

1 (Call to order of the court.)

2 THE COURT: Good morning, everyone. Please be
3 seated. Thank you all very much for your patience. Good
4 morning to all of you.

5 For the record, State of Ohio v. Tracie Hunter, Case
6 No. B-1400110. This matter is on the docket today solely for
7 the execution of sentence imposed by my predecessor, Judge
8 Nadel, on December 5th, 2014, for a jury conviction against Ms.
9 Hunter on Count 6 of the indictment, having an unlawful
10 interest in a public contract, a felony of the fourth degree.
11 The judgment entry imposing that sentence is signed by Judge
12 Nadel and is 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 THE COURT: Thank you. And, Mr. Croswell, you're
19 here on behalf of the State; is that correct?

20 MR. CROSWELL: I am, Your Honor.

21 THE COURT: All right. Thank you. Thank you all for
22 being here.

23 I will point out, as most people here know, this is
24 not a sentencing hearing. It is not a resentencing hearing.
25 The sentence has already been imposed by Judge Nadel on

1 December 5th, 2014. My job is solely to follow the law, abide
2 by the rule of law, and execute the imposed sentence. But
3 before we get to that, there are two things.

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

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

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

23 "Although we are not --" please.

24 "Although we are not the prosecutors in this
25 particular case, I ask, as a friend of the Court, to consider

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

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

10 Any comment on that, Mr. Croswell, first of all, sir?

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

13 THE COURT: Okay. Thank you, sir.

14 Mr. Singleton?

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

17 THE COURT: Okay.

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

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

1 to do.

2 MR. SINGLETON: No.

3 THE COURT: Okay.

4 MR. SINGLETON: Absolutely not.

5 THE COURT: I appreciate that.

6 MR. SINGLETON: Absolutely not. And -- and I -- and
7 if I could just say more, I'd like to.

8 The reason I say "absolutely not" is, first of all,
9 there -- I mean, both Jennifer Branch and I have -- have worked
10 very closely with Judge Hunter. There is no issue whatsoever,
11 not in the slightest, about her not being competent or
12 understanding what's going on, absolutely nothing. She
13 is -- been very helpful to us as we have litigated her case up
14 to the Ohio Supreme Court and in federal habeas. So
15 that's -- that's number one.

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

23 And we plan to file a motion to dismiss. I would ask
24 the Court not to impose sentence today, to give us a chance to
25 do that. I would ask, alternatively, that the Court not

1 grant -- not impose or execute the sentence today because we
2 are still in -- on appeal of the habeas denial in federal
3 court.

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

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

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

25 Thank you, Your Honor.

1 THE COURT: Thank you, Mr. Singleton.

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

3 THE COURT: I'm sorry, Mr. Crowell.

4 Ms. Branch, did you want to say anything in regards
5 to Mr. Deters' letter?

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

9 THE COURT: I -- I appreciate that. Thank you.
10 Mr. Crowell?

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

19 I believe that the letter that Mr. Deters has written
20 and that I, when you asked, endorsed, was a letter which asked
21 to have an evaluation for the purpose of sentencing. And I
22 would say that that has nothing to do with the competency
23 issue; and it is rather -- it is not uncommon for the courts,
24 in trying to determine an appropriate judgment, to order a -- a
25 presentence investigation and to order, in addition to that, a

1 clinic evaluation to determine if there are any services that
2 are needed or if there are any issues that -- that present
3 themselves.

4 So that -- certainly, it's up to the Court; but
5 that -- that part of the letter that Mr. Deters wrote is the
6 part that -- that I endorse. And I think it was solely for the
7 purpose of sentencing, not to question competency in this case.

8 THE COURT: I appreciate that. And since defense
9 counsel has indicated that they do not wish for me to proceed
10 in that manner, I will certainly not do that. I do appreciate
11 the concerns Mr. Deter has -- has extended, but that is
12 something that we're not going to proceed with.

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