

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN COUNTY,

Superior Court
1879CV0344

RIAN WATERS,
Plaintiff

AIDAN KEARNEY,
Defendant

HAMPDEN COUNTY
SUPERIOR COURT
FILED

OCT 21 2020

[Signature]
CLERK OF COURTS

**Memorandum in support of Plaintiff's motion to have his case heard with
some conformity to the laws.**

Justice and equity require that this court use its inherent power as it deems necessary to prevent Aidan Kearney from using his weaponized public shaming blog to prevent the full and fair presentation of my argument in the appeals court. To prevent Aidan Kearney from punishing witnesses for their participation in the furtherance of justice, as the established methods have failed to provide the protection required, and there is a clear and present danger of more obstructive misconduct. To compensate for the harm caused.

Background:

At the 1/9/2019 hearing Judge Jane Mulqueen told the Defendants that death threats sent before a court hearing are irrelevant if they are sent by 3rd parties [or with fake names.] After that hearing I received over a hundred threats putting me in a coma like state. I presented some of the threats to the court in an impoundment motion, which was denied. At the summary judgment motion hearing the court again ignored my complaints of death threats and said that the court could not investigate criminal allegations and suggested I go to the police. The police are not willing to pursue any charges against Aidan Kearney, and some police have been obstructive. I filed private criminal complaints in the district court. The District court cited outdated elements and essentially said it is legal to direct an organization that you know to be weaponized to harass an opposing litigant on the days before a court hearing with intent to destroy them. In June 2020 I filed a motion in the Appeals court for a witness protection order which was denied without prejudice contingent on me first filing in the trial court. After this court denied the motion Aidan Kearney posted two more harassing articles, one of which had altered images with my face on gay porn. The other one caused a harassing music video to be published which also harassed my December 17th potential witness, and my old roommate. The reason I have not refiled is because the Defendant's attorney has refused to accept email service, and I am not willing to let the Defendants know where I am living.

Argument:

Legal Standard:

“The courts of general jurisdiction have the inherent power to do whatever may be done under the general principles of jurisprudence to insure to the citizen a fair trial, whenever his life, liberty, property or *character* is at stake. The possession of such power involves its exercise as a duty whenever public or private interests require.” Crocker v. Justices of Superior Court, 208 Mass. 162, 163 (1911)

"Although they may be recognized by statute, [these powers] . . . exist without a statute, for they ‘directly affect the capacity of the judicial department to function.’

Commonwealth v. Jackson, 369 Mass. 904, 921-922 (1976). “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, 763-64 (Mass.

1994) quoting from O’Coin’s, Inc. v. Treasurer of the County of Worcester, 362 Mass. 514 (Mass. 1972). The *O’Coin’s* court “The very conception of inherent power

carries with it the implication that its use is for occasions not provided for by established methods. Only when established methods fail and the court shall determine that by observing them the assistance necessary for the due and effective exercise of its own functions cannot be had, or when an emergency arises which the established methods cannot or do not instantly meet, then and not till then does occasion arise for the exercise of the inherent power.” “Clear and present danger is

an appropriate guide in determining the constitutionality of restrictions upon expression where the substantive evil sought to be prevented by the restriction is destruction of life or property, or invasion of the right of privacy” Bridges v. California, 314 U.S. 252, 258 (1941) “Under general equity principles, an injunction issues only if there is a showing that the Defendant has violated, or imminently will violate, some provision of statutory or common law, and that there is a ‘cognizable danger of recurrent violation.’” Madsen v. Women's Health Ctr., 512 U.S. 753, 757 (1994), see also United States v. W T. Grant Co., 345 U. S. 629, 633 (1953)

Equity principles require a protection order so that I may be fairly heard.

Aidan Kearney has been aware that his harassment was the cause and stressor of my adjustment disorder, yet he has continued to use his public shaming device before and after every legal proceeding.

The nature of the Defendant’s blog, and the long list of obstructing acts meets the clear and present danger standard.

When fundraising Aidan Kearney describes his business as a blog that has weaponized public shaming (Exhibit A ¶3), and he has admitted that he gets sexual pleasure by punishing people that “poke him”. (Exhibit A ¶18) Aidan has also harassed me before every important event in the case (Exhibit A) and has relentlessly attacked anyone, and everyone willing to help further justice. On September 26th, 2019 Aidan Kearney took credit for and explained the purpose of Katherine’s

January 2019 articles that were published on the days leading up to the hearings for this case. He said “we have killed him with words, our words have destroyed and exposed this man, as it should be. Rian Waters deserves to die destitute” (Exhibit A ¶14)

The case was docketed in the Appeals court on 1/21/2020, and on 1/25/2020 Aidan Kearney read my address out loud on his internet show, (YouTube) and showed a picture of the house and said to his weaponized followers that the world will be a better place with me dead (Exhibit A ¶33). For his sadistic followers this is a clarion call for violence. “The term "true threat" has been adopted to help distinguish between words that literally threaten but have an expressive purpose such as political hyperbole, and words that are intended to place the target of the threat in fear, whether the threat is veiled or explicit. A true threat does not require an explicit statement of an intention to harm the victim as long as circumstances support the victim's fearful or apprehensive response. Nor need a true threat threaten imminent harm; sexually explicit or aggressive language directed at and received by an identified victim may be threatening” O'Brien v. Borowski, 461 Mass. 415, 416 (2012)

Aidan Kearney continued to publish articles that he knew would cause hundreds of people to harass me, even though I kept telling the court that the harassment was preventing me from presenting evidence, and that he had caused me

to have Adjustment disorder. “All parties, whether represented by attorneys or not, are obligated to proceed in good faith, to ‘act with reasonable diligence to bring their litigation to a final conclusion,’ Bucchiere v. New England Tel. Tel. Co., 396 Mass. 639, 642 (1986), and to conduct themselves with at least that modicum of civility, courtesy and respect, for both the court and other parties, that simple common decency and common sense dictate... they are as obligated, at the very least, to refrain from any action which obstructs or degrades the administration of justice or derogates from the authority and dignity of the court” Reznik v. Friswell, 2003 Mass. App. Div. 42, 44 (2003) “There are special, limited circumstances in which speech is so interlaced with burgeoning violence that it is not protected by the broad guarantee of U.S. Const. amend. I.” Carroll v. President & Comm'rs of Princess Anne, 393 U.S. 175, 176 (1968)

The timing of harassment shows intent

Most of the harassment took place shortly before the scheduled hearings for 1879CV00344 that were scheduled on 11/20/2018, 01/09/2019, 01/15/2019, 01/17/2019, and 02/19/2019. “the timing of the defendant's actions makes it more, rather than less, likely that he was trying to intimidate the witness.” Commonwealth v. Robinson, 444 Mass. 102, 109 (2005)

The established methods have failed to discourage harassment.

During the summary judgment hearing the court argued that it was unable to investigate my witness intimidation allegations and suggested that I talk to the police. I went to the Springfield police, East Longmeadow police, and the State police with no avail. I filed a motion to reconsider the preliminary injunction based on my adjustment disorder diagnosis and the then new misconduct, and I filed for a 258e order, and I have filed multiple applications for a criminal complaint to be issued against Aidan Kearney.

Some of the obstruction took place inside the courtroom

The pictures and videos he took on January 9th 2019 were inside the courtroom, he admits that his shoes give it away, but he was also the only person sitting next to “Bristol” while the case was being heard. (Exhibit B)

The court has a fundamental duty to use its inherent power as necessary to ensure I am fairly heard with conformity to the laws.

“The intimate relationship between these rights and the judicial power is made clear in art. 29 of the Declaration of Rights: ‘It is essential to the preservation of the rights of every individual, his life, liberty, property, and *character*, that there be an impartial interpretation of the laws, and administration of justice.’ Also it is provided in art. 11: ‘Every subject of the Commonwealth . . . ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; *conformably to the laws.*’” O'Coin's, Inc. v. Treasurer

of the County of Worcester, 362 Mass. 507, 509 (Mass. 1972) I'm of the opinion that John Adams wanted court cases to conform to all laws, and that had he meant a particular type of law, I believe he would have listed the specific type of law. Regardless this case has not conformed to any type of laws. The Defendant intentionally harassed and caused financial and emotional damage to Michael Gaffney and myself violating G.L. c. 268 § 13B. Aidan Kearney lied on an affidavit to create a "good cause" excuse for defaulting, which clearly violates G.L. c. 268 § 1. Common law precedents were also ignored, like that criminal allegations are defamatory per se, or that people cannot strategically flout with impunity. Lastly canon law currently requires a judge to ensure that all litigants are fairly heard.

Submitted by,

Rian Waters 6/30/2020

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