

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

UNITED STATES OF AMERICA)	
)	
v.)	No. 3:05-00185
)	Judge Trauger
TIMOTHY RYAN RICHARDS)	

AFFIDAVIT OF KIMBERLY S. HODDE, ESQ.

STATE OF TENNESSEE }
COUNTY OF DAVIDSON }

Personally appeared before me, the undersigned, a Notary Public in and for said county and state, Kimberly S. Hodde, who having been duly sworn according to law does make oath as follows:

1. I am over the age of 18, and I am of sound mind.
2. I am retained as co-counsel for Defendant Timothy Ryan Richards in the above-captioned case.
3. Shortly after the conclusion of the trial, a juror from the trial of Mr. Richards' case contacted my office and asked to speak to me. The juror left a message on my assistant's voicemail, identifying herself as [REDACTED] K [REDACTED] a juror from Mr. Richards's trial, and asked that I be given the message to return her call. She left a cellular telephone number. The vague message did not disclose the purpose of the call. Neither I nor my office solicited the call in any way.
4. After conferring with my co-counsel and consulting the Local Rules about post-verdict communication with jurors, I returned Ms. K [REDACTED] call for the limited purpose of determining the reason for the communication. I left a voicemail message requesting that she call my office and

leave a detailed message advising me of the purpose of her call. In my message, I explained that I am bound by certain rules regarding communication with jurors and that I needed to ascertain whether she was calling for a personal reason unrelated to the case (such as a loved one having a criminal problem), or whether she called to discuss something related to the case (in which case I felt that I would need the Court's permission to have a discussion).

5. In response, Ms. K [REDACTED] called back and left another vague message this time on my voicemail. The message lacked the detail requested and shed no light on her inquiry. When I returned that call, Ms. K [REDACTED] answered the phone. I identified myself and repeated my need to determine whether her call was related to the Richards trial. In answering my threshold question (and my only question of her), Ms. K [REDACTED] emotionally reported the following information: (1) She was not sleeping and felt that she needed counseling from the stress of the trial; (2) Her stress stemmed from the struggle between her personal desire to disregard the law, which she felt was unfair to the defendant since the conduct was consensual, and her sworn duty to follow the law, which she felt required the verdict rendered; and, (3) She was very concerned about Mr. Richards and his family and was deeply affected by the emotions of the family at the reading of the verdict. After reporting the above as the purpose for her call, Ms. K [REDACTED] asked me the following series of questions which I did not answer: (1) What happened to Justin Berry?; (2) What sentence would Mr. Richards likely receive?; (3) When was Mr. Richards' sentencing?; (4) Would it be possible for her to write the Court to ask for leniency for Mr. Richards or to attend the sentencing hearing?; (5) Has Mr. Richards been in custody this whole time?; and, (6) Would it be possible for her to contact Mr. Richards' family to communicate her sympathy for them and their son? In response to each of Ms. K [REDACTED] questions, I advised her that I did not feel comfortable answering her questions without input

from the Court. At the end of the call, Ms. K [redacted] asked if she could send me a letter or an email setting forth what she felt like she needed to communicate. I told her that I would appreciate a written communication because it was my intention to attach it to a filing so that the Court and counsel for the government would be fully aware of our contact. At her request, I provided her with my email address and my office mailing address. I have not received a letter, an email or any other form of communication from Ms. K [redacted] since the aforementioned call.

6. At no time during this brief communication did I ask *any* questions of Ms. K [redacted] other than whether her call was personal or about the Richards' case. I declined to answer each of her questions and terminated the call at my earliest opportunity - encouraging her to reduce her concerns to writing.

7. I promptly advised AUSA Carrie Daughtrey about the nature, circumstances and substance of the call. After some discussion, the parties agreed that, although the juror did not indicate any interference with deliberations and although nothing in the communication warrants a request to "interrogate" the jury, out of an abundance of caution, the Court should be made aware of my post-verdict, unsolicited contact by a jury member.

Further affiant saith not.


KIMBERLY S. HODDE

Sworn and subscribed to before me this 29th day of November, 2006.

My commission expires: 11/24/07

