



ELLIS COUNTY & DISTRICT ATTORNEY

PATRICK M. WILSON

ELLIS COUNTY COURTS BUILDING • 109 S. JACKSON • WAXAHACHIE, TX 75165 • (972) 825-5035 • FAX (972) 825-5047

FOR IMMEDIATE RELEASE

Contact: Ann Montgomery, 972-825-5035 (ann.montgomery@co.ellis.tx.us)

Please see the below statement issued by Ellis County and District Attorney Patrick Wilson. No further statements will be issued in regards to this matter.

The right to a fair trial is a basic principle of our criminal justice system. That right applies equally to the accused and to the people of the State of Texas.

On August 1, 2016, my office, on behalf of a victim of domestic violence and the State of Texas, filed a Motion for Restriction of Extrajudicial Statements in Ellis County Court at Law #2. On the same date, after a hearing at which both the State and the defense had the opportunity to make arguments to the court, the motion was granted by Judge A. Gene Calvert, Jr. Trial commenced and was concluded on August 4, after the jury was unable to reach a verdict. On that date, the court again addressed the State's motion to ensure continuation of the order until retrial of the case. There has been no appeal of the order.

On August 11, 2016, my office, on behalf of a child victim of sexual assault and the State of Texas, filed a similar Motion for Restriction of Extrajudicial Statements in the 40th Judicial District Court of Ellis County. On August 12, after a hearing at which both the State and the defense had an opportunity to make arguments to the court, Judge Bob Carroll granted the motion. Defense counsel agreed to be bound by the court's order.

The trial in that cause commenced with jury selection on Monday, August 15. The trial was delayed after an insufficient number of potential jurors appeared in court. Only after trial commenced, and two business days after the hearing on the State's motion, did defense counsel suggest his interest in appealing the court's order.

Many false, inaccurate, and misleading statements have been made about the above events. Included with this statement are the following: 1) The motion filed in Ellis County Court at Law #2, 2) the motion filed in the 40th Judicial District Court of Ellis County, 3) the complete transcript of the August 12 hearing before Judge Bob Carroll, and 4) Rules 3.06 and 3.07 of the Texas Disciplinary Rules of Professional Conduct, which are the ethical rules governing all attorneys in the State of Texas.

A transcript of the proceedings held in Ellis County Court at Law Number 2 will be made available when received.

FILED

AUG 01 2016

**COUNTY CLERK
ELLIS COUNTY, TEXAS**

CAUSE NO. 1511811 CR

THE STATE OF TEXAS

VS.

JOEL PAYTE MATHIS

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IN THE COUNTY COURT

AT LAW NUMBER 2

ELLIS COUNTY, TEXAS

MOTION FOR RESTRICTION OF EXTRAJUDICIAL STATEMENTS

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, the State of Texas, by and through the Assistant County and District Attorney, Nicole Dempsey, in the above styled and numbered cause and files its MOTION FOR RESTRICTION OF EXTRAJUDICIAL STATEMENTS. This cause is presently set for trial on August 1st, 2016 at 9:00am. The movant asks that this motion be granted and would show the court the following:

1. Griffith & Associates, attorneys for the Defendant in the case at bar, is a well-known criminal defense firm with its principal office located in Waxahachie, Texas.
2. Griffith & Associates controls a dedicated "Facebook" page by the same name. Over the course of the previous calendar year, this page has had hundreds of views, comments, "likes", and "shares" by various members of the Ellis County community as well as surrounding communities.
3. Over the course of the previous calendar year, attorneys employed by Griffith & Associates or agents acting at their direction have made postings on this particular page that appear to have occurred while Griffith & Associates was currently in jury trial. These postings either exposed details about the case that the jury on those particular cases were not entitled to hear or expressed

COPY

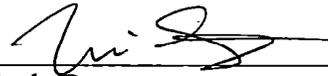
personal opinions about the proceedings that are inadmissible at trial. (See attached pre-trial exhibits 1-6)

4. There is a substantial likelihood that this and other forms of extrajudicial statements made by the Defendant's counsel could impair the rights of the Defendant, the State, and the public to a fair trial by an impartial jury. Accordingly, the State respectfully asks that the Court take limited steps to protect the rights of all parties to a fair trial.

WHEREFORE, PREMISES CONSIDERED, the State prays that the Court enter its order restricting extrajudicial statements of the parties in this case.

Respectively submitted,

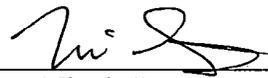
PATRICK M. WILSON
County & District Attorney



Nicole Dempsey
Assistant County & District Attorney
SBT: 24082077
109 S. Jackson
Waxahachie, TX 75165
972/825-5035
972/825-5047 (facsimile)

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was sent by hand, email, fax, or mail to Griffith & Associates, attorneys of record for the Defendant, on the 1st day of August, 2016.



Nicole Dempsey
Assistant County & District Attorney

CAUSE NO. 1511811 CR

THE STATE OF TEXAS

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IN THE COUNTY COURT

VS.

AT LAW NUMBER 2

JOEL PAYTE MATHIS

ELLIS COUNTY, TEXAS

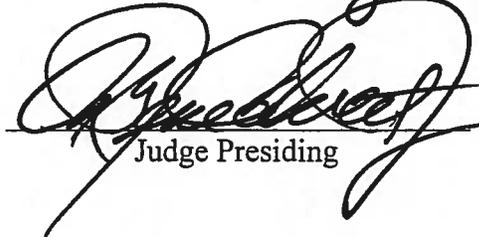
ORDER ON STATE'S MOTION FOR RESTRICTION OF EXTRAJUDICIAL STATEMENTS

On this day came to be heard the foregoing State's MOTION FOR RESTRICTION OF EXTRAJUDICIAL STATEMENTS, and after having been considered by the Court and the Court having found good cause, the said Motion is:

GRANTED: This ORDER is binding on Defendant and all attorneys for the State and the defense and on all employees, representatives, and agents of such attorneys. This ORDER shall remain in effect for the pendency of this trial or until further order of the Court.

DENIED

Signed this 1 day of August, 2016.


Judge Presiding

From to restrict extrajudicial statements, please see previous matter.



Griffith & Associates

January 25 ·

Sorry, it has been awhile since this last posting. I have been in trial fighting for a man's life and start another trial today and then another in 2 weeks.

It reminds me of my calling from God. I see God, directing me in my fights for justice. I see God in everything, including my clients. They are scorned, chastised, maligned and cast aside. These are the people Jesus sought out and helped. I imagine He has this plan for me long before I was born. So many paths could have led in different directions but He was always guiding me down the path He had set out for me. I have followed.

The path you want and the path God has for you may not be the same. Have faith, God knows and we don't always know.

I will continue to walk down His path and advocate for the same people He advocated for.

LOVE, COMPASSION, and Passion is the answer, all based in Faith, Hope, Love and Passion.

Have a great week to all of you. Look for a chance to make a difference in your life or someone else's. This is our calling, in different ways for different people.

Love always!

Like	Comment	Share
2K		Top Comments
		215 Comments

STATE'S EXHIBIT
PT 1



Griffith & Associates

March 24 ·

I was in Court yesterday cross-examing the witness who accused my innocent client. I got stuck for a second and was at a lost for the right questions to get to the truth. So, I said a prayer. It was answered immediately and we got to the truth with this hostile witness. For those that say prayer does not work, you never really prayed with the knowledge it WILL be answered.

Like Comment Share

3.4K

Top Comments

152 shares

282 Comments



Write a comment...



DavidEdna Howell ...at a loss, not lost. And yes, I know for sure prayer works

Like · Reply · 5 · March 24 at 4:48pm

Griffith & Associates Grammar police

Like · Reply · 8 · March 24 at 7:19pm



Cheryl Hardwick-Johnston Without faith and prayer, I do not know how I could have possibly continued functioning the past couple of years. Prayer is the ANSWER.

Like · Reply · 7 · March 25 at 12:49am

1 Reply

View 280 more comments

STATE'S EXHIBIT

PT 2



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May 18 ·

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Write a comment...



Deborah LaRosa Petittie You see there is another reason I never went to law school. I hate all the legalese!! Praise God.. You are sooo right!! The issues of the heart oh, Father may you well up in the hearts and minds of those in that courtroom. May you compel them with your overwhelming mercy and grace and let them be feel your presence in that courtroom. Bind the power of the enemy and send your angels charge over your son and his client this day . We praise you for you are more awesome than words could ever explain.. In Jesus name I pray, Amen.

Like · Reply · 17 · May 18 at 4:01pm

4 Replies



Mary Herrera Amen.. It's all going to be ok.. Brother. Prayers that GODs will be done going up. Have Faith its already taken care of. JESUS reads our hearts he knows before we take another step, which way we are headed. No worries. GOD is with you...and look at how many of us stand behind you. Amen..

Like · Reply · 8 · May 18 at 10:15pm

View 109 more comments

STATE'S EXHIBIT
PT3



Griffith & Associates
May 17 ·

I was in trial today. A witness testified and as I listened to this witness for the Government I did not even write anything down. He was really hurting our case, so instead of writing I listened and I prayed. Peace came over me and in only 5 questions he became our witness. These were not my 5 questions, they were 5 questions straight from the God I prayed to.

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2.1K

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Write a comment...



Patsy Bixler I always pray for Griffith & Associates twice a day. God is listening to you, and the ones that pray for you. Blessings.

Like · Reply · 12 · May 17 at 6:00pm



Griffith & Associates Thank you so much.

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View 187 more comments

STATE'S EXHIBIT
PT 4



Griffith & Associates

January 11 ·

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Like	Comment	Share
2.8K		Top Comments
		401 Comments

STATE'S EXHIBIT
PT 5



Griffith & Associates
November 9, 2015

Today I embark on a trial with a young man's future in my hands. I pray that the Father place his compassion, passion and words in my heart. I pray that He makes me the advocate I need to be to get true justice for my client. I pray He cloak me in his embrace and that I understand that all I need to do is be honest, be real, be passionate and listen. Amen.

STATE'S EXHIBIT
PT 6

CAUSE NO. 38498 CR

FILED FOR RECORD
2016 AUG 11 PM 1:45

THE STATE OF TEXAS

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IN THE DISTRICT COURT

VS.

40TH JUDICIAL DISTRICT

MELANIE HUBERT
DISTRICT CLERK
ELLIS COUNTY, TX

GILBERTO RAMIREZ GONZALEZ

ELLIS COUNTY, TEXAS

COPY

MOTION FOR RESTRICTION OF EXTRAJUDICIAL STATEMENTS

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, the State of Texas, by and through her County and District Attorney in an for Ellis County in the above styled and numbered cause and moves the Court to instruct the defendant, his lawyers, and witnesses for the defense to refrain from making extrajudicial statements pertaining to this case on social media during the pendency of the trial on the merits. This cause is presently set for trial on August 15th, 2016 at 9:00am. The movant asks that this motion be granted and would show the court the following:

1. Griffith & Associates, attorneys for the Defendant in the case at bar, is a well-known criminal defense firm with its principal office located in Waxahachie, Texas.
2. Griffith & Associates controls a dedicated "Facebook" page by the same name. Over the course of the previous calendar year, this page has had hundreds of views, comments, "likes", and "shares" by various members of the Ellis County community as well as surrounding communities.
3. Over the course of the previous calendar year, attorneys employed by Griffith & Associates or agents acting at their direction have made postings on this particular page that appear to have occurred while Griffith & Associates was

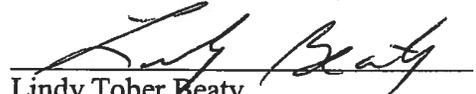
currently in jury trial. These postings either exposed details about the case that the jury on those particular cases were not entitled to hear or expressed personal opinions about the proceedings that are inadmissible at trial. (*See attached pre-trial exhibits 1-6*)

4. There is a substantial likelihood that this and other forms of extrajudicial statements made by the Defendant's counsel could impair the rights of the Defendant, the State, and the public to a fair trial by an impartial jury. Accordingly, the State respectfully asks that the Court instruct the defendant his lawyers and their agents, and the defense witnesses to refrain from making extrajudicial statements pertaining to this case on social media during the pendency of the trial on the merits.

WHEREFORE, PREMISES CONSIDERED, the State prays that the Court enter its order restricting extrajudicial statements of the parties in this case.

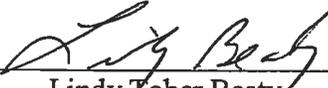
Respectively submitted,

PATRICK M. WILSON
County & District Attorney


Lindy Tober Beaty
Assistant County & District Attorney
SBT: 24013641
109 S. Jackson
Waxahachie, TX 75165
972/825-5035
972/825-5047 (facsimile)

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was sent by hand, email, fax, or mail to Griffith & Associates, attorneys of record for the Defendant, on the 11th day of August, 2016.



Lindy Tober Beaty
Assistant County & District Attorney

Cause No. 38498CR



THE STATE OF TEXAS

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IN THE DISTRICT COURT

vs.

40TH JUDICIAL DISTRICT

GILBERTO REMIREZ GONZALEZ
Defendant

ELLIS COUNTY, TEXAS

Offense: Continuous Sexual Abuse of Young Child

**ORDER LIMITING CERTAIN SOCIAL MEDIA
STATEMENTS BY COUNSEL DURING JURY TRIAL**

The trial court heard arguments in this felony criminal case concerning the State’s Motion for Restriction of Extrajudicial Statements (“Motion”). The trial court notes that counsel for the Defense did not file any type of written response to the Motion.

To the extent the trial court finds merit, if any, to any part of the State’s Motion, any resulting trial court order must be narrowly crafted so as not to infringe upon Defense counsel’s exercise of free speech and freedom of religion.

I.

Attached to the Motion are various exhibits which are reportedly screen shots of various past Facebook postings on the part of Defense counsel. It appears uncontroverted (although the Defense filed no written response) that the following posting constitutes social media, and that Defense counsel’s Facebook has a fairly significant community reach/following throughout Ellis County, relative to Ellis County’s population:

“I was in trial today. A witness testified and as I listened to this witness for the Government I did not even write anything down. *He was really hurting our case*, so instead of writing I listened and I prayed. Peace came over me and in only 5 questions *he became our witness*. These were not my 5 questions, they were 5 questions straight from the God I prayed to.” [Emphasis supplied] [State’s Pretrial Exhibit 4]

The trial court gleans from the arguments presented, the State is concerned about two primary matters: Defense counsel’s real time narration on social media and/or social media postings with respect to elements of the actual trial proceeding while the case is in jury trial.

II.

The jury trial process is concerned with truth and justice. Each juror takes a sworn oath to return a true verdict based upon the law and evidence presented in court. The trial court seeks to protect the integrity of the jury trial process, both in truth and in appearance.

Assume for a moment that a juror exits the courtroom in recess for the day, and then innocently views¹ the social media posting quoted on the bottom of the preceding page. The juror has now received and potentially embraced a direct one-way² line of communication outside the courtroom with Defense counsel. What is the significance of this of this ex parte or extrajudicial communication? There are several scenarios. Two possible scenarios are presented below.

First, when the specific witness³ testified in court during the day, the juror determined the witness was credible and actually favorable to the Defense’s case; however, Defense counsel’s negative comment taken out of context (“*He was really hurting our case ...*”) causes the juror to re-think the juror’s impression and form a negative view toward the Defense’s case – after all, if Defense counsel himself thinks the witness hurt his case, *then surely there is a good reason for me as juror to hold such a negative view.* The consequences are clear in that justice to the Defendant

¹ Example – the social media posting appears on a friend’s feed.

² One-way communication assuming the juror does not post a “like” in support of the feed and/or Defense counsel’s comment.

³ The specific witness is easily identified because the posting suggests that only 5 questions were asked on cross-examination: “... in only 5 questions ...”

is subverted; the ex parte or extrajudicial statement has deprived the Defendant of a fair and impartial jury trial; an incorrect verdict is reached; Defense counsel has potentially committed legal malpractice and deprived his client of the effective assistance of counsel; and there is created a post-verdict firestorm. Is this really how we want jury trials conducted in Ellis County or anywhere else in the State of Texas?

Conversely, in the second scenario assume that the juror held a view toward the witnesses' testimony and credibility which was negative to the Defendant, but was positively influenced by that portion of Defense counsel's out-of-court statement ("*... he became our witness ...*"), causing the juror to form a positive and perhaps incorrect impression of the witness and Defendant's case. Is this fair to the victim who may have suffered serious and debilitating physical/sexual abuse?

III.

We have a system of justice in Texas where the evidence and law received by the jury is filtered through the in-court trial process whereby attorneys on all sides of the docket offer testimony and evidence to advance their clients' interests; all sides are permitted to make proper legal objections to the law and evidence as it is being presented to help guarantee that the process is fair and legally correct; and the neutral and impartial judge serves as referee to help insure that business is conducted in accordance with laws that are time tested.

The order announced by the trial court in this particular case is equally applicable to counsel for the Defense and the State. Should the trial court choose not to narrowly limit certain social media statements made by counsel while the case is in jury trial, then inevitably we have to cross the following bridge, ultimately producing the proverbial telltale sign which most revealing. Assume for a moment that the roles were reversed and the Assistant District Attorney attempted to use social media communication to highlight, assess, or influence the jurors out-of-court while

the case is pending in jury trial. Do we think for one moment that the Defense would not cry *foul*? The Defense would, and indeed it would be foul play for the State's counsel to attempt to influence the opinions of individual jurors against a Defendant through out-of-court social media communication, however seemingly innocent.

IV.

At the conclusion of the in-court hearing on the State's Motion, it appeared to the trial court that counsel on both sides of the docket were able to think through their relative positions and reach a reasonable degree of consensus. After discussing matters in open court the attorneys concluded that they did not need a written court order; the careful drafting of a court order by the attorneys would take away time from their trial preparation; and the inherent nature of these matters is something that could be reasonably monitored with general parameters provided by the trial court. Subsequently, a formal written court order has been requested. Accordingly, the trial court hereby finds that this formal written order supersedes any verbal parameters provided by the trial court.

IT IS ORDERED that in the above entitled and numbered cause, effective only for the period beginning at the start of the scheduled jury trial on Monday, August 15, 2016 and continuing until the time of verdict as of the current trial setting, counsel for the State and Defense shall refrain from any social media live narrative or posting which: (i) identifies an element of this jury trial, to-wit, the applicable law, a piece of evidence, a witness, witness testimony, the Defendant herein, and/or the alleged victim; and (ii) directly or by reasonable inference connects the identified trial element to this subject jury trial; and (iii) which could in reasonable probability adversely influence a juror's verdict who received/viewed such a communication, or give the impression to a

reasonably prudent person that such a juror's verdict could possibly be undermined or tainted by such communication.

V.

Due to the nature, scope, extent, and pervasiveness of social media, the trial court finds that the preceding Order is necessary in addition to any other trial court instructions commonly given to members of the jury, such as the prohibitions against discussing the case outside of jury deliberations; refraining from researching any subject matter of the trial on the internet; refraining from Googling names, witnesses, or subject matter of the trial; avoid reading/viewing/listening to any media report concerning the case regardless of whether in hard copy, electronic or digital format, voice, or video; and refraining from conducting any form of independent investigation or fact investigation concerning any aspect of the case.

VI.

Finally, as this trial court contemplated, the preceding Order is/was only effect during the time of scheduled jury trial. The trial court notes that at approximately 3:30 p.m. yesterday on Monday, August 15, 2016 after the State had concluded its jury selection presentation, and prior to the start of the Defense's jury selection presentation, twenty-one (21) panel members were stricken or released from the jury panel, due in part to their inability to follow certain aspects of the law. Consequently, upon the agreement of the State, the Defense, and the Court the jury panel was discharged because an insufficient number of panel members remained from which to select the jury and allow both sides to utilize all peremptory strikes. The case shall be rescheduled pursuant to the trial court's instruction at such time as counsel for the State and Defense are able to properly assess their personal trial schedules and the schedules of all witnesses and interested

STATE'S EXHIBIT
PT 1

 Griffith & Associates
January 25

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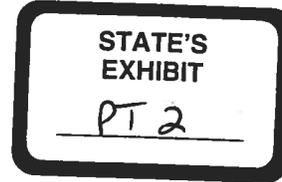


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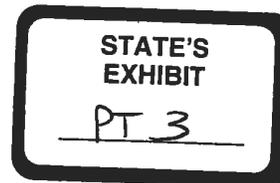
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[View 187 more comments](#)

STATE'S
EXHIBIT

PT 4



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STATE'S
EXHIBIT

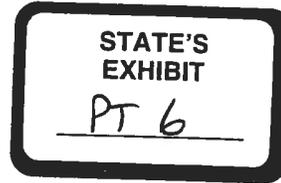
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IN THE DISTRICT COURT

VS.

40TH JUDICIAL DISTRICT

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ELLIS COUNTY, TEXAS

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2. Griffith & Associates controls a dedicated "Facebook" page by the same name. Over the course of the previous calendar year, this page has had hundreds of views, comments, "likes", and "shares" by various members of the Ellis County community as well as surrounding communities.
3. Over the course of the previous calendar year, attorneys employed by Griffith & Associates or agents acting at their direction have made postings on this particular page that appear to have occurred while Griffith & Associates was

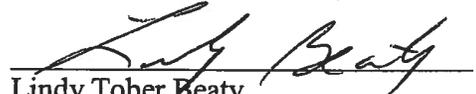
currently in jury trial. These postings either exposed details about the case that the jury on those particular cases were not entitled to hear or expressed personal opinions about the proceedings that are inadmissible at trial. (*See attached pre-trial exhibits 1-6*)

4. There is a substantial likelihood that this and other forms of extrajudicial statements made by the Defendant's counsel could impair the rights of the Defendant, the State, and the public to a fair trial by an impartial jury. Accordingly, the State respectfully asks that the Court instruct the defendant his lawyers and their agents, and the defense witnesses to refrain from making extrajudicial statements pertaining to this case on social media during the pendency of the trial on the merits.

WHEREFORE, PREMISES CONSIDERED, the State prays that the Court enter its order restricting extrajudicial statements of the parties in this case.

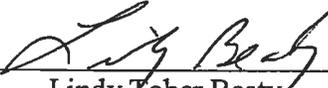
Respectively submitted,

PATRICK M. WILSON
County & District Attorney


Lindy Tober Beaty
Assistant County & District Attorney
SBT: 24013641
109 S. Jackson
Waxahachie, TX 75165
972/825-5035
972/825-5047 (facsimile)

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was sent by hand, email, fax, or mail to Griffith & Associates, attorneys of record for the Defendant, on the 11th day of August, 2016.



Lindy Tober Beaty
Assistant County & District Attorney

CAUSE NO. 38498 CR

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
	§	
VS.	§	40 TH JUDICIAL DISTRICT
	§	
GILBERTO RAMIREZ GONZALEZ	§	ELLIS COUNTY, TEXAS

ORDER ON STATE'S MOTION FOR RESTRICTION OF EXTRAJUDICIAL STATEMENTS

On this day came to be heard the foregoing State's MOTION FOR RESTRICTION OF EXTRAJUDICIAL STATEMENTS, and after having been considered by the Court and the Court having found good cause, the said Motion is:

___ **GRANTED:** This ORDER shall remain in effect for the pendency of this trial or until further order of the Court.

___ **DENIED**

Signed this _____ day of _____, 2016.

Judge Presiding

STATE'S EXHIBIT
PT 1

 Griffith & Associates
January 25

Sorry, it has been awhile since this last posting. I have been in trial fighting for a man's life and start another trial today and then another in 2 weeks.

It reminds me of my calling from God. I see God, directing me in my fights for justice. I see God in everything, including my clients. They are scorned, chastised, maligned and cast aside. These are the people Jesus sought out and helped. I imagine He has this plan for me long before I was born. So many paths could have led in different directions but He was always guiding me down the path He had set out for me. I have followed.

The path you want and the path God has for you may not be the same. Have faith, God knows and we don't always know.

I will continue to walk down His path and advocate for the same people He advocated for.

LOVE, COMPASSION, and Passion is the answer, all based in Faith, Hope, Love and Passion.

Have a great week to all of you. Look for a chance to make a difference in your life or someone else's. This is our calling, in different ways for different people.

Love always!

Like	Comment	Share
2K		Top Comments
		215 Comments



Griffith & Associates

March 24 ·

I was in Court yesterday cross-examing the witness who accused my innocent client. I got stuck for a second and was at a lost for the right questions to get to the truth. So, I said a prayer. It was answered immediately and we got to the truth with this hostile witnessed. For those that say prayer does not work, you never really prayed with the knowledge it WILL be answered.

Like Comment Share

3.4K

Top Comments

152 shares

282 Comments



Write a comment...



DavidEdna Howell ...at a loss, not lost. And yes, I know for sure prayer works

Like · Reply · 5 · March 24 at 4:48pm

Griffith & Associates Grammar police

Like · Reply · 8 · March 24 at 7:19pm

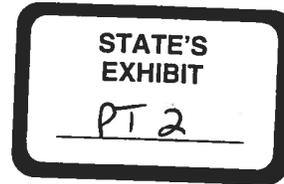


Cheryl Hardwick-Johnston Without faith and prayer, I do not know how I could have possibly continued functioning the past couple of years. Prayer is the ANSWER.

Like · Reply · 7 · March 25 at 12:49am

1 Reply

View 280 more comments





Griffith & Associates

May 18 ·

Day 3 of trial to start at 9 a.m. The jury simply needs to see the heart of my client, because that is where the grace of God resides. I need his heart to speak to their heart and I need to speak to their heart without all the impressive legal terms we learned in law school. Just people talking about what resides in their heart.....and I am praying wisdom, mercy and compassion still have a place there.

Like Comment Share

1.4K

Top Comments

35 shares

111 Comments



Write a comment...



Deborah LaRosa Petite You see there is another reason I never went to law school.. I hate all the legalese!! Praise God.. You are sooo right!! The issues of the heart oh, Father may you well up in the hearts and minds of those in that courtroom. May you compel them with your overwhelming mercy and grace and let them be feel your presence in that courtroom. Bind the power of the enemy and send your angels charge over your son and his client this day . We praise you for you are more awesome than words could ever explain.. In Jesus name I pray, Amen.

Like · Reply · 17 · May 18 at 4:01pm

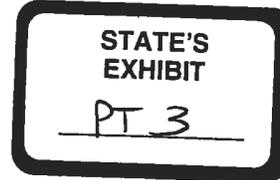
4 Replies



Mary Herrera Amen.. It's all going to be ok.. Brother. Prayers that GODs will be done going up. Have Faith its already taken care of. JESUS reads our hearts he knows before we take another step, which way we are headed. No worries. GOD is with you...and look at how many of us stand behind you. Amen!.

Like · Reply · 8 · May 18 at 10:15pm

[View 109 more comments](#)



 Griffith & Associates
May 17 ·

I was in trial today. A witness testified and as I listened to this witness for the Government I did not even write anything down. He was really hurting our case, so instead of writing I listened and I prayed. Peace came over me and in only 5 questions he became our witness. These were not my 5 questions, they were 5 questions straight from the God I prayed to.

Like Comment Share

2.1K

Top Comments

73 shares

189 Comments



Write a comment...



Patsy Bixler I always pray for Griffith & Associates twice a day. God is listening to you, and the ones that pray for you. Blessings.

Like · Reply · 12 · May 17 at 6:00pm

 Griffith & Associates Thank you so much.

Like · Reply · 1 · May 17 at 7:49pm

[View more replies](#)



Diana Kimbrough AMEN! If God be for us, who can be against us? May OUR HEAVENLY FATHER Continue to BLESS YOU and Your prayers!

Like · Reply · 14 · May 17 at 6:47pm

[View 187 more comments](#)

STATE'S
EXHIBIT

PT 4



Griffith & Associates

January 11 ·

Trial begins today for an innocent man. I ask that you all lift me up in prayer. That I may hear with God's ears, that I speak with His words and that the jury will be filled with His grace to give my client justice and send him home.

Like

Comment

Share

2.8K

Top Comments

401 Comments

STATE'S
EXHIBIT

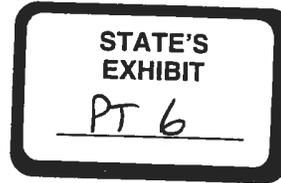
PT 5



Griffith & Associates

November 9, 2015

Today I embark on a trial with a young man's future in my hands. I pray that the Father place his compassion, passion and words in my heart. I pray that He makes me the advocate I need to be to get true justice for my client. I pray He cloak me in his embrace and that I understand that all I need to do is be honest, be real, be passionate and listen. Amen.



REPORTER'S RECORD
VOLUME 1 OF 2 VOLUMES

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TRIAL COURT CAUSE NO. 1511811 CR

THE STATE OF TEXAS)	IN THE COUNTY COURT
)	
)	
VS.)	AT LAW NO. 2
)	
)	
JOEL PAYTE MATHIS)	ELLIS COUNTY, TEXAS
)	

MOTION FOR RESTRICTION OF
EXTRAJUDICIAL STATEMENTS

On the 1st day of August, 2016 the following
proceedings came on to be heard in the above-entitled
and numbered cause before the Honorable Judge A. Gene
Calvert, Jr., Judge presiding, held in Waxahachie, Ellis
County, Texas;

Proceedings reported by machine shorthand.

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A P P E A R A N C E S

FOR THE STATE:

Ms. Nicole Dempsey
Assistant County and District Attorney
109 South Jackson
Waxahachie, Texas 75165
(972) 825-5035
SBOT NO. 24082077

FOR THE STATE:

Mr. Russell Jones, III
Assistant County and District Attorney
109 South Jackson
Waxahachie, Texas 75165
(972) 825-5035
SBOT NO. 24084318

FOR THE DEFENDANT:

Mr. Mark Griffith
Griffith & Associates
108 West Main Street
Waxahachie, Texas 75165
(972) 938-8343
SBOT NO. 00785928

FOR THE DEFENDANT:

Mr. Chad Hughes
Griffith & Associates
108 West Main Street
Waxahachie, Texas 75165
(972) 938-8343
SBOT NO. 24082019

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I N D E X
VOLUME 1 OF 2 VOLUMES
(MOTION FOR RESTRICTION OF EXTRAJUDICIAL STATEMENTS)

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1 (Beginning of first excerpt.)

2 THE COURT: And then we've got State's
3 motion regarding extrajudicial statements. Do you have
4 a response to that?

5 MR. GRIFFITH: Yes, Your Honor. They pulled
6 out excerpts apparently from Griffith and Associates'
7 website. And I think if the Court looks at them, those
8 are not extrajudicial statements. What they are is
9 statements by me that I say prayers before trial in
10 hopes that God gives me the words to find the truth.

11 MS. DEMPSEY: Your Honor, in a number of
12 these posts, was in the middle of trial. I think in
13 State's Exhibit Pretrial 3 specifically, it says, day
14 three of trial to start at 9:00 a.m. He's making
15 comments on the weight of the evidence and the
16 credibility of the witnesses and that's for a jury to
17 decide, not for him to post during trial. And for
18 fairness sake, on the order, we did have that apply to
19 the State's attorneys as well.

20 THE COURT: Yeah, I mean the problem with
21 the motion is you didn't specifically request any
22 particular type of restriction and the order doesn't
23 really specify, but...

24 MS. DEMPSEY: Well, Your Honor, we give
25 instructions to our witnesses that they're not to talk

1 about trial as the trial's going on. We give
2 instructions to the Jury.

3 THE COURT: I know but that's not the point.
4 You didn't state specifically what action you wanted the
5 Court to order. It just says, this order is binding on
6 defendant and all attorneys. And in the motion itself,
7 it doesn't specify any specific conduct that you're
8 wanting to address.

9 MS. DEMPSEY: It says extrajudicial
10 statements, I mean, outside of trial while the trial's
11 going on. He -- I mean, I looked at the Facebook page.
12 He's got thousands of likes and shares on these comments
13 when trial is happening. And the way the algorithm --

14 THE COURT: You're missing kind of the point
15 I'm making.

16 MS. DEMPSEY: So if we were to re-file a
17 more specific motion?

18 THE COURT: No. Both sides will be
19 refrained from making extrajudicial statements, orally
20 or in writing or through electronic media, till the
21 conclusion of this trial and in relation to this
22 specific trial.

23 MR. GRIFFITH: Yes, sir.

24 MS. DEMPSEY: Thank you, Your Honor.

25 (End of excerpt.)

REPORTER'S CERTIFICATE

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THE STATE OF TEXAS)
COUNTY OF ELLIS)

I, Tierney Lilley, Official Court Reporter in and for the Ellis County Court at Law No. 2 of Ellis County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the Defendant to be included in this volume of the Reporter's Record, in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

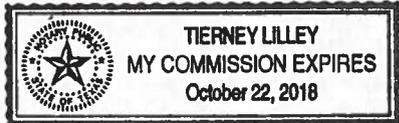
I further certify that this Reporter's Record of the proceedings truly and correctly reflects the exhibits, if any, admitted by the respective parties.

I further certify that the total cost for the preparation of this Reporter's Record is \$36.00 and was paid for by counsel for the Defendant.

WITNESS MY OFFICIAL HAND this the 17th day of August, 2016.

Tierney Lilley

Tierney Lilley, Texas CSR #7885
Expiration Date: 12/31/2016
Official Court Reporter
Ellis County Court at Law No. 2
109 South Jackson
Waxahachie, Texas 75165



COPY

REPORTER'S RECORD
VOLUME 2 OF 2 VOLUMES

TRIAL COURT CAUSE NO. 1511811 CR

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THE STATE OF TEXAS)	IN THE COUNTY COURT
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)	
VS.)	AT LAW NO. 2
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)	
JOEL PAYTE MATHIS)	ELLIS COUNTY, TEXAS
)	

MOTION FOR RESTRICTION OF
EXTRAJUDICIAL STATEMENTS

On the 4th day of August, 2016 the following
proceedings came on to be heard in the above-entitled
and numbered cause before the Honorable Judge A. Gene
Calvert, Jr., Judge presiding, held in Waxahachie, Ellis
County, Texas;

Proceedings reported by machine shorthand.

A P P E A R A N C E S

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FOR THE STATE:
Ms. Nicole Dempsey
Assistant County and District Attorney
109 South Jackson
Waxahachie, Texas 75165
(972) 825-5035
SBOT NO. 24082077

FOR THE STATE:
Mr. Russell Jones, III
Assistant County and District Attorney
109 South Jackson
Waxahachie, Texas 75165
(972) 825-5035
SBOT NO. 24084318

FOR THE DEFENDANT:
Mr. Mark Griffith
Griffith & Associates
108 West Main Street
Waxahachie, Texas 75165
(972) 938-8343
SBOT NO. 00785928

FOR THE DEFENDANT:
Mr. Chad Hughes
Griffith & Associates
108 West Main Street
Waxahachie, Texas 75165
(972) 938-8343
SBOT NO. 24082019

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I N D E X
VOLUME 2 OF 2 VOLUMES
(MOTION FOR RESTRICTION OF EXTRAJUDICIAL STATEMENTS)

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1 (Beginning of excerpt.)

2 THE COURT: At this point, is there anything
3 else that we need to address?

4 MS. DEMPSEY: Just briefly, Your Honor. On
5 the first, the State had filed, and it was granted, the
6 motion to restrict extrajudicial statements. Because
7 we'll be trying this again, we'd ask that, that remain
8 in effect and that nothing be posted about the evidence
9 that was heard or about what happened in court this week
10 in order not to taint a future jury pool?

11 THE COURT: Response?

12 MR. GRIFFITH: Yes. There's 25,000 likes to
13 Griffith and Associates' website. They go all over the
14 country and into other countries. Those aren't likes
15 centered to Ellis County. And truthfully --

16 THE COURT: Is there any reason why you or
17 any member of your law firm should be discussing
18 evidence or things that transpired in this case prior to
19 the final resolution of this matter?

20 MR. GRIFFITH: I mean is -- with regards to
21 the facts and the outcome? No. Could I put --

22 THE COURT: I think you should refrain from
23 making any statements about any person connected with
24 the trial or any events connected with the trial until
25 it's finally resolved.

1 MR. GRIFFITH: Would the Court find it in
2 violation if I put, we had trial, felt like God was with
3 me, and he answered my prayers?

4 THE COURT: I think you need to be very
5 careful. I'm not going to limit personal comments that
6 you make regarding your own personal matters, but if you
7 reflect and communicate regarding this case and it
8 causes somebody to become inflamed or starts a riff or
9 starts stirring the pot or causes people to change their
10 testimony or any of those types of things, then it will
11 be a problem so I caution you. I'm going to grant the
12 State's request. You need to be very careful about
13 comments in relation to this particular trial.

14 MR. GRIFFITH: Yes, sir.

15 THE COURT: Anything else from the State?

16 MS. DEMPSEY: Nothing, Your Honor.

17 THE COURT: Do you have any other issues we
18 need to address?

19 MR. GRIFFITH: I mean, God was with me in
20 the courtroom. Could that inflame somebody who's an
21 atheist? Yes.

22 THE COURT: Mr. Griffith, I'm not going to
23 argue with you about it. I just caution you to use
24 discretion and extreme judgment. If the State perceives
25 that you are commenting on this trial, I anticipate that

1 they'll file some sort of motion to have you brought
2 back or some sort of grievance. I want to try to keep
3 this matter preserved as much as possible before we try
4 it again so that both sides can have a fair trial.

5 Okay?

6 MR. GRIFFITH: Yes, sir.

7 THE COURT: Anything else?

8 MR. GRIFFITH: No.

9 MS. DEMPSEY: No, Your Honor.

10 THE COURT: Then we'll stand in recess on
11 this matter until the final pretrial date. In the event
12 either of you feel the need to have any settings or
13 hearings, just notify the Court. We'll stand in recess.

14 (End of proceedings.)

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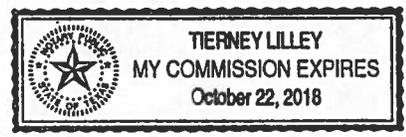
THE STATE OF TEXAS)
COUNTY OF ELLIS)

I, Tierney Lilley, Official Court Reporter in and for the Ellis County Court at Law No. 2 of Ellis County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the Defendant to be included in this volume of the Reporter's Record, in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I further certify that this Reporter's Record of the proceedings truly and correctly reflects the exhibits, if any, admitted by the respective parties.

I further certify that the total cost for the preparation of this Reporter's Record is \$42.00 and was paid for by counsel for the Defendant.

WITNESS MY OFFICIAL HAND this the 17th day of August, 2016.



Tierney Lilley

Tierney Lilley, Texas CSR #7885
Expiration Date: 12/31/2016
Official Court Reporter
Ellis County Court at Law No. 2
109 South Jackson
Waxahachie, Texas 75165

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PARTIAL REPORTER'S RECORD

CAUSE NO. 38498-CR

THE STATE OF TEXAS) IN THE DISTRICT COURT
)
VS.) ELLIS COUNTY, TEXAS
)
GILBERTO GONZALEZ) 40TH JUDICIAL DISTRICT

TRIAL ANNOUNCEMENT

MOTION FOR RESTRICTION OF EXTRAJUDICIAL STATEMENTS

On the 12th day of August, 2016, the following proceedings came on to be heard in the above-styled and -numbered cause before the HONORABLE BOB CARROLL, Judge presiding, held in Waxahachie, Ellis County, Texas.

Proceedings reported by computerized stenotype machine; Reporter's Record produced by computer-assisted transcription.

MICHELE McMANUS, CSR NO. 3567
Official Court Reporter
Ellis County 40th District Court
109 South Jackson Street
Waxahachie, Texas 75165-3706
(972) 825-5064

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A P P E A R A N C E S

Ms. Lindy Beaty
SBOT NO. 24013641
Mr. Jake Heffernan
SBOT NO. 24080936
Ellis County & District Attorney's Office
109 South Jackson Street
Waxahachie, Texas 75165
(972) 825-5035
On Behalf of the State

Mr. Mark Griffith
SBOT NO. 00785928
Mr. Chad Hughes
SBOT NO. 24082019
Mark Griffith & Associates
108 West Main
Waxahachie, Texas 75165
(972) 938-8343
On Behalf of the defendant

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C H R O N O L O G I C A L I N D E X

Trial Announcement

Motion for Restriction of Extrajudicial Statements

August 12, 2016

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1 P R O C E E D I N G S

2 (Beginning of excerpt.)

09:28:22 3 THE COURT: Any other motions on the part of
09:28:24 4 the State?

09:28:24 5 MS. BEATY: Yes, Your Honor. We filed an
09:28:26 6 additional Motion for Restriction of Extrajudicial
09:28:30 7 Statements.

09:28:32 8 THE COURT: I'm looking at a document titled
09:28:34 9 Motion for Restriction of Extrajudicial Statements. If
09:28:38 10 you would, Counsel, please give me a few moments to
09:28:42 11 review it.

09:28:42 12 MS. BEATY: Sure, Your Honor.

09:32:33 13 THE COURT: State may proceed.

09:32:34 14 MS. BEATY: Yes, Your Honor. What we're
09:32:36 15 simply requesting is that during the pendency of this
09:32:38 16 case that, actually both sides really, not make any
09:32:42 17 comments on social media or anything that would be open
09:32:45 18 to the public and to potential jury members regarding
09:32:49 19 the witnesses in the case, how the case is proceeding,
09:32:52 20 their perceptions of the case one way or the other, so
09:32:54 21 as not to taint any jury that we may have sitting on the
09:32:57 22 case. We ask the jurors to do the same thing and not
09:33:01 23 Google things and look up things, so I don't think it's
09:33:04 24 unreasonable that both sides would be ordered to not
09:33:06 25 post anything on social media regarding the trial and

09:33:10 1 witnesses as the case is proceeding.

09:33:16 2 THE COURT: Well, Counsel, talk with me
09:33:18 3 about impact. If nobody looks at this social media,
09:33:23 4 then there's no impact, or do hundreds of people or
09:33:26 5 thousands of people? What are we looking at here in
09:33:29 6 terms of scope?

09:33:29 7 MS. BEATY: Well, right. As we said in our
09:33:31 8 -- in our motion, there's been hundreds of views on the
09:33:36 9 comment. Comments are made during the course of any
09:33:39 10 trial. We're not just talking about, you know, ten
09:33:41 11 people that are putting likes on here. We're talking
09:33:43 12 about hundreds of people that are looking at the page.

09:33:46 13 THE COURT: And for the record, you're
09:33:48 14 talking about Facebook?

09:33:49 15 MS. BEATY: Facebook in particular, yes,
09:33:51 16 Your Honor.

09:33:51 17 THE COURT: My general understanding is that
09:33:55 18 Facebook has a number of integrated and interconnected
09:34:01 19 feeds that go in multiple directions so --

09:34:01 20 MS. BEATY: Sure. So --

09:34:05 21 THE COURT: -- my concern would be is that
09:34:05 22 the impact is geometrically amplified.

09:34:11 23 MS. BEATY: Well, sure. So even, let's say
09:34:13 24 -- let's say none of our jurors are actually going to
09:34:15 25 the page, right, but they have a friend that is. That's

09:34:18 1 going to show up on the friend's page and then somehow
09:34:21 2 link them as well. So, you know, you're talking about
09:34:24 3 -- it doesn't even have to be the particular juror going
09:34:26 4 to the page. They can still have access to the page by
09:34:28 5 one of their friends linking to the page. You know what
09:34:32 6 I'm saying?

09:34:33 7 THE COURT: So even though we direct a jury
09:34:38 8 not to conduct any fact investigation, not to conduct
09:34:44 9 any internet research regarding the subject matter of
09:34:49 10 the trial, and further instruct them not to Google any
09:34:54 11 name or subject matter and so forth, we could even,
09:35:05 12 hypothetically, attempt to instruct them do not view
09:35:08 13 social media in connection with this case.

09:35:11 14 However, what I hear you saying, is that
09:35:14 15 despite all of the instructions by the Trial Court, we
09:35:19 16 potentially could have a juror in the jury deliberation
09:35:22 17 room or here in the courthouse be viewing a Facebook
09:35:28 18 page and inadvertently that juror actually sees realtime
09:35:34 19 narration from Counsel about the subject matter in the
09:35:38 20 jury trial.

09:35:38 21 MS. BEATY: Sure. I'm not saying that it
09:35:40 22 would be an intentional act on any part of the juror,
09:35:42 23 but easily there could be something that would
09:35:46 24 inadvertently come up on their -- any type of social
09:35:47 25 media really. I mean, we're mostly talking about

09:35:51 1 Facebook, but there's also Twitter, there's also
09:35:52 2 Instagram, there's all kinds of things social media wise
09:35:54 3 and other apps that I'm still probably unfamiliar with
09:35:58 4 where people could have access to realtime information
09:36:00 5 going on, and sort of things behind the scenes as well
09:36:04 6 that they are not privy to and shouldn't be privy to.

09:36:08 7 THE COURT: Defense?

09:36:10 8 MR. GRIFFITH: Yes, Your Honor. First off,
09:36:13 9 I don't mind being limited to explaining that I'm in
09:36:19 10 trial, I've asked God to direct my questions, to fill my
09:36:28 11 heart and to allow me to be the attorney I need to be
09:36:31 12 for my client. Any restriction on that appears to be a
09:36:38 13 combination of First Amendment infringements. One,
09:36:43 14 freedom of religion, and, two, freedom of speech.

09:36:46 15 I'm not talking about, if I'm limited to
09:36:49 16 that, I'm not talking about any particular witness or
09:36:52 17 what occurred in court. All I'm posting on social media
09:36:56 18 is that I'm an attorney who prays before trial and prays
09:37:01 19 during trial. Now, to restrict me from doing that, I
09:37:08 20 believe the State is asking the Court to sanction a
09:37:12 21 violation of my First Amendment right, freedom of speech
09:37:17 22 and also freedom of religion.

09:37:23 23 I mean, since when would me saying I bring
09:37:25 24 God in the courtroom affect a verdict? And since when
09:37:30 25 am I not entitled as an attorney, as an executive or as

09:37:35 1 a judge saying I certainly, you know, seek God's counsel
09:37:46 2 in decisions I make in hoping that the result is
09:37:48 3 justice?

09:37:50 4 THE COURT: My concern is direct or indirect
09:37:57 5 case references. Further concern about qualitative
09:38:09 6 assessments or qualitative statements regarding the
09:38:16 7 progress of the trial and the nature, scope and the
09:38:19 8 extent of what is occurring at trial. And further
09:38:25 9 concern about the narration or narrative statements and
09:38:33 10 philosophy of what is taking place in court.

09:38:35 11 Now, that's very different than to say,
09:38:39 12 hypothetically, Tuesday, May 15th, 2016, we're in trial.
09:38:45 13 Pray for me. That's a lot different than talking about
09:38:52 14 how you are attempting to cross-examine a witness in a
09:39:01 15 particular case seeking divine intervention.

09:39:09 16 MR. GRIFFITH: I'm not seeking divine
09:39:10 17 intervention. I'm --

09:39:11 18 THE COURT: No, I'm talking about making
09:39:14 19 statements in the context of the case. Witness number
09:39:17 20 three, Tom Smith, is on the witness stand.

09:39:20 21 MR. GRIFFITH: I think I just said, I don't
09:39:22 22 have any problem not posting that, but for them, based
09:39:28 23 on this motion and asking the Court to sanction the
09:39:31 24 motion, all I'm asking is that I be continued because I
09:39:35 25 feel like prayers by the people that follow my -- the

09:39:42 1 firm's website help me. I'm sorry. That's the way I
09:39:46 2 feel.

09:39:46 3 And I wouldn't make any particular reference
09:39:49 4 to anything other than I'm in trial. I've said my
09:39:55 5 prayer that God follows me in the courtroom. I ask that
09:39:57 6 you also say those prayers.

09:40:02 7 THE COURT: Any type of specific restriction
09:40:11 8 on counsel's social media activities will need to be
09:40:20 9 narrowly tailored and carefully crafted. It sounds like
09:40:24 10 there may even need to be some policing going on. In my
09:40:39 11 mind, it's one of those things where I know it when I
09:40:42 12 see it, and I want to err on the side of caution of not
09:40:51 13 inadvertently influencing the jury or a juror who is
09:40:56 14 participating in the decision-making process.

09:40:59 15 MR. GRIFFITH: May I pose a question to the
09:41:01 16 Court? Let's say I started jury selection and, you
09:41:07 17 know, I'm asking them to talk about personal things, and
09:41:12 18 I said, listen, I'm going to ask y'all to talk about
09:41:15 19 personal things so I feel it's fair that I give you
09:41:18 20 something personal. I pray that God fill my heart and
09:41:28 21 direct me in the words that I ask during this trial.
09:41:32 22 Now, what is improper about that other than I've
09:41:37 23 mentioned the word God?

09:42:01 24 THE COURT: I think what we may need to know
09:42:07 25 is whether you intend to have some type of ongoing, off

09:42:16 1 and on throughout the day posting or it's simply going
09:42:21 2 to be I'm going to work today, I'm in trial, pray for
09:42:30 3 me. That's a lot different than back and forth realtime
09:42:38 4 narrations that potentially could be construed as
09:42:56 5 providing realtime assessments or evaluations in
09:43:02 6 connection with the case.

09:43:04 7 MR. GRIFFITH: I have no problem being
09:43:06 8 limited to the restrictions the Court just said, as long
09:43:09 9 as I can also say, trial today. I started the day on my
09:43:17 10 knees praying that God be with me in court. I ask for
09:43:21 11 the same prayers from you. It's okay for a lawyer --

09:43:27 12 THE COURT: Ms. Beaty, I think if Counsel
09:43:34 13 stays within those bounds, I think that that is either
09:43:43 14 permissible or something that's not objectionable.

09:43:49 15 MS. BEATY: Right. What we're talking about
09:43:50 16 is commenting on how a witness did or didn't do or what
09:43:54 17 they're going to do or what he's going to do to a
09:43:56 18 witness or anything like that.

09:43:57 19 THE COURT: That's what I meant by their
09:43:59 20 realtime live narration, sure.

09:44:01 21 MR. GRIFFITH: And I would agree to be bound
09:44:03 22 from posting that during this trial.

09:44:08 23 THE COURT: Okay. Then we go forward on
09:44:11 24 that basis. So I am granting the State's Motion for
09:44:19 25 Restriction of Extrajudicial Statements in part as per

09:44:21 1 the record. So here's where we go. Here's our flight
09:44:29 2 path. The defense can be cautious in its morning
09:44:40 3 posting. The State will likely have an investigator or
09:44:52 4 another assistant DA checking the social media site, I
09:44:55 5 assume. And as long as it's reasonable and consistent
09:45:02 6 with the Trial Court's ruling, we go forward. We may
09:45:04 7 not need a formal order. If --

09:45:09 8 MR. GRIFFITH: I'm not --

09:45:10 9 THE COURT: -- the State's review of social
09:45:12 10 media thinks that the line's been crossed, you'll need
09:45:18 11 to bring that matter to the attention of the Trial
09:45:20 12 Court. And at that point we may need to recess, I need
09:45:24 13 to roll up my sleeves and craft a very specific, a very
09:45:30 14 tight order so that there can be no inadvertent crossing
09:45:39 15 of the line. Are we okay with proceeding informally on
09:45:39 16 that basis?

09:45:43 17 MS. BEATY: Yes, Your Honor.

09:45:44 18 MR. GRIFFITH: Yes. And I can tell the
09:45:45 19 Court as an officer of the court, I'm not going to cross
09:45:48 20 that line.

09:45:48 21 THE COURT: I understand. I am simply
09:45:53 22 looking and have read the six exhibits attached. I
09:45:58 23 understand the State's concern. That's why I ruled
09:46:00 24 partly in their favor, and I think everybody understands
09:46:11 25 the parameters. Now the only thing I want to add is

09:46:13 1 this. I rarely look at social media, so neither side
09:46:27 2 can have an expectation that I'm going to be policing
09:46:31 3 these, because I'm not.

09:46:33 4 MS. BEATY: Right.

09:46:34 5 THE COURT: So either side or both sides
09:46:35 6 will need to bring the matters to my attention. Very
09:46:38 7 good. Anything else on this particular issue?

09:46:40 8 MS. BEATY: No, Your Honor.

09:46:40 9 MR. GRIFFITH: No.

09:46:42 10 THE COURT: Very good. One moment, please.
09:47:45 11 Any other motions on the part of the State?

09:47:46 12 MS. BEATY: No, Your Honor.

13 (End of excerpt.)

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1 STATE OF TEXAS)

2 COUNTY OF ELLIS)

3 I, Michele McManus, Official Court Reporter,
4 in and for the 40th District Court of Ellis County,
5 State of Texas, do hereby certify that the above and
6 foregoing contains a true and correct transcription of
7 all portions of evidence and other proceedings requested
8 in writing by counsel for the parties to be included in
9 this volume of the Reporter's Record, in the
10 above-styled and numbered cause, all of which occurred
11 in open court or in chambers and were reported by me.

12 I further certify that this Reporter's
13 Record of the proceedings truly and correctly reflects
14 the exhibits, if any, admitted by the respective
15 parties.

16 I further certify that the total cost for
17 the preparation of this Reporter's Record is \$80.50 and
18 will be paid by Ellis County & District Attorney.

19 WITNESS MY OFFICIAL HAND this the 16th day
20 of August, 2016.

/s/Michele McManus

21 _____
22 MICHELE McMANUS, TEXAS CSR NO. 3567
23 Official Court Reporter
24 Ellis County Courthouse
25 40th Judicial District Court
109 South Jackson Street
Waxahachie, Texas 75165
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D I S C L O S U R E

Note: Supreme Court Rule adopted and promulgated in conformity with Chapter 52 of the Government Code, V.T.C.A.

Please be advised that pursuant to Supreme Court Rule IV, B.4, with regards to disclosure, I, to the best of my knowledge, have no existing or past financial, business, professional, family, or social relationships with any of the parties or their attorneys which might reasonably create an appearance of partiality, except as follows:

/s/Michele McManus

MICHELE McMANUS, TEXAS CSR NO. 3567
Official Court Reporter
Ellis County Courthouse
40th Judicial District Court
109 South Jackson Street
Waxahachie, Texas 75165
(972) 825-5064
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are frequently handled in that way. As long as such contacts are not prohibited by law or applicable rules of practice or procedure, and as long as paragraph (a) of this Rule is adhered to, such ex parte contacts will not serve as a basis for discipline.

5. For limitations on the circumstances and the manner in which lawyers may communicate or cause another to communicate with veniremen or jurors, see Rule 3.06.

Rule 3.06 Maintaining Integrity of Jury System

(a) A lawyer shall not:

(1) conduct or cause another, by financial support or otherwise, to conduct a vexatious or harassing investigation of a venireman or juror; or

(2) seek to influence a venireman or juror concerning the merits of a pending matter by means prohibited by law or applicable rules of practice or procedure.

(b) Prior to discharge of the jury from further consideration of a matter, a lawyer connected therewith shall not communicate with or cause another to communicate with anyone he knows to be a member of the venire from which the jury will be selected or any juror or alternate juror, except in the course of official proceedings.

(c) During the trial of a case, a lawyer not connected therewith shall not communicate with or cause another to communicate with a juror or alternate juror concerning the matter.

(d) After discharge of the jury from further consideration of a matter with which the lawyer was connected, the lawyer shall not ask questions of or make comments to a member of that jury that are calculated merely to harass or embarrass the juror or to influence his actions in future jury service.

(e) All restrictions imposed by this Rule upon a lawyer also apply to communications with or investigations of members of a family of a venireman or a juror.

(f) A lawyer shall reveal promptly to the court improper conduct by a venireman or a juror, or by another toward a venireman or a juror or a member of his family, of which the lawyer has knowledge.

(g) As used in this Rule, the terms matter and pending have the meanings specified in Rule 3.05(c).

Comment:

1. To safeguard the impartiality that is essential to the judicial process, veniremen and jurors should be protected against extraneous influences. When impartiality is present, public confidence in the judicial system is enhanced. There should be no extrajudicial communication with veniremen prior to trial or with jurors during trial or on behalf of a lawyer connected with the case. Furthermore, a lawyer who is not connected with the case should not communicate with or cause another to communicate with a venireman or a juror about the case. After the

trial, communication by a lawyer with jurors is not prohibited by this Rule so long as he refrains from asking questions or making comments that tend to harass or embarrass the juror or to influence actions of the juror in future cases. Contacts with discharged jurors, however, are governed by procedural rules the violation of which could subject a lawyer to discipline under Rule 3.04. When an extrajudicial communication by a lawyer with a juror is permitted by law, it should be made considerately and with deference to the personal feelings of the juror.

2. Vexatious or harassing investigations of jurors seriously impair the effectiveness of our jury system. For this reason, a lawyer or anyone on his behalf who conducts an investigation of veniremen or jurors should act with circumspection and restraint.

3. Communications with or investigations of members of families of veniremen or jurors by a lawyer or by any one on his behalf are subject to the restrictions imposed upon the lawyer with respect to his communications with or investigations of veniremen and jurors.

4. Because of the extremely serious nature of any actions that threaten the integrity of the jury system, a lawyer who learns of improper conduct by or towards a venireman, a juror, or a member of the family of either should make a prompt report to the court regarding such conduct. If such improper actions were taken by or on behalf of a lawyer, either the reporting lawyer or the court normally should initiate appropriate disciplinary proceedings. See Rules 1.05, 8.03, 8.04.

Rule 3.07 Trial Publicity

(a) In the course of representing a client, a lawyer shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicatory proceeding. A lawyer shall not counsel or assist another person to make such a statement.

(b) A lawyer ordinarily will violate paragraph (a), and the likelihood of a violation increases if the adjudication is ongoing or imminent, by making an extrajudicial statement of the type referred to in that paragraph when the statement refers to:

(1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness; or the expected testimony of a party or witness;

(2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense; the existence or contents of any confession, admission, or statement given by a defendant or suspect; or that person's refusal or failure to make a statement;

(3) the performance, refusal to perform, or results of any examination or test; the refusal or failure of a person to allow or submit to an examination or test; or the identity or nature of physical evidence expected to be presented;

(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration; or

(5) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial.

(c) A lawyer ordinarily will not violate paragraph (a) by making an extrajudicial statement of the type referred to in that paragraph when the lawyer merely states:

- (1) the general nature of the claim or defense;
- (2) the information contained in a public record;
- (3) that an investigation of the matter is in progress, including the general scope of the investigation, the offense, claim or defense involved;
- (4) except when prohibited by law, the identity of the persons involved in the matter;
- (5) the scheduling or result of any step in litigation;
- (6) a request for assistance in obtaining evidence, and information necessary thereto;
- (7) a warning of danger concerning the behavior of a person involved, when there is a reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and
- (8) if a criminal case:
 - (i) the identity, residence, occupation and family status of the accused;
 - (ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;
 - (iii) the fact, time and place of arrest; and
 - (iv) the identity of investigating and arresting officers or agencies and the length of the investigation.

Comment:

1. Paragraph (a) is premised on the idea that preserving the right to a fair trial necessarily entails some curtailment of the information that may be disseminated about a party prior to trial. This is particularly so where trial by jury or lay judge is involved. If there were no such limits, the results would be the practical nullification of the protective effect of the rules of forensic decorum and the exclusionary rules of evidence. Thus, paragraph (a) provides that in the course of representing a client, a lawyer's right to free speech is subordinate to the constitutional requirements of a fair trial. On the other hand, there are vital social interests served by the free dissemination of information about events having legal consequences and about legal proceedings themselves. The public has a right to know about threats to its safety and measures

aimed at assuring its security. It also has a legitimate interest in the conduct of judicial proceedings, particularly in matters of general public concern. Furthermore, the subject matter of legal proceedings is often of direct significance in debate and deliberation over questions of public policy.

2. Because no body of rules can simultaneously satisfy all interests of fair trial and all those of free expression, some balancing of those interests is required. It is difficult to strike that balance. The formula embodied in this Rule, prohibiting those extrajudicial statements that the lawyer knows or reasonably should know have a reasonable likelihood of materially prejudicing an adjudicatory proceeding, is intended to incorporate the degree of concern for the first amendment rights of lawyers, listeners, and the media necessary to pass constitutional muster. The obligations imposed upon a lawyer by this Rule are subordinate to those rights. If a particular statement would be inappropriate for a lawyer to make, however, the lawyer is as readily subject to discipline for counseling or assisting another person to make it as he or she would be for doing so directly. See paragraph (a).

3. The existence of material prejudice normally depends on the circumstances in which a particular statement is made. For example, an otherwise objectionable statement may be excusable if reasonably calculated to counter the unfair prejudicial effect of another public statement. Applicable constitutional principles require that the disciplinary standard in this area retain the flexibility needed to take such unique considerations into account.

4. Although they are not standards of discipline, paragraphs (b) and (c) seek to give some guidance concerning what types of statements are or are not apt to violate paragraph (a). Paragraph (b) sets forth conditions under which statements of the types listed in subparagraphs (b)(1) through (5) would likely violate paragraph (a) in the absence of exceptional extenuating circumstances. Paragraph (c) on the other hand, describes statements that are unlikely to violate paragraph (a) in the absence of exceptional aggravating circumstances. Neither paragraph (b) nor paragraph (c) is an exhaustive listing.

5. Special rules of confidentiality may validly govern proceedings in juvenile, domestic relations and mental disability proceedings, and perhaps other types of litigation. Rule 3.04(c)(1) and (d) govern a lawyer's duty with respect to such Rules. Frequently, a lawyer's obligations to the client under Rule 1.05 also will prevent the disclosure of confidential information.

Rule 3.08 Lawyer as Witness

(a) A lawyer shall not accept or continue employment as an advocate before a tribunal in a contemplated or pending adjudicatory proceeding if the lawyer knows or believes that the lawyer is or may be a witness necessary to establish an essential fact on behalf of the lawyer's client, unless:

(1) the testimony relates to an uncontested issue;

(2) the testimony will relate solely to a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the testimony;

(3) the testimony relates to the nature and value of legal services rendered in the case;