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COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS. SUPERIOR COURT
Docket No. 1879CV00344

RIAN WATERS,
Plaintiff,

vs.

AIDAN KEARNEY, et al,
Defendants.

FINAL PRETRIAL CONFERENCE
BEFORE THE HONORABLE MICHAEL K. CALLAN

APPEARANCES:

For the Plaintiff:
Pro se

For Defendant Kearney:
Pro se

(TRANSCRIBED FROM OTS/FTR RECORDING ORDER #GOY8V)

Springfield, Massachusetts
August 30, 2022
Courtroom #4

Linda L. Kelly, CSR, RPR, CM, ACT
Approved Court Transcriber

FROM FTR RECORDINGS

1 WITNESSES:
2 (None.)

3 EXHIBITS:
4 (None marked.)

5 FOR IDENTIFICATION:
6 (None marked.)

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FROM FTR RECORDINGS

1 (Court in session.)

2 (2:07 p.m.)

3 COURT OFFICER: Court is in session, you may be
4 seated.

5 THE CLERK: Okay. Good afternoon. This is the
6 Civil A session for August 30th, 2022. The Honorable
7 Michael Callan presiding.

8

9 (Other matters called.)

10

11 (2:09 p.m.)

12 THE CLERK: The next matter on the list is
13 18CV344, Rian Waters versus Aidan Kearney, on for a motion
14 hearing.

15 MR. WATERS: The other party is out in the hall.
16 I'll go get him.

17 THE COURT: Pretrial conference; right?

18 THE CLERK: I have it scheduled for a motion
19 hearing, Number 99. And that was dropped off today.

20 THE COURT: Yes, I'm aware of that.

21 Number 99?

22 THE CLERK: It's on the list.

23 (Clerk and Court confer.)

24 THE COURT: Oh, I see. Okay.

25 THE CLERK: Okay. We're just going to wait for

FROM FTR RECORDINGS

1 the other party.

2 THE COURT: I ordered this -- I ordered this on
3 June 28th for a final pretrial today, trial date to be
4 set.

5 THE CLERK: [Indiscernible] make it in.

6 MR. WATERS: Did you get the superintendent's
7 petition?

8 MR. KEARNEY: Yes.

9 THE COURT: All right. So I have the parties
10 here. My understanding that today was going to be the
11 final pretrial conference so we could set a trial date.

12 MR. WATERS: Well, you never denied the default
13 and/or sanctions motion or made any ruling on it --

14 THE COURT: But just let me --

15 MR. WATERS: -- and initially you put that --

16 COURT OFFICER: Sir, stand up.

17 MR. WATERS: -- to be determined today.

18 THE COURT: You've just got to stand, all right?

19 So that's Pleading Number 99? That was the
20 fraud on the court claim?

21 MR. WATERS: A default and your sanctions, yeah.

22 THE COURT: Okay. So that's denied. All right?

23 MR. WATERS: Is there any explanation for that?

24 THE COURT: Now we're going to turn our
25 attention to the trial of this case, okay?

FROM FTR RECORDINGS

1 MR. WATERS: Well, presume --

2 THE COURT: The only thing --

3 MR. WATERS: -- to 114 in the Massachusetts
4 constitution, I would like reasonable accommodation; that
5 I get some explanation for the heinous misconduct.
6 Because my mental disorder, it ends up causing extreme
7 distress to have decisions that are not based on any facts
8 or law and so it would be causing me great harm.

9 And also it causes preoccupation with the
10 stressor and its consequences, which makes it that I'm
11 unable to really think about matters unrelated to the
12 misconduct until the misconduct is, you know, addressed in
13 some way, shape, or form.

14 THE COURT: Okay. So now we're going to turn
15 our attention to what I'm here for, which is to set a
16 trial date on this case, okay?

17 So -- yes, just a moment.

18 So the -- my understanding of this file, from
19 reading the file, is that the only claim left is Count 4,
20 alleging a claim for libel based upon statements made in
21 Mr. Kearney's book or blog that you sold drugs.

22 That's the only claim that I see left in this
23 case after the Appeals Court got done with it.

24 MR. WATERS: Well, that was a -- there was a
25 motion to redetermine that was filed that was also never

FROM FTR RECORDINGS

1 decided in any --

2 THE COURT: You'll have to take that up with the
3 Appeals Court.

4 I'm just trying to figure out what we have left
5 here --

6 MR. WATERS: Okay.

7 THE COURT: -- and that's the way I see it,
8 okay?

9 MR. WATERS: Okay.

10 THE COURT: So if -- you can just stand, because
11 I'm going to have some questions for you.

12 So how long do you think it would take to have a
13 trial of this case?

14 MR. WATERS: I don't even know what drugs I
15 sold. How am I supposed to have any idea how I can make a
16 defense when I don't know what drugs I sold?

17 THE COURT: You're the plaintiff, so you're not
18 defending anything. You are -- you are making the claim.
19 Okay? So --

20 Right?

21 MR. WATERS: Yeah, but --

22 THE COURT: You are the plaintiff in the case
23 claiming libel.

24 MR. WATERS: But the burden of truth is on him,
25 and the only claim like he said that I was a drug dealer,

FROM FTR RECORDINGS

1 that's the only specific fact. I don't know how that fact
2 is considered specific enough for you, but it's not
3 specific enough for me to do anything for a trial.

4 THE COURT: So how do you intend to prove your
5 case that he libeled you?

6 MR. WATERS: I don't even know what drug I sold.
7 If you tell me I sold cannabis, then I'm going to prove
8 that cannabis -- I'm going to end up presenting a bunch of
9 stuff based on that.

10 If you say I sold coke or crack, I'm going to
11 present a bunch of witnesses that are close to Mrs. Cardin
12 and prove that that's a lie. I mean either --

13 So I don't know. I need to know which drug I supposedly
14 sold in order to know how long it would --

15 But I guess --

16 You know what? I guess because it's too
17 dangerous to have witnesses, I guess -- I don't have any
18 witnesses so, no, at most a day.

19 THE COURT: No witnesses?

20 MR. WATERS: I can't have witnesses if you're
21 going to allow a guy to send death threats to every single
22 fricking witness I have. Sorry.

23 THE COURT: All right. So what are your
24 damages?

25 MR. WATERS: I can't have witnesses if I can't

FROM FTR RECORDINGS

1 have the witness intimidation stressed, so that's -- we're
2 not going to deal with that.

3 I'm actually --

4 I'll tell you what. If the witness intimidation
5 is not dealt with, I'm just appealing it right up to the,
6 who, the Supreme Court. I'm not going to participate in a
7 charade where he gets to send death threats the week
8 before trial to every fricking witness I have.

9 I can't list witnesses. If I can't have a fair
10 trial, there's not going to be a trial.

11 THE COURT: Okay. Are you asking me -- what are
12 you asking me to do?

13 MR. WATERS: I guess if you're saying you're
14 unwilling to deal with witness intimidation, then, fine, I
15 guess this case is closed, where I'll appeal it up.

16 I already reported it to the SJC, as you know,
17 and we'll just take it from there.

18 THE COURT: So --

19 We're on the record. You're asking me to close
20 the case so you can take whatever next steps you want to
21 take to close this case out; is that right?

22 MR. WATERS: Well, if you're saying you're
23 unwilling to deal with the witness intimidation in any
24 way, shape, or form, you think the June 17th threats were
25 all appropriate, then, yes.

FROM FTR RECORDINGS

1 I mean you're saying those are appropriate,
2 fine, so be it. Those are your words. Every single one
3 of those --

4 It's okay for him to say he's going to dedicate
5 his life to destroying my livelihood to my witnesses and
6 he's going to attack their customers of all their
7 businesses and he's going to make sure that she wants to
8 commit suicide just like he did when she released the
9 evidence that he committed a crime filed into court, --

10 THE COURT: Mr. Waters --

11 MR. WATERS: -- then fine.

12 THE COURT: -- all I'm --

13 I have not taken -- I have not said anything
14 about any of your other claims. All I'm here today is to
15 make sure that if you want a trial on your claim that we
16 square it up and get you a trial. But you just told me
17 that you're not interested in --

18 MR. WATERS: All right, --

19 THE COURT: -- proceeding.

20 MR. WATERS: -- fine. We'll have a trial. He
21 can set it, but I'm still -- we're dealing with the SJC.
22 I'm assuming -- I have no idea how long I'm going to have
23 until the SJC and/or Supreme Court deals with it.

24 But you can -- I assume at this point I have no
25 witnesses --

FROM FTR RECORDINGS

1 THE COURT: Okay.

2 MR. WATERS: -- until this -- something happens.

3 THE COURT: All right.

4 So, Mr. Kearney, would you like to say anything?

5 MR. KEARNEY: Yeah, Your Honor, if I may.

6 I'd like to ask for 30 days to file a motion for
7 summary judgment, because I do have an affidavit from the
8 only witness in this who can confirm everything that was
9 written in that book and --

10 The statement in question, actually, was me
11 saying that "This woman alleged this." The word "alleged"
12 was used.

13 I was just quoting a source for a story that I
14 wrote about in the book, and so I don't think that this
15 needs to go to trial so I'd like to have 30 days to file a
16 motion for summary judgment if the Court would allow.

17 Thank you.

18 THE COURT: You can have leave for 30 days to
19 file a summary judgment, if necessary.

20 MR. KEARNEY: Okay.

21 THE COURT: I'm not sure we're going to need to
22 move forward on the case, so.

23 I'll take the matter under advisement. Thank
24 you both for coming in today. I'll get an order out
25 shortly, okay?

FROM FTR RECORDINGS

1 MR. KEARNEY: Thank you, Your Honor.

2 THE COURT: Thank you.

3 (Proceedings concluded at 2:16 p.m.)

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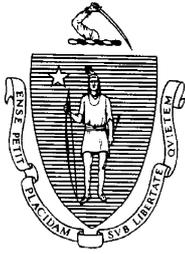
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COUNTY OF BARNSTABLE)

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PO Box 1023, Barnstable, MA 02630

Date: 10/7/22

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