

Rooker Report

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A Civil Remedy for a Criminal Offense

The look on the woman's face was one of pure hysteria, accentuated by an almost-glowing mouse under her right eye. Her mental faculties were in an obvious state of helter skelter confusion.

"Where do I go to get an order of protection?" she asked a traffic bureau employee in the Ben West Building.

"I'm not sure," he told the woman, "but I think you need the police department for that."

"They sent me over here," she retorted.

Such misinformation is not uncommon in situations involving domestic matters. Because the subject entails such a broad range of elements, it is difficult for even the most seasoned of government personnel to decipher what is criminal and what is civil.

In this particular case, all evident signs pointed to the criminal aspect. There was evidence of physical abuse and her demeanor was one of undeniable panic.

But while the relief she sought would eventually require the intervention of criminal policy, her method of due process was through civil procedure.

Her relief--at least temporarily--would be found in the Circuit Court Clerk's office. And she was so directed.

Under a 15-year-old Tennessee statute known as the "Spousal Abuse Law," a person who has been battered or threatened through domestic strife can petition the courts for protection through issuance of a written order that wields ultimate power against a perpetrator.

An order of protection, granted only upon sworn and otherwise documented proof that a victim is in danger, can be as effective as necessary in preventing repetition by an abuser. Swift recourse awaits the violator of such an order--much quicker penalty action than its better-known counterpart, the restraining order.

Armed with an order of protection, a battered person need only convince a night commissioner that a violation has occurred to obtain an arrest warrant and send the defendant off to a possible 10-day jail sentence.

A restraining order, which theoretically provides the same protection, requires a more intense procedure to bring a defendant into tow. A petition for contempt must first be granted by the court before enforcement of a restraining order can be effected, thereby allowing a potential abuser time to do more damage.

There is a natural assumption that orders of protection relate to criminal activity and therefore should be initiated through the criminal justice system. This could be true in some counties, but only by courts of record with jurisdiction over domestic relations cases or general sessions court of the county in which the petitioner resides.

But state law limits purview to domestic relations courts of record in counties with a population range of 200,000-800,000. In Davidson County, that leaves only the circuit courts.

(See ORDER OF PROTECTION, Page 4)

Paper Cuffing Those Volatile Domestic Wars

Courts Add Customer Windows



Leslie Allumbaugh Photo

If you are a regular visitor to the Ben West Building, you probably have noticed the new customer information window in the east wing hallway.

In case you missed it, here's a picture.

General Sessions Court Administrator Warner Hassell said the window was installed to better assist the public and to provide greater security to administrative business conducted daily inside the office of Dot Patton, secretary to the judges. Here, Ms. Patton accommodates Metro Court docket clerk Margie Perry.

A customer window also was installed down the hall at the office of administrative assistant Terry Peaks, but will not be placed in service until sometime later.

Peaks is primarily involved in the traffic school program. The customer window will help him better dispense information about the classes.

Criminal Justice Center Security Increased for Courtroom, Pretrial

Electronic security devices have been installed at key entry points to the Criminal Justice Center in a beefed-up effort to provide greater protection for the Jail Docket Courtroom.

The new security procedure, which went into effect earlier this month, also provides limited access to Pretrial Release offices located adjacent to the courtroom.

The main lobby of the building has been redesigned as well to provide better screening of persons entering the police department. Electronic locking devices controlled by security guards govern entry into the building commons.

Addition of the new procedure is an extension of the Courthouse security program,

Immaterial?

Bar Association dress code:
"Lawsuits" Required

which was prompted by outbreaks of violence in many of the nation's courtrooms. Now, only the traffic and civil courtrooms in the Ben West Building are without an organized security program.

Officials say some type of security plan will eventually come to the Ben West Building, but that earlier proposals have been dismissed as unworkable.

Importance was placed on the Criminal Justice Center because of a higher risk of violence.

The public will be admitted to the wing housing the Jail Docket Courtroom only during times the court is in session and doors will be locked afterwards when the area has been cleared. A guard will protect the area while court is in session.

Only authorized police and court personnel will have unrestricted Cardkey access to the area.

Dimes March Right Step, Walk or Not

Event Scheduled April 24

Attention all persons who don't have bunions, corns or heel spurs.

The March of Dimes is gearing up for its annual springtime event known as WalkAmerica and your happy feet are needed.

While the event is no longer recognized as a unified Metro-sponsored involvement program, individual workers are being encouraged to participate of their own accord.

Truth is, you don't have to take a single step to participate; a quick dip in the wallet will make you as much a hero as the hundreds who will cross the finish line on April 24.

For it is not *your* physical endurance that is at stake; it is the possible physical endurance of the many children with birth defects. Only the money generated by the walkathon will guarantee the on-going research necessary for them to take their first steps.

Contributions labeled as "sponsorships" of those willing to do the walking are truly policy payments to ensure that all babies will have a healthy start in life.

The event itself is a traditional, symbolic exhibition of the ultimate goal--the ability to walk.

Complete details of this year's walkathon had not been formulated at press time, but will be made available in next month's report in time to allow employee participation.

Basically, the rules are the same as in the past: a \$10 or more sponsorship entitles you to participate in the walkathon and those turning in at least \$50 will receive an official March of Dimes tee shirt.

What *has* been changed is the distance of the walk, according to Meriem Swift of the Metro Trustee's Office, longtime government coordinator of the project.

Mrs. Swift said this year's walk will take in only 7.2 miles--about three miles shorter than routes of previous years.

Correction

Our apologies to computer room operator Annette Wheeler, who was incorrectly identified as Annetta Jones in a departmental group photograph in the February issue of the Rooker Report. Ms. Jones is an employee of the Traffic Violations Bureau, but does not work in the computer room, as does Ms. Wheeler.

Cheers...

To Nashville attorney **Dianne Ferrell Neal** upon being appointed new chief legal counsel to **Gov. Ned Ray McWherter**. The governor selected Ms. Neal after he appointed his former counsel **David Welles** to the Tennessee Court of Criminal Appeals. Ms. Neal, a Vanderbilt Law School graduate, has served as general counsel to the Tennessee Department of Corrections and previously was assistant state attorney general...The new face in our Circuit Court Clerk's office belongs to **Kimberly Boyling**, who joined the staff in February...Another member of our fifth floor staff, **Janet Parrish**, is recuperating from recent surgery at Baptist Hospital. Fellow workers wish her a speedy recovery...Wedding bells will probably be ringing sometime in October for **Susan McDonald** of our General Sessions Civil Division. Susan, an avid equestrian, recently announced her engagement to fellow horse enthusiast **Douglas Green**...And Traffic Violations Bureau cashier **Don Rosso** is at home following a week of residence in Nashville Memorial Hospital.

... Tears

Deepest sympathy to Traffic Violations Bureau docket clerk **Tony Eden** in the Feb. 19 death of his father, **Henry W. Eden**... We are also grieved by the March 4 death of **Gloria Ann Smallwood**, an employee of the Sheriff's Civil Warrants Division.

Trees Planted in Memory Of Rooker, Clary, Garrett

Three outstanding elected public officials who died while in office will live on in symbolic immortality, thanks to the Metropolitan Board of Parks and Recreation.

In ceremonies earlier this month, the board's Beautification and Environment Commission planted memorial trees in honor of the late Circuit Court Clerk George L. Rooker, late Metro Assessor of Property Jim Ed Clary and late Metro Trustee Bill Garrett.

Attorney George Cate, chairman of the Metro Tree Board, presided over dedication rites at the Clifford Allen Building, which houses the offices formerly held by Mr. Clary and Mr. Garrett, and the Metro Courthouse where Mr. Rooker served for 25 years.

Bradford Pear trees were planted in memory of Mr. Clary and Mr. Garrett outside the Clifford Allen Building. A Green Ash tree was selected for Mr. Rooker and planted near the west end of the courthouse.

Betty Rooker, widow of the late Circuit Court clerk, broke a bottle of crystal water to commemorate the dedication of the "Rooker Tree." Sons George Rooker Jr. and Richard Rooker accompanied their wives to the ceremony.

Markers identifying the tree memorials will be installed at a later date.

April Birthdays

Circuit Court Clerk

- 4 Barbara Eddings
- 5 Kelli Wilkerson
- 18 Holly Russell
- 23 Mike Garrett

General Sessions

- 5 Jeff Filson

Traffic Violations

- 3 Gene Baker
- 11 Will Cripps
- 25 Pete Page
- 27 Carl Smith

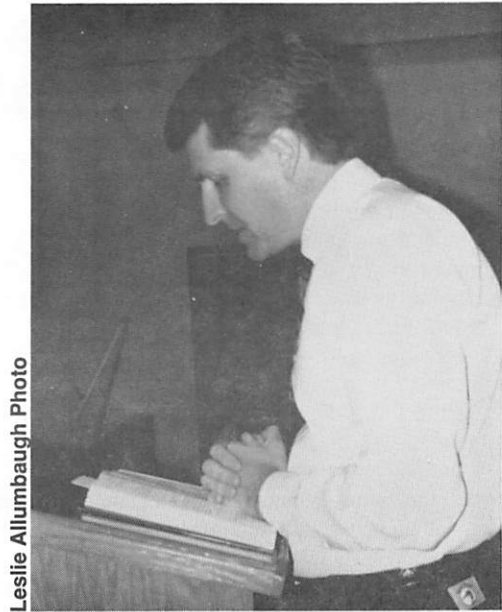
Probate

- None

Circuit Court Cashier Penny Hubbell celebrated a birthday on March 10. Her name was inadvertently omitted from the March birthday list.

Monday's

Amen Corner



Leslie Allumbaugh Photo

Clerk Tony Eden Leads Devotional

It is Monday morning and you are scampering to beat the clock for a timely beginning of another work week.

As always, the weekend has flown by all too fast and the mood is typically blue for that one day of the week when everything that can go wrong surely will.

Those memorable Fats Domino lyrics, "Blue Monday; how I hate Blue Monday" are echoing through your mind as you hastily dash toward your desk, stripping off your coat and errantly kicking over a waste basket simultaneously.

You have thusly qualified as a candidate for the (fairly) new Monday morning devotional service that has just concluded in Courtroom 1 of the Ben West Building.

Oh, you weren't aware of such a service? Well, it actually takes place. It has since November when traffic docket clerk Tony Eden decided that a few minutes of inspirational worship might cleanse the Monday blahs and make for a mentally smoother rest of the week.

Regular attendees (from three to 10 workers weekly) have provided credibility to Eden's idea. They arrive at 7:15 a.m. each Monday, share in a brief reading of scriptures, absorb a mini sermon and prayer from Eden and are at their desks when the work shift begins 15 minutes later.

"It's a really relaxed service," says Eden, a former Sunday School teacher who was a Trevecca College seminary student before abandoning his dream of becoming a church pastor. "Ideally, that relaxed condition will carry over into the work day and instill an emotional inspiration for harmony with our fellow workers."

Eden said he chose Monday as the best day for the service because it is "the hardest day of the week for people to get to work on time. I thought that if they developed an interest in attending the worship service, it might help them overcome that problem."

The service is "open to anyone" who wishes to attend, said Eden, who attracted his present "congregation" by word of mouth.

While Eden usually prepares his mini sermons through personal inspiration from events that take place during the week, he stresses that he is always open to suggestions from others as well. And, he quickly points out, special prayer is offered upon request.

How about... "Give me the patience to get through Monday."

Green Light for Change

Traffic Docket Shakeup Signals New Concept

General Sessions judges have adopted a new traffic court schedule that apparently lays the groundwork for reducing courtroom appearances in the near future.

Effective June 1, three of the current afternoon traffic dockets will be consolidated into one--a move that will free up one sitting judge for other assignments while increasing the workload for another.

While the move--approved by the slimmest of margins (four of the nine judges were opposed)--should enhance the judges' ability to cope with administrative duties, it promises a fatigue factor for the judge assigned to the traffic docket. The same judge will preside over all seven dockets Monday through Thursday and six on Friday.

Currently, there are nine dockets daily Monday through Thursday, but a second judge hears cases at 1 p.m., 2 p.m. and 3 p.m. Those three dockets will be eliminated and replaced by a 3:30 p.m. docket that will be presided over by the same judge who hears cases at 8:30, 9:30, 10:30, 12:30, 1:30 and 2:30. The nine judges rotate schedules with each serving one-week stints in traffic court.

Why are the three dockets being consolidated? Proponent judges contended that the caseloads for those time slots are abnormally small and often completed in minutes, leaving too much idle time between dockets for court personnel.

The new schedule will effectively eliminate afternoon duties for the "second" traffic judge. But Presiding Judge Mike Mondelli says the time will be utilized for conducting court business.

Mondelli's committee approach to managing the lower court's \$6

million a year business has enjoyed what he terms only tepid success and he sees the new availability of manpower as a means of plugging some of the gaps. He proposes to have the afternoon traffic judge assume the presiding judge's assigned docket "so the presiding judge can do what a presiding judge needs to do administratively."

The intensified workload for the traffic assignment is almost certain to garner support for a mail-in program to reduce the size of personal appearance dockets. Judge Penny Harrington has advocated such a concept for some time, but has been unable to effect the mechanics in compliance with procedural laws.

Judges generally agree that a system is needed whereby only those wishing to contest charges against them need to appear in court. Non-moving violations can already be nullified without involvement by the courts and all guilty pleas can be adjudicated through payment of fines, either by mail or personal appearance at the bureau cashier window.

Only contested citations and traffic school candidates are currently required to be heard in court. And the judges envision a provision to exempt court appearances by those who might qualify for defensive driving courses. One method being considered is attaching an application form to each ticket when it is issued. The form would be mailed to the courts by violators wishing to attend traffic school. If approved, the violator would be assigned a school date and notified by mail as to the amount of enrollment fee to be paid on the night of the class.

Obviously, the logistics of such a program would require both input and cooperation from not only the judges as a group, but from the police department and the clerk's office as well.

Consideration also must be given to the state's new uniform ticket law, which is scheduled to go into effect next Jan. 1. A department of safety committee appointed to design a uniform ticket for all law enforcement agencies reportedly will ask the legislature to amend that statute after meeting resistance from various agencies. Which proves the complexity of making changes.



Circuit Court Jury Trial Verdicts

WEEK OF FEBRUARY 7

| Case Number | Type of Case | Verdict |
|-------------|---------------|-----------|
| / 92C-187 | Auto Accident | Defendant |
| / 91C-324 | Negligence | Defendant |
| / 90C-2666 | Auto Accident | Defendant |

WEEK OF FEBRUARY 14

| Case Number | Type of Case | Verdict |
|---------------|-----------------|-------------|
| 89C-2887 | Personal Injury | (P) \$7,296 |
| 92C-95 | Contract | (P) 3,850 |
| / 93C-830 | Auto Accident | (P) 18,000 |
| / 92C-237-239 | Auto Accident | (P) 61,000 |
| / 92C-2084 | Slip/Fall | (P) 1,650 |

WEEK OF FEBRUARY 22

| Case Number | Type of Case | Verdict |
|-------------|---------------|--------------|
| / 91C-2658 | Auto Accident | (P) \$30,000 |
| / 88C-2684 | Negligence | Defendant |
| 92C-1498 | Auto Accident | Defendant |

Order of Protection: The Paper Shield

(From Page 1)

Aligning with the national trend of reported incidences of domestic violence, the 1990s have seen a sharp increase of order of protection petitions in the local judicial system. Where only 463 petitions were filed in 1989, the number jumped to 727 the following year--a figure that has proved to be the mean for the current decade.

Since an attorney is not required to obtain an order of protection, a petitioner's only expense is a \$96.50 clerical fee. And the order can become effective immediately following a petitioner's sworn statement if the situation is urgent. Of course, the emergency order--or ex parte--can be nullified at the court's discretion at a final hearing.

Karen Rooker, chief Circuit Court clerk, says only about 45 percent of those requesting orders of protection actually go to court for a final hearing. In essence, that speaks well for the effectiveness of the order itself. The ultimate impact, many feel, is the looming threat of penalty.

In short, an order of protection is a civil weapon for uncivilized acts--paper handcuffs that help prevent domestic battles from becoming domestic wars.

Rooker Report

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