

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

FILED
JAMES BOVING
CLERK

2007 FEB 16 4:09

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST 174 COLUMBUS

WAYNE DOYLE

Plaintiff,

Case no. 3:07-003

-vs.-

**District Judge Thomas M. Rose
Magistrate Michael R. Merz**

JOHN McCONAGHA and

CLARK COUNTY LIBRARY, et al.,

Defendants.

TRANSCRIPT 1-5-2007 ENCLOSED

*OBJECTION TO DECISION AND ORDER
MOTION FOR MORE DEFINITE STATEMENT
FINDIN OF FACT AND CONCLUSION OF LAW CONCERNING ALL QUESTIONS ASKED AND
ANSWERED BY THE COURT DURING THE TELEPHONE CONFERENCE
RENEWED.*

MOTION FOR: FINDINGS OF FACT AND CONCLUSIONS OF LAW
MOTION FOR: OBJECTION TO ALL THE REPORTS AND RECOMMENDATION

CONCERNING :

- (1) Chief Magistrate Judge Merz January 8, 2007, Report and Recommendations: Order setting date for Preliminary Injunction.
- (2) Chief Magistrate Judge Merz January 25, 2007, WITHDRAWN Report and Recommendations.
- (3) Chief Magistrate Judge Merz January 25,2007, Supplemental Report and recommendations.

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INJUSTICE ANYWHERE IS A THREAT AGAINST JUSTICE EVERYWHERE

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IN SUPPORT OF THE FOREGOIG

On January 8, 2007, Chief Magistrate Judge Michael Merz said: "This case is hereby set for preliminary injunction hearing in Courtroom No. 4 on January 22,2007, at 9:30 a.m. If that time and date is (impossible) for (either) party, that party shall consult with the opposing party about a possible time and contact the Court's judicial assistant, DeAnna Perry to reset the matter." Question: Judge Merz, what does this this mean?.

On January 22,2007, Chief Magistrate Judge Merz said: "Plaintiff not present; Defense counsel Lauren Ross states for the record the Plaintiff told her in a telephone call on Friday, 1/19/07, he would not be here as he had no transportation. The Motion for Preliminary Injunction is taken under advisement and the parties will be advised in . writing of the Court's decision." Question for Chief Magistrate Judge Merz, Who Advised you.?

Similar to John McConagha mind-set, Chief Magistrate Judge Merz recommended . that the preliminary injunction relief be denied in spite of knowing that I would not be there to defend myself.

See. January 8,2007, REPORT AND RECOMMENDATIONS: ORDER SETTING DATE FOR PRELIMINARY INJUNCTION HEARING.

See. January 24, 2007, MOTION TO RESCHEDULE PRELIMINARY HEARING; OBJECTION TO CHIEF MAGISTRATE JUDGE MERZ REPORT AND RECOMMENDATIONS OF PRELIMINARY INJUNCTION.

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See. January 12,2007, objection to the Magistrates Recommendations.

On January 25, 2007, Judge Merz said: "Notice of the hearing had been given to the parties in writing as a part of the Report and Recommendations Doc. No. (5). Defendant John McConagha was present in person and he and the Clark County Library were represented by attorney Lauren Ross, their trial attorney in the case." "Plaintiff, however did not appear, despite having been advised by the Court's staff on Friday, January 19,2007, that the hearing was still scheduled and the he was required to APPEAR." Question: Judge Merz,, What fact or conclusion of law supports THIS,

YOUR FORM OF RATIONAL AND REASONING.?

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RELIEF SOUGHT

Finding of fact and Conclusions of Law concerning all of the orders, reports and Recommendations Chief Magistrate Michael Merz has decided. The orders and reports And recommendations should include but not be limited to the following:

- (1) Chief Magistrate Judge Merz January 8, 2007, Report and recommendations; Order setting date for Preliminary Injunction Hearing.*
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Recommendations.

SERVICE

*I hereby certify that a true copy of the FINDING OF FACTS AND CONCLUSION
OF LAW MOTION was served upon Lauren M, Ross, P.O. Box 1488 Springfield, Ohio
45501-1488 by regular mail this 15th day of January 2007.*

WAYNE DOYLE

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

WAYNE DOYLE

Plaintiff,

-vs-

Case No. 3:07-cv-003

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

CLARK COUNTY LIBRARY,
Et al.,

Defendants.

**OBJECTION TO JUDGE MERZ DECISION AND ORDER DENYING IN PART
PLAITIFF'S MOTION FOR FINDINGS OF FACT AND CONCLUSIONS OF
LAW**

.On January 5, 2007 during a telephone conference between the Wayne Doyle and the Clark County library, Chief Magistrate Judge Michael R. Merz said :

1. **"We don't have a witness statement.**
2. **"The only evidence we have is that McConagha said it was made,**
3. **"He's not a witness of what happened in the library.**
4. **"She understands thaat and I do to.**
5. **" There was never any tape recording.**

IN SUPPORT OF THE FOREGOING

_Attached you will find the (COURT'S) transcription of the 1/5/07 telephone conference between Wayne Doyle the. Clark County Library and Judge Merz.. Finding of facts and Conclusions of law are requested for all of the questions asked and answered by this court .

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Special attention should be given to the following question's and answer's

-Mr. Doyle: So do we go on Mr McConagha statement or the witness statement?

-The COURT: We don't have a witness statement so I guess what I'm hearing you say is that somehow it was a violation of your due process rights for the library to exclude you on the basis of a statement that only the director witnessed? Is that what you are saying?

-MR DOYLE: Let me ask you, Mr. Merz, is that the law?

-THE COURT: I don't know yet. I haven't had a chance to do any research in this particular area because I wanted to get this conference going as quickly as possible, to find out what the positions of the parties were and then ---and then do the research once I had a second or two to do that..

-MR DOYLE: Can Mc Conagha be a witness?

-THE COURT: To what?

-MR DOYLE: Of what happened in the library.

-THE COURT: No he is not a witness of what happened in the library. As far as I know , It's---there isn't any other witness besides Angie Jones.

-THE COURT: She---knowing, sometimes lawyers, lawyers will use the word "knowing" really to mean: Did I see it or did I hear it. She was'nt there , so she doesn't know in that sense, same as me. But her understanding is that Mr. Mc Conagha is telling the truth in this letter and, according to what you've told us, that's accurate, that you and your lawyer and McConagha were the only persons who were there.

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-MR DOYLE: So what evidence was presented at the hearing?

-MR DOYLE: Is, is, is that legal evidence for a security officer to supposedly take a person's , you know, accusations on another person?

-THE COURT: That's what we have to decide.

-THE COURT: But of course the whole question that this case seems to raise, is whether Mr McConagha, or whether any public library has to follow rules of evidence such as are applicable in criminal court.

-MR DOYLE: Could that just be hearsay evidence?

-THE COURT: It is hearsay.

-MR DOYLE: Does the Constitution allow a person to face their accuser?

-THE COURT: In a criminal case, yes.

-MR DOYLE: What about any other case?

-THE COURT: Not necessarily.

-THE COURT: On grounds of harrassing a patron. That's the way I read it anyway

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_DOYLE: If I haven't faced the patron then, how do they know it was me?

-THE COURT: Well, because I guess—

_MR DOYLE: My question was still not answered. In other words, how do they know that it was me?

-THE COURT: She's already answered that question to the extent that she knows. That is that there's a police officer and a security guard who saw you on the premises . and Miss Jones says it was you. And that's all hearsau. And that's all Mc Conagha had to go on.

_MR DOYLE: That's hearsay.

_THE COURT: Yes, it is.

RELIEF SOUGHT

Rule 12.e Motion for more Definite Statement.

If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, the party may move for a more definite statement before interposing a responsive pleading. The motion shall point out defects complained of and the details desired.

**FINDING OF FACT AND CONCLUSIONS OF LAW
CONCERNING ALL OF THE QUESTIONS ASKED AND
ANSWERED BY THIS COURT DURING THE 1/5/2007
TRO TELEPHONE CONFERENCE**

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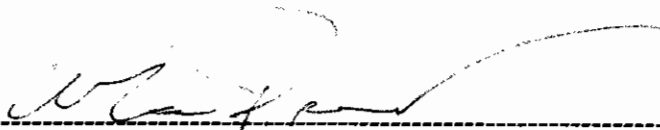
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WAYNE DOYLE

/s/