

IN THE CRIMINAL COURT OF DAVIDSON COUNTY, TENNESSEE
DIVISION III

STATE OF TENNESSEE,)
)
vs.) Case No. 2017-A-62
)
WILLIE AUSTIN DAVIS.)

MOTION TO MODIFY CONDITIONS OF PROBATION

April 6, 2018

BEFORE: Honorable Cheryl Blackburn
Presiding Judge

FILED
Davidson County
Criminal Court Clerk
DEC 18 2018
BY WB
Deputy Clerk

APPEARANCES:

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

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1 THE COURT: Austin Davis.

2 All right. Now, we're not here
3 about the motion for a new trial. We picked a new
4 date on that. This has to do with the state's motion
5 to modify conditions of probation, and it has to do
6 with contact with individuals from MBA.

7 Now, I guess I need to hear,
8 because the conditions were could have no contact with
9 anyone from the Covenant Presbyterian Church. Off
10 limits, none of that.

11 So, in the meantime, there's an
12 issue about contact with MBA, and the state wants, I
13 guess, some direction from the Court?

14 GENERAL HARRIS: Well, yes, Your
15 Honor. That's correct.

16 THE COURT: Okay. Well, then call
17 your first witness.

18 GENERAL HARRIS: Judge, the state
19 would call Mr. Gioia.

20 TESTIMONY OF BRADFORD GIOIA

21 BRADFORD GIOIA was called as a
22 witness and, after being duly sworn, was questioned
23 and testified as follows:
24
25

1 DIRECT EXAMINATION BY GENERAL HARRIS

2 Q. Good morning, sir. Would you
3 please state and spell your name for the court
4 reporter.

5 A. Bradford Gioia. B-r-a-d-f-o-r-d,
6 last name G-i-o-i-a.

7 Q. And where are you employed, sir?

8 A. Montgomery Bell Academy.

9 Q. And how long have you been so
10 employed?

11 A. Twenty-four years.

12 Q. And what is your position at
13 Montgomery Bell Academy?

14 A. Headmaster.

15 Q. And, Mr. Gioia, did you receive
16 correspondence or did folks at MBA, parents, faculty
17 and staff, receive correspondence from a gentleman
18 named Austin Davis in October of last year?

19 A. Yes.

20 Q. And would you please tell the Court
21 a little bit about what Mr. Davis, what the nature of
22 this correspondence was.

23 A. He sent an e-mail to literally
24 hundreds, I can't quantify the number, of individuals
25 at school and, from my point of view and others, used

1 our e-mail list without any authority.

2 Q. And -- Oh. Excuse me. Go ahead,
3 sir.

4 A. And the e-mail was an expression of
5 a number of his concerns, none of which seemed to be
6 about our school. The problem was that he scared a
7 lot of people and indicated in the e-mail that they
8 should read this e-mail before our homecoming game
9 that evening. That also heightened the alarm of a
10 number of individuals, to the point where I had at
11 least twenty phone calls that same morning asking me
12 if there would be police or other protection at the
13 game because they were worried about individual
14 welfare.

15 Q. And you asked for additional
16 protection as a result of that; is that correct, sir?

17 A. I did call the district attorney
18 and asked him what he would recommend.

19 Q. Yes, sir. And just for context
20 sake, Mr. Davis does not presently have a child at
21 MBA; is that correct?

22 A. He has a son, Drew Davis, who
23 graduated recently.

24 Q. And that would have been in the
25 spring of last year?

1 A. Yes.

2 Q. And so he used the parent, the
3 current parent list serve to send his communication
4 out; is that right?

5 A. Yes.

6 Q. But Mr. Davis did not ever make it
7 to the game; is that correct?

8 A. I'm sorry. I didn't hear that.

9 Q. He never made it to the game that
10 evening?

11 A. Not that I'm aware of.

12 Q. So, between that time and February
13 of this year, did you hear from Mr. Davis at all?

14 A. No. Not until February.

15 Q. And you did receive some
16 correspondence from him on February 7th of this year;
17 is that correct, sir?

18 A. That's correct.

19 Q. Please tell the Court about that.

20 A. He wrote me, and his wife then
21 wrote me, asking me to apologize for his being
22 detained by the police and I believe then imprisoned,
23 essentially suggesting that this was all my fault and
24 wanted an apology.

25 Q. How did you interpret his demand

1 for an apology?

2 A. I just think he was frustrated and
3 was somewhat providing a veiled threat.

4 Q. A veiled threat in your eyes. Did
5 you respond to Mr. Davis at that time?

6 A. I did not.

7 Q. In fact, You reached out to our
8 office; is that correct?

9 A. That's correct.

10 Q. You received further correspondence
11 on February 9th; is that right?

12 A. That's correct.

13 Q. And who did that come from?

14 A. I believe that was a second e-mail
15 from his wife, and then from one of his friends asking
16 me to forgive him and to meet with him and to
17 reconcile whatever concerns there were on my part.

18 I would like to add I really don't
19 have any particular concerns except the welfare of the
20 school. I don't know that I took this personally,
21 except that it interfered with my time and work.

22 Q. Including today?

23 A. Including today.

24 Q. Yes, sir. As it relates to the
25 second e-mail, did you deem that to be a veiled threat

1 as well?

2 A. I think it was as much a plea for
3 an apology and an expression of their own angst about
4 his having to endure whatever he feels he's enduring.

5 Q. Did you respond to that e-mail?

6 A. I did not.

7 Q. Are you aware if any other members
8 of the faculty at MBA have received e-mails, similar
9 e-mails from Mr. Davis?

10 A. Well, of course, many did on that
11 October date. It is still a topic of concern. Even
12 this morning, when people knew I was coming down here,
13 they expressed their own frustration with, you know,
14 why he is using our e-mail, why he is demanding some
15 sort of attention from the school. But, as far as I
16 know, they only received that e-mail in October, and I
17 don't think they received anything subsequently that I
18 know of.

19 Q. Is Mr. Davis presently allowed on
20 campus at MBA?

21 A. We don't have a restriction about
22 that. I probably would not be pleased if he were on
23 the campus until I had some understanding from him
24 about what his own intentions are and why he has put
25 the school in this position.

1 Q. Understand. What would you like to
2 see the Court do as it relates to Mr. Davis's contact
3 with you and the MBA community today?

4 A. I would like him to desist from all
5 contact with me and the entire school community.

6 Q. Okay. Is there anything else you'd
7 like to add, Mr. Gioia?

8 A. No.

9 GENERAL HARRIS: Thank you, sir.

10 Those are my questions.

11 THE COURT: Mr. King.

12 CROSS EXAMINATION BY MR. KING:

13 Q. Good morning, Mr. Gioia.

14 A. Good morning.

15 Q. Greg King. I've met you before. I
16 just want to ask you a few questions.

17 While Drew was attending MBA, were
18 there any extraordinary e-mails or any veiled threats
19 from Mr. Davis or his family?

20 A. None. Which is why I find the
21 current status of this frustrating.

22 Q. Okay. And then after Drew had
23 graduated this past, I guess the first part of June,
24 were there any e-mails or concerns or any furtive
25 movements by Mr. Davis or his family toward any

1 faculty members or anything while he was on campus?

2 A. None that I know of.

3 Q. And I think it was probably known
4 that he would attend some of the campus activities
5 like baseball, football games in the fall, and things
6 like that?

7 A. He was frequently on the campus.

8 Q. Yes. And there weren't any issues
9 there?

10 A. No. But I would like to add that
11 there were concerns because his engagement with both
12 the Harpeth Hall Community and Covenant Church was
13 well-known, and a number of people on the campus
14 expressed their concern about how they felt he had
15 intruded on the lives of those campuses.

16 Q. And was that occurring before the
17 October e-mail to you and the MBA community?

18 A. Absolutely.

19 Q. Okay. But at the time, you were
20 thinking maybe this could be an isolated or just
21 something temporary. You didn't expect any e-mails or
22 anything of that nature forthcoming by Mr. Davis?

23 A. You mean prior to October of 2017?

24 Q. Yes, sir. No, no. Yes. Of
25 course.

1 A. I was hopeful that he would not
2 involve MBA, because I knew firsthand from a number of
3 discussions about the concerns and frustrations from
4 those other communities.

5 Q. Okay. And after the e-mail in
6 October, did he, was there anything else he did by any
7 mode or medium that would have caused you concern?

8 A. Not until February.

9 Q. Until February, and that was --

10 A. Of this year.

11 Q. That that was the first
12 communication you received since the October event?

13 A. Yes.

14 Q. Okay. All right. And so when you
15 received the October e-mail, the February 7 and
16 February 9 e-mails, you considered them as veiled
17 threats, did you think there could be some imminent
18 threat of harm or injury when you received those?

19 A. Well, I certainly had that feeling
20 directly from a number of phone calls I received.

21 Q. Uh-huh.

22 A. Personally, I probably felt it more
23 in February when I sensed that his feelings were more
24 intense because of the jail time he served. I don't
25 know that I felt it so intensely, but it bothered me.

1 Q. Okay. And then did you think the
2 apology that was being, I guess I didn't realize that
3 this occurred, but a friend of Mr. Davis's tried to
4 contact you to apologize on his behalf?

5 A. He didn't try. He wrote me
6 directly.

7 Q. He wrote you directly. Did you
8 feel that was sincere?

9 A. I think he thought it was sincere.

10 Q. Okay.

11 MR. KING: That's all I have, Mr.
12 Gioia, and thank you for your time.

13 THE COURT: Okay. I just want to,
14 you know, I'm kind of, I'm new to some of this. Judge
15 Dozier did, but I also had Mr. Davis on another issue,
16 so I'm not totally unfamiliar with Mr. Davis. We had
17 one hearing prior to this, and that was mainly about
18 having any sort of, with a list serve or anything to
19 the Covenant Presbyterian Church. You have no,
20 nothing about that, right? This is a totally
21 separate, except for his son being in your school up
22 to last spring, this is not about, or is it, are there
23 a lot of members of the Covenant Presbyterian Church
24 that have children at MBA?

25 A. My sense of the story is that he

1 was trying to gain sympathy, crowd sourcing, to come
2 to his point of view about whatever frustrations he
3 has with Covenant. He knows that we do have some or a
4 number of families engaged in both Covenant and
5 Harpeth Hall. And so I believe that he was gaining,
6 he was hopeful to gain some support for his point of
7 view.

8 THE COURT: So if he used a list
9 serve from Montgomery Bell parents, he might also hit
10 people who go to the Covenant Presbyterian Church?

11 A. Absolutely.

12 THE COURT: Okay. So, even though
13 he was ordered not to have any contact with Covenant
14 Presbyterian Church members, whatever they are, he
15 could have, if he used your list serve, contacted them
16 via that?

17 A. Yes.

18 THE COURT: Okay. But this latest
19 round of e-mails just to you directly, after the thing
20 in October was over with, it's to demand you
21 apologize?

22 A. Yes.

23 THE COURT: Because we had to have
24 a hearing about him, and I put him in jail for a few
25 days?

1 A. I believe because there was a
2 restraining order about his communications, and the
3 police and D.A.'s Office confronted him about it and I
4 believe the --

5 THE COURT: Well, he was
6 arrested --

7 A. And they arrested him and he was
8 put in jail, and he saw me then as the reason for his
9 jail time.

10 THE COURT: Okay. All right.
11 Well, actually, I'm the one that signed the warrant.
12 So, if there's any confusion, I'm the one that signed
13 the warrant. Okay.

14 Okay. Well, thank you. I'm sorry
15 for you having to be here all morning. You can remain
16 here or just leave if you need to.

17 Anything further from the state?

18 GENERAL HARRIS: No, Your Honor.

19 THE COURT: Okay.

20 Mr. King, do you have any?

21 MR. KING: No, Your Honor.

22 If anything, Mr Davis, if you want
23 to hear his brief testimony, his testimony would be
24 that he did not, that he took off anyone from Covenant
25 Presbyterian off the e-mail list.

1 THE COURT: General, what is it,
2 what's the state's position on what we have? This is
3 not a, there's no probation violation in front of the
4 Court. Is this what you're doing is wanting me to
5 modify the conditions of probation to include now
6 Montgomery Bell Academy?

7 GENERAL HARRIS: Well, Judge, the
8 state's position is actually an even broader
9 restriction on Mr. Davis. As the Court will recall,
10 even though it was not made an expressed provision of
11 his probation back in November of last year, Mr. Davis
12 volunteered to the Court that he would just quit
13 e-mailing altogether. And the Court just maintained
14 the prior probation restrictions, but Mr. Davis made
15 that, he promised that to the Court.

16 THE COURT: Actually, it's on the
17 judgment form. (Reading) "Defendant agrees to cease
18 all e-mailing."

19 GENERAL HARRIS: Correct. And I
20 remember when he said that, and I thought to myself
21 this needs to be on the judgment, because he has
22 volunteered this for himself. While that is not a
23 provision of the Court's probation, it's absolutely
24 something that he said he would do. But here, yet
25 again, we find Mr. Davis biting the hand that has fed

1 him again as it relates to his probation. He first
2 said that he wouldn't e-mail anyone from Covenant.
3 Well, that was not true because he e-mailed them when
4 he hijacked the MBA parent list serve in October of
5 last year. He next told the Court that he would not,
6 he would quit e-mailing altogether. Well, now we know
7 that not to be true because he e-mailed Mr. Gioia at
8 least one time, and members of his family e-mailed Mr.
9 Gioia again. We have the same repeated pattern over
10 and over.

11 The effect is very clear. Mr.
12 Davis has known this for a long time. Whenever he
13 sends his e-mails out, he knows it intimidates and
14 harasses people. Period. And the Court has proof, I
15 submit that the Court ought to credit the testimony of
16 Mr. Gioia that that's exactly what this was intended
17 to do and that's exactly what the effect was; and
18 that's to intimidate or harass him, certainly to cause
19 him concern about, you know, as Donald Rumsfeld said,
20 you know, we know where the unknowns are. That's
21 exactly what we're dealing with here and that's
22 exactly the sentiment that Mr. Gioia has presented to
23 the Court. He knows that Mr. Davis exists, but,
24 again, feels threatened because he just doesn't quite
25 know what he is going to do. And neither does anyone

1 else. The problem is that Mr. Davis knows it, and
2 that's why he continues to engage in this type of
3 activity.

4 He expressed to the Court he would
5 quit e-mailing. He has not. The state's request is
6 that the Court modify his probation to take out all
7 his internet access. Certainly, the Court has the
8 power to do it. We do it with people charged with
9 other crimes. The bottom line is that Mr. Davis
10 should not be extended any benefit or a benefit of the
11 doubt that he will quit e-mailing again because he
12 just very simply hasn't followed through on that
13 before.

14 So, the state would ask that the
15 Court take away all his internet access from his home.
16 If the Court is not going to go that far, then
17 certainly I think that an express probation condition
18 disallowing Mr. Davis from communicating with Mr.
19 Gioia personally or with anyone on the faculty or
20 staff at MBA or parents via the list serve, obviously,
21 would be appropriate under the circumstances.

22 The bottom line is Mr. Davis has
23 too much time on his hands.

24 THE COURT: I was just going to
25 ask when is his probation over. It's 11/29.

1 MR. KING: September or October.

2 THE COURT: When?

3 MR. KING: September or October.

4 THE COURT: It looks like he was
5 convicted September the 28th of 17. Is that when the
6 original sentence was placed into effect?

7 GENERAL HARRIS: That's when the
8 sentencing hearing was.

9 THE COURT; Okay. And that's when
10 he was put on 11/29.

11 GENERAL HARRIS: That's correct.

12 THE COURT: We had a hearing
13 November 6th, so kind of restarted it, but he does get
14 that credit. But, technically, I think September 17th
15 is when this is over with.

16 GENERAL HARRIS: I believe you're
17 right.

18 THE COURT: This part of it over
19 with. Okay.

20 Mr. King, do you have a response to
21 what the state's asking? Basically, he's asking me to
22 take away your client's access to the internet.

23 MR. KING: Yeah. But it's, I mean
24 pervasively. But Mr. --

25 THE COURT: Okay. Well. So what

1 does your client need to use the internet for?

2 MR. KING: Well, he needs to use
3 the internet for many things, like we all do.
4 However, he didn't hijack the directory. He gets a
5 parent directory every year and he used those. He
6 would've testified today that he took out any Covenant
7 Presbyterian, anyone that is associated with MBA that
8 attends Covenant, he took those out anyways.

9 Now, when we were here in November,
10 I am the one that had recommended well, let's keep him
11 off the internet, he didn't recommend that, and you
12 said no, we're not going to do that. So, that wasn't
13 something he volunteered.

14 THE COURT: Well, it's in the
15 judgment.

16 MR. KING: That was something I
17 did, really, without his authority.

18 THE COURT: Okay. Well, that's
19 e-mail.

20 MR. KING: E-mail, yes.

21 THE COURT: This is e-mailing.
22 That's different than being totally off the internet.

23 MR. KING: I understand. I don't
24 think, at this point, he needs to be in contact with
25 anyone, with any faculty members and Mr. Gioia from

1 MBA. Not at all.

2 THE COURT: MBA is off.

3 MR. KING: Montgomery Bell Academy.

4 THE COURT: So you're agreeing that
5 MBA of any --

6 MR. KING: Well, he has friends,
7 you know, parents, that his children attended
8 Montgomery Bell Academy, and that's going to be really
9 hard to police there. But I understand any current
10 faculty members, he doesn't object to that. He
11 doesn't need to put Montgomery Bell Academy in any
12 situation where they're going to anticipate --

13 THE COURT: Your client wants to
14 say something, so why don't you ask him what it is he
15 wants to say. Why don't you turn around and ask him.
16 He has a comment.

17 MR. KING: He says he wants to
18 testify, but --

19 THE COURT: That's up to you or
20 him.

21 MR. KING: (To Mr. Davis) Yeah.
22 If you want to.

23 THE COURT: Okay. Well, Mr. Davis,
24 step around.

25 MR. KING: I'd like to say

1 something else.

2 THE COURT: Why don't we let Mr.
3 Davis testify first.

4 TESTIMONY OF AUSTIN DAVIS

5 AUSTIN DAVIS was called as a
6 witness and, after being duly sworn, was questioned
7 and testified as follows:

8 DIRECT EXAMINATION BY MR. KING

9 Q. Mr. Davis, you expressed your
10 desire to testify. Is there anything you would like
11 to add to this hearing?

12 A. Yeah. I was trying to communicate
13 to people about a child sex abuse cover-up and its
14 connection to the rape of a, an alleged rape of a
15 sixth grade student.

16 Q. Okay. But --

17 A. I'm not trying to scare anybody. I
18 haven't threatened anybody in the e-mails or anything.
19 I mean people can turn me into a monster and a threat,
20 but I basically have been looking after the protection
21 of kids.

22 THE COURT: Okay, Mr. Davis, that
23 is an issue I think that has gotten you into a lot of
24 trouble.

25 A. It shouldn't.

1 THE COURT: Well. But you keep
2 e-mailing and, correct me if I'm wrong, e-mailing and
3 sending out all these mass mails about that, and
4 people don't want to hear about it.

5 A. Well, the D.A.'s Office should be
6 prosecuting child molesters instead of covering them
7 up.

8 THE COURT: Okay. Well, that's
9 their, up to them. Okay? That's not up to you.
10 Okay?

11 A. Okay.

12 THE COURT: So, the question is why
13 can't you, at least until September, stop with that?
14 And then also leave people, who are trying to just go
15 on with their lives that don't have anything to do
16 with that, leave them alone?

17 A. There's a molester living on Belle
18 Meade Boulevard about twelve doors away from --

19 THE COURT: Okay, Mr. Davis, that
20 is not --

21 MR. KING: Mr. Davis, answer the
22 question specifically.

23 A. Well, she's asking me a question.

24 MR. KING: If she asks you
25 something that's black and white, say it's black and

1 white. But the question --

2 A. She's asking me why, because I
3 don't want to be shackled on that issue.

4 THE COURT: Okay. Well. You're
5 going to be shackled on that issue, one way or
6 another, and that would be by me telling you something
7 or I'm going to put you in jail again. Now, that is
8 not an issue that you need to be harassing people
9 about, who don't have any legal authority to do
10 anything about it. Why would you send e-mails about
11 that --

12 A. I wasn't -- One of my sons --

13 THE COURT: No. Listen to my
14 question. Why would you send an e-mail about that
15 circumstance to people who have no ability, one, who
16 don't care about it, don't know about it, and have no
17 authority to do anything about it? Just some random
18 person that you start complaining about, your
19 allegation that there was some sex offense committed
20 by somebody somewhere at some time, and you send that
21 out. There is no possible logical reason at all for
22 you to do that, now is there?

23 A. So the state wants us not, the
24 citizens not talk about child sex abuse if we know
25 where a molester is?

1 THE COURT: No. That's not what
2 I'm telling you. Right now, what I'm telling you is
3 that's the substance of the conversation you want to
4 have with people you don't know, and you want to send
5 out a mass mailing about something that they, one,
6 don't know anything about, probably don't care about
7 themselves, and they have no authority or no ability
8 to assist in what you think you're trying to do. You
9 are not the state to investigate, are you?

10 A. No. I'm a citizen, and we have a
11 mandatory duty to report under state law, which I've
12 tried to do.

13 THE COURT: All right. Well,
14 that's been going on for some years.

15 MR. DAVIS: Well, that's because
16 the police and the D.A.'s Office --

17 THE COURT: Okay. If you're so
18 intense about following that law, what does that law
19 say? You have an obligation to contact DCS. That's
20 the only obligation.

21 MR. DAVIS: Which I did.

22 THE COURT: Which you've done.
23 Done and done.

24 A. Did.

25 THE COURT: You don't have any

1 other obligation, nor does anybody else, if they don't
2 have any personal knowledge of it, have any obligation
3 to do anything else about it.

4 A. Well, Larry Nassar had 265 girls he
5 got to because it's obviously in his file.

6 THE COURT: Okay. That's not
7 before this Court and we're not going to talk about
8 it.

9 Now, I want you to listen to this.
10 You cannot give me a reasonable explanation about why
11 you need to contact people who are not involved in
12 that, never have been involved in that, are not going
13 to be involved in that. And you can't use the excuse
14 because of mandatory reporting. Because if you read
15 the mandatory reporting law, that's not what it says.
16 Okay.

17 So can you get -- What I'm trying
18 to get your client to do is to stop bothering people.
19 Now, how do we do that?

20 BY MR. KING

21 Q. Are you willing to refrain from
22 contacting Montgomery Bell Academy, any of the staff
23 members, by any mode or medium?

24 A. The staff? Yeah. I could care
25 less about contacting them.

1 Q. Any of them?

2 A. I've done it. I don't even care
3 about going on the MBA property.

4 Q. I understand that.

5 A. I don't care about talking to
6 anybody at MBA. If they want to ban me from doing
7 that, that's fine.

8 Q. Well. Just stop that.

9 A. If she wants to ban me from doing
10 that, then ban me and my wife and children. My wife
11 and both children are also banned. I didn't get to go
12 to my son's friend's funeral last week that killed
13 himself, at St. George's Church, because I'm banned
14 under Judge Dozier's ruling. I couldn't go to the
15 funeral of a friend who committed suicide at MBA.

16 Q. Okay.

17 A. Last Monday.

18 Q. If we stop all this, things are
19 going to calm down, and you'll be able to attend
20 things in the future. It's not that far away. Are
21 you willing to have some patience?

22 A. To not communicate with people at
23 MBA or correspond? The word was correspondence,
24 correct?

25 Q. I'm talking about staff and

1 faculty. Okay?

2 THE COURT: I want you to stop, for
3 the purpose of this probation period, stop bothering,
4 stop communicating with people from MBA. That's the
5 staff, that's the people there, and don't go there.

6 MR. DAVIS: Okay. And does that
7 include my wife and two children, who don't have a
8 lawyer and all that?

9 THE COURT: I have no jurisdiction
10 over your wife and two children.

11 MR. DAVIS: Okay.

12 THE COURT: But they cannot do it
13 on your behalf.

14 MR. KING: What if he has a good
15 friend that's a parent alumni?

16 THE COURT: Well, then he needs to
17 call you and ask you.

18 MR. DAVIS: So anybody that knows
19 me is banned from communicating with MBA?

20 THE COURT: No. I didn't say that.
21 You're asking me if he can
22 communicate with a friend that happens to go, an
23 alumnus.

24 MR. KING: An alumnus, parent
25 alumnus. Yeah. Any type of friend.

1 THE COURT: Why don't you just call
2 your attorney and see if that's okay.

3 So long as he knows the person, and
4 the person's willing to hear from him. I mean he just
5 can't randomly start, you know, well, I know this
6 person or whatever.

7 All I'm trying to do, Mr. Davis, is
8 get you to follow the Court's order and not bother
9 people that don't want to listen from you or want to
10 hear from you in any way about something that they
11 don't have anything to do with.

12 MR. KING: For instance, there
13 could be a parent that his or her child played
14 baseball with Drew last year --

15 GENERAL HARRIS: Judge, I mean I
16 don't really want to play out every scenario.

17 MR. KING: Oh, we're not, but.

18 GENERAL HARRIS: The bottom line --

19 MR. KING: We're talking about
20 friends.

21 GENERAL HARRIS: I mean --

22 THE COURT: Okay. I just want him
23 to stop.

24 MR. KING: I know. But, see, he
25 can contact a friend and the D.A.'s Office can find

1 out about that and say no, and he's in jail.

2 THE COURT: Okay. But he can also,
3 I mean the other thing is I know what he's trying to
4 do is to say well, my wife and my children. I don't
5 have jurisdiction over them.

6 MR. KING: I understand.

7 THE COURT: But they cannot do it
8 at his behest. There's a difference.

9 MR. DAVIS: What does that mean?
10 Does that mean me asking them?

11 THE COURT: Yeah. You can't ask
12 your wife to do something that you can't do.

13 MR. DAVIS: What if she does it and
14 I don't ask her? What if somebody does something just
15 of their own volition?

16 MR. KING: I think there's an
17 appearance there and we're going to have to discuss
18 that out in the hall. Okay?

19 THE COURT: I'm not sure, what I do
20 not understand, and we went around and around last
21 November about this, is why you do not understand just
22 to stop doing it, and then your life would be a whole
23 lot better. I mean why are you insistent upon being
24 hauled back into court --

25 MR. DAVIS: It's called First

1 Amendment freedom of speech. You just have a right to
2 speak.

3 THE COURT: Well, in this
4 particular issue, you don't have a First Amendment
5 freedom of speech.

6 MR. DAVIS: Okay. That's good to
7 clarify.

8 THE COURT: Okay. Well, you've
9 forfeited it based on your behavior.

10 MR. DAVIS: In a rigged trial that
11 I had? I had a rigged trial.

12 THE COURT: Mr. Davis, listen to
13 what I say. I am now saying you cannot contact, do a
14 mass e-mailing, can't contact anybody that you know to
15 be from MBA or anybody on their list, their faculty,
16 anybody who works there, especially Mr. Gioia, his
17 wife, his family, stop contacting them. Just don't do
18 it.

19 MR. DAVIS: Fine. I'm okay with
20 that.

21 THE COURT: And, apparently, you
22 haven't done it for some time.

23 MR. DAVIS: I haven't.

24 THE COURT: Okay. Well, then let's
25 keep that up. Don't do it.

1 MR. DAVIS: I would be doing it,
2 but I'm banned, so I'm accepting the ban.

3 THE COURT: Okay. Good. Well,
4 then that's where we are.

5 MR. KING: I have nothing further.

6 MR. DAVIS: Do I still have
7 internet or other access? Is that the only thing
8 added?

9 THE COURT: So long as you don't do
10 what I just told you not to do.

11 General, did you want to ask him
12 anything?

13 GENERAL HARRIS: Just a few
14 questions.

15 CROSS EXAMINATION BY GENERAL HARRIS

16 Q. Mr. Davis, why don't you just get a
17 job?

18 A. I'm retired.

19 MR. KING: Your Honor, I object.
20 That's -- Nothing.

21 THE COURT: That's --

22 GENERAL HARRIS: Judge, he's
23 mandated by probation to have a job. If he has a job,
24 he doesn't have time to do this.

25 THE COURT: Unless he has some

1 exception. And that's between him and his
2 probation --

3 Who's your probation officer?

4 MR. DAVIS: (To General Harris)
5 Why don't you stop bullying me, okay? Just because
6 you're a d.a. doesn't make you a god.

7 MR. KING: Mr. Davis, please stop
8 this.

9 MR. DAVIS: Well, he's not a god.

10 THE COURT: Mr. Davis, you're about
11 to get yourself into custody. Just calm down and let
12 your attorney talk for you.

13 Now, he's retired.

14 Q. Do you agree that your e-mails
15 cause people to feel concern about you?

16 A. No. I don't agree with that.

17 Q. So, even in light of the testimony
18 of Mr. Gioia, you disagree with his assertion that he
19 felt threatened by you?

20 A. I think that they can create any
21 kind of threat they want if they've got something
22 they're hiding, and I think that's what they're doing.

23 Q. So you think that Mr. Gioia is now
24 hiding something?

25 A. Yeah, I do.

1 Q. Along with everyone else at MBA?

2 A. Not everyone at MBA. Just some
3 like Mr. Gioia. Yeah. Him personally.

4 Q. All right. And is that the reason
5 that you used the list serve last fall?

6 A. I'm an MBA parent. I have a e-mail
7 directory that MBA gives me, and people send out
8 advertisements, business stuff. People do stuff on
9 there all the time. I seem to be the only guy
10 specialed out that says you can't communicate with MBA
11 parents.

12 Q. Okay. Who all's at MBA --

13 A. It's not like I don't know the
14 people. I've been in the community for years. I grew
15 up where the tennis courts are. I've known people, I
16 went to school with guys that went to MBA. You act
17 like I'm some stranger in the community.

18 Q. Who else is hiding something over
19 there?

20 A. I don't think I'm supposed to get
21 into all those things. I think that I'm kind of
22 restricted on what I can say.

23 THE COURT: And that issue, as I've
24 explained, doesn't have anything to do with this or
25 them. Okay? Just stop. You said you were going to

1 stop doing it.

2 MR. DAVIS: Well, he's asking.

3 THE COURT: All right. So just stop
4 doing it. Okay.

5 Do an addendum to the probation
6 violation that Mr. Davis cannot e-mail, cannot use
7 their list serve, cannot contact any member, faculty
8 member, Mr. Gioia, his family, their families, or
9 anybody that has any contact with MBA for the rest of
10 his probation.

11 Now, Mr. Davis, obviously, you've
12 been able to abide by those rules since I told you
13 that, so let's keep it up.

14 MR. DAVIS: Yes, ma'am.

15 THE COURT: Okay. All right.

16 END OF PROCEEDINGS

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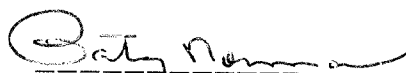
COURT REPORTER'S CERTIFICATE

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