

9/23

IN CLEVELAND MUNICIPAL COURT  
CUYAHOGA COUNTY, OHIO

STATE OF OHIO,  
CITY OF CLEVELAND

CASE NO.: 26 CRB 7988

Plaintiff,

JUDGE BRETT E. HORTON

vs.

YING WANG

**RESPONSE TO MOTION FOR PARTIAL  
NO CONTACT BOND CONDITION**

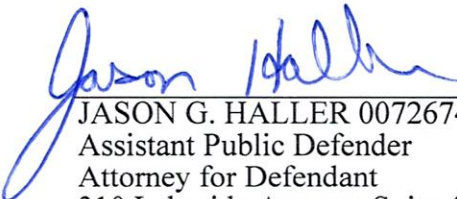
Defendant.

Now comes Defendant Ying "Teri" Wang, by and through undersigned counsel, and respectfully requests that this Honorable Court DENY the City Of Cleveland's motion for a partial "No Contact Order" as a condition of pretrial release that precludes the Defendant from personally attending Cleveland Community Police Commission Meetings. Such an order is not legally appropriate under O.R.C §2937.011 and would be an unconstitutional prior restraint on speech by prohibiting speech or expressive activities in a public forum in advance of its occurrence.

Defendant moves the Court pursuant to Article I, Sections 9 and 10 of the Ohio Constitution the 1<sup>st</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution, O.R.C §2937.011, and the case law. A Memorandum in support of this Motion is attached hereto and incorporated herein.

Respectfully submitted,

CULLEN SWEENEY  
Chief Public Defender



JASON G. HALLER 0072674  
Assistant Public Defender  
Attorney for Defendant  
310 Lakeside Avenue, Suite 400  
Cleveland, Ohio 44113  
(216) 443-8375  
jhaller@cuyahogacounty.gov

EARLE B. TURNER, CLERK  
CLEVELAND MUNICIPAL COURT

2026 SEP 14 A 9:34

FILED



## **MEMORANDUM**

### **I. BACKGROUND**

The alleged incident giving rise to the citations occurred at the Cleveland Community Police Commission (hereinafter, "CCPC") public meeting on August 26, 2026. As an initial matter, Ms. Wang disputes much of the City's rendition of facts alleged in its motion. \*See embedded video meeting link at: <https://www.youtube.com/watch?v=nZG1FNk3kO4&t=7320s> at 0:00-12:47 minutes.

Specifically, Ms. Wang never "approached and confronted the seated commissioners". She never stepped in front of the public microphone position. Also, The City states that "upon returning to her seat, [she] engaged members of the community in a turbulent manner". This statement does not fully depict the alleged incident. The video reveals that a much larger male member of the public approaches her (the same male that interrupted Ms. Wang's public comment time), leans into her face in a menacing way, and engages in xenophobic conduct by asking if she was a U.S. citizen (Ms. Wang is of Chinese descent). A CPD officer intervened by placing her hand on *his* shoulder and requesting that *he* back up. Lastly, the police were not "[u]ltimately...called in" as alleged by the City. Police were already present from the beginning of the meeting per pretrial discovery shared with undersigned counsel.

### **II. LAW AND ARGUMENT**

The City asserts that a no contact order is needed in order to: 1) regulate or prohibit Ms. Wang's contact with the "victim" (the CCPC) and 2) regulate her contact with witnesses or others associated with the case. (\*NOTE: The city erroneously cites two non-existent revised code

sections 2967.011 and 2637.011 in its motion.) Ms. Wang presumes that the City intended to cite to O.R.C. §2937.011 Pretrial Release. Additionally, the City vaguely asserts the existence of a public safety concern. All of these asserted concerns fail to meet the bail condition threshold found in O.R.C. §2937.011 and Article I, Sections 9 and 10 of the Ohio Constitution. Furthermore, such an order would constitute a classic prior restraint, thus violating Ms. Wang's constitution rights to free speech and assembly.

#### CITY OF CLEVELAND IS NOT A "VICTIM" UNDER OHIO LAW

The City of Cleveland asserts that its CCPC is the victim of the citations for Disrupting Public Meeting and Disorderly Conduct, therefore, giving this Court authority to limit Ms. Wang's contact with that governmental body pursuant to 2937.011(D)(5) Regulating or Prohibiting defendant's contact with victim. However, a review of the citations reveals they do not list the CCPC, or anyone else for that matter, as a named victim.

More importantly, the Ohio Supreme Court has held that a municipal corporation (a governmental entity or its sub-agencies) does not qualify as a "victim" under Article I, Section 10 of the Ohio Constitution. *City of Centerville v. Knab*, (2020), 162 Ohio St.3d 623. The Court concluded that the ordinary meaning of the word "person" in this context encompasses only natural persons and private business entities and does not extend to political subdivisions or public corporations. *Id* at 632. The Community Police Commission is a permanently established municipal commission approved by Cleveland voters in November 2021 (Issue 24) and codified in Cleveland City Ordinance 115-5(b). Therefore, neither the City nor its Commission can designate themselves as a "victim" for these purposes.

The City alternatively asserts that a no contact order is required pursuant to 2937.011(D)(6) to generically "regulate her contact with witnesses and others associated with the case." In its

motion, the City leaves out the operative clause of this statute subsection which fully states, “Regulating the defendant's contact with witnesses or others associated with the case upon proof of the likelihood that the defendant will threaten, harass, cause injury, or seek to intimidate those persons[.]” (Emphasis added). O.R.C. §2937.011(D)(6).

The City offered no proof at arraignment or in its motion that Ms. Wang has ever threatened, caused injury to, or intimidated anyone in the instant case or prior to. She has no criminal record whatsoever and is not charged with any offense of violence, harassment, menacing, or intimidation in the instant case. The most that the City could argue in attempting to meet the statutory requirement is that she engaged in a brief verbal dispute with a member of the public in the audience. Additionally, the statute requires protection of “persons”, not municipal corporations. These claims are insufficient for the statute and fall woefully short of overcoming the heavy presumption of unconstitutional prior restraint as discussed below.

#### UNCONSTITUTIONAL PRIOR RESTRAINT

Under both Federal and Ohio law, a protection order or a "no contact order" that forbids speech or expressive activities in advance of its occurrence is characterized as a prior restraint on speech. *Alexander v. United States*, 509 U.S. 544, 550 (holding “The term “prior restraint” is used to describe administrative and judicial orders forbidding certain communications when issued in advance of the time that such communications are to occur. [C]ourt orders that actually forbid speech activities are classic examples of prior restraints.”) See also, *City of Seven Hills v. Nations*, 76 Ohio St.3d 304 (1996) holding the same.

Both the United State Supreme Court and the Ohio Supreme Court have held that, “While prior restraints are not unconstitutional *per se*, they do carry a heavy presumption against their constitutional validity.” (Empasis added). *Organization for a Better Austin v. Keefe* (1971), 402

U.S. 415, 419, 91 S. Ct. 1575, 1578, *City of Seven Hills, supra*. The City cannot overcome this heavy presumption under the facts of this case.

Both Federal and State courts take a dim view of pre-silencing protected speech in public fora. When it comes to speech, the application of a criminal law should generally occur *after* the contested speech takes place, not *before* it is even uttered. As observed by both the United States Supreme Court and Ohio Supreme Court,

[O]rdinarily, the State's constitutionally permissible interests are adequately served by criminal penalties imposed after freedom to speak has been so grossly abused that its immunity is breached. The impact and consequences of subsequent punishment for such abuse are materially different from those of prior restraint. Prior restraint upon speech suppresses the precise freedom which the First Amendment sought to protect against abridgement.

*Carroll v. President & Commrs. of Princess Anne*, 393 U.S. 175, 180-181, 89 S.Ct. 347, (1968) and *Bey v. Rasawehr*, 161 Ohio St. 3d 79, 2022-Ohio-3301. The City is inviting this Court to sanction this very thing -- pre-silencing Ms. Wang rather than prosecute theoretical future incidents. The remedy is clear pursuant to these cases: if Ms. Wang engages in further alleged conduct constituting Disruption, it is a misdemeanor of the fourth degree and therefore an arrestable offense at the time of the commission of the offense.

The City next claims that the requested no-contact order is not an infringement on her First Amendment rights. In support of this claim, it cites the single case of *City of Independence v. Muscatello*, 2024-Ohio-4905, ¶ 47 (8th Dist.) for the proposition that a defendant's rights are lessened upon being *charged* with a crime. (italics mine.) *Muscatello* is hardly a constitutional prior restraint case at all. Rather, it involves the legality of imposing community control sanction (probation) conditions in a post-conviction setting. *Muscatella* merely stands for the proposition that, at post-conviction stage, the State need only satisfy reasonable-relationship test rather than strict scrutiny test of prior restraint. Ms. Wang urges this Court to read the opinion for itself.

## TEST

A no contact order or injunction restricting an individual from attending public meetings is presumptively considered unconstitutional. *Organization for a Better Austin, supra*. To overcome this burden, the Government must clearly demonstrate the restriction is content-neutral rather than content-based and 2) that it represents a narrowly tailored limitation on the time, place, and manner of speech in a public forum. *City of Dayton v. Esrati*, (1997) 125 Ohio App. 3d 60, 63. Ms. Wang submits that the requested order amounts to content-based restriction because it will only apply to her and will effectively silence her frequently articulated issue positions that are unpopular with the Plaintiff City, CCPC, and certain members of the public. Ms. Wang further submits that such an order cannot be narrowly tailored to preserve her constitutional rights.

The City submits that this request to ban her from CCPC meetings is “the least restrictive means and is reasonably related to the Defendant’s allegations”. It argues that, if granted, the Defendant may be able to still participate remotely via viewing the broadcast live from YouTube with live written commentary available. The commentary is a Youtube chat box. However, upon information and belief, those comments are neither read out loud at the meeting nor preserved. The City next offers an olive-branch that the Parties may be able to agree on submission of written commentary to the Commission in advance of the meeting. While the suggestion is greatly appreciated, it is not clear at all whether the Special Prosecutor, or this Court for that matter, has the authority to order the CCPC to alter its meeting procedures as an accommodation.

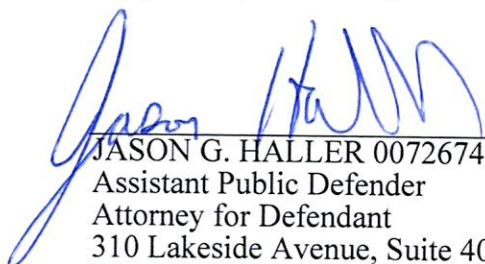
Lastly, the City asserts that Ms. Wang can adequately express herself on social media in lieu of public comment at the meeting. This has been flatly rejected by the Courts. Under First

Amendment jurisprudence, the availability of alternative channels for expression in cyberspace—including the vast democratic forums of the internet and social media—does not serve as an adequate substitute for access to public meetings, nor does it excuse or insulate governmental regulations from strict constitutional scrutiny. *Bey v. Rasaweher*, 161 Ohio St. 3d 79, 86, 2022-Ohio-3301, ¶27, citing *Reno v. Am. Civ. Liberties Union*, 521 U.S. 844, 868, 117 S. Ct. 2329, (1997) and *Packingham v. North Carolina*, 582 U.S. 98, 137 S.Ct 1730, 1735, (2017).

### **Conclusion**

Pursuant to the foregoing law and argument, Ms. Wang respectfully requests that this Honorable Court DENY the City Of Cleveland's motion for a partial "No Contact Order" as a condition of pretrial release that precludes the Defendant from personally attending Cleveland Community Police Commission Meetings.

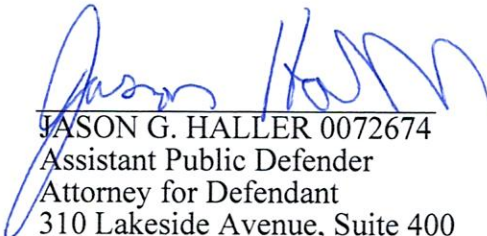
Respectfully submitted,



JASON G. HALLER 0072674  
Assistant Public Defender  
Attorney for Defendant  
310 Lakeside Avenue, Suite 400  
Cleveland, Ohio 44113  
(216) 443-8375  
jhaller@cuyahogacounty.go

**CERTIFICATE OF SERVICE**

A copy of this Brief in Response to the Motion for a Partial No Contact Bond Condition has been served this 14th Day of September 2026, to the following: Edward Fadel, Special Prosecutor, City of Cleveland, via electronic mail transmission at [efadel@lawofficefadel.com](mailto:efadel@lawofficefadel.com)

  
JASON G. HALLER 0072674  
Assistant Public Defender  
Attorney for Defendant  
310 Lakeside Avenue, Suite 400  
Cleveland, Ohio 44113  
(216) 443-8375  
[jhaller@cuyahogacounty.gov](mailto:jhaller@cuyahogacounty.gov)