



Ohio Clerk of Courts Association

May 20, 2021

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My name is Branden Meyer, and I am the Fairfield County Clerk of Courts and Legislative Co-Chair of the Ohio Clerk of Courts Association (OCCA). I am here today to testify on a clarification amendment the OCCA is seeking to House Bill 3. Specifically, with regards to the issuance of an emergency protection order, **the OCCA would respectfully request clarification language to ensure that the emergency protection order becomes effective immediately upon signature of the court.** We fear that without this clarification language, some counties may not deem the emergency protection order to be effective until it is journalized by the Clerk of Courts (after being signed by the Judge, file-stamped and docketed). In an instance where the emergency protection order is issued outside of normal business hours, the Clerk would not journalize the order until the following morning of the next business day. Upon our review of House Bill 3 and discussions with the bill sponsors, we believe that the intent is for the emergency protection order to be effective immediately upon signature of the Judge. Thus, the OCCA believes this clarification language is necessary.

The OCCA's concern is regarding Civ. R. 65.1(B)(1) and (F)(3)(c)(v). Those Rules apply to civil protection orders, stating that a civil protection order is effective when signed by the Court and filed with the Clerk. We are also concerned with the holding in the case of In Re: A.W., Serious Youth Offender case (2020-Ohio-1457), which states, in pertinent part:

{¶ 8} A.W. turned 21 years of age on May 23, 2017.2 Although the juvenile court issued its order invoking the adult sentence on May 22, 2017, the clerk of the court did not enter that order upon the journal until May 23, 2017. **A court speaks only through its journal**, State v. Hampton, 134 Ohio St.3d 447, 2012-Ohio-5688, 983 N.E.2d 324, ¶ 15, and **it is the date of journalization, not the date when an order or judgment is signed, that determines when the order takes effect.** Craig v. Welply, 104 Ohio St. 312, 315, 136 N.E. 143 (1922); see also Cleveland v. Trzebuckowski, 85 Ohio St.3d 524, 527, 709 N.E.2d 1148 (1999) (stating that a judgment would become a final appealable order on the date of journalization). **Because the Clerk did not journalize the order invoking the adult portion of the SYO sentence until after A.W. turned 21, the juvenile court lacked subject-matter jurisdiction over him. The order is therefore void.** See State v. Apanovitch, 155 Ohio St.3d 358, 2018- 2. A.W. was born on May 23, 1996, and therefore, he turned 21 years of age at 12:01 a.m., on May 23, 2017. See State v. Yarger, 181 Ohio App.3d 132, 2009-Ohio-543, 908 N.E.2d 462, ¶ 22 (3d Dist.). January Term, 2020 5 Ohio-4744, 121 N.E.3d 351, ¶ 42. We therefore reverse the court of appeals and sua sponte vacate the adult portion of A.W.'s juvenile disposition. The proposition of law is now moot, so we need not address it.

Thank you for your consideration and I would be happy to answer any questions.

Branden Meyer
Fairfield County Clerk of Courts
Legislative Co-Chair, OCCA