

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

No. 2018-0130

State of New Hampshire

v.

David Vincelette

Appeal Pursuant to Rule 7 from Judgment
of the Grafton Superior Court

BRIEF FOR THE DEFENDANT

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10 minutes oral argument before 3JX

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QUESTION PRESENTED

Whether the court erred by finding sufficient evidence that Vincelette committed indirect criminal contempt.

Issue preserved by Vincelette's motion to dismiss, T 113-14, the memorandum in support thereof, A13-A22, the State's objection, A23-A28, Vincelette's reply to the State's objection A29-A31, the court's order denying the motion to dismiss, A1-A5, Vincelette's motion to reconsider and motion for judgment notwithstanding the verdict, A37-A38, and the court's order denying that motion. A6*

* Citations to the record are as follows:
"A" refers to the Appendix to this brief;
"T" refers to the transcript of trial held on August 29 and December 14, 2017;
"MVI_004X" refers to video recordings presented as Defense Exhibit A at trial.

STATEMENT OF THE CASE

The State charged David Vincelette with one count of indirect criminal contempt alleging he violated a court order in six different ways. A7-A10. Vincelette stood trial over two non-consecutive days in 2017. In January 2018, the court (Bornstein, J.) found him guilty. In March, the court sentenced Vincelette to serve four months in jail with all but eight days already served suspended on the conditions of good behavior for two years and participation in mental health treatment through the Department of Veterans Affairs. A11-A12.

STATEMENT OF THE FACTS

Vincelette's land abuts a nature preserve (the "Tanzi preserve") owned by the Town of Hanover ("The Town"). T 63. During 2015 and 2016, the Town and Vincelette were embroiled in a property dispute in Grafton County Superior Court. A1. The crux of the issue was the Town's plan to remove Vincelette's personal property from the Tanzi preserve using a right of way that crosses Vincelette's property. T 26; A1-A2; A39-A40. During this litigation, in November 2015, Vincelette parked his vehicle in the roadway to block the Town's access to his property contrary to a court order. A39.

The November incident culminated in the court (McLeod, J.) issuing an order in January 2016 requiring Vincelette "to immediately cease interfering with the [Town]'s exercise of its rights to remove [Vincelette]'s property from the right of way and the [Town]'s property" A39-A40. The court put Vincelette on notice that he "risks arrest and criminal prosecution for contempt or on other grounds should he threaten the [Town]'s employees or continue to interfere with the [Town]'s lawful actions." A40.

In May 2016, the Hanover Public Works Department, accompanied by the Grafton County Sheriff's Office, went to the Tanzi preserve to remove Vincelette's property. T 26, 71. The Town brought a dump truck and several other pieces of heavy equipment to assist in the removal of vehicles, boats, firewood, and a drill press from municipal land. T 26, 33, 71-73. As this work began, Lieutenant Ryan Kelly met Vincelette and showed him the court's order.

T 28-30. Kelly asked Vincelette whether he was “gonna cooperate?” A41¹. Vincelette responded, “yes[,] I’m gonna cooperate . . .” but asked for a moment to turn on the recording feature of his phone. A41. Kelly began reading the order to Vincelette. Id. Vincelette responded that he objected to the Town’s actions, asserting that “the town is only allowed to bring vehicles in here when they’re doing maintenance or emerg[encies] . . .” Id.; MVI_0044, 1:30-2:10.

Vincelette walked away from Kelly and approached Michael Chase, the Town Works Department’s Operation Manager. T31, 60, 74. Vincelette was upset and argumentative, but not violent. T 31, 74; MVI_0044 2:30. Kelly followed Vincelette and again asked if he was going to cooperate. A43. Vincelette asked, “cooperate in what way?” Id. The officer explained, “are you gonna allow them to remove the property?” Id. Vincelette responded that he was “not gonna allow these vehicles in here, they can remo[ve]—I have told them a million times they can take anything they want to[,] whenever they want to . . . [but] they can’t bring vehicles down . . .” Id.

Vincelette continued to engage Chase, Kelly, and the town workers in conversation. T 30, T 74. During these encounters, Vincelette repeated his belief that the Town’s use of motorized vehicles on the right of way violated the deed. T 33, 76-77, 82-83. Vincelette explained that the relevant deed permits the use of vehicles on the right of way only to address an emergency or

¹ A video recording of these interactions was introduced at trial, T 35-40. The parties provided the court with a transcript of that recording “to be used as an aid,” but the transcript was not admitted as a full exhibit. T 92 As the transcript was used by the court and is more easily cited than the recording, it is included in the appendix and cited herein. As in the trial court, the video recording controls as to any discrepancies. Vincelette has filed a motion to transfer the video recordings to this Court and the recording is cited according to the title of the data file, MVI_004X, with the relevant time stamp.

maintain the road. A44, A51, A55, A60, A62, A63. Vincelette pointed out that the removal of his property served neither permitted end and repeatedly objected to what he perceived to be the unlawful use of vehicles. T 83; see A62 (“I’ve told you ten time[s]- no no no no no machinery’s down here unless it follows the deed . . .”); A63 (“I’ve told you a hundred times you can come down anytime you want [and] take anything you want . . . no equipment, just look at the deed.”); A43 (“I have told them a million times they can take anything they want to whenever they want to . . . [but] they can’t bring vehicles down”); A44 (“OK so they’re not taking my stuff up this in illegally [sic] machines, they can walk it up piece by piece[.] I have no problem with this . . .”); Id. (“They cannot take this material of mine out of here in vehicles illegally . . .”); A51 (“ . . . they are free to [remove items] anytime they want[,] anything they want . . . [but they] can’t have machines to do it . . . it’s in the deed.”); A55 (“I am refusing to let you do stuff that is not allowed in the deed . . .”).

Vincelette explained his belief that the court’s order did not authorize the Town to take the property *using vehicles*, but instead, authorized the Town to do so without such vehicles in compliance with the deed. See A60 (“[The court] didn’t say they could do it with vehicles.”). He proclaimed his belief that it was lawful to obstruct the *vehicles*, rather than the removal, stating that “the judge has ordered me that I can be on this road [and] I can block these vehicles . . . [which] is not illegal.” A44. He reiterated that “they cannot take this material of mine out of here in vehicles illegally.” Id.

During these interactions, Vincelette also repeatedly addressed an unrelated issue: his belief that Chase and the Town were involved in a conspiracy to illegally dump waste into a nearby waterway. A44-A45. He alleged that Chase was a “criminal . . . involved in a criminal conspiracy” to violate federal environmental laws. A45. After addressing Chase, Vincelette approached a group of Town workers. Vincelette expressed his belief that the workers were complicit in polluting the waterway and were “personally liable for the fact that asphalt waste is illegally been dumped along the roads . . .” A46; MVI_0044 5:30-6:00. He told them not to take any more of his property and that they are “not allowed to steal and [they] are not allowed to pollute the water.” A46. Vincelette reiterated his belief that the Town was involved in illegal dumping of waste. A49.

As Vincelette was speaking, a truck was backing slowly down the road. MVI_0044 9:50. Vincelette approached the driver. MVI_0044 10:20. Kelly followed Vincelette as he moved up and down the road and briefly sat on a woodpile. MVI_0044 10:20-11:00. Kelly explained to Vincelette that the Town was there to remove items on its property in accordance with the court’s order. A50. Vincelette again explained they could do so, but not with vehicles. A51 (“They’re free to [take the stuff] anytime they want anything they want [but] they can’t have machines to do it.”). Vincelette became angrier and yelled for everyone to get out before walking away and calling the Hanover police chief. A53; MVI_0044 16:00. While on the phone with the local police department, Vincelette can be heard saying that the trucks have come illegally as “none of

these vehicles are allowed to be down here unless it's an emergency or . . . they're doing maintenance neither of which is happening . . ." A53. Ending the call, Vincelette, with Kelly following behind, roamed among the workers and their vehicles seeking to speak with them. MVI_0044 22:10-24:30.

Kelly again read Vincelette the court's order prohibiting interference and its admonition that interfering could result in his prosecution for contempt. A56-A57. Vincelette protested, explaining he was not interfering because he was

not stopping them from . . . taking the property[.] I'm [stopping] them from having these vehicles down here they can come down with a wagon a wheelbarrow they can do anything they want they're not allowed to bring vehicles down here for this reason . . . I just told you [like] I told the last guy who came down here you can come down here and take it all you can't do it with these machines . . . that's a violation of my deed.

A57; see A59 ("I'm not interfering . . . I've told them straight out what they're doing is illegal."). Vincelette concluded with a lengthy diatribe about the Town's role in illegal dumping. A58.

After a little more than half an hour of conversation, Chase told Vincelette, "I am assuming you're blocking me [and] I'm pulling these guys out . . ." A62. He asked one last time whether Vincelette was "gonna allow [him] to take any more stuff out . . . with my machinery" Id. Vincelette repeated he would not as it was not permitted by the deed. Id. Chase testified that during these interactions he formed the "opinion [that] it was not a safe situation because of [Vincelette] being around the equipment and my people and the

work” and Vincelette’s tumultuous behavior. T 77. The sheriffs and Town workers left the property. T35.

SUMMARY OF THE ARGUMENT

The court erred by finding that the State presented sufficient evidence that Vincelette intentionally violated the court's order. The State alleged six alternative means by which Vincelette violated the order. As the evidence failed to prove the requisite *actus reus* or *mens rea* as to all six grounds, this Court must reverse.

I. THE STATE INTRODUCED INSUFFICIENT EVIDENCE TO CONVICT VINCELETTE OF CONTEMPT.

After the State rested, the defense moved to dismiss the charge arguing first orally and then in a written memorandum that the evidence was insufficient as a matter of law. T 113; A13-A22. “The elements of criminal contempt are the existence of a valid order, a defendant’s knowledge of the order, and a defendant’s intentional failure to comply with it.” State v. Nott, 149 N.H. 280, 282 (2003). The defense asserted that the State failed to meet both the *mens rea* and *actus reus* requirements of contempt in that it did not prove his words or actions violated the court’s order nor did it prove that he acted with a purpose to do so. A13-A22. In addition to arguing that his words did not violate the order, he asserted that his speech was entitled to constitutional protection under the First Amendment. A14-A17.

The State responded that Vincelette’s words and prior actions evinced a purpose to violate the order, A24-A26, and that his speech was not entitled to constitutional protection. A26-A27. The defense filed a “Reply” reasserting his *mens rea* defense and rebutting the State’s assertion that his speech was not entitled to constitutional protection. A29-A31. The court denied the motion, concluding the State proved beyond a reasonable doubt that Vincelette purposely violated the court’s order by speech and action, A3, and similarly denied Vincelette’s motion to reconsider and motion for judgment notwithstanding the verdict. A6, A37-A38. In so doing, the court erred.

“A challenge to the sufficiency of the evidence raises a claim of legal error; therefore, [this Court’s] standard of review is *de novo*.” State v. Morrill,

169 N.H. 709, 718 (2017) (quotation omitted). The Court must decide whether the defendant has demonstrated “that no rational trier of fact, viewing all of the evidence and all reasonable inferences from it in the light most favorable to the State, could have found guilt beyond a reasonable doubt.” State v. Ruiz, 170 N.H. 553, 565 (2018); see Nottingham v. Cedar Waters, 118 N.H. 282, 286 (1978) (State must prove elements of contempt beyond a reasonable doubt).

The State’s information made six distinct factual allegations. A8-A9. The State alleged that Vincelette purposely violated an order of which he had notice when he “interfered” with Town employees’ removal of property by: (1) yelling at them to get out and stop stealing, (2) cursing at and/or insulting them, (3) “threatening” them with personal liability, (4) saying they could not use vehicles to remove property, (5) saying they were not to remove property, and (6) walking in proximity to the Town’s heavy machinery so as to create a “dangerous situation.” Id. Five of the six allegations cite Vincelette’s statements, while one addresses his physical conduct, to wit “walking.” A9. The speech and physical conduct are addressed separately below.

A. There was insufficient evidence that Vincelette’s speech violated the order.

In October 2015, the court issued an order demanding Vincelette “immediately cease interfering with the [Town]’s exercise of its rights to remove [Vincelette]’s materials from the right of way and the [Town]’s property.” A39. While the October order was in place, Vincelette physically blocked the right of way with his vehicle. Id. The court found that his “conduct” violated the court’s

prohibition on “interfering,” and it issued a superseding order in January 2016. Id. The January order required that Vincelette “immediately cease interfering with the [Town]’s exercise of its rights to remove [Vincelette]’s property from the right of way and the [Town]’s property,” *and* explained that “criminal prosecution for contempt” for violating the order could commence “should he threaten the plaintiff’s employees or continue[] to interfere with the [Town]’s lawful actions.” A39-A40. The January order governs the current contempt prosecution and sets the bounds of contemptuous conduct.

i. Vincelette’s speech did not violate the court’s order.

The court’s January order informed Vincelette that he would be in contempt if he continued to interfere with the Town’s lawful actions or he made verbal threats to its employees. The addition of threats to the January order suggests the court’s earlier prohibition on interference was not so broad as to cover speech. If threatening words *and* conduct were understood to be included within the original prohibition on interference, the court’s added language would be superfluous. This interpretation of the court’s order is consistent with the court’s effort to prevent “continued” interference, a reference to prior physical “conduct,” A39, and the use of language that was narrowly tailored to avoid infringing Vincelette’s free speech rights. See State v. Haines, ___ N.H. ___ (slip op. at 6) (decided July 18, 2018) (“[T]rue threats” fall outside of the First Amendment’s free speech protections). As non-threatening speech is not clearly

prohibited by the court's order barring interference and threats, Vincelette's statements did not violate the order.

If this Court were to conclude that the order's prohibition on "interfering" included non-threatening words, the State failed to prove that Vincelette's words interfered with the removal of property. Vincelette spoke to the workers with law enforcement present. He addressed Chase at length. Although he vociferously disputed the legality of taking the property with motorized vehicles, his words did not impede the workers from removing property. He told workers they were "personally liable" for illegally dumping waste on the roads, but those words did not inhibit their work. A46-A47. Had the Town wished, it could have removed property despite Vincelette's complaints. Vincelette's words did not interfere with the removal of property and thus his speech did not violate the court's order.

If the Court were to conclude that Vincelette's words were proscribed by the order and interfered with Town employees, Vincelette's speech was protected under the First Amendment. Although the First Amendment protects speech pertaining to private and public concerns, it affords stronger protections to the latter. Snyder v. Phelps, 562 U.S. 443, 452 (2011). Speech deals with matters of public concern when it can "be fairly considered as relating to any matter of political, social, or other concern to the community," or when "is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public." Id. (citations omitted). In

deciding whether speech concerns public or private matters, courts look to the “content, form, and context” of that speech. Snyder, 562 U.S. at 452.

The arguably “inappropriate or controversial character of a statement is irrelevant to the question whether it deals with a matter of public concern.” Rankin v. McPherson, 483 U.S. 378, 387 (1987); see State v. Oliveira, 115 N.H. 559, 560 (1975) (holding public declarations of “F---k the political pigs” were protected speech). Courts have specifically limited prosecutions of unpleasant speech directed at public employees. Houston v. Hill, 482 U.S. 451, 465 (1987) (noting “we have repeatedly invalidated laws that provide the police with unfettered discretion to arrest individuals for words or conduct that annoy or offend them.”); State v. E.J.J., 354 P.3d 815 (Wash. 2015) (holding that the defendant was exercising his constitutional rights when yelling profanities and abusive names at police officers); cf. New York Times Co. v. Sullivan, 376 U.S. 254, 270 (1964) (citing “the background of a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.”)

Vincelette’s speech protested the actions of his municipal government. See City of Keene v. Cleaveland, 167 N.H. 731, 739 (2015) (criticizing city parking officials is a matter of public concern). Specifically, he focused on the legality of the government’s use of trucks on conserved land and its alleged pollution of public waterways. Speech that addresses government stewardship of public lands presents a public concern. See A33-A36 (local newspaper article

discussing the present case); Snyder, 562 U.S. at 453 (“Speech deals with matters of public concern when it . . . is a subject of legitimate news interest”) (citation omitted).

The speech took the form of words intended to express ideas and beliefs. The context was an encounter with public employees on a public right of way. Vincelette video-recorded the interaction to preserve the Town’s actions for public review and federal prosecution. A48. The content, context, and forms of the speech indicate this speech addressed a public concern and is entitled to “special protection” under the First Amendment. Snyder, 562 U.S. at 458.

ii. Vincelette did not have the requisite *mens rea* when making the statements.

If the Court were to conclude that Vincelette’s speech was proscribed by the court’s order, interfered with Town employees, and was not constitutionally protected, there was still insufficient evidence that Vincelette intended to violate the order through his speech. See Nott, 149 N.H. at 282 (an element of contempt is “a defendant's intentional failure to comply . . .”). In the context of *mens rea*, “purposely” and “intentionally” are synonymous. State v. Thomas, 168 N.H. 589, 601 (2016). Purposely is defined as acting “with respect to a material element of an offense when his conscious object is to cause the result or engage in the conduct that comprises the element.” RSA 626:2, II(a). Whether Vincelette acted purposely is a subjective question and not subject to “reasonable person” review. See State v. Reid, 134 N.H. 418, 422 (1991) (“knowingly” requires the defendant “subjectively knew” the material element

existed). Here, Vincelette did not speak with the subjective purpose of interfering with the lawful actions of the Town and thus did not speak with the intent of violating the court's order.

The court's order prohibited Vincelette from interfering with the Town's "*lawful* actions." A39-A40 (emphasis added). Vincelette conceded that the court's order permitted the lawful removal of his property. He believed, however, that the Town's use of vehicles on the right of way was unlawful under his deed. See A63 ("I've told you a hundred times you can come down anytime you want [and] take anything you want . . . no equipment, just look at the deed."). In support of this position, he professed a detailed understanding of the deed's rules and asserted that he routinely enforced its terms. A60 ("I don't let anybody come drive on [the right of way,] cars buses trucks nothing nobody comes down here unless I say so 'cause it's my deeded right-of-way.").

Vincelette sought to reconcile the court's order with limitations set forth in the deed. He reasoned that the court "didn't say they could do it with vehicles," *id.*, and thus he concluded the Town was required to act on the court's order *and* comply with the limitations of the deed; in other words, nothing in the order excused the Town from complying with the deed. Thus, in Vincelette's mind, the removal of property would be lawful, but the use of vehicles would not. He repeatedly explained his understanding of the court's order to Kelly and Chase, stating that his intent was not to "stop[] them from taking the property," but to stop "them from having these vehicles down here [as] that's a violation of my deed . . ." A57. He said that he would not object if

Town workers wished to lawfully carry things off the property by hand or wheelbarrow. A62; A43; A44; A51; A55. Vincelette's verbal protestation to the Town's removal of his property *with the aid of heavy equipment*, was not an intentional violation of the court's order as he did not believe he was interfering with *lawful* actions as proscribed in that order.

Vincelette also repeatedly communicated his belief that Chase and the Town illegally dumped "asphalt waste" on a nearby mountain. A44-A47, A52-A55, A58-A59. He spent at least as much time talking about that as he did addressing the removal of his property. Vincelette expressed his displeasure with the Town's actions and attempted to elicit responses in support of a future lawsuit. A58 (accusing Chase of "running a criminal enterprise . . . dumping poison in the water"); *id.* (noting that his questioning put Chase "on the verge of admitting a federal crime"); A47-A48 (explaining to the workers that they have "a responsibility not to do things that are illegal[.] [E]very one of you's gonna be up there testifying did you ever . . . spread asphalt waste on Moose Mountain."). Vincelette's statements and questions were intended to obtain information about this perceived illegality and express his disapproval of it. Much of the cursing, insults, and assertions of liability pertained to past pollution rather than to the removal of property. A47, A59. These statements were not intended to violate the order's ban on interfering with the removal of property, but were intended to investigate what Vincelette believed to be a criminal conspiracy.

More broadly, Vincelette did not intentionally violate the court's order as he did not believe his non-threatening speech violated the terms of the order. Months earlier, Vincelette physically obstructed the road with his car and was found in violation of the court's prohibition on interference. In response, the court expanded its earlier order, noting in January that a limited class of statements (threats) would also constitute contempt. Here, Vincelette limited himself to verbal commentary and eschewed physical interference to avoid running afoul of the order. In apparent reference to his understanding of the order's scope, he explained that he was "not blocking you[,] the road's not blocked what's the problem . . . you're here to fix the blockage of the road aren't you? This is no blockage of the road . . ." A49. Vincelette's efforts to limit himself to verbal remarks rather than a physical blockade indicate his intent not to violate the order.

B. There was insufficient evidence that Vincelette's physical conduct violated the order.

The State alleged that Vincelette committed contempt by physical conduct by "[c]reating a dangerous situation by walking up to and/or behind and/or in between heavy machinery brought by Town of Hanover employees." A9. In his motion to dismiss, Vincelette argued that his movements did not interfere with the removal of property and did not create a danger. A17-A18. He also contended that he lacked the requisite mental state as his stroll through the workers and their machinery was not intended to violate the order. A20-

A21. The court concluded that Vincelette intentionally violated the order by walking among the heavy machinery. A4. In so finding, the court erred.

- i. Vincelette's physical conduct did not violate the court's order.

While the Town and sheriffs were present, Vincelette walked up and down the right of way. The sheriff's officers accompanied Vincelette as he walked among the workers and their equipment. At times, Vincelette was on the road in front of, behind, or beside various trucks. T 85. At other times, he sat on a woodpile at the road's edge or wandered off to make a phone call. T 86. Vincelette gave moving trucks a berth and did not "physically blockade" a stationary truck attempting to pull off the property. T 85 Although Chase testified he occasionally told Vincelette to move away from a truck, T 81, Vincelette did not refuse to do so. Moreover, neither Kelly nor Chase told Vincelette that his wanderings endangered himself or others. T 81.

Neither Chase nor Kelly suggested to Vincelette that his movements or proximity to trucks were unsafe. Chase told Vincelette "I am *assuming* you're blocking me [and] I'm pulling these guys out . . ." A62 (emphasis added). Chase had to "assume" Vincelette was blocking him because Vincelette was not blocking him. As this statement indicates, Vincelette was not physically interfering with the Town's actions.

- ii. Vincelette did not have the requisite *mens rea* when walking around the right of way.

Vincelette walked among the workers and their equipment to engage them in dialogue. The purpose of his locomotion was not to interfere with the removal of his property, but to speak to people he believed were required to answer him pursuant to town-policy. A55. The majority of those efforts were intended to ascertain the workers' roles in polluting the environment. His intent was thus not to interfere, but to continue a longstanding investigation into an unrelated matter. A47 ("I'm a federal officer . . . doing investigation for thirty years on what's going on in this town . . .").

When asked by Kelly whether he was going to stay around while the Town was there, he told the police "I'm not blocking you [and] the road's not blocked . . ." A49. This indicated his intent was to remain, but not to physically block the road. In the Town's previous attempt to remove property, Vincelette positioned his vehicle as a barrier. In this instance, Vincelette explained that he did not intend to block the road and did not do so. If his intent had been to physically interfere, he would have used his person or property to create an immovable obstruction as he had done in the past. That he did not do so indicates he did not intend to interfere.

Lastly, as discussed above, Vincelette believed that the Town's actions were unlawful. The order only prohibited him from interfering with the Town's lawful actions. Any action he took to interfere with what he perceived as unlawful actions was not an intentional violation of the court's order. Thus,

even if he intended to interfere with the Town's removal of his property by walking around, he did not intentionally violate the court's order.

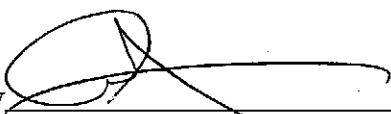
CONCLUSION

WHEREFORE, Vincelette respectfully requests that this Court reverse his conviction. Should the Court find the State presented sufficient evidence of some but not all of the six charged variants, Vincelette respectfully requests that this Court remand for resentencing.

Undersigned counsel requests ten minutes oral argument before a 3JX panel.

The appealed decision is in writing and is appended to the brief.

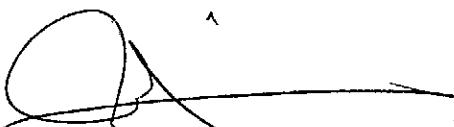
Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that two copies of the foregoing Brief have been mailed, postage prepaid, to:

Criminal Bureau
New Hampshire Attorney General's Office
33 Capitol Street
Concord, NH 03301


Eric S. Wolpin

DATED: October 1, 2018.

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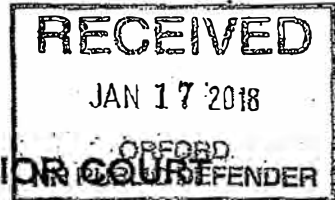


SCANNED

THE STATE OF NEW HAMPSHIRE

GRAFTON, SS.

SUPERIOR COURT



No. 215-2016-CR-408

State of New Hampshire

v.

David Vincelette

ORDER

The defendant is charged with criminal contempt of court. The amended information asserts that (1) "[a] valid court order covering the defendant exists, to wit:" a January 11, 2016 order of the Grafton County Superior Court in Town of Hanover v. David B. Vincelette, #14-CV-372; (2) that the "defendant has notice of that order, in that the defendant was served with that order on May 16, 2016"; (3) that on May 16, 2016, the "defendant committed one or more acts in violation of that order," which acts the amended information enumerates; and (4) "[t]he defendant acted purposely." (State's Mot. to Amend ¶ E.) The January 11, 2016 order (hereinafter "the Order") provides in relevant part that "the defendant is Ordered yet again to immediately cease interfering with the [Town of Hanover's] exercise of its rights to remove the defendant's property from the right of way and the [Town of Hanover's] property." (State's Ex. 1.)

The Court conducted a bench trial over the course of two days, at which the State presented testimony from two witnesses, Lieutenant Ryan Kelly of the Grafton County Sheriff's Department ("Kelly") and Michael Chase, the Operations Manager for the Town of Hanover's ("Town") Department of Public Works. Michael Chase ("Chase") testified that on May 16, 2016, he and other Town employees had gone to the defendant's property on

CLERK'S OFFICE DATED

1/17/18

CC: Justice
McNeill

behalf of the Town in order to remove the defendant's property from the right-of-way and the Town's property in accordance with the Order. Kelly testified that he accompanied Town employees to the defendant's property in order to assist the Town in enforcing the Order and to serve a copy of that Order on the defendant. Both Kelly and Chase testified in considerable detail regarding their interactions with, and observations of, the defendant on May 16, 2016, and regarding the defendant's acts enumerated in paragraphs 3a-3f of the amended information. Kelly testified that the defendant was yelling and cursing at him, was loud and distracting, and was "very aggressive." He also testified that the defendant was "moving around a lot" near the Town's heavy equipment and was "too close for safety" at times. Chase also testified that the Town employees were unable to complete removal of the defendant's property from the Town's property because the defendant was becoming increasingly aggressive and, therefore, Chase concluded that it was unsafe to continue the operation. Kelly likewise testified that on May 16, 2016, the defendant was very angry and irrational, that the defendant's behavior was "escalating," and that he was very concerned that the situation would escalate to a violent physical confrontation between the defendant and the Town's employees. Kelly also testified that (1) the defendant's "presence walking around the heavy equipment" and his proximity thereto "was a safety hazard"; (2) the defendant "was creating a dangerous situation"; and (3) the defendant was interfering with the Town employees' work and their efforts to remove the defendant's property.

In addition, the parties presented a videotape depicting the defendant's interactions with Town employees and law enforcement officers on May 16, 2016. As such, the Court was able to observe the defendant's conduct, speech, tone of voice,

manner, and demeanor during his interactions with Kelly, Chase, and others as well as the conduct, speech, tone of voice, manner and demeanor of those with whom the defendant interacted. As the defendant observes, "[m]any of the facts are videotaped and undisputed." (Def.'s Mem. Law, 1.)

At the conclusion of the trial, the defendant moved to dismiss "because the evidence at trial is insufficient as a matter of law" and submitted a memorandum of law in support of his motion. (*Id.*) The State filed an objection to the defendant's motion (Index #39), and the defendant thereafter filed a reply. (Index #40.) Based on the evidence presented, the Court makes the following findings and rulings.

"The elements of criminal contempt are threefold: (1) that a valid court order covering the defendant exists; (2) that the defendant had notice of that order; and (3) that the defendant intentionally committed acts in violation of that order." State v. Stewart, 142 N.H. 610, 611 (1998) (citation omitted). The State has the burden of proving each element beyond a reasonable doubt. State v. Linsky, 117 N.H. 866, 872 (1977).

To the extent that the Court's findings of fact depend upon the Court's determination of witness credibility, the Court finds that the testimony of both Chase and Kelly is credible and persuasive. See In Re Deven O., 165 N.H. 685, 690 (2013) (noting that the "trial court, as the trier of fact, is in the best position to assess and weigh the evidence before it...and its discretion necessarily extends to assessing the credibility and demeanor of...witnesses") (citations omitted).

Having considered and evaluated all of the evidence presented, the Court finds that the State has proven beyond a reasonable doubt each of the elements of the criminal contempt charge against the defendant. Specifically, the Court finds beyond a reasonable

doubt that:


- (1) The Order is a valid Court order that covered the defendant as of May 16, 2016;
- (2) On May 16, 2016, Kelly served the Order in hand on the defendant and read portions of it to him so the defendant would "know what it said" and, therefore, the defendant had notice of the Order;
- (3) The defendant intentionally committed each of the acts enumerated in paragraphs 3a through 3f of the amended information in violation of the Order; and
- (4) The defendant acted purposely. See RSA 626:2, II(a).

The various defenses that the defendant raises are unpersuasive and unavailing. His contention that some of the charged conduct is "constitutionally protected speech" (Def.'s Mem. Law ¶ 5) is unsupported by the evidence, and his reliance on City of Keene v. Cleaveland, 167 N.H. 731 (2015) is misplaced inasmuch as City of Keene is factually distinguishable from this case. The Court finds that none of the charged conduct is constitutionally protected speech. The defendant's contention that he did not interfere with the Town on May 16, 2016 (Def.'s Mem. Law, ¶¶ 3, 4, 8, 9, 11, 14) is equally unpersuasive and unsupported by the evidence. The Court finds that on May 16, 2016, the defendant did indeed interfere with the Town's exercise of its right to remove the defendant's property from the right-of-way and the Town's property. Finally, the defendant's claim that he did not act purposely is likewise unsupported by the evidence. The evidence established beyond a reasonable doubt that the defendant intentionally committed each of the charged acts in violation of the Order and that he acted purposely.

For the foregoing reasons, the Court finds that the State has proven beyond a reasonable doubt each of the elements of the charged offense. Accordingly, the Court makes a finding of guilty on the criminal contempt of court charge. The Clerk shall schedule a sentencing hearing as the docket permits:

So Ordered.

Dated: 11/16/13



Peter H. Bornstein
Presiding Justice

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Grafton Superior Court
3785 Dartmouth College Highway
North Haverhill NH 03774

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

NOTICE OF DECISION

FILE COPY

Case Name: **State v. David Vincelette**
Case Number: **215-2016-CR-00408**

Please be advised that on February 28, 2018 Judge Bornstein made the following order relative to:

Motion to Reconsider and Motion for Judgment Not Withstanding the Verdict: "The Court finds that none of the charged conduct is protected speech under Part I, Article 22 of the New Hampshire Constitution. The Court reiterates its conclusion that none of the charged conduct is constitutionally protected speech. The Court denies the Motion to Reconsider."

February 28, 2018

David P. Carlson
Clerk of Court

(294)

C: Mariana Claridad Pastore, ESQ; Jeremiah R. Newhall, ESQ

Count 1

Superior Court Case: 215-2016-CR-408
Charge ID: 1298246C

THE STATE OF NEW HAMPSHIRE

GRAFTON, SS.

SUPERIOR COURT

STATE OF NEW HAMPSHIRE

v.

DAVID VINCELETTE

INFORMATION

2016-11-09 11:23 AM 245

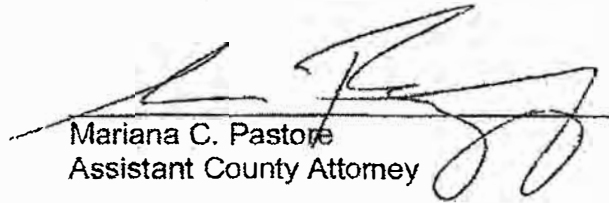
Criminal Contempt
RSA: CRCONT
CLASS: U Misdemeanor

NOW COMES the Grafton County Attorney's Office and gives the court to know and be informed that DAVID VINCELETTE (DOB: 06/01/1956) of or formerly of 93 Lebanon St., Hanover, NH 03755, on or about the 16th day of May 2016, in Hanover, in the County of Grafton, aforesaid

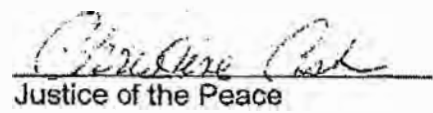
Did knowingly act in contempt of the Grafton County Superior Court's January 11, 2016 Order in Docket 14-CV-372, by interfering with the Town of Hanover's efforts to remove Mr. Vincellette's personal property from the Town of Hanover's real property, contrary to the Grafton County Superior Court's Order in Docket 14-CV-372.

against the peace and dignity of the State.

Dated: 11/9/16


Mariana C. Pastore
Assistant County Attorney

On this 9th day of November, 2016, Mariana C. Pastore personally appeared before me and made oath that the foregoing statements are true to the best of his/her information and belief.


Justice of the Peace

My commission expires: 2/12/19

STATE OF NEW HAMPSHIRE

Grafton, SS.

Superior Court

State of New Hampshire

v.

David Bruce Vincelette

Superior Court Case: 215-2016-CR-0408

Charge ID: 1298246C

STATE'S MOTION TO AMEND INFORMATION

NOW COMES the State of New Hampshire, by and through the Office of the Grafton County Attorney, Mariana C. Pastore, Assistant County Attorney and states as follows:

- A. The Defendant is charged with Criminal Contempt of Court.
- B. The State hereby moves the Court to amend the existing information because the initial information does not allege the proper mental state.
- C. Defendant is not prejudiced by this amendment as it does not change the discovery in any manner.
- D. Obviously the State could not procs the original complaint and refile an information, but it wants this matter to proceed in the most expeditious way possible.
- E. The State respectfully requests the Court strike the existing allegations and amend the information with the allegations as set forth below:
 - 1. A valid court order covering the defendant exists, to wit: on January 11, 2016 the Grafton Superior Court issued an order in 14-CV-372 ordering the defendant to cease interfering the Town of Hanover's exercise of its rights to remove the defendant's property from the right of way and Town of Hanover property and to cease threatening Town of Hanover employees or continue to interfere with Town of Hanover's lawful actions; and
 - 2. The defendant has notice of that order, in that the defendant was served with that order on May 16, 2016; and
 - 3. The defendant committed one or more acts in violation of that order, to wit: the defendant interfered with the Town of Hanover's removal of the defendant's property from the right of way and the Town of Hanover's property by:

35

8/23/17 Granted.
R H

Peter H. Bornstein
Presiding Justice

- a. Yelling at members of the Town of Hanover employees to get out of the area and/or to stop stealing the defendant's property when they were removing defendant's property from the right of way and the Town's property, and/or
 - b. Yelling and/or cursing at and/or insulting Town of Hanover employees and/or its agents when they were removing, or facilitating the removal of, the defendant's property from the right of way, and the Town's property, and/or
 - c. Creating a dangerous situation by walking up to and/or behind and/or in between the heavy machinery brought by Town of Hanover employees, and/or
 - d. Threatening Town of Hanover employees with personal liability for the position the Town of Hanover put the employees in; and/or
 - e. Continuing to interfere with Town of Hanover's lawful actions by telling Town of Hanover employees they could not use vehicles to remove the defendant's property from the right of way and the Town of Hanover's property; and/or
 - f. Continuing to interfere with Town of Hanover's lawful actions by telling Town of Hanover employees that they were not removing the defendant's property from the right of way and the Town of Hanover's property, and
4. The defendant acted purposely.

F. Counsel for the defendant, Attorney Jeremiah R. Newhall, was contacted and he objects to the State's Motion.

WHEREFORE, the State requests that this Honorable Court:

- A. GRANT the State's Motion, STRIKE the existing allegations and AMEND the information as set forth in this motion; or
- B. HOLD a hearing on the matter; and
- C. GRANT any other relief deemed proper and just.

August 10, 2017

Respectfully Submitted,
STATE OF NEW HAMPSHIRE



Mariana C. Pastore, Esq.
Assistant County Attorney
NH Bar # 266085
Office of the Grafton County Attorney,
3785 Dartmouth College Highway
North Haverhill, NH 03774

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has this day been forwarded to Jeremiah R. Newhall, New Hampshire Public Defender's Office, 485 Route 10, Orford, NH 03777, counsel for the defendant.

Respectfully Submitted,
STATE OF NEW HAMPSHIRE

August 10, 2017


Mariana C. Pastore, Esq.
Grafton County Attorney's Office

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH**

http://www.courts.state.nh.us

Court Name: Grafton County Superior Court
 Case Name: State v. David Bruce Vincelette
 Case Number: 215-2016-CR-0408 Charge ID Number: 1298246C
 (if known)

HOUSE OF CORRECTIONS SENTENCE

Plea/Vict: Guilty True	Clerk: Carlson
Crime: Criminal Contempt	Date of Crime: 05/16/16
Monitor: Bemis Krysa	Judge: Bornstein Macleod

A finding of **GUILTY/TRUE** is entered.

This conviction is for a Felony Misdemeanor Violation of Probation

The defendant has been convicted of Domestic Violence contrary to RSA 631:2-b. See attached RSA 631:2-b Sentencing Addendum.

The defendant has been convicted of a misdemeanor, other than RSA 631:2-b, which includes as an element of the offense, the use or attempted use of physical force or threatened use of a deadly weapon, and the defendant's relationship to the victim is: 1. Current or former spouse; 2. Parent;

3. Guardian; 4. Child in common OR Cohabiting or cohabitated with the victim as a 5. Spouse;

6. Parent; 7. Guardian OR A person similarly situated to a 8. Spouse; 9. Parent; 10. Guardian.

1. The defendant is sentenced to the House of Corrections for a period of ~~2 months~~ **4 months**.

2. This sentence is to be served as follows:

Stand committed Commencing _____

Consecutive weekends from _____ PM Friday to _____ PM Sunday beginning _____.

All but 60 days of the sentence is suspended during good behavior and compliance with all terms and conditions of this order. Any suspended sentence may be imposed after hearing at the request of the State. The suspended sentence begins today and ends **2** year(s) from today or release on charge ID

_____ of the sentence is deferred for a period of _____. The Court retains jurisdiction up to and after the deferred period to impose or terminate the sentence or to suspend or further defer the sentence for an additional period of _____.

Thirty (30) days prior to the expiration of the deferred period, the defendant may petition the Court to show cause why the deferred commitment should not be imposed. Failure to petition within the prescribed time will result in the immediate issuance of a warrant for the defendant's arrest.

Other: _____

3. The sentence is consecutive to charge ID(s) _____
 concurrent with charge ID(s) _____.

4. Pretrial confinement credit: **8** days.

5. The court recommends to the county correctional authority:

Work release consistent with administrative regulations.

Drug and alcohol treatment and counseling.

Sexual offender program.

Other: _____

If required by statute or Department of Corrections policies and procedures, the defendant shall provide a sample for DNA analysis.

CLERK'S NOTICE DATE

3/2/18
 CC: NMPO, CA

NHJB-2312-S (09.16.2016)

Case Name: State v. David Bruce Vinzelette
Case Number: 215-2016-CR-0408 (1298246C)
HOUSE OF CORRECTIONS SENTENCE

PROBATION

- 6. The defendant is placed on probation for a period of ___ year(s), upon the usual terms of probation and any special terms of probation determined by the probation/parole officer.
Effective: Forthwith Upon Release
The defendant is ordered to report immediately to the nearest Probation/Parole Field Office.
- 7. Subject to the provisions of RSA 504-A:4, III, the probation/parole officer is granted the authority to impose a jail sentence of 1 to 7 days in response to a violation of a condition of probation, not to exceed a total of 30 days during the probationary period.
- 8. Violation of probation or any of the terms of this sentence may result in revocation of probation and imposition of any sentence within the legal limits for the underlying offense.

OTHER CONDITIONS

- 9. Other conditions of this sentence are:
 - A. The defendant is fined \$____, plus statutory penalty assessment of \$____.
 - The fine, penalty assessment and any fees shall be paid:
 - Now By _____ OR Through the Department of Corrections as directed by the PPO. A 10% service charge is assessed for the collection of fines and fees, other than supervision fees.
 - \$____ of the fine and \$____ of the penalty assessment is suspended for ____ year(s).
A \$25.00 fee is assessed in each case file when a fine is paid on a date later than sentencing.
 - B. The defendant is ordered to make restitution of \$____ to ____.
 - Through the Department of Corrections as directed by the Probation/Parole Officer. A 17% administrative fee is assessed for the collection of restitution.
 - At the request of the defendant or the Department of Corrections, a hearing may be scheduled on the amount or method of payment of restitution.
 - Restitution is not ordered because: _____
 - C. The defendant is to meaningfully participate in and complete any counseling, treatment and educational programs as directed by the correctional authority or Probation/Parole Officer.
 - D. The defendant's license privilege to operate in New Hampshire is revoked for a period of effective _____
 - E. Under the direction of the Probation/Parole Officer, the defendant shall tour the _____
 - New Hampshire State Prison House of Corrections
 - F. The defendant shall perform _____ hours of community service with a registered charity and provide proof to the State or probation within _____ of today's date.
 - G. The defendant is ordered to have no contact with _____ either directly or indirectly, including but not limited to contact in-person, by mail, phone, e-mail, text message, social networking sites and/or third parties.
 - H. Law enforcement agencies may destroy the evidence return evidence to its rightful owner.
 - I. The defendant is ordered to be of good behavior and comply with all the terms of this sentence.
 - J. Other: Suspension conditioned on Defendant, with 72 hours of release, contacting local community mental health treatment program or the Veteran's Administration for a mental health evaluation, and meaningful participation in mental health treatment and following all mental health recommendations

3/1/16 Date Sentenced
Through the ^{Dept. of} Veterans ^{affairs} administration and comply with all recommendations of the treatment providers(s) during the period of suspension.
Presiding Justice *[Signature]*

STATE OF NEW HAMPSHIRE
SUPERIOR COURT

GCSC-DEC14*17PM 3:46

Grafton, ss.

December, 2017

State of New Hampshire

v.

David Vincelette

215-16-CR-408

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS

David Vincelette submits the following memorandum of law in support of a motion to dismiss because the evidence at trial is insufficient as a matter of law (i.e., because no reasonable jurist, interpreting the evidence in the light most favorable to the State, would find guilt beyond a reasonable doubt). In the alternative, the defense asks for a verdict of not guilty.

1. David Vincelette is charged with one count of Contempt. Many of the facts are videotaped and undisputed.
2. The single complaint raises six different theories of liability, labeled 3.a through 3.f. For each theory, there are at least two defenses: First, that the conduct does not violate the order. Second, that Mr. Vincelette's purpose behind the conduct was not to violate the order.

Allegation 3.a, 3.b, 3.e, and 3.f

3. Allegations 3.a, 3.b, 3.e, and 3.f all allege that Mr. Vincelette's violated the order by speaking, e.g., by yelling at Hanover town employees, cursing

at them, telling them to stop stealing, telling them not to use vehicles, and insisting that they abandon their work. The evidence at trial proves that none of this conduct violated the order.

4. At trial, the defense introduced a video of the day in question. It shows that Mr. Vincelette used harsh language, raised his voice, and told town employees that they were not allowed to remove his property using trucks. He did not physically interfere with their work or bar their path. The Court can see on the video that trucks came and went from the site while Mr. Vincelette was there. All that Mr. Vincelette did was yell at the town employees.
5. Our state's Supreme Court has decided that yelling at municipal employees while they are working, insulting them, calling them criminals, and urging them to abandon their work, is all constitutionally protected speech. *See City of Keene v. Cleaveland*, 167 N.H. 731, 734. (2015). In *Cleaveland*, the Court upheld dismissal of a lawsuit by the City of Keene against protesters alleging tortious interference. The interference alleged in that case was that the protesters "videotaped the [parking enforcement officers or PEOs] from a close proximity; called the PEOs names such as 'P****g thief,' 'coward,' 'racist,' and 'b***h'; criticized the

PEOs for issuing tickets; encouraged the PEOs to quit their jobs; and waited for the PEOs during their breaks, including waiting outside restrooms." *Cleaveland* at 734. The Court held that all of this conduct was protected by the First Amendment. *Cleaveland* at 738 ("[W]e agree with the trial court that holding the respondents liable for tortious interference based upon their alleged activities would infringe upon the respondents' right to free speech under the First Amendment.").¹

6. A lot of speech protected by the First Amendment is not very nice.

See, e.g., Snyder v. Phelps, 562 U.S. 443, 448 (2011) (First Amendment protects showing up to an American soldier's funeral with signs saying: "'God Hates the USA/Thank God for 9/11,' 'America is Doomed,' 'Don't Pray for the USA,' 'Thank God for IEDs,' 'Thank God for Dead Soldiers,' 'Pope in Hell,' 'Priests Rape Boys,' 'God Hates Fags,' 'You're Going to Hell,' and 'God Hates You.'"). Even curse words like "fuck" are still protected speech. *See, e.g., Cohen v. California*, 403 U.S. 15, 16, (1971). If the First Amendment requires a mother mourning the loss of her son, who died in battle for his country, to endure being told "Thank God for Dead

¹ *Cleaveland* also remanded for consideration of a time, place, and manner restriction on the protesters. Such an order could have been crafted in this case, had the town had the foresight to request it. But the order of January 11, 2016, did not include any reference to time, place, or manner restrictions on Mr. Vincelette's speech.

Soldiers" and "God Hates You" at her son's funeral, *Snyder*, 562 U.S.

at 448, and requires a meter maid to endure being called a "f***ing thief,"

Cleveland at 734, then surely Hanover town employees can endure

Mr. Vincelette cursing at them.

7. Whenever possible, laws (including court orders) should be interpreted in a way that does not violate the Constitution. *State v. Paul*, 167 N.H. 39, 44-45 (2014). Here, the order was to not interfere with the removal of property. Just as the Court in *Cleveland* found that protected speech could not constitute "tortious interference,"² this Court must find that protected speech does not constitute interfering with its order. Nothing that Mr. Vincelette said actually impeded the Hanover town employees any more than the words of the protesters in *Cleveland* interfered with the work of the parking enforcement officers.
8. That would not excuse physical interference, even if that physical interference included a message. So, for example, if Mr. Vincelette had made a banner and stretched it across the road, then that would violate the order because it blocked the road. But merely hurling invective

² The comparison is apples-to-apples because tortious interference is a common law tort. Like court orders, common law torts are created by the courts and not by the legislature.

without physically blocking the way is not interference, just as it was not interference in *Cleveland*.

Allegation 3.c.

9. Allegation 3.c. alleges that Mr. Vincelette was “[c]reating a dangerous situation by walking up to and/or behind and/or in between the heavy machinery.” This is the only accusation of physical conduct, as opposed to words, violating the order. The evidence shows that Mr. Vincelette did not create a dangerous situation, nor did his walking around interfere with removal of the property.
10. The video introduced by the defense at trial proves that Mr. Vincelette did not create a dangerous situation. None of the employees or police officers told Mr. Vincelette he was in danger. No one suggested he wear a hard hat or goggles. Police officers and workers followed Mr. Vincelette as he walked around the vehicles, all without injury and most without hard hats. Most compellingly, **no one asked Mr. Vincelette not to walk there.**
11. Second, even if this Court concludes that the State has proven that Mr. Vincelette’s walking was dangerous, “creating a dangerous situation” is not synonymous with “interfering with the Town.” None of

the evidence at trial shows that Mr. Vincelette's walking actually interfered with the removal of property from the right of way. In fact, it shows the opposite—the video shows Mr. Vincelette walked around vehicles so they could come and go.

Allegation 3.d.

12. Allegation 3.d. alleges that Mr. Vincelette was “[t]hreatening Town of Hanover employees with personal liability for the position the Town of Hanover put the employees in.” This is the only accusation of a threat, and the threat was of a lawsuit. The evidence at trial shows that this conduct does not violate the order.

13. First, this could not have violated the order because it was a correct statement of the law. Town employees are, in fact, personally liable for violations of civil rights, *see* 42 U.S.C. § 1983, which Mr. Vincelette repeatedly alleged they had done. Mr. Vincelette has always believed that the removal of his property from the right of way was illegal. Because the town of Hanover and its employees—including all the employees working that day—operate under “color of state law,” their interference with Mr. Vincelette's property is actionable under § 1983. *See Hafer v. Melo*, 502 U.S. 21, 30-31 (1991) (Holding that “the Eleventh

Amendment does not erect a barrier against suits to impose ‘individual and personal liability’ on state officials under § 1983.”). Their liability to answer suit does not depend upon whether Mr. Vincelette would prevail. As a practical matter, states and municipalities universally indemnify their employees against suits under § 1983, and the employees could defend the suit on grounds of qualified immunity, but none of that changes the fact of personal liability in a lawsuit.

14. Making it a crime to correctly recite the law would violate the First Amendment. *See Va. State Bd. of Pharmacy v. Va. Citizens Consumer Council*, 425 U.S. 748, 773 (1976) (Holding that government may not “suppress the dissemination of concededly truthful information about entirely lawful activity.”). As above, Constitutional avoidance requires interpreting the order in a way that does not conflict with the First Amendment, and that is easily done here. The conduct alleged—saying people were personally liable who were, in fact, personally liable—did not physically hinder the removal of property from the right of way.

Mr. Vincelette’s Purpose Was Not to Violate The Order.

15. Finally, as to each of these six allegations (contained in a single complaint), the evidence shows that Mr. Vincelette’s purpose was not to

violate the Order. The *mens rea* of "purposely" is subjective. The defense will stipulate that Mr. Vincelette is not always a very reasonable person.

But the test is not a reasonable-person standard; the test is what Mr.

Vincelette actually believed. Unless defying this Court was his conscious object, he must be acquitted.

16. That standard of proof is not a license for Mr. Vincelette to violate court orders. There exist many other options for enforcing court orders with a much lower standard of proof, such as the civil contempt pursued in Mr. Vincelette's civil case. But criminal contempt is a different beast and requires proof that Mr. Vincelette's purpose was to violate the court's order.

17. The evidence at trial shows that Mr. Vincelette sincerely believes that the law prohibits the use of vehicles on the right of way, and that town employees are in a criminal conspiracy to persecute him and to pollute the water. He shows no sign of deceit in the video as he confronts town employees, workers, and police officers.

18. Moreover, the evidence shows that Mr. Vincelette took care to keep his protests within the parameters of the Court's order. He never physically interfered with anyone.

19. It would have been perfectly reasonable for Mr. Vincelette to believe that he retained his First Amendment rights even after the January order.

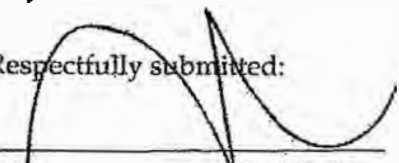
This Court had ruled that parking his truck to block the right of way violated the order and constituted interference, but never that verbally discouraging town employees violated the order. The video shows that Mr. Vincelette shouted at town employees to stop, but did not bar their path.

20. This Court can see from the video that during Mr. Vincelette's jeremiad, Town dump trucks drove up and down the right of way removing his property. And Mr. Vincelette let them. He walked around them. He did not block their path. He did not slap material out of anyone's hands. Twice, he gently touched someone's shoulder, as though to get their attention. He was told not to touch them, and withdrew his hand. All of this shows a care not to physically interfere with anyone.

WHEREFORE, the Defendant, by and through counsel, respectfully prays
this Honorable Court:

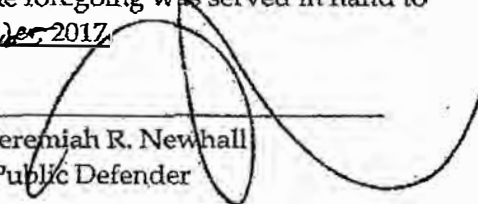
- A. GRANT this motion to dismiss; or
- B. FIND the defendant Not Guilty.

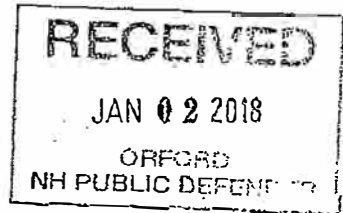
Respectfully submitted:


Jeremiah R. Newhall #21195
New Hampshire Public Defender
485 NH Route 10
Orford, New Hampshire 03777
(603) 353-4440

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing was served in hand to
opposing counsel this 14th day of December, 2017.


Jeremiah R. Newhall
Public Defender



STATE OF NEW HAMPSHIRE

Grafton, SS.

Superior Court

State of New Hampshire

v.

David Bruce Vincelette

Superior Court Case: 215-2016-CR-0408

Charge ID: 1298246C

**STATE'S OBJECTION TO DEFENDANT'S MOTION TO DISMISS
CRIMINAL CONTEMPT CHARGE**

NOW COMES the State of New Hampshire, by and through the Office of the Grafton County Attorney, Mariana C. Pastore, Assistant County Attorney and states as follows:

Defendant, David Vincelette, is charged with Criminal Contempt of Court, and the Court heard two days of testimony, including video of the charged event.

The allegations against Mr. Vincelette are that:

1. A valid court order covering the defendant exists, to wit: on January 11, 2016 the Grafton Superior Court issued an order in 14-CV-372 ordering the defendant to cease interfering the Town of Hanover's exercise of its rights to remove the defendant's property from the right of way and Town of Hanover property and to cease threatening Town of Hanover employees or continue to interfere with Town of Hanover's lawful actions; and
2. The defendant has notice of that order, in that the defendant was served with that order on May 16, 2016; and
3. The defendant committed one or more acts in violation of that order, to wit: the defendant interfered with the Town of Hanover's removal of the defendant's property from the right of way and the Town of Hanover's property by:
 - a. Yelling at members of the Town of Hanover employees to get out of the area and/or to stop stealing the defendant's property when they were removing defendant's property from the right of way and the Town's property, and/or

- b. Yelling and/or cursing at and/or insulting Town of Hanover employees and/or its agents when they were removing, or facilitating the removal of, the defendant's property from the right of way, and the Town's property, and/or
 - c. Creating a dangerous situation by walking up to and/or behind and/or in between the heavy machinery brought by Town of Hanover employees, and/or
 - d. Threatening Town of Hanover employees with personal liability for the position the Town of Hanover put the employees in; and/or
 - e. Continuing to interfere with Town of Hanover's lawful actions by telling Town of Hanover employees they could not use vehicles to remove the defendant's property from the right of way and the Town of Hanover's property; and/or
 - f. Continuing to interfere with Town of Hanover's lawful actions by telling Town of Hanover employees that they were not removing the defendant's property from the right of way and the Town of Hanover's property, and
4. The defendant acted purposely.

Now, defendant moves to dismiss the Information because: one, his conduct did not violate the order, and, two, his purpose was not to violate the order. Defendant argues that he did not violate the order by yelling at, cursing, insulting, threatening or telling Town employees they would be subject to personal liability, because he was exercising First Amendment protected rights. Defendant also argues that his purpose was to prevent the use of motorized vehicles on the Town's access road, not Both of the defendant's arguments fail as set forth below.

David Vincelette's Purpose Was to Prevent the Removal of His Property

That Mr. Vincelette's purpose was only to prevent the use of motorized vehicles is a crafty but ultimately unsupported argument. To begin with, Mr. Vincelette previously physically interfered with the removal of his property from the Town access road in January 2016, as evidence by the photos admitted into evidence during trial and by Mr. Chase's testimony that the defendant previously climbed on top of the dumpsters to prevent the Town of Hanover from removing his property from the access road. The photos support Mr. Chase's testimony because Mr. Vincelette can be seen on top of dumpsters taken to remove the debris from the Town's access road to the Tanzi Nature Preserve.

Second, Mr. Vincelette's own words during the May 2016 event reveal his specific intent. Specifically, Mr. Vincelette said:

- **David Vincelette:** you men are coming out here to steal my materials you men are Hanover employees wait no we're not done. P. 6 of 19, lines 13-14.
- **David Vincelette:** men you bring my fuckin' firewood back here we been cutting wood all winter keeping men warm you men who have spray- you've never done the job the town told me that you were gonna do. It's not your fault I know that but none of you have ever come down here to maintain my road but you're all down here to smash and take my shit work for these bastards who are polluting the water. P. 6 of 19, lines 17-21.
- **David Vincelette:** take your asses out of here don't take any of my more more of my stuff you're not allowed to steal you're not allowed to pollute the water I have a picture of every one of you you know what. P. 6 of 19, lines 24-26.
- **David Vincelette:** got twelve twenty people in a fuckin' conspiracy you all come down here think you can mess with (unintelligible) get your asses out of here I want that damn wood back no no no no trucks down here no no no (unintelligible) no no no no hey stop no hey (unintelligible). P. 9 of 19, lines 1-4.
- **David Vincelette:** 'cause ah this land belonged to a family they created the right-of-way to benefit them not to benefit the town they gave the they gave the land around it to the town with the understanding the town would maintain the road they never did thirty-two years the deed says specifically in it the only use uh for the town is for maintenance and for emergencies otherwise town vehicles are not supposed to be using it they have no right-of-way for these dump trucks coming down here. **Unidentified Officer:** so. **David Vincelette:** and stealing my shit.
- **David Vincelette:** we are we been working our ass off trying do it look how much they had pictures (unintelligible) takin' in my frickin' window I've got this whole thing rigged up (unintelligible) every day does this look disorganized to you it's a bunch of firewood and we're taking apart to heat the damn house for homeless people and they need five people to come here and steal our damn wood had enough of these bastards OK they're pollute- you want to see a crime, come over with me and we'll go over that you don't want to see it. P. 12, lines 21-27.
- **David Vincelette:** y-you know you guys are fuckin' disgusting look at this fat bastard here filming you got your fuckin' hand in their pocket what's this excuse for a man you (unintelligible) people down here and steal fuckin' homeless

people's fuckin' firewood get the fuck out of here now I'm fuckin' sick of (unintelligible) fuckin' asshole (unintelligible) people (unintelligible) fuckin' house you know good and well what is going on here these people didn't fuck with me (unintelligible) and you know all about it these men are attempting to do criminal activity on my property. **Unidentified Person:** (unintelligible). **David Vincelette:** they're stealing my shit these people are paid to to pollute my water now they're being paid to steal my shit. **Unidentified Officer:** (unintelligible). **David Vincelette:** I've had enough now get these criminals out of here they're part of a criminal conspiracy I'm gonna file cha- I've been very patient I've been waiting a long time I haven't brought it to court you can't keep coming down here and messing with me like this you don't even have the decency to call me before you come down and start stealing my shit now get out all of you. You're not leaving with one stick of wood and you'd better bring that other wood back you sons of bitches lowlife bastards P. 13 of 19, lines 2-21.

While Mr. Vincelette did reference his opposition to the Town using motorized vehicles on the Town's access road, he also acknowledged that the deed allows motorized vehicles on the access road for maintenance and for emergencies. As Mr. Chase testified, the Town of Hanover trucks were maintaining the access road by removing the debris Mr. Vincelette had placed on the Town's access road.

Furthermore, the deed does not allow Mr. Vincelette to enforce the motorized vehicle exclusion. Paragraph C of the deed stated that "The Hanover Conservation Commission shall make and enforce regulations to prohibit on the property; (2) use of motorized vehicles, including snowmobiles, except for maintenance and protection of the property." (Emphasis added.) Mr. Vincelette could not have a purpose to "enforce" the deed because he does not have a right to enforce the deed.

As Mr. Vincelette's own words reveal his true intent – namely to prevent the Town from "stealing my materials," and "tak[ing] any more of my stuff" – defendant's motion to dismiss on that ground fails.

Mr. Vincelette's Speech Was Not Constitutionally Protected

Here, the defendant's yelling at, cursing at and threatening of Town of Hanover employees about the removal of his items and other garbage from Town of Hanover property does not constitute speech of public concern. Instead, David Vincelette's speech constitutes speech of private concern, specifically of concern to David Vincelette alone.

Relying on City of Keene v. Cleaveland, 167 N.H. 731 (2015), defendant argues that the allegations in 3 (a), (b), (e) and (f) fail because they are constitutionally protected free speech. However, as the Cleaveland court notes, "[w]hether speech is constitutionally protected requires an analysis of whether the 'speech is of public or private concern, as determined by all the circumstances of the case,' including whether the challenged activities take place in a traditional public forum. Snyder v. Phelps, 462 U.S. 443, 451 (2011). 'Speech deals with matters of public concern when it can be fairly considered as relating to any matter of political, social or other concern to the community... Id. at 453. Speech on matters of public concern 'is at the heart of the First Amendment's protection.' Id. at 451-52. 'That is because speech concerning public affairs is more than self expression; it is the essence of self-government.' Id. at 452. 'Deciding whether speech is of public or private concern requires us to examine the content, form, and context of that speech, as revealed by the whole record. Id. at 453. 'In considering content, form and context, no factor is dispositive, and it is necessary to evaluate all the circumstances of the speech, including what was said, and how it was said.' Id. at 454." Cleaveland, 167 N.H. at 739.

In contrast to the Cleaveland case in which the City of Keene did not challenge the conclusion that the content of the speech – where defendants followed closely the city's parking enforcement officers, videotaping them, criticizing their work and putting money in expired meters before the officers could ticket – the State here disputes the notion that Mr. Vincelette was commenting on an issue of public concern on May 16, 2016. A government's ticketing of citizens is an issue of public concern. Here, however, the removal of Mr. Vincelette's property from Town property is not an issue of public concern. Indeed, no one besides Mr. Vincelette and the Town of Hanover employees were present on the access road to the Tanzi tract. So Mr. Vincelette was not bringing a concern to the public in a public forum. Instead, he was yelling at, cursing at and threatening Town employees who were doing their job by carting away years' worth of garbage he had accumulated and left on Town property. Again, Mr. Vincelette's acknowledgement that, pursuant to the deed, the Town could bring motorized vehicles onto its own right of way for maintenance undercuts Mr. Vincelette's argument that the Town could not bring trucks down to cart off his stuff he had been previously instructed by the Court to remove.

As Mr. Vincelette's speech was not of a public concern and therefore not constitutionally protected, defendant's argument on that ground fails as well.

WHEREFORE, the State requests that this Honorable Court:

- A. DENY the Defendant's Motion without a hearing; or
- B. HOLD a hearing on the matter; or

C. Grant any other relief deemed proper and just.

January 2, 2018

Respectfully Submitted,
STATE OF NEW HAMPSHIRE



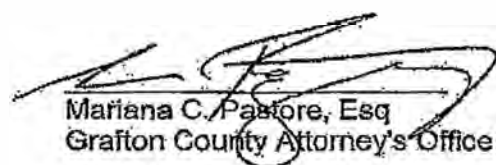
Mariana C. Pastore, Esq.
Assistant County Attorney
NH Bar #266085
Grafton County Attorney's Office
Office of the Grafton County Attorney,
3785 Dartmouth College Highway
North Haverhill, NH 03774

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has this day been forwarded to Jeremiah R. Newhall, New Hampshire Public Defender's Office, 485 Route 10, Orford, NH 03777, counsel for the defendant.

January 2, 2018

Respectfully Submitted,
STATE OF NEW HAMPSHIRE



Mariana C. Pastore, Esq.
Grafton County Attorney's Office

STATE OF NEW HAMPSHIRE
SUPERIOR COURT

Grafton, ss.

January, 2018

State of New Hampshire

v.

David Vincelette

215-16-CR-408

REPLY TO STATE'S OBJECTION

1. The State makes three errors in its response. First, it fails to recognize the proven public concern about the dispute between David Vincelette and the Town of Hanover over his property on the Tanzi Natural Area. Second, it confuses an intent to prevent theft with an intent to violate a court order. Third, the State mistakenly believes that private speech is not protected by the First Amendment

-
- ~~2. First, the State mistakenly believe this speech was not of public concern~~

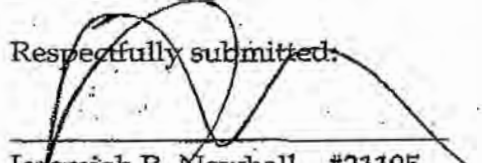
"Speech deals with matters of public concern when it can be fairly considered as relating to any matter of political, social, or other concern to the community, or when it is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public," Snyder v. Phelps, 562 U.S. 443, 453 (2011) (emphasis added) (citations and quotations omitted). In-between the issuance of the January 11 Court order and the May 16 incident, Mr. Vincelette's dispute with the Hanover government was already front-page news. The

attached Valley News article dated January 31, 2016, ran on the front page and details Mr. Vincelette's dispute with the Town of Hanover about the removal of his property and the pollution of the water. An allegation that a government is mistreating one of its citizens—particularly after having been covered in the front page of the leading local newspaper—is well within the definition of a “public concern.” Such speech is not only protected but is at the core of the First Amendment. See Phelps, at 453. The State has not made any other argument to distinguish Cleveland, which controls here.

3. Second, the State argues that Mr. Vincelette's intent was to prevent theft of his property. Even if that were true, the State must prove a specific intent to violate a court order. An intent to deter theft is not the same as an intent to violate the Court's order, which did not authorize theft.
4. Third, the State misstates the law when it writes that an issue of private concern is not constitutionally protected. The government is not free to persecute private speech. See, e.g., Klen v. City of Loveland, 661 F.3d 498, 509 (10th Cir. 2011) (“[P]laintiffs' speech was not robbed of constitutional protection even if it involved only matters of private concern.”); Eichenlaub v. Twp. of Ind., 385 F.3d 274, 284 (3d Cir. 2004) (“In short,

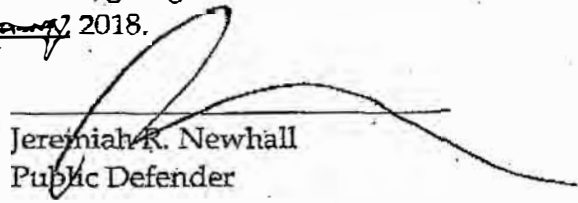
while speech on topics of public concern may stand on the 'highest rung' on the ladder of the First Amendment, private speech (unless obscene or fighting words or the like) is still protected on the First Amendment ladder."). That is why even lies about one's personal background, such as false claims to have won a Medal of Honor, are protected by the First Amendment. United States v. Alvarez, 567 U.S. 709, 713 (2012). So even if speech is only of private concern, the First Amendment protects it.

Respectfully submitted:


Jeremiah R. Newhall #21195
New Hampshire Public Defender
485 NH Route 10
Orford, New Hampshire 03777
(603) 353-4440

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing was served in hand to opposing counsel this 10th day of January 2018.


Jeremiah R. Newhall
Public Defender

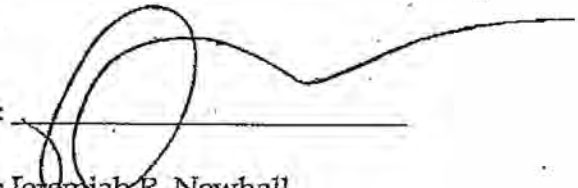
AFFIDAVIT OF COUNSEL

Affiant Jeremiah R. Newhall, under oath, swears as follows:

1. I obtained the attached print outs from the Dartmouth College library archives, and they are true and accurate representations of the newspaper article as it ran on the front page of the Valley News on January 31, 2016, and continued on the full page of A6 of that same newspaper, and concluded on page A7 of that same newspaper.
2. Further affiant sayeth not.

Dated:

Signature: _____

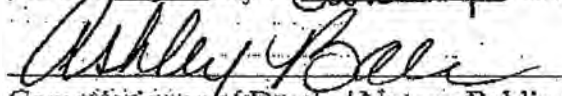


Print Name: Jeremiah R. Newhall

State of New Hampshire

County of Grafton

Sworn and subscribed before me this 10th day of January, 2018.


Commissioner of Deeds / Notary Public

Justice of the Peace

My Commission Expires on 2/10/21



VALLEY NEWS

THE NEWS PAPER
OF THE
UPPER VALLEY
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Physicians, Dentists Pan Vt. Tax Proposal

Shuttle Bid for Revenue Called 'Dangerous Step'

VALLEY NEWS — A bill that would allow the state to collect taxes on the services of physicians and dentists is being introduced in the Vermont House of Representatives. The bill, H. 1000, is being introduced by Rep. John P. ...



The Vermont Superior Court in Hanover, N.H., is set to hear a case involving a property owner's dispute with the town over junk, access, and pollution allegations.

A Battle of Wills in Hanover

Property Owner, Town Clash Over Junk, Access, Pollution Allegations

By Bob Wolfe
Valley News Staff Writer

HANOVER — When it comes to solving problems, Hanover doesn't lack the resources. The town's budget runs over \$2 million, but the town has a population of 33,000. It has a police department, a fire department, and a public works department. And yet, for the first time in its history, the town is facing a public trial.

water would have been to share it with (industrial) drains. If you take an appreciation of clean water, Waples said, "it's not such a polluted town."



Hanover Police Officer Chris Swain, right, inspects an area near the Hanover Public Works Department plant to remove some of the illegal dumping.

America and Its Politics Are in Flux

By Bob Wolfe
Valley News Staff Writer

THE MODERN world is in a state of flux. The political landscape is shifting, and the economic environment is uncertain. The U.S. economy is struggling, and the global financial system is in a state of flux. The political landscape is shifting, and the economic environment is uncertain.

"I know how it ends. We die, and they take all our stuff," Quipsters

of study need that the funds to buy and build all factories and through tracks with other factories. In recent years, the scrap has spread beyond the land around the town, and now creeps onto the trail that runs in the north through the North Hanover Area's preserve owned by the town, encompassing the highway and water lines where it.

"There's a lot of old down here," he said, surveying the spectral energy of the place. "A lot of old — and a lot of junk." For more than a year, neighbors have been complaining that Waples' possessions are blocking the trail and making their appreciation of land that everyone should be free to enjoy.

Early Grantham

John Grantham, right, stands before the site of the Upper Valley Land Trust, discussing the size of a large tract of land in Grantham. During a walk of the 50-acre property, which he had just purchased in 2011.

Page 24
Valley News
James M. Patterson



Forget Power Grid: Worry About Toasters

By Jeffrey Kamin
2010-09-29

Plugging "smart" toasters and refrigerators and tracking corporate wireless systems are among the latest strategies by cybersecurity experts to an increasing array of firms are connected to the Internet.

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Map: Twin States Ski Areas

Find mountain information and driving times from the Upper Valley.

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WEATHER — 83

Mostly cloudy.
High 83-85

VALLEY NEWS

THE NEWSPAPER OF THE UPPER VALLEY
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Physicians, Dentists, Pan Vt. Tax Proposal

Shumlin Bid for Revenue Called 'Dangerous Step'

By [Name] Valley News Staff Writer

WATERBURY, Vt. (AP) — Democrats in Vermont's Legislature on Sunday said a \$2.5 billion tax on doctors and dentists would be a "dangerous step" to raise revenue. Gov. Peter Shumlin's proposal would increase the state's income tax on these professions. The plan would generate \$1.7 billion in revenue, but critics say it would hurt patients and the state's medical community. Shumlin's office says the plan is necessary to fund education and other programs. The \$2.4 billion revenue plan is part of a larger budget package.

Shumlin said the plan would be a "dangerous step" in the wrong direction. He said the plan would add up to 2.5 percent to the state's income tax. Critics say it would hurt patients and the state's medical community. Shumlin's office says the plan is necessary to fund education and other programs. The \$2.4 billion revenue plan is part of a larger budget package.

America and Its Politics are in Flux

By [Name] AP White House Correspondent

WASHINGTON (AP) — Just three weeks after the passage of the 2010 health care law, the political landscape in America is shifting. The passage of the law has led to a new wave of political activity, with an intensity that has shaken both the Republican and Democratic establishments. Candidates named Bush and Clinton — members of America's elite political families — and others will step out to party leaders. The law has been unexpectedly challenged by a bill to defund the program, turning reality television into a political stage. The GOP has lost and an unnumbered Democratic socialist.

A lot of people feel like the stakes are a machine that's grinding down on them," said Sen. Claire McCaskill. Democrats are protesting against the law. The law is being challenged in court. The GOP has lost and an unnumbered Democratic socialist.



Gov. Vincent of Hanover, left, as Laura Spence-Norbert, attorney for the town, argues in Grand Superior Court for him to be held in contempt of court during a Jan. 8 hearing. Hanover officials asked for a warrant to be issued for Vincent's arrest in the event he continued to block a road that accesses trails in the Vanot Natural Area. Judge Lawrence MacLeod ruled that Vincent was not in contempt. Valley News photo by [Name] — James M. Patterson

A Battle of Wills in Hanover

Property Owner, Town Clash Over Junk, Access, Pollution Allegations

By [Name] Valley News Staff Writer

HANOVER — When it comes to solving problems, Hanover doesn't lack for resources. The municipal budget runs well over \$22 million; the tax base has swelled to \$2 billion with the participation of doctors, attorneys, financiers and professors, and a stable of lawyers waits in the town's courtroom. And yet, for the past 14 months, the town's efforts to clean up a public trail have been frustrated, not least by a man who lives in the woods amid a pile of junk.

David Vincent, 59, has thick, sea-gray eyes and smooth, boyish cheeks. He is tall and thin and he has a slight stoop that lends his walk an appearance of purpose. But his most prominent feature is his beard, a chin curtain with no muss, no fuss, on his mustache, his lips, on his forehead. Vincent is an Abak, off sorts, chasing after an unobtainable goal without regard for odds or consequences. Ask Vincent a question, and the answer will seek its way back to his primary obsession, a belief that the town is polluting its own waters.

When did he grow up? Outside of Putnam, Pa., a steel town where factories and mills dumped waste in the town's drinking water. To swim in that

water would have been to share it with industrial detritus. "It gave me an appreciation of clean water," Vincent said. "It was both a polluted town."

For more than a decade, Vincent has maintained that the town of Hanover is allowing toxic petroleum waste to leak into public waters — part of what he believes is a scheme to save the municipally millions in maintenance costs. Permanently engaged in small-scale disputes with the town, Vincent views them as battles in a larger war against a conspiracy to silence him.

The latest clash is over material that he keeps on his property, a 2-acre plot filled with wood pallets, old cars, propane tanks and miscellaneous junk. He says that he finds in junkyards, behind factories and through piles of other clutter. In recent years, the scrap has spread beyond the land around his house and now creeps onto the trail that runs to the north through the Tazewell National Area, a preserve owned by the town, encompassing the joggers and nature lovers who use it.

'BEYOND ARGUMENT'
Down by Mink Brook, where stunted trees take a vale of junk and shanties, Clay McAllister left his can of Budweiser



Hanover Police Officer Chris Stearns, right, explains to Vincent how the Hanover Public Works Department plans to move some of his belongings, including pellets, wood, and a truck that couldn't be started, this day after the hearing in Grand Superior Court.

er of a discarded refrigerator and turned to watch his house over a fire. He and several others, some of them formerly homeless, live in makeshift houses on Vincent's land and help him with his chores.

A native Tennesseean, McAllister had never seen a river freeze over. The gazed down at the water, listening to a rush through the chattering factory for

"There's a lot of stuff down here," he said, covering the spiritual energy of the place. "A lot of ch... and a lot of junk."

For more than a year, neighbors have been complaining that Vincent's possessions are blocking the trail and ruining their appreciation of land that everyone should be free to enjoy.

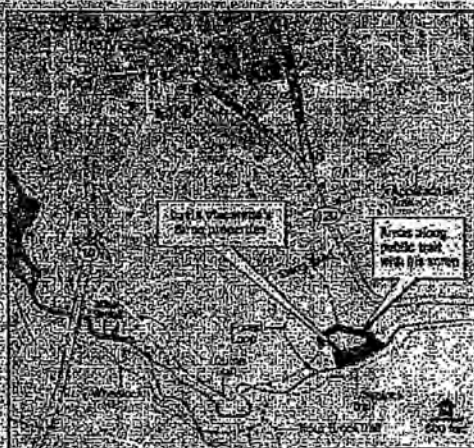
"This issue has gone on too long and...
SEE BATTLE — A4

Dispute in Hanover Has Property Owner Pessimistic: 'I Know How It Ends'

After a year of legal battles, a Hanover property owner says he is pessimistic about the outcome of a dispute with the town. Vincent Vincetele, 63, says he has lost his home and is now living in a trailer. He says he has been in court for over a year and has spent thousands of dollars on legal fees. He says he is tired of the process and is looking for a way to resolve the dispute. He says he is not optimistic about the outcome of the case. He says he is looking for a way to resolve the dispute. He says he is not optimistic about the outcome of the case.

Vincetele is looking for a way to resolve the dispute. He says he is not optimistic about the outcome of the case. He says he is looking for a way to resolve the dispute. He says he is not optimistic about the outcome of the case. He says he is looking for a way to resolve the dispute. He says he is not optimistic about the outcome of the case.

Local residents, meanwhile, are far from satisfied with the town's efforts. They say they believe Hanover police do, indeed, have the authority to arrest Vincetele. You said a few months ago that this was a civil action," Jim Reynolds, of State Road, wrote to Griffin in November. "If I sell a bag over a town road, and block it with my car, it is a criminal act. You are empowered, by state statutes, that we have pointed to, to their town property and



Local residents, meanwhile, are far from satisfied with the town's efforts. They say they believe Hanover police do, indeed, have the authority to arrest Vincetele. You said a few months ago that this was a civil action," Jim Reynolds, of State Road, wrote to Griffin in November. "If I sell a bag over a town road, and block it with my car, it is a criminal act. You are empowered, by state statutes, that we have pointed to, to their town property and



Left: Vincetele has been arrested several times by Hanover police, but says he is not pessimistic about the outcome of the case. Right: Vincetele is looking for a way to resolve the dispute. He says he is not optimistic about the outcome of the case.

Local residents, meanwhile, are far from satisfied with the town's efforts. They say they believe Hanover police do, indeed, have the authority to arrest Vincetele. You said a few months ago that this was a civil action," Jim Reynolds, of State Road, wrote to Griffin in November. "If I sell a bag over a town road, and block it with my car, it is a criminal act. You are empowered, by state statutes, that we have pointed to, to their town property and

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Vincetele is looking for a way to resolve the dispute. He says he is not optimistic about the outcome of the case. He says he is looking for a way to resolve the dispute. He says he is not optimistic about the outcome of the case.



While being filmed by his friends and supporters Sean Gibson, left, and Ryan Chaudry, right, Vincetele responds on his allegations of environmental crimes committed by the town of Hanover.

STATE OF NEW HAMPSHIRE
SUPERIOR COURT

Grafton, ss.

February, 2018

State of New Hampshire

v.

David Vincelette

215-16-CR-408

MOTION TO RECONSIDER AND
MOTION FOR JUDGMENT NOT WITHSTANDING THE VERDICT

1. Mr. Vincelette raised several arguments for acquittal under the First Amendment. He intended to also invoke the New Hampshire Constitution, Part 1, Article 22. To the extent that this Court did not consider the NH Constitution when it found that words were “not protected speech,” Mr. Vincelette moves to reconsider that order, and for entry of judgment of not guilty notwithstanding the verdict.

2. Mr. Vincelette relies upon the same authorities as in his original memorandum, but as it is an issue of state law, cites to federal authority only for its persuasive authority.

WHEREFORE, the Defendant, by and through counsel, respectfully prays
this Honorable Court:

- A. RECONSIDER; and
- B. ENTER judgment of Not Guilty notwithstanding the verdict.

Respectfully submitted:

Jeremiah R. Newhall #21195
New Hampshire Public Defender
485 NH Route 10
Orford, New Hampshire 03777
(603) 353-4440

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing was served in hand to
opposing counsel this ____ day of _____, 2018.

Jeremiah R. Newhall
Public Defender

STATE OF NEW HAMPSHIRE
SUPERIOR COURT

GRAFTON, SS.

Docket No. 14-CV-372

Town of Hanover

v.

David B. Vincelette

ORDER

This case was before the court on January 6, 2016, for a hearing on the plaintiff's Motion for Contempt and Request for Emergency Relief (Index #32). The plaintiff was present and represented by its counsel of record. The defendant appeared, *pro se*. Evidence was presented by offers of proof and by testimony. The plaintiff also placed certain photographs into evidence. For the reasons stated on the record and hereinafter, the plaintiff's motion is DENIED.

A finding of contempt is discretionary by the court. *In the Matter of Clark & Clark*, 154 N.H. 420 (2006). In essence, the plaintiff asserts that the defendant is in contempt of the court's October 29, 2015 order requiring him "to immediately cease interfering with the plaintiff's exercise of its rights to remove the defendant's materials from the right of way and the plaintiff's property." More specifically, the plaintiff alleges that on November 6, 2015, the defendant parked his vehicle at the intersection of N.H. Rte. 120 and the right of way for the purpose of blocking the plaintiff's access and refused to move despite being ordered by the police to do so. While the defendant does not deny that he interfered with the plaintiff's efforts to remove his debris on that date as alleged, the evidence at the hearing was that the defendant parked at the intersection for approximately 10 to 15 minutes and then drove away and did not return. Moreover, the police were aware in short order that the defendant had left, but the plaintiff declined, nevertheless, to have its public works crew enter the right of way.

While the defendant's conduct on November 6, 2015, was in violation of the October 29, 2015 order, the defendant's actions were temporary in duration and do not warrant a finding of contempt or incarceration at this juncture, which would only inflame this situation. The plaintiff's renewed request for authorization to arrest the defendant should he again block its access to the right of way or interfere with its removal of the debris is Denied for the reasons stated by the court on the record and in its October 29, 2015 order.

The foregoing notwithstanding, the defendant is Ordered yet again to immediately cease interfering with the plaintiff's exercise of its right to remove the

CLERK'S NOTICE DATED

1/20/16

cc: Spector - Morgan
Vincelette

TRUE COPY ATTEST:

[Signature]
Court Assistant

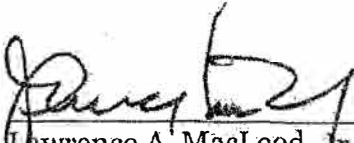
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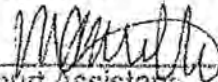
defendant's property from the right of way and the plaintiff's property. The court once more cautions the defendant that should he interfere further with the plaintiff's right to access the right of way and/or its removal his property he may be found in contempt and possibly incarcerated on that basis. The defendant also risks arrest and criminal prosecution for contempt or on other grounds should he threaten the plaintiff's employees or continue to interfere with the plaintiff's lawful actions.

SO ORDERED, this 11th day of January 2016.


Lawrence A. MacLeod, Jr.
Presiding Justice

TRUE COPY ATTEST:

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Court Assistant

GCAO Case Number: 211-2016-CR-0408 / MVI-0044

Interview Date: May 16, 2016

Transcription Date: September 21, 2017

1 **David Vincelette:** sir what are you doing on my this property here sir
2
3 **Unidentified Officer:** (unintelligible) enforce the court order
4 **David Vincelette:** the court order says that
5
6 **Unidentified Officer:** (unintelligible) can I read it to you?
7 **David Vincelette:** you read it?
8
9 **Unidentified Officer:** yup
10 **David Vincelette:** I don't know if you can read it
11
12 **Unidentified Officer:** I can read it can you read (unintelligible)
13 **David Vincelette:** hold on no I'm I'm gonna film this because you guys are
14
15 **Unidentified Officer:** so so are we
16 **David Vincelette:** violating my rights here
17
18 **Unidentified Officer:** so are we (unintelligible)
19 **David Vincelette:** good that's good we can we can compare
20
21 **Unidentified Officer:** this is your copy (unintelligible)
22 **David Vincelette:** I'm not ready for that yet maybe you didn't notice
23
24 **Unidentified Officer:** are you gonna cooperate (unintelligible)
25 **David Vincelette:** yes I'm gonna cooperate first I'm gonna start my camera
26
27 **Unidentified Officer:** OK OK
28 **David Vincelette:** as I told you before (unintelligible) this is all (unintelligible) on this
29 on this property
30
31 **Unidentified Officer:** *eight to one we're speaking with the party now*
32 **David Vincelette:** (unintelligible) it's a violation (unintelligible)
33
34 **Unidentified Officer:** (unintelligible) cease and interfere with the Plaintiff's exercise of
35 its rights to remove the Defendant's property from the right-of-way in the Plaintiff's
36 property the Court once more cautions the Defendant that he should interfere
37 (unintelligible) Plaintiff's (unintelligible)
38 **David Vincelette:** should interfere I should interfere?
39
40 **Unidentified Officer:** (unintelligible)
41 **David Vincelette:** I am listening you said I should interfere I just want to make sure I
42 understand

1 **Unidentified Officer:** Defendant that should should the Defendant interfere
2 **David Vincelette:** should the- OK that was different I'd like to know what you're saying
3 if you gonna say you should tell the truth OK
4
5 **Unidentified Officer:** (unintelligible)
6 **David Vincelette:** yeah I I'm say I'm just you want to read something at least read what
7 it says OK please
8
9 **Unidentified Officer:** (unintelligible) I am (unintelligible)
10 **David Vincelette:** OK because I says I you just told me I should interfere
11
12 **Unidentified Officer:** I said should he interfere,
13 **David Vincelette:** that's the second time yes you did correct me
14
15 **Unidentified Officer:** further with the Plaintiff's right to access the right-of-way and/or
16 remove his property
17 **David Vincelette:** whose right-of-way is it sir
18
19 **Unidentified Officer:** from what I understand
20 **David Vincelette:** it's my right-of-way
21
22 **Unidentified Officer:** it's the Town of (unintelligible)
23 **David Vincelette:** no it is not the Town's right-of-way for doing this the town is only
24 allowed to bring vehicles in here when they're doing maintenance or emerg- they have
25 not
26
27 **Unidentified Officer:** watch your step
28 **David Vincelette:** they have not followed the deed for the last thirty-two years
29
30 **Unidentified Officer:** well I came ba-
31 **David Vincelette:** you're on the wrong side
32
33 **Unidentified Officer:** all right so are you gonna
34 **David Vincelette:** you I've already told you I'm (unintelligible) get out of here you're
35 not allowed on this property
36
37 **Unidentified Officer:** are you gonna cooperate (unintelligible) or
38 **David Vincelette:** (unintelligible) who are these people
39
40 **Unidentified Person:** they work for the town of Hanover
41 **David Vincelette:** OK what are their names
42
43 **Unidentified Person:** I'm not giving (unintelligible)
44 **David Vincelette:** I know you're not giving me, you didn't give me the names the last
45 time a bunch of, you brought a bunch of thugs down here to take my stuff
46

1 **Unidentified Officer:** (unintelligible) Vincelette
2 **David Vincelette:** you are using people who are involved in an illegal s-
3
4 **Unidentified Officer:** Defendant also (unintelligible)
5 **David Vincelette:** be quiet please sir I'm talking
6
7 **Unidentified Officer:** don't don't touch me
8 **David Vincelette:** I am not touching you
9
10 **Unidentified Officer:** OK
11 **David Vincelette:** I'm in a conversation and you're interrupting
12
13 **Unidentified Officer:** well you started the conversation
14 **David Vincelette:** just wait I'm gonna ta- I don't care about your (unintelligible)
15
16 **Unidentified Officer:** well you started it
17 **David Vincelette:** the conversation with you's over
18
19 **Unidentified Officer:** OK, are you gonna cooperate with this or not
20 **David Vincelette:** cooperate in what way
21
22 **Unidentified Officer:** are you gonna allow them to remove the property
23 **David Vincelette:** I am not gonna allow these vehicles in here they can remo- I have
24 told them a million times they can take anything they want to whenever they want to
25
26 **Unidentified Person:** OK
27 **David Vincelette:** they can't bring vehicles down (unintelligible)
28
29 **Unidentified Person:** OK
30 **David Vincelette:** OK
31
32 **Unidentified Officer:** so how do you expect to remove the items (unintelligible)
33 **David Vincelette:** I don't expect anything sir this is I have a legal right-of-way this is a
34 private walking trail
35
36 **Unidentified Person:** OK
37 **David Vincelette:** vehicles are not allowed down here unless they're
38
39 **Unidentified Person:** stand by
40 **David Vincelette:** my vehicles or doing maintenance or it's an emergency
41
42 **Unidentified Person:** OK
43 **David Vincelette:** these people for thirty-two years have denied their obligation to
44 maintain the sewer right-of-way
45
46

1 **Unidentified Person:** OK
2 **David Vincelette:** and I have been hurt by it to the point that I cannot move on this
3 land
4
5 **Unidentified Officer:** OK so
6 **David Vincelette:** now they come in the summertime they didn't maintain it for the last
7 two years (unintelligible) court's order for them to do so
8
9 **Unidentified Officer:** OK
10 **David Vincelette:** OK so they're not taking my stuff up this road in illegally machines
11 they can walk it up piece by piece I have no problem with it this is
12
13 **Unidentified Officer:** all right
14 **David Vincelette:** not a driving road for their vehicles
15
16 **Unidentified Officer:** OK all right if that's the that's the case if you're gonna interfere
17 with that
18 **David Vincelette:** I'm not interfering sir I'm telling you the facts
19
20 **Unidentified Officer:** OK
21 **David Vincelette:** OK the judge has ordered me that I can be on this road I can block
22 these vehicles
23
24 **Unidentified Officer:** mm hmm
25 **David Vincelette:** yeah it's not illegal
26
27 **Unidentified Officer:** all right
28 **David Vincelette:** they cannot take this material of mine out of here in vehicles
29 illegally OK I have taken the deed to the town I've taken the deed to the police chief
30 they know that they're supposed to maintain this road they refuse they know that they're
31 not allowed vehicles in and out of do you have the right to come down here in a vehicle
32
33 **Unidentified Officer:** it's a right-of-way from the town of Hanover
34 **David Vincelette:** no it's not it's not for public vehicles unless it's an emergency
35
36 **Unidentified Officer:** (unintelligible) that's that's not for me to decide OK
37 **David Vincelette:** I know you're yes you're just doing your job right
38
39 **Unidentified Officer:** exactly
40 **David Vincelette:** just like he's just doing his job putting asphalt waste (unintelligible)
41 in the brook right
42
43
44
45
46

1 **Unidentified Officer:** (unintelligible)
2 **David Vincelette:** he's just doing his job who's who you come up to m- and see what
3 they're doing, where they put paint in the asphalt waste that they're dumping in my
4 drinking water
5
6 **Unidentified Officer:** that's (unintelligible) know nothing about that I know nothing
7 **David Vincelette:** yes (unintelligible) oh you know nothing about it I've been trying to
8 get information out for years they this man is a criminal he's involved in a criminal
9
10 **Unidentified Officer:** OK
11 **David Vincelette:** conspiracy
12
13 **Unidentified Officer:** lis- listen (unintelligible)
14 **David Vincelette:** he's on my property I would like you to arrest him
15
16 **Unidentified Officer:** OK he's on the Hanover right-of-way
17 **David Vincelette:** no
18
19 **Unidentified Person:** I'm onTtown of Hanover
20 **David Vincelette:** he he's on town
21
22 **Unidentified Officer:** OK so he's not
23 **David Vincelette:** this land was stolen land sir
24
25 **Unidentified Officer:** OK that
26 **David Vincelette:** this town was in the town purchased this land with the agreement
27 that they would maintain this road
28
29 **Unidentified Person:** (unintelligible)
30 **David Vincelette:** they have never done it
31
32 **Unidentified Person:** all right then can we move over
33 **David Vincelette:** you're not taking any of my stuff off this property
34
35 **Unidentified Person:** well I need to pull that truck up
36 **David Vincelette:** yes you do but you need to empty it first
37
38 **Unidentified Person:** no
39 **David Vincelette:** yes you're not taking
40
41 **Unidentified Person:** are you blocking the truck
42 **David Vincelette:** (unintelligible) you
43
44
45
46

1 **Unidentified Officer:** Dave, Dave (unintelligible)
2 **David Vincelette:** how many of you guys (unintelligible) goes to the brook in my
3 property how many how many of you have ever I want to know you guys (unintelligible)
4 no no no the town manager said every town employee must answer questions from any
5 citizen of the town that's the that's the order. Do you work for the town sir, do you work
6 for the town
7
8 **Unidentified Officer:** (unintelligible) he's not gonna talk to you he's not gonna talk to
9 you
10 **David Vincelette:** he's required by the town manager to answer questions
11
12 **Unidentified Officer:** he's not gonna talk (unintelligible) he's not gonna (unintelligible)
13 **David Vincelette:** you men are coming out here to steal my materials you men are
14 Hanover employees wait no we're not done
15
16 **Unidentified Person:** we're we're leaving (unintelligible)
17 **David Vincelette:** men you bring my fuckin' firewood back here we been cutting wood
18 all winter keeping men warm you men who have spray- you've never done the job the
19 town told me that you were gonna do. It's not your fault I know that but none of you
20 have ever come down here to maintain my road but you're all down here to smash and
21 take my shit work for these bastards who are polluting the water
22
23 **Unidentified Officer:** are you gonna allow
24 **David Vincelette:** take your asses out of here don't take any of my more more of my
25 stuff you're not allowed to steal you're not allowed to pollute the water I have a picture
26 of every one of you you know what
27
28 **Unidentified Officer:** (unintelligible) don't touch me (unintelligible)
29 **David Vincelette:** under- I'm not touching I'm trying to get through and you're blocking
30 me. Every one of you OK I'm just telling you for your own
31
32 **Unidentified Person:** back the next truck (unintelligible)
33 **David Vincelette:** I'm telling you for your own protection every one of you is personally
34 liable for the fact that asphalt waste is illegally been dumped along the roads that every
35 one of you is a truck driver that's personally responsible that is a position the town has
36 put you in I'm not blaming you I'm blaming the men and women in the town who didn't
37 ask the tow- the people what they should do they had you go out and do their dirty work
38 and now they're doing it again and how many of you are there, one two three four five
39 six seven seven town employees
40
41 **Unidentified Officer:** Dave, Dave can I (unintelligible)
42 **David Vincelette:** coming down here to mess with me and my people trying to keep
43 warm with with
44
45
46

1 **Unidentified Officer:** can I can I talk to you
2 **David Vincelette:** police with cameras with this lying son of a bitch whose polluted this
3 water for thirty years and lied about it and knows he's lying about it and know he's
4
5 **Unidentified Officer:** Dave
6 **David Vincelette:** gonna be in court about it
7
8 **Unidentified Officer:** are you gonna interfere with the removal
9 **David Vincelette:** I does it does it seem like an interference to you
10
11 **Unidentified Officer:** it does
12 **David Vincelette:** how so
13
14 **Unidentified Officer:** with the way you're talking (unintelligible)
15 **David Vincelette:** I'm enforcing the law sir
16
17 **Unidentified Officer:** OK
18 **David Vincelette:** sir
19
20 **Unidentified Person:** bring the next (unintelligible) *it's on the way*
21 **David Vincelette:** sir I'm a federal officer OK
22
23 **Unidentified Person:** OK
24 **David Vincelette:** I've been doing investigation for thirty years on the what's going on
25 in this town
26
27 **Unidentified Person:** OK
28 **David Vincelette:** every one of you keep get swing the camera 'cause you're all
29 gonna be in court and this guy who told you what to do and you did it just because you
30 not you know you're doing something wrong every one of you knows they're spreading
31 asphalt waste on
32
33 **Unidentified Officer:** OK, Dave
34 **David Vincelette:** the gravel roads where it's going in the
35
36 **Unidentified Officer:** Dave
37 **David Vincelette:** water every one of you
38
39 **Unidentified Officer:** Dave
40 **David Vincelette:** (unintelligible) personally responsible for coming in here and
41 messing with me you have a job to do you don't have to do it things are illegal you have
42 a responsibility not to do things that are illegal every one of you's gonna be up there
43 testifying did you ever did you ever spread asphalt waste on Moose Mountain
44
45
46

1 **Unidentified Officer:** Dave
2 **David Vincelette:** did you ever did you ever spread (unintelligible) on Moose
3 Mountain, I'm asking questions
4
5 **Unidentified Officer:** he's not gonna answer your questions
6 **Unidentified Person:** Dave Dave
7 **David Vincelette:** he has to it's the law it's what the town manager says
8
9 **Unidentified Officer:** he's not (unintelligible) questions Dave
10 **Unidentified Person:** Dave
11
12 **Unidentified Person:** Dave ask me they don't (unintelligible)
13 **David Vincelette:** OK
14
15 **Unidentified Person:** yes we've put recycled asphalt on the roads
16 **David Vincelette:** speak in the camera so he can it'll be easier to fede-
17
18 **Unidentified Person:** (unintelligible) don't touch me
19 **David Vincelette:** (unintelligible) in the federal court
20
21 **Unidentified Person:** don't touch don't touch me
22 **David Vincelette:** oh (unintelligible) not even a fatherly touch
23
24 **Unidentified Person:** (unintelligible)
25 **David Vincelette:** OK no touch (unintelligible) it's different when I go and talk to
26 people huh you call the police on me if I call have you spread asphalt waste up on
27 Moose Mountain
28
29 **Unidentified Person:** (unintelligible) no
30 **David Vincelette:** no there's no Moose M- there's no asphalt waste up there
31
32 **Unidentified Person:** not no
33 **David Vincelette:** OK get this in a close up I want to see 'cause when we get in the
34 (unintelligible)
35
36 **Unidentified Person:** don't touch me
37 **Unidentified Officer:** Dave Dave listen
38 **David Vincelette:** I want he's not doing the job
39
40 **Unidentified Officer:** Dave can we go over there and talk about this
41 **David Vincelette:** no we can't talk about it you got me all pissed off now
42
43 **Unidentified Officer:** I I see that (unintelligible)
44
45

1 **David Vincelette:** got twelve twenty people in a fuckin' conspiracy you all come down
2 here think you can mess with (unintelligible) get your asses out of here I want that damn
3 wood back no no no no trucks down here no no no (unintelligible) no no no no no hey
4 stop no hey (unintelligible)
5

6 **Unidentified Officer:** Dave are you gonna allow (unintelligible) or not

7 **David Vincelette:** I (unintelligible)
8

9 **Unidentified Officer:** are you gonna allow them remove this property from this
10 roadway

11 **David Vincelette:** there's (unintelligible) on the roadway
12

13 **Unidentified Officer:** OK (unintelligible)

14 **David Vincelette:** they can move anything from the road (unintelligible)
15

16 **Unidentified Officer:** (unintelligible) so you gonna you're gonna sit there on top of the
17 stuff that they have to remove Dave

18 **David Vincelette:** excuse me?
19

20 **Unidentified Officer:** you gonna stay there while (unintelligible) try to remove the stuff

21 **David Vincelette:** I'm I'm trying to call a friend of mine to come help me, I'm a
22 disabled veteran I have a hip I'm supposed to have replaced you can g-, you want to
23 come grab me?
24

25 **Unidentified Officer:** no I'm not (unintelligible)

26 **David Vincelette:** I'm not blocking you the road's not blocked what's the problem sir
27

28 **Unidentified Officer:** so are you gonna

29 **David Vincelette:** you're here to fix that blockage of the road aren't you? There is no
30 blockage of the road except those two men standing there
31

32 **Unidentified Person:** David we're here to remove anything on town property

33 **Unidentified Officer:** David are you on this paragraph the last paragraph that piece of
34 paper you're holding

35 **David Vincelette:** yes that you're not allowed to use ma-machines to do it
36

37 **Unidentified Officer:** are you gonna interfere with the (unintelligible)

38 **David Vincelette:** this road
39

40 **Unidentified Officer:** to remove the Defendant's property from the right-of-way

41 **David Vincelette:** is for no- listen wait a second I'm having a conversa- you keep
42 talking over me when I'm talking
43

44 **Unidentified Officer:** and the Plaintiff's property

45 **David Vincelette:** did you listen, are you listening to me I was having a conversation
46

1 **Unidentified Officer:** (unintelligible) listening to me
2 **David Vincelette:** you aren't listening
3
4 **Unidentified Officer:** oh I'm listening but you're not listening
5 **David Vincelette:** I'm trying to unders- get you to understand they can bring a truck in
6 here and and clean the road they say, do you agree?
7
8 **Unidentified Officer:** they're gonna back the (unintelligible)
9 **David Vincelette:** is the road dirty, is the road filled with stuff
10
11 **Unidentified Person:** Dave
12 **David Vincelette:** hello let's speak English OK that's the only language I'm really any
13 good at
14
15 **Unidentified Person:** (unintelligible) in English we're here to remove anything on town
16 property that's why
17 **David Vincelette:** OK you're here to remove anything on to- he's not here to follow
18 that order and move the
19
20 **Unidentified Officer:** that's what it says it says they're here to remove the property
21 that is on the Plaintiff's property (unintelligible)
22 **David Vincelette:** but they have no reason to use emergency vehicles to do it
23
24 **Unidentified Officer:** that's not an emergency vehicle it's a dump truck
25 **David Vincelette:** that's right get it out of here they're only allowed emergency
26 vehicles you've getting it you're getting it aren't ya, that's not an emergency to move
27 town materials they can come down do it anytime they want
28
29 **Unidentified Person:** you have that
30 **David Vincelette:** it's in a writing
31
32 **Unidentified Person:** (unintelligible) paper (unintelligible)
33 **David Vincelette:** the deed, I've seen it at, I've taken it to town, where's the police
34 chief, where's the police chief
35
36 **Unidentified Officer:** (unintelligible) I don't know
37 **David Vincelette:** he's he's been given the information I've had meetings with him
38 about it it's been there for thirty-two years I'm br-
39
40 **Unidentified Person:** Dave Dave
41 **David Vincelette:** this road is not a road for you to come down and pick up my stuff
42
43 **Unidentified Person:** Dave Dave hello are you gonna block (unintelligible)
44 **David Vincelette:** you're not gonna take the stuff that's not yours how do you even
45 know it's mine
46

1 **Unidentified Person:** so you're saying you're not gonna (unintelligible)
2 **David Vincelette:** I'm saying you're gonna be too smart to take it
3
4 **Unidentified Person:** no I'm not
5 **David Vincelette:** you are you gotta be you would take my, you would take the wood
6
7 **Unidentified Person:** I would think that I think (unintelligible)
8 **David Vincelette:** you would take this wood that we're cleaning so we can have heat
9
10 **Unidentified Person:** (unintelligible)
11 **Unidentified Officer:** Dave he's removing the stuff that is on town property that's what
12 he's doing that's (unintelligible)
13 **David Vincelette:** try to get Ryan over here say again
14
15 **Unidentified Officer:** they are removing the items
16 **David Vincelette:** right
17
18 **Unidentified Officer:** that are on town property that's why they're here
19 **David Vincelette:** and and they're free to do that anytime they want anything they
20 want
21
22 **Unidentified Officer:** that's why we're here
23 **David Vincelette:** can't have machines to do it it's in the deed
24
25 **Unidentified Officer:** that and I I don't have the answer for you (unintelligible)
26 **David Vincelette:** I under- you're that's right you don't have an answer for me that's
27 the fact though and I'll walk over there and get the deed if you need to see it. Vehicles
28 are not this is a trail- a nature trail there supposed to be under the deed
29
30 **Unidentified Officer:** so whose truck is this
31 **David Vincelette:** that's mine I own a right-of-way there's no other vehicles allowed in
32 and out
33
34 **Unidentified Officer:** how do you own a right-of-way
35 **David Vincelette:** 'cause ah this land belonged to a family they created the right-of-
36 way to benefit them not to benefit the town they gave the they gave the land around it to
37 the town with the understanding the town would maintain the road they never did thirty-
38 two years the deed says specifically in it the only use uh for the town is for maintenance
39 and for emergencies otherwise town vehicles are not supposed to be using it they have
40 no right-of-way for these dump trucks coming down here
41
42 **Unidentified Officer:** so
43 **David Vincelette:** and stealing my shit
44
45
46

1 **Unidentified Officer:** are you gonna s- are you gonna sit on this these stacks of wood
2 **David Vincelette:** I'm gonna I'm gonna w- go wherever I'm a free man maybe you
3 didn't have you ever seen free men here in New Hampshire
4
5 **Unidentified Officer:** well then I ask you
6 **David Vincelette:** I'm a soldier
7
8 **Unidentified Officer:** they're gonna
9 **David Vincelette:** I'm a retired Army officer and I'm not gonna take these assholes
10 messing with me anymore OK they've committed state and federal crime I've gone to
11 the to everybody everybody in your chain of command OK everybody nobody gives a
12 shit guess what I give a shit (unintelligible)
13
14 **Unidentified Officer:** all right
15 **David Vincelette:** no they're not using them they can come down their knees they can
16 come down in ah wheelchairs they (unintelligible) on crutches they can take a piece at a
17 time one at a time just like I brought it however I wanted to do it I I'm a free man they're
18
19 **Unidentified Officer:** so how come you won't remove your property from the town's
20 property (unintelligible)
21 **David Vincelette:** we are we been working our ass off trying do it look how much they
22 had pictures (unintelligible) takin' in my frickin' window I've got this whole thing rigged
23 up (unintelligible) every day does this look disorganized to you it's a bunch of firewood
24 and we're taking apart to heat the damn house for homeless people and they need five
25 people to come here and steal our damn wood had enough of these bastards OK
26 they're pollute- you want to see a crime, come over with me and we'll go over that you
27 don't want to see it
28
29 **Unidentified Officer:** I'm not here (unintelligible)
30 **David Vincelette:** nobody wa- take your hand out of your pocket when you're talking
31 to me
32
33 **Unidentified Officer:** what are you (unintelligible)
34 **David Vincelette:** get your hand out of your pocket are you gonna shoot me?
35
36 **Unidentified Officer:** why are you yell- (unintelligible)
37 **David Vincelette:** what the fuck you got your hand in your pocket for
38
39 **Unidentified Officer:** we're cold
40 **David Vincelette:** what are you fuckin' were you in the military?
41
42
43
44
45
46

1 **Unidentified Officer:** no
2 **David Vincelette:** y-you know you guys are fuckin' disgusting look at this fat bastard
3 here filming you got your fuckin' hand in their pocket what's this excuse for a man you
4 (unintelligible) people down here and steal fuckin' homeless people's fuckin' firewood
5 get the fuck out of here now I'm fuckin' sick of (unintelligible) fuckin' asshole
6 (unintelligible) people (unintelligible) fuckin' house you know good and well what is
7 going on here these people didn't fuck with me (unintelligible) and you know all about it
8 these men are attempting to do criminal activity on my property
9

10 **Unidentified Person:** (unintelligible)

11 **David Vincelette:** they're stealing my shit these people are paid to to pollute my water
12 now they're being paid to steal my shit
13

14 **Unidentified Officer:** (unintelligible)

15 **David Vincelette:** I've had enough now get these criminals out of here they're part of
16 a criminal conspiracy I'm gonna file cha- I've been very patient I've been waiting a long
17 time I haven't brought it to court you can't keep coming down here and messing with me
18 like this you don't even have the decency to call me before you come down and start
19 stealing my shit now get out all of you. You're not leaving with one stick of wood and
20 you'd better bring that other wood back you sons of bitches lowlife bastards
21

22 **Unidentified Officer:** (unintelligible) video person right up so we can videotape that
23 too (unintelligible) OK

24 **David Vincelette:** yeah hello dispatch I'd like to speak to ah Hanover Hanover chief of
25 police. Yes for me it is yes it's an emergency. There's a bunch of trucks coming down
26 here they've come illegally into the nature preserve to take a bunch of wood and stuff I
27 have down here and uh I've been with talking with the chief of police no vehicles are
28 allowed down here unless it's an emergency or they're doing maintenance they've got a
29 backhoe and it's a bunch of the same people who've been dumping the asphalt waste in
30 the brook they've got all- my address is 93 Lebanon Street it's down the Tanzi nature
31 preserve there's a group of about ten people who are involved in the criminal-nal
32 conspiracy to dump asphalt waste in the water they're truck drivers they got 'em all to
33 come down here to mess with me they got three poli- they've got three sheriffs and a
34 sheriff taking pictures of me. They're harassing me they're taking my stuff and they're
35 my last name is Vincelette. W- It's OK if you get some facts in there. Excuse me? I
36 can't hear you. David yes my first name isn't that important but ah I'd like the chief of
37 police knows no ah vehicles are supposed to be down here I've asked him repeatedly to
38 stop it but they're down here they didn't call me or anything they're down here sheriffs
39 trucks backhoe none of those vehicles are allowed to be down here unless there's an
40 emergency or it's uh a they're doing maintenance neither of which is happening they're
41 removing things uh the is the police chief available or is any policeman available is
42 officer uh Sargent there or well no it's not really OK I need someone over here now you
43 know so as soon as possible let them know (unintelligible) myself. Say again? OK are
44 they at the top of the hill? Sorry they're not (unintelligible)
45
46

1 **Unidentified Officer:** (unintelligible) top of the hill (unintelligible)
2 **David Vincelette:** so so so you'll have a bunch (unintelligible) OK thank you bye. I
3 know you guys are just doing your job (unintelligible)
4
5 **Unidentified Person:** (unintelligible) lieutenant came out
6 **David Vincelette:** yup
7
8 **Unidentified Person:** (unintelligible) to move this wood in tell him we can go by the
9 wood so that they can move (unintelligible) on your property um (unintelligible)
10 **David Vincelette:** when was this (unintelligible)
11
12 **Unidentified Person:** I can't I can't Dave
13 **David Vincelette:** you can't
14
15 **Unidentified Person:** I can't
16 **David Vincelette:** are you a truck driver? I'm allowed to talk to people he's supposed
17 to talk to me
18
19 **Unidentified Officer:** (unintelligible)
20 **David Vincelette:** that's their the rules of the town he doesn't what
21
22 **Unidentified Officer:** I know I'm just watching to make sure he's on (unintelligible)
23 **David Vincelette:** see there's another one who refuses to speak to me they've told
24 them they don't have to speak to me even though the even though the town manager's
25 policy is they have to speak to you this
26
27 **Unidentified Officer:** their boss wants to talk to you about that
28 **David Vincelette:** who's their boss
29
30 **Unidentified Officer:** he is
31 **David Vincelette:** I don't want to talk – I know everything he knows
32
33 **Unidentified Officer:** he doesn't want, that's (unintelligible)
34 **David Vincelette:** he has men doing something that's illegal does that bother you at
35 all
36
37 **Unidentified Officer:** (unintelligible) do their job (unintelligible)
38 **David Vincelette:** their job is not they've never been here before how can this be their
39 job their job is driving trucks of asphalt and dumping it and moving asphalt and stuff like
40 that. This isn't what they do. You're being brought down here just to mess with me.
41 You seen any blockage in the road (unintelligible) that's my wife's manure that's horse
42 manure uh (unintelligible)
43
44
45
46

1 **Unidentified Person:** you are are you
2 **David Vincelette:** I'm refusing to let you do stuff that is not allowed in the deed I you
3 can come down here you can't use you can come down here to do maintenance and
4 you come down here for emergencies that's in the deed other (unintelligible) not allowed
5 to not allowed to bring vehicles
6
7 **Unidentified Person:** problem the problem that I have is
8 **David Vincelette:** yup
9
10 **Unidentified Person:** (unintelligible) every time (unintelligible)
11 **David Vincelette:** (unintelligible) told the truth on your side
12
13 **Unidentified Person:** I don't know is it (unintelligible)
14 **David Vincelette:** OK well it's just you so you wouldn't know
15
16 **Unidentified Person:** yup
17 **David Vincelette:** but ah if you (unintelligible) tell the truth then you know but anyway
18
19 **Unidentified Person:** (unintelligible) what what I didn't hear what you said
20 **David Vincelette:** I know you didn't understand me Mike what (unintelligible) you you
21 know that the town has been dumping asphalt waste and you re- and you say they don't
22 dump it on Moose Mountain, right
23
24 **Unidentified Person:** I'm I'm here to remove stuff (unintelligible)
25 **David Vincelette:** yeah I'm asking you a question you're your they want me to talk to
26 you
27
28 **Unidentified Person:** yup
29 **David Vincelette:** you're the representative from the town from the highway
30 department you're here
31
32 **Unidentified Person:** yup
33 **David Vincelette:** town manager's policy is
34
35 **Unidentified Person:** yup
36 **David Vincelette:** that all employees
37
38 **Unidentified Person:** (unintelligible) listening (unintelligible)
39 **David Vincelette:** will speak openly and honestly
40
41 **Unidentified Person:** yup
42 **David Vincelette:** to to (unintelligible)
43
44 **Unidentified Person:** and so won't the person I'm talking to
45 **David Vincelette:** I'm I'm speaking honestly how long have you been dump- at the
46 trucks of asphalt waste been recycling in Hanover

1 **Unidentified Officer:** (unintelligible) what does that have to do with this (unintelligible)
2 **David Vincelette:** I please this has to do with whether he has a (unintelligible) or not
3
4 **Unidentified Person:** well if you want we can move in front of the truck and these
5 guys continue loading (unintelligible)
6 **David Vincelette:** I want I want this to be so that so we can look at it later
7
8 **Unidentified Person:** (unintelligible) yeah yeah (unintelligible) we'll go ahead and start
9 cleaning while we're having a conversation
10 **David Vincelette:** (unintelligible) no don't start cleaning these vehicles are not allowed
11 here to do cleaning
12
13 **Unidentified Person:** we're here to clean Dave
14 **David Vincelette:** you may be here to clean that's right you're here to clean
15
16 **Unidentified Person:** yes
17 **David Vincelette:** yes but you're not allowed under the deed to you can only come
18 down here for emergencies or maintenance of the road
19
20 **Unidentified Person:** that's this that's (unintelligible) read the deed I haven't seen the
21 deed
22 **David Vincelette:** I've seen the deed and you should have seen the deed
23
24 **Unidentified Person:** I have to rely on
25 **David Vincelette:** since I been been I've given to the police chief I've given it to the
26 town the the town
27
28 **Unidentified Person:** (unintelligible) court
29 **David Vincelette:** yes I gave it to the courts
30
31 **Unidentified Person:** why did they tell us (unintelligible)
32 **David Vincelette:** they do it sa- show me the show me the order
33
34 **Unidentified Officer:** you got it right there it's in your hand I gave it to you it's the
35 same thing I had in my hand right here on the bottom I highlighted it for myself nope
36 right there in the front page right there start at the bottom of this front page Defendant's
37 ordered yet again to (unintelligible) interfere in the Plaintiff's exercise of its rights to
38 remove Defendant's property from the right-of-way and the Plaintiff's property
39 (unintelligible)
40 **David Vincelette:** (unintelligible) property
41
42
43
44
45

1 **Unidentified Officer:** (unintelligible) the town of Hanover once more cautions the
2 Defendant that he shouldn't interfere further with the Plaintiff's right to access the right-
3 of-way and/or its removal of the property he may be found in contempt and possibly
4 incarcerated on that basis

5 **David Vincelette:** but I I'm not stopping them from from taking the property I'm
6 (unintelligible) them from having these vehicles down here they can come down with a
7 wagon a wheelbarrow they can do anything they want they're not allowed to bring
8 vehicles down here for this reason

9
10 **Unidentified Officer:** (unintelligible)

11 **David Vincelette:** (unintelligible) anyway hey I just told you I told the last guy who
12 came down here you can come down here and take it all you can't do it with these
13 machines

14
15 **Unidentified Person:** but I am doing it (unintelligible)

16 **David Vincelette:** you're trying to do it with those machines

17
18 **Unidentified Person:** yes

19 **David Vincelette:** yes

20
21 **Unidentified Person:** (unintelligible) machines

22 **David Vincelette:** OK but that's a violation of my deed so I have I have an obligation

23
24 **Unidentified Person:** what's the obligation

25 **Unidentified Person:** (unintelligible) the attitude

26
27 **Unidentified Person:** yes

28 **Unidentified Person:** is gonna get him going even more so you may just want to just
29 kinda (unintelligible) little more

30
31 **Unidentified Person:** I don't know you

32 **David Vincelette:** he doesn't need you don't need to know him

33
34 **Unidentified Person:** just be a little bit more sympathetic (unintelligible)

35 **David Vincelette:** what's that have to do with anything

36
37 **Several people talking over each other**

38
39 **David Vincelette:** (unintelligible) because you're y-you think you think you can
40 confrontational with me and (unintelligible) even though you're not allowed to you can
41 bring a a a hundred thousand dollar here machine to mess with me right you think I
42 can't take that machine out if I want to

43
44 **Unidentified Person:** (unintelligible)

45 **David Vincelette:** (unintelligible) yeah you (unintelligible) you've heard in court I'm a
46 very violent man

1 **Unidentified Person:** you've only you've only come close to assaulting me once that I
2 know

3 **David Vincelette:** yeah and and you only assaulted me for how many years now, how
4 many how many years did my babies swim in that brook before you told me there was
5 asphalt waste that they pumped into the brook Mike, when did you first tell me asphalt
6 waste had been put in the brook

7
8 **Unidentified Person:** never

9 **David Vincelette:** that's right you never told me Mike

10
11 **Unidentified Person:** Dave (unintelligible)

12 **David Vincelette:** you never told me they were you were poisoning the water did you
13 you never told any of these men that that was illegal to put asphalt waste where it goes
14 in the water did you but let me ask you one question Mike it'll be good on in federal
15 court whe- who is paid to remove the the paint who is paid to remove the asphalt with
16 paint on it before it gets recycled, just answer that question Mike you'll be home free

17
18 **Unidentified Person:** all right

19 **David Vincelette:** so who Mike who who Mike

20
21 **Unidentified Officer:** Dave Dave

22 **David Vincelette:** who makes sure paint and other impurities don't get ground up into
23 the town recycling

24
25 **Unidentified Officer:** Mr. Vincelette

26 **David Vincelette:** I'm asking a question he's on the verge of admitting a federal crime
27 and you're gonna jump in and and stop it Mike who's responsible to make sure the paint
28 is not discarded into the asphalt waste recycling program

29
30 **Unidentified Person:** (unintelligible)

31 **David Vincelette:** yeah there's your answer right there OK he's got look look at him in
32 the little orange jumpsuit there in the men's shower lying to them you're not bringing any
33 machines down to fuck with me Mike you're a criminal you're running a criminal
34 enterprise you're involved with private contractors who are dumping poison in the water
35 I'm not at all i-it's all there Mike you want to come down and mess with me some more

36
37 **Unidentified Person:** Dave (unintelligible)

38 **David Vincelette:** then when then when they then when you get put in federal prison
39 I'll I'll be able to say

40
41
42
43
44
45
46

1 **Unidentified Person:** (unintelligible)
2 **David Vincelette:** oh yeah I think you should all (unintelligible) a few more years
3 'cause he stood there even when he was told the fucking truth he stood there and still
4 attempted to use these machines to badger somebody who's been screwed with for
5 thirty years you allowed my w- my children be shit on said it was no big fuckin' deal and
6 then hid the fact that you're polluting their water more go to hell Mike, get these fuckin'
7 machines out of here I'm gonna file federal charges I've waited I don't want to go to
8 fuckin' court I don't want to deal with you assholes you give me no fuckin' choice I let
9 you get away last summer, last fall we been working here trying to clean it up you want
10 to keep fuckin' with me Mike just keep fuckin' with me 'cause you Julia Griffin Dartmouth
11 Casella Waste, who else who else is involved in it Mike L&M Construction they've all
12 dumped paint up in there and it's all been ground up and put in the water and you lie
13 about the fact that it wasn't put on Moose Mountain I know it's there we found it there
14 it's everywhere get your shit out of here Mike this is the last (unintelligible) I'm gonna file
15 personal charges against you 'cause I know you I can prove you fucked with me and
16 every one of these guys gonna be you know what you don't realize Mike is every one of
17 these men that you had doing illegal stuff every one of their houses is on the line it's
18 personal liability for the- for putting the shit in the water. Personal liability means every
19 person in the chain of command is liable for everything they own. These trucks need to
20 get out of here they can take every piece they want anytime they want they're not
21 bringing vehicles illegally on my property take this stuff this is a nature trail I have a right
22 to go they don't

23
24 **Unidentified Officer:** yeah so if they stay here continue loading are you gonna
25 interfere with them to do this this to go by this court order

26 **David Vincelette:** I'm gonna go, first I'm gonna go get the police here then I'm gonna
27 find out what I have to do to keep my belongings here I'm not interfering I'm I've told
28 them straight out what they're doing is illegal I'm gonna go to get a you you have the
29 other order?

30
31 **Unidentified Officer:** this is the ori- this is another one we have two

32 **David Vincelette:** (unintelligible) see it

33
34 **Unidentified Officer:** you can have that one too if you'd like

35
36 *****end of recording *****

37
38 Transcribed by Lisa Camarra
39 For Grafton County Attorney's Office

GCAO Case Number: 211-2016-CR-0408 / MVI-0045

Interview Date: May 16, 2016

Transcription Date: September 21, 2017

1 **Unidentified Officer:** (unintelligible)

2 **David Vincelette:** OK this is this is from from my deed

3

4 **Unidentified Officer:** yes sir (unintelligible)

5 **David Vincelette:** (unintelligible) has a legal obligation at a minimum (unintelligible)
6 reasonably (unintelligible) public to access (unintelligible) emergency vehicles to enter
7 and (unintelligible) exit the property see something see something wrong over there
8 (unintelligible) allowed to do OK doesn't say anything about they're allowed to bring
9 vehicles down here it's a nature trail they're not allowed to have vehicles down here
10 unless those two things

11

12 **Unidentified Officer:** (unintelligible)

13 **David Vincelette:** maintain a right-of-way to the extent necessary (unintelligible) the
14 public, the public drives I mean the public walks I'm the only person driving it's my land
15 down in the middle so I can drive (unintelligible) otherwise it's a nature (unintelligible) I
16 don't let anybody drive on it cars buses trucks nothing nobody comes down here unless
17 I say so 'cause it's my it's my deeded right-of-way they have a right to come down ju- for
18 those two reasons to maintain it so people can walk through

19

20 **Unidentified Officer:** but the judge ordered based on all the information that all the
21 property that needs to be removed from the town trail

22 **David Vincelette:** he said they can't

23

24 **Unidentified Officer:** (unintelligible)

25 **David Vincelette:** he didn't say they could do it with vehicles

26

27 **Unidentified Officer:** OK well (unintelligible) how else would you expect them to
28 remove it?

29 **David Vincelette:** I don't expect them to remove it they expect to remove it. They
30 expect to break the law and to remove it (unintelligible)

31

32 **Unidentified Person:** (unintelligible)

33 **David Vincelette:** they don't have they they don't have the right (unintelligible) so how
34 they can have the right to remove my stuff with vehicles the court says they can they
35 can stop the the blocking of a road that's (unintelligible) it doesn't say they can go pick
36 up my stuff

37

38 **Unidentified Officer:** no it says (unintelligible) it says

39 **Unidentified Person:** Dave Dave are you telling me you're not gonna allow me to
40 pick the stuff up

41 **David Vincelette:** yup

42

1 **Unidentified Person:** (unintelligible)
2 **David Vincelette:** good then goodbye I told you that last fall
3
4 **Unidentified Person:** if you if you hold o- hold o- I want to hear what it says 'cause I
5 just asked the question
6 **Unidentified Person:** if you are not going to allow us to pick this stuff up you're gonna
7 get in front of us to do that it's not worth getting you upset and me upset so
8 **David Vincelette:** you already have got me ev- why didn't you call me before you
9 came
10
11 **Unidentified Person:** I just got (unintelligible) that's all if you say you're blocking us
12 (unintelligible) we'll move
13 **David Vincelette:** did you why didn't you call me why didn't you call me before you
14 came Mike Mike why didn't you call me before you came
15
16 **Unidentified Person:** uh I've never called you
17 **Unidentified Officer:** we knocked on your door sir
18 **David Vincelette:** previously the police had always notified me if someone was coming
19 down
20
21 **Unidentified Officer:** I knocked on your door about an hour and a half ago
22 **David Vincelette:** did you drive down
23
24 **Unidentified Officer:** I waited there and I (unintelligible)
25 **Unidentified Person:** (unintelligible) what was the outcome of that
26 **David Vincelette:** (unintelligible)
27
28 **Unidentified Officer:** I figured you do I figured I would (unintelligible)
29 **David Vincelette:** it's a private driveway
30
31 **Unidentified Officer:** it's a right-of-way (unintelligible)
32 **Unidentified Person:** I'd like to come down here with a truck and just clean this up
33
34 **Unidentified Person:** yeah yeah I think I think that'd be a great idea
35 **David Vincelette:** you're required by the deed to post a sign out there no vehicles they
36 don't do it so now you can say you didn't know that's the way they do it. The police
37 come down here all the time they're not allowed to come down they come down all the
38 time you come down here you're not allowed to come down you come down
39
40 **Unidentified Person:** Dave
41 **David Vincelette:** s- a-any they they've made it so that anybody can come down
42 (unintelligible) they can have a right to come down
43
44 **Unidentified Person:** Dave
45 **David Vincelette:** but I can't be here what
46

1 **Unidentified Person:** Dave I'm assuming you're blocking me I'm pulling these guys out
2 I don't need you upset um we'll give you (unintelligible)
3 **David Vincelette:** oh you're not you're not trying to upset me that's a good one
4
5 **Unidentified Person:** (unintelligible) then we'll have to come back down at some point
6 (unintelligible)
7 **David Vincelette:** you're not coming down (unintelligible)
8
9 **Unidentified Person:** (unintelligible) well they're leaving for right now
10 **David Vincelette:** yeah they're leaving for now
11
12 **Unidentified Person:** they're leaving right now
13 **David Vincelette:** oh yeah yup (unintelligible) I want to get that wood back
14 (unintelligible)
15
16 **Unidentified Person:** well let's get through this first procedure and then we'll we'll
17 (unintelligible)
18 **David Vincelette:** j-just get out of here that'd be the first (unintelligible)
19
20 **Unidentified Person:** OK all right all right uh we'll (unintelligible)
21 **David Vincelette:** OK have a good day go fuck with somebody else next time
22 (unintelligible) nothing to do (unintelligible) all you
23
24 **Unidentified Person:** you didn't answer me Dave
25 **David Vincelette:** what was the question
26
27 **Unidentified Person:** you're not gonna allow me to take any more stuff out with my
28 mach- with my machinery
29 **David Vincelette:** I've told you ten time- no no no no no machinery's down here unless
30 it follows the deed and it either has to be for an emergency
31
32 **Unidentified Person:** yup yup OK I'm with ya I'm with ya
33 **David Vincelette:** OK or it has to that's just the deed I didn't create the deed
34
35 **Unidentified Person:** just I understand neither did I
36 **David Vincelette:** ar- you you're you are in vio- you're not you're involved in the deed
37 though
38
39 **Unidentified Person:** OK
40 **David Vincelette:** you just don't follow it OK
41
42 **Unidentified Person:** OK I'm just saying according to the deed
43 **David Vincelette:** you nee- I'll get you your own copy
44
45
46

1 **Unidentified Person:** yeah
2 **David Vincelette:** I've given it to everybody else in the town I would have thought they
3 would have passed it on to you
4
5 **Unidentified Person:** yup yup
6 **David Vincelette:** beca- and plus the fact that I've told you all of this last time you
7 were here
8
9 **Unidentified Person:** uh
10 **David Vincelette:** about ten times that you couldn't have vehicle-
11
12 **Unidentified Person:** (unintelligible) the deed
13 **David Vincelette:** yes yes yes yes I told you everything
14
15 **Unidentified Person:** but my point is I I want to go home
16 **David Vincelette:** and the the point is I want you to go home Mike
17
18 **Unidentified Person:** so you're not allowing me to take any more stuff
19 **David Vincelette:** and the ne- the ne- and my next point is before you come as a favor
20 to me
21
22 **Unidentified Person:** yup
23 **David Vincelette:** let me know next time
24
25 **Unidentified Person:** well I had those guys (unintelligible)
26 **David Vincelette:** because I'm gonna be out here waiting for you
27
28 **Unidentified Person:** yeah
29 **David Vincelette:** trust me I'll be out here waiting for you
30
31 **Unidentified Person:** OK well that's good, that's good
32 **David Vincelette:** yeah and we're gonna a-and you're I'm gonna be sending some
33 mail soon
34
35 **Unidentified Person:** so you're not gonna allow me to take any more with the
36 equipment that's the point and then I can
37 **David Vincelette:** yeah
38
39 **Unidentified Person:** leave
40 **David Vincelette:** I've told you a hundred times you can come down anytime you want
41 take anything you want
42
43 **Unidentified Person:** but not with equipment
44 **David Vincelette:** no equipment, just look at the deed
45
46

1 **Unidentified Person:** all right OK
2 **David Vincelette:** read the deed Mike
3
4 **Unidentified Person:** bring the deed (unintelligible)
5 **David Vincelette:** it's in Engli- it's in English somebody can read it to you if necessary
6
7 **Unidentified Person:** yeah yup uh I'm sure all right thanks Dave
8 **David Vincelette:** yeah. And I'm gonna see every one of you guys in court 'cause
9 he's got all your pictures I'm gonna get all your names and then we're gonna have a
10 discussion of what you knew when so you can you can you can a- you can be part of
11 the lawsuit (unintelligible) reparations to this town for putting you in a position
12 (unintelligible) got to do illegal stuff
13
14 **Unidentified Person:** leave the guys alone
15 **David Vincelette:** you leave you're the one who (unintelligible) you're the one who
16 involved in a conspiracy
17
18 **Unidentified Person:** I (unintelligible)
19 **David Vincelette:** yeah you do understand every one of these guys you are
20 responsible for what they've done criminally OK and I already have guys on tape on the
21 record saying that they're dumping this stuff for years and years and nobody's told 'em
22 they couldn't do it. And L&M has already admitted what they know about it. You're
23 fucked Mike. How long have you been fucking (unintelligible) you don't know anything
24 huh (unintelligible) all these public servants (unintelligible) don't be asking later
25 (unintelligible) you all should be able to find the way this way there you go come little
26 piggy come little piggy whoo (unintelligible) with somebody else make sure you got 'em
27 all everybody get a head count maybe they should hold hands on the way up these lost
28 little children they need a leader Mike they need a leader
29
30 **Unidentified Person:** yup we're headed
31 **David Vincelette:** somebody who doesn't break the law somebody lead 'em uh not
32 astray Mike somebody to lead 'em forward get your little get your little machine out of
33 here that you (unintelligible) bully people with that's a nice little machine (unintelligible)
34 get out of here (unintelligible) woo get the fuck out of here you guys can go too you got
35 no (unintelligible) vehicles out of here next time have the decency to to- come to me find
36 me before you have somebody come down and oversee the destroying of my property
37 the stealing my stuff by criminals like this will show up on somebody's doorstep and
38 start stealing their stuff and the sheriff does nothing but take a fucking picture of it what
39 the fuck is going on with this country you all should be ashamed fuckin'
40 unfuckingbelievable we got fuckin' three policemen and a paid fuckin' criminal down
41 here fuckin' with homeless people with fuckin' machinery hide your head in sha- you will
42 never publish that photo I guarantee it'll be lost I guarantee it you don't have the balls to
43 print that. (unintelligible)
44
45
46

1 **Unidentified Person:** they're still piling right up (unintelligible)

2 **Unidentified Officer:** clear to stop?

3

4 **Unidentified Officer:** yeah

5

6 *****end of recording *****

7

8 Transcribed by Lisa Camarra

9 For Grafton County Attorney's Office