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## STATE OF OHIO V. RAY TENSING UPDATE (5-24-17)

**CINCINNATI – May 24, 2017** – Today Hamilton County Prosecutor Joe Deters held a press conference with reporter Tanya O'Rourke of WCPO Channel 9 and discussed the Ray Tensing case. Specifically, he said that it was possible for the Judge to add lesser included offenses right before the case is presented to the jury for deliberation. Generally, that is true. A judge may add lesser included offenses to the case and present them to the jury right before their deliberations, *if lesser included offenses are available and applicable*.

But, in this case, no lesser included offenses appear to be applicable and/or available. Thus, we do not believe there is any basis for the jury to be presented with any charges other than Murder and Voluntary Manslaughter, and the Judge has made no indication that she would do so.

The elements the jury must decide for Murder and Voluntary Manslaughter and the potential sentence for each charge are listed below:

- ☐ MURDER 2903.02(A)
  - purposely caused the death of SAMUEL DUBOSE
  - Sentence: 15 years to life in prison
  
- ☐ VOLUNTARY MANSLAUGHTER 2903.02(A)
  - Knowingly cause the death of SAMUEL DUBOSE
  - While under the influence of sudden passion or a sudden fit of rage
  - Brought on by serious provocation by the victim
  - Reasonably sufficient to incite the defendant into using deadly force
  - Sentence: 3 to 11 years in prison

Because of the Prosecutor's press conference today in which he discussed the Tensing case, Ray Tensing's attorney filed a Motion to Dismiss the case for alleged violations of the Judge's Protective Order dated December 14, 2016. The Judge's Order specifically prohibited "**counsel of record and the parties from discussing the case with the media until the case reaches a verdict or is otherwise resolved.**" Anyone who violates the Judge's Protective Order may be subject to contempt of court penalties.

Ohio Revised Code § 2705.05 is applicable to contempt proceedings and sets forth the specific penalties if a person is found guilty of contempt of court.

First, the law requires the Judge to conduct a hearing to determine whether Prosecutor Joe Deters violated her Protective Order and is in contempt of court. If the Judge does find him in contempt of court for violating her Protective Order, the available penalties are as follows:

1. For a **first offense**, a fine of not more than **two hundred fifty dollars**, a definite term of imprisonment of **not more than thirty days in jail**, or both;
2. For a **second offense**, a fine of not more than **five hundred dollars**, a definite term of imprisonment of **not more than sixty days in jail**, or both; and
3. For a **third or subsequent offense**, a fine of **not more than one thousand dollars**, a definite term of imprisonment of **not more than ninety days in jail**, or both.

According to this law, the remedy of Dismissal of the Case with Prejudice, as requested by Defense Counsel, is not available.

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