

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS

6th CIRCUIT – DISTRICT DIVISION
HILLSBOROUGH

The State of New Hampshire

Case No. 444-2024-CR-00109

v.

Joseph Hart

MOTION TO DISMISS #2

Mr. Hart moves this Honorable Court to dismiss the complaint for Criminal Trespass (**RSA 635:2**) pending in the matter that is presently before the Court. In support of this Motion he states the following:

1. The State of New Hampshire has charged Mr. Hart with Criminal Trespass in that he failed to leave the Hillsborough District Court when ordered to leave by court security officers. The reason court security was ordering Mr. Hart to leave is because his “Advance Notice” to audio/video record court proceedings was denied. The denial was grounded in the fact that he filled out the “Advance Notice Form” as “Anonymous” and by not leaving his real name.
2. On the following dates Mr. Hart has been authorized by the following courts **in writing** to audio/video record by filling out the “Advance Notice Form” with various identifiers other than his real name:
 - A) 12/1/22 – Goffstown District Court - “Breaking The Flaw”
 - B) 4/20/23 – Concord District Court - “Anon”
 - C) 10/26/23 – Goffstown District Court - “Anonymous”
 - D) 1/11/24 – Goffstown District Court - “Anon”
3. New Hampshire RSA 626:3 II. and the concept of Entrapment by Estoppel work hand-in-hand to prevent a well-meaning citizen from facing criminal liability for actions took that have been previously approved of or sanctioned by government officials. Mr. Hart's past conduct being sanctioned by various court officials and judicial officers led him to believe he was completely in compliance with the advance notice requirements of the New Hampshire court system.
4. The Entrapment by Estoppel defense has four prongs which the defendant must establish: (1) a government official must tell the defendant that his conduct is legal; (2) the defendant must have relied on that representation; (3) the defendant's reliance must have been reasonable; and (4) because of the reliance the prosecution for the conduct is unfair.

United State v. Villafane-Jimenez, 410 F.3d 74, 81 (1st Cir. 2005).

5. The first prong of an Entrapment by Estoppel defense requires that a government official has told the defendant that his conduct is legal. By having four courts in the Circuit Court-District Division system approve his Advanced Notice Form that were filled out improperly, various clerks and judicial officers in the Circuit Court system explicitly conveyed the message to Mr. Hart that his conduct was lawful.
6. The second prong of an Entrapment by Estoppel defense requires that a defendant have relied on the representation that his conduct is legal. Mr. Hart protested vociferously when told that he had to stop filming or be ordered to leave. His outrage was grounded in his prior grants of permission by various courts to film in the manner he had on the day of his arrest.
7. The third prong of an Entrapment by Estoppel defense requires the individuals reliance on a governments representation that certain conduct was legal be reasonable. The reasonableness of a defendant's reliance is determined by an objective, not subjective, standard. Mr. Hart relied on the facts of his past encounters with court officials who had approved his requests to film after failing to provide his accurate personal information. It is reasonable for a reasonable individual to assume that after four courts approved his Advance Notice to film in writing that were filled out erroneously that **all** courts should and would do so.
8. The fourth prong of an Entrapment by Estoppel defense requires that given the reliance on the representation by government officials that the prosecution itself is unfair. It is unfair for various clerks and judges to allow Mr. Hart to film in the manner he attempted to film on the day of his arrest, and then penalize him for the same conduct that had been acceptable numerous times before. Had a single court official taken the time to explain to Mr. Hart that he was required to leave his full name on the Advanced Notice Form in order to be given a grant of permission to film... his arrest in Hillsborough would never have happened.
9. Mr. Hart was an “authorized person” until it was determined that he was audio and video recording without proper authority from the Hillsborough District Court. When he continued recording and was asked to leave by court security he became unauthorized to remain in the courtroom. This status change was completely based in his filming of court proceedings and nothing else. He remained in the courtroom filming believing that court security was acting improperly in denying him his right to record.
10. Having been approved four times to film by filing out the “Advance Notice Form” as anything but his real name, and having been granted permission to record, Mr. Hart believed he was in full compliance with Supreme Court rules on the day he was confronted by law enforcement and ordered to leave the courtroom. His refusal to comply was grounded in his past grants of permission to do exactly what he was doing.
11. “Entrapment by estoppel is about fairness. In Raley v. Ohio and Cox v. Louisiana the United States Supreme Court concluded that to sustain the convictions “would be to sanction an indefensible sort of entrapment by the State---convicting a citizen for exercising a privilege which the state had clearly told him was available to him.” Similarly, in United States v. Pennsylvania Industrial Chemical Corporation (“PICCO”), the court suggested that to sustain

the conviction would contravene “traditional notions of fairness inherent in our system of criminal justice.” - American Jurisprudence Proof of Facts – April 2024 Update - Mark S. Cohen, J.D.

12. Mr. Hart has since registered with the New Hampshire Supreme Court as a media outlet. He is now aware that the proper procedure for providing advance notice to a court requires listing ones full name, accurately.

Prayer for Relief

WHEREFORE, Joseph Hart requests this Honorable Court to order the following relief:

- A. Dismiss the complaint for Criminal Trespass pending in this matter, or
- B. Schedule a hearing if the Court is inclined to deny this Motion in which Mr. Hart respectfully requests five minutes for oral argument; and
- C. Grant any other relief this Honorable Court deems just and proper.

Respectfully submitted,

Joseph Hart
PO Box 833
Keene, NH

By Bradley Jardis

05/10/24

PURSUANT TO CIRCUIT COURT-DISTRICT DIVISION RULE 1.8 (B), THIS MOTION BEING GROUNDED IN BOTH FACT AND NOTICE PLEADING, COUNSEL ACKNOWLEDGES THAT MAKING FALSE STATEMENTS COULD SUBJECT HIM TO CRIMINAL PENALTIES.

I hereby certify that on the above date, a copy of this Motion was mailed to Attorney George Wattendorf.

Bradley Jardis
10 Congress Street #302
Amesbury, MA 01913