

IN THE CRIMINAL COURT OF DAVIDSON COUNTY, TENNESSEE
DIVISION III

STATE OF TENNESSEE,)

vs.)

WILLIE AUSTIN DAVIS.)

Case No. 2017-A-62

MOTION

February 9, 2018

February 28, 2018

FILED
Davidson County
Criminal Court Clerk
BY HB
Deputy Clerk

BEFORE: Honorable Cheryl Blackburn
Presiding Judge

APPEARANCES:

FOR THE PLAINTIFF

Mr. Chandler Harris
Assistant District Attorney General
Office of the District Attorney General
222 2nd Avenue North
Nashville, TN 37201

FOR THE DEFENDANT

Mr. Greg King, Esquire
Attorney at Law
530 Church Street
Nashville, TN 37219

FILED
FEB 04 2020
Clerk of the Appellate Courts
Rec'd By _____

Prepared by:

Patsy Norman, LCR #410
Primary Designated Reporter
Nashville, TN 37201

1 THE COURT: The Davis matter was
2 put on the docket today because of some correspondence
3 that was sent to MBA. What we need to do is have a
4 hearing.

5 In the meantime, Mr. Davis, no more
6 correspondence with MBA until we have a hearing. Do
7 you understand? No correspondence with anybody from
8 MBA until we have this hearing.

9 MR. DAVIS: Yes, ma'am.

10 THE COURT: Did you all pick a
11 date?

12 MR. KING: March 2nd.

13 THE COURT: March the 2nd.

14 GENERAL HARRIS: And, Judge, I just
15 have one point of clarification. I meant to bring it
16 up to the Court earlier. The most recent
17 correspondence that was sent, that I gave the Court a
18 copy of, was actually not sent from Mr. Davis
19 directly, but it was from Mr. Davis's wife. And so
20 the state would ask that no member of the Davis family
21 communicate with the school.

22 THE COURT: Right. No. Right. We
23 have to have this hearing.

24 MR. KING: I don't have any problem
25 with that. She is not a party to this probation.

1 THE COURT: Okay. But I don't want
2 any communication with MBA at this point until we have
3 a hearing.

4 MR. KING: Okay. You're saying
5 from anyone --

6 THE COURT: Right. Let's just
7 stop. That's all I want. Until we have a hearing and
8 then we can talk about it all then.

9 MR. KING: Okay.

10 THE COURT: Okay.

11 GENERAL HARRIS: Thank you, Your
12 Honor.

13 THE COURT: Stop.

14 END OF PROCEEDINGS 02/09/2018

15

16 02/28/2018

17 THE COURT: Okay. Mr. Davis is
18 present in the courtroom.

19 Now, this was sort of a status, I
20 told everybody to kind of basically chill --

21 GENERAL HARRIS: Yes.

22 THE COURT: -- with regard to the
23 issue of sending any e-mails to Montgomery Bell.

24 GENERAL HARRIS: Yes.

25 THE COURT: So, how are we doing?

1 GENERAL HARRIS: Well, Judge, as
2 recently as a few weeks ago, I understand that Mr.
3 Davis personally corresponded with the headmaster, Mr.
4 Gioia, at MBA. He basically made demands and --

5 THE COURT: Since he's been in
6 court?

7 MR. KING: No.

8 THE COURT: No?

9 GENERAL HARRIS: Not since we met
10 last time. I understand there's been no
11 correspondence. However, I believe that Mr. Davis
12 told the Court at his actual previous probation
13 violation he would cease all of his e-mails, and the
14 Court didn't necessarily make that an express
15 condition, but the Court acknowledged that Mr. Davis
16 agreed to do that.

17 MR. KING: Well, no, Your Honor, I
18 hate to interrupt and I apologize, but you said he
19 didn't have to stop e-mailing or using his e-mail.
20 That was your response to what he said.

21 THE COURT: He just needs to quit
22 corresponding with anybody related to this situation.

23 MR. KING: But MBA's not related to
24 it.

25 THE COURT: I know, but I said stop

1 for MBA too. Remember? Until we could have a hearing
2 about it.

3 MR. KING: Well, MBA wasn't the
4 subject of that, that day.

5 GENERAL HARRIS: I think the Court
6 and Mr. King are talking about two different things.

7 MR. KING: It was that violation
8 hearing.

9 GENERAL HARRIS: I'm talking about
10 the violation hearing from back in 2017.

11 MR. KING: Yeah. November.

12 GENERAL HARRIS: I was looking at
13 the documents, and I wrote on the amended judgment
14 that Mr. Davis agreed and volunteered to quit
15 e-mailing all of his nonsensical e-mails that he has
16 been sending out for years.

17 Now, while he has not, and I have
18 not found anyone that has received any new material
19 from him that would have violated his probation, I do
20 know he is continuing to send those types of e-mails
21 to other people that are on his list. And I know the
22 Court didn't make that an express condition of his
23 probation. I felt like I had an obligation to bring
24 it to the Court's attention that he is now acting or
25 behaving in a way that he himself told the Court he

1 would not.

2 MR. KING: Well, while I think he's
3 treading a fine line there, Your Honor, but it wasn't
4 subject to the probation conditions, and MBA wasn't
5 subject to it in early November 6th when we had the
6 hearing.

7 THE COURT: Okay. It's just been
8 on the docket a couple of weeks ago.

9 GENERAL HARRIS: Yes. But since
10 its been on Your Honor's docket --

11 THE COURT: And that wasn't via a
12 probation violation. That was just something that you
13 wanted to bring to the Court's attention.

14 GENERAL HARRIS: Correct. Yes.
15 That's correct, Judge. And, to my knowledge, since me
16 and you and Mr. King discussed it a few weeks ago, he
17 has not e-mailed MBA. So he has not done anything to
18 violate the Court's order since then.

19 THE COURT: All right. So, what do
20 we need to do? Because there's really no violation
21 outstanding.

22 GENERAL HARRIS: There isn't. And,
23 Judge, I spoke, basically due to some scheduling
24 issues, Mr. Gioia is not here today. I spoke with him
25 on the phone and, if the Court's okay with it, I'd

1 just like to pass his sentiments along to the Court
2 and perhaps, if it would be appropriate, ask the Court
3 to modify Mr. Davis's probation to include no
4 correspondence with Mr. Gioia personally, no
5 correspondence with any staff member or faculty member
6 at MBA, and no correspondence with any MBA parent.

7 THE COURT: If you want me to
8 modify probation conditions, then you need to file a
9 motion to that and then we would need to have a
10 hearing.

11 GENERAL HARRIS: Yes, Your Honor.

12 THE COURT: And then we would need
13 to have a hearing. I just can't, based on your oral
14 thing, do it.

15 GENERAL HARRIS: I understand.

16 THE COURT: I mean so we can
17 understand what we're doing here.

18 How much longer is the probation?
19 Just remind me.

20 GENERAL HARRIS: I believe it will
21 go till October. Or until, excuse me, September.

22 MR. KING: September. It'll end
23 September 27th or something.

24 THE COURT: Okay. So we're clear,
25 if you want me to do that, you're going to need to

1 file a motion so that we can have a hearing about
2 that.

3 GENERAL HARRIS: Yes, Your Honor.

4 THE COURT: So that Mr. King and
5 his client can either agree or say no or, and then
6 we'll see where we are at that point. But I can't
7 just sua sponte modify his conditions unless he's
8 willing to do that.

9 GENERAL HARRIS: Understand.

10 THE COURT: If he wants to do
11 that, that's one thing. I sincerely doubt that that's
12 something he wants to agree to.

13 GENERAL HARRIS: I concur with the
14 Court's --

15 THE COURT: Okay. Just based on all
16 of our hearings.

17 So let's do this. General, file
18 that, and then we'll set it for a hearing when it's
19 filed.

20 MR. KING: Should we put it on the
21 same day as the motion for new trial? April 4?

22 THE COURT: That's a Wednesday.

23 MR. KING: Is that when it is -
24 April 4?

25 GENERAL HARRIS: Well, I think that

1 had, if we could confirm in CJIS when that is set. I
2 think there's a possibility it might actually be set
3 on Friday. I believe. Because I think in trying to
4 get this matter scheduled separate from the motion for
5 a new trial, the motion for new trial may have been
6 moved up to this Friday by the state. So if we could
7 confirm what that date was.

8 MR. KING: Oh. Well, I wasn't
9 planning on being here.

10 THE COURT: (To Clerk) Do we have
11 a motion for new trial date yet for him?

12 MR. KING: I thought it was April
13 4. I might be mistaken.

14 THE COURT: Look it up. This is
15 2014-C-2273.

16 CLERK: I show that it was 2/7.

17 MR. KING: Yeah. Originally.

18 CLERK: Okay. I don't have it
19 reset.

20 THE COURT: We don't have a reset
21 date. Well, then let's get a reset date and do both
22 of them at the same time.

23 GENERAL HARRIS: That would be
24 fine, Judge.

25 Would the Court, again, I've spoken

1 with Mr. Gioia, and I've got sentiments that if he
2 were here today he would've expressed to the Court.
3 Would the Court like to hear those now or should we
4 wait?

5 THE COURT: No. I don't want to
6 hear anything now until you file that. Because that
7 wouldn't be appropriate. Okay?

8 GENERAL HARRIS: Understand.

9 MR. KING: Can we get together
10 regarding, so we can try to set?

11 THE COURT: Why don't we do this on
12 a Wednesday. Go to Ms. Wetzel and get a date that
13 you all agree on. Get your motion filed by then, and
14 we'll take care of everything at the same time.

15 MR. KING: That'll work.

16 GENERAL HARRIS: Very good.

17 THE COURT: In the meantime, Mr.
18 King.

19 MR. KING: Everything stays --

20 THE COURT: Same. No having
21 communication with Mr. Gioia or MBA or anything. Just
22 status quo. It seems to be for the last couple of
23 weeks being okay.

24 MR. KING: Okay. Got it.

25 GENERAL HARRIS: Thank you, Judge.

END OF PROCEEDINGS 02/28/2018

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COURT REPORTER'S CERTIFICATE

I, Patsy Norman, Primary Designated Reporter,
in and for the State of Tennessee,

DO HEREBY CERTIFY that the foregoing
proceedings were taken at the time and place set forth
in the caption thereof; that the proceedings were
stenographically reported by me in shorthand; and that
the foregoing pages constitute a true and correct
transcription of said proceedings to the best of my
ability.

I FURTHER CERTIFY that I am not a relative or
employee or attorney or counsel of any of the parties
hereto; nor a relative or employee of such attorney or
counsel; nor do I have any interest in the outcome or
events of this action.

IN WITNESS WHEREOF, I have hereunto affixed
my official signature this 6th day of December, 2019,
at Nashville, Davidson County, Tennessee.



Patsy Norman
Primary Designated Reporter
State of Tennessee