

03-10-00088-CV

In The Court Of Appeals For The Third Court Of Appeals District
Austin, Texas

DAVID P. GRIFFIN pro se

Plaintiff/Appellant

VS

CITY OF AUSTIN, RONDELLA HAWKINS, individually and as an
employee of the City of Austin, PUBLIC ACCESS COMMUNITY TELEVISION aka
CHANNEL AUSTIN, GARRY WILKISON and LINDA LITOWSKY, individually, and as
Executives of Public Access Community Television, CATHY BEAUDOIN, JACKIE
GOODMAN, CELIA HUGHES, EMANUEL, LIMEL PALOMU, DANIEL SCARDINO,
DEBORAH L. HILL, TRENA DENLEY, HELENE CAUDILL, individually and as Board
Members of Public Access Community Television
Defendants/Appellee

ON APPEAL FROM THE 126 ST DISTRICT COURT, TRAVIS COUNTY, TEXAS
TRIAL COURT CAUSE NO. D-1-GN-09-002028

APPELLANT'S BRIEF

REQUEST FOR ORAL ARGUMENT

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REQUEST FOR ORAL ARGUMENT

The Plaintiff-appellant, David P Griffin, respectfully requests oral argument. This appeal I feel oral arguments are very important to this case. I am not an attorney and I have prepared this brief on my own. I beg the courts forgiveness for any errors, because I am Pro se' and 55 year old white man with dyslexia impairing my ability to read and write. The record is not clear it is full of omissions, as well as false and misleading testimony given by council. In the interest of true justice; I feel oral discussion of the facts and the applicable precedent would benefit the Court.

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LIST OF AUTHORITIES

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Texas Penal Code §32.32

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Texas Labor Code Title 2, Subtitle A., Chapter 21, Section 21.002

Texas Rules of Civil Procedure, Rule 10.001

http://thedamnews.com/pact_documents.html

STATEMENT OF THE ISSUES

ISSUE NUMBER ONE

Did the state of Texas violate my constitutional right, granted to me under the US Constitution that says I have a right of trial by a jury of my peers? All the information given to the trial judge was false and misleading. I never had a chance to cross-examine or to have discovery to prove my case.

ISSUE NUMBER TWO

Did the City of Austin and its employee Rhondella Hawkins cover up, hiding facts and destroy evidence that would have embarrassed her and her city department once again? Did this city officer after discovering the facts and stood by and did nothing? Did she's have a fiduciary duty to the law-abiding citizens of the City of Austin?

ISSUE NUMBER THREE

Are attorneys licensed in the State of Texas above the laws of the State? When an attorney goes into a courtroom in Texas, knowingly and willingly files false and misleading documents with no hesitation because he knows there will be absolutely no ramifications, no one will ever question him or her, there will be no prosecution of any kind, he has no natural predator to be concerned with, not even the US or Texas courts? With full consent of the Texas Bar Association, they are not the least bit concerned with the attorneys lying. Judges only verbally admonish basically meaning they do nothing.

ISSUE NUMBER FOUR

How does a law-abiding citizen react when city property is being stolen, management is wasting thousands of dollars and donations are being stolen? What does the common man do in this situation?

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STATEMENT OF THE CASE.

To the Honorable Court of Appeals: Appellant David P. Griffin submits this brief and in support shows.

It is very difficult to explain this case because I am not an attorney. I originally filed this under the whistle blower act. Now, I realize that is not appropriate. I have since removed this allegation from my case.

I am a citizen who was working for a non-profit that has a contract to provide services with the City of Austin. As the equipment manager I was responsible for the city owned equipment, as well as equipment belonging to Time Warner and Public Access Television. Management, Linda Latowski and Garry Wilkinson, made a conscious decision to sell City Property. They began taking donated equipment for their selves and to adding their personal equipment by forging documents claiming that their equipment was City property so that the City would be held libel for repair costs.

There are many other allegations that at worst may be considered shady dealings that may or may not be illegal but is inappropriate behavior for the management of a Non-Profit working for the City of Austin.

I reported all of these issues to the appropriate chain of command; the board of directors and City Officials who took No action. For the next 6 months I contacted the City of Austin Police Chief, the Mayor, and City Council. In January 2009, I filed my first lawsuit in Travis County. Mr. John Heller appeared had the case moved to Federal Court, filing false and misleading documents to the Federal Court repeatedly. The Federal Judge originally dismissed this case with prejudice closed the case with prejudice until he was shown proof that the defendants and their attorney had filed false and misleading documents. The Federal Judge reversed his previous decisions once he realized that false testimony was given and dismissed the case without prejudice.

Once the case was closed I returned to Channel Austin, requesting my Producer status be reinstated and I was denied service. The reason stated was because I had sued Channel Austin, I could no longer have any City services. So, I filed another lawsuit against the City of Austin / Channel Austin and this is where we stand today.

I am a citizen of Texas, and a law abiding person and I would just not go along with the criminal activities taking place at Channel Austin. I reported this criminal activity to the City of Austin,

they turned a blind eye over stepping their authority and constantly filed false and misleading documents about the facts of this case. So, I am not sure exactly how to classify this legal action. I understand that 99 percent of the briefs that the court reviews are prepared by professional lawyers and this brief is; quite different because it is the words of a common man without any prior legal experience. I can only hope and pray the court will take a moment and hear what a common man has to say about the legal system and the facts and proof of this case.

STATEMENT OF FACTS.

This is a general statement of facts pertaining to all issues of law.

This appeal is the one out of every five state court cases where the Appellant must prevail, else the cause of the due course of law would lie mortally wounded from gross injustice and the flagrant, willful neglect of Appellant's rights to a fair, impartial, and unbiased hearing, to freedom of religion, to due process, to due course of law, to due regard for the Appellant's rights, and to the proper administration of justice.

STATEMENT OF THE CASE

To the Honorable Court of Appeals: Appellant David P. Griffin submits this brief and in support shows

A: As I stated before I am not a Lawyer, writing this is very difficult due to my dyslexia. I depend on a machine and software to translate my words into the written text that you see before you today. This process is very long and makes many mistakes; sometimes these mistakes are quite embarrassing. This matter is just too important to let something like that stop me.

The case before you now is about justice and injustice. As a law-abiding citizen I cannot stand by and watch city property being stolen, and thousands of dollars of donations being funneled to a third party. I could not stand by and watch tens of thousands of dollars being spent on software just for management's personal use. Watching management use the public access facility as their own personal workspace for their personal projects. Pushing the producers and general public to the side they produce their own programs and material for sale. This is not the mission or the job of management of Public Access Television.

Public Access Community Television has a long history of theft, mismanagement and gross incompetency by the City of Austin and by the contractors they hire. After a 20 year running and over \$ 300,000 in unaccounted for funds. The City simply let the contract run out they just sat and allowed the previous contractor to continue their activities to the end of their contract knowing that they were stealing all along.

The city had a fiduciary duty to the citizens of Austin to protect the assets they were given to the generosity of Time Warner Cable and the cable agreement with the City of Austin. This did not happen the City under Rhondella Hawkins administration has let the facility run down, no working fire alarm, and no working burger alarm system and failed to meet safety code as set by the City. Because it was a City owned building this was once again gross negligence by the City of Austin and their agent Rhondella Hawkins. Now enters the picture the new contractors Channel Austin, Garry Wilkinson and Linda Latowski the contractors hired to clean up the mess left by the last contractor who was convicted and did serve time for theft of City property. Although the City did not try to reclaim any of the stolen assets. The City let the previous nonprofit leave with over \$100,000.00 cash belonging to the city and \$ 300,000 deficits owed to the City, once again showing gross incompetence.

It took only 18 months before the new contractor was doing exactly the same thing the old contractor had been doing. I am a law-abiding citizen; I spent over 20 years working for all of the major television networks, as a video technician. I have been recognized by my peers with an Emmy award with Bob Simon CBS evening news, covering of Vietnam now. In my career I have met many people, presidents and soon-to-be presidents such as President Bush 41 and President Bush 43, President Clinton; I can go back as far as President Ford, along with many other world leaders. So, I know when someone is lying and stealing. I have the evidence I need someone to care to see it. I've had a chance to see some of the best politicians in the business, in this country and out. Covering Beirut Lebanon I would watch troops fight each other for days call a truce sit down and have dinner together and rejoice that families can get back together just so they can go back to fight each other tomorrow. This experience has given me a great insight into world events. But it did not prepare me for what I saw happening to me at Channel Austin. I was never asked to steal, lie and cover up the facts for my employer before and I just would not do.

B: Here comes, Jon Heller, defense attorney, for the management. I had no idea just how much unprofessional unethical and just outright illegal activity goes on in courtrooms as an everyday practice. As a common man I'm prone to tell the truth but when you have to deal with lawyers like John Heller truth does not matter in any way, shape, or form. I truly don't believe he knows the meaning of the word honesty and truth he has filed so many false and misleading documents in federal court and in state court because he has no fear, he has complete and absolute immunity for his actions. He has no natural predators no one questions his ability to quote; spin the true and file false and misleading documents. But if one of us common people try to do these things we were immediately arrested and tried for fraud, lying

to a federal agency, and many other charges can be filed against a person who files a false and misleading affidavit, unless you are an attorney then you have absolute immunity.

Lawyers are like other people who run red lights, smoke marijuana and calmly violate the law knowing they have no fear of prosecution. These people have no conscience and have no business in the legal community but from what I understand this kind of person with no soul is the only person who can actually work in the legal community were this behavior is not only encouraged it seems to be required. Just ask John Heller. I fear the pro se has no chance of as we're not trained in lying to cover up the facts like attorneys are. I understand we have to make our own case I am certain if anyone would hear it they would agree I have. But how can you defend yourself from someone who will and has told obvious lies about anything to get their way? After all they know there is nothing to fear no retribution or fear of prosecution. Pro se are scared of the law because we do not understand the Law. What I have come to understand the winner of the case was the best liar rarely the most just. It's a sad day when people like me reach this type of conclusion. It is a sadder day when nothing is done about it. Did the state of Texas violate my constitutional rights, as I understand my constitutional rights yes they have.

Summary Argument

There are rims of information about this subject there are people more versed in it than I. Simply stated I should have a trial by my peers who decide this case not a judge who is insulated from society. I believe the judge is a good, fair man and I feel certain if he knew all the relevant facts he would have come to a different conclusion. But this was not the case and that is why we are here today. As I understand law all I had to do was present one or two facts that were irrefutable which I believe I have. I do not believe the judge had enough time to read and understand my petition. He simply ruled in favor of the City that he lives in, a City that he depends on. That's why I believe this matter should be moved to a new jurisdiction outside of Travis County. I'm not saying this judge or any other judge in Travis County cannot fairly hear this trial but I do feel they have a subconscious need to help the City they live in. Any outcome that would cause the City to lose more services would directly impact them and this is a reality that should be considered if the court grants my petition to return this to the lower court for trial, I would then ask to have it moved outside of Travis County.

I would ask the court to review my responses in the civil case. The facts in detail are presented in the type of language and format that a legal scholar would understand. I tried my best to make my case I feel that there is so much left unmentioned and that I have not had my opportunity to make my case to the court properly. This is why I feel oral arguments are very important.

I wish to thank the court for their time and patience and hopefully will find this brief for little different from the ones they've currently are reviewing. I do feel this is a very important matter and would not take up the courts time if I did not feel very strongly about this matter. I'm simply asking for my day in court, I'm simply asking for procedures to be followed and discovery to commence.

ARGUMENT

How to sum up the last two years experience, I had very limited experience with legal system until two years ago. I regret ever having this experience and do not wish anyone to have to go through this. Because being pro se against the City of Austin and Channel Austin has taken its toll. I found out that the law does not matter to these people and they do anything they want regardless of the outcome. The City cannot admit they made another mistake and will do anything to cover up these mistakes. Management feels they're above the law because their attorneys are above the law. These are harsh words from someone who truly does not respect the system at this time. Because respect has to be earned and never blindly given, when you think you live in a country governed by laws and then you discover laws do not apply to certain people and there is no explanation why this is. You have to get disenchanted with the system; I've been in countries where this is happening. I know strictly on procedural matters I probably have lost my battle but on the grounds of right and wrong and injustice I feel I've made my case. It is up to the courts now to decide if fairness and the Law can co-exist or it's simply a matter of procedure did I cross my t and dot my i properly, does that make any difference to truth and justice?

So if the court sees fit to send this case back to a lower court, to allow discovery to move forward and let a jury of my peers decide the outcome. This is what I pray for just my day in court to prove my innocence to show the world what was really going on behind closed doors and to what extent the city of Austin will hide the fact that they are grossly incompetent and the management of Channel Austin today and always has been an embarrassment to the City. Because the City operates with bad legal advice that is willing to sacrifice the Police Chief and his honor and integrity leaving the City opened for more litigation.

The same City Attorney, David Allen Smith, was forced to resign because of the bad advice he had given to the City Police Chief about a report that criticized his police officers action. David Allen Smith was also the attorney for the City handling this matter as well. I do believe he gave bad advice in this case also. It is well known that the City of Austin cannot investigate itself in any matter. The bias for the City is so great that even now with the officer involved shooting it needs be investigated by someone outside the City of Austin. Travis County and the Federal Government asked to investigate any police shooting from this point on. I do allege that more damage was done by David Allen Smith and the general public knows, and once again the City is hiding behind this City Attorney whoever that may be at this time, the City Council is drafting new requirements that the City Attorney would report to the mayor and the City Council from here forward meaning that because of David Allen Smiths actions the entire procedure for

how the City conducts its business had to be changed.

Austin Police Chief Art Acevedo. If you read the report By key point government services, Report on Officer Involved Shooting of May 11, 2009, **KeyPoint Government Solutions** 405 Lexington Avenue – 61st Floor | New York, NY 10174 Contact: Jeff Schlanger, (866) 667-3635 X7503 jeff.schlanger@keypoint.us.com

In which you'll find in the appendix, clearly states how internal affairs officer were quiet bias in this report. If the city is going to cover up the facts of a fatal shooting do you not think that covering up the thief of a contractors and saving face would go along that same line?

Respectfully submitted,

PRAYER FOR RELIEF

David P. Griffin requests all other relief to which it may be entitled. Appellant therefore respectfully prays this court, in light of the facts presented Herein, grant this petition by reversing and rendering this matter with prejudice, that the Appellant be reimbursed all court costs, fees, bonds and other costs of trial, and that the Appellant further be awarded punitive damages for the grievous, irreparable harm done to his good name, reputation and meager finances through the ill-advised, reprehensible conduct of plaintiff's counsel and the inferior court to deny him a fair, impartial, unbiased hearing, through egregious abuses of discretion, and to restore Appellant to the state and liberty he enjoyed prior to the instigation of these evil proceedings; and for such further consideration and relief as this court deems proper.

Respectfully submitted,



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CERTIFICATE OF SERVICE

Pursuant to TEX. R. APP. P. 9.5, I certify that on 28 of June, 2010, a copy of

this motion was mailed via first class U.S. mail, postage prepaid, to the following:

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Respectfully submitted,



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Monday, June 28, 2010

CERTIFICATE OF COMPLIANCE

(PLACE THIS AS LAST DOCUMENT IN BRIEF BEFORE THE BACK COVER)

Pursuant to 5TH CIR. R. 32.2.7(c), the undersigned certifies this brief complies with the type-volume limitations of 5TH CIR. R. 32.2.7(b).

1. EXCLUSIVE OF THE EXEMPTED PORTIONS IN 5TH CIR. R. 32.2.7(b)3),
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- A. 4070 words, OR
- B. _____ lines of text in monospaced typeface.

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SIGNING THE BRIEF.



Signature of filing party

Monday, June 28, 2010