

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT
EASTERN DIVISION
(CATCHMENT DISTRICT)**

FILED
FEB 28 2007
1:51
U.S. DISTRICT COURT
SOUTHERN DISTRICT
EASTERN DIVISION
SPRINGFIELD, OHIO

*Wayne Doyle
202 Southern Avenue
Springfield, Ohio 45506*

*Case no. 3:07 -cv-0003
Judge Rose
Magistrate Merz*

Plaintiff,

Jury Demand

-vs.-

*John Mc Conagha and
The Clark County Library et, al
Springfield, Ohio 45506*

Defendants.

MOTION FOR PLAINTIFF TO AMEND COMPLAINT

*Plaintiffs Motion this court to amend the January 8, 2007,
complaint to add the following claims, exhibits and 1/5/2007
Court transcript.*

SUBMITTED

Wayne Doyle

WAYNE DOYLE

202 Southern Avenue

Springfield, Ohio 45506

UNITED STATES DISTRICT COURT

(CATCHMENT DISTRICT)

On or about March 18th 2005, the following basic civil rights

Were taken from Wayne Doyle because of race.

(1) Race Discrimination----- Wayne Doyle was barred from a public library for (two years) on the word of a white man supported only by hearsay evidence see transcript- Judge Merz said: The only evidence we have that it was made is that Mr. McConagha said it was made. Even though no Physical person has accused him of harassing them. Wayne Doyle continues to be barred from the library in spite of all of the evidence Plaintiff Doyle has presented before this Court. See 1/5/2007 , Judge Merz questions and answers during the telephone conference.

RELIEF SOUGHT

**PLAINTIFF WAYNE DOYLE CIVIL RIGHT TO ENTER
INTO THE LIBRARY AS OF 2-28-2007**

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RIGHTS DENIED

- i. Religion- Speech—Assembly—Petition**
- v. Due Process**
- vi. Right to confront accuser.**
- vii. Common law suits—jury trial**
- viii. Cruel and unusual punishment**
- ix. Non Enumerated Right 1791**
- xiii. Abolition of Slavery (1865)**
- xiv. Privileges and Immunities, Due Process, Equal Protection under the law.**

Rights to be denied on Account of Race.

PROTECTION OF RIGHTS

U.S.C. :42 :1981 of title 42 (Equal protection under the law) based on race in making and enforcing contracts, participating in lawsuits and giving evidence,

42 (USC 1981) Protection against discrimination included civil action for deprivation of rights.

42 (USC 1983) Conspiracies to interfere with Civil Rights.

USC : 42 1985/42 U>S>C 1985 Conspiracy against Rights of Citizens.

18 U>S>C 241) Deprivation of Rights under color of law. Race dis-

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT
EASTERN DIVISION**

**GUARANTEED RIGHTS OF WAYNE DOYLE, ENFORCED BY THE
UNITED STATES CONSTITUTION AND LAWS AND TREATISES OF
THIS UNION.**

**On or about March 18th 2005, the following basic civil rights were taken
from Wayne Doyle, because of his race, religion, education, background.
He was handed a letter barring him from a public library for (2) years
Denying him the following amended basic rights.**

JURISDICTION

1. Jurisdiction of this Honorable Court is invoked because Defendants All reside in, and/or conduct busniess within this Federal District and Division and pursuant to 28 U.S.C. @1331 and 28 U.S.C. @ 1343(3) et seq. To enforce Rights Guaranteed by the United States Constitution and Laws and Treatises of this union.

FACTS

Plaintiff being first duly sworn, hereby alleges as follows:

2. That Plaintiff is, and was, at all times relevant to this case, a resident of this federal Judicial District.
3. That Defendant is and was, at all times relevant to this case, a state Actor conducting busniess and violating civil rights in this federal Judicial District. 131
6, 7, 9, 11, 14, 15
4. That on March 21, 2005, Plaintiff was excercising his 1st, 5th, 8th, 14th, Amendment rights attempting to peacefully assemble and exercise his public Accomondation rights at the Clark County public library in Springfield, OH.
5. That on arrival at such address, Defendant, John Mc Conagha, by and through Agent John Dempsey approached plaintiff with a letter banning him from the public library.

FACTS

1. **3/21/05 Incident report** written by Jeffery S. Smith. John Dempsey said: "I John Dempsey escorted him to the Directors office" even though the incident report has only one hand writing. Angie Jones nor John Dempsey wrote on the incident report. Jeffery S. Smith wrote for Angie Jones and John Dempsey; "Hearsay."
2. **3/21/05 letter banning Plaintiff Doyle from the library.** Director John McConagha said "Because you have violated the Clark County Library,s Code of Conduct by staring, following, a library user about the library, and harassing a library user, you are banned effective March 21, 2005 until March 21, 2007 from the library facilities. The complaint against you was made to one of our security officers at the Main Llibrary on Friday, March 18,2005 by a female Africar: -American library user. I confirmed the complaint by phone today."hearsay. 3/21/05 permission to appeal decision. Director John McConagha said after banning Plaintiff from the library "You may appeal this decision in writing to me within 30 days of your receipt of this letter. Your appeal may include your version of events on March 18,2005. Plaintiff was banned from the library without being asked his side of the story Then Plaintiff Wayne Doyle was advised that he could submit the only written version of the "alleged" 3/21/05 incident.
3. **4/25/05 Appeal Decision.** Director John McConagha said: In making my decision,I have considered the report of the security guard, my phone call to the complainant, the affidavit of Stephanie Southers as well as Mr Doyle's statement given at the appeal hearing. I found the Complainant's version of what happened and the security guard's report to be credible. The Complainant's statement that she made to me was consistent with what she reported to the officer. I did not find Mr Doyle's version of what happened on March 18,2005 credible. Mr Doyle was not able to offer an explanation of why the Complainant would fabricate such a story

Note. The alleged complaintant, Angie Jones nor the security officer's Jeffery Smith or John Dempsey were present at the appeal hearing to give their written,spoken,assumed statement concerning Plaintiff DoyleS 'alleged misconduct. Director John McConagha held the 4/25/2005, appeal hearing representing the evidence, Judge and the jury.

Plaintiff Wayne Doyle received a copy of the incident report for the first time at the appeal hearing on 4/25/05.

4. 4/25/2005 Plaintiff Wayne Doyles written statement. Wayne Doyle said: I also have a witnesses from security staff name John /Dempsey. On the second page of the incident report that there were no teens or children in the teen area at no time,when I was using the area. Other adults use the same area without teen or children present. It seems to me, if there is really a complaintant, this person was probably watching and following me around on days my kids were there. Her complaint is nothing more than a lie so that the Director can paint the picture of me that he's already has in his mind to paint regardless of wheather or not the complaint was true or false"

5. 10/23/06 Public records request. John McConagha said: (1) There is no written statement from Angie Jones. (2) Angie Jones recorded statement from 3/21/05 is enclosed.

6. 11/6/2006 Public records request. John Mc Conagha said: We do not have a recorded statement from Angie Jones.

7. 11/16/2006 Public records request. John McConagha said no charges of: Disorderly conduct had been filed against Plaintiff Wayne Doyle. No criminal charges filed against Wayne Doyle by the Clark County Library for Harrassing her.No record of criminal charges filed against Wayne Doyle by Angie Jones.

SERVICE

I, the undersigned, solemnly SAY that a true and accurate copy of this Motion was mailed to Defendant, with a courtesy copy of Plaintiff's Verified Complaint,this 3rd day of January, 2007 to:

John McConagha

PLAINTIFF'S VERIFICATION:

THE UNDERSIGNED HAS COMPLETED THE ABOVE-CITED ALLEGATIONS TO THE FULLEST AND MOST ACCURATE EXTENT POSSIBLE, USING THEIR FIRST HAND KNOWLEDGE TO COMPLETE SAME,

SWORN AND SIGNED BEFORE ME THIS 3RD DAY OF JANUARY, 2007

JURY DEMAND

Plaintiff hereby demands a trial by jury on the merits in this matter.

THE CLAIMS

COUNT ONE:

VIOLATION OF PLAINTIFF'S SUBSTANTIVE DUE PROCESS RIGHTS, AS GUARANTEED BY THE (1ST) AMENDMENT TO THE UNITED STATES CONSTITUTION.

Plaintiff has a right to peacefully assemble and visit the Clark County Library. Such right was violated by Defendants.

COUNT TWO:

VIOLATION OF PLAINTIFF'S SUBSTANTIVE DUE PROCESS RIGHTS GUARANTEED BY THE FOURTEENTH(14) AMENDMENT TO THE UNITED STATES CONSTITUTION.

Plaintiff has had his liberty of movement taken from him without due process of law.

COURT THREE:

VIOLATION OF 42 U.S.C. @1983.

The above cited civil rights violations were conducted at the behest of state actors, a fact which clearly implicates several and numerous 42 U.S.C. @ 1983 violations.

COURT FOUR:

MALICIOUS PROSECUTION

The above-cited facts provide a strong basis for a restraining order and acquittal in the underlying case, with respect to the spurious complaint brought by the defendants against Plaintiff. As Much , Malicious Prosecution may be readily inferred.

COUNT FIVE:

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Plaintiff asserts that any reasonable observer will concur that the Defendant's behaviour shocks the conscience and that they are liable for the above-cited pendant state law tort.

COUNT SIX:

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

Plaintiff asserts that any reasonable observer will concur that

Defendants behaviour shocks the conscience and that they are liable for the above –cited pendant state law tort.

COUNT SEVEN:

Plaintiff reiterates all preceding paras. As incorporated herein and states that the above (in)actions constitute a common law breach of contract on multiple occasions.

COUNT EIGHT:

Plaintiff reiterates all preceding paras as if incorporated herein and states that the above (in)actions have constitute a violation of principals enunciated in by way of promissory estoppel.

DEMANDS AND PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Honorable Court enter

Judgment against Defendant in the following manner:

- 1. Declaratory Judgment declaring the above described activities as Standing in derogation of laws and principles of the United States and Ohio Constitution, Laws, and Treatises;***
- 2. Issuance of Permanet Injunctive Relief enjoining Defendant from Acting officially, individually or in concert in any way which would violate Civil rights of those governed by it.***
- 3. Issuance of any and all equitable relief, including, but not limited***

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INCIDENT REPORT

Branch: Dartmouth
 Date of Incident: 3/18/05
 Time of Incident: 2:00 pm

1. Client <u>Clark County Library</u>		Address <u>201 South State Ave. Ste 105</u>		Post
2. Police / Fire Department Notified: <input type="checkbox"/> Yes <input type="checkbox"/> No		Time:	Officer's Name:	RPT#/Badge #
3. Securitas Office Notified: <input type="checkbox"/> Yes <input type="checkbox"/> No		Time:	Name:	Title:
4. Client Notified: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Time:	Name: <u>John McConagha</u>	Title: <u>Director</u>
5. Persons Involved/Witnesses (insert category of relationship letter opposite name in * column) A. Employee B. Client Employee C. Other				
*	Name / Position Title	Phone Number	Organization Name and Address	
	<u>Angie Jones Jones</u>	<u>937-520-6774</u>	<u>Dartmouth</u>	
6. Description of Property / Equipment (example: Brand, Model, License or Serial #, Color, Year) <u>None</u>				
7. Description of Incident / Injury (WHO, WHAT, WHERE, WHY, and HOW. Include all information in detail and attach statement if required.)				
<p><u>Angie Jones Jones told me Jeff Smith, Security Officer that Wayne Doyle was harassing her on the date of March 18th 2005. She gave me her name and number on March 20th 2005 with a full detailed complaint of the incident.</u></p> <p><u>Angie said he was following her around the library, and staring at her, making her feel uncomfortable. This was not the first time he has followed her around. Angie told me that she has seen Wayne in the Back Section of the library, messing around with young females, and coming around with them. Angie was very concerned about the well being of the young girls. On March 21st 2005 12:50pm John Dempsey Security Officer gave Wayne Doyle five letter that the Director told him to give to Wayne Doyle. See Attached Sheet</u></p>				
Officer Name	<u>Jeffrey S. Smith</u>		Signature	<u>Jeffrey S. Smith</u>
			Date & Time of Report	<u>3/21/05</u>

witness?

17:40
12:15
TH

John Dempsey told Wayne Doyle that he was to leave the property, to read the letter, and that he was trespassing, but he did not leave the property. He asked to see the Director. I. John Dempsey escorted him, to the Director's Office. The Director John McConagha informed him, he was trespassing, and was to leave now, or the Police would be called immediately. Wayne Doyle said OK, and left.



The Information Place.

2

MAIN LIBRARY
201 SOUTH FOUNTAIN AVE
PO BOX 1080
SPRINGFIELD OHIO
45501-1080
937 323-9751
FAX: 937 328-6908
www.ccpl.lib.oh.us

HOUSTON BRANCH
5 W JAMESTOWN ST
BOX 127
SOUTH CHARLESTON OHIO
45368
937 462-8047

INDIAN MOUND
BRANCH
45 INDIAN DR
ENON OHIO
45323
937 864-2502

PARK CENTER BRANCH
1119 BECHTLE AVE
SPRINGFIELD OHIO
45504
937 322-2498

SOUTHERN VILLAGE
BRANCH
1123 SUNSET AVE
SPRINGFIELD OHIO
45505
937 322-2226

March 21, 2005

Mr. Wayne Doyle

Dear Mr. Doyle:

Because you have violated the Clark County Public Library's Code of Conduct by staring, following a library user about the library, and harassing a library user, you are banned effective March 21, 2005 until March 21, 2007 from all library facilities. The complaint against you was made to one of our security officers at the Main Library on Friday, March 18, 2005 by a female African-American library user. I confirmed the complaint by phone today.

Under the ban you are not permitted to use or be in or on the grounds of any Clark County Public Library facility. If you are on the property of any Clark County Public Library facility during the ban time period, you will be arrested for trespassing.

You may appeal this decision in writing to me within 30 days of your receipt of this letter. Your appeal may include your version of events on March 18, 2005.

Sincerely,

John McConagha
John McConagha
Library Director

~~3/21/05~~

2nd hand
information

mtt



CLARK COUNTY PUBLIC LIBRARY

The Information Place.

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April 25, 2005

MAIN LIBRARY
201 SOUTH FOUNTAIN AVE
PO BOX 1080
SPRINGFIELD OHIO
45501-1080
937 323-9751
FAX: 937 328-6908
www.ccpl.lib.oh.us

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937 322-2226

Mr. Edwin A. Grinvalds, Esq.
12 West Main Street
Springfield, Ohio 45502

Re: Wayne Doyle Appeal Decision

Dear Mr. Grinvalds:

This appeal came before me, the Clark County Public Library ("CCPL") Director, on Friday, April 15, to determine whether Mr. Wayne Doyle should be suspended from the library for violating the Library's Code of Conduct.

CCPL's Code of Conduct states that "Patrons shall respect the rights of others and shall not harass or annoy others by acts including, but not limited to: staring, following another person about the building, or behaving in a manner which reasonably can be expected to disturb others." A library patron ("Complainant") reported that Mr. Doyle was harassing her by staring and following her around the library. This behavior is in violation of CCPL's Code of Conduct.

In making my decision, I have considered the report of the security guard, my phone call to the Complainant, the affidavit of Stephanie Souther as well as Mr. Doyle's statement given at the appeal hearing. I found the Complainant's version of what happened and the security guard's report to be credible. The Complainant's statement that she made to me was consistent with what she reported to the Officer. I did not find Mr. Doyle's version of what happened on March 18, 2005 credible.

At the hearing, Mr. Doyle was given an opportunity to tell his side of the story. He denied that he followed the Complainant around the library, and was staring at anyone. Mr. Doyle did however acknowledge that he frequently sits in the Teen Room. Although he denies the Complainant's report of what happened, Mr. Doyle was not able to offer an explanation of why the Complainant would fabricate such a story.

Handwritten initials/signature

- 1. Security Guard report
2. Phone call to the Complainant
3. Mr. Doyle's statement Affidavit of Stephanie Souther

Preponderance of evidence



**CLARK
COUNTY
PUBLIC
LIBRARY**

Page 2

The Information Place.

Re: Wayne Doyle Appeal Decision (continued)

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**SOUTHERN VILLAGE
BRANCH**
1123 SUNSET AVE
SPRINGFIELD OHIO
45505
937 322-2226

Therefore, I will reinstate the suspension effective immediately until March 21, 2007, from all library facilities. As detailed in my letter sent to Mr. Doyle on March 21, 2005, Mr. Doyle is not permitted to use, be in, or on the grounds of any Clark County Public Library facility. If Mr. Doyle is found on the grounds of the Clark County Public Library, he will be arrested for trespassing.

Sincerely,

John McConagha
Library Director

cc: Wayne Doyle
Johnny Pryor, Esq.

4:25.05

the Second Conviction

WAYNE Doyle's
STATEMENT given
TO JOHN McConagha

(4)

UN verified

~~HEAR~~ SAT

- SEVERAL OCCASIONS
- FROM OUT OF TOWN
- OCCASIONALLY USES CCPL

March 30, 2005

Notes from John McConagha's phone call to complainant regarding March 18, 2005 incident:

John McConagha, Library Director, called the complainant on March 21, 2005, regarding harassment by Wayne Doyle. The complainant, an African-American female adult, informed me that Mr. Doyle had been staring at her and following her on several occasions. When asked for a specific date/time, she indicated that one instance was in the afternoon on Friday March 18, 2005. The complainant said that she was from out of town and only occasionally uses CCPL, but was in the library to do some research. She further indicated that she observed Mr. Doyle staring at and following teenagers and younger children. The complainant said that Mr. Doyle situated himself in the Teen Room at the Main Library in such a way as to be able to stare at teenage children in the Teen Room and to stare at young children in the adjacent Children's Room. She observed the same behavior from Mr. Doyle toward herself and others on Saturday, March 19 as well. She filed a complaint with the library security officer on Sunday, March 20.

a Statement From Wayne Doyle

I also have witnesses from security staff name John Dempsey, on the second page of the incident report, that there were no teens or children in the teen area at no time, when I was using the area alone to read certain books that were in that area.

Other adults use the same area ~~with~~ ^{without} CCPL

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October 23, 2006

John McConagha, Director
Clark County Public Library
201 Fountain Avenue
Springfield, Ohio 45506

Re: PUBLIC RECORDS REQUEST

Wayne Doyle v. Clark County Library

This is a public information request for a copy of any and all reports, documents, recordings in your care,

These materials should include but not limited to: (1) Angie Jones March 20, 2005 written detailed statement.

(2) Angie Jones recorded statement taken by John McConagha on or about March 20, 2006.

I would appreciate your prompt and immediate response to this request.

Wayne Doyle
202 Southern Avenue
Springfield, Ohio 45506

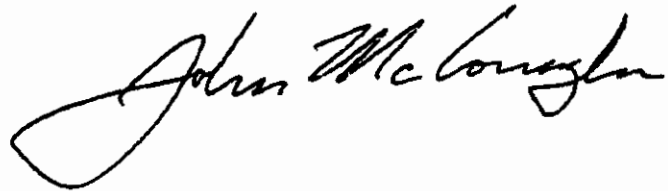
10/31/06

- ① THERE IS NO WRITTEN STATEMENT FROM ANGIE JONES
 - ② ANGIE JONES RECORDED STATEMENT FROM 3/21/05 IS ENCLOSED.
- John McConagha*

March 30, 2005

Notes from John McConagha's phone call to complainant regarding March 18, 2005 incident:

John McConagha, Library Director, called the complainant on March 21, 2005, regarding harassment by Wayne Doyle. The complainant, an African-American female adult, informed me that Mr. Doyle had been staring at her and following her on several occasions. When asked for a specific date/time, she indicated that one instance was in the afternoon on Friday March 18, 2005. The complainant said that she was from out of town and only occasionally uses CCPL, but was in the library to do some research. She further indicated that she observed Mr. Doyle staring at and following teenagers and younger children. The complainant said that Mr. Doyle situated himself in the Teen Room at the Main Library in such a way as to be able to stare at teenage children in the Teen Room and to stare at young children in the adjacent Children's Room. She observed the same behavior from Mr. Doyle toward herself and others on Saturday, March 19 as well. She filed a complaint with the library security officer on Sunday, March 20.

A handwritten signature in black ink, reading "John McConagha". The signature is written in a cursive style with a large, sweeping initial "J".

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John McConagha, Director

November 6, 2006

Clark County Library
201 Fountain Avenue
Springfield, Ohio 45506

Re: PUBLIC RECORDS REQUEST

Wayne Doyle v. Clark County Library

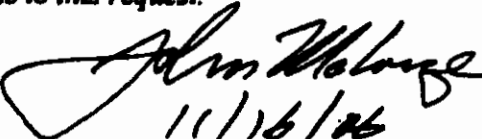
This is a public information request for a copy of any and all reports, documents, records, recordings in your file concerning Angie Jones complaint against Wayne Doyle.

These materials should include but not be limited to:

- (1) Angie Jones tape recorded statement taken by John Mc Conagha on March 20, 2005.
- (2) A copy of the library's code of conduct.
- (3) The posting locations of the library's code of conduct in the library.
- (4) The number of patrons who have been barred from the library for looking at other patrons in a unappropriate way.
- (5) The number of patrons who have been barred from the library for following other patrons.

I would appreciate your prompt and immediate response to this request.

Wayne Doyle
202 Southern Avenue
Springfield, Ohio 45506


11/16/06

- ① WE DO NOT HAVE A RECORDED STATEMENT FROM ANGIE JONES
- ② LIBRARY CODE OF CONDUCT IS ENCLOSED
- ③ THE CODE OF CONDUCT IS POSTED AT THE ENTRANCE OF ALL LIBRARY FACILITIES.
- ④ THIS IS NOT A REQUEST FOR PUBLIC RECORDS
- ⑤ THIS IS NOT A REQUEST FOR PUBLIC RECORDS

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John McComagha, Director
Clark County Library
201 Fountain Avenue
Springfield, Ohio 45506

November 16, 2006

Re: **PUBLIC RECORDS REQUEST**

Wayne Doyle v. Clark County Library

This is a public information request for a copy of any and all documents, Records, recordings, in your care concerning Angie Jones complaint against Wayne Doyle. These materials should include but not be limited to:

- (1) Date and time of the code of conduct posting at the Clark County library located at 201 S. Fountain Avenue Springfield, Ohio 45506.*
- (2) A copy of the Disorderly Conduct charge brought against Wayne Doyle as defined under ORC 2917.11 in the Library Code of Conduct which states: Patrons shall not engage in conduct which interferes with library use including but limited to, impeding access to library property; fighting; using abusive, menacing, insulting, obscene, or profane language; and verbal and or physical propositions or threats.*
- (3) A copy of any criminal charges filed against Wayne Doyle by the Clark County library for harrassing Angie Jones.*
- (4) A copy of any criminal charges filed against Wayne Doyle by Angie Jones for harrassing her.*

I would appreciate your prompt and immediate response to this request.

Wayne Doyle
202 Southern Avenue
Springfield, Ohio 45506

- ① HAS BEEN CONTINUALLY POSTED SINCE 2/03.
- ② NO CHARGES FILED
- ③ NO CHARGES FILED
- ④ WE HAVE NO RECORD RE THAT

John McComagha
11/27/06

AFFIDAVIT OF STEPHANIE SOUTHERS:

RE: WAYNE DOYLE

I WENT TO THE CLARK COUNTY PUBLIC LIBRARY ON OR ABOUT MARCH 22, 2005. MY REASON FOR THIS VISIT WAS TO INQUIRE WHY MY DAUGHTER HAD BEEN BAN FROM THE LIBRARY ON A PREVIOUS DATE. I SPOKE TO THE DIRECTOR, MR. MC CONAGHA REGARDING MY DAUGHTER TO SEE IF SHE HAD FILED A COMPLAINT AGAINST WAYNE DOYLE. THERE HAVE BEEN TIMES WHEN I HAVE ASKED MR. DOYLE KEEP AN EYE ON MY DAUGHTER AT THE LIBRARY. THE DIRECTOR INFORMED ME THAT SHE DID NOT FILE A COMPLAINT. AT THAT TIME MR. MCCONAGHA STARTED TO ASK ME QUESTIONS AND TELLING ME ABOUT WAYNE, THINGS LIKE : WAYNE DOYLE IS A SEXUAL PREDATOR, HE STARES AT WOMEN, FOLLOWS THEM AROUND THE LIBRARY AND THAT THERE HAVE BEEN OTHER COMPLAINTS ABOUT HIM. AND IF I COULD HELP HIM FOUND OUT ANY INFORMATION ABOUT WAYNE IT WOULD BE HIGHLY APPRECIATED. HE FEELS THAT WOMEN SHOULD BE ALLOWED TO COME TO THE LIBRARY WITHOUT BEING SEXUALLY HARASSED. ALSO, SOMETHING ABOUT HIM, WAYNE BEING BAN ONCE ALREADY AND THAT HE WOULD LIKE TO KEEP HIM OUT PERMANENTLY.

STEPHANIE SOUTHERS

SWORN TO AND SUBSCRIBED IN MY PRESENCE ON THIS 14TH DAY OF APRIL, 2005.

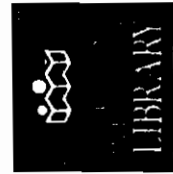
NOTARY PUBLIC

(my Lawyer's) took this
Secretary Affidavit

9

Mutual respect makes it possible

for everyone to enjoy library materials and services. You can help by refraining from behavior that interferes with the rights of others and the duties of the library staff.



Code of Conduct

columbuslibrary.org
645-2ASK

Mutual respect makes it possible

for everyone to enjoy library materials and services. You can help by refraining from behavior that interferes with the rights of others and the duties of the library staff.



OPEN TO ALL



Code of Conduct

columbuslibrary.org
645-2ASK

1 MR. DOYLE: Is there a witness?

2 THE COURT: To what?

3 MR. DOYLE: To the phone call that
4 he supposedly had made to this woman.

5 THE COURT: I don't know whether you
6 know the answer to that, Ms. Ross.

7 MS. ROSS: * No, I do not know whether
8 anybody else was on the line or present in Mr.
9 McConagha's office when he had the phone call
10 with the complainant.

11 THE COURT: Okay.

12 MR. DOYLE: Well, how do we know
13 that it was made?

14 THE COURT: * Well, the only evidence
15 we have that it was made is that Mr. McConagha
16 says it was made.

17 MS. ROSS: He has previously
18 provided --

19 MR. DOYLE: So do we go on Mr.
20 McConagha's statement or the witness statement?

21 THE COURT: * We don't have a witness
22 statement so I guess what I'm hearing you say is
23 that somehow it was a violation of your due
24 process rights for the library to exclude you on
25 the basis of a statement that only the director

FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

October 23,2006, Public records request: This is a public information request for a copy of any and all reports,documents,recordings in your care. There materials should include but not be limited to:

- (1) Angie Jones March 20,2005 written detailed statement.
- (2) Angie Jones recorded statement taken by John McConagha on or about March 20, 2005.

October 31,2006, Defendants answer:

- (1) There is no written statement from Angie Jones.
- (2) Angie Jones recorded statement from 3/21/05 is inclosed. John McConagha,

November 6,2006, Public records request: Angie Jones tape recorded statement taken by John McConagha on March 20,2005.

November 16, 2006, Defendants answer:

- (1) We do not have a recorded statement from Angie Jones.

November 16,2006, Public records request: (1) A copy of the disorderly conduct charges brought against Wayne Doyle as defined under ORC 2917.11 in the Library Code of Conduct which states:

- (1) Patrons shall not engage in conduct which states: Patrons shall not engage in conduct which interferes with library use including but not limited to, impeding access to library property; fighting; using abusive menacing, insulting, obscene , or profane language; and verbal and or physical propositions or threat
- (2) A copy of any criminal charges filed against Wayne Doyle by the Clark County Library for harassing Angie Jones.

- (1) DEFENDANTS ANSWER: NO CHARGES FILED

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

JANUARY 5, 2007 TELEPHONE CONFERENCE

Attorney Ross: THERE HAS NEVER BEEN A TAPE RECORDING.

*Wayne Doyle: I DON'T KNOW A MRS JONES PROBABLY NEVER SEEN
HER BEFORE.*

*Judge Merz: THE ONLY EVIDENCE WE HAVE IS THAT MC CONAGHA
SAID IT WAS MADE.*

*Wayne Doyle: SO DO WE GO ON MC CONAGHA STATEMENT OR THE
WITNESS STATEMENT?*

Judge Merz: WE DON'T HAVE A WITNESS STATEMENT.

Wayne Doyle: CAN MC CONAGHA BE A WITNESS?

*Judge Merz: NO...HE'S NOT A WITNESS OF WHAT HAPPENED IN
THE LIBRARY.*

*Wayne Doyle: DOES SHE UNDERSTAND THAT THERE WAS NO ONE
ELSE IN THE MEETING OR IN THE HEARING EXCEPT ME AND
ATTORNEY?*

Judge Merz: SHE UNDERSTANDS THAT, AND I DO TO.

Judge Merz: AS FAR AS I KNOW THEIR ISNT ANY OTHER WITNESSEXCEPT Angie Jones.

Wayne Doyle: DOES THE CONSTITUTION ALLOW A PERSON TO FACE THE ACUSOR?

Judge Merz: IN A CRIMINAL CASE.

Judge Merz: BARRED FROM A PUBLIC PLACE ON GROUNDS OF HARRASSING A PATRON.

Wayne Doyle: HOW DO THEY KNOW IT WAS ME?

Judge Merz: LAWYER CAN YOU ANSWER THAT ?

ATTORNEY ROSS NEVER ANSWERED THE QUESTION.

MY QUESTION TO THIS COURT IS: IF NO ONE HAS COME FORWARD ON THE RECORD TO IDENTIFY ME AS THE MAN WHO HARRASSED ANGIE JONES AND FOLLOWED HER AROUND, HOW CAN THE LIBRARY OR THE COURT CONTINUE TO KEEP ME BARRED OUT OF THE LIBRARY FOR ONE MORE DAY WITHOUT PROOF THAT IT WAS ME WHO HARRASSED ANGIE JONES? THE PUBLIC RECORD'S REQUEST SPEAK FOR IT SELF.

Note: Angie Jones has not come forward to accuse Wayne Doyle.

There was no written ,recorded ,statement identifying me as the one who harassed Angie Jones.

IRREPARABLE HARM

By allowing the Clark County Library to continue to bar Wayne Doyle from entering into the library will show the world that basic human rights For the Blackman ,Whiteman,Brownman,Yellowman is worth nothing If a Unfair Blackman, Whiteman,Brownman,Yellowman is in the positon to be a Judge for MANKIND. This kind of humanbeing is acting out his own discriminations.

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Judge for mankind

JUDGE MERZ DID NOT CONDUCT A FAIR NOR IMPARTIAL CONCERENCE.

WHEREVER I ASKED THE DEFENDANTS ATTORNEY A QUESTION THE JUDGE WOULD ANSWER FOR THEM.

DURING THE ENTIRE CONFERENCE THE ATTORNEY ANSWERED MAYBE THREE TIMES THE QUESTION I ASKED OF THEM.

JUDGE MERZ ANSWERED AT LEAST TWENTY TIMES FOR THE DEFENDANTS.

I WOULD LIKE TO ASK THIS COURT WHICH OF THE FOLLOWING IS BEING ADMINISTERED IN THIS CASE:

- (1) EQUAL PROTECTION UNDER THE LAW***
- (2) CIVIL RIGHTS FOR ALL***
- (3) 3.***

PLAINTIFF WAYNE DOYLE MOTIONS THIS COURT FOR A IMMEDIATE RESTRAINING ORDER TO PROTECT HIS CONSTITUTIONAL RIGHTS.

1 THE COURT: Good morning. Mr.
2 Doyle?

3 MR. DOYLE: Yes, sir.

4 THE COURT: And Ms. Ross?

5 MS. ROSS: Yes, sir.

6 THE COURT: This is Judge Michael
7 Merz here in Dayton. We have set up this
8 conference to address Mr. Doyle's motion for
9 temporary restraining order in the case that he
10 has filed against the Clark County library and
11 its director, Mr. McConagha.

12 MS. ROSS: McConagha.

13 THE COURT: McConagha. And the case
14 number -- I'm reciting all this because we are on
15 the record. The Case Number is 3:07-cv-003.

16 Mr. Doyle, I assume you have not
17 previously had a chance to make Ms. Ross's
18 acquaintance.

19 MR. DOYLE: No, I haven't, sir.

20 THE COURT: All right. Once you
21 filed the -- your complaint, the Court is obliged
22 to, if it's not going to issue a temporary
23 restraining order immediately and without notice
24 to the other parties.

25 MR. DOYLE: That's right.

1 THE COURT: It is required to give
2 notice to the other parties unless it finds that,
3 that it ought to proceed without notice. And in
4 this case, since you've been suspended since
5 March of 2005 and since we were able to get
6 notice to the other party right away, it seemed
7 to me that that was what I was required to do by
8 Rule 65.

9 So that's why we've notified the
10 library and the library of course has retained
11 Ms. Ross to represent them in this case.

12 The first matter I want to deal with
13 is the question of consent to magistrate
14 jurisdiction. I, as Ms. Ross I think probably
15 knows and, Mr. Doyle, I'll need to explain to
16 you, I'm a United States magistrate judge. That
17 means I'm appointed by the judges and not by the
18 President of the United States, and I'm going to
19 be handling the case for some -- because Judge
20 Rose has asked me to, for some parts.

21 I can, with your consent, handle the
22 case for everything from what we're doing this
23 morning through the jury trial that you have
24 demanded to final judgment. But that depends
25 upon your consent and of course the consent of

1 Ms. Ross's clients.

2 Usually, the advantage to the
3 parties is that that can let things go a lot
4 faster. For example, if you consent, then I
5 would have the authority to decide your motion
6 for temporary restraining order.

7 If you don't consent or Ms. Ross's
8 clients don't consent, then we have to -- I have
9 to make a recommendation to Judge Rose. There's
10 a fairly long period of time for objections. And
11 then Judge Rose would have to consider those
12 objections.

13 That's really the reason why we have
14 magistrate judges so that some cases can be moved
15 along a little faster than the other ones would
16 be.

17 Any questions about that, Mr. Ross?
18 I'm sorry, Mr. Doyle?

19 MR. DOYLE: Will Attorney Rose
20 consent?

21 THE COURT: Well, I'll ask her. Ms.
22 Ross, is the library willing to consent?

23 MS. ROSS: At this point, no, your
24 Honor.

25 THE COURT: Well, that moots the

1 thing.

2 MS. ROSS: Okay.

3 THE COURT: Because as I should have
4 pointed out, Mr. Doyle, if I didn't, the consent
5 has to be unanimous. So we will send out a
6 formal letter with my resume to both parties and
7 allow you to take a look at that once you've
8 gotten copies of it.

9 MS. ROSS: Okay.

10 * THE COURT: All right. So we're
11 right to the merits then of the temporary
12 restraining order.

13 Mr. Doyle, is there anything more
14 you want to tell me about why the library should
15 be restrained from excluding you other than what
16 you have said in the papers?

17 MR. DOYLE: Let me look over, let me
18 look over the pages.

19 THE COURT: Sure. Sure.

20 MR. DOYLE: Due process.

21 THE COURT: Okay. What did you want
22 to say about that?

23 MR. DOYLE: Can we talk about that
24 now?

25 THE COURT: Sure.

1 MR. DOYLE: Am I entitled to be in
2 the library now?

3 THE COURT: Well, that's the
4 question for the lawsuit. You've got -- as I see
5 the order from Mr. McConagha, you've been
6 excluded from the library from March 21st of 2005
7 up until March the 21st of this year. And
8 what -- as I understand it, what you're asking
9 the Court to do is to reverse that order so that
10 you can be in the library now. Right?

11 MR. DOYLE: Yes.

12 THE COURT: Okay. Is there anything
13 you want to tell me as to why you think you were
14 unfairly excluded from the library?

15 MR. DOYLE: Because there is no
16 written statement from Angie Jones or the person
17 that is supposed to be my accuser. *

18 THE COURT: Because she didn't make
19 a written statement, huh, okay.

20 MR. DOYLE: There's no recorded
21 statement from this person either.

22 THE COURT: No recorded statement.
23 Okay. I thought I saw some reference in there,
24 but I guess maybe not. Yeah. I see a note back
25 here -- this is a part of your complaint.

1 MR. DOYLE: The public, the public
2 record request shows that Mr. McConagha said
3 there was a recorded statement.

4 THE COURT: Right. And it says it
5 was enclosed. So, this is --

6 MR. DOYLE: Where is the recorded
7 statement?

8 THE COURT: Well, I --

9 MS. ROSS: Your Honor, I do have
10 some information about that. There was never any
11 tape recording. Mr. McConagha spoke with the
12 complainant and made a written summary of it and
13 he provided a copy of that written summary to Mr.
14 Doyle and his attorney.

15 THE COURT: And that would be the
16 note that, I guess, that's part of your
17 complaint, Mr. Doyle, that says: Notes from John
18 McConagha's phone call to complainant regarding
19 March the 18th, 2005 incident.

20 MS. ROSS: That's my understanding,
21 your Honor, is when Mr. McConagha got the request
22 for recorded statement, that's what he provided
23 in response to that request. There is -- there
24 never has been any tape recording.

25 THE COURT: Okay.

1 witnessed? Is that what you're saying?

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

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

11 MR. DOYLE: Can McConagha be a
12 witness?

13 THE COURT: To what?

14 MR. DOYLE: Of what happened in the
15 library.

16 THE COURT: ^{*}No, is's not a witness
17 of what happened in the library. ^{*}As far as I
18 know, it's -- there isn't any other witness
19 besides Angie Jones. Is that your understanding,
20 Ms. Ross?

21 MS. ROSS: Well, Ms. Jones first
22 reported her concerns about Mr. Doyle to the
23 security officer who was on duty in the library
24 that day.

25 THE COURT: Right.

8

10

1 MS. ROSS: So to the extent, to some
2 extent he is a witness and he, and he saw Mr.
3 Doyle, I believe, present that day. There also
4 happened to be a police officer on duty that day
5 as well who also witnessed Mr. Doyle on the day
6 in question.

7 THE COURT: Okay.

8 MS. ROSS: So we have some
9 additional fact witnesses or direct witnesses, I
10 suppose.

11 THE COURT: Other people --

12 MR. DOYLE: Excuse me.

13 THE COURT: Go ahead.

14 MR. DOYLE: At the appeal hearing,
15 were they present, those --

16 THE COURT: I don't know.

17 MR. DOYLE: The officer, Angie Jones
18 and whatever, the fact Mr. McConagha, was they
19 actually at the meeting, at the hearing?

20 THE COURT: I don't know, Mr. Doyle.
21 Were you there?

22 MR. DOYLE: Yes.

23 THE COURT: ^{*} So you know whether they
24 were there or not. I don't. What can you tell
25 us about that?

1 MR. DOYLE: I was asking that to the
2 attorney for the library.

3 THE COURT: Do you know, Ms. Ross?

4 MS. ROSS: No, I was not present.
5 It's my understanding, as you just suggested,
6 that Mr. Doyle was present.

7 THE COURT: Right. What can you
8 tell us about that, Mr. Doyle?

9 MR. DOYLE: Okay. I'm -- just a
10 minute. I'm looking at McConagha's statement at
11 the hearing.

12 THE COURT: Okay.

13 MR. DOYLE: Does Mrs. Ross have the
14 injunction in front of her?

15 THE COURT: I hope so.

16 MS. ROSS: Well, I have the
17 complaint and the motion for temporary
18 restraining order in front of me, yes.

19 THE COURT: Right.

20 MS. ROSS: The library, to my
21 knowledge, has not received them yet but I pulled
22 them off the Court's electronic dockets.

23 THE COURT: Right. There hasn't
24 been any process issued in the case. We'll come
25 back to that issue.

1 MS. ROSS: Right.

2 MR. DOYLE: Look at page 3.

3 THE COURT: Page 3 of? Page 3 of
4 what? Oh, I see. Okay. That's Mr. McConagha's
5 letter of April 25th, 2005 to Mr. Edwin
6 Grinvalds, G-R-I-N-V-A-L-D-S who, I guess, was
7 your lawyer at the time.

8 MR. DOYLE: Yes, sir.

9 THE COURT: Okay. So I'm looking at
10 that. Do you have that, Ms. Ross?

11 MS. ROSS: Yes, I do, your Honor.

12 THE COURT: Excellent.

13 MR. DOYLE: Could you, judge, could
14 you please have their attorney to read that?

15 THE COURT: She has read it.

16 MS. ROSS: Yes, I have.

17 MR. DOYLE: So is this her
18 understanding that anyone in McConagha's favor
19 was there.

20 THE COURT: I'm sorry? What's your
21 question?

22 MR. DOYLE: Is it, does she ***
23 understand that there was no one else in the
24 meeting or in the hearing?

25 THE COURT: Except for you and

1 McConagha.

2 MR. DOYLE: Me and my attorney.

3 THE COURT: And McConagha.

4 Yeah, I think she understands that.

5 ***
I do too.

6 MR. DOYLE: Okay. Well, earlier she
7 said she didn't know if they was there.

8 THE COURT: She -- knowing,
9 sometimes lawyers, lawyers will use the word *
10 "knowing" really to mean: Did I see it or did I
11 hear it. She wasn't there, so she doesn't know
12 in that sense, same as me.

13 But ^{why?} her understanding is that Mr.
14 McConagha is telling the truth in this letter
15 and, according to what you've told us, that's **
16 accurate, that you and your lawyer and McConagha
17 were the only persons who were there.

18 MR. DOYLE: And the prosecutor's
19 office.

20 MS. ROSS: Yes.

21 THE COURT: Or was there somebody
22 there?

23 MS. ROSS: Your Honor, the library
24 was represented in this matter and subsequent
25 administrative charges with the Ohio Civil Rights

1 Commission by an assistant county prosecutor.
2 According, my understanding from reviewing the
3 records relating to the Ohio Civil Rights
4 Commission Charge which was dismissed, that [?]
5 assistant county prosecutor was present at the
6 appeal hearing as well.

7 THE COURT: Okay. I didn't know
8 that.

9 MR. DOYLE: But were the witnesses
10 there?

11 ***
12 THE COURT: No. Not unless you tell
us they were.

13 MR. DOYLE: What I was saying is,
14 based on the hearing decision, and what you're
15 reading, were they there?

16 THE COURT: No.

17 MR. DOYLE: So did Mr. McConagha
18 just rely on the security officer's report?

19 THE COURT: Well, what he says is,
20 and we don't have at the present time any basis
21 to dispute this. What he says is he relied on
22 the security officer's report, plus his call to ^{**}
23 Angie Jones plus the affidavit of Stephanie
24 Southers, and I don't know -- I haven't seen that
25 document. I don't know what that is. Plus your ^{*}

1 statement. That's what he says he relied on.

2 MR. DOYLE: So what I want to know
3 is: What evidence was presented at the hearing.

4 THE COURT: Just exactly what you've
5 already been told.

6 MR. DOYLE: I mean as far as the
7 evidence.

8 ~~***~~
9 THE COURT: The security officer's
10 statement, the complainant's telephone
11 conversation with McConagha, the Stephanie
12 Southers affidavit which I haven't seen and your
13 statement. That's what was presented.

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

18 THE COURT: Well, that's what we've
19 got to decide, you know, if Ms. Jones, this is
20 purely hypothetical, but if Ms. Jones had gone to
21 the police and said, you know, "on this day, Mr.
22 Doyle threatened me," that would be enough for a
23 police officer to file a criminal complaint, but
24 obviously it wouldn't be enough to convict you in
25 a court of law. They would have to bring in Ms.
Jones and she'd have to testify under oath in a

1 court of law.

2 But of course that's the whole
3 question that this case seems to raise, is
4 whether Mr. McConagha, or whether any public
5 library, has to follow rules of evidence such as
6 are applicable in criminal court.

7 MR. DOYLE: Could that just be
8 hearsay evidence? ***

9 THE COURT: It is hearsay.

10 MR. DOYLE: That this is based on.
11 Then this is why I'm filing this.

12 THE COURT: Okay. All right. We
13 have an understanding of your position then.

14 As I understand your position, it is
15 that you cannot, or no one can be barred from a
16 public library on the basis of a finding which is
17 just based on hearsay evidence.

18 MR. DOYLE: Yeah, because Mrs. ***
19 Jones, I don't even know -- for one thing, I
20 don't even know a Mrs. Jones and probably never
21 seen her before.

22 THE COURT: Okay.

23 MR. DOYLE: And this invisible
24 person coming forward that he so-called saying
25 that made the statement, in other words, if I,

1 could see something handwritten in her, that she
2 made some kind of report on me. I mean, because
3 basically, Mr. Merz, it seems like she would have
4 to make a report, or a written statement to the
5 officer against me before the officer could make
6 a move.

7 THE COURT: Well, that's not -- that
8 wouldn't be the law if it were a criminal charge,
9 a person who alleges that they are a victim of a
10 crime does not have to make a written report
11 before a criminal charge can be filed or a
12 warrant can be issued for your arrest. Those
13 kinds of complaints are made verbally all the
14 time. But I hear what you're saying. I
15 understand what your claim is.

16 MR. DOYLE: Does the Constitution
17 allow a person to face their accuser?

18 THE COURT: In a criminal case, yes.

19 MR. DOYLE: What about any other
20 case?

21 THE COURT: Not necessarily.

22 MR. DOYLE: Give me an example.

23 THE COURT: Well, I, I just did.
24 You couldn't be convicted in a criminal case
25 without being given an opportunity to face your

1 accuser but you could be arrested. And I guess
2 the question of whether you can be excluded from
3 a public library, based upon hearsay evidence, is
4 the question that this case presents.

5 MR. DOYLE: I'm talking about being
6 found guilty.

7 THE COURT: You haven't been found
8 guilty of anything, have you?

9 MR. DOYLE: I've been barred from
10 the library for years.

11 THE COURT: Well, that's not a
12 criminal conviction. That's a, that's your being
13 barred from a public place.

14 MR. DOYLE: Yes.

15 THE COURT: The question is whether
16 that's --

17 MR. DOYLE: On what grounds? In
18 other words -- what grounds? *

19 THE COURT: On grounds of harassing
20 a patron. That's the way I read it anyway.

21 MR. DOYLE: If I haven't faced the
22 patron then, how do they know it was me?

23 THE COURT: Well, because I guess --

24 MR. DOYLE: Or if -- how does he
25 know it was me? In other words, if I -- okay. * * *

1 THE COURT: I understand the
2 question you're raising. ~~***~~
3 Ms. Ross, does -- anything that you
4 want to add to the record at this point? I think
5 we understand what, I understand pretty
6 completely what Mr. Doyle's claim is.

7 MS. ROSS: Yes, a couple things,
8 your Honor. First, I mentioned briefly in
9 connection with the county prosecutor's presence,
10 in 1990 -- excuse me, 2005 after being barred
11 from the library most recently, Mr. Doyle filed a
12 charge with the Ohio Civil Rights Commission
13 alleging race discrimination and also retaliation
14 because he had previously filed a charge with
15 OCRC when he had been banded before.

16 Anyway, the -- a couple months
17 later, the OCRC issued its decision dismissing
18 his charge, finding no evidence of race
19 discrimination or retaliation. And as we've been
20 talking, even with Mr. Doyle's questions, about
21 the appeal hearing that he was granted it appears
22 that this complaint is focussed primarily upon
23 due process. Clearly, Mr. Doyle was given due
24 process. ~~***~~ He was given notice of the allegations
25 against him and given an opportunity to be heard.

NOT IN COURT

1 That's all that the Constitution requires in
2 administrative hearings which this doesn't even
3 rise to that level.

4 There is no constitutional right to
5 face your accuser, hearsay evidence is permitted
6 and so I think the, even assuming that Mr. Doyle
7 had a Constitutional Right or a property right or
8 a liberty interest, you know, in being present in
9 the library, I think that right was not taken
10 away from him without due process.

11 Also as you pointed out at the
12 beginning, your Honor, this notice barring Mr.
13 Doyle from the library was issued almost two
14 years ago. The two-year period of bar is
15 going -- due to expire in March. So the doctrine
16 of laches would suggest that there's no need for
17 a temporary restraining order at this time.

18 I am -- the Ohio Revised Code does
19 give the library and any public library the right
20 to set rules of conduct for its patrons.

21 THE COURT: Do you have a reference
22 for me on that?

23 MS. ROSS: Yes, I do, your Honor.
24 It is 3375.40H. 3375 is the general chapter
25 about public libraries under Ohio law. And there

1 happens to have been some recent case law
2 concerning that subsection involving the Columbus
3 Metropolitan Library. There's a Sixth Circuit
4 case and an Ohio Court of Appeals case involving
5 a patron who sued the Columbus library.

6 THE COURT: Could you give Mr. Doyle
7 and me the citations on that.

8 MS. ROSS: Yeah, I pulled those out
9 late yesterday. The case name is Neinast,
10 N-E-I-N-A-S-T versus Board of Trustees of the
11 Columbus Metropolitan Library.

12 MR. DOYLE: Say that again.

13 MS. ROSS: N-E-I-N-A-S-T.

14 THE COURT: Neinast.

15 MS. ROSS: I happen to have some
16 vague recollection about it, your Honor, because
17 I read about it in the Columbus paper. It
18 involves a barefoot patron. And the library
19 enforced its rule concerning having to wear
20 shoes.

21 THE COURT: Okay.

22 MS. ROSS: It barred Mr. Neinast
23 from the library. Unfortunately -- ah, here's my
24 citation. The Sixth Circuit case is, it was
25 recommended for full text publication. I'm not

1 sure my copy here has the text. It is Neinast
2 versus Columbus Metropolitan Library. I it was
3 issued August 1st -- excuse me. October 10th,
4 2003.

5 THE COURT: All right.

6 MS. ROSS: And then --

7 MR. DOYLE: The Case Number.

8 MS. ROSS: Yes, it is 02-3482.

9 THE COURT: That's in the Sixth
10 Circuit Court of Appeals.

11 MS. ROSS: Yes.

12 THE COURT: All right.

13 MS. ROSS: And then there is a
14 Franklin County Court of Appeals case that was
15 reported.

16 THE COURT: Same title?

17 MS. ROSS: Yes, 165 Ohio App 3d 211.

18 MR. DOYLE: Say that again.

19 MS. ROSS: 165 Ohio App 3d 211. I
20 can give you another Case Number too. It's
21 2006-Ohio-287.

22 THE COURT: All right.

23 MS. ROSS: Those appear to be the,
24 certainly, the most recent cases and the main
25 cases that discuss the authority of the library

1 to regulate the conduct of its patrons.

2 THE COURT: Okay.

3 MS. ROSS: Again, they go more on
4 the issue of whether regulating the required --
5 regulating shoes is within the library's
6 authority, but they do touch on the authority of
7 the library to have rules and to bar patrons who
8 don't follow those rules.

9 THE COURT: All right. I promised
10 that before we finished I would come back to the
11 question of process.

12 Mr. Doyle, when you sue somebody --

13 MR. DOYLE: Wait a minute.

14 THE COURT: Okay. ~~***~~

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

18 THE COURT: Well, the question --

19 MR. DOYLE: I'm asking the attorney.

20 THE COURT: I understand that.

21 MR. DOYLE: Okay. ~~***~~

22 THE COURT: She's already answered
23 that question to the extent that she knows. That
24 is that there's a police officer and a security
25 guard who saw you on the premises, and Miss Jones

~~****~~

1 says it was you. And that's all hearsay, and
2 that's all McConagha had to go on

3 MR. DOYLE: That's hearsay.

4 THE COURT: Yes, it is. / ***

5 MR. DOYLE: I'm asking Mrs. Ross,
6 Mrs. Ross, how does McConagha know that it was
7 me?

8 THE COURT: She's already answered
9 that question.

10 MR. DOYLE: I did not hear her
11 answer.

12 ***
13 THE COURT: She's answered it to my
14 satisfaction. She knows it exactly the same way
15 you know it, which is McConagha's statement which
16 is that there was a police officer present, there
17 was a security officer present, and Miss Jones
18 identified you. That's all she knows. ▲

19 If she's got some private
20 conversation with McConagha, she is required, by
21 the law of attorney ethics, not to talk to you or
22 me about what McConagha has said to her other
23 than what's in this record.

24 I don't mean to cut you off, Ms. ▲
25 Ross, if you've got additional anything you want
to say about that.

1 MS. ROSS: No, that's precisely
2 correct, your Honor, thank you.

3 THE COURT: All right. Let me come
4 back to the question of process. We've talked a
5 lot during this discussion about due process.

6 One of the things that is required
7 by due process, Mr. Doyle, when you sue somebody
8 in federal court, you have to serve them with a
9 summons and a copy of the complaint.

10 And the summons is just essentially
11 an order from the Court that the defendant has to
12 answer it, has to file a formal answer with the
13 Court.

14 MR. DOYLE: Yes, sir.

15 THE COURT: Is any of this ringing a
16 bell? Do you know anything about that?

17 MR. DOYLE: You keep talking.

18 THE COURT: Okay. My question was:
19 Do you know anything about service of process?

20 MR. DOYLE: I mailed a copy to the
21 defendant.

22 THE COURT: See, that doesn't get
23 it. Under, under the Federal Rules of Civil
24 Procedure, you have to have the clerk issue a
25 summons, a formal court document, and it has to

1 be served on them. There are a number of ways
2 that it can be legally be served on them. But
3 just sending a copy in the mail is not sufficient
4 under the rules.

5 You're in Springfield. You can, I
6 understand that these papers were filed in the
7 court in Columbus. Is that right?

8 MR. DOYLE: Yes, sir.

9 THE COURT: They got transferred to
10 Dayton because Clark County is within, if you
11 want to talk about, I guess we might call it the
12 catchment area of the Dayton location of court,
13 any cases filed against a defendant in Clark
14 County get handled in Dayton, so that's why it's
15 here in Dayton, but if you want to come to the
16 clerk's office in Dayton, they can provide you
17 with a summons form for you to fill out.

18 They can also provide you, we have a
19 kind of a guide on some of the procedural stuff
20 that we've written up for folks who are filing
21 their own cases and don't have a lawyer. They
22 could give you a copy of that.

23 On the other hand, if you like, I
24 can have the clerk mail that to you.

25 MR. DOYLE: Yes, sir.

1 THE COURT: You'd like to have it
2 mailed?

3 MR. DOYLE: Yes, sir.

4 THE COURT: We'll have that done
5 yesterday.

6 All right. I think I understand
7 what the issues are on the temporary restraining
8 order motion, and I will be preparing a report
9 and recommendations to Judge Rose.

10 I will be sending Mr. Doyle the
11 summons forms and the forms, if he chooses to
12 proceed this way, to have the United States
13 marshal make the service, and the guide for pro
14 se litigants.

15 And I take it from your having
16 raised the question of process at the outset, Ms.
17 Ross, the library's not willing to waive service
18 of process in this case.

19 MS. ROSS: That's correct, your
20 Honor. At this point would you like me to enter
21 a notice of appearance?

22 THE COURT: I would appreciate that.

23 MS. ROSS: I was thinking about that
24 yesterday. I'll try to get that done today or
25 Monday so that you'll have that officially in the

1 file.

2 THE COURT: All right. And then I
3 will also be sending out a formal suggestion of
4 the possibility of consent.

5 MR. ROSS: Okay.

6 THE COURT: With a resume so that
7 people -- both sides can take a look at that and
8 see what you think.

9 MS. ROSS: Yeah. I'll be glad to
10 revisit that issue, your Honor.

11 THE COURT: All right. Anything
12 else for the record?

13 MR. DOYLE: If you haven't received
14 service yet, how can you sign on?

15 THE COURT: Well, I notified, I
16 notified her so we could have this discussion,
17 Mr. Doyle. I actually didn't notify her. I
18 notified the library.

19 They know about it. But they have
20 to be notified in a formal kind of way. It's
21 kind of like you know who the witnesses against
22 you are, but you say: Hey, all we've got from
23 them is hearsay. It's just another formal
24 requirement.

25 MR. DOYLE: When does the case

1 start?

2 THE COURT: The case starts when you
3 file it.

4 MR. DOYLE: Is it filed?

5 MS. ROSS: But it's not served.

6 THE COURT: But not served. That's
7 the next step. You might want to get a hold of a
8 copy of the Federal Rules of Civil --

9 MR. DOYLE: How many days do I have
10 to serve it?

11 THE COURT: A hundred and 20. But
12 until you make service this court can't make any
13 order against the defendant.

14 MR. DOYLE: Can anything else go on
15 in this case?

16 THE COURT: Well, yeah, we've just
17 had this temporary restraining order hearing.
18 Again, that's the -- because you -- when a
19 person --

20 MR. DOYLE: I was talking about the
21 case itself.

22 THE COURT: Beyond the temporary
23 restraining order hearing and the report that I
24 write and any objections that either party might
25 have to that, no, there can't be any discovery in

1 the case.

2 Really the first step has to be
3 service of process. The only reason why we've
4 done this little hearing is because, you know,
5 when a person, particularly a person who's
6 proceeding without a lawyer, files a motion for
7 emergency relief, the Court tries to, tries to
8 hold a hearing on that as quickly as possible.

9 Anything else for the record?

10 MR. DOYLE: As soon as you mail that
11 to me, I will get it to him.

12 THE COURT: Excellent. All right.
13 I'll get those out yet today.

14 MS. ROSS: Thank you very much, your
15 Honor.

16 THE COURT: Thanks very much.

17 (Proceedings concluded.)

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C-E-R-T-I-F-I-C-A-T-E

I, Debra Lynn Futrell, Notary Public
in and for the State of Ohio at large,

Do Hereby Certify that the foregoing
pages are a true and correct transcription of the
CD taken of the proceedings held in the
afore-captioned matter before the Honorable
Michael R. Merz, Chief Magistrate Judge, to the
best of my ability to hear and discern speakers
over the CD.

S/Debra Lynn Futrell

Debra Lynn Futrell, RMR-CRR
Notary Public, State of Ohio
My Commission Expires 12-27-08

IN THE UNITED STATES DISTRICT COURT

SERVICE

*I HERBY CERTIFY THAT A TRUE COPY OF THE foregoing MOTION
WAS SERVED UPON Lauren M. Ross. P.O. Box 1488 Springfield, Ohio
45501-148 this 27 day of february 2007.*

Wayne Doyle

Wayne Doyle
