

Harassment does not include “statutorily or constitutionally protected activity.” The Defendant’s blogs in the within matter are no more than comment. The Prosecutor advised the Grand Jurors the Defendant’s comments were “over the top, um, unsubstantiated statements against either Dr. Conner or Judge Humphrey.” The Prosecutor advised the Grand Jurors that unsubstantiated statements as determined by the Prosecutor and his staff are not constitutionally protected speech. The U.S. Supreme Court determined “The First Amendment, however, embodies ‘a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.’” *N.Y. Times Co. v. Sullivan*, 376 U.S. at 270, 84 S.Ct. 710. To require a critic of the government to verify and guarantee the truth of all facts would lead to self-censorship, thereby dampening the vigor and limiting the variety of public debate, which is inconsistent with the First Amendment. *id.* The Prosecutor provided the Grand Jurors with the incorrect law on the issue of harassment and the constitutionally protected right of the Defendant to make the comments presented.

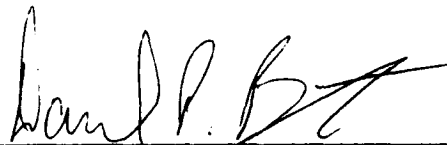
The issue is not whether the blogs of the Defendant are “over the top” or “unsubstantiated statements.” The issue is whether the speech of the Defendant is constitutionally protected and it is. The instruction provided to the Grand Jurors by the Prosecutor was incorrect and contrary to law. The fact the Defendant made a negative comment about Connor, Humphrey, the Prosecutor, or anyone else does not affect the Defendant’s constitutional right of free speech.

The postings by the Defendant cannot be considered anything other than free speech. The posting of Heidi Humphrey’s address on the Defendant’s blog is not in violation of any law. The address is accessible as the result of her role on the Ethics and Professionalism Committee of the

Indiana Supreme Court. The address of Heidi Humphrey can be gleamed from the Tax Assessor's office, the petitions of Judge Humphrey to run for office, the campaign finance reports of Judge Humphrey, and probably multiple other sites the Defendant has not investigated at the present time. There is no law prohibiting the disclosure of an elected officials address. If the concern of the public official is so great there are a number of precautions to be taken including but not limited to resignation from office. The alternative of prosecuting someone who searches public records is hardly the solution for a timid public servant who cannot stand the heat in the kitchen and refuses to leave.

Finally, there is no way to determine if the Defendant's statements are unsubstantiated concerning Connor as the Defendant has not had the ability to review the Custody Evaluation file to determine if what is contained in the report is substantiated by Connor's report. The purported victims could have avoided the entire process by simply providing the Custody Evaluation file to the Defendant who was appearing pro se. Even Connor stated in the Grand Jury it would be okay to provide the Custody Evaluation file to an attorney but not the Defendant who was appearing pro se. Grand Jury Transcript, p. 82. Unfortunately, Connor refused to provide the Custody Evaluation file to the Defendant's divorce attorney or counsel for the Defendant in Ohio. Connor, without the Defendant's authorization or knowledge, provided the Grand Jury with the Defendant's file without a special order from the Court. Connor refused to answer subpoenas issued by at least one other Court and refused to provide the case file while voluntarily surrendering it to the Grand Jury without benefit of a court order.

Defendant requests the Court to dismiss the charges against the Defendant.



Daniel Brewington
301 W. High Street
Lawrenceburg, Indiana 47025
No telephone number
Inmate DCLEC

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing was hand delivered to upon all parties or counsel of record including F. Aaron Negangard, Prosecuting Attorney, Dearborn County Courthouse, Lawrenceburg, Indiana 47025 this 3 day of October 2011.



Daniel Brewington