

STATE OF NEW HAMPSHIRE

CHESHIRE, SS

SUPERIOR COURT

Case No. 213-2011-CR-00216

*State v.
Jason Talley*

MOTION TO CHANGE VENUE

Jason Talley moves this Honorable Court to authorize a change in venue in the matter of case number 213-2011-CR-00216 due to the fact that the charges in this case originated from rules enacted specifically to cover up and prevent future media coverage of criminal conduct committed by a New Hampshire Judicial Branch official who presides in Cheshire County. In support of this motion, Jason states as follows:

1. The New Hampshire Constitution in Part I, Article 22 reads as follows:

Free speech and liberty of the press are essential to the security of freedom in a state:

*They ought, therefore, to be **inviolably** preserved.* (emphasis added)

2. The Marriam-Webster Dictionary defines “inviolable” as:

secure from violation or profanation <an *inviolable* law>

or

secure from assault or trespass : [unassailable](#)

3. On June 28th 2011, independent journalist Adam Mueller of CopBlock.org attempted to interview Keene Circuit Court Presiding Judge Edward Burke about his decision to use taxpayer funds to imprison a peaceful individual who chose to protest a ban on wearing some kinds of hats while sitting in his courtroom. The conversation about public policy and its

enforcement by a public official (the video of which is viewable in its entirety at www.CopBlock.org/ImproperInfluence) is as follows:

Adam Mueller: "Judge Burke, can I ask you a few questions about a hat, and how that constitutes contempt?"

Adam Mueller: "You think people want to pay for someone to be in jail for five days for wearing a hat?"

Adam Mueller: "It's kind of ridiculous to waste taxpayer money on something like that, isn't it?"

Adam Mueller: "Sir, I just want to have a conversation."

Judge Burke: "Bailiff! Bailiff! This person is threatening me about a decision I just made."

Adam Mueller: "I'm not threatening you. I'm asking questions."

Judge Burke: "He's threatening." *points to Adam* "That's a criminal offense."

Bailiff: "Come on, sir, you're in custody."

4. Mr. Mueller, a member of the free press who was acting as such, was imprisoned for two days on the aforementioned false allegations made by Judge Burke for two days prior to the Cheshire County Attorney dropping the charges.

5. New Hampshire law makes it a criminal offense to falsely report that another has committed a crime to law enforcement authorities. The law, False Reports to Law Enforcement, is codified at RSA 641:4 and reads:

A person is guilty of a misdemeanor if he:

I. Knowingly gives or causes to be given false information to any law enforcement officer

with the purpose of inducing such officer to believe that another has committed an offense; or

6. As a result of Judge Burke being seen publicly on the Internet telling a lie which resulted in an innocent man and member of the media being imprisoned for two days (and his resulting criminal investigation which has still yet to be concluded by the Sullivan County Attorney), Circuit Court Chief Judge Edwin Kelley abused his authority granted by the New Hampshire Supreme Court pursuant to Supreme Court Rule 54 (which was granted to the Supreme Court originally by the people of the State of New Hampshire through Part II, Article 73-a of the New Hampshire Constitution) by enacting Circuit Court Order 2011-03 on July 1st 2011, not more than one day after Mr. Mueller was released from state custody. By doing so, Chief Judge Kelley stripped citizens of this state of their federal and state constitutional rights to hold government officials accountable for not only public acts, but **criminal** acts, committed in public areas of a public building.

7. Circuit Court Order 2011-03 itself was so bold as to state that members of the public had “accosted the presiding justice(,)” a reference undoubtedly to Judge Burke’s false statements three days prior about Mr. Mueller’s constitutionally protected conduct which ended with him falsely imprisoned for two days.

8. As a result of the embarrassment Judge Burke faced by being seen publicly on video telling a lie (and his resulting criminal investigation which has still yet to be concluded by the Sullivan County Attorney), Superior Court Chief Judge Tina Nadeau abused her authority granted by the New Hampshire Supreme Court pursuant to Supreme Court Rule 54 (which

was granted to the Supreme Court originally by the people of the State of New Hampshire through Part II, Article 73-a of the New Hampshire Constitution) by enacting an order on July 1st 2011 that enforced the provisions of Circuit Court Chief Judge Kelley's order upon the Superior Court system. By doing so, Chief Judge Nadeau stripped citizens of this state of their federal and state constitutional rights to hold government officials accountable for not only public acts, but **criminal** acts, committed in public areas of a public building.

9. Presiding Justice John Arnold of the Cheshire Superior Court further expanded the order adopted by Superior Court Chief Judge Nadeau by enacting "Order In Reference To Administrative Order 2011-3" on July 15th 2011. This order outright banned the possession of any device commonly used by the media to hold government officials who wield tremendous power accountable to the people from whom they derive their power.

10. The first court order adopted by Chief Judge Kelley served as the root of a now poisonous tree which restricts constitutional rights through a total of three court orders specifically immediately issued following a criminal act committed by a judge being caught on camera.

11. Were Cheshire County Superior Court Presiding Judge Arnold's order not in effect on the date of Mr. Talley's arrest, Mr. Talley never would have been arrested as the bailiffs would never have taken issue with the innocuous possession of a recording device.

12. Mr. Talley believes the judicial orders issued by New Hampshire's two chief trial court judges and the Cheshire County Superior Court Presiding Judge John P. Arnold represent an abuse of the public trust as they constitute an effort on the part of the Judicial Branch of the

State of New Hampshire to ensure that any future criminal acts which result in the deprivation of liberty on the part of a citizen of this state never be caught on camera again.

13. This case has already been rescheduled due to the state having tainted the jury pool once as the bailiffs who tend to juries in the Cheshire County Superior Court mingled with potential jurors in this matter.

14. Cheshire County bailiffs will be responsible for securing and supervising the jury in the rescheduled pending new trial date scheduled for 04/09/12 and 04/16/12. Although Mr. Talley believes the state will be more diligent in making sure specific bailiffs will not have contact with the jury pool, the presence of bailiffs of the same court system could have a detrimental effect to the weight of the testimony given by the jury to other bailiffs of the same court.

15. The specific court order which Mr. Talley alleges is the end product of a string of court orders which restrict Part I, Article 22 of the New Hampshire Constitution stemmed from a criminal act committed by a Circuit Court, District Division judge who undoubtedly is familiar with the bailiffs and judges of Cheshire County.

16. The Sullivan County Attorney has been assigned by the Attorney General's office to investigate the aforementioned criminal conduct committed by Judge Burke. Holding the trial in Sullivan County could likewise present an appearance of impropriety.

17. Mr. Talley does not feel safe entering the Cheshire County Superior (or Circuit-District Division) Court for all of the aforementioned reasons.

18. Mr. Talley, acting through counsel, filed a "Motion To Extend Filing Deadline" on 02/04/12 in response to the continuance of the trial which occurred because the state tainted the

jury pool. Although counsel has not received a response from the court regarding the motion as of the date of this motion, the state has responded that they do not oppose the extension of the filing deadline. Additionally, the court has issued a new notice on 02/08/12 indicating that the new final pre-trial date will be 03/27/12.

Prayer for Relief

WHEREFORE, Jason Talley, requests this honorable Court to order the following relief:

- A. Authorize changing the venue of this matter to a county other than Cheshire or Sullivan County, without a hearing, or
- B. Schedule a hearing regarding changing the venue of this matter to a county other than Cheshire or Sullivan County; and
- C. Grant any other relief this honorable Court deems just and proper.

Respectfully submitted,
Jason Talley

02/16/12

By
Bradley Jardis
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I hereby certify that on the above date, a copy of this motion was mailed to Assistant Cheshire County Attorney John Webb.

Bradley Jardis