

COMMONWEALTH OF KENTUCKY
KENTON CIRCUIT COURT
FOURTH DIVISION
CASE NO. 12-CR-260-001
CASE NO. 12-CR-260-002

COMMONWEALTH OF KENTUCKY

PLAINTIFF

VS

SARAH JONES
CHERYL JONES

DEFENDANTS

DEFENDANT'S SUPPRESSION HEARING BRIEF ON THE NEUTRAL AND
DETACHED MAGISTRATE ISSUE

The Defendants reference their Motion to Suppress and the law cited to support their arguments. Sarah and Cheryl Jones certainly have standing to challenge the suppression of the text messages. In the legal issues pertaining to the Motion, the law remains unchanged.

Neutral is defined as "not aligned with or supporting any side or position in a controversy." Detached is defined as "impartial of objective; disinterested; unbiased." Based upon the testimony of Judge Easterling and Cody York, its clear Judge Easterling is not only not a neutral and detached magistrate, he's a biased one. It is also clear he committed perjury. He testified under oath and failed to tell the truth about material facts.

The attached are the transcribed testimonies of Easterling and York (Exhibit 5 and 6). In addition, we resubmit the Affidavit of Cody York (Exhibit 1). We also attach another affidavit of Cody York and one of his father, Jonathan Dave York (Exhibit 2 and

3). We also attach the phone log we had showing communication to Jake Easterling the day of the first ticket (Exhibit 4). We are in the process of obtaining the Easterling records from Cody York's phone.

The Commonwealth opposed a hearing. This would have meant the Court had only affidavits. The Court not only is allowed, but the Court must consider all affidavits and evidence supporting a finding Judge Easterling is not a neutral and detached magistrate (See later section). Just because there was a hearing doesn't mean the affidavits shouldn't be considered. They must.

Under oath, Judge Easterling denied Cody was Jake's (his son) friend, was at his house, that he knew him ("I don't know him." Pg 5), never seen Cody's father and made more incredulous statements (See Exhibit 5 and 6).

The Court should not only be concerned about the Easterling testimony, but protect the integrity of the process and the integrity of the Kenton County Court system.

The Court, as a Kenton District Judge once, should take judicial notice cases stay with Kenton County District Judges from arraignment through disposition. When it doesn't happen, it's an exception. Ken Easterling denied this reality too in his attempt to make light of a teenager contacting him to "fix" a ticket.

Ken Easterling claimed a student contacting by text a District Judge to take care of a traffic ticket is not highly irregular (Pg 13).

In addition, this Court must take into consideration the information pertaining to the second ticket because it relates to credibility. Credibility is always an issue.

The discussion at Ken Easterling's house between Easterling and Cody about Sarah Jones is important because it reflects the depth of the relationship he had with Cody York.

To find Ken Easterling is a neutral and detached magistrate would be rock solid appealable error.

Why Did Easterling Testify As He Did?

I kept asking myself why would Ken Easterling testify in the manner he did and say what he did. It became clear with Lisa Wells strut to the bench representing Jake Easterling. After pointing out the subpoena issue, she mocked me by claiming this was a "typical" harassment tactic by me. She then mocked me by stating the "best" person to impeach Ken Easterling. She giggled. Why? She never dreamed we would call Cody York. If she was representing Jake, she no doubt had communication with Ken Easterling. They thought Ken Easterling could say whatever he wanted and it not be challenged because Jake wasn't there and Cody would never be called. They miscalculated.

Judge Easterling gambled his career and lost. Make no mistake, by the appropriate rules, the affidavits, the transcripts and the phone records will be submitted to the Bar, the Judicial Conduct Commission and a special prosecutor will be requested to pursue perjury charges since the prosecutors in Kenton County would be unwilling and unable based upon conflicts to prosecute Judge Easterling for perjury.

All Affidavits Should Be Considered

"It is a narrow inquiry; the probation process should be flexible enough to consider evidence including letters, affidavits, and other material that would not be

admissible in an adversary criminal trial.” *Marney v. Commonwealth*, 2008 WL 4754854 (Ky.App., 2008) (citing *Morrissey*, 408 U.S. at 489, 92 S.Ct. at 2604, 33 L.Ed.2d at 499). In making determinations as to the admissibility of evidence, during a hearing outside the grand jury, the court is not bound to the rules of evidence. KRE 104(a); *see also White v. Commonwealth*, 5 S.W.3d 140, 142 (Ky. 1999).

Standing Issue

The standing issue is also the same as in the motion to suppress. It is the first hurdle that must be overcome in suppressing evidence. To have standing to suppress unlawfully obtained evidence, a person must show that they had a reasonable expectation of privacy in the location/item searched. I have no reasonable expectation of privacy in another person’s house or in a car for the most part. The argument is that Jones had a subjective expectation that the government could not get to the texts saved by Cody’s service provider, and that the expectation is reasonable such that society will accept it as legitimate.

This was argued in a motion, but as far as public policy is concerned, if the Court does not recognize expectation of privacy, the Commonwealth could use baseless warrants to get the text message information from any number of acquaintances of a suspect, and the true subject of the search would have no basis to challenge. As an example the Commonwealth could issue warrants for the text messages of all the friends and family of a suspect. Obviously the subject of the search is the suspect, but because it was not her service provider, Jones would be unable to challenge the unlawful search and seizure which is prohibited by the Fourth Amendment. There is no additional case law, beyond what is in the motion to suppress.

Certified Copies of Traffic Records

The attached are the records of the certified copies of two tickets “fixed” by Judge Easterling for Cody York (Exhibit 7).

Judge Easterling, not a clerk, asked the ticket be put on his docket (12-T-02109).

On 11-T-06754, Cody’s dad, Jonathan York asked it to be on the docket of Judge Easterling based upon Judge Easterling’s direction.

Suppression Hearing Demonstrative Exhibits

Exhibit 8 are nice summaries used to reflect why Judge Easterling is not a neutral and detached magistrate and there was no probable cause.

Conclusion

Our criminal justice system is based upon the principle that our freedoms and rights are more important than convicting someone of a crime. We’d rather someone guilty go free than convict an innocent.

The suppression of these text messages is not the end of the world. To not suppress them in the face of Ken Easterling’s conduct would not be the end of the world either. However, it would call into question the honor, honesty and integrity of the entire Kenton County justice system.


Eric C. Deters (81812)
5247 Madison Pike
Independence, KY 41051-1444
859-363-1900 Fax: 859-363-1444
Email: eric@ericdeters.com

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served upon the persons named below by certified mail on September 26, 2012.

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line extending to the right. Below the signature is a small, handwritten mark resembling a checkmark or the number '1'.

Cc:
Hon. Sara Farmer
Assistant Commonwealth's Attorney
514 West Liberty Street
Louisville, Kentucky 40202
(502)595-2300

Index of Exhibits

1. Affidavit of Cody York 1
2. Affidavit of Cody York 2
3. Affidavit of Jonathan York
4. Phone Log- Cody York's Phone Log
(Phone call to Jake Easterling on date of ticket)
(Phone call to Jake Easterling when dropping off the ticket on November 12)
(Ticket attached to show proof of date pulled over)
5. Transcribed Testimony of Easterling
6. Transcribed Testimony of York
7. Certified Copies of Traffic Records
8. Suppression Hearing Demonstrative Exhibits

EXHIBIT 1
Affidavit of Cody York 1

AFFIDAVIT OF CODY YORK

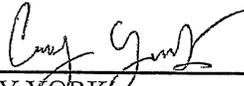
COMMONWEALTH OF KENTUCKY
COUNTY OF KENTON

Comes now the affiant, Cody York, after having been duly sworn and cautioned, states as follows:

1. Jake Easterling and I have been friends since freshman year in 2008. I've been over his house several times. When I was pulled over in May of 2011 for speeding, Jake planned on taking my ticket to his dad, Judge Ken Easterling to take care of it so it wouldn't be on my record.
2. Jake ended up not giving it to his dad and I reported to court a few weeks later. Judge Easterling was my Judge and he ordered me to attend traffic school and was requiring me to bring proof of insurance and proof that I went to traffic school to my following court date. However, I instead went to his house to show him those two requirements and he handled it for me so I didn't have to go back to court.
3. In February of 2012, I was pulled over for speeding again. I asked Jake if his dad would be able to take care of yet another ticket for me. He said he would, as long as I brought my ticket to his house. After baseball practice one day, I went over Judge Easterling's house to give him the ticket.
4. Judge Easterling asked to talk to me in private, without Jake around. We went into the living room area where it was just he and I. He began asking how I was handling the recent situation with the investigation that was going on with Ms. Jones and I. I responded saying that I was fine. He continued the conversation but was hesitant and stuttering through the discussion. He repeatedly said he shouldn't be talking to me about the situation but wanted to ensure me that Ms. Jones wasn't going to get jail time but urged me to tell the truth on the stand if questioned. I told him I didn't think it would go that far. He replied, "I'm not saying it will go that far, but if it does you better tell the truth." We talked for fifteen minutes or so, and throughout the conversation I wondered how he knew about the situation and my involvement in the first place. He confirmed that he knew about it since he was involved with the court system and was a Judge in Kenton County. Ending the conversation, he shook my hand as I was leaving and told me everything would be alright.
5. In March of 2012, I received a letter in the mail stating that if the February speeding ticket wasn't handled, I would have my license suspended in thirty days.

6. Knowing that Judge Easterling had my ticket in his possession and was supposed to handle it, I sent him a text message asking him about the letter I had received. Jake gave me his dad's number and said that after he got out of court, he would contact me back. Judge Easterling responded back through text "I will take care of it."

AFFLIANT SAYETH FURTHER NOT



CODY YORK

Subscribed and sworn to before me by Cody York on May 18th, 2012.



NOTARY PUBLIC, STATE AT LARGE

My Commission expires: 12-5-2015

Notary #: 455995

EXHIBIT 2
Affidavit of Cody York 2

AFFIDAVIT OF CODY YORK

Comes now the affiant, Cody York, after having been duly sworn and cautioned, states as follows:

1. I have been over the Easterling residence located in Edgewood, Kentucky on several occasions, hanging out with Jake and other friends. Mr. Ken Easterling was there during those times that I was there.
2. On one occasion in early 2011, I went over to the Easterling residence with Griffin Lessley and Tyler Moore. Jake had a bonfire in his back yard and Mr. Ken Easterling was outside with us.
3. On another occasion in 2011, I went over to the Easterling residence. Mr. Ken Easterling was lying on the couch in the basement, next to where Jake's bedroom is.
4. During 2011, my friends Griffin Lessley, Jake Easterling and I went to a basketball game in Scott County together. Ken Easterling let us drive his Gold Cadillac to the game. Jake drove, I rode in the passenger seat, and Griffin was in the back.
5. The phone number of Ken Easterling was given to me by Jake Easterling in May of 2011, after I was pulled over. I have spoken to Ken Easterling on the phone and text him throughout the 2011 school year about fixing the speeding ticket I got in May.
6. After my first ticket, in early November, I took my proof of insurance and proof of traffic school to Ken Easterling so that I would not have to appear at court on January 9, 2012. I called Jake Easterling on November 12th to notify him that I was on my way, and gave all my information to Ken Easterling.

AFFIANT SAYETH FURTHER NOT



CODY YORK

NOTARY

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me, a Notary Public, by

Cody York on this 26 day of September, 2012.

A handwritten signature in cursive script, reading "Charles R. Hallbrook", written over a horizontal line.

NOTARY PUBLIC

My Commission Exp.: March 14, 2016

Kenton County

State of Kentucky

EXHIBIT 3
Affidavit of Jonathan York

AFFIDAVIT OF JONATHAN DAVID YORK

Comes now the affiant, Jonathan York, after having been duly sworn and cautioned, states as follows:

1. My son, Cody York, has been friends with Jake Easterling throughout high school.
2. Throughout his high school years, before 2011, my son has been to the Easterling residence on several occasions.
3. On May 26, my son was pulled over for speeding. He told me he had called Jake Easterling that night (see his phone records) and that Jake's dad, Judge Easterling said he would take care of his ticket.
4. I went to court with my son on July 5, 2011 with Judge Ken Easterling. A few days after, I overheard a conversation with my son and Ken Easterling regarding his ticket. He told him if he brought proof of insurance and proof of traffic school, he would handle his ticket.
5. After my son completed traffic school, my son took his proof of insurance and proof of traffic school to Judge Ken Easterling's residence.
6. Judge Ken Easterling has fixed several tickets for my son.

AFFIANT SAYETH FURTHER NOT



JONATHAN DAVID YORK

NOTARY

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me, a Notary Public, by
Jonathan York on this 25 day of September, 2012.

Sarah Perlingiero

NOTARY PUBLIC

My Commission Exp.: 5-11-13

Kenton County

State of Kentucky



SARAH PERLINGIERO
My Commission Expires
May 11, 2013
Clay County
Commission #09691021

EXHIBIT 4

Cody York's Phone Log

- Phone call to Jake Easterling on date of ticket
- Phone call to Jake Easterling when dropping off the ticket on November 12
- Ticket attached to show proof of date pulled over

8597605650	5/26/2011 09:48:09 PM	1	TO	8593930839	COVINGTON KY
8597605650	5/26/2011 09:45:14 PM	1	TO	8598010100	COVINGTON KY
8597605650	5/26/2011 09:13:24 PM	2	TO	8598010100	COVINGTON KY
8597605650	5/26/2011 09:03:49 PM	1	FROM	8593943694	
8597605650	5/26/2011 09:03:01 PM	1	FROM	8598017886	
8597605650	5/26/2011 08:59:42 PM	1	TO	8593943694	COVINGTON KY
8597605650	5/26/2011 08:59:10 PM	1	TO	8598010010	COVINGTON KY
8597605650	5/26/2011 08:55:57 PM	3	TO	8593943694	COVINGTON KY
8597605650	5/26/2011 08:53:15 PM	1	FROM	8593943694	
8597605650	5/26/2011 08:07:25 PM	1	TO	8593930839	COVINGTON KY
8597605650	5/26/2011 08:06:55 PM	1	TO	8593930839	COVINGTON KY
8597605650	5/26/2011 07:50:32 PM	1	FROM	8595121528	
8597605650	5/26/2011 07:49:45 PM	1	TO	8595121528	COVINGTON KY
8597605650	5/26/2011 07:48:02 PM	1	TO	8596302183	COVINGTON KY
8597605650	5/26/2011 07:46:28 PM	2	TO	8594149383	COVINGTON OH
8597605650	5/26/2011 07:45:30 PM	1	TO	8593930839	COVINGTON KY
8597605650	5/26/2011 06:14:40 PM	2	FROM	8594149362	
8597605650	5/26/2011 05:33:15 PM	1	FROM	8598019196	
8597605650	5/26/2011 05:19:06 PM	1	TO	8593930839	COVINGTON KY
8597605650	5/26/2011 05:14:13 PM	1	TO	8593930839	COVINGTON KY
8597605650	5/26/2011 05:07:02 PM	1	FROM	8598019196	
8597605650	5/26/2011 04:25:02 PM	1	TO	8593943376	COVINGTON KY
8597605650	5/26/2011 04:15:40 PM	1	TO	8596092722	COVINGTON KY
8597605650	5/26/2011 03:24:54 PM	1	FROM	8597575101	

000900

8597605650	11/13/2011 02:48:27 AM	2	FROM	8595121528	COVINGTON KY
8597605650	11/12/2011 11:57:52 PM	2	FROM	8596092722	
8597605650	11/12/2011 11:50:35 PM	2	FROM	8593943694	
8597605650	11/12/2011 11:44:29 PM	1	TO	8593943694	COVINGTON KY
8597605650	11/12/2011 11:42:08 PM	1	TO	859928886	COVINGTON KY
8597605650	11/12/2011 10:57:04 PM	1	TO	8598168004	COVINGTON KY
8597605650	11/12/2011 09:57:14 PM	1	TO	8596096470	COVINGTON KY
8597605650	11/12/2011 09:37:05 PM	1	TO	8598010100	COVINGTON KY
8597605650	11/12/2011 08:12:07 PM	1	FROM	8598168004	
8597605650	11/12/2011 07:56:53 PM	2	FROM	8598168004	
8597605650	11/12/2011 07:21:25 PM	1	FROM	8598168004	
8597605650	11/12/2011 07:14:12 PM	1	FROM	8598168004	
8597605650	11/12/2011 07:07:59 PM	1	TO	8599129109	COVINGTON KY
8597605650	11/12/2011 06:02:30 PM	4	FROM	8598019196	
8597605650	11/12/2011 05:50:27 PM	1	TO	8593801413	COVINGTON KY
8597605650	11/12/2011 05:49:40 PM	1	TO	8598032314	COVINGTON KY
8597605650	11/12/2011 05:48:32 PM	1	TO	8596202433	COVINGTON KY
8597605650	11/12/2011 05:30:39 PM	3	FROM	8594452302	
8597605650	11/12/2011 05:25:09 PM	1	TO	8594452302	COVINGTON KY
8597605650	11/12/2011 05:22:58 PM	2	FROM	8594452302	
8597605650	11/12/2011 05:12:26 PM	6	TO	8594452302	COVINGTON KY
8597605650	11/12/2011 05:06:42 PM	5	FROM	8596202433	
8597605650	11/12/2011 04:57:28 PM	1	TO	8598017886	COVINGTON KY
8597605650	11/12/2011 04:17:50 PM	2	TO	8596283105	COVINGTON KY

000701

KENTUCKY COURT OF JUSTICE

[Search](#) [User Account](#) [Log Off](#)

41195 5/16/2012 2:44:50 PM

Information from this system cannot be used for employment, licensing, eligibility for government programs or any public dissemination. This responsibility resides solely with the Kentucky Court of Justice. Any violation will result in immediate suspension of access.

KENTON DISTRICT COURT / CASE NUMBER: 11-T-06754

COMMONWEALTH VS. YORK, CODY J		Source: S
Case filed on 06/01/2011	TRAFFIC; PR ; Open Jdg: HON. ANN RUTTLE	
Disposed on 06/08/2011	Jdg @ Disp: HON. ANN RUTTLE	
COMPLAINING WITNESS: BURCH, BRIAN VHPD,		VHPD-721-BB
DEFENDANT / RESPONDENT: YORK, CODY J		@00001285245
Statewide Case Related Search	SCH #: 300000567734	
CHARGE 1 ORIGINAL: SPEEDING 14MPH OVER LIMIT		
Charged on 05/26/2011	UOR: 0000140; KRS: ; Citation: 1J8095451-1	
Disposed on 01/09/2012	Disp: DISMISSED; Trial Type: NO TRIAL	
Document(s) Information		
1	Filed on 06/01/2011	VEHICLE INFORMATION
2	Filed on 06/08/2011	FTA ISSUED
3	Filed on 07/05/2011	FTA RECALLED
4	Filed on 07/05/2011	STATE TRAFFIC DIVERSION (JUVENILE)
5	Filed on 01/09/2012	PROOF
Court Date(s) Information		
1	ARRAIGNMENT on 06/08/2011	Judge: HON. ANN RUTTLE Time: 0930 hours; Rm: 1A
2	ARRAIGNMENT on 07/05/2011	Judge: HON. KEN EASTERLING Time: 0930 hours; Rm: 1A
3	STATUS HEARING on 01/09/2012	Judge: HON. KEN EASTERLING Time: 0930 hours; Rm: 1A
Special Status Information		
1	Filed on 07/01/2011	RE-OPEN ; 01/09/2012; Open Jdg: HON. KEN EASTERLING; Jdg @ Disp: HON. KEN EASTERLING716013

County information last updated on: 5/16/2012 2:15:00 PM

Kentucky Court of Justice

EXHIBIT 5
Transcribed Testimony of Easterling

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF KENTUCKY

KENTON CIRCUIT COURT

CASE NO. 12-CR-260-001

COMMONWEALTH OF KENTUCKY : PLAINTIFF
: :
vs. : :
: :
SARAH JONES : DEFENDANT

- - -

COMMONWEALTH OF KENTUCKY

KENTON CIRCUIT COURT

CASE NO. 12-CR-260-002

COMMONWEALTH OF KENTUCKY : PLAINTIFF
: :
vs. : :
: :
CHERYL JONES : DEFENDANT

- - -

EXCERPT OF 9/21/12 MOTION HEARING
BEFORE HON. PATRICIA SUMME

APPEARANCES:

For the Plaintiff: SARA FARMER, ESQ.
Jefferson County Assistant
Commonwealth Attorney
514 West Liberty Street
Louisville, KY 40202-2887

For the Defendant: ERIC DETERS, ESQ.
5247 Madison Pike
Independence, KY 41051

Transcribed by: Darlene M. Anthony, RPR
Lampke Court Reporting, Inc.
P.O. Box 17627
Ft. Mitchell, KY 41017-0627

- - -

1 KENNETH EASTERLING

2 of lawful age, a witness herein, being first duly sworn,
3 as hereinafter certified, was examined and testified as
4 follows:

5 JUDGE SUMME: Mr. Deters.

6 DIRECT EXAMINATION

7 BY MR. DETERS:

8 Q Please state your name for the record.

9 A Kenneth Easterling.

10 Q And it's my understanding from my own common
11 knowledge and public record that you are, in fact, a
12 Kenton District Judge that presides over district court
13 in this county, correct?

14 A That's correct.

15 Q And you are also the same Ken Easterling in
16 the search warrants that were issued in this case that
17 bear your name on them. You are, in fact, that same
18 Ken Easterling that signed those search warrants,
19 correct?

20 A Judge Grothaus and I, yes, signed search
21 warrants in this case.

22 Q Okay. Now, are you -- where did you go to
23 high school?

24 A Mr. Deters, I'm a public official. I'm not
25 going to get on the stand and talk about my private

1 life.

2 Q No, no, no, no. Sir --

3 A Yes, I graduated.

4 Q I want to know if you went to Dixie Heights.

5 A I did not.

6 Q Okay.

7 A I'm not from Northern Kentucky.

8 Q Okay. Does your son go to Dixie Heights High
9 School?

10 A Yes, he does. Well, he did. He's a
11 graduate.

12 Q Okay. Do you have any other children that go
13 to Dixie Heights High School?

14 A My daughter.

15 Q Is she still there?

16 A Yes.

17 Q Prior to November 23rd of 2011, how many
18 years were you a parent of a student at Dixie Heights
19 High School?

20 A Well, my son went there for four years, so
21 that would have been three-and-a-half years.

22 Q Now, isn't it true that Co -- the alleged
23 victim in this case is a friend of your son, Jake?

24 A He is an acquaintance. Is he a friend? I
25 would beg to differ.

1 Q Was he --

2 A I know my sons' friends, Mr. Deters. He's
3 not someone who is at my house, nor someone who my son
4 hangs out with.

5 Q Was he ever his friend?

6 A Well, they're all sports --

7 Q What sports did they play together?

8 A They do not play sports together.

9 Q All right.

10 A My son is a football player. I think he's a
11 baseball player? They have not played sports together.

12 Q You --

13 MR. DETERS: I'm going to kind of approach
14 the witness, Your Honor.

15 JUDGE SUMME: You may.

16 MR. DETERS: This is the traffic ticket.

17 JUDGE SUMME: Okay.

18 BY MR. DETERS:

19 Q I'm going to hand you a certified copy of a
20 ticket which both parties have agreed to, 11T06754.

21 JUDGE SUMME: Do you have an exhibit number?

22 MR. DETERS: Please?

23 JUDGE SUMME: Exhibit Number?

24 MR. DETERS: One. That's Exhibit 1.

25 A Okay.

1 Q Now, prior to June 1, 2011, was Cody York --
2 excuse me, I apologize, was the alleged victim ever at
3 your house?

4 JUDGE SUMME: Let's shut down a minute. You
5 all are going to edit that, right?

6 MS. FARMER: Yes, we are, Your Honor.

7 JUDGE SUMME: Thank you.

8 Q Alleged victim, was he ever at your house?

9 A No.

10 Q How do you know that?

11 A Well, can I say with certainty? He may have
12 been there when I was not there, but to the best of my
13 knowledge, and in speaking with my wife and children,
14 he has never been to my house, other than three months
15 after the search warrant.

16 Q Is it a fair statement then that you, in June
17 of 2011, would not consider Cody York a friend of yours
18 or a friend of your son's?

19 A I don't even know your client or the victim
20 in this case.

21 Q Okay.

22 A I don't know him.

23 Q Now, do you text?

24 A Yes.

25 Q Have you ever texted Cody -- excuse me, have

1 you ever texted the alleged victim?

2 A Not to my knowledge.

3 Q Well, if you don't know him, you would never
4 text him, correct?

5 A Mr. Deters -- I'm sorry.

6 JUDGE SUMME: Are we talking about before
7 November 16th of 2011, Mr. Deters?

8 MR. DETERS: Yes.

9 A I get texts from hundreds of people; police
10 officers, social workers. If he's texted me, I have no
11 knowledge.

12 Q How would a Dixie Heights student get your
13 cell phone number to text you?

14 A They should not have my cell phone number.

15 Q Isn't it true -- how long have you been a
16 Kenton District Judge?

17 A Since '08.

18 Q Isn't it true that when a case -- a traffic
19 ticket is filed and there's an appearance in court, in
20 front of a district court judge, an arraignment, isn't
21 it true that in Kenton County that case stays with the
22 district judge from the time of the arraignment to
23 disposition?

24 A No.

25 Q That's not the practice.

1 A That is not the practice. I mean, it can,
2 but because we have 200 cases per day, if a person
3 comes to the district court, and they say, "We have
4 other courts with other judges. Can we resolve them
5 all?" It is the common practice of the district judges
6 to add those cases on and resolve them because we are
7 so busy, Mr. Deters.

8 Q Wouldn't you say 99.9 percent of the cases
9 that are heard by a district judge in the arraignment
10 stays with that judge through disposition?

11 A No, I would not.

12 Q What percentage would?

13 A I don't know. I'm not a mathematician.

14 Q Well, you've been a district judge since
15 2008?

16 A Mr. Deters, I do not know. I've answered
17 your question. If a case comes on, for instance
18 someone has a shoplifting, and there's something else
19 out there that we can resolve a case -- because the
20 district courts try to resolve cases quickly. So if
21 someone comes before the court, Judge Grothaus, Judge
22 Ruttle and myself, if we can resolve it, and everybody
23 wants to resolve the case, we will add it on, even
24 though it's not my case. The other judges know they
25 can add cases on and resolve them in district court.

1 This is a traffic ticket, not a murder case. They can
2 pay out and not even come to court. So they don't even
3 need to see me or another judge.

4 MR. DETERS: Approach the witness?

5 JUDGE SUMME: You may.

6 MR. DETERS: Can I have the exhibit back?

7 THE WITNESS: (Handing document.)

8 BY MR. DETERS:

9 Q According to Defense Exhibit 1, which is
10 11T06754, it was filed 06/01/2011, and it was from a
11 charge of 14 miles per hour over the speed limit, and
12 it was issued to the alleged victim. Now, there's a
13 notation on this, it says, "July 1st, 2011, per
14 defendant's dad, add on to July 5, 2011 at 930 1A."

15 A Okay.

16 Q Do you know the alleged victim's father?

17 A Never seen him before in my life.

18 Q Do you have any personal knowledge of why the
19 alleged victim's dad, on July 1st, 2011, would ask that
20 this would be put on July 5, 2011 at 930 at 1A?

21 A Mr. Deters, if you practiced in district
22 court, you would know that you can call --

23 Q I do practice in district court.

24 JUDGE SUMME: I -- you know, we have people
25 respond back. You may proceed.

1 A You would know the common practice of the
2 clerks are that any person can call and ask for one
3 continuance to make it more convenient to come to
4 court. So that is a conversation or something that
5 probably routinely happens; that he picked up the phone
6 and said, "I will be there at a different day. Can you
7 do that?" And the clerks automatically do that.

8 Q Do you know the date that this matter was
9 disposed of?

10 A No idea.

11 Q It was disposed of on January 9th of 2012.

12 A Okay.

13 Q Do you know why?

14 A Do you have the documents, and may I see it?

15 Q Yes, (handing documents).

16 A It looks like Mr. York and his father were
17 present before the court. The commonwealth prosecutor
18 sent the case to diversion. It looks like he signed a
19 diversion. The clerk would have notified Frankfort to
20 go to state traffic school. That's usually about a
21 six-month process. It looks like there is
22 certification here from Frankfort. Let me make sure.
23 Yes, it looks like on November the 19th, 2011, Gerald
24 Fields from the Department of Transportation certified
25 that he did complete his state traffic school so they

1 sent notice back to the court. It looks like on
2 January the 9th that the Clerk of Courts accepted proof
3 and it was dismissed.

4 Q At the arraignment on this ticket, it was
5 originally in Judge Ruttle's courtroom and then it was
6 transferred to you. Do you know why or how that
7 happened?

8 A I do not.

9 Q Did you have anything to do with that
10 happening?

11 A I could have. Typically, if people have
12 tickets and I'm dealing with a ticket, I send them out
13 to state traffic school or community service program, I
14 will put it on my docket so it doesn't burden another
15 judge, to make sure that they complete their community
16 service.

17 Q So if you did it, it would be solely to help
18 out Judge Ruttle and not as a favor to your son's
19 friend.

20 A That would be correct.

21 Q Prior to November 23, 2011, what did you,
22 personally, hear from anyone about the allegations
23 against my client?

24 A Nothing, Mr. Deters.

25 Q Okay. So prior to November 23, 2011, you've

1 never heard anything from a Dixie parent, law
2 enforcement or anybody about this incident.

3 A Mr. Deters, I'm a judge sitting on the
4 district court. People don't just wander up to me and
5 talk to me about criminal cases; specifically, this
6 case with Dixie. So as it relates to this case, I know
7 nothing. And it is -- it is a run-of-the-mill case
8 that I see in district court. We handle thousands and
9 thousands of cases. If someone even did mention it to
10 me, it would not stick in my mind as something unusual
11 due to the stuff that we see in these courthouses day
12 in and day out. So if someone says something to me,
13 maybe they did, I have no recollection, nor do I
14 believe even that anyone said anything to me about this
15 case.

16 Q Have you ever had opportunity to review the
17 text messages of Cody York?

18 A Yes.

19 Q When did you review his text messages?

20 A When they were subpoenaed pursuant to my
21 order that they be subpoenaed.

22 Q Did you ever text -- I mean, did you ever
23 text -- review the texts? In other words, you say you
24 don't remember, so my question is have you ever seen
25 your texts show up on a record to the alleged victim?

1 A No.

2 Q Are you sure?

3 A Mr. Deters, I am sure that I have not seen my
4 name come across your -- the alleged victim's cell
5 phone.

6 Q So if that's the case, isn't it true, and I'm
7 going to use your words --

8 A You're asking me to speculate? I'm not going
9 to speculate. I said --

10 Q I'm not asking you to speculate.

11 A -- I don't have any recollection, nor would
12 he have my cell phone.

13 Q You said you don't even know him, correct?

14 A The first time that I've ever spoken or seen
15 Cody York was three months after I signed the search
16 warrant in this case. Now, let me qualify that. If he
17 was out on a field somewhere, I might have seen him.
18 Don't know him, never spoke to him, to the best of my
19 knowledge.

20 Q Did you ever send him a text on this ticket,
21 Plaintiff's Exhibit A, where something didn't go right
22 and you sent him a text in response to a text from him
23 where you said, "I'll take care of it"?

24 A Not to my knowledge.

25 Q So you don't deny it.

1 A What would he -- what would he be asking me
2 to take care of? I take care of things day in and day
3 out. That's what district court does. What's your
4 question?

5 Q Isn't it true, Judge, it is not common
6 practice in Kenton County for judges --

7 JUDGE SUMME: Wait a minute. We're asking
8 him questions. So, no, you're making a statement.
9 Ask a question.

10 BY MR. DETERS:

11 Q Do students of judges in Kenton County text
12 district judges to take care of traffic tickets?

13 A Well, first of all, do students contact a
14 judge regarding a traffic ticket? I'm sure they do.
15 Are they advised what their options are under the law
16 and with the consent of the prosecutor to go to a valid
17 traffic school or a valid program that's authorized by
18 the supreme court? Yes.

19 Q Isn't it true that it is highly, highly
20 irregular --

21 A No, Mr. Deters, it's not highly irregular --

22 JUDGE SUMME: No, wait a minute. Wait a
23 minute. Let him ask his question. Thank you,
24 Judge.

25 And again, Mr. Deters, I'm going to direct

1 you to making sure your questions have statistical
2 probability behind them, all right?

3 MR. DETERS: I think I've been asking
4 statistical probability questions.

5 JUDGE SUMME: No, no, no, that they are, in
6 fact, based on them.

7 MR. DETERS: I think I -- I've been doing
8 that.

9 JUDGE SUMME: Well, no, your questions have a
10 basis in fact. You're not allowed to just make a
11 statement --

12 MR. DETERS: Which question have I asked,
13 Your Honor, that is not based in fact?

14 JUDGE SUMME: The highly unlikely one. If
15 that's -- thank you, Judge. And that's fine, you
16 can ask it, just, it needs to be -- the basis.

17 MR. DETERS: I would like to be able to
18 cross-examine this witness.

19 JUDGE SUMME: I am allowing you. I am also
20 telling you about the nature of the questions, and
21 that you can't just ask questions that aren't
22 based in fact.

23 MR. DETERS: I know that, Your Honor.

24 JUDGE SUMME: If they're based in fact,
25 that's fine.

1 MR. DETERS: I've been a lawyer 25 years.

2 JUDGE SUMME: Mr. Deters, I'm not going to
3 get into a dialogue with you. I'm telling you
4 what I expect out of the question. I hope it is.
5 You may proceed.

6 MS. FARMER: And Your Honor, this is direct
7 examination, I do believe.

8 JUDGE SUMME: I believe it is as well.

9 MR. DETERS: I think I could ask this court
10 to consider Judge Easterling a hostile witness to
11 my client, in light of his testimony so far, and I
12 ask the court to do that.

13 JUDGE SUMME: Thank you, Judge. I'm not
14 going to consider him hostile at this point. You
15 may continue your questions. I'm just telling
16 you, again, about what needs to be in a question.
17 Thank you. You may proceed.

18 MR. DETERS: Note my objection for the
19 appellate court that I wanted this witness to be
20 declared a hostile witness based upon the
21 testimony and also by the videotaping that would
22 reflect tone and manner of the questions. Thank
23 you.

24 JUDGE SUMME: Your next question, Mr. Deters.

25 MR. DETERS: I'm thinking of it.

1 JUDGE SUMME: All right.

2 BY MR. DETERS:

3 Q Did you know the alleged victim's parents
4 prior to November of 2011?

5 A I do not know the alleged victim's parents
6 now, Mr. Deters.

7 Q You live in Edgewood, Kentucky, correct?

8 A I am going to ask this court to please not
9 divulge my address.

10 JUDGE SUMME: I will respect that.

11 THE WITNESS: Thank you. I'm somewhat
12 appalled that a convicted felon is in my house
13 serving my son.

14 JUDGE SUMME: Judge, we're just going to do
15 question and answer. Thank you. Mr. Deters.

16 MR. DETERS: With all due respect, Your
17 Honor, the courtesy you've shown him as opposed to
18 me I don't think is fair. You've been cracking
19 the whip on me --

20 JUDGE SUMME: Mr. Deters, we're not going to
21 make statements about how you think something is
22 going. Please ask your next question.

23 BY MR. DETERS:

24 Q Isn't it true that you work an ordinary day;
25 when you go to work in the morning, you come home at

1 night?

2 A Yes.

3 Q You have no idea then, as you're sitting
4 there, how many times Cody York has been to your house
5 while you're at work?

6 JUDGE SUMME: We're going to edit that,
7 correct?

8 MR. DETERS: I apologize.

9 JUDGE SUMME: Well, we have to get past
10 apology. We have to make sure that it's not used
11 anymore or else we're going to have to close the
12 proceeding, which would be fine with me.

13 MR. DETERS: It would not be fine with me.

14 JUDGE SUMME: Well, then be careful how you
15 speak.

16 BY MR. DETERS:

17 Q Do you know him?

18 A To answer your question, I have a very close
19 relationship with my kids. I know who's been in my
20 house and who hasn't been in my house. Mr. York --

21 JUDGE SUMME: I'm going to admonish you,
22 Judge --

23 THE WITNESS: I'm sorry.

24 JUDGE SUMME: So, again, if we all can't do
25 this, we're going to close the proceeding. It's

1 just really simple.

2 MR. DETERS: Well, I would object to that,
3 Your Honor, because I can get --

4 JUDGE SUMME: Well, I'm just telling you.
5 It's really simple. These are my rules. You can
6 object all you want. My rules are we're not using
7 names. I don't know how good their editors are.
8 I've got a responsibility. I don't have
9 permission to use the name yet. So to that
10 extent, if we all -- all of us can't do that, then
11 I'm closing the proceeding. You all may proceed,
12 please, with caution.

13 MR. DETERS: Before you close the
14 proceedings --

15 JUDGE SUMME: I'm not closing it now.

16 MR. DETERS: -- we can get Cody York. We can
17 get the young man on the phone, and he can call
18 you and give permission for us to use his name. I
19 just make that suggestion.

20 JUDGE SUMME: Well, thank you for your
21 suggestion. Your next question.

22 MR. DETERS: I'm not going to ask anymore
23 questions of this witness.

24 JUDGE SUMME: Any questions?

25 MS. FARMER: Briefly, Your Honor. Thank you.

CROSS EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MS. FARMER:

Q Good morning, Judge.

A Good morning.

Q You signed a search warrant on November 23,
2011, correct?

A If you have a copy, because I sign thousands
of them, I could refer to the date. I'm not certain.

MS. FARMER: May I approach?

JUDGE SUMME: You may.

MR. DETERS: November 23rd?

MS. FARMER: It's November 23rd.

MR. DETERS: No problem. No objection.

MS. FARMER: Let's call this Exhibit 1.

BY MS. FARMER:

Q Judge, if you could just take a look at this,
(handing document).

A All right. It appears to be a copy of a
search warrant that I executed.

MS. FARMER: Your Honor, I move to enter
(inaudible) as 1.

JUDGE SUMME: So admitted. No objections,
correct?

MR. DETERS: No objection.

BY MS. FARMER:

1 Q At the time of signing that search warrant,
2 what was your relationship with CY, if I may?

3 A I did not have a relationship with CY.

4 Q What was your relationship with CY's parents?

5 A I do not know CY's parents.

6 Q You are a judge at district court.

7 A Yes.

8 Q And we have heard a lot this morning about a
9 traffic ticket.

10 MS. FARMER: Do you have that exhibit?

11 MR. DETERS: What did I do with it? I've got
12 it somewhere.

13 JUDGE SUMME: Do you have that?

14 THE WITNESS: I have it. I'm sorry.

15 MR. DETERS: I gave it back to you.

16 BY MS. FARMER:

17 Q Oh, can I see that?

18 A Yes.

19 Q Thank you.

20 A You're welcome.

21 Q And you've already explained to us how one's
22 father might add on to a docket.

23 A Well, that would be a question to ask the
24 clerk, but I'm assuming, due to what I would normally
25 believe that procedure to be, that they called and

1 said, "Can we continue this case?"

2 Q And this young man received traffic
3 diversion.

4 A Yes, which is a state traffic diversion.
5 Anybody under the age of 18, by law, can go into a
6 state traffic diversion, first of all, with the consent
7 of the prosecutor -- or the recommendation of the
8 prosecutor. It looks like that's what the program is,
9 because it looks like he and a parent signed, and it
10 looks like he completed that program.

11 Q And the offense in this case was speeding,
12 14 miles per hour over; is that correct?

13 A I think so.

14 Q Is there anything unusual about diversion
15 program, state traffic school, for such an offense?

16 A We send hundreds, hundreds of cases to state
17 traffic diversion on a monthly basis.

18 MS. FARMER: That's all the questions I have.
19 Thank you.

20 MR. DETERS: No redirect.

21 JUDGE SUMME: Sir, you may step down.

22 THE WITNESS: Thank you. Am I subject to
23 recall?

24 JUDGE SUMME: Subject to recall? Mr. Deters,
25 subject to recall?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. DETERS: No.

JUDGE SUMME: All right. Not subject to
recall.

(Testimony concluded at 10:45 a.m.)

- - -

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF KENTUCKY :

COUNTY OF KENTON :

I, DARLENE ANTHONY, RPR, the undersigned, a notary public-court reporter for the Commonwealth of Kentucky, do hereby certify that I have transcribed into typewriting the within 23 pages, and that the foregoing is a true, complete and accurate report to the best of my ability of the CD-R disc provided by Eric Deters, Esq.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal of office at Dayton, Ohio this 25th day of September, 2012.

/s/ _____
Darlene M. Anthony - Notary Public
My Commission Expires: April 5, 2016

- - -

EXHIBIT 6
Transcribed Testimony of York

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF KENTUCKY
KENTON CIRCUIT COURT
CASE NO. 12-CR-260-001

COMMONWEALTH OF KENTUCKY : PLAINTIFF
vs. :
SARAH JONES : DEFENDANT

- - -

COMMONWEALTH OF KENTUCKY
KENTON CIRCUIT COURT
CASE NO. 12-CR-260-002

COMMONWEALTH OF KENTUCKY : PLAINTIFF
vs. :
CHERYL JONES : DEFENDANT

- - -

EXCERPT OF 9/21/12 MOTION HEARING
BEFORE HON. PATRICIA SUMME

APPEARANCES:

For the Plaintiff: SARA FARMER, ESQ.
Jefferson County Assistant
Commonwealth Attorney
514 West Liberty Street
Louisville, KY 40202-2887

For the Defendant: ERIC DETERS, ESQ.
5247 Madison Pike
Independence, KY 41051

Transcribed by: Darlene M. Anthony, RPR
Lampke Court Reporting, Inc.
P.O. Box 17627
Ft. Mitchell, KY 41017-0627

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CODY YORK

of lawful age, a witness herein, being first duly sworn,
as hereinafter certified, was examined and testified as
follows:

JUDGE SUMME: Mr. Deters.

DIRECT EXAMINATION

BY MR. DETERS:

Q Please state your name for the record.

A Cody York.

Q Cody --

MR. DETERS: What was the other --

Q Where do you go to school?

A Northern Kentucky University.

Q All right. Did you ever go to Dixie Heights
High School?

A Yes.

Q What years did you go to Dixie Heights High
School?

A 2008 to 2012.

Q All right. During the time that you were at
Dixie Heights High School, from 2008-2012, did you have
a relationship, a friendship, acquaintance or other,
with Jake Easterling?

A Yes.

Q How would you describe, in your own words,

1 your relationship with Jake Easterling?

2 A Friends.

3 Q Huh?

4 A Friends.

5 Q All right. Prior to November 23, 2011, had
6 you ever been at the Easterling home?

7 A Yes.

8 Q Can you describe -- I'm not asking you to but
9 could you describe the inside of that house?

10 A Yes.

11 Q Could you describe the outside of the house?

12 A Yes.

13 Q Can you drive there without a GPS?

14 A Yes.

15 Q Can you just tell the court some examples
16 of -- to prove that you were his friend. Like, for
17 example, Chuck there is my friend. I would say, "Well,
18 Chuck and I do X, Y, Z." You know, what was the nature
19 of your relationship?

20 A He's invited me over to his house several
21 times. I've been over there with friends of my own.

22 Q Eat lunch at school?

23 A Yes, he sat at my table at lunch.

24 Q Okay. How many people sat at your table at
25 lunch?

1 A Twelve.

2 Q Okay. Did you text each other?

3 A Yes.

4 Q I got to ask you this. Did you have, prior
5 to November 23, 2012 --

6 MS. FARMER: '11.

7 MR. DETERS: Excuse me. Thank you.

8 Q -- '11, the cell phone number of Judge Ken
9 Easterling?

10 A Yes.

11 Q How did you get that number?

12 A Jake Easterling.

13 Q Okay. Why did Jake Easterling give you that
14 number?

15 A Because of a ticket, and I wanted to ask him
16 about it.

17 Q Okay. Did you -- it's Defense Exhibit 1.
18 It's a traffic ticket that happened I think in May or
19 June of 2011. Is that the ticket you're talking about?

20 A Yes.

21 Q Did you talk on the phone or text message
22 Judge Ken Easterling pertaining to that ticket?

23 A Both.

24 Q Both?

25 A Yes.

1 Q The ticket was originally in Judge Ruttle's
2 court and then later it was taken in Judge Easterling's
3 court. Do you have any personal knowledge how that
4 happened?

5 A Because he said that he would take care of it
6 for me, and he'd get rid of it and get it off my
7 record.

8 Q And Judge Easterling told you that.

9 A Yes.

10 Q How would you describe your relationship with
11 Judge Easterling?

12 A Describe it?

13 Q Well, you were friends with Jake.

14 A Yeah.

15 Q Would he just be dad of a friend? Your
16 buddy, too? I mean, some parents are closer -- like
17 some of my kids' friends I'm closer to than others.

18 A I mean, of course he's my -- Jake's dad, and
19 I mean, he was very cordial and nice to me, so -- I
20 mean, I guess we could be buddies.

21 Q Prior to November 23, 2011, did Judge
22 Easterling know who you were?

23 A Yes.

24 Q Had he heard of you?

25 A Yes.

1 MR. DETERS: I have nothing else.

2 JUDGE SUMME: Miss Farmer?

3 MS. FARMER: Yes, Your Honor. Thank you.

4 CROSS-EXAMINATION

5 BY MS. FARMER:

6 Q Good morning, Cody. This is the first time
7 we've spoken, right?

8 A (Nodding.) Yes.

9 Q I need you to answer yes or no, of course.

10 A Yes.

11 Q How many times have you spoken with Detective
12 Inman?

13 A None.

14 Q Okay. And how many times have you spoken to
15 someone from Mr. Deters' office?

16 A How many times, you said?

17 Q How many times have you spoken with someone
18 from Mr. Deters' office?

19 A A few. Couple.

20 Q Couple?

21 A Yeah. Just with Eric, though.

22 Q Okay. And how many times have you been to
23 Mr. Deters' office?

24 A One.

25 Q I'm sorry?

1 A One.

2 Q Once?

3 A Yes.

4 Q Are you related in any way to Judge
5 Easterling?

6 A No.

7 Q Talking about this traffic ticket that you
8 had, do you remember the date that you got the ticket?

9 A Not the exact date.

10 Q Okay. Do you remember at all -- can you tell
11 us anything about when you got it?

12 A I think it was in May. I mean, there were
13 several. There were three of them.

14 Q I'm talking about the first one.

15 A Okay, May.

16 Q All right. What date did you go to court on
17 that?

18 A I don't know. I don't know the exact date,
19 nor a month.

20 Q And you received traffic school, right?

21 A Yes.

22 Q And what date did you complete traffic
23 school?

24 A I couldn't tell you the exact date.

25 Q Okay. And what date did you take it to Judge

1 Easterling to take care of?

2 A I can't say the exact dates.

3 Q Would you have gone -- I'll retract that.

4 This traffic ticket that you had was a diversion
5 agreement, correct?

6 A Yes.

7 Q Do you remember signing a form?

8 A Traffic ticket -- or the traffic school?

9 Q For when -- when you were at court and you
10 were given traffic school.

11 A Yes.

12 Q And a diversion agreement.

13 A Yes.

14 Q You recall signing that?

15 A Yes.

16 Q Okay. And did the agreement say that the
17 case would be dismissed if you completed traffic
18 school?

19 A Dismissed? Yes.

20 Q Okay. You're aware -- let me ask you this.
21 You're aware that law enforcement obtained some text
22 messages in this case.

23 A Yes.

24 Q Your text messages.

25 A Yes.

1 Q And you're aware that law enforcement has
2 reviewed them.

3 A True.

4 Q And I've reviewed them.

5 A True.

6 Q Okay. And how do you know about them?

7 A It's, like, invading my privacy.

8 Q Okay. So would you have -- if anybody had
9 asked you beforehand, would you have been okay with it?

10 A Somebody looked through my messages?

11 Q Uh-huh.

12 A Absolutely not.

13 Q Okay.

14 MR. DETERS: I was getting ready for an
15 objection, but I didn't have one. Just getting
16 ready.

17 BY MS. FARMER:

18 Q Cody, who showed you the discovery in this
19 case?

20 A Discovery?

21 Q Do you know what discovery is?

22 MR. DETERS: Objection, relevancy.

23 MS. FARMER: I'm going to get to it.

24 JUDGE SUMME: I'm going to overrule it. We
25 talked about this earlier, about some credibility

1 issues with regard to that. So as long as it's
2 within those lines, that's fine, but don't go any
3 further.

4 MR. DETERS: Purpose of appeal, please note
5 my objection.

6 JUDGE SUMME: Well, you have to have your
7 objections to me, so that's fine. They're always
8 noted.

9 MR. DETERS: All right.

10 JUDGE SUMME: Lose the comments. Yes, ma'am.

11 BY MS. FARMER:

12 Q Do you know what discovery is?

13 A Not exactly.

14 Q Okay. I'm going to explain, then ask my
15 question.

16 MR. DETERS: Your Honor, I wasn't allowed to
17 make statements. Objection.

18 JUDGE SUMME: Sustained.

19 Q Discovery is the materials that I have --

20 MR. DETERS: Objection. She's now just
21 violated the objection.

22 JUDGE SUMME: Sustained.

23 BY MS. FARMER:

24 Q You reviewed the text messages; have you not?

25 A No.

1 Q You haven't seen them?

2 A My text messages that are dealing with this?

3 Q Uh-huh.

4 A No.

5 Q Okay. So have you seen the search warrant
6 that went along with them?

7 A No.

8 Q You haven't seen the search warrant that was
9 the authority to get them?

10 A No.

11 Q Okay.

12 JUDGE SUMME: I'm sorry. Mr. Deters, your
13 client is communicating with my witness.

14 MR. DETERS: I think she said, "Good job."

15 JUDGE SUMME: It doesn't matter.

16 MR. DETERS: I know. Don't do it.

17 JUDGE SUMME: There is no communication,
18 so -- I'm not here to pass -- stop. You may
19 proceed.

20 BY MS. FARMER:

21 Q Then how did -- have you spoken with
22 Mr. Deters about Judge Easterling?

23 A Yes.

24 Q How did that discussion come up?

25 A How did it come up? I don't know.

1 Everything was so long ago, I can't recall every little
2 thing.

3 Q You don't have any idea how a discussion of
4 Judge Easterling came up between you and Mr. Deters.

5 A He's the one who told me that he's the one
6 who signed for my thing -- for my messages.

7 Q Okay. And then when he told you that, you
8 started talking. How did you start talking about Judge
9 Easterling?

10 A That I've known him, known him for awhile.
11 That I couldn't see how -- I couldn't see how he would
12 have been the one to sign for my messages.

13 Q Why do you say that?

14 A Because, to my knowledge, I thought he'd be
15 neutral to the case or he couldn't know the defendant,
16 nor I guess the alleged victim.

17 Q Do you know the purpose of this hearing
18 today?

19 A To suppress my messages.

20 MS. FARMER: No further questions, Judge.

21 Thank you.

22 MR. DETERS: A few follow up.

23 REDIRECT EXAMINATION

24 BY MR. DETERS:

25 Q Cody, there was an affidavit that you signed

1 as part of the suppression hearing. Do you remember
2 coming to my office one time to sign this?

3 A Yes.

4 Q Do you recall signing it in front of Loretta
5 Little?

6 A Yes.

7 Q Is that, in fact, your affidavit that you
8 signed?

9 A Yes.

10 MR. DETERS: What number am I? I don't
11 think -- do I have a number two?

12 MS. FARMER: Objection. I'll object before
13 we get to the number.

14 JUDGE SUMME: That would be number two.

15 MR. DETERS: It's a part of the record.

16 MS. FARMER: It is hearsay. Mr. York is here
17 testifying, and if he would like to introduce
18 evidence from Mr. York, then he needs to ask a
19 question.

20 JUDGE SUMME: He's not moved to have it
21 admitted yet. It is marked as two. If he has any
22 questions off it, then he may do so, and it may or
23 may not be accepted as evidence, depending on how
24 it's proved up.

25 BY MR. DETERS:

1 Q Did you have to stand in a courtroom in front
2 of Ken Easterling as the judge on your case?

3 A Yes.

4 Q When you stood in front of him in a courtroom
5 on your case, did he know who you were and why you were
6 there?

7 A Yes.

8 Q Was it because you had talked to him about
9 it?

10 A Yes.

11 MS. FARMER: Object to the leading.

12 JUDGE SUMME: Overruled.

13 BY MR. DETERS:

14 Q At that time you stood in front of him, did
15 you talk about the traffic school issue?

16 A Yes.

17 Q Did you go to his house to show him the proof
18 of insurance and traffic school requirements?

19 A Yes.

20 Q Did you give it to him, personally, prior to
21 November 23, 2011?

22 A Yes.

23 Q Were you aware that he's testified in this
24 courtroom that he doesn't even know who you are?

25 A Yes, I'm aware now. Yeah.

1 MR. DETERS: Nothing further.

2 JUDGE SUMME: Miss Farmer?

3 MS. FARMER: If I could have just one moment.

4 JUDGE SUMME: You may.

5 MR. DETERS: Your Honor, since she hasn't --
6 I pass the witness officially; I have one more
7 question. It's your discretion.

8 JUDGE SUMME: I generally don't, Mr. Deters,
9 but --

10 MR. DETERS: Sure would be nice to --

11 JUDGE SUMME: No. If and when we go to
12 trial, and this is a preface for trial, we need to
13 be really clear about how we're going to conduct
14 this trial, if it goes, and that is no commenting.
15 And there is questions, and we're not going to
16 have comments made to counsel. So based on that,
17 I'll let you ask your last question.

18 FURTHER DIRECT EXAMINATION

19 BY MR. DETERS:

20 Q Do you have personal knowledge that Judge
21 Easterling did the same thing for you for other friends
22 of Jake Easterling?

23 A Yes.

24 MR. DETERS: Really nothing further.

25 RE CROSS EXAMINATION

1 BY MS. FARMER:

2 Q Did you just testify that you know that
3 Jake -- that Judge Easterling does for you what he --
4 did for you what he did for other friends of Jake?

5 A Yes.

6 Q That's what -- okay.

7 MS. FARMER: That's all I have. Thank you.

8 JUDGE SUMME: You may step down.

9 (Testimony concluded at 12:17 p.m.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF KENTUCKY :

COUNTY OF KENTON :

I, DARLENE ANTHONY, RPR, the undersigned, a notary public-court reporter for the Commonwealth of Kentucky, do hereby certify that I have transcribed into typewriting the within 17 pages, and that the foregoing is a true, complete and accurate report to the best of my ability of the CD-R disc provided by Eric Deters, Esq.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal of office at Dayton, Ohio this 25th day of September, 2012.

/s/ _____
Darlene M. Anthony - Notary Public
My Commission Expires: April 5, 2016

- - - -

EXHIBIT 7
Certified Copies of Traffic Records

KENTUCKY COURT OF JUSTICE

Commonwealth of Kentucky
Kenton County
John Middleton
Circuit Court Clerk

Receipt Number: 03-0050644-A

DATE: 09/21/2012

TIME: 09:38 AM

*** (H) PARTIAL PAYMENTS/BAIL BOND
(CIRCUIT/DISTRICT) ***

CASE NO: 11-T-06754

RECEIVED FROM: YORK, CODY

ACCOUNT OF: S

1. Certification CS(W(D))	5.00
2. Copy-Photocopy CS(W(F))	2.25

TOTAL: 7.25

CASH: \$100.00

*****DIFF:** -92.75

Prepared By: j middleton/kah

** MCFO=Money Collected for Others

** CS=Charge for Services

Payer

Page 1 of 1

DI 12-T-02109

COMMONWEALTH VS. YORK, CODY J

PR

Filed:02/14/2012

KENTON COUNTY COURT SYSTEM

Judge No: 716010

Defendant Information

YORK, CODY J

870 HACIENDA COURT

M W DOB:08/18/1994

SSN: 404479294

VILLA HILLS, KY 41017-0000

DLN#: OLKY Y10048156



AKA/ALI Information

Charges

02/12/2012 Cit# 2BC519961-1 Chg: 1 UOR0000050

SPEEDING 5 MPH OVER LIMIT (V) (X) *FTA Eligible*

189390

Witnesses

CW HELTON, GARY KCPD

KCPD-131-GH

Bail / Bond Information

Vehicle Information

VEHICLE LIC NO => 159GYG

VEHICLE YEAR => 2003

VEHICLE LIC STATE => KY

MAKE/MODEL => MAZDA/6

VEHICLE LIC YEAR => 2012

COLOR => SILVER/ALUMINU

Scheduled Events

ARR

03/20/2012 09:30 AM

1A

STATE OF KENTUCKY
COUNTY OF KENTON
I, JOHN C. MIDDLETON, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This: 21 day of Sept.
By: JOHN C. MIDDLETON
KJM D.C.

03/20/12
FF

3.28.12 per Judge Easterling
put on his Arr docket
Judge has proof of Com Service
Arr 4.2.12 930 1A

DI 12-T-02109
TERR KyCourtsII-S059A2
COMMONWEALTH VS. YORK, CODY J

02/14/2012 8:22:14AM



COMMONWEALTH OF KENTUCKY
UNIFORM CITATION

134/131

COURT

OFFENDER/MOLATOR	AGENCY KENTON COUNTY POLICE DEPT.						ORI: 0590500	
	NAME: LAST, FIRST, MI, FILIAL YORK, CODY J.						ATTN: UNKNOWN	
	ALIAS NAME: LAST, FIRST, MI, FILIAL						EMERGENCY PHONE UNKNOWN	
	ADDRESS (NUMBER, NAME, SUFFIX) 870 HACIENDA COURT						KENTUCKY RESIDENT STATUS <input type="checkbox"/> F: FULL-TIME <input type="checkbox"/> P: PART-TIME <input type="checkbox"/> N: NON RESIDENT	
	CITY VILLA HILLS		STATE KY	ZIP CODE/EXTENSION 41017		MARITAL STATUS	VICTIM'S RELATIONSHIP TO OFFENSE	
	ID TYPE DL	ID STATE KY	ID NUMBER Y10048156	S. S. NUMBER 404-47-9294		HEIGHT	WEIGHT	
	<input type="checkbox"/> COMMERCIAL VEHICLE		<input type="checkbox"/> PLACARDED HAZARDOUS VEHICLE		ETHNIC ORIGIN <input type="checkbox"/> HISPANIC <input checked="" type="checkbox"/> NON HISPANIC		ALCOHOL/DRUG INVOLVEMENT	
	DATE OF BIRTH 08 18 1994	SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE <input checked="" type="checkbox"/> WHITE <input type="checkbox"/> BLACK <input type="checkbox"/> AM. INDIAN OR ALASKA <input type="checkbox"/> ASIAN		B. A. RESULTS <input type="checkbox"/> BREATH <input type="checkbox"/> BLOOD <input type="checkbox"/> URINE		<input type="checkbox"/> ALCOHOL <input type="checkbox"/> DRUGS <input type="checkbox"/> UNKNOWN	
	VEHICLE MAKE MAZDA			VEHICLE MODEL 6	VEH. YEAR 2003	VEHICLE COLOR SILVER/ALUMINU		
	VEH. TYPE 2D	REGISTRATION STATE, YEAR, NUMBER KY 2012 159GYG	VEHICLE IDENTIFIERS			MPH 50	IN MPH ZONE 45	
VIOLATION DATE 02 12 2012		VIOLATION TIME 10:31PM	EXACT LOCATION OF VIOLATION MADISON PIKE			MILES DIRECTION	CITY INDEPENDENCE	
ARREST DATE		TIME OF ARREST	EXACT LOCATION OF ARREST			MILES DIRECTION	CITY	
NUMBER 1 of 1		VIOLATION CODE 00005	ASCF 0	STATUTE/ORD. 189.390	CHARGE(S) 1	STARTING CASE	ENDING CASE	
POST-ARREST COMPLAINT Charge 1: SPEEDING 05 MPH OVER LIMIT The above was observed going 61 mph in a 45 mph zone. Verified with Eagle Radar. The above was cited for going 50 mph in a 45 mph zone.								
STATE OF KENTUCKY COUNTY OF KENTON I, JOHN C. MIDDLETON, Clerk of the Circuit/District Courts, do hereby certify that the foregoing is a true and correct copy of the original as recorded in my office. This <u>21</u> day of <u>Sept</u> By: <u>John C. Middleton</u> D.C.								
COURT	COURT DATE 03 20 2012	COURT TIME 9:30AM	<input checked="" type="checkbox"/> PAYABLE <input type="checkbox"/> COURT	COURT LOCATION KENTON				
	COURT CASE NUMBER 12-T-2109	TOTAL PREPAYABLE AMOUNT \$139.00		YEAR 12				
CASE	WITNESS 1 NAME: LAST, FIRST, MI, FILIAL						STATE	ZIP CODE
	WITNESS 1 ADDRESS (NUMBER, STREET, SUFFIX)						CITY	
	WITNESS 2 NAME: LAST, FIRST, MI, FILIAL						STATE	ZIP CODE
	WITNESS 2 ADDRESS (NUMBER, STREET, SUFFIX)						CITY	
<input type="checkbox"/> CARRIED FOR UCR BY OTHER AGENCY SPECIFY:						<input checked="" type="checkbox"/> IN-CAR VIDEO FINGERPRINTS PHOTOS EVIDENCE HELD		
OFFICER SIGNATURE HELTON, G.				BADGE/I.D. NUMBER 131	ASSIGNMENT	TYPE 1		

FILED
KENTON CIRCUIT/DISTRICT COURT
FEB 14 2012
JOHN C. MIDDLETON
BY _____ D.C.

Defendant Information	
YORK, CODY J	
870 HACIENDA COURT	M W DOB:08/18/1994
VILLA HILLS, KY 41017-0000	SSN: 404479294
DLN#: OLKY Y10048156	



AKA/ALI Information

Charges
05/26/2011 Cit# 1J8095451-1 Chg: 1 UOR000140 SPEEDING 14MPH OVER LIMIT (V) (X) *FTA Eligible* 189390

Witnesses
CW BURCH, BRIAN VHPD, VHPD-721-BF

Bail / Bond Information

Vehicle Information
VEHICLE LIC NO => 973FWE VEHICLE YEAR => 2007 VEHICLE LIC STATE => KY MAKE/MODEL => HONDA 01 VEHICLE LIC YEAR => 2011 COLOR => BLACK

Scheduled Events
ARR 06/08/2011 09:30 AM 1A

STATE OF KENTUCKY
COUNTY OF KENTON
I, JOHN C. MIDDLETON, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 21 day of Sept
By: JOHN C. MIDDLETON DC

18
years old

06/08/11
FF

7-1-11 per DS dad
add onto 7-5-11 9:30
1A

7/5/11 Dressed
DAD
DOTV



Court 1A COURTROOM 1A

Judge HON. KEN EASTERLING

Prep Info @0000083021 07/01/2011 3:36:39PM

07/05/2011 Court Docket Page 91 of 92

137 DI 11-T-06754
Bail Set:

COMMONWEALTH VS. YORK, CODY J
Posted:

ARRAIGNMENT
Sch Memo: FTA 6/8/11

STATE OF KENTUCKY
COUNTY OF KENTON
I, JOHN C. MIDDLETON, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 21 day of Sept
JOHN C. MIDDLETON
By: [Signature] DC

FTA in Case
06/08/2011 1A ARR OWES 162.00
07/05/2011 1A ARR FTA 6/8/11

() Costs Waived due to indigence () Installment / Deferred Payment

1 05/26/2011 1J8095451-1 0000140 189390 SPEEDING 14MPH OVER LIMIT (V) (X) *FTA Eligible*

J.T.D.

1-9-12-9:30

138 DI 11-M-02246 COMMONWEALTH VS. ZARGOZA, FREDDY

ZARGOZA, FREDDY

1991 M W

EVANS, DAN KC ANIMAL CONTROL,
 ZARGOZA, FREDDY

COMPLAINING WITNESS
DEFENDANT / RESPONDENT



DS-1-DE

Bail Set:

Posted:

BW
503

ARRAIGNMENT

Sch Memo: MANDATORY SPAY/NEUT OF RECLAIMED ANIM W/IN 30 DAYS, CURRENT KC DOG/CAT LIC, CURRENT DOG/CAT RABIES VAC, ANIMALS TO BE UNDER CONTROL

07/05/2011 1A ARR

MANDATORY SPAY/NEUT OF RECLAIMED ANIM W/IN 30 DAYS,
CURRENT KC DOG/CAT LIC, CURRENT DOG/CAT RABIES VAC,
ANIMALS TO BE UNDER CONTROL

() Costs Waived due to indigence () Installment / Deferred Payment

1 01/18/2011 1AX259202-1 8000000 ***** LOCAL CITY ORDINANCE (V) (X)



DIVERSION AGREEMENT

Case No. 11-T-6754
Court District
County

ENTERED
KENTON CIRCUIT/DISTRICT COURT
JUL 05 2011
JOHN S. MIDDLETON
BY DMV D.C.

It appearing to the Court that Cody York, a minor,
(child's name)

having been charged with a moving violation pursuant to KRS Chapter 189, is eligible for referral to the following diversionary program(s) as mutually agreed upon by the Court, the child, and the parent(s) or guardian(s) of the child:

Prohibit child from operating a vehicle for a period of _____ days, not to exceed forty-five (45) days, commencing on _____, 2_____, and ending on _____, 2_____, during which period the Court shall retain the above-named minor's operator's license; **AND/OR**

Attendance of above-named minor at a driver improvement clinic established pursuant to KRS 186.574.

It is further understood and agreed that if the above-named minor completes the terms of this agreement satisfactorily, the moving violation with which he/she is charged shall be dismissed upon proper presentation of evidence thereof to the clerk of the court.

Entered into at Kenton Co., Kentucky, this 5th day of July, 2011.

K. Astor
Judge, District Court

Cody York Child
[Signature] Parent or Guardian

STATE OF KENTUCKY
COUNTY OF KENTON
I, JOHN C. MIDDLETON, Clerk of the Circuit/District Courts, do hereby certify that the foregoing is a true and correct copy of the original as recorded in my office.
This 21 day of Sept
JOHN C. MIDDLETON
By: [Signature] D.C.

COMMONWEALTH OF KENTUCKY
UNIFORM CITATION

JUVENILE OFFENDER

KSP 206 (REV 2/1/06)

COURT

OFFENDER / VIOLATOR	AGENCY Villa Hills KENTUCKY-STATE POLICE		ORI: KY 90200	
	NAME (L-F-M) SKIP A SPACE BETWEEN NAMES York, Cody J		ATTN: <input type="checkbox"/> HOME PHONE	
	ALIAS		EMERGENCY PHONE	
	ADDRESS (RFD/STREET/APT. NO., ETC.) 870 Hacienda Ct.		KENTUCKY RESIDENT STATUS F. <input type="checkbox"/> FULL TIME P. <input type="checkbox"/> PART TIME N. <input type="checkbox"/> NON RESIDENT	
CITY Villa Hills		STATE: KE	ZIP: 41017	
MARITAL STATUS		VICTIM'S RELATIONSHIP TO OFFENDER		ETHNIC ORIGIN <input type="checkbox"/> HISPANIC <input type="checkbox"/> NON HISPANIC
I.D. TYPE/STATE I.D. NUMBER OL/KY 410-048-156		S.S. NUMBER 40447 9294		
DATE OF BIRTH 8 18 94		SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE <input checked="" type="checkbox"/> WHITE <input type="checkbox"/> BLACK <input type="checkbox"/> AM. INDIAN OR ALASKAN <input type="checkbox"/> ASIAN	
PLACE OF EMPLOYMENT / OCCUPATION		CITY	STATE	HEIGHT WEIGHT HAIR COLOR HAIR COLOR

VEHICLE	VEH. MAKE Honda	VEH. TYPE 01	VEH. YEAR 2007	COLOR Black	TOP/BOTTOM	ALCOHOL/DRUG INVOLVEMENT (SPECIFY) <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> UNK		
	REG. STATE KY	REG. YEAR 11	REGISTRATION NO. 973 FWE	VEHICLE IDENTIFIERS 4DR LL		MPH 34	IN MPH ZONE 20	VOL. KE 1

DATE / TIME	VIOLATION DATE 5 26 11	VIOLATION TIME 2047	EXACT LOCATION OF VIOLATION / ARREST Leadbelt Rogers Rd			B.A. RESULTS
	DATE OF ARREST	TIME OF ARREST	MILES Limits	DIRECTION 05912	CITY	COUNTY OF VIOLATION 059

VIOLATION CODE	ASCF	STATUTE / ORD.	CHARGES	#	PLEA	FIND-ING	FINAL VIOLATION CODE	DISPN. CODE	FINE	COSTS	FEE	JAIL / PRISON	PROB TIME
00014		189.390	SPD	1									
				2									
				3									
				4									

COURT	COURT DATE 6 8 11	COURT TIME 930	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	PAYABLE <input checked="" type="checkbox"/> COURT	COURT LOCATION 230 Madison Cor. KY	COURT CASE NO. 11-J-6754	DISPN. DATE	TRIAL <input type="checkbox"/> B <input type="checkbox"/> J <input type="checkbox"/> N	CLERK'S INITIALS
-------	-----------------------------	--------------------------	--	---	--	------------------------------------	-------------	---	------------------

POST-ARREST COMPLAINT

STATE OF KENTUCKY
COUNTY OF KENTON

I, JOHN C. MIDDLETON, Clerk of the Circuit/District Courts, do hereby certify that the foregoing is a true and correct copy of the original as recorded in my office.

This 21 day of Sept

By: John C. Middleton D.C.

Speeding - Radar
34 mph in a posted 20mph zone
Radar Cal check @ 2000

FILED
KENTON CIRCUIT/DISTRICT COURT
JUL 1 2011

JOHN C. MIDDLETON
BY: _____ D.C.

CDL	CDL LICENSE <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	PLACARDED HAZARDOUS VEHICLE <input type="checkbox"/> No <input type="checkbox"/> Yes	YEAR 4
	COMMERCIAL VEHICLE <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	CDL CLASS <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C	

CASE	NAME OF WITNESS _____ ADDRESS _____ CITY/STATE _____		CONTROL NUMBER J800545	
	NAME OF WITNESS _____ ADDRESS _____			
	CASE NO. 1	2		3
	CARRIED FOR UCR BY CONTRIBUTOR: <input type="checkbox"/> OTHER AGENCY: <input type="checkbox"/> SPECIFY _____			<input checked="" type="checkbox"/> IN-CAR VIDEO <input type="checkbox"/> FINGERPRINTS <input type="checkbox"/> PHOTOS
OFFICER'S SIGNATURE <u>R R</u>		BADGE / I.D. NUMBER _____ ASSIGNMENT _____	EVIDENCE HELD	

Fax Send Report

Date/Time : JUL-06-2012 09:16AM FRI
Fax Number :
Fax Name :
Model Name : SCX-5x30 Series

No.	Name/Number	StartTime	Time	Mode	Page	Result
604	95025954650	07-06 09:16AM	00'16	ECM	002/002	O.K

Commonwealth of Kentucky
OFFICE OF CIRCUIT COURT CLERK
Kenton County Justice Center
230 Madison Avenue, 3rd Floor
Covington, Kentucky 41011-1539
Circuit Phone 859-292-6521 · District Phone 859-292-6523
Fax 859-292-6611

John C. Middleton
Circuit Court Clerk

Kenton Circuit Court
Kenton District Court

STATE OF KENTUCKY
COUNTY OF KENTON
I, JOHN C. MIDDLETON, Clerk of the
Circuit/District Courts, do hereby certify that
the foregoing is a true and correct copy of the
original as recorded in my office.

This 21 day of Sept
By: JOHN C. MIDDLETON D.C.
RAM

FAX

To: Sarah Butler
Fax: _____
Date: _____
Number of Pages to Follow: 1

From: John Middleton
Kenton Circuit Clerk
230 Madison Ave
Covington, KY 41011

MESSAGE

Proof For Cody York

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS
ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT
FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU HAVE RECEIVED THIS COMMUNICATION IN
ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE. IF FOR ANY REASON YOU DO NOT
RECEIVE ALL OF THE PAGES, PLEASE ADVISE BY CALLING (859) 292-6523 OR (859) 292-6521

STATE OF KENTUCKY
 COUNTY OF KENTON
 I, JOHN C. MIDDLETON, Clerk of the
 Circuit/District Courts, do hereby certify that
 the foregoing is a true and correct copy of the
 original as recorded in my office.

This 21 day of Sept
 JOHN C. MIDDLETON
 By: [Signature] D.C

5059A2 KyCourts II Main - [Charges]

File Utilities Supervisor Reports Web Window Help Reader Help

Browse Add Case Citation Entry Case Inquiry **KENTON** DISTRICT ENTER CASE/CITAT GO

Charge Information: 059.1 DI 11-T-06754 COMMONWEALTH VS. YORK, CODY J

Chg Num | 1 | CHARGE 1 ORIGINAL | LUV | Merge w/Cit | BA Lvl | 0

Chg Date | 05/26/2011 | Dt Cr Filed | 06/01/2011 | Citation # | 1J8095451-1 | Dtd KRS

UOR Cd | 0000140 | SPEEDING 14MPH OVER LIMIT (V) (X) *FTA ELIGIBLE* | LUV

Disposition Information

Disp Dt | 07/05/2011 | Memorize | AutoFill

Disp Type | DIV | DIVERSION | LUV

Judge | 716013 | HON. KEN EASTERLING | LUV | Orig Plea

Trial Type | N | NO TRIAL | LUV | Final Plea

Sentence Information

No Sentence Record

Sentence Delete Sentence

Conviction Reporting (Not FTA)

No Data Available | Add | Audit

Charge Memo

FTA 6/8/11 716008 STATE TRAFFIC DIVERSION

Report Printing

No Reports

Add Date
06/01/2011 9:25:55 AM

Last Modified Dt
07/05/2011 10:13:53 AM

Ent Num: 1

Charge Info | 7:58 AM | 07/11/2011 | JAMI | v2.1.97

07:58 am

EXHIBIT 8
Suppression Hearing Demonstrative
Exhibits

Judge Ken Easterling

- Signed Search Warrants Beginning November 23, 2011, through January 5, 2012
- Son Jake, Cody York's friend
- Personal relationships
- Text each other
- Told him he knew of investigation as Judge
- Fixed a traffic ticket before he signed warrants. (Charged 5-26-11 Disposed 1-9-12) Ruttle to Easterling.
- Fixed a traffic ticket after he signed warrants. (Charged 2-12-12 Disposed 4-2-12) Grothaus to Easterling.
- Admitted he could get in trouble for speaking with Cody York at Easterling home about Sarah Jones, but did anyway.
- Tried to get confession assured Sarah would not go to jail
- Dixie parent
- What gossip did he hear?

Not
Neutral & Detached

Probable Cause

- Can't be based upon rumor
- Can't be based upon hearsay
- Can't be based upon lies
- Based upon totality of circumstances
- Can't define it based upon what is received after the violation of lack of probable cause

What Police Didn't Have To Support Probable Cause

- A confession from Sarah Jones.
- A statement from Cody York.
- Any documentary evidence.
- Any evidence or testimony from anyone who witnessed Sarah and Cody in a compromising situation.
- Not one incriminating email.
- Not one incriminating Facebook message.
- Not one incriminating text message.
- Not one incriminating audio or video record.
- Not one incriminating photograph.
- Not one reliable corroborating witness.

Detective Inman did not have probable cause and in fact had no cause.

The Prosecution's Case for Probable Cause

- Rumors
- Hearsay
- “Flirty” Facebook Messages (Smiley Face)
- Eye Contact
- A 760 Number?
- Heard “they” were at an event at Jones house together
- 26 False Statements by Morgan McCafferty
- 14 False Statements by Brittney Taylor
- 47 uses of the word “Rumor” in Morgan McCafferty’s Interview
- (Last page, 107, Detective Ryan: “So right now, the factual what we have is rumors and accusations.” (11-16-11)
- On page 18, Detective Inman, in the Brittney Taylor interview states they want to get away from anything that Morgan says because: “She’s hearing all this stuff through rumors.” (11-18-12)
- Grand Jury transcript page 2 and 3. Only pages addressing what happened before warrants. Detective Inman references McCafferty and Taylor without naming them. She clearly relied solely on them. In her affidavit for warrants, she relies solely on them. She fails to express any of the rumor concerns made in the interviews with the two.