

1 CLERK: Court is in session.

2 JUDGE: Good morning, everyone. Please be seated.  
3 Thank you all very much for your patience. Good morning to all  
4 of you. For the record, *State of Ohio vs. Tracie Hunter*, Case  
5 No. B-1400110.

6 This matter is on the docket today solely for the  
7 execution of sentence imposed by my predecessor, Judge Nadel,  
8 on December 5, 2014, for a jury conviction against Ms. Hunter  
9 on count six of the indictment, having an unlawful interest in  
10 a public contract, a felony of the fourth degree. The judgment  
11 entry imposing that sentence is signed by Judge Nadel and is  
12 part of the record.

13 Mr. Singleton, Ms. Branch, you represent Ms. Hunter;  
14 is that correct?

15 MR. SINGLETON: That's correct, Your Honor. Good  
16 morning.

17 MS. BRANCH: Yes, Your Honor.

18 JUDGE: Thank you. And, Mr. Croswell, you're here on  
19 behalf of the State; is that correct?

20 MR. CROSWELL: I am, Your Honor.

21 JUDGE: All right. Thank you. Thank you all for  
22 being here. I will point out, as most people here know, this  
23 is not a sentencing hearing. It is not a resentencing hearing.  
24 The sentence has already been imposed by Judge Nadel on  
25 December 5, 2014. My job is solely to follow the law, abide by

1 the rule of law, and execute the imposed sentence. But before  
2 we get to that, there are two things.

3 First of all, I have in my hand a letter, which I  
4 have not shared with counsel because, obviously, everything  
5 needs to be on the record. It was hand-delivered to me moments  
6 ago from the Hamilton County prosecutor, Joe Deters. I will  
7 read it for the record.

8 "Dear Honorable Patrick Dinkelacker; you and I have  
9 known each other professionally and personally for almost 40  
10 years. Today you are going to impose the sentence Judge  
11 Norbert Nadel gave former Judge Tracie Hunter after she was  
12 indicted by a grand jury, convicted by a petit jury, and upheld  
13 by every court in Ohio.

14 "It was also reviewed by the Federal District Court  
15 in the Sixth Circuit Court of Appeals and upheld. She has not  
16 once shown remorse. She has been incredibly disrespectful to  
17 you and to the justice system. She has, in the face -- she  
18 has, in the face the fact that my office removed itself in any  
19 way from her prosecution, blamed us for her plight. That being  
20 said, I believe she has some type of mental condition --"

21 MS. HUNTER: [inaudible].

22 JUDGE: "-- that has created this scenario. Although  
23 we are not --" please. "Although we are not the prosecutors in  
24 this particular case, I ask, as a friend of the Court, to  
25 consider an evaluation of her prior to imposing Judge Nadel's

1 sentence. I have nothing but the greatest respect for you as a  
2 judge, and more importantly, as a person. I know in my heart  
3 that you will do what you believe is just. I've known you too  
4 long to believe otherwise.

5 "But she has basically lost everything  
6 professionally. A review of her stability to serve jailtime  
7 hurts no one and may in some way aid in your decision to impose  
8 this sentence." Signed by Joseph T. Deters.

9 Any comment on that, Mr. Crowell, first of all, sir?

10 MR. CROSWELL: Your Honor, I would endorse those  
11 comments.

12 JUDGE: Okay. Thank you, sir. Mr. Singleton?

13 MR. SINGLETON: Oh, yes. I want to be heard on this.  
14 Judge --

15 JUDGE: Okay.

16 MR. SINGLETON: I will -- I'm -- I can't believe  
17 that -- that Joe Deters would ask for her to be evaluated. In  
18 the letter, there's reference to her not showing remorse.  
19 Here's why there's not remorse. She --

20 JUDGE: Well, first of all, Mr. Singleton,  
21 with all due respect, you -- you can -- I'll certainly give you  
22 a chance to say anything you'd like. I'm just talking about  
23 whether or not you believe this is something appropriate for me  
24 to do.

25 MR. SINGLETON: No.

1 JUDGE: Okay.

2 MR. SINGLETON: Absolutely not.

3 JUDGE: I appreciate that.

4 MR. SINGLETON: Absolutely not. And -- and I -- and  
5 if I could just say more, I'd like to. The reason I say  
6 absolutely not is, first of all, there -- I mean, both Jennifer  
7 Branch and I have -- have worked very closely with Judge  
8 Hunter. There is no issue whatsoever, not in the slightest,  
9 about her not being competent or understanding what's going on,  
10 absolutely nothing. She is -- been very helpful to us as we  
11 have litigated her case up to the Ohio Supreme Court and in  
12 federal habeas. So that's -- that's number one.

13 Number two, with regard to the issue in Prosecutor  
14 Deters's letter about remorse, the reason why there's not  
15 remorse is because she didn't violate this statute. I know  
16 that there's a conviction. I understand what the courts have  
17 said about it. But under the plain language of the statute,  
18 she is not guilty of securing the authorization of employment,  
19 period.

20 And we plan to file a motion to dismiss. I would ask  
21 the Court not to impose sentence today, to give us a chance to  
22 do that. I would ask, alternatively, that the Court not  
23 grant -- not impose or execute the sentence today because we  
24 are still in -- on appeal of the habeas denial in federal  
25 court.

1           And we would ask the Court to -- to stay execution of  
2 sentence until we finally resolve that issue. This case has,  
3 as you know, has been pending for quite some time; and Judge  
4 Hunter has been out the entire time that the appeals have run  
5 and the habeas have run.

6           And -- and let me just say a word  
7 about -- about -- about what she's gone through, because I  
8 think that gets lost sight of. Every day for the past five  
9 years almost, Judge Hunter has gotten up each morning not  
10 knowing whether that was going to be the day that she was going  
11 to have to go to jail. I know, by talking with her, by  
12 observing her, the impact that that has had on her life. We  
13 believe it would be profoundly unjust and unfair and a waste of  
14 taxpayer dollars to incarcerate her for one minute in the jail.

15           We believe it would be profoundly unfair and unjust  
16 and a waste of taxpayer resources to put her on probation.  
17 What we'd ask the Court to do is just end this today. End this  
18 today, but not incarcerate her, particularly given that we're  
19 going to be filing this motion to dismiss. We've asked the  
20 Court for -- for a continuance for us to be able to address  
21 that. Thank you, Your Honor.

22           JUDGE: Thank you, Mr. Singleton.

23           MR. CROSWELL: Your Honor, let my --

24           JUDGE: I'm sorry, Mr. Croswell.

25           Ms. Branch, did you want to say anything in regards

1 to Mr. Deters's letter?

2 MS. BRANCH: Your Honor, everything that Mr.  
3 Singleton just said is true. Tracie Hunter does not have any  
4 mental condition, does not need an evaluation.

5 JUDGE: I -- I appreciate that. Thank you.

6 Mr. Crosswell?

7 MR. CROSWELL: Your Honor, if I might, simply in  
8 response to -- to the letter, Mr. Singleton indicated that he  
9 did not believe -- or that he did believe that Ms. Hunter was  
10 competent to stand trial. I would agree with that. I don't  
11 believe that Mr. Deters's letter is speaking to the issue  
12 of whether she was competent to stand trial or whether she was  
13 legally insane for the purpose of -- of the trial. No one has  
14 raised that issue, and it's not even been considered.

15 I believe that the letter that Mr. Deters has  
16 written and that I, when you asked, endorsed, was a letter  
17 which asked to have an evaluation for the purpose of  
18 sentencing. And I would say that -- that has nothing to do  
19 with the competency issue, and it is rather -- it is not  
20 uncommon for the courts in trying to determine an appropriate  
21 judgment to order a -- a presentence investigation and to  
22 order, in addition to that, a clinic evaluation to determine if  
23 there are any services that are needed or if there are any  
24 issues that -- that -- that present themselves.

25 So that -- certainly, it's up to the Court; but

1 that -- that part of the letter that Mr. Deters wrote is  
2 the part that -- that I endorse, and I think it was solely for  
3 the purpose of sentencing, not to question competency in this  
4 case.

5 JUDGE: I appreciate that. And since Defense Counsel  
6 has indicated that they do not wish for me to proceed in that  
7 manner, I will certainly not do that. I do appreciate the  
8 concerns Mr. Deter has -- has extended, but that is something  
9 that we're not going to proceed with.

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