

IN THE COURT OF COMMON PLEAS

BROWN COUNTY OHIO

FILED  
CLERK OF COURTS  
BROWN COUNTY, OHIO

2015 APR 14 PM 12:37

L. CLARK GRAY  
CLERK OF COURTS

CASE NOS. 2015-0001, ~~0028, 003~~

GEORGE DUNNING, ET AL. AND :

SHERIFF DWAYNE WENNINGER

PLAINTIFFS, :

V. :

JUDITH A. VARNAU :

DEFENDANT :

AND :

IN RE OFFICIAL PROCEEDINGS BEFORE :

BROWN COUNTY CORONER :

JUDGE SCOTT T. GUSWEILER

DECISION ON REQUEST FOR

INJUNCTION AND MOTIONS

TO QUASH AND CONTEMPT

THIS cause having been heard on Plaintiff's Motion for a Preliminary Injunction and Motions to Quash subpoenas filed by Plaintiffs. A motion to find Defendant in Contempt has also been filed. The Court previously ordered the cases consolidated for Trial on the Motions as well as for the final Trial. The court took testimony on the motions and received written arguments on behalf of all parties pursuant to Ohio Revised Code. The Court will rule on the Motions for Preliminary Injunctions, the Motions to Quash and the Contempt Motion. All other issues will be deferred until the Trial on the Merits.

Before the Court gets to the merits of these Motions it is the Courts intention to make it abundantly clear what the extent of the Coroners' power is under Ohio Law. The office of Coroner is a creature of Statute. There are no Common Law rights, duties and privileges

Gusweiler seems desperate and engages in this smear tactic based on a falsehood that is undermined by internet searching.... the Brits have something to say about such slandering of the Defender of the Dead..... the Coroner has quasi-judicial authorities that HE (Gusweiler) IS SUPPOSED TO UPHOLD

associated with the office nor are there any implied rights associated with the office. The Coroner's rights duties and responsibilities are set out in Chapter 313 of the Ohio Revised Code. There is some additional guidance and restrictions for the Coroner in the Ohio Administrative Code in Chapter 3701-5 which deals with the subject of Vital Statistics.

And nowhere in Chapter 313 does it say the coroner can not do precisely what this coroner is setting out to do

### INJUNCTION

Section 2727.02 of the Ohio Revised Code provides as follows:

“Causes for an injunction. A temporary order may be granted restraining an act when it appears by the petition that the plaintiff is entitled to the relief demanded, and such relief, or any part of it, consists in restraining the commission or continuance of such act, the commission or continuance of which, during the litigation, would produce great or irreparable injury to the plaintiff, or when, during the litigation, it appears that the defendant is doing, threatens or is about to do, or is procuring or permitting to be done, such act in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual.”

The procedure for temporary, preliminary and permanent Injunctions is also governed by Ohio Rule of Civil Procedure 65. The Court granted a temporary Injunction prohibiting the Defendant Coroner from conducting or convening an inquest into the death of Zachary Goldson on January 5, 2015.

The Plaintiff's seek to enjoin the Brown County Ohio Coroner Dr. Judith Varnau from conducting a second inquest into the death of one Zachary Goldson who died while an inmate in the Brown County Jail on October 5, 2013. The Defendant Coroner previously found in a Supplementary Medical Certification to Mr. Goldson's Death Certificate dated November 30 2013 and filed December 2, 2013 that the immediate cause of Death was:

Crucially the ligature 'found' around his neck was a DECOY and was so indicated by the Coroner in her official report. The JUDGE IS "SPINNING A TALE" that contradicts the official Coroner's statement on record which he admits later is the lawful determination.

"Strangulation" and that the Decedent was found with a "Ligature around his neck" and that the cause of death was a "homicide".

The Coroner's authority is set forth in Chapter 313 of the Ohio Revised Code. Section 313.17 grants the Coroner or Deputy Coroner the right to issue subpoenas and in general those subpoenas are to be enforced by the Courts. The Plaintiffs in this Case argue that the Coroner no longer has jurisdiction to issue subpoenas and conduct an Inquest because she has already issued a verdict in the death of Mr. Goldson and it is the legally accepted cause of death pursuant to Revised Code Section 313.19 which provides:

"§ 313.19. Coroner's verdict the legally accepted cause of death.

The cause of death and the manner and mode in which the death occurred, as delivered by the coroner and incorporated in the coroner's verdict and in the death certificate filed with the division of vital statistics, shall be the legally accepted manner and mode in which such death occurred, and the legally accepted cause of death, unless the court of common pleas of the county in which the death occurred, after a hearing, directs the coroner to change his decision as to such cause and manner and mode of death".

No person having standing to do so has filed any request with the Common Pleas Court of Brown County Ohio to have the Coroner change her decision that the manner and mode of death was anything other than strangulation by ligature as a homicide. Therefore that finding was, is and continues to be the legally accepted cause of death for Mr. Goldson. The Court believes that the only persons who would have standing to request the Common Pleas Court to change the Coroners' decision would be the family members of the decedent and the Coroner herself if she now believed that her original decision to find the cause of death to be a homicide was wrong. None of that has happened.

The proper procedure to prevent an abuse of discretion on the part of a Coroner is by way of Injunction and not a writ of prohibition. State ex rel. Harrison v. Perry, Coroner 113 Ohio St. 641, 150 N.E. 78 (1925).

The Plaintiffs suggest that the ruling of the Ohio Third District Court of Appeals in State of Ohio v. Cousin, 5 Ohio App. 3d 32, 449 N.E. 2d 32 is controlling. The Court agrees as the Supreme Court of Ohio denied a motion for leave to appeal. The first two syllabi provides as follows:

1. R.C. 313.19 makes the coroner's verdict and death certificate the "legally accepted manner and mode in which such death occurred, and the legally accepted cause of death" only as to the physiological cause of death and the immediate mechanical, chemical or biological means by which death was caused, but does not extend to the determination of the criminal responsibility of any human agency involved in the causal chain.

In this GOLDSON case the ligature marks indicate irrefutably that the sheet WAS A DECOY and not the murder weapon BECAUSE IT WAS NOT CAPABLE OF CAUSING THE DEADLY BLOODED MARKS. HENCE \*\*HOMICIDE\*\* Further the impressed pattern on the skin surface is evidence that the WEAPON WAS STRAP-like, with WOVEN TEXTURE & likely BUCKLE-LIKE METAL FEATURE

Observations of medical expertise indicating "mechanical means by which death occurred" can indicate WHO the murderous thugs are. and what WEAPON was USED. -- all crucial to 'determination of criminal responsibility' YET WITHIN THE MEDICAL CLUES ON CAUSATION

2. In a criminal trial the function of the coroner is ultimately that of an expert witness, who expresses an opinion on a matter within the scope of his expertise, and not that of the courts which apply law to facts and assign criminal responsibility under the law.

In CDC manual for Coroners, there are sublevels of information that are wanted, that indicate the circumstances... Being a homicide victim is entirely a different trauma than being the victim of a murderous thug among those charged to 'protect and serve'... and it would be instrumental to ALL those governmental agencies that use death certificate data to know that the trauma was inflicted while IN CUSTODY AND HELD UNDER PHYSICAL RESTRAINTS.

Further, Ohio administrative Code Section 3701-5-07 provides:

"When the results of a coroner's investigation or a medical examination to determine the cause of death are not known within five days from the date of death, the coroner or attending physician, as applicable, shall sign the certificate of death, enter "cause of death pending" in the medical portion, and return the certificate to the funeral director or other person in charge of final disposition. The funeral director or other person shall immediately file the certificate of death or fetal death certificate with the local registrar, or sub-registrar. When the cause of death has been determined, the coroner or attending

physician, as applicable shall complete the supplementary medical report form prescribed and provided by the director. The coroner or physician shall file the form with the local registrar or sub-registrar as an addendum to the previously filed certificate of death no later than six months after the date of death."

The six month period has long since passed

so what! The filings were done on time. Those chores are not late AND THOSE ARE NOT THE ONLY RESPONSIBILITIES OF A CORONER. See ORC313.10(A)(1) et al

A Grand Jury was convened to review all the facts and circumstances surrounding the death of Mr. Goldson. The Grand Jury declined to indict anyone in the death of Mr.

Goldson. Whether the Coroner agrees or not with that decision she has no legal authority to conduct a second Inquest. She completed her obligation under the Law

The criminals involved BLOCKED COMPLETION OF THE INQUEST IN PROGRESS

when she certified her findings and her authority ceased at that time. It is up to the

Courts to assign criminal responsibility if it exists. The Grand Jury found that no such responsibility exists at this time. The Coroner cannot change the decision of the Grand

Jury. This is consistent with the Opinion of the Ohio Attorney General in Opinion No.

69-036 which states;

But a coroner who has COME INTO POSSESSION OF \*\*NEW\*\* EVIDENCE AS HAS HAPPENED IN THIS TRIAL, HAS AN OBLIGATION TO CALL FOR A NEW GRAND JURY TO BE CALLED

"It is the duty of the prosecuting attorney to institute and prosecute actions in the enforcement of the laws of Ohio. Therefore, it is the prosecuting attorney's duty to apply the law to the facts and to determine what, if any, statute has been violated. The coroner,

as a physician, is not qualified to make legal determinations.

Medical evidence does determine what law can be applied and the PROSECUTOR SHOULD BE GUIDED BY THE EVIDENCE GIVEN ORC319.10-- unlike what happened in the Breyer/Hornyak handiwork

"Therefore, it is my opinion, and you are advised that a coroner in his investigation of a death coming within his jurisdiction does not have the authority to apply law to the facts and determine what, if any, statute has been violated, and the legal responsibility of the persons involved." 1969 Ohio Atty. Gen. Ops. No. 69-036, at page 2-63."

The Court finds that the Defendant Coroner Judith Varnau is about to conduct an Inquest in excess of her power and authority granted her by the Ohio Revised Code. She

The video evidence that came through this judge's hands, was NEW to the DETERMINATION OF CAUSE -- AND SHOWED THAT GOLDSOON WAS HANDCUFFED WHILE IN CELL#15 -- totally proving that the deputies are the liars and thugs responsible for Goldson's death -- HENCE THIS JUDGE IS GUILTY OF COVERING UP A MURDER OF A MOST HEINOUS KIND since the SO is charged with serve and PROTECT -- obligating the Coroner to COMPLETE HER INQUEST SINCE LAW ENFORCEMENT COMMITTED THE SAME FELONY AS THE JUDGE

5290342

TOTALLY AND KNOWABLY WRONG... see ORC313.10 et al

Concealing the NEW evidence that was denied to the Coroner before, who then made her determinations based on the original realization that the sheet was a decoy and therefore the death at least a homicide, but IT COULD BE MORE DEFINITELY A MURDER, or what would be required was major irrefutable evidence of MULTIPLE FELONIES IMPLIED BY THE MEDICAL EXPERTISE applied to the testimonies and actions under consideration

has already delivered her verdict as to the manner and mode and the legally accepted cause of death of Zachary Goldson. She has certified her findings. She lacks authority to perform any action with respect to that death beyond what she has done. Her statutory duties are completed and she cannot proceed any further. It is without question that the Coroner is about to take actions that exceed her lawful authority. The following findings are not reflective of the Courts' finding concerning the Declaratory Judgment Action in Case 2015-0003 because it is the Courts' Opinion that the Plaintiffs in that Action do not have standing to request a change of the Death Certificate in question.

With the evidence in his hands, it's rather disingenuous for the judge to claim great likelihood of Plaintiffs prevailing UNLESS HE'S ACCUSING THE FEDERAL JUDGE OF SIMILAR FELONIES to his own, to Breyers, to Hornyak, and others..

The Court finds that there is **great likelihood that Plaintiffs will prevail** in their

Declaratory Judgment Action in these cases and that there is danger of **irreparable harm**

aka justice !

to the Plaintiffs if the Injunction is not issued. The Court further finds that third parties

will not be harmed if the Injunction is granted and that **the public interest will be served**

the public interest is in getting murderous thugs off county streets and lives

by the Injunction. **These findings meet the requirements for the issuance of an**

**Injunction** as set out in Back v Fath Properties LLC, Ohio 12<sup>th</sup> Dist. 2002-Ohio-6107, 02-

LW4783 (Twelfth) citing Vanguard Transp. Sys., Inc. v. Edwards Transfer and Storage

Co, Gen. Commodities Div. (1966) 109 Ohio App.3d 786 and citing Valco Cincinnati,

Inc. v. N&D Machining Service, Inc. (1986), 24 Ohio St.3d 41. The Court also reviewed

the case of Arthur Murray Dance Studios of Cleveland v. Witter, 104 N.E.2d 685,92

U.S.P.Q.4479Ohio Comm.1952). Although a Common Pleas Case, it is in essence a

Treatise on the Law of Injunctions in Ohio and throughout the Nation. It proved to be

most helpful to the Court and the Court has followed its' guidance..

The Court hereby enjoins Defendant Coroner Judith Varnau from conducting any further Inquest into the death of Zachary Goldson and further enjoins her from issuing any subpoenas regarding such death and enjoins her from attempting to enforce any subpoenas previously issued regarding such death. She is further enjoined from conducting any investigation whatsoever into the Death of Zachary Goldson during the pendency of these proceedings. The Injunction shall remain in force until a final decision is entered on the merits of this Case.

aka during the Coroner's own defense in Federal Court, which is Gusweiler's thumb on the Federal Court's justice-scale..

The Motion for Injunction is Granted. No Bond is required as the Plaintiffs are all employees of a governmental entity and in essence they bring their action in that capacity.

### **MOTIONS TO QUASH**

The Law which governs the Coroners' authority applies equally to the subpoenas issued by the Coroner and the Court will not repeat itself concerning the Law.

The Court finds that the Defendant Coroner Judith Varnau is about to conduct an Inquest in excess of her power and authority granted her by the Ohio Revised Code. She has already delivered her verdict as to the manner and mode and the legally accepted cause of death of Zachary Goldson. She has certified her findings. She lacks authority to perform any action with respect to that death beyond what she has done. Her statutory duties are completed and she cannot proceed any further. The Court finds that the subpoenas issued by the Coroner are unreasonable and are issued in a manner which exceeds the statutory powers of the Coroner.

The Motions to Quash are Granted. The Coroner may not enforce the subpoenas and all persons served with the subpoenas are excused from complying with them.

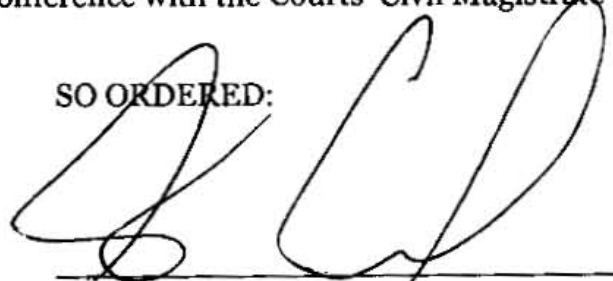
### CONTEMPT

The respective Plaintiffs have asked the Court to find the Coroner in Contempt of Court for failing to abide by the prior Orders of the Court which granted a Temporary Restraining Order. Although it appears to the Court that the Defendant Coroner was somewhat indifferent to the Courts' Order, there is the suggestion by Counsel that the Order was not totally clear. The Court therefore finds that there was no willful contempt on the part of the Coroner.

The Court does want to make its' Order abundantly clear at this time. There is one action and one action only that the Brown County Coroner, Judith Varnau, may take with respect to the death of Zachary Goldson. She may petition the Brown County Court of Common Pleas to change the cause of death for Mr. Goldson to something other than "homicide by strangulation". Any other action at all by the Coroner, her staff and her investigators will be treated as a direct contempt of this Courts' Order and will be punished accordingly.

The matters are to be set for a Scheduling Conference with the Courts' Civil Magistrate on May 13 2015 at 9:00 a.m.

SO ORDERED:

A handwritten signature in black ink, appearing to read "S. T. Gusweiler", written over a horizontal line.

JUDGE SCOTT T. GUSWEILER



TO THE CLERK: Please send copies of this decision and Entry to Mr. John H. Phillips, Phillips Law Firm Inc. 9521 Montgomery Road, Cincinnati, Ohio 45242; Mr. Thomas G. Eagle 3386 N. St. Rt. 123 Lebanon, Ohio 45036; Mr. Niroshan M. Wijesooriya, Minillo & Jenkins 2712 Observatory Ave. Cincinnati, Ohio 45208; Mr. David R. Kelly & Mr. Mark R. Weaver 110 West Main Street, West Union, Ohio 45693 and Mr. Charles R. Junk Jr. 100 East Second Street, Waverly Ohio 45690.