

STATE OF NEW HAMPSHIRE

CHESHIRE, SS

SUPERIOR COURT

Case No. 213-2011-CR-00216

*State v.
Jason Talley*

Notification of Criminal Defense

Pursuant to Superior Court Rule 101, Jason Talley notifies this Honorable Court of the following criminal defense: Effect of Ignorance or Mistake (RSA 626:3).

The basis of the defense is 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. RSA 626:3 reads in part:

*II. A person is not relieved of criminal liability because he acts under a mistaken belief that his conduct does not, as a matter of law, constitute an offense unless his belief is founded upon a statement of the law contained in a statute or other enactment, or an administrative order or grant of permission, or a **judicial decision of a state or federal court**, or a written interpretation of the law relating to the offense officially made by a*

public servant, agency or body legally empowered with authority to administer, enforce or interpret such law. The defendant must prove a defense arising under this subsection by a preponderance of evidence. (Emphasis added)

4. Being aware of Part I, Article 22 of the New Hampshire Constitution, Mr. Talley believed that his conduct could not, as a matter of law, constitute an offense as it is an “inviolably preserved” constitutional right to hold public officials accountable for public acts in public places.

5. Mr. Talley was aware that on August 26th 2011 the First Federal Circuit Court of Appeals ruled that filming public officials in public spaces was a clearly established First Amendment right. (See attached Glik v. Cunniffée, Savalis, Hall-Brewster, and City of Boston, MA - No 10-1764) In its order, the federal appeals court wrote:

“We conclude, based on the facts alleged, that Glik was exercising clearly established First Amendment rights in filming the officers in a public space, and that his clearly-established Fourth Amendment rights were violated by his arrest without probable cause.”

6. Bailiffs at the security checkpoint of the Cheshire County Superior Court are “officers” (see RSA 594:1-a) and a public building is a “public space.”

7. Mr. Talley intends to argue that stripping a constitutionally protected right as a result of criminal behavior by a government official (as detailed in the Motion to Dismiss) fails to be a compelling governmental interest which would justify the stripping of “inviolably preserved” rights within public areas of public court facilities.

Respectfully submitted,
Jason Talley

01/31/12

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

Bradley Jardis