sullivan. In this appeal, Sullivan claims that his walking cane also was taken and not returned. However, Sullivan did not mention the cane at the February 25, 2021 hearing. On February 25, 2021, the court overruled his motion in a written entry.

{¶4} On March 31, 2021, Sullivan filed a notice of appeal “from the Court of Common Pleas dismissing Mr. Sullivan[’s] claims entered on February 22, 2021.”⁴ On June 10, 2021, we sua sponte dismissed the appeal for lack of jurisdiction because it was not timely filed. On June 14, 2021, Sullivan filed what we construed as motions for reconsideration. On July 6, 2021, we granted reconsideration, finding that the time for filing a notice of appeal had been tolled pursuant to App.R. 4(A)(3), because Sullivan had not yet been served with the order denying his motion for the return of his property. Accordingly, we held his appeal to have been timely filed and vacated our June 10, 2021 dismissal order.

First, Second, Third, Fourth, and Sixth Assignments of Error

{¶5} Sullivan’s first assignment of error appears to claim that the initial seizure of his cell phone violated his First and Fourth Amendment rights. His second assignment of error appears to challenge the warrantless search and seizure of his cell phone and his arrest. His third assignment of error claims that his due-process

³ There is no written motion for the return of his property in the record. However, a hearing was held on February 25, 2021, during which Sullivan requested that his property be returned.

⁴ There is no February 22, 2021 entry in the record. This court assumes the notice of appeal is referring to the February 25, 2021 entry overruling the motion to return property.



rights were violated during the contempt proceedings. His fourth assignment of error also appears to challenge his contempt convictions by arguing that "Ohio's wiretapping law is a 'one party consent' law." His sixth assignment of error alleges that his rights under the Americans with Disabilities Act were violated during the contempt proceedings and while he was serving his sentence at the Hamilton County Justice Center.

{¶6} While Sullivan's first, second, third, fourth, and sixth assignments of error are not models of clarity, we interpret them to challenge the initial seizure of his property and his January 15, 2021 criminal-contempt convictions. Sullivan did not appeal his contempt convictions. Rather, Sullivan's March 31, 2021 notice of appeal in this case specifically stated that he is appealing "from the Court of Common Pleas dismissing Mr. Sullivan[s] claims entered on February 22, 2021." While there is no entry in the record for February 22, 2021, we assume he is referring to the trial court's February 25, 2021 order overruling his motion for the return of his property. In fact, we reinstated his appeal after our sua sponte dismissal because we found that Sullivan was not served with a copy of that court order.

{¶7} "We have jurisdiction to review assignments of error stemming only from the judgment subject of the notice of appeal." *State v. Thompkins*, 10th Dist. Franklin No. 07AP-74, 2007-Ohio-4315, ¶ 7; see *State v. Marcum*, 4th Dist. Hocking No. 14CA13, 2014-Ohio-5373, ¶ 16, quoting *State v. Walton*, 4th Dist. Washington No. 13CA9, 2014-Ohio-618, ¶ 6. Accordingly, because assignments of error one, two, three, four, and six challenge Sullivan's contempt convictions, and not the denial of his motion to return property, we lack jurisdiction to address them. Therefore, assignments of error one, two, three, four, and six are dismissed.



Fifth Assignment of Error

{¶8} Sullivan's fifth assignment of error essentially claims that the trial court erred when it denied his motion for the return of his property. Appellees concede that our recent case, *State v. Hammock*, 1st Dist. Hamilton No. C-200368, 2021-Ohio-3574, is dispositive of this assignment of error and agree that Sullivan's property must be returned to him. However, appellees ask "for this Court to order that the offending recorded courthouse footage be deleted from the devices" before they are returned.

{¶9} Sullivan was found in criminal contempt for violating Loc.R. 33 of the Hamilton County Court of Common Pleas ("Loc.R. 33"). Loc.R. 33(D)(6) prohibits the operation of cell phones or other recording devices in the courthouse, and provides that individuals who violate the rule may be found in contempt and have their devices confiscated. Loc.R. 33(D)(6) (rev. Jan. 1, 2022).

{¶10} In *Hammock*, we held that the punishment imposed for contempt must be "reasonably commensurate with the gravity of the offense." *Hammock* at ¶ 19, quoting *State v. Lowe*, 1st Dist. Hamilton Nos. C-170494, C-170495, C-170498 and C-170505, 2018-Ohio-3916, ¶ 37, and *State v. Kilbane*, 61 Ohio St.2d 201, 400 N.E.2d 386 (1980), paragraph one of the syllabus. We held that destroying the defendant's cell phone was not commensurate with a conviction for direct criminal contempt for recording courthouse proceedings, given the cost of the device and the sensitive information contained therein, and because that punishment was not contemplated in the rule. *Hammock* at ¶ 20.

{¶11} We are presented with similar circumstances here. Indefinitely retaining Sullivan's cell phone and body camera is not reasonably commensurate



with the gravity of the offenses for which he was convicted. Accordingly, the trial court erred in denying Sullivan's motion to return his property. Based on the record before us, we are not persuaded that information on the devices must be deleted before they are returned to Sullivan.

{¶12} Accordingly, Sullivan's fifth assignment of error, which we have construed to challenge the trial court's denial of Sullivan's motion to return property, is sustained.

Conclusion

{¶13} Because we find that Sullivan's first, second, third, fourth, and sixth assignments of error challenge his underlying contempt convictions and not the judgment subject of the notice of appeal, they are dismissed for lack of jurisdiction.

{¶14} We sustain Sullivan's fifth assignment of error and reverse the trial court's judgment as to Sullivan's motion for the return of his property. We remand the cause to the trial court with instructions to return Sullivan's cell phone, body camera, and cane (if a cane was also confiscated).

{¶15} Because we are ordering the return of Sullivan's property, we deny as moot his pending motions, including: "Motion for Summary Judgment to Reverse Conviction All Charges" (filed Jan. 13, 2022), "Motion for Spoliation of ESI" (filed Jan. 13, 2022), "Motion for Summary Judgment to Dismiss All Charges 2935[.]05 Warrantless Search" (filed Jan. 13, 2022), "Motion for Summary Judgment to Dismiss All Charges for Lack of Subject Matter Jurisdiction" (filed Jan. 13, 2022), "Motion for Findings of Fact and Conclusions of Law" (filed Jan. 28, 2022) and "Motion for Spoliation of ESI" (filed Feb. 1, 2022).



ENTERED

MAR 18 2022

Judgments reversed, cause remanded in part, and appeal dismissed in part.

ZAYAS, P. J., and BOCK, J., concur.

Please note:

The court has recorded its entry on the date of the release of this opinion



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