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# First Judicial District of Pennsylvania

*51CR03150612006*

*Nicholas Cooney*

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*Sentencing Volume 1*

*January 26, 2007*



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*First Judicial District of Pennsylvania*

*100 South Broad Street, Second Floor*

*Philadelphia, PA 19110*

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[2] IN THE MUNICIPAL COURT OF PHILADELPHIA  
[3] CRIMINAL JUSTICE CENTER  
[4] PHILADELPHIA, PENNSYLVANIA  
[5] - - - - -  
[6] COMMONWEALTH : MC-51-CR-0315061-2006  
[7] :  
[8] VS. :  
[9] :  
[10] NICHOLAS COONEY :  
[11] - - - - -  
[12] COURTROOM 606  
[13] JANUARY 26, 2007

[15] BEFORE THE HONORABLE WILLIAM AUSTIN MEEHAN, J.  
[16]  
[17]  
[18] **REPORTED BY:** WILLIAM H. FALCONE, RPR  
[19] OFFICIAL COURT REPORTER

[2] A P P E A R E N C E S  
[3]  
[4]  
[5] FOR THE COMMONWEALTH  
[6] KALLI AGELAKIS, ESQUIRE  
[7] ASSISTANT DISTRICT ATTORNEY  
[8]  
[9] FOR THE DEFENDANT  
[10] PAUL J. HETZNECKER, ESQUIRE

[2] **THE CRIER:** YOUR HONOR, CASE NUMBER  
[3] TWENTY-THREE, A SENTENCING MATTER, NICHOLAS  
[4] COONEY.  
[5] STATE YOUR FULL NAME FOR THE RECORD  
[6] AND SPELL YOUR LAST NAME.  
[7] **THE DEFENDANT:** NICHOLAS COONEY, 720  
[8] NORTH 38TH STREET, PHILADELPHIA PA. 19104.  
[9] - - -  
[10] NICHOLAS COONEY, HAVING FIRST BEEN  
[11] DULY SWORN TESTIFIED AS FOLLOWS:  
[12] - - -  
[13] **MS. AGELAKIS:** GOOD MORNING, YOUR  
[14] HONOR. KALLI AGELAKIS FOR THE COMMONWEALTH.  
[15] **MR. HETZNECKER:** PAUL HETZNECKER FOR  
[16] THE DEFENDANT.  
[17] **THE COURT:** TELL ME SOMETHING ABOUT  
[18] YOUR CLIENT.  
[19] **MR. HETZNECKER:** BEFORE WE PROCEED,  
[20] I WANT TO MAKE SURE THAT THE EVIDENCE THAT WAS  
[21] PRESENTED BY THE COMMONWEALTH, IT'S  
[22] PRESENTING PACKET, I OBJECT TO. I DON'T  
[23] KNOW WHETHER YOUR HONOR IS GOING TO ADDRESS  
[24] ANY OF THIS OR NOT. I WOULD LIKE AT LEAST THE  
[25] OPPORTUNITY. IF NOT, I'M GLAD TO GO AHEAD AND

[2] SPEAK ABOUT MY CLIENT FIRST. THIS NEEDS TO BE  
[3] TO BE PUT IN PROPER CONTEXT. I WOULD LIKE TO  
[4] DO THAT. I DON'T KNOW IF YOUR HONOR NEEDS  
[5] THAT, BUT I FEEL COMPELLED TO ADDRESS SOME OF  
[6] THE ISSUES RAISED IN HERE THAT DON'T RELATE TO  
[7] MR. COONEY AT ALL AND SOME OF THE INFORMATION  
[8] IS INACCURATE AND TAKEN OUT OF CONTEXT. TO  
[9] PUT IT IN PROPER CONTEXT, I WOULD LIKE TO  
[10] ADDRESS IT.  
[11] **THE COURT:** THE INFORMATION  
[12] CONTAINED IN THE LETTER IS ALL THE INFORMATION  
[13] I'M INTERESTED IN. THE BINDER, I UNDERSTAND  
[14] YOUR OBJECTION TO THE NATURE AND CONTENT OF  
[15] THAT. I HAVE REVIEWED IT. THE LETTER  
[16] BASICALLY ADDRESSES THE THINGS. WHATEVER YOU  
[17] FIND OBJECTIONABLE IN THE LETTER, YOU CAN  
[18] SPEAK TO.  
[19] **MR. HETZNECKER:** THE WAY THE CASE  
[20] WAS INITIATED, THE APPROACH BY THE  
[21] COMMONWEALTH IN THIS CASE, AND I'M NOT  
[22] ATTRIBUTING MS. AGELAKIS TO THIS, BUT THE  
[23] FORCES BEHIND IT. WE HAVE A LARGE MULTI-  
[24] NATIONAL CORPORATION GOING TO COURT SEEKING AN  
[25] INJUNCTION, AS THEY HAVE A RIGHT TO DO, TO

[2] LIMIT THE PROTESTS AND THE ACTIVITIES OF HUGS  
[3] FOR PUBLIC PIECE OR NICHOLAS COONEY OR ANY  
[4] OTHER ANIMAL RIGHTS ACTIVISTS AND THEY HAVE  
[5] DONE SO. THE ATTACHED ORDER AND INJUNCTION  
[6] FROM JUDGE DI VITO REFLECTS THAT. MY CONCERN  
[7] IS WHEN THEY CROSS OVER THE LINE AND ATTRIBUTE  
[8] WHAT WOULD BE PROTECTED FIRST AMENDMENT  
[9] ACTIVITY, ATTRIBUTE AND CHARACTERIZE THAT AS  
[10] CRIMINAL CONDUCT, THEY HAVE ESSENTIALLY TRIED  
[11] TO PAINT THIS BROAD PICTURE OF MY CLIENT AS  
[12] SOMEONE INVOLVED IN CRIMINAL ACTIVITY. AND  
[13] THEY INTERPOSE THOSE, TALK ABOUT LAWFUL  
[14] PROTESTS, LAWFUL STREET DEMONSTRATIONS AND  
[15] TALK ABOUT LAWFUL DEMONSTRATIONS AT  
[16] INDIVIDUALS' HOUSES.

[17] THEY INTERPOSE THAT WITH CRIMES THAT  
[18] MY CLIENT HAS NEVER BEEN ACCUSED OF, HE HAS  
[19] NEVER BEEN CHARGED WITH. HE HAS ONLY BEEN  
[20] CHARGED WITH THE CRIMES WITH RESPECT TO  
[21] GLAXCO, SMITH, KLEIN, AS FAR AS I KNOW, THE  
[22] CRIMES YOU CONVICTED HIM OF BACK IN NOVEMBER.  
[23] MY CONCERN IS, AND IT'S A CLASSIC HISTORIC  
[24] BATTLE THROUGHOUT THE HISTORY OF THIS COUNTRY.  
[25] CORPORATIONS CHARACTERIZE THE FIRST AMENDMENT

[2] ANESKYN APPLIES TO THIS CASE. IT'S NOT GLAXO,  
[3] SMITH, KLEIN VERSUS NICHOLAS COONEY. YOUR  
[4] HONOR FOUND HIM GUILTY OF THE ONE INDIVIDUAL  
[5] LEAVING THE PARKING LOT. SHE CLAIMED HE  
[6] BLOCKED THE CAR. YOU SAW IN THE VIDEO, HE  
[7] DIDN'T BLOCK THE CAR. SHE THREATENED HIM WITH  
[8] HER VEHICLE. HE WASN'T IN FRONT OF THE CAR  
[9] BUT SHE SAID SHE WOULD HIT HIM IF HE DIDN'T  
[10] MOVE.

[11] THE POLICE ARRIVED, AS YOU SAW IN  
[12] THE VIDEO, SHORTLY AFTER THAT. MY CLIENT  
[13] COULD HAVE GONE TO THE PHILADELPHIA DISTRICT  
[14] ATTORNEY'S OFFICE AND SAID TO THEM, WITHOUT  
[15] THE POWER OF IMMUNITY, INTERNATIONAL  
[16] CORPORATION, AND SAID, I WANT TO FILE A  
[17] PRIVATE CRIMINAL COMPLAINT BECAUSE THIS WOMAN  
[18] THREATENED ME. IT DIDN'T HAPPEN. SHE MADE A  
[19] CALL TO THE SECURITY GUARD THAT WAS THERE THAT  
[20] DAY, WHILE THE POLICE WERE SITTING OUTSIDE  
[21] WITH THE POLICE RADIO, SITTING THERE MINUTE  
[22] AFTER MINUTE. MY CLIENT IS NOT ARRESTED OR  
[23] CHARGED.

[24] IS THERE ANY INFORMATION IMPARTED TO  
[25] THEM THAT MY CLIENT MADE A TERRORISTIC THREAT?

[2] WHICH THEY DON'T LIKE AND CHARACTERIZE A LOT  
[3] OF IT AS CRIMINAL ACTIVITY VERSUS THE RIGHTS  
[4] WE KNOW, AND YOUR HONOR PROTECTS INSIDE THESE  
[5] COURTROOMS.

[6] FOR EXAMPLE, IN THIS PARTICULAR  
[7] CASE, THE COMPLAINING WITNESS ALLEGED MY  
[8] CLIENT MADE A STATEMENT, BUT NOT ONLY DO THEY  
[9] ALLEGE IT, IN THE AFFIDAVIT FROM GLAXO, SMITH,  
[10] KLEIN, THEY STATED THAT MY CLIENT AND OTHERS  
[11] WERE IN FRONT OF THE HEADQUARTERS PROTESTING  
[12] ON THAT PARTICULAR DAY, BLOCKING CARS, BUMPING  
[13] CARS, INTERFERING WITH THE MOVEMENT OF PEOPLE  
[14] IN AND OUT OF THE BUILDING. IF YOU SAW THE  
[15] VIDEOTAPE, WE WATCHED IT FOR TWENTY MINUTES, I  
[16] REQUESTED THE VIDEOTAPE BE SHOWN IN ITS  
[17] ENTIRETY, YOUR HONOR FOUND HIM NOT GUILTY OF  
[18] THE OBSTRUCTION OF THE HIGHWAY. WHY? THOSE  
[19] STATEMENTS IN THE AFFIDAVIT WERE NOT ACCURATE  
[20] AND TRUE. HE DID NOT DO ANY OF THOSE THINGS.  
[21] WE HAD FULL PHYSICAL PROOF OF THAT IN THE  
[22] VIDEO.

[23] SECOND EXAMPLE, I ARGUED IT AND I  
[24] RESPECT YOUR HONOR'S VERDICT BUT OBVIOUSLY I  
[25] DISAGREED. I ARGUED COMMONWEALTH VERSUS

[2] NO. ABSOLUTELY NOT. WHAT HAPPENS? SMITH,  
[3] KLEIN, WITH ALL THE POWER IT HAS AS A  
[4] MULTI-INTERNATIONAL CORPORATION, ONE OF THE  
[5] MOST POWERFUL PHARMACEUTICAL COMPANIES IN THE  
[6] WORLD, A REAL POWERFUL PHILADELPHIA BASED  
[7] CORPORATION, DECIDED TO PURSUE THIS. AND THEY  
[8] PURSUED IT, AND HERE IS THE RUB.

[9] IF YOU LOOK AT WHAT MY CLIENT IS  
[10] ALLEGED TO HAVE DONE, ASIDE FROM THE  
[11] CONVICTION, AND AGAIN, I MAY DISAGREE WITH IT,  
[12] BUT RESPECT YOUR HONOR'S DECISION, IF YOU LOOK  
[13] AT WHAT HE ALLEGEDLY HAD DONE IS PROTEST IN  
[14] FRONT OF GLAXO, SMITH, KLEIN. THEY REFERENCE  
[15] A PROTEST IN SEPTEMBER IN FRONT OF THE, I  
[16] THINK IT WAS, THE FRANKLIN INSTITUTE, WHICH  
[17] WAS REFERENCED IN DOCUMENTS THEY SUBMITTED  
[18] ATTACHED TO THE PACKET HERE, REFERENCED BY THE  
[19] PHILADELPHIA CIVIL AFFAIRS DIVISION IN WHICH  
[20] THEY SAID THERE WERE NO PROBLEMS AT ALL. THEY  
[21] ARE NOT COMFORTABLE WITH THE SPEECH. WE MAY  
[22] NOT BE COMFORTABLE WITH THE SPEECH. IS SOME  
[23] OF WHAT HE DID IMMATURE, IMPRUDENT,  
[24] UNCOMFORTABLE? YES. IS IT UNCIVIL, YES, SOME  
[25] OF THE LANGUAGE HE USED, YES. DO I ATTRIBUTE

[2] THAT TO SOMEONE WHO IS, AS THEY CHARACTERIZE,  
[3] A DANGER TO THE COMMUNITY? NO. I ATTRIBUTE  
[4] THAT TO SOMEONE WHO IS USING A TACTIC FOR HIS  
[5] OWN PURPOSE TO GET ATTENTION. IN THE BROAD  
[6] SPECTRUM OF THINGS, THE FIRST AMENDMENT COVERS  
[7] MANY THINGS. THERE ARE TIME, PLACE AND MANNER  
[8] RESTRICTIONS.

[9] IN THE PACKET, THEY HAVE A FULL  
[10] PHOTOGRAPH OF MY CLIENT WEARING A T-SHIRT.  
[11] THEY WANT TO ATTRIBUTE SOME SORT OF VIOLENCE  
[12] TO THAT PARTICULAR T-SHIRT. THE PROBLEM WITH  
[13] IT IS, IF YOU LOOK AT THE LETTERS THAT WERE  
[14] SUBMITTED BY MY CLIENT, IF YOU LOOK AT THE  
[15] STATEMENT THAT HE MADE THAT THEY SUBMITTED,  
[16] THAT WAS ON THE WEB, THEY TOOK OFF THE WEB AND  
[17] SUBMITTED IT TO YOUR HONOR IN THEIR DOCUMENTS  
[18] IT DOESN'T INDICATE HE IS INTERESTED IN  
[19] VIOLENCE AT ALL. JUST THE OPPOSITE. IN FACT  
[20] THE PHOTOGRAPH THE T-SHIRT, AS WE ALL KNOW,  
[21] IT'S NOT A CRIME TO WEAR A T-SHIRT, TINKER  
[22] VERSUS DES MOINE, WE CAN GO THROUGH EVERY  
[23] FIRST AMENDMENT CASE FROM TINKER ALL THE WAY  
[24] THROUGH. AN ARMBAND, A T-SHIRT IS PROTECTED  
[25] BY THE FIRST AMENDMENT. THEY DON'T LIKE THE

[2] PRELIMINARY HEARINGS, THERE ARE FIVE PEOPLE AT  
[3] A TABLE AND DRUGS AT A TABLE, YOUR HONOR  
[4] DISCHARGED CASES WHERE THERE IS NO CONNECTION  
[5] BETWEEN THAT INDIVIDUAL AND THE DRUGS. WHY?  
[6] BECAUSE THE PRINCIPLE IS MORE IMPORTANT THAN  
[7] ANY ALLEGED CRIME THAT PERSON MAY HAVE BEEN  
[8] INVOLVED IN OR YOU COULD ATTRIBUTE TO BECAUSE  
[9] THEY ARE MERELY PRESENT IN THE HOUSE WHERE  
[10] THERE WERE DRUGS OR GUNS OR ANYTHING ELSE.  
[11] WHAT THE CORPORATION OF GLAXO,  
[12] SMITH, KLEIN DOESN'T RESPECT THAT VERY  
[13] PRINCIPLE. WHAT THEY WANT YOU TO BELIEVE, AND  
[14] WHAT THEY HAVE DONE IS ESSENTIALLY, AND I  
[15] THINK IT'S ANOTHER MANIPULATION OF THE  
[16] PROCESS, IS SUBMITTED THESE AFFIDAVITS AND  
[17] INFORMATION IN AN ATTEMPT TO PAINT THIS BROAD  
[18] STROKE AND SAY VANDALISM COMMITTED BY PEOPLE,  
[19] THAT MY CLIENT HASN'T BEEN CHARGED WITH  
[20] ASSOCIATING WITH, COMMITTED BY WHOEVER, MUST  
[21] BE ATTRIBUTED TO NICHOLAS COONEY. THAT IS A  
[22] VERY DANGEROUS STEP TO TAKE. IT UNDERMINES  
[23] THE VERY PRINCIPLES WE HOLD DEAR IN THIS  
[24] COUNTRY, THE FIRST AMENDMENT, THE RIGHT TO  
[25] FREEDOM OF ASSOCIATION BUT NOT GUILT BY

[2] FACT THERE ARE PROTESTORS OUT THERE. I'M NOT  
[3] ADVOCATING ANYONE SHOULD COMMIT A CRIME. YOU  
[4] CAN'T CONVICT HIM OF TERRORISTIC THREATS. I  
[5] UNDERSTAND THAT. WE HAVE TO PUT IT IN CONTEXT  
[6] THOUGH. WHAT WAS SAID TO MY CLIENT WAS JUST  
[7] AS THREATENING, WHILE SHE SITS BEHIND THE  
[8] WHEEL OF A 4,000-POUND CAR.

[9] I CROSSED HER ABOUT WHAT WAS SAID  
[10] AND SHE SAID THAT IS WHAT WAS SAID ALTHOUGH WE  
[11] DISPUTE IT.

[12] MY CONCERN NOW IS, AFTER GLAXO,  
[13] SMITH, KLEIN SOUGHT AN INJUNCTION AND RECEIVED  
[14] AN ORDER, LIMITING PICKETS AND PROTESTS WHICH  
[15] WAS THEIR RIGHT TO DO, JUDGE DI VITO ISSUED  
[16] THE ORDER AND I UNDERSTAND THAT, BUT WHAT IS  
[17] REALLY GOING ON HERE IS THE CLASSIC GUILT BY  
[18] ASSOCIATION THEY ARE TRYING TO ESTABLISH.  
[19] YOUR HONOR HAS SAT AS A JUDGE FOR YEARS AND  
[20] YEARS AND PRACTICED AS AN ATTORNEY YEARS  
[21] BEFORE THAT. WE RESPECT THE IDEA THERE IS NO  
[22] SUCH THING AS GUILT BY ASSOCIATION. IN FACT,  
[23] IT'S AGAINST THE VERY NATURE OF OUR SYSTEM AND  
[24] DEMOCRACY.

[25] YOU HAVE SAT AND YOU HAVE HEARD

[2] ASSOCIATION SIMPLY BECAUSE YOU HAVE A  
[3] PARTICULAR POLITICAL POINT OF WHAT THE LETTERS  
[4] REFLECT HERE, I THINK ARE MUCH MORE PROFOUND.  
[5] I'M GOING TO GO -- NOT IN DETAIL. I KNOW YOUR  
[6] HONOR REVIEWED THEM, BUT THERE IS A LETTER  
[7] FROM JUDY WICKS, THE PROPRIETOR OF THE WHITE  
[8] DOG CAFE INDICATING SHE KNOWS NICK FOR SEVERAL  
[9] YEARS AND WORKED WITH THE UNIVERSITY OF  
[10] PENNSYLVANIA THE URBAN INITIATIVE. SHE KNOWS  
[11] HIS SOCIAL COMMITMENT. HE HAS SPOKEN AT WHITE  
[12] DOG CAFE. SHE KNOWS HIS IMPRUDENT BEHAVIOR  
[13] AND IMPRUDENT LANGUAGE IS NOT PROPER, BUT ALL  
[14] THE THINGS THEY HAVE ATTRIBUTED TO HIM ARE NOT  
[15] APPLICABLE. IF THEY THOUGHT THEY COULD  
[16] CONVICT HIM AND CHARGE HIM WITH A CRIME THEY  
[17] WOULD HAVE DONE IT A LONG TIME AGO. I FOUGHT  
[18] THE CHARGE AND I LOST IN THIS CASE, BUT THE  
[19] REALITY IS, THEY ARE NOT COMFORTABLE WITH HIS  
[20] SPEECH OR MESSAGE. THEY SOUGHT A LIMIT AND  
[21] THE LIMITS HAVE BEEN GRANTED.

[22] WHAT YOU DON'T SEE, THEY EVEN  
[23] IGNORED, AND I LOVE THE LANGUAGE, BACK IN AND  
[24] THEY ATTRIBUTE EXHIBIT A, THE INTERNET SPEECH  
[25] MY CLIENT GAVE AND APPARENTLY WITH AN

[2] ORGANIZATION REGARDING A GAP, REGARDING HIS  
[3] QUESTIONS FOR PROTECTION OF VANDAL'S RIGHTS  
[4] AND THEY TAKE OUT OF CONTEXT BY ANY MEANS  
[5] NECESSARY. IF YOU READ THE ENTIRE LETTER IN  
[6] THE PROPER CONTEXT, AND THIS IS THE  
[7] MANIPULATION OF LANGUAGE THAT HAS BEEN DONE  
[8] THROUGHOUT THE EXHIBIT, HIS LAST STATEMENT,  
[9] THE FUTURE LIKE THE PRESENT IS GOING TO LOOK  
[10] HORRIFIED AND BEAUTIFUL DEPENDING ON WHERE YOU  
[11] LOOK. LET'S KEEP EVERYTHING WELL AND TRY TO  
[12] KEEP ALL THAT LIFE AROUND US, LIVING BY  
[13] WHATEVER MEANS WE THINK WILL WORK. THAT IS  
[14] NOT SOMEONE WHO IS A VIOLENT INDIVIDUAL. THAT  
[15] IS NOT SOMEONE ESPOUSING A VIOLENT VIEW, BUT  
[16] THEY DON'T WANT TO CHARACTERIZE THAT PART OF  
[17] IT. THEY THROW THE REFERENCE TO MALCOLM BY  
[18] ANY MEANS NECESSARY.

[19] IF YOU LOOK AT THE CONTEXT OF WHAT  
[20] HE IS SAYING, HE IS SAYING ANY MEANS NECESSARY  
[21] AND GOES ON TO SAY BY PRESSURING DECISION  
[22] MAKERS RESOURCE AND WHATEVER LANGUAGE SPEAKS  
[23] TO THEM.

[24] IN HIS VIEW, THAT LANGUAGE MEANT  
[25] CURSING OBSCENITIES, WHATEVER. IT'S NOT

[2] CITY. THAT IS WHAT HE IS COMMITTED TO.  
[3] HE WORKED AS A VISTA MEMBER, ABE  
[4] GOLDSTEIN, THE CRIN OFFERS A DIFFERENT INSIGHT  
[5] INTO WHAT NICHOLAS COONEY IS ABOUT, A VERY  
[6] DIFFERENT INSIGHT THAN PORTRAYED BY GLAXO,  
[7] SMITH, KLEIN. I WOULD HOPE YOUR HONOR TAKES  
[8] NOTE OF THAT.

[9] THERE IS ALSO A LETTER FROM THE A  
[10] GAP COMMUNITY, THE ORGIZATION HE GAVE A SPEECH  
[11] TO WHICH THEY CITE IN THEIR EXHIBIT, THE  
[12] ORGANIZATION IS COMMITTED TO THE PRINCIPLE OF  
[13] NON-VIOLENCE. IN FACT, WHEN NICHOLAS COONEY  
[14] WAS A STUDENT, HE PASSED A MAJOR COMPLETELY ON  
[15] THE SUBJECT OF NON-VIOLENCE. THAT IS WHAT HE  
[16] IS COMMITTED TO AND WHO HE IS. I WANT YOU TO  
[17] SEE THAT SIDE OF HIM.

[18] THERE IS A LETTER FROM TANNY GERBER,  
[19] DIRECTOR OF URBAN INITIATIVE TALKING ABOUT HIS  
[20] WORK WITH THE SCHOOLS AND TEACHING STUDENTS  
[21] ABOUT NUTRITION. THAT IS WHAT NICHOLAS COONEY  
[22] IS ABOUT, NOT A TWO OR THREE SECOND EXCHANGE  
[23] BETWEEN MY CLIENT AND MS. MC KAIN.

[24] THERE IS A LETTER FROM MARY  
[25] CATHERINE GONZALES, A UNITED STATES DEPARTMENT

[2] APPROPRIATE BUT PROTECTED BY THE FIRST  
[3] AMENDMENT. THAT IS WHAT HE MEANS BY ANY MEANS  
[4] NECESSARY, TAKEN OUT OF CONTEXT BY GLAXO,  
[5] SMITH, KLEIN. WHAT SHOULD BE IN CONTEXT IS MY  
[6] CLIENT WENT DOWN AFTER KATRINA AND RESCUED  
[7] MANY DOGS AND ANIMALS AND BROUGHT THEM BACK,  
[8] NOT ONLY WERE PEOPLE SUFFERING BUT ANIMALS  
[9] WERE SUFFERING. HE WENT THERE AND MADE  
[10] SEVERAL TRIPS TO DO THAT. IS THAT A  
[11] COMPASSIONATE PERSON? YES. DOES IT PRESENT  
[12] SOME JUXTAPOSITION AS TO WHAT WAS PRESENTED IN  
[13] COURT IN NOVEMBER? I THINK IT DOES.

[14] I DON'T WANT YOU TO CHARACTERIZE HIM  
[15] AS ONE OF THE MOST POWERFUL COUNTRIES IN THE  
[16] WORLD DO. HE WORKS WITH HIGH SCHOOL  
[17] INDIVIDUALS IN WEST PHILADELPHIA AND THE WAY  
[18] HE CHARACTERIZES WEST PHILADELPHIA IS, THERE  
[19] IS BEAUTY EVERYWHERE, INCLUDING WEST  
[20] PHILADELPHIA. IN HIS OWN WORLD, WHAT HE IS  
[21] TRYING TO ACCOMPLISH WITH THOSE PEOPLE IS NOT  
[22] ONLY EDUCATE THEM ABOUT NUTRITION AND ABOUT  
[23] THE THINGS THAT HE IS PASSIONATE ABOUT, BUT  
[24] THE BEAUTY AROUND THEM EVEN IN THE MOST  
[25] DIFFICULT AND HARDENED NEIGHBORHOODS IN THE

[2] OF INTERIOR PROGRAM ANALYST, TALKING ABOUT HOW  
[3] SHE KNOWS NICK AND THAT NICK AND HER SON SHARE  
[4] BELIEFS THAT ARE SIMILAR AND HE HAS TREMENDOUS  
[5] RESPECT FOR LIFE. THAT IS THE UNDERLYING  
[6] BASIS OF HIS ADVOCACY FOR ANIMALS, HIS RESPECT  
[7] FOR LIFE.

[8] THERE IS A LETTER FROM ROB TETI, A  
[9] VET WHO TALKS ABOUT HOW HARD WORKING AND  
[10] DEDICATED AND COMPASSIONATE AN INDIVIDUAL  
[11] NICHOLAS COONEY IS. THAT IS COMPLETELY IN  
[12] CONTRAST TO WHAT THE COMMONWEALTH HAS  
[13] PORTRAYED IN THE FEW MOMENTS ON THAT ONE DAY  
[14] DURING A PROTEST.

[15] LISA LEVERSON IS A CREATIVE ARTS  
[16] THERAPIST WHO TALKS ABOUT HER FRIENDSHIP WITH  
[17] NICK AND HIS WORK IN THE AFTER-SCHOOL PROGRAMS  
[18] AND MENTIONED HIS WORK FOLLOWING THE KATRINA  
[19] DISASTER. AS WE ATTACHED DOCUMENTS USED BY  
[20] THE CORPORATION IN ITS EFFORTS TO SEEK AN  
[21] INJUNCTION, THEY REFLECT THE CIVIL AFFAIRS  
[22] DOCUMENTS HE CALLS AHEAD OF TIME, NOTIFIES  
[23] CIVIL AFFAIRS. HE NOTIFIES THE POLICE. THERE  
[24] IS NOTHING SURREPTITIOUS ABOUT IT. NOTHING  
[25] UNDERMINING. THEY COME WATCH AND OBSERVE THIS

[2] THING THEY DID ON THAT DAY, THEY WERE THERE.  
[3] WHAT I'M ASKING YOUR HONOR TO DO IS  
[4] I'M ASKING YOUR HONOR NOT BE MANIPULATED BY  
[5] THE GLAXO, SMITH, KLEIN VIEW OF NICHOLAS  
[6] COONEY. I'M ASKING YOUR HONOR TO LOOK AT THE  
[7] CASE, WHAT IT IS, A MOMENT IN TIME, AN  
[8] EXCHANGE, ANGRY EXCHANGE BETWEEN TWO  
[9] INDIVIDUALS WITH COMPLETELY DIFFERENT POINTS  
[10] OF VIEW. THE LANGUAGE WAS INAPPROPRIATE.  
[11] THERE IS NO QUESTION ABOUT THAT. I HAVE  
[12] ARGUED ALL I CAN WITH RESPECT TO THE DEFENSE  
[13] ON THE CHARGES AND I LOST THAT.  
[14] BUT, WITH RESPECT TO WHAT NICHOLAS  
[15] COONEY SHOULD BE FACING AS AN INDIVIDUAL, NOW  
[16] CONVICTED OF THIS CHARGE, I WOULD REQUEST YOUR  
[17] HONOR ALLOW HIM TO DO COMMUNITY SERVICE,  
[18] WHATEVER PROBATIONARY PERIOD YOU IMPOSE, THAT  
[19] BE A COMPONENT OF IT. HE WOULD CERTAINLY  
[20] GLADLY DO THAT. BUT DO NOT INCARCERATE HIM  
[21] BASED ON THE REQUEST OF A CORPORATE EXECUTIVE  
[22] WHO DIDN'T LIKE THE MESSAGE HE IS SENDING,  
[23] THAT NICHOLAS COONEY AND OTHERS ARE SENDING IN  
[24] THEIR LAWFUL PROTESTS. THAT IS WHAT THIS IS  
[25] ABOUT. THEY DON'T LIKE THE MESSAGE. I'M

[2] COMMONWEALTH, WE ARE GRATEFUL THAT, YOUR  
[3] HONOR, FINALLY THESE PEOPLE HAVE SEEN A  
[4] MEASURE OF JUSTICE WITH THIS DEFENDANT WITH AN  
[5] F.B.I. RECORD -- THIS IS NOT HEARSAY --  
[6] CERTIFIED RECORDS ALL OVER THIS STATE, AND  
[7] OTHER STATES, WHO HAS ONLY SEEN CONVICTIONS  
[8] FOR SUMMARIES, BECAUSE EVERYONE -- SHAMEFULLY  
[9] THIS DEFENDANT IS HIDING BEHIND THE UMBRELLA  
[10] OF FREE SPEECH AND FREE RIGHTS AND THE  
[11] CONSTITUTION -- THE COMMONWEALTH AND THESE  
[12] INDIVIDUALS WHO YOU MET AND WITHOUT OTHER  
[13] EVIDENCE WHICH WOULD HAVE BEEN ADMISSIBLE AT  
[14] TRIAL, WHICH WAS NOT INTRODUCED BECAUSE THE  
[15] COMMONWEALTH HAD FAITH IN YOUR ABILITY TO SEE  
[16] WHAT THIS CASE WAS ABOUT. NOT BECAUSE OF  
[17] MANIPULATION BUT BECAUSE OF YOUR GOOD  
[18] JUDGMENT. THIS IS NOT A PERSON FIGHTING ON  
[19] BEHALF OF ANIMALS. HE IS A CRIMINAL AND A  
[20] CRIMINAL WHO HAS AN IDEOLOGY AND AN AUDIENCE  
[21] THAT WILL LISTEN TO HIM.  
[22] INTERESTINGLY ENOUGH, COUNSEL WANTS  
[23] YOU TO BELIEVE ALL THE LETTERS WHICH HAVE ALL  
[24] SORTS OF HEARSAY WHICH, OF COURSE, IS  
[25] ADMISSIBLE IN A SENTENCING HEARING, SUPPORTED

[2] ASKING YOUR HONOR TO SENTENCE HIM BASED ON THE  
[3] CONDUCT YOU CONVICTED HIM OF, AND BASED ON THE  
[4] RECORD, WHICH IS CLEAR THAT THAT WAS A QUICK  
[5] EXCHANGE BETWEEN TWO INDIVIDUALS FROM SOMEONE  
[6] WHO HAS DEMONSTRATED A LIFETIME COMMITMENT OF  
[7] COMPASSION NOT ONLY TOWARDS ANIMALS BUT  
[8] TOWARDS PEOPLE.  
[9] **THE COURT:** COMMONWEALTH.  
[10] **MS. AGELAKIS:** THANK YOU, YOUR  
[11] HONOR. I'M NOT GOING TO RETRY THE MATTER.  
[12] YOUR HONOR HEARD THE CASE AND MADE A DECISION.  
[13] THE RECORD IS SOUND AND THE CASE LAW SUPPORTS  
[14] IT PROVIDED BY THE COMMONWEALTH. THAT WOULD  
[15] SUPPORT YOUR HONOR'S FINDING. WE ARE HERE FOR  
[16] SENTENCING.  
[17] FIRST OFF, LET ME BEGIN BY SAYING,  
[18] AND IT'S NOT GLAXO, SMITH, KLEIN THAT IS  
[19] ASKING FOR A JAIL SENTENCE, IT'S THE  
[20] COMMONWEALTH, ON BEHALF OF THE CITY FOR THE  
[21] CITIZENS' SAFETY, ASKING FOR JAIL. REGARDLESS  
[22] OF WHATEVER YOUR HONOR DECIDES, I CAN ASSURE  
[23] YOU THAT THE GLAXO, SMITH, KLEIN PEOPLE  
[24] EVERYONE STANDING HERE, PLEASE STAND, ON THIS  
[25] MATTER, IS GRATEFUL. ON BEHALF OF THE

[2] BY THE CASE LAW. COMMONWEALTH VERSUS BOBBY  
[3] LEWIS MEDELY, CITATION 725 ATLANTIC 2ND, 1225.  
[4] THIS IS A 1999 OPINION. EVERYTHING IN A  
[5] PRESENTENCE INVESTIGATION IS HEARSAY. YOUR  
[6] HONOR CAN AFFORD IT THE WEIGHT THAT YOUR HONOR  
[7] SEES FIT.  
[8] IF YOU AFFORDED THE WEIGHT OF WHAT  
[9] YOU HEARD IN THE COURTROOM, THE VICTIM IMPACT  
[10] STATEMENT, WHICH BY LAW SHALL BE ADMITTED AND  
[11] THE CERTIFIED CONVICTIONS HE HAS FOR  
[12] DISORDERLY CONDUCT, CRIMINAL TRESPASS IN  
[13] PLACES SUCH AS WAYNE TOWNSHIP, NEW YORK STATE,  
[14] NEW JERSEY. THESE WEREN'T THERE TO MANIPULATE  
[15] YOUR HONOR, BUT TO SHOW YOUR HONOR THIS IS NOT  
[16] JUST AN IMPACT VICTIM STATEMENT TRYING TO  
[17] MANIPULATE, YOUR HONOR.  
[18] WE HAVE CERTIFIED STATEMENTS AND THE  
[19] INDIVIDUALS WHO ARE PRESENT BEFORE YOU THAT  
[20] HAVE BEEN AFFECTED BY THIS. THEY WILL TESTIFY  
[21] AND YOU CAN JUDGE THEIR CREDIBILITY AND THE  
[22] DEFENDANT WHO WEARS THE T-SHIRT HE WEARS, THIS  
[23] DEFENDANT HAS THE AUDACITY, AT THESE PROTESTS  
[24] TO WEAR THE SHIRT, I BELIEVE IN THE USE OF  
[25] VIOLENCE TO ACHIEVE ANIMAL LIBERATION, WITH

[2] TWO RIVALS. WHAT MAKES HIM ANY DIFFERENT THAN  
[3] ANY OTHER CRIMINAL HERE IN PHILADELPHIA?  
[4] BECAUSE HE WEARS THE AMERICAN FLAG?  
[5] YOUR HONOR, I UNDERSTAND YOU READ  
[6] THE VICTIM IMPACT STATEMENTS. THEY ARE MORE  
[7] ARTICULATE AND POWERFUL THAN I EVER COULD  
[8] COMMUNICATE. I ASK YOUR HONOR TO SENTENCE HIM  
[9] TO JAIL TIME. I WOULD REQUEST THE MAXIMUM  
[10] TIME AND I FEEL HE DESERVES EVERY MINUTE OF  
[11] IT. I COULD REQUEST A STATE SENTENCE, BUT I  
[12] WOULD ASK YOUR HONOR TO SENTENCE HIM TO 11-1/2  
[13] TO 23 MONTHS, FOLLOWED BY THREE YEARS  
[14] PROBATION AND A \$10,000 FINE, I THINK IS  
[15] APPROPRIATE. PART OF YOUR DECISION, WHATEVER  
[16] YOU DECIDE, IS A STAY-AWAY ORDER. THE  
[17] COMMONWEALTH IS SUGGESTING YOUR HONOR SHOULD  
[18] ENFORCE THE INJUNCTION THAT WAS GRANTED BY  
[19] JUDGE DI VITO.  
[20] **THE COURT:** JUDGE DI VITO CAN  
[21] ENFORCE THAT. I'M SURE HE GAVE A DISTANCE  
[22] REQUIREMENT AND STAY-AWAY.  
[23] **MR. HETZNECKER:** HE DID. THE  
[24] DISTANCE DEPENDED ON THE LOCATION. I THINK IN  
[25] THE ORDER IT'S 50 FEET, IT WAS 100 FEET AND

[2] UNDERSTAND THAT IS WHAT YOU HEARD AND THAT IT  
[3] UPSET HER. I DO APOLOGIZE FOR ANY SUFFERING  
[4] THAT CAUSED HER HUSBAND OR FAMILY. IT  
[5] CERTAINLY WASN'T MY INTENTION WHEN I WAS  
[6] SPEAKING WITH HER AND IT CERTAINLY WASN'T MY  
[7] INTENTION, WHY I WAS OUTSIDE GLAXO, SMITH,  
[8] KLEIN THAT DAY. I HAVE WORKED WITH CHILDREN  
[9] FOR ALL OF MY POST-COLLEGE PROFESSIONAL LIFE,  
[10] IN PARTICULAR CHILDREN WHO ARE A PART OF THE  
[11] INNER CITY AND HIGH SCHOOL SYSTEM. CHILDREN  
[12] WHO DON'T RECEIVE A LOT OF LOVING AND  
[13] NURTURING IN THEIR LIFE AND I STRIVED TO GIVE  
[14] THAT TO THEM. THREATENING CHILDREN IS  
[15] SOMETHING I'M OPPOSED TO AND DO NOT FIND  
[16] ACCEPTABLE. I DON'T ACT IN CONTRADICTION TO  
[17] MY BELIEFS, NO MATTER THE PROVOCATION.  
[18] YOUR HONOR FOUND ME GUILTY OF  
[19] CHARGES STEMMING FROM THIS ONE DEMONSTRATION.  
[20] I HOPE BASED ON THE LETTERS SUBMITTED BY  
[21] BUSINESS OWNERS, FRIENDS AND FORMER EMPLOYERS  
[22] THAT YOU GET A MORE ACCURATE PICTURE OF WHO I  
[23] AM AND WHAT I DO WITH MY LIFE. I HOPE ALSO  
[24] THAT YOU ARE ABLE TO SEE THROUGH MUCH OF THE  
[25] EVIDENCE THAT WAS PRESENTED BY THE

[2] SCRATCHED OUT AND PENCILED IN 50 FEET AND 100  
[3] FEET OR GREATER IF ITS AN INDIVIDUAL'S HOUSE.  
[4] THEY HEARD THE INJUNCTION. THERE'S A  
[5] TREMENDOUS AMOUNT OF TESTIMONY. AS I  
[6] UNDERSTAND, I WASN'T THERE AND THE JUDGE  
[7] ISSUED AND ORDER WHICH WILL BE RESPECTED AND  
[8] SHOULD BE.  
[9] **MS. AGELAKIS:** IF THE COMMONWEALTH  
[10] HAS THE RIGHT AND THE COURT CAN GRANT A  
[11] CRIMINAL PROBATION CONDITION TO THAT CIVIL  
[12] INJUNCTION WHICH WOULD GIVE IT MORE BITE. I  
[13] URGE YOUR HONOR TO WHATEVER SENTENCE YOU  
[14] IMPOSE, TO THINK OF THE SAFETY OF THE  
[15] COMMUNITY AND THE DETERRENCE OF THIS  
[16] DEFENDANT'S ACTIONS AND ANYONE ELSE IN THIS  
[17] SITUATION.  
[18] THANK YOU.  
[19] **THE COURT:** MR. COONEY, BEFORE I  
[20] IMPOSE SENTENCE, DO YOU WISH TO MAKE A  
[21] STATEMENT?  
[22] **THE DEFENDANT:** YES, YOUR HONOR.  
[23] FIRST I WOULD LIKE TO APOLOGIZE TO MS. MC  
[24] CAIN. I DID NOT THREATEN YOU THAT AFTERNOON.  
[25] I CERTAINLY DID NOT HAVE THE INTENTION TO. I

[2] PROSECUTION, AS MY ATTORNEY STATED WHICH IS  
[3] ABOUT ILLEGAL ACTIVITY THAT HAS NOTHING TO DO  
[4] WITH ME AND ISN'T EVEN CONNECTED TO ME BY THE  
[5] PROSECUTION. A LOT HAS TO DO WITH PROTESTS,  
[6] THEY CERTAINLY CHARACTERIZE AS VERY  
[7] THREATENING AND HARASSING BUT WHICH THE  
[8] PHILADELPHIA POLICE DEPARTMENT IS ALMOST  
[9] ALWAYS PRESENT AND FOUND IT TO BE ACCEPTABLE.  
[10] I AM A STRONG ADVOCATE OF PUBLIC PROTEST AND  
[11] YES, EVEN IN A SPEECH THAT CAN ANNOY AND  
[12] OFFEND WHEN THAT LEADS TO GREATER  
[13] CONSIDERATION OF THE ISSUE AT HAND. I ALWAYS  
[14] TRY TO STAY WITHIN THE BOUNDS OF THE LAW DOING  
[15] THIS.  
[16] WHENEVER I ORGANIZE A PROTEST, AND I  
[17] HAVE ORGANIZED PROBABLY A HUNDRED IN  
[18] PHILADELPHIA IN THE PAST, ALONE. I CALLED THE  
[19] CIVIL AFFAIRS UNIT, THE POLICE DEPARTMENT ALL  
[20] THE TIME AND TELL THEM WHERE WE WILL BE AND  
[21] WHEN. I COMPLY WITH WHAT THEY ASK.  
[22] THE DOCUMENTS SUBMITTED BY GLAXO,  
[23] SMITH, KLEIN AS EVIDENCE AGAINST US IN A CIVIL  
[24] MATTER CLEARLY SHOW IF YOU READ THROUGH THEM  
[25] ALL THE DEMONSTRATIONS PASSED WITHOUT INCIDENT

[2] AND THAT WE COMPLIED WITH THEIR REQUESTS. ON  
[3] THE DAY IN QUESTION OUTSIDE OF GLAXO, SMITH,  
[4] KLEIN, AS ALWAYS, I CALLED THE CIVIL AFFAIRS  
[5] DEPARTMENT AHEAD OF TIME. UNFORTUNATELY, THEY  
[6] HAD ANOTHER EVENT THAT DAY AND WEREN'T ABLE TO  
[7] MAKE IT OUT. I REGRET THAT, BECAUSE IF THEY  
[8] WERE THERE, I'M SURE I WOULDN'T BE HERE TODAY  
[9] AND WOULDN'T HAVE BEEN ARRESTED WITH A GUN AT  
[10] MY HEAD AT 8:00 A.M. IN FRONT OF MY HOUSE IN  
[11] MY UNDERWEAR.

[12] I'M HOPEFUL IN THE APPEALS PROCESS,  
[13] AND BOTH MYSELF AN OTHERS PRESENT WILL TESTIFY  
[14] TO WHAT I SAID THAT DAY. YOUR HONOR FOUND ME  
[15] GUILTY AND I RECOGNIZE THAT. I ASK AND I  
[16] HOPE, I'M SURE YOU WILL MAKE A SENTENCE RULING  
[17] NOT BASED ON WHAT GLAXO, SMITH, KLEIN WOULD  
[18] LIKE TO SEE BUT THE CIRCUMSTANCES OF THE  
[19] INCIDENT AND YOUR JUDGMENT AND RULING IN  
[20] SIMILAR CASES AND BASED ON TAKING INTO  
[21] CONSIDERATION THE EXTENT OF WHO I AM AND MY  
[22] INVOLVEMENT WITH THE COMMUNITY AS REFLECTED IN  
[23] THE LETTERS.

[24] THANK YOU.

[25] **THE COURT:** ANYTHING ELSE, COUNSEL?

[2] **THE COURT:** ADVISE YOUR CLIENT OF  
[3] HIS RIGHTS.

[4] **MR. HETZNECKER:** DO YOU UNDERSTAND  
[5] THE SENTENCE THAT HIS HONOR HAS IMPOSED?

[6] **THE DEFENDANT:** YES.

[7] **MR. HETZNECKER:** YOU HAVE TEN DAYS  
[8] TO FILE A RECONSIDERATION OF THAT SENTENCE.  
[9] IT MUST BE FILED IN WRITING AND WILL BE DONE  
[10] SO BY ME, AS YOUR ATTORNEY, AT YOUR REQUEST.  
[11] YOU HAVE THE RIGHT TO APPEAL WITHIN 30 DAYS ON  
[12] THE GROUNDS YOU CAN FILE FOR A TRIAL DE NOVO  
[13] WHICH WOULD ALLOW YOU A NEW TRIAL IN THE COURT  
[14] OF COMMON PLEAS OR YOU CAN FILE A WRIT OF  
[15] CERTIORARI ASKING THE COURT OF COMMON PLEAS  
[16] JUDGE AS A REVIEWING COURT TO DECIDE WHETHER  
[17] OR NOT THE EVIDENCE WAS SUFFICIENT TO CONVICT  
[18] YOU. THAT MUST BE FILED WITHIN 30 DAYS UPON  
[19] YOU ASKING ME TO DO SO.

[20] DO YOU HAVE ANY QUESTIONS?

[21] **THE DEFENDANT:** NO.

[22] **MR. HETZNECKER:** THANK YOU, YOUR  
[23] HONOR. MAY I BE EXCUSED?

[24] **THE COURT:** YES.

[25] (MATTER CONCLUDED.)

[2] **MR. HETZNECKER:** NO, YOUR HONOR.

[3] **THE COURT:** STAND UP.

[4] ON THE CHARGE OF TERRORISTIC  
[5] THREATS, THIS COURT SENTENCES YOU TO A PERIOD  
[6] OF EIGHTEEN MONTHS REPORTING PROBATION. ON  
[7] THE CHARGE OF HARASSMENT, THIS COURT SENTENCES  
[8] YOU TO A PERIOD OF NINETY DAYS -- STRIKE THAT,  
[9] THAT WAS A SUMMARY OFFENSE.

[10] **MS. AGELAKIS:** NINETY DAYS MAXIMUM.

[11] **THE COURT:** NINETY DAYS CONCURRENT  
[12] REPORTING PROBATION. ON THE CHARGE OF  
[13] CONSPIRACY, THIS COURT SENTENCES YOU TO 18  
[14] MONTHS CONCURRENT REPORTING PROBATION. YOU  
[15] WILL PERFORM ONE HUNDRED HOURS OF COMMUNITY  
[16] SERVICE. YOU WILL REMAIN 50 FEET AWAY FROM  
[17] ANY CORPORATE FACILITY. YOU WILL REMAIN A  
[18] MINIMUM OF ONE HUNDRED FEET AWAY FROM ANY  
[19] EMPLOYEE'S RESIDENCE. YOU WILL REMAIN 20 FEET  
[20] AWAY FROM ANY EMPLOYEE EXITING OR ENTERING A  
[21] BUSINESS PREMISES TO GO TO A VEHICLE, PRIVATE  
[22] VEHICLE OR PUBLIC TRANSPORTATION.

[23] IS THERE ANYTHING THAT IS UNCLEAR  
[24] ABOUT THAT?

[25] **THE DEFENDANT:** NO, YOUR HONOR.



