

“IF WE CANNOT RECONCILE ALL OPINIONS, LET US ENDEAVOR TO UNITE ALL HEARTS.”

NEW-HARMONY, (IND.) October 2023

JACK VICERS ARRESTED - AGAIN!

By: Dan Barton
October 2023

New Harmony resident Jack (AKA - Jackie Dean Vickers) Vickers has once again been arrested in New Harmony at his residence at 1111 Lynnwood Avenue. Vickers was arrested by New Harmony Town Marshall Chad Foreman, on September 5, 2023 at 8 p.m. on the following counts F5- Intimidation: Where defendant draws or uses a deadly weapon; F6- Intimidation: Threat is to commit a forcible felony; F6- Stalking plain; 4- Stalking plain; F6- Stalking plain; F6- Stalking plain; F6- Stalking plain; MC- Indecent Exposure - appear in state of nudity NOT in a public place but w/intent; MC- Indecent Exposure - appear in a state of nudity NOT in a public place but w/intent.

Vickers appeared before Posey County Circuit Court Judge Craig Goedde and Bond was set at \$50,000 surety/ \$5,000 cash as requested by Posey County Prosecutor Thomas Clowers. Vicker's is currently incarcerated in the Posey County Jail.

This is Vickers' second arrest in New Harmony in the past year for Stalking, a Felony. Vickers was arrested in 2022 on Charges of Stalking Plain but was allowed by Posey County Prosecutor Thomas Clowers, in a plea agreement with Defense Attorney Glenn Orem and the approval from Judge Craig Goedde, to be sentenced instead to Criminal Trespass. This arrangement dropped the original Felony charge to a Misdemeanor and Vickers was released back into the community as of June 6, 2023.

A Felony conviction in 2022 could have put restrictions on obtaining and

carrying a firearm, whereas, a release on Misdemeanor conviction offers few if any restrictions to obtain or carry.

THE MOUSE'S TALE!

From: Lewis Carroll's

'Alice's Adventures in Wonderland'

For the October New Harmony Gazette

Fury said to a mouse, that he met in the house, 'Let us both go to law: I will prosecute you, - Come, I'll take no denial: We must have the trial; For really this morning I've nothing to do.

Said the mouse to the cur, 'Such a trial, dear sir, with no jury or judge, would be wasting our breath. 'I'll be judge, I'll be jury,' said cunning old Fury: 'I'll try the whole cause, and condemn you to death.' "

**OF GRAND JURIES,
TRIAL JURIES AND
PROABABLE CAUSE AFFIDAVITS!**

By: Dan Barton
October 2023

Some of you may have read recently, in The New Harmony Gazette, the critical analysis of a State Police Probable Cause Affidavit. Several items of information appeared to have been left out of this Affidavit that were normally included in other Affidavits written by the same Indiana State Police Investigator. I went about requesting that data which was missing, including a copy of any Search Warrant issued by the Court which would have allowed the search of arrestee and defendant Misti Justice's premises. All to no avail!

Search Warrants are a judicial writ given to law enforcement that allows them to search a "specific location" for evidence without someone's consent. They are important because it's the way to perform legal searches in the U.S. Before Search Warrants can be issued by a Judge in Indiana there must be sufficient grounds.

There are certain exceptions to the Search Warrant Rule which law enforcement can apply and not need a warrant, such as permission from the property owner to do the search. In the case in question I specifically asked Prosecutor Thomas Clowers for the Search Warrant related to the confiscation of a shotgun and the arrest of Misti Justice. Prosecutor Clowers never responded to that request.

I pursued the specific missing information in the Probable Cause Affidavit from the Indiana State Police Investigator who wrote it, Weston Kuykendall. I pursued it with the Posey County Sheriff Tom Latham, and with Posey County Prosecutor Thomas Clowers. None of these officials were forthcoming with any of the missing information requested. All had different excuses. "Why" I asked myself, "would that be happening?" All of the questions were of, what I would call, questions of a routine and almost mundane nature, but important to the relevancy of the arrest and confiscation of the weapon that took place in this case. The same types of information were usually included by this particular State Police Detective in other cases of a similar nature, and now, all of a sudden, they were missing in this one. Why?

When I posed the question of whether this was some kind of conspiracy between these three offices, designed to hide this

information, I was using a figure of speech in order to draw attention to this dilemma. I also wondered if it could be somehow benefitting the criminal element in Posey County by not allowing the public to view all of the facts in this case.

Prosecutor Clowers became offended!

Prosecutor Thomas Clowers said of my demands and questions that it, “ ... was absurd, and out of line.” He then went on to accuse me of printing “false” and “misleading” information, which, I say, was untrue. Clowers would not answer the questions I asked in an open and transparent manner. He would not provide the documents or details to The New Harmony Gazette that would clarify the issues on the particular case that I have been writing about.

He stated that the Probable Cause Affidavit was the only “Publicly-Available Document” that outlines the circumstances surrounding Misti Justice’s arrest and the police confiscation of a shotgun; knowing full well that my inquiry was due to the lack of that very information in the Affidavit. According to Indiana State Police Investigator Kuykendall the type of information that I was seeking would be in the Arrest Report filed with Sheriff Tom Latham’s office, which Latham has said that he does not have. That Report either does not exist or is being hidden from public view.

Worst of all, Prosecutor Clowers accused me of being anti-police, saying that I, “...baselessly attacked our local law enforcement.” Rediculous!

Those of you who read this newspaper are well aware that I have supported the law enforcement community in Posey County from the very inception of the New Harmony Gazette. Asking questions or demanding answers from a County Prosecutor, or high level official, does not in any way reflect adversely on my support of the men and women who proudly wear

the badge and daily risk their lives to protect this community.

In fact, by my questioning of these officials it reinforces the duty of rank and file law enforcement officers by keeping Prosecutors, Judges, Department Administrators, and the like, from placing undue pressure on police officers to do their own bidding instead of allowing police to strictly enforce the law. By the Press asking these “supposedly” uncomfortable questions, it puts a curb on some of the political ambitions of those involved, who are elected and appointed to office.

Prosecutor Clowers is using a common lawyer’s diversionary tactic to get the public’s mind off the real issue here; it’s called “Obfuscation”. He wants to change the dynamics of the discussion away from him and attack the credibility of the questioner, in this case the Press. Yes, the real issue is, “Why is he withholding the information being requested?” He could not possibly expect to take on a jury without the very information that’s been asked for. Maybe he doesn’t ever plan to allow any of the defendants to ever see a jury.

What’s at stake here? In many communities of the United States there is what is called a Grand Jury. When a serious crime, such as the one in this case, is presented to the court, the Grand Jury, usually six (6) citizens, will sit and hear the basic details of the case and charges being considered.

Grand Juries listen and observe the details of what the person being accused of has allegedly done. They hear what bears on the State to bring prosecutorial charges against the defendant. They determine the validity of those charges, whether there is enough evidence to bring criminal charges to a Jury Trial or further adjudication. During the Grand Jury proceedings, the Prosecutor presents an accusation and supporting evidence to the Grand Jury.

The Grand Jury decides whether or not the Prosecutor can proceed with a criminal trial. In Posey County that Grand Jury step is nonexistent! So, I ask questions for the public to read and consider!

In Posey County Indiana there are no Grand Juries! In Indiana, Preliminary Hearings are used exclusively instead of Grand Juries, as in this case. An Indiana State Police Investigator presents the facts of an investigation in the form of what is called a Probable Cause Affidavit, the prosecutor files a criminal complaint based on those facts. After the complaint is filed, a judge reviews it in a Preliminary Hearing. During the hearing, the lawyers are present and the judge decides whether or not to indict and incarcerate the defendant on specified charges. If the Judge believes that the evidence accumulated validates the arrest and warrants incarceration, then so be it, the arrest is assumed to be valid, and the person is incarcerated pending adjudication.

There is a big difference between a group of six citizens hearing evidence and deliberating the details of a probable valid arrest and indictment, and three court officers drawing up their conclusions. I think most of you can see that.

When a police investigator sometimes includes categories of data or evidence in several affidavits and then leaves it out in another, someone has to ask the question; why? The process depends largely on the accuracy of his Affidavit. It’s the job of a newspaper to ask the hard questions, not merely be the Court’s Public Stenographer!

Inquiring into the validity and accuracy of a police investigator’s Probable Cause Affidavit in no way is an indication that the questioner, myself in this case, is in anyway anti-police or anti- prosecutor or anti-defendant. Prosecutor Clowers knows this. His false accusation against me and The New Harmony Gazette is merely his form of diversion to take the attention

away from his own inaction in the case of this serious crime. He parses words over the use of a term like “Conspiracy”, and seems to feign injury where there is none. When all he has to do is answer the three or four simple questions I have asked, in a truthful and open manner, in order to satisfy the essence of the First Amendment of the U.S. Constitution.

It's bad enough that in Posey County, the Circuit Court adjudicates less than about One Half of One Percent of all criminal cases going through the Jury Trial process.

Actually, approximately .045%, of all the Criminal Cases arising in the Circuit Court go to a Jury Trial. Virtually none!

But on top of that, having no Grand Jury and then attacking the Press for asking relevant questions, makes this Court look like a travesty. The public is largely eliminated from the process.

It makes one believe that Clowers will do anything to attain at or near a 100% conviction rate, regardless of the truth and openness of his pursuit. Could it be that Prosecutor Clowers is not concerned with the guilt or innocence of the person arrested for a crime (or for the victims) and only cares about getting plea deals for lesser charges and winning at all costs?

There are no Grand Juries and virtually no Jury Trials in the Posey County Circuit Court. The same three men decide what is relevant through a Preliminary Hearing and a Non-Jury hearing, commonly called a Bench Trial. That should bother everybody in Posey County! It should bother you! A Police Investigator virtually takes the place of the Grand Jury and the Prosecutor and Judge Goedde take the place of the Trial Jury! While Defendants are often either locked away for years or released with the heavy yoke of bail on their shoulders, the court awaits a seemingly confinement coerced confession.

As much as I dislike saying it it sounds a lot

like Authoritarianism is being practiced in the Posey County Circuit Court and not the Democracy that our nation's founders had envisioned. My opinion!

FROM THE ARCHIVES!

KUSTURIN MURDER TRIAL DELAYED! REVISITED - SEPTEMBER 2023!

By: Dan Barton
October 2023

Back In 2022 I Wrote: “Sometimes, I hate it when I'm right! In the February 2022 New Harmony Gazette, I announced the dates that Circuit Court Judge Craig Goedde had set for the then upcoming July 2022 double-murder trial of alleged murderer Austin Kusturin, who was arrested for the crime in November 2021.”

I said, “If Posey County practices run true to form these dates are purely suggestive and will probably never be realized.” I added, “These July 2022, jury trial dates are most probably a fiction, and don't even exist in the minds of any of the court officers engaged in this case. Well, I was right! Imagine my dismay, but total lack of surprise, when I recently checked the Posey County Circuit Court records and found that, indeed, after I released the February 2022 edition of the Gazette, a delay had been approved by Judge Goedde.

On January 31, 2022 Defense Attorney Glenn Grampp filed a motion in Posey County Circuit Court for a Continuance (delay) of the Kusturin trial, which was originally to begin on July 6, 2022. Grampp was granted his requested delay by Judge Goedde and the opening date of the trial was moved up to start on July 11, 2022. There was no objection to this change by County Prosecutor Thomas Clowers. There was no specific reason given as to why Grampp asked for the delay.

As a follow-up for the New Harmony

Gazette's coverage on this case, I emailed Prosecutor Clowers and asked him what Glenn Grampp's reason was for asking for the delay. Clowers emailed me the official court document filed by Grampp which indicated simply, “A conflict with prior commitments up through July 5, 2022.” Since that did not encompass July 6th, I decided to once again to try to get a further clarification of Grampp's reason for the delay. I re-emailed the Prosecutor, saying, “What was the conflict that Mr. Grampp had that caused such an urgent course of action by him? That is what I'm asking concerning the reason for the change in dates!”

Clowers responded, “Unfortunately, I am not aware of his scheduling conflict — I just know it was represented by Mr. Grampp that he had a scheduling conflict that prevented him from starting the trial the week of July 6th, 2022. Based on that representation it was agreed the trial would begin July 11th, 2022, instead.”

Not being satisfied with Prosecutor Clowers' explanation, I emailed him again, stating, “Yes. But the document that you sent me at the New Harmony Gazette, called “Verified Motion and Reschedule Trial Date”, indicates that, regarding the request for change, “...the State (Prosecutor Clowers) has no objection.” No objection and no questions!

I reminded the County Prosecutor that the double murder in November 2021 was probably one of the most serious case of violence in almost 150 years, and, “... wouldn't it be reasonable for the State and the Court to know the specifics of Grampp's conflict before agreeing to his request. Why then did you not object to this vague motion by Grampp. I believe the people of Posey County deserve to know all of the particulars about this arrangement. This is not, and should not, be handled as a domestic dispute case. What was Grampp's specific conflict of interest that caused him to request the trial cancelation and why did the court

and state not request to know the details?”

Once again, Prosecutor Clowers' answers with a reply that seemingly tries to dodge my question. He says, “Mr. Barton — this case is of utmost importance to my office and is being handled as such. Due to the nature of this ongoing criminal investigation, I am unable to provide you with reasons certain strategic decisions are made. I hope that what I was able to provide you with has been helpful.”

Not quite, I'm afraid. We still don't have the details or excuse of why such an important case was put on the back-burner by a vague request by the Defense Attorney. Obviously, he would get his delay no matter what, but it's no skin off anyone's nose for the Prosecutor to ask why. As far as Clowers' excuse that by asking for the reason why, it somehow jeopardizes an “ongoing criminal investigation,” that's pure hooey. The murder charges have been filed, the alleged killer has been arrested, jury trial dates have been assigned; it would seem ludicrous that the Prosecution would not be ready without some more investigation while the defendant has already been incarcerated on the murder charges.

We still don't have, and never will have, a true answer as to why Prosecutor Thomas Clowers was inclined to hold his tongue in the Hall of Justice!

No doubt, there will probably be

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another delay coming down the pike — if the court officers operate as usual!

Please, let this trial begin!

READ ON!

NOW! October 2023: AFTER 3 JURY TRIAL DELAYS!

So! Here we sit, Two Years since the double murders of Elizabeth and John Hall and more than a year since I wrote the original article above, entitled - “JULY 2022 - KUSTURIN MURDER TRIAL DELAYED!”

And where is the Posey County Circuit Court, Prosecutor Thomas Clowers and Circuit Court Judge Craig Goedde, on this murder case, today? Almost exactly where they were in February 2022. Prosecutor Clowers said back in 2022 that this case was of “Utmost Importance” and that he was “...unable to provide...reasons certain strategic decisions are made.” He's Nowhere!

There has been no jury trial. There has been no bench trial. There has not been a plea agreement. A jury trial for Kusturin is, once again, “Comically” scheduled now for December 11, 2023. Will it happen? What do you think?

There have been three previous jury trials scheduled and cancelled over the past two years. An uncountable number of meetings between these lawyers - but still nothing! There have been two Defense Attorneys - first Jake Warrum, and he left, and now Glenn Grampp - but no movement.

The great song writer and poet Bob Dylan once wrote in his song ‘Not Dark Yet’ - “I know it looks like I'm moving, but I'm standing still.” It couldn't have been said any better about what goes on in our Posey County Court. Except they make no pretense - they don't even look like they're moving. What's going on here Prosecutor

Clowers - No Case?

NEW HARMONY GAZETTE
OCTOBER RECIPE
By: Denise Rapp

Honey Butter Fried Chicken Strips
Serves 4-6

Ingredients

12 chicken tenders
1/2 c flour
1/2 c corn starch
1/2 tsp baking soda
1/2 c ice water
Salt & pepper
1/2 c Canola or vegetable oil

Dipping Sauce:

1/2 stick butter melted
2 tbs honey
2 tbs soy sauce
2 tbs sugar

Directions:

Rinse chicken and Pat dry
Sprinkle with salt and pepper
Heat oil in deep skillet
Mix together: flour, cornstarch, soda & ice water
Dredge chicken through the batter, shaking off the excess
Once oil is hot, place strips in hot oil cooking 3-4 minutes on each side
Making sure each side is a golden brown, then flip (165 deegree)
Place strips on paper towels to drain and cool
While cooling, make your dipping sauce.

Enjoy

