

**COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT**

No. SJ-2022-0432

**RIAN WATERS,
Petitioner/ Complainant**
v.

**AIDAN KEARNEY,
Respondent/ Defendant**

SPRINGFIELD DISTRICT COURT: 2223AC803

Motion to Supplement the petition

Filed Pro se by Rian Waters

/s/ Rian Waters
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Dated 12/06/2022

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I. Introduction and request for relief

I, pro se petitioner move to supplement the petition with due process challenges over the handling of BMC criminal show cause hearing 2201AC003838. I also move for the court to require that the court make

the record publicly available so that among other reasons a transcript can be ordered, and Kearney's perjury can be identified.

II. Procedural background

On November 14th, 2022, I had a 5 minute and 39 second conversation with Boston Municipal Court clerk's office requesting the court issue witness subpoenas for both Aidan Kearney and Cristina Yakimowsky. An assistant clerk conferred with a superior, and then told me that the court said that they will not issue a subpoena for a criminal show cause hearing.

I filed a written motion requesting that the court make the record open to the public. At the start of the hearing Kearney asked the court if he could record the hearing and distribute the proceeding publicly. After the hearing I asked the court about getting the recording and transcript to identify perjury, and the court said that no probable cause was issued, so I am therefore not allowed access to the recording.

During the criminal show cause hearing on December 1st, 2022, the court did not tell me I had an opportunity to ask Aidan Kearney questions, and because of past complaints I did not think I was allowed to.

When it was Kearney's turn the court told Kearney he could ask me questions. Kearney told several lies and misrepresentations including but not limited to;

1. Kearney said he had no idea what the #BlogDat group chat was, and said it only existed in my mind.
2. Kearney claimed that he did not go to Cristina Yakimowsky's criminal hearing on June 17th, and that he did not give the court screenshots of the #BlogDat group chat, and he pretended to not know what I was talking about.
3. Kearney said I filed 7 criminal complaints.
4. Kearney implied that I filed several lawsuits, instead of just two.
5. Kearney alleged that he thought a child that gave me a hug was a drug addict falling on me.

Kearney closed his argument by asking about a child that he has been trying to identify so that he can destroy her future simply because she gave me a hug. Kearney knew that because of his disgusting history attacking children that attacking a child would stress my adjustment disorder and prevent me from thinking clearly.

The court then said I was only allowed to respond with one argument, and after allowing Kearney to speak freely the clerk said that I had to choose an argument relevant to the October 10th threat.

As I started making an argument the court let Kearney yell over me, I asked that I be given a chance to speak and I do not feel I was given a meaningful one.

III. Kearney’s testimony, and the facts he thereby made relevant.

Aidan Kearney argued that because I never spoke to Crissy, she is not a witness, and he lied saying he never testified against her.

- a. I tried to get a witness subpoena for Crissy, the court did not let me.
- b. Aidan Kearney testified that Crissy worked for him for two years¹, on June 17th 2022 in 1966-CR-1686, and he gave the court screenshots of the BlogDat group chat to prove she intimidated a victim in that case. (RA 44) Kearney did not deny testifying on June 17th in this court. (SJ-2022-0327 pg 14)
- c. Aidan Kearney has publicly called Crissy my witness, and he showed screenshots of my motions identifying her as such, (RA 42) and Kearney publicly admits he is punishing her for the screenshots in my exhibits.
- d. Crissy admitted to the holden police that she was sharing screenshots of the BlogDat group chat. (RA 19) Kearney initially lied about the group chat, and the police decided lying was okay because Kearney trusted the members of his “inner circle.”

¹ Kearney uploaded the audio file from the June 17th court date to YouTube on June 22nd, and he testifies here <https://youtu.be/wgnEcI7OA1g?t=626>

Aidan Kearney argued that because I comment on his Facebook and YouTube posts that I was not scared of him.

- a. I turned the other cheek for three years and I got nowhere. Defending myself has completely stopped a steady stream of threats and most of the harassment against me.
- b. I am not scared of him attacking me, I am worried about Kearney directing his followers to attack people I care about as he always does.
- c. On September 24th, 2020, during an interview² (hearsay exception 801(d)(2)) Aidan Kearney admitted that his organization was cultish, and he said “definitely I think there is a pack mentality to it, and I am well aware that when I hit the publish button and I share something on Facebook, that this is going to have an immediate impact on the person it was written about, and then there will be a large group of people who will then go to that person.”

Kearney asked about the identity of a 10-year-old girl at the end of his argument knowing that it would prevent me from fairly responding to his arguments.

² <https://youtu.be/xHm0-eZUPls?t=2670>

- a. Kearney has said the best way to respond to lawsuits is to attack the litigant's friends and family, so they pressure the litigant to stop.³
- b. Kearney is legally aware from multiple motions, and he has admitted numerous times to coconspirators during conspiracies that his threats and harassment trigger my adjustment disorder. (RA 15)
- c. Kearney said he published articles before Crissy's court hearings to rattle the victim and make her seem less believable.
- d. Aidan Kearney's attempt to identify children frightens me because he is an obvious psychopath who has threatened to rape kids, he has defended a guy that bragged about molesting my daughter, and Kearney identifies as a sex cult leader.

Kearney argued that my lack of job and preoccupation with stopping his crime implied I was insane.

- a. On July 11th, 2019, Kearney said he would harass anyone that hired me. 1879 cv 0344 (Docket 67.2 at 17) Even if I had a job, I would not tell him or the court to protect the employer.

³ https://youtu.be/yznEChP_KzA?t=640 form 10:40 to 11:53

- b. Kearney has been causing preoccupation and suppressing evidence with constant crime.

Aidan Kearney argued he is a journalist running an important business.

- a. Aidan Kearney committed perjury saying he wound down, to fraudulently cancel his business in order to convey and conceal assets.

Aidan Kearney is aware that I was diagnosed with adjustment disorder, and Kearney knows that adjustment disorder is triggered by threats and similar conduct, and that it goes away on its own after the stressor stops. Adjustment disorder does not make you delusional, it causes me primarily preoccupation, and sleep disturbances. (RA 15) Adjustment disorder cannot be diagnosed if another major mental disorder is diagnosed.



Ep #493 - Worcester Softball Mom | Easton Trump Store Attack | Drag Queen | Is Crissy Going to Jail?



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3,403 views Streamed live on Jun 18, 2022

Welcome to the weekend live show, discussing all the biggest stories of the week.

As you can see above, on June 18th 2022 Aidan Kearney not only showed screenshots of the #BlogDat group chat from his perspective, but he showed that he conspired with Cristina Yakimowsky to use his platform to intimidate a victim in a criminal case. Kearney says multiple times in the video that he gave the screenshots to the court.⁴

Kearney admitted he is punishing her because she leaked screenshots of the #BlogDat group chat.⁵

⁴ https://youtu.be/85Ch9_jAGG8?t=6860

⁵ https://youtu.be/85Ch9_jAGG8?t=5559 (Kearney identifying members of the BlogDat group chat and saying Crissy was sharing messages)

IV. Argument

The court flagrantly violated due process

By allowing Kearney to repeatedly ask about an irrelevant child, and limiting me to only respond to one argument the court never gave me a meaningful opportunity to be heard. I did not have notice of Kearney's frivolous arguments before the hearing because prior to this hearing Kearney had only exercised his fifth Amendment right when asked about the allegations. I could not have predicted that Kearney planned on committing perjury and arguing irrelevant but prejudicial material. The court "need[s] to ensure that each party has fair notice of the arguments to which he must respond." *Office of Personnel Management v. Richmond*, 496 U.S. 414, 441 (1990) "The core of due process is the right to notice and a meaningful opportunity to be heard." *LaChance v. Erickson*, 522 U.S. 262, 266 (1998) It would be reckless to affirm on a ground that the appellant had never had a chance to address." *Frederick v. Marquette Nat. Bank*, 911 F.2d 1, 2 (7th Cir. 1990)

"In its Fourteenth Amendment, the Constitution imposes on the States the standards necessary to ensure that judicial proceedings are fundamentally fair." *Lassiter v. Department of Social Servs.*, 452 U.S. 18, 20 (1981) "Due process' requires, at minimum, that absent countervailing

https://youtu.be/85Ch9_jAGG8?t=5802 Kearney saying he is punishing Crissy for sharing messages.)

state interest of overriding significance, persons forced to settle their claims of right and duty through the judicial process must be given meaningful opportunity to be heard. U.S.C.A. Const. Amend. 14.” *Boddie v. Connecticut*, 401 U.S. 371, 91 S. Ct. 780, 28 L. Ed. 2d 113 (1971) “Every judge must exercise his inherent powers as necessary to secure the full and effective administration of justice.” *Commonwealth v. O’Neil*, 418 Mass. 760, 764-5 (Mass. 1994) (“[T]he power of the judiciary to control its own proceedings, the conduct of participants, the actions of officers of the court and the environment of the court is a power absolutely necessary for a court to function effectively and do its job of administering justice.”)

Kearney’s perjury should only be used against him.

Kearney has previously lied about and then come clean about the BlogDat Group chat. (RA 19) While reckless disregard is acceptable for 268 13B, Kearney’s numerous misrepresentations in this proceeding infer criminal intent. “[W]e have noted that ‘significant’ evidence of consciousness of guilt, such as providing a false statement in an effort to exculpate oneself, can carry great weight.” *In re Sushchyk*, 489 Mass. 330, 335 (Mass. 2022) Where it appears that perjured testimony may have played some part in influencing the district court to render a judgment, the perjury will not be weighed, on a motion to set aside the judgment. The district court must determine if the judgment obtained in part by the use of perjury. If it was, then it is clearly the duty of the district court to set

aside the judgment.” Peacock Records, Inc. v. Checker Records, Inc., 365 F.2d 145, 146 (7th Cir. 1966)

The court should not let intimidation influence their decision.

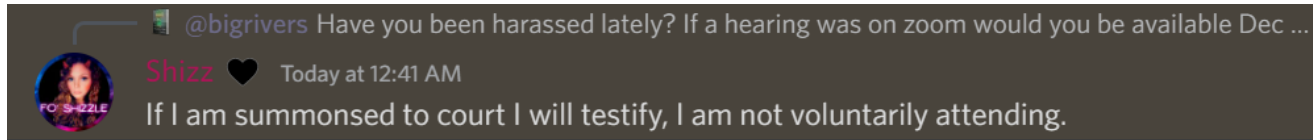
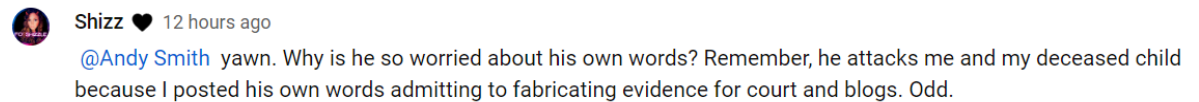


Figure 1 Cropped from discord



*Figure 2 cropped from YouTube
<https://www.youtube.com/post/Ugkx9ZBa9Mq8F127b1ZgG29SG2p-ixKSp4Lx?lc=Ugxmz2lNg6qfbUd7v2F4AaABAg.9jBEO0j6WHH9jHHeps0qJd&lc=Ugxmz2lNg6qfbUd7v2F4AaABAg.9jBEO0j6WHH9jHHeps0qJd>*

Aidan Kearney recently admitted on a plain view recorded video that he fabricated the threats to obstruct the court cases. I cannot get that evidence because Kearney is still viciously attacking Shannon Labarre (Shizz in screenshots) because she gave me evidence proving that Kearney knew I did not send the November 19th threats. (RA 25)

“While the plaintiff has not submitted supporting affidavits from these witnesses, that would not be surprising if, in fact, they were being threatened. The attorneys' affidavits, while certainly not conclusive, constitute reliable evidence to support the plaintiff's contention that it is likely to prevail on its claim that the witnesses were threatened.” Rissman,

Hendricks & Oliverio v. MIV Therapeutics, Inc., CIVIL ACTION No. 11-10791-MLW, at *11 (D. Mass. Oct. 20, 2011)

Additionally, with the application for a criminal complaint I included a screenshot of Kearney's June 10th, 2022, Facebook post, (RA 42) which featured a screenshot of my motion identifying Crissy as my (potential) witness for the motion with a hearing on June 28th, and asking his followers to leave bad reviews on her business Facebook page specifically because she supported me. "The Commonwealth was not required to prove that an actual crime had occurred or that a criminal investigation was in progress when the alleged intimidation occurred." Commonwealth v. Fragata, No. SJC-12330, 10-11 (Mass. Jul. 18, 2018)

"Mass. Gen. Laws ch. 268, § 13B punishes anyone who 'willfully [attempts]' to intimidate a witness; it does not require that the intimidation be successful." Commonwealth v. Robinson, 444 Mass. 102, 102 (2005) "The Commonwealth does not need to prove that the victim of witness intimidation was actually intimidated or frightened." Commonwealth v. Nordstrom, No. 20-P-1192, (Mass. App. Ct. Nov. 23, 2021)

A statement is not hearsay if the statement is offered against a party and is "a statement by a coconspirator of a party during the course and in furtherance of the conspiracy." Fed.R.Evid. 801(d)(2)(E) Kearney has admitted there was a conspiracy. (RA 25) When Kearney said "I am

the one who did it” still falls under the exception because it was a statement meant to keep conspirators abreast.

Fraud on the court

"A 'fraud on the court' occurs where it can be demonstrated, clearly and convincingly, that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability impartially to adjudicate a matter by improperly influencing the trier or unfairly hampering the presentation of the opposing party's claim or defense." *Choi v. Toyota Motor Sales USA, Inc.*, 93 Mass. App. Ct. 1101, (Mass. App. Ct. 2018) "Because corrupt intent knows no stylistic boundaries, fraud on the court can take many forms." *Aoude v. Mobil Oil Corp.*, 892 F.2d 1115, 1118 (1st Cir. 1989)

Kearney intentionally unfairly hampered the presentation of my argument by asking about an innocent child. Kearney's denials about the #BlogDat group chat and his lies about his history with my witness was clearly intended to mislead the court and improperly influencing the trier. In a civil setting "entry of a default judgment for fraud on the court has been warranted for creating and presenting false evidence in support of a claim or defense" *Rockdale Management Co. v. Shawmut Bank, N.A.*, 418 Mass. 596, 599 (Mass. 1994)

A judicial conspiracy can be inferred for Civil Rights Lawsuits.

Kearney's threats keep escalating with judicial approval. Every judge that **unintelligibly** approved of the June 18th threats, and thereby caused Kearney to violate more civil rights, will soon be listed as nominal defendants in a California civil rights lawsuit.

Kearney said that he was not worried about getting in trouble for the November 19th threats because 90% of court clerk support him. The courts' decisions approving of Kearney's threats cannot be justified with fact or law. "Acts which seem otherwise innocent, when viewed in the context of the surrounding circumstances, may justify an inference of complicity." *United States v. Batimana*, 623 F.2d 1366, 1368 (9th Cir. 1980). "Intent is not at issue where intimidation or coercion is obvious." *Park v. Thompson*, 851 F.3d 910, 920 (9th Cir. 2017) That principle applies squarely in this case, where the caustic political environment surrounding [the Defendant] may have caused the jury to infer that an ulterior motive lay at the heart of [the Courts'] actions." *Gilbrook v. City of Westminster*, 177 F.3d 839, 857 (9th Cir. 1999) ("Evidence that police failed to exercise independent judgment will support an inference of conspiracy with a private party.") "[S]tate courts that aid private parties to perform [due process violations] implicate the State in conduct proscribed by the Fourteenth Amendment." *Evans v. Newton*, 382 U.S. 296, 302 (1966)

"Private parties who corruptly conspire with a judge in conjunction with the judge's performance of an official judicial act are acting under

color of state law for the purpose of § 1983, even if the judge himself is immune from civil liability.” Kimes v. Stone, 84 F.3d 1121, 1126 (9th Cir. 1996) see Dennis v. Sparks, 449 U.S. 24, 29 (1980)

V. I am not asking the BMC to redetermine.

I cannot afford to deal with any more corruption. The powder keg has become a fertilizer truck and I am not give the BMC a chance to ignite it.

VI. Conclusion

This court should issue a summons and issue a criminal complaint, as well as directions and rules instilling auxiliary precautions in show cause hearings that will facilitate due process and equal protection and the furtherance of justice.

Submitted,

Pro se, Rian Waters

/s/ Rian Waters dated 12/06/2022 (530) 739-8951 Watersrian@gmail.com

VII. Certificate of Service

Aidan Kearney will be served today with the petition, Motion to waive fees,
and Record Appendix by email at TurtleboySports@gmail.com,

BMC Central will be served by email at

Rian Waters

/s/ Rian Waters dated 12/06/2022

(530) 739-8951 Watersrian@gmail.com