

IN THE INTEREST OF : IN THE COURT OF COMMON PLEAS
ANTON RAY, : OF ERIE COUNTY, PENNSYLVANIA
 : JUVENILE DIVISION
 :
A JUVENILE : Docket No. 123 of 2002

MOTION TO DISMISS LATE-FILED ALLEGATIONS

AND NOW, comes that above-named juvenile, Anton Ray, by and through her attorney, Ines M. Massella, Assistant Public Defender, and files the within Motion to Dismiss Late-Filed Allegations, and in support thereof states as follows:

1. The movant is a juvenile, 16 years of age, with a date of birth of September 17, 1985.

2. On August 5, 2002, the undersigned attended a scheduled admission hearing with the juvenile regarding one allegation of possession of drug paraphernalia and one allegation of possession of a weapon on school property.

3. Upon review of the allegations presented, the undersigned noted that the offenses were alleged to have occurred on or about May 25, 2001, while they were not filed until April 1, 2002.

4. The juvenile related to the undersigned that he had informed school authorities approximately one week prior to the date of the allegations that his back pack had been stolen from his locker. On the date of the allegations, he was called to the office where his backpack and its contents were dumped on a table. A knife was included in the contents. The information regarding the theft

of the backpack could not be confirmed by the police report and no school authorities were present at the admission hearing.

5. A cursory review of the police report revealed no good reason for the fact that these allegations were not filed in a timely manner but were filed nearly one year later.

6. Absence of good cause for the delay in filing the allegations (e.g., an ongoing investigation) should, the undersigned argues, require that the allegations be dismissed.

WHEREFORE, the above-named juvenile respectfully requests that this Honorable Court enter an order dismissing the allegations against him, or, in the alternative, issue a rule against the Commonwealth to show cause why the allegation should not be dismissed.

Respectfully submitted,

Ines M. Massella
Assistant Public Defender
451-6505

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RULE TO SHOW CAUSE

AND NOW, this ____ day of _____, 2002, it is ORDERED and DECREED that a Rule is hereby issued against the Commonwealth to show cause why the relief requested in the foregoing Motion, dismissal of the allegations filed against the above-referenced juvenile, and styled as Allegation Nos. 3 and 4, should not be granted. Said rule returnable the _____ day of _____, 2002, at _____ in Court Room _____ at the Erie County Court House.

BY THE COURT:

John J. Trucilla, J.