

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

Commonwealth of Virginia

:
:
:
:
:

v.

CASE NO: MI-2005-1559

Wesley Smith

DEFENDANT’S REPLY TO MOTION TO QUASH

The Defendant, Wesley Smith responds to Jack D. Dales Motion to Quash as Follows:

1. On Sep 12th 2005, the Defendant notified the school of the list of people he was planning on calling as witnesses, specifically including Mr. Dale, and offered to work out arrangements to reduce the number of employees needed for the trial.
2. On Oct 4th 2005, the day before the Trial, the Defendant received an electronic copy of a motion to quash from Jack Dale and still has not received a paper copy.
3. The Defendant is pro se and the one day notice does not leave him with sufficient time to prepare a proper response.
4. Mr. Dale claims he can provide “no testimony material to any of the issues in this case”. This claim is very hard to swallow since Mr. Dale is the Superintendent for Fairfax County School District and the policies of the District and how they were or were not followed is the very cause of the case in the first place. Mr. Dale must have knowledge of District Policies if he is to be competent at his job.
5. Mr. Dale has also made written statements to others about the case setting forth the Districts position on why they have prosecuted Mr. Smith for trespassing. A sample response is provided as Exhibit A. His claims made by someone with knowledge of and District Policy and whose duty it is to see that they are followed is an essential aspect of this case.

6. Mr. Dale did not delegate responding to public inquiries about the incident to another employee, he did not find it “burdensome, oppressive, and unnecessary” for the Superintendent to personally make false statements about the case and as such he should be expected to testify as to the nature of those responses.
7. Mr. Dale is correct that I have subpoenaed several other staff members but only after my offer to work out a reduced number of witnesses was refused. With a few minor stipulations, about 4 of the witnesses would not be necessary and the Defendant offered to exclude them if the District would work with him on it. (Exhibit B)
8. The Defendant did receive a request from Carole Marchant asking to excuse Mr. Dale and the Defendant wrote back that he was willing to discuss it and subsequently called Ms. Marchant repeatedly but she refused to talk to him about it.
9. As Mr. Dale is both knowledgeable as to the District Policies involved and has made specific written statements about the case, it would impair the Defendants Constitutional right to confront his accusers if Mr. Dale is not required to attend and answer questions about both his written comments about the case and the conduct of his employees.
10. Mr. Dale makes a point that he is the Superintendent of the school system, he should be aware, that part of his job entails addressing issues of District Policy and also handling issues with employees. The subpoena requests nothing but that Mr. Dale perform the duties the taxpayers are paying him for.

Wesley Smith

Wesley Smith Pro Se
5347 Landrum Rd APT 1
Dublin VA 24084-5603
(no phone) liamsdad@liamsdad.org