IN THE SUPREME COURT OF OHIO

IN RE: COREY SPEARS, A MINOR CHILD	:	Case No. 06-1074
	:	On Appeal from the Licking County Court of Appeals Fifth Appellate District
	:	C.A. Case No. 2005-CA-93

MEMORANDUM IN SUPPORT OF JURISDICTION OF APPELLANT COREY SPEARS

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FIRST PROPOSITION OF LAW:

Ohio Revised Code 2151.352 impinges upon a juvenile's constitutional right to counsel because the provision, "Counsel must be provided for a child not represented by the child's parent, guardian, or custodian" has led to inconsistent interpretations of the right to counsel in violation of Article I, Section 10 of the Ohio Constitution and the Sixth and Fourteenth Amendments to the United States Constitution 6

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EXPLANATION OF WHY THIS CASE IS ONE OF PUBLIC OR GREAT GENERAL INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION

This case presents the Court with an opportunity to clarify two important issues regarding juvenile delinquency hearings in Ohio: a child's right to counsel under R.C. 2151.352, and a child's waiver of that right.

First, this Court should accept this case to clarify an ambiguity within R.C. 2151.352 as it applies to a child's right to counsel in a juvenile delinquency hearing. The fifth sentence of that statute provides, "Counsel must be provided for a child not represented by the child's parent, guardian, or custodian." Other states, that have identical statutory language, have interpreted it to mean that the right to counsel is nonwaivable when a child is not represented by the child's parent, guardian, or custodian. In Ohio, the lower courts have interpreted and applied this language in differently. In the instant case, the Fifth District considered the sentence and found that a child who was not represented by his parent could nevertheless waive his right to counsel. In re Spears, 5th Dist. No. 2005-CA-93, 2006-Ohio-1920, ¶30. The Second District has interpreted the sentence to mean, "[o]nly if the child has some adult to advise him may the child knowingly and voluntarily waive his right to counsel." In re R.B., 2nd Dist. No. 2005-CA-94, 2006-Ohio-264, ¶25. The Fourth District has said, "[p]arents can adequately represent their child's interests when those interests are aligned with those of the parents and, in that situation, appointment of independent counsel for the child is not necessary." In re Estes, 4th Dist. No. 04CA11, 2004-Ohio-5163, ¶10.

Further, the phrase "represented by parent..." is ambiguous in the context of the first sentence of the statute and the Juvenile Rules. Because the phrase is not defined in the statute and has not been addressed by this Court, this Court's guidance is needed to stop the lower

courts from applying inconsistent interpretations of the law. In In re Williams, 101 Ohio St. 3d 398, 2004-Ohio-1500, 805 N.E.2d 1110, this Court resolved an ambiguity created by R.C. 2151.352 as it relates to a child's right to counsel in a proceeding to terminate parental rights. The statute also creates an ambiguity with regard to a child's right to counsel in a juvenile delinquency proceeding; thus, Appellant Corey Spears asks this Court to resolve the matter as it applies to juvenile delinquency proceedings.

There is confusion amongst the lower courts about a child's right to counsel in a juvenile delinquency hearing. It is not surprising, therefore, that the courts are also uncertain about what constitutes a valid waiver of that right. Specifically, some courts of appeals have found that only substantial compliance with the language of Juv.R. 29(B) is required before a child may waive his right to counsel in a juvenile delinquency proceeding. E.g. In re Daniel K., 6th Dist. Nos. OT-02-025, OT-02-023, 2003-Ohio-1409, ¶33; In re Bennette H. (October 31, 1997), 6th Dist. No. L-97-1013, 1997 Ohio App. LEXIS 4786; In re William H. (1995), 6th Dist. No. L-94-263, 105 Ohio App. 3d 761, 766, 664 N.E.2d 1361; In the Matter of Matthew A. (Oct. 8,1999), Ottawa App. No. OT-99-034, 1999 Ohio App. LEXIS 4776. Other courts have found the language in Juv. R. 29(B)—"[a]t the beginning of the hearing, the court shall do all of the following * * *"—to be mandatory. E.g. In re Royal (1999), 7th Dist. No. 96 CA 45, 132 Ohio App. 3d 496, 502-3, 725 N.E.2d 685; In re Kimble (1996), 3rd Dist. No. 3-96-06, 114 Ohio App. 3d 136, 682 N.E.2d 1066, In re Smith (Aug. 30, 1991), 6th Dist. No. 90-OT-038, 77 Ohio App. 3d 1, 601 N.E.2d 45. Other courts, including the Fifth District in the instant case, have employed an ad hoc application of Juv.R. 29(B) and Juv.R. 29(D) together, to determine whether a child's waiver of counsel and his admission both are valid. Spears, at ¶¶53-59.

All of Ohio's courts of appeals have considered juveniles' waivers of the right to counsel. Despite this, no clear standard that respects the constitutional requirements for valid waiver of the right to counsel has emerged.[1] Therefore, this Court's pronouncement of a clear standard is urgently needed to ensure due process and fair treatment for Ohio's youth. Because R.C. 2151.352 and Ohio case law have created uncertainty in the lower courts regarding a child's right to counsel in a juvenile delinquency proceeding and a child's waiver of that right, this case is of public and great general interest and involves a substantial constitutional question.

[1] In her law review article, The Fiction of Juvenile Right to Counsel: Waiver in the Juvenile Courts, Mary Berkheiser examined the long-standing practice of permitting juveniles to waive their right to counsel. Her survey revealed, "that the vast majority of nearly one hundred post-Gault waiver of counsel cases were overturned on appeal, and those that were upheld are largely indistinguishable from those that were overturned." Of the ninety-nine surveyed cases, Ohio represented over twenty percent of the cases that overturned waivers in the juvenile courts. 54 FL. L. REV. 577, 581-82 (Sept. 2002).

STATEMENT OF THE CASE AND FACTS

On August 9, 2005, Corey Spears, aged 13, appeared in the Licking County Juvenile Court for his adjudication and disposition hearing in case numbers A2004-0329 and A2005-0616. (T.pp. 2-13). At Corey's hearing, the court began with the following colloquy:

THE COURT:	Today is August 9th, 2005. We're here in the matter of Corey Spears, Case No. A2005-0616 and A2004-0329. And you are Corey, correct?
COREY SPEARS:	Yes, sir.
THE COURT:	Corey, I have here two sets of rights papers, both of which appear to bear your signatures in several places. Are those your signatures?
COREY SPEARS:	Yes, sir.
THE COURT:	Did you read that form or have it read to you before you signed it?
COREY SPEARS:	Yes, sir.
THE COURT:	Do you understand the rights and explanations contained in that form?
COREY SPEARS:	Yes sir.
THE COURT:	Do you understand that you have the right to be represented by an attorney at today's hearing?
COREY SPEARS:	Yes, sir.
THE COURT:	If you cannot afford an attorney and you qualify under state guidelines, I will appoint an attorney to represent you. Do you understand that?
COREY SPEARS:	Yes, sir.
THE COURT:	Do you wish to go forward with today's hearing without an attorney?
COREY SPEARS:	Yes, sir.
THE COURT:	Ms. Spears, do you agree with Corey's decision today to go forward without an attorney?
MS. SPEARS:	Yes, sir.

(T.pp. 2-3). After the court dispensed with Corey's right to counsel, it continued with the hearing, explained the nature of the charges, and accepted Corey's admission to the charges. The court then explained the rights Corey was waiving by admitting to the charges, and that he could be sentenced to incarceration in a juvenile prison. (T.pp. 5-6). After Corey admitted to the charges, the court continued:

THE COURT:	Ms. Spears, do you agree with Corey's decision today to enter pleas of admission to these charges?
MS. SPEARS:	Yes, sir.
THE COURT:	Then, Corey, I'll accept the pleas of admission. Is there any statement about this situation that you wish to make?
COREY SPEARS:	No, sir.
THE COURT:	Have you talked to your mother since you got arrested?
COREY SPEARS:	No, sir.
THE COURT:	Ms. Spears, did you have an opportunity to read the police report?
MS. SPEARS:	No, sir.

(T.p. 7). Ms. Spears did not offer Corey any advice or assistance during his adjudication and disposition. (T.pp. 2-13). The court did not ask Ms. Spears if she was there to "represent" her son. (T.pp. 2-13).

After the court accepted Corey's admissions, it proceeded to disposition. (T.pp. 11-13). Corey was not represented by counsel for disposition, and the issue of counsel was not discussed. (T.pp. 11-13). Corey did not waive his right to counsel. (T.pp. 11-13). After some discussion with Corey, the court committed him to the Department of Youth Services for a minimum of six months on each charge, maximum of his twenty-first birthday, and ordered the commitments to be imposed consecutively. (T.pp. 9-10). Corey appealed his adjudication and disposition.

On April 17, 2006, the Fifth District issued its opinion in this case. In its opinion, the court addressed Corey's first two assignments of error together and found:

> The record illustrates that Appellant's admission was voluntary and that the trial court explained his rights, the charges, and the consequences of being found delinquent. Based on the foregoing, this Court finds that the trial court substantially complied with Juv.R. 29 and did not violate Appellant's constitutional rights. The record reflects that appellant's admission to the charges was given knowingly, intelligently, and voluntarily and that the trial court obtained a valid waiver of Appellant's

right to counsel. Accordingly, appellant's First and Second Assignments of Error are overruled.

Spears, at ¶59.[2]

This appeal timely follows.

ARGUMENT

FIRST PROPOSITION OF LAW

Ohio Revised Code 2151.352 impinges upon a juvenile's constitutional right to counsel because the provision, "Counsel must be provided for a child not represented by the child's parent, guardian, or custodian" has led to inconsistent interpretations of the right to counsel in violation of Article I, Section 10 of the Ohio Constitution and the Sixth and Fourteenth Amendments to the United States Constitution.

Few rights are so zealously guarded as a defendant's right to counsel in a criminal proceeding. Although juvenile delinquency proceedings are civil proceedings, "[w]hatever their label, juvenile delinquency laws feature inherently criminal aspects that we cannot ignore." State v. Walls, 96 Ohio St. 3d 437, 446, 2002-Ohio-5059; 775 N.E.2d 829, ¶26. Therefore, "numerous constitutional safeguards normally reserved for criminal prosecutions are equally applicable to juvenile delinquency proceedings." Id.; In re Gault, 387 U.S. 1, 31-57, 87 S. Ct. 1428, 18 L. Ed. 2d 527. Specifically, a child in a juvenile delinquency proceeding "requires the guiding hand of counsel at every step in the proceedings against him." Gault, at 36, citing Powell v. Alabama (1932), 287 U.S. 45, 69, 53 S. Ct. 55, 77 L. Ed. 158.

This Court has said that R.C. 2151.352 "provides a statutory right to appointed counsel that goes beyond constitutional requirements." State ex rel. Asberry v. Payne, 82 Ohio St. 3d 44, 46, 1998-Ohio-596, 693 N.E.2d 794. But the language from R.C. 2151.352—"Counsel must be

[2] The court also vacated part of Corey's disposition and reversed and remanded the matter according to its rulings on Corey's Third and Fourth Assignments of Error, which are not at issue here.

provided for a child not represented by the child's parent, guardian, or custodian"—has resulted in inconsistent interpretations that restrict a child's right to counsel in juvenile delinquency proceedings.

There are two problems currently at issue with the statutory language cited above: first, it is not clear from the plain language of the statute whether the right to counsel is not waivable where a child is not represented by his parent, guardian, or custodian; and second, the phrase "represented by parents ..." has not been clearly defined.

Other states have resolved the first issue in favor of interpreting their state's version of the statute as creating a nonwaivable right to counsel. Like R.C. 2151.352 in Ohio, the relevant code sections in Georgia and North Dakota provide: "Counsel must be provided for a child not represented by his parent, guardian, or custodian." GA. CODE ANN. § 15-11-6(b) (2006); N.D. CENT. CODE § 27-20-26 (2006). In both states, the sentence has been interpreted to mean that the right to counsel is nonwaivable when a child is not represented by the child's parent, guardian, or custodian. K. E. S. v. State of Ga. (1975), 134 Ga. App. 843, 847, 216 S.E.2d 670, citing A. C. G. v. State of Ga. (1974), 131 Ga. App. 156, 156, 205 S.E.2d 435 (The right to counsel can "be waived unless the child is not represented by his parent, guardian or custodian."); In Interest of S. (1978), 263 N.W.2d 114, 120 (Sup. Ct. of N.D.) ("In view of the rights provided by the first three sentences of this section, the fourth sentence will have meaning and effect only if it is interpreted as mandating a nonwaivable right to counsel for such a child.").

Courts of appeals in Ohio have interpreted the language differently. In the instant case, the Fifth District found that, "pursuant to R.C. 2151.352, Juv.R. 4(A) and Juv.R. 29(B), appellant was entitled to appointed counsel *provided [he] did not knowingly waive this right.*" Spears, at ¶30. (Emphasis in original.) In contrast, the Second District has interpreted the sentence to

mean, "[o]nly if the child has some adult to advise him may the child knowingly and voluntarily waive his right to counsel." In re R.B., 2nd Dist. No. 2005-CA-94, 2006-Ohio-264, ¶25. And, the Fourth District has said, "[p]arents can adequately represent their child's interests when those interests are aligned with those of the parents and, in that situation, appointment of independent counsel for the child is not necessary." In re Estes, 4th Dist. No. 04CA11, 2004-Ohio-5163, ¶10. Similarly, the Eighth District has found that "the presence of a social worker, serving in the capacity of a juvenile's custodian, nullifies the automatic-appointment-of-counsel provision of the statute." In re Smith, 8th Dist. No. 77905, 142 Ohio App. 3d 16, 20, 753 N.E.2d 930.

The inconsistent interpretations given by the district courts reveal that the first and fifth sentences of R.C. 2151.352 create uncertainty about a child's right to representation in juvenile court.[3] It seems, however, that this Court can resolve this uncertainty, as it did in In re Williams, 101 Ohio St. 3d 398, 2004-Ohio-1500, 805 N.E.2d 1110, in favor of the "plain language of the first sentence of R.C. 2151.352, as clarified by the Juvenile Rules." Williams, at ¶¶27-28.

The second problem with the language provided by R.C.2151.352 is that the phrase "represented by parents..." has not been clearly defined. The word "represent" is not defined in the statute, and the language of the statute does not offer any guidance. For example, when the word "representation" is used in the first sentence of R.C. 2151.352, it plainly refers to "representation by legal counsel." Likewise, the word "represented" as used in Juv.R. 3 and Juv.R. 4 are referring to representation "by counsel." However, in the fifth sentence of R.C. 2151.352, the word "represent" refers to a parent's, guardian's, or custodian's "representation" of the child. Further, while Juv.R. 29(B) makes repeated references to "unrepresented parties," it

[3] The first sentence of R.C. 2151.352 provides, "A child, the child's parents or custodian, or any other person in loco parentis of the child is entitled to representation by legal counsel at all stages of the proceedings under this chapter or Chapter 2152. of the Revised Code."

does not clarify by whom the child would be represented—either counsel or parent, guardian, or custodian. Juv. R. 29(B)(3)-(5). The question remains: is a child's right to counsel equivalent to his right to be represented by his parent, guardian, or custodian? The answer must be "no."

Notwithstanding their good intentions, parents cannot represent their child's legal interests in a court proceeding unless they are licensed to practice law. Further, in delinquency proceedings, parents' interests and their child's best interests are often in conflict with the child's legal interests. For example, in In re William B., the Sixth District found that the trial court erred by not appointing counsel for William "to protect his constitutional rights," and said, "appellant's mother was present in court with him at the show cause hearing * * * however * * * 'the parents or guardian do not always represent the child's best interests and are sometimes adverse thereto.'" In re William B., 6th Dist. No L-04-1305, 163 Ohio App. 3d 201, 2005-Ohio-4428, 837 N.E 2d 414, ¶15, quoting In re Agler (1969), 19 Ohio St.2d 70, 78, 249 N.E.2d 808.

As demonstrated above, the fifth sentence of R.C. 2151.352 has led to inconsistent interpretations of a child's right to representation by counsel in juvenile court; thus, this Court's clarification is needed to guarantee "the just determination of every juvenile court proceeding by ensuring the parties a fair hearing and the recognition and enforcement of their constitutional and other legal rights." Juv R. 1(B), cited in Williams, at ¶28.

SECOND PROPOSITION OF LAW

> A child's waiver of counsel should be permitted only upon strict compliance with constitutional safeguards that can ensure such waiver is knowing, intelligent, and voluntary and thus comports with due process requirements of Article I, Section 16 of the Ohio Constitution and the Fifth and Fourteenth Amendments to the United States Constitution.

In 1995, the Eighth District Court of Appeals stated, "We have found no controlling Ohio case law regarding what constitutes a valid waiver of a juvenile's constitutional right to counsel."

In re East (1995), 8th Dist. No. 67955, 105 Ohio App. 3d 221, 223, 663 N.E.2d 983. Because there exists no controlling case law to this day, courts have applied widely varying standards that have produced inconsistent results.

All of Ohio's courts of appeals have considered juveniles' waivers of counsel. Despite this, no clear standard has emerged. Some courts of appeals, including the court from East, mentioned above, have followed the waiver of counsel standard from State v. Gibson (1976), 45 Ohio St. 2d 366, 345 N.E.2d 399, as summarized in paragraph two of the syllabus: "In order to establish an effective waiver of right to counsel, the trial court must make sufficient inquiry to determine whether defendant fully understands and intelligently relinquishes that right." E.g., In re Husk, 4th Dist. No. 02CA16, 2002-Ohio-4000; In re Johnson (Aug. 23, 1995), 1st Dist. No. C-940664, 106 Ohio App. 3d 38; 665 N.E.2d 247; In re Ware (November 1, 1995), 9th Dist. No. 17252, 1995 Ohio App. LEXIS 4899.

But even among cases determined according to this standard, the courts' interpretations have varied. In Husk, the Fourth District stated that a court's determination of a valid waiver must include "an apprehension of the nature of the charges, the statutory offenses included within them, the range of allowable punishments thereunder, possible defenses to the charges and circumstances in mitigation thereof and all other facts essential to a broad understanding of the whole matter." Husk, at ¶23, quoting Von Moltke v. Gillies (1948), 332 U.S. 708, 724, 68 S. Ct. 316, 92 L. Ed. 309. In Johnson, the First District found, "[t]he court's inquiry must encompass the totality of the circumstances before the court can be satisfied that the waiver was given knowingly, intelligently and voluntarily," and that "[i]n applying the totality-of-the-circumstances test to juveniles, courts must give close scrutiny to factors such as a juvenile's age, emotional stability, mental capacity, and prior criminal experience." Johnson, at 41.

(Internal citations omitted.) In Ware, the Ninth District found that "a written waiver signed by Ware and her guardian shows that the referee ensured that she and her guardian made a knowing, intelligent, and voluntary waiver of counsel." Ware, at 3. Contra In re Solis (1997), 8th Dist. No. 71625, 124 Ohio App.3d 547, 551, 706 N.E.2d 839 ("Written waiver signed by the defendant is insufficient to show [valid waiver].").

For adult criminal defendants, the U.S. Supreme Court has said, "Waiver of the right to counsel * * * must be a 'knowing, intelligent ac[t] done with sufficient awareness of the relevant circumstances.'" Iowa v. Tovar (2004), 541 U.S. 77, 81; 124 S. Ct. 1379, 158 L. Ed. 2d 209, quoting Brady v. United States (1970), 397 U.S. 742, 748, 90 S. Ct. 1463, 25 L. Ed. 2d 747. While the Supreme Court has not "prescribed any formula or script to be read to a defendant who states that he elects to proceed without counsel, * * * [s]tates are free to adopt by statute, rule, or decision any guides to the acceptance of an uncounseled plea they deem useful." Id., at 88, 94.

In Ohio, Juv.R. 29(B) provides:

> (B) Advisement and findings at the commencement of the hearing. –At the beginning of the hearing, the court shall do all of the following:
>
> (1) Ascertain whether notice requirements have been complied with and, if not, whether the affected parties waive compliance;
>
> (2) Inform the parties of the substance of the complaint, the purpose of the hearing, and possible consequences of the hearing, including the possibility that the cause may be transferred to the appropriate adult court under Juv. R. 30 where the complaint alleges that a child fourteen years of age or over is delinquent by conduct that would constitute a felony if committed by an adult;
>
> (3) Inform unrepresented parties of their right to counsel and determine if those parties are waiving their right to counsel;
>
> (4) Appoint counsel for any unrepresented party under Juv. R. 4(A) who does not waive the right to counsel;
>
> (5) Inform any unrepresented party who waives the right to counsel of the right: to obtain counsel at any stage of the proceedings, to remain

> silent, to offer evidence, to cross-examine witnesses, and, upon request, to have a record of all proceedings made, at public expense if indigent.

Although the rule provides an outline of the adjudicatory hearing with mandatory steps given in a logical order, the application of this rule to waivers of the right to counsel has not produced a clear standard. While the plain language of the rule is mandatory, some courts have determined that only substantial compliance with the rule is required. E.g., In re Daniel K., 6th Dist. Nos. OT-02-025, OT-02-023, 2003-Ohio-1409, ¶33 ("The threshold standard to determine if an alleged delinquent child received his or her due process rights before the ultimate stage of the final adjudicatory hearing occurs is whether the presiding official substantially complied with the advisement of rights required under Juv.R. 29(B)."). See also In re Bennette H. (October 31, 1997), 6th Dist. No. L-97-1013, 1997 Ohio App. LEXIS 4786 ("While a court's total disregard of the requirements of Juv.R. 29(B) has been held to be prejudicial error, * * * substantial compliance is sufficient to satisfy the rule."), citing In re William H. (1995), 6th Dist. No. L-94-263, 105 Ohio App. 3d 761, 766, 664 N.E.2d 1361; In the Matter of Matthew A. (Oct. 8,1999), Ottawa App. No. OT-99-034, 1999 Ohio App. LEXIS 4776.

It is not surprising that "substantial compliance" has emerged as the standard for an entry of an admission or a denial in juvenile court because Crim.R.P.11(C)(2) [4] and Juv.R. 29(D) are similar. Application of the "substantial compliance" standard to Juv.R. 29(B), however, is illogical because the plain language of the rule is mandatory. In re Royal (1999), 7th Dist. No. 96 CA 45, 132 Ohio App. 3d 496, 502-3, 725 N.E.2d 685 ("The rights dialogue of Juv.R. 29(B) is mandatory and a trial court commits reversible error in failing to advise a juvenile of these

[4] This Court addressed "substantial compliance" with regard to Crim.R. 11 in State v. Stewart (1977), 51 Ohio St. 2d 86, 364 N. E. 2d 1163. See also, State v. Nero (1990), 56 Ohio St. 3d 106, 564 N.E.2d 474; State v. Billups (1979), 57 Ohio St. 2d 31; 385 N.E.2d 1308.

constitutional protections."). See In re Kimble (1996), 3rd Dist. No. 3-96-06, 114 Ohio App. 3d 136, 682 N.E.2d 1066, citing In re Smith (Aug. 30, 1991), 6th Dist. No. 90-OT-038, 77 Ohio App. 3d 1, 601 N.E.2d 45. See also Dorrian v. Scioto Conservancy Dist. (1971), 27 Ohio St. 2d 102,107, 271 N.E.2d 834 ("the word 'shall' is usually interpreted to make the provision in which it is contained mandatory").

Courts of appeals have promoted particular confusion when an opinion is based upon a mix of the analyses for a juvenile's waiver of his right to counsel and his entry of admission, as in the instant case. The trial court did not adhere to Juv.R. 29(B)(1), Juv.R. 29(B)(2), and Juv.R. 29(B)(5) before it accepted Corey's waiver of counsel, but because the Fifth District found that the trial court "substantially complied with Juv. R. 29(D)," the waiver of counsel and the entry of admission were valid. Spears, at ¶59. Compare In re Poland, 5th Dist. No. 04CA18, 2004-Ohio-5693, ¶¶19, 24 (waiver of counsel and the entry of admission were invalid where trial court engaged in a "minimal discussion with child regarding his right to counsel" and an incomplete "Crim.R. 11 colloquy"); In re Christner, 5th Dist. No. 2004AP020014, 2004-Ohio-4252, ¶17 (waiver of counsel and entry of admission were invalid where the trial court did not conduct "the kind of dialogue anticipated by the rules, before finding appellant had waived his rights knowingly, voluntarily, or intelligently"); In re Wilkins (June 26, 1996), 3rd Dist. No. 5-96-1, 1996 Ohio App. LEXIS 2812, 4-5 (waiver of counsel and entry of admission valid where the trial court substantially complied with Juv.R. 29(B) and Juv.R. 29(D); "Complete express compliance with [Juv.R. 29] not always required for a juvenile to have been accorded due process.").

The same safeguards of due process afforded to adult defendants apply to juveniles in delinquency adjudications. See In re Gault (1967), 387 U.S. 1, 87 S. Ct. 1428, 18 L. Ed. 2d 527.

Further, "[i]n light of the criminal aspects of delinquency proceedings, including a juvenile's loss of liberty, due process and fair treatment are required in a juvenile adjudicatory hearing." In re Cross, 96 Ohio St.3d 328, 2002-Ohio-4183, 774 N.E.2d 258, ¶¶21-24. As demonstrated above, there exists no clear standard for what constitutes valid waiver of a juvenile's right to counsel in Ohio. Therefore, this Court's pronouncement of a clear standard is urgently needed to ensure due process and fair treatment for Ohio's youth.

CONCLUSION

This case involves a substantial constitutional question, as well as questions of public or great general interest. This Court should grant jurisdiction.

Respectfully submitted,

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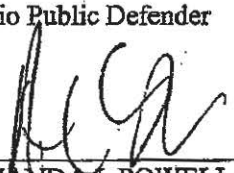

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Memorandum in Support of Jurisdiction of Appellant Corey Spears** was forwarded by regular U.S. Mail this 1st day of June, 2006 to the office of Melinda Seeds and Erin Welch, Licking County Assistant Prosecutors, 20 South Second Street, Newark, Ohio 43055.

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IN THE SUPREME COURT OF OHIO

IN RE: COREY SPEARS, A MINOR CHILD	:	Case No.
	:	On Appeal from the Licking County Court of Appeals Fifth Appellate District
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APPENDIX TO

MEMORANDUM IN SUPPORT OF JURISDICTION OF APPELLANT COREY SPEARS
