THE BALANCE OF POWER
and
ITS PATHOLOGY

by Timothy J. Muise

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Absolute power corrupts absolutely, and when you combine this with the above-the-law attitude of the Department of Correction you have the ultimate "perfect storm" of failure and recidivism. What follows are a couple of minor examples of how prisoners here in the Commonwealth can work to shift that power and disrupt its evil pathology.

I do my best to file effective litigation when the gulag jackboots get out of control; when that evil pathology becomes all too clear. I recent had the rare opportunity to conduct "pro se" depositions where I got to ask hours worth of questions of the superintendent, deputy superintendent, and director of treatment here. Boy did that piss them off and play a little role in "power shifting" here at the gulag; they know they can't always hide out here in the woods of Shirley and that sometimes they will be exposed. Check out the following letter from Department of Corruption attorney David J. Rentsch which must have pained him to author as he zealously opposed my motion to conduct the pro se depositions.

These depositions angered Attorney Rentsch so much that he filed a foolhearty Motion for a Protective Order through which he sought to inhibit my legal rights in my current civil action. Thank God the Court saw him for the true charlatan that he is. Any lawyer who would work for the low wages and low-level experience of the DOC Legal Division was certainly not at the top of his law class. The Court DENIED his motion and what follows is a copy of the opposition I filed to that foolhearty motion.

The bottom line here is that the current state of the prison system here in the Commonwealth is that it "creates" crime. Men come in low level offenders, are treated with such disdain and abuse that they are too angry to change for the better - only the worse, and then are set free onto the streets of your cities and towns. Prison/gulag staffers do not belive we can change and feel they are here to "punish" us, not rehabilitate us. That is <u>not</u> what the law calls for so I must use that same law to hold them accountable.

Please read what follows and offer me your opinion? Help us to change the evil pathology of power which permeates the current prison system.

FIGHT THE POWER!!!

"If you want to see the dregs of humanity and the scum of the earth go down to your local prison and watch the changing of the guard."

Samuel Clemons/Mark Twain

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June 24, 2015

Timothy J. Muise (W66927)
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RE: **Muise v. Ryan, et al.**
SUCV2014-03452-A

Dear Mr. Muise:

Pursuant to the court's order in this case allowing you to take depositions of Kelly Ryan, Karen DiNardo, and Christine Larkin, we will agree to make these witnesses available on Wednesday, July 15, 2015, beginning at 9 a.m. at MCI-Shirley. The DOC will provide a tape recorder and tapes for this purpose. Per the court order, each deposition may last no more than two (2) hours. A notary public will be present at the start of each deposition to administer the oath to the witness.

Please confirm your agreement to this date and time.

Sincerely,

David J. Rentsch

David J. Rentsch
Associate General Counsel

cc: Kelly Ryan, Superintendent
Karen DiNardo, Deputy Superintendent
Christine Larkin, Director of Treatment

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT
CIVIL DIVISION
No. 14-03452-A

TIMOTHY J. MUISE, pro se,
plaintiff,

Vs.

KELLY RYAN & KAREN DINARDO,
defendants,

PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION FOR A PROTECTIVE ORDER

NOW COMES THE PLAINTIFF, Timothy J. Muise, acting pro se, who does herein OPPOSE the defendant's "Motion For A Protective Order" filed on September 4, 2015. As compelling grounds for this opposition the pro se plaintiff offers the following;

1. Such a protective order is fully and totally unnecessary as the Court has already agreed to extend the discovery deadline to October 15, 2015, thus affording tacit approval that further discovery may be required.

2. Such a protective order is fully and totally unnecessary as the defendant's clearly display that the plaintiff has only asked a total of fifteen (15) interrogatories of each of the named defendants and this is not overly burdensome.

3. Such a protective order is fully and totally unnecessary as the defendant's offer that "Both the second and third sets of interrogatories are redundant in that they contain many of the very same questions that were asked at the depositions." (Defendant's motion page 2, No. 5), but

do not provide any transcript of those depositions supporting thier redundancy claim. They attach the plaintiff's legitimate interrogatory questions, but fail to attach a transcript of the depositions.

4. The plaintiff sought to have the depositions transcribed at no cost but the defendants opposed that motion. The Court denied the motion and the plaintiff had to secure the evidence through his third set of interrogatories upon both named defendants. The plaintiff can only offer that the only logical reason the defendants would oppose transcription of the depositions is that those depositions contain evidence they do not want revealed.

5. Such a protective order is fully and totally unnecessary as the Honorable Court has ORDERED that a Superior Court Rule 9(C) "Discovery Conference" be held before the Court and any outstanding discovery issues can be resolved at that hearing/conference.

6. Such a protective order should not be granted as the defendants have not displayed the required element of Mass.R.Civ.P., Rule 26(c)(1) thru (7). Nowhere in this rule does it allow for a protective order for "redundancy". nor does Rule 26 bar more than one form of discovery. It is clear to the plaintiff that the defendants simply do want to comply with his legitimate discovery requests as they have failed to respond to such legitimate requests that were filed even before the depositions that were conducted.

7. Such a protetcive order must not be granted as the defendants have asked for a jury trial in this matter and in order for the plaintiff to prove his very complicated civil rights case he must be allowed to conduct zealous and effective discovery. The plaintiff is a pro se prisoner litigant unskilled in the law has been placed in a position to try his case in front of a jury. As such the plaintiff needs to conduct such legitimate discovery efforts as he has been doing. A protective order would be unreasonable in this matter.

8. The plaintiff has made legitimate claims of suppression of his free speech in his original complaint. He has also alleged retaliation for the exercise of that protected right. The defendant's request for

a protective order is just another example of how they attempt to silence the plaintiff's voice in complaining about conditions of confinement through the courts and other uses of protected free speech. The defendant's overreaction to minimal discovery requests is indicative of that attitude of suppression and denial of access to the courts. If the plaintiff was an attorney from the American Civil Liberties Union I am certain there would be a much more extensive volley of discovery requests in order to prevail at a jury trial. I am also certain that the defendants, through counsel, would not seek such a protective order against the ACLU. The plaintiff must offer that it is his prisoner status, and the defendant's "how dare he" attitude, that compel such unnecessary treatment. The defendant's abhor the plaintiff's exercise of his constitutional rights and that, at its beating heart, is what this case is about.

9. As supportive exhibits for this opposition the plaintiff offers the following documents;

- Exhibit "A": Docket Entry Sheet, page 1, showing extended discovery deadline of October 15, 2015.

- Exhibit "B": Defendant's Response to the Plaintiff's Motion for Transcription of Audio Depositions (2 pages).

- Exhibit "C-1" & "C-2": Margin Rulings ALLOWING Discovery Conference, and

- Exhibit "D": Defendant's Motion for a Protective Order.

10. The plaintiff must stress that he has an uphill battle at a jury trial to prove his complicated civil rigths/access to the courts case. The defendants were resistant to some questions designed to prove the retaliations claims at the depositions. In order to prove retaliation the plaintiff has the burden to show a "chronology of event" which show motives to be in retaliation for the exercise of a constitutional right; in this matter at bar complaints about conditions of confinement. As such the plaintiff puts forth the proposition that the purported need for a protective order is merely a Trojan horse containing a scheme to

inhibit the plaintiff from obtaining evidence that will prove this retaliation at trial before a jury. The rules of discovery are not in place for such legally abhorant schemes, quite the contrary, the rules of discovery are in place to allow zealous discovery in order for a plaintiff to be able to prove his/her case as well as for a defendant to defend theirs.

11. The defendants also make an untenable claim concerning "personal opinion" which cannot be sustained. The defendants are being sued in both their "personal" and "professional" capacities and any testimony will be credited to both. They are not "laypersons" when it comes to conditions of confinement as they are both DOC employees duty charged to protect the constitutional rights of prisoners and any Mass. Guide to Evidence, Section 701 (2014) interpretation must consider these defendants non-laypersons. Justice Liacos would cringe at such an application, that of deeming these defendants "laypersons", as the Rules of Evidence he wisely constructed always protect constitutional rights; even the constitutional rights of prisoners that have not been "left at the prison gate."

WHEREFORE, in light of the compelling grounds offered herein, the pro se plaintiff prays that the Honorable Court DENY the defendant's Motion for a Protective Order.

Dated: September 11, 2015

X _____

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