THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO
JUVENILE DIVISION

IN RE ,	Case No.
A Minor Child.	Judge Magistrate

MEMORANDUM IN SUPPORT OF MOTION TO SET ASIDE MAGISTRATE'S ORDER

Now comes, CLIENT, a juvenile, by and through counsel, and requests leave to offer the following memorandum in support of his Motion to Set Aside the magistrate's order filed on October 11, 2016.

I. Facts and Procedure

In January of 2016, law enforcement filed Rape charges against CLIENT in the above-captioned cases. Defense counsel filed a written motion requesting a competency evaluation. CLIENT was initially found incompetent by Dr. J, the director of the Hamilton County Juvenile Court Department of Behavioral Health Services (*hereinafter* DBHS) on March 2, 2016. Dr. J also oversees the competency attainment program that CLIENT then participated in. After completing the modules of competency attainment classes, Dr. J opined that CLIENT was competent on May 11, 2016. The defense sought an independent evaluation and presented a report and testimony by Dr. S, who opined after a July 15, 2016 evaluation that CLIENT was not competent to stand trial. After testimony from both competency experts and CLIENT's father, the magistrate issued an order

finding that CLIENT has been restored to competency. After the hearing, Dr. J was placed on administrative leave and ultimately resigned from her position as the director of the DBHS.

II. Argument

A. Standard of Review

Under Juv.R. 40, a party may file a motion to set aside a magistrate's order. Juv.R. 40(2)(b). Similar to objections to a magistrate's decision, this court, in reviewing the magistrate's order should undertake an independent review as to the matters challenged to ascertain whether the magistrate has properly determined the factual issues and appropriately applied the law. *See Jones v. Smith,* 187 Ohio App.3d 145, 2010-Ohio-131, 931 N.E.2d 592, ¶9 (4th Dist.), citing Juv.R. 40(D)(4)(d). The magistrate is a subordinate officer of the trial court, not an independent officer performing a separate function." *Jones v. Smith*, 187 Ohio App.3d 145, 2010-Ohio-131, 931 N.E.2d 592, ¶9 (4th Dist.)citing *Knauer v. Keener*, 143 Ohio App.3d 789, 794, 758 N.E.2d 1234 (2d Dist. 2001), *see also In re A.W.*, 2008-Ohio-6312, ¶ 5 (10th Dist.); *In re Hess*, 2003-Ohio-1429, ¶ 23 (7th Dist.).

B. The Magistrate Erred by Finding CLIENT Competent to Stand Trial.

The magistrate erred by finding CLIENT competent to stand trial after consideration of all the evidence. Juvenile court proceedings "must measure up to the essentials of due process and fair treatment." *In re Braden*, 176 Ohio App. 3d 616, 619, 2008-Ohio-2981, P11, 893 N.E.2d 213, 215, 2008 Ohio App. LEXIS 2500, *6 (Ohio Ct. App., Hamilton County 2008), *citing Kent v. United States (1966), 383 U.S. 541, 562, 86 S.Ct. 1045, 16 L. Ed. 2d 84.* The right to not be tried or convicted while incompetent is "as fundamental in juvenile proceedings as it is in criminal trials of adults." *In re Braden* at 619, *citing In re Bailey*, 150 Ohio App.3d 664, 667, 2002 Ohio 6792, 782 N.E.2d 1177.

R.C. 2152.51(A)(1) codifies the standard for competency and states that

> "Competent" and "competency" refer to a child's ability to understand the nature and objectives of a proceeding against the child and to assist in the child's defense. A child is incompetent if, due to mental illness, due to developmental disability, or otherwise due to a lack of mental capacity, the child is presently incapable of understanding the nature and objective of proceedings against the child or of assisting in the child's defense.

When looking at the issue of juvenile competency, evaluators typically look at all relevant medical and mental health history, administer any additional testing necessary, and interview the child.[1] Evaluators look to see whether or not the child has a factual understanding as well as adequate appreciation of the proceedings against them. In other words, a child must both have knowledge of the facts and procedures in the delinquency process as well as accurate beliefs and perceptions about the implications of the factual information.[2] Further, the child must be able to apply this information in order to meaningfully participate in his or her defense. Meaningful participation in defense includes being able to make logical decisions about how to proceed in the child's case, weighing the risks and benefits to each possible decision, understanding possible outcomes, and being able to understand hearings and trials and provide information necessary to present a defense. The record does not support the magistrate's finding that CLIENT's ability to stand trial.

1. **The record demonstrates that CLIENT does not have adequate factual understanding of the nature and objectives of the proceedings against him.**

Testimony by Dr. Nancy S demonstrated that CLIENT did not factually comprehend the nature and objectives of the proceedings against him. Dr. S met with CLIENT on July 17, 2016, after he completed competency attainment classes and a follow up evaluation by the State's witness. In testimony, Dr. S discussed CLIENT's difficulties with the factual concepts he was purported to

[1] Grisso, Thomas. *Clinical Evaluations for Juveniles' Competence to Stand Trial A Guide for Legal Professionals*. 2005.
[2] *Id.*

have learned during competency attainment classes. For example, CLIENT consistently mixed up the concepts of misdemeanors and felonies, even after being given examples. T.p. 31. He was unable to adequately explain the role of his attorney. T.p. 32. Further, he stated that having a plea bargain meant "you give up your citizenship." T.p. 34. The report submitted by Dr. S indicated that when asked what a witness is, CLIENT answered, "Someone that's on your side." *Defendant's Exhibit* 2, p. 6. He further indicated that there are no witnesses in his case. *Id.* He explained that a right that a defendant gives up upon a plea bargain is "[y]our ability to talk to people." *Id.* at p. 7. CLIENT thought he could go to prison for "between 12 and 35 years" but did not specifically know about what it was. *Id.* CLIENT's difficulty in retaining information about core concepts is consistent with the records available to both experts in this case.

Dr. S's findings are based on all relevant historical and current information presented to the Court. Dr. S notes that records showed that CLIENT "did not benefit from repetition or recognition cues" and further explained that "information that is not inherently meaningful to CLIENT (such as terminology about court procedures) is difficult for him to learn. *Defendant's Exhibit* 2, p. 9. CLIENT's medical and educational history shows that his performance in the follow up evaluation is consistent with his general abilities. His 2015 IEP indicates that he receives lower level vocabulary instruction and requires a number of accommodations, including slower pacing of instruction, redirection, and reduction of text complexity. T.p. 143. Both experts reviewed CLIENT's 2015 speech and language evaluation conducted by Cincinnati Children's Hospital Medical Center. That report indicated that CLIENT had difficulty with age appropriate vocabulary, complex sentences, and making inferences based on world knowledge. T.p. 154-156. The report also indicated that CLIENT has difficulty determining meaning from context and understanding directions. T.p. 156-157. CLIENT scored at the age equivalent of 9 in reading comprehension. T.p.

158. All these significant deficiencies are thoroughly considered by Dr. S. *Defendant's Exhibit* 2, p. 9.

The Neuropsychological Report completed by Cincinnati Children's Hospital in 2016 illuminates CLIENT's specific struggles and helps clarify how CLIENT is able to regurgitate vocabulary in multiple choice quizzes, but still fail to truly understand what he was taught. The report indicated that CLIENT's intellectual functioning is in the Borderline Impaired range. *Defendant's Exhibit 3*, p. 5. The report also noted that "[v]ocabulary was limited… processing speed appeared slowed." Where language use is more literal, CLIENT scored in the Moderately Impaired to Average range, but his performance fell in appreciating and explaining the difference between what someone says and what they mean. *Defendant's Exhibit 3,* p. 6. Ultimately, the Neuropsychological Report found that "CLIENT continues to show a split between verbal and nonverbal skills, with better ability to appreciate and use literal language." *Defendant's Exhibit 3*, p. 8. Notably, in the doctor's recommendation to CLIENT's parents, she suggested that for learning new ideas, facts, or things, to "[a]void simple, rote repetition like flash cards or repeating information without thinking about what it means." *Defendant's Exhibit 3*, p. 11.

The magistrate erred when he placed great emphasis on CLIENT's performance in competency attainment classes, as reported by Dr. J. *Attachment A*, p. 3. Dr. J failed to thoroughly consider evidence of CLIENT's disabilities beyond his performance in his evaluation, which focused on whether or not he could repeat back the same verbiage he was taught in attainment classes. It is important to understand the type of education that is provided by the court competency attainment program to assess whether it was conducive to CLIENT actually learning the necessary information about court, and it is apparent that it was not. Dr. J agreed that the attainment classes provided by the Court Clinic provides factual information about the Juvenile Court, and does not

provide additional speech and language services. T.p. 159-160. The substance of the competency attainment court materials consists of information sheets with court terms, a homework sheet with multiple choice or fill-in the blanks that contain answers to the follow-up quizzes. T.p. 162. The quizzes administered to children to assess comprehension are multiple choice, with either true or false questions or three to four multiple choice options. *Id.* T.p. 162-163. While this format may be effective in teaching certain youth, it is not individualized at all, and promotes the rote repetition type of learning that was specifically discouraged by CLIENT's neuropsychologist. The multiple choice questions are simplistic and easy to pass by memorization without actual understanding. For example, one of the quizzes posts this question:

> My trial is..
> (a) a meeting where the judge decides if I'm innocent;
> (b) a private meeting without me; and
> (c) a test of hearing problems.

T.p. 163. Students in the attainment class get homework the week prior to each module that they are tested on, watch a review video the same day prior to taking the quiz. T.p. 162-163. In essence, the program is set up to promote short term memorization of vocabulary. CLIENT was able to memorize answers for the short term in the brief number of consecutive weeks that he participated in classes.

While Dr. J reported that CLIENT was able to provide all the answers during her May 11, 2016 evaluation, it is important to note that that evaluation session was in short succession to weekly attainment classes over approximately a month, in addition to two evaluation sessions that provide a review of the relevant material. *State's Exhibit* 2. In just over two months, CLIENT was unable to recall significant aspects of the factual information. This indicates that CLIENT's actual understanding of the facts and procedures was not adequate, as he was not able to recall or explain a number of key concepts after a short period of time.

2. The record demonstrates that CLIENT does not have adequate appreciation of the nature and objectives of a proceeding against him.

In addition to having a factual understanding of court proceedings and terminology, and perhaps more importantly, a child must have adequate appreciate of all this information. Stated another way, CLIENT must be able to demonstrate the ability to use the factual information as applied in his case, and actually understand what the words mean. The magistrate erred in not giving more weight to the wealth of evidence and information provided that demonstrates CLIENT's inability to apply the information he was taught in competency attainment classes. It is clear from Dr. S's testimony and report that CLIENT did not have adequate appreciation of many of the terms he was taught in competency attainment classes. For example, he thought that his charges were less serious charges. *Defendant's Exhibit* 2, p.7. He did not know what happened after a person says he is going to trial. *Id.* He was unable to explain how evidence and witness statements could be used to help him in his case. *Id.,* T.p. 54. His knowledge of a judge's role was limited to deciding his guilt or innocence. *Id.* He explained that the word evidence meant "facts," and stated there was no evidence or witnesses in his case. *Id.* In regards to plea bargains, CLIENT had significant difficulties explaining what a plea bargain was and explaining what rights would be given up in a plea bargain, as previously discussed in section 1. *Id* at p.8. Dr. S explained her testimony that her opinion regarding his competency went beyond just whether CLIENT had superficially recalled the language of the court process, but that he was unable to think the information through and weigh it. T.p.55.

Based on her observations and thorough consideration of CLIENT's records, Dr. S concluded that "CLIENT may appear relatively appropriate in conversation but when asked to recall information later his recall is poor or fault and/or he cannot apply information that he has read or heard." *Id.* at 9. CLIENT was "at a loss" when asked to apply relevant words to his unique situation.

Id. In Dr. S's interview with CLIENT, it is clear that he was unable to sufficiently answer basic questions about his case, including what evidence might be against him, potential witnesses, how to make a decision about a plea bargain. *Id.*

The 2016 Neuropsychological Report confirms CLIENT's difficulties in applying information and concepts. The report explains that

> nonverbal skills also include the ability to draw appropriate conclusions from the information that we have. It affects the ability to… anticipate a string of consequences that may occur beyond today, to prefer the routine and not know what to do in unfamiliar situations… and learning what conclusions to draw from the information that you just read. *Defendant's Exhibit 3*, p. 8.

The doctor noted that "CLIENT shows difficulties with many of these kinds of things." *Id.* at 9. The doctor further notes that CLIENT "works better with fact and specific skills, rather than the ability to apply that knowledge. CLIENT has stronger verbal skills, but experiences significant barriers to his ability to apply knowledge to making things happen. *Id.* Significantly, the doctor cautions that "CLIENT is likely to present himself as more competent on the surface than he is able to actually follow through." *Id.*

What is perhaps most telling about CLIENT's ability to recall information and apply it was revealed through testimony by his father. Mr. X summarized CLIENT's ability aptly when he stated, "CLIENT is able to learn basic things. Once he knows that basic thing, he is unable to take what he's learned and pull it out, process it in an effective way, and then apply it to the real world." T.p. 74. While CLIENT is able to operate independently in daily living skills and single-step tasks, he is unable to complete simple multi-step tasks without assistance. T.p. 72. Mr. X gave the example of asking CLIENT to cut the grass, explaining that CLIENT would not be able to perform the multiple steps to complete grass cutting without assistance. He is only able to perform the single task of cutting the grass, and would be unable to remember the associated tasks of bagging the

grass, disposing of it, and other follow up tasks. T.p. 73. Even if given assistance with that multi-step task one day, CLIENT is unable to apply the information to repeat it the next day. *Id.*

Mr. X further testified regarding the significant instruction that CLIENT receives through his IEP at school in order to help him progress in school. CLIENT has difficulty in remembering a series of steps, and how to apply what he has learned in one problem set to another. T.p. 78. Mr. X also testified that CLIENT's language is conversational, but that CLIENT is typically unable to pull information "his bank" and apply it to the situation. T.p. 80. Ultimately, Mr. X's experience with CLIENT as his father has revealed that academically and in the real world, CLIENT is able to "understand enough and learn enough to be able to… have conversations with people…[and] [b]e able to speak on some very superficial things." T.p. 81. His testimony supports what is apparent in the record: CLIENT is able to use words at a superficial level but struggles to apply them and use them in different contexts. Thus, he was able to repeat back words in the attainment courses, and in the short term, he was able to answer Dr. J' questions regarding what he learned, but ultimately is unable to meaningfully apply the information to his own situation because he does not fully appreciate it.

Dr. J' competency evaluations are structured around what her competency attainment class teaches, which by her own admission is based on teaching factual information with no additional treatment or support services. It should be noted that neither Dr. J' report or testimony give much indication that CLIENT was able to articulate his understanding past the rote answers that he was taught. It is telling that when CLIENT was asked to define evidence, he replied, "finger prints and the broken chair in the Goldie Locks trial." *State's Exhibit* 2, p.3. Dr. J testified that CLIENT was referring to the examples that were given during competency attainment classes. T.p. 168. Not only did CLIENT not actual answer the general question about what evidence was, CLIENT was unable

to apply what he learned to consider what evidence would look like in his own trial, and did not even respond in general terms when explaining what evidence was: he specifically associated the terminology with the "Goldie Locks Trial." This further confirms that while CLIENT was able to memorize terminology from attainment classes, he is unable to retain the information and meaningfully apply it to understand what is happening in his own case. Given the significant needs that CLIENT has educationally and the fact that those were not addressed by the competency attainment program, it is clear that he did not effectively attain the capacity and knowledge needed to be competent to stand trial.

3. The record demonstrates that CLIENT is unable to meaningfully assist in his defense due to his disability.

CLIENT is unable to meaningfully assist in his defense, even beyond the deficits already discussed in the preceeding sections. He has well-documented difficult in processing large amounts of information, applying information to multi-step tasks, and with his executive functioning. His disability will prevent him from being able to weigh decisions appropriately, resist pressure from adults, and from participating in a trial. Beyond his processing difficulties, there is no disagreement in the record that CLIENT operates well below his grade level in comprehension and academically.

Dr. S testified that CLIENT was unable to reason though a plea bargain, and "cannot project himself far enough into the future cognitively to understand on a day-by-day basis" the impact of sex offender registration. T.p. 38. She also testified that CLIENT's impaired executive functioning (ability to project oneself into the future, making decisions, and switching from one strategy to another), would affect his ability to process information in a timely fashion. T.p. 39. Perhaps most importantly, CLIENT's limited ability to "understand what is being said and how it applies in his case" will create a barrier to him in assisting in his defense because he would not be able to follow most of what is being said in court. T.p.40.

Again, Dr. S's conclusions are supported by CLIENT's Neuropsychological report, which indicates that CLIENT's "slowed speed" affects how well he can keep up with material on attention tasks. *Defendant's Exhibit 3*¸ p. 6. Testing regarding his executive functioning abilities showed that while CLIENT is able to sustain attention to boring tasks and take in a reasonable amount of what he hears, "[a]s tasks became more demanding, his scores dropped… Tasks that required him to manage more information and think more deeply about the material and multitasking and switching were even more impaired, falling in the Severely Borderline Impaired ranges." *Id.* at p. 7. The pace of court and the number of different people that speak with court requires a great amount of information processing at a speed much faster than CLIENT is able to handle. CLIENT's impairment would make it impossible for him to follow what is being said in a trial, much less other hearings or even a plea colloquy.

Dr. J proffered some basic accommodations that she believed would overcome CLIENT's significant barriers: extended time to process information, use of simple concrete language, repetition of questions, and comprehension checks. T.p. 115. She did not offer any guidance in how this could be accomplished in the context of a trial with a number of lay witnesses and expert witnesses. The state did not proffer any evidence that Dr. J has qualifications to proscribe what amounts to educational accommodations in the court setting.

Given all the information presented to the magistrate at the hearing, it is clear that the magistrate erred in finding the CLIENT has the ability to meaningfully assist in his defense.

C. The Credibility of the State's Witness Ultimately Negates Her Testimony.

The weight of the evidence and credibility of witnesses are matters primarily for the finder of fact. *State v. Walker*, 2016 WL 7448753 (¶ 12). This includes expert witnesses. Dr. J is not a credible witness and should not be relied on by this court.

1. The State's witness had a motive and bias to find CLIENT competent.

Dr. J was employed as the director of DBHS. T.p. 95. In her capacity as director Dr. J designed, administered, and oversaw the attainment program that CLIENT then participated in. T.p. 96-97. The program teaches the factual information about juvenile court. T.p. 159. There are four modules or learning objectives: Orientation or Court Basics, Understanding Pleas and Consequences, Understanding the Trial Process, and My Role in Court and Master Review. T.p. 159-160. The attainment classes do not work to improve developmental immaturity or rational understanding. T.p. 160-162.

Dr. J indicated that Hamilton County Juvenile Court's attainment program has better outcomes than the gold standard of attainment programs. T.p. 161. "Better outcomes" equaling more children achieving competency. *Id.* (emphasis added.) Dr. J was in charge of the evaluation as well as the attainment program. T.p. 173. The attainment rate, as stated by Dr. J, for DBHS is 84%.

The national average concludes that 70% of children initially found not competent will attain competency and 30% will not. T.p. 175. "Service professionals will provide remediation to improve juveniles' capacity to return to court, participate meaningfully in proceedings and make informed decisions about their cases. However, no consensus exists on what programming methods constitute evidence-based treatment." American Psychological Association, *Oklahoma Leads the Way on Juvenile Competency*, http://www.apa.org/monitor/2016/01/jn.aspx (accessed Jan. 11, 2017).

Dr. J was the director of DBHS when CLIENT attended the attainment program she created. Dr. J was also the psychologist who initially found him not competent and the psychologist who would complete his follow-up evaluation finding him competent. Dr. J has an interest in

demonstrating that her attainment program is successful. So successful that it boasts an attainment rate 14% higher than the national average. Dr. J claimed her attainment program had been peer-reviewed by the American Psychological Association, which was not information provided to the defense prior to trial. T.p. 161. However, there is no consensus in the psychological community regarding the effectiveness of attainment programs. American Psychological Association, *Oklahoma Leads the Way on Juvenile Competency*, http://www.apa.org/monitor/2016/01/jn.aspx (accessed Jan. 11, 2017). In fact, Dr. J' claim that her program was peer-reviewed during testimony was referencing a presentation that she gave about her program to the American Psychology-Law Society in March of 2016. *Attachment B,* American Psychology-Law Society, Annual Conference Program, http://ap-ls.wildapricot.org/resources/Documents/AP-LS2016/2016ConferenceProgram.pdf *at* p. 115. (accessed Feb. 10, 2017). Dr. Kathleen Hart, who co-signed the presentation for review, can confirm that the DBHS attainment program has not been peer-reviewed by the psychological community for scientific validation. Only the abstract of Dr. J' presentation to the American Psychological Association had been reviewed.

Dr. J had a clear desire to be on the fore-front of creating the most successful competency attainment program in the country, and thus it was in her own interest to keep the competency attainment rates from DBHS up. CLIENT's evaluation is a product of this motivation and it is clear that Dr. J had the motive to find him competent, when in fact he is not. It would benefit her and keep her afloat to have continued high success rates without regard to the grave consequences to the child when found competent and swept through the court process without the necessary understanding. Further, as discussed previously, the program was clearly set up to teach children to the test, and not to meet their individual barriers to competency or their needs. Whether this was a conscious motivation and bias or not, it is troublesome to have a treatment professional essentially

grade her own test by conducting both the before and after testing to the competency attainment program that she was publicly promoting. Dr. J' evaluation and testimony regarding CLIENT's competency is not credible; she had a clear motive and bias to find CLIENT competent in order to maintain the success of her attainment program, and her mischaracterization of the peer-reviewed status of her program reflects this bias.

2. The State's witness has also committed significant acts against the court and psychological community which force her credibility to be null and void.

Dr. J testified at the hearing on September 27, 2016 regarding her evaluation and CLIENT's competence to stand trial. Since that hearing, Dr. J employment with the juvenile court and DBHS has been terminated. In December 2016, it came to the court and counsel's attention in another youth's case that a competency report submitted to the court in September 2016 was fraudulent. Through a hearing on the child's competency, the author of the stated report, Dr. M, informed the court that her evaluation was not the report submitted to the court. Dr. M sent a letter directly to Judge H. *Attachment C, redacted*. Her evaluation, submitted with her letter, determined that the child was not competent to stand trial but possibly restorable. *Attachment D, redacted.* The evaluation submitted to court in September concluded that the child was competent. *Attachment E, redacted.* Not only was the ultimate conclusion in the evaluation altered, but numerous other substantive changes were made.

Since Dr. J was the director of DBHS, any evaluations submitted to the court went through her. After the court discovered the fraud, an internal investigation was opened, and Dr. J was given the opportunity to resign her employment with the court and DBHS. Dr. J is no longer employed with the juvenile court or DBHS.

Dr. J indicated she was a member of the American Psychological Association. T.p. 96. Principle C of the American Psychological Association's Ethical Principles of Psychologists and Code of Conduct reads,

> Psychologists seek to promote accuracy, honesty and truthfulness in the science, teaching and practice of psychology. In these activities psychologists do not steal, cheat or engage in fraud, subterfuge or intentional misrepresentation of fact. Psychologists strive to keep their promises and to avoid unwise or unclear commitments. In situations in which deception may be ethically justifiable to maximize benefits and minimize harm, psychologists have a serious obligation to consider the need for, the possible consequences of, and their responsibility to correct any resulting mistrust or other harmful effects that arise from the use of such techniques.

By permitting or actually conducting the fraud on the court, Dr. J has clearly not followed the fundamental values of her profession. The fraudulent report received by the court is in direct conflict with her duty not to engage in fraud or misrepresentation of fact, and calls to question whether her conduct in other cases has been ethical.

In the magistrate's ruling on competency he stated, "Both Dr. J and Dr. S are eminently qualified in their field." Magistrate's Ruling on Competency, October 11, 2016, *Attachment A.* The fraud on the court was committed in September through Dr. J but not discovered until two months after the magistrate issued the ruling in CLIENT's case. With this new information, Dr. J' ultimate finding, testimony, and evaluation regarding CLIENT is no longer credible. The court cannot adequately rely on her findings when it has been demonstrated that she submitted or allowed a fraudulent evaluation to be submitted to the court. Her licensure with the Ohio Board of Psychology is now in question. She is no longer, as the court said, "eminently qualified" in her field. This fraud against the court makes any finding by Dr. J null and void. Therefore, the court cannot rely on Dr. J as a credible witness and has no remaining foundation to find CLIENT competent.

III. Conclusion

Based on the foregoing, the magistrate erred in finding CLIENT competent to stand trial. Therefore, CLIENT respectfully requests that this Court set aside the magistrate's order finding CLIENT competent to stand trial. Alternatively, CLIENT respectfully requests that this Court remand the case for the magistrate to make additional findings after considering the information that became available regarding Dr. J after the hearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served upon the Hamilton County Prosecutor on _____ by Personal Service.

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Attorneys for Defendant