



# OFFICE OF THE GREENE COUNTY PROSECUTING ATTORNEY

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Ohio Attorney General Dave Yost  
*Via email only*

RE: Request for opinion regarding whether juvenile, domestic relations, and probate courts are “courts of general criminal jurisdiction” under Ohio law with regard to the signing of search warrants, and would thus constitute courts of “competent jurisdiction” under 18 U.S.C. §2703.

Greetings:

18 U.S.C. §2703 authorizes state court judges to sign search warrants that compel service providers to disclose certain electronic records. The statute limits that authority to a “court of competent jurisdiction” in each state. See, 18 U.S.C. §§2703(a), (b)(1)(a), (c)(1)(A), and (d), respectively.

As relevant here, 18 U.S.C. §2711(3)(B) defines a “court of competent jurisdiction” as, “a court of general criminal jurisdiction of a State authorized by the law of that State to issue search warrants.”

In Greene County, only judges of the General Division of the Common Pleas Court have been signing warrants pursuant to 18 U.S.C. §2703. This is due to a dispute as to whether the other divisions of the Common Pleas Court are “courts of general criminal jurisdiction”.

There is a dearth of case law on this issue. It is axiomatic that each division of the common pleas court exercises its own discrete and exclusive jurisdiction. It is also clear that under Ohio law each division of the court of common pleas is authorized to sign search warrants within their territorial jurisdiction. This includes judges of the probate division, juvenile division, and domestic relations division, respectively. *State v. Newman*, 2017 Ohio App. LEXIS 2079, (5<sup>th</sup> Dist. May 30, 2017).

In addition, under O.R.C. §2301.03(O), both the juvenile court judge and the domestic relations court judge have been granted the same “powers and jurisdiction” as the other judges of the court of common pleas in Greene County. The statute also



permits the judges of the juvenile and domestic relations courts to perform the duties of the general division judges, if necessary. §2301.03(O)(3).

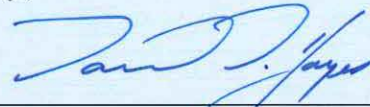
Finally, Rule 3.01(B) of the Rules of Superintendence for the Courts of Ohio authorize the administrative judge of a court to, “assign judges of the court to serve in another division of the court as required by the business of the court”. Taken together, this would suggest that even if the other divisions of the common pleas court lacked the inherent authority to sign these types of search warrant, both O.R.C. §2301.03(O)(3) and the Rules of Superintendence would authorize them to exercise such authority when properly delegated.

Therefore, my clients, the judges of the Greene County Court of Common Pleas, General Division, respectfully request an opinion on the following questions:

1. Are the juvenile, domestic relations, and probate divisions considered courts of general criminal jurisdiction authorized by Ohio law to issue search warrants, and thus courts of competent jurisdiction as defined in 18 U.S.C. §2711(3)(B)?
2. If the juvenile, domestic relations, and probate divisions are not courts of general criminal jurisdiction authorized by Ohio law to issue search warrants, can they become such courts by a delegation of authority under either O.R.C. §2301.03(O)(3) or Superintendence Rule 3.01(B)?

I appreciate your time and attention to this matter. If you have any questions or require further information, do not hesitate to contact me at (937) 562-5255, or via email at [david.hayes@greencountyohio.gov](mailto:david.hayes@greencountyohio.gov).

Sincerely,



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Greene County Prosecuting Attorney