



# *The Prosecutor*

newsletter from  
**Mat Heck, Jr.**  
Prosecuting Attorney



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Summer 2017

## **Ohio Supreme Court Reverses December Ruling**

*State v. Aalim II, Slip Opinion No. 2017-Ohio-2956*

On December 22, 2016, the then justices of the Ohio Supreme Court ruled that any *mandatory* transfer of a juvenile to the common pleas court, to be tried as an adult, was unconstitutional. The Court determined the law violated the due process rights as guaranteed by the Ohio Constitution.

The Court ruled that all juveniles, regardless of age or the seriousness of the crime committed, must have an “amenability hearing” in juvenile court and that the juvenile court judge has the discretion to decide whether to transfer the case or keep the juvenile in the juvenile system.

On January 3, 2017, our office filed a motion in the Ohio Supreme Court seeking reconsideration of the ruling. We argued that the Court failed to consider Article IV, Section 4(B) of the Ohio Constitution, which grants the Ohio General Assembly exclusive authority to define the jurisdiction of the courts of common pleas. The Court agreed to take a second look at the issues we raised.

On May 25, 2017, the Ohio Supreme Court reversed the December ruling, and found that the mandatory transfer provided for in the Ohio Revised Code does not violate the due process rights of the accused. Furthermore, the Court noted that the General Assembly created a narrow exception to the general rule that juvenile courts have exclusive jurisdiction over any case involving a juvenile when Ohio Revised Code §2152.12 was enacted, which provides that a juvenile who has committed a qualifying offense and who meets certain age requirements is automatically removed from the jurisdiction of the juvenile division and is transferred to adult court.

The Ohio Supreme Court found that...“Our (earlier) decision...therefore usurped the General Assembly’s exclusive constitutional authority to define the jurisdiction of the courts of common pleas by impermissibly allowing a juvenile-division judge discretion to veto the legislature’s grant of jurisdiction to the general division of a court of common pleas over this limited class of juvenile offenders.”

Prosecutor Heck commented, “This ruling only applies to certain juveniles who have committed the most serious crimes, such as murder or rape, or were previously convicted of a most serious offense, and are of a certain age. The juvenile justice system is ill-equipped to effectively rehabilitate those defendants. Furthermore, the juvenile system can only incarcerate defendants until age 21, when they must be released. In the adult system, they can be incarcerated much longer, and once released they can be kept under the jurisdiction and control of the Adult Parole Authority.”

Heck continued, “This ruling is an important victory for victims and prosecutors across the state as it allows us to handle the most violent and dangerous juvenile offenders in a way that protects the public and keeps our communities safe.”

## Prosecutor's Investigator Dillon Sworn In As Special Deputy U.S. Marshal

On Wednesday, May 31, 2017 Prosecutor's Investigator Tyson Dillon was sworn in as a Special Deputy United States Marshal. Tyson will be a member of the Southern Ohio Fugitive Apprehension Strike Team (SOFAST).



Investigator Dillon with Prosecutor Heck

The SOFAST Task Force is a multi-jurisdictional law enforcement organization created to arrest the most violent felons in the Southern District of Ohio. Strike teams are headquartered in Dayton, Columbus and Cincinnati. The Force is comprised of law enforcement officers from multiple federal, state and local law enforcement agencies.

Tyson joined the Prosecutor's Office on September 30, 2016. He received his Ohio Basic Police Officer Training Certificate from the Sinclair Police Academy in 2006. Tyson has more than 7 years of police experience. Before joining the prosecutor's office, Tyson was a Sergeant with the Grandview Police Department. He has also worked as a police officer for the cities of Riverside and Germantown.

As a criminal investigator, Mr. Dillon provides support for felony criminal cases, conducts general investigations of all types, including consumer fraud complaints, criminal non-support cases, and locates witnesses and other involved in criminal cases.

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## Dayton Man Indicted for Vehicular Homicide

On July 18, 2017, Jeffrey A. Evans was indicted on two counts of Vehicular Homicide and one count of Failure to Stop After an Accident for a traffic crash that occurred on July 27, 2016. The defendant was traveling northbound on I-75 near Moraine in a commercial dump truck. At the time, traffic was slowing down due to the I-75/U.S. 35 construction. The defendant failed to stop and rear-ended a 2012 Ford Fusion, killing the driver, 67-year-old Perry Kreider, of Englewood.

The defendant then exited the truck and attempted to flee the scene before being arrested by Moraine Police.

The defendant's case is currently pending in the Montgomery County Court of Common Pleas. The Judge released the defendant from custody and the defendant is currently in the Electronic Home Detention Program.

## **Kettering Shooter Indicted for Murder as an Adult**

*State v. Kylan Gregory 2017-CR-2286*

On July 20, 2017, Judge Anthony Capizzi issued a decision and judgement granting our motion for the mandatory and immediate transfer of defendant Kylan Gregory to be tried as an adult in the shooting death of 16-year-old Ronnie Bowers.

On the evening of Sunday, September 4, 2016, Bowers, of Kettering, was at Alter Fest with some friends. One of the males he was with had an on-going dispute with some other teens. The two groups of teens encountered each other at Alter Fest and words were exchanged. Eventually, the victim, his friends, and the male who had issues with the defendants were in a vehicle trying to leave when the defendants pulled up to them in their vehicle. Some, or all, of the defendants exited their vehicle and started pounding on the windows of the victim's car calling out the male for a fist-fight. The victim started to drive away, and as he drove off, defendant Kylan Gregory pulled out a handgun and fired it at the back of the car. The bullet entered through the back window and struck Bowers in the back of the head. The vehicle then crashed into a nearby yard in the 800 block of Wil- lowdale Avenue.

On September 6, 2016, the victim died as a result of his injuries. On August 8, 2017, the de- fendant was indicted on counts of murder, felonious assault, and discharge of a firearm on or near prohibited premises. The defendant remains in custody at the Juvenile Detention Center, being held on a \$1,000,000 bond.

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## **Ohio Supreme Court Rules on Sentencing Juveniles Tried as Adults**

In 2014, the 2nd District Court of Appeals issued a decision in a case that stated that juvenile defendants who were subject to mandatory transfer to adult court, and were convicted, could only be sentenced by the adult court on the mandatory transfer charge(s). Any additional charges that were not subject to mandatory transfer then had to go back to the juvenile court for an amenability hearing to determine the disposition of those other charges.

Our office appealed this ruling to the Supreme Court of Ohio.

On July 27, 2017, the Supreme Court issued a decision that reverses the 2nd District Court of Appeals, ruling that once a juvenile has been found guilty in the adult court for at least one offense that qualifies as a mandatory transfer offense, the adult court shall sentence the juvenile for all con- victions in the case. This removes the 2nd District Court's requirement of returning non-mandatory transfer offense(s) in the case back to the juvenile court for an amenability hearing.

Prosecutor Heck commented, "This ruling makes sense in that the adult court judge is in the best position to sentence the defendant. It served no purpose for the adult court judge to sentence only the mandatory transfer charges, and then return the case to the juvenile court and require an amenability hearing on the non-mandatory transfer charge(s). This ruling will help to streamline the administration of justice and provide finality for victims of crime committed by the worst offenders."

## Prosecutor Heck Celebrates 25 Years Since First Election

On Friday, June 2, 2017, Prosecutor Heck was surprised by his staff with a 25th Anniversary Celebration of his first election win.

In 1992, the primary election was held on June 2, 1992. Prosecutor Mat Heck, Jr. won that election, putting him on the November ballot. The 1992 General Election was held on Tuesday, November 3, 1992. Prosecutor Heck won that election as well, and has run unopposed in every election year since, most recently in the 2016 general election.

A number of Mr. Heck's staff wrote notes to him and about working for him. All of the notes were mounted in the shape of a "25" and were framed. The work is currently on display inside his administrative offices.



Pictured: Kelsey Mangan, Administrative Secretary; Cara Sweet, Executive Secretary; Prosecutor Mat Heck, Jr.; Karen Clift, Payroll, Personnel & Benefits Office; Greg Flannagan, Administrative Assistant and Public Information Officer.

### How Many Remember 1992?

Just for fun, here are some facts about 1992:

- Bill Clinton was elected President of the United States, beating rivals George H.W. Bush and Ross Perot
- A gallon of gas cost an average of \$1.05; the average new car cost \$16,950; the Dow finished the year at 3301
- Hurricane Andrew hit Southern Florida
- Atlanta's Georgia Superdome was completed
- Jeffrey Dahmer and Mike Tyson were both convicted of crimes in 1992
- Microsoft released Windows 3.1
- Whitney Houston and Kevin Costner starred in *The Bodyguard*
- Mat Heck, Jr. was elected Prosecuting Attorney

## **Six New Assistant Prosecuting Attorneys Join Staff**

Due to the retirement of a number of Assistant Prosecuting Attorneys as well as openings created by attorneys leaving the office to pursue work in other areas of law, we have appointed six new Assistant Prosecuting Attorneys since our last newsletter.

On May 8, 2017 Sarah Hutnik was sworn in by Prosecuting Attorney Mat Heck, Jr. as an assistant Montgomery County Prosecuting Attorney. Sarah is assigned to the Child Protection Unit of the Prosecutor's Office.

Sarah received her undergraduate degree from the Case Western Reserve University in 2011, majoring in Philosophy and Business Management. In 2013, she received her Master of Arts in Ethics from King's College in London, England. In 2016, she received her law degree from the Case Western Reserve University School of Law. Sarah is originally from Wadsworth, Ohio.

On June 13, 2017, Prosecutor Heck swore in two new Assistant Montgomery County Prosecuting Attorneys, Thomas Schutzman and Thomas Brodbeck.

Thomas Schutzman is assigned to the Child Protection Unit of the Office. He received his undergraduate degree from the University of Kentucky in 2011, majoring in business management. In 2015, he received his law degree from the University of Dayton School of Law. Thomas is originally from Ft. Mitchell, Kentucky.

Thomas Brodbeck is assigned to the Juvenile Division of the Prosecutor's Office. Thomas received his undergraduate degree in English Literature in 2012 from Ohio University in Athens, Ohio. He received his law degree in 2015 from the University of Dayton School of Law. Thomas is originally from Lima, Ohio.

Then, on July 17, 2017, Prosecutor Heck swore in Shaun McPherron as an Assistant Montgomery County Prosecuting Attorney. Shaun is assigned to the Juvenile Division of the office.

Shaun is a 2011 graduate of the University of Cincinnati, majoring in Business Administration. In 2016, he received his law degree from the University of Cincinnati College of Law. Shaun is originally from Cincinnati.

Finally, on July 24, 2017, Prosecutor Heck swore in two more Assistant Montgomery County Prosecuting Attorneys, Amber Mullaly and Vencot Brown.

Amber Mullaly is assigned to the Child Protection Unit. Amber graduated from the University of Pennsylvania in 2007, majoring in Communications. In 2014, she received her law degree from the University of San Diego School of Law. Amber is originally from Lone Tree, Iowa.

Vencot Brown is assigned to the Intake/Grand Jury Section of the office. He graduated in 2008 from Eastern New Mexico University, majoring in Criminal Justice. In 2011, he received his law degree from the University of Dayton School of Law. Before joining our office, Vencot was an Assistant Prosecuting Attorney in Cuyahoga County, Ohio, handling felony trials.

## Office Staff Updates

The following are staff additions since our last newsletter:

<b>DATE</b>	<b>NAME</b>	<b>POSITION AND ASSIGNMENT</b>
5/1/17	Sarah Hutnik	Assistant Prosecutor, Child Protection Unit
6/12/17	Thomas Brodbeck	Assistant Prosecutor, Juvenile Division
6/12/17	Thomas Schutzman	Assistant Prosecutor, Child Protection Unit
6/12/17	Scott Martin	IT Administrator
7/17/17	Shaun McPherron	Assistant Prosecutor, Juvenile Division
7/24/17	Amber Mullaly	Assistant Prosecutor, Child Protection Unit
7/24/17	Vencot Brown	Assistant Prosecutor, Intake/Grand Jury Section



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